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## SPECIAL FEATURE

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### Reservations

#### Mandal and Beyond \*

At the time of framing the Constitution, the country evolved concepts of socio-economic justice and equality as cardinal precepts against clearly perceived injustices and inequalities prevalent in Indian society. The incorporation of Articles 15 (4) and 16 (4) were only meant to serve as the constitutional extension of the theory of Protective discrimination to the weaker sections of society to enable them to compete with other forward or better-off sections.

The framers, aware of the existence of backward classes and anticipating their difficulties and disabilities, articulated a privileged construction for the backward classes in the Constitution. Article 340 authorised the President to establish a Backward Classes Commission to "investigate the conditions of socially and economically backward classes and the difficulties under which they labour...."

Article 340 was invoked for the first time in 1953 when the Kaka Kalelkar Commission was set up. It submitted its report in 1955 indentifying 2,399 castes as backward. No action was taken on the report though a large number of states proceeded to have their own Backward Classes Commissions. Of the 25 commissions set up after Independence only the Mandal Commission has aroused passions and fuelled sharp and violent protests in some pockets of the country to command national attention.

The Mandal Commission was set up in 1978 by the Janata Government with a view to determine the categories of socially and educationally backward classes and to suggest recommendations to ameliorate their lot. The Commission not only compiled a central list of Other Backward Classes (OBC's) but also made various recommendations on reservations, educational concessions, financial assistance and structural changes. The main focus of the current debate is the 27% reservation for OBC's to be applicable in public sector undertaking under Central and State governments.

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Is the implementation of the Mandal Commission recommendations of job reservations for backward classes a momentous step towards democratisation of our socio-economic structure? Or is it a step to divide the nation on caste lines? These are questions which need to be clarified and facts stated objectively before the issues are further distorted.

### Why Reservations?

It is well settled that it is only equals who can be treated equally (per Krishna Iyer J.). The members of the advantaged sections who have enjoyed various advantages and privileges of social status and education cannot claim treatment on an equal footing with the disadvantaged sections. For equality of opportunity for unequals can only mean aggravation of inequality. Thus the object of reservation is only to ensure that within the limited jobs and higher education seats market, those who historically are socially and educationally backward, get adequate representation.

Reservations by definition entail some preference for the disadvantaged who may otherwise lose in an open competition with those who are lucky to have had a good education, training and upbringing.

### Merit and Equality

This leads us to the argument that reservation would offend the basic norms of merit and equity; and that by discarding merit it will perpetuate incompetence and inefficiency. This argument was preempted when the commission reasoned "merit itself is largely a product of favourable environmental privileges and a higher rating in an examination does not necessarily reflect higher intrinsic worth of the examinees.... The element of privilege should be fully recognised and discounted for when 'unequals' are made to run the same race".

Secondly since the job reservations actually made for OBC's constitute only half their share in population, there is hardly any justification for this fear that the governments decision on job reservation will undermine merit. In view of their social background, the personnel belonging to the Backward classes can also be expected to be more alive and responsive to the needs of the common people.

### Criteria for Backwardness: Caste v. Class Perspective

The Constitution is categorical that reservations can be made for *socially and educationally* backward classes and not on the basis of income. This, in fact, could be traced as the reason why the commission decided to identify backwardness at the collective level rather than individual level. For this reason Mandal uses the caste criteria but he links it up with 11 other indicators in determining social and educationally backward classes of people.

These 11 indicators of backwardness evolved by the Commission were applied to each of the innumerable castes listed in the earlier censuses to identify the groups of castes or classes which can be considered socially and educationally backward. It is clear from the methodology followed by the Mandal Commission that "caste" is only incidental to its exercise which has been used to identify classes of people who are socially and educationally backward.

But those anti-reservationists who are quick to point out that the Supreme Court has banned the use of caste criteria must realise that this is not such an outlandish proposition, and its very rationale is rooted in a society which has practised it very effectively for over three thousand years. By subtly internalising a deep inferiority complex in lower castes through the moral tyranny of religious indoctrination, the psyche of the lower castes has been crippled for hundreds of generations.

Any person having even a remote acquaintance with our social structure can deny the strong correlation that exists between the caste hierarchy and the levels of socio-economic development.

Thus the argument that job reservations for the Backward classes will divide society on caste lines is least persuasive. It is even hypocritical.

### **Economic Criteria**

This leads us to the oft-repeated argument "since poverty as a concomitant of backwardness is common among all castes — it would be unfair to restrict reservations on a caste basis."

The Commission itself answered this argument stating that poverty is a nebulous concept which does not allow itself to be captured by the administrative machinery and this could inevitably encourage corrupt practices causing everybody to be poor on paper. Secondly, on the basis of Article 16 (4) two things are clear: i) Reservation is intended for a class of people and it is definitely not to favour individuals. So, to base reservations on economic criteria would defeat the very object of the Constitutional provisions. ii) Reservations are meant for those who have no adequate representation in government service and is to be continued only till adequacy is reached and not permanently. Thirdly, the Constitution itself refers to backwardness in regard to the social and educational aspects of life and definitely not in regard to the economic aspect. For given our social structure and administrative culture, an income criterion if adopted would easily degenerate into a convenient device to deprive the genuinely Backward classes of the benefits of reservation.

### **Conclusion**

It has to be remembered that merit and efficiency can be encouraged in every section of society only by gradually exposing them to competition. This entails that

reservations be adopted as a necessary ingredient so as to enable the weaker sections to acquire the requisite abilities to participate in the governance of the nation.

Some of the nation's well-known sociologists and experts associated with the Mandal Commission, of late found it opportune to criticise the report a decade after it was submitted, in the aftermath of chaos and countrywide anarchy which followed the government's decision to implement this report. Their compulsions in stirring so late notwithstanding, it has cast a shadow on the Commission's recommendations.

At this juncture, it is not very important whether the Mandal Commission's listing of Backward castes is very rational or scientific. A rational debate concerning the identification of backwards castes should be held, and objective criteria evolved, if that is all the issue involved. But the need for improvement is no excuse to damn the entire report.

In such a context it is pertinent to note the methodology and findings of the Karnataka Third Backward Classes Commission headed by Justice Chinnappa Reddy which may offer some insight into this reservation deadlock.