

## Reservations; Compulsions & Contradictions

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### Four Traditions

The Constitution of India is a magnificent document. It reflects the several traditions from which the independence movement benefited. There is the *Western Liberal* tradition of democracy - universal adult franchise, competing political parties vying for majority after free and frequent elections, and human rights - which puts the individual citizen at the centre of the stage. There is also the *Social Democratic* tradition – Fabian Socialism, Marxism and its many variants. While the Social Democratic emphasis is on class rather than an individual, the aim is ultimately to liberate all individuals of all classes from inequality and oppression. There are two more native traditions which also informed the founding fathers. One was, of course, the *Gandhian* philosophy of consensual change in Hindu society and the emphasis is on the poorest. Gandhi wished to avoid class conflict as well as caste conflict. He was specifically concerned to include the dalits (harijans as he called them) within the Hindu fold. There is another century old tradition of fighting for the lower orders of Hindu society – Jotirao Phule to Babasaheb

Ambedkar and the anti-Brahmin movement in Madras Presidency call it the *Subaltern Movement*.

These four traditions involve different views as to the centrality of the individual or the collective -class, caste, and as to the agency responsible for overcoming the disadvantages- the State, the Society or the individual. There are also contrasting views on the nature of the right to private property. In the Liberal tradition it is central to the democracy but it is subject to abridgement in the Social Democratic tradition. Gandhi regarded individual private property as the individual holding in trust for the collective but he was against any abridgement of the private property.

These conflicts were not settled in the Constitution but were accommodated within the framework of Law and thus are subject to legal disputes and settlement. The Fundamental Rights are from the Liberal tradition while the Directive Principles are from the other traditions. The former treats all citizens as equal before the Law and the latter enjoins the State to redress the social inequalities of the Indian society.

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All societies are unequal societies, but in the West, economic inequalities dominate over status inequalities. Individuals of whatever class are presumed to be socially equal as members of the society. The divisions along religious lines which long caused strife were overcome by the middle of the 19<sup>th</sup> century. The USA still has a struggle for status equality for Black Americans but the most recent election of Barack Obama is a sign that there are significant gains in that struggle. Persecution of Jews continued in some regions of Europe with tragic consequences till mid 20<sup>th</sup> century.

### **Triple Approach**

India has yet to achieve status equality as well as reduce the massive income inequality. Thus the decision to adopt universal adult franchise was a revolutionary one. It presumes an equality of some sort among all the citizens. But neither the Constituent Assembly nor the Congress Party which dominated it were in any mood for drastic reform of Indian society. Thus in the social sphere, the new Government adopted a conservative stance and left the Hindu and the Muslim societies substantially unreformed. Nehru and Ambedkar tried to pass a Hindu Code Bill but had to retreat leading to Ambedkar's resignation as Law Minister. Apart from the Article 17 abolishing untouchability

and creating the Scheduled Caste/Scheduled Tribe categories little else was done to tackle status inequality. The third leg of the Indian policy besides the revolutionary commitment to adult franchise and the conservative approach to social reform, there was a dirigiste approach to economic reform. Planning and the emphasis on basic industries development were meant to guarantee economic prosperity.

This triple approach had its problems and what we are now witnessing is the consequence of its contradictions.<sup>1</sup> Slow economic growth plus its capital intensive nature meant little 'trickle down' benefits for the poorest of India for the first forty years after independence. The revolt of the dissatisfied had already surfaced during the early 1970s which in turn led to the Emergency of 1975-77. The Janata Government which briefly came into office appointed the Mandal Commission to inquire into the problem of persistent inequalities and what the Government could do about them. It took another ten years and the demise of Congress dominance in 1989 to reopen the issue of Mandal. Affirmative action in the form of reservations has been a central theme of Indian politics since.

### **The Logic of Reservations**

The resort to the Mandal strategy of reservations for the OBCs thus arises from the triple complexity of weak and

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I have discussed this in greater detail in my Narayanan Lecture at Australina National University. See Desai (2005).

elitist economic growth experience, reluctance to tackle social backwardness through public policy and the explosive possibilities of adult franchise which allows the numerically larger but socially deprived groups to demand redress. Also since until 1989 all growth had been spearheaded by public sector investment and since public sector employment conferred privileges of security of tenure and inflation indexed steadily rising pay it is no wonder that those left behind should see public sector employment for which higher education qualifications were necessary as the royal road to uplift.

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At the heart of the Mandal approach is the strong correlation between *jati* status and economic and social deprivation. The analogy is of the SC/ST reservations adopted since independence and indeed in some parts of India - Madras Presidency, for instance, since 1919. But in making the strong correlation a fundamental basis for designing the main plank of affirmative action, i.e. reservations in public sector employment and in higher education institution places for the OBCs, the Mandal approach runs into a number of contradictions.

Let me list them:

(1) By taking *jati* as the principal indicator of deprivation, it excludes

non-Hindu sections of the Indian population. Muslims are an obvious omission and until the recent report of the Sachar Committee, the social and economic deprivation among Muslims was not investigated much less addressed. The frequent problem of Christian dalits or neo-Buddhist dalits indicates the omission which is consequent upon making *jati*- a quintessential Hindu category the basis of affirmative action. Around a fifth of the population is thus excluded. This violates the principle of equality of all citizens before the Law which is essential to the Liberal and the Social Democratic traditions to say nothing of the secular pretensions of the polity.

(2) While the correlation is strong between *jati* status and social/economic deprivation, it is not perfect. Thus if we were to classify people by, say, some measure of income and wealth there would be poor among the population of all *jatis* and not just the SC/ST or the OBCs. Thus there can be poor Brahmins and rich dalits. The average income/wealth of a *jati* may be higher than that of another, yet individual members of even households of a 'rich' *jati* may be poorer than an individual member of a backward *jati*.

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- (3) Even if the correlation was perfect, it does not state the causation. Thus the fact that members of a *jati* are deprived does not tell us why that is the case. *Jati* may serve as a portmanteau indicator of a whole group of discriminatory practices—admission to colleges, access to public sector jobs, availability of credit etc. But unless we assume that no individual can move to a higher income or social status ever as a consequence of their *jati*, and also that social and economic mobility can only occur jointly as a collectivity -*jati*- and not individually, we have to question the efficacy of such a strategy.
- (4) The emphasis on government jobs and places at higher education institutes also is misplaced. Experience of many multi-racial societies has shown that social and economic deprivation has its roots from the earliest age. Thus European societies (especially the UK as I know from personal experience) have tackled the problem of social and economic deprivation among their recently arrived population by focusing on their children's education at the pre-school and then at primary and secondary levels. The statistics on drop-out rates among the dalits, Muslims and many OBCs are shocking. Thus reservation for higher education places discriminates among the worst off within a *jati* labelled as deprived. It also neglects a fundamental cause for persistent poverty and deprivation.

Thus what is called the 'creamy layer' problem is not extrinsic but embedded in the Mandal strategy. By the same token, the strategy cannot work to relieve the worst off unless investment is also made in improving the staying on rate and the results of the children of the deprived groups from early childhood.

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#### What Could Be Done?

It is impossible to turn back the clock. The Mandal effect has been to galvanise OBC groups to organise effectively as vote banks. It has also led to demands for downgrading of *jati* status from Forward to Backward Caste, as in the Gujjar movement recently in Rajasthan and resentment of those deprived of their privileges if they convert to other religions from Hinduism as in Orissa most recently. The *jati* status is not just an indicator of social and economic deprivation but it is now a passport to certain rights and privileges. Thus there is no incentive now to either abolish the caste system or even reconsider whether after some years of affirmative action India should rethink the nature of deprivation. The Mandal process has now been endogenised into the Indian electoral process which guarantees its stubborn persistence.

The economic growth process has in the meanwhile speeded up, thanks to

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liberalisation, causally unconnected to the Mandal issue. This has generated more jobs in the formal and the informal sectors and brought about a marked fall in the head count of poverty from around 40 to 20 per cent in broad terms. There is still a gross neglect of primary and secondary education both because of a lack of investment and the failure of the public sector as a delivery system of good education. The idea that the State should fund but not actually provide education should be explored as a way of speeding up the closure of the achievement gap between children of different social groups.

At the very least, reservations should be extended to non-Hindu groups. The

only way to do it would be to adopt objective criteria of income or educational levels of adult members of households. This may not be easy politically but if it can be done then the objective criteria can be extended back to Hindu *jatis*.

### **Conclusion**

Affirmative action is in itself a sound idea. Its manner of implementation in India has been driven by failures of the first forty years of economic and social policies. It cannot now be undone but it is not defensible except as a flawed second best policy. Urgent research is needed to find pathways out of this problem if India is to eventually become a nation of citizens who are socially equal.

### **References**

- Desai, Meghnad (2005), *Democracy and Development, India 1947-2002*, reprinted in *Development and Nationhood*, Oxford, Delhi : 94-104.