

CONSTITUTIONAL PROVISIONS AND LEGISLATIONS FOR EMPOWERING THE WEAKER SECTIONS

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ABSTRACT

As is commonly said that a welfare state takes care of its citizen, a welfare state believes that economic growth does not mean concentration of economic benefits in the hands of a few persons in the society but should aim at common good. Untouchables have faced all kinds of humiliation at the hands of upper varnas, the weaker sections women, children, labourers, disabled's and aged persons are facing number of problems in the Indian society.

Thus a welfare state ensures that economic growth must not be achieved at the cost of the interest and welfare of weaker sections. In Indian Constitution social and economic justice finds its mention in the preamble, runs like a golden tread through Chapter III of fundamental rights and is more explicit laid down in Chapter IV of Directive Principles of State Policy. Commissions for SC and ST, women and children, Labour, Human Right are some of the agencies which can protect the weaker sections, and provide social, economic and political justice for all round development of weaker sections. At present under the mask of Liberalization, Privatization and Globalization the Welfare State simple escaping from its responsibility to protection of weaker sections, all the welfare schemes left by the State and privatized the public sector establishments.

The present research paper discussed the various protections to the weaker sections particularly constitution provisions and Legislative protections and effect globalization on Indian society.

Keywords: Weaker Sections, Constitution Of India, Social And Economic Justice

INTRODUCTION

The people of India have had a continuous civilization since 2500 B.C., when the inhabitants of the Indus River valley developed an urban culture based on commerce and sustained by agricultural trade. This civilization declined around 1500 B.C., probably due to ecological changes. During the second millennium B.C., pastoral, Aryan-speaking tribes migrated from the northwest into the subcontinent. As they settled in the middle Ganges River valley, they adapted to antecedent cultures.

Indian people divided into four 'Varnas' and above 6500 castes, man birth decided his social status. They lived in caste based professions and also suppressed in their social status. In this system majority people are far away from being educated, having property, human dignity and also they have low economic and political status. This type of system continued for a long period which resulted majority people to turn as depressed classes.

At the time of India got independence in 1947, major population was landless, illiterate, and poor livelihood. India adopted the Democratic form of government. The Constituent Assembly debates recognized that a section of people in Indian Society had been denied certain basic rights since ancient times and therefore remained economically, socially and educationally backward. As a result, this had created widespread disparities among various groups. This scenario of disparities leads to a situation that needs special measures to uplift the status of the marginalized and depressed groups.

Special provisions have also been made for the Scheduled Castes and Scheduled Tribes and other backward classes in the Constitution. The Constitution provides for protection and promotion of their social, economic, educational, cultural and political interests to remove the disparities and to bring them on par with other sections of the society. In addition, many articles in Parts III, IV, IX, IX-A, Fifth and Sixth Schedule of the Constitution reinforce these arrangements. It is an accepted fact that there is a large proportion of population which lacks land resources and suffers from deprivation of different kinds including unemployment, illiteracy and ill-health. The deprivation is more pronounced in the case of weaker sections such as women, scheduled castes, scheduled tribes, and backward communities.

Constitutional Provisions for Protection of Weaker Sections

Constitutional makers provided the different safeguard in the Constitution of India to these depressed classes. They are:

Article 14 provides that States shall not deny any person equality before law or the equal protection of laws within the territory of India. Article 15 operationalizes the concept of equality in a manner which specifically touches upon the conditions of the Scheduled Castes, Scheduled Tribes and other backward classes.

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 Article by the State

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

1. that the citizen, men and women equally, have the right to an adequate means of livelihood;
2. that the ownership and control of the material resource of the community are so distributed as best to sub-serve the common good;
3. that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
4. that there is equal pay for equal work for both men and women;

5. 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;
6. that children are given opportunities and facilities to develop in a healthy manner and in conditions of the 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 particular of Scheduled Castes and Scheduled Tribes and shall protect them 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.” Two important legislations have been enacted to give effect to contents of this Article. The Protection of Civil Rights Act, 1955 has been enacted with the objective of providing punishment for preaching and practice of untouchability, in the enforcement of any disability arising there from and for matters connected therewith.

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. There are central and State Laws to prevent child labour practices and providing relief to those engaged as child labour. The Central law is The Child Labour (Prohibition and Regulation) Act, 1986. A large number of child labourers engaged in hazardous employment belong to Scheduled Castes and Scheduled Tribes.

Other Safeguards to Weaker Sections

Economic Safeguards

The provisions of Articles 23, 24 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. It is in pursuance of this Article that special programmes for extending educational opportunities to Scheduled Castes and Scheduled Tribes have been taken up. Institutional arrangements for their development, including earmarking of specific percentage of funds from the budget for various development activities in form of a special

Component Plan for Scheduled Castes and the Scheduled Tribes sub-plan for Scheduled Tribes have also been in operation for a long time.

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. This provision has enabled the State to reserve seats for Scheduled Castes and the Scheduled Tribes in educational institutions including technical, engineering and medical colleges.

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. The above Article has relevance for Scheduled Tribes as some of them have a distinct language/dialect.

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.

Under 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. It has also been provided that the reserved seats for Scheduled Castes and the Scheduled Tribes shall be allotted by rotation to different constituencies in Panchayat at each level. Under 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.

Service Safeguards

Article 16, which 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, has made a very special provision which permits Parliament to make any provision for reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. It is through this provision that reservations in appointments and promotions for Scheduled Castes and the Scheduled Tribes and for OBCs in the matter of recruitment have been made.

Article 16(4)(a), this benefits of reservation in the matter of promotion has been extended to Scheduled Castes and the Scheduled Tribes 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.

Article 335 provides that the reservation provisions shall be made taking into consideration efficiency of administration. Through a specific amendment to the Constitution, the State has

been empowered to make any relaxation for qualifying mark in any examination or lowering the standards of evaluation for enforcing reservation in matters of promotion to any class or classes of service or posts in connection with the affairs of the Union or of the State. In addition to the protections referred to above, which deal with both Scheduled Castes and the Scheduled Tribes, special safeguards have also been made for Scheduled Tribes.

Article 244 provides for legislation for special problems for Scheduled areas and lays down provisions of the 5th schedule in respect of administration and control of such Social Justice the legal instruments areas. Provisions also been made for administration of tribal areas in the 6th Schedule. 5th Schedule to the Constitution, under Article 244(1) authorizes the Governor to direct that a particular law or notification passed by Parliament or Legislative Assembly shall not apply to the Scheduled area or any part thereof or shall apply subject to certain exceptions and modifications. Governor is also authorized to make regulation for peace and good government in the Scheduled areas of the State.

Article 275(1) provides that specific allocations may be made from the Consolidated Funds of India to give as grant-in aid for each such area for meeting the cost of schemes of development and for promoting the welfare of Scheduled Tribes in the State. Similar provision exists for such special grants for the 6th Scheduled area.

Article 338 of the Constitution provides for a National Commission for Scheduled Castes and the Scheduled Tribes and specifies the functions it would discharge and the report it is required to present to the President.

Enforcing Equality and Removing Disability Untouchability Offences Act, 1955

Through Article 17 of the Constitution, untouchability was abolished and its practice in any form had been abolished. Untouchability means the practices evolved as social restrictions in sharing food, access to public places, offering prayers and performing religious services, entry in temple and other public places and denial of access to drinking water sources, etc. Within 5 years of adoption of Constitution of India, the Untouchability (Offences) Act, 1955 was enacted by Parliament. The Act contained a significant provision that where any of the forbidden practices “is committed in relation to member of Scheduled Caste” the Court shall presume, unless the contrary is proved, that such act was committed on the ground of Untouchability. This implied that the burden of the proof lies on the accused and not on the prosecution.

Protection of Civil Rights Act, 1955

Based on the recommendation of the Committee, this Act was comprehensively amended in 1976 and its name was changed to “The Protection of Civil Rights Act, 1955”. The amended Act came into force from 19th November 1976. Report on Prevention of Atrocities against SCs and STs and for matters connected therewith, was made cognizable and non-compoundable offence and the terms of improvement were enhanced. The State Governments have been empowered to impose collective fines on the inhabitants of any area found committing and abetting the commission of untouchability offences. This Act, along with the Rules framed there under, lays down elaborate procedure for ensuring protection of the victims of such practices by providing for special courts, special prosecution, fixing period for investigation, etc.

Preventing Control over Fruits Of Labour

Bonded Labour System (Abolition), Act 1976

Bonded Labour system refers to work in slave like conditions in order to repay a debt for survival and meeting certain urgent and basic necessities of life for which they are charged exorbitant interest. Due to their illiteracy, lack of bargaining power and extremely low wages, creditors manage to create a situation where the debt is never liquidated and consequently the debtor has to render labour in lieu thereof.

The Bonded Labour System (Abolition) Act, 1976 abolished all agreements and obligations, including customary sanctions which permit bonded labour system in various forms. The Act also released all such labourers from these obligations, cancelled their outstanding debts and prohibited creation of any new bondage agreement. The Act also mandatorily provided for economic rehabilitation of freed bonded labour by the State. Keeping a bonded labour is a violation of law and is punishable with sentence of 3 years imprisonment and a fine of Rs. 2,000/- Ministry of Labour operates a centrally sponsored scheme for rehabilitation of released bonded labours.

The Minimum Wages Act, 1948

This Act provides for fixing of minimum rates of wages in different employments and appointment of Committees or Subcommittees for this purpose. The Act also fixes the norms of hours of work, rest and overtime rates. The machinery for enforcement of the Act has also been provided.

Equal Remuneration Act, 1976

The Act mandates that there shall be no discrimination in the payment of wages to women workers performing same or similar nature of work as men.

Child Labour (Prohibition and Regulation) Act, 1986

The Act prohibits the engagement of children in certain employments and regulates the conditions of work of children in certain others. It outlines severe penalties for those violating its provisions. The Act also provides for a Child Labour Technical Advisory Committee to advise the Central Government on which occupations and industrial processes the employment of child labour should be prohibited.

Various other laws which prohibit the employment of child labour on grounds of safety, etc. include The Children (Pledging of Labour) Act, 1933, The Employment of Children Act, 1938, Factories Act, 1948, Plantation Labour Act, 1951, The Mines Act, 1952, The Merchant Shipping Act, 1958, The Motor Transport Workers Act, 1961, The Bidi Cigar Workers (Conditions of Employment) Act, 1966, The Shops and Commercial Establishment Acts, etc.

Curbing Unequal Distribution of Economic Assets**Land Reforms Laws**

The Agrarian structure in the country prior to independence was characterized by high degree of concentration of land by a small section of society and the actual cultivators of land were acutely exploited by them. Land Reforms Policy, introduced in the country after independence, introduced a fivefold programme to check this concentration of economic

power. The policy abolished intermediaries from ownership of land and conferred this right on the tillers of the soil should be its owner. A radical redistribution programme of land among the landless agricultural labour was undertaken by introducing ceiling on land holding and acquisition of surplus land for this purpose.

Through the programme of consolidation of land holdings, arrangements were made under which small parcels of land could be exchanged for a compact contiguous plot through mutual adjustment in the village. Land records were also sought to be updated so that rights and interests of cultivators were safeguarded against manipulation. Land reforms laws were enacted and other regulatory arrangements were made giving effect to this policy by all States.

Debt Relief Legislations

Indebtedness is a chronic problem of all poor persons but it affects SCs/STs more severely. Indebtedness arises because of their poverty and therefore need to borrow for subsistence and to meet other emergent social expenditure like illness, marriage, etc. 18 Report on Prevention of Atrocities against SCs & STs since no such credit is available from institutional sources, money is borrowed from private money lenders who charge exorbitant rates of interest. Due to their inability to pay back, the borrowers are enmeshed in a vicious cycle of debt-bondage.

National Human Rights Commission

The Human Rights Act, 1993 seeks to provide regulatory framework for protection of rights related to life, liberty, and quality, dignity of individuals guaranteed by the constitution or embodied in the International Covenants and enforceable by courts in India. Section 3 of the Act provides for constitution of National Human Rights Commission and section 21 provides for constitution of State Human Rights Commission. In pursuance of section 3, a National Human Rights Commission is already in existence since 12th October, 1993. It takes up the cases regarding human rights violations addressed to it and through its own initiative. As atrocities on SCs are violation of Human Rights, it intervenes in complaints relating to them also. The Commission is also required to submit a report annually which is laid on the table of both Houses of Parliament.

National Commission for Women

Section 3 of National Commission for Women Act, 1990 provides for the constitution of National Commission for Women to investigate and examine all matters relating to safeguards provided for the women under the Constitution and various other laws. The First National Commission was constituted on 31st January, 1992. It takes up Social Justice. The Legal Instruments complaints of women referred to it for redressal irrespective of caste. Accordingly, problems of SC women including those of physical violence against them are also dealt with by it. As other statutory Commissions, the commission has to submit a report annually which is laid on the table of both the Houses.

Effects of Globalization Policy on Welfare State

The problem faced by the weaker section is further compounded by the adoption of the new economic policy with emphasis on globalization. The main features of globalization policy which have adverse implications to these sections are the following:

Being a market-friendly policy, globalization envisages retreat of State from the life of people. Retreat of State has occurred in two areas: first, there is downsizing of the Government resulting in loss of opportunities in the Government sector. This measure affects the weaker sections more than others, because exactly when the State as a means of ensuring justice has provided job quotas to the weaker sections, jobs in Government have begun to shrink. As the space vacated by the State is expected to be filled by the private sector, the latter will expand and touch each and every aspect of the life of people. Thus, with a view to reducing the fiscal deficit, when the government has cut down spending, sectors like health and education seemed to have suffered more. This affects the weaker sections more than others because at a time when these sections have realized the importance of human resource development and when they have made a beginning to use education and health facilities the gradual withdrawal of State from these sectors comes as a bolt from the blue. It is true that private capital is entering into the education and health sectors to fill the vacuum created by the retreat of State. Entry of private capital into these sectors, no doubt will improve the quality of services provided. But the problem to be noted is that the weaker sections cannot have access to these services as these services are very expensive.

On the social front too, we have made significant gains. Removal of untouchability and treating everybody as equal before the law were nothing less than silent, yet profound revolutions. But, unfortunately, we have not been successful in ensuring that the fruits of development reached the lower-most strata of society. Poverty, illiteracy, high rates of infant and maternal mortality, adverse gender ratio, unemployment, poor health-care system, caste, gender and religion-based prejudices and incidences of farmers' suicides are issues that have remained as blots on our democracy. It is still a matter of great distress that we have not been able to ensure a decent living condition for our large working class.

Our economy grew at an average annual rate of about 7 per-cent, about 40 per cent of the world's poor still live in India and at the same time the number of billionaires is growing. In spite of the completion of ten Five Year Plans and implementation of numerous developmental schemes, nearly one third of our population is living below the poverty line. More than a fifth of our population still does not have any access to quality of health-care. With about a third of our population being illiterate, we are home to the largest number of illiterates in the world. A country with such an unequal distribution of opportunities and wealth can hardly promise long-term security and stability.

Yet another serious problem before us concerns the justice delivery system that we have in place in our country. The legal system in India has sound institutional foundations incorporating all basic democratic principles of impartiality, secularism and equality before law. But, as we can see, in practice the functioning of our justice delivery system is at variance with certain democratic ideals because of some organs of our Constitution are trying to encroach into others domain and thereby creation distortions.

CONCLUSION

The position of weaker sections is said be vulnerable. The ancient period people from Panchama varna were not been treated as human being. They had to stay in the outs-cuts of villages. No specialties have been extended to them. After emergence of British Christians missionaries have changed their position to some-extent. The efforts of Jhotibha Phule and Ambedkar are met with partial success. 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 political justice for development of these people. Reservation policy though not successful completely, but is helpful to some extent for development of weaker sections. The atrocities committed against weaker section are being dealt with by SC and ST Commission, which has been existed with legal powers. Similarly, the atrocities committed on women including the women from weaker sections being monitor by National Commission for women. The labour sections also protect by various legislations, but after introduction of the globalization the implementation of labour laws are liberalized. All these efforts are meager for upbringing weaker sections. Having awareness would be the main criteria for maintain equality in societies.

“Nonetheless, we all agree that mere enactment of laws does not guarantee the eradication of the related problems. Proper implementation of the legislations is necessary to ensure that the intended beneficiaries get the optimum benefits. Further, to tackle the problems in a holistic manner, it is imperative to think and go beyond the legislative initiatives.” -**Blurb**

REFERENCES

1. Baruah, Aparajita. (2007). Preamble of the Constitution of India: An Insight & Comparison. Eastern Book Co., Ahmadabad.
2. Basu, Durga Das. (2008). Introduction to the Constitution of India South Asia Books.
3. Das, Hari Hara. (2002). Political System of India. Anmol Publications, New Delhi.
4. Jayapalan, N. (1998). Constitutional History of India. Atlantic Publishers & Distributors, New Delhi.
5. Khanna, Hans Raj. (1981). Making of India's Constitution. Eastern Book Co., Ahmadabad.
6. Pylee, M.V. (2004). Constitutional Government in India. S. Chand & Co., Bombay.
7. Sen, Sarbani. (2007). The Constitution of India: Popular Sovereignty and Democratic Transformations. Oxford University Press., New Delhi.
8. Sharma, Dinesh; Singh, Jaya; Maganathan, R.; et al. (2002). Indian Constitution at Work. Political Science, Class XI. NCERT., New Delhi.
9. “The Constituent Assembly Debates (Proceedings): (9th December, 1946 to 24 January 1950)”. The Parliament of India Archive.
10. Reddy G B. (2009). Constitution of India and Professional Ethics, I.K. International Publishing House Pvt. Ltd., New Delhi.
11. Reddy., G.B. (2009). *Land Laws* in A.P., Gogia Law Agency, Hyderabad.
12. Misra.S.N. (2009). *Labour and Industrial laws*, Gogia Law Agency, Hyderabad.
13. <http://parliamentofindia.nic.in/ls/debates/debates.htm>.
14. www.hrcr.org
15. www.idsn.org
16. www.ambedkar.org
17. www.mcrq.ac.in
18. <http://practiceiparticipation.org>

19. www.hindustantimes.com
20. <http://planningcommission.nic.in>
21. www.unhchr.ch
22. <http://indiankanoon.org>
23. www.slideshare.net
24. www.researchgate.net
25. www.academia.edu
26. www.lawteacher.net
27. www.right-to-education.org
28. www.un.int
29. www.articlesbase.com
30. <http://labour.nic.in>
31. www.tehelka.com
32. <http://wcd.nic.in>
33. www.indianetzone.com
34. <http://tribal.nic.in>
35. www.legislationonline.org