

**Democratic Potentials in Cultural Politics:
Caste Based Reservations and the Issues of Citizenship**

“What is sound in the collective life is that which completes the personal and carries it on to a higher harmony of wider sweep”

(L.T.Hobhouse 1922:30).

*“Full many a flower is born to blush unseen,
And waste its sweetness on the desert air.”*

(Thomas Gray, *Elegy Written in a Country Churchyard*)

.Background to Reservations in India

Since the establishment of the Indian Constitution special provisions were created for those castes that were earlier called ‘untouchables.’ These castes are now called scheduled castes on account of the fact that they are listed in the schedule of the constitution. Over a number of years provisions regarding positive discrimination favouring these castes gradually took shape in the form of reservations. These reservations exist in the form of quotas and they pertain only to government jobs and educational institutions so far. The percentage reserved for Scheduled Castes (SC) is 17.5 % in these state institutions, which is roughly proportional to their demographic presence in the country.

The SCs were, and still continue to be, preponderantly rural based. Barring rare exceptions, the SCs do not own land but till the lands of others as agricultural labourers. Within the village they are humiliated on a daily basis in a number of ways. Their children find it difficult to attend schools, they are not allowed to visit the main village temple, and on many occasions are barred from gathering in the village square with other castes. Though there has been a marked decline in the persecution of rural SCs today, one of the reasons is

probably the efficacy of reservations for this category that has allowed many of them to leave the village and find better jobs in cities and towns. For the SCs the village is not where they can realize their ambitions, in fact, it is a place that would like to escape from. Reservations in government institutions have given many SCs a chance to live an alternative life outside rural confines. As a category they are far more oppressed in the village than in the city as individual biographies can now be de-coupled from family histories in urban locales. In the village where memory is strong, all interactions are informed by it regardless of an individual's personal attributes. This kind of depth personal knowledge is impossible to sustain in a town or city.

In this presentation, the term reservation and affirmative action will be used synonymously though technically there are differences between the two. These differences will be dealt with when we discuss the differences between the United States and India on how these democracies have handled the question of the historically underprivileged in their respective democracies. Though it has many detractors, affirmative action is one such normative intervention that can enhance the quality of modernity in contemporary life. Properly understood, affirmative action programmes have all the potentialities of initiating and developing a “minimum set of resemblances” between people by deliberate policy decisions. This not only makes citizenship substantive, but would also make the past less and less relevant to the future and to how people relate to one another.

Yet, reservations and affirmative action have many detractors who argue from within Liberal premises. Their opinions are forceful, well-elaborated, and based on respectable foundational principles that are not intrinsically anti-democratic in character. It is, therefore, important to take these ideas on board while arguing in favour of affirmative action for they will help to finesse our position on the meaning of democratic fraternity and, eventually, of citizenship too.

Tensions Within Liberal Theory

Unfortunately, liberal theory today is intrinsically uncomfortable in accommodating affirmative action within its theoretical and conceptual system. Faced with critics who argue that democratic rights can be most effectively accessed through market principles (for eg. Hayek 1960; Nozick 1976), the best that contemporary liberals come up with to power their

support for affirmative action is to summon goodwill, or call for a calculated rationality of self-preservation. Neither of these finds theoretical comfort in the liberal scheme of things as they both rely rather heavily on “will”. In the one case it is pure selflessness, and in the other it is just the reverse. A way out of this impasse would be to recall the contributions of Hobhouse (1993, 1994) and Durkheim (1935) then read them into the recent additions made to liberal theory by John Rawls (1971) and Ronald Dworkin (1998).

For Hobhouse, liberalism was about linking “the permanent welfare of the public” to individual self-expansion (Hobhouse 1994: 52; Hobhouse 1993: 133). Liberal protagonists of affirmative action should likewise re-work their espousal of affirmative action in terms of how it concretely benefits the society as a whole even as it is ostensibly targeting deprived individuals. Before Hobhouse, Durkheim had emphasized, in a complementary fashion, the necessity of establishing a minimum set of resemblances between individuals if organic solidarity were to flourish. This lesson from Durkheim’s masterly opus, **The Division of Labour in Society** (1933), is often ignored. This is why perhaps Durkheim is rarely, if ever, recalled in discussions over liberal policy. A little attention to Durkheim’s insistence on enlarging and developing the minimum set of resemblances between individuals would show how essential this is for bringing about, what Hobhouse called, the permanent welfare of the public. This paper will argue that when affirmative action draws inspiration from Durkheim and Hobhouse, it is grounded on durable sociological principles and is, consequently, less dependent on altruism and selfishness- or forces of the will.

American partisans of affirmative action best express the altruistic argument. In their view those communities that have been subjected to historical injustices for generations, if not centuries, deserve to be *compensated* today in order to set the balance right. This does not convince many opponents of affirmative action who claim that there is no reason why they should be made to pay for the sins of their forefathers. This, they believe, is against the principle of justice. The other, perhaps more sophisticated, argument from amongst the liberals in favour of affirmative action rests on the rational self-preservation thesis that John Rawls worked out in his *Theory of Justice* (1971). According to Rawls, when policies are made behind a “veil of ignorance” it is in one’s rational self-interest to legislate keeping in mind the “worst off”. The case for affirmative action therefore rests on either goodwill or

rational self-preservation. In both instances it is a question of deliberate will that is brought in from outside the theoretical armament of liberalism to fortify affirmative action.

What then recommends affirmative action is either pure altruism, or pure selfishness. While this paper is indebted to Rawls in great measure, the argument that is being advanced here is that affirmative action is good not because of altruism, or because it provides a safety net for those who happen to be born in underprivileged circumstances, but principally because it enhances collective assets across diverse social classes. In other words, affirmative action makes everyone in society that much better off. This, I believe, would be in accord with Hobhouse's contributions on liberal theory.

On the Minimum Set of Resemblances

Affirmative action tangibly benefits society as a whole because it unlocks and releases socially valuable talents and skills that have hitherto been unavailable for either individual, or collective, development. In doing so, affirmative action corrects the iniquities associated with the accidents of birth. To substantiate this argument we have to stand on the shoulders of John Rawls in order to look beyond Rawls and his stated opponents. We have to acknowledge the Rawlsian assertion that the principle of a natural lottery is basically unfair. In addition, however, we really need to demonstrate that affirmative action actually enhances the productive use of social assets by increasing the basic set of resemblances between citizens.

Affirmative action begins by recognizing that the accidents of birth iniquitously distribute socially valuable assets randomly in society. Rawls is right thus far (see Rawls 1971:74). What however needs to be added is that, under current dispensations, i.e., without the intervention of affirmative action, certain talents are never realized because they are hidden amidst layers of squalour and/or by historical disprivileges. So it is not just a question of those whose talents can be socially realized running away with the rewards, but that there are still a lot of talents yet to be effectively mined. Affirmative action brings to surface these hidden talents to benefit society as a whole. No longer is the family a "a major unit of...class fate" (Goldthorpe 1983: 469).

Therefore, it is neither goodwill, nor the correcting historical injustices, that should serve as a reason for justifying affirmative action, but the realization that by releasing

suppressed talents the pool of social assets increases phenomenally for the general good. If today we are looking for a justification for affirmative action in this fashion, several decades ago, it was precisely this enlarging of the social pool of talents that recommended equal treatment for women. As L.T.Hobhouse argued then that when women are repressed then there is a “loss of all the elements in the common stock which the free play of the woman’s mind would contribute” (Hobhouse 1994: 55).

Affirmative action needs to be theoretically succoured by the fundamental axiom that when untapped talents are realized, social well being is enhanced, no matter which way one looks at it. In the process of putting affirmative action to work, some cherished democratic principles are also realized. By increasing the sum of realized talents in society individuals can actually gain greater inter-subjectivity in their everyday lives. As the *set of resemblances* between them is now so much larger, they can practice, *pace* Rawls, the moral precept of participating in one another’s fate (Rawls 1971:102) In this process fraternal values of citizenship gain materiality and fulfilment. It is the actual demonstrative aspect of inter-subjectivity that truly converts individuals into citizens. It is only when substantive citizenship is in place that the spirit of democratic constitutions can be truly upheld.

Operationalizing Minimum Set of Resemblances

The bonds of fraternity between citizens do not happen naturally. If anything, this is one aspect of the liberal programme that requires self-conscious policy directives. Community and kinship ties are based on the past, but they are of little use in the construction of citizenship. Even J.S. Mill recognized how important it was to undermine the scale of family values if the liberal agenda was to have a chance. Once again we might recall Hobhouse and his conception of reflective jurisprudence and reflective ethics which, he believed, were essential if one were to understand values of citizenship and separate them for what passes as “custom” (Hobhouse 1922:31; see also Hobhouse 1994: 55). Much of John Rawls’ recommendations flowing from his “difference principle” ought also to be read in this reflective mode.

Fraternity can only come about through a basic set of resemblances between citizens. Resemblances are not to be understood in terms of actual goods and life styles all the way down. Instead, the conception of resemblances in this case is about citizens being

equally able to avail of institutional facilities that ensure their acquisition of those skills that are considered to be *socially valuable*. In other words, social opportunities exist for individual self-expansion, and it is only individuals now who can exclude themselves. If grinding poverty comes in the way of acquiring such socially valuable skills, then those blocks should be met by developmental interventions, but on no account should affirmative action be postponed for a golden age. This would compromise the basic principles of affirmative action and give further credibility, at best, to the market principle of mobility, or at worst, to the status quo.

Affirmative action is not about coming out of poverty, it has a different, though not unrelated, agenda. Affirmative action is about attaining a minimum set of resemblances at the level of making opportunities for individual social mobility accessible regardless of the accidents of birth. If poverty is in the way it must be dealt with strategically so as not to undermine the cause of affirmative action. In this sense then, affirmative action is not consequent upon poverty alleviation. It should precede the removal of poverty, and when applied correctly, should hasten the overall economic well being of the most underprivileged. But the two programmes, viz., affirmative action and poverty alleviation, are conceptually separate in nature and should not be combined. While the need for affirmative action arises out of the poverty of a certain section of the citizenry, yet, paradoxically, its cause can best be served when the standards of affirmative action are in no way lowered because of poverty considerations. Put simply, no government should be allowed to use poverty as an excuse for going slow on affirmative action. Nor is there a half way house as far as affirmative action is concerned. Affirmative action brooks no compromise.

For instance, it is not enough to argue that free and compulsory education is open to all, if that education is sub-standard and does not equip students to compete viably against those in better funded educational institutions. If attendance in school is low among a certain category of the population then the immediate causes for it must be attended to, so that children of all classes have equal access to a standard curriculum which is delivered without any noticeable class bias. Very often high unemployment and general levels of poverty are offered as explanations for low school attendance and poor scholastic performance. Affirmative action cannot recognize these as legitimate arguments without seriously

compromising itself. If poverty is a problem then mid day meal schemes and other outreach programmes should be devised that make it unattractive to leave children at home and not send them to school. What needs to be kept upper most is that parents everywhere want the best for their children, no matter how depressed their economic situation may be.

To reiterate: A minimum set of resemblances comes into being when a democratic state establishes institutions that are open to all so that individuals can realize those potential skills in them that are considered to be *socially valuable*. This would mean that access to education, knowledge, and technical expertise should be freely available to everyone in society regardless of the accidents of birth. Only then the preconditions for effective entry into skills and offices regardless of accidents of birth are substantially met. As equality before the law cannot guarantee this on its own, it has to be buttressed by provisions that bring about such a minimum set of resemblances in practice.

When a minimum set of resemblances is arrived at among citizens as a consequence of effective affirmative action programmes, then differences between individuals are a matter of choice or an outcome of natural abilities, and not dependent on birth. This should also undermine, to some extent, the role the institution of the family plays in perpetuating sectional advantages or disadvantages, either because of inherited “selfishness” (Hobhouse 1922:17), or inherited poverty.

Affirmative Action and Institutional Well Being

If quality education and the imparting of socially valuable skills are provided across the board then that would take care of the complaint that affirmative action is largely about the equality of results. Rawls's principle of justice as fairness only says that offices should be open to all. But what if people do not qualify for these offices because their potentialities have remained unrealized on account of inadequate qualifications arising from a history of discrimination compounded by poverty? Or, indeed, because of sub-standard education? Does it mean that through positive discrimination and reservations they should be given these jobs anyway regardless of the welfare of institutions? In this connection, Andre Beteille's warning that affirmative action should be sensitive to institutional well-being as well needs to be recalled (Beteille 1991). Affirmative action votaries must therefore find justification for their programme without offending institutional well-being, and without

giving in to the pure logic of the market that some liberal scholars would advise. This is why it is so essential to shore up affirmative action not simply in terms of goodwill or moral principles, but rather in terms of its benefits to the society as a whole in real tangible terms. These benefits to society begin to make themselves felt once the avenues for attaining skills are universally available and accessible. This is where the project of attaining a minimum set of resemblances begins.

As was mentioned earlier, affirmative action is a deliberative exercise in reflective ethics. Not only does this mean that such affirmative action policies cannot be structurally anticipated, it also implies that once such a programme is set in motion, it needs to be constantly monitored. This is to make sure that certain collectivities, either based on kinship, caste, race or language, are not somehow kept outside its reach. Simultaneously, it needs also to be recognized that affirmative action would dilute its efficacy if its benefits are being monopolized by any one section, or any one community, at the expense of others. It is equally necessary to ensure that the standards that have been set for attaining a minimum set of resemblances are not lowered because of neglect and administrative ennui. Affirmative action is not about the equality of results- it is not just about giving jobs. Its real task is to raise the level of socially valuable skills across all classes and sections of the population. Stopping at jobs, or at providing sub-standard education would go against the ethos of attaining a minimum set of resemblances.

The resemblances that are being advocated in the context of affirmative action should not be interpreted in terms of homogeneous “sameness”. Sameness is what medieval religious fundamentalists aim for. On the other hand, the set of resemblances in a constitutional democracy enhances equality and not sameness by providing identical opportunities to all for self-expression and development.

Citizenship is not about the sameness of life styles or of income. Marshall's notion of citizenship as a status that tends towards equality should be interpreted in this light. According to Marshall, the equality that citizenship guarantees should be the foundation on which other kinds of differences can develop (Marshall 1977). Or, as Hobhouse would say, it is necessary to attain “a certain minimum...(as) a basis for private effort to work upon” (Hobhouse 1994: 86). But this equality of status cannot remain simply a legal status without a substantive content. In our view, citizenship implies an equality of status inasmuch as it

encourages a minimum set of resemblances made up of certain base line practices that are common to all. By virtue of having access to these enabling institutions citizens can later choose to be different in the ways they want to be. To argue that substantive citizenship can only be achieved once there is equality in life styles and incomes is to impoverish the meaning of citizenship by introducing perfectionist and end result arguments (see also Lockwood 1992: 260-2).

Positive discrimination, or affirmative action, therefore begins by making the conditions for increasing the sum of resemblances between citizens so that occupational differentiation and other forms of individualism can flower. Differences that result after a minimum set of resemblances are met, are then a matter of choice and inclination. They are no longer outcomes of the accidents of birth. When diversity exists outside of choice then that is not a state of affairs that a democratic society can rejoice in (see Hobhouse 1993:39). Affirmative action is instrumental in enlarging the scope of difference and diversity, but it succeeds in doing so by first ensuring that citizens resemble one another at a very critical level, namely in their ability to acquire socially valuable skills.

Durkheim and the Minimum Set of Resemblances

It might be worthwhile at this point to introduce Durkheim. Like Rawls, Durkheim too believed that individualism by itself can turn pathological. In a pre-existing situation of inequality contracts often allow the strong to exploit the weak (see Durkheim 1933; 1957) It is not as if he was part of the romantic reaction against the establishment of individualism. Rather, he believed that while individual liberty and contract were necessary there was still so much left to be done to regulate the activity of the state (Durkheim 1957:31)

Durkheim's value in this debate arises from his insistence that no society can survive without, at base, a set of resemblances. As is well known, in the **Division of Labour in Society**, Durkheim contrasted societies that are mechanically *solidaire* from those that are characterized by organic solidarity. In mechanical solidarity, people cohere on account of their sameness, but in organic societies it is the division of labour that brings about social solidarity. This is why in mechanical societies there is an overwhelming preponderance of penal law. As there is only similarity, a crime against one is a crime against all. In organic

solidarity civil law enjoys greater presence as the arenas in which individuals operate are functionally specific.

While all this is fairly well known, what is often overlooked is that Durkheim's contrast between mechanical and organic solidarities is a conceptual device and does not represent a pure dichotomy. In other words, while there can be societies that are based solely on mechanical solidarity (early or "primitive" tribal societies), there can be no society which is characterized by organic solidarity alone. For organic division of labour to establish itself it needs the substrate of similarity (Durkheim 1933: 398,405; see also 290, 360). What is sameness for mechanical societies reappears, morphed, as a basic set of resemblances in conditions of organic solidarity. Durkheim's work lends itself to this kind of exegetical extension quite easily.

What then gives societies their foundational strength is the principle of resemblances. This is why Durkheim once said that our first duty is to resemble other people. If organic societies were not to be established on a basic set of similarities then society would cease to be a collective enterprise (ibid:298). Looked at closely the first duty to resemble everybody else cannot be worked out in hierarchical societies or in feudal estates. It is in democratic societies, however, that one can fully experience what Durkheim meant about resembling one another. In order that citizens find it agreeable to adhere to a common core of values, social and material conditions of interaction should allow for inter-subjectivity on the basis of a minimum set of resemblances. Once again, we end with moral values and not begin with them.

Higher Degrees of Resemblances

It is not as if the set of resemblances is static. As affirmative action gets expression it forwards an upward revision of the set of resemblances. The core principles that inform affirmative action are much like Durkheim's collective representations. The difference is that these "representations are distinguished from other collective representations by their *higher* degree of consciousness and reflection" (1957:49-50; emphasis mine). In other words citizenship is built around common practices but these are consciously worked at and improved upon by reflection (Rawls'"reflective equilibrium"? Or Hobhouse's "reflective jurisprudence"?). In this sense there is a similarity with Rawls' notion of fraternity. For

Rawls too fraternity is not a natural condition (like it is with most communitarians) but must be arrived at by consciously and deliberately relying on the “difference principle” (Rawls 1971: 105-6, 142-5).

Reflections on positive discrimination (or affirmative action) help devise more enduring forms of fraternity at levels that perhaps could not have been imagined earlier. Hobhouse put this rather fetchingly when he wrote: “If its (liberalism’s- D.G.) work is nowhere complete, it is almost everywhere in progress” (Hobhouse 1994: 22). This is not hard to understand once we look at the trajectory of democracy over the last 150 years or more with reference to the right to franchise. Bit by bit, democracy grew in stature as it exploited more and more of its inbuilt potentials.

Likewise, with affirmative action, the increasing levels of resemblances will unleash potentials that could not have been envisaged in the past. With the pool of talent and expertise growing, the demands that society sets upon itself grows as well. This is why affirmative action benefits society as a whole and not just the targeted beneficiaries of this policy. If affirmative action does not lead to a denouement such as this then there is something surely wrong with the way it is being practiced. The zeal for affirmative action cannot, and should not, deflect attention from the fact that its end result should be the enhancement of society as a whole by the realization of individual talents on an ever increasing scale. Therefore, as the minimum set of resemblances increases, so also it is necessary to review affirmative action and the social profile of its beneficiaries.

Resisting Reservations in Perpetuity

There are two considerations that escape many uncritical applications of affirmative action. First, affirmative action must resist any tendency whereby its beneficiaries become vested interests. And secondly, it must eventually seek its own dissolution. While the second may be far away, it is by paying attention to the first issue that it is possible for affirmative action to eventually annihilate itself. Paradoxical as it may appear, but when this happens it is then that positive discrimination has finally triumphed.

Affirmative action fails to reach this final destination when it is inconsistently applied, or when its beneficiaries form a vested interest bloc within a democratic electoral system on the basis of ascriptive identity alone. The latter poses a stronger practical and

intellectual challenge to the policy of affirmative action. As long as historical disprivileges and economic backwardness go together and the relationship between them is statistically very strong, colour or caste membership can act as **ready reckoners** to know where affirmative action should be principally directed towards. This however does not mean that membership in these communities should advantage individuals **in perpetuity** once they are able to develop the minimum set of resemblances. Therefore, as and when those who belong to targeted categories for affirmative action acquire socially useful talents and attributes they should contribute them to the society as a whole and not employ them only for sectional advantages.

Consequently, those who benefit from this policy owe it to society to put their newly acquired social talents back into the collective social pool. This would mean that they would automatically fall outside the scope of affirmative action programmes in the future. The net would no longer cover them as they already have socially useful assets. Indeed the society will be richer and better endowed on account of it as the beneficiaries of affirmative action will now begin to contribute to the social pool of talents. This would both release and add to social and material resources required for continuing with the policy aimed at the enhancement of resemblances. As a result, society will progressively acquire a higher strike rate with the policy of affirmative action by reaching out to those who have thus far fallen outside its ambit. By increasing the numbers of those who possess the minimum set of resemblances, the society has now a larger wealth of talents in a variety of fields and specialities than it had before. This is how affirmative action which is aimed at the historically most disadvantaged sections, ultimately improves the lot of everybody in society. If, on the other hand, either colour or race, which are only **ready reckoners**, become permanent considerations, without taking into account biographical profiles of actual and potential beneficiaries, then that would inhibit fraternity and sow seeds of permanent divisions in society.

Affirmative action begins by placing the assets of the better off in a collective pool, not for redistribution, but to create the infrastructure that is needed to enhance the minimum set of resemblances necessary for substantive citizenship. With the help of this capital, socially valuable assets are now created in sites where there were none. This measure has a strong practical dimension for out of this collective pooling new assets are being created.

The creation of such new assets is possible because the initial pooling of assets of the privileged section allows the society to underwrite the expenses incurred for the establishment of certain baseline similarities in society as a whole. As the most important feature in this case is not one's ascriptive badge, but the creation of socially valuable assets, it is expected that those who have been the beneficiaries of the scheme will gradually slip out of the net. They will cease receiving from the collective pool and instead will begin to contribute to it. As far as public policy is concerned they are no long members of certain designated castes or communities. **They are now simply citizens.**

Culture and Affirmative Action

If one were to systematically pursue the goal of attaining a minimum set of resemblances that is constantly being revised upwards then there will be times when certain aspects of culture cannot be protected by affirmative action. This is especially so when these cultural beliefs and practices come in the way of furthering the minimum set of resemblances between citizens. I believe this to be in contrast to what I think Kymlicka (1989) is arguing for. For Kymlicka, liberal democracy should preserve cultural practices of the underprivileged peoples as this would give every one in society greater life style choices. If liberal democracy is about increasing the arena of choice then cultural practices of the subaltern communities should be preserved as an ethical imperative.

Apart from the fact that it is hard to conjure a homogenous cultural practice of any community, what has to be nailed is that there are certain customs and traditions in many communities that simply do not advance minimum set of resemblances between citizens. The belief that subaltern communities have inherently noble institutions is no longer taken seriously in any anthropologically sensitive quarter. On many occasions, especially with regard to gender roles and inter-community relations it is very often the case that tradition and custom come in the way of realizing minimum set of resemblances. Affirmative action cannot afford to equivocate on this matter and must clearly distance itself from any policy that makes concessions to tradition and custom that go against the grain of establishing a minimum set of resemblances. Thus when it comes to educating women, the state cannot say that if the culture of certain communities is against women going to schools and universities then so be it. In this case then women from these communities cannot be part of

the minimum set of resemblances which should involve everybody as citizens. Quite clearly, the state cannot allow women to stay away because of certain traditional values put forward by community virtuosos.

On the other hand, affirmative action should have little objection if certain aspects of tradition do not interfere with the acquisition of minimum set of resemblances. The *hijab* case as it emerged in France is a good example of how *not* to legislate on affirmative action. The French government banned Muslim girls from wearing the *hijab* headdress to school as this would go against French secular tradition. This aroused the ire of Muslims in France in general, though a large number of Muslim women do not wear the *hijab*. Looked at closely, the *hijab* does not come in the way of learning Mathematics, French, Physics, or History. As Hobhouse had pointed out long back, it was possible for a devout catholic to teach multiplication without making any reference to the infallibility of the Pope (Hobhouse 1994:57). The *hijab* is a non intrusive aesthetic cum symbolic token of identity, much like the cross that many Catholics wear, or even the Sikh turban.

If the *hijab* is irrelevant to the learning of those skills necessary for attaining a minimum set of resemblances between young citizens, then there is no reason why it should be banned in school. After all, the principles of affirmative action should not only be fair, but also be seen to be fair. The critical factor should be whether or not a cultural practice comes in the way of citizens attaining a minimum set of resemblances. This would also make it possible to distinguish prejudice from genuine concern in the implementation of affirmative action. Thus, when cultural practices do not militate against the well being of institutions (Beteille 1991) they should not be disallowed. Only when culture stands in the way of attaining minimum set of resemblances is it justified to oppose it in the name of advancing substantive citizenship. If the criterion of a minimum set of resemblances is consistently applied it will eventually disarticulate critics of affirmative action, including the cultural virtuosos.

The *hijab* example above should demonstrate how useful the criterion of advancing the minimum set of resemblances is for evaluating cultural practices that interfere with the realization of affirmative action. Whole cultures are not threatened, only certain aspects of it are under scrutiny, and possible attack. The *hijab* obviously does not come in the way of learning mathematics or French, but if a society decides that every child should learn how to

swim, then the *hijab* will have to be put aside during these lessons. Child marriage for girls obviously obstructs the attainment of the minimum set of resemblances for around half the population. This practice will, therefore, have to be countered. By being alert to the many hues within cultures it is possible to finesse and modulate administrative responses to them in the context of affirmative action. If it is the minimum set of resemblances on which our attention is fixed then only those cultural practices that come in the way of attaining this end have to be opposed. This makes it possible to justify affirmative action in inter-cultural terms. If it is good only for certain individuals and for certain cultures then that takes away from the charisma of affirmative action's claim that it is, without prejudice, citizenship oriented. Instead, when positive discrimination policies emphasize that the base of minimum resemblances be increased the attention falls on how to develop such opportunities across, and even in spite of, cultural diversities.

Poverty as the Key Variable

If the economically strong South Asian or East Asian migrants in North America demand reservations because they are visible minorities then the claim cannot be justified on the principles of justice as fairness. These people should not draw resources from the collective social pool, but should instead be contributing to it. As they are economically well positioned, and possess other valuable skills as well, that should disqualify them from taking advantage of affirmative action. Being Brown, or Black, by itself does not qualify. They are only ready reckoners when there is a strong statistical relationship between being black or brown and being economically backward, and therefore with little opportunity to develop the minimum set of resemblances necessary for substantive citizenship.

At this point it is necessary to recall that Rawls had categorically stated that the principles of justice as fairness only work in the "condition of moderate scarcity" (Rawls 1971: 127, 256). This condition is important but does not have the same status as the circumstances of justice or of citizenship. After all, if the condition of moderate scarcity does not prevail this does not mean that no effort should be made towards establishing a liberal democratic regime. In which case developing countries should resign themselves to dictatorships and worse. Regardless of what Rawls might think about this, it is a fact that countries like India have shown that democratic regimes are possible in poorer countries as

well. Having said this it also needs to be acknowledged that countries like India have not been able to broad base the minimum set of resemblances necessary for a substantive realization of citizenship.

The situation is not uniformly conducive to the establishment of justice as fairness in developed western democracies either. In most of these advanced societies, including the United States, there are pockets of misery and extreme penury where life expectancy and infant mortality rates are not much better than those of the certain developing countries (McQuaig 1992). Surely the principles of justice as fairness cannot be abandoned when we come to the poorer quarters. What then will be the fate of the principle of fraternity and citizenship?

Positive discrimination policies must note at the very start that being poor is neither an asset nor a badge of honour. There is nothing more pressing than the need for upliftment of the economically deprived. Being economically the "worst off" is a kind of deprivation that cannot be matched. All other kinds of complaints about one's lot seem irrelevant and redundant when compared with poverty. The one factor that stands resolutely in the way of attaining the minimum set of resemblances in society is economic want. This is the key issue that needs to be addressed. When economic backwardness is sanctioned by historical prejudices of the dominant community then one's community membership provides a **ready reckoner**, as was mentioned earlier, in identifying the target group whose social skills have to be developed.

It must also be emphasized in this connection that the reservation policy can be justified only when it expends resources from the collective pool for those who have no socially valuable asset whatsoever. If positive discrimination is used to convert one kind of asset, say rural wealth and power, to another kind of asset, say urban jobs, then this cannot be justified. It must be remembered that affirmative action is meant to primarily and directly impact those without any social assets but with unclaimed and unrealized talents that are socially useful and relevant. Even so, if after making provisions for the establishment of realizing the minimum set of resemblances as arrived at any point of time, there are recalcitrants who do not want to make use of it, then there is nothing more that positive discrimination can, or ought to, do.

Creating Socially Valuable Assets and Affirmative Action

When affirmative action increases the minimum set of resemblances between citizens it succeeds in creating socially valuable assets from among those who did not have them to begin with. In India, for example, where positive discrimination was first introduced, it was to help those who belonged to ex-Untouchable castes and forest tribes. Reservations for these communities were instituted because they lacked those assets that a market oriented liberal society values. They had neither wealth, nor land, nor education. To romanticize the labours of hereditary cobblers, scavengers, agrestic serfs, and other menials is certainly a view taken safely from the outside. Why else is it that it is nobody's ambition to be a scavenger or an agrestic serf? Regardless of the intrinsic worth or dignity of such labours the moot point is that such skills that the historically disprivileged possess are not acknowledged as social assets worth acquiring. Only an apologist of the caste system and of the estates order can argue otherwise.

If Native Americans, or ex-Untouchable communities in India, do not have those attributes that qualify as socially useful assets in liberal market oriented democracies, it is not because the potential does not exist among them, but because they never really had the opportunities to cultivate them. The cultivation of these requires that a minimum set of resemblances be established among the citizens. In this fashion liberty, equality and fraternity form a triumvirate. They are not discordant notes but fall in place when the circumstances of democracy co-exist with the circumstances of justice. In order that liberty be protected it is necessary to be equal before the law. Yet these principles can only be upheld in a nation-state where citizenship is substantively realized. If this were not so then liberty and freedom would be, as Hegel argued, only for kings and heroes (Hegel 1945). As citizenship is based on fraternity, it demands, in turn, a minimum set of resemblances. This vital feature was brought to our notice most vividly by Durkheim, but, in retrospect, we realize that it was also emphasized by Hegel (1945). Seen thus, positive discrimination is not just compatible with liberalism, but is often enough a necessary condition for its consolidation.

By the same token, it would not be fair to allow those who have assets of one kind, whether in terms of land or political power, to take advantage of positive discrimination or reservations. In 1990 the government of India accepted a set of proposal known as the Mandal Commission reforms that advocated reservations for the so-called Backward Castes. The positive discrimination that was hitherto only for the SCs and Scheduled Tribes was extended now to cover the Backward Castes category as well. Is this a fair policy and does this help in extending democratic fraternity?

The Backward Castes are agrarian communities who never suffered discrimination in villages like the SCs did. They did not have as much land as the old feudals had, they occasionally rented land from them, but they did not suffer from the kind of humiliation that burdened the untouchables. After Independence and the abolition of landlordism, this so-called caste of Backwards rose in the rural economic and political hierarchy and many of them became substantial landowners. This is true of castes such as Jats, Gujars, Yadavas and Kurmis. In village India today they are politically the most strident castes and are well represented in many elected bodies as well as in the local administration.

However, as rural incomes are not growing as rapidly as urban salaries, these agrarians soon wanted to enter city based occupations as well. Without the kind of skills that are required for urban jobs, bereft also of the kind of network and social capital that their urban counterparts have access to, these Backwards opted for reservations as a political instrument to assist their urban economic aspirations.

What are the social and political consequences of Mandal reservations? In the first instance, those who are put on the list of Backwards are not people without any assets. They have land and considerable political power. What is happening is that they are converting one kind of asset into another, viz., urban jobs. Secondly, the criteria for Backwardness is so loose that almost every caste can be counted as belonging to it without even considering economic or educational aspects in any significant way. For instance, if a caste works on land, if women in the community also work on land, if their daughters are married before the legal marriageable age (that is points given for breaking the law), and if other castes think poorly of them then a caste earns enough points to be called Backward. The question of their economic and educational status does not even figure. That such a device was put in place itself demonstrates the power of the Backwards in the Indian political process.

Finally, unlike the reservations for SCs which was based on the idea of extirpating caste and creating democratic citizenship, Mandal commission recommendation looks at caste as a perpetual political resource. The aim here is, at best, caste representation and not caste extirpation. On this ground again it defeats the principles of fraternity that should underpin all democratic interventions in a modern liberal nation-state.

The Prejudice Frontier

It is impossible to banish prejudice through any kind of social policy. The best that can be done, and this is also an important effect of affirmative action, is to equip citizens such that they can effectively fight back prejudices against them. Community prejudices of one sort or another always existed and will continue to exist. This is an anthropological truism that cannot be easily shaken off. What really matters is when such prejudices restrict the economic development of certain communities. It is then that positive discrimination steps in to economically succour members of these communities. As a result, social prejudices against them gradually fall by the wayside or become ineffective. In any case straightforward laws exist in all democratic societies that protect individuals against discrimination on grounds of race, religion, language, etc. These laws can always be invoked when gross injustices are committed against anybody because of accidents of birth. But these laws by themselves are useless when it comes to directly producing social assets among those who hitherto have none. Moreover, as experience shows, going to court is not quite the same for the rich as it is for the poor. Again we return to poverty as the key variable.

As poverty exacerbates the low social status accorded to historically persecuted communities, positive discrimination can protect historically subjugated communities by making them economically strong enough to use the existing democratic laws in their favour. There is hardly an instance when prejudice can be effective when it is aimed at the well to do, no matter which community they may have come from. Even where it exists, it is in such a muted form that those individuals who have to face it have alternate sources of social prestige, arising from their economic security, to be able to defend themselves and effectively seek legal remedies. This is evident even in a hierarchical society like India. Once members of ex-Untouchable castes achieve economic security, they not only claim

higher caste status successfully, but are also able to defend themselves by taking recourse to the established laws of the land.

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Discussion after Prof. Gupta's speech

The audience raised several interesting comments and questions to Prof. Gupta after his speech. A few excerpts:

Q: On the continued representation of landlords in the parliament and whether the policy of reservation has resulted in some political elevation.

Dipankar Gupta:

If you talk in terms of what happened in the last five decades or so the rural scene has changed a lot. In my view there is hardly any substantial landlords of that kind today in rural India. Even the government in India says that 85 p.c. of landlords in this country are below 5 acres and 65 p.c. below 3 acres of land... The scene has changed a lot. If you talk in terms of implementing land reforms. Where is the land to reform? You see, there is not much land lying around, that you can take away and give to the poor.

Q: On reservations for OBC:s, other backward castes, and the role of the Mandal commission

Dipankar Gupta:

The reason I chose to speak on reservations as aspects on cultural politics is simply because this is raging in our country and has the precautions for most democratic societies across the world want to attain a modicum of, should we say democratic participation, between different classes and communities in their societies. One important aspect of the reservations put in the constitution in the early years was to get rid of cast on a public plane. And people who suffered from caste disprivileges were to be given a hand. Now in the case of Mandal, as I mentioned what happened was that one kind of asset was substantial economic wealth, and more than that political power, was being leveraged for jobs in urban areas and that I think is against the spirit of affirmative action. And I am not at all surprised that certain castes are much more adept of taking advantage of this than

other castes. This is not only true of Tamil Nadu, this is true of almost every part of India. Who would have thought that certain castes would like be called backwards? It is almost impossible to conceive that some years ago.

The politics of backwardness is at those communities who is indeed well-to-do, that are the fore front of politics of backwardness. And they are using the other people for their advantage. The majority of rural people in the country do not income pay tax. No one in rural India pay income tax. But a majority of the rural country would not have to pay tax, even if they were asked to, because they fall below the line. And yet who takes advantage of this? A very small section, 5 p.c. of the rural rich take advantage of this by pointing at the rural poor.... they don't have to pay tax. The politics of backwardness is very similar to this. Some people who are powerful use the rest to their advantage, that is the politics of backwardness.

The matter of the fact is that reservations can't do everything. You can't remove poverty or remove prejudices. You can't do it! To give some economic support, to ensure acquirement of some socially valuable skills so that they can stand up on their own in the future, that is the most reservations can do.