



A STUDY AND CHALLENGES IN THE PROTECTION OF HUMAN RIGHTS OF DALIT WOMEN IN INDIA

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ABSTRACT

Dalits are denied basic human rights and condemned as social outcasts in the democratic republic of India. Despite the fact that the Indian constitution has various measures to defend Dalit people's human rights, ongoing violence and discrimination in society show that the legal system and administrative structures have failed to safeguard the interests of the dalit community. Because they are poor, members of the Dalit caste, and women, they bear a triple burden in society. Dalit women frequently experience a variety of societal issues, and they are exposed everywhere in both the public and private domains of life. In this context, the research examines the problems and difficulties related to the Indian dalit women's human rights protection mechanisms.

Keywords: Dalit, women, discrimination, human rights, enforcement mechanism

INTRODUCTION

In Indian society, caste is one of the most important determinants of one's status and respect. One of the most marginalised and abused groups in the nation continues to be the Dalits. Jotiba Phule used the phrase for the first time in the nineteenth century, and Ambedkar established the term "Dalit hood" in Bahiskrit Bharat, explaining that it is a situation of life marked by exploitation, marginalisation, and political, social, and economic dominance of the higher caste Brahminical order. Dalits are a common name for members of scheduled castes. The failure of the constitutional

provisions and administrative machinery to protect the interests of the dalit community in general and Dalit women in particular is revealed by the persistence of discrimination and violence in society, despite the fact that the Indian constitution enshrined several provisions to protect Dalits' human rights.

According to the statistics that is currently available, a Dalit is the victim of a crime every 18 minutes. Three Dalit women are raped daily, two Dalits are killed, and two Dalit homes are pillaged. Dalits make up 37% of the population who live below the poverty line, 54% of whom are undernourished, 83 out of every 1,000 children born into a Dalit household die before they turn one, 12% before they turn five, and 45% are still illiterate. According to the data, Dalits are not allowed to enter police stations in Indian communities. In public sponsored schools, Dalit children have been made to sit in separate rows and participate in a noon meal programme. In addition, they are restricted access to water sources in village public areas.

Dalits have always been socially inferior in the area, destitute, and denied basic human rights. Dalit women bear a triple burden in society due to their status as women, members of a caste, and members of the underclass. Dalits enjoy outcast status in the Hindu varna caste hierarchy because they are viewed as filthy and unhygienic. Here, Dalits typically work in unorganised sectors as sweepers, landless labourers, domestic servants, and casual labourers, where Dalit women experience verbal and physical abuse as well as sexual



harassment and exploitation on the basis of caste.

WHO ARE DALITS?

In Indian society, Dalits are referred to as Harijans, the Untouchables. Official texts, however, classify them as members of India's scheduled caste. They make up one-sixth of India's overall population. Dalit women made up about 17% of India's total female population. Three-fourths of Dalit families live in rural areas where they experience structural violence, social isolation, and systemic persecution by the local caste Hindus.

CHALLENGES OF DALIT WOMEN IN INDIA

The caste system did not exist in early Indian civilization according to the hindu varna. In terms of knowledge and education, women in ancient India were viewed as superiors to men. Dalit women in rural India currently experience greater difficulties navigating daily life and evaluating essential commodities and services. The primary cause of all forms of exploitation against the dalit people in India, where dalit women are a more vulnerable demographic, is untouchability. Researchers that are interested in analysing the constitutional and legal protections for dalit women in India have taken all relevant information into account.

CONSTITUTIONAL SAFEGUARDS AGAINST DALITS IN GENERAL AND WOMEN IN PARTICULAR

In order to prevent caste-based discrimination on the basis of the following classification, the Indian constitution granted rights to all citizens, including scheduled castes in particular.

SOCIAL RIGHTS:

Articles 17, 23, 24, and 25 (2) (b) of the constitution, which require the state to provide social safeguards to Scheduled Castes, are among the social rights. Article 17 deals with ending the social practise of untouchability.

Human trafficking, "begging," and other related types of forced labour are all prohibited by Article 23, and any violation of this rule is a

crime subject to legal sanctions. To identify, free, and rehabilitate bound labourers, the parliament passed the Bonded Labor System (Abolition) Act in 1976.

No kid under the age of 14 may be employed to work in a factory, mine, or in any other hazardous occupation, according to Article 24. Although the SCs are not specifically mentioned in paragraphs 23 and 24, a sizable number of bonded labourers and children working in dangerous jobs are SCs. According to Article 25(2)(b), all classes and sections of Hindus are welcome in public Hindu religious organisations.

ECONOMIC RIGHTS:

The Scheduled Castes are protected economically under Articles 23, 24, and 46. "The state shall promote with particular care for the educational and economic interests of the weaker parts of the people, and in particular, the Scheduled Castes, and it shall protect them from social injustice and all types of exploitation," according to Article 46.

EDUCATIONAL AND CULTURAL RIGHTS:

Article 15(4) gives the state the authority to establish specific measures for SCs and any socially and educationally disadvantaged category of citizens. The state has been able to reserve spaces for SCs at educational institutions for general and professional courses, among other things, thanks to this provision.

POLITICAL RIGHTS:

The Indian Constitution stipulates the following for the reservation of seats for SCs/STs in state/UT local governments, state legislative assemblies, and parliament: The Scheduled Castes and Scheduled Tribes are eligible to reserve seats in every Panchayat under Article 243D. Women from the Scheduled Castes and Scheduled Tribes must hold at least one-third of the available seats.

Article 243T: Seats are reserved in every municipality for members of the Scheduled



Castes and Scheduled Tribes. The Scheduled Castes, Scheduled Tribes, and women shall be given preference for the positions of chairperson in municipalities in accordance with any provisions made by a state's legislature. Paragraph 330 Reservation of seats in the House of the People for Scheduled Castes and Scheduled Tribes. Paragraph 332 seats set aside for members of Scheduled Castes and Scheduled Tribes in state legislatures.

Despite anything in the preceding provision of this paragraph, Article 334 states that reservations for seats and special representation end after sixty years. This Constitution also contains provisions relating to:

- (a) The reservation of seats for members of the Scheduled Castes and Scheduled Tribes in the House of Representatives and in the State legislatures;
- (b) After sixty years have passed since the Constitution's inception, the Anglo-Indian Community's nomination-based representation in the House of the People and in the Legislative Assemblies of the States will no longer be in effect.

LEGAL SAFEGUARDS AGAINST DALITS IN GENERAL AND WOMEN IN PARTICULAR

To preserve the constitutional mandate and protect the interests of Dalits in India, special social enactments have periodically entered into force for SCs. The Protection of Civil Rights Act of 1955 and the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act of 1989 are the two most important pieces of national legislation.

In order to implement Article 17 of the constitution, which forbids untouchability and its practise in any form, the Preservation of Civil Rights Act, 1955, was passed. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 went into effect on January 30, 1990, and its purpose is to prevent and punish crimes committed against SCs and STs by members of other communities. Insofar as they impose punishments that are harsher than

those for comparable offences under the Indian Penal Code (IPC) and other laws, these enactments have expanded positive discrimination in favour of SCs and STs to the area of criminal law. Major states have established special courts for swift adjudication of cases filed only under these Statutes.

National commission of human rights law against Dalits

In order to safeguard and advance the socioeconomic and cultural rights of members of scheduled castes in India, the National Commission for Scheduled Castes was founded as a constitutional authority.

CHALLENGES IN IMPLEMENTATION OF HUMAN RIGHTS LAW AGAINST DALITS

In India, Dalit women's situation is marked by numerous marginalisation's. Being a woman in a patriarchal society and as a Dalit, one is oppressed in this type of situation. Prejudices against Dalit women are still pervasive in rural India, where they destroy daily life in the struggle for existence. Justice cannot be guaranteed by the passage of protective laws alone. To address caste-based violence and atrocities in India, concerted efforts at the level of the enforcement authorities and judicial proceedings must be strengthened.

The State Governments are required to adopt measures under the Scheduled Caste / Scheduled Tribe (Prevention of Atrocities) Act, 1989 (PoA Act), including the provision of adequate facilities like legal aid to enable victims to access justice, travel and maintenance costs for victims and witnesses during investigation and trial, and socio-economic rehabilitation for victims of the dalit family.

Yet, in practise, the current PoA Act does not provide clear information on their rights and privileges. These include mandatory provisions like the right to information about their rights at the time of filing complaints and registering FIRs, the right to be free from harassment and



intimidation, the right to information regarding the status of the investigation, the charge sheet, and the results of any medical exams, the right to compensation and travel and daily allowance (TA/DA), the right to briefing regarding the cases in order to prepare for the trial process, the right to free legal representation, the right to access their case's documents, and so forth. Without these fundamental legal rights, victims and witnesses have been denied the opportunity to take part in the proceedings throughout the judicial process.

Even if there are constitutional, administrative, and legal protections for women, they are nevertheless at risk of gender-specific abuses like rape, stripping, and other such crimes. It is discovered that the safeguards available to safeguard women against such abuses and to enable them to benefit from the criminal justice system are not being implemented. One of the major barriers to providing justice for Dalit women continues to be the continued impunity of criminals.

In order to increase the degree of effective governance, the state might significantly contribute by bolstering the law-and-order apparatus. A prompt resolution of cases reduces crimes against Dalit women. For the historically oppressed and mistreated Dalit women population in India, access to justice through the criminal justice system should be their top priority. Many PCR and Sc/St atrocity cases saw the police refuse to file a police report (FIR), particularly when complaints were made against eminent and powerful individuals. They did this by pressuring the victim and victim's family to make concessions out of fear of having fabricated cases brought against the victim and victim's family. So, the Dalit population is unable to access justice through the system since it is poor and illiterate.

CONCLUSION

After 70 years of independence, most Dalits are still living in rural areas as a socially excluded,

vulnerable, and subjugated community in a society where Dalits experience obnoxious discrimination and mistreatment at the hands of caste Hindus. India has experienced tremendous growth and progress in its economy, science and technology, and infrastructure. According to the Indian Constitution's provisions and its obligations under international human rights law, this type of treatment is unacceptable. The ongoing Dalit scenario in India has shown that the legal and constitutional safeguards intended to protect Dalits' human rights are useless. India has acknowledged that it does not discriminate against Dalits, and it has pointed to numerous legal safeguards that show this to the rest of the world. Many instances of violence and prejudice are documented in the study that is currently accessible, showing that Dalits are still at risk and are still socially marginalised. In order to advance the status and dignity of Dalit women in the system, the government—at both the national and state levels—should take steps to increase public awareness of the constitutional and legal protections against Dalits and strictly enforce the provisions that are available to the Dalit community in India.

REFERENCES

- Law relating to protection of Human rights (Second Edition Dr. Awasthi and Kataria, Orient Public Company, 2005.
- Agarwal, H.O., (2006) Human Rights, Nineth Edition Central law publications, Allahabad.
- News Archives. <http://www.ambedkar.org>