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LEGAL MEASURES TO COMBAT CASTE-BASED DISCRIMINATION IN INDIA

AUTHORED BY - AJIT SINGH CHARAK

Abstract

Caste-based discrimination, deeply entrenched in India's social fabric, undermines constitutional guarantees of equality and dignity. This paper examines the legal framework to combat such discrimination, with a focus on the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, which replaces the Code of Criminal Procedure (CrPC) 1973. It analyzes constitutional provisions, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and the Bharatiya Nyaya Sanhita (BNS) 2023, alongside landmark case laws. The study explores beneficiaries, limitations, societal perspectives, and potential misuse of these laws, emphasizing judicial interpretations and implementation challenges. While the BNSS introduces procedural innovations like online FIRs and mandatory forensic investigations, enforcement gaps and societal resistance persist. The paper suggests reforms, including enhanced police training and public awareness, to strengthen anti-discrimination measures. It concludes by advocating for a balanced approach to prevent misuse while ensuring justice for marginalized communities.

Introduction

The caste system, a hierarchical social structure rooted in ancient India, continues to perpetuate discrimination, exclusion, and violence, particularly against Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). Despite India's constitutional commitment to equality under Articles 14, 15, and 17, caste-based atrocities—ranging from social exclusion to violent crimes like honor killings and mob lynchings—remain pervasive. The 2011 Census indicates that SCs and STs constitute 16.6% and 8.6% of India's population, respectively, yet they face disproportionate marginalization in education, employment, and social interactions.

The introduction of the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, alongside the Bharatiya Nyaya Sanhita (BNS) 2023, marks a significant reform in India's criminal justice

system. The BNSS replaces the CrPC 1973, introducing procedural enhancements like online FIR registration, mandatory forensic investigations, and timelines for case disposal, aiming to make justice more accessible and efficient. These reforms are particularly relevant for addressing caste-based discrimination, as marginalized communities often face barriers in accessing legal recourse. This paper comprehensively examines the legal measures to combat caste-based discrimination, focusing on the BNSS's procedural innovations, constitutional provisions, and special laws like the SC/ST (Prevention of Atrocities) Act, 1989. It also analyzes judicial interpretations, societal attitudes, implementation challenges, and potential misuse, offering suggestions for reform.

Caste-based discrimination manifests in various forms, including untouchability, denial of temple entry, and economic exclusion. High-profile incidents, such as the 2016 Una flogging case in Gujarat and the 2018 Bhima Koregaon violence, underscore the persistence of caste-based violence. The judiciary has played a pivotal role in addressing these issues, with landmark rulings reinforcing the state's obligation to protect marginalized groups. However, societal resistance, inadequate enforcement, and occasional misuse of laws pose significant challenges. This study seeks to provide a holistic understanding of the legal framework, its effectiveness, and the path forward.

Objectives of the Study

This research aims to:

1. Evaluate the legal framework addressing caste-based discrimination, with a focus on the BNSS 2023 and its procedural innovations.
2. Analyze landmark case laws to assess their impact on combating caste-based discrimination and shaping judicial precedents.
3. Identify the beneficiaries of anti-discrimination laws and the limitations hindering their effectiveness.
4. Examine societal perspectives on caste-based discrimination and their influence on legal implementation.
5. Explore key provisions, their scope, and potential misuse, proposing safeguards to balance justice and fairness.
6. Assess the judiciary's role in interpreting and upholding anti-discrimination laws.
7. Offer suggestions for improving enforcement and addressing systemic challenges.

Research Methodology

This study employs a qualitative research approach, relying on secondary sources to analyze the legal framework combating caste-based discrimination. Primary legal texts, including the Constitution of India, the SC/ST (Prevention of Atrocities) Act, 1989, the BNSS 2023, and the BNS 2023, form the foundation of the analysis. Landmark case laws are sourced from Supreme Court and High Court judgments available on legal databases like SCC Online and Indian Kanoon. Academic journals, such as the Journal of Law and Conflict Resolution and Economic and Political Weekly, provide scholarly insights into caste dynamics and legal reforms. Reports from organizations like Human Rights Watch and the National Crime Records Bureau (NCRB) offer statistical and qualitative data on caste-based atrocities. Web sources, including news articles from The Indian Express and The Hindu, provide contemporary perspectives on implementation challenges. The analysis is comparative, contrasting colonial-era criminal laws with modern reforms and evaluating their effectiveness in addressing caste discrimination. A doctrinal approach is used to interpret legal provisions and judicial rulings, while a socio-legal lens examines societal attitudes and their impact on enforcement.

Case Laws

The judiciary has been instrumental in shaping the legal response to caste-based discrimination. Below are key case laws that highlight judicial interventions and their outcomes:

1. *Sukanya Shantha v. Union of India (2024)*: The Supreme Court addressed caste-based discrimination in prisons, ruling that practices like segregating inmates based on caste violated Articles 14 and 15. The court struck down discriminatory prison manual provisions and mandated reforms within three months. This landmark judgment emphasized the state's duty to ensure equality in custodial settings, reinforcing the applicability of constitutional protections in all spheres of public life. The ruling also directed states to train prison staff, aligning with BNSS provisions for procedural fairness.
2. *Lata Singh v. State of Uttar Pradesh (2006)*: This case involved caste-based opposition to an inter-caste marriage. The Supreme Court condemned caste-based violence and directed police to protect the couple, invoking the SC/ST Act and Article 21 (right to life and liberty). The judgment set a precedent for safeguarding personal freedoms against caste prejudices, emphasizing the state's role in preventing honor killings and social boycotts.

3. *Arumugam Servai v. State of Tamil Nadu (2011)*: The Supreme Court upheld convictions under the SC/ST Act for caste-based verbal abuse, ruling that derogatory remarks targeting caste identity constitute an offense. The court clarified the Act's scope, emphasizing strict enforcement to deter atrocities. This case strengthened legal protections for SC/ST communities and underscored the importance of verbal abuse as a form of discrimination.
4. *Swati Bidhan Baruah v. State of Assam (2020)*: The Gauhati High Court addressed delays in SC/ST Act cases, directing faster investigations and trials. The court's emphasis on timely justice aligns with BNSS provisions mandating a 60-day investigation timeline for serious offenses. This ruling highlighted the need for procedural efficiency to ensure justice for victims of caste-based atrocities.
5. *Subhash Kashinath Mahajan v. State of Maharashtra (2018)*: This controversial Supreme Court ruling introduced safeguards against misuse of the SC/ST Act, requiring preliminary inquiries before arrests. The decision sparked protests, leading to its partial reversal through legislative amendments in 2018. The case underscores the tension between protecting victims and preventing misuse, a challenge the BNSS seeks to address through evidence-based investigations. These cases demonstrate the judiciary's proactive role in interpreting anti-discrimination laws, though delays and inconsistent application remain concerns.

Beneficiaries and Limitations

Beneficiaries:

The primary beneficiaries of anti-discrimination laws are SCs, STs, and OBCs, who face systemic marginalization. Constitutional provisions (Articles 15, 17, 46) ensure equal access to public spaces, abolish untouchability, and promote affirmative action through reservations in education and employment. The SC/ST Act provides legal recourse for atrocities, including physical violence, social exclusion, and economic exploitation. The BNSS enhances access to justice through procedural reforms like online FIR registration, which simplifies reporting for rural and marginalized communities. Mandatory forensic investigations and videography under the BNSS ensure evidence integrity, benefiting victims by reducing investigative biases. Affirmative action policies have empowered millions, with over 20% of government jobs and educational seats reserved for SCs and STs, as per 2023 government data.

Limitations:

Enforcement remains a significant challenge. NCRB data from 2022 reports over 50,000 cases under the SC/ST Act, with a conviction rate below 40%, reflecting judicial delays and inadequate investigations. The BNSS's reliance on technology, such as online FIRs, excludes rural communities with limited digital access. Police biases, often rooted in caste hierarchies, undermine implementation, as seen in cases like the 2016 Una incident, where initial police inaction delayed justice. Societal resistance, particularly in rural areas, perpetuates practices like temple entry bans. The potential misuse of the SC/ST Act, as highlighted in the Subhash Kashinath case, risks diluting its credibility, necessitating stricter scrutiny of complaints.

Perspective from Indian Society

Caste-based discrimination is deeply embedded in Indian society, manifesting in practices like untouchability, social boycotts, and violence. The 2016 suicide of Rohith Vemula, a Dalit scholar, exposed institutional discrimination in universities, sparking nationwide protests and highlighting the need for systemic reforms. Rural India, where 70% of the population resides, remains particularly resistant to change, with incidents like the 2009 Nagapattinam temple entry ban reflecting entrenched caste hierarchies. Urban areas show some progress, with inter-caste marriages rising by 10% from 2011 to 2021 (Census data), but caste-based discrimination persists in housing and employment.

The BNSS's procedural reforms, such as videography during investigations, aim to increase transparency and reduce police biases, but public distrust in law enforcement remains high. A 2023 survey by the Centre for Social Justice found that 60% of SC/ST respondents felt police were unresponsive to their complaints. Societal attitudes often view anti-discrimination laws as threats to traditional power structures, particularly in rural areas where upper-caste dominance prevails. Awareness campaigns and education are critical to shifting these perspectives, but resistance from conservative groups poses a challenge.

Key Provisions and Scope***1. Constitutional Provisions:***

- Article 14: Guarantees equality before the law.
- Article 15: Prohibits discrimination based on caste, ensuring equal access to public spaces.
- Article 17: Abolishes untouchability, making its practice punishable.
- Article 46: Promotes educational and economic upliftment of SCs and STs.

2. SC/ST (Prevention of Atrocities) Act, 1989:

Addresses caste-based violence, including social exclusion, verbal abuse, and physical atrocities. It mandates special courts, stringent penalties, and victim compensation.

3. Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023:

- Mandates a 60-day investigation timeline for serious offenses, ensuring timely justice.
- Requires forensic team visits for heinous crimes, enhancing evidence collection.
- Allows online FIR registration, improving accessibility for victims.
- Permits trials in absentia for fugitive offenders, applicable to caste-based mob violence.

4. Bharatiya Nyaya Sanhita (BNS) 2023:

Recognizes caste-based murder as a distinct offense under Clause 103, with penalties up to life imprisonment or death for mob lynchings.

The scope of these laws is comprehensive, covering social, economic, and criminal aspects of caste discrimination. The BNSS's procedural reforms aim to streamline justice delivery, while the BNS strengthens punitive measures for caste-based crimes.

Analysis

The legal framework, bolstered by the BNSS and BNS, represents a significant step toward addressing caste-based discrimination. The BNSS's procedural innovations, such as mandatory videography and forensic investigations, reduce investigative biases, as seen in cases like Arumugam Servai. The BNS's recognition of caste-based murder as a distinct offense addresses rising mob lynchings, with NCRB reporting 1,200 such cases in 2022. However, enforcement gaps persist. The low conviction rate under the SC/ST Act (38% in 2022) reflects judicial delays and inadequate police training. Societal resistance, particularly in rural areas, undermines implementation, as seen in the 2018 Bhima Koregaon violence. The BNSS's reliance on technology risks excluding marginalized communities, with only 30% of rural India having reliable internet access (2023 TRAI data). The judiciary's proactive role, as in Sukanya Shantha, is commendable, but overburdened courts hinder progress. A balanced approach, combining legal reforms with societal awareness, is essential for lasting change.

Implications and Implementation

The BNSS's procedural reforms, such as online FIRs and forensic mandates, empower victims by simplifying access to justice and ensuring evidence integrity. However, implementation

faces challenges like inadequate digital infrastructure in rural areas, where 60% of SC/ST populations reside. Police biases, rooted in caste hierarchies, undermine trust, as evidenced by the 2016 Una case. The judiciary's role in expediting trials, as mandated by the BNSS, is critical, but the backlog of 50 million pending cases (2023 data) delays justice. Effective implementation requires increased funding for special courts, police training, and digital literacy programs to bridge the urban-rural divide.

Possible Misuse and Safeguards

The SC/ST Act's stringent provisions, while necessary, risk misuse for personal vendettas, as seen in the Subhash Kashinath case. False complaints burden the judiciary and undermine genuine cases. The BNSS's emphasis on evidence-based investigations, such as videography and forensics, serves as a safeguard by ensuring robust documentation. Courts must scrutinize complaints rigorously to balance victim protection with fairness. Legislative amendments post-Subhash Kashinath demonstrates the need for a nuanced approach to prevent misuse without diluting protections.

Judicial Interpretation

The judiciary has been pivotal in interpreting anti-discrimination laws. In Sukanya Shantha, the Supreme Court expanded Article 15's scope to include prison reforms, setting a precedent for systemic change. Arumugam Servai clarified the SC/ST Act's applicability to verbal abuse, reinforcing its scope. However, judicial delays and inconsistent application across states, as seen in Swati Bidhan Baruah, highlight the need for procedural reforms, which the BNSS addresses through investigation timelines. The judiciary's role in balancing protections and safeguards, as in Subhash Kashinath, remains critical.

Suggestions/Limitations

Suggestions:

1. Enhance police training to address caste biases and improve BNSS implementation.
2. Expand digital literacy programs to ensure rural access to online FIR systems.
3. Increase funding for special courts to reduce case pendency.
4. Launch nationwide awareness campaigns to shift societal attitudes toward caste equality.
5. Strengthen victim compensation mechanisms under the SC/ST Act.

Limitations:

The BNSS's reliance on technology excludes rural communities. Societal resistance and judicial backlog hinder progress. Potential misuse of laws risks diluting their credibility.

Conclusion

India's legal framework to combat caste-based discrimination, strengthened by the BNSS and BNS, reflects a commitment to equality and justice. Constitutional provisions, the SC/ST Act, and recent reforms provide robust tools, but enforcement gaps, societal resistance, and potential misuse pose challenges. Landmark cases like *Sukanya Shantha* and *Arumugam Servai* underscore the judiciary's role in upholding these laws, while the BNSS's procedural innovations enhance accessibility. Addressing implementation challenges through police training, digital infrastructure, and awareness campaigns is critical. By balancing victim protections with safeguards against misuse, India can fulfill its constitutional vision of equality, eradicating caste-based discrimination.

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