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Constitutional safeguard for dalits

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Abstract

The Indian Constitution provides fundamental rights to its all citizens to treat equally in spite of religion, race, cast, sex, language and place of birth. Dalits are the downtrodden part of our society. From the time immortal they have been treated differently in the society. To protect these group of people and to achieve the goals of the Constitution and to fulfil the dreams of welfare state, provisions for the safe guard of dalits have been incorporated in the Constitution in its various Articles. The development of any nations depends on the overall development of the people. Dalits are the important part of our nation and the protection is very important. The important tool for the protection of dalits is the Constitution of India.

Keywords: Constitution. Justice, equality, protection, safe guard

Introduction

The Constitution is law of the land. It provides “Rights, Duties, and Protections to its citizen through its various Articles. It took 2 years 11 months and 18 days for the formation of Indian Constitution on 26th January 1950 it was adopted. The Preamble of Indian Constitution provides-

1. **Justice:** To all in the field of social, economic and political.
2. **Liberty:** Of thoughts, expression, belief, faith and worship.
3. **Equality:** Of status and opportunity.
4. Fraternity
5. Unity of nation

These are the important pillars of the Indian Constitution through which the nation is governed in spite of different religion, race, cast, sex, language and place of birth. After independence India was divided into different religion, race, cast, sex, language and place of birth to bring them under one umbrella the constitution was framed with the object to protect the dalits and to bring them in the main stream of the nation by providing them justice, liberty, and equality as embodied in the preamble of the country. For the safe guard of dalits in the Indian constitution following types of safe guard have provided through various article they are:-

- Educational Protection.
- Social Protection.
- Political Protection.
- Legal Protection.
- Other Protection.

a. Equality before the Law

Article-14 of the Indian Constitution provides two things-

- Equality before the law and
- Equal protection of law.

This article secured the citizen by providing them equality before the law and protection of law. No citizen is above the law and should govern with equality by protecting them according to the law of the country.

b. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

Article-15 (1) provides that the state shall not discriminate the citizens on the following grounds.

- Religion

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- Race
- Caste
- Sex
- Or place of birth

Constitutional safeguard for dalits

Table 1: The constitution of India provides different safeguard for Dalits various Articles these are-

S. No	Articles	Description
1.	Article-14	Equality before the law.
2.	Article-15	Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
3.	Article-16	Equality of opportunity in matters of public employment.
4.	Article-17	Abolition of untouchability.
5.	Article-23	Prohibition of traffic in human beings and forced labour.
6.	Article-39-A	Equal justice and free legal aid.
7.	Article-46	Promotion of education an economic interest of Scheduled castes, Scheduled Tribes and other weaker sections.
8.	Article-275	Grant from the Union to certain States.
9.	Article-330	Reservation of seats for Scheduled Caste and Schedule Tribes in House of People.
10.	Article-332	Reservation of seats foe Scheduled caste and Schedule Tribes in Legislative Assemblies of the States.
11.	Article-335	Claims of Scheduled Caste and Scheduled Tribes to service and post.
12.	Article-338	National Commission for Scheduled Caste.
13.	Article-338-A	National Commission for Scheduled Tribes.
14.	Article-340	Appointment of a commission to investigate the conditions of backward classes.
15.	Article-366	Definition of Schedule Caste and Scheduled Tribes.

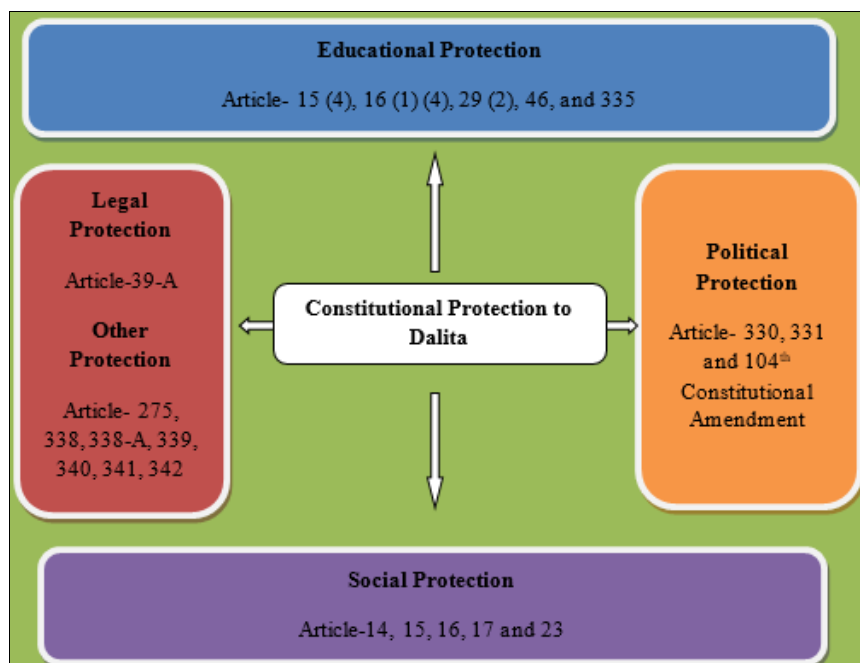


Fig 1: Constitutional Protection to Dalita

Article 15 (2) lays following ground where the citizen can't stopped for the above said reasons-

- Access to shops
- Public restaurants
- Hotels
- Place of entertainment
- Use of wells, tanks, bathing ghats, roads and place of public resort maintained wholly or partly out of the State funds or dedicated to use of the general public.

Article-15 (4) this article make provision to the state for making laws for the advancement for Scheduled Castes, Scheduled Tribes and socially and education backward classed citizens.

Article-15 (5) this article empower the state for making laws relating to any socially and educationally backward classes of citizens or Scheduled Castes or Scheduled Tribes in

taking admission to educational institutions including private educational institutions.

c. Equality of opportunity in matters of public employment

Article-16 provides for the equal opportunity in the matters of public employment. By the view of this the Constitution provides the provision through the entire citizen gets equal opportunity in government services. According to this there shall be not discrimination on the grounds of religion, race, caste, sex, descent, place of birth and residence. All the people must get equal chance to represent him in matters of public employment.

d. Abolition of Untouchability

Article-17 provides for the provision regarding total abolition of untouchability out of the society by making the

evil practice punishable under the law. For the prevention of untouchability out from the society in year 1989, Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 was framed by Central government, which came into force on 29th December 1990. According to the provision of the Act punishment are provided for the atrocities and special court had been established for the protection of Scheduled Caste and Scheduled Tribe.

e. Prohibition of traffic in human beings and forced labour

Article-23 provides social safe guard to the people belonging to Dalits. This article safe guard by prohibiting traffic in human beings and forced labour. Dalits are the targeted group who are encountered with human trafficking and forced labour. By the provision of this Article the Indian Constitution has now made human trafficking and forced labour as punishable offence such act is punishable according with the law.

The Immoral Traffic (Prevention) Act, 1956 is a law made by the Parliament for the purpose of punishing acts which result in traffic in human beings. Further to safe guard the people and to fulfil the object of Article 23 the bound labour system was removed by passing Bound Labour System (Abolition) Act, 1976. Nonpayment of minimum wages to workers is also violation of Article 23.

Educational Protections under Indian Constitution for Dalits

a. Article-15(4)

By the virtue of this Article the State can make special laws for the advancement of any educational and social backward classes or for Scheduled Caste and the Scheduled Tribes.

b. Article-16(4)

This Article allows the State for making provisions for the reservation in respect to any backward classes and protests the representation in the matters of services under the State.

c. Article-29 (2)

According to this Article it makes the provision that on the grounds of religion, race , language and caste no person shall be debarred from taking admission into any educational institution receiving aid out of State Fund.

d. Article-46

Article-46 falls under the part IV Directive Principle of State Policy this Article lays duty on the State Government for the promotion of educational and economic interests of SCs and STs and other weaker section of the society. This Article not only promotes but also protects social injustice and all forms of exploitation. In the case of State of Kerala V. N.M. Thomas the Supreme Court has conceded a liberal implementation of Article 46 vis-a-vis Article 15 and 16 particularly in respect of special provision for the Scheduled Caste and the Scheduled Tribes.

e. Article-335

According to this Article the Scheduled Castes and Scheduled Tribes shall be taken into consideration the claims to be efficiently maintained and administration in the making of appointment to services under union and state.

Political Protections under Indian Constitution for Dalits

Reservation of seats for Scheduled Castes and Tribes in the House of People

Part-XVI of Indian Constitution deals with the special provisions relation to certain classes and Article- 330 makes provision for the reservation of seats for Scheduled Caste and Scheduled Tribes in the House of the People. This Article protects the political rights of Scheduled Caste and Scheduled Tribes for presenting them in the House of People.

b. Reservation of seats for Scheduled Castes and Tribes in the Legislative Assemblies of the States

Article- 332 makes provision for the reservation of seats for Scheduled Caste and Scheduled Tribes in the Legislative Assemblies of the State. This Article protects the political rights of Scheduled Caste and Scheduled Tribes for presenting them in the Legislative Assemblies of the State.

104th Constitutional Amendment Act has extended seats for Scheduled Caste and Scheduled Tribes in the Lok Sabha and Legislative Assemblies of the State from seventy years to eighty years.

Legal Protection under Indian Constitution for Dalits

a. Equal Justice and free Legal Aid

By the Constitution 42nd Amendment Act, 1976 Article-39-A was inserted in the Indian Constitution. Justice VR Krishna Iyer made the demand for free legal aid in year 1972. According to this Article it shall be the duty of the state that citizen shall get equal justice and free legal aid so that the right to be presented before the court of justice can be filled. Keeping this object it is the duty of state to make suitable legislation and scheme for providing free legal aid.

Under the chairmanship of Justice P.N. Bhagwati in year 1980 a bill was enacted and in year 1987 government passed and enacted the Legal Services Authority Act, 1987. It was also ruled in Hussainara Khatoun Vs State of Bihar to provide legal aid to the marginalised class of the society at the cost and expense of the state and it shall be the duty of the state to provide such legal aid to the accused. As per chapter-IV, section- 12 (1) (a) it is now the legal rights and protection of members of Scheduled Caste and Scheduled Tribe to access to free legal aid.

Other Protections under Indian Constitution for Dalits

Article-366 of the Indian constitution defines "Scheduled Caste and Scheduled Tribes." Sub section (24) of 366 defines the word "Scheduled Caste" as-such races of tribes or parts of or groups such castes, race or tribes as are deemed under Article 341 to be Scheduled Castes of the purpose of this Constitution .Article- 366 of the Indian Constitution defines "Scheduled Tribes." Sub section (25) of 366 as-such tribes or tribal communities or parts of or group within such tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purpose of this Constitution.

Article-272 provides grant from the Union to certain States, according to this Article the grant shall to pay out of the Consolidated Fund of India for the purpose of promoting the welfare of Scheduled Tribes in that State or for raising the level of administration of the Scheduled Area.

Article-338 lays provision for the establishment of National Commission for Scheduled Castes. By the virtue of this Article there shall be National Commission for the Scheduled Castes by the law made by the Parliament. Article 338-A make the provision for the establishment of National Commission for the Scheduled Tribes by the law made by the parliament.

Article-339 this Article make the provisions for the control of Scheduled Areas by the Union all the Scheduled Areas as given under this Constitution shall be controlled and administrated by the Central Government. Further this Article make the provision for the welfare or Tribes shall be made by the Union.

Article-340 makes special provision for the appointment of a Commission for investigation the conditions of Backward Classes. The power is confirmed to the President, by his order a Commission can be made for the investigation of the condition of backward classes.

Article-341 and 342 of the Indian Constitution gives the power to the President to declare any caste, races or tribes or parts of or groups within castes, races or tribes to be a Scheduled Caste or Scheduled Tribes by the consultation with the Governor of that State by public notification. To add or remove from the list of Scheduled Caste or Scheduled Tribes the power is given to the Parliament.

Conclusion

The Constitution of India plays an important role in providing safe guard to Dalits. In the Constitution various protection are provided through its Articles. The development of the nation depends on overall development of the citizen. The Dalits are the down trodden part of our society their upliftment of them are very necessary. The social welfare of the nation depends up the growth of them. In this respect the Constitution is so build that they can get Social Protection, Educational Protection, Political Protection and Legal Protection. Central and State Governments have also launched several welfare and developmental programs to fulfil the constitutional obligations in free India in order to make SC/ST communities catch up other sections of Indian society in the race for social, economic, political and cultural progress.

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