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Inter-Regional Inequality Facility
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Affirmative Action

India

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Objectives

In India, the Scheduled Castes (SCs) and Scheduled Tribes (STs), which together constitute a quarter of the total population, have long suffered from discrimination and exclusion. This is reflected in a lack of access to income-earning assets, higher-quality employment and public services. They also experience resistance, violence and even atrocities in their attempts to secure human rights and lawful entitlements. The discrimination and exclusion experienced by these groups has resulted in severe deprivation and poverty.

The Indian government's approach towards these groups consists of three main elements. These are:

- legal and other safeguards against discrimination;
- affirmative action measures in the state and state-supported sector;
- general developmental and empowerment measures in the private sector.

This paper focuses mainly on the second of these, namely the affirmative action policies in the state sector, otherwise known as the country's reservation policy.

Description

Affirmative action policies in India are operative in three main spheres, namely appointment and promotion in government services, admission to public education institutions, and seats in the legislature. In government services, there are reservations for SCs and STs in proportion to their share of population, in the civil service, public companies, statutory bodies, and voluntary agencies, although not in defense or the judiciary. In education, the government reserves places for SC and ST students in all government-run educational institutions. In political representation, constituencies are reserved for SCs and STs in Central and State legislatures in proportion to their population share. In each case there are complementary provisions designed to increase the ability of SCs and STs to take advantage of the opportunities offered.

Lessons learned

Over time there has been a considerable increase in the share of SCs and STs in government employment and educational institutions. Reservations in the legislature have also provided a space for SCs and STs in the executive and in the decision-making process. The formal reservation policy in the government sector, and the general developmental and empowerment measures in the private sector, have also contributed to an improvement in the human development of SCs and STs. However, during the course of the implementation of India's reservation policy some problems have become apparent. First, the success of the policy has been uneven across sectors and departments. Second, the policy is limited to the government sector, while more than 90 percent of SC and ST workers are employed in the private sector. Finally, despite the improvement in human development among SCs and STs, disparities in attainment with non-SCs and non-STs persist even to this day. This indicates that addressing social exclusion is often a far more difficult challenge than anti-poverty policy.

Background

Indian society is characterised by a high degree of structural inequalities, based on the institutions of caste and ethnicity. Although every caste (except those at the top of caste hierarchy) suffers from the unequal and hierarchal assignment of rights, it is the ‘untouchables’ castes – referred to officially as the Scheduled Castes (SCs) – which have suffered most. Historically they were denied the right to property, business (except some occupations considered as impure and polluting), education, and all civil, cultural and religious rights, except manual labour and service to castes above them. Untouchables also suffer from residential segregation and social isolation (Thorat 2005).

Another source of exclusion is linked with ethnic identity, from which groups like the *Adivasis* (meaning indigenous) – referred to officially as Scheduled Tribes (STs) – suffer. This group has suffered from isolation, exclusion, neglect and under-development due to their geographical and cultural isolation. In their case, exclusion can take several forms, including the denial of right to resources around which they live, and displacement induced by economic development.

In 2001 the SCs accounted for around 17 percent of the Indian population, while the STs accounted for around 8 percent – together about one-fifth of India’s population, about 250 million people. Table 1 presents some indicators of living standards among each group, in comparison with other groups. In general, both SCs and STs have lower ownership of capital assets, are more likely to depend on casual wage labour, are less educated, and suffer from higher degrees of poverty and child mortality.

Table 1 Welfare indicators in India by caste and ethnic group, 2000

	SC	ST	Non-SC/ST
Poverty, rural (%)	36	46	21
Poverty, urban (%)	38	35	21
Child Mortality (per 1,000 births)	39	46	22
Assets per household ('000 rupees)	49	53	135
Percentage of wage labour, rural	61	49	25
Literacy, rural (%)	51	45	63
Literacy, urban (%)	68	69	82

Sources: National Sample Survey Organization, Delhi; International Population Research Institute, Mumbai; Commission for Scheduled Caste and Tribes, Delhi; Thorat (2005).

The Indian government’s approach towards these groups has been shaped by two key provisions in the country’s constitution, adopted in 1950. These are the principle of ‘non-discrimination and equal opportunity’, and the empowerment of the State to take steps to ensure non-discrimination and equal opportunity in practice. The approach has involved three main elements, namely:

- legal and other safeguards against discrimination;
- pro-active measures in the state and state-supported sector, in the form of the reservation policy;
- informal affirmative action in agriculture and private industry, as part of general developmental and empowerment measures.

This paper focuses mainly on the second of these three elements, namely the country’s reservation policy.

Details

India’s current affirmative action policy, otherwise known as the ‘reservation policy’, is operative in three main spheres, namely appointment and promotion in government services, admissions to public educational institutions, and seats in Central, State and local legislatures.

Government services

The most important aspect of the reservation policy is that relating to government services. Article 16 (4) of the constitution empowers the State to make “any provision for the reservation in appointments, or posts in favor of any backward class of citizens”, and “provision for reservation in matters of promotion to any class or classes of posts, in the services under the State in favor of the SCs and STs.”

In pursuing this provision, the Government made reservation for SCs and STs in proportion to their share of population. There are also reservations in the promotion of employed persons. The government services included are the Government civil service, public sector undertakings, statutory and semi-Government bodies, and voluntary agencies which are under the control of the government or receiving grant-in-aid. At the central level, some services are however excluded from the reservation policy; these include, most prominently, defense and the judiciary.

Reservation is accompanied by other provisions designed to increase the ability of SCs and STs to compete for government jobs. These include the relaxation of minimum age for entry into the service, relaxation in the minimum standard of suitability (subject to a required minimum qualification), the provision of pre-examination training, separate interviews for SCs and STs, and representation of people with SC or ST backgrounds on selection committees.

Education

The second most important aspect of reservation policy relates to education. Article 15 (4) of the constitution empowers the State to make special provision for the educational advancement of SCs and STs. In pursuing this provision, the State reserves places for SC and ST students in educational institutions, including all colleges run by the Central or State governments and all government-aided educational institutions. This is supported by a number of financial schemes, including scholarships, special hostels for SC and ST students, fee concessions, grants for books, and additional coaching.

Political representation

The third most important sphere of the reservation policy relates to representation in Central and State legislatures. Under Articles 330, 332 and 334 of the Constitution, seats are reserved for SCs and STs in the Central legislature and State legislatures. Similar reservations are provided in local level bodies at district, Taluk and village level. The reservation of seats is complemented by statutory provisions to enhance political participation by SCs and

STs; smaller election deposits are required from members of these groups for example.

Implementation

The Central Government has developed an administrative mechanism for regulating, monitoring and implementing the reservation policy. The main institutions involved are the Department of Personal and Training (DoPT), the National Commission for SCs and STs, the Committee of Parliament on Welfare of SCs and STs, the Ministry of Social Justice and Empowerment, and the Ministry of Tribal Affairs.

The DOPT regulates and monitors the reservation policy in government services. Its main function is to enforce the rules and monitor the fulfilment of the quotas. It is supported by administrative units within each Ministry and/or government supported organisation. The National Commission for SCs and STs has responsibility for investigating specific complaints received from SC or ST employees regarding appointment and promotion matters. The Commission has the power of a Civil Court, and can call employers for enquiry. It also prepares an annual report which has been discussed in the national Parliament in every year since 1950.

The Ministry of Social Justice and Empowerment and the Ministry of Tribal Affairs are responsible for the all-round development of SCs and STs, and carry out various schemes related to education and economic development. The Committee of Parliament on Welfare of SCs and STs, which is comprised of the SC and ST members of parliament, is entrusted with examining progress regarding the legislative representation of SCs and STs, and also makes recommendations for effective implementation of policies and programmes.

Impacts

Employment

There has been a striking increase in the number of SC and ST government employees. The absolute number of SC employees increased from 218,000 in 1950 to 641,000 in 1991, although it fell to 540,000 in 2003 following a contraction of total government employment. The percentage of SC employees in total government employment increased from 12% in 1956 to about 16% in 2003, fairly close to their share in population. The absolute number of ST employees increased from 38,000 in 1960 to 211,000 in 2003, which represented an increase from 2% to 6% of total government employment.

The number of SC and ST employees has also increased significantly in public sector undertakings, nationalised banks, and public insurance companies. There are, however, variations between different type of jobs, and quotas are much closer to being met in lower categories of jobs. For instance, in 2003 the targets for SCs and STs in case of grade C and D jobs (lower job categories) are close to their population shares of 16% and 8%, but fall short in grade A and B jobs and also in several categories of technical jobs.

Education

The evidence indicates that there has been a large increase in enrolment of SCs and STs in education institutions. In 1981, the proportions of SCs and STs among total graduates were estimated to be 3.3% and 0.8% respectively, far below their shares in total population. By the late 1990s however, these figures had risen to 7.8% and 2.7%. Nevertheless, these figures are still low, compared with the groups' shares of total population. There is also evidence that the enrolment shares of SCs and STs are much lower in preferred educational institutions.

Political representation

As described in the previous section, seats are reserved for SCs and STs in Central and State legislatures in proportion to their shares of population, and these are mandatory in nature. Thus in 2004, 75 (13.8%) of the 543 seats in the *Lok Sabha* were reserved for SCs and 41 (7.6%) were reserved for STs. Of the total number of seats in the *Vidhan Sabha* (State legislative assembly), more than 2000 seats were reserved for SCs and STs. However, these requirements are still based on the population shares of SCs and STs in 1981, and there has been delay in updating the shares on the basis of figures from the 2001 census, which puts the population shares of SCs and STs at 17.0% and 8.5% respectively. This means that both groups continue to suffer from under-representation in Central and State legislatures.

Poverty and human development

There has in recent years been a clear improvement in human development indicators among SCs and STs. Between 1983/84 and 1999/2000, for example, monthly per capita consumption expenditure and literacy rates among SCs and STs both increased, while the incidence of poverty fell. Nevertheless, the size of the improvement has generally been lower among SCs and STs than among other groups, so that SCs and STs continue to lag behind other segments of the Indian population.

Implementation issues

Coverage

Currently, the reservation policy applies to government and government supported sectors only, and excludes the private sector. However, it is estimated that more than 90 percent of SC and ST workers are employed in the private sector, and there is a danger that such workers lack protection against discrimination. Similarly, all private educational institutions are also excluded from the reservation policy. The government has set up a Group of Ministers to develop a consensus between government and the private sector regarding the adoption of affirmative action policies in the private sector.

Quality of representation

Another issue relates to the quality of representation afforded by the SC and ST representatives in the legislature. Studies have indicated that they experience lower participation, less articulation, less assertion, and less independence than representatives from high castes. It has been argued that SC and ST representatives from reserved constituencies are limited in their ability to represent their group interests, because the constituencies are still made up

overwhelmingly of non-members of their groups. Because of this limitation, Dr. Babasaheb Ambedkar had originally suggested (in 1945) an alternative arrangement, known as the 'Separate Electorate', to ensure a more independent representation of SCs and STs in the legislature.

Access to justice

Another issue relates to the access of SCs and STs to the institutions of justice in seeking protection against discrimination. Studies indicate that SCs and STs are generally faced with insurmountable obstacles in their efforts to seek justice in the event of discrimination. The official statistics and primary survey data bring out this character of justice institutions. The data on Civil Rights cases, for example, shows that only 1.6% of the total cases registered in 1991 were convicted, and that this had fallen to 0.9% in 2000. A study in Andhra Pradesh of the reasons for low conviction observed negligence and collusion at the stage of registration, charge sheeting and investigation, in seeking justice before the law in the court, and also in giving compensation (Agrwal and Gonsalves 2005, Dalit Human Right Monitor 2003). A study in Karnataka made similar observations (Khan, 1995).

Time limits

Reservations in political representation are accompanied by a time limit. They were initially provided for a ten-year period, with a provision for extension every ten years (the present extension is up to 2010). By contrast, in the areas of government services and education it is left to the government to use reservations up to the point where it is considered that discrimination against SCs and STs is no longer a major problem. There is a minority view which expresses concern about the extension of reservation policies without a time limit. Nevertheless, the majority view is in favor of extension as long as discrimination and social exclusion of SCs and STs persists, and there is general support in government for reservation policies without explicit time limits.

Lessons learned

Over time there has been a considerable increase in the share of SCs and STs in government employment and educational institutions. Reservations in the legislature have also provided a space for SCs and STs in the executive and the decision-making process. The formal reservation policy in the government sector and the informal affirmative action policy in the private sector have also contributed to an improvement in the human development of SCs and STs. However, the rate of improvement has been rather slow, and disparities in human development attainment between SCs and STs on the one hand, and non-SCs and non-STs on the other, continue even today.

During the course of the implementation of India's reservation policy, some problems have become apparent. First, its success has been uneven across sectors and departments. Generally speaking, participation of SCs and STs is close to their population shares in lower categories of jobs, but much lower than their shares in high-grade positions. Due to indirect resistance, the extension and spread of reservation policy to several government sectors has also been slow. Another issue is the demand by SCs and STs to extend formal affirmative action policy to private sector employment and private educational institutions. This is currently under active consideration by the government.

Finally, the fact that disparities in attainment persist to this day indicates that addressing social exclusion is often a far more difficult challenge than anti-poverty policy. Social and cultural sources of exclusion, including low self-esteem, stigma, discrimination and denial of citizenship, are rooted in the social structure and the institutions of caste and untouchability. In this context, the inclusion of excluded groups becomes a somewhat different goal than the inclusion of materially deprived people. Even when broadly defined, poverty is still largely a question of access to resources and services. By contrast, exclusion of groups, or of individuals within groups, is foremost a denial of equal opportunity, respect, and the right to development, which affects even the relatively better-off members of excluded groups.

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