

**RESERVATION POLICIES AND THE CONSTITUTION:
IMBALANCE BETWEEN UPLIFTMENT AND EQUALITY**

**Dissertation submitted to the National University of Advanced Legal
Studies, Kochi in partial fulfilment of the requirements for the award
of LL.M Degree in Constitutional and Administrative Law 2025**



**THE NATIONAL UNIVERSITY OF ADVANCED LEGAL
STUDIES**

Kalamassery, Kochi – 683503, Kerala, India

2024-2025

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I, Anmol Gupta, do hereby declare that this LL.M Dissertation titled **“RESERVATION POLICIES AND THE CONSTITUTION: IMBALANCE BETWEEN UPLIFTMENT AND EQUALITY”**, researched and submitted by me to the National University of Advanced Legal Studies, Kochi in partial fulfilment of the requirement for the award of Degree of Master of Laws in Constitutional and Administrative Law, under the guidance and supervision of **DR. APARNA SREEKUMAR** is an original, bona-fide and legitimate work and it has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

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ACKNOWLEDGEMENT

I have taken sincere efforts and hard work to complete this Dissertation within time. However, it would not have been possible without the kind support and guidance from certain people. I take this opportunity to express my profound respect and deep sense of gratitude to **Dr. APARNA SREEKUMAR**, my guide and supervisor, for her support, guidance and encouragement throughout the course of my research work. She was always approachable, respected my ideas and gave me clear, cogent and meaningful suggestions, which has aided me profusely in completing this dissertation.

I would like to extend my gratitude and sincere thanks to **DR. ANIL R NAIR**, Director of Centre for Post Graduate Legal Studies for his supports and encouragement extended during the course.

I would further extend my deep-felt gratitude to all the faculties of NUALS for their constant encouragement. I convey my thanks to the Library Assistants and staff members for their assistance to carry out the work. Words fall short of expressing love, appreciation and gratitude to my dear family and friends for their constant encouragement. With genuine humility, I am thankful to the Almighty for all his uncountable bounties and blessings.

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PREFACE

The subject of reservation in India has always stirred intense academic, legal, and social discussions. As a student of Constitutional and Administrative Law, I have often found myself questioning how a mechanism that was originally introduced as a short-term corrective tool for social upliftment has become a permanent and politically sensitive feature of our governance structure. This dissertation emerges from that very curiosity and concern—whether our reservation policies still reflect the original constitutional intent or have shifted course under the pressures of changing social realities and political compulsions.

This research explores the complex journey of reservation policies in India—from their inception during the drafting of the Constitution to their expansion through amendments, judicial interpretations, and political movements. The focus has been to critically assess whether these policies have continued to serve the objective of uplifting the most disadvantaged or whether they now risk undermining the constitutional ideal of equality.

In writing this dissertation, I have revisited the debates of the Constituent Assembly, studied key constitutional provisions like Articles 15(4) and 16(4), and analysed landmark judgments including *Indra Sawhney*, *M. Nagaraj*, and *Janhit Abhiyan*. What became evident was the increasing tension between the principles of substantive equality and formal equality, especially with the widening scope of reservations and the introduction of the Economically Weaker Sections (EWS) quota.

This work does not claim to offer definite answers but rather seeks to raise pertinent questions about the balance between justice and merit, social upliftment and efficiency, and representation and fairness. It also looks at possible alternatives and reforms that could help reservation policies align better with the evolving needs of Indian society.

This dissertation is a reflection of my academic engagement with one of India's most critical constitutional debates. It is written with the hope that it will contribute, however modestly, to a more balanced understanding of how law, policy, and justice must constantly evolve in dialogue with one another.

ABBREVIATIONS

Abbreviation	Full form
AIADMK	All India Anna Dravida Munnetra Kazhagam
AIR	All India Reporter
BC	Backward Class
CAD	Constituent Assembly Debates
DPSP	Directive Principles of State Policy
EWS	Economically Weaker Sections
IAS	Indian Administrative Service
IFS	Indian Foreign Service
IPS	Indian Police Service
MBC	Most Backward Classes
NGO	Non-Governmental Organisation
OBC	Other Backward Classes
PSU	Public Sector Undertaking
SC	Scheduled Castes
SCC	Supreme Court Cases
SEBC	Socially and Educationally Backward Classes
ST	Scheduled Tribes
UPSC	Union Public Service Commission

LIST OF CASES

S. No.	Case Name	Citation
1.	State of Madras v. Champakam Dorairajan	AIR 1951 SC 226; (1951) SCR 525
2.	General Manager, Southern Railway v. Rangachari	AIR 1962 SC 36; (1961) 2 SCR 586
3.	T. Devadasan v. Union of India	AIR 1964 SC 179
4.	State of Mysore v. M.R. Balaji	AIR 1963 SC 649; (1963) Supp (1) SCR 439
5.	Union of India v. C.A. Rajendran	AIR 1968 SC 507; (1968) 1 SCR 721
6.	State of Kerala v. N.M. Thomas	AIR 1976 SC 490; (1976) 2 SCC 310
7.	P&T Scheduled Castes/Tribes Employees Welfare Association v. Union of India	AIR 1980 SC 1
8.	Union of India v. Mohan Kumar Singhania	AIR 1992 SC 1
9.	Indra Sawhney v. Union of India	1992 Supp (3) SCC 217
10.	Union of India v. Madhav	(1997) 2 SCC 332
11.	State of U.P. v. Ashok Kumar Gupta	(1997) 5 SCC 201
12.	E.V. Chinnaiah v. State of Andhra Pradesh	(2005) 1 SCC 394
13.	M. Nagaraj v. Union of India	(2006) 8 SCC 212
14.	Ashoka Kumar Thakur v. Union of India	(2008) 6 SCC 1
15.	Janhit Abhiyan v. Union of India	(2023) 1 SCC 1

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CHAPTER 1: INTRODUCTION

BACKGROUND OF THE STUDY

The reservation policies in India have traditionally been at the intersection of constitutional ideals, social justice imperatives, and political pragmatism. Based on the founding ideals of the Indian Constitution, the reservation was conceived of as a short-term yet revolutionary mechanism to positively uplift historically marginalized groups like the Scheduled Castes (SCs) and Scheduled Tribes (STs). Such societies had suffered decades of caste discrimination, socio-economic marginalization, and state-sponsored violence in the strict systems of the Indian caste system. As a result, the authors of the Constitution acknowledged the ethical and legal commitment to remedy such past injustices and foster material equality—a concept of equality more than formalist in nature that aims to tilt the balance of opportunities in favor of the downtrodden.

Dr. B.R. Ambedkar, the key drafter of the Indian Constitution and a committed champion of Dalit rights, played a key role in enshrining provisions for affirmative action in public employment, education, and political representation. Articles 15(4), 16(4), and 46 of the Constitution authorize the State to make special provisions for promoting socially and educationally backward classes. In addition, Articles 330 and 332 provide political representation to SCs and STs in Parliament and State Assemblies. These provisions were initially made temporary, with a ten-year sunset clause, assuming that such groups would reach parity with the rest of society. Constitutional amendments have nonetheless continued to extend these provisions repeatedly due to ongoing inequalities and the inability of more comprehensive socio-economic reforms to succeed.

Throughout the decades, the nature and extent of the reservation policy have changed considerably. Whereas, initially, the scope was confined to SCs and STs alone, it was expanded to cover Other Backward Classes (OBCs) after the Mandal Commission report in 1980 and their eventual execution in 1990. The Mandal Commission drew its conclusions from a mix of social, educational, and economic parameters, and its report ushered in one of the most controversial debates in post-independence India. The later addition of OBCs brought almost 27% of central government posts and educational quotas under the reserved category, which increased the overall reservation to nearly 49.5%. In

some states, the percentage was even higher, leading to judicial examination and the Supreme Court's imposition of a 50% cap on reservations in the landmark *Indra Sawhney v. Union of India* (1992) case.

Yet, the judicially derived 50% ceiling has itself not always held. Tamil Nadu and Maharashtra states have passed legislations that bypass or get around the quota, usually with extraordinary social grounds or by recourse to the Ninth Schedule of the Constitution to exclude such legislation from review by judges. These represent further signs of the growing politicization of reservation politics and their firming into competitive identity politics. Very much an emergency remedy in its origins, reservation has evolved into a core axis of political mobilization and social bargaining within the Indian polity.

Recently, the ambit of reservations has further widened with the enactment of the 103rd Constitutional Amendment Act, 2019, which grants 10% reservation in education and government employment to the Economically Weaker Sections (EWS) of the upper castes. This was a significant departure from the initial social justice basis for reservation policies since it was exclusively on economic grounds, ignoring backwardness's historical and social aspects. The amendment also created critical constitutional issues regarding the coexistence of such reservations with the doctrine of equality and the fundamental structure doctrine, as enunciated in earlier judgments. Although reaffirmed by the Supreme Court in a divided verdict, the EWS quota has intensified discussions regarding the aim, extent, and future of affirmative action in India.

In addition, there has been an increased clamor from some communities, e.g., Marathas in Maharashtra, Patidars in Gujarat, and Jats in Haryana, for their inclusion in the reserved groups. Such agitations, which tend to be characterized by violent protests and political agitation, indicate the perceived advantages of reservation regarding access to education, jobs, and political representation. Yet they also highlight a more profound concern over diminishing career prospects, worsening public services, and increasing competition, particularly among lower-middle and middle classes.

Amid this multifaceted and dynamic environment, an essential query remains: Has the reservation policy, as it exists and continues to grow, deviated from the founding vision of the Constitution's makers? Although the need for affirmative action to compensate for historical and structural disadvantages is universally recognized, such measures' open-

ended perpetuation and extension pose significant questions regarding meritocracy, effectiveness, social unity, and inter-generational fairness. The critics say that a reliance on reservations has generated a sense of entitlement, promoted vote-bank politics, and benefited, at times, the more affluent sections among the backward classes—termed as the "creamy layer"—and left behind the most marginalized.

In addition, there is a new contradiction between the equality of opportunity principle instituted under Article 16(1) and the extraordinary measures provision under Article 16(4). While the latter espouses equality as a broad principle of non-discrimination based on caste, religion, or race, the former enables positive discrimination in favor of disadvantaged groups. The judicial construction of these provisions has attempted a balance between formal and material equality. However, the lines have become increasingly blurred with each subsequent extension and expansion of the reservation policy.

This research, therefore, attempts to investigate this delicate balance and scan the underlying political, legal, and philosophical tensions in the history of India's reservation regime. It seeks to offer an intensive analysis of whether the reservation policy, as operated now, has helped to usher in substantive equality or derailed the constitutional vision of an egalitarian and just society. In so doing, the research will critically explore the arguments about the purpose, effectiveness, and future direction of reservation and analyze whether other models of affirmative action, including targeted scholarships, education assistance, and capacity-building schemes, could serve the purposes of inclusion and social justice more effectively in the current Indian context.

In the end, this question is not abstract. It speaks to the very heart of the Indian Republic and its persistent struggle to harmonize the principles of justice, liberty, and equality with the deeply rooted realities of caste, poverty, and exclusion. As India moves into the 21st century, the imperative to re-examine and rebalance its affirmative action policies grows more pressing—to live up to the Constitution's spirit and ensure that its dividends percolate to those most need them.

RESEARCH QUESTIONS

This research investigation probes the dynamic changes in India's reservation policies against the backdrop of the constitutional guarantee of equality, social justice, and meritocracy. Looming at the center of this investigation is an inherent tension between the imperative to raise the status of historically disadvantaged groups and the larger democratic values of equity, non-discrimination, and equal opportunity. Following a dense analysis of constitutional documents, debates, judicial rulings, and recent policy reforms, this dissertation addresses the following connected research questions:

1. What was the initial intention of the framers of the Indian Constitution towards reservation policies, and how were they conceptualized as temporary policies?
2. How has adding new categories, such as the Economically Weaker Sections (EWS) and Most Backward Classes (MBCs), affected the interplay between affirmative action and constitutional equality?
3. To what extent have periodic extensions of reservation policies diverged from their initial constitutional intention?
4. Is the existing reservation system appropriately balancing social justice objectives with the constitutional imperative of equality and meritocracy?

SIGNIFICANCE OF THE STUDY

The problem of reservations in India continues to be one of the most highly contested and emotionally charged aspects of the nation's constitutional and political life. It has moved from a constitutional promise to elevate the most downtrodden sections of society to a complicated and often controversial public policy. This research examines their constitutional, legal, and social implications by re-examining the historical roots and assessing the modern applications of reservation policies. The value of this research lies in its multi-faceted understanding of the tension between the ideals of uplift and the imperatives of equality.

Revisiting the Foundational Vision of the Constitution

One of the key contributions of this research is its attempt to revisit and critically examine the initial intention of the Indian Constitution framers regarding policies of reservation. The debates of the Constituent Assembly show that there was a strong concern about providing justice and equality to the historically oppressed, especially the Scheduled Castes and Scheduled Tribes, through the temporary special provisions. The research centers on the normative and philosophical foundations of such policies—based on the principles of dignity, social justice, and substantive equality—highlighting their envisioned temporality. This historical exploration is essential because it facilitates a thoughtful review of whether contemporary reservation policy has stayed the course concerning the initial goal set in 1950. By comparing the current course of policy construction and the original constitutional template, the research will seek to articulate areas of confluence and departure, thus engendering an increased understanding of the constitutional path of affirmative action within India.

Analyzing the Widening Parameters of Reservation and Drivers

Reservation policies have undergone far-reaching changes in terms of not just categories of beneficiaries but also the type and magnitude of reservations in sectors such as education, employment, and politics over some time. Such extension is typically determined by socio-political pressure, not an objective judgment regarding backwardness or deprivation.

This research critically analyses the justification for such expansions, most notably the extension to categories like the Economically Weaker Sections (EWS) and Most Backward Classes (MBCs), as well as growing demands for reservation by dominant castes and politically powerful groups. It seeks to explore whether the changes are justifiable by the ideology of equity and justice or result from political manoeuvring and populism.

In so doing, the research makes an essential contribution to the debate regarding whether the changing nature of reservation policies meets the needs of modern society or upsets the delicate constitutional balance between focused affirmative action and the general ideal of equal treatment under the law.

Legal and Judicial Perspectives: Defining the Constitutional Limits

A critical aspect of this study is its consideration of major judicial declarations and legislative changes that have influenced the shape of reservation policies in India. Pivotal decisions like *Indra Sawhney v. Union of India*, *M. Nagaraj v. Union of India*, and *Janhit Abhiyan v. Union of India* have not only explained but also pushed the legal limits of affirmative action, frequently developing new constitutional principles like the "creamy layer," the 50% cap, and the concept of backwardness as a dynamic and fluid one.

The research examines these judicial interventions to explore how the courts have balanced conflicting constitutional values—social justice vis-à-vis formal equality, representation vis-à-vis meritocracy, and group rights vis-à-vis individual rights. Such legal analysis is essential as it illuminates the judiciary as an empowerer and a restrictor of affirmative action and how it reads the Constitution in response to the evolving needs of society.

Comprehending the Societal Impacts and Emerging Tensions

This dissertation considers the social implications of an enlarging reservation regime outside the legal context. While reservation has been a revolutionary force in enhancing education access, job access, and political participation for marginalized groups, it has created novel inequalities and social tensions. The research seeks to study the views of non-beneficiary groups—significantly economically weaker upper castes—who feel cut off from state largesse and excluded from public debate.

In taking stock of these nascent tensions and the debate over meritocracy, social justice, and reverse discrimination, this research provides a complete picture of how reservation policies affect social cohesion and inter-group relations in a stratified and diverse society like India.

Towards a More Balanced Framework: Policy Recommendations

Part of the essential contribution of this research is its forward-looking nature. In light of the fast-tracking socio-economic developments that India is experiencing—urbanization, growth of the middle class, education reforms, and the emergence of a knowledge-based economy—it is essential to review the existing affirmative action mechanism.

The research seeks to offer reflective, evidence-based policy suggestions that may assist in realigning reservation policies with modern realities while preserving constitutional values. It examines whether alternatives or adjustments to the current quota system—like time-

bound reservations, intersectional strategies, localized measurements of backwardness, or income-based support schemes—may provide a more equitable and inclusive society.

Contribution to the Academic and Policy Discourse

Lastly, this dissertation seeks to enhance the intellectual and policy discussion on affirmative action in India. It combines constitutional theory, socio-political fact, legal inquiry and empirical fact, normative ideals and pragmatic obstacles. The research hopes to significantly contribute to modern India's debate on equity, justice, and constitutional morality by employing an interdisciplinary framework.

In effect, the value of this research is not merely in its critical analysis of how reservation policies have developed but also in its effort to rebalance the discourse around upliftment and equality. At a time when India is struggling with issues of representation, inclusion, and equity in every aspect of public life, this study hopes to be an effective contribution for policymakers, legal researchers, students, and all other stakeholders dedicated to the task of creating a more equitable and equitable society.

SCOPE AND DELIMITATION

This research makes an exhaustive doctrinal examination of reservation policies in India, particularly regarding their constitutional foundations, historical purpose, and contemporary application. It scrutinizes the constitutional provisions like Articles 15(4) and 16(4), which the First Constitutional Amendment brought in to enable the state to make special provisions for the advancement of socially and educationally backward classes, as well as for the Scheduled Castes (SCs) and Scheduled Tribes (STs). It also considers the more recent 103rd Constitutional Amendment, which added a new category—Economically Weaker Sections (EWS)—on purely economic grounds, thus broadening the scope and character of affirmative action beyond the conventional axes of social and educational backwardness.

The research is centered on the significant beneficiary groups under India's reservation system: SCs, STs, Other Backward Classes (OBCs), Most Backward Classes (MBCs), and EWS. It assesses whether adding these groups over time is true to the vision of the Constitution's makers, who initially envisioned reservation as a temporary, remedial policy

to correct centuries of exclusion and injustice. Doing this, the study aims to measure whether the consistently widening ambit of reservation has kept serving its primary mandate or now threatens to damage the constitutional dream of substantive equality for all.

To substantiate this analysis, the study looks into essential court rulings that have given direction to the reservation debate in India. Important cases like *Indra Sawhney v. Union of India* (1992), which set a 50% limit on reservations and the notion of the "creamy layer," and *M. Nagaraj v. Union of India* (2006), which specified further conditions for reservation in promotion, are analyzed in detail. The recent Supreme Court judgment in *Janhit Abhiyan v. Union of India* (2022), which sustained the validity of the 103rd Amendment and the 10% EWS reservation, is also an essential aspect of this inquiry. These cases are invaluable in comprehending how the judiciary has understood the changing limits of affirmative action in the constitutional landscape.

Although the research endeavors to present a broad temporal perspective, starting from the Constituent Assembly debates in the late 1940s and moving forward to recent trends until 2024–2025, it is geographically limited to the Indian scenario. The study does not seek to present a comparative analysis of reservation systems in foreign nations, nor does it undertake a comprehensive state-wide survey of reservation policies within India's federal states. Instead, it selectively draws on a limited number of consequential state policies—like Tamil Nadu's 69% reservation system or Maharashtra's Maratha quota legislation—that have challenged constitutional boundaries and national repercussions.

This doctrinal study is based solely on secondary sources like constitutional documents, parliamentary proceedings, judicial statements, academic writings, and legal commentaries. It does not entail empirical research techniques like field surveys, interviews, or statistical data collection. Whereas this selection is permissive to a scholarly legal and normative examination of reservation policies, it also indicates that the study eschews even attempting to measure the street-level effectiveness or execution of the policies. That a lack of empirical data exists is noted as a limitation but a conscious one to keep the theory-centric focus of the inquiry.

Further, the analysis is confined to education and job-based reservations under Articles 15 and 16. Political or election-time reservations like those provided for in Articles 330, 332,

and 243D concerning legislatures or panchayat seats are not discussed. In the same vein, the tangled and hotly debated question of sub-categorization of OBCs or SC/STs—albeit pertinent—is outside the focus of this writing, which endeavours to address the broader constitutional reconciliation between affirmative action and equality.

In confining its focus in these respects, the study seeks to give a clear, tangible, and comprehensive analysis of whether India's policy of reservation, as it exists today, is still an instrument of upliftment in keeping with constitutional ideals or whether it has invented new types of inequality contrary to the spirit of equality and meritocracy enshrined in the Constitution. Whereas delimitations place the boundaries around the research, they also maintain that the research is tightly defined on its point of focus: the possible trade-off between constitutional equality and social justice in the development of India's reservation policy.

LITERATURE REVIEW

India's literature on reservation policy is varied and diverse, ranging from constitutional documents to parliamentary proceedings, judicial dicta, academic writing, and legislative enactments. This review attempts to introduce an elemental appreciation of the evolution of the concept of affirmative action, as established by the Indian Constitution, through the stages—first, the Constituent Assembly Debates, followed by an in-depth examination of constitutional provisions under equality, judicial interpretations, and finally, subsequent developments through both constitutional and political channels.

An essential point of departure for this research is the Constituent Assembly Debates, where the Indian Constitution framers established the foundation of reservation policies. The debates depict the framers' preoccupation with creating substantive equality for historically disadvantaged groups, chiefly the Scheduled Castes (SCs) and Scheduled Tribes (STs), excluded over centuries. The controversies establish that reservations were brought in not as permanent rights but as short-term remedial steps to give these groups a fair start in the newly independent country. Dr B.R. Ambedkar and other leaders argued for special provisions to undo historical injustices but cautioned against the permanent institutionalisation of such steps, lest they perpetuate new forms of division and

dependency. Therefore, the original purpose was not social justice alone but a time-specific instrument for integration and empowerment.

Expanding on this underlying vision, the constitutional guarantees of equality—Articles 14, 15, and 16 mainly—constitute the legal framework for reconciling individual rights with group affirmative action. Article 14 guarantees "equality before the law" and "equal protection of the laws" to every citizen and constitutes the foundation of the Indian Constitution's promise of non-discrimination. Article 15 bars discrimination on the grounds of religion, race, caste, sex, or place of birth, but clause (4), which was added by the First Constitutional Amendment in 1951, provides special provisions by the state for the upliftment of social and educationally backward classes. Article 16(4) also provides for reservations in government employment in favour of backward classes who are not sufficiently represented in the services of the state. The scholarship examines the tension between the formal ideal of equality (same treatment for all) and substantive equality (identifying group-based disadvantages). Writings of scholars like Granville Austin, M.P. Jain, and Upendra Baxi demonstrate how the Constitution reconciles these conflicting ideals and how the enlarging reservation mandates pose interpretative challenges.

The development of reservation policies by judicial interpretation has also influenced the limits of affirmative action in India. *Indra Sawhney v. Union of India* (1992) is a constitutional landmark of the milestone cases. The Supreme Court, affirming 27% reservations for OBCs based on the Mandal Commission report, established several significant principles. It inserted the "creamy layer" concept to exclude the relatively better-off section of backward classes. It reaffirmed that reservations should not exceed 50%, save in rare situations. The judgment underlined backwardness as a reservation criterion and asserted that economic criteria cannot be the sole rationale for affirmative action. Subsequently, in *M. Nagaraj v. Union of India* (2006), the Court enforced the constitutional viability of SC/ST promotion reservation under extremely stringent terms and conditions like establishing backwardness, lack of proper representation, and upholding efficiency in the administrative system. Such cases point toward a multifaceted judicial course of action to reconcile opposing pleas of social justice, merit, and constitutional equality. Academic critique of these rulings finds both praise and criticism—

some see them as upholding the intent of the Constitution. In contrast, others say they have resulted in procedural and substantive discrepancies in reservation law.

In more recent years, there has been a significant broadening of categories and erosion of the 50% ceiling, resulting in intensified debates regarding the justifications and viability of the reservation system. The move to introduce the 103rd Constitutional Amendment in 2019 was a stark departure, as it granted 10% reservations in education and employment to Economically Weaker Sections (EWS) of the upper castes on purely economic considerations. This amendment skirted the previous legal provision that reservations must be grounded on social and educational backwardness and also exceeded the overall reservation quota in several states well above the 50% limit prescribed under Indra Sawhney. The Supreme Court's 2022 judgment in *Janhit Abhiyan v. Union of India* affirming the constitutional validity of the 103rd Amendment triggered vociferous scholarly analysis, with many calling out the very possibility that it could dilute the essence of reservations as enshrined from the outset for historical rectification and render reservations an instrument towards economic populism. Concomitantly, several states—such as Tamil Nadu, Maharashtra, and Bihar—have also tried experimenting with the inclusion of new groups, such as the Most Backward Classes (MBCs) and Marathas, often pushing the aggregate reservation percentages to an all-time high of 69%. These state-level differentiations have not only strained the constitutional thresholds but also prompted judicial interventions and social uprisings, underlining the political current and forces of resistance behind the surge in reservation frequency.

The existing literature discloses a profound and enduring tension between the aspirations of upliftment and equality. Although the original intention of affirmative action was to serve as a short-term policy to equalise the playing field, its ongoing expansion has produced an intricate, at times contradictory, political and legal environment. Scholars are increasingly debating whether the prevailing framework truly captures modern India's social and economic realities or requires drastic re-alignment to the extent that social justice goals are not achieved at the expense of fairness, merit, and harmony in the constitutional weave. This literature review thus provides the critical theoretical and jurisprudential

groundwork for the present study's inquiry into whether reservation policies have created an imbalance between upliftment and equality in India.

RESEARCH OBJECTIVES

The central aim of this dissertation is to critically examine the constitutional foundation and historical development of reservation policies in India, with particular reference to finding a balance between social justice and the constitutional promise of equality. The research is eager to understand both the original impetus for reservations and the intervening legal, political, and social factors that have shaped their operation over the passage of time.

1. **Knowing the Constitutional Origins:** - The study attempts to examine the intention of the drafters of the Constituent Assembly toward reservation under Articles 15(4) and 16(4) of the Indian Constitution. This is done by examining debates in the Constituent Assembly to reveal how reservations were conceived as a short-term and focused intervention to bring substantive equality to historically disadvantaged groups such as SCs and STs.
2. **Following the Trail of Reservation Policy Evolution:** - The study follows the path of reservation policy on the timeline through the major constitutional amendments, court rulings, and presidential orders. Particular attention is paid to the inclusion of new categories like the Economically Weaker Sections (EWS) through the 103rd Amendment and Most Backwards Classes (MBCs) at the state level.
3. **Analysing the Judicially Imposed 50% Limit:-** The dissertation analyses milestone Supreme Court judgments such as *Indra Sawhney*, *M. Nagaraj*, and *Janhit Abhiyan* to discover the law of the 50% quota limit, its enforcement, and the instances of its relaxation or challenge by states.
4. **Assessing Social and Political Consequences:** - A critical analysis is conducted to analyse if the growing expansion of reservations is in harmony with or at variance with the constitutional vision of equality. The study analyses reverse discrimination attitudes, increasing disillusionment among non-beneficiaries, and the broader socio-political consequences of affirmative action.

5. Exploring Alternatives and Future Directions: - The research attempts to create sustainable reforms of the current system and observe other models of affirmative action. The objective is to advocate a model that achieves social justice without compromising merit or institutional effectiveness.

Last but not least, this dissertation aims to make a useful contribution to the ongoing academic, legal, and popular discussion of reservation and social justice in India. By placing the analysis within the context of constitutional values and socio-legal practice, the study aims to make informed and balanced recommendations towards a more just and futuristic policy dispensation.

HYPOTHESIS

The constitutional amendments and judicial rulings over the years have primarily departed from the initial intent of the framers of the Indian Constitution towards reservation policies, thus adding to an emerging imbalance between the constitutional objectives of social upliftment and the doctrine of equality.

RESEARCH METHODOLOGY

The dissertation implements the doctrinal approach to critically examine the original intent behind reservation provisions in India. This library approach examines legal rules, statutes, constitutional provisions, case laws, and judicial judgments. The study attempts to derive and examine legal principles and constitutional doctrines of affirmative action and equality from authoritative legal literature and judicial judgments. The doctrinal approach enables one to conduct an orderly and critical examination of whether contemporary reservation policy has stayed within or gone beyond the normative framework expected by the framers of the Constitution.

The study relies on qualitative analysis of primary and secondary sources of law. Primary sources include Constituent Assembly Debates (CADs), Statutory law, and court judgments. Secondary sources provide commentary, criticism,

and background, e.g., books, academic treatises, journal articles, policy reports, government reports, think tank reports, and commission reports. Case law and academic writings are accessed from online legal databases.

The study is not fieldwork- or empirically based but is founded on authoritative legal language. It is aimed at legal analysis critically executed by an interpretative strategy. Doctrinal and literature-led research ensures that the dissertation is authoritative, legal discourse-based to allow a sophisticated and nuanced comprehension of the constitutional and jurisprudential path of reservation policies in India.

CHAPTERIZATION

Chapter 1 sets the stage by explaining the idea of reservation as a tool for social justice in India. It highlights that the right to equality (Articles 14–18) isn't just legal—it's a democratic ideal meant to address deep-rooted caste-based inequality. Reservation is seen as protective discrimination, offering education, jobs, and political space to marginalized groups. Drawing from thinkers like Plato, Aristotle, Rawls, and Nozick, the chapter explores how societies try to balance merit with fairness. In India, where caste exclusion has been historically entrenched, reservation serves as a means to empower the underprivileged. However, it also warns that reservation must be reviewed and backed by data to stay meaningful, rather than become a political tool.

Chapter 2 dives into Articles 15(4) and 16(4)—added by the First Amendment in 1951—to support reservation for backward classes, SCs, and STs. These articles don't guarantee reservation but allow the State to implement it where needed. Courts have shaped their understanding, starting from *Champakam Dorairajan*, which led to the First Amendment, to *M.R. Balaji*, which clarified that backwardness must be both social and educational. Later, in *C.A. Rajendran*, the Court said not giving reservation isn't discrimination. Overall, the judiciary has played a key role in ensuring that reservations remain objective, fair, and within constitutional limits.

Chapter 3 traces the roots of reservation—from colonial policies and princely states like Mysore, to the Poona Pact between Gandhi and Ambedkar. Post-independence, the Constitution included Articles 15(4), 16(4), 46, and 335 to support affirmative action. It highlights how reservation percentages evolved, including the big moment when the Mandal Commission recommended 27% reservation for OBCs, implemented in 1990. This sparked nationwide debate but was upheld in the Indra Sawhney case, which also introduced the creamy layer concept and capped reservation at 50%. The chapter notes that while reservations have helped, true social justice also needs education, land reforms, and economic policies.

Chapter 4 explores the tension between ensuring equal opportunities and correcting historical social injustice. The Constitution supports differential treatment for SCs, STs, and OBCs through reservation, not as a favor but as a corrective tool. But as the scope of reservation widened—including to EWS—concerns about merit, caste politics, and permanence grew. The chapter reflects on key events like the Poona Pact, the Mandal Commission, and the 103rd Amendment (EWS reservation). It critiques the lack of sunset clauses, the inequities within reserved groups, and calls for reforms that go beyond quotas—like education, land rights, and dignity-based policies.

Chapter 5 critiques how, despite good intentions, reservation policies often fail on the ground. One big issue is the lack of updated data—India’s ten-year census cycle misses rapid changes. Political elites among SC/ST groups often corner the benefits, while the most marginalized stay excluded. SC politicians in mixed constituencies are forced to prioritize general development over caste-specific issues. Child labor, poor schooling, and lack of real access keep many from benefiting from reservations. Problems like fake caste certificates and informal labor worsen the situation. The chapter suggests reforms like better data, localized policies, combining caste and economic criteria, and using technology for verification to make reservation more effective.

The final chapter ties everything together, showing how reservation started as a temporary fix but became a permanent and politicized tool. While originally meant to counter caste

oppression, it now often reflects political bargaining. The creamy layer principle works for OBCs but not for SCs/STs, letting better-off groups dominate benefits. Reservation has improved access to education and jobs in cities but not in rural India, where deeper reforms are still needed. Instead of reducing caste divisions, reservation has sometimes strengthened caste identities. The chapter calls for value-based reforms—regular reviews, wider application of creamy layer, and non-quota support like scholarships and skill training. Ultimately, reservation should empower, not entrench dependency, and should help build a fair, inclusive, and casteless society.

INTRODUCTION

The first fundamental right guaranteed to Indian citizens is the right to equality. Every Indian citizen is guaranteed this privilege under Articles 14–18 of the Constitution. One of the wonderful pillars of Indian democracy is equality. This right is often represented in Article 14 of various constitutions. As a result, this right was viewed as a negative one, protecting people from discrimination in employment, public accommodations, and public affairs in general. The existing disparities that result even from public policies and the use of public powers were not taken into consideration. Such an endeavour did not satisfy the drafters of the Indian Constitution. They were aware of the pervasive social and economic injustices in the nation that had been allowed for millennia by laws and the use of government authority backed by religious beliefs and other customs.

This suggests that the right to equality is more fundamental than natural law. Therefore, the state must guarantee this right at the outset, legally and practically. The term "Equality-social, political, and economic" appears in the preamble of the Indian Constitution. There are various kinds of equality, and the government must ensure that all of them are available to its people. Although social equality is most prevalent in pluralistic cultures, laws cannot be made to address this issue. Therefore, the other two categories—political and economic—are used.

The aforementioned social disparity gives rise to political inequality; nevertheless, since politics is a government role, laws are created to protect this right. However, since economic inequality is a real-world issue, proactive measures can be implemented to provide everyone with economic power. In hindsight, this reduces social inequality as

social and financial standing are strongly correlated. Therefore, the state must demonstrate by its laws and policies that equality is desired and will only accomplish it.

Understanding reservation

The word "reservation" appears in the study's title. As a result, knowing what the term "reservation" means in the context of this study is crucial. "Reservation is a quota policy whereby a proportion of government jobs, educational places, and elected posts are set aside for members of a particular group," the Oxford Dictionary of Politics states.¹ The idea of reserve, sometimes known as "preferential treatment" or "protective discrimination,"² entails giving particular people particular rights or advantages.² It provides people or groups historically disadvantaged extra assistance to compete equally.³

One of India's main components of social engineering initiatives to solve societal injustices is the implementation of reservation laws. These laws set aside a certain percentage of jobs in government agencies, academic institutions, and legislatures for particular groups, most notably those who the caste system has traditionally disadvantaged. The goal of this "positive discrimination"⁴ is to give these people access to opportunities and resources that were previously unattainable.⁵ The idea of fairness for marginalized people serves as the foundation for justifying reserves. It seeks to end past inequality and build a more just society where everyone has an equal opportunity to prosper. Nonetheless, this strategy covers several topics: economic empowerment, government employment, political representation, and educational access.⁶

¹ Iain McLean and Alistair McMillan, eds., *The Concise Oxford Dictionary of Politics*, 3rd ed. (New York: Oxford University Press, 2009)

² Alan H Goldman, *Justice and Reverse Discrimination* (Princeton, New Jersey: Princeton University Press, 1979).

³ Parmanand Singh, "'Equal Opportunity' and 'Compensatory Discrimination': Constitutional Policy And Judicial Control," *Journal of the Indian Law Institute* 18, no. 2 (1976): 300–319.

⁴ Heyer, Judith, and Niraja Gopal Jayal. "The Challenge of Positive Discrimination in India." London, UK: Centre for Research on Inequality Human Security and Ethnicity (CRISE), 2009. <https://assets.publishing.service.gov.uk/media/57a08b69e5274a27b2000b15/wpr55.pdf>.

⁵ Galanter, "Equality and Protective Discrimination in India."

⁶ Priya Sridharan, "Representations of Disadvantage: Evolving Definitions of Disadvantage in India's Reservation Policy and United States' Affirmative Action Policy," *Asian LJ* 6 (1999): 99.

The concept of social justice: a theoretical perspective

The concept of social justice is broad and is defined differently in various academic fields. Political scientists examine political and social structures intended to improve the lives of underprivileged groups. They accomplish this by reviewing their makeup and methods of operation. Legal philosophy concentrates on elucidating people's rights and responsibilities. In contrast, economics defines social justice as the equitable distribution of material resources.⁷ Philosophers provide ethical viewpoints to discuss the state's equitable allocation of opportunities for both material and moral development. Despite disciplinary distinctions, social justice is still significant in liberal and democratic countries where marginalized groups face ongoing injustices. Some thinkers support a human view of social justice, focusing on establishing a "just society" that eliminates prejudice and guarantees access to basic needs.⁸

Reservation, closely related to the fundamental principles of social justice, is a controversial yet essential path toward its realization. Even classical philosophers like Plato and Aristotle have expressed differing opinions in the centuries-long debate over justice, especially with relation to the idea of proportionate equality.⁹ As seen by the divergent viewpoints of John Rawls and Robert Nozick, modernity (modern thinkers like them) further widens the gap. Whereas Nozick prioritizes individual liberty and the least amount of government intrusion, consistent with capitalist values, Rawls supports state-driven distributive justice. This intricate web of ideas reflects the continuous battle to define and attain social justice, with reservation policy holding a central but contentious position within it.¹⁰

John Locke's natural rights doctrine, which emphasizes life, liberty, and property, is consistent with social justice.¹¹ Nozick advocates for a reduced role of the government in

⁷ Michael Reisch, "Defining Social Justice in a Socially Unjust World," *Families in Society: The Journal of Contemporary Social Services* 83, no. 4 (August 22, 2002): 343–54, <https://doi.org/10.1606/1044-3894.17>.

⁸ Anirudh Prasad, *Reservation Justice to Other Backward Classes (OBCs): Theoretical and Practical Issues* (India: Deep & Deep Publications, 1997).

⁹ Subrata Mukherjee and Sushila Ramaswamy, *A History of Political Thought: Plato to Marx* (India: PHI Learning Pvt. Ltd., 2011).

¹⁰ Thomas. Pogge, *John Rawls: His Life and Theory of Justice* (United States: Oxford University Press, 2007); Robert Nozick, *Anarchy, State, And Utopia* (United Kingdom: Basic Books, 2007).

¹¹ Mukherjee and Ramaswamy, *A History of Political Thought: Plato to Marx*.

upholding social fairness and is against redistributive policies. Understanding the complex interplay between social justice and reservation policy requires a thorough grasp of both philosophical stances. The fair distribution of wealth, assets, privileges, and advantages within a society is the focus of social justice, which includes distributive justice. Two main ideas come to light: one that emphasises equality and addresses the need to right past wrongs for the most disadvantaged, and the other that focuses on merit and open chances. Ultimately, social justice is realised through institutional reform, providing equitable chances for each person's growth.¹²

Achieving social justice also involves a tricky balancing act that requires thoroughly evaluating many philosophical viewpoints. In line with the ideal of a just society, John Locke's natural rights theory strongly focuses on life, liberty, and property.¹³ Robert Nozick, on the other hand, disputes this idea, supporting less government involvement and opposing redistributive measures that are thought to violate individual liberty. Deciphering the complex relationship between social justice and reservation policy requires understanding these opposing points of view.¹⁴

But fundamentally, distributive justice is intrinsically tied to social justice, which aims to achieve an equitable allocation of money, assets, privileges, and advantages within a society. The meritocratic perspective, which emphasises opportunities based on individual talents, and the need-based perspective, which prioritises redressing historical injustices and inequalities for the most disadvantaged, are the two prominent approaches that emerge. Reservation rules frequently manage this conflict by attempting to right historical wrongs while striking a balance with meritocratic principles.¹⁵ To provide a level playing field where everyone has equitable possibilities for growth and self-actualisation, it takes the form of the dynamic process of institutional restructuring.

¹² Nozick, *Anarchy, State, And Utopia*.

¹³ Ernest Barker, *The Political Thought of Plato and Aristotle* (United States: Dover Publications, 2012); George H Sabine and Thomas L Thorson, *A History of Political Theory* (Oxford and IBH Publishing, 2018).

¹⁴ Nozick, *Anarchy, State, And Utopia*.

¹⁵ D N Sandanshiv, *Reservations for Social Justice: A Socio-Constitutional Approach* (New Delhi India: Current Law Publishers, 1986).

Constitution and social justice

The Indian Constitution demonstrates the nation's dedication to social justice. Acknowledging the pervasive historical injustices that Indian civilisation has endured. To eliminate these disparities and create a more just society, the authors of the Constitution took a daring and progressive stance. It was turned into tangible action by adding numerous articles and clauses intended to dismantle the strict caste system and integrate marginalized communities into the mainstream. The Preamble is the cornerstone of this pledge.

Following a solemn resolution by WE, THE PEOPLE OF INDIA, to establish a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC, we pledge to provide all of our inhabitants with the following: social, economic, and political justice; freedom of thought, expression, belief, faith, and worship; Equality of rank and opportunity and fostering fraternity while preserving national unity, integrity, and individual dignity.¹⁶

The Constitution's Preamble guarantees equality of position and opportunity and social, economic, and political justice for all the nation's citizens. If certain sections of Indian society are left behind, social and economic fairness and equality objectives will not be met. As a result, the Preamble lays a strong basis for specific measures for the underprivileged segments of Indian society. The Constitution's Part III lists fundamental rights that are enforceable and subject to legal proceedings.¹⁷

The right of citizens to "equality before the law" is discussed in Article 14 of the Fundamental Rights. Within Indian territory, the state cannot deny anyone equal protection under the law or equality before the law. Article 15 (1) states that the state cannot treat citizens differently based only on their religion, race, caste, sex, place of birth, or any combination of these factors. Article 15(2) states that "no citizen shall be subject to any disability, restriction, or condition about religion, race, caste, sex, place of birth, or any of

¹⁶ P M Bakshi, The Constitution of India (India: LexisNexis, 2018).

¹⁷ Subhash C. Kashyap, Our Constitution: An Introduction to India's Constitution and Constitutional Law (India: National Book Trust, 1994); Durga Das. Basu, Introduction to the Constitution of India (Nagpur, India: Lexis Nexis, 2020).

them."(a) "access to stores, public dining establishments, lodging facilities, and public entertainment venues;" or

(b) "the use of roads, bathing ghats, wells, tanks, and public resorts that are maintained entirely or in part with state funds or for the general public's use."

"Nothing in this article shall prevent State from making any special provision for women and children," according to Article 15(3). Likewise, Article 15(4) instructs the State to "make any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Caste and the Scheduled Tribes." Nothing in this article or clause (2) of Article 29 shall prohibit the State from doing so.

"All citizens shall have equal opportunities in matters about employment or appointment to any office under the state," states Article 16 (1). and 16 (2) is about citizens' right to "No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the state."19.

"Nothing in this article shall prevent the state from making any provision for the reservation of appointment or post in favor of any backward class of citizens which, in the state's opinion, is not adequately represented in the services under consideration," states Article 16(4).

In addition, the Constitution has particular clauses that address long-standing injustices in addition to general principles:

Article 17—"Abolition of Untouchability"—prohibits the practice of untouchability in all its manifestations. Article 25: "Freedom of conscience and free profession, practice, and propagation of religion— (1) Subject to public order, morality, and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice, and propagate religion" states that any disability resulting from "Untouchability" shall be an offence punishable by law.

However, two major causes of historical marginalization are directly destroyed by articles 17 and 25, which outlaw untouchability and protect the right to freedom of religion. Despite this, fundamental rights safeguard against discrimination and ensure individual freedom. This part serves as a buffer against past atrocities experienced by marginalized communities. These clauses give people a legal foundation to contest discriminatory actions and get compensation.

Moreover, a more aspirational stance is adopted in Part IV, which includes the Directive Principles of State Policy. It gives the government guidance for creating policies that support the broad social justice objectives mentioned in the Preamble. Social justice is covered in the following Directive Principles of State Policy articles.¹⁸ Article 38 (1) states that the State will work to further the welfare of the populace by ensuring and defending a social order in which social, economic, and political fairness guide all national institutions.

Article 38 (2) states that the State will work to reduce income disparities and to eradicate status, opportunity, and facility disparities, not only between individuals but also between groups of people living in different places or pursuing other careers. Article 39: "The State shall specifically focus its policy on ensuring that— (a) all citizens, men and women alike, have an equal right to a sufficient standard of living; (b) that the community's material resources are owned and controlled in a way that best serves the general welfare; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop healthily and conditions of freedom and dignity and that childhood and youth are protected against exploitation and moral and material abandonment."

¹⁸ Bakshi, The Constitution of India.

To Article 39(A), "The State shall ensure that the operation of the legal system promotes justice, based on equal opportunity, and shall, in particular, provide free legal aid, by appropriate legislation or schemes or in any other way, to ensure that no citizen is denied opportunities for securing justice because of economic or other challenges." Article 46 states that "the State shall protect the weaker segments of the population, especially the Scheduled Castes and Scheduled Tribes, from social injustice and all forms of exploitation, and shall promote with special care their educational and economic interests."

Articles 39 and 46, however, require the state to work toward social and economic equality, equitable resource allocation, and equal opportunity for all residents. To improve underprivileged communities and level the playing field, Article 46 offers particular consideration for marginalized groups such as SCs and STs. These values act as a moral compass for the government, directing it toward laws that promote social justice even though they are not legally binding. On the other hand, the Constitution's "Special Provision Relating to Certain Classes" is a separate part found in Article 330 that mandates reserving seats in the House of the People, also known as the Lok Sabha. Scheduled Castes and Tribes are granted seats in state legislative assemblies under Article 332.¹⁹ Based on population estimates from the most recent decennial census, the percentage of Scheduled Castes and Scheduled Tribes members to the overall population determines the number of reserved seats. The President of India and the Parliament decide which groups are eligible to be Scheduled Castes and Scheduled Tribes after consulting with the state governments.²⁰

Additionally, these reserve provisions come with several protections. Article 334 once stipulated that exceptional representation and seat reservations would end after 30 years. The original clause in the constitution required that seats in the House of People and State Legislative Assemblies be reserved for Scheduled Castes and Scheduled Tribes.²¹ The One Hundred and Fourth Amendments extended the deadline by ten years, which made it until January 25, 2030, for members of Scheduled Castes and Scheduled Tribes to be reserved

¹⁹ Basu, Introduction to the Constitution of India.

²⁰ Basu, Introduction to the Constitution of India.

²¹ Basu, Introduction to the Constitution of India

seats in the Lok Sabha and state Legislative Assemblies.²² However, the Constitution's Article 335 stipulates that:

Article 335: Scheduled Tribes and Scheduled Castes' Claims to Jobs and Positions:

"When appointments are being made to positions and services related to the affairs of the Union or of a State, the claims of members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistent with the maintenance of administrative efficiency."

It instructs the government to take further steps, such as reserving seats in government jobs and services, to guarantee the advancement of Scheduled Castes and Tribes. A National Commission for Scheduled Castes and Scheduled Tribes is established under Articles 338 and 338A, respectively, to look into, track, counsel, and assess the advancement of these groups under the programs meant to promote their socioeconomic development.

In addition, Article 338B established a second Commission to examine the circumstances of the socially and educationally disadvantaged groups. The appointment of a commission to investigate and evaluate the status, living circumstances, and general well-being of socially and educationally underprivileged sections is covered by Article 340 of the Indian Constitution.²³ The clause permits the creation of a commission to carry out an exhaustive examination of the circumstances encountered by certain groups. Article 340 is a constitutional tool for recognising and resolving the particular issues and demands of India's socially and educationally disadvantaged groups.

Nonetheless, the Indian Constitution has a complex stance on social justice. Aspirational directives, targeted interventions like reservations, and a dedication to tearing down discriminatory systems like the caste system are all combined with guarantees of fundamental rights. The Constitution provides a strong foundation for creating a more just and equal society in India despite obstacles to fully achieving its goals.

²² Tashmayee Sarkhel, "104th Constitutional Amendment: An Overview," Law Insider, accessed July 25, 2023, <https://www.lawinsider.in/columns/104th-constitutional-amendment-an-overview>.

²³ Md. Altamash Imam, "Evolution of Reservation System in India: An Overview," International Journal of Trend in Scientific Research and Development (IJTSRD) 07, no. 02 (2023): March-April 2023 Available Online: 2456 – 6470, <https://doi.org/https://doi.org/10.5281/zenodo.10526652>; Basu, Introduction to the Constitution of India.

Reservation as a means to foster social justice

The idea of social justice aims for equal access to justice within a state and goes beyond simple individual liberties. In democracies adopting the welfare state model, this becomes especially important and calls for prioritising social justice claims. To accomplish this goal, which is regarded as a fundamental component of a just democratic society, it might be necessary to regulate individual freedom.²⁴ India's quest for social justice is fundamental since caste-based structures sustain societal inequality. Indian democracy is seriously threatened by these deeply embedded systems, which promote exclusion and uphold ideas of superiority and inferiority. This calls for a thorough grasp of social justice, including eliminating all forms of inequality and ensuring equal opportunity in social and economic domains.²⁵

Using legal and constitutional means, social justice aims to eliminate discrimination, arbitrary decisions, and segregation in all societal interactions. Affirmative action policies promote state protection and assistance for underprivileged populations. The state must actively support the disadvantaged in today's cutthroat society, guaranteeing them the same opportunities and results as their more advantaged peers. Crucially, social justice encourages the privileged to contribute to the welfare of the less fortunate rather than seeking to degrade them. It is essential to uplift underprivileged populations without unduly affecting the rights and interests of the privileged.²⁶

However, by addressing historical injustice, affirmative action, also known as reservation, is essential to attaining social justice. It seeks to help people and groups who have experienced discrimination. This corrective justice strategy aims to right historical wrongs and stop discrimination against marginalized groups in the future.²⁷ In India, reservations and affirmative action are closely related to social justice. All national institutions must

²⁴ Sameer Pandit, "Marginalisation and Reservation in India: An Analysis in the Light of Rawlsian Theories of Justice and Equality," *Socio-Legal Rev.* 1 (2005): 40.

²⁵ Vidhu Verma, *Non-Discrimination and Equality in India: Contesting Boundaries of Social Justice*, 01 ed. (London: Routledge, 2011).

²⁶ Elizabeth S Anderson, "Integration, Affirmative Action, and Strict Scrutiny," *New York University Law Review* 77, no. 5 (2002): 1195–1271; Verma, *Non-Discrimination and Equality in India: Contesting Boundaries of Social Justice*.

²⁷ Paul Brest and Miranda Oshige, "Affirmative Action for Whom?," *Stanford Law Review* 47, no. 5 (1995): 855, <https://doi.org/10.2307/1229177>.

adhere to the Constitution's mandate that the state create a social order founded on social, economic, and political fairness to advance the welfare of its citizens.²⁸

Reservation as a step toward equality

Some constructive actions must be taken to provide preferential treatment to socially and economically disadvantaged individuals and, in unfavourable circumstances, to implement equality before the law or equal protection under the law. In addition to the issues of equality and freedom for all, it can be necessary to provide some marginalized groups preferential treatment to attain social and economic justice for the entire community.²⁹ In this regard, the Constitution gives the State the power to give particular groups of people preferential treatment and special treatment to reserve seats in government services, state-run or state-aided educational institutions, and the Union government. Reservations are, therefore, intended to be a valuable tool for achieving a social balance between raising the standing of underprivileged groups.³⁰

As a result, members of the Scheduled Castes, Scheduled Tribes, Backward Classes, Women, Economically Weaker Sections, and people with significant disabilities are all given unique advantages in the form of reservations. They are merely receiving equality of opportunity in this way. Communities receive reservations to make up for the hardships they have endured in the past.

Conclusion

In recent years, the issue of reservations based on socioeconomic and educational backwardness has grown significantly in importance and drawn a lot of political attention. In addition to the scheduled castes and scheduled tribes, there has been a lot of push to provide reservations for other classes and organisations. It is crucial to keep in mind that although reservations are made for legislative seats for scheduled castes and scheduled

²⁸ Sandanshiv, Reservations for Social Justice: A Socio-Constitutional Approach.

²⁹ Hugh Collins, "Discrimination, Equality and Social Inclusion," Wiley on Behalf of the Modern Law Review 66, no. 1 (2003): 16–43, <https://www.jstor.org/stable/1097547>.

³⁰ C Basavaraju, "Reservation under the Constitution of India: Issues and Perspectives," Journal of the Indian Law Institute 51, no. 2 (2009): 267–74; Anurag Bhaskar, "Reservations, Efficiency, and the Making of Indian Constitution," Economic & Political Weekly 56, no. 19 (2021).

tribes, OBC reservations are currently only meant to apply to government employment and entrance to educational institutions.

The validity of the Andhra Pradesh Scheduled Castes (Rationalisation of Reservations) Act, 2000 was the primary question in the Chinnaiah case. The Supreme Court had to determine if the law above was consistent with the principles of equality and whether the state government had sufficient laws to implement such a law. It must be admitted that, in essence, any reservation would be discriminatory since it would go against the equality principle and give merit less weight, frustrating many worthy candidates. Therefore, the validity of every reservation could be examined to see if it was founded on any pertinent and reasonable standards.

CHAPTER 2: CONSTITUTIONAL FOUNDATION OF RESERVATION POLICIES

The tool used to eliminate the historical illusions that have infiltrated our social structure is reservations. These represent the set of guidelines that the government acknowledges and upholds in the pursuit of social justice. The purpose of reservations is to advance social fairness. We mean the abolition of all imbalances arising from differences in wealth and opportunity, race, caste, religion, sex, and title³¹ when discussing social justice.

According to the Supreme Court of India, the only way to create a welfare society is to balance the conflicting claims of the interests of the many groups and divisions within the social structure. Reservations address the disadvantage of past prejudice that prevented some social groups from entering public office.³² The state is responsible for assessing the negative consequences of injustices resulting from earlier. Discrimination against certain groups of individuals has led to their relegation to inferior status and, as a result, their underrepresentation in public administration. Reservations are a way to counteract the adverse effects of past prejudice. One of the steps taken by the Constitution to address the lingering adverse effects of historical injustices resulting from discriminatory actions against different groups of people is reservation. This caused them to become economically, socially, and educationally disadvantaged.

Reservation aims to remedy the current economic, social, and educational backwardness brought on by deliberate societal discrimination. The Constitution gives the state the authority to implement remedial measures to combat the ongoing adverse effects and continuation of such injustice, even when they have exclusionary and discriminating effects.³³

³¹ Harpal Kaur Khehra Job Reservation Versus Efficiency of Administration, C I L Q 1990. p. 28

³² Held in Crown Aluminium Works v. Workmen, A I R 1956 S C 30.

³³ Ibid.

THE NEED FOR RESERVATION

Inequalities have long existed in Indian society. A specific group of people has been denied the most basic human rights in this caste-ridden, hierarchical, and stratified society. Their training, income, and quality of life therefore, they were forced into poverty due to their social standing being determined by the whims of the upper classes. The degree of social and economic exploitation that led to prejudice, suffering, poverty, and other disabilities for a sizable portion of our people is tough to quantify. They were degraded and deprived of even the dignity of life as a result of the social and economic backwardness that followed.

When a society is divided along caste lines, the upper castes Control the levers of power, allowing them to exercise their whips in a way detrimental to the interests of the less fortunate. Lower castes were forced to work for the upper caste without any voice or way to file a grievance.³⁴ The ability of the higher castes to take advantage of the lower ones was inevitable. In every aspect of life, members of lower castes experienced discrimination. The inability of lower castes to acquire knowledge and education was one of the harshest consequences of the caste system.

Given that most of Since the majority of Indians were Hindu, caste discrimination had a profound and widespread effect. Raising the lower or backward social group to the level of the forward or higher social groups is the first step towards achieving social integration in a society where there are forward and backwards, higher and lower social groups. Socialism, secularism, and democracy—the three pillars of the Constitution—cannot be achieved unless all societal segments equally exercise governmental power, regardless of Positive measures/actions eradicate all forms of discrimination in the distribution of state authority based on caste, community, race, religion, and sex.

³⁴ K. K. Arora, "Backwardness in India- A Judicial Dilemma" in D. N. Saraf (Ed). Social Policy Law and Protection of Weaker Section of Society (1986), Eastern Book Company, Kashmir Gate, Delhi, p. 120.

The persons who drafted the Constitution were wise and visionary, with extensive knowledge of social philosophy, politics, and the law. They were ideal for creating a foundation for a welfare state with socialistic social patterns since they were fully dedicated to the wellbeing of the populace. They believed that most people in India were subjected to civil and even legal disabilities as a result of the caste system in place in the late 1940s. It was necessary to legally and constitutionally dismantle the system.

The Constitution had specific provisions to eliminate Caste-related disabilities that allow a citizen to fully develop his identity and engage in social, economic, and political activities without restriction. The preamble to the Indian constitution enshrines the primary goals of equality, justice, liberty, and brotherhood. The goal of our founding fathers was to create a democratic structure that would allow those lofty goals to be realized for all of Indian society, including underprivileged areas. Underdeveloped as a result of past prejudice based on race, caste, creed, or similar grounds.

To bring the disadvantaged classes of citizens up to equality with the rest of society, they purposefully inserted specific clauses in the Constitution that granted them special favors and protection. To achieve social fairness, the Indian Constitution incorporated numerous concessions, privileges, exemptions, and, most importantly, reservations. Scheduled Tribes and Scheduled Castes, the most backward of all sectors, have reservations in federal and state legislatures as a result of as a measure of social justice, they are granted special treatment in several sectors, including employment, admittance to educational institutions, and reservations for other underprivileged classes.

The distinctive feature of our Constitution is that it lays out a comprehensive plan for improving the less fortunate segments of society.

THE CONSTITUTIONAL PROVISIONS

The Indian Constitution guarantees its residents justice, liberty, equality, and fraternity and declares the country a sovereign, socialist, secular, and democratic republic. The state established by the Constitution is dedicated to social reforms, social progress, and

eliminating prejudice among its residents. It also promises political and economic equality for all citizens, regardless of sex, caste, or creed. Every citizen can study and employ based on their abilities, irrespective of sex, religion, caste, or creed.

Our constitution's cornerstone is justice, and the fundamental tenet of justice is equality. Articles 14, 15, and 16 have been enacted in response to these guarantees, representing some of the basic rights that the Constitution guarantees. All people are guaranteed equal protection and equality before the law under Article 14. Discrimination against any citizen based on religion, race, caste, sex, or place of birth is forbidden by Article 15 Clause (1). All people were granted equality of opportunity about employment or appointment to any public post under Article 16 Clause (1). Clause (2) of the Article above additionally declares that no citizen shall be denied or subjected to discrimination about any governmental position or office solely based on religion, race, caste, sex descent, place of birth, religion, or any combination of these factors.

For people whose dignity and authority positions have been out of reach for centuries, Article 16's article (1), which guarantees equal opportunity to all citizens, would mean nothing. Because of the conditions in which they are placed, they are so handicapped that, if left to their own devices, they cannot hold such a position. Inequalities have existed in India for millennia, primarily as a result of social injustice committed by the upper castes against members of the lower castes, who were denied a suitable social rank and opportunities for advancement.

However, the socio-economic backwardness of many facets of our culture was not lost on our founding fathers. They believed that merely prohibiting discrimination was not enough. It was necessary to provide the socially disadvantaged groups with a specific push through constructive state action to bring them up to par with others. Since independence, there has been a focus on protecting the rights of particular groups or individuals within society, particularly Scheduled Castes, Scheduled Tribes, and the Backward Classes, and advancing the interests of all other groups in the nation.

Therefore, Article 16(4) of the Constitution stated that nothing would stop the state from reserving appointments to positions in favor of any under-represented segments of the population that the state deems under-represented in its services. No clause in the constitution allowed for the reservation of seats in educational institutions, in contrast to Article 16(4), which specifically allowed for the reservation of positions. Various state governments began reserving seats in technical and medical institutions by the direction inherent in Article 46 to advance the economic and educational interests of the weaker population segments with special care.

It was decided that such a reservation was unlawful and violated Articles 15(1) and 29(2). The court examined the underlying social policy in *State of Madras v. Smt. Champakam Dorairajan*.³⁵ It concluded that other than service reservation, the policy designers had not considered providing any particular treatment to the backward classes. The explicit clause in Article 16(4) that reserves seats in the public service for members of underprivileged groups and the lack of such a clause in Articles 29(2) and 15 served as the foundation for the finding. The court acknowledged the states' duty under Article 46 to advance the interests and well-being of the weaker segments of society. Still, it regarded the fundamental purpose of Articles 16 and 29(2) as being so sacred that advancing the welfare of these groups could not be achieved at the expense of undermining it.

The Constitution (First Amendment) Act 1951, which inserted a new clause to Article 15, was passed to resolve this problem. This is how the clause is written. "The state may make special provisions for the advancement of any socially and educationally disadvantaged classes of citizens, as well as the Scheduled Castes and Scheduled Tribes, without being restricted by this Article or Clause 2 of Article 29." Article 15(4)'s use of the phrase "any special provision" grants the state considerable discretion in determining how preferential treatment for the advancement of marginalized groups of people should be implemented.

³⁵ A I R 1951 S C 226, wherein the court struck down the government order which allocated seats in educational institutions to the various communities in proportion to the population they bore to the total numbers of seats.

Under this authority, special actions are being taken in the form of health benefits, land distribution, and housing scholarships. The court has consistently interpreted Article 15(4)'s reservation of seats in educational institutions and Article 16(4)'s reservation of jobs. This is shown in several judicial rulings.

RIGHT TO RESERVATION AS A FUNDAMENTAL RIGHT

Without a doubt, the reservations made under Articles 15(4) and 16(4) belong to Part III of the Constitution, which covers fundamental rights. However, every clause in Part III does not grant a fundamental right. Part III contains provisions regarding the impact of the basic right on current and future laws, while other provisions are just definitional. While some offer exceptions to the fundamental rights, others provide for implementing and enforcing those rights.

It is still unclear whether Articles 15(4) and 16(4) grant fundamental rights because of this diversity of clauses³⁶. Members of underprivileged groups endure so much pain, prejudice, and systematic exclusion from chances, occupations, and valuable resources that a notion of rights could aid them in overcoming these injustices. Counter current disparities. This hypothesis appears illogical, flawed, and unbalanced despite its value. It might even be viewed as undesirable by some. One must proceed cautiously when acknowledging a right to reservation due to excessive participation in the problem and political misuse of this tool. It is impossible to ignore that Articles 15(4) and 16(4) have been subject to several restrictions, substantial proof of the distinct and valid identification of the underprivileged groups³⁷.

In the *State of Mysore v. M.R. Balaji* case³⁸. The Court ruled that Article 15(4) permits the creation of exceptional provisions if a clause in the An exception's nature shuts out the rest of society, which is obviously outside the purview of Article 15(4). It would be utterly irrational to believe that the constitution intended for Article 15(4) to stipulate that the fundamental rights of the citizens who make up the remainder of society were to be totally

³⁶ Mahendra Pratap Singh, "Are Articles 15(4) and 16(4) Fundamental Rights? (1994) 3 S C C (J) p. 33

³⁷ Ibid.

³⁸ AIR 1963 SC 649at31.

and utterly disregarded in cases involving the advancement of the backward classes or the Scheduled Castes and Scheduled Tribes.

The national interest and the community's or society's overall interests cannot be disregarded when deciding whether the special measures envisioned by Article 15 (4). There may be specific provisions that exclude the rest of society. Additionally, the court determined that similar to the illegally established special provision under Article 15(4), any reservation made under Article 16(4) that goes beyond reasonable and acceptable could be contested as constitutional fraud.

In this regard, it is essential to emphasize that Article 15(4), like Article 16(4), is an enabling clause. It does not impose any obligations but gives the relevant Government the freedom to take appropriate action as needed³⁹. In *Union of India v. C.A. Rajendran*⁴⁰ and *T Devasasan v. Union of India*⁴¹, the petitioner based his position on Subba Rao J.'s minority opinion and declared that the clause in Article 16(4) of the Constitution was a fundamental right for Scheduled Castes and Scheduled Tribes in and of itself and that the government was not allowed to take away the advantages granted to SCs and STs by government orders.

The court dismissed this argument, ruling that the only issue covered by Article 16(4) is a clause allowing for appointment reservations for members of a backward class of citizens. It is commonly known that Article 16's clause (4) must be interpreted narrowly because it is an exception class and not a stand-alone phrase. Furthermore, the wording of Article 16(4) must be understood in the Origin and context of the Constitution's Article 335.

In other words, the government must consider both the rights of members of the underprivileged classes and the preservation of administrator efficiency when establishing a provision for appointment or post reservation. This is a topic of paramount importance. The court referenced Gajendra Gadkar's majority ruling in *General Manager, Southern*

³⁹ AIR 1963 SC 469.

⁴⁰ AIR 1968 SC 507.

⁴¹ AIR 1964 SC 179.

Railway v. Rangrchari⁴². He stated, "It is true that the state must regularly take into account the claims of members of the backward classes when establishing the reservation of appointments or posts under Article 16(4)." With members of the underprivileged classes while maintaining administrative effectiveness.

It is crucial to remember that administrative efficiency is of the first significance, and making any reservations at the expense of administration efficiency would be foolish and illegal. It is also true that the reservation allowed by clause 16(4) is only made to provide underrepresented communities with proper representation. It cannot be applied to establish monopolies or to unjustly or unlawfully interfere with other workers' rights.⁴³

The court ultimately decided that the petitioner had no rights under Article 16(4). The constitution did not require the government to make reservations for Scheduled Castes and Tribes throughout the hiring or promotion processes. In other words, Article 6(4) is an enabling article that gives the state the authority to reserve appointments for backwards class members that it deems insufficient represented in the state's services⁴⁴. The court declined to issue a writ against the government for granting reservations in positions or appointments in P&T in the case of P&T Scheduled Castes / Tribes Employees Welfare Association v. Union of India⁴⁵. Department. In this case, the petitioner asked that the government be directed to make explicit orders giving them this additional benefit. Although the petitioner's claim is accurate, it may also be true that Article 16(4), which is only an enabling article, does not usually allow for issuing a writ requiring the Government to make a reservation. As a result, the court ordered the Indian government to make an order on its behalf.

In N.M. Thomas v. State of Kerala⁴⁶ the court determined that the state's authority to issue reservations, granted under Article 16(4), can be exercised by the state in a suitable situation by reserving selection posts and appointments. The state must maintain

⁴² AIR 1962 SC36.

⁴³ Ibid

⁴⁴ C.A. Rajendra case

⁴⁵ (1998) 4 S C C 147

⁴⁶ A I R 1976 S C 490para 29.

administrative efficiency while considering the claims of the underprivileged classes when granting reservations for appointments or positions under Article 16(4).

It should not be overlooked that administrative effectiveness is so crucial that it would be foolish and illegal to make reservations at the price of administrative efficiency. Additionally pertinent are the ramifications of acknowledging reservations as fundamental rights. Every claim to enforce a basic right previously recognized as a matter of policy will only be subject to a judicial decision once it is recognized. Thus, the right to affirmative action will allow for many vague, unclear, and baseless claims. As far as enforceable rights are concerned, even the courts are unlikely to respond to such allegations.

It could be said that Articles 16(4) and 15(4) have been regarded as enabling provisions from *Balaji*⁴⁷ until the Supreme Court's nine-judge bench ruling in *Mandal*⁴⁸. In *Union of India v. Mohan Kumar Singhania*⁴⁹ The court determined that the Constitution undoubtedly imposes a unique duty on the government. An enabling provision that gives the state discretion to make any provisions or reserve appointments of posts in favor of any backward class of citizens that the state believes is underrepresented in the state service is meant to protect the claims of SCs and STs in the matter of public appointments under various constitutional provisions.

Article 335 must be considered when interpreting clause (4) of Article 16. According to Article 335, while scheduling appointments for services, the claims of SC/ST members must be taken into account in a way that maintains administrative efficiency—positions about a state's or union's affairs. The court ruled that reservations are discretionary rather than mandated by the Constitution. In *Mandal* case⁵⁰, the court unequivocally declared that promotion reservations were unconstitutional. The administration has also advised the court not to make any reservations in specialist fields and higher positions. For example, there should be no reservations for technical positions in research and development

⁴⁷ *M.R. Balaji v. State of Mysore*, A I R 1963 S C 649

⁴⁸ *Indra Sawhney v. Union of India*, A I R 1993 S C 477

⁴⁹ AIR 1992 S C 1.

⁵⁰ *Indra Sawhney v. Union of India*, A I R 1993 S C 477.

organizations, specializations, and super specialties in engineering, medicine, and other fields.

In the same way, echelon jobs in science, nuclear research, and defense space must be awarded based on merit, as must university professorships. Reservations in these types of jobs are viewed as being at odds with the efficiency principles required in these services and professions⁵¹. None of these judges even suggests that those provisions may be interpreted as components of the fundamental right to equality and, as such, be upheld in a court of law. Article 16(4) states, "Nothing in this Article shall prevent the state from making any provision," while Articles 15 and 29(2) declare that the state may make any special provisions. 15(4) makes it abundantly evident that those paragraphs serve as authorization provisions for carrying out the instructions in Article 46⁵². While the Supreme Court did rule in the Thomas case that Article 16(4) was not an exception to Article 16(1) but rather an explicit declaration that equality of opportunity could be extended to the point of reservation, Thomas⁵³ never recognized a fundamental right to affirmative action.

A three-judge panel in *Union of India v. Madhav*⁵⁴ ruled that the government had established state-sponsored post or office reservations to ensure socioeconomic justice for Dalits and Scheduled Tribes. One way to provide socio-economic justice⁵⁵ is by appointment to a position or office in a state agency. The same thing was taken into account. In *State of Uttar Pradesh v. Ashok Kumar Gupta*⁵⁶, it was noted that the reservation policy is a component of the socioeconomic justice guaranteed by the constitution's preamble, the fundamental right guaranteed by Articles 14, 15(4), 16 (4A), 46, 335, and other related Articles to carry out the aforementioned constitutional goals.

⁵¹ Ibid.

⁵² Parmanand Singh, Fundamental Right to Reservation- A Rejoinder, (1995)3 S C C P.6-12.

⁵³ Ibid.

⁵⁴ (1997) 2 S C C 332.

⁵⁵ Ibid.

⁵⁶ (1997) 7 S CC 201.

In this decision, it was also decided that the right to proportion is statutory. It isn't a fundamental right. The state is required by the reserve policy to treat everyone equally and with dignity, and in this way, the policy upholds the idea of Equal treatment. However, this policy does not grant members of the beneficiary groups any corresponding individual rights⁵⁷. The Constitution does not mention that the state should allocate a minimum percentage of its resources to benefits or reserve a minimum number of positions in government service or educational institutions. Preferences are merely allowed and are not required⁵⁸.

Articles 15(4) and 16(4) do not grant any fundamental rights to underprivileged populations. Plans. Instead, they provide an exception to the rights that others would otherwise have, and they are criticized for violating the fundamental rights outlined in Articles 15, 16, and 29. The Constitution forbids the government from making any such choices⁵⁹.

EXCLUSION OF CREAMY LAYER

Members of the designated backward classes who are extremely well-off in terms of social, economic, and intellectual attainment make up the forward segment of that specific backward class. Like any other forward class member, Forward consumes all the advantages of the reserve intended for that class without letting the genuinely underprivileged members' benefit. A class cannot be considered backwards because these individuals are not backward⁶⁰.

The Mandal Commission has identified 3743 castes as backwards and, therefore, eligible for quota benefits. However, the question is whether each of the 3743 backward castes satisfies every requirement for being a backward class. In his minority ruling, Justice Kuldip Singh stated that Mandal had not conducted a poll to determine whether there were

⁵⁷ (1997) 7 S CC 201.

⁵⁸ Marc Galanter, "Protective Discrimination" for Backward Classes in India, Law and Society in India, Oxford University Press, Delhi, 1994 p. 44.

⁵⁹ Ibid.

⁶⁰ Indra Sawhney v. Union of India, A I R 1993 S C 477 at 558

3743 castes. In his opinion, this falls under Article 16(4)'s backward category. He added that the Mandal Commission conducted very little research to determine the backward classes for Article 16(4). According to Article 16(4), a group of supposedly backward castes determined by a clerical act based on drawing room examination cannot be considered a backward class.

*State of Karnataka v. K. C. Vasant Kumar*⁶¹, Justice Chinnappa noted that "the uppermost stratum of caste or backward class sometimes steals away these reservations. The fact that the wealthier members of society take some of the seats and positions designated for the underprivileged does not negate the need for reservations. In a competitive society like ours, this is inevitable. The highest strata of society take away the non-reserved seats on the same merit concept that they take away the unreserved seats and posts. They do this in the same manner. How can it be had if the top creamy layer of society itself snatches away unreserved posts and reserved seats from the backward classes if such snatching away is not bad?"

In the *Union of India v. Indra Sawhney* case⁶², It was decided that identifying a backward class is a more appropriate and proper concern than whether the means test is acceptable or desirable. The idea of class indicates that a group of people share characteristics that set them apart. If social backwardness is the connecting factor in a backward class defined by Article 16(4), then it should generally be the same. If a few members are too far away, the link between them and the other class members is advanced socially, which implies both economically and possibly educationally. The class wouldn't accept them. Will the class be compact after they are the only ones excluded?

In actuality, those who are genuinely backward gain from such exclusion. The hardest part is figuring out where and how to draw the line. When drawing the line, care should be taken to avoid taking away what is provided with one hand by the others. Economic exclusion shouldn't be the only basis for exclusion unless social advancement is inevitably

⁶¹ AI R 1985 S C 1495.

⁶² A I R 1993 S C 477.

correlated with economic advancement. The court further noted that the advancements made on the political, social, and financial fronts, especially following the industrialization and urbanization that inevitably followed, With the adoption of the Constitution, the social reform movement of the past few decades, the expansion of education, and the benefits of special provisions like reservations that have been secured thus far, it is undeniable that at least some members of the lower classes, albeit a small number, have gained enough money to improve their ability to compete with others in every field.

There is no denying that truth. Therefore, regardless of their original birthmark, individuals have no legal right to be referred to as members of the backward classes. Furthermore, it is hardly arguable that once the class is always behind the curve. That would negate the fundamental goal of the Constitution's unique provisions for advancing the underprivileged classes and their ability to compete as equal citizens with the forward classes. However, continuing to grant such a privileged segment of the disadvantaged classes preferential treatment would be tantamount to mistreating equals, which would be a violation of the Constitution's equality clause. Specific constitutional provisions aim to guarantee the advancement of the underprivileged, not to elevate a select few members of the lower classes. Courses together, Therefore, it is acceptable and required by the Constitution to separate the forward from the backward classes.⁶³

The forwardness of the forward among the backward classes, however, cannot be measured in terms of the backwardness of the backward section of the classes above, just as the backwardness of the backward groups cannot be measured in items of the forwardness of the forward groups. It must be evaluated based on their acquired social skills to rival the upper classes. As long as members of the underprivileged classes do not obtain adequate, they can scarcely be categorized as forward due to their abilities to compete with others. They would stop being backwards the instant they acquired the necessary skills. Calling them backwards and others more or less backward will be a contradiction. No matter how society is structured, there will always be some degree of forwardness and some backwardness.

⁶³ Indra Sawhney v. Union of India, A I R 1993 S C 477

The division of society into forward and backward classes is not justified by the degree of forwardness or backwardness. The ability—or lack thereof—to compete with others equally is what Deserves this classification. Therefore, the solution is to remove the forward from all the backward classes rather than internally categorizing each one into backward. The court additionally concluded that although a person's income can be used to gauge his social advancement, the required limit shouldn't be such that, on the one hand, what is provided with the Other. The income threshold ought to represent and denote societal progress. On the other hand, it must be acknowledged that some jobs can be regarded as socially advanced without any additional investigation. For instance, a member of one of the designated backward classes no longer faces social disadvantage if he joins the I.A.S., I.P.S., or any other All-India Service. His kids are given every chance to reach their full potential. In the race of life, they are not in any way disabled. By providing them with the reservation benefit, that benefit might not be available to other underprivileged members of that backward class.⁶⁴

The court ordered the Indian government to identify the grounds of exclusion, whether based on income, the size of holdings, or another factor related to the "creamy layer," while keeping all of these factors in mind. For Article 16(4)⁶⁵, any individual who fits into one of these categories and is subject to the exclusionary rule will no longer be considered a member of the other backward classifications.

The Indra Sawhney case⁶⁶ developed the idea of the creamy layer. The court noted that for protected discrimination to be implemented through employment reservations, it must be designed so that the most meritorious portion of the underprivileged class benefits. The means test guarantees such a result. To the extent that each member of the designated class is equally backward, the process of identifying backward classes cannot be completed. Disparities within the class itself are inevitable. Although some of the class members may

⁶⁴ Ibid.

⁶⁵ Indra Sawhney v. Union of India, A I R 1993 S C 477 at 486.

⁶⁶ Ibid.

have personally overcome the obstacles of backwardness, it is frequently observed that they may have fallen within the collectivity upon recognizing the class.

Even though they might not have received a higher degree, relatively wealthy members of the backward class can navigate society without facing social discrimination. The backward class is divided into superior and inferior members. The rich members of the backward class discriminate against the poorer members of the same class in the same way that the superior class did to them. The more affluent members of the backward class, the poorer and the less fortunate, primarily consume the advantages of special privileges like employment reservations. Those who are the most backward among them continue to get poorer and more backwards. The degree of backwardness and the norms of deprivation can only be uniformized at the lowest level of the backward class.

It is hard to provide the backward classes with sufficient representation in the state services because there are so few jobs compared to their number. Therefore, it is imperative that the weakest and poorest members of the backward class benefit from the reservation. Using economic ceilings to exclude the underprivileged from reserve jobs is essential to help the class's less fortunate members. In the State of Jammu and Kashmir v. Janaki Prasad Parimoo⁶⁷, it was decided that to designate backward courses, one must be careful not to include socially and educationally advanced groups because doing so would defeat the purpose of the reserve. In this regard, it's also essential to remember that state resources are limited and that the protection provided by special reservations must be weighed against constitutional rights. To seek equal opportunity for all citizens.

PARAMETERS FOR DEFINING THE CREAMY LAYER CATEGORY

In 1993, the Union of India published an Office Memorandum in response to the Mandal case, stating that children of officers in the IAS, IFS, IPS, and All India First Class Service are individuals whose annual OBCs who earn more than Rs. 1 lakh annually are classified as belonging to the "creamy layer" and are not eligible for the benefits of the OBC reservation. Kerala's state could not develop an appropriate method for recognizing the

⁶⁷ AIR 1973 SC 930

creamy layer. It was looking for a periodic extension of time. The state and its chief secretary were then served with a *Suo moto* contempt notice by the Apex Court. A state legislature committee investigated the creamy layer while the contempt actions were still pending.

According to the report, certain OBCs were underrepresented in the government's service. Later, the state passed the contested 1995 Act, which said that none of the OBCs in the state were socially advanced. The K. J. Joseph Committee was established by the Apex Court to determine the OBCs' creamiest layer. The Committee determined the creamy layer and established rules to keep them out. For this reason, the yearly income of an OBC individual was increased to Rs. 1.5 lakh. The Bench stated that all appointments in the state government's service, including PSUs, would remain in place until the state created a commission to determine the "creamy layer." Such cooperatives would adhere to the Joseph Committee Report's⁶⁸ fundamental principles.

Justice Jagannadharao stated, "The situation will be the same, namely that there will be a violation not only if the creamy layer is not excluded or if forward castes are added to the list of backward classes of Article 14 but of the fundamental framework of the Constitution."⁶⁹ The Union Government established the Justice Ram Nandan Committee, an expert panel, in compliance with the Supreme Court's directive to determine the most eminent group among the socially and educationally backward classes (SEBC). On March 16, 1993, the Expert Committee turned in its findings, which the Indian government approved. To exclude the creamy layer from the SEBC, the report identified from the Mandal Beneficiaries list.

According to the Committee report, the creamy layer may only be used as the foundation for disentitlement once it has significantly and steadily developed after surpassing the boundaries of social backwardness. The highest income threshold for the creamy layer is currently six lakh rupees.

⁶⁸ M Sridhar Acharya. Quota System in the Higher Levels of Employment and Educational and Exclusion of Creamy Layer, 27 (3 & 4) 2000 I B R p. 133.

⁶⁹ Ibid at 144.

CONCLUSION

According to this argument, equality as a policy must be maintained apart from the concept of equality as a right. The significant and protective clauses are placed side by side in the constitution. Guaranteeing equality of opportunity and nondiscrimination. It appears that the Constitution views it as a policy issue. A policy outlines a common objective that a community aims to achieve. A right is a personal assertion that aims to safeguard one's interests. The primary purpose of rights is protection. They shield citizens from state intrusion, discrimination, and capricious action while guaranteeing fundamental liberties. The obligations of these individual liberties and the majority of the constitutional rights apply to all citizens, and none is exempt from the advantages they offer. Restricting these constitutional rights to further social justice or group objectives is acceptable. In a way, Articles 16(4) and 15(4) could be interpreted as Kelserian rules that authorize the infringement of an individual's right on behalf of marginalized groups⁷⁰. According to Professor Dworkin⁷¹, rights are personal assertions that precede group objectives. A right must have sufficient weight to override policy reasons if it is indeed a right. However, compensatory discrimination is perceived as promoting caste unity by removing. By reducing some barriers that keep members of the backward classes in a position of economic and social disadvantage, we can increase economic equality and eradicate institutionalized and visible prejudices.

According to Dworkin, a right is a question of principle, and every citizen is entitled to equal consideration, respect and freedom from racial discrimination. It is argued that the nondiscrimination clauses of Articles 15 and 16 sufficiently encapsulated the central thesis of Dworkin's philosophy.⁷² In this way, the reservation policy upholds the ideals of equitable treatment by imposing a duty on the state to treat everyone with dignity and respect. Due to the reservation policy, members of the benefit group do not acquire comparable individual rights.⁷³

⁷⁰ Parmanand Singh, Fundamental Right to Reservation. A Re-joinder, (1995) 3 S C C pp. 6-12.

⁷¹ Ibid.

⁷² C. E. S. C. Ltd v. Subhash Chandra Bose, A IR 1992 S C 573

⁷³ Air India Statutory Corporation v. United Lab Union, A I R 1997 S C 645

CHAPTER 3: EVOLUTION OF RESERVATION POLICIES

The foundation of reservation policies lies in deliberately structured preferences, often based on inherent characteristics such as gender, ethnicity, or geographical background. These policies serve as a means to address persistent disparities or systemic discrimination within social and regional frameworks. Reservations are a deliberate tool of social restructuring and a catalyst for economic and social mobility. Several nations, both developed and developing, have adopted similar preferential policies. This approach is known as affirmative action or positive discrimination in the United States. In Malaysia, it takes the form of Bhumiputra preferences, while in India, it is implemented as the reservation policy.

The caste system, which is the most prevalent social structure in India and affects every facet of life, serves as the justification for the country's reservation system. However, it is not the only basis, as this article demonstrates. However, when caste becomes the basis for preferential treatment, it starts an endless process that results in a never-ending search for equals, which is the only motivation behind the creation of increasingly exclusive enclosures. The Indian caste system is hierarchical and comprises five groups: Brahmins, Kshatriyas, Vaisys, and Sudras are the four groups; however, the fifth group is made up of individuals who are not included in the caste system; these individuals are referred to in the Constitution as "Untouchables," "Harijans," "Dalits," or "the Scheduled Castes (SCs)". Every caste is made up of a large number of subcastes, and it is the subcaste to which one aspires to be immediately associated and affiliated. Because of this, there are between 2000 and 3.000 castes, with some groupings claiming only a few hundred people and larger ones totalling a few million. According to Ronald Inden and McKim Marriott, the estimate ranged from 5000 to 15000. Some castes are localised in India, whereas others are found nationwide.

According to the 1991 Census, 17.6% of Indians are members of the higher castes, which include Brahmins, Kshatriyas, and Vishyas. Half of India's population comprises the Sudras, the fifth caste, which provides for peasants and workers. According to the 1991 Census, 16.48% of the population is SC.

HISTORY OF RESERVATION POLICY IN INDIA

Contrary to common perception, the origins of reservations in India are deeply rooted in British influence. The British administrative framework shaped the reservation policy, particularly in social and economic spheres. After English was officially declared the administrative language of India in 1836, the colonial government began setting up educational institutions. In 1856, a lower-caste student—who would today be classified as belonging to the Scheduled Castes (SC)—was admitted to an academic institution in Dharwad, then part of the Bombay Presidency. However, strong opposition from the caste-conscious local community compelled the colonial authorities to formulate a definitive policy. The government subsequently announced that admission to educational institutions would be open to all individuals, irrespective of caste, religion, or ethnicity. The enactment of the Caste Disabilities Removal Act in 1872 further reinforced and expanded this policy. This historical development illustrates those efforts to uplift marginalized communities began by ensuring unrestricted access to education. Hence, in South India, educational reforms preceded the formal implementation of reservations. The leadership and direction for these reforms were primarily driven by various social reform movements in regions such as Madras, Mysore, and Travancore-Cochin, which actively advocated for policies aimed at uplifting disadvantaged groups.

Roots in Princely Mysore State and Government India Acts

The origins of job reservations within the Indian government can be traced back to the erstwhile princely states, commonly called “Indian India,” rather than British India. The princely state of Mysore was a pioneer in this regard, introducing a structured system of reservations as early as 1874. Under this policy, 20% of lower and mid-level positions in the police department were allocated to Brahmins, while the remaining 80% were reserved for non-Brahmins, Muslims, and Indian Christians. This initiative marked the first systematic effort to dismantle the Brahmin hegemony within the state’s public service sector.

A significant milestone in the evolution of reservations came with the Government of India Act of 1909, which institutionalised the practice within elected bodies. This legislative enactment conferred special political privileges upon the Muslim community, laying the groundwork for subsequent affirmative action measures. However, the formalisation of reservations in government employment and educational institutions began in the 1920s, particularly in the region now known as Karnataka (formerly Mysore State). The Maharaja of Mysore established the Leslie C. Miller Backward Caste Committee in 1918, recognising the need for equitable representation of non-Brahmins in public service. The committee was tasked with examining and recommending measures to ensure adequate representation of marginalised communities within the administrative framework of the princely state. This historical trajectory underscores the fact that the reservation system in India was not merely a colonial imposition but rather a response to the socio-political dynamics of indigenous governance. The princely states, particularly Mysore, were pivotal in institutionalising affirmative action long before similar measures were adopted nationally.

The reservation system made its way to British India from princely India. In this regard, the year 19–18 is noteworthy. Only Sikhs' claims for separate representation were acknowledged by the Moritagu-Chelmsford Report. Of 1918. At the same time, the Franchise Committee (1918–19) suggested that each province assembly not include any members of the Depressed Classes (present day SC). However, the Government of India Act of 1919 was the first British law to ensure that the oppressed classes—Muslims, Sikhs, Indian Christians, Anglo-Indians, and Aborigines (that is, the tribes)—were represented in legislative bodies. The Government of India Act of 1935 further cemented the idea of communal representation in elective bodies. In 1932, Ramsay MacDonald's communal award was given out, creating separate communal electorates for Sikhs, Muslims, and the lower classes. Gandhi fasted until he died in defiance of the Communal Award, which separated the Harijans from the majority Hindu population. Gandhi stated: "We do not want the untouchables to be classified as a separate class." The Sikhs might always be that

way. Both Muslims and Europeans may do the same. Would the untouchables always be untouchables? Hinduism dying is far better than untouchability surviving.⁷⁴

The Poona Pact

The MacDonald Communal Award was ultimately replaced by the Poona Pact, also known as the Gandhi-Ambedkar Pact, to resolve the intense political dispute between Mahatma Gandhi and Dr. B.R. Ambedkar regarding the issue of separate electorates for the "depressed classes." The 1932 agreement, in many ways, laid the foundation for the contemporary system of seat reservations in elected bodies. While Dr. Ambedkar advocated for separate electorates to ensure adequate representation for the depressed classes, Gandhi vehemently opposed this proposition, believing it would further fragment Indian society. In protest, he undertook a fast unto death following the British government's acceptance of Ambedkar's proposal. A compromise was eventually reached, which led to the Gandhi-Ambedkar Pact. This agreement expanded the number of reserved legislative seats for the depressed classes while integrating them into a standard electoral roll rather than maintaining separate electorates. The pact ensured excellent representation for historically marginalised communities in provincial and national legislatures. Although it granted the depressed classes a significantly higher number of reserved seats than Ambedkar had initially sought, the system of elections was based on a joint electorate rather than a segregated one. During the pre-independence period, communal reservations extended to religious minority groups, including Muslims. However, this system was dismantled following India's independence. On July 11, 1947, under the leadership of Govind Ballabh Pant, the newly formed Indian government abolished reservations for religious minorities in provincial civil services. With the partition of India and the creation of Pakistan, the practice of granting communal reservations to Muslims and other religious minorities came to an end. Consequently, post-independence India restricted constitutional reservation benefits to Scheduled Castes (SCs) and Scheduled Tribes (STs), with later extensions to Other Backward Classes (OBCs), thereby establishing the framework for the modern affirmative action policy.

⁷⁴ Pattabhi Sittaramaiya, *The History of the Congress*, vol. I, at 538 (The Congress Working Comm., 1935).

The Constitution of India

The fundamental principle enshrined in the Chinese Constitution is the concept of equality, ensuring that all individuals receive equal treatment and protection under the law. This foundational right is explicitly guaranteed by Article 14, which affirms the state's commitment to upholding equality for all citizens. Furthermore, the subsequent article prohibits discrimination based solely on religion, race, caste, sex, place of birth, or any similar criteria.

In matters of public employment, the constitutional framework reinforces this commitment through Article 16, which guarantees equal opportunities for all individuals in state service. This provision ensures that merit and fairness govern public sector employment, preventing exclusion based on arbitrary distinctions.

Article 46, classified under the Directive Principles of State Policy, also underscores the state's special obligation toward historically disadvantaged communities. It explicitly mandates the state to promote the educational and economic advancement of weaker sections, particularly Scheduled Castes (SCs) and Scheduled Tribes (STs), while simultaneously protecting them from social injustice and various forms of exploitation. This demonstrates the constitutional commitment to fostering substantive equality by balancing general egalitarian principles with targeted affirmative action measures.

In the landmark case of the State of Madras v. Champakam Dorairajan (1951), the Supreme Court invalidated the policy of seat reservations in professional educational institutions, ruling that it was inconsistent with the constitutional guarantees of equality. This decision underscored the judiciary's strict interpretation of the equality clauses, limiting the scope for affirmative action measures.

In response to this ruling, the Indian government introduced the First Amendment to the Constitution in 1951, incorporating Clause (4) into Article 15. This amendment explicitly authorised the state to implement special provisions for the advancement of socially and educationally backward classes (SEBCs), as well as Scheduled Castes (SCs) and Scheduled Tribes (STs). The amended provision states: "Nothing in this Article... shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or the Scheduled Castes and Scheduled Tribes."

The constitutional validity of this amendment was subsequently upheld in the seminal case of *M.R. Balaji v. State of Mysore*, wherein the Supreme Court affirmed the legitimacy of reservations as a tool for achieving substantive equality. This judicial endorsement marked a significant turning point in India's constitutional jurisprudence on affirmative action, solidifying the state's authority to implement policies to bridge historical socio-economic disparities.

The 1948 publication of the Indian Draft Constitution stipulated that seats in legislative bodies would be reserved for Muslims, the SC, and the ST. The Anglo-Indians were also to be covered by a similar clause. Reservations were offered in the civil service as well. Still, they had to be "consistent with the maintenance of efficiency of administration," even though they were required in the federal government and the state's legislative bodies. However, the specified Muslim reservation was entirely removed from the final Constitution. The 1950 Constitution allowed SC and ST people to be reserved in legislative bodies. On the other hand, civil service reservations were made optional. "The claims of the members of the SC & ST shall be taken into consideration, consistently with the maintenance of administrative efficiency, in the making of appointments to services and posts in connection with the affairs of the Union or of the State," according to Article 335. There are a lot of reservations. From the reservation of seats in elective democratic bodies like state legislatures and parliament to the reservation of admission to educational institutions, including scientific and technical institutions, and the reservation of positions in the nation's public services, both at the federal and state levels, it encompasses a wide range of public life at all levels of government.

RESERVATION IN THE PUBLIC SERVICE

The origins of reservations in India's public sector can be traced back to the colonial period, with job reservations emerging alongside the advent of democratic principles in the 1920s. Before this, public sector recruitment was primarily based on patronage, but by the late 19th century, merit had replaced favouritism as the primary criterion for selection, a shift observed in modern administrative systems worldwide. This transformation was primarily influenced by the Macaulay Report on the Indian Civil Service, which established merit-

based recruitment through competitive examinations. The 1854 report explicitly noted that civil service appointments had previously been granted through favouritism but would henceforth be awarded based on intellectual competition. The Committee further emphasised that intellectual aptitude was a marker of competence and a moral indicator, asserting that excellence in science and literature often reflected virtues such as diligence, self-discipline, and a commitment to honourable distinction. This principle laid the foundation for the meritocratic framework that continues to shape public sector employment in India⁷⁵.

1855, the Indian Civil Service was recruited through the first open competitive examination. Since then, India's public services have been merit-based. The publication of the Lee Commission on the Superior Civil Services Report in India (1922–24) appeared to be a blow to this policy. At this point, in an apparent attempt to modernise the public services, the British rulers appointed members of various communities, which many saw as an example of the time-honoured divide and conquer strategy. However, the secular forces consistently supported merit. The depressed castes, as they were then known, were the only exception made.

Grounding in Welfare Orientation

The broader social movements that fuelled the national freedom movement left a legacy of the welfare orientation of the country's policymakers in the years immediately following independence. India's social concerns were vivid and loud when it drafted its constitution. The newly formed nation-state developed an interventionist role of social engineering in nearly every area of governance. Policymakers designated a specific percentage of positions in public institutions for underprivileged groups as part of this process. This policy has several names, including reverse and positive discrimination.

We must define the term "discrimination" in this context. Applying rights, laws, or organisational policies differently or selectively to current or prospective employees is known as discrimination. Reverse discrimination action is "preferential treatment of individuals or groups who have previously faced discrimination."

⁷⁵ S.R. Maheshwari, *Indian Administration: An Historical Account* 53 (Jawahar Publ'g Co. 1994).

Since 1943, the Central Government has maintained a stringent administrative policy reserving a specific proportion of public service positions for Scheduled Castes (SCs). However, during the colonial era, no such reservations existed for Scheduled Tribes (STs). These affirmative measures primarily took three forms: (i) a preferential allocation of 8–13% of vacancies in public services for SC candidates, (ii) an upper age limit relaxation of three years for recruitment, and (iii) a significant reduction in examination or selection fees, limiting the charge to one-fourth of the standard amount.

Despite declining promotion opportunities since 1968, the fundamental framework of these concessions has remained intact, with adjustments in reservation percentages reflecting the demographic proportion of SCs in the national population. This policy continues to shape the structure of affirmative action in public-sector employment.

In 1946, the 8 per cent reservation was raised to 12 per cent. This proportion of reservations was kept for direct employment through an open competition on an all-India basis after India gained independence in August 1947. However, the percentage for jobs outside competition was raised to 16–213 per cent. The proportion of reservations was determined by the SC population of the state when hiring for Class M and Class IV positions, which usually attract candidates from a specific area or region.

Announcement of 1950

In 1950, the government formally instituted recruitment policies for Scheduled Castes (SCs) and Scheduled Tribes (STs) within the public bureaucracy. These policies not only reinforced existing reservation quotas but also established specific promotion guidelines. The official directive explicitly stated that reservation policies would not apply to promotions, which would continue to be governed by seniority and/or merit without communal considerations.⁷⁶ Before the enactment of the Indian Constitution, the government's approach to communal representation in public services stipulated that, in appointments made through competitive examinations, SC candidates would be eligible for consideration against 12.5% of vacancies filled through direct recruitment.

⁷⁶ Resolution No. 42/21/49-NGS, Ministry of Home Affs., Gov't of India (Sept. 13, 1950).

In contrast, the country's key communities were appointed proportionately to their population through competition for the positions and services for which recruitment was conducted. Additionally, Anglo-Indians were given special consideration in services with a unique history. Given the provisions of the Constitution, which declare, among other things, that no one will be appointed to a state-run position based on caste, religion, race, or any other factor, the Indian government has recently re-examined its policies in this area. The exceptions include special arrangements for Anglo-Indians in those services for which they had special reservations on August 14, 1947⁷⁷, and for SC and ST in all services. Except for a five-year extension in the upper age limit, the fundamental structure of concessions remained unchanged until 1970. That year, the reservation quota for direct recruitment in all-India competitive examinations was increased to 15%. However, the prescribed 16–21.3% reservation for other recruitment categories remained unaltered. A crucial development in institutional oversight was creating a Special Officer for Scheduled Castes (SCs) and Scheduled Tribes (STs), mandated by Article 338 of the Constitution. This provision ensured a dedicated mechanism for monitoring the implementation of constitutional safeguards. However, the Constitution (Sixty-fifth Amendment) Act, 1990 restructured this framework by replacing the Special Officer with a multi-member body—the National Commission for SCs and STs—thereby strengthening institutional oversight. Further, parliamentary oversight was reinforced by establishing three committees between 1966 and 1971 tasked with monitoring the welfare of SCs, STs, and Other Backward Classes (OBCs). These committees were later consolidated into the Standing Committee of Parliament on Labour and Welfare. Additionally, numerous non-governmental organisations (NGOs) have played an active role in social welfare, with notable contributions from institutions such as the Harijan Sewak Sangh, Ramakrishna Mission, Bhartiya Adimjati Sewak Sangh, and Bhartiya Samaj. In the fiscal year 1995–96, approximately 330 charitable organisations received government grants amounting to ₹10.83 crore to support welfare initiatives.

⁷⁷ Ibid.

Categories of Reservation

The Scheduled Castes and Scheduled Tribes

There are roughly 250 recognised tribes in India that speak 225 sub-languages and one OS language. They make up 7.8% of the total population.

The fundamental goals differ even though the SC and ST receive concessional treatment in public employment. The unique facilities provided for the Tribes are essentially meant to help them emotionally integrate with the rest of Indian society, as they have been living in isolation from the country's mainstream. With the implementation of the Constitution in 1950, reservation in the public services was initiated to expedite this process. This was not the case for SC, which dates back to 1943. For ST members, the reservation percentage was · five in both recruitment (by open competition) and death, which increased to 7.5 per cent. Similar to the SC, promotions have a seven-and-a-half per cent reservation.

Due to the reservation policy that has been in place since the beginning of the Constitution, there has been a significant increase in the number of SC and ST employees, both in terms of their absolute numbers and as a percentage of all Central Government employees.⁷⁸

Other Backward Classes

Since 1994, the SC & ST reservation system has included a new, sizable channel. The latest beneficiaries are those who have been classified as members of the "Backward Classes" (BC) or "Other Backward Classes" (OBCs)⁷⁹.

In India, the term "OBC" has generated a lot of controversy. Since the Constitution is the source of concern, it merits a somewhat thorough explanation. According to Article 340 of the Constitution, a Commission must be established to examine the circumstances of the socially and educationally disadvantaged classes and suggest ways to improve their lives—the first BC Commission, led by Kaka Kalelkar, was established in 1953 by the terms of this article. The 1995 report of the Kalelkar Commission was not unanimous.

The majority report recommended that 25% of positions in the country's public services be reserved in Group A, 33.33% in Group B, and 40% in Groups C and D. It also

⁷⁸ Dep't of Pers., Pub. Grievances & Pensions, Gov't of India, Chapter 5, at 20-25 (1995-96).

⁷⁹ *Mandal Commission and Mandalisation (Concept Publ'g 1997), Mandal Commission Revisited (Jawahar Publ'g 1995).*

recommended that the best candidates should generally be hired through a competitive examination without taking caste into account. However, Kalelkar denounced applying the caste criteria in a different study. "I am definitely against reservations in government services for any community for the simple reason that the services are meant for the service of society as a whole and not for the servants," he wrote with conviction.⁸⁰

He went on: "The best men in the country, who can be found in every community, must be employed by the administration. It would be as odd to reserve posts for specific underprivileged groups as to reserve patients for particular physicians. Patients are not supposed to provide all doctors, regardless of their qualifications, with a sufficient or proportionate number of patients. However, due to a lack of agreement within the Commission, nothing was done about the Kalelkar report. The Janta Government established the Second BC Commission in 1978, with B.P. Mandal as its chairman. All but one of the Commission's five members were selected from the BC, with the other member coming from the SC. The membership of the Second Commission was solely from the BCs, in contrast to the First BC Commission's broad-based membership. Its unadulterated radicalism was a natural reflection of this partisanship. The Mandal Commission listed no fewer than 3,743 castes as backward, a far more exhaustive list than the 2,399 BCs the first Commission had identified. It should be noted that the number of BCs should have decreased between 1953 and 1978 to reflect the impact—however slight—of the success of subsequent development programs. It seems that the Mandal Commission was unaware of these discrepancies. On its side, other BC's population grew impressively. It boldly concluded that BCs comprised 52% of the nation's population. Accordingly, the Mandal Commission contended that 52% of all positions in the Central Government should be set aside for BCs. The Commission suggested that reservation be set at a percentage that, when added to 22.5% for SC and ST, stays below 50% because the 52.0% recommendation might violate the Supreme Court of India's previous ruling, which stated that reservation of posts must be less than 50%. Consequently, the Commission concluded: "Given this legal restriction, the Commission must suggest a reservation of 27% only, even though their population is more than twice that amount."

⁸⁰ Report of the Backward Classes Comm'n, 1953-55.

Politics of Mandalisation

It is necessary to mention the makeup of the Backward Classes Commission here. Typically, a Commission of Inquiry is established when a particular issue has gained enough public attention, and the government wants the thoughtful counsel of individuals who already have a certain level of subject-matter expertise and are expected to delve deeper into the issue and provide intelligent recommendations. To put it briefly, a commission takes on the traits and disposition of an adjudicator organ, which is supposed to conduct a thorough and objective analysis of the problems before formulating its recommendations. B.P. Mandal was named Chairman of the Backward Classes Commission by the Governor. However, he was a member of the Backward Caste and a politician. It is also well-known that he was extremely wealthy. He was one of four members of the Commission, all of whom were from underprivileged castes and had judicial experience. This type of writing violates the principle of objectivity, the first and most important rule of an investigation. The Mandal Commission's biased membership resulted in a report that was essentially the lobbyists' report. The Mandal Commission lacked a broader viewpoint and failed to consider the bigger picture, including the need for a professional and effective civil service that can handle increasingly complex democratic and development-related tasks.

Electoral Compulsions Defying Rationality of Reservation/or OBCs

In a democracy, rationality is often the first casualty, mainly when widely accepted principles are subject to varied interpretations. Moreover, rationality itself is frequently influenced by perception and political considerations. The Mandal Commission Report, submitted in 1978, remained in political limbo after the collapse of the Janata Government in 1979, a fragile coalition that disintegrated due to internal discord. A decade later, the political landscape shifted when the Congress Party lost power, paving the way for a loosely allied government led by V.P. Singh of the Janata Party in the 1990s. However, internal instability soon emerged, exacerbated by Deputy Prime Minister Devi Lal's intransigence, threatening the government's cohesion. In an astute political manoeuvre, V.P. Singh strategically revived the long-dormant Mandal Commission Report, declaring its implementation to achieve dual objectives: diverting public attention from internal

conflicts and consolidating a new electoral base among the Backward Classes (BCs). Since BCs constitute a substantial segment of the Indian electorate, their collective mobilisation could wield considerable political influence, effectively positioning them as decisive actors in electoral politics. Consequently, announcing a 27% reservation for BCs was not merely a policy decision but a calculated exercise in realpolitik.

Due to BC's sheer size, no Indian political party could risk alienating itself by rejecting or ignoring the slew of hastily announced concessions. As a result, they were all competing with one another to cheer the new reservation. Their cheers seemed to go on forever. However, the announcement was a complete surprise, and the ferocious student unrest quickly spread throughout India. After realising their drastically reduced opportunities for public employment and admission to educational institutions, the students demanded the immediate removal of the resentment concessions.

V.P. Singh's announcement sparked significant controversy, particularly in the northern states, where it ignited widespread unrest. However, the policy faced little resistance in South India. States such as Tamil Nadu, Karnataka, Kerala, and Andhra Pradesh had long embraced similar affirmative action measures under different nomenclature, implementing reservation policies akin to Mandalization as early as the 1930s.

Narasimha Rao Government's Announcement

The subsequent government under P.V. Narasimha Rao introduced two key modifications to V.P. Singh's reservation policy for Other Backward Classes (OBCs). First, within the existing OBC quota, preference was given to candidates from the more disadvantaged sections. Second, a new provision reserved 10% of public sector jobs for economically weaker individuals from non-reserved categories.

V.P. Singh's announcement had already triggered a wave of demands for job reservations from various ascriptive groups. Indian Christians and Muslims sought similar entitlements, while the Bharatiya Janata Party (BJP) advocated for a quota for women. This phenomenon of competitive radicalism permeated political discourse, with parties vying to expand affirmative action measures. The escalating debate eventually reached the Indian Supreme Court, which delivered a landmark ruling on November 16, 1992.

The Court upheld the 27% reservation for OBCs, officially classified as socially and economically backward classes (SEBCs). However, it also laid down specific directives: (i) total reservations in any grade, cadre, or service could not exceed 50%; (ii) reservations could not be granted solely on economic grounds, as social backwardness, as recognised in Article 16(4) of the Constitution, remained the primary criterion; (iii) reservation policies were restricted to initial recruitment and could not extend to promotions; (iv) beneficiaries of reservation must include backward sections from all religious communities; and (v) the concept of a "creamy layer" was introduced, mandating that affluent sections within OBCs be excluded from the reservation framework. To operationalise this exclusion, the Court directed the appointment of an expert committee to define the parameters of the creamy layer.

Supreme Court Ruling

In compliance with the Supreme Court's directive, the Government of India constituted a four-member panel on February 22, 1993, commonly called the Expert Committee for Specifying the Criteria. Headed by Justice Ram Nand Prasad, the committee identified Socially Advanced Persons within the Socially and Educationally Backward Classes (SEBCs). After extensive deliberations, the committee submitted its eleven-page report to the government on March 10, 1993, recommending excluding specific categories from reservation benefits. The key recommendations were as follows:

1. The children of high-ranking constitutional authorities—including the President, Vice President, Judges of the Supreme Court and High Courts, the Chairman and Members of the Union Public Service Commission, the Chief Election Commissioner, and the Comptroller and Auditor General of India—should be excluded from reservation benefits. Likewise, governors, ministers, and legislators holding constitutional positions should not be eligible.
2. The offspring of Group A (formerly Class I) officers should not qualify for reservations.
3. If both parents hold Group B (formerly Class II) positions, their children should also be excluded from the reservation framework.

4. Employees of public sector undertakings (PSUs), banks, insurance firms, universities, and private-sector organisations holding equivalent designations should be treated as Group A or Group B officers for exclusion purposes.
5. The exclusion criteria should extend to officers of comparable ranks in the armed forces, including Colonels and their equivalents in the Navy and Air Force.
6. Children of professionals such as medical practitioners, legal experts, chartered accountants, tax consultants, financial analysts, management consultants, and architects should not be eligible for reservation benefits.
7. Individuals from families with agricultural land holdings above a prescribed threshold should also be excluded from reservation entitlements.

These recommendations are expected to prevent more affluent and better-off sections of the SEBCs from availing of advantages under reservation, thereby ensuring that affirmative action reaches its actual beneficiaries.

The government accepted these suggestions, and in 1994, the first recruitment for BC's reserved quota was conducted. However, the reservation controversy continued. The AIADMK-led Tamil Nadu refused to accept the 50% reservation cap and instead called for 69%, a stance it has adopted for a while. By bypassing the Eighty-fifth Amendment to the Constitution in August 1994 and adding it to the Ninth Schedule, the Indian government gave in to Tamil Nadu's demands and resisted the power of judicial review. Indeed, the BC job reservation has opened a can of worms, and there is heedless competition to add more and more castes to the BC list. Because items included in the Ninth Schedule of the Constitution are exempt from judicial review, it is also starting to appeal.

RESERVATION IN LEGISLATURES

The policy of reserving seats in India's legislative bodies has a longstanding historical foundation. It was first introduced under the Indian Councils Act of 1909 and subsequently reinforced by the Government of India Acts of 1919 and 1935. These legislative measures institutionalised reservations, allocating seats to various communities, including Muslims, Indian Christians, Sikhs, and Anglo-Indians, predominantly on religious lines. Furthermore, provisions were made for women and marginalised social groups.

Under the Indian Constitution, Scheduled Castes (SCs) and Scheduled Tribes (STs) are accorded reserved representation across all levels of governance. The number of reserved legislative seats is determined proportionately by the population of these disadvantaged groups within the respective state or the country. This framework extends to both state legislatures and the Parliament. Additionally, constitutional provisions ensure reserved representation for SCs, STs, and, notably, women in rural and urban local governance structures.

A special emphasis is placed on women's political participation. In Panchayati Raj institutions, at least one-third of the reserved seats—beyond those earmarked for SCs and STs—are allocated explicitly for women. This provision also applies to the posts of chairpersons within panchayat bodies. Notably, while the National Front Government's Panchayat Bill of 1989 initially proposed reservations for Backward Classes (BCs), this aspect was omitted in the final 73rd Constitutional Amendment Act of 1993.

RESERVATION FOR 'SONS OF THE SOIL

Another preferential policy safeguarded by Article 16(3) of the Indian Constitution has to be briefly discussed. Every citizen shall have equal access to opportunities for employment and appointment to any governmental position, as stated in this article. This article doesn't prevent Parliament from enacting laws that mandate that a candidate for a class of employment or appointment to an office must live in a state on the First Schedule or in any local or other authority within its borders.

As you may remember, this allows autonomous groups to be reserved in public services. However, not every state follows the same uniform policy. As is the case with Andhra Pradesh, the specific preferential arrangement varies both within and between states. This reservation is distinct from SC, ST, and OBC reservations. For this type, there is no presumption of backwardness. The fundamental idea is that people native to the area (such as Mulkis) should be given preference over "outsiders."

The Central Government often responds to demands from local communities by accommodating their preferences in employment policies. In a statement to the Lok Sabha on December 13, 1972, the Minister of State in the Ministry of Home Affairs clarified that,

apart from the states of Himachal Pradesh, Manipur, and Tripura, no state government had the authority to restrict employment opportunities exclusively to residents for government positions. However, employment exchanges typically select candidates from their registered pool to fill lower-tier, non-gazetted positions in government offices.⁸¹

Indira Gandhi articulated the rationale behind this approach, emphasising the need for a delicate balance. She acknowledged the fundamental principle that any Indian should have the right to seek employment anywhere in the country. However, she also recognised the potential for social unrest if many outsiders entered a region for jobs while the local population faced unemployment. Thus, while she opposed restrictive employment policies, she conceded that certain safeguards might be necessary to ensure local candidates are not entirely displaced.⁸²

Additionally, reservations extend to several other categories. Veterans have already received preferential consideration for lower-tier positions within the Central Government. Similarly, reservations exist for persons with disabilities. However, these provisions must be structured to remain within the overarching 50% ceiling on reserved posts.

CRITIQUE ON RESERVATION

Reservation Fever

At the moment, India seems to be suffering from a case of reservation fever. These days, the caste is a resource. As a result, the reservation area has grown over time. In India, the reservation culture is rapidly expanding, and younger demographics are calling for their exclusive enclosures. There is a growing push to reserve 33% of the seats in the nation's legislature for women. Advocates assert that this will likely encourage more women to enter the public sphere and would be a matter of justice. There is a call for OBCs to be given separate reservations within the demand for 33% of legislative seats to be reserved for women. Furthermore, it is argued that the upper castes also have a non-creamy layer, and some of them are already requesting reservations for the poor members of the upper caste.

⁸¹ Lok Sabha Debates, 5th Ser., vol. XXI, no. 2, at 29 (Dec. 13, 1972).

⁸² Ibid

As a result, the noise continued. It's a pretty intimidating task. Given the powerful campaigns favouring reservations, the number of benefit-seekers will probably continue growing. This has its drawbacks. Similarly, as more and more benefits continue to be demanded, the pool of benefits keeps expanding. This game never ends. It also carries the risk of backlash due to heightened intergroup tensions. Furthermore, these seemingly fleeting advantages become permanent once granted; therefore, stopping and containing the game of reservation should be the actual test.

Training Panchayat Leaders and Other Implications

It is important to remember that reservations do not yet pervade every aspect of Indian society. The nation's armed forces currently do not offer reservations for the SC, ST, and BC. But they permit two exceptions. To increase their chances of being recruited into the military, candidates from the SC and ST are first given pre-recruitment training. Additionally, there is permission to relax the tribes' required educational requirements. Moreover, despite continuous demands to extend the quota system to that sector, there is no reservation for SC and ST in the private sector.

It's already a huge responsibility to elect one million women to leadership positions in urban local bodies and village panchayats on the currently used reservation system. The real test will be in training and motivation, as so many women need to be activated. And there's another threat. Given the high female illiteracy rate, many reservations may introduce uneducated, unprepared elements into the legislative chambers. In addition, women's empowerment should begin at the bottom up instead of being a top-down decision. Allowing realism to prevail over idealism is a wiser approach.

In 1970, a reservation policy was established, allocating 15% of government positions to Scheduled Castes (SCs) and 7.5% to Scheduled Tribes (STs). According to the 1991 Census, the SC population stood at 13.82 crore, constituting 16.48% of the total population, while the ST population was recorded at 6.78 crore, representing 8.08%. Over time, both demographics have witnessed a steady increase in their numbers.

Newer Demands for Reservation

There is currently a demand, albeit somewhat isolated and not yet well organised, to increase the percentage of reservations due to the growth in the population of St and ST. This demand is based on the idea that the size of the population should be the only factor used to determine the percentage of reservations in public services. Reservation candidates are thought to be especially vulnerable during the personality test. There are examples of SC and ST candidates who performed well on the written exam but were rejected on the personality test. There should be no such justification given.

Need to Follow up Reservation with Land Rights and Other Reforms

Only a tiny minority of SC, ST, and BC individuals are coopted into the mainstream as a result of the present policy of reservations. In contrast, the majority of people go about their lives as they did before. Therefore, land reforms—such as regulating land use, establishing rights to create new social assets, expanding control over production means, and guaranteeing higher wages for agricultural labour—are equally urgent.

Additionally, the reservation process might even backfire, which needs to be avoided. The current system of allocating jobs according to preferences may cause an elite and haughty group to emerge among the target population, which may reap the benefits. This has negative consequences. The policy

of preferences drastically affects the poorest sections of the non-beneficiaries, but the deserving sections of the beneficiaries are hardly helped.

Last, the administrative apparatus, which includes the monitoring and implementation mechanisms, is infamously inefficient and feeble. The often-made suggestion that the BC should have its ministry may not be constructive unless the government service improves productivity, accountability, integrity, and transparency.

CONCLUSION

Although reservation policies have been significant in elevating underprivileged communities, they do not constitute a complete or permanent solution to socio-economic disparities common in India. In most instances, the existing preferential policy system has not reached the rural areas, where poverty and institutional deprivation continue to be

widespread. Even after decades of its implementation, the advantages of reservation have not been equally extended to the most downtrodden segments, especially in agrarian and economically backward districts. A revolutionary social justice strategy would need to move beyond second thoughts and embrace more significant structural changes. Land reform, economic development policies, and specialised welfare programs are required to liberate those impoverished. The emphasis has to shift away from short-term relief and toward sustained empowerment by making beneficiary groups more competitive and self-reliant. On this score, education stands as the most effective leveller. Quality education, vocational training, and access to jobs are essential in ending intergenerational cycles of deprivation and achieving absolute social mobility. The constant resort to reservations as a magic bullet for social inequity has institutionalised it as a seemingly perpetual policy intervention. India's affirmative action strategy seems to lean heavily on quota-based fixes, with reservation as the default answer to calls for a fair playing field. But this reliance has dangers. Similar to an addicting substance, reservations bring short-term relief and advancement but can, in the long run, lead to complacency and dependence instead of real empowerment. For India to realise genuine social justice, reservations must be accompanied by comprehensive development policies that remove the causes of economic and social backwardness. Only with an equilibrated strategy that balances affirmative action with broader developmental and educational reform can the country provide enduring and inclusive advancement to all sections of society.

CHAPTER 4: ANALYSIS OF IMBALANCE BETWEEN UPLIFTMENT AND EQUALITY

Imagine a situation where one handful of grains is divided into a dozen hungry individuals—each of whom has gone hungry for a long time. This share is expected to be fair and sufficient to end their hunger. This becomes simple in maths but very challenging on ethical and human grounds. Equity of distribution does not always equate to outcome equity, and in certain situations, treating unequal's the same sustains inequality.

This dilemma is core to India's affirmative action policy, colloquially "reservation." On paper, the reservation seeks to rectify centuries of historical injustices committed against marginalised groups, particularly those victimised by caste-based discrimination. In practice, however, the policy's implementation—specifically, quotas in education, government employment, and political representation—has raised tricky questions about balancing individual equality and group uplift.

Indian Constitution, as both a necessary legal and moral document, embodies both liberal democratic ideals and revolutionary social duties. It guarantees all citizens the fundamental right to equality—status, opportunity, and treatment under the law. On the other hand, it consciously provides space for differential treatment of socially and educationally backward classes, Scheduled Castes (SCs), and Scheduled Tribes (STs), through special provisions that permit affirmative action to accelerate social justice. This twin commitment is a unique constitutional vision that does not identify equality with mere sameness but as a means to substantive equity.

The Constitution framers were thoroughly familiar with India's hierarchical and compound social order, which had been sustained for centuries by caste-based exclusion, economic privation, and social erasure. Not only was the challenge to remove official legal disabilities but also to address the entrenched disparities huddled within common patterns of opportunity and privilege. The Constitution did not adhere to a formalistic theory of equality. Instead, it took a substantive approach that allowed the State to adopt exceptional measures for historically disadvantaged groups to place them on an equal playing field. But this noble objective has, over time, generated significant tensions. As reservation policies expanded in coverage and magnitude—covering SCs and STs to Other Backward

Classes (OBCs) and more recently to Economically Weaker Sections (EWS)—so did apprehensions regarding merit, fairness and the viability of such policies. Critics argue that while reservation initially began as a tool for empowerment, its continuous expansion risks undermining the concept of equal opportunity. Others respond that until such entrenched caste hierarchies and structural discrimination are eliminated, such programs are needed. This underlying difference between upliftment and equality is not merely statistical or administrative—it is philosophical, legal, and moral. It is the very heart of the nature of justice in a plural society. Is equality to be conceived as an abstract right excluding all differential treatment? Or must it entail affirmative efforts to level the playing field for those born unequal? How does one distinguish between necessary empowerment and unintended reverse discrimination?

The colonial evolution of Indian reservation policy clarifies the outlines of this controversy. The colonial British government experimented with limited communal representation and job quotas in a few provinces for administrative purposes rather than for the sake of social justice. These precedents established the basis for later demands by many groups claiming special protection. The most crucial point was in 1932 when Mahatma Gandhi and Dr B.R. Ambedkar entered the Poona Pact, which gave Dalits reserved seats in legislatures without employing separate electorates. The concession was made on the grounds of the pressing need for upliftment and the need to maintain national unity.

When India became independent, the Constituent Assembly created a new system of justice and equality. Influential figures such as Dr Ambedkar, Sardar Patel, and Jawaharlal Nehru agonised long and hard over whether and how to make provision for reservations in employment, education, and political organisations. Their response was hedged and hopeful: reservation was provided, but with a presumption that it would be temporary—on periodic review and unless renewed. Thus, for instance, the ten-year time limit imposed on political reservations for SCs and STs under Article 334 reflected the hope that substantial change could be ushered in within a generation.

But the on-ground reality was more recalcitrant to change. Constitutional protection and policy measures notwithstanding, exclusion on caste lines continued in all spheres. Findings of several commissions and committees again projected the necessity to expand and deepen reservation policies. The turning point in the discussion came with the Mandal

Commission Report 1980, which proposed 27% reservation for OBCs in central government employment and educational institutions. Nationwide protests, legal challenges, and a resurgence of identity politics accompanied its implementation in the 1990s.

In judicial actions like *Indra Sawhney v. Union of India* (1992), the Supreme Court established the legitimacy of reservation for OBCs. But it placed strict conditions: no more than a 50% ceiling on the total reservation and the idea of the "creamy layer" to ensure that prosperous members of backward classes didn't hog the advantages. This ruling tried to re-establish a balance between justice and equality by reaffirming that positive action must benefit only those who are disadvantaged.

The addition of EWS reservation via the 103rd Constitutional Amendment (2019) further muddied the waters. Instead of social or educational backwardness, economic criteria were used for the first time to decide affirmative action. While some hailed this as a transition towards a more inclusive, class-sensitive model, others claimed it watered down the initial social justice agenda of reservation and established a parallel entitlement system for the top castes.

Through these developments, there is a pattern: the policy of upliftment, as much as it is constitutionally legitimate and well-intentioned, tends to manifest itself in tension with the broader promise of universal equality. Whether as resentment from those denied reservations, as charges of reverse discrimination, or as arguments about meritocracy and institutional standards, the disparity keeps becoming increasingly apparent.

In addition, the absence of definite exit strategies, sunset clauses, and feeble impact-measuring mechanisms have led to the ossification of reservation as a permanent feature of Indian public life instead of a temporary palliative. The target beneficiaries themselves are not a monolithic entity. Class, region, gender, and access to power intersect to decide who benefits the reservation, leading to additional concerns regarding intra-group disparity and necessary targeted delivery.

Thus, the interaction between formal equality and social justice needs to be reevaluated cautiously—not to abolish affirmative action, but to make it fair, centred, and appropriate. Uplift cannot be quantified into token inclusion or quantitative representation. It has to be

quantified in terms of empowerment, dignity, and change in structure. Similarly, equality should not serve as a rationale to overlook historical disadvantages.

What is needed is a principled reorientation of the way Indian democracy conceives and practices these twin ideals. The objective should not be to drop affirmative action but to align it with changing social realities, sound empirical evidence, and the more significant constitutional vision of justice. Only then can the imbalance between upliftment and equality be responsibly redressed.

HISTORICAL BACKGROUND OF RESERVATION AND MINORITY RIGHTS IN THE INDIAN CONSTITUENT ASSEMBLY

On 13th December 1946, Pandit Jawaharlal Nehru placed before the Constituent Assembly of India a historic document titled the "Objectives Resolution." This document was the philosophical guide for framing the Indian Constitution. One of its most important provisions was Para 6, which read:

"(6) WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes;"⁸³

This paragraph is of landmark importance as it established the fundamental purpose of the Assembly to build a constitutional structure that not only enunciated liberty and equality but positively protected the rights of those hitherto marginalised and underrepresented in Indian society. By explicitly referring to minorities, tribal and backward regions, and depressed classes, the Resolution made it categorically clear that the new India would be constructed on the foundations of social justice and inclusivity. Para 6 was not a declaration of intent but a solemn vow—a moral vow to reverse the centuries of discrimination that had split Indian society.

This vision was brought to practical suggestions on 29th April 1947, when Sardar Vallabhbhai Patel submitted the Interim Report on Fundamental Rights drafted by the Advisory Committee. Clause 5 of the report, addressing the "Rights of Equality," was one of the significant products of the serious deliberations undertaken by the members of the Assembly and was eventually adopted in the following manner:

(a) All citizens shall have equality of opportunity regarding service under the State.

⁸³ Jawaharlal Nehru, *Constituent Assembly Debates*, vol. 1, at 3 (Dec. 13, 1946).

(c) Nothing contained in this Article shall render unlawful any provision for the reservation of offices or places of public trust, in favour of classes who, in the opinion of the President, are not adequately represented in those offices or places."⁸⁴

Clauses (a) and (c) give a keen insight into the delicate balance which the makers of the Constitution tried to strike. On the one hand, the general principle of equality was instituted—guaranteeing each citizen an equal opportunity at employment and promotion. However, the framers knew formal equality would ring hollow without real social and economic equality. Absolute equality, they felt, could be obtained only by recognising past disadvantages and taking tangible steps—like reservations—to equalise the playing field. This two-pronged focus is a subtle appreciation of justice that is not just based on treating all people equally but also on the principle of equity by giving more to those who require it. Treating inequality equally, the framers contended would only lead to what Dr Ambedkar subsequently referred to as "paper equality"—in theory, but not practice. Reservation provisions were considered necessary to bring this theoretical equality into reality.

Yet, agreement about the precise contours and application of reservations was complex. There existed a significant amount of confusion, argument, and even fear on the part of the members of the Assembly concerning the long-run effects of these policies. Reservations introduced to mind the remembered controversy over demand for separate electorates—a system hitherto aggravating communal frictions.

Before the historic Poona Pact of 1932, numerous marginalised groups, particularly the Depressed Classes under the leadership of Dr. B.R. Ambedkar, insisted on separate electorates as a means of political representation. Although the Pact later substituted this demand with a provision for reserved seats within the general electorate, the political and emotional baggage of the separate electorate system continued to haunt the Constituent Assembly debates.

This spectre once again appeared during the debate of the Report of the Advisory Committee on Minorities. On 27th August 1947, Sardar Vallabhbhai Patel laid before the House the Appendix to the Report, which contained a crucial recommendation:

⁸⁴ Vallabhbhai Patel, *Constituent Assembly Debates*, vol. 3, at 7 (Apr. 29, 1947).

"All elections to the Central and Provincial Legislatures will be held based on joint electorates."⁸⁵

This suggestion, even though in accord with the doctrine of national integration, raised new objections from a section of members who believed that it took away the political freedom of minorities. Among the vociferous protesters was Shri B. Pocker Sahib Bahadur, who moved an amendment:

"That. all elections to the Central and Provincial Legislatures should, as far as Muslims are concerned, be held based on separate electorates."⁸⁶

The resurgence of this demand indicated the underlying fears of specific communities, especially Muslims, following Partition and the establishment of Pakistan. Whereas distinct electorates had previously been regarded as a safeguard, by 1947, they were coming to be perceived as an instrument of division. Having gained from the bitter lessons of communal polarisation, the Assembly categorically rejected Bahadur's suggestion. The decision reflected a consensus that India's future should rest on unity rather than fragmentation and integration over isolation.

Another such debate was the next day, 28th August 1947, when Clause 6 of the same report came up for discussion. Clause 6 was as follows:

"There shall be no stipulation that a minority candidate standing for election for a reserved seat shall poll a minimum number of votes of his community before he is declared elected."⁸⁷

Shri S. Nagappa wanted to add a proviso allowing Scheduled Caste candidates to win at least 35% of their community votes before being elected.⁸⁸ Though this could appear harmless, the amendment would have quietly brought back the idea of voting based on the community—a backdoor approach towards reviving separate electorates.

Had they been adopted, such suggestions would have re-compartmentalized the electorate and established a perilous precedent: rendering democratic representation a communal mathematics. The framers saw this risk and refused it. They believed that political integration needed to transcend communal identities but not forget and correct the

⁸⁵ Vallabhbhai Patel, *Constituent Assembly Debates*, vol. 5, at 15 (Aug. 27, 1947).

⁸⁶ B. Pocker Sahib Bahadur, *Constituent Assembly Debates*, vol. 5, at 15 (Aug. 27, 1947).

⁸⁷ Vallabhbhai Patel, *Constituent Assembly Debates*, vol. 5, at 7 (Aug. 28, 1947).

⁸⁸ S. Nagappa, *Constituent Assembly Debates*, vol. 5, at 7 (Aug. 28, 1947).

disparities of those identities. Therefore, they opted for the model of joint electorates with reserved seats—a delicate balance between integration and positive discrimination.

The primary objective was to provide equitable representation without institutionalising segregation. The framers were explicitly careful not to permit reservations to evolve into a system that would reinforce group identities and thus sow seeds of disunity. Sardar Patel cautioned against the risks of inviting every community to claim special treatment, diluting the spirit of national unity. The concept was never to employ reservations as an appeasement tool but as an upliftment mechanism.

The inspiration for the reservation was nation-building, not disintegration. This is even more evident when we examine how the reservation system was initially conceived—based not only on socio-economic backwardness but also in proportion to population strength. This concept is seen in remarks by members, such as:

"Then again, on the issue of weightage, we have agreed that there Should be no weightage and with joint electorates, the communities should be represented according to the proportion of their population..."⁸⁹

This principle of proportional representation was considered the most rational and equitable means of ensuring minorities and backward classes had a say in government without shifting the balance in favour of communal politics. Shri Somnath Lahiri also outlined a progressive vision:

...each party, whether a communal party or a political party, depending on the total votes secured by it, will be ensured of its representation... healthy politics based on political division and political struggle would emerge."⁹⁰

Lahiri focused on shifting India's political culture from communal and religious lines to ideological and class-based lines—characteristics of a modern democracy. He considered proportional representation as a way to ensure equitable representation while diluting the hold of identity politics.

Outside legislative representation, some members called for involving minorities and backward communities in the executive ranks. Shri S. Nagappa quoted the Government of India Act, 1935, and proposed a constitutional guarantee for the representation of

⁸⁹ Vallabhbhai Patel, *Constituent Assembly Debates*, vol. 5, at 3 (Aug. 27, 1947).

⁹⁰ Somnath Lahiri, *Constituent Assembly Debates*, vol. 1, at 7 (Dec. 19, 1946).

minorities in cabinets.⁹¹ While such a proposal did not come to be in the form of a constitutional requirement, it reflected the stronger sentiment that legislative presence was not enough. Proper empowerment involves taking part in all levels of governance.

Meritocracy and administrative efficiency were never in the framers' minds. Sardar Patel, as ever evident, articulated his hesitation in diluting merit in the civil services:

"These posts have to be filled out by competition. We have made some concessions in certain communities requiring little help."⁹²

Patel supported a realistic strategy: reservations may be permitted at entry points to correct historical disadvantages, but the administration's integrity should remain inviolate. Significantly, he clarified that reservation was not a ceiling—it did not prevent candidates from running for general seats. This prevented affirmative action from being converted into exclusion.

".a provision has been made allowing the minorities also to contest any general seat."⁹³

Even with these well-thought-out standpoints, some members remained doubtful about the notion of reservation. Shri H.C. Mookherjee expressed his reservations by proposing that the quest for group benefits would threaten the larger objectives of national integration:

"I am not one of those who believe that the greatness of a country is increased by increasing the greatness. Of a particular group."⁹⁴

He was concerned that group-oriented policies would dominate the greater collective identity the new Indian nation wanted to build. His push for putting national interests ahead of group interests expressed the ideological dilemma of the reservation debate—how to elevate without dividing.⁹⁵

Likewise, Rev. Jerome D'Souza injected intellectual depth into the discussion by highlighting the illogic in substituting one form of exceptionalism (reservation) with another (separate electorates). As much as he was willing to accept reservations as a temporary measure, he also emphasised the need to perceive it as a compromise—an imperfect but inevitable step:

⁹¹ S. Nagappa, *Constituent Assembly Debates*, vol. 5, at 10 (Aug. 27, 1947).

⁹² Vallabhbhai Patel, *Constituent Assembly Debates*, vol. 5, at 4 (Aug. 27, 1947).

⁹³ Vallabhbhai Patel, *Constituent Assembly Debates*, vol. 5, at 5 (Aug. 27, 1947).

⁹⁴ H.C. Mookherjee, *Constituent Assembly Debates*, vol. 5, at 12 (Aug. 27, 1947).

⁹⁵ H.C. Mookherjee, *Constituent Assembly Debates*, vol. 5, at 12 (Aug. 27, 1947).

There is a feeling that reservation is undemocratic. I respectfully differ from this view. Reservation. Is one method of ensuring a satisfactory functioning of the electoral principle."⁹⁶

His remarks highlighted the delicate balancing act the Assembly undertook—seeking to harmonise historical justice with democratic values.

The Constituent Assembly's deliberations on minority rights and reservations were ethical, guarded, and thoughtful. They were not guided by populism or opportunism but by a vision to build an equitable and integrated India. The debates acknowledged the wounds of history but did not let them decide the future. Reservation was not considered an end but a means to achieve the constitutional vision of equality. In doing this, the Assembly established a template for affirmative action that is, to this day, one of the most complex and essential pillars of Indian democracy.

CONCLUSION

After months of serious deliberations, arguments, and discourses, the Constituent Assembly implemented reservations according to caste social disadvantage. It was not an easy decision; it followed an imperative realisation of the centuries-old historical injustices in Indian society for centuries. The Assembly knew that specific communities had been routinely disadvantaged and deprived of fundamental human rights. It remained outside the mainstream culture, resulting in gigantic socio-economic disparities.

With the ratification of the Constitution on 26th January 1950, the battle for social justice was an important milestone. Scheduled Castes, Scheduled Tribes, and Socially and Educationally Backward Classes were entitled to reservation in government services, educational institutions, and the union and provincial legislatures by law. The reason for this affirmative action was not hard to see: to accurately represent historically disenfranchised groups and offer them a chance that had been systematically withheld for centuries.⁹⁷

The main reason for implementing reservations was to equalise the ground and rectify past wrongs. It was a good attempt at promoting equity and social mobility among the

⁹⁶ Rev. Jerome D'Souza, *Constituent Assembly Debates*, vol. 5, at 35 (Aug. 27, 1947).

⁹⁷ V.I. Muniswami Pillai, *Constituent Assembly Debates*, vol. 5 (Aug. 27, 1947).

underprivileged. The policy aimed at narrowing the gap between advantaged and disadvantaged groups by providing opportunities for education, jobs, and political participation. However, what was intended as a short-term solution to elevate the marginalised has, in the process, become a controversial topic with far-reaching political, social, and economic implications.

It is essential to realise that the framers of the Indian Constitution never had the idea of reservations being permanent. The most prominent architect of the Indian Constitution, Dr. B.R. Ambedkar, had reservations about the long-term use of reservations. The initial idea was to provide reservations for a short term so that socially and educationally backward classes could match the rest of society. The policy was intended to be reviewed and phased out as soon as the underprivileged communities gained sufficient representation and independence. This has not been the case, and the policy has continued uninterrupted for more than seven decades.⁹⁸

To ensure that reservations worked effectively towards their intended purpose, the Constituent Assembly also foresaw the creation of a statutory body that would evaluate and redress the difficulties of minorities. This resulted in the creation of the National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST), whose functions were to review and recommend steps for developing these communities. Subsequent commissions like the Mandal Commission were subsequently formed to review the necessity of expanding reservations to Other Backward Classes (OBCs), further broadening the scope of affirmative action in India.

Despite these well-meaning policies, reservations have been severely challenged. Successive governments have employed reservation policies as a political tool, not an accurate empowerment method. Instead of dealing with fundamental socio-economic development issues, political parties have utilized reservations for vote bank consolidation. This has led to the policy's continuation indefinitely, with minimal or no attempt to phase it out or assess its efficacy.

In addition, reservations have never been enough to raise marginalised communities in a significant manner. Though they have opened up doors towards education and employment, they have not addressed the fundamental reasons for social and economic

⁹⁸ V.I. Muniswami Pillai, *Constituent Assembly Debates*, vol. 5 (Aug. 27, 1947).

inequalities. Poor quality of education, inadequate infrastructure, and a lack of economic opportunities have remained the stumbling blocks for the development of disadvantaged communities. Most of those who are helped by reservations continue to suffer from poverty, illiteracy, and discrimination, suggesting that affirmative action by itself cannot guarantee social justice.

Another serious problem with the system of reservations is the practice of "creamy layer" exclusion. Meant to be for the very backward sections of society, well-off individuals from backward communities have tended to corner reservations. Individuals who have already availed themselves of reservations continue to gain the advantages of reservations generation after generation, while the marginalised tend to remain deprived of these advantages. This has resulted in demands for revising the reservation criteria so that the benefits find their way to the most deserving.

In addition, reservations have generated deep resentment among the general public, who feel the system is discriminatory and biased against them. This led to demands for economic-based reservations, which attempted to give advantages to all economically backward classes without regard to caste. To counteract this, the government introduced the Economically Weaker Sections (EWS) reservation in 2019 by providing a 10% quota to economically backward individuals from the general category. While this was seen as a step towards an inclusive policy, it has also been criticised for dividing the reservation system further and diluting its initial purpose.

Despite these issues, proclaiming reservations as an all-round failure is unfair. Reservations have been a push-start device that allowed entry to members from downtrodden societies to join mainstream society. Reservations provided an edge that ensured the leadership roles in government positions reached the disadvantaged sections, otherwise unequipped because special favours were given to help them advance. That there are Dalit and Adivasi leaders within politics, academics, and the bureaucracy is testimony to the effectiveness of reservations in creating social mobility.

However, the veritable failure of the system of reservations is that the government is mismanaging it, and there is no genuine commitment to address structural disparities. Rather than considering reservations alone, policymakers should employ all socio-economic reform methods, like improving education quality, offering job opportunities,

and taking economic development to backward regions. And unless these are addressed, reservations will never prove sufficient to lead to true social justice.

The way forward should involve a comprehensive review of the reservation policy, ensuring it reaches those genuinely in need. There should be a periodic assessment of the effectiveness of reservations, with a focus on reducing dependency over time. Economic upliftment, educational reforms, and social inclusion should be prioritised alongside reservations to create a more balanced and equitable society.

Finally, reservations were a solution for centuries of discrimination and marginalisation. They have made a profound difference in access to education and employment for marginalised groups, but their unlimited extension without proper assessment has led to unintended effects. The failure of reservations is not the policy itself. Still, there is a lack of management and political will to implement the policy to deal with the real problems marginalised people are encountering. If India wants to attain social justice, it has to go beyond reservation politics and adopt overall development policies that guarantee equality for everyone.

CHAPTER 5: FINDINGS AND RECOMMENDATIONS

ANALYSIS

In India, long-standing poverty and unemployment have been socioeconomic concerns for ages, mainly among the Scheduled Castes (SCs) and Scheduled Tribes (STs). They have origins based on historical discrimination and are aggravated by poorly framed policies, political maneuvering, sociocultural prejudices, and economic shortages. Though India has enacted various affirmative action measures, such as employment and educational reservations, the institutional effectiveness of these initiatives has been defeated for several reasons related to the structure and institution.

Incomplete and Manipulated Demographic Data

The incompleteness and unreliability of India's population statistics are among the chief barriers to insights into the persistence of poverty and unemployment amongst the lower castes. There is a census only once every ten years, and this is a leading source of demographic data and population statistics and provides the basis for policymaking. This produces wide delays in the currency of data, particularly in fast urbanising settings where the population dynamics alter quickly because of migration, expansion of informal settlements, and reclassification of the city boundaries. Demographic changes are not adequately accounted for in policy-making, as the latter uses old statistics. Consequently, social program targeting and political body seat allocation often fail to consider the socioeconomic conditions of the people.

This unreliability exposes the data to manipulation as well. With unverified or politically driven data sets becoming widespread, various caste sub-groups and politicians can drive policy that may or may not act in the interests of the worst-off groups. In most situations, these manipulations are conducted in the interest of elites or politically dominant sub-castes under the SC or ST category and draw attention away from and defuse resources towards those who most need them.

Political Cronyism and Misrepresentation

This leads to the second key problem: political cronyism, manipulation of affirmative action, and reservation policies. Although the reservation system was meant to bring about equitable representation and opportunities for historically disadvantaged groups, its

practice has rarely been aligned with those ideals. Political leaders tend to hand over power positions to individuals from better-off sub-castes or privileged sections within the SC/ST categories. Though they are technically from marginalized groups, they may not suffer from the same socio-economic circumstances as many within their constituencies. Therefore, they may be less able to push the agenda for the most dire needs of the people in their districts.

Additionally, state and local governments' political apprehensions are grounded mainly in population ratios drawn from census data. Yet, with urbanization and migration altering constituencies' caste and community composition, the number of seats allocated to marginalized groups should theoretically alter proportionally. In reality, this correlation is not common. The lag in revising constituency boundaries and representation ratios leads to stale and sometimes incorrect representation within political institutions. Based on Chin and Prakash (2011), shifts in population dynamics through migration or urbanization are frequently not included in reservation policies, resulting in inconsistencies that constrain the political voice of SC and ST groups in quickly evolving regions.

THE ADVERSE EFFECT OF COHABITATION AND GENERAL POLICIES

The issue becomes especially sharp in cities, where SCs tend to cohabitate among themselves along with general caste communities and other Scheduled sub-castes. In such mixed environments, policies made for SCs tend to get generalized to meet broader needs. Although the inclusivity policy seems noble, it tends to water down the effect of policies specifically directed towards the most vulnerable. For example, representatives elected from Scheduled Caste (SC) communities might be forced to address the general demands of their entire constituency, including those of the general caste population. Consequently, policies designed to benefit SC communities tend to be watered down, and their particular needs are not adequately addressed.

This creates a paradox: SC representatives chosen on reserved constituencies are proponents of inclusive, across-the-board agendas instead of specialists representing caste-specific issues. To common caste constituents, such SC representatives become positive externalities—public leaders focusing on general development schemes and infrastructure

works that benefit the ordinary people instead of advancing the particular causes of their groups. But for SC communities, this is a negative externality because their specific needs — like caste-based discrimination at school or land and sanitation access — continue to be under-prioritized. According to Kaletski and Prakash (2016), this discrepancy means that SC communities are not adequately represented even when technically represented.

EDUCATION, CHILD LABOUR, AND EMPLOYMENT: A VICIOUS CYCLE

One of the most debilitating effects of these structural failures is observed in education and child labour. Because of abject poverty and economic compulsions, most SC families have to send their children to work at an early age. This early incursion into the labour market brings about lesser degrees of education and restricts their access to the formal sector — even if reservation policies have been made. Reservation in government work posts or seats in higher education institutions serves no purpose if SC and ST individuals are ill-equipped to avail themselves of those opportunities.

The cost of education is frequently too prohibitive for poorer SC families. These households have fewer financial resources to put towards education, prioritizing immediate survival over long-term benefits through education. Additionally, the lack of adequate investment by the state in school facilities, teacher quality, and proximity in marginalized communities ensures that even when children go to school, they can get no education to benefit them.

A comparative examination of ST communities identifies one of the crucial differences. STs, especially those in rural and distant communities, tend to reside in homogenous groups where policy intervention can be better targeted. Less contact and shared living with general caste populations allow ST leaders, at times, to better represent policies responsive to the needs of their respective communities. As Kaletski, Prakash, and Prakash (2016) note, an increase in seats reserved for STs in state legislatures of one percentage point reduces child labour by 0.094. In contrast, a similar rise in SC representation increases child labour by 0.014 — while this outcome is not significant at conventional levels, it indicates the directionality of the issue.

This comparison implies that although cohabitation might have some benefits, it tends to undermine the efficacy of targeted affirmative action. Since ST communities are relatively

isolated, they might better appreciate the strengths of representation than SC communities trapped in more socially intricate settings.

LIBERTARIAN PATERNALISM AND THE ILLUSION OF CHOICE

A further aspect to note is the implementation of Libertarian Paternalism, a term coined by Nechyba (2015), which means guiding people towards confident decisions subtly without taking away the illusion of free will. For SC and ST welfare, this means policy schemes that ensure employment and job reservations are the central means of upliftment. On the face of it, these policies seem to provide marginalized groups with real chances. However, the government neglects primary education, health care, and social awareness, focusing excessively on employment development.

The over-emphasis on employment-based reservation programmes may be illusory. It gives a wrong impression that poverty and inequity are being effectively met while drawing the eye away from more fundamental institutional failings in such spheres as social development and pre-schooling. Essential public goods like schools, teacher training programmes, and mid-day meal programmes tend to take a budget cut as employment-based reservations reapportion funds from these. Consequently, Scheduled Caste and Scheduled Tribe children are still ill-educated and unprepared for the same jobs they are allegedly being secured for.

By prioritizing work over core drivers of socioeconomic mobility, policymakers achieve political legitimacy at the expense of not addressing the underlying drivers of inequality. Ultimately, this shortchanges marginalized groups' autonomy and long-term development while enabling political elites to escape substantive accountability.

THE PROBLEM OF ELITE CAPTURE AND RENT-SEEKING

Elite capture and rent-seeking behaviour are significant hurdles to effectively implementing reservation policies. People and families with socio-economic privilege—such as those from higher castes—seek to use the system to their advantage. One frequent malpractice is the production of fake caste certificates, which allow ineligible candidates to occupy reserved seats in education and employment that are meant for marginalised

sections. This destroys public faith in the reservation scheme and robs disadvantaged people of their due opportunities.

Additionally, entrenched internal stratification among Scheduled Castes (SC) and Scheduled Tribes (ST) further makes it challenging for the benefits to be equally distributed. Generally, reservation benefits end up in the hands of a few relatively well-off and well-educated families or sub-castes. Having already achieved upward mobility, they end up enjoying the system's benefits for generations to come, while the poor segments within the same communities continue to lag behind. These intra-group differences increase the gap between reservation policy objectives and actual outcomes—rarely recognised or addressed in policy-making.

The consequence of this misuse of affirmative action is two-pronged. Firstly, it denies opportunities to the disadvantaged, leading to poverty and marginalization. Second, it warps labour market forces. When more people, including ineligible or unqualified, fill jobs through reservation, the quality and effectiveness of services can decrease, validating the argument that reservations fail. That argument is then employed to disqualify affirmative action altogether.

The Emergence of the Informal Labor Market

Enlarging the informal labour market is perhaps one of the most glaring consequences of this defective system. When SC and ST groups, especially the uneducated among them, do not find proper employment, they are pushed to take up small, low-reward, and unorganized jobs. These usually do not enjoy job security, benefits, or protection under labour laws. Workers in the unorganized sector are also highly vulnerable to exploitation and health hazards, perpetuating the poverty trap.

Even as they struggle, these workers remain invisible in policy debates. Since they do not contribute to official GDP measures in the same manner as wage workers, they are ignored in economic planning. Their contributions, however, are critical to the smooth operation of the economy — from construction and household work to sanitation and delivery services. Policies that fail to include the informal sector in the broader economic environment are economically shortsighted and unjust.

Bad education and bad policies are the reasons and outcomes of the failure of the market to offer SC and ST communities sufficient formal job opportunities. The imbalance

between labour demand and supply is aggravated when the supply of labour rises while the generation of jobs stays flat. The gap creates social unrest, a surge in crime, and an intensification of caste conflicts over the long term, all of which impede the development of the nation.

POLICY IMPLICATIONS AND RECOMMENDATIONS

India's Scheduled Castes (SC) and Scheduled Tribes (ST) have long suffered from socioeconomic marginalization, systematic exclusion, and entrenched poverty. Social inequality and economic disparities persist despite the government putting forward proposals, affirmative action, and reservation policies to raise these groups. Although the concept behind the reservation policy is commendable, the outcomes have not always met expectations. Returning to current practices and taking corrective measures can reverse these trends and make society more inclusive. Closely scrutinizing the existing reservation policy, identifying its shortcomings, and preparing workable recommendations are crucial steps towards inclusive growth in India.

One of the fundamental problems in the proper working of the system of reservations is the lack of authentic, current information about the composition of the population and socio-economic profile of different communities. India's decennial census is the primary source of such information. But solely depending on decennial census statistics is no longer sufficient, considering the accelerated rate of demographic and socioeconomic transformation of the country. Migration trends, fertility rates, urbanization, and economic changes dramatically change the demographic profile within a much shorter duration than ten years. Therefore, the urgent requirement is for the central government to look into taking smaller but comprehensive census-like surveys at more regular intervals. These surveys could project more up-to-date information to enhance the reserve rules based on the newer reality of SC and ST communities.

In addition, exploring a strong data collection system will allow policymakers to track the real-time effectiveness of reservation policies and make timely interventions and adjustments. In the wake of changes in socioeconomic conditions, an adaptive data system would allow policies to be proactive and reactive. Technological advances like digital

technologies and data analytics can speed up and improve data collection. By incorporating local administrative institutions, e.g., Panchayati Raj Institutions, in the data collection exercise, the government can ensure that the on-ground facts are well represented. A more responsive and efficient reservation policy system would ultimately be constructed on enhanced data credibility.

The use of forged or altered documents to forge one's caste status and pretend to possess it is also a very troublesome issue that is plaguing the quota system. Under fake documentation, undeserving persons who cannot qualify as belonging to SC or ST might get an advantage in respect of disadvantaged classes. Such abuse undermines the entire purpose of positive action by denying deserving beneficiaries their just reward. The government should have strict screening and verification procedures to guarantee the validity of caste certificates and other supporting documents to counter this issue.

The government may be forced to invest a lot of initial capital on individuals, technology, and administrative costs to enforce strict document verification procedures. Nonetheless, these costs must be paid to avoid much more damaging long-term effects of resource misallocation. Permitting ineligible applicants to receive benefits has much more ominous economic and social implications and may result in massive disenchantment amongst truly oppressed groups. The government can ensure the process is practical and trustworthy through conventional verification techniques and innovative technology such as biometric authentication, blockchain-based record-keeping, and anomaly detection by AI. An additional layer of security could be provided to the system by establishing exclusive monitoring agencies at the district and state levels that could investigate fake claims and audit caste certificates.

Furthermore, one must recognize the diversity of SC and ST communities across India to implement an effective reserving strategy. All sub-castes under these categories are not equally marginalized or need the same interventions. In places where several marginalized sub-castes exist in the same area, the needs and problems of various groups may differ remarkably. Therefore, policymakers must make investments in exhaustive studies and surveys to determine the exact resources and opportunities that various caste groups of a specific place require. Understanding such place-based problems is crucial to developing precise, targeted, and effective policies.

Localised policymaking must be the new convention instead of uniformly applying solutions. For example, land rights may be the most immediate concern for SC communities in some states, whereas quality education or healthcare may be more critical in other states. Adapting interventions to local needs would optimise the impact of the policy programs and ensure resources are being used effectively. District local governments must initially focus on solving the problems of the most deprived sub-castes to create an environment for all-round development. Solving the multi-layered nature of deprivation is possible only with a fine-grained grasp of socio-economic processes, and that too is possible only with decentralised administration and community engagement in policy formulation.

A typical example of localised intervention would be the targeting of ST communities, who usually reside in geographically remote places far away from mainstream socio-economic activity. Geographical isolation faced by STs has resulted in restricted access to education, health care, and employment opportunities. Policymakers must prioritise setting up educational institutions, vocational training centres, health care facilities, and employment exchanges in remote locations. Mobile classroom units, e-learning platforms using government-funded internet connectivity, and incentivised posting of teachers to tribal belts might be part of the plan. Making sure they are culturally respectful and tailored to local contexts is just as necessary to build confidence and promote stronger participation from such communities.

A third dimension of vital importance that must be addressed immediately is the educational infrastructure accessible to socio-economically disadvantaged groups. Today, there is a stark contrast in the quality of education accessed by forward caste Hindus and the SC and ST groups. Research studies (Borooah, Dubey, Iyer, 2007) have repeatedly brought this inequality to light, sustaining inter-generational inequality. Though the reservation policies provide quotas in higher education colleges, they do not strike at the issue's core – the quality of the primary and secondary education provided to the marginalised communities. Lacking a solid foundation in education, students from SC and ST backgrounds cannot compete at the higher level and make reservations in elite institutions, nothing more than an ostentatious gesture.

To rectify this systemic shortcoming, the government must prioritize setting up well-equipped schools in regions populated mainly by socio-economically backward groups. These schools need adequate infrastructure, motivated and well-trained staff, and space for technology, libraries, laboratories, and extra-curricular activities. The quality of education would be improved by offering superior compensation packages, residential facilities, and professional growth opportunities to superior educators who prefer working in underdeveloped and rural regions. Furthermore, socially inclusive school curricula sensitize students to caste-based discrimination and enable students belonging to marginalized groups to enhance their leadership skills also need to be imparted.

Improving primary school quality would benefit students in the long run in ways that go beyond academic achievement. It would help eliminate child labour, a common phenomenon in SC and ST communities. Parents would be more inclined to enrol their children in school if they see that education provides a means out of poverty. Access to quality education would also mitigate the incidence of unorganized labour markets characterized by low-skill, low-wage employment and enhance the number of people who can avail themselves of skilled jobs. Thus, education can be a formidable instrument for breaking intergenerational patterns of poverty and exclusion.

One significant deficiency in the present reservation system is its urban bias. As most benefits of reservation in education are mainly provided in upper-level institutions like management, engineering, and medical schools, they benefit persons already living in urban areas. Often, the recipients belong to comparatively well-off segments of SC and ST groups who have enjoyed some quality schooling and preparatory inputs. This process leads to what researchers call "elite capture", whereby the desired advantages of affirmative action are cornered by a small, comparatively privileged fraction of the target group (Borooah, Dubey, Iyer, 2007).

Thus, improving the quality of education at the primary and secondary levels, especially in rural and semi-urban regions, becomes essential. Government initiatives should also be aimed at establishing preparatory centres and coaching institutes in backward districts to enable students from weaker sections to prepare for competitive exams on par. Providing scholarships, mentorship programs, and remedial classes can bridge learning gaps and equip students with the tools they need to succeed in higher education and employment.

Lastly, there needs to be a shift in paradigm in the grounds for giving reservations. Rather than caste being the sole ground for affirmative action, financial criteria must be included to deliver the benefits to the genuinely needy. Although caste remains a robust determinant of social disadvantage, economic vulnerability also intersects across caste lines. A just reservation system based on caste and financial status would be more equitable and fair. This would avoid relatively well-off members of marginalised castes cornering opportunities, thereby maintaining a more equitable distribution of benefits.

Such subtle refinement would ensure the operationalising of a system discussed earlier through stringent verification, use of technology, and people involvement. Auditing of the target system periodically by auditors, along with third-party inspections, can be done to ascertain its efficiency in operations. Finally, providing reservation flexibility according to the region's socio-economic performance factors would again maximise the impact of the policy. Regardless of the caste considerations, the high population-density districts plagued by more significant concentrations of the impoverished masses would qualify for extra-strength affirmative measures.

All required reforms in the existing reservation policy framework are possible if the government approaches the necessary reforms with seriousness, political determination, and a steadfast commitment to social justice. The starting point of this revolution would be the creation of a strong, transparent, and dynamic data infrastructure that can precisely eliminate contradictions and capture ground realities. Second, crafting policy interventions attuned to regional diversities and the multi-layered nature of deprivation within caste categories is crucial for genuinely inclusive development.

CASTE CENSUS IN INDIA

The counting of caste was a regular feature of censuses conducted between 1881 and 1931 under British rule. But the government decided to do away with the practice in its first post-independence census of 1951, except for Scheduled Tribes (STs) and Scheduled Castes (SCs). States were allowed by the centre to conduct a survey and prepare lists of OBCs by 1961, if they so desired. Succumbing to growing social and political pressure, the government has now granted clearance to the inclusion of caste counting in the forthcoming national census, after over 60 years. The Socio-Economic and Caste Census (SECC), which

attempted to measure the socioeconomic status of the household along with data on caste, was the last such exercise to enumerate caste at the national level.

In a census of caste, people's caste identity is recorded systematically in a national survey. This information can provide useful insights into the dispersion and socioeconomic profile of different caste groups in India, where caste influences social, economic, and political life. It can be used to develop social justice and affirmative action policies.

The origins of caste counting in India date back to British India (1881–1931), when the colonial state officially appended caste to its decadal censuses as a means of classifying the population along caste, religion, and occupational lines. But since 1951, the newly independent Indian state under Prime Minister Jawaharlal Nehru dropped caste-based counting in hopes of discouraging reinforcing social cleavages. In 1961, a circular of the central government permitted states to draw up their own lists of Other Backward Classes (OBCs) on the basis of independent surveys, but since then no large-scale national caste census has been conducted. The question returned to the political agenda with the Mandal Commission's 1980 recommendation of 27% reservation for OBCs, raising the issue of the lack of recent caste data and making implementation contentious. The 2011 Socio-Economic and Caste Census (SECC), started under the UPA government, tried to collect caste-related data, but the findings were never officially published or utilized, subjecting it to widespread criticism. Lacking a national initiative, states such as Bihar, Telangana, and Karnataka have undertaken their own caste surveys in recent times to inform welfare and reservation policy. Significantly, Bihar's 2023 survey discovered that OBCs and Extremely Backward Classes combined represent over 63% of the state population.

The importance of the caste census

The caste census is of abiding social and political significance that goes beyond facts. Activists are optimistic that the data can be utilised to increase representation, re-imagine affirmative action policies, and tackle entrenched inequalities. "Structural gaps in caste, geography, religion, and economic status cut across a significant proportion of access to basic services in India, including health, education, nutrition, and social protection. To

identify these intersectional gaps and develop policies and programs that are inclusive and equitable, a caste census is essential, Poonam Muttreja, executive director at the Population Foundation of India, said in an interview to news agency PTI. Caste census will give muscle to caste divisions, some believe, while others believe it to be central to empowering marginalised people.

The choice, after over 70 years of debate, is a fundamental shift. But still to be determined is precisely how the data would be collected, graded, and applied. It is hoped that the exercise will fundamentally transform electoral politics, the government, as well as India's wider struggle against inequality. The timing of the census exercise has yet to be announced.

CHAPTER 6: CONCLUSION

Back to the Constitutional Compass: A Long Reflection on the Path of Reservation in India

India's history of reservation policy is inscriptively entrenched in the political and constitutional history of the nation. Covering the journey from the Constituent Assembly's vision to the recent evolution of jurisprudence and legislature, the idea of reservation went from a remedial principle to a deep-rooted political and constitutional reality. In this conclusion, there is a comprehensive review of the reservation's trajectory and marks its doctrinal, philosophical, and pragmatic challenges. It also tries synthesizing the constitutional equality, social justice, merit, and representation themes covered in the dissertation and presenting an evaluative, analytical, and future-oriented research overview.

The origin of India's affirmative action experiment is in its agonizing experience of centuries of caste oppression, untouchability, and social segregation. The necessity of undoing these centuries of discrimination bred the reservation policies. The Indian Constitution was written with the laudable vision of raising the hitherto oppressed Scheduled Castes (SCs), Scheduled Tribes (STs), and other socially and educationally backward classes to a level of absolute equality. The constitution framers—especially Dr. B.R. Ambedkar—understood that formal equality would not be enough to combat systemic deprivation. Thus, the State was required to make special provisions under Articles 15(4) and 16(4).

But these provisions were always seen as temporary. Political safeguards, including reserved seats in legislatures, were initially fixed for ten years, hoping social equality would have been achieved by then. As time went by, however, this temporality dissipated, and the policy slowly became an integral, ongoing part of India's governing structure. In so doing, reservation became a trope of social justice and a contentious site. Opening up reservations to Other Backward Classes (OBCs) and subsequently to upper caste Economically Weaker Sections (EWS) widened the scope of the policy immensely more than its original intent.

The widening of the reservation policy has not been wholly unjustified. OBCs certainly could not be denied historical deprivation, though to a lesser degree than Adivasis and Dalits. The recommendations of the Mandal Commission, even if politically conceived in execution by V.P. Singh's government, were based on decades of research and fact-finding. However, the consequence of the Mandal revolution was enormous—it split Indian society along caste lines, caused mass protests, and produced a long-term ideological tilt in public debate. What had begun as a targeted instrument for compensating for past injustices became a tool for asserting identity and mobilization.

In the decades, the reservation net has been widening to cover different groups—often not based on thorough data or backwardness studies but due to electoral pressure. Predominant communities such as Patidars in Gujarat, Marathas in Maharashtra, and Jats in Haryana have all asked for inclusion under the backward class category. This is the game of 'competitive backwardness', and it has eroded the moral basis of affirmative action. When historically influential groups start looking for backward status for material gain, the underlying assumption of the policy—i.e., historical and systemic oppression—gets undermined.

The 103rd Constitutional Amendment created the EWS quota and represents a paradigm shift. For the first time, economic disadvantage was made a standalone criterion for reservation. This was against the earlier Supreme Court rulings, particularly *Indra Sawhney* (1992), that economic backwardness cannot be the sole reason for reservation. However, a split bench validated the EWS quota in *Janhit Abhiyan v. Union of India* (2022). The ruling has broad implications. It sets the stage for a parallel discussion of economic justice, in addition to and sometimes at odds with caste-based affirmative action.

Judicial decisions have been instrumental in shaping and balancing the reservation controversy. Courts not only established the prerogative of the State to offer reservations but also put necessary constraints on it. *Indra Sawhney* brought in the 50% limit and the creamy layer exclusion. In *M. Nagaraj*, the court required quantifiable facts before approving promotion reservations. In *Ashoka Kumar Thakur and others*, the court reiterated that the doctrine of merit cannot be abandoned *ad infinitum*. The judiciary's role has been facilitator and guardian—a paradox developing further.

Implementation Gaps and Social Realities

Despite these constitutional safeguards, reservation implementation is unequal. The creamy layer exclusion, for instance, applies only to OBCs and not to SCs or STs. It creates an internal inequality in the system. The economically affluent in backward groups continue to benefit, while the truly marginalized remain on the margins. Political dithering at fine-tuning or rationalizing reservation parameters has resulted in its abuse. This negates the idea of social justice, turning an empowerment policy into one of entitlement.

Furthermore, reservations have not been able to bring about the structural change they intended to. Educational and employment access has expanded, but it continues to be limited to a few beneficiaries. Rural India, where the bulk of SC, ST, and BC continue to reside, is too often left unaffected by the benefits of reservation. Quotas turn cosmetic when insufficient educational infrastructure, health care, and livelihood facilities exist. Land reforms, guaranteed employment, minimum wages, and quality education must accompany reservations if the policy results in absolute social mobility.

The other important issue is the increasing intensification of caste identity after reservation discussions. Rather than bringing us closer to a casteless society, the regime of reservation has consolidated caste as a political identity. Electoral politics in contemporary times feeds on caste mathematics. Political parties employ demands for reservation as vote bank mobilization instruments. The outcome has been a paradox—while reservation seeks to eliminate discrimination based on caste, its ground reality has resulted in the intensification of caste consciousness.

This dissertation also examined the philosophical basis of affirmative action. Based on constitutional morality, social contract theory, and liberal egalitarianism, it contended that reservations are morally acceptable only when they tend to generate equality of opportunity and disrupt the chain of inherited disadvantage. The moral basis is, however, doubtful when reservations are not time-bound but constitute permanent privileges for politically mobilized groups. As Ronald Dworkin would contend, rights must be based on principles of justice and fairness, not policy preferences. If the reservation is an end in itself and not a means to an egalitarian society, it goes against the very principle of equality it seeks to uphold.

The conclusions of this study support the key hypothesis that the reservation policy has increasingly strayed from the initial constitutional vision. Although the Constitution granted special provisions to guarantee representation and equality, it never intended to make reservation a permanent right. However, reservations have become the go-to mechanism for dealing with nearly every type of inequality, whether social, educational, or economic. This has resulted in a congested, politicized, and inefficiently functioning redistribution system.

Towards a Reimagined Affirmative Action Framework

There is a need to rethink the reservation policy to put it on track with its constitutional guarantee. The starting point has to be the introduction of a strong review mechanism. All reservations must be subject to regular evaluation based on facts and figures. Creamy layer exclusions must be applied uniformly across all backward groups. The State must also consider time-bound reservations with sunset clauses to stop their perpetuity.

Second, the definition of backwardness has to be narrowed. Caste alone should not be used as the sole determinant. An intersectional criterion that considers economic status, place of residence, gender, and disability must be followed. Reservation policies must be localized to ensure that gains are delivered to the disadvantaged and not to the politically vocal of the backward classes.

Third, other means of affirmative action must be pursued. Rather than quotas, the government can spend on education scholarships, skills acquisition, free coaching centers, and bridge courses. These initiatives can improve competitiveness among the marginalized and make quota dependence a thing of the past. Additionally, regional development programs and employment incentives for sectors can provide more enduring routes to social justice.

Fourth, there is a need to re-orient public discourse. Affirmative action cannot be presented as a zero-sum game between groups. It has to be given as a national mission of reconciliation and justice. There has to be a collective effort on the part of civil society, academia, and media to change the narrative from entitlement to capability development. Finally, the political class needs to transcend election compulsions and show statesmanship. Reservation must be regarded as a constitutional obligation and not a

political give-and-take. Each expansion or adjustment of the policy will have to be based on evidence, reflection, and constitutional morality.

Concluding Reflections: Justice, Equity, and the Road Ahead

In conclusion, the Indian reservation policy is at a crossroads. It has reached milestones but has also faced deep contradictions. As India aims to become a knowledge economy and a global democratic power, its policies must be built on justice, inclusion, and equality. Reservation has to be among the many indispensable weapons, but not the solitary one—in the larger armor of social justice. A country's greatness is found in converting policy into real empowerment. If the reservation is going to be continued, it must change. And that change should start now—courage, clarity, and constitutional conscience.

A democratic state has to reconcile the conflicting demands of equity and efficiency, justice and merit, identity and universality. The future of reservation policy is to be sensitive to changing needs without abandoning its normative basis. The Indian Constitution does not represent a fixed conception of justice. It is a dynamic document intended to be interpreted dynamically in the context of new social realities. Therefore, while affirmative action is a fair and appropriate means to restore past injustices, its success should be measured not in duration but in efficiency at making itself obsolete.

The revolutionary potential of reservation is actualized only when coupled with more large-scale structural changes. Affirmative action has to be a bridge, not a crutch. It has to guide the beneficiaries to empowerment, not trap them into dependency circuits. Only then can the Indian Republic take pride in implementing its constitutional commitment to providing social, economic, and political justice to all its citizens. Here, the policy has to be constantly revised, rethought, and remoulded to meet its ethical, constitutional, and democratic responsibilities. At the crossroads of new socio-economic realities, the reservation controversy has to be transformed from an entitlement-based to an equity-based, effectiveness-based, and constitutional morality-based debate. Only then can India become closer to the egalitarian ideal visualized in its Constitution.

"The measure of a just society is not in how it treats its privileged, but in how it uplifts its most
deprived."

—Adapted from Dr. B.R. Ambedkar

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