

“PERSISTENCE OF CASTE IN CONTEMPORARY INDIA”

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The oldest and most prominent system prevailing in India is the caste system. B.R. Ambedkar said “*caste system is not simply a division of labor, but a division of laborers*”. Being hereditary in nature, it is based on the principle of purity and pollution. The caste system defines one’s social status and occupation – something that can have no mobility. This leads to caste-based discrimination. With the coming of urbanization, one would believe that the anonymity present in urban areas would make the lives of Dalits better, however, the lack of education and training has kept them on the outskirts even there. The caste system not only has heavy social sanctions but also legal sanctions. The following paper looks at the lives of Dalits within the broad categories of their education, their job opportunity prospects, their ability to get help from the legal system, and the impact of reservations on their lives. One of the main issues that arises out of Dalit education is that government schools teach children in local languages whereas private schools teach children in English, and these children are mostly upper-caste.¹ Globalization, even though it has been beneficial for the country in terms of its economic growth, has put Dalits at an even greater disadvantage since they are unable to work in the global markets. Further, with everything becoming more and more privatized, they are given lesser opportunities due to their lack of education. It is not new found information that Dalit children face discrimination at the hands of upper-caste students as well as teachers. Therefore, it would not be wrong to conclude that there is minimum to no incentive for a Dalit to pursue education, for it leads to discrimination during his/her education and still no job prospects after completion of schooling. This forces them to engage in child labor. Most Dalits engage in manual scavenging. This makes it difficult for them to find any other form of employment since it is difficult for them to believe that they are “worthy of performing” different occupations.² Because of a strong belief in religion, they remain thankful for whatever dehumanizing, menial job they are

¹ Wax, Emily (2007): *India’s Lower Castes Seek Social Progress in Global Job Market*. Washington Post

² Human Rights Watch interview with Martin Macwan. New York. 15th October 1998.

allowed to do. They live their lives believing this is their fate and thankful to a God for whatever little they are able to get.

While it is difficult being a Dalit, it is even more difficult being a Dalit woman. It seems as if the principle of purity and pollution is based on the convenience of the upper-caste. There have been multiple instances where Dalit women have faced sexual abuse at the hands of upper-caste men. In the short film *Shudra*, there is a scene where a newly-wed Dalit woman is called by an upper-caste landlord at night. It was a clear demonstration of the sexual violence that they face. The upper-caste take part in rituals to ‘purify’ themselves when a Dalit crosses their path, but this purification is not required when they want to take away the modesty of a Dalit woman. It is not only about sexual violence but also about imposing their superiority on Dalit men who are unable to do anything when these acts are being committed against their women. It is not only Dalit men but also the legal system that fails these women. The difference is that Dalit men are unable to help, but the legal system chooses not to. Sexual violence is not categorized as caste violence. The uncertain status of sexual violence as caste violence derived from the structures of caste patriarchy that justified it, and from its association with practices of secrecy and intimacy.³ An infamous incident took place in Sirasgaon where a few a Dalit women were stripped and made to walk naked on the streets of their village because they got water from a common well. When a woman is raped, the chances of her getting justice under statutes such as The Schedule Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 since they are only meant to prevent caste related atrocities are low to none. Sexual violence does not fit standard descriptions of caste crime, i.e. denial of access to roads or common water taps – sexual violence and expressions of caste masculinity are illegible as caste crime.⁴ Further, women are also forced to become *devadasis*.⁵ After this, they are unable to marry a human and so they become prostitutes for the upper-caste. Narula also briefly speaks about intersectionality in the context of education and employment wherein what out Dalit men get in terms of education and employment is more than what Dalit women get in the same field. However, she fails to recognize that this is not only a problem in the lives of Dalit women but all women in India in general.

³ Rao, Anupama (2009): *The Caste Question: Dalits and Politics of Modern India*. Berkeley: University of California Press.

⁴ Rao, Anupama (2009): *The Caste Question: Dalits and Politics of Modern India*. Berkeley: University of California Press..

⁵ Girls who are made to marry a deity before they reach puberty

The Rule of Law in India lives in the shadow of the Rule of Caste.⁶ Smita Narula quotes Hannah Arendt who lamented the “poignant irony” of the discrepancy between regarding as “inalienable’ those human rights, which are enjoyed by citizens of the most prosperous and civilized countries and the situation of the rightness themselves”.⁷ The parallel drawn between those without a citizenship status and Dalits makes a lot of sense. Just as those without citizenship would not be subject to rights, similarly, Dalits are also not subject to rights in their own country. They are believed to be stateless. There is a lack of political will and higher police corruption.⁸ Corruption in India is age-old. Within the caste system, there is usually a nexus between political leaders and the upper-caste.⁹ Enforcement of law does not become passive apathy but active complicity in the caste system.¹⁰ A recent incident took place when a Dalit man’s daughter had gotten kidnapped. When he went to the police to file an FIR, the officer in-charge refused to help him. Even devadasis face sexual abuse at the hands of the police. Law criminalizes the actions of the victims and not of the perpetrators. This is not just one exception in the lives of Dalits, but an image of their everyday issues. Even state actors refuse to help them and start to exploit them instead. The police officer was clearly committed to caste instead of law. Those who occupy a variety of positions in the public administration – from the police, to prosecutors, to district collectors, to judges, and to government bureaucrats responsible for implementing social welfare programs – are so deeply entrenched in the castiest mindset that the system cannot be anything but corrupt and the state is anything but neutral.¹¹

Even when FIRs are filed, there is either a procedural flaw or the police ignores the fact that the complaint took place as a form of caste violence. In Anupama Rao’s, *Death of a Kotwal*, she mentions how a Dalit man’s murder was blamed on the fact that he tried to enter a temple which by ‘tradition’ he wasn’t allowed to or

⁶ Narula, Smita (2008): “Equal by Law, Unequal by Caste: The “Untouchable” Condition in Critical Race Perspective”. *Wisconsin International Law Journal*, Vol.6 No.2.

⁷ Arendt, Hannah (1985): *The Origins of Totalitarianism*. Cleveland and New York: World Publishing Company

⁸ Narula, Smita (2008): “Equal by Law, Unequal by Caste: The “Untouchable” Condition in Critical Race Perspective”. *Wisconsin International Law Journal*, Vol.6 No.2.

⁹ National Human Rights Commission Report, *Prevention of Atrocities Against Scheduled Caste and Scheduled Tribes*. 2004.

¹⁰ Narula, Smita (2008): “Equal by Law, Unequal by Caste: The “Untouchable” Condition in Critical Race Perspective”. *Wisconsin International Law Journal*, Vol.6 No.2.

¹¹ Narula, Smita (2008): “Equal by Law, Unequal by Caste: The “Untouchable” Condition in Critical Race Perspective”. *Wisconsin International Law Journal*, Vol.6 No.2.

that he attempted to install a statue of Ambedkar in the village or that he had consumed alcohol in large quantities or the 'illicit relation' between him and another upper-caste woman, among other reasons. However, the real reason was that even if he did any or all of the above, he was killed because he was a Dalit and this was largely ignored by the police. Perception of caste atrocity is based on political strategy, i.e., which political parties the defendants are allied with and how sensitive they are to caste issues.¹² All crimes against Dalits are acts of anti-Dalit violence. However, justice is never served. Justice involves demand and responsibility. While the demand exists, the responsibility doesn't. It requires complete attention to be given to the other.¹³ In this case, Dalits. But, no one seems to hear or represent the abused. Even with judgments that raise awareness about caste atrocities, they fail to reveal the contaminated police investigations. These judgments do not explicitly give details about the caste crime, they only mention the crime. They disconnect the narrative of historic caste tension from the evidentiary findings regarding the intent, thereby separating aspects of cases that were integrally related to each other.¹⁴ Sentencing the perpetrators is a form of justice in some sense but the fact that they are blind to the larger issue, i.e., untouchability takes away from the idea of justice.

The State has taken into its hands the protection of Dalits. Not only are there provisions in the Constitution that are meant to empower Dalits but there also exist legislations in hope to make right the oppression faced by them. The Protection of Civil Rights Act, 1955 was enacted to enforce the abolition of untouchability under Article 17 of the Constitution. The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 was enacted to prevent caste atrocities and provide victim relief and rehabilitation. Other statutes like the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 prohibits employment of manual scavengers. The Bonded Labor System (Abolition) Act, 1976 aims to abolished agreements of bonded labor. We also have Article 38, Article 39, and Article 46 that aim to achieve an overall development of Scheduled Castes and Schedule Tribes and raise them above the poverty line.¹⁵ The State has also included schemes of post-matriculation

¹² Rao, Anupama (2009): *The Caste Question: Dalits and Politics of Modern India*. Berkeley: University of California Press.

¹³ Derrida Jacques (1992): *Force of Law: The 'Mystical Foundation of Authority'*.

¹⁴ Rao, Anupama (2009): *The Caste Question: Dalits and Politics of Modern India*. Berkeley: University of California Press.

¹⁵ Constitution of India, 1950.

scholarships, development programs for scheduled caste girls with low literacy levels, hostels for scheduled caste boys and girls among various other development schemes.¹⁶ It would be wrong to not recognize the effort the State is putting in to make right the oppression and exploitation faced by the scheduled caste but even then, there is very little upliftment that has taken place. Bonded labour still exists in rural areas, child labour and manual scavenging is still a part of the everyday lives of Dalits, and even though untouchability is abolished on paper, it still very much exists in practice. Those at the bottom of the caste system would argue that reservations do not divide and rule or get in the way of equality of opportunity; it is the caste system itself.¹⁷ Reservations create a chance of equality of opportunity. Critics believe that reservations will only serve to “enshrine caste differences” and “prevent India from reaching its full potential”.¹⁸ They believe a merit-based system is all that is required. But how can we have a merit-based system if not everyone is on an equal footing? This is why reservations are necessary. The divide and rule approach will not break up India, it will only break the caste system. B.R. Ambedkar believed education was necessary. He believed that once Dalits are educated, they will be able to break away from the barriers of untouchability not only because they will have more job opportunities but also because they will let go of their religious beliefs that validate the oppression they face. He believed that it is the children who will make everyone’s lives better. But even when they graduate from eminent institutions, it is difficult for them to get employment. Arjun Dangle, in his book *Poisoned Bread*, narrated an incident wherein a Dalit boy whose qualifications were the same as his upper-caste peer was unable to get a proper job. The only job he was able to get was what his father, an uneducated Dalit had. But on the other hand, reservations have also provided Dalits with opportunities to hold government offices like that of a chief minister, judge, president, etc. All this is considered development and progress when it should just be considered normal. Further, Dalits comprise of one-sixth of India’s population and in proportion to that, their representation is still minimal. In 2005, a Dalit woman was burned alive for contesting a panchayat election against an upper-caste candidate in Uttar Pradesh.¹⁹ This shows that even when they are given an equality of opportunity by the State, it is the mind of the public that still remains unchanged.

¹⁶ Ministry of Social Justice and Empowerment, Government of India, *Scheduled-Caste Welfare Programs*.

¹⁷ Narula, Smita (2008): “Equal by Law, Unequal by Caste: The “Untouchable” Condition in Critical Race Perspective”. *Wisconsin International Law Journal*, Vol.6 No.2.

¹⁸ Kaushik, Surendra (2006): *Do Not Reinforce Two Indians*. Business Week.

¹⁹ (2005): *Dalit Woman Burnt Alive for Contesting Panchayat Elections*. Hindustan Times.

Reservations in private institutions would also increase the prospect of job opportunities because private institutions are better recognized than government institutions. The upper-caste would no doubt believe that Dalits are ‘snatching away’ their jobs from the government sector and now want to do the same when it comes to the private sector. Reservation in the private sector could become part of corporate social responsibility of companies. Further, with an increase in privatization, there are more job opportunities being created. Therefore, it would be wrong to say that the scheduled caste is snatching away the jobs of the upper-caste.

Finally, there is a paradox today. Before the State took action for the development and empowerment of the scheduled caste, the upper-caste would proudly walk around making sure everyone knew their caste and the lower-caste would hide it. Due to affirmative action, reservation, etc., the lower-caste have started to make their caste more visible whereas the upper-caste, who already benefitted from their caste years ago in terms of education and wealth, don’t require it anymore. In 1943, Ambedkar quoted “As experience proves, rights are protected not by laws, but by social and moral conscience of society”.²⁰ This clearly means that in order to break the caste system forever, it is important to change the mindset of the people. Narula rightly points out that the way an untouchable will cease to exist is when the Brahmin’s claim over priesthood does.²¹ One of the most crucial ways of doing so is my breaking endogamy and start engaging in inter-caste marriage. Ambedkar believed that identity of “community” can only be dissolved through inter-caste marriage. Caste is the effect of sexual regulation. Sexual relationships within and between caste communities are a nodal point through which caste supremacy is reproduced or challenged.²² He said, “Dalit struggle is a battle not for wealth or for power. It is a battle for freedom, it is a battle for the reclamation of human personality”.²³ In light of this, in order to ensure substantive equality for Dalits, it is important to promote basic human rights. This does not only mean find a solution for what discrimination has done but also requires a change in mindset.

²⁰ B.R. Ambedkar, *Dr. Babasaheb Ambedkar: Writing and Speeches*. Vol.1. 1979.

²¹ Narula, Smita (2008): “Equal by Law, Unequal by Caste: The “Untouchable” Condition in Critical Race Perspective”. *Wisconsin International Law Journal*, Vol.6 No.2.

²² Rao, Anupama (2009): *The Caste Question: Dalits and Politics of Modern India*. Berkeley: University of California Press.

²³ Pandiri Anjaij & Durgam Subba Raom (2005): *Ambedkar Thought*. Books for Change
