



Law and Development of Socially Marginalised: A study of perpetual domestication in the case of Dalit Women

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The Constitution is worth saving, the rule of law is worth saving, democracy is worth saving, but these things can and will be lost if everyone waits around for someone else.

Timothy D. Snyder

This paper is an attempt to analyse the atrocities on Dalit women in India in general and one state Rajasthan in particular and contextualize the same to its actual social consequences. This is also highly important to assess social situation after the seven decades of country's independence. This paper focuses on the changing patterns and forms of atrocities committed on Dalit women in the contemporary socio-political situation in India and particularly in Rajasthan in spite of Constitutional guarantees, Laws, Acts and Rules made for the protection of women.



Right at the outset, it will be meaningful to understand what is atrocity. Atrocity is “an expression commonly used to refer to crimes against Scheduled Castes and Scheduled Tribes in India.” It suggests the quality of being shockingly cruel and inhumane, whereas the term ‘crime’ relates to an act punishable by law.”^[1] ‘Atrocity’ means an offence committed on Scheduled Caste person or Schedule Tribe person by a person from other than SC and ST community. “Atrocity” means “combination of the offences”. Atrocity signifies an offence punishable under Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989.^[2]

Dalits have continuously been socially discriminated, culturally excluded, economically exploited and politically disempowered. Dalit women are more vulnerably placed in the society due to their caste and gender subordination and this situation persists even today despite Constitutional guarantees of non-discrimination on the basis of caste and gender (Article 15) (1), right to life and security (Article 21) and to protect Dalits and Dalit women from social injustice and all forms of exploitation (Article 46). A key law to protect the rights of Dalits and Dalit women is the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989.^[3]

According to official data and numbers that registered 66 per cent hike in atrocities in the past 10 years, it has been observed that the caste based atrocities are on a rising trend. A study conducted by the National Commission for Scheduled Castes and Scheduled Tribes in 1990 on *Atrocities on Scheduled Castes and Scheduled Tribes: Causes and Remedies* pointed out various casual factors for atrocities: land disputes,

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land alienation, bonded labour, indebtedness, non-payment of minimum wages, caste prejudice and practice of untouchability, political factions on caste lines, refusal to perform traditional works such as digging burial pits, arranging cremations, removing carcasses of dead animals and beating drums, etc. The deep roots for such atrocities are traceable to the caste system, which “encompasses a complete ordering of social groups on the basis of the so-called ritual purity. A person is considered a member of caste into which s/he is born and remains within that caste until death...” [4]

Atrocities of women in general and Dalit women in particular have become a part of Indian social culture. The so-called weaker sex, i.e., women has been rendered weakest on this part of the planet reducing them neutrally slaves. The caste system, which derives from the ‘*Brahmanical Varnas*’ are largely responsible as one of the prime factors of natural suppression and hierarchal exploitation. Worst is the plight of Dalits who are treated as outcaste in the Brahmanical parlance. Percenturies the Dalit women were victim of a variety of atrocities and they continue to remains so. However, only difference has been that the growth of literacy liberalization, modernization and affiliate globalization have only changed the forms of atrocities while the content remains the same, as recorded by the states, the newspapers, NGOs (Non Governmental Organisations) and others. The major concern that is who is responsible for this-orthodoxy, age old Customs, Traditions or Shackles in which the women are chained for long time?

In order to understand the reality of Indian society in general, and the Dalit community and Dalit women in particular, an analysis of caste-class-gender dynamics is imperative. It is only by adopting this three-fold lens focusing on the cultural and material dimensions of the intersection of gender and caste discrimination that a true comprehension of key social relations and social inequalities in India emerges. This analytical lens, grounded in Dalit women’s subjective experiences, highlights how these women become instruments through which the social system replicates itself and the systemic inequality is maintained: violence against Dalit women is systematically engineered to deny them opportunities, choices and freedoms at multiple levels, undermining not only Dalit women’s dignity and self-respect, but also their right to development.[5]

A low image of the women is being subscribed in the patriarchal perspective of the caste system. Manu directs that woman should be protected in infancy by her father, in youth by her husband and in old age by her sons.[6] The caste system objectified Dalit women to be intrinsically impure and ‘untouchable’, therefore socially and culturally excluded and physically exploited. In class terms, the vast majority of Dalit women are poor; many are landless, daily wage labourers who are systematically denied access to resources. As women, they are subjugated by patriarchal structures. Due to this intersectional discrimination, Dalit women are specifically targeted for daily, egregious acts of violence, in particular for sexual violence, such as the *Devadasi* system of forced and ritualised prostitution. On account of their ‘impure’ caste and poverty, Dalit women comprise the majority of manual scavengers, that is, labourers who clean human excrement from dry toilets. When they assert their rights, Dalit women are targeted for punitive violence by dominant castes. Due to patriarchal notions of community honour residing in women, dominant caste violence against Dalit women functions to punish the entire Dalit community and teach Dalits a lesson of obedience to caste norms.



Moreover, Dalit women are discriminated not only by dominant castes on account of their caste, class and gender, but also by their own communities on account of their gender. Dalit women have less power within the Dalit community in general. When considering discrimination and violence against Dalit women, one can state that impunity is the key problem, Dalit women face today – not only while seeking legal and judicial redress for violence, but also while attempting to access and enjoy their fundamental rights and freedoms.[7]

Approximately more than 90 per cent Dalit women labourers, are working in unorganized sectors such as hawkers, collectors of garbages, petty traders and domestic servant & workers, construction workers, earth-workers, *beedi* rollers, *agarbatti* makers, candle makers and embroidery workers and earn their livelihood on the daily wages. In these sectors, Dalit women are exploited physically, sexually and mentally by the constructors, landlords and owner of the firms belonging to the upper caste. This reflects the grim reality of the grassroots that one can imagine the plight of human rights of the Dalit women in India. According to official Indian crime statistics, averaged over the period 2001-2005, “7 atrocities against Dalits every day, 13 Dalits murdered every week, 5 Dalits’ homes or possessions burnt every week, 6 Dalits kidnapped or abducted every week, 3 Dalit women raped every day, 11 Dalits beaten every day, every single crime committed against a Dalit for every 18 minutes”.[8]

Atrocities against Dalit women present one of the greatest challenges to the social justice system in the country. As the result of the present paper, the harsh reality of the suppression, struggle and torture may come out which Dalit women face on a regular and recurring basis. The hardships of Dalit women are not simply because of their poverty, economical status, or lack of education but a direct result of the severe exploitation and suppression by the dominant castes. The analysis of atrocities against Dalit women reveals the fact that there are various patterns and forms of atrocities. Old ways of social injustice and exclusion are still continuing and also new forms of atrocities are being imposed to make their lives more vulnerable. Untouchability, which was the order of the day in the life of Dalits before independence goes on unabated and it has got multiplied and diversified in many cases and instances.

Prof Nandu Ram who has done great research in this area argues, “The atrocities have also been contributed negatively even by the limited benefits of reservation policy adopted for the betterment of the Scheduled Castes. In such situation, those caste and communities that have become socially and economically mobile in the recent times are more involved in social conflicts, atrocities and collective violence than those who are otherwise. In other words, the form and the magnitudes of atrocities are more subtle in cases of those scheduled castes who have successfully improved their socio-economic position but more crude and naked in those cases where they are backwards and yet, with some amount of social consciousness and mobilization, they try to improve their lots.”[9]

As fear of the dominant castes, fear of loss of livelihood as being economically dependent on the dominant castes, and control of women’s sexuality, atrocities against Dalit women have been seen in terms of humiliating and indirectly subjugating the entire Dalit community. The inability of the



community to protect its women, particularly their sexuality, enjoyed by the dominant caste perpetrators, reinforces the socio-political domination of the dominant castes. It is because of the low caste and class status and powerlessness of Dalit men and women and the Dalit community at large. Thus, the hypothesis is validated that the absence of autonomy enhances discrimination against women that results in atrocities against women reinforcing their subordinate status in socio-cultural domain.

The key findings of the study reveals that 74 per cent Dalit women face caste based discrimination and untouchability practices. In rural areas, more than 90 per cent and in urban areas more than 85 per cent Dalit women are still facing caste-based discrimination and untouchability practices. Some of the forms of discrimination and untouchability practices in vogue are, residential segregation, denial of accessing public resources, i.e., water tank or headpumps, grasslands, fields, roads, panchayats, denial to enter in the temples, discrimination in the ration shops (PDS), health centres or clinic, wage discrimination, and many more.

On the basis of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, the atrocities found in the study are categorized into 6 major forms such as public humiliation by using filthy language, physical assault, sexual harassment, attempt to rape, rape and attempt to murder. Out of the total study samples, more than 75 per cent Dalit women face public humiliation by using filthy language in the forms of derogatory usage of caste names and caste epithets, sexual insults, and threats. One-third of the Dalit women face these types of atrocities regularly, as habitual nature and normal. 28.5 per cent Dalit women faced physical assaults in the form of beating with different instruments and with intention of injuring their body by the dominant caste perpetrators. More than 13 per cent Dalit women faced sexual harassment including attempt to rape and rape by the dominant caste perpetrators. They faced sexual harassment in the form of unwelcome physical, verbal or non-verbal conduct of a sexual nature, demands for sexual favours and etc. Three cases of domestic violence also came to the light in the study. Various forms and manifestation of domestic violence came across, such as slapping, kicking, tearing hair, pushing and pulling, hitting with an object, and threatening for life. Forms of psychological abuse were also found, for instance, verbal abuse and sarcastic remarks in the presence of outsiders.

Moreover, the Indian government's initiatives in bringing new laws and the consistent administrative inaction in protecting, promoting and fulfilling rights of Dalit women evidenced in official data indicates the increasing rates of crimes against women and Scheduled Castes. Its failure to register many cases of violence against Dalit women and low conviction rates of Scheduled Caste atrocity cases suggests systemic injustice and discrimination. These observations and findings are substantiated by the justice-seeking efforts of the Dalit women in this study.

Hence, it is not enough to feel that Dalit women are struggling with pain and suffering. There is more need for effective action for the upliftment of Dalit women. Giving effect to Dalit women's rights requires not only building structures of protection including investigation, prosecution, fair punishment and compensation for violence but also rigorously implementing laws and policies



designed to facilitate the enjoyment of equal citizenship rights for Dalit women in the country today. By fulfilling its national and international obligations to protect Dalit women from violence, complemented by adequate focus on improving the socio-economic conditions of Dalit women.

The National Human Rights Commission (NHRC) has summed up the recommendations from the National Commission for Scheduled Castes and Scheduled Tribes, national conferences and various non-state organisations for protection of Dalits' rights such as right to life and security of life for a strong urge and need for sincere and effective implementation of the laws to protect Dalits against "untouchability" practices and atrocities; capacity building within government to protect and promote Dalit human rights; capacity building of statutory watchdog bodies; strict enforcement of Supreme Court guidelines on treatment of persons in custody; convergence of regulatory and development programmes, information for social change in civil society, code of conduct for state agencies, overcoming procedural handicaps to Special Courts taking cognisance of atrocity cases without prior committal by Magistrates; right of separate settlement for Dalits, enhanced central share in schemes for Dalits, and the setting up of independent, non-official monitoring agencies to review cases of atrocities against Dalits. [10]

An understanding of the caste and gender dynamics and discrimination incorporated into government policies is crucial to ensure that Dalit women's rights to life and security of life are respected and safeguarded. There is also an open challenge to Dalit and women's movements, to incorporate a gender and caste perspective in their work, in recognition of identity and dignity of Dalit women. To stop violence against Dalit women and strengthen them socially, psychologically, economically, legally and politically, the important suggestions must be taken into consideration.

The provisions under the Indian Constitution, various Laws and Acts with Rules and the commitments done by the governments with International bodies for the protection of women and Dalit women in particular should be effectively enforced.

The most significant is that the *Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989* and various sections of the *Indian Penal Code* should be strictly implemented in order to contribute and strengthen towards eradicating the culture of violence and impunity and close watch monitoring of atrocities against Dalit women.

Government should strictly implement the existing law for eradicating social untouchability and liberating Dalit women from scavenging work.

- The facilities should be provided to Dalit women such as nutrition, accommodation, safe drinking water, electricity in village, essential goods and medicines, ensure minimum wages, self-employment program for women as basic needs.
- More inclusive domains may be created and equal opportunities should be provided to Dalit women in terms of entering in the systems like police, judiciary, education, health and politics.
- Emphasis should be on legal literacy to ensure Dalit women know their legal rights and police obligations.
- Allotment of land to Dalit women by the government should be protected from illegal occupation by the dominant caste people.
- Universities and Academic institutions need to be encouraged to undertake studies to assess the problems of violence and atrocities against Dalit women. Thought provoking sessions on harmful



- social religious practices namely, *Chira*, *Devdasi*, *Jogini* need to be held for basic understanding and effective state interventional strategies.
- Widespread readings of available literature can be referred to young generation to understand the profile and problems of Dalit women with factual incidents and success stories.
 - Special exposure visits to Dalit localities can be organised for school and college students to assess basic amenities accessible to Dalit women namely such as water, electricity, health and hygiene.

Concludingly one may argue that marginalised women which are identified as Dalit women continue to suffer to overcome from centuries old practices and customs of humiliation and systematic exploitation unleashed by dominant castes to keep them in their place in social hierarchy 'low' in the society. It has been noted that Dalit women have understood the causes of their perpetual domestication and discrimination and they are very keen to get their children education so that the viciousness can be broken. They are breaking impunity against structural discrimination, exclusion and violence to attain their human rights. They are opposing of calling themselves by using derogatory caste names. From a life of utter disdain and humiliation, Dalit women have started to write their own script of insurrection and excellence through continuous efforts and struggle.

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