

RUNNING HEAD: Affirmative Action

Affirmative Action in a Domestic and International Context

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Abstract

This paper is a comparative analysis of affirmative action in institutions of higher education in the United States and India. The project takes on the shape of a literature review of resources on affirmative action as a concept and also in practice. Affirmative action in India is referred to as Reservation Policy. Therefore, this paper will focus on the historical foundation, policy benefactors, legislative structure, institutional implementation and critiques of affirmative action and reservation policy.

Introduction

The intersection of race and education in America has been a topic in public discourse since the arrival of the first slaves from Africa, because this time marked the beginning of social stratification based on race. Along with social division came an unequal distribution of resources and access to assets that produced a group of have and have nots. For clarity, race is a social construct based on classifying people in terms of physical characteristics, such as skin color, hair texture and facial features. Race in America, is commonly referred to as black and white; however, the emergence of Latinos and other minority groups broadens the conversation. During the year 2004-2005, people of color accounted for 81 percent of the population growth (Jayakumar, 2008).

With the emergence of people of color, it is imperative to create integrated educational institution where students can engage in cross-cultural dialogue. White students mainly populate many of the most selective institutions of higher learning and have higher rights of participation in post secondary education. Furthermore, affirmative action is responsible for the progress American higher education institutions have made in creating diverse learning environments. In order to continue that growth the policy remains necessary and relevant.

Initially, affirmative was created to compensate minorities for past injustices. Over the years, the policy has received much contention and its future in the United States is unknown. Minorities in the United States are the direct benefactors of affirmative action policies. While women and all racial minority groups benefit from affirmative action policies, African Americans, Latinos, and Native American Indians share a common history of varying forms oppression in America. Therefore, these groups are able to make significant gains in terms of social and economic development as a result of affirmative action policies. Similarly in India,

affirmative action policies were established to improve society by bestowing a restoration of access upon members of society at the lowest form of the social hierarchy. These groups of people were denied the rights to education, wealth, and health.

Rationale for Affirmative Action in Higher Education & Reservation Policy

There are various forms of affirmative action programs, including racial, gender, and economical in the United States (Sterba, 2009). However, this research will focus only on the racial preference form of affirmative action. In India, the concept includes various ethnic groups. As opposed to race, ethnicity is not always determined from an individual's appearance. Reservation policy regarding ethnicity difference is similar to affirmative action pertaining to racial differences. The current rationale for affirmative action exists because of the need to provide access to individuals that have been neglected by society. The underlying principle for affirmative action and reservation policy programs has traditionally been grounded in the principle of providing access to groups of the people that have been left behind from mainstream economic and social development. Moreover, exposure to post-secondary education is often cited as one of the fundamental experiences to impact an individual socially, culturally, and financially. It is estimated that over the working life of a college graduate, he/she will make five times more than a non-college graduate. The most effective voice to make obvious the role of affirmative action in higher education is illuminated through the work of William G. Bowen and Derek Bok (1998):

The relative scarcity of talented [minority] professionals is all too real. It seems clear to a number of us...that American society needs the high achieving [minority] graduates who will provide leadership in every walk of life...We agree emphatically with the sentiment expressed by Mamphela Ramphele, vice chancellor of the University of Cape Town in

South Africa, when she said: “Everyone deserves opportunity; no one deserves success.” But we remain persuaded that present racial disparities in outcomes are dismayingly disproportionate... There is everything to be said... for addressing the underlying problems in families, neighborhoods, and primary and secondary schools that many have identified so clearly. But this is desperately difficult work, which will, at best produce results over a very long period of time. Meanwhile, it is important... to do what can be done to make a difference at each educational level, including colleges... Turning aside from efforts to help larger numbers of well-qualified [minorities] gain the educational advantages they will need to move steadily and confidently into mainstream American life could have extremely serious consequences (p. 283-286)

The role of higher education in providing a vehicle for minorities to transcend their current realities is undeniable. Although the quote speaks from the American perspective, it provides utility from the Indian viewpoint as well. Some societal issues are outstanding and progress will come over long periods of time. In comparison to other strategies for improving social conditions in the United States and abroad, participation in higher education provides immediate results that produce benefits for the individual, his/her family, the country and universal community.

Globally, the need and desire for higher education has increased, which heightens the dialogue on viable paths to fulfill new demands. Increased demand for higher education is forcing higher education institutions to create new innovative programs or mend existing policies to extend access and create opportunities for more students to gain advanced knowledge. The Institute for International Education produced *Higher Education in the 21st Century: Global Challenge and National Response* to create global dialogue on the issues facing post secondary institutions worldwide and providing more access is a worldwide challenge. For instance, China

and India are the most first and second populated countries. In 1991, under 5 percent of the population in both countries attended post secondary education (Altbach & Peterson, 1991). The responsibility in India to obtain a more highly educated nation, often involves expanding access to groups that have traditionally been held back from participation.

A highly skilled and educated workforce is a prerequisite for a country's economic and social development. In the case of India, the country's ability to be recognized as a developed country is dependent on the ability of the educational infrastructure to provide more opportunities to higher education. Only 9 percent of India's population age 17-23 has access to higher education (Gupta, 2006, p. 3). In comparison, the United States is in a crucial state of increasing the skills level of its older adults, also known as non-traditional students. The greatest thrust of developing new talent and labor will occur from enhancing the educational attainment of lower economic individuals, who also happen to be minorities. Affirmative action and reservations along with secondary academic readiness are two strategies to increase participation of minorities and lower social class citizens in higher education. Consequently, the economic standing of the United States and India could improve with the development of skilled labor thereby giving the countries a competitive edge. Therefore, while the history of reservation policy is grounded in terms of equity for class and social divisions, globalization and current market demands situate affirmative action and reservation policy in an economic context.

Public institutions are responsible for serving the needs of the general population and have to implement institutional policies to address demographic changes in the population. Affirmative action and reservation policy are needed to create a society of fairness and equity in the United States and in India to ensure that all members of society are being properly supplied with the necessary services.

Higher education institutions are positioned to provide adults with opportunities to become more aware of themselves and their external environment. For individuals that pursue higher education immediately following the completion of secondary education, attending a college or university is a poignant time in their lives to learn and interact with people that are different from themselves. This is especially true in the United States because a significant portion of high school students attend school with their same race peers. White students are reported to have the least interaction with individuals from different races during the pre-college years (Jayakumar, 2008). Diversity in college is needed to replicate the cultural, religious, economic and social differences in society. Higher numbers of minority students increase the likelihood for cross-cultural interaction. Therefore, minority inclusion is vitally important to create diverse learning communities. Furthermore, a significant number of qualified minority students enter education as a result of affirmative action policies.

History of Reservation Policy

Social injustice in India results from traditional society hierarchy in the form of the caste system, which delineates individuals into social groups. Following India's independence from Great Britain, the country's constitution was amended by enacting policies to advance society by affording opportunities to members of the lower or backward castes. The quota reflects the population percentage of individuals that compose the lowest social groups. The constitutional support of the reservation policy prevents further litigation. According to reservation policy, lower caste individuals have to compose a certain percentage of students at public universities and employees for the government, which is also referred to as reservation quotas (Deshpande, 2006). Although reservations for women are sought after, the current status only pertains to the Hindu social class structure.

The caste system in India dates back to ancient times when the *varna* system, which divided society into five distinct groups: Brahmins, Kshatriyas, Vaisyas, Sudras and Ati- Sudras. The classifications are clear distinctions of relevance and importance to society. It is important to note that caste systems exist in other religions, but the following text describes only the caste system from the Hindu perspective. Lower castes in the Hindu religion are the recipients of reservations (Deshpande, 2006). The lower caste groups are responsible for perceived menial jobs, such as cleaning and tending to the fields. Furthermore, the Ati-Sutras were considered as “the untouchables,” social pariahs that were to be avoided by upper caste members. In 2006, Ati Sudras comprised of 16 percent of the population and Sudras were approximately half of the population (Deshpande, 2006).

The *varna* system had transformed into the modern *jaiti* system, although current classification is not as distinct because there are now regional classifications as opposed to national categories. However, it is clearer that the former untouchables are still ranked as the lowest caste level. Similar to their historical past, they are still being discriminated against and are the countries’ poorest group. Due to their oppression, these groups are recorded in the government schedule; hence they are referred to as Scheduled Castes (SC). However, they are most commonly referred to as Dalit, which means “the oppressed”, but the term holds a sense of pride. The caste-system and untouchability does not theoretically exist in present-day India, but members of the society are still discriminated against (Deshpande, 2006).

The second group that is allotted for under the reservation policy is the Scheduled Tribes (ST), which are individuals from tribal backgrounds and are commonly known as Members of this group are Adivasis, original inhabitants of the land with different life-styles, customs, and religions. People connected to tribal groups often reside in remote areas and do not tend to

participate in modern development. Therefore, members of this group are given rights under the tenets of reservation policy.

The last group of benefactors of reservation policy in India include individuals that are considered in the middle of the spectrum and are referred to as “Other Backward Classes” (OBCs). These individuals are not members of the Forward Caste (FC) or upper-level social, but they are neither SC/ST. Unlike the other lower caste groups, OBC have not experience “untouchability” and exclusion from society. In states such as Madras, Bombay and Mysore, OBC status gives individual access to welfare programs, employment, and educational opportunities (Deshpande, 2006).

In 1981 a report called the Mandal Commission Report (MCR) recommended extending reservations to the OBC group at 27%. Under the leadership of Prime Minister V.P. Singh, OBC reservations were implemented, which lead to great public unrest. Therefore, this group did not have benefits under the original reservation policy. The literature does not state the reasons given for adding the OBC category almost 30 years after the origin of the policy.

Reservation policy identifies its intended audience and benefactors. Reservation policy is a quota system that directly correlates to the percentage of the population. Seats public education, government and employment are reserved for members of the targeted class. Regarding higher education, reservation policy is implemented in three components, the student admissions level, non-teaching staff and teaching staff (Xaxa, 2002).

Implementation in India

Implementation of reservation policy at higher education institutions is not as subjective as in the United States and may be reasonably enforced. Reservation policy is implemented in three categories in higher education institutions, admission of students, non-teaching staff and

teaching staff. Within the last years, the University Grants Commission (UGC) has directed universities to comply with reservation policy and broaden the reservation programs to include the hiring of more eligible candidates to teaching and non-teaching positions, this initiative may be easily accepted or contended depending on the direction and commitment of the institution.

The University of Delhi is one of India's largest institutions and holds 20 percent of seats for reservation eligible candidates, which is less than the 22.5 percent that the Indian government had mandated (Xaxa, 2002). Actually the percentage of SC/ST enrollment at the undergraduate level has decreased from 1995-2000, beginning with 10 percent for SC enrollment and 1.9 percent for ST. In 2000, the undergraduate enrollment for SC was 8.6 percent and 1.8 for ST. As a result, there are several vacancies in SC/ST enrollment and non-eligible students cannot fill these seats (Xaxa, 2002).

While all of the reasons for low enrollment of SC/ST students are unknown, the student experience beyond admission may contribute to the matriculation of these students. It was reported that the University of Delhi does not provide additional academic or support services to SC/ST students once they are admitted. A critique of reservations suggests that SC/ST students are not academically prepared for the collegiate environment. If students do not receive support from the university once they become students, then they may always trail behind their peers. Discrimination within the academic environment from administrators, faculty, and peers may also help to explain the decline in enrollment. A lack of meritorious recognition and consistent inability to be perceived as a scholar were identified as negative factors associated with being a recipient of reservations (Xaxa, 2002; Gupta, 2006).

Worries of being accepted and fear of being ostracized among peers were continuous themes in the literature and media coverage on SC/ST and OBC candidates. Recently in 2008,

Anshu Kumar an incoming University of Delhi student that qualified for OBC status did not accept the reservation because he preferred to be admitted based on merit. Kumar believed that someone else could use the status because he did not need it. Furthermore, he was concerned that the OBC status would not allow him to be accepted socially by non-OBC students. This example suggests that there is an authentic need for institutional intervention in order to make all students feel welcomed. In the same interview, S.R. Arora, Principal of Hansraj College at Delhi University acknowledged students concerns by encouraging them to contact him if they experience trouble (<http://www.youtube.com/watch?v=W9FIpJa5Lhg>). Yet, it is not clear that the Delhi University, as an entity, demonstrates a commitment to reservations students through coordinated academic and support services to improve their student experience. It is critical to these vulnerable students to implement support service, especially as student protestors make known their discontent with expanded reservations.

Institutions such as Delhi University grant automatic admission, while other post-secondary education administer additional screening processes. The Indian Institutes of Technology (IITs) are esteemed for their production of highly-skilled graduates. The admission process for IITs is quite rigorous and exceptions are made for reservations eligible students. IITs allot 15% of the incoming students to be of the SC background, 7.5% of from the ST group, and 27% of OBC status. Reservation students have to pass the IIT-JEE examination. In the event that a student does not pass, he/she will have to take one year of course work and then retake the examination. After passing the second examination students will be permitted to proceed to regular coursework. According to this policy, students have the improved skills to compete alongside their peers. While the reservations status is a benefit, it does not exempt them for normal procedures (Xaxa, 2002).

The expansion of the reservation system has caused uproar across India. In order to understand the depth of this issue, it is important to analyze the social context in which the policy is implemented. The traditional separation of groups has evoked feelings of resentment among various castes. Reservation policy is an attempt to legislate change to bring about equity for the most oppressed groups in the country. Individuals are not only divided among the caste system, there is also an urban versus rural dynamic that underscores the reservations policy debate. City dwellers may conclude that discrimination of the Dalits may no longer exist. On the other hand, the discrimination of Dalits is clear among themselves and other rural dwellers. In that respect, reservation policies are purposeful and have clear objectives, to assist those that truly need aid.

The need for aid becomes questionable in terms of the OBC classification because status seems to be a clearinghouse for individuals that did not fit the profile of SC/ST status. The oppressive history of this group is vague, causing skeptics to question the rationale for giving OBC reservations. Furthermore approximately half of the country's population is considered OBC. Although the literature does not explain how OBC reservations lead to political corruption, the number of allegations is alarming. In order to develop an accurate analysis of reservations, the advancement for SC, ST, and OBCs should be evaluated independently. Reservation program in higher education does have the ability to create fundamental change when the objective and benchmarks are clear.

History of Affirmative Action in the United States

The history of affirmative action commenced under the leadership of President John Kennedy in 1961 when the term "affirmative action" appeared in the Executive Order of 10925 (Sterba, 2009, p.191). Executive Order 10925 was the foundation of the Civil Rights Act of 1964, which forbids any employer to discriminate on the basis of an "individual's race, color,

religion, sex, or national origin.” Moreover, the act also states that “no person in the United States Shall, on the grounds of race, color or national origin be excluded from participation in, be denied to the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance. The Civil Rights Act of 1964 impacted all forms of daily life, from employment, housing, education.

Although the Civil Rights Act of 1964 created the beginning of the affirmative action in public higher education institutions, the legal case *Regents of California vs. Bakke*, transformed the implementation of affirmative action programs. Before the *Bakke* case, past social injustices and oppression were sufficient reasons for granting admissions. The ruling of *Bakke*, made affirmative action permissible if the institution could provide compelling arguments for using affirmative action. Even when the arguments are compelling, there still is not a standard method for administering affirmative action programs.

Implementation in the United States

Unlike in India, affirmative action no longer operates from a quota system in the United States. The litigious nature of American society and the ability to protest affirmative action policies via the use of lawsuits has led to the abolishment of affirmative action policies in various states.

In recent years, key lawsuits have altered the practice of affirmative action policies in states such as Texas, California and Michigan. In the case, *Hopwood v. Texas* three white law school students were denied admission to the University of Texas Law School and filed a lawsuit against the State of Texas. In order to achieve diversity in admission, the Law school developed two different admission criteria for whites and minorities. The two admission tracks allowed minorities to compete with each other and the same is true for whites. When comparing minority

applicants to white students, minorities had lower admission scores than their white counterparts but would still be admitted to the Law School.

The ruling of *Hopwood v. Texas* abolished affirmative action programs in Louisiana, Texas and Mississippi. As federal policy impedes on institutional autonomy, higher education institutions are left with the task of creating institutional policies to circumvent federal rulings, if the institution is still committed to achieving student-body diversity.

State policymakers in Texas created the *Texas Top Ten Percent Plan*, in which the top 10 percent of graduates from any high school in the state gain automatic admissions to any publically state funded college or university. The implementation of this policy restored an institution's ability to gain racial, geographic and income diversity in public institutions of higher learning. State policy coupled with institutional policies can help to restore diversity in higher educational institutions where affirmative actions programs have been abolished.

State policies dictate the implementation of affirmative action. Higher education institutions are responsible for interpreting state laws and coordinating affirmative action programs to comply with the legal ramifications of state policy. A conversation about affirmative action in the United States cannot be had without mention of the University of Michigan in Ann Arbor, MI.

The University of Michigan admissions system operated on a point scale, in which students received points based on the certain aspects of their application. Members of racial minority groups received automatic points. The University of Michigan demonstrated its commitment to diversity and by using race-conscious admission policies, which later became rules as too mechanical by the judicial court. The irony in this situation is that the federal policy

encourages institutions to act favorably towards inclusion and diversity, but the legislation does not provide guidance as to how to implement affirmative actions programs.

A similar policy of admission was enacted at the University of Michigan Law School, which led to two lawsuits on the behalf of Jennifer Gratz, a white female applicant was denied admission to the University of Michigan Law School. Gratz accused her lack of acceptance to be the fault of minorities on the basis that if underrepresented students did not receive racial preference points, she would have been accepted. Her allegations resulted into two lawsuits declaring University of Michigan race-conscious policies as unconstitutional. In 2000, the U.S. Supreme Court heard two simultaneous against the University of Michigan undergraduate and law school admissions policies, the cases were *Gratz v. Bollinger* and *Grutter v. Bollinger*. The ruling of the earlier *Bakke* case was used as University of Michigan's defense that universities had to have a compelling argument for using racial preference and that institutions were capable of expressing their difference. *Gratz and Grutter* used an aberration of the Civil Rights of 1964 as the support for their case (Kidder, 2008). Consequently, the decisions of both cases led the University of Michigan to abandon racial-preference admission policies.

In the last decade, there has been a growing trend of resistance to racial preference affirmative action programs in higher education institutions. California, Washington, Nebraska, Michigan, Texas and Louisiana have developed state policies forbidding the use of racial preference affirmative action policies in post-secondary institutions. Once a state has implemented a legal ban on affirmative action, it is difficult to reverse any legal implementation or legislative policy.

Proposition 209 in California eliminated the use of racial preference affirmative action in all public institutions. Consequently, minority enrollment decreased at across all institutions in

the University of California System (UC). These institutions are all public funded although some of them or more selective than others. Most noticeable was the staggering decrease in African American undergraduate enrollment at the University of California at Los Angeles (UCLA). UCLA led the minority enrollment especially African American, yet the inability to consider race decreased both the number of applicants and the number of admits. Proposition 209 also limited the amount of scholarships and grants current students received because the institution could not administer aid on the basis of race, sex, gender, or religion (Kidder, 2008). The policy affected minority groups in varying degrees, for example while African American and Latino enrollment decreased across the UC, Asian enrollment increased. The reasoning behind these trends is associated with prior educational histories. On average, African American and Latino students perform worse of standardized test than their Asian peers. However, all things considered Proposition 209 left institutional leaders with the difficult challenge of increasing minority enrollment and state policymakers were tasked with the responsibility of serving their constituencies.

In 2006, only 2 percent of UCLA's incoming freshman class was African American, which equates to 99 students out of 4,800 freshman (Daily, 2006). For an institution with a rich heritage of training notable African American leaders such as Ralphe Bunche, Jackie Robinson and Tom Bradley, the low enrollment was considered a crisis. As an institution, any new resolutions to solve the crisis were evaluated by the guidelines of Proposition 209. There just is not a proxy for race. Nothing substitutes for one's race, not economic class, gender, or class rank.

In order to circumvent the prohibition of considering race in admissions decisions, UCLA put into practice a holistic application review in 2007. Each freshman application was read in its

entirety as opposed to having multiple sections read by different individuals (Daily, 2007). The holistic model was practiced at UCLA's competitors such as Stanford and University of California at Berkeley. Without being able to recognize race as a factor in admission, UCLA encountered difficulty competing with private and Ivy League schools that were not limited to adhering to public policies. As one of California's flagship universities in one of the most diverse states, it is important that the institution is able to send a welcoming message to all residents. When African American enrollment dropped to the lowest in had been in 30 years, the welcome message was aborted. The irony existed in the fact that the fault did not lie with the school, but with mandated state policy. As an institution, UCLA was just as committed to diversity pre-Proposition 209 as during post Proposition 209; yet, the school had to comply with law.

Implications

The research on affirmative action and reservation policies alludes to the complexity of both these principles, in theory and practice. There is a strong moral aspect that underlies the perception and stance people take on these issues, often times proponents and opponents cite similar themes to prove their convictions, equity and equality. Proponents of racial preference affirmative action programs place value in creating equity by redistributing resources to groups that were denied assets that could have changed their economic and social destinies. Opponents suggest that racial preference affirmative action programs stigmatized recipients in their eyes and through the lens of majority groups.

The reasons for supporting and opposing affirmative action and reservation policy are similar in the United States and in India. Therefore, the significance of exploring this debate in an international context is to provide different perspective and more plausible solutions. One of the major differences between affirmative action and reservation policy is that affirmative action

does not have constitutional support and is subject to interpretation in the court of law. India's constitution permits reservation policy, which gives it a sense of longevity that is not present in the United States. Moreover, the litigious nature of American society makes affirmative action susceptible to litigation, which causes constant debate.

Structurally, each state has the right to promote or denounce state policies that affect the practice of affirmative action. This does not seem the case in India, because of the country's constitution. Whereas in America public institutions have to adhere to state laws, Indian colleges and universities seem to experience more autonomy in enforcing reservations than domestic institutions. The implementation of affirmative action and reservations is the most significant difference in these two policies. Reservations seem to be more straightforward which may cause easier administration than affirmative action's subjective nature.

Governmental policies, at the federal and state levels may hamper or enhance the implementation of affirmative action and reservations, yet it is the individual institution's dedication to achieving the goals of the policies that determines effectiveness. India's IITs demonstrate a commitment to reservation students by creating a system for them to gain the academic prowess required to complete the degree programs. In this case students receive the benefits of reservations, but they are not left behind other students. In another context, UCLA revised its admission policy to revive African American enrollment when challenged by the state law. Again, the likelihood that the goals of affirmative action will be accomplished is measured institutional capacity to express an allegiance to minority groups.

At the institutional level, there is a strong need to provide academic and social support services to American minority students and individuals from the SC/ST and OBC castes. When students are not equally competitive due to differences in prior educational experiences, it is the

duty of the institution to provide support services in order to improve matriculation rates. The culture of American higher education institutions promotes social interaction through extracurricular activities and out of class learning opportunities. Perhaps, if a similar concept was advocated for in Indian institutions individuals from different caste groups would have more understanding and tolerance of each other. Also, there is a strong need for institutions to develop more outreach programs so that minorities will know they are welcomed at the institution.

Conclusion

What is missing from this international analysis of affirmative action and reservation policy is more research on the changes these policies have made over long periods of time, both in India and the United States. There are few studies in both countries that statistically prove a strong case for affirmative action and reservation policy. Further research on the yielded return and accomplishments of these policies will prove their relevance.

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