

CHAPTER 9

Issues of Social Justice :

Scheduled Castes and Scheduled Tribes and Other Backward

Classes – An unfinished national Agenda

Scheduled Castes and Scheduled Tribes have been, for centuries, the most neglected, marginalized and exploited people. The scourge of untouchability was a blot on the Indian civilization. Despite the constitutional declaration of its abolition under Article 17 of the Constitution, it persists in many subtle and not so subtle ways. It has been an unmitigated tale of prejudice, discrimination and exploitation. At stake, in the ultimate analysis, is the very integrity and survival of Indian society. Without transforming vertical inequality in society into horizontal equality, democracy will have no meaning. If

Scheduled Tribe Populations in India

- ❑ In 1991, close to 68 million people – 8% of India's population - were classified as belonging to Scheduled Tribes. This is more than the entire population of East Asia (excluding China), and roughly equivalent to the total populations of Canada, Australia, Sweden and Belgium.
- ❑ Four states – Madhya Pradesh (15.4 million), Maharashtra (7.32 million), Orissa (7.03 million) and Bihar (6.62 million) – account for almost 50% of India's Scheduled Tribe population.
- ❑ Forty districts in India (Appendix X) account for 50% or more of Scheduled Tribe population. 35 districts have no Scheduled Tribe population.
- ❑ Five States/Union Territories - Chandigarh, Delhi Haryana, Pondicherry and Punjab (Appendix VI) - report no Scheduled Tribe populations.
- ❑ Scheduled Tribe populations are not a 'minority' in all States and Union Territories. The States - Mizoram (95%), Lakshadweep (93%), Nagaland (88%), Meghalaya (86%), Dadra and Nagar Haveli (79%), Arunachal Pradesh (64%), Manipur (34%) and Tripura (31%) - have 30% or more of Scheduled Tribe population.

the law is not in favour of disadvantaged, they will never achieve true equality of opportunity and freedom of choice. The nation's unity will be at risk. In some form or the other, overt or covert, in many subtle ways, the prejudice against these weaker sections persists. This is perhaps because of the mindset of certain sections of the society. Indeed to refer to the Scheduled Castes and Scheduled Tribes and other backward classes* as mere 'sections of society' is a grave misuse of words. They together constitute the vast and not merely a section. The recurring themes that, unfortunately, have been dominating the debate on reservation is – 'Could the rights of individual be put at risk in the interest of a disadvantaged group? Does it amount to reverse discrimination? Is it acceptable to require an individual to make the sacrifice? These questions which dominate the debate are greatly misplaced. The injustices heaped on the Scheduled Castes and the Scheduled Tribes for no reason other than the pure accident of birth have few parallels in the history of civilisation.

Scheduled Caste Populations in India

- ❑ **In 1991, close to 138 million people – over 16% of India's population - were classified as belonging to Scheduled Castes.**
- ❑ **Four States – Uttar Pradesh (29.3 million), West Bengal (16.08 million), Bihar (12.6 million) and Tamil Nadu (10.71 million) - account for 50% of India's Scheduled Caste population (Appendix I).**
- ❑ **One State and two Union Territories report no Scheduled Caste populations. They are Nagaland and Andaman and Nicobar Islands and Lakshadweep.**
- ❑ **100 districts (Appendix-V) account for 51% or more of Scheduled Caste Population**

* As official statistics in respect of Other Backward Classes (OBCs) is not available, same has not been referred to. The 2001 Census has also not attempted to fill this void.

9.1 Constitutional Mechanism For Uplift Of Scheduled Castes, Scheduled Tribes And Other Backward Classes

The deep concern of the framers of the Constitution for the uplift of the Scheduled Castes and Scheduled Tribes and Other Backward Classes is reflected in the elaborate constitutional mechanism set-up for their uplift. Article 17 abolishes Untouchability. Article 46 requires the State 'to promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and to protect them from social injustice and all forms of exploitation. Article 335 provides that the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State. Article 15(4) refers to the special provisions for their advancement. Article 16(4A) speaks of "reservation in matters of promotion to any class or classes of posts in the services under the State in favour of SCs/STs, which are not adequately represented in the services under the State'. Article 338 provides for a National Commission for the Scheduled Castes and Scheduled Tribes with duties to investigate and monitor all matters relating to safeguards provided for them, to inquire into specific complaints and to participate and advise on the planning process of their socio-economic development etc. Article 330 and Article 332 of the Constitution respectively provide for reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes in the House of the People and in the legislative assemblies of the States. Under Part IX relating to the Panchayats and Part IXA of the Constitution relating to the Municipalities, reservation for Scheduled Castes and Scheduled Tribes in local bodies has been envisaged and provided.

9.1.2 Part IX and Part IXA of the Constitution respectively permit the legislature of a State to make provision for reservation of seats in Panchayat and Municipalities in favour of backward classes of citizens. Article 340* of the Constitution provides for appointment of a Commission to investigate the conditions of Backward classes. Article 16(4) and 16(4A) respectively permit reservation of appointments or posts and in matters of promotion in favour of backward classes not adequately represented in the services under the State. Article 15(4) permits the State to make special provision for the advancement of any socially and educationally backward classes of citizen. In addition to these, there are also other Constitutional provisions for the welfare and socio-economic empowerment of the Scheduled Caste, the Scheduled Tribes and other backward classes.

9.2 Fulfilment Of Constitutional Mandate – How Far? How Fair?

* The Kaka Kalelkar Commission on the 29th January, 1953 and Mandal Commission on 1st January, 1979 were appointed under this Article.

In spite of this manifest, avowed and determined concern of the Constitution, the objectives have not been fully achieved and whatever has been done has been done hesitatingly, half-heartedly and as a measure of concession forgetting that in this area we are dealing with Constitutional rights and not concession to those classes.

9.2.1.2 It is instructive to examine how the socio-economic, legal and political factors inter-play to generate a particular matrix of social dynamics. The text of the Constitution created a lofty mix of Fundamental Rights and a set of Directives enjoining upon the State the obligation to promote and to secure to the citizens, the enjoyment of rights that provide the citizen an environment allowing his/her growth and development with social justice, equal opportunity, right to work and access to basic needs and opportunity without discrimination. While the text created a noble and a sanguine texture, the key players were the State, the legal system, the dynamics of social development and the social forces generated by the socio-political processes. The linkage between these players provides some explanations to the path that the nation has traversed in economic growth, social development and pursuit of equal justice. The processes of economic development do not necessarily lead to equitable income distribution. In fact, these often result in appropriation of national and social resources by a small percentage of the people. While over the years, the social services in the field of education, health, transportation and tertiary sectors have increased, there has been an inherent distortion in their universal access. Typically in this paradigm, the center has continuously appropriated access to every aspect of development of services and resources at the cost of vast periphery. Policy instruments loaded with different objectives produce a paradoxical regime of results, which is fairly seen in the areas where the Constitution assigned the role of basic font of delivery to the State.

9.2.1.3 The legal regime also confronts us with paradoxes. While the legal text is explicit in seeking remedies, the implementation appears to evade performance. In implementation of laws and the working of the legal system several trends emerge. Laws and legal processes are not self executing; they depend on the players such as the administrative structure and its processes, the judiciary with the anticipation that the social attitudes are driven by enlightened notions -: equity, social justice, fair play. However, the responses of the players in the implementation of laws protecting the weak, the oppressed, women and children and the socially disadvantaged have over the years become increasingly indifferent. The injustices have been allowed to persist and the system has failed to provide for self-correction. In implementation and in interpretation of the Constitution and law, distortion and denial of the rights have crept in.

9.2.1.4 A related issue of social dynamics is the opportunity and the access to the disadvantaged to take advantage of forums of the enforcement process and social mobilization. The polarization of castes and classes in the recent years across the society has shown disturbing trends, in as much as the administrative system, the judiciary, the legal processes reflect the social reality of a given area or region. Enforcement agencies have themselves responded to these urges for social protests and desire for enforcement using the legal and social processes with indifferences and indeed ostensibly with resistance. Increasingly it was shown that whereas processes were available to the disadvantaged, the weak, the oppressed, women and children, access was denied owing to its cost and remoteness. Even when the State created some shelters through various form of Legal Aid to Scheduled Castes, women and to the oppressed, they were reduced to tokenism owing to the quality and availability. Indeed, the higher levels in judiciary intervened with vigour against the injustice manifest in the system in the form of bonded labour, child labour, crime against the women and Scheduled Castes and tribals etc. It is

pertinent to note that the legal and institutional processes of redressal where provided are available only formally and have made a little or no impact. The disadvantaged sections of the society have difficult access even to the shelters and sanctuaries created for them under the law. The manner and frequency with which social protests have, in some cases, been snuffed out by the very system created to protect it, is revealing. This is the major challenge for the system which incorporates in its formal text the creation and the sustenance of a civil society.

9.2.2 Untouchability and Atrocities

Article 17 of the Constitution abolished untouchability. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted to prevent atrocities against the Scheduled Castes and the Scheduled Tribes. A glance at the number of cases registered under the Protection of Civil Rights Act, 1955 and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Table 9.1) shows that though total number of cases under these Acts show a declining trend in recent years yet the high number of cases still registered under these Acts is a grim reminder of the unfortunate fact that atrocities against the Scheduled Castes and the Scheduled Tribes and untouchability continue unabated even today.

Table No. 9.1

Number of Cases Registered under The Protection Of Civil Rights Act, 1955

And SC/ST (Prevention Of Atrocities) Act, 1989

Year	Scheduled Castes			Scheduled Tribes			Total Cases Registered
	Cases registered under			Cases registered under			
	PCR Act	SC/ST POA Act	Total	PCR Act	SC/ST POA Act	Total	
1997	1216	8070	9286	88	643	731	10017
1998	724	7443	8167	50	709	759	8926
1999	678	7301	7979	45	574	619	8598

Source: As compiled by National Human Rights Commission from monthly crime statistics

9.2.3 Inadequate Representations In The Public Services

Adequate representations in the public services of Scheduled Castes and Scheduled Tribes is as yet another unredeemed constitutional pledge. The following tables show the representation of the members of Scheduled Castes/Scheduled Tribes in the services of the Central Government in the years 1961 and 1998:

Table 9.2

**Percentage Of Representation Of
SCs/STs In Central Government Services**

Group (Excluding Sweepers)	Percentage of Scheduled Castes		Percentage of Scheduled Tribes	
	1961	1998	1961	1998
A	1.44	10.38	0.21	3.21
B	2.45	11.73	0.67	2.68
C	7.49	15.99	0.92	5.95
D	17.19	21.45	3.13	6.85

**Source:
Records of
Ministry of
Personnel,
Public
Grievances &
Pensions,**

Govt. of India,

New Delhi.

9.2.3.2 From the Table, it is clear that the adequate representation to Scheduled Caste and Scheduled Tribe in Group 'B' & Group 'A' posts in Central Govt. itself remains inadequate. Scheduled Tribes are not adequately represented in Group C and Group D services as well. Moreover, within Group 'A' at top echelons where decisions are taken, representation of the Scheduled Castes and the Scheduled Tribes is meagre and therefore, to that extent, representation shown by data for Group 'A' posts presents a distorted view of actual state of affairs.

9.2.3.3 The efforts to ensure adequate representation for Scheduled Caste and Scheduled Tribe in higher levels of public services are perceived by the disadvantaged groups as having received a set back following certain judgements of the Supreme Court. In Preeti Srivastava's¹ case, a five Judge Bench of the Supreme Court held that there should be no reservation in admission in Ph.D., etc. The Medical Council of India was directed to consider the percentage of relaxation of marks for admission in post-graduation. In Vir Pal Singh Chauhan's² case and Ajit Singh's case³, the Supreme Court by two-Judge Bench and five-Judge Bench respectively held that reserved candidates promoted on applying the rule of reservation should not gain seniority until the general candidates catch them up. The elbow right given is only in cases where the reserved candidate had already been promoted to the next higher post. Article

1 AIR, 1999 SC 2894

2 AIR, 1996 SC 448

3 AIR, 1996 SC 1189

16(4A), was interpreted as not creating a right for reservation in favour of either the Scheduled Castes or the Scheduled Tribes . It was further held that the reverse discrimination begins when protective discrimination ends. In *Post Graduate Institute of Medical Institution & Research Center, Chandigarh Vs. Faculty Association** case, it was held that single post should not be reserved.

9.2.3.4 Pursuant to judgements in *Sabarwal's case*¹ and *Ajit Singh's case*, etc. Government has from time to time since 1996 amended the departmental orders providing for reservation in services. These amendments have caused widespread dissatisfaction amongst Scheduled Castes/Scheduled Tribes. A feeling persists amongst them that in interpreting the words "consistently with maintenance of efficiency of administration" occurring in Article 335 of the Constitution, the main purpose and thrust of the provision has not been given due consideration. It is also complained that Government has also gone beyond the mandate of the Supreme Court in certain respects while amending the reservation orders.

9.2.3.5 There have been demands for taking remedial steps by amendment to the Constitution so as to allay widespread dissatisfaction and apprehension amongst the Scheduled Castes and the Scheduled Tribes. Restoration of pre-1996 position has been suggested to be necessary for ensuring adequate representation of Scheduled Castes and Scheduled Tribes in public services as mandated by the Constitution.

9.2.3.6 The Constitution (81st Amendment) Act, 2000 has by introducing Article 16(4B) removed the obstacles in the way of treating previously unfilled vacancies as a separate class of vacancies. Further amendments to the Constitution may be necessary in case the position of reservation as it existed prior to 1996 is to be fully restored.

9.2.3.7 Reservation for other backward communities in Central services was provided only in 1990 and became operational from 1993 onwards. Sufficient statistical data are not yet available to draw any definite conclusions to the extent, their reservation has improved in the central services. The adequate representation of backward classes is, however, still a far cry and special efforts need to be made for effectively enforcing reservation of backward classes to achieve their adequate representation in central services.

9.2.4 Declining Land Holdings and Increasing Landless Labourers

* AIR 1998 SC 1767

¹ AIR 1995 SC 1371

An overwhelming majority of Scheduled Castes and Scheduled Tribes live in rural areas and a substantial percentage of rural population live on cultivation. It is observed from Tables 9.3(A) & (B) that a large percentage of Scheduled Castes have marginal land holdings and average size of their land holding is the minimum amongst all social groups. It was 0.98 hectare in 1990-91 as against 1.05 hectares in 1985-86 and 1.15 hectares in 1980-81. It is further observed from table 9.4 that the

Table 9.3(A)

Percentage Distribution By Land Holdings Of Various Social Groups

In Various Years

S.No.	Size of Holding	Scheduled Castes			Scheduled Tribes			Others		
		1980-81	1985-86	1990-91	1980-81	1985-86	1990-91	1980-81	1985-86	1990-91
1	Marginal	68.9	70.7	72.2	39.8	41.3	43.4	56.2	57.5	59.1
2	Small	16.3	16.0	15.9	22.6	23.5	24.1	11.9	18.3	18.8
3	Semi-medium	9.5	8.8	8.1	20.5	20.2	19.5	14.0	13.7	13.1
4	Medium	4.4	3.8	3.2	13.7	12.2	10.9	9.3	8.4	7.3
5	Large	0.9	0.7	0.6	3.4	2.8	2.1	2.6	2.1	1.6
6	All size classes	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

Source: Agricultural Census, 1980-81, 1985-86 and 1990-91, Government of India, New Delhi.

proportion of cultivators is going down and the decline is quite sharp among the group of Scheduled Caste Cultivators as against the cultivators pertaining to non-scheduled caste sections of the society. In other words the landlessness is increasing at a faster rate among the

Table 9.3(B)

Average Size Of Land Holdings In India Held By Various Social Groups

In Various Years

(Area in Hectare)

S.No.	Major size classes	Scheduled Castes			Scheduled Tribes			Others		
		1980-81	1985-86	1990-91	1980-81	1985-86	1990-91	1980-81	1985-86	1990-91
1	Marginal	0.36	0.35	0.35	0.48	0.48	0.49	0.39	0.39	0.39
2	Small	1.41	1.41	1.41	1.43	1.43	1.44	1.45	1.44	1.44
3	Semi-medium	2.71	2.70	2.70	2.74	2.73	2.74	2.79	2.77	2.77
4	Medium	5.84	5.78	5.77	5.98	5.95	5.89	6.03	5.97	5.92
5	Large	16.44	16.24	16.70	15.88	15.87	15.78	15.65	17.43	17.57
6	All size classes	1.15	1.05	0.98	2.44	2.25	2.07	1.88	1.74	1.59

Source: Agricultural Census, 1980-81, 1985-86 and 1990-91, Government of India, New Delhi.

Scheduled Castes. At the same time the proportion of all Scheduled Caste workers as agricultural labourer is increasing at a faster rate as compared with the Non- Scheduled Caste agricultural labourers implying that after losing their land holdings Scheduled Caste cultivators are becoming agriculture labourers. The situation is not very different for Scheduled Tribes also. This goes contrary to the constitutional pledges in respect of the Scheduled Castes and the Scheduled Tribes. Loss of land, on the one hand, is caused by atrocities and, on the other hand, by making the Scheduled Castes and the Scheduled Tribes more vulnerable, fuels and promotes continuance of atrocities and untouchability. This sad situation needs to be remedied.

Table 9.4

Percentage Of Workers Employed As Cultivators And Agricultural

Labourers In Various Years

Category Of Agricultural Workers	General	SCs
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	1961	1971	1981	1991	1961	1971	1981	1991
Cultivators	52.78	43.38	41.53	39.72	37.76	27.87	28.17	25.44
Agri. Labour	16.71	26.32	25.16	19.66	34.48	51.74	48.22	49.06

Source: Report of the National Commission for Scheduled Castes/Scheduled Tribes for the year 1996-97

9.2.5 Declining allocations of funds for welfare of Scheduled Castes/ Scheduled Tribes

The allocation of funds as worked out in some studies¹ for the development and welfare of the Scheduled Castes and the Scheduled Tribes has shown a steadily declining trend since late eighties. Allocations do not match the developmental needs and priorities of the Scheduled Castes and the Scheduled Tribes. Implementation of schemes makes matter worse. There has, in general, been an inherent lack of interest and seriousness on the part of planning and implementing machinery to achieve the objectives of the Constitution and benefit secured by the Scheduled Castes and the Scheduled Tribes do not appear commensurate with the funds spent so far.

9.2.6 Backward Classes – Loss of Traditional Occupations and Inadequate Allocations for their Development and Welfare

Absence of official statistical data in respect of backward classes is a serious handicap in fully visualizing the extent of deprivations suffered by these classes. The conditions of these classes seems to have deteriorated in recent years with decline in employment opportunities in traditional occupations like weaving, fishing etc. in which a large number of people of these classes have been traditionally engaged. Central plan allocations for development and welfare of backward classes have been started only from

¹ See Kamble BN (1995), Effectiveness of the Developmental Programmes for SC&ST in Maharashtra, Ph.D., Thesis submitted to Pune University (pages 120-122).

the Ninth Plan and allocations made, so far, are grossly inadequate. Targeted measures and greater allocations are needed to improve their skills and to ensure their welfare and development.

9.3 Pledge Remains Unredeemed

In the years since independence and particularly after the adoption of the Constitution, efforts made to promote and protect the rights of Scheduled Castes, Scheduled Tribes and backward classes and to secure their development and welfare have yielded only limited results. Improvements, no doubt, have been achieved in a number of areas but wide gaps between Scheduled Castes, Scheduled Tribes and backward classes on the one hand and the Others on the other hand continue to prevail in almost all areas even to this day. The representation of the Scheduled Castes, the Scheduled Tribes and the Backward Classes in top scientific and bureaucratic echelons is believed to be meagre though the precise statistical data in this regard are not available. Depleting land and forest resources of Tribals and vanishing of traditional employment opportunities for backward classes is leading to worsening of conditions of these people.

9.3.2 The social inequalities and injustices, the cruelties of the social order have weakened the Indian society. The fight against untouchability spearheaded by Mahatma Gandhi and Dr. Ambedkar in the face of entrenched obscurantism, was historic. Strong support for removal of untouchability, alleviation of poverty, ending of disgraceful occupations which offended human dignity, the spreading of literacy and awareness were the result of social reform movements which were commenced long before the Independence. The social reform movements by Swami Vivekananda, Shri Narayana Guru, Mahatma Phule, Dr. Ambedkar, Shri Ramaswami Naicker, Swami Sampurnanand and others provided great impetus to the restoration of human dignity of these classes and of their determination to assert their place under the Sun.

The Scheduled Caste and the Scheduled Tribe : Some Facts

- ❑ ***Atrocities against the Scheduled Castes and the Scheduled Tribes and untouchability remain unabated even fifty years after untouchability was abolished by the Constitution.***

- ❑ ***Landlessness is increasing amongst the Scheduled Castes and the Scheduled Tribes. The proportion of cultivators amongst them is going down while that of agricultural labourers is increasing.***

- ❑ ***Allocation of funds for the development and welfare of the Scheduled Castes and Scheduled Tribes over the years has been inadequate and has declined in recent years.***

- ***Representation of the Scheduled Castes and the Scheduled Tribes in Group 'A' and Group 'B' posts in Central Government remains inadequate. In case of STs inadequacy exists even in Group 'C' & Group 'D' posts.***

9.3.3 Yet, despite these efforts, the unfortunate truth remains that atrocities against the Scheduled Castes and the Scheduled Tribes recur, (as sadly against other vulnerable sections of society as well), and serious gaps between policy declarations and ground reality persist. There are many reasons for this: historical and cultural, economic and social, political and administrative, to name but a few.

9.3.4 The following excerpts from the Dalit Manifesto¹ are indicative of feelings of the Scheduled Castes, the Scheduled Tribes and the Backward Classes regarding the extent of the benefits of various measures taken by Government have percolated to them and the extent of their deprivations.

¹ P.S. Krishnan (1996), Dalit Manifesto, National Action Forum for Social Justice, New Delhi.

“In the half century after India’s Independence, the nation has registered progress in a number of directions, but it is the feeling of the Scheduled Castes (SCs), Scheduled Tribes (STs) and Backward Classes (BCs) and of those who are working with them and for them that the benefits of the nation’s progress have, in some respects, not become available to them at all and, in other respects, have become available to them in a very inadequate measure or truncated manner.

For example, while agricultural production has multiplied, the bulk of the SC families remain agricultural wage-labourers, as in the past many centuries, depending on their very oppressors and exploiters for their bread. A large part of the country’s agricultural land has been brought under irrigation but the limited extent of lands owned by the SCs remain almost wholly unirrigated, forcing even small farmers among the SCs to depend on agricultural wage-labour. Land ceiling and re-distribution Acts have been honoured more in the breach than in the observance. The Special Component Plan for SCs introduced in 1978, has been routinised and trivialized. The SCs continue to be forced to live in the most miserable rural bastis and urban slums. A large section of them continued to be forced to render “safai” (scavenging) service. The bonded labour system remains in all its vicious vigour and about two-thirds of bonded labourers in the country belong to the SCs. Untouchability continues to be rampant in many parts of the country. Atrocities continue to be perpetrated against them whenever they seek to secure even a small parts of their rights. Legislations to prevent and penalise Untouchability and Atrocities are drafted defectively and implemented half-heartedly. It is only a small proportion of SCs, about two per cent of SCs families, who have been able to secure employment in Government, PSUs and other such public organisations through the mechanism of scholarship, hostels and reservation in posts and appointments. It is only this small proportion who have been able to cross the “initial capital line of economic freedom” and the “initial capital line of self-respect” demarking lines most relevant to SCs, STs and BCs. Even the benefits of reservation have not reached the SCs in full because of poor implementation by the Central as well as State Governments.

STs, proud masters of their traditional territory, are being progressively deprived of their lands and have, in many cases, been reduced to minorities in their own home-lands. This is a historical process that has been going on for centuries and has acquired greater momentum in the decades of Independence. The lands that still remain with them are poorly developed, are rarely irrigated and are unintegrated or poorly integrated with the market, leaving the field open to exploiters and middlemen from outside. Irrigation projects that have been undertaken by Governments in the tribal areas are typically programmes for creating dams in tribal areas, submerging tribal lands, scattering their settlements and people to the winds and taking water to non-tribals outside the tribal areas; the plan expenditure incurred on such projects are gratuitously and unabashedly shown as a part of the Tribal sub-Plan, which has also been routinised and trivialized. No wonder an increasing number of STs are forced into agricultural wage labour and the proportion of STs among agricultural wage labourer has increased in recent decades. Traditional tribal rights in forests which they have been enjoying through traditional symbiotic relationship between tribes and forests, were unilaterally abrogated and abridged by the colonial government, an abrogation and abridgement continuing even after Independence, making the STs dependent on others for their elementary requirements and for their very survival. In the trading of Minor Forest Produce (MFP) in the collection of which tribals are specialised, they are being exploited both by private trade as well as by cooperatives/corporations set up by Governments. Availability of MFP, which is the main or a substantial source of livelihood for a large percentage of STs is fast shrinking.

Developmental assistance has been and is usually sporadic, patchy, truncated and inadequate. Even these are poorly implemented because of the presence of inequality, in large numbers and in crucial positions, both in political as well as administrative governance and the persecution and sidelining, in the decades after Independence to this day, of those in the administrative structure of the country, who are Egalitarians and who bear faith to the Constitutional principle of Socio-Economic Justice....

..... Opportunities and incomes in the traditional occupations, to which they (backward classes) are largely confined, are also being threatened and truncated by the organised market and through denial of access to Relevant Technology and to finance and credit. Many of them have consequently been pushed into agricultural wage-labour and even bonded labour. Almost all bonded labourers who are not SCs or STs belong to BCs. The problem faced by BCs engaged in traditional occupations is also the fate of those sections of SCs and STs who are dependent on similar traditional occupations. The presence of BCs in the organised modern establishments of government and quasi-governmental bodies is very limited on account of denial of their Constitutional right to be recognised and accorded reservation and other facilities until 1990-93 at the Centre and in a number of States. Even now their other entitlements like reservation in education have not been provided for in the Central Sector.

Thus, as illustrated above, in the life of all those three categories, who together constitute the vast majority of India's population, economic freedom is absent. Consequently, almost all of them dwell below the "Line of Economic Freedom" and the "Line of Self-Respect". An important instrument of progress emphasised by **Dr. Babasahab Ambedkar**, viz; education, has not been made available to them either in full quantity or in quality. There is no educational equality for them with the dominant elite minority. In fact, the qualitative gap between the educational availability to this majority and the dominant elite minority has been alarmingly widening in the last one or two decades. Thus there is no true equality of opportunity for them. Indian governance at the Central as well as State level, has not till now addressed itself totally, comprehensively and consistently to measures which would bring economic freedom, educational equality and true equality of opportunities to SCs, STs and BCs in an integrated and comprehensive manner. Developmental assistance has been and is usually sporadic, patchy, truncated and inadequate".

9.4 Measures To Fulfil The Constitutional Mandate

The wrongs suffered by these classes can be remedied only by a combination of measures. Free and compulsory elementary education, indeed quality education, is the most important. Facilities need to be provided to

ensure that talented children belonging to these communities, achieve their full potential and grow to become top professionals and administrators. Education alone, however, will not go very far. Much of the opportunities and prospects of employment of the educated members of the Scheduled Castes, the Scheduled Tribes and Backward Classes are in public- services. Private sector has not responded with the needed understanding. It needs to cooperate in the improvement of socio-economic condition of the people especially those belonging to the weaker sections of the society. It ought to contribute in the areas of advancement of education, health and in provision of employment opportunities for the weaker section of the people including the Scheduled Castes, Scheduled Tribes and the Other Backward Classes. Services in Government can provide for only a very small percentage of the Scheduled Castes, the Scheduled Tribes and the Backward Classes. But that will be symbolic of their empowerment and assures a sense of participation and share in governance. Sincere efforts need to be made to fulfil the constitutional mandate of adequate representation for Scheduled Castes, the Scheduled Tribes and Backward Classes in public services. Asset building, easy credit from banks, providing land for agriculture, augmentation of irrigational facilities are equally important.

9.4.2 Better enforcement of land reforms legislations has to be ensured. Forcible eviction of workers allocated land under various schemes and atrocities on weaker sections must stop. Safeguards have to be built in to protect the interests of Scheduled Tribes in land and forest reserves of their region while ensuring optimum utilization of those resources for speedy development of tribal region and the country. The tribal areas covered by the Fifth Schedule and Areas not covered by any Schedule need to be brought under the Sixth Schedule for better administration of these Areas and for bringing greater benefits to the tribals in these Areas.

9.4.3 A rich wealth of Traditional Knowledge and Folklore exists in the country especially in tribal areas and areas inhabited by the economically and socially backward classes. There is a need to identify and comprehensively document all traditional knowledge available in the country so that effective steps for protecting the 'common heritage' of tribals and others are taken. This has acquired urgency and added significance in view of establishment of an Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore by the WIPO General Assembly, at its twenty-sixth Session, held in Geneva from September 26 to October 3, 2000. The protection of traditional knowledge, innovations and creativity; and the protection of expressions of folklore, including handicrafts are amongst the agenda items for discussion in the first Session of the Committee being held from April 30, 2001*. India may also join hands with the nations of the Third World in getting protection in these areas. Appropriate domestic legislations would also be required to be enacted to provide protection in these areas. Proposed legislations may also ensure that the benefits of the new intellectual property regime get passed on collectively to the communities who have contributed in creating, enhancing and preserving that knowledge.

9.4.4 Measures are also needed to ensure availability of adequate public funds for the welfare of the Scheduled Castes and Scheduled Tribes and for ensuring the funds allocated for their welfare are exclusively used for their welfare. Allocations for Backward Classes are grossly inadequate and these need to be enhanced and spent exclusively for their welfare. Targeted schemes are also necessary to improve the skills and conditions of these classes.

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* See WIPO Document No. WIPO/GRTKF/IC/1/3. P.3

* As official statistics in respect of Other Backward Classes (OBCs) is not available, same has not been referred to. The 2001 Census has also not attempted to fill this void.

* The Kaka Kalelkar Commission on the 29th January, 1953 and Mandal Commission on 1st January, 1979 were appointed under this Article.

1 AIR, 1999 SC 2894

2 AIR, 1996 SC 448

3 AIR, 1996 SC 1189

* AIR 1998 SC 1767

1 AIR 1995 SC 1371

1 See Kamble BN (1995), Effectiveness of the Developmental Programmes for SC&ST in Maharashtra, Ph.D., Thesis submitted to Pune University (pages 120-122).

1 P.S. Krishnan (1996), Dalit Manifesto, National Action Forum for Social Justice, New Delhi.

* See WIPO Document No. WIPO/GRTKF/IC/1/3. P.3
