



## Caste Based Discrimination in Higher Education in India and Preventive Laws: - A Critical Study

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### A. Abstract

“Ajyestaaso akanistaasa yete — sam bhraataro vaavrudhuh soubhagaya (No one is superior or inferior; all are brothers; all should strive for the interest of all and progress collectively) The Rigveda (Mandala 5, Sukta 60, Mantra 5) proclaim fraternity in Indian society. However, caste is biggest social evil Indian sub-continent. It spread as an epidemic in all major religious faith prevailing in Indian sub-continent. Even after the 70 years of Independence, we fail to achieve fraternity in the society. However, through Educational institute and education policy we can achieve fraternity in the society. To achieve this goal University Grant Commission formulates UGC (Promotion of Equity in Higher Educational Institutions) Regulation, 2012 that come in to force on 17 December 2012. Even after this regulation incidence of caste based discrimination are reported throughout India.

**B. Key Words:-** Caste , Discrimination, Higher Education, Preventive measures.

**C. Object of the Study:-** Object of the study highlight the policy framed by the University Grant Commission against the Discrimination based on cast in Higher Education.

**D. Hypothesis:** - Although University Grant Commission formulates UGC (Promotion of Equity in Higher Educational Institutions) Regulation, 2012. However, the passive nature of university authorities in implementing the provisions is a big hurdle to achieve the goal.

**E. Limitation of The study :-** This study based on secondary sources available.

### F. Introduction

Traditional Indian society is based on two fundamental axes of social inequality i.e. cast and gender. Discrimination based on caste is central to orthodox Hinduism.<sup>1</sup> Their influence was so pervasive that tag of cast even carried over after conversion to other religion.<sup>2</sup> Traditional Caste based Indian society placed Dalits at the very bottom of four Verna. Their status in the society is so low that even they are not considered part of the social system. They suffered immense discrimination and the society marginalized them. They have been forced to perform dangerous and dirtiest job.<sup>3</sup> Framers of Constitution of India like other modern

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<sup>1</sup> Available at [HTTP://INDIANEXPRESS.COM/ARTICLE/OPINION/COLUMNS/WE-THE-UNEQUAL/](http://indianexpress.com/article/opinion/columns/we-the-unequal/) last visited on Jan 10, 2018

<sup>2</sup> Indian Muslim and Christian still practices caste based discrimination against the order of their religious faith.

<sup>3</sup> Available at [HTTP://WWW.IBTIMES.COM/INDIAN-CASTE-SYSTEM-IMPORTED-BRITAIN-DALITS-SAY-YES-UPPER-CASTE-HINDUS-SAY-NO-1343069](http://www.ibtimes.com/indian-caste-system-imported-britain-dalits-say-yes-upper-caste-hindus-say-no-1343069) last visited on Jan 05, 2018



state adopt democracy. According to Mahatma Gandhi “Democracy was something that would give the weak the same chance as the strong”<sup>4</sup> Constitution of India adopt three famous principles of French Revolution—Liberty, equality and fraternity. Liberty was secured through a prolonged political struggle against Colonial Government. Equality we secured through Constitution of India. Dr Bhim Rao Amedker architect of our Constitution explain the fraternity as “Fraternity means a sense of common brotherhood of all Indians- of Indians being one people. It is the principle that gives unity and solidarity to social life” Fraternity cannot be achieved through rules and laws in the Constitution. It requires a persistent education of the people through public and private initiatives. In the last seven decades, have we been able to achieve what Dr. Ambedkar had described as fraternity? Indian society is divided into castes and sub-castes. One single biggest challenge to fraternity today is the hierarchical caste system. Its roots are no doubt very deep. However, its distorted and discriminatory manifestation today has no sanction in any Hindu dharma shastras. “Janmana jatih” — caste by birth — is what we practise as the caste system. Although it had its roots in the varnashrama system of ancient times, the varnashrama system never sanctioned any caste hierarchy; nor did it allow any discrimination. In fact, transmigration was said to be the order of the day in that ancient system.

“Ajyestaaso akanistaasa yete — sam bhraataro vaavrudhuh soubhagaya (No one is superior or inferior; all are brothers; all should strive for the interest of all and progress collectively),”<sup>5</sup>

However, the present-day caste system defies its own great scriptural wisdom and knowledge. It defies our Constitution in that it stands as an obstacle in achieving fraternity in society. In a way, it has outlived its utility. The varnashrama system had depended on guna and karma — aptitudes and actions — in positioning a person in a varna. Today’s caste system has no connection with the old system. Hence, it should go lock, stock, and barrel.<sup>6</sup> We assume that the Dalit discourse is all about more reservations and more jobs. No doubt, reservations are important and so are jobs. Nevertheless, the hunger today is for four things: Samman (respect and dignity), sahbhagita (participation and partnership), samriddhi (progress and prosperity) and, finally, satta (empowerment).

The government can take care of the last two, but the first two are the responsibility of society. Social and religious organizations have to take responsibility for addressing the Dalit hunger for samman and sahbhagita. That is when social equality is achieved. Dr.Ambedkar was right when he warned the nation about it. “On the 26th of January 1950, we are going to enter into a life of contradictions. In politics, we will have equality and in social and economic life, we will have inequality. In politics, we will be recognizing the principle of one-man one vote and one vote one value. In our social and economic life, because of our social and economic structure, continue to deny the principle of one-man one value.

### G. What is Discrimination ?

Discrimination means any distinction, exclusion, limitation, or preference, which has purpose or effect of nullifying or impairing equality of treatment in education and in particular-<sup>7</sup>

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<sup>4</sup> Available at <http://indianexpress.com/article/opinion/columns/ambedkar-dalit-status-equality-justice-discrimination-what-dalits-want/> last visited on Jan 15, 2018

<sup>5</sup> The Rigveda (Mandala 5, Sukta 60, Mantra 5). Also available at <https://www.affairscloud.com/english-questions-cloze-test-set-45/>

<sup>6</sup> Available at <https://www.affairscloud.com/english-questions-cloze-test-set-45/> last visited on Jan 15, 2018

<sup>7</sup> Sec 2(b) of UGC(Promotion of Equity in Higher Educational Institutions) Regulation, 2012 also available [https://archive.org/stream/in.gazette.2013.16/W\\_3\\_2013\\_207\\_djvu.txt](https://archive.org/stream/in.gazette.2013.16/W_3_2013_207_djvu.txt) last visited on Jan 15, 2018



- (i) Of depriving a student or a group on the basis of cast, creed religion, language, ethnicity, gender and disability of access to education of any type or at any level.
- (ii) Of imposing condition on any students or group of students which are incompatible with the dignity of human; and
- (iii) Of subjecting to the provision of establishing or maintaining separate education systems or institutions for the students or groups of student based on cast, creed, religion, language, ethnicity, gender and disabilities.

#### **H. What is harassment?**

“Harassment ” means unwanted conduct which is persistent and demeans , humiliates or creates a hostile and intimidating environment or is calculated to induce submission by actual or threatened adverse consequences; <sup>8</sup>

#### **I. What is Unfavourable treatment?**

“Unfavorable treatment” means any adverse change in the working environment, denial or training, and denial of opportunities for advancement, unfavorable probationary reports, vexatious grievances, and exclusion by peers.<sup>9</sup>

#### **J. What is Victimisation?**

“Victimisation ”means any unfavorable treatment of student on the basis of cast, creed, religion, language, ethnicity, gender and disability.<sup>10</sup>

What are the measures to shall be taken by Higher Educational institutions against discrimination?

Every higher educational institution shall take appropriate measures to<sup>11</sup>-

- (a) Safeguard the interests of the students without any prejudice to their cast, creed, religion, language, ethnicity, gender, and disability.
- (b) Eliminate discrimination against or harassment of any student in all forms in higher educational institutions by prohibiting it and by providing for preventive and protective measures to facilitate its eradication and punishment for those who indulge in any form of discrimination or harassment,
- (c) Promote equality among students of all sections of the society.

#### **K. What type of Act ,conduct and omission amount to discrimination?**

##### **(a) In admission process,<sup>12</sup>**

- (i) By breach of the policy or reservation in admissions as may be applicable,
- (ii) In accepting application for admission of such students,
- (iii) In the way in which an application is processed,
- (iv) In the arrangements made for, or the criteria used in, deciding who should be offered admission as a student
- (v) By withholding or refusing to return any documents in the form of certificates of degree, diploma, etc deposited with higher educational institution by such student for the purpose

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<sup>8</sup> Sec 2 (d) *ibid*.

<sup>9</sup> Sec 2(g) *ibid*.

<sup>10</sup> Sec 2(f) *ibid*.

<sup>11</sup> Sec 3 available at [https://archive.org/stream/in.gazette.2013.16/W\\_3\\_2013\\_207\\_djvu.txt](https://archive.org/stream/in.gazette.2013.16/W_3_2013_207_djvu.txt) last visited on Jan 15, 2018

<sup>12</sup> Sec 3 (2)a ,*ibid*.



- of seeking admission, with a view to inducing or compelling such student to pay any fees in respect of any course or programme of study which he/she does not intend to pursue,
- (vi) By demanding money in excess of that specified in the declared admission policy;
  - (vii) By denying or limiting access to any benefit arising from such enrollment provided by higher educational institutions;
  - (viii) By treating unfavorably in any way in connection with the student's enrollment to a specific standard of class or area of study, training or instruction.
- (b) **Following Act or conduct In class room amount to discrimination.**
- (i) By announcing , verbally or otherwise, in class, the names of castes, tribes, religion of the student;
  - (ii) By labeling students as reserved category in the class;
  - (iii) By passing derogatory remarks indicating caste, social, religion, racial or religious background as reason of under performance in the class;
  - (iv) By allotting differential time to any student to meet faculty as compared to other students;
  - (v) By keeping any student idle in the laboratory and not allowing him/her to work even if he/she allowed to enter;
  - (vi) By earmarking separate seats to any student or group of student in the reading hall;
  - (vii) By following differential treatment to any student regarding issue of books or journals or magazines etc;
  - (viii) By treating any student or section of students separately in utilizing the sports facilities on the basis of their caste, creed, religion or region;
- (c) **In examination process**<sup>13</sup>
- (i) By not properly evaluating and re-evaluating examination papers of such students and by giving them less marks;
  - (ii) By delaying declaration of results of any student or section of student;
- (d) **Fellowship relating issues,**<sup>14</sup>
- (i) By not giving full information about the fellowships related matters;
  - (ii) By withholding or stopping the fellowships meant for student;
- (e) **Issues relating Hostels and cultural activities,**<sup>15</sup>
- (i) By segregating such students from other in hostel or mess or reading rooms or common room or playground or canteen in any other students amenities including drinking water facilities, etc;
  - (ii) By indulging in acts of ragging specifically targeted against such students;
  - (iii) By doing anything which disturbs the regular activities of students ;
  - (iv) By any act of financial extortion or forceful expenditure put on such students;
  - (v) By not allowing such students to participate in the cultural programme or the sports events;

**L. Who can be an Anti-Discrimination officer?**

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<sup>13</sup> Sec3(2)c available at [https://archive.org/stream/in.gazette.2013.16/W\\_3\\_2013\\_207\\_djvu.txt](https://archive.org/stream/in.gazette.2013.16/W_3_2013_207_djvu.txt) last visited on Jan 15, 2018

<sup>14</sup> Sec3(2)d. *ibid*

<sup>15</sup> Sec3(2)e. *ibid*



For promoting equality among all section of the students, without prejudice to their belonging to any social group and for this purpose it shall establish an Equal opportunity Cell. In addition, appoint an Anti-Discrimination officer, who shall not be below the rank of a Professor in the case of University and an institution deemed to be a University, and not below the rank of Associate professor in the case of College.<sup>16</sup>

**M. Special Committee for resolving the issues based on caste Discrimination**

As per the direction of UGC all the universities in India bound to constitute Special committee. In addition, prescribe the procedures and mechanism within a period of six months of coming into force of these regulation<sup>17</sup>. To deal with and decide any complaint of discrimination, made or submitted by any student or group of students and it shall be obligatory on the part of higher education institution to decide such complaints with in a maximum period of sixty days from the date of receipt or submission of such complaint

**N. Objective of the committee:-**

The main objective of this committee is to redress the grievances of SC & ST, student , teaching and non-teaching staff.

**O. Issues, which can be placed before the committee:-**

This committee shall be authorized to solve the following issues or disputes,

- (1) Issues relating to the cast based discrimination against this community.
- (2) All the disputes in which either of the party belonging this community.
- (3) Parties to dispute include teaching, non- teaching faculty and students of the institution.

**P. Composition of the Special Committee:-**

The Special Committee has the following dignitaries.

**Chairperson---** Dean academic affair of the University shall be ex-officio chairperson of the committee, because this committee deals with the complaint of Senior Professors and High official i.e. DR , AR and superintendents of various branches.

**Convener: -** Coordinator of the SC & ST cell Constituted as per UGC guidelines be ex-officio convener of the committee.

**Co-convener:-** DSW be ex-officio co-convener of the committee.

**Committee Members:-** Anti-Discrimination Officer and Two Head Of the Department who were member of advisory committee of the SC & ST cell be ex- officio member of the committee.

**Minority community member:-** Faculty member of minority community be also taken as member because minority community has their own special rights.

**Q. Complaint cell:-** office of the Anti-Discrimination shall have complaint cell and a register in this regard be maintained in the office.

Procedure for filling complaint<sup>18</sup>:-

- (i) A complaint about discrimination or harassment as defined in these regulations may be made in writing by a student or parent of the student irrespective of whether the discrimination or harassment is alleged to have taken place within or outside the higher educational institution.
- (ii) The complaint shall include sufficient details of the alleged act of discrimination or harassment.

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<sup>16</sup> Sec3(2)f. ibid

<sup>17</sup> UGC (Promotion of Equity in Higher Educational Institutions) Regulations,2012 come in to force on the 17<sup>th</sup> of December 2012.

<sup>18</sup> Sec 5 available at [https://archive.org/stream/in.gazette.2013.16/W\\_3\\_2013\\_207\\_djvu.txt](https://archive.org/stream/in.gazette.2013.16/W_3_2013_207_djvu.txt) last visited on Jan 15, 2018



- (iii) The complaint shall be made to Anti-Discriminatory officer.
- (iv) The higher educational institution shall formulate and make public, by uploading the information on its website, a transparent procedure for filing and dealing with such complaint.

**On line complaint:-** the Universities shall provide A direct link on the University website for lodging on line complaint . Moreover, 24 x 7 helpline number is shown on notice board and on university website.

**R. Meeting of the committee:-** Within a week from the receipt of report of inquiry conducted by Anti-Discrimination officer.

**S. Punishments:-**

(1) Whoever commits any act of discrimination or harassment as specified in these regulations against any student or section of the students in any higher educational institution, shall be dealt with through the following procedure, namely-

- (a) On receipt of written complaint, Anti-Discrimination officer shall initiate follow-up action including preliminary fact finding enquiry . If he consider necessary;
- (b) On the recommendations of the Anti- Discriminatory officer, the educational institution shall take appropriate follow-up action;
- (c) The competent authority of the higher educational institution upon receipt of the inquiry report shall refer the same to the Anti-Discrimination Officer in the case of students for taking appropriate action in accordance with the provisions of the Statutes or Ordinances or Regulation of the Higher Educational Institution or the UGC regulation on the Ragging and any Other Regulations in the Force; or
- (d) In case of teachers and non-teaching staff, the competent authority of the higher educational institution upon receipt of the inquiry report shall take appropriate action in accordance with the provision of the Statutes or Ordinance or Regulations of the higher educational institution or the service rules as applicable to higher educational institution.

(2) the punishment shall be commensurable with the nature of the discrimination or harassment.

**T. Appeal<sup>19</sup>**

Subject to provisions made by higher educational institutions, any person aggrieved by an order made by the Anti-Discrimination officer may prefer an appeal against such order within Ninety days from the date of the order to the head of the Higher educational institution

**U. Condo-nation of Delay**

Provided that the Head of the Higher educational institution may entertain an appeal after the expiry of the said period of ninety days, if he is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of ninety days.

**V. Conclusion**

In the end of the research researcher, conclude that neither the Rigveda nor The Constitution Of India propagates caste based discrimination in the society. The Indian laws are in favor of fraternity among Indians. Therefore, it is our duty to follow the traditional principle of Rigveda and Modern vision of Constitution of India.

**W. Suggestions**

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<sup>19</sup> Sec6 available at [https://archive.org/stream/in.gazette.2013.16/W\\_3\\_2013\\_207\\_djvu.txt](https://archive.org/stream/in.gazette.2013.16/W_3_2013_207_djvu.txt) last visited on Jan 15, 2018



Following are the suggestion of this study,

- (1) **Constitutional goal** of fraternity will not achieved without the active support of educational institution in India.
- (2) All provisions of UGC (Promotion of Equity in Higher Educational Institutions) Regulations, 2012 are clear itself and define discrimination, therefore its Universities authorities duty to implement in its true letter and spirit.
- (3) Address of the complaint cell and helpline no. should be made visible on the notice board for the student.