

HUMAN RIGHTS OF DALITS IN INDIA

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INTRODUCTION

Dalits means broken people, these are exploited by the so called upper class people. They are at the lowest level in our Indian social system which is based on castism.

The population of dalits in India is near about 17% of total population. In the present era of Human Rights, what is the position of Human Rights of these broken people? Are the Human Rights of these people are respected ?

HUMAN RIGHTS OF DALITS

Human Rights are, 'the rights to live with human dignity'. This meaning tells us that Dalits are also entitled to enjoy the same rights, which are available to so called upper class people and these rights are (i) Right to live (ii) Right to Equality (iii) Right to Education (iv) Right to Development (v) Right to speech, expression (vi) Right to choose profession (vii) Right to employment (viii) Right to pure water (ix) Right to live in healthy environment and so on. In short, right to live with dignity covers all the above aspect (rights). Dalits are entitled to get basic civil amenities.

MEANING OF HUMAN RIGHTS

Human Rights are the rights to live with human dignity, free from exploitation. Every person is entitled to quality life consistent with human personality. The Right to development is an alienable human right and is an integral part of fundamental human freedom.

Second world war made all the people in the world to think about Human Rights and it gives birth to Universal Declaration of Human Rights on 10 Dec. 1948. This Declaration, though not legally binding, is important in recognition of Human Rights of all the people in the world.

HISTORICAL BACKGROUND

The framers of our Constitution were fully aware of the social hierarchy based on castism and in order to eradicate the evil, inserted the provisions of Fundamental Rights.

The Constitution of India is a charter of a peaceful Democratic Social Revolution which is meant to get India out of medievalism based on the birth, religion, custom and community and reconstruct the social structure on modern foundation of law, individual merit and secular outlook.

Here, it is pertinent to note that these Dalits are termed as Scheduled Castes and Scheduled Tribes in the Constitution of India, as per Article 366 (24), (25) read with Articles 341 and 342 respectively.

The Constitution makers were fully aware of the social evil of castism, hence they tried hard to bring these people in the mainstream of our society by making constitutional provisions, which are not only protecting but developing also.

CONSTITUTIONAL PROVISIONS

Fundamental Rights under Article 14, 15, 16, 17, 19, 21, 21(A), 23, 24 are important to give them their social, Economical Rights.

- **Article 14** - Equality before law- According to this Article, all are equal before law means there shall not be discrimination on any ground. This clears the path of these oppressed people in the way of justice.
- **Article 15** - Prohibition of discrimination on grounds of religion, race, caste, sex, place of birth - This Article sows the seed of equality in the society where caste defined his social status, profession etc.
- **Article 16** - Equality of opportunity in matters of public employment - our caste based social structure, had not allowed these 'shoshits' people to take education. They had no choice as caste already decided everything means his clothing, profession etc. Hence it was important to give them chance to become economically strong by way of public employment.
- **Article 17** - The most valuable, precious right for these downtrodden people, which is given under Article 17. Article 17 abolishes untouchability. It was the last blow for cutting the cords of 'unequality'. Our

Constitution makers want to remove the concept of pure, impure hence they awarded this right to these lower class people.

- As stated by our Supreme Court in Appa Balu Ingale, The thrust of Article 17 is to liberate the society from blind and ritualistic adherence and traditional beliefs which lost all legal and moral base.
- **Article 19** – Protection of certain rights regarding freedom of speech etc. This Article is for all citizens but it is important for our 'Dalits' that they can 'Choose' their profession. Prior to Constitution caste decided their profession.
- **Article 21** –gives protection of life and personal liberty to all. It covers all the aspects to live the life with dignity. In the society, where their existence 'as a human' was denied, this article offer them 'dignity' by accepting their existence as a human being.
- **Article 21-A** – Right to Education – The State shall provide free and compulsory education. Education opens the doors of development for these oppressed people.
- **Article 23 & 24** - In Pre-constitution stage, need of money gave birth to practice of bonded labour. After taking a debt, that debtor along with his generations became the slave of money lender who exploited them and this was particular in cases of Dalits. Hence to eradicate the evil of forced labour and human trafficking, Article 23 is inserted. At the same time Article 24 prohibits employment of child below 14 years in factories/ hazardous employment.

These Fundamental Rights are helpful to improve the social status of these broken people. The Directive Principles, from part IV of the Constitution are also important in social democracy, to bring equality and giving social justice.

DIRECTIVE PRINCIPLES

- **Article 38** – State is under obligation to minimize the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities amongst all people.
- **Article 39** - gives directions to state while adopting policies and this Article is important in achieving the goal of equality, social justice.
- **Article 45** - State must try to provide early childhood care and education to all children below the age of six years.

Directive principles are guidelines for the State to become a 'welfare state' and State is under obligation to follow these while taking policy decisions.

- **Article 46** - For the promotion of educational and economic interest of Scheduled Castes, Scheduled Tribes and other weaker sections, Article 46 is important. It is the duty of state to protect these oppressed people from injustice and all forms of exploitation.

We can easily understand that these Directive principles and Fundamental Rights are to remove social, religious disabilities or in other words we can say that these provisions are only in bringing the equality, to give social, political and economical rights to these downtrodden people who were denied to live as a human being.

- **Article 338** - Besides these provisions, there is a Human Rights Commission constituted under Article 338 for better protection of the rights of Scheduled Castes and Scheduled Tribe people.

Important Legislations -

Now let's have a glimpse over some important enactments available for protecting the rights of these people.

The Protection of Civil Rights Act. 1955 -

The first important legislation, for the removal of disabilities and improving the social status of Dalits is, The Untouchability (offences) Act 1955, which was, in 1976, named as The Protection of Civil Rights Act. 1955. The name itself suggest the working of the Act. This act provides punishment for enforcing any social, religious disabilities arising out of untouchability. Under section 3, it tries to remove religious disabilities by punishing the doer, while section 4 punishes the person who inflicted social disabilities. Section 7(a) gives punishment for laboring a person compulsory on ground of untouchability while section 10 punishes the abettor.

In this way the legislation was enacted to break the walls of separation between higher class and lower class people.

The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989:

Section 3 of this Act uses the word atrocity and gives some acts that falls under atrocity. We may broadly classify the offences of atrocities as under –

Offences against human dignity like forcing of obnoxious substances, dumping of wastes, stripping, outraging the modesty and public humiliation etc.

Economic offences like beggar, bonded labour, wrongful occupation or cultivation or interference with the rights over land, premises or water.

Electoral offences like intimidating voters to abstain from voting or forcing them to vote for a particular person.

Offences endangering health such as fouling water ordinarily used by persons belonging to the Scheduled Castes or Scheduled Tribes.

Offences causing or placing obstructions like placing restrictions on movement or residence more like denying rights of passage or entry to public place or forcing to leave place of residence.

Offence of giving or fabricating a false evidence knowing that it might lead to the conviction of innocent person belonging to a Scheduled Caste or Scheduled Tribes.

Offences of mischief by fire or explosive substance affecting the property, house or temple belonging to a member of the Scheduled Castes or Scheduled Tribes.

Similar to The Protection of Civil Rights Act, it also provides punishment for the Police Officers for their omission and Commission in relation to the enforcement of the provisions in these legislations.

Taking into consideration the changing circumstances, changing form of atrocities such as footwear garlanding, necked, semi-naked parade, removing clothes, moustaches, painting face or body, The Scheduled Caste and Scheduled Tribes (Prevention of atrocities) Act 1989 is amended in 2015.

In fact, they are many more but above mentioned acts are sufficient to show the present situation and peak of this is – mounting or riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession or mounting a horse or any other vehicle during wedding processions. The amended Act defines the duties of public servant along with punishment for neglect of duties under section 4. Special courts and exclusive special courts are established u/s 14 for disposal of cases within two months from the filing of charge sheet.

These two social legislations are very important to improve the social status of Dalits, to remove the inequality.

Violation of Human Rights – Present situation :

It is interesting to see whether these legislations are really helpful in removing the inequality? The Annual Report 2017-2018 by Department of social justice and Empowerment, Government of India tells us that in 2016, total 31 cases were registered under The Protection of Civil Rights Act, 1955 and during the same year, total 47337 cases were registered under, 'The Scheduled Castes and Scheduled Tribes' (Prevention of Atrocities) Act 1989 throughout India.

In fact, amendments made in 'The Scheduled Castes and Scheduled Tribes (Prevention of atrocities) Act, 1989 in 2015 are the sufficient proof that there is a gross violation of Human Rights of Scheduled Castes and Scheduled Tribes people.

Discrimination is still there in all facets of life, it may be at schools, colleges, universities, offices. It only changes its form but this monster is still present. Scheduled castes and Scheduled Tribes people are enjoying constitutional safeguard, getting education. But awareness of their rights causes disturbance in society as 'this awareness' humiliates the upper class people.

Our Supreme Court, in the case of Subhash Kashinath Mahajan Vs State of Maharashtra observed that 'The Scheduled caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is misused.

At village level, many of these S.C., ST people are depending on the so called higher class people to earn their bread. Then is it possible to file false complaint against the bread giving master?

Increasing acquittal does not mean false cases, poor enforcement by enforcement officers, threat to witness, victim, political interference shall be considered. This judgement relied on several High Court judgements.

It is very difficult to rely on statement that, 'the act is misused' Report of the National Commission for scheduled castes 2015-16 states that there has been an increase in the number of atrocities but a decrease in conviction rates.

Hence, it is concluded that atrocities only changes its form. They were not reduced. In the words of Atal Bihari Vajpayee, 'Law can't teach a person to be compassionate, caring and sensitive to other peoples sorrows and joys and human rights can't be secured in a society where these violations persist'. It is necessary to change the attitude of all people and for this purpose Human Right's Education shall be included in the syllabi of School, Colleges, Universities. Apart from this each and every person shall be sensitized to observe the Human Rights of others, we all must be the Human Right Defenders.

CONCLUSION

Our Democratic Socialism aims to end poverty, ignorance, diseases and inequality of opportunity hence Fundamental Rights and Directive Principles are inserted in our Constitution. Social legislations are also enacted to uplift the status of Dalits but inspite of these, due to 'Caste oriented Attitude' there is continuous

violation of human rights of all these people. hence for change in the attitude , for 'casteless' society, human right's education to all is necessary so that we all respect the human rights of other and do our Fundamental Duty as mentioned in Article 51-A of our Constitution.

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