

Constitutional Safeguards for the Development of Marginalized Section

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Marginality is an experience that affects millions of people throughout the globe. The marginalized groups have different social barriers to usethe available resources. So they are considered as socially, educationally, economically, and politically backward. This results in a kind of handicapped to become a part of developmental process. Dalits, adivasis, nomadic tribes, women's, slum dwellers, the differently able persons, and old age people can be considered as marginalized. They are disadvantaged in many ways and suffering from different disabilities. As is commonly said that a welfare state takes care of its citizen, our constitution contains various provisions for the development of such marginalized section. Article 38 in Part IX under Directive Principles of State Policy lays down, "The state shall strive to promote the welfare of the people by providing security and protection from socio-economic and political injustice. The state is to particularly look after the welfare of the weaker section of the community." Chapter III of Fundamental Rights and Chapter IV of Directive Principles of State Policy, Commissions for SC and ST, Women and Children, Bonded Labour, Human Rights are some of the agencies that focus to protect the rights of weaker sections. This can provide social, economic, educational, political justice and equality for all round development of weaker sections. In India its the responsibility of the state to protect the rights of weaker sections. Legislation is an important instrument to bring social justice, social change and equal opportunity.

The present paper discussed on the various Constitutional provisions and safeguards in Indian Constitution for the protections of the weaker sections.

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I. INTRODUCTION:

Indian society is divided into four "Varnas" and above 6500 castes. The people practice mostly caste based occupations. There are estimated to be 170-200 million Dalits constituting 17% of the India's population. The caste system continues to determine political, social and economic life of the people in Hindu societies. Dalits are typically considered low and impure based on their birth and traditional occupation, thus they face multiple forms of discrimination, violence, and exclusion. One out of every six Indians frequently faces discrimination and violence and is denied of basic human rights for being 'Dalit'.

The National Human Rights Commission of India (2012) notes that 37% Dalits are living below the poverty line. Dalits are still either landless or own very little land. Findings of the Gandhi Peace Foundation and the National Labour Institute survey (1979) show that 87% of bonded labourers were from the SC or ST community. Accessibility to health services among the marginalized is also very poor. As per NHRC (2012) report that more than half (54%) of the Dalit children are undernourished, Only 27% Dalit women avail institutional deliveries. In 33% of villages, public health workers refused to visit Dalit homes.

The NHRC (2010) brings out that 45% of Dalits in India are illiterate. As per the mentioned report it can be concluded that the weaker section are deprived. For the sustainable development of marginalized and depressed groups state intervention is required. Law is an important instrument through which the marginalized section can get equal justice (social, economic, political) Liberty (of thought, expression, belief, faith and worship), Equality (of status and of opportunity) and Fraternity (assuring the dignity of the individual and the unity and integrity of the Nation).

Constitutional Safeguards for the Development of Marginalized Section:

The constitutional safeguard can be divided in to four categories such as:

- Social Safeguard
- Political Safeguard
- Educational Safeguard
- Economical safeguard

Social Safeguard

Article 14 provides that the State shall not deny to any person equality before the law or equal protection of law within the territory of India.

Article 15 (1) and (2) prohibit the state from discriminating any citizen on ground of any religion, race, caste, sex, place of birth or any of them. These articles provide that there shall be no restriction on any person on any of the above bases to access and use the public places such as shops, restaurants, hotels, places of public entertainment etc. or use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

From article 15(3) onwards, the constitution starts protective discrimination. Article 15(3) empowers the state to make special provisions for women and children. Article 15(4) empowers the state to make special provisions for advancement of socially and educationally backwards or Scheduled Castes, Scheduled Tribes and Other Backward Classes. Article 15(5) empowers the state to make reservation in admission into education institutions including private schools or colleges whether or not aided by government.

Article 38 state to secure a social order for the promotion of welfare of the people : The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life. The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39 Certain principles of policy to be followed by the State:

The State shall, in particular, direct its policy towards securing:-

- that the citizens, men and women equally, have the right to an adequate means to livelihood;
- that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- that there is equal pay for equal work for both men and women;
- that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment

Article 39 (A) Equal Justice and Free Legal Aid: The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Article 46 under the Directive Principles of State Policy provides that “The State shall promote with special care, the educational and economic interest of weaker sections of the people and in particular of Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation”.

Article 366(24) defines Scheduled Castes and Article 34 identifies the process through which such groups will be identified. Similar provisions have been made for Scheduled Tribes in Article 366(25) and Article 342 respectively.

Social safeguards are contained in Article 17, 23, 24 and 25(2)(b) of the constitution. As per Article 17, untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “untouchability has been made an offence punishable in accordance with the law.” Article 24 provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any hazardous employment. The Child Labour (Prohibition and Regulation) Act, 1986

Political Safeguards

Article 164(1) provides that in the specific States there shall be a Minister in charge of tribal welfare who may, in addition be in charge of welfare of Scheduled Castes, Backward Classes or any other work. Article 330 provides for reservation of seats for Scheduled Castes and the Scheduled Tribes in Lok Sabha.

Article 243(D), reservation of seats in Village Panchayats, Zilla Parishads has been made for Scheduled Castes and the Scheduled Tribes in proportion to their population at respective level in direct election.

Article 243-T- reservation of seats for Scheduled Castes and the Scheduled Tribes in proportion to their population has been made in municipal bodies at each level.(Out of these reserved seats Scheduled Castes and the Scheduled Tribes, at least 1/3rd has been reserved for SC/ST women.)

Educational and Cultural Safeguards

Article 15(4) empowers the State to make special provisions for advancement of any socially and economically backward classes or citizens and for Scheduled Castes and the Scheduled Tribes.

Article 29(1) provides that “Any section of the citizens residing in the territory of India or any part thereof, having a distinct language, script or culture of its own shall have the right to conserve the same”

Article 350(a) provides for adequate facilities for instructions in the mother tongue at the primary stage of education for children belonging to linguistic minority groups.

Article 338 of the Constitution Of India 1949 provide Special Officer for Scheduled Castes, Scheduled Tribes etc

- There shall be a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President
- It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution and report to the President upon the working of those safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.

Economic Safeguards

The provisions of Articles 23, 24, 19 and 46 form part of economic safeguards for Scheduled Castes and the Scheduled Tribes. Article 46 provides that State shall promote with special care the educational and economic interests of weaker sections of the people and, in particular, Scheduled Castes/Scheduled Tribes and shall protect them from social injustice and all forms of exploitation

Article 16, provides equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State and prohibits any discrimination on grounds of religion, race, caste, sex, decent, place of birth, residence or any or all of them,

Article 16(4)(a), this benefits of reservation in the matter of promotion has been extended to Scheduled Castes and the Scheduled Tribe to overrule the judgment of the Supreme Court.

Article 16(4)(b) has further made provisions to permit backlog vacancies as a separate category in any year for determining the ceiling of 50% reservation on total number of vacancies that year.

The Indian Constitution is also enforcing different Acts for equality and removing injustices like: Untouchability Offences Act, 1955, Protection of Civil Rights Act, 1955, Bonded Labour System(Abolition),Act 1976, The Minimum Wages Act, 1948, Equal Remuneration Act, 1976, Child Labour(Prohibition and Regulation) Act, 1986, The Human Rights Act, 1993, Section 3 of National Commission for Women Act, 1990 etc.

II. CONCLUSION:

The enforcement of Constitution of India has brought remarkable change in the lives of weaker sections. Part III and Part IV have provided social equality, economic equality and political justice for development of so called weaker sections people. To bring solution to the problem of marginalized section we need to break the caste based occupational system; make them aware about the Government educational policy because education is the only way to bring transparency provide vocational training and priority based training. The most important point is everyone needs to change their mindset that every individual is equal in her/his social status and she/he should be treated equally.

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