

EVOLUTION OF RESERVATION IN INDIA

Pradeep Kumar¹

Assistant Professor, Kamla Nehru Institute of Technology (KNIT), Sultanpur (U P), India.
pradeeprajsagar@gmail.com

Abstract

Like every other society in the world the goal of Indian society too was to secure the social justice to all the citizens of India. But India is a country of castes and untouchability. Thus discrimination and social exclusion are the most important features of this country. So there was a felt need to devise a measure to minimize this, if not eliminated all together. It was clearly shown that the Scheduled castes and scheduled tribes were not given the opportunity they deserved. Their exploitation and social exclusion was on warpath and they were not treated as the equal citizens of the country. After, India got independence it was the duty of the government to correct the past injustice. So reservation was thought to be the only way to give equal opportunity to the people who have been marginalized and excluded for centuries. The main aim of the reservation policy is 'capacity building' for the weaker sections like Scheduled castes and scheduled tribes, who are neglected and discriminated in social, cultural, political, civil, economical and also educationally spheres. But because of the rigid caste system, they suffer from suppression, neglect, and discrimination even today.

Keywords : Inequality, Caste, Reservation, Social Justice

INTRODUCTION

Like every other society in the world the goal of Indian society too was to secure the social justice to all the citizens of India. But India is a country of castes and untouchability. Thus discrimination and social exclusion are the most important features of this country. So there was a felt need to devise a measure to minimize this, if not eliminated all together. It was clearly shown that the Scheduled castes and tribes were not given the opportunity they deserved. Their exploitation and social exclusion was on warpath and they were not treated as the equal citizens of the country. After, India got independence it was the duty of the government to correct the past injustice. So reservation was thought to be the only way to give equal opportunity to the people who have been marginalized and excluded for centuries.

Indian society had a plethora of inequalities. There was a gap of hell and heaven between two particular sections of society. On the one hand there was a group who were educated, have social prestige and privileges and on the other hand there was

¹ Assistant Professor, Kamla Nehru Institute of Technology (KNIT), Sultanpur (U P), India, pradeeprajsagar@gmail.com

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives, 16(7), 123-133

Retrieved from <https://ijeponline.org/index.php/journal>

another section who was deprived of all these. They were not given equal opportunity to come to the mainstream. So there was a need to equalize that gap. Obviously there was a need to treat unequally to bring those in the mainstream of Indian society. In other words the idea of equality of opportunity demanded unequal treatment to unequal section of Indian society.

The most important aspect of inequality is the gap between haves and have-nots. So it was a felt need that the disparity of wealth and income must be narrowed down so that economic opportunities are brought towards equality. Because the equality of social status can never be achieved unless there is a reasonable representation of that segment of society who has been kept out of power since time the immemorial. So the Indian constitution applied the principle of “protective discrimination”.

In the words of Dr. Ambedkar, “Political democracy cannot succeed where there is no social and economic democracy. Social and economic democracy is the tissue and the fiber of a political democracy. The tougher the tissue and the fiber, the greater the strength of the body politic” (Prasad, 1986). The need to discriminate positively in favour of the socially underprivileged was felt for the first time during the nationalist movement.

Protective discrimination later took the form of the reservation policies for the deprived section of the society. Various provisions in the constitution have been made to undo the past discrimination.

The reservation policy was first introduced in the early 1930s and formalised later in 1950, Ambedkar who pioneered this policy justified it primarily on grounds of citizen/human rights violation. (Thorat, 2004).

CONSTITUTIONAL PROVISIONS

The provision by constitution of reservation of jobs in the public sector for candidates belonging to the Scheduled Castes and Tribes was national obligation so as to compensate their age-old suppression and oppression of their opportunities. Viewing this, the framers of the Indian Constitution incorporated provisions in the constitution for affirmative action or compensatory discrimination. This was for providing reservation to them in jobs in government employment and in educational institutions under Articles 15(4) and 16(4) respectively (Ministry of Social Justice and Empowerment, Annual Report 2004-05).

Article 16 (4) - “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 of citizens which in the opinion of the State, is not adequately represented in the services under the State.”

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives, 16(7), 123-133

Retrieved from <https://ijeponline.org/index.php/journal>

Article 16 (4A) - “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 (4B) - “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).

Article 46 - “The State shall promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the SC and ST, and shall protect them from social injustice and all forms of exploitation.”

Special Provisions: 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 SC and ST in the Parliament (Article 330) and in the State Legislative Assemblies (Article 332) as well as in government and public sector jobs (e.g. public enterprises), in both the federal and state governments (Articles 16(4), 330(4) and 335).

Under Article 338 of the Constitution, “the President of India appoints a special officer known as the commissioner for SC and ST to investigate all matters relating to the safeguards provided for the SC and ST under the various provisions of the Constitution”.

When India got independence in early 1950s the private sector was not on a very high growth and therefore it was left out from the purview of reservation for the depressed classes as it was enshrined in the constitution for the government and the public sectors. These constitutional provisions are not mandatory in the case of the private sector, private sector enterprises do not bother to follow them.

CRITERIA FOR RESERVATION

The reservation has always been contested that it should be based on economic well being of the individuals. The Supreme Court, “in all its decisions on reservation has interpreted the expression ‘backward classes’ in Article 16 (4) to mean the ‘socially and educationally’ backward”. It also “rejected ‘economic backwardness’ as the only or the primary criterion for reservation under article 16 (4)”. Article 46 speaks of “weaker sections, whose ‘economic’ interests have also to be promoted along with their ‘educational’ interests with special care, it also speaks of ‘protecting’ them from all forms of social injustice and exploitation”. Those sections, which are merely economically weak or backward, would not qualify for promotion of their interests under the cover of this Article (Sawant, 2003).

Another argument is that “it is not the ‘upper’ castes or the social groups, but the poor individuals in the groups should be given reservation. But reservation has been provided in the Constitution for ‘classes’ and not to individuals” (ibid) .

“The existing reservation in state employment under Article 16 (4) is in favour of such backward classes, which, in the opinion of the state, are ‘not adequately represented’ in the services. It is clear from this provision that it is to give the ‘classes’ adequate representation in state administration that reservation has been made” (Sawant, 2003).

Reservations should never be based on economic status for various reasons as follows:

1. Caste is the main form of social exclusion and not poverty.
2. An individual's economic status can change but caste cannot.
3. Battle of difficulties in proving economic status to individual, so the weak may suffers.
4. Certification of caste is times associated with corruption. Buying a false caste certificate.
5. Reservation is not an end in itself. It is a means to an end.
6. The fields of reservations should be all fields of life including education, employment, judiciary, armed forces, Industry, corporate life, trade and commerce.
7. If this generation avoids the responsibility of dealing with social exclusion, their future generations would suffer.

Now the idea of social justice is to extend reservation to the poor upper caste people. So the criteria of creamy layer is applied to the OBC community reservation,

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives, 16(7), 123-133

Retrieved from <https://ijeponline.org/index.php/journal>

enforcement by the supreme court guidelines. Here the idea of reservation based on economic to fight against poverty is a way to ignore the social reality based on caste.

THERETICO-ANALYTICAL FRAMEWORK OF RESERVATION

India is a country of castes and untouchability. Discrimination and Social exclusion are most important features of this country. Prohibition against discrimination remains a pious goal on paper until and unless conditions of life are such as to make equality a reality to everyone. So there was a felt need to devise a measure to minimize this if not eliminated all together. The reservation policy was adopted after the India got independence. To do anything or to start anything new there must be a clear-cut objective of that particular task. In the reservation case also many objectives were set. It was basically a well thought move by the state to give some respite to the people who have been marginalized for centuries. The reservation was basically enshrined in the constitution to provide equal opportunity for the depressed classes. In the constitution it is clearly mentioned that state can make certain special provision to ensure the equality in the unequal society.

So the policy of reservation was one of the main measures apart from many other measures to correct the past injustice. "Policies of preferential treatment and compensatory justice are one of the many tools adopted to promote positive equality" (Mehta and Patel, 1985: 45). The purpose of reservation is to mitigate the inequalities accumulated as a result of centuries of caste-hierarchy dominating the Indian scene.

"The primary reason for reservations was the goal of inclusion in the face of existing social prejudice" (Mahajan, 2005). Also, "(a) Reservations seek to ensure a level playing field, and (b) they only seek to compensate those who have suffered harm due to past practices of the society as a whole" (Ibid). The policy of Reservations for the Scheduled Castes and the Scheduled Tribes is seen as an instrument of inclusion.

Justice (Retd.) P.B. Sawant has rightly observed for ensuring justice for them, "The right to equality without capacity and the means to avail of the benefits equally is a cruel joke practiced on the deprived sections of the society" (Sawant, 2003). He says:

"The exceptions (to the right to equality law) enable the State to make the deprived capable of availing of the benefits which otherwise they would not be able to do. It is to give effect to the principle of equality that the exceptions become mandatory in any unequal society such as ours which intends to become egalitarian. To treat two unequal equally causes as much injustice as to treat two equals unequally. The jurisprudence of equality therefore requires that those below be leveled up to those above" (ibid).

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives, 16(7), 123-133

Retrieved from <https://ijeponline.org/index.php/journal>

Accordingly, a provision was made for reservation in jobs for Scheduled Castes / Tribes in services under the central and state governments as well as in public sector undertakings (Singh, 2004).

The objective behind the implementation of reservation is the advancement of any socially and educationally backward classes of citizens, such as the scheduled castes and scheduled tribes, who had been subjected to thousands of years of discrimination by India's upper castes. When India gained its independence, the constitution gave special provision for certain communities to have a minimum representation in various fields (Jogdand, 2004).

“The policy of job reservations intends to bring about proportional equality, as it is a mode of distributing benefits based on the proportion of the population, i.e. 16.5 per cent for the scheduled castes or Dalits and 8 per cent for tribes. It is based on the principles of distributive justice and compensation for past disadvantages. All in all, it has been a project of ‘capacity building’ among the weaker sections of Indian society. This concept of ‘Reservations’ aimed at ensuring the betterment of underprivileged and deprived sections of society” (Ibid).

Social justice, which is a part of the broader concept of justice, is based on the distributive principle. “The subject matter of justice is the manner in which benefits and burdens are distributed among men whose qualities and relationship can be investigated” (Rai, 2002). An aggregative principle is one which refers “only to the total amount of good enjoyed by a particular group, whereas a distributive principle refers to the share of that good which different members of the group have for themselves” (ibid).

Beteille argues that socially disadvantaged castes also had rights and they too needed the care and attention of the state (Beteille, 2005). It has to be understood that “the main intention behind the reservation policy was social justice, thereby the empowerment of Dalits and Tribals. It is based on the principles of distributive justice and compensation for past disadvantages” (ibid). It was the constitutionally essential to provide reservation (ibid).

The ultimate objective of the reservation policy is social justice to empower the Dalits and Tribals. This reservation policy has addressed many questions like, the question of inequality, discrimination, exploitation, exclusion, and many more. Though there are some more laws to address these issues but by empowering Dalits through the reservation the chances of discrimination and social exclusion gets diminished as they move upward socially and educationally at least in urban areas.

The vast inequalities, which still exist in Indian society, leave the lower castes communities or scheduled castes are deprived from education to simple nutrition.

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives, 16(7), 123-133

Retrieved from <https://ijeponline.org/index.php/journal>

The reservation policy in job intends to bring about proportional equality. The motive behind the reservation policy is to give the proportionate participation to all castes and communities.

Marc Galanter has observed, “government employment in India is widely considered prestigious and a guarantor of security and advancement. He further says that reservation constitute protective (or compensatory) discrimination in favour of the backward classes, which is envisaged to be used only for the purpose of mitigating inequalities. ‘compensatory discrimination’ may be advocated not as device to ensure fairness to individuals, but as a means to produce desired social customs, e.g. to reduce group disparities, afford representation, encourage development of talent and so forth” (Galanter: 1984:553-562).

Reservation And Inclusion

Ambedkar’s argument for preferential treatment was based on social inclusion and the significance of public presence. He was of the view that preferential treatments will provide an opportunity to the persons and groups who have been denied social presence so far and are excluded in public life. He believed if they got the opportunity they would actively participate in the process of government (Rodrigues, 2005 and see Ambedkar 1947 and 1979).

The main aim of the reservation policy is ‘capacity building’ for the weaker sections like scheduled castes and tribes, who are neglected and discriminated in social, cultural, political, civil, economical and also educationally life. But because of the rigid caste system, “the Brahmnical upper castes have undue, unearned and unjust privileges, where as the lower castes and untouchables suffer from suppression, neglect, and discrimination”.

The objective of the reservation policy was the betterment of the scheduled caste and tribes. Many people have given many names to address the issue of reservation. Andre Beteille for example says that reservation was given as the distributive justice. Thus reservation was necessary to the people who have been excluded for centuries. Others call it social justice. This means that earlier there had been a lot of injustices done against the marginalized or depressed classes.

“Reservations are to create a sense of confidence and self-worth among people who, through history, had been victims of the most heinous forms of discrimination. They are meant for those who have no socially valuable assets whatsoever” (Gupta, 2005). It is also to note that the lower caste people; leather worker or scavenging and others, still suffer, are “not allowed in tradition to develop social skills and assets that

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives, 16(7), 123-133

Retrieved from <https://ijeponline.org/index.php/journal>

would help them advance socially” (ibid).

This handicapness needs to be addressed by positive discrimination so as to give extra push for their rightful position in a democratic society. This is how “reservations were supposed to increase fraternity and broad-base democracy. As we all know, liberty can be established by law, equality by dictat, but for fraternity to happen it requires a substantial realization of citizenship” (Ibid).

INCLUSIVE INTERVENTION

Justice D.N Sandanshiv reflects on the objectives of the reservation policy saying, it is to “ensure that no community is deprived of its rightful place in a true democracy. It is not a caste or class concession, it is a compensatory device to negate the disabilities and handicaps imposed by the poisonous caste system” (see Samujh, 2005: 75).

In *Ashok Kumar Gupta vs. state of U.P.*, the Supreme Court of India pointed out “the objective of reservation policy by observing, “every citizen or group of people has right to share in governance of the state”. The scheduled caste and scheduled tribes equally being citizens have a right in governance (Ibid: 77).

In *Delhi Transport Corporation vs. D.T.C Mazdoor Congress*, the Supreme Court has further observed, “law is a social engineering to remove the existing imbalance and to further the progress, serving the needs of the Socialist Democratic Bharat under the rule of law. The prevailing social condition and actuality of life are to be taken into account in adjudging whether or not impugned legislation would serve the purpose of the society” (Ibid: 77).

The Supreme Court of India in *Union of India V. Madhav* has described “the objective of the reservation as, means to ensuring socio-economic justice for scheduled caste and scheduled tribes”. The Supreme Court in *Indira Sawhney’s* case further elaborates “the social economic issue by observing, “objective of the reservation is not only to alleviate poverty but also to share governance by the reservationists classes”. The majority of the judges held, “the objective behind article 16 (4) is empowerment of the deprived backward communities to give them a share in the administrative apparatus in the governance of the community”.

Sawant, J. in this case has observed, “the purpose of keeping reservations even in favour of the socially and educationally backward classes under clause (4) is not to alleviate poverty but to it an adequate share in power”. As reservations are “not meant to replace anti-poverty programmes but to instill self-confidence and courage among those who had been historically disprivileged, they should not be used loosely

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives, 16(7), 123-133

Retrieved from <https://ijeponline.org/index.php/journal>

to address people and groups who are simply poor” (Gupta, 2005). Reservations are really about fraternity and not about equality of economic status (ibid)

Reservation in public sector education and employment is a particularly (but not uniquely) Indian practice enshrined in the Constitution, a legal form of affirmative action designed to provide greater opportunities to communities and social groups that have been traditionally deprived and excluded (Ghosh, 1997). Somehow, reservations are construed as concessions extended with the intent of uplifting these low caste people (Teltumbde, 2005).

CONCLUSION

In a plural society such as India the state generally faces demands from various caste, tribal religious and gender groups for social justice. Amongst such groups, the Scheduled Castes and Scheduled Tribes are treated as deserving cases for historical reasons and on this, therefore, a national consensus has emerged (Ghosh, 1997).

The longstanding exploitation and oppression of the Scheduled Castes and Scheduled Tribes has to be addressed fairly through reservation. Reservation was thought to be one of the mechanism through which state could affirm and uphold the economic rights of disadvantaged groups. Reservation is an instrument expunges the social disability causing suffering due to caste system of the lower classes. Reservation policy in education sector and in job giving opportunities are ways to correct the historical disadvantages based on inequality, discrimination deprivation and exclusion. The victims of the social history are been compensated through assured educational and job opportunities so as to reduce, if not eliminate their social injustice and inequality.

The policy of reservation would enable the weaker sections to participate in the decision-making process at a high level. The reason for the implementation of reservation is the development of any socially and educationally backward classes of citizens, such Scheduled Castes and Scheduled Tribes who had been subjected to thousands of years of discrimination by India's upper castes. When India gained its independence, “the constitution gave special provision for certain communities to have a minimum representation in various fields. This initial provision was to have ended after a few years, but the practice continues” and the Government of India has amended the constitution, continuing to increase quotas to the extent that many (state not central) institutions now reserve more than 50 percent of their seats.

“Reservations were necessary to correct the injustice and a means of bringing these sections into the social and political mainstream” (Hasan, 2005). Thus these, “the policy of reservations in government jobs for the scheduled castes and tribes has to

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives, 16(7), 123-133

Retrieved from <https://ijeponline.org/index.php/journal>

some extent guaranteed their participation in public employment” (ibid).

REFERENCES

Ambedkar, B.R. (1947). “State and Minorities, What are Their Rights and How to Secure Them in the Constitution of free India”, *Memorandum Submitted On behalf of All India Scheduled Caste Federation*.

Ambedkar, B.R. (1979). *Writing and Speeches, Vol.1*. Education Department Government of Maharashtra Bombay.

Beteille, Andre. (2005) “Matters of Right and of Policy”, *Seminar*, 549, May.

Dumont, Louis (1999, first published 1970): *Homo Hierarchicus: The Caste System and Its Implications*, Oxford India Paperback, New Delhi.

Galanter, Marc (1984). *Competing Equalities, Law and the Backward Classes in India*. Oxford University Press , New Delhi.

Ghosh, Partha. S. (1997). *Ethnic Studies Report*, Vol. XV, No. 2, July.

Gupta, Dipankar (2005). “Limits of Reservation”, *Seminar* 549, May.

Haslam, David (1999). *Caste Out: The Liberation Struggle for the Dalits in India* CTBI.

Jogdand, P.G. (2004). “Reservation In Private Sector Legislation In Maharashtra” *Economic and Political Weekly* July 24.

Mahajan, Gurpreet (2005). “The Problem”, *Seminar* 549 May.

Ministry of Social Justice and Empowerment (2004- 05) *Annual report*, Government of India.

Mehta ,H. & Patel, H. Ed,(1985). *Dynamics of reservation policy*, Patriot Publication New Delhi

Prasad, Ishwari (1986). *Reservation: Action for Social Equality*. Critarian Publications, New Delhi.

Rai, Sheela (2002). “Social and Conceptual Background to Policy of Reservation”. *Economic and Political Weekly* October 19-25.

Rodrigues, Valerian (2005). “Ambedkar On Preferential Treatment”, *Seminar* 549, May.

Samujh, Ram (2005). *Reservation Policy, Its Relevance In Modern India* Samrudh

How to Cite:

Pradeep Kumar (July 2022). EVOLUTION OF RESERVATION IN INDIA

International Journal of Economic Perspectives,16(7),123-133

Retrieved from <https://ijeponline.org/index.php/journal>

Bharat Publication Bombay.

Sawant, P.B. (2003). "The Constitution, Equality And Reservations" *Mainstream*, June 14.

Singh, Rupashree (2004). "Refer To Win", *Hindustan Times*, New Delhi.

Teltumbde Anand (2005). "Reservation in Private Sector: An Overview of the Proposition" in Thorat, et al. (2005). (ed). *Reservation and Private Sector: Quest for Equal Opportunity And Growth*, Rawat Publications, New Delhi.

Thorat Sukhadeo (2004). "On Reservation Policy For Private Sector" ' *Economic and Political Weekly* ' June 19.