

Higher Education Reservations and India's Economic Growth: An Examination

GURPREET MAHAJAN

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CIGI WORKING PAPER

Emerging Economies

Higher Education Reservations and India's Economic Growth: An Examination

Gurpreet Mahajan

Working Paper No. 36

September 2008

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Thank you for your interest,



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Author Biography

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Abstract

In 2006 the Indian Parliament passed legislation reserving an additional 27 percent of seats in all institutions of higher learning, funded by the central government, for the category of socially disadvantaged groups officially known as “Other Backward Classes.” At a time when India is opening its economy to global competition, this initiative has re-ignited the debate on the efficacy of reservations and triggered fresh anxieties about the impact of this policy on India’s economic growth.

This paper looks closely at the offered justifications for this policy as well as the expressed concerns. While examining the implications of the policy, particularly the claim that higher education reservations will dilute the quality of human capital, the paper suggests that the policy may present long-term challenges not currently anticipated.

The argument rests on the understanding that while educational institutions must be responsive to the concerns of marginalized groups, the policies for correcting prevailing exclusions must be just and fair. If they enshrine identity as a permanent economic asset or a source of ever-renewable privilege, these policies are likely to produce social conflict and disharmony. This element is ignored by the announced policy and is likely to weaken not just India’s educational institutions but also its democracy – results that are likely to weaken India’s prospects of becoming a global power and its goal of social equity.

1. Introduction

Over the past few years, the Indian economy has registered an annual growth rate of 8 percent and more. This performance has attracted considerable attention, particularly since the more advanced economies are currently showing much lower growth rates, and the World Bank has declared India to be an “Asian giant.” At a time when the market is buoyant and foreign investors are looking towards India, the Indian government’s decision in 2006 to reserve 27 percent of places in institutions of higher learning for people from certain disadvantaged socioeconomic groups called Other Backward Classes (OBCs) has met with considerable resistance both from the students and alumni of these institutions and from industry and market watchers. Reservations or fixed quotas for weaker sections, the Scheduled Castes and Scheduled Tribes, have been in place for many years in higher education, and they have been criticized for promoting inefficiency, lowering standards, and sacrificing the “well-being of institutions” (Beteille 1991, 2000). It is not surprising, therefore, that the recent extension of reservations to OBCs has been followed by a fresh articulation of old and by now familiar anxieties, with the difference that this time they have been supplemented by the fear that reservations will adversely affect India’s economic growth.

Are these fears well grounded? Will reservations in higher education and the politics of identities curtail economic growth and limit India’s emergence as a major economy? This paper attempts to assess these concerns, and begins by placing them in the context of existing debates about policies on reservations in India. Taking note of the apprehensions expressed by critics, the paper argues that the impact of the new policy is likely to be more complex than is suggested at present. While most

detractors lament that merit will be sacrificed, the real danger is that it might vitiate the social environment that is required to nurture not just growth but also democracy.

As a society, India needs to make its institutions more reflective of diversity, but it is equally important to be mindful of the ways in which this agenda is pursued. Policies that are suitable for eliminating discrimination have to be differentiated from those meant to minimize specific kinds of disadvantages. It is the failure to make this distinction that is likely to have a long-term negative effect on India's ability to sustain growth.

2. The Issue in Context

Reservation Policies in Post-Independence India

Reservation policies have a long history in India. In the late nineteenth century, the British prepared a list of “depressed classes” or *shudras*, most of whom were victims of the practice of untouchability. For their betterment, the British set up scholarships, special schools, and other programs.¹ Subsequently, in 1925, with a view to assuaging growing objections to the Brahmin domination of government and administration, the British introduced a form of reservation system. In Bombay (now Mumbai), seats were reserved for all groups except Brahmins, Prabhus, Marwaris, Parsis, Baniyas, and Christians (Galanter, 1984: 156). In 1927, the Communal Government Order in Madras Presidency

¹ As early as 1858, the government of Bombay Presidency, which included today's Maharashtra state, declared that “all schools maintained at the sole cost of Government shall be open to all classes of its subjects without discrimination” (India, 1969: 4).

reserved five of every twelve jobs for non-Brahmin Hindus, two each for Brahmins, Christians, and Muslims, and one for “others.”² In the Madras Council, 28 of 65 seats were reserved for non-Brahmins.³ Following the British initiatives, a few princely states – most notably Baroda, Travancore, and Kolhapur – also introduced similar provisions. In Kolhapur (now part of Maharashtra state), Shahu Maharaj reserved 50 percent of the vacant seats in his administration for non-Brahmins. In time, the quantum and scope of reservations steadily increased – for example, in 1943 the British introduced reservations in services in addition to those in place for seats in legislative bodies (Jogdan, 1991).

After independence, reservation policies continued, albeit in a form quite different from that of the colonial period. The Indian Constitution placed Scheduled Castes and Scheduled Tribes in a separate category and reserved seats for them in legislative bodies, the reasoning being that these communities might remain excluded and segregated if special efforts were not made to include them. It was in this belief that the framers of the Constitution included an exception to the guarantee of equality of opportunity in employment-related matters that permitted the state to reserve seats for “backward classes” that were not

² Demands for separate electorate were growing at this time. In fact, the All-India Depressed Classes Association had proposed separate electorates for each of what it termed the four major groups in India: Brahmins, Muslims, Depressed Classes, and Non-Brahmins. The governments of Assam and Bombay supported similar concepts (see de Zwart, 2000: 243).

³ According to Christopher Jaffrelot (2003: 174), this allowed the Justice Party, which represented itself as the voice of the non-Brahmins, to win the 1920 regional elections. The government formed with the Justice party then introduced a 48 percent quota for non-Brahmins in administration. See also Irschick (1969).

“adequately represented in the services under the state.”⁴ Thus, although the Constitution did not reserve a specified percentage of seats in public services for any particular community, subsequent governments used these additional clauses to reserve seats for Scheduled Castes and Scheduled Tribes in all central government posts and public institutions.⁵ Similar arrangements, however, were not initiated for OBCs.

While this framework operated at the central level of government, at the state level the Constitution left it to individual states to determine appropriate policies for groups that were socially and educationally backward and/or underrepresented. Various states subsequently set up commissions to identify OBCs and then introduced reservations for them in higher education and public sector jobs. Since each state devised its own criteria for identifying eligible backward classes, differences exist among them; even within a state, different commissions have frequently applied different criteria to determine which groups should be granted reservations. The percentage of seats reserved for backward classes thus varies across political boundaries and has changed over time even in the same state.

⁴ Article 16 (4) of the Constitution stipulates that “[n]othing in this article shall prevent the state from making any provision for reservations, appointments or posts in favour of any backward class of citizens which in the opinion of the State is not adequately represented in the services under the state” (emphasis added). Just a year after the Constitution was formulated, the First Amendment added another exception – this time to Article 15, affirming the principle of nondiscrimination on grounds of one’s ascribed identity – allowing the state to make “any special provision for the advancement of any socially and educationally backward class of citizens” (emphasis added).

⁵ While seats were initially reserved only at the entry level, subsequent amendments introduced in-service promotions.

The central government also set up similar commissions, but no seats were reserved for OBCs in All-India civil services and other public institutions until 1990, when the V.P. Singh government implemented the recommendations of the Second National Backward Classes Commission (commonly referred to as the Mandal Commission), a decision that was followed by protests and violent clashes between pro- and anti-Mandal groups. Reservations for OBCs were not, however, extended to higher education. Singh subsequently resigned, but the sharp polarization of society yielded a new political arithmetic: as sections of the identified OBCs came together in electoral politics, they formed a winning coalition that displaced the traditional political elite in many parts of North India (see Jaffrelot, 2003: 150–60).

A second change came in 1992, when the Supreme Court of India declared that 50 percent of seats had to be left open for Scheduled Castes, Scheduled Tribes, and OBCs combined, and filled through open competition. Since 22.5 percent of the seats were already reserved for Scheduled Caste and Scheduled Tribes, this meant that a maximum of 27 percent could be reserved for OBCs, a cap that applied to both the central government and the states. In practice, this meant that almost all the states had to revise their reservation policies significantly to meet the norms prescribed by the Court. The decision was significant because, in many states, more than 50 percent of the population had been identified as OBC, but now seats could not be reserved for them in proportion to their fraction of the total population. The Court, in effect, said that the right to equality must receive priority and that reservation policies could not entirely negate that right. Significantly, the Court also asked the central government to ensure that the “creamy layer” (the elite) of the OBCs was excluded from the benefits of reservations policy. In the past, the Court had ruled consistently against the

use of *caste* as the basis of identifying beneficiaries of reservations – indeed, the Constitution speaks of backward *classes*, not *castes*. In its 1992 ruling, however, the Court accepted caste as the basis of identifying disadvantage but brought in considerations of class by eliminating the creamy layer from the benefits of reservations.

Almost a decade after this somewhat altered framework came into effect, the Indian government announced, without any public debate, its decision to extend reservations for OBCs to all institutions of higher learning funded by the central government, including indian institutes of technology (IITs), indian institutes of management (IIMs), and medical colleges (but not minority institutions).⁶ The government justified this policy change on the grounds that it would ensure “inclusive” growth by giving a fair share to the large majority of the population identified as belonging to OBCs.⁷

Development and Inclusive Growth

The Indian government has placed concern for inclusive growth in the foreground while continuing to pursue privatization, liberalization, and globalization – policies that have been assessed in fairly contrary ways. If some analysts have associated these policies with economic growth, others have linked them to a growing disparity between rich and poor.

⁶ That is, institutions that are administered and run by a minority in the region, and have claimed the status of a minority educational institution.

⁷ It should be noted that the list of OBCs includes not only Hindus but also some communities of Muslims and Christians – in sharp contrast to the case of Scheduled Castes, since untouchability was a practice solely of Hinduism.

At the time of the last general election in 2004, the Bharatiya Janata Party (BJP), the dominant partner in the last coalition government, showcased economic growth, presenting a picture of “India Shining.” Retrospectively, it is evident that this slogan did not connect with popular sentiment in much of India. The BJP and its allies secured just 185 seats, 113 less than in the previous election. The winner was the Congress Party, which spoke of “globalization with a human face” and, with its allies, secured 217 seats, confounding the predictions of poll pundits and psephologists. The Congress Party accepted the larger framework of liberalization, privatization, and globalization, but pledged to check the perceived effects of these policies, including unemployment and increasing inequalities in society. This language of political discourse was closer to the ordinary citizen’s understanding of development, and it marked a shift from the rhetoric that had dominated the globalizing Indian economy. Previously, when the story of India’s success and growing economy was told, the focus was primarily on the high rate of growth, measured most often in terms of gross domestic product (GDP). GDP may well be a useful measure in some respects, one that enables economists to predict the flow of money and other market trends, but governments, particularly in decolonized democratic societies, have to be concerned with development rather than just growth.

Although it is often believed that high economic growth will yield perceptible development, it is becoming increasingly evident that growth, measured in terms of GDP, does not always translate into development that ensures better life conditions and opportunities for the large majority of people. Indeed, scholars and multilateral agencies increasingly recognize the distinction between development and economic growth. As far back as 1975, the Dag Hammarskjöld Foundation identified five pillars of development: basic needs (such as food, shelter, health,

and freedom), self-reliance, economic development (including the right of survival of people in different contexts), endogenous development, and structural change to ensure that society corresponds to people's desire for equitable development (Trzyna, 2000). This idea has since gained wide acceptance. Today, scholars and activists speak of human and ecological development, in addition to economic development. The United Nations, for example, invokes a Human Development Index (HDI) that combines GDP per head, life expectancy, and educational attainment. By this measure, the United States had the highest GDP per person in 1998, but Canada ranked first on the HDI; likewise, the United Kingdom had a higher GDP per person than did France, but the latter ranked higher on the HDI. In 2004, both Canada and Japan scored better on the HDI than the United States, though their GDP per person was lower (World Bank, 2006). These differences suggest that most citizens of democratic societies are concerned more with improvements in their life conditions than with statistics of economic growth.

To some extent, both the slogans “inclusive growth” and “globalization with a human face” register this difference between growth and development. While both speak of the need to rectify prevailing inequalities, the shift in phraseology has meant a subtle but important shift in emphasis. If “globalization with a human face” identifies excluded and marginalized people primarily along class lines, “inclusive growth” pinpoints the beneficiaries and nonbeneficiaries of growth in terms of their religion and caste. In the case of the former, it was farmers caught in a spiral of increasing debt, the poor, and workers in areas that were being privatized who received primary attention. In the latter case, the community, rather than individuals, became the focal point, and the spotlight was turned on disadvantage *per se*, rather than disadvantage that might accrue from globalization and privatization.

Critical Voices

The idea that governments should help vulnerable groups and ensure that opportunities are available to all sections of the population is an important and well-recognized principle of democratic life. Yet, the Indian government's new policy of reservations faces resistance even from those who might agree with this principle of justice. There are at least three reasons for this: a) lingering discontent with the principle and practice of reservations; b) concern about identity politics; and c) specific problems related to reservations for OBCs and the extension of special consideration for these groups in the field of higher education.

First, although quotas have existed in some form or another in India for more than a century, as we have seen, one strand of liberal scholars opposes them on the grounds that they mark an unacceptable deviation from the principle of equal and identical treatment for all. Even when they accept the need for some remedial measures to undo structures of past discrimination, such critics see reservations as a form of reverse discrimination that places unacceptable restrictions on the rights of individuals, setting aside, lowering standards, and promoting inefficiency. This criticism is closely tied to the peculiar form that reservations take in India. Candidates from eligible communities who score well in entrance examinations (relative to candidates from non-reserved categories) are seen as part of the general category of students, and their presence is not counted towards filling the prescribed quota seats. Instead, reserved seats are filled by students who would not otherwise qualify in open competition. This has led critics to charge that reservations sacrifice merit and produce graduates with lower skills and weaker qualifications, a result that increasing the quantum of reserved seats only exacerbates. Moreover, government intervenes to ensure that

the quota of reserved seats is filled and that social prejudices alone do not hinder the entry of previously excluded populations, leading critics to maintain that reservations poses a threat to the autonomy of institutions and their ability to work efficiently.

A second concern is that reservations promote the politics of identity. Since caste was the basis on which some communities were segregated and discriminated against, caste identity was used to determine the beneficiaries of reservations and affirmative action programs. However, it was assumed that reservations would provide social and economic mobility that would weaken caste-based distinctions, but this has not happened. Rather, critics maintain, the desire to be included in the list of beneficiaries and the equally compelling need to hold on to these benefits has reaffirmed caste identities (Bhambhri, 1997, 2005). At the same time, political parties, in their quest for votes, have extended the promise of reservations to particular communities, which has further strengthened caste consciousness. The result has been, on the one hand, a steady fragmentation of Indian society and, on the other, the formation of a context in which religious majoritarianism has flourished as an alternative to caste-based politics.

Third, while there is still a reasonable degree of consensus around the need for reservations for Scheduled Castes and Scheduled Tribes, it is primarily the extension of reservations to OBCs in central government positions in the early 1990s that attracted strong opposition. Some of the resistance arose because the government's decision came without any prior discussion or attempt to bring different groups and parties together on this important issue. At a more substantive level, however, critics pointed out that the category of OBCs included communities that might be low in ritual status and hierarchy but score well on other indicators, such as economic wealth and political power, aspects that make a crucial difference to the capacity of

individuals from those communities to access opportunities (Chaudhury, 2006, 2007; Gupta, 2007a, 2007b; Radhakrishnan, 1990, 2006). Hence, special treatment for such groups could not be justified.

When, in 2006, the government announced its decision to extend reservations for OBCs to higher education, these criticisms became even sharper and were accompanied by the belief that the policy would adversely effect the country's economic growth. Once again, the decision was made without any discussion with other parties or the concerned institutions, reaffirming the view of critics that reservations had become a tool in identity politics. Indeed, the tendency to use group identity as a way of measuring and rectifying marginalization and the propensity to regard religious, linguistic, and caste groups as homogeneous entities with a shared fate have reinforced this perception. While almost all political parties have pursued identity politics since at least the 1990s, this time the government policy is being subjected to severe criticism as it is seen as impeding the growth of the Indian economy.

3. The New Reservations Policy and Its Implications

The new legislation extending reservations for OBCs to higher education is not simply a continuation of past practices. It has two specific and different features of which we need to take note, as they are likely to have long-term implications for India's democracy. First, the enabling legislation exempts three kinds of institutions: minority educational institutions (including those receiving financial support from the government); Central Educational Institutions established in the tribal areas; and institutions of excellence, research institutions, and institutions of national and strategic importance specified in the

legislation. Second, the law that the Parliament approved did not eliminate the “creamy layer” from the benefits of reservations.⁸

While discussing the implications of reservations for OBCs in centrally funded educational institutions, it is important to recall that this initiative was preceded by a constitutional amendment that authorized reservations for OBCs in private professional educational institutions even if they do not receive any financial assistance from the state. The central government has also been examining the possibility of introducing quotas in jobs in the private sector for identified minorities such as Scheduled Castes and Scheduled Tribes. In discussions with the business community, the government has said that it would not impose quotas on them, but might intervene if the private sector does not take the appropriate steps voluntarily. The government is also considering special measures, including reservations and other forms of affirmative action, for other marginalized groups such as Muslims. Thus, there is a growing perception that the quantum and scope of reservations is likely to increase.

It is against this setting that the current intense debate about reservations in higher education for OBCs has emerged. Along with other lingering objections to reservations for OBCs, this time the critics have questioned the policy on the grounds that it will affect the economic growth rate negatively. Their opposition rests upon two somewhat related arguments. They begin with the understanding that the knowledge industry – in particular, the information technology (IT) sector – is in large measure

⁸ This might now change, as the Supreme Court has recently ruled that seats may be reserved for OBCs in higher education but the “creamy layer” must be excluded from this benefit.

responsible for the current spurt in growth. This sector has registered enormous growth and is able to compete in the global market because it is driven by merit. What is assumed here is that India's human capital – its large pool of trained engineers and professionals – gives it a decisive advantage in the globalizing economy. Consequently, critics fear that the introduction of reservations in higher education and professional courses will shrink the pool of meritorious candidates and erode India's competitive edge, particularly in IT-enabled services (Ramachandran, 2006). The second argument focuses on the increase in the quantum of reserved seats, which, its exponents suggest, will reduce the number of seats available to meritorious candidates. If students of merit do not get seats, they are likely, in the globalizing world, to go to other countries.

Thus, the lowering of standards and dilution of human capital, coupled with a “brain drain,” will cause India's comparative edge in human-capital-intensive activities to disappear. Employers are bound to turn increasingly to other countries that are rich in human capital. They are also likely to recruit “fewer graduates from Indian institutions... [and] curtail their investments, at least in human capital-intensive production, in India” (Guha, 2006).

Issues of Human Capital and Merit

Are the anxieties of the critics well founded? Will additional reservations for OBCs in “elite” educational institutions erode India's edge in the IT industry and impede economic growth? These questions are exceedingly difficult to answer on the basis of available data. What is clear and unambiguous, however, is that reservations are now being provided in institutions where admission is highly competitive – to give just one example, in 2006, approximately 300,000 students competed for 4,078 seats in IITs. That these institutions have established a formidable

reputation and their graduates obtain high-salary placements in well-known international and national companies makes entry into them even more sought after. Moreover, although the number of Indian institutions catering to higher education and professional degrees has been steadily increasing, the number providing high-quality education is still very small.

From this scenario, those who are opposed to the extension of reservations for OBCs to higher education conclude that increasing the quantum of reservations in high-quality institutions will necessarily mean a decline in the number of available efficient, well-qualified personnel, and this will adversely affect India's economic growth prospects. This deduction is drawn from the fact that reservations will bring in candidates with lower entry marks. Students from communities that are now being given the benefit of reservations qualify for admission even under the present system – that is, without reservations. So it is not community identity that is the issue here. Rather, the concern is whether the presence of a sizable group of students with lower entry marks will result in a lowering of efficiency and standards and, thereby, in the quality of trained professionals that are available in the country.

This is no doubt an important concern. And it might be significant if candidates who enter with a lower entry mark also graduate with a lower mark or, as some critics suggest, are unable to complete the degree program successfully. Yet IITs, IIMs, and medical colleges do not relax marks or give concessions at the exit point; all candidates, irrespective of the manner in which they gain admission, are required to have a minimum degree of competence when they graduate. So the situation created by increasing the number of reserved seats would raise serious concerns only if a sizable percentage of admitted students failed to meet the minimum standards required to receive their degree.

It must be said, however, that this is currently a matter of conjecture. We cannot conclusively determine the effect of reservations conclusively since we do not have the caste profiles of the candidates who apply for admission to particular institutions of higher learning. We also do not know the caste profiles of those who are successful in obtaining admission to these institutions nor of those who fail to gain entry by just a small margin. So it is exceedingly difficult to hazard a guess about the kind of students who will come through the proposed quotas. We also do not know by how much the mark will have to be lowered at the entry level to fill the proposed quotas – and in many ways, this is crucial to assessing the effect of reservations.

Hence, it is exceedingly difficult to know with certainty what kinds of problems the new policy may eventually yield. The current experience of reservations is based on an assessment of candidates who come in with significantly lower grades but who are expected to make up the difference in the course of the degree program. But it is entirely possible that reservations for OBCs could yield a somewhat different outcome from that currently anticipated. In South Indian states such as Tamil Nadu and Karnataka, reservations for OBCs have been in place for some time now, and a sizable number of OBCs – particularly those categorized as Backward Castes (BCs), as distinct from Most Backward Castes (MBCs) – qualify for admission under the general category. In other words, they manage to secure grades that are comparable to those of students who obtain entry through open competition. In Tamil Nadu, for instance, BCs secure almost 75 percent of the seats in the open list, and the difference between the cutoff mark for the general category and that for the BCs is often as little as 1 to 2 percent. (This is, of course, not the case with MBCs and Scheduled Castes.) It is entirely possible that many of these BCs that are competing through open competition in other states for professional and

technical education will now come to IITs, which might lower the cut-off mark but only by a small percentage; hence, even if the best are not admitted, these institutions will still obtain well-qualified students with merit.

The paradox, however, is that, if the difference in the performance of those who enter through open competition and those who do so through reservations is only marginal, the reservations policy would appear to provide preferential treatment to some and likely would create a sharp polarization between those who receive reservations and those who do not. To put it in another way, additional reservations might not yield the problems that are currently anticipated, but instead might throw up a range of issues that could divide society and, in the process, vitiate the environment necessary to promote investment and economic growth. It is difficult to ascertain if standards will decline or if the availability of trained professionals will decrease, but the end result might be the same.

For its part, the government has assured those who are concerned about a decline in the quality of human capital that the number of seats currently available for general category students will not be reduced; instead, it proposes to increase the total number of available seats in each institution to accommodate the quota that will be set aside for OBCs. The number of qualified personnel needed to teach might not be available to keep pace with the rising demand, but there is no reason to assume that students of merit would be pushed away to foreign lands due to reservations.

The debate on reservations for OBCs in higher education has centred around what might happen in professional courses such as engineering and medical sciences, which are perceived as India's major comparative advantage. It should be noted,

however, that the United States and China produce more engineering graduates each year than India does. So, it is not the availability of skilled professionals alone that is giving India the decisive edge. This is not to say that human capital is not significant in the success of India's economy but, rather, that the reservations policy is likely to affect social and economic life in ways that have not been sufficiently considered so far.

Attention has been focused so far on the fate of institutions that turn out engineers and doctors, but the extension of reservations for OBCs to higher education is likely to affect the teaching of the natural and social sciences far more severely. At present, IITs, IIMs, and medical colleges attract the most talented students, from all communities and castes. By comparison, the natural and social sciences face enormous difficulties in getting well-qualified and talented candidates, and this applies as much to candidates coming from the general category as it does to those coming with reservations. That is, since the pool of talented students is extremely small, filling the increased number of seats – along with the prescribed quota seats – is likely to pose a real challenge and could force institutions to lower entry marks significantly in these disciplines. The Indian educational system is facing a crisis, most acutely evident in the natural and social sciences, which the reservations policy will deepen. There are a number of ways in which the fate of the core disciplines, rather than applied sciences, can adversely affect the quality of social and political life, but even if we consider the story of economic growth, it is evident that the contribution of these courses and universities is crucial. India's growth has been nurtured not simply by innovation in engineering or information technology, but also by the business process outsourcing sector and a range of other services. In these areas, it is not just the trained engineers but also graduates from social sciences and other disciplines who are providing the necessary human resources. The issue is

not that there are no people of merit in communities that will receive reservations – talent exists in all communities – but that the Indian school system is failing to offer quality education to students. As a result, there is a remarkably small pool of well-trained candidates, and this is visible more sharply in some areas of learning more than others. This lacuna cannot be addressed merely by adding to the pool of reserved seats at the level of higher education. Besides, in the absence of a more egalitarian structure at the lower levels of education, reservations at the higher level will tend to reproduce differences and inequalities. This is fairly well known and quite widely acknowledged, yet the government has paid little attention to this dimension, yielding the prevailing concerns about human capital and merit – concerns that have existed for some time now but that have been accentuated by the proposal to increase the number of seats and reserve quotas for OBCs.

Building Institutional Capacities

The success of any policy depends crucially upon the manner in which it is implemented. The Indian government asked all institutions of higher education to implement reservations for OBCs and to increase the number of seats available beginning with the 2007-2008 academic year.⁹ Effectively, this meant that institutions were expected to prepare for the increase in seats – including infrastructure such as larger classrooms and

⁹ This was deferred as the legality of the law introducing reservations for OBCs in higher education was challenged before the Supreme Court. But, while waiting for the Court's decision, most institutions did not prepare for the proposed increase in seats. The Court ruled in favor of the increase in quotas in March 2008, and the implementation of the policy will commence from the new academic year, 2008-09. So, even though some time has lapsed since the law was passed by the Parliament, in effect the same difficulties prevail this year as they did last year.

more laboratories – in just a few months. This request, however, posed insurmountable difficulties, and almost everyone associated with the working of public institutions knew that the infrastructure could not be put in place in so short a time. Added to this was the need to hire fresh faculty to meet the increase in the student intake – another task that was virtually impossible to accomplish in the given time. It is well known that most engineering colleges, including prestigious institutions such as IITs, find it difficult to retain even their existing faculty members, who are lured by the market with high pay packages, let alone attract substantial numbers of new ones. In any case, only a few of the graduates of these colleges go in for postgraduate studies and research and fewer still enter the academic profession. Moreover, these challenges confront not just engineering and medical colleges but all disciplines, including the natural and social sciences.

Until now, the government has responded by simply extending the retirement age of teachers, but that policy is not sufficient to meet the needs of these institutions. Not only will the increased number of students require a corresponding increase in the number of faculty, but lower entry marks for students who fill the quota of reserved seats will mean that teachers will have to give more time and assistance to such students to enable them to perform well and eventually excel in their jobs. The quality of graduates depends critically on such provisions and planning, yet these matters have received little or no attention from policy makers thus far. This has renewed concerns about the capacity of these institutions to impart quality education and generated skepticism about the government's intentions in introducing a fresh set of quotas and reservations.

Another key issue is that of institutional autonomy. Policies might be framed by government, but institutions still need to

determine, given their needs, history, and available resources, the best ways to pursue those policy goals. An element of autonomy is thus a critical variable not just for institutional well-being and democratic life but also for ensuring efficiency and quality of outcome.

Thus far, institutions have had some degree of freedom to devise ways of fulfilling the reservations that already exist for the Scheduled Castes and Scheduled Tribes. Some institutions give concessions at the entry level alone and not at the time of exit; others reduce the entrance mark by a certain percentage – usually 10 to 15 percent – to fill the reserved quota but admitted candidates take a one-year preparatory course to enable them to compete with others later. Some centrally funded institutions, such as Jawaharlal Nehru University, already have a system in which OBCs receive special consideration in the admissions process through a process of added weighting. Although no seats are separately reserved for OBCs, they receive certain additional points, which are added to their examination mark; additional positive weighting is given to women from these communities and to candidates who come from identified “backward districts.” However, the government’s decision to introduce quotas for OBCs means that the university must set aside its current system, which has evolved against the background of its own history and experience, which has the merit of recognizing the difference between discrimination and disadvantage, and which addresses the concerns of the marginalized without overlooking the parallel concern of maintaining standards.

Thus, although institutions have had some degree of flexibility in implementing reservations policy in the past, it remains to be seen whether the new dispensation of reservations will erode this crucial element. Indeed, as things stand, institutions will not have the option of devising new frameworks to ensure

that they have a more diverse group of students. In the United States, for example, where universities typically try to ensure that the student community is diverse, a great deal of attention is paid to the preparedness of chosen applicants to meet the requirements of academic work. In India, however, where the system does not have space for such individual assessments, concerns about the maintenance of excellence have been met by innovating within the framework of prescribed reservations. The fear now is that the new reservations regimen could eliminate this flexibility and impose a rigid, standardized format on institutions of higher learning, reducing their capacity to offer quality education and to nurture India's human capital.

In brief, the challenges presented by the reservations policy for OBCs are many and far more complex in nature than have been anticipated. In the ongoing debate, only questions of human capital, merit, and standards are being raised. Far more serious and imminent are concerns about institutional well-being. Will institutions be able to innovate and determine suitable ways of increasing opportunities for the disadvantaged? Will they have the autonomy and the space to set their schedules to meet the new demands presented by the increase in seats? Will the necessary changes be introduced in the schooling system to minimize differences at the higher level? If these questions are ignored or answered in the negative, then the proposed policy of reservations is bound to accentuate the existing crisis in the education system and further reduce the capacity of institutions to deliver quality education. This undoubtedly will affect India's ability to sustain economic growth and ensure development for all.

Reservations and the Issue of Fairness

The idea that the opportunities and benefits of growth should not be monopolized by any one group but should reach

all sections of the national community is an important and well-recognized principle of democratic life. Indeed, it constitutes a central norm of a just and fair society. For this principle to translate into fair and reasonable policies, however, it is equally important to identify just who is being denied opportunities and why they are being excluded. Is the denial on grounds of social prejudice and discrimination or is it the end result of other disadvantages? Corrective measures and policies have to be determined keeping these specifics in mind.

More important, we need to distinguish between systemic discrimination that is reinforced by formal rules and other circumstances that create disadvantages for certain groups. When formal rules discriminate against and exclude some groups, then strong interventionist policies, such as reserving seats, can be justified more readily since it is members of the society as a whole who are responsible for imposing such rules. But when groups find themselves disadvantaged for other reasons – such as the backwardness of the region from which they come, the occupations of their parents, low income, social networks, technological changes, market shifts, and so on – members of the larger society are not similarly implicated. While it is in the national interest to ensure that all available talent can develop and contribute to the well-being of society, it is difficult to hold other individuals responsible for the current predicament of these groups. For instance, several of India's agrarian communities historically have not valued professional jobs, and individuals from those groups have not pursued higher education or government careers. But this is not a predicament for which the rules of society or its individual members can be held responsible; in such cases, it is difficult to justify strong interventions of the sort that are considered necessary or appropriate for communities that have been discriminated against and excluded by the rules of the state and/or society.

We need, therefore, to devise a different set of policy measures to assist communities that face disadvantages on account of a range of circumstances. Moreover, if such policies are to meet the criterion of fairness, such communities cannot be bracketed with those that have been consciously discriminated against. When differences between communities that are discriminated against, as distinct from those that face disadvantages of various kinds, are ignored or when community membership, rather than the availability of socially valued assets, becomes the basis of special treatment, reservations and other forms of strong affirmative action lose their justification and special treatment appears as privileges that undermine the need for fairness.

The government's reservations policy for OBCs in higher education, however, is inattentive to concerns about fairness. It fails to distinguish between groups that are actively discriminated against and those that are disadvantaged due to certain social processes and choices. Instead, the new policy looks only at end-result differentials and ignores the reasons for their existence. In addition, it operates under the assumption that reservations are the only viable way to remedy all forms of disadvantage. Instead of considering other ways in which disadvantages might be minimized, it simply fixes quotas for different groups. It also ignores the fact that some communities of OBCs possess some socially valued assets, and they cannot all be treated alike.

Moreover, since the reservations policy does not engage the issue of fairness, it risks being perceived as an instrument of the politics of identity – on which there can be only sharp polarization rather than a negotiated consensus. Will this polarization yield more social confrontation and conflict? It is difficult to predict the outcome, but one thing is clear: a sharp polarization has already occurred within Indian society and between politicians and sections of the society. Neither of these portends well for democratic politics.

In the long run, it is not simply the availability of India's skilled human resources but the capacity of the democratic system to negotiate and maintain harmony among groups that is likely to determine the country's future growth and stability. Increased polarization and social tension or conflict is likely to harm India's chances of becoming the "dream destination" for capital.

4. Divergent Differences

Will the disadvantages of the reservations policy for OBCs in higher education be offset by the gains? Perhaps the policy's strongest defence is that it will make institutions more diverse and representative of the wider society.

Diversity is certainly an important value and has much to commend it. Its presence suggests the absence of group monopoly and a narrow base of hegemonic power. In the economic sphere, it is said to be a positive resource that enables economic efficiency. Some scholars maintain that diversity offers competitive advantage and enhances performance (see Quigley, 1998; Recascino and Tschirhart, 2000). While these conclusions are contested by others, who point to the problems of communication and interpersonal relationships that diversity in the workplace brings (Smelser and Alexander, 1999), many entrepreneurs today acknowledge that diversity yields several positive results, and businesses flourish in cities that have a great degree of diversity. These claims, however, are made mostly with regard to ethnic and cultural diversity. The assumption is that different cultures nurture different skills and competences, and that having access to people from different cultures brings corresponding benefits, including easier ways of reaching out to diverse consumer populations.

Although diversity has been invoked in recent times in support of reservations for different groups, its application has certain limitations. In India, when one refers to the category of OBCs, one is not speaking of groups that have a distinct cultural identity or way of life – such groups share the language and culture of their region or religious community. The social, cultural, and political institutions by which they are governed, therefore, are not distinct, and there is no conflict between their distinct way of life and that of the larger society. Hence, in their case, the issue is not one of protecting or representing diversity. One could say that different castes have some cultural distinctiveness, but the category of OBCs consists of many different castes, each with its own ritual practices, histories, and stories of origin. In any case, reservations are not expected to ensure that the distinct ways of life of these groups survive or are represented in the public arena. Rather, the rationale of the policy is to ensure that OBCs have access to jobs and opportunities in which they are not adequately present. Hence, the diversity defence sits uneasily with the policy of reservations for OBCs.

In the case of OBCs, then, the more relevant argument is that of underrepresentation rather than diversity. The two often tend to be conflated on the assumption that we are concerned about the inadequate presence of one community because we value diversity. Since the entry of OBCs into different walks of life is not expected to enhance cultural diversity, their underrepresentation is a stand-alone concern. It can be argued that it is desirable for all communities to have professionals such as doctors, engineers, lawyers, and teachers, to act as positive role models and to serve the interests of their community. In some cases, particularly when we are dealing with extremely marginalized communities within the OBCs, this might well be an important consideration. But this does not argue for extending

reservations to the economically better off among the OBCs – they might indeed want to have a presence in new areas of production, but other regional and linguistic communities might express the same desire, and there is no reason that caste communities should be privileged and considered the relevant unit of analysis. In other words, if the system is to attend to the desires and wants of people or groups, then the claims of other kinds of non-caste-based communities are equally compelling.

Thus, there are limitations to both the diversity defence and the underrepresentation argument when applied to the OBCs. Neither provides a satisfactory rationale for the new policy, and it is this that compels one to think beyond the expressed concerns of merit and to consider both the reasons for the current polarization and ways of going beyond the existing impasse.

Complex Equality

Over the past few decades, the demand for higher education in India, particularly in professional degrees, has been steadily growing. This demand has been propelled further by the opening of the Indian economy and the growth in IT-enabled services. The Indian government, however, has invested very little in this sector for a long time; it has set up very few professional colleges and institutions, and most of the demand is currently being filled by private institutions of varying quality. Hence, there is intense competition for entry into the few institutions that have been able to maintain standards and guarantee employment to their graduates. This reality has made the demand for reservations more pressing and the opposition to them equally stiff.

It is now well recognized that the denial of opportunities can exacerbate social tensions. A system that operates in such a

way as to exclude some groups leads to the alienation of such groups. At the same time, a system that appears to favour some groups and add to the burdens of others can also create social divisions. Such conflict is beneficial neither for the effective functioning of democracy nor for sustaining the stability and peace that is necessary for economic growth. The political system, in other words, can neither be blind to the existing set of disadvantages nor pursue policies that seem to be unfair. This is the challenge that any democratic polity faces, and India is no exception.

Clearly, utilitarian arguments in support of reservations for the disadvantaged are insufficient and unhelpful, for they cut both ways. It could be said that the good of the society (or of the maximum number of people) lies in ensuring that all its members are given the opportunity to contribute their skills and talents. It is, therefore both necessary and desirable to extend opportunities and overcome disadvantages that prevent some people from contributing to the larger pool of talent. It might also be argued that policies that polarize society and widen existing schisms are likely to create social conflict, and this cannot be in the interest of the many.

In the absence of utilitarian arguments, one has to rely on equality and a fairness-based defence of affirmative action. To put it in another way, it is the pursuit of equality that should be the guiding norm of affirmative action programs. Policies involving special treatment should be designed so as to meet the requirements of fairness and concerns about equality. Such policies, instead of invoking the principle of general good or compensation, must be driven by the desire to treat all persons as “equal.”

It is not easy, however, to determine, let alone spell out in detail, what it means to treat everyone as equal. Besides, as Walzer (1983) reminds us, equality is context specific: treating someone as an equal might not mean, or entail, the same thing in all circumstances. In each situation, therefore, one needs to ask what it means to be an “equal,” instead of simply extending existing policies to new spheres of social life. This is the vantage point from which one should approach and design strategies for minimizing existing disadvantages. The current problem is that existing policies are being extended and supported even though the issue of equal treatment is not being raised. In fact, the rhetoric of diversity and underrepresentation has erased even the need to ask this question.

We need to reconfigure the terms of the debate to make the question of fairness the optical lens through which we determine the appropriate policies for rectifying disadvantages. This is necessary because the same end results might be produced for different reasons, and we need to focus on those reasons while devising policies. To meet the conditions of fairness, in other words, we need to distinguish between various kinds of differences and sources of disadvantage: differences that arise from past choices and those that are the result of past social and legal practices; differences that are the end product of changes in economy and technology and those that are the product of environmental changes; differences with which people are born and differences that emerge due to their occupations; and so on. Each of these might yield existing differences in end results, but they do not justify the same treatment. Differences and disadvantages that accrue from certain situations are more unacceptable than others and call for stronger measures. For instance, if one is disadvantaged through no fault of one’s own (that is, not for the choices one has made), then stronger corrective measures are warranted and justified. However, in the interest of fairness,

relatively weaker measures (those that place a lesser burden on the individual or that call for a lower order of special treatment) might be supported to rectify other kinds of disadvantages.

To sum up, disadvantages among groups and individuals need to be minimized, but not all forms of prevailing disadvantages justify the same solution or policy prescription. The problem posed by the Indian government's decision to extend reservations and quotas in higher education to Other Backward Classes is that it ignores this dimension and focuses only on existing differences of end results. This shortcoming is further accentuated by the government's decision to reserve seats in higher education without creating opportunities for disadvantaged groups at an early level, so that talents can be nurtured from a younger age and differences arising from background conditions minimized over the years. The merit of the capability approach is that, while it emphasizes the need to make basic social goods available to everyone, it underlines the value of creating an environment in which individuals can develop their talents and capabilities and act as free agents. If we are to shift away from the politics of identity and patronage, then this is surely a better way of minimizing disadvantages and nurturing the democratic ethos.

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