

SPECIAL ISSUE



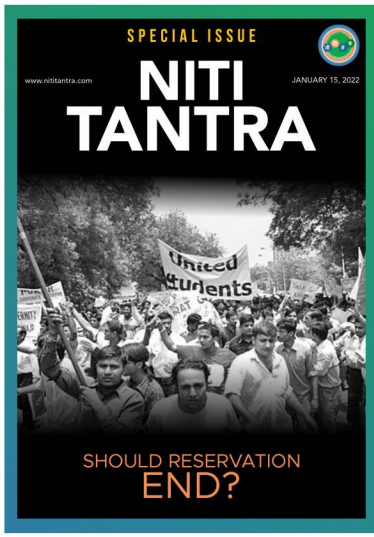
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# NITI TANTRA



SHOULD RESERVATION  
END?

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BOOKLET  
NITI TANTRA

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## Caste System

**Caste:** According to the Oxford English Dictionary, it is derived from the **Portuguese** word *casta*, meaning "race, lineage, breed" and, originally, "pure or unmixed (stock or breed)".

The caste system in India has its origins in ancient India, and was transformed by various ruling elites in medieval, early-modern, and modern India, especially the **Mughal Empire** and the British Raj.

**Untouchability** and **injustice** based on caste still exists in certain parts of the country.





## Important concept — Equality

### Equality

Powerful moral and political ideal that has inspired and guided human society for many centuries.

Reservation as a **tool** is used to reserve seats in Jobs, Government Institutions, and Legislature.

### Equality

- It is implicit in all faiths and religions which proclaim all human beings to be the **creation of God**.
- As a **political ideal** the concept of equality invokes the idea that all human beings have an equal worth regardless of their color, gender, race, or nationality.
- It maintains that human beings deserve **equal consideration** and respect because of their common humanity.
- It is this notion of a **shared humanity** that lies behind, for instance, the notions of universal human rights or 'crimes against humanity'.
- **Preference** and **reservation** are two different concepts used to attain equality among the citizens of a country.



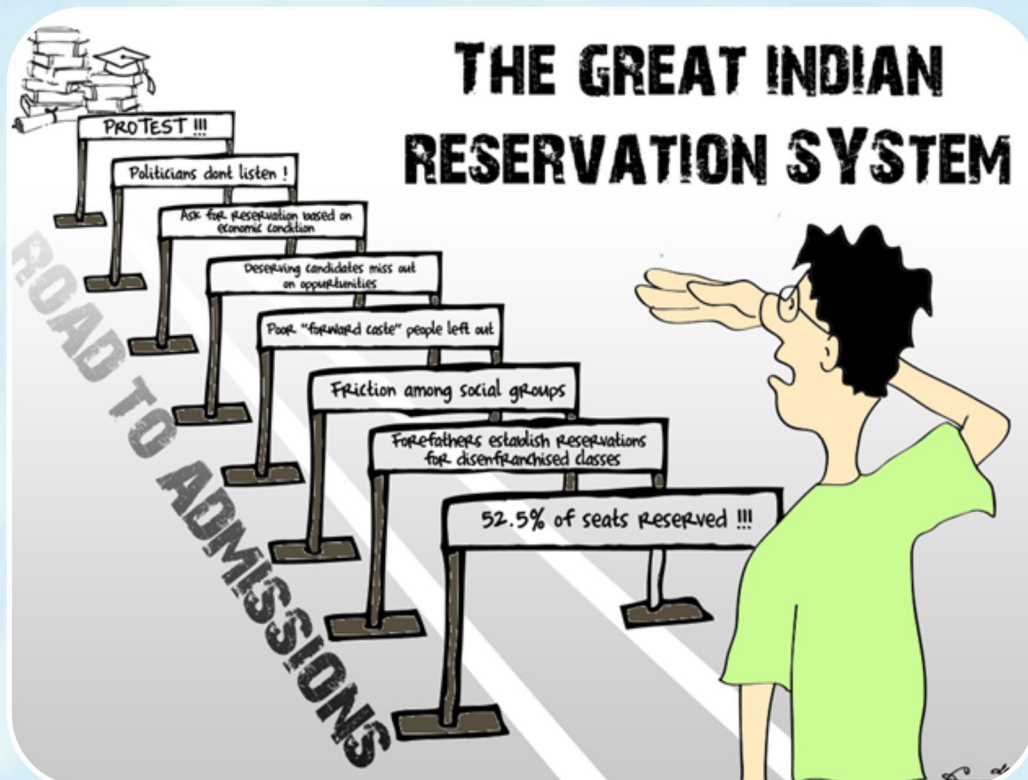


## Important concept — Reservation

### Reservation

Reservation also known as Positive Discrimination or Affirmative actions are steps taken by the government to uplift the socially and economically weaker sections of the society.

Reservation as a tool is used to reserve seats in Jobs, Government Institutions, and Legislature.





## Important concept — Discrimination

### Discrimination

Practice of unfairly treating a person or group differently from other people or groups of people. It can be exploitative and protective.

Discrimination has been a prevalent demon in countries around the world.

Race

Caste

Gender

Economic

### Welfare State

Concept of government in which the state or a well-established network of social institutions plays a key role in the protection and promotion of the economic and social well-being of citizens.







# RESERVATION

## Why is Reservation given?

- The Caste System in India has existed since **ancient times**.
- Certain socially backward sections of the society have been marginalized and hence cannot perform on an **equal footing** with the other privileged members of the society.
- Reservation is hence given to **uplift and help** these communities.

## HISTORY OF RESERVATION

**1882**

William Hunter and Jyotirao Phule conceived the idea of caste-based reservation system.

1

Provision for separate electorates for Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans and the Dalits.

3

**Post Independence**

Initially reservations were provided only for SCs and Sts.

5

**1933**

British Prime-Minister Ramsay Macdonald presented the 'Communal Award'.

2

**Poona Pact**

Decided single Hindu electorate with certain reservations in it.

4

**1991**

OBCs included on recommendations of the Mandal Commission.

6



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RESERVATION IN INDIA

PLACE OF ADDRESSING  
SATYASHODHAK SAMAJ

## JYOTI RAO PHULE

“ शिक्षा के बिना समझदारी खो गई,  
समझदारी के बिना नैतिकता खो गई,  
नैतिकता के बिना विकास खो गया,  
धन के बिना शूद्र बर्बाद हो गया .  
शिक्षा महत्वपूर्ण है .”

Earliest critiques  
of Caste System  
in India

Considered Vedas  
to be false  
consciousness



1882

Called for help in  
providing education  
to exploited castes

Primary education  
compulsory in  
villages

Special incentives for  
lower caste people in  
high school, college

**24 Sept 1873**

- Formation of Satyashodhak Samaj
- Rights of depressed groups such as women, the Shudra, and the Dalit
  - Introduced 'dalit' word





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RESERVATION IN INDIA



## Communal Award- Ramsay MacDonald:

Government  
of India Act  
1919

Separate electorate  
extended to Sikhs,  
Indian Christians,  
Anglo-Indians and  
Europeans

Indian  
Councils  
Act 1909

Separate  
electorate  
introduced for  
Muslims

16 August  
1932

Extended the separate  
electorate to depressed  
Classes (now known as  
the Scheduled Caste)  
and other minorities.

The Award was **controversial** as it was believed by some to have been brought in by the British to create **social divide among the Hindus**.

***Gandhi feared that it would disintegrate Hindu society.***

However, the Communal Award was supported by many among the minority communities, most notably the Father of Indian Constitution, **Dr. B. R. Ambedkar**.



# The Poona Pact

## Why?

Reservation of electoral seats for the **depressed classes**

## When? Where?

24 September 1932

**Yerwada Central Jail, Poona, India.**

## Who?

Agreement between **Mahatma Gandhi** and **B. R. Ambedkar**

Signed by **Ambedkar** on behalf of the depressed classes and by **Madan Mohan Malviya** on behalf of Hindus and Gandhi.

**Means to end the fast** that Gandhi was undertaking in jail as a protest against the decision made by British prime minister Ramsay MacDonald to give separate electorates to depressed classes for the election of members of **provincial legislative assemblies in British India.**

They finally agreed upon **148 electoral seats**. Nearly **twice** as many seats were reserved for Depressed Classes under the Poona Pact than what had been offered by MacDonald's Separate Electorate.





## Constitutional Provisions related to Reservation

### Part 16- of The Indian Constitution

~ Establishes that certain **castes and tribes** shall be **represented** in the **Lok Sabha** (the lower house in India's bicameral legislature) in proportion to their population

**Ex:** if the specified caste makes up **20%** of the population in a given province, at least 20% of that province's members of the Lok Sabha must be of that caste. The Constitution specifies that this is to be accomplished "as nearly as may be", accepting that due to limited delegation size proportions not always match exactly.

### Article 15(4)

Capacitates the state to create **special arrangements** for promoting the **interests and welfare of socially and educationally backward classes** of the society such as SC and STs.



## Constitutional Provisions related to Reservation

### 77<sup>th</sup> Amendment

This amendment inserted a clause after the **clause (4)** of Article 16 of the Indian Constitution as follows:

**(4A)** Nothing in this article shall prevent the State from making any provision for reservation in matters of **promotion to any class** or classes of posts in the services under the State in favor of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are **not adequately represented** in the services under the State.

**77<sup>th</sup> Amendment 1995**- The Constitution (Seventy Seventh Amendment) Act, 1995 was introduced in the Lok Sabha on **May 31<sup>st</sup> 1995**. This Act extended reservations for promotion in employment for Scheduled Castes and Tribes (SCs and STs).

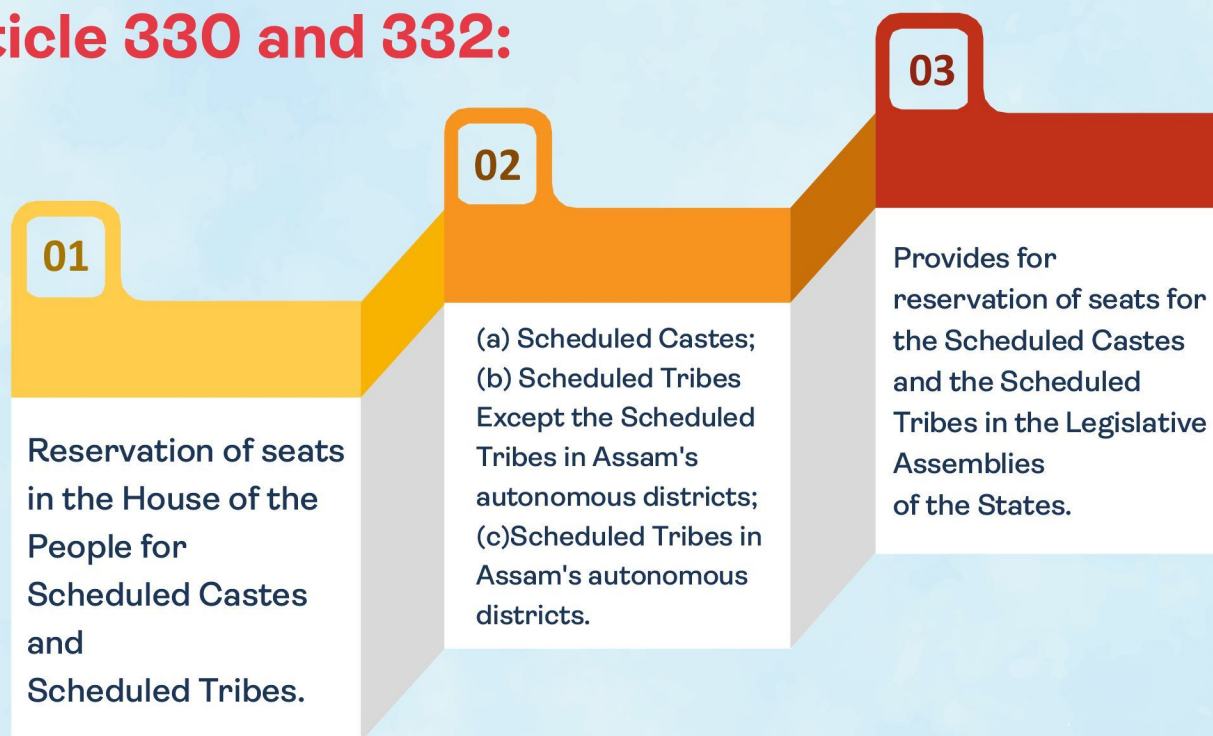
77th Amendment's objective stated that the **representation of the SC's and ST's** had not reached the desired level in the States and that this system had to be continued to bring about their adequate representation.





## Constitutional Provisions related to Reservation

### Article 330 and 332:



**Article 332:** Provides for reservation of seats for the **Scheduled Castes** and the **Scheduled Tribes** in the Legislative Assemblies of the States.

No person who is not a member of a **Scheduled Tribe** of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district.

**Article 243D:** Article 243D provides for reservation for the Scheduled Castes and the Scheduled Tribes in every **Panchayat**.



## MANDAL COMMISSION

The President appointed **backward class commission** in **December 1978** to determine the criteria for defining India's "**socially and educationally backward classes**"

Mandal Commission generated an all-India other backward classes (OBC) list of **3,743 castes** and a more underprivileged "depressed backward classes" list of **2,108 castes**.



B. P. Mandal  
Chairman  
Mandal Commission

To **recommend** steps to be taken for the advancement of those classes.

The Commission has also identified backward classes among **non-Hindus** (e.g., Muslims, Sikhs, Christians, and Buddhists).

The Mandal Commission concluded that India's population consisted of approximately **52 percent OBCs**, therefore **27%** government jobs should be **reserved** for them.

The commission has developed **eleven indicators** of social, educational, and economic backwardness.





## **Landmark Judgements related to Reservation in India.**

### ***State of Madras v. Smt. Champakan Dorairajan (1951) :***

In **1950**, the year in which the Constitution came into operation, one **Champakam Dorairajan**, a Brahmin candidate, filed a petition for issuance of a Writ of mandamus restraining the (then composite) state of Madras from enforcing a communal Government Order that provided for reservation in electoral constituencies.

A full bench of the Madras High Court upheld the petitioner's plea. The state appealed in the Supreme Court. A seven-judge bench dismissed the appeal.

***It was this judgment that necessitated the Constitution First Amendment, which added Clause (4) to Article 15.***



## Landmark Judgements related to Reservation in India.

### *Indra Sawhney Case of 1992:*

The Supreme Court while upholding the **27 percent quota** for backward classes, struck down the government notification reserving **10% government jobs** for economically backward classes among the higher castes.

The Supreme Court in the same case also upheld the principle that the combined reservation beneficiaries should not exceed **50 percent of India's population**.

The concept of '**creamy layer**' also gained currency through this judgment and provision that reservation for backward classes should be **confined to initial appointments only and not extend to promotions**.



### **Constitutional (103rd Amendment) Act of 2019**

- ~ Provides 10% reservation in **government jobs** and educational institutions for the “economically backward” in the unreserved category.
- ~ Amends **Articles 15 and 16** of the Constitution
- ~ Empowers the government to provide reservation on the basis of **economic backwardness**.
- ~ This 10% economic reservation is over and above the **50% reservation cap**.





## Landmark Judgements related to Reservation in India.

### *M. Nagaraj vs Union of India 2006:*

A five-judge constitution bench of the Supreme Court delivered its judgment **validating parliament's decision** to extend reservations for SCs and STs to include promotions with **three riders**.

Required the state to provide **proof for the backwardness** of the class benefitting from the reservation, for its inadequate representation in the position/service for which reservation in promotion is to be granted and to show how reservations in promotions would further administrative efficiency.

The judgment soon **gave rise to misgivings** that it failed to recognise that the SCs and STs continued to suffer from centuries of discrimination, by requiring the state to reassess their backwardness in the case of reservations in promotions.

The **critics of Nagaraj** claimed that a five-judge bench erroneously and impliedly overruled a nine-judge bench decision in **Indra Sawhney**, which clearly held that **SCs and STs** are homogenous and **could not be sub-categorised**.







## Landmark Judgements related to Reservation in India.

### *Jarnail Singh vs Lachhmi Narain Gupta 2018:*

Five-judge bench held that Nagaraj's insistence on collection of quantifiable data on **backwardness in relation to the SCs and STs** was **contrary to Indra Sawhney**, and therefore, bad in law.

But the bench approved Nagaraj's insistence on proof for inadequate representation of classes for whom promotional posts are reserved, and on submission of additional proof that efficiency would not be impacted by such reservation, because of **Article 335**.

**Secondly**, the bench in **Jarnail Singh** held that the creamy layer principle is an essential aspect of the **equality code**, and therefore, exclusion of creamy layer while applying the principle of reservation is justified, even in the case of SCs and STs.







# RESERVATION

## Types of Reservation

### Horizontal

Women

Persons with  
disability

### Vertical

Scheduled castes

Scheduled tribes

Other Backward  
classes

Economically  
weaker sections

Unreserved  
classes



## Reservation in Jobs

**Reservation type**

SC, ST, OBC, EWC and other minorities

**Unrestricted**

General, SC, ST, OBC, EWC, other minorities

Priority is given to the reservation category, which includes 33 percent reservation for **Women, Other Minorities women, ST women, SC women, ST Men, SC Men, OBC women, OBC Men, EWC Women, EWC Men**, and only then Open category will be considered.



## Reservation around the World

Reservations aren't just a thing in India. Reservation systems occur in **Nepal, Pakistan, Bangladesh, and Sri Lanka**, to name a few. However, while quotas are uncommon in countries, **affirmative action** is in use all across the world. Affirmative Action is the name given to the reservation system in the **United States**. In many places, racially discriminated groups are given additional numbers to ensure equal representation.

The **reservation policy in Bangladesh was scrapped** in the government services after a **huge protest march by thousands of students** against keeping certain jobs for special group of people. The Prime Minister Hasina suggested this abolition as the students did not want the system.

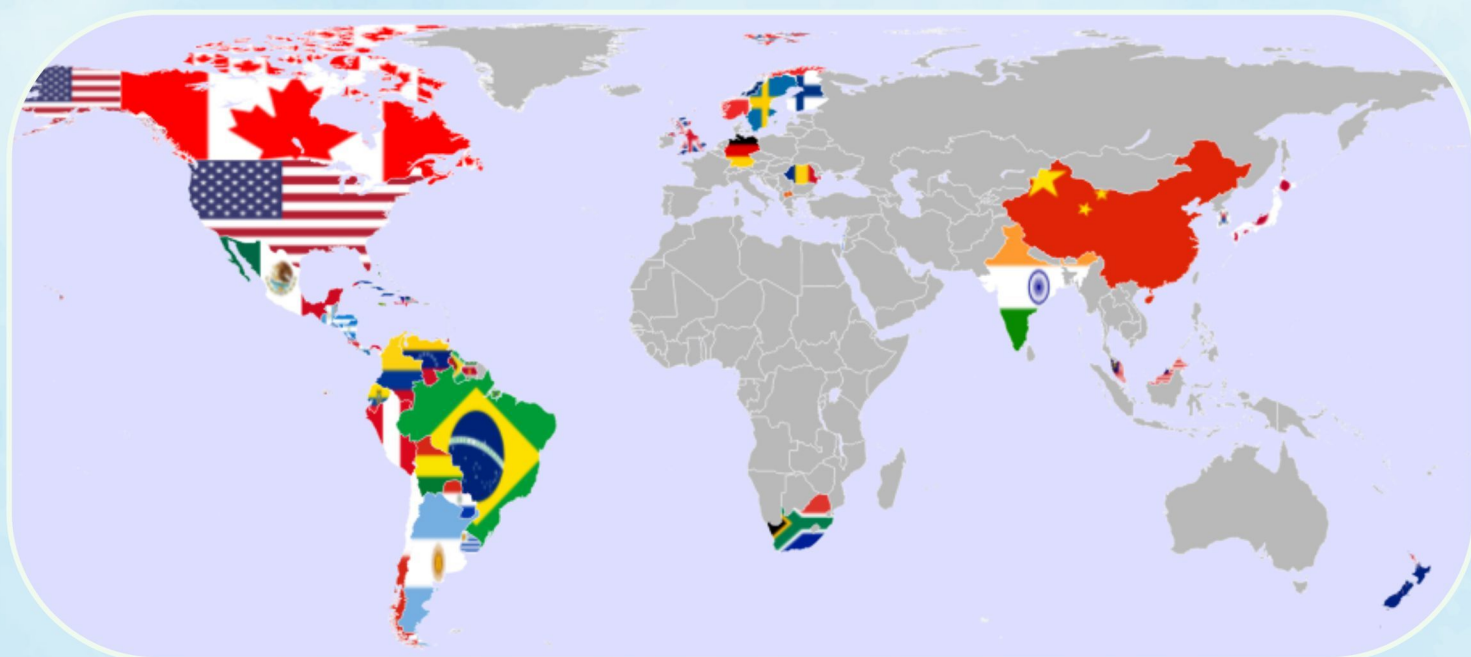
**China's** success is owing to its emphasis on merit and a high-quality education system, which has driven it to compete with Western countries and produce world-class intellectual output. In 2016, China fell behind the United States in terms of the quantity of scholarly papers published, while the quality of the work published was not as high. China has a merit-based '**Thousand Talents**' programme to attract top-quality out-of-country academics with **world-class amenities and wages**.





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## Reservation around the World



Norway

Israel

South Korea

United Kingdom

Finland

Macedonia

Brazil

Japan

Sweden

United States

Canada

Germany

China

Malaysia

South Africa

New Zealand

Romania



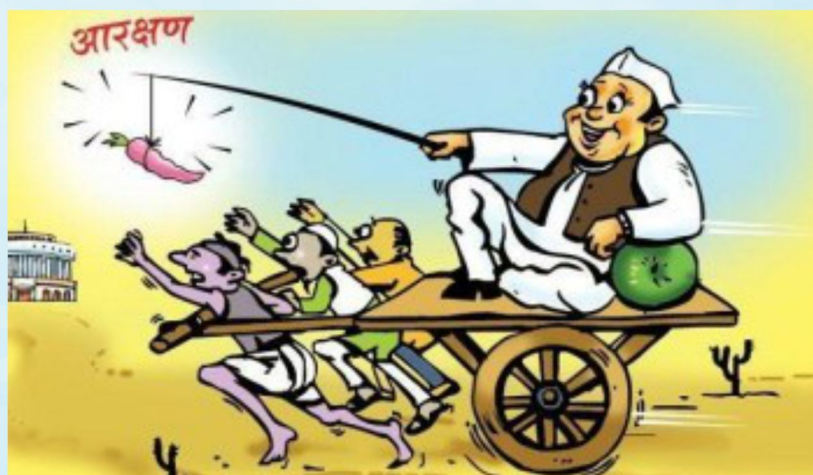
## Objectivity- For and Against

**Resources at stake-** India faces issues like **unemployment, poverty and hunger**.

This **dearth of resources** essential for survival is a serious cause of concern and hence the thought of preference of one section of society over the other in resource allocation is often a ground for conflict.

**Radically opposite views-** Factors like **upbringing, immediate environment/society, historical background, mindset**, etc. people in a diverse country like India tend to have different (often opposing) viewpoints.

When faced against each other, as in the case of reserved and unreserved categories, these might lead to mutual conflicts.







## EWS Reservation

**Economic reservation** just like caste based reservation was introduced with the purpose of providing equality to the economically weaker sections of the society. In 2019, the Indian Parliament passed the **Constitution (One Hundred and Third) Amendment Act, which added Articles 15(6) and 16(6)** to the Indian Constitution, allowing the state to reserve jobs and seats in public services and educational institutions for EWS candidates, respectively. For such reservations, a **10% ceiling has been set**, which is separate from all other reservations made for other groups. The family income, agricultural land, residential house, and plot will determine an individual's economic backwardness. The bill aims to help persons with a family income of less than **Rs. 8 lakh per annum**, farmland of less than **5 acres**, a residential plot of less than 1000 square feet, and a residential plot within **100 yards** of a notified municipality, or 200 yards in the event of a non-notified municipality. The criteria for the EWS category keeps evolving with the level of income/income slab and other indicators of economic disadvantage. This reservation is in addition to the other reserved categories. A maximum limit of 10% reservation can be availed by EWS section. **Chief Secretary Somesh Kumar** stated in the comprehensive guidelines that the benefit of EWS reservation could be obtained by presenting an income certificate issued by a tahsildar. After carefully reviewing all required documents and following the appropriate process, the official who would **issue the certificate would do the same.**





## EWS Reservation

Upper-caste groups in the EWS category (those who do not belong to the Scheduled Caste (SC), Scheduled Tribe (ST), or Other Backward Caste (OBC) groups and hence are not eligible for reservations) are under represented in public jobs and higher education. Because of their financial inability to compete with those who are economically more affluent, the economically weaker sectors of the population have been generally deprived from higher educational institutions and state employment. As a result, it was determined to alter the Indian Constitution in order to ensure that individuals from economically disadvantaged backgrounds have a fair chance of getting higher education and employment in government services. The government of India seeks to create equal opportunities by providing relaxations in education fees and cut off scores in education and public employment. This step is taken to ensure that due to lack of financial resources, student does not face hindrance in acquiring the primary education and motivating them to enroll themselves in educational facilities rather than working as child labour.

There have been multiple debates regarding the income slab set for the EWS classification as the majority of the population lies below the 8 lakh income category. However, this policy is based on economic conditions which aims at solving the creamy layer issue with India.

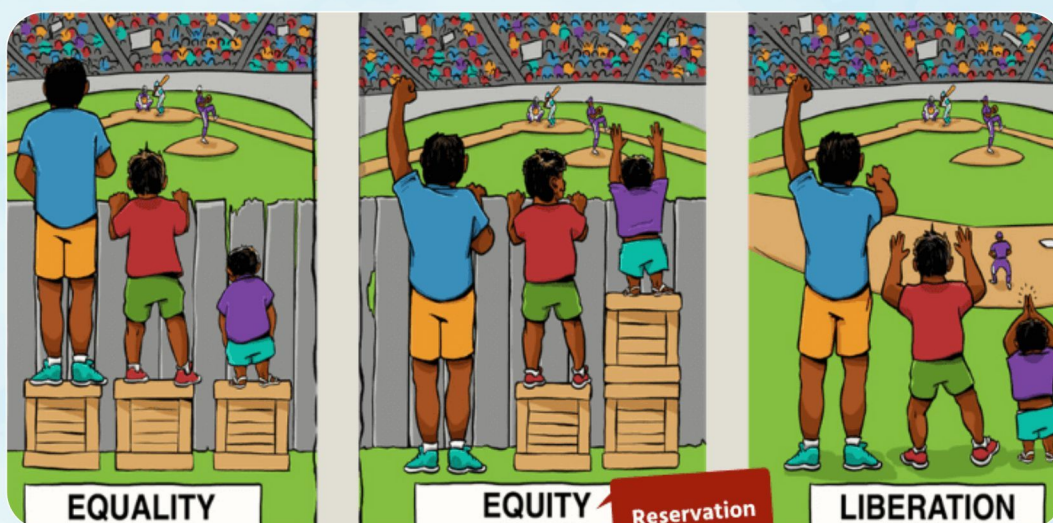




## Conclusion

The debate of reservation is a serious one with no ‘**one size fits all**’ opinion. It is absolutely necessary to listen and understand conflicting viewpoints with an objective approach. As discussed the necessity for reservation is undeniable, but whether the aid reaches the ailing and not the already healed ones is a cause of concern among the populations.

In order to create awareness about the topic there is a need for **proper and well-informed discussions**. Legitimate, rational points need to reach the common masses who can then form an **informed opinion** about the provision. Without such discussions the topic remains at a risk of **potential ignition** point in the society.





## Why is there a debate?

We have to look forward to this issue by being neutral. The pros and cons will not arise and create bias towards a concept. Value and interest neutral.

**Positive equality** was followed to ensure equality in opportunities to uplift the needy. **LEVEL PLAYING FIELD.**

Resources are limited: The allocation of resources is vital and the policies related to it become debatable.

**Radically opposite views:** The groups are extremely divided and the opinion within it provides a one sided view. The discussions are not based on facts but on emotional outlook towards the issue.

**Confirmation bias, selective avoidance, biased assimilation.**

-Key voting tactic

- **95%** of India's population is somewhere constituted in the reserved category.

The only solution?

***Increasing the resources.***



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