

# Reservation

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## Manifest Pedagogy

Reservation as topic can be placed both in social justice (polity) and Indian Society. Social Empowerment (Indian society) and Social Justice should not be studied separately. Hence, MANIFEST 11 clubs these two sections under Indian Society only to give an integrated picture of the topic. But care needs to be taken while writing answers wherein if a topic is asked in Polity, Constitutional aspects of the topic should be written first and social aspects later. Whereas, if the same topic is asked in Indian Society, social aspects should be written first and then the constitutional aspects. It is all a matter of perspectives and priorities.

## **In news**

Recent movement by affluent classes like Jats, Patidars, Marathas for reservation and Maharashtra Government's recent approval for Maratha demands

## **Placing it in Syllabus**

### INDIAN SOCIETY

1. Social Empowerment

### POLITY, GOVERNANCE AND SOCIAL JUSTICE

1. Schemes for Vulnerable sections of population by Centre and States
2. Mechanism, Laws, Institutions and Bodies for protection and betterment of Vulnerable sections Post-Independence India consolidation (not mentioned explicitly)

## **Static Dimensions**

1. Movements for reservation post-independence
2. Reservation as a policy
3. Constitutional basis for reservation
4. Doctrine of Affirmative Action
5. Reservation as a policy of social justice

## **Current Dimensions**

1. Evergreening of Reservation
2. Reservation in promotions
3. Reservation in Private sector
4. Reservation movements by affluent classes
5. Need for a change in Reservation policy

## **Content**

Reservation as a policy is based in the Doctrine of Affirmative Action.

The doctrine says that State does not just have negative functions of law and order, in certain cases the state has to understand certain affirmative action for the welfare of the citizens, specifically for the welfare of the Vulnerable sections

The philosophical basis for Affirmative Action is provided for by the Constitution of India in Article 14 through the phrase "equal protection of laws" which provides the authority to the state to treat citizens "unequally under unequal circumstances".

There are different ways of carrying out affirmative action for the vulnerable sections, one of the ways being Reservation. Reservation as a policy has Constitutional mandate and has been explicitly mentioned in various articles of the Constitution :

**Art 15 (4)** : Article 15 shall not 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.

**Art 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

**Art 330** : Reservation of seats for SC/ST in Lok Sabha

**Art 332** : Reservation of seats for SC/ST in State Assemblies (except in autonomous district of Assam where there is only ST reservation)

The idea behind Reservation for SC/ST was very clear as there was an identifiable criteria and there was definite time limit prescribed as well to achieve the desired results. The problem was with the other group (the OBCs) for whom there was no objective criteria.

Their movements for reservation was what constituted the crux of reservation movements post independence.

### **Scenario in Post – Independent India**

1. Landmark events in OBC movements for reservation
2. Art 15 (4)
3. Art 340 : Appointment of a commission to investigate the conditions of backward classes.
4. **1953** : Under Art 340, Kaka Kalelkar Commission appointed to identify the OBCs. It submitted the report in 1955 but the report was not implemented
5. **1977** : With the coming of the Janata Party, Mandal Commission was constituted. The report was implemented under V P Singh government in 1990. With this OBCs which were earlier an economic power started getting political

recognition as well.

6. **1993** : Supreme Court judgement on Mandal Commission in Indira Sawhney case, in the judgement 2 points are relevant :

- Concept of creamy layer was devised to exclude affluent classes from reservation benefits
- Reservation should not breach the 50% limit

7. **2006** : 93rd Constitutional Amendment was passed to implement OBC reservation in educational institutions. This is also called Phase 2 of Mandal.

Parties like Congress who were earlier uninterested in Backward classes (rejection of Kaka Kalelkar report) have been now proposing OBC reservation in private sector as well. Reservation as a policy today has become a platform for parties to mobilise votes. Parties like BJP, BSP, SP have focused on Caste mobilisation through reservation politics, specifically focusing on OBC coalition.

Post 2000, Congress finding that OBC coalitions are inevitable to win elections have started pushing for reservation in private sector as well. Ultimately, it has led to Casteisation of Politics and Politicisation of Caste, making caste seem as an eternal reality in India.

There is a general feeling among these groups that their economic opportunities are grabbed by the backward groups. Recently, Maharashtra government has accepted the recommendations of the State Backward Commission to provide for the reservation of Marathas under Art. 15 (4) and 16 (4). Is it a right move and how beneficial is it for national interest are certain questions to be discussed. Before this we need to know the basic aims of reservation.

### **Basic Aims of Reservation**

- To correct historical injustices committed on certain groups like SC, STs.

- To do away with both social and economic exclusion of these groups

Recent demands by various affluent classes like Jats, Patels, Patidars and Marathas for reservation point towards certain anomalies in reservation as a policy of affirmative action and social justice.

### **Anomalies in today's reservation policy which have led to these movements**

- Ever-greening of reservation, which was originally thought to be a temporary constitutional measure.
- Reservation is mostly working in economic upliftment without social reform.

For instance an SC government servant still faces untouchability at the workplace. Hence an economic standing of a person need not necessarily raise his social standing.

- Reservation benefits being grabbed only by a few sections of disadvantaged groups creating a new elite within that group further complicated by being concentrated in a family.
- Politicization of reservation, reservation against votes.
- Lack of awareness among non-reserved categories, regarding the aims of reservation as a policy which further complicates the matter.

### **Why these movements are misdirected?**

1. The lack of economic opportunities is less a product of anomalies reservation policies but more of agricultural crisis.
2. Jobless growth has been a common feature in recent times in India.
3. They are affluent classes and do not qualify the backwardness criteria. They are socially powerful groups

and hence, go against the basic aim of reservation

4. Reservation for Marathas in Maharashtra may not survive judicial scrutiny as it will breach 50% limit.
5. The movements are politically motivated and have been mobilised for votes.

### **Reforms needed**

- Ever-greening needs to be ended through either restricting to some generations in a family.
- Restriction to some generations will also prevent the formation of new elite.
- Reservation should be backed by social engineering as it has proved ineffective in attitudinal changes towards vulnerable sections.
- Overall increase in job opportunities is required to correct the misconception that lack of jobs is a product of monopoly by reserved categories.

Sudden withdrawal of reservation or reservation based on economic criteria owing to popular pressure would make disadvantaged groups vulnerable and throwing the baby along with the bath water. What is needed is reforms in the reservation policies along with targeted interventions in certain sectors like agriculture, overall growth in jobs and specific socio-economic development programs (employment) for the socially powerful groups like Jats, Patidars, Marathas.

### **Test yourself : Mould your Thoughts**

The recent movements by different affluent classes demanding reservation point towards the need for reforms in reservation policy. Critically analyse