

DALIT ISSUES AND DALIT RIGHTS

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ABSTRACT

The word 'caste' comes from the Portuguese word 'casta' signifying breed, race or kind. The first use of the word 'caste' occurs in 1563 in the writing of Garcia de Orta. The word 'caste' used by the French who spoke of 'caste' meaning breed. It is not known whether the Portuguese or the French used it originally in this sense; the probability is that the Portuguese were the first to coin the word. The word 'jati' or caste used in India specifies a subdivision of the larger division, 'Varna.' Varna is believed to have been based on colour or race. In post-Vedic times in North India the four-fold division seems to have appeared.

Dharma can be translated as 'religion', 'duty', 'right', 'justice', 'practice' and 'principle'. The Laws of Manu, Manusmriti, is the Hindu text, which prescribes the rules for varna relations. It is usually dated to AD 200 and consists originally of 2,685 verses dealing with a range of themes, family life, caste relations, relations to money and material possessions, politics, ritual, etc.

The so-called untouchables did not have access to the main village but lived outside it. People regarded as being of higher status were supposed to keep them at a distance. The 'untouchables' were not allowed to take water from the village well; their touch was seen as polluting to the extent that if an 'untouchable' had been in contact with the well it had to be ritually cleansed before it could be used again. The Hindu temples were closed to the so-called untouchables and they were not allowed to read the religious scriptures. If the 'untouchables' were at any time allowed into the village it had to be at high noon, when the shadow is at its smallest for even the shadow was regarded as polluting.

They were not allowed to read or get any education. The occupations which the so-called untouchables were allowed to practice were those connected with material that was seen as religiously defiled, such as excrement (latrine cleaners) or dead animals (the work of taking dead animals out of the village), for example.

KEY WORDS:*Dalit Discourses across the country, Dalit Women, Fight for Dalits, Constitutional Safeguards for Dalits, The Constitution Order, 1950.*

INTRODUCTION

Many of the dalit and adivasi communities, designated as “scheduled castes” and “scheduled tribes” by the Constitution, together with other socially and economically disadvantaged communities, some of which are designated as “other backward classes” by the Constitution, are especially vulnerable to the types of human rights violations prevalent throughout India.¹

During the nineteenth and twentieth centuries the practice of untouchability was contested and the so-called untouchables came to mobilize themselves on the basis of a common exclusion. There was not *one* reform movement during this time, but many independent groups protesting against untouchability and its practice. The caste *sabhas* were the first more conscious efforts to mobilize around a caste identity. Low caste associations were formed across India to work for the uplift of the so-called untouchables from the end of the nineteenth century, but it was at the beginning of the twentieth century that they became more common.²

DALIT DISCOURSES ACROSS THE COUNTRY

In the early 1990s Dalit activities across India intensified and Dalit networks were activated. From then on the Dalit movement received more attention from the media and the public. Small Dalit groups were formed and others revived in villages as well as cities, uniting in the name of Ambedkar. Activists studied the writings of Ambedkar, took part in politics, and worked to educate their relatives, friends, and others about Ambedkar’s ideas and writings. During the 1990s they spread information about Ambedkar within India and even abroad, and like the Dalit Sahitya/Dalit Panthers they emphasized their Dalit identity and culture.

THE ORGANIZATIONAL ASPECT

CHOOSING AND FUSING PERSPECTIVES:

Although a Dalit Buddhist, a Dalit Christian, and a Dalit party-political perspective have been presented as three separate and coherent value systems for the sake of making sense of some influential perspectives among the Dalit activists, this is not what the scene looks like in practice. It can happen that a Dalit group is purely Buddhist or Christian, for example, without any interest in party-political questions.

The Dalit movement is also segmentary in a similar way to that described by Gerlach and Hine, and processes of fission and fusion are constantly taking place, depending on the

context and situational demands. There are a great variety of independent localized groups with their own ideas about goals and methods, but they may combine, as they did, for example, in the National Campaign on Dalit Human Rights.³

DALIT WOMEN

THE ROAD TO RECOGNITION:

Dalit women have since the 1980s more explicitly formed their own networks separate from the Dalit men to be able to get their voices heard. They preceded the broader Dalit movement in building a nationwide network in the second half of the 1980s. In 1995 National Federation of Dalit Women (NFDW) was formed and the same year they also took part in the Fourth UN International Women's Conference in Beijing, building transnational alliances.

The Dalit women thus organized themselves on a national and also an international level at the same time as a broader national network among Dalit activists (women and men) took shape. This meant that when the NCDHR was formed in 1998, Dalit women had already been organized on a national scale for three years, since 1995. From the 1980s onwards they had carved their own space within the Dalit movement. It is important to note, however, that even if they have organized separately from Dalit men, they tried to work in collaboration with them in the NCDHR. When reflecting on the first years of the NCDHR, Manorama described the women's participation in the following way: 'We hurtled into the campaign with all our force'. The Dalit women and men went into the campaign on an equal footing and the NFDW came to play a crucial role in Durban three years later, in 2001. This meant that not only did the Dalit movement and questions related to SC become known internationally, but international focus, to a large extent, came to be placed on the situation of SC women.⁴

DALIT SPACE IN THE WOMEN'S MOVEMENT

The women's movement that took shape during the nineteenth century was closely connected with the Hindu caste reform movement, working for reform and betterment for women, but not interested in a restructuring of society. However, Dalit women have not been absent historically, although their history has been neglected until recently.

The movement begun by Dr. Ambedkar generated an even more enthusiastic participation. Dr. Ambedkar organized several conferences of the Untouchables. He saw to it that women's conferences were held simultaneously with those for men. By 1930 women had become so conscious that they started conducting their own meetings and conferences independently.

Meenakshi Moon has interviewed 60 women in Maharashtra and in Delhi who were connected with the Ambedkarite movement in the 1930s. She shows how women took part in Ambedkar's movement and independently supported his claims in separate women's conferences and in direct action. When Ambedkar in Mahad in 1927 claimed the right of the 'untouchables' to take water from a public tank, women participated in the procession; equally important, they took part in the meetings when the resolutions were passed about demands for equal rights. They were also part of the movement in Nasik from 1930 when Ambedkar demanded temple entry for 'untouchables', up to 1935 when he declared that he had been born as a Hindu but would not die a Hindu. During this period the women conducted meetings and supported Ambedkar's claim for separate electorates (ibid.). In the earlier passage we can see how Dalit women began to organize separately from Dalit men early on, but my point in this context is that they supported the claims of Ambedkar and consequently organized separately from women within the Hindu caste reform tradition at the time.

However, in the second half of the 1980s, Dalit women came to express a need for a separate platform within the broader women's movement. In 1987 the first Dalit women's national meeting, Dalit Women's Struggles and Aspirations, was held in Bangalore. About 200 women from the south of India, but also from Delhi, Maharashtra, Uttar Pradesh, and West Bengal are said to have attended. This was the beginning of a national network of Dalit women which on 11 August 1995 formed the NFDW.⁵

TWO WELL KNOWN DALIT WOMEN MAYAWATI AND PHOOLAN DEVI:

Regarding Dalit women's visibility in the public sphere I will give two examples to show how they have been presented in media. There are two famous Indians through whom the situation of so-called untouchables has become better known during the past decade. The first I have in mind is Uttar Pradesh Chief Minister and BSP President, Mayawati. The other is Phoolan Devi, 'the Bandit Queen'. Mayawati is known as the first Dalit woman ever to reach the top of Indian politics, holding the post of Chief Minister in Uttar Pradesh. She has been praised and regarded as a role model for Indian SC women, and it is often claimed that she alone has raised their level of political awareness.⁶

FIGHT FOR DALITS THE MAHAD CONFERENCE:

In 1927, the Governor nominated Ambedkar to the Bombay Legislature. In 1927, itself the Mahad conference was organized which marked the emergence of Ambedkar as an important leader. The conference ended with his first act of public protest. The protest consisted simply of the assertion of the right of untouchables to draw and drink water from an open public tank in Mahad, a small town in the Konkan region of Maharashtra.

In 1923, the Bombay legislative Council had passed a resolution recommending that “the untouchable classes be allowed to use all public water-places, wells and dharamshalas which are built and maintained out of public funds or administered by bodies appointed by Government or created by statute”.

The Bombay Government issued a directive in 1923 to give effect to his resolution. In spite of the resolution, many local boards and municipalities including Mahad Municipality did not grant civil rights to the depressed classes. In 1926, the Bombay Legislative Council passed another resolution denying financial grants to such defaulting municipalities and local boards. Finally, the Mahad Municipality threw open the tank (which was famous for its tasty water and hence known as Chowdar) to all communities. Dr. Ambedkar organized the Dalits to assert their rights to drink and take water from the tank. Thousands of delegates attended a conference of “untouchables” at Mahad on March 20, 1927. In his presidential address, Ambedkar stressed the necessity of rooting out ideas of highness or lowness. The conference passed a resolution appealing to caste Hindus and the Government to make the resolution regarding public water-places a reality.

After the Conference, all the delegates marched in a procession to the Chowdar Tank to assert their rights. Ambedkar also walked down the steps of the tank and drank a handful of water from it. There was a rumour that “untouchables” had entered the Vireswar Temple. The caste Hindus came to the pandal of the Conference and attacked the delegates. Stray individuals were beaten. They had to run into Muslim houses for shelter. Ambedkar was forced to take shelter in a police station!

After this event, the “untouchables” in that area were forced to face social boycott. They were dislodged from their land and assaulted in many villages. Ambedkar urged his followers to take aggressive steps to wrest the right to drinking water at public water-places, and to force their entry into public temples.⁷

CONSTITUTIONAL SAFEGUARDS FOR DALITS

The important Constitutional safeguards for SCs & STs are mentioned below:

Directive Principles of State Policy:

Article 46 is a comprehensive article comprising both the developmental and regulatory aspects. It reads as follows:

Social safeguards:

Article 17. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

To give effect to this Article, Parliament made an enactment viz., Untouchability (Offences) Act, 1955. To make the provisions of this Act more stringent, the Act was amended in 1976 and was also renamed as the Protection of Civil Rights Act, 1955. As provided under the Act, Government of India also notified the Rules, viz., the PCR Rules, 1977, to carry out the provisions of this Act. This act known as the Scheduled Castes and the Scheduled Tribes Act, 1989, became effective from 30-1-1990. For carrying out the provisions of this Act the Govt. of India have notified the SCs and the STs Rules, 1995 on 31-3-1995.

Article 23. Prohibits traffic in human beings and begar and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with law. It does not specifically mention SCs & STs but since the majority of bonded labour belong to SCs/STs this Article has a special significance for SCs and STs. In pursuance of this article, Parliament has enacted the Bonded Labour System Act, 1976. For effective implementation of this Act, the Ministry of Labour is running a Centrally Sponsored Scheme for identification, liberation and rehabilitation of bonded labour.

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 other hazardous employment. There are Central and State laws to prevent child labour.

Article 25(2)(b) provides that Hindu religious institutions of a public character shall be thrown open to all classes and sections of Hindus. This provision is relevant as some sects of Hindus used to claim that only members of the concerned sects had a right to enter their temples. This was only a subterfuge to prevent entry of SC persons in such temples. For the purpose of this provision the term Hindu includes Sikh, Jaina and Buddhist.

Educational and Cultural Safeguards:

Article 15(4) empowers the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for SC and ST. This provision has enabled the State to reserve seats for SCs and STs in educational institutions

including technical, engineering and medical colleges and in Scientific & Specialised Courses. In this as well as in Article 16(4) the term 'backward classes' is used as a generic term and comprises various categories of backward classes, viz., Scheduled Castes, Scheduled Tribes, Other Backward Classes, Denotified Communities and Nomadic/Seminomadic communities.

Article 330 provides for reservation of seats for SCs/STs in the Lok Sabha.

Article 332 provides for reservation of seats for SCs/STs in the State VidhanSabhAs.

Article 334 originally laid down that the provision relating to the reservation of seats for SCs/STs in the Lok Sabha and the State VidhanSabhAs would cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. This article has since been amended four times, extending the said period by ten years on each occasion. This provision was to expire in January 2000.

Service Safeguards:

Article 16(4) empowers the State to make "any provision for the reservation in 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".

Article 16(4 A). Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State".

Article 335. "The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State".

Article 320(4) provides that nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision under Article 16(4) & 16(4)A may be made or the manner in which effect may be given to the provisions of Article 335.

Statutes and Legislations:

There are a number of laws, both Central and State, which provide for safeguards to SCs/STs. Some of these emanate from the various Constitutional provisions. An illustrative list of such laws is given below:

- 1) The Protection of Civil Rights Act, 1955.
- 2) The Scheduled Castes and the Scheduled Tribes Act, 1989.
- 3) The Bonded Labour System Act, 1976.

- 4) The Child Labour Act 1986.
- 5) Acts and regulations in force in different States to prevent alienation of land belonging to SCs/STs. In some States such provision exists in the Land Revenue Code.
- 6) Acts in different States for restoration of alienated land to SCs/STs.⁸

THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

The Indian Constitution as per Article 341(1) empowers the President of India "...by public notification, (to) specify the castes, races or tribes or parts or of groups within castes, races or tribes which shall, for the purpose of this Constitution be deemed to be scheduled Castes..." Again the Constitution, without defining in Article 366(24) only refers back to the power given to the President of India in Article 341. But once the President has given such an order, this list prepared on the basis of Article 342(2) or Scheduled Castes can be changed only through an Act of Parliament. In the list of the Scheduled Castes, the Constitution (Scheduled Castes) Order, 1950, 'almost re-enacted the list of the Government of India Scheduled Castes Order, 1936'.⁹

CONCLUSION:

Dalit activists are part of these global processes. An identity as 'untouchable' and 'impure' has not only been deconstructed during the twentieth century, but an identity has through performativity also been reconstructed now as Dalit with a 'projection of utopian hope', in terms of Fraser. When Dalit activists relate to others within the diverse global justice movement, economic problems and traditional gender roles are not only discussed as individual problems or problems within the household. It is understood within a broader context of international power relations.¹⁰

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