

YES, NO, IT’S COMPLICATED

Is there a case for reservation for the forward classes?

YES



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Social justice is not possible if we exclude the economically backward sections of our society

Social justice is inclusive in nature. It means ensuring that no marker of backwardness is left untouched. Poverty is one such marker of backwardness, and a very strong one, which denies certain basic rights and equality in society to individuals affected by it.

The Preamble, which is the soul of the Constitution, promises to all citizens social, economic and political justice. The economic status of citizens constitutes one of the three tests of backwardness. Hence, the ends of social justice cannot be truly met if we exclude the economi-

cally backward sections of society from availing the fruits of development in an equal manner.

A move to help the poor
Poverty denies equality of opportunity to individuals in education and employment. It denies them the opportunity of a decent and sustainable livelihood. Reservation, by the prevalent logic, ensures participation of the disadvantaged sections in employment through positive discrimination. Hence, there was a strong case for making a provision for reservation for the eco-

nomically backward in the general category in education and employment to ensure that they also get reasonable opportunities to advance in life.

The present provision of 10% reservation for the economically backward in the general category is being referred to as reservation for the ‘savarnas’, or upper castes. However, reservation under this category is not limited to upper caste Hindus; it is available to the poor in all general categories, who were not eligible for reservation under any other category hitherto. As for the upper caste Hindus, a significant proportion of the population



live in the villages and in remote areas with limited economic opportunities. They face disadvantages in the matter of getting access to education and employment. Hence, it was necessary to lend a helping hand to them as well.

The test of constitutionality
To those who point to the Supreme Court’s capping of reservation at 50% in the famous *Indira Sawhney* case, I wish to mention that this ceiling is applicable only for reservation for the socially and educationally backward category, i.e. to the Scheduled Castes/Scheduled Tribes (SCs/STs) and the Other

Backward Classes (OBC) categories under Articles 15(4) and 16(4) of the Constitution. It does not apply to the present case of reservation, which has been provided as a special provision through a Constitution amendment.

Further, to those who mistake the provision of reservation under the Constitution to be applicable only to the SCs/STs and OBCs, I wish to remind them that the present quota, introduced through the 124th Constitution Amendment Bill, is provided through adequate amendments in Articles 15 and 16 of the Constitution, which allow for making “special provision for the advancement of any economically weaker sections of the citizens”.

Hence, it can stand the test of constitutionality in the Supreme Court.

Social justice is a dynamic concept which has evolved over time in accordance with the changing needs and circumstances of our society. The concept has not been defined in our Constitution. It has rightly been left to the wisdom of the lawmakers to increase its ambit from time to time, according to the needs of the time. A quota for poor citizens was a crying need of our times. The Modi government realised this and, under the true spirit of ‘*Sabka Saath Sabka Vikas*’, made the dream of 10% reservation a reality. For other political parties, this had been nothing more than an electoral gambit all along.

NO



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Nothing stopped the government from providing jobs or scholarships to the poor

The 124th Constitution Amendment Bill, proposed and promulgated in just a few days, is a gross and wilful subversion of the principle of social justice, which the Supreme Court has held to be the part of the basic structure of the Constitution. It is hard to understand how the government, which has all the legal resources and counsel at its disposal, chose to characterise reservations mandated by the Constitution as a job guarantee or a poverty alleviation programme. Reservations for students in public institutions of

higher education and jobs in the public sector were envisioned to bring about adequate representation to those sections of society that are oppressed by caste discrimination. Reservations along with legal protections against discrimination form the juridical structure for social upliftment of the backward classes of Indian society.

Constitutionally invalid
The Constituent Assembly amended Article 15 by inserting Clause (4), which states: “Nothing in this arti-

cle or in Clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.” The use of income or economic criteria for providing reservation for those not included in the backward classes, or for those belonging to the general sections, is thus constitutionally invalid.

If indeed the Narendra Modi government wished to benefit the poorer sections of those not included in the backward classes, Sche-



duled Castes and Tribes, there was nothing that stopped it from creating jobs along the lines of the Mahatma Gandhi National Rural Employment Guarantee Act, which also created rural infrastructure. Nothing stopped it from instituting new universities and colleges and providing need-based scholarships for poor students. Granting 10% reservation in government jobs and education institutions to households in the general category with an income of less than ₹8 lakh per annum will make little difference to their poverty levels as corporate-led jobless growth

has increased income inequality exponentially.

A mere fig leaf
True to its ‘jumla’-gimmickry model of governance, the Modi government chose not to increase the size of the pie but to cut away another slice from the already shrinking pie of public sector institutions. The promise of existing reservations is nowhere near to being fully realised. Public spending for scholarships for students in the SC/ST/OBC categories (and minority students) has come to a near halt. Rohith Vemula’s suicide is a direct result of such tactical obstacles propped by this government in the path of so-

cial justice.

The move reverses the progress made in India over decades. It was perhaps put in place as the government was unable to provide any relief from the economic distress felt by small farmers, manufacturers, entrepreneurs, traders and the working class. In fact, this distress was worsened by the impact of the rash decision called demonetisation and the poor implementation of the Goods and Services Tax.

The 10% reservation is nothing but a fig leaf to cover the monumental failure of this government on all fronts. It is a ploy that will cost India dearly and push away further its hope for social harmony.

IT’S COMPLICATED



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is an MP from the Biju Janata Dal

When you allow reservation for the advanced classes, it changes the meaning of reservation

During the Lok Sabha debate on the 124th Constitution Amendment Bill, to provide reservation in jobs and education for the economically weaker sections in the general category, an opinion was expressed that 50% of the States have to approve it. But that is not the case. Under Article 368(2), Parliament can amend the Constitution by passing the Bill in each House by a majority of the total membership of that House present and voting. Thereafter, the President shall give his assent to the Bill and the Constitution will stand amended.

But amendments which seek to

make a change in certain specific provisions, including Articles 54, 55, 73, Chapter IV of Part V, Chapter V of Part VI or Chapter I of Part XI, or any of the Lists in the Seventh Schedule, or the representation of States in Parliament, shall require to be ratified by the Legislatures of not less than one-half of the States.

Providing the context
Article 15 guarantees the fundamental right of prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth. Article 15(1) and (2) broadly state that the “State” shall not discrimi-

nate against “any citizen” on grounds only of religion, race, caste, sex, place of birth or any of them. Article 15(3) onwards, the Constitution lays down provisions relating to protective discrimination – the policy of granting special privileges to underprivileged sections. Articles 15(3) and 15 (4) are the foundations for reservations in education and employment in the country.

Article 15(5) was introduced by the Constitution (93rd Amendment) Act, 2005. It is an enabling clause that empowers the State to make such provision for the advancement of SCs, STs and socially and educationally backward classes of



citizens in relation to a specific subject, namely, admission to educational institutions including private educational institutions, whether aided or unaided by the state, notwithstanding the provisions of Article 19(1)(g). This was challenged in the court. In 2008, a five-judge Bench headed by the then Chief Justice of India, K.G. Balakrishnan, upheld the law providing 27% quota for OBCs in IITs, IIMs and other central educational institutions, but said it would not apply to the creamy layer. The Supreme Court upheld the validity of the Constitution (93rd Amendment) Act, 2005. It also held that the amendment does not violate the

basic structure of the Constitution.

It is in this context that the reservation for the economically weaker sections is to be considered. A nine-judge Bench of the Supreme Court had ruled that reservation is a remedy for historical discrimination and its continuing ill-effects. The court had also said that reservation is not aimed at economic uplift or poverty alleviation. Economic weakness is on account of social backwardness. The economic criteria will lead, in effect, to the virtual deletion of Article 16(4) from the Constitution.

Is this the new poverty line?
Since the new amendment talks of economic criteria and addresses the grievances of Brahmins, Bani-

yas, Patels, Marathas, Gujjars, Thakurs and even Muslims and Christians for the first time, many think it will be broad-based. It is the responsibility of the state to uplift the poor. Traditionally marginalised sections need affirmative action. But the current policy says those households earning less than ₹8 lakh annually or owning less than 5 acres of land can avail of the quota. That is a salary of ₹66,000 a month. If so, is this the new poverty line of India? And if so, why are those earning more than ₹25,000 a month being taxed? The moment you make reservation for the advanced classes, it changes the meaning of reservation altogether. Reservation is not an anti-poverty programme.

SINGLE FILE

Blending fact and fiction

To deal with the problem of propaganda films being taken as the truth, we need discerning viewers

KUNAL RAY



Bollywood biopics are one of my pet peeves. Yet I gathered the courage to see *Thackeray* because I was curious. I never thought I would say this, but I found *Thackeray* to be a rather well-made propaganda film. I certainly disagree with its politics, but I shuddered thinking to myself and discussing with a friend seated next to me the consequences of a well-made propaganda film. Nawazuddin Siddiqui delivered a most convincing performance as the eponymous central character. While in the same column some months ago, I had critiqued his portrayal of Manto, his performance as Bal Thackeray made me sit up and take notice. Here was a good actor delivering a consummate performance.

I was at a loss. Should I applaud him for his performance or critique what he was choosing to portray on screen? *Manto* and *Thackeray* are worlds apart. The actor does his job. He moves on to his next role, but can a role be performed without convincing yourself about the character you are essaying on screen? Isn’t acting fiction though? I had several questions but no easy answers.

The combination of Siddiqui’s performance and the film’s almost compelling storytelling readily pulls you into the narrative. It also occurred to me then that cinema as a mass medium can be used to transform fiction into fact. We often argue that there are numerous ways of writing and recording history beyond academic history books. Cinema has often reached where no book has been able to tread. Think about Ingmar Bergman’s exposition of time and Michelangelo Antonioni’s evocation of space. Through repeated viewing, images often attain a new power, a new historical truth. They can transform our understanding of events. Several war films fit into this bracket. Cinema can create or endorse new histories and this to me was the alarming aspect of the film.

This year several propaganda films were made in Bollywood: *The Accidental Prime Minister*, *Uri: The Surgical Strike*, *Manikarnika: The Queen of Jhansi*. While the timing of their release is anybody’s guess, these films clearly serve a nationalist agenda benefiting a certain political ideology.

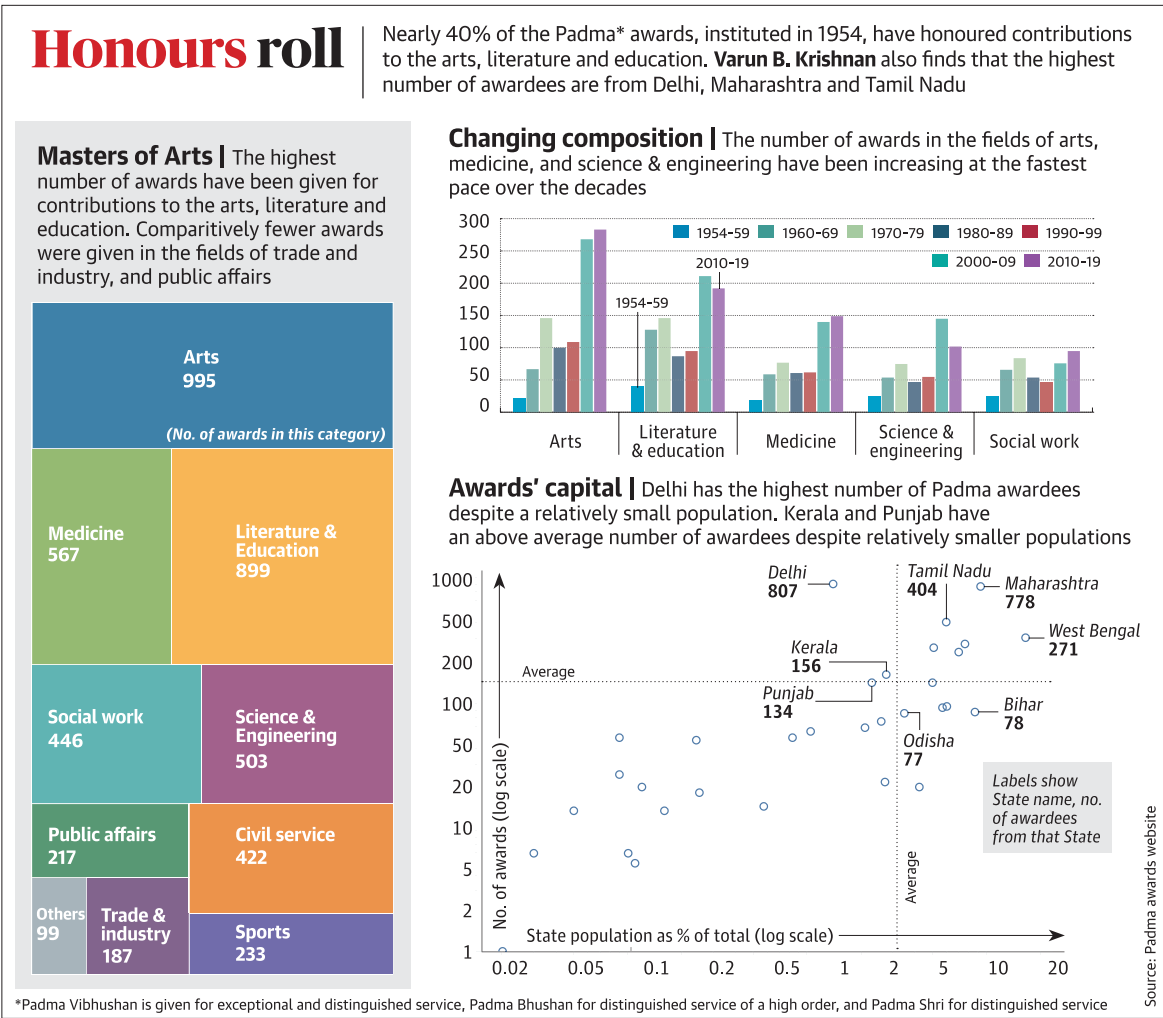
One also cannot dismiss the commercial aspect of such decision-making when there is enormous public interest in seeing the lives of well-known and much debated political personalities on screen and other events from the recent past such as the Uri surgical strike, which drew much attention.

For most filmgoers, it is their date with history, their chance to witness an event up-close to form an opinion based on the film’s rendition. Films then become the new truth. To tackle this phenomenon we need a more discerning viewership.

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DATA POINT



FROM The Hindu. ARCHIVES

FIFTY YEARS AGO FEBRUARY 1, 1969

U.S. tops in West for civil strife

The United States suffers from more civil strife than 17 other Western democracies, according to an official report published here [Washington, January 31]. The National Commission on violence said about 11 out of every 1,000 Americans took part in various forms of civil strife in a five-year period ending last May, resulting in 220 deaths. Comparative studies suggested that since 1963, the U.S. has experienced strife of greater intensity and greater duration than all but few other western democracies, the Commission said. The 13-member study group, appointed to probe the causes of American violence after Senator Robert Kennedy’s assassination last June, said the U.S. ranked sixth among 14 nations in the magnitude of public strife. The Commission’s preliminary findings were submitted to the White House in a progress report on January 9, 11 days before President Johnson retired, but were released for publication only yesterday.

A HUNDRED YEARS AGO FEBRUARY 1, 1919

Returning Soldiers.

Transport “Baroda” arrived in Karachi this morning [January 31] bringing one British and nine Indian officers and 446 ranks of Patiala Lancers and one British Officer and 37 Indian ranks of 21st Cavalry. After official reception on the wharf the men were entertained before proceeding to the rest camp. Addressing the troops in Urdu on behalf of the Army the Welcome Committee the Hon’ble Mr. H.S. Lawrence, Commissioner in Sind said: Colonel Pendington, Col. Achra Singh, Officers and men of Patiala Lancers and 21st Cavalry: On behalf of Hindustan we welcome you back on your safe return to your native country. The fame of Indian cavalry was well-known before the time of this great war, but its fame has been increased a hundred fold by the brave deeds of daring and of endurance which you have performed during this war.

CONCEPTUAL Primitive reflex

BIOLOGY
This refers to reflex actions exhibited by newborn babies that involve no conscious thought. These reflex actions usually subside as the frontal lobe of the brain of the infant develops sufficiently during the first few months of its life. In some cases, however, certain primitive reflexes may persist beyond the first year of a child’s life. The sucking reflex, stepping reflex, and the rooting reflex are some of the primitive reflexes exhibited by newborn babies. It is believed that some primitive reflexes may simply be remnants of behaviour from the evolutionary past which may have helped infants to survive in tough conditions.

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