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SOCIO-LEGAL ASPECTS OF RACIAL DISCRIMINATION- A GLOBAL PERSPECTIVE

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Socio-Legal Aspects of Racial Discrimination- A Global Perspective

Soorya V.R

“The piano keys are black and white, but they sound like a million colors in your mind”- Maria Cristina Mena

Racial discrimination is an accumulation of individual acts of unfairness between members of different groups based on race. It can be found throughout the world. Racial discrimination is a belief that a particular race is superior or inferior, that an individual's social and moral traits are decided by one's born biological characteristics. The word 'discrimination' means a confronting separation or to distinguish unsuitable from others. Members of various races are treated differently. Historically, racism was an evil behind racial segregation such as in some parts in the US in the 19th and early 20th centuries and South Africa under apartheid. Inequality and discrimination lead to genocide, racism and other intolerance practices that wholly affect the peace of the entire world. Even in some developed countries the social setup didn't change. The Office of the High Commissioner for Human Rights is effortlessly trying to eradicate the social evil. The United Nations has been concerned with the same issue since it is broadening day by day. The principle of equality also requires the elimination of racial discrimination. With the aim of deteriorating this evil entirely, the framers of the Indian Constitution codified Article 15 which is a Fundamental Right. Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. Even today in some parts of India, the practice is still active. It is high time to wipe out the global evil from the human community. The world is under the shackles of the evil power of racial discrimination. Contemporary societal issues are evidence of this.

In 539 B.C., the armies of Cyrus the Great, the first king of ancient Persia, conquered the city of Babylon, but it was his subsequent actions that marked a major progress for Man. He freed the slaves, announced that all people had the right to decide on their religion and established racial equality. These and other decisions were registered on a baked clay cylinder in the Akkadian language with Cuneiform script. Known today as the Cyrus Cylinder (539 B.C), this ancient record has now been recognized as the world's first charter of human rights. It is translated into all six official languages of the United Nations and its provisions parallel the first four Articles of the Universal Declaration of Human Rights. It is understood that from the ancient age segregation based on race was prevalent. The world is on the verge of development but, social system and divisions are yet static and steady. There are various conventions to extirpate the atrocious acts which are against humanity.

The word 'genocide' was propounded by Raphael Lemkin in 1944. Genocide means 'Murder' of a whole race or group of people.'¹ On December 9, 1948, the UN approved the Convention on the Prevention and Punishment of the Crime of Genocide. The Convention was passed to ban actions similar to the Armenian Genocide by the Ottoman Empire during World War I and the Holocaust by Nazi Germany during World War II. Genocide is not a natural disaster. It is a massacre intentionally planned and carried through by individuals. Convention has provided that the States shall enact the necessary legislation to provide effective penalties for the crime.

UN supports the activities of The Committee on the Elimination of Racial Discrimination (CERD). The Committee on the Elimination of Racial Discrimination, in its General Recommendation concluded that the convention obliges states "to nullify any law or practice which has the effect of creating or prolonging the existence of racial discrimination."²The committee affirms that

¹ Oxford Advanced Learner's Dictionary.

² CERD Article 1, Paragraph 1.

any doctrine of superiority based on racial differentiation is false, condemnable, unjust and dangerous, and that there is no justification for racial discrimination as it affects the harmony of persons living nearby. The Committee authoritatively ruled that India's scheduled castes, which were based on descent, fell within the scope of this convention. In *Kama Dorjee v. Union of India*,³ Supreme Court observed that in order to enhance a sense of security and inclusion, the Union Government and the Ministry of Home Affairs should take proactive steps to guard the reparation of issues appurtenant to racial discrimination faced by citizens of the nation drawn from the northeast. In that regard, a regular exercise of monitoring and redressal should be carried out by the committee constituted for that purpose. Article 4(c) says that State parties shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.⁴The aggrieved party can approach the tribunal for justice.⁵In the United States, racial discrimination incidents of police brutality seem to target disproportionately individuals belonging to racial or ethnic minorities. The plight of George Floyd is a terrifying incident that jolted the entire world with fear.

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban in 2001, adopted the Durban Declaration and Programme of Action. It “requests the Commission on Human Rights to consider establishing a working group or other mechanism of the United Nations to study the problems of racial discrimination faced by people of African descent living in the African Diaspora and make proposals for the elimination of racial discrimination against people of African descent.”⁶The Secretary-General of the Conference and High Commissioner for Human Rights, Mary Robinson, stated

³ *Kama Dorjee v. Union of India*, A.I.R 2017 S.C. 113, (India).

⁴ CERD, Article 4(c).

⁵ CERD, Article 6.

⁶ Durban Programme of Action, Paragraph 7.

<https://www.ohchr.org/EN/Issues/Racism/WGAfricanDescent/Pages/WGEPADIndex.aspx> (Sep 19, 2020, 7:17 PM).

about this conference that “it can be more: it can shape and embody the spirit of the new century, based on the shared conviction that we are all members of one human family.”⁷ In *Brown v. Board of Education*,⁸ the Court prohibited racial segregation of public schools. In *Bailey v. Patterson*,⁹ the Court in this case prohibited racial severance of interstate and intrastate transportation facilities.

The Convention on the Suppression and Punishment of the Crime of Apartheid declares that apartheid is a crime against mankind and that “inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination” are international crimes.¹⁰ But still, in South- Africa apartheid is carried out without any hesitation.

India as a developing nation, caste system is still prevalent in some parts of India. One specific application of the general principle of equality is embodied in Article 15. The guarantee of equality under Article 15 is available to citizens only and not to every person as in Article 14. Racism in India is related to language, colour, caste, economics, politics, etc. but mostly related to the complexion of a person. The hatred for dark skin colour is a fact that can't be changed. The constant torture relating to complexion of one person is very deplorable and it can be seen mostly in between the educated groups of people. There are some incidents where students who couldn't tolerate the humiliation committed suicide. Even in educated group of people there is segregation based on race. Everyone should realize that all are equal and all are the same in the eyes of God.

⁷<https://www.un.org/WCAR/e-kit/background1.htm> (Sep 19, 2020, 7:20 PM).

⁸*Brown v. Board of Education* 347 U.S. 483 (1954).

⁹*Bailey v. Patterson*, 369 U.S. 31 (1962).

¹⁰Convention on the Suppression and Punishment of the Crime of Apartheid, art 1.

<https://legal.un.org/avl/ha/cspca/cspca.html#:~:text=The%20Convention%20on%20the%20Suppression,lasted%20from%201948%20to%201990.> (19 Sep 19, 2020, 9 PM).

In order to liberate humanity from such an aversion, international co-operation is required. **Article IV** of Convention on the Prevention and Punishment of the Crime of Genocide, 1948 codifies, persons committing genocide or any of the other acts like conspiracy to commit genocide; direct and public incitement to commit genocide; attempt to commit genocide; complicity in genocide shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals. **Article V** of the **Convention** provides effective penalties for persons guilty of genocide. **Article VI specifies** persons charged with genocide shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have recognized its jurisdiction.

Awareness should be given to the people that race and caste doesn't matter, but what matters is the importance of human values and human dignity. Victims of racial discrimination should be compensated. The society should take care of the issue mindfully and should react towards the atrocities. No life should be lost because of barbaric acts or impressions. The world's thought's regarding race should change. Feeling of harmony is to be felt in the minds of people unless and otherwise many 'George Floyds' will be the result. A codified law should be helpful to eradicate the offense from society. The intensity of the punishments should be increased and be implemented. Liberty and justice for all should be our national consonant and we should work for it till gaining it. Every individual should be aware of his/her legal rights, duties, obligations, etc. Moral values are degrading day by day. The three organs of the Government namely Legislature, Executive, Judiciary should take steps regarding the unequal aspects in the society, then only one day everyone will hold hands without any regressions. The fourth estate is a brick for the organs of the Government.

It is very apropos to remember the words of Martin Luther King, Jr:

“Let us all hope that the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted from our fear drenched communities, and in some not-too-distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty.”



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