

## Discrimination And Reservation System For The Backward Classes Based On Caste

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**ABSTRACT:** *This Research paper is all about Discrimination and Reservation System For The Backward Classes Based On Caste. As Kurmana Simha chalam 2007, Said that in today's india ,caste based reservation still existed. The National Human Rights Commission recently expressed their concerns about the treatment of Dalit's and Adivasis (The Scheduled Castes). Caste based reservations also violate one of the most fundamental principles in Western philosophy: equality. Caste based reservations also violate one of the most fundamental principles in Western philosophy: equality. The National Human Rights Commission recently expressed their concerns about the treatment of Dalit's and Adivasis (The Scheduled Castes). Intergenerational poverty is more pronounced among the scheduled castes and tribes since the poorest Patels are likely to be from families where even grandparents were poor.*

*Keywords: Discrimination, Victim blaming, Gender-based violence, Caste System, Domestic violence.*

### **I INTRODUCTION:**

In India, being from a lower class category (a scheduled caste or scheduled tribe) is closely linked to intergenerational poverty. And it was this link that led us to think about why reservation--an anti-poverty mechanism intended for disadvantaged groups--is not reducing poverty in India. In this blog post, we argue that it is because of the limitations of the reservation framework and suggest actionable steps to improve outcomes for those who benefit from reservations.

The policy of reservations is well thought out. It has addressed a major social problem, while keeping within the constitutional constraints. However, there are issues inherent in

the design of reservation that leads to inadequate redistribution and worsens intergenerational poverty among those who benefit from it.

Reservation is intended to help disadvantaged groups improve their socio-economic position. Intergenerational poverty is more pronounced among the scheduled castes and tribes since the poorest Patels are likely to be from families where even grandparents were poor. This means that children and grandchildren of these families are destined for life of deprivation, with lower educational attainment as an expected outcome.

The policy of reservation is poorly designed to address this problem since it is not based on need, but on a group's birth. Inequality in India is driven by the same factors that cause inequality in other countries: human capital and economic growth. Intergenerational poverty can be reduced only if economic growth translates into improving the socio-economic position of children and their parents. And this requires investments in development that lead to a more inclusive society.

Caste System in India has been a major hurdle for the society to progress and break free from poverty. However, it has been over a century since the British introduced caste system to India. Considering that time is of essence, reservations system was implemented in 1956. It was an effort made by the Indian government to provide equal rights to backward classes in education and employment opportunities without making any major changes or impact on caste hierarchies. Initially, reservations were limited only for backward castes but now they have been extended to “others” as well which includes SCs and STs etc.

The system has been beneficial but at the same time, it has also been controversial. Reservation policy has faced a lot of criticism from various individuals and organizations who question its fairness and effectiveness. This is due to many factors like reservation that harms meritocracy, reservation for certain groups based on caste etc. However, given the fact that 85% of India's population belongs to backward classes it is imperative that we continue with this policy to ensure a brighter future for our country as well as its people.

Urgent need for reservations in education and employment opportunities for Backward Classes was felt by the British during their rule in India (1857-1947). Before the British came to India, the society was based on castes. It was a tradition that existed over several centuries till date. The importance and respect of a person in the society was determined by his or her castes. Brahmans were considered as most superior and a threat to their status led them to leave their traditional jobs such as priesthood, writing and teaching etc. This caused employment crisis in these sectors leading to increase in population of these communities who were economically backward. This also led to an increase in number of unemployed people who did not have any other option but to work on daily wages basis (Kirloskar, 2013). The caste system is alive and kicking in India. This practice has been prevalent since ancient times. Even though government of India has taken several steps to abolish this discriminatory practice, the system continues to exist. What's worse is that it is being practiced even today.

According to the National Crime Records Bureau (NCRB), around 31 percent of Indians belong to Scheduled Castes or Scheduled Tribes. These communities continue to face discrimination and social prejudice due to their low socioeconomic status.

Although the Indian constitution prohibits discrimination on grounds of religion, race, creed, color, sex, language, etc., the implementation of reservation policies is not satisfactory. The government should take concrete steps to ensure the eradication of casteism and social equity.

## **II LITERATURE REVIEW:**

The researcher has made a throughly research on these existing literature and the following literature sources are as followed:

**1.According to om prakash Sharma** ,2013 he said that Indian society is been full of inequalities. It was a caste stratified hierarchial society which had been discriminated and denied the bare human rights. Members of lower caste always suffers from discrimination in all areas of life .the worst effect is to access knowledge and and learning to denied the

lower castes. Economic backwardness brought social backwardness which is depriving the dignity of life.

**2.According to kapil sibal** said that caste is centre of arithmetic of politics. They personify the political leaders,the cause of caste less india and embrace for political mileage .caste is to stay for long time to come.better for political parties for accept the reality of caste and to deal wih them to say they do not believe in caste based politics.

**3.According to kurmana simha chalam** 2007, Said that in today's india ,caste based reservation still existed. It introduces to bring equality in education then reservation extended to other sectors also development process and to overcome the economic inequalities to caste.

**4.According to Smita Narula** 2008,It said that ,In india lives today is a environment for its presence,world's largest democracy for a progressive and to protect the constitution , a system of laws which bare designed and to prescribe and punish acts of discrimination on basis of the castes it also include constitutionally reservations for dalits, so called untouchables.

### **III Research Methodology:**

#### **Research Question:**

- 1.Whether cast based reservations are itself discriminatory?
- 2.Does India really need reservations?

#### **Research Objective:**

1. Gaining deep research and knowledge about reservations.
2. The Indian reservation is to improves the social and educational status for the unprivileged community and to improve their lives.
3. To promote and advanced the backward classes.

4. To justify the past and historical injustices against the backward society.

### **Chapterization:**

In caste-based reservations, the government gives preferential treatment in education and employment opportunities to members of certain castes. This social policy can either be a form of affirmative action in order to address systematic discrimination or an example of its own form of discrimination. This question and use relevant evidence from India's Constitution, literature on caste privilege, and Article 15(4) as a comparison. The affirmative action in education does not violate the Constitution as it is justified on grounds of equality, but caste-based reservations do violate Articles 15(4) and 16.

Article 15(4) of the Indian Constitution states, "No person shall be entitled to receive aid from the state unless he is a citizen of India and is domiciled in India." These two requirements are upheld by Article 16: "No citizen shall be deprived of his citizenship except under authority of law. These articles mean that any person who is neither a citizen or domiciled in India should not receive preferential treatment. This means that caste based reservations might be a form of discrimination.

The United Nations Declaration of Human Rights states, "No-one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of law against such interference or attacks." caste based reservations violate this declaration as members of certain castes are denied access to education and employment opportunities. As a result, they are subjected to systematic interference with their privacy.

Caste based reservations also violate one of the most fundamental principles in Western philosophy: equality. However, equality is used in different ways throughout constitutional literature on affirmative action policies. It is used as a substantive principle, in which it means no discrimination of any kind. It is also used as a formal principle, in which it means impartiality.

When equality is used as a substantive concept, Article 15(4) of the Constitution is relevant. This article states that "the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth." When equality is used as a formal concept, Article 14 (1) and (2) are relevant.

India has had a long history of being socially stratified, with the lower strata living in poverty-stricken conditions. The caste system is also prevalent, with certain castes considered superior to others. There has been widespread discrimination against women and minorities in India for over a thousand years. The National Human Rights Commission recently expressed their concerns about the treatment of Dalit's and Adivasis (The Scheduled Castes). There have been protests across the country demanding social justice for those who have suffered at the hands of upper class Hindus for thousands of years. It seems that there will be protests until something changes in India- until Indian society is more inclusive than ever before. But what does society look like? And, who are the oppressors and the oppressed?

India has a population of over 1.2 billion people, making it one of the most populous countries in the world. From our government to our citizens, India is a complex country with many different cultures and traditions. In recent decades there has been an explosion of western culture into all aspects of Indian life; however there are some aspects that have remained unchanged for centuries-Indians have always had a strong cultural tradition concerning social hierarchy and discrimination against other groups based on caste or gender. India has a Hindu dominant government and society, where the majority of the population is Hindu. This poses a problem for the many social and religious minorities that live in India, who practice a religion other than Hinduism. This means that many of these groups are discriminated against by the majority as well as being forced to live in separate areas within Indian cities.

Although India is dominated by Hindus, there are several other religions present; Buddhists, Muslims and Christians all live in different regions of the country based on their views about the afterlife. These groups of people can be discriminated against because they are not viewed as belonging to one religion-they are treated like second

class citizens. Some of the religions that are commonly found in India are Hinduism, Buddhism, Jainism and Sikhism. There are approximately two million Muslims living in India. Muslims have been forced to live separate from the rest of society, regardless if they are rich or poor. Social discrimination has been a problem for Muslims who have had to wear different clothing from the rest of society or live in secluded areas because they feel unsafe in some areas.

### 103<sup>RD</sup> AMENDEMENT ACT'2019

The new reservation act was introduced by legislature named as a 103<sup>rd</sup> constitutional amendment act'2019. In this amendment it introduces a 10% reservation to the economic weaker section of society it also known as a EWS. They also provide reservations to weaker sections in public employment and admissions in public and private institutions of education. Before this new amendment there is a 50% limit on reservations. In this 22.5% seats are reserved for scheduled castes and scheduled tribes in this 7.5% for scheduled tribes and 15% for scheduled castes. In this 27% of seats reservation given to other backward classes OBC. Total reservation given before this 103<sup>rd</sup> amendment is 49.5% and now this conforms with the rule and now limit of reservation extended to 50%. It provides 10% reservation in addition to present reservation. Now total reservation is about to 60%, which is higher than the existing rule of 50% limit of reservation. As Dr. Gopal said that the reservations which are already existed before this new amendment that was not based on a caste identity, but it was based on social and educational backwardness of weaker society and lack of representation. However this new amendment in effect and it states the backward classes which are not entitled to EWS quota and this same is available for the poor among the forward classes.

<sup>1</sup>In Kumara v. State of Kerala case, it was said that the all classes are entitled for socially and educationally backward classes. This is not understood in country then he also added and pointed in several states that several of Brahmins communities who are victims of

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<sup>1</sup> Kumara vs. State of Kerala on 11 January, 1998

social discrimination that have been given benefits under OBC reservation,he also states that reservation under Article 15(4)and Article 15(5)theses sections are for all castes which are from socially and educationally backward,The article 15(6),it hjas been added to 103<sup>rd</sup> amendment ,it states that this is not covered under Scheduled caste and scheduled tribes and socially educationally backward classes for reservation.If this was really economic reservation,it would be given to the poor people irrespective castes,but it was not done.

<sup>2</sup>The supreme court in the case of MR.balaji v. state of mysore ,In this case it would not possible to predict and exact permissible percentage of reservation it can be states that in general and broad way is to be less than 50% it how much less than 50%it could be depend on the relevant prevails in circumstances of each case.in this caste of a person cannot bw a criteria for sole and particular caste is backward or not it determinants such as poverty,occupation ,and it is relevant to be taken into consideration .the court says it does not mean if one caste considers then the backward it will continue to backward other times.govt. gives a review to test and if it reacges and states the progress then reservation is not necessary it should be delete the class from the list of backward classes.

<sup>3</sup>In indra sawhney v. union of india case ,The supreme court held that if any other power confers by constitution by article 16(4)it must be exercised reasonabaly and 50% of limit over reservation should not to be exceeded.

#### **IV CONCLUSION:**

In India, being from a lower class category (a scheduled caste or scheduled tribe) is closely linked to intergenerational poverty. It has addressed a major social problem, while keeping within the constitutional constraints. However, there are issues inherent in the design of reservation that leads to inadequate redistribution and worsens intergenerational poverty among those who benefit from it. Intergenerational poverty is more pronounced

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<sup>2</sup> M.R. BALaji and others vs. State of mysore on 28<sup>th</sup> September, 1963 AIR 649, 1962 SCR Supl. (1) 439

<sup>3</sup> Indra Swahney Etc. vs. Union of India and others, Etc on 16 november, 1992 AIR SC 477, 1992 Supp 2 SCR 454



among the scheduled castes and tribes since the poorest Patels are likely to be from families where even grandparents were poor. This means that children and grandchildren of these families are destined for life of deprivation, with lower educational attainment as an expected outcome. The policy of reservation is poorly designed to address this problem since it is not based on need, but on a group's birth. Inequality in India is driven by the same factors that cause inequality in other countries: human capital and economic growth. Caste System in India has been a major hurdle for the society to progress and break free from poverty. The system has been beneficial but at the same time, it has also been controversial. Reservation policy has faced a lot of criticism from various individuals and organizations who question its fairness and effectiveness. The importance and respect of a person in the society was determined by his or her castes. This caused employment crisis in these sectors leading to increase in population of these communities who were economically backward. According to the National Crime Records Bureau (NCRB), around 31 percent of Indians belong to Scheduled Castes or Scheduled Tribes. In caste-based reservations, the government gives preferential treatment in education and employment opportunities to members of certain castes. Article 15(4) of the Indian Constitution states, "No person shall be entitled to receive aid from the state unless he is a citizen of India and is domiciled in India." These two requirements are upheld by Article 16: "No citizen shall be deprived of his citizenship except under authority of law." I argue that these articles mean that any person who is neither a citizen or domiciled in India should not receive preferential treatment. This means that caste based reservations might be a form of discrimination. The United Nations Declaration of Human Rights states, "No-one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. As a result, they are subjected to systematic interference with their privacy. Caste based reservations also violate one of the most fundamental principles in Western philosophy: equality. It is used as a substantive principle, in which it means no discrimination of any kind. When equality is used as a substantive concept, Article 15(4) of the Constitution is relevant. India has had a long history of being socially stratified, with the lower strata living in poverty-stricken conditions. The National Human Rights Commission recently expressed

their concerns about the treatment of Dalit's and Adivasis (The Scheduled Castes). India has a population of over 1.2 billion people, making it one of the most populous countries in the world. Some of the religions that are commonly found in India are Hinduism, Buddhism, Jainism and Sikhism. Muslims have been forced to live separate from the rest of society, regardless if they are rich or poor.

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