



ORIGINAL RESEARCH PAPER

Political Science

AN OVERVIEW OF CONSTITUTIONAL SAFEGUARDS AND CASTE BASED ATROCITIES ON DALITS IN INDIA

KEY WORDS: Constitution, Dalits, Atrocity, India.

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ABSTRACT

The Constitution of India is committed to the all-round welfare and development of its citizen in general and of vulnerable sections (Dalits) of society in particular. Equality of status and opportunity to all citizens of the country is guaranteed by the Constitution of India, which also assure that no individual shall be discriminated, exploited and oppressed against on the grounds of religion, caste or sex, etc. Fundamental rights and other specific provisions of Directive Principle of State Policy namely, Articles 38, 39 and 46 in the Constitution of India stand testimony to the commitment of the State towards its citizen irrespective of diversity. Despite many safeguards of constitution, it is ironical that Dalits have been subject to crime and atrocities for simply asserting basic Human Rights to life and dignity. They are repetitively victimized by manifold exploitation, violence and discrimination in India. So this research paper attempts to evaluate and assess the effectiveness of constitutional safeguards to culminate atrocities on Dalits with the overview of constitutional guarantees and facts of Dalit atrocity in India.

Since time memorials Caste based atrocities on dalits has been taking place in all over the India in voluminous ways. Still now after many years of independence, Dalits are physically and socially debarred from the mainstream of Indian society like any isolated creature. However, many laws, policies, legislative frame works and anti-atrocity laws are there, to safeguard the Dalits from the unlawful practices against them but tragically atrocities, violence, discrimination, assault, exclusion and isolations have become a never ending threat to them. As for an recent instance, a Dalit family in Palwal district of Hariyana was attacked on 9th April 2020, for allegedly not following Prime Minister's call to turn off lights. In fact Dalits are denied to access their basic rights who are constantly victimized by upper-castes and police though, special legal provisions and legal enactments i.e. The Protection of Civil Rights Act, 1955 and The Scheduled Caste / Scheduled Tribe (Prevention of Atrocities) Act, 1989 are there to safeguard the Dalits (SCs & ST) by abolishing untouchability under Art 17 and its practice in any form and to prevent crimes against persons belonging to SCs/STs by persons belonging to other communities. Despite these Constitutional safeguards and legal provisions, in most states of India the Dalits continue to face discriminatory caste practices, higher levels of illiteracy, high participation in low paid occupations and are deprived of their life and property both in urban and rural areas.

Dalits have been considered, for centuries, as lesser human beings and subjected to caste based atrocities for various historical, social and economic reasons. The caste based discrimination sanctified by the Hindu religious scriptures, is still haunting a large segment of Indian society, i.e. dalits. Despite several formal protections under the constitutional rules and laws, Dalits are still meted out with voluminous form of atrocities which are striking at their very basic rights. The interests and the desire of vested upper-caste to maintain the monopoly over the community resources is involved in maintaining the caste based discrimination and atrocities rigorously. The social inequalities and injustices, i.e. the cruelties of the social order have weakened the Indian society. Strong support for removal of untouchability, poverty alleviation, ending of disgraceful occupations which offended human dignity, the spread of literacy and social and political awareness were the result of social reform movements, which commenced long before Independence. The social reform movements by Swami Vivekananda, Sree Narayana Guru, Mahatma Phule, Dr. Ambedkar, Rao Bhadur R. Srinivasan, Swami Sampurnanand and others provided great impetus to the restoration of human dignity of Dalits and determination to assert their place under the Sun. Despite these efforts, serious gaps between policy declarations and

ground realities persist.¹

Facts of atrocities against Dalits in India:

As per a report of NHRC, 180 million of Scheduled Castes continue to be harassed and many serious crimes are committed against them ranging from abuse on caste name, murders, rapes, arson, social and economic boycotts, naked parading of SC women, forcing to drink urine and eat human excreta etc. As per Crime Statistics of India, in every 18 minutes a crime is committed against SCs; every day 27 atrocities against Dalits and in every week 5 of their homes or possessions burnt and 6 persons kidnapped or abducted. In all over India 43203 atrocities against dalits were reported in the year 2017, up from 40,801 in 2016. In the year 2015 total 38,670 incidence of crime on SCs in India was reported. Atrocities against the SCs for the entire period of 2008 to 2017 were 376,441 Cases with an annual average of 37,644 cases per year.

Atrocity against Scheduled Castes in India Since 2008- 2017

S.I no	Years	Total no of Crime on SCs in India	Crime Under only SCs/STs(POA) Act
1	2008	33,615	11,602
2	2009	33,594	11,143
3	2010	32,712	10,513
4	2011	33,719	11,342
5	2012	33,655	12,576
6	2013	39,408	13,943
7	2014	40,401	40,300
8	2015	38,670	38,564
9	2016	40,801	40,774
10	2017	43,203	37,194
Total		376,441	227,951
Average		37,644	22,795

Source: National Crime Record Bureau

All over India Dalits are constantly and repetitively victimized by several means of exploitation and discrimination. They are pressurised, stigmatized and revictimised by so called upper-caste of the society in various parts of India. In Bhilwara District of Rajasthan on 30th April 2018, a group of upper- caste villegers allegedly attacked a Dalit wedding procession because of the groom was riding a mare to his bride's resident. Again in August 2018 a dalit student of Madhya Pradesh was murdered for refusing to withdraw sexual harassment complaint against upper-caste.

Overview of Constitutional safeguards For Dalits

The Human Rights Watch documented in its report that, the

practice of untouchability and other caste-based discrimination, violence against Dalit men, women, and children is in real sense is the reason to violation of numerous domestic and international laws. A body of international human rights conventions, domestic legislation, and constitutional provisions collectively impose on the government of India a duty to guarantee certain basic rights to the Dalit population and to punish those who engage in caste-based violence and discrimination. Building on constitutional provisions, the government of India has pursued a two-pronged approach to narrowing the gap between the socio-economic status of the scheduled-caste population and the national average. The first approach involves regulatory measures designed to ensure that relevant legal provisions are adequately implemented, enforced and monitored; the second focuses on increasing the self-sufficiency of the scheduled-caste population through financial assistance for self-employment activities and through development programs to increase education and skills.² The Government of India has enacted legislations to ensure, and the Constitution itself provides for, several safeguards to Dalits. The primary consideration of the government in abolishing 'untouchability' and in enforcing several measures for protective discrimination was the nature of the disabilities that had been typically associated with untouchability.³ Constitutional Provisions and legal frameworks are the key instrument of state action for welfare of dalits against any crime on them. The Preamble of the Constitution of India has declared to secure to the people of India "social, economic and political justice, equality of status and of opportunity and to promote fraternity assuring the dignity of the individual", which is directing at anti-caste-discrimination aspirations. As per the protective measure, under the fundamental rights Part IIIrd of the constitution, Article 14 ensures equality before the law and equal protection of law. Article 15 guarantees non-discrimination on the basis of sex, caste, race, religion or place or birth and Article 17 of the Constitution of India provides provisions relating to Abolition of Untouchability. The Article 17 provides that Untouchability is abolished and any forms of practices are forbidden. Thus enforcement of any prohibited acts arising out of Untouchability shall be an offence and punishable under law. For effective enforcement of the declaration under the Article of the Constitution by exercising power vested under Article-35 of the Constitution, Parliament can make laws prescribing punishment for the acts forbidden under Article-17. Article 21 ensures the right to life and personal liberty to all citizens.

In pursuance of article 17 of the constitution of India, the Untouchability Practice Act 1955 was enacted. The Protection of Civil Rights Act, 1955 was enacted in furtherance of Article-17 of the constitution to abolish untouchability and its practice in any form. The Protection of Civil Rights Act, 1955 is an Act to prescribe punishment for the preaching and practice of untouchability for the enforcement of any disability arising there from and for matters connected therewith. Later it was amended and renamed in 1976 as the protection of civil rights act to make it more effective. On witnessing an increase in violation against members of schedule caste (SCs) and schedule tribe (STs), leading to brutalities such as mass murder, rape, arson, grievous injuries etc a special law for their protection was enacted known as the schedule cast and schedule tribe (Prevention of Atrocities) Act, 1989 to provide for strong retributive measure. According to the POA act, all offences committed against SCs and STs will be termed as atrocities under section 3. For the purpose of speedy trials, the act provides special courts to try cases registered under this act. It also ensures stringent punishment to violators and relief and rehabilitation for affected victims. The SC/ST Act 1989 rule 1995 mandates that the offences registered under this act should be investigated by an officer not below the rank of Officer Deputy Superintendent of police. For better implementation of this act and its supervision the rules mandate for establishment of vigilance committee in both state and district level. The main purpose and background of

enactment of this Act is that the Provisions under Protection of Civil Rights and the I.P.C being inadequate to check up the atrocities on SC & ST Community's present legislation made to check and deter crimes against them committed by Non-Scheduled caste and Non-Scheduled Tribe persons and to improve the social economic conditions and protect their civil rights from various offences, indignities, humiliations and harassments committed against them by non-Scheduled Caste and Schedule Tribe persons and to establish Special Courts and Exclusive Special Courts for speedy trial of such offences. At the national level for effective implementation of the various safeguards provided in the constitution and the other protective legislation for the SCs and STs, the constitution provided for a National Commission for SCs at the center and Directorates in state.

CONCLUSION

The Constitution of India has not given any description of the ground reality but only has merely prescribed. It is only a hallucination from the government side that, the constitution has promised to address the issue of discrimination and atrocities faced by Dalits. However, in reality all the constitutional safeguards, legal framework and legislative initiatives are not that much productive in maintaining and protecting Human Rights of Dalits. Hence without any biasness and nexus with the third parties, it is should be the responsibility of government with all its mechanism to be more active along with the non-government actors in reality rather than on white papers. Indeed there is need of Good governance and most importantly, at the same time to be more cautious about their rights Dalits people should make themselves actively participate in the decision making process to culminate the age-old plight.

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FOOTNOTE

- ¹ Velusamy, S. Dalits and Indian Constitutional Provisions: Their Implementation, 1950-2005. Man in India
- ² Ministry of Welfare, Annual Report 1995-1996 (New Delhi: Government of India, 1996), p.8
- ³ Thorat, S. 2009. Dalits in India. SAGE Publications pvt. Ltd. P.p 10