

Impact of Uttarakhand's Reservation Judgment on Women

SAMEENA DALWAI, AABHINAV TYAGI

Since the 1990s, the discourse around caste-based reservations has taken a sharp turn towards hostility, which has resulted in pushing individuals and groups obtaining reservations into marginalised corners in educational and professional spaces. The recent Supreme Court judgment about reservations in promotions in state employment in Uttarakhand reopens this legal and moral discussion about the need for caste-based quotas in employment. This paper evaluates the effects of the anti-reservation judgments with a gender lens, looking at the potential and possibilities for lower-caste women into education and employment. With the National Sample Survey Office data we consider the rate of participation of lower castes and women separately, as well as lower-caste women as a category in education and employment, and consider how they are affected at the entry point and in career progression.

Reservation is not a policy enacted by a benevolent state or a standard developed by a progressive judiciary. Rather, it is rooted firmly in the history of the Indian subcontinent and was one of the solemn principles promised to the new country during independence to mark a break from colonial rule towards self-rule. Important visions of a casteless India were spoken and written down at least as early as the 15th century by Kabir and Ravidas. A proto form of this ideal society was visible in the reform movements starting in the 19th century as Jotirao and Savitribai Phule opened schools for students of all castes and encouraging girl students, which was out of the question for Brahminical schools. In 1858, the Government of Bombay Presidency declared that all schools maintained at the sole cost of government shall be open to all classes without discrimination. In 1880, the British state set up scholarships, special schools, and other beneficial programmes for the Depressed Classes with the princely states of Mysore, Travancore, and Kolhapur following suit to reserve administrative posts for the Depressed Classes. The Madras Presidency was the first to initiate reservations in government employment, in 1921. Thus, conceived over centuries of discourse on Hindu reform and ethics, reservations were birthed out of the political movements and resolutions at the dawn of Indian democracy, and finally, out of the Constitution. The principle of reservations anchors the shared ambitions of the nation.

The Mandal Commission, established under the Janata Party government in 1979 and implemented under the leadership of V P Singh in 1990, was tasked with the purpose of identifying socially and educationally backward classes (SEBCs) in the country. The commission's existence per se brought the ancient and deep-seated fault lines of caste to the urban fore. Upper-caste anxieties over losing the strongholds of privilege in India (through education and government services, where they erstwhile had exclusive access), manifested in rage. Anti-reservation protests erupted across campuses and cases of self-immolation by students were noted. The public discourse around reservations has since been concentrated in television debates, courtrooms, university conferences, and set by the better-off students on campuses—in other words, it has been hegemonised by upper-caste Hindus. The discourse from this side has thus revolved around merit, and why merit purely must be the paramount or even the sole determinant of opportunity. It has also been about the unethical ways in which Scheduled Caste (sc) and Scheduled Tribe (st) students grab the seats of the upper castes,

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Sameena Dalwai (sdalwai@jgu.edu.in) teaches at Jindal Global Law School, O P Jindal Global University, Sonapat, Haryana. Aabhinav Tyagi (17jgls-aabhinav@jgu.edu.in) is a final year law student at Jindal Global Law School and works as teaching assistant for the elective course, Dalit Literature and Culture.

euphemised as the deserving and hard-working. In the last few decades, the arguments in legal cases seem to follow suit, and the original idea and purpose of reservations has been diluted and watered down, if not washed away through judgments of the Supreme Court and high courts.

To begin with, this paper looks at the Supreme Court judgment in *Mukesh Kumar v State of Uttarakhand* (2020) (hereinafter referred to as the Uttarakhand judgment) and few other legal decrees that forms a pattern.¹ Further, the paper moves to chart out lower-caste women's access to education and employment opportunities. Using data from the National Sample Survey Office (NSSO), we show that women form the lowest strata of Indian society experience the intersectional burden of caste and gender. Subsequently, it discusses the significance of anti-reservation trends, strengthened by the Uttarakhand judgment, on women, especially the ramifications of declining reservations on lower-caste women's chances to rise on the career ladder.

Existential Danger for Caste-based Reservations

According to the 2011 Census, the SC/ST population alone constitutes 25.2% of the total population, not including Other Backward Classes (OBCs). We now face a situation where caste-based quotas in employment, both at entry points and promotions, are in existential danger. The often-silent attack on reservations has been made on several fronts: political attacks on the nature and scope of reservations; unfavourable, landmark court decisions; attacks on students and medical residents in college campuses in training programmes, driving them to suicide; and an acceleration in anti-reservation messages consolidated over the internet.

Successive national governments in India—primarily the Indian National Congress (INC) and the Bharatiya Janta Party (BJP)—have kept their position on caste-based reservations deliberately hazy. Conceptual imports such as the creamy layer and class as the focus of reservations, plus the recent tabling of a 10% quota for economically weaker sections—can be seen as diluting the original purpose, as echoed in the Mandal Commission report, in addressing social and educational backwardness. The dilution occurs at the level of challenging and outright rejecting the need to uniquely address social exclusion. State intervention, such as improving infrastructure or providing resources to individuals in the form of learning aids, merit scholarships, etc, does not address the social barriers to the access to education and employment. These barriers include discrimination at the level of admissions as well as treatment inside institutions, along with various other embedded caste practices that we will discuss subsequently. On the other hand, such conditions do not apply to the targets for the new economically determined categories because the reasons for their exclusion can be directly addressed by the state.

If we delve into the judicial interpretations of the reservation system so far, we find that Indian courts have laid out standards pertaining to Articles 14, 15 and 16 (fundamental right to equality and non-discrimination) of the Constitution in a series of noticeably contradictory judgments. Is it a coincidence that in all the landmark decisions pertaining to caste

and reservations, the judges have almost exclusively been upper-caste men? As early as 1962, in the case of *M R Balaji v State of Mysore*,² the Court ruled for the first time that Article 15(4) (which deals with the state making special provisions for SEBCs, SCs and STs) is an “enabling provision,” meaning that “it does not impose an obligation, but merely leaves it to the discretion of the appropriate government to take suitable action, if necessary” (para 39). In this case, the state of Mysore had been observing the reservation policy for SCs, STs and SEBCs, and by a government order, all those who were not of Brahmin heritage (approximately 68% of the state's population), were to be eligible for reservations. The Court here held that backwardness must be social as well as educational, and that caste alone could not be the primary indicator of privilege. This was with due consideration to non-Hindus, who supposedly do not follow the caste system, although this is often not true of Indian minorities, who are subject to the casteist norms of Hindu society despite being outside the religious order. The judgment nullified all reservation programmes based on caste lines alone.

This position has been refined and modified in several judgments, with the most recent judgment being *Mukesh Kumar v State of Uttarakhand* (2020).³ Delivered by the Supreme Court on 10 February 2020, this judgment is distinctive as the Court has asserted that reservations in jobs and promotions is the discretion of the concerned government. While it has accepted the extension of reservations to include the economically backward classes, it has simultaneously made existing provisions for reservations non-mandatory.

At the stage of hearings, the Uttarakhand government had requested the collection of data to evidence that SCs and STs were inadequately represented in state employment. Counsels defending reservations, senior advocates Colin Gonsalves and Kapil Sibal, pointed out that such data had already been collected and indeed proved the under-representation. The Court, however, went on to note that the data was not necessary if the state government decided to not enforce reservations; and that data was only relevant for a state that wishes to enforce the policy. It is then that it needs to prove through numbers, the need for reservations to anyone who might challenge it in court. This is an interesting twist of law as it creates a double standard by making credible and self-evident data redundant when there is no political will to enforce reservations, while simultaneously mandating data collection as an additional step when the state wishes to enforce reservations.

By this judgment, the Supreme Court has frittered away the opportunity to view Articles 15 and 16 as creating separate rights for special classes towards furthering substantive equality. Additionally, by stating that Article 16(4) does not create an enforceable fundamental right, the SC judgment has transformed the reservation provisions into a non-justiciable matter akin to the Directive Principles of State Policy (DPSP). It makes quotas, both in appointments and promotions, subject to the discretion of the enforcing state, whose interests may be at odds with the margins of society. This decision of the Supreme Court failed to adequately appreciate social and educational backwardness as a challenge to substantive equality embedded

so inextricably within the Constitution. The mandate to create a level playing field and to correct historic discrimination and denial of opportunities to marginalised communities is therefore turned into an act of one-sided benevolence by the executive, which it can choose to forego.

Caste and Gender in Economy and Employment

Let us contextualise the need for reservations in terms of data in this section, which would allow us to analyse the gender implications of the withering quota regime. The overall subordination of women in society contributes to their vulnerability as workers. India is ranked 108th out of 149 countries on the Global Gender Gap Index (released by the World Economic Forum in 2020). Female sc, st and obc workers emerge as the most vulnerable group within the current system due to a multiplicity of social factors along with a lack of structural reforms. According to an International Labour Organization (ILO) report based on NSSO data, there exist enormous disparities between male and female workers in terms of pay. The lowest wage gap exists between male and female urban regular workers at 22% and highest in urban casual workers at 39% (ILO 2018: 19–20). As a direct consequence of losing avenues for employment in the formal public sector, more women will be denied mobility from, or even forced into, casual labour, where they are already greater in portion than their male counterparts, as a consequence of being denied the right to work far from home. The informalisation of jobs in turn, dilutes reservations as labour protections and policies cease to apply to workers.

Capital-intensive technologies have viscerated several avenues for self-employment across gender lines. The NSSO's employment data for rural and urban areas shows a decline in the female labour force participation rate from 42.5% in 1987–88 to 18% in 2011–12 for rural women and from 25.4% in 1987–88 to 13.4% in 2011–12 for urban women (NSSO 2011: ii–vi). The Work Participation Rate (WPR) is highest for sc and st women. This, however, does little in the way of empowerment, as the most marginalised groups, living in extreme poverty, are pushed to undertake burdensome work without the effect of increasing real autonomy (Shrivastava and Shrivastava 2010: 52–55).

The caste system creates a monopoly of knowledge and a value-gradation of labour. Even in contemporary India, caste remains intricately and importantly linked with access to education and occupation. The hostility towards lower castes aspiring to higher education is experienced tenfold by the “quota students.” Sumit Baudh recalls the call of shame when the reservation students' roll numbers were called out at the end of the class roll call in the National Law School, Bengaluru (Baudh 2015). The suicides of Dalit⁴ students from Rohith Vemula to Payal Tadavi shows a common pattern of discrimination, harassment and bullying by upper-caste students and teachers. Twenty-three Dalit students have died between 2008 and 2016 in institutions of higher education, including University of Hyderabad and All India Institute of Medical Sciences, New Delhi where all these students experienced harrowing and lacerating caste-based discrimination (Acharya 2019).

Labour under the caste system is not a choice but an obligation. Caste positionality sanctions normative categories for employment, often with severe penalties for any real or perceived breach. Shah et al (2006) surveyed untouchability across 11 states and 565 villages in 2001–02 and found that untouchability is present all over India and has survived by adapting to new socio-economic realities as well as taking on new and insidious forms. Dalits, and only Dalits, perform the least coveted occupations of removing carcasses, digging graves and clearing garbage. Deaths of *safai karmacharis*⁵ (sanitation workers) are a case in point to the hazardous nature of this work, and despite alternative technologies for waste management being available, state functionaries and private companies continue to employ, very often with jarring coercion, Dalits for the job. For instance, in November 2018, two Dalit men died being forced to clean sewage in Varanasi ahead of the Prime Minister's visit to his constituency (Manohar 2019). Human Rights Watch (2014) found that women of Bhangi or Valmiki caste remove human waste manually, and often with bare hands, from public and private dry latrines. They are paid in pittance or stale food, and if they try to leave this work, upper-caste men threaten them with violence and expulsion from the villages. In an interview with the *Guardian* in Fatehpur Sikri, Delhi, a woman of the Valmiki caste explained the coercive tactics used to maintain the divide:

Suppose I have money and open a shop, non-Valmiki people won't buy from me. Suppose I want to be a cook. Nobody will let me enter their kitchen. (Safi 2018)

In the words of Bezwada Wilson, the leader of Safai Karmachari Andolan:

It is the most undignified job, an inhuman, barbaric practice. It is worse than slavery.

Globalisation hardly amounts to a progressive erasing of the caste question. It remains the most pertinent signifier of class. Attewell and Madheswaran (2007: 4146, 4153) use data from the NSS to examine the wage gap between higher castes and scs and sts in the regular, salaried urban labour market, and estimate that these gaps have increased in the post-liberalisation era. Discrimination results in a dip of 15% in wages for the lowest castes, when compared to equally qualified others, due to entrenched bias in both the public and private sectors, but its effect is much greater in the latter. Differences in large gross earnings emerge due to occupational discrimination in the form of unequal access to jobs, rather than wage discrimination and unequal pay in the same job, per se. Newman and Jodhka (2007) explain how discrimination in recruitment in the formal sector operates through linguistic illusion and metaphor—terms like meritocracy and work ethic are often used to perpetuate this discrimination. During the recruitment process, a good family background is a subtle, but clear criterion, and is essentially caste-based. By eliciting entrants' work, income and education background, they have already been positioned on the caste ladder, and are assessed accordingly.

As per Thampi and Anand (2019), India's educated, youth and women, especially lower-caste women, are bearing the

burden of India's rising unemployment. Thampi and Anand analyse the loss of 1.1 crore jobs in India in 2018. The Labour Bureau Employment/Unemployment Survey 2015 shows that youth (15–25 years) and the educated face the highest unemployment rates. Unemployment amongst the 15–25 year olds is 12.5%, much higher than any other age group. Plus 13.8% of graduates and 12.6% of postgraduates (or higher) were unemployed—three to four times the overall unemployment rate.

Unemployment is deeply gendered: We see that graduate women faced an unemployment rate of 30.6% as opposed to 9.9% among graduate men, and women with a postgraduate degree or higher faced an unemployment rate of 23.8% compared to 8.4% among men in the same educational category. It is well-known that India's female labour force participation is low and declining. To add to that, educated women who search for jobs, and are therefore in the labour force, find it difficult to obtain one.

Unemployment is also deeply divided by caste: We find that lower castes are at an even greater disadvantage in the labour market, compared to members of the forward castes with similar levels of education. The unemployment rate for the forward caste population holding at least a graduate degree is 10.5%, while the rate is 18.7% for SCs, 15.7% for OBCs and 14.7% for STs. Educated women within the lower castes face multiple barriers in accessing jobs. The proportion of women looking for a job but unable to find one, in spite of having at least a graduate degree, is 34.3% among SCs, 32.4% among OBCs, 29% among STs and 24.3% among the forward castes—much higher than the overall average unemployment rate of 13.5% for graduate men and women together.

Thus aspiration drives women at the bottom-most rung in the caste hierarchy towards education, while gender and caste discrimination exclude them from the job market. This reinforces the need for reservations in government jobs.

Consequences of Declining Reservations

Entry into intellectual labour is a big leap for women from lower-caste backgrounds. Intellectual labour alone allows entry into the middle class—the only class that earns its livelihood through educational qualifications. This is vital since traditionally SC, ST and OBC women are predominantly engaged in manual labour. Further, while assessing social change, Dalit women can be an important group to track, as they are at the bottom of the Indian economic and political hierarchy. Within the intersections of caste, gender, and class, they are the most marginalised as a group.

This section will analyse Dalit women's educational participation and their employment opportunities in intellectual labour—by this we mean jobs in schools, colleges and universities, as well as government jobs. We will analyse three consequences of weakening caste quotas on women's labour; consequences pertaining to availability of jobs, consequences for women already employed through quota provisions, and psychological implications.

Availability of jobs: The All India Survey on Higher Education (AISHE) Report 2018–19 counted the category-wise number of teachers in universities and higher education institutions in the country and showed that out of 1,90,040 teachers, only 3,898 were SC women teachers and 1,495 ST women teachers, which is 2.83% of the total teaching posts. The total number of female teachers is 69,655, hence the SC and ST female teachers represent 7.74% of the total female teachers. This shows that not only do lower-caste women have abysmal representation in teaching jobs in general, but amongst women teachers too. These numbers therefore point to the severe disability that caste causes to lower-caste women, more so since data suggests that upper-caste women face more restrictions from their families and taboos about working outside of homes.

The real-life consequences for women from the withering away of reservations is best exemplified through the series of events that took place when the Supreme Court quashed two petitions filed by the Ministry of Human Resource Development, Government of India, and the University Grants Commission (UGC). The petitions were challenging an Allahabad High Court ruling that did away with department-wise reservations in universities. Before the department-based 13-point roster was implemented, the UGC employed an imperfect yet appreciably superior 200-point roster. The 200-point roster views all appointments made within the university (considered as a unit), subject to the fulfillment of the reservation criteria. This allowed for a more proportionate representation of people falling in backward categories although still falling much behind what can be reasonably thought of as adequate.

When the 13-point roster system was introduced following the court order, the policy dictated that appointment of every fourth vacancy within one department of the university was to be kept reserved. This meant that for all intents and purposes, smaller departments that do not release multiple vacancies at once, would not have any reserved posts—as it is difficult to create half a vacancy for the reserved category when the department has only two vacancies. This was prophesied as the beginning of the end of caste reservations in higher education. The fallout from the implementation of this system was significant. Protests and demonstrations erupted in various parts of the country and the state was forced to issue an ordinance bringing back the 200-point roster system to remove the effect of the court order.⁶

The 13-point roster debacle was followed by a Delhi University Teachers Union protest against fears from a circular issued by the university dated 28 of August 2019, jeopardising the employment of more than 4,000 ad hoc teachers (some of whom had worked with the university for more than a decade). Many protesting ad hoc staff members were joined by permanent faculty, with the unified agenda of addressing both caste and gender discrimination in the university. The teachers made demands for improved labour conditions by advocating for maternity leave and greater job security. There are several stories of women forced to work immediately after childbirth to keep their jobs, which clearly displays the University's apathetic treatment of ad hoc teachers (Das 2020). The

protests received alarmingly little mainstream attention from the media. During this period, very little of the original intellectual fervor displayed in defending caste quotas, including nuanced discussions about its need, was represented in the media consumed by the masses. An informed opinion about the issue that is cognisant of social realities is important to avoid the misattribution of other labour problems, such as unemployment and stagnating productivity, to the presence of quotas.

Reservations in promotions: Reservations in promotions is pertinent to meaningfully promise employment to those from SEBCs. Unless employees can expect to be promoted through their years of service, the idea of a career is robbed from them. Losing reserved seats and promotions in government jobs has a particularly devastating impact on women caught at the intersection of a deeply patriarchal and casteist society. Patriarchal bias encourages the unspoken rule where women have to work doubly hard (as compared to men) to prove their eligibility for promotion, both in public and private sectors. Where such patriarchal attitudes result in exclusion or creation of barriers for promotion among women, the intersection of gender with caste and class makes it all the more challenging for SC and ST women to be seen as deserving of promotions. The same social factors that prevent their entry into employment, further obstructs them from rising within the ranks. This not only limits the number of opportunities available, but also diminishes chances of career mobility.

Sabharwal et al (2020) ran a nationwide survey to find patterns of inequality in academia, through conference participation and promotion. They found that very few women and SC/ST

persons are full professors. In a context where attendance to conferences is taken as a tool to climb the ladder as well as to understand how much access an academic has to institutional resources, the survey found that more men and dominant caste academics are senior and therefore are likely to access more conferences. It found that women from SC groups are likely to be severely under-represented in both faculty representation and conference participation.

In a 2018 response to an application under the Right to Information (RTI) Act, obtained by the *Print*, startling data on the lack of representation of SCs and STs, despite quotas, was revealed. Out of 81 secretary rank officers in the central government only three were from STs and two from the SCs. There was no OBC officer at the secretary or additional secretary level. The situation is similarly grim in the higher judiciary. In a period of more than eight years, between the appointment of K G Balakrishnan in May 2010 and that of Justice B R Gavai in May 2019, not a single SC judge was elevated to the apex court. In the 24 high courts in the country, there was not a single ST chief justice in this period. The situation with women's representation is equally grim. Presently there are three sitting female judges out of the total 34 judges in the higher judiciary. By this logic of exclusion of both lower castes and women, the possibility of appointing ST women as judges in the higher judiciary is even more remote.

Both the above examples, of top secretaries and judges, show us the situation not at the entry point of a career but at the apex of careers. An administrative officer is elevated to the level of secretary after having served for multiple decades in most cases. Similarly, only after a minimum of 10 years of

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practice in the high courts/Supreme Court can an advocate be appointed as a judge. The fact that there is a dearth of SCs and STs in top administrative and judicial positions indicates that even in professions where entry of lower castes has become possible, rising on the career ladder is nearly impossible. Hence the need for reservations in promotions.

Representation of caste in administration and judiciary is important not only for individual success and rise but also for serving society better from these vital positions in government. B P Mandal says,

Cultural and social handicaps may affect competence of quota candidates. However, there is inherent value of possessing first-hand knowledge of sufferings and problems of the backward sections of society for both field-workers and policy makers at the highest levels. (Mandal 1980)

Psychological impact: Being situated at the bottom of a social hierarchy has severe emotional and psychological implications; individuals are coaxed into internalising deep down that they are indeed lowly and do not deserve success. Black feminist writers, such as Angela Davis and Tony Morrison, have discussed how young black girls grow up believing that they are ugly and that happiness and love rightfully belongs to the white girls with golden hair and blue eyes.⁷ Dalit autobiographies narrate the humiliation and hostility that children face in schools from other children and teachers, making education a psychological battle along with a financial one. High suicide rates among Dalit students in universities and professional institutions demonstrate that intellectual spaces are not hospitable to lower castes. This is not surprising, as the caste-ordained labour structure makes intellectual labour an entitlement of the upper castes and manual labour an obligation of lower castes.

How are Dalit women placed in this scenario? Aloysius et al (2011) document daily abuse and pervading physical, sexual violence from the interviews of 500 Dalit women from four states of India. Verbal abuse itself, as the book shows us, has a severe psychological impact on the Dalit women, eroding their confidence and will to live. Upper-caste men and women use abusive epithets publicly, as threats of rape and sexual assault are hurled at Dalit women in order to instill fear and gain control over their bodies and labour. Different categories of violence—verbal, physical, sexual—are not watertight and often accompany each other: for example, verbal abuse followed by, or along with, sexual or physical assault. The culture of impunity and silence has made Dalit women internalise this, so rather than reporting crimes committed by dominant castes, they accept the violence as normal or as fate, even though it degrades them as human beings (Rao 2009: 253).

We are making a case for the legal system to recognise the intersectionality of gender and caste here. Intersectionality, a term popularised by black feminists,⁸ understands discrimination at its layered worst. For those social groups or identities caught at the crossroads of many systems of oppression and exclusion, such as race, caste, class, gender, disability, and sexuality, face not just double or triple burden, but unique problems. For example, in the case of *Rogers v American*

Airlines (1981)⁹ the grooming policies forbid a black female employee to have braided hair. The court dismissed her plea of discrimination based on race and gender as the policy applied to men and women both. But the court failed to recognise that braids were unique to black women, and were irrelevant to black men or white women (Caldwell 1991). Similarly Indian courts have failed to recognise, time and again, the intersection of caste and gender that is ever present in sexual violence against Dalit women, or that, for instance, parading naked in the village is a punishment specifically reserved for Dalit women.¹⁰

Let us now consider these same Dalit women in employment where they are sitting across the same room holding similar jobs. What kind of emotions would they elicit among others who feel their natural place is somewhere else? In this environment what role does the anti-reservation agenda play? Caste antagonism seeps into all aspects of a lower-caste person's professional interactions, and it gets worse when the government and the media¹¹ collude to encourage the narrative that backward castes are the undeserving other. Lower-caste men and women who are already in government employment through reservations are made more vulnerable to taunts, harassment and structural oppression. Upward employment mobility would become all the more challenging in such an ethos. To drive home this point we visit Gopal Guru's conceptualisation of humiliation (Guru 2011). Humiliation becomes possible through norms already known and accepted to both parties. Here, even if the lower-caste individuals do not accept their normative position, they know it and must fight it. This everyday fight makes the experience of employment unpleasant if not hostile.

Here we might find a study of women's reservation in political seats insightful. Bhavnani (2009) states that women's reservation leads to increase in political participation of women in successive elections. He views the policy initiative in India that sets aside randomly chosen seats in local governments for women for one election at a time, to determine the effect of "reservations" on the chances of women winning elections after quotas have lapsed. Using data from Mumbai, he finds that the reserved seats increase the chances of a woman winning office by approximately five times, even after the seat becomes unreserved. Reservations mainly work by introducing into politics a cohort of women that are able to secure party tickets and win office after reservations lapse. It allows political parties to learn that women can win elections. This study is noteworthy in the realisation that reservations ought to be about probability, of improving the opportunities for women's participation in public life. It is not deterministic. Some measures are to be taken to allow a possibility in the future without the surety of numbers.

Lastly, we would like to visit the latest reservation judgment by the Supreme Court armed with Upendra Baxi's seminal essay wherein he surmises that taking suffering seriously is a moral duty of the courts that are supposed to deliver justice in a democracy. He states that Indian courts did fulfil this duty through the social action litigation especially in the 1980s where they became the advocates of the populations rendered

voiceless by the rule of might. In the current trying times too, we hope the highest court in the country will revisit its mandate of being the people's court (Baxi 1985).

In the absence of reservations, we are robbed of the possibility of scs and sts entering educational and work spaces, of the dream of intergenerational upward mobility that was promised by the key draftsman of our Constitution, B R Ambedkar,

and of the voices of the marginalised in the discourses about their own needs. It is then no wonder that the discourses around reservations today work to bury the achievements of these students and employees and amplify their quota or non-merit status. In this way, the feverishly debated constitutional assurance of eventual equity through the generations, is reduced to dealing with people who are liabilities.

NOTES

- 1 Due to paucity of space, this paper does not analyse judicial trends by chronologically considering all reservation judgments so far, a study we hope to undertake soon.
- 2 1963 AIR 649.
- 3 Civil Appeal No 1226 of 2020, in the Supreme Court of India.
- 4 The article uses the administrative nomenclature SC where it refers to official data and numbers, whereas the term Dalit where political consciousness of the subjects is a material factor.
- 5 The number of deaths of sanitation workers while cleaning septic tanks and sewers has risen, despite a ban on manual scavenging, with 620 cases reported since 1993, of which 88 occurred in the past three years, according to the Social Justice and Empowerment Ministry. See Nath (2019).
- 6 The Central Educational Institutions (Reservation in Teachers Cadre) Ordinance, No 13 of 2019.
- 7 Tony Morrison's, *Bluest Eye* (1970) is a story of a young girl who preys to god every night that she should wake up with blue eyes. Then maybe, she hopes, her parents will love her, her abuse will stop.
- 8 See Crenshaw (1990), Yuval-Davis (2006).
- 9 Renee Rogers, a black American woman and flight attendant, sued her employer, American Airlines, for whom she worked for 11 years, when it demanded that she not wear her hair in a cornrow style, and instead asked her to style her hair in a bun. American Airlines based their hair change requirement on their grooming policy. Renee's argument was that the policy banning her from wearing braids at work was discriminatory based on race and sex. The trial court quickly dismissed Renee's argument of sex discrimination because the grooming policy at issue applies to both men and women, in that a man with longer hair would also not be permitted to wear an all-braided hairstyle. Additionally, Renee argued that the policy was discriminatory on the basis of race because cornrows have a special significance for black American women in that they have been "historically, a fashion and style adopted by Black American women, reflective of cultural, historical essence of the Black women in American society." See, <https://libraryguides.missouri.edu/c.php?g=593919&p=4124519>.
- 10 Scholarly articles have discussed this; see Rao (1999), Teltumbde (2007), P Baxi (2014).
- 11 It is pertinent to note that English and even Hindi media lack Dalit journalists. See Ashraf (2013).

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EPWRF India Time Series
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The Economic and Political Weekly Research Foundation (EPWRF) has added state-wise data to the existing Banking Statistics module of its online India Time Series (ITS) database.

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