

## **Human Rights of Dalits in Indian Perspective**

**Amit Samuel Roy**

Research Scholar, Institute of Languages Studies and Applied Social Sciences (ILSASS),  
CVM University, Vallabh Vidyanagar, Anand, Gujarat

**(Research Guide-Dr. Mehul Rabari**, Assistant Professor, Institute of Languages Studies and Applied Social Sciences (ILSASS), CVM University, Vallabh Vidyanagar, Anand, Gujarat)

### **Abstract**

Human Rights are those rights which we get because of simply our existence as a human being in the world. Human Rights are provided to all human being regardless of their caste, class, gender, nationality, race or religion. According to ancient caste system Dalits fall outside the caste system. Dalit as one of the depressed sections of our country face various challenges and discrimination in almost every sphere of Life from birth till death. They have given various human rights according to our Indian Constitution. Even though they have Human Rights, there are several instances of violation of their rights and they are combating for their Rights. This paper focuses on various constitutional fundamental rights for the Dalits, Directive Principles of State Policy concerning with them as well as various Acts for the upliftment of the Dalits. This paper is an endeavor to provide suggestions for the Dalits as well as for the various higher authorities and institutions which are working for the improvement of the circumstances of Dalits.

**Key Words:** Human Right, Caste System, Dalit, Discrimination, Challenge, Directive Principles of State Policy.

### **Introduction**

According to Ancient caste system, there are basically four principles caste which are divided into many sub-categories. According to caste system, the people have to follow their role and responsibilities as well as various duties. The people who fall outside these castes can be considered as Dalits. They are the members of lowest rank in the Indian Society. In classical Sanskrit the meaning of the word Dalit is 'Divided', 'Split' or 'Broken'. Mahatma Jyotirao Phule have used the term 'Dalit' in late 1880 for the outcaste and untouchable people who were discriminated and oppressed in the Hindu society. Baba Saheb Ambedkar have considered Dalits as those people who were oppressed irrespective of caste. In 1933, Narsinh Mehta's admirer Mahatma Gandhiji used the term "Harijan" to describe the Dalits for the first time. According to National Commission on Schedule Caste (NCSC) "Schedule Caste is the official term for the Dalits".

At present 167 million of Dalits lives in India constituting approximately 17% of all over population. Dalits face various types of discrimination in various aspects of life like social, economic, educational, emotional and psychological as well. At present scenario, what is the position of Human Rights of Dalit? Are the Rights of Dalits be respected?

### **Human Rights**

Human Rights are the rights that all people get because of the existence as a human being. They are universal in nature as well as entitled to every human being regardless of their caste, class, sex, gender, religion, nationality or any other status.

Human rights are broadly defined as the fundamental and inalienable rights that are required for human survival. "There can be no human community without rights," said A.J.M. Milne. Being a member of any group entails having rights. A community must have members who have rights and obligations. There can be no community until there are members. If there is to be social life, there must be rights. Thus, rights provide an individual with at least some of the components of a location, identity, and role in a social milieu.

### **Human Rights of Dalits**

There are basically various human rights given to every citizen of India. They are such as right to live in a healthy atmosphere, right to development, right to education, right to freedom of speech, expression and religion, right to equal opportunities and employment, right to practice any profession as well as right to pure drinking water. As a part of our society, Dalits have been given various rights.

### **Background of Human Right**

Human Rights are as old as civilization. The idea behind the protection of human rights grew up after the world wars. There was no much classification at national as well as international level regarding implementation and protection of human rights before the world wars. To eradicate the social evils, the fundamental rights were also inserted by the framers of our constitution. The makers of constitution were fully aware regarding the social hierarchy which was based upon castism.

Indian constitution is a social revolution which reconstruct the social structure on modern foundation law as well as on merit of individual rather than of medievalism. In spite of awareness regarding castism, the constitution makers have tried a lot to include these people in the mainstream of the society by making various provisions which are focusing on protection as well as development of people.

### **Constitutional Arrangements**

There is a long list of rights. Some of the most important rights which are enshrined in the constitution as well as recognized by the State. Such rights are called as fundamental rights. They are considered as fundamental because of two reasons. One is that these rights are mentioned in the Constitution which guarantees. Another one is they are justiciable, i.e. enforceable through courts of law. Any individual can go to the courts in the case of their violation.

Article 14 focuses on Equality before Law means that everyone will be equally protected by the laws of the country. No person is above law. Punishment for everyone is same for the similar kind of crime. There will be no discrimination.

Article 15 states that there is no Discrimination on the basis of Religion, Race, Caste, Sex or Place of Birth. It is important to bring about social equality. Every Indian citizen have equal access. Every citizen of India has equal access to shops, restaurants, places of public entertainment or in the use of wells, tanks or roads without any discrimination. However, the state can make special provisions or concessions for women and children.

Article 16 emphasize on Equality in Opportunity to all Indian Citizens in matter of Public Employment without discrimination. Everyone can free to apply and become employees of the state. The basis for employment is merit and qualification only. There are some exceptions also to this right. Scheduled castes, Scheduled Tribes and Other Backward Classes have special provision of reservation in the matter of employment.

Article 17 focuses on Abolition of Untouchability and if someone is indulged in the matter of practising untouchability, it can be considered as a punishable offence. This provision is important milestone to rise the social status of Indian citizen who had been looked down upon and kept at a distance because of either their caste or the nature of their profession.

Article 19 point out about the Right to freedom in matter of residence throughout the territory of India as well as in matters of practising any profession or to carry on any occupation, trade or business. Before this constitution the base for profession or occupation was the Caste.

Article 21 stress on life or Personal liberty without any deprivation except according to the procedure established by law.

Article 21(A) focuses on Right to education i.e., the state shall provide free, fair and compulsory education to the children. By means of education, everyone can reach to the state of development especially the oppressed section of our society.

Article 23 underline the Prohibition of traffic in human beings and forced labour and any breach of this provision shall be considered as offence punishable in accordance with law.

Article 24 states that all children are the important asset of the society and that is why there is prohibition of employment of children in hazardous employment like factories, mines etc. The idea behind this is that every child has the basic right to enjoy happy childhood as well as removal of one of the important social problems of child labour.

Article 32 pinpoint regarding Constitutional Remedies. Every person is entitled to get remedies in the case of violation of fundamental rights through the court of laws.

### **Directive Principles**

The state has to follow the principles and according to it creates policies for the citizens are known as Directives Principles of State Policy. In 1945 the committee named Sapru suggested two types of individual rights. Fundamental rights which are justiciable and directive principles of state policy which are non-justiciable.

Article 38 Promote people's welfare by securing a justice i.e., social, economic and political justice as well as lessen inequalities in income, status, facilities and opportunities.

Article 39 Secure citizens various rights like equality in employment and payment, opportunities to children for healthy development, equal distribution of material resources. It focuses on right to adequate means of livelihood for all the Indian citizen.

Article 39 (A) point out on equality in the matters of justice as well as free legal help to the poor people.

Article 44 states that there is a uniform civil code throughout the country

Article 45 focus on care during early childhood period and provide education to all children until they complete the age of fourteen years.

Article 46 Promotes the economic interests of SCs, STs, and other weaker sections of the society and provide them protection from social injustice and exploitation.

Article 338 There is a Human Rights Commission Besides these provisions for better protection of the rights of Scheduled Castes and Scheduled Tribe people.

### **Important Legislations**

#### **Untouchability (Offences) Act 1955**

The Untouchability (Offences) Act, which established penalties for the practise of untouchability and made it illegal, came into force on 1<sup>st</sup> June 1955. Article 17 of the constitution focuses on abolition of Untouchability. This act makes it punishable. The Indian

Parliament approved this Act in an effort to end untouchability there. For a first offence, the Act mandated a 6-month prison sentence or a fine of Rs. 500 for anyone found guilty of enforcing the untouchability restrictions on another person.

In the event of additional offences, the convicted party will also get a jail sentence. If deemed necessary, there is also a provision for increasing the punishment. The Act's offences include those that prevent someone from entering a temple or other place of worship or any other public space, from drawing water from sanctified sources like wells, and from using places like "dharmashalas," restaurants, shops, hotels, hospitals, public transportation, educational institutions, and public entertainment venues. It also includes prohibiting access to water wells, funeral grounds, roads, rivers, and river banks. Other offences covered by this law include carrying out professional, trade or occupational impairments; barring someone from receiving benefits from a charity; preventing anyone from working; refusing to sell something to someone; and hurting, molesting, expelling, boycotting, or bothering someone because of their untouchability. On May 8<sup>th</sup> 1955, the legislation was introduced in the Lok Sabha and approved by both houses. It went into effect on June 1<sup>st</sup>, 1955. On September 2, 1976, the law was revised and given the new name, the Protection of Civil Rights Act. This Act contained additional stricter controls to prevent untouchability. It deemed the investigating officers' wilful indifference to accusations about untouchability to be an aiding and abetting act.

#### **The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989**

The SC/ST Act, also known as the Scheduled Castes and Tribes (Prevention of Atrocities) Act of 1989, was passed to safeguard the underprivileged groups against prejudice and atrocities. Atrocity is a term used in Section 3 of this Act, which also lists specific atrocities. Crimes against human dignity, such as imposing offensive chemicals, dumping rubbish, stripping, insulting modesty, and humiliating the public, etc. Economic crimes including begging, forced work, improper cultivation or encroachment on property rights for land, buildings, or water. Electoral offences including pressuring voters to cast a certain ballot or frightening them into not doing so. Crimes that put people's health in danger, including polluting water that people from Scheduled Castes or Scheduled Tribes typically use. Offences that restrict mobility or habitation, such as by refusing access to public spaces or compelling people to leave their homes, are examples of offences that cause or put impediments. Giving or creating false evidence with the knowledge that it could result in the conviction of a Scheduled Caste or Scheduled Tribe member is a crime. The opportunity for anticipatory bail is not available to criminals under section 18 of the act. Any public employee who knowingly fails to perform their obligations as required by this legislation is punishable by up to six months in prison. Parallel to The Protection of Civil Rights Act, it also imposes penalties on police officers for their failure to enforce the laws' requirements and for their commission of those violations. Some important features of amended act like Section 18 A of the SC/ST Act makes it illegal to undertake a preliminary investigation prior to filing a FIR or to get permission from any authority before detaining an accused. A person who has been charged with atrocities against SC/ST people would not be eligible for provisional bail. According to the SC/ST Act, the Investigation Officer (IO) is empowered to make an arrest without seeking permission from a higher authority.

These two Acts are important milestone for improving the status of Dalits as well as removing inequality, discrimination and exploitation form the society.

**Violation of Human Rights-Present Scenario**

There are numerous laws and legislations in place to combat caste prejudice and to defend the human rights of Dalits. However, these are not followed in practice, and caste prejudice, which leads to Human Rights abuses, is widespread in Indian society. Discrimination persists owing to ignorance, prejudice, and erroneous theories that attempt to explain inequality. Throughout history, and even now, such ideologies have been used to justify slavery and discrimination on numerous grounds, including caste systems. As a result, human rights abuses can be found everywhere, and caste is the fundamental cause of human rights violations in India. The SC/ST Prevention of Atrocities Act 1989 (PoA, 1989) prohibits the commission of atrocities against members of the SC/ST, establishes special tribunals for prosecutions of atrocities, and provides redress and rehabilitation to victims of atrocities. However, the situation of Dalits has not improved. Higher crimes are committed against them if they assert their rights. It has been observed that the government machinery appears unconcerned about crimes against Dalits.

The crisis of Dalits in India has not improved since independence. It has gotten worse, as evidenced by the fact that two Dalits are assaulted every day, three Dalit women are raped every day, and two Dalit dwellings are burned down every hour.

Even though after the enactments of various law, still there is questions whether these laws are helpful in eradication of inequality? There are still cases of human rights violations occurred. As per Asian Centre for human Rights (ACHR, 2013), 101 crimes were committed everyday against SC/ST during 2001 to 2012. A total of 44061 crimes were committed against SC/ST from 2001 to 2012. This is about reported cases; a large number of cases were not reported. A total of 89,584 complaints of rights violations in India were reported to the NHRC in 2018–19; this number dropped to 76,628 in 2019–20; and to 74,968 in 2020–21.

The ACHR research highlights the central government and state level authorities' failure to address social violence and disadvantage faced by religious ethnic minorities, indigenous and tribal peoples, and Dalit community members. The failure of the state to address economic and social grievances is one of the abuses. The government has often failed to provide adequate public protection for these groups, as well as to prevent nonstate actors from taking the law into their own hands, allowing armed opposition groups to expand.

In fact, various amendments to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are significant evidence that there has been a serious violation of the human rights of those belonging to those groups.

**Caste-based Discrimination and Violence**

Over 3.91 lakh atrocities against Dalits were registered between 2009 and 2018, a 6% increase in crimes against them.

**Communal and Ethnic Violence**

Vigilante cow protection groups attacked many people, and many of those impacted were members of minority groups. In India, there was racism and discrimination towards people from African nations.

According to a US investigation, India saw serious violations of human rights in 2021, including extrajudicial killings, unlawful arrests, and harassment of racial and religious minorities. Significant human rights concerns in India according to a US assessment, include arbitrary and unlawful murders, press freedom, and assaults on religious and racial minorities. Other human rights abuses mentioned in the report consist of political prisoners or detainees,

arbitrary or unlawful intrusion into privacy, limitations on freedom of expression and media, including violence or threats of violence, unjustified arrests or prosecutions of journalists, and the application or threat of application of criminal libel laws to restrain expression. It is interesting that India has previously dismissed reports of a similar nature from the US government. The Union government claims that India has strong institutions to protect everyone's rights as well as well-established democratic practices.

Discrimination still exists in all sectors of life, including workplaces, educational institutions, and universities. It just alters its appearance, but the social evil is still there. People from Scheduled Castes and Scheduled Tribes benefit from constitutional protections and receive education. However, the fact that people are aware of their rights disturbs society because "this awareness" denigrates the upper class.

### **Review of Literature:**

**Clifford Bob (2006)** in 'Dalit Rights Are Human Rights': Caste Discrimination, International Activism, and the Construction of a New Human Rights Issue examines recent efforts by India's Dalits (Untouchables) to elevate centuries-old caste prejudice to the level of an international human rights concern. Comparing early failures and later triumphs in international action, the paper demonstrates that during the late 1990s, Dalits have made limited but significant gains among transnational NGOs, international organisations, and foreign governments. What explains these triumphs, and what lessons may other groups learn from the Dalit experience in transforming local problems into globally recognised human rights issues? Through this article author presents two main points. First, organisational developments among Dalit activists had a significant part in these victories, most notably the formation of a unified Dalit network within India and the subsequent formation of a global solidarity network. Second, theoretic developments played an important influence, as Dalits shifted from their long-standing focus on caste-based discrimination to a larger framing under the more internationally accepted nomenclature of discrimination based on work and descent. The paper continues by examining the broader ramifications for other aggrieved groups' international human rights action.

**Senapati Tushar Kanti (2014)** in Human Rights and Dalits in India: A Sociological Analysis emphasises that there are about 170 million Dalits in India and out of every six one Indian is fall under the category of Dalit. Due to their caste hierarchy, they face discrimination and violence which in turn prevent them from enjoying their basic human rights. More than 260 million Dalits in the world wide face the problems regarding discrimination, segregation. There are various legislations for the protections of the rights of the Dalits even though there are various instances of the violence of their basic rights. He suggested that a grassroots democratic campaign must be formed to combat discrimination and atrocities, which are particularly prevalent in rural areas.

**Dr. Nagaraju Vadapalli (2015)** in Social Discrimination and Violation of Scheduled Castes Human Rights in India point out that various Scheduled Castes have historically held a variety of jobs and, due to their differing social and economic standing, have been given distinct places within the caste system's broader ritual and social hierarchy. Contrary to the Scheduled Castes, which were linked to social structures in certain ways, one may consider these castes to be unrelated to village society. However, contact with members of the Hindu caste, whether they be individuals or objects, was avoided at all costs. As a result, castes were divided into strata according to how distant they were from the pure castes. The daily lives of those who belong

to the Scheduled Caste are governed by discrimination based on caste, which takes many forms. Some examples of these practices are having separate drinking water wells, housing colonies, cemeteries, and places of worship; children being seated separately during school lunches; being denied food from scheduled caste cooks; being forbidden from dressing in a certain way; being prohibited from dining with people of different castes; and mounting a horse during a wedding etc. Additionally, caste prejudices that are audible in spoken language through idioms and phrases are a sort of non-visible discrimination.

On the one hand, expectations are rising and awareness of social injustice and exploitation is growing as a result of the Indian state's and its instruments' inability to address the issues arising from the process of socio-economic change in a society where adult suffrage, equality of opportunity, and status are among other similar goals outlined in our constitution. Strong animosity has unavoidably expressed itself violently as a result of this combination. Violence is likely to continue and possibly worsen unless these problems are resolved and steps are taken to build a society that is really just and free from exploitation.

**Vidya Ravindra Bornare (2019)** in Rights of Dalits in India concluded that Because our Democratic Socialism seeks to eradicate poverty, ignorance, disease, and inequality of opportunity, we have included Fundamental Rights and Directive Principles in our Constitution. Social legislations are also implemented to improve the situation of Dalits, yet despite this, there is a constant violation of all these people's human rights due to a "Caste Oriented Attitude." Thus, human rights education for all is required for a change in mentality, for a 'casteless' society, so that we all respect the human rights of others and fulfil our Fundamental Duty as stated in Article 51-A of our Constitution.

**Uttamkumar S. Bagde (2020)** in Human rights perspectives of Indian Dalits concluded that it is vital to critically examine the flaws in existing legislation in order to preserve and enforce Dalits' human rights. This is required to bring forward extensive means and techniques not only for effective protection and implementation of Dalits' Human Rights, but also to uplift them socially, economically, and politically in order to establish a bright future for them. Various weaknesses that contribute to Dalit difficulties must be addressed, including deficiencies in protection laws, execution of laws, and procedures to determine why violations of Human Rights occur despite the existence of numerous protection laws. The extent to which political unwillingness of those in power is accountable for the failure of the legal system to defend the human rights of Dalits must be considered. Shortcomings in the function of Human Rights Commissions at the national and state levels in protecting Dalit human rights must be addressed. It is deeply concerning that the fate of Dalits has remained unaltered even after 70 years of freedom. Deficiencies in executing international laws/international agreements in this respect, as well as deficiencies in the function of the judiciary in corrective justice, must be taken into account.

**Conclusion:** Human rights violations against Scheduled Castes, Scheduled Tribes, Dalit women and children are common. Despite the SC/ST Prevention of Atrocities Act of 1989, atrocities continue to occur. Even though the Indian Penal Code Act of 1860 exists, crime is on the rise. Civil rights are infringed despite the Civil Rights Act of 1955. Even though there is a bonded labour system (Abolition Act 1976), bonded labours exist under the pretense of bonded debt. Many articles of the Indian Constitution deals with caste discrimination based on religion, race, caste, sex, or place of birth; untouchability is outlawed, forced labour is prohibited, and

child labour is prohibited. There are human rights and fundamental rights provisions in national and international acts, treaties, and charters applicable to subjects of this country, however, social boycotts and violations of Dalits' human rights exist throughout India and must be taken seriously.

It is vital to critically examine the flaws in existing legislation in order to preserve and enforce Dalits' human rights. This is required to bring forward extensive means and techniques not only for effective protection and implementation of Dalits' Human Rights, but also to uplift them socially, economically, and politically in order to establish a bright future for them. Various weaknesses that contribute to Dalit difficulties must be addressed, including deficiencies in protection laws, execution of laws, and procedures to determine why violations of Human Rights occur despite the existence of numerous protection laws. The extent to which political unwillingness of those in power is accountable for the failure of the legal system to defend the human rights of Dalits must be considered.

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