

CASTE BASED OCCUPATION AND INDIAN CONSTITUTION

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Abstract

Whereas the caste-based discrimination in India that thrives under the cloak of religion itself suffers fallacies, Indian Constitution as a tool, has served as a beacon for those who dared to trace their occupational standing beyond the compartmentalization of caste structure prevalent in India. The chapter traces the history of caste-based occupational representation in India and how it is adapting to modern day circumstantial changes with slight encouraging trend of such compartmentalization slowly withering away. The tools under Indian Constitution designed to flatten the divide and promote occupational mobility across castes in India have been critically examined.

The challenge remains unconquered, more so in the private sector, for they are not bound by affirmative policies of Indian Government and constitutional mandates most of which is obligatory on the part of state only and ours is a socialist nation.

The so-called lower caste people who, due to several reasons, Indian societal structure *inter alia* mostly work in unorganized sectors and not much to fall back upon faced the brunt of covid-19 pandemic more than others for their economic standing was already jeopardized, pulling us a little backward in our journey to combat the prevailing caste-based occupational structure that leaves less room for occupational mobility hampering one's occupational aspirations, hitting the ethos of Indian Constitution which provides for 'equality of Opportunities' *inter alia*.

Keywords: *Caste, Untouchability, Affirmative Action, Constitution of India*

brāhmaṇa-kṣatriya-viśhām śhūdrāṇām cha parantapa
karmāṇi pravibhaktāni svabhāva-prabhavair guṇaiḥ

-Bhagvad Gita, Chapter 18, Verse 41

(Translation)

“The duties of the Brahmins, Kshatriyas, Vaishyas, and Shudras—are distributed according to their qualities, in accordance with their *guṇas* (and not by birth)”.¹

In a speech prepared by Dr. Ambedkar, he stated that “(In India) Caste System is not merely division of labour. *It is also a division of labourers*”.²

Caste structure in India

One of the deepest concerns of Dr B. R. Ambedkar, chairman of the Drafting Committee was the anxiety of losing the long cherished Indian independence on grounds of Indian society being in the shackles of caste and creed. In the Constituent Assembly, in furtherance of his dissent to the prevailing caste system, still being defended, to quote, he had said:

“In India there are castes. The castes are anti-national. In the first place because they bring about separation in social life... We must overcome all these difficulties if we wish to become a nation in reality. For fraternity can be a fact only when there is a nation. Without fraternity equality and liberty will be no deeper than coats of paint.”³

The caste system in India is no less than 3500 years old.⁴ The Hindu institution of caste system is so deeply embedded in India that even the Muslim and Christian populations have not been able to escape it.⁵ There are numerous features of the Caste

¹ THE BHAGAVAD GITA WITH THE COMMENTARY OF SRI SANKARACHARYA Translated from the original Sanskrit into English By ALLADI MAHADEVA SASTRY. ALLADI MAHADEVA SASTRY, *SEVENTEENTH DISCOURSE, THE THREEFOLD FAITH, in THE BHAGAVAD GITA WITH THE COMMENTARY OF SRI SANKARACHARYA* 472–473 (7 ed. 1977).

² MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT, GOVT. OF INDIA & VASANT MOON, 1 DR. BABASAHEB AMBEDKAR: WRITINGS AND SPEECHES 47 (2014).

³ Why BR Ambedkar's three warnings in his last speech to the Constituent Assembly resonate even today, SCROLL.IN (2016), <https://scroll.in/article/802495/why-br-ambedkars-three-warnings-in-his-last-speech-to-the-constituent-assembly-resonate-even-today> (last visited Aug 20, 2023).

⁴ Chris Bidner & Mukesh Eswaran, *A gender-based theory of the origin of the caste system of India*, JOURNAL OF DEVELOPMENT ECONOMICS 142 (2015).

⁵ Tharamangalam Joseph, *Caste among Christian in India*, in CASTE: ITS TWENTIETH CENTURY AVATAR (ed., 1996).

system in India, with the core being, (i) caste is hereditary and largely based on occupation, (ii) it is (mostly) strictly endogamous (marriage occurred only within castes), and (iii) there is usually a well-established hierarchy between castes.¹

According to the commonly accepted interpretation of *Purusha Sukta* of Rig Veda, the Sukta (hymn) broadly divides the Hindu society into four castes (called *varnas*). These are the *Brahmins* (priests), the *Kshatriyas* (the warriors), *Vaishyas* (the merchants), and the *Shudras* (the menial workers). There is one other group (now called Dalits or 'Harijans', as referred to by Mahatma Gandhi) that were deemed 'untouchables.' The interpretation of the hymns of *varna* that are thought to be justifying the caste based 'hierarchy' is itself debatable.² In the modern society in India, there are tens of thousands of sub-castes that are known as *jatis*.³ under each *varna*, and the caste system essentially operates at the level of the *jati*.³

Brahma and the origins of caste

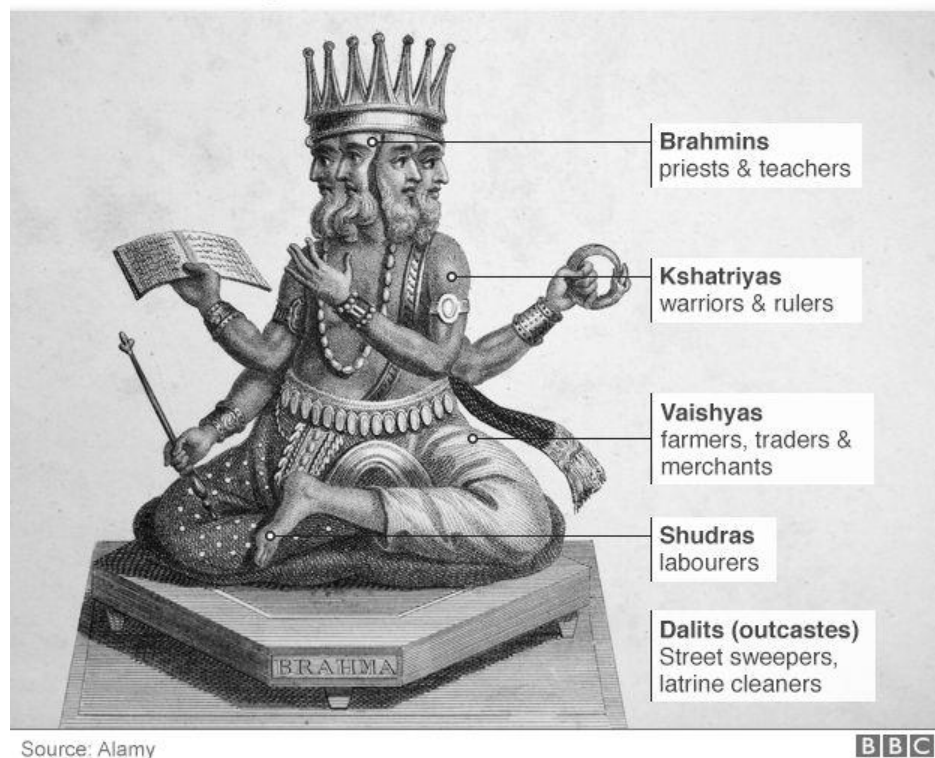


Figure-1

Source: Alamy

Explanation: The figure above describes *Brahma*, who is the Hindu god of creation, whose body parts are connected to a part of the triangle in the middle of the picture: Head- Brahmins (priests); upper body-Kshatriyas (warriors); lower body-Vaishyas (merchants); feet-Shudras (peasants). The Dalits are not even considered a part of the *varna* systems and are considered 'untouchables'.⁴

As per 1901 census, Muslims were also ranked into groups, according to the traditional categories of *ashraf*, *ajlaf*, etc.

The incidences of caste discrimination are so pervasive in the Indian society that it is rational for any person to assume as to the fact that it percolates to the economic arena of the country, affecting the human resource allocation to different occupational engagements as well and to a large scale, determines the occupational structure of India as it stands today. Such linkage of caste and occupational choices is stronger in rural India.⁵ For instance, in Kashmir, the sweeper community is at the bottom of the caste and occupational structure. This mechanism institutionalizes the transmission of unclean work from generation to generation, and it is still a flaw in the societal structure that maintains the inequality against the sweeper community at a status quo.⁶

¹ BOUGLE C., Essays on the Caste System, (translated by D.F. Pocock), (1971),

² Swami Venkataraman, CASTE HIERARCHY AND DISCRIMINATION NOT SANCTIONED BY THE VEDAS SWARAJYA (2016), <https://swarajyamag.com/culture/caste-hierarchy-and-discrimination-not-sanctioned-by-the-vedas> (last visited Aug 20, 2023).

³ Chris Bidner & Mukesh Eswaran, *A gender-based theory of the origin of the caste system of India*, JOURNAL OF DEVELOPMENT ECONOMICS 142 (2015).

⁴ VEGARD IVERSON, CASTE AND UPWARDS MOBILITY, in C. GHATE (ed.): THE OXFORD HANDBOOK OF INDIAN ECONOMY, (2011).

⁵ Siwan Anderson, 'Caste as an Impediment to Trade', American Economic Journal: Applied Economics, JSTOR, 239-263 (2011), <https://www.jstor.org/stable/25760253>

⁶ Khanday Mudasir Ahmad & Habibullah Shah, 'Between Caste and Occupation: Issues of Sweeper Community in Kashmir', SAGE JOURNALS HOME (2022), <https://journals.sagepub.com/doi/abs/10.1177/2455328X221108286?journalCode=voda>



Figure-2

Source: Scroll.in

Caste and Occupational Structure in India

On one hand, the Bhagavad Gita itself voices that caste hierarchy is not “divinely inspired”. However, based on *Gunas*(qualities)¹ on the other hand, for a long time, even before India’s colonization, the traditional Indian village economy revolved around caste hierarchy that was based upon birth instead of skills. The so-called upper castes were the land owners; middle castes were farmers and artisans and castes that belonged to the lowest rung of the society were labourers who mostly performed the menial tasks like cleaning of toilets, deemed untouchables by many.²

What was more unfortunate was that the notion of caste-based water-tight compartmentalization of people into occupations assigned to their castes where a Hindu would have been preferred to “starve than to take up an occupation not assigned to his caste”³ defying the ideas of social and individual efficiency. Such positioning of caste had a relationship with their economic status wherein the lower caste people mostly belonged to the economically lowest strata of the society for they were least paid.⁴

Having discussed about the four-pronged caste structure prevalent in India, let us now take a quick glance over few instances that fall under it. As already discussed, it is noteworthy that scheduled castes along with scheduled tribes (SCs and STs) are not even considered a part of the Varna System as prevalent in Indian culture, and are outcasted as untouchables.⁵

There prevailed (and still prevails in many parts of the country) an institution called as the *Jajmani* system wherein there were two parties, one the *Jajman* or the patron; and other the *Balutedars* or clients. Such relationship is a hereditary patron-client relationship. The *Jajmans* belonged to the upper or middle classes and were affluent, on the contrary there were the *Balutedars* who served the coming generations of *Jajmans* and were expected to provide labour and other services to them, often belonging to the lower castes.⁶

A Scheduled Caste called *Chamar* is one of the largest Scheduled Castes in Northern India. They are associated with professions such as shoe-making, shoe-mending and various kinds of leatherworks. Another scheduled caste called as *Dhanaks* worked in weaving. *Bhangis*, who are called as *Pakhis* in Andhra Pradesh, and the *Sikkaliars* in Tamil Nadu, worked as toilet cleaners to name a few. There persists yet another unfortunate tradition of *Devdasis* wherein girls, usually belonging to the Dalit community, are ceremonially married to a temple deity and serve as sex workers for the higher caste men of the locality.

Even more worrisome is the condition of the Dalit women. According to a report on Caste based bonded labour in India, prepared by International Dait Solidarity Network in 2015 “Dalit women are specifically used as debt slaves in brick kilns, agriculture and textile industries and are involved in caste-based forms of slavery including manual scavenging and forced prostitution. Manual scavenging, the removing of human excreta from dry latrines, railroad tracks and sewers by hand, is a caste based and hereditary occupation form of slavery reserved exclusively for Dalits”.⁷

¹ THE BHAGAVAD GITA WITH THE COMMENTARY OF SRI SANKARACHARYA Translated from the original Sanskrit into English By ALLADI MAHADEVA SASTRY. ALLADI MAHADEVA SASTRY, SEVENTEENTH DISCOURSE, THE THREEFOLD FAITH, in THE BHAGAVAD GITA WITH THE COMMENTARY OF SRI SANKARACHARYA 472–473 (7 ed. 1977).

² ANDRE BETEILLE, *CASTE, CLASS AND POWER: CHANGING PATTERNS OF STRATIFICATION IN A TANJORE VILLAGE*, (1996).

³ MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT, GOVT. OF INDIA & VASANT MOON, 1 DR. BABASAHEB AMBEDKAR: WRITINGS AND SPEECHES 47 (2014).

⁴ OLIVER MENDELSON AND MARIKA VICZLANY, *THE UNTOUCHABLES: SUBORDINATION, POVERTY AND THE STATE IN MODERN INDIA* (1998), Ira Gang, Kunal Sen & Myeong Su Yun, IS CASTE DESTINY? OCCUPATIONAL DIVERSIFICATION AMONG DALITS IN RURAL INDIA DISCUSSION PAPER No. 6295 (2012).

⁵ VEGARD IVERSON, *CASTE AND UPWARDS MOBILITY*, in C. GHATE (ed.): THE OXFORD HANDBOOK OF INDIAN ECONOMY, (2011).

⁶ SUSAN BAYLY, *CASTE, SOCIETY AND POLITICS IN INDIA: FROM THE EIGHTEENTH CENTURY TO THE MODERN AGE* (1999).

⁷ Caste, Gender and Forced & Bonded Labour, INTERNATIONAL DALIT SOLIDARITY NETWORK (2015), <http://idsn.org/wp-content/uploads/2015/06/Caste-Gender-and-Modern-Slavery1.pdf> (last visited Aug 8, 2023).

Even today, the SCs have the least share of land area which makes them most (among others) dependent upon wage labour. As a result, they have the highest unemployment rates in India since 1990s.¹

Evidences are there which signal the weakening of *Jajmani* system in India, and occupational mobility across different castes following several reasons, their rise of consciousness inter alia.² However, there lies a need for large all-India surveys in this regard. Notably, even where there is an intergenerational occupational mobility among different castes, the changed occupation is confined to occupations having similar societal standing, which negates the boon of such mobility.³ Undoubtedly, even today there is a direct effect of caste identity on occupational diversification among the Indian population.⁴ For instance, the recently reported case of a Dalit teacher facing denial of entry into the Anganwadi centre in rural Bengaluru, serves as a cruel example.⁵

Additionally, an intriguing notion is that “caste is not disappearing from Indian society; rather, it is dramatically adapting to modern circumstances”. For instance, caste-based discrimination is rampant even in tech industries.⁶

The above-mentioned discussion is also reflected in the data set given below:

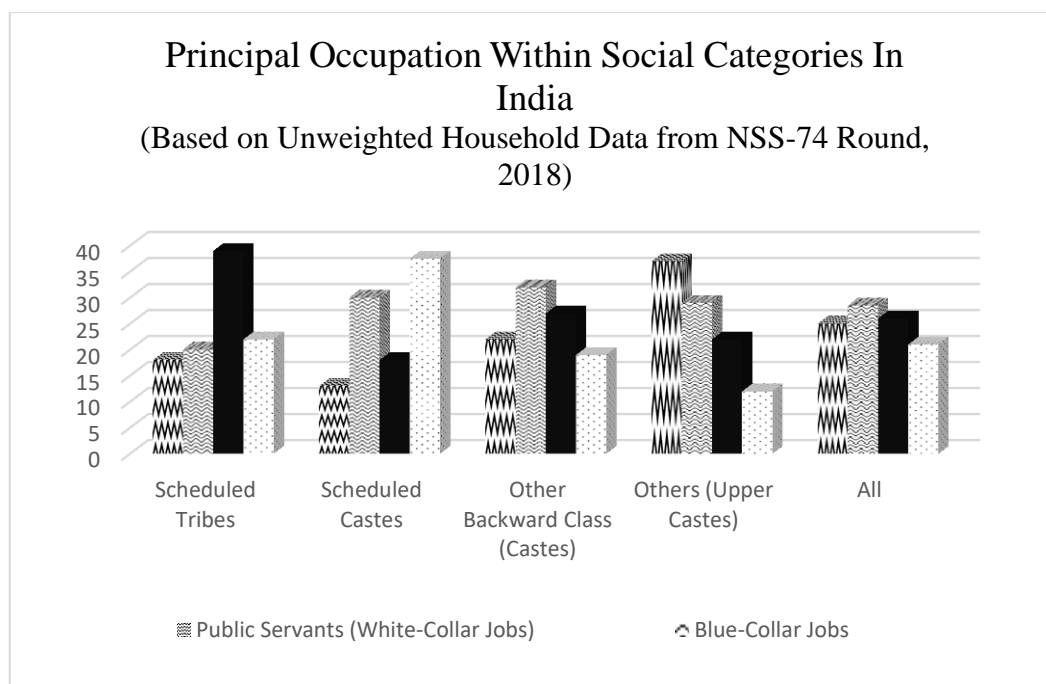


Chart-1

Source: NSS-74 Round, 2018

¹ Sukhdeo Thorat, *Scheduled Castes among worst sufferers of India's job problem*, HINDUSTAN TIMES, 2018, <https://www.hindustantimes.com/india-news/scheduled-castes-among-worst-sufferers-of-india-s-job-problem/story-Qh0hyHy9UUTg1cIOpi5l2K.html> (last visited Aug 20, 2023).

² Oliver Mendelsohn 'The Transformation of Authority in Rural India' Modern Asian Studies, JSTOR, 805-842 (1993).

³ Edwin D Driver, *Caste and Occupational Structure in Central India*, 41 OXFORD UNIVERSITY PRESS (1962), <https://www.jstor.org/stable/2572916> (last visited Aug 20, 2023).

⁴ Ira Gang, Kunal Sen & Myeong Su Yun, IS CASTE DESTINY? OCCUPATIONAL DIVERSIFICATION AMONG DALITS IN RURAL INDIA DISCUSSION PAPER NO. 6295 (2012).

⁵ Caste Discrimination in Karnataka: Villagers Stop Female Dalit Teacher From Entering Anganwadi in Rural Bengaluru, Probe Launched, LATESTLY (2023), <https://www.latestly.com/india/news/caste-discrimination-in-karnataka-villagers-stop-female-dalit-teacher-from-entering-anganwadi-in-rural-bengaluru-probe-launched-5302540.html> (last visited Aug 20, 2023).

⁶ Raksha Kumar, INDIA'S TECH SECTOR HAS A CASTE PROBLEM RESTOFTHETHEWORLD.ORG (2022), <https://restofworld.org/2022/tech-india-caste-divides/> (last visited Aug 20, 2023).

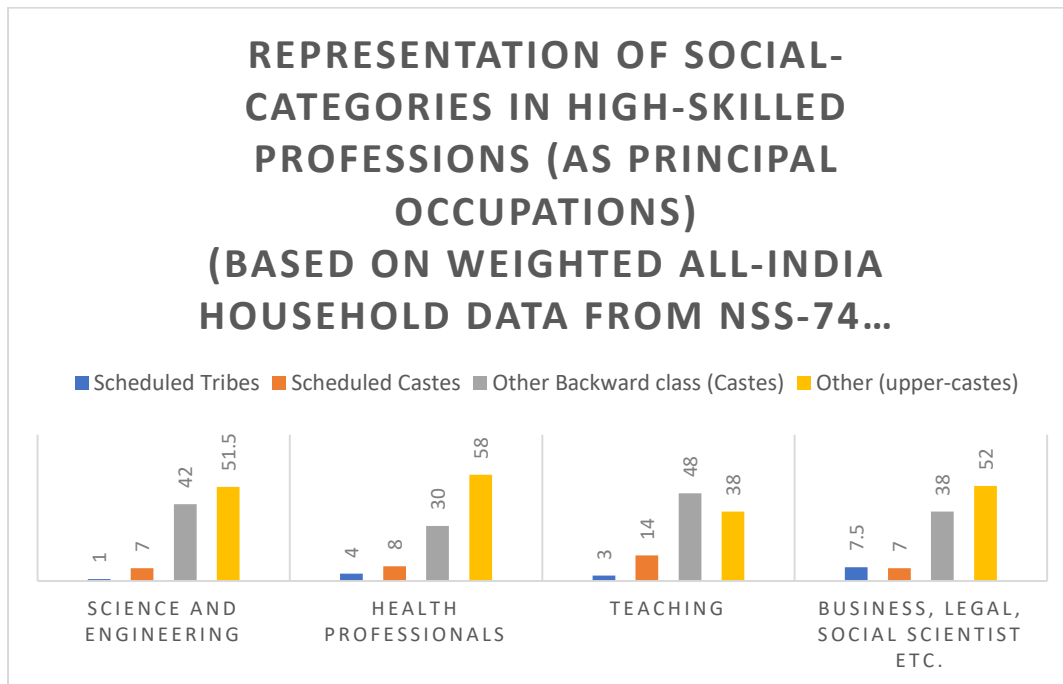


Chart-2

Source: NSS-74 round, 2018

“In the data it is seen that a majority proportion of ‘upper’ caste households report their principal occupation in public services/white-collar jobs category, while the majority of STs in agriculture/fisheries, SCs in manual labour, and OBCs in blue-collar jobs which still coincides, to a large extent, with the unjust division of labour as prescribed in the archaic Varna system”¹ which itself is debatable.²

While Caste based discrimination is noteworthy, religion-based discrimination is low because mostly Muslims get absorbed in low-value family-based occupations, facing less competition. At the same time, they possess certain professional skills, acquired through family and peer group, in repair/maintenance, carpentry, construction etc., which is only replaceable with difficulty.³

Tools Under the Constitution of India

Professor K T Shah, a socialist, renowned for his role in the Constituent Assembly debates, arguing in favour of special treatment for the backward communities in India said that “discrimination should be made in favour of particular classes of our society which, owing to an unfortunate legacy of the past, suffer from disabilities or handicaps.”⁴

¹ Ramesh Chandra, CASTE-BASED HEADCOUNTS WON’T BE ENOUGH. INDIA NEEDS A FULL-BLOWN ‘CASTE CENSUS’ THE PRINT (2021), <https://theprint.in/opinion/caste-based-headcounts-wont-be-enough-india-needs-a-full-blown-caste-census/722960/> (last visited Aug 2, 2023).

² THE BHAGAVAD GITA WITH THE COMMENTARY OF SRI SANKARACHARYA Translated from the original Sanskrit into English by ALLADI MAHADEVA SASTRY. ALLADI MAHADEVA SASTRY, *SEVENTEENTH DISCOURSE. THE THREEFOLD FAITH, in THE BHAGAVAD GITA WITH THE COMMENTARY OF SRI SANKARACHARYA* 472–473 (7 ed. 1977).

³ Amitabh Kundu, TOWARDS UNDERSTANDING ECONOMIC DISCRIMINATION IN INDIA INDIA TIMES (2022), <https://www.indiatimes.com/explainers/news/towards-understanding-economic-discrimination-in-india-582234.html> (last visited Aug 2, 2023).

⁴ CONSTITUENT ASSEMBLY DEBATES, November 29, 1948 *speech by* PROFESSOR K T SHAH, available at <https://www.constitutionofindia.net/debates/29-nov-1948/> (Last visited on August 19-2023)



Source: Reddit

In India untouchability has been legally done away with by taking it to a pedestal of Fundamental Right¹ in the Constitution of India. Since independence in 1947, the Indian government has enacted numerous affirmative action and positive discrimination practices, policies, land reforms, providing for quotas in state and central legislatures, local self-governments, the civil services and government aided educational institutions to SCs and STs and other backward classes through the Indian Constitution.² While legislations and other legal instruments designed in line with the Indian Constitutional framework brought in by the Indian government may have lessened the incidences of the worst forms of bonded labour³ and other coercive practices, Indian society has yet not been able to come out of the shackles of division of society on the basis of *Jati*⁴ which is well reflected in the above discussion.

Given the prevalence of caste based discriminatory practices in India it is the beauty of our Constitution that eminent offices of that country such as that of president and vice-president are being held by people belonging to Scheduled Castes and Scheduled Tribes. Let us discuss various steps taken under the scheme of our Constitution to ameliorate the situation:

The Preamble

The concept of 'social justice' as provided in the constitution of India is a dynamic device to mitigate the sufferings of Dalits, Tribals and other weaker sections of the society. Social justice is the cornerstone of social democracy and consists of diverse principles necessary for development of every citizen.⁵

The constitution also provides for 'equality of status and opportunity' which has very well thrived under the provisions of Fundamental Rights and Directive Principles of State Policies.

The preamble also ensures 'Dignity' of an individual which *inter alia* is the respect for an individual based on principles of freedom and capacity of making choices and a just social order is where such dignity is respected so that it translates into 'empowerment' and an individual's socio-economic rights should be read into such 'dignity'.⁶

Time and again it has been reiterated by the Hon'ble Supreme Court that Preamble is an integral part of the Constitution⁷ and is the lens through which we read various provisions of our Constitution.

Article 15 & 16

It is not surprising that we will read Article 15 (Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth) and Article 16 (Equality of opportunity in matters of public employment) together because employment/ occupation has, very often, a direct nexus with level of educational qualifications an individual possesses.

¹ The Constitution of India, Art. 17.

² RATNA G REVANKAR, THE INDIAN CONSTITUTION - A CASE STUDY OF BACKWARD CLASSES. (1971).

³ The Constitution of India, Art. 21, 23& 39, Bonded Labour System (Abolition) Act, 1976, **Central Sector Scheme for Rehabilitation of Bonded Labourers (2016)**.

⁴ Kavita Chowdhury, *Seven Decades After It Was Abolished, 'Untouchability' Continues to be Practiced in India*, THE DIPLOMAT, 2022, <https://thediplomat.com/2022/08/seven-decades-after-it-was-abolished-untouchability-continues-to-be-practiced-in-india/#:~:text=India's%20constitution%20abolished%20%E2%80%9CUntouchability.%E2%80%9D,is%20defined%20as%20an%20atrocitiy.> (last visited Jul 31, 2023).

⁵ *Air India Statutory Corporation v. United Labour Union*, AIR1997 SC 645.

⁶ *K S Puttaswamy (Aadhar-5) v. Union of India*, (2019) 1 SCC 1.

⁷ *Charan Lal Sahu v. Union of India*, (1990) 1 SCC 613.

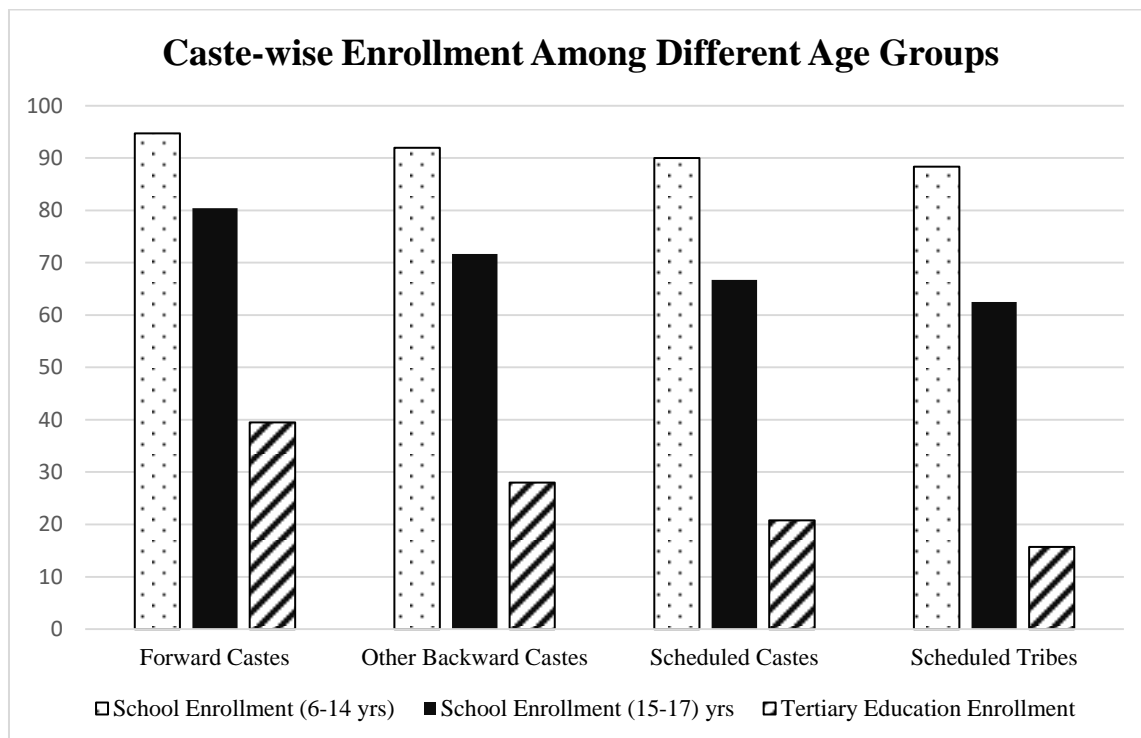
Article 15 (1) prohibits discrimination on several grounds viz. on grounds only of religion, race, *caste*, sex, place of birth or any of them.” Article 15(2) states that “No citizen shall, on grounds any or more than one of the be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and palaces of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.”

This provision in itself opens up multiple avenues of employment for those belonging to communities labelled as ‘untouchables’ in the rigid caste system prevalent in India. For instance, now a scheduled Caste person can be employed as a waiter in a public restaurant.

Article 15(4) states that “Nothing in Article 15 or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.”

Article 15(5) states that “Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.”

To our dismay, As per India Exclusion Report (2014)¹ by Centre for Equity Studies it is revealed that there prevails discriminatory and exclusionary practices in Indian schools. Very often there are instances where Dalits and Scheduled Caste students are discriminated against and discouraged.² This includes segregation in class rooms, exclusion from school ceremonies and denial of access to school water supplies³ this affects the students’ performance or keeps them out of the educational institutions in the first place. As a result, as high as **75% of the children who are currently out of school** in India are either Dalits (32.4%), Muslims (25.7%) or Scheduled Tribes (16.6%). At this point it is necessary to have a look at the chart given below.



Source: 71st Round of National Sample Survey, (NSS) 2014

The data set given above points out the differences in the level of educational enrolment amongst different sections of Indian population despite numerous efforts made by the Indian government to enhance educational inclusion introduction of vocational courses inter alia.

Article 16 is a facet of Article 14 of the Indian Constitution. While Article 14 (Equality before Law and Equal Protection of Laws) mentions the right to equality as a general mandate for all the people in India, Article 16 provisos mention that there shall

¹ INDIA EXCLUSION REPORT 2013-14 (2015), <https://idsn.org/wp-content/uploads/2014/12/IndiaExclusionReport2013-2014.pdf> (last visited Aug 6, 2023).

² ARSHI QURESHI, CASTE ON CAMPUS: DALIT STUDENTS FACE EXCLUSION, ALIENATION IN INDIA'S HIGHER EDUCATION INSTITUTIONS ARTICLE 14 (2023), <https://article-14.com/post/-caste-on-campus-dalit-students-face-exclusion-alienation-in-india-s-higher-education-institutions--642b88a7149fe> (last visited Aug 6, 2023).

³ Dalit children in India – victims of caste discrimination, INTERNATIONAL DALIT SOLIDARITY NETWORK, https://idsn.org/wp-content/uploads/user_folder/pdf/New_files/India/Dalit_children_in_India_-_victims_of_caste_discrimination.pdf (last visited Aug 6, 2023).

be equality of opportunity in some special circumstances,¹ for all, despite the differences prevailing. It is this article which lays down the provisions for positive discrimination in favour of the underprivileged classes in matters of employment. Noteworthy is that it is available only to the citizens of India and not aliens.

Article 16 of the Constitution of India guarantees equality of opportunity when it comes to 'public employment'. The second clause of the Article elucidates the fact that no citizens of India shall face discrimination in respect of employment. One of the bases of discrimination that has been forbidden is 'Caste'. The provision that is mandated here is for the 'state' to ensure and private entities are not bound to observe the mandates of the forementioned provisions.²

Article 16(1) states that "There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State" and non-adherence to the principle of equality in public employment hits rule of law.³

Firstly, matters relating to employment includes all the stages, subsequent or incidental to the subject of employment⁴ including promotions (for the members of Scheduled Castes and Scheduled Tribes only)⁵ and not merely the initial appointment.

Secondly, here Equality of opportunity implies right to be 'considered' for employment and this does not guarantee employment. Appointment would be based on fulfilling the requisite qualifications⁶ and the selection process cannot be arbitrary.⁷ This undoubtedly points towards the need of educational inclusion across different sections of the society for education is one of the most crucial tools of social transformation and uneducated ones cannot even be 'considered' for employment under numerous services under the state (where educational/ technical qualifications are provided for as eligibility criteria). Also, it has been agreed to by the Hon'ble Supreme Court of India that persons having higher educational qualifications could be placed at an upper grade in their service⁸ and a classification among employees having different levels of educational qualification is very much good in law hence permissible.⁹ A difference in pay scales is thereby justified.

Article 16(2) states that "No citizen shall, on grounds only of religion, race, *caste*, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State". For instance, it was Article 16(2) through which reservation of posts in favour of Hindus, Muslims and Sikhs was held to ultra vires the Constitution of India.¹⁰

Article 16(2) assures effective enforcement of the Fundamental Right under Article 16(1).¹¹

Article 16(4) states that "Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State." Such power can be exercised not only through legislative provisions/enactments but also through executive orders issued under Article 166 of the Indian Constitution.¹² To strengthen such a mandate it is further provided that deletion of a particular caste or tribe from the list of Scheduled Castes/ Scheduled Tribes as provided for by the Presidential order cannot be done by any authority except the parliament.¹³

In order to further increase employment avenues for members of Scheduled Castes/ Scheduled Tribes and Other Backward Classes Article 16(4B) has been added¹⁴ to Article 16 which provides that unfilled reserved vacancies of a year would be filled as a separate class of vacancy which would not be hit by the ceiling limit as held in *Indra Sawhney* Judgement.¹⁵

Even religious bodies are being asked to dismantle caste-based deadlock in appointment of priests in Temples. For instance, in 2002 Hon'ble Supreme Court stated "*there is no justification to insist that a Brahman or Malayali Brahman in this case, alone can perform the rites and rituals in the Temple, as part of the rights and freedom guaranteed under Article 25 of the Constitution*"¹⁶ Recently in 2023¹⁷, the Madras High Court has reiterated the view taken by the apex court in 2016¹⁸ and held that the appointment of priests is a secular act and can't be based on caste.

¹ *Gazula Dasaratha Rama Rao v. State of A.P.*, AIR 1961 SC 564. See also *Ashtutosh Gupta v. State of Rajasthan*, (2002) 4 SCC 34, 41., *State of Kerala & Anr v. N. M. Thomas & Ors* (1976) 2 SCC 310., *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217.

² V N SHUKLA & MAHENDRA PAL SINGH, CONSTITUTION OF INDIA (13 ed. 2021).

³ *Reserve Bank of India v. Gopinath Sharma*, (2006) 7SCC 221.

⁴ *Gen. Manager, S. Ry. v. Manak Chand Surana*, AIR 1962 SC 36., *State of U.P. v. Bhola Nath*, AIR 1970 SC 2178., *State of Kerala v. Thomas*, AIR 1976 SC 490., *ABSK Sangh (Rly) v. Union of India*, AIR 1981 SC 298.

⁵ India Const. art. 16(4A), amended by The Constitution (seventy seventh Amendment) Act, 1995.

⁶ *Banarasi Das v. State of U.P.*, AIR 1956 SC 520. Also, *Southern Railway v. Rangachari*, AIR 1962 SC 36.

⁷ Constitution of India, Art. 14.

⁸ *B.C.K. Murthy v. State of Mysore*, AIR 1972 Mys 88.

⁹ *State of Mysore v. P. Narsingha Rao*, AIR 1968 SC 349., *Mohd. Shujat Ali v. Union of India*, AIR 1974 SC 1631, *State of Jammu & Kashmir v. Triloki Nath Khosa* AIR 1974 SC 1., *Markendeya v. State of Andhra Pradesh* AIR 1989 SC 1308., *Sita Devi v. State of Haryana* AIR 1996 SC 2764.

¹⁰ *B. Venkataramana v. State of Madras* AIR 1951 SC 299., *Triloki Nath Tiku v. State of Jammu & Kashmir*, AIR 1969 SC 1., *Makhan Lal v. State of Jammu & Kashmir* AIR 1971 SC 2206.

¹¹ M P JAIN, INDIAN CONSTITUTIONAL LAW (7ed. 2016).

¹² *Bir Singh v. Delhi Jal Board* (2018) 10 SCC 312.

¹³ *Bir Singh v. Delhi Jal Board* (2018) 10 SCC 312.

¹⁴ India Const. art. 16(4B), amended by The Constitution (Eighty first Amendment) Act, 2000.

¹⁵ *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217.

¹⁶ *N. Adithayan v. Travancore Devaswom Board and Others*, (2002) 8 SCC 106.

¹⁷ **Muthu Subramania Gurukkal v. Commissioner WP No. 3997 of 2018.**

¹⁸ *Adi Saiva Sivachariargal Nala Sangam v. Government of Tamil Nadu*, (2016) 2 SCC 725.

Article 16(4) has been held to be imparting dynamic quality to the static concept of equality as embedded in Article 16(1)¹ and the former is complementary to the latter.² However, it is an enabling provision³ providing that reservations under Article 16(4) is a matter of discretion of the state which cannot be claimed as a fundamental right.⁴

Article 17

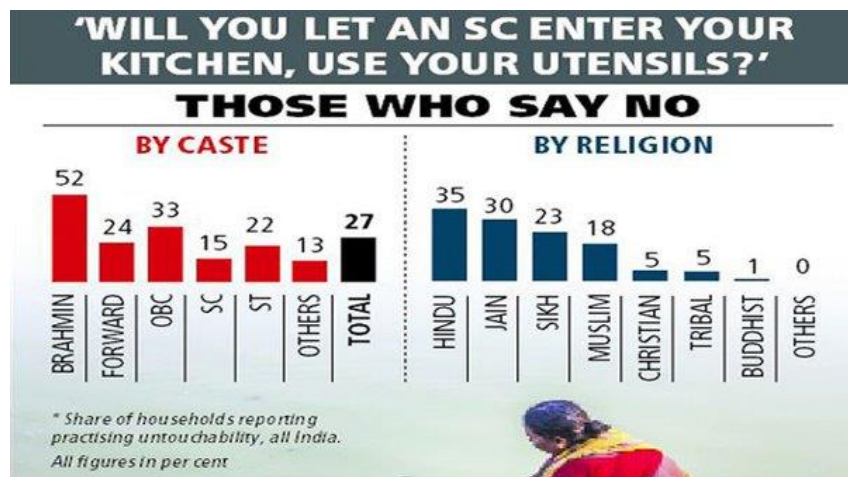
Article 17 of the Indian Constitution is reproduced as follows-

“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of Untouchability shall be an offence punishable in accordance with law.”

Article 17 is one of such Fundamental Rights which are available against private individuals as well. As such, in cases of violation of Fundamental Right under Article 17 by an entity other than the state, it is state’s responsibility to intervene and ensure observance by the one who is transgressing it.

The discussion about untouchability is important at this juncture because of several reasons.

Let us have a look at the data given below-



Source: The India Human Development Survey

Untouchability is a major menace of the Indian society. For obvious reasons it comes in way of people (considered untouchables) searching for jobs in the Indian society because occupations are seldom practiced in solitude. For instance, if untouchability was not penalized, people would have refrained from getting treated by a Scheduled Caste doctor or untouchables would never have been able to practice cooking in public restaurants especially those run by so called upper castes.

Any disability, if arises out of untouchability, is a punishable offence under Protection of Civil Rights Act, 1955 (earlier called as Untouchability (Offences) Act, 1955). For similar purposes Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 had also been passed.

However, even after decades of India achieving freedom from the colonial rule, we have yet not been able to eliminate it from our society. Practising untouchability is sometimes camouflaged as freedom of choice, privacy and hygiene concerns.⁵ Following data illustrates this.

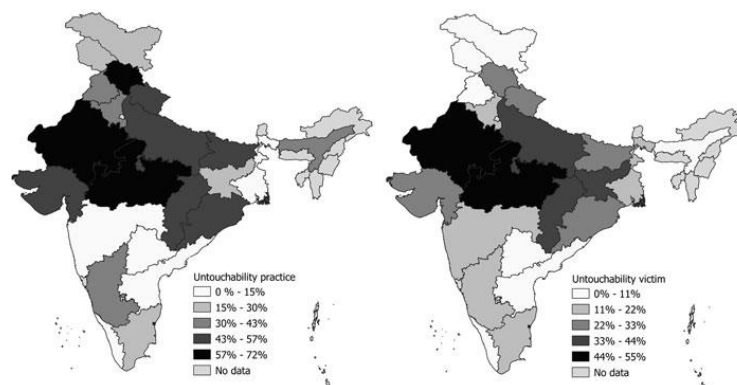
¹ *Akhil Bhartiya Soshit Karmchhari Sangh (Railway) v. Union of India*, (1981) 1 SCC 246

² *State Of Kerala & Anr v. N. M. Thomas & Ors* (1976) 2 SCC 310.

³ *Mohan Kumar Singhania v. Union of India*, AIR 1992 SC 1.

⁴ *Mukesh Kumar v. State of Uttarakhand* (2020) 3 SCC 1.

⁵ Shivam Vij, BETWEEN THE BATHROOM AND THE KITCHEN, THERE IS CASTE SCROLL.IN (2014), <https://scroll.in/article/692513/between-the-bathroom-and-the-kitchen-there-is-caste> (last visited Aug 7, 2023).



Source: Ideas for India

Article 19(1)(g) and 19(6)

Article 19(1)(g) guarantees to all the citizens, the right to practise any profession or carry out any occupation, trade or business subject to Article 19(6) which provides that technical or professional qualifications can be provided for *inter alia*.

To balance the interests of different entities playing in the Indian market, state is supposed to invoke the principle of 'level-playing field' subject to 'public interest'.¹ What this means for the Dalit Community is that though they have the right to practice any occupation they need to be equipped in order to get absorbed in the sought after occupational roles that are being offered especially by the private entities for these entities are not bound to implement the 'affirmative action' and 'protective discrimination' policies of the state in their dealings with the general public.

Article 21

Article 21 provides for "Protection of life and personal liberty wherein no person shall be deprived of his life or personal liberty except according to procedure established by law".

To reiterate, in the words of Justice Field, life means more than 'mere animal existence'² Even Indian Supreme Court has time and again widened the ambit of Article 21 to hold that Article 21 emphasizes on quality of life and all that goes with it (such as nutrition, shelter etc.) rather than mere physical existence³ including right to intellectual growth.⁴ The concept of life and personal liberty has been held to be sacrosanct and very high in the scale of constitutional values as such Article 21 has been held to be at the heart of all fundamental rights.⁵

Since Article 21 provides for 'everything that goes with life' to be a part of Right to life and liberty, access to employment avenues devoid of discriminatory practices for highest possible fulfilment of one's life would also be in furtherance of right to life strengthening the right to intellectual growth.

Reading Article 21 along with the Preamble the Apex Court has time and again ruled that social justice (which is complementary to equality), economic justice, economic equality, economic empowerment of weaker sections of society constitute fundamental rights.⁶ Moreover, in *Olga Tellis v. Bombay Municipal Corporation*,⁷ the Supreme Court held that deprivation of livelihood would deprive a person of his right to life. As such we can seek recourse to Article 21 of the Constitution in order to shield from infringement of rightful livelihood avenues on caste biases.

Article 23

Article 23(1) of the Indian Constitution prohibits traffic in human beings, begar and other similar forms of forced labour. Forced labour is an arrangement wherein creditors (typically belonging to high castes) lend money etc. to people from lower castes at exorbitant interest rates and in order to satisfy such loans people (usually from lower castes) tend to get bound to slave-like conditions.⁸

The Bonded Labour System (Abolition) Act, 1976 which abolishes and punishes exploitative forms of labour traces its origins from Article 23 of the Indian Constitution. However, the real impact of such legislation remains negligible.⁹

¹ *Reliance Energy Ltd. v. Maharashtra State Road Development Corporation Ltd.*, (2007) 8 SCC 1.

² *Munn v. Illinois* 94 U.S. 113 (1877).

³ *Francis Coralie v. Delbi* AIR 1981 SC 746.

⁴ *Sarika v. Shri Mahakaleshwar Mandir Committee*, (2018) 17 SCC 112.

⁵ *Unnikrishnan v. State of Andhra Pradesh*, AIR 1993 SC 2178.

⁶ *CERC v. Union of India*, AIR 1995 SC 992.

⁷ AIR 1986 SC 180.

⁸ Human Rights Watch/Asia, *The Small Hands of Slavery: Bonded Child Labor in India* (New York: Human Rights Watch, 1996).

⁹ BROKEN PEOPLE CASTE VIOLENCE AGAINST INDIA'S "UNTOUCHABLES" (1999), https://www.hrw.org/reports/1999/india/India994-09.htm#P1702_356848 (last visited Aug 20, 2023).



Source: Fast Voice Media

“Slavery emerges at the conjunction of individual vulnerability, social exclusion and failure of rule of law. So, it should be no surprise that those countries that tolerate systemic and often institutional discrimination against their citizens on spurious grounds such as caste should also be the ones with the most extensive enslavement of their citizens. Slavery is one of the cruellest manifestations of caste discrimination.”

-Aidan McQuade, Director of Anti-Slavery International

As per International Labour Organization data compiled in 2005, “61.5% of the bonded labourers were members of Scheduled Castes (SC) and 25.1% were members of Scheduled Tribes (ST) in India”.¹ As per Anti-slavery International 2015 data, as high as 90% of those engaged as bonded labourers in India are from scheduled castes and minority groups.²

Hon’ble Supreme Court in *Bandhua Mukti Morcha v. Union of India*³ while ordering release of persons from bonded labour (termed, in words of Justice P N Bhagwati as transformation of non-beings into human beings), linking Articles 21 and 23 has held that it is fundamental right of every human to live with human dignity and free from exploitation. The court further emphasized upon rehabilitation⁴ and integration of such individuals in the society labelling such bonded labour as being incompatible with the India’s egalitarian socio-economic order.

Directive Principles of State Policy

Even though not all of the directive principles have achieved the status of being justiciable (by reading them into Fundamental Rights or other provisions) so far, they prove to be a beacon while contemplating legal devices. And if a law is in negation of any directive principle, it is unconstitutional⁵ as such these principles are regarded as the soul of the Constitution.⁶

Article 38 of the Indian Constitution guides the “state to secure a social order for the promotion of welfare of the people wherein the State shall strive to promote it by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of the national life”.

Secondly it also guides that the State “to strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, amongst individuals and groups of people (residing in different areas or engaged in different vocations).”

Article 38, which has to be read with Article 14,⁷ Article 19(1)(d) and Article 21⁸ reaffirms what has been provided in the Preamble i.e., to secure social and economic justice⁹ inter alia. It is said that equality before law, which is one of the tenets of Rule of Law, can be found only in an equal society which is contemplated under Article 38 of the Constitution and it is an obligation upon the state to bring about a more equal society¹⁰ so that we come up as a healthy social democracy.¹

¹ RAVI S SRIVASTAVA, BONDED LABOUR IN INDIA: ITS INCIDENCE AND PATTERN (2005), https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_081967.pdf (last visited Aug 8, 2023).

² Caste, Gender and Forced & Bonded Labour, INTERNATIONAL DALIT SOLIDARITY NETWORK (2015), <http://idsn.org/wp-content/uploads/2015/06/Caste-Gender-and-Modern-Slavery1.pdf> (last visited Aug 8, 2023).

³ AIR 1984 SC 802.

⁴ See also, *Neeraja Chowdhary v. State of Madhya Pradesh*, AIR 1984 SC 1099.

⁵ *Kasturi Lal v. State of J & K*, AIR 1980 SC 1992., *Union of India v. Prabhakaran Vijaya Kumar*, (2008) 9 SCC 527.

⁶ *Charu Khurana v. Union of India*, AIR 215 SC 839.

⁷ *DDA v. Joint Action Committee, Allottee of SFS Flats*, (2008) 2SCC 672.

⁸ M P JAIN, INDIAN CONSTITUTIONAL LAW (7ed. 2016).

⁹ *Air India Statutory Corporation v. United Labour Union*, AIR1997 SC 645.

¹⁰ *Sri Srinivasa Theatre v. Govt. of Tamil Nadu*, AIR 1992 SC 999.

Article 38 is supplemented by Article 39 which stresses upon economic justice.

Article 39(a) provides that “the citizens have the right to an adequate means to livelihood.” This Article has been interpreted in a way that any person who is deprived of right to livelihood (except in accordance with procedure established by law) or unreasonably thrown out of employment² can challenge such deprivation as being offensive to one’s right to life and personal liberty under Article 21.³

Article 39(c) provides that the policies of the government should be so directed that “the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment”. This in turn opens up a plethora of possibilities for the weaker sections of the society such as the Dalits and Scheduled Tribes in terms of taking up different occupations. One such measure that emanates from Article 39(c) is agrarian reforms that attempt to vest the land’s ownership in the tiller himself⁴ preventing concentration of wealth in hands of few individuals.⁵

Though Article 39(d) provides for “equal pay for equal work (for both men and women),” Hon’ble Supreme Court has interpreted it in a way to extract “equal pay for equal work” as a general principle in service jurisprudence by reading it into Articles 14 and 16 as well⁶ and a denial of such principle would be termed as exploitation of labour.⁷ Article 39(d) has acquired the status of a Fundamental Right.⁸

In India, child labour, caste-based discrimination and poverty are closely interlinked and it is children from weaker communities such as dalits and Scheduled Tribes that form a major part of the child labour workforce.⁹ This is where Articles 39(e) and 39(f) come into picture requiring the state to make adequate provisions protecting the children against exploitation.¹⁰

Articles 42 and 43 reflect concern for welfare of the workers and the minimum wage legislations, holidays provisions etc.¹¹ derive their origin from these Articles inter alia and constitutional aspirations would be rendered of no use if minimum needs of the citizens at the lowest rung of society are not met.¹²

Article 45 coupled with Article 21-A (discussed previously) direct state to make provisions for providing education to children between six and fourteen years of age. Child Labour (Prohibition and Regulation) Act, 1986 bans employment of children in certain occupations, attempting to offer them a choice to deviate the family (caste) based occupations.

Article 46 of the Constitution directs that “State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.” It is this Article that justifies categorizing Scheduled Castes and Scheduled Tribes for giving them adequate representation in the services.¹³ States have also taken measures to protect the holding of immovable property by the members of Scheduled Castes and Scheduled Tribes by resuming lands transferred by them to those who do not belong to the Scheduled Castes and Scheduled Tribes.¹⁴ Several states such as Jammu & Kashmir, Gujarat etc. have come up with legislations¹⁵ to provide relief from indebtedness to the weaker sections of the community and such legislations have been justified under the scheme of Article 46.¹⁶ Such legislations are categorized as ones that are meant for implementing distributive justice¹⁷ devised in order to achieve a fair division of wealth in the society which is directed by the Constitution.¹⁸ A significant aspect of distributive justice is *Doctrine of Economic Empowerment* developed by Supreme Court which lays emphasis on economic empowerment of Dalits and other weaker sections of the society, reading economic empowerment of such population as a Fundamental Right under the Indian Constitution¹⁹ one of the purposes of which is to prevent all forms of exploitation of the Dalits and other marginalized sections of the society.²⁰ This in turn puts a corresponding duty on the state to ensure distributive justice.

If the state makes the substance of directive principles, through the machinery of law, reach the corners of the nation, sufferings of the weaker sections of the society, including that of Dalits would be mitigated.²¹

¹ *Consumer Education & Research Centre v. Union of India*, AIR 1995 SC 923.

² *Central Inland Water Transport Corpn. v. Brojo Nath*, AIR 1986SC 1571.

³ *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

⁴ *H.S. Srinivasa Raghuvachar v. State of Karnataka*, AIR 1987 SC 1518.

⁵ *State of Bihar v. Kameshwar Singh*, AIR 1952 SC 252., *Raj Rajendra Maloji Rao v. Madhya Bharat*, AIR 1953 MB 97., *Venkatarao v. State* AIR 1975 AP 315.

⁶ *Randhir Singh v. Union of India*, AIR 1982 SC 879., *Grih Kalyan Kendra v. Union of India*, AIR 1991 SC 1173.

⁷ *Daily RC Labour, P & T Dept. v. Union of India*, AIR 1987 SC 2342., *Dhirendra Chamoli v. State of Uttar Pradesh*, (1986) 1 SCC 637.

⁸ *State of Kerala v. B. Renjith Kumar*, (2008) 12 SCC 219., *State of Madhya Pradesh v. Pramod Bhartiya*, AIR 1993 SC 286.

⁹ CONTEMPORARY FORMS OF SLAVERY, INCLUDING ITS CAUSES AND CONSEQUENCES (2015), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/425/94/PDF/N2242594.pdf?OpenElement> (last visited Aug 8, 2023).

¹⁰ *State of Haryana v. Rajpal Sharma*, AIR 1997 SC 449., *Food Corp. of India, Worker's Union v. FCI*, AIR 1990 SC 2178.

¹¹ *M.R.F. Ltd. v. Inspector, Kerala Government*, AIR 1999 SC 1923.

¹² *Chandra Bhavan Boarding House v. State of Mysore*, AIR 1970 SC 2042.

¹³ *A.B.S.K Singh (Rly) v. Union of India*, AIR 1981 SC 298., *State of Punjab v. Dayanand Medical College and Hospital*, (2001) 8 SCC 664.

¹⁴ *Harishchandra Hegde v. State of Karnataka*, (2004) 9 SCC 780., *Lingappa Pochanna v. State of Maharashtra*, AIR 1985, SC 389.

¹⁵ Eg. Debtor’s Relief Act, 1976 (Jammu & Kashmir), The Karnataka Debt Relief Act, 2018, Maharashtra Debt Relief Act, 1975 Gujarat Rural Debtor’s Relief Act 1976 etc.

¹⁶ *Saiyedbbhai Kadarbbhai v. Saiyed Intajam Hussien*, AIR 1981 Guj 156.

¹⁷ *Lingappa Pochanna v. State of Maharashtra*, AIR 1985, SC 389.

¹⁸ *Manchegowda v. State of Karnataka*, AIR 1984 SC 1151., *Fatechand Himmatlal v. State of Maharashtra*, AIR 1977 SC 1825., *Pathumma v. State of Kerala*, AIR 1978 SC 771.

¹⁹ *Murlidhar Dayandeo Kesekar v. Vishwanath Pandu Borde*, (1995) 2 SCC 549.,

²⁰ *Charan Singh v. State of Punjab*, AIR 1977SC 1052., *R. Chandevappa v. State of Karnataka*, (1995) 6 SCC 309.

²¹ *Consumer Education & Research Centre v. Union of India*, AIR 1995 SC 923.

Articles 309 & 311

The relevant portion of Article 309 of the Constitution is reproduced as follows-

“Subject to the provisions of this Constitution, Acts of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State.”

As the opening words of the Article suggest, the provisions regulating recruitment, appointment, selection, promotion, deputation and even appointment by transfer¹ must adhere to the mandates of Constitution of India, part III of the Constitution (Chapter on Fundamental Rights) being one of them.² The recruitment rules made under Article 309 of the Constitution must provide equality of opportunity to all the citizens who are entitled for being considered for recruitment.³

Article 311 provides for Dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or a State. This Article places restrictions on prerogative of undue dismissal of civil servants (both at union and state level) at pleasure of the appointing authority. Rules made under Article 309 cannot violate provisions of Article 311.⁴

Other Miscellaneous Provisions

Framers of Indian Constitution took special care to safeguard the interests the underprivileged to integrate them into societal mainstream. For example, we have Article 325 which provides for Adult Suffrage strengthening the political position of the underprivileged communities in India such as Scheduled Castes and Scheduled Tribes. Further, Article 330 and Article 332 reserve the seats for the Scheduled Castes and Scheduled Tribes in Lok Sabha and State Legislative Assemblies respectively. Article 342-T provides for reservation of seats for Scheduled Castes and Scheduled Tribes in every municipality. These provisions discourage the differentiation of Scheduled Castes and Scheduled Tribes from other people, thereby gradually integrating them in the mainstream society. Additionally, the Constitution provides for appointment of a minister for tribal welfare in several states such as Bihar and Orissa.

Micro and Macro-economic Consequences

Having understood the relationship between caste and India's occupational structure it is important to analyse the economic consequences of such an intertwining.

No doubt occupational identity and hierarchy of caste are one of the major decisive factors affecting one's career choices, however, effects of caste identity on occupational choices have only a 'small' impact on the 'overall' efficiency of the Indian economy (Gang et al., 2012). There are three reasons for that: “(1) Working in parental profession increases productivity. (2) Strength of caste identity is not sufficient to draw many high-skilled individuals out of the modern workforce. (3) Clustering of castes into specific occupations generates positive social network effects that partially compensate for the misallocation of human capital, if any.”⁵

Interestingly, caste-based occupations were framed at a time when most of the occupations present today did not exist. As such the macro-economic consequences have not much to be dwelt into.

The micro-economic consequences are somewhat disturbing. Individuals born into castes historically designated as 'lower caste' are very often under-represented in occupations that are associated with high wages and high returns to human capital. This is because “Occupational structure in India is still composed essentially of individuals who are “born” into the family practising a particular occupation, and an average person is more than three times as likely to enter their traditional occupation than any other occupation”⁶ (Also refer Chart-1 and chart-2) Such a design is particularly harmful to those who are at the bottom of the prevailing caste-based hierarchy in the Indian society. Caste's traditional occupation is to blame for the fact that high ability individuals might continue working in their low-return traditional occupations who could otherwise apply their skills more productively in high-return occupations.⁷ A huge chunk of India's poverty is concentrated in the social groups that are excluded from the mainstream through systematic discrimination often called as casteism or caste system.⁸ Noteworthy is that “Discrimination in employment and wages is found to be very high in private sector and lesser in public sector⁹ (owing to constitutional remedies). A possible explanation could be that private entities are not bound by the Government's affirmative action policies. Discrimination in employment and wages leads to reduced wage income which enhances poverty of the discriminated group”.

¹ *K Narayanan v. State of Karnataka*, 1994 Supp (1) SCC 44 at 54.

² *Union of India v. Tulsiram Patel*, (1985) 3 SCC 398.

³ *Principal, Mehar Chand Polytechnic v. Anu Lamba*, (2006) 7 SCC 161.

⁴ *Moti Ram v. North East Frontier Railway*, AIR 1964, SC 600.

⁵ Ira Gang, Kunal Sen & Myeong Su Yun, IS CASTE DESTINY? OCCUPATIONAL DIVERSIFICATION AMONG DALITS IN RURAL INDIA DISCUSSION PAPER NO. 6295 (2012).

⁶ Guilhem Cassan, Daniel Keniston & Tatjana Kleineberg 'A Division Of Laborers: Identity And Efficiency In India', NATIONAL BUREAU OF ECONOMIC RESEARCH (2021).

⁷ Guilhem Cassan, Daniel Keniston & Tatjana Kleineberg, A DIVISION OF LABOURERS: CASTE IDENTITY AND EFFICIENCY IN INDIA IDEAS FOR INDIA (2022), <https://www.ideasforindia.in/topics/social-identity/a-division-of-labourers-caste-identity-and-efficiency-in-india.html> (last visited Aug 20, 2023).

⁸ Oommen C Kurian, WHEN SCHOOLS CONTINUE TO EXCLUDE, CAN EDUCATION REDUCE CASTE DISCRIMINATION IN INDIA? OXFAMINDIA.ORG (2015), <https://www.oxfamindia.org/blog/when-schools-continue-exclude-can-education-reduce-caste-discrimination-india> (last visited Aug 6, 2023).

⁹ Sukhadeo Thorat, S Madheswaran & B P Vani, *Caste and Labour Market Employment Discrimination and Its Impact on Poverty*, 56 ECONOMIC & POLITICAL WEEKLY, 2021, <https://www.epw.in/journal/2021/21/special-articles/caste-and-labour-market.html> (last visited Aug 20, 2023).

Impact of Covid-19 Pandemic

The infamous 2019 pandemic worsened the incidences of discrimination on the basis of castes for the *Safai karmacharis* or cleanliness workers who mostly belonged to the Dalit Community, as they were blamed to be spreading covid and consequently were discriminated against. At the same time, they suffered more than the others on the financial front for they were already disadvantaged in terms of social security because predominance of informal sector occupations, lower level of earnings. For instance, when talking specifically about the wage workers in non-farm sectors, “the percentage of those with access to some social security measure was the lowest among SCs (16 per cent), compared to the higher castes (22 per cent). The average daily wage earnings of salaried SC informal workers were also ₹ 269, lower than high castes (₹ 357), OBCs (₹307) and the national average (₹ 315). Similarly, the average earnings of casual SC wage labourers were ₹ 311, compared to ₹ 331 for high castes, ₹ 347 for OBCs and the national average of ₹ 325”.¹ Additionally, they were among the first to be fired, with barely anything to fall back upon, and last to be re-employed in the pandemic.² It is not beyond imagination that pandemic has spiralled back some of the Dalit families into the vicious cycle of poverty who were trying to pull their way out before pandemic. For example, those families with little or no savings left after the pandemic would have their children be forced to work, presumably, in their ancestral occupation instead of pursuing education and/or better employment avenues.

Way Forward

The economic Indian landscape in terms of caste based occupational compartmentalization that is irrational, is withering away which is undoubtedly encouraging. Lack of training and education of Scheduled Castes and Scheduled Tribes along with discriminatory tendencies on the employers’ part, particularly in the unorganized sector (where majority of Dalit workforce is absorbed) has fuelled the tradition keeping it alive. Hence, a ‘meaningful’ occupational mobility across castes can be achieved through a two-pronged approach.

First, since we cannot forget that following the 1991, New Economic Policy which opens its arms to private entities, the state cannot invariably impose conditions upon the private sector to hire the less meritorious/ less qualified ones for the state cannot go on ignoring their interests in garb of ‘Socialism’. We cannot ignore the fact that they form an overwhelmingly large part of India’s economic landscape as it stands today. Instead, an even more aggressive action is required on the part of government to invest on enhancing the quality of human resource so that they emerge fitter for the changing occupational roles.

Second, it is the psychology of masses that needs an overhaul, more so in rural India, where caste based occupational compartmentalization is stricter in comparison to urban areas. We have several penal provisions barring untouchability, bonded labour and other evils inter alia. What remains now to be done is a ground level implementation of such legislative mandates.

¹ PERIODIC LABOUR FORCE SURVEY PLSF (2019).

² Amit Tharot & Sukhdeo Tharot, *Employment And The Dalit Equation*, OUTLOOK, 2022, <https://www.outlookindia.com/magazine/story/india-news-employment-and-the-dalit-equation/305415> (last visited Aug 20, 2023).