

3. Reservation in India – Polity

India's reservation policy, constitutionally capped at 50% by the judiciary, is under strain from political demands for expansion and a legal debate on extending the 'creamy layer' principle from OBCs to SC/STs. Key issues include massive backlogs in reserved posts and the unequal distribution of benefits within backward communities.

Foundational Principles of Reservation in India

The policy of reservation is rooted in the constitutional commitment to establishing an egalitarian society by correcting historical injustices.

Constitutional Provisions –

Article 15 – This article prohibits discrimination by the state on grounds of religion, race, caste, sex, or place of birth. Crucially, its clauses allow the state to make special provisions for the advancement of any Socially and Educationally Backward Classes (SEBCs), and for Scheduled Castes (SCs) and Scheduled Tribes (STs).

Article 16 – This guarantees equality of opportunity for all citizens in matters of public employment. However, it also empowers the state to make provisions for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the state, is not adequately represented in public services.

Current Reservation Structure at the Centre – The central government follows a multi-layered quota system, which has evolved through various constitutional amendments and judicial pronouncements.

1. **Other Backward Classes (OBCs)** – 27%
2. **Scheduled Castes (SCs)** – 15%
3. **Scheduled Tribes (STs)** – 7.5%
4. **Economically Weaker Sections (EWS)** – 10%

Total Quota – This adds up to 59.5%, exceeding the judicially prescribed 50% ceiling. The reservation percentages often vary in different states based on their specific demographic compositions.

The Judicial Ceiling (50% Limit) – This is a judicially imposed limit on reservations, not explicitly mentioned in the Constitution. It was first suggested in the M.R. Balaji case and firmly established in the landmark Indra Sawhney judgment. The Supreme Court held that reservations should not exceed 50% to maintain a balance between affirmative action and the principle of equality, allowing exceptions only in "extraordinary circumstances."

The 'Creamy Layer' Concept – Introduced by the Supreme Court in the Indra Sawhney (1992) judgment, this principle is designed to ensure that the benefits of reservation flow to the most deserving. It mandates the exclusion of the socially and economically advanced sections from the ambit of reservation.

Application – It is currently applicable only to OBCs.

SC/ST Debate – The extension of the creamy layer concept to SCs and STs is a contentious issue. The matter is pending before the Supreme Court in cases like Davinder Singh (2024), with the Centre currently opposing its application to these groups.

Recent Developments and Political Context

The debate around reservation has recently intensified due to political promises and ongoing judicial deliberations.

Bihar Opposition Promise – Tejashwi Yadav, a prominent political leader in Bihar, has pledged to implement 85% reservation if his party comes to power, reigniting the debate on breaching the 50% ceiling.

Supreme Court's Stance on Creamy Layer – The Supreme Court has issued a notice to the Central Government regarding the demand to introduce the creamy layer principle for SC/ST reservations, keeping the judicial scrutiny on the issue active.

The Role of the Judiciary in Shaping Reservation Policy

The Supreme Court has played a pivotal role in interpreting and defining the contours of India's reservation policy through a series of landmark judgments.

M.R. Balaji v. State of Mysore (1962) – The Court ruled that reservations must be "reasonable" and should not be excessive, introducing the 50% cap as a guiding principle.

State of Kerala v. N.M. Thomas (1975) – This case marked a philosophical shift. The Court moved towards the concept of substantive equality, viewing reservations not as an exception to the rule of equality but as a fundamental aspect of it, necessary to achieve equality in practice.

Indra Sawhney & Ors. v. Union of India (1992) – Famously known as the Mandal Commission case, this judgment is the cornerstone of modern reservation jurisprudence. It upheld the constitutional validity of the 27% quota for OBCs. Reaffirmed the 50% ceiling on total reservations, allowing it to be breached only in extraordinary situations. Crucially introduced the concept of the creamy layer to exclude the affluent among OBCs.

Janhit Abhiyan v. Union of India (2022) – The Court upheld the constitutionality of the 10% EWS quota. It clarified that the 50% ceiling applies only to reservations for backward classes (SCs, STs, OBCs) and not to the EWS quota, which operates as a separate vertical reservation.

Davinder Singh v. State of Punjab (2024) – During the hearing, judges urged the Central Government to consider extending the creamy layer concept to SCs/STs to ensure equitable distribution of benefits within these communities. However, the Centre rejected this suggestion.

Critical Issues in the Contemporary Reservation Debate

The current discourse on reservation is centered on several complex and interconnected issues.

Expansion of Reservation (e.g., 85%) –

Pros – Proponents argue that such high quotas are necessary to reflect the caste demographics of the population and address centuries of historical exclusion, thereby ensuring proportional representation.

Cons – Opponents argue that this may violate the fundamental principle of equality under Article 14, drastically shrink the share of open competition seats, and potentially compromise merit and efficiency in public services.

Application of Creamy Layer to SCs/STs –

Pros – This would ensure that benefits are not cornered by dominant and well-off sub-castes, allowing reservation to reach the most deprived and marginalized individuals within the SC/ST communities.

Cons – Critics argue that caste-based stigma and discrimination are not erased by economic advancement. Furthermore, with a large backlog of reserved vacancies already existing, excluding any section might weaken the overall protective framework for these historically oppressed groups.

Backlog and Representation Gaps – A major failure in the implementation of reservation policy is the presence of massive backlogs. Data shows that 40–50% of seats reserved for SCs, STs, and OBCs remain unfilled in many Central government departments and institutions. The Rohini Commission, tasked with the sub-categorization of OBCs, found that reservation benefits are concentrated in a small number of dominant castes (~25%), while nearly 1,000 OBC communities had zero representation in government jobs and educational institutions.

The Path Forward – Reforming and Rationalizing Reservation

Addressing the complexities of the reservation system requires a multi-pronged, evidence-based approach.

Conduct a National Caste Census – A comprehensive and credible caste census (proposed for 2027) is essential to provide an empirical basis for rationalizing reservation percentages and making informed policy decisions.

Implement Sub-Categorisation –

The recommendations of the Rohini Commission for sub-categorizing OBCs should be implemented to ensure a more equitable distribution of the 27% quota.

A similar two-tier or multi-tier system could be explored for SCs and STs to address intra-group inequalities.

Expand the Creamy Layer Debate – A nuanced national debate on extending the creamy layer principle to SCs/STs is needed. This should aim to balance the goal of equitable distribution with the need to ensure continued protection against caste-based stigma.

Focus on Skill Development and Job Creation – Reservation alone cannot solve the problem of backwardness. It must be complemented by a robust focus on skill development, quality education, and employability to prepare candidates for reserved and unreserved positions in both the public and private sectors.

Adopt a Balanced Approach – The ultimate goal should be to create a balanced policy that blends the principle of substantive equality with the protection of merit and efficiency, preventing social fracture and fostering inclusive growth.

Source – [https - //www.thehindu.com/news/national/should-reservations-exceed-the-50-cap-explained/article70007921.ece](https://www.thehindu.com/news/national/should-reservations-exceed-the-50-cap-explained/article70007921.ece)

