

That job reservations are there only for the SC/STs is a myth; the Indian constitution (in its infinite wisdom or lack of it?) clearly says, somewhat surprisingly, that (almost) everybody is eligible.

It doesn't matter

Indian Constitution: Quotas for All

By

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Blurb: Were our constitutional forefathers thoughtful about both the intended, and unintended, consequences of their asinine, yet liberal, provisions on reservations ?

The recent Sachar committee report on the plight of the Muslims (highlighted earlier in these columns) has brought a seemingly legitimate demand from the Muslim community – let us also have reservations, just like the reservations that exist for the SCs/STs and the OBCs. The report has thrown politicians, and knee-jerk politically correct Indians into a quandary. Neither group is famed for its adherence to either logic or justice. Given the overwhelming evidence of backwardness of the Muslims, what is a “liberal” casteist to do? He normally takes recourse to the old justification – reservations for the SC/STs is justified because of centuries of discrimination, but reservations for other communities is not. And, in a flourish, adds: this fact was recognized by the framers of the constitution.

I am not a lawyer, but a simple reading of the Indian constitution articles on “right to equality” makes clear that the framers of the Constitution believed in reservations for practically the entire population of Indians, including all the creamy layers. Maybe the Constitutionwallahs had other ideas – namely, that the Indian people will eventually see through the absurdity of their recommendations. They, however, were either too naïve or too optimistic, but certainly not wise.

Some points need to be made clear before a civilized discussion of this inherently emotive topic can begin. Reservations (in schools, in jobs, in cricket teams) is just one form of affirmative action, albeit a rather extreme form. How extreme a form can be gleaned by contrasting its effects on the ground with an alternative policy of affirmative

action e.g. grants and scholarships to the poor to attend school. At the primary school level (when thankfully we have very few indicators of ability, and even less that are reliable) the poor student can obtain an equal opportunity as the rich non-discriminated against student. In logic there is no limit to the grant the poor child can obtain from the state to attend school. At a minimum, all fees and living expenses, and some additional compensation for the poor family (not having the child to work at home or on the farm or at the family shop). If this is provided, the disadvantaged discriminated child starts on an equal footing, and when she gains admission to the school, she is not displacing a more worthy candidate. In contrast, reservations mean, by definition, that she is preventing a more worthy person from attending the school.

A policy of affirmative action is equivalent to a subsidy; a policy of reservations is equivalent to a license, a license obtained on the basis of one's caste, or sex, or religion, or socio-economic status. In the case of a license, the fact that I obtain it means that somebody else does not. In the case of a subsidy, all of us, if eligible, can obtain it. (Note that one is talking what should be, not what is. It is well known that even in the best of circumstances, the politician will mess up the system for her own personal gains).

Just as there are very few people opposed to taxation and redistribution (note that the fact that the rich people pay more in taxes than the poor is a form of redistribution), so there are very few people opposed to some form of affirmative action. The differences arise in the nature of policy, and in the case of reservations or quotas, the policy is at such extreme variance with the principles of universal justice, that it should not be considered as belonging to the family of affirmative action.

This was *seemingly* well recognized by the framers of the Indian constitution. Articles 14 to 16 deal with "equality before the law" and each article dutifully acknowledges that "the State shall not deny *to any person* equality before the law (Article 14) or "the state shall not *discriminate* against any citizen (Article 15) or "there shall be an equal opportunity for *all citizens* (Article 16, emphasis added). One should be forgiven for asking whether the law (or the constitution) is an ass because these articles explicitly state that all citizens are equal in every respect. And that a policy of reservations or quotas is discriminatory in that such a policy favors one set of citizens at the *expense* of others. So how come

reservations are not considered “unconstitutional” since they do not treat all citizens as equal” ?

The law is not completely an ass, and the writers of the constitution realized that they were skating on very thin ice. Hence, the all encompassing insertions, in Articles 15 and 16, that “nothing in this article [15] shall prevent the State from making any special *provision* for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes (SC) and the Scheduled Tribes (SC) ”; “Nothing in this article [16] shall prevent the State from making any provision 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”. Note that reservations have a permanent sanction according to the Indian constitution, and not just “temporarily for 10 years” (fifty nine years and counting) as commonly believed.

Note also that the Constitution explicitly includes backward *classes* , in addition to SC’s and STs, and educationally backward classes of citizens (the girls), and the not adequately represented (the Muslims). By a simple stroke of illogic, the Indian Constitution legally provides for reservations for almost the entire population. The SC/ST and Muslims and other backward castes together account for about 69 % of the population (24 + 13 + 32). In addition, girls account for half of the remainder, namely 15 percent. The Christians can also claim to be discriminated against. So can the Sikhs – indeed, the Sikh terrorist Bindranwale ran a campaign against the State for a separate State on the grounds that the Sikh had suffered, were suffering, historical injustices in the hands of a Hindu state. Reservations for all – if true, it means reservations for nobody. Maybe the Constitution framers were really wise.

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