

assumed that the Supreme Court's decisions in the Romesh Thapar and Brij Bhushan Cases resulted in this amendment. Chandrachud also revisits the neglected, yet controversial, Sixteenth Amendment, which inserted the phrase 'sovereignty and integrity of India' into every oath of a constitutional office.

Throughout the book, Chandrachud shines a light on the legal system's paternalism. Oral sedition was specifically made a crime in British India on account of the country's 'ignorant, and therefore the dangerous, classes'. Relics of that sentiment survive even today when judges reason that the Indian public is 'ignorant and illiterate' and easily capable of being misled.

Chandrachud catalogues the growing case law on India's national iconography: the anthem, flag, and state emblems. Forced displays of constitutional patriotism, he suggests, can seriously jeopardize the Constitution's deeper commitment to free speech and expression.

Finally, Chandrachud critically explores how contempt-of-court proceedings chill free expression. He disassembles the leading cases on the subject. He does so clinically, yet respectfully. He also tackles the mysterious sub-judice rule at some length. But that rule's impact on investigative journalism and sting operations behoves more analysis in a next edition.

Returning to where we began, Bihar appealed the High Court's verdict in Shaila Bala Devi's case. Speaking for the Supreme Court, Justice Mahajan upheld the Press Act's provision under which the government demanded a security deposit. He pointedly admonished Sarjoo Prasad for systematically misreading the Court's previous judgments on free speech. Yet, Mahajan also chided the Patna judges for taking the pamphlet a bit too seriously. It was full of bombastic nonsense and it should have been simply ignored. Mahajan's colleague, Justice Mukherjea, a native Bengali speaker agreed that the pamphlet was full of meaningless words.

This anti-climactic end to Shaila Bala Devi's litigation came too late to save the Assembly's original formulation on free speech in Article 19. By the time the Supreme Court decided on the appeal, the First Amendment had long been adopted and was being enforced across the country. To find out what happened thereafter, we recommend that you read *Republic of Rhetoric!*

**Vikram Raghavan** and **Prachi Tadsare** studied law in India. This article is written entirely in their personal capacity. It does not represent the views of any institution to which they may be professionally affiliated.

# Efficacy of Quotas

Ashwini Deshpande

## SOCIAL JUSTICE THROUGH INCLUSION: THE CONSEQUENCES OF ELECTORAL QUOTAS IN INDIA

By Francesca R Jensenius

Oxford University Press, New York, 2017, pp. xvii+228, ₹408.00

(Part of the 'Modern South Asia' Series; Series editor: Ashutosh Varshney)

Caste-based quotas, whether in education, jobs, or electoral positions, are routinely vilified for lowering the quality of the space they are applied to, because of the belief that those chosen through quotas are inherently inferior to those selected on open, or non-quota, positions. This widespread belief transcends the boundaries between academic arguments and popular perceptions.

The only way to assess the validity of the 'lowering-merit' argument would be to analyse it empirically, in a rigorous manner. Collect data on the outcomes of interest (e.g., productivity of enterprises where a part of the workforce is selected through quotas, or various educational indicators for colleges etc.), and assess if quotas have resulted in lowering the average (or shifted the distribution) for the particular outcome being assessed.

This is easier said than done, even when there is inclination on the part of the researchers. Most researchers (what to speak of journalists or lay persons) take the 'lowering-merit' argument at its face value, and as not worth researching. If something is as obvious as daylight, why spend time and effort investigating it? Thus, for instance, the spate of articles or commentaries produced by well-known academics in the aftermath of the Mandal Commission announcement in 1991 took this for granted, and deplored the quota mentality, equating it with vote-bank politics, i.e., politics of appeasement, where quotas were merely one more instrument to secure more votes, and nothing good could possibly come out of them.

Fortunately, that tide has started to turn over the last decade and more, certainly among academics. There is now a fair amount of empirically grounded, quantitative and methodologically rigorous research, a great deal of this from economists, but also from quantitatively-inclined political scientists and sociologists, which evaluates the efficiency effects of reservations, or affirmative action, in India.

The challenges in this track of research are considerable. For one thing, because of the pre-Independence history of quotas, there is no clear-cut and unambiguous 'before-and-after' data, which would allow neat identification of the incremental effect of quotas, after accounting for other changes that would have occurred in the interim. Second, because quotas are applicable to government (or electoral) positions, access to administrative data are needed, which are often not easy to come by (as I discovered when, for my 2014 study, I was collating data to assess the productivity effect of quotas in the Indian Railways, the largest public sector employer in India. After running from pillar to post, I finally, rather fortuitously, found the data in a disaggregated form in annual zonal reports, which I then compiled into measurable indicators.) Many researchers are employing innovative and novel ways of using existing large data to produce the badly needed evidence on the effect of caste quotas. The volume under review, based on the author's PhD. dissertation, is a very welcome and important addition to this branch of enquiry. The author uses publicly available data (combining detailed data from the 1971-2001 censuses of India, with reservation status), and a clever empirical strategy to produce a nuanced, in-depth and solid treatise on the effect of electoral quotas at the constituency level over three decades. What adds value to her work is the fact that she supplements her study with more than 100 in-depth interviews with Indian politicians, civil servants, activists and voters from four Indian States (Delhi, Himachal Pradesh, Uttar Pradesh and Karnataka) as a part of her qualitative fieldwork in order to understand the mechanisms that produce the results that her data reveal.

As Jensenius shows, politicians in India spend most of their time in their constituencies, with a very small amount of their time taken up by Assembly meetings. If Scheduled Caste (SC) politicians are 'weak' or 'inefficient', we should expect to see less overall development in constituencies

# social justice through inclusion

THE CONSEQUENCES  
OF ELECTORAL  
QUOTAS IN INDIA

Francesca R. Jensenius

reserved for SCs. Also, if SC politicians systematically try to benefit the SC community within their constituencies, we should expect to see more redistribution to

SCs in reserved constituencies than in comparable general (non-reserved) constituencies.

Jensenius examines both—changes in the overall level of development, as well as the distribution of resources between SCs and others—in each constituency. Her data set includes estimates of development indicators for more than 3,100 State Assembly constituencies from the 15 largest Indian States between 1971 and 2001, making it possible to examine development patterns in reserved and general constituencies over a 30-year period. She finds no negative developmental effects of electoral quotas, i.e., development indicators are no worse in reserved constituencies, compared to non-reserved constituencies, controlling for other factors. Additionally, there have been several positive outcomes as a result of quotas, going beyond standard development indicators. She finds that quotas have contributed to breaking social boundaries by bringing a marginalized and stigmatized community into positions of power—a group that most likely would have been elected in smaller numbers had it not been for these quotas. This has also

contributed to reduction in caste-based discrimination in reserved constituencies.

These findings are very valuable and indicate, in line with other empirical literature that estimates the impact of quotas, that fears of increasing inefficiency are not backed by empirical claims.

The author is a political scientist, from a discipline that in India has not transitioned into quantitative analysis so far. Thus, my suspicion is that the methodology outlined in this research is more likely to be accessible (in India) to economists, and not as much to sociologists and political scientists, the two broad disciplines that would benefit very much from the insights of this comprehensive research. But I hope that the results of the study, summarized clearly and simply, will be accessible, and more importantly, would help in battling pre-conceived and incorrect notions about the presumed detrimental effects of caste quotas.

**Ashwini Deshpande** is Professor in the Department of Economics, University of Delhi, Delhi.

## Enigma of Voting Patterns

K K Kailash

**ELITE PARTIES, POOR VOTERS: HOW SOCIAL SERVICES WIN VOTES IN INDIA**

By Tariq Thachil

Cambridge University Press, New Delhi, 2015, (South Asia Edition), pp.352, \$32.99

**T**ariq Thachil's *Elite Parties, Poor Voters: How Social Services Win Votes in India* revolves around the empirical puzzle as to why poor people support political parties that do not promote their material interests. While this puzzle has received considerable attention in wealthy western democracies, it has been ignored in the non-western world. Thachil attempts to plug this gap, when he examines how the Bharatiya Janata Party (BJP), which is identified with the more privileged sections of society has managed to attract the support of the least advantaged.

Previous scholarship on the rich-poor paradox points to three alternative strategies available to elite parties. These include, redistributive programmatic shifts, patronage and 'distracting' appeals to a voter's moral values or social identity (p.5). Thachil argues that these explanatory frameworks do

not travel well outside the wealthy West. He instead proposes that private provisioning of local public goods by organizations linked to elite parties allows them to get close to the poor without hurting their core base. This politically motivated service-based strategy is financed by the party and its supporters and has no connection with public funds and personnel. At the same time, these privately provided services are almost universally available and are not targeted to specific groups or individuals.

This service delivery based strategy is neglected in the literature since most analyses are only looking for programmatic and clientelist relationships between parties and voters. He argues that since they are not part of party promises during elections they do not establish programmatic linkages. At the same time, they do not count as patronage as they are neither financed from public

resources nor is there a quid pro quo relationship as in vote buying. Thachil's study impairs the dominant clientelistic understanding which assumes that all electorally motivated goods and service provisioning are based on the feeling of reciprocity ignoring the possibility of 'voluntary gratitude' as well as service provision without discrimination.

The book contributes to at least three sub-fields of political science. First, it adds a new dimension to understand the success of the Bharatiya Janata Party (BJP). The three explanations we currently have include the step-down thesis by Heath (1999) which explains BJP's geographical expansion as well as social expansion to the lower castes in the 1990s; the polarization thesis of Wilkinson (2004) which underlined how a polarization between Hindus and Muslims allowed the BJP to consolidate Hindu votes across the caste hierarchy and the bridging-alliances strategy by Sridharan (2005) which examines how strategic electoral alliances helped the BJP to expand its geographical footprint.

Thachil's service-based strategy adds another dimension to understand the rise and spread of the BJP. Second, it enriches the comparative study of party organization and strategy in multiple ways.

Thachil's main point is that the findings in the party studies literature based on the