

# Implementation issues in 10% reservation

A well-designed assignment mechanism is vital for the quota for economically weaker sections to work



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A new Constitution amendment provides 10% reservation to individuals from economically weaker sections in the general category for government jobs and educational institutions in India. A view of Parliament. ■ AFP

A new Constitution amendment provides 10% reservation to individuals from economically weaker sections (EWS) in the general category for government jobs and educational institutions in India. This law raises several implementation questions. Under the law, EWS applicants may even find it harder to obtain positions. These problems can be addressed using the science of matching theory.

Boston, where we are based, faced similar implementation challenges with its school assignment system. Like India, thousands of school assignments in Boston are made using a matching process with a system of reserves. In part due to our interaction with Boston officials, the city moved to a scientifically sound implementation of their policies. Boston's experience holds important lessons for India.

## Unreserved to reserved

Until now, India's main reserve-eligible groups have been Scheduled Castes, Scheduled Tribes, and Other Backward Classes. In job and university assignments, there is a widespread tradition of first assigning a reserved category applicant to an unreserved position if he or she qualifies on the basis of merit alone. When unreserved positions are exhausted, a reserved category applicant may then be considered for a reserved position. A meritorious reserved candidate (MRC) is a reserved category applicant, who is tentatively assigned to an unreserved position.

When the assignment involves multiple types of jobs or universities, the existence of MRCs raises two important questions. One, can an MRC move to a reserve position for a more preferred job or university place if he or she is tentatively holding a less preferred unreserved position? Two, if such movement is allowed, what happens to the newly vacated seat?

A 2004 Supreme Court decision in *Anurag Patel v. U.P. Public Service Commission* mandates that an MRC

is entitled to move or "migrate" to the more preferred assignment. A 2010 Supreme Court decision in *Union of India v. Ramesh Ram & Ors* answers the second question for the case of public sector job assignments. It specifies that the newly vacated position is to be given to a candidate from the general category, who is not eligible for any reservation. That is, even if there is a more deserving reserved category applicant — say, another MRC who received a less preferred position — the newly available unreserved position can go to a potentially lower-scoring applicant from the general category. Therefore, one unintended consequence of this judgment is that the cut-off score for reserved category candidates can be higher than the cut-off score for the general category.

At present, a small fraction of unreserved positions are tentatively assigned to reserved category applicants. This means that the number of meritorious reserved candidates is relatively modest compared to the number of unreserved positions. But with the new EWS reservation amendment, a large fraction of general category applicants are expected to qualify as economically weak. This means that a large share of unreserved positions will be tentatively assigned to the EWS category. As a result, there will be many more meritorious reserved candidates. And the positions they vacate due to migration are to be offered to the general category candidates who do not qualify for EWS reservation due to *Ramesh Ram*. This may result in a reduction in the number of positions

offered to those in the EWS category. For example, under the system used by the Union Public Service Commission to allocate the most sought-after government jobs in India, such as in the Indian Administrative Service, a non-EWS applicant from the general category would take newly vacated positions following migration, increasing their overall share. In all likelihood, the cut-off scores will be higher for EWS candidates than for non-EWS general category applicants, meaning it's harder for the poor to qualify than the rich. Creating such a large reserved category results in a big challenge to the implementation of *Ramesh Ram*, or any system based on the idea of a meritorious reserved candidate.

## Horizontal or vertical?

Another implementation challenge with the new amendment is that the new law does not explicitly state whether the new EWS reservation is horizontal or vertical. This is despite the clear distinction made in the landmark judgment in *Indra Sawhney v. Union of India* (1992).

A horizontal reservation is a 'minimum guarantee', which only binds when there are not enough EWS applicants who receive a position on the basis of their merit score alone; if so, the bottom-ranked general category selections are knocked out by the top-ranked unselected EWS candidates. With a large number expected to qualify for EWS, the 10% minimum guarantee will already be achieved essentially in all applications. This means the policy, if applied horizontally, will virtually have

no effect.

A vertical reservation, on the other hand, is an 'over and beyond' reservation. This means that if an applicant obtains a position on the basis of his or her merit score without the benefit of the reservation, it does not reduce the number of reserved positions. This important distinction appears not to have been a part of discussions leading up to the passage of the law. A government memo suggests that the new EWS reservation might be vertical, but it is important that this issue be clarified.

We have seen first-hand how challenging these notions can be in practice. Boston originally had a neighbourhood reserve for half of each school's seats. Officials were not clear whether this neighbourhood reserve is a minimum guarantee or an over-and-beyond allotment. When the Mayor advocated for increasing neighbourhood reserves, there was a great deal of confusion and anger about the underlying policy. Our research showed that Boston had effectively negated the neighbourhood reservation, by applying a horizontal implementation. The original intention of Boston's policy, however, was to have an over-and-beyond neighbourhood reserve, as in the vertical implementation. Transparency about these issues brought about an entirely new system.

These issues can be resolved using a well-designed assignment mechanism and transparent rules about processing of reserves. Our experience in Boston generated academic literature which has gone on to influence assignment practice throughout the U.S. Our research shows how it is possible to adapt these mechanisms for India and satisfactorily implement reservation policies, as they are envisioned in *Indra Sawhney*.

Lack of clarity on implementation opens up possibilities to distort or even manipulate outcomes, undermining policy goals. It can confuse the public and keep university or job assignments in limbo for years as courts process legal challenges. India's new EWS reservation policy is heading in this direction unless these implementation issues are addressed head-on.

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# The Bahujan movement needs to reinvent itself

Mayawati's challenge is to bring different marginalised communities together



BADRI NARAYAN

The Dalit movement in north India started taking shape under the cultural and intellectual leadership of Swami Achhootanand and his Adi Hindu Movement in the 1920s. Active in areas that are now Uttar Pradesh and Bihar, the movement received new momentum when the B.R. Ambedkar-led Republican Party of India (RPI) began to work during the Independence struggle and after. The RPI tried to expand in the Hindi belt, but it managed to impact only a few parts of U.P. in the 1960s and '70s. The Congress, the ruling party then, empowered the Dalits through various Constitution amendments, laws and policies. The Arya Samaj movement also helped to provide an identity and respect to various Dalit communities.

The major turn came in the 1980s and '90s when the Bahujan movement, under the leadership of Kanshi Ram, started influencing the society and politics of north India. The Bahujan movement had a broader definition of the oppressed, and included the Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs). It also included lower-caste Muslims (Azlafs). Mayawati emerged as the leader of the Bahujan movement after Kanshi Ram's death. She went on to become U.P. Chief Minister four times.

## Failure to mobilise small communities

The Bahujan movement, which transformed into a political party called the Bahujan Samaj Party (BSP), is now facing a crisis. In the last few years, its vote share has been declining. Though the BSP has continued to enjoy the support of the numerically strong Jats in U.P., it has failed to continue to garner support from the other major Dalit communities by mobilising them under the Dalit-Bahujan frame of politics. Their votes are also fragmented among the Samajwadi Party (SP), the Bharatiya Janata Party (BJP) and the Congress. As a result, they are not being able to acquire electoral clout that could put pressure on political parties to work for their development. The Bahujan movement in U.P., Bihar, Madhya Pradesh and Rajasthan is centred mostly around Dalit communities



MS. MAYAWATI

that are visible and large in number. It has to penetrate deeper to reach communities that are relatively invisible, numerically smaller, and voiceless.

The influence of the Bahujan movement among the Most Backward Classes (MBCs), OBCs and STs is also waning. Many of them supported the BSP in the first and second phases of Bahujan mobilisation. Kanshi Ram had successfully created a rainbow coalition of a few OBC and MBC, and many SC, communities. However such a coalition broke down in a later phase of Bahujan politics. The movement is also failing to mobilise the Muslims who are part of the Bahujan communities. Kanshi Ram had sought to bring them under one umbrella.

## Leadership crisis

Another crisis is that the Bahujan movement has failed to cultivate powerful leaders at the top level. Some Lal Patel, who founded the Apna Dal (Sonelal), and Om Prakash Rajbhar, who leads the Suheldev Bharatiya Samaj Party, are products of the Bahujan movement. They may have emerged as the second rung of leaders of the movement, but due to some reason or the other, the BSP failed to keep them under its fold. Now, many young leaders, such as Chandrashekar Azad Ravan and Jignesh Mevani, who are not satisfied with the BSP's performance, are challenging the form and content of the contemporary Bahujan movement. They are challenging the BSP's 'sarva-jan' idea.

The Bahujan movement needs to revive itself as a movement and take up many social issues in its agenda which are linked to the empowerment of Dalits. The BSP needs to expand among the most marginalised communities. The BSP has found new ways of reaching out to the people, such as through social media, but it needs to also retain the traditional ways of mobilisation such as organising small meetings in Dalit localities.

The BSP's performance this election will decide its future. Given that the SP and the BSP are fighting the election together, this will be a test of Ms. Mayawati's capacity of transferring the BSP's vote base to the SP. The possibility of the Dalit base shifting to the Congress will also be a cause of concern for the Bahujan movement, given the possibility of a revival of the party in north India.

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## SINGLE FILE

# Leaders and growth

Questions to ask as political systems continue to tip towards strong leaders

CHIRANTAN CHATTERJEE



Compared to geography, legal origins and political institutions, what role do leaders play in economic growth? This question is salient in India given that the challenge of sustaining economic growth might be moving from a single leader to a multi-leader competition mode. While many business leaders in India have advocated for

decisive leadership to maintain the momentum of growth, data show that coalition governments performed respectably whenever they were in power. This raises the question of how much a leader matters to economic growth.

That conundrum is also at the heart of the 'great man theory' of the world, which British historian John Keegan wrote about. He argued that the political history of the 20th century can be found in the biographies of six men: Lenin, Stalin, Hitler, Mao, Roosevelt, and Churchill.

Providing causal evidence in this area can be complicated because economic growth, good or bad, could throw up certain types of leaders, which may have subsequent effects on growth itself. Economists Benjamin Jones and Benjamin Olken showed that one can use random leadership transitions, from death due to natural causes or an accident, to provide more causal evidence. Using worldwide data from 1945 to 2000 and 57 random leadership transitions, they showed that leaders matter for economic growth, but leadership effects are strongest in autocratic rather than democratic settings. They also found that the channel through which leadership impacts growth was through monetary and fiscal policy, not private investment, and that the deaths of autocrats, particularly extreme autocrats, led to improvements in growth rates. Similarly, Tim Besley and co-authors showed in their 2011 paper, using an expanded dataset between 1875 and 2004, that rather than leaders per se, more educated leaders cause higher periods of growth compared to less educated leaders. They also showed in a 2016 paper that resilient leaders facing a lower probability of being replaced are less likely to reform institutions in the direction of constraining executive power.

Notwithstanding these studies, many questions remain: What else matters besides economic growth? For example, should we consider national security, religiosity, economic inequality? Should specific leadership attributes be explored as being the key to assuring sustained economic growth? For example, how much does it matter whether a leader is from a dynastic versus non-dynastic background? Do married leaders have a bigger impact or single leaders? What about the age of leaders, and whether they were educated in Western democracies, and to what extent they exuded charisma? As political systems across the world continue to tip towards strong leaders, these questions will matter more than ever before.

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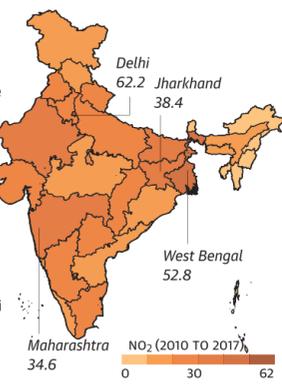
## DATA POINT

# Particulate problem

While nitrogen dioxide (NO<sub>2</sub>) and sulphur dioxide (SO<sub>2</sub>) levels remained largely within limits in most States, particulate matter pollution, especially PM<sub>10</sub> levels, crossed the limits prescribed by the Central Pollution Control Board in most States between 2010 and 2017. By Sumant Sen

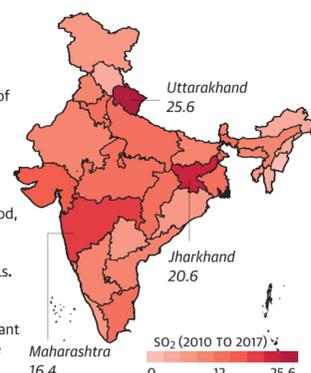
## NO<sub>2</sub> pollution

The average annual NO<sub>2</sub> levels between 2010 and 2017 in Delhi and West Bengal surpassed the prescribed limit of 40 µg/m<sup>3</sup> by a significant margin. However, it stayed within limits in all the other States in this period. The map shows the average NO<sub>2</sub> level in this period. The NO<sub>2</sub> 2017 average in Delhi was 68 µg/m<sup>3</sup> — the highest for any State in any year between 2010 and 2017



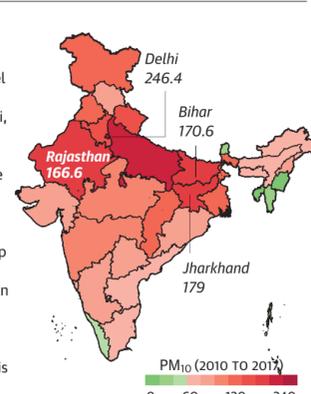
## SO<sub>2</sub> pollution

The average annual SO<sub>2</sub> level didn't cross the prescribed limit of 50 µg/m<sup>3</sup> in any of the States between 2010 and 2017. In most of the years in this period, Uttarakhand recorded the highest SO<sub>2</sub> levels. Jharkhand and Maharashtra too recorded significant levels of average SO<sub>2</sub> pollution



## Through the roof

The average annual PM<sub>10</sub> level between 2010 and 2017 in Delhi, Uttar Pradesh, Jharkhand and Bihar crossed the danger mark. Kerala, parts of the Northeast, and Lakshadweep recorded low levels of pollution in this period. The map shows average annual PM<sub>10</sub> levels in this period



PM<sub>10</sub>: Particulate matter less than 10 µg/m<sup>3</sup> in diameter  
Source: CPCB

## FROM The Hindu. ARCHIVES

FIFTY YEARS AGO MAY 15, 1969

## Foreign money used in last elections

Intelligence reports of the Union Government have indicated that sizable amounts of foreign money have been received on a selective basis by individuals and organisations, and that possibly funds obtained from foreign sources were used in the last general elections. The Union Home Minister, Mr. Y. B. Chavan, giving this information to the Lok Sabha to-day [May 14, New Delhi], said comprehensive legislation would be brought forward to impose restrictions on receipt of funds from foreign organisations, agencies or individuals otherwise than in the course of ordinary business transactions. Government would consult Opposition leaders on the principles of this legislation. Foreign organisations about whose sources of funds Government had the slightest doubt (like the Asia Foundation) would not be permitted to function in India.

A HUNDRED YEARS AGO MAY 15, 1919.

## Anthrax Bill.

In the Commons [in London], Mr. Hamar Greenwood moved the second reading of the Prevention of Anthrax Bill, empowering prohibition of importation of goods infected or likely to be infected with anthrax, compulsory disinfection of infected wool and similar goods, and establishment of State works for disinfection of infected goods at importer's cost. Mr. Greenwood said that in spite of all precautions a number of cases of anthrax in wool and allied trades had steadily increased. The Bill was based on the unanimous recommendation of the Committee representing the trades concerned. A process for effectively eliminating anthrax germ without affecting material had been discovered. The cost of establishing the first disinfecting station was estimated at over £40,000. As soon as it was erected it was to start disinfecting east Indian goat hair, which was one of the sources of infection.

## POLL CALL

## Election petition

An election petition calling in question any election can be presented on one or more of the following grounds: a) that on the date of the election a returned candidate (a candidate who has been declared elected) was not qualified; b) that some corrupt practice was committed by a returned candidate or his election agent; c) that any nomination was improperly rejected; and d) that the result was materially affected. If any of these is true, the High Court where the petition is submitted declares the election of the returned candidate to be void. A petition can be submitted by any candidate or elector within 45 days of the declaration of the result.

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