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Caste-Based Reservation and Affirmative Action

- Mr Sumit kumar

Abstract

Caste-based reservation in India, known as affirmative action, aims to rectify historical injustices and social discrimination faced by Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC). This policy reserves seats in educational institutions, government jobs, and political bodies to ensure equitable representation and opportunities for these marginalized communities. Historical caste-based discrimination and social exclusion resulted in severe socio-economic disadvantages for these groups. The reservation policy seeks to promote social equity, enhance educational and employment opportunities, and provide political empowerment.

Key objectives include correcting historical injustices, promoting social justice and inclusion, enhancing educational opportunities, increasing employment, political representation, and encouraging diversity. The Mandal Commission, established in 1979, played a pivotal role in identifying and recommending measures for OBCs, leading to the implementation of 27% reservations for OBCs, upheld by the Supreme Court in the Indra Sawhney case (1992).

Reservation policies are applied across various fields including education, employment, political representation, judiciary, and housing. Challenges include implementation issues, ensuring quality education, addressing economic criteria, and mitigating social tensions. Legal provisions under Articles 15 and 16 of the Indian Constitution, along with landmark Supreme Court judgments, support these policies. Overall, caste-based reservation strives for an inclusive and just society by uplifting historically disadvantaged communities.

Introduction

Caste-based reservation is a policy in India to make sure people who have been treated poorly because of their past, ways of doing things and differences in social status are given the same chances as others especially those from low tribes namely Scheduled Castes (SC), Scheduled Tribes (ST) as well as Other Backward Classes (OBC) through historical injustices or social injustices. Such an arrangement sets aside some places at institutions of learning, government

offices and assemblies for members within such communities. The target is to offer these disadvantaged categories better chances and more representation leading to enhanced social and economic equality, though the reservation on caste-based is a highly contentious subject that straddles the need for historical redress and meritocracy and justice.

What is Reservation?

In India, reservation is known as affirmative action. This policy or system has been designed to make sure that historically disadvantaged or marginalized communities are included and represented in places such as education, employment and politics among others. More specifically in India, reservation is established especially for SC (Scheduled Caste), ST (Scheduled Tribe) and OBCs (Other Backward Classes) in order to correct historical injustices and social discrimination against them.

Historical Injustices Faced by Lower Castes

Caste-Based Discrimination: In India, the caste system imposed strict social stratification thereby oppressing lower castes such as Dalit's (formerly referred to as 'Untouchables') in addition to tribal communities systematically. Because they lacked both education and employment opportunities among other social benefits, these groups faced severe socio-economic hardships.

Social Injustice: Historical oppression and exclusion from mainstream society led to increased poverty, low education levels, and social shame among the low caste communities. As a result of these groups' disability to climb up socially or economically, their involvement in public affairs was non-existent and they lacked access to public services.

Objectives of Reservation

- 1. Correcting historical injustice:** In order to correct the historical and systemic discrimination faced by marginalized people like those in Scheduled Castes (SC), Scheduled Tribes (ST) and Other Backward Classes (OBC); they were disenfranchised from opportunities for learning, work and other chances thereby making them to lag behind economically.
- 2. Promoting social equity:** Establishing a more just society by giving positive backing to the historically oppressed and marginalized is the main goal. The main objective is to bring together the rich and poor in terms of social status. It is about making the

marginalized part of the whole society in economic, political, and social matters so as to make it more complete.

3. **Enhancing Educational opportunities:** It is essential to provide quality education to children who come from marginalized societies, ranging from basic to university education. This is important in stopping the repetition of poverty and social exclusion. This would also help to reduce the barriers faced by Dalit, Adivasis (tribal people) and Other Backward Classes [OBCs] in gaining levels of education that are more comparable with other caste groups.
4. **Increasing Employment opportunities:** To ensure that marginalized communities are adequately represented in government jobs and public sector employment. This not only provides economic stability but also ensures diverse representation in public services. To enhance the economic status of marginalized communities by providing them with stable and well-paying job opportunities.
5. **Political empowerment:** This will give marginalized communities political representation by having some seats reserved for them in legislative bodies like the Parliament, state legislatures and local governing bodies (Panchayats and Municipalities) so that the decisions made take into account their voices. Marginalized communities should be able to push for policies and regulations they require at national or county level".
6. **Social Justice and Inclusion:** To combat caste-based discrimination and promote social justice by ensuring equal opportunities for all, regardless of caste or background. To promote inclusive growth by ensuring that the benefits of development and economic progress reach all sections of society, especially the historically disadvantaged.
7. **Encouraging Diversity:** To create a diverse and inclusive workforce and student body that reflects the broad spectrum of Indian society. This diversity enriches educational institutions and workplaces by bringing in varied perspectives and experiences. To encourage cultural integration and mutual respect among different social groups by promoting interactions and collaborations across caste lines.

Mandal Commission

The Mandal Commission was founded by government in 1979 under the leadership of B.P. Mandal. It was tasked with finding the socially and educationally disadvantaged groups

(OBC's) in India so it could suggest ways of enhancing their socio-economic well-being, among them enforcing provisions for affirmative action towards them.

Objective

- To determine the criteria for defining socially and educationally backward classes.
- To assess the conditions of these classes in terms of social, educational, and economic status.
- To recommend steps to improve their representation in government services and educational institutions.

Implementation and Impact

1. Government Decision:

The recommendations of the Mandal Commission were initially shelved but later implemented by Prime Minister V.P. Singh's government in 1990.

The announcement of the implementation led to widespread protests and debates across the country.

2. Judicial Review:

The implementation of the Mandal Commission's recommendations was challenged in the Supreme Court, leading to the landmark judgment in *Indra Sawhney v. Union of India* (1992). The Supreme Court upheld the 27% reservation for OBCs but reiterated that the total reservation should not exceed 50%.

3. Impact on Society:

The implementation of OBC reservations has significantly increased the representation of OBCs in government jobs and educational institutions.

It has contributed to the socio-economic upliftment of many individuals from backward classes, although challenges and criticisms remain regarding the effectiveness and fairness of the system.

Reservation Policies across various fields

Education

In the realm of higher education, reservation policies ensure that a certain percentage of seats in universities and colleges are allocated to SC, ST, and OBC students. Central universities, such as Delhi University and Jawaharlal Nehru University, implement these policies to

promote diversity and inclusion. State universities also follow similar reservation policies, although the percentages may vary based on local demographics.

Professional courses, including engineering, medicine, and law, also adhere to reservation policies. Institutions such as the Indian Institutes of Technology (IITs), National Institutes of Technology (NITs), and medical colleges reserve seats for SC, ST, and OBC candidates.

In the field of school education, reservation policies are implemented through both government and private institutions. Government schools, including Kendriya Vidyalayas and Navodaya Vidyalayas, reserve seats for SC, ST, and OBC students to promote inclusivity from a young age. State governments also implement reservation policies in state-run schools to ensure that children from disadvantaged backgrounds have access to quality education.

The Right to Education (RTE) Act further mandates that private unaided schools reserve 25% of their seats for children from economically weaker sections and disadvantaged groups. This policy ensures that even in private schools, children from marginalized communities have the opportunity to receive quality education. By integrating children from diverse backgrounds into mainstream schools, the RTE Act helps promote social cohesion and reduce educational inequalities.

Employment

Reservation policies in government employment ensure that SC, ST, and OBC candidates have fair representation in central and state government jobs, as well as public sector undertakings (PSUs). The Indian Constitution mandates reservation of 15% of posts for SCs, 7.5% for STs, and 27% for OBCs in central government services and PSUs. These reservations are implemented through various recruitment examinations conducted by agencies such as the Union Public Service Commission (UPSC) and the Staff Selection Commission (SSC).

In state government jobs, reservation policies vary depending on the state's demographic composition and specific needs. For example, Tamil Nadu has a higher percentage of reservation for OBCs due to the larger population of backward classes in the state. These policies ensure that government employment opportunities are accessible to individuals from marginalized communities, providing them with stable jobs and economic stability.

Political Representation

Reservation policies in political representation ensure that SC and ST candidates have reserved seats in the Parliament, state legislative assemblies, and local governance bodies. In

the Lok Sabha (the lower house of Parliament), 84 seats are reserved for SCs and 47 seats for STs out of the total 543 seats. This ensures that marginalized communities have a voice in the highest legislative body of the country. Similarly, reserved seats in state legislative assemblies ensure representation at the state level.

In local governance bodies such as Panchayati Raj Institutions (village councils) and municipal bodies, reservation policies ensure that SC, ST, and OBC candidates have reserved seats. The 73rd and 74th Constitutional Amendments mandate that a certain percentage of seats in Panchayats and municipalities are reserved for these communities. This policy promotes grassroots political representation and ensures that local governance bodies are inclusive and representative of the community's diverse population.

Judiciary and Legal Education

National Law Universities (NLUs) reserve seats for SC, ST, and OBC candidates in their undergraduate (LLB) and postgraduate (LLM) programs. This policy ensures that students from marginalized communities have access to quality legal education, which is essential for pursuing careers in law and the judiciary.

Some states have reservation policies for SC, ST, and OBC candidates in the recruitment of judicial officers at various levels, including civil judges and district judges. These policies promote diversity within the judiciary and ensure that individuals from marginalized communities have opportunities to serve as judges and contribute to the justice system.

Scholarships and Fellowships

Various scholarships and fellowships are reserved for students to support their education and research endeavors. National scholarship schemes, such as the Post Matric Scholarship for SC/ST students, provide financial assistance for tuition fees, maintenance allowances, and other educational expenses. Research fellowships, such as those offered by the UGC and CSIR, provide financial support for pursuing advanced research programs.

Reservation policies also extend to housing and land allocation schemes. Government housing schemes reserve a certain percentage of houses or plots for SC, ST, and OBC beneficiaries. These policies ensure that individuals from marginalized communities have access to affordable housing and land, promoting economic stability and social inclusion.

Challenges and Criticisms

Implementation Issues

Despite the benefits, there are concerns about the proper enforcement of reservation policies. Some institutions fail to meet the mandated quotas, and there are instances of misuse and inadequate monitoring. Ensuring that the policies are effectively implemented requires continuous oversight and accountability.

Quality of Education

Critics argue that merely reserving seats is not enough; there is a need to ensure the quality of education and support systems for reserved category students. Providing additional academic support, mentoring, and financial assistance can help these students succeed and thrive in their educational pursuits.

Economic Criteria

There is on-going debate about the inclusion of economic criteria in reservation policies. Some argue that reservation should also consider economic criteria to ensure that benefits reach the economically disadvantaged within the reserved categories. This approach could help address the needs of individuals from marginalized communities who may not fall within the traditional caste-based reservation categories but still face economic hardships.

Social Tensions

Reservation policies can sometimes lead to social tensions, with sections of society perceiving them as unfair advantages. These tensions need to be addressed through dialogue and awareness programs that highlight the historical context and the need for such policies to promote social justice and equity.

Key Provision and percentages

Scheduled Castes (SC)

Scheduled Castes comprise groups that have historically faced severe social discrimination and untouchability. 15% of seats in educational institutions and government jobs are reserved for SC candidates. The reservation for SCs aims to uplift these communities by providing better access to education and employment, thereby improving their social and economic status.

Scheduled Tribes (ST)

Scheduled Tribes include indigenous communities that are often geographically isolated and socially disadvantaged. 7.5% of seats in educational institutions and government jobs are reserved for ST candidates. The reservation for STs seeks to integrate these communities into

the mainstream by improving their access to education, employment, and political representation.

Other Backward Classes (OBC)

Other Backward Classes are socially and educationally backward groups that do not fall under SC or ST categories. 27% of seats in educational institutions and government jobs are reserved for OBC candidates. The reservation for OBCs aims to address social and educational disadvantages and ensure better representation and opportunities for upward mobility.

Economically Weaker Sections (EWS)

Economically Weaker Sections include individuals from the general category who have an annual family income below a specified threshold (currently ₹8 lakh per annum); Agricultural land owned by the family is less than 5 acres; Residential flat owned by the family is less than 1000sq. Ft; Residential plot owned by the family is less than 100 sq. Yards and do not fall under any other reservation category. 10% of seats in educational institutions and government jobs are reserved for EWS candidates. The EWS reservation was introduced to provide opportunities to economically disadvantaged individuals from the general category, addressing economic disparities without reference to caste.

Legal and Constitutional Provisions

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth.

Article 15(4): Empowers the state to make special provisions for the advancement of any socially and educationally backward classes or for the Scheduled Castes (SC) and Scheduled Tribes (ST).

Article 15(5): Allows the state to make special provisions for the advancement of any socially and educationally backward classes or for SCs and STs regarding their admission to educational institutions, including private educational institutions, whether aided or unaided by the state, except minority educational institutions.

Article 16: Equality of opportunity in matters of public employment.

Article 16(4): Empowers the state to make provisions for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state.

Article 16(4A): Allows the state to provide reservations in promotions with consequential seniority to any class or classes of posts in the services under the state in favour of the SCs and STs, which, in the opinion of the state, are not adequately represented in the services under the state.

Article 16(4B): Ensures that unfilled vacancies from previous years reserved for SCs and STs are carried forward to subsequent years and are not considered together with the vacancies of the year of appointment.

Article 46: Part of the Directive Principles of State Policy, this article directs the state to promote with special care the educational and economic interests of the weaker sections of the people, particularly the SCs and STs, and to protect them from social injustice and all forms of exploitation.

Article 335: The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

Supreme Court Judgement

M.R. Balaji v. State of Mysore (1963)¹

Background

The case arose from an order issued by the State of Mysore (now Karnataka) in 1960, which reserved 68% of seats in educational institutions for socially and educationally backward classes, Scheduled Castes (SCs), and Scheduled Tribes (STs). The order was challenged on the grounds that it violated the fundamental rights guaranteed by the Constitution of India, particularly Article 15(1), which prohibits discrimination on grounds of religion, race, caste, sex, or place of birth.

Issue Addressed

1. Whether the State's reservation policy of 68% was constitutionally valid.
2. Whether the criteria used to determine "backwardness" were appropriate.

¹ AIR 1963 SC 649

3. The interpretation and scope of Article 15(4) of the Constitution, which allows the State to make special provisions for the advancement of any socially and educationally backward classes or for SCs and STs.

Judgement

Percentage of Reservations: The Supreme Court held that the reservation of 68% was excessive and not justifiable. It stated that such a high percentage of reservations would violate the principle of equality guaranteed by the Constitution. The Court suggested that reservations should be reasonable and should generally not exceed 50%. This principle became known as the "50% rule," which was later reaffirmed in subsequent judgments.

Criteria for Backwardness: The Court examined the criteria used by the State of Mysore to determine backwardness, which included caste as a primary factor. The Court held that while caste could be a factor in determining social and educational backwardness, it should not be the sole criterion. Other factors such as poverty, occupation, and place of residence should also be considered. The Court emphasized that the term "backward class" in Article 15(4) does not only refer to caste but also to other social and educational disadvantages.

Scope of Article 15(4): The Court interpreted Article 15(4) as an enabling provision that allows the State to make special provisions for the advancement of socially and educationally backward classes and SCs and STs. It clarified that Article 15(4) is a special provision and should be used to promote the welfare of genuinely disadvantaged sections of society. However, it should not override the fundamental right to equality under Article 15(1).

Indra Sawhney v. Union of India (1992)²

Background

The case arose from a challenge to the implementation of the Mandal Commission Report, which recommended a 27% reservation for Other Backward Classes (OBCs) in central government services and public sector undertakings.

Issue Addressed

1. The validity of the 27% reservation for OBCs in central government jobs.
2. Whether economic criteria alone can be the basis for reservation.

² AIR 1993 SC 477; 1992 Supp (3) SCC 217

3. The exclusion of the "creamy layer" (affluent members) of OBCs from reservation benefits.
4. Whether reservations can extend to promotions.
5. The total percentage of reservations permissible under the Constitution.

Judgement

27% Reservation for OBCs: The Court upheld the government's decision to implement a 27% reservation for OBCs. It affirmed that the backwardness contemplated by Article 16(4) is social and educational backwardness, not just economic.

Economic Criteria: The Court held that economic criteria alone could not be the sole basis for identifying backward classes under Article 16(4) of the Constitution. Social and educational backwardness were crucial determinants.

Creamy Layer Exclusion: The Court introduced the concept of the "creamy layer," stating that affluent members within the OBCs should be excluded from reservation benefits. This was to ensure that reservations reached the genuinely disadvantaged sections of the backward classes. The determination of the creamy layer was left to be done by the government.

Reservation in Promotions: The Court ruled that reservations under Article 16(4) of the Constitution should not extend to promotions. This was a significant departure from the earlier position and aimed to ensure efficiency in administration.

Cap on Reservations: The Court reaffirmed the principle that reservations should not exceed 50% of the total vacancies in a given year. This limit was seen as a means to balance the principle of equality with affirmative action. The Court allowed for the possibility of exceeding this limit only in exceptional circumstances and with strong justification.

M. Nagaraj v. Union of India (2006)³

Background

The case challenged the constitutionality of the 77th, 81st, 82nd, and 85th Amendments to the Indian Constitution. These amendments made provisions for reservations in promotions for Scheduled Castes (SCs) and Scheduled Tribes (STs) and also allowed for consequential seniority.

³ AIR 2007 SC 71; (2006) 8 SCC 212

Issues Addressed

1. The validity of providing reservations in promotions for SCs and STs.
2. The validity of the concept of consequential seniority for SCs and STs in promotions.
3. Whether these amendments violated the basic structure of the Constitution.

Judgement

Reservations in Promotions: The Court upheld the constitutional validity of reservations in promotions for SCs and STs as provided by the amendments. However, it imposed certain conditions to ensure that the policy did not violate the principle of equality enshrined in the Constitution.

Concept of Consequential Seniority: The Court validated the concept of consequential seniority, allowing SCs and STs to retain their seniority obtained through reservation in promotions. This was seen as necessary to provide a level playing field for the historically disadvantaged groups.

Conditions Imposed by the Court: The Court specified that the State must demonstrate the following conditions before providing reservations in promotions:

Backwardness: The State must collect quantifiable data showing the backwardness of the class.

Inadequate Representation: The State must show that the class is inadequately represented in the services.

Overall Efficiency: The State must ensure that the reservation in promotions does not affect the overall efficiency of the administration as mandated by Article 335 of the Constitution.

Basic Structure Doctrine: The Court held that the amendments did not violate the basic structure of the Constitution. It maintained that reservations are a means to achieve equality and social justice, aligning with the constitutional goal of uplifting marginalized communities.

Jarnail Singh v. Lachhmi Narain Gupta (2018)⁴

Background

⁴ (2018) 10 SCC 396

The case arose from a challenge to the constitutional validity of the requirement laid down in the M. Nagaraj v. Union of India (2006) judgment, which mandated that the State must demonstrate backwardness, inadequacy of representation, and that reservations in promotions do not affect administrative efficiency before providing reservations in promotions for SCs and STs.

Issue Addressed

1. Whether the conditions set out in the M. Nagaraj judgment were necessary for providing reservations in promotions for SCs and STs.
2. Whether the principle of presumed backwardness for SCs and STs could be upheld without requiring fresh data to demonstrate backwardness.

Judgement

Presumed Backwardness: The Supreme Court held that SCs and STs are presumed to be socially and educationally backward, and there is no need to collect quantifiable data to prove their backwardness for reservations in promotions. This overturned the requirement set in the M. Nagaraj judgment. The Court clarified that SCs and STs are inherently disadvantaged, and the presumption of backwardness should not be disputed unless there is strong evidence to the contrary.

Conditions of M. Nagaraj: The Court modified the conditions laid down in the M. Nagaraj judgment. It held that while the State must ensure that the reservations in promotions do not affect administrative efficiency, the requirement to demonstrate backwardness and inadequacy of representation through fresh data was not necessary for SCs and STs. The judgment emphasized that the State should still ensure that the reservations do not compromise the efficiency of public administration.

Implications for Reservations in Promotions: The Court upheld the validity of reservations in promotions for SCs and STs, reiterating that these provisions are essential to uplift the marginalized communities and promote social justice. The decision reinforced the constitutional mandate to provide reservations to SCs and STs, ensuring their effective representation in public employment.

Conclusion

Caste-based reservation and affirmative action policies in India are vital instruments for addressing the deep-seated historical injustices and systemic social discrimination faced by

Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC). By reserving seats in educational institutions, government jobs, and political bodies, these policies strive to create a more equitable and inclusive society. The overarching goal is to promote social equity, enhance educational and employment opportunities, and empower marginalized communities politically.

The implementation of these policies, particularly following the recommendations of the Mandal Commission and the legal validations from landmark Supreme Court judgments, has significantly shaped India's socio-economic landscape. These policies are crucial in various sectors, including education, employment, political representation, and judiciary, ensuring that marginalized communities receive the support necessary to overcome socio-economic barriers.

However, the reservation system is not without its challenges. Issues with implementation, the need for quality education and additional support, debates over the inclusion of economic criteria, and the potential for social tensions are significant concerns that need continuous oversight and dialogue. Legal provisions under Articles 15 and 16 of the Indian Constitution and pivotal Supreme Court judgments provide a robust framework to guide these policies, balancing affirmative action with meritocracy and administrative efficiency.

Despite these challenges, caste-based reservation policies remain essential for uplifting historically disadvantaged communities, fostering social justice, and building a more equitable society. Continuous oversight, policy adjustments, and a nuanced understanding of the socio-economic landscape are necessary to ensure these measures effectively address the needs of marginalized groups and contribute to their socio-economic advancement. By promoting inclusivity and diversity, these policies help create a more just and balanced society where all individuals, regardless of their caste or background, have the opportunity to thrive and succeed.