

# Not just about a quota

We need to educate children in schools about caste, ethnic, gender and regional diversities and have public policy interventions to make society more equal and fair. Should jobs, schools, and universities promote diversity with reservations or quotas? This question has long evoked strong and passionate responses. People come to the debate with preconceived ideas and stands, and rarely change their minds. As a result, India is left with little consensus on the reasons for reservations and whether or not reservation is a useful policy.

A new survey called SARI, Social Attitudes Research for India, investigated what people in cities, towns, and villages think about reservations. SARI uses a sampling frame based on mobile phone subscriptions, random digit dialling, within-household sample selection, and statistical weights to build representative samples of adults 18-65 years old.

## Divided by background

We asked respondents whether or not they support reservation. In Delhi, about half of the respondents say they do not support it. Responses vary by social category, and support is more common among people from reserved categories. The graph shows differences in opposition to reservation by social categories. As expected, the lowest opposition is among respondents from the Scheduled Castes (SC) and Other Backward Classes (OBC), while the highest opposition is found among general caste respondents.



These results indicate that a majority of the most educated and historically well-to-do communities in Delhi do not feel that people from marginalised groups should get government support for representation in social and public spheres. But

why?

Among respondents who had heard of reservation before the survey, we further asked those who opposed reservation why they were opposed. The responses that we got from general caste respondents are shown in the graph.

We examine the top three reasons for Delhiites' opposition to reservation one by one. When people say that jobs and seats in schools should be allocated on the basis of "merit," they are referring to the fact that people from reserved categories are often given a concession of a few points on exams and in interviews. This view overlooks the important disadvantages that people from reserved categories face in going to school or getting a job today. Reservation is a useful tool to level the playing field: we cannot expect groups who have been historically deprived of education, skills, and access to other means of economic mobility to suddenly start competing with those from groups who have had access to these means for centuries.

Social transformation and building of economic and cultural capital takes time to be passed on from one generation to another. It is an all too commonly held belief that people from general castes are meritorious inherently. Yet, the ability to decipher test answers or speak confidently in an interview is often the result of being nurtured in an environment that is a result of accumulated economic, social and cultural capital. Children who grew up in a dominant caste household are often encouraged, supported, and helped to succeed by other members of their caste groups, while reserved category students rarely have such networks to draw on.

It is also important to reconsider what is meant by "merit". The ability to answer test questions correctly is certainly not the only, or even the best, predictor of how well someone will perform in school or on the job. It is worth noting that many reserved candidates have reached schools and jobs in

spite of economic and social disadvantage as well as overt exclusion and discrimination. Because they have succeeded in the face of adversity, they bring a different and desirable kind of merit to a school or workplace.

Some of the respondents said that they opposed reservation because they believe in equality. However, reservation is a policy tool that promotes equality rather than undermines it. The primary reason why reservation was written into India's Constitution was to ensure representation of all social groups in positions of power. When people from all social groups are represented in government, higher education, and in business, it is less likely that traditionally marginalised groups will continue to be denied fundamental rights and access to their fair share of society's resources.

Not an anti-poverty plan

Finally, some people say that they oppose today's reservations because they believe reservation should be made on the basis of income rather than social background. However, reservation is intended not to be an anti-poverty programme. The government has many programmes which are, in principle, accessible to all poor people. Reservation exists because, in addition to being more likely to be poor than general castes, Dalits, backward Muslims, and Adivasis face social discrimination and exclusion that poor people from general caste backgrounds do not face. The fact that the right to education, the right to own land, the right to conduct business, or to pursue a well-remunerated occupation has been reserved for men from high caste backgrounds for generations means that government must take steps to correct the unequal distribution of rights.

Reservation is a policy tool that is used not only in India. In many countries, reservation or other types of affirmative action are used to try to overcome human prejudice based on race, gender, ethnicity, religion, caste or any other group

identity, and to encourage representation of and participation by groups traditionally excluded and discriminated against. One way to make these measures more acceptable and help people better understand the historic, social and cultural background behind reservation would be to educate children in schools about caste, ethnic, gender and regional diversities and the need for public policy interventions to make society more equal and fair.

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## Supreme Court asserts itself once again

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A lot has been talked about Judicial Activism, an extension of Judicial Review, the latter being an important principle coming under “basic structure of Indian Constitution”. Judiciary has a constitutional obligation under **Article 32 and Article 226** to protect the fundamental rights of the citizens by way of writ jurisdiction. Similarly, under **Article 13**, Judiciary has the duty to declare any law null and void to the extent it contravenes with any of the fundamental rights enshrined in Part III of Indian Constitution.

Recently, the Supreme Court has done justice to the theory of “**balance of Powers**” and

system of **“Checks and Balances”** by calling out cases of Executive misappropriation of powers or unethical behavior.

### 1. BCCI President and Secretary declared “unfit”

Holding the two individuals for contempt of court due to their obstructionist approach and quotation of false evidence in the court of law, a Supreme Court bench has asked them to desist from any further association with the Cricket body. Their inability to comply with the Lodha Panel’s recommendations to reform the Cricket industry was seen as their unsuitability to hold the job profile.

In this manner, Supreme Court has asserted its rightful position indicating that no government official can act against the orders of Supreme Court or try to bring its dignity down in the public.

### 2. Religious propaganda during elections akin to corruption

In a major blow to political parties across the spectrum, the top court has declared that appealing to the voters on the lines of religion, race, caste, language or community amounts to “corruption” and a candidate can be disqualified for the same. Here, the Supreme Court has rightly indicated that Secularism is an unbreachable principle enshrined in the Preamble and Fundamental Rights of the Indian Constitution. Earlier, in many judgements, both Election Commission of India and Supreme Court have tried to clean up electioneering process to make it more suitable to the Indian context.

### 3. Extension of Judicial Review

Lately, both Parliament and Union Executive have been failing on their legislative responsibilities entrusted upon them by the constitution.

Parliament has been involved in political battles bringing down the legislative efficiency of the houses, with fewer laws and more chaos.

Executive on the other hand has gone on an Ordinance spree with allegations of bypassing the legislative powers of the Parliament effectively ridding itself of any accountability.

In this context, Supreme Court’s decision over deciding the constitutionality of successive repromulgation of Ordinance comes as a big relief.

The **Bihar Non- Government Sanskrit Schools (Taking over of Management and Control) Ordinance of 1989** was repromulgated 7 times and was brought to the Patna High Court. The court relied on D.C. Wadhwa judgement and held it unconstitutional.

A Constitution bench of Supreme Court delved into the issue and has effectively broadened its judicial review powers in cases of ordinances. The satisfaction of the President under Article 123 and of the Governor under Article 213 will be judicially reviewed on the basis of **relevant material or whether it amounted to “a fraud on power or was actuated by an oblique motive”**.

Now even the motives of the Executive will be subject to Judicial Review making it very difficult for it to bypass scrutiny over its actions.

Source: xaam.in