

---

## SHADES OF INJUSTICE: A CONSTITUTIONAL PERSPECTIVE ON COLOURISM

---

Anshu, Central University of South Bihar, India

### ABSTRACT

Colourism refers to discrimination based on skin tone, which is a deep-rooted social bias where lighter shades are prioritised over darker shades. This paper critically examines the societal gendered bias of colourism, with a special focus on how it unjustifiably affects women through the beauty standards posed by society, which reduces economic opportunities and abates the self-worth of a person. It elaborates on how women are marginalised and rejected in their marriage prospects and their professional roles. This framework is further perpetuated by commercial industries and advertisements that aggressively promote skin-lightening products, conveying a harmful message that fair skin equates to beauty, success, and societal acceptance. Through this, a social stigma has been created in society that hinders a woman's development and her rights.

This paper also explains that legally, our constitution has provided us with various fundamental rights which guarantee equality (Article 14), prohibit discrimination (Article 15), and protect the right to live with dignity and integrity (Article 21); still, there are major legal gaps in these legislations that don't address colourism.

This paper critically examines the comparison of different crucial legislations like the Consumer Protection Rights 2019, the SC/ST Act and their failure to address the issue, leaving victims of colourism without proper legal remedies. In this paper, comparison has been sought from international law organisations and different countries, examining their methods to tackle colourism. At last, this paper gives an alternate solution and the need for recognition of anti-discrimination laws in India. Further providing guidelines and monitoring actions for the media and advertising industries, and an inclusion of morals and values through education in schools and workplaces to eradicate bullying and combat gender based discrimination to safeguard the interests of women.

## INTRODUCTION:

Colourism, a term believed to have been first coined in 1982 by Pulitzer Prize winner Alice Walker, means discriminating against someone based on their complexion, whereas preferring the lighter skin tone over the darker skin tone. **India's obsession with fair skin and discrimination: A deep-seated social issue** that highlights how women are often ridiculed by society for being too dark or not fair enough, the beauty standard for women is determined by society. The society fails to acknowledge that beauty isn't defined by the shade- it lies beyond skin tone – in empathy, soul, and confidence. <sup>1</sup>Women are mocked and discriminated against in society for having a darker shade; they are criticised, making them lose their confidence, feel vulnerable, and battle low self-esteem. In the workplace, they are often marginalised and are provided fewer opportunities, which develops a sense of inferiority complex among their peers, due to which they are unable to outperform different jobs because of the fear that is ingrained in their mentality. A sense of bias prevails in their workroom on the basis of shade.

Women are often impacted by colourism in career aspirations and different career opportunities. They are always treated as a subject of parody by their circle. **A woman's adroitness is overshadowed by the veil of her unpigmented debris.** <sup>2</sup>

*"Beauty lies in the eyes of the beholder"* means that the perception of beauty is subjective, and it can vary from person to person. It has nothing to do with skin colour; beauty is a matter of personal taste and perspective. Marriage prospects are being determined for a woman based on her shade, according to the society, solely a woman's appearance is the main agenda for a healthy, prosperous marriage that equates to desirability.

Colourism plays a detrimental role in society by promoting the notion that only fair-skinned girls are fit and worthy of marriage; dark skinned girls often face continuous rejection and delayed marriages and are not considered suitable or less desirable for a healthy marriage, irrespective of their education. Achievements and an empathetic nature. Matrimonial ads, societal standards and arranged marriage consensus openly reinforce the idea of seeking a fair bride. Dark skinned brides face continuous humiliation in their homes to use skin-lightening products; their worth is reduced to their complexion, and their personality, values, morals and

---

<sup>1</sup> Priya Gupta, India's Skin lightening Obsession: Colorism and the commodification of Fairness, 17 Asian J. Women's Stud. 105, 112( 2011)

<sup>2</sup> Tanya Kundu, Colourism in India: How skin colour affects perceptions of beauty and social worth,25 J. Soc.Inclusion (2021)

ethics are often disregarded. This discrimination creates mental distress and lifelong trauma and suffering, leaving the individual in deep anguish and a strained relationship with their spouse. This discriminatory practice is affecting a woman's self-esteem.

Our society makes endless efforts to promote the wellness of skin-lightening products and establishes that fair skin is the ultimate triumph for beauty<sup>3</sup>. Industries and cosmetic advertisements are continuously promoting skin-lightening products as the ideal standards, but behind these embellished beauties, it is doing more harm than good, due to which women constantly feel pressured to use these items to conform to these skewed standards of beauty, which can have harmful physical and psychological effects. Most of the skin lightening products contain harmful ingredients like mercury and hydroquinone, which can cause permanent colour discolouration and liver damage.

#### **CONSTITUTIONAL FRAMEWORK:**

Article 14 of the Constitution states that “*The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.*”<sup>4</sup> This articulates that everyone is equal before the eyes of the law, and there should be no arbitrary discrimination, but preferring lighter skin over darker skin undermines the principle of equality. In the employment sector, a fair-skinned girl is always preferred over a darker-skinned girl in the sectors of hospitality, aviation, acting and modelling. Inconsistent treatment is meted out to different girls despite having similar qualifications and opportunities. Students in schools and colleges are always mocked and bullied for their shade, which limits their active participation in their academics and demoralises them. They are being ridiculed and marginalised by their peers, which hinders their learning, interaction and growth. Movies, television, and advertisements often cast fair-skinned models in lead or positive roles, which creates a perception in the mind of the public that fair skin is desirable and successful, whereas dark skinned models are always subjected to rejection or cast in negative roles, which provides the public a message that darker skin connects with negativity, cruelty and brutality, this indirect and unequal representation to the dark skin denies their dignity and creates a shade disparity.

Article 21 of the Indian Constitution states that “*No person shall be deprived of his life or*

---

<sup>3</sup> World health organization, skin lightening products: information sheet(2019)

<sup>4</sup> INDIA CONSTITUTION- art 14( guaranteeing equality before the law and equal protection of laws)

*personal liberty except according to procedure established by law*<sup>5</sup>. This part of the constitution is very broad and expansive, and covers a variety of rights. The Supreme Court has covered the utmost liberties of an individual in this section. It includes the right to life and personal liberty, the right to live with dignity, the right to privacy, the right to live with self-respect and with proper mental well-being. Therefore, any social discrimination that violates the principle of Article 21 could be termed as exploitative. The victims of colourism are often exploited and discriminated, due to which they suffer from depression, anxiety, low self-esteem, emotional distress, and even go through suicidal thoughts in this journey and according to the Mental Healthcare Act 2017, the right to have proper mental healthcare is linked broadly and connected with the spectrums of article 21. The pressure exerted by the stereotypes in society for being fair forces individuals to try harmful skin-lightening products and undergo risky cosmetic treatments, to change their appearance to gain social acceptance in society. Personal autonomy and liberty are compromised through this prejudice. Matrimonial sites and television advertisements always promote fair skin, and with today's popular culture and media, only fair-skinned models and actors are accepted for positive roles, are deemed competent, and dark skin is stigmatised. This act strips people of their inherent self-worth and undermines the principle of dignity, which is a core part of Article 21.

*Article 15 of the Constitution of India forbids discrimination on the grounds of religion, race, caste, sex, or place of birth or any of them*<sup>6</sup>. In numerous instances, colourist views overlap with caste systems. Light skin is frequently perceived as a sign of upper-caste identity, whereas dark skin is mistakenly associated with Dalit or Adivasi identities. This perpetuates caste discrimination and prevents people from achieving social mobility and respect, thus contravening Article 15(1). Article 15(2) bars discrimination in access to public places and institutions. When beauty norms or job selections favour fair skin over merit, they create unequal access—in areas like education, employment, and public representation—thereby undermining constitutional equality.<sup>7</sup>

## **LEGAL GAPS AND LIMITATIONS:**

The Consumer Protection Act, 2019, is a very crucial piece of legislation for consumer

---

<sup>5</sup> INDIA CONSTITUTION- art 21( guaranteeing protection of life and personal liberty)

<sup>6</sup> INDIA CONSTITUTION- art 15( prohibiting discrimination on grounds of religion, race, caste, sex ,or place of birth)

<sup>7</sup> Anuj Bhuwania, The constitution and everyday discrimination: Why article 15 falls short in practice, India J. Const. L (2019)

grievances. This protects the rights of consumers and covers a wide variety of rights for consumer satisfaction, like unfair trade practices, unsatisfactory services, delivery of defective products, misleading and false advertisements<sup>8</sup>. However, the issue of colourism has not yet been redressed by the Consumer Protection Act 2019. Promotion of advertisements like a dark girl is rejected in her job interview, but she succeeds after using fairness products. Such acts are graded as harmful but not illegal and are not linked with the psychological impact on the victim caused by toxic beauty standards. And the consumer who suffers mental distress and anxiety because of these misleading commercials has no remedy under this act.<sup>9</sup> The act does not allow or prohibit false advertising and misleading content, but the use of phrases like fairness, glowing, whitening and unblemished beauty does not allow a girl to accept her version in society and sets a message for the society that unblemished skin equates with attractiveness and glory. The monitoring process of such advertisements goes unchecked, and there is no government body authorised to review the content of discriminatory beauty standards.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, also known as the SC/ST Act, is a very significant piece of legislation for the SC and ST to protect them from the caste based atrocities of the upper classes<sup>10</sup>. This act tries to eradicate the authoritarian and despotic rule in the country of the upper classes and ensures the dignity, respect and equality of every individual irrespective of their caste. This act is a very dynamic tool for the SC/ST if they are being denied of public places, being boycotted from social institutions, and being humiliated by caste based remarks. Dalits and Adivasis of our country are often stereotyped and are mocked for their darker skin; they face double discrimination – on their colour and caste, but the SC / ST Act is only applicable to the victim if it is proved that the victim was a survivor of the caste based discrimination. If the victim from a Sc community is abused solely on his darker skin colour and no reference has been linked to his caste, then the act may not apply.

### **COMPARATIVE INTERNATIONAL PERSPECTIVE:**

Colourism has been a prejudiced practice in the whole world, while India lacks specific legislation for addressing this discrimination. The Universal Declaration of Human Rights

---

<sup>8</sup> The consumer protection act, no. 35 of 2019, Indian code (2019)

<sup>9</sup> Natasha Mhatre, Dark is not a Crime: The Absence of Legal Protection Against Colourism in India, Ind. L. Rev. Blog ( Oct. 20, 2020)

<sup>10</sup> Scheduled castes and the scheduled tribes ( prevention of atrocities) act, no. 33 of 1989

(UDHR) affirms in Articles 1 and 2 that discrimination should not be based on race, colour, sex, or language.<sup>11</sup> The Human Rights Council and United Nations have addressed colourism as an imminent issue in recent years, whereas the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted by the United Nations in 1965, has prohibited all kinds of discrimination, including racial, ethnic, colour and caste based. It was also held in the case of *Vishakha v State of Rajasthan*(1997)<sup>12</sup> that international human rights standards can be used effectively by domestic courts to expand constitutional protections and promote gender justice. Colourism has been legally recognised in different influential countries like Brazil, South Africa, and the United States of America. Different campaigns like #melaninmagic, #blackgirlmagic have been popularised in the USA, challenging the stereotypes of colourism. Different academic courses are being offered in the United States of America on colourism, beauty politics. In Brazil, universities and public institutions offer reservations to students on racial quotas, considering both the race and skin colour for the students to prosper without any racial discrimination. In South Africa from 1948 to the 1990s, apartheid was a system where racial discrimination and segregation were enforced in the society. The white people had most of the power and privilege in the society, and the non-white people were often oppressed and discriminated against and meted out with injustice by the white people. Post apartheid constitution holds strong protection against discrimination, and efforts were made by campaigns and media to glorify black African beauty, by promoting black models and tanning culture.

## CONCLUSION:

India needs an anti-discrimination law as a reform that addresses colourism. To change the stereotypes of society and people's mindset, more focus should be placed on children's education. Schools and parents should teach their children the value of accepting all skin tones and to abdicate all forms of colour-based bullying. In today's world, the media has a huge influence on society. For Indian films, the television and advertising industries have set the bar by setting white skin as the ideal standard for beauty. Legal reforms in this arena must ensure stricter actions are taken by banning the promotion of fairness as the supreme and ultimate acceptable colour. The advertisement guidelines of India should be regularly monitored by the higher authorities, and acceptance should be given to the brands and films that promote

---

<sup>11</sup> U.N Comm. On the Elimination of Racial Discrimination, Gen. Recommendation XXXIV on Discrimination based on descent and skin colour, U.N. Doc. CERD/C/GC/34(2023)

<sup>12</sup> *Vishakha v State of Rajasthan*,(1997) 6 S.C.C. 241(India)

inclusion and diversity of all skin types. Initiatives like awareness campaigns and marches should be influencing the nation that preaches that all skin is beautiful, and a person should be judged by their character and not discriminated by their skin. These colour prejudices should be challenged and all skin tones of a lady should be celebrated – By doing so, we could create a better inclusive society for women – where women are valued for who they are- and embrace themselves in their skin colour.<sup>13</sup>

---

<sup>13</sup> Fair and lovely and the discourse of fairness, BBC News ( July 2, 2020)