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**INTERNATIONAL JOURNAL OF BUSINESS, MANAGEMENT
AND ALLIED SCIENCES (IJBMAS)**
A Peer Reviewed International Research Journal

A CRITICAL REVIEW OF DALITS AND HUMAN RIGHTS

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Article Info:

Article Received

on:09/08/2014

Article Revised on:17/08/2014

Article Accepted

on:24/08/2014

ABSTRACT

Human rights came into global discourse after the United Nations passed the “Universal Declaration of Human Rights” on 10th December, 1948. This year the 66th anniversary of the adoption of the Universal Declaration of the Human Rights is being celebrated. In this connection the paper presentation aims to study relationship between Dalits and Human Rights in brief, particularly in post independent India. It also contains brief information of the emergence of Dalits in India from untouchability to scheduled castes availing all the safeguards provided. In a nutshell the paper explains the role of actor’s-responsible bearers (Govt. and NGO actors) and right holders in the promotion and utilization of human rights.

INTRODUCTION

The Emergence of Dalits In India

The Indian society is characterized almost from the ancient period by a pluralistic way of life in terms of language, religion, culture, customs and traditions. It is also very often reiterated that India comprised several different community – republics and had never been a monolithic or homogenous society. ¹ The so called Hinduism is often explained or understood more in terms of way of life consisting of both positive and negative human relations and institutions than of any single and established rules of conduct.

Whatever may be the positive side, the negative element in society is more pinching and tells volumes about discrimination, suppression, suffering, exploitation and so on. It is also clear that religion and more specifically caste has always been the primary cause of Indian social pathology. The positive and negative would probably grow simultaneously

The term Dalit has thus a particular reference to the Hindu society (Hindu religion and caste) than to Indian society (different Indian religions). The emergence and prevalence of Dalits in Hindu society came to be viewed as product of Brahmanism or Brahmanical Hindu society. ² The efforts towards changing the Hindu society, particularly in the context of promoting the dalits view point, took shape in different forms and in different stages. The traditional Hindu social structure has always been based on the principle of chaturvarna

which contains- Brahmins (priests), kshatriyas (soldiers), vaishyas (traders) and sudras (menials). This is the view of majority of Indian and western scholars. The view was unacceptable to a researcher like Ambedkar. To him sudras were not the fourth varna, but a part of the second varna- kshatriya.³ Apart from other reasons the continuous wars between the sudra kings and the brahmins resulted in the development of fourth varna called the sudras. As they were denied upanayana by the Brahmins, they fell below the rank of vaishyas and in due course came to form the fourth Varna.⁴ As the fourth was the outcome of process of degradation, the fifth Varna too was created in the same process as Ambedkar analysed. In course of time the element of untouchability was confined to the fifth Varna and this Varna was territorially marginalized. This resulted in the development of their own culinary habits and culture. These groups were called by different names in different times i.e. Acchut, Ashprishya, Avarna, Antyaja, Atisundra, Chandala, Dhed, Namasudra, Nishad, Pariah and Panchama.⁵

The notable change in the terminology occurred during the British rule in India. In all general contexts the lower castes and downtrodden were called 'depressed classes' and in specific contexts i.e. especially in the context of untouchables they used the terminology 'scheduled castes'.⁶

During the freedom movement in India, the word Harijan was coined by Narsinh Mehta – a Gujarati Brahmin poet and saint who had immense love for the Antyajas. Gandhi picked up this terminology and sought to give importance to and raise the status of the untouchables.⁷ Gandhi infact called one of his news journals 'Harijans'. Ambedkar and his associates opposed the nomenclature 'Harijan' given to the untouchables as it did not, in their view, refer to the element of suffering, suppression, and marginalisation of these people.⁸

The word Dalit emerged in the 1930's. Though it is not clearly known who exactly used the word and when. But its origin may be attached to a Marathi Daily titled 'Dalit Bandu' founded in 1930. The word was also used by B.R Ambedkar in the same period.⁹ The word 'Dalit' gives the meaning: 'Broken'.¹⁰ Ambedkar and others began to use the word dalit as it appropriately refers to their broken hearts and lives, a consequence of degradation of these men by the upper castes.

MATERIALS AND METHODOLOGY

DALITS AND HUMAN RIGHTS IN POST-INDEPENDENT INDIA

Human rights is thought to belong to the individual under natural law as a consequence of his being human. They refer to those rights that are considered universal to humanity, regardless of citizenship, residency, status, ethnicity, gender or other considerations. They are a modified version of what was once called 'natural rights' coupled with certain civil rights. They "are obviously prescriptive statements which command wide support among member-nations (or their governments) and which they were prepared to subscribe to, not as formulated by which their policies were to be determined, but as general aims, and common standards of achievements."¹¹

In 1948, the UN General Assembly adopted the Universal Declaration of Human Rights. The Declaration was drafted over a period of two years on the initiative of UN commission on human rights, through members from various nationalities and political backgrounds. Dr. Hansa Jivraj Mehta – noted Indian freedom fighter, educator and reformist happened to be the committee member. Its chairperson was Eleanor Roosevelt – wife of Franklin Roosevelt.

Thus India played its role as a nation which loves the spirit of universal brotherhood, in the UNUDHR, designed its constitutional preamble to materialize the same. The preamble of the constitution of India promises "to secure to all its citizens justice –social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and of opportunity; and promote among them all; Fraternity assuring the dignity of the individual and the unity of the national."

To realize these goals the constitution guarantees certain fundamental rights and freedoms such as freedom of speech, protection of life and personal liberty and others – which may be termed positive rights. Along with these certain negative rights, prohibiting discrimination or denial of equal protection of law, are also guaranteed, as a part of mainstream Human Rights.

As equal citizens of India, Dalits benefit from these rights equally with other citizens. However, since the constitution recognized the unequal social provisions for Dalits even in violation of the obligation not to discriminate among citizens. This power has been used to enact special laws for the protection of Dalits in

India, as India promised on the objective of securing human dignity and guaranteeing fundamental Human Rights to all.

Results and Discussions

HUMAN RIGHTS IN THE FORM OF CONSTITUTIONAL SAFEGUARDS TO

SC (Dalits) & OTHERS

Article 14 : Equality before law and equal protection of the law

Article 15 : Prohibition of discrimination on grounds of religion, race , caste , sex or place of birth

Article 16 : Equality of opportunity in matters of public employment

Article 17 : Abolition of Untouchability

Article 19 : Six freedoms are available under this provision such as

1. Freedom of speech and expression
2. Freedom of assembly
3. Freedom of association
4. Freedom of movement
5. Freedom of residence and settlement
6. Freedom of profession , occupation , trade and business

Article 20 : Protection in respect of conviction for offences

Article 25-28 : Freedom of conscience and free profession , practice and propagation of religion

Article 29 : Preservation of culture and religious interests of the minority

Article 32 : Constitutional remedies for enforcement of fundamental rights

DIRECTIVE PRINCIPLES OF STATE POLICY

Articles 38 & 39 : Social , economical welfare of the weaker sections in particular and the Indian society in general

Article 46 : Socio – Economic advancement of the Backward Communities.

SPECIAL PROVISIONS FOR SC'S OR DALITS

Article 15 (4) : Reservations in education and employment

Articles 330 and 332 : Reservations to sc's in the House of the People and in the Legislative Assembly respectively

Article 338 : National commission for scheduled castes ^{12.}

PROTECTION OF CIVIL RIGHTS ACT – 1955

The Scheduled castes and the Scheduled Tribes (Prevention of atrocities) Act 1989.

WHAT WAY HUMAN RIGHTS ARE USEFUL TO DALITS

- To raise their self respect
- To overcome discrimination
- To overcome self and imposed inferiority
- To achieve growth and development
- To be treated equal with others

RESPONSIBILITY BEARERS / DUTY BEARERS

Rights or human rights are useful to the end of the state or institutions seek to serve. Rights and Human Rights are the claims of the individual upon the states and the society. Hence the government agencies, non government organizations, family and society at large are responsibility bearers. These responsibility bearers have to provide necessary climate for the practical utility of Human Rights. Herewith H.J Laski statement." Rights , in fact , are those conditions of social life without which no man can seek , in general , to be himself at his best. ^{13.} is relevant ". To enable everyone in the state to access Human Rights, the society and the state should be democratic.

Human rights should be included into development discourse to provide necessary support and to increase the ability of rights holders. This is where the NGO'S and others have to involve and extend help to government agencies, fulfill their roles and duties to their people by giving them resources. We may say it capacity building. Capacity building is the ability of individuals, institutions and societies to perform functions

and solve problems. These NGO'S such a way should involve increasing the capacity of both the duty bearers and the rights holders.¹⁴

In keeping with the Universal Declaration of Human Rights and the Paris Principles, India established the National Human Rights Institutions i.e. National Human Rights Commission by the protection of human rights Act, 1993. It has been successful to champion the human rights with special emphasis and all vulnerable groups including Dalits for eg – NHRC issued a notice to punjab government on social boycott of Dalits in the district sangrur on 23-6-2014 by a suo motu cognizance of a media report and sought a report from Chief Secretary, Government of Punjab within 4 weeks . About 105 families of S.C's have been facing social boycott by uppercastes people in Baopur village of Moonak sub-division of district SONGRUR in the state of punjab since the 15th may 2014. Reportedly , they are facing the situation since they decided to cultivate 26 acres of panchayat land reserved for the scheduled castes. Earlier , this land was being cultivated by the upper castes people who used to get the contract through auction in the names of Dalits (S.C' s)

In other case NHRC on october 22 , 2014 while accepting suo motu cognizance of a media report that a 15 yrs old boy was allegedly burnt to death after his goats grazed on the paddy crop of an uppercaste man at Mohanpur village. Under Karakat police station in Rohtas District of Bihar, the Commission issued a notice to Chief Secretary of the state of Bihar and the Director General of police and sought a report on this matter within 4 weeks .

On September 30 , 2014 , the NHRC has sought an action - taken report from the D.G.P over the plights of Dalit people under various police station areas in Bhubaneswar within 4 weeks.¹⁵ The above are some of the examples of violation of Human Rights of Dalits particular – despite the active involvement of the promotion of human rights to uphold human dignity by responsibility bearers – government actions , NHRC , NGO's and others.

CONCLUSION AND RECOMMENDATIONS

The Human Rights holders should acquire the knowledge of rights and their practical use in their life discourse, by availing the necessary awareness programs arranged from time to time by the government agencies and NGO. For this the habit of participation in human rights should be inculcated , which comes through education and willingness of availing rights for a better life. All the vulnerable groups , particularly Dalits should have an urge for human dignity and development, besides the ability to resist abuses of their human rights by fellow beings through peaceful means. These hundreds of millions of people including women , children (especially the girl child) religious minorities , Dalits , adivasis and others better free from the stigma of inferiority and unprivilege. Moreover these groups better take initiative in indigenous leadership for defense purpose as well as upgradation.

Joti rao Phooley anticipated this long ago and appealed to the ati – sundras (Dalits) to gradually assert their rights and position in society through education , leadership and participation.¹⁶ So, one may be a Dalit or any other person , nothing will be theirs unless there is a meaningful urge and pressure by himself. The same is the case with human rights. Similarly better think as a part of the whole not as part apart.

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Jotirao Phooley Called untouchables of the day as ati-sudras
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