



# Racism in India: A study on socio-legal aspects of the society

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## Abstract

India being such a complex and diverse nation, is bound to have some differences between the people, be it the facial features, the skin color, the language, the caste or the religion. Racism, the belief that humans may be divided into separate and exclusive biological entities termed as "races". The belief that there is a causal link between inherited physical traits and traits of personality, intellect, morality, and other cultural and behavioral features and that there are some races innately superior to others. The term is also applied to political, economic, or legal institutions as well as systems that engage in or perpetuate discrimination on the basis of race or otherwise reinforce racial inequalities in wealth and income, education, health care, civil rights etc. In India, racism is practiced in some quarters and by some Indians. This is evident in the manner in which a person is treated, the problems faced in getting accommodation in the country, and in the general treatment of viewing with suspicion and so on. The prejudice and stereotypes are all too apparent. When we process this blatantly discriminatory attitude, we can find that this racism is linked to the prevalent caste system which is very hierarchical. Black people, Dalits and untouchables somehow seem to be linked to this caste system which is discriminatory and excludes people. Some of this has to do with colonial discourses which have seeped into India, for instance, the 19th century racist European association of Africa with cannibalism. However, before the British brought us stories of 'African' cannibalism, we had our own stories of cannibalism associated, from classical texts down to some current Chitra comics, with dark-skinned, non-'Aryan'-looking creatures. Similarly, the way we have often treated aboriginal women in India partly because their dress codes and social mores differ from mainstream Hindustani i.e. Hindu, as well as Muslim ones is simply shocking. Constitution of India has provided various provisions regarding the safeguards of these practices in the society eg. Article 14 where it provides that no person shall be deprived of equality in the country, Article 17 which abolished untouchability etc. Similarly various other legislations such as "The Caste Disabilities Removal Act, 1850", "The Prevention Of Atrocities Act (Scheduled Caste And Scheduled Tribes), 1989" etc. are also been incorporated in the laws of the country in order to deprive the practices that are been followed by the people of the country in the name of race or discrimination. Derogatory comments, racial slurs, racial insults, racist killings etc. should cease to exist. We should embrace and appreciate people for who they are and not on the basis of race, culture or being different.

Key words: **Race, Prejudice, Stereotype, Cannibalism, Untouchables.**

## Objective

The main objective of the study is to study the relations of the people living in the society with that of race and various prejudices in India and to sensitize people as well as to create awareness that racism is practiced. And therefore its existence cannot be ignored.

## Methods

As a secondary tool for study, books of eminent authors, articles in research journals, newspaper reports have been scanned and analyzed. Several online databases and internet search engines have been used to keep the study updated.

## Introduction

*“It is not our differences that divide us. It is our inability to recognize, accept, and celebrate those differences.” – Audre Lorde.<sup>1</sup>*

Human rights are the most basic rights for a life worth living. It ensures that human rights of each individual are protected, though it is us as humans who give these rights to each other. It is associated with a common understanding that there are certain duties that each one of us is burdened with and they exist so that human rights of other individuals in society are not violated. It is thus, the stereotypical and orthodox beliefs that pose a huge challenge in the preservation of human rights. And one such idea is racism or discrimination on the basis of differences in caste, language, region, color of skin and culture. It is one of the most common human rights violations that we come across around us in our day to day life.

Racism is a form of prejudice or discrimination which states, one race is superior to the other on the basis of various attributes like caste, physical build-up, ethnicity and so on. It is prevalent in different parts of the world including India where it has traditionally been practiced since a very long time. As a result of which, one of the essentials of human existence i.e. right to dignity has suffered erosion over the years, leading to the violation of individual rights and negative impacts on the society.

India is a country which is home to different cultures, languages and religions, people belonging to different castes, creed and races lived here. According to the Constitution of India, the country is regarded as a secular country. However, despite various laws, the country practices hidden race and ethnic based discrimination which is visible to the society in a blind way. It is very surprising that even in this century when there are a lot of educational resources in society; the places are still witnessing the ills of racism. Racism is a discriminatory social feature that affects the society in many forms and deprives it to achieve mutual well-being and growth for all. It is an ideology that either explicitly or implicitly claims regarding one species to be naturally superior to another. It basically occurs when someone is subjected to poorer treatment, exclusion, disadvantage, harassment, bullying, humiliation, or degrading behavior as a result of their race or ethnicity.

<sup>1</sup> <https://legalupanishad.com/laws-against-racism-in-india/> ( Last accessed on 11<sup>th</sup> November,2023).

## Racism: The concept

Race can be defined as the attributes, traits and features which differentiates one social group from the other existing groups. In simple words, races are the physical qualities that one inherits by birth and serves as a way of self-identification from the rest. It is a theory that one race is superior to the other based on various reasons such as physical attributes, caste, creed, ethnicity or origin. "It is believed that the term race includes people having similar physical and social qualities and their grouping on such a basis into categories."<sup>2</sup> Racism has always been an instrument of discrimination and while discrimination has always been a tool of exploitation. It manifests itself as a cultural phenomenon, susceptible to cultural solutions such as multicultural education and the promotion of ethnic identities.

The terms casteism and racism are not very different. The word caste, casta, race, jaati what we call "jaatibhed" is what the West now calls racism and earlier as casteism. However, we still call it casteism, and pretend it has nothing to do with racism. The only difference is that the races involved in the Americas were white folks from Western Europe, and native American Indians, and blacks. But, here in India it was more complex and involved different races than "black" and "white". That was partly because obviously we didn't have the same races. In addition, racism had an added layer due to the varna system of Hinduism.

The United Nations Convention on Elimination of All Forms of Racial Discrimination defines racial discrimination in the following words:

"...any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."<sup>3</sup>

The United Nations General Assembly reiterates that all human beings are born free and equal in dignity and rights and have the potential to contribute constructively to the development and well-being of their societies. In its most recent resolution, the General Assembly emphasised that any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous and must be rejected, along with the theories that attempt to determine the existence of separate human races.<sup>4</sup> This imaginary division of society, fuelled by racism is harmful to society as it undermines social cohesion. Racism not only fuels the imaginary division but also continues the group hierarchy.

## Is India a racist country?

India has always been a mystery, a country which is so huge that practices from Kashmir to Kanyakumari are as different from each other as Scotland is from Greece or Russia. Each state is like a different country with diverse languages, cuisines, clothes, customs, and also that of climate. Racism, prejudice and xenophobia have been rampant in India since ages. It's a strange mixture of prejudice, ignorance and centuries old discriminatory practices that communities kept to themselves.

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<sup>2</sup> Barnshaw John, Richard T.Schaefer, " Encyclopaedia of race, ethnicity, and society", 1091-3(1, Sage publications,2008).

<sup>3</sup> <https://journals.sagepub.com/doi/full/10.1177/0896920521992093#body-ref-bibr125-0896920521992093> (Last accessed on 11<sup>th</sup> November, 2023).

<sup>4</sup> <https://www.un.org/en/observances/end-racism-day> (Last accessed on 13<sup>th</sup> November, 2023).

People of different races in India experience racism in various forms but there has always been a lack of academic discourse on this issue. In the past decades, many scholars admit that racism and racial ideology in India were not recognized by the government or academic fraternity, although people of India experience racism in their everyday lives.

Racial discrimination in India can be traced back to the Vedic period where the division started, the Hindu society was divided into four caste Brahmins, Kshatriyas, Vaishayas and the Shudras. This was during the rig veda time that race based discrimination starts in India. The Brahmin were considered as the Upper class Hindus then we have Kshatriyas, followed by Vaishayas which were tagged as the lower caste and untouchable was the name granted to that community, there were considered as untouchables and impure, there were separate temples, schools for them, they couldn't eat or sit with the upper caste Hindus and all the lower jobs were done by them for example artist, carpentry, gardening etc. We also had the Aryans and Non-Aryans , the Aryans were fair in color and hold a authority whereas the Non-Aryan were black in color and were treated as slaves . During the Mughal ruler, the discrimination was not that much as the Mughal and Arabs were much fairer than Indians and they wanted to invade and rule, in fact many Hindu families joined the Mughal ruler as they wanted to get rid of the Hindu caste system. Followed by this we have the British people who ruled for 200 years and amplified the racial discrimination among the people, the British were way fair than the Indians and dominated them because of their skin tone and also because they considered themselves superior of all, they would only keep the Upper caste Brahmin and the fair people in their service.

India and its history and the psychology of its masses have remained unchanged for as long as one can remember. However, during the anti-colonial movement, leaders of the freedom movement wisely secularized the struggle against colonial forces. Indians had no problem when two outsiders, George Yule (1888) and William Wedderburn (1889) became presidents of the Indian National Congress (INC). Acceptance has been always a norm in Indian society. There is an interesting observation in the Census report of 1911 that Indians had no problems stating their religion. However, what mattered most was social status. Historically, India has welcomed people belonging to different races and creeds. The INC participated in the 1927 anti-apartheid conference in Brussels.

However, India has witnessed clashes between Dalits and upper castes and some violent incidents against students from the Northeast. The adivasis or the original inhabitants referred officially as the 'scheduled tribes' of India, are also subjected to relentless racialisation processes and ideologies that draw upon and deploy colonial discourses and practices of the dispossession of land and other natural resources and the list goes on.

### **Racial abuse of Indians in India**

Racism is the discrimination of a particular race which divides people based on certain characteristics and abilities. India, due to its large regional diversity, had a multitude of local clashes where communities are lined up against each other either ideologically or for resources.

The seven states of India, known as the 'Seven Sisters' are connected to mainland India with a sliver of land that spans over the northern part of Bangladesh. The distance from the mainland has caused a psychological disconnect. They face racial discrimination in the rest of the country for their physical appearance or simply due to Mongoloid looks.

In 2017, April 25th, Mizoram chief minister Lal Thanhalwa stated that he has faced racial abuse a lot of times in the country and it is the worst part when an Indian does not recognize his own countrymen. He further stated, this type of ignorance is faced not just by the common people, but even by the politicians and national leaders belonging to North East India.<sup>5</sup>

During the Pandemic of COVID-19, tension rises in India over the spread of corona virus. People originally from northeastern states have been facing racially motivated attacks in cities around the country. They are being blamed for bringing COVID-19 to India due to their looks. Facial features of people from northeastern India can look similar to a Han Chinese appearance. And many victims of attacks say looking Chinese has caused them to be physically attacked, and abused on social media. Bibinaz Thokchom, a professor at Ambedkar University, said that the crisis caused due to corona virus in India has exposed vulnerable sections of society to discrimination and assault.<sup>6</sup>

A study commissioned by the Indian Council of Social Science Research (ICSSR) on racial discrimination and hate crimes against people from the northeast States found that “northeast India fits seamlessly Indians' imagination of a Chinese person”. A series of attacks were reported in various parts of the country where people from the region were harassed, abused, and traumatized and were disparagingly called ‘corona virus’. The study revealed that the hate crime and racial discrimination against people from the northeast is deep-rooted even in the cosmopolitan cities.

The Bezbaruah Committee in 2014 recommended amendments to the IPC by creating new offences under Section 153C and 509A to deal with comments, gestures and acts intended to insult a member of a particular racial group. “It also suggested making such offences as ‘gender-neutral’, ‘cognizable’ and ‘non-bailable’ with imprisonment extendable up to three years or five years with fine, respectively. The Supreme Court of India in Karma Dorji & Others vs Union of India & Others (2014) made several recommendations for the prevention as well as monitoring of racial hatred and violence. According to the study, not much seems to have been done in this regard.<sup>7</sup>

Dalits in India are the most exposed to inhumane and abusive treatment. Dalits are denied access to the basic privileges like drinking water, entering temples, etc. They live in a world of oppression, fear and are always dominated upon by others. The upper caste Hindus condemn the Dalits and look upon them as untouchables, who deserve nothing but are a shame to humanity. Inhumanity and abuse against the Dalits and the SCs STs go unnoticed because they are not considered important enough by the public and the law. The government chooses to remain silent rather, giving the other castes an upper hand over them which have been continued over the years.

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<sup>5</sup> <https://www.synergiafoundation.org/insights/analyses-assessments/racial-abuse-indians-india> (Last accessed on 13<sup>th</sup> November, 2023).

<sup>6</sup> <https://www.dw.com/en/coronavirus-chinese-looking-indians-targeted-in-racist-attacks/a-52956212> (Last accessed on 14<sup>th</sup> November, 2023).

<sup>7</sup> <https://www.thehindu.com/news/national/other-states/northeast-citizens-faced-racial-discrimination-amid-covid-19-outbreak-says-govt-study/article34303162.ece> (Last accessed on 13<sup>th</sup> November, 2023).

A report released by India's National Crime Records Bureau stating that on an average everyday 2 Dalits are murdered, 3 Dalit women are raped and 2 Dalit are assaulted. As per NCRB, the crimes against Dalit rose by 25% from 16.3 crimes per 10,000 Dalits in 2006 to 20.3 crimes in 2016. Thus, this shows that justice has never been in the favor of the Dalits.<sup>8</sup>

### **The need for criminalization of racism and racial crimes**

We often fail to address the most basic problems like racism during the times when we talk about development, economic growth, digitalization and modernization. The social problems like racism, discrimination and inequality still remain a huge challenge and most unattended ones.

Racial violence has its parallels in the form of other violence's in India. The prejudice can be seen running across multiple channels from caste, region, religion to gender. Sporadic violence against "vulnerable" groups which includes black people, white women, Indian women, minorities and the lower castes is thus a commonplace.

Various laws have been passed in India from time to time by keeping in mind the brutality of the caste system and various prejudices exists.

The Caste Disabilities Removal Act, 1850 which was passed in British India under the rule of East India Company in 1850 gave people the freedom to convert from one religion to another with all the equal rights. This law gave a clear view that a person will not be denied his right of inheritance to the parental property, even after he undergoes a conversion of religion.

The Prevention of Atrocities Act (Scheduled Caste and Scheduled Tribes), 1989 was passed on September 9th, 1989. This law protects the SCs and the STs from the discrimination and exploitation of them. It provides protection to the weaker sections from atrocities, abuse, brutality and ruthless violence.

The Anti-Discrimination and Equality Bill, 2016 signifies that there will be no discrimination against the people belonging to the weaker and the poorer sections of the society on the grounds of caste, creed, religion, sex, color, place of originality etc. It also provides measures for redressal and provisions for compensation and exemplary awards.

The Constitution of India has also provided various provisions in order to safeguard the atrocities faced by the people in the name of race, caste etc.

Article 14 of the Constitution of India enjoined the State not to deny to any person equality before the law or the equal protection of the laws, Article 15 of the Constitution, enabled special provisions to be made for women and children and allowed for protective discrimination to be extended to socially and educationally backward classes of citizens or Scheduled Castes or Scheduled Tribes. Article 16 provided for equal opportunity in terms of employment and appointment to any office under the State, and permitted the reservation of posts in favour of the backward classes. Article 17 abolished "untouchability" and its practice in any form was forbidden and it further provided that the enforcement of any disability arising out of untouchability was an offence punishable by law. Article 19 which protects rights regarding the freedom of speech, allowing a voice to be raised against the atrocities and the need for protection etc, Article 21 which

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<sup>8</sup> [https://blog.ipleaders.in/unfolding-reality-racism-india/#Abuse\\_And\\_Violence\\_Against\\_The\\_Schedule\\_Caste\\_And\\_Scheduled\\_Tribes](https://blog.ipleaders.in/unfolding-reality-racism-india/#Abuse_And_Violence_Against_The_Schedule_Caste_And_Scheduled_Tribes) (Last accessed on 13<sup>th</sup> November, 2023).

gives protection to life and personal liberty, as well as the provisions of reservation made for the scheduled castes and tribes for example, Articles 243D,243T,330 etc.

India had also ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1968 and published in Gazette of India notification September 2010. The Ministry of Home Affairs made the convention applicable at the domestic level under the Protection of Human Rights Act (PHRA) of 1993.

Although there are laws that prohibit discrimination in India, it doesn't seem that these laws were able to cure or solve the problem or reduce the crimes, and India still fails to define Racism and there is not any particular law that criminalises Racism. There are also various instances where the laws are been misinterpreted and have taken in another direction. For example, the ambit of section 153A (promoting enmity between different groups on the ground of religion of religion, race etc) IPC is so wide that it is always misinterpreted by the police officials and the crimes of Racism are always reported in Section 354 (assault or criminal force to woman with intent to outrage her modesty) and Section of 509 (insult to the modesty of women) if the victim is a woman but there are no provisions when the victim is a male.

The laws have various loop-holes and no permanent solution has been provided by the state. The change needs to be brought from ground level and the trickle-up method needs to be initiated by the state. Justice needs to be provided to people at any cost and there cannot be any other crime more grievous than violating one's fundamental rights.<sup>9</sup>

## Conclusion

After analysing Indian society, we find that racism cannot be said to be subjective, it is in every part of this country and people of every region see another region from low eyes or in different ways which is not usual e.g., Biharis are mocked in states like Maharashtra and Delhi. North-Eastern people have always been a target for their appearance often called chinkis. The North Indians are always subjected to as poor and uneducated people in Southern parts, and South Indians are called Madrasis in the Northern parts. All the Nepalis are ridiculed and called Bahadurs and so on. People from certain states are more subject to regionalism in the rest of India, even now and then we listen to various news about crimes against these in such states.

All these details and pragmatic thoughts can help us come to this firm belief that even in the modern era when development is at its pinnacle, certain orthodox and conventional thoughts still exist as an evil. These thoughts and beliefs are deep-rooted in our very society and they keep haunting a few sections of society. Racism is a menace in society which is not physical but psychological and is embedded in each individual's life..

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<sup>9</sup> <https://www.juscorpus.com/status-of-anti-racial-discriminatory-laws-in-india/>(Last accessed on 15<sup>th</sup> November,2023).

## Suggestions

There was a submission by the National Campaign Against Torture recommending insertion of the provisions to criminalize racism under the Indian Penal Code:

Inclusion of Section 52B that defines Racism and Racial Crimes, inclusion of Section 153C that penalise Imputations, assertions prejudicial to human dignity, the inclusion of Section 509 penalises those people who use the word, gesture or act intended to insult a member of a particular racial group or the like.

In 2015, Kiran Rijju assured that there would be a specific law in place against race crimes and this would make the punishment more stringent. The inclusion and amendment is necessary to make race crimes more specific to deal with such cases by giving more powers to police and the prosecution. But we haven't seen a change in law till today. 14

Apart from adding laws for penalising such heinous acts, we should also come in the front and oppose Racism. For example, we should do the following things,

- By giving information to the people of our community about others and make them aware that this little Racist behaviour affects the victims
- We should promote the rights of minority groups by various means
- We should include education and policies in schools and Colleges, etc based on anti-racism.

Moreover, there is a need for stricter implementations of the laws and safeguards given to the oppressed communities.

- Strict legal prohibitions on racist behaviour is required. Suggestions of the National Campaign Against Torture (NCAT) made to Committee for Reforms in Criminal Laws of the Ministry of Home Affairs for IPC reforms be undertaken.
- Adequate judicial reforms should be made as courts are plagued by legal delays, high legal fees and stay beyond the reach of the oppressed population.
- An effort should be made to give the racially disadvantaged sections a voice by increasing affirmative action, policies and programs.
- There is a need for social movement and reforms to educate the society about the ills of racism since racism is a social concept.
- UNESCO's actions against racism through education, the sciences, culture, and communication offer an example of a way forward wherein it promotes the role of education in providing space to understand processes that enhance racism, to learn from the past, and to stand up for human rights as well.