

CAUSATIVE ASPECTS OF ATROCITIES AGAINST DALITS

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ABSTRACT

The caste system causes endogamy i.e., a system of marriage within caste and system of no inter-dining. These two factors make the caste system rigid which helps in the perpetuation of caste system. Ultimately, various types of caste disabilities namely no twice born ceremony, no temple entry, no education, ex-communication, social boycott, caste hatred, no right over water and property, originated from the caste system. A disability of ex-communication, social boycott, caste hatred and no right over water has resulted into practices of Untouchability. Consequently, social backwardness and cultural backwardness flow from it. Disability of no right of property has resulted into poverty that made these persons economically dependent upon and ultimately this resulted into economic backwardness. Thus, 'atrocities' is the product or outcome of all these backwardness. If Dalits combine atrocity with lack of political will and demand of statutory rights, then it resulted into aggravated form of atrocities on the Dalits by others.

Keywords: *Atrocity, caste hatred, community, dependent, men's rea*

INTRODUCTION

The term Atrocity means wickedness or an act of extreme heinous cruelty. The term atrocity has not been defined in law. Even the Act has not defined the term.¹In the absence of any legal definition, its meaning has been derived from the various instruments issued by the Government of India from time to time. The States have tended to apply their own interpretations about the term atrocity.

The Ministry of Home Affairs, has clarified this term as "any offence under the Indian Penal Code committed against members of the Scheduled Caste by any Non-scheduled Caste person. Similarly, all offences under the Indian Penal Code committed against members of the Scheduled Tribe by nonscheduled tribe are atrocities. Caste consideration as a motive is not necessary to make such an offence in case of atrocity."²Ministry of Home Affairs has again

¹See, Statement of Objects and Reasons of the Scheduled Caste and the Scheduled Tribes(Prevention of Atrocities) Act, 1989. Even though section 3 of the Act illustrates a number of Acts as atrocities, an Exact definition cannot be given to the term atrocity hence it is exhaustive.

²Fifth Report of The Commission for scheduled castes and scheduled tribes (April 1982-March1983),p. 111

clarified the term atrocity as “crimes which have ingredients of infliction of suffering in one form or the other should be included for reporting.” This is based on the assumption that “where the victims of crime are members of Scheduled Castes and the offenders do not belong to Scheduled Caste, caste consideration are really the root cause of the crime, even though caste consciousness may not be the vivid and immediate motive for the crime

In the first report of the Commission, atrocity mainly denoted grave offences like murder, rape, arson and violence resulting in grievous hurt.³ Behind the selection of these four particular serious offences as atrocity, *mens rea* regarding caste was an important factor. It would have been better if all such cases in which SCs and STs were victims and the offenders are non- SCs or non-STs and which were treated as specially reported cases were generally enumerated under the heading ‘atrocity’.⁴

Thus, there has been controversy on the definition of atrocity. If offence that is more serious should be classified as, ‘atrocities’ we would still be left with problems of defining the notion of serious offences. Apart from murder and grievous offences, one would have to fall back upon the measure of punishment provided by the Code of Criminal Procedure in defining what constitute serious offences. However, these measures can hardly be relied upon because the prescribed punishments depend on the nature of the criminal act and not upon the caste of the victim.⁵

Thus, in conformity with the realities of the situation in order to constitute atrocity, there must be an element of cruelty, brutality or wickedness in the commission of a particular offence. There are different aspects regarding the concept of atrocity. They are as follows:

ATROCITY IN RELATION TO PERSONAL ASPECTS

On commission of atrocity, the victim suffers not only of bodily and mental pain but also imminent feeling of insecurity, which is not present in the victim of any other crime. He thinks himself a very pitiable person. Even after recovery of bodily hurt, he continues to suffer mental pain during rest of his life. Sense of insecurity impede him to leave his place of residence, village. He tries to locate any other secure place, which he rarely finds. This everlasting process goes on, which result into deterioration of physical, mental, educational, social, economic and psychological status of victim of atrocity.⁶ If atrocity is committed in the absence of others, he tries to conceal it rather than to lodge a First Information Report in the Police Station because by doing so he thinks that if the public, particularly his relatives and caste men, knows incident of atrocity; his reputation will be lowered in their eyes. Besides, ignorance and fear led the victim to not disclose the matter.

³Sixth Report of The Commission for Scheduled Castes and Scheduled Tribes, p.92.

⁴See, Sixth Report of C.F.S.C.&S.T, p.92.

⁵Upendra Baxi, *Untouchability: Constitution, Law and Plan, Law and Poverty*(1973) , p.183

⁶T.R.Naval, *Legally Combating Atrocities on Scheduled Castes & Scheduled Tribes* (2004) , p. 43

ATROCITY IN RELATION TO PHYSICAL ASPECTS.

In atrocities, where the victim suffers physical injuries on his body, he undergoes bodily pain according to the nature of injuries. Acuteness and period of bodily pain varies according to grievousness of hurt caused on the body. The physical strength of the victim is deteriorated resulting into unfit or less fit in his profession and occupation.

In *Gujala Satyanarayana Reddy v. State of A.P.*⁷, it was held by the Andhra Pradesh High Court that, in order to attract section 3 (1) (xii) of the SC/ST (Prevention of Atrocities) Act, the upper caste man should be in a position to dominate the will of the woman belonging to SC or ST and he should use the position to exploit her sexually to which she would not have otherwise agreed. In this case, the complainant being a Tribal woman was going for coolly work to the field of the accused who belong to *Reddy* caste. He exploited her sexually. It was held that she was certainly in a position to dominate the will of the woman; he also used his position to exploit her sexually assuring that he would marry her.

In *Thana Ram v. State of Rajasthan*,⁸ the appellant was convicted under Section 376 of IPC and Section 3 (1) (xii) of the Act, as he was found guilty of committing rape of a minor girl age Five years belonging to Meghwal community of SC. The Rajasthan High Court upheld his conviction and held that the non-examination of prosecutrix aged five to six years, who had not developed the faculty of understanding, was not fatal to the prosecution case.

ATROCITY IN RELATION TO ECONOMIC ASPECTS

Commission of atrocity also affects the economic position of victim. In some kinds of atrocities, such as destruction and damage of properties etc., victim suffers direct financial losses. Marginalization is one of the worst forms of oppression, which isolate Dalit community to some extent. In some other kinds of atrocities such as bodily injuries, he has to spend lot of money on his treatment.⁹ Besides, he loses his earnings during the period of his illness. In addition to this, his wealth is wasted in litigation. Thus his wealth is minimized which lowers his economic position and he becomes poorer.

EDUCATIONAL ASPECTS OF ATROCITY

Commission of atrocity also affects adversely, the educational progress not only of victim but also of his family members. In case the victim is acquiring education himself then commission of atrocities on him, hampers his education directly by bodily pain, infirmity and financial loss. If his family members are acquiring education, then their education suffers adversely because

⁷ 1997 Cri. L.J 948, see also *Pauribhusan Behera and others v. State of Orissa*, 1995

Cri.L.J 1561, *M.C. Prasanna v. State*, 1999 Cri L.J 998.

⁸ 1996 Cri. L.J 502

⁹ Trilok Sharma, *Dalits and Human Rights* (2011), p.109.

inability of the victim to help them due to his bodily injuries, bodily and mental pain, infirmity, loss of mental peace, earnings and financial damage, he suffered in the commission of atrocity.

SOCIAL ASPECTS OF ATROCITY

Not only the victim of atrocity but also society, particularly, do the persons who are caste men of victim suffer by both mental pain and sense of insecurity. The status and reputation of the victim is lowered in the society. His caste men also feel insulted and humiliated. Their reputation also goes down in the society. This generates caste feelings, which disintegrate the society and divide them on caste lines.

According to the Social Structural Victimization Theory, the social structure and distribution of power within a given society are to be seen as responsible for the extent of victimization as well as for its patterns and reasons. The social structure constitutes the framework and the basis of all interactions between victims and offenders, which take place within the society in question and which prove to be failures. If minorities are being pushed away or marginalized in society, their people tend to be victims of social, structural and cultural victimization, which results from customs, tradition, religion and ideology.¹⁰

In *State of Gujarat v. Ansuyaben Vanilal Patel*¹¹, complainant was the teacher and accused was the administrator. It was alleged that accused had asked the complainant where and how timetable was lost and there after the accused told the complainant “this is not residential area of *Harijans* that you are showing color of that community”. The complainant belonging to SC and by uttering previously mentioned prohibited words the accused committed an offence punishable under Section 3 (1) (x) of the Act. However, the Court acquitted the accused.

GRAVE ASPECT OF ATROCITY

Police is the protector of law and it is one of the duties of the police to save the SCs and STs from commission of atrocities up on them by other. However, if police, instead of saving them from atrocities, commit atrocities on them, then the position of atrocities becomes grave.

Police also commit atrocities on the Dalits by implicating them in false criminal cases. It is disgusting that the protectors of law who are entrusted with the duty to save and safeguard SCs commit atrocities on them. The *Ramabai* killings reflect the Police atrocities on *Dalits*. Ten peoples were killed in police firing in Ramabai colony, in Bombay on July 11, 1997 were protesting against the desecration of the statue of Dr. Ambedkar. Sub inspector M.Y. Kadam, who had a number of atrocities cases pending against him, ordered open firing on the protesters

¹⁰Indian Journal of Criminology, Vol. 24(1&2) January & July 1996 , p.26

¹¹1999 Cri. L.J 304.

without making any effort to disperse the crowd. Most of the victims were shot above the waist. After the incident, the members of *dalit* community were refused to lodge any complainant.¹²

The National Human Rights Commission (NHRC) in its report stated, “Police resort to various machinations to discourage scheduled castes/ scheduled tribes from registering cases, to dilute the seriousness of the violence, to shield the accused persons from arrest and prosecution and, in some cases, the police themselves inflict violence”.¹³

CAUSES OF ATROCITIES

Caste System, Endogamy and Caste hatred

One of the main factors for commission of atrocity is caste and caste system. Dr. B.R. Ambedkar was of the view that “Caste has ruined the Hindusthe recognition of the Hindu society on the basis of ‘*chaturvarna*’ is impossible because the ‘*varna vyavastha*’ is like a leaky pot or like a man running at the nose. This is incapable of sustaining itself by its own virtue and has an inherent tendency to degenerate in to a caste system unless there isa legal sanction behind it which can be enforced against everyone trespassing his *Varna*’.¹⁴

Caste system causes endogamy i.e., a system of marriage within caste and system of no inter-dining. These two factors make the caste system rigid which help in perpetuation of caste system. Ultimately, various types of caste disabilities namely no twice born ceremony, no temple entry, no education, ex-communication, social boycott, caste hatred, no right over water and property, originated from the caste system. Out caste group i.e., ‘*shards*’ and untouchables have suffered from these caste disabilities. Disability of no twice born ceremony combined with no right of temple entry had and resulted into religious backwardness of *Shudras* and untouchables, now known as SCs and STs. Disability of providing no education coupled with any right of temple entry has resulted into illiteracy of these persons. Consequently, they became ignorant and educationally backward.

A disability of ex-communication, social boycott, caste hatred and no right over mater has resulted into practices of Untouchability. Consequently, social backwardness and cultural backwardness flow from it. Disability of no right of property has resulted into poverty that made these persons economically dependent upon and ultimately this resulted into economic backwardness. Thus, ‘atrocity’ is the product or outcome of all these backwardness. If Dalits combine atrocity with lack of political will and demand of statutory rights, then it resulted into aggravated form of atrocities on the Dalits by others.

¹²Smita Narula, “*Broken People: Caste Violence Against India's Untouchables*” (1999), p.102

¹³William J. Eisenman, “*Eliminating Discriminatory Traditions against Dalits: The Local Need for International Capacity- Building of the Indian Criminal System.*”(2003), p. 25

¹⁴ Ambedkar, B.R, “*Annihilation of caste*”(1990), p.190.

Caste system, endogamy and caste hatred have divided and disintegrated the Indian society. People of higher castes started looking down upon the people of lower castes resulting into caste hatred encouraging the people of one caste to commit atrocity on the people of other caste. It was found caste is one of the motives even for committing murders.¹⁵ Thus caste system and caste hatred are the main reason for commission of atrocities on Dalits. The internalization of their suppression by the *Dalits* is one of the reasons due to which incidents of atrocities go unreported. Even when they try to raise their voices against the prejudices and derogatory treatment meted out to them, their voices are pressed either through the mighty caste Hindus or by the State instrumentality by their positive action against them or by inaction or omission by colluding with the caste Hindus.

In February 2006 in Mahmudpur (Haryana), at the instigation of a *Rode* (an upper caste) *Sarpanch*, 30 *Dalits* were seriously injured because the *Dalits* were trying to take out a procession on the eve of *Ravidas Jayanti*.¹⁶ Therefore, this indicated the caste hatred prevalent among caste Hindus that prevents the *Dalits* to enjoy their rights in a free manner and thus results in atrocities.

Untouchability

Practice of Untouchability has its root in caste system. Although Untouchability stands abolished by Article 17 of the Constitution of India and its practice in any form is forbidden, yet this obnoxious practice is still prevalent in namely all parts of the country in its overt or covert form. The practice of Untouchability pushed the Dalits down to the lowest ladder in the caste hierarchy. Untouchability is not only a religious system but also an “economic system which is worse than slavery”¹⁷ which gave rise to graded inequalities among the people. In every matter, lower castes segregated from the higher ones. The Untouchability and other so-called impure classes who formed lowermost layers of the caste ridden Hindu society were further debarred from various rights, which were essential for the advancement of a man.

Illiteracy

Illiteracy among *dalits* makes them unaware of their rights. Due to unawareness, they are unable to approach the appropriate forum for the protection and enforcement of their rights and therefore that encourages atrocities to go on. Even if they have such awareness, they do not have adequate resources to have their rights get remedied.¹⁸

Due to the inhibition of caste, prejudice and Untouchability and other kinds of social disabilities, the Dalits were not allowed to get education in the pre-independence period. This has resulted into educational inequality and educational backwardness of the Dalit community.

¹⁵ *Supra n.* 13, p.47

¹⁶ “Justice for Dalits Still a Dream” available at <http://www.indianet.nl/dalitatroc0509.html> (Accessed on Jan. 14, 2014)

¹⁷ Upendra Baxi, “Emancipation of Justice: Babasaheb Ambedkar’s legacy and Vision”(2008), p.46.

¹⁸ Veluswami M, *Dalits Welfare and Indian Constitution* (2012), p.157.

Most of the parents of Scheduled Caste and Scheduled Tribes boys and girls had no interest in sending them to school. In rural areas, it is true with girls as the parents have to work on the farms and the girls have to look after the domestic matter.

The denial of education to the Dalit community has resulted into illiteracy. Due to illiteracy, ignorance crippled into them and they became educationally backward and dependent on others, which made them vulnerable to the atrocities. Mahatma Jotirao Phooley, nicely narrated co-relation of illiteracy and atrocities in following lines:

For want of education, their intellect deteriorated;

For want of intellect, their morality decayed;

For want of morality, their progress stopped; all their sorrows sprang from illiteracy.¹⁹

Poverty, Economic Dependence or Backwardness.

Most of the SCs are poor. The SCs and STs constitute the bulk of the poorest sections of the population.²⁰ Majority of them are without land or other productive assets. The poverty of SCs or Dalits arises predominantly from their positions in the productive process. Their main occupation is agriculture on a seasonal basis. So, most of them are dependent in some way or other, on agriculture²¹. Vast numbers of them live in bonded condition. Minimum wages are not paid to them. Therefore, tension and bitterness is created on account of non-payment or underpayment of minimum wages prescribed by the state Government. Miserable poverty makes them dependent on the upper caste people in matters of livelihood and work. Whenever they get some land from the state that also makes them vulnerable to atrocities as the upper castes people do not take it very kindly. The instances are not exceptional where the upper caste people have even tried to seize the land allotted to the Dalit community by the Government. Therefore, their economic dependence on the upper caste people and their backwardness and unawareness are also among the causes of infliction of atrocities on them. In September 2006, in Maharashtra's Bhandara district's village *Khirlanji*, the upper caste people killed four members of a *Dalit* family that was resisting land expropriation.²²

Self-assertion by the Scheduled Caste

Awakening of the Dalit community about their rights and protection is another main reason for commission of atrocities on them. This awakening to some extent, taught Dalits to live with human dignity. The two crucial elements for a life with dignity are personal liberty and

¹⁹Keer D, *Mahatma Jotirao Phooley, The Father of Our Social Revolution* (1964), p.23

²⁰See, First Report of National Commission for SC&ST, p. 44

²¹See, Twenty Ninth Reports of C.F.S.C. &S.T.

²²Manoranjan Mohanty, "Why Atrocities on Dalits Persist", available at:

http://www.boellindia.org/download_end/mohanty_amrita/corrected.pdf(visited on Jan. 11, 2014)

adequate means of livelihood. The honor and dignity of a person is dependent on his work, his right over means of productions and his right to manage the system. When the Dalits started claiming their legal rights, this resulted into land disputes, demand of minimum wages, and freedom from bondage of bonded labour and demand of political rights etc.

This developed animosity between dominant class and Dalits and ultimately resulted into commission of atrocities on Dalits communities. On December 25, 1968, as many as 42 *Dalits* were burnt to death when upper caste *hooligans* locked them up in a hut and set it on fire in Kilvenamani in Tamil Nadu's Tanjavur. That was after the *Dalit* agricultural labourers had decided to protest against low wages and had started being organised.²³

Ignorance of Law and Lack of Political will

Majority of persons of Dalits are illiterates and consequently ignorant about present law enacted for their welfare. Like is the position of persons who usually commit atrocities on Dalits. They are also ignorant about the provisions of the Act. Their ignorance further leads to commission of atrocities on Dalits. Due to ignorance, the victims of atrocities in most cases do not lodge Police report. Sometimes, they feel that no useful purpose would be served in reporting of case to the Police as offenders are generally acquitted due to low rate of conviction for so many reasons.

Lack of political will is also considered as one of the reasons for commission of atrocities on Dalit community. The commissioners, commissions and National Commissions for SCs and STs have made several recommendations to prevent atrocities on Dalits, but most of the recommendations were never acted upon.²⁴

State complicity is also a reason for the increasing atrocities on *Dalits* because the persons in power are among the upper castes who do not take keen interest in preventing atrocities on *Dalits* rather connive with the perpetrators of atrocities. Though the state has played an important role in protecting the rights of *Dalits*, still the state's complicity with upper castes especially in case of the police shows the acquiescence of the state as a whole.²⁵

²³*Ibid.*

²⁴*Supra n. 22*, p.109.

²⁵*Ibid.*