

International Multidisciplinary Research Journal

Golden Research Thoughts

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RNI MAHMUL/2011/38595

ISSN No.2231-5063

Golden Research Thoughts Journal is a multidisciplinary research journal, published monthly in English, Hindi & Marathi Language. All research papers submitted to the journal will be double - blind peer reviewed referred by members of the editorial board. Readers will include investigator in universities, research institutes government and industry with research interest in the general subjects.

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HUMAN RIGHTS OF DALITS AND THEIR VIOLATION IN INDIA: A SOCIOLOGICAL ANALYSIS



Shailaja Saibanna

INTRODUCTION

The concept of Human Rights is a gift of contemporary human thought to culture and civilisation of the modern era. The struggle to promote, protect and preserve human rights changes and holds continuity in every generation of our society. The concept and practice of human rights is the phenomena of modern society. Since time immemorial, the story of human rights has been the story of human wrongs. It is perhaps to contain and curtail the wrongs by one human being or a group or a body of human beings against the other individual, or a group of beings against the other, that the institutions like family to society as a whole have come into existence. Man is

Abstract

The concept and practice of human rights is the phenomena of any modern society. Since time immemorial, the story of human rights has been the story of human wrongs. More than one-sixth of India's population, approximately 170 million people live in sub-human survival, eschewed by much of the society because of their position as 'untouchables' or 'Dalits' which literally means 'broken' people. National legislations and constitutional provisions serve only to cover up the realities of discrimination and atrocities faced by the 'society created sub-humans' living below 'pollution line'. The present paper tries to find the nature and magnitude of atrocities on Dalits. It has dealt with the conceptual category of 'Human Rights' and 'Dalit' and its historical underpinning for being discriminated. It also deals with the sociological and legal constraints for Dalits getting justice. The paper also endeavours to trace the compatibility of Human Rights with social order in villages and has tried to trace the nature and magnitude of violation of Human Rights of Dalits.

Keywords :*Human rights, dignity, atrocity, Dalit, discrimination, untouchability, prevention of atrocity act, Protection of civil Rights Act, exclusion.*

born to be free and all that he must do is that be devoted to the wellbeing of human being-of whatever race or religion, caste or creed or whatever sex and in all societies, developed and underdeveloped, traditional or modern. This truth, this great objective, belongs equally to everyone. This also sums up the basic objective of human rights, which over the years has gained considerable importance in international thinking and has been the subject of much discussion and debate in recent times. These have been and still are, discussed in international forum such as United Nations, in national parliaments, and in the media, and civil rights activities have been taking up the

cause of emphasizing the importance of human rights for a civilized and healthy Society.

Human rights - Conceptualization and Genesis

The concept of human rights has agitated the human mind in all ages, but it has been undergoing a change over different ages. The subject being basic to human thinking across the globe is varied and wide as human being themselves. It is thus an idea with a history; an idea that has changed both in content and social function. Human right is a dynamic concept and endeavours to adapt itself to the needs of the day. New thoughts arise from the womb of the old¹. Today the sphere of human rights thought and action has been widened to new arenas and constituencies. That is why the definition and understanding of the term "human rights" depends much upon the conditions and opinions prevailing in a given society at a given time; further, human rights attains new dimensions and connotations with the dawn of history². In the similar vein, the universality of human rights is also another dimension to reckon with³.

Human rights, generally, are regarded as those fundamental and inalienable rights that are essential for life as human beings. A.J.M. Milne says "There can be no human community without rights. Having rights is part of what is to be member of any community. A community necessarily consists of members who have rights and obligations. Unless there are members, there cannot be community. There has to be rights if there is to be any social life, thus, rights enable an individual with at least some of the elements of a status, an identity and a role in social milieu" ⁴. To R.J. Vincent, Human Rights are something that everyone equally has by virtue of "their very humanity" and also by virtue of their being grounded in our appeal to our "human nature"⁵. In similar vein, Devid Shelby asserts that Human Rights pertain to all persons and are possessed by everyone in the world because they are simply human beings, they are not earned, bought or

inherited, nor are they created by any contractual undertaking⁶. Another exponent, Scott Davidson presents a very precise and contemporary definition of the subject. According to him, "the concept of human rights is closely related with the protection of individuals from the exercise of state, government or authority in certain areas of their lives; it is also directed towards the creation of societal conditions by the state in which individuals are to develop their fullest potential"⁷. Thus, most of the writers have described human rights on the context of human nature, human dignity and existence of healthy society. Human rights as such are a legacy of classical and contemporary human thought to culture and civilization. To understand it, one must therefore first examine its genesis.

The first documentary use of the expression of human rights took place in Universal Declaration of Human Rights in 1948 and two other international covenants- International Covenant on Civil and Political Rights (ICCPR) 1976 and International Covenant on Economic, Social and Cultural Rights (ICESCR) which came into force in 1976 with the consent and approval of the United Nations. The first covenant was drafted in terms of individual rights and second in terms of state's duties. Under the heading of Civil and Political Rights all Government are expected to protect the life, liberty and security of their citizens. And under the caption of economic, social and cultural rights, all Governments are expected to improve living conditions (basic amenities) and protect the cultural rights of not only the majority of people but also those of the vulnerable minorities. This historical narration underscores empirical realities of man's struggle for right as old as the history of mankind itself. The concept of human rights was in a rudimentary form in ancient times, in formative stage in Middle-Ages fully grown in the 20th century with the

formation of the United Nations.

Dalits and Human Their Right.

Dalit, which literally means 'Oppressed' or 'Broken', was penned as early as in 1930s as a Hindi and Marathi translation of 'Depressed Classes', the term that British used for what are now called the Scheduled Castes⁸. B.R. Ambedkar also used the word in his Marathi speeches. Although the word 'Dalit' literally means oppressed persons, it has gained a new cultural context to imply those who have been broken down by those above them in a deliberate and active manner⁹. As mentioned by Gail Omvedt the Dalit Panthers revived the term and their 1973 manifesto expanded its referent to include the landless and poor peasants, Scheduled Tribes, women, Neo-Buddhists, the working people and all those who are being exploited socially, politically, economically and in the name of religion. Therefore, since early 1970's the word has been used in the media and in common parlance in a wider context than the original caste based context.

It is believed that the Dalit as a term was first used by Ambedkar in his fortnight Bahishkrut Bharat. He defined it comprehensively, that Dalithood is a kind of life condition which characterizes the exploitation, suppression and marginalization of Dalit by the social, economic, cultural and political domination of upper caste Brahminical order. Baburao Bagul presenting a radical definition provided an ideological form to the Dalit Panther manifesto; which promotes the use of Dalit as a revolutionary category for its hermeneutic ability to recover the emancipatory potential of the historical past of Dalit culture. He argues that this category has a greater capacity to reach out to a larger section of people. It is a historically constructed through the revolutionary struggle of Dalits¹⁰. In similar vein, S.P. Punalekar, Ghanshyam Shah and Gail Omvedt define Dalit category more or less as an intellectual construct and the expression of

powerless and voice less¹¹. K.L. Sharma points "Dalit" to be more emotional and effectual than rational and logical. He considers Dalit to be an adhoc concept; a culture bound construction; a reactive and not a generative concept; a concept in making¹². In recent years the term Dalit has been discarded as a socially reactionary category by a section of community who prefer Bahujan over Dalit category.

The terminology 'Harijan' was also criticized which cannot be connoted within Dalit category since it was considered to be entirely metaphysical. As Gopal Guru puts it, it imputed an element of resigned fate to the subject and therefore can render it inactive. The term 'Harijan' is an ascribed one since it does not flow from the untouchables own experience is averred by Gopal Guru. In contrast Dalit is not a metaphysical construction; it derives its epistemic and political strength from the material social experience of the community. It is this social construction of Dalit-hood, which makes it authentic and dynamic rather than passive and rigid. In other words, it is an emancipatory project which strives for a humane world.

The social origin of Dalits is age old. Among the early Hindu epics, Dharma Shastras, and Smritis dealing with the origin of Varna system, Rig-Veda is the oldest one and describes that four varnas i.e. Brahmin, Kshyatriya, Vaishya and Shudras originated from different limbs of the Purusha. According to Gita the origin is supposed to be created by the creator himself on the basis of "Guna" (quality) and "Karma" (action). Thus, whatever be the base of untouchability-racial and cultural according to Majumdar or social and religious according to Hutton, it is evident that untouchability originated because of the strict observance and long prevalence of the taboos, customs and rigid hierarchical gradation of the Hindu society¹³. Consequently, in the social sphere the Dalits were deprived of the socio-cultural, civic, political and economic rights. In this context,

Srinivas observes that untouchability is more than ritual rank and pollution it carries, there is a congruence of economic, ritual and political status in the case of Dalit¹⁴. Acts of terror continue to be part of violence perpetrated on the Dalits and the Dalit community is found to be facing constant humiliation, in deep turmoil and growing erosion of their identity and sense of being part of civil society, the nation and the state¹⁵. In theory untouchability might be abolished but in practice, Dalits continue to be subjected to discrimination, harassment, and humiliation. They are denied the basic human rights of self respect, equality and freedom despite constitutional guarantees. If these people attempt to challenge the traditional oppressive practices, they are subjected to further grave insults, humiliations and deprivations¹⁶. Thus millions of Dalits are faced with helpless situation in which they are not allowed even to enjoy the rights guaranteed under law¹⁷. Conspicuously the problem of realization of the social, cultural, civil and economic rights by the Dalits remains a mirage. In fact, the denial of basic human rights to the Dalits poses a threat and challenge to the Indian society to create a humane world.

Status of Human Rights of Dalits

There has been a negligence of social, cultural and civil rights which is practiced through religious sanctions and sanction of ancient law books or the Dharmashstras. Manusmriti holds that; the untouchables had not only religious and cultural disabilities but they were simultaneously not allowed to have possession of wealth since Shudra could torcher a Brahmin¹⁸. In the present times, untouchability continues to be practiced today against Dalits. In everyday life situation, ex-untouchables are subjected to segregation, insult, humiliation and frustrations. In this regard, the study of J.M. Freeman on Bauris in Orissa village reveals that in everyday social life Bauris are suppressed, cheated, insulted and used by so called upper/high caste¹⁹. Similarly, a study concluded by Lal and Nahar in Rajasthan noted

that the upper caste by and large do not accept water from utensils of scheduled caste and their access to temples is debarred. Numerous studies have been carried out depicting the bane of untouchability- I P Desai study of untouchability in rural Gujarat²⁰, Rama Sharma's study of Bhangi in Delhi²¹, Study of Scavengers and swipers by Shyamal in Rajasthan²² and Mary Searle Chatterjee in Varanasi²³.

Despite the enforcement of scheduled castes and scheduled tribes (Prevention of Atrocities) Act, 1989 the crime rate against Dalits continues to be higher. Dalits are subjected to continuous perpetration of crimes and atrocities in large scale in 1997 as mentioned in Statement of National Campaign on Dalit Human Rights and International Dalit Solidarity Network 1998. The data from national crime records Bureau also reflect the magnitude of violations.

As per Crime in India data (www.ncrb.nic.in) of 2012-Protection of Civil Rights Act, 1955: A total of 62 cases were reported during the year 2012 as compared to 67 cases in the year 2011 thereby reporting a decrease of 7.5% in 2012 over 2011. Puducherry reported 20 cases of such crimes followed by Karnataka (11 cases), Andhra Pradesh and Tamil Nadu (9 cases each) during the year 2012. These four States have accounted for 79% of total cases reported in the country. Again when SC/ST (Prevention of Atrocities) Act is taken into account; a total of 12,576 cases were reported under this Act during the year 2012 as compared to 11,342 in the year 2011 thereby reporting an increase of 10.9%. Bihar has reported 4,436 cases accounting for 35.3% of the total cases reported in the country followed by Odisha (15.5%) (1943 cases), Uttar Pradesh (13.8%) (1,740 cases), and Karnataka (10.6%) (1,334 cases). At 27.0, the highest rate of crime was reported in Odisha as compared to national rate of 6.224.

Table-1
Comparative incidence of crime against Scheduled Castes

Sl. No	Crime	Year					% Variation in 2012 over 2011
		2008	2009	2010	2011	2012	
1	Murder	626	624	570	673	651	-3.3
2	Rape	1457	1346	1349	1557	1576	1.2
3	Kidnapping & Abduction	482	512	511	616	490	-20.5
4	Dacoit	51	44	42	36	27	-25
5	Robbery	85	70	75	54	40	-25.9
6	Arson	225	195	150	169	214	26.6
7	Hurt	4216	4410	4376	4247	3855	-9.2
8	Crimes under Protection of civil Rights Act	248	168	143	67	62	-7.5
9	Crimes under SC/ST (Prevention of Atrocities Act)	11602	11143	10513	11342	12576	10.9
10	Others	14623	15082	14983	14958	14164	-5.3
	Total	33615	33594	32712	33719	33655	-0.2

Source: www.ncrb.nic.in, Crime in India, National Crime Records Bureau 2012

The data in table 1 above points out that the atrocities against the Dalits still loom large. Heinous crimes like murder, rape and arson are still conspicuous with an increasing trend when the data of 2012 is taken in relation to 2008. Though the data seems fluctuating, the crimes are quite apparent. Though there might be some 'Dark Figures' (unrepeated crimes) which are not accounted. These figures certainly relate to both caste prejudice and untouchability on one hand and political and economic issues regarding land, wages, indebtedness, bondage etc. on the other.

Education is an instrument of socialization which is considered a powerful catalytic agent of change. Since independence, educational facilities have increased manifold and most villages at least have primary schools within reasonable distance. Special concessions including various types of scholarships and incentives are also being provided to ex-untouchables. But Dalits still languish in terms of the disparity between them and upper castes²⁵. The higher education by its very nature is elite²⁶. There has also been a dereliction of economic rights, caste plays an harmful role in as such as it allocated economic function in the society.

According to 2001 census, about 75 percent of the Dalits workforce is in the primary sector of the economy. Several micro-level studies brought to light the landless state of Dalits; as has been inferred in the study of Namchariah in Andhra Pradesh, Kamble in Maharashtra, Guhan in Tamil Nadu and Thangaraj in Tamil Nadu too²⁷. The economic future of Dalits; their safety nets also offer no prospect of any panacea in the midst of globalization.

Dalit women are considered greater Dalit among Dalits. Human rights violation of the Dalit women has a close interconnection between the status of women in general and Dalit women in particular as prescribed by Hindu social order. Dalit women are doubly oppressed, firstly from the sense of security, she is dependent on the man and secondly caste wise. Dalit women also suffer from sexual violence as a part of ongoing caste confrontations. In rural India, defiance of caste restrictions of the Dalits has most often resulted in atrocities in the form of arson and gang rapes of women of low castes. A micro level study in Guntur district of Andhra Pradesh revealed that almost all Dalit workers enter the labour market before the age of 20; 31.6% of all are girl child workers. This is due to the lack of permanent and secured income in the family²⁸.

CONCLUSION

Dalits constitute 17% of the population amounting to 170 million in India. One out of every six Indians one is a Dalit, yet due to their caste hierarchy Dalits incessantly counter discrimination and violence which prevent them from enjoying the basic human rights and dignity promised to all citizens of India. More than 260 million people worldwide suffer from this "hidden apartheid" in different forms of segregation, exclusion, and discrimination. Several legislations in the constitution have been enacted for the protection of the Dalits. On the contrary, atrocities, violence and discrimination against them persist unabated. This is a matter of fact that since the police resorts to various machinations to discourage reporting and registration of cases, sometime dilutes the seriousness of the offences, shields the accused persons; thereby Dalits very often are intimidated to report cases against the powerful perpetrators of atrocities. Considerable physical violence is inflicted on members of this deprived and marginalised community as substantiated by official reports. There are missing reported cases where Dalits are harassed and exploited for being poor and for being coming from polluted castes as per traditional caste hierarchy. Sometimes the whole Dalit community in the village is socially boycotted. A democratic movement from the grassroots level has to be launched against discrimination and atrocities as they are more apparent in rural areas. There is a need to change the status quo and discrimination. The Dalit human rights have to be taken to the centerstage of any political and social movement in the country. Dalit right to be human cannot be attained by themselves being mere spectator. Dalits have to spearhead this human right movement and all progressive forces should join their hands with them.

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