

## **PROBING RESERVATIONS ABOUT RESERVATION: THE EFFICACY OF CASTE CERTIFICATION IN INDIA**

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### **ABSTRACT**

The caste system in India evolved from being a form of social organisation that divided society into groups according to their occupations with the purpose of achieving maximum societal efficiency to an oppressive societal structure that has denied a large section of the society basic rights and forced upon them a lifestyle that has been compared to apartheid and racial segregation. To address these historical injustices, the Indian Constitution designed an affirmative action policy called “reservations”, which comprises a series of measures, like reserving access to seats in legislatures, to government jobs, and to enrolment in institutions of higher education. The form and content of reservations have been a contentious subject since their invention, but what’s been undiscussed is the access of people from the SC/ST communities to these welfare schemes, the beginning point of which is getting a valid caste certificate. This paper analyses efficacy of caste certification in India and the problems and blind-spots present in the process of getting a certificate. It also gives policy recommendations about the areas in which the process can be eased in order for the reservation policy to be efficiently conducted.

**Keywords:** Caste certification in india, Probing reservations, Caste system, Societal efficiency.

### **Introduction**

The caste system in India has been recognised as a highly complex sociological phenomenon; it has continually shaped the social, economic and political lives of people living in the Indian subcontinent for millenia. It evolved from a system that divided society into groups according to their occupations with the purpose of achieving maximum societal efficiency to an oppressive societal structure that has denied a large section of the society basic rights and forced upon them a lifestyle that has been compared to apartheid and racial segregation. These social groups, who came to be known as Dalits in the nineteenth century, were denied the opportunity to progress in any socioeconomic frontier. Despite the upper castes becoming largely fluid in terms of occupation and social status, Dalits were continued to be oppressed. They have been socially

alienated, denied access to skilled and specialised employment and even distanced from welfare programmes. Many communities who follow the caste system in the subcontinent also practised — and some continue to do so — barbaric practices like untouchability. This contributed an extremely skewed playing field in terms of competition, between Dalits and upper castes. An urgent need to protect these communities was recognized by the framers of the Constitution, who conceived the idea of reservation. Reservations are given to these oppressed Scheduled Castes and Tribes to rectify the historic injustice done to them and hence provide to all citizens a level playing field. The system of reservations in India comprises a series of measures, like reserving access to seats in legislatures, to government jobs, and to enrolment in institutions of higher education. It is governed by the Indian Constitution, statutory laws, and local rules and regulations. Under this system, the access to a certain number of seats is only limited to the depressed sections of the society. Whilst the ‘general’ category competes solely on merit for the general seats, the ‘reserved’ category compete amongst themselves for the reserved ones. This is regarded as one of the most effective ways to implement positive discrimination and affirmative action for oppressed minorities.

### **A Brief History of the Caste System: From the Ancient Period to Modernity**

Historically, in India, religion has always played a major role in the evolution of society’s norms, cultures and values. Apart from being one of the oldest religions in the world, Hinduism is one of the most complex. It has been closely linked to the caste system and its evolution through these centuries. The caste or the ‘varna’ system first appeared in the ancient Hindu text - Rig Veda. It described how division of society into groups based on occupations would maximise the total utility and welfare of the entire society. These groups were the Brahmins: the scholars and priests who served as the link between humans and gods, Kshatriyas: the warriors and Kings, Vaishyas: the businessmen and traders, and the Shudras: the low skilled labourers and farmers. These groups were fluid, and people were free to choose which ‘varna’ they wanted to enter based on the occupation most suited to them. However, as the society progressed from the early to the later vedic age, this Varna system showed some distinctive changes which brought some obvious drawbacks.

Firstly, the Varna System was made rigid and hereditary. People could no longer choose what they wanted to do and practice in society, it solely depended on the occupation of the family that one was born in. This led to the emergence the idea of ‘purity’ amongst castes. Inter-caste marriages was banned by the religious order. The Varna system also excluded certain individuals who were firstly known as avarna (one who does not belong to any caste/varna). These groups constitute the modern categories of Scheduled Castes and Tribes. They were given the most undesirable occupations in the social structure such as manual scavenging and

disposing off of the carcasses of cattle. These parts of the society were viewed as ‘impure’ and this perception gave rise to inhuman practices like untouchability.

A very distinct oppressor-oppressed power structure emerged in the society. The upper casts performed tasks which were considered to be the most important in the society. Moreover, because of the institutionalisation of the norms of brahmanical patriarchy there was no scope of blurring lines between castes. Therefore, socioeconomic and political power was concentrated in the hands of the upper castes. This system went on to further oppress the weakest in the society. Since this system traced its legitimacy to religion, it was absolute and unquestionable. The result is that they entered the modern period as “minorities” and were categorised as Scheduled Castes and Tribes. Under the structure of a liberal democracy, their marginalisation got translated as a deprivation of basic human rights like education and healthcare. On the other hand, the upper castes reaped the benefits from this culture of oppression for centuries and became rendered as the “General” category, implying that being upper caste connoted normalcy, and vice versa.

The organised fight against caste, historically can be traced back to people like Jyotiba Phule (who himself belonged to a lower caste) and Raja Ram Mohan Roy. Access to western education and morals of equality and liberty influenced the Indian intellectuals. The struggle against caste oppression went hand in hand with the Indian freedom struggle, with people like Dr. B.R. Ambedkar and Mahatma Gandhi playing an active role in both movements. To rename and liberate to those who were deemed untouchables by the caste hierarchy, Gandhi coined the term ‘harijan’, which literally translates ‘the children of god’ . Post independence, the Indian Constitution abolished the caste system, and caste-based practices such as untouchability were banned. However, this abolishment produced only a small dent in the caste system, when compared to the injustice done to dalits for centuries. Reservations, hence were adopted as a practice to ensure equality of opportunity for all members of the society, equality which was long overdue. The parliament also passed The Scheduled Castes and Tribes (Prevention of Atrocities) Act in 1989 is an Act to prevent atrocities and social discrimination against scheduled castes and scheduled tribes.

### **Accessing Reservations**

According to the 2011 census, 19.7% and 8.5% of the Indian population belongs to the Scheduled Castes and Scheduled Tribes categories respectively. Despite the similar levels of oppression and disadvantage in the society, there remains a lot of diversity. There are 1108 Scheduled Castes and 744 Scheduled Tribes listed in the First Schedule of the Constitution. There are also economic differences: 14% of Scheduled Castes and 11% of the Scheduled Tribes are in the ‘creamy layer’, which means that their annual income is more than 800,00 INR, implying that they have sufficient access to economic and social resources at their disposal to

render irrelevant their caste identity in terms of job opportunity, education, and healthcare. However, SCs and STs in the creamy layer can also avail reservation — a topic which has been the bone of contention in several debates about caste reservation. These statistics imply that, despite reservations attempting to create a level playing field, hierarchies within Dalits make access to reservations even.

According to the federal setup in India, individual states have the power to identify communities belonging to the SC and ST categories and reserve seats for them accordingly. However, they must also operate within the ambit that the constitution has set and follow some basic guidelines. In central-government funded higher education institutions, 22.5% of available seats are reserved for Scheduled Caste (SC) and Scheduled Tribe (ST) students (7.5% for STs, 15% for SCs). In the Indian Parliament, 84 seats are reserved for Scheduled Castes and 47 for Scheduled Tribes out of the total 543. This gives backward communities political capital and bargaining power to get their demands satisfied. For example, in Uttar Pradesh - the political cradle of India, Scheduled Caste voters determine the results of elections in majority of the constituencies, as is the case with Scheduled Tribes in Jharkhand and states in the northeast of India.

Some Dalit communities have utilised this to achieve upliftment whilst some are still denied access to these. Apart from hierarchies within the Dalit fold, continued oppression by the upper castes in another factor that determines access. In rural areas of some states like Uttar Pradesh, Dalits are denied access to basic state facilities like education, semi-skilled employment and healthcare because the control of these services largely lie in the hands of upper caste officials. In the absence of these essentials, availing reservations becomes an impossibility. A recent social attitudes and perceptions survey in Uttar Pradesh and Delhi by Social Attitudes Research for India (SARI) revealed that 52% of Dalit adults in Delhi and 72% of Dalit adults in UP have not even heard of “reservations”. This lack of awareness is a major challenge to the goal of achieving social equality. However, Dalits with education beyond class 10<sup>th</sup> have a higher propensity to be aware and avail the benefits of reservations. This proves that a large number of Dalit communities are not able to access reservation.

### **Filing for a Caste Certificate: Sites of Obstruction**

It is imperative for one to have a caste certificate to avail any caste specific welfare scheme by the state, the most common examples of which are reservations. While India’s reservation policy is considered progressive by international standards, it’s notorious for its bureaucratic inefficiency. Applicants need to submit an application to the Taluk (administrative) office, in whose jurisdiction the candidate usually resides. The information required by the department is as follows: Name of the Applicant, Father/Husband’s Name, Sex (M/F),

Residential Address, Ration Card Number, School Leaving Certificate / Transfer Certificate, Details of Community Certificate of Parents, Details of School Certificates of Parents and the Date of Application. The application submitted by the candidate would then be scrutinized by caseworkers and be forwarded to the concerned revenue official or village accountant. Once the documents are verified and recommendations given by the *Taluk*, the Administrative Office can issue the caste certificate. This list comprises documentation that is often very tough — if not impossible — to obtain. For example, a large part of the Dalit community is uneducated and therefore can't furnish details like School Certificates, a problem that remains a blindspot in the enforcement of the reservation policy.

Several state governments such as those of Tamil Nadu and Kerala have take the step to facilitate the making of caste certificates online. Maharashtra has taken a step further by reducing the burden of paperwork for offline applicants. While this is a significant improvement, it still presupposes that the applicants will have access to sophisticated technology, which may not be the case for those under the poverty line. But more pressing is the inefficiencies in the process that comes after all the documents have been submitted for registration and verification. For example, this year the Bombay High Court had to intervene after the Scheduled Tribe Certificate Scrutiny Committee denied caste the certificate to a 19 year old student (The Indian Express). It should be noted that the court passed the judgement in favour of the student, by most such students don't have access to legal mechanisms through which they can prosecute the Scrutiny Committee. Furthermore, the *Hindu* reported that the Bombay High Court had to step in to ensure that Ganesh and Rajesh Sawale received their caste certificates after the Scrutiny Committee disqualified them illegally (The Hindu). In March 2018, the Bombay High Court also ordered the Caste Scrutiny Committee to complete the process of certification within the stipulated period of one month, the failure of which will can amount to the HC levying a charge of contempt of court against the body (The Indian Express). In Jharkhand as well, there have been reports of people belonging to the Scheduled Tribes who were being denied caste certificates based on their religion (Chandra). Thus, even if applicants manage to submit their application for a caste certification, political institutions such as the Caste Scrutiny Committees hinder the process for reasons which can be purely bureaucratic, but may very well be founded in caste bias. The fact that these judiciary bodies are checking bureaucratic committees is redeeming only to an extent; a larger movement of reform is needed in order to uproot obstructions to certification.

### **Misconceptions around Reservation: The Ground Realities**

The first misconception that many people have regarding reservations is that they have served their purpose as a policy and is now largely antithetical to its cause. This mostly stems out

from the assumption that the Scheduled Castes and Scheduled Tribes have achieved that level of emancipation, and economically and socially that they have equal access to opportunities. This is false at multiple level. Firstly, very small population of Dalits that have actually gained economic emancipation still face social oppression and alienation in public spaces. Inter-caste marriage is considered unacceptable by the society even in the twenty-first century. Dalits are forbidden from performing religious and cultural rituals. For example, in April 2018, a Dalit groom was beaten by upper caste men for mounting a horse before his wedding because Dalits are considered too inferior to mount horses by Brahmanical standards (The Wire). To speak of more implicit manifestations of caste discrimination, many Dalits who may have overcome problems related to lack of access by graduating from college have nonetheless experienced discrimination when it comes to matters of selection, placement and promotions in businesses. Therefore it is safe to assume that even those oppressed minorities that are gaining the benefits of reservations officially still face discrimination in the power structure that oppresses in them. On the other hand, there are groups in the country that actively support the cause of Brahmin supremacy and endorse all the caste system in its entirety — ideas that go against the secular fabric of the Indian constitution. The intensity of the problem can be determined by observing the introduction of the Prevention of Atrocities Act in 1989. This level of discrimination — which can be implicit and explicit, private and public, physically violent and mentally abusive — looms large in most parts of the subcontinent. This, subsequently, excludes Dalits from social and economic systems, which further proves the need for affirmative action.

Having said this, it is false to assume that reservations have been a foolproof method to tackle discrimination based on caste. As explained before, there exist several economic, social and cultural hierarchies within the Dalit communities. The number of seats available to them across educational, political and bureaucratic institutions is constant, and these reserved seats are contested on merit amongst the eligible candidates. Thus the selection tests ignores the context and hierarchies that play major roles in the ‘merit’ that one achieves. Since there is no ‘creamy layer’ policy in SC / ST reservations, candidates with sufficient economic opportunities can still avail of the benefits that come along with the system. This can potentially cause reservations to be cyclic. The same families continue to have access to reserved seats who have had access to it before, and therefore a small section of the Dalit population repeatedly avails benefits, and the others do not. However, it is also difficult to clearly draw the lines between these communities given the diversity and intersectionality amongst them despite their commonality in oppression. This is a part of the larger prevalent dilemma which many politicians and scholars struggle to solve: to find the right method of ensuring the reach of affirmative action to those who need it the most.

### **Conclusion: The Way Forward**

There are some steps that need to be taken by the government to increase efficiency of the reservation system. First, there is a need to tackle the social stigma attached to the Dalit identity as well. Legislative measures must be passed to penalise caste discrimination in college societies, offices and other socio-economic systems. The government must also initiate a sensitization program to reduce ignorance when it comes to caste. Since social stigma also serves as a barrier to economic progress, it is the responsibility of the state to remove that.

Second, there must be a method to disqualify Dalits from reservations once they have reached the creamy layer and it can be ensured that they have the access to resources and opportunities they were historically defined. The method of evaluation must be determined carefully given the complexity of social and economic structures. This would reduce the number of people competing for reserved seats. Moreover, since only the communities that are still depressed economically and socially are allowed to compete for reserved seats, reservations will be availed by those who need it the most. This also helps fulfilling the basic idea of reservation, which was to emancipate people in the long run till they reach the level where they do not need any affirmative action by the state.

Finally, laws that prohibit caste discrimination must be fairly enforced. Despite manual scavenging being illegal in India, over 100,000 families are still engaged in it. Despite the presence of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, there have been several instances of beatings and lynching of Dalits that have gone unpunished in the recent years. If the Indian state truly aims to bring about social and economic equality, it needs to address the current atmosphere of violence and mob mentality, and ensure that Dalit communities are not marginalised further. This requires effort not just from political institutions in India, but also from the citizenry. Public discourse about reservations and the caste system must be detached from propaganda; instead, it should be conducted along the lines of a progressive method of dialogue and critique, which forms the very essence of the law of the land.

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