

Introduction

National Campaign on Dalit Human Rights appeals to national and international bodies to recognise that 'Dalit rights are human rights'. The appeal is that the International Human Rights Community and the UN must recognise the plight of the Dalits and endorse that Dalit rights are human rights. The demand is that all forms of discrimination and violations both by the state and by the civil society be brought under the purview of Human Rights by all International Human Rights organisations.

The significant features of the Indian social structure is the deep-rooted caste system based on the *varna* ideology identified through its pollutions and purity axis. The equality enshrined in the constitution has failed to bring end to untouchability and its discriminative practices. The 1955 untouchability offence Act, the further change in the Act in 1976 imposing legal obligation on the state to ensure that rights arising from the abolition of 'untouchability' are made available to an are availed to by the person subjected to any disability arising out of 'untouchability'. The atrocity Act of 1989, rules of 1995 and a few court judgments in favour of the Dalit victims, things do not seem to be any better for most the Scheduled caste, nearly 15% of India's population. Acts, Policies, laws are in paper, they don't change the situation, people can but then you need will and commitment to do so. The following recent news items will highlight the human rights violations these communities have to face in spite of all the constitutional and legal changes that have been brought in after independence.

MADURAI, SEPTEMBER 29: A 38-YEAR-old Dalit woman was allegedly forced to drink excreta mixed with water in front of her husband and children after she spurned the advances of an upper caste villager in Keela Urappanur village in Thirumangalam block of Madurai district recently (Indian Express 30.9.03) such incidents take place after all these Acts.

CHANDIGARH, SEPT. 27. The Punjab and Haryana High Court today issued notice to the Haryana Government on a public interest litigation seeking directions to provide adequate security to 170 Dalit families who were threatened by upper castes 'Jats'. .. These Dalit families now camping outside the village for seven months have not been able to cultivate their land nor could send their children to school in the face of threats from the 'Jats' (Hindu 28.9.03).

CHENNAI, SEPTEMBER. 24: In yet another case of a village Panchayat(Council) indulging in abuse of human rights to "discipline the oppressed classes," a Dalit youth was beaten up and ostracised from his village after he loved and married an 'upper caste' Vanniar girl near the temple town of Thiruvannamalai, about 200 km south of here (Asian Age 25.9.03).

NEW DELHI, OCTOBER 15 : A YEAR ago, five Dalits were lynched in Jhajjar. Today, when one of the victims' 82-year-old father came up to former PM IK. Gujral and said "they were waiting for justice", he did not know where to look. "I have been a PM, but when they say this, I don't have the courage to look them in the eye. They hold the mirror of truth to me and I am embarrassed," said Gujral at a meeting organised by Dalit activist Udit Raj's Indian Justice Party (Indian Express 16.10.03).

AHMEDABAD, OCTOBER 5: AROUND 5,000 Dalits and Adivasis from all over Gujarat converted to Buddhism on Sunday in protest against what the event organizers called the dual policy of upper caste Hindus 'to use these backward classes in riots against Muslims, but dumping them later' (Hindustan Times 6.10.03).

It appears that nothing has changed in spite of the claims that things have improved. The caste system has proved as unshakable and 'untouchable' as it is oppressive. Attempts by dalits to disturb the traditional social hegemony in rural India are still met with large-scale violence, destruction of property and sexual violence against women.

The paper will briefly look at the concept of human rights, view the 'Dalit' specificity of human rights and then move onto high light some of the social, political and economic issues facing Dalit communities listed under scheduled castes in government records and larger numbers of them prefer to call themselves Dalits. The paper will then move on to look at ideologies that promote, and sustain the situation in favour of the perpetrators and blunt the resistance of the victims and worst justify their situation. The paper will conclude by discussing the strengths and limitation of human right approach in addressing the inhuman situation of Dalits.

What are human Rights?

Though widely used in recent times among civil society actors, it is hard to define the term human rights. "It is a dynamic concept and endeavours to adopt itself to the needs of the day. For this reason, the definition and understanding of the term depend much on the condition and opinions prevailing in the given society at a given time and it attains new dimension with the march of history. Since the socio-economic environment with which the question of human rights is intrinsically bound up, keep changing so do the form and content of human rights. Hence, what constitute human rights cannot be spelt out, in absolute terms for all times and all situations" (Alam: 2000: 12). Technically, "*Human Rights* means the rights relating to life, liberty, equality and dignity of individual guaranteed by the constitution or embodied in the International Covenants and enforceable by courts in India" [see protection of Human Rights Act, 1993, Section 2 (d)].

In spite of the difficulties and complications involved attempts are made to comprehend and define human rights. "To put it simply, human rights constitute

those very rights which one has precisely because of being a human. They are inherent in our nature and without which we cannot live as human beings. Human rights pertain to all persons and possessed by every body in the world because they are human beings. They are not earned, bought or inherited not are they created by any contractual authority. Differences of sex, race, language, colour and differences of property, social origins, political ideals or religious beliefs do not change these rights” (Alam: 2000:13). Baxi would argue that the right to be human is, of course, the leitmotif of all human rights thought and action (Baxi: 1994).

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. Following this historic act the UN Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories” (UNDHR). The question of human rights was considered to be a subject matter between a State and individual within its territory – a matter of domestic jurisdiction. It was UN charter that ushered in the new international law of human rights and thus for the first time they were universalised and internationalised.

Human rights are recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family, which is the foundation of freedom, justice and peace in the world (UNDHR). Human rights are proclamation and reaffirmed faith of United Nations in the dignity and worth of the human person and in the equal rights of men and women (UNDHR).

A brief Profile of Dalits:

Some figures about the Scheduled caste communities may help us the magnitude of the problem in terms of number people who are affected and are victimised due to human rights violation.

Percentage Distribution of Indian Population by caste, Tribes and Religious Groups

Sr. No.	Group Name	Percentage of Population
I.	<i>Scheduled Castes and Scheduled Tribes</i>	
	A.1 Scheduled Castes	15.05
	A.2 Scheduled Tribes	07.51
	<i>Total of A</i>	22.56
II.	<i>Non-Hindu Communities, Religious Groups, etc.</i>	
	B.1 Muslims (other than STs)	11.19 (0.02)+
	B.2 Christians (other than STs)	02.16 (0.44)+
	B.3 Sikhs (other than SCs and STs)	01.67 (0.22)+
	B.4 Budhists (other than STs)	00.67 (0.03)+
	B.5 Jains	00.47
	<i>Total of B</i>	16.16

III.	<i>'Forward' Hindu Castes and Communities</i>	
	C.1 Brahmins (including Bhumihars)	05.52
	C.2 Rajputs	03.90
	C.3 Marathas	02.21
	C.4 Jats	01.00
	C.5 Vaishyas-Banias, etc.	01.88
	C.6 Kayasthas	01.07
	C.7 Other 'forward' Hindu Castes, groups	02.00
	<i>Total of C</i>	17.58
	Total of A, B, and C	56.30
IV.	<i>'Backward' Hindu Castes and Communities</i>	
	D. Remaining Hindu Castes/groups which come in the category of other 'backward Classes'	43.70
V.	<i>'Backward' Non-Hindu Communities</i>	
	E. 52% of religious groups under section B may be treated as OBCs [OBCs of B communities calculated for reservation benefits]	08.40
	F. The approximate derived population of Other Backward Classes including non-Hindu communities	52% (Aggregate of D and E rounded)++
+ Figures in brackets give the population of SC and ST among the non-Hindu communities, ++ This is a derived figure.		

Source: Prasad, Anirudh. 1997:23-24, 'Reservational Justice to Other Backward Classes (OBCs)', Deep and Deep Publications, New Delhi.

India has 15.5 % Dalit in its population of nearly 101 million. An estimated 700,000 Dalits are 'manual scavengers'. Manual scavenging involves the most demeaning tasks such as cleaning latrines and large septic tanks and sweeping the roads. Dr. J. Muthumary Ptofessor from Centre for advanced studies in botany University of madras, in her article 'Dalit Women in India' states that present positions seems to be better with reference to the rate of literacy among dalits. The literacy rate is 31.48% for boys and 10.93% for girls. Dalits women belonging to the creamy layer of the society are better with good education and socially and economically they are well off like other high castes. They are fully aware of the welfare schemes provided by the Government and their percentage is very low when compared with the total dalit population. However she states that about 75% of Scheduled caste communities live below poverty line. It is also suggested that today, about two-thirds of the dalit population is illiterate, and about half are landless agricultural laborers. Only 7 percent have access to safe drinking water, electricity and toilets.

Issues in Dalit Human Rights

Untouchability

The ideology of *varna* is not just a body of ideas but influencing behaviour of those who believe in this ideology expressing a deep attitude of contempt towards a section of society (also see Franco and Sarvar: 1989). Dignity and self-respect is dear to every human being and it is expressed and communicated in interaction with other human beings. The dalits are robbed off and denied the most basic human need of well being that is human dignity. Untouchability is practiced in all cities, towns and villages in India in some form or the other. Iyer (2002:3) has rightly said “the caste praxis, making the division of the community lunatic, as Vivekananda vividly vituperated still persists vis-à-vis dalis, women and ghettoised areas of miasmal milieu.” Its subtleness and viciousness varies from place to place, people to people. I shall be happy to hear if there is an exception. Do not be under illusion that only the illiterate practice untouchability in our ‘civilised’ society, thanks to our local and national education content, process and system that most literate and ‘educated’ reproduce and emit the venom of untouchability as well. Obviously the victims are the persons belonging to schedule castes. The Dalits are not only humiliated in private spaces of houses and *maholas* (streets) but in public places such as *Pnachayat* Houses (village and Block council offices), schools, hospitals, barber shops, tea stalls, buses, etc. They are communicated in no uncertain ways that their presence is not well come in those places and if they have to be there and they better behave differently as prescribed by the unenlightened Caste Hindus of the area. Being bitten up by the dominant caste Hindus is not at uncommon in many places.

Land and Water

Finding of a study suggests, “Traditionally privileged castes which enjoyed dominance earlier on account of the institutional mechanisms continue to dominate at present also. Some changes have no doubt taken place in the pattern of dominance and resource distribution but the basic characteristics remain, by and large, the same” (Singh, 1991:129).

Many incidents of violence labelled, as law and order situation, are in fact conflict for depleting, dominated and unduly controlled resources such as land and water. It is a reality that Dalits all over India have lost their land to the dominant class and caste people. The reasons are debt and exorbitant interests on mortgage agricultural land the Dalits have to pay, fear of occupying the piece of land received under allocation of land to the landless. Dominant castes members have encroached upon the public land, government wasteland and grazing land in some parts of India (see BSC’s report on Banaskath’s Public hearing: 2003). The same action and efforts by Dalits but for reasons of survival (a little more human quality of life or for getting out of dependency on the so called high castes) have resulted in violence and implication of dalits in false charges of instigating violence disturbing the peace in the area or being members of violent groups.

Water is a precious commodity for drinking, household and agriculture purposes. Practice of untouchability affects the access, control and ownership of this commodity. Goes without saying that the upper and dominant castes have an upper hand in the matter and the Dalits have to be at the mercy of these patriarchal and feudal lords. Dalits dare not fetch water from the so-called village well or village taps (Often at these occasions the caste women exploited by men of their patriarchal community becomes exploiter of Dalit women). Providing Scheduled Castes localities their own wells and/or provided water connection in their hamlets often is not out of consideration for the downtrodden but fear of caste Hindus of sharing the same resources from the same place and be polluted – it is a façade, pretence, gestures of ‘false generosity and disguised untouchability’. Even the Development agencies (Government as well as Voluntary) fall into this trap, or chose to do so because many of the functionaries come from the same rank and file (infected by *varna* ideology and practice untouchability in a subtle way as it may be). Experience suggests that the canal water (where the facility exists) reaches last to the fields of Dalits, they dare not water their field unless the fields of the upper castes are watered or allowed to do so. Challenging the Caste landlords/farmers may result in violence Dalits bearing the brunt of it.

Basic Civic Amenities

A State has its own rights and responsibilities. It can demand citizens’ adherence to policies, laws and constitutional behaviour. But it also has the responsibility of ensuring that the citizens’ have basic civic amenities such as water, light, housing, education, health and transport. In India many are deprived of these basic amenities and a large section of the deprived is the Dalits. Social, political and economic existence of Dalits is interdependent on socio-political and economic reality of the county like any one else but their existence is also influenced by *varna* ideology and practice of untouchability like no where else. Since they are ‘lesser human beings’ they have a lesser influence on the socio-political and economic system of the area and county at large. Above mentioned commodities are such that they are not easily accessible unless you have some influence on people who control the sources of these resources (often happens to be the ‘Babus’ and bureaucrats who religiously adhere to the teaching of Manu) these commodities. Often a protest from the excluded comes as a surprise to many who are wedded to caste hierarchy, for them it is your bad luck that you are a scheduled caste, it is your fate that you are born an ‘outcaste’ an ‘avarna’.

There are some ‘civilised’ Indians who think that the Dalits are ‘uncivilised’, ‘uncultured’ and they wonder whether the Dalits really need so much of water, electricity and mobility as others do (the attitude is that poor should be grateful and satisfied with whatever facilities (table crumbs) given to (thrown at) them by people who have. Dalits, victims of years of exploitation and exclusion of all kinds have *internalised* their situation as given (often god given) and therefore take the situation for granted as their fate. It is common knowledge that in cities and towns wherever there is Dalit and poor people staying, the state of affairs with regards to water, electricity, street lights, sewage, road, transport, etc., will be very poor and inadequate from those areas where the other communities stay. In the villages there

are separate hamlets of Dalits in some way distinct and away from the 'village' where other reside. Physical location follows the same pattern in the towns and city as well. Untouchability and deprivation of basic civic amenities is rural as well as urban reality for the Dalits, yet another aspect of their life – their rights to live a human life denied.

Livelihood and lack of Alternatives

Justice Sawant speaking for the constitution bench in a case [AIR 1986 SC 180: (1985) 3 SCC 545] said, "The Right to life includes right to livelihood....Income is the foundation of many fundamental rights and when work is the sole source of income, the right to work becomes as much fundamental" (Iyer, 2000:285). Practice of untouchability hurts badly the victim, her mind (psyche), her being but it equally hurts her stomach as well. Varna ideology, internalised, dehumanises both the Caste persons [the exploited] as well and the outcaste Dalits [the exploited] (Heredero: 1989; also see Freire: 1972). The 'caste people' see the Dalits as good for nothing except for the menial work which is necessary but polluting. Therefore Dalits taking up different kind of work (not prescribed by teaching of *Varna dharma* by Hindu Scripture) is often tolerated. Dalits are unable (though capable and competent) to take up other kinds of employment especially in the rural setting – tea stall, grocery shops, and other economic ventures of products and services often not out of choice but fear of the caste people who will be malicious to boycott their products and services (also see Arputhamurthy: 1990). It becomes very difficult for a Dalit to be a plumber, electrician, run a floor mill in a village. Besides Dalits themselves, hardly any one would make use of her/his services. Often enough Dalits themselves will be at risk in standing by their excluded individual and group by the Caste people. Such competent and skilled Dalits, deprived of their right to any profession have to look for employment outside their villages, in the towns and cities where they are not identified easily.

Lack of adequate and quality education coupled with lack of influence, finance, and other assets, opportunities for employment do not come easily to Dalits. A large number of Dalits find themselves unorganised at work place at the rural as well as urban area, be it agriculture, industry, or other sectors. Almost all bonded labourers in India come from Schedules Castes or Scheduled Tribes. *The UNICEF's State of World's Children, 1997 Report* has special relevance for India. It suggests that almost all child labours in India are from SC or ST families, majority of them are girls. They were bonded to pay off debts to landlords and work in situations where their parents were employed. The children were not paid the minimum wage and subjected to abuse by employers.

In no society that takes human rights seriously should there be allowed a state of affairs where human beings become sub-human—that is, when they perforce have to surrender even those sonorously recited "inalienable" rights of man, where people sell their wives, children of themselves (in bonded labour) in order to survive, or surrender their life. The expression "human rights" presupposes a level at which biological entities are bestowed with the dignity of being called human.

The bearers of human rights must have an implicit right to be and remain human, allowing them some autonomy of choice in planning survival. (Baxi: 1994:3)

Poverty, starvation, lack of adequate and sustainable livelihood has forced many Dalit girls and women to be sex workers (strange enough untouchability does not hinder the Caste Hindu men from ‘touching’ and ‘using’ these women – height of hypocrisy). Those who get into to organised sector do not reach high up because most of those places are filled with people who count for only 12% of India’s population (upper castes). Dalits who are employed by municipality in cleaning of towns and city sewage system stick to this work in spite of most inhuman and unsafe conditions under which they have to work because they have no option for other employment.

Role of State

Declaration on the right to development affirmed in UNDHR. It emphasis active, free and meaningful participation and fair distribution of benefits resulting from development. The ground reality in India suggests that Dalits are excluded from both. There are several government programmes and schemes aimed to improve the quality of life scheduled castes and address the issue of equality. Not denying some positive aspects and change these measures have brought about over all impact does not reflect seriousness, commitment and political will of the policy makers and bureaucrats. It is unfortunate that often well meaning Government officials forget that Scheduled castes communities are capable, competent to think of theirs as well as nation’s development and therefore their participation in the development processes is important. Often the State machinery and the schemes have the paternalistic approach (embedded and endorsed in Hindu *Varna* ideology) to development of the Scheduled castes, they do not reflect faith in people and their ability to work towards their own ability to empower themselves (see Dabhi, 1995). People do not feel part of these development efforts, neither in their planning nor in their execution and implementation.

Poverty, marginalisation and discrimination are not only gendered but also *castist* (people are poor, marginalised from main stream and discriminated from public places and interactions on their caste affiliation). The State has plaid a just lip service to eliminate this evils and sometime even reinforced the practices for example providing two or three wells in the village separate for different castes instead of ensuring penalising the perpetuator of untouchability in the village.

As part of development and empowerment efforts many self help groups (SHGs) promoted by government in collaboration with NGOs have done a considerable work in organising the poor and meet some needs of the downtrodden including the Scheduled castes. However the underlying assumption in these SHGs is that women have small needs, more so Dalit women. Larger financial interactions, organisation and administration capabilities are not meant for them. Often right to development of these sections of people is curtailed by the so called well wishers, because these well meaning people often from Government and bilateral agencies, do not have enough faith in people whose development they are working for.

Respecting Human Rights of the scheduled caste is to treat them as adults and not as kids, as recipients, as subjects and not actors in development.

State is the protector of constitution and the rights of its citizens. However cases of human rights violation in India are permanent feature of the state system - "the state is a major culprit, brutalising whole population, but massive violations also take place in and through civil society sometimes with connivance of the state and frequently reflecting feudalist and patriarchal dimension of culture" (Alan: 200:33).

Role of NGOs and larger civil society

In the last decade people around the world seem to have lost confidence in the effectiveness of their governments - and seem to be losing faith in democracy (HDR, 2002), they turning their eyes on Not for Profit Sector especially towards NGOs committed to people's development and human rights. 73-74 amendments in the Constitution has gives greater power and role to the VOs in India, especially Panchayati Raj Institution and NGOs. Of about 1 million registered voluntary organisations (Non Government organisations) registered under Trust and Society there are about 18,000 have FCRA number. An estimate suggests that about 50,000 of these VOs are claimed to be effectively working namely they have significance presence at the grassroots level. Informal interaction with CAPART official suggests that it has so far supported 19000 Projects in India and helped 12000 VOs, spending about 650 crore of rupees in providing support. However it might be worth examining how much is spend on projects dealing with human rights issues of Dalits and other discriminated communities, my guess is that there will be reluctance support such efforts.

Some of these NGOs are involved in Human Rights issues in general while a few are committed with discriminated communities like that of scheduled castes in particular. Acknowledging the commendable work some of the NGOs have done in Human Rights in India, there is a lot to be desired. Many of these organisations are known to highlight the issue but then leave at that and do not follow up. Governments, NGOs and other institutes do not empower people; people empower themselves (Human Development Report 1997:96). There are NGOs and their leaders and functionaries who believe otherwise, they see people as mere target group of their organisation, to work for and not work with. There are various kinds of NGOs and started with different motives, not necessarily wedded to the issues the most poor, discriminated and excluded communities of India. As there are family run NGOs there are voluntary associations which are instituted by state apparatus. Good numbers of NGOs are run by professionals who are not locals (Kapoor & Singh 1997:134) and are not fully aware of the plight of the people they work with/for. Many of them dependent on government, funding agencies and 'being in good terms with' ruling parties for their survival, existence and legitimisation.

It is argued that acquiring and maintaining adequate resources requires an organization to interact with individuals and groups that control resources

(Froelich, 1999). It is further argued that organizations are constrained by the environment as a consequence of their resource needs. The degree of dependence experienced by an organization is determined by the importance and concentration of resources provided. Organizations that rely on few sources for vital inputs become highly dependent on and beholden to those providers for survival (Froelich, 1999). It is understandable that good number of NGOs that fall in this category will not unnecessarily get into confrontation and conflicts with any one will not think of taking up human rights issues, much less getting involved in the struggle of people which might rock the boat.

There are a few NGOs, members from civil society have taken stand in favour of human rights. They continue to face difficulties not merely financial but of human resource, Many of these NGOs cannot provide fat salaries, comforts and other perks and security from threats of human right violators, including so called high caste people, landlords, police, politicians, fundamentalists and civil society itself. It is such organisations and members of civil society that make a difference – Gujarat is a good case in point.

Legal options

Even man like M.G.Chitkara, wedded to Hindutva ideology, opposed to the caste issue being discussed in UN with race admits that “In several parts of the country, there are socially handicapped, economically disadvantaged and racially discriminated groups, squalor is their lot, neglect is their fate, deprivation is their inheritance, and they are being denied human rights” (2002:29). We know that these deprived are mostly the dalits and the tribals.

Baxi (2000:55) draws our attentions to a cluster of images of inhuman violence – “huts set ablaze, people lied to tress and burned alive, people shot and point blank range or hacked to pieces, women raped and brutally killed, children bayoneted or burned alive. The gruesome story of genocidal violence against untouchables is not yet fully told. But what we know is already enough to strip away every pretence to tolerance and non-violence form the face of India and to reveal instead, a brutalized and brutalizing society”.

The country has a well-written constitution and legal system but experience suggests that the path to justice is very long and frustrating for the poor scheduled caste person who has a short life to live, limited means to pursue the expensive court proceedings and limited options for justice. The Law exist for all but barring a few exceptions it exists to protect the lawbreakers, those who perpetuate the status quo. The failure to penalise the guilty reinforces caste dominance and gives them a license to exploit the powerless unabatedly. No wonder legal and administrative measures are necessary but not a sufficient condition to understand or eliminate the decay in Indian polity.

In a democratic country with independent judiciary as one of the most important democratic institutions justice for citizens must be relatively easy and speedy. It is not the case because the system is heavily bureaucratic and with an exception of a

few individuals (lawyers and judges) in the judiciary from lower courts to higher courts appears to be anti-poor, anti dalits. The system seems to be have been infected by 'Varna' and 'Hindutva' ideology and therefore the system tends to keep the outcaste out of the process of justice.

It is an accepted fact that the lawyers provided by government to represent the cases of poor and dalits are not only paid poorly but these lawyers often lack interest and commitment to justice.

The marginalised and Dalit community members often have no adequate knowledge of law and judiciary and much less about their modus operandi. Lack of knowledge of law, police proceedings, delay in filing FIR, and subsequent follow up make the legal cases of the Dalits weak. Often the police makes things difficult for the poor; often it is an hindrance then help. Their social and religious upbringing, prejudices towards poor and dalits make it difficult for the law enforcement personnel to stand by the poor and Dalit victims. The real event narrated to some of us by Elaben Pathak, an activist and Director of AWAG highlight the point in case. She accompanied a woman who was badly bitten up by her husband to the police station. The battered woman narrated her story to the police in details showing the bruises as well. The police after 10 minutes of listen to the narration asked her with some annoyance and impatience, "woman it is understandable that you are bitten up by your husband but what is your complain". A bias police person who takes for granted that bitten up by husband is okay, *understandable*.

Recourse to police, and court proceedings in India are very bureaucratic, expensive for the poor, tedious and time consuming for those who live from hand to mouth. They have very little choice but to continue to live an exploited, inhuman life, where violation of their human rights is a rule and not an exception. Justice delayed is justice denied.

Baxi, argued that "lawyerly ways of grasping human rights continue to remain important for future development" but his concern is "to grasp the portents of the future from the perspective of social theory of human rights" (2002:v). He further argues that "important though the *lawyer's law* is for the promotion and protection of human rights, it can be scarcely exhaust sources of meaning and movement in human rights (Baxi: 2002:v).

State, Politics and human rights of Dalits

With regards to the weakness of human rights in the so called third world both political and cultural causes are seem to work hand in hand (Borgohain, 1999). Political causes can be seen in number of ways, one of them as a political will of the state and civil society to implement the human rights and expedite the process of empowerment of the discriminated. Political compulsion of the State often disregard human right violation more so of the voiceless. The responsibility to extend human rights and fundamental freedoms rests primarily upon nation-states,

the United Nations may propose and advocate but lack authority to compel the member states to ratify or enforce covenants.

Power is the key to politics and through politics a place and position in the system of governance. Since, power without accountability corrupts and power also governs – dalits don't have and neither have means to it. Ambedkar knew the plight of his people and therefore wanted political power to ameliorate the situation of dalits. Dalits have made inroads into politics – as independents, towing line of dominant parties and establishing their own parties as well. Having dalits in position of power has helped the community to some extent but it is contested. Often these political leaders are co-opted or to be in power have to toe the party line. Once I had to share a public platform with one of the Ministers who happened to be from SC community. In his speech he made it very clear that he had two interests to serve, that of Bharatya Janta Party (BJP) and the other of Dalit community, he had to give priority to the party. Dalits getting into politics is welcomed, however to be sold to any political party is a mistake because “we come against frothy parties, their ambivalent policies and crypt-united stances in favour of the bourgeoisie Establishment”

Many members of Dalit community have risked violence and participated in Panchayati Raj against the wish of many ‘caste Hindus’, who can hardly bear to see the Dalits in position of power, whether it village, ‘Taluka’ or District Panchayat. The incidents of no-trust move by many Panchayat against Dalit *Sarpanchs* and members is common in many part of the country. It is argued and true to some extent that “At the political level, the depressed classes or the dalits have now become a power to reckon with. No government – central or State – can be formed or survive without their inclusion in the decision making processes or support from outside” (Verma:1998: 173). However for vast majority of Dalits, Right to vote, right to stand for election and right to be elected and govern are still distant dreams, and in many parts sure way of being beaten up and elimination if so wish the ‘caste Hindus’.

“In our age there is no thing as keeping out of politics. All issues are political issues, and politics itself is a mass of lies, evasions, folly, hatred and schizophrenia (Iyer, 2002:3)” says a former supreme court judge in India, human rights is no exception. There is a lot of politicking (national and international) in name of Human Rights but very little politics for Human Rights. Baxi, (2002: vi) argues that “politics of intergovernmental desire that results in constitutional, or international, law enunciations of human rights is not the sole, nor even primarily, source of origin of human rights. He argues that authors of human rights are people in struggle and communities of resistance, which standard scholarship demotes to a lowly status.

Role of discriminative ideologies

Ideologies are creation of human minds and these ideologies then in return govern human minds and societies. Caste, gender and religion are some of these ideologies. These ideologies operate on the basic assumption that there are some

who because of their birth (caste ideology), sex (gender ideology) and 'faith' (religious ideology) are superior while others are lesser human beings, they polluting and second-class citizens. The underlying principles of 'superiority-inferiority', and 'purity-pollution' make these ideologies oppressive and inhuman. It is rightly said that Caste and Gender are both ideologies of domination, which articulate with each other at various levels in order to sustain and be sustained by an unjust social order (also see Franco and Sarvar: 1989).

These ideologies are strongly embedded in society, social institutions such (such as caste and religious) and socio-cultural systems such as feudal, patriarchal, caste, religious rituals. Individual and Social values, attitude and behaviour and order and group/community positioning are influenced by these ideologies. Educational institution often play a prominent in perpetuating these ideology – "It is through the educational structure and educational process that the values pertaining to caste like untouchability, caste feeling, casteism, parochialism, caste superiority, caste hatred, discrimination etc. are transmitted and, thus, education becomes a mechanism of traditionalisation of modernity" a research finding suggests (Haq: 1991:245).

Rights of the Dalits must be looked from Human perspective (not just legal or constitutional perspective) and human rights must be seen as 'right to be human' (Baxi, 2000), a large section of caste orthodox Hindus, those who are coloured by these dominant ideologies do not see the Dalits, women (for that matter even minorities) as human beings. If these Dalit women and men are not human beings to them then where is no question of human rights for them? A women faces triple discrimination – as Dalit, as a woman, and as a economically poor woman, therefore even among Dalit her rights are the last consideration. Mindset of people is far from the reach of constitution and laws of the country, if it was not so, untouchability and crime against Dalits would have been considerably reduced by the laws of the country. The internalised ideologies dehumanise individual and societies, they dehumanise the exploited and exploiter (see Freire: 1972).

National Campaign on Dalit Human Rights demands

From The International Human Rights Community

- Recognise that 'Dalit rights are human rights'
- Undertake global effort to abolish untouchability in Asia, and consider its practice a heinous crime against humanity punishable in the severest form possible
- Bring within the purview of human rights any form of discrimination and violations against dalits, by both the state and civil society
- Ensure that Dalit human rights are explicitly and constitutionally guaranteed in the Asian countries where dalits are domiciled
- Support our demands in the UN and its various organisations

From The United Nations

- Recognise that 'Dalit rights are human rights'
- Appoint a special rapporteur or working group on the practice of untouchability in Asia
- Include caste discrimination in Article 1 of the UN Convention on the Elimination of All Forms of Racial Discrimination

Source: National Campaign on Dalit Human Rights, Secundrabad.

The reasons behind this insistence on placing the caste discrimination (discrimination based on descent and work) on the Human Rights charter, the demand and the debate placed in the context of dalits where they are domicile throws light on the issues and perspective of Human Rights in the context of a large section of a population in India.

Rationale for Dalit Human Rights

All that is proclaimed may not necessarily be intended and much less practiced; scanning the recent events worldwide it seems to be true of UNHCR. Human Rights address every human being however reality shows that plight of many human beings more so of Dalits (the broken people) has not changed much and therefore focus on Dalit human rights. It is argued that in India the constitution has done away with caste discrimination and laws are in place to address discrimination if it exists. Therefore special mention of caste discrimination in human rights documents is not called for.

Others argue that evolution of human rights and their application suggests that UN has taken on board various groups/categories of people and issues, and has addressed the specific discriminations these groups have to face. The 3500 years caste and *varna* ideology, system and practice of untouchability derived from them have remained oppressive and unshaken even today – “Despite much hype and halloo a vast number of Indian masses continue to live undignified and uncongenial life. Most of the fundamental human rights (HRs) and fundamental freedoms enshrined in the Indian constitutions have remained paper aspirations, which compel many to rethink about India’s commitment and seriousness to these issues” (Alam: 2000:12).

The International Human Rights Instruments do not address caste discrimination explicitly though 160 million population is discriminated against in various ways in India under caste ridden social order in spite of all the constitutional and legal provisions and government claims of irradiation of untouchability. Caste discrimination has the same ‘germs’ where the infected groups/communities (caste Hindus especially the *Sangh Parivar* type - Hindutva rank and file) consider and treat the dalits as lesser human being (often as not human at all but as objects for use) in the same way as racism, gender and religious discriminative ideologies and practises treat others different from them. The Dalit delegation (or Dalit ‘caucus’ as it was referred to in the World Conference Against Racism, 2001, NGO forum declaration) demanded, besides other things, ‘a linking of caste and discrimination based on work and descent, the enactment of suitable legislation to recognize and eradicate discrimination based on work and descent against dalits.

The omission of caste discrimination in UN documents on Human Rights is viewed as deliberate to safeguard political interest of the powerful in India and in other UN partners. It is in this light one must view the Dalit Human Rights and their specificity. Therefore attempt in this paper is not to highlight how Dalit Human Right are different from other human rights, neither is the purpose to show their exclusiveness from other human rights.

The efforts is to draw attention of one and all that a 'contagious deadly discriminative germ' (caste discrimination and untouchability) unattended will continue to weaken our society, hinder Indian's progress and worst it will block us from becoming more democratic, secular and humanised society. Varna ideology and Caste system add fuel to the fire of societal problems. The problem was so acute that Nehru expressed his anxiety in his *Discovery of India* by saying that "between these two conceptions, caste system and political and economic democracy, conflict is inherent and only one of them can survive" (as quoted in Prasad: 1991:37). Prasad goes on to argue that the fact of our national life reveals that political and economic democracy is in distress and casteism has survived. Therefore Dalit human rights must be seen from the perspective of putting 'all human beings in their rightful place' – where caste, creed, race and sex are inconsequential.

Conclusion

Demand made at Durban by many NGOs and activities that all forms of discrimination and violations both by the state and by the civil society be brought under the purview of Human Rights by all International Human Rights organisations must be viewed in light of effort made to highlight the issue and create a larger awareness and pressure on government to act and act committed. However the effort in itself is very limited unless strongly grounded in grassroots efforts and struggle of many groups, communities and civil society at large.

Many in the civil society are unaware of the pain and suffering of Dalits and many other discriminated communities. Many of them do not want to become aware and want to ignore the plight of the large section of people of our country. For many of them Demand at Durban is embarrassing, exposing ones weakness and illness of our country, *creedal of great civilisation and religions*. It is not an easy task to help them to change their thinking. Change in this regard is resisted tooth and nail (safronising, brutality and increased violence on Dalits are all signs of this resistance to change and reinforcement of their position).

Often desire for a 'humane' and a just society does not inspire change, what does is fear of people's power, revolt and protests from the masses. The Scheduled castes and other marginalised and excluded communities raising their heads to century old denial of their right to be human and live as human being in this country. The rich, the well off, the vested interests, the unenlightened caste Hindus are not happy with Dalit assertion, and joining hands with other excluded and exploited. They will continue to fight and resist any change which jeopardises

their power, their position, their privilege to control, dominate and manipulate people, resources of this country to their advantage.

The struggle for a dignified human life and human-living must continue and more so at the grassroots. The struggle must take up small issues which matter common person, be it water from the common well, sitting in the Panchayat office, taking a hair cut at the village barber shop, drinking water from the same pot in the school, Dalit children distributing mid day meal at school, women carrying human waste on head, people forced to carry the dead animals, people not allowed to walk with chapels, ride a cycle through the caste 'basti', people refused to take part in village festivals and mix with others, police and administration refusing to take a complain of Dalits, etc.

The struggle needs to be multi facets, at all fronts at all levels. Depriving others of their rights is denying others their due share in power. No one likes to give up power they have and when one has enjoyed power over centuries, under the guise of sacred scriptures. Struggle for Human rights is an effort towards - affirming our right to be human, to live in human and humane community of equality and justice, in governance and management, in contributing and benefiting. Struggle for Human Rights is to participate in the process of being empowered and at the same time resist domination, discrimination and exclusion of any kind just because of your birth, your religion, your sex.

Gujarat is a good example that stands in contrast to perspective suggested, for both Scheduled castes and those who are interested in their empowerment. With all the Human Rights declarations, Constitution and laws of the country the course of events in 2002 and the plight of the carnage victims is for any one to guess. No one succeeded in preventing the carnage, neither the constitution, the law of the country, the NHRC, the NGOs and well-wishers. Look at the attack on Iraq by USA and UK armed forces inspite of protest from all most all courtiers. When the constitutional democratic Institutions fail to protect life, property and right of the citizens whom do you go to? When the democratic and secular credential of judiciary and police is a suspect whom do you rely on? When the large section of civil society (especially the middle class that has emerged in last decade and half and busy with economic upward mobility), insensitive to what happens to the masses, the poor, and at the same time supporting and upholding the values and attitudes of coercive power to be, one losses faith in civil society to protect Human Rights of people, much worse of the excluded, marginalised.

Safronisation and Sanskritisation are subtle, refined forms of Hindu orthodoxy and adherence to 'varna' ideology and caste hierarchy. A civil society strongly influenced by these forces in ill-equipped to fight for Human Rights in the country. When a large section of civil society is not sensitive towards poor, to the plight of Dalits, Tribals the minorities, it is futile to expect a drastic change in people's mindset and behaviour. It is not logical to think that law makers, law enforcers and law protectors will go against their own and the interest of their clan. Change unless stirred from below from within the poor, exploited, excluded masses; from Dalits themselves (and may be supported by enlightened Non-

scheduled castes) will be slow, in piecemeal and often too late. It is in the last decade and more that the Dalits assertion has become stronger and widespread and so are the reasons and efforts to crush the assertion.

No effort, no struggle, no assertion of the poor and excluded is small or in vain. It is these tiny voices, protests, resistance, challenges and assertion that will snow ball into avalanches. The efforts of the Dalits, the excluded is not only against the government but the civil society where human rights are not protected but denied, where communities and peoples are not included but excluded from the right to be human and live as human being.

Given the strength and limitations of international bodies such as UN and its declarations, along with it the constant violation of such declarations by big power and civil societies all over including India, must help us to find more effective strategies and means not only at the top (declaration and policies to percolate to the bottom takes ages, we must know by now) but from the masses, the 'bastis' (Habitats), the slums to the streets. Baxi (2000:51) has rightly said that "the real birthplaces of sites of HRs are far removed from the ornate rooms of international conferences, being located in the struggles in the farm and the factory, home and hearth, this the author terms as HRs realism". Iyer (2002:8) argues "Social mobilisation is the only way to eliminate dalit marginalisation. The historical perspective convinces us that political ideologies of parties, even of the left, will not salvage the Dalit in the bourgeois society we live in". He goes on to suggest this social struggle and movement must be broadened and the economic foundation of dalits progress must be strengthened.

"It is the Human rights movements more than the agencies formulating human rights are in touch with reality – national, regional, and international" (Baxi, 2002:vi) and it is the people's movements more than any one else who can and will bring about change in their rights to be human. "These people within these movements more than the agencies are in a constant and conscious process of understanding human beings and human life in the emerging societies, social orders, sovereign states; and consequently addressing violence against human beings – individual and collective, based on the emerging understanding of right to be human" (Baxi:2002:vi) these people and their movement will bring about change, not merely the formulation of these Human Rights.

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