



THE MALADY NAMED MARGINALIZATION- AN ANALYSIS AND COMMENTARY

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INTRODUCTION

The Indian constitution guarantees its citizen equality in all aspects of life, but the reality is that in every community, there exist diverse people belonging to all strata of the society and this leads to social and economic inequality, creating different marginalised groups. Such groups face irrevocable discrimination from the dominant members of the society. The Encyclopaedia of Public Health defines marginalization as, ‘To be marginalized is to be placed in the margins, and thus excluded from the privilege and power found at the centre’.¹ Latin observes that, ‘‘Marginality’ is so thoroughly demeaning, for economic well-being, for human dignity, as well as for physical security.’’²

In general, the term ‘marginalization’ or what we refer to as ‘social exclusion’ in simpler terms, describes the overt actions or tendencies of human societies, where people who seem to be undesirable or without useful function, are excluded. These people form a GROUP or COMMUNITY for their

protection and integration.³ Marginalized people have little control over their own lives and the resources available to them, not by choice but by the status quo, thus rendering them unable to contribute towards society.

The lack of optimism and support which prevents the marginalized from participating in the local social life sets up a vicious cycle which leads to further isolation creating an immense impact on their development as well as on society at large. For addressing the issue of Marginalisation, the objective is to create an environment for people to enjoy productive, healthy and creative life. It deprives a large majority of people from participating in the process of development. It is a complex problem, and there are many factors that cause marginalization which need to be addressed at the policy level.⁴

HISTORY OF MARGINALIZATION IN INDIA

When one turns the pages of the glorious Indian history and looks closely, right in between the lines glorifying certain rulers and ages and describing the gone eras, there lies latent mention of a peculiar form of social exclusion- that based on caste. Caste, in simple terms, is a form of social stratification of different classes in Hinduism based on the ‘purity’ and ‘pollution’ of the caste. Right on top of this

¹AR Jaysing, *Nature and definition of Marginalization*, Shodhgangotri, https://shodhgangotri.inflibnet.ac.in/bitstream/123456789/3320/4/04_objectives.pdf.

²AR Jaysing, *Nature and definition of Marginalization*, Shodhgangotri, https://shodhgangotri.inflibnet.ac.in/bitstream/123456789/3320/4/04_objectives.pdf.

³Devesh Saksena, *The Problems of Marginalized Groups in India*, LAW OCTOPUS (Sept. 8, 2014), <https://www.lawctopus.com/academike/problems-marginalized-groups-india/>.

⁴Devesh Saksena, *The Problems of Marginalized Groups in India*, LAW OCTOPUS (Sept. 8, 2014), <https://www.lawctopus.com/academike/problems-marginalized-groups-india/>.



hierarchical order stood the 'Brahmins', those who were well-versed with the religious texts. Warriors and rulers followed the Brahmins as 'Kshatriyas', who in turn were followed by 'Vaishyas', the working class of peasants, traders, merchants etc. Right at the bottom were 'Shudras' the lowest caste who were those who did tasks which were 'menial and dirty', thus earning them the tag of being 'untouchables.' Interestingly, this stratification was based on the occupation of an individual but was fixed by the occasion of birth- a child born to a family of Brahmins would remain a Brahmin till he died. Same was the case for the other castes as well.

Naturally, the 'Shudras' were considered to be polluted and untouchables, which led to their social exclusion. They had separate tanks to drink water from, separate parks, separate fairs etc. Simply put, their lifestyle was a separate one, which was devoid of any interaction with those of the upper castes. The Father of the Indian Constitution, Dr. B.R. Ambedkar (a man belonging to a 'lower' caste), himself had to sit on the floor in his classroom while his 'upper' caste classmates sat on desks. They soon adopted the name of 'Dalits' which literally means 'broken' signifying that their social exclusion had broken them. Such was the scenario which led India towards its biggest form of marginalization ever.

However, marginalization doesn't end with Dalits. History is proof that women too have been marginalized since time immemorial. The post-Vedic age saw a decline in importance and esteem of women, leading to their consistent exclusion from the usual society they partook in. Women were soon

forced to stay at homes, away from the public eye and take up veils to cover their faces. Menstruating women were banished to the cowshed and barns, an extreme form of exclusion, as they were considered 'impure'. The bar on women extended to women of all age, caste, class and religion which soon took form of violence against women.

The disabled are another vulnerable group who has, since time immemorial, suffered from social exclusion due to defects in their physical or mental faculties. There isn't a reasonable explanation for this apathy shown by the public to them and this makes their upliftment even more complex as it lacks a solid base where grassroot work can be done. This shows that marginalisation exists in every sphere of the community which is not only caste-based as even gender and physical structure of human beings puts them under such categories.

THE MARGINALIZED- WHO, HOW AND WHY

India is home to many marginalized groups. Over the years, this list has just become longer. The following are some of the most vulnerable of India's marginalized-

1. **Dalits and Scheduled Castes**- Dalits have been the recipients of marginalizing behaviour for a long time now. It started as a part of social stratification based on occupation and fixed itself terribly in the Indian setup. Untouchability, caste-distinction and consciousness, social exclusion- all are the methods and consequences of their marginalization.
2. **Scheduled Tribes**- Tribes find themselves far-removed and socially excluded not just



because of their geographical distance but because of the vast culture difference between them and those living in the urban-rural setup. Historically, tribes never tried to fraternize with those living outside the forests and thus never participated in the education and other facilities which created a wide chasm of differences and unequal footing, ultimately leading to their marginalization.

3. **Women**- The 'fairer' sex is now the butt of lewd and inappropriate jokes and many are excluded from society because of the orthodox mindsets of their families and their own dependency which makes rebelling or changing tough. Women have now gained the status of always being on the periphery of the core family as either daughters, wives or mothers- whether it comes to their private decisions or the fundamental policy decisions.
4. **Religious Minorities**- Muslims, Sikhs, Christians, Parsi and other people belonging to different religions in India form the 'minority' in the predominantly Hindu but secular India. As the second largest religious group after Hindus, Muslims face the brunt of marginalization more than the followers of any other religion in India. Their culture and festivals are hardly celebrated with great pomp and show as Hindu culture and festivals are and political leaders see them, along with Dalits and SCs, as mere vote banks to help them with their electoral wins.
5. **Ethnic Minorities**- People from the North-East are heavily stereotyped and marginalized.
6. **LGBTQ+ Groups**- Due to their different sexual orientations and views, people of

the LGBTQ+ community are now being marginalized and often are subjected to violence. While they may have faced legal recognition, courtesy the judgments by the apex court which removed homosexuality from Section 377 of the IPC⁵ and recognized the third gender⁶, they still have a long way to go for social recognition and acceptance.

7. **People with Disabilities**- People with physical disabilities find themselves excluded socially where people tend to either sympathise with them but treat them pathetically or avoid them entirely. The lack of application of principle of equity is evident as many institutions still lack facilities like wheelchair accessibility etc., which makes people with disabilities unable to enjoy the benefits of these institutions.
8. **Poor People**-Surprisingly, poor or lower middle-income groups are finding themselves being marginalized by those who belong to wealthier and 'elite' classes because of their starkly different lifestyles and thinking processes/mentalities.
9. **Addicted Youth**-The youngsters who are battling addictions often find themselves alone and marginalised and are vulnerable to violence and even exploitation at the hands of the suppliers who supply them with the substances they are addicted to.
10. **The Elderly**- The elderly in our society now find themselves marginalised as they find themselves dependant on their

⁵ The Supreme Court held that Section 377 of the Indian Penal Code 1860 was unconstitutional "in so far as it criminalises consensual sexual conduct between adults of the same sex" in the landmark judgment of Navtej Singh Johar & Ors. v. Union of India W.P. (CrI.) No. 76 of 2016

⁶ National Legal Services Authority v. Union of India W.P. (Civil) No. 604 of 2013



children after retirement and are also more vulnerable to either being hurt or abandoned or, if they are independent, to thefts and robberies.

11. **People with Mental Illnesses**-People battling mental illnesses like depression, anxiety, schizophrenia etc. are ostracised and they often do not speak out for the fear of being marginalised. Those who do speak out find themselves being ridiculed and shamed as 'crazy' and 'mental' due to the stigma against mental illnesses which leads to their deteriorating mental health.
12. **People with Venereal Diseases**-Due to the existing stigma against Sexually Transmitted Diseases (STDs) and misinformation that it spreads by mere physical contact, those who suffer from STDs are shunned and often find themselves without work which leads to deterioration of their health and lack of funds to get treatments.

CURRENT LEGAL SCENARIO AND EXISTING REMEDIES

The United Nations has continuously expressed concerns over the "deteriorating" human rights conditions in the country, adding that all the marginalised groups were feeling insecure. Many groups in India remain marginalised while facing entrenched discrimination, violence and neglect.⁷ SCs and STs regularly face structural discrimination and from the historical point of view, they have also been subjected to societal exploitation. They constitute a large proportion of casual laborers, industrial laborers etc. These people remain landless with little control

⁷ Ali, All Marginalized Groups are Insecure, The Hindu, NEW DELHI, DECEMBER 08, 2012.

over resources such as land, forest and water. This has resulted in poverty among them which further leads to low levels of education, poor health and reduced access to healthcare services.⁸ They are less likely to afford and get access to healthcare services when required. They are practically deprived of many civic facilities and isolated from the modern and civilized way of living for many centuries. The Infant Mortality Rate among Scheduled Castes is 83 per 1000 live births while it is 84.2 per 1000 per live births among the Scheduled Tribes.⁹ Other forms of exploitation include early marriage, forced prostitution, trafficking etc. In cases of caste conflict, women face sexual violence from men of upper caste and other forms of mental torture and humiliation.

Most marginalized sections of Indian society include Dalits (SCs) and Tribals (STs) and they are facing atrocities for centuries now. These atrocities are present in various forms, for instance in the case of Kizhavenmani in Tamil Nadu in 1958, 44 SCs were burnt to death in a confined building because SC agricultural laborers sought a little raise in their very low wages. The High Court acquitted all the accused.¹⁰ In the Indian society, caste structures are dominant in the

⁸ Meenakshi, Vulnerable Groups in India- Status, Schemes, Constitution of India, LEGAL SERVICES INDIA
<http://www.legalservicesindia.com/article/1079/Vulnerable-Groups-in-India---Status,-Schemes,-Constitution-of-India.html>.

⁹ Devesh Saksena, The Problems of Marginalized Groups in India, LAW OCTOPUS (Sept. 8, 2014), <https://www.lawctopus.com/academike/problems-marginalized-groups-india/>.

¹⁰ Sethu Krishnan M, SC/ST Prevention of Atrocities Act- Recent Issues and Court Rulings, CLEAR IAS, <https://www.clearias.com/sc-st-prevention-of-atrocities-act/>.



form of endogamy and honour killings are prevalent on a wide scale. In the case of *BhagwanDass v. Delhi* it has been deemed that honour killings are the “rarest of rare” category of crimes that deserve the death penalty.¹¹

In present times women are also under marginalized section of the society and even though their position has been improved, there are still cases where they suffer from deeply sexist and humiliating behaviour. Death sentence to Nirbhaya's rapists¹², the case that shook the nation more than six years ago is still branded in our minds as a representation of everything that is wrong in our nation – from the way we treat our women to the faulty judicial system. Even though the four accused were convicted, it was only last year that the Supreme Court upheld the much-debated death sentence while the sixth accused, a juvenile, was able to walk free after three years in a juvenile home. This may have led to amendments in our Criminal law, yet these amendments haven't deterred potential and existing offenders.

The important question therefore is where do the marginalized groups stand today? Though there has been some improvement in certain spheres and despite some positive changes like promotion of inter-caste

¹¹Sethu Krishnan M, SC/ST Prevention of Atrocities Act- Recent Issues and Court Rulings, CLEAR IAS, <https://www.clearias.com/sc-st-prevention-of-atrocities-act/>.

¹² Madhavi Pothukuchi, 7 Landmark Cases of Crimes Against Women in India That Defined 2017, for Better or Worse, VAGABONB (May 29, 2017), <https://www.vagabomb.com/7-Landmark-Cases-of-Crimes-Against-Women-in-India-That-Defined-2017-for-Better-or-Worse/>.

marriages, the standard of living for the marginalized communities has not improved yet. The Indian Government has introduced various ways to control atrocities against marginalised groups which are visible in the Indian Constitution, Indian Parliament, and various state legislatures that have stringent provisions against atrocities targeting SCs or STs. Following are the provisions present under Indian constitution:

Indian Constitution ¹³-

- ✓ **Article 15** seeks to prohibit discrimination on the grounds of religion, race, caste, sex or place of birth.
- ✓ **Article 17** seeks to abolish ‘untouchability’.
- 1. the institution of ‘untouchability’ refers not just to the avoidance or prohibition of physical contact but to a much broader set of social sanctions.
- ✓ **Article 21A** makes education free and compulsory for children between 6-14 years of age, thus giving underprivileged children the chance to uplift themselves.
- ✓ **Article 46** – promotes the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from social injustice and exploitation.
- ✓ **Article 338** – National Commission for Scheduled Castes
 - Its functions include among others:
 1. investigate and monitor all matters relating to the constitutional and other legal safeguards for the SCs and to evaluate their working;
 2. inquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs;

¹³ Constitution of India.



- **338-A** – National Commission for Scheduled Tribes
- 1. Its functions are same as that of NCSC, but with respect to ST than SC

In 1989, the Government of India passed the Prevention of Atrocities Act (POA), which delineates specific crimes against Scheduled Castes and Scheduled Tribes as atrocities and describes strategies and prescribes punishments to counter these acts.¹⁴ The Act attempts to curb and punish violence against Dalits as it identifies what acts constitute “atrocities” and calls upon all the states to convert an existing sessions court in each district into a Special Court to try cases registered under the POA. The Act is a transformative act and a ‘Brahmastra’ in the arsenal of hapless Dalits to fight their historically asymmetrical war of subjugation.¹⁵ The judgment of Subhash Kashinath Mahajan vs State of Maharashtra should be used as an opportunity to investigate this dimension rather than weakening the act. The most important thing to do for ending discrimination and improving fraternity is persistent societal action. The Supreme Court in the case of Lata Singh vs. the State of UP has opined that inter-caste marriages are in the national interest as they destroy the caste system, enabling promotion of overall development of the nation and ending the notion of

marginalisation. POA acts as a tool in this endeavour rather than an end in itself.¹⁶ Although independent India has introduced many measures to curb the atrocities, the results are often not satisfactory.

Laws are used as a means of creating the most important output of government for citizens in society. And the laws in India regulate economic and social conditions to a greater extent than laws in most other countries do. The laws can be used to create burdens as well as benefits. Hence, law should play the dominant role in protecting the rights of the depressed sections of society. The one way to improve the condition of Dalits is to enforce the laws made for their protection right from the grassroot level. Officers from the government should be appointed with special powers to ensure that the discrimination against the Dalits is stopped.¹⁷ Primary education should be made compulsory not only by law but should be put into practice also. The State Governments should come out with a concrete plan whereby Grievance cells should be formed in each state which would have an officer and an investigative team which could go to the interior villages and find out the true facts about the harassment of Dalits and then report to the officer.

CONCLUSION

¹⁴ Simzkaur4, The SC and ST Prevention of Atrocities Act, 1989- Latest Judgements, LEGAL SERVICES INDIA, <http://www.legalserviceindia.com/legal/article-223-the-sc-and-st-prevention-of-atrocities-act-1989-latest-judgements.html>.

¹⁵ Sethu Krishnan M, SC/ST Prevention of Atrocities Act- Recent Issues and Court Rulings, CLEAR IAS, <https://www.clearias.com/sc-st-prevention-of-atrocities-act/>.

¹⁶ Sethu Krishnan M, SC/ST Prevention of Atrocities Act- Recent Issues and Court Rulings, CLEAR IAS, <https://www.clearias.com/sc-st-prevention-of-atrocities-act/>.

¹⁷ Chapter-VIII CONCLUSIONS AND SUGGESTIONS, http://shodhganga.inflibnet.ac.in/bitstream/10603/98793/15/15_conclusion%20and%20suggestion.pdf.



The list of 407 marginalized people has now increased to include poor people, youth with addiction issues, old and ageing people and members of the LGBTQ+ community along with caste groups, ethnic and religious minorities, women, people with disabilities and tribes- all of whom are in a very vulnerable position. The best way to move forward would be using education and skills as tools to empower these groups to stand independent financially and emotionally. Education and skills would help these groups identify and ultimately, achieve their potential to the maximum. There are enough laws and regulations in our country that address the issues faced by these groups and the remedies available to them- it now falls on the society at large to make these groups aware of their basic rights and recourse to legal remedies.

The best way forward, apart from education, is through social changes. Animosity against the SCs, STs and other such groups for whom seats are reserved in educational and vocational spaces has increased over time because of the misuse by the creamy layer belonging to these groups. People need to be made aware of the true state of affairs where those for whom this facility was meant are still lagging behind, cocooned in debts, poverty and lack of basic amenities while the privileged few of their group are the ones benefiting. This again brings us to the moot problem of faulty implementation of the various welfare schemes of the Government, which must be regulated. The marginalization of women can be tackled through the battle of feminism only if people grow sensitized enough to understand the injustice women have suffered and the treatment they have undergone.

Most importantly, we should be made aware as to why positive or beneficial discrimination (like reservation) is necessary to uplift marginalized people- it helps in their upliftment which would negate the amount of discrimination they have faced for all this while. Only a clear and unbiased understanding can help rectify the situation we are finding ourselves in. The ones wronged shall continue to be wronged till those who can empower them step into the picture. As Janet Mock said, *“When marginalized people gain voice and centre their own experiences, things begin changing. And we see this in all kinds of grassroots movements.”*¹⁸

¹⁸ Adivasi Voice, Why Media Is Silent On Adivasi Journalist Amit Topno's Death?, FOCUS MAGZINE (Dec. 14, 2018), <https://www.focusmagazine.in/why-media-is-silent-on-adivasi-journalist-amit-topnos-death/>.