

Reservations and Beyond: Rethinking the Affirmative Actions in India

Urvashi Pareek

Research Scholar, Department of Public Policy, Law and Governance, Central University of Rajasthan, Bandarsindri, Ajmer, Rajasthan. Email: pareek.urvashi@gmail.com

Prof. Nagendra Ambedkar Sole

Professor, Department of Public Policy, Law and Governance, Central University of Rajasthan, Bandarsindri, Ajmer, Rajasthan. Email: snambedkar@curaj.ac.in

Abstract: Reservation policy in India is a part of a broader Affirmative actions policy taken for the upliftment of the marginalised sections of the population. It ensures equality, justice and trust and legitimacy in a society. The Constitution of India provides for a reservation to the Scheduled Castes (15%), Scheduled Tribes (7.5%), Other Backward Classes (27%) on the basis of historical injustice due to the caste-based discrimination and a newly added Economically Weaker Sections (10%) on the basis of economic disadvantages extended to people left out from the purview of the previous system of reservations. There have been heated debates around the validity of inclusion and exclusion of particular castes and communities based on parameters determined by the government, however, the Judiciary from time-to-time looks into the constitutional validity of reservation provisions.

This article highlights the contemporary system of reservation policy provided to various marginalised sections of the population based on social or economic criteria and also provides suggestions on the ways other than reservation to augment the status of the people and make the society more inclusive in all perspectives. This is a review paper and developed on the existing literature available on the topic. The methodology is qualitative and use of content analysis has been done to develop a rigorous understanding on the topic. For this purpose, secondary sources of data including books, journal articles, government reports and documents, newspapers have been used. The paper concludes with suggesting that the government needs to bring in measures other than reservation to cure deprivation, ensure justice, equality and inclusivity in society.

Keywords: *reservation policy, affirmative actions, India, marginalised, inclusion.*

Introduction

One of the most assertive measures to ensure justice and equality in society is the reservation policy of India, which is a part of the broader affirmative actions policy meant for the upliftment of the marginalised sections of the society. Article 15 of the Constitution, which guarantees the right to equality between equals, makes an exception for the policy in question. It is necessary to create a process that could maintain equality among the unequal because this exception is only introduced in cases of inequality (Sole, 1995). According to this policy, socially excluded groups like scheduled castes, scheduled tribes, minorities, the differently abled, and the like are given a specific amount of opportunities (including both employment and education). With the belief that these underprivileged strata are underrepresented in government services and public posts, the exception concept was developed.

With the belief that these underprivileged strata are underrepresented in government services and public posts, the exception concept was developed. The concept of compensatory justice for their ages-long, no-fault sufferings is the basis of the reservation system (TISS, 2018). The prospects and advantages of growth could reach the lowest individual in the social order thanks to this active medium for bringing marginalised groups into the mainstream (Thorat & Neuman, 2012). It is founded on the idea of equity to achieve balance and lessen social imbalances. Based on their percentage of India's overall population, the amount of reservation for social groups is calculated. The reservation policy is continuously debated since its introduction and progression.

The government pro-activeness can be seen in recent developments like a reservation to newly defined Economically Weaker Sections (Pareek & Sole, Status of Scheduled Castes and Scheduled Tribes in Rajasthan: Issues, Affirmative Actions and Court Rulings, 2020), ensuring implementation of the existing reservation to marginalised communities and devising more measures to ensure participation. It is urgently necessary to develop alternative tactics in addition to legislative safeguards to protect and advance the interests of those who belong to marginalised groups in light of the deteriorating conditions of Scheduled Castes and Scheduled Tribes.

Although much has been done to bring marginalised groups into the mainstream, the successful implementation of these policies continues to be a significant barrier. In order to ensure the inclusion of the excluded community in all domains, including higher education, the government must develop more affirmative policies.

Objective

The objective of this article is to understand the existing provisions for reservation in India and its rationale. The article would help in contributing to the existing body of literature on the topic and suggest measures for upliftment of the marginalised sections other than the reservation policy.

Methodology

A qualitative research methodology has been used for this article. For analysis of the provisions under the Act, the content analysis method has been used to systematically and scientifically evaluate the provisions and identify the drawbacks in its implementation. Secondary data sources like the Act, journal articles, newspaper, etc. have been used for data collection.

Reservation Policy

Since the beginning of time, the marginalised sections have faced discrimination; as a result, additional measures are needed to protect their interests and mainstream them. With changing times. These groups are not part of the mainstream society, which continues to rule them and enjoy all the benefits of progress (Obulapathi & Ramanjaneyulu, 2016). Therefore, now is the moment to take affirmative action to make sure that members of these groups are included into the development process, have equal access to all of the amenities provided for country citizens, and have the chance to reach their full potential. According to India's present reservation policy, Scheduled Castes are only eligible for 15% of the total seats, Scheduled Tribes for 7.5%, Other Backward Classes for 27%, and newly designated Economically Weaker Sections are only eligible for 10% of the total seats in education and employment.

The government's primary motivation for developing and enforcing affirmative action policies and appreciating the significance of the exception principle to the right to equality guaranteed by Article 15 of the Indian Constitution stems from the long history of injustice and exclusion. Education is crucial because it is both a catalyst for society's development and a way to ensure change. In particular, higher education gives people the chance to pursue a safe job path in order to upend the caste system and improve socioeconomic standing. Adopting affirmative action to uplift weaker sectors and ensure inclusive growth is crucial given the structure of Indian society (Thorat S. , 2006).

From independence till the present, the government has always responded in a very proactive and considerate manner. However, the government's action has received considerable criticism in many places despite the fact that it was highly effective and influential. Recent developments, such as a reservation for the newly defined Economically Weaker Sections, ensuring the application of the existing reservation for marginalised communities, and developing additional measures to ensure participation from these sections in enrollment and employment in higher education in India, demonstrate the government's pro-activeness.

Reservation to these communities is provided in form of a) political representation by reserving seats proportionate to the total population of the community at local, state and national levels and, b) state policies that may provide for Social safeguards (under Article 17, Article 23(1)

and Article 24), Economic Safeguards (Article 23(2) and Article 24), Educational and Cultural Safeguards (Article 15(4), Article 15 (6)), Political Safeguards (Article 243, Article 330 (1)(a), Article 332 (1) and Article 332 (3)), Service Safeguards (Article 16 (4)(a), Article 16 (6) and Article 335), Land-related safeguards, rights under Panchayat Extension to Scheduled Areas (PESA) and Tribal Sub-plan etc (Constitution of India, 1950).

Conclusion

The reservation policy was implemented as a type of affirmative action to mainstream the historically marginalised, underprivileged, and discriminated-against segments of society. It is important to realise that while reservations are necessary, they do not always result in the desired results and occasionally harm the social fabric, create inferiority and scapegoats, anger and resentment among those who are left out, and provide opportunities for political parties to exploit them in order to win over the public's trust.

The goal was to grant them social, political, and economic justice while compensating for the impairment brought on by this prejudice. The policy has been touched by a number of historical events, and the newest Supreme Court decision will also have an impact, but only after careful observation of its implementation and evaluation of its effects. It is required that the existing policy for reservation needs and overhaul with extensive review to address newer forms of discrimination and exclusion. Newer forms of backwardness must be studied to fix this issue for long run.

The government also needs to put its interest into creation of new job opportunities, encouraging them for self-reliance and becoming the employers rather than the employees. The whole idea of reservation would than appear vague and as an old value. For this, a careful planning of financial resources and diverting them at meaningful ends is much required. In order to protect people's economic, social, and political interests and to promote equality in society, creating employment is of primary priority. In order to generate new opportunities, efforts should be taken to increase private sector investments.

Justices, Gogoi and Justice Nariman, offered a combination of standards that may be applied to offer judgements. To establish the level of reserve that can be allowed, a mix of criteria was used, including income, family circumstances, handicap, education level, etc. Each of these criteria had a distinct weight. This method aids in addressing the issue of contemporary kinds of backwardness in the modern day. However, a thorough analysis is required to identify the many compartments in which different portions can be included to extend reservation support.

Every action should have as its central goal the deinstitutionalization of the caste system from societal structures, bringing about equality for all. Some recommendations for this include: law enforcement for their protection and securing their interests; guaranteeing their political rights;

enforcing laws with harsh punishments on violations of the rights of Scheduled Castes and Scheduled Tribes; eradicating bonded labour and child labour; giving them an enabling environment and practises that can induce them to obtain education; lowering the rate of crimes against them; and instilling the spirit of love and respect for all (Pareek & Sole, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act: Issues and Court rulings, 2019).

References

1. Constitution of India. (1950). *The Constitution of India*. New Delhi: GOI.
2. Obulapathi, M., & Ramanjaneyulu, C. (2016). Violation of Dalit human rights: The Indian experience. *International journal of applied research*, 2(3), 603-609.
3. Pareek, U., & Sole, N. A. (2019, January). Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act: Issues and Court rulings. *South Asian Journal of Socio-Political Studies*, XIX(2). Retrieved July 5, 2019, from <http://sajospsglobal.com/current.html>
4. Pareek, U., & Sole, N. A. (2020, January- June). Status of Scheduled Castes and Scheduled Tribes in Rajasthan: Issues, Affirmative Actions and Court Rulings. *International Journal of Political Science*, 6(1), 71-79. doi:<http://dx.doi.org/10.21088/ijpos.2454.9371.6120.4>
5. Sole, N. A. (1995). Dalits, Indian Constitution and Social Justice. In R. Singh, & Gadkar, *Social Development and Justice in India* (pp. 259-269). New Delhi: Radiant.
6. Thorat, S. (2006, June 17-23). Paying the Social Debt. *Economic and Political Weekly*, 41(24), 2432-2435. Retrieved May 6, 2021, from <https://www.epw.in/journal/2006/24/reservations-higher-education-special-issues-specials/paying-social-debt.html>
7. Thorat, S., & Neuman, K. S. (2012). *Blocked by caste: Economic Discrimination in Modern India*. Oxford University Press. Retrieved July 20, 2019
8. TISS. (2018). *Tata Institute of Social Sciences*. Retrieved May 6, 2021, from Tata Institute of Social Sciences: <https://tiss.edu/uploads/files/InformationBookletfSCsSTsEOCsCell201819Online2592018.pdf>