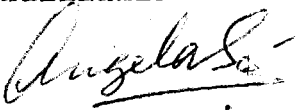


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CERTIFICATE OF AUTHENTICATION

I do hereby declare that the copy of the thesis submitted to the ICSSR is an authenticated copy of my thesis approved for the award of degree of Doctor of Philosophy by the University of COA

Dated : 29th July 1996.


Signature

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SOME ASPECTS OF SOCIAL JUSTICE IN INDIA

**A Thesis Submitted to the
GOA UNIVERSITY, GOA,
For the award of Degree of
Doctor of Philosophy in
Political Science.**

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85

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STATEMENT BY THE CANDIDATE

I hereby state that the thesis for the Ph.D. degree on "SOME ASPECTS OF SOCIAL JUSTICE IN INDIA" is my original work and that it has not previously formed the basis for the award of any Degree, Diploma, Associateship, Fellowship or any other similar title.

Place : Goa.

Date : February, 1994



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INTRODUCTION

Our basic social system is built on the foundation stone of gross inequalities whereby there is still a large percentage of people belonging to Scheduled Castes and Scheduled Tribes and Other Backward Classes who have remained deprived of the fruits of liberation and development inspite of the rights guaranteed in the Constitution. Consequently, many have ended up in poverty due to social and educational backwardness. In a country which swears by Social Justice, victimisation of women is still a serious problem in the Indian society.

The objective of the present research is to examine the Policy of Protective Discrimination, especially the strategies of reservation to the Scheduled Castes and Scheduled Tribes as also for Other Backward Classes.

With the growing awareness of the rights and increased assertiveness on the part of the deprived sections of the society, who were pushed down to the lowest rungs of social order, the need for social justice has become all the more poignant. Our Indian Constitution which embodies the aspirations of the deprived sections for achieving social equality and justice, provides for the protection of Scheduled Castes and Scheduled Tribes, Other Backward Classes, women and minorities, in various ways. While Article 14 guarantees right to equality, Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, etc. Besides, provision has been made in Articles 15(4), 16(4), 330, 332 and 335 of the Constitution for Compensatory Discrimination and for the advancement of Scheduled Castes and Scheduled Tribes and other socially and educationally backward classes. Despite the fact that these special provisions termed "reservation of seats" (15(4)) and "reservation of posts", (16(4)) have generated heated discussions, they must be adopted in order to advance the prospects of the weaker sections or the historically disadvantaged groups. The debates and discussions on Reservations have been reviewed in this work and a case for 'Reservations' made.

The research also concentrates on the changing status of women in India, and more specifically in the State of Goa. Education has, no doubt, given women a career, and the law has given her protection, but there has not been a real change in the environment in and around her home. Her life is still full of contradictions. In view of this, attempts are made here to assess the extent of

oppression, the limitations of the legislations and, consequently, the failure to achieve the desired result, viz. "Social emancipation of women". Further, the study offers suggestions to ensure women equality and justice.

For the purpose of this study I have adopted besides library research, the interview method and also visits to relevant places for observation and discussion. The data pertinent to the objectives of the study, was collected from relevant documents, government reports, Supreme Court judgments, records of women's collectives, books, newspapers and periodicals. Discussions were held and interviews (open ended and structured) were conducted to gather relevant information from MLAs, Principals of Colleges, students, Officers in the Departments of Health and Welfare in the Government of Goa, members of women's collectives and actual victims of oppression. The thesis is divided into the following three Chapters: Chapter I : Protective Discrimination: Reservation for Scheduled Castes and Scheduled Tribes; Chapter II : A new Discrimination - Reservation for Other Backward Classes (The Mandal Commission); Chapter III: Women in India and Social Justice.

Chapter I on Protective Discrimination, deals with the Scheduled Castes and Schedule Tribes. The study covers the social discrimination which was practised and which segregated the Scheduled Tribes ethnically, from the other social groups thus relegating them to the bottom place in society.

It also highlights the need for their economic upliftment, social change and full protection, if they are to enjoy the benefit of equality and freedom. The Chapter examines the criticism levelled against reservations and makes out a case for justifying reservations as a protective measure. It analyses the policy of reservations in educational institutions, reservations in government services and reservations in politics. I have tried to explore the position of job reservation for Scheduled Castes and Scheduled Tribes in Universities through contacts with Principals of a few colleges in Goa. I have also interviewed the lone MLA representing the Scheduled Castes and hypothesized as to how the improvement in the status of Scheduled Castes can come about through political reservation. In fine, to counter the various criticisms, a suggestive scheme has been detailed to ensure the validity of both academic standards and professional competence on the one hand as well as Social Justice, through concessions, on the other hand.

Chapter II of this research deals with the New Discrimination for the Socially

and Educationally Backward Classes, or the "Mandal Reservations for the OBC". The Chapter focusses on the various problems of identification of OBC beneficiaries and endorses the view that though the 'Caste System' is an evil, the implementation of caste-based privileges for those who are really backward among the identified backward groups by excluding the creamy layer, is the right move. In the process of analysing the Mandal Reports, its constitutional aspect has also been focussed upon, in the light of the recent Supreme Court Judgment (16th November 1992). The eminent jurist Nani Palkhiwala's case against Mandal is analysed and refuted. The chapter also discusses the case of Goa in the light of the Mandal Report.

Chapter III reviews the position of Indian women. To begin with, a brief historical survey of the condition of women in pre-British India, in the colonial period and post independence period is given. The study also throws considerable light on the condition of women during the Portuguese rule in Goa. The Portuguese Civil Code of 1867 and the subsequent progressive amendments are critically analysed and evaluated. It is shown how the much lauded Common or Uniform Civil Code of Goa is really not all that uniform or common. The Chapter also details the exploitation women were/are subjected to under such headings as dowry, rape, devadasi system and prostitution. Case studies from Goa have been cited to highlight the extent of oppression. The Chapter also examines the various enactments regarding Indian women, which have not been fully internalised and, as a result of which, large masses of Indian women have remained unaffected by them. It is primarily with the hope of improving the present condition of women, that a suggestive Scheme Of Recommendation has been made by way of conclusion.

If my thesis, in any small measure, succeeds in providing a picture of the visible as well as the silent oppression of the lower strata and vulnerable sections of society, and in showing some hope of redressal, inspite of all odds, then it would have done justice to my objective.

It would not be out of place to state that in the course of this research I have had many educative and enlightening experiences and have received support and cooperation from various persons and institutions.

I am particularly indebted to Mr. M.S.Sail, Director of Social Welfare, Ms. E.

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Goa,
February, 1994.

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Silveira, Under Secretary, Social Welfare and Planning, Government of Goa, and Mr. A. V. Khajrekar, Chief Probation Officer, Social Welfare Department, Government of Goa, for having generously put at my disposal valuable literature.

I also express my thanks to Dr. J. de Sa, Epidemiologist, Directorate of Health Services, Panjim, Dr. E. do Rego, Health Officer-in-Charge and Sister Mohini Borkar, Lady Health Visitor, both attached to the S.T.D. Clinic, Baina, Vasco, and Advocate Albertina Almeida for the valuable information they provided. The Principals of Dhempe College, Miramar, St Xavier's College, Mapusa, Carmel College, Nuvem and Government College, Sanquelim have been very obliging. I am grateful to them too.

I must also place on record my profound gratitude to Prof. (Dr.) Adi H. Doctor, my Supervisor and Guide, but for whose support and guidance this thesis would not have seen the light of the day.

Last but not least I take this opportunity to thank my typist Mrs. Percy Antao and my family members, Prof. Dennis de Sa in particular, who patiently put up with me as also many others who in many small ways, assisted me in this venture.

Out of a deep sense of gratitude I dedicate this, my humble work, to late Dona Francisca Pinto and Senhor Jose M. Pinto, my guardians and a perennial source of inspiration to me.

Angela E. De Sá

Goa,
February, 1994.