
CONFIDENTIAL - LEGAL ARCHIVE
THE CONSTITUTION OF INDIA
भारत का संविधान
Confronting Marginalisation
Confronting Marginalisation
How Citizens Use the Law to Fight Back
RECEIVED: JAN 26, 2024
JAN 26, 2024
COURT RECORDS
Gemini Notebook



The Reality of Marginalisation

Dalits, Adivasis, Muslims, women, and other groups face **deep-rooted inequality.** Yet, they share a unified argument: **simply by being citizens of a democratic country,** they possess equal rights that must be respected.

The term Dalit itself—**meaning 'broken'"—is deliberately used to highlight centuries of discrimination.**

Gemini Notebook

Invoking the Fundamental Rights Shield

Marginalised groups draw on the Constitution in two ways: forcing the government to recognize injustice, and demanding the enforcement of laws.



Gemini Notebook

The Ideological Roots of Resistance



The Fallacy of Purity

Soyrabai,
14th Century
Mahar caste

"Not a creature has been born except in a **bloody womb.**"

"Pollution occurs from **within** (thoughts/values), not through the nature of work."



Equality of Human Labour

Kabir,
15th Century
Weaver

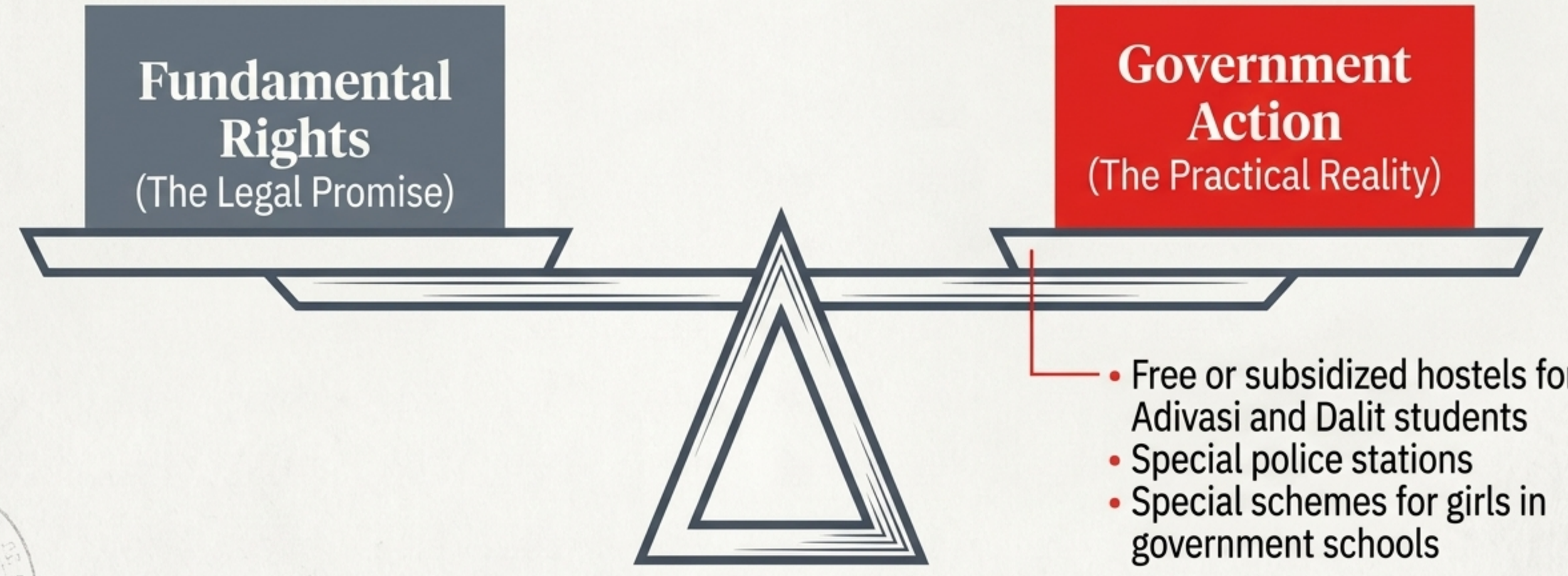
"We eat by **touching**, we **wash by touching**... from a touch the world was born."

"Untouchability redefined: The highest state of knowledge is to be untouched by narrow, limiting ideas."

Gemini Notebook

Moving Beyond Rights into Active Policy

To implement the Constitution, both state and central governments create specific schemes for tribal and high Dalit population areas.



Gemini Notebook

The Mechanics of Social Justice: Reservation

For centuries, sections of the population were denied opportunities to learn and work. A democratic government steps in to assist through reservation.

Path to Opportunity

1. Identity Verification

Government lists of Scheduled Castes/Tribes. Students furnish proof via caste/tribe certificates.

2. The Threshold

Governments define specific 'cut-off' marks for institutes of professional education (e.g., medical colleges).

3. Qualification

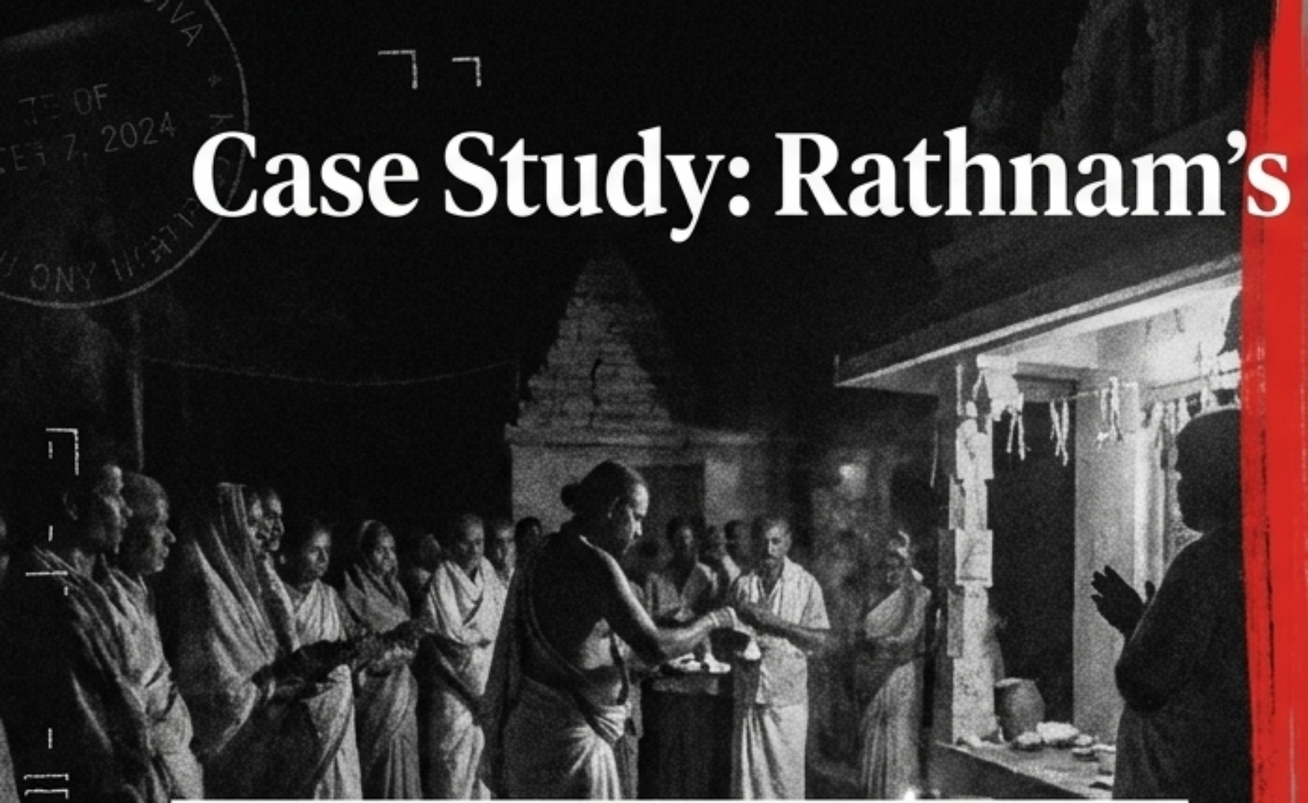
Only candidates who secure marks above the cut-off point qualify.

4. Empowerment

Access to seats and special government scholarships.

Gemini Notebook

Case Study: Rathnam's Defiance in Jakmalgur



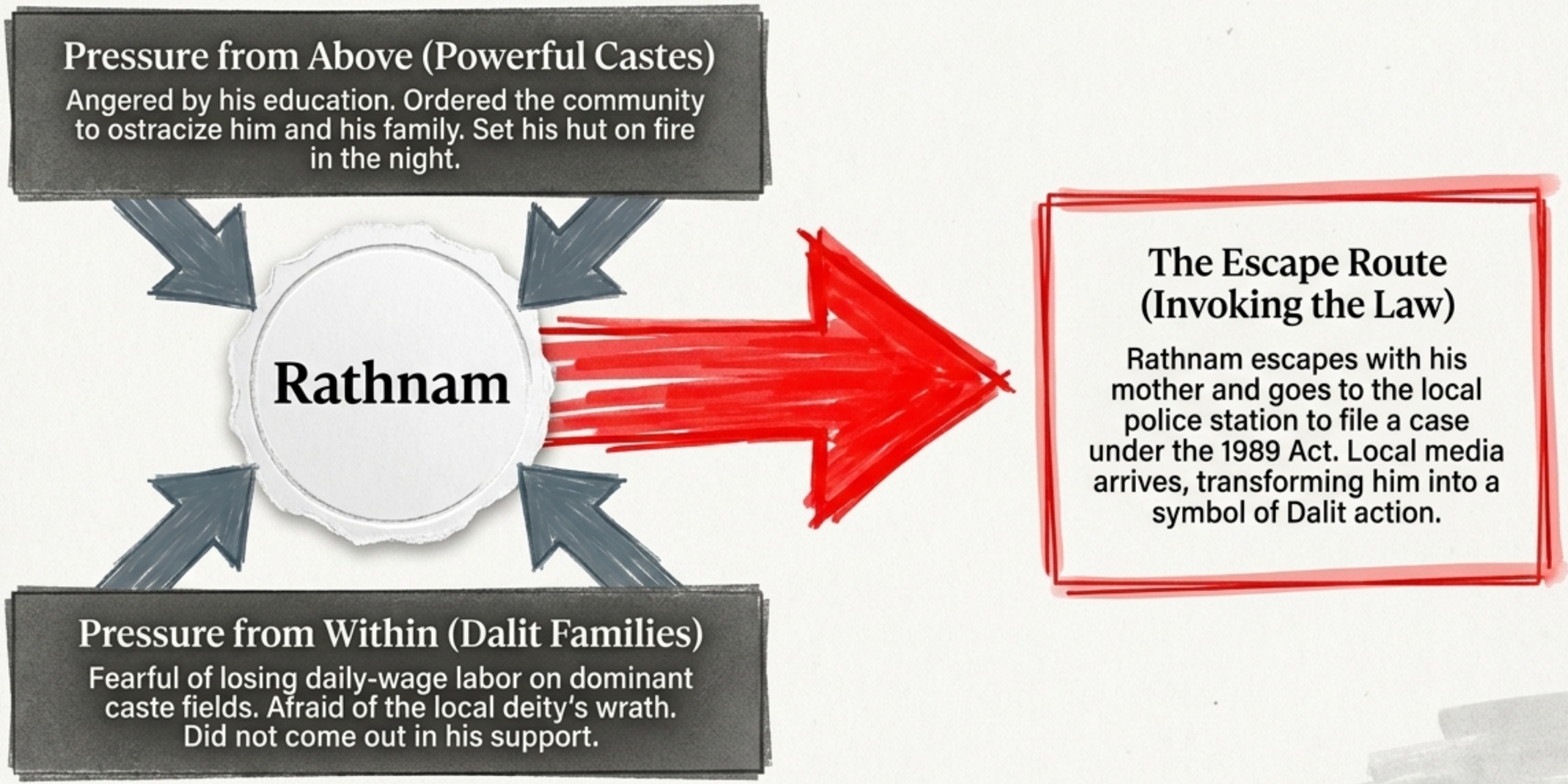
Once every five years, a local deity is honored. The ritual dictates that a Dalit community member must wash the feet of 20 visiting priests and bathe in the used water. Rathnam's father and grandfather performed this.



Rathnam, a 20-year-old engineering student, **refused.**

Gemini Notebook

The Clash: Tradition Against Rights



Gemini Notebook

The Legal Sword: Anatomy of the 1989 Act

Framed in response to violent exploitation in the 1970s and 80s, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act lists dreadfully specific crimes to punish offenders and influence society's moral compass.

1. Moral / Physical Reprehensibility

Punishes forcing a Dalit or Adivasi to eat/drink obnoxious substances, or forcibly parading them naked (derogatory to human dignity).

2. Economic Dispossession

Punishes wrongfully occupying, cultivating, or transferring land allotted to a Dalit or Adivasi, or forcing slave labor.

3. Gender-Specific Violence

Penalizes assaulting or using force on any Dalit or Adivasi woman with the intent to dishonour her.

Gemini Notebook

The Scourge of Manual Scavenging



Despite the abolition of untouchability, communities like the **Bhangis** (Gujarat), **Pakhis** (Andhra Pradesh), and **Sikkaliars** (Tamil Nadu) are still forced into subhuman labor, segregated on village outskirts, and denied access to public water.

13 Lakh

Dalit individuals (mostly women and young girls) still employed in this sector.

96 Lakh

Private and community dry latrines managed by municipalities.

Rs 30-40

Daily wage for urban municipality workers.

Hazards

Constant exposure to eye, skin, respiratory, and gastro-intestinal infections.

Gemini Notebook

Legal Pushback: Safai Karamchari Andolan



1993

Government passes the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act.

2003 (The Catalyst)

Safai Karamchari Andolan, 13 organizations, and 7 scavengers file a PIL in the Supreme Court, revealing the practice still exists (even in government railways).

2005 (The Ruling)

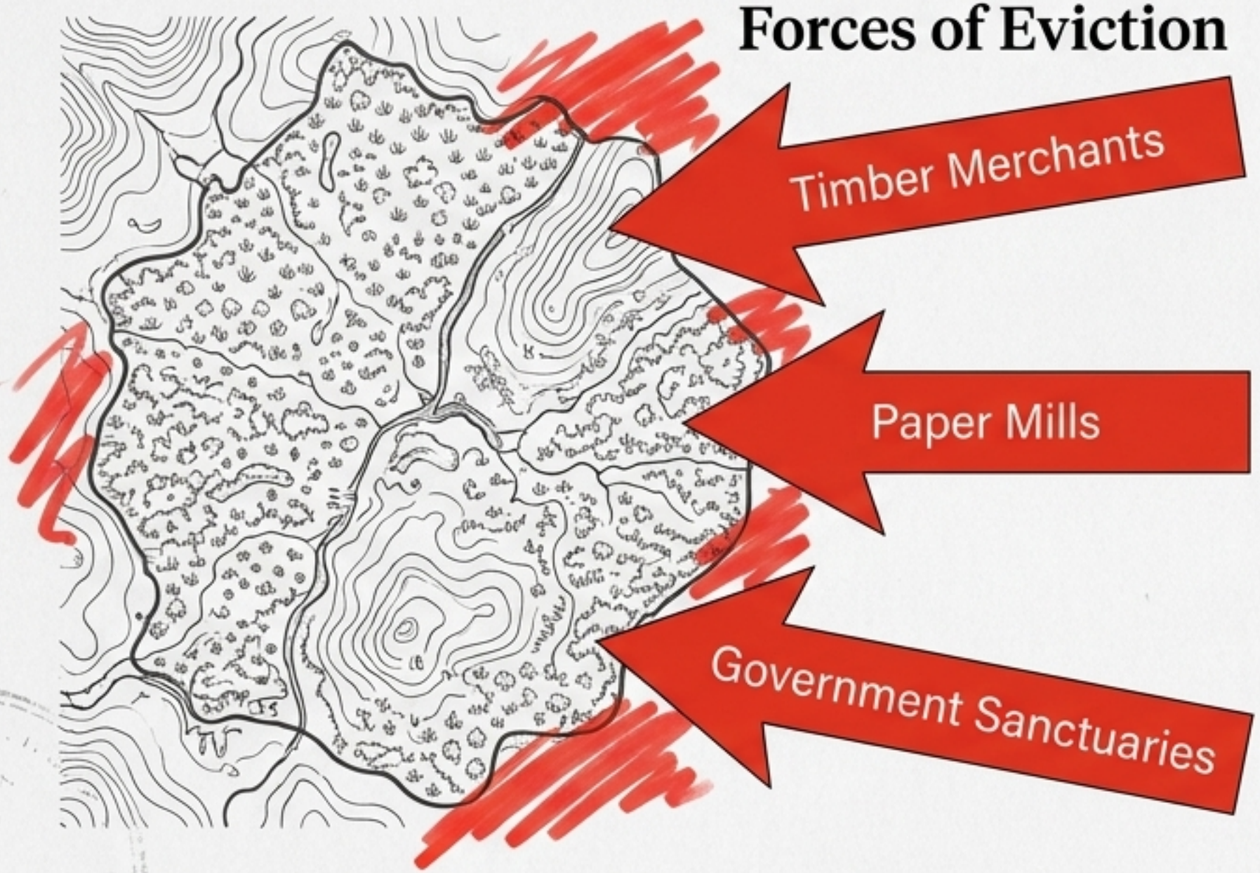
Supreme Court observes an increase in scavenging. Directs all government departments to verify facts within 6 months and launch a time-bound liberation and rehabilitation programme.

Gemini Notebook

Adivasi Demands and Forest Dispossession

Adivasi people have successfully organized since the 1970s to demand their land and resources back, facing immense violence from powerful social groups.

Forces of Eviction



The Activist Stance

> "Governments themselves violate Constitutional rights by allowing encroachers. If tribals are evicted and cannot return, the government must compensate and rehabilitate them-especially given the massive funds spent on industrial projects."
>
> – C.K. Janu, Adivasi Activist

Gemini Notebook

Reclaiming the Forest: Legal Frameworks

The 1989 Act (Defense)

- Used by activists to defend traditional land.
- The Act confirms Constitutional promises: tribal land cannot be sold to non-tribals.
- If forcibly encroached, activists demand punishment and the guaranteed right to re-possess the land.

The 2006 Forest Rights Act (Recognition)

- The Scheduled Tribes and Other Traditional Forest Dwellers Act.
- Explicitly meant to undo historical injustices.
- Recognizes rights to homestead, cultivable land, grazing, non-timber produce, and includes the right to conserve forests and bio-diversity.

Gemini Notebook

The Matrix of Marginalized Struggles

	Dalits	Adivasis	Manual Scavengers
Historical Injustice	Untouchability & Humiliation	Dispossession of Land	Subhuman Segregated Labor
Constitutional Shield	Articles 15 & 17	Land protection guarantees	Fundamental Rights via PIL
Specific Legal Sword	1989 Prevention of Atrocities Act	1989 Act & 2006 Forest Rights Act	1993 Prohibition Act
Primary Goal	Dignity and Equality	Land Reclamation & Compensation	Eradication & Rehabilitation

Gemini Notebook

The Ecosystem of Justice

The existence of a right on paper does not mean it exists in reality. Democracy requires constant struggle, writing, negotiation, and organizing.

1. Constitutional Rights

(The Foundation: Articles 15, 17)



2. Citizen Activism

(The Catalyst: Protests, Rathnam's Defiance, PILs by SKA)

3. Government Action

(The Response: 1989 Act, 2006 Forest Act, Reservations)

4. Real-world Enforcement

(The Ongoing Struggle: Police verification, SC rulings, Rehabilitation)

Gemini Notebook