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Reservation In India: Constitutional Provisions and Ongoing Issues

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ABSTRACT:

Ever since its inception, the reservation system in India has had a profound impact on many lives, empowering a new generation of educated and politically active individuals from marginalized communities. the current policy on reservations raises significant issues when it comes to how well it works, how clear it is, and how fair it is. the ongoing debate about reservation calls for a comprehensive, diverse, and sensitive conversation that takes into account the current circumstances in the country. an innovative strategy that combines affirmative action with economic factors could be a step forward in promoting social justice and equality across all levels of society. Reservation in India is a government policy that extends many benefits significant being educational and professional groups of people who have been victims of discrimination and disadvantage for years. in that regard, the reservation policy has formed an extremely important tool for social justice ever since its establishment in India. while the Indian reservation system has been based on constitutional provisions and has striven to realize lofty ideals, it has, nonetheless, also come under valid criticism for promoting reverse discrimination, encouraging caste-based politics, and helping in the creation of a culture of inefficiency. there are, apparent-substantial concerns related to the effectiveness, transparency, and equity of the existing reservation policy. it throws light upon the members of the constituent assembly, their role in the freedom movement of India, and the drafting of the constitution of India in 1950.

INTRODUCTION:

Reservation as a concept is very wide. Different people understand reservation to mean different things.[1] One view of reservation as a generic concept is that reservation is an anti-

[1] Aarti, A SOCIO-LEGAL STUDY OF RESERVATION IN INDIA WITH SPECIAL REFERENCE TO HUMAN RIGHTS, 04, http://www.lrdjournal.com, 1- 3, 2019, https://www.researchgate.net/publication/360941680_A_Socio-Legal_Study_Of_Reservation_in_India_With_Special_Reference_To_Human_Rights/fulltext/637f40f148124c2bc663b806/A-Socio-Legal-Study-Of-Reservation-in-India-With-Special-Reference-To-Human-Rights.pdf

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poverty measure.[2] There is a different view that says that reservation is merely providing a right of access and that it is not a right to redress.[3]

The issue of caste-based reservation in India has its roots deeply embedded in the socio-political history of the country.[4] Several constitutional provisions were instituted to rectify historical injustices faced by the socially and educationally backward classes in India. However, in recent years, the implementation of these provisions has stirred up numerous debates, triggering a multitude of dissenting voices and contentious issues.[5] The basis for these provisions lies in the Indian Constitution, which provided for the social and educational development of the historically marginalized and underprivileged communities, such as the Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs).[6]

The reservation policy in India, introduced at the time of the country's independence, has consistently been a subject of considerable discourse and debate. It serves as a social engineering tool aimed at addressing historical disparities and promoting social equity among different communities and social groups.

Historical Evolution of Reservation in India:

The idea of reservation in India was adopted initially with the aim of rectifying historical injustices and social imbalances caused by caste stratification. During the late 19th century, efforts were made to eradicate certain caste practices that largely affected social interaction and integration. Hindu society is divided into four Varna, or classes, a convention which had its origins in the Rig Veda, the first and most important set of hymns in Hindu scripture which dates back to 1500-1000 B.C.3 At the top of the hierarchy are the Brahmins, or priests, followed by the Kshatriyas, or warriors. The Vaisyas, the farmers, and artisans, constitute the third class.[7] At the bottom are the Shudras, the class responsible for serving the three higher groups.[8]

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[2] scconline, https://www.scconline.com/blog/post/2023/04/19/legal-analysis-of-recent-judgments-on-reservation-policies-in-india-legal-research-legal-news-updates/, (last visited Aug. 6, 2024).
[3] M. Nagaraj v. Union of India, (2006) 8 SCC 212
[4] Alex Andrews George, https://www.clearias.com/reservation-in-india/ , (updated on August 3, 2024)
[5] National Commission For Backward Classes, "Report of the Constitutional Provisions (last visited on September 05, 2024)
[6] ruralindiaonline, https://ruralindiaonline.org/en/library/resource/handbook-on-social-welfare-statistics-2021/, (last visited Aug. 6, 2024).
[7] Dr. Rahul Tripathi, Historical Background and Development Of Reservation InIndia: An Analysis, 6.,IOSR Journal Of Humanities And Social Science (IOSR-JHSS), PP 09-13, https://www.iosrjournals.org/iosr-jhss/papers/Vol.%2023%20Issue1/Version-6/B2301060913.pdf
[8] *Id*

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Finally, the Untouchables fall completely outside of this system.[9] It is for this reason that the untouchables have also been termed avarna ("no class").[10] The British regime, aware of the rampant caste discrimination, introduced measures facilitating the representation of backward classes and minorities in educational institutions and government service. The historical evolution of the reservation policy can be traced back to the early 20th century. The Indian Councils Act 1909, also known as the Morley-Minto Reforms, recognized the principle of special representation by allowing separate electorates for Muslims for the first time.[11] This principle broadened with the 1919 and 1935 Government of India Acts, taking cognizance of the demand for separate electorates by Depressed Classes, Sikhs, and Indian Christians.[12] The pre-independence India, under colonial rule, thus became the incubator for the idea of reservation. Post-independence, the Constitution makers, led by Dr. B.R. Ambedkar, decided to extend the policy of reservation to the Scheduled Castes (SCs) and Scheduled Tribes (STs) and later to Other Backward Classes (OBCs) as well.[13] Their intention was to bring about social justice and provide equal opportunities to the historically oppressed and marginalized sections of society.[14]

Constitutional Provisions for Reservation in India:

Reservation in India is the governmental policy of uplifting SC, ST, and OBC communities and making sure that there is adequate representation in public employment, education, and in legislatures. There are several constitutional safeguards provided to these groups, such as provisions for reservation in legislatures, protection against discrimination, provisions for the promotion of educational and economic interests, and so on.[15]

According to Article 15(4) of the Constitution, the State can make special provisions for the advancement of any socially and educationally backward classes of citizens or for the SCs and

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[9] *Id*

[10] C.J. Fuller, The Camphor Flame: Popular Hinduism and Society in India (Princeton: Princeton University Press, 1992), 12

[11] selfstudyhistory, https://selfstudyhistory.com/2015/03/01/morley-minto-reforms-1909/, (last visited Aug. 6, 2024).

[12] Government of Britain: India Office. Report on Indian Constitutional Reforms (Montagu-Chelmsford Proposals), (1918), 7.

[13] thefatherofmodernindia, https://www.thefatherofmodernindia.com/2024/01/constitution-day.html/, (last visited Aug. 6, 2024).

[14] *Id*

[15] A.K. Sinha and Nutan Jha, 9 Constitutional Safeguards/ Provisions, ebooks.inflibnet, (Aug. 27, 2024, 9:29 PM), https://ebooks.inflibnet.ac.in/antp05/chapter/constitutional-safeguards-provisions/

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STs.[16] Similarly, Article 16(4) provides for reservation in appointments or posts in favor of any backward class of citizens that, in the opinion of the State, is not adequately represented in the services under the State. Article 46 falls within the Directive Principles of State Policy, whereby the State assumes an obligation to promote with special care the educational and economic interests of the weaker sections of the society, in particular, of the SCs and STs, and to protect them from social injustices and exploitation. Articles 330 and 332 provide for specific representation through the reservation of seats for SCs and STs in Parliament and in the State Legislative Assemblies, respectively.[17] This approach towards social justice and its representation in India has surged a lot of debates and controversies. Reservation policies trace their origin to the Indian Constitution, which is nationally regarded as imbued with the spirit of social justice and equality. Articles 15(4), 16(4), 335, 339, and 340 are the main constitutional provisions for reservations.[18] They firmly establish the state's power to enact special laws for promoting socially and educationally backward classes or other groups in society.

Foremost among the bases for these provisions is the rectification of historical injustices and systemic discrimination faced by marginalized communities. The doctrine of reservations finds its roots in the concept of substantive equality, stressing that treating unequal as equals is not necessarily justice. Rather, it supposes that real and effective equality of opportunity involves giving more to those who have been at a disadvantage.

Hence, constitutional provisions for preferential treatment in public employment are given under Article 16(4), special directives in matters of educational and economic interests of socially and educationally backward classes under Article 46, and reservation of seats in educational institutions under Article 15(4). This policy of reservation was further extended in a very significant manner by the 93rd amendment to the constitution, which ensured reservations for SC/ST/OBC in private educational institutions.[19][20] Reservation in India is a government policy that extends many benefits, the most notable ones being educational and professional, to groups of people who have been victims of discrimination and disadvantage in

[16] "Constitution of India". Ministry of Law and Justice(2021), https://legislative.gov.in/constitution-of-India
[17] INDIA CONST. art. 330 & 332.
[18] INDIA CONST. art. 15, cl. 4, 16 cl 4, 335, 339 & 340.
[19] The Constitution (93rd Amendment) Act, 2005". PRS Legislative Research, https://www.prsindia.org/parliamenttrack/billtrack/the-constitution-ninety-third-amendment-act-2005
[20] INDIA CONST. art. 16 cl. 04, 15 cl. 04 & 46.

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society for years. These advantages are mainly extended to castes and tribes that have been formally recognized as Scheduled Castes, Scheduled Tribes, and Other Backward Classes. The idea is to create equality by letting these groups get a step ahead in fields where they have been left behind since ages past. Under Part XVI, the Constitution of India encapsulates provisions of reservation for SCs and STs with an aim to better their condition. Article 15(4) provides as under: "The state can make special provisions for the betterment of any socially and educationally backward classes or SCs or STs." Article 16(4) speaks of reservations for these groups in public employment. Wherein Article 46 laid the responsibility of the state to protect the weaker sections, more specifically the SCs and STs, from social injustice or exploitation.[2122]

Post-Independence, the Constitution (93rd Amendment) Act, 2005 inserted clause (5) in Article 15. It empowers state to make provisions for the advancement of any socially and economically backward classes of citizens or for SCs or STs related to admission to educational institutions, including private educational institutions, whether aided or unaided by the state.[23] In 1980, the Mandal Commission report extended the benefits of reservation by considering both class and caste criteria. Enabling reservation in promotions, 1995 added another Constitutionally important constitutional provision under the Schedule IX: Constitution (77th Amendment) Act. These are important references wherein the scope of reservation was constitutionally widened.[24]

Article 15(4): It provides the state to make special provisions for the advancement of any socially and educationally backward classes or for the Scheduled Castes and the Scheduled Tribes. Article 16(4), provides for the reservation of appointments or posts in favor of any backward class of citizens, which in the opinion of the state are not adequately represented in the services under the state.[25] Article 46: The state shall promote with special care the educational and economic interests of the weaker sections, in particular, the Scheduled Castes and the Scheduled Tribes, and protect them from social injustices and all forms of exploitation. Articles 330 and 332 further provide for reserved seats in the Lok Sabha and State Legislative

[21] *Id*

[22] Basu, D.D (2008) Commentary on the Constitution of India; Vol 3; Lexis Nexis Butterworth Wadhwa Nagpur.

[23] "The Constitution (93rd Amendment) Act, 2005". PRS Legislative Research, https://www.prsindia.org/parliamenttrack/billtrack/the-constitution-ninety-third-amendment-act-2005

[24] "The Constitution (Seventy-seventh Amendment) Act, 1995". PRS Legislative Research, https://www.prsindia.org/parliamenttrack/billtrack/the-constitution-seventy-seventh-amendment-act-1995

[25] V.N.Shukla's, Constitution of India, Mahendra pal singh, (14th ed. 2022)

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Assemblies, again, for the Scheduled Castes and Tribes. The National Commission for Backward Classes maintains the central list of OBCs under the aegis of Article 340.
Historically, reservation was introduced in the land during British colonial rule to provide representation to the so-called "depressed classes." It is expected through the adoption of the Indian Constitution in 1950 that this policy was formally institutionalized. In that sense, ever since then, the Reservation policy has become a critical tool for social justice in India.

Judicial Scrutiny of Reservation:

Reservation implies a separate quota that is reserved for a special category of persons.[26]In India, the reservation system was introduced to promote the social and educational advancement of marginalized communities. This policy aims to ensure adequate representation for Scheduled Castes (SCs), Scheduled Tribes (STs), and other socially and educationally backward classes of citizens. Additionally, it provides opportunities for economically weaker sections (EWS) to access education and employment.

A very prominent judgment on a reservation is ***State of Madras v. Champakam Dorairajan, 1951 SCC 351***[27], wherein the Court set aside the Government order providing for caste-based reservation in medical and engineering colleges.

In 1962, the State of Mysore reserved 68% of seats for various backward classes, which was challenged in ***M.R. Balaji v. State of Mysore, 1963 Supp (1) SCR 439***[28], wherein the Court held that the reservation should be below 50%

Further, in ***T. Devadasan v. Union of India, (1964) 4 SCR 680***[29], it was held that the unfilled seats for reserved categories in a year cannot be carried forward to the next year.

In 1975, dealing with the question of reservation in promotions, 2 judges out of the 5-Judge Bench in in ***State of Kerala v. N.M. Thomas, (1976) 2 SCC 310*** [30]remarked that 50% limit is not an absolute rule and it is a rule of caution. The matter was further referred to a larger Bench. Thereafter, the 7-Judge Bench upheld the constitutional validity of Rule 13AA of the Kerala

[26] Govt. of A.P. v. P.B. Vijayakumar, (1995) 4 SCC 520 : 1995 SCC (L&S) 1056
[27] State of Madras v. Champakam Dorairajan, 1951 SCC 351
[28] M.R. Balaji v. State of Mysore, 1963 Supp (1) SCR 439
[29] T. Devadasan v. Union of India, (1964) 4 SCR 680
[30] State of Kerala v. N.M. Thomas, (1976) 2 SCC 310

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State and Subordinate Services Rules, 1958 which empowers the State Government to exempt members of the SC's and ST's already in services from passing the test for a specified period. In 1979, the Government set up the Mandal Commission's (Socially and Educationally Backward Classes Commission) to identify the socially and educationally backward classes of India and to recommend reservation policy for them. Reservations under the Mandal Commission were challenged in Court, in ***Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217***[31], wherein Appointed under Article 340 of the Constitution, the Mandal Commission aimed to define "socially and educationally backward classes" and recommend steps for their advancement. A 9-judge bench of the Supreme Court upheld the 50% ceiling, denied reservations in promotions and laid down indicators to ascertain backwardness. Further, the Court overruled ***Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. Union of India, (1981) 1 SCC 246***[32], wherein it was held that reservations in appointments or posts under Article 16(4) included promotions. However, the Parliament through Constitution (Seventy – Seventh Amendment) Act, 1995, and Constitution (Eighty-First Amendment) Act, 2000 inserted Articles 16(4-A) (Reservation in matters of promotion with consequential seniority) and 16 (4-B) (Carry forward rule) respectively. The above-mentioned amendments were held constitutional in M. Nagaraj v. Union of India, (2006) 8 SCC 212

In ***R. K. Sabharwal v. State of Punjab, (1995) 2 SCC 745***[33], it was held that the reserved categories candidates appointed/promoted in non-reserved posts as a result of competition, cannot be considered to work out the prescribed percentage of reservation. Further, in Jitendra v. State of M.P., the Court relied on the law laid down in R. K. Sabharwal (supra) and held that the reserved category candidates cannot be denied appointment against a general category post merely because of being reserved category candidate and are entitled to be considered against a general category post, given that they are eligible in all respects except for the caste.

In a case pertaining to promotion, it was held that accelerated promotion through reservation or roster system will not grant SC/ST promotees seniority over general category[34]. However, this was overruled in ***Jagdish Lal v. State of Haryana, (1997) 6 SCC 538***[35], wherein the

[31] Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217
[32] Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. Union of India, (1981) 1 SCC 246
[33] R. K. Sabharwal v. State of Punjab, (1995) 2 SCC 745
[34] Ajit Singh Januja v. State of Punjab, (1996) 2 SCC 715
[35] Jagdish Lal v. State of Haryana, (1997) 6 SCC 538

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grievance of general category candidates was that the seniority of SC/ST candidates who were junior to the general category candidates, but were promoted earlier than them, should be downgraded when general category candidates were also promoted, as the Court held that SC/STs will get seniority with reference to the date of their promotion.

In ***Dr. Jaishri Laxmanrao Patil v. The Chief Minister, 2021 SCC OnLine SC 362***[36] relating to Maharashtra State Reservation for admission in educational institutions in the State and for appointments in the public services under the Socially and Educationally Backward Classes ('SEBC Act') as amended in 2019, the 5-judge bench comprising of Ashok Bhushan, S.A. Nazeer, L. Nageswara Rao, Hemant Gupta and S. Ravindra Bhat, JJ quashed the Maratha Reservation and has held that the granting 12% and 13% reservation to Maratha Community in addition to 50% social reservation is not covered by exceptional circumstances as contemplated by the Constitution Bench in the Indra Sawhney case.

In 2019, Parliament passed the Constitution (One Hundred and Third Amendment) Act which does not mandate but enables 10% of reservations for economically weaker sections, in addition to the existing reservations. The 5-judge Constitution bench of UU Lalit, CJ and Dinesh Maheshwari, S. Ravindra Bhat, Bela M Trivedi, JB Pardiwala, JJ in ***Janhit Abhiyan v. Union of India, 2022 SCC OnLine SC 1540***[37], has upheld the constitutional validity of the Constitution (One Hundred and Third Amendment) Act, 2019

Current reservation policy in India where Reservation to SCs, STs, and OBCs in case of direct recruitment on an India basis by open competition is given at the rate of 15%, 7.5%, and 27% respectively. Otherwise, by open competition reservation for SCs, STs, and OBC is 16.66%, 7.5%, and 25.84% respectively. Reservation in promotion by non-selection method is available to SCs and STs in all groups of service.[38]

The Contemporary Challenges of Reservation in India:

While the reservation system in India is grounded in constitutional principles and aims to achieve noble goals, it has faced significant criticism for promoting reverse discrimination,

[36] Dr. Jaishri Laxmanrao Patil v. The Chief Minister, 2021 SCC OnLine SC 362
[37] Janhit Abhiyan v. Union of India, 2022 SCC OnLine SC 1540
[38] Policy of Reservation to SC ST and OBC – DOPT, available at: https://dopt.gov.in (last visited on September 03, 2024)

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encouraging caste-based politics, and fostering a culture of inefficiency. The most debated issues revolve around the identification of beneficiaries and the concept of the 'creamy layer.'[39] To begin with, the process of identifying backward classes has been fraught with legal and political disputes. Historical efforts, such as the Connor Commission during British rule and the Mandal Commission in post-independence India, sought to classify backward classes based on social, economic, and educational criteria. However, these classifications have been criticized for relying heavily on caste as the main determinant.[40]

Additionally, the 'creamy layer' concept, which applies to Other Backward Classes (OBC) reservations, excludes individuals from the more affluent and educated segments within this category from receiving benefits. Although various court decisions have highlighted the need for a dynamic assessment of the creamy layer, the absence of regular reviews of the income threshold has diminished the policy's effectiveness. There is also ongoing discussion regarding the potential extension of creamy layer exclusions to Scheduled Castes (SCs) and Scheduled Tribes (STs).

Furthermore, the proposal to extend reservation policies to the private sector remains a divisive topic. Proponents argue that it would enhance diversity and promote social justice, while opponents express concerns that it could undermine meritocracy, productivity, and the overall economic efficiency of private enterprises.[41] Finally, the reservation policy has been criticized for reinforcing caste identities rather than dismantling them. Critics contend that instead of eliminating the caste system, it perpetuates social divisions and caste awareness, thereby obstructing efforts toward national integration.

The reservation debate in India is complex and contentious. Established within the framework of the constitution, this policy aims to provide advantages to specific groups in society to promote equal opportunities.

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The Current Challenges of Reservation Policy:

Originally designed as temporary measures intended to last for a decade following the establishment of the constitution, reservation provisions have been repeatedly extended, becoming a permanent aspect of India's socio-political framework. At present, the reservation policy is confronted with a range of intricate and diverse challenges. Misuse of Policy: A

[39] *Id*
[40] National Commission For Backward Classes, “Report on Mandal Commission Report (1980).
[41] National Commission For Backward Classes, “Report on Income Criteria for Creamy Layer.

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primary concern regarding the reservation system today is its misuse. There have been numerous cases where the advantages of reservations have been appropriated by the "creamy layer" within the designated categories, undermining the policy's original intent. This situation has sparked an ongoing discussion about the necessity of excluding the creamy layer from the benefits of reservation.

Decline of Meritocracy: Another significant issue revolves around the belief that reservations undermine meritocracy. Critics contend that the system disproportionately favors certain groups, leading to disparities in academic and professional achievements. Conversely, supporters of the policy argue that ensuring equity is essential for fostering a genuinely democratic society, where the balance between merit and social justice must be addressed.

Political Exploitation of Reservations: The reservation policy has increasingly been utilized by politicians as a means to secure electoral support. Various communities are now advocating for reserved status, which may exacerbate divisions within Indian society. The challenges posed by political manipulation and the ongoing demands for reservations from different groups remain critical issues that the policy must navigate.

Insufficient Empirical Foundation: Traditionally, reservations in India have relied on the caste system. However, utilizing caste as an indicator of backwardness has proven inadequate in tackling the intricate socio-economic inequalities that exist within society. Consequently, it is imperative to establish reservations grounded in socio-economic criteria rather than inherited identities. Inadequate Execution: The implementation of reservation policies is often deficient, with real-world applications frequently failing to meet constitutional requirements. This issue is evident in the significant gaps observed in the allocation of reserved positions

Ongoing and Current Issues:

Notwithstanding the constitutional protections in place, the reservation policy in India continues to face significant challenges. These challenges primarily manifest in three key areas: persistent social inequality, the misuse of the policy, and its inherent conflict with the principles of meritocracy. Although the reservation policy has made notable progress in combating discrimination, India remains profoundly divided along social and economic lines. This is underscored by a report from the National Dalit Movement for Justice, which revealed a 6%

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increase in crimes against Dalits in 2019. Such statistics suggest that reservation alone is insufficient to eradicate deeply rooted biases.[42]

Furthermore, there are widespread allegations regarding the misuse of the policy. Critics contend that reservations are often exploited by individuals from economically better-off segments within disadvantaged groups, leaving the truly impoverished without support. The concept of the "creamy layer," which refers to the relatively affluent individuals within the Other Backward Classes (OBC), has sparked considerable debate.

Lastly, the policy's tension with meritocratic principles remains a contentious issue. Detractors argue that reservation diminishes the value of merit by prioritizing an individual's background over their skills or capabilities. This discussion has been highly polarized, with instances cited where a higher-ranked candidate from the non-reserved category is overlooked in favor of a lower-ranked candidate from the reserved category.

Within the socio-political context, the fundamental question arises as to whether reservation, as a policy mechanism, can effectively address the issues it was designed to remedy. A strictly caste-based reservation system may neglect other dimensions of social disadvantage. It risks benefiting the more privileged segments within backward classes while failing to assist the most disadvantaged individuals. A more holistic approach that incorporates both caste and socio-economic factors could better serve those in need (Varma, Pavan K. "The Great Indian Middle Class", Penguin Books, 2007). Regarding the interaction between government and judiciary, key concerns include the ongoing extension of reservation policies, the provision of reservations in promotions, and the established ceiling on reservations. The Supreme Court, in the Indra Sawhney case, set a limit of 50% for reservations, a threshold that has been exceeded by certain state governments, such as Maharashtra and Tamil Nadu. The issue of reservations in promotions has also sparked considerable debate, particularly highlighted by the M. Nagraj vs Union of India case (SCC (7) 212). This situation raises critical questions about whether reservation is being utilized as a tool for political mobilization rather than as a means to rectify social inequities. In terms of societal repercussions, the reservation policy has been fraught with disputes. Caste-based reservations tend to reinforce caste identities, hinder social mobility, and, in some instances, provoke caste-related conflicts. There are also apprehensions regarding the potential neglect of merit. While it is evident that reservations have contributed to some improvement in the living conditions of Scheduled Castes (SCs), Scheduled Tribes (STs), and

[42] Galanter, M. (1984). Competing Equalities: Law and the Backward Classes in India, OUP India.

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Other Backward Classes (OBCs), they may have simultaneously fostered a demand for reservations among individuals from the general category. This has resulted in various protests, such as the Patidar agitation in Gujarat and the Jat Reservation agitation in Haryana (Ghosh, Abant).

Should India need reservations (now)?:

In India, it is the government's responsibility to ensure equality of status and opportunity. One weapon against injustice and social oppression of particular classes is reservation. Reservations, also referred to as affirmative action, aid in the advancement of underprivileged groups. Reservations are only one tool for uplifting society, though. There are also alternative strategies, such as offering financial aid, coaching, scholarships, and other welfare programs. Vote-bank politics heavily influences how the reservation is applied and carried out in India. Reservation was solely permitted by the Indian Constitution for classes with lower social and educational status. Instead of being focused on class, it became a caste-based reservation in India[43]

Reservations cannot be made on the grounds of poverty: SC

One of the primary goals of the reservation, according to Article 16(4), is to ensure that all classes (castes) are adequately represented in government services. The Economic Reservation outlined in Article 16(6) is really in opposition to this idea since it fails to account for the representation of caste.

Many states had attempted to enact Economic Reservations, but courts had later invalidated them. The EWS bill was introduced in 2019 by Union Social Justice and Empowerment Minister Thaawarchand Gehlot. He said that because the previous state legislation pertaining to the EWS quota had no economic reserve clause in the Constitution, the courts had invalidated them. [44]

Relationship between Politics and Reservation:

The social system of India is non-hierarchical, and the Constitution carries reservations to uplift socially and educationally backward sections. These reservations take the form of seats in

[43] Alex Andrews George, https://www.clearias.com/reservation-in-india/, (updated on August 3, 2024)
[44] Dept. of Public Enterprises, Reservation_Brochure, https://dpe.gov.in/sites/default/files/Reservation_Brochure-2.pdf

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government jobs, educational institutions, and legislative bodies. Recently, 27% reservations for OBCs in medical courses have been introduced in government-run institutions. Article 334 provides reservations to SC and ST communities in Parliament apart from seats reserved in local-level governments. It is the 103rd Constitutional Amendment that brought in reservations for EWS in the year 2019. The basic marrow of issues on reservations is the justification for backwardness, the quantum of reservation, and its impact on merit. Caste-based reservations have gained prominence over the years, and caste as a factor to ascertain backwardness has been accepted by the Supreme Court in order to redress the issue of historical injustices.

However, economic criteria have suffered the attack of the courts in the reservations. The constitutional validity remains a debate, yet the ceiling of 50% being breached is yet another issue, though many states have crossed that limit. The creamy layer principle aims to ensure benefits reach only the most vulnerable, but this principle is not applied in SC reservations. The Supreme Court has, to this extent, explained that reservations impart substantive equality and help eradicate structural bars to equality of opportunity.

Reservation policies have been significant in Indian politics, yet there is concern in regard to their effectiveness and the effects on caste politics. Caste-related reservations led to the politicization of caste, which resulted in demands from the dominant castes to be given reservations. Caste-based reservations empowered identity politics and religion-based politics in such a way that it affected national unity. Politicians use reservations as a tool to gather votes and to display political existence by implementing reservation policies.

It becomes imperative for the state to ensure equality of status and opportunity through affirmative action without politicizing reservations. The governments must also think of introducing other welfare measures, improvement in access, and quality of education as a long-term solution. It is not necessary to use reservations as a political tool, for such practice is a threat to the unity and integrity of the nation. Well-balanced approach pertaining to social inequalities but careful not to negate meritocracy for effective implementation of policies related to reservation.[45]

CONCLUSION:

[45] Thorat, S.K. (2009). On reservation policy for private sector, Economic & Political Weekly, 15-17.

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Since its establishment, the reservation system in India has significantly altered numerous lives, fostering a new demographic of educated and politically engaged individuals from historically marginalized communities. However, there are substantial concerns regarding the effectiveness, transparency, and equity of the current reservation policy. The ongoing discussion surrounding reservation necessitates a dialogue that is thorough, multifaceted, and attuned to the actual conditions within the country. A judicious approach that integrates affirmative action with economic considerations may represent progress toward achieving social justice and equality across the entire socio-economic spectrum. The reservation framework, supported by constitutional provisions, has provided historically disadvantaged groups with a viable opportunity for socio-economic advancement. It stands as a robust testament to India's commitment to social justice. Nevertheless, various persistent challenges related to its execution and societal impact must not be disregarded. In this regard, there is a growing call for the adoption of more refined criteria for assessing backwardness. Additionally, there is a recognized necessity to adapt the reservation policy to reflect evolving societal dynamics while remaining dedicated to the principles of social justice. The reservation policy in India is based on a progressive constitutional framework that seeks to reshape society and emphasize substantive equality. However, various challenges hinder its effective execution. In our efforts to achieve a balance between social justice and merit, it is essential to regularly assess and enhance the policy to more effectively fulfill its constitutional aims and tackle the related issues.

Ultimately, the primary challenge confronting India's affirmative action strategy is to ensure that it effectively serves those who are most in need, without succumbing to political exploitation or societal fragmentation. Rally regarded this as right. Any reservation beyond 50% would be subject to being overturned.

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