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Research Paper

Egalitarian Measure in Indian Hierarchical Structure

Political Science

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ABSTRACT

The Hindu religious books such as Vedas, Upanishad, Vishnupuran, Agnipuran, Kalikapuran, Manusmriti of Manu, Bhagavat Gita, Ramayana and Mahabharata etc. are responsible for the inequality of society. Indian Society does not believe in liberty, equality and fraternity. Under the chairmanship of Dr. Ambedkar the Drafting Committee accepted distributive justice which is found in Rawlsian concept of justice. The father of Constitution wanted to establish a society based on Prajna (understanding as against superstition and superannuation), Karuna (love) and Samata (equality). Social equality based on liberty, equality and fraternity is the gospel of his desirable society.

A History of Reservation to establish an egalitarian society: Before independence of India, the reservation policies for backward classes were introduced in larger areas like presidency areas and the Princely states of the Vindhaba. Mahatma Jyotirao Phule made a demand of free and compulsory education for everyone. He also demanded proportionate representation in governmental jobs. In the Princely States of Travancore, the demand for reservation in governmental jobs was introduced against the recruitment of non-natives into public service overlooking qualified native people in 1891. In the Princely States of Kolhapur, reservations were introduced in Maharashtra by Chatrapati Shahu Maharaja in 1901. He introduced reservation in favour of non-Brahmin and backward classes in 1902. He provided free and compulsory education for everyone without on the basis of caste, creed, religion etc. By a notification of 1902, he created 50 percent reservation in governmental services for backward classes in the state of Kolhapur. The reservation is made in administrative level by British in 1908. In independence India, major changes have taken place by Constitution to the SCs/STs and other backward classes. In 1990, under the Prime Minister ship of Viswanath Pratap Singh implemented the recommendations of Mandal Commission by which 27% seats are reserved for OBCs at central level services.

Poona Pact and Cabinet Mission: In the Round Table Conferences he demanded the equal citizenship for the depressed classes, equal rights, protection against discrimination, representation in the legislatures, adequate representation in the services, special departmental care, representation in the cabinet etc. He demanded separate electorates for depressed classes. It was really a political war between Dr. Ambedkar and Gandhi. Ambedkar 's argument was that if the untouchables were kept away from the main stream of social and religious life of the Hindu, then should also be separate politically. Untouchables were a separate and distinct element in the social and political life of India. The British government announced the grant of separate electorates not only to the SCs/STs, but also other communities like Sikhs, Muslims, Anglo- Indians and European. However Gandhi deadly opposed the separate electorates to the depressed classes and started fast unto his death against separate electorates. In order save the life of Gandhi and to safeguard to legitimate interests of the untouchables, signed the famous agreement known as Poona Pact on 24th September 1932. The Poona Pact offered some reserved seats to the depressed classes for a period of ten years from the commencement of constitution. On 15th March 1946, the British Prime minister Clement Atlee sent the Cabinet Mission to India for right to attain full independence.

Constitutional Provisions of Reservation as an egalitarian measures: Under Article 342 the president has the power to specify the tribes or tribal communities or parts or groups within them as Scheduled Tribes in relation to a state or Union Territory. In the case of state the president must consult to governor of the state. In 1999, a new Ministry of Tribal affair was created to provide a sharp focus to the welfare and development of the STs .The ministry should co-ordinate all activities relating to the STs. In order to safe-guard the interests of the STs, under 89th Constitutional Amendment Act of 2003, a separate National Commission was set up. This act amended Article 338 and inserted a new article 338A in the constitution. The separate National Commission for STs came into existence in 2004. It consists of a chairperson, a vice-chairperson and three other members. They are appointed by the President of India by warrant under hand and seal. Under Sixth Scheduled, the constitution has provided the special provisions for the four north-eastern states of Assam, Meghalaya, Tripura and Mizoram. The constitutional provisions for down-trodden classes can be categorised into five categories, viz.

i. Educational and Cultural Rights (Articles 14, 15, 15(4), 16, 17, 29, 46 and 350.)
ii. Social Rights (Articles 21, 21A, 23, 24, 16(4), 335)
iii. Economic Rights (Articles 244, 244A and 275)
iv. Political Rights (Articles 164, 330, 332, 243D and 243T, 338A, 341 & 342)
v. Employment Rights (Articles 15(5), 16(4) and 16(4A).)

Educational and Cultural Rights (Articles 14, 15, 15(4), 16, 17, 29, 46 and 350.):
Article 14: Equality before law and equal protection law.

Article 15: Prohibition of discrimination on the ground of religion, race, caste, sex or place of birth.

Article 15(4): The State is permitted to make any special provision for the advancement of the SCs/ STs.

Article 16: Equal opportunity in matters of public employment.

Article 17: Abolition of Untouchability and prohibition of its practice.

Article 29: Protection of language, script, and culture of minorities through educational institutions including STs.

Article 46: Directive Principle of State Policy directed to the leaders in future to promote educational and economic interests of STs and protect them from social injustice and types of exploitation.

Social Rights (Articles 21, 21A, 23, 24, 16(4), and 335):
Article 21: Protection of life and personal liberty (including SCs/ STs and OBCs).

Article 21A: Right to elementary education (Including SCs/ STs and OBCs).

Article 23: It prohibits the system of bonded labor in human being and forced labor.

Article 24: It prohibits employment of children below the age of 14 years in factories and hazardous employment.

Article 16(4) and Art. 335: Reservation of seats by ST in public services and in employment under the State. Under article 335,

belonging to SCs/ STs can claims to services and posts.

Economic Rights (Articles 244, 244A and 275):
Article 244: It deals with the administration of Scheduled Areas and Tribal Areas. Article 244 in part X of the Constitution envisages a special system of administration for certain areas designated as 'scheduled areas' and 'tribal areas'.

Article 244A: It deals with the formation of an autonomous state comprising certain tribal areas in Assam and creation of local legislature or council of ministers or both.

Article 275: The union Government can provide the special grants for the welfare of STs.

Political Rights (Articles 164, 330, 332, 243D and 243T, 341 and 342):
Article 164: It empowers the State to establish special Ministry for welfare of the Scheduled Tribes in Bihar, Madhya Pradesh, and Orissa.

Article 330: Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the people (Lok Sabha).

Article 332: It deals with the reservation of seats for Scheduled Castes and Scheduled Tribes in the State Legislative Assembly.

Article 243D and 243T: It deals with the reservation of seats in Panchayatiraj Institutions and Municipality for SCs/STs respectively.

Article 338A: Under 89th Constitutional Amendment Act of 2003 a new article 338A is added to form a separate National Commission for STs. The separate National Commission for Sts came into existence in 2004.

Article 341: The President has the power to declare with respect to any state or union territory the castes, races, or tribes or parts of or groups within the castes etc. as Scheduled Castes in relation to a State or Union Territory.

Article 342: The president has the power to specify the tribes in relation to a State or Union Territory.

Employment Rights (Articles 15(4), 16(4) and 16(4A)):
Article 15(5): It provides reservations to scheduled tribes in the educational institutions.

Article 16(4) and 16(4A): It provides reservations to scheduled tribes in the employment and promotions.

Fifth and Sixth Schedules of the Constitution:
Articles 244: The provisions relating to the administration and Control of the Scheduled Areas and Scheduled Tribes in any state, other than Assam, Meghalaya, Tripura and Mizoram are contained in the Fifth Schedule to the Constitution (Fifth Schedule).

Constitutional Amendment Acts for Empowerment of SCs/ STs:
Fifty-First Constitutional Amendment Act, 1984: 51st Constitutional Amendment Act provided for the reservation of seats in the Lok Sabha for STs in Meghalaya, Arunachal Pradesh, Nagaland and Mizoram as well as in the Legislative Assemblies of Meghalaya and Nagaland.

Fifty - Seven Amendment Act, 1987: 57th Constitutional Amendment Act of 1987 provided the reserved seats for the STs in the Legislative Assemblies of the states of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland.

Sixty-Fifth Amendment Act, 1990: The Act provided for the establishment of a multi-member National Commission for SCs/ STs in the place of a Special Officer for SCs/STs.

Seventy-Second Amendment Act, 1992: This Act provided for reservation of seats for the STs in the Legislative Assemblies of Tripura.

Seventy-Seventh Amendment Act, 1995: The Act provided for reservation in promotions in government jobs for SCs/STs.

Eighty-Second Amendment Act, 2000: The Act provided for making of any provision in favour of the SCs/STs for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to the public services of the centre and the states.

Eight-Third Amendment Act, 2000: The Act provided that no reservation in Panchayats need be made for SCs in Anunachal Pradesh. The total population of the state is tribal and there is no SCs.

Ninety-Third Amendment Act, 2005: The Act empowered the state to make special provisions for the socially and educationally backward classes or the SCs or STs in educational institutions including private educational institutions (Whether aided or unaided by the state), except the minority educational institutions (Clause (5) in Article 15).

Conclusion: The energies, abilities and skills of the downtrodden classes are systematically exploited, but they are deprived of their due reward. Egalitarian can be restored if their rights are protected, their contribution to society is valued and properly rewarded and their dignity is restored. Constitutional provisions can not only be restored their dignity, socio-political consciousness is necessary. Egalitarian measures can found in the preamble and in various parts of Indian Constitution. To establish India as an ideal state based on liberty, equality and fraternity was the aim of the constitutional makers. The four basic principles of an egalitarian society- justice, equality, and fraternity are indicated in the preamble. The idea of welfare state and egalitarian society cannot be realised by providing socio- economic justice to the people along with political justice.

REFERENCE

1. These are the constitution (Scheduled Castes) Order, 1950; the Constitution (Scheduled Castes) (Union Territories) order, 1950; Scheduled Castes and Scheduled Tribes Orders Act, in 1956 and again 1976. | 2. The constitution has used various expressions in various places for SCs/STs like 'Socially and economically backward classes of citizens '(Art. 15), 'backward class of citizens' (Art. 16), 'weaker section of the people' (Art. 46). | 3. The constitutional safeguards for the SCs/STs are explained in chapter 55. | 4. Article 338A was inserted by the 89th constitutional Amendment Act of 2003. The Act came into force on 19.02.2004. | 5. At present nine states of India have scheduled areas like Andhra Pradesh, Jharkhand, Chhattisgarh, Gujarat, Himachal Pradesh, Maharashtra, Orissa and Rajasthan. | 6. Sharma, Brija kishore; "Introduction to the Constitution of India", PHI Learning private Limited, p.376. | 7. Gauba, OP; "An Introduction to Political Theory", Macmillan India Ltd., 2005, P.385. | 8. Narake, Hari; Kasare, Dr. M.L.; Kamble, N.G. and Godghate, Ashok(ed); BAWS, Part Two, Higher Education Department, Government of Maharashtra, 2003, P. 165 |