

## **B. R. AMBEDKAR: SOCIAL JUSTICE WITH SPECIAL REFERENCE TO AFFIRMATIVE-ACTION**

**BIKASH MONDAL**

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The idea of the reservation, nowadays, seems to be considered the most complicated issue as it prefers preferential treatment that apparently violates the principle of equality because like affirmative-action, the reservation policy of India used to take positive endeavour giving preferences to the downtrodden people and this preference divides society and creates social tension amongst the citizen of India. The reservation conflict is based on the idea of discrimination. A group of thinkers believe that discrimination will be obliterated if we implement a reservation policy; on the other hand, others argue that the preferences in terms of reservation, given to the discriminated against people at present, may make a new kind of discrimination that is called reverse discrimination. In addition to the above argument, some thinkers argue that the preferential treatment is also compromising merit, and it also encounters the problem of infinite regress because the further preferential programme needs to be arranged for the compensation of the present victim; the cycle of the preferential programme will never be stopped.

In this article, I would like to defend preferential treatment given to the depressed class of India through the reservation by arguing that this treatment might not create reverse discrimination at all. So, the issue of infinite regress will also be invalid because this issue is keenly attached to the idea of reverse discrimination. I would also like to highlight that the principle of meritocracy presupposes many pre-conditions and argue that without fulfilling those conditions the judging of the meritocracy of individuals might not be feasible.

### **The meaning of Affirmative-action**

Affirmative-action seems to be considered as a positive outlook toward those who are discriminated against in the past, and this action tries to promote some special advantages, which are called preferential treatments, to affected individuals and groups. These preferences are mainly being given on the bases of race, gender and ethnicity. Now, a question might be raised that why this sort of treatment is required. I would say that the society is stratified, and this stratification seems to be considered hierarchical. In a hierarchical society, some people generally occupied the top-power position employing superiority of caste, race, gender, and religion, and the people who belong to lower grades are often treated as inferior. Generally, the stratified society used to treat majority people as superior and minority people as inferior, e.g., in American society, the White people would consider Black people as inferior because they were a minority and Black as well. White people then tried to argue that Blacks had not the same intellectual calibre and psychological disposition as the members of the preferred groups (Mappes & Zembaty, 1977). This is a form of discrimination that is called *positive discrimination* (Mappes & Zembaty, 1977). So, the affirmative-action seems to be pondered as a positive endeavour eradicating positive discrimination. Positive discrimination always tends to support unequal treatment that might not be justified on the bases of race and sex etc. This cannot be deemed as the just criterion of denying the same rights as preferred groups used to have; the people who were to be discriminated against on the bases of race and sex, etc., in the past must be compensated for their unjust deprivation. Mappes and Zembaty (1977) argue that the "Principle of compensatory justice" states that whenever an injustice has been committed, just compensation or reparation must be made to the injured parties" (p.187). They believe that this sort of compensation produces good consequences following *the principle of utility*. Mappes and Zembaty (1987) again say, "Which states that action or practice is morally correct that on balance will tend to produce better consequences than any alternative when the interests of everyone affected are given equal weight" (p.187). Consequentially, I would like to say that the affirmative-action seems to be closely attached to the view of

preferential treatment ensuring equal opportunity for the deprived section of people because, without preferential treatment, they cannot fulfil their interests; these preferences are firmly given to the minority people who were discriminated against in the past on the bases of race, sex and gender.

### **B. R. Ambedkar on the philosophy of reservation**

We all know that Ambedkar was the chief framer of the Indian constitution, and he raised his voice against discrimination as well as exploitation that occurred towards most of the people of India. To outlaw discrimination and exploitation, he fought against the Hindu-social order for the implementation of a true democratic ambience in India, which is based on the principles of *liberty, equality and fraternity*. This was an ideal society for him, but the Indian society based on caste structure seems to be unable to follow the trinity principles needed for an ideal society. As he says, “What is your ideal society if you do not want Caste is a question that is bound to be (*sic*) asked. If you ask me, my ideal would be a society based on Liberty, Equality and Fraternity” (Ambedkar,2009, p.64). If those principles were strictly followed, the problems like caste discrimination, religious discrimination and economic discrimination would be vanquished from the purview of Indian society because the said principles would have created such an ambience that could only satisfy *the principle of equality*. This principle is directly contrary to the principle of discrimination. To obliterate different sorts of discrimination in Indian society, many measures had been taken. Indian Marxist-socialists tried to remove economic discrimination as well as exploitation in their manner. They emphasize economic dialectic eradicating only economic discrimination, but Ambedkar blamed them for overlooking the caste dialectics. He believed that we cannot reach the goal of an egalitarian society without considering caste dialectics in the context of Indian society. He asked the Indian Socialists, "Can you have economic reform without first bringing about a reform of the social order"? (Ambedkar, 2009, p.44). He answered this question, “The socialists of India do not seem to have considered this question” (Ambedkar, 2009, p.44). However, he felt the necessity to eradicate caste practices to reform Indian society. If it were possible, conflicts regarding preferential treatment

related to the reservation policy of India would not occur because the casteless society did not require any caste-based reservation. Although Ambedkar did not initially believe in the reservation policy for the downtrodden people of India, he was compelled to take an initiative for a reservation to secure their rights of them. Prakash Ambedkar, the grandson of B. R. Ambedkar, in an interview with Manu Joseph, asserted that Ambedkar did not believe in the reservation policy. As Prakash Ambedkar says, “Legislation doesn’t change people. That’s why B. R. Ambedkar did not believe that reservation of constituencies or jobs for Dalits would change the way Indian society looked at its lower castes. He reluctantly agreed to the reservation in the belief that it would be discontinued 10 years after the adoption of the constitution. But half a century later, reservation remains an issue in India” (Ambedkar, 2004). This statement clearly shows that Ambedkar did not believe in the reservation of the downtrodden people of India. He initially sought to eradicate the caste system from the Indian society to reach his ideal society—true democracy that is based on the principles of liberty, equality, and fraternity. To attain this ideal society, Ambedkar wanted to eradicate the caste phenomenon from the Indians because the practices of caste cannot follow the principles of the ideal society: liberty, equality and fraternity. For the constant opposition from the orthodox Hindu leaders, he did not succeed. He believed that caste-based-Indian society is a bar to reaching any kind of progress in Indian society. As he says,

There is no doubt, in my opinion, that unless you change your social order you can achieve little by way of progress. You cannot mobilize the community either of defence or for offence. You cannot build anything on the foundations of caste. You cannot build up a nation, you cannot build up morality. Anything that you will build on the foundations of caste will crack and will never be a whole. (Ambedkar, 1990, pp.80-81)

From the above statement, it is clear that Ambedkar believes in the notion of inclusion and wants to obliterate the prejudices of caste for the coherence of Indian society. Without solidarity among the different castes of India, India could never show its integrity. Ambedkar properly realized that, for the integrity of Indian society, the notion of caste must be annihilated. He wanted the same equal respect and dignity as the Caste-

Hindu people of India. This is the most practical reason why he fought against the Hindu *Chaturvarna* system for the inclusion of Untouchables in the Hindu fold. This may be considered the first stance of Ambedkar toward the emancipation of the *depressed class*. As he (1930) says, “Our program is first to break down the barriers against intermarriage and inter-dining between caste and non caste . . . . “I have organized in Bombay the social Equality League for the purpose of dining together monthly, alternating between the homes of ‘Untouchables’ and caste Hindus”. (Ambedkar, 1930). Social intercourse is one of the primary concerns of Ambedkar which is the reason why he took different social-integral programmes that seem to be keenly associated with the idea of *social democracy*<sup>1</sup>. It satisfies the notion of inclusion that might be considered the most fundamental principle of democracy. The social inclusion of the Untouchable people then was not feasible because they were socially segregated due to their community identity. The community identity cannot be considered as the morally relevant criteria for depriving an individual or group of individuals. As a Dalit and marginalized person, he had to take different socio-political stances to come out from different miserable conditions imposed by social injunctions. This is the reason why he felt the necessity of social inclusion as well as political safeguards that can only change the deplorable conditions of the marginalized people. Consequently, he appealed to the British government to make provision of political safeguards in forthcoming “*Swaraj constitution*”<sup>2</sup> in favour of depressed classes. As he says,

The depressed Classes form a group by themselves, which is distinct and separate from the Mahammedans, and although they are included among the Hindus, they in no sense form an integral part of that community. . . . We feel that nobody can remove our grievances as well as we can, and we cannot remove them unless we get political power in our own hands. No share of this political power can evidently come to us so long as the British government remains as it is. It is only *Swaraj constitution* that we stand any chance

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<sup>1</sup>. Social democracy, advocated by Ambedkar, is a concept that is based on the notion of kinship. Ambedkar believed that without the establishment of social democracy, *Economic and Political democracy* cannot be established.

<sup>2</sup>. It had been written before having the independence of India for which a constitution is required was called *Swaraj constitution*.

of getting the political power into our own hands, without which we cannot bring salvation to our people. (Ambedkar, [at the Round Table Conference] 1930)

So far, I have discussed the major historical facts that the Indian Society had to face to implement the so-called reservation system as an affirmative policy to safeguard the Untouchables as well as caste-discriminated people of India. From the philosophical point of view, Ambedkar tried to secure the socio-political rights of those, who belonged to a marginalized community, guaranteed in the constitution of India by making the provision adequate representatives in the constituencies and government jobs as well. This is undoubtedly a form of preferential treatment. This is the reason why the reservation system, in India, must be considered an affirmative programme because through which the majority of people had got special advantages or preferential treatment, and this preferential treatment has been given on the bases of caste and class. This is an initial step of preferential treatment in India implemented by making some provisions in our constitution. Before the advent of Ambedkar in the socio-political scenario of India, the depressed classes had no access to the policy-making body. So, the interests of the depressed classes were not being fulfilled due to the lack of representation. Consequentially, they had to carry out the same discrimination as they used to face before and after the coming of the British to India.

The fundamental difference between affirmative-action and reservation policy in India is that the affirmative-action in America was made for the well-being of minority people on the bases of race, colour and gender, while the preferential treatment in terms of the reservation in India is required for the well-being of majority people of India based on caste. They are considered as aboriginal people of India. Here, one may raise a question as to whether preferential treatment based on caste is justifiable. Caste, in the context of India, is an inevitable social phenomenon which is based on a hierarchical structure. In this structure, dominating castes used to have the top-social position is also considered a higher grade just like a pyramid. In addition to that, the ancient-social structure was firmly graded, and people, those who belong to lower grades, were socially, economically, politically and above all educationally subjugated. That is the

reason why they were unable to live their lives as human beings due to the said subjugations. Thus, I may say that the caste structure of India is based on the principle of inequality. We cannot justify the social structure that promotes the principle of inequality by yielding the principle of equality because the principle of equality can never bridge the gap among the individuals who face the issue of the gradation based on caste. The preferential treatment, therefore, seems to be required to bridge the gap or remove inequalities among individuals who belong to the caste structure. This may be considered the best possible measure to promote social justice for those who were mainly discriminated against, in the past due to their Untouchability and caste identity.

The notion of the reservation seems to be considered as an idea that presupposes the notion of equality because it seeks to remove the prevailing inequalities existing in a hierarchical society. Thus, the idea of the reservation in India is firmly associated with *the principle of equal opportunity* because the idea of the reservation is based on the principle of equal distribution of social goods. The idea of Reservation as to such often appears as opposed to the idea of equal opportunities because it favours special treatment towards the people of deprived sections. This special treatment, in this context, may promote unequal distribution to the advantaged groups. Due to this special advantage given to the disadvantaged group, the advantaged groups may lose some social and political advantages. This is the reason why the opponents of preferential treatment offer some objections against preferential treatment. I have found three major objections: the argument of reverse discrimination, the argument of infinite regress, and the argument of violation of the principle of meritocracy.

### **The argument for reverse discrimination**

The opponents of preferential treatment used to argue that the practices of preferential treatment would create reverse discrimination that appears to be morally wrong (Mappes and Zembaty, 1977). This is one of the major objections to preferential treatment. Orife (2016) defines reverse discrimination, as “The term, reverse discrimination . . . which is different from the term discrimination. But it may be considered retaliatory or payback. If one person discriminates against another person, when the victim of the initial

discrimination returns the favour, it may be considered discrimination in reverse, or reverse discrimination (p.46). This statement clearly shows that the victims of the past pay back the same discrimination as they had to receive from the dominated-social group to the present members of the same society, the present treatment will be called reverse discrimination. One pertinent question might be raised here, are the victims of the past creating such discrimination? Are they able to take any initiatives to discriminate against dominating-social groups? The entire system is perhaps controlled by dominating-social groups. The dominated-social groups are being confronted with discrimination that seems to be considered as mere speculation because those who are having the same special advantages are not capable of discriminating against the dominated-social groups in that they are readily not in such a position. In the context of both America and India, the prevailing dominated-social groups determine the socio-economical and political affairs. The preferential treatment, therefore, might not create any form of discrimination toward dominated-social groups. This is the reason why the argument of reverse discrimination may not be considered a valid argument; rather, in the context of India, the idea of the reservation seems to be regarded as an equity programme whereby the so-called lower caste people are getting equal opportunity in the democratic process. If they had not got special preferences, they would not have fulfilled the interests of their community. The higher-caste hegemony deliberately sets them apart from the political power; the dominated-social group seems to adopt the principle of nepotism retaining that power. Jaskiewicz, P., Uhlenbruck, K., Balkin, D.B., & Reay, T. (2013) define that “Nepotism is defined as hiring based on family ties and it discriminates against nonfamily members. However, even within the family member pool, nepotism decisions may favour particular family members while ignoring others (p. 123). The concept of nepotism is based on the notion of favouritism that is not morally acceptable because it deliberately discriminates against others in favour of relatives, friends and communities. When a community is based upon the members who carry the community identity, it may be considered a form of nepotism that may be coined “community-based nepotism” because the dominated castes often try to transfer the authority as well as domination to



the members of the same community. The idea of the reservation is an antithetic view of “community-based nepotism”. Additionally, for the nepotic, the nepotism also compromises merit that may not be highlighted because of higher-caste hegemony.

### **The argument of violation of the principle of meritocracy**

Another objection to preferential treatment is that it violates the principle of meritocracy. The principle of meritocracy, it is claimed, is violated for the sake of this preference given to the discriminated against people. In this context, the idea of merit and preference are diametrically opposite in that the idea of merit does not allow any form of preference; rather, it may be considered as the sole criterion determining each and everything. The opponents of preferential treatment follow this line of argumentation based on the principle of meritocracy. “The rhetoric of meritocratic society argues that the social and occupational positions individuals occupy and the rewards they secure in terms of status, wealth and power are dependent upon their talents and how hard they work” (Crawford, 2010:3). The above statement implies that meritocracy is a combined force of ability and of effort made for achieving something else. So, the notion of meritocracy does not appear contrary to the view of equability; it, rather, opens the doors of equal opportunities. Thus, the principle of meritocracy seems to be theoretically plausible because it denies any kind of advantage and inherited status in terms of religion, race, gender and caste, but the society is always confronting inequalities based on the differences among individuals. Some people have more ability to learn or to do something better than others; that is why, more desirable people used to achieve more in terms of power, status and wealth in a meritocratic society. Crawford is not afraid of the functioning of existing societies but is afraid of the problem of exclusion from social and civic contexts. As he says, “Rather, a meritocracy does the opposite in providing contexts within which social exclusion and denial of full social and civic engagement can prosper” (Crawford, 2010:4). Again, Crawford (2010) mentions that "Young<sup>3</sup> describes

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<sup>3</sup> .Michael Young is an eminent sociologist, who wrote the book entitled *The Rise of meritocracy 1870-2033: An essay on education and society*. This book tried to show how to gradually develop a meritocratic system from 1958 onwards, which had emerged in Great Britain.

a highly stratified society dominated by “The Meritocracy”, an elitist, exclusive and discriminatory class that exercises a powerful hegemony. . . . This elite zealously protects the power and resources necessary to support and reproduce its domination (p.4); this leads us to those societies that have bifurcated into two forms: elite and subjugated classes. The elite used to manipulate the theory of meritocracy; the criteria through which we try to grasp the true meaning of meritocracy would be determined by them. Crawford (2010) mentions, "*The Rise of meritocracy* illustrates not that the ability and hard work do not matter—they are important—but that the criteria by which they are judged are fundamentally distorted by a dominant and elite group in support of core, hegemonic, values that sooner or later lead to a dysfunctional and inequitable society” (p.5). In an inequitable society, we cannot promote equal treatment for all the parties who belong to a particular society. So, we may not justify that the preferential treatment is morally, socially and politically wrong because people who are getting preferential treatment were excluded from the social construction of merit. According to Crawford, a meritocratic society does not seem considered a natural phenomenon; rather, the idea of a meritocratic society is constructed. As he says, “It is a mistake to continue to support notions of what is and is not, worthy of merit divorced from contemporary values, hopes, experiences and anxieties” (Crawford, 2010:5). If marginalized people had got an equal opportunity in making their merit, we would blame them for lack of merit. The marginalized people had no opportunities to become meritorious; rather, they were denied nurturing their merit. This is the reason why they should have to have some special advantages now because they encounter discrimination in the past. “As society changes so much the construction of merit; if merit is social construction that has been ‘made’ then it follows that it can be ‘unmade’ and ‘remade’” (Crawford, 2010:5). So, preferential treatment is perhaps the best possible alternative by which discriminated people could make their merit. As mentioned above, the ability and effort as a combined force are considered intelligent, so all irrespective of race, caste, gender and religion of a particular society should have the opportunities to show ability and make an effort to make their merits. If a particular society does not allow this rule, we will not consider

that society is a meritocratic society, and this society must have failed to be recognized as an egalitarian. Furthermore, the equal-educational opportunities for deprived-section people might not guarantee such a society that is egalitarian because the educational opportunities of the marginalized people are perhaps not the same as the elite; even if we try to provide the same qualitative education as the elite used to get; yet they will not reach the desired goal because of the lack of equality in social position, of equality in economic condition, of equality in political advantages. The socio-economical condition and political advantages of the marginalized people are not the same as the conditions of the dominated-social group. All these aspects of human life directly or indirectly influence the idea of the ability and effort made by individuals. So, we cannot easily define that meritocracy is such a concept that only encompasses the idea of ability and effort. Moreover, the socio-economic and political conditions can only significantly determine who is meritorious and who is not meritorious because the socio-political-economical conditions of individuals make individuals different from others making their effort and showing their ability.

### **The argument of infinite regress**

One more objection is generally raised as to the preferential treatment is the problem of infinite regress. This problem is closely attached to the problem of reverse discrimination. However, some thinkers argue that the compensatory or preferential approach must encounter the problem of infinite regress because of the preferential treatment given, for compensation, to those who were discriminated against in the past. The present preferential treatment creates some provision for further discrimination for which society has to arrange another preferential programme. The cycle of promoting preferential programmes will be an ongoing process. This argument of infinite regress applies to the idea of the reservation. An attempt has been made to answer the questions raised against preferential treatment. The preferential treatment may not be prescribed for a flattened society; rather, it does implement in such a society that is firmly graded: White people, in American society, are considered superior, and Black people are regarded as inferior. This sort of societal behaviour is fully contrary to the principle of equality because the

basis, by which Blacks are graded as inferior, may not be morally justified. The principle of equality will be infringed if we treat equal people unequally. In American society, Black people were deprived based on race, while in Indian society; depressed classes have been deprived based on caste since the hoary past. This might not be morally justified because it undermines the dignity of human beings. The preferential programme needs to be developed to promote equal ambience for the downtrodden people. A pertinent question might be raised here are White males and dominated-social groups of India losing as much as Blacks and deprived class? The preferential programme needed to be developed to promote equal ambience for the downtrodden peoples. I have already mentioned that the socio-economic and political conditions of the beneficiaries are not the same as the dominated-social group. This dominated-social group used to receive the same treatment from the society as before, but they are losing some economical advantages for the sake of an egalitarian society that presupposes the principle of equality. The preferential treatment in a graded society opens the ground for an equal opportunity for those who were discriminated against in the past. In this situation, the common-social goods will be shared by all the parties of a particular society. The sharing of common-social goods disadvantages Dominated-White people and Caste-Hindus. Now, they will get equal advantages. This is the problem why opponents of the practices of preferential treatment try to justify preferential treatment as morally wrong action, and they used to argue that the preferential treatment would create a new sort of discrimination that is more often than not deemed as reverse discrimination which welcomes infinite regress. If preferential treatment creates such discrimination at all, the problem of infinite regress will be raised. Lisa H. Newton in her article entitled, "Bakke and Davis: Justice, American Style" argues in favour of the abolition of the quota system. She claims that "It (quota system) diminishes the opportunities of some candidates for a social purpose that has nothing to do with them, to make "reparation" for acts they never committed. And "they" are no homogeneous "majority" . . . . (Newton, 1978:205). She attacks preferential treatment from an individualistic point of view because she is merely concerned about the injustice of the White people at present but does not concern about

the injustice of black people who have been facing discrimination since time immemorial. What is the way through which justice is to be provided to those who were discriminated against in the past was not clear to her. She denies the past and concentrates on the present that is why she pleads in favour of a fair competition based on the merit system that is also corrupted as I mentioned before. Fair competition opens the ground for free-equal opportunities that might be seized for some ethnic groups; the culprit of this uneven distribution is nothing but nepotism. How do we remove nepotism for promoting justice for all? In an integrated society, we may promote strict justice<sup>4</sup> where there is no discrimination in terms of caste, race and creed, but it is very unfortunate that such type of society practically does not exist. Moreover, the present members of dominating castes of India as well as the White male of America are holding advantageous socio-political positions, while the depressed classes, as well as the Blacks, do have not such advantageous positions in the present socio-political milieu. In addition to that, the White males are a homogeneous community because they used to get the same advantages just because of their white-colour identity and carry the same attitudes and principles towards the marginalized people.

Her argument seems to be true in an egalitarian society but not in a hierarchical or graded society. Moreover, this argument seems also to be true if the project of preferential treatment is everlasting. The American society where the Affirmative-action initially introduced must not be freed from the blame of being a graded society. There is mainly a two-tier gradation system in the American society where Blacks used to have unequal treatment from the Dominating-White people. Thus, some questions, in this regard, may be raised here that the opponents of preferential treatment have to face, 1. Why is preferential treatment required now? 2. Is it the basis of positive discrimination? 3. Is it a flat society where positive, as well as reserve discrimination, occurred? The opponents of preferential treatment may not provide any positive answers to raised

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<sup>4</sup>. According to Lisa H. Newton, justice can only be provided by fair competition that is based on the meritocratic system. This system does not allow any form of preferential treatment for the sake of an egalitarian society, merit is considered the only criterion to judge individuals.

questions. I, therefore, may say that the preferential treatment in an initial stage needs to be provided with the assurance of making a just and non-hierarchical society, which will be based on the principle of equality that will not create any form of discrimination as well as of exploitation. If this sort of hypothetical situation is possible, the question of reverse discrimination as well as infinite regress will be invalid.

### **Concluding remark**

The reservation policy of India is undoubtedly an affirmative-action because it gives special advantages to those people who were discriminated against based on caste, but this special advantage given to the marginalized people might not create any further discrimination in terms of reverse discrimination. Rather, this sort of special advantage given to them makes the proper ambience to promote equal opportunities as well as equal treatment to all the members of the same community. Additionally, this treatment may outlaw past discrimination and present exploitation in terms of nepotism. The idea of nepotism satisfies the principle of exclusion. We can fight against the principle of exclusion with the help of the principle of inclusion, and the idea of the reservation might guarantee us such an environment. The preferential treatment in terms of reservation can only obliterate the hegemony of the higher caste. Therefore, without proper implementation of reservation policy, we cannot fight against community-based nepotism. The dominated-caste hegemony is not ready to accept marginalized people as their counterparts.

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