

A CONSTRUCTIVE CRITICAL STUDY OF TRANSGRESSION OF RIGHTS OF DALIT CHILDREN IN ACCESS TO EDUCATION IN INDIA

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Without education wisdom was lost; without wisdom morals were lost; without morals development was lost; without development wealth was lost; without wealth the shudras were ruined; so much has happened through lack of education

- Mahatma Jyotiba Phule

In 2015, the Indian Express came up with 'Caste in Class' series wherein it highlighted the grim picture of still prevalent caste discrimination in schools of India.

In Hajipur's two anganwadis, which take in children between six months and six years, untouchability is one of the first life lessons they learn. A digit separates anganwadis 159 and 160 in Hajipur village of Gujarat's Patan district but the divisions are far greater. Now that's complicated math for a three-year-old. So one morning, a few weeks ago, Manavi Chamar walked towards anganwadi No. 160, lost in conversation with her four-year-old neighbour and friend Subani Patel. But she was stopped at the gates and

asked to go to No. 159. "Anganwadi No. 159 is for us Dalits. That day, people in the other anganwadi told my daughter to go to her own. She came home and asked me why she couldn't go with her friend to No. 160 and I didn't know what to say," says her mother Pinki Chamar. Nearly 130 kilometres from Ahmedabad, Hajipur is a village of about 2,000 people. Like in most other villages of Patan, the Patels or Patidars constitute nearly 70 percent of Hajipur's population. The 40 Dalit houses in the village are spread over two mohallas. Anganwadi No. 159 was set up in 1997. Three years later, the Patidars and the Brahmins demanded a separate anganwadi for themselves and moved into the premises of the adjoining primary school.

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The new anganwadi, No. 160, now shares its space and entrance with the school, the boundary wall of the school separating the two anganwadis. Around 9 am, Varshaben Raval, a housewife, reaches No. 160, carrying her two-and-a-half year old son Arya. "Children of Brahmins and Patels come to this anganwadi while the other one is for Dalits. Parents like me would never want their children to sit, play and eat with our children," she says. Does she want her child to go to the other centre? "No, how can she go there? This is where we are supposed to send our children." As she leaves, she waves out to her daughter, who is now sitting on the floor with the other children, facing Bharatiben and chanting in chorus: "Gurur brahma, gurur vishnu..." Seconds later, across the wall, at No. 160, children break into the same shloka.¹

The above mentioned example of Patan is one of its kind and the newspaper took note of caste system being practised in Schools federally. Thus, analysing the above scenario on the basis of Constitutional Morality which Dr. Ambedkar stressed upon after borrowing the analogy from Grotius it can be put forth that in the context of Humiliation and Justice by its dissecting it in the realm of analytical clarity, descriptive realism and social commitment in the words of Upendra Baxi² it questions the responsibility and morality of

Society as a whole rather than trying to fit into any theories. The novel in the words of Evelin Linder points to the Rubric of Humiliation. It points to the Shameful conduct of the Indian Society against a particular strata of Society which may not be redressed by mere material redistribution. It's important to recall Marx and thus put forth that here the exploitation unleashed equates Humiliation plus injustice. Thus it's important here to recall Dr. Ambedkar's differently privileged 'politics of redistribution' over Gandhian insistence on the primacy of overcoming cultural harms done to the Dalits to borrow the concept from Nancy Fraser. So, the need of the system needs to Transformation and not Reformation.

This incident from Patan is the exemplar of prevalent caste based discrimination in the schools of India. Since Vedic Ages caste based discrimination has been prevalent in South Asia. The genesis of the caste system can be traced back to the Tenth Mandala of Rigveda which delineated the 'varna hierarchy'. With passage of time, this system was further codified in the form of dogmatic laws in books like Manusmriti and Matsyapurana. The institution of caste perpetuated injustice and 'graded inequality' which eventually became a

¹ Ritu Sharma Patan, In Gujarat's Patan district, separate anganwadis for Dalit children, The Indian Express, available at <https://indianexpress.com/article/india/india-news-india/caste-in-the-cradle-separate-anganwadis-for-dalit-children/>

² https://www.academia.edu/U._Baxi... (PDF) U. Baxi, 'Humiliation and Justice': Contribution to Seminar on ...

new normal. The lowest rung of the caste hierarchy was occupied by dalits who suffered innumerable atrocities at the hands of the rest of the society. Even after 73 years of its Independence and a progressive Constitution India is yet to eliminate caste discrimination from its root. The centuries of ingrained caste biases and continued practice of caste based inequality has kept dalit children bereft of “accessibility to quality education”.

A Glimpse of History

Untouchables in a geographical location called India who were labeled as Scheduled Castes as per Government of India Act, 1935 and are still described so under the aegis of Constitution of India were the edifice on which the British Raj stood. The Untouchables laid their lives for the Raj in order to escape from the inhuman injustices imposed on them in the form of Varna, Caste Hierarchies by the Dogmatic Hindu Religion. The British which called themselves a civilized government was afraid of rebels of Caste Hindus and in this process they supported the Native Brahmanical prejudices and instead acted as a corporation formed to collect taxes. Thus failing in all aspects to perform their duty, the British instead taxed the Untouchables to pay for Education, Water supply, Salary of the

touchables as noted by Dr. B. R. Ambedkar. Though dancing as the upholders of the 'Rule of Law' on global fora the British Colonial Authorities inherited and recognised the very soul of the Law of Manu i.e Inequality. In case of Dalit Children too this historical Injustice is unleashed when social bigotry and parochial Social Morality is institutionalised via Unleashing of Caste hegemonies in Access to Education which is a path of Emancipation to use Dr. Ambedkar's words.

International Outlook

Even if this discrimination that is being perpetrated on dalit children when looked upon from the International perspective it is a blatant violation of Art.24, Art.25(2), Art.26 of Universal Declaration of Human Rights, Art10(1) and 10(3), Art 13 of International Covenant of Economic, Social and Cultural Rights, Convention on Rights of Child(1959, 1989 and even enshrined in World Summit for Children(1990).

Measures to tackle discrimination

Overall, tangible recommendations by the International Dalit Solidarity Network³ (www.idsn.org) to the UN Special Rapporteur on contemporary forms of racial discrimination – March 2013 to promote Dalits

³ <https://idsn.org>

Children's Access to Education is presented below:

Governments should ensure the right to education in truest sense by improving the quality of education and non-discrimination in schools.

Take concrete steps to eradicate the existing prevalence of caste-based discrimination in schools, including stereotypic and demeaning reference; and language still present in text books in many caste affected countries; ensure inclusion of children of affected communities in schools and undertake mass education among the general population regarding the importance of non-discrimination and respect for affected communities.

Right to Education⁴

To ensure that public and private education systems include children of all communities and do not exclude any children on the basis of descent.

To reduce school dropout rates for children of all communities, in particular for children of affected communities with special attention to the situation of girls.

To combat discrimination by public or private bodies and any harassment of students who are members of descent-based communities.

To take necessary measures in cooperation with civil society to educate the population as a whole in a spirit of non-discrimination and respect for the communities subject to descent-based discrimination.

To review all language in textbooks which convey stereotyped or demeaning images, language, names or opinions concerning descent-based communities and replace them with images, language, etc. which convey the message of the inherent dignity of all human beings and their equality in human rights.

Gender and Caste⁵

Ensure free, full-time formal quality education for Dalit girls and boys from primary level until completion of elementary level.

Remove identified barriers to elementary school admission and attendance of Dalit and other caste-discriminated children with a specific focus on girls; including addressing issues of forced and bonded labour, impact of conflict, displacement and migration

⁴ RTE Act: Claiming education for every child - Oxfam India

⁵ [https:// us. sagepub. com › book266450](https://us.sagepub.com/book266450)
Gendering Caste | SAGE Publications Inc

Reduce school drop-out rates for children of all communities, in particular for children of affected communities, with special attention to the situation of girls

The Constitution of India accords Rights to children as citizens of the country, and owing to their special status the State has even enacted special laws. The Directive Principles of State Policy articulate social and economic rights that have been declared to be “fundamental in the governance of the country and ... the duty of the state to apply ... in making laws” (Article 37). The government has the duty to enact appropriate legislative and administrative measures to ensure children’s rights; no court can make the government ensure them, as these are essentially directives. These directives have enabled the judiciary to give some landmark judgements promoting

children’s rights, leading to Constitutional Amendments as is in the case of the 86th Amendment to the Constitution that made Right to Education a fundamental right i.e Art 21A. Though in spite of the above rights and directives in place there has been rampant discrimination of the Dalit children in Schools on basis of Caste as shown by the case study of Patan (Gujrat) thus violating the Fundamental Right to Equality, Right to Education⁶, etc. which has been a blot on the process of percolation of Constitutional Morality⁷ among the Citizens of India. This paper has highlights the Transgression of Rights of Dalit Children in Access to Education in different Scenarios of India and need to imbibe the Constitutional morality so as to ensure the ideals of Liberty, Equality, Fraternity⁸ and thus Access to Justice for All as well as complete justice as mentioned in Art 142⁹ of Constitution.

⁶ https://mhrd.gov.in/rte_rules
School Education | Government of India, Ministry of Human Resource ...

⁷ <https://www.livelaw.in/columns>
Constitutional Morality: Can We Understand Our Morals Right? - Live Law

⁸ chnm.gmu.edu/revolution
Exploring the French Revolution · Liberty, Equality, Fraternity

⁹ www.nja.nic.in/17_Complet...PDF
Courts and its endeavor to do Complete Justice - National Judicial Academy