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India and the Paradox of Caste Discrimination

I. Introduction

Like an octopus, caste has its tentacles in every aspect of Indian life. It bedevils carefully drawn plans of economic development. It defeats legislative effort to bring about social reform. It assumes a dominant role in power processes and imparts its distinctive flavour to Indian politics. Even the administrative and the academic elites are not free from its over-powering influence. So how can it be ignored as a social force?

This description of the role of caste in India, written in 1968—21 years after Indian independence and 18 years after the adoption of a constitution heralding a society free from poverty, inequality and discrimination—was echoed some 35 years later in Myron Weiner’s observation that caste is still very much alive as a lived-in social reality, even

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2 From the Portuguese casta meaning species, race or pure breed, first used by Europeans in India in the sixteenth century to distinguish between Muslims and Hindus and to denote birth-groups or communities; see Susan Bayly, Caste, Society and Politics in Modern India from the Eighteenth Century to the Modern Age (Cambridge University Press (CUP), Cambridge, 1998), 105-106; Ursula Sharma, Caste (Viva Books, New Delhi, 2002), 1; Marc Galanter, Competing Equalities: Law and the Backward Classes in India (University of California Press, Berkeley, 1984), 7.

3 India became independent at midnight on 14-15 August 1947; see Dominique Lapierre and Larry Collins, Freedom at Midnight (Vikas Publishing House Pvt. Ltd., New Delhi, 1997).


as its ideological grip has weakened. 70 years since B. R. Ambedkar’s seminal essay “The Annihilation of Caste” 6 calling for an end to the caste system and the oppression associated with it, caste has not been annihilated in India, neither has ‘untouchability’ (the practice of caste-based social ostracism, segregation and exclusion, abolished by the constitution) but sanctioned by culture and religion. Far from becoming a caste-neutral or caste-less society, India remains a society where caste matters. Paradoxically, says Weiner, “the movement for change is not a struggle to end caste [but] to use caste as an instrument of social change”; “what is emerging in India is a social and political system which institutionalises and transforms but does not abolish caste”. At the same time, the contours of the legal debate on caste discrimination are shifting; a new discourse on equality is emerging—albeit amidst arguments cautioning that existing benefits must not be undermined even as new approaches are explored—which looks beyond the confines of existing strategies for addressing caste discrimination towards a broader conceptualization of discrimination, inequality and diversity which accepts the need for recognition of a range of ascribed social identities in order to measure and more effectively redress persistent inequality and discrimination.  

Caste as a system of social organization exists primarily in South Asia (India—the focus of this article—Nepal, Pakistan, Bangladesh and Sri Lanka) but is also found in South Asian diasporic communities around the world. 10 Despite six decades of domes-

7 ‘Untouchability’ is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of ‘Untouchability’ shall be an offence punishable in accordance with law”; COI Art. 17, op. cit. note 4.
10 See CERD/C, General Recommendation 29, 22 August 2002, UN Doc. A/57/18 (2002) 111. Communities suffering from discrimination based on descent, and work and