THE HUMAN RIGHTS COMMUNIQUÉ

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SANTHARA: RIGHT TO PROFESS RELIGION OR AN OFFENCE?

Since time immemorial, humans have tried to find ways through which they can control the birth and death cycle. The thought of a beautiful death, lying peacefully and a painless transition to the other world is something which can be achieved but it is granted only to a selected few. Our ancient scriptures mention a concept termed as *'Ichcha Mrityu'* (the power to decide when and how to die), which is a rare gift and is granted to only the greatest of souls who earned it as the ultimate reward for their righteous karma and dharma.

Similarly, in Jainism, the concept of Santhara, or Sallekhana is a centuries old ritual. Mahavira, the 24th Tirthankar, believed that it was the ultimate test of spirituality, will power and a pathway to attain *moksha*. It's a yogic technique (Tapas) as it requires consistency of mind for a long period of time. It is the ultimate way through which the body and mind can be purified. According to the ritual, a person voluntarily gives up food and water and awaits a slow death. The belief is that the person who undertakes Santhara is either extremely ill or about to die.

THE CONTROVERSY AND SUBSEQUENT LIS OVER IT

A writ petition was filed under Article 226 of the Constitution of India, in public interest by Mr. Nikhil Soni, a practicing lawyer at the Jaipur bench of the Rajasthan High Court. He prayed to the court to declare the practice of Santhara or Sallekhana as illegal and punishable under the law of the land. After presenting the case in the Rajasthan High Court, it was compared with suicide. On August 10th 2015, the High Court declared the practice as illegal, terming it as a criminal offence which is punishable under Section 309 (attempt to suicide) and Section 306 (abetment to suicide) of the Indian Penal Code, 1860,

For a common man, it is difficult to argue that Santhara is different from suicide or euthanasia because all of these are different ways of achieving the same goal. In the end, the objective of all these concepts is death, the destruction of life and mortal body. But the Jain Community believe that the motivation for performing both the acts is very different.

The Jains challenged the ban in the Supreme Court saying it can't be compared with suicide or euthanasia. The Supreme Court of India upheld the judgement of the Rajasthan High Court. The court added it is not violative of Article 25, 26 (b) and 29 of Part III of the Constitution. "No religious practice, essential or non-essential or voluntary can permit taking one's own life...the right guaranteed for freedom of conscience and the right to freely profess, practice and propagate cannot include the right to take one's life on the ground that Right to Life includes right to end the life," the judgment states. The court also added that there is not enough evidence to prove that Santhara is an essential Jain practice without adhering to which, practicing Jainism would be difficult.

The judgement did not receive a lot of positive views from the masses. Unfortunately, it has narrowed the scope of religious freedom in the Constitution while ignoring the roots of an individual to practice and propagate a religion. The spirit of Secularism of the country is affected because of this judgement and has invoked a curious thought that Article 25 protects only those exercises that are considered "essential religious practices." The analysis of the judgement does not take into account the intrinsic belief which a person has in his or her religion. It adopts and implements a blanket law by classifying it as illegal only because the Court thinks it is not an essential religious practice, hence its criminalisation would not breach a Jain's right to religious freedom.

ARTICLE 25 OF THE CONSTITUTION AND SECULARISM

The preamble of The Constitution, declares India as a Secular country, and has no State religion. However it is distinguished from the American concept which creates a wall between the church and the state (Read, *Narayanan Namboodripad* v. *State of Madras* and also from the French ideal of religion in the private sphere. India's brand of secularism envisages that the State can intervene in matters of religion, where general social welfare or substantial civil liberties are at stake.

Plainly read, Article 25 guarantees to all persons an equal entitlement to freedom of conscience and the right to profess, practice and propagate religion. This right is subjected only to public order, morality, and health. Although it should be kept in mind that in the Constituent Assembly debates, it was demonstrated that these community exceptions were included purely to ensure that the guarantee of religious freedom did not come in the way of the state's ability to correct age-old social inequities, they did not seek to allow or encourage state organs to exercise any substantial latitude in determining which religious practices deserved constitutional protection. However, in practice, Article 25 has been interpreted in a myopic manner that has restricted the scope of religious liberty.

In *SR Bommai* v. *Union of India*, the Supreme Court said that "the freedom and tolerance of religion is only to the extent of permitting pursuit of spiritual life which is different from the secular life. The latter falls in the exclusive domain of the affairs of the State." Also, in *Ratilal Panachand Gandhi* v. *State of Bombay,* it remarked Freedom of Conscience connotes a person's right to entertain beliefs and doctrines concerning matters which are regarded by him to be conducive to his spiritual well being.

A petition filed by the Delhi-based Vidhi Centre for Legal Policy points out, that the Supreme Court in *Gian Kaur* v. *The State of Punjab* explicitly recognises that a person's right to life also partakes within its ambit the right to live with human dignity. "…This may include the right of a dying man to also die with dignity when his life is ebbing out," the court held, in *Gian Kaur*. "But the "Right to Die" with dignity at the end of life is not to be confused or equated with the "Right to Die" an unnatural death curtailing the natural span of life."

In this case, the Court outlined two aspects, one that the guarantee of Right to Life does not include within its ambit a promise of Right to Die, and therefore, that the practice of Santhara is not protected by Article 21 and second, that Santhara, as a religious practice, is not an essential part of Jainism, and is hence not protected by Article 25. (Read, *Seshammal* v. *State of Tamil Nadu*). Representatives for the Jain community henceforth argued that Santhara/Sallekhana is an ancient religious practice aimed at self-purification. The vow of Santhara/Sallekhana is taken when all purposes of life have been served, or when the body is unable to serve any purpose of life. It is not the giving up of life, but taking death in their stride.

If properly interpreted, it will be seen that the Constitution does not leave the classification of the beliefs and practices of a religion as essential or not to the specific discretion of the courts. By directing the State Government to move towards abolishing the practice of Santhara, and by holding that the practice tantamounts to an attempt to commit suicide, punishable under Section 309 of the IPC, the High Court in *Nikhil Soni* has created a dangerous precedent, which requires immediate re-examination and may create confusion in the fundamental guarantee of religious freedom in our constitutional jurisprudence.

RELIGION AS A MATTER OF IDENTITY

Secularism is a facet of basic structure of the Constitution. Nevertheless, the legal provisions imbibed within the Constitution and political scenarios within the country show a mark of stark difference. The entire debate over Santhara a religious practice of Jainism, has been grossly politicized with divergent opinions coming from different segment of masses. However, true secularism can be practiced only when individual practices of religions, which form a part of basic tenets of such religion, are not to be disturbed with. Religion has been made a matter of politics over years. It is only this time that Jainism finds itself in the epicenter of the same.

Fraternity is another objective which our Constitution seeks to achieve. Religion based identity politics, be it Hindu, Muslim or any other religion will act as a blockade to fraternity.

CONCLUSION

From the Jain scriptures, it is evident that Santhara forms a part of basic tenets of religions professed over centuries by the Jain monks. Hence, legally and constitutionally, the same cannot be prohibited under Article 25 of the Constitution as is evident from the injunction granted over the ban by the Hon'ble Supreme Court.

However, there are the moral questions of life and pain on the basis of which, the ban was sought. But as it is said, "morality and law go hand in hand but in conflict, law must prevail." Jain practices have been the center of controversy for quite sometime. The meat ban in different states during the Jain festival of Paryushan raised yet another controversy.

On a legal note and on a broader horizon, it is not a battle between two religions as has been portrayed by different segments of media including social media, rather a conflict between two fundamental rights; a conflict between right to life and right to profess one's religion in first issue and right to practice one's profession and right to profess religion in another. This is a question of higher constitutional law and must be resolved by the Supreme Court on this broad parameter as well.

Nevertheless, given the Indian social structure and polity it is however, necessary that such religious practices must not be banned and minority be given due right to practice their religion with autonomy and minority rights shall not be restricted to Article 29 and 30 only.

To conclude, one must appreciate that in the context of religion, the position of a minority religion and a Scheduled Tribe is similar; rather it goes one step ahead of the protection given to Scheduled Tribes with respect to autonomy they have to practice and profess their customs. One cannot abridge the customs of Scheduled Tribes. Similarly, religious tenets of a minority should not be tampered with.

TRIVIA

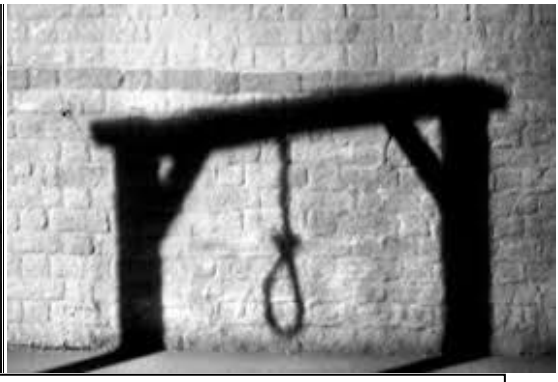
- Crucifixion is still an official form of death penalty in Sudan.
- Atheism is punished with the death penalty in 13 countries
- In 1863, Venezuela became the first modern country to abolish the death penalty for all crimes
- Russia has over 8400 nuclear weapons, more than any other country
- On September 25, 1789, The Bill of Rights of U.S.A. was created.

DAYS OF MONTH

- International Literacy Day – 8 September
- International Day of Democracy – 15 September
- International Day of Peace – 21 September
- International Day for Total Elimination of Nuclear Weapons – 26 September

DID YOU KNOW?

- Company executives in China can get sentenced to death for committing fraud.
- As per section 163, Air Force Act, 1950 the execution of death sentence can also be done by shooting to death.



DEATH PENALTY: DUALISM, AMBIVALENCE & HOPE

INTRODUCTION

The past decades have seen the death penalty as a subject matter of intense focus and contention in the Supreme Court as well as the Law Commission Reports. The Apex Court has on various occasions wrestled with the disparate application of law on death penalty and Constitutional implications of the same. The approach of authorities regarding death penalty has undergone a plethora of changes and the article examines this change through a systematic study of developments. Recently, the Law Commission in its 262th Report recommended phasing out the death penalty, which is in stark contrast to previous recommendations.

PRE-BACHAN SINGH ERA

The Law Commission in its 35th Report had recommended the retention of death penalty as it was of the opinion that the law and order situation in India would make abolition of death penalty an obvious risk. The commission observed, in is 35th Report: "Having regard, however, to the conditions in India, to the variety of social upbringing of its inhabitants, to the disparity in the level of morality and education in the country, to the vastness of its area, to the diversity of its population and to the paramount need for maintaining law and order in the country at the present juncture, India cannot risk the experiment of abolition of capital punishment."

The Indian Penal Code contained a section, Section 303 which prescribed punishment for murder committed by a life convict. Section 303 of IPC provided for sentence of death as a mandatory punishment. The existence of this section further supported capital punishment as an essential component of criminal justice system in this era.

BACHAN SINGH ERA

Bachan Singh v. *State of Punjab* laid down the "Rarest of Rare" doctrine and held that capital punishment should only be awarded when the alternative option is unquestionably foreclosed. The Court held that aggravating and mitigating circumstances relating to the crime and criminal must weigh in the mind of the Court while sentencing in capital offences. The Supreme Court also explained that the expression 'special reasons' in the context of this provision, obviously means 'exceptional reasons' founded on the exceptionally grave circumstances of the particular case relating to the crime as well as the criminal.

POST BACHAN ERA

The recent debate has favoured the abolition of capital punishment. In the 2010 case of Shankar Kisanrao Khade v. State of Maharashtra, SC laid down tests to award death penalty and emphasized on the need for absence of uncertainty while awarding death penalty. The Supreme Court held that Death penalty and its execution should not become a matter of uncertainty nor should converting a death sentence into imprisonment for life become a matter of chance.

Hence, Law Commission in 262nd Report held death penalty to be eminently fallible, yet irrevocably final. It is suggested that the same must be abolished save for terrorist activities. The Indian government must heed to the findings of the Law Commission Report on the unfairness and poisoned chalice of the death penalty in India and immediately abolish it for all crimes.

HUMAN RIGHTS NEWS...

NEED FOR A LARGER DEBATE ON HUMAN RIGHTS V. ANIMAL RIGHTS, SAYS NHRC

Taking note of the recent death of a seven-year-old boy, who was attacked by a pack of street dogs, the National Human Rights Commission (NHRC) has called for a larger debate on the issue of human rights versus animal rights. The Commission also issued notices to the Delhi Government and the Union Health Ministry, seeking their opinion on the matter.

The NHRC, took a suo moto cognizance of media reports of the incident, and called for a wider debate, pitting human rights against animal rights "in a situation where human lives are at risk due to attack by animals."

"Animal rights and human rights go hand in hand. A lack of respect for other species can translate into insensitivity and cruelty towards fellow humans too. For the sake of human rights, the NHRC must recognise that abuse of any living being, including animals, is unacceptable and endangers everyone" said Poorva Joshipura, CEO of PETA India.

INDIAN GOVERNMENT HAS INSTITUTIONALIZED VIOLENCE IN KASHMIR, CLAIMS NEW HUMAN RIGHTS REPORT

Both the Border Security Force and the Central Bureau of Investigation are charged with covering up crimes committed by security forces in Sopore in 1993. " Structures of Violence: The Indian State in Jammu and Kashmir", has been compiled by the International Peoples' Tribunal on Human Rights and Justice in Indian-Administered Kashmir and the Association of Parents of Disappeared Persons over a period of two years. It defines J&K as an "occupied territory", which is also "internationally recognised as a disputed territory between India and Pakistan". It claims that the Indian state, in such a terrain, is a violent entity. The report alleges that all state institutions, from the army to the courts, are embedded in a larger structure of violence.

THREAT TO INDIA'S VIBRANT CIVIL SOCIETY

In granting anticipatory bail to Teesta Setelvad and Javed Anand on August 11, the Bombay High Court noted: "A dissenting view cannot be said to be against the sovereignty of the nation." Like several other recent rulings by the judiciary, the High Court also reminded the state of its duty to protect the citizen's right to criticize and disagree.

Successive Indian governments have told the world proudly of the country's vibrant civil society. But in recent years, there has been an alarming change back home. Several NGOs have been denied full access to foreign financial support, while many are facing accusations of financial impropriety or violating regulatory laws, and others report increasing scrutiny.

No one can reasonably oppose proper audits and accountability for NGOs. But any such investigation needs to be free from political motivations and should be conducted in a fair and transparent manner.

HUMAN RIGHTS ACTIVIST HONOURED

Four courageous and tireless advocates for Human Rights have been awarded the prestigious Alison Des Forges Award for Extraordinary Activism in 2015.

The winners, leading voices for justice in their countries, are Nisha Ayub, a leading human rights defender on transgender rights in Malaysia; Yara Bader, a journalist and human rights activist who works to expose the detention and torture of journalists in war-torn Syria; Khadija Ismayilova, a prominent investigative journalist who has dedicated her life to fight for human rights in the former Soviet republic of Azerbaijan; and Nicholas Opiyo, a leading human rights lawyer and founder of the human rights organization Chapter Four Uganda, who has worked tirelessly to defend civil liberties in Uganda. Ismayilova is currently behind bars and on trial on bogus tax and other charges brought in retribution for her reporting.

"The Alison Des Forges Award honors people who work courageously and selflessly to defend human rights, often in dangerous situations and at great personal sacrifice," said Kenneth Roth, executive director of Human Rights Watch. "The honorees have dedicated their lives to defending the world's most oppressed and vulnerable people."

AROUND THE GLOBE....

NEW EUROPEAN COMMISSION PROPOSALS STILL FAR FROM SOLVING REFUGEE CRISIS

New proposals were announced by the European Commission to address the global refugee crisis which are expected to make steps towards protecting refugees. Responding to the announcement, Acting Director for Amnesty International's European Institutions Office, Iverna McGowan stated that while the proposals published by the commission today will help to address the refugee crisis, they certainly will not solve it - neither in the short-term nor the long-term. He further pointed out that the EU member states must work with the commission to implement a much more ambitious overhaul of the EU's asylum system based on significantly enhanced assistance to front-line member states to receive and process asylum-seekers and mutual recognition of refugee status within the Union.

NEW GUIDE TO CURB EXCESSIVE USE OF FORCE BY POLICE

Amnesty International has addressed the serious deficiency in law enforcement by publishing comprehensive new guidelines for authorities to ensure that police give utmost priority to the respect and protection of life and physical integrity. In many countries police deploy tear gas, rubber bullets and other weapons in

arbitrary, abusive or excessive use of force, causing serious casualties, including killing and maiming people, often with little or no accountability. The author of the report, Dr. Anja Bienert, stated that these new *Guidelines* aim to provide legal and practical measures, which states can and must take, to ensure police use of force is not excessive, abusive, arbitrary or otherwise unlawful.

DISCOVERY OF A NEW MASS GRAVE HIGHLIGHTS DETERIORATING HUMAN RIGHTS CRISIS

Amnesty International has stated that the gruesome discovery of a mass grave containing the remains of at least 31 individuals in Northern Mexico highlights the urgent need for robust action to tackle the country's rapidly deteriorating human rights crisis. Erika Guevara-Rosas, Americas Director at Amnesty International has observed that Mexico is miserably losing the battle against disappearances, with nearly 25,000 people going missing since 2007. She also added that this latest discovery should be a wake-up call for authorities in Mexico to take real action to stop what seems to be an endless list of horrors taking place across the country. The Director suggested that Mexican authorities must ensure that, unlike too many times in the past, forensic investigations into this shocking discovery are conducted in a way that protects all evidence and leads to the identification of the remains in order to bring justice to the relatives of the victims.

REFUGEES FACE CHAOS AND HARSH CONDITIONS AT SERBIA-HUNGARY BORDER

Amnesty International has expressed its concern and stated that Hungary should urgently provide refugees and migrants crossing the border from Serbia more humane reception conditions, transport and clarity about where they are being sent. Around 2000 men, women and children, many from Syria and Afghanistan, arrived at the Hungarian border town of Röszke, crossing over the border from Serbia, and many more are expected to continue to arrive in the coming days. Hungarian police has reported to Amnesty International that the reception centre at Röszke is full and refugees will be transported elsewhere. Amnesty International witnessed around 500 people, including many children, who ended up sleeping through a cold and wet night by the border collection point where hardly any food or shelter was provided. They further stated that the current situation is likely to escalate if actions are not taken accordingly.

CLOSE TO 8000 PEOPLE KILLED IN EASTERN UKRAINE, SAYS UN HUMAN RIGHTS REPORT

Around 8,000 people have lost their lives in eastern Ukraine since mid-April 2014, according to the latest report by the United Nations Human Rights Monitoring Mission. The report, which covers the period from 16 May to 15 August 2015, notes that the number of civilian casualties have more than doubled in comparison with the previous three months, with at least 105 people killed and 308 injured, compared to 60 killed and 102 injured between 16 February and 15 May.

UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein warned in a press release that the shelling of residential areas on both sides of the contact line has led to a disturbing increase in the number of civilian casualties over the past three months. He also stated that more needs to be done to protect civilians and to put a complete stop to the hostilities, in accordance with the February ceasefire agreement

PRAHALAD & ANR. V. STATE OF HARYANA

Facts:

A teenage girl was raped in Sirsa, Haryana after she was taken to her maternal uncle's home where she was raped. A Case was registered under section 363, 366A, 376 and 34 of the Indian Penal Code, 1860 and subsequently the Additional Sessions Judge, Sirsa, convicted the accused of the offences and awarded a sentence of 10 years rigorous imprisonment, as the plea of the accused that there was consent on part of the victim was not considered, the trial court held the prosecutrix below 16 years of age. The High Court affirmed the judgement of conviction and did not consider an ossification report which stated that the girl could be 16-17 years old holding that the report was incomplete with regard to many aspects which were not observed by the doctor, consequently a special leave was filed before the Supreme Court.

Issue Raised:

The issues which were raised before the Hon'ble court in this case included:

a. That whether the finding as regards the age of the prosecutrix is based on the proper appreciation of evidence on record or it is so perverse that it deserves to be dislodged in exercise of jurisdiction under Article 136 of the Constitution.

b. That whether the opinion of the High Court relating to consent withstands scrutiny.

Judgment:

The Apex Court after hearing both the sides held that there is no justification in thinking for reduction of the sentence imposed as the appellants had taken advantage of their relationship with the prosecutrix. The Court after careful perusal of decided cases, *Vishnu alias Undrya* v. *State of Maharashtra* and *Ramdeo Chauhan alias Raj Nath* v. *State of Assam* held that "we do not find any perversity of approach as regards the determination of age of the prosecutrix". The court took note of the deposition of the prosecutrix wherein she deposed that she was in a totally helpless situation and despite her resistance she was abused. The court also held:

a. It has to be borne in mind that an offence of rape is basically an assault on the human rights of a victim. It is an attack on her individuality. It creates an incurable dent in her right and free will and personal sovereignty over the physical frame. Everyone in any civilised society has to show respect for the other individual and no individual has any right to invade on physical frame of another in any manner.

b. The Constitution of India, an organic document, confers rights. It does not condescend or confer any allowance or grant. It recognises rights which are strongly entrenched in the constitutional framework, its ethos and philosophy, subject to certain limitations. Dignity of every citizen flows from the fundamental precepts of the equality clause engrafted under Articles 14 and right to life under Article 21 of the Constitution, for they are the "fon juris" of our Constitution. The said rights are constitutionally secured.

c. The perpetrators of the crime must realize that when they indulge in such an offence, they really create a concavity in the dignity and bodily integrity of an individual which is recognized, assured and affirmed by the very essence of Article 21 of the Constitution.

Analysis:

The judgement puts forth the stand of Indian Judiciary with regard to sexual offences. The judgement in itself very precisely deals with some contentious aspects involved in rape trials, such as the issue of age and consent, which are aptly discussed in the judgement. With respect to age of the prosecutrix the Supreme Court appears to have given more weightage to the testimony of victim and her parents in addition to the school leaving certificate, instead of an incomplete ossification report which according to the High Court did not depict the true situation. The court also relied upon an earlier judgment and quoted Justice Sethi as "The statement of the doctor is no more than an opinion, the court has to base its conclusions upon all the facts and circumstances disclosed on examining of the physical features of the person whose age is in question". The court took note of the situation the victim was in and held that "The consent, apart from legal impermissibility, cannot be conceived of".

Girls aged under 18 tend to be vulnerable to rape as statistics from the NCRB state that in India 30% of the rape victims are less than 18 years of age.. And in about 94% of the cases the victims knew the offender. The issue of rape as such has been troubling the society and judicial decisions like this tend to act as an effective deterrent wherein no leniency is shown towards the accused, as rape is a very disturbing violation of human rights and the right to live a dignified life. It has been stated in The Declaration on the Elimination of Violence Against Women that states have an obligation to " exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons."

In the recent past the tough stand of the judiciary has been observed with regard to such offences which hit the fundamentals of Human Rights, as the Supreme Court also held it to be a spectacular error to be liberal in sexual assault cases.

IN CONVERSATION WITH

As the agitation in Gujarat continued to dominate India's headlines with members of the economically and politically influential Patidar community – led by 22-year old Hardik Patel – demanding categorisation as Other Backward Classes (OBCs), or affirmative action, we were compelled to ask:

Is India in a position to do away with the constitutional mandate of reservations?

The issue of reservations in admissions to educational institutes as well as for jobs strikes a sensitive cord with many among the youth. Keeping in mind the large volume of diverse opinions that this issue sparks, CASIHR invited students of RGNUL to put forward their views.

Shrey Nautiyal, a first year student of B.A.LL.B. (Hons.), wrote:

The holy cow of our times is the topic of reservation- the topic on which no one wants to lay their hands on. However, due to the recent agitation of the Patidar community in Gujarat, the question of the relevance of reservation in the present times has arisen. Reservation was a temporary setup which was incorporated to bring the backward classes to an equal footing with the General class. After the suggestions of the Mandal Commission, the reservation was increased from 27% to 49.5%. In the present situation, a radical method such as abolishing the reservation system is neither practically possible nor feasible. The backward classes are still living in abject poverty and social discrimination. Yes, there is a flip side to it: this welfare system has been misused by the wealthy people for quotas in jobs and universities and also used by the corrupt politicians for their benefit .The system of reservation should continue but it should be made sure by the government that the creamy layer does not get the benefits of reservation as the positive aspects of reservation outweigh the negative ones.

Apoorva Singh Vishnoi, who is in her second year of B.A .LL.B. (Hons.), was of the following opinion:

SC, ST and OBC communities constitute a large chunk of the poor in India today. However, the reservation has done little to change that. Reservation has failed in its aims: integration of the disadvantaged with mainstream society and improvement of their lives. The former becomes difficult obviously when one section gets preference in education, jobs and promotion at another's cost. The latter was unsuccessful because only the people in the creamy layer could avail the benefits of reservation. Thus, reservation failed to reach to those at the bottom, the most deserving. What reservation did succeed in was creating resentment and tension between those who had the benefit of reservation and those who didn't. The Patel and Gurjar agitation has been a result of this resentment.

There is another dimension to the debate. The socio-economic data of Muslims suggests widespread poverty comparable with that of Dalits. But giving religion-based reservation may lead to communal disharmony.

The best thing to do is to make reservation class-based and to ensure that the poor send their children to quality schools so that reserved seats in higher education don't go empty or benefit the creamy layer only. However, our politicians will have to rise above the politics of vote-bank for that to happen.

Aryan Babele, who is in his first year of B.A. LL.B. (Hons.), was of the following view:

Marathas in Maharashtra, Vanniyars in Tamil Nadu, Yadavas in UP & Bihar- all these dominant castes have successfully got reservation under OBC. The Patidars are just the new entrants in the mix. Reservation is constitutionally available only for those communities which are not well represented in the State & Education. On the contrary, Patidars are well represented in the Gujarat Legislative Assembly. Even the current Chief Minister of Gujarat is a Patel. Patidars have a monopoly over the 33% of Motel business throughout the world. Therefore, it is clear that Patidars are not deserving of reservation. However, the abolition of the reservation system because of the unreasonable demand of a particular caste is not a good option. The representatives of the communities need to be shown how reservation has helped them. By slowly removing the benefited communities, we can solve the reservation problem. For now, reservations for OBC have to exist.

Vijay Mishra, a first year student of B.A.LL.B. (Hons.), opined:

The main aim to provide reservation in India was to develop social equality and bring the lower classes at par with the upper classes with respects to rights, literacy and other aspects of human society. India is in a correct position to do away with the constitutional mandate of reservation because according to the Constitution, reservation had been mandated only for 10 years, but is unfortunately continued till date. Reservation has not been proved useful in developing the socially backward classes in India. The central problem for every socially backward class is their financial condition. Instead of providing reservation, the government should provide financial help to the socially backward classes in every field on the basis of their family income in order promote their development."

The responses highlight the contentious nature of the issue of reservation. While reservation was intended at the upliftment of the backward classes, in reality it has not served its actual purpose. Instead, it has become a mischievous tool in the hands of a few. As such, reservation as a constitutional mandate demands a critical assessment in order for it to become effective.

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