

CASTE-BASED CENSUS

On August 4, 2021, Bihar Chief Minister Nitish Kumar had written to Prime Minister Narendra Modi seeking an appointment to discuss caste-based census after meeting with Bihar Opposition leaders. On August 23, an 11-member delegation led by Bihar Chief Minister Nitish Kumar met Prime Minister Narendra Modi to discuss their demand of a caste-based census and once again raised the long-pending demand of conducting a census of the Other Backward Classes (OBC) population of India. The Bihar assembly earlier in February 2019 and in February 2020 had already passed unanimous resolutions demanding conduct of caste-based census.

Recently, even a delegation led by Madhya Pradesh Chief Minister met the Prime Minister to push for counting OBCs in India. The Odisha and the Maharashtra governments had adopted similar resolutions urging the Modi government to determine the population of Other Backward Classes (OBCs) in the country.

CASTE AND CLASS – WHETHER RESERVATION IS PERMISSIBLE?

The Constitution of India states in Article 15(4): “Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially, and educationally backward classes of citizens of or for the Scheduled Castes and the Scheduled Tribes.” Similarly, Article 16 (4) states: “Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.”

The Constitution did not expressly provide for the reservation of OBCs however, such reservation has been held as constitutionally valid by the Supreme Court.

Dr. Ambedkar in the Parliament at the time of the adoption of First Amendment had said that backward classes “are nothing else but a collection of certain castes.” Adopting the same rationale, the majority opinion of the Supreme Court has held that a classification based on caste was constitutionally permissible since “A caste is nothing but a social class – a socially homogeneous class” and that merely because the word “class” is used in Article 16(4), it cannot be concluded that it is antithetical to “caste”. Further, given that caste, occupation, poverty and social backwardness are closely intertwined in our society, the entire caste in many cases, inevitably becomes a socially and economically backward class.

CASTE-BASED CENSUS IN INDIA

India had conducted its first census in 1881. This exercise has since then taken place every 10 years. However, the last caste-based census report came in 1931. In 1941, caste-based data was collected but not published. Except the Scheduled Castes and The Scheduled Tribes, the rest of the castes and groups, especially the Other Backward Classes (OBCs), do not have a separate census as only religious figures are published in the census report.

In independent India, Scheduled Castes (SCs) and Scheduled Tribes (STs) were accepted as new official social categories under the provision of Article 341 of the Indian Constitution. The official listing of castes and tribes was justified because these social groups have remained underprivileged and discriminated against by the higher castes. To assess the progress and achievement of Government policies in raising the socio-economic status of SCs and STs, it was essential for the census to collect data on their demographic and socio-economic conditions.

But the govt. did not allow the census to enumerate all castes and sub-castes as practiced in British India. The 2011 caste-census, collected during the United Progressive Alliance (UPA) government, was the first caste-based census since the 1931 census. However, the Central government found certain faults with the conduct of the caste-census and submitted that the mistakes committed by enumerators and inherent flaws in the information-collection exercise has rendered the data unusable and cannot be relied upon for any statutory exercise.

RESERVATIONS FOR OBCs – DEVELOPMENTS SO FAR

The government has for many years tried to determine the criteria to identify socially and educationally backward classes for their “upliftment” as provided in the Constitution. Under Article 340 of the Constitution of India, The **First Backward Classes Commission** constituted under Kaka Kalelkar in 1953 prepared a list of 2,399 backward castes or communities for the entire country (including 837 of the ‘most backward’ classes) on the basis of the 1951 census.

The Kalelkar Commission report had recommended that “as long as social welfare and social relief have to be administered through castes, classes or groups, full information about these groups should be obtained and tabulated”. This report was, however, rejected.



It wasn't until 1979, with the appointment of the **Mandal Commission (Second Backward Classes Commission)** that an estimate of ‘other backward classes’ could be attempted. This was made on the basis of the 1931 Census, “on an assumption of uniform growth for all religious groups and communities in the next half a century”.

According to the Mandal Commission report, scheduled castes and tribes made up 22.56 per cent of the population, non-Hindu religious groups comprised 16.16 per cent and ‘Forward Hindus’, including Brahmins, Rajputs, Marathas, Jats, Vaishyas-Baniyas, Kayasthas and others, 17.58 per cent. The Mandal Commission report, which was implemented in 1990, would result in the provision of a 49.5 per cent quota in government jobs and public universities, this included (for the first time ever) a declaration for 27 per cent reservation for OBCs.

The Supreme Court in the case of *Indra Sawhney vs Union of India 1992*, while stating that economic criteria cannot be the sole factor for backwardness, held that it can be considered along with or in addition to social backwardness. The judgment also pointed out that while 50 percent

shall be the rule, there could be certain extraordinary situations inherent in the diversity of India and its people that call for relaxation of the rule. But for that, extreme caution must be exercised and a special case made out.

Several groups including the Patidars in Gujarat, Jats in Haryana and Marathas in Maharashtra have in the recent past violently agitated for their inclusion in the state reservation quotas.

In 2017, the Narendra Modi government constituted the Justice Rohini Commission to examine the sub-categorisation of the Other Backward Classes to examine the equitable redistribution of the 27% quota for the Other Backward Castes (OBC), which will now reportedly begin consultations with the states on a four-category formula. There are 2,633 Other Backward Castes in the Central List. The Commission has proposed to divide them into four subcategories numbered 1, 2, 3 and 4 and split the 27% into 2,6,9 and 10 per cent, respectively. The **Category 1** will include 1,674 caste groups, identified as the ones who have not benefited from the quota. In the **Category 2** there will be 534 caste groups while **Categories 3 and 4** will give 328 and 97 caste groups, respectively. Interestingly, there are the least number of caste groups in the Category 4, mostly considered dominant OBCs with large populations, but they will still be getting the largest chunk at 10%. In July 2021, the Commission received its eleventh extension of time to complete this task, with a report now due on January 31, 2022.

CASTE BASED CENSUS OF 2011 AND THE NEXT CASTE BASED CENSUS

Amid growing demands for a caste census, the Congress-led United Progressive Alliance in 2011 decided to undertake the fourth Socio Economic and Caste Census (SECC). The SECC was conducted independently of the Population Census, which is mandated by the Census Act of 1948. Like the decennial census, however, information was collected through door-to-door enumeration. The survey covered 24.49 crore households across 640 districts. The Rs 4,893.60-crore SECC exercise was carried out by the Union Rural Development Ministry in the rural areas and the Union Housing and Urban Poverty Alleviation Ministry in the urban areas. Around 46,73,034 distinct caste names emerged from the report. It included sub-castes, surnames and gotras.

The government, however, published only the socio-economic part of the data in 2015 but withheld the caste numbers. The caste data was withheld over political implications and the errors that had been identified by the RGI (Registrar-General of India). The Modi government said that

8,19,58,314 errors had been detected in the census, of which “6,73,81,119 errors have been rectified...1,45,77,195 errors were yet to be rectified”. The socio-economic data has since formed the basis of determining beneficiaries of government schemes, thus, becoming a crucial tool to ensure targeted disbursement of welfare initiatives. This trend is likely to continue the next time the SECC is updated as reports indicate that it would only be a socio-economic and not a caste census. Census 2021 might also come as a disappointment as the pre-test recce, conducted before the census, excluded the OBC column.

ARGUMENTS IN FAVOUR OF CASTE CENSUS

Those demanding a caste-based census believe it will help in designing development programs, government policies, and schemes, and that the census will show which ethnic groups are under-developed and still need upliftment. With the caste-based census in place, the government will get to know the actual economic, social, and educational status of different ethnic groups in the country. Another argument is that if the SC-ST census is done then other groups should also not be left out.

POLITICAL NEED OF CASTE-BASED CENSUS IN BIHAR



The OBC data, if available, will help political parties to create a new vote bank among the socially and poorer sections in OBCs. So far, Bihar Chief Minister Nitish Kumar has been able to carve this vote-bank for his party, the Janata Dal (United) in Bihar. Ahead of the scheduled Census 2021, many political parties have come together demanding a caste-based census. BJP allies such as JD-U, Apna Dal and Republican Party of India (RPI) are also part of this demand. Opposition parties such as the Congress (INC), Nationalist Congress Party (NCP) and Samajwadi Party (SP) are also demanding that the exercise should be held.

However, Bihar Chief Minister Nitish Kumar maintained that the need for a caste-based census was driven by social concerns and not political ones. Other prominent leaders from the state, including former Former Chief Minister Jitan Ram Manjhi and Leader of Opposition Tejashwi Yadav, have also supported the demand.

CENTRAL GOVT'S. RELUCTANCE ON A CASTE-BASED CENSUS

The issue of the caste census has always been a politically-charged one because of its implications on the percentage of reservation in education and jobs. This has precedence in the heated protests that followed the Mandal Commission report, which eventually led to the toppling of the V.P. Singh-led coalition government in 1990. It gave rise to the 'Mandal' and 'Kamandal' politics as it brought backward castes like the Yadavs, Kurmis and Thakurs to the vanguard of the political landscape. Parties such as the Samajwadi Party (SP), the Rashtriya Janata Dal (RJD) and Janata Dal (United) "have taken up the OBC cause" in Uttar Pradesh and Bihar, where backward castes comprise a significant portion of the electorate.

In Uttar Pradesh, the BJP is said to have been able to bring the upper castes and socially deprived OBCs together for electoral benefits. On August 31, 2018, following a meeting chaired by then Home Minister Rajnath Singh that reviewed preparations for Census 2021, the Press Information Bureau stated in a statement: "It is also envisaged to collect data on OBC for the first time." When The Indian Express filed an RTI request asking for the minutes of the meeting, the Office of Registrar General of India (ORGI) responded: "Records of deliberations in ORGI before MHA (Ministry of Home Affairs) announcement on August 31, 2018, to collect data on OBC is not maintained. There were no minutes of the meeting."

In a response to a question in Lok Sabha during the Monsoon Session of Parliament that ended on August 11, Union Minister of State for Home Affairs Nityanand Rai said that "The government of India has decided as a matter of policy not to enumerate caste-wise population other than SCs and STs in Census." BJP govt., has primarily maintained that such an exercise would lead to further fragmentation of the nation on basis of the Caste lines.

CONCLUSION

The enumeration of OBCs/BCCs (Backward Class of Citizens) has been always adjudged to be administratively “extremely complex” and even when Census of castes were taken in the pre-independence period, the data suffered in respect of completeness and accuracy. The Narendra Modi government’s submission in the Supreme Court on the caste census not being feasible has put key NDA ally, the Janata Dal (United) in a difficult position. This is the first time that the Modi government has voiced its stand on the caste census.

The JD(U) for now has been leading the march on the issue but the baton could easily slip from its hands to the opposition parties. The central government’s stand also gives a window to the Samajwadi Party, which is looking to make inroads into the OBC vote bank.

A caste census may not sit well with the goal of a casteless society, but it may serve, in the interim, as a useful, even if not entirely flawless, means of garnering OBC votes. Till now no central government has whole-heartedly supported the idea of a caste-based census and this more than anything explains the difficulty of vote bank politics when issues such as caste is used as electoral rallying point. The BJP considers this move as political hara-kiri as the next step after the caste-based census would undoubtedly be a demand for proper representation based on the data collected and lead to an increase in the reservation ceiling beyond the Supreme Court mandated 50% and thus, would alienate the Upper- Castes from any party that aims to go ahead with this exercise.

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