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# Critical evaluation of “equity and equality principle” with the lens of reservation

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## Introduction

Reservation is the key idea to dwell into the concept of social justice. It is seen as the bedrock to undo the wrong injustices which were done in the past. Tracing its historical outlook alongside to imbibe this framework in the context of “ social, economic and political nature of India ”. Analysing this policy with “ equity approach in present circumstances ”. The main emphasis is upon how far we have achieved the goal of equality and are able to cement the concept of social justice on grounds which are enshrined in the preamble of Indian constitution?

Reservation is the way to shape the concept of social justice with a strong legislative approach. The criteria which are involved in making this principle primarily takes into consideration historical narrative. History gives a way to think but it gets updated with current realms . Reservation as a key to grant representation to every section of society is creating a “ bridge of equity and meritorious claim” in the name of affirmative action. It truly grants justice or has been layered in the format of “ Politically lensed Justice”. This paper dwells into understanding its evolutionary graph ,how far it has benefited those “ who need it ” and how it can be modified in the context of bringing “ equity principle” .

## Literature Review

(Abhinav Chandrachud, *These Seats Are Reserved: Caste, Quotas and the Constitution of India* (New Delhi: Penguin Viking, 2020)

(B. R. Ambedkar, *Annihilation of Caste* (New Delhi: Verso Books, 2014)

The sections of literature review have been taken from the above mentioned books. Every specific clause has been impressed through the above mentioned sources alongside a complete layout of citations at the end of this part.

Examining the history and evolution of some of the equality provisions of India's Constitution, this paper seeks to shed light on the emotionally charged, decades-old debate concerning caste-based reservations in India. Its objective is to introduce the law and history of quotas in the country. It traces how groups eligible for reservations were identified and defined: how the terms 'depressed classes' and backward classes' were used in British India and how they evolved into the constitutional concepts of 'Scheduled Castes', 'Scheduled Tribes', and Other Backward Classes'. It looks at how the Supreme Court invented tests to impose limits on quotas in the country—the rule that no more than 50 percent will be reserved for backward classes. A prominent discussion has been displayed on the grounds of understanding the historical essence of the term “ depressed class, backward classes, other background class , socially and educationally backward classes, most backward class, scheduled caste and scheduled tribe , meritorious reserved candidate and economically weaker section. There is an intersection that has been shown among constituent assembly, Supreme court and parliament regarding this policy. It will examine the very core foundation of reservation through its founding father “ Dr BR Ambedkar" and will trace its affirmation which sounds its necessity on grounds of removal of evils. It pertains to taking up the questions like does it formulate an exception to the right to equal opportunity and put up questions regarding how quotas in Government service especially in promotion undermines the efficiency. It grounds to two critical pitches : can merit really be defined on a neutral basis? Do marks in competitive exams really demonstrate student intelligence? It will cover up every little segment to understand the “ ethical alongside the critical implications of this policy ”.

A segment that has been mentioned in this book talks about how the depressed class term was coined. Class was a euphemism for caste. At initial time it was not based upon specific custom or tradition. It generally refers to the poor and downtrodden section of the society. In a more precise term , the nomenclature “depressed class ” is the western import. It was used by the Christian missionaries to describe the section of society which was deprived of basic human dignified form of living, the living condition was utterly poor and didn't have the grounds of “ security in terms of property” . It was used to establish the grounds of domination of the upper section of society, in the face of varna ashram as a means to describe the inhumane practice in India. This term was used for all the people who belonged to the class of poor and downtrodden. This term has been used by many western writers ,one such example is an American scholar in 1875 wrote “ there is degree of intellectual class among the vast section of deprived class ”.

Colloray - It even pertains to rethinking this in perspectives of the ancient Greek concept of mind : body dualism. Rationality claims to superior birth . Darwin theory of survival of the fittest. It has been sanctioned through religious laws which are no mere grounds for the concept of “ the degree of talent should be detrimental to degree of right ”.

In India after 1918 ,it was used for those sections of society,who came under the category of untouchables. It is the most inhumane practice that was on the greatest scale and was prevalent in Indian society. As it was codified through legal text such as “ Manusmriti ”. It is there in present circumstances as well but through time and firmness the essence of constitution has changed its intensity. It hasn't been removed but the rate of practice has reduced. By 1909, leaders like Gopal Krishna Gokhale and Annie Besant referred to low caste and marginalised communities in India as “ depressed classes”. Besant compared the depressed class in India to the submerged tenth in England that is unskilled labour, scavengers and people who are indulged in degrading work tasks . Gandhi ji used the term “ depressed class ” for the first time in 1917. He later coined the term Harijan which tries to give a religious significance to this nomenclature and an approach towards mixing them with Hindu society. There was the transition from using this term just to denote the downtrodden section of the society to making it an integral part of “ orthodox practises that was prevalent in Hindu society”, that was untouchability. They came to be recognised as untouchables when there was a political page opened for them through Indian acts. They got political representation in the legislative councils of India. This was the time when the leading national party drew its attention towards taking “ a holistic framework” in order to integrate the different segments of Hindu society.

One of the most significant speeches which relates to their representation in the political domain was given by an MP named Charles Roberts . In 1918 , he made a speech in the “ house of commons" in which he referred to the estimated 60 millions depressed class in India as ‘ untouchables and unapproachable’. This was perhaps for the very first , untouchability was considered to be the prerequisites for the membership of the depressed classes. Strength put forward the demand to have political representation as it will cover up their demands. The legislative expression was done in Montague Chelmsford constitutional reforms,in which the depressed class was given representation in legislative councils.

Formerly congress stood with the position of “ untouchability is the social problem not a political problem” . The position of the congress was changed which even holds critique from

BR Ambedkar. Congress passed the resolution in 1917, to abolish untouchability. It can be seen as a kind of infusion of Gandhian ideology in the assimilation process. It was the launching pad for the Pan India nationalist movement. Besant was the president of Congress at that time, BR Ambedkar took the words of president and showed the dichotomy of Congress. At one glance, they don't want Dalit students to receive formal education and equality should be forged in the society. As she mentioned the Dalit student as ill odorous. Depressed class leaders took the approach of Congress in face of political agenda and present nomenclature "vote bank politics". On many grounds, the term depressed class was presented in an ambiguous tone even after the declaration of political representation reform.

It was only in the 1931 census which was done under the leadership of Hutton, he described the expression of depressed class in a clear and precise way. They are those who suffered from the stigma of untouchability within the Hindu fold. The Census commissioner explained that they are those sections of Hindu society who are considered to be impure. The upper section of society maintains a distance with them as if they are in contact with each other, it will make them impure. It was sanctioned by the religious laws of Hindu community. The various instances of exploitation are mentioned. Exploitation comes under the broader theme of "social disability". They were denied access from public wells, from government schools and their place of residence was outside the village. They were not allowed to take up decent jobs. Their job profile was based upon birth rather than skills, it turns out to be the major roadblock for the progress of this community. Specific instances to justify the horrific exploitation - BR Ambedkar once attended the English school in Satara, in Maharashtra. He was made to sit outside so that he didn't mingle with other students. Because he belonged to the Mahar caste. The Kallar community in Tamil Nadu imposed some severe restrictions on men who belonged to the depressed class, they were not allowed to wear coats, shirts and clothes below the knees. As this will keep them in a place of upper caste. The most severe comes in the face of women, it was a kind of hostility which very clearly took the basic dignity of human beings. They were barred from covering the upper portion of the body, wearing silver and gold jewellery and were not allowed to use saffron and flower paste. Hutton made a crucial statement on ground of strength by taking the reference point of Assam, where the population was so immense that rate of exploitation was very less. He pointed out that the list of depressed classes could be prepared for an area not for "India as whole". According to him, it is not certainly the case that the caste which is depressed in one corner of the country will be depressed everywhere.

The excerpt has been taken from annihilation of caste written by BR Ambedkar. He pointed out the very fundamental point, that is to say untouchables have been given lowest position and its justifications come in a way that since the upper three varnas are providing all the essential commodities. There is no need for Shudras to work. It is sanctioned by the shastra. It is noteworthy to point out that a person belonging to the antyaja community provides all the essential guidelines and teaching. It won't be taken into consideration as that person belongs to the Shudras community. Here the “ learned man is seen from the lense of caste ”. It is not seen in the face of merit . The very first premise comes in the face of “ all are human beings and scientifically all are capable of doing multiple tasks . The vocation is not fixed. The more you put in hard work,the greater the result that a person will get. But in the rigid form of the caste system “ no emphasis is put upon Hard Work and merit , people who indulge in sanitation related work are viewed as the most inferior person. Their Hard Work is destiny and can't be translated into a respectful position in the face of “ contributing to societal welfare” .

Lots of examples are mentioned in this book which points towards the caste discrimination: There is one place called kavithas in Gujarat , one declaration was passed in the village that people belonging to lower caste are not allowed to join public school. At chandu ( a place in Gujarat) - herein shudra community used to take water in metal jars and it is seen as a way of humiliating Brahmans as metals such as gold and silver can only be worn by Brahmans. It is a symbolic form of “ bourgeois community" and to showcase the grounds of the rich section of society. Brahmans didn't allow them to do so on grounds of it being a way to show equalisation. Another example comes which shows the dichotomy of gender equity and social hierarchy. How social hierarchy exploits the women who belong to the lower caste . In Travancore ,women belonging to the community were not allowed to cover their breasts in front of men . Even BR Ambedkar pointed out to show the fact that if discrimination exists at societal level ,there is no scope to bring political reforms. During the Peshwa rule , Shudras community were not allowed to walk in the public street ,they had to carry earthen pots on their shoulders so that wherever they spit ,they could clean the road with water. It was a compulsion norm set by the dominating group to wear black thread in legs and arms so that Brahmans can avoid their sight . It is a way to indicate them. Strict “ religiously sanctioned vocation didn't allow them to move in upward direction as they occupy the lowest position in Varna state”. Here the merit was determined by caste rather than it has its own intrinsic value. It even violates the core of the philosophical expression of hard work. As there was no place for hard work, in an ironic tone it was done by those sections of society who received the most degraded form of treatment.

The touch of “untouchability is just a social problem and it's not the political issues” has found its place in the work of BR Ambedkar as well. But in a rational tone, it is well connected within the dots of “socio political framework”. It points towards ethics coming from society and it plays a role in shaping the political destiny of a nation.

The census pointed towards several attempts were made to eradicate this social evil but none of them ended with positive redressal. As it was deeply rooted in the social- psychological fabric of Indian folk. For example - Baroda state took the initiative of a unified school, to allow both depressed class and upper caste to study in the same class. But this attempt met with several protests from the upper caste. Most of the high class Hindus withdrew their admission. They destroyed the crops of depressed classes. During this time only, the depressed class began the “ temple entry movement” . The statement that was made by the prominent leader of congress “ Mahatma Gandhi” - not to initiate the activities of protests. Instead a delicate approach was taken by Mahatma Gandhi by stating that “ God resides in the soul ”. One such example is - “ Kala Ram temple movement is met with violent protest. ”

This commission made an important declaration “ Depressed classes were not synonymous with backwardness ” . There are many examples to substantiate this : Iruvans from Cochin and Telis and Mahishya of Bengal and Assam . They didn't come under the fold of the depressed class as they have organised themselves on the ground of economic well-being. It should be noted that apart from the rigid vocation of Varna system, there were no such boundaries on the ground of caste. Assimilation of one caste into another was prevalent. The dominant status of a caste depends upon its influential ground. If a caste is able to build up a strong influential economic community, they are given the same respect. It further put stress upon “ Untouchability was the very prominent criteria to fall under depressed class”.

Simon commission and Poona Pact: These two events played a very crucial role in strengthening the institutional framework to abolish untouchability. ( These seats are reserved by Abhinav chandrachud)

In 1927 , Simon commission was constituted under the chairmanship of Sir John Simon. The main purpose was to draft the institutional framework for India. It received violent protest from the Indian side as it doesn't constitute any Indian member. “ Go back Simon” is widely spelled

out in NCERT textbooks. But this commission laid out the foundation for BR Ambedkar to put forward their demand. He presented his draft regarding the reservation of seats for the backward class communities. Though it didn't create any legitimate ground for Ambedkar but turned out to be the opening chapters for placing “ members of untouchable groups in the same footing as upper caste by putting the clause of reservation in govt. jobs and the demand for a separate electorate. This commission received violent protests and was boycotted on a large scale. Round table conference was organised to have two ways of dialogue. Congress didn't attend the first round table conference.

It is important to note that BR Ambedkar is the only person who has attended all the three rounds table conferences. He considered institutional framework will only spark a change . BR Ambedkar put the demand of “ social and political reservation ”. In the second round table conference, the Congress party participated in it. Congress was the main face of the political landscape of India during that time . It was the very first event when Mahatma Gandhi met BR Ambedkar, it is interesting to point out the fact that “ Gandhi perception regarding Ambedkar before meeting was ,he comes from the upper section of the society, who is keenly devoted to eradicate this social evil. Ambedkar put forward the point of “ separate electorate”. Gandhi was completely against this phenomenon as it would further create “ a divided block within Hindu fold ”. Both the leaders weren't able to arrive at the middle ground therefore Mahatma Gandhi transferred this issue to Ramsay McDonald ( positioned in face of “ PM ” of Britain) . On 17 August 1932, a Communal award was announced and it contained the predicate of “ separate electorate for the depressed class people ”. This award was in allegiance with the demand of BR Ambedkar. Gandhiji vehemently protested against this award as it meant for congress “ to establish the grounds of divide and rule policy within the Hindu fold ”. He went on hunger strike from Yerawada central Prison. He took the pledge of fasting until it is not withdrawn. It put up a kind of moral pressure on Ambedkar due to his deteriorated health to join the path of “ middle ground approach ”. The conclusion comes in the face of “ 148 seats were reserved in the provincial legislative council ”. It is considered to be the Poona Pact, which was signed in 1932.

BR Ambedkar took a strict stance on the approach of Mahatma Gandhi,he mentioned his statement while giving an interview on the BBC platform. It is important to trace the inner edge of both the agreed parties. The most important statement that comes in the capacity of BR Ambedkar, “ I met him and faced him”. He argued that when he went to meet him in jail in the



capacity of opponents, he was able to see the inside of the man which was unknown to the rest of India. As most of the people come to meet him in the position of “ devotee ”. These statements highlight the viewpoints of Ambedkar regarding Mahatma Gandhi. There is sufficient reason to claim Poona Pact was a “ morally built up forceful agreement ”. Abhinav Chandrachud in his book “ these seats are reserved that is the secondary source of this research paper has pointed out that “ Gandhiji was ready to sacrifice his life if “ that clause ” is not removed but on ground of temple entry movement,his approach didn't give the impression of “ morally oriented radical footprints ”. But even though it is pivotal to look upon the approach of Mahatma Gandhi, he was primarily focusing upon the “ nation building consciousness ”. Logical inference to back up this argument is “ divide and rule ideology of Britishers ”.

The most important matter of discussion which has been grounded now is the point of “ reservation”, BR Ambedkar strongly put the arguments of “Adequate not proportional representation ”. If his statements are applied in the present context ,it gives a profound solution of “ removing the cap of 50 percent reservation to backward classes and even on the grounds of caste census ”. There was often a discussion on whether it will reduce the efficiency of the workforce if reservation is given in public jobs and educational institutions. It is very noteworthy to take a statement of a man “ Who brought the concept of reservation with a noble purpose rather than to use it for political maximisation”. Ambedkar said that there is no point in putting efficiency on ground as “ there are some sections in the societies who don't get equal access to education and facilities”. There it is valid for them to receive some extra benefits as it would create a ground of “ equal competition ”. It is temporary in nature ,if education is given to them in the same way and there will be no discrimination on grounds of receiving education. This structural setup of “ reservation is not needed in society ”. It has answered many questions.

Colloray - It is interesting to look upon this concept not just through the lense of political and economic empowerment. It is equally important to pitch the psychological phenomenon as it pertains to the mindset of an individual. In the rigid sense of “ conventional notion of morality, what is right derives its affirmation from the sanctions of ancestors. How far it has changed the attitude of a person, it took the position of “ socio- stats dots ” but will serve the purpose of tracing its true benefits on ground level.

Creating the grounds of merit debate and how historical conception of reservation has been diluted in modern nomenclature of “ Politically shaped reservation ”.

Reservation puts the terms and conditions on the ground of equal opportunity on the ground of public employment. The arguments were to reserve seats in educational institutions in favour of “ class” instead of caste. But as mentioned about as well during that time ,class was a euphemism for caste. Article 16 (4) says to introduce quotas for any backward class of citizens. It is essential to take up a historical approach mainly on the ground of “ Non Brahmin movement which began in Bombay and Madras”. Notable states are Kolhapur, Mysore , Madras and Bombay . A committee was formed in Bombay regarding to restructure the position of Backward class. BR Ambedkar was also a member of this committee . The committee put forward three important criterias to be considered as backward class.

Keywords are : Untouchables , Backward tribes and socially backward classes.

Kolhapur is one most important clause as it was ruled by the descendants of Shivaji ,who is the most important figure among the Marathas. Shivaji 5 adopted the son of his feudatories named Shahu and declared him the next ruler. He performed the Vedic rituals “ Vedokta”during his tenure. It wasn't liked by the Chitpavan Brahman as those rituals were only meant for Brahmans. Though the numerical strength of Brahmans were very small, they were the most literate section of the society . Since Sahu was Marathas,it created a clash between Brahmans and Sahu on the grounds of performing exclusive Vedic rituals. Sahu set up the hostels for the Jain , Maratha and other backward class communities to enhance their literary rate. He took lots of measures for the deprived sections of society and even contributed a lot to give prominent positions in administrative fields to all communities irrespective of caste. One such example is : He hired non Brahmin as senior advisor. Tilak in his magazine “ Maratha” criticised Sahu's decision by putting up the argument that kings should be above caste. Sahu in his response pointed out that “ he encouraged merit wherever it was found ” It was one of the earliest invocations of merit . Another most important incident of his tenure was : He passed one resolution in 1902 ,in which 50 percent of all the vacancies in his administration were filled with the recruits from the backward classes. By backward classes,he meant all the classes except Brahmans. A Brahmin owned journal Kolhapur weekly “ Samarth ” wrote: a whole community,we mean the Brahmans are put under ban. Tilak in its protest wrote that , referring to the foreigner settled in his land named “ Colonel Ferris ” , a selected Angel send by God to

the wretched Brahmin ridden state to assist the Maharaja in his holy work of regenerating the backward classes

Another theory that was propounded by Jyotirao Phule : Aryan theory. It mentioned the Brahmans as foreigners. He pointed out that the first two incarnations of Vishnu come from the sea borne - fish and tortoise. He gave sanction to his statement through this alongside the theory of Max Muller . He founded the “ Satyashodhak samaj ,known as Truth seeking society” to combine all the backward classes under one fold. Most of the people who criticised the Brahman orthodoxy saw Britishers in face of their ally. One such example is : one of the vow that was taken in truth seeking society was “ I shall always be loyal to the British Government”. It is important to note the point since Tilak and Gokhale were leading the nationalist movement. Britishers supported Sahu and such organisations to create the grounds for divide and rule . In south India , the Janta party pushed the “ Non Brahman Movement”. In the backdrop of “ Brahmans comprised 3.2 percent of the population but held 83. 3 percent of the government jobs.

In 1931, census officials in Bombay decided to categorise Hindus on the basis of their education and economic condition. But it wasn't formulated in this manner as the main criteria was put forward as untouchability for depressed class. Depressed caste was put under the Schedule 1 . It marked the origin of the nomenclature of schedule caste in this context.

#### Ambedkar formula of Reservation

The most important questions that were in the mind of members of constituent assembly: Whether reservation should be provided at the backdrop of historical causes ? How will it determine merit and whether it should prevail in the appointment of cabinet and judiciary? The most important question was “ Is this a permanent feature?”

Ambedkar pointed out that reservations were an exception to the principle of equality of opportunity and should be restricted to minority seats . Gandhi was completely against the stance of reservation in cabinet as he pointed out that cabinet is the “ commanding universal confidence”. It should be based upon intrinsic merit and plurality. Sardar patel took on reservation as it should be placed in the manner of “ general directive ”. It was in time with the statement of Ambedkar that only a minority of seats in public employment could be reserved

for backward classes. In the initial draft of the constitution, there was no provision regarding reservation on the grounds of public jobs. Ambedkar put emphasis upon that the Constitution itself should declare regarding this provision, it should not be left out for the sweet will of the legislature. There was still an impression of ambiguity on the grounds of “backward class” among constituent assembly. T.T Krishnamachari put up allegations against Ambedkar, calling the terms that are mentioned in the constitution “paradise for the lawyers”. Allowing them to groom their business of interpretation. BR Ambedkar gave the formulaic expression in fact that it should be given to those communities who have been left out since ages alongside with the principle of “minority of seats”. As if it is exceeded then, it will violate the fundamental rights in face of equality of opportunity. Even it is essential to note down the fact that scheduled castes are very large in number in specific states. How this reservation will ground equal representation of “distinct schedule caste”. This was brought into light by Mahavir Tyagi and Rajagopalachari. (Prominent member of constituent assembly)

#### Specific Sunset clause

It was decided by the constituent assembly that legislative reservation which has been given to SC and ST in the lower house will last for 10 years. But there was no such specification regarding the government Jobs. There were intersections of favourable and unfavourable dots on the grounds of “Politically reserved clause”. For example - T Channiah said that he wanted reservation to last for long. The prominent figure “Jaipal Singh Munda was also put against the argument, he gave the analogy that 10 years is equal to two successive governments. It won't be able to bring substantiate change. The prominent statement which shares its touch with current scenario was given by Santanu Kumar (representation from Orissa), who made the argument that if we get equal rights within the two years, then everyone will be on an equal plane. Then it fundamentally creates the ground of “violation of equity principle”.

Current scenario touch covering the aspects of editorials published in “The Hindu”. (By Ashok Thakur, former education secretary of government of India along with S.S Mantha, former chairman of All India Council for technical education)

The recent episode of Puja Khedekar brought to light the concept of reservation. It is essential to note down the fact that “income certificates for OBC and EWS can easily be fetched through tehsildar. There is a huge scope of corruption on such grounds. Especially for those groups of people who are not tagged with the formal service. It has been pointed out that on the grounds

of “ income”, there is no such clear provision regarding whether the candidate income will be taken into consideration or candidate father income. An interesting dot has been pitched “ if a person gets into Indian revenue service under the OBC / EWS category and later person reapplies in UPSC in order to get IAS category. Should that person be allowed to seek the remedy of the backward class as income has crossed the threshold in the interim period. Considering the fact that income is a dynamic principle ,is it correct to see it with staticness. As today’s scenario clearly points regarding the “ once an economic criteria has been measured, it will remain forever”. The recent “ matter of discussion on floor regarding subclassifications of SC and ST in order to grant the benefits to the needy , will take lots of political grounds. It is essential to note down that “ situations are changing,income criteria come under dynamism. There should be a new approach regarding reservation.

If we take up one general example to display the fact of “ who holds the accountability of giving reservation”. If a candidate “OBC”, his / her father is rich and owns his own company but doesn't pay personal tax ,it is impossible for tehsildar to know the “ authentic grounds”. With the advent of AI , anything can be gamed, even the Adhar card. It is essential for the government to set up a commission to formulate the basis of income criteria and it should be followed throughout the country . A person sits in the competition, puts in lots of labour but a past generational brutality that was done by ancestors is being passed on to the next generation. A person might think that most of the seats are reserved. Statistical components

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27 percent for OBC , 15 percent for SC and 7.5 percent for ST and 10 for EWS. Around 40 percent are reserved for the general category. There is even a clause on the grounds of “ Meritorious reserved candidate ”. If a candidate from the reserved community gets the score of the general category,they will be selected through the “ general one ”. It again snatched the seats from the general category. From the critical pitch if a child from the general category gets the same facilities visa v the child from a reserved community,how it grounds the “ even exception clause of equality of opportunity”. It gives a clear indication of reverse discrimination as it puts a hit on the general population. A hit on the workforce for the country and a hit on the personal choice of the general population.

Historical landmark cases which further changed the shape of Indian constitution

In every line and chapter, the ambiguity of the term “backwardness” will surely occupy its place. A new explanation with new flavours. RM Nalavade (pitched on the layout of constituent assembly discussion). He was in favour of deleting this term as it would give a wide range of speculation to reservation. The real one will be deprived of the benefits. It is taking a political concept note as it is the state government to put them under the category of backward class. For example: Bantar was SC in Bihar but wasn't in Bombay. Dharm Prakash pointed out that there is a degree of backwardness in every community. But the standard clause among all the members remains in the face of “considering the social backwardness and educational backwardness”. KM Munshi while proposing definition of backwardness grounds all the criteria (social, economic and cultural). But there is no such mention regarding the economic clause in the constitution.

Kaka Kalekhar committee was formed to ground the clause of backward class as article 16(4) says to reserve seats for the backward classes in government jobs. Even article 340 grounds that President can form committee for the welfare of socially and culturally backward community of India. Kaka Kalekhar put emphasis upon social backwardness. But it has acknowledged the fact that there are poor Brahmins who don't have adequate resources. The whole debate circles around whether it should be based upon caste or economic status.

Debate concerning merit

Loknath Mishra stated that reservation has put a premium on backwardness and inefficiency. If there is promotion granted to schedule caste communities and tribe. Then it will turn out to be very less competitive. As the mindset will prevail as “they have to compete within their community”. Damodar Swarup stated that, it is the very negation of efficiency and good governance. HJ Khandekar pointed out that “the upper caste is responsible for their unfit, for thousands of years our minds, our bodies and hearts didn't dare to work. There is lack of resources alongside biases in face of availing jobs. Chinnapa Reddy launched the very attack on the idea of merit. He pointed out that a child who has been brought up in a backward society, doesn't have books and magazines to read at home. “Trudge to the nearest public reading room to read a newspaper to know what is happening around the world. In the philosophical note, there is innate rationality in every human being but it triggers through

experience. Here it comes through “ taking formal education”. It is noteworthy to point out that he even mentioned that poor Brahmins should also be given reservation.

The background first amendment that was made to the constitution.

It shares its backdrop in the face of the fact that there was no such provision mentioned in the constitution regarding reservation of seats in public institutions. State of Madras V/S Champakam Dorairajan case . In this Supreme court declared that reservation based upon caste is unconstitutional. The First amendment was initiated by Jawaharlal Nehru before the first election. On a strict note it was done by the provisional Parliament. It brought the clause of article 15 (2), which says that seats will be reserved for the socially and educationally backward community in the public institutions.

“ Tripartite stakeholders”

Mandal commission recommended that 27 percent seats will be reserved for the socially and economically backward communities. The grounds upon which “ OBC ” comes are : castes whose children between the age of 5- 15 never attended the school at the rate 25% more than the state average. Dropped out ratio is positioned on same ground. On economic grounds,it has been mentioned that assets value was 25%below the state average, and accommodation in kachcha houses . Consumption loans along with sources of drinking water are very far away. These were the conditions that were laid down to put any caste under OBC. Indira Sawhney filed the case on three grounds,its extension has violated the principle of equality, caste should not be the primary criteria alongside public institutions efficiency is at stake .

Landmark judgement came in face of ceiling the reservation within 50% but under extraordinary situations the changes can be made. It came in 2019, by bringing the reservation for economically weaker section of society. It has totalled the reservation criteria as 60%.

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The main arguments circle around what is the extent of reservation, whether it should be taken just in face of historical approach. A critical argument comes if the present generation lives in harmony with all sections of society. There is no ground of discrimination in the face of receiving education. Indeed the extent of discrimination has been reduced to a large extent but yet not in complete concept. Sardar Patel pointed out the statement, “ economic equality is the main expression of living a dignified life ”. He stated that there is no ground for “ harbouring inferiority complexes” . The nature of reservation contradicts the ground of “ equal opportunity of public employment ”. It is essential to keep in mind it's nature of time “ temporary or permanent”. Nature of income is dynamic in principle. If two families irrespective of their caste earns the same income, “ upcoming generation is utilising the same resources, it is unfair to grant extra remedies whose criteria is solely based on caste . Equity is being grounded on the same nature . The above situation contradicts this given principle.

This research paper has shaped my understanding through historical approach. There is discrimination still prevalent in the country. But the creamy layer concept should not be limited to just other backward class communities. It should come under the regime of SC and ST as well. Justice Krishna Iyer pointed out that affluent people will get all the share and they will consume all the cakes . “ Weakest among the weak will be left with nothing”. It is essential to redraw the nature of reservation, to pitch it in face of “ economic criteria ”.

Recommendations

A commission should be formed to take into consideration the economic landscape of every caste . The very first premise of creating the ground of discrimination comes through recognition of jobs through your category. Reservation policy should be based upon “ adequate representation alongside a minority of seats”. These statements come directly from BR Ambedkar, who has read caste regime better than the sitting politicians. Why still India hasn't



achieved 100 % literacy? Has reservation whose sole purpose is to eradicate social and educational backwardness achieved that ? It's an open ended question. The ones who actually need such a policy are not even aware of “ importance of vote ”. It is essential to chain adequate resources to bring “ the utmost backward section of society, which politicians see on a daily basis doing rag picking “ source of survival”. Youths are forced to involve in the practice of drug trafficking or to join a specific racket because they are actually not aware of “ blessings of their forefathers”.

New approach of reservation should be formulated on the ground of keeping the current records in mind . Civic authority in the face of the panchayat secretary should be in collaboration with Tehsildar in order to “ reduce the image of false income”. Government needs to introduce a robust policy regarding linking the income of every citizen with official data. Merit triggers through appropriate resources. If one is getting those resources and then applying for a government job. There is no scope of reservation ,building these arguments on the basics of historical framework. The premise upon which this concept has been framed is “ lack of appropriate facilities ”. If the upcoming generation is getting that , it grounds the first principle ”. The same grounds of claim can't be followed from this “ new proposition ”. As it has got a completely new nature.

It is essential to remove the clause of “ MRC ”. It shares no logical inference with the concept of equality instead creating a bizard of unemployment. Instead of public disclosure of showing in face of “ general, SC, ST and OBC. ”. The entire nomenclature should be framed keeping in mind Article 46 of DPSP , it puts an obligation on states to work for the weaker section of society. DPSP gives a living entity to the constitution of India , a direction towards progression. “ Weaker section” grounds a fine expression of lack of resources. Instead of categorisation “ there should be replacement with the words “ lower income group”. Which covers up OBC and EWS. SC and ST should be combined on the grounds of “ MIG ”. ( Marginalised Income Group) . It is important to note that the sole criteria of giving reservation of ST is backwardness. Creamy layer concept should prevail under this as well.

It is essential to adopt the model of “ reverse policy on ground of reservation”. The one who needs should be given irrespective of caste and sufficient measures should be taken to eradicate the political and corruptive practices within the margin of reservation.

It is even essential to initiate the roadmap of psychological change. “ Behavioural landscape policy”. It pertains to changing the mindset of people, it has been pointed out by Raj Kumari Amrit Kaur in assembly that since “ Abolition of untouchability is mentioned in the constitution there is no ground to give special treatment to socially backward classes of India”. It brings them within the Hindu fold . But still in a village, the surname of those sections of society is used in a derogatory term. It has become a lingua franca of “ abuse”.

Ambedkar wasn't in favour of independent local bodies as he considers that “ village” is the root cause of all inequalities. This is the reason to put “ this truest sense of decentralisation” in article 40 . Initiatives should be taken to bring a change in the mindset of people, stakeholders should be children of government schools, parents and Aasha workers. Continuous training in the field of vocational courses to the women, social equality chapter should be initiated in primary classes “ wherein the concept note should be based upon focusing upon the nature of human beings ”. Innate rationality alongside ethical grounds of human nature. It is essential to draft the portion of Rousseau and Descartes in the NCERT curriculum. It creates a sense of common belongingness within the framework of humanity among the “ delicate seeds ”, which will shape their personality in the face of “ rational human beings ”.

It is essential to redraw the nature of Indian policy. Since very long it pertains to sound in quantitative aspects . It is essential to fix it within a qualitative regime . Reservation is a tool but it has to go through the system of “ multiple “check and balance” . Its direction should be to address the issues rather than harbouring the political benefits to the elite section of society. “ Equality is beyond caste ,class and race ”. It is attributed to the biocentric approach. Robust framework should pitch upon giving equity rather than just keeping a blanket phenomenon such as reservation.

## Bibliography

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