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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

RESERVATION POLICIES IN INDIA

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Abstract

Reservation policies in India represent one of the most contested yet indispensable instruments of affirmative action designed to achieve social justice, equity, and inclusive governance. Rooted in the historical legacy of caste-based exclusion and socio-economic disparities, reservations were envisioned by the framers of the Constitution as a corrective measure to ensure adequate representation of Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). Over time, the ambit has expanded to include economically weaker sections (EWS) and women in local governance, reflecting the evolving dynamics of Indian democracy.

The paper traces the **historical background** of reservations, from pre-independence debates such as the Poona Pact to the Constituent Assembly's deliberations. It then examines the **constitutional framework**, highlighting key provisions under Articles 14, 15, 16, 17, and 46, along with landmark amendments that shaped the scope of affirmative action. A critical discussion of **judicial pronouncements**—from *Champakam Dorairajan* and *M.R. Balaji* to *Indra Sawhney*, *M. Nagaraj*, and *Janhit Abhiyan* (EWS case)—illustrates how courts have balanced equality with social justice.

The study further categorizes types of reservations—caste-based, economic, gender-oriented, and minority-based—while engaging with the **challenges and criticisms** such as the creamy layer debate, perpetuation of caste identities, efficiency concerns, and backlash from non-beneficiaries.

Finally, the paper argues for a **periodic review of reservation policies**, combining caste and economic criteria, and focusing on education and capacity-building as sustainable alternatives. It concludes that while reservations remain constitutionally and morally justified, India must gradually transition towards **substantive equality**, reducing dependence on quotas in the long run.

INTRODUCTION

Reservation in India is a form of affirmative action used by the State to curb the inequalities social, economic, and educational inequalities that have historically marginalized a certain community. Reservation includes policies that stipulates preferential treatment by the State in matters of education, public employment, and political representation, hence reservation directly refers to 'preferential treatment' to disadvantaged sections of society which include primarily Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC) and most recently Economically Weaker Sections (EWS). Reservation is not charity, it is a commitment by the State to deal with those inequalities in our social fabric of our country which are rooted in systemic or structured pattern of discrimination based on caste/ethnicity. Reservation is meant to compensate for the unequal treatment and lived experiences of those sections of society that materially suffered disabilities and loss caused by absencing their due in every healing process of society over centuries. Reservation is not an act of granting a favour rather a basic foundation of the constitutional mechanism to fulfill its constitutional Promise of substantive equality in Preamble, articles 14, 15, 16 and 46.

Objectives of Reservation: Equity, Social Justice, and Representation

The primary objective of the reservation is equity and social justice in a society historically divided along caste lines.

Equity: Reservation acknowledges that formal equality (the idea of treating unequals equally) fails to address injustice. It wants to afford equitable opportunities to communities that suffered systemic disadvantages.¹

Social Justice: Reservation's purpose is to undo the hierarchy and allow historically oppressed groups access to education, employment, and politics- giving them dignity and self-respect.²

Representation: Reservation allows for representation of disadvantaged groups in legislatures, public employment, and education.³ This empowers marginalized groups and makes governance more representative of India's social diversity.

¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, New Delhi, 2004) p. 93.

² Justice P.B. Gajendragadkar, "Social Justice and Indian Democracy" (1964) 6(3) *Journal of the Indian Law Institute* 323.

³ Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Oxford University Press, New Delhi, 1984) p. 237.

Controversies Around Reservation

Issues Surrounding Reservation

Despite its socially beneficial objectives, reservation provisions remain one of the most contested and contentious elements of Indian polity.⁴ Several issues remain:

Merit v/s Social Justice: Critics of reservation suggest that it undermines efficiency and merit-based access to opportunity, while supporters suggest that social justice must be viewed as equal to meritocracy in any democratic society.⁵

Caste Reinforcement: Reservation is a scheme that was initially intended to last for a temporary period; however, it is often critiqued for reinforcing caste identities rather than eliminating caste.⁶

Creamy Layer: Reservations that are intended to provide marginalised individuals with access to opportunity are often gets a disproportionate benefit from reservation within backward communities, while the most marginalised and stigmatised individuals are left without benefit.⁷

Reverse Discrimination: Communities that are excluded from reservation often view it as discriminatory # but also, some upper caste individuals advocate for a quota based on socioeconomic criteria (e.g., EWS reservation)⁸

Judicial-Political Disputes: Courts have repeatedly sought to limit the extent of reservation by creating a ceiling on its extent (e.g., 50% cap), whereas political consensus and expediency frequently lead governments to expand quotas beyond constitutional limits.⁹

Thus, reservation in India represents a delicate balancing act between competing constitutional values—formal equality and substantive equality, merit and social justice, individual rights and group rights.¹⁰

⁴ A. M. Rajasekhariah, “Reservation Policy in India: Conflicts and Compromises” (1996) 38(29) *Economic and Political Weekly* 1861

⁵ *Indra Sawhney v. Union of India*, AIR 1993 SC 477.

⁶ *M.R. Balaji v. State of Mysore*, AIR 1963 SC 649.

⁷ *Ashoka Kumar Thakur v. Union of India*, (2008) 6 SCC 1.

⁸ *Janhit Abhiyan v. Union of India*, (2022) 10 SCC 1.

⁹ *State of Kerala v. N.M. Thomas*, AIR 1976 SC 490.

¹⁰ B. Shiva Rao, *The Framing of India's Constitution: A Study* (Indian Institute of Public Administration, New Delhi, 1968) Vol. IV, p. 227

Historical Background

Pre-Independence Developments

The concept of reservation or preferential treatment for disadvantaged groups is not a post-independence phenomenon; it has historical origins in the colonial and pre-colonial past of India.

India's caste system had institutionalized social and economic inequalities of tremendous proportion, preventing broad sections of society, particularly the so-called "untouchables", from education, employment, and social mobility.¹¹ Awareness of these structural barriers led some princely states to implement programs to uplift backward communities even before independence. For example, the princely state of Mysore implemented government employment reservations in 1921, and later similar policies were put in place in Kolhapur, Travancore, and Baroda.¹² These policies were intended to undermine Brahminical hegemony in administration, as much as they were designed to be inclusive.

One of the notable pre-independence developments was the Poona Pact of 1932.¹³ This was a document signed between Mahatma Gandhi and Dr. B.R. Ambedkar. The British Government's Communal Award made provisions for separate electorates for depressed classes, which Gandhi objected to based on principles of national unity, and sought a compromise with Ambedkar. While the resulting Pact abandoned separate electorates, it did guarantee reserved seats for depressed class (Scheduled Castes) representatives in provincial legislatures within the general electorate.¹⁴ This represents an early institutionalization of the principle of political reservation for disadvantaged communities, and laid the basis for constitutional provisions that would follow.

The pre-independence era established two crucial principles: (a) caste-based discrimination required corrective measures, and (b) political representation through reservation was essential for social justice.¹⁵

¹¹ Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Oxford University Press, New Delhi, 1984) p. 25.

¹² A. R. Desai, *Social Background of Indian Nationalism* (Popular Prakashan, Bombay, 1948) p. 312.

¹³ Christophe Jaffrelot, *Dr. Ambedkar and Untouchability: Analysing and Fighting Caste* (Permanent Black, New Delhi, 2005) p. 61.

¹⁴ The Poona Pact, 24 September 1932, reprinted in B. Shiva Rao (ed.), *The Framing of India's Constitution: A Study* (Indian Institute of Public Administration, New Delhi, 1968) Vol. II, p. 205.

¹⁵ M.P. Jain, *Indian Constitutional Law* (8th ed., LexisNexis, Gurgaon, 2018) p. 1056.

Constituent Assembly Debates

The issue of reservation became one of the most contentious issues when the Constituent Assembly of India met to draft the Constitution (1946–49). B.R. Ambedkar, the Chair of the Drafting Committee, argued vehemently that formal equality was insufficient to overcome centuries of discrimination, and that affirmative action was necessary to achieve substantive equality.¹⁶

There are two general understandings of the Assembly debates. On the one hand, members such as Ambedkar and Jagjivan Ram broadly support reservation in education, employment and legislatures for scheduled castes and scheduled tribes, declaring that "social justice can be achieved only when political democracy is reformed". On the other hand, some members were apprehensive that perhaps too many reservations could ruin merit and social cohesion. K.M. Munshi, for instance, noted that we must "limit reservation so that it does not become a permanent feature of Indian society".

The Constituent Assembly sought middle ground. It incorporated Articles 15(4), 16(4) and 46 future provision for scheduled castes and scheduled tribes and for "socially and educationally backward classes" by making special provisions.¹⁷ Modestly sheer use of reservation would be envisioned as temporary, starting from an initial period of ten years for political representations in legislatures (Article 334).¹⁸

Constitutional Framework

The Indian Constitution incorporates both equality principles and the mechanism of protective discrimination. The framers of the Constitution appreciated the fact that formal equality could not alone address the already entrenched socio-economic inequalities. Therefore, while providing equality; the Constitution allowed the State to make special provision for disadvantaged groups.

Article 14 provides for equality before the law and equal protection of the laws.¹⁹ However, the Supreme Court has ruled consistently that, for equality under Article 14 to be achieved, only reasonable classification and affirmative action is justified, that classification must be by

¹⁶ Constituent Assembly Debates (CAD), Vol. VII, 6 December 1948, Speech of Dr. B.R. Ambedkar, p. 731.

¹⁷ Constitution of India, Arts. 15(4), 16(4), 46.

¹⁸ Constitution of India, Art. 334.

¹⁹ Constitution of India, Art. 14.

intelligible differentia, which is rationally related to the objective it is designed to achieve.²⁰ This opened the door to the constitutionally valid classification of caste-based reservations.

Article 15 forbids discrimination to be on the grounds of religion, race, caste, sex, or place of birth.²¹ However Article 15(4), added by the First Constitutional Amendment (1951), allows the State to make special provision for advancement of socially and educationally backward classes, Scheduled Caste, and Scheduled Tribes.²² Later, Article 15(5) (by Ninety-Third Amendment 2005) extended those enabling powers for reservations in private than unaided educational institutions, less minority institutions.²³

Article 16 provides equality of opportunity in public employment, but Article 16(4) creates an exception for reservation in appointments/posts for backward classes who are not adequately represented in State services.²⁴ There are also further sub-clauses like Article 16(4A) (inserted by the Seventy-Seventh Amendment, 1995) regarding reservation in promotions with consequential seniority for SCs and STs, and Article 16(4B) (Eighty-First Amendment, 2000), allowing the carry-forward of reserved vacancies, if not filled.²⁵

Article 17 abolishes untouchability and prohibits its practice in any form.²⁶ While it is not a reservation clause per se, it provides the moral and constitutional basis for affirmative action, in that it terminates caste-based discrimination.

Article 46, a part of the Directive Principles of State Policy (DPSPs), directs the State to promote, through affirmative action, the educational and economic interests of weaker sections, particularly SCs and STs and to protect them from social injustice and exploitation.²⁷ Article 46 is non-justiciable in that it has guided the development of affirmative action measures as well as influences how the judiciary interprets reservations.

²⁰ State of West Bengal v. Anwar Ali Sarkar, AIR 1952 SC 75.

²¹ Constitution of India, Art. 15(1).

²² Constitution (First Amendment) Act, 1951.

²³ Constitution (Ninety-Third Amendment) Act, 2005.

²⁴ Constitution of India, Art. 16(4).

²⁵ Constitution (Seventy-Seventh Amendment) Act, 1995; Constitution (Eighty-First Amendment) Act, 2000.

²⁶ Constitution of India, Art. 17.

²⁷ Constitution of India, Art. 46.

Directive Principles and Preamble

The Preamble to the Constitution encompasses Justice—social, economic, and political; Liberty; Equality; and Fraternity. These principles comprise the values that underpin reservations, as they aim to construct India as a meaningful democracy where all sections can engage with dignity and equality.²⁸

The Directive Principles of State Policy (Part IV) complements this vision by guiding the State to promote distributive justice. Together with Article 46, Articles 38 (promotion of welfare of people and diminishing inequalities) and 39 (to secure livelihood, ensure equal pay, economic justice) represent a variety of affirmative action measures.²⁹ The Preamble and the DPSPs together also lend credibility to an understanding of reservations as instruments of social engineering and inclusive governance.

Amendments

- 1. First Amendment, 1951:** Inserted Article 15(4) in response to *State of Madras v. Champakam Dorairajan*, which had struck down caste-based reservations in education.³⁰
- 2. Seventy-Seventh Amendment, 1995:** Added Article 16(4A), enabling reservation in promotions for SCs and STs.³¹
- 3. Eighty-First Amendment, 2000:** Introduced Article 16(4B), allowing carry-forward of unfilled reserved vacancies.³²
- 4. Eighty-Fifth Amendment, 2001:** Extended Article 16(4A) to grant *consequential seniority* in promotions for SCs and STs.³³
- 5. Ninety-Third Amendment, 2005:** Inserted Article 15(5), providing for reservation in private unaided educational institutions, excluding minority institutions.³⁴
- 6. One Hundred and Third Amendment, 2019:** Introduced *10% reservation for Economically Weaker Sections (EWS)* by amending Articles 15(6) and 16(6), thus extending affirmative action beyond caste-based criteria to purely economic grounds.³⁵

²⁸ Preamble, Constitution of India.

²⁹ Constitution of India, Arts. 38–39.

³⁰ *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226.

³¹ Constitution (Seventy-Seventh Amendment) Act, 1995.

³² Constitution (Eighty-First Amendment) Act, 2000.

³³ Constitution (Eighty-Fifth Amendment) Act, 2001.

³⁴ Constitution (Ninety-Third Amendment) Act, 2005.

³⁵ Constitution (One Hundred and Third Amendment) Act, 2019.

Judicial Pronouncements

State of Madras v. Champakam Dorairajan (1951)

This was the first major case on reservation. The Madras Government had issued an order providing caste-based allocation of seats in educational institutions. The Supreme Court struck down the order, holding that it violated **Article 29(2)**, which prohibits denial of admission to state institutions on grounds of religion, race, caste, language, etc.³⁶ The Court emphasized that the Constitution guarantees equality and does not permit communal quotas. This judgment led to the **First Constitutional Amendment (1951)**, inserting **Article 15(4)** to allow special provisions for backward classes.³⁷

M.R. Balaji v. State of Mysore (1963)

The State of Mysore reserved 68% of seats in medical and engineering colleges for backward classes. The Court struck it down, holding that reservation cannot exceed **50%** except in extraordinary circumstances.³⁸ It also ruled that caste cannot be the *sole criterion* for identifying backwardness; educational and social factors must be considered. This case laid the foundation of the **50% ceiling rule** and stressed the need for a balanced approach between merit and social justice.³⁹

Indra Sawhney v. Union of India (1992) (Mandal Commission Case)

This is the most authoritative judgment on reservations. The Supreme Court upheld 27% reservation for OBCs in central services, introduced by the V.P. Singh government based on the Mandal Commission Report.⁴⁰ However, it laid down significant principles:

- 1. 50% Ceiling:** Total reservations should not ordinarily exceed 50%.
- 2. No Reservations in Promotions:** Article 16(4) did not permit reservations in promotions (though later constitutional amendments allowed it for SCs and STs).
- 3. Creamy Layer Principle:** Advanced sections of backward classes (the “creamy layer”) must be excluded from reservation benefits.
- 4. Sub-classification of OBCs:** Permissible to ensure equitable distribution of benefits.

This case remains the **bedrock of reservation jurisprudence** in India.

³⁶ State of Madras v. Champakam Dorairajan, AIR 1951 SC 226.

³⁷ Constitution (First Amendment) Act, 1951.

³⁸ M.R. Balaji v. State of Mysore, AIR 1963 SC 649.

³⁹ P. Ishwara Bhat, *Law and Social Transformation* (Eastern Book Company, Lucknow, 2012) p. 220.

⁴⁰ Indra Sawhney v. Union of India, AIR 1993 SC 477.

M. Nagaraj v. Union of India (2006)

This case dealt with constitutional amendments allowing reservation in promotions (Articles 16(4A) and 16(4B)). The Supreme Court upheld their validity but imposed conditions: the State must show *quantifiable data* on (a) backwardness of the group, (b) inadequate representation, and (c) impact on efficiency of administration.⁴¹ This reaffirmed that reservations must be justified by evidence, not merely political will.

Janhit Abhiyan v. Union of India (2022) (EWS Case)

The 103rd Constitutional Amendment (2019) introduced **10% reservation for Economically Weaker Sections (EWS)** in education and public employment, irrespective of caste. It excluded SCs, STs, and OBCs from its ambit. The amendment was challenged for violating the basic structure of equality. In a 3:2 majority, the Supreme Court upheld the amendment.⁴² The majority reasoned that Parliament had the power to create a separate class based on economic criteria, and that exclusion of backward classes from EWS was not discriminatory. The dissenting judges, however, cautioned that this could dilute the commitment to social justice based on historical disadvantages.

Types of Reservation

Reservation by Caste (SCs, STs, OBCs)

Caste has been the most prominent group identifier for reservations in India. Scheduled Castes and Scheduled Tribes were granted reservation in education, public jobs, and legislatures as a form of compensatory discrimination.⁴³ They were soon followed by OBCs via the Mandal Commission Report (1979), which recommended 27% reservation in central assistance.⁴⁴ At present, such caste-based reservation occupies the space of public discourse because caste as the overarching definition of diverse and inequitable experience remains the most significant identifier of inequality in Indian society.

Reservation for Economic Disadvantage (EWS)

Relatedly, the EWS quota via the 103rd Amendment (2019) is a monumental shift in reservation policies that opens reservation to disadvantaged persons based on only economic

⁴¹ M. Nagaraj v. Union of India, (2006) 8 SCC 212.

⁴² Janhit Abhiyan v. Union of India, (2022) 10 SCC 1.

⁴³ Marc Galanter, *Competing Equalities: Law and the Backward Classes in India* (Oxford University Press, New Delhi, 1984) p. 237.

⁴⁴ Mandal Commission Report, 1980, Government of India.

criteria and not historical disparities among dominant castes (non-SC, ST, or OBC) in society.⁴⁵The reservation is for 10% of higher education and public jobs. While reserved in *Janhit Abhiyan v. Union of India*, debates are ongoing on whether reservations ought to remain tied to historical social disadvantage or could be purely economic.

Gender-Based Reservations

The policies of reservation have also been included towards women in some instances as well. In the 73rd and 74th amendments (1992) to the Constitution, 33% reservation to women was mandated in the Panchayati Raj institutions and urban local bodies⁴⁶. Many States like Bihar & Rajasthan, increased the reservation for women to 50%. In 2023, the Women's Reservation Bill (Nari Shakti Vandan Adhiniyam) was passed, in the Lok Sabha which provided 33% reservations for women in parliament and the State legislatures, however it was referred to as "tabled" due to the condition of undertaking delimitation⁴⁷. This provides some degree of acceptance for gender justice within a framework of reservation.

Reservation for Minorities

Some states have been giving reservation for religious minorities as part of "backward classes." For example, OBC qualification in education and employment afforded to Muslim and Christian groups⁴⁸. However, reservation of this nature is often contentious as the Constitution prohibits discrimination on the basis of religion (Article 15(1))⁴⁹. The Supreme Court has generally upheld reservation for minorities by showing that they are related to backward, social and educational backwards and that not on the basis of religion.

CONCLUSION & SUGGESTIONS

The policy of reservation in India has been a powerful tool of social justice, ensuring representation and empowerment of historically disadvantaged groups. Over the decades, it has successfully opened avenues of education, employment, and political participation to communities long excluded from the mainstream. Yet, it has also generated complex debates on merit, equality, efficiency, and caste perpetuation. The challenge lies in striking a balance between corrective justice and the need to foster an inclusive, merit-based democracy.

⁴⁵ Constitution (One Hundred and Third Amendment) Act, 2019.

⁴⁶ Constitution (Seventy-Third and Seventy-Fourth Amendments) Acts, 1992.

⁴⁷ The Constitution (One Hundred and Sixth Amendment) Act, 2023 (Women's Reservation Bill)

⁴⁸ *T.M.A. Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481.

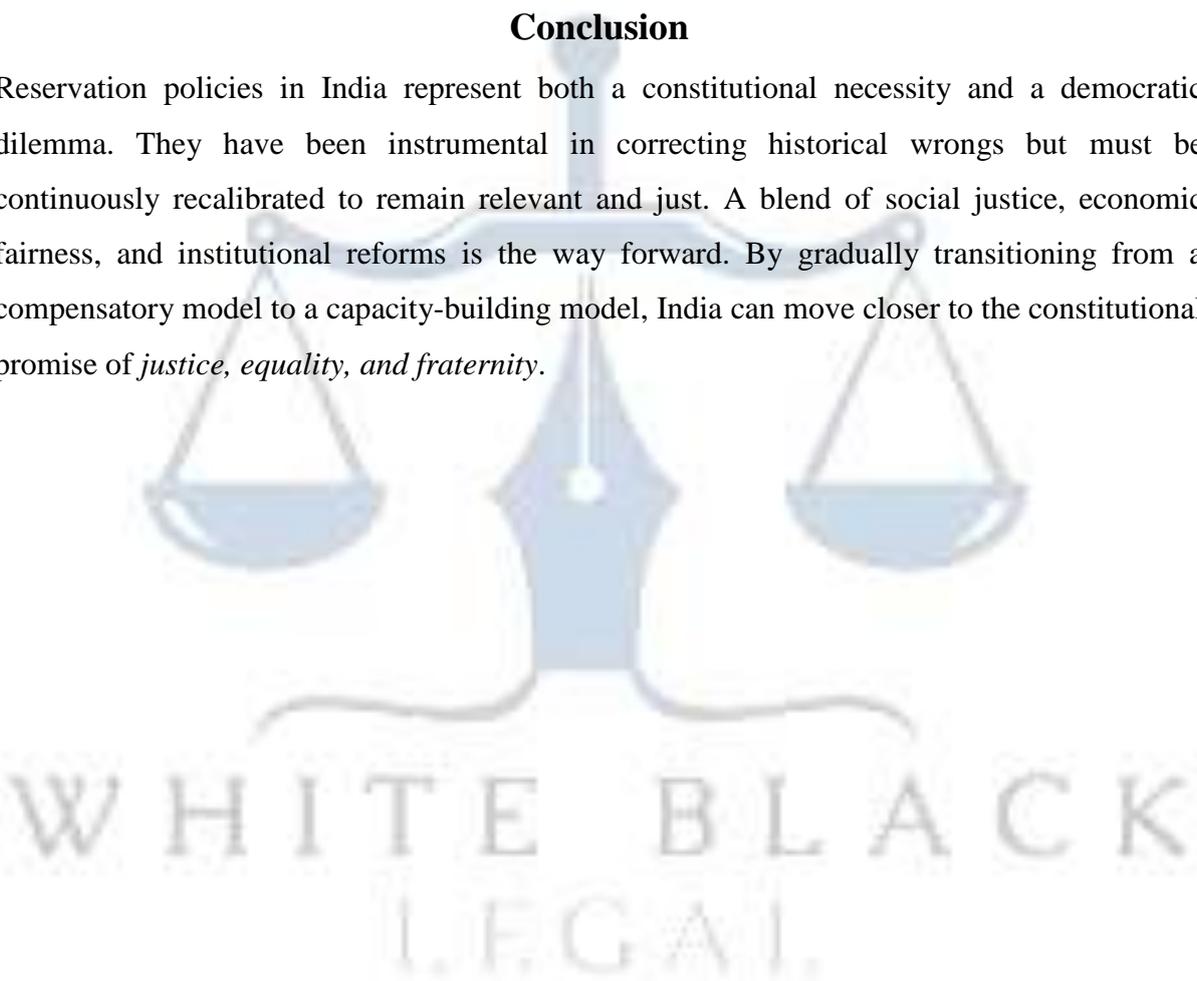
⁴⁹ Constitution of India, Art. 15(1).

Going forward, a nuanced approach is necessary. Reservation cannot remain a static policy; it must evolve with changing socio-economic realities. The following suggestions may serve as guiding principles:

1. Need for Periodic Review of Reservation Policies
2. Combining Caste and Economic Criteria
3. Strengthening Education & Skill Development
4. Moving Towards Substantive Equality

Conclusion

Reservation policies in India represent both a constitutional necessity and a democratic dilemma. They have been instrumental in correcting historical wrongs but must be continuously recalibrated to remain relevant and just. A blend of social justice, economic fairness, and institutional reforms is the way forward. By gradually transitioning from a compensatory model to a capacity-building model, India can move closer to the constitutional promise of *justice, equality, and fraternity*.



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