

IS IT REASONABLE TO HAVE RACIAL SEGREGATION LAWS IN A COUNTRY?

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ABSTRACT

This article examines the problem of spatial scale, which has generally been overlooked in previous research on racial residential segregation. In some metropolitan areas, the division of racial backgrounds occurs over considerably shorter distances, whilst in others, it occurs across much of the greater regions, mostly with regions having predominantly white people as compared to the black sections. We quantify and explain the geographic extent of racial discrimination in 40 major U.S. metropolitan regions in 2000 using this method. By employing traditional "aspatial" segregation metrics, we discover the significant variation in the geographic size of segregation patterns among metropolitan areas and racial subgroups. Furthermore, we contend that geographic scale is a unique aspect of residential segregation because it only has a weak correlation with the degree of segregation within the sample, this article tries to understand the implications of examining the trends, causes, and effects of residential segregation at various geographic scales are briefly discussed in conclusion.

Keywords: Racial Discrimination, Segregation, Metropolitan, Residential Segregation, Fourteenth Amendment.

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INTRODUCTION

The deliberate division of individuals into racial or some other ethnic groupings in daily life is referred to as racial segregation. As defined by the Statute of the International Criminal Court, racial segregation can involve not only the physical separation of races but also the requirement that people of different races use different schools and medical facilities. Racial segregation can also be a violation of human rights and an international apartheid crime. It might specifically apply to things like eating out, drinking from fountains, using public restrooms, going to school, watching a movie, taking the bus, renting or buying real estate, or making hotel reservations. In hierarchical organisations, segregation, however, frequently permits close contact between people from different racial and ethnic communities.

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Segregation is defined as "the act in which a person (legal or natural person) differentiates other persons on the grounds of any of the enumerated grounds without an objective and reasonable justification" in the European Commission against Racism and Intolerance's proposed definition of discrimination. Thus segregation is not the willful decision to isolate oneself from others based on one of the aforementioned factors. The establishment of educational institutions that offer instruction in minority languages shouldn't be viewed as unlawful segregation if membership is voluntary, according to the UN Forum on Minority Affairs. Despite the fact that racial segregation is generally forbidden everywhere, Thomas Schelling's models of segregation and subsequent research suggest that racial discrimination may nonetheless happen in practise due to social norms even in the absence of any discernible individual preference. Before the U.S. Supreme Court, presided over by Chief Justice Earl Warren, struck down racial segregationist laws state-wide, racial segregation was enforced through anti-miscegenation statutes that forbade interracial marriage in some states.

HISTORICAL BACKGROUND

Just after the civil war and the ratification of the 13th Amendment, the majority of the former Confederate states passed Black Codes, laws that were modelled by earlier slave laws. The restrictions on travel and placement in a work market with low wages and debt were meant to curtail African Americans' recently attained independence. Under vagrancy laws, black individuals may be imprisoned for relatively minor acts, around this time, a system of prison employment called "convict leasing" was established. The Black Codes outraged the North, and Congress gave the Army permission to occupy the former Confederate states during Reconstruction. Male Africans convicted of vagrancy would be pushed into enslavement by being employed as free labour. But for a very long time, African Americans were subject to a lot of restrictions on their freedom. The Black Codes established the legal and social framework of Jim Crow, which supported a white supremacist government.

STATEMENT OF PROBLEM

From the moment of birth, a person is born with certain essential human rights. The right to equal treatment is one of the most essential and fundamental rights. All other rights must be exercised in order to do so. The expression "right to equality" refers to a person's basic rights, notably the right not to be discriminated against by another person, this dissertation will

critically examine the socio-legal aspect of segregation and they understand in the context of Indian law, to explore and understand its applicability in India.

RESEARCH OBJECTIVE

- The primary object of this research is to have a proper understanding of the socio-legal aspect of racial segregation and its significance in law
- To analyse the emerging challenges faced by people who are racially segregated
- To determine the reasons due to which people have to face it and is it reasonable
- To analyse the behaviour of the people and ascertain the impact of people's attitude towards segregation and whether there are any laws.

HYPOTHESIS

Racial segregation is the intentional division of people into races or other ethnic, so racial segregation can be considered an international offence of apartheid and a crime against humanity, as t

o separating people in races, in places such as hospitals and schools, are both, it also means that a person can be discriminated against for things like eating in restaurants, drinking from water fountains, using public restrooms, going to school, seeing a movie, taking a bus, renting or buying a property, or booking hotel rooms, hence it is not reasonable to have racial segregation.

RESEARCH METHODOLOGY

The research method which is followed by the researcher will completely be based on doctrinal research methodology which will include secondary sources of information. The secondary sources which will be adopted in the research are books, journals, articles, reports, and e-books with respect to the analysis of segregation and segregation law in India with specific emphasis on understanding it in the frame of socio-legal aspect. The judicial interpretation by various courts including the Supreme Court, high court and foreign courts in the form of case laws will be analysed in this paper, if there are any.

CHAPTERIZATION

CHAPTER 1: - Segregation and Its Significance with Law

CHAPTER 2: - Segregation in India

CHAPTER 3: - Finding and Conclusion

CHAPTER 1: - SEGREGATION AND ITS SIGNIFICANCE WITH LAW

Segregation is defined as "the act in which a person (legal or natural person) differentiates other persons on the grounds of any of the enumerated grounds without an objective and reasonable justification" in the European Commission against Racism and Intolerance's proposed definition of discrimination. Thus segregation is not the wilful decision to isolate oneself from others based on one of the aforementioned factors, In some metropolitan areas, the division of racial backgrounds occurs over considerably shorter distances, whilst in others, it occurs across much of the greater regions, mostly with regions having predominantly white people as compared to the black sections. We quantify and explain the geographic extent of racial discrimination in 40 major U.S. metropolitan regions in 2000 using this method. By employing traditional "aspatial" segregation metrics, we discover the significant variation in the geographic size of segregation patterns among metropolitan areas and racial subgroups.

The majority of cities and states established "Jim Crow" laws requiring Black people to live in "separate but equal" status. Between 1874 and 1975, Jim Crow laws were imposed through rules and ordinances in the American South to keep whites and blacks apart. Jim Crow Laws really exposed Black people to subpar treatment and facilities, contrary to the notion that "equal but distinct" treatment would be established. The Jim Crow Laws divided people into public areas like hotels and restaurants as well as in the educational system. In actuality, Jim Crow regulations resulted in accommodations and services that were frequently subpar compared to those offered to white Americans.

The most significant 'Jim Crow' laws mandated that white and black people use separate restrooms and water fountains in public places, including public schools, restrooms, and public transit like trains and buses. According to these laws, black people were bound by the following obligations:

- To visit other schools and places of worship;

- To use public toilets marked "for white coloured only;"
- To eat in a separate part of a restaurant;
- To board a bus in the back.

A renowned dance in the 1820s under the name of Jim Crow was originally a reference to a black character from an old poem. About 1828, minstrel show performer Thomas "Daddy" Rice devised an act in which he blacked his face, sang, and danced to resemble an aging black man wearing decrepit clothing. The term "Jim Crow" refers to practises, laws, or institutions that are associated with physically separating black people from white people and first emerged in the 1880s. By the early 1830s, Rice's figure had become extremely well-known and had come to symbolise the stereotype that African Americans are illiterate, lazy, and dishonest.

SEGREGATION LAWS CASE

Brown versus the Topeka Board of Education, 1896¹ court case, the facts of the case of Plessy v. Ferguson² were discussed and caused trouble because it effectively legalized the practice of segregation in the US by stating that separate but equal standards were correct. The Plessy judgment introduced the phrase "separate but equal," and under its protection, segregation laws were quickly passed in 21 states. It wasn't till 1954 that several parents returned to court to argue that separate yet equal was indeed a myth and that Africans were superior to whites, The Equal Protection Clause of the Fourteenth Amendment was used to unanimously decide in favour of the parents, stating that public education is not a place for the separate but equal ideology, this decision marked a significant victory for the civil rights movement.

CHAPTER 2: - SEGEGREATION IN INDIA

One of the countries with the greatest diversity in the world is India. Indeed, it is a diversified nation that serves as the residence for people of many castes, religions, races, creeds, cultures, and traditions. Indians are recognized for having a range of skin tones that are classified as fair and dark skin. The hue of a person's skin has always been crucial in defining their value and worth. Those with a fair complexion are viewed as having a higher status than those with dark

¹ Brown v. Board of Education of Topeka, 347 U.S. 483 (1954)

² Plessy v. Ferguson, 163 U.S. 537 (1896)

skin. During the Rig Veda Era, racism has been prevalent in India, followed by the Mughal Empire and British control.

In our nation, colorism has replaced racism as the dominant type of prejudice. A person is categorized or differentiated from another based on their skin tone or facial features according to the basic notion of colorism. When someone of a similar race is discriminated against regarding their dark skin tone, this is known as colorism. Whereas fair individuals are perceived as noble and clever, black people are often recognized as having a lower status and belonging to the lowest social groups. In Indian culture, the skin tone of a person is highly regarded; light people are supposed to have positive impacts, whereas dark people are thought to have negative ones. Black individuals are often perceived as having a lower status and belonging to the lowest social levels, whereas fair people are perceived as noble and clever. This is how stereotyped Indian attitudes work. In Indian culture, the skin tone of a person is highly regarded; light people are supposed to have positive impacts, whereas dark persons are believed to have bad traits. The following describes how stereotyped Indian attitudes function. Today, people all across the world passionately condemn and loathe black people.

Racism and colorism have a close relationship. Those with lighter complexions were perceived as wealthy upper caste members, whereas people with darker skin tones were perceived as deserving of lower caste status. It is a concern that black people are subjected to discrimination due to their skin tone worldwide. Their self-efficiency, excitement, and morale are all much lower as a result. The voices of black people are not heard, and they are terrified of the outside world. They are brutalised and frequently denigrated, not accorded due respect. Black people are subjected to harassment online, whether it manifests physically or virtually.

LAWS RELATING TO SEGREGATION

- ✓ According to Article 14, The Constitution of India³, no person shall be denied equality on Indian soil.
- ✓ No one will be subjected to discrimination on the grounds of their religion, colour, caste, sex, or place of birth, and such discrimination shall not be committed towards women or children in particular, according to Articles 15(1) & 15(3) of the Indian Constitution⁴.

³ The Constitution of India, Art.14, 1949

⁴ The Constitution of India, Art.15, Clause (1) and (3), 1949

- ✓ Equal job opportunities are guaranteed to men and women by Article 16, The Constitution of India⁵,
- ✓ Article 17 of the Indian Constitution⁶ forbids the practise of "untouchability," and those who choose to continue it will face legal repercussions.
- ✓ Article 21 of the Indian Constitution⁷ protects citizens from being deprived of their lives and individual liberties.
- ✓ Article 46 of the Indian Constitution⁸ guarantees the protection of the Scheduled Castes and Scheduled Tribes, which comprise the weaker sectors of society. It also encourages provisions that specifically look out for their interests in the economy and in education,
- ✓ According to Article 51(a)(e), The constitution of India⁹, every citizen has a responsibility to uphold a sense of brotherhood and harmony among all Indians and to stop engaging in behaviour that is disrespectful of women's dignity.
- ✓ In accordance with Article 243D (3) of the Indian Constitution¹⁰, women must hold one-third of the Panchayat seats, including those designated for women from Scheduled Castes and Scheduled Tribes.
- ✓ According to Article 243T (3), The constitution of India¹¹, women must hold one-third of the seats in every municipality, including the ones set aside for women of scheduled castes and scheduled tribes.
- ✓ According to Article 243T (4), The constitution of India¹², women, members of scheduled castes, and members of scheduled tribes are given preference when it comes to holding chair positions in municipalities.

⁵ The Constitution of India, Art.16, 1949

⁶ The Constitution of India, Art.17, 1949

⁷ The Constitution of India, Art.21, 1949

⁸ The Constitution of India, Art.46, 1949

⁹ The Constitution of India, Art.51, Clause (e), sub-clause (a) 1949

¹⁰ The Constitution of India, Art.243D, Clause (3), 1949

¹¹ The Constitution of India, Art.243T, Clause (3), 1949

¹² The Constitution of India, Art.243T, Clause (4), 1949

OTHER REGULATIONS

- 2016 Anti-Discrimination and Equality Act¹³

A Congressman introduced the bill within Lok Sabha in March. The law states that individuals of the weaker and poorer sections of the society shall not be subjected to discrimination on the basis of caste, belief, religion, sex, colour, place of origin, or any other feature. The provision provides security for the weaker groups, such as the scheduled castes and scheduled tribes, who are often the objects of irrational abuse and violent acts sparked by insignificant matters. In addition to avenues for redress, it has provisions for rewards and commendations.

- 1850, The Caste Disabilities Removal Act¹⁴

Under the authority of the East India Company, this specific regulation was passed in British India in 1850. This rule granted citizens the freedom and equal rights to convert from one faith to another. Their rights, including inheritance, would not be affected by the conversion of the religion. This rule made it crystal clear that even after a person makes a religious conversion, they will not lose their ability to inherit their parent's property. In terms of inheriting property, a Hindu parent's child, for instance, will still be regarded as a Hindu even after the conversion.

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- The Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act, 1989¹⁵

On September 9th, 1989, this law was passed. This statute safeguards SCs and STs from exploitation and discrimination. It shields the weaker groups from crimes, mistreatment, harshness, and savage violence. It enumerates about 22 offenses that fall under the category of discrimination, including denying people access to safe drinking water, sanitary conditions, edible food, access to hospitals, education, and places of worship, among other things. The SC/ST Act's Section 14 establishes swift trial courts to ensure that OBC and other tribal community members receive prompt justice and are not left without representation, according to Section 18, there is no provision for anticipatory bail for crimes committed under the legislation.

¹³ Anti-Discrimination and Equality Act, 2016

¹⁴ The Caste Disabilities Removal Act, 1850

¹⁵ The Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act, 1989

CHAPTER 3: -FINDING AND CONCLUSION

There will undoubtedly be differences among its residents, regardless of whether they're in terms of look, skin tone, language, race, or religion, given that India is a complex and varied nation that confronts racial prejudice. Yet, discrimination is not justified based on these little disparities. The diversity of India's cultures, traditions, ethics, religions, dialects, communities, etc. is well known. On the one hand, we proclaim our pride in residing in a nation so stunning and diverse that it welcomes people with many cultures and customs, yet on the other hand, we freely practice racial prejudice and discrimination against people only because they come from a different community or ethnic group, such as the North East Indians who are of Tibet Mongoloid ancestry. What an ironic statement. Skin tone preferences are assumed to exist regardless of circumstances in our Indian society. They find it difficult to understand that being dark is attractive and that dark people should be treated with the same dignity and respect as fair people. A lighter-skin-toned person is always preferred over a deeper-skin-toned one. This resulted in the removal of chances for black people in many spheres, including education and work.

In our Indian culture, skin color preferences are taken for granted regardless of the situation; as a result, people find it challenging to comprehend that having a dark skin tone can be attractive as well as that a person with a dark complexion deserves the same respect and decency as someone with a fair complexion. The preference for lighter skin tones over darker tones results in the removal of opportunities for black people in many areas, including education and employment. Additionally, because of one's skin tone, black people are frequently the targets of hate crimes, which causes them to feel intimidated and uneasy in their country. To stop the spread of racial biases and prejudices against Black people, as well as to implement and enforce stricter legislation, is therefore necessary.