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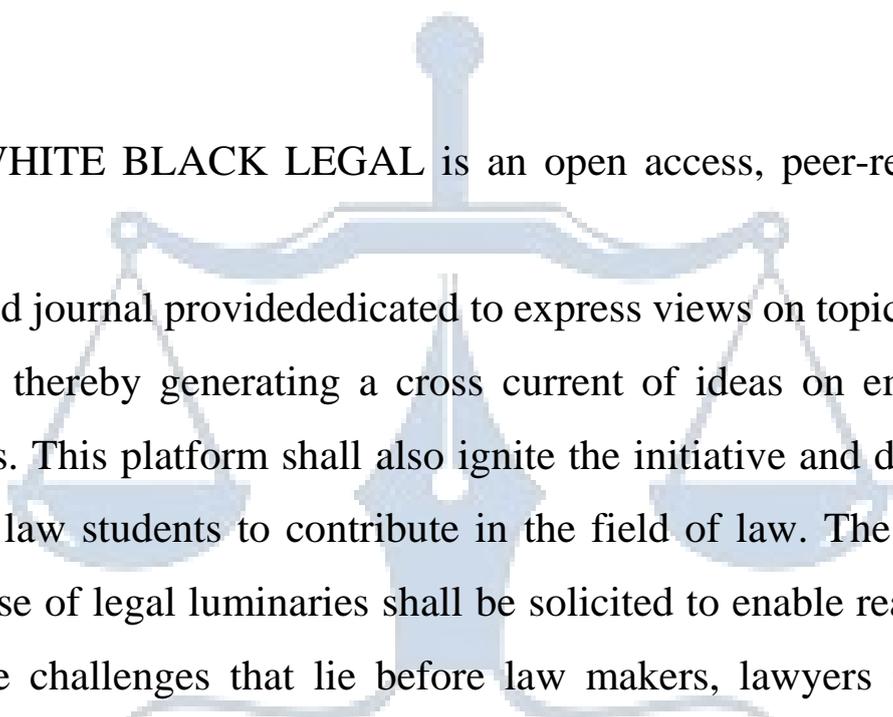


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ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

**BOOK REVIEW: “THESE SEATS ARE RESERVED:
CASTE, QUOTAS: CASTE, QUOTAS AND THE
CONSTITUTION OF INDIA BY ABHINAV
CHANDRACHUD”**

AUTHORED BY - MS. NIKITA PATEL¹

The book “These Seats Are Reserved”² by Mr. Abhinav Chandrachud is divided into 7 chapters and consists of 247 pages. In this book, Mr. Abhinav traces the history and making of the reservation policy. He has dealt with the reservation policy that exists in India and the history and events that led to the reservation policy of the British as well as independent India. The book can be read by a lawyer, an academician, a law student, or a layman as it talks about reservation in general terms. In this article, I have outlined chapter-wise reviews for a better understanding of the book.

In Chapter 1, titled “The Depressed Classes”, Mr. Abhinav traced the definition of the term ‘Depressed Classes’ and how it was defined in British India and Independent India, in exactly what context it was used. The author's work is appreciable in this chapter as he has traced the use of the term ‘Depressed Classes’ as early as 1885 by giving examples, like a letter written by a British official in the Bombay government, Sir William Lee Warner, addressed to the Chief Secretary. He has dealt with the history of reservation policy in India like the reservation benefits given for the first time to the Backward Tribes in Government of India Act, 1935.

The author has discussed Dr. Ambedkar’s opinions about reservation, which, in my opinion, was unnecessary in this chapter as it could have been dealt with under Chapter 3, titled “Ambedkar Produces a Formula”.

In Chapter 2, titled “The Other Backward Class of Colonial Bombay,” the author explained how terms like ‘depressed classes’ and ‘backward classes’ were understood in India to mean ‘caste’ and ‘tribe.’ The reservation benefits to the Other Backward Classes of Colonial Bombay

¹ Ph.D. Research Scholar, Hidayatullah National Law University, Raipur (C.G.)

² Abhinav Chandrachud, “These Seats Are Reserved”, (2023), Penguin Viking.

began as early as the year 1902 in Kolhapur. The author has also dealt with interesting events surrounding the rift between Brahmins and non-Brahmins, like the Vedokta Controversy (1901) & the Tai Maharaj adoption case (1897), to highlight how caste-based discrimination existed in earlier times.

The author has pointed out various events, legislations, & Orders that essentially point towards the fact that a general understanding of the term “Backward Classes” means all the castes except brahmins, like the Scheduled Tribes, Scheduled Castes, untouchables, etc.

However, in laying down factual information and other events in this chapter, the author has failed to create a link between the sub-headings, which makes it difficult for the readers to maintain interest throughout the chapter.

In Chapter 3, titled “Ambedkar Produces a Formula”, the author has outlined some of the issues concerning reservation laws that were discussed in the Constituent Assembly and its sub-committees. The Constituent Assembly Debates & reports of the Committees of Constituent Assembly show that the sunset clause (i.e., reservation up to 10 years) and adequate & not proportional representation was favored by Dr. Ambedkar. Dr. Ambedkar was of the view that reservation was an exception to the principle of equality of opportunity & therefore, only a minority of seats should be reserved for the backward classes.

The author has also referred to the whole debate that occurred in the Constituent Assembly regarding the inclusion of the reservation clause, the time frame (10 years) for providing reservation benefits, and the quota for reservation & also who would benefit from these affirmative actions.

In Chapter 4, titled “Nehru Dislikes the Word ‘Dalit’”, the author discusses how the newly formed Parliament of independent India has tried to implement the reservation clause and various questions/ doubts revolving around reservation like who will be the backward classes, reservation in educational institutions, etc. and how these questions were cleared during the course of time.

The author has traced the steps that led to the reservation of seats in educational institutions, as, in the original Constitution, the reservation was provided only in the Legislative Assembly

and Government jobs. For this, he has discussed the case of *State of Madras v. Champakam Dorairajan*³, the First Amendment⁴ and the communal G.O. issued by the Madras Government, this makes it easier for the readers to understand the basics of reservation policy or the controversy around the reservation in educational institutions.

The author has also pointed out that Pt. Nehru was not in favor of reservation policy, although he has always supported the upliftment of the backward classes but not at the cost of efficiency.

The author has discussed the appointment of the Kalelkar Commission to define the term “Other Backward Classes”- as to who should be treated as “Socially & Educationally backward classes”- whether it should include economic backwardness or not.

However, I feel that there is a lack of flow/ connection between the sub-topics in this chapter. The title of the chapter creates an impression/ expectation in the mind of the readers as to the role of Nehru in defining the term “Backward Classes,” but the author has not discussed that in the chapter, instead he has just pointed out that Nehru did not like the use of the word “Dalit” & was against reserving seats at the cost of efficiency but always worked for their benefit. The author also discussed the roles of various committees, amendments & judiciary.

Chapter 5 titled- “Enter Mandal & Sawhney”, examines the various case laws related to questions surrounding the reservation clause such as the extent of reservation, the creamy-layer concept & who will come under the definition of “backward classes”, for clarification of these doubts, the author has discussed landmarks judgments like *MR Balaji v. State of Mysore*⁵, *T. Devdasan v. Union of India*⁶ (carry forward rule), *State of Kerala v. N. M. Thomas*⁷, *Nivedita Jain v. State of Madhya Pradesh (1981)*⁸, etc.

The author has discussed the 11 criteria for identifying who the “Other Backward Classes” were as given by the Mandal Commission, but I feel that this could have been discussed in more detail for better clarity for the readers. Then the author moved on to discuss one of the

³ 1951 AIR 226; 1951 SCR 525

⁴ The Constitution (First Amendment) Act, 1951

⁵ AIR 1963 SC 649

⁶ AIR 1964 SC 179

⁷ (1976) 2 SCC 310

⁸ (1981) 4 SCC 296

most important judgments in the reservation clause jurisprudence, which is *Indra Sawhney v. Union of India*⁹ (also known as the Sawhney/ Madal case). The author has pointed out important aspects of the judgment relating to the rule of 50% ceiling, but here the author has failed to discuss other important aspects of this judgment as it was also held in this judgment that there shall be no reservation in promotions and that the creamy layer should be excluded from backward classes.

In Chapter 6, Titled “An Era of Constitutional Amendments”, the author has showcased how Parliament enacted certain amendments to the Constitution, which ultimately diluted the effects of judgments of the Supreme Court relating to the 50% ceiling limit, the carry forward rule, reservation in promotions, etc.

The author has kept the curiosity of the readers alive by making this a match between the Judiciary & the Parliament. The author in this chapter very clearly explained the 13-point & 200-point roster system used in reservation in employment by supporting it with elaborate examples. The author has also explained other concepts relating to reservation by giving elaborative examples, like- the carry forward rule, MRC (Meritorious Reserved Candidate)-cases in which a reserved category student gets selected on his merits, Horizontal & Vertical reservation, reservation in Promotions, relaxation to the reserved category for certain tests. The author has explained these concepts by citing judgments and statutory provisions.

The author has concluded this chapter by discussing a recent landmark judgment regarding a maximum of 10% reservation to EWS (Economically Weaker Section), which was upheld in the case of *Janhit Abhiyan v. Union of India*.¹⁰ (2022). The fact that the author has discussed almost all the important aspects of the judgment in brief is appreciable.

This chapter is very good from an academic point of view, but it can be too informative or a little too legal/ technical for a non-legal background reader (layman and not a lawman).

Chapter 7, titled “Marriage, Conversion, Migration”, in this chapter the author discusses the questions relating to the status of SCs, STs, or OBCs after marriage, conversion to other

⁹ AIR 1993 SC 477

¹⁰ 2022 SCC Online SC 1540

religions, re-conversion to Hinduism, migration to other states, and in cases of fraud or fake certificates produced by a person claiming to be a reserved category candidate. The author has explained these questions by discussing the relevant case laws. This chapter is very insightful from the point of view of readers, as these are the questions that come to everyone's mind.

Conclusion

In the concluding chapter, the author has summarized all the previous chapters in a very easy manner and has concluded by laying down the arguments in favor & against caste-based affirmative actions. However, the author has failed to give any meaningful suggestions from his end to improve the existing reservation policy in India and has also not given any of his personal opinions, which a reader expects in the concluding chapter; instead, the author has left it for the readers to decide for themselves, whether they are in support of caste-based reservation or are against it by laying down the facts in front of them. Also, the author has not discussed the future prospects of the reservation policy in India.