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## Are We Really Addressing Deprivation and Discrimination?

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Source: PTI

In contemporary India, no other issue captures the imagination of the public or excites strong emotions as reservations. The agitations of Patidars, Jats, Marathas, Kapus, Muslims and various other groups for quotas in higher education and government jobs have now become endemic.

The extraordinary speed with which both the Houses of Parliament have approved the 124<sup>th</sup> Constitutional Amendment providing for 10% reservation for Economically Backward Classes (EBC) shows that parties are sensitive to the public mood and want to please all groups, hoping

that it will put a stop to further quotas, as all sections are offered a slice. In this backdrop, we need to address five questions:

1. Will the Amendment pass judicial scrutiny?
2. Are the criteria identified by government for economic backwardness satisfactory?
3. Will this step rationalize reservations and ensure fairness and harmony?
4. Are reservations effective in fulfilling the objectives of opportunity to the deprived sections and social justice?
5. Can government employment be an effective tool for social justice?

First, the legal issues. There are two hurdles the Amendment faces – basic structure doctrine and 50% cap on reservations. The Supreme Court verdicts (Indira Sawhney and other cases) repeatedly held that Articles 15 and 16 are part of the basic structure of the Constitution. The Court, therefore, has the power to review the Amendment itself. If the Amendment is held valid, then the larger question of

50% cap needs to be addressed. The Court rightly held repeatedly that equality of treatment is the norm, and reservation for disadvantaged groups should be the exception limited to a maximum of 50%. It may be very difficult for the Court to accept that the exception can extend to 60%.

If the Amendment passes both these tests, then the operational issues will have to be addressed. The government's proposal of Rs 8 lakh annual income of the household is too high a ceiling, and probably covers over 90% of the population. Also given our notorious laxity and corruption, except employees in the organized sector, it is very hard to exclude other groups on income criterion. In some States, with an income ceiling of Rs 1.5 lakh per annum as eligibility norm, 90% of households have PDS ration cards! In addition to a more reasonable income cap of, say Rs 2.5 lakh, we need to identify reliable criteria for eligibility. Parental education

(school level or illiterate), and the school the child attended (government school or low end private school of, say less than Rs. 6000 annual fee) are far more reliable in identifying deprivation and eligibility.

Our current model of reservation has led to enormous distortions and heartburn. The 124<sup>th</sup> Amendment is only palliative, and fails to rationalize the system. Now, most of the real benefits of prized higher education opportunities or high-end government jobs go mostly to children of families which benefited significantly from reservations. The truly poor among those classes of people have very little opportunity to compete. Excluding the creamy layer in all reservations is vital to spread the opportunities to the truly disadvantaged. And for EBCs it may be preferable to give a weightage to family's income, parental education and the school attended while assessing the performance. Such holistic, fair

assessment is much better than quotas.

The real challenge of deprivation is the failure of school education, which is the foundation of opportunity, equity and capacity building in any society. In the PISA global survey of 2009, Indian States ranked 72<sup>nd</sup> and 73<sup>rd</sup> out of 74 entities, with only Kyrgyzstan doing worse than India and occupying the bottom position. ASER surveys show that in rural India, 27% of children in 8<sup>th</sup> standard cannot read a 2<sup>nd</sup> standard level text. More than one-third of students in 8<sup>th</sup> standard cannot subtract, and 57% cannot do a simple division. In the 14-18 age group, 22% cannot count money, 53% cannot add weights, and 50% cannot tell time (hours and minutes). Such abject failure of school education largely affects the poor and deprived sections. Reservation in higher education and public employment as tool of social justice is futile unless we dramatically improve real outcomes of school education for

the poor and disadvantaged sections.

Finally, out of the 400 million workers in India, the organized sector is under 10%. Of the organized workers, government and public sector employ fewer than half. But public sector workers are generally paid 2-4 times the market wages, have life-time job security, are largely unproductive and unaccountable, and are prone to corruption and extortion. How can employment in less than 5% of workforce be the solution to the problem of deprivation? When 63,000 low-end jobs as gangmen etc. were advertised by the Railways, 20 million youngsters applied! What happens to the 19.9 million youth (99.7%) who could not get the jobs? Our women's participation in

labour force is only 27%, one of the lowest in the world. Our labour policies guaranteed failure of most labour-intensive enterprises, and seriously affected employment. Can there be upward mobility or poverty reduction without creation of hard, wage-earning, productive jobs?

To sum up, the debate centered around reservations without rationalization of affirmative action; and in the face of appalling outcomes in schools; unaccountable, privileged public sector workers; and failure to grow organized sector jobs, is irrelevant to the needs of India. Our political discourse and public policies are increasingly divorced from people's lives.▪

*The article was originally published in Hindustan Times on 18th January, 2019.*  
<https://www.hindustantimes.com/analysis/the-10-quota-for-poor-will-not-end-deprivation/story-Ho4it4vTSQRMshJKiAafZJ.html>