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SOCIAL JUSTICE IN THE INDIAN CONTEXT

The best brains of the world in the field of sociology, law and jurisprudence have tried to define social justice in their own way. The result is that the term has come to assume varied interpretations. To Plato, justice in society was to be attained by 'a division of labour according to natural aptitudes'. He held that three qualities are found in individuals in society viz, wisdom, courage and temperance; and every individual in society should perform his duties according to his innate quality. Thus Platonic justice consists in 'the will to concentrate on one's own sphere of duty, and not to meddle with the sphere of others; and its habitation, therefore, is in the heart of every citizen who does his duty in his appointed place', if the 'producers' of the community attempt to intervene in the affairs of the 'ruling classes' (whom Plato calls the Auxiliaries and Guardians of public service), then nothing but confusion can result which will be an example of injustice in society (Republic). But how was an individual to find his station or position in society? The individual was left guessing and usually the accident of his birth decided his place in society. This problem of determinism makes Plato's definition of Justice rather undependable in practice and hence unsatisfactory.

The ancient Hindus also tried to solve the problem of social justice by dividing the society into four varnas: Brahmana, Kshatriya, Vaishya and Sudras based on division of duties and occupations,

and like Plato, Manu said, in general, 'it is better to discharge one's own dharma incompletely or imperfectly (Vigunah) than to perform completely that of another (na parakyanh Sivanushthitah)'. Later on varna came to be determined by birth and heredity, and the result was the caste system. The Platonic concept of justice and Hindu caste system might have created social justice in society where population was thin and life was simple. It is unsuited to the present day problems. The concept of justice is dynamic, as society itself is dynamic. What our forefathers considered just, we might consider unjust. For offences for which people were hanged in the past, we impose a lenient fine today. Aristotle justified slavery; Americans fought a war to do away with it Social justice is relative, its standards are highly variable with time and place but 'life without some principle of Justice has never been lived and is not livable'.

In modern times, man as the measure of all things has come to occupy the most important position in any concept of social justice in, modern democracies. In democracy, the individual is treated as an end in himself, and any concept of social justice must be based on this basic principle. Social Justice means that every individual is given full opportunities to develop his capacities and this opportunity is given to maximum number of persons in society. The creation of social justice means the creation of an environment in which every individual has got unreserved and unhindered opportunity for physical and intellectual



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development. In removing disabilities arising from caste, sex, race, colour, creed, religion or nationality, and providing opportunities in a positive way with a view to developing individual faculties lies the essence of social justice.

Social Justice in India

To begin with, let us turn to the Preamble of the Indian constitution which stands for 'Justice, social, economic and political'. The constitution framers wanted social justice in a comprehensive sense. Let us analyse the implications of economic, political and social justice in the context of India.

Economic Aspects

In the constitution the basic objectives of justice were set forth as "The Directive Principles of State Policy" which stated that 'The state shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of national life.

Further that -

'The State shall, in particular, direct its policy towards securing-

- (a) That the citizens, men and women equally, have the right to an adequate means of livelihood
- (b) That the ownership and control of the material resources of the community are so distributed as best to serve the common good;
- (c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

Thus the concept of social justice on the economic side demands a guarantee of: (i) work to every able bodied citizen; (ii) satisfaction of basic needs of every, individual and (iii) provision of equal opportunity to every citizen to develop his potential.

The disparities in income should not be such as to create an unbridgeable gulf between the rich and the poor leading to conflicts and unrest. To achieve economic Justice, the government in India has adopted a socialist pattern of society as its goal, and it is practicing planned development of the economy of the country. The basic premise in India's Five Year Plans is that, through democracy and widespread public participation, development along socialist lines will secure rapid economic growth and expansion of employment, reduction of disparities in income and wealth, prevention of concentration of economic power, and creation of the values and attitudes of a free and equal society. However, in spite of years of planning, even the minimum economic requirements of social justice have not been achieved in India. Millions of able bodied citizens are unemployed, millions are living in miserable conditions, suffering hunger and semi-starvation; the gulf between the rich and the poor is widening. Prices are rising higher and higher, and a large percentage of the population finds it difficult to make ends meet.

Political Aspect

In the field of politics, justice means: equality before law, enjoyment of civil liberties and equality of opportunity. One may emphasize here the following in particular:

- (1) The state should not distinguish between citizen and citizen on the basis of sex, creed, colour, caste, or religion.
- (2) The state should not give any preferential treatment on the basis of religion.
- (3) Rule of law with independent and impartial judiciary as a protector of fundamental rights should be guaranteed.
- (4) Basic freedoms like freedom of speech, expression, criticism, freedom to hold meetings and organize parties, freedom of the press etc.; should be guaranteed.





Freedom is the corner stone of any concept of justice. Closed societies, which deny freedom to individuals, also deny social justice. The concept of social justice prevails in real democracies or open societies because they treat man as an end and provide him freedom to develop his personality. No doubt we have all the ingredients of social justice in its political aspect, but many find the wide powers of the executive, e.g. Emergency Proclamation a threat to freedom. Further, the Preventive Detention Act is the greatest danger to individual liberty in India.

Social Aspects

Every individual in society should feel that he/she is an important and useful member, that he/she has full opportunities to develop his/her faculties, that there are no disabilities attached by birth, and that he/she is not subjected to discrimination on the basis of sex, colour, creed, caste or religion. Unfortunately in India there are sections of society which are denied social justice either on the basis of sex, or birth or religion. Scheduled Castes and Scheduled Tribes have been suffering great social injustices and disabilities by birth. They are condemned to a position of inferiority and subordination to the higher castes. Our social heritage is partly responsible for this unfortunate phenomenon, but it is also our fault that we have not changed with the changing times. Caste system continues to be oppressively hierarchical in (many parts of the country, despite constitutional safeguards and laws against it.

Another important section of society which has suffered a great deal of social injustice in India is women. This again is both due to our social traditions and due to our resistance to change. It is heartening to note, however, that the conscience of India has already awakened to this aspect of social injustice and it is on the way out gradually.

Another hindrance in the way of achieving

social justice in India is the wrong interpretation of fate and Karma. People think that their position in society is pre-determined by their past actions. If they are poor or treated badly by society, they blame it on their past sins and bad actions rather than fighting injustice and making efforts to improve their lot. This attitude needs to be changed in order to create a proper climate and atmosphere for achieving social justice.

To sum up, if we want to ensure social justice in the country in its totality, that is on the economic, political as well as social fronts, the government and the society at large would need to work together. Economic planning, industrialization, urbanization, just distribution of economic benefits and rewards, state legislation on social matters etc. will only partially solve the problem of social justice. These remedies by themselves cannot guarantee 'the highest possible development of persons' which is the goal of social justice. Change in social values, social attitudes and 'social institutions is fundamental for achieving social justice. If people continue to remain under the' influence of old traditions and beliefs, no amount of equitable distribution of resources will be successful in creating a right atmosphere for social justice. The basic thing is education. Change should begin within. Education should create a spirit of enquiry in the minds of the people. It should create a power of questioning the validity of social traditions and social institutions. Education should encourage inquisitiveness expressing itself in such questions 'why should .this social value be observed?' In this way a climate will be created in which we can achieve social justice. We need education that does not blindly pass on traditional beliefs, but one 'that views it critically and selects from it, rejecting that which is obviously retrograde. A scientific system of education which creates healthy skepticism in the minds of the people, and which gives pride of place to 'reason' and rational thinking is the only road to salvation.





HUMAN RIGHTS LAW IN INDIA: RIGHT TO WATER AND SOCIAL JUSTICE

The question of a human right is often a chicken and the egg situation. ‘What comes first- the chicken or the egg?’ may be analogous to what comes first- the law or the right. The right to water is one such area where there is no clear answer and there is a need to recognize the right to water without having to rely on provisions of black letter law. While the human right to water is being increasingly recognized in international human rights law, it also needs recognition at the domestic level.

The States commitment to access to water

There are a number of schemes and implementing machinery to provide for safe and accessible drinking water in India. The Rajiv Gandhi National Drinking Water Mission at the institutional level and the Accelerated Rural Water Supply Programme Guidelines at the policy level have greatly contributed to the attention received to access to water issues. The Guidelines specify 40 litres per capita per day as a minimum requirement only for the purpose of drinking and household needs. This is divided into the following categories and the amount may increase in cases of cattle in dry areas. The water must be of adequate quality as well as quantity.

Purpose	Quantity
Drinking	3
Cooking	5
Bathing	15
Washing utensils & house	7
Ablution	10

(Sources: ARWSP Guidelines http://ddws.nic.in/popups/arwsp_pop.htm accessed on 20.02.2011.)

However, schemes and policies of the state are not enough. There must be a clear statement of a human right to water so that it can be claimed as a right rather than a privilege which the state grants. The question which next arises is whether there is such a right in India.

The right to water in the Constitution of India

Most claims to human rights are founded on the basis of the fundamental rights chapter in the Constitution of India as fundamental rights are justifiable and can be enforced. The Preamble of the Constitution is often described as setting up a welfare State. While providing basic needs such as water would be within the necessary functions of such a state, the Fundamental Rights Chapter is silent about a right to food or water. While the right to life is mentioned (Article 21), the dimensions of this right are not laid down in detail and water is not mentioned. The only direct reference made is in the prohibition of discrimination (Article 15) in accessing places and facilities for the use of the general public including wells.

In the Directive Principles of State Policy too, there are no direct references to a right to water although the state is required to work towards raising the standard of living of people and improving public health (Article 47). Also, since Directive Principles of State Policy are not justiciable, they become difficult to implement as a matter of right.

The angle from which the Constitution deals with water is from the angle of division of powers between the Centre/Union, the State and after 1992, the Local Government. Thus while standard setting ‘On water pollution, insecticides and pesticides is with the Centre, interstate water disputes, irrigation is a State subject and so are important areas including sources of water such as groundwater. The Local Government has the power to make provision for water and to make rules at the local level on use of water. In this scheme





of distribution of powers, there is no mention made of a right to water.

Development of human rights law on right to water by the judiciary

The architect of the right to water in India is the judiciary. Many rights have been brought within the ambit of the right to life (Article 21) by reading them into the scope of life. The first landmark decision was in *Francis Coralie Mullin v the Administrator, Union Territory of Delhi* (1981 (2) SCR 516) where the Supreme Court clearly said that the right to life included the right to live with human dignity. It also made a passing observation that it also includes the bare necessities of life. The right to water was not specifically mentioned.

In 1990, the Kerala High Court stated in *Attakoya Thangal v Union of India* that the right to sweet water was part of the right to life as water is necessary for life. This has been reiterated by High Courts and in many cases the Supreme Court as well, in a number of cases dealing with situations which adversely impacted the quality of drinking water. In the *Narmada Bachao Andolan* case ((2000) 10 SCC 664) the Supreme Court commented "Water is the basic need for the survival of human beings and is part of right to life and human rights as enshrined in Article 21 of the Constitution of India and can be served only by providing source of water where there is none". It also linked this right to the recognized human right to water in international law documents which have provisions relating to access to adequate drinking water.

The Supreme Court has also decided cases which have a bearing on water quality. These include areas such as. water pollution, building/ construction/ mining which affected the water and so on. It has also given directions in the context of natural disasters such as floods and earthquakes. Thus Courts have been concerned both with the protection of quantity and "quality ill dealing with

cases with a bearing on the right to water in some form.

Human Rights Law versus social realities in accessing the right to water

A human right law on right to water, especially drinking water seems to be fast emerging. However, a law by itself will not work, nor will programmes for targeted beneficiaries, unless it can be ensured that everyone benefits from the right in a meaningful way at the ground level. This is especially true when caste and communal realities are not taken into account. Two case studies will illustrate this.

The first case deals with the adequacy of water quantity. In a village in Madhya Pradesh, a handpump was set up for the benefit of women from Scheduled Castes in order to facilitate their access to water for domestic use. This was important as in many of these households, there was no adequate source of water. However, the location of this handpump was a public one, possibly for ease of access and it was located along the main village road and began to be used by Brahmin households which already had access to private water sources. The hand pump meant to be the main source of water for the SC community became an additional source for another community. The problem of access to water for SC women was left unsolved in practice, though in theory action had been taken to protect their right to water. The adequacy of water quantity was not addressed for the intended beneficiaries.

The second case deals with a village in West Bengal where all the public handpumps were found to contain unsafe and impermissible levels of arsenic. While quantity of water was not an issue, quality of water used especially for cooking and drinking needed to be resolved, Accordingly an arsenic removal plant was installed. The installation however was close to a Hindu temple. The village had a Muslim minority population. Muslim women





who tried to access the installation were denied by Hindu women. The problem was later resolved through alternate dispute resolution by working out a schedule for water use between the two groups of women.

A law on paper therefore is not adequate, though it is a beginning. The implementation of any law must also take into account ground level realities with strategies to deal with them.

Challenges to the human right to water

In addition to ground level social realities, there are a number of developments especially occasioned by liberalization, privatization, globalization which need to be taken into account and dealt with. Increasingly, access to water is seen as the right of those who can afford it. It has become an economic good rather than a social necessity. Water thus belongs to the highest bidder or who can dig the deepest bore well or purchase the land beneath which the aquifer lies. Water resources which are not attached to private property are presumed to belong to the state even if there are private users or communities dependent on the water. The *Plachimada case (Perumatty Gram Panchayat v State of Kerala 2004(1) KLT 31)* challenged this and the appeal is now pending in the Supreme Court.

There is a strong move in civil society against the privatization of the supply of drinking water especially in urban areas. Privatization treats water as a profit making venture for a private company as against a duty to be complied with by the State. It must be provided by the State, not sold by a company. Modern water policy which leans towards contribution by communities would leave out the poorest who are the most vulnerable and whose human right to water would be further violated. Not only would they not be able to access new schemes, existing rights they had been exercising to water which was not owned by them may also be at risk.

To conclude water as a human right must be recognized at all levels beginning with its recognition in clear terms as a fundamental right under the Constitution. If a citizen has a fundamental right to water, the State should have a duty to provide that water. Law and policy must take into account social realities and community dynamics in the course of their drafting. Finally, water, especially water for drinking and household needs must be made available freely as a common good and not as a commodity.

LIVELIHOOD FOR THE MARGINALISED

The most fundamental of all human rights is the right to life. Every person has the right to live a dignified life. A life of dignity cannot be ensured by providing free food, clothes, medicine and other necessities but by providing a means of livelihood. The various employment generation programmes of the government, culminating in the present Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS) is a recognition of this fact. The MNREG Scheme is the largest employment programme in the human history (Shah, 2008). Though the scheme was initially introduced in only 200 districts, it is now functioning in all the districts of the country. It has been introduced in a phased manner, phase-I, 200 districts (2006-07), phase-II, 130 districts (2007-08) and phase-III, all the remaining districts (April 2008).

Impact of NREGS-An Overview

The salient features of NREGS are livelihood security, right based employment programme, demand driven, universal, participatory planning and implementation, good governance and more female oriented. The NREGS is providing livelihood security by providing 100 days of employment within 15 days of application to all people, who have applied for wage employment. If no work is provided within 15 days of application, the





applicants will be eligible for unemployment allowance. The work should be given within 5 km radius from the applicant's residence and the work site should have all basic facilities. The payment for the work must be made within 15 days. The workers are also eligible for medical aid.

The scheme has guaranteed wage employment to 4.47 rural households. During the past 3 ½ years 19.49 lakh works have been taken up under this scheme. The thrust areas of work under the scheme are water resource development and water conservation. It is, further, reported that 75 per cent of the works are irrigation related and so it will certainly enhance the productivity in agriculture. The increase in productivity will eventually increase the dependency of people on agriculture and reduce the dependency on government sponsored employment schemes. It is also estimated that the additional flow of income is Rs. 18,155 crore (Lakshman, 2009), (Prasad, 2009), (Roy, 2009), (Singh, 2009). Swaminathan (2009) points out that the employment generated is over 450 crore person days and the wage payment is over Rs. 15,000 crore while, Prasad, (2009) asserts that through this scheme, the government is pumping about Rs.30,000 crore every year into the rural economy. Above all these, it is found that of these man days of employment generated, the major share is enjoyed by women and dalits and adivasis. The most benefited because of this scheme are the poorest and most marginalised communities particularly SC/ST or people below poverty line. The scheme has not only raised the scale of employment; but has also put an end to the exploitative practice of private contractors. India is experiencing employment growth after the phase of jobless growth during the 1990s only because of NREGS. Thanks to the programme, every week a huge purchasing power is being pumped into the rural economy. There is an increase in the social capital as most of the work is directed towards assets creation. It also increases saving of the people

particularly the rural poor to a great extent.

According to Mathur (2007) 2.10 crore households were given employment to the extent of 90 crore person days in the year 2006. The total number of households sought employment was 2.16 crore. It means that 97 per cent of households which sought employment got wage employment on an average of 45 days in the year.

Khera and Nandini Nayak (2009) say 71 per cent of persons working under the NREG are SC/ST and 82 per cent are illiterate women against 52 per cent uneducated men. The minimum wages fixed in different states are different and so the wage payment under NREGS also differs from state to state. The highest wage, Rs.175 is paid in Mizoram. It is followed by Kerala, Rs.121, West Bengal Rs.104, Andhra Pradesh Rs.86 and Rs. 80 in Tamil Nadu.

Apart from these impacts the NREGS has also a strong positive impact on the social structure (Narayanan, 2008). High caste people are working along with dalits and tribals. They are working even in the lands of dalits as the land development works cannot be carried out in the lands of high caste people before the development works in the lands of dalits and tribes are exhausted. Thus, the National Rural Employment Guarantee Scheme not only provides livelihoods to the marginalised people but also removes caste discrimination to a certain extent.

Performance of NREGS in Tamil Nadu and Kanyakumari District

In Tamil Nadu, 10 districts were covered with NREGS in the first phase and another 10 districts in the second phase. The remaining 20 districts including Kanyakumari district were covered in the third phase. The details regarding job cards issued, the person days of employment generated, total attendance, individuals employed and expenditure on water resources up to 01.03.2010 are given in Table No. 1





From the Table 1, it is seen that in Tamil Nadu, in total] 978.99 lakhs person days of employment were generated up to 01.03.2010. Of the total employment generated, 58.10 per cent is enjoyed by the SC/ST persons and women constitute 78.72 per cent. Certainly these are very encouraging aspects of the NREGS. However, only 7.68 per cent of the households have completed 100 days/above 100 days of work and only 63.79 per cent of the fund available is spent. Further, it is also estimated that 76.67 per cent of the total expenditure incurred is on water resources development and water conservation programmes. As a whole, the performance of the NREGS is good in providing employment and livelihood.

Table 1: Households, Individuals Registered and Individuals Employed in Tamil Nadu up to 01.03.2010

Category	Number
Households Demand Employment	3616920
Households Provided Employment	3616920
Total Number of Households	10074512
Job Cards Issued	6212511(61.67%)
SC/ST	2595054(41.77%)
Person Days Generated	1978.99 lakhs
SC/ST	11.49 lakhs (78.72%)
Women	1557.91 lakhs (78.72 %)
Total Attendance (all)	1387.53 lakhs
Completed 100 days	65.88 lakhs
Completed Above 100 Days	40.66 lakhs
Employment completed 100 days	132.79 lakhs
Total Availability of Fund	216824.88 lakhs
Total Cumulative Expenditure	138306.53 lakhs (63.79%)
Expenditure on water Resources	105958.21 lakhs (63.79 %)

Figures in brackets are percentages to total.

Source: www.nrega.nic.in, Tamil Nadu & Report, NREGS, Tamil Nadu - 2008

Table 2: Households Total and registered, Individuals total and Registered in Kanyakumari District up to 01.03.2010

Category	Number
Total No. of Households	158889
No. of Households Registered	90053 (57%)
Total Populatiou	580021
SC/ST Persons Registered	120128 (20.71%)
No. of Persons Registered	11727 (9.76%)





Women Registered	46792 (38.95%)
Minorities Registered	77333 (64.38%)
SC/ST Women Registered	7241 (61.75%)
Job Cards issued	120128 (100%)

Figures in brackets are percentages to total.

Source: The Report, NREGS-Kanyakumari District-2010

In Kanyakumari District NREGS has been implemented from April 2009 and very successfully so. The details regarding the expenditure made and households applied up to 01.03.2010 are given in Table 2.

Table No. 2 shows that the job cards have been given to all those who registered for the wage employment. The share of persons registered constitutes 20.71 per cent of the total population. It is a welcoming fact that 11,727 SC/ST persons and 46,792 minority persons have registered themselves under the NREGS. The respective percentage is 9.76

and 38.95. The percentage of SC/ST persons registered (9.76%) is more than the percentage of SC/ST persons to the total population (4.36%) while the percentage is less for minorities (44.47%). The number of women registered is 77,333. It constitutes 64.38 per cent of the total persons registered. The share of SC/ST women to total SC/ST persons registered constitutes 61.75, in absolute term it is 7,241.

The details regarding expenditure, works approved and completed, person days generated and average wage paid are given in Table 3.

Table 3: Amount sanctioned and spent, works carried out, person days generated and average wage paid in Kanyakumari District up to 01.03.2010

Catogery	Amount / Number
Released	Rs. 2225.81 lakh
Amount Spent	Rs. 1014.69 lakh (45.59%)
Work Approved	462
Work Completed	142 (30.74%)
No. of Persons days Generated	1342633
Agerage Wage Paid	Rs. 76/-

Table 3 clearly depicts that only 45.59 per cent of the total amount released is spent and only 30.74 per cent of the works sanctioned is completed so far. It is very important to indicate that the person days of employment generated in the district within one year and eleven months are 13,42,633. The average wage paid daily is Rs. 76 for the whole period. However, the average wage paid daily is only Rs. 73/- for the year 2009 and for the year

2010 (January 2010 to February 2010) it is Rs.88/- . From the facts and figures discussed above it is very clear that the National Rural Employment Guarantee Scheme has brought in a silent revolution in the rural areas by providing stable employment to the vulnerable and marginalised. In Kanyakumari District, it generated wage employment to the extent of 13,42,633 person days and on an average the number of days of works





given in a year is 76 and the average wage paid is also Rs. 76/-. Thus, a person who works under NREGS is able to earn an income of Rs. 5776/- per annum. Certainly, it increases the standard of living of the marginalised people.

Though there are some defects in the implementation of the Rural Employment Guarantee Scheme, it helps to remove poverty from the rural areas, provides stable income to those who are ready to do manual work, grants some relief during the period of unemployment and under employment, avoids migration of workers from rural areas to town areas. In short, it is easy to infer that, the NREGS provides not only food security but also financial security to the rural masses particularly the poor and the marginalized.

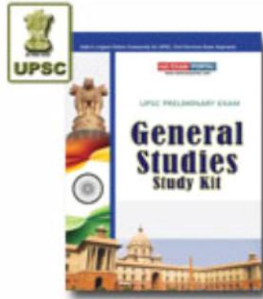
DISADVANTAGED SECTIONS: PROCESSES OF CONTINUITY AND CHANGE

At independence India adopted a liberal democracy with a written constitution that provided a parliamentary system, with both individual and groups rights for historically disadvantaged sections particularly the Scheduled Castes or Dalits as they are known today. Under the leadership of Nehru, commitment to democratic transformation, a path of gradual social transformation leading to a more egalitarian society was an integral part of India's developmental strategy. However, despite six decades of democratic functioning Dalits still face marginalization and exclusion: two mutually supportive processes responsible for economic inequality and social discrimination. While poverty is a major disability faced by many disadvantaged sections in India, caste remains an important source of inequality. The fundamental features of the caste system namely fixed social, cultural and economic rights for each caste by birth, with restrictions on change have created various forms of exclusion. Amartya Sen has pointed out how, particularly in Asia, it is social exclusion that results in deprivation

and limits individual opportunities. Referring to Adam Smith's pioneering exposition of deprivation as "inability to appear in public without shame"; he describes it as capability deprivation arising out of the right to participation in community life. Exclusion from social relations can lead to other relational deprivations such as lack of education, employment, and exclusion from markets resulting in economic impoverishment, which limits opportunities.

This paper argues that while much change has taken place in the condition of disadvantaged sections since independence, substantial levels of marginalization and exclusion continue which constitute a formidable challenge to our attempts to create a more egalitarian democracy. Historically Dalits have been kept out of the educational system, denied ownership of assets such as land, allotted menial occupations and not allowed to participate in social and political activities. According to the 2001 Census SCs constitute 16.66 crore or 16 percent of the total population of the country with concentration in five states - Uttar Pradesh, West Bengal; Bihar, Andhra Pradesh and Tamil Nadu. Their level of urban concentration is lower than that of the general population, 'indicative of their relative backwardness and continued dependence on traditional rural occupations for their livelihood. Discrimination in land, labour and capital together with limited mobility and choice of occupation still exists among the large majority. Most are wage labourers and only about one-third of SC rural labour households own land as against 41 percent for all rural labour households. Literacy rates among Dalits - 45 percentage points between 1961 and 2001 - have risen in the country particularly in the states of the Hindi heartland in recent decades, though there still remains a considerable gap between Dalits and others-and are lower among rural Dalits and Dalit women. But in the 1990s the literacy rate for SCs rose by over 17 percentage points, and the rural-urban and gender divide





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began to narrow. Even where literacy rates have risen, studies show that difference in the percentage of SC children and others enrolled and in terms of number of years of schooling are considerable, and drop-out percentage is higher among the former. The Gross Enrolment Ratios of Dalit children at the primary level not only declined over 1990-91 to 1999-2000 but they were also lower than for the total population in 1999-2000. Similarly in higher education the enrolment of Dalits is not satisfactory and in technical and professional courses most of the reserved seats remain unfilled.

In the social realm Dalits still suffer from segregation and exclusion. Their dwellings are located outside the main village settlements in rural areas and in slums in urban areas deprived of basic amenities and services such as roads, drinking water, sanitation and primary health care. Most shamefully, many are still employed as manual scavengers although manual scavenging has been made a punishable offence since 1993. More than 80,000 Dalits are employed as manual scavengers, the biggest violators being Municipal Corporations and state governments, as the Act has not been adopted by 12 states.

There has been considerable progress since independence the problem showing considerable variations among states. The main levers of change in the position of Dalits in the post-Independence period have been policies of Protective Discrimination (PD), capitalist development and competitive politics. PD enshrined in the Constitution aimed at inclusion of SCs into society and polity, promoting participation and providing protection against discrimination. But the unequal economic structure of society, reinforced by uneven distribution of gains in the post-Independence period, under a predominantly capitalist system of development meant that a small 'creamy layer' has made use of the benefits while the large majority remained poor, marginalized and with little access

to opportunities. However, as Marc Galanter has argued, without PD, especially in the early years of Independence, SCs would have remained outside the system and not been able to achieve any social mobility.

Since the late 1990s the contours of the debate on the impact of PD has undergone a change. Together with globalization a small but influential, educated, middle-class of Dalit intellectuals/activists reached a critical mass in the polity. They argue that with liberalization of the economy the number of jobs in the state sector has dwindled. While, some argue for extension of reservations into the fast-expanding private sector which is creating new jobs; others demand introduction of various forms of affirmative action based on the US model such as Supplier Diversity, as discussed at the Bhopal Conference of January 2002. Some recent studies have initiated a debate on an area not yet well-researched in India: impact of caste-based economic discrimination on higher education and the private job market in the era of globalization, its forms and features.

Much improvement 'has taken place in the economic position of Dalits though large disparities remain with other sections of society. Capitalist development together with competitive politics has weakened the caste system, though it has created inequality among Dalits themselves. The National Sample Survey (NSS) in its 1999-2000 report shows that in 2000 only about 29.90 percent of the [mal population of the SCS had acquired some access to fixed capital assets like agricultural land and non-land capital assets. In 1999-2000 75 percent of SC households were in the category of landless agricultural labour. Even those who own land have small plots that are economically unviable. Consequently, they suffer from low income, low consumption and a high degree of poverty with about 35.43 percent below the poverty line. Relationships on land remain oppressive,





particularly where OBC groups are dominant.

A section of Dalits continue to pursue traditional caste occupations such as weaving along with agriculture. The capitalist system has opened avenues for those whose skills are marketable. In urban areas Dalits are employed in the organized and unorganized industrial sectors; they are petty shopkeepers, small entrepreneurs and white-collar workers mainly in the public sector. But the number of such persons is very small. The report of the National Commission for Enterprises in the Unorganized Sector indicates the extent of marginalization of weaker sections in the Indian economy. Informal workers, who have no employment, work or social security, now constitute 92% of the total workforce and discrimination is reinforced by one's social identity, rural location and low or no education. A perusal of the report clearly indicates that a substantial number of these workers fall into the category of SC/ST.

At independence it was believed that with rapid economic development caste-based atrocities against Dalits would disappear. However, since the 1970s two features have been noted. The number of caste-based crimes against Dalits has increased sharply with some of the worst incidents occurring in better-off states such as Haryana, Punjab, Maharashtra and Tamil Nadu. Second, ritual untouchability has been replaced by caste atrocities such as rape, nor allowing Dalits to cast their votes, burning of houses, parading women naked in village streets. Improvement in economic condition and increase in violence against Dalits goes hand in hand; in fact social jealousies are roused, Khairlanji being a good example. Dalit women often suffer the worst treatment by caste panchayats in Haryana. During 2002 a total of 33,507 cases of crimes and atrocities committed against Dalits were registered. Passage of the SC and ST (Prevention of Atrocities) Act of 1989 and Rules 1995 has not helped and merely led to greater confrontation. As the National Commission for SC and ST (Report

1990) pointed out, the major reasons for atrocities since the 1980s are political and economic in nature rather than purely social or cultural. This does not mean that untouchability has disappeared as a recent study shows.

It is in the political field that the greatest change has taken place. PD, a long-term process of democratization and a modicum of economic development, has thrown up a new generation of educated, self-confident, and politically aware middle-class Dalits no longer prepared to put up with exclusion and domination. The word Dalit as a form of self-identification is now widely used in many parts of the country. While it has not created a homogenous Dalit community, differences between different sub-castes remain and have even widened with even violence among different groups, yet it has symbolic importance, providing Dalits dignity and self-confidence, enabling them to assert against upper-caste domination and oppression.

Consequently, it is through mobilization by Dalit leaders, formation of political parties and competitive politics that Dalits have gained empowerment and entered the political mainstream. There has been an unprecedented rise in political awareness leading to an upsurge from below. The number of Dalits voting has been rising in every election since the 1990s. The post-Independence period witnessed the rise of Dalit parties/movements. However, Dalit assertion in the contemporary period, first witnessed in the north Indian plains in the 1980s, has a *qualitatively new character and distinct features*. The new educated Dalit generation has a different understanding and view of the nation-building project that emerged out of the national movement as exclusionary leading to an elitist democracy controlled by, and meant for, the upper castes/classes. Coupled with this feeling of exclusion, is a deep and increasing disillusionment with the failure of the Indian State to provide protection to the life and property of





Dalits, provide a share in the fruits of economic development and end the practice of untouchability. Yet at the same time, Dant assertion has been a reaction to the process of social, political and economic exclusion of Dalits from the benefits of development. It did not emerge with an agenda of breaking down the system, but ensuring Social Justice *within* the society and polity for the Dalits.

Thus, the evidence points to both change and continuities from the past. Significant changes have taken place that have created greater inclusion and lessened social and economic marginalization of Dalits in post-Independence India. But these changes have occurred only in some parts of the country and affected only a small section of Dalits. The vast majority of subaltern Dalits in the countryside still routinely suffer exclusion in public and private life and being illiterate and poor remain on the margins of society. Paradoxically, this is happening despite the social deepening of democracy in recent years.

A COMMITMENT TO THE VOLUNTARY SECTOR

As member responsible for Voluntary Action Cell. in the Planning Commission of India for seven years now, have been part of the effort to bring people close to the planning process. Initially, we started a 'Civil Society Window' in 2004, in the hope that it would enable people to engage with the Planning Commission and offer the benefit of their field 'experiences. We managed to take some of the learning from there into the 11th Five Year Plan. This initiative crystallized within a year and is now part of the Planning architecture.

During the 11th Five Year Plan process we organized a regional consultation to get civil society feedback. Participation of Civil Society (CS) had thus already become a strong and robust element in the preparation of the Plan.

It has not always been a straightforward process, though. Before my very eyes I have seen

the frictions between CS and bureaucracy build up, but also ease, over the years of my tenure. The disdain with which activists were held within these circles has begun to change and there is the beginning of mutual respect. Community based monitoring, social audit, etc. have been written into .the formulation of various schemes. I found myself playing less and less the role of apologist for CS. The amicable relationship peaked when one year before the Approach Paper to the 12th Five Year Plan, the very first group to be invited in April 2010 for an informal brainstorming was a group of thought leaders, women and men, all part of CS.

The challenges and the 'difficulties being faced by the voluntary sector are many. Highly committed people in this sector have to work with rather limited resources, which makes their task even more difficult. And yet I am proud to say that despite all odds, this sector has always shown tremendous enthusiasm and resilience in fighting for various social and developmental causes.

India particularly, has a very vibrant voluntary sector and the efforts of CSOs and VOs in India are now increasingly acknowledged all across the world. We know for a fact that in the last few years we have managed to get some very progressive legislation and action, like the Protection of Women- from Domestic Violence Act, because of the persistent and untiring efforts of the voluntary sector.

In my travels across the length and breadth of this country, particularly in the last 7 years, I have seen first-hand the work and the potential of the voluntary sector. When I visited Metiabruz in West Bengal a few years ago, I found that people are aware of their problems: also articulate them, but neither they nor voluntary organizations working there are aware of government policies. Many such Metiabruz exist in India today, living out the tragedy of our schemes and policies that people don't know about or have no access to. After many years of toil, we have got a policy on the voluntary sector.





It has been our dream and our need. Having been part of the voluntary sector I realize the importance of the policy, but equally the need for it to be widely disseminated, so that voluntary organizations may make use of it.

For long now I have been a vociferous campaigner for strengthening the social sector. I have always believed that good governance is strengthened through people's participation. Voluntary organizations facilitate peoples' participation, which is a fact I have experienced during my sojourns in the field across the country, first as a member of the National Commission for Women and now for the last couple of years, as a member of the Planning Commission. This policy recognizes this critical contribution of the voluntary sector.

The concept of volunteerism and social action is not new in this country and I will not go into the details of that. But what is important to assimilate is that voluntary organizations have played a pivotal role both during pre-independence and also during the freedom struggle. The voluntary sector has shown tremendous enthusiasm and resilience in raising the banner against social evils, fighting social malpractices, articulating social and developmental concerns and acting as a feedback channel for policy makers. The Right to Information Act 2005 is the testimony of their growing power and positive role in society.

Fact is that there are almost 1.2 million VO's in India today, assuming various roles and responsibilities, especially of being watchdogs for the government, when it comes to protection of human, rights like documenting torture cases, taking up right to work campaigns, creating awareness in fighting social evils, or identifying and articulating social issues, or providing feedback to policy makers. But their role doesn't end here. Just pointing out problems is not enough, it is important to solve them too. Two years ago, I visited Archana

Women's Centre in Kottayam that provides sources of livelihood and has made a breakthrough in breaking social barriers by training women for jobs like carpentry and masonry. I think it's a good example of innovative, out-of-the-box thinking that also breaks stereotypes, while providing skills. Voluntary organizations in India have certainly proved their mettle, penetrating the remotest corners of the country, reaching across terrains that had been untouched by government schemes. They have been able to articulate the problems and dilemmas of the grassroots and bring their issues to the mainstream. They have been able to mobilize people for constructive community work. I witnessed this first hand in the closed tea estates of Jalpaiguri.

The tea garden workers there had no *bijli*, no *paani*, and no health facilities, no schools, no transport and were marred by rampant poverty. Women and men barely survived; their only means of livelihood was breaking stones in the dolomite mines of nearby Bhutan. The 9 percent growth of the GDP held no meaning for the bigha mazdoors who till today earn just Rs 12 a day! I witnessed the absence of the government machinery, yet was comforted by the presence of local groups like the Jan Kalyan Matri Sangh who are engaged in organizing young boys and girls into rescue and rehab groups. These groups were and are still the only hope in the forlorn lives of the tea garden workers.

Everywhere I have gone, from Leh to Trivandrum, from the dhanis of Udaipur where Sewa Mandir is doing commendable work to the tiny islands in Andaman and Nicobar where organizations like SANE are fighting to ensure rights for the PTGs, I have seen the commendable work of the voluntary sector. I was in Kashmir immediately after the earthquake and I have seen how voluntary organizations from across the country had come together and were reaching the





remotest villages taking with them aid that was needed. How many lives have been saved and how many empowered by the work of our NGOs and civil society organizations!

Many would argue that a sudden rise of the number of NGO's indicates inactive government machinery, although this may be true to some measure, for me the proliferation of NGOs, CBOs, SHGs is also indicative of increasing awareness among people. This shows an increasing effort by the people to shape their own lives and destinies- it was the dawn of a new era and the government recognized this. So in March 2000, the Government declared Planning Commission as the nodal agency for GO-NGO interface. The message was clear- government has to and will work with the voluntary sector.

But while engagement and partnership is important we also needed a policy to articulate this and therein lay a foundation for this partnership. In June 2003, we decided on the need to have a policy for the voluntary sector. Four years of intense discussion with friends from the voluntary sector and in May 2007, the cabinet approved the new policy. It is also now included in the 11th Five Year Plan chapter and is endorsed by the NDC.

The National Policy on the Voluntary Sector is a testament of our commitment to encourage, enable and empower an independent and effective voluntary sector. While officially recognizing the contribution of the voluntary sector and the need for Government-Voluntary Sector partnership, the policy recognizes that project grants are a useful means for both the Government to promote its activities without its direct involvement and a valuable source of support to small and medium Voluntary Organizations. It highlights the need for Government to encourage all Central and State Government agencies to introduce pre-service and in-service [raining modules on constructive relations with voluntary organizations. It recognizes the difficulties faced by the voluntary sector in accessing

government schemes and suggests ways to tackle this. The main objective of the National Policy on the Voluntary Sector is to identify systems by which the Government may work together with the Voluntary Organizations on the basis of the principles of mutual trust, respect and shared responsibility. The National Policy on the Voluntary Sector recognizes the importance of independence of voluntary organizations, which allows them to explore alternative models of development.

The accountability and credibility of the voluntary sector has been questioned time and again. We therefore believe that there is a need for accreditation of voluntary organizations, which will lead to better funding decisions and make the funding processes more transparent. Accreditation may provide incentives for better governance, management and performance of voluntary organizations. At present no reliable accreditation system is in place. The Government will need to encourage the voluntary sector, to develop alternative accreditation methodologies.

The, National Policy on the Voluntary Sector is just the beginning of the process to evolve a new working relationship between the government and the voluntary sector without affecting its autonomy and identity. Already 3 expert groups have been constituted to carry forward the recommendations of, the policy. Some state governments are also coming up with drafts for a similar policy for their own states.

There are many areas in which we seek help of the voluntary sector- for social audits, behaviour change, good governance and increasingly even for better service delivery. We want to ensure that no section of the population is deprived of the benefits of our schemes and policies. We believe that this may be done through decentralization, through increased stakeholder participation and through Public Private Partnerships (PPP). PPP is not just with the profit sector, but also with committed civil





society organizations. I have seen several excellent examples of this - for example, Char area of Assam where "Akha" (Ship of hope) provides health services in partnership with state government, the NRHM and UNICEF, has taken health care to the forgotten people of the river islands of Dibrugarh, Dhemaji and Tinsukia districts in Upper Assam. In Udaipur School Health system the government in partnership with Nandi Foundation is taking quality healthcare to school children.

It takes months and years of painful effort to build trust. This trust between government and CS is by now on a firm foundation. Consultations with citizens on the Approach Paper to the 12th Plan began on many platforms, including the internet. Members of Planning Commission travelled across the country attending Public Meetings called by CS around various sectoral issues to gather inputs for the 12 Five Year Plan. We learnt important lessons. For example in a Tribal Hearing we attended in a place called Tilda near Raipur, Chhatisgarh, our teachers were women and men from 13 states who had gathered to inform us of their concerns. The culmination of this process was a book *Approaching Equity; Civil Society Inputs for the Approach Paper- 12 Five year Plan* produced collectively by group effort coordinated by Wada Na Todo Abhiyan. We planners use it as reference as we think about the detailing of the 12 Five Year Plan.

UTILITY AND GOVERNANCE CHALLENGES FACING THE NGO SECTOR

Non-Governmental organization, or NGO, is a legally constituted organization started by natural and legal persons operating independently from any government. The term has been originated from the United Nations (UN), referring to organizations that do not form part of the government and are not conventional for profit business. The cases in which NGOs are funded totally or partially by governments, the NGO maintains its non-

governmental status by excluding government representatives from membership in the organization.

However, broadly, the term NGO could be applied to any non-profit organization which is independent from government. NGOs are typically value-based organizations which depend, in whole or in part, on charitable donations and voluntary service. Although the NGO sector has become increasingly professional over the last two decades, principles of altruism and voluntarism remain its key defining characteristics.

NGO Sector in India

NGOs in India are engaged in a wide range of activities. The same NGO may be involved in multiple areas of operation. Micro-credit is one of the most common and increasingly popular type of operation of NGOs, not only because of its outreach to the poor, especially women, but also for the reason that it has also become a legally endorsed income generating activity helping development and sustainability of the NGOs themselves. Other popular programmes include education, health, family planning, environment human rights women and children welfare, etc.

The number of internationally operating NGOs 15 estimated to be 40,000. National numbers are even higher. In India, since the Fifth Five Year Plan recognised non-government organisations (NGOs) as an alternative tool to development, a number of them have sprouted up all over the country. India currently is estimated to have around 3.3 million NGOs in year 2009, which is one NGO for less than 400 Indians, and many times the number of primary schools and primary health centres in India.

For effective implementation of Government programme, monitoring and internal-auditing are two integral components. The NGO sector has contributed significantly to finding innovative solutions to poverty, deprivation, discrimination





and exclusion, through means such as awareness raising, social mobilization, service delivery, training, research, and advocacy. The voluntary sector has been serving as an effective non-political link between the people and the Government.

People's participation in the process aids effective implementation to achieve stated objectives of the programme. Strengthening Panchayati Raj Institutions (PRIs), and organizations run by people who are articulate might further help. With the help of NGOs, quite often implementation of programs is possible in a cost-effective manner in areas where government machinery is inadequate.

Pratham is one of the largest non governmental organisation working to provide quality education to the underprivileged children of India. It has been doing commendable work in providing the assessment of elementary education in the country. It annually publishes report (ASER) on assessment of elementary education in India. ASER (meaning *impact* in Hindi) is the largest household survey undertaken in India by people outside the government. It measures the enrolment as well as the reading and arithmetic levels of children in the age group of 6-14 years.

Prayas, another leading NGO of the country has been doing excellent work in the power sector, with its two main themes (1) Energy Regulation & Governance and (2) Energy Policy for Sustainable Development. Both themes involve analysis, innovation, outreach, intervention and advocacy at state and national levels. Similarly, many NGOs have been doing excellent work in the drought prone areas of Bundelkhand region in the field of animal husbandry by helping out people securing alternative sources of livelihood.

Key governance challenges

In view of the emergence of a new paradigm of scaling up, in which NGOs are seen as catalysts of policy innovations and social capital; as creators

of programmatic knowledge that, can be spun off and integrated into government and market institutions; and as builders of vibrant and diverse civil societies, it's imperative to critically analyze the role of NGOs in the process of development and understanding the challenges facing the Sector. Transparency and accountability are key ingredients of Governance in the NGO Sector as these determine operational efficiencies and risk mitigation. Over the years, corporate sector has been able to recognize and implement best governance practices through appropriate institutional framework. However, the NGO sector is yet to evolve any institutionalized framework, which could potentially play an important-role in overall development of the nation.

NGOs play an increasingly active role in today's political and social arenas. Civil society organizations are increasing in number all over India. Of late, some of the local and national NGOs have been found involved in malpractices and acting irresponsibly, thus undermining the credibility of civil society. It's a huge concern and poses a great challenge to the development movement spearheaded by NGOs in the country. There is a huge flow of funds into the non government organization sector and this requires prudence and good practices to maintain accountability and transparency to the benefit of all stakeholders.

Although, NGOs do internal auditing but for more accountability and transparency, it is advisable to go through external auditing also, especially where public funds are involved. Hence, issues of internal control mechanisms, professionalism, accountability, transparency and financial management must be given impetus. The challenge is multidimensional, and is compounded by the 'unorganised' nature of the sector, lack of regulatory frameworks and the fact that India boasts of more than a million NGOs of different roles, structures and sizes.





In particular, the Indian voluntary sector urgently needs self-regulatory guidelines and transparency mechanisms to increase the trust and awareness as to how the philanthropic funds are being utilised. This is a critical challenge that creates a barrier to raising funds and capital for the sector. The general lack of transparency in the functioning of a large proportion of NGOs leads to aversion in donating funds for charitable causes since the general public is largely cynical about the 'genuineness' of the non-profit spirit of the sector.

The stringent governance standards of an NGO will facilitate the effective management and increase the accountability to its stakeholders including donors, the government and the community. It is in the self-interest of the NGOs to realize the fact that to implement a structure of 'corporate governance' principles would provide the real value to the stakeholders. Also, this would enable to track the potentially dubious sources of funding coming in for the voluntary sector - an aspect which has gained impetus in the wake of the increased number of terror attacks and extremist activities. Recently, this Union Home Ministry has identified some NGOs as security threat to the country. Such security considerations have underscored the rising need of improving the governance practices in the Indian NGOs and exercising better regulatory mechanisms, disclosure norms, and management processes including financial management and budgeting systems as well. Moreover, in the larger interest going beyond the security considerations, the impetus has to be on inculcating a culture of including performance goals, conducting financial and performance audits, and reforms for increasing the operational accountability and transparency in the eyes of the public, volunteers, donors and other stakeholders.

Suggestions and Conclusion

- The implementation of a strategic framework is essentially important in the management

of an NGO. The endorsement of such a framework brings in professionalism and internal control mechanisms, which further makes the organization's performance more effective. Developing strategies also include establishing a mechanism of consistent monitoring of whether they are being implemented and linking the results to the organization's goals.

- There is need to bolster public confidence in the voluntary sector by opening it up to greater public scrutiny. The Government will encourage Central and State level agencies to introduce norms for filing basic documents in respect of NGOs, which have been receiving funding by Government agencies and placing them in the public domain (with easy access through the internet) in order to inculcate a spirit of public oversight.
- Public donation is an important source of funds for the NGO sector and one that can and must increase substantially. Tax incentives play a positive role in this process. The Government could simplify and streamline the system for granting income tax exemption status to charitable projects under the Income Tax Act. At the same time, the Government might consider tightening administrative and penal procedures to ensure that these incentives are not misused by paper charities for private financial gain.
- The Government should encourage all relevant Central and State Government agencies to introduce pre-service and in-service training modules on constructive relations with the voluntary sector. Such agencies need to introduce time bound procedures for dealing with the VOs. These could cover registration, income tax clearances, financial assistance, etc. There must be a formal systems for registering complaints and for redressing





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grievances of NGOs.

- The Government should encourage setting up of Joint Consultative Groups / Forums or Joint Machineries of government and voluntary sector representatives, by relevant Central Departments and State Governments. It also needs to encourage district administrations, district planning bodies, district rural devel-

opment agencies, *zilla parishads* and local governments to do so. These groups could be permanent forums with the explicit mandate to share ideas, views and information and to identify opportunities and mechanisms of working together. The Government also might introduce suitable mechanisms for involving a wide cross-section of the voluntary sector in these Groups/ Forums.



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