

A STUDY OF THE HUMAN RIGHTS OF THE DEPRIVED AND THE TRIBAL COMMUNITIES

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Independence and Democracy are two sides of the coin of human rights. In absence of neither of these two sides can human rights be enjoyed or practiced. A country may be independent, but may not be democratic and vice versa. Hence, human rights can exist in a society where both these things are perceptible. As far as dalit or untouchables and the tribal in Indian society are concerned, the matter of human rights is as far away mirage for them as the trace of their origin. The history of the oppression of thousands of year tells us that this major and important part of Indian society, i.e., the marginalized communities and the indigenous tribes, have always been kept out of the societal boundaries and no attempt was made ever for their emancipation till 19th century. Rights had been bestowed on the animals, but had always been denied to these by the very people of their own religion and country. Tribal communities, who ever lived inside their natural territories, have never been considered to be a part of the developmental schemes and they had to tolerate the negligence and the malice of sophisticated society.

This paper will be a study of the marginalized, exploited and tribal communities from the perspective of the human rights. It will also attempt to analyze the effect of constitutional laws on the development of these deprived and oppressed classes.

On December 10, 1948, UN declared that all the essential and fundamental rights enumerated in Act of the Declaration of Human rights are for all without any discrimination of race, color, gender, language, religion, nation, social rise, birth or caste etc. Human Rights (especially for dalits, tribes and oppressed) are an integral part of the Indian Constitution. Dr. Ambedkar and other formulators of the constitution made it sure that equal are provided to every member of Indian society regardless of caste and class. Some special rights have also been provided to Scheduled Castes and Tribes like-

- a) Act 46 for educational and economical progress.
- b) Act 330 for reservation in seats in central parliament.
- c) Act 332 for reservation in the state parliament.
- d) Act 340 for appointing commissions for backward classes.

However, howsoever strong these steps had been put up for the development and emancipation of the subjugated and the oppressed, the answer to the question as to how far the same are really implanted is, to our dismay, negative. It is necessary for this to analyze the present state of the Dalits and tribals to judge how far these communities are enjoying their human rights.

THE STATE OF DALIT AND LEGAL PROTECTION

The history of mankind is the history of struggle between haves and have nots. But in Indian context, this struggle has been between the ideologies which preach the caste system and those which denounce it. For thousands of years, the untouchable castes of Hindu religion had to bear the cruel system of caste and the consequential oppression and humiliation by the people of

their own religion. They were thought worthy only to be thralls so that very meager and disgraceful works might be done through their hands, and they are still considered worthy to be subjugated. As a report by Human Right Watch say, “Dalit and indigenous people continue to face discrimination, exclusion and acts of communal violence. Laws and policies adopted by the Indian Government provide strong basis of protection, but are not being faithfully implemented by local authorities.” In India the census of the dalits is around 15.75% to 17% of the overall population. It means about 20 crore people have been deprived of human rights and lived for centuries in poverty, neglected, excommunicated and disgraced. Endless poverty, void of everything and economic exploitation have been some of the causes of their subjugated and powerless state.

The Dalit Panther have tried to define the term ‘Dalit’ in its manifesto as, “a member of a Scheduled caste and Tribes, Neo-Buddhists, the working people, the landless and the poor peasants, women and all those who are being exploited politically, economically and in name of religion.” All the deprived and oppressed classes and castes in India are considered to be or included in ‘dalits’. Thousands of years of humiliation have taken their lives to the pit of servility so that there wasn’t even a ray of hope for them in the dark ages of old and middle age period till Mahatma Phule arose on the dark scene of this country like a star to take the cudgels in his own hands and fight back for their rights. After Phule, a sun of wisdom ,Dr. Ambedkar, rose to expel the darkness from their lives and break all the shackles of servility. For the first time in the history, the dalit and their problems came to be heeded by the high caste people and the government when Dr. Ambedkar gave some hammer strokes by making the dalit aware of their self-respect. He made all the provisions in the constitution needed for the welfare of these poorest and the oppressed and the marginalized.

Though all the rights have been given to dalits and some laws have been introduced, this has not changed the picture by far. Even after sixty years of constitutional and legal protection and state support, there is still wide gap of social discrimination against dalits in many parts of our country, more particularly in Rajsthan. Our government, however, is not very sincere to ensure the equality of all sections of our society and is not taking all necessary steps to help in the social, educational and economical empowerment of the dalits. The weaker sections particularly those who have undergone historic isolation must be brought within the fold and allowed to participate and contribute effectively in the processes of development. The fruits of this development should reach to all sections of society, specially the poor and underprivileged sections in an equitable manner to bridge the gap between haves and have nots. “There are problems facing Scheduled Castes and Tribes, problems arising when it comes to acquiring land for certain purposes, the problems of displaced persons of their livelihood and those who are forced to displaced migrate in search of their livelihood to cities, the growing homelessness in urban conglomerates, these are all genuine issues and need to be addressed on priority basis.”

There are many substantive measures that have been introduced by the constitution and the government to safeguard the Dalits, Tribals and the oppressed. But to our dismay, the greater the remedy is prescribed and served, the greater the disease spreads and harms. Where is the fault then? There cannot be any fault in the medicine, for it has been prepared and prescribed after doing an extensive research by the doctors like Dr. Babasaheb Ambedkar. Then the fault must be with the way it is taken or served. The reason behind the failure of constitutional measures of

eradicating discriminations and oppressions is, in the very words of Dr. Ambedkar, not implementing the policies and the constitution properly. In the address to the assembly of India Parliament, Dr. Ambedkar had opined, “However the constitution is great of a country, if the people of that country are not good enough to follow it, then it will be called a failure. And no matter how worse the constitution of a country is, if the followers are good enough to implement it, then it will be called a good one.” This is where the fault is. No law or constitutional measure can do anything in safeguarding the welfare of the poor and the oppressed, the Dalit and the Tribal, until the common masses of India take the task on their own shoulders by implementing the law.

“Article 17 of the Indian Constitution is for the fundamental rights and through this provision of our constitutional mandate, Untouchability was abolished and its practiced in any form is forbidden and punishable under law.....To eliminate untouchability, our government enacted ‘Abolition of Untouchability Act-1955’ that was rechristened later in 1976 as protection of Civil Rights Act and although stringent on papers only, but could not be implemented at all, especially in Rajasthan.” Thirty years later, even these enactments ending untouchability were found at the ground level to be inadequate in order to check and deter crimes against Scheduled Castes and Tribes. POA Act, 1989 was brought into force with effect from January 30, 1990. The main objective of enactment of the above Act was to prevent the offences against the member of the Scheduled Castes and Tribes, and to provide special court for the trial of such offences and for matters connected therewith or incidental thereto.”

THE STATE OF TRIBAL AND LEGAL PROTECTION

The native and proper inhabitants of the land who fulfill all their requirements from nature and live away from mainstream of modern life are generally called tribal. The roots of these communities can be traced back to the pre-historic times as they have always been living in forests, but the history of their origin is unknown. They are entirely ineffective participants of society who could not enjoy or practice the fundamental rights of human beings on account of their illiteracy, ignorance and poverty.

The Tribals , that is, Scheduled tribals have always been in need of the human rights. The major parts of the tribal areas like Gadchiroli, Chandrapure, Melghat or Nandurbar haven’t yet seen the light of development. Their life is still very much close to nature and away from the modern world. Thousands of policies and laws have been introduced by the government for the upliftment and emancipation of the tribal communities in India, but due to the apathy and indifference of the officials and the authorities, they could not be implemented in an expected way as a result of which these tribal communities remained away from the mainstream of human life and their problems remained intact. Even today tribal do not have right to access to forests and eventually, the access to the forest products which was once their main source of natural nutrients. For various reasons, forests have no longer remained the sources of livelihood as it was to be for them in past.

An injustice has been done with tribals from the British era. The British administration recognized a method of forest governance in the name of scientific forestry for deriving long-term benefits from the Indian forests. For instance, they demarcated enhanced teak growing forest in Melghat in 1853; that imposed restrictions on local forest dwelling communities. They

enforced forests as national property for colonial objectives. The Bhamragarh and Gugmal reserves in which project Tiger Melghat is included were constituted in 1866 and 1867 respectively. The Berar forest law was enacted in 1886 and notified in 1911, due to which British administration took over the Berar district permanently and the Indian forest act of 1864 was made applicable to these forests. Accordingly, the imperial forest development was created to consolidate government control over forest, making it inaccessible to forest dwellers. In this way, the individual relationship between tribals and forest initiated to be disturbed during British colonial era.

The never-ending problems of these tribal communities have so harassed their life that they are enforced to come on streets for protests and demand their rights. We see today thousands of tribals marching over “Loksabha” or legislative assembly of Nagpur. This is not without reason. There is no end to the problems of “Adiwasi” people and unfortunately, nobody is heeding their problems or trying to know their grievances. To cite here few of the so many problems, there are problems of forest land grabbing by government and corporate companies, malnutrition, children and women death, illiteracy, unemployment and the most worse- “Naxalism.” Even after thousands of policies and laws introduced by the government and crores of rupees have been thrown into dust, these problems could not be sorted out, because policies or schemes need adequate implementation to bring out their result which is noticeable deficiency in the Indian administration. For this and various other reasons, the overall growth of the tribal communities seems to have been paused. According to the Declaration of Human Rights of Tribal by UN in Vienna, it is very necessary to develop and defend the human rights of tribal and states by keeping co-operation with international laws and should strive to implement, defend and respect the tribal human rights.

The state of the tribal women is even more deplorable than that of the men. They are still deprived of the basic human rights and continuously harassed. “It has been a complaint of tribal women that the process of development witnessed by the country has bypassed them and they have been left high and dry.” They have been affected by all the bad aspects of a developed society- poverty, health and illiteracy. Among 300 million people living below poverty line in appalling conditions of extreme deprivation, the tribal women are the poorest social groups having more than 50 per cent of the entire tribal population below poverty line and the women are first to be affected by this food insecurity.

Tribal women are also susceptible to illness, particularly to anemia, malaria, malnutrition and other hazards, for they are trapped in a cycle of ill health exacerbated by children-bearing and hard physical labors.” The nutritional status of tribal women and girls is compromised by unequal provision of food; by many work demands and by special nutritional needs (like iron). The light of education could not also penetrate the deep forests where they live. The literacy rate among the women belonging to the scheduled tribes is 34.8 per cent as against 53.67 per cent for all India women’s average.

Conclusion

Till the beginning of the 20th century, the inhuman system of slavery was abolished from the western countries like Rome, Briton, America, Germany and Japan etc. But, to our dismay, the prevalent practice of untouchability unfortunately could not be abolished and is still existent and active. The reason is clear. Untouchability has its roots in castism which is a foster child of Hinduism. So, until this religion of Hinduism is alive in India, its products like castism and untouchability, and the atrocities upon dalits cannot come to an end. The Jew people in western countries were despised, but they were not denied the opportunities for development. On the contrary, the Dalits in India have always been despised; boycotted and denied opportunities as if they were even more contemptible beings than wild animals. The great Ambedkar, Phule and Gandhi have shed their sweats to rehabilitate the condition of these backward classes. Whereas, few governmental and non-governmental organizations have also added their contributions in the task of their development. Some special schemes and programs have been designed in five year plans of India through which some development committees have been formed in every state and reservation in jobs, scholarships, hostel facility, loans and other such schemes are also implemented for the upliftment and rejuvenation of the dalits.

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