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## **Development, diversity and equal opportunity in India**

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Nazia Ejaz ▲  
*Red City*, 2013  
120 x 90 cm  
Synthetic polymer  
paint on canvas

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**International Centre for Muslim and non-Muslim Understanding**

# Development, diversity and equal opportunity in India

Abusaleh Shariff<sup>1</sup>

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## The Sachar Committee report and the government's response

This paper has two overarching concerns, namely, examining the performance of the national and state governments in advancing social and economic development of socio-religious communities in India; and identifying the institutions and policies necessary for the government to ensure the constitutional right of all Indian citizens to equal opportunity, especially its minorities. Towards this end, this study analyses the pro-poor policies and programs that were developed in response to the recommendations presented to the Government of India in *The social, economic, and educational status of the Muslim community of India: a report*.<sup>2</sup> Popularly known as the Sachar Committee report, it was prepared by the Prime Minister's High Level Committee chaired by retired Chief Justice of the Delhi High Court, Sri Rajinder Sachar.<sup>3</sup>

Early during the administration of the United Progressive Alliance (UPA-1),<sup>4</sup> as a response to a large body of academic literature emerging out of the research on 'human development', public discourses and media articles, the Indian National Congress took the initiative to establish the committee in 2004 and placed it under authority of Prime Minister Dr Manmohan Singh. The committee's mandate was to elucidate the 'social, economic and educational' status of Muslims, the largest of the minorities in India. The order was No. 850/3/C/05-Pol. dated 9 March 2005 of the Prime Minister's Office, Government of India. This charge arose from concern that India's largest minority community was not deriving equitable benefit from the country's recent economic and social development. Given the magnitude and complexity of the matter, the committee understood it was necessary to formulate an 'empirical and evidenced-based policy' approach to investigate this concern.

After eighteen months of extensive research and deliberation, the Sachar Committee report was submitted to the Prime Minister of India on 17 November 2006; and it was placed before Parliament the very next morning and printed copies released to the media simultaneously. Although the Indian Parliament did not discuss or debate the findings of the Sachar Committee report, it is one of only a few

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1 Executive Director and Chief Scholar, US-India Policy Institute, Washington, DC.

2 November 2006. The English version of the Sachar Committee report is available at [http://www.minorityaffairs.gov.in/sites/upload\\_files/moma/files/pdfs/sachar\\_comm.pdf](http://www.minorityaffairs.gov.in/sites/upload_files/moma/files/pdfs/sachar_comm.pdf)

3 I served as the Member-Secretary of this committee.

4 The UPA is a coalition of political parties led by the Indian National Congress (INC). The UPA coalition has the largest number of seats in the Lok Sabha. The UPA-1 came to power in 2004 and UPA-2 was formulated in 2009.

government-sponsored committee reports that was widely debated in the media, used by mainstream civil society organisations and regularly cited in national as well as state-level political discussion. The report attracted the attention of the international media such as *The Times*, *The New York Times*, the BBC and so on. This committee has been cited by leaders the world over, especially in the USA and Europe and in multilateral institutions such as the United Nations and the World Bank.

Despite popular interest in the report, the Sachar Committee's recommendations were seen as not being backed by the authority of the Indian Parliament. Committees formed by parliamentary recommendations are considered statutory and seen as binding on the government with clear implementation strategies. Issues relating to minorities, especially those concerning India's Muslims, are now subject to continuous public debate, yet the government has failed to present a comprehensive approach to addressing them. The absence of effective policies and their implementation indicates that the government is not upholding its responsibility to address issues relating to religious minorities.

During the second half of UPA-1 and continuing into UPA-2, the national government developed a series of programs through its newly established Ministry of Minority Affairs (MMA).<sup>5</sup> These programs addressed areas of policy that had never before been considered in independent India. However, critics including the chairperson (Sri Rajinder Sachar) and select members (Dr Rakesh Basant and myself) of the committee argue that the programs were less comprehensive than the more broadly based and inclusive ones recommended in the Sachar Committee report, and that they should have been articulated by governing bodies and implemented by line ministries and departments at both national and state levels. Furthermore, critics maintained that the formation of the MMA itself was counterproductive to the goals of equality and inclusion, and that it might even increase the exclusion of minorities from decision making on national policy. In my forthcoming book I argue that the so-called 'special-purpose' dedicated institutions established to address the exclusion of minorities will be unable to yield their intended results.<sup>6</sup>

In my book I evaluate the implementation and impact of post-Sachar policies at the national level and in selected states.<sup>7</sup> Since the beginning of 2011, along with select civil society organisations, I have made a strong case and advocated without success for the Union Minister of Minority Affairs Salman Khurshid to sponsor an 'assessment and evaluation study' of the Sachar Committee report. In early 2013 the then Minister of Minority Affairs Rahman Khan attempted to assemble a committee

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5 Note that this ministry was not established as a response to the recommendations of the Sachar Committee; it was created even before the committee submitted its report in November 2006.

6 Abusaleh Shariff, *Institutionalizing constitutional rights: post Sachar Committee scenario* (Oxford University Press, forthcoming).

7 The state focus was possible only in case of West Bengal and Gujarat where I could elicit some dependable data useful in analysis and discussion.

responsible for evaluation but, given the approaching general elections, it was not feasible for such a committee to complete the study. As of March 2014 the committee was officially disbanded due to political and financial barriers that continued to forestall the committee's functioning. Since the government did not move forward in a timely fashion with evaluation of MMA policies and programs, I undertook my own study. Given such a casual, if not hostile, approach from the powers that be and the governance structure, it became all the more important to undertake such an 'assessment and evaluation' from purely private yet professional effort. My forthcoming book, *Institutionalizing constitutional rights*, was written without the benefit of the research resources made possible by the Government of India's support for the Sachar Committee report, namely staffing for eighteen months that included many advisors, consultants and privileged access to data. My book, therefore, is the result of my response to the government's refusal to document, analyse and publicise the impact of post-Sachar policies and their associated national and state government programs.

My forthcoming book is a partial analysis from the point of view of three different perspectives of social and developmental analysis. The rural–urban differentials in India are sharp and decisive. Secondly, the gender differentials are all-pervasive and essential in understanding the depth of deprivation and exclusion. Lastly but not the least, the intra-minority community and inter-Muslim community differentials have not been adequately analysed. The first two limitations emerged due to want of time and resources; and the third is due to the compulsions of empirical and technical standards, where small sample sizes would not permit robust measurements and estimations.

## **Research questions and central themes**

### *Paradigms of development*

The preamble to the Indian Constitution declares that the Indian people 'solemnly resolved to constitute India into a sovereign socialist secular democratic republic'. Accordingly, the government of independent India, in the beginning, promoted policies and programs that curtailed the power of private corporations in the attempt to protect the public interest by limiting private appropriation of the nation's resources. However, the political embrace of liberalisation in India since the mid-1980s and its popularisation among large sectors of Indian society changed the dominant paradigm of economic and social development in India. It changed from a socialist paradigm guided by centralised state planning and state control for public benefit to a capitalist one that fosters decentralisation of public services, private–public partnership and private accumulation of wealth.

Whether their views arise from historical ignorance or from deliberately ignoring historical processes, the most adamant among liberalisers decry the socialist foundations of the Indian republic. That is, they

disapprove of the far-reaching influence on the Indian polity of Gandhian thought with its socialistic economic model, and particularly the moral authority it exerted during the struggle against British imperialism. Many of the political and social leaders tasked with building institutions in independent India believed socialism along with secularism and democracy to be integral for transforming India into an equitable and just nation in which its citizens were protected from systemic exploitation, insecurity, violence and poverty. Given these political and social goals, Nehruvian policy during the first few decades after Independence was both reasonable and necessary, although not inevitable. India's social and economic ideology following Independence offered minorities and socially excluded populations the promise of inclusion, as well as assurance that the democratic institutions of the Indian Republic would protect their distinctive identities and interests. The Indian Constitution gave minorities further guarantees of equality and inclusion. However, prior to the Sachar Committee report, it was difficult to gauge the extent to which these constitutional guarantees were being honoured due to the absence of information about religious minorities, the largest of them being the Muslims, and socially excluded populations vis-à-vis the larger Indian population, such as characteristics related to occupation, social identity, ethnicity and language.

The state responded to technocratic and fiscal pressures in the 1980s by beginning to shift its policies away from centralised economic planning and state control over key industrial, financial and social sectors and towards loosening state control over the economy to create an environment attractive to private investment and initiatives. Policy makers came to rely on private initiatives to drive the pace of economic growth promoted through policies that were said to build a mixed (public-private; socialist-capitalist) economy. This emphasis on private investment and private profit was a significant break with the socialist values enshrined in the Indian Constitution. Understanding the far-reaching implications of this break is essential for assessing the new opportunities that arise in its wake – and advancing minorities' access to them.

As the Indian government grants more autonomy to private economic interests, the state is relinquishing its role as 'trustee' of the nation's resources. This means that the private economic interests are entering sectors that previously were insulated from private exploitation. Therefore, it is necessary to examine how this expansion affects the geographic and demographic distribution of economic growth and social development. Do economic processes that are dominated by private interests, yet in principle 'inclusive' and endorsed by the populace damage the interests of large segments of the population – and the Indian nation as a whole? What social and economic policies are needed to balance the drive to use India's natural and human resources to fuel economic growth with the Indian constitution's pledge 'to secure to all its citizens':

JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation.

*The socio-religious communities of India*

Research and analysis based on caste and religion is not very popular in India, apart from the focus on the estimates for the Scheduled Castes (SCs) and Scheduled Tribes (STs). However, the analysis here is based on the SRC categorisation used by the PM's High Level Committee.

Census data are essential for national and state level planning and in India censuses are conducted a decade apart, during the first year of the decade. The latest census was conducted during 2011 but the population counts according to religion have not yet been released, although information on the SCs and the STs has been made public. Such bureaucratic-level decisions often appear discriminatory and politically motivated. It would be fair to say that it is not a technical issue that has prevented the census counting the population according to religion but only that the data has been withheld from public scrutiny.

The 2001 census of India estimates the following shares for major religions in India: Hindus 80.5%, Muslims 13.4%, Christians 2.3%, Sikhs 1.9%, Buddhists 0.8%, Jains 0.4%, other religions 0.6%. Over 230 million Indian citizens – about 20 per cent of the population – are categorised by the Census of India as belonging to a religious minority. Muslims are the largest socio-religious minority: they account for 70 per cent of all identified religious minorities and they live in substantial proportions in most parts of India. The next largest group is Christian, with about 2.5 per cent of the country's population and they are numerically and proportionately small except in Kerala, Tamil Nadu, Goa and in the north-eastern states except in Assam.

Alternative information on population distribution according to religion and the SRC categories has been estimated from various rounds of data of the National Sample Surveys such as from the 61st round (2004–05), 64th Round (2007–08), 66th round (2009–10) and the most recent 68th Round (2011–12).<sup>8</sup> Note that these surveys are conducted through the National Sample Survey Organization of the national government itself,<sup>9</sup> and these are the data are the basis for national and state level planning.

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8 The NSSO sells the raw data CDs for nominal prices. Such data are available at the level of the households, villages and districts although individual household identities are suppressed.

9 Housed in the Union Ministry of Statistics and Programme Implementation, New Delhi.

The SRC distributions for the reference year 2011–12 for all India and major states are reported in Table 1.

**Table 1: Distributions of the socio-religious communities for major states of India**

States	Hindu SCs/STs	Hindu OBC	Hindu gen	Muslims all	Christians	Sikhs	Other min	OM other than Muslim	Total
<b>All India</b>	<b>25.4</b>	<b>36.2</b>	<b>19.9</b>	<b>13.7</b>	<b>2.2</b>	<b>1.6</b>	<b>1.0</b>	<b>4.8</b>	<b>100</b>
Jammu & Kashmir	11.7	2.6	21.3	<b>61.8</b>	0.0	2.1	0.6	2.7	100
Assam	23.0	25.2	16.9	<b>30.7</b>	3.8	0.0	0.4	4.2	100
Kerala	10.5	33.1	12.8	<b>28.5</b>	15.1	0.0	0.0	15.1	100
West Bengal	31.5	6.9	34.3	<b>26.2</b>	0.5	0.2	0.4	1.1	100
Uttar Pradesh	24.5	40.8	15.0	<b>19.2</b>	0.2	0.1	0.2	0.5	100
Jharkhand	31.0	32.5	10.8	<b>17.1</b>	4.5	0.2	3.8	8.5	100
Bihar	18.4	51.1	15.0	<b>15.3</b>	0.2	0.0	0.1	0.2	100
Uttaranchal	25.3	9.4	48.7	<b>15.3</b>	0.1	0.9	0.3	1.4	100
Karnataka	22.1	43.4	19.8	<b>12.2</b>	2.3	0.1	0.3	2.6	100
Delhi	23.6	15.9	45.0	<b>11.3</b>	0.8	2.0	1.5	4.3	100
Rajasthan	33.9	37.7	16.2	<b>10.4</b>	0.2	0.9	0.8	1.9	100
Maharashtra	19.2	31.7	32.1	<b>9.9</b>	0.9	0.2	6.1	7.2	100
Andhra Pradesh	23.4	46.4	18.0	<b>9.6</b>	2.5	0.0	0.1	2.6	100
Gujarat	24.1	37.4	28.4	<b>9.2</b>	0.7	0.1	0.2	1.0	100
Other states & UTs	15.5	31.0	33.6	<b>6.9</b>	11.4	1.5	0.1	12.9	100
Madhya Pradesh	40.0	38.2	14.3	<b>6.5</b>	0.2	0.2	0.6	1.0	100
Haryana	22.4	23.2	43.1	<b>5.6</b>	0.3	5.2	0.1	5.6	100
N-east states	17.1	14.8	9.3	<b>5.3</b>	44.9	0.0	8.6	53.5	100
Tamil Nadu	21.4	65.0	2.2	<b>4.8</b>	6.4	0.0	0.4	6.7	100
Punjab	15.7	6.3	17.7	<b>2.7</b>	1.2	56.1	0.4	57.7	100
Orissa	41.7	35.2	19.7	<b>1.8</b>	1.5	0.0	0.1	1.7	100
Himachal Pradesh	29.1	17.8	49.5	<b>1.5</b>	0.0	1.4	0.7	2.1	100
Chhattisgarh	46.3	43.3	6.2	<b>1.2</b>	2.3	0.3	0.4	3.1	100

Source: NSS 68th Round, 2011–12.

Of India's large states, seven states have a sizeable presence of minorities, especially Muslims, in terms of proportion of the state's population above the national average: they are Assam, Kerala, West Bengal, Uttar Pradesh, Jharkhand, Bihar and Uttaranchal in that order. Other states with sizable Muslim populations around the national average are Karnataka, Delhi, Rajasthan, Maharashtra, Andhra Pradesh and Gujarat. The six states of north-eastern India (excluding Assam) – Arunachal Pradesh, Meghalaya, Manipur, Mizoram, Nagaland and Tripura – also have proportionately higher shares of minorities, mostly Christians, yet numerically they are small numbers.

Further, it can be noted from recent estimates of the 'human development indices' for the major states of India that, of the top ten relatively better overall HDI states, the HDI levels for Muslims are considerably lower than the state average in seven of them. The exceptions are Kerala, Maharashtra and Karnataka where the levels are higher. The large states where overall HDI itself is far too low and the HDI of Muslims is much too low are West Bengal and Assam. Two other states where the Muslim population is substantial, Uttar Pradesh and Bihar, have far too low overall HDIs and the levels for Muslims are somewhat above the state average but at too low levels and much too low compared to the dominant Hindu caste groups. Three other major states, namely Gujarat, Andhra Pradesh and Rajasthan, have average levels of overall HDI and Muslims, who constitute around 10 per cent of the state population, also record relatively better levels.

**Table 2: State Human Development Index and ranking by socio-religious groups**

States	Hindu SCs/STs		Hindu OBCs		Hindu general		Muslim all		Christian		All	
	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank	Score	Rank
Kerala	0.696	1	0.743	1	0.666	3	<b>0.732</b>	2	0.608	1	0.700	1
Delhi	0.655	4	0.619	4	0.712	2	<b>0.388</b>	15	0.571	3	0.689	2
Other states & UTs	0.578	6	0.664	3	0.603	5	<b>0.315</b>	18	0.505	10	0.646	3
Punjab	0.688	2	0.572	7	0.624	4	<b>0.406</b>	14	0.328	18	0.628	4
Tamil Nadu	0.667	3	0.668	2	0.720	1	<b>0.467</b>	10	0.570	4	0.620	5
Himachal Pradesh	0.636	5	0.610	5	0.447	11	<b>0.490</b>	8	0.569	6	0.567	6
Haryana	0.517	8	0.520	8	0.525	7	<b>0.324</b>	17	0.568	7	0.566	7
Maharashtra	0.503	9	0.595	6	0.473	9	<b>0.617</b>	4	0.569	5	0.551	8
Karnataka	0.492	10	0.511	9	0.557	6	<b>0.599</b>	5	0.601	2	0.519	9
N-east excl. Assam	0.433	13	0.510	10	0.396	18	<b>0.300</b>	19	0.466	13	0.455	10
Andhra Pradesh	0.460	11	0.416	13	0.444	12	0.572	6	0.469	11	0.431	11

West Bengal	0.409	14	0.435	12	0.443	13	<b>0.233</b>	20	0.425	16	0.397	12
Uttaranchal	0.449	12	0.404	14	0.295	20	0.755	1	0.541	8	0.393	13
Jammu & Kashmir	0.526	7	0.501	11	0.275	21	0.430	12	0.320	19	0.381	14
Gujarat	0.333	17	0.264	20	0.413	16	0.472	9	0.395	17	0.365	15
Rajasthan	0.328	18	0.340	15	0.408	17	0.732	3	0.456	15	0.323	16
Madhya Pradesh	0.258	20	0.296	18	0.454	10	0.462	11	0.520	9	0.303	17
Chhattisgarh	0.354	16	0.307	17	0.497	8	0.557	7	0.468	12	0.296	18
Assam	0.387	15	0.315	16	0.263	22	<b>0.224</b>	21	0.241	20	0.265	19
Orissa	0.218	21	0.276	19	0.348	19	0.423	13	0.234	21	0.248	20
Uttar Pradesh	0.261	19	0.187	21	0.416	15	0.327	16	0.459	14	0.236	21
Jharkhand	0.195	22	0.181	22	0.417	14	0.180	22	0.208	22	0.181	22
Bihar	0.108	23	0.068	23	0.245	23	0.121	23	0.169	23	0.108	23

Source: Author's calculations.

It is important to note that four of the major states, namely, Kerala, Karnataka, Andhra Pradesh and Tamil Nadu, have policies that promote educational and employment opportunities for Muslims. Along with other groups, especially the SCs/STs, Muslims are afforded relatively better access to government-provided mass education (both elementary and higher level) and employment. Additionally, state policies allocate reservations for entry into higher levels of education including professional courses such as engineering and medical sciences; and employment in government jobs. A group's number of reservations is based on its size and proportion of the population. Policies are being implemented to provide opportunities for Muslims to enter the political sphere; Andhra Pradesh already has implemented a policy in this direction with its system of 'co-option' or 'nomination' in *mandals* (sub-*taluka*), *zilla parishads* and *nagar palikas* (municipalities).<sup>10</sup>

In many other states, particularly in north India – and at the national level – no such policies are under discussion, except those that reference the quota system associated with the Mandal Commission.<sup>11</sup> However, the 27 per cent quota earmarked for the 'other backward classes' seems to be not accessible to backward classes amongst religious minorities especially Muslims. The deliberations during the Sachar Committee suggested a lack of documentation and transparency in these quota allocations and it was impossible to assess the benefits accruing to Muslims from them especially in the states of Uttar Pradesh, Bihar, West Bengal, Gujarat, Rajasthan, Delhi and Jharkhand. This may be one of the reasons

<sup>10</sup> Andhra Pradesh *Panchayat Act 2006*.

<sup>11</sup> A commission headed by M.P. Mandal, established by the national government in 1979 with a mandate to identify the socially or economically backward and consider the question of seat reservations and quotas for them.

why the UPA-II government intended to carve out 4.4 per cent reservation for minorities (read Muslims) from within the Mandal Commission quota of 27 per cent.

Ensuring educational and employment opportunities to all segments of the population reduces social and economic exclusion and promotes diversity in the public sphere. When any group or groups are restricted from accessing education and employment through systemic social and economic exclusion, the government has a constitutional duty to intervene. Legislation is a tool to clarify the actions that state and national governments must take in order to meet its responsibilities to its diverse citizenry. No single policy or program will ensure equal access and opportunity for minorities. In some cases, the government might promote access by offering incentives to publicly funded units such as government departments, universities, *panchayats* and public sector undertakings (PSUs). However, bias and discrimination against minorities are entrenched and pervasive throughout Indian society. Thus, it is necessary to pursue a more comprehensive institutional approach. Towards this end, the research presented here provides evidence to support the proposal that the Government of India should establish an Equal Opportunity Commission (EOC). The EOC would serve Indian citizens as the institution that is charged with redressing discrimination and promoting opportunities for members of minority and other socially and economically excluded groups; thereby it must be open to all citizens of India.

Following the submission of the Sachar Committee report, the central government made some efforts to address aspects of Muslim deprivation, many of which were articulated in the Prime Minister's New 15 Point Programme for Welfare of Minorities in 2009.<sup>12</sup> By 2012 prominent voices were calling for the program's revision and greater accountability around expenditures and outcomes.<sup>13</sup> Particularly notable is the 2012 revision of the 15 Point Programme that included an investment program in 'minority concentration districts' (including ones that include substantial Christian and Muslim populations). A novel provision to grant scholarships to minority students at both elementary and higher levels of education across all parts of India was also designed. The Reserve Bank of India (RBI) issued directives to public sector banks to increase development funding to minority applicants.

However, a preliminary review of the status of these programs indicates that the Minority Concentration District (MCD) Programme was not operating in West Bengal, Assam, Bihar, Jharkhand and Gujarat. Furthermore, the popularity of the scholarship programs means that only a fraction of all applicants

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12 Available on the National Commission of Minorities website:  
[http://ncm.nic.in/PM%27s\\_15\\_Point\\_Programme.html](http://ncm.nic.in/PM%27s_15_Point_Programme.html)

13 'The report of the Planning Commission's Steering Committee on Empowerment of the Minorities, the National Advisory Council's recommendations for the 12th Five-Year Plan "Towards inclusive development to empower minorities" and the outcome budget of the ministry of minority affairs for the year 2012-13 have spelt out the changes that would be required for effective implementation of the programme.' *Times of India* (Hyderabad edition), 21 May 2012.

received funding. The MMA got annual budgetary allocations each year to propagate its programs including the MCD and scholarships. Yet the MMA was not able to disburse and make the states deliver even a fraction of allocations, for example in 2011 less than 20 per cent of the annual funds were utilised although a higher percentage was reported to have been disbursed.

On the other side, a cause for serious concern, public sector banks have not responded to the RBI's repeated requests to increase their priority sector developmental lending to minorities. In fact relative access to priority sector advances to the Muslim community has in fact declined from previous years.

In addition to problems with program implementation, the much larger issues of discrimination and exclusion need to be addressed in a concerted way across all government departments and ministries at both the national and state levels. These issues also call for collaboration with civil society and private institutions. Whether the programs target Scheduled Castes (SCs), Scheduled Tribes (STs), Muslims or other minorities, responsibility for successful implementation of policies and programs that aim to alleviate poverty, improve human development, and promote social and economic inclusion should be shared across government ministries and departments rather than rest with a single ministry – as is the case presently.

It is not reasonable to expect successful results from programs that are without timelines and appropriate strategies for implementation, monitoring and assessment. Nor is it reasonable to expect that the current policy (budgetary) announcement of earmarking 15 per cent of all budgetary allocations for minority benefits would be successful. Instead, funds must be allocated in accordance with the size of the target population and its proportion of the total population at the program-specific level, such as the district, *taluka* or development block, to ensure that the resources are allocated efficiently and equitably. The high hopes among minority communities at the outset of the UPA-1's administration that were raised with the Sachar Committee report and 15 Point Programme have waned. However, the need to implement and monitor policies and programs that advance the educational and economic opportunities for minorities facing discrimination and exclusion continues unabated.

Rigorous social and economic research provides accurate data to inform public policy. Decades of academic and applied research form the basis of empirical and econometric methodologies that are used to identify key characteristics associated with social exclusion and poverty. Research in India identifies these characteristics as caste and religion, along with occupation (source of household income) and residential such as rural and urban; and regional (state or sub-state) identity. Analysis of recent data on indicators such as literacy, post-secondary education, employment in the organised sector, access to banking and credit, and political participation shows that Muslims are below average compared with other SRCs. The data for most indicators show Muslims to be at the same level or below SCs and STs.

Even taking into account the historically lower levels of Muslims, next only to the SCs/STs, on many of these indicators, longitudinal data clearly demonstrate a widening gap on these indicators between Muslims and SCs and STs. These data also indicate that Muslims are benefitting less than other groups from national and state level policies and programs targeting socially and economically excluded groups.

### *The socio-religious community in social scientific analysis*

There is a large body of social science research on the social and economic development of SCs and STs in India. Practically all government documents such as those from the Planning Commission, the budgetary documents, the Census of India, the Indian Council of Social Science Research and other social research institutions provides special tabulations for SCs/STs. However, this line of research has not been extended to religious minorities. This study adopts the category of socio-religious community (SRC), which was used for the first time by the Prime Minister's high level (Sachar) committee. In response to the large number of communities across India, as well as statistical constraints of sample size and estimate robustness, the Sachar Committee report formulated SRC groups. The SRC group categorisation was based on widely recognised social identities – the way people identify themselves in their normal day-to-day routine. The SRC categories generated from the available data are based on self-reported information obtained during surveys by the National Sample Survey Organization (NSSO).<sup>14</sup> It is important to note that persons reporting Muslim or Christian as their religious affiliation do not have the option of selecting the SC category. That is, the design of the survey itself does not allow for a person self-identifying as Muslim or Christian to respond to the subsequent question and self-identify as a SC. Instead, the field was automatically populated with 'non-applicable'.

The socio-religious categories used in this analysis are same as in the Sachar report. Such empirical categorisation is possible from the NSS databases and a few other large sample surveys such as the National Family Health Surveys and the National Council of Applied Economic Research's 'human development surveys'. The exclusively generated SRC categories are:

- Hindu – SCs/STs (Scheduled Castes and Scheduled Tribes) together
- Hindu – OBCs (other backward classes)
- Hindu – Hindu general (upper castes, Hindu others)
- Muslim – OBCs, wherever empirically possible and statistically feasible

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14 Housed in the Union Ministry of Statistics and Programme Implementation, the National Sample Survey Organization 'conducts nationwide sample surveys on various socio-economic issues in successive rounds, each round covering subjects of current interest in a specific survey period'. [http://mospi.nic.in/Mospi\\_New/Site/inner.aspx?status=3&menu\\_id=5](http://mospi.nic.in/Mospi_New/Site/inner.aspx?status=3&menu_id=5) (accessed 28 January 2014).

- Muslim – general category, i.e., all Muslims other than those reporting as OBC. It is likely a few intending to identify themselves as SCs are actually included in this general category. This is a serious source of error as discussed below.
- Muslims: most estimates were possible for the ‘all Muslims’ category due to sample size issues.
- All others (other religious minorities, namely Christians, Sikhs, Buddhists, Jains and Zoroastrians. An insignificant proportion reporting no religion are included in this category.) (Note that at the level of India, given the distribution of Christians and other minorities across the nation, it was not feasible statistically and empirically to estimate separate indicators for them. The focus here, therefore, is on the largest minority community, namely Muslims.)

### *Overview of diversity, reservations and programs for minorities in India*

Beginning in 2007, the MMA undertook two major nationwide initiatives to advance inclusive development through targeted pro-poor programs. The first is a set of Multi-sectoral District Development Programmes (MsDDPs) that were implemented in 90 districts with minority concentrations. The second initiative is a system of pre- and post-matriculation scholarship programs. Although these are initiatives of the national government, their implementation and success depend on the collaboration and initiative of the state-level governments and institutions. The MMA acts as a nodal agency responsible for channelling federal funding as well as monitoring and evaluating the progress of India’s minority programs. However, as the data presented in my forthcoming book will depict, the conditions of the largest of India’s minorities – Muslims – have shown little measurable improvement since the Sachar Committee findings were made public in 2006.

Reports of other studies on the condition of Muslims in India present a similar picture of increasing deprivation and exclusion. *Promises to Keep: Investigating Government’s response to Sachar Committee Recommendations* by the Center for Equity Studies analyses the budgetary allocations and expenditures of India and a few selected states.<sup>15</sup> The study finds that government programs favouring the Muslim community are ill-conceived and poorly targeted. It reports that the funds and services intended for Muslims are diverted to other areas, households and communities where the Muslim presence is low or non-existent. *National Infrastructure Equity Audit: Phase 1* by Social Equity Watch presents an analysis of survey data from selected villages regarding availability of 12 social and developmental facilities, including a primary school, integrated child development centre (*anganwadi* centre), health centre, public distribution system (PDS) shop, paved road and drinking water.<sup>16</sup> The

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15 Center for Equity Studies, with Centre for Budget Governance and Accountability and Accountability Initiative, New Delhi, 2011. <http://centreforequitystudies.org/wp-content/uploads/2012/08/Sachar-study.pdf>

16 2011. <http://www.socialequitywatch.org/images/Files/niea-final.pdf>

report found that the availability of these facilities is much less in villages and residential areas with concentrations of SCs, STs and other minority groups. In a special issue of the *Economic and Political Weekly* on the Sachar Committee report, Rakesh Basent critiques the government's post-Sachar national policy and program initiatives.<sup>17</sup> He argues that the Indian government's response to the Sachar Committee report was ineffectual, arbitrary and short-sighted. More specifically, the government randomly selected a handful of the report's recommendations and used them as the basis for formulating a few token programs. Furthermore, Parliament's standing committee on 'social justice and empowerment' in its meeting on 4 June 2013<sup>18</sup> stated that the MMA was not addressing the root causes of the problems highlighted by the Sachar Committee report. It has also advised the government to take legislative action to ensure the timely implementation of the Sachar Committee's recommendations.

*Cycles of boom and bust: electoral politics and socially inclusive development*

A review of the performance of the UPA governments over nine years and in the seven years since the Sachar Committee report, particularly with respect to India's Millennium Development Goals, shows few accomplishments in terms of reducing poverty and hunger, and improving health, sanitation and access to potable water. Apart from the increase in school enrolments for both boys and girls, there are not many goals which will be achieved as planned by the end of 2015.

**Box 1: India's Progress on the MDGs for 2015 (Reproduced from UNDP website, April 2014)**

Target no.	Target description	Progress signs
1	Halve, between 1990 and 2015, proportion of population below national poverty line	c
2	Halve, between 1990 and 2015, proportion of people who suffer from hunger	b
3	Ensure that by 2015 children everywhere, boys and girls alike, will be able to complete a full course of primary education	a
4	Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015	c
5	Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate	a
6	Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio	b
7	Have halted by 2015 and begun to reverse the spread of HIV/AIDS	c

17 Rakesh Basent, 'Social, Economic and Educational Conditions of Indian Muslims', *Economic Political Weekly*, Vol. 42, No. 10, 10 March 2007.

18 <http://www.prsindia.org/parliamenttrack/parliamentary-committees/schedule-of-standing-committee-meetings-1016/>

8	Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases	a/b
9	Integrate the principles of sustainable development into country policies and programs and reverse the loss of environmental resources	a
10	Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation	a/b
11	By 2020, to have achieved, a significant improvement in the lives of at least 100 million slum dwellers	b
12	In cooperation with the private sector, make available the benefits of new technologies, especially information and communication	c

a: Moderately/nearly on track considering all indicators

b: Slow/almost off-track considering all indicators

c: On-track or fast considering all indicators

Source: <http://www.in.undp.org/content/india/en/home/mdgoverview/>

The World Bank, and other independent research institutions praise India for the resilient growth rate of its GDP; they also express serious concern about the Indian government's poor performance on reducing malnutrition, deprivation and vulnerability among large sectors of its population.<sup>19</sup>

The electoral cycle in 2013 and 2014 in India includes national elections and state elections in Andhra Pradesh, Arunachal Pradesh, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Meghalaya, Mizoram, Nagaland, Odisha Rajasthan, Sikkim and Tripura. Like other incumbent governments, the UPA-2 makes a show of implementing programs that appeal to important sectors of the electorate.<sup>20</sup> Thus, before each election it is imperative to assess the incumbent government's performance carefully. At the current juncture, the pertinent question is: Has the UPA-2 delivered on its promised policies and programs? Of the ones that went forward, how are they performing? In terms of the Sachar Committee report's recommendations, the UPA-2 accomplished little during its first two years. By its third year when UPA-2 was gaining momentum, little time remained for substantive accomplishments. In the final year of its administration, the UPA-2 displayed familiar symptoms of the 'rush-to-perform syndrome' that pervades Indian politics. The UPA-2's financial allocations under the 12th Five Year Plan (2012–13 to 2016–17) and subsequent annual budgetary provisions are no exception. Sustained political and public pressure is necessary to ensure that the government is held accountable for effective use of these massive allocations. That is, the government needs a transparent and systematic procedure to evaluate policies and programs. Such

19 World Bank, 2005, <http://www.worldbank.org/en/news/feature/2013/05/13/helping-india-combat-persistently-high-rates-of-malnutrition>.

20 In Indian electoral politics, sectors of the population are commonly called 'vote banks', based on the assumption that specific regional, caste, socio-religious and linguistic communities have similar interests and thus can be mobilised to vote as a block.

a process establishes targets on measures of inclusiveness and impacts, and then measures and publicises outcomes.

During both terms the UPA governments allocated enormous sums to flagship programs. The Right to Information Act, the (Mahatma Gandhi) National Rural Employment Guarantee Scheme (MGNREGS), and the Aadhar Project are three particularly high-profile examples.<sup>21</sup> However, there are no data about these programs in terms of their impact or outcomes for India's poorest and most excluded communities – the SCs, STs and Muslims – who continue to score below the national average for all developmental and welfare indicators including the Millennium Development Goals. These conditions persist despite the Prime Minister's statement in Parliament on 8 December 2006 that minorities particularly Muslims must have first claim on (public) resources, within the framework of Indian democracy; although the opposition parties were quick to denounce such a statement as appeasement of the minorities.

Important long-standing social and anti-poverty programs, such as Sarva Shiksha Abhayan (universalisation of elementary education), *anganwadis* (Integrated Child Development Services Scheme) and the Public Distribution System are plagued by inefficiency, unaccounted expenditure and misspent funds. For example, in its online dictionary of economic terms, the *Economic Times* writes:

The Food Corporation of India, a government entity, manages the Public Distribution System, which is often blamed for its inefficiency and rural–urban bias. It has not been able to fulfil the objective for which it was formed. Moreover, it has frequently been criticized for instances of corruption and black marketing.<sup>22</sup>

During the first year of UPA-1 (2005), Prime Minister Manmohan Singh promised to broaden 'administrative reforms' and raise accounting standards to improve the efficiency of government-funded services. However, these reforms never took place and public outcry about corruption and the theft of public resources continues to escalate. In addition to the failure of UPA-1 and UPA-2 to pass anti-corruption legislation, other major legislative failures include the Women's Reservation Bill and the Targeted and Communal Violence Bill, as well as the failure to pass legislation to establish an EOC

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21 According to the Government of India website, 'Aadhaar is a 12 digit individual identification number issued by the Unique Identification Authority of India on behalf of the Government of India. This number will serve as a proof of identity and address, anywhere in India'. <http://uidai.gov.in/aapkaaadhaar.html> (accessed 5 February 2014).

22 <http://economictimes.indiatimes.com/definition/public-distribution-system> (accessed 6 February 2014).

as the institution to promote and safeguard the rights of deprived communities of India including minorities.<sup>23</sup>

### *Increased insecurity among specific socio-religious communities*

From Independence until 2006, when the Sachar Committee report was published, India's largest minority community lacked a cohesive political identity, along with the self-esteem and sense of belonging such an identity affords. Systemic exclusion of Muslims has increased since Independence, leading to social, economic and educational isolation and backwardness. This situation gives rise to the sense of insecurity and subordination that is pervasive among socio-religious minorities in India. The national government's integration strategies such as those discussed at the National Integration Council<sup>24</sup> do not address the disadvantages they face, nor do they lay out specific programs to reduce or eliminate insecurities. Furthermore, Muslims and other socio-religious minorities have lacked the political influence and power to ensure that they systematically benefit from pro-poor policies and programs, such as those that target SCs, STs and OBCs. Politicians are known to treat religious minorities, especially the Muslim community, as vote banks.

A serious concern is the lack of progress under the UPA governments towards the goal of universal elementary education (SSA). The funds allocated to remediate educational backwardness have not been fully and appropriately utilised. For example only 61 per cent of the SSA allocations have been used.<sup>25</sup> Lack of community pressure and bureaucratic procrastination in state departments of education obstruct the flow of resources to targeted communities, including socio-religious minorities. Equally if not more serious is the fact that the UPA governments have not acknowledged this fundamental problem. Government programs are in place to provide opportunities to minorities educationally by supporting eligible students through pre- and post-matriculation scholarships and means-tested merit scholarships. However, data indicate that a large portion of eligible students are not receiving scholarships – and almost none of the eligible students receive more than a single year of scholarship support.

The Multi-sectoral District Development Programs (MsDDPs) that supposedly direct resources to minority concentration districts is similarly characterised by failure to achieve its stated objectives.

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23 The Women's Reservation Bill, which would endure a 33 per cent reservation for women, passed in the Rajya Sabha in 2010 but as of February 2014 it had not passed in the Lok Sabha. On 5 February 2014, the Rajya Sabha deferred the Prevention of Communal Violence (Access to Justice and Reparations) Bill, 2014, with members of opposition parties claiming the bill violated the spirit of federalism and states' rights: 'Government Forced to Defer the Communal Violence Bill', *The Hindu*, 5 February 2014.

24 The National Integration Council (NIC) is a group of senior politicians and public figures in India that looks for ways to address the problems of communalism, casteism and regionalism. The Prime Minister of India chairs this council and all the Chief Ministers of the states are members.

25 Accountability Initiative – Sarva Shiksha Abhiyan, GOI, 2013–14, file:///C:/Users/Dr.%20Shariff/Downloads/ssa\_2013-14-libre.pdf

Infrastructure development under the MsDDPs such as construction of *anganwadi* and childbirth centres (labour wards) and student hostels targets non-minority communities. Furthermore, infrastructure development in minority concentration districts is inferior and inadequate: a childbirth centre, for instance, might be no more than a bare room in an underequipped primary health centre often with no paramedics or trained nurses working in it.

The subcontinent's history and geography give rise to a complex web of diversity. In fact, diversity pervades all aspects of life in India: cultural, economic, linguistic, political, religious and social. For example, national and state elections under India's multi-party parliamentary democracy illustrate a component of political diversity: a party securing as little as 25 to 30 per cent of the vote can come to power by forming a coalition with allied political parties. Diversity across India's workforce, about 500 million strong, is indicated by the fact that around 51 per cent are self-employed, another 33.5 per cent of them are casual labourers, and only 15.6 per cent have salaried employment.<sup>26</sup> The self-employed workforce is engaged in thousands of different traditional occupations including farming. The small organised employment sector is also highly diverse. Opportunities in both the traditional and organised workforces change continuously in response to changing technologies and labour demands in India and across the globe.

A discussion of diversity in India is not complete without reference to India's highly politicised systems of reservations or quotas, or affirmative action, for admission to publicly funded educational institutions and positions in public sector employment, as well as publicly funded programs that benefit specific sectors of the population. In this regard, dalit (SC) and tribal (ST) communities have been identified as communities whose historical deprivation and exclusion make reservations necessary. However, only specific sub-groups within the categories of dalit and tribal are recognised, namely those who are also identified as Hindu, Sikh or Buddhist. In other words, dalit and tribal communities that are Muslim or Christian are excluded from the SC and ST categories. Due to this categorical exclusion, large proportions of Muslims and other minorities are misclassified and thus excluded from the benefits of India's system of reservations (see Table 3 below). This exclusion of Muslims and Christians from the SC and ST categories exemplifies the political nature of legal categorisation, which in this case discriminates against Indian Muslims and Christians.

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26 NSSO 2012.

**Table 3: Synthetic groupings of caste and class**

Religion	SCs and STs	OBCs	All others (high caste/class)
Hindus	31.3%	42.8%	26.0%
Muslims	<b>1.3%</b>	39.2%	<b>59.5%</b>



Source: Sachar Committee report, Government of India, 2006; based on various national sample surveys.

Since the submission of the Sachar Committee report in 2006, the UPA-1 government (2004–09) under the leadership of the Indian National Congress party has taken a number of initiatives to address exclusion and deprivation among India’s minority communities. With the preponderance of Muslims among members of India’s minority communities, post-Sachar Committee policies and programs are often regarded as focusing on the social and economic development of India’s Muslim community with programs that remediate decades of exclusion and promote inclusion or ‘mainstreaming’. To this end, the Ministry of Minority Affairs was established in 2006 to implement Prime Minister Manmohan Singh’s 15 Point Programme for Minorities that was informed by the empirical analysis of deprivation among minority communities and the recommendations in the Sachar Committee report.

### **Theoretical framework**

#### *Government decentralisation, elite capture and discrimination*

The problems confronting India are related to lack of markets, market failure and absence of developmental as well as community-based institutions. There is lack or failure on the part of civil society at the local level, which could be a result of socio-religious communities (SRCs) living in a defined administrative area not being sufficiently cohesive to work together to strive for the stated national and local objectives and outcomes. The local institutional framework at work has been the *panchayats* and municipalities, which have failed to undertake coordinated actions that are efficient, often leading to undesirable outcomes, and counter to stated objectives. This double whammy of the failure of societal forces and grassroots level institutions must be addressed through parallel and interlinked processes such as (i) providing guaranteed access to the local decision-making structure through the enactment of national and state level laws; and (ii) using IT-enabled monitoring and assessment procedures at the district and *taluka* level.

Policies and programs targeting minority communities for development and inclusion need to be developed, funded and monitored at the national and state levels. Successful implementation, however, requires effective structures at the local level for leadership, participation and accountability. Centuries of deprivation of the SCs, the STs and more recently Muslims has resulted in geographic isolation and exclusion from education and employment, which further restricts opportunities for these communities to participate in the civic, economic and political life of the larger Indian society. The prevailing political and administrative structure at the local level is the *panchayat* in rural areas and municipality in urban areas. Poor coordination and management of the *panchayats* and municipalities and between these local units and government at the national and state levels has led to lack of accountability, inefficiencies, corruption and systematic theft of resources.

One often notices what in literature is identified as ‘elite capture’. In India’s case this can be described as ‘capture by numbers’: the local majority which captures power may not be benevolent and altruistic towards those who are out of the power circuits not because of their interest but because of lack of numbers. Note that in India the electoral process almost entirely works on caste, religion, community and language-based identities, pushing the most marginalised farther towards the fringes. There is evidence that the local power structure is captured by the relatively better-offs, landed, educated and most likely belonging to higher caste and community groups, and their resource allocations usually favour themselves.

These undesirable outcomes can be exacerbated through privatisation of publicly funded services. The concept of ‘elite capture’ is relevant to discussion of the implications of decentralisation and privatisation on related yet distinct concepts of discrimination and corruption.<sup>27</sup> In India elite capture is made possible because local-level power structures such as the *panchayat* are controlled by wealthier, landed, better educated, male members of locally dominant caste groups, who enable access to resources and allocate public resources to benefit the private interests of their own group. The economic and social interest of the local elites constrain a number of households from edging out of the poverty trap, so that local institutions continue to receive government funds and grants. Such processes underpin the politics of poverty, fuel corruption and perpetuate inequity in India. It is important to remember that the current Indian planning and fiscal allocation strategy motivates local communities to show that a certain proportion of households fall ‘below the poverty line’ so as to sustain continued and often increased

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27 World Bank, 2000, *Inclusion and Local Elected Governments: The Panchayat Raj System in India*. (<http://web.worldbank.org/archive/website01061/WEB/IMAGES/INCLUSIO.PDF>). For a discussion of the relationship between the concepts of ‘elite capture’ and ‘dominant caste’ in India, see Diya Dutta, ‘Elite Capture: Concept and Definitions’, National Council of Applied Economic Research. [http://www.ruralgovncaer.org/images/product/doc/3\\_1345011280\\_EliteCaptureandCorruption1.pdf](http://www.ruralgovncaer.org/images/product/doc/3_1345011280_EliteCaptureandCorruption1.pdf) (accessed 1 February 2014).

fiscal allocations. This is the key to the Indian politics of poverty, which can be addressed when a certain proportion of the expenditures are borne by the local communities themselves.

What mechanism can address elite capture? Can the local bureaucracy act as the benevolent agent of the government, the trustee of the public funds, the professionals and facilitators? So far there is conflicting evidence to suggest that the bureaucracy has succeeded. The fact that India has grown out of wretchedness and mass illiteracy over the last six decades or so is an example of bureaucracy responding to the economic and societal changes that have taken shape since the mid-1980s. Yet when it comes to inclusive policies and welfare programs the bureaucracy appears to have failed mostly due to sheer apathy and indifference and often due to inefficiency. It is also important to note that the bureaucracy at its best is corrupt and misuses and misallocates public funds at the lower levels.

It is due to the failure on all three fronts – societal (social structure), local self-governance and grassroots-level bureaucracy – that reforms are needed. One way to circumvent these difficult and high cost reforms is to enable local and excluded communities to participate in political and legal processes. Often this is done through a quota system at all levels of governance and local self-governance structure. What is important is to identify new types and breeds of the excluded such as minorities, particularly Muslims, and facilitate their participation in local decision making. It is alarming that even after bringing this fact to the notice of the government, the parliament and the people at large through the Sachar Committee report, no effort has so far been initiated in this direction. The government must enact a law so that representatives of minority communities get a seat within the *panchayat* and municipal councils through the process of co-option and/or nomination. There is already an example to this effect in the state of Andhra Pradesh at the level of '*mandal panchayats*'. This example must be emulated and scaled up by covering the whole country through a national Act as well as deepening the procedures at the levels of the actual *panchayats* and municipal councils. This process alone will facilitate creation of new types of social and political leadership and promote civil society at the length and breadth of India.

Sustained public pressure and political will are essential to address this deeply rooted and ubiquitous problem of elite capture. Intuitional mechanisms are necessary to monitor local elites, making them accountable for how they use and disburse public resources, and penalising them for misuse – the misuse manifests itself as elite capture, discrimination or corruption. Enormous and unwieldy as it undoubtedly is, government bureaucracy in India has played an integral role since Independence in advancing social and economic development among sectors of the population. Since the mid-1980s bureaucracy has been responsive to major changes in economic and social policy, including privatisation and decentralisation. Yet whether a result of indifference and inefficiency, corruption, discrimination or elite capture – or a

combination of all these factors – the record on inclusive policies and welfare programs for socio-religious minorities is dismal at every level of government and the bureaucracy.

The decentralisation of governmental programs compounds the adverse effects of societal, political, governmental and bureaucratic neglect of socio-religious minorities. These conditions make it all the more urgent to develop institutions backed by law and its enforcement that increase access of excluded communities to education, public sector and organised employment, and politics. The Indian context demonstrates that the implementation of a quota system at all levels of governance is integral to improving the social and economic conditions of specific SC and ST communities.

### *Equal opportunity: a constitutional right*

There are ongoing debates over the constitutionality of public programs that use religion to identify beneficiaries. Some argue that the practice amounts to discrimination on the basis of religion. On the other hand, a closer study reveals that the Indian Constitution does not preclude identification of beneficiaries based on religion. In fact, the Constitution refers to religion in the same context as race, caste, sex and place of birth; and caste, sex and place of birth are liberally used in identifying beneficiaries. Given the cross-cutting characteristics defining social groups in India, it is important to be able to use multiple criteria, including religion, when identifying groups in need of programs that promote equal opportunity.

The Indian Constitution resolves to secure to all citizens ‘equality of status and of opportunity’, and directs the government to be proactive about ensuring equal opportunity. The concepts of equality, equal access and equal opportunity are elaborated in Article 14 (right to equality), Article 15 (access to education) and Article 16 (public employment).

The Constitution guarantees that the ‘State shall not discriminate ... on grounds only of religion, race, caste, sex, place of birth ...’ Article 15(4) states: ‘Nothing ... shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes (SCs) and the Scheduled Tribes (STs).’ Note that the phrase ‘socially and educationally backward classes’ (SEBCs) precedes reference to SCs and the STs. Thereafter, Clause (5) directs the state to make special provision by law for the advancement of ‘socially and educationally backward classes’ through admission to private, aided and unaided educational institutions.

Article 16 ensures equal opportunity in government employment and forbids discrimination on the grounds of religion, race, caste and so on. Clause (4) makes provision for the reservation of government

appointments in favour of ‘any backward class’ not adequately represented in the services of the state. The task of deciding which groups and classes are ‘backward’ rests with the state.

References to group classification in Articles 14, 15 and 16 emphasise that it is not arbitrary and that it must be compatible with the ‘objective of classification’, keeping always in mind any pre-existing inequalities. Backwardness should be determined on the basis of non-arbitrary factors such as those mentioned in the Constitution: religion, race, caste, sex, descent and residence/place of birth. Backwardness can also be assessed based on non-arbitrary data including occupation, workplace, age and language.

The state is directed by the Constitution ‘to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life’ (Article 38(1)). A 1976 amendment to the Constitution reads, ‘The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations’ (Article 38(2)).

It is common practice of government bodies, departments and ministries to collect, collate and analyse data on the SCs and STs to measure levels of literacy and higher education, share in state employment, and other figures. Such data are also used to assess multi-dimensional gender discrimination and regional disparities arising from place of birth and residence. Given that these characteristics are studied, the exclusion of religion is neither logical nor defensible. That is, the position that targeting social development resources to groups on the basis of religion is unconstitutional arises from an erroneous interpretation of the Indian Constitution. Along with gender and caste, religion is a basic constituent of social identity in India. Research over the past decade provides extensive data indicating that gender, age and regional background exacerbate the disadvantages and social exclusion linked to socio-religious identity. For example, if one is a women, old, living in say Uttar Pradesh or Bihar and happens to be a dalit or a Muslim she is most likely to suffer from multiple deprivations and neglect both by the immediate community and government programs. Furthermore, these data show that Muslim and dalit women and children in less developed states are the two most excluded socio-religious groups in India.

The Indian Constitution confers on the government the authority not only to identify ‘backward’ communities, which can be defined in terms of caste or religion, but also to implement programs that target these communities. However, governments at both the national and state level have not exerted sufficient political will to place the issue of India’s excluded caste and religious communities within the full spectrum of policy and programs, as recommended in the Sachar Committee report. Article 25

of the Indian Constitution, which articulates the nature and boundaries of the right to freedom of religion, includes the names of selected religions in order to bring a certain degree of clarity as to who constitute the Hindus. It does not preclude naming or singling out Muslims and Christians (two large religious communities) in public papers and legal documents.

#### *Need to institutionalise equal opportunity*

The government of India accepted the Sachar Committee report fully and delegated to the Ministry of Minority Affairs (MMA) the responsibility of forming an expert group to examine and determine the structure and functions of an Equal Opportunity Commission. This group completed a report as well as a bill in February 2008.<sup>28</sup> The recommendations include a number of advisory, advocacy and auditing functions. The EOC would function as a civil court but would lack essential powers, namely any penal power and the power to redress grievances.

Another expert group was engaged to develop a method for measuring diversity in development, employment and welfare programs, and to prepare a diversity index to monitor improvements in diversity in the public sphere, with the goal of ‘unity in diversity’. The report of the expert group to propose a Diversity Index and work out the modalities of implementation was completed in June 2008 and it outlines data needs and methods for computing diversity through index measures.<sup>29</sup> However, neither the MMA nor any other ministry whose work concerns diversity in education, employment, poverty alleviation, banking or micro-credit so far has made efforts to measure diversity in access and outcomes.

After the EOC committee report was submitted, Prime Minister Manmohan Singh assembled a group of ministers (GoM) to begin the process of establishing the EOC. Despite being delegated with expediting the establishment of the EOC, the GoM has deferred making a decision on its formation. It is not clear which members of the GoM are impeding progress on the EOC. Ministerial rivalry and territorialism contribute to the impasse. For example, the National Commission for Minorities (NCM) considers social and economic empowerment of minorities to be its domain. As it was conceived, the EOC is meant not only to protect the interests of minorities, but also to ensure equal opportunity for all citizens of India, regardless of religious, caste, linguistic or geographic differences.<sup>30</sup> Approaching its seventh decade since Independence, the failure of India’s institutions to protect its citizens’

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28 <http://usindiapolicy.org/documents/inclusion/EOC-Report-MMA.pdf>.

29 [http://usindiapolicy.org/documents/inclusion/DiversityIndex\\_expgrp.pdf](http://usindiapolicy.org/documents/inclusion/DiversityIndex_expgrp.pdf)

30 It should be noted that there are cases of discrimination against groups that are ranked higher rather than lower in the caste hierarchy. Research and data are needed to ascertain whether educational and economic disadvantages accrue to such groups.

constitutional right to equal opportunity makes a persuasive case for establishing an EOC informed by the best practices of comparable bodies in the UK and US.

### *Precedents for institutionalising equal opportunity*

Public discourse as well as national and state level policy play important roles in building institutional support for inclusion and diversity. The fundamental institutional mechanism for pursuing the goals of inclusion and diversity is the Equal Opportunity Commission (EOC). The national and state governments are responsible for protecting the constitutional rights of India's minorities and this would be best accomplished through establishment of an EOC. The Indian government can draw on the experience of the UK and the US, which have both developed effective policies and programs via the Equal Human Rights Commission (EHRC) (formerly EOC) in the UK and the Equal Employment Opportunity Commission (EEOC) in the US.

The size and diversity of India's population contribute to widespread social and economic disparity, which can intensify during periods of rapid economic growth. During India's recent period of growth, the government allocated resources for programs that promote literacy and education, health and longevity, employment, and improved nutrition and housing. Yet access to these programs is uneven and skewed away from religious minorities. The growing disparity in social and economic development results from repeated and widespread failures of India's national and state governments to provide Muslims and other minorities equitable access to programs that increase educational and employment opportunities for 'backward' communities.

The Sachar Committee was the first time that the government of India commissioned a body with the task of investigating social, economic and educational conditions in terms of socio-religious identity. Its findings revealed that government policy since Independence was increasing the social exclusion of the Muslim community. Specifically, Muslims have experienced increased deprivation compared with constitutionally guaranteed and institutionally supported policies and programs (reservations) for SCs and STs, which have enabled these groups to improve social and economic development outcomes. That is, programs that improve access to employment in the public sector, development credit, higher education, political participation via voting and public office, guaranteed employment in the third tier of governance such as the *panchayats* and municipalities and participation in civil society have benefitted SCs and STs, but have excluded Muslims and other religious minorities.

It is incumbent upon the national and state governments to promote equal opportunity for all Indians and to redress the structural effects of historical discrimination through effective and well-resourced and carefully monitored programs. Using its legal mandate and resources, the government must

simultaneously promote the goals of economic development and social equity. The Sachar Committee recommended the establishment of an Equal Opportunity Commission to ensure equal opportunity of ‘access and use’ and provide a ‘level playing field’ for all socio-religious communities. This recommendation is based on extensive analysis and deliberation that concluded the institutions in India responsible for ensuring all citizens have access to ‘equal opportunity’ are structurally incapable of meeting this responsibility. In this context reference is made to independent courts and bodies such as commissions of backward classes, minorities, SCs and STs as well as the Human Rights Commission arising from India’s participation in international human rights agreements. While all of these bodies have specific missions and objectives, none directly addresses the issue of equal opportunity. Furthermore, the growing economic deprivation and political exclusion among certain socio-religious communities indicate that, individually and as a whole, India’s institutions fail to implement constitutional guarantees of equal opportunity. Therefore, the Indian state is bound, per Articles 14, 15 and 16 of the Indian Constitution, to implement equal opportunity programs to redress the discrimination against socio-religious communities that leads to their social and economic backwardness.

*Ensuring efficacy: mechanisms for redressing grievances*

Mechanisms for redressing grievances related to discrimination are addressed through departmental procedures, tribunals and courts in India, yet these mechanisms are not equipped to redress grievances pertaining to disparity in access to policies and programs meant to ensure social, economic and educational equity. The size of India’s population and the widespread geographical distribution of discrimination calls for independent institutional structures – independent of government but under the authority of the Parliament that can work closely with citizens to identify, articulate and solve problems of unequal opportunity. This sort of individual, real-time contact would allow citizens opportunities to excel, participate and benefit from India’s economic growth.

The prevailing institutional provisions are listed in the following box with comments as to why they do not address the systemic exclusion in the areas of social, economic and educational spheres in India.

## Box 2: Why the major institutional provisions fail to provide equal opportunity

<p><b>Bureaucratic procedures</b> Procedures followed by public institutions, government departments, delivery centres, local security centres and so on.</p>	<p>It is common to approach an officer superior to the decision maker for relief. But in the Indian situation, formal appeal and request for reconsideration of a decision is rarely possible. The bureaucratic chain of command is rigid, opaque and not easy to break in by the common citizens. Since these institutions themselves are the executors and implementers of the government policies and programs, they do not accept their defects and are not amenable to providing reasonable redress. In brief the administrative recourse gets easily exhausted without relief.</p>
<p><b>Legal recourse through courts of law</b> Various levels of legal institutions and courts: local to district, state and national.</p>	<p>This is one of the independent wings of the democratic structure of India. The courts and the hierarchy are not easily accessible to common citizens. By design the courts do not ordinarily address the systemic bias that leads to exclusion and marginalisation as a matter of its routine and/or priority. There is no legal process to enforce social equity and stop inequity. The court judgments take an awfully long time, have tedious procedures and long waiting times, and are unaffordable for the poor.</p>
<p><b>Human Rights Commission (HRC)</b> As a signatory to international covenants HRC was established in 1993. HRCs are in place in over 20 major states.</p>	<p>The HRC in India mostly functions as an extended wing of the national government. It generally does not initiate procedures against the government in power. It generally deals with issues and situations which are normally dealt with by the local police and security agencies. Systemic bias and discrimination in the social, economic, educational and employment spheres has never been addressed by the HRC in India. It has a poor record of documentation and research.</p>
<p><b>Specified special-purpose commissions</b> E.g. the National Commission of Minorities (NCM), Commission for Backward Classes</p>	<p>These are the special-purpose vehicles established by the government generally under a ministry of the national government. For example, NCM is now under the administrative control of MMA. The mandate and objectives of NCM are wide-ranging including the ones relating to societal, economic and educational opportunities for the minorities. NCM has a statutory responsibility, under Section 9(1)(g) of the <i>NCM Act 1992</i> to evaluate the progress of the development of minorities and to suggest appropriate measures, to be taken by the government, in respect of any community. Functionally NCM has never undertaken any such tasks and it has failed to deliver especially in the areas of ensuring accessibility to education, economic and social services to minority/Muslim community in India. This has happened mostly due to lack of independent functioning of NCM as well as poor quality bureaucratic and financial support. NCM annual reports are tabled in the Parliament, but have never been discussed or debated in the Parliament.</p> <p>NCM itself accepts the fact that it has to work out the adequacy of its scope and that it has to increase coverage both in terms of issues as well as geographic reach. NCM claims that it has not received the expected support from MMA.</p> <p>NCM itself considers that it is not authorised to monitor government programs and one has to work at the level of the district and become sensitive to people's needs. Accordingly even the Ministry of Program Implementation and/or the Ministry of Poverty Alleviation are not actively involved. Thus NCM has totally failed to address the issues of equal opportunity and equity.</p>