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Constitutional Safeguards for Marginalized Sections in India.

Dr Farooq Ahmed Malik ¹

Assistant Professor Political Science Higher Education Department Govt of Jammu and Kashmir

India is a pluralist society, there are various sections of society which have been marginalized on the basis of caste, creed, religion, language or culture. That is why constitution has amply provided safeguards against exploitation and prejudices.

This paper will try to discuss some of the constitutional measures aimed at safeguarding the rights and dignity of marginalized sections of Indian society.

Key words: Discrimination, Prejudices, Equality, Constitution, Affirmative Action.

Introduction

India is a country with a large diversity. This diversity adds to its multi-cultural aspects and makes it a good case study of co-existence.

Multiculturalism is an amalgamation of different races, nationalities, languages, religions, classes, gender, etc. It's a view that people from different cultures have equal rights. It's geared toward assuming a common political culture that all can participate in. It supports cultural coexistence.¹ India is one of the most culturally diverse countries in the world. Some statistics to support the claim are:

India has 1632 different languages and dialects.

The 8th Schedule of the Indian Constitution lists 22 official languages.

Multiculturalism in India is ever increasing. The census 2011 states that 79.80% of the population is Hindus, 14.23% Muslims, Christians(2.3%), Sikhs(1.72 %), Buddhists(0.7%), Jains(0.37%), 0.66% of other religions. Despite the Indian Constitution proving to be secular, the difference in religion, language, and other factors have trouble being recognized in the public sphere. But at the same time it causes it to witness some ugly scenes of discrimination and prejudices against the weaker sections of society. Majority and minority syndrome has always been found in a society with different communities. India has this problem in the form of communalism, casteism, linguistic antagonism and regionalism etc.

When India was under the British rule, they used these differences as divisions under the policy of 'divide and rule'. These differences have prevailed in Indian society since long and they have impacted the growth and development of the state in a very dangerous way.

Constitutional safeguards against Discrimination

Given to the background of long history of divisions and discrimination on the basis of social and cultural themes the founding fathers of constitution of India paid emphasis on the measures to tackle the ugly issues that cause division and antagonism between different sections of the society. Various constitutional provisions were incorporated to provide a state sponsored safety and guarantee of equal protection and availability of rights and dignity to all sections with special preference to weaker sections.

The Constitution of India has provided two types of safe-guards -general and specific to safeguard various interests of the minorities. In the first category are those provisions that are equally enjoyed by both groups. The provisions ensure justice- social, economic and political equality to all. The second category consists of provisions meant specifically for the protection of particular interests of minorities.

People's right to "equality before the law" and "equal protection of the laws";

Prohibition of discrimination against citizens on grounds of religion, race, caste, sex or place of birth;

Authority of State to make "any special provision for the advancement of any socially and educationally backward classes of citizens" (besides the Scheduled Castes and Scheduled Tribes);

Citizens' right to "equality of opportunity" in matters relating to employment or appointment to any office under the State – and prohibition in this regard of discrimination on grounds of religion, race, caste, sex or place of birth.

Authority of State to make "any provision for the reservation of 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, etc.

From the very beginning in the preamble of the constitution it was made clear that equality, liberty and justice will be the foundations for a truly egalitarian society. Prohibition of and protection from discrimination was also emphasized in various articles and provisions of the constitution.

The constitutional safeguards are broadly grouped in to five categories.

Social safeguards.

Economic safeguards.

Political safeguards.

Service safeguards.

Educational and cultural safeguards.

Preamble of the constitution of India makes it very clear in unambiguous terms that it will provide equality, liberty and justice to all sections of the society without any dissemination.

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all.ⁱⁱ

Constitution of India not only provides safeguarding provisions but also makes the state duty bound to act and perform in such a way as to ensure the application of these safeguards and provisions for the benefit of the weaker sections of the society. In the Fundamental Rights under article 14 equality before law has been made a fundamental right, article 15 prohibits discrimination on any ground. Abolition of untouchability and abolition of titles makes it doubly sure to pave the way for a truly just and egalitarian society.ⁱⁱⁱ

India is one of the most diverse countries in the world. The protection of its diversity requires special constitutional provisions that can safeguard the rights of minority groups and keep them protected. The constitutional provisions that have been already made are:

Article 29 states that any citizen residing in the territory of India having a distinct language, script, or culture has the right to conserve the same. The same article states that no citizen will be denied entry to an educational institution based on religion, class, caste, or language.

Article 30 states that all minorities shall have the right to admit and be administered to educational institutions of their choice based on any religion or language.

The state shall not, granting educational aid to any educational institution, discriminate against it because it's under the management of a minority, whether based on religion or language.^{iv}

Protection of and prohibition against exploitation viz a viz scheduled castes and scheduled Tribes various provisios have been provided.

Article 46 of the Constitution provides that the State shall promote with special care the educational and economic interests of the weaker sections of the society and in particular, of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation.^v

Creation of National Commission for Scheduled castes and scheduled Tribes is yet another measure to ensure prohibition of Discrimination and injustice to marginalized sections of the Indian society. National Commission for Women, national commission for human rights, Minority commission etc also act as special measures and safeguards for the protection of weaker and vulnerable sections of society from different forms of Prejudices and Discrimination.

Article 350A: Directs the State to provide facilities for instruction in the mother tongue at the primary stage of education.

Art 164(1): According to this article in states of Bihar, MP and Orissa there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the scheduled castes and backward classes.

Art 330: Reservation of seats for the scheduled castes and scheduled tribes in the House of People.

- Seats shall be reserved for scheduled castes
- The scheduled tribes except the scheduled tribes in the autonomous districts of Assam
- The scheduled tribes in the autonomous districts in Assam.

Art 332: Reservation of seats for scheduled castes and scheduled tribes in the Legislative Assemblies of the states.

- Seats shall be reserved for the scheduled castes and the scheduled tribes (except the ST's of autonomous districts of Assam) in the Legislative Assembly of every state.
- Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the state of Assam.

Art 334: Reservation of seats and special representation in Legislative Assemblies and House of People to cease after fifty years.^{vi}

There are various other provisions of the constitution which aim at providing the protection to weaker sections of the society. These provisions and guarantees also help to give the marginalized sections an opportunity to be at par with the mainstream population of the country.

Article 338: National Commission for scheduled castes and scheduled tribe

Article 339: Control of the Union over the administration of Scheduled castes and Scheduled tribes.

Article 340: Appointment of a commission by the president to investigate the conditions of backward classes.

Article 341: Power of the President to specify the castes, races or tribes or posts of or groups within castes, races or tribes as scheduled castes.

Article 342: Power of the President to specify the tribes or tribal communities or parts of or groups within tribes or tribal communities as scheduled tribe.

Article 350(A): Facilities for instruction in mother tongue of a minority group.

Article 350(B): Special officer for linguistic minorities.

Conclusion

Recognition of Problem of discrimination and injustice against the weaker sections is a prerequisite for addressing the problem of inequality. Therefore, first step towards the empowerment of and equal opportunity for weaker sections is the recognition that they are indeed discriminated against. Because if we do not accept that there is a problem the solution becomes an illusion. The constitutional safeguards need not to be taken as antagonism to mainstream but an affirmative action necessary for the dignity and protection of the marginalized sections. Constitutional provisions for safeguarding the interests of weaker and vulnerable strata of the society need to be applied in true spirit so that inequality and vulnerabilities can be ended and the goal of a just, egalitarian and peaceful society can be achieved.

ⁱ<https://byjus.com/free-ias-prep/multiculturalism/#:~:text=Cultural%20Diversity%20in%20India&text=The%208th%20Schedule%20of%20the,%2C%200.66%25%20of%20other%20religions.> <https://journalppw.com/index.php/jpsp/article/view/7814>

ⁱⁱ Preamble of the constitution

ⁱⁱⁱ Fundamental rights, right to equality article 14-18

^{iv} Fundamental rights, minority and cultural rights, article 29-30

^v Constitution of India, DPSP Chapter, article 46.

^{vi} <https://www.sociologyguide.com/weaker-section-and-minorities/Constitutional-Safeguards.php>