

Confronting Marginalization

Adivasis, Dalit's, Muslims, women and other marginal groups argue that simply by being citizens of a democratic country, they possess equal rights that must be respected. Many among them look up to the constitution to address their concerns. The constitution of India is something that marginalized groups invoke in the course of their struggles. As part of this, we will look at how rights are translated into laws to protect groups from continued exploitation and we will also look at the government's efforts to formulate policies to promote the access of these groups to development.

Working Fundamental Rights

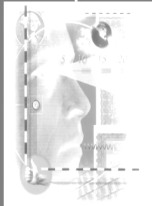
The constitution, lays down the principles that make our society and policy democratic. They are defined in and through the list of fundamental rights that are an important part of the constitution. These rights are available to all Indians equally. As far as the marginalized are concerned, they have drawn on these rights in two ways: first, by insisting on their fundamental rights, they have forced the government to recognize the injustice done to them. Second, they have insisted that the struggles of the marginalized have influenced the government to frame new laws, in keeping with the spirit of the fundamental rights. Article 17 of the constitution states that untouchability has been abolished- what this means is that no one can henceforth prevent Dalit from educating themselves, entering temples, using public facilities etc. it also means that it is wrong to practice untouchability and that this practice will not be tolerated by a democratic government. In fact, untouchability is a punishable crime. In the case of cultural and educational rights, distinct cultural, as well as the right to make decisions on how best this content is to be preserved. Thus, by granting different forms of cultural rights, the constitution tries to ensure cultural justice to such groups. The constitution does this so that the culture of these groups is not dominated nor wiped out by the culture of the majority community.

Laws For The Marginalized

The government makes laws to protect its citizens. Yet, this is not the only way in which it takes action. There are specific laws and policies for the marginalized in our country. There are policies or schemes that emerge through other means like setting up a committee or by undertaking a survey etc.

Promoting Social Justice

As part of their effort to implement the constitution, both state and central governments create specific schemes for implementation in tribal areas or in areas that have a high Dalit population. For example, the government provides for free or subsidized hostels for students of Dalit and Adivasi communities so that they can avail of education facilities that may not be available in their localities. In addition to providing certain 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 contentious. The laws which reserve seats in education and government employment for Dalit and Adivasis are based on an important argument- that in a society. Governments across India have their own list of scheduled castes. 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 government are expected to furnish proof of their caste or tribe status, in the form of caste and tribe certificates. If a particular Dalit caste or a certain tribe is on the government list, then a candidate from that caste or tribe can avail of the benefit of reservation.

Protecting The Rights Of Dalit And Adivasis

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

The Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989

This act was passed in 1989 in response to demands made by Dalit and others that the government must take seriously the ill treatment and humiliation Dalit and tribal groups face in an everyday sense. During this period, in parts of southern India, 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 order 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. This is why this act contains a very long list of crimes, some of which are too horrible even to contemplate. The act does not only describe terrible crimes, but also lets people know what dreadful deeds human beings are capable of. The act distinguishes several levels of crimes. Firstly, it lists modes of humiliation that are both physically horrific and morally reprehensible and seeks to punish those who force a member of a scheduled caste or a scheduled tribe to drink or eat any inedible or obnoxious substance; forcibly removes clothes from the person of a member of a scheduled caste or a scheduled tribe or parades him or her naked or with painted face or body or commits any similar act which is derogatory to human dignity. Secondly, it lists actions that dispossess Dalit and Adivasi of their meager resources or which force them into performing slave labour. Thus, the act sets out to punish anyone who wrongfully occupies or cultivates any land owned by, or allotted to a member of a scheduled caste or a scheduled tribe or gets the land allotted to him transferred. At another level, the act recognizes that crimes against Dalit and tribal women are of a specific kind and, therefore seeks to penalize anyone who assaults or uses force on any woman belonging to a scheduled caste or a scheduled tribe with intent to dishonor her.

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 theirs.