

LESSONS LEARNED FROM POLICIES TO ADDRESS CASTE BASED EXCLUSION IN INDIA

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I

“India has recorded unprecedented growth during its tenth five year plan from 2002 to 2007 at the rate of 7.7% per year.....Disadvantaged groups especially scheduled castes and scheduled tribes and the minorities have benefited less than they should have. Regional imbalances have emerged across and even within states.”¹ The scheduled castes (SCs), also known as Dalits, constitute about 16.2%² of India’s population, while the scheduled tribes (STs) (known also as Adivasis) constitute for about 8%,³ and the minorities, particularly Muslim minorities, constitute for 12%⁴ of the population—altogether, constituting more than a third of the population. The special disabilities of the SCs, STs, and minority communities were recognized by the state at the time of independence in 1947 thanks to efforts by Dr. BR Ambedkar⁵ and other leaders, and special provisions were made in the Constitution followed by various legislations, policies and programmes. An attempt is made in the following pages to reflect on these from the perspective of the SC (Dalit) communities in the overall context of the country’s progress and development.

Historically, the caste system has formed the social and economic framework for the life of the people in India. In its essential form, the caste system is based on separation, division of labour, and hierarchy⁶ where civil, cultural, and economic rights for each caste are fixed. The division of people falls into four broad categories with several subcategories within them including:⁷

- Division of people into social groups (castes) where assignments of rights are determined by birth, are fixed and hereditary.
- Assignment of basic rights among various castes is unequal and hierarchical, with those at the top enjoying the most rights coupled with the least duties and those at the bottom performing most duties coupled with no rights.
- System is maintained through the rigid enforcement of social ostracism (a system of social and economic penalties) in case of any deviations.

¹ Eleventh Five Year Plan: Inclusive Growth, Vol I, No I, 2008.

² 167 million people..

³ 84 million people.

⁴ 138 million people.

⁵ Dr. Bhim Rao Ambedkar is the icon of the Dalit community, himself a Dalit was appointed the chairperson of the drafting committee that drafted India’s Constitution.

⁶ C. Bougle, *Essais sur le regime des Castes*, P.4; as quoted in *Homo Hierarchicus*, Louis Dumont.

⁷ The top of the hierarchy is constituted by the priestly castes (Brahmin) community, followed by the Warrior (Kshatriya) community; the third rung is formed by Agriculturists and traders (Vysya) community and the fourth the artisan (Sudra) community. Outside the four fold caste system, but under it and at the very bottom is the fifth (Panchama) community or the “untouchable” communities.

The system implies “forced exclusion” of one caste from the rights of other castes. Exclusion and discrimination in civil, cultural, and economic sphere, is therefore, internal to the system and a necessary outcome of its governing principles. It thus involves the negation of not only equality and freedom, but also of basic human rights and does not recognize the rights and duties of individuals but that of the group as a whole.⁸ Though having its origin in the Hindu religion, the caste system has made inroads into non-caste based religions like Christianity and Islam and even anti-caste religions like Sikhism and Buddhism within the country and has been carried overseas by its diaspora.

Nature of Disabilities Associated with Untouchability⁹

- Denial and/or restrictions of access to public facilities like wells, schools, roads, post offices, and courts
- Denial and/or restrictions of access to temples or other places related to worship
- Exclusion from learning the Vedas and inability to become religious teachers or leaders
- Exclusion from honorable and profitable employment, relegated to menial employment
- Residential segregation requiring individuals to live outside the village
- Restrictions on life style that indicates luxury or comfort
- Denial of services provided by barber, washer-men, restaurants, shops, theatres etc
- Compulsory requirements in the usage of different utensils
- Imperatives of deference in the forms of address, language, and sitting and standing in the presence of higher castes
- Restrictions in movement
- Liability to unremunerated labour for higher castes and obligatory performance of menial tasks

Dalits, Right and Freedom for Decent Work

Right to employment and decent work has particular relevance to Dalit communities as occupations, assets, and skill building are circumscribed by the caste one is born into by its restricted caste-to-caste movement. Owing to their outcaste status and the religious belief in the concepts of karma¹⁰ and purity-pollution, Dalits are assigned menial and polluting employment involving all work related to cleaning, scavenging including manual scavenging.¹¹ They are also obliged to perform free labour, are most often the

⁸ Thorat, S. (2006). Unpublished Paper for UNICEF India. New Delhi.

⁹ Thorat, S. (2009). *Dalits in India: Search for a Common Destiny*. New Delhi: Sage Publications. .

¹⁰ The philosophy of karma says that one takes re-birth (transmigration of souls) based on ones good or bad deeds in the previous life. Hence being born as a Dalit is an indication of bad deeds in the previous birth and hence one deserves the treatment as a Dalit which is an opportunity in this birth to improve in the hope for a better birth in the next life.

¹¹ Manual scavenging involves the disposal of human excreta manually from dry toilets where Dalits are employed by the state and private parties to collect, carry and dispose the excreta, many times people using bare hands, brooms and old tins as headloads or in carts. They are also engaged in cleaning the sewerage, drainage and streets.

victims of bonded labour, and in some parts of the country, women are pushed into ritual prostitution by the “devadasi”¹² system.

II

Constitution – Stark Divergence from Social Norms

The Constitution of India (1950) marked stark divergence from the social and cultural norms of the country. In addition to the general frame of liberty, justice, and equality, the Constitution recognized the need for distinct and special provisions for Dalit and Adivasi communities (scheduled castes and scheduled tribes) on the basis that they were denied certain basic rights since ancient times resulting in their marginalization and fundamental disparities between them and other sections of society.

“A section of people in the Indian society were denied of certain basic rights since ancient times with the result they remained economically, socially and educationally backward. Because of the fundamental disparities between the Schedules Castes and Schedules Tribes as compared to other communities and the urgent need for special measures to uplift their status, a clear distinction has been made in the Constitution itself in respect of the SCs and STs.”

Constitutional Provisions

1. The constitutional provisions include general measures found in – equality before law (Article 14); Prohibition of discrimination (Art. 15), Protection of life and personal liberty (Art. 21)
2. The social safeguards extended specifically to address untouchability and caste-based work and discrimination are found in – Abolition of untouchability (Art.17), Prohibition of traffic in human beings and forced labour (Art. 23), Prohibition of employment of children in factories etc. (Art.24), Freedom to practice religion (Art.25),
3. The economic safeguards are provided under - the provisions of Articles (23 and 24) as well as under promotion of educational and economic interests of SCs under (Article 46).
4. Educational and cultural safeguards are specified in – provision for reservation (Art. 15 (4) and that admission into educational institution will not be denied (Art.29 (2)),
5. Employment provisions are made under – equality of opportunities under (Art.16), and claim to services and posts (Art.335)
6. Political representation based on a compromise between Gandhi and Ambedkar under the Poona Pact¹³ is found in the reservation of seats in parliaments and legislatures under Articles (330,332, 334).

¹² Devadasi meaning servant of God is a form of ritual prostitution where Dalit girls are dedicated to the God and thereafter are not allowed to marry, but men have the freedom to build extra marital relationship with them without taking responsibility for the relationship or the children from the relationship.

¹³ Recognising the role of democratically elected leadership for improving the conditions of Scheduled Caste communities, Dr. Ambedkar forcibly argued for separate electorate for the Dalit community. As Gandhi opposed this with a fast unto death, a compromise formula of political reservations for SCs and STs was incorporated into the Constitution.

7. Monitoring of safeguards provided under Constitution and all other provisions and policies is also provided for by - Setting up commission under (Art.338)

Post-independent State Policies and Interventions

The nature of caste-based exclusion is described as “living mode exclusion” in political participation and exclusion and disadvantage in social and economic opportunities (Minorities at Risk, UNDP HDR 2004). One can recognize three strands in the state’s approach and interventions in addressing the multiple deprivations faced by Dalits in policies and programmes. In the absence of legal provisions for affirmative action policy, the State has been using ‘general programmes’ for the inclusion, uplift, and empowerment of the SCs in the economic, educational, and social spheres.

- **Compensatory Measures:** To overcome the multiple deprivations inherited due to exclusion in the past and to bring them on par with others involving land reforms and political representation
- **Protective Measures:** Recognising violence and caste-based discrimination meted out to Dalit communities; the Protection of Civil Rights Act (PCRA) and the SC/ST Prevention of Atrocities Act (SC/ST POA) were promulgated to protect and prevent violence on them.
- **Promotional Measures:** In order to address continuing discrimination and promote their active participation in the growth and development of the country, reservation in education, employment, and special economic provisions have been set in place.

In order to improve the educational status of Dalits the state provides:

- Improvements in educational infrastructure, especially in areas inhabited predominantly by SCs
- Reservation in educational institutions
- Financial support in terms of scholarships and fellowships at local, regional, national, and international levels
- Remedial coaching facilities to build qualitative capacities
- Special hostels for boys and girls
- Enhancement of opportunities for girls and women among them

In order to advance the access to civil amenities such as drinking water, housing, electricity, sanitation, roads, and public distribution of food, the central government provides a special fund to states and reimburses in full costs incurred by the state under “Special Central Assistance” (SCA).

Recognising the need for the encouragement of participation and benefit sharing by Dalits in every sphere of social and economic life, the SC plan allocated funding to assist economic development to all Dalit households through the purview of all ministries and department of the centre, state, and union territories in India.

About half of the funds of the central government are allocated for education, one-third for economic development, and about one-fifth for social and civil services such as drinking water, electricity, sanitation, and housing.

Notwithstanding, every policy and programme of the state refers to the special conditions of the SC and ST and ensures special provisions.

The Contradictions of Continuing Inequalities¹⁴

The country is currently implementing the 11th Five Year Plan from 2007 to 2012. Despite the many provisions, policies, and interventions, the participation and benefit sharing of Dalits, as well as other excluded communities, continues to be inundated by disabilities and inequalities. The 11th Plan documents these issues in considerable detail.

Occupational category: – At the national level, 45.61% of SC workers are agricultural labourers, while at the rural level, the percentage is 52%--compared to 26.55% (national) and 33.05% (rural areas) among all workers, respectively. The position is reversed among the share of SCs among cultivators, which is 19.99% (national) and 23.47% (rural areas) for SC workers compared to 31.65% (national) and 40.24% (rural areas) respectively for all workers.

Landlessness: In 2000, about two-thirds of the rural SC households were landless or near landless (less than one acre land) compared to one-third among others. Less than one-third of SC households had acquired access to capital assets compared to one-fourth for others.

Occupational Mobility: Available empirical evidence suggests discrimination against SCs in employment, wages, credit etc. These have acted as constraints to their occupational mobility. In urban areas, there is prevalence of discrimination by caste--particularly discrimination in employment. SCs are disproportionately represented in poorly paid jobs with limited mobility and future prospects. Further, there is a flawed, preconceived notion that SCs lack merit and are unsuitable for formal employment.

Unemployment: In 2000, the current daily status (CDS) employment rate was 46% for SC males compared to 48.40% for other male workers; in urban areas, the rate was 45.8% for SC males compared to 49.9% for others. Unemployment rate based on CDS for SC was about 5.0% compared to 3.5% for other workers in rural and urban areas. NSS data on wage earning revealed disparities between SC wage labour and other labour; in 1999-2000, the average weekly earning of a SC worker (at 1993-94 prices) was Rs.174.50 compared to Rs.197.05 for other workers (estimated by Dubey, DFID study, 2003).

Poverty: In 2004-05, 36.80% of SC persons were Below Poverty Level (BPL) in rural areas compared to 28.30% for others (non SC/ST), and in urban areas, 39.20% of SC households were BPL compared to 25.70% among others.

¹⁴India, Government of. (2008). Inclusive Growth-Vol I, Eleventh Five Year Plan, 2007-2012.

Human Development Index (HDI) and Human Poverty Index (HPI): According to the UNDP HDI and HPI for SC vis-a-vis non-SC/ST, the HDI for SCs is estimated to be 0.303 which is lower than the HDI for non-SC/ST at 0.393 for the period 1980 to 2000.¹⁵ As a measure to assess the level of deprivation,¹⁶ the value of HPI was estimated at 33.63% for all social groups at the national level and 41.47% for SCs and that for non-SC/ST at 31.34%.

Education Inequalities: About 45% of SC children who enroll in class I dropout by class V and about 79% by class X. Discrimination in school is reported by the students to be one of the primary reasons for student attrition.

III

Insights and Reflections

Despite the many policies and provisions, continuing inequalities and deprivation of the Dalit communities poses many questions. Some areas that stand out requiring attention are:

Need for Public Education to Change Mindsets: Societal norms as we all know are persistent and require special efforts through public education to change them. Our learning is that we have not made sufficient efforts or investment to explain to the larger public the rationale behind the special provisions and policies. A number of myths are floated about them leading to animosity between social groups.

Need for Creating an Environment for Change: Here again our experience is that while some very progressive policies have been put on ground such as 50% reservation in local governance for women and population proportionate to Dalits; reservations in other statutory bodies, representation, and nominal capacity building has been taken to be adequate for their effective participation. Despite being elected to these posts, they are unable to bring in substantive issues that will positively impact changes in their situation because the larger environment does not provide space and prohibits bringing in the agenda of the marginalized substantively. Thus, elected representatives from marginalized communities continuing business as usual and may even take pride in following social norms more than others.

Ensuring Implementation and Monitoring: Apathetic implementation and lack of monitoring are monumental problems despite the many policies and provisions. To take the case of the implementation of the Scheduled Caste Plan (SCP, budget allocation) against the mandated allocation of 16.2% (as per population), the allocation was 5.2% in the union budget in 2006-07 and 7.9% in 2007-08,¹⁷ which

¹⁵ UNDP (2007). *Human Poverty and Socially Disadvantaged Groups in India*.

¹⁶ Is a measure with reference to IMR, illiteracy rate, poverty ratio (head count ratio), health status, and nutrition status.

¹⁷ Status of Special Component Plan: Analysis of Union Budget and State Budget 2008-09, National Campaign on Dalit Human Rights and End Poverty 2015 Millennium Campaign, New Delhi.

reflects the discrepancy that funding could have gone to the development of Dalits. Many departments do not even make a pretense of allocation, while some allocate and divert the same to other programmes. Another stark example is the continued practice of manual scavenging by Dalit women without regulation by the Indian government despite it being legally prohibited in 1993.

Discrimination in State Services: There is need to recognize the continuing discrimination in providing services. Studies show that teachers allocated to distant tribal areas or Dalit habitations do not attend their work regularly, do not regularly teach, treat children in discriminatory manner, show that health workers do not visit habitations of the marginalized etc. The state programmes are yet to recognize these as critical issues that need to be addressed for development equity and inclusion.

Impunity and In-accessibility to Justice: Violence is a way of punishing and keeping the Dalits in their social and economic position. On an average, about 25,000 cases are registered every year in regards to violence towards Dalits. Studies by civil society organisations report less than one percent of the Dalits have access to justice.

Making schools inclusive: The only place that has the potential to bring children from excluded and other communities together are schools-related programmes. Efforts need to be done to bring the lessons of human rights and special programmes to engage children together.

Promote and Support Civil Society lead by Marginalized Communities: Recognising the need for agency from the community, it is important to promote and support civil society organisations from marginalized communities. The issues are complex and require extensive and thorough outreach, capacity-building, and sustainable approaches.

Need for Equal Opportunities Commission: In order to address the widespread discrimination and support marginalized communities to engage with expanding opportunities, it is important to ensure them equal access and the removal of barriers. An independent commission in this regards has already been recommended by the Prime Minister's High Level Committee on the Social, Economic and Educational Status of Muslim Community in India¹⁸ and can be extended to cover other marginalized communities as well.

Need to Continue Affirmative Action like Reservation: A quick comparison between the employment of Dalits and Muslim minority members in government reflects the need for providing affirmative action in the face of continuing discrimination and prejudices. It is seen that the Dalit community members have been able to access education and employment owing

¹⁸ India, Government of (2006). Sachar Committee Report.

to the reservation policy, while the Muslim community lags behind in many ways in accessing formal education and employment.

Group	1994 % of total	1999 % of total	2004 % of total
A	10.25	11.29	12.2
B	12.06	12.68	14.5
C	15.73	15.78	16.9
D	20.47	19.99	18.4
Total	16.9	16.7	17.05

Source: Annual Reports Dept of Personnel and Training, GoI

Only one out of every 25 undergraduate and 50 post graduate students in premier colleges is a Muslim.
 61% of total Muslim workers are self employed against 55% of Hindu workers. 73% of Muslim women are self employed compared to 60% for Hindu women.
 Only about 27% of Muslim workers in urban areas are engaged in regular work compared to 40% among SC/ST, 36% among OBC and 49% among Hindu upper caste workers.
 Less than 24% of Muslim regular workers are employed in public sector or in government jobs compared to 39% regular SC/St workers, 37% Hindu upper caste and 30% OBC workers.
 The share of Muslim male workers engaged in street vending (especially without any fixed location) is 12% as against the national average of less than 8%.
 Muslims have the highest rate of stunting and second highest rate of underweight children.

Source: Social, Economic and Educational Status of the Muslim community of India, Sachar committee report, Govt of India 2006, quoted in the 11th FYP document

International Support Mechanisms: International conventions and Declarations can provide a valuable support in addressing social exclusion and promoting social inclusion and integration. The UN Convention on the Elimination of All Forms of Racial Discrimination (UNCERD) has been a instrumental support to the Dalit cause. The process that began in Durban in 2001 has brought the issues of Dalit discrimination before various conventions, which resulted in special recommendations on Dalit and Adivasi community in India with a particular focus on women and children. Currently, the Draft Principles and Guidelines to Address Discrimination Based on Work and Descent¹⁹ given before the UN Human Rights Council takes a step forward in identifying discriminations similar to caste-based discrimination across the globe and providing a frame to address them.

To conclude, group formation is common and natural to human beings, and hence, special efforts and interventions need to be taken to oversee that they do not turn negative based on prejudices, stereotypes, and protection of privileges. This issue needs conscious effort and active engagement of the marginalized communities themselves that needs to

¹⁹ Available in the website of International Dalit Solidarity Network (IDSN)

be promoted both at the state and civil society levels. International mechanisms and solidarity can support both state and civil society in taking them forward.

I would like to end with a quote from Dr. Ambedkar

“A democratic form of Government presupposes a democratic form of a society, the formal framework of democracy is of no value and would indeed be a misfit if there was no social democracy. It may not be necessary for a democratic society to be marked by unity, by community of purpose, by loyalty to public ends and by mutuality of sympathy. But it does unmistakably involve two things. The first is an attitude of mind, and attitude of respect and equality towards their fellows. The second is a social organisation free from rigid social barriers. Democracy is incompatible and inconsistent with isolation and exclusiveness resulting in the distinction between the privileged and the unprivileged.”