

Protective Discrimination in Favour of Backward Classes under Indian Constitution

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Abstract: *The oppression of the weaker segment in the society is a well known fact to all people. The subjection of the weaker segment of the society to one or the other kind of discrimination and suppression at the hands of the advanced and the society's dominant sections are as old as Adam. They had been suffering a lot in each and every day throughout their lives. They had been made subject to discrimination in one way or the other at stages in their life. This evil had to be nipped in the bud, however now as aftermath, it has ended up a massive tree with its roots deeply buried in the Indian society. The higher crust rules and regulations of democracy are everywhere. The framers and makers of our constitution were thoroughly conscious about the distressed condition of these weaker sections. They tried to put their best foot forward to lift the weaker segment by offering a few special provisions within the constitution like Equality under Article 14 and Article 15 prohibiting discrimination and many more. In a number of the Articles, the framers of our constitution have provided additional privileges in favor of the weak and backward segment of the society. In other words, it means that the makers of the constitution have provided protective discrimination within the constitution.*

Keywords: Discrimination, equality, Constitution, Problems, Backward classes.

I. INTRODUCTION

The formula that every man to count for one and no one to count for more than one seems to form the heart of the doctrine of equality. The assumption therefore is that unless there is sufficient reason not to do so, it is natural or rational to treat every member of classes equally. But to state the principle in this way leaves open crucial issues. Thus, it may be rightly objected that unless some specified sense is given to sufficient reason the principle can be reduced to a trivial methodology. Again, since all entities are members of more than one class, any kind of behavior can be safely subsumed under the general rule enjoying equal treatment, which can reduce this rule to emptiness. These problems can be met only by making clear what reasons are sufficient and why and which attributes are alone relevant and why. This will depend upon the outlook and scale of values of different persons and the purposes of a given association or enterprise, in terms of which alone general principles can retain significance. Geometrical equality therefore requires rational classification. This principle forms the basis of the guarantee of equality as enshrined and administered in terms of Art. 14 of the constitution. The problem becomes all the more acute where the guarantee of equality is fastened upon a society which is usually divided among groups with varying potential of power, privilege and prestige. Classification here, has not to meet only the needs of physical ends and psychological differences but also of tradition generated attitudes, patterns and divisions. This solution aspect of equality lies in the case of the constitutional provisions relating to protective discrimination in favor of backward classes. Art. 15 (4) and 16 envisage specific departures from the norms of equality to fasten the educational and job needs of the weaker sections of society. They are exceptions from the apparent formula of equality to achieve real equality. Art. 1 (4) reads as: the state is not prevented from making any special provisions for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and scheduled tribes. Article 16 (4) reads The state may make provisions for reservation of appointments or posts in favor of any backward class of citizens which in the opinion of the state, is not adequately represented in the services under the state. The term backward classes has been used in the same sense as in Art. 15 (4) and includes scheduled castes and scheduled tribes. Those provisions form the crux of the egalitarian resolution sought

to be sponsored by the framers of the constitution through the medium of fundamental right of equality. They represent the positive dimension of the claim of equality which enjoying the state 'to do' rather than prohibit it from doing something.

1.1 Aim:

- To analyse the concept of protective discrimination in favour of backward classes under Indian constitution.

1.2 Objective

- To know the concept of protective discrimination in favour of backward classes under Indian constitution
- To analyze the concept of protective discrimination in favour of backward classes under Indian constitution
- To bring informative things to the public on protective discrimination in favour of backward classes under Indian constitution
- To know the recent cases on protective discrimination in favour of backward classes under Indian constitution

1.3 Hypothesis

- **Ha:** There is a significant association between age and offence could be register under private business on the basis of religion discrimination.
- **Ho:** There is no significant association between age and offence could be register under private business on the basis of religion discrimination.

II. LITERATURE REVIEW

In the article 'The role of nongovernmental organisation' by Shanti Jagannathan The oppression of the weaker segment in the society is a well known fact to all people. The subjection of the weaker segment of the society to one or the other kind of discrimination and suppression at the hands of the advanced and the society's dominant sections are as old as Adam.

In the article 'Protective Discrimination' by Shish Ram Sharma They had been suffering a lot in each and every day throughout their lives. They had been made subject to discrimination in one way or the other at stages in their life.

In the article 'Stabilization policy and protective discrimination by Edmund Joseph This evil had to be nipped in the bud, however now as aftermath, it has ended up a massive tree with its roots deeply buried in the Indian society. The higher crust rules and regulations of democracy are everywhere.

In the article 'Protective Discrimination policy and social change' by Shanker The framers and makers of our constitution were thoroughly conscious about the distressed condition of these weaker sections. They tried to put their best foot forward to lift the weaker segment by offering a few special provisions within the constitution like Equality under Article 14 and Article 15 prohibiting discrimination and many more.

In the article 'protective discrimination ideology' by A. K. Lal a member of the Articles, the framers of our constitution have provided additional privileges in favor of the weak and backward segment of the society. In other words, it means that the makers of the constitution have provided protective discrimination within the constitution.

In the article 'International human rights law' by Rhona Smith The term protective discrimination implies that a right or privilege is provided in favour of those who have been oppressed and discriminated since ages. Discrimination against discrimination is based on the widely known quote "iron cuts iron". It is clear from history that one type of discrimination is negative and destructive in nature whereas the other type is curative and protective.

In the article 'Women and Family law reform in India' by Archana Parashar Now the question arises what constitutes the weaker section of the society? It not only includes the scheduled caste, the scheduled tribes, the other backward classes but also the female section of the society as well. Either from the high class or the low class, they have been continually facing partiality and injustice. Women have been subjected to hardships and discrimination along with the backward class. The same status as that of men in society has also not been granted to them.

In the article 'Reservation policy and Practice in India by Anirudh Prasad Articles 40, 42, and 45 under the Directive Principles of State Policy, strive to provide numerous benefits to the weaker sections. These include reservation in

panchayats for ladies and backward classes, prevention of exploitation of children and free pregnancy care and delivery. Taking unique care in the promotion of social and academic hobbies of the weaker sections mainly the SCs and STs enjoins the State by Article 46 so as to protect them from injustice.

In the article ‘equality and compensatory discrimination’ by Jayant Lakshmikanth No provision made underneath Article 46 may be challenged because it violates the Fundamental Rights given in Part III of the Indian Constitution. The Supreme Court has directed the States to attempt and strive to enforce Article 44 ensuring identical treatment of women under all religions.

In the article ‘women and the law’ by Rajendra Kumar Though the general rule laid down in the Indian constitution provides and presents that each and every resident of India is the same and he/she cannot be discriminated on the basis of race, caste, sex or location of birth. Some of the exceptions are also provided as to that general rule that speaks of protective discrimination.

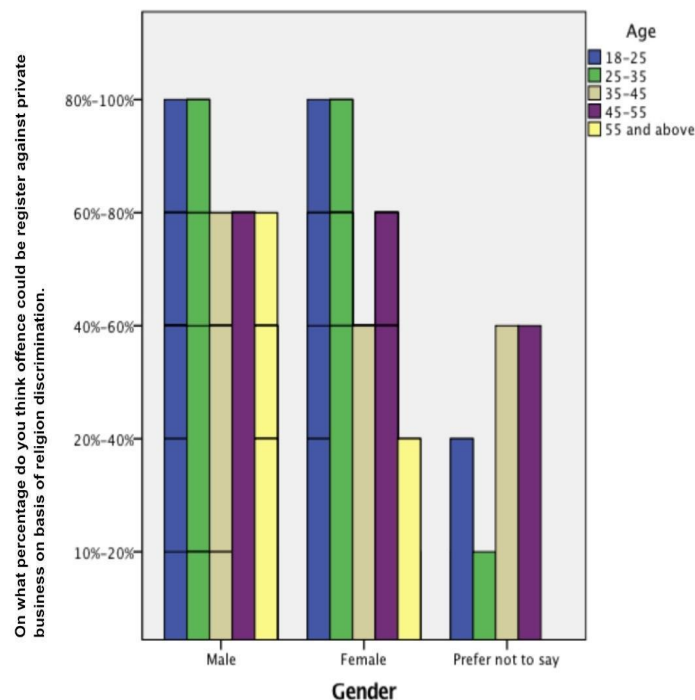
In the article ‘Fundamental rights and judicial review’ by Hari Basharat Weaker section of the society has been lagging in the race of life, so for their upliftment and safety and to bring them at the equal fame with different sections of society protective discrimination is the primary requirement of our democracy. Since the country has attained independence, there has been a great change in the condition of the weaker sections but the ultimate destination still remains miles away.

In the article ‘Reservation for Scheduled caste’ by Mumtaz Ali Khan Some articles of the Constitution provide for the exceptions to non-discrimination general rules so as to bring the weaker sections at par with the other sections of society. In a number of the articles, protective discrimination has been furnished in the constitution.

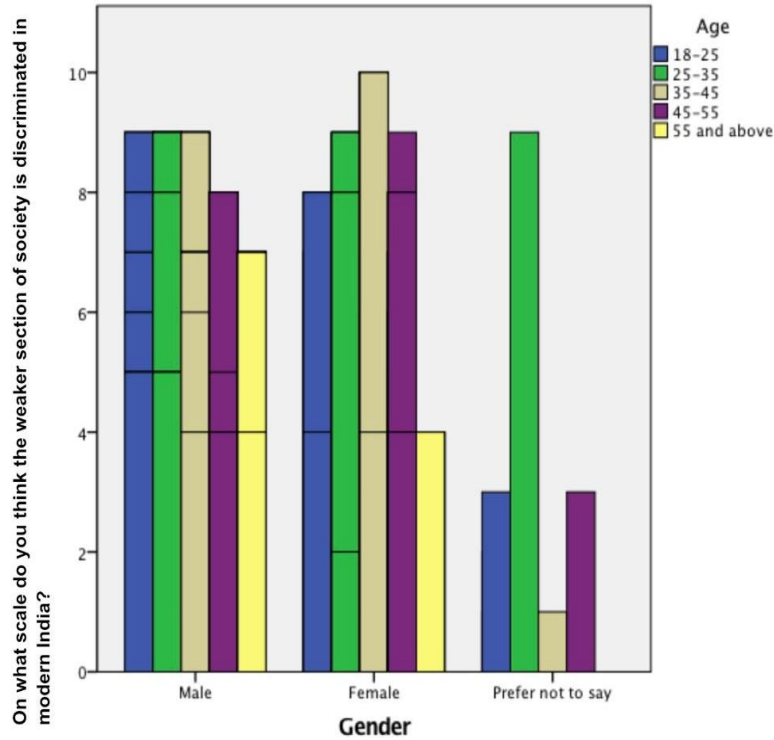
III. METHODOLOGY

The paper is restricted to a secondary means of research, conducted only by means of internet sources and books. The primary way of research could not be adopted for the same due to the nature of the topic. Sampling size or no of responses collected is 200 Primary data in this research is through random sampling in and around Chennai.

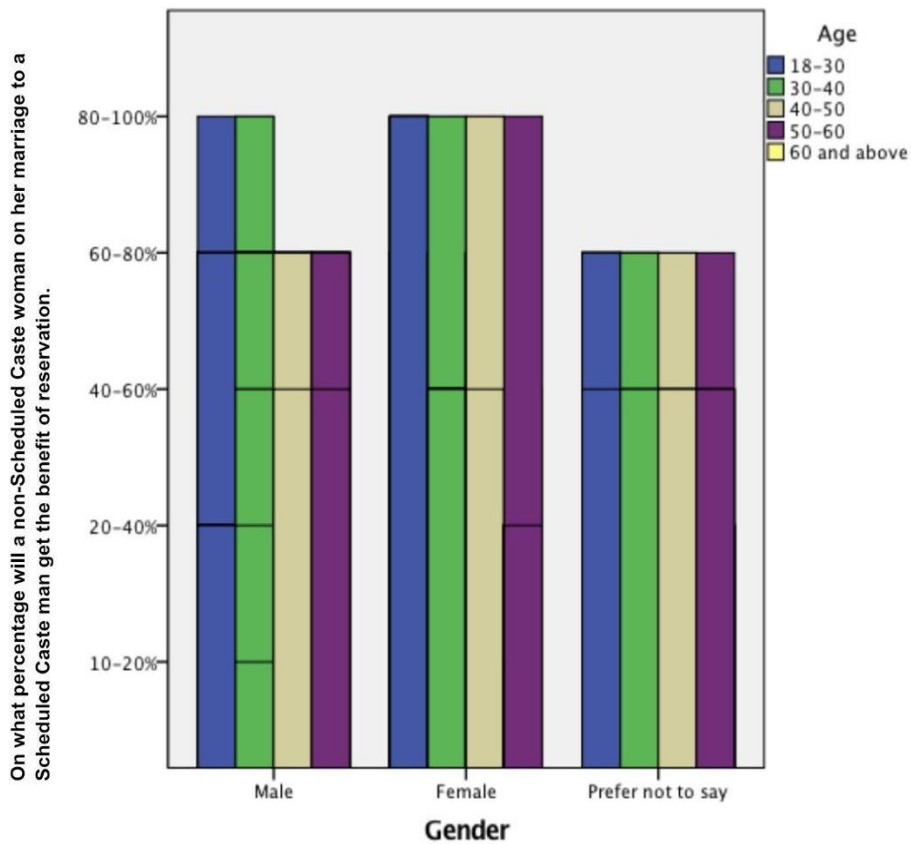
3.1 Data Analysis



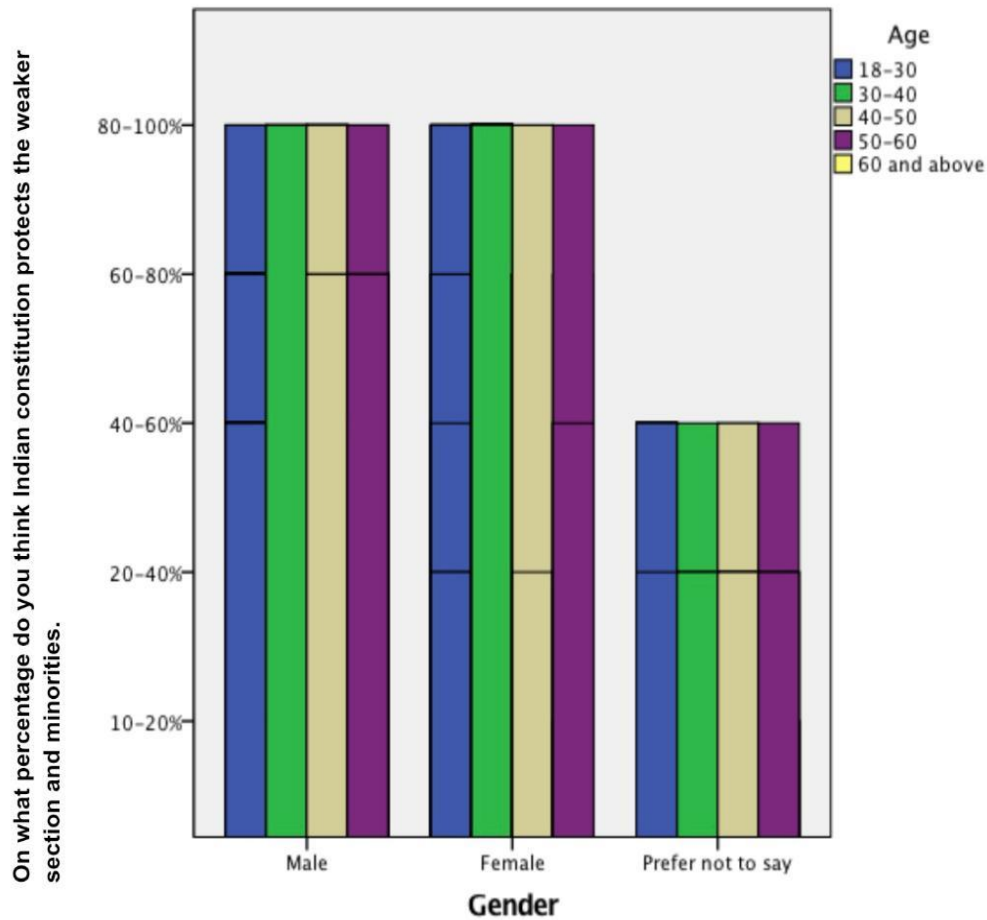
Legend : In the figure 1 clearly shows the offence could be register against private business on basis of religion discrimination



Legend : In the figure 2 clearly shows that weaker section of society is discrimination in modern India



Legend : In the figure 3 clearly shows that non scheduled caste women on her marriage to a scheduled caste man get the benefit of reservation



Legend : In the figure 4 clearly shows the Indian constitution protects the weaker section and minorities

IV. RESULT

The total number of men who are ageing from 18 -25 are answered from 60% and the people who are ageing from 25 - 35 are answered from 55% and the people who are from ageing from 35 - 45 are answered from 60% and the people who are from 45 - 55 are answered from 75% and the people who are from above the age of 55 are answered from 50%. (Fig 1)

On what scale the company income tax revenue plays an important role in the impact of taxation on the economy development of the country the total number of people who are from age of 18 to 35 are answered to 7 out of 10 and the people who are answered from the age of 35 and above are answered to 5 out of 10. (Fig 2)

The total number of men who are ageing from 18 -25 are answered from 60% and the people who are ageing from 25 - 35 are answered from 55% and the people who are from ageing from 35 - 45 are answered from 60% and the people who are from 45 - 55 are answered from 75% and the people who are from above the age of 55 are answered from 50%. (Fig 3)

The total number of men who are ageing from 18 -25 are answered from 60% and the people who are ageing from 25 - 35 are answered from 55% and the people who are from ageing from 35 - 45 are answered from 60% and the people who are from 45 - 55 are answered from 75% and the people who are from above the age of 55 are answered from 50%. (Fig 4)

V. DISCUSSION

Discrimination against discrimination is based on the widely known quote “iron cuts iron”. It is clear from history that one type of discrimination is negative and destructive in nature whereas the other type is curative and protective. Now the question arises what constitutes the weaker section of the society It not only includes the scheduled caste, the scheduled tribes, the other backward classes but also the female section of the society as well. Either from the high class or the low class, they have been continually facing partiality and injustice. Women have been subjected to hardships and discrimination along with the backward class. The same status as that of men in society has also not been granted to them.

VI. LIMITATIONS OF STUDY

When the Constitution was amended to add clause 4 in Article 15, to empower the state to make any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and scheduled tribes, some members moved amendments to add economically with the words socially and educationally. Mr. Nehru opposed the amendment because it would not be in harmony with Art. 340 which used the words socially and educationally backward classes. Nehru's reply was significant because it reaffirmed the view that backward class is one which is backward socially, economically and educationally.

VII. CONCLUSION

Though the general rule laid down in the Indian constitution provides and presents that each and every resident of India is the same and he/she cannot be discriminated on the basis of race, caste, sex or location of birth. Some of the exceptions are also provided as to that general rule that speaks of protective discrimination. Weaker section of the society has been lagging in the race of life, so for their upliftment and safety and to bring them at the equal fame with different sections of society protective discrimination is the primary requirement of our democracy. Since the country has attained independence, there has been a great change in the condition of the weaker sections but the ultimate destination still remains miles away.

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