

## **Social Transformation through Affirmative Action in India: A Critical Analysis**

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### **Abstract**

*In a free and democratic country law is used as an instrument of social change and social transformation as well. In India, after independence, the independent Indian government had to face lots of challenges relating to removing of existing economic and social disparities among different class of people. So many steps have been taken to eradicate the imbalances of status of different classes and castes prevailing in the country. Affirmative action or reservation of seats in educational institutions and public employments is one of them. Affirmative action to eradicate the imbalances brought a great change in the social status of the backward classes people including the schedule castes, scheduled tribes and other backward classes. The thrust of this research paper is to make a thorough examination whether after elapse 73 years of reservation policy, any changes occurred in the economic status or social status of these classes? That needs a critical analysis.*

**Key words:** *Social Transformation, Affirmative Action, Reservation, Educational Institutions, Social Status.*

### **I. Introduction**

The caste system which divided Indian society into different upper class and the lower class, was the great source of all sorts of inequalities in Indian society. Therefore, besides having equality provision in the constitution, we needed to have some affirmative action of the government and that was well conceived by the framers of the constitution. As we know that in a free and democratic country, law can be used as an instrument of social change and social transformation, so it was felt necessary to have some special provisions to bring

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about the changes in the lives of historically deprived and suppressed class of people

In India, the reservation is treated as a tool of social transformation for the purpose of bringing changes in the present social order by providing reservation in the educational institutions and in the public employment to the Scheduled castes, Scheduled Tribes and the Other Backward Classes of people of the society. For backward people the reservation policy is nothing more than a form of social engineering designed to address centuries of oppression and discrimination, extreme inequalities in the distribution of educational opportunity, share in government jobs and voice in decision making. But the results speak something different. There is a long standing debate about whether affirmative action is desirable at all, in any form, regardless of which social identity is used as a criterion. The new instrumentalities did not work in the way in which it supposed to. The empirical assessment and intuitions assessment both suggest that something quite different was happened out there. India's affirmative action programme is primarily caste-based, although there are some affirmative actions for women in the electoral sphere. The thrust of this research paper is to make a thorough examination of the working of the affirmative action in India and to examine the extent of changes these actions brought in the status of the Scheduled Caste and Scheduled Tribe people. The author takes this opportunity to draw a picture of the real situation and the challenges before the legislature in this regard.

## **II. Problem of Caste System and the Plight of Scheduled Castes and Scheduled Tribes**

The Indian society based on the traditional exploitative philosophy of 'Chaturvarna' had led to an unequal socio-economic power structure. The evils of caste-based society under the guiding principle of *Manusmriti* written by Manu before thousands of years have resulted in economic and political decision-making process over the years which mis-represent the social and

economic interest of vast section of population<sup>3</sup>. Caste gives its directions for recognition acceptance, consecration and sacramental dedication and vice-versa, of a human being on his appearance in this world. It has for infancy, pupilage and manhood, its ordained method of sucking, sipping, drinking eating and voiding, of washing ring sing, rising and reclining; of moving, visiting and traveling, of speaking, reading listing, and reciting and of meditating, singing working, playing and fighting. It has its laws for social and religious rights, privileges, and occupations; for instructing training and educating; for obligation, duty and practices; for divine recognition, duty and ceremony, for errors, sins, and transgressions; for intercommunion avoidance, and excommunications; for defilement, ablution, and purification; for fines, chastisements, imprisonments, mutilations, banishments, and capital executions. It unfolds the ways of committing what it calls sin, accumulating merit, and losing merit. It treats of inheritance, conveyance, possession, and dispossession; of bargains, gain, loss and ruin. It deals with death, burial, burning; and with commemoration, assistance and injury after death. It interferes, in short with all the relations and events of life and with what precedes and follows life.<sup>4</sup>

It is obvious that such a system of social stratification divides the society into thousands of small, hereditary and endogamous groups, each cluster of groups having its own distinctive set of customs and practices, which together form a hierarchy. Each such group of caste or jati is associated with one or more traditional occupations and related to the other by means of an elaborate division of labour. Each caste pursues, within limits, its own style of life, having distinctive customs in the matter of dress, diet, rituals, etc. and is characterized by a degree of social and cultural identity within the country every region has its distinctive culture as well as its distinctive patterns of castes and sub-castes. Moreover, a particular caste is a complex group, a successive inclusion of groups of diverse orders or levels, in which different functions are attached to different levels. Finally, for more than a group in the ordinary sense the caste is a state of mind, a state of mind which is expressed by the emergence, in various situations, of groups of various orders generally called castes. The caste systems

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<sup>3</sup>UTTAM KUMAR SIKDER, *A STEP TOWARDS SOCIAL TRANSFORMATION AND ECONOMIC EMANCIPATION OF DALITS IN INDIA*, Vol. 19, Issue 10, IOSR-JHSS, 47-51 (2014).

<sup>4</sup>Ibid.

is above all a system of ideas and values, a formal, comprehensible, rational system, a system in the intellectual sense of the term.<sup>5</sup>

On account of their birth in the lower class of the society the so-called lower casts have to face various disadvantages like low status, poverty, social deprivation etc, which made them impoverished from societal welfare. There is a huge difference system and the class system, division of classes in the society something of non-hereditary in nature but caste system is of hierarchical in nature. Within the purview of caste system, it is a division which is made on unreasonable notes, this caste system is the main factor to encourage the division of backward classes in India, which forms a pillar of Indian society.

### II.I. Scheduled Castes

These people belong to the last Verna namely the Sudras and Atisudras, Avarnas include many caste groups which have suffered many social and economic inequality since the ages. Particularly those people who were outside the Verna system were known as Avarnas or Panchmas or Antyajjas. They were externally in the sense that they were required to stay outside the village settlements<sup>6</sup>. The concept was attached to them they were treated as untouchable caste in India was officially defined as the depressed caste in 1932<sup>7</sup>. Gandhiji named them "Harijans" where Hari means God; jans means people and thus "Harijans" means people of God. This word in Marathi, Gujarati, Hindi and other languages means a child whose father identity is unknown, and hence a bastard progeny. Therefore, the name Harijan was not only disliked but was hated and opposed by untouchables. Surprisingly enough, their reaction to the word Scheduled Caste or even to the word untouchable is not that sharp<sup>8</sup>.

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<sup>5</sup>BATEILLE, ANDRE, CASTES: OLD AND NEW, 90, Asia Publishing House, New Delhi (1969).

<sup>6</sup>N.D. KAMBLE, THE SCHEDULED CASTE,30-31, Ashish Publishing House, New Delhi(1982).

<sup>7</sup>Ibid.

<sup>8</sup>Ibid.

What underlines untouchability is the notion of pollution defilement and contamination. Referring to the notion of purity Ghurye<sup>9</sup> has said: “Before 800 BC, we find the idea of ceremonial purity almost full-fledged and even operative in relation not only the despised and degraded group of people called “Chandal” but also the forth order of society, the Sudra”. Ambedkar<sup>10</sup> has, however, maintained that while the impure as a class came into existence at the time of Dharmasutras, the untouchable came into being much later than 400 A.D. Ambedkar has further said, “if Anthropology is a science which can be depended upon to determine the race of the people, then the result obtained by the application of Anthropometry to the various strata of Hindu society disapprove that the untouchable belong to a race different from Aryans and the Dravidians. The Brahmins and the untouchable belong to the same race.”The economic condition of the Sudras also reveals the low position that they occupied in the hierarchy of society. The cases of Sudras possessing cattle’s and wealth were very rare. Mostly they worked as landlers labourers on farms and as domestic servants. One Sutra mentions that “Sudras have to earn their subsistence only by servicing the higher Varnas.<sup>11</sup>”

The untouchable was not allowed to enter the house of the higher ups. However, he was allowed to work as a labour during construction, repair or storing the grains, etc. But later the house was purified by sprinkling cow urine or cow dung. If the Scheduled Caste touched the utensils and other things, then non-inflammable things were to be put on fire and then purified by sprinkling cow urine, while things like clothes were to be purified by only sprinkling cow urine. Water had to be purified by mixing cow dung if it was touched by a Scheduled Caste. Food was seemed to the Scheduled Caste only outside the house in lives or broker vessels which were to be watched by him before and after use. A caste served only the castes above it and since the Scheduled Caste was the lowest caste they had to serve all castes and no caste served it.

The Scheduled Caste people were not allowed to walk on public roads or enter temple. In the court of justice, he had to shout from the appointed distance and

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<sup>9</sup>RAM AHUJA, INDIAN SOCIAL SYSTEM, 363, Rawat Publication, Jaipur, New Delhi (2007).

<sup>10</sup>Ibid.

<sup>11</sup>Ibid at 363.

take his chance of being heart. This is because he was prohibited from entering the village or town and hence virtually prohibited from employment, business and contact with the people. Due to prolonged social discrimination based on caste system led to social, educational and economic backwardness and which ultimately led to poverty.

## **II.II Scheduled Tribes**

Unlike the Scheduled Caste the Scheduled tribes was not the victim of any caste system. Because of their love and attachment to the nature and long residing in the far-flung areas, kept them away from the main-stream life and that made them backward. The term includes many castes, subcastes and tribes into the fold of Scheduled Tribe. They were also the victim of exploitation by the other people in the society. The Scheduled Tribes are also getting preferential treatment in all fields like the Scheduled Castes.

## **III. Social Engineering Through Affirmative Action**

The Constitution of India set out to redress the historic injustices and correct the manifest imbalance in matters of higher education and public employment by delineating an "equality code". Article 14 guarantees equality before the law and the equal protection of law for all persons. Article 15(1) prohibits discrimination of any citizen on grounds only of religion, race, caste, sex, or place of birth. Article 16(1) guarantees equality of opportunity for all citizens in matters of public employment. A related provision is Article 29(2) which prohibits denial of admission into any state-maintained or state -aided educational institution on grounds only of religion, race, caste or language. These Articles, which are individual-centric, guarantee formal equality. They express distaste for classifications based on certain markers of identity<sup>12</sup>.

On the other hand, clauses (3) to (5) of Article 15 and of Article 16, and Article 46 (which is part of the legally unenforceable Directive Principles of State

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<sup>12</sup>. K. ASHOK VARDHAN SHETTY, CAN THE TEN PER CENT QUOTA FOR ECONOMICALLY WEAKER SECTIONS SURVIVE JUDICIAL SCRUTINY? 1-2 (2019).

Policy), are intended to promote substantive equality. They provide the basic framework for positive discrimination in favour of the grossly under-represented and pathetically neglected sections of the society. For instance, Article 15(4) provides for 'special provision' (which includes reservation) in admissions to educational institutions for "socially and educationally backward classes and for Scheduled Castes and Scheduled Tribes" while Article 16(4) provides for reservation in public employment for "backward classes" which are "not adequately represented in the services under the State". Article 46 urges the State to promote the educational and economic interests of the weaker sections, especially SC and ST, and protect them from social injustice and all forms of exploitation. All these Articles are group-centric because *in so far as individuals had suffered discrimination historically, it was because of their membership of certain groups* – as women, as lower castes and so on<sup>13</sup>.

#### **IV. Affirmative Action and Social Transformation**

Affirmative action, commonly alluded to as reservation, is one of the few policy instrumentalities provided in the Indian Constitution to peck a new socio-political order based on equality and justice. On the one side, the policy seeks to compensate for the unprecedented discrimination heaped on the marginalized sections of the society, and on the other side to empower and integrate these people with the mainstream society, in a sense to oversee their transformation from the status of subjects under ancient regimen to that of citizens in a modern democratic polity<sup>14</sup>.

The fact that the two groups enter the labour market with substantial differences in education levels indicates pre-market discrimination. There is plenty of evidence which documents the substantial gaps between SCs and Others in access to education, quality of education, access to resources that could enhance learning, and also of active discrimination inside schools by teachers. Such pre-

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<sup>13</sup> Ibid.

<sup>14</sup> [J PRABHASH](#), AFFIRMATIVE ACTION AND SOCIAL CHANGE: SOCIAL MOBILITY OF DALITS, 2-4, Anmol Publications Pvt. Ltd. (2001).

market discrimination insures that outcomes will necessarily be unequal, even if there were no active labour market discrimination. The evidence on persistence of caste-based economic discrimination in rural areas is perhaps not as surprising as the evidence from urban areas, especially in the modern, formal sector jobs. In rural areas individuals are more easily identified by their caste status and presumably are more inclined to pursue caste based occupations given the correspondingly lower spread of the modern, formal economy. Caste is supposed to be anonymous in urban settings; identification of caste is difficult, since it is not phenotypically ascriptive<sup>15</sup>. Additionally, urban markets are supposed to respond to “merit” and so even if hypothetically, caste could be identified. In the first major correspondence study in India, sent out exactly identical resumes to private companies, both domestic and MNCs, in response to newspaper advertisements in New Delhi during 2005-06. The only difference in the resumes were the easily identifiable names of applicants: Hindu upper caste, Hindu Dalit and Muslims. The study revealed significant differences in call-backs between Hindu upper castes and the other two categories. These findings are confirmed by Siddique (2009) in a study of Chennai. She additionally tests for the interaction between caste and gender and finds that the lowest call-backs are received by Dalit women. There are studies of hiring practices which emphasize the role of networks and that of informal and personalised recruitment, where “who you know” is often more important than “what you know”. In a college-to-work study, which tried to uncover the exact pathways through which discrimination manifests itself. However, managers use caste and region to determine merit. In view of the unambiguous evidence on discrimination, Affirmative Action becomes essential to guarantee representation to Dalits in preferred positions.

It should be noted, however, that affirmative action in India, due to the specific forms it takes, is not a complete remedy for discrimination, if not for any other reason than the fact that such action is applicable only to the public sector, whereas the evidence of discrimination is overwhelmingly from the private sector, which is becoming increasingly important in the Indian economy. Compensation for historical wrongs, social policy ought to compensate for the

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<sup>15</sup>ASHWINI DESHPANDE, *SOCIAL JUSTICE THROUGH AFFIRMATIVE ACTION IN INDIA: AN ASSESSMENT*(2012) [https://ideas.repec.org/h/elg/eechap/14843\\_18.html](https://ideas.repec.org/h/elg/eechap/14843_18.html)

historical wrongs of a system that generated systematic disparity between caste groups and actively kept untouchables at the very bottom of the social and economic order. Coming to the gross violations against particular castes resulting from centuries of untouchability, the argument of compensation for historical wrongs could be, and has been used as one of the elements in the case for Affirmative Action. However, the case for Affirmative Action as a compensation for contemporary exclusion is just as strong, even if one did not view it as necessary to remedy historical exclusion<sup>16</sup>.

## **V. Assessment of the Affirmative Action**

### **V.I Implementation of Quotas in Higher Education**

Assessing Affirmative Action in Higher Education, all available evidence indicates that a large majority of SC-ST candidates owe their presence in institutions of higher education because of reservation policies. The most common criticism of the Affirmative Action measures is that they go against the consideration of merit and efficiency by allowing candidates access to preferred positions in higher education and public sector jobs that they would otherwise not have access. The first part of the statement can actually be verified empirically. However, until recently, there was a surprising dearth of detailed empirical studies on India and the debate proceeded more on the basis of preconceived beliefs, rather than on the basis of hard evidence. It should be noted as a general point, though, that the discussion on merit is conducted as if merit is a neutral, objective characteristic, independent of the standard used to measure it, similar to height or weight or the number of teeth. Consequently, exam scores are a relatively uncontroversial instrument for allocating scarce seats in institutions of higher education. The reality is that “merit” is extremely hard to measure in a standardized way and examination results, while widely used as a proxy for merit, may not be the best gauge. Whether every percentage difference in exam scores reflects a qualitative difference in “merit” is a moot point. Finally, the debate over lower entry scores for SC-ST misses the value added from being admitted to a prestigious institution of learning. The focus on

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<sup>16</sup> Ibid.

drop-outs of quota students detracts from the success stories – those who successfully complete their program<sup>17</sup>.

## V.II Implementation of Quotas in Government Jobs

In the topmost categories of officers, Group A or Class I jobs, between 1964 and 1984, the share of SCs increased from 1.6 to only 7 per cent. However, the 1994 to 2004 phase saw a sharper increase, such that in 2004, their share was 12.2 percent. (The corresponding shares for STs are 0.3 and 1.7, which went to 4.1 in 2004, as against a population share of around 7 percent). This reflects the aftermath of the Mandal phase, which created the space for a greater assertion of Dalit or low caste activism, one consequence of which was better implementation of quotas. Interestingly, in 2004, only 4 percent of Group A officers were OBCs, which is the same proportion as the STs. Before the 1990s, for years, quotas remain unfulfilled, for reasons of “indifference/hostility on the part of the appointing authorities, insufficient publication of vacancies and the sheer expense of application. At the higher levels or promotion stages, formal and informal procedures had operated to keep out the SCs, such as ad hoc and temporary positions, elimination through personal evaluation procedures like interviews, personality tests and unfair adverse entries in confidential records . As one goes down the hierarchy, the representation of SC-ST increases, with as many as 80 percent of the cleaners being SC in 2007. Overall, the Group D category has always had more SCs than their share in the population, even excluding sweepers. This suggests that within government, all the low-paid and low-skill jobs are dominated by SCs. In all the opposition to affirmative action, there is never any protest against over- representation of low castes in low paying jobs. In other words, as long as Dalits don't compete in traditional upper caste bastions or “stay where they belong”, it is obviously considered acceptable<sup>18</sup>.

The program has shown substantial redistributive effects in that access to education and jobs spreading wider in the caste spectrum than earlier, although redistribution is uneven throughout the beneficiary groups. There is evidence of

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<sup>17</sup>Ibid.

<sup>18</sup>Ibid.

clustering but *Galanter* believes that these reflect structural factors, since the better situated enjoy a disproportionate share of the benefits in any government program, not just in affirmative action programs<sup>19</sup>. The vast majority of Dalits are not directly affected by affirmative action, but reserved jobs bring a manifold increase in the number of families liberated from subservient roles. In the short run, beneficiaries might get singled out and experience social rejection in offices, college hostels and other set ups where they are introduced through affirmative action. However, in the long run, education and jobs weaken the stigmatising association of Dalits with ignorance and incompetence. Moreover, “resentment of preferences may magnify hostility to these groups, but rejection of them exists independently of affirmative action programmes”.

Reserved seats do provide representation to SC-ST in legislative bodies, but that may not get reflected in enhanced, targeted policies towards these groups for several reasons. First, these candidates are elected by a common electorate and hence, SC-ST candidates have to appeal to a wider, multi-group electoral constituency, and tailor program accordingly. Second, these candidates typically belong to political parties which have a larger agenda than that of Dalit empowerment, which their elected representatives, including Dalits, have to reflect. Affirmative action has kept the beneficiary groups and their problems visible to the educated public, but it has not motivated widespread concern for their inclusion beyond what is mandated by government policy. There is no explicit affirmative action in college hostels (dormitories); affirmative action in colleges leads to entry of SC/ST students in college hostels.

Thus, *Galanter* concludes that affirmative action has been a partial but costly success. It has accelerated the growth of a middle class and SC/ST members have been brought into central roles considered unimaginable a few decades ago. He finds that the reservation system has benefited mainly the tribal elite, which had formed over the 1940s and 1950s via jobs in the mines, who are mostly men and residing in urban areas. However, the capture of reserved jobs by middle class STs has not been so pervasive that less affluent tribals have no hope of landing a reserved job. In fact, in his study, almost half the jobs

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<sup>19</sup>MARC GALANTER, LAW AND SOCIETY IN MODERN INDIA, Oxford University Press Delhi (1989).

available seem to be going to less affluent tribal men (and some women). The reservation system has served to expand the size of the tribal middle class, as well as served to enhance the consciousness of tribals about their rights and about asking for compensation from the authorities<sup>20</sup>.

Further, the politicians and their kin will gain than the deserving ones in their caste category. All caste groups plead that positions in services may be, in due course of time, filled by the less qualified and unskilled kin of the politicians under the garb of reservation policy. This will create unequal opportunity structure for the affluent and less affluent lower castes besides distancing them from other caste groups. Such situation may with the passage of time, lead to polarization of caste groups on increased caste consciousness, thereby, strengthening existing power brokers to use caste as a mean to gain political power.

Thus, critics of reservations are likely to be, and indeed are, much more concerned about the potentially adverse effects of reservations at the highest decision making levels than at lower levels. Second, it is precisely in the A and B jobs – far more than in C and D jobs – that the proportions of SC-ST employees would not have risen had it not been for quotas. Individuals from marginalized groups may simply believe that they have to work doubly hard to prove that they are just as good as their peers. Having greater numbers of SC & ST managers and professionals working in high-level A+B positions in the Indian Railways might also serve to increase productivity because their community backgrounds make them more effective in supervising and motivating SC & ST workers in C and D jobs. Finally, improvements in organizational productivity may well result from the greater diversity of perspectives and talents made possible by the integration of members of previously marginalized groups into high-level decision-making teams.

## VI. Conclusion

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<sup>20</sup> Ibid.

Society does not remain static. The industrialisation and the urbanization which necessarily followed in its wakes the advance on political, social and economic fronts made particularly after the commencement of the Constitution, the social reform movements of the last several decades, the spread of education and the advantages of the special provisions including reservation secured so far have all undoubtedly seen at least some individuals and families in the backward classes, however small in number, gaining sufficient means to develop their capacities to compete with others in every field<sup>21</sup>. That is undeniable fact that Affirmative Action program has brought important changes in the economic, social and cultural front of the SC, ST and OBC Classes. They got economic stability. Now they are able to raise their voice against their exploitation. They have a voice in the Government. Even they can determine the fate of a political party in the Centre as well in the States. Legally, therefore, they are not entitled to be any longer called as part of the backward classes whatsoever their original birthmark. It can further hardly be argued that once a backward class always a backward class. At the same time reservation brought some resentment among the youth. On the other hand, it is also true that the Affirmative Action could not bring the desired changes in the Indian society. It devised to build a classless and casteless society, has instead perpetrated distinctions. It has created a vested interest in backwardness and resulted reverse discrimination against the general or unreserved class.

The prospects of material advancement through job reservation have led to a kind of competition for backwardness among castes at the middle levels of the hierarchy. This kind of competition created a vested interest in backwardness and it combines the worst features of a hierarchical and a free market society. It strikes individual initiative without creating equality between individuals, and it obstructs the natural process through which the barriers between castes and communities can be affected. Affirmative action gets somewhat complicated in India on account of caste politics. Undeniable, India is the most stratified society in the world. Over and above caste differentiations there are huge income disparities, religious and community. No doubt, the nature of caste and community interactions has changed over times, but consideration along

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<sup>21</sup> Indra Sawhney v. Union of India, A. I. R.1993. S. C. 477 (India).

ascriptive lines still remain important makers, both at the public and private domain.<sup>22</sup>

Instead of introducing reservations for these backward classes what is required is to bring about revolutionary changes in our education system at the grass-root level. When proper education is not provided to children belonging to such categories during the primary stage itself then on what basis are the reservations provided at a subsequent stage. Reservations are nothing but means to prosper the vote banks of politicians. They are hindering the country's growth, development and competency in all aspects. The constitution lays down that every child has a right to education and nowhere expresses that any child belonging to a backward class has a little more of this right than the general category. By reserving one category against another creates a feeling of division which is now resulting in a chaos with every small section of the society asking for it. Fair and just reservations to uplift the people with poor conditions of life, those who don't have meals to eat, clothes to wear and no home to live in. The process of reservation should be such that it filters the truly economically deprived individuals and bring them all to justice.

Finally, "outside the box" measures targeted towards Dalits and Adivasis (tribal) must be considered that go beyond the scope of the current Affirmative Action program: free, compulsory and good quality primary education, vigorous expansion of non-farm employment, land reforms wherever feasible, subsidies/support for Dalit business/self-employment. All these will benefit a much larger section of Dalits than the current Affirmative Action programme. The important thing to note is that the existing Affirmative Action program and these supplementary measures need not be considered mutually exclusive. They can strengthen and reinforce each other.

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<sup>22</sup> (2000)6 S. C. C. 571 (India).