



## **Missing Issues in the Debate on Reservation**

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## Missing Issues in the Debate on Reservation

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### Abstract

*The issue of reservation has been presented as arising out of educational and social backwardness of the OBCs. Except in nomenclature there is no substantial evidence to show that most or even the majority of the 'jatis' that constitute the OBCs are educationally backward. The heterogeneity within what is an administrative grouping (and that too residually defined as non-upper caste and non SCST essentially) is far too large. And the systematic regional differences in the educational and economic achievements of the OBCs would not warrant the lazy position of class=caste from which the reservation agenda has been both presented and discussed. The assumed parallelism with SCST reservation are just not there. Neither the argument for creating a middle class, nor the need to overcome social ostracism and untouchability are relevant in this case. The issue is at best (to the extent that some of the OBC jatis are backward educationally) one of access which is overwhelming an issue of economic ability and performance of the state in the provision of educational services. Moreover the fact that as much as 20-25% of enrollment in higher education being from the OBCs makes us ask the question: Is the initiative that has the potential to divide the country worth addressing a non-problem or at best a most ill-stated one? The Supreme Court having placed 'social and educational equality' above equality under law, if it has to be true to the spirit and letter of this very position would have to address the issue of educational deprivation far more comprehensively than is presented by the reservationists. It cannot accept a report merely because it has the imprimatur of the executive. It needs to understand the nature of the unholy alliance of all political parties on this issue. Much of the deprivation has to do with performance of the state and its educational machinery. State failure in regulation of both public and private education, shameful underfunding of the public education system at the primary and secondary levels especially in much of north and central India, the wanton destruction of most of the universities leaving much of their fare all but worthless are the real problems. These now create a scarcity for quality education and that makes the issue of reservation politically appropriable in a most perverse and reprehensive manner and which could never solve either the problem of higher education or the problem of access that much of the OBCs (as much as the Indian population as a whole) face. The Supreme court must see through this game. After all it can insist on compulsory primary education and fully funded quality primary and secondary education to begin with, which could then start the process of the real problems being addressed.*

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## LEGAL OPTIONS

Legal challenge to reservation/ “affirmative action” can only be limited. This is because the constitutional amendments and case law have provided to set aside equality under law for equality of opportunity, and has also empowered the state to define and address equality of opportunity without worrying too much about the possibilities of miscarriage of justice and equality that it could result in. Nevertheless the criteria for the definition of a class as social and educationally backward could become an issue since the Mandal report is now many years old, and there is some evidence that many of the OBCs identified therein may by now (and some OBCs even then) may not be in any sense educationally and socially backward. But the idea of giving up reservation (privileges for Socially and Educationally Backward Castes) would require major change in thinking including reversal of some judgments /provisions in the constitution as it stands today. And this needs to be understood by all anti-reservationists.

The ineffectiveness of reservation, and the existence of many superior and sustainable options such as improvement of supportive secondary and primary education, besides enhanced investments in higher education would most certainly all be drowned in the competitive political process. There is most certainly a negative common property situation here. No political party could gain by opposing OBC reservation, and while none may gain significantly either by pushing for reservation, any party that opposes would lose, since the probability of success of any opposition would in necessarily depending upon other parties joining in, would be small thereby ensuring failure of anti-reservation.

There are other issues of a substantive nature that need recognition, and even if reservation in institutions of higher learning is a forgone conclusion, these would be useful in anticipating the future the higher education in India.

## EDUCATIONAL BACKWARDNESS AND RESERVATION

Reservation of OBCs is being sought on the **ground of backwardness** –which has not been seriously (functionally and in a way that is consistent) been defined. SCST reservation was also justified on this ground, but discrimination (historical and vestigial) was more important. The burden of guilt and the obvious inequalities that members of the SCST community were subject to ensured legitimacy of the same among all but the most bigoted of other sections. Hence

reservation was therefore seen as 'just', even if per se inefficient - SCST reservation having not worked at the elite institutional level (even today barely 7-8% of applicants to the Common Admission Test of the IIMs are SCST).. Exceptions apart there are notable differences between the grades obtained as also the placement of such students. In my own courses I have noted a consistent 2 sigma or more difference between the performance of SCST and other candidates. So attendant economic, social and especially lower/earlier level educational factors continue to be adverse for SCST despite now over 50 years of reservation. This is only to be expected, since employment growth has been slow, growth itself has been too slow (in comparison to East Asia). Most important of all a major programmes like land reform and compulsory primary (and secondary education) which alone could have overcome the endowments problem were not pursued. These in contrast were the basis of the Japanese, Korean, Taiwanese, not to speak of Chinese economic transformations.

Reservation cannot work without the correction of the severely adverse economic and related factors. [Interestingly the correction of these with access guarantee to (earlier) lower level factors would work anyway if discrimination is not there, so the argument for both reservation and for correction of state and endowments failure is infructuous in the case of OBC].

In the case of OBCs there never was the kind of discrimination and the practise of social ostracism that SCSTs were subject to. SCST reservation in the arguments of many were justified to create a middle class among the communities since these communities were represented only in the bottom of the social and economic hierarchy which ever way one looked at. In this task SCST reservation has no doubt succeeded. But even here, the middle class among SCSTs is thin and continuance of the policy without reference to the creamy-layer needs to continue even if there are far better options of affirmative action even here. In the case of SCST class meant caste and using caste as a surrogate to bring about (compulsory) affirmative action was justified. Reservation despite its inefficiencies was also therefore justified.

#### RESERVATION OBCs and SCST

The issue with regard to OBCs cannot be either social discrimination or ostracism, nor economic discrimination. Nor can the argument of the creation of a middle class hold any water. OBCs as a group are well represented in business, higher education, and they do have an ample middle class. There is tremendous differentiation taking place within many of the 'jatis' that are included among OBCs. Rates of educational and economic progress among some 'OBCs' so large that the

criteria of backwardness would not apply in a real functional sense but only in the ex-ante sense of presumption to be so in being non-upper caste.

The “class equal to caste” statement would be quite invalid in the case of OBCs generally. While in the case of particular ‘jati’ of a region it could be true, there is no basis to say that irrespective of region, OBCs constitute an educationally, socially or economically backward class. NSS data on consumer expenditures would amply show this. In-group variance is of the same order as across-group variance

Change has been rapid and this is most notably correlated with the performance of the state in public services, economic development of the region and the prior existence of non-Brahmin movements (as happened over much of the South), effectiveness of land reforms, local agricultural development, activities of missionaries etc. While also correlated with reservation for OBCs in some states in the South these other factors are dominant and determining.<sup>2</sup>

Unlike in the case of Brahmins who could all irrespective of region be called educationally forward, and SC/ST who irrespective of region can be called socially, educationally and economically backward, nothing firm can be said about the “OBCs”.

Thus an OBC jati say (Ezahas from Kerala) could be educationally and economically more advanced than perhaps many upper caste ‘jatis’ in the North. Operationalisation of OBC reservation (or positive discrimination in other ways) across states for central government facilities suffers from an additional infirmity over operationalisation of the same within a state or a small region. No equivalences across the many jatis valid over the entire country is possible. If advanced OBC jatis who have made much progress are kept out, then there would be discrimination against a region or state precisely because it has made progress (due in significant measure due to better governance and performance of educational system and to social movements) and can and foment regional disputes.

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<sup>2</sup> Pro-reservationists though would point to the South as success stories of reservation in higher education, ignoring the self help and community reform character of non-brahmin movements, the higher value that such reforming communities and reform leaders placed on education and the ‘sanskritisation’ that these movements entailed, even when antagonistic to Brahmins – the original learning classes. They would also not give credence to the more dynamic economic aspect in these states, and to relatively better performance of the state in public services including provision of education. Such transforming communities saw vast expansion in community efforts to promote learning. Witness the innumerable “colleges of engineering” promoted by muslims in Kerala, and the massive institution building of the SNDP movement of the Ezahas of Kerala.

Keeping aside 'advanced' states' OBCs would also be a reward for poor performance of state and local governments (UP, Bihar, MP, Orissa etc). Operationalisation would necessarily imply a limited period of validity and permanent lists would be inadmissible since movement is rapid at the level of a particular jati. With this power being exercised by the government of the day one more item to populism would have been added (like moving excise duties up and down) viz dynamically declaring this or that group to be an OBC.

It is most likely that already more than 20% of students in IIMs are from OBC communities. So given the ceiling of 50% (assuming that the anomaly between this ruling of the Supreme Court and another one that enjoins institutions/organizations to ex-post push such reserved category candidates as who qualify under open category to open category, is removed); the additional 'gain' is going to be only 7% or less. The evidence is strong that OBCs are already adequately (to the extent of 25% in rural and 15% in urban areas) represented in Indian universities. So even if one keeps aside all arguments against reservation, this aspect raises the issue "is it worth it?" Can a nation be divided and the idea of equality under law be systematically violated to "overcome" a non-problem even by the criteria of its proposers? If on the other hand the progressive OBCs are kept out besides the problem already cited of acceptance by state governments, the problem of quality deterioration would be severe in leading institutions since non-progressive OBCs (and others in rural areas) being subject to early deprivation (in a large measure due to state failure and endowments failure) would not be able to cope up or gain much out of the "access" created by reservation.

#### OTHER SOLID AND CORRECTABLE DETERMINANTS OF EDUCATIONAL DERPRIVATION

The rural –urban differences in educational achievement, skills and competencies are stupendously large. Factors that kept these large differences alive are the near total lack of good public hostels, near complete mismanagement of these even in 'elite' institutions , besides the very poor quality of small town colleges and universities. For a state whose principal rhetoric is redistribution the shamefully few merit and near means scholarship especially for rural and poor people in higher education is telling.

While fees are low in public institutions in secondary and primary education they are either worthless, or coping costs of students are very high In regions where all except the well endowed have been able to use higher education to be part of the middle classes. Non-graded primary and

higher secondary syllabus makes teaching and learning an unnecessarily painful and expensive process. Completely free good quality primary and secondary education is well within the capacity of the Indian state that by most conservative estimates blows up over 5% of its GDP in subsidy on the middle classes (kerosene and LPG subsidies for instance)!

In states with reasonable public capacity and with a history of missionary and community effort<sup>3</sup> cost of schooling is in comparison to the country average low (North East, Kerala, Goa, Tamilnadu) and in other with much demand but poor public and community performance if is very high (Haryana, Chandigarh, Punjab, Uttaranchal). Outlay on education in family expenditure varies much across states. And this variation is much larger than the variation across social groups after adjusting for income (NSS 59). Educational asset is cumulative and in part intrinsic (given innate and early childhood differences). While states cannot and should not directly do anything about the former, the latter is very much a matter for the state. State failure here has been very large and all other problems including the perverse politics has at its root this problem.

#### RAMPANT STATE FAILURE IN PUBLIC SERVICES

India's literacy is worse than its peers when due adjustments have been made for income. Performance is inversely corrected to the intensity of the public aspect in services; so state failure is the culprit<sup>4</sup>. Reservation for OBCs is only a way to divert attention from massive state failure, and in this unholy cover up and displacement of the people's attention all political parties collaborate to further the existence and continuation of the system. Reservation is like saying that we can build the upper part of a wall without building the lower part.

The state spends over r Rs. 50,000 crore annually in the name of the poor on kerosene and LPG subsidies, if diversions, revenue leakage, adulteration etc is taken into account. The maximum gain to the poor (not just the BPL) would be no higher than Rs 8000 crore. It spends Rs. 6.22 to direct Re. 1.0 of subsidy to poor through the PDS. (Any reasonable system should be able to do this at

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<sup>3</sup> In such states there is immediate potential for vouchers to overcome the access problem that the poor face.

<sup>4</sup> It is interesting and entirely relevant to the discussion that in services where the public aspect is large the failure has been most acute. Thus roads are worse than the organisation and conduct of road freight business, in literacy or in primary education where the comparative advantage of the state is large we do far too poorly in relation to our peers than we do in higher education; in morbidity and infant mortality we do worse than in adult life expectancy; in public hygiene exemplified by sewerage and sanitation systems we do terribly as compared to our inside home hygiene and practice.

1.2 or less) The cost of electricity subsidies is over Rs. 45,000 crore annually. What farmers get is a mere Rs. 8-10,000 crore. Rest are wasted, diverted and pocketed by a parasitic state. Leakage from programmes of the planning commission (non-transfer programmes) is generally of the order of 30% or more. Leakage from some Tribal Development Programmes is as high as 98%! Water subsidies are over 12,000 crore annually and the amount irrigation water wasted is well over 30%. Delays and cost overruns arising out of systemic problems is in public projects over 50%.

At a fraction of money that is wasted – Government should be able to fund universal compulsory primary education and universal secondary and higher secondary education completely to make it free for the poor (in Kendriya Vidhyala type schools)

The left which so vehemently fights for the interest of the bourgeois “working class” in the name of the poor could do much to the real poor and to high growth by bringing back the slogan of land reforms and compulsory education.

Many have argued for “vouchers” as a solution to access to education. The idea here is that with access vouchers distributed among the poor, the poor could attend good schools run by private and charitable institutions besides the state. Where schools and colleges function well and are not too expensive this could be a solution. This is true of Tamilnadu, Kerala, parts of Andhra Pradesh and Maharashtra, the entire North East, Goa and much of Karnataka. In contrast on the back of failure of the state a rapacious private sector in primary secondary and higher education exists. Education being an experience good, good education is not easily distinguished from not so good education that comes with the form of the same – uniforms, strictness in schools, insistence on expensive books and paraphernalia etc. Low cost public and charitable educational institutions are the key to reigning in the otherwise cost excesses of the private sector which then becomes unaffordable to all but the very rich – the DPSes, some of the ‘international’ schools and the very elite ‘ruling- class’ schools. In higher technical and managerial education, the existence of the NIITs the IITs and the IIMs served to enforce this competitiveness and quality on the private sector.

## REGULATORY PROBLEMS

Regulation of education has been quixotic in India to say the least. The need to recognize the experience good aspect and reputational effect of the same is acute. Built into any system of funding has to be a mechanism that allows the good quality to expand faster than the poor quality institutions, so quality measure is crucial to educational support and funding, Funding in India



being based on numbers and without reference to quality has allowed misuse of the same when funds have been made available, . Funding itself has been inadequate so that there is a premature appropriability of higher education that has emerged based on the sacrifice that parents make to make possible their children's access to education, Other factors that have either increased the costs of provisioning and made the user side costs large are absurdity in the syllabus, chauvinistic indulgences that have made learning more difficult than it need be, Grade inflation and variance compression, little spending on teachers even when there is money to spend. (Buildings take priority over everything else, formal qualification based selection of teachers rather than performance based;

Private sector engineering and management education through the AICTE is guaranteed to create poor colleges. (Thus the policy itself inter alia denies scale and scope economies which are known to be large in higher education). That some private sector groups have nevertheless created worthy institutions is more a wonder. There is a need to recognize the huge drainage of foreign exchange on account of educational related spending by the upper middle classes and of its potential of education as to be foreign exchange earner with a rational policy and approach rather than masochism that the state is currently engaged in through both regulation and action driving out private investments in appropriate education, and bringing down the last standing public institutions of higher education

Any rational person can see that even if a few hundred out of the more than tens of thousands or so management and technical schools had reasonable quality, then the pressure to on the few that have held on to quality would not have been so large. The premium differences between an MIT or HBS over say Toledo while significant is small, but no where near the premium differences between say IITB or IIMA and University of Kolhapur. Clearly caste, interference, politicisation, under funding, absurdity of syllabus, insulting roles imposed on teachers, control over content, have all but destroyed the potential of the vast scale and scope which universities have to deliver high quality higher education, The IITs and IIMs not having the advantage of being parts of a universities remain high cost. As part of universities they could only have collapsed under the rot. Such is the tragedy of higher education since having opened the door to 'social and economic equality' it must take the matter to its logical end. Correcting these should be agenda of the Supreme Court. After all if the SC thought that it could decide on the fuel to be used in buses in Delhi, should it not also be deciding that it is high time that education (primary and secondary) is made compulsory, quality education provided and its access ensured to all including the poor?. If it swallows the reservation pill then clearly its activism is advertising that its activism is not so much

for the poor as for the pampered elite of Lutyens Delhi? Also then the rhetoric over the reality would have been taken to a new height to divide in yet another way the country for no reason at all but to hope (naively) for a swing in UP elections.