



# *Policies & Perspectives*



VIVEKANANDA INTERNATIONAL FOUNDATION

## *Reservations: Degenerating to Political Expediency*

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*The politics of reservations has run concurrently with the politics of the country since independence. It gets severely manifested during electoral battles, but on occasions has erupted otherwise too, in the form of mass agitations that have taken violent shapes. The call for 'quota' is a tempting one, but, as politicians have realised to their peril, it's not always easy to honour the assurances made, particularly during election campaigns. In certain instances it's plainly impossible. And yet, such is the hope of a bounty to be harvest electorally that political parties have continued to tread this dangerous path. In doing so, they have turned the principal and original purpose of reservations on its head. From being a tool of empowerment — one that needs to be employed with care and discretion — reservations have become a vehicle for gathering votes. Not just the question of feasibility but also that of fairness has been set aside. Immediate gains have dominated over the thoughts of long-term impacts.*

*The use of caste politics in the ongoing Gujarat Assembly election campaign is just one example of reservations being used to lure voters. This is not the first time that caste considerations are overtly being pandered to, in the State's electoral battle, but it's certainly for the first time in two decades that it has been allowed to occupy the center-stage. The coming together of three young leaders, each belonging to the Patidar, Scheduled Castes and Other Backward Classes (OBCs) communities respectively, against the Bharatiya Janata Party and in favour of the Congress, appear to give a sense of looming caste coalition emerging as the election approaches.*

*There can be arguments over how effective the reach of these Gujarat leaders within their respective communities is, but there can be no denying the power of caste affiliation in elections. In Gujarat's case especially but also relevant nationwide, such developments raise the spectre of caste politics trumping the development narrative and muting the vocabulary of social inclusivity through empowerment and not quota privileges. Of course there have been instances where caste divisions were breached in favour of the bigger rallying cry of inclusive development minus appeasement — as this year's Uttar Pradesh Assembly election and the 2014 Lok Sabha poll results effectively demonstrated. But these are exceptions and have yet to become the rule. The last Bihar Assembly election, for example, witnessed caste politics sweep away everything else.*

*Thus, given the caste potency, it is unlikely that political parties are going to stop appealing to quota sentiments and exploiting them to the hilt. In fact, instead of applying the brakes on caste-based reservations as the socio-economic profile of the beneficiary's changes for the better, the political class has been upping the demand for even more representations into the quota net. Given the constitutional scheme of things, the OBC pie is the most sought after. The Patidar of Gujarat wants to get, and the Jats from Haryana demand to be included too. Caste groups already enjoying the reservation benefits*



*have begun to feel the heat as their share in the quota threatens to shrink with the inclusion of new entrants, but political leaders dare not oppose for fear of losing electoral support of the new aspirants. The demand for quota expansion has been on at an alarming pace and has acquired high decibels. The economically weaker sections among the upper castes too want reservations. Political parties and Governments have been frantically trying to address the problem through various imaginative methods: Creating sub-groups within the broader caste format, such as the Economically Backward Classes (EBCs), the Maha-Dalits etc. Bad as the situation is, it could have been worse had the Supreme Court's order on limiting reservations at a total of not more than 50 per cent, not been in place. Additionally, the court has already defined the 'creamy layer' within the beneficiaries who would cease to get the gains.*

*The other worrisome factor is that the chant for reservation benefits is now embracing religious parameters, with several attempts made in recent times by certain State regimes to extend them on grounds of religious affiliation. Besides, various mainstream leaders have on sundry occasions either promised or backed the demand for such quota. So far their efforts have failed to fructify due to a lack of political consensus, but primarily because of an alert judiciary which has nipped in the bud such overtures, though some States have managed to provide minor quotas for the Muslim community camouflaged under the larger OBC umbrella. But voices are nevertheless raised every now and then in favour of religion-specific reservations, and they are only one of the many manifestations of appeasement politics. It's no longer necessary for the proponents to actually give religion-based quota (because it's just not possible), but it's enough for their political game to make the promise nonetheless. We saw that happen in the 2012 Uttar Pradesh Assembly election when a then serving senior Union Minister promised the people of the State a nine per cent sub-quota for 'backward Muslims', to be carved out of the existing OBC reservation.*

*The spirit of reservations which the founding fathers of the Constitution of India had envisaged has been overtaken by expediency, and the caveats mentioned thereafter have been cast aside. Reservations began as a corrective method — call it positive discrimination or affirmative action — for strictly limited use; today they have become an unending exercise with scruples being the victim. The chief architect of the Constitution, BR Ambedkar, is said to have only reluctantly agreed to the concept of reservations (then for Scheduled Castes and Scheduled Tribes) and had hoped that the quota system would end in 10 years of the Constitution's adoption. His understanding was that reservations would neither dramatically change the plight of the marginalised castes nor would they bring about any reformation in the mindset of the upper castes. Thus, he strongly advocated a re-think on quota after a decade. That re-think never happened, nor is it likely to in the foreseeable future. Ambedkar was a strong proponent of economic uplift and believed that economic empowerment of the Scheduled Castes and Scheduled Tribes was the real and sustainable way forward.*

*The consistent, indiscriminate use of reservation politics has ruptured not just its effectiveness in the sense that it was meant to be, but also brought disrepute to the exercise in general. Thus, even the few justified*



*demands for quota are now being looked at with suspicion. A good example of this fallout is the Women's Reservation Bill. It's been seven years since the Bill was passed in the Rajya Sabha but it has yet to be endorsed by the Lok Sabha since the House has remained sharply divided over the years on the subject. The Bill of 2008 proposes to amend the Constitution to provide women 33 per cent reservation of all seats in the Lok Sabha and in all the State Legislative Assemblies. Congress president Sonia Gandhi recently wrote to the Prime Minister suggesting that the Government should place the Bill in the Lok Sabha, and that her party would support it and ensure its passage. The BJP was quick to respond, suggesting that the Congress chief should first convince her 'friends' such as Mulayam Singh Yadav and Lalu Prasad who have been opposed to such a reservation for women. It is ironical that these torch-bearers of quota politics should be opposed to this one reservation which deserves to be supported.*

*The Constitution provided for affirmative action directed in favour of eligible sections of society, even as various provisions simultaneously emphasised on the overarching nature of equality and non-discrimination. Thus, Article 15(1) lays down that the "state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them", whereas Article 15(4) qualifies it in the following words: "Nothing in this article...shall prevent the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes." This clause came to be inserted by the Constitution (First Amendment) Act of 1951. It was also felt that extending reservations to these sections of society would also contribute in tackling the scourge of untouchability which had been prohibited under Article 17. But the scope for providing reservations was more clearly laid down in Article 16(4) of the Constitution (other clauses in this Article deal with equal opportunity), which says, "Nothing in this Article shall prevent the state from making any provision for the reservation of 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." The window of reservations was thus opened and generally welcomed as needed. However, over the decades the window has given way to several doors being flung open and the consequent rush of various claimants into the abode of quota. The turning point was the arrival of reservations for the OBCs with the implementation of the Second Backward Class Commission Report, popularly known as the Mandal Commission report, in the mid-1990s by the V P Singh Government at the Centre.*

*The Morarji Desai regime had in 1979 appointed former Bihar Chief Minister BP Mandal to head the Second Backward Class Commission. The panel submitted its report in December 1980, by which time Indira Gandhi had returned to power. The report, which recommended 27 per cent reservation to the designated OBC candidates at all levels of Government services, went into cold storage during her term as well all through Rajiv Gandhi's tenure as Prime Minister. VP Singh, fighting his own political battle for survival and seeking ways to counter his opponents, declared that the Mandal Commission recommendations would be implemented. Thus arrived the reservation for OBCs, as well as mass demonstrations across the country in both opposition to and support for the Government's decision. Colleges and universities became the ground*



for pitched battles between pro and anti-Mandal groups. VP Singh had to quit soon after. But the genie he had released could not be bottled back, and although he lost political space for good, largely as a result of his Mandal politics, he had the satisfaction of going down in history as the 'messiah of the OBCs'.

The implementation of the Mandal panel suggestions had other consequences too. It revived the career of various regional politicians who had come tentatively in the public space through Jayaprakash Narayan's anti-Indira Gandhi movement. Mulayam Singh Yadav, Lalu Prasad, Sharad Yadav and many more owe their political success to VP Singh's decision. The implementation also encouraged the OBCs which had not been favoured by inclusion, to demand that they too be considered. The realisation came to dawn that the 27 per cent quota may not be sufficient enough to accommodate the growing number of aspirants. Also, it became increasingly clear over the years that even the affluent or the financially well-placed, from the OBCs were getting the benefits. Murmurs of discontent began to rise and the matter reached the apex court after some States sought to go well beyond the stipulated limit; a few such as Karnataka and Tamil Nadu had even exceeded the outer limit the court had set. Finally, in 2008, the Supreme Court reiterated a ruling in the Indra Sawhney (1) (Mandal) case, that that the total reservation — including both Scheduled Castes/Scheduled Tribes and OBCs — could not exceed 50 per cent. The Indra Sawhney etc versus Union of India case had been decided by the apex court in November 1992. The Bench had to deal with the "baffling question" — as the order put in — of what should be the permissible extent of reservations. After going back and forth on the merits of fixing a limit, keeping it less or more than 50 per cent etc., the Bench settled for as follows: "Reservation being an extreme form of protective measure or affirmative action, it should be confined to minority of seats. Even though Constitution does not lay down any specific bar but the constitutional philosophy being against proportional equality, the principle of balancing equality ordains reservation, of any manner, not to exceed 50 per cent."

The other issue that needed tackling was what came to be called the "creamy layer". While the Supreme Court had upheld the validity of 27 per cent reservation for the OBCs, saying Article 16(4) was clear on the matter, it also said that those within the group who had attained a certain socio-economic level and were not deserving of the benefits of reservation, should be excluded from the quota. The court had in fact also raised the issue of such a creamy layer within the Scheduled Castes/Scheduled tribes. The States were asked to conduct their own calculations to determine in a fair and just manner the cut-off to determine the creamy layer. Many States regimes naturally indulged in bizarre calculations in order to ensure that even the decidedly well off were not deprived of the quota doles. The definition of creamy layer continues to remain hazy, with different Government agencies and various States using a plethora of methods to calculate.

Given the turbulent past, there are many who believe that the entire reservation policy must be scrapped lock, stock and barrel. But this is an extreme opinion driven more by frustration (some of it justified) and less by hostility towards the beneficiaries. Reservations are here to stay, whether one likes it or not. The



*challenge is to ensure that they are not consistently hijacked by vested interests or misused to engineer social divisions or expanded to include undeserving aspirants. Above all, there must be a periodic review of the outcomes of the reservation policy, and course-corrections taken.*

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*(Views expressed are of the author and do not necessarily reflect the views of the VIF)*



## About VIF

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