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THE ROLE OF JUDICIARY IN EMPOWERING MARGINALISED COMMUNITIES IN INDIA

AUTHORED BY - KEERTHANA SARIN*¹

I. ABSTRACT

The judiciary plays a significant role in empowering marginalised communities. The marginalised communities are the most targeted and exploited due to the factors that are beyond their control. This is due to historical background, stereotypes, superstitions, economic conditions, and social factors etc. The protection of marginalised communities is necessary to promote equality, liberty, and social justice. It also preserves the cultural diversity and maintains peace and harmony. The Indian Constitution guarantees the rights of the marginalised communities. The Indian judicial system has judges who have decided various matters related to the exploitation of vulnerable people. The judgments prove that the involvement of the judiciary is the voice for the voiceless and strengthening the existing legal system for their protection of. This article explores the marginalised communities in India, the relevance of protecting the interests of marginalised communities, the constitutional safeguards, the importance of Public Interest Litigation, and landmark judicial decisions. It also explains the role of the judiciary in the protection of the rights of marginalised communities, challenges faced by them, and recommendations.

II. KEYWORDS

Judicial Activism, Marginalised Communities, Public Interest Litigation, Judicial Decisions

III. INTRODUCTION

“Bringing social justice to the marginalised is not the project of the marginalised alone. Just like bringing gender justice is not a project only for women but it is a project for all of us. In that sense, I think we are all reforming ourselves and healing ourselves in our effort to heal society”, said by Supreme Court B.R. Gavi on the occasion of marking the 100 years of B.R. Ambedkar’s practice. The marginalised communities include Scheduled Castes and Scheduled Tribes, Other Backward Communities (OBC), transgender people, people with disabilities,

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women, senior citizens, and religious minorities. The representation of marginalised communities in the public domain is less as compare to the population of. They also face issues such as poverty, illiteracy, and lack of access to proper healthcare. It creates an uneven distribution of economic income, which can reduce the overall development of the nation. The role of the judiciary is prominent in empowering the rights of the marginalised communities and protecting them from exploitation by the majority in the nation. The Indian Constitution is the primary document that safeguards the minorities, and various enactments and statutes are implemented for serving the same function. Public Interest Litigation is an important component of judicial activism. Most importantly, the judgments made by judges act as a shield for the protection of minorities. Even after the existing mechanisms the marginalised communities are facing challenges even in this 21st century, which raises concerns related to whether the completion of the function of the judiciary is sufficient or not.

IV. MARGINALISED COMMUNITIES IN INDIA

Marginalization can be defined as the systemic social exclusion of individuals or groups based on their caste, creed, gender, religion, or other socio-cultural factors. It often results to restricted access to fair opportunities, resources, and decision-making processes and traps them to the vicious cycle of poverty. In Marginalized communities includes as Scheduled Castes, Scheduled Tribes, women, and religious minorities, often face entrenched discrimination, both formal and informal, that limits their participation in social, economic, and political matters.²

Scheduled Castes: - Historically, the Dalits were subjected to caste-based discrimination and are still facing economic and social challenges. They are often excluded from owning land and often get low-wage jobs in poor working conditions. The practices such as untouchability, segregation in public spaces are prevalent in many parts of India.

Scheduled Tribes: - They are the indigenous population of India, and they are usually referred to as Adivasis. They face issues such as discrimination, limited access to education, healthcare and most importantly, their lands are potentially targeted by the MNCs in the name of infrastructural development.

Other Backward Castes: - The OBCs represent a heterogeneous group with varying levels of socio-economic deprivation. While some sub-groups within the OBC category are still

² Dinesh Kumar, *Inequality Among Marginalized Sections in India: An Analysis*, 4, IJCRM, 244 (2025) <https://multiarticlesjournal.com/uploads/articles/>.

suffering from economic inequality due to historical and structural disadvantages.

Religious Minorities: - In India, Muslims and Christians are considered religious minorities, often encounter targeted violence and social ostracism. Their representation in politics and employment is less compared to the majority.

Women: - In India, women across all castes, religions are subjected to cultural and social inequalities. The gender pay gap exists and creates discrimination. Women are tending to face domestic violence across the country.

Transgender: - They face discrimination and are prohibited from employment, education, and are often harassed by the general public both mentally and physically.

People with Disabilities: - The differently abled citizens in India face issues such as inaccessible transportation, social stigma, discrimination in employment and education.

V. RELEVANCE OF PROTECTION OF THE MARGINALISED COMMUNITIES

The protection of the marginalised communities is essential for the overall development and welfare of a nation. For calculating the overall development of the country, the condition of marginalised communities is significant. Protection is not merely an act of sympathy to them because it is the responsible of the citizen, government to ensure the well-being of the vulnerable communities. It is a constitutional and moral responsibility that ensures dignity, equality, and fair participation for every individual.

The relevance of protecting the marginalised communities lies in the victory of the nation to fulfil the Sustainable Development Goals (SDG), such as the eradication of poverty and hunger, education, gender equality etc. By analysing the 17 SDGs, it is clear that the majority of the goals are related to marginalised communities or the problems faced by them. It also contributes to social justice, harmony and peace.

VI. CONSTITUTIONAL SAFEGUARDS FOR MARGINALISED COMMUNITIES

The founding fathers of the Indian Constitution were concerned about the importance of protecting the marginalised communities that existed at their era. They witnessed that the lack of safeguards for marginalised communities in the pre-independence era resulted in caste-based discrimination, violence, etc.

The Constitution of India has provided two types of safe-guards, general and specific, to safeguard various interests of the minorities. The first category is those provisions that are equally enjoyed by both groups. These provisions ensure justice, social, economic, and political equality to all. The second category consists of provisions meant specifically for the protection of particular interests of minorities.³

Under Article 14 of Constitution of India provides, “*The State shall not deny to any person equal protection of the laws within the territory of India.*”⁴ Article 15 prohibits the discrimination on the grounds of religion, race, caste sex or place of birth etc. These two articles stand for the equality and prohibits discrimination based on any grounds.⁵

Article 16 of the Indian Constitution guarantees equality of opportunity in government employment and prohibits discrimination based on religion, race, caste, sex, descent, place of birth, or residence.⁶ This article dealt with the provision of special reservations for the marginalised communities which will opens the door for opportunities for them in education, employment and appointments in connection with the affairs of the Union or State.

Article 17 of the Constitution states that “*Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of ‘Untouchability’ shall be an offence punishable in accordance with law.*”⁷ Article 18 states the provision of abolition of titles which ensure equality among individuals.

³ Dr Farooq Ahmed Malik, *Constitutional Safeguards for Marginalized Sections in India*, 11, IJCRT, 237 (2023) <https://ijcrt.org/papers/IJCRT2301413.pdf>.

⁴ INDIAN CONST. art 14.

⁵ INDIAN CONST. art 15.

⁶ DR. DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA, 93 (19th ed. 2001).

⁷ INDIAN CONST. art 17.

Article 29 states that any citizen residing in the territory of India having a distinct language, script, or culture has the right to conserve the same. The same article states that no citizen will be denied entry to an educational institution based on religion, class, caste, or language.⁸

Article 30 states that all minorities shall have the right to admit and be administered to educational institutions of their choice based on any religion or language.⁹

Article 39 A provides free legal aid to the marginalised communities which will promote equality, justice and fairness.¹⁰

Articles 330, 332, 243D and 243T provide for the reservation of seats for SCs and STs in the national Parliament, State Legislative Assemblies, and local government bodies (Panchayats and municipalities).¹¹

VII. STATUTES AND ENACTMENTS FOR THE PROTECTION OF MARGINALISED COMMUNITIES

The judiciary plays a crucial role in ensuring that statutes and enactments achieve their intended purpose. There are protective laws such as:-

SC/ST (Prevention of Atrocities) Act 1989 for the prevention of atrocities against Scheduled Castes and Tribes, establishes special courts, and provides relief and rehabilitation for victims. Protection of Women from Domestic Violence Act 2005, enacted for the protection of women from domestic violence, includes all actual abuse or the threat of abuse, regardless of whether the actions are of a physical, sexual, economic, verbal, or emotional nature, from a household member.

The Prevention of Sexual Harassment at Workplace Act, 2013, is a law in India that aims to prevent and address sexual harassment in the workplace. It requires organizations with 10 or more employees to set up an Internal Complaints Committee (ICC) to handle complaints, define what constitutes sexual harassment, and mandate employers to create a safe and inclusive work environment through policies and awareness programs.

⁸ INDIAN CONST. art 29.

⁹ INDIAN CONST. art 30.

¹⁰ INDIAN CONST. art 39 A.

¹¹ INDIAN CONST. art. 330, 332, 243D &243T.

The Rights of Persons with Disabilities Act 2016 provides legal rights and protection of the interests of differently abled people. This act includes the right to equality, non-discrimination, and protection from abuse, with special measures for women and children with disabilities.

Transgender Persons (Protection of Rights) Act, 2019 enacted for the protection of the rights and interests of transgender individuals and prohibits discrimination against them. Key provisions include legal recognition based on self-perceived gender identity, a ban on discrimination in education, employment, and healthcare.

Maintenance and Welfare of Parents and Senior Citizens Act, 2007, that ensures the maintenance and welfare of parents and senior citizens. It mandates that children and relatives with sufficient means must provide for the basic needs of their senior parents and citizens.

The National Commission for Minorities Act, 1992, was enacted to safeguard the interests of the minorities.

VIII. PUBLIC INTEREST LITIGATION AS A TOOL FOR THE EMPOWERMENT

Public Interest Litigation (PIL) is a powerful legal tool in India that helps promote social justice. The significance of PIL in advocating for vulnerable communities cannot be overstated and it enables advocates and public-spirited individuals to submit applications on behalf of these groups of people by avoiding the conventional restriction on locus standing. The impact of PIL on policy and social change, particularly concerning marginalized women, can be understood through various dimensions, which include legal reforms, social awareness, and empowerment. One of the most important impacts of PIL is its capacity to catalyse legal reforms. By bringing issues to the forefront of judicial consideration, PIL has led to the development and strengthening of laws designed to protect and uplift marginalized women. PIL has been instrumental which highlighting systemic failures and demanding reforms in areas such as domestic violence, sexual harassment, and workplace discrimination.¹²

PIL is a vital tool to enforce the human rights of those people who do not have access to them

¹² Vyanjna Saini and Dr. Haricharan Singh Yadava, *The Role Of Public Interest Litigation (PIL) In Empowering Marginalized Women*, 28 AJBR, 1621,(2025), <https://africanjournalofbiomedicalresearch.com/index.php/AJBR>.

due to poverty or such other reasons. It enables judicial activism and monitors government institutions such as prisons, asylums and protective homes. PIL aims to facilitate common people to access the courts to seek redress in legal matters. PIL has been used as a tool to protect the rights of the marginalised, such as bonded labourers, slum dwellers and prisoners and helped to improve their living conditions. The ultimate goal of PIL was to make justice available to everyone without discriminating against any particular community.¹³

Anyone can file a PIL for any matter which affects the interest of the public, such as terrorism, neglected children, atrocities on women, road safety, pollution, construction hazards, exploitation of casual workers, bonded labour, non-payment of minimum wages to workers, food adulteration, disturbance of ecological balance, maintenance of heritage and culture, etc. This covers the problems faced by marginalised communities on their day-to-day basis.¹⁴

Every Indian citizen or organisation can file a PIL petition before the Supreme Court Article 32¹⁵ of the Indian Constitution or the High Court under Article 226¹⁶ of the Indian Constitution. It is very important for the petitioner to prove to the court that PIL is being filed for a matter concerning public interest and benefits the general public.

IX. LANDMARK JUDICIAL DECISIONS

The Indian judiciary has emerged as a strong guardian of constitutional values, especially for those pushed to the margins of society due to various factors, not because they have committed something wrong. The nation is marked by deep socio-economic and cultural inequalities, which require a body to change the situation. The judiciary has often stepped in for the protection of rights, correcting injustices and expanding the equality, dignity. Through landmark judgements, the judiciary has proved its power to interpret the Constitution to transform it into a tool for the empowerment for communities historically denied access to education, justice, and opportunities. The judicial decisions transformed the constitutional formality into compassion for human welfare.

¹³ Mayashree Acharya, *What is PIL and What is its importance?* , CLEAR TAX, May 16, 2025, <https://cleartax.in/s/public-interest-litigation>.

¹⁴ *Id.*

¹⁵ INDIAN CONST. art 32.

¹⁶ INDIAN CONST. art 226.

The first reported PIL Case in India is *Hussainara Khatoon v. State of Bihar*¹⁷ which highlighted the worst condition of under-trial prisoners in the Bihar jail who were not subjected to trial due to poverty. The judgment pronounced by the Division Bench comprising of Justice P.N. Bhagawati and Justice D.A Desai granted speedy trial and ordered the provision of free legal aid to under-trial prisoners who are charged with bailable offences.

In *Safai Karamchhari Andolan v. Union of India*¹⁸, Justice Sathasivam delivered a landmark judgment recognizing manual scavenging as a practice that perpetuates untouchability and violates fundamental rights. The Court directed the government to implement laws prohibiting manual scavenging, ensure compensation and rehabilitation for affected workers, and eliminate the practice in Indian Railways.

In *Union of India v. National Federation of the Blind*¹⁹, Justice Sathasivam mandated a 3% horizontal reservation for persons with disabilities in government employment, clarifying that the 50% reservation ceiling does not apply to disability quotas. This ensured the rights of differently abled individuals in India.

The *Navtej Singh Johar v. Union of India*²⁰ case was decided by a five-judge bench and decriminalized consensual homosexual relations by reading down Section 377 of the Indian Penal Code 1860. The court held that the colonial-era law was unconstitutional because it violated fundamental rights to equality, dignity, privacy, freedom of expression, and liberty for consenting adults. The ruling affirmed that sexual orientation is an innate part of self-identity and that the state cannot interfere with private, consensual acts between adults.

In *Supriyo v. Union of India* case the petitioners challenged the constitutional validity of Section 4(c)²¹ of the Special Marriage Act, 1954. The petitioners contended that this provision, limits the scope of marriage to heterosexual relationships, and thus violates their fundamental rights to equality, non-discrimination, privacy, and dignity.²² The Constitutional bench

¹⁷ *Hussainara Khatoon v. State of Bihar*, 1979 AIR 1819.

¹⁸ *Safai Karamchhari Andolan v. Union of India*, (2014) 11 SCC 224.

¹⁹ *Union of India v. National Federation of the Blind*, (2013) 10 SCC 772.

²⁰ *Navtej Singh Johar v. Union of India*, AIR 2018 SC 4321.

²¹ Special Marriage Act, 1954, § 4(c) ("Neither party must have a spouse living at the time of the marriage (India).

²² Ashish Rawat, *Navigating the path to equality: the landmark case of Supriyo v. Union of India and the future of LGBTQIA+ rights*, MANUPATRA ARTICLES, July 4, 2024, <https://articles.manupatra.com/article-details/NAVIGATING-THE-PATH-TO-EQUALITY->.

acknowledged the rights of queer couples to form emotional, mental, or sexual relationships, drawing from the fundamental rights to privacy, choice, and autonomy.

In the *National Legal Services Authority (NALSA) v. Union of India*²³, the court recognised transgender as the third gender and affirmed the rights of the transgender against exploitation faced by them.

In the landmark judgement of *M. Nagaraj v. Union of India*²⁴, the Constitutional bench upheld the constitutionality of the constitutional amendments related to reservation in promotions for SC/STs, reasoning the reservation did not violate the basic structure of the Constitution's equality principles Articles 14, 15, 16 and declared that the states must collect data of creamy layer to prove the backwardness of SC/ST communities and that the policy would not adversely affect overall efficiency.

The *Indra Sawhney v. Union of India*²⁵ was a landmark PIL delivered by nine-judge bench for the reservation of OBCs and other socially backward castes. This judgment upheld the 27% OBC reservation and introduced the concept of the creamy layer, ensuring that the benefits reach the truly marginalised. It also observed that reservation cannot exceed 50%, maintaining balance between equality and affirmative action.

X. CHALLENGES

The judiciary plays a transformative role in the upliftment of marginalised communities, but it is very vital to analyse whether it has achieved the ultimate aim. The judiciary continues to face several limitations in empowering these groups. Access to justice remains limited because most of the vulnerable groups struggle with issues such as poverty, illiteracy, and lack of legal awareness. The complex legal terms and procedures make it difficult to comprehend the procedures. The prolonged judicial process makes them hopeless and increases the distance between them and the courts. The absence of adequate representation of women, Dalits, Adivasis, and other marginalised voices within the judicial system also affects sensitivity and inclusion.

²³ National Legal Services Authority (NALSA) v. Union of India, AIR 2014 SC 1863.

²⁴ M. Nagaraj v. Union of India, (2006) 8 SCC 212.

²⁵ Indra Sawhney v. Union of India, AIR 1993 SC 477.

The marginalised communities are potentially exploited and harassed because they are easy to target by dominant or superior people in society. The judiciary also struggles with obstacles such as limited resources, insufficient infrastructure, and the need for more specialised courts to handle sensitive issues like caste violence, gender discrimination, and disability rights. These systemic issues highlight that judicial empowerment alone is not enough; it must be supported through sufficient infrastructure, community awareness, and consistent policy action.

XI. RECOMMENDATIONS

Regular training and sensitisation for police personnel as well as periodic review and assessment of the implementation of relevant acts such as the SC/ST (Prevention of Atrocities) Act 1989, The Rights of persons with Disabilities Act 2016 etc at the local, district and national levels.²⁶

The importance of spreading legal awareness in grass root level is vital for the marginalized communities to understand their rights and duties, promotes equality and justice. It also encourages responsible behaviour and prevents exploitation and discrimination. It also enables them to face the legal issues with confidence.

The promotion of Alternative Dispute Resolution (ADR) mechanisms results in fast and smooth resolution of disputes, which will reduce the burden of courts. This will help the marginalized communities to seek justice in a more efficient way.

Encouraging responsible PILs filed by public spirited activities can bring structural inequalities such as discrimination in schools, lack of healthcare or unlawful land alienation into the judicial spotlight. Adding to this same time, the judiciary must protect human-rights defenders, lawyers and journalists from harassment or misuse of law aimed at silencing them.

The judiciary should consider the use of suo motu powers in situations where vulnerable groups cannot speak for themselves, such as cases of custodial torture, manual scavenging, bonded labour, caste atrocities and forced displacement. Strong monitoring mechanisms are required to ensure that government agencies actually comply with court orders.

²⁶ Sritama Kolay & Swapan Kumar Kolay, Marginalization Scenario in India: A Multidimensional Cross-Sectional Study, 11, IJRA, 72 (2025) https://rfppl.co.in/subscription/upload_pdf/sritamam.

The judiciary can strengthen empowerment by embracing inclusive technology and collaborative governance. Online hearings, community e-seva centres and digital access for women, disabled persons and other marginalized groups. The legal service authorities in the central, state and local level will ensure the services are accessed by all citizens.

XII. CONCLUSION

The Indian Judiciary plays a vital role in empowering the rights and interests of the marginalised communities. The judicial activism showcased the problems faced by them and took necessary steps to eliminate their issues to some extent. But it isn't complete for solving all the obstacles faced by them because most of the challenges they faced are historically rooted. By comparing the past, the situation of marginalised communities has got much better. This proves the ability of the judiciary to strengthen the lives of vulnerable communities. Through a collective effort by the concerned authorities, implementation of systematic institutions and collaborative works with NGOs and other organisation can make progress than expectations. As future law professionals, it is our duty to understand the issues faced by the marginalised communities and the use of the judiciary as a tool for the empowerment of these groups. They don't need mere sympathy; it is our obligation to uplift them and witness the change they can bring in the nation.

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