

*Preferential Treatment Policies: A Perspective
into Affirmative Action in India and the United
States*

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1. Introduction

Affirmative action remains one of the most misunderstood and controversial political philosophies throughout the world. Conservatives and liberals alike recognize that injustices inherent to many political systems have affected the economic and social progress of discriminated groups. However, the debate remains whether the state should employ policies that attempt to redress the wrongs of the past, even if these policies may be inherently discriminatory.

Even proponents of affirmative action disagree over the most effective way to implement policy. There are currently two dominating policy models that persist in governments throughout the world. The first and most controversial model is a direct quota system. Governments that have adopted these policies, for example in India, Malaysia, and Sri Lanka,¹ have imposed aggressive quantized reservation systems, requiring a set number of positions to be reserved for members of a disadvantaged class. Often these reservations have expanded beyond the public sector, affecting private enterprise. The second model calls for more subversive policies. The affirmative action policies of the United States and Great Britain fall within this model. US law prohibits the use of quotas or reservations. Instead affirmative action policies encourage a holistic approach when analyzing an individual's candidacy for a position². Therefore, race should be considered along with several other factors; the theory is that candidates will increase diversity while also maintaining the same quality of work.

¹ Robinson, Peter. Sowell, Thomas. "Transcript 902: Around the World in 80 Ways." *Uncommon Knowledge*. Interview conducted on May 3, 2004. <http://www.uncommonknowledge.org/900/902.html>.

² Jayaraman, Vijay. "Deceptive Comparison: US Affirmative Action and Private Sector Reservations in India." Publication from the centre for Civil Society (An independent think tank for a freer India). <http://www.csindia.org/policy/soc/index.html>.

2. The Rise of Affirmative Action in the United States

The end of the Civil War in 1865 ushered in a new era of American History, characterized by a tumultuous battle for equality that continues to this day. The passage of the 13th and 14th amendment outlawed slavery and prevented discrimination based on race³. In response to these legislations, southern states passed “Jim Crow Laws,” mandating the use of separate facilities for whites and colored people. *Plessey v Ferguson* (1896) upheld the legality of “separate but equal,” furthering discriminatory policies against African Americans⁴. It was not until *Brown v Board of Education* (1954), nearly 60 years after *Plessey*, that the government overturned the separate but equal practice.⁵ The court claimed that requiring individuals to use separate facilities was “inherently unequal”⁶ and served to perpetuate the dehumanized condition of African Americans.

In upholding *Plessey* the United States was responsible for government-sponsored discrimination.⁷ Affirmative action was initially intended as compensation for this and other government imposed limitations on the liberties and opportunities of African Americans. In 1961, President Kennedy issued Executive Order 10925, mandating that federal contractors take “affirmative action to ensure that applicants are treated equally without regard to race, color, religion, sex or national origin.”⁸ This trend of enacting policies based on racial preferences continued throughout several of the succeeding presidencies. However the effects of these policies were restricted to the public sector.

³ Jayaraman, Vijay. p. 1

⁴ Jayaraman, Vijay. p. 1

⁵ Jayaraman, Vijay. p. 2

⁶ Jayaraman, Vijay. p. 2

⁷ Jayaraman, Vijay. p. 2

⁸ <http://www.inmotionmagazine.com/aahist.html>

Title VII of the Civil Rights Act of 1964 broadened the scope of preferential treatment policies to the private sector and reinforced the legality of affirmative action⁹. The expansion of affirmative action has changed work policies, hiring practices, and university admission throughout the country. Affirmative action enacted in the 1960s to compensate for government discriminatory practices has developed into one of the most controversial and politically charged policy movements. Misinformation of the public and the rampancy of political propaganda have resulted in many conflicting and misguided perceptions of what constitutes affirmative action in the United States. Affirmative action has been strongly linked with reservation systems and quotas. However, in the United States this is strictly forbidden. The Supreme Court upholds the necessity for affirmative action in order to achieve racial equity. Nevertheless, limitations continue to be placed on affirmative action policies in the United States.

2.1 Affirmative Action and Employment in the United States

Affirmative action in employment attempts “to make equal opportunity in the workforce a reality.”¹⁰ It is a proactive attempt to prevent workplace discrimination and to actively pursue diversity in America’s workforce. These policies are different from anti-discrimination laws which address discrimination retroactively.¹¹ Affirmative action in employment can range from very aggressive attempts to recruit underrepresented minorities to more passive methods like describing one’s company as an affirmative action employer.¹² The implementation of affirmative action may be government

⁹ Jayaraman, Vijay. p. 2

¹⁰ Reskin, Barbara. *The Realities of Affirmative Action in Employment*. Washington, DC: American Sociological Association. 1998. p. 85

¹¹ Reskin, p. 86

¹² Reskin, p. 86

mandated in cases where discrimination has been proven; however, often affirmative action policies are voluntarily adopted by employers.

The employers themselves have documented several of the cases of employer discrimination practices. In many of this documentation, discrimination against certain minority groups is evident. For example, many employers have attested to using stereotypes to develop their hiring practices.¹³ These stereotypes lead to sex and race discrimination, affecting the hiring, the promotion, and the termination rates of discriminated groups. In Barbara Reskin's novel, *The Realities of Affirmative Action in Employment*, she discusses many disturbing examples of employer's bias against minority groups. She found in her study that stereotypes like "African Americans are lazy" or "Latinos are prone to violence" continue to shape employment practices, reaffirming the continued need for Affirmative Action.¹⁴

2.1.1 Affirmative Action and Work Policies

Affirmative Action has developed into a complex set of "policies and practices rather than a single, synchronous policy that involves the same procedures for all employers."¹⁵ This makes it difficult to generalize affirmative action policies and their effect on employment.

There are four major classes of affirmative action policies in the United States. The first type is classified as presidential or executive order legislation. These policies typically affect government contractors and subcontractors.¹⁶ The second type affects all

¹³ Reskin, p. 28-31

¹⁴ Reskin, p. 29

¹⁵ Reskin, p. 5

¹⁶Reskin, p. 7

public employers. The third is court-based anti-discrimination law and the final category is voluntary affirmative action adopted by private employers.¹⁷

In 1941, President Roosevelt issued an executive order calling for the end of discriminatory practices in the Federal government and war industries.¹⁸ The Fair Employment Practices Committee was established, setting a precedent for the affirmative action movement.¹⁹ Succeeding presidents continue to issue executive orders that attempt to reduce discrimination in government-sponsored industries. However, these orders are difficult to enforce because the agencies responsible with this task are often understaffed and under funded.

Title VII of the Civil Rights Act is arguably the most impacting piece of affirmative action legislation. Enacted by Congress in 1964 after receiving constant pressure from the civil rights movement, Title VII made it unlawful to fail to hire or unreasonably discharge an individual based on race, color, religion, sex, or national origin.²⁰ However, in addition to this piece of key legislation, there have been several other impacting laws and court orders. The 1972 Equal Employment Opportunity Act continued to reinforce the policies of nondiscrimination in federal employment.²¹ In addition, influential court cases, for example *Sheet Metal Workers v. Equal Employment Opportunity Commission* and *Johnson v. Transportation Agency*²², continue to reinforce the legality and the necessity of affirmative action in overcoming the discriminatory patterns of the past.

¹⁷Reskin, p. 7

¹⁸Reksin, p. 7

¹⁹Reskin, p. 11

²⁰Reskin, p. 12

²¹Reskin, p. 12

²²Farley, "What is Affirmative Action?" in Farley, John (1987) The Future of Majority-Minority Relations in the United States. Oakland, CA: Institute for Contemporary Studies Press. p. 474

The last class of affirmative action policies is adopted by private enterprise in an attempt to promote diversity in the workforce. These voluntary initiatives are arguably more effective than many of the government mandated orders. Studies conducted in several US cities showed that close to 50% of employers participate in some form of affirmative action.²³ Although, policies range between employers there are certain practices shared throughout. Most companies that employ affirmative action advertise that they are an equal opportunity company.²⁴

Despite the efforts to maintain affirmative action policies, race-based preferential treatment programs are also being limited by many of the same bodies that have put them in place. For example, Title VII forbids the use of quotas unless it can be proven that the discrimination has been persistent and a temporary quota is the only solution. However, even in these egregious cases, quotas are often avoided.²⁵ There have also been a series of court proceedings that have placed strict limitations on the legality of preferential treatment. *Quirin v City of Pittsburgh 1992* and *Black Fire Fighters Association of Dallas v. City of Dallas*, amongst several others, have asserted that the use of race and gender as a “plus factor” in hiring employees must be limited to situations where there is an extreme deficit of women and minorities in those positions.²⁶

²³Reskin, p. 16

²⁴Reskin, p. 15

²⁵Reskin, p. 14

²⁶Reskin, p. 15

2.1.2 Affirmative Action and Education (A Case Study: California and Texas)

From 1996 – 1998 California and Texas eliminated the use of affirmative action policies in college and university admissions.²⁷ Admission rates of black and Hispanic students fell 30-50% in the states' elite public universities.²⁸ In addition, the representation of minorities in the entering freshman class significantly declined.²⁹ A case study performed by David Card and Alan B. Krueger assessed the removal of affirmative action policies on the application rates of minorities in both states. The study was attempting to illustrate the possible social ramifications that may arise from national dissolution of affirmative action. The authors were interested to see if the decline in campus diversity or the lack of certainty about admissions prospects would discourage qualified minority students from applying.

The authors of this study based their findings on statistical patterns observed before and after the elimination of affirmative action. They used the rates that minorities sent their SAT test results to educational institutions to assess their application patterns. The authors argued a high correlation between the rates that students sent in their score and the rates that students applied.

The authors found that despite the elimination of race based preferential treatment policies, the rate that “highly” qualified minority students sent in their SAT scores remained unchanged. From these finding, they concluded that highly qualified minority students are not concerned with the racial composition of student bodies at these institutions.

²⁷ Card, David. Krueger, Alan, B. *Would the Elimination of Affirmative Action Affect Highly Qualified Minority Applicants? Evidence from California and Texas*. Massachusetts, Cambridge: NBER Working Paper No. 10366. March 2004. p. 0 (Abstract)

²⁸ Card, David. Krueger, Alan, B. p. 0

²⁹ Card, David. Krueger, Alan, B. p. 0

The conclusions made by the authors provide insight into the difficulties that arise when assessing the need for affirmative action. It is deceiving to reach conclusions about the benefits of diversity by looking strictly at statistical data. Furthermore, the authors' study relied heavily on the correlations between the rates of sending test scores to the universities and the actual application rates. The authors never provided definitive proof that this correlation actually exists. Instead, this was an assumption made at the onset of the study. Another point to consider is that the benefits of diversity in the university setting may not fully be appreciated until one has entered college. Therefore, even though the application trends of minority students may not suggest a strong emphasis on the importance of a diverse campus setting, this conclusion does not take into account how the feelings of minority students may change as they embark upon their educational experience.

3. Affirmative Action around the World: A Look into Policies in India

Preferential policy programs exist throughout the world. However, using the term “affirmative action” to describe all international policies of race based preferential treatment implies that there are direct philosophical and political correlations between affirmative action policies in different countries. Despite the fact that many affirmative action initiatives were founded on the idea of rectifying past discriminatory policies inflicted on certain socially and economically disadvantaged individuals, throughout the world distinct policies differences are evident. These disparities in policy are reflective of the differences in the political and the social climate of nations around the world. For example, in an ethnically heterogeneous society policies targeting ethnicity are more

likely to arise because “ethnic markers are likely to be especially salient.”³⁰ In contrast, within a population that is more ethnically homogenous, other types of policies emerge that compartmentalize the population. For example, in Great Britain where the population is very culturally and ethnically homogenous, there are extensive policies concerning disparities between classes, while policies of dealing with race are somewhat limited.³¹

Long before the United States adopted state supported policies of preferential treatment, many other countries had begun extensive and radical affirmative action movements. Thomas Sowell, a strong proponent against the implementation of affirmative action programs and author of *Affirmative Action around the World*, explains that in India affirmative action policies have been in place informally since the British Colonial time.³² These policies were finally enacted into law when India became an independent country in 1947.³³ India has adopted a very aggressive form of affirmative action based on a rigid reservation system that directly uses quotas in order to attain diversity in the work force and in the educational system.

3.1 Affirmative Action in India

It is deceiving to refer to India’s quota system using the American-coined term “affirmative action” because it implies that there is a direct correlation between American and Indian policies. However, in reality India had developed Affirmative Action policies much different from those practiced in the United States.

Affirmative action policies in both India and the United States emerged from the blatant and deliberate exclusion of a very disadvantaged minority group. Despite this

³⁰ Parikh, Sunita. *The Politics of Preference: Democratic Institutions and Affirmative Action in the United States and India*. Michigan: University of Michigan. 1997. p. 3

³¹ Parikh, Sunita. p. 4

³² Robinson, Peter. Sowell, Thomas.

³³ Robinson, Peter. Sowell, Thomas.

commonality in their origination, its still remains difficult to compare affirmative action in these two countries because of the disparities that exist between the social and political framework in which these policies have emerged³⁴. The United States is an industrial superpower while India is a developing nation. The culture and social structure in these two countries are drastically different. Although, currently both countries have a democratic government, Indian, until the late 1940s, was a British colony, affecting the history of policy development and implementation in India.³⁵ However, despite these differences, it is still interesting to look at the development of policies in both countries and analyze how the social and political atmospheres have affected policy implementation, reception, and overall effectiveness.

3.2 India's Caste System

Just as it is important when studying affirmative action in the United States to have a historical appreciation of the institution of slavery and its affect on the social position of African Americans, it is equally important when analyzing affirmative action policies in India to understand India's complex social structure established by its ancient caste system. Although, the Indian national parliament dissolved the caste system in 1955, this system of social stratification remains so deeply entrenched in Indian culture that discrimination against individuals from lower castes remains rampant.³⁶

The origins of India's caste system can be found in the Hindu tradition. All Hindus born in India enter the caste system upon birth.³⁷ Once an individual is born into a caste there is never an opportunity to escape one's caste classification. An individual's

³⁴ Parikh, Sunita. p. 145

³⁵ Parikh, Sunita. p. 145

³⁶ Robinson, Peter. Sowell, Thomas.

³⁷ O'Neill, Tom. "Untouchable." *National Geographic Magazine*. June 2003.
<http://magma.nationalgeographic.com/ngm/0306/feature1/>

caste completely dictates his or her position in society, defining one's job opportunities and economic status.³⁸

There are four major caste classifications, the Brahmins, or priestly caste, the Kshatriyas, or the warrior caste, the Vaishyas, or trading caste, and the Shudras, or servile caste.³⁹ India's caste system originates from an ancient Hindu legend in which the four groups emerged from a primordial being. The Brahmins emerged from the mouth, the Kshatriyas, from the arms, the Vaishyas, from the thighs, and the Sudras, from the feet.⁴⁰ There is a fifth classification that lies outside the caste system. Untouchables, or the "outcast," are regarded as the lowest of India's people and according to ancient tradition they are not claimed by the primordial being.⁴¹ Untouchables, or Dalits, are considered impure and polluted and are to be avoided by members of the caste system. The untouchables may arguably be the most discriminated group in the world. In some small towns untouchables are required to carry brooms with them to erase their own footsteps from the road.⁴² They cannot drink from public wells used by caste Hindus or use public transportation.

3.3 Development of Reservation Policies

The origins of affirmative action policies in India can be dated to the British colonial period. Although these policies were never intended to give the Indians power, the British did encourage groups within Indian society to seek political representation⁴³.

³⁸ O'Neill, Tom

³⁹ O'Neill, Tom

⁴⁰ O'Neill, Tom

⁴¹ O'Neill, Tom

⁴² Seenarine, Moses. *Dalit Women: Victims or Beneficiaries of Affirmative Action Policies in India – A Case Study*. Paper presented at a Brown Bag Lecture held by the Southern Asian Institute, Columbia University, 1996. <http://www.saxakali.com/Saxakali-Publications/dalit1.htm>

⁴³ Parikh, Sunita. p. 146

They perceived Indian culture to be naturally divided by the “religious, linguistic, and regional variations within Indian society.”⁴⁴ Therefore the manifestation of separate political representation for each group seemed reasonable.

The British had two primary motivations in encouraging the different Indian factions and ethnic groups to seek separate political representation. They wanted to protect their Indian political allies, notably the Muslims, in order to re-solidify their weakening grip on India⁴⁵. The second reason was to restrain the ambitions of the Indian National Congress by creating internal dissensions within the Indian government⁴⁶. The British were in fear of the recent gain of strength of the Indian National Congress. In creating disunity between competing factions, this served to decrease the momentum of the Indian National Congress to act as representatives of India.

The Morley-Minto reforms of 1909, the Montagu-Clemsford reforms of 1919, and the Simon Commission tour in the later 1920s were the initial attempts of the British to incorporate the Indians into the political process and establish political representation for each faction⁴⁷. These first policy reforms worked to increase Indian involvement in general positions of power, allowing them partial input into governing their own affairs. However, the Indian National Congress was hesitant to cooperate with these reforms, realizing that they would never lead to Indian autonomy⁴⁸. In response, the Indian National Congress in the 1930s, attempting to weaken the British position, began to negotiate with untouchable leaders the terms of separate political representation⁴⁹. The

⁴⁴ Parikh, Sunita. p. 146

⁴⁵ Parikh, Sunita. p. 146

⁴⁶ Parikh, Sunita. p. 146

⁴⁷ Parikh, Sunita. p. 147

⁴⁸ Parikh, Sunita. p. 147

⁴⁹ Parikh, Sunita. p. 147

untouchables, agreeing to give up separate electorates, were granted reserved seats within Congress⁵⁰. This marks the beginning of reservation policies in India.

Reservation policies were further developed in the Round Table Conferences (RTC) of the 1930s. These conferences were held to discuss the role of Indians in government and to insure political representation for each group. Present at the Conferences were representatives from the British government and from the “major and minor Indian social and economic groups.”⁵¹ The purpose of the Conferences was to develop an Indian Constitution, however, the Conferences only revealed the profound divisions present within Indian Society.

The historical divisions present within India led to development and expansion of Affirmative Action policies. The RTC brought to the political forefront many of the issues affecting disadvantaged minority groups in India, predominately focused around issues affecting the untouchables⁵². The Conferences resulted in a stalemate between the Indian National Congress and the minority factions over separate political representation or joint electorates. The solution to this stalemate was the introduction of preferential treatment policies. The Communal Award (1932) is credited with being India’s first affirmative action policy⁵³. It gave Muslims and other minority groups separate electorates. However, the untouchables received the greatest benefits. They were granted voting rights, special electorates, and reserved seats in Congress⁵⁴. These policies were maintained after Indian independence, eventually being incorporated into the constitution. They were expanded to include many different disadvantaged classes, influencing government employment and higher education.

⁵⁰ Parikh, Sunita. p. 147

⁵¹ Parikh, Sunita. p. 148

⁵² Parikh, Sunita. p.149

⁵³ Parikh, Sunita. p. 152

⁵⁴ Parikh, Sunita. p. 152

3.3.1 The Implementation of the Reservation System

The discriminatory practices introduced 1,500 years ago by the caste system continue to be maintained despite the government's attempts to provide equality for its people. Subtle forms of discrimination, institutional biases and denial of education resources, along with more overt oppression, brutality and violence, are used by higher castes to perpetuate the lower condition of untouchables.⁵⁵ There are 10,000 brutal attacks per year against Dalits and its predicted that many more probably go unreported.⁵⁶

India's reservation policies are based on the classification system established by the British. The British divided the Indian population into several groups of castes and tribes.⁵⁷ These classifications are used to identify groups entitled for positive discrimination. The lower castes and tribes comprise the groups that are eligible for affirmative action. The Scheduled Castes, 15% of the population, are reserved 15% of the seats in congress, 15% of the positions in the public workforce, and 15% of the admissions into Universities.⁵⁸ The untouchables fall into this category. The Scheduled Tribes, composing about 7.5% of the population, are reserved an equal proportion of positions.⁵⁹ This group is predominately composed of the tribes that have remained separated from society in very rural areas, in the mountains, or in the jungles. The final group to receive benefits falls under the classification of other Backward Classes. This group accounts for over 50% of India's population and includes Varnas, Shudras and

⁵⁵ Seenarine, Moses.

⁵⁶ Seenarine, Moses.

⁵⁷ <http://adaniel.tripod.com/modernindia.htm>

⁵⁸ <http://adaniel.tripod.com/modernindia.htm>

⁵⁹ <http://adaniel.tripod.com/modernindia.htm>

untouchables (non-Hindu).⁶⁰ Although, this group is the largest single population in India they receive only 27% of the reservations.⁶¹

Reservations plus various welfare programs together constitute India's affirmative action policies.⁶² The constitution provides primarily for reservations in favor of scheduled castes and scheduled tribes, however, it has been expanded to include many other groups classified as backward classes.⁶³ Reservations are limited to the state and national legislatures, public services, and educational institutions.⁶⁴ There have been few provisions made to expand affirmative action into the private sector, so much of the caste discrimination continues.⁶⁵

3.4 The Effects of Affirmative Action in India

3.4.1 Affirmative Action and Dalit Women (A case Study)

A case study conducted by Moses Seenarine studied the lives of thirty-three Dalit women living in extreme poverty in the Dalit communities of the Bidar district from twenty different villages. The ages of the women ranged from 10 years old to 54 years old. The author of the study was seeking to assess the effectiveness of affirmative action policies in India in providing opportunities for the most disadvantaged groups. It was his impression that India's current reservation system was in actuality hurting the most severely disadvantaged by creating an illusion of benefits when none are actually being

⁶⁰ <http://adaniel.tripod.com/modernindia.htm>

⁶¹ <http://adaniel.tripod.com/modernindia.htm>

⁶² Seenarine, Moses.

⁶³ Seenarine, Moses.

⁶⁴ Seenarine, Moses.

⁶⁵ Seenarine, Moses.

received.⁶⁶ This creates a sense of complacency in continuing to develop more effective policies.

Dalits belong to the untouchable caste, living in predominately rural areas on the outskirts of developed towns. Over 50% of Dalits are landless agricultural laborers.⁶⁷ This class is undoubtedly the most economically and socially disadvantaged group within India. Dalits comprise 90% of all Indians dieing from starvation and other attendant diseases.⁶⁸ The conditions of Dalit women are even more disturbing because they face additional layers of gender discrimination. The majority of professional sex workers are Dalit women.⁶⁹ They are abused by men and neglected by other women. They are regarded as the lowest of India's people.

The discrimination faced by these women is a complex combination of extreme class, caste, and gender oppression.⁷⁰ They are oppressed by men and women from all other classes and castes. They are denied education, suffering from extreme illiteracy rates of 90-99%.⁷¹ The complexity of their circumstances and the deep rooted origins of the discriminatory practices against untouchables make it difficult to develop policies that address their unique issues. In order for affirmative action to aid these women in overcoming oppression these policies must be made with an understanding of the layers of discrimination faced by Dalit women.⁷² There must also be a strong emphasis on the incorporation of Dalit women in positions of leadership. Without political power, the position of Dalit women will undoubtedly remain the same.⁷³

⁶⁶ Seenarine, Moses.

⁶⁷ Seenarine, Moses.

⁶⁸ Seenarine, Moses.

⁶⁹ Seenarine, Moses.

⁷⁰ Seenarine, Moses.

⁷¹ Seenarine, Moses.

⁷² Seenarine, Moses.

⁷³ Seenarine, Moses.

Another difficulty in making effective policy to improve the conditions of Dalits is the lack of homogeneity within the Dalit class. Dalits are “divided by language, customs, religion, and sub-castes,”⁷⁴ therefore effective anti-discriminatory policies must consider these distinctions, allowing for all Dalits to advance despite differences in cultural background.

After decades of affirmative action policies little improvement can be seen for Dalit women.⁷⁵ Why have preferential treatment policies failed to reach untouchable women? One of the predominant reasons is the extreme gender bias present within Indian society that remains unaddressed by current reservation policies.⁷⁶ Male Dalits are the primary beneficiaries of affirmative action benefits, despite the more disadvantaged condition of the women. Another reason cited by the author of the study is that less than 10% of the funding for affirmative action policies is received by the poor.⁷⁷ This is due primarily to the rampancy of corruption in the Indian government. In addition, the policies themselves also have caste, gender, urban, and age biases. Lastly, the author concludes that the largest factor keeping Dalit women from benefiting for affirmative action is that their experiences are vastly different from the experiences of other poor classes.⁷⁸ Current affirmative action policies do not account for the many layers of discrimination faced by Dalit women. Furthermore, there seems to be little acknowledgement of the cultural and social norms already in place that keep these women in there severely disadvantaged condition.

The study brought to light many of the underlying limitations faced by Dalit women, preventing them for utilizing the opportunities offered by preferential policies.

⁷⁴ Seenarine, Moses.

⁷⁵ Seenarine, Moses.

⁷⁶ Seenarine, Moses.

⁷⁷ Seenarine, Moses.

⁷⁸ Seenarine, Moses.

Dalit women face very high dropout rates early in their education.⁷⁹ Many of the women involved in the study cited physical abuse as the primary reason for discontinuing their education. Rural schools still use corporal punishment as a means of discipline.⁸⁰ After their first menstruation, adolescent girls are often prevented by their parents, relatives, and other villagers from attending school because of fear of pregnancy or the social stigma of sexual assaults.⁸¹ Many of the young girls are responsible for the family's child care, removing any possibility that they may continue their education past the elementary level. Affirmative action for higher education does not apply for these women because often they fail to graduate from high school.⁸²

Dalit women are highly sexually exploited. They are often the victims of population control programs. Typically without their knowledge, the women are forced to receive permanent surgical contraceptive treatments or injectable hormonal contraceptives.⁸³ On average Dalit women come from very large families where they are regarded as a reproductive resource. Dalit women often are forced to work from a very young age either within the household or for meager wages in domestic service.⁸⁴ Many of the women studied described obvious gender discrimination present even within their home. As children, young girls are given less time to play than their brothers and their access to education is extremely limited.⁸⁵ Dalit women are forced into early marriage where their oppression continues. Dowries remain a common tradition in Dalit households. For economically disadvantaged families, their daughters are often seen as

⁷⁹Seenarine, Moses.

⁸⁰Seenarine, Moses.

⁸¹Seenarine, Moses.

⁸²Seenarine, Moses.

⁸³Seenarine, Moses.

⁸⁴ Seenarine, Moses.

⁸⁵ Seenarine, Moses.

an economic burden on the family. There are high rates of violence or suicide among Dalit women resulting from the stresses related to dowries.⁸⁶

Current affirmative action policies may in reality hurt Dalit women. As Dalit men benefit from affirmative action they begin to adopt many of the norms accepted by upper castes. There is a growing trend of demanding higher dowries as one becomes more successful.⁸⁷ This places a tremendous burden on Dalit women and devalues their position within the family and community.

There is a deceiving tendency to believe that reservations are sufficient to guarantee equal access to all groups. Policy makers have failed to realize the complexity and multi-dimensionality of the problems affecting these women, so currently the policies remain ineffective. Nevertheless, there is a movement to place Dalit women in positions of political power.⁸⁸ Although, this prospect remains promising, it will take several decades of persistent effort for this movement to affect long term change in the condition of Dalit women.

Current affirmative action policies do not account for the interconnections of the discrimination faced by these women. Their situation is distinct from the conditions of other poor or rural groups. Affirmative action has failed these women and will continue to fail them unless there is an appreciation of the unique and complex “interconnections of gender, caste, and class oppression” faced by these women.⁸⁹

⁸⁶ Seenarine, Moses.

⁸⁷ Seenarine, Moses.

⁸⁸ Seenarine, Moses.

⁸⁹ Seenarine, Moses.

3.4.2 Affirmative Action: Economic and Work Policy in India

Despite the implementation of reservation policies in India, the most disadvantaged groups continue to live in extreme poverty without job opportunity or possibility for economic advancement. Reservation policies have not significantly impacted work policies in India. The primary reason is because reservations only apply to the government sector, leaving the private sector to continue their discriminatory practices.

Untouchables continue to be restricted to menial forms of labor: leather workers, street sweepers, scavengers, cobblers, and removers of human waste⁹⁰. They have little opportunity to own land or to seek better employment. Since the current affirmative action policies do nothing to hold the private sector accountable, many employers still inquire about an individual's caste. For an untouchable, revealing this information removes any possibility of attaining employment⁹¹. A majority of untouchables continue to work in the agricultural industry, often receiving only a few kilograms of rice a day as payment (US\$0.38-\$0.88)⁹². Dalits have the highest rates of child laborers and female prostitution. They are paid significantly under the minimum wage and often they are not paid at all and instead receive "payments-in-kind"⁹³.

Reservation policies fail to address the social and cultural circumstances that have lead to the economic condition of the untouchables and other backward classes. Economic exclusion is deeply rooted in Indian society, however, little is done to study the continued unequal access to resources inflicted upon the backward classes despite reservation policies. These policies, although slightly beneficial, remain stagnant. The

⁹⁰ Artis, Doobay, and Lyons, p. 9

⁹¹ Artis, Doobay, and Lyons, p. 9

⁹² Artis, Doobay, and Lyons, p. 9

⁹³ Artis, Doobay, and Lyons, p. 10

government is placing little effort to insure that these policies are fulfilling their purpose. Reservation policies have not been extended to include agricultural and capital markets, nor do they demand accountability. Instead, they depend strictly on “set-asides” to insure equally opportunity. The system is both flawed and corrupt, often failing to enforce current policies, leaving positions reserved to the backward classes unoccupied.

The greatest weakness of the reservation policies is its failure to realize the systemic forms of discrimination present in India. For example, in some regions affirmative action policies make provisions to increase entrepreneurial opportunities for untouchables. However, this is impractical because Dalits very rarely have enough capital to begin a business and often are unable to attain loans. Furthermore, non-Dalits will not support a Dalit-owned business; therefore the success is dependent on Dalit patronage. However, Dalits generally have very little money to spend and comprise only a minority of a community⁹⁴.

3.4.3 Negative Effects of Affirmative Action on Caste and Class Relations

Positive discrimination policies have lead to increased tensions between the higher castes and the backward classes. These tensions have resulted in violent and bloody protests over the injustice of affirmative action.⁹⁵ The higher caste feels that reservations have unduly limited their prospects.

Notably, there has been increased competition between members of the high castes for the positions available to them. However, the backward classes often face little or no competition because there is a large quantity of the positions reserved to them in comparison with the limited number of candidates. Quotas are often being filled with

⁹⁴ Artis, Doobay, and Lyons, p. 10

⁹⁵ Robinson, Peter. Sowell, Thomas.

unqualified applicants, causing resentment from the higher castes. Often, many reserve positions remain unfilled because of the lack of applicants.

4. Comparison of American and Indian Policies

A current assessment of the United States shows a trend of de-escalation of affirmative action policies. Preferential treatment policies have become very controversial, leaving “both political parties and the American public [to] feel at best ambivalence and at worst hostility” toward affirmative action.⁹⁶ In contrast, the Indian government continues to develop very aggressive policies in order to “engineer social change.” In India the current trend is an escalation of policies to include many discriminated groups. However, despite these aggressive measures, there remains constant debate over whether these policies have in actuality helped the victims of discrimination.

Sunita Parikh, author of *The Politics of Preference*, discusses affirmative action in India and the United States. He explains that the implementation of policies based on an individual’s or group’s “ascriptive identity,” race, gender, religion, and ethnicity, demonstrates the importance and the perceptibility of these qualities in society.⁹⁷ Parikh claims, however, the adoption of these policies is not based on the salience of “ascriptive qualities,” but on the need for politicians in democratic societies to manipulate people into artificial groups sharing common interest.⁹⁸ He believes it is only by these groupings that politicians can maintain the support necessary in order to attain office. It is his

⁹⁶ Parikh, Sunita. p. 2

⁹⁷ Parikh, Sunita. p. 3

⁹⁸ Parikh, Sunita. p. 3

hypothesis that affirmative action is popular in heterogeneous societies because they “tap into issues that are of high salience to existing voting blocs.”⁹⁹

American critics of affirmative action use India as an example of the dangerous consequences that can emerge by the institutionalization of state policies that directly favor a specific group. Ramesh Thakur, author of *The Government and Politics of India* describes India as the “biggest laboratory in human history for affirmative action policies mandated by the constitution.”¹⁰⁰ Implementation of reservation policies has led to multiple violent protests. The 1990 decision of the prime minister to employ the Mandal report, calling for increased reservations, resulted in a series of national riots.¹⁰¹ There have also been several documented reports of young adults of upper castes who have set themselves on fire out of protest of reservation policies.¹⁰²

Although India’s reservation system may seem extreme when compared to US affirmative action, it is important when analyzing Indian policies to consider the cultural and social contexts in which they have emerged. The levels of oppression faced by discriminated groups in India are different than those experienced by minorities in the United States. The caste system, with its strong religious and cultural base, perpetuates persecution of untouchables in India. Justifiably, policies may need to be more radical to account for these differences.

⁹⁹ Parikh, Sunita. p. 3

¹⁰⁰ Thakur, Ramesh. *Affirmative Action for Indians is Multiplying out of Control*. The International Herald Tribune. February 2000. <http://www.unu.edu/hq/ginfo/media/Thakur14.html>.

¹⁰¹ Parikh, Sunita. p. 207

¹⁰² Sowell, Thomas. “Affirmative Action around the World.” <http://www.hooverdigest.org/044/sowell.html>

4.1 Why have Affirmative Action Policies been Unsuccessful?

Although, the Indian government has made provisions to create equality of opportunity amongst its population, many of these reservations are being underutilized. The fundamental problem returns back to the systemic issues that have originally generated inequality in the system. Many of the groups entitled to reservations live in extreme poverty. As demonstrated by the case study of Dalit women, these individuals lack the fundamental basics that are necessary for advancement: elementary education, health care, and a positive home and social environment. Although, these high positions are guaranteed to them, they continue to remain ten steps away from ever attaining the qualifications to fulfill them.

African Americans and other disadvantage minority groups in the United States face similar issues. Although arguably discrimination in the United States is less tolerated, there still remains many places entrenched within the system that retard the progress of discriminated individuals. Minorities continue to face deficits in early education, in childcare, and in health care. It is simply unreasonable to provide these provisions at more advance stages, such as in higher education and employment opportunities, and expect that in the process the more basic issues will be solved.

A striking similarity between the disadvantaged groups in India and the United States is that they represent both a social class and an economic class. Although, affirmative action policies target improving the social position of minority groups, they do little to address the economic hardships that continue to impede their advancement. In addition, legislations do not take into account the economic disparities that lie within these discriminated groups. This has resulted in the over utilization of affirmative action by the more economically advantaged individuals within these groups. The result is that

affirmative action never really helps the most disadvantaged, instead gives off an illusion of equality when none really exists.

5. Conclusion: The Future of Affirmative Action

Effective affirmative action policies must account for all of the complex social, institutional, and economic interactions that have resulted in limited opportunities for discriminated groups. To be effective these policies must be based on an understanding that the discrimination that has led to the disadvantaged position of minority groups is systemic. Therefore any ramifications made must account for the disparities that exist on many levels and not just provide equality at the top. A conscious and deliberate effort is necessary to insure that these individuals may one day be elevated from their current conditions. However, there needs to be awareness that the discrimination faced by these groups is deeply entrenched within the current social and political framework; therefore overcoming them will take several generations of change. To be truly effective affirmative action in any place in the world can no longer be seen as a temporary initiative, but instead should be made apart of a more lasting social movement. It is unfair to expect that centuries of oppression will be overcome with decades of preferential treatment.