

CHRIST
(DEEMED TO BE UNIVERSITY)
BANGALORE · INDIA

**ISSUE 4 | JANUARY 2022 | HUMAN RIGHTS COMMITTEE |
SCHOOL OF LAW, CHRIST (DEEMED TO BE UNIVERSITY)**

WHAT'S INSIDE ?

ON THE VERSO

The section of the newsletter that sensitizes the readers on issues of HR which are less talked about generally in a composite study by young student authors

HRC BILLBOARD

A fun part of the newsletter for display where creativity trumps limitations and borders

LEX SCRIPTA

**MINORITIES AND MARGINALIZED GROUPS:
A CATENA FOR HUMAN RIGHTS**



TABLE OF CONTENTS

1	EDITOR'S NOTE.....	2
2	UNRESOLVED RESERVATION SYSTEM IN EDUCATIONAL INSTITUTIONS: CHALLENGES AND THE WAY FORWARD.....	3
	<i>By Greetika Sachdeva</i>	
3	case Brief.....	8
4	BILLBOARD.....	9

EDITOR'S NOTE

WELCOME! The Human Rights Committee, School of Law, CHRIST (Deemed to be University) is delighted to present you the third digital issue of '*Lex Scripta*'- The committee blog which was started by our alumna.

The Human Rights Committee SLCU is a student-led organisation which acts as a nurturing ground to provide students a platform for legal discourse regarding pressing issues affecting human rights and aid them to come up with possible solutions for the same, thereby enhancing their knowledge and interest in the field.

For our fourth digital issue, we've chosen the theme - '*Minorities and Marginalized Groups: A catena for Human Rights*'. Every society aims for utmost peace and harmony but has its own unique problems, a heterogenous country like the India we know of today is no exception. However it is expected that every ethnic group, tribe, community living in a nation of any geographical territory bound by a set of rules and regulations should live in close ties and naturally be allies which seems logical but is not always the case especially in tribalistic regions or a region where the diversity is instantly evident. Conclusively, where the laws are not erudite and easily accessible, the tendencies of marginalised groups turning against one another is greatly visible and feasible. There is no easy fix as a collective. But the least we can do is to strive forward and aim to create an impartial society where there exists no prejudice and rights are attained and achieved equally in all walks of life.

The Committee extends its heartfelt gratitude to Dr. Jaydevan S Nair, Dean and Dr Sapna. S, Head of Department, School of Law for their constant guidance and support. The committee is also grateful to the faculty co-ordinators Dr. Fincy Pallissery and Dr. Shampa S. Dev. Finally, we thank the faculty co-ordinators of the Human Rights Committee, School of Law, CHRIST (Deemed to be University) - Shilpi Roy Chowdhury, Dr. Gopi Ranganath V and Mr. Sanjay Shenoi P, for their unyielding guidance through the drafting of this newsletter.

We hope you enjoy reading our newsletter!

UNRESOLVED RESERVATION SYSTEM IN EDUCATIONAL INSTITUTIONS: CHALLENGES AND THE WAY FORWARD

By Greetika Sachdeva

Reservation, also known as the quota system in India, is a form of positive action intended to improve the well-being of under-represented and disadvantaged communities classified primarily by their 'caste'. The key objective of the Indian reservation or quota system is to provide underprivileged communities with more opportunities for better social and educational standing, allowing them to take their proper position in Indian society. Article 15(4) of the Indian Constitution states that "All citizens must have equal opportunity to get an education." Nothing in this section prevents the state from providing special services to educationally underserved portions (not "communities") of the population. "The State shall promote with exceptional care the educational and economic interests of the weaker sections of society (in particular, scheduled castes and aboriginal tribes), and shall safeguard them against social "injustice" and all types of exploitation," is what it also states. The Right to Education system in India, which is the sole determiner of your social and economic status, is one of the key reasons why education plays such an essential role in society. It is no secret that persons with a higher education have more job and business opportunities than those with minimal or limited education. A well-educated citizen is a valuable asset to the country. They make up the majority of India's organised workforce. As a result, Indian businesses are able to hire talent from a large pool of educated workers and thrive. [i]

However, the situation has changed over time. People in the general category are gradually becoming frustrated due to it.

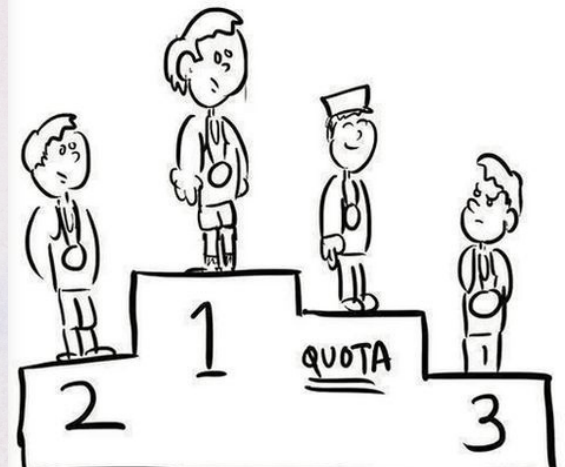


And it is normal when, for example, a highly qualified general category candidate is turned down for a job because a mediocre candidate was chosen just because he falls under a caste quota system. Many people benefit from the quota system today, even if they do not need or deserve it, despite the fact that they do not need or deserve it. And this is certainly not correct on so many levels ethically. Increased people abuse the caste-based reservation system and exploit it for personal gain. Any country's system is its foundation. It has put the country's progress and prosperity in jeopardy. The sole purpose of the reservation system was to improvise the living situations of the socially backward. However, the impacts of the reservation have been severe and devastating, as we can see nowadays. [ii]

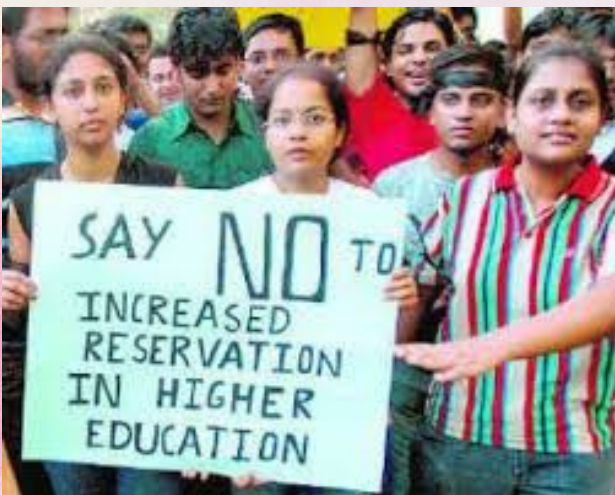


This article has focused on two case studies. The first one talks about the new quota system that has been introduced recently in NEET PG. The central government recently granted OBC and EWS groups reservations in the All-India Quota for NEET. Authorities predict that 4,000 OBC students and 1,500 EWS students will benefit from this inclusion in medical education at the postgraduate level. People earning more than Rs 8 lakh a year are excluded from the OBC reservation, known as the creamy layer. The cut-off for EWS is also Rs 8 lakh. According to OBC specialists, this should not be a factor for EWS quotas.[iii] Many petitions have been filed against this order by students and doctors. A general category student or candidate whose family income is less than Rs 800,000 per year is eligible for the EWS reservation, according to the law adopted by Parliament in January 2019. The petitions raised a number of objections, including a violation of a 1992 Supreme Court ruling's 50 per cent quota level, a lack of analysis and reason for the EWS reservation criteria, and the government's decision on EWS reservation in NEET admission. [iv]

Similarly, the reserve list in UPSC result is always in controversy as it is interpreted to give advantage to general caste. When a marginal caste uses their reservation advantages, a general category seat becomes vacant, and the commission selects a general category student from the reserve list as a successful candidate. As a result, it appears that more general category candidates make it past the reserve list. The clause permits a reserved category candidate, who has qualified but has not used the benefits to use them later was challenged in the Supreme Court in 2010. The clause was harmful to the reserved categories. The argument has been that by enabling marginal communities to receive benefits, they will be forced to accept reserved seats, reducing the number of SCs, STs, and OBCs that pass the exam. This is because, for every Marginal caste that selects a reserved seat, a general category candidate is chosen to fill the general category seat. On the other hand, the Supreme Court stated in its order that a solid performance by an SC/ST/OBC candidate should not prevent them from receiving the service of their choice and thus upheld the provision.[v]



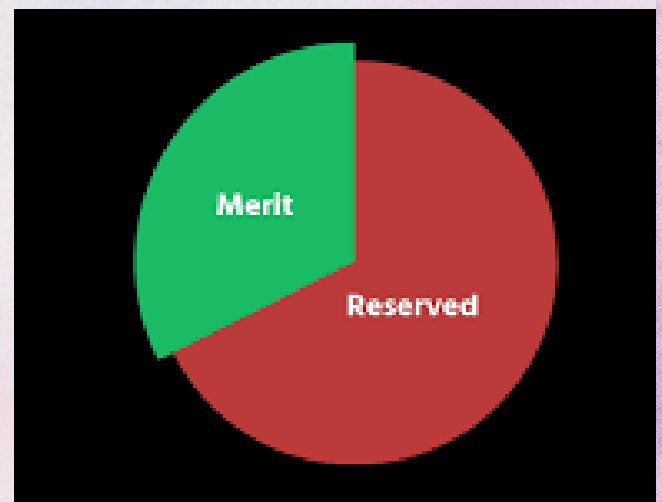
NO RESERVATIONS!



India's caste reservation system is in the worst health. The reservation system is "divisive" and "unfair". While both words can be used to disparage all low-caste activity, they have some truth. The tendency of Indian political debate to focus on group entitlements rather than individual entitlements and the distribution of existing possibilities rather than creating new ones is likely due to the reservation.

Furthermore, the system's near-exclusive focus on a single socially constructed attribute, caste, inevitably leads to instances in which the system fails to promote broad concepts of fairness. Many non-listed groups (including religious minorities) have limited social and educational possibilities. In contrast, others can produce caste and non-creamy layer certificates despite having viable social and educational options.

The existing approach is unconcerned about the level of social disadvantage experienced by individuals who are not members of a quota category, assuming that the disadvantages experienced by those who are members of each category are the same. At the same time, the system is unconcerned about quota candidates' qualifications (except in comparison to one another), as long as they meet a low threshold.



REFERENCES

[i]INDIA CONST. ART. 15, CL. 4.

[ii]Rahul Kumar, SC, ST, OBC representation in Indian education is dismal, upper-caste nexus persists, THE PRINT (24 March, 2021 02:14 pm) <https://theprint.in/campus-voice/sc-st-obc-representation-in-indian-education-is-dismal-upper-caste-nexus-persists/627217/>.

[iii] IANS, Centre offers 27% OBC quota, 10% for EWS in medical admission, THE TIMES OF INDIA, (Jul 29, 2021, 21:02)
<https://timesofindia.indiatimes.com/home/education/news/centre-offers-27-obc-quota-10-for-ews-in-medical-admission/articleshow/84862611.cms>.

[iv]Prabhash K Dutta, Decoded What is this new quota system for medical colleges?, INDIA TODAY, (July 30, 2021 16:24) <https://www.indiatoday.in/india/story/decoded-what-is-this-new-quota-system-for-medical-colleges-1834692-2021-07-30>.

[v]Sanya Dhingra, How UPSC 'reserve list' helps SC/ST candidates & why it's not a 'backdoor entry' for IAS, THE PRINT (Feb 17, 2021 08:00 am) <https://theprint.in/theprint-essential/how-upsc-reserve-list-helps-sc-st-candidates-why-its-not-a-backdoor-entry-for-ias/605966/>.

CASE BRIEF:

SHAKTI VAHINI V UNION OF INDIA

In the case of Shakti Vahini v. Union of India, the Court ordered state governments and the police department to build a comprehensive structure to aid the society in eliminating the act of honor killing. The Court has also mandated specific preventive, punitive, and remedial actions for the states and police administrations to develop a solid system. This case is a sterling example of how dynamic and unrestricted conceptions triumphed over society's static and illogical concepts.

FACTS:

In this case, the petitioner, an organization called "Shakti Vahini," was permitted to undertake a research project on honor killings in Haryana, Punjab, and Western Uttar Pradesh, where they discovered that these incidents are witnessing a dramatic increase. The petition was filed under Article 32 of the Indian Constitution, asking the Court to issue directions to the government (both state and central), the Ministry of Home Affairs, and Women and Child Development.

ISSUES:

Whether the family elders can be allowed to kill the young for marrying against their wishes and the customary practices?

JUDGEMENT:

Former Chief Justice of India Dipak Misra quoted critical passages from the Law Commission's 242nd report, which outlines the situation of honor killing. The three-judge panel decided that solemnizing marriage between two consenting adults does not require anyone else's consent. It was ruled that any action taken by the Khap panchayat or family members to prevent two consenting adults from marrying is unconstitutional. The Court, in this case, observed that "The choice of an individual is an inextricable part of dignity, for dignity cannot be thought of where there is the erosion of choice."



BILLBOARD


The Butterfly

The last, the very last,
So richly, brightly, dazzlingly yellow.
Perhaps if the sun's tears would sing
against a white stone...

Such, such a yellow
Is carried lightly 'way up high.
It went away I'm sure because it wished
to kiss the world goodbye.

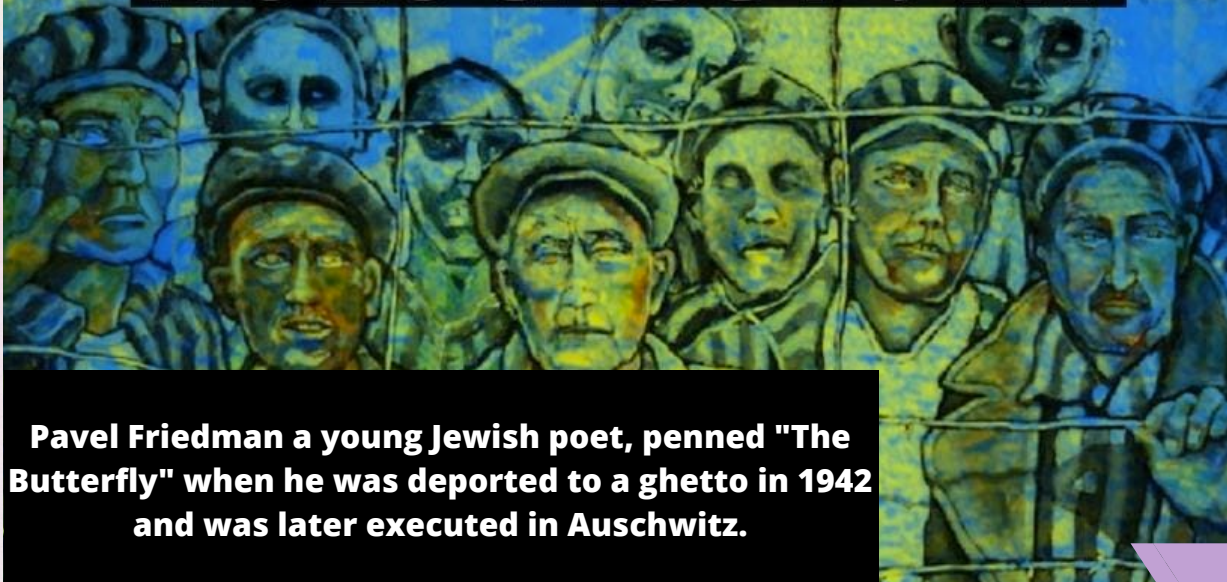
For seven weeks I've lived in here,
Penned up inside this ghetto
But I have found my people here.
The dandelions call to me
And the white chestnut candles in the court.
Only I never saw another butterfly.

That butterfly was the last one.
Butterflies don't live in here,
In the ghetto.



STORIES FROM
HOLOCAUST:
1. THE BOOK THIEF
2. THE BOY IN THE
STRIPPED PAJAMAS
3. SCHINDLER'S LIST

REMEMBERING HOLOCAUST DAY



Pavel Friedman a young Jewish poet, penned "The Butterfly" when he was deported to a ghetto in 1942 and was later executed in Auschwitz.

DISCLAIMER

All content in this newsletter is only for informational purposes. The views and opinions expressed in this newsletter are individual opinions of the authors and do not reflect or represent the views held by the committee or the University.

We recommend the readers to research and read further before forming their opinions.



CREDITS

Content

Sanjay Menon
Tinashree A.N Chowdary
Greetika Sachdeva
M S Sudhiksha
Ayush Gaurav

Editing

Jully Siju
Karan Banchhor

Design

Suchetha Vikram

Management

Zainab Juveriya
Tusharika Vig
Himanshu Rana
Pulkeshwar Rajpurohit

STUDENT convenors

Tusharika Vig

tusharika.vig@law.christuniversity.in

Zainab Juveriya

zainab.juveriya@law.christuniversity.in

FACULTY COORDINATORS

Shilpi Roy Chowdhury

Dr. Gopi Ranganath V

Mr. Sanjay Shenoi P

CONTACT US



humanrights@law.christuniversity.in



@hrc slcu