Affirmative Action (otherwise known as reservation) is one of the major policies of the Indian government. It aims to support the socially deprived group of people in society. The purpose behind this policy is to provide the basic benefits that are required for survival. This questionnaire is prepared as a field research survey on the issue of reservation policies within the public sector as well as the private sector. The survey will look at both - the merits as well as drawbacks of the reservation system – and is for the benefit and purpose of research use only. Questions can be answered in Hindi or English.

GENERAL INFORMATION:

<table>
<thead>
<tr>
<th>Personal Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name (optional):</td>
</tr>
<tr>
<td>Age:</td>
</tr>
<tr>
<td>State: Chhattisgarh</td>
</tr>
<tr>
<td>Education</td>
</tr>
<tr>
<td>Employed/Unemployed</td>
</tr>
</tbody>
</table>

If Employed (Please mention the Government Sector or Private Sector):
Please Answer The Following Questions:

1. Are you aware of the fact that the rights of the SCs/STs have been protected by the Indian Constitution?

2. Do you think that reservation (Affirmative Action) is a right and must be provided to the backward classes in India?

3. Are you aware that 22.5% seats have been reserved for SCs and STs in educational institutions?

4. Are you aware that 22.5% of the SEATS have been reserved for SCs/STs in government jobs and in PSUs?

5. Are you aware that SCs/STs candidate have been given 5 YEARS AGE RELAXATION for these jobs?
6. Are you aware that SCs/STs also get reservation in PROINATIONS?


7. Are you aware that seats are reserved for SCs/STs in the Parliament and in the State Assembly?


8. Are you aware that seats are reserved for SCs/STs in local institutions?


9. Have you personally benefited (and how much) at all from the government's reservation policy?

1. Highly 2. To a small extent 3. Not at all 4. I'm not sure

10. Do you feel that reservations, in the name of affirmative action, has social disadvantages?


11. How far has the issue of equal social status been affected after the implementation of reservation?

12. Has reservation helped in securing employment for the backward castes in government jobs?


13. Do you agree with the view that reservations should be implemented in the private sector?


14. Is reservation in the private sector helpful in changing the strata of the backward classes in society?


15. Have you ever availed reservation from a government institution?


16. Do you agree that reservation is important and should continue in for the betterment of the backward classes in society?


17. Have you ever clashed with those who haven't got reservation?

18. Would you say that reservation policies divide society?


19. Education is the most effective tool for uplifting people in a society. How far do you support reservations and encourage it?


20. With the ongoing debate, do you agree that income-based reservation should be considered as a criterion?


21. Are you aware that the term 'backward class' has been mentioned in the Indian constitution?

1. Yes  2. No  3. Don't know enough to comment  4. Unsure

22. Do you feel a lack of opportunity for upward mobility within your own occupation?


23. Do you think reservation helps in getting an education?

24. Do you think reservation helps on economically?


25. Do you think that reservation can raise your social status in some way?


26. Do you think reservations help professionally?


27. Do you consider reservations necessary for raising someone’s social status?


28. Do you consider reservations a sufficient and sustained solution to the present day stagnation in your occupation?


29. Can you visualise upward social mobility without reservation?

30. Do you agree with the stand on reserving seats in the private owned sector for jobs for the Backward Castes, SCs and STs?


31. Do you mix freely with the people of other (forward) castes?


32. Would you rate any caste as higher than yours?


33. Would you be comfortable with people belonging to higher castes as your business partners?


34. Would you form a political alliance with someone of a higher caste?


35. Do you dislike your caste being labeled as backward?

36. Do you take backward labeling as socially downgrading?


37. Have you have experienced any change of behaviour towards you from people belonging to the upper classes?


38. Does the caste label mean you have to cut down on interacting with those who belong to the upper caste?


39. Do you agree with the provision of reservation in education and employment?


40. Are you aware of the process of reservation in education and employment?

1. Yes  2. No

41. Have you ever applied for a post that was reserved for you?

1. Yes  2. No
42. Do reservations in the employment sector provide security to SCs and STs?


43. What are your suggestions for improvising reservation policies? Please write two to three sentences.

44. Is it true that SCs and STs do not benefit from reservation? Please explain in two or three lines in support of the option that you choose.


45. Do you want to share any other information or personal experience with regards to the reservation policy?

1. Yes  2. No
50. Do you consider reservation is a necessary for employment of any caste?


51. Do you consider reservations as a sufficient and sustained solution for social justice?


52. Do you feel you are independent from the government's reservation policy? Do you think it is a bad phenomenon?

Appendix: 1

MAP OF CHHATTISGARH

DISTRICT MAP OF CHHATTISGARH

Source: Government of Chhattisgarh, (www.mapofindia.com)
India Map showing location of Chhattisgarh State

Source: Government of Chhattisgarh, (www.mapofindia.com)
## Chhattisgarh at a Glance-2001
### Table 1: Population

<table>
<thead>
<tr>
<th>Items</th>
<th>Population in 2001 (in thousand)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>20796</td>
</tr>
<tr>
<td>Male</td>
<td>10452</td>
</tr>
<tr>
<td>Female</td>
<td>10344</td>
</tr>
<tr>
<td>Rural</td>
<td>16621</td>
</tr>
<tr>
<td>Urban</td>
<td>4175</td>
</tr>
<tr>
<td>Male</td>
<td>8291</td>
</tr>
<tr>
<td>Female</td>
<td>8330</td>
</tr>
<tr>
<td>Male</td>
<td>2161</td>
</tr>
<tr>
<td>Female</td>
<td>2014</td>
</tr>
</tbody>
</table>

Source: Directorate of Economics & Statistics, Chhattisgarh, 2001
Table 2: Classification of population on the basis of Scheduled Caste, Scheduled Tribes and Main Working According to 1991 Census.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>UNIT</th>
<th>DETAILS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Scheduled Castes Population (1991)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>In Thousand</td>
<td>2148</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>1081</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>1067</td>
</tr>
<tr>
<td>Rural</td>
<td>In Thousand</td>
<td>1784</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>894</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>890</td>
</tr>
<tr>
<td><strong>Urban</strong></td>
<td>In Thousand</td>
<td>364</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>186</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>178</td>
</tr>
<tr>
<td><strong>Scheduled Tribes Population (1991)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>In Thousand</td>
<td>5717</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>2846</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>2871</td>
</tr>
<tr>
<td>Rural</td>
<td>In Thousand</td>
<td>5488</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>2727</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>2761</td>
</tr>
<tr>
<td><strong>Urban</strong></td>
<td>In Thousand</td>
<td>229</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>119</td>
</tr>
<tr>
<td></td>
<td>In Thousand</td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>Female</td>
<td></td>
<td>110</td>
</tr>
<tr>
<td><strong>Working Population (Main Worker's) 1991</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>In Thousand</td>
<td>7417</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>4745</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>2672</td>
</tr>
<tr>
<td>Rural</td>
<td>In Thousand</td>
<td>6500</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>3990</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>2510</td>
</tr>
<tr>
<td>Urban</td>
<td>In Thousand</td>
<td>917</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>755</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>162</td>
</tr>
</tbody>
</table>

Source: Directorate of Economics & Statistics, Chhattisgarh, 2001
### Table 3: Literate Population According to 2001 Census

<table>
<thead>
<tr>
<th>Literate Population 2001</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>In Thousand</td>
<td>11283</td>
</tr>
<tr>
<td>Male</td>
<td>In Thousand</td>
<td>6771</td>
</tr>
<tr>
<td>Female</td>
<td>In Thousand</td>
<td>4512</td>
</tr>
</tbody>
</table>

**Rural**
- **Total**: In Thousand | 8361
- **Male**: In Thousand | 5093
- **Female**: In Thousand | 3268

**Urban**
- **Total**: In Thousand | 2922
- **Male**: In Thousand | 1678
- **Female**: | 1244

<table>
<thead>
<tr>
<th>Literacy Rate 2001</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>Percentage</td>
<td>65.12</td>
</tr>
<tr>
<td>Male</td>
<td>Percentage</td>
<td>77.86</td>
</tr>
<tr>
<td>Female</td>
<td>Percentage</td>
<td>52.28</td>
</tr>
</tbody>
</table>

**Rural Literacy Rate**
- **Total**: Percentage | 60.93
- **Male**: Percentage | 74.58
- **Female**: Percentage | 47.41

**Urban Literacy Rate**
- **Total**: Percentage | 81.08
- **Male**: Percentage | 89.87
- **Female**: Percentage | 71.63

Source: Directorate of Economics & Statistics, Chhattisgarh, 2001
Table 4: EDUCATION IN CHHATTISGARH

<table>
<thead>
<tr>
<th>Institutions</th>
<th>Pre-Primary /Primary</th>
<th>Middle</th>
<th>High School/Higher Secondary (10+2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In `000</td>
<td>In `000</td>
<td>In `000</td>
</tr>
<tr>
<td></td>
<td>29.95</td>
<td>6.03</td>
<td>2.30</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Students</th>
<th>Pre-primary/ Primary</th>
<th>Middle</th>
<th>High School/Higher Secondary (10+2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In `000</td>
<td>In `000</td>
<td>In `000</td>
</tr>
<tr>
<td></td>
<td>3040</td>
<td>860</td>
<td>661</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Teachers</th>
<th>Pre-Primary /Primary</th>
<th>Middle</th>
<th>High School/Higher Secondary (10+2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In `000</td>
<td>In `000</td>
<td>In `000</td>
</tr>
<tr>
<td></td>
<td>65</td>
<td>21</td>
<td>19</td>
</tr>
</tbody>
</table>

### Higher Education (2000-01)

<table>
<thead>
<tr>
<th>General Education College</th>
<th>No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Students</td>
<td>80</td>
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<tr>
<td>Universities</td>
<td>4</td>
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### Professional and Technical Institutions (2000-01)

<table>
<thead>
<tr>
<th>Polytechnic</th>
<th>No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Students</td>
<td>3614</td>
</tr>
<tr>
<td>Seats (Sanctioned)</td>
<td>1495</td>
</tr>
</tbody>
</table>

### Industrial Training Institution 2000-01

<table>
<thead>
<tr>
<th>Institutions</th>
<th>No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Students</td>
<td>5462</td>
</tr>
</tbody>
</table>

### Engineering Colleges 2000-01

<table>
<thead>
<tr>
<th>Institutions</th>
<th>No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Students</td>
<td>6529</td>
</tr>
</tbody>
</table>

### Medical Education 2000-01

<table>
<thead>
<tr>
<th>Medical College</th>
<th>No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seat (Sanctioned)</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Directorate of Economics & Statistics, Chhattisgarh, 2001
<table>
<thead>
<tr>
<th>Items</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total population</td>
<td>2,844,658</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>RACE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One race</td>
<td>2,824,637</td>
<td>99.3</td>
</tr>
<tr>
<td>White</td>
<td>1,746,099</td>
<td>61.4</td>
</tr>
<tr>
<td>Black or African American</td>
<td>1,033,809</td>
<td>36.3</td>
</tr>
<tr>
<td>American Indian and Alaska Native</td>
<td>11,652</td>
<td>0.4</td>
</tr>
<tr>
<td>Asian</td>
<td>18,626</td>
<td>0.7</td>
</tr>
<tr>
<td>Asian Indian</td>
<td>3,827</td>
<td>0.1</td>
</tr>
<tr>
<td>Chinese</td>
<td>3,099</td>
<td>0.1</td>
</tr>
<tr>
<td>Filipino</td>
<td>2,608</td>
<td>0.1</td>
</tr>
<tr>
<td>Japanese</td>
<td>766</td>
<td>0.0</td>
</tr>
<tr>
<td>Korean</td>
<td>1,334</td>
<td>0.0</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>5,387</td>
<td>0.2</td>
</tr>
<tr>
<td><strong>Other Asian</strong></td>
<td>1,605</td>
<td>0.1</td>
</tr>
<tr>
<td>Native Hawaiian and Other Pacific Islander</td>
<td>667</td>
<td>0.0</td>
</tr>
<tr>
<td>Native Hawaiian</td>
<td>213</td>
<td>0.0</td>
</tr>
<tr>
<td>Guamanian or Chamorro</td>
<td>213</td>
<td>0.0</td>
</tr>
<tr>
<td>Samoan</td>
<td>157</td>
<td>0.0</td>
</tr>
<tr>
<td><strong>Other Pacific Islander</strong></td>
<td>100</td>
<td>0.0</td>
</tr>
<tr>
<td>RACE ALONE OR IN COMBINATION WITH ONE OR MORE OTHER RACES</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Some other race</td>
<td>13,784</td>
<td>0.5</td>
</tr>
<tr>
<td>Two or more races</td>
<td>20,021</td>
<td>0.7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>HISPANIC OR LATINO AND RACE</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total population</td>
<td>2,844,658</td>
<td>100.0</td>
</tr>
<tr>
<td>Hispanic or Latino (of any race)</td>
<td>39,569</td>
<td>1.4</td>
</tr>
<tr>
<td>Mexican</td>
<td>21,616</td>
<td>0.8</td>
</tr>
<tr>
<td>Puerto Rican</td>
<td>2,881</td>
<td>0.1</td>
</tr>
<tr>
<td>Cuban</td>
<td>1,508</td>
<td>0.1</td>
</tr>
<tr>
<td>Other Hispanic or Latino</td>
<td>13,564</td>
<td>0.5</td>
</tr>
<tr>
<td>Not Hispanic or Latino</td>
<td>2,805,089</td>
<td>98.6</td>
</tr>
<tr>
<td>White alone</td>
<td>1,727,908</td>
<td>60.7</td>
</tr>
</tbody>
</table>

1 Other Asian alone, or two or more Asian categories.
2 Other Pacific Islander alone, or two or more Native Hawaiian and Other Pacific Islander categories.
3 In combination with one or more other races listed. The six numbers may add to more than the total population and the six percentages may add to more than 100 percent because individuals may report more than one race.

Source: U.S. Census Bureau, Census 2000 Summary File 1, Matrices P1, P3, P4, P8, P9, P12, P13, P17, P18, P19, P20, P23, P27, P28, P33, PCT5, PCT8, PCT11, PCT15, H1, H3, H4, H5, H11, and H12.
Appendix: 3

Development of Affirmative Action Policies

1. UNITED STATES

• 1961: President John. F. Kennedy uses phrase “affirmative action” in Executive Order No. 10925, requiring all government agencies to go beyond passive nondiscrimination to take affirmative action so as not to discriminate in hiring (Moses, 2002, p. 108).

• 1964: Civil Rights Act of 1964 mandated nondiscrimination by race, ethnicity within any federally assisted programme (Moses, 2002).

• 1965: In Executive Order No. 11246, Present Lyndon B. Johnson revised Executive Order No. 10925 and called for affirmative action to expand recruitment and outreach practices (Graham, 1990).

• 1978: U.S. Supreme Court made its landmark decision in Regents of the University of California v. Bakke. It held consideration of race, ethnicity in university admissions to be constitutional (Sobel, 1980).

• 1996: In Hopwood v. Texas, U.S. Court of Appeals for the 5th Circuit (Louisiana, Mississippi, and Texas) ruled against affirmative action in university admissions (Moses, 2002).

• 1996: California voters passed Proposition 209, first state-level ballot initiative amending state constitution to eliminate affirmative action in public education, hiring, and contracting.

• 2000: Florida’s Governor Jeb Bush issued executive order banning use of affirmative action in higher education admissions, although not in outreach or scholarship programs (Moses, Yun, and Marin, 2009).

• 2003: U.S. Supreme Court ruled in University of Michigan affirmative action cases, Gratz v. Bollinger and Grutter v. Bollinger. While striking down Michigan’s point-based admissions system, Court affirmed Bakke ruling that race, ethnicity could be taken into consideration in higher education admissions in the interests of fostering the educational benefits of diversity (Moses et al., 2009).

• 2006: Michigan voters passed Proposal 2, third state ballot initiative against affirmative action (Moses and Saenz, 2008).

• 2008: Nebraska voters passed Initiative 424, fourth state ballot initiative abolishing affirmative action (Moses et al., 2009).

• 2008: Colorado became first state to defeat proposed state ballot initiative against affirmative action (Moses et al., 2009).

• 2009: Anti-affirmative action state ballot initiatives proposed in Arizona and Missouri for 2010 ballot (Moses et al., 2009).

2. BRAZIL


• 2001: State Legislative Assembly of Rio de Janeiro announced 40% of admission slots in state universities would be reserved for Black and pardo students and 50% of state university slots for public school graduates (Telles, 2004).

• 2003: Federation of Private Schools filed a lawsuit challenging constitutionality of Rio de Janeiro's quota system (Telles, 2004).

• 2003: Rio state legislature reduced quotas 20 percent for public school students, 5 per cent for physically disabled, and 20 percent for Blacks as opposed to the previous 40 per cent for Black and pardo students (Telles, 2004).

• 2004: Programme’s University Para To-dos (Pro-University) set aside percentage of scholarships in private higher education institutions for indigenous students (Human Rights Council, 2009).

• 2009: 48 public universities in more than 20 states adopt affirmative action for Afro-Brazilians, indigenous Brazilians, and public school students (United Nations Committee on Economic, Social, and Cultural Rights, 2009).

• 2009: The State University of Rio de Janeiro’s quota programme was held on constitutional by a state tribunal (Lloyd, 2009).

3. SOUTH AFRICA


• Post-1994: Reconstruction and Development Programme (RDP) developed strategy for redressing past inequalities (Africa, 2006).
• 1996: Constitution’s equality provision (Section 9 of the Bill of Rights) establishes non discriminated by race, as well as mechanisms of affirmative action (Thaver, 2006).


• 2000: Council on Higher Education submits report to Minister of Education on higher education system and concluded that higher education ought to “erode the inherited structural inequities and provide opportunities for social advancement through equity of access and opportunity” (Africa, 2006, p. 322).

4. INDIA

• 1950: The constitution provides guaranteed equality before law (Article 14); prohibits discrimination by religion, race, caste, sex, or place of birth (Article 15) and assures equality of opportunity in public employment (Article 16). It also includes provisions that allow positive discrimination in favor of members of under represented groups (Weisskopf, 2004).

• 1951: Amendment to constitution regarding Article 15 constitution provides special provisions for the Scheduled Castes and Tribes including reservations in government positions and education admissions (Weisskopf, 2004).


• 1990: Prime Minister V. P. Singh implements some Mandal Commission recommendations (K. A. Sharma, 2008).
• 1992: Supreme Court ruled in favor of national reservations for Other Backward Castes (excluding the "creamy layer" who have already benefited sufficiently (Sharma, 2005, p.153; Weisskopf, 2004).

• 2006: Medical students across India protested and sued against government plans to increase enrollment quotas in elite institutions for lower status castes and tribal groups (Pulsipher, 2009).

• 2008: Supreme Court upheld 27 percent quota for Other Backward Classes (Sharma, 2008).

Appendix: 4

Demographic, Education Information of United States, Brazil, South Africa, and India

1. UNITED STATES

Population data
Total population: 307,212,123 (Central Intelligence Agency, 2009)
July 2007:
White: 79.96 %
Black: 12.85 %
Asian: 4.43 %
American Indian/Alaskan Native: 0.97 %
Hawaiian/Pacific Islanders: 0.18 %
Multiracial: 1.61 %
Latino/Hispanic: 14.8 % (may be of any race)

Poverty information
Blacks have the highest poverty rate, with 24.7 % in poverty; Latinos/Hispanics 23.2 %; Asians 11.8 %; and Whites 11.2 % (U.S. Census Bureau, 2008b).

Educational challenges
Inequitable structures, funding, and resources at K–12 level lead to disparate treatment of students by race and income and inadequate pre-collegiate academic preparation (Gándara and Contreras, 2009; Moses, 2002).
2. BRAZIL

Population data
Total population: 198,739,269 (Central Intelligence Agency, 2009)
Afro-Brazilians: 45 %; Mulatto (mixed White/Black): 38.5 %; Black: 6.2 %; White: 53.7 %
(Central Intelligence Agency, 2009).
(International Comparative Higher Education and Finance Project, 2008)

Poverty information
90 % of all Afro-Brazilians are below the poverty line (Fredrickson, 2008).
Afro-Brazilians are nearly twice as likely to live in poverty as are Whites (Franko, 2006).
Whites earn 26%-38% more than Afro-Brazilians do (Telles, 2004).
Whites are 8.5 times more likely than Blacks to enroll in university (Fredrickson, 2008).

Educational challenges
Most Brazilians cannot read, and a recent study found that Brazil was ranked the lowest among
32 countries in terms of literacy (Telles, 2004).
Racial discrimination is rampant, e.g., teachers are more affectionate with and overlook
discriminatory acts among White students (Telles, 2004).
In 2003, 65 % of Brazilian university students attended private high schools, which cater to those
who can afford high school tuition (Davies, 2003). The wealthiest 7 % of the population
comprise 27 % of all university students, whereas the poorest 40 % comprise only 5 % (Telles,
2004).

3. SOUTH AFRICA

Population data
Total population: 49,052,489 (Central Intelligence Agency, 2009)
2001 census:
African: 79 %
Colored: 8.9 %
White: 9.6 %
Indian/Asian: 2.5 % (Central Intelligence Agency, 2009)
African refers to indigenous people of South Africa, Colored to people of mixed origin Indian-Asian to Asian descent, and Black collectively to Africans, Colored, and Indians (Ishengoma, 2002).

**Poverty information**

Africans account for more than 90% of those unemployed (Thaver, 2006).

South Africa remains one of the most unequal countries in the world, with 40% of the households still living below the minimum subsistence level as cited in (Ishengoma, 2002).

**Educational challenges**

Over a third of Africans have no formal education, and fewer than 1% go on to higher education (Ramphele, 1999).

There are enormous disparities between historically Black and historically White universities, with only a handful of African students in science, business, and engineering (Ishengoma, 2002). African students are more likely to attend technicians (vocational training institutions) than research oriented universities (Ishengoma, 2002).

4. INDIA

**Population data**

Total population: 1,166,079,217 (Central Intelligence Agency, 2009)

Scheduled Classes: 16.3% of population

Scheduled Tribes: 8.8% of population

Other Backward Classes: 52% of population (Gupta and Wankhede, 2006)

**Poverty information**

22% Scheduled Classes and 25% Scheduled Tribes in poverty 12% other classes in poverty (Mehta and Shah, 2003)

**Educational challenges**

Beneficiaries of reservations—Scheduled Classes (Dalits), Scheduled Tribes (Adivasis), and Other Backward Classes (OBC) are underrepresented in high-status positions in business, government, and society (Weisskopf, 2004).

Many members of Scheduled Classes and Tribes do not have access to primary education; the education to which there is access is often of poor quality in content, pedagogy, and treatment of students (Desai and Kulkarni, 2008; Wankhede, 2006).
College admissions are extremely competitive due to the scarcity of university places (Desai, Kulkarni and Sharma, 2008).

Appendix: 5

Chapter 1, Appendix

1. National legislation that identifies who may benefit from affirmative action provisions.

For instance, in the United States the "protected" groups that were to benefit from affirmative action were identified as follows: American Indians or Alaskan Natives: persons having origins in any of the original people of North America and who maintain cultural identification through tribal affiliation or community recognition; Asian or Pacific Islanders: persons having origins in any of the original peoples of the Far East, South East Asia, South Asia or the Pacific Islands; Blacks: persons having origins in any of the black racial groups of Africa; Hispanics: persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race. In South Africa, the designated groups are Black people (African people), people classified as "Colored" and Indian South Africans, women and people with disabilities. For more on the question of racial identity in South Africa, P.E. Andrews (1999), Affirmative action in South Africa: Transformation or Tokenism”, Law in Context, pp. 91 93.

2. Direct discrimination and Indirect discrimination.

See more in T. Loenen, "Indirect discrimination: oscillating between containment and revolution”, in T. Loenen and P.R. Rodrigues, (eds.), Non discrimination Law: Comparative Perspectives, The Hague, Kluwer Law International, 1999, pp. 195 211; M. Selmi, “Indirect discrimination: a perspective from the United States”, in T. Loenen and P.R. Rodrigues, (eds.), op. cit., pp. 213 222; B. Vizkelety, “Adverse effect discrimination in Canada: crossing the Rubicon from formal to substantive equality”, in op. cit., pp. 223 236. I. Sjerps, "Effects and justifications. Or how to establish a prima facie case of indirect sex discrimination”, in op. cit., pp. 237 263. The Human Rights Committee defines "discrimination" in its General Comment 18 as "any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the
recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms” (HRI/GEN/1/Rev.1, Part I, Human Rights Committee, General Comment 18, para. 7) This definition is reflected in the Committee’s case law, although somewhat inconsistently. For example, its views in K. Singh Bhinder v. Canada indicate that obvious instances of indirect discrimination will breach the International Covenant on Civil and Political Rights (A/45/40, vol. II, annex IX, sect. E, Communication No. 208/1986). Finally, the Committee on the Elimination of Racial Discrimination states: “In seeking whether an action has an effect contrary to the Convention, it will look to see whether that action has an unjustifiable disparate impact upon a group distinguished by race, colour, descent or national or ethnic origin.” (HRI/GEN/1/Rev.1, Part III, Committee on the Elimination of Racial Discrimination, General Recommendation XIV on article 1 of the Convention, para. 2).

3. Ancient varna system to the contemporary jati system.

These are translated into a single English term, the caste system, which does not enable us to distinguish between these manifestations.


In the words of President Lyndon Johnson, speaking about the aim of affirmative action programmes: “You do not wipe away the scars of centuries by saying: ‘Now you are free to go where you want, and do as you desire’ ... You do not take a person who, for years, has been hobbled by chains and liberate him, bring him to the starting line of a race and then say, ‘You are free to compete with all the others’, and still justly believe that you have been completely fair ... We seek ... not just equality as a right and a theory but equality as a fact and equality as a result.” Excerpt from President Johnson’s speech to graduates at Howard University, June 1965, as quoted in S.M. Cahn, (ed.), The Affirmative Action Debate, London, Routledge, 1995, p. xii.

Chapter 2 Appendix
Constitution of India (Part III) Fundamental Rights, General

12. Definition.—In this Part, unless the context otherwise requires, “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

13. Laws inconsistent with or in derogation of the fundamental rights.—(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—
(a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.
1[(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.]

Right to Equality

14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—
(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—
(a) access to shops, public restaurants, hotels and places of public entertainment; or
(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

2[(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 or for the Scheduled Castes and the Scheduled Tribes.]

16. Equality of opportunity in matters of public employment.—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.
(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office 1[under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

2[(4A) Nothing in this article shall prevent the State from making any provision for reservation 3[in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State].

4[(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.]

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.
17. Abolition of Untouchability.—"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

1 Ins. by the Constitution (Twenty-fourth Amendment) Act, 1971, s. 2.
2 Added by the Constitution (First Amendment) Act, 1951, s. 2.

Appendix: 6

The Constitution (Seventy-Seventh Amendment) Act, 1995

Statement of Objects and Reasons appended to the Constitution (Eighty-sixth Amendment) Bill, 1995 which was enacted as the Constitution (Seventy-seventh Amendment) Act, 1995

Statement of Objects and Reasons

The Scheduled Castes and the Scheduled Tribes have been enjoying the facility of reservation in promotion since 1955. The Supreme Court in its judgment dated 16th November, 1992 in the case of Indra Sawhney and Others vs. Union of India and Others, however, observed that reservation of appointments or posts under article 16(4) of the Constitution is confined to initial appointment and cannot extent to reservation in the matter of promotion. This ruling of the Supreme Court will adversely affect the interests of the Scheduled Castes and the Scheduled Tribes. Since the representation of the Scheduled Castes and the Scheduled Tribes in services in the States have not reached the required level, it is necessary to continue the existing dispensation of providing reservation in promotion in the case of the Scheduled Castes and the Scheduled Tribes. In view of the commitment of the Government to protect the interest of the Scheduled Castes and the Scheduled Tribes, the Government has decided to continue the existing policy of reservation in promotion for the Scheduled Castes and the Scheduled Tribes. To carry out this, it is necessary to amend article 16 of the Constitution by inserting a new clause (4A) in the said article to provide for reservation in promotion for the Scheduled Castes and the Scheduled Tribes.

The Bill seeks to achieve the aforesaid object.

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The Constitution (Seventy-Seventh Amendment) Act, 1995 [17th June, 1995.]

An Act further to amend the Constitution of India. Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:

1. Short title.-This Act may be called the Constitution (Seventy-seventh Amendment) Act, 1995.

2. Amendment of article 16.-In article 16 of the Constitution, after clause (4), the following clause shall be inserted, namely:-

"(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State."