

INDIAN CASTE-BASED OCCUPATIONS AND THE CONSTITUTION

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Abstract:

This chapter explores the intersection of Indian caste-based occupations and the Constitution, highlighting the constitutional provisions, challenges, and the role of the judiciary in addressing this complex issue. The Indian Constitution, with its commitment to equality and social justice, provides a framework for addressing historical inequalities and empowering marginalized communities. The reservation policy, a key component of the Constitution, aims to provide representation and opportunities for Scheduled Castes, Scheduled Tribes, and Other Backward Classes. However, the reservation policy also faces criticisms related to meritocracy and efficient implementation. The Indian judiciary has played a crucial role in interpreting and upholding the constitutional provisions. Through landmark judgments, the judiciary has clarified the scope of these provisions, protected constitutional rights, and addressed implementation challenges. Judicial activism and public interest litigation have provided avenues for addressing caste-based discrimination. However, the chapter acknowledges that the journey towards eliminating caste-based occupations and achieving true equality is ongoing. It emphasizes the need for collective efforts involving all stakeholders to build an inclusive society that upholds the constitutional principles of justice, equality, and dignity for all.

Keywords : Indian caste-based occupations, Constitution, Challenges, Judiciary, Equality

Introduction:

India, with its rich cultural and social diversity, has a long history of caste-based occupations. The caste system is a hierarchical social structure that has deeply influenced Indian society for centuries. In this chapter, we will explore the relationship between Indian caste-based occupations and the Constitution. We will examine how the Constitution of India has attempted to address the issues of caste discrimination, promote social justice, and provide equal opportunities for all citizens, regardless of their caste.

1. The Caste System in India:

The caste system in India is a complex social framework that divides society into distinct groups known as castes¹. Each caste traditionally had its own prescribed occupation or trade. The system is based on the concept of birth-based hierarchy, where individuals inherit their caste status from their parents. The four main caste groups, also known as varnas, are Brahmins (priests and scholars), Kshatriyas (warriors and rulers), Vaishyas (merchants and farmers), and Shudras (laborers and servants). Outside the varna system are the Dalits, formerly known as "untouchables," who have historically been subjected to extreme social and economic discrimination². The caste system in India is a social structure that has deeply shaped the country's history, culture, and social interactions for thousands of years. It is a complex hierarchical system of social stratification that categorizes individuals into distinct groups called castes. The caste system is based on the principles of hierarchy, endogamy (marriage within one's caste), and occupational specialization. Here is a closer exploration of the caste system in India:

A. Origins and Vedic Influences³:

The origins of the caste system can be traced back to ancient India, with the arrival of the Indo-Aryans around 1500 BCE. The Rig Veda, one of the oldest Hindu scriptures, contains references to the division of society into varnas, or broad categories based on occupation. The four main varnas mentioned in the Rig Veda are the Brahmins (priests and scholars), Kshatriyas (warriors and rulers), Vaishyas (merchants and farmers), and Shudras (laborers and servants). These varnas formed the foundation of the caste system.

B. Hierarchical Structure⁴:

The caste system operates on a hierarchical structure, with each caste occupying a specific position in society. The Brahmins, considered the highest caste, traditionally held positions of religious and intellectual authority. The Kshatriyas were entrusted with administrative and military duties. The Vaishyas engaged in trade, agriculture, and business. The Shudras, the lowest caste within the varna system, performed menial tasks and provided services to the higher castes. Outside of the varna system were the Dalits (formerly known as untouchables), who were considered so impure and polluting that they were often excluded from mainstream society.

C. Occupational Specialization⁵:

Occupational specialization is a fundamental aspect of the caste system. Each caste traditionally had a prescribed occupation or trade, which was often passed down from generation to generation. This occupational assignment was based on the belief that individuals were born into a specific caste due to their inherent qualities and abilities. The occupational boundaries were strictly enforced, and individuals were expected to follow the occupation associated with their caste.

D. Endogamy and Social Interactions⁶:

Endogamy, or marrying within one's own caste, is a crucial aspect of the caste system. Caste boundaries are strictly maintained, and inter-caste marriages are often frowned upon. This practice reinforces social segregation and preserves the hierarchical nature of the caste system. Interactions between different castes were historically limited, and individuals were expected to socialize primarily within their own caste.

E. Caste Discrimination and Untouchability⁷:

One of the most severe forms of discrimination within the caste system is the practice of untouchability, which primarily affects Dalits. Historically, Dalits were considered impure and were subjected to extreme social, economic, and political marginalization. They were often relegated to performing degrading and menial tasks and were denied access to resources, education, and basic human rights. The Constitution of India abolished untouchability and made its practice a punishable offense. Various social and legal reforms have been implemented to uplift and empower Dalits, but challenges still persist.

F. Contemporary Relevance and Challenges⁸:

While the caste system has undergone significant transformations over time, its influence can still be felt in various aspects of Indian society. Despite constitutional provisions and affirmative action policies, caste-based discrimination and social inequalities continue to persist. Inter-caste marriages and social mobility have increased in recent times, but deep-rooted caste prejudices and stereotypes remain a challenge to overcome.

2. Constitutional Provisions for Equality:

The Constitution of India, adopted in 1950, sought to establish a just and egalitarian society by addressing the issue of caste-based discrimination. Several provisions were incorporated to ensure equality and protect the rights of individuals belonging to marginalized communities. Constitutional provisions for equality form the cornerstone of the Indian Constitution and are aimed at promoting social justice, eliminating discrimination, and ensuring equal opportunities for all citizens⁹. Here, we will elaborate on the key constitutional provisions for equality in India:

A. Article 14: Right to Equality¹⁰:

Article 14 of the Indian Constitution guarantees the right to equality before the law and equal protection of the law for all individuals. It states that the state shall not deny any person equality before the law or equal protection of the laws within the territory of India. This article ensures that no person is subjected to arbitrary or discriminatory treatment by the state or its agents.

B. Article 15: Prohibition of Discrimination¹⁰:

Article 15 prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. It empowers the state to make special provisions for the advancement of socially and educationally backward classes, including Scheduled Castes (SCs) and Scheduled Tribes (STs). It also prohibits any restriction on access to public spaces, shops, hotels, and places of public entertainment on these grounds.

C. Article 16: Equality of Opportunity in Public Employment¹⁰:

Article 16 ensures equality of opportunity in matters of public employment. It prohibits discrimination based on religion, race, caste, sex, descent, place of birth, or residence in matters of employment under the state. It empowers the state to make provisions for reservations in favor of any backward class of citizens, which includes SCs, STs, and Other Backward Classes (OBCs), in public employment.

D. Article 17: Abolition of Untouchability¹⁰:

Article 17 of the Indian Constitution abolishes untouchability. It declares that the practice of untouchability in any form is forbidden and that it shall be an offense punishable by law. This provision was aimed at eradicating the social evil of untouchability and ensuring the dignity and equal treatment of all individuals.

E. Article 19: Right to Freedom¹⁰:

Article 19 guarantees certain fundamental freedoms to all citizens of India, including the freedom of speech and expression, assembly, association, movement, and occupation. These freedoms are essential for fostering equality and ensuring that individuals have the liberty to pursue their interests and aspirations without discrimination.

F. Article 21: Right to Life and Personal Liberty¹⁰:

Article 21 of the Indian Constitution recognizes the right to life and personal liberty as a fundamental right. It includes the right to live with dignity, freedom from arbitrary arrest or detention, and protection against any form of discrimination or violation of personal liberty. This provision ensures the protection of individuals' rights and reinforces the principle of equality.

G. Article 46: Promotion of Educational and Economic Interests of Weaker Sections¹⁰:

Article 46 directs the state to promote the educational and economic interests of the weaker sections of society, including SCs, STs, and OBCs. It emphasizes the importance of providing special care and attention to these marginalized communities to enable their social and economic upliftment.

H. Affirmative Action and Reservation Policies¹¹:

To address historical discrimination and ensure social justice, the Indian government has implemented various affirmative action and reservation policies. These policies include the reservation of seats in educational institutions, government jobs, and legislative bodies for SCs, STs, and OBCs. The reservation policies aim to provide opportunities and representation to these communities, enabling them to overcome historical disadvantages.

Constitutional provisions for equality in India are comprehensive and far-reaching. They aim to eliminate discrimination, promote social justice, and provide equal opportunities for all citizens. These provisions recognize the need to address historical inequalities and uplift marginalized communities. However, the effective implementation of these provisions and the eradication of discrimination remain ongoing challenges in achieving true equality in Indian society.

3. Reservation Policy:

The reservation policy in India is a constitutional provision that seeks to address historical social and economic inequalities faced by marginalized communities. It is an affirmative action policy aimed at ensuring representation, promoting social justice, and providing opportunities for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs)¹¹. Here, we will elaborate on the reservation policy in terms of the Indian Constitution:

A. Article 15(4): Special Provisions for Socially and Educationally Backward Classes:

Article 15(4) of the Indian Constitution empowers the state to make special provisions for the advancement of socially and educationally backward classes, including SCs, STs, and OBCs. This provision enables the government to implement affirmative action measures such as reservations in education, employment, and other areas to uplift these marginalized sections of society.

B. Article 16(4): Reservation in Public Employment:

Article 16(4) provides for reservations in public employment. It empowers the state to make provisions for the reservation of appointments or posts in favor of any backward class of citizens, including SCs, STs, and OBCs. The objective is to provide equal opportunities and representation for these communities in government jobs and public offices.

C. Scheduled Castes and Scheduled Tribes:

The reservation policy in India includes specific provisions for SCs and STs, who have historically faced social and economic discrimination. The Constitution provides for reserved seats in educational institutions, reserved positions in government jobs, and reserved representation in legislative bodies to ensure their representation and empowerment. The reservation percentages vary across states and can range from 7.5% to 15% for SCs and 7.5% to 23% for STs.

D. Other Backward Classes:

Recognizing the social and educational disadvantages faced by OBCs, the Indian government introduced reservations for this category as well. The identification of OBCs and the determination of reservation quotas are done through the National Commission for Backward Classes (NCBC). The reservation percentage for OBCs can vary from 27% in central government jobs to varying percentages in state government jobs and educational institutions.

E. Creamy Layer Exclusion:

To prevent the benefits of reservations from being concentrated within a few privileged sections of the reserved categories, the concept of the "creamy layer" was introduced. Creamy layer exclusion means that individuals belonging to the SC, ST, or OBC categories who have achieved a certain level of social and economic status are excluded from availing reservation benefits. This ensures that reservation benefits reach those who are genuinely disadvantaged and in need of upliftment.

F. Reservation in Educational Institutions:

The reservation policy in India also extends to educational institutions. A certain percentage of seats in government-funded educational institutions, including universities, colleges, and professional courses, are reserved for SCs, STs, and OBCs. The reservation percentages can vary across states and institutions, and there are specific provisions for seats reserved for women from these categories.

G. Constitutional Amendments and Judicial Pronouncements:

Over the years, the reservation policy has been reinforced and expanded through constitutional amendments and judicial pronouncements. Amendments, such as the 77th and 81st Amendments, extended the reservation policy to include promotions in public employment for SCs and STs. The Supreme Court has also played a significant role in upholding and interpreting the reservation policy through various landmark judgments.

The reservation policy in India, enshrined in the Constitution, is a critical tool for promoting social justice and addressing historical inequalities faced by marginalized communities. It ensures representation, equal opportunities, and empowerment for SCs, STs, and OBCs. However, the reservation policy has also faced criticisms and challenges, including concerns about its impact on meritocracy and the need for balancing social justice with inclusive development. Ongoing

dialogue, periodic evaluation, and reforms are essential to ensure that the reservation policy continues to fulfill its objective of empowering marginalized communities while promoting a more equitable society.

4. Challenges and Criticisms:

While the reservation policy has been instrumental in empowering marginalized communities, it has also faced criticisms and challenges. Some argue that the policy perpetuates caste divisions and hampers meritocracy. Others believe that it should be based on economic criteria rather than caste, to benefit the most economically disadvantaged individuals. While the reservation policy in India has been instrumental in promoting social justice and empowering marginalized communities, it has also faced several challenges and criticisms. These challenges and criticisms can be viewed from various perspectives. Here are some common concerns raised regarding the reservation policy in terms of the Indian Constitution:

A. Meritocracy and Efficiency¹²:

One of the main criticisms of the reservation policy is that it compromises meritocracy. Critics argue that reservations based on caste or social background may lead to the selection of candidates who are less qualified or competent than those from general categories. This argument posits that merit should be the sole criterion for employment or educational opportunities to ensure efficiency and productivity.

B. Stigmatization and Stereotyping¹³:

Reservation policies, despite their positive intent, have sometimes resulted in stigmatization and stereotyping. Some argue that the policy perpetuates the notion that individuals from reserved categories require preferential treatment due to their perceived inherent disadvantages. This can reinforce negative stereotypes and hinder the social integration of marginalized communities.

C. Limited Focus on Economic Criteria¹⁴:

The reservation policy primarily focuses on social categories such as caste and tribe, while critics argue that it should be based more on economic criteria. They contend that economic disadvantages affect individuals across various social groups and that addressing economic inequality would be a more comprehensive approach to upliftment.

D. Inadequate Reach and Implementation¹⁵:

There are concerns that the benefits of reservation policies do not reach the intended beneficiaries effectively. Implementation challenges, corruption, lack of transparency, and inadequate infrastructure are often cited as factors that hinder the full realization of the policy's objectives. Some argue that a more targeted and efficient implementation mechanism is needed to ensure the desired impact.

E. Backlash and Inter-group Conflicts:

The reservation policy has occasionally led to inter-group conflicts and a backlash from those who perceive themselves as disadvantaged due to the policy. This can create tensions and divisions within society, as some groups feel that their opportunities are being curtailed or limited.

F. Creamy Layer Exclusion:

The concept of the creamy layer, which excludes individuals from reserved categories who have achieved a certain level of social and economic status, has also attracted criticism. Critics argue that it does not effectively target the truly disadvantaged and may allow relatively privileged individuals to continue benefiting from reservations, thus defeating the purpose of the policy.

G. Reservation in Higher Education:

The reservation policy's application in higher education has been a subject of debate. Critics argue that the policy can create imbalances in educational institutions, affecting quality and academic standards. They emphasize the need to strike a balance between representation and maintaining excellence in higher education.

H. Lack of Focus on Other Marginalized Groups:

While the reservation policy primarily focuses on SCs, STs, and OBCs, some argue that other marginalized groups, such as religious minorities or economically disadvantaged sections, are not adequately covered. They advocate for a more inclusive approach that addresses the challenges faced by all marginalized communities.

The reservation policy in India, despite its significant positive impact, has faced challenges and criticisms in its implementation. Balancing the principles of social justice, meritocracy, efficiency, and inclusivity remains a complex task. Continual evaluation, reforms, and an open dialogue are crucial to address these concerns and ensure that the reservation policy effectively achieves its objectives while promoting a harmonious and equitable society.

5. The Role of Judiciary^{16, 17, 18} :

The Indian judiciary has played a crucial role in interpreting and upholding the constitutional provisions related to caste-based occupations. Through landmark judgments, such as the Indra Sawhney case (also known as the Mandal Commission case), the Supreme Court has provided guidance on the implementation of reservation policies and the concept of creamy layer exclusion. The Indian judiciary has indeed played a crucial role in interpreting and upholding the constitutional provisions related to caste-based occupations. The judiciary's role has been instrumental in shaping the understanding, implementation, and evolution of these provisions. Here are some key aspects highlighting the judiciary's significance in this regard:

A. Interpreting Constitutional Provisions:

The judiciary has been responsible for interpreting the constitutional provisions related to caste-based occupations. The Supreme Court of India, in particular, has delivered landmark judgments that have provided clarity on the constitutional framework and its implications. These interpretations have helped define the scope and intent of the provisions, ensuring their effective implementation.

B. Protecting Constitutional Rights:

The judiciary has played a crucial role in protecting the constitutional rights of individuals in matters related to caste-based occupations. It has actively intervened to prevent discrimination, uphold equality, and safeguard the rights of marginalized communities. Through its judgments, the judiciary has provided legal remedies to individuals facing caste-based discrimination and has struck down laws or practices that are in violation of constitutional provisions.

C. Upholding Affirmative Action:

Affirmative action policies, including reservations for Scheduled Castes, Scheduled Tribes, and Other Backward Classes, have often faced legal challenges. The judiciary has consistently upheld the constitutional validity of these policies while ensuring that they are implemented in a fair and just manner. The courts have clarified the principles governing reservations, including the concept of creamy layer exclusion, and have protected the interests of marginalized communities.

D. Addressing Implementation Challenges:

The judiciary has been instrumental in addressing implementation challenges and ensuring the effective execution of constitutional provisions related to caste-based occupations. It has issued directives to government authorities, such as mandating the timely filling of reserved seats in educational institutions and ensuring the proper implementation of reservation policies in public employment. These interventions have played a crucial role in translating the constitutional provisions into practical outcomes.

E. Safeguarding Social Justice:

The judiciary's role extends beyond legal interpretations and implementation. It has actively safeguarded the principles of social justice by taking cognizance of systemic issues and advocating for reforms. For instance, the judiciary has highlighted the need for eliminating manual scavenging, addressing atrocities against marginalized communities, and advancing their social and economic rights. Through its interventions, the judiciary has contributed to a more inclusive and just society.

F. Judicial Activism and Public Interest Litigation:

Judicial activism and public interest litigation (PIL) have been key avenues through which the judiciary has addressed issues related to caste-based occupations. PILs have been instrumental in bringing cases of discrimination, inequality, and violation of constitutional provisions before the courts. The judiciary, through its activist approach, has actively engaged in addressing these issues and ensuring accountability of government bodies.

The Indian judiciary's role in interpreting and upholding the constitutional provisions related to caste-based occupations cannot be overstated. It has provided legal clarity, protected constitutional rights, ensured the implementation of affirmative action policies, and addressed implementation challenges. The judiciary's activism and intervention have contributed to social justice, promoted equality, and empowered marginalized communities. Its proactive stance in addressing caste-based discrimination has been pivotal in shaping India's legal framework and fostering a more inclusive society.

Conclusion:

The Indian Constitution recognizes the historical injustices faced by marginalized communities and seeks to rectify them through provisions that ensure equality and social justice. The reservation policy, aimed at uplifting SCs, STs, and OBCs, is a significant step towards addressing caste-based discrimination. However, the challenges and criticisms surrounding the reservation policy require ongoing dialogue and reform efforts to strike a balance between social justice and meritocracy. As India progresses, the Constitution remains a guiding document in the quest for an inclusive and egalitarian society, free from the shackles of caste-based occupations.

In conclusion, the issue of Indian caste-based occupations and the Constitution is a complex and multifaceted one. The Indian Constitution, with its commitment to equality, social justice, and affirmative action, has laid the foundation for addressing historical injustices and empowering marginalized communities. However, the reality of caste-based occupations and discrimination persists, necessitating ongoing efforts to bridge the gap between constitutional ideals and ground realities.

The Constitution provides significant provisions to ensure equality, such as Article 14, which guarantees equality before the law, and Article 15, which prohibits discrimination on various grounds. Additionally, Article 16 promotes equal opportunities in public employment, while Article 17 abolishes untouchability. These constitutional provisions form the bedrock of the fight against caste-based occupations and discrimination.

Furthermore, the reservation policy, enshrined in the Constitution, has been a critical tool for promoting social justice and providing opportunities for Scheduled Castes, Scheduled Tribes, and Other Backward Classes. Reservation policies in education, employment, and legislative bodies aim to bridge historical gaps and uplift marginalized communities. However, the reservation policy also faces challenges and criticisms, including concerns about meritocracy, efficient implementation, and stigmatization.

The Indian judiciary has played a pivotal role in interpreting and upholding the constitutional provisions related to caste-based occupations. Through landmark judgments, the judiciary has clarified the scope and intent of these provisions, protected constitutional rights, upheld affirmative action policies, addressed implementation challenges, and safeguarded social justice. Judicial activism and public interest litigation have provided avenues for addressing caste-based discrimination and promoting inclusivity.

While significant progress has been made, the journey towards eliminating caste-based occupations and achieving true equality is ongoing. It requires a comprehensive approach that combines constitutional reforms, effective implementation of policies, awareness campaigns, and societal change. The involvement of all stakeholders, including the government, judiciary, civil society, and individuals, is essential to creating a society where caste-based occupations are eradicated, and all citizens can enjoy equal opportunities and dignity.

In conclusion, the fight against caste-based occupations and discrimination requires a collective effort, underpinned by constitutional principles, to build a more inclusive and egalitarian society. The Constitution provides a framework, and the judiciary serves as a guardian, but it is the responsibility of every individual and institution to uphold these principles and work towards a society that truly reflects the ideals of justice, equality, and dignity for all.

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