



Reservation scenario in India

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Abstract : *The primary objective of the present-day Indian reservation system is to enhance the social and educational status of underprivileged communities and thus improve their lives. The British Raj introduced elements of reservation in the Government of India Act of 1909 and there were many other measures put in place prior to independence. A significant one emerged from the Round Table Conference of June 1932, when the Prime Minister of Britain, Ramsay Macdonald, proposed the Communal Award, according to which separate representation was to be provided for Muslims, Sikhs, Indian Christians, Anglo-Indians, and Europeans. The depressed classes were assigned a number of seats to be filled by election from constituencies in which only they could vote, although they could also vote in other seats. The proposal was controversial; Gandhi fasted in protest against it but many among the depressed classes, including their leader, Dr. B. R. Ambedkar, favoured it. After negotiations, Gandhi reached an agreement with Ambedkar to have a single Hindu electorate, with Dalits having seats reserved within it. Electorates for other religions, such as Islam and Sikhism, remained separate. This became known as the Poona Pact.*

Key words: Poona Pact, Hindu electorate, Indian Christians

Introduction

Reservation is governed by constitutional laws, statutory laws, and local rules and regulations. The 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 objective of ensuring a level playing field. In recent years, reservation has been highly criticized in the education institutions and has been deemed one of the primary causes of talented and brilliant students leaving India for better opportunities abroad. It has also been observed in many cases that it has proven detrimental to the quality of education and students in institutes of national importance like IIT's as shown by the performance graph of the students and by the highly debated expulsion of 60

students admitted through reservation in IIT Roorkee. It has also been argued that the system is used largely by the dominant and powerful in the SC/ST/OBC quota, leaving out the people who really need it. Many scholars and intellectuals think that it is high time to revoke reservation in India. The issue has often been debated by and demand raised by students of IITs to remove reservation. In a historic ruling, the Supreme Court of India advised the government to revoke reservation in the education sector.

Before independence

Quota systems favouring certain castes and other communities existed before independence in several areas of British India. Demands for various forms of positive discrimination had been made, for example, in 1882 and 1891. Shahu, the Maharaja of the princely state of Kolhapur,



introduced reservation in favour of non-Brahmin and backward classes, much of which came into force in 1902. He provided free education to everyone and opened several hostels to make it easier for them to receive it. He also tried to ensure that people thus educated were suitably employed, and he appealed both for a class-free India and the abolition of untouchability. His 1902 measures created 50 per cent reservation for backward communities.

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After independence

India's affirmative action programme was launched in 1950 and is the oldest such

programme in the world. After the independence of India in 1947 there were some major changes in favour of the Scheduled Tribes (ST), Scheduled Castes (SC) and Other Backward Classes (OBC). A common form of caste discrimination in India has been the practice of untouchability. SCs were the primary targets of the practice, which was outlawed by the new Constitution of India.

In 1954, the Ministry of Education suggested that 20 per cent of places should be reserved for the SCs and STs in educational institutions with a provision to relax minimum qualifying marks for admission by 5 per cent wherever required. In 1982, it was specified that 15 per cent and 7.5 per cent of vacancies in public sector and government-aided educational institutes should be reserved for the SC and ST candidates, respectively.

A significant change began in 1978 when the Mandal Commission was established to assess the situation of the socially- and educationally-backward classes. The commission did not have exact population figures for the OBCs and so used data from the 1931 census, thus estimating the group's population at 52 per cent. In 1980 the commission's report recommended that a reserved quota for OBCs of 27 per cent should apply in respect of services and public sector bodies operated by the Union Government. It called for a similar change to admissions to institutes of higher education, except where states already had more generous requirements. It was not until the 1990s that the recommendations were implemented in Union Government jobs.



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."

The Supreme Court of India ruled in 1992 that reservations could not exceed 50 per cent, anything above which it judged would violate equal access as guaranteed by the Constitution. It thus put a cap on reservations. However, there are states laws that exceed this 50 per cent limit and these are under litigation in the Supreme Court. For example, in the State of Tamil Nadu the caste-based reservation stands at 69 per cent and applies to about 87 per cent of the population.

Reservations in elected bodies

In parliament, caste and tribe based reservations are provided to make it more representative. 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.

A similar percentage of exclusive seats have been provided for members of designated castes and tribes in each state

legislature. Local self-governments have caste, tribe and gender based reservation system in place.

Reservations in employment

A fixed percentage of India's government and public sector jobs are made exclusive for categories of people largely based on their caste or tribe. The 1992 Supreme Court ruling in the Indra Sawhney case said that reservations in job promotions are "unconstitutional" but allowed its continuation for five years. In 1995, the 77th amendment to the Constitution was made to amend Article 16 before the five-year period expired to continue with reservations for SC/STs in promotions. It was further modified through the 85th amendment to give the benefit of *consequential seniority* to SC/ST candidates promoted by reservation.

The 81st amendment was made to the Constitution to permit the government to treat the backlog of reserved vacancies as a separate and distinct group, to which the ceiling of 50 per cent did not apply. The 82nd amendment inserted a provision in Article 335 to enable states to give concessions to SC/ST candidates in promotion.

The validity of all the above four amendments was challenged in the Supreme Court through various petitions clubbed together in *M. Nagaraj & Others vs. Union of India & Others*, mainly on the ground that these altered the Basic Structure of the Constitution. In 2006, the Supreme Court upheld the amendments but stipulated that the concerned state will have to show, in each case, the existence of "compelling reasons" - which include "backwardness", "inadequacy of representation" and overall "administrative efficiency" - before



making provisions for reservation. The court further held that these provisions are merely enabling provisions. If a state government wishes to make provisions for reservation to SC/STs in promotion, the state has to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class.

In 2007, the Government of Uttar Pradesh introduced reservation in job promotions. However, citing the Supreme Court decision, the policy was ruled to be unconstitutional by the Allahabad High Court in 2011. The decision was challenged in the Supreme Court, which upheld it in 2012 by rejecting the government's argument because it failed to furnish sufficient valid data to justify the move to promote employees on a caste basis.

Reservations in education

In India most of the scholarships or student aid is available only to—SCs, STs, BCs, OBCs, women, Muslims, and other minorities. Only about 0.7% of scholarships or student aid in India is based on merit.

The University Grants Commission (UGC) provides financial assistance to universities for the establishment of Special Cells for SC/STs. The cells help universities implement the reservation policy in student admission and staff recruitment processes for teaching and non-teaching jobs. They also help the SC/ST categories integrate with the university community and help remove the difficulties SC/ST individuals may have experienced.

New rules implementation of UPA Government do not provide scholarship scheme and reservation quota of students

and employees of colleges under central University and State University approved by the UGC.

Beneficiary groups of the reservation system

The quota system sets aside a proportion of all possible positions for members of a specific group. Those not belonging to the designated communities can compete only for the remaining positions, while members of the designated communities can compete for either reserved or open position.

Seats are reserved for people under the following criteria:

Caste: In central-government funded higher education institutions, 22.5% of available seats are reserved for Scheduled Caste (SC) and Scheduled Tribe (ST) students (7.5% for STs, 15% for SCs).^[24] This reservation percentage has been raised to 49.5% by including an additional 27% reservation for OBCs. This ratio is followed even in Parliament and all elections where a few constituencies are earmarked for those from certain communities (which will next rotate in 2026 per the Delimitation Commission).

The exact percentages vary from state to state:

In Tamil Nadu, the reservation is 18% for SCs and 1% for STs, based on local demographics.

In Northeast India, especially in Arunachal Pradesh, Meghalaya, Nagaland and Mizoram, reservation for ST in State Govt. jobs is 80% with only 20% unreserved.



In the Central Universities of NEHU(shillong) and Rajiv Gandhi University, 60% of seats are reserved for ST students.

In Andhra Pradesh, 25% of educational institutes and government jobs are reserved for OBCs, 15% for SCs, 6% for STs and 4% for Muslims.

In West Bengal, 35% of educational institute seats and government jobs are reserved for SC, ST, and OBC (22% SC, 6% ST, 7% for^[26] OBC A & B^[27]) in West Bengal there is no reservation on religious basis but some economically and educationally backward Muslim castes(basis surnames pertaining to different profession e.g. cobbler, weaver etc.) have been included along with their Hindu counterparts in OBC list namely OBC A and OBC B, in both lists caste from both communities are there. But in higher educational institute, till now there is no reservation for the OBC community but there is reservation in regard to admission in primary, secondary and higher secondary studies.

Gender

The Women's Reservation Bill was passed by the Rajya Sabha on 9 March 2010 by a majority vote of 186 members in favour and 1 against. As of March 2013, the Lok Sabha has not voted on the bill. Critics say gender cannot be held as a basis for reservation alone other factors should also be considered e.g. economic, social conditions of woman candidate especially when applying reservation for educated women. There also is a growing demand for women reservation in pre-existing reservations like OBC, SC/ST, physically handicapped etc. Some groups still demand that reservation for women should be at least 50 per cent as they comprise 50 per cent of the population.

In Gujarat, 33% of posts are reserved for females in all government departments and services, such as police, health, education and general administration.

Religion

There is no reservation granted on the basis of religion in the Central educational institutions at the national level, although reservation has been extended to religious minorities in some states. The Tamil Nadu government has allotted 3.5% of seats each to Muslims and Christians, thereby altering the OBC reservation to 23% from 30% (since it excludes persons belonging to Other Backward Castes who are either Muslims or Christians).

The Government of Andhra Pradesh introduced a law enabling 4 per cent reservations for Muslims in 2004. This law was upheld by the Supreme Court in an interim order in 2010 but it constituted a Constitution bench to look further into the issue. The referral was to examine the constitutional validity of quotas based on religion. Kerala Public Service Commission has a quota of 12% for Muslims. Religious minority (Muslim or Christian) educational institutes also have 50% reservation for Muslim or Christian religions. The Central government has listed a number of Muslim communities as backward Muslims, making them eligible for reservation.

Controversy

The Union Government on 22 December 2011 announced establishment of a sub-quota of 4.5% for religious minorities within the existing 27% reservation for Other Backward Classes. The reasoning given was that Muslim communities that have been granted OBC status are unable



to compete with Hindu OBC communities. It was alleged that the decision was announced as the Election Commission announced Assembly elections in five states on 24 December 2011. The government would not have been able to announce this due to the model code of conduct. On 12 January 2012, the Election Commission stayed implementation of this decision for violation of the model code of conduct.^[35] Later, Justice Sachar, head of the Sachar Committee that was commissioned to prepare a report on the latest social, economic and educational condition of the Muslim community of India, criticised the government decision, saying "Such promises will not help the backward section of minorities. It is like befooling them. These people are making tall claims just to win elections". He suggested that instead of promising to give reservations, the government should focus on basic issues of improving administration and governance.

On 28 May 2012, the Andhra Pradesh High Court quashed the sub-quota. The court said that the sub-quota has been carved out only on religious lines and not on any other intelligible basis. The court criticised the decision: "In fact, we must express our anguish at the rather casual manner in which the entire issue has been taken up by the central government."

Some reservations are also made for:

Terrorist victims from Kashmir, e.g. in Punjab

Single girl child (in Punjab)

Migrants from the state of Jammu and Kashmir

Sons/daughters/grandsons/granddaughters of Freedom Fighters

Physically handicapped

Sports personalities

Non-Resident Indians (NRIs) have a small percentage of reserved seats in educational institutions. (Note: NRI reservations were removed from IIT in 2003)

Candidates sponsored by various organisations

Those who have served in the armed forces ('ex-serviceman' quota—because the age of superannuation in the military is much shorter than that in the civil posts; more so, certain intakes are tenure-based, e.g. the contract for Short-Service Commission is eight years)

Dependents of armed forces personnel killed-in-action

Repatriates

Reservation in special schools of Government Undertakings/ PSUs, for the children of their own employees (e.g. Army schools, PSU schools, etc.)

Paid pathway reservations in places of worship (e.g., TirumalaVenkateswara Temple, TiruthaniMurugan temple).

Seat reservation for Senior citizens and physically handicapped in public (bus) transport.

Conclusion: The above analysis shows that reservation system is not now and confined to SC, STs only. Some of the groups believe that the reservations are getting only these groups. Reservation is governed by constitutional laws, statutory laws, and local rules and regulations. The 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 objective of ensuring a level playing field. In recent years, reservation has been highly criticized in the education institutions and has been deemed one of the primary causes of talented and brilliant students leaving India for better opportunities abroad. In a historic ruling, the Supreme Court of India advised the government to revoke reservation in the education sector

References

- Sheth, D. L. (14 November 1987). "Reservations Policy Revisited". *Economic and Political Weekly*. 22 (46): 1957–1962. JSTOR 4377730.
- Laskar, Mehabubul Hassan. "Rethinking Reservation in Higher Education in India" (PDF). *ILI Law Review*. pp. 29–30. Archived from the original (PDF) on 25 April 2012.
- "ShriChhatrapatiShahuMaharaj". *Bahujan Samaj Party*. Retrieved 2011-10-20.
- Menon, V. P. (1957). *Transfer of Power in India (Reprinted ed.)*. Orient Blackswan. pp. 49–50. ISBN 978-81-250-0884-2.
- Human Development Report 2016" (PDF). UNDP.p. 119.Retrieved 21 March 2017.
- Passin, Herbert (October 1955). "Untouchability in the Far East". *Monumenta Nipponica*. 11 (3): 247–267.
- Kumar, Raja K. (1984). "The Untouchables of India". In Jaewoong, Ahn. *The Image of God in Minorities*. World Christian Federation.p. 41.Retrieved 2011-10-20.
- "Educational Safeguards". Department of Education.Government of India.Archived from the original on 19 June 2009.Retrieved 2011-11-27.
- Bhattacharya, Amit (8 April 2006). "Who are the OBCs?". *The Times of India*. Archived from the original on 27 June 2006. Retrieved 2006-04-19.
- Ramaiah, A. (6 June 1992). "Identifying Other Backward Classes" (PDF). *Economic and Political Weekly*. pp. 1203–1207. Archived from the original (PDF) on 30 December 2005. Retrieved 2006-05-27.
- <https://www.youthkiawaaz.com/2011/02/educational-reservations-india-solutions/>