

## DISCUSSION

The discussion opened with an examination of the paper as it deals with the effective administration of governmental policies designed to benefit the weaker sections of society. One participant commented that he does not believe that the only effective way of administering government policies is through the court system. He questioned the existence of any laws which obligate the government to improve the condition of the poor. The court only has a role in cases of unequal treatment or government discrimination in the making of administrative policy. If a normative policy is to be implemented, it must be supported by both specific rules and regulations under statutory law and an efficient administrative mechanism.

The next participant claimed that state government rules for the Harijans do exist and can be reinforced. He agreed with the preceding speaker's interpretation of constitutional power for redistributive legislation. This power is enabling, not obligatory. The speaker went on to disagree with Galanter's interpretation of the 1976 Protection of Civil Rights Act as a mere amendment of the 1955 Act. The two Acts, he insisted, are "drastically" different. The 1976 law deals with status redistribution in the sense of equality of status. He cannot understand why end results are always to be seen only in terms of the number of resultant prosecutions. There is, he suggests, a difference between quantity and quality. The question should not be one of whether or not redistribution has occurred. It should instead be a question of the *effects* of social control. The system prevails when the brightest and most politically aware untouchables are educated and given jobs that carry the status of high caste Hindus.

The next commentator noted the importance of alternative means of enforcement in connection with these policies. The Civil Rights Acts in the United States have been enforced with the policy of withholding federal funds from institutions which failed to enforce the Acts. Threatening to take away tax-exempt status is second way to ensure compliance. Organizing resources to bring cases of non-compliance forward is a third way in which "enforcement" is brought about in America. The speaker concluded that enforcement is not, therefore, only a question of more lawyers and more litigation as suggested by Galanter. One must realize that in the Indian case, the legislation stands alone.

The next issue raised was the non-institutional uses of laws (PCRA and UOA). Indian society is characterized, one participant commented, by a paucity of those resources which enable the efficient use of the law in the courts' institutional framework. The law has been valuable primarily as a means to raise the social consciousness of the people; clear changes have taken place in behaviour toward Untouchables. The speaker felt that Galanter's statistical studies gave an incomplete picture of the social reality. The law has had value, if only in a larger social context.

Another participant criticized Galanter's approach to law and social change. In applying a micro-analysis, Galanter has ignored the macro structures. The picture is overly simplified and unrealistic. Change of fundamental social structures can only take place slowly; it will take place no more quickly than social groups are organized and social consciousness is raised.

The next speaker discussed the concept of rights. It is important to recognize the various meanings given to "a right". There are several levels at which one can discuss "a right". The untouchables, for example, are subject to widespread intimidation, ostracism and violence which inhibits them from attempting to exercise their rights. The question in India today is whether this is a social or legal right. In discussing rights in the United States, one shifts to a higher level of rights. A relevant question here is whether or not the government must provide disadvantaged groups with educational opportunities. At the highest level, a person does not have a right to something unless there is an affirmative obligation on the part of the government to provide it.

The discussion concluded with Rajeev Dhavan's response to the various criticisms and comments. In response to the criticism of Galanter's paper as an over-simplified, micro-analysis of a more complex situation, Rajeev Dhavan stated that he felt that Galanter had focused on one particular arena, but that Galanter had not necessarily excluded the relevance of other variables. The paper should be viewed as a macro-analysis of two particular programmes. Dhavan welcomed and agreed with the comments on the importance of alternative means of implementation. Galanter himself may agree, Dhavan said.

Finally, Dhavan stated that he does not believe that the legal arena is the correct arena for social change. Since 1955, more violent means of oppression have become the norm. Galanter's paper, Dhavan said, addresses only the "upper crust" untouchables. The real arena of oppression is not covered by the Protection of Civil Rights Act, he concluded.