



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

## ABOUT WHITE BLACK LEGAL

*White Black Legal – The Law Journal* is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

## AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

# **RESERVATION POLICIES: AFFIRMATIVE ACTION** **IN INDIA**

AUTHORED BY - NITIN BINDAL

## **Historical Background and Rationale for Reservation Policies**

The history and rationale behind reservation policies in India were inextricably braided into its entrenched caste-based hierarchy by which caste perpetuated systematic oppression, exclusion, and frustration of entire communities for ages. In the case of the caste system, the institution has institutionalized inequality by relegating the so-called lower castes and untouchables to the margins of society, without admission to education, dignified occupations, and land possession, and has denied them even basic human dignity. <sup>1</sup>The state of colonial rule, especially from the early 20th century onward, began to recognize these disparities through minimal avenues of provisions such as the Morley-Minto Reforms, and the Government of India Acts that brought in separate electorates and the inclusion of depressed classes. Yet, in reality, these early measures seemed very administrative in their approach and did not actually penetrate socio-economic structures of oppression. It was the beginning of building up towards independence and the subsequent framing of constitution, in which the framers, chiefly Dr. B.R. Ambedkar who was the champion of this vision, had on behalf of all afflicted communities with respect to the constitution some transformative vision of justice. Most of the historical wrongs done to the Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) was thought of in that spirit by establishing education, public employment opportunities, and political representation for those affected as forms of affirmative action. The articles were included within articles 15(4) and 16(4) so that the original distinction put in formal equality was erased to represent a model of substantive equality where different treatment was constitutionally sanctioned to ensure fair outcomes. It was not merely a case of giving a numerical representation but an effective maneuverer to empower the historically disenfranchised, remove structural blocks, and allow their full participation in nation-building. While originally conceived as a temporary measure subject to periodic review, the persistence of social and economic inequality has necessitated its continuation. Reservation thus symbolizes the dual principles of equity, as it asserts that equality will be brought into practical

realization through state intervention in correcting historical disadvantages. Thus, it leads the society towards a more inclusive, just, and democratic one.<sup>2</sup>

### ***Legal and Constitutional Challenges to Reservation***

There is an extremely fascinating and ever-evolving conversation on the legal and constitutional challenges toward reservation policies in India. The Indian Constitution clearly endorsed affirmative action from the very beginning by arming itself with Articles 15(4), 15(5), and 16(4), which empowered a state to take action for the advancement of socially and educationally backward classes and Scheduled Castes and Scheduled Tribes. However, the actual implementations of these policies have always been much contested before the courts; thus, the courts, particularly the Supreme Court, remained active either as interpreters or as moderators in attempting to maintain the constitutionally envisaged equilibrium between individual rights under Article 14 and group rights that emerge from historical disadvantage. The turning point came with *Indra Sawhney*, where the Court acknowledged the constitutional validity of 27% OBC reservation but introduced vital doctrines, including exclusion of the creamy layer—those backward classes who have attained a certain level of economic and social advancement—and a 50% ceiling on total reservations on the premise that excessive reservations compromise equality and interfere with administrative efficiency. The judgment also asserted that reservation in promotion is not constitutionally mandated whereas the reservations were later permitted by amendments and judicial pronouncements such as *M. Nagaraj v. Union of India* (2006), which upheld the imposition of stringent conditions of proof of backwardness, inadequate representation, and requiring an axiomatic state interest of maintenance of administrative efficiency. The introduction of the 103rd Constitutional Amendment that provided for 10% reservation for economic weaker sections (EWS) among the upper castes marked the beginning of a completely fresh trajectory for affirmative action, whereupon the caste rationale was superseded by economic criteria, further bringing into question the horizons of reservation and ever-changing definitions of disadvantage. As new claims for inclusion emerge from various communities, including religious minorities and regionally based groups, a really sophisticated view of equity shapes the very legal landscape, where the courts are tread cautiously in maintaining the constitutional idea of social justice without compromising, however, on the meritocratic structure, fairness, and integrity of administration.<sup>3</sup>

## **Implementation and Effectiveness of Reservation in Education and Employment**

To stumble through the implementation and effectiveness of reservation policies in education and employment in India presents a conflicting narrative of advancement with ever-persistent systemic problems. Reservation policies in education have indeed enhanced access to higher-level education for the SC, ST, and OBC communities to enter a higher echelon of professions, mostly dominated by higher castes." Affirmative action in the upper reaches of academic spaces has now expanded to institutes of higher merit such as the IITs, IIMs, and Central Universities. While this move has directly benefited the educational attainment for many persons from marginalized backgrounds, the journey has been quite stormy; merit dilution and institutional discrimination, in fact, have become hotly debated issues in societal and political circles. Some observational evidence shows that reservations do lead to improvements in academic careers if combined with support systems like scholarships, bridge courses, and mentorship programs. Government jobs have reservations in Favor of marginalized categories, but the benefits are skewed, with some castes and regions getting better attention due to difference in awareness, political mobilization, and access to preparatory resources. The reservation scheme does not give any meaningful representation for SCs, STs, and OBCs in jobs such as the High Posts in the bureaucracy and judiciary. Thus, the limitation of reservations in addressing deeper, structural, and institutional roadblocks is glaringly visible. The status of the private sector, not bound by the reservation requirement, radically lowers the probability of the scheme effecting broad-based economic transformation as privatization and informalization dominate the present-day market. This deficiency is further compounded by issues such as certification processes being tainted with corruption, lack of transparency, limited outreach in rural areas, and inadequate preparatory infrastructure. Reservation has, however, been a lever opening doors to many and facilitating their mobility; the ever-resilient existence of caste discrimination, inequality in foundational education, and regional imbalance tell us that this promise of real equality of opportunity can only be partially fulfilled in the absence of parallel reforms in public services, economic policies, and social attitudes.<sup>4</sup>

### ***The Creamy Layer Debate and Evolving Criteria***

The issue of creamy layers holds a very important position in the discussion over the merits and fairness of reservation in India, which involves the conflict between the caste-based and

economic criteria of determining the social disadvantage position. First brought in the Indra Sawhney v. Union of India (1992) case, the creamy layer was put in place to prevent relatively affluent and socially advanced individuals among Other Backward Classes (OBCs) from availing themselves of the benefits of affirmative action meant for the most marginalized class. This judicial innovation made a significant departure from the original purely caste-based approach by adding notional economic status, occupation, and the educational level of parents as further factors. The requirement to ensure that the benefits of reservation trickle down to genuinely disadvantaged shall thus be enabled by promoting intra-group equity. The only initial applicability being on backward classes, the idea of extending creamy layer to scheduled castes (SCs) and scheduled tribes (STs) faces vigorous contention. For proponents, this should also constitute an argument for economic mobility within these groups to be considered since there are emerging socio-economic disparities among them, as opposed to counterclaims of persistence of caste-based discrimination regardless of economic status, primarily in social and cultural spheres, therefore making the arguments for inclusion without creamy layer exclusion. The periodic review of the income ceiling to measure creamy layer-the latest rise in this ceiling is from ₹8 lakh to ₹12 lakh also exposes the adaptability of the alienated policy, but it threw open criticism whether income alone is fully capable of measuring structural disadvantage. It has been said that backwardness is a multidimensional phenomenon, including factors like access to quality education, the geographical position, social discrimination in day-to-day interaction, and deep-seated alienation from elite networks and institutions; therefore, increasing calls demand more sophisticated and intersectional criteria to measure eligibility in affirmative action, going beyond rigid binaries of caste and class. These dynamic changes clearly reflect the bigger challenge of social justice that India is facing: how to keep the ideals of an equitable society alive and, at the same time, factor in the dynamic and layered realities of disadvantage in a fast-changing socio-economic environment.

### ***Analysis of the Impact of Reservation on Social Mobility***

The reservation policy in India has been considered the greatest instrument that worked toward uplifting the historically oppressed communities, especially the Scheduled Castes, Scheduled Tribes, and Other Backward Classes. Reservations in seats for educational institutions and public service jobs have opened up opportunities hitherto barred by access due to centuries of systematic exclusion. Entry into prestigious educational institutions, getting a secure government job, does not only raise an individual's life chance score, but changes the social face as well bringing in a confident and assertive middle class in the said communities. This,

thus, has changed some visible aspects of the traditional social equations increasing political representation and being part of a citizenry. However, the extent and depth of such movements remain uneven and complicated. Most of those social uplift beneficiaries are from internally better-off sub-groups within the reserved categories creating intra-category disparities, thus leading to demands for subcategorization to ensure equitable distribution. Again, an entry into a new social stratum is not necessarily equated with a more meaningful and durable change in living standards, social acceptance, or systemic power. Caste-centric discrimination, inadequate access to good quality primary and secondary schools, rampant poverty in rural and underdeveloped areas are some of the persistent naggers to broader, most inclusive mobility. Resentment may sometimes build up between upper-caste groups as well as economically weaker sections not included in traditional quotas resulting in reverse discrimination and social friction. While certainly breaking some extent of occupational rigidity, the economic gains nevertheless are modest for most people without the complementary measures such as skills development and income generation. Yet despite these failures, the reservation remains the most powerful agent in dismantling and disrupting India's historically rigid caste hierarchies and toward creating avenues for dignity and selfrealization for millions. It has constructed a foundation for affirmative action that requires constant refinement because it significantly steers the direction of the nation toward a more just and inclusive social order.

WHITE BLACK  
LEGAL