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SOCIAL JUSTICE IN THE INDIAN CONSTITUTION: A JUDICIAL REVIEW

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ABSTRACT:

In India, Social Justice has always been a matter of regular debates and discussions. India consists of a large group of people who on certain bases need social justice. This paper specifically focuses on socially disadvantaged people in India. This group of people since the enforcement of the Indian Constitution, encompasses several Articles for the prohibition of discrimination, the abolition of untouchability, interests' promotion educationally and economically, and the protection of tribal areas to safeguard, i.e. the SCs and STs in upholding the equality and social justice principles of the constitution. These provisions ensure the goals of social justice for the socially disadvantaged, i.e. SCs and STs given in its Preamble. Therefore, this study delves into all these provisions and landmark judicial judgments, such as *Champakam Dorairajan, Indra Sawhney,* and the *Nandini Sundar v. State of Chhattisgarh judgments* that have shaped the implementation and scope of these safeguards. Several cases included above have been pivotal in interpreting these constitutional mandates. The role of the judiciary in ensuring affirmative action, protecting against atrocities, and safeguarding rights in tribal areas is critically examined. This paper analysis also addresses the challenges faced in the practical application of these safeguards, including issues of enforcement and socio-political barriers highlighting the ongoing need for judicial vigilance and proactive measures to fully realize these constitutional safeguards in contemporary India.

KEYWORDS:

Social Justice, Indian Constitution, Socially Disadvantaged, Supreme Court.

INTRODUCTION:

The Preamble of the Constitution of India outlines the fundamental principles that form the cornerstone for the aforesaid supreme legal document of the nation. This above-mentioned

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statement expresses the following: "We, the entirety of the Indian population, having made a serious pledge through this document to establish our nation India as an independent, autonomous, socialist, secular, and democratic country, and to guarantee that all its residents are entitled to *Justice* encompassing social, economic, and political dimensions; *Liberty* encompassing the freedom of thought, expression, belief, faith, and worship; *Equality* in terms of social status and opportunities;[1] To *promote* a sense of unity among all citizens while protecting *the dignity of the individual and the integrity of the nation*.[2] The Constitution on how to establish all objects in question was officially ratified, enacted, and conferred upon the general public by the Constituent Assembly of India on the date of enactment, November 26th, 1949. For this purpose, the Indian Constitution incorporates a range of provisions to protect the rights of the Scheduled Castes (hereafter SCs) and Scheduled Tribes (hereafter STs). A deep analysis of the Constitution makers for the upliftment of socially disadvantaged peoples, such as SCs, STs, and OBCs, is observed in the comprehensive constitutional mechanism. In the 1991 census, when we were close to 138 million people, approximately over 16% of India's population - were classified as belonging to SCs. Among them, four States, Uttar Pradesh with 29.3 million, West Bengal with 16.08 million, Bihar with 12.6 million, and Tamil Nadu with 10.71 million, account for more than 50% of India's SC population.[3]

Constitution Articles prohibit discrimination, abolish untouchability, and promote the interests educationally and economically of SCs and STs, reflecting the state's commitment to these goals. Hence, the drafters of the Constitution of India incorporated and provided a robust framework of safeguards within the constitutional framework to promote social justice and equality and to ensure the advancement and growth of the Indian SCs and STs Communities and their inclusion in the national development process. However, it should be noted that the aforementioned terms lack explicit definitions within the Constitution. The central governments and States have also implemented a range of welfare and development initiatives

[1] Mahantesh G.S., Social and Economic Justice under Constitution of India: A Critical Analysis, IJLMH (Jan. 26, 2025, 8:00 P.M.), https://www.ijlmh.com/wp-content/uploads/2019/04/Social-and-Economic-Justice-under-Constitution-of-India-A-Critical-Analysis.pdf.
[2] Yagya Mehru, Preamble: The Shepherd of the Constitution, legal service (Jan. 26, 2025, 8:00 P.M.), https://www.legalserviceindia.com/legal/article-7463-preamble-the-shepherd-of-the-constitution.html.
[3] Mahinder D. Chaudhry, Population growth trends in India: 1991 census, Springer nature link (Jan. 26, 2025, 8:00 P.M.), https://link.springer.com/article/10.1007/BF01254606#:~:text=The%20decennial%20census%20counted%20the,a%20decade%20earlier%20in%201981

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to fulfill their constitutional responsibilities within an independent India and promote the advancement of the SCs and STs Communities. These initiatives aim to facilitate the attainment of parity with other segments in terms of social, economic, political, and cultural progress of society in India.

On the above bases, it can be easily observed that there are several legislations in the nation not only to control the hatred but also to promote and enhance the socio-economic status of SCs and STs, but then they are facing conditions of infirmity, discrepancies, violence, and vulnerabilities that continue. No doubt here that the role of 4th pillar as the savior and promoter increases because it has been given the power of interpretation and enforcement of laws which ensures the credibility of the constitutional promises to its citizens speaking through its preamble and some of the other provisions as given in part 3rd and Part 4th etc. which secure social justice to the citizens[4]. This paper takes over a critical examination of the existing Indian constitutional provisions and the importance of statutory legislation in the context of SCs and STs. Finally, this paper also efforts to focus on the role Indian judiciary in making the downtrodden and poor sections of society as the welfare authority establishing social justice expression as provided in Article 38 Of the constitution which is the enacting part for these SCs and STs Communities as enshrined in various parts of the Constitution through the landmark pronouncements.

INDIAN DISADVANTAGED SOCIETY AND THE MARGINALISED SECTIONS OF INDIA:

India, since its existence is characterized by its rich socio-cultural, linguistic variances and diverse social hierarchical structure. Today, India is the second most populous country after China in the world. There are several religions, sects, cultures, and languages, among these the combined population of marginalized communities, specifically the Scheduled Castes (SCs) and Scheduled Tribes (STs) are approximately 23% of the total population.[5] These individuals were subjected to socioeconomically disadvantaged positions and the regular denial of basic human rights. Upon achieving independence in August 1947, when "Constitution of India" was adopted to govern its population, the Constitution ensured to each and every citizen of India

[4] Dr. Shridevi, Social Justice Provision in Indian Constitution, ARC Journal (Jan. 26, 2025, 8:00 P.M.), https://www.arcjournals.org/pdfs/ijps/v6-i3/1.pdf.

[5] Azaz Ahamed, Deprivation in Socio-Economic Status of Scheduled Castes and Scheduled Tribes in West Bengal: A Geographical Investigation, IJTSRD (Jan. 26, 2025, 8:00 P.M.), https://www.ijtsrd.com/papers/ijtsrd38247.pdf.

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the right to life with full dignity ensuring equality, liberty, right against exploitation, and protection of their human rights by enacting safeguards, privileges in its provisions through established agencies of the government. Dr. Bhimrao Ramji Ambedkar, considered to be the 'Father of Modern India', never gave the edge to any particular community. He is considered as an 'Architect of Modern India' and gave all individuals of the nation equal rights irrespective of gender, religion, caste, creed, or society. In this way India, after freedom, when established it a democratic republic nation through its national document, became cognizant of its responsibility to safeguard the well-being of all, i.e. to the people, by the people, for the people without any discrimination.

Here we have historically several major religions, their division into different sects, various social groups, and inclusive societies. For example, in the Hindu religion, there is a division of four Varnas as Brahmin, Kshatriya, Vaishya, and Shudra. Among these Shudras, there are certain sections of society that are still marginalized and oppressed after 75 years of independence. These disadvantaged and marginalized groups, which specifically are SCs and STs for centuries, have faced and are still facing discrimination socially, deprivation economically, and exclusion politically, and many more from the society. If we look at the history of India the division of Hindus into different castes has developed as a caste system prevailing everywhere in which the Scheduled Castes (SCs) and Scheduled Tribes (STs) which are oppressed and marginalized groups have been deprived of even the essential basics such as property, education, freedom, equality of life and are politically influenced. Our historical literature is filled with a bulk of incidents and stories that were prevalent in society expressing their real conditions which made them "untouchables," hence were subjected to severe social atrocities, and hatred and even restricted from accessing temples, drinking water, public ways, public rituals and other basic resources and opportunities easily available to other three communities. It is said that the roots of such an established caste system were in the foundation of the division of occupations such as work related to dead animals shearing, making leather, cleaning drains, toilets, gutters, dead cattle from village grounds, and work related to funeral ceremonies, etc. were placed at the menial of works[6]. Due to this system, the ones who were Shudras at the bottom strata were forced to clean up the dirtiest and most menial tasks as forced

[6] Byjus, https://byjus.com/free-ias-prep/vulnerability-due-to-caste-sc-st-obc-minorities/ (last visited Jan 26, 2025).

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and bonded laborers. Due to such excluded tasks, the individuals slowly became "untouchables," and were treated as the vulnerable caste groups that hadn't had access to resources, services, and development, which pushed them into extreme perpetual poverty.

The Indian Constitution has effectively safeguarded the human rights of diverse groups of citizens by enshrining specific benefits that are outlined within its provisions such as the right to equality, freedom, prohibition of forced labor, right to religion, etc. Despite constitutional provisions abolishing untouchability and prohibiting caste-based discrimination, SCs continue to face social and economic challenges. STs are also treated as and comprised the indigenous communities that have traditionally lived in remote and forested areas. They have faced displacement, loss of livelihoods, and cultural erosion due to industrialization and urbanization. No doubt the government is not aware and conscious of all this. The Indian government, from time to time, has taken affirmative action to implement the government. Policies, including reservations in education, reservations in employment, and reservations in political representation on a percentage basis to address the historical injustices such as separation from society, schools, cremation grounds, access to public services such as water wells, taps, health care, education, prohibition of approaching to public roads, temples, etc. faced by SCs and STs. However, these measures alone are insufficient to overcome deeply entrenched social biases and structural inequalities. The distinctiveness of the Constitution of India is evident in its provision for STs. The main purpose of implementing these protective measures was to facilitate the socio-economic progress of marginalized communities, specifically the SCs and STs. The aforesaid provisions have been established with the intention of facilitating the effective implementation of the Directive Principle, as can be observed. Ongoing efforts are required to eliminate caste discrimination and to create an inclusive society that respects and values diversity. The final fundamental destination is to ensure that these communities are on equal footing with other segments of the nation. The achievement of a welfare society is dependent on the widespread adoption of constitutional provisions that enable the exclusive control of social status, property, and education by individuals belonging to the high-caste Hindu community. The caste system engendered a state of deprivation among the marginalized segments of society, leading to the loss of property, limited access to education, curtailed freedom, diminished social equality, restricted economic opportunities, and diminished political influence. The caste system bestowed hierarchical privileges upon specific segments

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of the population while imposing enduring limitations on others that were perpetuated across subsequent generations.

In this entire purview, this paper takes over a critical examination of the existing Indian constitutional provisions and the importance of statutory legislation in the context of these disadvantaged and marginalized groups. Finally, this paper also efforts to focus on the role of the Indian judicial system to make the downtrodden and economically disadvantaged sections of people as the welfare authority establishing social justice expression as provided in Article 38 of the constitution which is the enacting part for these SCs and STs Communities as enshrined in various parts of Constitution through the landmark pronouncements.

THE CONSTITUTION AND THE PROVISIONS SAFEGUARDING THE PROTECTION AND PROMOTION OF DISADVANTAGED AND MARGINALIZED PEOPLES:

It is one of the chief characteristics of the Constitution the supreme Indian document to ensure the welfare of every individual it consists of several provisions that secure equality, liberty, protection rights against exploitation, and protection of the rights of the disadvantaged particularly the rights of the Scheduled Castes (SCs) and Scheduled Tribes (STs) Communities. Who faced historical injustices and continuous discrimination from hierarchical social groups. Dr. Bhimrao Ramji Ambedkar, who assumed the role of committee chairman, is credited with the inclusion of these protective measures within the framework of the Indian Constitution. Dr. B. R. Ambedkar, first introduced them in 1931, which was just in 1950 at the time of enforcement of the Indian Constitution. Key among these provisions is Article 14, Article 15, Article 16, Article 17, and Article 29(2). Reservation according to him was just part of affirmative action, which is also given in the US, Japan, Russia, and other developed nations as equality measures for some races, minorities, and tribes. Moreover, several measures, including Article 46, were endorsed by the Constituent Assembly of India, signifying a new policy that carried messages of optimism for numerous compatriots who had previously experienced neglect. Article 46 serves as the foundation for various safeguards pertaining to SCs and STs and mandates the nation to promote their literacy and economic enhancement as being treated as oppressed and marginalized groups and to protect them from all forms of injustice and exploitation in society.

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Additionally, Article 275, and Article 332 provide SCs and STs reservations for the seats in Lok Sabha and State Legislative Assemblies, respectively, ensuring their lawfully reasonable representation in the legislative process.[7]. Furthermore, the Fifth and Sixth Schedules of the Indian Constitution contain provisions for addressing the protection of the interests of the tribal communities, the administration and regulation of scheduled areas and scheduled tribal areas, ensuring the unique needs and challenges faced by tribal communities and ensuring their participation in the governance of their regions. Under Part IX, reservation for SCs and STs in local bodies has been envisioned and stipulated. Article 338 Establishes the National Commission for SCs, and Article 338A establishes the National Commission for STs, both of which are tasked with monitoring and reporting on the implementation of safeguards for these communities. The purpose of this action was to outline the necessary steps that both the Union and individual states should take in order to ensure the effective implementation of the aforementioned safeguards and other initiatives designed to protect the welfare, socio-economic development, and overall progress of the Scheduled Castes (SCs) and Scheduled Tribes (STs). Moreover, the commission was also bestowed with supplementary responsibilities concerning the advancement, safeguarding, well-being, and progress of the Scheduled Castes (SCs) and Scheduled Tribes (STs).

These constitutional provisions collectively aim to eradicate the socio-economic disparities faced by SCs and STs, promoting their inclusion and empowerment in Indian society. However, effective implementation and continuous judicial oversight are essential to realize the full potential of these safeguards. But it is worrisome that throughout a span of above 75th years, it is evident that the implementation of the reservation policy has not effectively resulted in the enhancement of the socioeconomic circumstances of the Scheduled Castes (SCs) and Scheduled Tribes (STs).[8]

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JUDICIAL PRONOUNCEMENT FOR SAFEGUARDING THE DISADVANTAGED AND MARGINALIZED PEOPLES OF INDIA:

[7] Prsindia, https://prsindia.org/files/parliament/discussion_papers/1370586595_Public%20Engagement%20with%20the%20Legislative%20Process.pdf (last visited Jan. 26, 2025).

[8] Anil Kumar, Contemporary Problems of Scheduled Castes and Scheduled Tribes in India, Anthropology (Jan. 26, 2025, 8:00 P.M.), https://www.longdom.org/open-access/contemporary-problems-of-scheduled-castes-and-scheduled-tribes-in-india-82223.html.

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Today everyone has guaranteed the right to fundamental rights; however, sometimes certain persons, and agencies attempt to seize them. In that situation, the judiciary ensures protection and lets every citizen live in peace and harmony. It is an irony in India that the oppressed caste groups SCs and STs, which have been, for centuries, the most neglected, marginalized, and exploited people, historically have faced several forms of discrimination and atrocities and still face the ostracized scourge of untouchability.[9]. The Apex Court and the High Courts have been called upon time and again to save the freedom of the persons against legislative and executive transgressions. Hence, they have always played a significantly crucial role in protecting and empowering Scheduled Castes (SCs) and Scheduled Tribes (STs) in India through landmark judgments and, from time to time, interpreted the constitutional provisions and other rulings to protect the rights of these marginalized communities as a guardian of their rights. This role of the Supreme Court as the protector and promoter of fundamental rights had become clear in the first few years of the enforcement of the Constitution in the verdict of the ***State of Madras Vs. V. G. Row***[10] The equality right is guaranteed in Arts. 14 to 18, Article 17 clearly abolishes untouchability. The guarantee of equal protection is not only against substantive laws but against procedural laws as well.[11] In this way, the Indian Judiciary through its judgments has not only interpreted and applied these principles to address challenges faced by these communities contemporarily but also established the principles of equality and social justice for these communities. Hereunder are certain famous judgments elaborating on this role of the Judiciary. Let's take a view of them:

The verdict of the case of ***Champakam Dorairajan***[12] ***(1951)*** is in relation to the Court's right to make special provisions for SCs and STs. In this case, the Apex judiciary promoted the reservation policy and held that the state can make special provisions for SCs and STs. *This case is declared as o*ne of the earliest significant cases where the Supreme Court elevated the reservation policy of India. This landmark judgment prepared the ground for future subsequent affirmative action policies by the Indian government.

[9] Legal affairs, https://legalaffairs.gov.in/sites/default/files/IX.ISSUESOF%20SOCIAL%20JUSTICE%20%20SCHEDULED%20CASTES%20%20AND%20SCHEDULED%20TRIBES%20AND%20OTHER%20BACKWARD%20CLASSESAN%20UNFINISHED%20NATION.pdf (last visited Jan. 26, 2025).

[10] 1952 SCR 597, AIR 1952 SC 196.

[11] *State of West Bengal Vs. Anwar Ali Sarkar,* AIR 1952 SCR 284, SC 75.

[12] *State of Madras v. Champakam Dorairajan,* AIR 1951 SC 226.

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Similarly in a subsequent judgment of ***Indra Sawhney v. Union of India,*** *(1992)*[13], famously known as the ***Mandal Commission case***,[14] The Supreme Court upheld out of the total reservation, the 27% reservation for Other Backward Classes (OBCs) while reciting the importance of reservations for SCs and STs and the judgment given by the Supreme Court in the ***State of Madras v. Champakam Dorairajan*** **case.**[15] In the same case, the Court emphasized that to establish social justice in society, there is a need to balance every individual and group, and Other Backward Classes (OBCs) are the communities that historically have faced these disadvantages.

Further, in a case (*Nandini Sundar v. State of Chhattisgarh* (2011)), the Court focused on state-sponsored vigilantism in tribal areas. Addressing the issue, the Supreme Court condemned the use of tribal youth in anti-Maoist operations and stated that this is a matter of extreme concern to take immediate steps to protect the youth from such activities. Furthermore, the honorable Court highlighted the need for the protection of tribal property and the establishment of proper governance in tribal regions ***(Nandini Sundar v. State of Chhattisgarh).***[16]

The ***Sabarimala Case (2018)***[17] Is also a landmark and famous case which attracts the people towards it. In this case, the Court ruled that to stop and exclude women from entering and worshipping from the Sabarimala temple is unconstitutional. It invokes the equality principle and non-discrimination principle of the Constitution. In this way Supreme Court forcing on the guarantee of equality also protects SCs and STs on this ground.

Another important judgment is ***Vikas Yadav v. State of Uttar Pradesh (2016)***[18]**,** where the Supreme Court took a firm stand against "honor killings," often perpetrated against inter-caste couples, many of whom belong to SCs or STs Communities. The Court mandated strict action and emphasized the protection of individual rights.

Last but not least, the judiciary has also been proactive in interpreting the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989[19]. In ***Subhash Kashinath Mahajan v. State of Maharashtra (2018),***[20] The Court initially imposed safeguards to prevent

[13] AIR 1993 SC 477.
[14] Ibid.
[15] AIR 1951 SC 226.
[16] AIR 2011 SC 2839; (2011) 7 SCC 547.
[17] AIR 2018 SC 4163; (2018) 10 SCC 689.
[18] AIR 2016 SC 4614.
[19] Vajiramandravi, https://vajiramandravi.com/upsc-daily-current-affairs/prelims-pointers/scheduled-caste-and-scheduled-tribe-prevention-of-atrocities-act-1989/ (last visited Jan. 26, 2025).
[20] (AIR 2018 SC 1498), 2 (5) & 32 of 2022, IJLR.

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misuse of the Act but later, in 2019, restored the original provisions, recognizing the continuing vulnerabilities of SCs and STs. Above all judicial verdicts are enough to demonstrate that the judiciary of India is always vigilant towards its responsibilities as a protector and promoter of human rights as well as fundamental rights and its commitment to protect and ensure justice socially, economically, and politically for SCs and STs, through their inclusion in Indian society. The Judiciary as a 4th pillar always inclined towards the Constitutional aims and stands firmly as a protector and promoter of the rights of individuals given by the Constitution. In conclusion, it is encouraging to see that the court's interpretation and construction of fundamental rights have generally served to uphold and encourage the belief of the average person not only in the law and legislature of the nation but also in this great organ of government.

CONCLUSION:

Conclusively, from the above discussion, it can be easily observed that the oppressed society, i.e. Scheduled Castes (SCs) and Scheduled Tribes (STs) in India, have historically always faced discrimination, social exclusion, economic exploitation, illegal land acquisition, displacement, destruction of property, and different forms of violence. To address all these issues, the Indian legal framework drafted and enforced several important statutes and provisions as The Indian Constitution, SCs & STs (Prevention of Atrocities) Act, 1989 (POA Act), The National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST), The Protection of Human Rights Act, 1993 which establishes the National Human Rights Commission (NHRC) and State Human Rights Commissions to address human rights violations, including those affecting SCs and STs have been established.[21] But then also the atrocities against them are in regular process everywhere in practice. While existing laws provide a framework for protecting SCs and STs, then also several areas require further attention such as

- Strengthening the implementation of laws and ensuring their successful enforceability
- Enhance judicial scrutiny and faster legal processes and ensure timely justice of cases.
- Increase awareness about rights and legal protections among SCs and STs.

[21] Insight IAS, https://www.insightsonindia.com/polity/statutory-regulatory-and-various-quasi-judicial-bodies/national-human-rights-commission/ (last visited Jan. 26, 2025).

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- Engaging SCs and ST communities in the policy-making process and decision-making can ensure that their perspectives and needs are adequately addressed.
- Improved data collection on atrocities and the effectiveness of protective measures can help in formulating better policies and interventions.

In conclusion, while laws and protections are in place to safeguard SCs and STs from atrocities, continuous efforts are needed to enhance their effectiveness and address emerging challenges. Strengthening implementation, promoting socio-economic development, and fostering community involvement are keys to advancing the protection and empowerment of these marginalized communities.

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