



Original Research Article

India's Constitution Amendment Bill for 10% Quota for Economically Weaker Sections and its Realities

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The Constitution Amendment Bill introduced in the Indian parliament in January 2019 guarantees 10% quota for the economically weaker sections. There is already a constitutional provision of quota not exceeding 50% for the low caste people to set right their century old discrimination. Even though this reservation system has been in existence for the past 70 years the low caste people are not on the path of full-fledged development. Their economic condition is still worse than that of upper caste people. Their representation in high-graded posts such as judges, managerial executives, professors and high administrative officers is very low against a high representation in low-graded posts like class 'D' jobs. On the other hand, upper caste people are good in number in all such high-graded posts. In this background, a separate quota for high caste people on the basis of their economic background is not necessary as it will not help in any way the country in attaining a higher rate of economic growth.

Keywords: Economically weaker sections, Economically backward, Untouchable, Unapproachable, Low caste.

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Article History

Received: 19th January 2021

Accepted: 3rd March 2021

Published: 31st March 2021

Cite Article:

Kanmony, J. C. (2021). India's Constitution Amendment Bill for 10% Quota for Economically Weaker Sections and its Realities. *Journal of Economics, Business Management and Administration*, 2(1): 1-7.

INTRODUCTION

In January 2019, the upper house of the Indian parliament (Rajya Sabha) passed the Constitution Amendment Bill (124th Amendment) guaranteeing a 10% quota in education and employment in the general category for the Economically Weaker Sections (EWS). This means that the present 10% quota targeted the economically weaker sections (include all those whose household income is less than 800,000 rupees (nearly \$11,000) per year i.e., below the creamy layer income-limit for Other Backward Classes (OBCs) or all those from households having less than five acres of agricultural land) of the country, while the already assigned quota is for the socially challenged low caste people such as Dalits (Schedule Caste), Tribals (Schedule Tribe) and OBCs. Put it in plain words, the present reservation policy takes income as the basis for quota while the earlier policy takes castes. The Indian Constitution allows reservation only for less than 50% and the already allotted percentage of quota on the basis of caste is 49.5% (27% for OBC, 15% for SC & 7.5% for ST). As the article discusses the impact of both the already existing quota system for the low caste people and the present quota system for the Economically Weaker Sections on the low caste people and the poor upper caste people the subject of this article is economic development. The goal of this article is to highlight the fact that there is no necessity for a new quota for the poor upper caste people as there is already a reservation system for the socially and economically suppressed class. The present study is explorative in nature and made use of only

secondary data. The research questions of the study are:

1. Why does the Indian Constitution permit a separate quota for the oppressed classes?
2. What is the necessity for a 10% quota for the economically weaker sections of the upper caste people?
3. Are the poor upper caste people at the disadvantaged position in India?

Statement of the Problem

A policy decision taken by a government of India should benefit the most disadvantaged group of people to the maximum. If it is not so, it should not have any retrogressive impact on them. The present National Democratic Alliance government is against the already existing caste-based reservation system though the low caste people have been suffering for the last 3,000 years due to caste-based violence. Before independence, they had been suppressed and oppressed by the high caste people who were in the helm of affairs. A policy decision taken against this group of people does not augur well with the present society. Hence the present topic 'India's Constitution Amendment Bill for 10% Quota for Economically Weaker Sections and Its Realities' is utmost important.

MATERIALS AND METHOD

The present study makes use of only secondary data. Secondary data have been collected from some published sources such as books, articles from journals and newspapers, chapters from books, reports and government proceedings. Data have been mainly used to substantiate the author's arguments that there was a caste system in the 18th century and in the early 19th century. Hence books published in the very early period, i.e., 1820 and 1904 were widely referred. The main objective of the present study is that though there has been a reservation system for the low caste people, they are not included in the process of social, political and economic progress. The present study is explorative in nature. It tries to bring to light the background of the old caste-based reservation system and the realities of the present system of special quota for the economically weaker sections, particularly the high caste poor.

RESULTS AND DISCUSSION

Argument for the Caste-Based Quota

Before going in depth into the present quota, it is better to analyze why a caste-based quota system was allowed in the Indian Constitution without having any quota for the economically weaker sections. The low caste people's socio-

economic conditions were highly deplorable in the pre-independence period. There was a belief in those days that the low caste people were born to serve the caste Hindus. The high caste people did everything to suppress the low caste people. The low caste people suffered from untouchability, unapproachability and unseeability. Dalits and Tribals were segregated and were not allowed to go near the high caste people, particularly the Brahmins and the Nairs. They were also not allowed to enter the high caste Hindus' houses and walk along their streets and lanes. If they had a chance to face a high Caste Hindu, they had to take their towel from their heads or shoulders and tie it around their waist and keep a distance according to the caste hierarchy and shout "Othi Po" (keep distance) (Daniel, 1992). The caste hierarchy stipulated that the Nadars had to keep a distance of 36 feet from a Brahmin and 12 feet from a Nair. But the Shudras had to keep a distance of 96 feet from a Brahmin and 60 feet from a Nair (Mateer, 1991). Those who violated this rule of keeping distance were immediately beaten up (Hamilton, 1820; Hardgrave, 1969; Kanagasabai, 1979). There were also restrictions in dressing and in using ornaments. Both men and women, boys and girls were restricted from covering below their knee and above their waist (Horne, 1904). The low caste people were also not allowed to use umbrellas and slippers, have tile-roofed houses, own cattle, use vehicles and decorate marriage pandals (Sheds for conducting marriages¹ (Political Proceedings 23, 1870). Education was also completely denied to them (Sobhanam, 1984; Kanmony, 2010).

Though the people of low castes were poor, a number of taxes were imposed on them (Peter, 1999). The Jenmy System (the right to own land by birth) that existed at that time assured the Nambudiris (Brahmins) and the Nairs socio-economic and political stability and status. The Nairs were the landlords and Jenmies (Persons who have the right to own land by birth). The Jenmies were exempted from taxes while the low caste people were burdened with hundreds of taxes. The fruits of their labor were sucked in the form of taxes, fines and gifts. An important tax collected was Purusantaram, a payment made to the government by those who inherit ancestral property. It was more than 40% on the value of the inherited property. For the dead and for those who had migrated the male members of the surviving family aged between 16 and 60 years had to pay Poll Tax (Agur, 1990). Those who failed to pay the tax were severely punished. If the defaulters were women, they would be molested by government officials² (Peter, 1994; Jacob, 1999). The low caste people paid Professional Tax, House Tax and Land Tax. For the ladder they used to climb trees, Enikkanam was paid; for the belt used to climb trees Thalaikkanam was paid;

¹ Cover File No. 1231: Kerala State Archives.

² Neetu, Vol. 13, Kerala Archives.

for the hut they lived in one Fanam was paid and it was named as Kuppakachi, and for changing the roof Manai Meyappan Kollum Irai was paid.³ For all types of tree possessed by them, tree tax was imposed and from married women, Tali Irai was collected. For some kinds of dress, ornaments, turban, umbrella, palanquin and to conduct marriage one had to pay tax to the government (Mateer, 1991). The low caste people had also paid a large portion of their income in the form of fines. Among the fines collected, Prayachittam was the cruelest one. The amount of fine was fixed as per the will and pleasure of the officer who levied the tax. All these drove the low caste people to utter poverty.

Like taxes, the system of Oozhiam and Viruthi were also responsible for the deplorable conditions of the low caste people. Under Oozhiam the low caste people did free services while under Viruthi they gave goods free of cost. They were employed for various works without payment⁴ (Jacob 1975; Peter 1994). They had to carry salt from the fields to the selling station on head without any wage (Zacharia, 1991). During festivals the Royal families, officers and Jenmies should be gifted with hens, eggs, vegetables, fruits, oil and firewood. Many a time, they had to transport the things as head loads to places where they lived. Vegetables were also supplied to the Ootupuras (free feeding centers for Brahmins) (Mateer, 1991).

Even land rights were deprived from the low caste people. Menon (1985) narrates that the whole of the Princely State of Travancore was divided into Nadus and Nadus into many Desams. The Nairs were appointed as Naduvazhis and Desavazhis to supervise the Nadus and Desams respectively by the Nambudiris. The Nairs cultivated their lands by making use of the free service of the low caste people. Some Nadars and Ezhavas served as tenants in their lands. As there was no safety to life and property, even if they had lands, they entrusted them with the Nambudiris, who established ownership over these lands by adopting harmful and dubious methods. This is authenticated by Peter (1994) and Yesudhas (1975).

All these show that the low caste people suffered enormously due to the caste system that existed in those days. Hence at the time of framing the Indian Constitution, the framers assigned a quota for these suppressed low caste people to sooth their wounds. This article does neither discuss the constitutional validity nor justify the discrimination, both positive and negative. But it highlights only the ground realities related to the 10% quota.

Arguments for the Present 10% Quota

Quota is allowed only for those who are suffering from socio-economic problems. To set right the caste-based

discrimination, caste-based quota was allowed in the Indian Constitution. Like the socially challenged categories, there are also many poor people among the high castes. All the people in the high caste section are not well placed. There are many people in the upper castes who suffer a lot because of their poor economic conditions. Hence these economically poor upper caste people have also to be uplifted. The Natural Law of Justice tells that every economic policy should aim at providing maximum benefit to the economically weakest section of the society. It is argued that a separate quota for the economically weaker sections is the utmost necessity and the separate quota will certainly uplift them economically, educationally, politically and socially. Hence, the present 10% quota is necessary for attaining equality.

Arguments against the Present 10% Quota

It is better, here, to highlight the educational attainment of the poor from different caste groups. Here poor refers to persons belonging to BPL (Below Poverty Line) families. Though Dalits and Tribals are under positive discrimination for the last 70 years, they have not achieved much in the educational field in comparison with the poor Brahmins and the poor upper caste people. The average education for the poor Brahmin increased from 3.46% in 2005 to 5.56% in 2012 and for the poor upper caste it moved from 3.22% to 4.21% in the same period. But for the poor Dalits it moved from 2.36% to only 3.61% within the same period. Households with at least one adult with 12 years of schooling are 22.81% for the poor Brahmins against zero percentage for both the poor upper castes and the poor Dalits in 2005, but in 2012 the number increased to 39.73, 16.48 and 11.71% respectively. In the same way, the percentage of students, who can read a paragraph or a story, is also not in favor of the poor Dalits. The percentage increased from 35 to 70 for the poor Brahmins and for the poor upper caste people it increased from 43 to 47. But it increased from 33 in 2005 to only 34 in 2012 for the poor Dalits. In the same way the percentage of students who can divide or subtract two numbers has increased from 44 to 51 for the poor Brahmins, 37 to 45 for the poor upper caste people and only 26 to 38 for the poor Dalits (Deshpande and Ramachandran, 2019). The same is true to the Tribals also.

The data regarding admissions of various caste groups on the basis of income in higher educational institutions, particularly higher educational institutions ranked by National Institute Ranking Framework (NIRF) also show a different picture. Admissions in higher educational institutions for the economically weaker sections are more than the prescribed 10% but for the socially challenged they are underrepresented. The NIRF 2016-'17 show that of the 1.609 million students studying in 445 institutions which registered for ranking, about 455 thousand (28%) belonged to the

³ Travancore Archeological Series: I (I).

⁴ Neetu, Vol. 13, Kerala Archives.

Table 1. Involvement of Different Caste People in Casual Labour in 2005 & 2012.

| Category | Percentage | |
|------------------|------------|------|
| | 2005 | 2012 |
| Poor Brahmins | 85 | 71 |
| Poor Upper Caste | 96 | 89 |
| Dalits | 98 | 92 |

Source: Deshpande and Ramachandran (2019), EPW, 30th March, p. 28.

Table 2. Household Income Different Caste People in 2005 & 2012.

| Category | Income (in rupees) | |
|------------------|--------------------|--------|
| | 2005 | 2012 |
| Poor Brahmins | 36,373 | 88,070 |
| Poor Upper Caste | 49,496 | 89,012 |
| Dalits | 27,871 | 64,653 |

Source: Deshpande and Ramachandran (2019), EPW, 30th March, p. 28.

Economically Backward Classes (EBC)⁵. It is almost 30% in private higher educational institutions. Nearly 66% of the NIRF institutions had more than 10% students from the EBC. It is as high as 68% among private institutions. It means that the economically weaker students have already secured about three times the proposed quota of 10% without any reservation by taking even a less amount of income ceiling (Jose and Reddy, 2019). Then it is easy to conclude that there is no necessity to have a separate quota of 10% for the EWS. Further the share of SC/ST/OBC students in these 445 institutions is just 38%, which is just 10% more than the 28% meant for economically backward classes. In public institutions the share of this socially challenged category is only 44%, much less than the percentage mandated under the Indian Constitution, i.e., 49.5%. The share is as low as 30% in private higher educational institutions that were ranked by NIRF and in only 19% of private higher educational institutions the reservation for SC/ST/OBC students is more than 49.5% (Jose and Reddy, 2019). All these mean that the 'socially challenged category (SC/ST/OBC) is underrepresented while the economically backward is more represented in higher educational institutions and in premier private higher educational institutions in particular. Hence the quota on the basis of income ceiling seems to be empirically unfounded.

⁵ As on 2nd February 2016, citizens having annual income of one lakh rupees and who do not belong to any disadvantaged category such as SC/ST/OBC (WWW.arthapedia).

Next it is essential to analyze the employment opportunities available to these groups. The percentage of people involved in casual labour was 71 in 2012 against 85 in 2005 for the poor Brahmins, 89 and 96 for the poor upper caste people and 92 and 98 for the poor Dalits in the same period. It means that in comparison with the poor Brahmins and the poor upper caste, the percentage of persons involved in casual labor is more among the poor SC people. The pertaining details are presented in Table 1.

The distribution of government jobs among the poor also shows that the most advantaged groups are the poor Brahmins and the poor from the OBC group. The percentage of share increased from 4.29 to 5.6 for the poor Brahmins and 26.67 to 36.72 for the poor OBC between 2005 and 2012. But it has decreased from 46.35 to 30.6 in the same period for the poor Dalits. The proportion of the high caste people employed in Central Universities as Assistant Professors is two thirds and the socially challenged constitutes only one third of the total posts (Editorial, The Hindu, 2019). In the same way, the average household income also shows a wide disparity. These details are presented in Table 2. It is very clear from Table 2 that the average household income increased from 36,373 (\$485) to 88,070 (\$1,175) rupees for the poor Brahmins, from 49,496 (\$660) to 89,012 rupees (\$1,190) for the poor upper caste people and from 27,871 (\$372) to 64,653 rupees (\$890) for the poor Dalits between 2005 and 2012.

It is easy to conclude that in both the years, the poor Dalits earned lesser than the poor from upper castes and the Brahmins. The percentage of people made perception as

poor is also the highest among the poor Dalits. It is 40.44 for the poor Brahmins, 66.13 for the poor upper castes and 76.92 for the poor Dalits. Further the percentage of people owning land or cultivating land in 2012 is very high and for the poor Brahmins it is 91%. It is 75% for the poor upper caste and only 48% for the poor Dalits (Deshpande and Ramachandran, 2019). Thus economically also the poor Dalits are worse off than both the poor Brahmins and the poor upper caste people.

Ground Reality

The low caste people are politically powerless, socially untouchable, culturally inferior, ritually unclean, educationally unequal and economically backward. As per the Indian Constitution reservation, it is made for the low caste people only to get remedy for the discrimination and human rights violations meted out on them during the pre-independence period. But many studies proved that even after the 70 years of caste-based reservation caste gaps are either static or widening and caste differences are significant even among the poor. An economic survey reported that in 2015, 98% of all households earned an annual income of less than 600,000 rupees (\$8,000) (Nath, 2019). In the income ceiling of 800,000 rupees (\$11,000), 99% of all households fall in the EWS; 98.26% of Brahmins, 97.93% of upper caste and 99.75 of SC families fall in the EWS (Deshpande and Ramachandran, 2019). It means that almost all (99%) are in the EWS and only 1% of the population is left out of this new 10% quota. It means that only the students with good educational background are eligible for this quota. Based on the educational attainment, it is crystal clear that the poor Brahmins are the best suited to take advantage of this new 10% quota. Hence it is argued that the present 10% quota is also a caste-based quota for the castes that had suppressed others but not for those castes that had been suppressed. Earlier if the socially challenged persons scored more than the cut-off for the general category, they could get admission in the general category. But in the new quota system, it is not so; it is effectively a quota for the upper castes only. All these mean that the NDA government is allotting this 10% quota exclusively for the Hindu upper caste people who are not at the top 1% of the income distribution. It is against the principle of natural justice.

The main drawback of the present quota system is that it has fixed an income ceiling of 800,000 rupees (\$11,000) to delimit the economically weaker sections. It is much higher than the income limit of 9,792 rupees (\$130) per year in rural areas and 12,000 rupees (\$160) per year in urban areas for defining poverty line and also the taxable income limit of 250 thousand rupees (\$3,335) per year. It is eight times higher than the income ceiling used by state governments for school admissions of poor children under economic backward category under the Right to Education (RTE) Act. It includes

not only the poor but also the rich including all income tax payers except the one per cent people from the top income brackets. In reality, it is non-justifiable to have all rich persons in the economically backward sections. The reservation policy is not useful unless economic backwardness is defined in terms of poverty line, i.e. 816 rupees (\$11) per month in rural areas and 1000 rupees (\$13) per month in urban areas or in terms of some such standard criteria. Taking the poor along the rich is against the principle of natural justice. The real poor have to be differentiated from the rich. But the present NDA government has clubbed both the poor and the rich and termed them as the economic weaker sections. It is very clear that no poor from the low caste will benefit from the new quota as it covers 99% of the total population as well as the already educationally advantaged groups.

Though the reservation should not be for the already advantaged groups that are well represented in both the spaces of education and employment, the present government has guaranteed quota for this advantaged group. Thus it can be concluded that the present government has blunted the reservation system which is meant for the discriminated, excluded and socially challenged groups. In reality it is not targeting the poor. It is simply giving a signal to the upper caste people that the government is ready to move away from the already existing quota system based on caste.

The next unfavorable factor that will adversely affect the whole reservation system is the shrinking employment opportunities in the country. Going on increasing the reservation without generating enough employment opportunities is a mockery. To have a better economic development, it is necessary to have better employment opportunities to all those who are seeking employment. But in reality there is a cut in the number of posts in most of the government institutions such as Post and Telegraphs, Railways and Banks, and particularly the Class 'D' jobs, where most of the posts are occupied by SCs, STs and OBCs. For example, the total number of persons employed decreased by around 90,000 between 2007 and 2017 in the Indian Railways. While there was a massive cut in the class 'D' employees there was an absolute increase in Group 'A' and 'C' employees. In the same way, in the India Post also there was a sharp reduction in the number of non-gazette staff, decreased from 196,485 in 2013-'14 to 180,850 in 2016-'17. In nationalized banks including Regional Rural Banks the total number of persons employed decreased from 970 thousand in 2012-'13 to 910 thousand in 2016-'17. The maximum fall occurred among the clerical and subordinate staff. Clerical staff decreased from 420 thousand to 330 thousand and subordinate staff from 170 thousand to 150 thousand while the number of officers increased from 370 thousand to 430 thousand in the same period. One can notice the same trend in public administration also, where the total employment fell

Table 3. Dalits' Representation in Group 'A' Employment in 2007, 2012 & 2017 (in %).

| Department | 2007 | 2012 | 2017 |
|-----------------------|-------|------|-------|
| India Post | - | 10 | 9.21 |
| Railways | 15.12 | - | 13.48 |
| Public Administration | 23.3 | - | 20.1 |

Source: Nath (2019), EPW, 11th May, p. 59.

by around 1.5 million in the same period, between 2012-'13 and 2016-'17.

Due to these reasons Dalits' and Tribals' representation in employment decreases as time passes. Unemployment rates (usual status) among Dalit youths increased from 22% in 2005 to 44% in 2016. The rate of increase is much higher among Tribal youths, 9% and 50%. In the Central Public Sector Enterprises, the share of Dalits in managerial executive posts is only 16% against 63% for high caste people in 2017. But for unskilled workers the concerned percentages are 53 and 19. This is true for the Central government services also. Dalits representation in Group 'A' services is 13% while 68% for upper caste people. But their respective representations in Group 'D' services are 45% and 33% (Nath, 2019). As per the National Sample Survey Organization's report 2019, the share of Dalits to general population is 19.6%, Tribals 8.6% and high caste people 28.8% and the remaining constitutes others. Details regarding Dalits' representation in Group 'A' jobs in different departments of the Central government are given in Table 3.

From the discussion carried out so far, it is clear that the Constitution amendment bill introduced in the Indian parliament in January 2019 to guarantee 10% quota for the economically weaker sections, particularly the high caste poor is unnecessary. The already existing caste-based quota/reservation policy is allowed only because of the fact that the low caste people were oppressed and suppressed by the high caste people. Though the caste-based quota has been in existence for the past 70 years the low caste people are still backward socially, politically, educationally and economically. The economically weaker sections of the upper caste people are not backward and poor as that of the poor low caste people. A policy change must aim at providing additional benefit to the most disadvantaged groups of people. As the present amendment bill in no way helps the already disadvantaged groups of people, it does not augur well in the present society and in the present situation.

CONCLUSION

All forms of discrimination are unlawful and not good for economic development. Economic development requires

efficiency, high ability to work and advanced technical skill. But quota for a particular group of people may hamper the economic development as there is a good chance for inefficient and unskilled persons to be appointed. Hence the growth of the Indian economy will also be adversely affected because of the present reservation policy. Further, taking a large number of people who are paying income tax under the economically weaker sections is also a mockery. Another reason is that though the low caste people are under positive discrimination for the last 70 years, they have not achieved much. As far as employment is concerned, it is better to produce a large number of pies, i.e., enough employment opportunities, instead of fighting for a share in the small pie available. The right to have a dignified life is a basic human right and so the government has to provide employment to all those who demand it and a proper livelihood for all those who are eager for it. Any government policy that snatches away people's good chances for education, job opportunities and livelihood in the name of quota, cow protection, forest regulation, citizen's registration, security, gas or oil extraction and other policy interventions should be avoided. As discrimination in the name of caste or income or in any other socio-economic factor is not good to any economy the present policy of 10% quota for the EWS is also not likely to produce any positive socio-economic outcome

Conflict of Interests

The authors declare no conflict of interest.

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