



Marginalized Within Margins: Investigating the Exclusion of Dalit Muslims from Scheduled Caste Quotas

ARFA KHAN

Research Scholar

Political Science Department

Aligarh Muslim University, Aligarh, India

Abstract

This paper delves into the intricate dynamics surrounding Dalit Muslims and affirmative action's efficacy within the constitutional safeguards framework. Situated at the crossroads of Caste and religion, the unique identity of Dalit Muslims often faces marginalization within both spheres. This research critically examines the historical evolution of affirmative action policies, mainly focusing on constitutional provisions such as Article 341, intended to uplift marginalized communities. Through a multidisciplinary lens, the study explores the lived experiences of Dalit Muslims, assessing the impact of affirmative action measures on their social, political, economic, and educational upliftment. The research endeavors to unravel the complexities of identity, elucidating how constitutional safeguards either bridge or perpetuate the gaps within the diverse landscape of Dalit Muslim communities. By scrutinizing the successes and limitations of affirmative action policies, this paper contributes to a nuanced understanding of the challenges Dalit Muslims face. It proposes avenues for refining existing constitutional safeguards to foster inclusive socioeconomic development.

Keywords- Dalit Muslims, marginalization, affirmative action, Article 341

I argue that sometimes recognizing particular rights for groups is the only way to promote their full participation. Some fear that such differential treatment again stigmatizes these groups. I show how this is true only if we continue to understand difference as opposition – identifying equality with sameness and difference with deviance or devaluation. Recognition of group difference also requires a principle of political decision making that encourages autonomous organization of groups within a public. This entails establishing procedures for ensuring that each group's voice is heard in the public, through institutions of group representation.

- Iris Marion Young¹

Introduction: India is a multi-ethnic, multi-religious, and multi-linguistic country. It is a well-known fact that Indian society is a vast society based on social inequalities and vast inequalities through the caste system. Muslims, constituting approximately 14% of India's population, represent the second-largest religious community with a widespread presence across the nation. The origins of the Muslim community in India are rooted in migration and conversions, resulting in a diverse array of groups differentiated by descent, lineage, occupation, language, and region.

Although, in theoretical Islam prohibited the Caste system practically, in the Indian sub-continent, this practice has existed. In India, Muslim society consists of several *biradaris* ((status groups), such as- the Ashrafs (Mughal, Pathan, Sheikhs, Syeds) are nobles who migrated to India from Turkey, Afghanistan, Arabia; the Ajlafas (Gaur, Tyagi, Rajput others) who are converted from Hindu upper caste and the last group is Arzals (Halalkhors, helas, bhangis, dhobis, nais, chiks and faqirs, idris, kunjara, julahas) are those who convert from lowest strata or "untouchables" from Hinduism.² Sachar's committee mentioned this caste category in his report in 2006.³ Ali Anwar, the founder of the All India Pasmanda Muslim Mahaz, identified this group as "Pasmanda Muslim."⁴ This paper briefly discusses who pasanda Muslims are and their condition as Dalit Muslims.

The Indian Constitution describes India as a Secular, Sovereign, Socialist, and Democratic republic. The Constitution guarantees several fundamental rights, such as civil and political, in Articles 14-31. Also, it gives protection to minorities in the form of cultural and educational rights (identity rights). Despite that, Article 341 is not religiously neutral, which authorizes the President to declare certain castes and classes as Scheduled Castes in a state or a union territory. This paper inquires about the Presidential Order 1950 and Article 341, which excluded Muslim Dalits or Pasmanda Muslims on the grounds of religion from the Scheduled Caste list. This prevented them from receiving reservation benefits.

In a democratic state, every socially identifiable group seeks representation and participation in developmental processes. We also seen in India through affirmative action policies dalit Hindu enjoy political, social, economic and educational benefits. The Union of India also granted Scheduled Castes status to Dalit Sikhs and Dalit Buddhists without substantial evidence or material of untouchability or caste differences. The Union of India added Sikhism in 1956 and Buddhism in 1990 to the Presidential Order 1950, Paragraph 3. Dalit Muslims who are in the same condition as their counterparts of other religions are excluded from this benefit. Implementing the Mandal Commission report brought Ajlafas and Arzals under the OBC category, and the Mishra Commission, known as the National Commission for Religious and Linguistic Minorities, acknowledged the caste system influenced all religious communities, including Muslims in India. This paper's objective is to discuss why Muslim Dalits need Scheduled Caste status and to receive the benefits of affirmative policies. In this paper, I use the pasmanda Muslim term instead of Dalit Muslim. The methodology used for this paper is qualitative and uses secondary sources such as books, government reports, articles, and reputed journals

Pasmanda Muslims and their status

'Pasmanda,' derived from Persian, means 'those who have been left behind.' It denotes the marginalized classes within the Muslim community, emphasizing their deliberate exclusion.⁵ This term serves as an overarching identity for underprivileged, Dalit, and tribal Muslims, uniting them against caste-based discrimination within their community. The group Arzal- was first recorded in the 1901 census and, the term pasmanda was first used by Ali Anwar in 1998.⁶ According to the Sachar Committee report, the percentage of OBC and SC/ST Muslims was estimated to be 40% nationwide during the 2004-05 period in India.⁷ On the other hand, Ali Anwar said that pasmanda makes up 80 to 85% of the total Muslim population in India. He gave the reason that during the partition, most Ashraf Muslims went to Pakistan. Across India, there exist approximately 35 castes among Indian Dalit Muslims, such as Nutt, Bakkho, Khatik, Bhatiyara, Kunjra, Lalbegi, Dhunia, Kalal, Dafali, Halakhor, Dhohi, Gorkan, Meersshikar, Rangrz, Darji, Mochis, Mukris, and Garudis, etc. These castes are involved in occupations traditionally associated with Schedule castes.⁸

If we talk about pasmanda Muslims status, in this regard National Commission of Minorities commissioned a report on Dalits in the Muslim and Christian Communities : A Status report on current social scientific knowledge also known as Deshpande Report in 2008. The study aimed to determine the material and social standing of Dalits belonging to the Muslim and Christian communities. It sought to compare their conditions with both non-Dalit members within their own communities and Dalit members of other communities. Additionally, the study aimed to assess whether their challenges warranted intervention from the State.⁹ The findings of the report indicated that, regardless of religious affiliation, Dalits faced inferior material, social, and educational circumstances compared to non-Dalits.¹⁰ Regarding the issue of Untouchability, the study revealed that Muslim and Christian Dalits were recognized and treated as distinct groups within their religious communities. They were consistently viewed as "socially inferior" by their co-religionists, experiencing various forms of discrimination and exclusion, such as social, cultural, and occupational segregation, economic exploitation, and endogamy.¹¹ Importantly, the study noted that in many social contexts, Muslim and Christian Dalits identified primarily as Dalits, with their religious identity considered secondary. The report concluded that there is no compelling evidence to justify denying Scheduled Caste status to Muslim and Christian Dalits. On the contrary, it argued that there is a strong case for according them such status. Similarly Sachar Committee report argued same points about the Dalit Muslims.¹²

Discussion

Looking back at the history of reservations, in 1902, Chhatrapati Shahu Ji Maharaj of Sholapur in Maharashtra initiated a 50% reservation for non-Brahmins, aiming to support socially and educationally deprived sections of Indian society, regardless of their religious affiliation. In 1935, the British government legally established reservations for the socially and educationally deprived, including Scheduled Castes (S.C.s) from all religions.¹³ Thus, there is a history of religion-neutral affirmative action in India.

Moreover, the term "Scheduled Castes" originated with the Government of India Act of 1935, which introduced an official list (Schedule 102) to identify socially disadvantaged and excluded castes.¹⁴ Formerly

known as "Depressed Classes" during British rule, these castes were entitled to special electoral representation.¹⁵ The Schedule was later incorporated into the Constitution of India and continues to be used. According to Article 366(24) of the Constitution, Scheduled Castes are defined as "such castes, races, or tribes, or parts of or groups within such castes, races, or tribes" as determined under Article 341. Article 341 grants the president of India the authority, in consultation with State governors, to notify through the presidential order 1950, the castes or groups deemed to be Scheduled Castes for each State.¹⁶ Once listed, these castes can only be delisted by Parliament. Paragraph 3 of this order included only Hindu Scheduled Castes and excluded Muslims and Christians based on religious identity.¹⁷

The argument here is that pasmanda Muslims face identical hereditary social disadvantages and exclusion based on untouchability, akin to their Hindu counterparts, and it is evident through various reports that Dalit Muslims are marginalized within margin in their community; and the omission of granting Scheduled Caste status to them is a historical irregularity. It constitutes a communal afterthought and a violation of Articles 14 and 15 and 25 of the Indian Constitution.

Scholar Kumar Arvind found out "that Muslim, Christians, and Sikh communities were excluded from Scheduled Caste list because their leaders had historically refrained from participating in any settlement for untouchability, particularly the Poona Pact of 1932. Their participation would have raised aspersions on claims of the egalitarian nature of India's minority religions."¹⁸

But there is also a fact that in constitutional Assembly debates, Muslim leaders compromise S.C.'s demand for the cultural and educational rights now enshrined in Articles 29 and Article 30 of the Constitution. Why did Muslim leaders not bargain their communal reservation? In this context, Rochna Bajpai argued that "It is also thought to have changed minority attitudes towards political safeguards as a consequence of their weakened bargaining position."¹⁹ Further, Robinson argues that the partition created a moral obligation for those leaders to prove their commitment to the newly established Indian state as a way to affirm their patriotic credentials.²⁰

In the above discussion, this is clear, although Muslim leaders could not bargain or give up S.C. status for their Pasmanda Muslim community. Thus, the Presidential Order 1950 excluded Muslims from the Scheduled list, which still contradicts the Constitutional spirit of secularism equality and forbids the violation of rights on the grounds of religion. The law is repealed or amended whenever societies need reformation from inequalities, discrimination, and injustices and are left behind in all stages of life. There is an example when the Union of India added Sikhism in 1956 and Buddhism in 1990 to the Presidential Order 1950. Thus, this case goes also with Muslims to include their pasmanda Muslims in the list. The exclusion of Pasmanda Muslims and Christians from the Scheduled Caste list solely due to communal discrimination does not adequately address the intricate nature of the underlying issues.

Affirmative actions for Pasmanda Muslims: A critical assessment-

Why Muslim pasmanda included in Scheduled Caste list, Indian Court admits that Caste persists even after converting to religions that do not have any scriptural endorsement for the caste system.²¹ The Supreme Court grappled with the question in 1985, raised by the pivotal Soosai case, of whether converts still undergo ritualistic discrimination and social exclusion linked with Untouchability. The case challenged the validity of the 1950 Constitution (Scheduled Castes) Order, arguing that it amounted to religious discrimination since only Hindu or Sikh members of the specified castes in the Schedule were recognized as Scheduled Castes under the Constitution. The Court held:

“To establish that.....the Constitution (Scheduled Caste) Order 1950 discriminates against Christian members of the enumerated castes it must be shown that they suffer from a *comparable depth* of social and economic disabilities and cultural and educational backwardness and similar levels of degradation within the Christian community necessitating intervention by the state under the provisions of the Constitution. It is not sufficient to show that the same caste continues after conversion. It is necessary to establish further *that the disabilities and handicaps suffered from such caste membership in the social order of its origin- Hinduism – continue in their oppressive severity* in the new environment of a different religions community”²²

The court did not imply that the concept and practice of Untouchability were exclusive to Hinduism. Instead, the presence of Untouchability among non-Hindus was considered a factual matter, subject to a specified threshold. In theory, members of Dalit communities within the Muslim or Christian faiths could potentially demonstrate that they face significant caste-related mistreatment, justifying their classification as Scheduled Castes.²³

Simultaneously, the OBC category provides an alternative “back door” for reservations, for Muslims and Christians, including Dalits. In 1993, the NCBC (National Commission for Backward Classes) was established as a legal body with the responsibility of providing binding recommendations to the central government regarding the inclusion of groups in a central list of backward classes.²⁴ This inclusion is determined based on statutory guidelines concerning the social, educational, and economic status of the respective caste or community.²⁵ Unlike Scheduled Caste status, the classification of Other Backward Classes is religion-neutral. Thus, minority religious communities meeting the statutory criteria may be designated as OBCs. However, as observed, the areas of reservation for OBCs are limited only to higher education and employment in provincial and central state services. However, the SC and ST quota is expanded to legislatures. It is evident that Muslim political representation in legislative bodies is low compared to their population. Sachar committee documented that Muslim constituencies are reserved for SC and ST castes. If the State shows a desire to give the SC status to Muslim pasmanda, due to this, Muslim political representation may be increased in legislative bodies, and they have a position to make decisions for nation-building.

Similarly, The Commission on Religious and Linguistic Minorities in India addressed the issue of applying Affirmative Action to Scheduled Caste converts to Islam.²⁶

Therefore, debates on giving SC status to Muslims are a roller coaster ride. Muslims argue that the Union of States amended Presidential Order 1950 and included Sikhs and Buddhists in the SC list because these religions derived from Hinduism. Despite the National Commission of Minorities Act of 1993 recognizing Sikhism and Buddhism as distinct religions from Hinduism, they were granted Scheduled Castes status. It's commonly believed that, like Islam and Christianity, Sikhism and Buddhism also reject the concepts of untouchability and casteism theoretically. Still, pasanda Muslims are excluded from the benefit of SC status.

Conclusion

The paper brings out that the imperative of the hour calls for a paradigm shift in societal and governmental perspectives regarding the rights and status of Dalit Muslims in India. Despite shared professions and experiences of social discrimination comparable to their Hindu counterparts, the delay in granting Scheduled Caste (S.C.) status to Dalit Muslims persists. Social scientists highlight the positive impact of reservations on the relatively improved conditions of Dalit Hindus, Sikhs, and Buddhists.

Along with this, the paper brings out that the exclusion of Dalit Muslims from the Schedule Caste category, rooted in the discriminatory Presidential Order of 1950 based on religion, stands as a barrier to their inclusive development. The denial of S.C. status deprives Dalit Muslims of reservation benefits, hindering their socioeconomic progress. Inclusion in the S.C. category would rectify this disparity and empower Dalit Muslims to participate actively in the nation-building process. Embracing inclusivity in granting S.C. status to Dalit Muslims aligns with the principles of justice and equity, fostering a more comprehensive and equitable society.

References

1. Iris Marion Young, 2011, *Justice and Politics of Difference*, with a new foreword by Danielle Allen (Princeton University Press, 1990. pp.11-12.
2. Anwar, Ali, 2005 *Masawat ki Jung (Struggle for Equality)*, trans by Mohammad Imran Ali and Zakia Jowher, New Delhi: Indian Social Institute.
3. GOI, *Social, Economic and Educational Status of the Muslim Community of India* (GOI, Cabinet Secretariat, New Delhi, 2006) p.192.
4. Anwar, Ali, 2005, *Masawat ki Jung (Struggle for Equality)*, trans by Mohammad Imran Ali and Zakia Jowher, New Delhi: Indian Social Institute.
5. Ibid.
6. Kapoor, Saurabh. 2022 *Explained: Who Are Pasmada Muslims, Focus of BJP Outreach?* , indianexpress.com/article/explained/explained-who-are-pasmada-muslims-bjp-pm-modi-8017276. Accessed on 15 January 2024.
7. GOI, *Social, Economic and Educational Status of the Muslim Community of India* (GOI, Cabinet Secretariat, New Delhi, 2006) p.203,205.
8. Anwar, Ali, 2005, *Masawat ki Jung (Struggle for Equality)*, trans by Mohammad Imran Ali and Zakia Jowher, New Delhi: Indian Social Institute.

9. S. Deshpande, 2008, Dalits in the Muslim and Christian Communities: A Status Report on Current Social Scientific Knowledge (Government of India (GOI), National Commission for Minorities (NCM), New Delhi,), p.2-5.
10. Ibid. p.28-29.
11. Ibid. p.78.
12. Ibid. p.81-83.
13. Alam. Aftab. 2011 Discrimination and Recognition: A Case Study of Dalit Muslim in Bihar, JNU. (published thesis).
14. The Government of India (Scheduled Castes) Order 1936
15. M. Galanter, 1984, Competing Equalities: Law and the Backward Classes in India (University of California Press, Berkeley,) pp. 147–153 and Census of India 2001.
16. Constitution (Scheduled Castes) Order 1950, A caste may be “scheduled” in one State but not in another, resulting in inconsistent access to constitutional and legislative protection.
17. Ibid.
18. Kumar, Arvind. 2023. Exclusion of Pasmada Muslims And Dalit Christians From The Scheduled Caste Quota. South Asia Research. (Sage Journal), DOI: 10.1177/02627280231161000.
19. Bajpai, R. 2011, Debating Difference: Group Rights and Liberal Democracy in India. Oxford: Oxford University Press.
20. Robinson, R. 2014 ‘Minority Rights versus Caste Claims: Indian Christians and Predicaments of Law’, Economic & Political Weekly, 49(14): 82–91.
21. Soosai v Union of India 1985, SCRSuppl. (3) 242, 247); S. Anbalagan v. B. Devarajan, 1984SCR (1) 973; K. Sonkar v. Smt. Maya Devi, 1984 SCR (2) 176.
22. Soosai v Union of India (1985) SCR Suppl. (3) 242, 247).
23. . S. Deshpande, 2008, Dalits in the Muslim and Christian Communities: A Status Report on Current Social Scientific Knowledge (Government of India (GOI), National Commission for Minorities (NCM), New Delhi,). p.2-5.
24. National Commission for Backward Classes Act (NCBCA) 1993 S.9 and S.9(2), at <ncbc.nic.in/html/ncbc.html>, (Accessed on 11 January 2024).
25. Ibid.
26. NCRLM (2007) Report of the National Commission for Religious and Linguistic Minorities. New Delhi: Ministry of Minority Affairs, Government of India.