

A Study on Reservations in the Educational Sector for the Economically Weaker Sections

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ABSTRACT

After India's independence, the legitimacy of the Indian government was closely linked to its ability to integrate the large, historically marginalized population into Indian political institutions. Prior to independence, Indian leaders favored preferential treatment for groups that experienced economic and social discrimination as a result of the caste system. The 1951 Indian constitution(1st Amendment) mandated the representation of Scheduled Castes and Scheduled Tribes by reserving quotas for them in Educational Institutions. Over the years, constitutional changes have added and revised the reservation system for providing Social justice and now in 2019 it made amendments to provide reservations for the economically backward sections of the society which is seen as an act of Economic Justice too. This study deals with the awareness and opinions of the Arts college students in Chennai about the 103rd Amendment Act, 2019(Providing 10% Reservation for Economically Weaker Sections of the general category). This study indicates the awareness and opinions of the people about uplifting the economically weaker sections of the society.

I. INTRODUCTION

Citizens or households with income below a certain threshold are classified as Economically Weaker Section (EWS). While there are other economic factors in deciding on the economic weakness of the citizen / household, family income is the dominant criterion. This concept has been acknowledged in the context of the preamble to India's constitution, which seeks social, economic and political justice. The existing reservations in the field of education and employment are given only on the basis of social conditions. This new law also aims to create reservations on the basis of economic criteria. The study also analyses the awareness and opinion of the people about the 103rd Amendment Act, 2019 which provides the reservations for the EWS.

II. STATEMENT OF THE PROBLEM

The 103rd Amendment Act, 2019 which provides reservations for EWS in Educational and Employment sector has been passed by the Parliament of India provides economic justice without disturbing the existing social justice(reservations based on caste system). Though this has been passed by Parliament it has not been preceded by any Commission like Mandal Commission for providing reservations to OBC. Therefore, it is the need of the hour to have a study on the public awareness and opinion towards the reservations for EWS.

III. OBJECTIVES OF THE STUDY

The following are the objectives of the study:

1. To have an overview about the 103rd Amendment Act, 2019.
2. To have a study on public awareness and opinion towards the 103rd Amendment Act, 2019.

IV. REVIEW OF LITERATURE

There is no comprehensive literature on this subject of the study. It came into the spotlight following the Government's decision to implement the 103rd Constitutional Amendment Act, 2019 which amended the constitution for providing reservations for the Economically Weaker Sections(EWS). Though the Reservation system has received enormous support from the Indian caste groups and Policymakers, there is a dire need of credible academic literature to analyze the outcomes and shortcomings of the existing Reservation system.

Reservation Policies and Social Structure:

Chin, A., & Prakash, N. (2010). The Redistributive Effects of Political Reservation for Minorities: Evidence from India. *Centre for REsearch and Analysis of Migration*. doi:10.3386/w16509. This study indicates

that increased political representation positively decreases the poverty for the Scheduled Tribes, especially in rural areas. The paper ventures as far as to say that if representation of STs is increased by a percentage point, there is an experienced 1.2 percentage decrease in poverty levels in India. However, this study specifically indicates that this is not the same scenario in case of reserved seats for SCs. This study looks at the variations in poverty reduction between Scheduled groups(SC& ST) and the general population. By using the poverty gap index as a poverty measure, the study addresses the depth of poverty, not just the number of individuals living under the poverty level. Therefore, this study stands out in its findings that political reservations reduce poverty among STs.

Ghurye, G. S. (1950). *Caste and class in India*. Bombay: Popular Book Depot. This study describes that the social structure is an important factor where people are divided by language or by religion but the case distinctions grounded on race or on occupation. These are some grounds for mutual distrust and enmity which makes it hard for such people to co-operate or for each section to recognize equal rights to the other.

Blunt, E. (1969). *The case study of northern India*. Delhi: S. Chand & Co. This study describes the evolution of caste system and various aspects of its current situations. The study shows that a little group of educated youth oppose the castes structure for the last 30years and also mentioned that the modern conditions the customs have been materially modified. The study stresses that social reformers and politicians are helping in raising the standard of living of the depressed classes. The researcher says that the caste groups are a homogenous group of people who have the same amount of economic and socio-political status. It seems probable that in the course of time, until the nation will change the customary restrictions of the current social structure which is built based on the Case it will not be possible to achieve the goal of removing untouchability etc.

V. The Debates in Reservation:

RESERVATION IN INDIA

3.1 RESERVATION:

Reservation is the process of facilitating people in education, scholarship, jobs etc. that were faced with historical injustice. It is a form of quota based affirmative action or positive discrimination which follows the concept of "There is nothing more unequal than the equal

treatment of unequal people"¹. It is a system in India which constitutes a number of initiatives like reserving access to seats in the legislatures, to government jobs and to enrolment in educational institutions and these are governed by constitutional laws, statutory laws and other local rules and regulations. The reservation is made in order to eliminate the historical oppression, inequality and discrimination of these communities and give them a place. The main objective of the reservation system in India is to improve the social and educational status of underprivileged communities in order to improve their lives and to achieve the promise of equality enshrined in the constitution.

3.2 HISTORICAL BACKGROUND:

The reservation system in India dates back to 2nd Century B.C.E. where the upper class enjoyed some added privileges. The idea of caste based reservation system was originally conceived by William Hunter and Jyotirao Phule in 1882. The reservation which exists today was introduced in 1933 when British Prime Ramsay Macdonald presented the Communal Award. This made a provision for separate electorates for Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans and the Dalits and this was opposed by M.K. Gandhi whereas B.R. Ambedkar was supporting it whole heartedly. To address this situation, Poona pact was signed according to which the country would have single Hindu electorate with seats reserved only for Dalits. According to the Constitution of India there were reservations only for the Employment and Politically reserved constituencies and there was no special mention to the reservations in the Educational Institutions.

3.3 STATE OF MADRAS VS CHAMPAKAM DORAIRAJAN:

State of Madras v Champakam Dorairajan (AIR 1951 SC 226) is a landmark decision of the Supreme Court of India. This judgment led to the first amendment to the Indian constitution. It was the first major judgment in relation to reservations in the Republic of India. In its ruling, the Supreme Court upheld the ruling of the Supreme Court of Madras, which in turn had put an end to the government order issued in 1927 under Madras presidency (G.O). The G.O had provided community based reservations for government jobs and college seats. The Supreme Court ruling found that the submission of such reservations violated Article 16 (2) of the Indian Constitution². After this case the Justice Party moves to

¹ Thomas Jefferson quoted it in "The Papers of Thomas Jefferson, Retirement Series"

² State of Madras Vs Smt. Champakam Dorairajan retrieved from <http://www.legalserviceindia.com/article/I95-The-State-of-Madras-vs.-Smt.-Champakam-Dorairajan.html>

the supreme court and files a counter case and after various arguments about fundamental rights and Directive Principles of State Policy during the rule of Jawaharlal Nehru as Prime Minister the 1st Constitutional amendment was made and Article 15(4) was inserted which reads: "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."³ And the Reservations in Educational Institutions started officially.

3.4 EVOLUTION OF RESERVATION SYSTEM:

In 1954, the Ministry of Education suggested that 20 percent of places should be reserved for the SCs and STs in educational institutions with a provision to relax minimum qualifying marks for admission by 5 percent wherever required. In 1982, it was specified that 15 percent and 7.5 percent of vacancies in public sector and government-aided educational institutes should be reserved for the SC and ST candidates, respectively.⁴

A significant change began in 1978, when the Mandal Commission was set up to assess the situation of the socially and educationally backward classes. The commission had no exact population figures for the OBCs and therefore used data from the 1931 census, so the population of the group was estimated at 52 percent. The 1980 Commission report recommended that a reserved OBC quotas of 27% should apply to services and public entities operated by the Union Government. It called for a similar change in admission to higher education, as long as states already had more generous requirements. It was not until the 1990s that these recommendations were implemented in Union Government Jobs. In 2019, the government announces 10% reservation in educational institutions and government jobs for the economically weaker section of the general category.

3.5 THE CONSTITUTION (103rd AMENDMENT) ACT, 2019:

The 124th Amendment Bill, 2019 has received the assent of the President on the 12th January, 2019 and be enacted

³ Article 15(4) [sub clause 4 of Art. 15] of The Constitution of India; after the 1st amendment Act, 1951.

⁴ "Educational Safeguards" proposed by the Department of Education, Government of India and the archives were retrieved through <https://web.archive.org/web/20090619063917/http://www.education.nic.in/cd50years/g/S/I6/0SI60301.htm>

by Parliament in the sixty-ninth Year of the Republic of India. This Act may be called as the Constitution(103rd Amendment), 2019 and shall come into force on such date as the Central Government may, by notification in the Official Gazette. This amendment added clause (6) in Article 15 which says special provisions for advancement of any economically weaker sections of citizens(doesn't include classes mentioned in clauses (4) and (5) of Article 15) and special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30, which in the case of reservation would be in addition to existing reservations and subject to a maximum of 10% of total seats in each category. This act also amended Article 16 of the Constitution and added clause (6) in the same which states "nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent of the posts in each category"⁵

3.7 The Debates in Economic reservation:

The argument asking to declare the 103rd Constitutional Amendment Act, 2019 to be declared unconstitutional and the Supreme Court saying that it was brought to provide equal opportunities in higher education and employment to the people who are excluded on the basis of their economic status and to provide social equity and was also justified that the reservation which is capped at 50% is only applicable to reservation made under the Articles 15(4), 15(5) and 16(4) of the Indian Constitution and doesn't apply to the Article 15(6). The court had agreed for further hearings and examine the validity of the law.⁶

The Mandal Commission's recommendations generated debates and from such debates the criticisms and basis for the caste based reservations are discussed. This paper talks about the history of reservations in India, recommendations of the Mandal Commission, in efficiency the the reservation system and the emergence

⁵ The Constitution (One Hundred and Third Amendment) Act, 2019 published on 12th January, 2019 in The Gazette of India.

⁶ 10% quota for economically weaker sections to bring social equality: Govt. (2019, April 11). *Business Standard*. Retrieved from <https://www.business-standard.com/current-affairs?time=1555011826>.

of sub nationalism based on castes and the need for reservations to be based on the Caste.⁷

This paper has raised certain doubts on the vested interest of the Government and questioning the democratic accountability though the article does not delve into the political issue of the amendment and are limited to discussions on the legal perspective analyzing provision as to whether it is constitutionally valid. The paper concludes by saying that poverty is still a hurdle in attaining equality and hence this economic reservation has taken a step forward to eradicate this form of discrimination as a means to achieve equality in the country.⁸

The Article tells that already there is adequate representation of the Economically Weaker Sections in the general category. It says that the criteria's given for the EWS includes about 95% of Indian households and it also provides certain statistics which states that about 4.55Lakh people enrolled in 445 top institutions in 2016-2017 belonged the above said criteria and this also talks about the under representation of OBCs, SCs and STs.⁹

The Journal talks about the constitutional amendment as it increases the Supreme Court's fifty percent cap to sixty percent quota on the whole.. The study concludes that the Act neither seems to be a good policy nor a smart political move. The study also quoted former union minister Yashwant Sinha, saying that BJP is not going to gain any political advantage even though they appease the upper caste people the move would be considered as it was a move done against the OBCs, SCs and STs and hence this move would lead to massive vote loss for the ruling party.¹⁰

⁷ Caste or Economic Status: What Should We Base Reservations On? (2019, January 16). *Economic & Political Weekly*. Retrieved from <https://www.epw.in/engage/article/caste-or-economic-status-what-should-we>

⁸ India: Economic Reservations: A Constitutional Challenged. (2019, March 20). *Mondaq by Singh&Associates*. Retrieved from <http://www.mondaq.com/india/x/791818/Constitutional-Administrative-Law/Economic-Reservations-A-Constitutional-Challenge>

⁹ Is there a problem with the 10% quota. (2019, April 09). *The Hindu*. Retrieved from <https://www.thehindu.com/opinion/op-ed/is-there-a-problem-with-the-10-quota/article26785615.ece>

¹⁰ S., Misra. (2019). Who will gain from 10% reservation for EWS. *Observer Research Foundation*. Retrieved from <https://www.orfonline.org/expert-speak/who-will-gain-from-10-reservation-for-ews-47312/>

VI. NEED FOR THE STUDY

In India, generally there is no referendum taken for any law, but in a democracy it is pertinent to check the people's opinion on a law that is passed by the Government even though it is not mandatory as per the Constitution of India. So, the need is to understand the untouched topic about the opinion and the awareness of the people about this new bill that has been passed. This gives an understanding about the mindset of the people and without that an efficient law cannot be proposed for the welfare of the people and by that better laws can be drafted in future.

VII. METHODOLOGY

The research was based on both primary data and secondary data. Primary data was collected by using questionnaire and secondary data have been collected from The Gazette of India, journals, websites, articles and so on. The researcher was not able to study the entire population of Awareness and Opinion about educational reservations for EWS in Arts college students in Chennai. So the researcher has collected only limited respondents i.e. 200 respondents. The researcher has selected the method of Purposive Sampling.

VIII. LIMITATIONS

The limitations of the study include

1. The area of the study is restricted to Arts College students in Chennai only.
2. The researcher has collected data only from 200 students and scholars from Arts colleges in Chennai due to the time constraints.
3. The content of the study is subject to go null and void if the Supreme court tells that this violates the basic structure of the constitution.

IX. ANALYSIS AND INTERPRETATIONS

TABLE 1 SOCIO- ECONOMIC DETAILS

S.No.	Particulars	No. of Respondents	Percentage
1	Gender	Male	66
		Female	34
		Total	100
2	Educational Qualification	Under Graduate	25
		Post Graduate	71
		Mphil & above	4
		Total	100
3	Community	OC	24
		BC	41
		MBC	13
		SC	14
		ST	8
		Total	100
4	Religion	Hindu	60
		Muslim	14
		Christian	25
		Others	1
		Total	100
5	Annual Income	Less than 2.5L	48
		2.5 Lakh to 5 Lakh	31
		5Lakh to 8Lakh	11
		8 Lakh and above	10
		Total	100

Source: Primary Data

66% of the respondents are Male; 71% of the respondents are currently pursuing their Post Graduation; 41% of the respondents belong to the BC

community; 60% of the respondents are Hindus and 48% of the respondent's family annual income is less than 2.5Lakh per annum.

AWARENESS

On analysing the responses about 63.5% of the respondents are aware about the reservations for OBC(which comprises of BC, MBC & BC-M) and 88.3% of the respondents are aware about the reservations for SC&ST(which includes SC, SC-A & ST) and 67% of the respondents are aware that OC doesn't get any reservations in the Central Educational Institutions(before passing this bill) and incase of Tamil Nadu Educational Institutions 71.5% of the respondents are aware about the OBC reservations, 88.3% are aware about the SC&ST reservations and 76% are aware that OC doesn't entitle to any such reservations.

Then the study found out that about 60.6% of the respondents are aware about the presence of Creamy Layer for the OBCs in Central Level. This also shows us that only about 39.75% of the respondents are aware that Creamy Layer concept doesn't apply in SC,SC-A&ST communities. The study further questions the respondents about their awareness on the concept of creamy layer in Tamil Nadu educational institutions which doesn't exist and only 54.57% of the respondents are aware that the concept of creamy layer doesn't apply to any educational institution in Tamil Nadu(before passing this bill).

The majority about 72% of the respondents are aware about the passing of the bill for EWS(Economically Weaker Section) quota in Central Educational Institutions but in the case of Tamil Nadu people are still confused whether the EWS is applicable for the State Educational Institutes and surprisingly with a very mild difference about 53% of the respondents are aware that it hasn't been implemented yet in TN. On further questioning it is found that about 49% of the respondents are unaware about the percentage(10%) allotted for EWS reservation.

The study further had questions on analysing the awareness about the other particulars on availing the quota, and 32% & 33% of the respondents are only aware that there is a cap at the annual income of the family for being benefitted under the Non Creamy Layer & EWS quota respectively. 60% of the respondents are aware that for availing the EWS quota family income is one of the criteria along with asset valuation. The reservation cap at the Central and TN Educational Institutions are capped at 50% and 69% and only 37% and 33% of the respondents are aware about this capping.

OPINIONS

The study has collected the opinions from the respondents on providing the reservations based on Economically Standards along with the existing social

standards. The majority of the respondents about 69% believe that EWS is required for upholding the Social Equity. More than a half almost 58% of the respondents think that a commission should have preceded the bill for analyzing things. One of the most commonly agreed opinion is that EWS is brought for the sake of Political gains. The respondents due to their lack of awareness still tend to believe that the EWS reservations might negatively impact the existing OBC and SC,ST reservations even though it clearly has nothing to do with it. The study questioned the respondents if the EWS can be merged with existing OBC reservations and give reservations based on economical status and people mostly didn't oppose but still wanted remained neutral about it and the same question being asked by replacing SC,ST instead of OBC had almost similar response of being neutral but the respondents didn't even welcome this thought. The respondents firmly believed that this bill will positively impact the lives of the people falling under the EWS quota. Considering the minority population of OC living in the state of Tamil Nadu and the existing reservation being capped at 69% people didn't want to comment and hence remained neutral about implementing EWS Quota in Tamil Nadu. The other neutral opinions were about bringing the concept of creamy layer to the existing SC,ST reservations and scrapping of the existing reservation system and replacing it with only Economic reservations as the economic factor decides more than the social factor but respondents preferred not to comment on this. The mostly agreed statement was the respondents wanted the government to make sure that the reservations are not being exploited and there must be a national commission set up to take care of the EWS Reservations.

X. FINDINGS

The study dealt with the Origin and evolution of the reservation system in India followed by the introduction and implementation of providing reservations for the Economically Weaker Sections of the general category people. The study also analyzed various debates on providing reservations based on the economic status, existing reservation system and social structure along with the perceptions of the people as the study investigated and collected data about the awareness and opinion of the people on providing the reservations for the Economically Weaker Sections of the society.

On conducting a study with about two hundred respondents who are currently pursuing their education in the Arts colleges in Chennai the study helped the researcher to find a lot of key findings and based on the researchers interpretation certain concluding remarks are being given in the upcoming paragraphs. These are based on the available secondary data from existing debates on the research papers, journals, news articles and the

primary data collected from the survey which gave data about the awareness and opinions of the respondents.

The study came out with conclusion that the people are supporting and welcoming the reservations for Economically Weaker Sections but more than that they are expecting the implementation of EWS in the existing reservation system.

The study based on its findings and interpretations says that a majority of the respondents are unaware about the act and the criteria but still with the available knowledge most of the respondents welcome this Act for providing reservations for EWS. They also feel the necessity to provide reservations based on the economic status and also introduce the creamy layer concept for the SCs and also in the Tamilnadu state level and due to the non implementation of creamy layers in Tamilnadu level the people are ignorant about the concept.

XI. CONCLUSIONS

The reservations based entirely on economic criteria is not a perfect solution but the need of the hour is to fix a time period for scrapping the reservation system rather than extending it to eternity. The concept of reservation on being upgraded and extended even though it has a positive impact on the students belonging to EWS category it still negatively impacts the meritorious students on their fair opportunities.

Reservation benefits should also be regulated maybe like restricting the benefits only to the first two childrens of the family without considering the number of children they have or maybe restricting the reservations only till the undergraduate program and further educations should be based on the merits and not based on the reservations or atleast there must be an way to identify the first generation learners and extending upto two generations. The reservations should be regulated to make sure that opportunities are being fairly given to all the meritorious students despite their social/economic conditions and by this way the quality of the students will be increasing.

The intention in which reservation was brought was commendable but the way in which the reservation is progressing closely tied with the politics has made political parties, civil societies, scholars and layman to ask a basic question of revision of reservation with the progress of time. Since all political parties one or the other way tried to appease one section of the community at any point of their political career has made all political parties to have double standards on reservation. When Dr. Ambedkar proposed reservation for certain constituencies at that time our forefathers didn't think to

give reservation on basis of caste lines for educational institutes, later with the progress and dissents from different caste groups aiming for political consolidation and political power has over a period of time pushed a political system to work in favor of reservation immaterial of the ideology but the bigger purpose and the larger question of reservation uplifting the poor, needy and oppressed is lost in politics. So it's time, with the available data the study emphasize that reservation over a period of time should move towards allotting on the basis of economic front then merely on caste identity, with this progressive notion reservation can be more inclusive, dynamic and accommodative of all caste groups also, evolving technologies in identifying the needy through Aadhar or Bank accounts makes reservation to work exactly where it is intended to. And also the idea of social justice lies not just at societal and political level it also lies at economic level only through the fulfillment of economic needs of the citizens of the country immaterial of the caste, creed and religion economic justice can be provided. Which makes reservation on the basis of economically weaker section a reality sooner.

The reservation should support affirmative action more than the appeasement politics for vote bank. To aid all the above mentioned facts cleaner politics, corrupt free governance and a visionary leadership is essential.

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