

## RESERVATION: CONCEPT, NATURE AND NEEDS

### Sem-2, Contemporary Issues, Unit-1(i, ii, iii & iv)

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#### Concept of Reservation

- ❖ Reservation in common terms refers to an act of reserving, keeping back or withholding. According to the New Webster Dictionary, reservation means, “Keeping aside something for some specific purpose”.
- ❖ **Reservation is also termed as Affirmative action and fair discrimination.** Reservation in India is a form of affirmative action designed to improve the well-being of the backward and under- represented communities.
- ❖ **It is about facilitating access** of certain sections of the population to seats in the government jobs, educational institutions, and even legislatures.
- ❖ **Reservation in India refers to a policy** of reserving certain percentage of seats for a certain class such as Scheduled Castes, Scheduled Tribes, Other Backward Classes, etc. in Government educational institutions, government jobs, etc.
- ❖ **Reservation in India is a system** of affirmative action that provides representation for historically and currently disadvantaged groups in Indian society in education, employment and politics.
- ❖ **Reservation in India is a government policy, backed by the Indian Constitution.** The Articles 15 and 16 of the Indian Constitution allow the Indian Government to set quotas to ensure any "socially and educationally backward classes of citizens" is properly represented in public life.
- ❖ In India Reservation is provided to Scheduled Castes, Scheduled Tribes, Other Backward Classes and Economically Weaker Sections at the rate of 15 per cent, 7.5 per cent and 27 per cent and 10 per cent respectively.
- ❖ Reservation is the **process of facilitating people** in education, scholarship, and jobs etc. that were faced with historical injustice.
- ❖ The ‘reservation policy’ is operative in three main spheres, namely appointment and promotion in government services, admissions to public educational institutions, and seats in Central, State and local legislatures.

Look at the Table – 1 that shows the percentage of reservation of different social categories in employment and other sectors:

Reservation Category	Reservation Quota (%)
1. ST	7.5
2. SC	15
3. OBC	27
4. EWS	10

### Nature of Reservation

- ❖ Reservation in India is primarily a form of **caste-based** affirmative action. At present, the Economically Weaker Sections (EWS), Differently-abled Persons are also the beneficiaries of the reservation policies under the Constitution.
- ❖ Reservation in India is governed by constitutional laws, statutory laws, and local rules and regulations.
- ❖ Criterion of reservation in India is maintained on basis of Caste, Religion, Population (Minority), Economic Condition, Gender, etc.
- ❖ **Application of Reservation** in India is of different kinds, such as reservation in the legislatures, in government jobs, in promotion, in scholarships, and admission in educational institutions.
- ❖ Reservation in India is also **religion-based**, such as the Tamil Nadu government has allotted 3.5% of seats each to Muslims and Christians. The Government of Andhra Pradesh introduced a law enabling 4% reservations for Muslims in 2004. Kerala Public Service Commission has a quota of 12% for Muslims.
- ❖ Reservation in India is also **gender-based**. In 1993, Constitutional AmendmentS in India mandated that one third of total representations in the tree-tier Panchayat System and in the Municipality to be reserved for women. The Women's Reservation Bill was passed by the Rajya Sabha on 9 March 2010 but the Bill has not been passed till date in the Lok Sabha.
- ❖ Reservation is also given on the **basis of economic conditions**. The Government of India as per the 103th Amendment Act to the Constitution of India, 2019 has introduced 10% reservation for "Economically Weaker Sections" (EWSs) for admission in Central educational institutions and also for government jobs. The people falling within the EWS category include those other than the SCs, STs and the OBCs.

### Needs of Reservation

- Reservation Policies in India are needed to provide **social justice** to the most marginalized and underprivileged which is their human right.
- It basically aims at **empowering them** and ensuring their participation **in the decision-making process of the State**
- It's the duty of the government to provide equality of status and opportunity in India. It is reservation which can establish equality in the society.
- Reservation is one of the tools against social oppression and injustice against certain classes.

- Reservation helps in uplifting the status of backward classes to make them a part of Indian mainstream society.
- It ensures **adequate representation** of backward classes in the services under the State.
- The policy of reservation is a measure for the emancipation of the socially and economically backward people of the nation known as Scheduled Castes (SC), Scheduled Tribes (ST) and the hugely debated Other Backward Classes (OBC), EWS, Women etc.
- The reservation resolves the historic oppression, inequality, and discrimination suffered by SC, ST, OBC, EWS, Women, etc. and to give them a place.
- The main objective of the reservation system in India is to improve the social and educational status of underprivileged communities and thus improve their lives.
- It is a tool for achieving the promise of equality enshrined in the constitution.
- Reservation provides increased opportunities for enhancing the social and economic status and well-being of the underprivileged class popularly known as Scheduled Castes (SC), Scheduled Tribes (ST) and Other Backward Classes (OBC), Economically Weaker Sections (EWS), Women etc and thus enables them to take their rightful place in the mainstream of Indian society.
- Reservation phenomenon commenced with the coming into force of the Indian Constitution.
- The reservation also minimizes the gap with respect to socio-economic and educational status between upper and lower castes to a great extent.
- Reservation helps socially backward positioned people or a class to enhance them by putting them forward and encourages them to sustain and develop themselves.
- Proper application of the reservation system helps India to grow and develop not only by helping the backward class people but also by developing the society.
- Systematic application of reservation system in education enriches brain power of the country and makes India better.

## **Reservation for the SCs, STs, OBCs & EWSs**

### **SCs/STs Reservation:**

The objective of providing reservations to the Scheduled Castes (SCs), Scheduled Tribes (STs) in services is not only to give jobs to some persons belonging to these communities. It basically aims at empowering them and ensuring their participation in the decision-making process of the State. Article 341 & 342 of the Constitution of India prescribe that the President may list particular communities as SCs and STs respectively.

- ❖ Scheduled Castes (SCs) are given 15% quota in government appointments and admission in educational institutions while Schedule Tribes (ST) are given 7.5% quota in jobs and admission in educational institutions.
- ❖ Reservation is provided not only with respect to direct recruitment but also with respect to promotions for SC/ST category (Article 16(4A)).

**Reservation for the OBCs:**

- ❖ In 1992, the policy of reservation was extended, as per the recommendation of the Mandal Commission Report (1991) to those socially and educationally backward classes whom the Constitution recognized as the Other Backward Classes (OBCs).
- ❖ 27% reservation is applicable for jobs in government departments and institutions and also for admission in government funded/aided educational institutions and universities, including IITs.

**Reservation for the EWSs:**

- ❖ The Government of India as per the 103th Amendment Act to the Constitution of India, 2019 has introduced 10% reservation for “Economically Weaker Sections” (EWSs) for admission in Central educational institutions and also for government jobs.
- ❖ The people falling within the EWS category include those other than the SCs, STs and the OBCs.

**Reservation for Women & Differently-Abled/Impaired****Reservation for Women:**

- ❖ Reservation in India is also gender-based. The 73rd and 74th Amendments (1993) to the Constitution of India have provided for reservation of seats in the local bodies for panchayats and Municipalities for women, laying a strong foundation for their participation in decision making at the local level. At the Panchayat Level and Municipal level, one-third seats were reserved for women. Later on, a separate clause was added reserving one-third of seats for the SC and ST women within the SC and ST quotas. There is also a one-third reservation for women of posts of chairpersons of these local bodies.
- ❖ The Women’s Reservation Bill was passed by the Rajya Sabha on 9 March 2010 but the Bill has not been passed till date in the Lok Sabha. Reservation for women is mainly for women’s representation in legislatures.

**Reservation for Differently-Abled / Impaired:**

- ❖ As per the Rights of Persons with Disabilities Act, 2016, reservation for people with disabilities in higher education (not less than 5%), government jobs (not less than 4 %), reservation in allocation of land, poverty alleviation schemes (5% allotment) etc.

## Additional Information for Better Understanding

### Reservation Policy under the Indian Constitution:

The spirit of equality pervades the provisions of the Constitution of India, as the main aim of the founders of the Constitution was to create an egalitarian society wherein social, economic and political justice prevailed and equality of status and opportunity are made available to all. The exact necessities for the reservation in services in favour of the members of the SC/STs have been made in the Constitution of India. They are as follows:

- ❖ **Article 15(4):** Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.
- ❖ **Article 29 (2):** No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- ❖ **Article 16(4):** Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.
- ❖ **Article 16 (4A):** “Nothing in this article shall prevent the State from making any provision for reservation 3[in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State” (**Constitutional 77th Amendment, - Act, 1995**).
- ❖ **Article 15 (1):** The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- ❖ **Article 17:** “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.
- ❖ **Article 332 (1):** Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in the Legislative Assembly of every State.
- ❖ **Article 335:** The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State:
- ❖ Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.
- ❖ **Article 330 (1):** Seats shall be reserved in the House of the People for — (a) the Scheduled Castes and (b) the Scheduled Tribes.

### Who is a SC/ ST?

- **Schedule Castes:** “Article 341(1): The President may with respect to any State or Union Territory, and where it is a State after consultation with the Governor thereof,

by public notification, specify the casts, races or tribes or parts of or groups within casts, races or tribes which shall for the purpose of this Constitution be deemed to be Schedule Casts in relation to that State or Union Territory, as the case may be”.

“Article 341(2): Parliament may by law include in or exclude from the list of Schedule Casts specified in a notification issued under clause (1) any casts, race or tribe or parts of or groups within casts, races or tribes but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification”.

- **Schedule Tribes:** “Article 342(1): The President may with respect to any State or Union Territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the tribe or tribal communities which shall for the purpose of this Constitution be deemed to be Schedule Tribes in relation to that State or Union Territory, as the case may be”.

“Article 342(2): Parliament may by law include in or exclude from the list of Schedule Tribes specified in a notification issued under clause (1) any tribe or tribal communities but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification”.

#### **History of Reservation System in India:**

Original Constitution of India has provided reservation only for quota in legislatures – that too only for 10 years until 1960 (Article 334). Subsequent Amendments to the Constitution extended the period of reservation for quota in legislatures.

Provisions of reservations in Educational Institutions and Government Jobs – article 15(4) and article 16 (4) – were too created by means of Constitutional Amendments later. No time period is given for the validity of the reservations mentioned in article 15(4) and article 16(4). The initial reservations were only for SC and ST [Article 15(4) and Article 16(4)]. OBCs were included in the ambit of reservation in 1991 [article 15(5)]. In 2019, Economically Weaker Sections are also included [Article 15(6) and Article 16(6)].

After the implementation of Mandal Commission report in 1990, the scope of the reservation was widened to include Other Backward Communities (OBCs).

#### **Committees and Commissions on the Issue of Reservation:**

- **1882 – Hunter Commission** was appointed. Mahatma Jyotirao Phule made a demand of free and compulsory education for all along with proportionate reservation/representation in government jobs.
- **1953-Kalelkar Commission** was established to assess the situation of the socially and educationally backward class. The report was accepted as far as Scheduled Castes and Scheduled Tribes were concerned. The recommendations for OBC’s were rejected.
- **1979-Mandal Commission** was established to assess the situation of the socially and educationally backward. The commission didn’t have exact figures for a sub-caste,

known as the Other Backward Class (OBC), and used the 1930 census data, further classifying 1,257 communities as backward, to estimate the OBC population at 52%. In 1980, the commission submitted a report, and recommended changes to the existing quotas, increasing them from 22% to 49.5%. In 1990, the Mandal commission recommendations were implemented in Government Jobs by Vishwanath Pratap Singh. Student Organisations launched nationwide agitations. Rajiv Goswami, a Delhi university student attempted self-immolation. Many students followed suit.

- **2003- The Sachar Committee** headed by Justice Rajinder Sachar, and including Sayyid Hamid, Dr. T.K. Ooman, M.A. Basith, Dr. Akhtar Majeed, Dr. Abu Saleh Shariff and Dr. Rakesh Basant was appointed for preparation of a report on the social, economic and educational status of the Muslim community of India. Dr. Syed Zafar Mahmood was the civil servant appointed by the PM as Officer on Special Duty to the Committee. The committee submitted its report in the year 2006.

**What does equality essentially mean?**

Giving **equal opportunity** means giving opportunity each individual based on his capability so that he too can one day compete with the normal counterparts. He can one day stand as one among them and declare that he does not need special treatment anymore. I am the same as you all are.

