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“Empowerment Of Under Privileged Section of Society Through Various Constitutional Provisions”

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Abstract-

The amelioration of the weaker section of Indian society is an important aim of the Indian Government. The constituent assembly debates recognized that a section of people in Indian society had been denied certain basic rights since ancient times and had therefore remained economically, socially and educationally backward. As a result, this had created widespread disparities between them and the rest of the society and a situation had emerged which underlined the need for special measures to uplift their status. The framers of the Indian Constitution had to make special provisions for safeguard and promoting the interests of the scheduled castes, Scheduled tribes and other backward classes which have lagged behind for many centuries because of the prevailing social system of the India. This is clearly reflected in the constitution itself where a chapter under the title “special provisions relating to certain classes” in Part-XVI has been incorporated. Special provisions have also been made for scheduled castes and scheduled tribes in Part-X of the constitution. The constitution provides for the protection and promotion of their social, economic, educational, cultural and political interest to remove the disparities and to bring them on par with other sections of the society. In addition many articles in Part-III, IV, IX, IX-A fifth and sixth schedule of the constitution reinforce these arrangements. No only that the basic elements of the equality have been enshrined in Indian constitution, but also that special rights and privileges have been guaranteed for scheduled castes, scheduled tribes and other weaker sections.

Key Words- Empowerment, Constitution, Participates, Untouchable,

The aim of this research paper is to discuss the empowerment occurring among the underprivileged section of the society with special reference to schedule castes in India through various constitutional provisions and welfare measures. The study is based on the secondary data.

The Varna ideology and caste system mediated through Varna norms of pollution and purity are deep rooted and have polluted the social fabric of India. The under privileged section, which is traded as 'the backward classes' in general consists of three main divisions- the scheduled castes, the scheduled tribes and the other backward classes. These constitute the weaker section of society and have been oppressed, suppressed, humiliated and deprived equality, liberty and justice in various sphere of life. The scheduled castes occupy the bottommost rung of the social ladder and are generally regarded as 'untouchable'. The term scheduled caste appeared for the first time in the government of India Act, 1935, In April 1936, the British Government had issued the government of India (scheduled castes) order, 1936 specifying certain castes, races and tribes as scheduled castes.

India is a class as well as caste-ridden society. Hence these members suffer from economic as well as non-economic, that is, social religious and educational disabilities. This unprivileged section which is often treated as 'the backward classes' in general consists of tree main divisions: the scheduled tribes, the scheduled castes, and the other backward classes. The first two groups are listed in the constitution while third group is unlisted and loosely defined; it is the least homogenous. According to Dr. D.N. Majumdar the term 'scheduled castes' refers to the 'untouchable castes'. "The untouchables castes are those who suffer from various social and political disabilities many of which are traditionally prescribed and socially enforced by higher castes". The scheduled castes occupy the bottommost rung of the social ladder. They are not in majority in any part of the country. They constitute about 16.6 per cent(20.14 crore) of the total population as per 2011 census. They are scattered over the entire land. There is no district in India wherein the scheduled caste people are not found. They constitute an integral part of village life. About 75% of them are engaged in agriculture and large numbers of them are landless labourers. At the time of independence about 95 per cent of Sc population were below poverty line. B. Kupp Swamy in his 'social change in India' states that for two reasons the Harijans were declared as 'impure castes' or 'untouchables' and were made to live outside the village. First, they were following the lowest kinds of occupations such as scavenging, leather work, removal of the carrion, etc. second; they persisted in eating beef which was condemned as the most heinous crime by the caste Hindus (Rao Shankar C.N., 2012). Referring to the position and the role of schedule caste people. M.N. Srinivas writes, "they are an integral part of the village life, they perform certain essential tasks in agriculture, they are often village servants, messengers and remove the leaves on which people have dined at community dinner (Rao Shankar C.N., 2012). Scheduled castes have

been suffering from various social, religious, legal, political, economic, educational and other disabilities. For centuries they were denied political, economic, educational and other disabilities. For centuries they were denied political representation, legal rights, civic facilities, educational privileges and economic opportunities. In the caste hierarchy SCs are ascribed the lower status. Their very touch is considered to be polluting for the higher caste people. They have been suffering from the stigma of 'untouchability'. They were forbidden from taking up to education during the early days. Sanskrit education during the early days. Sanskrit education was denied for them. For a long time SCs were not allowed to use public places and avail of civic facilities such as-village wells, ponds, temples hostels, hotels. Schools, hospitals etc. They were not allowed to enter temples in many places. The Vedic Mantras which are considered to be more pure could not be listened to and chanted by the scheduled caste because of the taboos. They were not allowed to have land and business of their own. The occupational choice was very much limited for them. Majority of them are working as landless labourers. They hardly participates in the political matters. The untouchable caste in India were officially defined as depressed castes in 1932 (Harolal, R. Issacc, 1965). Gandhiji named them Harijans where 'Hari' means God, 'jan' means people and thus 'harijan' means people of god. This word in Marathi, gujrati, hindi and other languages means a child whose father's identity is unknown (Harolal, Rs. Issacc, 1965), therefore the name harijan was not only disliked but was hated and opposed by the untouchables.

The definition of the scheduled castes and the scheduled tribes were contained in the draft constitution of India in the article relating to interpretations, definition etc. since at the stage when Draft was prepared it was not clear that the former princely states would be covered by it, the Scheduled Castes were identified as the same as those declared under the provisions of the Government of India Act, 1935. In other words, a status quo was maintained and no attempt was made to reopen the question which was of great political and sociological significance. In case of the Scheduled Tribes also a similar approach was made by appending to the draft constitution as eighth schedule the list of 'backward tribes' so declared under the provisions of the government of India Act, 1935 by nine provinces (Madras, Bombay, West Bengal, the United Provinces, East Punjab, Bihar the Central Provinces, Assam and Orissa). In respect of Assam the schedule included an entry to enable that Government to notify any other tribe or community as scheduled Tribe. With the inclusion of the Indian states in the union this approach became inadequate and further, the drafting committee also felt that the constitution itself need not be burdened with long lists of scheduled castes and scheduled long lists of scheduled castes and scheduled tribes. Hence, the relevant parts of the Drafts article (303) were held over in the first instant (Bhardwaj A, 2002). 341 (1) the president may, after consultation with the government or rajpramukh of a state, by public notification, specify the castes, races or tribes which small for the purpose of this constitution be

deemed to be scheduled castes in relation to that state. (2) parliament may by law include in or exclude from the list of scheduled castes specified in a notification issued under the clause (I) any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification (Bhardwaj A., 2002).

366. In this constitution unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say-(I) to (23)

(24) “Scheduled castes” means such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purpose of this constitution.

(25) “Scheduled Tribe” means such tribe or tribal communities or parts or groups within tribes or tribal communities as are deemed under Article 342 to be scheduled tribe for the purpose of this constitution.

According to census 2011 scheduled castes and scheduled tribes population in India is as follows :

Total number of scheduled castes : 166, 635, 700 (16.2%)

Total number of scheduled tribes : 84, 326, 240 (8.2%)

Scheduled castes :

State with highest proportion of scheduled castes : Punjab (28.9)

State with lowest proportion of scheduled castes : Mizoram (0.03%)

UT with highest proportion of scheduled castes : Chandigarh (17.5%)

UT with lowest proportion of scheduled castes : D & N Haveli (1.9%)

District with highest proportion of scheduled castes : Koch-Bihar (50.1%)

District with lowest proportion of scheduled castes : Lawngtali- Mizoram (0.01%)

Scheduled tribes :

States with highest proportion of scheduled tribes: Mizoram (94.5%)

State with lowest proportion of scheduled tribes: Goa (0.04%)

UT with highest proportion of scheduled tribes : Lakshadweep (94.5%)

UT with lowest proportion of scheduled tribes : A & Islands (8.3%)

District with highest proportion of scheduled tribes: Sarchhip, Mizoram (98.1%)

District with lowest proportion of scheduled tribes : Hatras-Uttar Pradesh (0.01%)

The scheme of the constitution reflects a three-pronged strategy for changing the status of Scheduled castes and the Scheduled tribes based on the traditional social order. This consists of :

- i. Protection : legal/regulatory measures for enforcing equality and removing disabilities; providing strong punitive action against physical violence inflicted on them; eliminating customary arrangements which deeply hurt their dignity and person; preventing control over fruits of their labour and striking at concentration of economic assets and resources and

setting up autonomous watchdog institutions to safeguarded interest, rights and benefits guaranteed to them.

- ii. Compensatory discrimination: enforcement of reservation provisions in public services, representative bodies and educational institutions.
- iii. Development: measures to bridge the wide gap between the scheduled castes and other communities in their economic conditions and social status, covering allocation of resources and distribution of benefits.

As regards the protective arrangements, to begin with, the constitution itself has provided an elaborate framework for eliminating those customs, practices or institutional in law, if any, which tended to sanctify and reinforce untouchability practices and other discriminatory and degrading conditions imposed on these communities. Laws were made to operationalise these provisions. For example, the untouchability practices act, 1955 was enacted in pursuance of article 17 of the constitution. This was subsequently strengthened and amended in 1976 and rechristened as protection of civil rights act to make it more effective. Later, as a result of implementation of state policies, when there was spurt in physical violence against members of scheduled castes and scheduled tribes, leading to brutalities such as mass murder, rape, arson, grievous injuries, etc. enactment of a special law for their protection was resorted to know as scheduled castes and scheduled tribes (prevention of atrocities) act, 1989 to provide for strong punitive measures which could serve as a deterrence (report on prevention of atrocities against SCs and STs, national human rights commission, 2004). Additional laws were enacted from time to time to protect scheduled castes and scheduled tribes from sanctions of any customary laws and enforcement of degrading and humiliating practice imposed on them. The employment of manual scavengers and construction of dry latrines (prohibition) act, 1993, which eliminates the most degrading practice of manual scavenging of human excreta by members of scheduled castes, is the most important among them. The other practice sought to be stopped related to sexual exploitation of SC girls. Andhra Pradesh and Karnataka enacted laws to eliminate practice of devdasi system which sanctified a customary practice of dedicating a young girl from the SC community to the local deity which virtually resulted in her sexual enslavement. Maharashtra already had a law enacted in 1934 on the subject. Laws were also enacted to prevent employers from appropriating fruits of labour, denying freedom of choice and resorting to other forms of exploitation of persons employed by them, though their focus was not confined to members of these communities but extended to all those who came within their ambit irrespective of their caste or social background. These labour laws, in any case, have impact on scheduled castes more than any other group in society by virtue of their poor economic conditions and low social status. Prominent among them were the bonded labour system (abolition) act, 1976, minimum wages act, 1948, equal remuneration act, 1976, child labour (prohibition and regulation)

act, 1986; inter-state migrant workmen (regulation of employment and conditions of services) act, 1979. Laws were also enacted and arrangement made to strike at concentration of productive assets and economic resources in castes Hindus. In this category were included land reforms laws aimed at redistribution of land to SCs/STs and other rural poor and debt relief legislations for regulating credit transactions and checking usurious money lending. The second part of this strategy relating to compensatory discrimination is reflected in making provisions for reservation of posts in public service through recruitment and promotion, reservation of seats in legislative bodies at the central, state and panchayat raj institutions and municipal bodies, reservation of seats in admission to educational and professional institutions, including relaxation of eligibility qualification. This was done with a view to ensuring that members of these communities have their share in positions of power and decision making as also access to opportunities for higher education. It was felt that in open competition they may not be able to obtain their legitimate share because of their accumulated disabilities over centuries. These provisions and the intended objective of bridging the rest of the existed between these groups and the rest of the society in these areas (report on prevention of atrocities against SCs and STs, national human rights commission, 2004). The third part of strategy related to focussed and comprehensive development of scheduled castes/scheduled tribes which were operationalised through allocation which were operationalised through allocation of funds and ear marking of benefits under various development programme for members of these communities in order that they improve their economic conditions as a route to upward mobility.

In India for the empowerment of the underprivileged section of the society the responsibility is shared between central state government. The central government is responsible for formulating the related policies and programmes besides coordinating and promoting implementation of different schemes by the state. According to Webster's dictionary empowerment means the process by which the power is gained, seized, facilitator given. According to Long we (1990) the levels of empowerment are welfare, access, conscientisation, participation and control. Welfare addresses only the basic needs without recognizing or attempting to solve the underlying structural causes, which necessitate provision of welfare services. At this point the disadvantaged sections are merely passive beneficiaries welfare benefits. In the second level of access it is essential for the disadvantaged sections to make meaningful progress. This involves quality of access to resources. The path of empowerment is initiated when the disadvantaged recognise their lack of access to resources as a barrier to their overall growth and take action to address this. In the third level of empowerment, the conscientisation, the disadvantaged measure the inequalities and realise that problems stem from inherent structural and institutional discrimination. They must also recognise the role they can often play in reinforcing the system that restricts their growth. In the level of participation the disadvantaged participate in equal terms with others in the society. To reach this

level mobilization is necessary. By organising themselves and working collectively, the disadvantaged will be empowered and aim for increased representation which will lead to increased empowerment and ultimately greater control. In the last level of empowerment of control the balance of power between different sections is equal and none of the sections will have dominance over the other (Quoted by Naidu RVK 2004).

According to Rao and Rao (1951) there is positive change and upliftment in the status of the scheduled castes. The study of Sunanda Patwardhan (1965) shows the positive trend in the improvement of the status of the scheduled castes. The study further shows that the planned development, reservation of posts in public service and in educational institutions and the political participation of scheduled castes have made their mobility flexible and greater. Further she says that there is a gradual but definite decline in the situation of social inequality of Indian society and the constitutional and legal provisions have brought about perceptible change in the conditions of the Schedule castes. Abbasayulu (1978) says that constitutional provisions have benefited many of scheduled caste subjects to obtain elite positions. According to Sinha (1986) the efforts of the government and non- government bodies have resulted in improvement of the educational, economic and political status of the scheduled castes are not social disadvantageous fact that these benefits have not been equally distributed. Bhatt (1975) says that there is a considerable progress in the movement of upward vertical mobility due to constitutional and legal provisions. The study of Malik (1979) shows the constitutional and legal provisions have income political status among the scheduled castes. Lynch's (1969) study of the Jatavs makes clear that the legal innovations have opened new frontiers of political opportunities to the scheduled castes some studies have given limited or no change among them. According to Charsley and Karanth (1998) the Dalit status in the current Indian scenario is quite paradoxical. On one hand there is great positive change, including the political sphere and in contrast to this activism and assertion, across the subcontinent the mass of scheduled castes, whether in rural setting or in slums of urban areas, remain cruelly poor (quoted by Naidu RVK, 2004).

Some relevant provisions

Article 14, which enjoins upon the state not to deny to any person 'equality before law or equal protection of the laws', carries special significance in the context of Indian society which hitherto was socially graded facilitating elevation of some and degradation of others.

Article 15 prohibits discrimination on grounds of religion, caste, races, sex or place.

- i. The state shall not discriminate against any citizen on grounds only of religion, castes, races, sex or place of birth or any of them.
- ii. No citizen shall on grounds only of religion, caste, race, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to –

- (a) Access to shops, public restaurants, hotels and places of public entertainment; or
- (b) The use of wells, tanks, bathing ghats, roads and place of public resort maintained wholly or partly out of state funds or dedicated to the use of the general public.

The constitution was amended in 1995 (Seventy – seventh Amendment Act, 1995). This amendment resorted reservation for the promotion of the SCs and STs by inserting Clause 4 (a) in Article 16. Article 16 (4) (a) mentions that ‘nothing in this article shall prevent the state from nothing in this article shall prevent the state from making any promotion to any class or classes of posts in the service under the states in favour of the services under the states in favour of the SCs and STs which in the opinion of the state, are not adequately represented in the service under the state’.

Article 341 empowers the president to specify the castes, races and tribes deemed as scheduled castes in a particular state or union territory. Article 341 (1) says “the president may with respect to any state or union territory and where it is a state after consultation with the governor thereof by public notification, specify the castes, races or tribes which shall for the purpose of this constitution be deemed to be scheduled castes in relation to that state or union territory as the case may be”. Article 341 (2) reads thus “parliament may by law include in or exclude from the list of scheduled castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe but save as aforesaid notification issued under the said clause shall not be varied by any subsequent notification”. Under this article. The president has issued several orders. The first was the constitutions (scheduled castes) order 1950. It was followed by another in 1951 and 1976. Separate orders relating to states and union territories have also been issued. Article 46, under the directive principles of state policy, promotes educational and economic interests of scheduled castes, scheduled tribes interests of scheduled castes, scheduled tribes and other weaker sections. Articles 366 (24) defines scheduled castes and Articles 341 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.

Article 17, 23, 24 and 25 (2) (b) form part of social safeguards for under privileged. Article 17 abolishes ‘untouchability’. It is further provided that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with the law. The protection of civil rights act 1955 deals with untouchability. It seeks to punish the preaching and practice of untouchability in different forms in public places like hotels, places of entertainment not worship. Be the term untouchability not defined in the constitution, Mr. Justice N. Sreenivasa Rau while delivering judgement of the Mysore High court in case Devarajiah vs. Padmann held, “..... the untouchability (offences) Act, 1955, does not define the word ‘untouchability’. This act is a law passed by the parliament according to the provisions of Article 17 of the constitution of India which abolished untouchability and forbids its practice in any form. Even the constitution has not defined

the word ‘untouchable’. This word only occurs in Articles 17 and is stated in inverted commas. Thus. It was observed that the subject matter of Article 17 is not untouchability in its literal or grammatical sense but the practice as it has developed historically in this country. In the Act also, the use of the word ‘untouchability’ refer to the meaning of the term in the context of the historical development of the practice and does not connote its literal meaning. A literal construction of the term would include persons who are treated as untouchable either temporarily or otherwise for various reasons, such as their suffering from an epidemic or contagious disease or on account of social observations such as are associated with birth or death or due to social boycott resulting from caste of other disputes. Untouchability in such circumstances has no relation to the causes which relegated certain classes of people beyond the pale of caste system (devarajijiah vs. Padmanna, AIR 1958 Mysore 84, p 85)”.

Prohibition of forced labour. Article 23 prohibits traffic in human beings and ‘begar’ and forced labour in any form and contravention of this provision has been made on offence punishable in accordance with law. Majority of the child labourers engaged in hazardous employment belong to scheduled castes and scheduled belong to scheduled castes and scheduled tribes. 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.

Economic and Educational safeguards: Article 46 enjoins the state of promote with special care the educational and economic interests of the weaker sections of the people, and in particular of the scheduled castes and the scheduled tribes, and to protect them from social injustice and all forms of exploitation. Article 29 (2) prohibits denial of admission to any educational institution on grounds only of religion, race, caste, language or any of them. Article 15 (4), permits the state to make special provisions for the advancement of any socially and educationally backward class of citizens as well as scheduled castes and scheduled tribes. It is under this provision that the states of the union are permitted to make reservations in educational institutions (including technical, engineer and medical colleges) for SCs and STs. There are some centrally sponsored schemes for the educational benefits of both SCs and STs :

- i. Free coaching and training for various competitive examinations (IAS, IPS, IFS, PCS, NET etc.)
- ii. Post metric scholarships for providing financial assistance for higher education.
- iii. Financial assistance to those SC and ST students going to reputed research institutes for research work and passage grants for higher educational outside India.

The scheme of ‘special educational development programme for SC girls belonging to low literacy districts’. Introduced in 1996-97, aims to establish special residential schools for SC girls

who are first generation learners from low literacy pockets where the traditions and environment are not conducive to learning.

Literacy position of scheduled castes :

As per the last five censuses literacy rates separately for SCs and overall population, are presented below :

Table 1

Literacy among SC population

Year	Overall total population(%)	Scheduled caste population (%)	Scheduled tribes population (%)
1961	24	10.3	8.53
1971	29.5	14.7	11.30
1981	36.2	21.4	16.35
1991	52.2	37.4	29.60
2001	64.8	54.7	47.10
2011	73	66.1	59

(Source : primary census abstract for total population, scheduled castes and scheduled tribes, 1961-2011 office of the register general & census commissioner, India)

The above table shows that the overall literacy rate of the scheduled caste and scheduled tribe population has increased from 10.3% to 66.1 and 8.53% to 59% from 1961 to 2011 respectively. It is also clear from the table that the gap between the literacy rate of the overall population and the scheduled caste population as reduced over time.

Poverty alleviation programmes put into action both in rural and urban areas have not only helped the poor people to rise above the poverty line, but also brought down the poverty rates quite effectively. In respect of scheduled castes and scheduled tribes, besides the general population, the percentage of the number of families living below the poverty line has shown a declining trend over the decades.

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