
THE CREAMY LAYER AND SCHEDULED CASTES AND SCHEDULED TRIBES: A CONSTITUTIONAL DEBATE

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ABSTRACT

This research examines the constitutional and jurisprudential debate surrounding the applicability of the “creamy layer” principle to Scheduled Castes (SCs) and Scheduled Tribes (STs) within India’s reservation framework. Originally developed to exclude the relatively advanced sections among Other Backward Classes (OBCs), the creamy layer concept is intended to ensure that affirmative action benefits reach the most disadvantaged. However, its potential extension to SCs and STs raises complex legal, social, and ethical questions rooted in the distinctive nature of their historical oppression.

The study adopts a doctrinal and analytical methodology, focusing on constitutional provisions, particularly Articles 14, 15, and 16, along with key judicial pronouncements of the Supreme Court. It critically evaluates the rationale behind differential treatment between OBCs and SC/STs, highlighting that while OBC backwardness is often linked to social and educational disadvantage, the marginalization of SCs and STs is deeply embedded in castebased discrimination and untouchability, which may persist irrespective of economic advancement.

The research further explores competing perspectives within this debate. On one hand, it analyzes arguments supporting the exclusion of the creamy layer among SCs and STs to prevent the concentration of benefits within a relatively privileged subset, thereby promoting intra-group equity. On the other hand, it underscores concerns that such exclusion may dilute the constitutional mandate of social justice by ignoring the continuing stigma and systemic barriers faced by these communities.

Through a critical assessment of evolving judicial trends and policy considerations, the paper argues that the application of the creamy layer principle to SCs and STs must be approached with caution. It concludes that while the objective of equitable distribution is important, any reform must remain sensitive to the historical and social realities that justify reservations in the first place. The study ultimately calls for a balanced and context-specific approach that aligns with constitutional values of equality, dignity, and substantive justice.

1. Introduction

The Indian Constitution has made provisions to lessen the inequalities in our society after hearing the cries of the underprivileged sections. The Indian Constitution's reservations clause aims to lessen social injustices suffered in our culture and still do. Reservations were intended to be a special measure that would only be used for a limited number of seats. However, the purpose of reservations has changed throughout time, and it is necessary for us to control them in our nation and restrict their use to situations involving historical and systematic injustices.

The original goal of Ambedkar, Phule, Periyar, and Sahuji Maharaj was to totally eradicate the detrimental effects of the Indian caste system through the implementation of the affirmative action policy and changes to the governmental structure. In reality, the reservation system, which was intended to strengthen the weaker segments of society, was successful in creating creamy layers within the marginalised socioeconomic groups to the point that benefits have only partially and unevenly permeated them. Finally, the reservation policy has led to the emergence of a layer of Dalit bourgeoisie. While some Scheduled Castes have benefited from the reservation policy in the areas of employment, education, and other areas, the weakest Scheduled Castes have continued to be the weakest.¹

The group of Scheduled Castes that have profited from affirmative action in terms of social, economic, and educational well-being is known as the "creamy layer." Compared to the other Scheduled caste members, they enjoy a higher social and economic status in Indian society. The most disadvantaged members of the community will never see an improvement in their circumstances if they continue to benefit from the reserve policy.

Therefore, if a specific percentage of Scheduled Castes and Scheduled Tribes have made economic, social, and educational advancements, it is appropriate to exempt them from the application of affirmative action. The absence of the idea of a creamy layer promotes caste differences and divisions. By putting the "creamy layer" on an equal footing with others, the concept of "creamy layer" among Scheduled Castes and Scheduled Tribes will aid in the progressive eradication of caste distinction. ¹Ramping up the creamy layer notion is acceptable.

¹ Gautam Bhatia, *Rethinking Equality, Reservation, Equality and the Constitution: X—Untidy Endnotes*, INDIAN CONST. L. & PHIL. BLOG (Apr. 9, 2014), <https://indconlawphil.wordpress.com/2014/04/09/rethinking-equality-reservation-equality-and-the-constitutionx-untidy-endnotes>

Examining the arguments made in the Constituent Assembly, it is evident that the focus is not on maintaining caste and class differences per se, but rather on the equality of opportunity provided by reservations.²

The worthiest members of the class cannot benefit from a "caste-based reservation" policy that does not follow the "creamy layer" principle. It rejects the idea that the Caste is evolving. In today's globalised society, social backwardness cannot be considered to persist solely due to caste. Income, gender, and occupation are some of the variables that affect social deprivation and backwardness.³ In the past, the relationship between caste and social backwardness was far more intriguing than it is today. Members of Scheduled Castes and Scheduled Tribes who assimilated with the advance class after getting quota benefits must be removed from the list in order to guarantee that reservation benefits are given to the most vulnerable groups.

Despite the fact that the parliament has occasionally been tasked with rationalising the reservation policy, the lack of political will makes this unlikely.

It is clear from the description of Scheduled Castes under Article 366 that the parliament has been entrusted with determining the "races, tribes, or groups within such caste, races, or tribes" in order to grant them the advantages of reservation policies. Nevertheless, in spite of the Supreme Court's repeated cautions, the parliament is not creating reservation laws that differentiate the Scheduled Caste groups in order to maximise the advantages of affirmative action.⁴

2. Historical Background of Scheduled Castes and Scheduled Tribes:

The long history of social exclusion, marginalisation, and structural inequality ingrained in the Indian social order is reflected in the background of Scheduled Castes (SCs) and Scheduled Tribes (STs). Without studying the historical processes that resulted in their deprivation, it is impossible to comprehend their current constitutional status and entitlement to protected discrimination. The rigidification of the caste system, which transformed from an occupational division of society into a hierarchical and inherited structure, is the root cause of the marginalisation of Scheduled Castes. People who did not fit into the four-fold varna system

² K. Ravi Srinivas, *Demystifying the Anti-Creamy Layer*, 42 ECON. & POL. WKLY. 326, 326–27 (2007), <https://www.epw.in/journal/2007/04/discussion/demystifying-anti-creamy-layer.html>.

³ *State of Punjab v Davinder Singh*, (2020) 8 SCC 1. ⁴ Constitution of India 1950, a 366(24).

⁴ Constitution of India 1950, a 366(24).

were labelled "untouchables" and subjected to severe social exclusion. They were excluded from schools, public wells, temples, and even fundamental civic engagement.⁵ Their jobs were mostly limited to low-paying, stigmatised jobs including leather work, manual scavenging, and sanitation-related activities. These limitations were institutionalised over time, creating a system in which social standing was established by birth and remained essentially unchangeable. Opportunities for social and economic mobility were severely limited by the practice of untouchability, which solidified a sense of inferiority and exclusion that persisted over generations.

The marginalisation of Scheduled Tribes took a slightly different course than that of Scheduled Castes. In the past, tribal societies were found in geographically inaccessible places like hills, forests, and isolated rural areas. They continued to follow unique social, linguistic, and cultural customs that distinguished them from the general population.

The emergence of colonial rule exacerbated the marginalisation of SCs and STs in distinct ways. Through policies that depended on pre-existing social structures for governance, colonial administration frequently strengthened caste hierarchy for Scheduled Castes. Despite the introduction of various reforms, the system of caste-based discrimination remained firmly established. Colonial policies, especially forest regulations, had a disastrous effect on Scheduled Tribes. Traditional livelihoods were upended by the imposition of state control over forests, which resulted in displacement and a loss of access to natural resources. Numerous tribal tribes were compelled to engage in exploitative employment arrangements, making them susceptible to debt and land alienation.⁶

The historical injustices experienced by SCs and STs necessitated more than just nominal equality, which was acknowledged during the Constitution's drafting. These communities had been routinely shut out of social, economic, and political life for generations, as acknowledged by the Constituent Assembly. Consequently, affirmative action, legal safeguards, and state responsibility for their welfare were all integrated into the Constitution with the goal of elevating them. The socioeconomic circumstances of SCs and STs are still impacted by the legacy of past discrimination, notwithstanding constitutional protections and legislative

⁵ Dhiraj Kumar Nite & B.C. Das, Caste, Class and Development Experiences: Discourses on Social In/Equality, Merit and Welfare in Modern India, *INT'L J. CMTY. & SOC. DEV.* (2022), <https://journals.sagepub.com/doi/10.1177/25166026221123482>.

⁶ Suhaag Maheria, Scheduled Castes in India: Study of Historical Marginalization, Governmental Departments, and State-wise Population, *10 IDEAL RES.* 60 (2024), <https://doi.org/10.5281/zenodo.13383555>.

initiatives. For Scheduled Castes, caste-based discrimination and social stigma continue to be major obstacles, while Scheduled Tribes also deal with problems such cultural marginalisation, lack of development, and displacement.⁷ These long-lasting impacts highlight how crucial it is to comprehend their historical context, especially in current discussions like the applicability of the creamy layer concept.

The historical experiences of SCs and STs essentially show that their backwardness is substantially structural and identity-based rather than just economic. Their unique constitutional treatment is based on this historical background, which also continues to influence conversations about affirmative action, social justice, and equality in India.

3. Need for the application of creamy layer concept to Scheduled Castes and Scheduled Tribes:

Although reverse discrimination and affirmative action had redistributive impacts, it doesn't seem like they were dispersed fairly. A disproportionate amount of upliftment programs go to beneficiaries who are in better social and economic situations. Within these oppressed groups, compensatory discrimination has accelerated the growth of a middle class, while the poor's circumstances have deteriorated.⁸

Reservations, according to many, have helped the wealthier members of the underprivileged groups improve their socioeconomic standing while excluding the broader public, who actually need these advantages and affirmative actions. If the creamy layer of the backward population is the main beneficiary of affirmative action, the purpose of improving the situation of the downtrodden ST/SC and backward castes remains unmet.

It has been said that "one swallow does not make a summer" and that a caste or class is still considered backward even if a small number of its members achieve social advancement. It is recognised that the goal of Article 16's clause (4) is group backwardness rather than individual backwardness. Even while clause (4) aims to lessen group backwardness, it is thought that

⁷ Md. Altamash Imam, Evolution of Reservation System in India: An Overview, 7 INT'L J. TREND SCI. RES. & DEV. 674 (2023),

https://www.researchgate.net/publication/377505030_Evolution_of_Reservation_System_in_India_An_Overview

⁸ Prakash Louis, Scheduled Castes and Tribes: The Reservation Debate, 38 ECON. & POL. WKLY. 2475, 2475–78 (2003), <http://www.jstor.org/stable/4413699>.

removing such socially advanced members will make the "class" really backward, better fulfilling the goal of clause (4).

Because "caste" is the only characteristic used in public policy-centered protection discrimination, a caste group is seen as essentially homogeneous. Nonetheless, the backward groups differ greatly from one another. Some argue that this problem can be resolved by creating sub-quotas within the overall quota and dividing the backward classes into sub-groups according to their level of backwardness, such as "more backward" and "most backward." In the southern states, this suggestion is now the official state policy. Some contend that the main purpose of reservations is to integrate privileged people of lower castes into the ruling class. Consequently, the economic problems of the poor have been marginalised.

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In the recent case of **B.K. Pavitra**, the Court upheld *M. Nagaraj*¹⁰ and **Jarnail Singh**¹¹ determination that "creamy layer" is an equality principle under Article 14. Additionally, even though the petitioner did not directly contest the application of the "creamy layer" with relation to SCs and STs in the recent Constitutional Bench Judgement of Chebrolu Leela Prasad Rao, the Court determined that:

“There's a clamour now in the restricted classrooms. Within the Scheduled caste and Scheduled tribe, there are now wealthy, socially and economically advanced classes. Even while some members of the Scheduled Caste and Tribes have voiced their desire for social advancement,

⁹ Prakash Louis, Scheduled Castes and Tribes: The Reservation Debate, 38 ECON. & POL. WKLY. 2475, 2476–77 (2003), <http://www.jstor.org/stable/4413699>

¹⁰ *M Nagaraj v Union of India*, (2006) 8 SCC 212.

¹¹ *Jarnail Singh v Lacchmi Narain Gupta*, (2018) 10 SCC 396.

they continue to prevent benefits from reaching the less fortunate. As a result, there is internal conflict about eligibility for benefits among the Scheduled Caste, Scheduled Tribe, and other special classifications.”

4. The Economic status constituting the intelligible differentia for sub classification among Scheduled Castes for the purpose of affirmative action:

The Court recognised in *State of Mysore v. M.R. Balaji*¹² that although caste plays a significant role in assessing socioeconomic backwardness, it cannot be the only criterion. The Court underlined that "economic backwardness" was the primary cause of "social backwardness."

The discernible distinction that permits the creation of a class inside a class is economic status.

Social standing and economic status are closely related in today's culture. Dominance in the economy is seen as proof of superiority. These days, financial security is heavily emphasised in marriage advertisements. Money is a symbol of power and success. Reservations are a legitimate way to acquire power. But using it after empowerment is not. The creamy layer gives the downtrodden class more power. Since these individuals are already at the pinnacle of the social ladder, they need to be barred from reservations.

The objective of raising the most oppressed is logically linked to the elimination of this powerful subclass. It is also well-established that an acceptable classification must be based on an understandable difference that separates individuals or objects grouped together from those excluded from the group, and the differentia must rationally relate to the goal of the relevant statute. Therefore, the economic status of a social group is nothing more than the creation of a class inside a class that is supported by the intelligible differentia.

In the Hindu social system, caste is often linked to a community's or social group's backwardness. Caste is unquestionably a significant indication of backwardness, but it cannot be used by itself to assess a social group's level of backwardness. "Affirmative action by the State to reach out to the most deserving is made possible by both Article 16(4) and Article 15(4)." The social groups that would be most deserving must inevitably undergo constant change. In order to move away from the caste-centric notion of backwardness, new practices,

¹² AIR 1963 SC 649.

techniques, and standards must constantly be developed. By itself, this can make it possible to identify recently formed social groups that call for palliative care. *The National Legal Services Authority v. Union of India*¹³ ruling, which acknowledged the third gender as a socially and educationally disadvantaged class of people entitled to affirmative action by the State under the Constitution, is too important a development to be disregarded. Therefore, it is impossible to deny the existence of other types of backwardness.

5. The Criticism of the idea of application of concept 'creamy layer' to SC/ST reservations:

Although social status further solidifies when economic issues are taken into account, the caste system is not the result of the economic system. Social subordination gave birth to authority and privileges for the higher layer, which in turn imposed economic disabilities on the subjugated, strengthening the caste system. If not, there would have been no exception to the low caste person's poverty. The stigma associated with caste is unaffected by changes in economic status because the divide is based on factors other than economic ones. This explains why wealthy untouchable Jagjivan Ram, a powerful political figure, touched the statue of Sampurnanand and cleansed it with the Ganga's sacred water.

This episode serves as an example of our society's true nature. It unequivocally demonstrates that the caste system is more complicated than an economic reality. In the Indian context, poverty is a result of caste hierarchy rather than a cause of it. Understanding the caste system in terms of rich and poor is based on this duality. Therefore, it is impossible to comprehend social differences just in terms of economics.¹⁴

Caste cannot be the only legitimate criterion for giving preferential treatment, according to social equality. Since India is a caste-based culture rather than a class-based one, reservations are essential for altering the social makeup of the country.

Following M Nagaraj, a number of academics voiced their concerns about applying the "creamy layer" criteria to SCs and STs. Economist Sukhadeo Thorat contended that the exclusion of the "creamy layer" is conceptually and empirically incorrect because social identities lead to discrimination against both economically successful and weaker segments of

¹³ AIR 2014 SC 1863.

¹⁴ Mulchand Savajibhai Rana, Reservations in India: Myths and Realities (Concept Publ'g Co. 2008).

SCs. Additionally, he cautioned that leaving out the "creamy layer" would lead to their underrepresentation and impede the continued advancement of the Dalit community.¹⁵

The California Department of Fair Employment and Housing filed a lawsuit against Cisco in the United States District Court for the Northern District of California, supporting Thorat's claim. In this case, Cisco System Incorporation was sued for permitting two of its upper caste Hindu Indian workers to treat a Dalit Indian employee unfairly in the US. This case serves as a prime illustration of how financial prosperity in a socially marginalised society does not ensure immunity from discrimination. Thorat goes on to say that prejudice against SC/ST people still exists in society today. You encounter a lot of discrimination once you start working for the government. The SC/ST Commission now has about 12,000 cases involving service discrimination.¹⁶

Scheduled tribes are in a slightly different situation. Untouchability does not apply to them. Instead, outside attackers drove them back into the trees. They stayed completely cut off from the mainstream socialisation, culture, civilisation, education, etc. that are necessary for a person's social and economic development. The upper castes treat the scheduled tribes with attitudes and treatment that is nearly akin to slavery because they are not part of the regular social life. In their case, too, economic improvement alone would not be adequate. As a result, they also require comprehensive support derived from constitutionally given rights that go beyond economic considerations.

Dalits continue to experience microaggressions even after they are able to obtain employment or higher education. For instance, students who attend educational institutions through reservations often report harassment. In fact, there is a claim in the US that Blacks who are wealthy experience more prejudice because white people dislike their access to regions that are thought to be exclusive to white people. Therefore, there is some evidence that discrimination rises as one's economic status does.¹⁷

¹⁵ Shreehari Paliath, Economist Ashwini Deshpande on Why Reservations Are Not the Right Instrument to Reduce Poverty, SCROLL.IN (Nov. 12, 2022), <https://scroll.in/article/1037199/economist-ashwini-deshpande-on-whyreservations-are-not-the-right-instrument-to-reduce-poverty>.

¹⁶ Sukhadeo Thorat, Understanding Caste, TIMES OF INDIA (Nov. 14, 2006), <https://timesofindia.indiatimes.com/edit-page/understanding-caste/articleshow/433442.cms>.

¹⁷ Sara N. Bleich et al., Discrimination in the United States: Experiences of Black Americans, 54 HEALTH SERVS. RES. 1399 (2019), <https://pubmed.ncbi.nlm.nih.gov/31663124/>.

6. The social reality under which Dalits live and the situation under which OBCs live are very different:

Although reservations are given to both OBCs and SCs, we must recognise that OBCs and Dalits have quite different social realities. Many contend that the OBCs' "creamy layer" exclusion is appropriate because a large portion of it represents their economic backwardness. Additionally, you won't experience the same level of societal discrimination as Dalits if you are wealthy enough to surpass a particular threshold.¹⁸

According to a 2016 review of several socioeconomic indices, there are notable socioeconomic disparities between "backward" classes and higher caste groups, despite the fact that caste is still a major cause of conflict in India's politics and economy. While STs and SCs continue to trail behind other castes on most socioeconomic factors, OBCs are nearly on par with other social groupings (upper castes) on a number of characteristics.¹⁹ For instance, OBCs invest far more in agriculture than higher castes and are almost comparable to them in terms of rural income composition.

OBCs have almost proportionate ownership, while SCs have the lowest relative share among all socioeconomic groupings. SCs have the largest percentage of casual labourers and the lowest percentage of self-employed individuals. The proportion of OBCs in each job category is roughly proportionate to the forward class.

The "creamy layer" idea was rejected in the report written by the Dalit Indian Chamber of Commerce and Industry (DICC), which asserted that their number is "insignificant" in a population of more than 200 million.²⁰ Examining the precise state of SCs and STs and their advancements during the previous 70 years was the aim of this report.

Despite reservations for SCs, STs, and Other Backward Classes (OBCs), these positions in public employment and education have not been filled, according to the Dalit Indian Chamber

¹⁸ S. Paramjit, *Between Exclusion and Exclusivity: Dalits in Contemporary India*, 178 *POLISH SOC. REV.* 265, 265–79 (2012), <http://www.jstor.org/stable/41969444>.

¹⁹ Roshan Kishore, *The Many Shades of Caste Inequality in India*, *MINT* (Oct. 21, 2016), <https://www.livemint.com/Politics/ino3tfMYVsd6VVGUdWXB8H/The-many-shades-of-caste-inequality-inIndia.html>.

²⁰ Sravasti DasGupta, *SC-ST Creamy Layer Is Insignificant, Inequalities Still Glaring: Dalit Chamber of Commerce*, *THE PRINT* (Apr. 14, 2021), <https://theprint.in/india/sc-st-creamy-layer-is-insignificantinequalities-still-glaring-dalit-chamber-of-commerce/639027/>.

of Commerce and Industry's draft report.

Even one-third of the reservation slots could not be filled in the first 25 years, according to the data mentioned above. 50% of the "Group A" and "Group B" reserved positions were filled in 40 and 30 years, respectively. 'Group C' didn't attain full reservation scale for forty-five years. As a result of privatisation, the Scheduled Castes have also lost 3,18,969 employments.

Additionally, there are a lot of open posts in educational institutions; in universities, 75% and 55% of SC slots for professor and assistant professor, respectively, are unfilled. Since they make up a very small portion of the nation's population, the report disputed the existence of a "creamy layer."²¹

7. Judicial Framework:

One of the most important current constitutional discussions in India is whether Scheduled Castes (SCs) and Scheduled Tribes (STs) should be covered under the "creamy layer" theory.

In order to remedy historical injustice, social exclusion, and structural inequality, reservations were intended by the Constitution as a compensating and corrective measure. But as time has gone on, worries have been expressed that the most underprivileged members of these communities are not benefiting from reservations, which has prompted more judicial scrutiny.

The Supreme Court's ruling in *E.V. Chinnaiah v. State of Andhra Pradesh*,²² which concluded that Scheduled Castes are a single, homogenous community that cannot be separated by state action, significantly influenced the conventional legal stance. The Court stressed that only Parliament has the power to amend the Presidential List in accordance with Articles 341 and 342. "The division of Scheduled Castes is a violation of Article 341(2) because only Parliament has the power to make changes in the list," the statement made. Due to the perception that doing so would indirectly change the Presidential List, this ruling effectively limited any attempt by states to establish sub-classifications inside SCs.

Nonetheless, the historic ruling in *State of Punjab v. Davinder Singh*²³ substantially reexamined this strict interpretation. In this instance, a Supreme Court Constitution Bench

²¹ Ibid.

²² (2005) 1 S.C.C. 394 (India).

²³ 2024 INSC 562 (India)

ruled that Scheduled Castes are not a homogeneous class and that sub-classification is constitutionally allowed to guarantee that the most disadvantaged groups receive the advantages of reservation. The Court acknowledged that SC communities have internal disparities and that treating them as a monolithic group could undermine social fairness. It introduced a more nuanced definition of equality by emphasising that reservations must reach the "weakest of the weak."

The case for applying the creamy layer principle to SCs and STs was further reinforced by the viewpoints presented in this ruling. Justice B. R. Gavai noted that there is no reason why the creamy layer principle should not be used to SCs and STs in the same way that it was applied to Other Backward Classes in the Indra Sawhney case to promote equity. Additionally, Justice Pankaj Mithal emphasised that reservation laws need to change with time and be reviewed on a regular basis. He said that benefits might need to be limited to people who still have real disadvantages.

The petition claimed that several constitutional clauses, including Articles 14, 15, 16, and 17, as well as Directive Principles, like Articles 38 and 46, are violated by the failure to exclude the creamy layer. It made clear that reserving was never meant to be an unrestricted or permanent right. The appeal reaffirmed B. R. Ambedkar's assertion that "Reservation is not a privilege, but a remedy for injustice created by the social system," citing the Constituent Assembly debates. It was suggested that people who had already attained social and economic advancement shouldn't continue to receive reservation benefits because equality does not imply treating unequal people equally.

According to the petition, these families are "hogging up huge chunk of the Reserved Seats" in competitive exams and public employment, which keeps first-generation and genuinely disadvantaged people out. It was contended that this circumstance creates a "class within a class," in which inequality endures even within designated groups.

The All-India SC/ST Employees of the Railways ²⁴filed one of several intervention papers in this court to oppose the plea. "We are amazed that even Class 3 and Class 4 employees are opposing this," the Chief Justice said while approving these interventions, emphasising the diverse spectrum of parties engaged in the discussion. The Court recognised that the matter

²⁴ No. 10017/2022 (Sup. Ct. India Nov. 27, 2024)

contains important policy implications and stressed the value of hearing all points of view, saying, "We would like to have the opinion of every stakeholder."

Addressing in favour of the case, advocate Ashwini Upadhyay contended that reservations were initially intended to help the most vulnerable members of society. "It was meant for the very poor persons, not the son of a minister," he argued, citing the Constituent Assembly debates to support his claim that reservation was never intended to apply to the offspring of politically influential people. This argument supports the notion that people who still experience social and economic deprivation should be the focus of reservations.

According to the writ petition submitted through AOR Ashwani Kumar Dubey, the ongoing non-exclusion of the creamy layer has major national repercussions because it increases animosity between reserved and non-reserved groups and concentrates opportunity and power in the hands of a small elite group within SC/ST communities.

8. Conclusion

The discussion underlines how the creamy layer principle's application to Scheduled Castes and Scheduled Tribes is still a hotly debated yet developing constitutional issue. Although affirmative action has helped some communities develop more advanced segments, worries about the unequal distribution of benefits still exist. The existence of internal differences indicates that the demands of the most disadvantaged groups might not be adequately met by a uniform approach. However, the direct application of the creamy layer notion is complicated by the structural and identity-based basis of past discrimination against SCs and STs. In order to improve substantive equality, judicial trends show a progressive receptivity to improving reservation policies.

The federal and state governments have each pursued their reservation strategies separately and without cooperation. States have created their own lists of backward classes and established their own commissions on backward classes. State-by-state variations exist in the percentage of reservations; some even offer reservations for a particular religious' community or beyond the 50% threshold. Coordination between the federal and state governments in all matters pertaining to reservation policy is necessary to ensure adherence to certain fundamental principles and uniformity because the constitutional provisions pertaining to reservations are meant to address the national issue of SCs, STs, and backward classes.

Institutions like the Inter-State Council, which debates all proposed reservation measures and develops a national consensus, or the National Development Council, of which all chief ministers are members, could accomplish this coordination.

Additionally, the debate surrounding the application of the creamy layer principle to Scheduled Castes and Scheduled Tribes must be situated within the broader framework of constitutional morality and transformative constitutionalism. The Indian Constitution envisions not merely formal equality but a restructuring of deeply entrenched social hierarchies. In this context, any extension of the creamy layer principle to SCs and STs must be approached with caution, ensuring that it does not dilute the recognition of caste-based discrimination as a continuing structural reality. At the same time, there is a growing need for empirical, data-driven assessments to evaluate whether reservation benefits are equitably reaching the most marginalized within these communities. Periodic review mechanisms, backed by independent commissions and transparent criteria, could help strike a balance between inclusivity and efficiency. Ultimately, a nuanced approach, one that respects historical injustice while adapting to contemporary socio-economic changes, will be essential to uphold the constitutional goal of substantive equality.

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