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# VIOLATION OF FUNDAMENTAL RIGHTS AND THE RELEVANCE OF THE INDIAN CONSTITUTION IN CURRENT SCENARIO: A CRITICAL ANALYSIS ON CASTE DISCRIMINATION, FREEDOM OF EXPRESSION AND CENSORSHIP IN INDIA

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## ABSTRACT

Our Nation India is known for its unity in diversity. One of the most important problems that we face now is the caste system. This caste system is deep-rooted in Indian Society that it was social discrimination and stratification that we inherited from the ancient Indian society. This evil system is still in existence even after centuries and even after decades of becoming an independent democratic country. The basic varna system has four castes arranged in a rigid pyramidal structure. Brahmins, Kshatriyas, Vaishyas & Shudras.

India is a country that practices the evil caste system in its society. Caste discrimination in the Indian society is mostly centered around Hind religion which had also created several deep divisions within its caste differentiation and caste-based system. It is a dangerous and one of the deadliest problems that our country is facing which also hampers harmony in the society and creates unnecessary struggles, confrontations, hate groups, and even riots. Even Though the government has enacted various legislations to put an end to this evil cancerous social discrimination the caste system still exists in the society with the same or more devilish nature and power. The cancerous and devilish practice of the caste system in India is paradigmatic and ethnographic and is an example of the caste, creed, and race divisions and the Caste system as a whole which has its foundation and establishment in ancient India that was transformed and transferred by succeeded ruling and administrative powers like that of the Mughal Empire and the British Raj for centuries. The Caste system of India was used as a tactic by the British Raj for their unrivaled domination in India which acted as a tool of their 'Divide And Rule Policy'.

**Keywords:** Caste Discrimination, Untouchability, Freedom of Expression and Speech.

## **INTRODUCTION**

The caste system in India is a religious and social stratification or a hierarchy that was formulated to divide the Hindu Community into rigid subgroups for the social and all aspect domination of

Higher\upper caste Hindu Groups based on their karma and duty\profession which was mostly involved or derived in an around the religious texts like Puranas and Vedas and especially the Manusmriti which is restrictive and discriminative in nature. Such religious manuscripts were used by upper-caste Hindu religious people to suppress people of lower orientation and subgroups to retain their domination in society. The Caste System practiced in India is divided into five main categories used for the maintenance of Upper caste domination and their superiority in the society and the lowest of the five categories, The Shudras are exploited, suppressed, marginalized, and is dominated by the upper caste people in a very brutal and inhuman way. The Caste system which was established in ancient India is still practiced in our current society to maintain the hegemony and domination enjoyed by the upper caste Hindu people over the marginalized lower caste people.

## **WAYS OF DISCRIMINATION**

### **1. ACCESS DENIAL AND RISING VIOLENCE AGAINST DALIT PEOPLE**

The Caste system and its practice in India is a grave violation of our Fundamental Rights described in our Indian Constitution. Even after decades, India is still facing the challenges of caste discrimination. The continuous examples of events that prove the failure of the justice and law enforcement system when it comes to protecting the Fundamental Rights of people show a very dangerous situation ongoing in our country. This is a key obstacle in ending or curbing caste discrimination in India. These kinds of problems are caused and are due to the lack of government interest and active interventions. Low caste people or

Dalit people all around India face several hardships like

- a. Killing Of Dalit People.
- b. Honor Killing.
- c. Public Flogging.
- d. Public Physical Abuse.

- e. Psychological Abuse.
- f. Sexual Abuse And Torture.
- g. Gangrape Of Dalit Women.

These above-mentioned points are foremost among the different ways in which Low caste People are marginalized due to the ever-increasing practice of Caste Discrimination In India. These points have to be carefully taken care of since the Justice Denial for these People of Low Caste Origin or Dalit people causes Human Rights Violations which is also included in the Fundamental Rights Of Our Indian Constitution which seriously disrupts the power and existence of our Indian Constitution. According to the National Crime Statistics, the number of cases registered for violence and violations against Dalit people is on an increasing trend which is a shocking fact that even the Fundamental Rights are violated to the extremes in order to practice the Caste System by the Upper Caste people. The government has miserably failed to support the emotions of Low Caste people properly and to bring the guilty people before the law or to even investigate the cases which even consist of violation of Fundamental Rights in a proper manner. In most of the cases related to the torture, abuse, killing, and raping of Low Caste people is done by upper caste people in order to inflict humiliation, damage, and pain to these people and to reinforce and restore the old caste system and caste hierarchy which is unchecked on the superiority and domination of these upper caste people.

## **2. FORCED LABOR**

The Caste System in India is seen in the most inhumane way in this forced labor or the employment of child labor. Low Caste People are severely affected by the evil and devilish effects of modern slavery-like bonded labor and forced labor in which these poor people are employed for long working hours to do exhaustive volumes of workloads and to do forced to do these jobs at a very low level of wages which was necessitated by the low standards of living and no other viable opportunities or ways for their survival in this society. The upper caste people know that this disadvantageous position of these poor people is too exploitative in nature that they try to suppress and make the living of such poor people even worse by forcing them, practicing caste discriminations, humiliating and harassing them. This cruel mentality can be seen many times in society as most of the time only the Dalit people are given the jobs to clean or do manual scavenging and they are forced to do the manual scavenging and waste disposal jobs many times which is imposed on them by the society. Mostly the people who assign them the task are from the upper caste also have the mindset that Manuel

scavenging is the job of Dalit people. This kind of cruel mindset is also having a correlation with the varna system under which the Manual scavenging was the duty of Shudras or Dalit people.

### **3. CHILD LABOR**

Child Labour is prohibited in India. But still, it is practiced in India as a result of the direct involvement of Caste Discrimination In India and the poverty the poor Low Caste People experience. The employers are mostly from the upper caste families they avoid employing youths or adults and prefer to give opportunities to children increasing the child labor in India as they will suffer any amount of pain, stress, harassment, and abuse and is economically suitable to employers as they are paid less. The Dalit children are the most who are at a severe disadvantage as they may be forced into child labor and child slavery as they come from the Dalit community which is marginalized oppressed and suppressed by the Upper caste people more than any community in India.

### **4. DISCRIMINATION IN EDUCATION**

The lower caste people are often denied even the educational rights they have according to the Indian Laws and legislations made for them. Social Discrimination against Dalit and Low caste People is a great problem in India especially in caste affected areas by caste practicing people. The upper caste people prefer to marginalize the Low caste people through Alienation, social exclusion, physical and psychological abuse, suppressing them in all the levels of education from pre-primary education to university level. The low level of literacy rate and high level of dropouts shows the discrimination of Dalit people in the education sector. Untouchability is practiced even in schools. Some teachers are somewhat prejudiced that Dalit doesn't need education and they purposefully failed in examinations. It is due to this reason that they force the Dalit students to do manual scavenging in and around school and force them to eat in exclusion from other caste students. These activities are present in the education sector from pre-primary to university level. This is a very sad and threatening situation considering the vulnerability of Dalit people. This is enforced by upper caste people since they think educated Dalit people as a threat to their orthodox mentality and as well as for the caste system and caste hierarchy. This is to reinforce the existence of the old caste system into a more visible one.

### **5. UNTOUCHABILITY AND ACCESS DENIAL**

The worst form of practicing caste discrimination in India is the problem of untouchability. This is the most humiliating form in which the Dalit people are suppressed by higher caste people to marginalize them. All kind of social problems and exclusions that Dalit people are facing is due to the notion of higher caste people that the Dalit people are untouchable. They try to stigmatize and marginalize the Dalit people in order to exploit them and suppress them on the basis of the caste system. Discrimination of Dalit people is severe in several sectors like water supply sanitation facilities, health, housing, education, job opportunities, food, access to goods, and necessary hardware and social activities as well as all aspects of life. Many people try to avoid interactions with Dalit people, especially from the upper caste. This can be seen from several reports of research conducted by different organizations. This is a violation of basic Human Rights and a grave violation of the Indian constitution which denounced UNTOUCHABILITY as a crime. This kind of exclusion is enforced by upper caste people to suppress the access of Dalit people for a good and dignified life and for the opportunities to develop a noble personality.

## **6. DALIT WOMEN**

Dalit women in India live in a society that is highly patriarchal and is a divided one where caste discrimination is experienced extremely. This makes the position of Dalit women more vulnerable to violence and violations as they are both 'Dalit' And 'Women'. This is due to the severely imbalanced social, economic, cultural, and political power equation as well as due to the suppression and oppression of higher caste people. Due to these factors, Dalit women are targeted as easy targets for sexual assault by men of all communities, especially by the upper caste people. This is evident from the increasing number of rape and sexual assault cases registered every year. Justice DENIAL is also done by the society as the judiciary fails to punish the guilty people successfully which often led to not reporting such cases to authorities. Raping of Dalit women is considered to be a usual and casual practice by the Upper caste people. Even women of the Upper caste do not object or raise their voice for the Dalit women against the rape, gang rape, and other sexual assault caused by the upper caste Hindu Men. They consider raping Dalit women as a symbol of their domination and superiority as they rape women from the Dalit community, as they believe the caste honor of the women who was raped is gone and this will help the upper caste Hindus to suppress and dominate and to retain the hegemony they practiced over Dalit people from the ancient times

## **7. CASTE DISCRIMINATION IN THE DISTRIBUTION OF HUMANITARIAN AID**

Caste discrimination in India is deep-rooted and is prevalent even in the distribution of humanitarian aid even in the face of disasters like floods, drought, earthquakes, and other natural calamities. The prevalence of caste discrimination in India reduces the opportunities the Dalit people should have or are legally entitled even in the case of Humanitarian aid given to the people in the wake of disasters. It is unbelievable that upper caste people deliberately express their hate towards Dalit people even in the hard times like the natural calamities and the lower class people continue to face serious discrimination and difficulties in these times due to the exclusion of Dalit people from relief materials, shelters, medical facilities, food, and post-disaster rehabilitation. Dalit people are forced to live in anarchy and poverty and insecurity without solving their issues and problems for long times. This has been brought to serious discussions post-2015 flood in the Indian state of Tamil Nadu.

## **8. SOCIAL, CULTURAL, EDUCATIONAL AND ECONOMIC RIGHTS INCLUDING LAND RIGHTS**

The severe practice of caste discrimination by the mainstream society and upper-caste Hindu people against the lower caste people especially the Dalit people limits the access of the and lower caste and Dalit people to social, cultural, educational, and economic rights including land rights. Even though it is a hot topic for several past and ongoing discussions and deliberations the progress of low caste people and the Dalit remains the same as the old underprivileged ones. The land rights and other rights of Dalit and lower caste people are still a sector that continues to be restricted by deeply ingrained discriminations and practices promulgated by the upper caste people. Generally, land rights is an issue between the Dalit people and dominant castes since dominant caste people may try to confiscate and seize the lands of Dalit people using threat force and violence. The fact that Dalit people don't possess land often makes them vulnerable to exploitation by those who do that, especially dominant caste people, and is one of the most important causes for their exploitation and the reason for their degraded and low level of living standards. As per the records India is having several budgetary funds for the uplifting of this underprivileged scheduled caste and scheduled tribe people. But the recent history shows us that the government is diverting money from these funds to other projects which don't have any kind of relationship with the welfare and upliftment of these poor people, especially the Dalit community. The current trends show that

even the government is not paying adequate attention to the well-being and development of these lower caste people or Dalit people.

### **9. SHRINKING SPACE FOR CIVIL SOCIETY**

The most dangerous and frightening fact of caste discrimination in India is that the poor Dalit people are losing their grip on Indian soil very fast and they are marginalized and are hunted from hut to hut in a brutal and inhumane manner. The civil space for the Dalit people for social development and interaction is decreasing in an alarming manner with tight regulation on foreign contributions for organizations working on Dalit community development.

Harassment of Dalit community leaders and workers standing for the development of Dalit communities including them facing false charges and accusations from police and as well as facing torture and custodial murder also. Some Dalit organizations have even faced challenges like their funds frozen without cause severely hampering their activities. Censorship of films that deals with caste discrimination and caste-based issues and blocking of events of Dalit organizations have also been witnessed as an act of government and society dominated by the upper caste people. While Indian Prime Minister Narendra Modi has stated several national level statements many times denouncing caste discrimination these statements appears to be contradictory to the stands taken by India at the international level. This became evident with the Indian blocking of UN ECOSOC accreditation of IDSN, a block, unfortunately, continuing to further times from 2014. Since 2014 India has seen an alarming increase in the crimes against Dalit people with the support of state-sponsored groups shows the reason for the government's failure in ensuring justice for Dalit people.

### **10. MARRIAGE**

The marriage of people belonging to different communities or castes is a great problem in India. Inter-caste marriage is the most problematic issue within the caste system which prohibits exogamic relationships and encourages only endogamic marriages. Inter-caste marriage often led to social boycotts, family boycotts, attacks, violence, and honor killing. Society is not ready to accept the decision of adult citizens to marry a person of their own choice. This kind of honor Killing has shed great amounts of blood in the streets leaving many dead.

### **11. FREEDOM OF EXPRESSION AND SPEECH**

Freedom of Expression and Speech is one of the most important things in our current society. The subject of the Freedom of Expression and Speech is really an expression of society on contemporary issues. As a result, we have to say that Regulation and Restriction and Censorships of Freedom of Expression and Speech is actually a pointed dagger against the Fundamental Right in our Constitution. Elaborating on this point we have to say that "Freedom of speech and expression is one of the most important characteristics of a democratic and civilized society. The Freedom of Expression and Speech is an essential factor for the proper functioning of the democratic process as well as an important feature needed for the personality and character development of each citizen. Freedom of speech and expression is regarded as the first condition of liberty and should be enjoyed by every Indian Citizen and any violations should not be occurring to the rights entertained by the Indian constitution. In a democratic country, Freedom of Speech And Expression opens the platform for free discussion of issues. Freedom of speech plays a crucial role in the formation of public opinion on social, political, and economic matters. Freedom of Speech and Expression, just as Equality Rights guarantee the life and liberty that have been very broadly constructed by the Supreme Court. Freedom of speech and expression has been held to be basic and indivisible for a democratic polity. It's said to be the cornerstone of the functioning of democracy. It is the foundation of a democratic society. In Order to maintain this Fundamental Right of Freedom Of Expression And Speech, we have to ensure the realization of a free and unbiased media.

## **12. RELEVANCE OF INDIAN CONSTITUTION**

The Indian constitution is a persuasive record for the betterment of an ideal society. The constitution of India includes standards and estimations of our civilizational legacy that arose out of our freedom struggle. The Indian constitution shows the intelligence of the founding fathers of our republic and fundamentally it addresses the sovereign will of individuals of India which we can see even now. The objective visualized by the constitution is the welfare of the state and its citizens as a prerequisite for dignified human existence and good for all. The Indian constitution is an attempt to constitute India into a sovereign, socialist, secular democratic republic. It is, in fact, a promise to the people for securing their socio-economic and political justice, liberty, and equality which includes the liberty of thought, expression, belief, faith and worship, equality of status and opportunity, and to promote among all fraternity, assuring the dignity of the individual and the unity of the nation. It is not merely a



legal manuscript rather it is a vehicle that steers the nation to realize the dreams and aspirations of the people by accommodating and adapting to the changing needs and realities of the times.

### **13. POLITICAL RELEVANCE**

The political relevance of the Indian constitution is one of the top topics of debate and discussions due to the recent political turmoil that the nation has seen. The most appropriate answer to any question that is related to why India stands still as the largest democratic country in the world or why there aren't any coups, illegal or unethical transfer of administration, power and state terrorism of we have to admit it because of the power that Indian constitution has in the national political structure. The constitution restricts caste discrimination and untouchability which prevents and prohibits the government from legally and directly exploiting and excluding the Dalit people as such moves will be interpreted as an illegal and violation of the Indian constitution.

### **14. SOCIAL, CULTURAL, EDUCATIONAL, AND ECONOMIC RELEVANCE**

The social and economic relevance is truly exceptional. Most of the unbelievable and significant changes that happened in India are due to the social and economic significance of the Indian constitution. The long history of caste discrimination and the lower caste people who were considered to be untouchables changed only because of the Indian constitution. The Indian constitution promises the Fundamental Rights to all citizens of the Republic Of India which consist of important rights like:

- a. The Right To Equality.
- b. The Right To Freedom.
- c. Right Against Exploitation.
- d. Cultural and Educational Rights.
- e. Right To Constitutional Remedies

It is only due to the power of the Indian constitution that we have this kind of 'RIGHTS'. These rights help us to get an education, equality, equal opportunities, curb exploitations, and other government benefits including health care facilities.

## **15. CURRENT RELEVANCE**

The Indian Constitution is almost like a living being as this document keeps responding to the situations and circumstances that arise from time to time. The Indian constitution continues to work effectively because of its ability to be dynamic, open for interpretations and the ability to respond to the changing situation.

## **16. CONCLUSION**

To conclude, the caste system is an anarchic system that seeks to discriminate between individuals based on their class within their system and is further worsened by the oppression and suppression of Dalit community people by the higher caste people with the latter also treating some particular community within the class system of caste far worse than others do due to other general discriminatory traits those people have. This kind of brutal, inhumane behavior of certain people in the society creates a great difference between the individuals of the same society to cordially work on their own to develop their capabilities and talents as well as separate the society. This kind of social discrimination has to be stopped immediately to the benefit of our country to rise above the challenges. This kind of caste discrimination also violates the fundamental rights of entertainment in the Indian Constitution. In order to strengthen the Indian constitution, we have curbed the illegally practicing Caste Discrimination in India.

The issue of curbing Freedom of Speech and Expression also comes within the problem of violation of fundamental rights in India. Many times governments show no concern about the fundamental rights of the citizens and impose censorship and restriction and regulations on the press, media, and freedom of speech and expression making the life of people more difficult.

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