



# COMPETING DISCOURSES AND FUTURE OF POSITIVE DISCRIMINATION (P.D) POLICY IN INDIA

UPASHANA DUARAH  
Ph.D Scholar, Gauhati University

## ABSTRACT

Indian state at the outset of gaining independence was committed to the idea of establishing an egalitarian society which will ensure justice, equality, liberty and fraternity to all its citizens. Rejecting the revival of Hindu Shastric order which glorifies and elaborated perceived inequalities, the makers of new India resolve to establish an inclusive order based on the ideal of equality, principle and justice. Such an ideal vision thus led to the evolution and introduction of some array of new policies and programmes in India. The makers of new India perceived all such policies and programmes as very essential in establishing a novel and just social order in India. P.D policy was one such inclusive policy, which the planner's belief will assist to reduce the historically persistent inequalities among various communities of India. But despite purporting with an aspiring aim of providing justice on equal terms P.D policy of India remains highly controversial since the day of its inception. P.D policy in subsequent period has not only given rise to heated debates but also led to major public demonstrations by its opponents. Competing discourses then and again thus raise questions on the efficacy of P.D policy. Despite being convinced that P.D policy can be a successful policy in providing much needed extraneous push in uplifting the existential situation of some or other individuals of the marginalized communities in India, time and again critics harshly reject P.D policy on various grounds. The rate of success of P.D policy as a vehicle of progress thus remains contentious throughout. This paper will attempt to bring out such various contending yet very significant discourses surrounding P.D policy in India and thereby will try to delve into the future prospect of the same policy.

**Key words :** Positive Discrimination (P.D), competing discourses, future of P.D policy, policy makers.

## Prologue:

B.R Ambedkar, the man behind the policy of positive discrimination in India must have visualized about the problems this policy is going to invite later at the time of its introduction itself. He never therefore has exhorted for its absolute rigidity rather wanted this policy to as flexible as possible to cater the changing needs of the time and society. He shows the depth of such vision when he rightly pointed out that positive discrimination policy needs to get reviewed from time to time, otherwise he said, it may become a crutch or a permanent political resource.

Ironically however, the contemporary policy makers and the protagonist of the P.D policy barely share such a concern of this policy initiator. Hardly, have they realized the grave importance of such concern of Ambedkar. As a result of such antipathetic attitude on part of the policymakers, the P.D policy at the present movement of time was seemingly becoming inflexible and continues to act as a political crutch which worried Ambedkar once.



Moreover P.D policy of India then and again has been under constant controversies. Being a policy always supported by its beneficiaries and rejected by the non-beneficiaries, it no longer was said to promote a healthy development of the society. Continuously criticizing for acquiring a dysfunctional grip, this policy was charged also for instigating tensions and conflicts between its beneficiaries and non-beneficiaries. The policy was further criticized for unleashing a new structure of schism in India, where discrimination now is said to carry in a reverse direction. P.D policy was thus a controversial public policy. It is controversial not only practically but also ideologically. The very controversy rooted with this policy signify the need for studying the same the holistically and scientifically.

This paper is written with such a purpose. The paper will try to discuss theoretically and practically the various aspects of P.D policy in India. The paper will start with a brief introduction to P.D policy and will highlight some of the reasons of its emergence. Following that it will try to delve into the competing discourses for and against the policy and then the paper will try to locate the reasons for the emergence of such controversies. Last but not the least, the paper will try to enquire, is there any way to overcome the loopholes of the policy, if so what are they? For the purpose of writing this paper secondary resources has been used extensively.

### **Introductory Note on the P.D Policy:**

India's experiment with positive discrimination (P.D) is one of the worlds oldest. Popularly known as "Reservation policy", it is nothing but an elaborated quota system, which emphasized on setting aside certain percentage of seats in various government institutions for the members belonging to backward and under-represented communities of Indian society. Such reservation system in India was generally governed by constitutional laws, statutory laws and local rules and regulations. The scheduled caste, scheduled tribe and other backward communities (OBC) are the prime beneficiary of this quota system of Indian society. Nevertheless in some states backward classes among Muslims were also added as the beneficiary groups of P.D policy.

### **History of the P.D Policy:**

P.D policy which has emerged in India in early decades of twentieth century was subsequently given a constitutional basis in the year 1950. At the outset of gaining independence, Indian state aspires to become an egalitarian state, with equality, liberty, justice and fraternity as its cardinal value. Rejecting the revival of Hindu shastric order (which glorifies perceived inequalities of Indian society) the makers of new India, resolve to establish an inclusive order based on the ideal of equality and justice. But, given its socio cultural history of hierarchy and factionalism, the problem arise how to encompass or to integrate such highly factional and segregated Indian society into one single whole. It every probability, it resembles nothing less than a mammoth task to remodel Indian society into the line of egalitarianism. Nevertheless being driven by an idealistic vision of establishing egalitarian India, the policy makers agreed to the option of providing preferential treatment to certain groups, whom they



embrace as people and groups, who faces historical marginalization and inequality in Indian society. By following Ambedkar's vision, of society, the policy makers of new India accord, that these groups faces historical exclusion and exploitation to such an extent that without an extraneous push, it would be difficult to incorporate such groups into the mainstream of Indian society. It was in that context, that the makers of new India provided their consent on giving P.D policy a constitutional basis. Thus, P.D policy as an inclusive policy has acquired its structure and meaning in India and get materialized then after. In due course of time, however there emerges some major shift in context of policy designs and the structure of P.D policy, which added further complexities to the policy in question.

As said earlier, since its inception P.D policy raises several questions and controversies. The policy then and again has intrigued diversified discourses and sensational controversies. All such discourses and controversies not only raises concerns about the structure of the policy but has staged questions regarding its accountability, its need and being in India

In this context, let us now focus on some such debates of the PD policy--

### **Major Debates Surrounding PD Policy:**

Two camps of social thinkers have evolved with their contesting arguments for and against the P.D policy of Indian society. The basic crux of such various arguments can be discussed as below:

### **Arguments in favour of P.D Policy:**

Protagonists of the P.D policy have widely acclaimed the policy for being instrumental in diminishing the historically persistent gaps between different sections of Indian society. They also appreciate the policy for propagating ways and means for promoting a holistic development of the historically marginalized communities of India by giving them the benefits of reservations in education, scholarship, in jobs as well as promotions. The policy has been further praised for ensuring representation to the members of under-represented ethnic communities and also for supplementing them with better access to the social assets as well as to social capitals- (i e, useful contacts and networks that improve one's career opportunities) in society. The protagonists also acclaimed the policy for fostering a more legitimate and vital democracy in India because of the inclusive pull the policy unleashed to upgrade the historically marginalized Indian communities and for bringing them at par with other communities of India [ Thomas E. Weisskopf ] in context of both participation and representation.

Moreover, compensatory discrimination policy was also praised for producing substantial redistributive effects in Indian society. Supporters of the policy held that reserved seats in Indian society not only provide for a substantial legislative presence of all communities of Indian nation but equally works to stream the flow of patronage, attention and favorable policy to schedule caste and schedule tribes in India. As observed by Marc Glanter, " the reservation of jobs ensured by the policy



has given a sizable portion of the earnings, the security, information, patronage and prestige that goes with government employment beneficiary groups.”(Marc Glanter, vol. 13, nos. 3-a December, 1986].

As upheld by its protagonists, P.D policy thus incur many-sided and much needed benefits to those sections of the people who have faces historical marginalization and inequality in Indian society. Looking at various possibilities, this policy can deport and also being perceived as the policy guided by the principle of inclusiveness, of just, and of equality, liberty and fraternity the protagonist of P.D policy has always goes on supporting, promoting and glorifying the same. They claim and belief that P.D policy as one successful public policy, and label it as the most rational and instrumental policy in delivering justice to all Indians.

### **Arguments against the P.D Policy:**

However criticizing the protagonist, there are the groups of opposer’s, who rejects P.D policy for its structural as well as functional loopholes. This section of social thinker criticized the P.D policy on several grounds. Some such very crucial grounds on the basis of which the policy was criticized includes ----denial and discouraging to a merit based system, for curtailing individual autonomy, for perpetuating caste based distinctions in public life and also for encouraging vote bank or partisan politics in Indian society. It has also been allegedly criticized for fortifying an almost permanent and never ending structure of “schism” in Indian society. Alongside its failure to disseminate benefits to actual needy is another reason the policy was being criticized for.

Again, those who rejects P.D policy even questions its very existentiality, they even goes to the point of saying that, Indian state by acting through its judiciary and legislature has violated the spirit of Indian constitution by establishing one of the most comprehensive affirmative action programme in world. Say for example,one prominent critique Dipankar Gupta has vehemently blames P.D policy for unleashing a new kind of discrimination which he calls as reserve discrimination in Indian society( Gupta,1997).,

In similar ways, then and again, different scholars criticized the policy for its several loopholes. Some such further criticism can be listed as below-----

At the very beginning we can list the controversy which has aroused in context of principle and ideology of the policy .This happen when the Mandal commission recommendation in context of the policy emerges. With Mandal commission suggestions, PD policy at the present movement of time seems to juggle between the two diversified logics that structured this policy in India. Such divergent logic which is the outcome of the thought process of the two prominent thinkers B.R Ambedkar and B.P Mandal in structuring P.D policy and its programs in subsequent periods of Indian history welcomes several controversies. Driven by the intellectual and moralistic concern of these two thinkers the policy corroborates not only the evolution of contradicting perspective but foster a major shift in the course and



structuring of P.D policy in India. Such contradictory logic again not only pushes the policy towards practical complexity but also made the policy ideologically and structurally more intricate and tender at the same time. Again in this context what Dipankar Gupta has to say is noteworthy to mention. Gupta holds that Ambedkar's policy's "moral imperative" has gone missing in Mandal's policy. In Gupta's, own words , "Ambedkar programme envisions not only removal of untouchability and with it the undermining of caste system in public life, but it is also instrumental in creating assets among those who have none. The assets of better off are put in collective pool so that socially valuable assets may be created in the sites of those who have none .reservations of Mandal's schemes lack this moral quality .what mattered most to him was to ensure that members of certain designated backward castes got jobs and seats in educational institutions". Thus he criticized Mandal's programme as his policy no-longer is in the spirit of enlarging fraternity, as Ambedkar policy was" [Gupta, 1997, 1971-78].

The divergent logic which has occurred in context of the policy ideology signalizes a major shift in context of P.D policy. Time will tell only whether such ideological shift in context of policy will become functional or not, but such shift definitely has become a major reason for effectuating some major debates among the social thinkers and policy makers of the state regarding the policy concerned.

Further an another controversy which welcomes further more criticism in context of P.D policy is, in relation to the difficulty which P.D policy faces, in finding a convincing way of measuring disadvantage and choosing actual beneficiaries to deliver maximum utility and justice to those who are in actual need of such an extraneous push by the state.

The basic difficulty in this context is that, in a country like India, where the social universe is composed of the citizens possessing multilayered identities, the first and foremost difficulty which a policy maker is going to face is how to identify and factor such multiple and interlocking inequalities into a policy design?"

Alongside, there has been controversy regarding Supreme Court's usage of the term 'creamy layer' also. It has become obvious that there are relatively advantaged groups even amongst the Dalits and extremely prosperous ones amongst the OBCs. At the other end there are Dalits and OBC castes that are extremely poor, heavily discriminated against and unlikely even to make it to the point where they can claim a share of the quotas. Thus there are the debates regarding how to include the hitherto excluded and how "creamy layer" only to OBC can be justified or not. [Heyar , Jayal, 2009]. The benefits of P.D policy of redistribution however have failed to spread evenly throughout the beneficiary groups. There are numerous evidences when substantial clustering in the utilization of these opportunities has occurred. Often and at many a times there are better situated among the beneficiaries extracted the major share of such benefits and the actual beneficiaries juggles hard to even have a marginal share of policy benefits [Glanter, vol. 13, nos. 3-a December, 1986].



Again; contention also arises regarding the policy design of the pd policy. In that context social thinkers time and again interrogate, if India obsessions with quotas are the result of a limited institutional imagination, or are there any fundamental reasons, why no other policy design has been proposed to replace P.D policy considering its many-sided failure and faults? [Heyar ,Jayal,2009].

Again, many thinkers and researcher have also criticized the policy for perpetuating caste identities further. By perpetuating caste identities they upheld, P.D policy not only restricts the way of establishing egalitarianism in Indian society, but has becoming a policy with relative terms and conditions to deliver and disseminate welfare and justice to the people of India. Also by neglecting merits, it curtails individual liberty, and put a barrier on his imagination and creativity. Beside if one observes all these loopholes of PD policy, then one can understood that PD policy in often goes against the spirit of cardinal values (liberty, fraternity, equality and justice) on which Indian constitution is based upon and new Indian state since its inception has been urging for.

Considering the above discourses, there is no doubt to the fact that P.D policy and its various programmes struggles to maintain a clear status as a policy of accomplishment in India. Then and again it faces harsh criticism and major public demonstration, array of disputed cases, and with even a part of think tanks of the state often urging for its reform and sometimes abolishment too.

### **Why is the Chaos??**

Considering the performances of six decades and some more years it becomes almost visible that, P.D policy of India mournfully fails to retain the balance between its objectives and accomplishments. But what is the reason of such failure? This section of the paper will try to discuss that.

P.D policy undoubtedly has faces failures. And ironically, fault of such failure was rooted nowhere, but within the structural design of the policy itself. It seems that, PD policy probably makes its biggest err, when the policy chooses to select its beneficiary groups, on the basis of some relative terms (say on the basis of primordial ties or on the basis of historical marginalization). The fault lies in policy maker's "criteria of selection." Which led them to choose singlehandedly "SC and ST" and later OBC groups as be the most disadvantageous and marginalized groups in Indian society and considering their case of historical marginalization, benefits of quota should be disposed to them only. In a vast country like India, which is a home to some 1.27 billion people, with variances in one or more aspects of life, selecting certain groups and leaving other apart others on basis of "socio cultural" history or through ascribed identities can to bring nothing but major chaos and conflict in the society. And that has been happening at present time. Such identities of people seem to be very sensitive and deeply embedded to shape and reshapes ones world view. Choosing some on the basis of such criteria can be a reason for unleashing inequality and injustice among Indians both practically and psychologically. But P.D policy of India has does that. Planners and protagonist of the policy probably did not realize



the fact that by selecting beneficiaries on relative and socio historical criteria's, the policy indeed have been propagating nothing but a new way of aggravating group "schism" and but time in a reverse direction (once again like the Hindu shastric order earlier used do). P.D policy of India subtly seems to remodel nothing but the structure of prejudices of traditional Indian society and this time in a new way. P.D policy at the present movement, by perpetuating caste identities and by failing to provide justice on equal terms to masses of India society seems instrumental only in pathologically reinforcing a divisive society. It just is becoming a policy that structured and remodeled disequilibrium in India in a new way.

Moreover there was an another side of this picture too. The PD policy also fails to recognize that are many such people in India among the non beneficiaries who are in genuine need of such preferential treatment like poor belonging to any groups of Indian society. But pathetically, they are never going to receive the benefits because of faulty selection criteria of PD policy. In this context what "Milton Yinger" has once observed is noteworthy; when he emphasized that "so called privileged groups [who obviously are non beneficiaries of PD policy of India] contains members who also suffer from early and persisting disadvantages. They are likely to have the least seniority and most shaky preparation and therefore most likely to be displaced by this policy. New and severe problems are thereby added by affirmative action to their already added frustration. He further added that, "Our picture of Harizan in India may be ninety million utterly destitute peasants. But, this is an incomplete picture. There is a large number, even if a small percentage, in the scheduled castes that are well trained and well positioned to take advantage of the opportunities set aside for Harizans." What Yinger has observed is definitely true in India. Given the socio cultural history of Indian society, no one can deny the presence of Dominant caste who can be the member of any depressed caste of India[see M.N Srinivas,1987, 307], and of Affluent class IV category of tribe [see Verrier elwin,223], among SC and ST's of Indian society. There are people among the beneficiaries who are actually in a much better off situation to opt for preferential treatment in a judicious ways. And to the biggest crisis , empirical evidences have also suggested then and again that in India large share of gains from affirmative action has gone to the most advantaged members of target groups, those best able to compete without such programmes" [Yinger(1997) pg :199,]thus such has been the various structural loopholes this policy inherits. Unless and until such loophole doesn't get eradicated, the policy was going to remain controversial and detrimental for society.

### **Is Their Any Way Out?**

Despite the several drawbacks and fiery controversies, there must have to have some solutions through PD policy can become a better policy in Indian. Let's focus on some such solutions

In order to make P.D policy a better policy at the very beginning policy makers of Indian society need to recognize that any public policy was should devised only to deport maximum benefits to the all masses of society concerned, and if it fails to do so or if any policy invites chaos and turmoil's in society, such policy should not



be encouraged at all. Further, there was a need to recognize that since public policies are the formulations, it can be reformulated again and again and actually such reformation should be the viable need if a policy continues for a long. No public policy should be absolute or stay rigid for a longer period of time. If it does then it will only do more harm than good. It may become what Ambedkar call as a crutch or permanent political resource, means to achieve some vested ends. Thus in context of P.D policy of India also policy makers need recognize the importance for reform and reformulation of the policy in light of ongoing debates and controversies to overcome its loopholes and absoluteness. Thus, reform and reformulation of the policy is the first requisite solution. Nevertheless to achieve this first criteria solution the vision, creativity, honesty and farsightedness of policy makers will again going to play an important role.

Second solution can be popular participation. The policymakers need to acclaim that any policy was always devised for the public, voices and consent of masses thus can play a very role in devising a public policy in a much better way. The policy makers therefore can and should encourage for popular participation in context of both policy making and policy remaking. It seems to be like one mammoth task but this is very much possible and can work to eradicate the problems and controversies P.D policy faces now.

Third solution comes with changing criteria to choose its beneficiaries. In this context, what the prominent sociologist Dipankar Gupta has once suggested seems to be a viable option .He suggested to use “Poverty” as key criteria to select the beneficiaries of P.D policy. In his own words, “being poor is neither asset nor a badge of honor. Policies with regard to reservation or affirmative action must help rescuing those in abject poverty and give them enough room and scope for developing socially useful skills.”

If the P.D policy opt to choose it beneficiaries by taking poverty as key criteria as Gupta has suggested once can actually work to eradicate several of its loopholes. Let me explain how, when we understand someone as “poor” we are least bothered to know what else identity he or she posses, although we surely know that he/she do possess multi layered identities (caste identity, gender identity, ethnic identity, religious identity and so on ) . When we categorized someone as poor we don’t felt the need to know whether he/she/they have been historical marginalized or not, although we already assume that he/she/they probably did. Moreover, it further comes with the possibility of providing justice on fair terms by not selecting members on relative terms but on an absolute basis, beneficiaries can be then from every caste, tribe ,religion, region, gender and so on and they are also the actual we all will agree. And most importantly using poverty as key variable to choose beneficiaries might aid in establishing a general degree of consensus among the members of the whole society, because popular imagination also recognize poor to be strictly disadvantageous.”.Such a shift in PD policy will no longer going to make people infuriated then as it does in present moment of time. Neither PD policy then will have to face harsh criticism for perpetuating schism and durable inequalities of Indian



society. It will then going to fuel a moral order in the society, which will ultimately, paves way to enhance fraternity, justice and equality in India for which the country has dreamt for so long.

Poverty as a key criteria, thus definitely seems was a viable solution to overcome P.D policy loopholes, nevertheless the only concern which remain is that if we again keep this as key criteria to choose its beneficiaries for longer period of time, in may then perpetuate poverty. And if so happens again this will be detrimental for the society. But gratefully solution to this again lies in first criteria solution ,which uphold the need for revision and reformulation of policy from time to time to suit the need of time and society.

Last but not the least, supplementary policies as suggested by Milton Yinger, can be said to be as another promising solution for eradicating the rigid ness of P.D policy of India. Yinger when suggested for some new and supplementary policies holds that “the tension between liberty and equality and narrowing of the circles of fraternity, implicit in affirmative action can be reduced in my judgment only in the situation, where the need for affirmative action is also being steadily reduced by other policies. Such policies should be devised to address the problems and needs associate with poverty, education, nutrition, community planning and many other issues”. His suggestion is practically worthy .Because we all will agree, that too much reliance on one policy was often unequivocal and such reliance comes with the possibility of doing more harm to society than good in long run.

Thus by imbibing the above solutions P.D policy can become one successful policy, but alongside its governing ideology should always be reformulation to meet the need of time and society. It should not become a policy rigid but should get contextualized situationally. Policy makers of P.D policy needs recognize its drawbacks and makes way for its reformation by suit the need of time and society. It should get reformulated in such a way that policy overcomes its all inherent deficiencies and can judiciously deliver maximum utility to all the actual needy members of society.

### **Epilogue:**

There is no doubt that egalitarian society with no inequality is going to exist nowhere, but such a society can be always be an ideal society to work for. If a society chooses to reinforce inequality more than to egalitarianism, then such society will only invite chaos and conflict in long run. Indian policy makers and well as the beneficiaries of the PD policy need to recognize this fact in context of the policy. They are in a need to understand, that, it was not desirable on the part of modern society like India, to encourage in any ways a newly ordered structured schism (and more specifically through a public policy like P.D policy of India).We cannot deny that there exists still many groups in India,who are in genuine need of preferential treatment from the state. Therefore we are not going to urge for its complete annihilation. But the P.D policy of India at present was found deporting only partial benefits to some selected groups of India .doing so the policy was doing nothing but



perpetuating a structure of prejudices and reinforce a divisive society. By choosing beneficiaries on relative terms like on the basis of socio cultural history or on the basis of primordial ties the policy fail to accommodate the needs and concerns of all Indians. Therefore now the time has for P.D policy to get restructured. Re structured in such a way that it can ensure justice and equality in context of giving preferential treatment to Indians. Restructured to become the fairest policy to cater the needs of actual neediest of India society. Restructured, finally, to overcome all its inherent deficiencies, by imbibing changeability and judiciousness as its norm to suit the changing need of time and society.

## References

1. Gupta, Dipankar (1997): "Positive discrimination and the question of fraternity. Contrasting Ambedkar and Mandal on reservations" Economic and political weekly, special article.
2. Nagarajun, Karthik (2009): "Compentatory discrimination in India sixty years after independence: a vehicle of progress or as a tool of partisan politics."
3. Heyer Judith and Jayal, Gopal Niraja (Feb, 2009): "The challenge of positive discrimination in India.", Crise working paper no 55.
4. Yinger, Milton. J.: "Ethnicity", Book: "Liberty-Equality-Fraternity and Ethnicity" pg :199 ; Rawat publication, 1997.
5. E. Weisskopf Thomas (2006): "Is positive discrimination a good way to aid disadvantaged ethnic communities?" Economic and political weekly, vol. 41, pp. 717-726
6. Ahuja Ram (1993): "Indian social systems", Rawat publication.
7. Desai A.R, Book : "Rural Sociology in India" , article "Tribes in transition" Elwin, pg:222-231
8. Galanter marc: The "compensatory discrimination", Theme in the Indian commitment to Human rights" , India international centre quarterly vol. 13, nos. 3-a (December, 1986)
9. Srinivas, 1987: "The dominant caste and other essay" ;Article "The Dominant caste in Rampura"; Oxford publication, Delhi.