



DEMOCRACY AND POLITICAL MARGINALITY: READING INVISIBLE RESISTANCE TO POLITICAL RESERVATION IN INDIA¹

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I. INTRODUCTION

The Indian state has adopted a reservation policy for the scheduled castes ('SCs') and scheduled tribes ('STs') to address the social discrimination and geographical isolation that they encountered for centuries. Over time, however, it has become a contested ground for its supporters and opponents – with neither side conceding even an inch from its entrenched position.³ For over six decades, the implementation of reservation policy demonstrates the adequate representation of the SCs and STs in politics.⁴ The representation of the SCs

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³ For a discussion on this, see Jagannath Ambagudia, 'Adivasis, Preferential Policy and the State in Odisha' (2019) 49(2) *Social Change* 199-215; Ashwini Deshpande, *Affirmative Action in India: Oxford India Short Introductions* (New Delhi: Oxford University Press 2013); Alistair McMillan, *Standing at the Margins: Representation and Electoral Reservation in India* (Delhi: Oxford University Press 2005); Thomas Sowell, *Affirmative Action around the World: An Empirical Study* (New Haven: Yale University Press 2004); Laura Dudley Jenkin, *Identity and Identification in India: Defining the Disadvantaged* (London and New York: Routledge 2003); K.C. Suri, 'Competing Interests, Social Conflicts and the Politics of Caste Reservations in India' (1995) 1(2) *Nationalism and Ethnic Politics* 229-249; Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Delhi: Oxford University Press 1984).

⁴ Due to the enactment of reserved constituencies in India, all the reserved seats are filled up during various general and state elections. Various reports of the Election Commission of India and the statistics on representation available on the Lok Sabha website help make such claims. Also see, Jagannath Ambagudia and Virginius Xaxa, 'Introduction: Situating Tribal

and the STs in government employment and educational institutions indicates their under-representation. However, the opposition to reservation in government employment, politics, and educational institutions has not been proportionate. The opponents have demonstrated disproportionate resistance to reservation in these spheres. The reservation in government services and education has been subjected to the most visible forms of resistance, but the resistance to political reservation has become mostly invisible and silent. However, the representation of the SCs and the STs in politics has led to the unsettled discourse on the nature of representation, raising fundamental issues concerning descriptive and substantive representation. Against the backdrop of the incompatible relationship between these two broader forms of representation, it is pertinent to explore the various nuances of political representation, including invisible and silent resistance, in India.

This article focuses on the changing relationship between democracy, marginalised communities, and political reservation, in India.⁵ While doing so, the article is structured in the following way. First, it briefly discusses political reservation in India. Second, it examines the relationship between the judiciary and reservation, and explores whether political reservation has been subjected to litigation. Third, it traces the politics of political reservation, especially in recent demands for reservation by various communities. Fifth, it unravels the various facets of invisible opposition to caste- and ethnic (tribe)-based political reservation in India. Sixth, it analyses the reasons for the invisible and silent nature of opposition and resistance to political reservation for the SCs and the STs in India. This is followed by the conclusion. Though the article does not focus on reservations in government employment and educational institutions *per se*, it makes frequent comparative references to understand the nuances of the issue of political reservation in India. The article argues that the opposition and resistance to caste- and ethnic (tribe)-based political reservation continue to be invisible because the issue of merit, which is at the root of the heated debate, is blurred in the context of political reservation, and due to the ample scope for the democratic dominance of dominant communities in the existing political structure in India.

II. POLITICAL RESERVATION

The framers of the Indian Constitution realised that certain social groups such as the SCs and the STs have been discriminated against and marginalised for centuries. Hence, they recognised the formal need to include these

Politics in India' in Jagannath Ambagudia and Virginius Xaxa (eds), *Handbook of Tribal Politics in India* (New Delhi: Sage 2021) 5-8.

⁵ Although the 73rd and 74th Constitutional Amendment Acts have ensured reservation of seats for the SCs, STs, and women in local self-government institutions in rural and urban areas, the article does not deal with political reservation in local self-governing institutions. The article is confined to political reservation at the state and national levels.

communities into mainstream society, and agreed to provide political reservation to them. However, the philosophy behind the extension of reservation was not uniform for these two communities. Religiously-induced social discrimination and geographical isolation were the rationales for the reservation for the SCs and the STs in India.⁶

Political reservation aims to make representative institutions more inclusive by making them accessible to the politically excluded groups. Under Articles 330 and 332 of the Indian Constitution, proportionate seats are reserved for the SCs and the STs in the Parliament and State Assemblies, respectively, for a certain period.⁷ Unlike reservation in government employment and educational institutions, state governments did not enact any state-specific policy on political reservation because of the commitment of Article 332 to proportional representation of the SCs and the STs in politics at the state-level via reserved assembly constituencies.

Political reservation advocates the practice of reserved constituencies. In reserved constituencies, there is no scope for the non-SC/ST candidates to contest the election. The practice of political reservation ensures the nomination of candidates from an SC or ST community only. Due to the demarcation of reserved constituencies, there is no shortfall of the SCs and the STs in political representation. The representative nature of the SC and ST Members of Parliament ('MPs') and Members of Legislative Assemblies ('MLAs') has mostly been questioned by drawing the proportionate relationship between representation and performances, thereby raising the larger discourse on descriptive versus substantive representation. The marginalised communities have a token representation without having much say at the level of parliamentary democracy. Such perception can also be developed concerning the representatives from unreserved constituencies, and empirical research by drawing individual performance indicators of each MP and MLA would prove this apprehension right. However, there are instances where the marginalised communities' political representatives have tilted the public policy favouring their communities.⁸

⁶ Virginius Xaxa, *State, Society and Tribes: Issues in Post-Colonial India* (New Delhi: Pearson 2008) 93.

⁷ The political reservation was initially enacted for ten years. Since then, it has been extended time and again. In contemporary Indian politics, no political party dares to strike down political reservation due to vote bank politics. The last extension of political reservation was to expire on 26 January 2020. However, the Indian Parliament passed the Constitution (126th Amendment) Bill, 2019, during the winter session in 2019, extending the political reservation for SCs and STs until 25 January 2030. Since the amendment alters art 368(2)(d) of the Indian Constitution dealing with the representation of states in the Parliament, the amendment required ratification of at least one-half of the states. Consequently, some state assemblies even convened special sessions to ratify the Constitution (126th Amendment) Bill, 2019.

⁸ For a detailed discussion, see Jagannath Ambagudia (forthcoming), 'Paradoxes of Political Inclusion: Political Reservation for Scheduled Tribes in India' in Sudha Pai and Sukhdeo

III. THE JUDICIARY AND POLITICAL RESERVATION

The relationship between the judiciary and the marginalised communities has always been one of dwindling relationships. Such a relationship is largely derived from the judiciary's indifferent attitude towards marginalised communities, especially in reference to the issue of reservation for the SCs and the STs. The Supreme Court has time and again delivered 'progressive judgments' unfavorable to SCs and STs. In *Mukesh Kumar v State of Uttarakhand*, the Supreme Court observed that states are not constitutionally bound to grant reservation in public services, and reservation in promotion cannot be claimed as a fundamental right.⁹ In 2015, the Supreme Court went a step further and urged the Narendra Modi government to scrap reservations from higher learning institutions in 'national interest', regretting that some privileges remain unchanged, even after more than six decades of India's independence.¹⁰

The series of Supreme Court judgments have created upheaval among the protagonists of reservation. Its jurisprudence has been termed as controversial and less sensitive towards tribal rights,¹¹ and has thereby invited constant public scrutiny – with one commentator suggesting that the STs should educate the Supreme Court's future judges.¹² Sometimes, the judiciary transforms the most straightforward policy of reservation into a more complex one. Meanwhile, the judiciary has also maintained inconsistency in its position on reservations in general, sometimes delivering judgments favouring the marginalised communities, and more often, against the very ideals and ethos of reservation policy in India. Moreover, several judgments, mostly related to reservation in government services, promotion in services, admission in educational institutions, etc., can be found.¹³ However, there is hardly any judgment of the Supreme

Thorat (eds), *Politics of Representation: Historically Disadvantaged Groups in India's Democracy* (New Delhi: Oxford University Press).

⁹ *Mukesh Kumar v State of Uttarakhand* (2020) 3 SCC 1.

¹⁰ *Sandeep v Union of India* (2016) 2 SCC 328.

¹¹ Alok Prasanna Kumar, 'A Regressive World View on Scheduled Tribe Reservations' (2020) 55(21) *Economic and Political Weekly* 10-12.

¹² Concerning the Supreme Court's judgment in *Chebrolu Leela Prasad Rao v State of A.P.* 2020 SCC OnLine SC 383, striking down the Andhra Pradesh government's order to provide 100% reservation to ST teachers in the Fifth Schedule areas of the state, Nandini Sundar maintains such a position: Nandini Sundar 'Why India Needs Scheduled Tribes to Educate its Future Judges' *The Wire* (28 April 2020) <<https://thewire.in/rights/why-india-needs-scheduled-tribes-to-educate-future-judges>> (accessed 9 July 2020).

¹³ Some of the prominent judgments related to the issues of government employment and education are *State of Madras v Champakam Dorairajan* AIR 1951 SC 226; *M.R. Balaji v State of Mysore* AIR 1963 SC 649; *Indira Sawhney v Union of India* 1992 Supp (3) SCC 217 : AIR 1993 SC 477; *Akhil Bharatiya Shoshit Karmachari Sangh v Union of India* (1981) 1 SCC 246 : AIR 1981 SC 298; *Post Graduate Institute of Medical Education & Research v Faculty Assn.* (1998) 4 SCC 1 : AIR 1998 SC 1767; *E.V. Chinnaiah v State of A.P.* (2005) 1 SCC 394; *Jarnail Singh v Lachhmi Narain Gupta* (2018) 10 SCC 396; *M. Nagaraj v Union of India* (2006) 8 SCC 212; *Preeti Srivastava v State of M.P.* (1999) 7 SCC 120, etc. I would like to thank Pratik Dixit, National Law School of India University, Bangalore, for drawing attention to some of these cases, and providing me with copies of judgments.

Court on political reservation.¹⁴ Hence, the lack of litigation concerning political reservation essentially indicates the silence over the same in India. The lack of contestation over political reservation reflects that the upper caste communities probably do not see a threat to their political dominance from the SC and ST political representatives, as the existing political structure has generated multiple ways of keeping their political position intact.

IV. THE POLITICS OF POLITICAL RESERVATION

Over time, there have been demands for extending reservation to other communities. Some of the popular demands are associated with the Gujjars, the Patels (the Patidars), the Jats, and the Marathas. Though the Gujjars of Rajasthan have been part of the Other Backward Classes ('OBCs') since 1993, they had demanded ST status way back in 2006.¹⁵ The state government had rejected their demand. However, it had conceded a special package for the benefits of the Gujjars, as recommended by a three-member high-powered committee headed by Justice Jasraj Chopra. Against this backdrop, the Gujjars changed their strategy and demanded 5% reservation in government employment and educational institutions. The state followed the 'politics of populism' and introduced several legislative initiatives to provide them 5% reservation under the Special Backward Classes category in government employment and education. However, the High Court of Rajasthan invalidated such legislative moves¹⁶ based on the 50%¹⁷ ceiling set by the Supreme Court in *Indira Sawhney v Union of India* in 1992.¹⁸

Similarly, the Patels of Gujarat were also on the streets demanding OBC status.¹⁹ The Punjab and Haryana High Court upheld and sustained the state government's positive response to the protest of Jats demanding reservation.²⁰ In response to the Marathas' demand for reservation in Maharashtra, the State Government provided reservation to the Marathas in government employment and educational institutions. Such a move in the reservation arena was above

¹⁴ There may be some litigation on political reservation, especially at the local level, in the lower judiciary. However, the article remains unaffected by such cases as it specifically looks at the nuances of political reservation at the state and national levels.

¹⁵ The Gujjars realised that the OBC status has not sufficiently benefitted them, and thereby demanded ST status: Megan Moodie, *We were Adivasis: Aspiration in an Indian Scheduled Tribes* (Chicago and London: University of Chicago Press 2015) 173-177.

¹⁶ *Gurvinder Singh v State of Rajasthan* 2016 SCC OnLine Raj 8306.

¹⁷ The quantum of reservation in Rajasthan stands at 50%, which includes 16%, 12%, 21%, and 1% for the SCs, STs, OBCs, and Gujjars respectively.

¹⁸ *Indira Sawhney v Union of India* 1992 Supp (3) SCC 217 : AIR 1993 SC 477.

¹⁹ Christophe Jaffrelot, 'Quotas for Patel? The Neo-Middle-Class Syndrome and the (Partial) Return of Caste Politics in Gujarat' (2016) 4(2) *Studies in Indian Politics* 5-7. Interestingly, alleging the practice of reservation as anti-merit and unfair, the Patels of Gujarat were involved in anti-quota agitation in the 1980s, demanding the scrapping of reservation for SCs and STs.

²⁰ *Murari Lal Gupta v State of Haryana* 2017 SCC OnLine P&H 2621.

the ceiling of 50% set by the Supreme Court. However, the Bombay High Court upheld the constitutional validity of reservation for the Marathas, and pointed out that the ceiling can be extended in exceptional cases.²¹

It is worth noting that while marginalised groups such as the SCs and the STs are struggling to come out of discrimination, various groups such as the Gujjars, Patels, Jats, Marathas, etc., are struggling to enter into the boundaries of identities which are considered to be backward. This is not because they want to experience the kind of discrimination, marginalization, and deprivation that the SCs and the STs endure, but to acquire a certain amount of state resources of reservations based on community identities. However, the state and the judiciary are inconsistent in their position about these groups, resulting in both favourable and unfavourable decisions. Interestingly, the Gujjars,²² Patels, Jats, and Marathas did not demand political reservation, but confined their demands to government employment and educational institutions. To put it differently, these communities have developed cynicism towards political reservation.

Meanwhile, 27% reservation was also extended to the OBCs with the Mandal Commission's recommendation in 1992. However, the reservation was confined to government employment and educational institutions, and was not extended to politics.²³ The government also provided a 10% reservation to the economically weaker sections (EWS) in 2019, which is over and above 50%.²⁴

²¹ *Jaishri Laxmanrao Patil v State of Maharashtra* 2019 SCC OnLine Bom 5726.

²² Had the demand of Gujjars for ST status been granted, they would have also benefitted from political reservation. However, due to the rejection of their ST status demand by the Justice Chopra committee, they have now settled for the demanded 5% quota under the socially backward classes ('SBC') category in government employment and educational institutions.

²³ Despite the absence of political reservation, reservation in government services and educational institutions has helped the OBCs develop a strong political identity. The political parties could not ignore due candidates from the OBC category due to vote bank politics, which led to their nomination. Consequently, their political representation increased from about 7-10% in 1984, to 22-25% in 1998, resulting in the decline in the percentage of upper caste MPs from 50% in 1984, to about 40% in 1998: Christophe Jaffrelot, *The Silent Revolution: The Rise of the Lower Caste in North India* (London: Hurst and Company 2003) 352. In contemporary Indian politics, there is a strong lobby among the OBC MPs in Indian Parliament concerning the tilting of public policies favouring their communities even more than the SC and ST MPs: Interview with one of the Lok Sabha MPs from the unreserved category (2 January 2020).

²⁴ Interestingly, unlike in other cases, there was no apparent demand for reservation from the EWS in the general category. Barely three months before the general election in 2019, the Bharatiya Janata Party (BJP)-led National Democratic Alliance (NDA) government took the initiative to provide 10% reservation to those whose gross annual income from all sources is less than eight lakh per annum for the financial year prior to the year of application: Letter No. 36039/1/2019-Estt (Res), Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel & Training (31 January 2019) <<https://dopt.gov.in/sites/default/files/ewsf28ft.PDF>> (accessed 12 July 2020). The extension of reservation to the EWS category has silenced the antagonists of reservation policy (especially from the upper caste), except a few fronts such as Youth for Equality, Janhit Abhiyan, and People's Party of India (Democratic), which challenged the government's move before the Supreme

Besides, other categories, such as women, the physically challenged, Kashmiri migrants, Kashmiri Pandits, war widows, and ex-servicemen (defence), also get reservation in government employment and educational institutions. Political reservation is not extended to these categories at the local, state, or national levels, except for women at the local level.²⁵ However, the Anglo-Indian communities were given political reservation in Lok Sabha and State Assemblies under Articles 331 and 333 of the Indian Constitution between 1952 and 2020.²⁶ Unlike reservation in government employment and educational institutions, since political reservation has not been granted to various categories other than the SCs and the STs (and women at the local level), the political interest of the non-beneficiaries are not considered to be at stake. The ‘politics’ behind the non-extension of political reservation to all the communities availing reservation in government employment and educational institutions adds complexity to the exercise of comprehending the reasons for invisible resistance to caste- and ethnic-based political reservation in India.

V. INVISIBLE RESISTANCE

The invisible nature of resistance to political reservation has been projected in different forms. The sense of silent opposition can be generated from the existing political structure itself, which does not appear to be conducive for addressing the critical issues of marginalised communities. No doubt, there is a provision for reserved constituencies. However, parliamentary democracy pays undue attention to political parties, thereby diluting the role of the MLAs and the MPs elected from the reserved constituencies. Meanwhile, tribal and dalit political leaders also do not get an appropriate position at the party level. Such instances are an indication of political discrimination meted out against the marginalised communities.

The invisible resistance is indicated by practising political discrimination against the SC and ST political representatives at different levels and

Court on the ground of breaching the 50% reservation cap set by the Supreme Court. The Youth for Equality contested that the government’s move is against the “basic structure of the Constitution”, as cited in a 1992 Supreme Court judgment that held that economic criteria could not be the sole basis of reservations under the Constitution. However, the Supreme Court refused to stay the decision of the government to grant reservation to the EWS category; *Janhit Abhiyan v Union of India* 2019 SCC OnLine SC 1867.

²⁵ With the enactment of the 73rd and 74th Constitutional Amendment Acts for a 33% reservation for women at the local self-government institutions, there was also demand for the extension of political reservation at the state and national levels. Consequently, the Women Reservation Bill was first introduced by the HD Deve Gowda government on 12 September 1996. Since then, the Bill has been introduced by successive governments. However, the Parliament has not passed the Bill till today: Shirin M. Rai and Carole Spary, *Performing Representation: Women Members in the Indian Parliament* (New Delhi: Oxford University Press 2019) 74-77.

²⁶ In January 2020, the Parliament abolished political reservation for the Anglo-Indian communities by the 104th Constitutional Amendment Act.

magnitudes in the power structure. The elected representatives have not been treated with equality and dignity of similar kind, and they continue to face discrimination in some form or the other, despite being part of political institutions. This could be one of the prominent reasons why marginalised groups did not take political reservation seriously between the 1950s and the 1970s.²⁷ The dominant caste leadership is also not ready to cede political power to marginalised communities, although they accommodate the marginalised communities because of political reservation.²⁸ Such instances indicate the continuation of invisible resistance to political reservation.

The invisibility of resistance is further reflected at the level of nominating the candidates during elections. It is evident when the dominant-caste political leadership interprets the unreserved constituencies as not being meant for the reserved category candidates. The empirical data indicates that such interpretations are widespread.²⁹ One of the SC political aspirants narrates his experiences of invisible resistance to political reservation during the 2009 parliamentary election. Explaining his experiences with dominant-caste political leadership, he emphasised that,

“Actually, people who are coming from the marginalised communities to politics generally confine themselves to reservation only. They usually encounter tough questions from the party leadership such as, ‘what is your caste?’, ‘what is your community?’, ‘then which seat do you want?’, ‘is there any seat for you?’, ‘is there any reserved seat?’, ‘from which seat you would like to contest? At the initial stage, I was also asked these questions by the *** party. I was a public leader. I thought I am educated and I do have leadership quality. Then I thought of why they are asking me all these questions. But the same thing happened to me in 2009. In 2009, the parliamentary seat, which used to be reserved for the SCs, was converted into general seat. General seat means open seat, they write it as a general seat, but ‘UR’ means unreserved. But in order to sideline you, they will tell you that is a general seat. They will tell you since you belong to SC category, why don’t you prefer an SC seat? That is a general seat. How come you will do that?’ I made them understand that it was a reserved constituency before 2009, reserved for scheduled caste, but now it is unreserved. So that is general. It is not

²⁷ ‘Conversation on Caste Today’ (2012) 633 Seminar, <http://www.india-seminar.com/2012/633/633_conversation.htm> (accessed 1 December 2014).

²⁸ Yogendra Yadav and Suhas Palshikar, ‘Party System and Electoral Politics in the Indian States, 1952–2002: From Hegemony to Convergence’ in Peter R. deSouza and E. Sridharan (eds) *India’s Political Parties* (New Delhi: Sage Publications 2018) 80.

²⁹ Interview with several SC/ ST MPs and MLAs, and the office bearers from reserved categories, of various political parties (between 2018 and 2020).

meant for general. Anybody can contest from that seat. That was a reserved seat, but now the seat has become de-reserved. But they will interpret that in such a way that indicate the seat is general, and meant for general (unreserved) people. In this way, they will sideline you from the race of competition for the party nomination.”³⁰

The invisible opposition to political reservation can also be attributed to the manner of demarcating reserved constituencies. Reserved constituencies are not always drawn based on a substantial majority of the SC and the ST communities. For instance, the Delimitation Commission uses its discretionary power to identify the SC-reserved constituencies.³¹ During the field study, one of the former Lok Sabha tribal MPs emphasised on a well-designed strategy employed during the drawing of the boundaries of constituencies.³² He alleged that areas with a high concentration of tribal population have never been part of a single constituency. Instead, such tribal areas are distributed between two constituencies.³³ Hence, the high concentration of non-SC and non-ST electorate in reserved constituencies makes political reservation less effective, drawing the link between dominant communities’ predominance and invisible opposition to political reservation. In short, while overt opposition to caste- and ethnic-based political reservation is not seen, there is an invisible resistance.

VI. EXPLAINING THE PHENOMENA

The practice of reservation has been extended to politics, government employment, and educational spheres in India. However, reservations in these three sectors have generated different kinds of responses among the public, especially from the non-beneficiaries. The contextualisation of reservations in government employment, politics, and educational institutions indicates that political reservation is less prone to open controversy. This section explores the various reasons that explain the silent opposition to caste- and ethnic-based political reservation in India.

³⁰ Interview with one of the SC political aspirants (26 October 2019). Since he was denied a party ticket for the Lok Sabha election, the party compensated him with the position of Secretary, *Pradesh* Level Committee, of a national political party. Names of the person and the party have been anonymised for confidentiality.

³¹ Mohd. Sanjeer Alam, ‘Selection of Reserved Seats: Laws, Procedures, Practices and Implications for Equality of Political Opportunity’ in Mohd. Sanjeer Alam and K.C. Sivaramakrishnan (eds), *Fixing of Electoral Boundaries in India: Laws, Processes, Outcomes and Implications for Political Representation* (New Delhi: Oxford University Press 2015) 155-160.

³² Interview with one of the former Lok Sabha tribal MPs of a national political party (23 February 2019).

³³ *ibid.*

A. The Politicisation of Candidate Nomination

There is a close relationship between parliamentary democracy and candidate selection. Parliamentary democracy has severely restricted the candidate nomination process. Though some of the national political parties such as the Congress have recently begun to decentralise the nomination process, the Central Election Committee will have the final say in the candidate list in different elections.³⁴ Since winning the election becomes the driving force of candidate nomination, the election committees of political parties largely rely on the local committee to list potential candidates. K Raju emphasised the decentralisation of the nomination process and pointed out that the lists of potential candidates are usually prepared by the District Level Election Committee and sent to the Screening Committee (the Central Election Committee) via the *Pradesh* (State) Level Election Committee.³⁵ He underlined that Rahul Gandhi decided to decentralise the nomination process to nominate more competitive candidates from the reserved categories (which can also be applied to candidate nomination from unreserved constituencies) and break the favouritism and caste nexus.³⁶

The nomination process becomes highly politicised at the local/ district level even after taking various initiatives. The caste nexus continues to prevail at the local level. Those candidates from reserved categories who show no signs of acting according to the will of the local (and often dominant caste) leadership would be screened out at the local level itself. The nomination process at the local level gets politicised to retain the local leadership's caste dominance even in the reserved constituencies. Candidates from reserved constituencies also require the local leadership's support to win the election due to the presence of voters from unreserved category. At every level of political engagement, caste nexus becomes visible in various forms in reserved constituencies. The reserved constituencies also experience 'invisible sharing of power' between the elected representatives and the dominant caste local leadership. The power-sharing can be glimpsed in a situation where the elected representatives use power and patronage to favour the local leadership's supporters, especially the non-beneficiaries of the reserved constituencies, and facilitate their access to various state-sponsored welfare policies and programmes.³⁷ To

³⁴ At the backdrop of his appointment as the then Congress President Rahul Gandhi's head of office, the IAS officer-turned-politician, K. Raju, emphasised the decentralisation of candidate selection by the Congress party: Kaushik Deka, 'Rahul will make High Command thing of Past, Says Congress President's Head of Office K. Raju' *India Today* (26 January 2018) <<https://www.indiatoday.in/india/story/rahul-gandhi-will-make-high-command-thing-of-past-says-congress-president-s-head-of-office-k-raju-1154626-2018-01-26>> (accessed 9 July, 2020).

³⁵ Interview with K. Raju (All India Congress Committee Office, New Delhi, 3 January 2020).

³⁶ *ibid.*

³⁷ Jagannath Ambagudia, *Adivasis, Migrants and the State in India* (London and New York: Routledge 2019) 187; Jennifer Bussell, *Clients and Constituents: Political Responsiveness in Patronage Democracies* (New York: Oxford University Press 2019) 18; Pamela Price with Dusi Srinivas, 'Patronage and Autonomy in India's Deepening Democracy' in Anastasia

put it differently, the political representatives from the reserved categories will remain symbolic due to a structural arrangement of power in a modern democratic set-up, and the dominant caste groups will continue to influence the administration and governance. Hence, as long as their caste supremacy and domination remain intact, the continuation of political reservation would not make much difference.

B. Eligibility Criteria

The comparative analysis of reservation in government employment, politics, and educational institutions demonstrates variations in eligibility criteria, which also arrest the triggers of resistance to political reservation. For instance, there is no minimum qualification to contest elections except the easily attainable static criteria of being a citizen of India and the universal adult franchise.³⁸ In government employment and educational institutions, the eligibility criteria are dynamic, and depend on the nature of the jobs and the educational institutions, which require much effort to attain.

Sometimes, securing a party ticket also depends on the popularity of the political aspirant, which can be gained by addressing the electorate's problems and expectations. However, such an argument is far from tenable when the party ticket distribution does not depend solely on the political aspirant's performance at the ground level. On the other hand, without fulfilling the minimum formal eligibility criteria set for government employment and education, the candidate cannot enter the fray of competition. Hence, the unreserved applicants conceive that even after putting much effort to earn the eligibility criteria, the 'allegedly less meritorious or mediocre' SCs and STs are in an advantaged position in terms of accessing government jobs and educational institutions,³⁹ which triggers opposition to reservation in government employment and educational institutions rather than that in politics.

Piliavsky (ed), *Patronage as Politics in South Asia* (Delhi: Cambridge University Press 2014) 223. There are also instances that the elected representatives were upset when the central party leader did not allow them to use their power and position to get things done for themselves and their supporters: K.C. Suri, 'Democratic Process and Electoral Politics in Andhra Pradesh, India' (2002) London: Overseas Development Institute Working Paper 180, 37.

³⁸ However, over time, the 'two-child policy' has also become an additional defining criterion for contesting elections at the local level. States such as Andhra Pradesh, Telangana, Maharashtra, Rajasthan, Gujarat, Madhya Pradesh, Chhattisgarh, Odisha, Bihar, Uttarakhand, Karnataka, etc., have implemented the two-child policy in local body elections. Madhya Pradesh and Chhattisgarh have discontinued the same since 2005, after complaints that such a policy does not apply to state and national elections. However, the two-child policy does not apply to the candidates who contest assembly and parliamentary elections. Such orientation essentially indicates that vested political interests do not like to share political power at the highest decision-making level.

³⁹ Vani K. Borooah, 'Social Exclusion and Job Reservation in India' (2010) 45(2) *Economic and Political Weekly* 31-35; Thomas Sowell, *Affirmative Action around the World: An Empirical Study* (New Haven: Yale University Press 2004).

C. Political Insecurity

The fixed tenure of elected representative institutions such as the Parliament and State Assemblies has ensured the political arrangement of power between different competing candidates/communities. In India, the Parliament and each Legislative Assembly has a fixed tenure of five years. Hence, each member is elected for five years. However, uncertainty gives way to the risks of insecurity. Uncertainty continues to haunt the political representatives unless they get re-elected in the next election. Individual instances can also probably discourage the aspirants to join active politics. Sometimes, the sitting MPs/ MLAs are unsure about getting party tickets in the upcoming election. To mention a few cases, the Congress pushed Jayati Natarajan to the corner in the political domain. Similarly, in the name of 'wider decision' of the party, the BJP pushed some of the tall leaders such as Lal Krishna Advani, Murali Manohar Joshi, Yashwant Sinha, Jaswant Singh, etc., to political marginality. Similarly, the BJP denied a ticket to Ashok Argal, a five time SC MP from Madhya Pradesh, in the 2014 parliamentary election.⁴⁰ The regional party of Odisha, the Biju Janata Dal (BJD), was on the verge of denying the party ticket to the sitting ST MP, Balabhadra Majhi, in the 2019 parliamentary election, which compelled him to resign from the party merely a month before the election.⁴¹ These developments in Indian politics generate fear psychosis among aspiring political leaders from both unreserved and reserved categories that such political fortune can also be meted out against them.

The anxiety of political insecurity is also attributed to the strong presence of the political dynasty in Indian politics.⁴² The dynastic politics, supplemented by the possession of resources in the form of money/ wealth, has had an impact at various levels, ranging from obtaining party tickets⁴³ during the nomination process, to securing a relatively better position at the level of party organisation than other political leaders with 'no Godfather' in politics. Consequently, common people seem to have developed disenchantment towards practicing politics. Hence, politics runs counter to the expectations of the

⁴⁰ Simon Chauchard, 'Disadvantaged Groups, Reservation and Dynastic Politics' in Kanchan Chandra (ed), *Democratic Dynasties: State, Party and Family in Contemporary Indian Politics* (Cambridge: Cambridge University Press 2016) 173-174.

⁴¹ PTI, 'Odisha: BJD MP Balabhadra Majhi Resigns from Party' *The Indian Express* (14 March 2019) <<https://indianexpress.com/elections/odisha-bjd-mp-balabhadra-majhi-resigns-party-5626509/>> (accessed 22 July 2020).

⁴² For a detailed discussion on dynasty and politics, see Kanchan Chandra (ed) *Democratic Dynasties: State, Party and Family in Contemporary Indian Politics* (Cambridge: Cambridge University Press 2016); Pradeep Chhibber 'Dynastic Parties Organisation, Finance and Impact' (2013) 19(2) *Party Politics* 277-295.

⁴³ The aspiring political leaders consider party affiliation or party tickets to have added benefits to the contested candidates. As each political party has its party cadres, party nomination increases the chance of winning the election. Besides, it also extends various facilities such as campaigning by party leaders, providing financial and material resources during election, etc.

common citizens.⁴⁴ Due to unsecured livelihood in politics in the long term, the public is not likely to turn to active politics. Hence, non-beneficiaries are not directly impacted by political reservation, thereby explaining their silence about it.

D. Indifferent Attitude

The public has developed a negative orientation towards politics. Generally, it has been perceived as the grid of ill-elements such as corruption, manipulation, muscle power, money power, etc.⁴⁵ Due to the presence of these elements, politics has failed to address the issues and concerns that are critical to society. Hence, those who do not support the demonstrative effects of these ill-elements would be reluctant to join politics, and would like to distance themselves from the ambit of active politics. Representatives have to demonstrate their competitive performance in public to get elected in the next election. However, such concern is being compromised in government employment and educational institutions once they get into these spheres. In short, cynicism towards politics has paved the way for not publicly opposing political reservation.

E. Conspiracy of Constituency Demarcation

While responding to the role of ST MPs in the Indian Parliament, one of the former Lok Sabha ST MPs increasingly emphasised the notion of the conspiracy of constituencies,⁴⁶ which appears as one of the critical means of silent opposition to political reservation in India. Some of the reserved constituencies have a high concentration of non-ST and non-SC population, and the SC and ST candidates have to depend heavily on voters from the non-reserved category. For instance, Kokrajhar ST parliamentary constituency of Assam has 71.43% non-ST population.⁴⁷ Similarly, Bellary and Raichur ST parliamentary constituencies of Karnataka have 81.99% and 82.93% non-ST population.⁴⁸ Similarly, Nagina, Bulandshahr, Hathras, and Agra (SC-reserved parliamentary constituencies of Uttar Pradesh) have 78.66%, 80.64%, 75.85%, and 78.30% non-SC population, respectively.⁴⁹ Owing to the lesser concentration of popu-

⁴⁴ Margit van Wessel, 'Citizens as Sense-Makers: Towards a Deeper Appreciation of Citizens' Understandings of Democratic Politics' (2017) 65(1S) *Political Studies* 127-145; Pippa Norris, *Democratic Deficit: Critical Citizens Revisited* (Cambridge: Cambridge University Press 2011); Mariano Torcal and Jose Ramon Montero, *Political Disaffection in Contemporary Democracies: Social Capital, Institutions and Politics* (London: Routledge 2006).

⁴⁵ Milan Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics* (New Haven, CT: Yale University Press 2017).

⁴⁶ Interview with one of the former Lok Sabha tribal MPs of a national political party (23 February 2019).

⁴⁷ R.K. Thukral (ed), *Assam Assembly Factbook: Kokrajhar East Assembly Constituency* (New Delhi: DataNet India Pvt. Ltd. 2018).

⁴⁸ Final papers 7, Karnataka, developed by the Delimitation Commission of India.

⁴⁹ Final papers 7, Uttar Pradesh, developed by the Delimitation Commission of India.

lation from the reserved categories, sometimes their political representatives do not pay diligent heed to critical community issues due to vote bank politics.⁵⁰ In short, the demarcation of reserved constituencies with high non-SC/ ST populations will help retain the political dominance of dominant castes. The active opposition to political reservation cannot be registered until this political dominance remains intact.

F. Reserved Candidates in Unreserved Constituencies

The interface between the political parties and political reservation indicates that the former abide by the preferential consideration principle. They have no other alternative but to nominate the candidates from the concerned communities for the reserved constituencies. However, while nominating these candidates, political parties engage in political arithmetic concerning the candidates' sub-caste. In such a case, the potential political fortune of some of the most vocal candidates from the reserved categories is kept at bay. Sometimes, political parties also nominate reserved category candidates from unreserved constituencies.⁵¹ Needless to mention, the high concentration of SC and ST population in unreserved constituencies would not always lead to the nomination of SC and ST candidates.

Meanwhile, the political leadership also ensures that there is no damage that a nominated candidate can do to the party leadership. Whenever there is any sign of posing stiff competition to the party and its dominant caste leadership, the possibility of sidelining such competitive candidates even from the reserved constituencies is very much on the board. Hence, the reluctance of political parties to nominate reserved category candidates from unreserved constituencies becomes a bone of invisible contention between the party leadership and the aspiring reserved candidates.

G. Perceived Outcomes

Political reservation has amounted to 84 and 47 reserved seats for the SCs and STs, respectively, in a 545-member Parliament. Similarly, political reservation has enabled 607 and 554 seats reserved for SCs and STs, respectively, in

⁵⁰ For instance, Naba Kumar Sarania, the ST MP from Kokrajhar constituency, does not support Bodo tribal communities' demand for a separate state of Bodoland. He won the 2014 and 2019 parliamentary elections with the support of the non-Bodo voters, who constitute around 70% of voters, and became the first non-Bodo to get elected from the Kokrajhar constituency since 1957: Samudra Gupta Kashyap, 'From ULFA to LS, First Non-Bodo MP from Kokrajhar' *The Indian Express* (20 May 2014) <<https://indianexpress.com/article/india/politics/from-ulfa-to-ls-first-non-bodo-mp-from-kokrajhar/>> (accessed 21 July 2020).

⁵¹ Jagannath Ambagudia and Virginius Xaxa, 'Introduction: Situating Tribal Politics in India' in Jagannath Ambagudia and Virginius Xaxa (eds), *Handbook of Tribal Politics in India* (New Delhi: Sage Publications 2021) 12.

4109-member State Assemblies.⁵² Such presence of SC and ST political representatives appears to be less visible to a large extent when compared to educational and employment spheres where the numbers are much higher, leading to greater visibility. Fixed tenure of membership also reduces the active visibility of political representatives, which may have less impact on the public, probably due to the absence of power-holding by the same person for a relatively long period as the political positions succumb to a more vicious circle of change. After every general and state election, only a fixed number of MLAs and MPs get elected, unless their number increases with the nomination and winning from the unreserved constituencies, or by the successful contestation of the elections as independent candidates from unreserved constituencies.

On the contrary, although there is a fixed term in government services, it is for a more extended period, until the employee attains 60 or 65 years, depending on whether it is the state and central government services. With the creation of new jobs in government services, although limited in number, the number of representatives in government services gets added to the existing data at regular intervals. Consequently, the membership of the 'elite club' swells up regularly, thereby leading to the greater visibility of marginalised communities in government services. Similarly, the reservation of seats in educational institutions will directly impact the reserved categories, which will continue to have a spillover effect on a long-term basis. Unlike the impact of reservation in politics and government employment, the reservation of seats in educational institutions may not immediately impact monetary and material gains to the marginalised communities. However, it has a more sustained impact on capacity building and skill development of SCs and STs required for performing their duties in politics and government employment.

During the job crisis, the visible presence of SCs and STs in government employment, especially in elite government posts, has not been received well by the non-beneficiaries of reservation. The appearances of SC and ST students as graduates from some of the best public-funded institutions of higher learning due to reservation have manifested indifferent attitudes among non-beneficiaries towards reserved candidates. The non-beneficiaries of reservation presume that the protective discrimination policies have facilitated the SCs and STs to occupy positions of power. Such complex issues lead to the emergence of competition over scarce resources. In a competition to control and access to resources, communities in the competition are bound to develop the feeling

⁵² Jagannath Ambagudia, 'Scheduled Tribes, Reserved Constituencies and Political Reservation in India' (2019) 5(1) *Journal of Social Inclusion Studies* 51-55. It is significant to mention that political reservation in state assemblies is not based on the 7.5% and 15% national level reservation principle. As the population of reserved categories differ from state to state, the quantum of reservation gets altered. However, the states ensure proportional political representation of SCs and STs in the respective State Assemblies.

of 'relative deprivation'.⁵³ Such feeling has become more prominent in government services and education sectors and less in politics, thereby leading to stiff resistance to reservation in government jobs and the education sector, rather than in politics.

H. Democratic Dominance

Democratic representative institutions such as the Parliament and State Assemblies have accommodated the diverse interests of marginalised communities such as STs and SCs. Although the democratic inclusion argument does not promote discrimination and marginalisation, in practice, it leads to an incompatible relationship between the communities based on their respective social identities. The nature and dynamics of the existing political structure in India have orchestrated this incompatible relationship. The existing political structure has developed multiple (invisible) ways to establish predominant communities' democratic dominance over the SCs and STs.

Due to their marginal share in the decision-making bodies, the SC and ST political representatives also seek support from the non-SC and non-ST political representatives to tilt the public policies favouring SC and ST communities. The remote possibility of representing the community in the highest decision-making bodies depends on the functioning of the Indian parliamentary democracy. The Indian parliamentary democracy gives undue importance to political parties rather than elected individual political representatives. The time for debating various issues, including issues related to SCs and STs, in the Parliament and State Assemblies is allocated to political parties rather than individual representatives. The party whips drawn mainly from the dominant castes decide who shall speak on the SC and ST issues in the Parliament and State Assemblies. The SC and ST political representatives usually get no or very little time as compared to unreserved MPs and MLAs to speak in the representative institutions. Meanwhile, the media has inadequately reported the SC/ST MLAs/MPs' somewhat limited participation in the parliamentary and assembly proceedings and deliberations.⁵⁴ While participating in the parliamentary and assembly debates, the party whips ensure that political representatives speak along their party lines. Any attempt to overstep the party line would invite disciplinary action. Sometimes, anti-defection law also governs the political behaviour of MPs and MLAs.

Therefore, the SC and ST representatives pose no significant threat to the dominant group's dominance due to their vulnerable position at the party level

⁵³ Jagannath Ambagudia, *Adivasis, Migrants and the State in India* (London and New York: Routledge 2019) 5; Thomas F. Homer-Dixon, *Environment, Scarcity and Violence* (Princeton and New Jersey: Princeton University Press 1999) 137-147; Ted Robert Gurr, *Why Men Rebel* (Princeton NJ: Princeton University Press 1970) 24.

⁵⁴ Interview with one of the former tribal MPs of a National Political Party (23 February 2019).

and political structure. However, political parties continue to support political reservation for SCs and STs so that they can use reserved seats as the means of pitting the SC and ST candidates against each other,⁵⁵ which arrests the potential collective assertion of SCs and STs to challenge the dominance of the upper caste in politics. Since the SC and ST political representatives are not assertive at the party level for various reasons, they are very accommodative of the party's ideology, leadership, and collective interest. Hence, Shankar and Rodrigues emphasised that the ST representatives act as the faithful followers of upper-caste leadership, especially prior to the 1980s, due to their economic and educational backwardness.⁵⁶ Meanwhile, the institutional design and structure make it more difficult for the marginalised communities to rise to power and prominence.⁵⁷ Hence, democracy promotes multiple ways of establishing the dominance of upper caste communities.

VII. CONCLUSION

The contemporary discourse on reservation is gradually shifting its focus from the political sphere to education and government services. The credibility of SC and ST representatives in education and government services is increasingly being questioned on their unsuitability or incapacity by giving undue importance to the abstract idea of merit.⁵⁸ On the contrary, in the Indian electoral system based on the first-past-the-post system, none of the reserved candidates has been declared unsuitable in politics. Meanwhile, it is unrealistic to use 'performance-based criteria' to evaluate the merit of the SC and ST political representatives. This is because there is little or no scope for the SC and ST political representatives to perform their duties independently in Indian parliamentary democracy. This further corroborates the notion that, unlike in government employment and educational sectors, the dominant communities do not raise questions on the performance or non-performance of political representatives, as that does not significantly affect their political position. Hence, political reservation for SCs and STs has become less controversial than the

⁵⁵ Francesca R. Jensenius *Social Justice through Inclusion: Consequences of Electoral Quotas in India* (New York: Oxford University Press 2005) 58; Alistair McMillan, *Standing at the Margins: Representation and Electoral Reservation in India* (Delhi: Oxford University Press 2005) 324.

⁵⁶ B.L. Shankar and Valerian Rodrigues, *The Indian Parliament: A Democracy at Work* (New Delhi: Oxford University Press) 219.

⁵⁷ Jagannath Ambagudia, *Adivasis, Migrants and the State in India* (London and New York: Routledge 2019) 166.

⁵⁸ Merit is not static, but rather dynamic, as there are no fixed and specific eligible criteria for securing government employment or entering into higher educational institutions. Vivek Kumar questions the abstract idea of merit, and underlines that the community identities of marginalised communities have become the ground of discrimination, exclusion, and humiliation in appointments and admission of students, among other things: Vivek Kumar, 'Understanding the Politics of Reservation: A Perspective from Below' (2005) 40(9) *Economic and Political Weekly* 803-806; Vivek Kumar, 'Discrimination on Campuses of Higher Learning: A Perspective from Below' (2006) 51(6) *Economic and Political Weekly* 12-15.

reservation in government employment and education. However, political reservation has also succumbed to overtly invisible opposition and resistance from the non-beneficiaries. The invisible opposition to caste- and ethnic-based political reservation has reflected the interface between politics, reservation, and discrimination, reflecting the indifferent attitude of dominant castes towards marginalised communities.

Identity and caste are so entrenched in Indian politics, that political parties also could not oppose the political reservation for SCs and STs publicly due to vote bank politics. The lack of litigation around political reservation, and the exclusion of politics from the ambit of the relatively recently orchestrated demand for reservation by various communities, add interesting nuances to the silent opposition to political reservation in India. The obnoxious nexus between the dominant caste and politics has further contributed to the invisible opposition to political reservation. In India, the opposition and resistance to political reservation continue to remain invisible because there is ample scope for the dominant communities to retain their political dominance in the existing political system and democratic practices.