

SECTION – II

COMMITMENT TO EQUALITY: STRATEGY AND APPROACH

The Scheme of the Constitution reflects a three-pronged strategy for changing the status of Scheduled Castes [and the Scheduled Tribes] based on the traditional social order. This consists of:

- (a) Protection: Legal/Regulatory measures for enforcing equality and removing disabilities; Providing strong punitive action against physical violence inflicted on them; Eliminating customary arrangements which deeply hurt their dignity and person; Preventing control over fruits of their labour and striking at concentration of economic assets and resources and setting up autonomous watchdog institutions to safeguard interests, rights and benefits guaranteed to them.
- (b) Compensatory discrimination: Enforcement of reservation provisions in public services, representative bodies and educational institutions.
- (c) Development: measures to bridge the wide gap between the Scheduled Castes and other communities in their economic conditions and social status, covering allocation of resources and distribution of benefits.

This strategy was subsequently operationalised in the State policy and the commitment to this policy has been a feature of Indian State ever since. The policy has been strengthened and revised and its ambit made wider from time to time.

As regards the protective arrangements, to begin with, the Constitution itself has provided an elaborate framework for eliminating those customs, practices, or institutional arrangements, including provisions in laws, if any, which tended to sanctify and reinforce untouchability practices and other discriminatory and degrading conditions imposed on these communities. Laws were made to operationalise these provisions. For example, **The Untouchability Practices Act, 1955** was enacted in pursuance of Article 17 of the Constitution. This was subsequently strengthened and amended in 1976 and rechristened as **Protection of Civil Rights Act** to make it more effective. Later, as a result of implementation of State policies, when there was spurt in physical violence against members of Scheduled Castes and Scheduled Tribes, leading to brutalities such as mass murder, rape, arson, grievous injuries, etc. enactment of a special law for their protection was resorted to known as **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989** to provide for strong punitive measures which could serve as a deterrence.

Additional laws were enacted from time to time to protect Scheduled Castes and Scheduled Tribes from sanctions of any customary laws and enforcement of degrading and humiliating practices imposed on them. **The Employment of Manual scavengers and Construction of Dry Latrines (Prohibition) Act, 1993**, which eliminates the most degrading practice of manual scavenging of human excreta by members of Scheduled Castes, is the most important among them. The other practice sought to be stopped related to sexual exploitation of SC girls. Andhra Pradesh and Karnataka enacted **laws to eliminate practice of Devdasi system** which sanctified a customary practice of dedicating a young girl from the SC community to the local deity which virtually resulted in her sexual enslavement. Maharashtra already had a law enacted in 1934 on the subject.

Laws were also enacted to prevent employers from appropriating fruits of labour, denying freedom of choice and resorting to other forms of exploitation of persons employed by them, though their focus was not confined to members of these communities but extended to all those who came within their ambit irrespective of their caste or social background. These labour laws, in any case, have impact on Scheduled Castes more than any other group in society by virtue of their poor economic conditions and low social status. Prominent among them were the **Bonded Labour System (Abolition) Act, 1976, Minimum Wages Act, 1948, Equal Remuneration Act, 1976, Child Labour (Prohibition and Regulation) Act, 1986, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Services) Act, 1979.**

Laws were also enacted and arrangements made to strike at concentration of productive assets and economic resources in caste Hindus. In this category were included **Land Reforms laws** aimed at redistribution of land to SCs/STs and other rural poor and **debt relief legislations** for regulating credit transactions and checking usurious money lending.

The second part of this strategy relating to compensatory discrimination is reflected in making provisions for reservation of posts in public services through recruitment and promotion, reservation of seats in Legislative bodies at the Central, State and Panchayat Raj institutions and Municipal bodies, reservation of seats in admission to Educational and Professional Institutions, including relaxation of eligibility qualifications. This was done with a view to ensuring that members of these communities have their share in positions of power and decision making as also access to opportunities for higher education. It was felt that in open competition they may not be able to obtain their legitimate share because of their accumulated disabilities over centuries. These provisions had the intended objective of bridging the vast gap that existed between these groups and the rest of the society in these areas.

The third part of the strategy related to focused and comprehensive development of Scheduled Castes/Scheduled Tribes which was operationalised through allocation of funds and earmarking of benefits under various development programmes for members

¹National Commission for Scheduled Castes and Scheduled Tribes. Sixth Report 1999-2000 and 2000-2001, p. 30

of these communities in order that they improve their economic conditions as a route to upward mobility. This was sought to be achieved by creating a mechanism within the planning process through which a specified percentage of budgetary resources could be earmarked for the benefit of these communities. In respect of Scheduled Castes, this is known as the **Special Component Plan**, which laid down that the concerned agencies should prepare a separate plan for development of Scheduled Castes by allocating a percentage of resources, which is at least equivalent to the percentage of their population in the State and the Centre, as the case may be. These resources would be exclusively devoted to taking up programmes and activities which directly improved their economic conditions. This provision was further strengthened by allocation of certain resources directly by the Central Government known as **Special Central Assistance** to be used for this purpose in addition to the earmarked funds under the Special Component Plan¹. As a corollary to this arrangement, the State policy also mandated that in various development programmes which have a beneficiary orientation, it should be ensured that the number of beneficiaries belonging to Scheduled Castes (as also Scheduled Tribes) should at least be equivalent to the percentage of their population so that implementing agencies do not produce any alibis or resort to manipulation to deprive these communities of their share of benefit. In certain programmes where the gaps between Scheduled Castes (the same applied to Scheduled Tribes) and the rest of the community is excessively large, special arrangements are made to bridge this gap by way of additional resources allocation and through special institutional arrangements. Some of the areas qualifying for this dispensation are extension of literacy, poverty alleviation, land allotment for housing and cultivation, etc.

With the elaborate arrangements to protect SCs, it was necessary to monitor whether benefits were reaching the targeted communities and safeguards were getting enforced. Therefore, laws were made to set up watchdog institutions to look after this task. Four such institutions have been set up. While the National Commission for SCs and STs has been set up under the Constitution itself, National Human Rights Commission, National Commission for Women and National Commission for Safai Karamcharis were creation of separate Acts, i.e. Protection of Human Rights Act, 1993, National Commission for Women Act, 1990 and National Commission for Safai Karamcharis Act, 1993 respectively. National Human Rights Commission and National Commission for Women cater to complaints of all sections of society irrespective of caste within their specified mandate.

It is evident from the foregoing that State clearly recognized that the violence, overt and covert, inflicted on the Scheduled Castes was rooted in the social structure and relations, which condemned them permanently to a life of indignity and social subordination. The three-pronged strategy referred to above would gradually help to eliminate conditions which lead to this violence and over a period of time promote equality in society. Thus, the elaborate constitutional framework and the meticulously crafted state policy flowing from it, refined over a period of time as experience was gathered, was a conscious attempt at social engineering. It also emerges unequivocally that in this process of altering social relations, State had a very crucial, rather decisive,

role to play. This role, without doubt, had to be exercised through a conscious and positive tilt in favour of these marginalized and disadvantaged communities whenever pitted against formidable high caste groups, since the former would be too powerless to take on the fight on their own for a long period of time. It was, therefore, hoped that institutions of the State-the Executive, the Legislature and the Judiciary would positively respond to the letter and spirit of the constitutional scheme as well as the State policy. Lest the Government apparatus acts in an indifferent or biased manner, special watchdog bodies were also created to ensure that commitment to this policy and institutional arrangements created for this purpose are not deviated from. Embedded in this strategy was also the cherished hope and idealistic vision that the larger Hindu society would also get transformed under the thrust of a liberal and humanistic polity and democratic process which would characterise its operations. In this manner, support base for this effort at social engineering would get widened leading to a positive change in the attitudinal and behavioural response of other communities towards these oppressed groups and their consequent mainstreaming of the latter as equal members of society.

In the sections of this paper which follow, it shall be examined whether the intended objectives of this three-pronged strategy were realized and whether the violence inflicted on Scheduled Castes, silently through disabilities, discriminations, biases and continuing untouchability practices, and overtly through physical assault in the form of heinous crimes like murder, rape, arson, etc., to enforce the caste based social order has been reduced and, if this has not happened, what went wrong with State policies and their implementation. We shall also examine in brief whether the inherent hope that the larger Hindu society would support these measures to rid of its obnoxious traditions and usher in a liberal, humanistic, and democratic society eager to catch up with the developed world was sustained and whether State-Civil society interface on this issue displayed the required harmony.