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Other Backward Classes and the politics of reservations in India

Past and present

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Abstract: The paper examines the existing state of reservations, more specifically, reservation policies and reservations for government jobs for the Other Backward Classes (OBCs) in India. It discusses the progression and ramifications of these policies and how they have affected the democratization of politics. However, reservations for the OBCs were controversial, unlike the reservations for the Scheduled Castes and Scheduled Tribes, which were an accepted feature of government policy since Independence. Most of the disputes relate to the classification of beneficiaries in terms of social and economic discrimination with regard to caste and class and the exclusion of the creamy layer, or the well-off, among them. Controversies apart, OBC reservations have changed the social composition of educational institutions, bureaucracy, and legislatures and local government; as a consequence, these institutions are no longer the monopoly of the upper castes. These changes have occurred in the past few decades and are largely attributable to the unprecedented regime of reservations India adopted at the time of Independence, which was expanded further in subsequent decades. This analysis is situated at the intersection of public policy and political processes since reservations in India are linked to the project of inclusion of underrepresented groups in public institutions, which may otherwise be excluded by default. The strongest rationale for inclusion of particular social groups lies in the manner in which public institutions work—which is to say they often do not provide adequate policy concern for groups that are marginalized and deprived. It is this exclusion that provides the strongest justification for India’s reservation regime.

Key words: reservations, reservation policy, government jobs, creamy layer, caste, class, caste inclusion

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1 Introduction

For more than 70 years, India has designed and implemented wide-ranging reservation policies which are constitutionally mandated. India was one of the first countries to experiment with mandatory quotas on a large scale.¹ The Indian programme has provided reservation and representation to historically excluded and stigmatized groups such as the Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) in public institutions (see, e.g. Weisskopf 2004). The public generally supports these reservation measures, which have indubitably deepened Indian democracy.² The OBCs had a negligible presence of about 2 per cent in government employment in 1990; 27 per cent reservations for them were accepted in 1994 in public employment and in 2006 in higher education. Even this small representation in employment was restricted to the lower rungs of government jobs. Upper castes constituted 37.6 per cent of the civil services (Hasan 2008). Thanks to these policies, the social composition within educational institutions, bureaucracy, and legislative assemblies and local government has changed significantly; these areas are no longer the monopoly of the upper castes.³ The changing face of the political and bureaucratic elite is in a large measure attributable to this elaborate regime of reservations. These dramatic changes bear testimony to a democratic transformation underway through reservation.

In 1950, the central government favoured reservations for only two groups, the SCs and the STs, but it was later extended to the OBCs in public employment and in higher education. These decisions opened the political and bureaucratic systems to the OBCs and increased their educational access. The OBC reservations were instituted when the consensus on the mixed economy model had broken down and had been replaced by a market-driven model of economic growth. However, reservations for the OBCs were controversial owing to the problems of classification of backward classes and caste and class disparities within large groupings. But the OBCs could not be ignored due to their demographic weight and their presence across the country. OBCs span the entire class spectrum from the richest to the poorest.

Both decisions were a major source of conflict between caste groups, between courts and legislatures, and between political parties. Many of the disputes relate to the definition of backwardness and discrimination experienced by the OBCs and also because the list of targeted groups was large and varied and the percentage of jobs and seats reserved for them is high (Hasan 2008). The core issue is this: should disadvantage be defined in terms of discrimination and exclusion in the caste system or in terms of social and economic criteria regardless of caste or alternatively in addition to caste? The preference has been for the former, which ruled out class, community, and gender differences as decisive factors in the characterization of backwardness. But these policies were rarely located in the context of the social structure as it has evolved to its present stage.

¹ Supporting the policy of quotas for the OBCs, P. Chidambaram, Finance Minister, UPA, remarked in *The Hindu* (11 June 2006) that ‘Amongst all the instruments available to us for AA the one that has proved to be the most effective is reservation. Experience tells us that ... reservation has helped many, many members of the OBCs to rise in the southern states. I am totally convinced about that.’

² The most recent survey to show this is the CNN-IBN Poll in *The Indian Express* (11 June 2006).

³ According to the Sixth Annual Report of the National Commission for Scheduled Castes and Scheduled Tribes, the representation of SCs on 1 January 2000 was 11.29 per cent in Group A services of the Central Government and 12.69 per cent in Group B, as against the stipulated 15 per cent (*The Hindu* 2001).

There was no agreement on whether reservations should be extended to the OBCs, but there was near unanimity that it was necessary to provide reservations for the SCs and STs because they had been subjected to an appalling degree of humiliation and exclusion that needed to be reversed and remedied. The case for positive discrimination for them was indisputable. By contrast, there was no such agreement regarding reservations for the OBCs, resulting in the fall of a central government a few months after the reservation decision was announced in 1990

This paper examines the policies of reservations with a specific focus on reservation for the OBCs.⁴ It does not provide a history and assessment of outcomes of OBC reservations. It discusses the progression and ramifications of these policies and how they have affected the democratization of politics brought about. It also looks at the consequences for other groups that find themselves outside the purview of the reservations. This analysis is situated at the intersection of public policy and political processes since reservations in India are linked to the project of inclusion of underrepresented groups in decision-making institutions. Public institutions often do not provide adequate policy concern for marginalized and deprived groups, which requires their representation. This provides the strongest justification for what Anne Phillips (1998) has described as a ‘politics of presence’.

The paper is divided into four parts: the politics of reservations and the centrality of caste in OBC reservations; the caste–class issue; the disregard of other inequalities; and the issue of the caste census and related issues that have come to centre-stage and their implications for the future of reservation policies in India. This analysis can help to draw broader conclusions about the system of OBC reservations, which are different and are not exclusively caste-based, and which take into account a range of social and economic factors.

2 Reservations policies

India is an extremely unequal society. These inequalities are rooted in the caste system, property, income, wealth, and employment relations. The upper castes are the most advantaged and the SCs and STs among the poorest and most disadvantaged. Despite the conjunction and at times unification of caste and class, government policy singled out caste as the axis of maximum disadvantage, and reservation policies were designed to minimize this.

The Constitution provided clear policies of reservations for the SCs but it did not do the same for the backward castes. The OBCs have had reservations since the colonial period but these reservations were designed to provide for power-sharing, whereas reservations for the SCs and STs aimed to increase equality of opportunity. The former aimed to change the balance of power while the latter sought to achieve greater equality.

The point to note is that reservation programmes permit departure from formal equality (Galanter 1984: 379–80). The constitutional understanding of equality was designed to discourage a formal understanding of equality that is commonly used to oppose reservations. The Directive Principles of State Policy were specified in a way that makes room for reservation programmes. Article 15 explicitly states that ‘Nothing in this article ... shall prevent the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the SCs and the STs.’ The framers of the Constitution understood that the goal of equality requires

⁴ There is a vast literature on this. See, for example, Mendelsohn and Vicziany (2000), Dirks (2001), Jaffrelot (2003: chs 5 and 6), and Somanaboina and Ramagoud (2022).

an end to systematic discrimination based on caste. Hence, they underlined the need to move from formal equality to substantive equality, which is directed at eliminating institutional and systemic discrimination against disadvantaged groups.

2.1 The Other Backward Classes

The OBCs constitute a heterogeneous category of Hindu low castes and some non-Hindu groups, more varied and diverse than the SCs and STs. They are defined as a residual category neither included in the SCs or STs, nor within the upper castes. Unlike the SCs and STs, they are not enumerated in the decennial censuses. The National Commission for Backward Classes (NCBC) only lists jatis without any demographic data about these jatis.⁵ They are estimated to comprise 25–52 per cent of the population. According to the 66th round of the National Sample Survey (NSS) 2009–10, the OBCs constitute 43 per cent of the rural population and 39 per cent of the urban population (Deshpande 2013). The SCs and STs comprise about 16.6 and 8.6 per cent, respectively, of India's population according to the 2011 census.

Marc Galanter (1978) identified two main types of usage of backward classes that emerged after the listing of SCs in 1935: (1) an inclusive usage to designate all those who need special treatment, including the SCs and STs; and (2) the stratum above the SCs—that is, the OBCs of present-day reservation policy. The usage of 'classes' instead of 'caste' in the constitutional reference to the OBCs in Articles 15(4), 16(4), and 340(1) led to many legal wrangles and disputes.

Historically, most of the OBCs belonged to peasant and agrarian communities. Their traditional occupations do not put them in the same situation as the SCs. They are not untouchable but were considered backward because they lacked education and access to public institutions. The bulk of the OBCs were discriminated against in choice of occupation, social mobility, and government jobs. The OBC reservations were supposed to open up institutions of state power to groups that had been excluded.

2.2 The centrality of caste

India's reservation policy is primarily caste-based.⁶ Caste divisions among Hindus have remained central to the programme of reservation and to the definition of backward castes. Reservations were provided by the central and state governments to the SCs and STs in education, public employment, and legislatures since 1950.⁷ Reservations were not extended to the OBCs at the central level, but they enjoyed reservation in many states for a long time. In the four states of south India (now five with the bifurcation of Andhra Pradesh into two states) there has been some form of reservations since the pre-Independence period. Reservations existed in Gujarat, Maharashtra,

⁵ The word *jati* is traditionally used to mean castes and sub-castes.

⁶ Several court verdicts have upheld lists of Hindu castes declared backward. In *Venkataramana v. State of Madras*, the Supreme Court upheld the list of Hindu castes declared as backward by the Madras government. This was confirmed in *Ramakrishna Singh v. State of Mysore* in which the Mysore High Court held that class included persons grouped on the basis of their castes. A series of Supreme Court cases have further refined the provision. This was reaffirmed in *U.S.V. Balaram v. State of Andhra Pradesh* when the Supreme Court scrapped the Andhra Pradesh High Court ruling and allowed the use of caste as a determinant to define backwardness. In *Balaji v. State of Mysore*, the Supreme Court put a ceiling on the total quota for affirmative action at 50 per cent. It was critical of using the caste criterion, and one of the reasons cited was its inapplicability to non-Hindu groups.

⁷ The reservation programme provides 22.5 per cent quotas for SCs and STs in educational institutions, government jobs, and elected bodies. In addition, since 1994, 27 per cent of government jobs have been reserved for OBCs, which in 2006 was extended to educational institutions. There are no reserved seats for OBCs in legislatures.

Bihar, Uttar Pradesh, Punjab, and Himachal Pradesh, but there were none in West Bengal, Orissa, Assam, and most of the north-eastern states.

The appointment of the Mandal Commission in 1978 was a turning point in the public discourse on reservations. Following up on an election promise, Prime Minister Morarji Desai appointed the Second Backward Classes Commission under the chairmanship of B.P. Mandal, former chief minister of Bihar, with four members to 'determine the criteria for defining the socially and educationally backward classes and to recommend steps to be taken for the advancement of backward classes so identified' (Government of India 1980).

The Mandal Commission's approach to backwardness derived from the State Commissions, which had defined backwardness in caste terms rather than socio-economic terms (Hasan 2008). It also drew on a Supreme Court judgment which states that 'class means a homogeneous section of people grouped together because of likenesses or common traits, and who are identifiable by some common attributes such as status, rank, occupation, residence, race, religion and the like' (*Triloki Nath v. The State of Jammu and Kashmir* (1969), cited in Jenkins 2003: 145). The Mandal Commission recommended reservation of 27 per cent for the OBCs in addition to the 22.5 per cent of posts reserved for the SCs and STs in all services and public sector undertakings.

Twenty-seven per cent reservations for the OBCs in public employment was implemented in 1994 (and in publicly funded higher education in 2006, as noted above). Although the number of jobs involved was only 15,000 per year, it sparked widespread protests reflecting sharp conflicts over the distribution of government jobs and educational resources. There was a violent upper caste backlash, especially in Delhi, Orissa, Bihar, and Uttar Pradesh, including instances of self-immolation by upper caste students (Suri 1995). The upper castes took to the streets to prevent a policy change that would restrict their public sector job opportunities, which were extremely important before the 1991 economic liberalization. But the government went ahead with reservations. The Mandal-I decision of 1990 was not based on legislation as in the case of Mandal-II in 2006, but applied through an executive order following a decision in the Cabinet. The motivation for the project was quintessentially political, although Prime Minister V.P. Singh described his decision to implement the Mandal Commission as 'a momentous decision of social justice'.⁸

For proponents, reservations were necessary to rectify inequalities in status and power, and not inequalities in the distribution of wealth and income.⁹ For them, quotas were a means to facilitate the inclusion of the OBCs in government, where they had been underrepresented, and also to help reduce the dominance of upper castes in public employment and to enable the OBCs to have a say in the affairs of the country.

V.P. Singh did not extend reservation educational institutions, though the Mandal Commission had recommended doing so for both the government and the education sector, because he was apprehensive that it was likely to fuel even stronger protests, and this could dissipate the political gains from reservations in public services. In September 1991, the Congress government made an additional notification for reservation of 10 per cent for 'other economically backward sections of people' who were not covered by existing schemes of reservations. Both of these notifications were challenged in the Supreme Court, which constituted a special bench of nine judges to hear the matter, in view of its importance and the unprecedented controversy Mandal had generated.

⁸ Rajya Sabha Debates, 7 August 1990 (speech cited by Bajpai 2006).

⁹ For a critique of caste as the basis of reservations, see Desai (1984), Radhakrishnan (1997), and Gupta (2005); for a contrary view, see Shah (1985).

In 1992, the Supreme Court by a majority decision upheld the 27 per cent reservation for the OBCs but struck down the 10 per cent reservation for economically backward sections. In giving primacy to the caste factor over the economic criteria, the Court was guided by social realities revealed by the Mandal Commission and the intention to compensate for the disadvantages that some groups suffered in the past (see Hasan 2008: ch. 5).

For the Congress-led United Progressive Alliance (UPA) government, OBC quotas in higher and professional education were a logical corollary to the 27 per cent reservations in public employment in operation since 1994. The new reservation proposal was in keeping with Court judgments, which limited the scope for reservations in educational institutions. The Supreme Court decided that quotas cannot be permitted in unaided private educational institutions that do not receive financial support from the state. This meant that there would be no reservation for disadvantaged or backward classes studying in private institutions. The seven-member bench noted in this regard that ‘neither the policy of reservation can be enforced by the state nor any quota of percentage of admissions can be carved out to be appropriated by the state’ (for more details, see Hasan 2008: ch. 4). The key issue in this case was the right of minority institutions to run their colleges the way they want to (Hasan 2008). The 93rd Constitutional Amendment in 2006, which provides for reservation in higher education, was necessitated by judgment in the *Inamdar* case in 2005.¹⁰

Throughout this period the Congress party appeared reluctant to recognize caste as the sole criterion for reservations, but it did not disregard it or use it as the basis for devising an economically driven reservation programme. ‘Backwardness’ was defined mainly in caste terms and this was privileged over all other social axes of differentiation. At the same time it was in favour of exclusion of the economically privileged sections of the OBCs. Rajiv Gandhi, too, had opposed the V.P. Singh government’s reservation policy for thinking only ‘around caste’ and ‘vested interests in particular castes’.¹¹ However, when the Congress-led UPA government came to power in 2004, it introduced 27 per cent reservations for the OBCs in higher education, but not in minority institutions. This gave rise to fresh concerns that reservations in higher education will weaken merit and thereby educational institutions. It was a move to promote inclusion in higher education, but opponents feared that it would adversely affect India’s edge in the knowledge economy and erode competitiveness as international companies would move away.¹²

The objective of both decisions was to promote empowerment and enhance opportunities for disadvantaged and underrepresented groups. Since then, the major focus of reservations has shifted to the sphere of higher education. Even though in absolute numbers India produces more trained manpower than the European Union, the barriers to entry to higher education are still very high for deprived groups. Even now, upper castes dominate public institutions, professions, and media, while the SCs, STs, OBCs, and Muslims are far behind in higher and professional education specifically.

2.3 Political significance of reservations

The OBC reservation policy was the product of changing political dynamics rather than social movements and political mobilization from below, as in Tamil Nadu and other southern states. The OBCs mounted a challenge to upper caste domination with the support of regional parties

¹⁰ *P.A. Inamdar & Ors. v. State of Maharashtra & Ors.*

¹¹ Rajiv Gandhi’s speech on the Mandal Commission in the Lok Sabha, published in *Indian Express*, 9 June 2006.

¹² For an elaboration of these positions, see Hasan (2008: ch. 4).

opposed to the hegemony of the Congress that ruled India for more than five decades after Independence. Caste reservations were used as the basis for political opposition to upper caste domination. The upper castes were upset, but these reservations could no longer be wished away. The Bhartiya Janata Party–Rashtriya Sevak Sangh (BJP-RSS) combine was incensed with the 27 per cent reservations for the OBCs as it would undermine Hindu unity. Mandal upended their political plans, which were likely to be side-lined by exposing caste divisions and contradictions in Hindu society. The fractures caused by Mandal were effectively countered by the Ramjanmabhoomi movement for the construction of a temple in Ayodhya, launched at the same time.

On the other hand, reservations have encouraged greater democratization and participation of previously excluded groups. Concentrated in the Hindi heartland, the democratic upsurge of the lower castes ended the domination of the upper castes in the bureaucracy and the legislatures. The OBC reservation policies have completely reshaped Indian politics by opening the doors to hitherto excluded caste groups. Christophe Jaffrelot described this phenomenon, which crystallized in the 1990s, as a ‘silent revolution’ (Jaffrelot 2003). He notes that the Mandal moment was primarily political, even if what was at stake was the extension of positive discrimination. It had its greatest impact in north India. It produced a shift in the balance of political power in governments and legislatures, reshaping the character of political representation and democratic politics.

As a result, there is much greater diversity in public institutions than in the 1950s and 1960s. This can be seen from the major increase in the number of lower caste legislators and senior civil servants in influential government positions from the 1990s. The downward thrust in the Hindi heartland corresponds to similar patterns in south and west India that started in the late 1960s. The share of upper caste legislators in all the legislative assemblies and Parliament has been declining while that of the lower castes has been rising. Clearly, backward castes have emerged as a politically significant category because reservations have given them a big presence in government, which they lacked beforehand.

The political support for OBC reservations has to be seen in this changed context that underlines the crucial role of political leadership in pushing for quotas for backward castes in the central government even in the face of huge opposition. Despite all the differences and disputes about what constituted backwardness, reservations were extended in higher education on the basis of a cross-party consensus. These castes could no longer be excluded as they had acquired political clout from their participation and influence in electoral politics (Jaffrelot 2006).

However, the expansion of Hindu majoritarianism since 2014 has shifted the ground from caste to community, marked by a resurgence and restoration of the dominance of traditional elite groups. The displacement of upper castes in the post-Mandal era has been reversed to some extent since the BJP came to power. This is thanks to the overrepresentation of upper castes in the BJP, which has helped them to regain power and influence. This has weakened backward caste assertion somewhat, but the OBCs have by no means been left out as they have been accommodated within the BJP fold, especially the lower OBCs who had been side-lined by caste-based parties. The OBCs have backed BJP as they have begun to see Hindutva as a capacious identity that aligns them to a larger narrative than caste politics, which were losing relevance.

3 Caste and class

Three issues have dominated policy debates on reservation policy since Independence. The first is whether backward classes should be caste groupings or whether these would be identified by economic and occupational criteria. The second is whether listing and preference for these groups is to be undertaken on an all-India basis or by state governments. The third concern is the exclusion of other disadvantaged groups from this framework and whether more complex criteria of caste, class, religious community, and gender should form the basis of entitlement than the caste-based reservations because, in actual practice and interpretation, backward classes have come to be synonymous with backward caste Hindus. However, this appears to be acceptable to both the opponents and the beneficiaries of these programmes because exclusion of minorities limited the number of beneficiaries to scarce resources.

‘The usage of classes instead of castes in the constitutional reference to OBCs in Articles 15(4), 16(4) and 340(1) has led to many legal disputes on the primacy of class versus caste, and whether caste stands for class’ (Hasan 2008: 90). The final word on this controversy came in the *Indira Sawhney* case, which upheld caste as a criterion for identifying the OBCs, declaring: ‘A caste can be and quite often is a social class in India’ (Hasan 2008: 92). Thus in most cases courts accepted caste as a basis of classification.¹³ Courts have given their approval to the substitution of class with caste. Several court verdicts have held that class includes persons grouped on the basis of their castes. However, there are significant differences within this category, which contains influential strata who own land and other means of production. They invariably corner the benefits of quotas at the expense of the more backward sections among them, but it is the more backward among them that are the groups that need reservations (Hasan 2008: ch. 4).

From time to time there has been pressure to introduce changes in official categories to recognize economic and social mobility within caste groupings, but OBC politicians have made it difficult, if not impossible, to take hard decisions ‘to put out of the benefit system’ communities with political and economic clout (Murlidharan 1999). The exclusion of the ‘creamy layer’ provides a way out of purely caste-based reservation to ensure its benefits accrue to the truly deserving; it is the most cost-effective way of enabling the truly backward to enter public institutions and thus promote the demands of social justice. But it has been hard to implement.

The court directed the government to develop criteria to remove the ‘creamy layer’ of the OBCs to disqualify the more advantaged individuals in these groups (Hasan 2008: ch. 4). The exclusion of this layer is important for preventing elite capture, which could inevitably occur given the social heterogeneity of the OBCs. However, there is a reluctance to do so for fear of political repercussions. OBC supporters claim that the exclusion of the ‘creamy layer’ is misplaced and doing so would negate the very purpose of reservation. Critics argue that once caste is accepted as a basis for determining backwardness, there is nothing wrong with excluding the affluent among the eligible castes. They feel that genuine social justice means reservation benefits should be

¹³ Several court verdicts have upheld lists of Hindu castes declared backward. In *Venkataramana vs. State of Madras*, the Supreme Court upheld the list of Hindu castes declared as backward by the Madras government. This was confirmed in *Ramakrishna Singh vs. State of Mysore* in which the Mysore High Court held that class included persons grouped on the basis of their castes. A series of Supreme Court cases have further refined the provision. This was reaffirmed in *U.S.V. Balaram vs. State of Andhra Pradesh* when the Supreme Court scrapped the Andhra Pradesh High Court ruling and allowed the use of caste as a determinant to define backwardness. In *Balaji vs. State of Mysore*, the Supreme Court put a ceiling on the total quota for affirmative action at 50 percent. It was critical of using the caste criterion, and one of the reasons cited was its inapplicability to non-Hindu groups.

restricted to the poorer among the backward, while sections championing OBC assertion disfavour any dilution of the social basis for reservation (*The Hindu* 2021).

The issue of OBC reservations and backward caste politics arising from it is going in a different direction now. A series of events, most notably political changes that triggered a controversy over the caste census and internal changes within caste groupings, have witnessed the emergence of specific caste group such as Yadavs, which in turn has contributed to the emergence of non-Yadav OBCs as a separate political grouping. This has changed the dynamics between and among caste groupings that would not only impact OBC politics but the internal differentiation of caste groupings and the whole question of reservations. Indeed, internal differentiation within caste groupings has deepened and is hard to dismiss. The most common dimensions of differentiation are economic status and regional location. This underlines the caste–class connection and the need for a caste census that can establish the actual status of various subgroups within this omnibus category (Hasan 2008: ch. 4).

3.1 Caste census

Group-based policies require robust data on the governed. OBC reservation is the only instance of group-based policy of reservation or positive discrimination anywhere in the world being extended to a group that is not officially counted. A caste census is important and must be done to establish the numbers on the basis of which reservations would be given (Kalaiyarasan and Vithayathil 2021). It would reveal the contours of inequality and its changing nature. It would also reveal the way caste intersects with class, gender, and region in determining access to resources. Despite running huge reservation programmes, the government does not have official data on the size of the OBC population or the subgroups within it. A caste census was last held in 1931. There are no precise estimates of India's graded caste hierarchy and the OBC population because the census does not collect information about the OBC population, only about SCs and STs. Independent India decided to do away with caste enumeration on the premise that caste no longer matters. Nonetheless, caste is a reality and remains a crucial determinant of politics and policy in India. Absence of data obscures caste privileges and the structural advantages enjoyed by upper castes and the relational nature of caste inequality (Kalaiyarasan and Vithayathil 2021). It is important to have empirical data that reflects reality and to formulate policies on the basis of proper data rather than on projections and extrapolations.

The UPA government held a socio-economic caste census in 2011 through a comprehensive door-to-door enumeration, but the data was not released. On 1 April 2021, the NCBC urged the government to collect data on the population of OBCs as part of the 2021 census. But BJP government ministers ruled this out, saying that the raw caste data collected during the Socio-Economic Caste Census in 2011 is with the Registrar General of India (RGI), but that there is no proposal to release the data as many technical problems have been noticed in it by RGI, and the data has also become out-of-date and unusable.

The opposition to a caste census on the part of the ruling party stems from the apprehension that it might reveal a higher number of OBCs than previously assumed on the basis of extrapolations from the 1931 census. A caste census would reveal that upper castes are a minority rather than a universal or general category as seems to be assumed, and there are many more OBCs than their share of reservations accounts for. This would jeopardize upper caste sway over institutional domains and the control over the levers of power. The fact is that the top levels of Indian society remain overwhelmingly dominated by upper castes, while the bottom has stayed almost entirely lower caste (Deshpande 2015). A caste census would expose the upper caste dominance, making it difficult for the political class to circumvent the issue (Deshpande 2021). Even after all these years of reservations, the SCs, STs, and especially OBCs are underrepresented in the higher

echelons of the government—Group A and Group B—and most institutions, including central universities. This is the key finding from recent data obtained by *The Indian Express* under the Right to Information (RTI) Act from the Department of Personnel and Training (DoPT), UGC, and the Human Resources and Development (HRD) Ministry (now renamed the Education Ministry). The data shows that of the 665 officers of Group A and Group B in the HRD Ministry, and its attached and subordinate offices, 440 (66.17 per cent) are from the general category, 126 (18.94 per cent) from the SCs, 43 (6.47 per cent) from the STs, and only 56 (8.42 per cent) from the OBCs. The data also shows that representation from reserved categories in Group A and Group B is very low in comparison to their entitlement (Yadav 2019). The situation is much worse in central universities. Significantly, the number of professors and associate professors in central universities appointed under OBC reservations is negligible, and in many universities it is zero.

Most political parties support the call for a caste census, but the BJP is opposed to it because it fears it will lead to greater social tension and the perpetuation of caste identities. In reality, the BJP is discomfited by the possibility that a major increase in OBC numbers would embolden the OBCs to revisit their relationship with the BJP. So far, the BJP has mobilized OBC support largely by forging alliances of sub-castes who have been ignored by caste-based parties or fallen out with them, and by fomenting communal and divisive politics of Hindu–Muslim polarization. This strategy was on display when the ruling party included many sub-castes of the OBCs in the Union Cabinet in March 2021 and widely publicized it. For the first time, the press briefing had drawn the media’s attention to the caste composition of the Cabinet—12 ministers belonging to SCs, 8 to STs, and 27 to OBCs. No previous government has briefed the media on the caste composition of the Cabinet. This was odd for a party that seeks to unite the Hindu majority as opposed to the caste politics of identity practised by its opponents that it claims exacerbates divisions in Hindu society. But this is not entirely surprising as Hindu unity for the BJP is based on an external enemy, Muslims, against whom all Hindus can unite. The idea is to bring together Hindus under the banner of Hindutva, while painting Muslims as the ‘other’. There’s no contradiction here between caste accommodation and communal majorities, which is apparent from the growing support of the OBCs and Dalits for the BJP. The new Union Cabinet is therefore in step with this strategy of giving greater representation to the OBCs and Dalits to bring them under the Hindutva umbrella.

However, if caste census data shows the OBC population to be higher than earlier estimated, it could bolster the demand for increased OBC quotas. Higher OBC numbers could also threaten the legal ceiling of 50 per cent reservations, resulting in the demand to bypass it to grant quotas to the OBC population in public education and government jobs in proportion to their population.

A caste census assumed greater significance after the government introduced reservation for the Economically Weaker Section (EWS) to provide reservation benefits to the poor from the general category. The 103rd Amendment Act in 2019 created provisions for 10 per cent reservation for the EWS in higher education institutions and government jobs, for those who are not beneficiaries of reservation. The EWS category is identified on the basis of an applicant’s family income and assets, such as the ownership of agricultural and residential land. This will change the basis of reservations in India. The introduction of a 10 per cent quota for the general category would alter the standard definition of backwardness and overturn the logic of reservations, which seeks to remove historical disabilities that impede certain castes from competing with others on an equal footing. The EWS foregrounds economic backwardness, but it would benefit only the upper castes who are neither socially nor educationally backward. While it introduces a material dimension in the reservation debate and acknowledges the principle of social inequality within castes on economic criteria (income, land, household size), it may be usurped by the wealthiest by granting them access to reservation that was not available to them before the law (Bharti and Chancel 2019).

A new caste census might also lead to demands for reservation for sub-quotas within reserved caste groups. Reservation benefits have gone disproportionately to particular groups, leading to a clamour for sub-categories to facilitate redistribution of job benefits in accordance with their population within the group. As of now, there is inadequate information on the extent to which reservation benefits have helped sub-castes within the larger group currently classified as OBCs. This information can be gained from a caste census. Intra-group inequalities often reproduced inequalities within groups that reservations are supposed to remedy between groups. The government set up a commission in 2017 to revisit the quota norms for sub-categorization of OBCs. According to this commission, of the 2,500 jatis in the OBC list, over 1,000 have no representation at all in the 27 per cent quota. This has brought into the open the differences within the OBC group. Many of these underrepresented categories are demanding inclusion in reservations, but no action has been taken on the reports of this commission.

4 Other inequalities¹⁴

India's affirmative action and reservation policy has by and large ignored other inequalities and discrimination against religious minorities. Over the years, caste has become the sole criterion for defining social exclusion, and other important criteria of disadvantage were relegated to backstage. Recognition of discrimination is for the most part restricted to caste-based discrimination, while ignoring other equally undesirable forms of discrimination and exclusion. Minorities have not been included in the reservation regime because arguably the Constitution does not permit reservations on the basis of religion as this would violate the constitutional guarantees of equality. Religious criteria were inherent in this process as the definition of backwardness conceived caste as a constituent of Hinduism, and thus excluded non-Hindus.¹⁵ Consequently, religion became an intrinsic part of the reservation policies for disadvantaged groups.

Caste-based reservation of educational seats or public employment is inevitably preferential treatment for the oppressed sections of the majority community, for the obvious reason that caste is primarily a Hindu phenomenon. The OBC category includes non-Hindu backward sections, but the overall reservation quotas extend mainly to three groups of Hindus: SCs, STs, and OBCs, which are primarily Hindu caste groups, including the OBC category (Hasan 2008). Even in the case of non-Hindus, caste considerations remain primary, which makes it difficult to apply the reservation criteria to these groups (Hasan 2018). This means no other minority, linguistic, or gender consideration is considered as legitimate or constitutional for the purpose of reservation. This is despite the fact that minorities, especially Muslims, are underrepresented in public services (Hasan 2018).

Muslims constitute a significant segment: 14.2 per cent of Indians in the 2011 census. It is the world's third largest Muslim population. The *Sachar Committee Report* (SCR) documented the underrepresentation of Muslims in central and state governments, central and state government public sector undertakings, and banks and financial institutions. It demonstrated that on average their social and economic conditions were comparable to or even worse than those of the SCs and STs.¹⁶ Their representation in the central and state governments, armed forces, judiciary, police,

¹⁴ This section draws on Hasan (2018).

¹⁵ For a detailed discussion, see Hasan (2008: chs 6 and 7; 2018).

¹⁶ The prime minister constituted a 'High-Level Committee on the Social, Economic and Educational Status of the Muslim Community of India', charged with investigating the socio-economic status of Muslims in 2005. The

and civil services is extremely low. They exist almost entirely outside of India's formal economy (both the organized private and public sectors); since most of the organized sector or even businesses in the unorganized or informal sector rarely hire Muslims, economic exclusion is perpetuated regardless of their qualifications. Fifteen years later, with most of the committee's recommendations shelved, those numbers have not improved. Indeed, some gaps have widened since the landslide election win of the BJP in 2014. It is no secret that Muslims are the most underrepresented group in public institutions in India.

The SCR documented the stark underrepresentation of Muslims and found that they are in many respects as disadvantaged as the lowest Hindu caste groups (Hasan 2018). But India's reservation policy sidesteps the visible exclusion of Muslims. The vast array of reservation policies does not cover them. Dalit Muslims are legally disqualified from the category of SCs even though these groups occupy a position comparable to those officially designated as SCs; they are not included in the purview of reservation because caste is taken to be a feature of Hindu society, and hence excludes them (Hasan 2018). Despite a long campaign, along with Dalit Christians, they have not been able to gain official recognition as SCs. As a result they are denied access to reserved jobs and other benefits because of their religion. This raises important questions regarding the neutrality of reservation policies. The basic issue pertains to caste disability and the primacy of caste inequalities in determining discrimination relative to a socially grounded notion of discrimination for the purpose of reservations (Hasan 2018). 'Basically, the claimant groups need to establish that they are worse-off than their co-religionists, that this is due to their caste status, and that this status is comparable in status to the Hindu, Sikh, and Buddhist Dalits' (Hasan 2018: 312). The noteworthy point is that Buddhism and Sikhism do not differ much from Islam and Christianity when it comes to their attitude towards the caste system as far as their theology is concerned. All these religions, in theory, either abhor caste or are indifferent towards it. But they are included in the SC category on the grounds that these are Indic religions, whereas Christianity and Islam are non-Indic religions. This makes the SC category Hinduism-specific.

Thanks to the policy of some state governments, some Muslim groups receive reservation under the OBC category, but very few have been able to use it. A big chunk of the OBC reservation has been taken by the dominant OBCs. The courts have generally opposed any attempts by state governments to give reservations to Muslims. The Andhra Pradesh High Court has repeatedly declared such reservations as unconstitutional, and the Supreme Court has not quashed this. Unlike SC or OBC reservations, there is no support for any form of affirmative action for religious minorities; in fact, there is opposition to it across political parties.

The structural discrimination faced by Muslims in economic and political representation and access to opportunities needs to be noted, especially as it has grown in the past few years. Muslims have been completely excluded from power structures. Their political and legislative representation has always been low; the growth of majoritarianism has further reduced it (see Hasan 2022: ch. 4). Any attempt to address the political and development deficit of minorities through affirmative action in any form is invariably dubbed as vote bank politics. The basic question that remains unaddressed is whether these programmes can continue to exclude minorities and, if so, whether alternative policies are required for them. As long as this is not done, it is hard to avoid the conclusion that the social justice component applies only to cultural groups that remain within the Hindu fold and does not apply to non-Hindus. However, in the present context social discrimination can no longer be understood by narrowly assessing the situation of upper and lower castes without taking into

Committee, chaired by Rajinder Sachar, former chief justice of the Delhi High Court, submitted its report to the prime minister in November 2006.

account issues of increased economic inequalities and inter-group inequalities (Hasan 2008: 238–39).

5 Substantive equality

Thomas Piketty termed India's education and job reservation system as 'the most systematic affirmative action policy ever attempted anywhere' (cited in Mehta 2020). These policies have significantly reduced inequalities between the old disadvantaged castes and the rest of the population (Mehta 2020).

There's little doubt that reservation policies have been a great leveller in the context of India's unequal social structure and the centuries of exclusion entrenched by it. Its major success lies in the fact that a sizeable section of India's middle class consists of OBCs, SCs, and STs (Hasan 2008). Thanks to reservations, these groups have representation in government and the voices of their representatives are heard in the halls of power. This has ensured that policies and schemes for their welfare are introduced and implemented (Hasan 2008). Additionally, it has given rise to a general feeling of empowerment across the communities, especially when members see their own group succeeding and gaining a foothold in power thanks to reservations (Jaffrelet 2006).

While the reservations programme has undoubtedly lessened domination, there are several problems that need to be noted with regard to India's reservation system and its implications for inequality generally and inequalities between caste and non-caste groups particularly. 'We need to question the equation of reservation with the redressal of caste inequality not because reservation is no longer needed, but because it is no longer enough', points out Satish Deshpande (2015). Reservations are not supplemented with remedial measures that would ensure that the benefits of entry into jobs and educational programmes are fully utilized. Moreover, reservation schemes often reproduce inequalities within groups that reservations are meant to remedy. Hence, the persistent demands that have been made to bring measures to remove the 'creamy layer'.

Indian policies were designed to make 'unequals' equal and not to provide reservation to every demand for preference by all or any community, notes Rajeev Dhavan (2003). Arguing for the Ezhavas, a low caste group, in the Mandal case (1992) while supporting greater opportunities for the disadvantaged to enable them to share state power, Dhavan felt that reservation had become excessive under political pressure (Dhavan 2003). However, political parties are clamouring to announce more quotas with no attention paid to outcomes, and even less to monitoring of outcomes. The list of targeted groups is getting bigger, even as the number of public sector jobs is shrinking after three decades of economic liberalization and the spree of privatization under the BJP-led National Democratic Alliance (NDA) government (2019–), which included selling off major public sector companies. The majority of the population is not employed in the government sector, and thus reservations policies will benefit only a small portion of the population.

The Indian experience demonstrates that reservations alone cannot address the problem of heightening social and economic disparities plaguing Indian society. That all political parties support reservations is testimony to the lower caste resurgence and to the deepening of democracy. But much less attention has been given to the more foundational changes required to take us beyond the politics of recognition necessary for the creation of a more equitable society.

One striking consequence of the inordinate importance given to reservations in India is that it has resulted in the neglect of rising economic inequalities. Extreme income inequality exists in India: it is the highest in the world. Wealth inequality in India today is higher even than in the United

States (Patnaik 2019). It has risen rapidly in the period of economic liberalization. According to the *World Inequality Report 2020*, the top 10 per cent of the country's population account for 57 per cent of the national income, of which 22 per cent is held by the top 1 per cent. India has recorded the highest increase in the share of the top 1 per cent in national income over the past three decades: it rose from 6.2 per cent in 1982–83 to 21.7 per cent in 2013–14. This was higher than at any time since 1922, when income tax was introduced in India. The wealth share of the top 1 per cent of Indians increased by 0.1 per cent in 2021 to reach 40.6 per cent (Singh 2022). While a small section of India's population enjoys huge privileges, the bottom 50 per cent suffer deprivation and for them sustainability of life is still a challenge.

India's performance has consistently been poor in the Human Development Index, with the country dropping two places further from 130th to 132nd out of 191 countries in 2022. This indicates that the country's resources are not used well in the promotion of welfare and quality of life for its people. This is evident from the slow progress in essential requirements of social development as expressed by longevity, years of schooling, and gross per capita income.

Wealth inequality largely intersects with caste inequalities. Thus, SCs, STs, and Muslims are underrepresented in higher-income groups, as well as among the middle class, and overrepresented in the bottom 50 per cent. Conversely, upper castes are overrepresented in higher-income groups, and OBCs are more or less evenly distributed across all the wealth deciles (Bharti and Chancel 2019).

Neoliberalism as a hegemonic policy and strategy of economic growth is largely responsible for the very substantial increases in income and wealth inequality everywhere in the world. In India, too, for the same reason a disproportionate share of growth has been captured by the economic elite and middle classes. To further complicate matters, the COVID-19 pandemic resulted in huge mass migration and job losses in 2020–21. However, even before the pandemic, India was recording the highest unemployment rate in 45 years (*The Hindu* 2019). As it is, formal jobs and high-quality education remain scarce in India; the unemployment rate has worsened, and as of March 2021 it was among the highest in the world, resulting in an ever greater clamour for reserved jobs.

Sharp inequalities are unsustainable. Inequality needs serious efforts from all parties and governments to control and reverse the trend. And yet there is very little talk or concern about the massive growth in inequality in India in the last few years. Inequality is a hot topic of debate in other parts of the world, but it hardly ever figures in public debate in India. None of the major parties has made fighting inequality a real issue in their election or public campaigns. It is certainly not a major concern of the ruling groups. In fact, the government is reluctant to release data on income, wealth, and employment, let alone to make a concerted effort to address inequalities. Lack of reliable information is a major problem in analysis and policy-making, as many economists and others have noted. Even the already-delayed 2021 census has been postponed and deferred. The government has cited the pandemic's constraints even though almost all pandemic-related restrictions on mobility have been removed and many contact-intensive exercises such as elections have been and are being conducted. Not holding the census or postponing it will negatively affect policy planning and human development.

Inequality can be narrowed by greater focus on healthcare, education, and social safety measures that have helped bridge inequality in many other countries. The equity dimension of institutional programmes based on a universal strategy to promote greater redistribution is well known. India lags behind other countries in this regard. Social spending, which includes public investments in education and health, is a proven way to lift incomes at the bottom of the distribution, but has been declining since 2012 (Bharti and Chancel 2019). There is hardly any discussion of

financing the social measures required to reduce inequality and to combat poverty. In fact, social spending has been reduced in recent years compared to investments in infrastructure (Bharti and Chancel 2019). Public expenditure on education, health, and social security remains very low in India.

An important way forward could be taxing the top-income groups. Wealth taxation is the best way of raising fiscal resources. These taxes, if used to fund public services, can reduce inequality and can be used for improving the basic living conditions of the masses by making investments in education, health, and infrastructure which will improve opportunity and raise the growth potential (Ghatak 2021).

There is growing economic discontent with joblessness and inflation among large sections of the people, but this discontent is often directed against underrepresentation in public institutions, and not against inequalities and disparities *per se*. Social justice demands are seldom located in the realities of inequality and redistributive challenges emerging from it. It is worth pointing out in this context that a redistributive policy such as the 'Nyuntam Aay Yojana' (NYAY) or a minimum income guarantee scheme that the Congress promised in the 2019 general elections had few takers. Under the scheme, 72,000 rupees per year would be transferred to the bank accounts of women members of the country's poorest 20 per cent of families. But it just did not appeal to voters. It didn't do so partly because the details of the scheme were not properly spelled out, and it wasn't widely publicized. Apart from these problems, its failure to take off has to be seen in the context of the dominance of identity politics in India and the preference for reservations, rather than social and economic measures that contribute to the enhancement of substantive equality. This redistributive mechanism also faced huge opposition from the corporate sector and corporate-controlled media.

For the current government, faith, rather than caste or class divisions, has emerged as a major differentiator between citizens, in contrast to the previous decades when politics and policy were driven by the constitutional promise of equal status for all; even though it was not fully realized, it remained a goal. The Citizenship Amendment Act (2019), which allows non-Muslims from three neighbouring countries to fast-track their citizenship by creating an exemption from the 'illegal migrants' category on the basis of religion, is the most striking push against intergroup equality.

The non-recognition of class inequalities and intergroup inequalities are the two big problems confronting India's reservation policies. The singular focus on one set of group inequalities, namely caste, and currently majoritarian identity has served to obscure other issues. The point is not simply about expanding the remit of reservations or affirmative action, but to broaden the conception of discrimination. The issue is not that these policies are wrong or should be discontinued, or that they have failed to make a difference to the lives of disadvantaged groups in India. The point is that further benefits of reservations and affirmative action will derive from policies directed to larger numbers of people within beneficiary groups and to other excluded groups as discrimination is not confined to a few castes or groups in India (Hasan 2008).

The real challenge is to open up opportunities for other excluded groups lagging behind in public education, employment, and other spheres. Government policy has disproportionately focused on discrimination in the past and not current discrimination. In the case of minorities, discrimination and disadvantages have multiplied following the growth of majoritarian politics since 2014. Future policy goals must give greater attention to current discrimination also. Clearly, the goal of affirmative action for currently discriminated groups cannot be overemphasized. These strategic questions pertaining to group inequalities must be addressed while implementing the global commitment to social justice and fairer distribution of opportunities in public institutions.

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