Juridical Engagement With Electoral Reservations in India

Episode 77 | Big Ideas

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Transcript

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Abstract

Reservation law in India has largely been studied through the lens of education and employment, leaving electoral reservations relatively unexamined by courts and scholars. Prof. Sidharth Chauhan, who recently completed his PhD at NALSAR University, argues that this gap matters. His thesis builds a case for electoral reservations at the parliamentary, state legislature, and local body levels by returning to Dr Ambedkar's ideas while grappling with frameworks courts have already developed for education and jobs.

The conversation moves through the constitutional architecture of reservations, the recurring critique of proxy candidature in reserved seats, the question of whether reservations should be judged by measurable outcomes, and whether winning a ticket actually translates into holding real power. Along the way, Dr Sidharth draws on empirical work from development economics and political science, and repeatedly returns to a central distinction: electoral representation cannot be evaluated using the same yardstick as material or economic outcomes, because political representation is tied to the identity of a country itself.

The notes below trace this argument chapter by chapter, from the specific constitutional articles involved to Sidharth's closing case for calling reservations "compensatory discrimination" rather than "protective discrimination."

Supplementary Resources

- **Juridical Engagement with Electoral Reservations in India** by Sidharth Chauhan (Working paper) [1]

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Introduction to electoral reservation research

[00:00:08] Gokul Sunoj: Hello and welcome to this episode of the Big Idea series. Today I'm in a conversation with ProfessorSidharth Chauhan from the National Law School of India University. He's recently finished a PhD thesis where he grapples with the complex problem of electoral reservations, especially of progressive kinds such as that of gender and disability at all levels of government.

[00:00:29] Gokul Sunoj: Over to ProfessorSidharth Chauhan.

[00:00:32]Sidharth Chauhan: So I've recently completed my own PhD thesis and the main argument there is that when it comes to reservation law under the Indian constitution, our courts have by and large focused on educational reservations and employment reservations, but not so much on the justification for electoral reservations.

[00:00:49]Sidharth Chauhan: So in the thesis which I've submitted at NALSAR University, I argue that if you read Dr. Ambedkar's ideas in a contextual way, we can come up with constructive justifications for electoral reservations at different levels of government, at the parliamentary level, at the level of state legislatures and local bodies.

[00:01:08]Sidharth Chauhan: And also use those ideas to navigate even the current discussion on electoral reservations, which is going beyond questions of caste identity and tribal identity and also looking at progressive arguments for gender and disability based reservations.

[00:01:21]Sidharth Chauhan: So that's the work which I've completed recently and I'm happy to travel the country and speak about it in different forums.

Constitutional provisions for electoral reservations

[00:01:28] Gokul Sunoj: For listeners unacquainted with the topic, can you please take us through the legal instruments that justify such electoral reservations?

[00:01:35]Sidharth Chauhan: Yeah. So the initial reservation provisions in the constitution for education are found in Article fifteen, in particular fifteen four, which was added by the first amendment. Article sixteen four, which deals with employment reservations was actually the original provision that spoke about reservations for the backward classes.

[00:01:54]Sidharth Chauhan: But since these two articles are in the fundamental rights chapter, they are analytically different from the electoral reservations which appear primarily in Article three thirty, which talks about reservations in the Lok Sabha, three thirty-two, which talks about reservations in the Vidhan Sabha. And now we have provisions for local government which are also there in the constitution, especially Article two forty-three D and two forty-three T.

[00:02:17]Sidharth Chauhan: So I have analyzed not so much the drafting history of these provisions, but how the meaning and scope of these provisions have been interpreted by the courts.

Proxy candidature in gender reservations

[00:02:25] Gokul Sunoj: In the context of progressive ideas such as gender based reservations, how does one tackle the problem of proxy candidature? Women are often forced to stand in the names of their husbands or brothers, and this defeats, de facto, the purpose of such reservations. What are your thoughts?

[00:02:41]Sidharth Chauhan: So the critique that you're speaking about applies not just to gender-based reservations, but historically the problem of proxy representation was raised even with respect to candidates from the scheduled castes and even today, from the scheduled tribes who get elected to reserve constituencies. But the short response to that question is that while proxy representation may be a small slice of the problem, we must look at the justification for electoral quotas also in terms of the incubation function that they perform.

[00:03:07]Sidharth Chauhan: So even if husbands are dominating their wives and actually making decisions on their behalf when somebody becomes a sarpanch, it also incubates the confidence or the possibility for others to then follow the same route and then learn leadership through experience over time.

[00:03:21]**Sidharth Chauhan:** So I think serious empirical work in the field of development economics has already shown us that even with thirty plus years of gender-based reservations in some states, we are now seeing positive outcomes which are intergenerational. And certainly if you go back to the work of scholars like Marc Galanter or an Indian political scientist Narendra Kumar, they have done similar work with reservations even for Dalits and Adivasis, both when it comes to parliament and also the state legislatures.

[00:03:48]**Sidharth Chauhan:** So I think the concerns remain, but we have to look at the overall overarching social effect of the policy in order to assess it over the time. And the positive in the long term, the evidence in the long term, to my mind is very positive.

Measuring the impact of reservations

[00:04:02] **Gokul Sunoj:** Another common critique of constitutional reservation provisions has been the lack of impact measurement. This prominently came up in the debates for instance of reservations for promotions in public employment. How should one think about this? Can we intelligently design reservations such that the impact measurements are baked in into the provisions?

[00:04:22]**Sidharth Chauhan:** Yeah, so promotional reservations were given a constitutional basis in nineteen ninety-five, with the addition of Article sixteen four A. That was done as a response to a discussion in the Indira Sawhney case, where the courts were not favoring reservations at the promotion stage.

[00:04:38]**Sidharth Chauhan:** So it was formally brought because the evidence in the union civil services was that the proportion of people from scheduled caste and scheduled tribes who were actually getting departmental promotions or even higher level positions was very marginal. But we must remember that before it entered the constitution, several state governments had already amended their civil service rules and departmental promotions in fact had been made subject to reservations as early as the nineteen seventies.

[00:05:02]Sidharth Chauhan: There's in fact a famous case called NM Thomas versus State of Kerala where the government actually upholds the policy which enables promotional reservations. So I think the problem is not so much with design. The other part of the question that you have is about the impact of reservations.

[00:05:17]Sidharth Chauhan: Well, as a matter of economic analysis, of course, it is important to link the performance of elected representatives and development outcomes just as you would link the performance of employees in a public sector organization and overarching concerns of efficiency. But the argument that I make in my book is that these domains are very distinct.

[00:05:35]Sidharth Chauhan: So while material outcomes or evidence of economic success may be useful to some extent when we evaluate the long-term impact of employment reservations, I don't think personally that the same frame should be applied to electoral reservation. And the key idea is that political representation is prior to compensatory discrimination measures that may address inequality in unemployment or education because political representation is tied to the identity of a country.

[00:06:02]Sidharth Chauhan: So that's the normative argument that I'm pursuing.

From reserved tickets to real power

[00:06:04] Gokul Sunoj: Do you think, professor, that reservations for tickets will translate to actual representation in real positions of power? The government operates through its ministries and departments. How do we increase representation there as well?

[00:06:17]Sidharth Chauhan: Yeah. So there is in fact related work on this. There is a work by a Norwegian scholar called Francesca Jensenius who has looked at the impact of scheduled caste reservations at the state legislative assemblies. In my case, I am concentrating more on the court's opinions and the absences in the judicial reasoning in this area.

[00:06:17]Sidharth Chauhan: But one of the arguments I do consider is the impact on party politics.

[00:06:40]Sidharth Chauhan: That reservations may have compelled certain parties which were dominated by certain castes to diversify ticket distribution practices. In some cases, reserved constituencies have also enabled parties which have mobilized around certain caste identities or regional identities to mobilize effectively. So it has both upstream and downstream effects, which I think only the discipline of empirical political science can study.

[00:07:02]Sidharth Chauhan: So I don't think we should evaluate it just in terms of counting the number of representatives that enter parliament or elected body. There is certainly evidence to be gathered on the effect it has on choice of candidates, the campaigning process, and also the constituencies to whom you will appeal to.

Reservations as compensatory, not protective

[00:07:18] Gokul Sunoj: Thank you professor for that deep and engaging conversation. Any concluding thoughts?

[00:07:22]Sidharth Chauhan: Yeah. So in my dissertation which is written more for an academic audience, my core argument is that when the colonial state first created reservations in these domains of higher education, employment or electoral government, they were more concerned about the idea of maintaining law and order and preventing disorder amongst communities which were seen as distinct.

[00:07:42]Sidharth Chauhan: That argument necessarily cannot be taken forward with the interpretation or enforcement of our constitution. If social reform or social transformation is one of the central goals of the Indian constitution, then we should not see reservations as material resources, we should see them as elements of collective moral responsibility.

[00:07:59]Sidharth Chauhan: Which is why once again to go back to Marc Galanter, the proper frame for Indian reservation law is not to call it protective discrimination, but to call it compensatory discrimination. And the evidence does not need to be judged in five years, ten years, or twenty years from now, but maybe in a hundred years from now.

[00:08:17] Gokul Sunoj: Thank you ProfessorSidharth Chauhan. It was a delight talking to you.

[**00:08:19**]**Sidharth Chauhan:**Nice. Yeah. Yeah.

References

References

[1] Chauhan, Sidharth. "Juridical Engagement with Electoral Reservations in India." 2026. https://doi.org/10.2139/ssrn.6163966.