

# RESERVATION: WHAT IT IS, AND WHAT IT SHOULD BE

*Piyush Patel<sup>1</sup>*

## INTRODUCTION

Reservation is a word which we often listen in the contemporary world in different situations. In a layman's language we say reservation is "some kind of special provision given by the government to a particular group(s) of individuals in different sectors". But it has different meanings and perceptions in different situations.

India is the only democracy in the world that made explicit constitutional and legal provisions for compensatory discrimination, popularly known as reservations, for the advancement of the historically depressed and socially backward sections of the society.

But in India "Reservation" the word whenever we hear it, different types of perceptions come to the mind of different type of people. For someone it brings the positive feeling and for others it brings a negative feeling. There are further sub-divisions in the positive feeling category, for first division it brings a feeling of security, aid, and some hope for developing in the contemporary world. But for the other category of persons it brings a feeling of edge over others without any reason except their identity. Reservation in India was introduced by founding fathers of our constitution for the advancement of socially, economically, politically backward classes on a temporary basis. But now a days the scenario has changed, the whole society, people, culture of India has undergone drastic changed. But the provisions are same and even in vogue today.

In the further part we will study the historical background of reservation and what were the reasons at that time to implement the policy of reservation. What is the present scenario of the reservation policy in India, its effectiveness, its impact on society, its advantages and disadvantages, and the repercussions, if any Also we will see that what are the present situations in the country in the lights of reservation policy. How it is being used by the people.

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<sup>1</sup> 3<sup>rd</sup> Year B..A LLB.(Hons.) Student, Hidayatullah National Law University, Naya Raipur

Also in addition to this we will also investigate that weather the very soul of reservation policy is alive in the contemporary world or not, the very base for which it was introduced in India i.e. for advancement of the socially backward classes. Also in further quest to know about it we will discuss that if there are any substitutes or any suggested changes in the policy that will make it more effective.

## **HISTORY OF RESERVATION AND IT'S CONSTITUTIONAL PROVISIONS**

### **History of Reservation**

To study about the historical background of reservation in India we have to look into India's history also. From beginning India had been a country with so many divisions starting from primordial period to different civilisations and monarchical rules to different empires , we will see one thing in common that always Indian society had lived in many divisions with different classes holding different positions in the society. Also the different classes enjoyed different types of privileges and powers in the society. Speaking broadly most of the times every class/group of the society has enjoyed some powers be it ruling power , be it military power ,or be it trading power. But at the same time there has been a class or a group of individuals who had been deprived of powers and privileges in the society. It had been continuously exploited and oppressed by the other classes of the society. They had always been underdeveloped and in pathetic condition in the society. They were deprived of their basic rights, basic liberties basic needs by the other classes of the society. Making it more specific and coming to the modern part of Indian history, this discrimination has transformed itself by engulfing the CASTE factor in itself. Speaking in the modern context most of the depressed section of the society are particular caste groups. Why it was so because caste was the only factor left at that time as a basis of discrimination. So after many decades and even centuries the condition faced was that only particular sections or right to say caste group remained underdeveloped and subsequently became BACKWARD.

At the time of freedom struggle of India, simultaneously another struggle was there by the backward classes or Dalits and tribal people to become equivalent to other sections of society and there were many protagonists of Indian struggle involved in it. . British and other Indian leaders soon followed suit, spurred on in part by reports of discrimination against Indians in South Africa. Thus, in the 1880s, British officials set up scholarships, special schools, and

other programs to benefit the Depressed Classes. Forward-thinking maharajas (princes) in “native” states like Baroda, Kolhapur, and Travancore, which were not under direct British administration, established similar initiatives.<sup>2</sup> In 1882 Jotirao Phule made a demand before Hunter Commission for free and compulsory education for all along with proportionate reservation/representation in the government jobs.

Chhatrapati Shahu Maharaj of Kolhapur Princely State introduced 50% reservation for Non Brahmin masses under his State jurisdiction in 1902. This was so far the first government order to provide reservation for certain sections of society, differentiating them on the basis of social, economic and educational backwardness. In the Government of India Acts of 1909 and 1919, protection was offered to Muslims with regard to share into political and administrative power. In 1921 Madras Presidency introduced Communal Government Order in which provisions of reservation were made for non-Brahmins (44%), Brahmins (16%), Muslims (16%), Anglo-Indians/Christians (16%) and Scheduled Castes (8%). The Simon commission also recognised need for protecting minorities. One area the Commission identified was the need to safeguard minorities and other disadvantaged members of Indian society. Noting that “the spirit of toleration has made little progress in India,” the Simon report detailed the plight of the Depressed Classes in particular, which it saw not only as a problem of caste, but as an issue with distinct political overtones. Based on its assumption that the “true cause of communal conflict. . . is the struggle for political power and for the opportunities which political power confers,”<sup>3</sup> the committee saw the improvement of the Depressed Classes’ situation as hinging on increased political influence”<sup>4</sup>. Several options emerged, including pursuing a system of nomination, creating separate electorates, and reserving seats in government within a general electorate<sup>5</sup>. A critical movement in the history of reservation policy in India followed in 1932 with agreement between Ambedkar and Gandhi in Pune, popularly known as Poona Pact. Following disagreement between both the leaders in Second Round Table Conference of 1931 over the representation of untouchables, British Prime Minister McDonald announced separate communal electorate for untouchables. The decision was in favour of the demand of Ambedkar who emphasized the need for

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<sup>2</sup> V.A. Pai Panandiker, ed., *The Politics of Backwardness: Reservation Policy in India* (New Delhi: Konark Publishers Pvt. Ltd, 1997), 95

<sup>3</sup> Brock p.15

<sup>4</sup> *Ibid* p.97

<sup>5</sup> Office of Strategic Services (OSS) p.34

political power for the untouchables, and against Gandhi who insisted upon only protective measures against social and religious persecution (Stephen 2006). In protest on returning from England, Gandhi went on fast unto death in Pune in 1932. As a result of pressure, Ambedkar accepted compromise formula of 148 reserved seats in provincial assemblies and seats in the Central Assembly instead of separate electorate as guaranteed by Communal Award of British Prime Minister. Identity issue most vehemently erupts during the debate over representation of SCs between Gandhi and Ambedkar. While Gandhi saw untouchables as intrinsic part of Hindus, Ambedkar attempted to carve out separate political identity for them as oppressed subjects. Due to the efforts of Ambedkar as a member of the Viceroy's Executive Council and subsequent submission of a memorandum 'On the Grievances of the Scheduled Castes' to the Viceroy 1942, the Scheduled Castes were allowed 8.5% reservation in central services and other facilities (Das 2000).

## CONSTITUTIONAL BACKGROUND AND PROVISIONS OF RESERVATION

From the outset, protection of minorities and their upliftment to bring them at par with the other classes was one of the major agenda of the constituent assembly. Several of the framers' main goals, articulated in the "Objective Resolution," included guarantees of equality, basic freedoms of expression, as well as "adequate safeguards...for minorities, backward and tribal areas, and depressed and other backward classes." These principles guided the delegates throughout the Constitution-making process. The Assembly set up a special Advisory Committee to tackle minority rights issues. This committee was further divided into several subcommittees. The Subcommittee on Minorities focused on representation in legislatures (joint versus separate electorates and weightings), reservation of seats for minorities in cabinets, reservation for minorities in the public services, and administrative machinery to ensure the protection of minority rights.

After extensive research and debate, the Subcommittee on Minorities drafted a report of its findings for submission to the Advisory Committee. The latter supported most of the Subcommittee's recommendations.<sup>6</sup>

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<sup>6</sup> Kamlesh Kumar Wadwha, *Minority Safeguards in India: Constitutional Provisions and Their Implementation* (New Delhi: Thomson Press (India) Limited, 1975)p. 47-68

Vallabhbhai Patel (1875-1950), Chairman of the Advisory Committee and the most powerful member of the governing Congress party after Nehru, submitted the Report on Minority Rights to Rajendra Prasad, President of the Assembly, and on August 27, 1947, the Assembly convened to discuss the Report. Patel opened the debate by presenting the Advisory Committee's main recommendations. Rejecting separate electorates—Congress wanted no repeat of the separate electorates granted to the Muslims by the British—and a “weightage” system, the Report endorsed the creation of joint electorates and proportional representation. Reservations were approved for minorities, as long as the reservations were in proportion to the population of the targeted groups. Some minorities, like the Parsis, voluntarily gave up this right.

Treatment of the Scheduled Castes was extensively debated. Efforts by Ambedkar and his allies to craft a provision requiring a “tripwire” 35 percent of Scheduled Caste votes in a constituency reserved for the Scheduled Castes failed. The principle of common voting and reserved seats in legislative bodies throughout the country was retained despite strong opposition from influential Constituent Assembly members like Nehru.<sup>7</sup> However, the colonial-era system of having the Scheduled Castes choose candidates for reserved seats through local “electoral colleges” was dropped. Throughout the debate, caste Hindus permitted nothing that would suggest splitting off the Scheduled Castes in an electoral sense from the Hindu community.<sup>8</sup>

## **RESERVATIONS UNDER CONSTITUTION**

On January 26, 1950, India ended its “Dominion” status, became a republic, and put in effect its new constitution. With an entire section dedicated to “Fundamental Rights,” the Indian Constitution prohibits any discrimination based on religion, race, caste, sex, and place of birth (Article 15[1]). This law extends to all public institutions, such as government-run

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<sup>7</sup> Nehru maintained this position when backward caste leaders lobbied to extend job reservations to backward groups in the 1950s, remarking “I am grieved to learn how far this business of reservation has gone based on communal or caste considerations. This way lies not only folly, but disaster.” Steven Ian Wilkinson, “India, Consociational Theory, and Ethnic Violence,” *Asian Survey*. Vol. XL, No.5, September/October 2000, p.774- 775

<sup>8</sup> Jaffrelot, *op. cit.*, 92-95

educational facilities, to access to hotels and restaurants, public employment and public wells, tanks (manmade ponds for water supply and bathing), and roads. The practice of untouchability is declared illegal (Article 17). Significantly, Article 15, which prohibits discrimination, also contains a clause allowing the union and state governments to make “any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.” This language was added in 1951 within weeks of a Supreme Court decision outlawing quotas in school admissions. The speed of the amendment is indicative of the strong political support for reservations, Nehru’s personal views notwithstanding. Similarly, Article 16, calling for “equality of opportunity in matters of public employment,” contains clauses permitting 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” and another allowing “reservation in matters of promotion” for Scheduled Castes and Scheduled Tribes.<sup>9</sup>

A separate section of the Constitution, “Special Provisions Relating to Certain Classes,” requires the reservation of seats in the “House of the People,” or Lok Sabha, and the Legislative Assemblies of the states for the Scheduled Castes and Scheduled Tribes.<sup>10</sup> The numbers of reserved seats are determined by the proportion Scheduled Caste and Scheduled Tribe members to the general population, based on population estimates from the most recent decennial census. The President of India and the Parliament, in consultation with the state governments, determine the list of groups qualifying as Scheduled Castes, Scheduled Tribes, and “backward classes.”

Several safeguards accompany these provisions for reservation. First, the Constitution originally required the reservation of seats in the Lok Sabha and state legislatures to end after ten years. After five amendments, the policy is now set to expire on January 25, 2010. Secondly, regarding the reservation of jobs, Article 335 of the Constitution mandates that the “claims of the members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration.” Finally, a

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<sup>9</sup> The Constitution defines the “State” as the “Government and Parliament of India and the Government and the Legislature of each of the States

<sup>10</sup> The draft constitution, produced by the Constituent Assembly’s Drafting Committee headed by B.R. Ambedkar, included Muslims and Indian Christians among the beneficiaries of reservations in legislatures.

National Commission for Scheduled Castes and Scheduled Tribes<sup>11</sup> was created to investigate, monitor, advise, and evaluate the progress of the Scheduled Castes and Scheduled Tribes under the schemes aimed at the socio-economic development of these groups. Another Commission was also created to investigate the conditions of the socially and educationally backward classes.

It is interesting to note that the Constitution's reservations construct, which explicitly singles out certain castes for special preferential treatment, contradicts the document's prohibition on discrimination based on caste, race, and other such criteria. Furthermore, India's caste system itself, with its strict hierarchy dictated by birth, is at odds with the ideals of equality and social justice.

Despite the creation of centrally based commissions to monitor reservations and other schemes, the Constitution gives great liberties to the individual states to determine the quantity and limits of reservation and what, for example, qualifies as the "maintenance of the efficiency of administration." The clause giving states the authority to formulate and implement policy to facilitate "the advancement of any socially and educationally backward classes of citizens," is also decidedly vague. No concrete definition of "backward" is provided either. In addition, though a specific—if, in practice, flexible time limit is placed on the reservation of seats in the Lok Sabha and state legislative assemblies, there is no such clause regarding the future termination of reservations of jobs and promotions.

All these provisions were made by our constitutional fathers keeping in mind the conditions of That India for the advancement of socially backward communities.

## **PRESENT SCENARIO OF RESERVATION IN INDIA**

After the constitutional provisions were made by the framers of constitution, it was on the part of the legislature to implement the provisions in the society for their very purpose of upliftment of the socially backward castes in the society. So in the lights of different constitutional provisions reservations were made for different classes of the society indifferent

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<sup>11</sup> In 1990, a five-member commission replaced the Officer for Scheduled Castes and Scheduled Tribes.

sectors like public services, educational institutions proportionately. All these provisions were made so that socially backward classes can get easily access to resources and the can cope up with their backwardness. Distribution of reservation is given below:-

S.no.	Mode Of Appointment	Fixed Percentage of Reservation For		
		SC	ST	OBC
(a)	Direct recruitment on all India basis by open competition (i.e. through the Union Public Service commission or by means of written competitive test held by service selection committee or any other authority	15	7.5	27
(b)	Direct recruitment on an all India basis otherwise than (a) above i.e. by service selection committee or any other authority by not conducting a written competitive test	16 2/3	7.5	27
(c)	Direct recruitment to class III and IV posts (group C and D posts), which normally attract candidates from a locality or region	Generally in proportion to the population of the SCs, the STs and the OBCs in the respective states/UT		
		<b>SC</b>	<b>ST</b>	
(d)	Posts filled by promotion in Groups or services in which the element of direct recruitment, if any, does not exceed 75 percent		7.5	
	Through limited departmental competitive examinations in Groups A, B, C and D	15	7.5	
	By Selection from Group B to the lower rung or category in Group A or Group B, C, and D	15	7.5	
	On the basis of seniority subject to fitness in Groups A, B, C and D	15		

**Source: Annual Report, Ministry of Personnel, Public Grievances and Pensions, Government of India, New Delhi, 2002-2003, Chapter 5, Paragraph 5.2.**

Reservations for the SCs, the STs, and the OBCs are available for all groups of posts in the Central services, PSUs, public sector nationalized banks, and the public sector insurance

companies in the case of direct recruitment on an all India basis by open competition at 15, 7.5, and 27 percentage points for the SCs, the STs, and the OBCs respectively. Further, in case recruitment is not by open competition, the applicable/stipulated quotas for reservation stand at 16.66 percent for the SCs, 7.5 percent for the STs, and 25.84 percent for the OBCs in that order.

Reservation for SCs, STs and OBCs is available in all groups of posts in case of direct recruitment. While in case of direct recruitment on all India bases by open competition, reservation for SCs, STs and OBCs is respectively 15 percent, 7.5 percent and 27 percent, otherwise than by open competition it is 16.66 percent, 7.5 percent and 25.84 percent respectively (Annual Report DOPT 2005). In case of direct recruitment to Groups C and D posts normally attracting candidates from a locality or a region, percentage of reservation for SCs/STs is generally fixed in proportion to the population of SCs and STs in the respective States/UTs and reservation for OBCs in such cases has been so fixed that it is not more than 27 percent and total reservation does not exceed the limit of 50 percent.

There are also reservations in the promotions of the employed persons from the marginalized social groups. The Government services generally include Government civil services, PSUs, statutory and semi-Government bodies, and voluntary agencies etc. which are under the control of the Government or receive grants-in-aid. At the Central level, some of the services are excluded from the purview of the reservation policy and these prominently include the defence services and the judiciary.<sup>12</sup>

Also, in case of direct recruitment to Group 'C' and Group 'D' posts normally attracting candidates from a locality or a region, the percentage of reservations for the SC/STs are generally fixed in proportion to their population in the respective States/UTs and reservation for OBCs in such cases has been so fixed that it is not more than 27 percent. In any case, the total reservation stipulated should not exceed 50 percent.

The main objective of providing reservations for the SCs and the STs in Government services was, not only, to provide employment to some persons belonging to the marginalized communities, and thereby, increase their representation in the services, but also, to improve their relative status in critical human development indicators.

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<sup>12</sup> Annual Reports, Ministry of Personnel, Public Grievances and Pensions, Government of India, New Delhi, 1956-2003

## **IMPACT OF RESERVATION IN DIFFERENT SECTORS**

This section examines the impact of the reservation policy on employment in India, with reference to the reserved categories. The analysis sufficiently establishes that there has been a remarkable increase in the numbers of SC/ ST Government employees over the years. In 1960, the absolute numbers of the SC Government employees stood at 228 thousand, which increased to 590 thousands in 1990, and further to 540 thousand in 2003. The percentage share of the SC employees to the total Government employees was 12.24percent in 1960, which increased to about 17 percent in 2003; fairly close to their percentage share in the population. In the case of the STs, their absolute numbers increased from 37 thousand in 1960 to 211 thousand in 2003 with a corresponding increase in their percentage share from 2 percent in 1960 to 6.46 percent in 2003. Similarly, the absolute numbers of the SC employees in the PSUs increased from 40 thousand in 1971 to 236 thousand in 2004 and from 12 thousand to 114 thousand for the STs. The absolute numbers of the SC employees in nationalised banks increased from 55 thousand in 1978 (10 percent) to 143 thousand in 2004 (17.6 percent) and from 8 thousand (1.56 percent) to 43 thousand (5.72 percent) for the STs. The above data shows that the reservation policies has been so far working very well in the Indian society , with positive outcomes. Increase in the number of SC and ST individuals in the different sections of government employment and different sector of services shows that these reservation policies has worked very well till now in bringing the change in the status of backward classes in the society Also by many flagship schemes of reservation by the government in the education field the turnover of the students in the educational institutions has increased. Comparatively no. of students enrolling and studying in the educational institutions has been far better than the previous times. Students are enrolling more and more, understanding the importance of education studying and keeping aside their backwardness.

## **WHAT RESERVATION SHOULD BE?**

This was one facet of the reservation which we saw. This was the condition of reservation policy until few decades ago, but now the scenario has changed. The use of reservation policy has not remained same but it had changed. There has been drastic change in the society but the reservation policy has remained the same. Even today the reservation policies are seeing the backward classes with same eyes as they have seen them before 60 and odd years ago at

the time of framing of constitution and even they are seeing their condition deteriorated as they are increasing the purview of the reservation to different classes. Even today it may be very common to listen political players promising to give reservation to different classes. The very soul of the reservation has been shattered and it is used as a totally different instrument. I am not saying that the reservation policy has been no longer effective and useless rather I want to say that it has developed some loop holes in it and it has to be updated according to the changed society.

The Reservation policy had played a very important role in social upliftment of socially backwards but the definition of socially backward has changed today. Reservation policy's parameter for the social backwardness is the caste system even today. But in the contemporary world the caste system is no longer effective parameter for deciding the social backwardness. Although it is one factor in determining the backwardness but it is not the sole factor. But the reservation policy is running on the tracks of the caste system. That is why we can see the stagnation point in the development of the socially backwards after few decades of the implementation of reservation policy. In Today's scenario the conditions of the different castes has not been the same. There has been changes in the conditions due to which the path of the reservation policy has changed and it is not serving the purpose any more. This reservation policy has developed many glitches which are harming the society rather than benefiting it. We will discuss them one by one along with their solutions.

## **DEGRADING THE QUALITY**

It is the most common argument of the critics of reservation that by reservation in different sectors decreases the quality of that sector. It is a true fact, in the light of contemporary world. Reservation policies are indeed degrading the quality be it educational field or be it service sector. But why? Why reservation is denting the quality. This is because along with the development and upliftment of the socially backward classes it is compromising with quality. By the means of reservation policies the socially backwards are getting the opportunities but a common factor we can observe is that they are getting the opportunities at less qualification and not without much pains it has developed a kind of perception or thinking in the mind of the beneficiaries that they will get the thing in a subsidised manner. This is the harming factor because speaking practically and by the human nature this thinking will make the beneficiaries less hard working and affecting their intellectual development as

they know that they will get that thing easily. We often see that in any Qualifying exam the merits for the reserved classes are very low as compared to the normal merits. Why it is such this is because of the thinking that has been created in the minds of the beneficiaries. Similar is the case of services whenever any individual gets any post or designation having less intellectual deteriorates the quality of the service provided by that individual.

Then what should we do? Stop the reservation policy? The answer is No, because it will defeat the soul of reservation. The soul of reservation was the upliftment of the socially backwards, but giving those opportunities without hard work was not. In order to serve both purposes i.e. maintaining the quality and upliftment of the backward classes, we have to do some alteration in the policy of reservation. By giving reservation to the backward classes we serve the purpose of giving them opportunities to them in ease and increasing their representation in different sectors, so we should not scrap the policy to reserve the seats for the particular categories but we need to upgrade the quality. So in order to maintain the quality we need to fix some standards. In every field where there is reservation we must fix a minimum merit or standard without which a person cannot qualify. Now an argument will be popped up that very few seats will be filled in this way. That what we want in this time so that to achieve the minimum standard the backward classes will strive more and more. In this way along with their social upliftment their intellectual development will take place. This was the one loophole of reservation that needed to be fixed.

### **NOT SERVING THE PURPOSE**

Reservation now a days is not serving its sole purpose. Because its beneficiaries are not the real one. The real socially backward persons are not covered under the umbrella of reservation because even today its parameters are caste only. If you will go to a slum and survey about the persons you will find amalgamation of every caste every religion in that. And if you ask who all are beneficiaries of reservation very minimal amount will be on the positive side. So is the purpose of reservation served? Are the socially backward getting advantage? No, because parameters are wrong.

Then what is the solution of problem i.e. how to give benefit to deserving. This can be only done through one method, changing the vision through which we are identifying the backwards. Even today most of the beneficiaries are such that they don't need even any aid.

They are already developed, but they are getting the reservation benefit. Present government should change the methodology to identify the backward persons .It should adopt a pragmatic approach and identify real beneficiaries and give them benefit of reservation so that it is not misused.

### **SKILL DEVELOPMENT: A SUBSTITUTE**

One more argument that we often listen is that instead of giving socially backwards crutches of reservation, government should make them capable. Skill development programme is the most viable compliment of reservation. In my views when we will fix standards in reservation we do need to provide a skill development programme for the backwards so they can cope up with their backwardness and become at par with others.

### **CONCLUSION**

In the above research paper we saw about the reservation in detail, about its history development, need, importance, impact, repercussions and misuses by looking at the present scenario we can say that reservation is not serving the purpose properly. It is being misused now a days. Even in its presence there is not development of social backwards. We also discussed some of the suggestions and compliments of reservation i.e. fixing some standards in qualifications, proper identification of beneficiaries and skill development. So we can conclude that reservation should not be what it is but it should be something pragmatically benefitting the persons