



Maharani Gayatri Devi Girls' School Model United Nations, 2019
14th – 16th October, 2019

ALL INDIA POLITICAL PARTIES MEET

**AGENDA: DELIBERATING THE CRITERION FOR
RESERVATIONS IN INDIA**

BACKGROUND GUIDE

Table of Contents

Sr. No.	Topics
1	Letter from the Executive Board
2	Introduction
3	Timeline of Related Events
4	Constitutional Provisions
5	Important Court Cases
6	Stances of Major Political Parties regarding Reservations
7	Recent Agitations
8	Important Topics To Be Researched Upon
9	Questions a Resolution Must Answer (QARMA)
10	Bibliography and Additional Research Links

Letter from the Executive Board

Dear delegates,

It gives us immense pleasure to welcome you all to the committee All India Political Parties Meet of Maharani Gayatri Devi Model United Nations Conference'19. This is your study guide which contains a brief history of the agenda at hand, major constitutional amendments concerning the agenda and will help you to get a starting point for your research.

The agenda 'deliberating the criterion for reservations in India' is not so easy as it seems. It may be very common to hear this every day "रैज़रवेशन ने तो जिंदगी बरबाद कर दी" but the depressed classes actually needed some differential treatment to come at par with the general classes. While we have come a long way, from just SC and ST reservation to now even including the economically weaker sections, a lot still remains to be done. Women, who constitute half of humanity, still even lack basic freedom today. And political representation is the only way to get those needs fulfilled. In today's modern era, where Indians are reaching the moon, upper-caste people still refuse to look at the moon with an individual belonging to a lower caste.

Therefore, we urge you to come up with effective and promising solutions, covering all aspects of the agenda. As the members of the Executive Board, we expect you to broaden your horizons, think about ways in which the existing policy can be improved in a way that is beneficial for all, social inequalities can be removed in India and if not reservation, then what?

We wish you all the best.

Regards,

Pranshu Bhardwaj- Moderator

Anusha Gupta - Co-moderator

Sara Jain- Scribe

Introduction

Defining Reservation

Reservation, in dictionary terms, is “an arrangement whereby something, especially a seat or room, is reserved for a particular person.” So why is this such a big issue?

India is inarguably one of the most diverse countries in the world, a melting pot of thousands of different cultures and religions that have evolved over centuries. However, with the existing differences between and within these groups, hierarchy based on caste, religion, gender, etc is a problem that the country battles.

When one thinks about castes, the basic Hindu caste pyramid often comes to mind. However, being the seventh-largest by land area and the second-largest in terms of population, there are many, many more castes in different regions throughout the nation. Yadavs, Jatts, Harijans, Gujjars, etc are just a few of the well-known examples. Differences between these people and the oppression some of them have faced over the years create the basis of the problem of caste-based reservations.

Identifying the Problem

If reservations help the oppressed, what is the whole problem? The debate is about how reservations take away opportunities from people who are more qualified and hence worthy of a certain post by virtue of merit. Often, positions in different educational institutions and government establishments are given to people who are not as qualified but come from a certain reserved caste or group at times. The misuse of these rights becomes another major problem. While only the most backward castes and classes were given reservations, many other groups demand reservations for themselves on incorrect grounds.

The 2 areas, where most people face the problem of reservation, are government jobs and college applications; 2 fields that are very important to the whole country considering many factors-economic, social, etc.

These might appear to be simple and easily resolvable issues, but when considering the effects, in the long run, their impact and consequences are quite grave. Under the current system of reservations, deserving candidates will keep getting diluted while undeserving candidates will be admitted/ employed just because they come from a certain social background. The very direct and obvious issue is that it is unfair to the other candidates who qualified and fit for the position in question. However, the less obvious but more dangerous consequence is the lack of education opportunities for potentially stronger students and huge unemployment rates of high performing candidates in India, resulting in brain drain. This is sure to have detrimental effects on the economic and social fabric of the nation as a whole. **Consider the perspective represented in this meme to understand this point.**



Timeline of Related Events

Note: The words in bold are key terms, which we recommend you to focus on understanding and do more research on;

1918-1919: Reservations introduced in 1918 in Mysore in favour of many castes and communities with a little share in the administration. The British government also made provisions in the Government of India Acts of 1909 and 1919 granting Muslims a share in the administration and other facilities.

1931: Dr B.R. Ambedkar presses for a **separate electorate** for the depressed classes at the Round Table Conference in London, representing the depressed classes himself.

1932: Dr B R Ambedkar and Gandhi Ji signed the **Poona Pact**.

1935: In the **communal award, legislative seats were reserved** for members of the Muslim, Sikh, Maratha, Parsi, Christian, European, and Anglo-Indian communities. Seats were reserved for depressed classes within the Hindu community as well.

1942: Scheduled castes were given 8.5% reservation in central services and other facilities in 1942.

1947: In independent India, provision for reservation in the legislature was made in the constitution **until**

1960, recently **extended** until 2010. Provision for reservation in public services was made at the same time with **no set time limit**.

1950: In the constitution, 15% of educational and civil service seats were reserved for "scheduled castes" and 7.5% for "scheduled tribes."

1963: The Supreme Court of India ruled that total reservations could not exceed 50%.

1980: Mandal Commission recommended changes to quotas, increasing them to 49.5%. The commission estimated that 52% of the total population, belonging to **3,743 different castes and communities** was 'backwards'.

1990: Mandal commissions' recommendations implemented for government jobs. Widespread agitation (mostly led by students) were witnessed pan India. Still, reservation for the backward classes was increased by 27 percent (in addition to the 22.5% that were already reserved for sc/st, **bringing the total of 'open' seats to only 50.5%**).

1991: Supreme court rules that the maximum reservation must be 50%.

1992: Panchayati Raj Act (73rd and 74th Constitutional Amendment) grants a minimum 33% reservation to women in local institutions.

1993: The Supreme Court upheld 27% reservation for **OBCs** subject to the exclusion of the **creamy layer** from amongst the OBCs. Children of persons with an annual income greater than Rs 1 lakh were also to be excluded. The limit was later revised to Rs 2.5 lakh in 2004.

1996: H.D. Deve Gowda made the promise for reservation of seats for women in Parliament and State Assemblies.

2005 (Aug): The Supreme Court abolished all caste-based reservations in unaided private colleges.

2005 (Dec 21): Lok Sabha passes the 104th Constitution Amendment Act 2005, **rolling back the SC judgment** by introducing a new clause into **Article 15** to allow for reservations for SC/ST and OBCs in such institutions.

2006 (Apr-May): HR Development Minister Arjun Singh declared the government's intention to fix a quota for the OBCs in premier government educational institutions like the IITs, IIMs, etc. Widespread protests took place.

2014: Bombay High Court grants reservations in education for people belonging to the Maratha community.

2016: Patidars in Gujarat, Jats in Haryana and Marathas in Maharashtra violently agitated for their inclusion in the state reservation quotas. Haryana passed a bill creating reservations for Jats and 5 other groups by including them in a new category- 'backward classes'. This move was stayed by the High Court of Punjab and Haryana, which stated that reservations would then exceed the 50 percent limit set by the Supreme Court. Similarly, the state legislature of Maharashtra in 2014 passed a bill to grant quota to the Maratha community. That law was stayed by the Bombay High Court. The present government had then approached the Supreme Court.

2019(Jan 13): The Constitutional (103rd Amendment) Act got the assent of the President of India, providing reservation of jobs in central government as well as government educational institutions. It is also applicable on admissions to private higher educational institutions. It applies to citizens belonging to the economically weaker sections from the upper castes.

Constitutional Provisions

- **Article 15:** Focuses on the 'prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.'
Point 4 of the article states: "Nothing in this article or 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 the Scheduled Castes and the Scheduled Tribes."
- **Article 16:** Focuses on the 'Equality of opportunity in matters of public employment.'
Point 4 of the article states: "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."
- **Article 38:** Focuses on the state's responsibility to secure a social order for the promotion of the welfare of the people.
- **Article 46:** Focuses on the state's responsibility for the promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.

- **Article 335:** “The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or a State”
- **Article 340:** Ask for the appointment of a Commission to investigate the conditions of backward classes.

Read more in detail about these articles using:

https://cadindia.clpr.org.in/constitution_of_india

Important Court Cases

- **State of Madras v. Smt. ChampakamDorairajan [1951] :**

1. In this case, the Court struck down the communal G.O. of the Madras Government, which, to help the backward classes, had secured the proportion of students of each community that could be admitted into the State medical and engineering colleges.
2. Although the Directive Principles of State Policy embodied in Article 46 of the Constitution lays down that the State should promote with special care the educational and economic interests of the weaker sections of the people and protect them from social unfairness, the court held that “the Directive Principles of State Policy have to conform to and run as subsidiary to the Chapter of Fundamental rights”.
3. Now clause (4) enables the State to make special provisions for the advancement of socially and educationally backward classes of citizens or the Scheduled Castes and Scheduled Tribes. Such provisions include reservations or quotas and can be made in the exercise of executive powers without any legislative support.

- **Kumari K.S. Jayasree&Anr vs The State Of Kerala &Anr, 1976 :**

1. The Supreme Court was called upon to determine whether constitutional protection could be extended to a person who belongs to a backward community if the family’s income exceeded the prescribed limit.
2. The court held that in ascertaining social backwardness of a class of citizens, it may not be irrelevant to consider the caste of the group of citizens.
3. This shows the relevance of both caste and poverty in determining the backwardness of the citizens but neither caste alone nor poverty alone can be the determining test of social backwardness.

- **Indra Sawhney v. Union of India [1993]* :**

1. The Court upheld the implementation of separate reservations for Other Backward Classes (OBCs) in central government jobs.
2. Ordered to exclude Creamy layer of OBCs from enjoying reservation facilities.

3. Ordered to restrict reservations within 50% limit.
4. Declared separate reservations for economically poor among forward castes as invalid.
5. Caste is a class of citizens and that if a caste as a whole is socially and educationally backward, reservations can be made in favour of such a caste on the ground that it is socially and educationally backward class of citizens within the meaning of Article 15(4).
6. Reservations cannot be applied in promotions but gave 5 yr window.
7. Article 16(1) does permit reasonable classification for ensuring attainment of the equality of opportunity assured by it. Article 16(4) is an instance of such classification, put in to place the matter beyond controversy

● **M. Nagaraj v. Union of India (2006):**

1. Backwardness and inadequacy of representation are the controlling/compelling reasons for the state to provide reservations keeping in mind the overall efficiency of state administration.
2. Government has to apply cadre strength as a unit in the operation of the roaster to ascertain whether a given class/group is adequately represented in the service. The roaster has to be post-specific with the inbuilt concept of replacement and not vacancy based.
3. Backlog vacancies to be treated as a distinct group and are excluded from the ceiling limit of 50%.
4. If a member from reserved category gets selected in the general category, his selection will not be counted against the quota limit provided to his class and reserved category candidates are entitled to compete for the general category.

Stances of Major Political Parties regarding Reservations

Please note that the views mentioned below reflect the current stance of the parties, based on the recent statements made by their representatives. The examples cited below, in no way suggest that these views have remained constant for every party over the years or are any politician's personal views:

- **Bharatiya Janata Party (BJP):** Supports Reservations. While in the recent elections the 'general card' was played, Amit Shah, the party president clearly stated: "We won't remove SC/ST quota in India and we would not allow anybody to remove SC/ ST quota in India"
- **Indian National Congress (INC):** Supports Reservation. The Congress reacted to the proposed reservation for the general category by saying that it has always supported every measure for reservation in jobs for the economically backward sections provided the provisions don't dilute the job quotas for Dalits, tribals and other backward classes (OBCs). The Congress was also contemplating promising reservation status to the Other Backward Classes in proportion to their population in its manifesto for the 2019 Lok Sabha elections.

- **Aam Aadmi Party (AAP):** Doubtful, yet supports Reservation. "You cannot stop reservations till the situation of scheduled castes or scheduled tribes improves," -AAP national convener Arvind Kejriwal said. The leader also supported BJP's proposal for the 10% reservation of the EWS.
- **Bahujan Samajwadi Party (BSP):** Strong support for reservations. The party's name itself suggests the importance the party gives to different communities. The party leader - Mayawati, and in effect the party, have always garnered support from backward castes and classes.
- **Samajwadi Party (SP):** The Samajwadi Party has had an unclear perspective on reservations. Being at their strongest, in the state of Uttar Pradesh, they have been inclined towards supporting reservations. Dimple Yadav's political campaign in the 2017 UP elections, for example, promised 33% reservation for women in government jobs.
- **Rashtriya Janata Dal (RJD):** Supports Reservation. In its manifesto for 2019 general election, it had promised reservation for the Dalits, OBCs, EBCs and tribals in the private sectors. "We are committed to social justice and will implement remaining recommendations of the Mandal Commission," party leader Tejashwi Yadav said.
- **All India Trinamool Congress (TMC):** Politics in West Bengal has a completely different face from other states. The TMC, currently, is in support of reservation, as seen in their attempts to pass the women's reservation bill right before the 2019 Lok Sabha elections.
- **Telugu Desam Party (TDP):** Neutral. "We will conduct a survey. Based on that we will have no objection in extending reservation benefits to the economically-backward among the upper castes," leader Chandrababu Naidu said at the party's annual conclave.
- **All India Anna Dravida Munnetra Kazhagam (AIADMK):** In support of reservations. In January 2019, the AIADMK led Tamil Nadu government introduced 69% quota, raising reservations to 69%.
- **National Students' Union of India (NSUI):** Strongly Condemns Reservation. Condemning the Narendra Modi government's "*jumla* of reservation" after "destroying education and jobs in India" the NSUI, in a statement, argued that the proposed Constitutional Amendment "betrays incompetence and cynicism". "We condemn the Modi government's desperate attempt to distract Indian youth by implementing an ill-thought and ill-advised 10% reservation for EWS with an annual income of ₹8 lakh per annum," the statement said further.

Recent Agitations

JAT RESERVATION AGITATION

- The Jat Reservation Agitation was a series of protests in February 2016 by Jat people of North India, especially those in the state of Haryana. The protesters sought inclusion of their caste in the Other Backward Class (OBC) category, which would make them eligible for affirmative benefits.
- Starting on 12 February, the Jats organized nonviolent protests for reservation by blocking railway lines and roads, while non-Jats opposed to their demands organized counter-protests. On 18 February, a group of non-Jats protesters clashed violently with a group of lawyers protesting against 2016 JNU sedition controversy, mistaking the lawyers for Jats.
- By 22 February, causes immense losses in northern India. By 26 February, 30 people had been killed in the violence.
- The Government attempted to pacify the Jats by setting up a committee to look into their demand and had indicated its intention to layout reservation for Hindu Jats, Sikh Jats, Rors, Tyagis and Bishnois by erecting a new agrarian classes category.

PATEL RESERVATION AGITATION

- In 1981, the Government of Gujarat, headed by Indian National Congress (INC) chief minister Madhavsinh Solanki, introduced the reservation for socially and economically backward castes (SEBC) based on the recommendations of the Bakshi Commission. It resulted in anti-reservation agitation across the state which spilled over in riots resulting in more than one hundred deaths. Solanki resigned in 1985 but later returned to power and was supported by the Kshatriyas, Harijans, Adivasis and Muslims. This caused other communities including Patidars to lose the political influence which later alienated the INC.
- Starting of July 2015, the people of the Patidar community, seeking Other Backward Class (OBC) status, held public demonstrations across the Indian state of Gujarat. The largest demonstration was held in Ahmedabad on 25 August and was attended by thousands. Later, there were incidents of violence and arson across the state resulting in curfew in several cities and towns. The properties and vehicles worth crores of rupees were damaged and destroyed.
- The state returned to normalcy by 28 August. The agitation renewed in September despite the talks with the government and again turned violent on 19 September.

GURJAR RESERVATION AGITATION

- Gurjar — a farming and trading community — are classified by the government as the Other Backward Class. They are part of the caste system that does not face as much exclusion or discrimination in society. The Gurjar community feels it has been economically and educationally left behind and it wants to be reclassified as a Scheduled

Tribe. They demand scheduled tribe status so that they can qualify for government jobs and state college seats reserved solely for such groups.

- The state government however has so far declined to change their status. Instead has announced to spend Rs. 2.82 billion (\$ 67 million) for improving schools, clinics, roads and other infrastructure in Gurjar-dominated areas. However, Gurjar leaders have said that they do not want money. Even in 2007, Gurjars in Rajasthan had fought the police and members of the Meena tribe, a tribe that already qualifies for Scheduled Tribe benefits and is opposed to Gurjars sharing the benefits it has cornered for itself. At least 26 people were killed in that violence.
- In wake of the ongoing Gurjar agitation in neighbouring Rajasthan, the high alert had been sounded in the border districts of Madhya Pradesh to check any spread of violence. The agitation finally ended after Rajasthan Chief Minister Vasundhara Raje agreed on a 5% reservation under a new special category.

Women's Reservation Bill

The Women's Reservation Bill [The Constitution (108th Amendment) Bill] is one of the longest pending legislations in the Indian Parliament. The Bill seeks to reserve 33.33% seats in the Lok Sabha or the Lower House of Indian Parliament and the State Legislative Assemblies for women, following the 73rd and 74th Constitutional Amendments which reserved the same percentage of seats for women in rural and urban local bodies respectively. The Bill has been introduced in the Indian Parliament several times since its initial launch in 1996. However, the status of the bill remains undecided primarily due to lack of political consensus.

After a long battle, the Bill was passed by Rajya Sabha (Upper House of Indian Parliament) on 9th March 2010 amidst stiff resistance from some political parties. It is yet to be tabled in the Lok Sabha or the House of the People.

1. The Constitution (One Hundred and Eighth Amendment) Bill seeks to reserve one-third of all seats for women in the Lok Sabha and the State Legislative Assemblies. The allocation of reserved seats shall be determined by such authority as prescribed by the Parliament.
2. One-third of the total number of seats reserved for Scheduled Castes and Scheduled Tribes shall be reserved for women of those groups in the Lok Sabha and the State Legislative Assemblies.
3. Reserved seats may be allotted by rotation to different constituencies in the States or Union Territories.
4. Reservation of seats for women shall cease to exist 15 years after the commencement of this Amendment Act.
5. The report examining the 1996 Women's Reservation Bill recommended that reservation be provided to women of Other Backward Classes (OBCs) once the Constitution was amended to allow for reservation for OBCs. It also recommended that reservation be extended to the Rajya Sabha and the Legislative Councils. Neither of these recommendations has been incorporated in the Bill.

10% Reservation Bill for Upper-Class Poor:

Reservation is that, which should be given to the deserving one, not to the demanding one. , And thus,10 % reservation for EWS (Economically Weaker Sections) was introduced on January 14, 2019.

The Indian Parliament has introduced the bill (One Hundred and Twenty-Fourth Amendment) to extend 10% quota in jobs and education at IIMs, IITs, NITs and Central Universities to economically weaker section (EWS) of general category, among all the caste and communities who are not covered by any of the existing reservation. This bill came into effect on January 14, 2019. In the Indian constitution, there is no provision for reservation basis economic status. So, to allow the 10% reservation for the economically weaker sections of General Category, the government passed the 124th constitutional amendment act, which added certain sub-clauses to Article 15 & 16.

Who can take benefits from this Bill?

- Annual household income below Rs 8 lakh per annum.
- Agriculture land below 5 acres
- Should not have a flat of 1,000 square feet or more.
- Should not possess the land of 100 sq yards in notified municipality areas and 200 yards in non-notified areas.

Annual household income includes the income of all family members and will cover all sources like salary, agriculture, business etc.

What will be the benefits and impact on all, other than the EWS?

This question always existed, that everyone from the 'upper caste' is not rich or able to stand in society, then why caste-based reservation. But still, this weak category was, not until now, considered for benefits as the people of this section belonged to the so-called "upper caste", though they have suffered from poverty across many generations.

Poor people from the general category wished that they could be part of a lower caste, at least this way they could benefit from the reservation system. There were voices from every corner of the nation stating that the economically weaker sections as well need some aid and policy in place to enhance their livelihood. The newly introduced bill came as a pleasant response to all the complaints and brought a smile on the faces of many that were questioning their identity and place in society. Anyone from the general category, who falls under the definition of EWS, will get 10 % reservation in jobs and higher education.

The government has ensured that reservation for the EWS of general category will not impact the quota for SC, ST and OBC people. Yes, the 10 % reservation is not within the 50 % reserved seats but taken from the 50% non-reserved seats. Thus, it is safe to say that the new reservation is not affecting the already reserved classes (SC, ST, OBC etc), but other members of the general category.

Some critics suggest that the introduction of this bill was pure "Vote Bank Politics". Other critics believe that a huge section of the population comes under the EWS criteria, so in reality, this bill isn't going to create a huge positive impact or benefit the poor in a significant way. Instead of adding more and more sections of the population to the reserved category, the government must focus on strengthening the education system, providing more employment opportunities, and introduce merit-based scholarships that will prevent the need for a reservation. Maybe this will

lead to equality in the true sense of the word and the youth will aspire to fall under the category of deserved and not reserved.

Important Topics To Be Researched Upon:

- *Important* - Merits and Demerits of reservation policy in India.
- Women's Reservation Bill was passed by the Rajya Sabha in 2010. It is yet to be voted on in the Lok Sabha. Is it important? What impact will it create?
- How have reservations particularly impacted Education?
- How can the nation avoid or tackle the various agitations and riots carried out by different communities demanding reservation? Special emphasis on communities like Jats, Marathas, Patels etc.
- The 10% reservation for the upper caste poor proposed by the BJP. What are the pros and cons of this bill and how can it be enacted?

Questions a Resolution Must Answer

- Reservations were proposed for 10 years in 1950. Why have reservations continued to exist and grow?
- Are reservations serving their purpose?
- What is your opinion on the way forward?
- Reduction in reservation percentage perhaps?
- Income-based reservation rather than caste-based reservations?
- Any other alternatives?
- Complete removal of any kind of reservation?
- Or defending caste-based reservations and promoting vote-bank politics.

Links to Further Your Research:

- https://cadindia.clpr.org.in/constitution_of_india
- <http://citizenmatters.in/facts-reservations-ews-sc-st-obc-government-court-9719>
- http://www.ncbc.nic.in/User_Panel/UserView.aspx?TypeID=1114
- <https://warofwords.wordpress.com/2006/05/22/reservation-in-india-timeline-from-smr/>
- <http://lawtimesjournal.in/an-analysis-of-reservation-in-india/>
- <http://www.legalserviceindia.com/article/l227-Reservation.html>
- <http://www.yourarticlelibrary.com/essay/reservation-system-in-india-concept-arguments-and-conclusions/24973>