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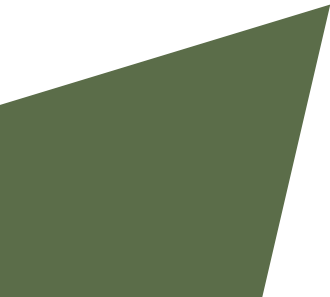
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**Contemporary Society and the relevance of Reservation**

**Adya Rao**

## ABSTRACT

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*The idea of reservation system on the basis of caste of a person was first adopted by the father of Indian Constitution B.R. Ambedkar because he thought that in the coming time the upper caste people will suppress the backward classes. His main motive was to uplift the lower section or the backward section of the society and make them stand equally with the other section of the society. In this article I will try to cover all the aspects of reservation and I will also discuss that whether we still need reservation in the same manner or do we need to make changes or to revise the existing policy and to make the reservation work on the basis of economic status of a person with the change in the society.*

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## INTRODUCTION

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The meaning of Reservation is very much clear from the word itself; its basic meaning is to reserve or to keep place for a specific part of the society. In India the reservation policy has been adopted on the basis of caste of a person, one of the main reason behind this caste based reason is the old caste system of India which divided a specific caste for a specific task, for example the Brahmins were given the upper most work of the society and it was believed that they have direct connections to the gods and the lowest level of work was given to the Shudras and due to the work they performed they were considered as the untouchables. This caste-based work system created a lot of problems and discriminated a person on the basis of his/her caste, not only this earlier the lower-class people or the Shudras were not allowed to sit or to eat with an upper caste person. Being a part of the lowest level of caste the people faced a lot of problems, they were also not allowed to enter into a temple. B.R. Ambedkar who also belonged the lowest community of the society and who also faced same problems like the other people of his community tried to give them the reservation policy which will help them to uplift their status in the society or give them the life same as the other section of the society. The reservation policy was added by the constitution maker so that the upper class people will not suppress the lower caste people. At the time this reservation policy was adopted the SCs or STs needed it for the betterment of their life, to correct the historical injustice faced by them but it has been 7 decades and this policy is still continuing in the same manner.<sup>1</sup> Till 1991 the reservation policy was only to the SCs and STs but on the recommendation of the Mandal Commission<sup>2</sup> the OBCs were also kept under the ambit of reservation. The Mandal Commission was established in 1979 for determining the criteria for socially and educationally backward classes and to recommend the steps that was needed to be taken for the advancement of these classes. A number of constitutional provisions were added in the Indian Constitution for the betterment of SCs and STs. Few are as follows:

- Part XVI deals with the reservation for SC and ST in Central and State legislature.
- Article 15(4) and 16(4) enables the Central and the State Governments to keep seats in government jobs for the SCs and STs.
- Article 243D ensures seats for them in every panchayat.

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<sup>1</sup> Divya, *“The need for review of the caste based reservation system in India”*  
<http://www.legalserviceindia.com/legal/article-458-the-need-for-review-of-the-caste-based-reservation-system-in-india.html> (Accessed on 10th February 2020)

<sup>2</sup>Mandal Commission  
<https://www.encyclopedia.com/international/encyclopedias-almanacs-transcripts-and-maps/mandal-commission-report> (Accessed on 11<sup>th</sup> February 2020)



➤ Article 233T ensures seats for them in every Municipality.<sup>3</sup>

The reservation of the SCs and STs community was only meant for 10 years but in 10 years the need for reservation did not decrease. The reservation policy in the legislature was added with an objective to keep it for only for 10 years (Article 334) but my making certain amendments in the Article the period has been extended. The arguments that will be put forward in the next paragraph will not completely criticize the reservation policy but to revise it with certain new policies and now is the time to fix a time for the reservation. The caste based reservation in many ways affects the talented ones for example the cut-off marks for a student of the reserved category is much less as compared to the cut-off marks for the students of unreserved category. Now is the time to make changes in the reservation policy. The reservation policy should be based on economic status of a person rather than his/her caste because if a person belonging to general category is not economically strong and scores a marks at which a reserved category can get admission even then he/she will not get admission because that seat has been reserved for the SC or ST or an OBC even if they are economically strong they will get the seat for marks much lesser. The question that will be asked that you belong to which category, how does the category of a person will identify his/her merits. In simple words the reservation policy should be based on class system(based on economic strength) rather than caste system. Although in the year 2019 with the 103rd amendment 10% seats has been reserved for economically weaker section.<sup>4</sup>

## **CASES RELATED TO RESERVATION OR WHICH HAS GIVEN A BROADER ASPECT TO RESERVATION**

The Supreme Court in *Indra Sawhney vs Union of India*<sup>5</sup> has said that total reservation quota should not be more than 50% and also excluded Creamy layer of OBCs from the beneficiaries list. In *M. Nagaraj vs Union of India*<sup>6</sup> while upholding the constitutional validity of Art 16(4) held that any reservation policy shall be allowed if it satisfies the following requirements: If the SC or ST is economically or socially backward. The SC or ST community is not being adequately represented in public jobs. The reservation should not in any way affect the overall efficiency in any administration.

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<sup>3</sup> The Constitution of India 1950 Bare Act Published by professional book publishers

<sup>4</sup> Aman Kumar Gupta, “ *Economic Reservation In India: A Panacea or Mirage*”

<http://www.legalserviceindia.com/legal/article-754-economic-reservation-in-india-a-panacea-or-mirage.html>

(Accessed on 11<sup>th</sup> February 2020)

<sup>5</sup> AIR 1993 SC 477

<sup>6</sup> 2006 SCC 212

## THE PRESENT STATUS OF RESERVATION

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After the inclusion of reservation policy, it got related to vote banks as well and the politicians started using it as their political agendas and started extended the period without any revision. The Supreme Court has ruled out that the reservation quota should not exceed more than 50% but there are few States like Rajasthan which has proposed 68% reservation which included 14% for forward classes.<sup>7</sup>

## ARGUMENTS AGAINST RESERVATION POLICY

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Reservation policy was introduced to make sure that the people from the SCs and STs communities were given equal access to resources but even with their economic progress they continue to remain socially disadvantaged. It is also the biggest enemy of meritocracy which is the foundation of all the developed countries.<sup>8</sup> By giving reservation through caste criteria we are fueling inflation of moderate credentials which is opposed to education system. Providing special privilege to a specific class is a form of discrimination which is against the right to equality. The reservation policy should be completely based on economic status of a person and nothing else, but the kind of reservation that is practiced in India does nothing but divides the society on the basis of their caste. The reservation should be fair and just to uplift the people with poor conditions of life, those who don't have money even for their basic needs. Now a days the politicians are also using the reservation policy as a tool to fulfill their vote banks, which a hindrance in the country's growth, development and competency in all aspects. Even in the job sector these communities are getting reservation which is violating the recruitment on the basis of his/her merits. On one hand the preamble of the Indian Constitution states that all its citizens are free, democratic, sovereign and socialist nation on the other the reservation policy is taking all these aspects in its clutches. It also creates disparity and differences among the different communities of the society. The Constitution states that every child has the right to education but it nowhere states that any child from a specific caste has more right than the general category child. By giving reservation to one category it creates a feeling of division which is resulting in chaos. Not only this the reservation is also anti-thesis of equality, because the principle of equality provide equal treatment to all its citizens irrespective of their caste by giving special privilege to certain class, it violates the spirit of democracy. Reservation is now becoming the mechanism of exclusion instead of inclusion as a lot

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<sup>7</sup> Puja Mondal

<http://www.yourarticlelibrary.com/essay/reservation-system-in-india-concept-arguments-and-conclusions/24973>  
(Accessed on 11<sup>th</sup> February 2020)

<sup>8</sup> Nitesh Mishra, "Revise: An Analysis of reservation in India" <http://lawtimesjournal.in/an-analysis-of-reservation-in-india/> (Accessed on 12<sup>th</sup> February 2020)

number of upper caste poor are facing discrimination and injustice in the society which is leads to frustration. The government instead of providing caste based reservation system in the job sector should try to provide employment or education because reservation cannot be kept a permanent solution for all these problems, there needs to be a permanent solution rather than having a temporary solution which is creating indifference among each other. There are much better solutions to come up with these problems.

## **THE ECONOMICALLY WEAKER SECTION RESERVATION AND ITS EFFECTS**

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The system of reservation has always been based on the caste of a person rather than his/her economic status in the society. The 124<sup>th</sup> Constitution amendment bill was by both the houses of parliament to provide 10% reservation for EWS in the public employment and private educational institutes. To avail this 10% reservation some criteria has been set by the government:

- i. It will be for the general category
- ii. Those who earn less than Rs.8 lakhs per annum and has less than 5 acres of agricultural land will fall under this category
- iii. It covers muslims, Sikhs, Christian, Budhhist and the other minority communities
- iv. This quota will be over and above the existing 50% reservation.<sup>9</sup>

This quota is provides reservation to only those whose family income is less than Rs. 8 lakhs and more than 50% of India's population will fall under this category but only 10% reservation for this much of population cannot be a solution. This quota also exceeds the 50% quota of reservation which was set by the SC in the judgement of M. Nagarjvs Union of India. If we see the implementation of this 10% reservation policy thenit is not equal to every one because this is already exceeding the 50% reservation which has been given to the lower section and now the rest 40% will have to suffer more problems because now they are left with very less options. This policy will only be beneficial if the government reduces the caste based reservation criteria and increases the economic based reservation.

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<sup>9</sup> Divya, "*The need for review of the caste based reservation system in India*" <http://www.legalserviceindia.com/legal/article-458-the-need-for-review-of-the-caste-based-reservation-system-in-india.html> (Accessed on 13<sup>th</sup> February 2020)

## **SUPREME COURT'S VIEW ON RESERVATION**

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Recently the Supreme Court has stated that the government is not bound to provide reservation for appointments and promotions to public posts, it is upto them whether they want to give reservation or not because there is no such Fundamental Right which allows an individual to claim reservation, no mandamus can be issued by the court directing the state government to provide reservation. The court also stated that if the government wants to perform its discretion and make provisions for reservation for a class of people then it has to collect data that will show the inadequate representation of that class in public services.<sup>10</sup>

### **RECOMMENDATION**

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- The focus should be on the primary education of a child by maximizing education infrastructure, more fund allocating.
- The basic necessities like food, clothing, medical facilities should be provided to the economically backward person at a lower cost.
- The economic reservation of 10% should be increased and the caste based reservation of 50% should be reduced.
- The process of reservation should be such that it gives equal opportunity to economic deprived people.
- The reservation should be given to vast majority of unprivileged children from deprived castes rather than giving it to a privileged children with their caste tag.
- The employment ratio should be increased so that no one needs to show his/her caste certificate to get a job.
- Loans should be given easily and the interest rate should also be reduced so that the people can afford to take loan for their betterment.
- The benefits should not be given every member of the family it should be restricted to a specific number.
- The marks criteria to get into any college should be made equal.

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<sup>10</sup> "Reservation as right: on Supreme Court Judgment" The Hindu Article Published on 11<sup>th</sup> February 2020  
<https://www.thehindu.com/opinion/editorial/reservation-as-right/article30785768.ece> (Accessed on 14<sup>th</sup> February 2020)

## CONCLUSION

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The reservation is becoming an issue between the reserved and the non-reserved ones. At this period of time the Indian society does not need reservation that will be based on caste or religion of a person but on the economic status and on the merits of a person. By implementing this kind of reservation we will also be able to remove caste discrimination from the society. Reservation is not a complete bad policy as far as it does not discriminate any person. Reservation is also one of the reason why we are going away from development and equality. So now is the time to revise the reservation policy by giving it to the people who actually need it and it should work in a way that it will be for the betterment of the society. This way we can uplift even the other section of society as well. This policy needs to be adopted for everyone's betterment. If the reservation would have been successful and unbiased then there would have been no questions regarding this policy. This article is strongly against the reservation policy on the basis of caste because it not is not a good way to determine the backwardness, it would be better if it identifies backwardness on economic background.