



UPLIFTING THE MARGINALIZED: A STUDY OF EFFECTIVENESS OF RESERVATION IN INDIA'S CASTE SYSTEM

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INTRODUCTION

Caste is a kind of social division characterized by endogamy and the passing down of a way of life down the generations. Caste-based reservations will be incomplete if we do not know what actual caste-based discrimination is. So, in this article, we characterized the origin of caste discrimination, the influence of the British Raj, pre-independence history and reservations today.

ORIGIN OF CASTE DISCRIMINATION

There are several theories for the origin of the caste system. According to the traditional Indian theory of Rig Veda, the caste system was created by Brahma, the creator of the

universe. Brahma's numerous bodily portions gave birth to various castes, also known as "varna". Like Brahmins (priests), Kshatriyas (noble) emerged from his hands, Vaishyas (commoners) from his thigh or stomach, and Shudras (servants) from his feet.¹ Dalits were not defined in this theory, because of which they were known as "avarna". People from different castes then function according to their origins. Various sub-castes arose from these castes in ancient India, and this has gained a classical interpretation of Manu's narrative.² The hypothesis has been challenged for being a supernatural notion with a heavenly foundation.

Another theory known as the occupational theory³ holds that the type and quality of social work performed by various local groups and individuals—occupations that were considered better and more respectable—lifted people who did them above those who participated in dirty occupations.

However, another belief which is known as evolution theory,⁴ holds that your caste is determined by your prior actions. So, if you did well in your previous life, you would be reincarnated as a Brahman in this incarnation; otherwise, you would be born as a Dalit. And if a lower-caste individual wishes to be born into a superior caste in his next life, he must strive hard within his caste.

¹ The Editors of Encyclopedia, *Varna*, ENCYCLOPEDIA BRITANNICA (Jan. 25, 2023, 11:46 PM), <https://www.britannica.com/topic/varna-Hinduism>.

² Ramandeep Kaur, *Caste System in India and its Origin Theory*, MAPS OF INDIA (Jan. 25, 2023, 11:51 PM), <https://www.mapsofindia.com/my-india/india/caste-system-in-india-and-its-changing-scenario>.

³ Shelly Shah, *7 Major Theories Regarding the Origin of Caste System in India*, SOCIOLOGY DISCUSSION (Jan. 25, 2023, 11:54 PM) <https://www.sociologydiscussion.com/caste/7-major-theories-regarding-the-origin-of-caste-system-in-india/2354>.

⁴ *Id.*



In racial theory, according to Dr. Mazumdar,⁵ the caste system was born shortly after the arrival of Aryans in India. To retain their independent existence, the Indo-Aryans employed their favourite words "varna" and "colour" for specific groupings and ranks of people. Thus, they referred to the "Dasa varna" or, more accurately, the "Dasa people." Rig Vedic literature emphasizes the disparities between the Arya and Dasa, not just in colour but also in speech, religious rituals, and physical characteristics. The three classes, Brahma, Kshatriya, and Vis are referenced repeatedly in the Rig Veda. The name "Shudra," for the fourth class, appears just once in the Rig Veda. The first two classes, Brahman and Kshatriya roughly reflected the two occupations of poet-priest and warrior-chief. Vis represented the ordinary people. The Shudra class represented domestic servants who were very close to being slaves. The Rig Veda says nothing about the relationship that exists between the four classes. The Brahmin, on the other hand, is regarded as superior to the Kshatriya.

CASTE DISCRIMINATION IN MODERN TIMES

The evil of caste in India is nearly as old as the Gods, and it is the most poisonous and developed example of how humans strive to impose superiority and pain on others by their birth. Even in the 21st century, many people still believe in and even practice caste discrimination.⁶ Therefore, the query is,

"Does India still have a caste system?"⁷ Even though several laws, articles, and amendments have been made in this regard, untouchability is still practiced in some areas of India. Still, now, these customs are strongly intertwined in certain Indian households. This practice reaches higher than 40% to 50% in some districts of Uttar Pradesh, Bihar, and Madhya Pradesh. In 2016, Social Attitude Research India conducted a national survey,⁸ in the states of Delhi, Mumbai, Rajasthan, and Uttar Pradesh to ask individuals if they had witnessed or practiced untouchability in their region. In Delhi, 39% of non-Dalit Hindu women agreed that untouchability is practiced in their family and 21% admitted to doing it personally. Similarly, untouchability is still practiced by more than 40% of people in Rajasthan, Mumbai, and Uttar Pradesh. 60% of people in Rajasthan's rural districts oppose inter-caste marriage. On the other hand, some believe that reservations should be granted based on merit rather than lower or upper caste; otherwise, there will be no equity in society.

INFLUENCE OF BRITISH RULE ON THE CASTE SYSTEM

After the fall of the Mughal monarchy in 1774, the British took over. Previously, the British were not opposed to the caste system, but as time went on, the British grew to dislike their anti-caste views. They took a stand against the caste system.⁹ However, British "divide and rule" strategies helped to

⁵ *Id.*

⁶ Sakthi Vel, *Caste Discrimination*, VIKASPEDIA (Jan. 25, 2023, 11:59 PM)

<https://vikaspedia.in/social-welfare/>.

⁷ KRISHNAMURTI K.S, *HORARY ASTROLOGY* (1st ed. 1960).

<https://archive.org/details/in.ernet.dli.2015.126352>

⁸ Amit Thorat & Diane Coffey, *Talking to Children about Untouchability*, THE HINDU, Dec. 30, 2016.

⁹ Ben Heath, *The Impact of European Colonialism on the Indian Caste System*, E-International Relations, (Jan. 26, 2023, 12:14 PM).



harden caste identities.¹⁰ The British made several alterations to improve administration by implementing socio-religious changes. Acts like. The Caste Disabilities Removal Act,¹¹ The Widow Remarriage Act,¹² and The Special Marriage Act,¹³ were enacted to address society's unfair structures.

New social reforms were purchased by social reformers such as Raja Ram Mohan Roy, founder of the Brahmo. The reformers' activities increased social consciousness in the country. Because of the new factories that arose, the working culture was altered. These industries recruited workers, changing the occupations of many people who had been the same for generations. This has an impact on the entire caste structure.¹⁴ British control substantially destroyed the caste system's three supporting pillars: inherited specializations, the religious hierarchy, and mutual rejection.

Moreover, many British policies favour the caste system. For example, the British administration began conducting censuses in India for administrative purposes and to learn the composition of Indian society, which would aid in obtaining control over the Indians. Since the first census in 1872, the colonial authority has merged caste and religious groupings in the enumeration of the Indian population.¹⁵ Language criteria, such as Bengali, Oriya, and so on, were used to

rename castes. In the 1881 census, Census Commissioner W.C. Plowden chose to categorize the various castes into five groups: Brahmans, Rajputs, Castes of Good Social Position, Inferior Castes, and Non-Hindus or Aboriginal Castes. The Scheduled Caste Order, which was established in 1936, made caste listing permissible in all Indian states. Although these initiatives failed in eliminating the caste system, they did help reduce its rigidity to some extent.

THE CONCEPT OF RESERVATIONS

Before independence, numerous districts of British India had quota systems that favoured specific castes and other populations. Positive discrimination of various kinds had been demanded. The idea of a reservation policy in India was originally developed by William Hunter and Jyoti Rao Phule in 1882.¹⁶ Many attempts were made after and before independence to stop the unfair behaviours common in society because of the caste system. These movements focused primarily on improving the socioeconomic situation of the underprivileged castes. Before independence, in the early part of the twentieth century, Dalits aspired to distance themselves from Hinduism and began seeking separate electorates for Dalits. On the one hand, Gandhi aspired to assimilate them into Hinduism, while Ambedkar launched the Dalit movement and fought for increased

¹⁰ *Id.*

¹¹ The Caste Disabilities Removal Act, 1950, No. 21, Acts of Parliament, 1950 (India).

¹² The Hindu Widow's Remarriage Act, 1856, No. 15, Acts of Parliament, 1856 (India).

¹³ The Special Marriage Act, 1872, No. 3, Acts of Parliament, 1872 (India).

¹⁴ Manali S. Deshpande, *History of the Indian Caste System and its impact on India Today*, SENIOR PROJECT, Dec. 2010.

¹⁵ Kevin Walby & Michael Han, *Caste Confusion and Census Enumeration in Colonial India, 1871-1921*, PROJECT MUSE, 301-318.

¹⁶ Gurpreet Kaur Dutta, *Everything about Reservation System in Detail*, FINOLOGY (Jan. 26, 2023, 03:24 PM) <https://blog.finology.in/Legal-news/>.



Dalit rights in the form of reservations. He thought that only by bringing socio-economic and political reforms to society could they be given justice.

Later, the Poona Pact¹⁷ was signed between M. K. Gandhi and B. R. Ambedkar to protect seats among Hindu electorates for oppressed castes. In 1942, the Viceroy's Executive Council proposed an 8.5 percent reservation for scheduled castes in public posts.¹⁸ Reservations for scheduled castes and tribes were established in the Indian Constitution in 1950. Several laws were developed by the Indian government when drafting the Indian constitution to ensure equality among the country's population. Article 14¹⁹ ensures equality before the law; Article 15²⁰ prohibits discrimination based on religion, sex, place of birth, race, and caste; Article 16²¹ mandates equality of opportunity in public employment; and Article 17²² abolishes untouchability. In 1956, he urged around six million Dalits to convert to Buddhism to escape the social shame of untouchability under the Hindu caste system.²³ During the 1970s, the younger Dalits launched a campaign to express their outrage and disgust at the failure of policies to achieve equality and stop discrimination against the higher castes. There were three primary categories of people who were eligible for reservations

in government positions, government companies, state-controlled institutions, and so on, based on the population of that group in their area. The scheduled caste is the first such group. In the caste system, people in this group were considered untouchables. They were not classified as one of the four varnas of the caste system. The next group of individuals is the scheduled tribes, which are people who were not part of the caste system. They did not live in communities with regular people but in thick forests. They are also known as Adivasis. The OBCs, or Other Backward Castes, are the final group of people.

MANDAL COMMISSION²⁴

In December 1978, the President formed a backward class commission, chaired by B. P. Mandal, in the execution of the powers granted by Article 340²⁵ of the Constitution. The commission was constituted to examine the criteria for designating India's "socially and educationally backward groups"²⁶ and to suggest initiatives to be taken to promote such classes. The Mandal Commission found that while OBCs made up around 52 percent of India's population, 27 percent of government positions should be designated for them. Eleven indicators of social, educational, and economic backwardness

¹⁷ The Editors of Encyclopedia, *Poona Pact*, ENCYCLOPEDIA BRITANNICA (Jan. 26, 2023, 03:25 PM) <https://www.britannica.com/event/Poona-Pact>.

¹⁸ GOI Monitor Desk, *History of Reservation in India*, GOI MONITOR, (Jan. 26, 2023, 03:28 PM) <https://www.goimonitor.com/story/history-reservation-india>.

¹⁹ The Constitution of India, 1950.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Sudarshan Kapur, *Gandhi, Ambedkar, and the Eradication of Untouchability*, GETLINER (Jan. 26, 2023, 03:37 PM) <https://getliner.com/picked-by-liner/>.

²⁴ Tejas Harad, *How Mandal Changed, and did not Change India*, HINDUSTAN TIMES (Jan. 26, 2023, 03:42 PM)

<https://www.hindustantimes.com/analysis/>.

²⁵ *Id.*

²⁶ Jungug Choi & Narender Kumar, *Reservation Policy for Backward Classes Extent and Determinants of Support*, EPW (Jan. 26, 2023, 03:42 PM) <https://www.epw.in/journal/>.



were created by the commission. In addition to designating backward classes among Hindus, the Commission has designated backward classes among non-Hindus (for example, Muslims, Sikhs, Christians, and Buddhists). It has developed a list of 3,743 castes for the other backward classes (OBC) in India, as well as a list of 2,108 castes²⁷ for the more disadvantaged "depressed backward classes" in India.

Landmark Cases for Reservations

A landmark in the issue of reservation was the 1992 judgment pronounced in *Indra Sawhney v. Union of India & Ors.*²⁸ by the Supreme Court. The then-Prime Minister, Shri Morarji Desai, appointed the Second Backward Classes Commission in 1979, under Article 340 of the Constitution. The Commission, led by B.P. Mandal, was tasked with investigating the state of India's socially and educationally backward groups. When the Commission's report was ultimately presented in 1980, it proposed a 27 percent quota in government positions for these groups. The fall of the Janata Party administration compounded circumstances, and the report's recommendations could not be executed. For several years, there was little advancement in this regard until the Janata Dal regained power in 1989 and chose to adopt the report's recommendations, reserving 27 percent of the seats for socially disadvantaged groups. Following this, there were reservations and anti-reservation rallies across the country, some of which turned violent. When the government's move was challenged in the Supreme Court via a writ petition, the then-Prime Minister P V

Narasimha Rao issued another order increasing the reservation level to 37 percent while also encompassing economically, socially, and educationally backward sections. The five-judge panel sent the case to a nine-judge panel.

JUDGEMENT:

In its decision, the court stated that article 16(4) is not an exception to (1); rather, it is an example of classification as established by (1). The socially and educationally backward parts listed in Article 15 were not the same as the backward groups specified in Article 16(4). The concept of a "creamy layer" was developed, and it was suggested that such a layer be avoided while identifying backward classes. Article 16 allows backward classes to be classed as backward or more backward (4). Bookings may not exceed 50% of the total capacity, and reservations for promotions are not accepted. Any additional criterion arguments were to be presented alone before the Supreme Court.

CREAMY LAYER

This word was first used in the context of employment reservation for particular communities in the 1992 case *Indra Sawhney & Others v. Union of India.*²⁹ According to the Supreme Court, the advantage of the reservation should not be extended to OBC offspring of constitutional authorities. Children of people with an annual income of more than Rs.800,000 (Rs.8 lakh) for three consecutive years are likewise excluded.

²⁷ Joseph W. Elder, *Mandal Commission Report*, ENCYCLOPEDIA, (Jan. 26, 2023, 03:42 PM) <https://www.encyclopedia.com/international/>.

²⁸ *Indra Sawhney v. Union of India & Ors*, AIR 1993 SC 477, 1992 Supp 2 SCR 454.

²⁹ *Id.*



The "creamy layer" category was designed solely for OBCs until September 30, 2018, but it is now being applied to scheduled castes and scheduled tribes, with the argument that it is based on untouchability or backwardness than economics. This only applied to reservations in promotions; the rest remained unchanged.

In December 2019, the federal government filed an appeal in the Supreme Court against the prior ruling regarding the application of the "creamy layer" to the SC/ST quota.

IMPACT OF 103rd CONSTITUTIONAL AMENDMENTS, 2019.³⁰

The 103 Constitutional Amendment Act established a 10% reservation for members of the Economically Weaker Sections (EWS) of society who are not members of the Backward Classes, Scheduled Castes, or Scheduled Tribes for enrolment in central government and private educational institutions and employment in central government positions. Private, unassisted educational institutions are similarly covered by the 103rd Constitutional Amendment Act, except for minority educational institutions. Here, family income will be used to determine how economically behind the area is.

The 103 Constitutional Amendment Act changed Article 15 to empower the government to support the advancement of economically underprivileged groups. Additionally, it modified Article 16 to make it easier to reserve up to 10% of all positions for members of economically deprived

sections. This reservation brings the overall reservation up to roughly 60% after adding it to the current ceiling of 50% reservation for the scheduled castes, scheduled tribes, and other backward classes. More seats would be made available in higher education facilities, including medical schools, IIMs, IITs, NITs, etc., thanks to the 103rd Constitutional Amendment Act. Regardless of religion or caste, reservations are offered by the 103rd Constitutional Amendment Bill.

Many believe that the fundamental principles of Indian democracy are violated by the 103 Constitutional Amendment Bill. They contend that social isolation is the true cause of reserve, not just economic backwardness. Additionally, the Supreme Court set a 50 percent limitation for reservations, which cannot be violated.

A non-governmental organization called Youth for Equality filed a public interest lawsuit in the Supreme Court just hours after Parliament approved the 103rd Constitutional Amendment Act of 2019. They maintained that the overall reserve quota would increase to 59.5% with the implementation of the 103rd Constitutional Amendment Act, in violation of the Supreme Court's decision. Additionally, it violates the basic structure of the Constitution. Deciding about the act's economic backwardness standards is another difficulty. Many analysts believe that the specified income barrier is excessive and was set without acquiring or considering any report. The verdict was in the ratio of 3:2, where the majority of the judges said it's not violating the basic structure of the constitution and says that the 10%

³⁰ Pranshuvats, *Analysing the 103rd Constitutional Amendment*, LEGAL SERVICE INDIA (Jan. 26, 2023, 03:55 PM) <https://www.legalserviceindia.com/>.



reservations made through this amendment are not for the backward people; they are for the general population having less than Rs.8 lakh per annum in salary.

THE CURRENT SCENARIO OF RESERVATIONS

Reservations have been one of the most effective techniques of positive discrimination in India and have helped achieve the goal of delivering social justice. Any policy that has an impact on it must be reviewed. Articles 15 and 16 of the Constitution grant our government the authority to reserve seats in educational institutions and public employment. According to population shares, about 22% of seats have been reserved for SCs and STs. From 1970 to the 1990s, this representation increased for both groups (SCs and STs), and it is expected to increase further in the future, according to the most recent higher education survey. Reservation has resulted in an increased representation of disadvantaged groups in public administration and higher education institutes. According to research, overall, it has had a positive impact on their lives, but there is still a lot of room for improvement.

Another study revealed that OBC students' morale improved because of their reservation in government positions, and they began studying more. Due to reservations, students began studying for an additional 0.8 years on average. We might observe a mixed influence on the political seats. As we all know, our current President of India, Draupadi Murmur, is from the ST community, yet due to the reservations, she was able to enter the political system. However, many impoverished individuals are still unaware of

the benefits of reservations. According to the 2019–2021 figures, around 16.4 percent of India's population is poor, with 4.2 percent living in extreme poverty since their deprivation score is greater than 50%. Around 18.7 percent of the population is vulnerable and at risk of falling into extreme poverty.

CONCLUSION

Though changes are there, India still needs to work on this issue of the caste system so that caste-based inequalities can be uprooted from our society forever. Reservation is acceptable as long as it offers acceptable positive discrimination for the benefit of the oppressed and poor groups of society. However, if it seeks to undermine society and assure advantages for some at the expense of others for limited political goals, it should be abolished as soon as possible. The populations that are not part of reservations exhibit anger and prejudice toward the castes that are part of the reserved category. When more people strive for backwardness than forward progress, the country as a whole stagnates. Meritocracy should not be damaged by lowering obstacles; instead, it should be strengthened by offering financial help to the poor. Strong political will is required to strike backward between justice for the backward, equity for the forwards, and overall system efficiency.



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