

Article

A History of Social Justice in India: An Overview

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Abstract:

India has implemented one of the most comprehensive affirmative action policies in the world, with roots that can be traced back to the colonial era. The historical trajectory of reservation policies in India, including the Gandhi–Ambedkar Pact, the provisions enshrined in the Indian Constitution, and the recommendations of various commissions such as the Kaka Kalelkar Commission and the Mandal Commission, has been pivotal in shaping the discourse on social justice. This paper examines the evolution of reservation policies from pre-independence to post-independence India, highlighting the significant role of commissions in identifying and addressing the needs of socially and educationally backward communities. The paper also explores the divergent approaches of different states like Mysore, Tamil Nadu, Kerala, Gujarat, and Bihar towards affirmative action and social justice, illustrating the regional variations in the implementation of reservation policies. By analyzing these diverse trajectories, the paper sheds light on the complexities of affirmative action in India and its impact on social, economic, and educational opportunities for marginalized groups.

Keywords:

Reservation Policies, Social Justice, India, Gandhi–Ambedkar Pact, Scheduled Castes, Scheduled Tribes, Other Backward Classes, Constitutional Provisions, Regional Variations

1. INTRODUCTION

India has adopted one of the world's most comprehensive affirmative action policies. The roots of India's affirmative action policies go back to colonial India. This paper attempts to showcase the development of reservations in different states and the different trajectories that the social justice discourse has undertaken. It looks into the development of reservation discourse in both independent and post-independent India.

1.1. Gandhi–Ambedkar Pact

After the third roundtable conference, the British Prime Minister proclaimed a communal award. This communal award granted a separate electorate to depressed classes,

in addition to Muslim, Sikh, Parsi, Christian, and Anglo-Indian. Ambedkar, on behalf of the depressed classes, agreed to separate the electorate. "Gandhi carried out his vow by stating a fast unto death, which eventually lasted 21 days. The British government wanted consent from the affected groups before announcing the final award. Finally, under pressure, Ambedkar relinquished the claim of separate electorates but got a system of reserved seats for untouchables to be elected from the joint or common electorate. The final agreement was reached in 1932 in the Poona or Yeravada pact. The Poona pact provided 148 seats for untouchables, instead of the seventy-eight separately elected members given by the communal award"¹. The Gandhi–Ambedkar pact can be understood as the Magna Carta in the history of political representation of depressed

1 Ashwani Deshpande, *Affirmative Action in India*, New Delhi, Oxford university Press, 2013, p.52-53

classes. The agreement was reflected in the Government of India Act of 1935, which established the new federal and provincial assemblies. Although Ambedkar might be unhappy with the conditions of the pact, it paved the way for the political representation of the Depressed classes after independence. Furthermore, "Ambedkar was appointed member of the viceroy's executive council and submitted a memorandum on the grievances, and also demanding reservation in Public services, scholarship, and stipends for study within the country and abroad in contracts and so on. The viceroy duly recommended this to the secretary of state, who subsequently accepted the recommendations. The scheduled castes were allowed 8.5 per cent reservation in central services and other facilities for the first time in the history of India in 1942."²

1.2. Reservations and the Indian Constitution

Following the 1947 power transfer, the Indian Union established a constituent assembly to draft its constitution. Consequently, Dr. Ambedkar was appointed as chairman of the drafting committee and Dr. Rajendra Prasad as president of the constituent assembly. But Sardar Vallabh Bhai Patel was the president of minority affairs. Many Scheduled Caste members in the constituent assembly were worried, and they were members of the Congress party. They met with Mahatma Gandhi, including Ambedkar, and spoke to him and reminded him of the promise made in the Poona Pact. Gandhi assured Ambedkar and other members of the constituent assembly regarding their grievances. Ultimately, the Indian constitution incorporated numerous articles for the reservation of the Scheduled Castes and Scheduled Tribes, as well as other backward classes. Accordingly, affirmative action and political representation were implemented after the implementation of the constitution on 26 January 1950. However, many controversies arose over affirmative action, which was resolved by the judiciary or legislature by making suitable acts to implement them.

Moreover, our constitution is one of the lengthiest constitutions in the world. But the founding fathers of the constitution have deliberately enshrined affirmative action for the upliftment of the lower section of society. Such as Article 46 says, the state shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. Indeed, Article 46 of the Indian Constitution is part of the Directive Principle of State Policy (DPSP). This article is not justifiable in the court, though the state has moral pressure to take action in favor of weaker sections of the people for the sake of their upliftment. The unique feature of this article is that it directly or indirectly conveys that the state shall have responsibility and accountability to the welfare of the weaker section as a whole. Furthermore, under article 330, reservation of seats for scheduled castes and scheduled tribes in the House of the People. Scheduled castes and scheduled tribes are also

granted seats in the legislative assemblies of the states. The Indian Constitution, under Article 15(4), gives room for making any special provision for the advancement of socially and educationally backward sections of society, or scheduled castes and scheduled tribes. Again, article 16(4) declared that the state shall not prevent making any provision for the appointments or posts in favor of any backward classes of citizens. Furthermore, Article 15(3) of the constitution grants the state the authority to establish rights for women and children. Under article 335 claims of scheduled castes and scheduled tribes to services and posts. Under article 340 appointment of a commission to investigate the condition of backward classes³. These are some of the important provisions of the Indian Constitution that give legitimacy to affirmative action in India. While using the provision under Article 340 of the Indian Constitution, the then-President of India appointed the first Backward Classes Commission in 1953 to investigate the condition of backward classes at the pan-India level.

1.3. First Backward Classes Commission (Kaka Kalelkar Commission)

The first backward class commission is popularly known as the Kaka Kalelkar Commission, as its chairman was Kakasaheb Kalelkar. The commission was established to address various issues arising from the designation and definition of the Other Backward Classes. The central government, while using the power under Article 340 of the Indian constitution, appointed the first Backward Classes Commission on January 30, 1953. The commission submitted its report in March 1955. The Commission formulated the following category to identify and demarcate the Other Backward Castes. This was the first commission to investigate the social, economic, and educational conditions of the Other Backward Castes in India. The commission has had a herculean task to assess the overall condition of the backward castes at all India levels. Furthermore, the Commission faced significant challenges in identifying the diverse population groups residing in various geographical areas, each with unique social and cultural customs across the country. Despite the challenges, the Commission managed to identify the beneficiaries of the Other Backward Classes (OBCs) within a short timeframe.

1.4. Second Backward Classes Commission (Mandal Commission)

The Mandal Commission was established in 1979 by the Janta Party government under Prime Minister Morarji Desai with a mandate to identify the socially and educationally backward classes of India. Bindeshwari Prasad Mandal headed it; therefore, the Commission is popularly known as the Mandal Commission. The commission submitted its report in 1980. The commission recommended reserving 27 percent for the socially and educationally backward classes. The V.P. Singh government finally implemented the Mandal Commission report in 1990.

2 Bhagwan Das," Moments in History of o Reservations," Economic and political weekly, Vol.35, No.43/44(2000).3

3 Krishna K. Thummala," The Politics of preference in Public service : The case of Mandal , The Indian Journal of Political science . Vol .55, No.4,(1994), 354.

2. SOCIAL JUSTICE AND ITS DIVERGENT TRAJECTORIES IN DIFFERENT STATES

Since different states have witnessed different trajectories vis-à-vis social justice, therefore, let's have a look at very important states.

2.1. Mysore (Karnataka)

The state of Mysore accepted the "desirability of reservation for the backward classes in 1874, with the stated aim of countering the preponderance of Brahmins in public services". However, it took time to materialize the desirability of reservations into practice. The first serious step in this regard was taken by the Maharaja of Mysore on 23 August 1918, when he decided to constitute the committee for the implementation of reservations. The Maharaja Nalwadi Krishna Raja Wadiyar ordered the constitution of the committee, which was headed by Sir Leslie Miller, then chief judge of the chief court of Mysore. The committee recommended a caste-based reservation in the government public service in the Mysore princely state. Thus, Mysore became the first state to have any affirmative policy in modern India. The main reason behind the Maharaja's move was that the princely state of Mysore had an overrepresentation of Tamil Brahmins in public services. As a result, the non-Brahmins protested against the dominance of Tamil Brahmins in public services. Therefore, to ensure the representation of various sections of society, the Raja decided to grant reservations to the non-Brahmin groups. Maharaja Nalwadi Krishnaraja strongly supported the non-Brahmin movement in the Mysore state while appointing the committee. According to the order, Nalwadi mentioned the dominance of the particular community in the state's public service and his desire to ensure the representation of other communities as well. He also proclaimed that special status would be granted to encourage the deprived classes, and measures would be taken to improve their representation. In addition to this, a great innovation was made by M. Vishweshwarya, then Diwan of the Mysore Princely state. He instituted the scholarship for the backward class of students. The budget of 1917 allocated a sum of one lakh rupees to provide scholarships for the backward and depressed classes.

Report of the Miller Committee: "The committee was formed under the chairmanship of Sir Leslie Miller, including six non-official members from different communities, such as Brahmins, Lingayats, Vokkaligas, Muslims, and Backward."⁴ This very committee submitted its report in May 1919 and recommended that within seven years, the proportion of backward communities in all government departments should be increased to 50 percent.

2.2. R.Nagan Gawda Committee Report

The reorganization of the Mysore State in 1956 necessitated

a revision of the reservation policy because it included areas that were not considered by the Miller Committee. This also resulted in several communities not being included. In addition to this, consequent on the decision of the High Court of Mysore quashing the Government Order prescribing the seats in technical institutions, the government decided to appoint a committee to advise them on the question of classifying the Backward Classes. The second Backward Classes Committee was instituted under then-political leader Dr. R. Nagan Gowda in 1960 to determine the backwardness and to recommend the extension of reservation.⁵ The Nagan Gowda Committee was formed on January 9, 1960, and submitted an interim report on February 19. It focused on a tentative classification for the purposes of reservations in government service.⁶ It proposed and applied a dual test of literacy and representation in government services. Those communities that were above the state average on either of these measures were eliminated, leaving a list of 168 communities. The committee recommended 36 percent of the reservation. It was surprising enough that the Lingayat and Bhunt sections of the Vokkaligas were excluded from the committee list by the literacy test, and the rest of the Vokkaligas were on the list. Furthermore, Muslims were excluded from government service tests.⁷

2.3. Havanur Commission

After the rejection of the Nagan Gowda committee report, the Congress government, led by Dev Raj Urs, appointed a commission under the chairmanship of L.G. Havanur in 1972. He submitted the report to the government. The Havanur Commission conducted a selective sample survey of the socio-economic status of different castes and communities. Further, the Commission examined the nexus of the social and economic status of the people. The commission further classified the backward castes as follows:

1. Backward communities: whose student average per thousand is below the state average.
2. Backward Caste: whose student average per thousand is below 50 percent of the state average.
3. Backward Tribes: whose student average is below 50 percent of the state average and who are nomadic and denotified tribes.

As a result of the commission assessment, it recommended 46 percent of reservations, i.e., 44.52 percent for Backward Class and 14 percent for Schedule Caste and Schedule Tribes. Some of the new recommendations of the Havanur commission, apart from those made by the previous commission or committee, were: a) Coaching facilities or tutorial institutions should be provided to the candidates of other backward classes, scheduled castes, and scheduled

4 Yogesha N. E. "Backward class movemet to nationalism in princely Mysore , proceeding of the Indian History Congress , vol. 68, part one (2007) ,931.

5 Government of Mysore, *Mysore Backward Class Committee 1960*, R. Nagan Gowda final Report, Bangalore.P.5

6 Marc Galanter , *Competing Equalities*, Delhi , Oxford university Press , 1984, P. 224

7 Ibid 224

tribes so that they could compete with the advanced classes.
b) Financial support should be given to the members of the Backward Castes so that they could build their own houses, etc.

Similarly, Kolhapur was one of the important princely states of undivided India, whose ruler was Sahuji Maharaj. He was one of the progressive and visionary rulers of his time. He took the initiative to reserve seats for backward and Dalit people in public services and educational institutions. In 1902, Shahu Ji Maharaj issued an order for reservation in public services for the backward castes. Backward castes included, during that time, non-Brahmin castes. After the order of the Raja, 50 percent of government public employment was reserved for the backward castes. In addition to this, he also reserved seats in educational institutions for backward castes and Dalits. Moreover, it ended the Balutadari system and the *vatandari* system. He was a great emancipator of the backward and Dalits.

2.4. Tamil Nadu

Next to Mysore and Kolhapur, the state of Madras witnessed large-scale agitation for the reservation of posts in government for other backward castes and Scheduled Castes and Schedule Tribes. In 1924, after the Justice Party came to power, quotas were reserved for five different groups. Non-Brahmins, who were estimated to be 72 percent of the total population, were awarded a reservation of 41.67 percent. Four percent of the population, Christians and Anglo-Indians, received a quota of 16.67 percent. Mohammedans, seven percent of the population, were also given a quota of 16.67. The depressed classes, comprising 14 percent of the population, received a quota of only 8.33 percent. The above quota of reservations was fearlessly opposed by the allegation that the affluent non-Brahmin Hindu groups cornered all the benefits arising from this policy. Hence, a separate reservation policy was envisaged and implemented in 1947, enhancing the quota for non-Brahmin Hindus to 42.86 percent. A separate category of backward Hindus was introduced with a quota of 14.29 percent. The government substantially increased the quota for Harijans, as they were then known, to 14.29 percent. The quota for Anglo-Indians and Christians as well as Mohammedans was reduced to 7.14 percent.

That was one of the features of Tamil Nadu after the attainment of independence. Enlightened by the benefits that accrued to various groups consequent to the implementation of the reservation policy by the Justice Party, many other political parties began to utilize it effectively. A commission was constituted in 1969, under the chairmanship of A.N. Sattanatham, during the chief ministership of M. Karunanidhi to know about the position of backward classes. The report of the Sattanatham commission was submitted in 1970, which recommended a policy for the reservation⁸. On the recommendations of the A.N. Sathanathan committee, the Tamil Nadu

government again amended the quota. Under the new scheme of reservation, 18 percent for Schedule Castes and Schedule Tribes, 31 percent for backward classes, and 51 percent for the open quota were formulated. Further, in a bid to consolidate its position among the backward castes and to outdo others, and also keep in consonance with the party's views, the DMK government led by Karunanidhi in 1980 created a separate category called the most backward caste. herefore, this category received a separate 25 percent allocation. Finally, as things stand in Tamil Nadu, there exists an overall 69 percent reservation distributed as 30 percent to other backward castes, 20 percent to backward castes, 19 percent for schedule Castes and Scheduled Tribes, and 31 percent is available under the open quota. The reservation to the extent of 69 percent provided by the state of Tamil Nadu is far more than the limit of 50 percent by the Supreme Court in Indra Sawhney's case.⁹

2.5. Kerala

In Kerala, a committee was constituted under the chairmanship of **Nettur P. Damodaran** to study and report on the reservation policy. The commission recommended that Other Backward Classes were 38 percent apart from that for Scheduled Caste and Scheduled Tribe. An aggregate annual family income of below Rs. 8000 should be the level at which an income test should be applied. The test of social backwardness due to historical reasons should be applied objectively to include those communities not listed in the backward class list. The Nettiur Commission submitted its report to the then-government in 1970.

A demonstration was launched against the Nettiur P. Damodaran Commission Report. The forward section of the Keralite society thought it would be the weapon against the forward section of society. In addition to this, the condemnation of the report found staunch supporters even among the forward section of the Christian community, who had earlier remained smug on this issue. Two significant communities in Kerala, the Ezhavas and Nairs, staged protest demonstrations against the implementation of the reservation policy. The Ezhavas demanded that there should not be any economic limit for the members of the backward communities. They wanted to increase reservations by 49 percent, as in Tamil Nadu. Even they were averse to including more communities under the list of backward classes. Finally, then, the P. K. Vasudevan Nair ministry consequently bowed down to the pressures exerted on it and announced its decision to reject the proposal of the Nittuar commission.

2.6. Gujarat

The state of Gujarat has developed in the field of industrial development. Therefore, the benefits of this development have been widespread, unlike in other states. Consequently, the need for reservation did not negatively impact the empowerment of other backward castes. Moreover,

8 V . Raju" Some social measures in Tamil Nadu(1947 -1967)" , Proceeding of the Indian History congress .vol.75, Platinum jublee (2014). 1222.

9 P.P.Rao, " Right to equality and the Reservation Policy" , journal of the indian Law institute , Vol. 42 . No.2/4, constitutional law special issue(2000),199.

attempts to reserve posts in government have resulted in social conflict. Only in April 1978 did the government provide reservations for other backward classes. Moreover, the reservation for Scheduled Castes and Scheduled Tribes had evolved gradually, and only after it was noticed by the government that the proportion of the educated youth among these sections had increased manifold did, they need to be represented as their proportion. However, their representation in the government service was extremely limited. Therefore, it was a compelling situation for the government; a community that was inadequate in their representation should provide due representation in the government service.

2.7. Baxi Commission Report

There was controversy over the reservation policy of the Gujarat government; therefore, in a bid to avoid this controversy and find a solution to the problem of backward classes, a commission was constituted under Justice Baxi. He submitted the report to the government in 1972. The Baxi commission identified eighty-two communities as the other backward classes (OBCs). This commission estimated that about 45 percent of the population constituted Other Backward Classes among the overall population of Gujarat. The Baxi commission recommended that 10 percent of seats should be reserved in technical, engineering, agriculture, medical, and veterinary colleges. Moreover, the ten percent quota was to be reviewed by the government after ten years in March 1988, then the Janata government accepted the recommendations of the Baxi commission on 1 April 1978¹⁰. The report's methodology and the designation of the other backward castes were harshly criticized soon after it was released.

2.8. Rane Commission Report

Due to pressure from the opposition party regarding the Baxi commission report, the Madhav Singh Solanki government constituted a new commission under the chairmanship of

Justice C. V. Rane in 1981¹¹. It was asked to identify the castes that were left out from the list of other backward classes. It was also asked to report whether a certain number of seats and posts should be reserved for the other backward classes in proportion to their population. The above commission adopted a new criterion of income and occupation instead of caste in identifying backwardness. Consequently, they identified sixty-five occupations as backward and covering about 35 percent of the population. Finally, the government accepted the report of the Justice C.V. Rane commission but rejected the criterion set as income and occupation. It also enhanced the other backward classes' quota to 18 percent. Additionally, the government constituted a one-man committee to investigate the exclusion of any eligible castes and communities from the list of other backward classes.

2.9. Bihar

Mungerilal Commission: Recognizing the widespread misuse of power and non-obligation of government orders vis-a-vis the appointment of Schedule Castes and Schedule Tribes by the government officials, the chief minister of Bihar, Sri Daroga Prasad Rai, said in the assembly that a commission would be constituted to investigate the said matter. Consequently, the Mungerilal Commission was formed on 23rd December 1971. On the basis of these reports, a 26 percent reservation was implemented by Karpooori Thakur's government in 1978.

3. CONCLUSION

Although the history of affirmative action goes back to colonial India. Recently, 10 percent of reservations to the economically weaker section of society have transformed the debates on affirmative action in India. Our recent affirmative action has taken lessons from past developments. However, the Mandal Commission's Report stands out as being more comprehensive, thorough, and scientific compared to previous commission and committee reports.

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10 Krishna K . Khummala”the politics of preference in Public service :The case of Mandal “, Indian journal of Political science, Vol.55, No.4(1994),355

11 Munmun Roy, “Backward classes , the social order and constitutional arrangement: The indian perspective “ Indian Journal of Political science ,Vol.74,No.3(2013).

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