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Human rights perspectives of Indian Dalits

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Indian institution of inequality is elaborately constructed in the form of caste system which has been in existence since ancient times. Dalits are traditionally lower caste people who are regarded as untouchables and are discriminated socially, economically and politically. Their human rights are regularly violated. Recent cases of Dalit human rights violations include, Jat -Dalit violence case killing 3 Dalits and 13 injured in Rajasthan, in 2015, suicide of Rohit Vemula, a Ph. D. scholar for caste discrimination in Hyderabad Central University in 2016, National crime Record Bureau recorded 33356 cases of rapes during 2018. In Unnao, Uttar Pradesh there was gang rape of 17 year old girl in June 2017 involving BJP leader and MLA and five others. Other Unnao case wherein 23 year old girl was raped, filmed and set on fire while going to court for hearing on 5th December 2019; Dr Payall Tadavi, belonging to a Dalit, Bhil sub caste of Tribal community and a post Graduate student of Topiwala National Medical College and BYZ Nair Hospital Mumbai, Maharashtra committed suicide on May 22nd 2019 as her senior colleagues continuously harassed her on caste basis. In an Honor killing case, 25 year Nandhish from dalit community fell in love with Swathi, an upper caste woman, got married and lived together. Both were murdered in December 2018 by the father of the girl and their bodies were thrown in river. 25 people were arrested on 5th January 2019 for social Boycott of SC community members from Nizamabad District in Telangana who dug and erected pillars for the Ambedkar Sangam building. A complaint was filed by a 64 year member of the tribe, Prabhaker Bhosale alleging that an accused boycotted him and few others from his community since 2010 for failing to attend the funeral of his brother Shani Shinganapur temple in Ahmednagar of Maharashtra lifts ban on women's entry yielding to High Court of Mumbai directive in April 2016, Supreme Court in Sabarimala temple, Kerala case held in land mark judgment that Sabarimala Ayyapa temple women cannot be restricted from entering holy sites such as this temple. All these cases, besides numerous similar cases in the past, point to the fact that violence against Indian Dalits in present time is no way less rampant and horrible than reported in the past.

Key words: Untouchables, caste discrimination, Dalits, empowerment, human rights violations.

INTRODUCTION

In countries including India where constitutions have been framed, human rights are guaranteed in the constitutions and legal systems. Its enjoyment is however

severely curtailed by economic, political and social status of group of people resulting in inequality in treatment of the subjects. For Dalits, the poor and illiterate subjects'

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legal services also are not accessible. Hence, their human rights are regularly violated.

Social inequality is everywhere in the world. However Indian institution of inequality is very elaborately constructed in the form of caste system which has been in existence since ancient times. There exist thousands of castes and sub castes in this country. More prosperous are high rankers while lower rankers in caste system are disadvantaged and poor due to their lower economic status and they are called Dalits. Caste system in India is considered as more than 3000 years old (Bagde, 2013).

Dalits are traditionally lower caste people who are regarded as untouchables and are discriminated socially, economically and politically. The Dalits make up what are known in India as the scheduled castes, the scheduled Tribes and the backward classes. Therefore these groups are classically known as the shudras or the slave (Joseph, 2006). The term Dalit has come into popular use in India only very recently. Social reformer and revolutionary Mahatma Jyotiba Phule used it to describe the outcastes and untouchables as the oppressed and crushed victims of the Indian caste system. In 1970 the Dalit Panther movement of Maharashtra gave currency to the term Dalit (Geroge, 2000).

Dalits are discriminated socially economically and in multiple ways and they do not enjoy equal status (Tripathy, 1990). To them there are threats, prohibitions and harassment (Mumtaz, 1995), and there is practice of untouchability (Venkaleswarlu, 1990). There are crimes and atrocities against them (SC/ST Commission, 1999). There are different forms of untouchability in different situations (Desai, 1976; Shah, 1998; Thiagraj, 1996). Many classical studies have been carried out in this regard that shows magnitude and nature of continuing practice of untouchability or human rights violations against the untouchables (Deshpande, 1999; Thorat, 2009). There have been references on basic human rights in recorded history and ancient scriptures, even if they were not referred as such. Indian ancient history has records showing unequal treatment of humans of different social, economic and cultural status. The people in lower strata have been referred to as down trodden, untouchables, Harijans, Dalits etc., during the evolution. Indian social system in form of caste system is in direct conflict with concept of equality (Nirmal, 2000). Inequality is the heart of the caste system in India. Essential elements of human rights have been also incorporated in Buddhism (Bagde, 2014).

Modern Human Rights law is a post-world war II phenomenon. It was developed on international stage to achieve international co-operation in solving problems of economic, social cultural or humanitarian nature, for promoting and encouraging respect for human rights and fundamental freedoms for all. Subsequent to formation of United Nations, Universal Declaration and other covenants and instruments for protection of Human Rights were enacted by United Nations General Assembly. India

has ratified and accepted many of the instruments on protection of Human Rights and also incorporated elements of Human Rights in constitution and other legal documents. These laws were mainly to combat caste discrimination in India (Bagde, 2013). Since independence significant change is observed in caste system of India in as much as several Legislations have been enacted to deal with stigma of caste discrimination. In India caste discrimination remains still serious stigma. All affirmative actions to compensate the problem proved futile due to failure of practical applications in letter and spirit (Bagde, 2012). United Nations refers to caste discrimination as discrimination by work and descent. In India untouchables or scheduled castes are referred to as Dalits which include Scheduled Tribes and discrimination is based on forms of social stratification such as caste. Discrimination as such nullifies and impairs enjoyment of human rights on equal footing. Persistence of descent or caste discrimination is evidenced world over even today. In India it looks like the untouchables are still like ants among elephants and they will be crushed until they give into or they will become free (Gidla, 2017). There has been a lot of change; however that cannot be called progress because discrimination and violence against untouchables is at all-time high. Hence Dalits are like ants among caste Hindu elephants.

India is even failing to uphold existing human rights for Dalits. Their segregation is in all walks of life and they are forced to survive in most degrading conditions. To escape social stigma many down trodden people have converted to other religious faith. However, they are still Dalits in those religions also. Thus, there are Sikh Dalits, Christian Dalits, and Muslim Dalits besides Hindu Dalits. After more than seventy years of independence of India, Dalits are prevented from entering temple, and are beaten if they try to enter the temples. It is considered that UN human rights framework is an expression of secular humanist standards against which other religious and social traditions are examined and compared. The principle of justice is the cornerstone of the human rights formulation. According to Dr. Ambedkar doctrine of inequality is the core and heart of the Hindu social order. In Hindu hierarchy high caste Hindus are considered as superior social beings worthy of special rights and privileges, while untouchables are treated as sub human beings or lesser human beings considered as unworthy of any human right. They are considered as inferior social beings not entitled to any individual rights. Exclusion and isolation of Dalits is a unique feature of Hindu social order (Moon and Ambedkar, 1987).

In December 2006 Dr. Manmohan Singh became the first sitting Prime Minister of India who acknowledged the parallel between the practice of untouchability and the crime of apartheid. He described untouchability as a blot on democracy and said that even after 60 years of constitutional and legal protection and state support; there is social discrimination against Dalits in many parts

of this country. It is clear therefore that India has failed to uphold its international legal obligations to ensure the fundamental Human Rights to Dalits. The prevalence of untouchability as well as caste practices in India is a shame for all of us. It requires intensified efforts to eradicate it. The United Nations Human Rights Council (UNHRC, 2009) in September 2009 in Geneva deliberated on reorganization of caste as race and emphasized that race and caste based discrimination of around 200 million need to be fought at global level. In almost all developed countries of the world, violations of human rights of Dalits and Dalit Minorities, women and children occur every day even in the 21st century. Dalit's suffering is universal. Dalit oppression is the worst human right problem in the world including India.

CONSTITUTIONAL AND OTHER PROVISIONS FOR PROTECTION OF HUMAN RIGHTS OF DALITS OF INDIA

There are several provisions, laws, Acts and Articles for the protection of Human Rights of Dalits in India. Constitution of India is the main source of provisions in that regard. In the constitution of India many articles have been dedicated for protection of Human Rights of Dalits. Article 15 of Indian Constitution prohibits discrimination on grounds of caste besides discrimination on grounds of religion, race, sex or place of birth and envisages equality before law (Article 14). Also equality of opportunity in public employment (Article 16) is enshrined. Anti-caste discriminatory provisions are also incorporated in Article 17 by abolition of untouchability. Also right against exploitation (Article 23 and 24) is there to ensure prohibition of caste discrimination. As such, right to equality is provided under articles 14 to 18 of the Indian Constitution. Similarly, human rights of minorities including Dalit minorities are protected under Constitution of India (Pylee, 2000).

Various remedies are available in India for implementation and enforcement of human rights. While part III of constitution of India is dedicated to fundamental rights, Article 32 which says to move Supreme Court is a guarantor of fundamental rights. Article 226 also empowers citizen to seek remedy from the high court. Public Interest Litigation, remedies in form of various writs are also available under Part III of the constitution. For Human rights Violation one can also move Human Rights National and state level Commissions. There are also many other legislations in India besides constitution of India; those are meant to protect human Rights of Dalits which also include procedures and rules for protection and implementation of Human Rights of Dalits. In India as far as caste discrimination phenomena is concerned it was dealt with in 1850 by enacting, the Caste Disabilities Removal Act, 1850. The Bonded labor System (Abolition) Act, 1976 provides for the abolition of bonded labor and physical exploitation of the weaker

sections of the people. Bonded Laborer is presumed to have incurred a bonded debt in consideration of an advance by him or his ascendants or descendants. The system of bonded Labor is forced or partly forced system on debtor. This may also be in pursuance of any customary or social obligation, or by obligation devolved by succession.

In Maharashtra, India there is a Social Boycott Prevention and Redressal Act 2016 (Maharashtra Act Number 44 of 2017) for protection of people from social boycott. SC/ST (Prevention of Atrocities) Act 1989 prohibits atrocities and thus caste discrimination based on caste (POA, 1989). Indian Civil Rights Act 1955 is meant to ensure equal civil rights to all the citizens of India. Uniform Civil Code (Article 44) in the Constitution of India is also directed to prevent discrimination based on caste. Besides constitutional safeguards to protect Dalits from social discrimination, there is a Human Rights Act of 1993 for protection of their Human rights. However, as they are economically very poor and socially and politically backward, violations of human rights of untouchables are very regular than exceptions.

There is a UN International convention on Elimination of all forms of racial discrimination of 21st Dec. 1965 (effective from January 4, 1969). According to this convention, racial discrimination means any distinction, exclusion, restriction or preference based on race, color, descent, national or ethnic origin that nullifies or impairs enjoyment of Human rights and fundamental freedoms in political, economic, social, cultural or any other field of life (Brownlie, 1971).

Among International documents related to combat racial Discrimination, UN Universal Declaration of Human Rights, 1948 is the important document in which Articles 6, 7 and 26 deal with common problems faced by Dalits (UNDHR, 1948). India is party to all International charters but still the law in India is that provisions of any international charter or treaty are not operated in India unless legislated upon by parliament of India under Article 253 of the constitution. As a result many of these charters remain ineffective unless judicial creativity comes in action (Pylee, 2000).

VIOLATIONS OF HUMAN RIGHTS OF DALITS OF INDIA

There are many laws and legislations against caste discrimination and for protection of Human Rights of Dalits. However, these are not observed in practice and caste discrimination leading to Human Rights violations is rampant in Indian society. Discrimination continues to exist due to ignorance, prejudice and fallacious doctrines which try to justify inequality. Such doctrines are used to defend slavery and discrimination on various grounds including caste systems throughout history and even in modern era. Due to this violations of human rights are seen in everyday affairs, everywhere and caste is in fact the root cause of human rights violations in India (Bagde,

2007). Against commission of offences of atrocities against the members of SC/ST, special courts for trials of offences, relief and rehabilitation of the victims of offences are provided in the ambit of SC/ST prevention of atrocities Act 1989 (POA, 1989). But there is no improvement in conditions of Dalits. If they assert for their rights higher atrocities are committed against them. It is observed that government machinery is indifferent towards atrocities on Dalits. There are 5000 different communities of indigenous and tribal peoples in around 70 countries in the world of which 150 million people are in Asia and 54 million people are in India. They are poor, highest in infant mortality, lowest levels of income, high illiteracy rate and have limited access to the basic health and social services. Incidents of atrocities do occur daily and hence they suffer from all forms of Human rights violations. Dalits live in barbaric and inhuman conditions in India even today (Bagde, 2007). Dalits plight in India has not improved after independence. It has become worse which is borne out by the fact that every day two Dalits are assaulted, every day 3 Dalits women are raped, every hour two Dalit houses are burnt down. Dalits are some 160 million people in India, earlier called untouchables (Wadhvani, 2001). National Crime Record Bureau of India recorded 33356 cases of rapes during 2018 (NCRB, 2019). There was average of 80 murders, 91 rapes, reported daily in 2018. Thus India reports 1 rape every 15 min. Recent cases of Dalit human rights violations include the following: More than 165 million Dalits of India are condemned to lifetime abuse simply because of their caste (Obulapathi and Ramanjaneyulu, 2016).

In Jat -Dalit violence case in Dangawas Village of Rajasthan on May 14, 2015 clashes between Jat and Dalit resulted in killing of 3 Dalits and 13 were injured. Rohit Vemula suicide case on 18th January 2016 in Central University of Hyderabad of a Ph. D. scholar for caste discrimination; it gained widespread media attention as a case of caste discrimination against Dalits in India in education system.

Unnao District of UP gang rape case: A 17 year old girl was raped on 4th June 2017 involving BJP leader and MLA and five others. He was convicted and imprisoned for life. Victim's father was assaulted on April 3rd 2018 and taken to police station and charged with possessing illegal arms; subsequently he died in police lockup and for hobnobbing accusation and others got 10 years additional imprisonment.

Another Unnao district of UP case: A 23 year old girl was raped, filmed and was set on fire while going to court for hearing on 5th December 2019. Shivam Trivedi raped the victim and kept her promising marriage, kept her under terror of black mailing; he and his friend Subham raped her. A case was registered in police station, when High Court of Allahabad grant the accused bail. He kept girl under threat and while going to court for hearing on 5th December 2019 she was set on fire by the accused.

She succumbed to her injuries in Safdarjung Hospital of Delhi (Caravan, 2019). Dr Payall Tadavi, belonging to a Dalit, Bhil sub caste of Tribal community and a post Graduate student of Topiwala National Medical college and BYZ Nair Hospital Mumbai, Maharashtra, committed suicide on May 22nd 2019 as her senior colleagues continuously harassed her on caste basis. In her suicide note she described her ordeal and medical Institutions failure to stop the brutalities inflicted on other Dalit and Adivasi students. This points towards deep seated prejudices against Dalit and tribal students. While one court bailed three doctors out, after 127 witnesses made their entry in the case, Bombay High Court on 22nd February 2020 squashed earlier court order and denied permission to three accused doctors to pursue their Masters' degree (Saigal, 2020).

In an honor killing case, 25 year Nandhish from Dalit community who fell in love with Swathi, an upper caste woman, got married and lived together. Both were murdered in December 2018 by father of the girl and bodies were thrown in river in Tamil Nadus Krishnagiri District. Father confessed that he murdered them for the honor of the family (Indian Express 29th December 2018).

In Maharashtra, India there is a Social Boycott Prevention and Redressal Act 2016 (Maharashtra Act Number 44 of 2017) for protection of people from social boycott. A complaint was filed by a 64 year member of the tribe, Prabhaker Bhosale alleging that an accused boycotted him and few others from his community since 2010 for failing to attend the funeral of his brother, the first of such case after this Act in Mumbai, Shivaji Park Police Station (Times of India, 22 July 2017, indiatimes.com).

In a social Boycott case 25 people were arrested on 5th January 2019 for social Boycott of SC community members from Nizamabad District in Telangana of Marampally village who dug and erected pillars for the Ambedkar Sangam building. A case under relevant sections of IPC and SC/ST Prevention of Atrocities Amendment Act 2015 was registered (PTI 8th January 2019). There is Hindu place of worship (Entry Authorization) Act 1956 which was originally enacted to enable temple entry for Dalits who were banned from entry on grounds of untouchability. Similarly, there was legal measure, the temple entry proclamation by the then Maharaja of Travancore earlier followed by temple entry Authorization Indemnity Act 1939 passed in Madras Presidency, Article 25(2) (b) of Constitution of India 1950 that also protects this right as fundamental right. However, recently there are several cases in High Court and Supreme Court of India after 70 years of Independence seeking temple entries. Shani Shinganapur temple in Ahmednagar of Maharashtra lifts ban on women's entry yielding to High Court of Mumbai directive in April 2016, while Trupti Desai, the activist wants Nashik Mahalaxmi temple (Maharashtra) and Kolhapur Mahalaxmi temple to follow suit. Breaking the tradition of 400 years to prohibit

entry of women to core area (Sanctum Sanctorum), High Court Order declared it a fundamental right and Government is duty bound to ensure and protect that right (The Hindu, 8 April 2016, www.thehindu.com)

Similarly cases were there in Supreme Court for women's entry in Sabarimala temple, Kerala and Haji Ali dargah, Mumbai, Maharashtra. Supreme Court in Sabarimala temple case held in land mark judgment of five judges bench that Sabarimala Ayyapa temple women cannot be restricted from entering holy sites such as this temple. For females between 10 and 50 year old entry was barred saying that menstruating women are impure and that was centuries old tradition. Supreme Court on 28, September 2018 by 5 Judges' constitution bench by majority allowed girls and women of all ages to visit Sabarimala saying discrimination on physiological grounds was violation of the fundamental right enshrined in Constitution such as the right of Equality. In Review Petition to this Bench, Court decided to refer question of law and faith to larger Bench of 9 Judges. In Review petition before 9 judges Bench of SC, Chief Justice ordered that from next date of hearing all writ Petitions relating to women's entry into mosques, Parsi temple, Dawoodi Bohras (genital mutilation) and Jain community Temple would be listed along with Sabarimala Review case that was to be heard on first week of February 2020. Accordingly on 10th February 2020 hearing last day of SC CJ it was decided that from next hearing on 17th February issues of faith v/s Fundamental rights to be heard by SC and the case continues till date (The Print, January 13, 2020).

Honor killing, social Boycott, child labor, bonded labor, caste discrimination, prevention of temple entry to Dalit women continues in India violate various kinds of human rights of Dalits.

Similarly, in the past many cases were reported (Bagde, 2013), few of which are as follows:

In June 1998 a Dalit woman was gang raped inside a shop near Khajuwala in Bikaner district of Rajasthan. The victim filed a complaint in police station naming five persons; she was also beaten by the culprits and abused on the caste line.

A 14 year old Dalit girl was thrown into burning chullaha (Stove) resulting in her gruesome death on March 27, 1998 at Sastur village in Osmanabad district of Maharashtra. The girl Anuradha Sarawade, studying in 9th Standard was thrown into the burning Chullah over a trivial matter. When Anuradha's father went to lodge a complaint at the police station, police refused to register it and showed him the door.

600 families belonging to Dalit Community at Chettiklam Village in Perambalur district of Tamil Nadu were reeling under a vicious social boycott by caste Hindus. Describing the severity of the boycott the Union Minister

of state for health, Mr. Dalit Ezhilmalai said the children belonging to the targeted community were not allowed to go to schools, could not buy essential things and their physical movement was restricted. No action was taken against the perpetrators of the crime. These were some of the reported cases, the magnitude of torture and human Rights violations across.

A tribal woman was reportedly stripped, raped and partially burnt in police custody following her arrest in connection with a minor incident of alleged kidnapping. To add insult to injury the high court has taken a suo-motu cognizance of the matter on a letter written by a ruling BJP MLA- Yatin Oza. The tribal woman Manjulben Vasava was picked up by the Vadodara rural police on November 24, 1998 following a complaint about her role in kidnapping a mute tribal boy.

As per Asian Centre for human Rights (ACHR, 2013), 101 crimes were committed everyday against SC/ST during 2001 to 2012. A total of 44061 crimes were committed against SC/ST from 2001 to 2012. This is about reported cases; a large number of cases were not reported.

All these cases point out to the fact that violence against Indian Dalits in present time is no way less rampant and horrible than as reported in the past.

GLOBAL SCENARIO OF HUMAN RIGHTS OF DALITS

Globally, more than 250,000,000 people suffer discrimination based on descent or work or occupation as reported by UN on 12th August 2004. Of these about 160,000,000 to 180,000,000 are in India that is 4% of the population of the world, quarter of the population of India and not far short of the population of the United States. As per 2001 census in India alone 179,000,000 Dalits are present. There are international and regional mechanisms for the protection of human rights. Also there are international humanitarian laws and conventions, principles governing human rights in armed conflict to deal with human rights problems.

Regional human rights regimes also exist for the purpose like European Human Rights regime, Arab Organization for Human Rights, Inter American Human Rights regime to address a wide range of rights in a smaller and more homogenous group of states. However, Asia an ancient continent is yet without a Human Rights charter or an Asian Bill of Rights.

DISCUSSION

It is observed that human rights in spite of their having status of legal rights are often violated by states themselves like in every other country as also in India (Levin, 1991). Caste discrimination is a very regular

feature (Bagde, 2013). Indian social order in form of Hindu religion, caste system and untouchability comes in direct conflict with universal human rights frame work and becomes the cause of human rights violations. Despite the provisions of legal measure, the presence and continuation of antagonistic social economic, religious and cultural elements make the enforcement of human rights difficult, if not impossible (Thorat, 2000). We have many laws to deal with violations of human rights of Dalits but implementation of laws is poor. We have faltered on the action front. Government machinery showed indifferent attitude towards atrocities on Dalits, Social boycott of Dalits. In the opinion of Dr Ambedkar the doctrine of inequality is the core and best philosophy of Hinduism (Moon and Ambedkar, 1987). Among the reasons for Dalits not getting justice for human rights violations are very and many which include threats and pressures from the upper caste people to victims, bulk of cases are not reported and if reported they are not registered, police, witnesses are bribed, and all corrupt practices are tried, money, mafia and muscle power all used to thwart justice to Dalits in human rights violation cases, victim blaming, lack of witnesses and victim protection laws, women continue to face barriers to report crime cases. Victims and their relatives are threatened and terrorized by perpetrators of crime, victims and witnesses are not allowed to reach court, beaten killed or set on fire while going to court. Although Indian laws and legislations contain extensive protection against caste discrimination and violations of human rights, the government fails to enforce them or apply them in limited manner.

Violations of human rights of Scheduled caste, Scheduled tribes, Dalit women and children are rampant as is clear from the exemplary cases mentioned here. In spite of SC/ST prevention of atrocities Act 1989 atrocities are committed. Even if there is Indian Penal code Act of 1860, crimes are increasing. In spite of Civil Rights Act 1955, civil rights are violated. Even if there is Bonded labor system (Abolition Act 1976), bonded labors are there under the guise of bonded debt. Many Articles of Constitution of India 1950 are dealing with caste discrimination on the ground of religion, race, caste, sex or place of birth; untouchability is abolished, forced labor is prohibited, employment of children is prohibited. There are human rights and fundamental rights provisions in national and international acts, treaties and charters applicable to subjects of this country, and there is Prevention of Social boycott by Maharashtra Act of 2017; yet in all of these, there are social boycotts and violations of Dalits Human rights throughout India that need to be given serious attention.

CONCLUSION

It is necessary to critically analyze the shortcomings in existing laws for the protection and implementation of

Dalits human Rights. This is needed to bring out means and methods extensively not only for effective protection and implementation of Human Rights of Dalits but also to uplift them socially, economically and politically to create bright future for them. Various shortcomings leading to problems of Dalits need to be addressed which may include short comings in protection laws, implementation of laws and procedures to know why violations of Human Rights are taking place in spite of so many protection laws in existence.

Short comings in implementing international laws/ international commitments in this regard and short-comings in role played by judiciary in corrective justice part need due consideration.

To what extent political unwillingness of the people in power is responsible for the failure of legal system for protection of Human Rights of Dalits need to be assessed. Short comings in role played by Human Rights Commissions at the Centre and state level to protect Human Rights of Dalits are to be considered. How and why plight of Dalits remain unchanged even in modern era after 70 years of independence is a matter of grave concern.

CONFLICT OF INTERESTS

The author has not declared any conflict of interests.

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