

## An Analysis of Reservation System in India

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### **Abstract:**

*This article described history and present status of reservation system in India. In 1901, reservations were introduced in Maharashtra (in the Princely State of Kolhapur) by Shahu Maharaj. Chatrapati Sahuji Maharaj, He provided free education to everyone and opened several hostels in Kolhapur to make it easier for everyone to receive the education. He also made sure everyone got suitable employment no matter what social class they belonged. He also appealed for a class-free India and the abolition of untouchability. The explicit purpose of the reservation policy was and is to promote social, economic, and political equality for Scheduled caste, tribal peoples, and other lower castes peoples, (i.e. OBCs (Other Backward Communities) through positive or compensatory discrimination. By this policy, the leaders of independent India declared their determination to eradicate inequalities. The Indian government has appointment various commissions for measurement quota system. The researcher explained towards this study Indian constitutions provision for reservation, merits and demerits and impact of reservation system in India. The Constitution of India, adopted in 1950, defines the nation as a 'Democratic Republic' which ensures that All citizens are equal before law, free from discrimination on grounds of caste, creed, religion, sex, place of birth, and equality of opportunity in education and public appointments. The Constitution also specifically abolishes untouchability. This study the researcher collected secondary data from different Journals, books, etc and give the details on references.*

### **Introduction**

The greatest of all revolution the French revolution of 1789 was based on three pillars, Equality, Fraternity and Liberty. In India to the freedom fight led by M.K.Gandhi projected equality as one of the major themes for Indian freedom fighting. But after 69 years of Indian Independence how far equality is being practiced in society is a matter of major concern. Reservation as a practice existed in the society for more than 2000 years and transformed to the new contrary stature in the post independence period due to the tenacious efforts of Dr. B.R. Ambedkar, MK Gandhi and other great leaders. The Constitution of India, adopted in 1950, defines the nation as a 'Democratic Republic' which ensures that All

citizens are equal before law, free from discrimination on grounds of caste, creed, religion, sex, place of birth, and equality of opportunity in education and public appointments. The Constitution also specifically abolishes untouchability. The Constitution lay down 'special provisions' for the reservation of seats in educational institutions, government service, PSU service, Parliament and state legislature for Scheduled castes (SCs) and Scheduled Tribes (STs). The same section also defines 'backward classes' but neither gives a satisfactory definition of them nor lays any specific provisions on their behalf.

The explicit purpose of the reservation policy was and is to promote social, economic, and political equality for Scheduled caste, tribal

peoples, and other lower castes peoples, (i.e. OBCs (Other Backward Communities) through positive or compensatory discrimination. By this policy, the leaders of independent India declared their determination to eradicate inequalities. The constitutional delegitimation of caste has had a significant impact at all levels of society. Nevertheless, the policy has also contributed to the progressive strengthening of caste as a major political factor, so that sixty nine years after independence it still plays a key role in the working of Indian democracy.

Reservation in India is the process of setting aside a certain percentage of seats (vacancies) in government institutions for members of backward and under-represented communities (defined primarily by caste and tribe). Reservation is a form of quota-based affirmative action. Reservation is governed by constitutional laws, statutory laws, and local rules and regulations. Scheduled Castes (SC), Scheduled Tribes (ST) and Other Backward Classes (OBC) (and in some states Backward Classes among Muslims under a category called BC(M) )are the primary beneficiaries of the reservation policies under the Constitution – with the object of ensuring a "level" playing field.

### **History of the reservations system:**

In August 1933, the then Prime Minister of Britain, Ramsay Macdonald gave his 'award' known as the Communal Award. According to it, separate representation was to be provided for the Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans, Scheduled caste. The depressed classes were assigned a number of seats to be filled by election from special constituencies in which voters belonging to the depressed classes only could vote.

The Award was highly controversial and opposed by Mahatma Gandhi, who fasted in protest against it. Communal Award was supported by many among the minority communities, most notably revolutionary Dr. B. R. Ambedkar. After lengthy negotiations, Gandhi reached an agreement with Dr. Ambedkar (Initially opposed it) to have a single Hindu electorate, with Scheduled caste having seats reserved within it. This is called the Poona Pact. Electorates for other religions like Muslim and Sikh remained separate.

Present reservation system has a long history and has been debated before and after Indian independence from the British in 1947. Reservations in favour of Backward Classes (BCs) were introduced long before independence in a large area, comprising the Presidency areas and the Princely states south of the Vindhyas. In 1882, Hunter Commission was appointed. Mahatma Jyotirao Phule made a demand of free and compulsory education for Smrti along with proportionate representation in government jobs. In 1891, there was a demand for reservation of government jobs with an agitation (in the princely State of Travancore) against the recruitment of non-natives into public service overlooking qualified native people. In 1901, reservations were introduced in Maharashtra (in the Princely State of Kolhapur) by Shahu Maharaj. Chatrapati Sahuji Maharaj, Maharaja of Kolhapur in Maharashtra introduced reservation in favour of non-Brahmin and backward classes as early as 1902. He provided free education to everyone and opened several hostels in Kolhapur to make it easier for everyone to receive the education. He also made sure everyone got suitable employment no matter what social class they belonged. He also appealed for a class-free India and the abolition of untouchability. The notification of 1902 created 50% reservation in services for

backward classes/communities in the State of Kolhapur. This is the first official instance (Government Order) providing for reservation for depressed classes in India.

In 1908, reservations were introduced in favour of a number of castes and communities that had little share in the administration by the British. There were many other reforms in favour of and against reservations before the Indian Independence itself.

Even after the Indian Independence there were some major changes in favour of the STs, SCs and OBCs. One of the most important occurred in 1979 when the Mandal Commission was established to assess the situation of the socially and educationally backward classes. The commission did not have exact figures for a sub-caste, known as the Other Backward Class (OBC), and used the 1930. Census data, further classifying 1,257 communities as backward, to estimate the OBC population at 52%. In 1980 the commission submitted a report, and recommended changes to the existing quotas, increasing them from 22% to 49.5%. As of 2006 number of castes in backward class list went up to 2297 which is the increase of 60% from community list prepared by Mandal commission. But it wasn't until the 1990s that the recommendations of the Mandala Commission were implemented in Government Jobs by Vishwanath Pratap Singh.

The concept of untouchability was not practised uniformly throughout the country; therefore the identification of oppressed classes was difficult to carry out. Allegedly, the practice of segregation and untouchability prevailed more in the southern parts of India as opposed to in Northern India. Furthermore, certain castes or communities, considered "untouchable" in one province were not in other provinces.

#### **Background of caste based reservation:**

A common form of past discrimination in India was the practice of untouchability. Scheduled Castes (SCs) are the primary targets of the practice, which is outlawed by the Constitution of India.

The primary stated objective of the Indian reservation system is to increase the opportunities for enhanced social and educational status of the underprivileged communities and thus uplift their lifestyle to have their place in the mainstream of Indian society. The reservation system exists to provide opportunities for the members of the Scheduled Castes and Scheduled Tribes to increase their political representation in the State Legislatures, the Executive Organ of the Union (Centre) and States, the labour force, schools, colleges, and other public institutions.

The Constitution of India states in article 16(4): "Nothing in [article 16] 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." Article 46 of the Constitution states that "The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation."

Today, out of 543 seats in India's parliament, 84 (15.47%) are reserved for SC/Dalits and 47 (8.66%) for ST/Tribes. Allocation of seats for Scheduled Castes and Tribes in the Lok Sabha are made on the basis of proportion of Scheduled Castes and Tribes in the State concerned to that of the total population, vide provision contained in Article 330 of the Constitution of India read with Section 3 of the R. P. Act, 1950.



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 could not exceed 50% (which it judged would violate equal access guaranteed by the Constitution) and put a cap on reservations.

However, there are states 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 OBCs in addition to the 22.5% already set aside for the SCs and STs.

### **Constitutional Provisions**

Every Constitution has philosophy of its own. The Preamble of our Constitution proclaims the resolution of people of India to constitute India into a Sovereign, Socialist, Secular and Democratic Republic and to secure to all its citizens:

Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and opportunity; and to promote among them all ; Fraternity assuring the dignity of the individual and the unity and integrity of the Nation. The ward 'social justice' in the Preamble implies recognition of greater good to a larger number without deprivation of legal rights of anybody. The concept of equality, enshrined in the Preamble has also found expression as a fundamental right in Article 14 to 16, which we shall discuss in the next section.

**Right To Equality-** The Article 14 of the Constitution is one of the fundamental rights of the Constitution of India. Let us now know about this Article. Article 14 of the Constitution reads: "The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India" What do the two phrases in this Article namely "equality before the law" and "equal protection of law" mean? On the face of it the two phrases may seem to be identical, but in fact, they mean different things.

While "Equality before the law" is negative concept; "equal protection of laws" is a positive one. The former declares that everyone is equal before law, that no one can claim privileges and that all classes are equally subject to the ordinary law of the land. "Equal protection of Law", on the other hand means that among equals, the law should be equal and equally administered. That like should be treated as like. Or in other words, persons differently circumstanced need not be treated in the same manner. For example 'Equal protection of Law' does not mean that every person shall be taxed equally, but that persons under the same category should be taxed by the same standard. The guarantee of "equal protection" thus is a guarantee of equal treatment of persons in "equal circumstances" permitting differentiation in different circumstances. If there were a reasonable basis for classification, the legislature would be entitled to make different treatment. Thus, the legislature may (i) exempt certain classes of property from taxation at all, such as charities, libraries etc; (ii) impose different specific taxes upon different trades and profession.

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 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.

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).

#### **The Present Status:**

After introducing the provision for reservation once, it got related to vote bank politics and the following governments and the Indian Parliament routinely extended this period, without any free and fair revisions. Later, reservations were introduced for other sections as well. The Supreme Court ruling that reservations cannot exceed 50% (which it judged would violate equal access guaranteed by the Constitution) has put a cap on reservations. The central government of India reserves 27% of higher education, and individual states may legislate further reservations. Reservation in most states is at 50%, but certain Indian states like Rajasthan have proposed a 68% reservation that includes a 14% reservation for forward castes in services and education. However, there are states laws that exceed this 50% limit and these are under litigation in the Supreme Court. For example, the caste-based reservation fraction stands at 69% and is applicable to about 87% of the population in the state of Tamil Nadu.

### **Arguments Offered By Supporters of Reservation:**

- Reservations are a political necessity in India
- Although Reservation schemes do undermine the quality of education but still Affirmative Action has helped many if not everyone from under-privileged and/or under-represented communities to grow and occupy top positions in the world's leading industries.
- Although Reservation schemes do undermine the quality, they are needed to provide social justice to the most marginalized and underprivileged which is their human right.
- Meritocracy is meaningless without equality. First all people must be brought to the same level, whether it elevates a section or decelerates another, regardless of merit.
- Reservations have only slowed down the process of "Forward becoming richer and backward becoming poorer".

### **Impact of Reservation**

From another perspective, the fact that literacy rates among the disadvantaged castes (particularly the 'Scheduled Caste') are much lower than average is well-known. What is less clear is why this contrast happens to be so sharp and resilient, even when different castes share the same schooling facilities. Economic deprivations among the disadvantaged castes helps to explain this pattern, but there is much evidence of a strong case basis in literacy rates even at a given level of income. This basis has several possible roots. First, the traditional upper caste view that education is not appropriate for the 'lower' castes continues to have some social influence. This view is bound to reduce the educational aspirations of children from the disadvantaged castes, and the parental

and social support they receive in pursuit of these aspirations. Second, there may be objectives difference in economic and other returns to education for different castes. For e.g. an upper caste boy with good social connections often has a better chance of finding a well-paid job than a low-caste boy with more or similar educational qualifications.

Third, children from disadvantaged castes are still discriminated against the schooling system. Example: teachers refusing to touch low-caste children, children from particular castes being special targets of verbal abuse and physical punishment by the teachers, and low-caste children being frequently beaten by higher-caste classmates. Fourth, in higher / top undergraduate and graduate institutions in India, such as the IIT, the IIM, that are among the most selective in the world, it is not surprising that most reservation criteria are applied at the stage of entrance examinations for these institutions. Some of the criteria are relaxed for reserved categories, while others are completely eliminated. Examples include: The minimum high school marks criteria are relaxed for reserved seats. For example, in IIT JEE, reserved category candidates scoring about 65% of the last admitted general category candidate are directly offered admission. Candidates not meeting this cut off but scoring as low as half of this are offered admission to a one year preparatory course. In AIIMS, for example SC/ST students are eligible only if they score 50%. But this 50% is not mandatory for the institute quota, and on an occasion, the Honourable High Court of Delhi had found that "AIIMS students, who had secured as low as 14% or 19% or 22% in the (all-India) entrance examination got admission to PG courses."

It is important to note, however, that the criteria required to graduate from an institution are never relaxed; the thus admitted students finding it difficult to get pass marks to come out



of the programs successfully. Generally, the percentage of students passing from the top institutions is 87% to 95 % (approx) and most of those who fail are from the reserved categories. When there are students in the same class of different intellectual levels (the student scoring 1st rank and the student scoring the lowest rank), it will be difficult for the professors to go ahead in the same pace and rhythm in the class. The drop outs will be those from the backward and weaker sections.

### Merits

After the Bill 104, opinions are clearly divided between those who feel that the reservations are nothing but a political gimmick and should be opposed at all cost, and those who say the move will genuinely help lift the status of backward classes. If it is true, why the state of Kerala was able to provide this nation with a President and a Supreme Court Chief Justice from the Scheduled Caste community? Why in the literacy situation in India, Kerala is distinct from others? Kerala is the place where the first Dalit School came up at Venganoor in Trivandrum district of Kerala. In 1904, Shri. Ayyankali started the school entry struggle which resulted in this. Other major development in terms of the social status was due to the Temple entry proclamation done by the His Highness Shri Chitira Thirunal Balarama Varma in 1936. He abolished the ban on low caste people or 'avarnas' from entering Hindu temple in the state of Travancore (now a part of Kerala).

### Demerits

Demerits are that the politicians are manufacturing fertile ground to sow, nurture and harvest the evils of separatism, keep people divided on religious grounds. The Human Resource Development Minister, who moved the Bill 104, could not hide his glee when he replied to the BJP on why minority institutions cannot be included. "Minority rights, as

specified in Article 30, should, in all circumstances, be protected. This Article has a great historical necessity. Therefore, it cannot be deleted," he said.

All over India, minorities do run a few exceptionally dedicated institutions, helping the poor and bringing social justice, but most of them are profit-making machines. The cries to include minority institutions are raised loudly because the private institutions are better managed than the government-owned institutions. But when we look at the minority institution statistics, the institutions owned by the SC/ST management are negligibly small and those by the minority communities linguistically are more. Then who is having the major chunk? Are these minority institutions really protecting the rights of minorities? Are they upholding the noble cause of reservation?

### Conclusion

Reservations are intended to increase the social diversity in campuses by lowering the entry criteria for certain identifiable groups that are grossly under-represented in proportion to their numbers in the general population. Caste is the most used criteria to identify under-represented groups. However, there are other identifiable criteria for under-representation: gender (women), state of domicile (North Eastern States, as Bihar and Uttar Pradesh), rural people, etc. are under-represented, as revealed by the Government of India sponsored National Family Health and National Sample surveys.

The underlying theory is that the under-representation of the identifiable groups is a legacy of the Indian caste systems. After India gained independence, the Constitution of India listed some erstwhile groups as Scheduled Castes (SC) and Scheduled Tribes (ST). The framers of the Constitution believed that, due to the caste system, SCs and the STs were historically oppressed and denied respect and

equal opportunity in Indian society and were thus under-represented in nation-building activities. The Constitution laid down 15% and 7.5% of vacancies to government aided educational institutes and for jobs in the government/public sector as 'reserved quota' for the SC and ST candidates respectively, for a period of five years, after which the situation was to be reviewed. 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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