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NEED FOR REVIEW OF RESERVATION IN INDIA **ON EDUCATION AND EMPLOYMENT**

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Introduction

India, a land of immense cultural, linguistic, and traditional diversity, is deeply rooted in the principle of equality, as reflected in the Preamble of its Constitution. At the heart of India's democratic framework lies Article 14, which upholds the fundamental principle of equality before the law. This constitutional provision envisions a society where all individuals, irrespective of their backgrounds or circumstances, are treated with fairness and dignity. However, the path to realizing this ideal has not been without its challenges, particularly in addressing the historical injustices and inequalities faced by marginalized communities for generations.

Among these groups are the Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs), who have historically been denied access to education, employment, and social privileges, leading to enduring socio-economic disparities. The practice of untouchability was widespread among upper-caste Hindus, particularly towards the lowest Varna, the Shudras. Dr. B.R. Ambedkar, a prominent leader and advocate for the marginalized, championed the cause of affirmative action to uplift the "untouchables" and other disadvantaged communities. As a result, the framers of the Constitution abolished untouchability, making it a punishable offense. To further address these inequities, the Government of India implemented a reservation system aimed at ensuring fair representation and providing opportunities for these historically disadvantaged groups in education, government employment, and legislative bodies.

Ancient Origins and the Caste System

The caste system in India traces its roots to over 2500 years ago, initially emerging as a function-based social order known as Chaturvarna, which classified society into four broad

categories: Brahmins, Kshatriyas, Vaishyas, and Shudras. Over time, this classification transformed into a rigid, hereditary hierarchy that placed Brahmins at the top and relegated Shudras to the bottom, leading to the systematic marginalization and exploitation of lower castes.

These groups were denied intellectual, economic, and physical empowerment and were restricted to performing menial labor.

British Era Reforms

During British colonial rule, early attempts were made to address caste-based oppression. Social reformers such as Jyotirao Phule advocated for the inclusion of all castes in local governance and public services. In 1895, the Mysore government issued the first circular reserving positions for backward castes, and other regions like Madras and Mysore followed suit by implementing educational and employment reservations for underprivileged communities.

The Justice Party, in 1926, adopted a policy of caste-based reservations for public service appointments.

Post-Independence Constitutional Provisions

After gaining independence in 1947, India adopted its Constitution in 1950, which incorporated several provisions to promote social justice and equality.

Key articles, such as 15(4), 16(3), 16(4), and 17, aimed at the upliftment of Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). Article 15(4) authorized the state to make special provisions for the advancement of socially and educationally backward groups, while Article 16(4) enabled reservations in public employment for these communities.

Article 17 abolished untouchability, marking a critical step toward eradicating caste-based discrimination.

Provisions of Reservation in the Constitution of India for SCs, STs, OBCs, and EWS

- Article 15(4) and Article 16(4) of the Constitution empower both the Central and State Governments to reserve seats in public services for members of the Scheduled Castes (SCs) and Scheduled Tribes (STs).
- The 77th Constitutional Amendment Act, 1995 introduced a new clause (4A) in Article 16, allowing the government to implement reservations in promotions. Subsequently, the 85th Constitutional Amendment Act, 2001 modified Article 16(4A) to ensure consequential seniority for SC and ST candidates who benefit from reservation in promotions.
- The 81st Constitutional Amendment Act, 2000 inserted Article 16(4B), which allows states to fill unfilled reserved vacancies for SCs and STs in subsequent years, effectively lifting the 50% ceiling on the total number of reserved vacancies in any given year.
- Article 330 and Article 332 provide for reserved seats for SCs and STs in the House of the People (Lok Sabha) and State Legislative Assemblies, respectively, ensuring their representation in the Parliament and State Assemblies.
- Article 243D ensures the reservation of seats for SCs and STs in Panchayats (local bodies).
- Article 233T mandates the reservation of seats for SCs and STs in Municipalities.
- Article 335 stipulates that the claims of SCs and STs must be considered in government services without compromising the efficiency of administration.
- Part XVI of the Constitution governs reservations for SCs and STs in the Central and State Legislatures.

Reservation Categories in India

The Indian government provides reservations for historically disadvantaged groups in various areas, including government jobs, educational institutions, and legislative bodies. The main categories covered are:

1. Scheduled Castes (SC) and Scheduled Tribes (ST)

These groups have faced historical disadvantages and are provided with reservations to promote social justice and equality.

2. Other Backward Classes (OBC)

The Mandal Commission recommended a 27% reservation for OBCs in central

government jobs, recognizing their social and educational backwardness.

3. Economically Weaker Sections (EWS)

A 10% reservation is provided for EWS, aiming to support individuals from economically disadvantaged backgrounds.

Areas of Application

Reservations are applicable in various areas, including:

1. Government Jobs

Reservations are provided in direct recruitment and promotions in government services.

2. Educational Institutions

Reservations are applicable in admissions to educational institutions, including government-aided ones.

3. Legislative Bodies

Reserved seats are allocated in the Lok Sabha, State Legislative Assemblies, and local government bodies.

Principles and Limits

1. 50% Ceiling

The Supreme Court has established a 50% cap on reservations, ensuring that the majority of seats are available for open competition.

2. Creamy Layer

The "creamy layer" concept excludes the more affluent members of OBCs from reservation benefits, ensuring that only those who truly need support benefit from reservations.

These principles and limits aim to balance the need for social justice and equality with the need for merit-based competition.

Mandal Commission and Subsequent Developments

In 1978, the Indian government established the Mandal Commission to identify and recommend measures for the advancement of OBCs. The Commission's report, submitted in 1980, recommended a 27% reservation for OBCs in government jobs and educational institutions, in addition to existing reservations for SCs and STs.

Although the recommendations faced initial resistance, they were implemented in 1990, bringing significant changes to the reservation system. However, the Commission's reliance on the 1931 census led to debates over criteria for backwardness and the need for updated data. The overall reservation quota was raised to 49.5%, encompassing SCs, STs, and OBCs.

103rd Amendment

In 2019, the Constitutional (103rd Amendment) Act introduced a 10% reservation for economically weaker sections (EWS) within the general category, expanding the scope of affirmative action. This amendment aimed to address economic disparities while preserving the existing reservations for SCs, STs, and OBCs.

Notable Judgments

The *Indra Sawhney v. Union of India* case, commonly known as the Mandal Commission case, is a pivotal ruling in Indian legal history. Below are the essential facts, issues, and the judgment delivered by the Supreme Court:

Facts:

- The Mandal Commission, set up in 1979, recommended that 27% of government jobs and educational institution seats be reserved for Other Backward Classes (OBCs).
- In 1990, Prime Minister V.P. Singh's government implemented these recommendations, which led to widespread protests and intense public debate.
- A group of petitioners, led by Indra Sawhney, challenged the government's decision in the Supreme Court, claiming that caste-based reservations violated the principles of equality and non-discrimination.
- Issues:
 - Is caste a legitimate criterion for determining social and educational backwardness?
 - Does Article 16(4) of the Indian Constitution provide an exhaustive definition for reservations, or is it an exception to Article 16(1)?
 - Can reservations apply to promotions in government services, and should there be an upper limit on the percentage of reservations?

Judgment:

- The Supreme Court, in a 6-3 majority ruling, upheld the constitutional validity of reservations for OBCs.
- The Court ruled that:
- Caste can indeed be a valid criterion for identifying social and educational backwardness.
- Article 16(4) is not a contradiction to Article 16(1) but a part of it, allowing for reservations in public employment for underrepresented groups.
- Reservations in public employment should be capped at 50% to maintain fairness and efficiency.
- The “creamy layer” concept was introduced to exclude wealthier individuals from the OBC category, ensuring that the benefits of reservations reach only those who are truly disadvantaged.
- Reservations should apply only at the entry level of employment, not in promotions.

This landmark judgment has had a profound influence on India’s reservation policies, leading to ongoing debates and further legal challenges on the subject.

M. Nagaraj v. Union of India (2006) 8 SCC 212

In this case, the Supreme Court upheld the constitutional validity of Article 16(4A), which provides for reservations in promotions for Scheduled Castes (SCs) and Scheduled Tribes (STs). The Court outlined three key constitutional requirements for any reservation policy to be valid:

1. The SC and ST communities must be socially and educationally backward.
2. These communities must not be adequately represented in public employment.
3. The reservation policy should not adversely affect the overall efficiency of administration.

Ashoka Kumar Thakur v. Union of India (2007) 4 SCC 361

In 2005, the Indian government passed the 93rd Constitutional Amendment, inserting Article 15(5) into the Constitution. This provision granted reservation for socially and educationally backward classes in both public and private educational institutions. The amendment was challenged on the grounds that it violated the principle of equality and the Constitution’s basic structure. However, the Supreme Court upheld the amendment, stating that the reservation provided crucial support to those who could not otherwise aspire to a university education

without such assistance. Key points from the judgment include:

- The 93rd Amendment does not violate the basic structure of the Constitution.
- Reservation in educational institutions is a form of affirmative action.
- Both social and economic criteria should be considered when identifying backward classes, and caste alone should not be the basis.
- The “creamy layer” exclusion principle does not apply to SCs and STs.

Jarnail Singh v. Lachhmi Narain Gupta (2018) AIR 4729

In this case, the Supreme Court ruled that the government is not required to collect data on the backwardness of SCs and STs for the purpose of reservation in promotions. The Court also upheld the principle of “creamy layer” exclusion for SCs and STs, stating that reservations in promotions should not apply to members of these communities who belong to the “creamy layer.”

Arguments Against the Reservation System

- **Discrimination:** Critics argue that quotas based on caste create discrimination against other citizens, violating the right to equality enshrined in the Constitution.
- **Economic Disparity:** Within socially backward communities, it is often the economically well-off individuals who benefit from the reservation, leaving the truly disadvantaged individuals without support due to a lack of awareness and resources.
- **Perpetuation of Caste System:** The caste-based reservation policy is seen by some as perpetuating the caste system rather than abolishing it, with people using it for political advantage.
- **Impact on National Growth:** Some believe that reservation systems may harm India’s educational and economic growth, as it does not guarantee the efficiency or capability of individuals selected under the quota system.
- **Quality of Work:** Critics contend that the reservation system lowers the quality of education and work, as the focus is on meeting quotas rather than ensuring merit.
- **Exclusion of Economically Backward Upper Castes:** Economically backward individuals from upper-caste communities are not eligible for reservation, while affluent members of backward castes benefit from it.
- **Social Unrest:** The reservation system can lead to social unrest, as it may create feelings of discrimination and resentment among different castes and classes.

Arguments in Favor of the Reservation System

- **Principle of Justice:** The idea that “equals should be treated equally and unequal unequally” forms the basis of affirmative action. Those who are disadvantaged by social, educational, and economic factors should receive support to bring them on par with more privileged sections of society. Reservation helps achieve this.
- **Social and Economic Upliftment:** Reservation has led to the upliftment of many underprivileged groups, enabling them to access education and employment that would otherwise be beyond their reach.
- **Support for Tribal Communities (STs):** Reservation for STs has significantly improved their representation in educational institutions and public services, helping them overcome disadvantages related to lack of resources.
- **Support for Other Backward Classes (OBCs):** Reservation for OBCs has provided an opportunity to a previously neglected section of society that lacked access to education and resources.
- **Economic Weakness:** Reservation for the economically weaker sections (EWS) of society has benefited those who, while socially forward, face economic disadvantages, particularly in accessing education and resources.
- **Leveling the Playing Field:** The reservation system helps create a more equitable society by providing marginalized communities with access to the same opportunities as others, particularly in education and employment.
- **Access to Justice:** The reservation system has enhanced the delivery of justice by ensuring that marginalized sections, including SCs, STs, and women, have access to legal aid and can assert their rights, which they may otherwise be unaware of due to a lack of resources.

These discussions present both sides of the debate on India’s reservation system, highlighting the complexities of balancing social justice, equality, and merit in a diverse society.

Reservation in Education

Since independence, the Indian government has made significant efforts to provide educational opportunities for SCs and STs. These initiatives are supported by several constitutional provisions, including Articles 15(4), 29, 30, 45-46, and 350(A), all of which aim to promote educational equity and the upliftment of marginalized groups.

Article 15(4) authorizes the state to create special provisions for the advancement of socially

and educationally backward classes, which include SCs and STs. As part of this, the Indian government currently reserves 15% of seats in universities and colleges for SCs. State governments may implement varying reservation quotas based on their respective SC populations. These measures are designed to ensure equitable access to education for historically marginalized communities.

Article 29 protects the interests of minorities, guaranteeing that no individual is denied admission to educational institutions maintained or funded by the state on the grounds of religion, caste, language, or other similar factors. This reinforces the commitment to ensuring non-discriminatory and equal access to educational opportunities for all citizens.

Reservation in Government Jobs

In India, the reservation system extends beyond education and into public employment, aiming to ensure fair representation for historically marginalized communities. The Constitution includes several provisions related to reservation in government jobs, falling under the principle of protective discrimination, such as Articles 16(4), 320(4), and 335.

Article 16 of the Indian Constitution guarantees equal opportunities in public employment, but Clause (4) allows the state to reserve positions for any backward class of citizens deemed underrepresented in government services. This provision forms a key element of affirmative action, enabling the state to correct historical imbalances in representation within public services.

Article 335 emphasizes that the claims of Scheduled Castes (SCs) and Scheduled Tribes (STs) should be considered when making appointments to government services, provided it does not compromise the efficiency of administration. According to data from the Ministry, the representation of SCs, STs, and Other Backward Classes (OBCs) in government jobs for the years 2014 and 2021 has exceeded the reserved quotas of 15%, 7.5%, and 27%, respectively, highlighting the importance of the reservation system in ensuring government employment for these communities.

However, when analyzing promotion rates for these groups in government roles, a significant gap emerges. As shown in Figure 4, the representation of SC/ST individuals in higher-level government jobs has consistently been below 22.5%, which is the combined reserved percentage (15% for SCs and 7.5% for STs), indicating challenges in upward mobility within public service careers.

Findings of the Survey on Reservation System in India

1. General Opinion on Reservation\

A majority of respondents either supported or strongly supported the reservation system, though there was a significant section that opposed it.

Knowledge about the system was generally at the “somewhat knowledgeable” level, showing awareness but not deep understanding among many participants.

2. Reservation in Education

Most respondents believed reservation is necessary for the upliftment of marginalized communities and helps bridge socio-economic gaps to some extent.

Many agreed that reservations in educational institutions improve representation of marginalized groups, but concerns were raised about misuse by affluent students from reserved categories.

Opinions were divided on whether reservations compromise merit—some believed it does, while others felt it affects merit only in limited cases.

A large section favored economic-based reservation either fully or partially, though a notable group supported the continuation of caste-based reservations.

3. Reservation in Jobs

Most respondents believed reservations in government jobs ensure at least some level of representation for SC, ST, and OBC communities. Perceptions of the impact on efficiency and quality were mixed: some saw positive contributions, others viewed it negatively.

On promotions, views were split: some supported reservations only at entry-level, while others wanted them extended to promotions.

There was moderate support for reservations in the private sector, though many felt it has minimal or no role there.

On increasing reservation percentages for SC/ST, opinions were divided between keeping it the same and slightly increasing it.

Reservations for Economically Weaker Sections (EWS) were widely accepted, though with some limits.

Many respondents favored applying the “creamy layer” principle across all reserved categories to prevent misuse.

4. Reservations for Orphan Children

A majority supported giving orphan children special reservations in education and jobs, recognizing their socio-economic challenges.

Most respondents felt orphan children face challenges comparable to marginalized communities and should benefit from similar support.

There was a strong preference for socio-economic status (rather than caste) as the basis for reservation for orphanage children.

5. Social Impact of Reservation

The reservation system was seen as somewhat successful, though not completely.

Respondents acknowledged that it has reduced caste-based discrimination to some extent, but not eliminated it.

Many felt it has also created a sense of entitlement among beneficiaries, and in some cases, added to social tension.

There was noticeable support for reviewing and reforming the system regularly, rather than keeping it unchanged.

Economic-based reservations were preferred by many over purely caste-based ones.

6. Future of Reservation

While some respondents felt the reservation system should continue, many supported a gradual phasing out in the future.

Very few supported its immediate abolition, indicating a cautious approach to reform rather than abrupt removal.

Conclusion

Although India's reservation policies have made considerable progress in improving educational and employment opportunities for SCs and STs, significant gaps still remain. In education, SCs and STs continue to lag behind the general population in terms of literacy rates and enrolment, highlighting the need for more effective measures. While reservation has ensured adequate representation of these communities in entry-level government positions, their career advancement remains limited, as evidenced by low promotion rates.

To address these ongoing challenges, it is essential to implement continuous policy measures that ensure marginalized communities have equal access to education, employment, and social opportunities. This would fulfill the vision of India's Constitution, aiming for a more inclusive and equitable society. While this paper has focused primarily on the quantitative impact of reservation policies, it is important to recognize that the government has also introduced other measures to uplift marginalized communities. Thus, there is scope for further qualitative research into the implementation of these policies, offering a more comprehensive view of their

effectiveness.

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