

Caste System in India and Its International Overtones

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The enactment of caste system in modern India is probably one of the biggest mistakes made by its founding persons. The enactment / enforcement of caste-based reservation system in education and employment have done severe damage to this nation and in near future, it would emerge as the biggest threat to the unity of this country.

Introduction: A caste is a combined social system of occupation, endogamy, culture, social class, and political power. Caste should not be confused with class, in that members of a caste are deemed to be alike in function or culture, whereas not all members of a defined class may be so alike. Indian society is often now associated with the word “caste”.

Discrimination based on caste, as perceived by UNICEF, is prevalent mainly in parts of Asia (India, Sri Lanka, Bangladesh, Nepal, Japan) and Africa. UNICEF estimates that such perceived discrimination based on caste affects 250 million people worldwide.

Varna: Early Indian texts like the Manusmriti and the Puranas speak of ‘Varna,’ which means order, category, type, colour (of things), and groups the society into four main types as follows: Brahmins (scholar, teacher, priest) Kshatriyas (warrior, king), [Soldiers] Vaishyas (merchant, agriculturist) Shudras (worker, service provider). All others who did not subscribe to the norms of this Hindu society, including foreigners, tribals and nomads, or even those who had been excommunicated, were called Mlechhas or “Anaryas” and were to be treated as contagious and untouchables. The fear of banishment from the society was seen as a major disincentive against violating its norms by its members. The Varna system however be differentiated from the ubiquitous socio-cultural caste-system pervasive throughout India since ancient times. According to the Varna system, Brahmins are enjoined to live in poverty and their primary vocation was to learn the Vedas, sacred texts and secular subjects, teach others and pray for the well-being of all. The Kshatriya’s chief occupation was martial skills and kingship. The Vaishyas were those occupied with trade and agrarian activities including cattle raising, while the Sudras were workers and service providers of all types. All the Varnas were urged, without exception, to inculcate non-possessiveness, non-stealing, truthfulness, non-violence and benevolence. These too were the very attributes propounded by the Jain and Buddhist doctrines. By the 4th century AD, and certainly by the 7th century AD, there were people excluded from society altogether - the group of outcastes now referred to by themselves as Dalits or the “downtrodden.” Thus, an untouchable, or an “outcaste”, was a person who was deemed not to have any “Varna by those who claimed to possess it.”

In nutshell, Varna refers to the main division of Hindu society into four social classes or castes. This quadruple division is not to be confused with the much finer division of the contemporary caste system in India. The four Varnas are:

1. the brahmins, clergy and teachers wielding religious authority;
2. the kshatriyas, warriors and administrators, wielding political power;
3. the vaishyas, merchants and farmers or cattle-herders with economic prosperity;
4. the shudras, servants or unfree / bonded peasants.

Castes / Jatis: Castes are often called Jatis in India. The Indian society is even today an agglomeration of numerous castes, tribes and religious communities. The tribal and caste groups are endogamous, reproductively isolated populations traditionally distributed over a restricted geographical range. The different caste populations, unlike tribes, have extensive geographical overlap and members of several castes generally constitute the complex village society. In such a village society, each caste, traditionally self regulated by a castecouncil, used to lead a relatively autonomous existence. Each caste used to pursue a hereditarily prescribed occupation; this was particularly true of the artisan and service castes and the pastoral and nomadic castes. The several castes were linked to each other through a traditionally determined barter of services and produce. These caste groups retained their identity even after conversion to Islam or Christianity. Each of the caste groups was thus the unit within which cultural and perhaps genetic evolution occurred, at least for the last 1500 years when the system was fully crystallized and probably much longer. Over this period the various castes had come to exhibit striking differences in cultural traits like skills possessed, food habits, dress, language, religious observances, as well as in a number of genetic traits.” Under the Jati system, a person is born into a Jati with ascribed social roles and endogamy, i.e. marriages take place only within that Jati. The Jati provided identity, security and status and has historically been open to change based on economic, social and political influences. In the course of early Indian history, various tribal, economic, political and social factors led to a continuous closing, consolidation and variation in the prevailing social ranks which tended to become traditional, hereditary system of social structuring. This system of thousands of exclusive, endogamous groups is called Jâti. Though there were several kinds of variations across the breadth of India, the Jati was the effective community within which one married and spent most of one’s personal life. Often it was the community (Jati) which one turned to for support, for resolution of disputes and it was also the community which one sought to promote.

The Untouchables - Pariahs or Antyajas, were at the bottom of the social scale and even now perform the jobs nobody else wants such as raw sewage handling, killing animals or execution of criminals; They lived in special areas and were not allowed to read holy books. It is, however, rather interesting that people of all Jatis across the spectrum, from the so-called upper castes to the lowest of castes, including the Untouchables, tended to avoid intermarriage, sharing of food and drinks, or even close social interaction with a Jati other than their own. Indeed, most of the Jati castes did not see themselves as socially inferior to the others in any way. If at all, it was the other way round and most of them had folk narratives, traditions, myths and legends to bolster their sense of identity and cultural uniqueness.

Difference between Varna & Caste System: The terms Varna (general classification based on occupation) and Jati (caste) are two distinct concepts. Varna (from Sanskrit, literally “arrangement”) is usually a unification of all the Hindu castes or Jatis into four groups: Brahmin, Kshatriya, Vaishya, and Shudra. It is sometimes also used to refer to this unification into one of several varna-sankaras. Jati (community) is an endogamous group. Generally a sub-community is divided into exogamous groups based on same gotras. Indologists sometimes confuse the two. Many of the Hindus could be classified into a specific varna but not all. During the British rule, several cases went to court to settle the “varna” of a sub-community. For example, the farmers are sometimes given Kshatriya status because many ruling Chieftains may have risen from them. On the other hand some classified them as Vaishya, based on an older occupation of artisans. Orthodox Brahmins may classify them as Shudras, because they do not have a tradition of undergoing through the thread ceremony, that would make them dvija (dvija being a term referring to the three high Varnas - Brahmin, Kashatriya and Shudra - members of which are allowed to engage in the thread ceremony and thereby gain the right to education).

Shudra, normally spelled Sudra is the lowest Varna in the traditional four-section division in the Hindu caste system. Their assigned and expected role in post-Vedic North India was that of farmers, craftsmen, and labourers. The four Varnas are Brahmin, Kshatriya, Vaishya, and Shudra. Hindu society eventually came to include a fifth pariah class, the lowest of all, popularly known as “untouchables”. Shudra as a Varna is seen amongst the Hindus of Nepal, Sri Lanka and Bali in Indonesia. In Bali, Indonesia, they form 90% of the practicing Hindu population. During the historic period many people in Java, Cambodia, and Champa (a region in Vietnam) were considered to be Shudras prior to their conversion to Islam and Buddhism. Dalit is a self-designation for a group of people traditionally regarded as low caste or untouchables (outcastes). Dalits are a mixed population of numerous caste groups all over South Asia, and speak various languages.

While the caste system has been abolished under the Indian constitution, there is still discrimination and prejudice against Dalits in South Asia. Since Indian independence, significant steps have been taken to provide opportunities in jobs and education. Many social organizations have encouraged proactive provisions to better the conditions of dalits through improved education, health and employment. The Central Government of India classifies some of its citizens based on their social and economic condition as Scheduled Caste, Scheduled Tribe and Other Backward Class (OBC). The OBC list presented by the commission is dynamic (castes and communities can be added or removed) and will change from time to time depending on Social, Educational and Economic factors. For example, the OBCs are entitled to 27% reservations in public sector employment and higher education. In the constitution, OBCs are described as “socially and educationally backward classes”, and government is enjoined to ensure their social and educational development. Until 1985, the affairs of Backward Classes were looked after by the Backward Classes Cell (BCC) in the Ministry of Home Affairs. With the creation of a separate Ministry of Welfare in 1985 (renamed as Ministry of Social Justice and Empowerment on 25 May 1998) the matters relating to Scheduled Castes, Scheduled Tribes, Other Backward Classes (OBCs) and Minorities were transferred to the new Ministry.

Backward Classes: Backward class people is a collective term, used by the Government of India, for castes which are economically and socially disadvantaged and face, or may have faced

discrimination on account of birth. Most of them do not have any land ownership or economic independence and are dependent on Forward Castes for employment, mostly as farm hands or menial labour; or derive income from self employment on caste-dependent skills assignment. They typically include the Dalits, the Scheduled castes, and the Other Backward Classes (OBCs). They live mainly in rural India and perform hard physical labour such as agriculture and janitorial work. Backward Castes constitute around 50% of the Indian population. Even though they have a rich culture, many live below the poverty line. According to estimates from the Indian government's National Sample Survey, in 1999-2000 44% of Scheduled Tribes and 35% of Scheduled Castes lived in poverty. Their plight is regarded as a serious issue in Indian society.

Creamy Layer: The creamy layer is a term used in Indian politics to refer to the relatively wealthier and better educated members of the Other Backward Classes (OBCs) who are not eligible for government sponsored educational and professional benefit programs. The term was introduced by the Sattanathan Commission in 1971, which directed that the "creamy layer" should be excluded from the reservations (quotas) of civil posts and services granted to the OBCs. The Supreme Court defines "creamy layer" by quoting an office memorandum dated September 8, 1993. The term was originally introduced in the context of reservation of jobs for certain groups in 1992. The Supreme Court has said the benefit of reservation should not be given to OBC children (SCs, STs, and the unreserved are exempt now) of constitutional functionaries such as the president, judges of the Supreme Court and high courts, employees of central and state bureaucracies above a certain level, public sector employees, members of the armed forces and paramilitary personnel above the rank of colonel, lawyers, chartered accountants, doctors, financial and management consultants, engineers, film artists, and authors. OBC children belonging to any family that earns a total gross annual income of Rs. 4.5 lakh (450 thousand) (the income ceiling for creamy layer raised from 2.5 lakhs to 4.5 lakhs in October 2008) belong to the creamy layer. (US\$ 5,500 in 1993 when the office memo was accepted) and so are also excluded from being categorized as "socially and educationally backward" regardless of their social/educational backwardness. "Creamy Layer" concept is meant only for the OBCs. This concept is not applied to the scheduled castes category and scheduled tribes category. Justice K G Balakrishnan, who is the first SC to become the Chief Justice of India stated: "by excluding those who have already attained economic well-being or educational advancement, the special benefits cannot be further extended to them and, if done so, it would be unreasonable, discriminatory or arbitrary resulting in reverse discrimination." But this logic is applied exclusively for OBCs and the logic is not applied for SCs, STs and the unreserved category seats. The criterion is also not applicable to minority institutions. The supreme court also indirectly reserves at least 50% of seats for the unreserved category (which includes the creamy layer from OBCs and all forward communities) and any reservation to any other (BC/MBC/SC/ST) category shall be such that the total reserved seats never exceed 50% of total. The forward community form around 12% to 46% of population in the big states of India. No official creamy layer percentage census is available at present. Also, there is no mention about the concept of "creamy layer" in the Constitution, and nowhere does it proscribe any directive to exclusively discriminate OBCs. The health minister of India said: "All the leaders who work for social justice should work together to defeat the creamy layer concept." The exclusion leads to undermining the constitution itself since "socially backward" and "educationally backward" were the key words enshrined after thorough deliberations and the "economic criterion" (cream concept) can never be a criterion in determining reservation policy. Nevertheless, the Supreme

Court of India and its constitutional bench have decided to give sanctity to a concept that they themselves invented during the course of Mandal Commission implementation. Thus India now faces a legislature versus judiciary war whereby the will of the legislature is undermined by the utopian concepts/ perception of the supreme court. It is another debate if the judiciary can impose any policy upon the government or the legislature, since the Judiciary has no constitutional mandate to initiate policy decisions which are the sole prerogative of the legislature. Whether a socially and educationally backward child can be denied the constitutional upliftment (guaranteed by the constitution) by a bench interpreting the constitution for the reason that his/her parents managed to get a combined yearly income of 4.5 lakh is another Pandora's box since the "exclusion concept" is used to discriminate within OBCs only. All parties welcomed the 27% reservation to socially and educationally backward communities (OBC). But the creamy layer exclusion has varied responses from various political formations. Most political parties are uncomfortable with the rigid criterion for the creamy layer concept although everyone is pleased that 27% quota has got legal sanctity. The net result of job reservation for the Other Backward Classes over the last 15 years and more is that their total representation has declined to less than 5 per cent. A major factor is the "creamy layer" concept, which has become an excuse for keeping the backward castes out. History now repeats itself with the Supreme Court verdict in favour of denying reservation in higher education institutions to the creamy layer among the OBCs. The Supreme Court tried to take away what Parliament tried to give the OBC.

In sum, Sudras, i.e. the scheduled castes, no doubt, have been the biggest sufferers in terms of have-nots. However, those sudras, who have already progressed a lot during last 60 years of Indian independence, continue to take the advantage of this caste-based reservation system, like the scheduled tribes and the other OBCs.

Current Debate Regarding Equating Caste-based Discrimination with Racism: The latest session of the UN Human Rights Council, which concluded on Mahatma Gandhi's birth anniversary, has challenged India's 13-year-old position on caste. This is because of Nepal's unexpected endorsement of a proposal to expand the definition of descent-based discrimination to include caste. India's predicament may be bad. But it is worsened by its shifting position on equating caste with race as a form of descent-based discrimination. India spared no effort to keep caste out of the resolution adopted at the 2001 Durban Conference against racism. But there was a time it insisted — at another UN forum — on the similarity between caste and race. But that was more than 40 years ago and it was a time when India was upholding the Mahatma's legacy and was in the forefront of the international campaign against apartheid in South Africa. Here are India's flip-flops on caste as a form of descent-based discrimination:

- *In 1965, India proposed the historic amendment to introduce descent in the "Convention on Elimination of all forms of Racial Discrimination" or CERD. It cited its own experience with caste. K C Pant moved the amendment as a member of the Indian delegation and admitted that "certain groups, though of the same racial stock and ethnic origin as their fellow citizens, had for centuries been relegated by the caste system to a miserable and downtrodden condition".*

- *In 1996, India performed a somersault when it submitted its CERD report. It insisted that caste, though perpetuated through descent, was “not based on race” and therefore did not come under the Convention’s purview. It freed itself of any “reporting obligation” on the situation of “Dalits” and “Tribals”. It said it was prepared to provide information about them only “as a matter of courtesy”. But the CERD panel maintained that descent “does not solely refer to race” and that the situation of “Dalits” and “Tribals” “falls within scope of the Convention.”*

- *At the 2001 Durban conference against racism, former Supreme Court judge K Ramaswamy, himself a Dalit, dissented from the Indian government position in his speech as a member of India’s Human Rights Commission. “It is not so much the nomenclature of the form of discrimination that must engage our attention but the fact of its persistence that must cause concern,” he said. He added that “the debate on whether race and caste are co-terminus or similar forms of discrimination is not the essence of the matter.” Government representative Omar Abdullah contradicted him saying: “We are firmly of the view that the issue of caste is not an appropriate subject for discussion at this conference.”*

- *In 2002, just a year on from Durban, the CERD panel issued a “general recommendation” confirming its interpretation that descent included “discrimination based on forms of social stratification such as caste and analogous systems of inherited status, which nullify or impair their equal enjoyment of human rights.”*

- *In 2009, India’s state of self-denial suffered a body blow when the UN Human Rights Council issued draft principles and guidelines on discrimination based on work and descent and recognised caste as a factor. The draft said, “This type of discrimination is typically associated with the notion of purity and pollution and practices of untouchability and is deeply rooted in societies and cultures where this discrimination is practised.” This is the document that Nepal supported, putting India in a fix.*

Conclusion: It would be a good idea to work out parallels between “Caste-based Discrimination” and “Race-based Discrimination”. In favour of any CERD’s position on this, lots of factual evidences need to be established before putting up this point at international agenda. Also, India needs to learn a lot, preferably from South Africa, on this issue and ways to resolve this problem. Just because racial discrimination has an external overtone for

discrimination, caste-based discrimination should not be taken lightly or even spared just because it has internal overtones.