

## A Study on Caste as a Divisive Factor in Contemporary India: Problems and Solutions

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Article 338 of the Indian Constitution deals with the National Commission for Scheduled Castes. It is a duty of the commission to investigate all types of atrocities, to inquire into specific complaints concerning the deprivation of rights, and to safeguard the scheduled caste people.<sup>1</sup>

### Abstract:

Caste acts both as a divisive and cohesive force in Indian politics. It provides a basis for the emergence of several interest groups in the Indian system each of which competes with every other group in the struggle for power. At times, it leads to unhealthy struggle for power and acts as a divisive force. In the ancient times, the society was divided on the basis of caste. The high caste people used to discriminate with the low caste people. Untouchability was practiced on a large scale among the people. After the independence and the constitution coming into force, the situation has not undergone much change. Now there has begun many caste-based politics in India. The clever politicians are not willing to lose even a single opportunity to politicize the caste. The position has created a phase where the ruling government is ready to provide more and more reservation facilities to the SC, ST and OBC people, in order to attract their votes. However, such reservation criterion has again divided the society largely. Because the members from general category, who are deprived of any reservation facility, are of the view that this reservation provision has been an infringement of their right to equality for status and opportunity enshrined under the fundamental rights of the constitution. This has created a divide among the people of the society creating various clashes in the form of riots and protests against or in favour of reservation. This article is an attempt to find out the true nature of caste as a divisive factor in the society and also attempts to recommend some suggestion as to how to balance the interest of people belonging to the deprived underprivileged category and the well-to-do category of people.

**Keywords:** caste system, varna system, scheduled caste and tribes, untouchables, caste and the law, temple politics, caste or class

### Introduction:

The caste system in Indian society finds its roots in the ancient India and has evolved during the different centuries. It has basically divided the society into four categories i.e. Brahmins, Kshatriyas, Vaishiyas and Shudras. The Brahmins are the top in the hierarchy and the Shudras are the lowest among all. The notion of Caste System is of two types, Jatis and Varnas, which are observed as different level of evaluation of this system. It is a socio-political hierarchical structure of the Indian Society<sup>2</sup>. The caste system in India is still prevalent today, is visible in educational institutions, government and private jobs, and is severely followed by a majority of people when it comes to marrying in the same caste. The caste system was a development of the outcomes of the Gupta Empire (existing from the mid-to-late 3rd century CE to 543 CE) and the rise of the British Raj after the collapse of The Mughal Era in India<sup>3</sup>.

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<sup>1</sup>Available at: <https://www.google.com/search?q=Article+on+Caste+and+the+Law&oeq=Article+on+Caste+and+the+Law+&aqs=chrome..69i57j33i160l2.7758j0j15&sourceid=chrome&ie=UTF-8>. Visited on: 12-05-2023.

<sup>2</sup>Michael S.M., Dalits in Modern India: Visions in Modern India, Edn. 2, 2007.

<sup>3</sup>Szczepanski Kallie, *History of India's Caste System*, August 11, 2019.

Caste or Jati as practiced in medieval period Hindu society was like a cementing factor keeping Indian as one and firmly united. Panti is a sub-caste within a sub-caste. It is a self-confined group within sub-caste. Those who are in Panti are called as PankitPaawan. Its members are very rigid in food and relations. They remain linked with their original clan and ancestor's land. They marry only in those families that are in Panti. Jati and Panti caste and sub-caste are equally forceful. However, the election and reservations are two important factors that have given life to caste system quo law, which has knowingly or unknowingly encouraged it to continue. The ancient 'varnavyavastha' which got reshaped as caste was dwindling down on the way to vanishment on account of lack of support of the young generation but reservation on ground of caste has given first lease of life to caste as system in society. Scheduled Caste, Backward Caste, OBC and general caste are re-incarnations of old *varnavyavastha* passing on the *Jativyavastha*. Elections have added fuel to the fire. A study of caste as a divisive factor as such is the need of the hour.

While discussing about communalism in India, caste is the major factor, which divides society in different sectors promoting communalism. Dr. B. R. Ambedkar saw the caste system as an unequal mode of organisation of social relations, with the pure and the impure at either extreme. He argued that this system was sanctified through religious codes that forbade intermixture of castes and confined social interaction to a regulated structure.<sup>4</sup> The evil of India's caste practice is almost as old as the Gods, and is the most noxious and evolved example today of how humans attempt to impose superiority and suffering on others by virtue of their birth. Hindu texts speak of four tiers, or *Varnas*, making up a broader caste pyramid in society. On top are the Brahmins or priestly caste, the Kshatriyas or warrior class and the Vaishyas or merchant class. At the bottom, there are Shudras or labouring castes. The rest do not even get counted which come under the outcastes or Bahishkrut.

#### **Caste System: History and Nature:**

Caste is a birth base hierarchical system wherein people are divided accordingly. A person's caste is determined at birth and that forces them into that caste's occupation. Based on DNA analysis, Caste originated during Gupta period.<sup>5</sup> The English word caste derives from the Spanish dictionary (1569), means 'race, lineage, tribe or breed'. Today, there are total 1208 scheduled castes existing in India.<sup>6</sup>

Travellers to India have commented on caste for more than two thousand years. In Indian society, the group comes first, unlike our own society that gives so much importance to the individual personality. After a person's family, the caste commands an individual's major loyalty. Indians still often identify themselves by the community they belong to and caste is still a factor in marriage selection. India's caste system is among the world's oldest forms of surviving social stratification. The system, which divides Hindus into rigid hierarchical groups, based on their karma and dharma. Castes are rigid social groups characterised by hereditary transformation of life style, occupation and social status.<sup>7</sup> The caste system in India has its origins in ancient India, and was transformed by various ruling elites in medieval, early modern, and modern India, especially the Mughal Empire and the British Raj.<sup>8</sup>

<sup>4</sup>Dr. Ambedkar B. R., *The Annihilation of Caste*, 1936.

<sup>5</sup>Phillip Martin, *Even with a Harvard pedigree, caste follows 'like a shadow'*, 2019.

<sup>6</sup>Source: Ministry of Social Justice and Empowerment, number of Castes notified as Scheduled Castes, 2008.

<sup>7</sup>Dr. Tripathi G. P., *Law and Social Transformation*, Central Law Publication, Allahabad, 2029, p. 255.

<sup>8</sup>Bayly, Susan, *Caste, Society and Politics in India from the Eighteenth Century to the Modern Age*, (2001).

Varna literally means type, order, colour or class and was a framework for grouping people into classes, first used in Vedic Indian Society. It is referred to frequently in the ancient Indian texts. The four classes were the Brahmins (priestly people), the Kshatriyas (also called Rajanyas, who were rulers, administrators and warriors), the Vaishyas (artisans, merchants, tradesmen and farmers), and Shudras (labouring classes). The varna categorisation implicitly had a fifth element, being those people deemed to be entirely outside its scope, such as tribal people and the untouchables. The varna system is propounded in revered Hindu religious texts, and understood as idealised human calling. The Purusha Sukta of the Rigveda and Manusmriti's comment on it, being the oft-cited texts.<sup>9</sup> Susan Bayley, states that jati system emerged because it offered a source of advantage in an era of pre-independence poverty, lack of institutional human rights, volatile political environment, and economic insecurity.<sup>10</sup>

However, according to Basham, ancient India literature refers often to varnas, but hardly if ever to Jatis as a system of groups within the varnas. He concludes that "if caste is defined as a system of group within the class, which are normally endogamous, commensal and craft-exclusive, we have no real evidence of its existence until comparatively late times."<sup>11</sup>

#### **Role of Caste as a Divisive Factor:**

The colonial government hardened the caste-driven divisions in India not only through its caste census, but also with a series of laws in the early 20<sup>th</sup> Century. Colonial officials, for instance, enacted laws such as the Land Alienation Act in 1900 and Punjab Pre-Emption Act in 1913, listing castes that could legally own land and denying equivalent property rights to other census-determined castes. These Acts prohibited the inter-generational and intra-generational transfer of land from land-owning castes to any non-agricultural castes, thereby preventing economic mobility of property and creating consequent caste barriers in India.<sup>12</sup>

#### **Problems relating to Caste as a divisive factor in Contemporary India:**

Societal stratification, and the inequality that comes with it, still exist in India, and has been thoroughly criticised.<sup>13</sup> Government policies aim at reducing this inequality by reservation, quota for backward classes, but paradoxically also have created an incentive to keep this stratification alive. Historically, it has been very hard to change the structure of caste politics in India. More recently, however, there has been a flux in caste politics, mainly caused by economic liberalisation in India. Contemporary India has seen the influence of caste start to decline. This is partly due to the spread of education to all castes, which has had a democratising effect on the political system. However, this 'equalising' of the playing field has not been without controversy. The Mandal Commission and its quotas system has been a particularly sensitive issue. While identified with Hinduism, caste systems are found in other religions on the Indian subcontinent, including other religions such as Buddhists, Christianity and Muslims.<sup>14</sup>

Independent India has witnessed caste-related violence. According to a 2005 United Nations (UN) report, approximately 31,440 cases of violent acts committed against Dalits were reported in 1996. The UN report claimed 1.33 cases of violent acts per 10,000 Dalit people. For context, the UN reported between 40 and 55 cases of violent acts per

<sup>9</sup>David Lorenzen. Who invented Hinduism: Essays on Religion in History? Yoda Press, (2006), p. 147-149.

<sup>10</sup>Bayly, Susan (2001).

<sup>11</sup>Barbara Metcalf, Thomas Metcalf. A concise history of modern India. Cambridge University Press, (2012), p.24.

<sup>12</sup>Nesbitt, Eleanor, Sikhism a Very Short Introduction, Oxford University Press, (2005), p. 119-120.

<sup>13</sup>Shah, A.M., Caste in the 21st Century: From System to Elements, Economic and Political Weekly, 42 (44), (2007), p. 109-116.

<sup>14</sup>Ballhatchet, Kenneth, Caste, Class and Catholicism in India, (1998), p.1789-1914.

10,000 people in developed countries in 2005.<sup>15</sup> One example of such violence is the Khairanjali massacre of 2006.

The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities), Act, 1989 of India aims to prevent and punish atrocities and discrimination against members of the Scheduled Castes and Scheduled Tribes. Examples of crimes punishable under the Act include, “forcing victims to eat or drink obnoxious substances; dumping excreta, sewage, carcasses into their homes or compounds; land grabbing; humiliation; sexual abuse, etc.”

The National Crime Records Bureau (NCRB) includes statistics of crimes reported under the law as part of its annual reports. There has been growth in total number of crimes reported under the Act in recent years but conviction rates have been low. Crimes against members of Scheduled Caste communities grew by 7.3% and against Scheduled Tribes by 26% in 2019.<sup>16</sup> Further, as many as 1,89,945 cases of crime against Dalits were registered in four years beginning 2018, the Union government told Parliament on Tuesday, citing a National Crime Records Bureau report published in 2021. At the same time, in these four years, 27,754 persons have been convicted for crimes against Dalits, data shared by the minister in the Lok Sabha showed. The highest number of cases for crime against Dalits have been registered in Uttar Pradesh, with 11,924 in 2018, 11,829 in 2019, 12,714 in 2020, and 13,146 in 2021.

#### **Non-Discrimination on the Ground of Caste:**

The de-recognition of the caste system, equality before the law and equal opportunities for all in economic, political and social spheres were some of the high points of Indian Constitution. The Preamble to the Constitution of India specifically provides for unity and integrity of the nation. Therefore, nothing should be done that would be inconsistent with the ideal. It will help the country carve a niche for itself in the world as a unique example of ‘unity in diversity’. The role of social reformers is significant in India for removal of caste system. Social reformers like Mahatma Jyotirao Phule, Dr. Babasaheb Ambedkar, Rajarshi Shahu Maharaj, M. K. Gandhi, Periyar E. V. Ramaswamy, Swami Vivekanand have made fundamental contribution in the upliftment of lower caste people.

However, as the fruits of independence were unequally distributed amongst various segments of the society, in each caste there came into existence a triple division based on economic resurgence amongst the members of the caste. Those who have become economically well off have acquired the upper-class status and the one on the step below is the middle class and the third on belongs to poorer section of the caste. This led to the realisation that caste culture does not help economic interest. In fact, the upper crust of the same caste is verily accused of exploiting the lower strata of the same caste.

Article 46 of the Constitution of India guides the state towards promotion of educational and economic interests of the SCs, STs and the other weaker sections. It states that states shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the SCs and the STs, and shall protect them from social injustice and all forms of exploitations.

#### **Right to Equality:**

The fundamental rights are guaranteed to protect the basic human rights of all the citizens of India and are put into effect by the courts, subject to some limitations. One of such fundamental rights is the Right to Equality.<sup>17</sup> Right to Equality refers to the equality in the eyes of law, discarding any unfairness on the grounds of caste, race, religion, place of birth, sex, etc. It also includes equality of prospects in matters of employment, abolition of untouchability and abolition of titles. Articles 14, 15, 16, 17 and 18 of the Constitution

<sup>15</sup>“UN Report Slams India for Caste Discrimination”, CBC News 2 March, 2007.

<sup>16</sup>G. Kishan Reddy, Union Minister of State for Home, ‘Crime in India-2019’, through NCRB Report.

<sup>17</sup> Article 14, The Constitution of India, 1950.



of India highlight the Right to Equality in detail. This fundamental right is the major foundation of all other rights and privileges granted to Indian citizens. It is one of the chief guarantees of the Constitution of India. Thus, it is imperative that every citizen of India has easy access to the courts to exercise his Right to Equality.

Social Equality and Equal Access to public places is clearly mentioned under the Article 15 of the Constitution of India stating that no person shall be shown favouritism on the basis of colour, caste, creed, language, etc. Every person shall have equal admittance to public places like public wells, bathingghats, museums, temples, etc. However, the State has the right to make any special arrangement for women and children or for the development of any socially or educationally backward class or SCs or STs. This article applies only to the citizen of India.

**Abolition of Untouchability:**

Article 17 of the Constitution of India abolishes the practice of untouchability in India. Practice of untouchability is declared as a crime and anyone doing so is punishable by law. The Untouchability Offences Act of 1955 (and now Protection of Civil Rights Act in 1976) states punishments for not allowing a person to enter a place of worship or from taking water from a well or tank. Fundamental duties imposed under Article 51-A of the Constitution of India have great bearing towards tuning of individual behaviour vis-à-vis fellow beings in the direction of abolishing untouchability.

**Abolition of Titles:**

Article 18 of the Constitution of India prohibits the State from granting any titles. Citizens of India are not allowed to accept titles from a foreign State. Titles like Rai Bahadurs and Khan Bahadurs given by the British Government have also been abolished. Nevertheless, academic and military distinctions can be conferred upon the citizens of India. The awards of 'Bharat Ratna' and 'Padma Vibhushan' cannot be used by the beneficiary as a title.

**Acceptance of Caste as a Factor to Undo Past Injustice:**

Employing of caste criterion for undoing past injustices is largely justified on this notion. For instance, in identifying the depressed castes, the 1931 Census looked to the prevalence of the following factors: inability to be served by Brahmans, barbers, water-carriers, tailors who serve the caste Hindus, inability to serve caste Hindus, to enter temples, and to use public conveniences such as roads, ferries, wells or schools; and inability to be disassociated from despised occupation.

**Caste as a Socio-Cultural reality:**

For centuries, caste has dictated almost every aspect of Hindu religious and social life, with each group occupying a specific place in this complex hierarchy. Rural communities have long been arranged on the basis of caste-the upper and lower castes almost always lived in segregated colonies, the water wells were not shared, Brahmins would not accept food or drink from the Shudras, and one could marry only within one's caste.

The system bestowed many privileges on the upper castes while sanctioning repression of the lower castes by privileged groups. Often criticised for being unjust and regressive, it remained virtually unchanged for centuries, trapping people into fixed social orders from which it was impossible to escape. Despite the obstacles, however, some Dalits and other low-caste Indians such as Dr. B. R. Ambedkar who authored the Indian Constitution, and K. R. Narayanan who became the nation's first Dalit president, have risen to hold prestigious positions in the country.

Although the Varnas and Jatis have pre-modern origins, the caste system as it exists today is the result of development during the post-Mughal period and the British colonial period, which made caste organisation a central mechanism of

administration.<sup>18</sup> Jati were the basis of caste ethnology during the British colonial era. In the 1881 census and thereafter, colonial ethnographers used caste (Jati) headings, to count and classify people in what was then British India (now India, Pakistan, Bangladesh and Burma). The 1891 census included 60 sub-groups each sub-divided into six occupational and racial categories, and the number increased in subsequent censuses.<sup>19</sup> The role of the British Raj on the caste system in India is controversial. The caste system became legally rigid during the Raj, when the British started to enumerate castes during their ten year census and meticulously codified the system. Between 1860 and 1920, the British formulated the caste system into their system of governance, granting administrative jobs and senior appointments only to the upper castes.<sup>20</sup>

**Protective Discrimination: Scheduled Castes, Tribes and backward Classes:**

Under Articles 330 and 332 of the Constitution of India, provisions are made to reserve seats in the House of People and State Legislative Assemblies respectively for SCs and STs in proportion to their population in respective states. National Commissions for SCs and STs are constituted under Article 338 and 338-A to investigate about all matters relating to safeguards, inquire into complaints about deprivation of rights, to recommend for their better protection. Regarding identification SCs and STs the President is vested with the power of public notification of lists specifying castes, races, tribes or part of groups to be deemed to be SCs and STs under Articles 341 and 342 of the Constitution of India.

**Equal Protection of Law:**

Equality before the law is British Constitutional Concept well defined under the Article of the Constitution of India, which ensures that every citizen shall be likewise protected by the laws of the country. It means that the State will not distinguish any of the Indian citizens on the basis of their gender, caste, creed, religion or even the place of birth. The state cannot refuse equality before the law and equal defence of the law to any person within the territory of India. However, in India Law is supreme. Law is above all and it will treat all equally.<sup>21</sup> Therefore, when necessary, law will provide special measures or treatment to suppressed class people for their progress.

**Equality in Matters of Public Employment:**

Article 16 of the Constitution of India clearly mentions that the State shall treat everyone equally in the matters of employment. No citizen shall be discriminated on the basis of race, caste, religion, creed, descent or place of birth in respect of any employment or office under the State. Every citizen of India can apply for government jobs. However, there are some exceptions to this right. The Parliament may pass a law mentioning that candidates who are residing in a particular area can only fill specific jobs. Apart from this, the State may also set aside some posts for members of backward classes, SCs or STs, which are not properly represented in the services under the State to uplift the weaker section of the society.

**Doctrine of Reasonable Classification:**

Article 14 of the Constitution of India forbids class-legislation but it does not forbid reasonable classification. The classification however, must not be arbitrary, artificial or evasive but must be based on some real and substantial bearing a just and reasonable relation to the object sought to be achieved by the legislation. Article 14 applied where equals are treated differently without any reasonable basis. However, where equals and un-equals are treated differently, Article 14 does not apply in its absolute meaning.

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<sup>18</sup> St. John, Ian, *The Making of the Raj: India Under the East India Company*, (2012).

<sup>19</sup> Dirks, Nicholas B., *Castes of Mind: Colonialism and the Making of New India*, (2001).

<sup>20</sup> Ibid.

<sup>21</sup> *Dicey's Concept of Rule of Law*. The Law of the Constitution, 1885.

Reasonable classification is permitted and this classification must not be arbitrary, artificial or evasive. It must always rest upon some real and substantial distinction bearing a just and reasonable relation to the object sought to be achieved by the legislation. Classification to be reasonable must fulfil the following two conditions:

- (i) The Classification must be founded on the intelligible differentia, which distinguishes persons, or thing that are grouped together from others left out of the group.
- (ii) The differentia must have a rational relation to the object sought to be achieved by the act.<sup>22</sup>

**Reservation: Statutory Commissions, Statutory Provisions:**

Various Backward Class Commissions appointed by the State and Central Governments have used the criterion of caste as one of the parameters or initial reference groups. Following are the different commissions appointed so far:

**1. The First Backward Classes Commission:<sup>23</sup>**

This Commission reasoned, 'A variety of causes-social, environmental, economic and political have operated both openly and in subtle form for centuries to create the present colossal problem of backwardness. Economic backwardness is the result and not the cause of many social evils.

**2. The Second Backward Classes Commission:**

Considered caste as a natural collectivity for defining backwardness. While it recognized the change occurred in the caste system owing to democracy. Urbanization and mass education, it declined to accept any material alteration in the basic structure of caste.

**3. The National Commission for Backward Classes:**

Established on 14 August 1993. It was constituted pursuant to the provisions of the National Commission for Backward Classes Act, 1993. 102<sup>nd</sup> Constitution Amendment Act, 2018 provides constitutional status to the National Commission for Backward Classes. In *Indira Sawhney* case of 1992, Supreme Court had directed the government to create a permanent body to entertain, examine and recommend the inclusion and exclusion of various Backward Classes for the purpose of benefits and protection.

It was observed by the Supreme Court in *M. Nagraj v Union of India*<sup>24</sup> that under the Indian Constitution, while basic liberties are guaranteed and individual initiative is encouraged, the state has got the role of ensuring that no class prospers at the cost of other class and no person suffers because of drawbacks which is not his but social.

K. G. Balkrishna, CJI has observed in *Ashoka Kumar Thakur v Union of India*<sup>25</sup> that reservation is one of the many tools that are used to preserve and promote the essence of equality, so that disadvantaged groups can be brought to the forefront of civil life. It is also the duty of the state to promote positive measures to remove barriers of inequality and enable diverse communities to enjoy the freedoms and share the benefits guaranteed by the Constitution. To cope with the modern world and its complexities and turbulent problems, education is necessary and it cannot remain cloistered for the benefit of a privileged few.

**Judicial Approach and Social Justice:**

Judiciary has consistently emphasised on application of multiple factor tests in identifying the beneficiaries of protective discrimination, and has declined to rely solely on caste in identifying backwardness. In *M. R. Balaji v State of Mysore*<sup>26</sup>, it was observed that social backwardness is on the ultimate analysis the result of poverty, to a very large extent. The

<sup>22</sup>Ram Krishna Dalmia v. Justice S. R. Tendolkar, 1958 AIR 538 1959 SCR 279.

<sup>23</sup>Kaka Kalelkar Commission, 1953.

<sup>24</sup>*M. Nagraj v, Union of India*, (2006) 8 SCC 212.

<sup>25</sup>*Ashoka Kumar Thakur v Union of India*, (2008) 6 SCC, para 6.

<sup>26</sup>*M. R. Balaji v State of Mysore*, AIR 1963 SC 649.

classes of citizens who are deplorably poor automatically become socially backward. They do not enjoy a status in society and have, therefore, to be content to take a backward seat.

In *R. Chitrallekha v State of Mysore*<sup>27</sup>, the Supreme Court emphasised that under no circumstances a class can be equated to a caste, though the caste of an individual or a group of individuals may be considered along with other relevant factors in putting him in a particular class.

In *C. A. Rajendran v. Union of India*<sup>28</sup>, it was observed that if the reservation in question had been based only on caste and had not considered the social and educational backwardness of the caste in question, it would be violative of Article 15(1) of the Constitution of India. However, it must not be forgotten that a caste is also a class of citizens and if the caste as a whole is socially and educationally backward, reservation can be made in favour of such a caste on the ground that it is a socially and educationally backward class of citizens within the meaning of Article 15(4) of the Constitution of India.

In *State of A. P. v P. Sagar*<sup>29</sup>, it was held that the expression “class” in Article 15(4) of the Constitution of India meant a homogenous section of the people grouped together because of certain likeness or common traits and who are identifiable by some common attributes such as status, rank, occupation, residence in a locality, race, religion and the like.

In *A. Periakaruppan v State of T.N.*<sup>30</sup>, the Court observed that a caste has been always recognised as a class. There is no gainsaying the fact that there are numerous castes in this country, which are socially and educationally backward. To ignore their existence is to ignore the facts of life.

In *K. S. Jayashree v State of Kerala*<sup>31</sup>, there was a Government order specifying that only citizens who were members of families which had an aggregate income of less than Rs. 60,000 per annum and which belong to the caste and community mentioned in the annexures to the Government order would constitute socially and educationally backward classes for the purposes of Article 15(4).

In *K. C. Vasanth Kumar v State of Karnataka*<sup>32</sup>, Caste-plus-means test was favoured by judges in the same case where broad guidelines were laid down for identification of backward classes.

However, it is notable that, a five-judge bench in 1962 in the case of *M. R. Balaji v State of Mysore*<sup>33</sup> and another five-judge bench in *C. A. Rajendran v Union of India*<sup>34</sup> in 1967 had ruled that Article 15(4) is just an enabling provision, which gives discretionary power to the Government to make reservations. It means that the government is under no constitutional obligation to give reservations for SCs and STs either in the initial recruitments or in promotions. Similar interferences were upheld in several other courts decisions including a nine-judge bench in *IndraSawhney v Union of India*<sup>35</sup> in 1992 and in *M. Nagaraj v Union of India*<sup>36</sup> in 2006. Justice Kuldip Singh and Justice R. M. Shai took dissenting views in *IndraSawhney* case and made remark, the prohibition on the

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<sup>27</sup>*Chitrallekha v State of Mysore*, AIR 1964 SC 1823.

<sup>28</sup>*C. A. Rajendran v. Union of India* 1968 AIR 507, 1968 SCR (1) 721.

<sup>29</sup>*State of A. P. v P. Sagar* 1968 AIR 1379, 1968 SCR (3) 565.

<sup>30</sup>*A. Periakaruppan v State of T.N.*, 1971 AIR 2303, 1971 SCR (2) 430.

<sup>31</sup>*K. S. Jayashree v State of Kerala*, AIR 1976 SC 2381.

<sup>32</sup>*K. C. Vasanth Kumar v State of Karnataka*, AIR 1885 SC 1495.

<sup>33</sup>*M. R. Balaji v State of Mysore*, 1963 AIR 649, 1962 SCR Supl. (1) 439.

<sup>34</sup>*C. A. Rajendran v Union of India*, 1968 AIR 507 1968 SCR (1) 721.

<sup>35</sup>*IndraSawhney v Union of India* AIR 1993 SC 477, 1992.

<sup>36</sup>*M. Nagaraj v Union of India* (2006) 8 SCC 212.



ground of caste is total; the mandate is that never again this country caste shall raise its head.

**Upward Journey in Caste System:**

Nevertheless, there is an increasing social mobility, especially in India's urban areas, some untouchables and shudras have tried to move up in the hierarchy by adopting customs of upper castes, a process labelled assanskritisation. Others have attempted to escape the system entirely by converting to Buddhism or Christianity. The prominent Dalit politician and lawyer, Dr. B. R. Ambedkar (1891-1956), who saw the demolition of the caste system as necessary for the emancipation of India's Dalits, converted to Buddhism at the end of his life. Over the time, significant numbers, although only a tiny portion of India's Dalits, have followed his example, in November 2001, thousands of untouchables participated in a mass conversion to Buddhism in Delhi.

Even the modernisation is helping to eradicate prevailing caste system in Indian society. Modernisation is a total process of transformation of traditional society involving far reaching changes in all aspects of individual life. It symbolises a rational attitude towards issues and their evolution from a universalistic and non-peculiaristic point of view. Like science, modernity is not an exclusive possession of any ethnic or cultural group but it belongs to the humanity as a whole. In contemporary India both westernisation and modernisation trends are observable. The urban areas have shown good amount of impact and some improvement. However, people in rural areas and villages still face extreme discrimination. We indeed have a long way to go in achieving the objective set to eradicate and abolish discrimination, on the basis of caste and creed.

**Conclusion:**

As Sen, J. said in Vasanth Kumar's case that irrational and unreasonable moves by the State would slowly tear apart the fabric of society.<sup>37</sup> One can conclude by saying that a caste is a horizontal segmental division of society spread over a district of a region or the whole State and also sometimes outside it. The concept of purity and impurity conceptualises the caste system. There are four essential features of the caste system, which maintained in homo hierarchical character; (i) hierarchy, (ii) commensality, (iii) restrictions on marriage and, (iv) hereditary occupation. Most of the caste are endogamous groups. Inter-marriage between two groups is impermissible. Similarly, with the onward movement of urbanisation, members of various castes are slowly giving up traditional occupations and the pure / impure avocations is being frowned upon by developing notion of dignity of labour. Furthermore, the right to equality should not only remain on papers, but it should be properly exercised, otherwise it will lose its essence if all the citizens of India, especially the weaker and backward classes do not have equal rights and equality before the law.

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<sup>37</sup>1985 AIR 1495, 1985 SCR Supl. (1) 352.