
RESERVATION POLICY IN INDIA: A JURISPRUDENTIAL ANALYSIS OF ITS IMPACTS, CHALLENGES, AND SOLUTIONS

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ABSTRACT

The reservation policy in India has always been a subject of extensive debate and scrutiny since its inception. Designed to address the historical, social, and economic inequalities faced by the weaker sections of the society, it aims to provide opportunities and representation to them, specifically SCs, STs, and OBCs. This research paper offers a jurisprudential analysis of the reservation policy in India, examining its impacts, challenges, and future directions or the possible solutions.

The paper introduces the concept of reservation, overview of the historical context, and the constitutional basis. It explores the rationale behind the reservation system and its objectives in promoting social justice and inclusivity. Furthermore, the paper analyses the relation of the Reservation system with the schools of jurisprudence for an in-depth understanding and research. Additionally, it examines the potential drawbacks and unintended consequences of the Reservation system in India.

The research paper explores the possibilities of evaluating reservation effectiveness through data-driven approaches, ensuring equitable distribution of benefits, and addressing intersectionality. Overall, this research paper provides a comprehensive analysis of the reservation policy in India taking help of some of the schools of jurisprudence, shedding light on the impacts, challenges, and solutions to the Reservation policy.

Introduction

Reservation refers to a process of reserving a certain percentage of seats for a specific class of people to uphold the idea of equity. Reservation of seats is usually provided for admission in an educational institution, or in certain jobs, for the weaker sections of the society, but it is not limited to only that. The Reservation policy is an age-old policy for India, the origin of which can be found from the olden times where different forms of untouchability were practiced against a specific class or group of people and the caste system and Varna system were dominating the Indian society.

The distinction created by the caste and varna system bifurcated the society into two: the oppressor class and the class that was being oppressed. The class of people who were habitual of being oppressed were majorly belonging to “Shudra” Varna because they were marked to be the lowest in the hierarchy of the varna system and were only assigned with the task of serving the people of other three varnas.

These sections were exposed to historical injustice because of their identity which was based on caste. The age long oppression of the people belonging to the lower classes called for some measures and policies by the framers of our Constitution to try and uplift them and to put them in an equal position, providing them with a social status so that they can live their life with dignity. This led to the birth of the concept of “Reservation” in India.

Reservation, today, is a quota-based governmental policy regarding minorities and the weaker sections of the society, which can likewise be seen as a positive discrimination. Reservation in India is represented by government policies and strategies and backed up by the Constitution of India.

History of the Reservation System

The reservation system, as we perceive it today in India, is mainly based on caste and religion. But the concept of reservation dates way back in time and included many other aspects as well.

1. A commission known as Hunter Commission was appointed in the year 1882 by the Britishers and in that Mahatma Jyotirao Phule demanded a free and compulsory education for the people.

2. Then, in 1902, a notification was made in the state of Kolhapur, which was first of its type which provided for the reservation for the welfare of the backward class people and reserved 50% of the seats in services, for the backward people.
3. In 1919, when the Government of India Act, 1919 was passed, it had provisions for reservation.
4. In the year 1921, presidency of Madras provided 44% of reservation to the non-brahmins, 16% for Muslims, 16% for Anglo-Indian Christians and 8% of the reservation for the Scheduled Caste.
5. Then, after independence, in the case of *State of Madras VS Champakam Dorairajan*¹, in the year 1951, the Court held that the caste-based reservation system violates Article 15(1) of the Constitution of India. So, now the first constitutional amendment was made in the light of this case and Article 15(4)² was added which gave the state, the power to make any special provision for the advancement of any socially and educationally backward classes or for the Scheduled Castes and Scheduled Tribes.
6. Article 16(4)³ of the Constitution of India provides for the reservation in appointments and posts in the favour of any backward classes in public services.
7. In 1963, in the case of *M.R. Balaji VS State of Mysore*⁴, a 50% limit was put by the court for reservation and reservation should not exceed the mark of 50%. Here, the state government had reserved 75% of the total seats for the backward classes in educational institutions which was struck down.
8. In 1979, a commission known as the Mandal Commission was established to analyze the situation of socially and educationally backward classes. Headed by B. P. Mandal this commission submitted its report in 1980 which was implemented by the government in the year 1990. The report of the commission stated that 52% of the country's population comprised of OBCs and argued that the percentage of reservations in government service should be according to this percentage. However, if implemented, this would have gone against the ruling of honourable Supreme Court in *M.R.*

¹ AIR 1951 SC 226

² Constitution of India- Article 15

³ Constitution of India- Article 16

⁴ AIR 1963 SC 649

Balaji vs State of Mysore case which capped and restricted the limit of reservation on 50%. There was already a 22.5% reservation existing for SCs and STs of the society. So, to balance everything the figure of reservation for OBCs was made 27%.

The recommendations of Mandal Commission:

- OBCs must be provided a reservation of 27% in public sector and government jobs.
- They should be provided with the same 27% reservation in promotions at all levels of public services.
- The reserved quota, if unfilled, should be carried forward for a period of 3 years.
- OBCs should be provided age relaxation like that of SCs and STs.
- Reservations to be made in PSUs, banks, private sector undertakings receiving government grants, colleges, and universities.

Indra Sawhney VS Union of India⁵

In this case, the 9 Judge Constitutional Bench of the honourable Supreme Court held that the decision of the Central Government to reserve 27 percent Government jobs for backward classes which provided that socially advanced persons Creamy Layer among them must be excluded, is valid as per the Constitution. The reservation of seats will just restrict to initial appointments and not to promotions, and the total reservations will not exceed the 50% limit.

The court also held that the 2 impugned notifications are valid and enforceable in a partial manner. However, subject to the conditions as indicated in the decision that socially advanced persons Creamy layer among Backward Classes is excluded. Notwithstanding, the court struck down the Congress Governments take of reserving 10% Government job for the economically backward classes among higher classes.

⁵ AIR 1993 SC 477

Reservation and Jurisprudence

The concept of reservation can be said to be having its roots in the **Sociological School of Jurisprudence** and the theory of Social Engineering by Roscoe Pound.

The theory is mainly based on 3 key points-

1. Classification and recognition of the interests.
2. Deciding what interests are to be protected.
3. The claims and interests should be balanced.

Similar to the key points in the Social Engineering theory, the concept of reservation classifies the interests of the people, the interests of the minorities and the majority. The reservation system gives recognition to the interest of the minority, the people belonging to the Scheduled Castes and Scheduled Tribes and all other backward classes of the society.

Their interests are recognized and provisions are made and enforced accordingly, so that their interests can be protected at all costs.

The concept of reservation also puts things in such an order that claims and interests of all the minorities are balanced in such a way that the interests of all other communities or the majorities are not hampered in any way possible. The example of this can be seen where the limit of the reserved seats or the benefit of reservation is capped at 50% and not more than that, to maintain a sense of balance.

The school whose ideology seems to be in contrast with the theory of reservation is the **Analytical School**, also known as the Positive School, specifically, **Jeremy Bentham**, who is one of the main propounder of the Analytical School. His theory was based on the pain and pleasure doctrine and utilitarianism. His theory said that the interests of the majority should be upheld at all costs. A law can be made law if maximum number of people in that society are happy about it, it does not matter if the minority group is unhappy from that law and it gives them pain. This was the pain and pleasure theory which said “maximum number of happiness for maximum number of people”.

So, if we apply the theory of Bentham in the concept of reservation, we can see that the majority group will never be happy with the concept of reservation as the minorities are getting representation and 50% seat as quota, which restricts the majority only with the remaining 50% of the seats. Therefore, according to Bentham's theory reservation should never be made into a law as maximum number of happiness cannot be achieved for maximum number of people.

Problems with the concept of Reservation

1. The reservation policy was implemented to uplift the weaker section of the society by providing then a support system, but it was intended for a specific time and not to go on and on.
2. The reservation system in India is mainly based on caste and religion which makes it impossible for people outside of certain defined religion and caste to avail the benefits of reservation, does not matter how much deserving he is of that reservation benefit or how much he is in genuine need of it.
3. No proper observation of the system or time-to-time surveys for the situation of the reservation policy in a particular society or area.
4. Reservation is provided to the weaker sections or a particular class or caste of people from the general seats only and no new creation of seats is made for socially backward people which develops as a sense of negative feeling for the reservation in the general category people.
5. The families who are rich and well off on their own and have a social reputation as well, are availing the benefits of the reservation system just because they belong to a reserved category.
6. There is no data to identify who are getting the advantages of reservation system and who are not. The people who are needy, who are supposed to be the real subjects of the reservation system, do not even know their right to avail the reservation benefits.
7. A lot of corruption is prevailing in the governmental bodies which deal with the implementation of the reservation system at ground level.

Solutions

1. The people should not be allowed to avail the benefits of the system of reservation if they do not need it and are well off even without it, even if they belong to a particular reserved section be it OBC, SCs or STs.
2. Government should try and collect some data on who are the people getting the benefit from the reservation system in reality, and the people who are not able to avail the benefits of the reservation but deserve to get those benefits.
3. Reservation shall not be based totally on caste or religion of a person. The economic, social, and physical condition of a person should also be considered and they all should be a part of the deciding factors.
4. The benefit of reservation should be a one-time aid only and over-and-over again to the very same person. If a person has availed the benefit of reservation once, he got that support system that reservation intended to give to him and he should not be able to avail the benefits of the reservation policy at any further stage.
5. The creamy layer concept is a necessary part that needs to be applied to SC/ST and the OBC category, as there are many people of the mentioned categories who are economically and socially well off and should not be getting the benefit of the reservation over a person of their class or even in general, who really should be getting that benefit.
6. Yearly surveys, if possible, on the reservation policy, must be arranged by the government.
7. Government should form some permanent committees even on ground level to keep a check on proper implementation of the reservation policy.
8. Efforts should be made to tackle the problem of corruption in the field of reservation.

Conclusion

The system of reservation is a good concept but implemented poorly in India. The sole purpose of

the system of reservation was to put the backward classes on the same space as of the general class, but this does not seem to be the case right now. People are misusing the reservation policy and the people who really should be the subjects of it are not getting any opportunity to avail it. The reservation laws and policies have a huge part to play in it as they are not good enough and changes should be made to them to exclude the people from availing the reservation benefits if they are economically and socially well off on their own, does not matter if they belong to OBC class or the SC and ST class. Reservation should be made a one-time aid and people should not be allowed to use it on every stage of their life. If a person has been given a job granting him the relief of the reservation system, he should now earn his way to promotion by his hard work and dedication and not simply by using the reservation policy again for promotion. A lot needs to be done by the government to make this reservation policy deliver what it was made for, otherwise it will just be exploited as a tool to get their things done by the people who do not need or deserve it. And the poor and the backward ones will still be poor and backward.