



Human degradation through cast conflicts and Reservation system in India: Hate crime

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Abstract:

In the 21st century the ratio of crime is still not decreasing rather increasing day by day. The conflicts between castes are more in news and reported at various police stations with the hate crimes. Though there are local laws and special protections are given under the constitution with special Acts but they are insufficient to cope up with the sensitive issue. There is also lack of proper protection to stop or reduce hate crimes. The crimes have been increased against mostly on Schedule Caste/Schedule Tribes, Other Backward Classes and poor people, facing lots of hurdles to stand independent. The researcher will focus on various factors responsible for hate crimes like economic conditions, reservation policy, and lack of awareness, lack of love and affections and knowledge. The researcher will identify the reasons responsible for the growth of such crimes in society, especially with the demand of reservation. It is entirely a doctrinal research confined to books and various online resources.

Keywords: *caste conflicts, Reservation, laws related to SC/ST and OBC in India*

1. Introduction

“If we have no peace, it is because we have forgotten that we belong to each other”

-Mother Teresa¹

In the Globalized world, India is form with the multi-cultural, linguistic and different castes system. Due to such, the conflicts and violence between casts has reported at large in India. This type of conflicts has been started much due to political gain and demanding of reservation seats in particular district and state. The people are made a form of group and start campaigning against government for their cast's reservation in Government body like political, Education, Jobs, business etc. If their demands are not fulfilled by the Government than group of people make protests and rallies in different town of the state. Sometimes, it will convert into violence, destruction of public property and loss of life.²

The genesis of hate crime has developed due to such violent and conflicts. It is not limited to only violence based on reservation, its include untouchability and segregation,³ marriage in other cast, due to religion clash and any movies related to particular cast. If the people are doing such violence on based of reservation that make a human degradation and showing themselves as a poor and unrespectable people in society and town.

¹<https://thoughtcatalog.com/heidi-priebe/2015/08/22-uplifting-quotes-to-remind-you-that-there-are-still-good-people-left-in-the-world/> accessed on 04/12/2017

²<http://indiatoday.intoday.in/story/gurjar-agitation-on-the-reservation-issue-in-rajasthan-2007/1/155654.html>, Accessed on 14/11/2017

³ <https://www.hrw.org/reports/2001/globalcaste/caste0801-03.html> accessed on 15/11/2017

2. What is reservation?

The Reservation word was come from the British period in India.⁴ They have divided castes into different symbols like Schedule cast, schedule tribe and Other Backward castes. The main role of reservation is to provide them a proper seat in various Institutions, into government jobs, into election, and higher educational Institutions. The main reason to developed reservation is to established equalities to all the people who are from an economically backward and poor people. The reservation policy is governed by the constitutional law, statutory law and local rules and regulations of state. So, the reservation is needed to protect economically backward and poor people from the suppression, violence and untouchability. Therefore, reservation is essential for them to give a chance to upgrade their future life in upcoming years in different areas.

3. What is reservation policy in India?

India has developed reservation policy from the British period. It has developed for the "Dalit" people. After the circulation of reservation system demand by the other cast was raised for the reservation. The reservation policy has been made up with the drastic changed by the government and it's included the Schedule cast, Schedule tribes, other backward cast, Muslim, physically handicapped, sports personality, National cadet corp, women and other Minorities people in India.

It has divided people into different four categories:

1. General
2. Schedule caste
3. Schedule tribe
4. Other backward caste

Due to this Reservation the three categories has divided into different percentage ratio to access the seats, which are given as follow:⁵

For Schedule tribe - 7.5%

For schedule caste - 15%

For another backward cast – 27%

Moreover, all state has freedom to amend the reservation policy has per the requirement, but it should not be more than 50% of reservation guaranteed under the Constitution of India. so. The all states have their own percentage ratio of reservation.

The Government has formed a National Commission for the backward class people to provide reservation in various Institutions without any discrimination and violence. It will also include relaxation on age and exemption from the fees of Government Examination.⁶

4. Role of Constitution of India into Reservation system with case laws⁷

From the beginning, the constitution of India has secured all its citizens with Justice, Liberty, Equality and Fraternity assuring the dignity of the Individual and the unity and integrity of the nation.⁸ Part III of the constitution is provided with the equality and protect from any discrimination on grounds of religion, race, caste, sex or place of birth. Part XVI⁹ is made for the special provisions relating to certain classes. It's included Article 330 is said about reservation seats for schedule castes and

⁴ Laskar, Mehbubul Hassan. "Rethinking Reservation in Higher Education in India" (PDF). ILI Law Review, pp. 29–30. Archived from the original (PDF) on 25 April 2012.

⁵ "Affirmative Action and Peer Effects: Evidence from Caste Based Reservation in General Education Colleges in India" (PDF). Virginia University, Virginia, Retrieved 2011-11-05.

⁶ <http://www.yourarticlelibrary.com/law/highlights-on-reservation-policy-in-india/39793>, Accessed on 29/11/2017.

⁷ <https://blog.iplayers.in/reservation-policy-india/> accessed on 29/11/2017

⁸ The Constitution of India as amended by the constitution (one hundred and first amendment) Act, 2016, Bare Act with short notes, universal Law publishing as imprint of LexisNexis, 2017.

⁹ Ibid Page no. 145

schedule tribes in the house of the people. Article 332 is talk about the Reservation of seats for schedule castes and the schedule tribes in the legislative assemblies of the states. Article 335 said that the claims of schedule castes and schedule tribes to services and posts. Article 338 is a National Commission for Scheduled Castes. Article 338 A, National Commission for Schedules Tribes. Article 341 and 342 said about the schedule castes and schedule tribes.

5. Special provision for the advancement of Schedule castes and Schedule tribes:¹⁰

"God never made man that he may consider another man as an untouchable."

- Mahatma Gandhi¹¹

Article 15 (4) was added by the constitution (first amendment) Act, 1951 as a result of the decision in State of Madras V. champakam Dorairajan¹², In this case Madras Government has reserved seats in the medical and engineering college on the basis of religion, caste and race. The Supreme Court held the law is void because it classified in the irrespective religion, caste and merit. Article 15 (4) is only an enabling provision and it is for the respective states either to enact a legislation or issue an executive instruction providing reservation. Article 15 (4) is discretionary and no writ can be issued to effect reservation. Such special provision may be made not only by the legislature but also by the executive, in the judgment of Dr. Gulshan Prakash V state of Harayana.¹³ After that the insert clause (2) of article 29 shall prevent the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and schedule tribes.

Article 15 (5) was added by the constitution (ninety-third amendment) Act, 2005 is to prevent the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and schedule tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the state, other than the minority educational institutions referred to in clause (1) of Article 30.

Due to above mentioned amendment has been legislated to nullify the effect of three decisions of the Supreme Court in TM Pai foundation v state of Karnataka¹⁴, Islamic academic v state of Karnataka¹⁵ and P.A Inamdar v state of Maharastra,¹⁶ it has been held that the state cannot make reservations of seats in admissions in privately run educational Institutions. This amendment enables the state to make provisions for reservation for the above categories of classes in admission to private educational Institution. Article 15 prohibits discrimination on the ground of religion.

In the Indra sahwaney v Union of India is known as Mandal Case¹⁷, decided by the nine bench of Supreme Court of India. It was held with the majority that the Union Government to reserve 27% Government jobs for backward classes provided socially advanced person with creamy layer, is constitutional valid. Moreover, Article 17 talks about the abolition of untouchability and declare its practice in any form to be an offence punishable under law. Article 39 (A) it's directs the states to ensure equal justice and free legal aid to economically backward classes and under Article 45 execute a duty on the state to raise standards of living and health of backward classes.

¹⁰ Ibid page no. 11

¹¹ Supra 1

¹² AIR 1951 SC 226

¹³ AIR 2010SC 288

¹⁴ AIR 2003 SC 355

¹⁵ AIR 2003 SC 3724

¹⁶ AIR 2005 SC 3226

¹⁷ AIR 1993 SC 477

6. What are the reasons of violence based on reservation and caste conflicts?

- Due to political gain
- Due to demand of reservation
- Untouchability
- Marriage in other caste
- Socio-economic problem
- For professional gain
- Lack of awareness about the law which protect them from crime

7. For examples

On January 26, 2001¹⁸ earthquake a natural disaster has made loss many human lives in the Gujarat. People were discriminate in distributing relief and any aid from the Government on basis of caste.

In 2007,¹⁹ Rajasthan had face agitation and it is political oriented by “Gujjar” and “Meenas”, it is known as caste conflicts. Both castes were comes under the Reservation category. It has destroyed public property, death of police men and burn vehicles for the political gain on basis of demanding Schedule tribes instead of other backward classes.

In the 2015,²⁰ Patidar protest for the other backward cast and demand the reservation seats for their community people. It has destroyed public property, disturbs the business and people. It has created lots of crisis to demand reservation. They are new leaders generated from the opposite side for save reservation. So, these are the circumstance that causes violence and caste conflicts.

If we look in to a marriage happen in the other caste or religion, it will leads to communal violence between two religions. Same things were happen in to untouchability and segregation, therefore, the Atrocity Act, 1989 was come into force to prevent the hate crimes against schedule tribes and schedule caste people.

8. How human degradation has been called on by the demand of reservation and caste conflicts?

The researcher has pointed out the human degradation word on the basis of violence happen on demand of reservation and caste conflict. Indian society is divided into various religions. Each of religions is divided into castes and again into sub castes. Among them some of have high status and others have a low status in their community. Due to such ratio, the possibility of caste conflicts has been arising in the hatred of one caste by the other caste.²¹

The violence based on caste is happened more in the rural area of state and India. The people are still believed in superstition and blindly on saint. It will discriminate people and develop hatred class of people in the society. The untouchability and segregation is still not solved fully in the country. Bonded labors are also treated ill due to low caste people. There are victim of human degradation through such discrimination and ill-treatment by the upper caste. Moreover, it includes violence based on reservation demand or abolition of reservation of schedule caste, schedule tribes, other backward castes and caste conflicts. It is one of the most hatred crime and human degradation of such people who stand themselves as high level and opposing such things. It's like a throw out them out of the home.

¹⁸ <https://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm>, Accessed on 28/11/2017

¹⁹ <http://indiatoday.intoday.in/story/gurjar-agitation-on-the-reservation-issue-in-rajasthan-2007/1/155654.html>, Accessed on 29/11/2017

²⁰ <http://www.thehindu.com/news/national/other-states/quota-agitation-in-gujarat-heading-for-caste-conflicts/article7570338.ece>, Accessed on 30/11/2017

²¹ <http://www.yourarticlelibrary.com/caste/casteism-meaning-causes-solution-and-suggestion/34994>, 30/11/2017

If anyone is demanding a reservation, it shows them as poor and low status in society. It will harm the dignity and status in the society. You cannot snatch others rights for their own community development after the long years of independence. If you do it by the violence and caste conflicts such called as human degradation. The violence and caste conflicts will affect into providing social equality and justice. Hate crimes proves that it will lead to people with threat, social disorder, instability, discourage, suppress, hinder the growth and development in the society.²² During election political leader will make an instrument to procure vote on basis of communal and caste. This is called a human degradation by such hate crime.

9. Suggestions and conclusion

If we look into the family, society, state and country. People are running for the greed of money, property and status in the society. Due to such greed people use to break the relation with family and society. All should be required to stay peacefully and happy in the society without interference by the third party. So, we have to maintain brotherhood thoughts in the society. All are the son of one God. No one is in high status and low-class people in the world. "Other is no other but he is my divine brother²³", All should be treated as equally with love and proper care of who are unable to survive themselves in the society. My personal opinion is that the do demand of reservation but not harming others rights and make any conflicts in the society. It will heart every one and it is known as hate crime and human degradation through such conflicts.

All the people are bound with law and constitution of India. All will get adequate education. The Non-Government Organization (NGO) will help the poor people and aware them with proper knowledge of law. There are provision of culturally and economically equality among different caste of the society, it will reduce the chance of discrimination and competition among each other.

In the conclusion, I would like to say that India being the largest democracy is still suffering from hate crimes and violence on schedule caste and schedule tribes. So, it should require proper action to prevent such crime by the protection of civil rights Act, 1955 and the schedule caste and schedule tribe prevention of Atrocities Act, 1989. Moreover, the primary function of criminal justice administration is to deliver the justice to the victim and the society within the frame work of law. There should be proper criminal proceedings to protect from the hate crimes. It requires developing proper functioning of crime and criminal justice system to provide adequate solution to problem like violence on demand of reservation and caste conflicts.

"We can reject everything else: religion, ideology, all received wisdom. But we cannot escape the necessity of love and compassion. This, then, is my true religion, my simple faith. In this sense, there is no need for temple or church, for mosque or synagogue, no need for complicated philosophy, doctrine, or dogma. Our own heart, our own mind, is the temple. The doctrine is compassion. Love for others and respect for their rights and dignity, no matter who or what they are: ultimately these are all we need."

-Dalai Lama²⁴

²² *Supra* 19

²³ Thoughts from the Swadhyay movement

²⁴ *Supra* 1