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Contemporary Indian Politics: Internal Dynamics and
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Chapter 16

Human Rights of the Marginalised in India : Need for New Understandings

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Marginalised communities in India are entitled to all the rights that constitution has ensured to all the citizens of the country. Apart from general, social, economic and political rights they have been provided certain constitutional protections in the form of affirmative action. But, equal rights and certain special protections have not succeeded in changing the life of the marginalised communities in the sense that still they are under constant social, political and economic threat on the part of the so-called forward communities of the society. This reality has been to major extent accepted by the people and institutions. However, their marginality due to constant threats from forward communities has not been conceded as serious violation of their human rights. The casual approach of the people and institutions with respect to marginalised suggests that social problems such as social discriminations and ill treatment are the problems which could be internally solved and cannot be addressed at international forums.

INTRODUCTION

The debate on Human Rights of the socially and economically marginalised communities has taken a different course in the sense that it has focussed mainly on the definition and meaning of the social identities than the degree, extent and severity of human rights violations faced by these communities on a daily basis. Some scholars have observed that the discriminations which exist in the Indian society cannot be equated with discriminations that take place in western societies or societies with

different social stratification. For them, caste and race are different and societal attitude towards these identities cannot be considered as same. For other scholars, discriminations and atrocities are to be taken into consideration while discussing Human Rights violations rather than the empty meanings and definitions of the identities. Their core argument is that discrimination or any other social atrocities are universal concerns. Whether they take place in caste communities, race communities or tribal communities, they need to be addressed with common approaches and methods. With these arguments as a background, the present chapter attempts to look the need for new understanding on the state of Human Rights of the marginalised communities in India. There are many studies which state that the present constitutional arrangement is enough to empower the marginal communities. But, the present arrangement has more of political or legal solutions. Such solutions become meaningless if the society does not move in the direction of social democracy in which everyone is free in the comprehensive sense of the term freedom. The other question this chapter raises is – what is the societal response to the efforts of social democracy in India?

To understand the present debate on caste and race, it is necessary to have a brief overview of the fights and challenges to caste and associated domination and discriminations. Much before colonial rule, Brahminical supremacy was attacked by Buddhism and Virasaivism in Indian society (Weiner, 2008:193). Brahminical emphasis on scriptures, knowledge and rituals as the only means to salvation was undermined by the *bhakti* devotional movements (Ibid: 193-194). Religious reform movements which came to the scene in the 19th and the early part of the 20th century "not only sought to undermine Brahminism but attacked the ideological foundation of caste" (Ibid:194).

Even cultural revivalists such as Dayanand Saraswati and Vivekananda denounced caste. "Dayanand rejected the caste system as divine and as a creation of god" (Adi, 1997:72). Vivekananda denounced the sophistication, the arrogance and wickedness of the upper classes of Indian society because they were the ones responsible for exploitation of the millions of the masses throughout India's past (Verma, 2009:122). In fact, some nationalist leaders such as Mahatma Gandhi made organisational effort in the form of Harijan Sevak Sangh to eradicate untouchability and other social discriminations. Such effort on the part of Gandhi had to be criticised by Ambedkar because it was paternalistic and it neglected most urgent purposes for which the untouchables needed help and assistance (Omvedt, 20th August 2012). The nationalist discourse

did not give enough space to concepts like self-respect or dignity (Guru, 2011:40). It is observed that the "nationalist thought in India tried hard to bury the dalit question, but failed in its effort because the subaltern thinkers did not allow it to happen. In fact, thinkers like Phule and Ambedkar dragged the social question from the depths it had reached in public discourse" (Ibid).

Architects of the Indian Constitution had a great vision of egalitarian social order. Ambedkar played an important role in the constituent assembly discussions in defending the rights and safeguards of the oppressed communities. Recognising the past injustices done to the marginalised communities, constitutional architects made number of progressive provisions for them. But, even after 66 years of nations' independence, there is no satisfactory note on the overall conditions of many people belonging to Scheduled Castes and Scheduled Tribes. It shows that constitutional provisions meant for their development have not been properly implemented and tall promise of economic, social and political development has remained a mere promise for vast number of people belonging to these communities. The continuous presence of discriminations and low social and economic status of marginalised communities has sought attention not only at theoretical level, but also at societal level in the form of movements by the dalits and other marginalised communities such as tribals.

The issue of equating caste-related discriminations with racial discriminations came to the fore prominently when the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), was to be held at Durban in South Africa in 2001. Dalit organisations demanded the inclusion of caste in the agenda of this Conference. This demand on their part can be considered as result of continuous denial of basic human rights to the marginalised in India in both pre- and post-independent days. During the days of freedom struggle, the question of caste discrimination was sidelined by nationalist thought because for it political freedom had become more important. After Independence though there is constitutional backup to eliminate caste discrimination, it has been many a times deliberately sidelined in the name of religion, development and nation. At present, it seems that theoretical arguments coming from some section are deliberately trying to sideline the question of caste discrimination.

The demand of dalits to take the issue of caste-based discrimination to Durban Conference was opposed by then National Democratic Alliance

(NDA) Government at the centre. Again the efforts to treat caste discrimination on par with racial discrimination were made at the Durban Review Conference held in Geneva on April 20* to 24*, 2009, but did not yield positive results (Anand, 29 May 2009). Indian official delegates gave different reasons for not considering the caste discriminations as racial discriminations. The point to be noted here is that such inactive response was received on such a grave issue when the United Progressive Alliance (UPA) was in power. By this act, the UPA proved that its so-called idea of inclusion is not a genuine one.

When the demand to take issue of caste discriminations to Durban Conference was made by the dalit organisations, some of the eminent social scientists of the country had argued differently on the questions of caste-based discriminations. Some of the leading social scientists who indirectly supported the stand of the NDA government on the issue are Andre Beteille and Dipankar Gupta. Andre Beteille had doubts on the wisdom of the United Nations on the question of racial and other related discriminations. He gave the explanation on how the term race has been debated and researched in Anthropology (Beteille, 10 March 2001). With these explanations, he tried to make the difference between race and caste. His argument is that practice of untouchability cannot be regarded as a form of racial discrimination. For this, logic given by him is that the "Scheduled Castes of India taken together are no more a race than are the Brahmins taken together" (Ibid).

Dipankar Gupta, is another eminent sociologist, had responded to this debate on discriminations on the basis of caste and race. He too argued that caste should not be seen as another variant of race. For his argument, he relied on readings of Vedas on physical features, gene distribution and racial measurements along caste lines, and different developments associated with caste (Gupta, 2001). His argument is that Vedic readings done by many are disputable. He also says caste is "not as immutable a category as race is" (Ibid). It is not immutable in the sense that black person continues to be black even if there might be change in his status and wealth. This is not so in the case of caste society because there is possibility of mobility in it. However, he finds the one similarity "between the fight against caste and fight against race" (Ibid). He says "the battle has to be fought and won by those who are victims of such stratified social orders. It is only by empowering the scheduled castes and blacks that casteist and racist prejudices, respectively, are not given the scope to manifest themselves in practice in everyday relations" (Ibid). Like Dipankar Gupta, M.N. Panini, another sociologist too came up with

suggestion "that non-caste secular strategies need to be innovative to eliminate the social evils of caste" (Panini, 2001:3346). Further, he suggested that the political empowerment of the dalits needs to be translated into social empowerment (Ibid).

Some social scientists and activists responded to all such defensive arguments on caste and race-based discriminations. Sharp responses among them came from Gail Omvedt, to the social scientists who responded during the time of WCAR. On the question of race and caste, Gail Omvedt observed that it "is simply the issue of the comparative analysis of caste as a form of social stratification. To say that two social phenomena are similar is, after all, not to say that they are identical: it is to raise the question of analysing how, in what ways they are similar and in what specific ways they are different" (Omvedt, 18 October 2001). Her focus is on the aspect of discrimination associated with both identities. She observed "it would be foolhardy to say that racism or caste discrimination does not exist" (Omvedt, 10 April 2001). Her argument is that they "cannot be annihilated by ignoring their existence. Policies to eradicate these social evils require full consciousness of their extent, knowledge of their various expressions, and will to take public action" (Ibid).

Anand Teltumbde is other social scientist who responded in detail to the question of race and caste-related discriminations. His response to the issue came after the Durban Review Conference which was held in 2009 at Geneva. Anand Teltumbde is of the opinion that arguing about small differences "over race, caste or religion only serves to deflect focus on discrimination. As violation of human rights, discrimination is essentially a problem of humanity and cannot be an internal matter of any country. There is no need of labelling it as racial or otherwise. It is not important to know in which precise way the human rights of certain people are being structurally violated; the issue is that they are violated" (Teltumbde, 2009:18). The important aspect of the problem to be highlighted in the Durban Conference "was discrimination on the basis of descent" (Ibid:17). It is rightly pointed out that "the caste as it exists today in its existential form – dalits versus non-dalits – perfectly fitted in" (Ibid).

SOCIETY'S RESPONSE TO THE DISCRIMINATION

There has been claim on the part of many religious groups in India that they have been making efforts to help the socially marginalised. But

reality is something different. Today we have thousands of religious sects and maths within the Hindu fold. Apart from this, there are number of new age gurus. To a large extent, spirituality and service to the society has almost become a business for many of them. That is why there is criticism from many people in the society that modern gurus are running spiritual enterprises and there is no as such real inclusive spiritual message in them. When we assess the role of number of pontiffs associated with religious organisations of Hinduism, most of them have literally failed in expanding the religious and social space to the socially marginalised communities. There is no genuine willingness on their part to include these people. In fact, exclusion has become informal rule of religious organisations. The prominent non-Hindu communities in India are Muslims, Christians, Sikhs and Virasiva Lingayats. Studies show that these communities are also not free from caste discriminations and other practices as being practiced in Hindu community. It is a known fact that caste and related discriminations exist among these groups and is practiced even among people of those religions which consciously reject caste and observe theologies and ideologies that oppose caste. It is observed that within Christian community those who are of caste "origin claim that the dalit Christians benefit from Christianity. But they continue to treat the dalit Christians as untouchables" (Louis, 2007:1410). As a result those "dalits who converted to Christianity are denied equal status in the Christian community and also do not get the benefits of reservation because they are Christians" (Ibid). It is because of presence of such things that "there is increasing pressure today from rising Dalit Christian movements supported by new radical theologies such as the theology of liberation and Dalit theology" (Tharamangalam, 1997:263).

Virasiva Lingayat community is another prominent non-Hindu community which provides an interesting picture about the social inclusion and casteless society. Virasiva movement is intimately linked with the name of Basava who was instrumental in popularising it (Bali, 2008:233). This movement emerged in 12ᵗʰ century as protest against blatant social evils of the time. "The preamble of this movement is dominated by the ideology of egalitarianism and democracy. It aimed at establishing a society devoid of caste or class" (Ibid:238). Though Lingayat community is of progressive philosophy, when we look at its present practices and beliefs it cannot be considered as a community which is different from others on the question of social inclusion. It has thousands of monasteries and run number of educational institutions but its response in serving the marginalised or in including marginalised

in its fold is not satisfactory. The other non-Hindu community which came to the social scene with egalitarian philosophy is Sikh Community. But recent conflicts between Jat Sikhs and Dalits, and presence of separate Gurdwaras for Dalit community (Preet, 2012) show that Sikhs as religious community has not given sufficient importance to its philosophy. The above practices at our societal level prove what Ambedkar has said about caste and how it destroys virtue, morality and public charity. Ambedkar said it "has killed public spirit" (Ambedkar, 2014:259). It "has destroyed the sense of public charity" (Ibid) and it "has made public opinion impossible" (Ibid).

NEED FOR FRESH UNDERSTANDING ON DISCRIMINATION

It is a known fact that "the Indian state has not effectively implemented its constitutional mandate of Dalit Human Rights" (Pinto, 27 March 2001). If this is the case there is nothing wrong in dalits demanding "rights from the World Government" (Ibid). India has signed most of the covenants of the United Nations. When it is "a signatory to most of the covenants of the UN", the demand of the Dalits "is perfectly constitutional, lawful and democratic" and they can rightly "approach the very body to bring to its notice the discrimination they suffer" (Ibid). The observation of Dalit activists is "that the government's stand undermines India's commitment to numerous international conventions on human rights that it has ratified" (Kaur, 2001). Their argument is that the government "faces the risk of being exposed as a government that has not seriously addressed the crudest form of discrimination" (Ibid).

The magnitude of Human Rights violations related to caste discriminations is very severe. It is practice and belief among many in caste and race societies that some social groups are superior and some others are inferior as far as respective cultures are concerned. It is rightly pointed out that both caste and race are "stratifications, a hierarchical ordering of social categories, supported by social institutions" (Pinto, 27 March 2001). Endogamy is one of the strong features of these social categories and marriages between different groups among both are rare and very few (Ibid). It is rightly observed that "caste hinges on the idea that some groups deserve less respect and fewer rights than others. This is not because those with privilege have somehow "earned" such status, but simply a result of their birth into a particular social stratum" (Bob, 2007:169).

The other marginal community that faces discrimination in the Indian society is ethnic-tribal community from the north-east. The discrimination towards the people of the North-East region in India cannot be denied. There are many incidents of these people becoming victims because of their otherness. Their otherness has been one of the prime reasons for many of their problems. It is because of their facial features and culture many among mainland call them as *chinkis*. But, the discrimination and day-to-day humiliation towards North-East people may surely be not taken as racial discrimination by the Government and people of the main land. This hypocrisy again calls for serious attention if the political system and society at large is not ready to eliminate it and learn to live with everyone who is recognised as a citizen like the rest.

CONCLUSION

The presence of untouchability and other social discrimination has invited serious remarks about functioning of democracy in India. For many scholars, the functioning of democracy in India is a miracle or wonder of its kind. But for others, it "is a more complacent reading of the democratic experience involving mostly subsidised satisfaction with the experience. It is subsidised because it is judged against the failed experience next door and is not evaluated against the democracies that are considered to be relatively more successful in the west" (Guru, 2002:39). In future, for India to claim itself as a genuine democracy it has to work in the direction of realising social democracy. Discriminations on the basis of caste or race or any other social identity are to be treated as universal concerns. Any specific discrimination should not be considered as internal problem or a problem concerned to a particular society.

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