



## Reservation Policy and Indian Constitution in India

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"It is against the fundamental principles of humanity, it is against the dictates of reason that a man should, by reason of birth, be denied or given extra privileges" -Mahatma Gandhi

**Abstract:** However, the theme of reservations has figure importantly in open debates constantly since the recommendations of the Mandal Commission Report were sought to be implemented in 1991 nearby has been extremely tiny discussion by the beneficiaries of reservations. This paper looks at some of the more important chronological, constitutional and lawful moments in the development of a reservations procedure in India.

**Keywords:** Reservation, Discrimination, Constitution, Law, Untouchability

### I. Introduction

The spirit of equality pervades the provisions of the Constitution of India, as the main aim of the founders of the Constitution was to create an egalitarian society wherein social, economic and political justice prevailed and equality of status and opportunity are made available to all. However, owing to historical and traditional reasons, certain classes of Indian citizens are under severe social and economic disabilities [so] that they cannot effectively enjoy either equality of status or of opportunity. Therefore the Constitution accords to these weaker sections of society protective discrimination in various articles, including Article 15(4). This clause empowers the state, notwithstanding anything to the contrary in Articles 15(1) and 29(2), to make special reservation for the advancement of any socially and educationally backward classes of citizens or for scheduled castes and scheduled tribes. (RESERVATION AS A WELFARE MEASURE , COMMUNALISM COMBAT ,2010)

### II. Cast based reservation system in India

An ordinary form of long-ago discrimination, inside humankind in India is the carry out of untouchability. Scheduled Castes (SCs) are the main targets of this medieval put into practice a practice which is banned by the Constitution of India (Basu, Durga Das (2008) an untouchable human being is measured, contaminated or a lesser human. Though during the Vedic period a person's 'Varna' (not 'caste') was clear by his/ her socio-economic duties these duties were either of your own accord performed or were assigned by the local superintendent , and 'varna' was originally not clear by one's birth into any exacting family. Nevertheless, over the years Caste has been defined by one's birth.

The most important stated aim of the Indian reservation system is to boost the opportunities for improved social and instructive position of the underprivileged communities and, thus, allow them to take their equitable place in the conventional of Indian society. The reservation scheme exists to provide opportunities for the members of the SCs and STs to increase their representation in the State Legislatures, the executive appendage of the Union and States, the labor force, schools, colleges, and other 'public' institutions. (Financial Support", Oct 2011)

The Constitution of India states in Article 15(4): "All citizens shall have equal opportunities of receiving education. Nothing herein contained shall preclude the State from providing special facilities for educationally backward sections (not "communities") of the population." [Emphasis and parentheses added. It also states that "The State shall promote with special care the educational and economic interests of the weaker sections of society (in particular, of the scheduled castes and aboriginal tribes), and shall protect them from social "injustice" and all forms of exploitation." The Article further states that nothing in Article 15(4) will prevent the nation from helping SCs and STs for their betterment ['betterment' up to the level enjoyed by the average member of other communities. (Laskar, Mehabul Hassan 2011)

In 1982, the Constitution specified 15% and 7.5% of vacancies in public sector and government-aided educational institutes as a quota reserved for the SC and ST candidates respectively for a period of five years, after which the quota system would be reviewed. This period was routinely extended by the succeeding governments. The Supreme Court of India ruled that reservations cannot exceed 50% (which it judged would

violate equal access guaranteed by the Constitution) and put a cap on reservations. However, there are state laws that exceed this 50% limit and these are under litigation in the Supreme Court. For example, the caste-based reservation stands at 69% and the same is applicable to about 87% of the population in the State of Tamil Nadu. In 1990, Prime Minister V. P. Singh announced that 27% of government positions would be set aside for OBC's in addition to the 22.5% already set aside for the SCs and STs.(The Struggle for Equality in India 2002)

### III. Constitutional Provisions

The exact necessities for the reservation in services in favour of the members of the SC/STs have been made in the Constitution of India. They are as follows: Article 15(4) and 16(4) of the Constitution enabled both the state and Central Governments to reserve seats in public services for the members of the SC and ST, thereby, enshrining impartiality of opportunity in matters of civic service.

**Article 15(4) states that:** "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 or citizens, which, in the opinion of the State, is not adequately represented in the services under the State."

**Article 16(4 A) states that:** "Nothing in this article shall prevent the State from making any provisions for reservation in the matter of promotion to any class or classes of posts in the services under the State in favour of SCs and STs which in the opinion of the State are not adequately represented under the State"(Constitutional 77th Amendment, - Act, 1995).

**Article 16 (4 B) states that:** "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 percent reservation on total number of vacancies of that year" (Constitutional 81st Amendment, - Act, 2000).

The Constitution prohibits discrimination (Article 15) of any citizen on grounds of religion, race, caste, etc.; untouchability (Article 17); and forced labour (Article 23). It provides for specific representation through reservation of seats for the SCs and the STs in the Parliament (Article 330) and in the State Legislative Assemblies (Article 332), as well as, in Government and public sector jobs, in both the federal and state Governments (Articles 16(4), 330(4) and 335). (Sukhadeo Thorat and Chittaranjan Senapati 2006)

### IV. Impact of reservation policy on employment and education

#### V.

Impact of reservation policy on employment and education. As may be evident from the particulars in the earlier paragraphs, the strategy of reservation had a helpful effect in conditions of induction of scheduled castes, scheduled tribes and other backward classes into public sector employment and in educational institutions. However, their accessible share in employment and educational institutions still falls short of the target in certain categories of jobs and higher education. The target in the case of Groups D and C are close to the population mark of 15 per cent for scheduled castes and 7.5 % for scheduled tribes but fall short in Groups A and B. As against this, the true position regarding the representation of other backward classes in central services is not available. However, as stated in para 6.4, in the All India Services and central services for which employment is made through the Union Public Service Commission, representation of other backward classes is very near to their share. With the growth in the share of scheduled castes and scheduled tribes in public services, it had positive multiple effects on the social and economic situation of these two disadvantaged groups. The data provided by the ministry of personnel indicates that in recent years the vacancies reserved for the scheduled castes, scheduled tribes and other backward classes are being filled fully even in the 'elite' services at the centre.

8.3. Reservation did not provide equal opportunities within each group/community to all beneficiaries. Consequently, different castes and tribes within a group/community have not benefited from reservation equally. Almost in all categories of beneficiaries among scheduled castes, scheduled tribes or other backward classes and minorities, there is a growing sense of deprivation amongst different categories, which is leading to internal dissension. For example\*, in Punjab, the Valmiki Samaj is asking for a separate quota of reservations on the ground that Ramadasis and Mazbis have cornered the benefits. Likewise, Chamars in Uttar Pradesh and Mahars in Maharashtra are said to have benefited from the reservations more than other castes identified in the schedule from these regions. Similar accusations have been made against the Meena community by other scheduled tribes. Problems of this kind are manifold in the case of other backward classes, as in each state there are dominant groups, usually with economic and political clout, who reap the benefits of reservations. There are Ezhavas in Kerala, Nadars and Thevars in Tamil Nadu, Vokkaligas and Lingayats in Karnataka, Lodhs and Koeris in Central India, Yadavs and Kurmis in Bihar and Uttar Pradesh and Jats in Rajasthan, which, despite their dominant status, have been clubbed as backward classes eligible for benefits under reservations. For these reasons, reservation has become a contentious issue today, more so when it is applied to other backward classes.

Report on Workshop, 'Assessment of the impact of reservation policy', organized by JNU, New Delhi. Reservation for minorities has been provided by the state governments of Kerala and Karnataka. [Kerala provides 10 per cent reservation in educational institutions and 12 per cent reservation in employment for Muslims as well as two per cent reservation in educational institutions and four per cent reservation in employment for Christians/LCs/Anglo-Indians. Karnataka provides four per cent reservation in educational institutions and four per cent reservation in employment for Muslims.] The government of Andhra Pradesh also passed an act providing five per cent reservation for Muslims. However, this has been turned down by the apex court for want of specific recommendations by the state Backward Classes Commission. On March 25, 2010 the Supreme Court gave an interim order upholding the validity of four per cent reservation provided to backward members of the Muslim community in the situation. A bench comprising Chief Justice KG Balakrishnan and Justices JM Panchal and BS Chauhan however referred the issue to a Constitution bench to examine the validity of the impugned act, since it concerned vital issues of the Constitution. (Reservation as a welfare measure, communalism combat 2010)

## VI. Statement of Problem

However the occupation reservation policy has three important flaws. First, it has a discriminatory bias alongside Muslims who do not advantage from such policies. Second, it emphasizes caste or tribe rather than income or wealth: The goal of reservation in India has been to bring about an improvement in the welfare who, historically, have been economically and socially depressed. But, in arriving at this judgment about who should be eligible for reservation, the criterion has been a person's caste rather than his income or wealth. Consequently, groups belonging to what Article 115 of the Indian Constitution calls "socially and educationally backward classes" have benefited from reservation even though, in practice, many of these groups could not be regarded as "backward". This has meant that many of the benefits of reservation have been captured by well-off groups from the depressed classes (for example, chamars from the SC) while poorer groups from the depressed (for example, bhangis from the SC) have failed to benefit. (Akash Shah, 2010)

## VII. Methodology

The methodology in this research study is not one-dimensional. It is rather host of historical, theoretical and analytical. The data is being collected from primary as well as secondary sources. Book, Journals and Magazines available in various libraries be the main source.

## VIII. Review of literature

Dalmia, Vasudha; Sadana, Rashmi, eds. (2012). "The Politics of Caste Identity "So for this is concerned the mention may be made that reservation is necessary in the lower caste people because the people which are living in those sections are much more economically weak. Joshi, Barbara R. *Untouchable!: voices of the Dalit liberation movement*. Minority. As the name mentions the Untouchables where helpless in various matters such as schooling and taking part in various matters in which other people used to they were demanding reservation.

## IX. Conclusion

Now day's politicians are playing a major role in reservation policy. The reservation policy was only for 10 years after the independence, for upliftment of SC and ST but till now it is continue and no one has taken any step to amend it or revise it or to change it. The reason behind this is the population of SC and ST in country. Nearly 33% voting is done by SC and ST so now if they make any change in the reservation policy against the SC and ST then they have to suffer a lot for the same. So they are not taking any steps against the reservation policy.

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