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# **CONSTITUTIONAL PROVISIONS** **FOR EMPOWERING THE WEAKER SECTIONS** **IN INDIA**

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**Abstract:** Objective of reservations to the scheduled castes (SCS), Scheduled tribes (STS) and other Backward Classes (OBCs) in services is not only to give jobs to some persons belonging to these communities. It basically aims at empowering them and ensuring their participation in too decision making process of the state. The constitution of India has therefore, taken special care to declare equality of opportunity in the matter of public employment. A number of constitutional provisions exist for protection and promotion of the interests of the weaker sections. During the last six decades of planning, a variety of programmes were launched with the objectives of improving the socio-economic condition of Vulnerable groups.

**Keywords:** Vulnerable Groups, Backwoods Classes, Agricultural Labourers, Structural Discrimination, Stand Up India Scheme, Vanjeevan .

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**Introduction:** Vulnerable groups are those groups of society which would be susceptible under any unfavourable situations such as where the adults are not capable to provide a satisfactory living for the household due to health issues like disability, illness, age or some other characteristic, and groups whose resource endowment is poor to provide sufficient income from any available source. In India, there are numerous socio-economic difficulties that members of particular groups experience which limits their access to health and healthcare.

For government, it is not an easy task to identify the vulnerable groups. Besides there are multiple and complex factors of vulnerability with different layers and more often than once it cannot be analyzed in isolation. There are several conspicuous factors on the basis of which individuals or members of groups are differentiated in India, i.e., structural factors, age, disability and discrimination that act as barriers to health and healthcare.

The vulnerable groups that face impartiality include, women, scheduled castes (SC), Scheduled Tribes (ST), Children, Aged, Disabled, Poor migrants, people living with HIV/AIDS and sexual minorities. Sometimes, each group faces many obstacles due to their multiple individualities. For example, in a patriarchal civilization, disabled women have to face double discrimination of being a women and being disabled.

There is caste system in India since ancient times and therefore sudras have been browbeaten for the ages. In earlier period, they were deprived of the right to education and thus were left suffering behind, socially and economically. Such people have been categorized into scheduled castes. Tribal communities, who never mixed with the main society, are similarly challenged and are categorized into schedule tribes.

**Backward Classes:** The constitution of India does not define the term backward classes. It is up to the centre and the states to postulate the classes that belong to this group. However, it is assumed that classes that are not signified passably in the services of the state can be termed backward classes.

Further, the president can, under Article 340, can establish a commission to scrutinize the condition of socially and educationally backward classes. Structural standard are attached to the different relationships between the subordinate and the prevailing group in every society. The norms act as structural obstacles giving rise to various forms of disparity.

There is some structural discrimination faced by these vulnerable groups. In India, members of gender, caste class, and ethnic identity experience structural discrimination that has adversely impacted on their health and access to healthcare. Women also face dual discrimination being members of specific caste, class or cultural group apart from experiencing gendered susceptibilities. Women have less control on the resources and on important decisions related to their lives.

In India, early marriage and childbearing affects women's health unfavorably. About 28% of girls in India get married below the legal age and experience pregnancy (Reproductive And Child Health – District Level Household Survey 2002-04, August 2006). These have serious consequences on the health of women; reports indicated that maternal mortality is at rising trend in India. The average maternal mortality ratio at the national level is 540 deaths per 100,000 live births (National Family Health Survey-2, 2000). It varies between states and regions i.e., rural urban. In most cases the deaths occur from avoidable causes. Huge percentages of women are reported to have received no antenatal care.

In India, Institutional delivery is lowest among women from the lower economic class as against those from the higher class. It has been documented in reports that major proportion of the lower castes and Dalits are still dependent on business and upper class for their living. Dalits does not refer to a caste but suggests a group who are in a state of subjugation, social disability and who are helpless and poor. Earlier, they were called as 'untouchables' mainly due to their low jobs i.e. cobbler, scavenger, sweeper.

In a caste – dominated country such as India, Dalits who comprises more than one sixth of the Indian population, stand as a community whose human rights have been sternly dishonoured. Literacy rates among dalits are very low, about 24 percent. Their living conditions are very poor or have low access to resources and entitlements. In rural India, they are landless poor agricultural labourers attached to rich landowners from generations or poor casual labourers doing all kinds of available work.

In the metropolitan, they get low level job as wage labourers at several work sites, beggars, vendors, small service providers, domestic help, etc. they live in slums and other temporary shelters without any kind of social security.

The members of these groups face systemic violence in the form of disavowal of access to land, good housing, education and employment, structural discrimination against these groups occurs in the form of physical, psychological, emotional and cultural abuse which receives legitimacy from the social structure and the social system. Physical separation of their settlements is common in the villages forcing them to live in the most unhygienic and inhabitable conditions.

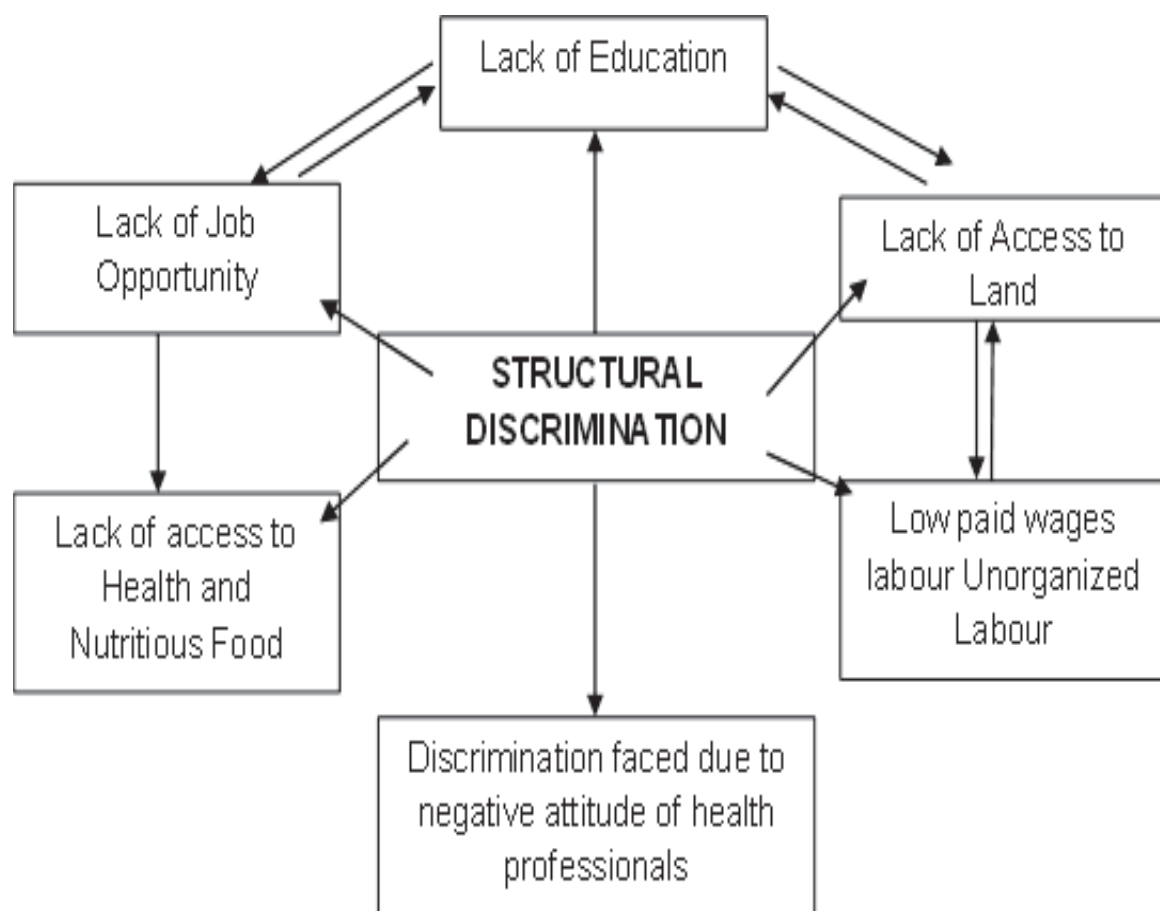
All these factors affect their health status, access to healthcare and quality of health service received. There are high rates of undernourishment reported among the downgraded groups resulting in mortality, morbidity and anemia, Access to and utilization of healthcare among the marginalized groups is influenced by their socio economic status within the society.

It is observed that structural discrimination unswervingly obstructs equal access to health services by way of prohibiting. The undesirable attitude of the experts towards these groups also acts as an obstacle to receiving quality services from government. A large proportion of Dalit girls drop out of primary school in spite of reservations and academic aptitude, because of poverty, humiliation, isolation or

bullying by teachers and classmates and punishment for scoring good grades (National Commission Report for SC/ST, 2000).

The scavenger community among the dalits is susceptible to stress and diseases with reduced access to healthcare. The scheduled tribes like the scheduled castes face structural discrimination within the Indian society. Likewise the scheduled Castes, the scheduled Tribes also face marginalization based on ethnicity.

There is a desperate need for development of the weaker sections such as the SCs STs, and OBCs. The SCs, STs and OBCs have been forced to remain as the Weaker sections of India, and the women confined or oppressed to be the most and multiply exploited sections of the country, for many decades. This worst situation cannot and should not continue anymore. There is a need for the Government to act to free and unshackle the weaker sections, from the lethargies of oppression, marginalization and backwardness. They have to be elevated to the levels of normal human beings of the world.



**Laws for the development and betterment of vulnerable sections:** Laws about vulnerable sections can be seen in two dimensions:

1. Constitutional
2. Statutory

**Scheduled Castes: Constitutional Provisions for scheduled Castes: Art. 15(4)**

**Art. 15(4)**

Clause 4 of article 15 is the fountain head of all provisions regarding compensatory discrimination for SCs. This clause was added in the first amendment to the constitution in 1951 after SC judgement in the

case of **Champakam Dorirajan Vs State of Madras**. It states thus, “Nothing in this article or in 29(2) shall prevent the state from making any provisions for the advancement of any socially and economically backward classes of citizens or for scheduled castes and scheduled tribes”. **This clause started the era of reservations in India.**

This clause was added in 93<sup>rd</sup> amendment in 2005 and allows

<b>Art. 15(5)</b>	the state to make special provisions for SCs for admissions in private educational institutions, aided or unaided
<b>Art. 16 (4A)</b>	This allows the state to implement reservation in the matter of promotion for SCs.
<b>Art. 40</b>	Provides reservation in 1/3 seats in Panchayats to SC
<b>Art. 46</b>	Enjoins the states to promote with care the educational and economic interests of the weaker sections, especially SC and STs.
<b>Art. 330</b>	Allows reservation of seats for SC in the parliament as well as in state legislatures.
<b>Art. 335</b>	Allows relaxation in qualifying marks for admission in educational institutes or promotions for SCs.
<b>Art. 338/338A</b>	Establishes a National Commission of SCs and STs.

#### **Statutory Provisions Scheduled Castes:**

<b>Protection of Civil Rights Act 1955</b>	The constitution struggles to remove this abhorring practice by not only making the provision a fundamental right but also allows punishment to whoever practices or abets it in any form. Towards this end, Protection of Civil Rights Act 1955 was enacted. It has implemented several measures to eradicate this evil from the society. It stipulates up to 6 months imprisonment or Rs.500 fine or both. It impresses upon the public servant to investigate fully any complaint in this matter and failing to do so will amount to abetting this crime.
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#### **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**

The National Scheduled Castes Finance and Development Corporation.  
The National Safai Karamcharis Finance and Development Corporation  
National Commission for Scheduled Castes

#### **Schemes for Scheduled Castes:**

- Babu Jagjivan Ram Chhatrawas Yojana
- Scheme for upgradation of Merit of SC Students.
- National overseas scholarship Scheme
- Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS)
- Pradhan Mantri Adarsh Gram Yojana (PMAGY)
- Pradhan Mantri Rojgar Protsahan Yojana (PMRPY)
- Stand Up India Scheme.
- Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)
- Van Bandhu Kalyan Yojana.
- Vanjeevan

#### **Scheduled Tribes: Constitutional Provisions for Scheduled Tribes:**

<b>Art. 15(4)</b>	Clause 4 of article 15 is the fountain head of all provisions regarding compensatory discrimination for STs. This clause was added in the first amendment to the constitution in 1951 after the SC judgement in the case of <b>Champakam Dorairajan Vs State of Madras</b> . It states thus, "Nothing in this article or in article 29(2) shall prevent the state from making any provisions for the advancement of any socially and economically backward classes of citizens or for scheduled Castes and scheduled Tribes". This clause started the era of reservations in India.
<b>Art. 15(5)</b>	This clause was added in 93 <sup>rd</sup> amendment in 2005 and allows the state to make special provisions for STs for admissions in private educational institutions, aided or unaided
<b>Art. 16 (4A)</b>	This allows the state to implement reservation in the matter of promotion for STs.
<b>Art 19(5)</b>	It allows the state to impose restriction on freedom of movement or of residence in the benefit of Scheduled Tribes.
<b>Art. 40</b>	Provides reservation in 1/3 seats in Panchayats to ST
<b>Art. 46</b>	Enjoins the states to promote with care the educational and economic interests of the weaker sections, especially SC
<b>Art. 164</b>	Appoint special minister for tribal welfare in the states of MP, Bihar, and Orissa.
<b>Art. 275</b>	Allows special grant in aids to states for tribal welfare.
<b>Art. 332</b>	Allows reservation of seats for ST in the parliament as well as in state legislatures.
<b>Art. 335</b>	Allows relaxation in qualifying marks for admission in educational institutes or promotions for STs.
<b>Art. 338/338A</b>	Establishes a National Commission of SCs and STs.
<b>Art. 339</b>	Allows the central govt. to direct states to implement and execute plans for the betterment of STs.

#### **Statutory Provisions for scheduled Tribes:**

- The scheduled castes and scheduled Tribes (Prevention of Atrocities) Act, 1989.
- National Commission for Scheduled Tribes – NCST.

#### **Schemes for Scheduled Tribes:**

- Babu Jagjivan Ram Chhatrawas Yojana
- Scheme for upgradation of merit of Sc students.
- National Overseas Scholarship Scheme.
- Self Employment Scheme for Rehabilitation of Manual Scavengers (SRMS)
- Pradhan Mantri Adarsh Gram Yojana (PMAGY)
- Pradhan Mantri Rojgar Protsahan Yojana (PMRPY)
- Stand Up India Scheme
- Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)
- Van Bandhu Kalyan Yojana
- Vanjeevan

#### **Other Backward Classes:**

#### **Constitutional Provision for Other Backward Classes:**

<b>Art.15 (5)</b>	This clause was added in 93 <sup>rd</sup> amendment in 2005 and allows the state to make special provision for backward classes for admissions in private educational institutions, aided or unaided.
<b>Art.16(4)</b>	This clause allows the state to reserve vacancies in public service for any

	backward classes of the state that are not adequately represented in the public services.
<b>Art.16 (4B)</b>	This allows the state to consider unfilled vacancies reserved for backward classes as a separated class of vacancies not subject to a limit of 50% reservation
<b>Art. 17</b>	This eradicates untouchability and its practices in any form.
<b>Art. 340</b>	Permits the president to appoint a commission to investigate the condition of socially and economically backward classes and table the report in the parliament.

#### **Statutory Provisions for Other Backward Classes:**

- The National Commission for Backward Classes Act, 1993
  - The National Backward Classes Finance and Development Corporation
  - Constitutional status to National commission for Backward classes.
- 6<sup>th</sup> August 2018 the Parliament passes the bill (123<sup>rd</sup> amendment) to grant Constitutional status to National commission for Backward classes.

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