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RESERVATION SYSTEM IN INDIA

SYLLABUS:

GS 2 > Constitution >> Fundamental Rights

REFERENCE NEWS:

The leader of the opposition in Bihar, Tejashwi Yadav, has declared that if voted to power, their alliance would increase reservation to 85%. In another development, the Supreme Court has issued notice to the Union government on a petition demanding the introduction of a 'system' similar to the 'creamy layer' for reservations among the Scheduled Castes (SC) and Scheduled Tribes (ST).

RESERVATION IN INDIA:

Reservation is a form of **affirmative action** aimed at **promoting social justice by providing preferential treatment in education, public employment, and political representation to marginalized and historically disadvantaged groups**. It seeks to correct systemic inequalities faced by communities such as the Scheduled Castes (SCs), Scheduled Tribes (STs), Other Backward Classes (OBCs), and the Economically Weaker Sections (EWS).

Constitutional Provisions

Part III – Fundamental Rights:

- **Article 15(3):** State can make special provisions for women and children.
- **Article 15(4):** State can make special provisions for the advancement of socially and educationally backward classes (OBCs), SCs, and STs.
- **Article 15(5):** Enables reservation in educational institutions (including private unaided ones, excluding minority institutions) for backward classes, SCs, and STs.
- **Article 15(6) (103rd Amendment, 2019):** Allows reservation for Economically Weaker Sections (EWS) among the unreserved categories.
- **Article 16 – Equality of Opportunity in Public Employment:**
 - **Article 16(4):** Reservation in appointments/posts for any backward class not adequately represented.
 - **Article 16(4A):** Reservation in promotions for SCs and STs (77th & 85th Amendments).
 - **Article 16(4B):** Unfilled reserved vacancies from earlier years can be carried forward without breaching the 50% limit (81st Amendment).

- **Article 16(6):** Reservation in public employment for EWS, distinct from OBC/SC/ST reservations.
- **Article 233T & 243D:** Reservation in municipalities and Panchayati Raj institutions.
- **Part XVI – Special Provisions Relating to Certain Classes:**
 - **Article 330 & 332:** Reservation of seats for SCs and STs in the Lok Sabha and State Legislative Assemblies.
 - **Article 335:** Ensure appointments are consistent with administrative efficiency.
- **59.5% reservation at the central level**, varying by state based on demographics.

Landmark Cases and Judgments Regarding Reservation in India

State of Madras vs. Champakam Dorairajan (1950)	Court ruled that caste-based reservations violate Article 15(1) of the Constitution, as reservation was seen as an exception to equality.	Led to the First Amendment of the Constitution, allowing special provisions for socially and educationally backward classes (Article 15(4)).
M. R. Balaji vs. State of Mysore (1963)	Mysore government’s 68% reservation in college admissions ruled excessive; capped at 50%.	Supreme Court later reaffirmed the 50% limit in Indra Sawhney (1992).
Devadasan vs. Union of India (1964)	Court ruled that reservations beyond 50% are invalid.	Rationalised reservation, terming it a facet of equality.
State of Kerala vs. N. M. Thomas (1975)	Affirmed that reservation is not an exception to equality but an extension of it.	First definite judicial endorsement of the philosophy of reservation.
Indra Sawhney & Others vs. Union of India (1992)	Upheld 27% OBC reservation; introduced creamy layer exclusion; set 50% ceiling on total reservations.	Reaffirmed in later cases, e.g., 1999 judgment extended creamy layer principle to SCs/STs.
M. Nagraj & Others vs. Union of India (2007)	Upheld 77th Amendment permitting reservation in promotions for SCs and STs.	Promotions to satisfy triple test: backwardness, representation, administrative efficiency; backlog vacancies excluded from the 50% cap.
I. R. Coelho by LRS. vs. State of Tamil Nadu (2007)	Advised Tamil Nadu to follow 50% reservation limit.	Tamil Nadu reservations included in 9th Schedule, protecting them from judicial review.
P. A. Inamdar vs. State of Maharashtra (2005)	Reservation cannot be enforced in private unaided educational institutions without government aid.	Led to 93rd Constitutional Amendment introducing Article 15(5), allowing reservations in unaided institutions.
Ashoka Kumar Thakur vs. Union of India (2007)	Upheld the 93rd Amendment for unaided institutions’ reservation.	Recommended review of backwardness every 10 years.
Ram Singh & Ors vs. Union of India (2014)	Struck down inclusion of Jats in Central OBC list.	Spurred new methods to determine backwardness.
Jaishri Laxmanrao Patil vs. Union of India (2021)	Maratha reservation struck down as unconstitutional.	Reaffirmed 50% ceiling on reservations.
Janhit Abhiyan vs. Union of India (2022)	Upheld 103rd Amendment introducing 10% EWS reservation in education and public employment.	Created a new reservation regime outside backward class reservations.

SHOULD RESERVATION BE RAISED ABOVE 50% CAP?

The Supreme Court, in the landmark **Indra Sawhney case (1992)**, set a constitutional ceiling of **50% reservation** to maintain a balance between equality and affirmative action. However, there is an ongoing debate on whether this cap should be increased to reflect demographic realities and ensure substantive equality.

Arguments For Raising Reservation Above 50%:

- **Demographic Justification:**
 - Backward classes (SCs, STs, OBCs) constitute more than **60% of India's population**. The current reservation cap does not proportionately reflect this demographic.
 - Tamil Nadu has successfully implemented over 69% reservation since 1990, demonstrating it can function without administrative collapse.
- **Substantive Equality:**
 - The **State of Kerala vs. N. M. Thomas (1975)** judgment reaffirmed that reservations are not exceptions but necessary for achieving equality.
 - Substantive equality argues that historical social disadvantages must be corrected, which a rigid cap limits.
- **Empirical Data on Inequitable Benefit Distribution:**
 - The **Rohini Commission (2017–2023)** found that 97% of OBC benefits went to just 25% of sub-castes, leaving many deprived.
 - Raising quotas combined with **sub-categorisation** can lead to more equitable distribution.
- **Unfilled Reserved Vacancies:**
 - Government data reveals that **40–50% of reserved seats remain vacant**, showing the inefficiency is due to poor implementation rather than a lack of quota space.

Arguments Against Raising Reservation Above 50%:

- **Constitutional and Judicial Precedent:**
 - The **Indra Sawhney (1992)** judgment reaffirmed the 50% ceiling as a safeguard against eroding merit and promoting arbitrariness.
 - Overstepping this limit may violate the fundamental right to equality under **Article 14**.
- **Merit vs. Social Justice Balance:**
 - Excessive reservation may compromise administrative efficiency and the quality of public service by sidelining merit-based selection.
 - Fear that a very high quota could dilute competitive standards in critical sectors.
- **Risk of Backlog Conversion:**
 - Opponents argue that unfilled reserved posts may ultimately convert into unreserved vacancies, defeating the purpose of reservation.
- **Lack of Accurate Data:**
 - Without a comprehensive caste census (due in 2027), increasing quotas based on estimates may lead to inaccurate policy decisions.
- **Creamy Layer Issue:**
 - The **State of Punjab vs. Davinder Singh (2024)** suggested introducing a creamy layer principle for SCs and STs to prevent well-off individuals from cornering the benefits.
 - Absence of this mechanism can result in increased intra-category disparity.

POSITIVES OF THE RESERVATION SYSTEM IN INDIA:

- **Promotion of Social Justice and Equality:** The reservation system is a form of **affirmative action** aimed at uplifting historically marginalized communities (SCs, STs, OBCs, EWS) that faced centuries of social discrimination.
 - The **Right to Education (RTE) Act (2009)** mandates free and compulsory education for children aged 6–14 years, helping increase school enrollment among disadvantaged groups.
- **Representation in Education and Employment:** Provides better access to education and public employment for backward classes, helping break the cycle of poverty.
 - SCs, STs, and OBCs together constitute around **60% of India’s population**, and reservation in central government jobs stands at 49.5% (SC 15%, ST 7.5%, OBC 27%).
- **Political Empowerment:** Reservation in political representation ensures marginalized communities have a voice in governance.
 - Articles **330 and 332** reserve seats for SCs and STs in the Lok Sabha and State Legislative Assemblies, strengthening democracy.
- **Empowerment of Women:** Women from marginalized communities benefit from reservations in Panchayati Raj Institutions (PRIs) through **Article 243D**, which mandates 33% reservation for women.
- **Reduction of Socio-Economic Gaps:** Provides opportunities for economically and socially backward communities to catch up with mainstream society.
 - The EWS quota of **10%**, introduced by the 103rd Constitutional Amendment (2019), provides reservation for economically weaker sections outside existing categories.

The journey of reservations

A brief summary of important developments with respect to reservations at the central level

Year	Key development
1950 and 1951	Commencement of the Constitution and the First Amendment – enabling provisions in Articles 15 and 16 for the advancement of OBCs, SCs and STs
1982	Reservations for SCs and STs fixed at 15% and 7.5% respectively in central educational institutions and public sector undertakings
1990	The introduction of 27% reservation for OBCs in central government employment based on the recommendation of the Mandal Commission
2005	Article 15(5) inserted by the 93rd constitutional amendment that enabled reservations for OBCs, SCs and STs in educational institutions, including private ones
2019	Articles 15(6) and 16(6) inserted by the 103rd constitutional amendment which enabled up to 10% reservation for the EWS among the unreserved category in educational institutions and public employment

NEGATIVES OF THE RESERVATION SYSTEM IN INDIA:

- **Creamy Layer Issue:** Lack of exclusion of affluent and well-off individuals within SC/ST categories leads to unequal benefit distribution.
 - The **Rohini Commission report (2017–2023)** revealed that **97% of OBC benefits are captured by only 25% of OBC sub-castes**, leaving thousands of communities without representation.
- **Meritocracy vs. Reservation:** Critics argue that excessive reliance on reservation compromises merit, affecting the efficiency of public services and institutions. Some argue that higher reservation in educational institutions may lower the overall academic standard.
- **Unfilled Reserved Positions:** Government data indicates that **40–50% of reserved posts in government services remain vacant** due to lack of eligible candidates, weakening the system’s intended impact.
- **Perpetuation of Caste Identity:** Instead of fostering a casteless society, the system reinforces caste divisions by legally institutionalizing them. Political parties often appeal to caste-based vote banks, exacerbating societal fragmentation.
- **Risk of Increased Bureaucracy and Corruption:** Implementation challenges lead to misuse of reservation policies, with allegations of nepotism and corruption in some cases.

- **Economic Argument:** The system doesn't address economic disadvantage sufficiently, as most reservations are caste-based, not income-based.
 - The Supreme Court in the **Janhit Abhiyan vs. Union of India (2022)** upheld EWS reservation, recognizing the role of economic backwardness, yet the majority of existing reservations are caste-driven.

WAY FORWARD:

Data-Driven Policy Formulation:

- Conduct a **Comprehensive Caste and Socio-Economic Census** (next in 2027) to accurately map the population of SCs, STs, OBCs, and EWS.
- Use data to assess the real socio-economic backwardness and representation gaps.

Implement Sub-Categorisation of OBCs:

- Categorise OBCs into sub-groups based on relative backwardness to distribute reservation benefits more equitably.
- Prioritise the most marginalized sub-castes to avoid the concentration of benefits in a few dominant OBC groups.

Apply Creamy Layer Principle Across All Categories:

- Extend the **creamy layer exclusion** beyond OBCs to SCs and STs, particularly in government jobs and education, to ensure that the economically advanced within these communities do not occupy the slots intended for the most disadvantaged.
- In **State of Punjab vs. Davinder Singh (2024)**, the Supreme Court recommended a policy for applying the creamy layer principle in SC/ST reservations.

Fix the 50% Ceiling Rationally:

- Retain the **50% cap on reservation** as a general rule, but allow for exceptional cases where data supports higher quotas, subject to judicial review and constitutional safeguards.
- States like Tamil Nadu and Haryana already have over 50% reservation, reflecting regional socio-economic needs.

Address Backlogs and Improve Implementation:

- Prioritize filling existing vacant reserved positions to ensure real benefit to the intended communities.
- Strengthen administrative processes to reduce bottlenecks in recruitment and admissions.

Link Reservations with Skill Development:

- Complement reservations with **targeted skill development programs** to prepare the youth from marginalized communities for gainful employment.
- Government schemes like **Skill India** and **Pradhan Mantri Kaushal Vikas Yojana (PMKVY)**.

Expand Economic Criteria:

- EWS Reservation (10%) introduced by the **103rd Constitutional Amendment (2019)** should be strengthened, with clear and transparent economic criteria, ensuring that economically backward individuals outside caste categories are also supported.

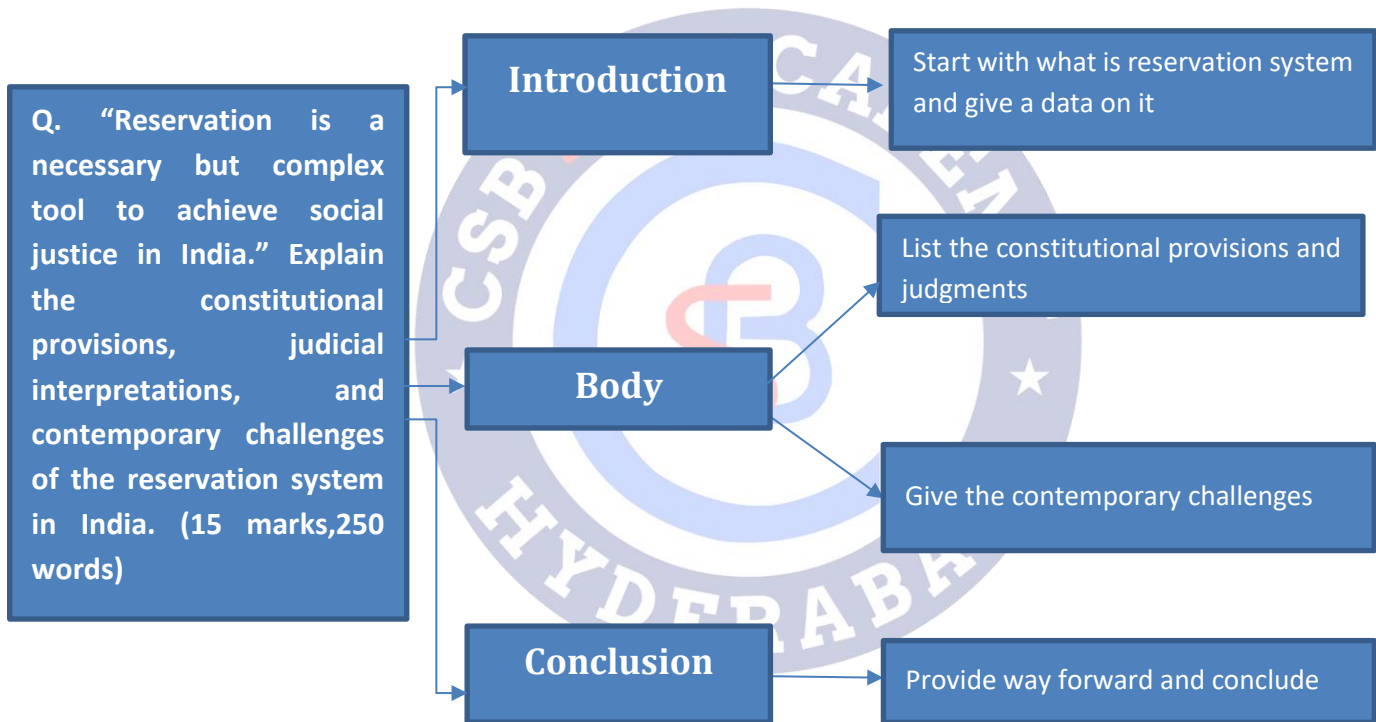
Promote Voluntary Sector and Private Sector Inclusion:

- Encourage private sector institutions to adopt similar affirmative action measures voluntarily, especially in higher education and employment, through CSR incentives or regulatory frameworks.

PRACTICE QUESTION:

Q. “Reservation is a necessary but complex tool to achieve social justice in India.” Explain the constitutional provisions, judicial interpretations, and contemporary challenges of the reservation system in India. (15 marks,250 words)

APPROACH:



MODEL ANSWER:

Reservation in India is a constitutional mechanism designed to promote social justice by providing preferential access to education, employment, and political representation for marginalized communities such as Scheduled Castes (SCs), Scheduled Tribes (STs), Other Backward Classes (OBCs), and Economically Weaker Sections (EWS). As per data it is currently at 59.5%.

Constitutional Provisions:

- **Article 15(3) and 15(4):** Empower the State to make special provisions for the advancement of backward classes.
- **Article 15(5):** Allows reservations in private educational institutions (except minority institutions).

- **Article 16(4), 16(4A), and 16(4B):** Govern reservations in public employment and promotions, and allow carry-forward of unfilled vacancies.
- **Articles 330, 332, and 243D:** Provide for political reservation in Lok Sabha, State Assemblies, and Panchayati Raj institutions.
- **Article 15(6) and 16(6)** (introduced by the 103rd Amendment, 2019): Provide for EWS reservation outside the traditional backward class categories.

Judicial Interpretations:

- **Balaji vs. State of Mysore (1963):** The 50% ceiling on total reservations to ensure balance with merit and efficiency.
- **Indra Sawhney vs. Union of India (1992):** Reaffirmed the 50% limit and introduced the creamy layer exclusion principle for OBCs.
- **State of Kerala vs. N.M. Thomas (1975):** Recognized substantive equality, legitimizing reservations as affirmative action.
- **State of Punjab vs. Davinder Singh (2024):** Recommended a policy for the exclusion of the creamy layer in SC/ST reservations, which is yet to be implemented.

Contemporary Challenges:

- **Data Deficiency:** Absence of a comprehensive caste census complicates evidence-based policy decisions.
- **Concentration of Benefits:** Rohini Commission found that 97% of OBC benefits are cornered by 25% of sub-castes.
- **Unfilled Reserved Posts:** 40–50% of reserved positions remain vacant, weakening policy impact.
- **Creamy Layer Exclusion Debate:** SC/ST creamy layer remains legally unexcluded, risking inequitable distribution of opportunities.
- **Merit vs. Social Justice Tension:** Concerns about compromising administrative efficiency versus the moral imperative of affirmative action.
- **Political Polarization:** Reservation debates often used for political mobilization, distracting from genuine reforms.

Balanced and Sustainable Approach:

1. **Data-Driven Reforms:** Expedite the 2027 Socio-Economic and Caste Census for accurate population and socio-economic data. Base future policy adjustments on empirical findings.
2. **Sub-Categorisation:** Implement recommendations of the Rohini Commission to sub-categorize OBCs, ensuring fair intra-category representation. Target support to the most marginalized sub-groups.

3. **Creamy Layer Inclusion for SC/STs:** Create a transparent and objective criterion for the exclusion of well-off individuals within SC/STs.
4. **Skill Development and Employment Linkage:** Complement reservation policies with focused skill-building programs to ensure long-term employability (e.g., PMKVY, Skill India). Promote public-private partnerships for vocational training targeting marginalized youth.
5. **Priority for Filling Backlogs:** Institutional mechanisms to fill unutilized reserved posts, preventing erosion of quota benefits.
6. **Review of Reservation Caps:** Allow for contextual state-level adjustments beyond the 50% ceiling, subject to parliamentary and judicial oversight, as seen in Tamil Nadu (69% reservation).
7. **Public Awareness and Transparency:** Strengthen transparency in reservation policy implementation and grievance redressal mechanisms. Publicize data on reservation utilization to ensure accountability.

The reservation system is both a constitutional necessity and a complex socio-political instrument. A balanced approach must align the principles of formal and substantive equality, evidence-based policy, and efficient governance.

