

Breaking the Silence: Fighting Injustice with Anti - Marginalization Advocacy

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Abstract: *This article delves into the persistent issue of human rights violations against Scheduled Castes SC and Scheduled Tribes ST in India, despite the country's celebration of its 75th anniversary of independence from British rule. It critically examines the historical and ongoing suppression of marginalized communities through the lens of modern - day slavery under the rule of law, with a focus on the legal and societal frameworks that perpetuate such atrocities. The author, a law student, employs a multidisciplinary approach to explore the gaps in the enforcement of legal protections and the stark inequalities that exist within Indian society. Drawing on reports, legal statutes, and the Constitution, the article highlights the increase in crimes against SC and ST communities, underscoring the need for stringent enforcement of laws and a coordinated effort among various stakeholders to address these violations. It proposes remedial measures aimed at systemic transformation, including building capacity, streamlining processes, and sensitizing the public. The article concludes with a call to action for every citizen to contribute to the fight for equality and dignity for marginalized communities, embodying the principles enshrined in the Indian Constitution.*

Keywords: Human rights violations, Scheduled Castes, Scheduled Tribes, India, legal enforcement, marginalized, atrocities, bonded labour

1. Introduction

The evolution of human race over the many civilizations has consistently worked its way up by suppressing the poor, marginalised and weaker sections of the community. This constant suppression and dominance, over the poor by the rich, better educated and in the case of India by the upper caste, who subjected people from the lower caste to certain occupations and territories - forcing them to remain in a continuous state of bondage with respect to their Freedom and Dignity. It is evident as you walk through the wide expanse of the Indian territory from the North to the South and East to the West that there is a clear - cut division between the two divides bringing out this inequality very vividly. The popular quote by the then President Ramon Magsaysay said that "he who has less in life should have more in law". Today, as a law student my emphasis would be, to unpack this long and pending issue, in the lens of the gross human rights violation of millions of people who dwell in the darkness, despite India celebrating its grand 75th Anniversary which was fought for Freedom from its oppressors - The British ruling Government.

It is important to understand that successful organisations lay great emphasis on the last mile experience of any concept or a product to see how well the product or concept has delivered its effect. This same principle could be applied to understand the Freedom which predominantly was fought to restore Dignity and Life to its fullest form. The rhetorical question to be honestly answered today is, 'Does the marginalised community, Scheduled Tribes and Scheduled Castes enjoy the same spectrum of freedom as enjoyed by the upper caste in the country?'

The term modern day slavery under the rule of law, lays great emphasis by providing special provisions for the SC/ST community to prevent them from being subjected as bonded labourers in the form of unpaid wages, long extended hours of labour and other forms of exploitation, such as Child

abduction, Human cage, Forced prostitution, Forced labour, Forced marriage, Organ theft, Forced child beggars etc. The reality stands out that the Human Rights violation of the Scheduled Castes and Scheduled Tribes is very much prevalent even in today's day and age in our very own neighbourhoods, in spite of being free from the clutches of the British rule.

2. Freedom or Force - Reality

India is a land and a Nation known for its Cultural, Geographical, and Intellectual diversity. Therefore, one must be proud of the democratic freedom one has in a nation with so many varying and diverse cultures. However, one must at the same time also ask, if this freedom that we talk so much about in our laws, our Constitution and even on a day - to - day basis, actually exists for each and every person in our Nation, or, it is just a theory, one chooses to believe, despite knowing the reality of things, just because it's the more convenient option for many of us? Is the freedom that many of us experience, at the cost of someone else's freedom? The battle of the Scheduled Castes and Scheduled Tribes has never been of survival for life because most of them have based their lives and their communities with the minimalistic living which often get supplied by the nature and the natural resources available within their territories.

The real battle for them over the centuries has been to express their voices, views, and opinions, which were guaranteed to them under their Fundamental Rights of Right to Equality and Freedom of Expression under Articles 14 - 19 under the Indian Constitution. This gross divide continues even today despite the stringent rule of law and Judicial protection to these communities. The citizens of these communities' struggle daily even to reach the first step of the Judiciary due to lack of education, system process, fair Law Enforcement, unbiased recording of statements and high degree of fear to depose before people from high caste and social standing, who often hold these offices of power. Historically speaking,

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these communities have always been subjected to oppression and suppression. The Scheduled Castes and Scheduled Tribes have always been subject to the desires and wants of the higher sections of society. Hence not only becoming voiceless but also defenceless to the oppression forced upon them from generations to generations, by the so called “superior caste” or class of society.

According to a report published by the National Crime Report bureau (NCRB) ¹ in the year 2021, there were about 50, 900 cases registered for crimes committed against Scheduled Castes and 8, 802 cases were registered for crimes committed against Scheduled Tribes in India. Furthermore, the NCRB also stated that in the year 2020 crimes and atrocities against these communities increased by 9.3%, and in the year 2021 the rate of atrocities and crimes against these communities has increased further by 6.4% in the cases of Scheduled Tribes and by 1.2% in case of Scheduled Castes². It is important to note that these are just the crimes and atrocities that have been ‘reported’ till to date, whereas in reality the crimes and atrocities against the SC/ST communities of India, is much - much more. One must remember that reports and statistics though helpful, often don’t consider every other case that is dismissed or disregarded, due to personal biases, inability to collect widespread data, hidden facts etc.

There is a constant power play between the two divides of the society, but one must remember that it was never a battle of equals, as one part of society has always remained the dominant or in lay man’s term the suppressor, who uses this dominance and superiority for their own advantage and while squashing the views and opinions of the oppressed, under their thumbs. As the famous saying goes, “The rich get richer and the poor get poorer”, or in the context of India, “The upper caste and superior class oppress, while the marginalised (Scheduled Castes and Scheduled Tribes) get oppressed”. The irony of this situation is that the ones who ought to protect the weaker sections of society, use their power and privilege to continue to oppress and suppress these communities, for their own benefits. The Father of our Nation, Mahatma Gandhi once said that “The greatness of humanity is not in being human, but in being humane.” But looking at how things are right now, the question arises, truly, “What has humanity come down to?”

3. Ground Reality

It is evident from multiple views and statistics that the atrocities against Scheduled Castes and Scheduled Tribes continues to linger in both urban and rural sector of the Free India. The voices of many continue to be suppressed either by fear or brutal use of power, and abuse of rule of Law. The fact remains that although these marginalized group of people, are part of a free India, they continue to remain in dreaded forms of slavery, both in the physical as well as the intellectual understanding of Freedom and Dignity. It would be unfair on my part not to acknowledge the continuous efforts of various

social organizations both local and International who have made considerable efforts to fight for these victims in various forums, on the grounds of violation of Human Rights. The continuous efforts of the National Human Rights Commission (NHRC) and the State Human Rights Commission (SHRC) did bring a glimpse of hope in the lives of many citizens, but there are still miles to go before we see citizens from these communities free from brutal atrocities committed against them. There are various views which continue to haunt the ground reality of these Marginalized groups discussed in this essay, let me elucidate a few.

3.1 Historical Past

India as a nation has diverse influences due to religion, beliefs systems, caste systems, upper class superiority and the colonial rule which has governed the way our societies are formed. Hence the atrocities experienced with special reference to women and children of these communities drive us back to the genesis of our historical past which will take many more centuries to be forgotten and transformed. The caste system in our country subtly defines the territory and the occupation that people from the Scheduled Castes and the Scheduled Tribes are to be subjected to and this change in both intellectual thinking and working out the Legislative laws, need generations to come and go. It is important to understand that the change has not taken place because many of these practices are often considered as a social need in running a society or a community under the religious bandwidth which stands advantageous to the higher caste. The recent movies “Article 15” enacted by Ayushmann Khurrana and “Jai Bhim” enacted by SuiRYa, are both vivid examples of how the media is constantly making efforts to demonstrate the ground reality of our country. The feature films not only showcase the atrocities committed but also highlight the challenges faced by these communities in reporting crimes and the injustice demonstrated to them by the Law Enforcement agencies. The truth continues to remain hidden in the silent voices of these communities who continue to be exploited till to date.

3.2 Harsh Reality

In spite of the adequate number of Legislations and some amazing judgements by the National Human Rights Commissions (NHRC) and some Honorable Lordships in various cases, the reality of unreported crimes continues to remain significantly high. The question that lingers as to why there is such a gross indifference between reported and unreported crimes, is a true reality! The very fact is that there are millions in this country who consider these subtle forms of exploitation as traditional and customary practices, which have evolved over the centuries from one generation to another generation. The best example I can straight away think of is the millions of people from this community still languish in the brickkilns for generations to generations as Bonded Laborers. The fact remains that though Bonded Labor

¹ *Crime in India 2021* (2021). National Crime Report Bureau- (Ministry of Home Affairs)- Government of India. Available at: https://ncrb.gov.in/sites/default/files/CII-2021/CII_2021Volume%201.pdf (Accessed: December 23, 2022).

² Manas Jena (2022) *Atrocities against scs and STS show an increasing trend in odisha: NCRB report 2021, SabrangIndia*. Available at: <https://www.sabrangindia.in/article/atrocities-against-scs-and-sts-show-increasing-trend-odisha-ncrb-report-2021> (Accessed: December 23, 2022).

System Abolition (BLSA) Act was brought into force in the year 1976, empowering the District Magistrates to put an end to this menace in their respective Districts, it has not seen much results in its abolition. The harsh reality is that 1.2 Crore³ citizens continue to remain in the clutches of Bonded Labor, waiting for Freedom and Dignity to be brought to them.

3.3 Stringent Enforcement of Legislations

The readings of the legal literature highlight that there is no dearth of rules and regulations to stop the atrocities against the Scheduled Castes and Scheduled Tribes. The gap that is evident for these atrocities to continue is the absence of strict enforcement of the available regulations by the Law Enforcement agencies. The general lethargy in dealing with matters pertaining to Scheduled Castes and Scheduled Tribes continues to be a dark reality in the corridors of the Law Enforcement agencies. The use of power and influence by the superior class and the upper castes of the community continue to be the handicap of the Law Enforcement agencies towards enforcing the stringent application of the available legislatures. It is important to note that it needs predominant effort by many social organizations to instill confidence even to report a heinous crime. Crimes like rape, honor killing, murder, gang rape, are constantly suffered by Scheduled Castes and Scheduled Tribes. The careful study to understand this reluctance by the Law Enforcement agencies to enforce Justice indicates various factors, such as, a pre biased opinion, prejudice, religious belief system, social caste hierarchy, lack of wholistic understanding, biased education system, corrupt and polluted understanding of justice etc. In bringing about change in handling the problem, of atrocities against SC/ST the first and the foremost pillar that needs to be transformed is the perspective of Law Enforcement agencies, in handling SC/ST crimes at the police station, as it's the first step of the Judicial ladder. The day this reality takes place, is the day that the voices of the exploited will begin to see and experience the true realm of India's Freedom. The founding Fathers of the India Constitution, like Dr BR Ambedkar, paid special emphasis in safeguarding and protecting the Scheduled Castes and Scheduled Tribes, from exploitation and unfair treatment by the Indian Law Enforcement agencies. India needs to see that day dawning when Law Enforcement agencies, become the custodians to protect the Dignity of Life and Freedom to Live with self esteem transcending beyond caste, religion, gender, creed, and social biases, enforcing Article 21 of the Indian Constitution. Dr Br Ambedkar once said that "However good a Constitution may be, if those who are implementing it are not good, it will prove to be bad. However, bad a Constitution may be, if those implementing it are good, it will prove to be good".

4. Suggestive Remedial Measures

It would be impartial on my part to only highlight the challenges and the ground reality on the subject "Atrocities against Scheduled Castes and Scheduled Tribes in India - a gross Human Rights Violation", without suggesting the

remedial measures and the way forward purely with an intention to bring about systemic transformation across this Nation.

4.1 Synergy by Partnership

The Human Rights violation is a subject that needs a well-coordinated and synchronized partnership by the Multi-disciplinary departments of the country. The biggest challenge today faced by SC/ST communities in handling atrocities and Human Rights violation is the lack of coordinated and wholistic approach by the Non-Governmental Organizations, Judicial authorities, Quasi-Judicial bodies, public authorities and even by the citizens itself. The gaps between the various departments create an ideal environment for these crimes to remain unreported and never see the light of Equality of Justice guaranteed by the Indian Constitution. So, the suggestive method is to build the capacity of all the arms directly or indirectly dealing with this subject through awareness, inter-departmental training, and unpacking the Constitutional Rights in schools and colleges so we influence change in all directions by a synchronized effort to make this mountain of social injustice, move, and guaranteeing Article 21 to the members of the SC/ST.

4.2 Streamlining Processes

It's a known reality that Constitutional procedures are often cumbersome and very rudimentary for a common man without adequate education to be able to grasp. The fact is that even to stimulate the first door of the Judiciary which is known as the First Information Report (FIR) which needs to be recorded is such a huge and burdensome task for a common man. The problem gets compounded with the common man being a member of the SC/ST since the lenses of social bias and prejudice continue to haunt them. The Digital era is an instrument of hope since the procedures have become simple, agile, quick and accountable in many ways. However dark reality is that the rural India which comprises of 75% of the Indian territory have miles to go to catch up on the Digital revolution. This adds to the problem that even today the abuses and atrocities are never fully recorded in the annals of Judicial records.

4.3 Sensitization of Public

The Democratic set up of our Nation is an added tool to bring about systemic changes. The Preamble along with the Constitution calls out an interesting phrase "Of the people, By the people, For the people". This phrase needs to be echoed by every citizen of this Nation, spreading a fresh breadth, of ending violence and brutal abuse to the members of SC/ST and the gross violation of their Human Rights. The day the Nation wakes up to this call by being one voice, both in thought and deed, the pulse of equality will reach every corner and to every citizen irrespective of color, creed, caste, class, sex, gender, race etc. That is the true celebration of Indian Freedom from the clutches of modern-day slavery.

³ PTI / Jul 20, 2016 (2016) *Govt looks to rehabilitate 1.84 CR bonded labourers till 2030: Delhi News - Times of India, The Times of India.* TOI. Available at:

<https://timesofindia.indiatimes.com/city/delhi/govt-looks-to-rehabilitate-1-84-cr-bonded-labourers-till-2030/articleshow/53302398.cms> (Accessed: December 31, 2022).

5. Conclusion

I would like to conclude by reiterating that the Atrocities against the SC/ST communities is still very prevalent. These communities for generations have fought the battle to be treated equally and with dignity, alone, and now is the time for every citizen to be involved in the fight for the freedom of our fellow human beings. Everyone according to the Indian constitution has the right to dignity of life and labour, and it is our moral duty as citizens of this country to ensure that, that happens. In conclusion let me close with a profound quote on the subject:

“To deny people their human rights is to challenge their very humanity”

-Nelson Mandela

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