

# Confronting Marginalisation

## 1. INVOKING FUNDAMENTAL RIGHTS.

- The Constitution, as we have learnt, lays down the principles that makes our society and polity democratic.
- Fundamental rights are an important part of the Constitution. These rights are available to all Indians equally.
- As far as the marginalised are concerned, they have drawn on these rights in two ways: First, by insisting on their Fundamental rights, they have forced to government to recognise the injustice done to them. Second, they have insisted that the government enforce these laws.
- Dalits can 'invoke' or 'draw on' a Fundamental Right (or rights) in situation where they feel that they have been treated badly by some individual or community, or even by the government.
- Likewise, other minority groups have drawn on the Fundamental Rights section of our constitution. They have particularly drawn upon the rights to Freedom of Religion and culture and Educational Rights.

## 2. Constitutional Provisions Relating to Social Justice.

- Some of the Constitutional Provisions which aim at social justice by providing positive discrimination are:
- **Article 14** provides right to equality before law.
- **Article 15(1)** prohibits the state from discrimination against any citizens on grounds of Religion, race, caste, sex or place of birth.
- **Article 16(1)** states that there shall be equality of opportunity for all.
- **Article 17** abolishes "untouchability" and makes its practice in any form a punishable offence.
- **Article 29(2)** delay with educational rights of the citizens.
- **Article 38** directs the state to strive to promote the welfare of the people and secure a Justice and equitable social order.
- **Article 39** directs the state to adopt policies that secure for all citizens.
- **Article 41** requires the state to make effective provisions for securing the right to work, education and Public assistance.
- **Article 325&326** deals with political rights of the citizens.

### For SCs and STs

- **Article 15(4)** authorises the state to make special Provisions for the development of socially and Educationally backward classes.

- **Article 46** deals with the promotion of educational and economic interests of the weaker sections in general and the SCs and STs and protect them from any kind of social injustice.
- **Article 330 & 332** provide for reservation of seat in parliament and State assemblies respectively.
- **Article 338** makes the provision for the appointment of a special officer for the SCs and STs by the President of India, to investigate related matters.

### 3. Laws for the marginalised.

- As part of their effort to implement the Constitution, both state and central government create specific schemes for implication in triable areas or in areas that have a high Dalit Population.
- In addition to Providing creation facilities, the government also operates through laws to ensure that concrete steps are taken to end inequality in the system. One such law/policy is the reservation policy that today is both significant and highly contentions.
- The laws which reserve seats in education and government employment for Dalits and Adivasis are based on an important argument – that in a society like ours, where for centuries sections of the population have been denied opportunities to learn and work to develop new skills or vocations, a democratic government need to step in and assist their sections.

### 4. Protecting the rights of Dalits and Adivasis.

- In addition to policies our country also has specific laws that guard against the discrimination and exploitation of marginalised communities.

### 5. The SCs and STs Act, 1989.

- This Act was framed in 1989 in response to demand made by Dalits and others that the government must take seriously the ill treatment and humiliation Dalits and triable groups face in an everyday sense.
- To indicate to the government that untouchability was still being practiced and in the most hideous manner, Dalit groups demanded new laws that would list the various sorts of violence against Dalits and prescribe stringent punishment for those who indulge in them.
- The Act distinguishes several levels of crimes. Firstly, it lists modes of humiliation that are both physically horrific and morally reprehensible.
- At another level, the Act recognizes that crimes against Dalit and tribal women are of a specific kind and, therefore, seeks to penalise anyone who assaults or uses force on any women belonging to a SC or a ST with intent to dishonour her...

### 6. Adivasi Demands and the 1989 Act.

- The 1989 Act is important for another reason – Adivasi activists refer to it to defend their right to occupy land that was traditionally their.
- They have also pointed to the fact that this Act merely confirms what has already been promised to tribal people in the constitution – that land belonging to tribal people cannot be sold to or bought by non-tribal people.
- C K Janu an Adivasi activist has also pointed out that, in case where tribals have already been evicted and cannot go back to their lands, they must be compensated. That is, the government must draw up plans and policies for them to live and work elsewhere.

### **Laws for the Marginalised Groups:**

- There are specific laws and policies for marginalized groups in our country.
- The government makes an effort to promote such policies to give opportunities to specific groups.
- The government tries to promote social justice by providing free or subsidized hostels for the students of Dalit and Adivasi communities.
- The reservation policy is significant and highly contentious.
- The laws that reserve seats in education and government employment for Dalits and Adivasis are based on an important argument that in a society like ours, where for centuries sections of the population have been denied opportunities to learn and to work in order to develop new skills or assist these sections.
- Governments across India have their list of Scheduled Castes or Dalits, Scheduled Tribes and backward and most backward castes. The central government too has its list.
- Students applying to educational institutions and those applying for posts in government are expected to furnish proof of their caste or tribe status, in the form of caste and tribe certificates.
- Different kind of scholarship programmes are also run by governments.
- Laws related to wages, cultural rights, educational rights, and rights against exploitation have been formed for Marginalised groups.

### **Protecting the Rights of Dalits and Adivasis:**

- Our country has specific laws that guard against the discrimination and exploitation of marginalized communities.
- The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act was framed in 1989 to protect Dalits and Adivasis against the domination and violence of the powerful castes.

- A number of assertive Dalit groups came into being and asserted their rights-they refused to perform their so-called caste duties and insisted on being treated equally.
- In the 1970's and 1980's, Adivasi people successfully organised themselves and demanded equal rights and for their land resources to be returned to them.
- This Act distinguishes several levels of crimes.
- It lists-modes of humiliation that are both physically horrific and morally reprehensible.
- Actions that disposes Dalits and Adivasis of their meagre resources or which force them into performing slave labour.
- Crime against Dalit and tribal women are of a specific kind and therefore seeks to penalise who use force on these women.
- Manual scavenging refers to the practice of removing human and animal water/excreta using brooms, tin plates and baskets from dry latrines and carrying it on the head to the disposal ground some distance away.
- In 1993, the government passed the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act. This law prohibits the employment of manual scavengers as well as the construction of Dry latrines.
- We still notice instances of atrocities against Dalits, minorities and lower section of society. this situation really needs to be taken care of by implementing the laws made by government.
- The recent deaths of sewage workers put a horrific picture in front of administration and make us to think that in this advanced era of technology we have to depend on manual scavenging.

#### **Adivasis Demands and The 1989 Act :**

- The 1989 Act is important because Adivasi refer to it to defend their right to occupy land that was traditionally theirs.
- Adivasis often unwilling to move from their land, are forcibly displaced.
- This act merely confirms that the land belonging to the tribal people cannot be sold to or bought by non-tribal people.
- Adivasis demands for their tribal rights to be preserved and their forest rights to be conserved which they had inherited.
- Adivasis always wanted that their culture and primitive methods of living should not be changed and they should have privilege to live their own.
- By formulating Acts Indian government tried to stop exploitation of tribals in the hands of forest official as well.