

SOCIAL JUSTICE AND EMPOWERMENT OF DISADVANTAGED GROUPS

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ABSTRACT

Social justice is a concept of fair and just relations between the individual and society. This is measured by the explicit and tacit terms for the distribution of wealth, opportunities for personal activity, and social privileges. In Western as well as in older Asian cultures, the concept of social justice has often referred to the process of ensuring that individuals fulfill their societal roles and receive what was their due from society. Social justice is an arena only partly covered by law; rest is covered by social and political ideas and practices. Ethical ideas about honor, right, respect, autonomy, claim, share, revenge, and shame also play significant role in determining mores of justice. A sense of entitlements also has a role to play. Justice thus propels variety of forms – from social-economic rights, to the forms of attaining justice, forms of redistribution of wealth, the form of due process, and most important the subjective experiences of justice as distinct from the attempts to construct certain objective tests of justice. Social Justice & Empowerment aims to build an inclusive society wherein members of the target groups can lead productive, safe and dignified lives with adequate support for their growth and development. It aims to support and empower its target groups through programs of educational, economic and social development, and rehabilitation wherever necessary.

KEYWORDS: Justice, Social Justice, Empowerment, SC/ST

The constitution of India provides for various measures to be taken for bringing about social justice/equality. Part IV of the Constitution lays down certain “Directive Principles of State Policy” which, though not enforceable by any Court, “are nevertheless fundamental in the governance of the country” and “it shall be the duty of the State to apply” them in making laws. Various other provisions of the Constitution are aimed at social equality. In addition to the constitutional provisions mentioned supra, the governments(s), since independence, have been taking several measures for the empowerment of the socially, educationally and economically marginalized sections of the society including (i) Scheduled Castes, (ii) Other Backward Classes, (iii) Senior Citizens, (iv) Victims of Alcoholism and Substance Abuse, (v) Transgender Persons (vi) Beggars (vii) De-notified and Nomadic Tribes (DNTs) and (viii) Economically Backward Classes (EBCs). The Government through its programs and schemes has been striving to build an inclusive society wherein members of the target groups are provided adequate support for their growth and development.

The Government has enacted various laws including (i) Protection of Civil Rights Act, 1955 (ii) The Scheduled Castes and Scheduled Tribes The Organizational setup of the Department of (Prevention of Atrocities) Act, 1989 (iii) Maintenance and Welfare of Parents and Senior Citizens Act,

2007 (iv) National Commission for Backward Classes Act, 1993 (v) The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. The National Policy for Older Persons 1999 was also introduced. In addition to the above legislations, many committees have been formed to oversee the implementation of various programs regarding social justice. Some of them are:

- (i). National Commission for Scheduled Castes (Statutory)
- (ii). National Commission for Backward Classes (Statutory)
- (iii). National Commission for Safaikaramcharis (Non Statutory)
- (iv). National Commission for De-notified Nomadic and Semi nomadic tribes (Non Statutory)

Further, various foundations, corporations and Parliamentary standing committees have been formed for this purpose.

NO SIGNIFICANT ACHIEVEMENT SO FAR

Un-utilization/Diversion of funds meant for SC/ST Sub-Plans is a major cause in the not so near performance in the country with respect to Social Justice. Funds meant for SCs/STs are being diverted by the Governments for other purposes. In most of the states in the country, the funds allocated to the SC/ST sub-plans are being diverted and used for other schemes. Further, the funds allocated under the SC/ST sub-plans are kept un-spent by the government

departments. For Example, in Karnataka, a total of Rs.27,703 Crores was released to 37 departments till November for 442 programs during 2017-18 under the Karnataka Scheduled Castes Sub-Plan and Tribal Sub-Plan (Planning, Allocation and Utilization of Financial Resources) Act, 2013. But only 42% of the released amount was utilized. As many as 11 departments-Major and medium Industries(28%), Women and Child welfare (27%), Health (24%), Minor Irrigation and Fisheries (21% each), Kannada and Culture (18%), Horticulture, Revenue and Textiles (16% each), Hand Looms and Textiles (13%), Information and Publicity (12%), PWD (11%) have utilized less than 30% of sanctioned funds. Same is the case with other States as well.

Stingless Political Reservations and Grabbing of Reservations in Education/Employment by few strata in the so called dis-advantaged groups:

The reservations given by the constitution to the dis-advantaged sections of the society in the field of politics have ensured that the people representing the target sections are entering the respective legislative bodies. But the real authority in the respective constituencies viz., MPTC, ZPTC, MLA and MP still lies with the local upper caste elders. Elected representatives are controlled by the local upper caste dominant group. The so called elected representatives are unable to do service to their community as per their wish.

TABLE-1: Investigation by Police under the Protection of Civil Rights Act, 1955 during 2016

Item	Cases			
	Number		% to Total	
	SC	ST	SC	ST
Total Number of cases, including brought forward cases	78	7	-	-
Number of cases in which charge-sheets filed in the courts	43	5	55.1	71.4
Number of cases closed after investigation	7	1	9.0	14.3
Cases in which charge sheets were not laid but final report as true submitted during the year	2	1	2.5	14.3
Number of cases pending with the police at the end of the year	26	0	33.4	0

Source: National Crime Records Bureau, Ministry of Home Affairs

Regarding Education/Employment reservations, these are confined to few strata in the so called dis-advantaged groups. Those people who enjoyed the fruits of reservation(s) are enjoying the fruits generation after generation. Those people who have not enjoyed the fruits of reservation so far

seem to be far away from enjoying any sort of benefit from the reservations. Even children of IAS officers/Group-1 Officers/Doctors/Engineers.... still claim reservations. The children of not so well-off families are unable to compete with these sufficiently equipped/trained children. As such, there is no equal distribution of the fruits of reservation amongst the dis-advantaged groups.

TABLE-2 : Cases by Courts under the Protection of Civil Rights Act, 1955 during 2016

Item	Cases			
	Number		% to Total	
	SC	ST	SC	ST
Total Number of cases, including brought forward cases	592	25	-	-
Number of cases disposed of by courts	61	0	10.9	-
a) Number of cases ending in conviction	1	0	1.6	-
b) Number of cases ending in acquittal	60	0	98.4	-
Number of cases compounded or withdrawn	0	0	0	0
Number of cases pending with courts	531	25	89.7	100

Source: National Crime Records Bureau, Ministry of Home Affairs

TABLE-3 : Investigation by Police under the Protection of Civil Rights Act, 1955 during 2016

Item	Cases			
	Number		% to Total	
	SC	ST	SC	ST
Total Number of cases, including brought forward cases	56221	9089	-	-
Number of cases in which charge-sheets filed in the courts	30999	5272	55.1	58.0
Number of cases withdrawn by the Government during investigation	16	4	0.1	0.1
Number of cases closed after investigation	6430	1092	11.4	12.0
Cases in which charge sheets were not laid but final report as true submitted during the year	2148	119	3.8	1.3
Number of cases pending with the police at the end of the year	16628	2602	29.6	28.6

Source: National Crime Records Bureau, Ministry of Home Affairs

Delay in disposal of SC/ST cases

Following two acts of Parliament flow from Article 17 of the Constitution and aim at curbing offences of untouchability and offences of atrocities against members of Scheduled Castes and Schedules Tribes.

- (i) The Protection of Civil Rights Act, 1955, and
- (ii) The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

The statistics given below reflect the continuing atrocities against the members of SCs and STs and the impact these Acts have on the offenders:

The situation under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is as under-

TABLE-4: Cases by Courts under the Protection of Civil Rights Act, 1955 during 2016

Sl.No	Item	Cases			
		Number SC	Number ST	% to Total	
				SC	ST
01	Total Number of cases, including brought forward cases	144316	23344	-	-
02	Number of cases disposed of by courts	14554	2895	10.1	12.4
	a) Number of cases ending in conviction	3762	602	25.8	20.8
	b) Number of cases ending in acquittal	10802	2293	74.2	79.2
03	Number of cases compounded or withdrawn	462	88	0.3	0.4
04	Number of cases pending with courts	129300	20361	89.6	87.2

Source: National Crime Records Bureau, Ministry of Home Affairs

As seen from the statistics above, it is very much evident that though the intention of the legislature was very clear in curbing offences against the under-privileged sections of the society, but in practice, there is slackness in implementation of the Acts. The lack of seriousness in the investigating agencies is prevalent in most of the cases. Also, in many cases, the victims are vexed with the lengthy investigation process and are upset in going to the police station number of times during the course of investigation. Same is the case during the trial process in courts. There are many instances where the victims succumb to threats and pressures from the accused. Sometimes they go down for the lure of money offered by the accused whereby the cases are weakened.

PERSISTING PROBLEMS FOR ENTREPRENEURS FROM THE DIS-ADVANTAGED GROUPS

Inadequate availability of debt, Financing, Inadequate availability of venture capital, Lack of access to raw materials, Intense Competition, Lack of Marketing, etc., are some of the problems faced by the entrepreneurs belonging to the dis-advantaged groups in the country. Out of the many problems faced by these entrepreneurs, the two major problems that are perennial are:

1. Getting financial aid
2. Marketing/Selling products

The major problem for Entrepreneurs from the dis-advantaged groups is getting loans to start business. According to Stand up India scheme, each branch should give loans between Rs 10 lakh and Rs.1 crore to one SC/ST entrepreneur and one woman entrepreneur every year.

On April 25, 2012, the government had come up with the Public Procurement Policy for MSEs, which requires all central ministries, departments, and central PSUs to ensure that at least 20% of their sourcing would be from micro and small enterprises (MSEs), and specifically, 4% of all procurement should be from companies promoted by scheduled castes (SCs) and scheduled tribes (STs). While the total procurement never crossed 0.5% on an average in 2012-13 and 2013-14 as per the surveys, a similar trend is seen in the PSUs data for 2014-15 seen by HT. Out of the 50 PSUs that replied to an RTI query, only 10 companies even maintained separate data for this.

SUGGESTIVE MEASURES FOR BRINGING CONSIDERABLE CHANGE IN THE NEXT DECADE

Despite the various initiatives taken by the governments(s) for ensuring social justice through equalization or protective discrimination policy, the governmental efforts have not brought about a sense of security and equality among various strata in the society. Successive governments have attempted to meet the basic needs of people by spending large sums of money on various subsidies, a variety of employment generation and poverty alleviation schemes. While these schemes have created a huge distributive bureaucracy only a small percentage of the sums sanctioned actually reach the intended recipient groups. A phenomenal amount of resources are wasted, destabilizing public finances, harming economic development and burdening future generations. Alongside of measures to liberalize the economy which would create new employment opportunities, there is a need to encourage entrepreneurship and self-employment particularly in the light of fast developing technology. This would spur an upward movement of people and each entrepreneur can provide work for one or more persons.

The following few suggestions would contribute in achieving significant progress in Social Equality/Justice -

REGARDING PROPER UTILIZATION OF FUNDS MEANT FOR THE TARGET GROUPS

- Opening a bank account in the name of SC Sub-Plan Fund and another in the name of Tribal Sub-Plan Fund should be opened and maintained by the respective nodal departments. An Ombudsman to be appointed to redress grievances relating to SCSP/TSP implementation.

- Initiating disciplinary action on the Head of the Department (HOD) in case of failure to spend the sub-plan funds.

- At least 25% of the un-spent amounts remaining at the end of the financial year should be carried forward to the next financial year.

REGARDING EFFECTIVE IMPLEMENTATION OF RESERVATIONS

A) Political Reservations-

- **Empowering Elected Representatives from the target groups:** Some fixed amount of funds exclusively for the purpose of spending for the benefit of SC/ST communities should be kept under the exclusive control of the SC/ST elected representatives which he/she can use only under the guidance of the district collector/joint collector.

- **Compulsory Study Tour for the SC/ST elected representatives:** The elected representatives from the SC/ST communities must be sent compulsorily on a study tour to other states/countries so as to enable them to learn the practices followed in the respective states/countries in up-liftment of the socially under-privileged sections.

- **Separate weekly question hour in the Assembly/Parliament:** There should be a separate/exclusive weekly question hour in the Assembly/Parliament to discuss about the issues related to the dis-advantaged groups in the society. The elected representatives from the dis-advantaged sections should be given priority to actively take part in the deliberations during the said question hour.

- **Unity among the Target Groups:** Not everything can be done by governments. There should be a drastic change in the attitude of the people belonging to the dis-advantaged groups. To win elections, the candidates belonging to the target groups under discussion are invariably depending on the upper caste elders/influential persons..

B) Education/Employment reservations- Again, there is something which individual(s) from the target groups has to do for the up-liftment of his brethren. As mentioned supra, even children of IAS officers/Group-1 officers/Engineers/Doctors.... Belonging to the target groups are availing reservation generation after generation.

REGARDING SPEEDY DISPOSAL OF SC/ST CASES

The following measures can be taken for the speedy disposal of SC/ST cases:

- Establishment of Fast Track Courts
- Fixing time limit for Police Investigation and Charge-Sheeting
- Initiating action on the erring officers

- Time bound disposal of cases in the courts
- Giving legal assistance (like amicus curie) to the victims

- Creation of a legal assistance fund to meet the legal expenses of the victims

- Making High Court the first appellate authority for the accused to minimize levels of appeal and thereby minimizing delay in punishing the accused if convicted.

- Granting ex-gratia or subsistence allowance to the victims till the disposal of the case (in cases where there is prima-facie evidence of offence). The amounts so spent can be recovered from the accused upon conviction.

REGARDING THE ENTREPRENEURSHIP PROBLEMS

The following measures can be taken to address the problems faced by the entrepreneurs belonging to the dis-advantaged groups-

- Entrepreneurship awareness Programs- Disadvantaged group entrepreneurs have no business background. In order to enhance awareness about business activities and entrepreneurship, it is suggested that special entrepreneurship awareness programs should be started to induce youngsters from disadvantaged groups to select entrepreneurship as career.

- Certain branches (of banks) to be ear-marked to give loans exclusively to the target group entrepreneurs.

- Effective mechanism should be initiated to check delays in sanction and disbursement of financial assistance and recovery of loan amount. There should be very minimal paper work. Single window system would be more preferable.

- Assistance in compliance to Acts – As most of the target group entrepreneurs are not so well educated, the governments should establish a separate wing for assisting these entrepreneurs in tax related issues like Registration. Filing of Statutory Returns, Auditing/Assessments, Refunds, etc.,

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