



Affirmative Action and Reservation: Scope, Implementation and Challenges

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Abstract- This chapter explores affirmative action and reservation policies as transformative social interventions aimed at rectifying systemic discrimination and promoting equitable participation in India. It examines the theoretical foundations, practical applications, and inherent complexities of these mechanisms, including the constitutional provisions, legislative frameworks, and judicial interpretations. This chapter highlights various implementation strategies, including rigid quota systems and flexible proportional representation models. It also evaluates administrative mechanisms, beneficiary identification processes and monitoring systems. Despite significant achievements, such as enhanced educational enrolment, increased workforce diversity, and improved political participation among historically disadvantaged groups, implementation faces challenges such as inadequate infrastructure, bureaucratic inefficiencies, and social resistance. The chapter also addresses emerging issues, such as privatization impacts, technological disruptions, and globalization effects on traditional affirmative action frameworks. It concludes with recommendations for policy refinement, emphasizing the need for dynamic, context-sensitive frameworks that advance substantive equality while addressing evolving socioeconomic realities.

Keywords: Affirmative action, Social Justice, Marginalized Communities, Quota System, Substantive Equality,

I. Introduction

Affirmative action and reservation policies are among the most ambitious efforts by modern societies to correct deep-rooted social imbalances. These measures are designed to address past wrongs, create fairer opportunities for marginalized groups, and build a more inclusive society. Though the terms are sometimes used to mean the same thing, there is an important difference: “affirmative action” usually includes a wide range of support measures, while “reservation” specifically refers to setting aside a fixed share of seats, jobs, or positions for certain communities.

Looking back, we see that countries around the world have turned to such policies to tackle systemic inequality. In the United States, affirmative action took shape during the 1960s civil rights movement, aiming to reduce racial discrimination. South Africa adopted comparable strategies after apartheid to heal centuries of racial division. India’s reservation system, however, has even older origins it began under colonial rule and was later woven into independent India’s Constitution to confront caste discrimination, a problem that goes back thousands of years. The main goals of these policies are straightforward: to make sure underrepresented groups get access to education, jobs, and political power, and to move toward a fairer society. They’re built on the idea that simply declaring everyone “equal” isn’t enough to undo generations of disadvantage.



As philosopher John Rawls wisely noted, real justice sometimes means giving a leg up to those who started far behind.

India's Constitution lays a strong foundation for these efforts. Article 15 forbids discrimination based on religion, caste, gender, or place of birth, but also allows the government to make special provisions for vulnerable groups. Article 16 promises equal opportunity in government jobs yet permits reservations for backward classes. Article 46 guides the state to protect the educational and economic interests of Scheduled Castes and Tribes. Over time, court rulings have further clarified and strengthened these provisions, creating a detailed legal structure that supports affirmative action.

II. Scope of Affirmative Action and Reservation

Since India gained independence, reservation policies have grown in scope and complexity. They originally focused on three main groups: Scheduled Castes (SCs), who endured the practice of untouchability; Scheduled Tribes (STs), often isolated Indigenous communities; and Other Backward Classes (OBCs), made up of castes that are socially and educationally disadvantaged but not included under SC/ST categories. In recent years, the reach of reservation has broadened. It now includes economically weaker sections (EWS) from non-reserved castes, women in local government, and people with disabilities. A major milestone was the 103rd Constitutional Amendment in 2019, which introduced a 10% quota for EWS candidates. This move signaled a shift from caste-based reservations to also considering economic hardship and sparked fresh debate over what fairness should look like. Reservation isn't limited to just one area. It applies across sectors that are vital for empowerment and mobility: -

- In education, from village schools to top universities and professional institutes.
- In government jobs, at both national and state levels.
- In politics, where certain constituencies are reserved to ensure SC/ST representation in legislatures.
- Even the judiciary has faced calls for more diversity, though formal quotas are avoided to protect its independence.

The system is further complicated by two types of reservation: vertical and horizontal. Vertical reservation sets aside seats for specific groups like SC, ST, and OBC. Horizontal reservation works within those categories to include other kinds of disadvantage such as being a woman, a person with disability, or a former soldier. This two-tiered approach tries to be more inclusive but also makes the system harder to manage. New changes continue to stir discussion. The EWS quota, for example, opened reservations to poor individuals from upper castes for the first time. There's also talk of extending reservations to the private sector, though how that would work in practice remains unclear. These ongoing changes show that India is still wrestling with a difficult question: how to honor historical justice while adapting to today's economic realities.



III. How Reservations Work in Practice

Putting reservation policies into action is a complex process. It involves laws, multiple government bodies, and systems to check that rules are being followed. The power to create reservations comes directly from the Indian Constitution specifically Articles 15(4) and 16(4) as well as later amendments. These are supported by detailed laws and orders, such as the Central Educational Institutions (Reservation in Admission) Act of 2006, and similar laws at the state level.

Several key institutions are responsible for making reservations happen:

- The UPSC (Union Public Service Commission) and SSC (Staff Selection Commission) apply reservation rules in hiring for central government jobs.
- Universities and colleges follow guidelines from the University Grants Commission (UGC) for admissions.
- Each state has its own Backward Classes Commission that identifies which groups should qualify for reservations.
- The National Commissions for Scheduled Castes and Scheduled Tribes act as watchdogs they monitor protections, investigate complaints, and ensure rights are upheld.

Reservation quotas are divided as follows: -

- 15% for Scheduled Castes (SCs)
- 7.5% for Scheduled Tribes (STs)
- 27% for Other Backward Classes (OBCs)
- An additional 10% for Economically Weaker Sections (EWS) from general categories

These percentages apply to central government jobs and educational institutions. State governments can also have their own reservation policies, but the Supreme Court has generally set a 50% cap on total reservations, with exceptions allowed in special cases.

Oversight is handled by different ministries:

- The Ministry of Social Justice and Empowerment looks after SCs, OBCs, and persons with disabilities.
- The Ministry of Tribal Affairs is responsible for ST welfare.
- Government departments submit annual reports to track how well reservations are being implemented.

Still, many departments fall short of their reservation targets, showing that monitoring alone isn't always enough to ensure compliance. Court rulings have played a huge role in shaping how reservations work. The landmark Indra Sawhney case (1992), also known as the Mandal Commission case, established several key principles: -

- A 50% limit on total reservation (with possible exceptions)
- The idea of a "creamy layer" meaning better-off members of backward classes should not avail reservation benefits
- That reservations apply not only to entry-level jobs but also to promotions
- This and later judgments have created a rich and complicated legal framework around affirmative action.

IV. Challenges and Criticisms



Even after decades of effort, reservation policies continue to face serious challenges and criticism. One of the most common criticisms is the perception of reverse discrimination. Many people from non-reserved categories believe they are unfairly denied opportunities despite having the required qualifications. This has led to social tension and sometimes even protests, especially around reservations in top universities and highly sought-after jobs. There's also a widespread belief that reservations compromise merit though studies show that students and employees from reserved categories generally perform well when given adequate support. The "creamy layer" debate touches on a core tension within reservation policy. On one hand, excluding wealthier individuals from backward classes helps target benefits to those who need them most. On the other, it mixes economic status into what was originally a social justice tool, making implementation complicated who qualifies as "creamy," and based on what income or social criteria?

This has led to larger questions: should reservations be based only on economic background instead of caste? These debates reflect deeper disagreements about what fairness really means. Regional differences also lead to uneven implementation. States with stronger caste hierarchies, like many in the North, often apply reservations more broadly. Southern states, with a longer history of reservations, show different patterns of implementation. Even within states, benefits are often skewed urban and more developed regions within reserved categories tend to gain more than poorer, rural areas. Political misuse is another major concern. Reservations are sometimes announced right before elections, leading to accusations that they are used as vote-catching tools rather than genuine social justice measures. The timing of the 2019 EWS reservation, right before national elections, drew such criticism even though the policy itself aimed to help economically vulnerable groups.

Finally, administrative challenges and poor data make effective implementation difficult. There is still a lack of accurate and updated caste-wise population data, which makes it hard to design quotas that truly reflect ground realities. A major, practical problem is that the systems meant to track these policies often don't work well. It's frequently unclear whether the reserved seats and jobs are actually going to the people they were meant for, or if they're left empty because the process is too complicated or slow. Furthermore, because there's a lack of good, reliable data on how well these policies are actually working, it's very difficult for the government to make smart, evidence-based decisions on how to improve them. Without clear information on what's working and what isn't, fixing the system becomes a matter of guesswork rather than solid policy.

V. A Global Look at Affirmative Action

Looking at affirmative action around the world shows that while the goal of creating fairness is universal, each country adapts its approach to fit its own history and social structure.

United States: Affirmative action in the U.S. was built not through the constitution, but through presidential orders and court rulings. It started in the 1960s



with rules requiring government contractors to actively avoid discrimination. This grew into policies that considered race in college admissions and hiring to counteract historical disadvantages. However, recent Supreme Court decisions have significantly limited the use of race-based quotas in education, shifting the focus toward considering how an individual's racial background has shaped their life experiences.

South Africa: After the end of apartheid, South Africa implemented strong affirmative action policies. Their Employment Equity Act uses numerical targets (rather than fixed quotas) to ensure fair representation in all job sectors. They also have a broader policy focused on economic empowerment, which includes promoting Black ownership of businesses and management roles. This holistic approach shows how affirmative action can extend beyond just hiring to transform the entire economy.

Brazil: Brazil took a different path, introducing racial quotas in public universities and government jobs. Its system is interesting because it acknowledges the country's complex and mixed racial identity, allowing individuals to self-identify their race. Brazil's experience highlights the challenges of designing these policies in societies where racial categories are less rigidly defined than caste in India or race in the U.S.

These global examples offer important lessons for India: the need for periodic review from the U.S., the value of a broad economic strategy from South Africa, and insights on handling complex social identities from Brazil. However, you can't simply copy and paste another country's model. India's caste system, its constitutional setup, and the sheer scale of its policies affecting over a billion people are unique. Any solution must be designed specifically for the Indian context, while still learning from what has worked elsewhere.

VI. Current Debates and the Future of Reservation

The conversation around reservations is constantly evolving as society and the economy change. Should the Private Sector Have Reservations? As government jobs become a smaller part of the economy, there is a growing debate about extending reservations to private companies. Supporters argue that for reservations to remain effective for economic upliftment, they must include the sector where most new jobs are created. Opponents worry about forcing private businesses to comply and the potential impact on competition. Some states have tried to make laws for this, but the issue is still tangled in legal and practical challenges.

Including New Groups: The understanding of who is disadvantaged continues to expand. The 2019 Transgender Rights Act, for example, includes provisions for reservation in education and jobs for the transgender community. Other groups, like economically vulnerable Muslims and certain nomadic tribes, are also advocating for recognition, pushing the boundaries of the current system.

The Never-Ending "Merit" Debate: The core philosophical argument continues. Critics insist that reservations compromise merit and hurt efficiency. Supporters argue that our definition of "merit" is often biased toward those who already



have privilege, and that diversity itself is a valuable asset that leads to better decision-making and innovation. A growing body of research actually supports this, showing that diverse groups often solve complex problems more effectively.

A Call for Smarter, Data-Driven Policies: There is a strong push to make reservation policy more scientific. This includes:

- Collecting better data to see if the policies are actually working.
- Regularly reviewing which groups still need help.
- Even discussing "sunset clauses" plans to gradually end reservations once their goals are met. While the 2011 Socio-Economic and Caste Census was a step in this direction, its data hasn't been used to its full potential yet.

Technology as a Tool: New technology offers promising ways to fix old problems. Digital systems for verifying caste certificates, online portals for application, and data analytics to track implementation could make the process smoother and more transparent. The key challenge is ensuring these high-tech solutions are accessible to the rural and marginalized communities they are meant to serve.

VII. Conclusion

Affirmative action and reservation policies are among India's most profound and far-reaching efforts to create a more just society. For over seventy years, they have played a vital role in opening doors for marginalized communities helping to build a visible Dalit and Adivasi middle class and enabling greater social mobility than would have been possible otherwise. A constant tension exists between the goals of fairness (equity) and performance (efficiency). While there may be short-term trade-offs, the long-term benefits of a more inclusive and stable society are immense. The key is to design smarter policies that maximize fairness while minimizing any potential downsides through better targeting and execution.

Looking ahead, the system needs to evolve in several key ways:

- From rigid identity-based categories to a more nuanced view that recognizes overlapping disadvantages (like a poor, rural woman from a backward caste).
- From just counting how many people get in (representation) to ensuring they actually succeed and advance (meaningful outcomes).
- From focusing only on government jobs and education to finding ways for the private sector to participate, as it's now the main engine of job growth.
- From being seen as a permanent right to being a temporary support system, with clear goals for when it will no longer be needed.

The ultimate goal of reservation is to create a society where it is no longer necessary. True success will come when we have addressed the root causes of inequality through quality education, healthcare, economic development, and rural empowerment making these corrective measures obsolete. In the end, affirmative action remains crucial for India's development and harmony. Its methods must adapt to new realities, balancing the need to correct historical wrongs with the demands of a modern economy. With thoughtful, evidence-based reforms, these policies can continue to promote justice and inclusion for generations to come.



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