

Reservation under the Constitution of India: Policy Concept and Objectives

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Abstract – This study draws on belonging to the categories of "listed ingredients" and "listed tribes" commonly referred to as SC/ST and the role of reservation policy to see the impact of enforcement. Implementing this policy in higher education in India, with respect to the act of embryos. Reservations are only an important means of promoting equality for the weakest sections of society. First we must understand the true meaning of "equality" itself. What is important here is that the Indian regime ensures equality of the weaker sections of society and the approach of the Supreme Court of India is liberal in interpreting the equality provisions of the constitution. Indian law.

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INTRODUCTION

It is against the basic principles of humanity, it is against the precepts of reason that a man, by reason of birth, is denied or endowed with additional privileges. ." - Mahatma Gandhi.

Burdened by the nightmare of centuries of social discrimination rooted in Indian social structure, the development and assurance of reservation policies under affirmative action and post-authoritarian establishment has become a constitutional and social necessity. To ameliorate and alleviate the severe suffering of the marginalized and exploited classes in Indian society, unique reservation policies are now in effect. The principles of protective discrimination have been incorporated into India's constitutional structure with the aim of promoting the rebuilding and transformation of hierarchical Indian society and building a substantive society. equality, cherished by the values of individual achievement, individual growth, national participation. construction, equal opportunity for all and justice. At present, affirmative action and reservation seem to be the tools of soul , to erase the current and continuing effects of past discrimination on specific segments of society in water.

Reservation in Indian law is a form of affirmative action whereby percentage of seats are reserved for public sector units, state and union public services, union bodies and the state government, as well as in all public and private educational institutions, with the exception of those for religious/language minorities. institutions, for the socially and educationally backward classes of citizens or the classes and tribes listed are underrepresented in these services and institutions.

A reservation is a provision made within the jurisdiction of India whereby a percentage of the quota is allocated to the economically or socially disadvantaged sections of the population. Indigenous reds or people of scheduled tribes and backgrounds. Reservations are made in the Parliament of India, in the public services of central and state agencies, state legislatures and other units of the government sector. It is also applied in practice in all public and private universities.

OBJECTIVE

1. To study on reservation under the constitution of India.
2. To study on the purpose of reservation in India.

CONCEPT

The concept of reserve was enshrined in the Constitution to allow the so-called disadvantaged classes to be on the same level as the so-called privileged classes. The constitution of India allows this type of affirmative action to achieve equality of opportunity and status in society. The Founders never wanted the Reserve to be just a temporary phenomenon. Reserves for the less fortunate will be expanded until they are socially elevated and economically stable. Reservations to help the less fortunate settle into a better life and enjoy the same advantages of an independent and free country has been incorporated into the system.

Not much has changed in the last 60 years, proving that we have directed our energies in the wrong direction. We have completely failed to put the less fortunate on an equal footing with the rest of society.

On the contrary, many times it seems that the booking policy tries to avenge the wrong done to the unprivileged throughout the years. We have succeeded in permanently crippling a section of society and preventing their ascent by killing their enthusiasm for hard work and reward. Who would want to work hard if you had opportunities and other incentives without burning oil in the middle of the night? Instead of encouraging this kind of indulgence, policy should be formulated in a way that exploits the essence of all segments of society, regardless of their class or community, for the betterment of society. Given the current landscape, it's important to put the politics of narrow vote bank aside and really think about the well-being of the less fortunate and honestly pursue policies and programs to elevate them.

DEFINITION OF RESEERVATION

It is not an easy reservation to define but a lot of effort has been made by different authors or it is well defined in the dictionary. The definitions given in the various dictionaries are as follows:

According to the Encyclopedia Americana, the term "reserves" is defined as follows:

"According to the general non-accounting definition, a reserve is the supply of supplies for the purpose of special intended use. In accounting, the term has been used in a variety of ways: to refer to a deduction from an asset (contrast asset account); a debt of undetermined exact amount; or an affected part of retained earnings".

The Oxford English Dictionary defines the term "reservation" as an express or implied limitation or exception concerning something.

The Public Administration Dictionary 5 defines the term "reservation policy" in India on the basis of purposefully planned priorities, possibly based on attribution criteria such as ethnicity, sex and even geographic location. Socioeconomic mobility is a deliberately designed act of social engineering. Such preferential policies are applied in a number of countries, both developed and developing. The United States calls it an affirmative action policy. It is called "hobby Bhumiputra" in Malaysia. India calls this reservation policy. Since the Indian reservation system is caste-based, it should be noted that the caste system is hierarchical, with the four most marginalized categories being 'Untouchables', 'Harijans', ' Dalits" or castes are listed in the language of the Constitution.

Fortunately, Indian judges have the most powerful judicial power in their hands, that of judicial adjudication. In this way, the judiciary must not only interpret the Constitution, but also respect the Constitution by exercising the judicial authority's right to review. The Courts act as guardians and custodians of constitutional supremacy by maintaining all legislative, executive, administrative, judicial or quasi-

judicial powers within their respective jurisdictions. surname.

The purpose of reservation in India

The two main purposes for providing reservation in accordance with the Constitution of India are:

1. Advancement of Scheduled Actors (SC) and Scheduled Tribes (ST) OR any backward citizen class socially and educationally (e.g. OBC) OR economically weaker sections (EWS) - Article 15 (4), Article 15 (5) and Article 15 (6),
2. Representation full representation of any backward citizenry OR there are many lower economic divisions (EWS) in government agencies. - Article 16 (4) and Article 16 (6)

The extent of Reservation in India

In India, reservations are provided in:

1. Public educational institutions (such as IITs, IIMs, etc.) - in accordance with sections 15 - (4), (5) and (6)
2. Government affairs (such as IAS, IPS, etc.) - under article 16 - (4) and (6)
3. Legislatures (Congress and State Legislative Assembly) - under article 334

Previous In 2019, the conservation area was planned mainly on the basis of backward society and education. However, after the 103rd Amendment to the Constitution in 2019, the backwardness of the economy was also taken into account.

In addition to the reservation quota, additional relaxations such as seniors resort, extra try, and lower cut-off points are also offered for different types of bookings.

Reservation quota in India for Government Jobs

Reservation Category	Reservation Quota (%)
ST	7.5
SC	15
OBC	27
EWS	10
Total	59.50%

India Reservation Quota for Government Jobs and Higher Education Institutions

A position reserved for SC or ST or OBC not filled by any other applicant other than SC or ST applicants or OBC, as the case may be.

As shown in the table above, about 60% of seats are reserved for India - for various divisions like ST, SC, OBC and EWS - when it comes to government employment and higher education institutions learn. 3% of places are also reserved for people with reduced mobility in all categories.

This also means that only 40% of the seats are available on request. In the merit seat, not only general class candidates but all other categories like SC, ST, OBC and EWS can also compete.

SC/ST Reservation

The purpose of providing bookings for Scheduled Actors (SC), Scheduled Tribes (ST) in services is not only to provide work to certain people belonging to these communities. Its main purpose is to make them accountable and to ensure their participation in the State's decision-making process.

In addition, the state also wants to stop such activities as untouchable.

Scheduled Actors (SC) get 15% of quota in jobs/higher education institutions while Scheduled Tribes (ST) get 7.5% of quota in jobs/facilities University education.

A reservation can be foreseen not only with respect to direct recruitment, but also regarding promotion to the rank of SC/ST (Article 16, paragraph 4A).

There is no concept of "cream layer" for SC/ST reservations. This means that regardless of income status or government positions held by parents, children of SC/ST parents will have SC/ST reservations.

OBC Reservation

Reservations for other backward classes (OBC) were made on the basis of a report by the Mandal Committee (1991). The quota for CBOs is 27% in government jobs and higher education institutions.

However, there is a concept of "cream layer" for OBC reserves. Only OBCs that are in the NonCreamy Class will get a reserved OBC.

The ice cream class concept uses income and social status as parameters to exclude certain privileged members of the CBO from the protected area. The concept also ensures that the benefits of booking are not extended to the next generations.

EWS Reservation

The central government of India recently introduced the EWS reservation. There is a 10% quota for

economically disadvantaged sectors (SAP) among general stream applicants for government jobs and educational institutions. This is done by adding corresponding provisions in the Constitution of India (103 Constitution Amendment Act, 2019).

History of Reservation System in India – Rectifying the Historical Injustice

To some extent, reservation as a policy pursued by the state to correct historical injustice is done to certain classes by the so-called "upper class". The prevailing caste system in India has driven many "lower classes" away from the mainstream - hindering their growth. To a large extent, the consequences are still being felt. India's original constitution only provided for a reserve for quotas in the legislature - this also lasted only for 10 years until 1960 (Article 334). Subsequent constitutional amendments extended quota reservations in legislatures.

Provisions on reservations in educational institutions and public employment - Articles 15 (4) and Article 16 (4) - were also created through subsequent constitutional amendments. There is no time limit for the validity of the reservations mentioned in Article 15 (4) and Article 16 (4). The original reservations relate only to SC and ST [clause 15(4) and clause 16(4)]. CBOs were brought into reservation in 1991 [Article 15 (5)]. In 2019, the weaker sections of the economy were also included [Article 15 (6) and Article 16 (6)].

The government has a duty to ensure equality of status and opportunity in India. Reservation is one of the tools against oppression and social injustice towards certain classes. Also known as affirmative action, reservation action helps raise the backward class. However, reservation is only one method of social enhancement. There are many other methods, such as providing scholarships, funds, coaching, and other benefits programs. How reservations are implemented and done in India is largely governed by the policy of the vote bank.

The Constitution of India only allows the reservation of the socially and educationally backward classes. In India, however, it has become a caste-based reservation instead of a class-based reservation. Initially, the reservation was only for SC/ST communities - this also took place over a 10-year period (1951-1961). However, it has continued since then. Following the implementation of the Mandal Commission report in 1990, the scope of the reserve was expanded to include other backward communities (OBCs). Even 70 years after independence, demand for reservations is only increasing. Now, with the advent of economic reservation criteria, in addition to the existing caste criteria, things have become more complicated.

Reservation Policy in Education Sector

The Indian government's approach to the SC/ST population is largely shaped by the Constitution's provisions that essentially guarantee equality before the law and empower the state to make special arrangements, specifically to promote educational and economic interests. SC/STs and provide legal provisions and other protections against discrimination. Students in the SC community have a reserved role in the field of education. Article 15(4) empowers the state to make special arrangements for the development of SC/ST. Under this regulation, the state makes room for SC/ST students in educational institutions, namely colleges and universities, the courses are varied, including technical colleges, engineering and state and central government-run healthcare and government-subsidized educational institutions. These arrangements are supported by a number of financial programs including scholarships, special dormitories for SC/ST students, tuition discounts, books, tutoring, and more.

Policy Implementation and Monitoring

The central government has developed administrative mechanisms to regulate, control and implement the reservation policy and other affiliate programs. These organizations can be divided into:

1. Those directly related to regulation (that is, the timely formulation of rules related to reservations) and controlling respect for quotas are requests in administrative center services,
2. Persons acting as investigators for violations of the reservation rule, and
3. People involved in policy making and monitoring development common development of SC/ST.

RESEARCH METHODOLOGY

Research based on documentary, historical, analytical and descriptive methods; it is a universal, experimental and theoretical study. Data will be collected from primary and secondary sources. To start with this, the researcher has access to his campus library i.e. the library of Punjab University, Chandigarh, to collect relevant documents on his research topic, i.e. "CONVERT POLICY IN INDIA: A CRITICAL". The researcher also accessed the library of Punjabi University, Patiala, University of Kurukshetra, Kurukshetra, and Indian Law Institute, Delhi. There are landmark Apex Court judgments and various Supreme Court rulings and debates that a researcher has gone through. Different sites are also evaluated. Various articles from journals, newspapers and legal journals were found in the available literature. So the present study, although at the surface level is research, is certainly a different study

from the existing literature. Circulars have been used in their original form.

Fieldwork was carried out by visiting the Archives of the Ministry of Social Welfare, Chandigarh, Punjab Planning Department and Chandigarh, which has records dealing with reservation planning and protection of SC rights. /OBC and by discussion with the relevant authorities and unstructured interviews and a questionnaire.

ANALYSIS

► DOCTRINE OF ADVERSE EFFECT

The Constitution guarantees equal rights for all citizens and thus establishes the rule of non-discrimination by the state of any kind. It warrants and ensures that the state treats all citizens equally and allows equal status and opportunities for all and specifies that discrimination on the basis of religion, sex, skin color, caste, race or birthplace, etc. forbidden. Secularism is one of the guiding principles of the pious goals that our ancestors decided and carried out in the making of the Constitution. This not only implies an egalitarian, but also classless, religious society. The lofty and ultimate goal is to transform a society fragmented by religion, caste, economic status, etc. the basis of what he is or what he has done. This is clear from the statement made by Pandit Jawahar Lai Nehru on the Lok Sabha on June 13, 1951. He said

"..... After all, the whole aim of the Constitution as stated in the principles of the Directive is to move towards what I might call a classless and classless society. there are classes".

In fact, it forbids management based on caste, religion, birthplace and language or any of those things. Therefore, there is no justification for offering or allowing reservations on a cast basis. When the state does not discriminate against admission to an educational institution on the basis of caste, there is no reason to provide reservations on the basis of caste but rather to eliminate the formation system, continue to maintain it.

■ The castes are anti-national

On November 25, 1949, at the Constituent Assembly, Dr. Ambedkar stated:

".....In India there are castles. Treason castles. First, because they lead to social distancing. They were also treasonous because they engendered hatred and aversion between class and caste. But we must overcome all these difficulties if we are to be a de facto nation. For brotherhood can only be true when there is a nation. Without brotherhood, freedom and equality will not be deeper than paint."

■ **Caste based policies are divisive, anti-secular, and anti-progressive**

Today's policy was practiced by the so-called "crusaders" against the oppressed, then appeasement was adopted by their opponents to counterbalance their actions. leads to and will lead to social divisions and divisions that will be irreversible if we let them continue. .

The Independent Reserve is only one measure of the ultimate goal of "healthy development". The experience of the past fifty-six years has shown that the means and the means have become ends in themselves, leading to division and division of society along class lines that have never been the goal. for special altitudes have been included. The current policy of "affirmative action" divides society as a whole into two broad categories: the oppressed and the oppressors, creating an environment of victimization and mistrust. Obviously, this policy is a major obstacle to the national integration process.

■ **Caste cannot be a class to define "Backwardness"**

If caste is the sole reason for social backwardness, how can the provision of employment or education eliminate social backwardness? As was evident in southern India, members of the royal family, ruling class, landowners and wealthy businessmen were considered backward by the government because of their caste. They were kings and ruled for generations, and if the backwardness because of caste cannot be erased, how can it be abolished now? There are some statistically significant differences between "Cast" and "Cast":

- Membership in a caste is hereditary or congenital, which is not true of a caste.
- A group is a closed group characterized by endogamy, while a Group is an open group to which a person automatically joins when sharing a common situation with other individuals.
- There is vertical movement within class so that a person can move up into a higher class or down to a class considered lower in the social hierarchy; and also horizontal portability because you can stop sharing a general situation with a group of individuals and start doing it with another group. There is no such mobility in class.
- A class can generally be distinguished from another class on the basis of certain economic criteria, for example. income, occupation, ownership of land or other means of production, place of residence (e.g. slum dweller). While some castles may have

traditional or hereditary occupations, they have essentially nothing in common.

■ **Unreasonable inclusion and continuation of castes with 'Backward' status: Reverse discrimination**

Class in our country has become a tool in the hands of governments who have turned the outdated class list into a tool to further their political ends. The lofty goal of raising the poor and backward has indeed been defeated by the greed for personal growth through segmentation and the politicization of classes. In addition, new additions were made due to political pressure rather than on an analytical basis to identify backward classes. Government-appointed commissions also become a tool in the hands of governments to achieve their political goals.

■ **Reservation not an Eternal Privilege**

A policy is developed and enforced to address a specific problem. Therefore, periodic analysis of its effectiveness in solving the problem under consideration is imperative. Any such identified drawbacks should be eliminated as soon as possible to make the policy more up-to-date and effective. The reservation policy must also be assessed as such. The recent trend is that a class previously declared "backward" is struggling to maintain this status. Any research that recommends its exclusion is met with strong opposition. In some states, particularly in the South, reservations are continuing without any changes being made to the list of eligible communities affected since 1930. This has the unintended effect of restricting benefits to a particular section or community, rating "elite oligarchy" among backward communities.

CONCLUSIONS

A society is as strong as its weakest parts. Thus, protecting and promoting the interests of these divisions stabilizes and strengthens society. As a national policy, the peasant constitution provided special measures to improve the conditions of the weaker sections of society. The policy of "discrimination protection" has included reducing existing inequalities between different segments of society and achieving the goal of social reconstruction, ensuring socio-economic justice. for everyone. The post-constitutional history of protectionist discriminatory politics has reached a turning point from which, in retrospect, we can see that there is no clear path forward. Perhaps the most significant damage of the protectionist discriminatory policy in our country is the lack of a great lesson to be proud of. We have framed the constitution with great promises. A wonderful compromise between formal equal justice and reparative justice through primary or protective discrimination has been so beautifully crafted that it should serve the purposes of assimilation, integration and equal partnership in

nation building, contributing equally to the mainstream of our national life. Even after a decade and a half of work, India's constitution has been admirably described, for its compromising stance in conflicting statements, as an early contribution to its constitution-making. France.

The discriminatory idea of "protection" or "compensation" is consistent with the idea of equality. The purpose of compensatory discrimination is to offset the effects of inherited inequalities and to correct historical injustice. The redistribution of society's goods and services to eliminate or eliminate existing inequalities can ultimately benefit society as a whole. Incentives are given to disadvantaged groups in society in general and promote the development of the country.

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