

OPINION

Relevant for: Government Policies & Welfare Schemes | Topic: Welfare of SCs - Schemes & their performance; Mechanisms, Laws, Institutions & Bodies

A report by the United Nations Development Programme titled *Human Development for Everyone* sets out in elegant prose the meaning and purpose of human development. It says “human development is all about human freedom: Freedom to realize the full potential of every human life, not just for a few, nor of most, but of all lives in every corner of the world—now and in the future”.

Over the last 25 years, much progress has been made. Millions of people have risen from extreme poverty, fewer are malnourished, people expect to live longer and more children go to school than ever before. Many challenges remain, and exclusion—you might call it inequality, or lack of opportunity or merely a continuation of basic deprivation —has led to political debates and upheavals in a wide variety of countries.

One major category of policies used in removing restrictions on freedoms is affirmative action or positive discrimination. We call it reservation in India. The first such policy in independent India dates to 1950. Part XVI of the Indian Constitution deals with reservation for scheduled castes (SC) and scheduled tribes (ST) in federal and state legislatures, as well as with the constitutional authority of the president to establish commissions to examine and recommend remedies for the welfare of SC and ST groups. This reservations in politics has been extended to employment (Article 16) and to higher education. It was expanded to include other backward classes (OBC) in later decades.

India is unique in the world in that reservation policies address historically disadvantaged groups, defined primarily by a caste system (most other countries base it on ethnicity, religion, language, gender or sexual preference). Just tracking this primary system is complex enough; most large states have about 60 subcastes, each defined as SC and ST. It is further complicated by the fact that it is implemented at both the federal and the state levels, and sometimes in combination with religion, economic and gender classifications.

For instance, there is reservation in some contexts for backward class Muslims (a compound of economic and religious groups) and there is much controversy about whether Dalit Christians (a compound of caste and religion) groups retain their affirmative rights. There is also much debate around whether the prior beneficiaries from historically disadvantaged groups should be excluded from future benefits—the so called “creamy layer” exclusion.

The extension of the reservation system to OBCs has triggered further reaction; those not defined as OBC want in. The passage of a long period of time since independence and reservation has also now ensured that the previously advantaged castes, such as Brahmins, Rajputs and Chettiers, have begun to feel severely disadvantaged. They want to include the economically disadvantaged among them in the reserved groupings.

The case of Tamil Nadu is instructive. It (including the erstwhile Madras Presidency) began affirmative action programmes over a century ago on the back of the Madras census report of 1871. It enacted an employment law that was primarily based on caste in 1927. By 1980, through successive governments, reservations for higher education and employment stood at nearly 70%.

To counter a Supreme Court-mandated maximum of 50% reservation, Tamil Nadu set a

precedent by including it under the 9th Schedule of the Constitution (subject to very limited judicial review). The reservation in education is widely believed to have produced significant upward mobility for disadvantaged groups. A critical assessment of political- and employment-related reservation is less clear about the benefits.

With a volatile political cocktail of caste, reservation and magnitudes, it is very likely that India will once again see affirmative action-related rioting like it did in 2006, when reservation for OBCs in education, in accordance with the 93rd amendment, was significantly expanded in government institutions, and the idea of it being extended to private institutions was given legislative sanction.

The challenge for India is that while many sections of the society remain disadvantaged (STs, for one), political action has shifted to relative discrimination within reserved groups. As the reservation pie grows larger, in effect, it becomes a method of exclusion rather than inclusion.

In a recent ruling, the Supreme Court ruled that it was not mandatory for the government to give reservation for job promotions, but removed a requirement that asked for data to support disadvantage. Paradoxically, it appears this judgment has handed the power back to the executive to create laws that would do just such a thing.

Continued disadvantage for some historically disadvantaged groups, newfound disadvantages for some so-called forward castes, a real *khichdi* of judicial pronouncements and a political system that still divides to conquer will inevitably lead to societal angst.

It is time that India made a critical assessment of its affirmative action programmes. Simplification, legislative sunsets and periodic reviews should be important principles in the redesign. It is a touchy, volatile subject but the time has come.

P.S. "It necessitates getting out of the old habit of reservations and particular privileges being given to this caste or that group," said Jawaharlal Nehru in 1961.

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