

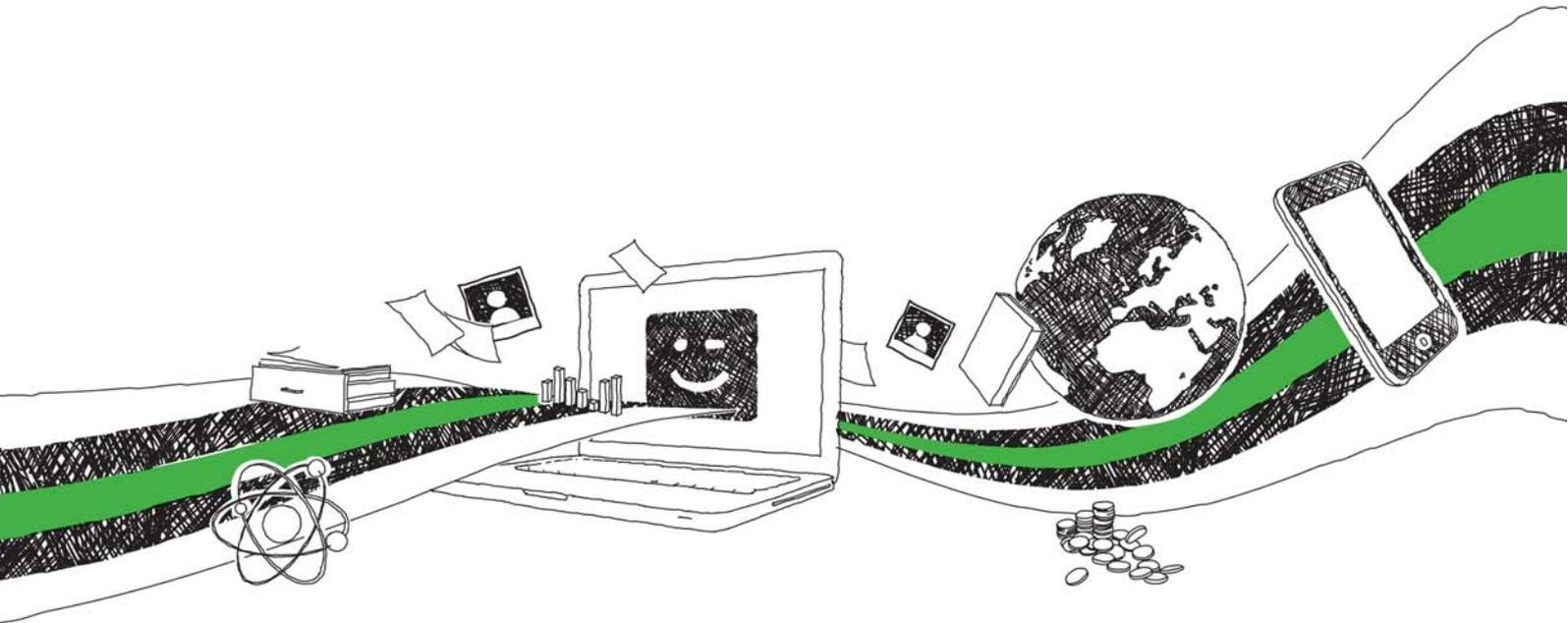
Dhwani Sharma

Protective discrimination in Indian higher education

Reflections from US

Doctoral Thesis / Dissertation

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**PROTECTIVE DISCRIMINATION IN INDIAN
HIGHER EDUCATION: REFLECTIONS FROM US**

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Chapter 1

Introduction

Traditional Indian social hierarchical system has resulted advantaged and disadvantaged sections of the people in the country. The cause for resulting dis-advantaged section is unequal treatment sustained for the long time in history. Resultantly the backwardness prolonged for generations. With the adoption of Indian constitution, the constituent assembly conceived for an egalitarian society where opportunities are equally distributed among all of its citizens. But the constitutional objective was not able to promote the interest of large section of backward citizens. There was necessity to empower this class of citizens. In view of this, the constitution also provided for a differential treatment in the form of political representation, reservation in government employment and educational institutions. The Indian constitution provided the state to make special provisions for the upliftment of backward classes. Since then, the topic has become debatable. These special provisions promulgated at different space and time have evolved as a preferential policy. The constitutional objective behind this policy is to ensure social justice for disadvantaged sections of people. Unfortunately the political motif has overshadowed the constitutional intent. The notion of justice is essentially apolitical; however, there has been criticism, oppositions and prolonged protests in this regard. These development are not conducive to Indian polity. The preferential policy should contribute to overcome the backwardness rather to create backwardness or hamper advancements of other classes of citizens.

1. Background of the study

The constitution of India aims to secure equality of status and opportunity to all of its citizens. The preamble of the constitution further aims to achieve the varied dimensions of justice i.e. social, economical and political and varied dimensions of fraternity which includes the dignity of individuals and assuring unity and integrity of the nation. The role of the policy is to find balance between principle of equality and the existing defacto inequality. This can otherwise be termed as balancing 'equality of law' and 'equality of fact'. Directive principle for the state policy further directs the government to device the measures to protect the citizens from any kind of social injustice or discrimination. Historically private discrimination, social hierarchy or resulting discrimination kept certain class of people backward. Therefore the policy aims to distribute the benefits on the basis of backwardness. Jurists term this policy as protective discrimination or preferential policy. These policies are in accordance with the object of human right protection. The constitution left the domain of preference or benefits open which could include reservation, age relaxation or relaxation in minimum qualifying requirement etc. Article 16 (4) in the constitution which is related to the adequate representation in government jobs primarily aims to achieve 'equality of status' and 15 (4) which is promulgated to provide adequate educational opportunity for backward classes aims to achieve 'equality of opportunity'. At the time of providing quota in jobs and educational institutions, constitution makers had notion of merit or efficiency in mind. So article 335 which is related to efficiency of administration worked as limitation on article 16 (4) and 15 (4). An amendment provision in article 335 is pending in Indian parliament which will provide relaxed standard for SC/STs.

Recently Constitution (93rd Amendment) act, 2005 amended article 15 of the constitution and inserted 15 (5), which includes private sector both aided and non-aided into the ambit of preferential treatment. Followed by above, Central Educational Institutions (Reservation in Admission) Act, 2006 came in to effect. The objective was to attain greater access to attain higher education including professional education for students belonging backward classes of people. That had triggered a new debate about the reservation policy in India. Even the apex court had observed the Government's fiasco in the modus operandi of policy implementation. In Mach 29, 2007, the court stayed¹ the government's move and observed that reservation can not be permanent, and it appears to perpetuate backwardness. It also noted that 1931's census can not be the determining factor for OBC reservation. However, on April 10, 2008, court upheld the 27 % reservation law while ruling to exclude creamy layer among the OBCs. On June 9, 2008 Government announced reservation for faculty position at IIT/IIMs, however, the policy is presently on hold. The impact of the policy is such a grave that it had created catastrophic situation due to the stir by AIIMS doctors and others. The whole issue hovers around the state's onus of social justice at the cost of socially advanced groups. Rarely anybody will dissent on these altruistic social and constitutional purposes, but use of the policy as opportunistic moves rather than deliberated and orchestrated have conveyed wrong notions. In India, the absence of executive due diligence, on time policy review and lack of unified political vision have created much ado.

All these repeated litigations, implications of very old base year of policy formulation (1931 census) and instances of social disharmony have motivated to conduct

¹ Ashoka Kumar Thakur v. Union of India & ors, 2008 (4) SCR 1

a study. In view of the problem referred above, it is felt that an investigation be taken up to effectively pursue the goal of social justice without affecting social harmony and the development of the nation. The present study also evaluates the policy of class based preference in the realm of attaining constitutional objectives and the objectives laid down in the National policy of education. The evaluation includes the analysis about quantitative and qualitative impact of policy of the preference on the various backward and forward classes. This study also attempts determine to what extent the policy is perpetuating backwardness or forwardness. The reason of choosing higher education as the area of research is apparent due to its direct importance in achieving status and opportunity. Higher education being elitist, narrowly scoped and traditionally available for privileged ones requires to be studied for its equitable and wide reach.

On December 14th 1960, in the general conference of United Nations Educational, Scientific and Cultural Organizations adopted the convention against discrimination in education. In accordance with UN article 14, it came on force on 22 May 1962. According to article 4 of the convention², the nations will make national policies appropriate to the circumstances to promote equality of opportunity and treatment in the matter of education. Further to this on December 21, 1965, in a UN general assembly resolution, the International convention³ on the Elimination of all forms of Racial discrimination was adopted. This was in accordance of UN article 19 and was came in force on 14 January 1969. The article 6 of the convention provides for nations to take

² Convention against discrimination in education. United Nations Human Rights: office of the high commissioner on Human Rights. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/DiscriminationInEducation.aspx>. Accessed on September 17, 2013

³ International convention on the Elimination of all forms of Racial discrimination. United Nations Human Rights: office of the high commissioner on Human Rights. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>. Accessed on September 17, 2013.

effective protection and remedies against racial and ethnical discrimination. Article 7 further evokes the states to take immediate and effective measures in the various fields including education. It is a matter of fact that racial discrimination is prevalent in US. And US positive discrimination policies are in place to negate the effects of discrimination. United Nation's Committee on Elimination of Racial Discrimination (CERD) treats caste as race. So these conventions have relevance in Indian situations. The present dissertation picks United States of America for carrying out a comparative evaluation. US being the multi-ethnic democratic country may be relevant case for India's legislative processes. India is considered to be one of the most socially fragmented societies with powerful religious, caste, regional and ethnic differences. Apart from this, the US private sector has been playing a greater role in implementing equal protection policy. Till now, India's quota regime has been widely influenced by compensatory justice ideal who presumes India as unequal society that severely requires constitutional and political measures to ensure representation and inclusion (Pinto, 2001⁴). Due to this ideal, the most of the responsibility to attain the constitutional goal has been shouldered by the government sector. Inclusion of aided and non-aided institutions in the 93rd amendment identifies the potential of Indian private sector to magnify the efforts. Indian law intends to eradicate the caste system by providing equal treatment to its entire citizen but in the process of protecting the disadvantaged it however officially recognizes the caste system. The present dissertation intends to discuss these implications. This issue should also be viewed in changing international situation wherein India

⁴ Ambrose Pinto, UN conference against racism: Is caste race?, 36 (30) Economic and Political Weekly, pp. 2817-2820 (2001)

is assuming an active role in International affairs and probably may become the permanent member of UN security council.

1.2 The chapter summary

Chapter 1 (Introduction) briefly discusses the background of the dissertation and chapter wise main arguments of the thesis. The chapter includes Research methodology also. Research Methodology section includes aims and objectives, Scope and limitations, Research questions and hypothesis, sources of data, method of writing and mode of citation.

Chapter 2 (Promotion of social justice) compares the social contexts and the problem of social justice in India and US. It details out the way these two nations are approaching towards goal attainment. The chapter summarizes the reports of various statutory commissions set up to address to serve the purpose. Some of the salient university level implementation efforts are also discussed in the chapter. This chapter details out the various socio movements to shape the legislations.

Chapter 3 (Preferential policy and juristic work) compiles some scholarly works in the area. It identifies the research gap. It compares the Indian and western theories and the role of the social history to reinforce these theories. The Indian and US conception of disadvantage is compared. On one hand, the Indian model is appreciated for identifying social complexity, on the other hand, when India is perpetuating the recognition of classes in the journey of attaining casteless society, a research gap is felt to address the fresh evaluation of policy.

Chapter 4 (Promotion of preferential policy-legal approach in India and U.S.A) covers the Indian and US legal framework of policy implementation. It covers various legislations both at union and state level.

Chapter 5 (Preferential policy and judicial response) covers various case laws which guided the policy and legislations. The chapter indicates how jurisprudence evolved to guide the policy or how the policy has been leading to fresh jurisprudence. The chapter analyses the role of the courts in the shaping of the policy.

Chapter 6 (Assessing Educational Access) picks the prime goal of preferential treatment policy in higher education. With the help of hypothesis H1 and its subparts, the test of significance is applied for a typical policy period 5 years, 10 years and so on. The results are compared with the court's jurisprudence and the movement of socio-political and legislative actions.

Chapter 7 (Assessing Competitive Positioning) studies to determine whether quality education is reaching fairly to the all social groups in India. The chapter includes the case analysis of Premier Higher Educational Institutions (PHEIs). Hypothesis H2, H4 & H5 are used to test the significance.

Chapter 8 (Transforming Policy Parameters) covers the areas which could contribute in attaining time bound objectives of policy attainment. Areas like greater participation of private sector in attainment of the policy and aspects of court's role for achieving the casteless are covered.

Chapter 9 (Policy approach and Law-An evaluation) attempts to perform an cost –benefit, what if analysis in the light of preceding chapters. It also explores complementarities of legal doctrines in India and US. In this chapter, the common area of concerns were identified through covering

and addressing questions before law and ideas worth accommodating from US part. Some doctrines are also developed in this regard.

Chapter 10 (Conclusion and Suggestions) compiles the results of hypothesis testing. Finding are analyzed with respect to various decisions of courts taken time to time and suitable suggestions are made.

1.3 The Research Framework: This section includes aims and objectives, Scope and limitations, Research questions and hypothesis, sources of data, methodology and mode of citation.

1.3.1 Aims and Objectives

The primary research objectives of the dissertation are as under:

1. To evaluate the various legal doctrines related to preferential treatment in both nations using the categories of caste and race as primary starting points for the analysis.
2. To assess the cost and benefits of equal protection in quantitative and qualitative terms with respect to preferential policy in India and U.S.A
3. To study the pattern of legislature-judicial trade off in attaining the constitutional ideals.
4. To identify the salient learning points for the betterment of Indian policy

The secondary objectives are also formulated as under:

1. To evaluate Greater Access (Which requires an enhancement in the education institutional capacity to provide opportunities to all who deserve and desire higher education)
2. To evaluate Equity (Which involves fair access to the poor and the socially disadvantaged groups).

3. To evaluate Quality and Excellence (Which involve provision of education by accepted standard so that students receive available knowledge of the highest standard and help them to enhance their human resource capabilities)
4. To evaluate Relevance (Which involves promotion of education so as to develop human resources keeping pace with the changing economic, social and cultural development of the country;

1.3.2 Scope and Limitations

The present research uses legislations, case laws, higher education data at national, state, and university and college level for both the nations. To perform an evaluation, one needs to have quantitative goals of preferential policy. The study uses National Policy of Education, 1986 as starting point of evaluation. Most of the data included in the study is after that period only. The absence of the quantitative goals of all policy parameters is a main hurdle in performing evaluation study. Many of the Indian states and universities were not able to provide data for the desired period of study. Analysis is limited to the availability of data. While evaluating access to the higher education, various disadvantaged groups are included in the analysis; however, for analyzing competitive positioning of disadvantaged groups, the study could include only limited social groups. In India, the participation of private sector specially unaided institutions are mainly serving professional education. The unaided private sector participation in terms of amount of scholarships and other support is not included in analysis. However, the US data related to the contribution of private sector was available. Many of the Indian universities have no formal policy related to equal opportunity. In US, many universities have formal policy for equal opportunity. So this study lacked enough university level analysis.

1.3.3 Research questions and Hypothesis

The following are the research questions of the present study:

1. To what extent the national higher education policy goals of greater access, equity, quality & excellence and relevance are achieved?
2. Whether US model of equal opportunity can contribute in transforming Indian policy parameters?
3. Whether the time bound attainment of the constitutional objective in this regards has failed and if so reasons for failure?
4. Whether according legal significance to caste goes against the goal of casteless society?
5. Whether there are any salient learning points from the US policy?

The relevant hypotheses are as under:

H1: The reach of the preferential policy in higher education is effective across the following disadvantaged groups in India:

- (a) Policy brought significant change in the Gross enrolment Ratio (GER) of scheduled caste population across India
- (b) Policy brought significant change in the Gross enrolment Ratio (GER) of scheduled tribe population across India
- (c) Policy brought significant change in the Gross enrolment Ratio (GER) of other backward class population across Indian states
- (d) Policy brought equity in the Gross enrolment Ratio (GER) of female and male population across India

- H2: The role of Indian courts is corrective and directive to further the constitutional objectives, however, its role has undergone changes in the light of changing circumstances.
- H3: Accommodation of Individual claims within disadvantaged groups is significantly better attaining the policy goals
- H4: (a) There exists a significant disparity in competitive positioning of various social groups within premier higher educational institutions in India.
(b) There exists a significant disparity in competitive positioning of various social groups within premier higher educational institutions in USA.
- H5: The time bound attainment of inclusiveness in higher education could be better addressed by increasing participation of private sector.

1.3.4 Sources of data

Hypotheses are validated using secondary data. Secondary data is collected from various Govt sources like Ministry of Human Resource Development (MHRD), Planning Commission of India, University Grants Commission, All India Council of Technical Education, Web sites of various state governments, National Sample Survey, Ministry of Social Justice, National Commission of Backward Classes, and National Commission for Schedule Castes, National Commission for Minorities and National Commission for Women, US Department of Education etc.

The data is also gathered from constitutional provisions, byelaws, court records, historical legal researches, policy documents, referenda and executive orders, digital library, databases like JSTOR, Heinonline, Westlaw, AIR Infotech and SCC-online.

1.2.5 Methodology

The methodology adopted by me is analytical, descriptive to certain extent empirical and quantitative case survey method.

1.2.6 Mode of citation

I have followed uniform mode of citation i.e. NLS citation guide throughout the dissertation.

Chapter 2

Promotion of social justice

John Rawls⁵, a political philosopher and writer of book viz ‘A Theory of Justice’ and ‘Justice as Fairness’ simply put the concept of ‘just society’ as a place where social rules for behaviour, production and distribution are agreed upon by a group of rational and self-interested individuals who do not know who they will be in society. The idea is called ‘choosing behind the veil of ignorance’. Thus the socially just society should be equally exciting place for all irrespective of their status in the society. Recently Amartya Sen⁶ in his book ‘The idea of Justice’ showed his concern for realization of justice rather than determining its pure definition. Sen argues that justice in not simply a matter of cumulative outcomes (What results) but also of comprehensive out come (What results and how it is brought about). The constitution of International Labour Organization⁷ signifies the concept of social justice by emphasizing that ‘universal and lasting peace can be established if it is based upon social justice’.

2.1 The roots of social injustice in India and USA

Dumont (1980)⁸ described Hindu society as homo heirarchicus which is opposite to the western notion of individual equality and rationality i.e. Homo economicus. Recently Rao and Ban simplifies the Dumont’s conception about caste system. To them, the caste system is perpetuated by the ideology where upper caste justifies the hierarchy by internalizing the belief of inherited

⁵ John Rawls, Justice as Fairness: A Restatement (2nd ed.), Harvard University Press, Cambridge Mass. (2001)

⁶ Amartya Sen, The Idea of Justice, Belknap Press, (2009), pp. 496,

⁷ International labour Organization. <http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm>. Accessed on 17th September, 2013.

⁸ Dumont, Louis, *Homo Hierarchicus: The Caste System and its Implications* (Originally published in French in 1966), University of Chicago Press, Chicago (1980)

higher status and lower castes too justify their lower status. The caste system tells us that certain trait, qualities, virtues, functions, characteristics and power are definitive of each social group. Many Scholars have studied why the system of social stratification persisted for such a long time. Authors like Cohn (1986), Dirks (2002) believed that caste system is largely a construction of British rule. Britishers used and reinforce the caste system to to continue their hegemony in Indian polity. They realized soon that Brahmins have influence on Hindu society. So in their early regime they started giving those privileges to Brahmins which were deprived by Mugal rulers. Some scholars argued that the British system was somewhat supportive of caste system but the overall British policy towards caste was non-interferential⁹.

Ancient Indian 'Varna' system and contemporary 'Jati' system have different meaning. There are four varnas viz. Brahmin, Kshatriya, Vaishya and Shudra. The word 'varna' is a sanskrit word. Etymologically, it is derived from 'Vri' which means choosing or selecting a thing. The English word 'caste' carries the meaning of both¹⁰. Unfortunately, varna system reduced to 'Jati' which was birth based, endogamous and hierarchical. . The criterion for 'varna' system was occupation. As Bhagbatgeeta depicts '*chatur varnam maya srishtam guna karma vibhagasha*'¹¹ (*I created the four vernas on the basis of division of virtues and actions*). Yajurveda¹² also mentions,

Brahmanasya mukhamaseet Bahu Rajanyah Kritah

Uru tadasya yadvaishyah padabhyam shudro ajayat

⁹ Lamb, India: World in Transition

¹⁰ Ashvini Deshpande. Equality and Development in World development Report (2006)

¹¹ Bhagwatgeeta, Chapter 4 verse 13

¹² Yajurveda

This indicates Brahmins are born out of mouth, Kshatriyas from arms, Vaishyas from Stomach and Shudras from feet. These are the symbols, not to take literally. Actually, all four varnas are originated from common ancestor, which, infact promotes fraternity. The system which fragedmented the society based upon ‘division of labour’ aiming for efficiency, actually became hereditary and hierarchical over the years. It is notable that the Rigvedic text divided the mankind into two types viz Arya i.e. noble and Anarya i.e. Shudra (*Vijanihyaranye cha dasyavoh*¹³). Those who could attain knowledge, education and high moral character are noble and those who show difficulty in learning but are physically robust had to serve. The criterion of this classification was not birth. In one of the verse of Rigveda¹⁴, the poet mentions that he is a reciter of hymns, his father is physician and his mother grinds corn with stones. In another versa of Rigveda¹⁵, the poet asks the lord Indra,

Oh Indra! Fond of soma, would you make me the protector of the people, or would you
make me a king, would you make me a sage that has drunk soma, would you
Impart me endless wealth.

This indicates that a man had to choose the verna or the way of his livelihood. I was not imposed on him by birth or by society. One of the most authentic texts on ancient Indian social system is Manusmriti. Its provisions clearly indicate that verna can be determined mainly by deeds not birth. In one of the distich, he mentions,

Shudro Brahmanatameti Brahmanshchaiti Shudratam

¹³ Rigveda, Purush Sukta

¹⁴ Rigveda, IX, 112.3

¹⁵ Rigveda, III, 44.5

*Kshatriyajjatmevam tuVidyadvaishyattathaiva cha*¹⁶

This means that Brahmin can attain the Shoodrahood and vice versa. I all depend upon what path an individual chooses. A family headed by shoodra could turn into shoodrahood due to lack of early teachings.

Modern view of caste is sharply different from ancient 'verna'. M. Senart¹⁷, a french author came up with the view that caste and verna are not similar. The word caste originated from Portuguese term casta that means species, race or pure breed. In India, the term caste was initially used by Europeans who used it to distinguish Moors (Muslims) and Non-Muslims in sixteenth century¹⁸. Caste is quite endogamous in nature. In India, the word 'caste' is used for those social groups who keep themselves distinct from the rest of society. Some of the definitions of the caste can be produced as follows:

A caste is a class of the community which disowns any connection with any other class and can neither intermarry nor eat nor drink with any but persons of their own community.
(Nesfield¹⁹)

S.V. Ketkar²⁰ in a recent working paper considers endogamy as one essential of caste and defines the caste as

¹⁶ Manusmriti, 10 (65)

¹⁷ Émile Senart, Caste in India. Translated by Sir E. Denison Ross. London: Methuen (1930).

¹⁸ S. Bayly, Caste, Society and Politics in Modern India from the Eighteenth Century to the Modern Age 105-107, Cambridge: Cambridge University Press (1998)

¹⁹ John C. Nesfield, Cultural Evolution of Indian Society—Function as Foundation of Caste, In Kannupillai, V.(Ed.), , p. 139 (2007)

²⁰ S.V. Ketkar, History of caste in India, September, Cornell Working paper (2009)

A caste is a –social group having two characteristics: (1) membership is confined to those who are born of members and includes all persons so born; (2) the members are forbidden by an inexorable social law to marry outside the group.

Ketkar²¹ further explains,

when caste is used as an abstract noun it means either a caste system or any of its peculiarities like exclusiveness, hierarchy, fixed order of things, greater regards to the ancestry of the person than individual merit, pretensions of the purity of blood, feeling of superiority or inferiority or customary manifestations thereof.

Castes are such an exclusive groups that inter-marriages are not possible. These castes are further divided into sub caste. The sub caste is endogamous but not in strict sense. But Gotras are exogamous. All people belonging to a single gotra are the descent of a common mythical ancestral. The ‘biraderi’ is also used by south Asian Muslims. It has variety of meaning depending upon the context. It can carry the meaning of extended kinship group or small group of intermarrying close kin²². So there are essentially the four vernas but precise number of Jatis is very large. Beteille²³ refers,

Although the several thousands of castes into which the Indian population is divided are not all placed in a well-accepted hierarchy, the notion of such a hierarchy is an essential part of the caste system.

²¹ Ibid, p. 32

²² A. Shaw, Kinship and Continuity: Pakistani Families in Britain, Abingdon: Routledge, 113-117 and 115-135(2000)

²³ A. Beteille, Caste, class, and power: Changing patterns of stratification in a Tanjore village, Oxford University Press, New Delhi (1996)

Different terminologies are used for low castes. The word 'dalit' has Marathi roots and is used for those who are oppressed or crushed. Gandhi ji used the term 'Harijan'. The constitutional parallel of this term is 'untouchable' which is used for Scheduled castes (SCs). Untouchables were denied the rights to property, Nobel occupation, and education, cultural and religious rights. They were also suffered from residential segregation and social isolation²⁴. Tribes are less subjected to social oppression yet they remained geographically isolated to avail public facilities and education.

The oppressive social practice of injustice was also rampant in the US. During 1789-1865, the period of slavery for blacks continued. For centuries, blacks were treated like untouchables. In many of the US states, blacks were even denied the electoral rights. During the time of President Abraham Lincoln, the slavery and civil war ended together. In the era of post civil war, provisions of Black codes restricted blacks from entering high status jobs. As per Jim Crow law, Blacks were obliged to live separately. Jim Crow period continued between 1896-1954. In Govt., legislature, judiciary, businesses, labour unions and churches, there were mostly whites.

2.2 Whether Untouchability comparable to segregation?

Indian dalits and tribes were far from the main stream development not due to policy induced segregation but there is a defacto segregation on the basis of in housing, public employment and education. So far as inclusion initiatives in education is concerned, ICERD (International Convention on the Elimination of all forms of Racial discrimination) convention sections²⁵ VIII(E)(5)(a) and VIII(F)(1)(c) are relevant. Section VIII (E) (5) (a) mentions that teacher discriminate dalit

²⁴S. Thorat, A. Negi and P. Negi, Reservation and Private Sector – Quest Equal Opportunity and Growth. Rawat publication, New Delhi (2005)

²⁵ <http://www.hrw.org/reports/2007/india0207/9.htm>. Retrieved on 26-1-2014.

students in class room by biased evaluation of performance, separating eating places, sitting arrangements in the class and limiting dalit student's participation in the class. Such treatment damages the individual dignity in such a nascent stage of their life so that they internalize the sense of inferiority which hampers their overall development and fraternal integration with the society. In the overwhelming majority, this takes place in Indian villages. As a result these students drop out at early stage. The low literacy rate of dalits in India raises the serious credibility questions on Indian school education system. Schooling being the antecedent of higher education, the fruitification of Indian higher educational reform will dampen as necessary bench strength is not rationally attempted. In the cultural affairs of the society, the participation of dalits is designed in such a degrading way which is against basic human rights, exploitative and forced. For example, in the Marama village of Karnataka, a southern state in India, the so-called upper caste of the Hindus forced the dalits to sacrifice buffalos, drink the blood, mix with the cooked rice and ran with out the *chappals* (a type of footwear).

It is notable here that in US, the discrimination was state led but the examples quoted above from the Indian context are the instances where dominant communities performed injustice. Discrimination by the democratic Indian state is hardly traceable. This may lead to believe that compensatory justice ideal may be suitable for US and for the Indian context also, more effective justice models are required to be explored.

2.3 Social Justice Schemes/movements

Vienna declaration and Programme of action²⁶ (14-25 June, 1993 by UN General assembly) treats social justice in terms of Human rights education. Although the term social justice has theological origin and was given by Jesuit Luigi Taparelli in 1840, however, the political philosophers

²⁶ Vienna declaration and Programme of action. United Nations General Assembly. World conference on Human Rights (14-25 June, 1993). [http://www.unhcr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhcr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en). Accessed on September 17, 2013.

popularized it later. In India, many socio and political reformers like Mahatma Jotiba Phule, Savitribai Phule, Sahu Maharaj in Maharashtra, Sri Narayana Guru in Kerala, Periyar E.V.Ramasamy and Dr.B.R.Ambedkar played important role. In 1910, during the times of British, Non-Brahmins of Tamilnadu felt suppressed by the conduct of Brahmin administrators in the Madras provincial government. As a counter measure, non-brahmin officers united under a banner called 'Dravidian league'. Dr. C. Natesan's role was pivotal. He set up a separate hostel for non-brahmin students. Later on , in 1916, a political platform viz. South Indian Leberal Federation (SILF) was set up. Reformers like Sir Pitty Theagarayar, Dr.C.Natesan and Dr. T. M. Nair formed a non-brahmin manifesto which demanded representation in education and employment. Later on Justice party was formed for the purpose which came in political power in 1920. In 1929, a GO was issued which enabled reservation in Govt jobs for Non-Brahmins. An influencial political leader called Periyar E. V. Ramaswami left the Congress Party for the cause of providing communal representation in employment. He infact wanted social freedom prior to political freedom. Periyar changed the name of Justice party in 1944 as Dravidar Kazhagam to carry forward the movement in Tamilnadu and other part of the country. When in 1951, a Tamil lady was denied admission in medical college due to quota and Indian courts supported the plea, Periyar started the movement again to amend the constitution and thus 15 (4) came in the existence. At that time Baba Sahib Ambedkar was Law Minster. Periyar was the inspiration of this amendment and the role of Ambedkar was instrumental. Other Backward class movement started in 1953 when Kaka Kalelkar became chairman of first backward class commission. Later on , during Janta Party Government in 1977, B. P. Mandal was made chairman of second backward class commission. He submitted his report in 1980 but reservation for OBC in employment could only be materialize in 1989 during the Prime Minister ship of V.P. Singh. BJP withdrew the support from Janta Dal