

Weaker Section's Social Transformation: Exclusion and Inclusive Social Justice in India

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Abstract: Indian society is characterized by its long age stratification. Stratification emerges from different social values and survives so long the social values are not changed. Each strata can identify by its rigid social and religious practices. Dalits, or Weaker Sections as the ex-untouchables prefer to be called, are a very distinct social group. While belonging to a broad class of have-nots they suffer an additional disability of social oppression. Economically, most of them are still the poorest of poor. There is a need for the dalits movement to emerge as a movement for genuine emancipation and social transformation of weaker sections of the society. Social justice is a fundamental principle of democratic principles engaged in a politics of social transformation, to bring about a fundamental defeat of the brahminical social order. It is a change in the present economist definition of such transformation and strives for its redefinition in social terms. The Dalits movement needs to incorporate all the dimensions of struggle against the national and international establishment, thereby providing a new vanguard of social transformation and in the process broadening and deepening its own socio-cultural terrain towards social justice and redefining the concept of social transformation. In this backdrop the paper will trace the dalits social transformation redefining the social justice in India. Further the paper will discuss a combination of the literature review of social movements and social transformation. Finally the manuscript will define the concept of social justice, dalits social transformation redefining in the context of India.

Keywords: Social Transformation, Social Justice, Dalits, Inclusion and Exclusion

Introduction

The Constitution of India in its Preamble avers two basic principles i.e. "equity" and "Social democracy", as such the policy of protective discrimination obviously is against the basic norms of the Constitution. But the framers of the Constitution as inevitable necessity in view of the past social history of India considered these contradictory provisions. The Supreme Court of India has handed down a series of landmark judgements in relation to social justice by interpreting the Constitutional provisions upholding the cherished values of the Constitution and thereby had often shaped the course of the national stream of social and economic justice. Notwithstanding a catena of expository decisions with interpretive semantics the naked truth is that on stretch of light or no ray of hope of attaining the equality of status of opportunity is visible.

The term „Weaker Section“ in ordinary sense refers to the section of the population who are socially, economically, politically and educationally backward than the other sections of the population and have been suffering from different kinds of disabilities due to their backwardness.

According to Government of India Act, 1935 “weaker section implies to those sections of society who are either because of traditional custom of practice of untouchability or because of tribal origin, tribal way of living or other backwardness have been suffering from educational and economic backwardness and some aspects of social life.” On the basis of their over all status in a view to their socio-economic and cultural life, for the convenience of effective administration of development and welfare programmes with special focus to their socio-economic stands, the weaker sections have been grouped basically into three distinct categories by different resolutions of Government of India. Those groups can be serially stated here on the basis of magnitude of their problems or vulnerability to various disabilities suffered by them.

1. Scheduled Caste
2. Scheduled Tribes and
3. Other Backward Classes

In addition to the above major groups, there are also some vulnerable groups like women, destitute children, and handicapped people etc. who are generally considered as weaker members of the society. But here we are given with the three major groups i.e. Scheduled Caste, Scheduled Tribes and Other Backward Classes for detailed discussion.

According to Daniel Learner modernization implies literacy, urbanization, high participation and empathy. It is worth noting of the statement made by T.Richard Gill (1965), when he says "an illiterate society is unlikely to -be in forefront neither of technological creativity nor for that matter to know how to use new technologies even if they exist for taking. In his book, "India's Ex-Untouchables" Issacs' Harold noted the emerging new elite and growing inequalities among the scheduled castes. Risely referred to the manner in which tribes or their sections changed into caste, and how certain castes make conscious efforts at projecting their new status. M. N. Shrinivas identified the process of adopting ways of living of the twice born group by the lower sections as the process of Sanskritization.

Social transformation and social problems are closely linked with each other. Society is not static but the dominant groups in society sometimes want to perpetuate their hold over society and protect their interests by repressive methods. Thus, in a negative manner, if the process of social transformation is suppressed, it generates new social problems. On the other hand, if the process of social transformation is taking a natural course, the society faces the problems of adjustment during the transitional phase of the decline of the old system and the emergence of a new system.

According to National Crime Bureau (2017) countrywide, 43,203 cases of atrocities against Dalits (including IPC and SC/ST Act cases) were reported in 2017, about 6% more than in the previous year. The highest rates of crimes against Dalits (number of incidents per 1,00,000 population) were in Madhya Pradesh (52), Bihar (41), and Rajasthan (35). Higher numbers for crimes against Dalits also reflect more robust reporting of crimes by victims, which indicates empowerment. Of the 5,775 offences registered solely under the SC/ST Act in 2017 with Dalits as victims, 3,172 (55%) were related to "Intentionally Insult or Intimidate with Intent to Humiliate". There were 47 cases of land grabbing related to Dalits; they faced social boycott in 63 cases; and they were prevented from using public spaces in 12 cases. The most insult cases were reported from Karnataka (1,175) followed by UP (804), and Bihar (338). Sixteen land grab cases each were reported from Himachal Pradesh and Karnataka. Cases of preventing a Dalit from using public space were reported from Maharashtra, Himachal, Karnataka, Kerala, and Punjab. Fifty-seven of the 63 cases of social boycott or of a Dalit being forced to leave his place of residence were reported from UP. Higher numbers for crimes against Dalits also reflect more robust reporting of crimes by victims, which indicates empowerment.

Social Rights and the Constitution Provisions in India

The Indian constitutional structure has a division between fundamental rights and directive principles and the debates on social rights during the drafting of the Constitution. With this background, some of the most important judgments of the Supreme Court in the last ten years in the field of social rights have been analyzed, looking specifically at the enforcement and justifiability of the right to food, right to education and the right to health. The developments in the last decade are significant as during this time the deleterious effects of globalization and threats of deprivation of basic social rights have been acutely felt and this has been studied. The study of the recent case-law in the nineties on these social rights is of interest because the Supreme Court has demonstrated a judicial willingness and capacity to address aspects of social rights in a way that challenges many preconceived Constitution's Orientation and Response to Social Transformation notions of the judicial role. From the nineties onwards we can see that the Supreme Court has shown a positive and marked tendency to take the principle of the interdependence of human rights seriously and to interpret entrenched constitutional guarantees of the fundamental rights in the light of the directive principles. Moving ahead from the position that social rights and civil and political rights are indivisible and interdependent, through the discussion and analysis of the specific rights to food, health and education, this article argues that social rights can indeed be made enforceable and are amenable to judicial implementation. The recent Indian experience shows that their enforceability still remains the crucial factor and gives ample examples of ways in which innovative remedies have been used to enforce social and economic rights by the judiciary.

Social transformation is the continuous process of changing the dimensions of the society. The different factors affects the society and legal system is organized in courts, tribunals, forums, administrative agencies, legislature, Executive, law enforcement agencies, prosecuting agencies, Judges and juries, lawyers, legal profession and legal education. All these act and interact with and in the society and influence the life of the society as a whole and as a unit. Indian society has transformed over the period of time from a society governed by smriti, sruti, dharma and other customary law, to western conceptions of law and authority during the colonial period. Further with the rights based Indian Constitution and progressive law making which includes the codification of religious laws and affirmative action during the post-colonial period, the Indian society has undergone transition. Yet, till date no yardstick is there to decide the factors contributing more or less to the balancing of all types of transformations including social transformation. As the human being is the subject of law who prevails in the society due to its basic nature of being social animal or gregarious animal in the view of Aristotle so the response of human behavior in a society to law and how law has crafted and moulded itself to suit the way of the society responds to it could be understand. There also could be instances we could observe, by which we could see even the society at times demands for laws. So the interplay of law and society contributes and leads to development of each other for social transformation. The subject of research includes concept like law, legal system, social justice, morality and development. Law has always been looked at as one of the important instruments that could bring about social change and the reformation solely through law is one of the most effective and safest methods to achieve the uniformity among several diversities like, social culture, economic and political. Social change is not a social transformation as to establish social change these would be ideally a change in the established social norms, social rules and patterns of social relations. There is massive structural or far-reaching social change would be termed as a social transformation.

Review of Literature

Sambaiah Gundimeda (2016) in his book 'Dalit Politics in Contemporary India' is essentially a study on Dalit politics from three principal "axes" as interpreted by the author. The first relates to the historical context in which the anti-caste and Dalit protests took their origins in the later part of the 19th century in present-day Uttar Pradesh and Andhra Pradesh. Second, it has been authored in the context of contemporary debates, especially when the space of democracy is expanding in India, with increasing instances of the lower-caste assertions which have challenged the cultural hegemony and the political domination of the upper-caste Hindus. Finally, it concerns itself in terms of a comparison of political developments in North and South India. Although not the first attempt at comprehending the historical underpinnings that have informed Dalit politics, it seems more engaged in understanding the contours that shape contemporary Indian political realities. Gundimeda's narrative is rich in detail, but takes the conventional route of social scientists in defining the meanings and boundaries of the Dalit movements. The comparative framework remains a bit unclear and the monograph would have been an outstanding one had it simply concentrated its academic attention on the developments in Andhra Pradesh. It seems that there could have been a far more rigorous presentation, had there been an intellectual engagement with Ambedkar as one represented by the scholars of the subaltern studies group (Raj Sekhar Basu; 2018).

David Mosse (2018) The Sustainable Development Goals (SDGs) emphasize equality of opportunity and reducing inequality of outcomes, the elimination of discrimination in law, policy and social practice, and socio-economic inclusion of all under the banner goal 'to leave nobody behind'. "All" here means, "irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status"(SDG 10.2). There is no specific mention of caste. Several international human rights organizations insist that worldwide over 260 million people suffer from discrimination based on caste (or 'work and descent', the UN terminology for such systems of inherited status), that caste is "a fundamental determinant [of] social exclusion and development"¹, and affects some 20–25 per cent of the world's population – including (but not restricted to) the peoples of South Asian nations and their diasporas. They have lobbied for caste to be recognized in progress indicators and data disaggregation, and have published shadow reports on caste disparities hidden in national reporting on SDGs (ADRF, 2017).

NCRWC (2011) Since the 1980s there has been a steady decline in the allocation of government funds for SC and ST development and welfare projects. The paper states, "there has in general been an inherent lack of interest and seriousness on the part of the planning and implementing machinery to achieve the objectives of the Constitution...benefits secured by the SCs and STs do not appear commensurate with the funds spent so far" (page 93). Despite providing reservation quotas in jobs, the representation of SCs and STs in the higher levels of all public services remains poor. The paper notes that the amendments to departmental orders concerning recruitment and promotion of SCs and STs have adversely affected their interests.

Since 1970s the government has earmarked plan funds specifically for the socio-economic empowerment of SCs and STs. The Special component Plan (SCP) for SCs and the Tribal Sub-Plan for the STs were intended to ensure adequate allocation of resources for schemes to improve their all-round development. According to the government guidelines, the proportion of funds allocated under each plan should be equal to the proportion of SC and ST population in each State. Without providing any statistical data the paper notes that in reality this proportionality is hardly maintained. The paper remarks that budgetary allocations on SC, ST welfare schemes have declined in the recent years. In many cases the unspent money lapses back to the government because departments which have the responsibility of spending the funds are unable to promptly finalise the welfare schemes. The Tribal Sub-Plan was introduced in the Fifth Five Year Plan (1974-79) and the Special Component Plan was initiated during the Sixth Five Year Plan (1980-85). While this is true of the Special Component Plan, the state-wise allocations for Tribal Sub-Plans have matched the percentage-wise population of STs. During 1996-97 the outlay for TSP was a little over 8% while STs comprised 7.5% of the total population. But allocation for SCP during the same year was a little over 11% though SCs constitute 16.48% of the population. (See National Commission for Scheduled Castes and Scheduled Tribes- Fourth Report; 1996-97 & 1997-98, pp. 86ff).

Sri Krishna S & Anil Kumar Samudrala (2007) a Dalit feels as keenly and thinks as clearly as others. Dalit in their sphere do work as clearly as others do. As such, Dalit has as much right to freedom to develop their personality fully as others enjoying the rights. The full and equal participation of Dalit political, civil, economic, social and cultural life at the local, regional, national and international level is a must not only for the well being of Dalit in particular but also for the well being of the entire humanity in general. Human rights ensure prosperity in society and social and economic rights take care of the weaker and under privileged sections of the society by providing them equality of opportunity in the matter of education, employment and mobility.

Arunoday Bajpai (2011) Viewed in this perspective, the ideas, actions and life struggles of Ambedkar form solid bedrock, which continues to inspire and sustain ideologically the ongoing process of Dalit Empowerment in India. His sustained emphasis on the principles of equality, liberty and human dignity proved instrumental in initiating second wave of social transformation within Hindu society, which was concerned with enabling Dalit Community to share administrative and political powers in India. Ambedkar came to realize the repressive and persisting nature of caste system embedded in Indian Social Structure, which was sustained and rationalized for generations through nonegalitarian social and religious norms. Therefore, he came to the conclusion that the caste system cannot be reformed; hence it is to be annihilated. This was the point where he developed serious differences with Gandhi on the nature and reform of caste system. Because of this realization, he renounced Hindu religion and embraced Buddhism in later part of his life. Though he did not survive long to witness the fruits of his ideas and struggles, they continue to sustain and inspire the ongoing process of Dalit empowerment in independent India.

Jahnvi Andharia (2003) Dalits today make up 16.2% of the total Indian population, but their control over resources of the country is less than 5%. Close to half of the Dalit population lives under the official Indian Poverty Line and even more (62%) are illiterate. In the agriculture sector, most Dalits are landless or near landless agriculture labour. The total household income for Dalits in 1998 was just 68% of the national average. Less than 10% of Dalit households have access to safe drinking water, electricity and toilets. Worst of all, Dalits are daily victims of the worst crimes and atrocities, far outnumbering other sections of society, despite the fact that many attacks go unreported for fear of further retaliation. Between 1992 and 2000, a total of 334,459 cognizable offences against Dalits were registered nationwide with the police. Despite Constitutional guarantees to provide social and political equality since Independence, the practice of discrimination against lower castes and particularly Dalits - is upheld as part of tradition. A reputed feminist historian, Uma Chakravarti, elaborates on the relationship between caste, gender, feminism and politics in her recent work, *Gendering Caste*.

Uma Chakravarti (2003) Caste is a system of graded inequality in which castes are arranged according to an ascending scale of reverence and a descending scale of contempt... i.e. as you go up the caste system, the power and status of a caste group increases and as you go down the scale the degree of contempt for the caste increases, as these castes have no power, are of low status, and are regarded as dirty and polluting.

Abhinaya Ramesh (2020) Dalit women in India have faced and are facing violence in myriad forms; they are victims of inhuman treatment, brutal violence and humiliation. Despite this, they have not been mute victims resigned to their plight; they have relentlessly struggled against caste-based social oppression and exploitative material relations, against atrocities and complex and contextual forms of hierarchies. The framework of vulnerability provides a useful lens to understand this violence and powerlessness. It is also important to address the lacuna in

conventional feminist movements which do not account for caste-based gender violence, as also to assert Dalit women's quest for and claim to universal transformative emancipatory practices. The author concluded that moreover, Dalit women scholars of a new generation face blatant subordination and a ghettoised existence in reputed institutions of higher education. They seem to inhabit two different worlds with disparate access; the other privileged sisters are uninterested in fighting caste as a basis of women's subordination. Hence, the analysis of co-impacting and co-constituting character of caste-based public patriarchy, and the interrogation and examination of the existing knowledge engagement about Dalit women, will be the methodological stance of Dalit feminism. Finally, Dalit feminism sees serious engagement with knowledge resistance against accommodative, "add-on" approaches in knowledge practice, a critique of the colonisation of knowledge and a commitment to critical reflexive knowledge as central to emancipatory practice.

The government of independent India was reluctant to use caste as an explainer of poverty and inequality, and there was no place for social classifications used in the colonial administration; hence the abandonment of caste categories in the post-Independence national censuses (David Mosse; 2018). The Indian Constitution, which enshrined a commitment to equality in its directive principles, also recognized historical disadvantage, giving by a presidential order (in 1950) special protection and benefits to a list (or schedule) of castes (first drawn up by the British in 1936) whose "extreme backwardness" arose "out of the traditional practice of untouchability," without there being a definition or test of such untouchability. Since now-outlawed untouchability was taken to be a Hindu practice, the category of Scheduled Castes (SCs, which censuses record as about 17 per cent of the population) excludes Muslim and Christian converts who, evidence shows, experience equivalent untouchability.

Crimes against Dalits

According to the National Crime Records Bureau of the Ministry of Home Affairs of Government of India, 214 cases of atrocities against tribals were reported from Karnataka in 2006. These included four cases of killing, seven cases of rape and 117 cases registered under SC/ST Prevention of Atrocities Act of 1989, among others. The rate of filing charge-sheet for crimes committed against tribals was 95.7% during 2006 but the conviction rate was only 4%. Out of total 259 cases in which trials were completed, only in 10 cases the accused were convicted and in other 240 cases the accused were acquitted. The conditions of displaced tribals who now live in forest areas are deplorable. In August 2007, the Adivasi Mulabhuta Hakkugala Horata Samiti alleged that the Forest Department officials were making the lives of the tribals living in the "hadis" (tribal settlements) inside the Nagarahole National Park in Karnataka miserable by restricting their movement and lodging of false cases against them and were repeatedly booked for growing paddy, ginger, vegetables and coffee in and around their habitations in the forests and transporting them outside the forests to sell them to earn their livelihood.

In December 2006, nearly 78 tribal families were evicted from the Saragodu Reserve Forest in Chikmagalur district on the direction of the Supreme Court who termed the tribals as "encroachers". After their eviction, the tribal IDPs were asked by the government to fend for themselves. The State government promised to provide to each family two acres of land, Rs 50,000 for a girl who had attained marriageable age and money for construction of house but as of 19 February 2007 the evicted tribals were given nothing. Earlier in January 2006, the tribal people petitioned to the National Human Rights Commission and the National Commission for the Scheduled Tribes against the eviction notice. The tribals rejected the government's resettlement package as it did not include the names of several families who were in the voters' list as well as in school documents. The tribals demanded that the resettlement package be converted into a development package and the lands being cultivated by tribals in the Saragodu Reserve Forests should be regularised. The state government failed to prevent further alienation of the lands of tribal people. According to the Annual Report 2007-08 of the Ministry of Rural Development, Government of India, and a total of 42,582 cases alleging alienation of 130,373 acres of land have been filed in the court in Karnataka. The courts disposed of 38,521 cases out of which 21,834 cases involving 67,862 acres of land have been decided in favour of tribals and 16,687 cases involving 47,159 acre of land have been rejected. About 4,061 cases were pending in the court.

According to the National Crime Records Bureau of the Ministry of Home Affairs, 1,730 cases of atrocities were reported against Scheduled Castes in 2006 in Karnataka. These included 28 cases of killing, 27 cases of rape, four cases of abduction/kidnapping, 25 cases registered under the Protection of Civil Rights Act and 1,051 cases registered under the SC/ST Prevention of Atrocities Act of 1989. The rate of filing charge-sheets for crimes committed against the Dalits was 92.3% during 2006 but the conviction rate was only 2.3%. Out of total 1519 cases in which trials were completed, only in 35 cases the accused were convicted and in other 1484 cases the accused were acquitted. Mr Nehru C. Olekar, the chairperson of the Karnataka State Commission for the Scheduled Castes

and the Scheduled Tribes stated on 3 July 2007 that the accused in 98% of cases involving violations of human rights of the Dalits were allowed to go free as witnesses in most cases did not turn up for fear of being attacked by the upper castes. Dalits were targeted for accessing public places. On 13 April 2007, upper caste Hindus attacked Dalits at K. Shettahalli in Mandya district. At least 20 Dalits including women were injured in the attacked launched by members of dominant Vokkaliga community.

Table No. 1: Atrocities against Dalits, by Crime

1	Rape	3,172
2	Rioting	2,541
3	Grievous Hurt	1,725
4	Kidnapping and Abduction	1,071
5	Murder	855
6	Attempt to commit murder	786
7	Arson	733
8	Attempt to commit rape	168
9	Insult to Modesty of SC Women	148
10	Robbery	81
11	Dacoity	58

Source: News18, 2020

After the killing of a person during the violence on the 200th anniversary celebrations of the battle of Bhima-Koregaon, violence against Dalits in India is again under the spotlight. National Crime Records Bureau (NCRB), which gathers data about different crimes in the country, shows that the rate of crimes against Dalits has risen in the last few years. The conviction rate for such crimes has also declined substantially. In 2016, an estimated 214 incidents of crimes against scheduled castes (SCs) were reported per million SC population, up from 207 the previous year, according to the NCRB data. In all of India, 40,801 atrocities against Dalits were reported in 2016, up from 38,670 in 2015.

(Gaikwad 2000) earlier studies have shown that Dalit women saint-poetesses have exhibited critical consciousness and articulated a universal vision of a just and egalitarian world (Gaikwad 2000). Dalit women have actively contributed to freedom struggles in India—in the struggle against colonial rule and in the Ambedkarian movement against caste oppression. Hence, historically, resistance against colonialism, caste and patriarchy has been Dalit women's social and political engagement. Moreover, during the 1970s, they have actively participated in feminist movements, though the concerns of conventional feminist movements in India have remained rooted in/and largely continue to be around the issues confronted by upper caste and class women.

Table No. 2: Top 10 states in terms of atrocities against Dalits in India

1	Uttar Pradesh	10,426
2	Bihar	5,701
3	Rajasthan	5,134
4	Madhya Pradesh	4,922
5	Andhra Pradesh	2,335
6	Karnataka	1,869
7	Odisha	1,796
8	Maharashtra	1,750
9	Telangana	1,529
10	Gujarat	1,322

Source: News18, 2020

Uttar Pradesh reported the highest number of atrocities against Dalits, the NCRB data shows, at 25.6% of all cases reported. This is followed by Bihar (14%) and Rajasthan (12.6%).

Table No. 3: Top 10 states in terms of Number of crimes against Dalit Women in India

1	Uttar Pradesh	49262
2	West Bengal	32513
3	Maharashtra	31388
4	Rajasthan	27422
5	Madhya Pradesh	26604
6	Assam	20869
7	Odisha	17837
8	Andhra Pradesh	16362
9	Telangana	15374
10	Delhi UT	15310
11		

Source: News18, 2020

According to the NCRB data, most of the crimes against SCs reported were crimes against women, including assault, sexual harassment, stalking, voyeurism and insult to modesty. Uttar Pradesh reported 14.5% (49,262 out of 3,38,954 cases) of total cases of crimes against women followed by West Bengal (9.6%) (32,513 cases) during 2016. Mohan, Ajitesh (2009) it is a fact that the tendency of the society is to look for stability and certainty, as the society is conversant with the existing practices. They would be sure that the law of yesterday would still be the law of tomorrow. But stability and certainty alone, however, are not sufficient to provide us with an effective, vital system of law. Progress also has a justified claim upon the law. In the contemporary scenario, law needs to play a proactive role in bringing about social change.

Conclusion

It is true that there is some progress in breaking the mould of social inequality and caste oppression and in the economic and educational spheres but there is a long way to go before social equality, educational equality, freedom from caste oppression, freedom from economic dependence are achieved. The traditional sanction for inequality has been decisively questioned and to some extent undermined. What is most important is the cultural and intellectual upsurge in the dalit communities across the country evidenced in their literary and intellectual productions. This is a development which fills us with hope for the future. But so long 'reservation' is continuing it must be streamlined and supervised by high-powered committee to ensure that the working of reservation system operates on democratic and constitutional principles and its side effects are also minimized. Regarding the abolition of reservation, it is suggested that whenever it is thought to abolish reservation. Article 16(4) and 335 be deleted first and almost ten years thereafter Article 15(4) 330 and 332 be deleted from the Constitution. Continuance of reservation of scheduled castes and scheduled tribes at national level and reservation of backward classes provided by various States with varying policies for more than fifty years have not produced desired result.

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