



HUMAN RIGHTS AND CASTE VIOLENCE IN INDIA: LAW ENFORCEMENT IN ANDHRA PRADESH

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ABSTRACT

Human Rights of the Dalits are violated on the basis of Caste system. It is very specific to Indian society. Caste system in its hierarchical structure offers a glaring example of violation of Dalits' rights through centuries of hegemony, and caste based discrimination. The Caste is an un-natural division of Hindu society based on politico-religious ideological doctrine called Karma. Caste is specific to Indian society; it is an institutionalized inequality and indignity. Caste is a graded inequality with elevation for some and degradation for others. Untouchability is the part and parcel of the caste structure. Untouchability is the manifest of caste practice in terms of purity and pollution. Caste system with its manifest of untouchability both constitutes social and economic exploitative and cultural discrimination which are worse than slavery. Caste and untouchability are the significant markers of the denial of human rights and dignity of Dalits or the Scheduled Castes in India. Dalits are denied their basic rights over past the sixty seven years of Independence. Dalits always have been marginalized broken and oppressed. The Dalits are still prohibited from taking the water from the dominant caste colonies because of the practice of untouchability which is still persists in the rural setting of Andhra Pradesh. However, the various factors responsible for caste and untouchability atrocities, discrimination, and basic Human Rights Violation against Dalits in Andhra Pradesh.

HISTORY OF CASTE SYSTEM

Historically, the caste system entailed a life of degradation for Dalits. For instance, Dalits undertook occupations that the rest of Indian society found ritually polluting, such as handling carcasses, disposing human waste, sweeping streets, or cobbling. Untouchability in India has a history and it defines how caste has evolved through the ages. Caste and social status has always been quite puzzling. Untouchability means polluted by the touch of certain persons by reason of their birth in a particular caste or family. It leads to defilement, pollution and contamination. It is believed that the practice of untouchability is peculiar to the Hindu society. Untouchability is a social concept that has become embodied in customs. And as customs differ, so does untouchability.

The Dalit social movements were completely focused on social equality and self-dignity. In the beginning the social movements of the Dalits have started from religious issues, but not from caste-related issues. In ancient India, the Buddha was the first person to question Brahmanical dominance. The Buddhism took a revolutionary change in Hindu traditions and customs. First time in India the Buddhism has been broken by the Brahmanism. The middle paths of the Buddhist



principles are basic foundations of the Dalits Social movements. Buddhism remains the root for the research regarding the history of liberation and cultural identity. Similarly Buddhism is the beginning of the tradition of struggles against the suppression of the Dalits Movements and for the identity-based politics.

In Pre- Independent India there were several social reformers who fought against sati system, child-marriages and untouchability etc. In this connection the Anti-Brahmin movement, widow up-liftment and removal of untouchability were done by Mahatma Jotirao Phule. Most importantly the Anti-Brahmin movement launched by the creative and visionary genius Jotirao Phule in Maharashtra has inspired the social movements in many ways. He led the movement against the prevailing caste-restrictions and revolted against the domination of the Brahmins and for the rights of peasants and other low-caste people. B. R. Ambedkar has globally understood the practice of untouchability and he observed that the Untouchability was worse than slavery because every nation they had their own domestic problems such as the Romans had their slaves, the Spartans their helots, the British their villains, the Americans their Negroes, the Germans their Jews, and the Hindus have their Untouchables. Most of the above nations have removed their social evil of all ill-treatment of human beings, except untouchability in India. The Hinduism never accepts social equality. By birth every Indian citizen is recognized by a particular caste. That caste would never change until the death. These kinds of caste hierarchy never found in any society all over the world.

Untouchability is still practiced in Indian society; it has been observed not only by Hindus but even Muslims, Christians and other upper caste communities also. The hierarchy of Indian caste system has never given-up social inequality and casteless society. The people at bottom of India have been struggling ever since before and after independence. The world's largest Democracy has developed on all grounds but it has never changed the approach to caste sociologically and ideologically. India is a country where caste system plays a vital role. In this caste hierarchy the Brahman's are in the top and the Dalits are in the bottom. In This kind of gap between the lower and higher caste, problems were never given any such kind of democratic resolutions.

HUMAN RIGHTS VIOLATION AND DALITS

Today, Human Rights violation is rampant throughout the world: particularly in developing countries including India in spite of adopting a number of declarations, conventions and covenants. Human Rights violation is a term used when a government or society or individual violates the rights of its citizens or its members or any human being. India is one of the countries in which Human Rights are seriously violated. Particularly, the Dalits have been discriminated on the basis of the caste system. The Rights of Dalits are refused. It is alleged that their properties are taken away and their women and girls are raped, assaulted and ill-treated. They are assaulted, false cases are registered against them and they are discriminated by the religious majority. Government and officials violate rights of



individuals, especially refugees, victims of war, and persons under police or army custody. Women are subject to all types of discrimination and abuse. Children are discriminated, sexually abused and physically assaulted.

Most importantly, there is a connection between Human Rights and Dalit Rights, because most of the Dalit communities have been deprived of their basic rights such as social equality and self dignity. Caste-based discrimination is one of the major ways of human rights violation in India. The practice of untouchability has never given a social equality and the Dalits are not treated as human beings. Human Rights Watch report says, “Dalits’ right to freedom of residence is severely curtailed by the practice of “untouchability,” which often dictates where Dalits must live. Dalits’ Right to freedom of movement within India is curtailed by conditions that make Dalits vulnerable to migration and forced displacement aftermath of episodes of caste violence.

Article 1 of the UN Declaration of Human Rights reads that “All human beings are born free and equal in dignity and rights. They are endowed with reason, conscience and should act towards one another in a spirit of brotherhood”. The Indian Constitution, along on these lines, provided all Indians’ with civil and political as well as social and economic rights and freedoms. Thus, the legal embodiment of Fundamental Rights, freedoms and Directive Principles in the Indian Constitution have emulated the UN Declaration and that all human beings are ‘created equal’ and entitled to ‘life, liberty, and the pursuit of happiness’. The related provision in Indian Constitution solemnly resolved to “secure to all citizens-justice: social, economic and political, liberty of thought, expression, belief, faith and worship and equality of status and of opportunity, and to promote among them all fraternity, assuring the dignity of individual and unity.”

There are social economic and political reasons for history of oppression and atrocities against Dalits. Nowhere in the history of humankind is there any system like as we possess it in India. This caste system alone has created a section of sub-human beings in this country in the form of Dalits, who’s Human Rights, have been trampled systematically for ages. These are the greatest witnesses how Dalits are being violated and exploited in rural and urban India. Atrocities against Dalits are not a new phenomenon. They are established techniques adopted by the dominant castes to reinforce their power and to assert their superior status. The whole phenomena have a greater significance as it generally occurs when upper castes feel threatened that the status quo is being challenged by Dalits seeking basic Human Rights and equality.

Constitution of India and Dalits

The Indian Constitution has also states that “the state shall not discriminate against any citizen on grounds only of religion, race, caste, place and birth or any form.” Further, the Constitution says that “the state shall promote with special care the educational and economic interest of the Scheduled Castes/ Tribes (SC/ST) and



shall protect them from social injustice and all forms of exploitation.” In accordance with these Constitutional provisions a number of measures have been initiated by the respective governments since the Independence. These oriented are protective and development measures. Before the declaration of Independence, equality, freedom and liberty did not exist for the Dalits, who were called as the untouchables.

The practice of untouchability was considered legally abolished. Article 17 of the Indian Constitution abolishes the untouchability and its practice in any form. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. Following the stipulation in Article 17 of the Indian Constitution, the Untouchability Offences Act was enacted in 1955 and very soon this law found to be ineffective and inadequate. However, after a quarter of century of the Constitution the earlier Untouchability Offences Act was replaced by the comprehensive law called the Protection of Civil Rights Act enacted in 1976. Untouchability has become a crime and it was made a cognizable and non-compoundable offence and a minimum punishment was stipulated for enforcing the any form of disabilities emanating from the religious, cultural, social, occupational related and any other forms.

The Constitution of India proclaims the decision of the Constituent Assembly to provide social, political and economic justice for all. To this end the Constitution has several provisions to protect Dalits and to improve their position. The Constitution of India has provided several social safeguards to protect and empower the Dalits. Consequently, the government of India has enacted several legal provisions to end and eliminate the social evil of untouchability and atrocity against Dalits. The Constitution affects social justice in two ways. First, it confers rights on men and women alike, through "fundamental rights" which can be enforced by the courts. Second, it directs the states to implement "directive principles of state policy." Although these are not enforceable in Indian courts, they are declared to be fundamental in the governance of the country and as such have moral and political value.

LEGAL PROVISIONS AND DALITS

Although, Dalits have an extensive legal protection against all forms of discriminations, the Indian state has not able to enforce its own promises. There is an argument that the recent increase in the atrocities on Dalits is an indication of a higher level of awareness among the Dalit communities about themselves. However, it must be stated that the atrocities on Dalits have been there for centuries in India. With rising of Dalit awareness of their self-identity and demand for rights, these atrocities have been increasing recently with a qualitative difference. These are now perpetrated systematically and structurally. However, even after six and half decades of Republic, Dalits are denied social equality and self-dignity. They were still remains vulnerable to upper caste dominance. Dalits are subject to various offences, indignities, humiliations and harassment; in several brutal incidents they



lost their lives. Serious crimes are committed against them for various historical, social and economic reasons. The social indignities emanating from the practice of untouchability and acute economic disparity arising out of landlessness, bondage, etc., leads the Dalits to succumb to atrocities by dominant castes that start retaliatory pressures to dilute and weaken the force of compensatory measures.

In this context, the Indian State was forced to enact one more special and more stringent law - the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Rules were passed in 1995.

The atrocities on Dalits have multiple dimensions for its persistence in today's society. The strategic micro and macro level initiatives are needed to tackle the crime against Dalits. There is a need of community and state initiatives to ensure their basic rights to livelihood, education, land and labour, right to life, security and equality of opportunity. Dalits or Scheduled Castes are one of the marginalized sections of the Indian Society who continue to suffer from utter violation of their human rights even today. What is even more alarming that the occurrence of such exploitation and humiliation goes on unabated despite special provisions in the Indian Constitution for their protection and affirmative action having been taken by the state? As per the Constitutional provisions, a number of measures both protective as well as development has been initiated by the government. Although India has made measurable progress in terms of the protection afforded to Dalits since independence, Dalits still suffer invidious discrimination and mistreatment at the hands of upper caste members and law enforcement officials.

The enactment of a special law for their Protection as Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides for strong punitive measures which could serve as prevention. This Act was specifically enacted to prevent and to protect SC/STs from atrocities committed against them by non-SCs/STs because the normal provisions of the existing laws like the Protection of Civil Rights Act 1955 and the Indian Penal Code were found inadequate to prevent and eliminate the gross offences against SC & STs. The provisions of SC/ST POA Act & Rules can be divided into three different categories.

The first category establishes criminal liability for a number of specifically defined atrocities, and extends the scope of certain categories of penalizations given in the Indian Penal Code (IPC). The second category contains provisions for relief and compensation for victims of atrocities. The third category contains provisions that establish special authorities for the implementation and monitoring of the Act. The common denominator of criminal offences is that criminal liability can only be established if the offence is committed by a person other than a member of SC/ST against a person who belongs to the SC/ST group. Subsequently the National Human Rights Commission also stated that SCs/STs POA Act, 1989 was not properly implemented by the state and central mechanism. As per the Report on Prevention of Atrocities against Scheduled Castes and Scheduled Tribes, the Act failed in protecting Dalits.



Due to several reasons the POA Act, 1989 is not being implemented properly, A number of atrocities cases is unreported and unregistered by the police. The sixth report of National Commission for Scheduled Caste and Scheduled Tribes says that the police are systematically rejecting the SC/ST atrocity cases, because of the lack of awareness among the SC/ST. The number of cases registered under Prevention of Civil Rights Act and SC and ST (Prevention of Atrocities) Act has been showing a downward trend. Indicating a healthy development?, it exposes the way this reduction in the number of cases has been arrived at? But from its reviews with various state governments the Commission is of the view that a large number of cases go unregistered, mainly because of the reluctance on part of the police officers to register the cases and also because of lack of awareness among the members of these communities about the provisions of these acts.

Significantly the presence of special laws alone cannot ensure protection to the SCs/STs in the rural and urban India. The SC/ST should have the required knowledge, power and courage to use these laws. The Success of each case depends on the victim's co-operation with the police in the investigation process and their willingness to pursue the case to its reasonable end. But given their vulnerability arising out of their insignificant numerical strength in villages and their total economic dependence on the caste Hindus who are, in most cases the accused, it is certainly difficult for the SCs/STs to muster up courage to invoke protection of these laws. With most of the witness's turning hostile and thereby engendering the acquittal of those cases merely increases no doubt the vulnerability of the victims and their witnesses. It is therefore recommended that the numerically insignificant SC families in villages be shifted to those villages where their fellow caste members are in large numbers, and where there is no or a very limited scope for exploitation by the caste Hindus. The SC/ST families may also be shifted to urban areas. The SC people may be educated to refrain from performing defiling, unpaid for or underpaid occupations such as sweeping, scavenging, disposing of dead cattle etc. They should be accommodated in more dignified jobs.

DALITS RIGHTS VIOLATION IN ANDHRA PRADESH

Andhra Pradesh is highly atrocity prone area as far as human rights of the Dalits are concerned. In particular the high numbers of atrocity cases are reported at Mahaboobnagar (Telangana Region), Kurnool (Rayalaseema Region), and Prakasham (Coastal Andhra Region). The data relevant for the present study has been collected from both primary and secondary sources. The primary data was collected from the fact finding teams, Dalit Human Rights groups, and NGOs who is working for the Dalits. In this connection, the Government of Andhra Pradesh has identified 12 districts on "Dalits Atrocity Prone Areas" to preventing Human Rights Violation against Dalits. These three districts are selected on the basis of Punnaiah Commission and National Human Rights Commission. The chosen districts are Mahaboobnagar from Telangana region, Kurnool from Rayalaseema region and finally Prakasham from Coastal Andhra region. Comparatively, Mahaboobnagar



district is the highest atrocity prone area in the three regions of Andhra Pradesh. According to PCR Cell, an Andhra Pradesh Police department report says that the Mahaboobnagar is one of the atrocities prone area and seven hundred and twenty eight cases have been reported during 2000-2008.

In recent times the Indian Prime Minister has also accepted that the Dalits discrimination and violation on the basis of the caste system and the social evil of untouchability have still existed in our society. The “Prime Minister Singh’s commented on December 27, 2006 that: Dalits have faced a unique discrimination in our society that is fundamentally different from the problems of minority groups in general. The only parallel to the practice of ‘untouchability’ was Apartheid in South Africa. Untouchability is not just social discrimination. It is a blot on humanity.” Even after sixty three years of Indian Independence the Dalits are not treated as human beings. They are treated as an untouchable being. This inhuman treatment is not even meted out to animal.

The police have systematically failed to protect Dalit homes and Dalit individuals from acts of looting, arson, sexual assault, torture, and other inhumane acts such as the tonsuring, stripping and parading of Dalit women, and forcing Dalits to drink urine and eat feces. Much like cases of police abuse against Dalits, attacks by private actors often take the form of collective punishment, whereby entire communities or villages are punished for the perceived transgressions of individuals who seek to alter village customs or demand their rights. According to UN reports says, every year thousands of Dalit atrocity cases have been reported under the Protection of Civil Right, Act, 1976, and Prevention of Atrocity Act, 1989. The majority of the Dalits live in segregation where they experienced violence, murder, rape and other atrocities in all over the nation.

However, the presence of special laws alone cannot ensure protection to the Dalits in the rural and urban India. The Dalits should have the required knowledge, power and daring to use these laws. The Success of each case depends on the victim’s co-operation with the police in the investigation process and their willingness to pursue the case to its reasonable end. But given their vulnerability arising out of their insignificant social, economic and political including numerical strength in villages and their total economic dependence on the caste Hindus who are, in most cases the accused, it is certainly difficult for the Dalits to muster up courage to invoke protection of these laws. With most of the witness’s turning hostile and thereby engendering the acquittal of those cases merely increases no doubt the vulnerability of the victims and their witnesses. It is therefore recommended that the numerically insignificant Dalits families in villages be shifted to those villages where their fellow caste members are in large numbers, and where there is no or a very limited scope for exploitation by the caste Hindus. The Dalits families may also be shifted to urban areas. The Dalits people may be educated to refrain from performing defiling, unpaid for or underpaid occupations such as



sweeping, scavenging, disposing of dead cattle etc. They should be accommodated in more dignified jobs. The Government should start this development.

In some of the Gram Panchayats, Mandals and districts, they are practicing caste based discriminations and untouchability that was prevalent in most of the villages. Such practices included separate cup/glass system in tea-stalls, denial of access to common path, common well and entry into the village temple. Despite such unashamed violation of their basic human rights and dignity the Dalits did not take up the matter with the police fearing dire consequences from the accused and harassment by the police. Some of them even remarked that the end result of going to the police for justice was nothing but harassment and threat to their stay in the village and to their life itself. However, most of the victims and NGOs were of the view that in the absence of special laws such as the PCR and the POA Acts, the Dalits would have no security and their people might get killed on an everyday life.

Through look upon to the importance and acknowledgment given to those implementing these special laws, it is learnt that the district level PCR police stations were not equipped with necessary infrastructure facilities such as proper office and vehicles. Such offices did not even have a vehicle under their exclusive control to be of support to the Dalits are faced with threat and dire consequences in remote villages. The Special Public Prosecutor, who plays a crucial role in every PCR/POA Act case, said that his office does not have even the minimum necessities such as chairs and tables and he was also not paid the due remunerations for months together.

With regard to the power of the two special laws, most of the victims said that the laws were of immense support to protect their dignity and human rights. While the State level police officials said that the laws were very useful and necessary ones, the district level officers said that they were draconian laws and thus their strict implementation would be difficult. The caste Hindu accused have different things to say. According to common man, the caste Hindus were not afraid of the special laws; they had respect neither for the two special laws nor for the police officials implementing them. To him, the PCR wing of the police department was there only to collect money both from the accused and the victims. Regarding the reaction of the accused, the police argued that the accused often preferred out of Court settlement to avoid punishments and to escape the humiliation of facing trial in the Court. The victims often had to agree to such settlement owing to the fact that they depended on the accused and their fellow caste people for economic and physical security. From the points of views of dominant castes and other common men, even the Special Courts did not seem to be free from caste prejudice. They held that being the members of upper castes, most of the judges and advocates helped the accused covertly to provisions for punishing the policemen and officers who fail to perform their lawful duties, the Honorable Court, instead of invoking those provisions of the special laws and punishing the police often acquit the case.



On the way to guarantee just and fair treatment of every PCR/POA Act case, at least 50 per cent of the police officials investigating those cases should be from the SC/ST communities. Most importantly, of the two top police officials-IGP and ADGP who manage the PCR/HR Unit of the State, at least one should be from either Scheduled Caste or from Scheduled Tribe background. Though the POA Act has provisions for allowance for food, travel and medical care both for the victims and their witnesses, it is hardly implemented. The TA/DA to the victims and their witness may be given in the Court itself. The Government has to take decision in this regard at the earliest. In view of certain incidents where the provisions of the POA Act were violated within the Court by its own staff, the credibility of the Honorable Court has come to be doubted. Therefore the Court staff and others concerned including the Judges/Magistrates may be more sensitized to ensure justice to the Dalits victims and to succeed their self-confidence.

CONCLUDING REMARKS

The Indian Government should fully implement the provision of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995. In particular it should ensure that State constitute and oversee state and district level vigilance and monitoring committee, as required by Rules 16 and 17 of the Dalits (POA) Rules, 1995, for the implementation of the Act. Government must take consult with local , NGOs in the in the process of investigation.

Ensure that States establish Special Courts in every revenue district and appoint special public prosecutors to try cases arising under the Atrocities Act. Each police station should have Dalits Atrocities cell to handle investigation of abuses and alleged violation of Atrocities Act. Each revenue district should also have a special duty superintendent of police charged with investigating atrocities under the act. The cells should work closely with the vigilance and monitoring committees established under the Atrocities Rules to ensure full enforcement. Ensure immediate and full compensation by the district administration to victims of atrocities as per the atrocities Rules. The Scheduled Castes and Schedules Tribes Prevention of Atrocities Act of 1989 (1989 Act) also provides a wide range of protections for Dalits. This document outlaws offenses such as forcing Dalits to “drink or eat any inedible or obnoxious Substance,” to remove their clothes or parade around naked, or to become bonded laborers. The 1989 Act also protects Dalits from false lawsuits, sexual exploitation, and interference with their voting and property rights. Violators of the 1989 Act are subject to fees and imprisonment, while repeat offenders are supposed to serve at least one year for each offense. The 1989 Act also requires states to set up Special Courts to adjudicate Scheduled Caste offenses. In addition, the Act provides punishment for public servants who fail to enforce the protections set forth in the Act. The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules of 1995 further delineate procedures for state governments to take toward investigation, prosecution, and punishment pursuant to the 1989 Act. All these provisions are confine to paper statues, when it comes to the



implementation there is passive response from the state. To conclude, Ambedkar says that, “Rights are protected not by law but by the social and moral conscience of society. If social conscience is such that it is prepared to recognize the rights which law chooses to enact, rights will be safe and secure. But if the fundamental rights are opposed by the community, no law, no Parliament, no Judiciary can guarantee them in the real sense of the word”. The existing laws like the Untouchability (Offences) Act, 1955, the Protection of Civil Rights Act, 1976 and the normal provisions of the Indian Penal Code have been found inadequate to check these crimes. The social and moral conscience of the Indian society is such that many laws which were enacted to protect the Dalits are weakened by the caste system.

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