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# THE LAST MILE OF LIBERTY: WEEDING OUT PRIVILEGE TO UPLIFT THE TRULY OPPRESSED

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## ABSTRACT

Indian society has one of the most infamous social stratification systems, backed by divine ordination and prevalent even to date, known as caste system. The stratification has resulted in a wide rich poor divide among the upper and lower caste communities. The dawn of national struggle and independence saw caste-system become political hot iron, with Britishers trying their every bit to trigger the fault lines and leaders like Dr. B.R. Ambedkar resisting the same. The Indian Constitution under various provisions has reserved seats for backward classes, particularly in the field of education and employment. However, with years the reservation system, primarily for SCs and STs, saw addition of Other Backward Classes, and judicial intervention fixing the ceiling to reservation at 50%.

With the passage of time the system has developed various issues like issuance of fake certificates, structural concentration, raising calls for its abrogation. However, the aim of reservation policy to secure adequate representation for backward classes, which has been substantiated by reports and surveys by various commissions and organisations, thus, making the call for its abrogation irrational. The reservation system, lately in 2024 saw another major turnaround through Supreme Court's verdict in *State of Punjab v. Davinder Singh*, which permitted sub-classification within SC and ST lists. The same has been implemented in the state of Telangana through 'Telangana Scheduled Castes (Rationalisation of Reservations) Act, 2025'.

The research work shall analyse the historical journey of the caste-system through the lenses Vedic, Mughal, and British periods. It shall also study the influence of caste-system on Indian Constitution and the birth of reservation system. The research work shall also analyse the shortfalls and misuse of the reservation system, and provide possible solutions, in the light of *Davinder Singh* judgement.

## **I. Unity, Diversity, and the Roots of Inequality**

India, has been a nation, characterized by the spirit of 'Unity in Diversity', a nation with different cultures, religions, languages, traditions, communities dotting its landscape. This diversity however has been also accompanied by a history of long embedded social stratification of the communities, and exploitation of those in the lower strata. Take for example, the stratification during Vedic period, when the Varna system was predominantly authoritative; the society was characterised into four Varnas, the Brahmins, the Kshatriyas, the Vaishyas, and the Shudras, with Brahmins being the topmost and Shudras being the lowest. The walls segregating the Varnas were initially fluid, with being characterized by the occupation taken up by an individual, however, during the later Vedic period it became watertight, as Varnas were being ascribed at birth itself. The divine ordination of caste system in the Purushsukta<sup>1</sup> of the Rigveda gave way for justifying repetitive exploitation of the lower ranked community.

## **II. The Divine Ordination through lens of Mughal, British, and Freedom Struggle Period**

The divine ordination of the exploitative Varna system and defeatist attitude adopted by the exploited communities, carried the exploitative legacy of the Varna order across the waves of time. Under the Mughal rule, the fault lines between the castes widened further, within the social strata. The lower castes in villages were repeatedly oppressed, driven out of their rightfully owned lands and were forced to work as landless labourers or scavengers. Each Jati had their own Panchayats known as Jati Panchayats, which enforced caste-norms, settled internal disputes, and imposed punishments on defiance or violation of the caste-norms. The Village Panchayats were functioning as appellate authorities supervising the decisions of Jati Panchayats, in villages of Maharashtra, Rajasthan, and Punjab, where local governance was prominent, petitions from members of lower ranked communities were found, which advocated for basic rights. There have records of instances where people from lower ranked communities abandoned the village, thereby weaponizing their labour against systemic oppression.

The stratification and oppression resulted in economic inequalities among the communities, with naturally the upper ones being wealthier and the lower ones living in poverty. The arrival

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<sup>1</sup> *Rig Veda* 10:90 (*Purushasukta*).

of the British on the Indian soil heralded the period from whereon caste system was going to face major changes, and thereon becoming one of the centre-points of the Indian Freedom Struggle. The Britishers, primarily modified the caste system in a three-pronged manner. Firstly, they stressed on Brahmans, to obtain knowledge about the culture in prevalence, naturally giving Brahmans the edge over other communities, leading to them occupying various positions of power in local governments. Secondly, in order to further solidify their principle of 'divide and rule', in 1909, under the Morley Minto reforms<sup>2</sup>, separate electorates were guaranteed to the lower castes, however, the portrayal of initiative was made in such a manner, to induce a sense that the reforms aimed at transforming depressed classes from being secluded and ignorant to a section of the mainstream society. However, there were various amendments to the caste-system which did result in their upliftment, especially of Dalits and untouchables.

During the freedom struggle, the main voice of the lower caste communities was Dr. B.R. Ambedkar, being a victim of casteist exploitation himself, he launched a barrage of socio-political movements for the upliftment of untouchables, to quote some; the organisation of Bahishkrit Hitkarni Sabha, the Mahad Satyagraha, formation of Depressed Classes Association, however the most remarkable of them all was his relentless advocacy of separate electorates for the depressed classes. The Communal Award<sup>3</sup> of the 1932 did cement his efforts, however, the fast unto death taken by Mahatma Gandhi, led him to recede his position.

### **III. Caste, Constituent Assembly, and The Indian Constitution**

This brings us to the dawn of our Constitution, the period when the draft constitution was being debated, the main advocates for caste-based reservations in education and employment, were Dr. B.R. Ambedkar, who gave the grounds of adequate representation in order to merge the depressed classes in the mainstream society; Jaipal Singh Munda, who advocated for reservations in order to protect the 'original inhabitants'/'tribal identity'; D. Velayudhan, whose main rooting was for abolition of untouchability, though being sceptical of actual quota based reservations. The Constituent Assembly aimed to find a common denominator between formal equality (equality for all) and substantive equality (giving a pedestal for historically oppressed) and the imprints of the same can be seen scattered across various provisions of Constitution.

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<sup>2</sup> Indian Councils Act, 1909, 9 Edw. 7, c. 4 (India).

<sup>3</sup> Communal Award by His Majesty's Government (1932) (India).

The first being Article 16(4)<sup>4</sup> which allows state to reserve government jobs for any “backward classes of citizens”, thus, giving it wide ambit in order to include any community which the government feels are backward; the next provision is that of Article 340<sup>5</sup> which powers the President to appoint a commission to investigate the conditions of socially and educationally backward communities. The most landmark provision is the First Amendment of 1951 which birthed Article 15(4)<sup>6</sup>, which powers the State to make special provision for SEBCs, SCs, and STs in order to ensure complete social justice, wherein the Scheduled Castes consists of historically oppressed groups outside traditional caste system, and Scheduled Tribes comprises of indigenous tribal groups with distinct cultures, however any community or tribe gets the status of SC or ST once notified by the President under Article 341<sup>7</sup> and 342<sup>8</sup> respectively.

#### **IV. The Mandal Story: Chaos, Creamy Layers, and Constitutional Ceilings**

However Indian reservation system is currently compartmentalized in three verticals for Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) with quota allotted as 15%, 7.5%, and 27% respectively, apart from this another 10% is reserved for Economically Weaker Sections (EWS) brought under the 103<sup>rd</sup> Constitutional Amendment<sup>9</sup> in 2019. The OBC reservation however, was a political hot iron during its introductory phases, and the same shall be traced now. On August 13, 1990, the Government of India passed an order also known as Office Memorandum, it was signed by the Joint Secretary of DoPT and Ministry of Personnel, Public Grievances, and Pensions<sup>10</sup>. The order directed announced a major policy decision where 27% of vacancies in in civil posts and services under the Government of India were to be reserved for Socially and Educationally Backward Classes. It was a culmination of long efforts by the Second Backward Classes Commission constituted in 1979 and chaired by Bindheshwari Prasad Mandal. The commission submitted its report in 1980 recommending 27% reservations for SEBCs in India<sup>11</sup>. The report however, remained shelved with occasional discussions and demands for its implementation, until the 1989 General Elections when Janata Dal came to power and formed the government under the

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<sup>4</sup> India Const. art. 16, cl. 4.

<sup>5</sup> India Const. art. 340.

<sup>6</sup> India Const. art.15 cl.4.

<sup>7</sup> India Const. art.341.

<sup>8</sup> India Const. art.342.

<sup>9</sup> The Constitution (One Hundred and Third Amendment) Act, 2019 (India).

<sup>10</sup> Office Memorandum No. 36012/31/90-Estt(SCT), Dep’t of Pers. & Training, Ministry of Pers., Pub. Grievances & Pensions, Govt. of India (Aug. 13, 1990).

<sup>11</sup> Backward Classes Comm’n, Report of the Backward Classes Commission (1980) (Mandal Commission Report).

leadership of Vishwanath Pratap Singh, and within its manifesto was the promise to implement the recommendations of Mandal commission. Accordingly, the Union Cabinet took the formal decision of implementation on August 6, 1990, and the same was informed to both the houses of parliament through a written statement the next day.

The next months were characterised by heated debates and widespread marches across the country either in favour or opposition of the reservation policy. Indira Sawhney, a social activist filed a petition in the Supreme Court, the verdict given by the nine-judge bench by the measure of 6:3 in *Indira Sawhney & Ors. v. Union of India*<sup>12</sup>, changed the face of caste-based reservation in India. The verdict fixed a ceiling on the proportion of reservation that can be made at 50% and also introduced the creamy-layer principle in OBC reservations. The creamy-layer principle involves excluding the socially and economically advanced members of the backward communities from the ambit of reservations.

## V. Numbers and The Chronicles of Upliftment

The reservation policy has, to a large extent, succeeded in achieving its aim of uplifting and adequately representing the backward classes thereby channelling them into mainstream society. The data from various surveys of reputed organisations testifies in the favour of the above assertion. Census data from 1951 the literacy rate among SCs stood at a negligible 10.3% which boosted to 66.1% in 2011<sup>13</sup>, narrowing the gap with national average which stands at 74%; while that in the STs stood at 8% in 1951 and jumped to 58.9% in 2011<sup>14</sup>. In the sphere of employment as well, the DoPT reports show that in Group A (IAS/IPS) the representation of SCs and STs was less than 1.6% but as of 2021 it stands at 14% for SCs and 7% for STs<sup>15</sup>, consequently, the increase in representation resulted in economic upliftment of the backward classes, especially the SCs and STs with approximately 80% of backward classes living in poverty in the year 1951, has now been reduced to 21.3% for SCs and 24.8% for STs, according to MPI report of 2021<sup>16</sup>.

The numeric data is also supplemented by some real-life stories of people from Backward-

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<sup>12</sup> *Indira Sawhney & Ors. v. Union of India* AIR 1993 SC 477 (India).

<sup>13</sup> Office of the Registrar Gen. & Census Comm'r, India, *Census of India 2011: Provisional Population Totals* (2011).

<sup>14</sup> *Id. note.13*

<sup>15</sup> DEP'T OF PERS. & TRAINING, MINISTRY OF PERS., PUB. GRIEVANCES & PENSIONS, GOVT. OF INDIA, *ANNUAL REPORT 2021–22* (2022).

<sup>16</sup> NITI Aayog, *National Multidimensional Poverty Index: Baseline Report 2021* (2021).

classes take for example the former President Mr. Ram Nath Kovind, born to a poor farmer family in Paraunkh village in Uttar Pradesh, Mr. Kovind made it all the way to Raisina Hills, that is the Presidential Office as the 14<sup>th</sup> President of the world's largest democracy. Prior to entering politics Mr. Kovind had an illustrious career as a practicing lawyer in Delhi High Court and Supreme Court of India till 1993. His address from the Central Hall during his swearing in ceremony, he reminisced his humble beginnings on how he and his siblings used to stick to the walls of the mud-hut as thatched roof was not able to prevent rainwater from coming inside, and how he walked. His beginnings and his career do testify that caste-based reservations were indeed successful in bringing backward classes uplift themselves both socially, by shedding their tag of being exclusionary; politically, by actively engaging in the democratic process of the nation; lastly, economically, as previously cited the education and employment guaranteed to backward classes, has very well resulted in their economic upliftment, with a large proportion of their population breaking the shackles of poverty. The story of Mr. Ram Nath Kovind is one such example, there are hundreds of others who despite belonging to backward classes were able to come forward and rise to positions of prominence, with some other notable examples being Honourable President Droupadi Murmu, who hails from Santhal tribe, native to Odisha; another example being that of Ramkrishna Suryabhan Gavai, whose journey goes from a small village of Daryapur in Maharashtra, became a social activist, and later became Governor of Bihar, Sikkim, and Kerala.

## VI. Scars Behind Statistics

However, as the famous proverb is 'There are always two sides to a coin', despite caste-based reservations helping a substantial part of the backward classes in securing adequate representation in education and employment, thereby helping them break free from the crutches of poverty, yet there are still many who await their fate to turn with the help of caste-based reservations. Many are still becoming victims of caste-based violence and atrocities, NCRB and other civil society reports like CJP show a steady rise in caste-based atrocities, with more than 110 incidents being reported in the first half of 2025, with states like Uttar Pradesh and Madhya Pradesh. The presence of Caste-based stigma is seen in recruitment process of prestigious national institutes like IIT Bombay and IIT Delhi, with NCSC sending notices to directors of respective universities regarding the same<sup>17</sup>. The 'NFS', None Found Suitable issue

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<sup>17</sup> *Caste Discrimination during IIT Campus Placements: Scheduled Caste Panel Issues Notice on One-Year-Old Complaint - The Hindu*, <https://www.thehindu.com/news/national/ncsc-notice-on-year-old-plaint-of-caste-discrimination-at-iit-campus-placements/article69123862.ece> (last visited Dec. 19, 2025).

has been used as a shield to mask the consistent vacancies of posts reserved for backward classes in academic institutions. As per the statistics of 2019, out of the 6,043 faculty members across IITs only 149 are from Scheduled Castes, and 21 are from Scheduled Tribes, constituting roughly 3% despite 49.5% of the reserved quota<sup>18</sup>. The wage gap and wealth control in India is highly skewed in favour of top 10% of the population controls over 60% of the wealth<sup>19</sup>; in rural areas as well, approximately 45% of the Dalit households are still landless, forcing them into cycles of debt-traps and bonded/ low-wage manual labour. Many of these are forcibly pushed into hazardous works like manual scavenging, between 2024 and mid 2025 more than 158 deaths were documented during cleaning of sewers and septic tanks, over 90% of those engaged in hazardous tasks belong to backward classes, specifically Dalit sub-castes. The NAMASTE scheme, which was introduced in 2023-24, aiming to protect sanitation workers by providing them safety gears has seen tepid implementation on a macroscopic level.

## **VII. The Rise of Intra-Caste Hierarchy and The Misuse of Reservation**

These realities are often overshadowed by the blatant misuse of the reservation policy by well-off people from backward classes, especially those belonging to SCs and STs due to the absence of creamy-layer filter in reservations. The challenges faced in order to bring those who need actual representation to the front, are two-fold; fake caste certificates and structural concentration. Replying to an RTI application filed by The Indian Express, DoPT, stated that more than 1,084 complaints of fake caste-certificates being used by officers were recorded between 2010 to 2019, and 92 civil servants were dismissed on the same charge<sup>20</sup>, in Punjab 31 senior level officers were caught using fake caste certificates, these are reports of fake caste-certificates being brought to light, can to some extent give an idea about the huge magnitude of fake-caste certificates being issued and helping people reach undeserved positions.

The second hurdle of structural concentration is characterised by Intra-caste dominance and mostly common to OBC reservations, due to inclusion of over 2,600 communities within its bracket. Justice Rohini commission analysed over 1.3 lakh central government jobs, in the span of 6 years between 2017 to 2023 aiming to draw out how benefits of OBC reservations were

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<sup>18</sup> *Less Than 3% of All Faculty Members at IITs Are SC/ST - The Wire*, <https://thewire.in/education/less-than-3-of-all-faculty-members-at-iits-are-sc-st> (last visited Dec. 19, 2025).

<sup>19</sup> Oxfam India, *Survival of the Richest: The India Story 7* (2023), <https://www.oxfamindia.org/knowledge-hub/working-paper/survival-richest-india-story> (last visited Dec. 19, 2025).

<sup>20</sup> *In 9 Years, Govt Got 1,084 Complaints of Fake Caste Certificates for Jobs; 92 Sacked*, THE INDIAN EXPRESS (Aug. 27, 2024), <https://indianexpress.com/article/india/in-9-years-govt-got-1084-complaints-of-fake-caste-certificates-for-jobs-92-sacked-9533063/>.

distributed amongst the communities within its ambit, and the findings were in accordance to the proverb “Reality is often damning than fiction”. The commission found that a few dominant sub-castes obtain the most of the reservation, cornering the others. According to the report, 25% the reservation benefits were received only by a tiny fraction of the communities amounting to 1% of the total communities<sup>21</sup>. Only 25% of the community has access to 95% of the jobs creating a virtual caste-hierarchy within communities falling into the bracket of OBC<sup>22</sup>. The commission further found that 983 communities, making approximately 37%, have zero representation in the Central Government jobs, and just 10 OBC communities account for 24.95% of all the recruitments being done through the OBC quota<sup>23</sup>.

Another issue faced, is the complicated verification of non-creamy layer eligibility, as a result many affluent families obtain fraud NCL certificates by under-reporting their income, under the specified slab, thus, leading to misuse of the reservation policy and further diluting its intended purpose of uplifting of those who are genuinely under-represented groups, perpetuating inequality, and erode public trust in the reservation system. The most notable case, which received national coverage was that of Puja Khedkar, a trainee IAS officer who was debarred and her selection was revoked after she was reported of obtaining a fraud caste-certificate and availing reservation under the non-creamy layer as well as disability quota<sup>24</sup>. Examples like these, often raise the irrational demand to end the reservation system altogether, without paying proper heed to nuances and the need to make it reach the last mile.

### **VIII. The Dawn of Davinder Singh: Permissibility of Sub-Categorisation**

The reservation policy saw another turnaround in August of 2024, with the seven-judge bench verdict by the Supreme Court in *State of Punjab v. Davinder Singh*<sup>25</sup>, which made sub-categorisation in SCs and STs constitutionally permissible for states. In the verdict which came by the ratio of 6:1, the court over-ruled its previous decision in 2004 case of *E.V. Chinniah*, where it held that the SC list under Article 341 was immutable and homogenous, and thus, state

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<sup>21</sup> Comm’n to Examine Sub-categorization of Other Backward Classes, Report of the Commission to Examine Sub-categorization of Other Backward Classes (2023).

<sup>22</sup> *Id. note.21*

<sup>23</sup> *Supra note.21*

<sup>24</sup> The Hindu Bureau, *UPSC Cheating Case: SC Directs Puja Khedkar to Appear before Delhi Police on May 2 for Questioning, Says No Arrest*, THE HINDU, Apr. 21, 2025, <https://www.thehindu.com/news/national/supreme-court-directs-puja-khedkar-to-appear-before-delhi-police-on-may-2-for-questioning-says-no-arrest/article69473479.ece>.

<sup>25</sup> *State of Punjab v. Davinder Singh*, 2024 INSC 562 (India)



could not make any changes in the list according to their particulars<sup>26</sup>. However, two decades later, the court held that the converse is true and states can indeed make tinker with the lists on the premise of Article 15(4)<sup>27</sup>, 15(5)<sup>28</sup> and 16(4)<sup>29</sup>, provided they give concrete basis, backed with equally compelling statistical analysis for the sub-categorisation. The court drew references from multifarious sources to reason out the verdict; it canvassed various colonial and post-colonial materials like Hutton's test of 1930, and other sociological studies to establish and acknowledge that historically, the differential degree of social exclusion, and untouchability that manifested against SC groups. The difference was predominantly due to the rank of community within the SC group, their occupations, for example difference between leather workers and scavengers, and geography. The heterogeneity had resulted in creation and internalisation of intra-Dalit cast hierarchy, compelling sub-classification. However, the sub-classification cannot be based on arbitrary criteria, the court even went on to lay down a three-ground test on which sub-categorisation has to be justified. These grounds are as follows –

**Backwardness Standard** – if the provision is made under Article 15(4)<sup>30</sup> the social and educational backwardness must be causally linked; for provision under Article 16(4)<sup>31</sup> social backwardness and inadequate representation need to be measured by effective representation across grades.

**Rational Principle and Nexus** – the classifying principle must be reasonable and must have a nexus with provision of equal opportunity and goal of advancement.

**Data** – states must collect quantifiable, demonstrable data which should prove the backwardness of the community for which the classification is made.

Justice B.R Gavai (afterwards CJI), even batted for application of creamy layer principle in reservation for SCs and STs, admonishing that exclusionary principle will be different from the one for OBC reservations. He gave the 'general compartment' metaphor for criticising SCs who oppose sub-categorisation; he compared benefits of reservation with entry into general compartment, by stating that everyone struggles to gain entry into it and once in they make all

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<sup>26</sup> E.V. Chinnaiah v. State of Andhra Pradesh, (2005) 1 SCC 394 (India).

<sup>27</sup> *Supra note.6*

<sup>28</sup> India Const. art.15 cl.5

<sup>29</sup> *Supra note.4*

<sup>30</sup> *Supra note.6*

<sup>31</sup> *Supra note.4*

efforts to block others from occupying their space, thus, creating and enforcing a virtual hierarchy within the reserved groups.

Summing everything up, the reservation policy, after 123 years of its regional level implementation, and 75 years of its national level implementation, has to some extent indeed helped in securing representation for the backward communities in education and employment, and thus in economic and social upliftment, however it still has a long way to go as many communities are still facing the same exclusionary and exploitative circumstances as they have been facing; the reports of various commissions stating under-representation of various communities and the increasing number of members of backward classes being victimized either due to economic basis, because of their landlessness and engagement in manual scavenging, or socially through caste-based violence and atrocities, testify for the requirement of reservation system, and establish a compelling case against complete abolition of the same.

### IX. The Remedy for the Malady of Misuse

However, the blatant misuse of the policy by the well-off members of the backward communities, necessitates reforms. Apart from the misuse, another factor that necessitates reform is of the stigma and prejudices held regarding capabilities of those recruited through reservations, this has also been referred to by former CJI D.Y. Chandrachud, as a reason to initiate affirmative action. The following reforms can be made in order to make the reservation system more inclusive of the communities which were deprived of its benefits despite being within its ambit –

Implementation of Sub-categorisation – Sub-categorisation within the quotas can be implemented by various states in accordance with the heterogeneity within the lower caste communities. Telangana, has already implemented the same by acting on the recommendations of Shamim Akhtar commission and passing **Telangana Scheduled Castes (Rationalisation of Reservations) Act, 2025**<sup>32</sup>. the state has classified the SC quota into three groups with 1% being allotted to group 1, 9% being allotted to group 2, and 5% being allotted to group 3, this has been done in accordance to the proportion of the same groups in population.

Periodical Assessments – Commissions can be appointed on a periodic basis to analyse the

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<sup>32</sup> Telangana Scheduled Castes (Rationalisation of Reservations) Act, 2025, No. 15, Acts of Telangana State Legislature, 2025 (India).

status of backwardness of the communities coming within the ambit of reservation policies, the reports of the same can be made to amend the sub-classification policies, thereby making the benefits of reservation policy reach those who actually need it.

**Simplification of Criteria and Process** – the criteria for obtaining a caste-certificate and the process to obtain the same can be further simplified by making use of digitisation and Information technology, in order to avoid the hindrance brought by the middlemen and corruption leading to issuance of false certificates.

**Background Checks and Audits** – Background checks of the recruits from reserved communities can be done in order to flag and remove those coming on the basis of false-certificates, apart from this, audits of serving civil servants can be carried out to verify whether there are any false-flags among them.

On a concluding note, the reservation policy is still required, however heterogeneity among communities, and its misuse, makes it obsolete thereby necessitating reform.