

**EVALUATION OF RESERVATION POLICY  
AND  
IT'S EXTENSION IN PRIVATE SECTOR**

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**PRADEEP KUMAR**



**CENTRE FOR THE STUDY OF SOCIAL SYSTEMS  
SCHOOL OF SOCIAL SCIENCES  
JAWAHARLAL NEHRU UNIVERSITY  
NEW DELHI 110067**

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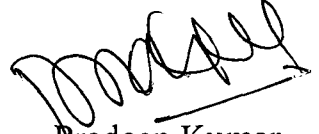
जवाहरलाल नेहरू विश्वविद्यालय  
**JAWAHARLAL NEHRU UNIVERSITY**  
NEW DELHI - 110 067

Centre for the Study of Social Systems  
School of Social Sciences

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**Certificate**

This is to certify that the dissertation titled "*Evaluation of Reservation Policy and its Extension in Private Sector*" has been submitted by Pradeep Kumar in partial fulfillment for the award of the degree of Master of Philosophy. This dissertation has not been submitted for any other degree to any other university and is his own work.



Pradeep Kumar

This dissertation may be placed before the examiners for evaluation for the award of M.Phil. Degree of this University.



Dr Amit Kumar Sharma  
(Supervisor)

Asstt. Professor  
CSSS/SSS  
Jawaharlal Nehru University  
New Delhi-110067



Prof. Avijit Pathak  
(Chairperson)

Chairperson  
CSSS/SSS  
Jawaharlal Nehru University  
New Delhi-110067

*Dedicated to my Beloved*



*Shipra*

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Pradeep Kumar

## **ABBREVIATIONS**

CEO	Chief Executive Officer
CII	Confederation of Indian Industries
FDI	Foreign Direct Investment
LPG	Liberalization Privatisation and Globalisation
MD	Managing Director
OBC	Other Backward Classes
PCR	Protection of Civil Rights
PSU	Public Sector Undertaking
SC	Scheduled Caste
UPA	United Progressive Alliance
ST	Scheduled Tribe
US	United States

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*Chapter~1*

*INTRODUCTION*



## CHAPTER-I

### Introduction

*“On the social plane, we have in India, a society based on the principles of graded inequality, which means elevation of some and degradation of others. On the economic plane, we have a society in which there are some who have immense wealth as against the many who are living in abject poverty. On the 26th January 1950, we are going to enter into a life of contradictions. In politics, we will have equality and in social and economic life, we will have inequality. In politics we will be recognizing the principles of ‘one man – one vote and one value’. If our social and economic structure continues to deny the principle of one man – one value, how long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow the structure of political democracy which this Assembly had so laboriously built up”.*

*[Dr. B.R. Ambedkar]  
(Mehta & Patel 1985:21)*

### 1.1 HISTORICAL BACKGROUND

The provision of reservation for the Scheduled Castes and Scheduled Tribes in education and in public employment has been in operation for more than fifty years by now. Dr. B.R Ambedkar is given the credit for making reservation policy an internal part of the constitutional safeguards for the Scheduled Castes and Scheduled Tribes. He had laid the foundation for the same at least two decades back prior to independence of the country or adoption of the constitution for the Indian republic. But for last two decades the educational and employment opportunities have largely shifted to private sector. As the shift has been at a faster rate the significance of reservation in public sector has diminished accordingly. And the reservation in private sector has become more relevant especially when the private sector is not much private in its genesis and growth as well as in its operation.

According to Poona Pact Scheduled Castes were not provided any fixed representation in central services as well local services till early 1940s and their recruiting in the services was left on the mercy of the recruiting officer. While submitting the memorandum to the then government of India Ambedkar pleaded for reservation especially for Scheduled Castes in the central and local services on the following grounds.

Since the career in the trade and industry was blocked for the Scheduled Castes there was an urgent need of job opportunities in the central and local jobs to be given to the Scheduled Castes. More over since the reservation in some form was available in the educational sphere it was required that the achievement needed to be utilized by giving them jobs. The reservation for the Scheduled Castes and Scheduled Tribes in public services would enable them to implement timely and more effectively the provisions meant for the welfare and the development of the Scheduled Castes and Scheduled Tribes. Since there was every chance of recruiting officers/ authorities being hostile to the Scheduled Castes and Scheduled Tribes, reservation with fixed quota in proportion to their population was a must. He also maintained that reservation is must to achieve the equality and social justice in favour of the Scheduled Castes and Scheduled Tribes (Vol. 10. writing and speeches 1991: 412-432).

But then come the question, why Dr. Ambedkar did not demand for the reservation in the private sector run by individual at that time only when he was pleading for the reservation for Scheduled Castes and Scheduled Tribes in the government sector. The reason being was that the private sector was not in the form it is today. It was very small in its size and magnitude. Another important reason was that the private sector was encouraged to play a significant role in economic industrial growth of the country at the faster rate, which can later play a better role in addressing the issues of the Scheduled Castes and Scheduled Tribes.

The policy of reservation in India is considered to be more comprehensive and well conceived as it has a long history of its operation and was the outcome of the engaged debates among the three parties namely dalits caste Hindu Leaders and the British regime in India. It helps in making clarity in the number of vacancies and the posts reserved for the Scheduled Castes and Scheduled Tribes in the educational sector and in the public employment. While Affirmative action which was implemented in 1960s in the United states of America in favour of the Blacks, Hispanics and other minorities to overcome to present effect of the past racial discrimination. It is like giving preferential treatment to the racial minorities keeping in view certain conditions being equal.

Even in the Constitution it is mentioned that the state shall not discriminate against any citizen on grounds of religion, race, caste, place and birth or any form. In the Directive Principles it is added that The State shall promote with special care the educational and economic interest of the Scheduled Castes/Tribes and shall protect them from social injustice and all forms of exploitation. In this regard a number of measures have been taken by the government for providing protection to untouchables (Scheduled Castes or SCs). The measures are both protective and developmental. In the 'protective' sphere untouchability was legally abolished and its practice in any form has been forbidden by the Protection of Civil Rights (Anti-Untouchability) Act of 1955.

After two decades the protections for SCs were reviewed to make them more stringent and effective in the Bonded Labour (Abolition) Act 1976. In order to prevent atrocities against SCs and STs the Government enacted yet another Act namely the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989. In the economic, educational and political spheres provisions have been made through the reservation and representation to improve their access and participation.

Despite all those measures taken to safeguard the interest and safety of the Scheduled Castes and Scheduled Tribes the practice of untouchability and atrocities against them have not come down. The annual report of the Commission for Scheduled Caste and Schedule Tribe (1998) gives the account of the registered cases of untouchability and atrocities against the Scheduled Castes. It reveals that average number of cases registered under Anti Untouchability Act (or Human Right Act) were 480 during the 1950s, 1903 during the 1960s, 3240 during the 1970s, 3875 during the 1980s and 1672 during the first half of the 1990s. It shows that during the nine year period between 1981-86 and 1995 -97 a total of two lakhs cases of atrocities on the SC were registered, which means on an average three thousand cases of atrocities were committed on them annually.

## **1.2 UNDERSTANDING THE PROBLEM**

Any society in the world faces two challenges. First equality before the law irrespective of religion, caste, creed, race, and gender, and second social justice at the cost of the same commitment for equality before the law. United States, the developed and democratic country is also no exception.

Due to the caste system, a large section of Indian population has experienced social discrimination for centuries. India was a country with highly rigid caste-based hierarchal structure. That was the time when large section of society was still socially, economically, educationally, and politically backward.

Stratification and inequality is the common in almost every society. Indian society is also a stratified society. Indian society is characterized by a high degree of structural inequalities. Stratification signifies a multi-layered phenomenon and is generally considered to be similar to the earth's crust, (Beteille 1977:129). Caste system, cultural diversity and economic inequality are the central questions of social stratification. The principal question on which the caste system is based is the principle of natural superiority. According to Gupta natural superiority is

not physical prowess or bodily intelligence rather the endowment of bodily purity, (Gupta, 1996:2).

Caste stratification in India is a prominent factor of the social organization. In India, inequality, exploitation and caste system has persisted for centuries. The caste system has produced many things and untouchability is one of them. In India, caste system is very oppressive as it divides members in two broad groups. The two groups are antagonistic to each other. The first group is of those castes, which are considered to be twice born, and are ranked very high in the social hierarchy. And the second group is of those castes, which are considered to be impure, and was suppose to serve the first three categories in the caste hierarchy.

Hierarchy implies the regular ordering of a phenomenon on a continuous scale 'such that the elements of the whole are ranked in relation to the whole' (Dumont 1988: 66). Hierarchy is one kind of stratification where the strata are arranged vertically (Gupta 1996:8). So, social stratification is the ordering of social differences with the help of a set of criteria or just a single criterion. In any society culture and power are two main sources of society, which is a cultural construct and is maintained by power apparatus (Hooda, 2001:48).

Indian society has changed a lot after the independence. The reason is that lots of constitutional safeguards have been given to the scheduled castes and scheduled tribes. Today there is no untouchability at least in the urban areas. People who are educated irrespective of the castes do not quite often discriminate and do not practice untouchability.

The objective of providing reservation to the dalits was to uplift them socially and economically. This has been partially achieved as far as jobs in the government and public sector are concerned. But with the beginning of the disinvestments process, jobs in the public sector for the scheduled castes and

scheduled tribes are disappearing. This has given rise to the demand for reservation in the private sector.

Reservation is one of the safeguards given by the state to the people who have been exploited for centuries. The reservation has produced some very good results. But still a lot of backlog is not being fulfilled. Not found suitable is one of the common answers of the question when comes to filling of these vacant posts.

Reservations for the historically deprived communities have been an important component of India's democratic politics. But it has never been without controversies and contestations. Criticisms of reservations have come from various quarters and have continued over time. It was debated in the start of the reservation policy and it is still continue without any break. Some still feel that reservation is not enough for dealing with the problems of deprivations of those who had been discriminated against for ages in the traditional social structure.

Preferential policy programs exist throughout the world. Since reservation was not given in the private sector and government sector is shrinking everyday, there is a need to reconsider the policy of reservation. In the year 2002, the Madhya Pradesh government first took the initiative to provide reservation in the government contracts to the scheduled castes and scheduled tribes and there after Maharashtra Government also enacted the legislation regarding reservation in the private sector.

When the UPA government came in power in the year 2004, it took the issue of reservation in the private sector seriously and included the issue in its common minimum programme. After that there is a debate about the pros and cons of the reservation in the private sector. Government has included it in its Common Minimum Programme as follows:

“The government is sensitive to the issue of affirmative action including reservations in the private sector and it is committed to faster socio-economic and educational development of the scheduled castes and the scheduled tribe. Reservation quotas in government, including those relating to promotions, will be fulfilled in a time-bound manner. To codify all policies on reservations, appropriate legislation will be enacted” (Annual Report, 2004-05).

In private sector there is no objectivity and transparency in the recruitment system. In the era of Liberalization, Globalisation and Privatization, employment opportunities in government and public sectors is shrinking, so there is a need to introduce reservation for SCs & STs in the private sector.

The proposal to extend reservations to the private sector has generated mixed reactions and the private sector is divided on the idea. It seems that the issue may go to the Supreme Court. The implications of the proposal according to the corporate world is that the labour productivity in the private sector will decline and the undeserving among the SCs and STs may get most of the benefits as they have managed to in the public sector in the past.

Under the new economic policy private enterprise is allowed to expand into the areas of economic activity and the process of disinvestments and privatisation has already started. As a consequence employment avenues in the state sector have been shrinking. Where will the dalits go if the disinvestments and the privatisation continue at the same pace?

There are a number of myths and misconceptions about job reservations in the minds of people. First, people in the general category do not get jobs because of reservation and it is therefore responsible for their unemployment. Second caste is strengthened by reservation policy. Third and probably most important, merit and efficiency in educational institutions and administration have vanished as a result of reservations (Jogdand, 2004).

Discrimination exists in many nations under diverse social, economic and political systems. In order to correct the imbalance, countries have adopted reservation, affirmative action, positive action or equal opportunity policies for these discriminated groups. For example, USA, UK, Northern Ireland, Yugoslavia, Brazil, Bolivia, Peru, Nigeria, Sudan, South Africa, Malaysia, Pakistan, China, Japan and India. But the affirmative action policy in many of these countries was for both private and public sector, while the Indian state never thought of bringing the private sector under the purview of reservation policy. It is the fact of discrimination in the private domain that led to accept the reservation policy for the public sector (Thorat, 2005).

Indian private sector employs wide ranging discriminatory practices that are inherently inefficient such as inheritance determining managerial control and preferential employment based on social networks.

Canada enacted the Canadian Bill of Rights in 1960 to prohibit discrimination in employment. In 1986 the Canadian government enacted the Employment Equity Act which was put in effect in 1988. That Act outlined the intention to: “achieve equality in the workplace so that no person shall be denied employment opportunities. But in India the moment government placed its view about the reservation issue the corporate world got a big shock. And they collectively stood up against any kind of reservation in private sector (Singh, 2005).

### **1.3 RESEARCH PROBLEM**

Reservation in the government sector has been the bone of contention in India. Now at one place there is growing demand that reservation has been there for more than 50 years and has not changed much so it should not be continue any more and some other possible should be considered. Research has shown that no



other method of affirmative action can be fruitful to the Indian social structure where discrimination is on rampant.

On the other hand there is a demand that reservation should be extended in the private sector too as the significance of the reservation is disappearing in the era of Liberalisation, Privatisation and Globalisation (LPG). So the problem is to see how best can the aspirations of the scheduled casts and scheduled tribes be fulfilled in the era of LPG? The main research problem is to see how much the policy of reservation has achieved so far and how well the private sector meet their social obligation towards to weaker section of society. Private sectors have their own way of recruiting the employees and they do not ask for the caste of the candidate and therefore they argue that they do not discriminate. While dalits are discriminated as private sector do not generally recruit its employees through proper channel as the public sector.

#### **1.4 METHODOLOGY**

The present study is mainly relied on various secondary sources (viz., government reports, policy papers related to Affirmative Acton and Reservation in India and abroad, books and articles published in various Journals) for conceptual clarity on the issue of reservation. Apart from that some information from the informal discussions with the faculty and friends have been collected. Some vital inputs have also been taken from the seminars and conferences attended in JNU New Delhi and outside JNU for these years.

#### **1.5 RATIONALE OF THE STUDY**

The driving force behind the study is my own interest in the subject as I am one of the beneficiaries of the reservation policy. When cleared my M.Phil entrance in sociology at JNU New Delhi in the year 2004 I had to prepare a synopsis for the viva and what better topic could be other than reservation in private sector which was the issue of current intellectual debate. These years the reservation issue has

been debated uninterrupted and reservation for OBC in the higher education is the latest in the list. It now needed to know why the issue of reservation has been the bone of contention between the gainers and the losers if any. There is a need to know if the reservation policy about which so much of hue and cry is there every time has really helped in achieving the objectives set for the purpose.

Why the issue of reservation in private sector? On the one hand the full reserved quota in the government sectors has not been realized, there is demand for reservation in the private sector. The obvious reason for that is the plundering of the public sector and the boom in private sector. So the main rationale behind the study of the issue of reservation is to see how best the private sector can help the poor Dalits as the jobs in public and government sector are shrinking for various reasons so it required to think of other possible avenues.

## **1.6 RESEARCH QUESTIONS**

1. Is there caste-based discrimination in India?
2. What was the objective of “Reservation Policy” in India?
3. Is there a need of reservation in private sector under the new economic policy?
4. How can social justice be a reality in a hierarchical and highly stratified society?

## **1.7 OBJECTIVES**

There has always been a controversy over the issue of reservation. It is good for those who are getting and those who are loosing are of the view that merit and efficiency is compromised and only creamy layer of these castes are benefiting from the policy of reservation. Hence there is a need to seek the answer of these questions.

**The main objectives of this study are:**

1. To discuss caste discrimination in India as well as to analyze the effect of the reservation policy for over 50 years.
2. To examine why reservation policy is still needed and how can it be extended in private sector.
3. To discuss the rationale behind the reservation policy

**1.8 LIMITATIONS OF THE STUDY**

The present study has been done with the purpose to understand the reservation issue and the problems faced by Dalits due to the caste system. The major limitation of this study is the exclusion of OBC category though this too is a major beneficiary of the reservation policy. Since the case of OBC is slightly different from the Dalits so it was difficult to take OBC and Dalits together for this study. The political reservation has also not been included because here reservation in private sector is the main focus so the reservation in education and job reservation is directly linked to the issue of reservation in private sector. That is why the political reservation has been kept out of purview of this study. Another limitation is that since no empirical study on the discrimination in the private sector for this study has been done so this study will rely on the various literatures available on the issue. Lastly the term Dalits has been used at various places, which mean both the Scheduled Castes and the Scheduled Tribes for this particular study.

**1.9 REVIEW OF LITERATURE**

Preferential policies for the benefit of socially disadvantaged groups have been devised and applied in various countries. These policies are of many different kinds, and they go under different names, such as affirmative action, positive discrimination, reverse discrimination or, simply, reservations. They have been justified by the argument for equality as well as the argument for diversity. In

India the argument for equality has been the predominant one whereas in the United States the argument for diversity has had a strong appeal. In both countries the policies have had strong supporters and equally strong opponents, and it is not easy to make a balanced assessment of their overall consequences even for a single country.

Reservation policy in India is a unique policy to bring equality in the society. For last five decades the question of reservations has been written and contested widely and with enormous passion. There are countries where some kind of affirmative action is there but compulsory quota in India makes the policy distinct from the affirmative actions in other countries. Literature available tells that the policy of reservation has been very controversial issue since its inception. It was heavily debated in the parliament while drafting the policy and is still on.

Not much literature is available on the issue of reservation policy in private sector though there are innumerable articles available on the theme. As reservation in private sector is a new issue in India and still not much research has been done. The book *Reservation and Private Sector: Quest for Equal Opportunity and Growth* by Thorat *et. al.* is the main book containing lot of articles by different scholars on various themes related to reservation in private sector. Other books on the reservation are as follows. The important thing is that not much has been written from the social point of view.

Galanter (1984) uses the term compensatory discrimination and not reservation. In his classic book *Competing Equalities* he has explained various reservation related issues. He has analysed the whole issue of merit and equality. He justifies compensatory discrimination by saying that it is the guarantee against the persistence of discrimination. He further says that the beneficiary of the reservation policy will be able to come to the mainstream. The book beautifully incorporate the constitutionally guarantee rights including right to equality. The

judicial views on the issue are also one of the many features of the book. He in this book has discovered the social setting and the historical background of compensatory discrimination. This book gives all account of policies and the role of Indian judiciary etc. He says that compensatory discrimination may be advocated to reduce group disparities and afford representation.

Hooda (2001) in his book, "Contesting Reservation" which is based on his P.hd work, deals with the reservation debate. He says how caste and inequality still exist in India. One of the findings of his work is that inequality is not natural and is social. He found that the Indian society has been highly inegalitarian and Sudras and untouchable were severely affected by the caste discrimination. He maintained that reservation help achieving the culture and power which are two main sources of society.

Singh, (1982) talks about constitutional status of the scheduled castes and scheduled castes. He through his book "Equality, Reservation and Discrimination in India: A Constitutional Study of Scheduled Castes, Schedules Tribes and Other Backward Classes" says that equality should be the prime objective of Indian society. For this he says certain leveling process is necessary and recommends protective discrimination to bring equality in society. He also traces the history of reservation in India. He tells how compensatory treatment provides the opportunity to the disadvantaged group to merge in the mainstream of the society. He says that it is the responsibility of the state to eliminate all forms of inequality prevailing in the Indian society. He further says the reservation policy should not be confused with poverty eradication programme.

Upadhyay, (1991) talks about every aspects of reservation for Scheduled Castes and Schedules Tribes. He says that the condition of Scheduled Castes and Schedules Tribes have not changed much since independence. Scheduled Castes has still been suffering with the stigma of untouchability followed by servitude,

illiteracy and poverty. He argues that though untouchability has legally been abolished but it is still prevailing in Indian society in some form or other. In the chapter right to equality he says that rule of law should not only safeguarding and advancing the civil and political rights of the citizens of the country but also at establishing social, economic, educational and cultural conditions under which their legitimate aspirations and dignity may be searched. He further says that whenever social inequality as economic injustice is found, a democratic state enters the arena with the law establishes social equality and remove economic injustice.

Nesiah, (1999) examines the concepts such as equal rights, equal opportunities, individual rights, group rights, discrimination and reverse discrimination. He also explains why he has chosen India USA and Malaysia for his study. He tells why protective discrimination and positive discrimination is needed to bring equality. He gives various reasons for the positive discrimination. He says that the discrimination in India is very severe and is there for over two millennia. He finds that the protected groups face acute problem of poverty and illiteracy. He further says that the bulk of discriminated groups are living in the villages and are out of reach of preferential policies.

Thorat *et.al.* (Ed.2004), this book is a classic book on caste race and discrimination. Various issues by many scholars have been incorporated in this book. How some time race is equated with caste is one of the themes of this book. Caste discrimination by Narula is a marvelous piece of work. This book includes the issues related to race and discrimination. Caste discrimination was one of the agenda of the World Conference Against Racism, Racial Discrimination, Xenophobia and related Intolerance held at Durban South Africa in the year 2001. The whole book is full of instances of caste violence, discrimination and other caste related issues. The book contains thirty-seven articles. Questions like caste

is race or what is similarity between caste and race have been answered in the book.

Mehta & Patel (1985) deals with the debate on reservation. This book was written in the backdrop of the turmoil on the reservation issue in Gujarat. They argue that caste system is disintegrating and survives only in the form of collective politico-social psyche and it is expressed only in the internal relations and interactions of different caste groups. Ghanshyam Shah in his article in this book says that traditional caste system, which was based on the ideology of purity and pollution, has very little relevance in the present day India. He is in the favour of economy-based reservation and not caste based and argues that caste based reservation legitimize the caste system which contradict secular principles.

Prasad (1991) says that casteism is the sui-generis problem of Indian society. He taking inputs from the Galanter's book says that reservation after all is a means to an end i.e. assimilation and integration of all in the main stream of our national life and not an end in itself. Since the book is old and lots of changes have taken place since then but it is a good book to get the insights about the protective discrimination. He gives the clear picture of reservation at that time. The number of Scheduled Castes and Schedules Tribes in the government jobs and educational institution was not up to the mark.

Shah & Agrawal (Ed.1986). The book is the collection of seminar papers and does not cover things great detail. Things in this book are somewhat scattered and limited. They used the term protective discrimination, which he says refers to a variety of special provisions designed to mete out special or preferential treatment, or grant concessions to the weaker section including the Scheduled Castes and Schedules Tribes and other backward classes. Ghanshyam Shah in the his article "protective discrimination, Equality and Political" published in this book says that despite protective discrimination, the overall condition of the

Scheduled Castes and Schedules Tribes has not yet improved to any significant extent.

Khan (1994) believes that the objective behind the policy of reservation pursued by the state was to bring about the social transformation for the Scheduled Castes and Schedules Tribes. He through his book “Reservation for Scheduled Castes Gaps Between Policy and Implementation” shows the perception and attitude of the different social groups on the issue of reservation. There is a wide gap between the policy and its implementation. This<sup>is</sup> why there ~~are~~ a lot of backlogs in each department.

Prasad (1986) says how much hue and cry has been there on the reservation issue specially violence over reservation issue in Bihar and Gujarat. The basis of reservation he says should be the caste if the spirit and the perspective of the constitution for restructuring India society are to be followed.

Haslam (1999) claims how much discrimination is there in all sphere of social life Indian society. He gives the account of discrimination in the social, economic and political sphere and describes the pathetic condition of dalit women.

Dirks (2001) in his elegant essay, castes of mind talks about the idea of caste. Nicholas Dirks tracks the pathways of caste from pre-colonial India. He says that caste is a singular, hierarchical yet homogeneous category. He raises crucial questions for anthropology and history about the study of the colony and the post-colony.

Mahajan (Ed.1998) says that despite the great principles of liberty, fraternity and equality, the majority of the population women constituting about half the population, and the propertyless were simply non-citizens. All four essays included in the volume are related to the issue of positive discrimination. In this book Kaka Kalelkar, D. L. Shethn, Andre Beteille and Dipankar Gupta are the



main contributors. In this book it questions of social and economic discrimination and oppression have been dealt with at length.

### **1.10 CHAPTERISATION**

This dissertation has been arranged in three main chapters headed and followed by introduction and conclusion. The second chapter “Reservation Policy in India”: looks into the issues related to reservation. In this chapter the reservation and other terminologies have been 4.4 Comparative study of Affirmative Action in the other parts of the World thrown some light on the evolution of the reservation policy. This chapter also covers the caste system, which is the mother of all the problem and objective of the reservation policy. An attempt has been made to analyse the reasons of the reservation and the constitutional obligation toward the weaker section of the society. In the third chapter ‘Evaluation of Reservation Policy’ the reservation policy has been evaluated and tried to show about the current position of the reservation in India. The fourth and the most important chapter ‘Reservation in Private’ Sector covers the whole range of issues related to the reservation in private sector. It covers the issues of merit, efficiency, social responsibilities of the businesses and comparative study of the issues. The concluding part deals with the findings and observations on the whole issue of reservation policy as well as reservation in the private sector.

*Chapter –2*

*RESERVATION POLICY IN INDIA*

## CHAPTER-2

### 2.1 WHAT IS RESERVATION?

First of all it is necessary to know what actually reservation means. Reservation for a layman can be reserving seat or for that matter any thing for particular man/women or for some sections of society. Reservation is a policy by which a fixed number of slots in educational and government institutions are allotted to members of certain communities based on their caste. The communities that are eligible for reservation have historically been exploited.

“It is one of the mechanisms of protective discrimination, as a special policy of the state enshrined in the constitution to ensure the participation of the traditionally neglected section of the society. It involves fixation of quotas in the legislative bodies, in educational institutions and the public employments”. Prasad (1991:7)

“Reservation is primarily meant to compensate for past loss of and equalize current and future initial opportunity. The aim is to give easy, equitable access to the career escalator and not to carry people from step to step on the escalator, much less to partition all available jobs proportionately among all castes as if they are some sorts of family property (Financial Daily, Dec.14, 2004).

Reservation is the rightful privilege granted to some one or some communities by the government or some government authority for some reasons. Reservation is the right of participation in education, services and politics etc. (Biswas, 1992:16-17)

According to Dr. Nagrade, “reservation is a tool to get participation in administration. Reservation is a medium to get propionate share in power” (Samujh, 2005:76). Justice Venugopal is of the opinion, “ the reservation is the

device to secure jobs in government services and better economic conditions of the backward classes and Scheduled Castes and Scheduled Tribes. It is compensatory justice to offset the accumulated disabilities of the historical handicapped sections of the society. It is the preferential treatment to stimulate the development of their neglected talents and absorb them occupationally and educationally in the mainstream of national life. It is compensatory preference to liberate the oppressed and depressed from their age long social and cultural shackles. It is acting as a stimulus and catalyst for their uplift and their advancement According to the former prime minister of India V.P. Singh the reservation is not only a means of job sharing but it is a lever power of power operation. In his speech given in Harvard University, he stated, “now the bid by the deprived sections is not for more jobs or any other benefits of power, but to operate the levers of power itself (Ibid).

The reservation policy in India is most of the times compared with Affirmative actions. But there is a difference in both the policies. Reservation as has been given above is about fixing the numbers while affirmative actions is not about fixing the numbers for any particular community. Affirmative actions refer to help the socially disadvantaged. It can take many forms depending upon the nature of the need. In India “Quota-based seats for scheduled castes and scheduled tribes in educational institutions, legislative bodies and public offices was seen as a way of ensuring equal opportunity for people who had been excluded, subordinated and denied social and economic resources” (Hasan, 2005).

So reservation in India is a policy by which a fixed number of slots in educational and government offices are allotted to the members of certain communities based on castes. The communities that are eligible for reservation have historically been Scheduled Castes and Scheduled Tribes. There are many categories in the list of the beneficiary of the reservation policy. Apart from

Scheduled Castes, Scheduled Tribes and other backward classes, the reservation is available to the ex-servicemen, Anglo Indians, persons with disability, dependent of freedom fighters and women etc. Some of the terminologies, which are generally used for the purpose of reservation, are as follow:

**Affirmative Action:** The U.S President issued executive orders by establishing equality and prohibiting discrimination on the basis of race, color, religion, origin of nation and sex. These equality programmes are known as Affirmative Action Programme which is generally equated with the Indian Reservation Policy.

**Benign Discrimination:** The government effort to eliminate the continued effort of past segregation and discrimination arousing compassionate treatment.

**Compensatory Discrimination:** Preferential treatment to safeguard the interests of historically disadvantaged sections of the population.

**Positive Discrimination:** Eradication of present institutionalized effects of past discriminations, through positive governmental steps awarding preferential treatment in favour of certain weaker sections of the society.

**Protective Discrimination:** It denotes the idea that the object of special or preferential treatment is not so much to give any special privileges as to extend protection to those who have been exploited due to centuries of oppression and ill treatment and but for the special treatment are vulnerable to exploitation.

**Reverse Discrimination:** It connotes the idea of discrimination in favor of those who until recently had been the victim of discrimination and involves discrimination against those who had not suffered discrimination so far. In other words, it is the situation created by preferential treatment, which results into denial of employment opportunity of a qualified applicant of a non-preferred group (Prasad, 1991).

## 2.2 INDIAN CASTE SYSTEM

*"A Sudra though emancipated by his master, is not redeemed from servitude. Since this is innate in him, who can set him free from it".*

*(Manu Smriti VIII: 414)*

*"Untouchability is more than a religious system. It is also an economic system which is worse than slavery. In slavery the master had, at any rate the responsibility to feed, clothe, and house the slave and keep him in good condition lest the market value of the slave should decrease. But in the system of untouchability the Hindu takes no responsibility for the maintenance of the untouchable. As an economic system it permits exploitation without obligation."*

*[Dr. B.R. Ambedkar (1997: 196-7)]*

Social and economic inequality constitute an important characteristic of Indian society. It is the institution of caste system which has created the institutionalized inequality and poverty. Though poverty and inequality are found in all contemporary societies, but these are more visible, more widespread and manifest in India.

Indian caste system is a source of great inequality, oppression and discrimination by the higher caste. Caste matters a lot in Indian society. Caste is considered to be the most important basis of social stratification in India for social, economic and religious purposes. The word caste has been taken from the word castus, which means pure. Many sociologists and anthropologists have defined it differently but they all agree to one thing and that is the superiority of the *Brahmins*. It can be undisputed proved that caste in India still play a very crucial part in the social and economic life of people.

For Srinivas caste can be defined as "a hereditary, endogamous and usually localized groups having a traditional association with an occupation and a particular position in the local hierarchy of caste (Srinivas 1962:3).

Andre Beteille defines caste as "a small and named group of persons characterized by endogamy, hereditary membership, and a specific style of life

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which sometimes includes the pursuit by tradition of a particular occupation and is usually associated with a more or less distinct ritual status in a hierarchical system” (Beteille 1996:46).

For Gupta, “caste system is a form of differentiation wherein the constituent units of the system justify endogamy on the basis of putative biological differences which are semaphored by the ritualisation of multiple social practices” (Gupta, 1996:137).

Marc Galanter has defined caste in India (‘Jati’) as “an endogamous group having a common origin, membership of which is hereditary, linked to one or more traditional occupations, imposing on its members certain obligations and restrictions on matters of social intercourse and having a more or less determined position in a hierarchical scale of ranks” (Galanter 1984:8).

So caste is a social group having two characteristics: (1) membership is confined to those who are born of members and includes all persons so born. (2) The members are prohibited by an unavoidable social law to marry outside the group (Rai, 2002).

Hindu society is divided into four *Varna*, or classes. At the top of the hierarchy are the *Brahmins*, followed by the *Kshatriyas*. The *Vaisyas*, constitute the third class. At the bottom are the *Shudras*, the class responsible for serving the three higher groups. Finally, the Untouchables fall completely outside of this system.

Caste is a rigid system, separating caste from castes, with restrictions on inter-dining and inter-marriage. Even today in the rural India it is strictly practiced and no one is willing to change the age-old rigid system. The structure of the caste system is such that it has an organized pattern of Inter-related rights and obligations of members of each caste. Caste system is a phenomenon of social

inequality. Society has certain structural aspects, which distribute members in different social positions. Dumont thinks that the distinction between status and power is basic to understanding caste system.

India's caste system is perhaps the world's longest surviving social hierarchy. The caste system is rigid that means that the member of the caste into which he or she is born remains in that caste until death. There is no escape. One can change any thing like name, occupation etc. but cannot change one's caste. It is a hierarchical system, one below the other in ritual (or purity) status, with several disabilities imposed on the fourth *Varna* and even more on the untouchables. Dumont thought that the distinction between status and power is basic to understanding caste system (Dumont 1999:65-91).

India has been practicing caste system for the last 2000 years. This institution of caste system also includes untouchability. It means a division of labor determined by birth, meaning permitting no occupational or social mobility. Caste distinguishes from class because caste is hereditary while class is not as one cannot change one's caste while class can be changed with social and occupational mobility.

According to G.S. Ghurye (1996:35-48), the features of caste system are:

- Segmental division of society
- Hierarchy
- Lack of unrestricted choice of occupation
- Restriction on marriages
- Civil and religious disabilities and privileges of the different sections.

The caste system is associated with a notion of purity and pollution. While *Brahmins* enjoy the utmost purity and declining successively with *kshatriyas*, *vaishyas*, and then *shudras*, untouchables are treated as most impure or polluted. A touch of untouchables is supposed to pollute others. The notion of purity vs.



pollution was based on the need to maintain cleanliness and was an institutionalized form where pollution was associated with birth (Nadkarni, 2003).

Caste system in India prevails in almost every walk of life. There is a saying in Hindi *jo kabhi nahin jati use jati kahten hain*, (that never goes is called caste). In rural areas it very much clear from the distances between the houses of different castes. Even after more than five decades of independence, the untouchability prevails.

Rigid social norms of purity and pollution are socially enforced through strict prohibitions on marriage or other social interaction between castes. Marriages are still expected to fall along caste lines. Though things are changing in the globalized era but restricted to the elite urban people only. The caste system is built on the concepts of purity and pollution. Some people are purer than others. The highest caste "*Brahmins*" are the purest of the pure, the other three castes have gradation of purity, the untouchables are wholly impure, and can not even be allowed to come into contact with caste people (Haslam, 1999:1)

According to justice Hegde, " one of the greatest drawbacks in our social structure is the existence of caste system dividing the society according to status and rank. Whatever might have origin of the caste system, it has given rise to various gradations in the society, which in turn has resulted in social inequality and discrimination. The caste system and consequent discrimination are not compatible with a democratic society. These social gradations have created economic and educational disparity. The caste system among the Hindus has its repercussions to an extent on other religious groups also. With a view to remove these gradations in our national life and to reshape our society on democratic lines, the constitution directed the state under Article 46, to promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the scheduled caste and the scheduled tribes, and shall

protect them from social injustice and all forms of exploitations”(Mehta & Patel, 1985:21).

Because of the graded inequality practice based on the mere incident of birth of a person in a caste group, the lower castes were denied educational opportunities and a share in the administration by the priestly and the ruling classes. So how could there be free, fair and equal competition among unequals?

According to the Hindu scripture the first three castes are considered to be twice born which means they are allowed to participate in Hindu ceremonies and are considered more pure than the Sudras and polluting untouchables. In southern India, where caste prejudice has been historically most severe, even the sight of an untouchable was considered polluting. Since the occupation was based on the caste so the untouchables usually handled impure tasks such as work involving human waste and dead animals. This is why up to few decades back untouchables were not allowed entering in temples, drawing water from upper-caste wells, and all social interaction with upper-caste Hindus including dining in the same room. These social rules were so hard that the violators were severely punished and some time they were even killed.

The structure of Indian society divides the works based on the caste. *Brahmins* came to be associated with learning, *Kshatriyas* were given the duty of protecting the boundaries, and *Vaishyas* took care of businesses while *Shudras* were told to serve all three. And none was to go beyond their caste-based occupations. This system has been continuing since then and is quite rampant in every walk of Indian life.

Gupta argues that though caste-based stratification displays very different characteristics but he says it is impossible to construct a uniform hierarchy of caste based on the notion of purity and pollution. “No caste would like to merge

its identity with any other caste. No caste accepts that it has originated from a shameful act of miscegenation. Any suggestion of being half-breed is dismissed haughtily across the board by all castes” (Gupta, 2000: 72-85).

He further says that it is true that castes try to elevate their social status through a process known as Sanskritization a term coined by Srinivas. But it is not at all true that those castes that emulate the lifestyle of powerful *Brahmans*, or Kshatriyas, or *Baniyas* want to merge their identity with these castes. He says that the *Viswakarma Brahmans* have sanskritized much of their lifestyles but do not want to marry *chitpavan* or *saraswat* or any other kind of *Brahman*. They want to stay separate but would claim equality with, if not superiority over, other *Brahmans* and prosperous castes (Gupta, 2001).

Sanskritization does not mean merger with other castes. In Rajasthan till a few decades ago, *Jats* were not supposed to wear a turban, carry arms, or ride a horse (Sharma 1998:83). Though *Jats* today ignore all these restrictions against them, but in the 1930s they had to encounter stiff resistance from Rajputs. Now that *Jats* lead a lifestyle similar to Rajputs, it does not mean that *Jats* want to merge with Rajputs, or pass off as them. Almost every caste differentiate themselves from other castes on various fronts for example on how they get married, how they conduct their funerary ceremonies, the food they cook and prefer, and even on the basis of Gods that each castes considers to be special to its members. (Gupta, 2000: 77-85).

Many countries have recognized the existing inequalities though the form and degree vary from society to society. Various actions have been taken to minimize the discrimination and exploitation created by these inequalities. India is one of the many countries in the world having this problem. Some sections of Indian society have suffered it a lot. Naturally the lower strata of the society must have received the maximum.

Several terms have been used to describe the same group of people. The earliest and still most widely known terms are untouchables and outcastes. Gandhi to avoid untouchable called them harijans, children of God. During 1970s, they started calling themselves Dalits (the oppressed). The condition of the untouchables was very pathetic. They were very badly treated by the upper caste people. They were not even treated as equals. The socio-religious disabilities had dehumanised the untouchables. The atrocities inflicted on them were on a large scale. The cases of rape and molestation were quite visible (Rodrigues, 2005).

David Haslam rightly described the condition of dalits in India that. "To be a dalit however is not just a matter of economic and political oppression. The additional dimension which affects dalits is the psychological, which they have experienced over 3,000 years of mental oppression, intended to convince them that they are not in fact human being, but some less-than-human species whose role is to serve the needs of the caste people" (Haslam, 1999:2). According to him there are five spheres where Dalits are discriminated:

**Social:**

- Access to services,
- Access to decision making
- Eating and mating
- Housing
- Education
- Harassment and violence burial and death

**Economic:**

- Land
- **Employment**
- Debt
- Water

**Political:**

- The caste basis of politics

- **The failure of the state**
- The role of the police
- Divide and rule

#### **Religio-cultural**

- Identity denied
- The place of religion
- Drums and procession
- The power of the priesthood

The rigid caste system of Indian society denied some social groups the essential minimum opportunities to enjoy the basic condition of life. Due to that discrimination and exclusion, these castes are still socially and educationally backward. Exclusion and discrimination is in fact internal to the economics and sociology of the caste system and its natural outcome (Thorat, 2005).

“It is a matter of common knowledge that Indian society has been highly inegalitarian for the past three millennia and more. The untouchable and shudra have been subjected to the worst form of discrimination by the higher caste” (Hooda, 2001:164).

Poverty is another reason of social exclusion. Social exclusion causes the higher rates of poverty among affected groups. These groups are poor in terms of income, health and education. The reason is that they are denied access to resources, markets and public services. Socially excluded people are often denied the opportunities available to others to increase their income and escape from poverty by their own efforts.

A closer look reveals the inherent discrimination in the allocation of jobs, land, basic resources and amenities. Dalits are also the victims of violence, bonded labour and receive severe abuses. Why is it? Because they are placed at the lowest

ranking in the caste order. This is their poverty only that allows for abuses to go unpunished.

There is discrimination in the allocation of labour because of this caste system. In this practice lower castes are typically restricted to tasks and occupations that are filthy or polluting. This in turn helps them in making poor. This is the reason why there is a high dropout and lower literacy rates among lower caste population. Though there are chances that these rates are partly because of the need for low caste children to supplement their family wages through labour. But more dangerous and less well documented is the discriminatory and abusive treatment faced by low caste children at the hands of their teachers and fellow students (Narula, 2001).

The condition of the dalit women is even more severe. Dalit women are generally positioned at the bottom of caste, class, and gender hierarchies. They are largely uneducated and often paid less than their male counterparts. They are the one who bear the brunt of exploitation, discrimination and physical attacks. Landlords often use sexual abuse and other forms of violence against dalit women. Another aspect of these dalit women is they also suffer disproportionately in terms of access to health care, education, and subsistence wages as compared to women of higher castes (Ibid)

The unequal and hierarchical assignment of occupation and property rights among castes implies that although every caste, except those at the top of the caste order suffers from an unequal division of social and economic rights. The former untouchables at the bottom of the caste hierarchy suffer the most. In addition they also face exclusion and discrimination from access to all economic rights including right to property (Thorat, 2005).

Caste in India is a social reality that cannot be wished away. One's economic, social and educational progress is directly related to one's caste. The

table given below shows the existing disparity among the different castes. These social indicators suggest that the dalits are far behind the non -dalits in terms of various things given below.

**Table 2.1**  
**Welfare Indicators in India by Caste**

<b>Social Indicators</b>	<b>SC</b>	<b>ST</b>	<b>Non-SC/ST</b>
<b>Poverty, rural (percent)</b>	36	46	21
<b>Poverty, urban (percent)</b>	38	35	21
<b>Child Mortality (per 1,000 births)</b>	39	46	22
<b>Assets per household ('000 rupees)</b>	49	53	135
<b>Percentage of wage labour, rural</b>	61	49	25
<b>Literacy, rural (percent)</b>	51	45	63
<b>Literacy, urban (percent)</b>	68	69	82

*Sources:* National Sample Survey Organization, Delhi; International Population Research Institute, Mumbai; Commission for Scheduled Caste and Tribes, Delhi; Thorat (2005).

Economy of the community is directly related to its performance in the all practical life of the people. Meaning thereby that if some body is poor his or her poverty will be reflected in his or her social life. Education, health, social prestige and the self-confidence will all be affected by ones poverty. So poverty and social life is directly related to each other. More money means more power, good health, high prestige, social capital, higher education and lucrative jobs etc. The table suggest that dalits are lagging behind in all the social indicators.

Stories of abuse and violence against dalit women are widespread. They are the Dalits of the Dalits. They are supposed to work harder, carry responsibility for children, manage on less money and suffer sexual exploitation. In the past time especially in south India dalit women were not allowed to cover their breasts. Though this prohibition has largely ceased now. Another extraordinary fact is that although contact with dalits is supposed to pollute the caste person, but when it comes to sexually

assaulting the dalit women such pollution magically disappears. Haslam says that the discrimination against dalits is therefore wide and deep in modern India and it is even worse for dalit women. (Haslam, 1999:81-85).

Scheduled castes and scheduled tribes have suffered intense and extensive social and economic discrimination because of the caste system. They have been the victims of ridiculous prejudices. Because of this caste system they have laboured under severe handicaps particularly in the field of education and public services. Despite constitutional prohibitions and laws, most recently the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, violence and injustices against untouchables continue today, particularly in rural India. Violence runs deep in India.

The constitution has passed certain laws to eradicate the ill practices. For example untouchability has been abolished by the Constitution. Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 whereby members of the disadvantaged sections of society are to be prevented from doing manual scavenging. But it can be easily seen in our day-to-day life. Recently a very bad picture came into light that a graduate Dalit women was found doing manual scavenging. A high level of meeting was immediately called by the prime minister to discuss the issue (NDTV 05/07/06). This is the scene of the dalit women in the country. Many incidents of these types go unnoticed. It is a fact that discriminatory practices against the Dalits do persist. An absence of effective enforcement of the legal provisions is one of the causes (Sorabjee, 2001).

Indian society is based on the notion of purity and pollution. Some of the occupations are considered polluting or impure and therefore socially degrading. The social stigma of impurity and pollution reduces the social status of persons engaged in them and thus lowers the economic incentives (Thorat, 2005).



After the adoption of the Constitution in 1950, in theory at least caste-based customary rules and norms governing occupation, property rights, employment and wages, and education were formally replaced by an egalitarian legal framework. Now even the low castes have equal access to all occupations, education and other spheres. Despite these provisions and the impact of other factors, the caste system continues to function in the private domain of economy in some form or other. Therefore safeguards are required against market and non-market discrimination (Ibid).

Education and other constitutional safeguards have brought significant change. Education has resulted in disassociating caste from occupations to a great extent though disparity still exist. It is now clear that earlier occupation was more or less caste based in many cases they were supposed to stick to that. Caste system drives the whole society in to a large number of hereditary groups.

There are many occupations regarded as degraded by Hindus. There is a constant desire to evade and escape from such occupations carrying stigma with it. There are adverse consequences of caste divisions on employment. Restrictions on inter-caste mobility of labour cause of much of voluntary unemployment among high caste persons and involuntary unemployment among the low castes. Obviously the high caste Hindus would generally prefer to be voluntarily unemployed for some time rather than taking up an occupation considering it not to befitting their caste status. While restrictions on entering into the occupations assigned to other castes compel low castes and specially the untouchables to remain involuntarily unemployed (Thorat, 2005).

Most Dalits, the depressed castes in India continue to live in extreme poverty. They do not have land or opportunities for better employment or education. "They are denied the even the basic education, what to talk of the

higher education.”(The pioneer, June 24,2006) The clear cut economic and educational inequality continue between lower and higher-caste communities in India. Lower-caste communities in India are generally plagued by low literacy levels and a lack of access to health care and education.

Still Dalits are beaten, their houses are burnt and women are raped. It is just because Dalits are still considered to be inferior and untouchable. It is the prevalence of the caste system only which has given some section of society so much of power prestige and privilege while others have not. It is because of caste system why almost all the seats in the judiciary, journalism and central university professorship are confined to particular castes and others are negligible. The reason is quite clear and that is the presence of untouchability, caste system, and discrimination.

Violence is perpetrated continuously against dalits in Indian society. Wherever dalits resist their oppression they are likely to incur the wrath of the caste people. There are endless accounts of attack and the lack of an adequate response by the authority (Haslam, 1999:41-42). It is so rampant that caste discrimination was one of the agenda in the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerances (WCAR) held in Durban from 28 August to 7 September 2001. But despite 57 years of independence atrocities and brutalities are heaped upon Dalits in everyday existence. It is a given fact that the dalit movements and discourse begin with the atrocities against these people (Louis, 2001).

### **Atrocities in Dalits' Daily Lives**

The oppression of Dalits has occurred for the past 3,000 years. They are segregated in all spheres of social life in places of worship, education, housing, land ownership, use of common property resources such as wells and village water taps, roads, buses and other public places. They are the people who are

made to do all menial and degrading jobs in our society. They are considered to be untouchable too polluted to touch. In their daily lives untouchability results in, among other things, the following consequences:

In many dominant caste (rich) families, the servants are Dalits. After a Dalit servant has cleaned the rooms, pots and pans, one of the family members will sprinkle holy water around the house to purify all that has been touched by the Dalit servant. Dalits are not allowed to wear shoes if they wear shoes, they will be forced to take them off when coming into the presence of a dominant caste person. In rural areas Dalits are not allowed to cycle through the dominant caste area of the village. Dalits live mainly in separate communities, outside the actual village. In general Dalits are not allowed to sit at bus stops they have to stand and wait until dominant caste people have entered onto the buses. Dalits are also not allowed to sit on the bus seats even if they are vacant.

Dalits are not allowed to enter many Hindu temples, for fear of their polluting the temples. Dalits have been chased out, abused and beaten up for daring to as much as set foot inside a temple, even though it is a temple for their religion. After half a century of Independence, even many educated Dalits continue to face discrimination in renting a house to live in. Most Hindus will avoid having a Dalit prepare their food for fear of becoming polluted. Dalits have been systematically attacked or socially boycotted for asserting their basic rights to land, minimum wages, education, housing, food, water, etc.

### **2.3 EVOLUTION OF RESERVATION**

Like every other society in the world the goal of Indian society too was to secure the social justice to all the citizens of India. In the previous chapter it was clearly shown that the dalits were not given the opportunity they deserved. Their social exclusion and exploitation was on warpath and they were not treated as the equal citizens of the country. After, India got independence it was the duty of the

government to correct the past injustice. So reservation was thought to be the only way to give equal opportunity to the people who have been marginalized for centuries.

In the words of Dr. Ambedkar, “Political democracy cannot succeed where there is no social and economic democracy. Social and economic democracy is the tissue and the fiber of a political democracy. The tougher the tissue and the fiber, the greater the strength of the body politic”(Prasad, 1986). The need to discriminate positively in favour of the socially underprivileged was felt for the first time during the nationalist movement.

Indian society had a plethora of inequalities. There was a gap of hell and heaven between two particular sections of society. On the one hand there was a group who were educated, have social prestige and privileges and on the other hand there was another section who was deprived of all these. They were not given equal opportunity to come to the mainstream. So there was a need to equalize that gap. Obviously there was a need to treat unequally to bring those in the mainstream of Indian society. In other words the idea of equality of opportunity demanded unequal treatment to unequal sections of Indian society. So the Indian constitution applied the principle of “protective discrimination”. Protective discrimination later took the form of the reservation policies for the deprived section of the society. Various provisions in the constitution have been made to undo the past discrimination.

In the words of Chiriyankandath the most important aspect of inequality is the gap between haves and have-nots. So it was a felt need that the disparity of wealth and income must be narrowed down so that economic opportunities are brought towards equality. Because the equality of social status can never be achieved unless there is a reasonable representation of that segment of society

who has been kept out of power since time the immemorial (Chiriyankandath,1999).

The constitutional reservation of jobs in the public sector for candidates belonging to the Scheduled Castes and Tribes was national obligation to compensate them for the undisputed centuries of suppression of their opportunities. In view of this position, the framers of the Indian Constitution incorporated in the Constitution itself provisions for affirmative action or compensatory discrimination. This was done by providing reservation of jobs for Dalits in government employment and reservation of seats for them in educational institutions under Articles 15(4) and 16(4).

The Indian caste system especially untouchability, discrimination and forced segregation placed the excluded community in a terribly disadvantaged position. Reservations were necessary to correct the injustice and a means of bringing these sections into the social and political mainstream. The policy of reservation in government jobs for the Scheduled Castes and Tribes has to some extent guaranteed their participation in public employment (Hasan, 2005). The reservation policy was first introduced in the early 1930s and formalised later in 1950, Ambedkar who pioneered this policy justified it primarily on grounds of citizen/human rights violation. (Thorat, 2004)

## **2.4 CONSTITUTIONAL PROVISIONS**

Article 16 (4) - “Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the State”

Article 16 (4A) - “Nothing in this article shall prevent the State from making any provisions for reservation in the matter of promotion to any class or

classes of posts in the services under the State in favour of SCs and STs which in the opinion of the State are not adequately represented under the State” (Constitutional 77<sup>th</sup> Amendment, - Act, 1995).

Article 16 (4B) - “Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year” (Constitutional 81<sup>st</sup> Amendment, - Act, 2000).

Article 46 - “The State shall promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the SC and ST, and shall protect them from social injustice and all forms of exploitation.”

**Special Provisions:** The Constitution prohibits discrimination (Article 15) of any citizen on grounds of religion, race, caste, etc.; untouchability (Article 17); and forced labour (Article 23). It provides for specific representation through reservation of seats for SC and ST in the Parliament (Article 330) and in the State Legislative Assemblies (Article 332) as well as in government and public sector jobs (e.g. public enterprises), in both the federal and state governments (Articles 16(4), 330(4) and 335).

Under Article 338 of the Constitution, the President of India appoints a special officer known as the commissioner for SC and ST to investigate all matters relating to the safeguards provided for the SC and ST under the various provisions of the Constitution.

When India got independence in early 1950s the private sector was not on a very high growth and therefore it was left out from the purview of reservation for the depressed classes as it was enshrined in the constitution for the government and the public sectors. Since the above-mentioned constitutional provisions are not mandatory in the case of the private sector, private sector enterprises do not bother to follow them

### **Criteria for Reservation:**

The reservation has always been contested that it should be based on economic well being of the individuals. The Supreme Court in all its decisions on reservation has interpreted the expression backward classes in Article 16 (4) to mean the socially and educationally backward. It also rejected economic backwardness as the only or the primary criterion for reservation under article 16 (4). Article 46 speaks of weaker sections, whose economic interests have also to be promoted along with their educational interests with special care it also speaks of protecting them from all forms of social injustice and exploitation. Those sections which are merely economically weak or backward would not qualify for promotion of their interests under the cover of this Article. (Sawant, 2003)

Another argument is that it is not the upper castes or the social groups but the poor individuals in the groups should be given reservation. But reservation has been provided in the Constitution for classes and not to individuals.

The existing reservation in state employment under Article 16 (4) is in favour of such backward classes, which, in the opinion of the state are not adequately represented in the services. It is clear from this provision that it is to give the classes adequate representation in state administration that reservation has been made (Sawant, 2003).

Reservations should never be based on economic status for various reasons as follows:

1. Caste is the main form of social exclusion and not poverty.
2. An individual's economic status can change but caste cannot.
3. Battery of difficulties in proving economic status of individual so the weak may suffer.
4. In caste ridden India infested with rampant corruption, even for an unchangeable status like caste, the false "Caste Certificate" can be purchased. It is certainly more difficult to buy a false caste certificate than a false income certificate.
5. Reservation is not an end in itself. It is a means to an end.
6. The fields of reservations should be all fields of life including Education, jobs, judiciary, armed forces, Industry, corporate life trade and commerce.
7. If this generation avoids the responsibility of dealing with social exclusion, their future generations would suffer.

The idea of economic reservation or reservation designed to relieve poverty is another way of ignoring the social realities of caste. Here the idea of social justice is extended to take in the poor among the upper castes. Thus today's farce of promising reservations to the poor among the upper castes is only the latest in a long tendency of avoiding the real issue the unique social roots of discrimination, in this case caste.

## **2.5 OBJECTIVES OF THE RESERVATION POLICY**

The reservation policy was adopted after the India got independence. To do any thing or to start any thing new there must be a clear-cut objective of that particular task. In the reservation case also many objectives were set. It was basically a well thought move by the state to give some respite to the people who have been marginalized for centuries. The reservation was basically enshrined in the



constitution to provide equal opportunity for the depressed classes. In the constitution it is clearly mentioned that state can make certain special provision to ensure the equality in the unequal society. India is a country of castes and untouchability. Social exclusion and discrimination is one of the most important features of this country. Prohibition against discrimination remains a pious goal on paper until and unless conditions of life are such as to make equality a reality to everyone. So there was a felt need to devise a measure to minimize this if not eliminated all together.

So the policy of reservation was one of the main measures apart from many other measures to correct the past injustice. Policies of preferential treatment and compensatory justice are one of the many tools adopted to promote positive equality. The purpose of reservation is to mitigate the inequalities accumulated as a result of centuries of caste-hierarchy dominating the Indian scene (Mehta & Patel, 1985: 45)

“The primary reason for reservations was the goal of inclusion in the face of existing social prejudice” these are (a) Reservations seek to ensure a level playing field, and (b) they only seek to compensate those who have suffered harm due to past practices of the society as a whole. Reservations provided to the Scheduled Castes and the Scheduled Tribes were visualized as an instrument of inclusion. (Mahajan, 2005). On how this social justice can be secured for these sections of our society, Justice (Retd.) P.B. Sawant has rightly observed, “The right to equality without capacity and the means to avail of the benefits equally is a cruel joke practiced on the deprived sections of the society” (Sawant, 2003).

The exceptions (to the right to equality law) enable the State to make the deprived capable of availing of the benefits which otherwise they would not be able to do. It is to give effect to the principle of equality that the exceptions become mandatory in any unequal society such as ours which intends to become

egalitarian. To treat two unequal equally causes as much injustice as to treat two equals unequally. The jurisprudence of equality therefore requires that those below be leveled up to those above. Accordingly, a provision was made for reservation in jobs for Scheduled Castes / Tribes in services under the central and state governments as well as in public sector undertakings (Singh, 2005). The objective behind the implementation of reservation is the advancement of any socially and educationally backward classes of citizens, such as the scheduled castes and scheduled tribes, who had been subjected to thousands of years of discrimination by India's upper castes. When India gained its independence, the constitution gave special provision for certain communities to have a minimum representation in various fields. The policy of job reservations intends to bring about proportional equality, as it is a mode of distributing benefits based on the proportion of the population, i.e. 16.5 per cent for the Dalits and eight per cent for tribes. It is based on the principles of distributive justice and compensation for past disadvantages. All in all, it has been a project of 'capacity building' among the weaker sections of Indian society. This concept of 'Reservations' aimed at ensuring the betterment of underprivileged and deprived sections of society (Jogdand, 2004).

The main intention behind the reservation policy was social justice so that the empowerment of the Dalits and Tribals can be possible. This reservation policy has addressed many questions. The question of inequality, discrimination, exclusion, exploitation and many more. Though there are some more laws to address these issues but by empowering Dalits through the reservation the chances of discrimination and social exclusion gets diminished as they move upward socially and educationally at least in urban areas.

Social justice which is a part of the broader concept of justice, is based on the distributive principle. The subject matter of justice is the manner in which

benefits and burdens are distributed among men whose qualities and relationship can be investigated. An aggregative principle is one which refers only to the total amount of good enjoyed by a particular group, whereas a distributive principle refers to the share of that good which different members of the group have for themselves (Rai, 2002).

Beteille argues that socially disadvantaged castes also had rights and they too needed the care and attention of the state (Beteille, 2005). It has to be understood that the main intention behind the reservation policy was social justice, thereby the empowerment of Dalits and Tribals. It is based on the principles of distributive justice and compensation for past disadvantages. It was the constitutionally essential to provide reservation (Beteille, 1991).

The vast inequalities, which still exist in Indian society, leave the low castes deprived in everything from education to simple nutrition. The policy of job reservations intends to bring about proportional equality. The motive behind the reservation policy is to give the proportionate participation to all castes and communities.

Marc Galanter has observed, government employment in India is widely considered prestigious and a guarantor of security and advancement. He further says that reservation constitute protective (or compensatory) discrimination in favour of the backward classes, which is envisaged to be used only for the purpose of mitigating inequalities. According to Galanter, compensatory discrimination may be advocated not as device to ensure fairness to individuals but as a means to produce desired social customs, e.g. to reduce group disparities, afford representation, encourage development of talent and so forth (Galanter: 1984:553-562).

Andre Beteille as quoted by (Mehta & Patel 1985:39) recognized the principle of protective reservation as a compensatory principle and says, “ When I have

designated perhaps inadequately the compensatory principle is recognized under different names in different societies. In India it is known as protective discrimination and in United States as affirmative action. In all cases, its objective is to bring about equality under unequal circumstances.

Ambedkar's argument for preferential treatment was based on social inclusion and the significance of public presence. He was of the view that preferential treatments will provide an opportunity to the persons and groups who have been denied social presence so far and are excluded in public life. He believed if they got the opportunity they would actively participate 'in the process of government (Rodrigues, 2005). One of the objectives of the reservation was of capacity building among the weaker sections of Indian society. It clearly mentions the fact that the schedule castes (SCs), and scheduled tribes (STs) in our society have been neglected and discriminated not only educationally but also in all spheres of socio-political life. They suffer multiple discriminations. Due to the discriminatory beliefs in the caste system, the lower castes were not even allowed to move outside lest their shadow may pollute the people from the higher castes. Under the rigid Indian caste system, the Brahminical upper castes have undue, unearned and unjust privileges, where as the lower castes and untouchables suffer from suppression, neglect, and discrimination.

The objective of the reservation policy was the betterment of the Dalits. Many people have given many names to address the issue of reservation. Andre Beteille for example says that reservation was given as the distributive justice. Means this reservation was a necessary to the people who have been excluded for centuries. Others call it social justice. This means that earlier there had been a lot of injustices done against the marginalized or depressed classes.

Reservations are to create a sense of confidence and self-worth among people who, through history, had been victims of the most heinous forms of discrimination. They are meant for those who have no socially valuable assets whatsoever. “Only an unrealist romantic might believe that skinning leather, or scavenging, has a high social and moral content. A leather worker or a scavenger suffers from no such illusions. These communities, and some others too, were not allowed in tradition to develop social skills and assets that would help them advance socially” This handicap weighs heavily on them even today. Therefore, they need positive discrimination to get that extra push to move up and claim their rightful position in a democratic society. This is how reservations were supposed to increase fraternity and broad-base democracy. As we all know, liberty can be established by law, equality by dictat, but for fraternity to happen it requires a substantial realization of citizenship (Gupta, 2005).

Justice D.N Sandanshiv has mentioned the objective of the reservation policy “reservation are meant to ensure that no community is deprived of its rightful place in a true democracy. It is not a caste or class concession, it is a compensatory device to negate the disabilities and handicaps imposed by the poisonous caste system (Samujh, 2005: 75).

In Ashok Kumar Gupta vs. state of U.P. the Supreme Court of India pointed out the objective of reservation policy by observing, “every citizen or group of people has right to share in governance of the state. The scheduled caste and scheduled tribes equally being citizens have a right in governance (Ibid: 77).

In Delhi Transport Corporation vs. D.T.C Mazdoor Congress the Supreme Court has further observed, “law is a social engineering to remove the existing imbalance and to further the progress, serving the needs of the Socialist Democratic Bharat under the rule of law. The prevailing social condition and

actuality of life are to be taken into account in adjudging whether or not impugned legislation would serve the purpose of the society” (Ibid: 77).

The Supreme Court of India in *Union of India V. Madhav* has described the objective of the reservation as means to ensuring socio-economic justice for Scheduled Castes and Scheduled Tribes. The Supreme Court in *Indira Sawhney’s* case further elaborates the social economic issue by observing, “objective of the reservation is not only to alleviate poverty but also to share governance by the reservationists classes. The majority of the judges held, “the objective behind article 16 (4) is empowerment of the deprived backward communities to give them a share in the administrative apparatus in the governance of the community”. Sawant, J. in this case has observed, “ the purpose of keeping reservations even in favour of the socially and educationally backward classes under clause (4) is not to alleviate poverty but to it an adequate share in power”.

As reservations are not meant to replace anti-poverty programmes but to instill self-confidence and courage among those who had been historically disprivileged, they should not be used loosely to address people and groups who are simply poor. Reservations are really about fraternity and not about equality of economic status (Gupta, 2005)

Reservation in public sector education and employment is a particularly (but not uniquely) Indian practice enshrined in the Constitution, a legal form of affirmative action designed to provide greater opportunities to communities and social groups that have been traditionally deprived and excluded (Ghosh). Somehow, reservations are construed as concessions extended with the intent of uplifting these low caste people (Teltumbde, 2005)

In a plural society such as India the state generally faces demands from various castes, tribal religious and gender groups for social justice. Amongst

such groups, the Scheduled Castes and Scheduled Tribes (SCs & STs) are treated as deserving cases for historical reasons and on this, therefore, a national consensus has emerged (Ghosh, 1997).

The longstanding exploitation and oppression of the SCs / STs needed to be given a fair chance through certain kinds of affirmative action. Reservation was thought to be one of the mechanism through which state could affirm and uphold the economic rights of disadvantaged groups. Reservation is an arrangement to make up for the handicap or disability from which the lower classes suffered and are suffering due to the caste system. Reservation in education and job opportunities is one of the various means to correct the historical disadvantages based on caste discriminations. Those who have been victimized in history have to be compensated through assured educational and job opportunities so that the social injustice and inequality imposed by the caste system could be reduced to a large extent if not all together. The policy of reservation would enable the weaker sections to participate in the process of decision-making at a higher level.

The reason for the implementation of reservation is the advancement of any socially and educationally backward classes of citizens, such as scheduled caste and the scheduled tribes who had been subjected to thousands of years of discrimination by India's upper castes. When India gained its independence, the constitution gave special provision for certain communities to have a minimum representation in various fields. This initial provision was to have ended after a few years, but the practice continues and the Government of Indian states has amended the constitution, continuing to increase quotas to the extent that many (state not central) institutions now reserve more than 50 percent of their seats.

## *Chapter –3*

### *EVALUATION OF RESERVATION POLICY*



## CHAPTER- 3

### EVALUATION OF RESERVATION POLICY

*Despite constitutional provisions and safeguards, dalit representation in higher educational institutes and in the workforce remains largely minimal. State initiated programmes and policies apart, it is also essential, as a recent conference in Bhopal highlighted, to instill respect for diversity and a greater understanding of the disadvantaged.*

*S. Srinivasa Rao(2002)*

It is more than five decades since the policy of reservation has been adopted by the Indian state. Now there is a demand of the same reservation policy to be extended in the private sector. Therefore, it is now necessary to know if it has fulfilled its intended objectives so far. The time has come to review the entire reservation policy so as to prevent further distortions and misconceptions. Although this policy has been in place for the over 50 years, neither its beneficiaries nor people in the general category have been happy with its consequences. Anti-reservationists believe that their merit is being ignored while beneficiaries think that the package is not being implemented properly (Jogdand, 2004).

#### 3.1 RESERVATION IN SERVICES

There is no doubt that the policy of reservation has improved the lives of the people and today a large number of people are living dignified lives. Thanks to the reservation policy. But it has certainly not achieved its allotted quota. The outcome of more than 50 years of working of reservation reveals that Qualitative representation is still short of the prescribed quota. But then the reservation policy in services for the Scheduled Castes and Scheduled Tribes has been instrumental in enhancing social and economic justice to them.

**Table 3.1**

**Representation of Scs and STs in Public Services (in Percent)**

YEAR	1992		1994-95		1995-96		1996-97		1997-98	
	SC	ST	SC	ST	SC	ST	SC	ST	SC	ST
<b>CENTRAL GOVERNMENT</b>										
A	9.7	2.9	10.25	2.92	10.25	2.89	11.27	3.37	10.21	3.06
B	11.6	2.4	12.06	2.81	12.67	2.68	11.9	2.64	12.38	3.02
C	15.8	3.2	15.73	5.38	16.15	5.69	15.38	5.63	16.08	6.27
D	20.9	6.7	20.46	6.15	21.26	6.48	21.27	6.05	21.54	6.71
SWEEPER	64.7	3.4	49.06	6.09	44.34	6.91	40.06	7.27	39.42	8.26
TOTAL	18.92	4.24	18.81	5.57	17.43	5.78	18.18	5.73	18.47	6.33
<b>PUBLIC SECTOR</b>										
A	6.69	1.66	8.19	2.17	8.41	2.27	9.19	2.5	N.A.	
B	9.92	2.95	9.49	3.3	9.68	3.52	10.4	3.7		
C	16.82	8.13	18.95	8.72	19.14	8.72	18.98	8.62		
D	23.25	9.71	22.57	9.85	22.41	10.68	22.61	10.82		
SWEEPERS	71.91	4.04	82.95	3.94	87.34	3.25	79.98	3.09		
TOTAL	17.76	7.51	18.8	7.87	18.91	8.05	18.89	8.05		

Source: Debating Education III: The Reservation Issue pp. 72

The table shows that the quota fixed for the Scheduled Castes and Scheduled Tribes in central government's grade A and grade B jobs has not been fulfilled. In case of STs the quota has not been fulfilled even in Grade C & D (excluding sweeper). But looking at the overall trend it can be seen that the picture is improving every day. At the same time it is a matter of great concern that after more

than five decades of reservation the reservation quota could not be completed. So far as the trend of the appointments of sweepers is concerned it can be seen that the number of sweepers have gradually declined. It means that people from general category are opting for these jobs.

Like central government department the representation of Scheduled Castes and Scheduled Tribes in the public sector has also not filled up. The trend is almost the same as in the central government jobs case. There is an improvement in the services of grade A and B, but the situation of dalits over all in the services is not satisfactory. Dalits are still monopolizing the sweepers category as the general category people are monopolizing the Grade A and B services. Category C is the only category where it seems dalits are there according to their share. The data mentioned that the dalits are still face it tough to make it to the officers level. The only satisfaction can be that the number is increasing every year.

According to Chandrapal a member of planning commission, the policy of reservation for Scheduled Castes and Scheduled Tribes in services has not been a peaceful affair. It has been challenged in various courts several times on the grounds of equality and efficiency but its validity has been maintained through judicial instrument. (Reservation has certainly changes the lives of dalits. Dalits can be seen at all levels today though the number is not very striking. The dalits particularly at high positions are not adequately represented. But the representation at the C & D grade jobs are either adequately represented or it is over represented.

Why so? The reason is that in this category the profile of the jobs are not very lucrative. The jobs of clerical label and of fourth class employee where the employee is supposed to serve their superiors exactly as was there in the caste system. And what to say of the last category of sweepers. It seems sweepers and dalits are complementary to each other or they are synonymous to each other. The

total number of dalits in the sweeper category is more than combing all the above four category. Again why so? The answer is again very simple, the caste system, the notion of purity and pollution. In the caste based occupational society though no more so rigid but the data show that the stigma attached with the particular occupation has not been washed away.

Though out of the purview of this study but during the OBC reservation issue in the higher education in the year 2006, one of the way of protesting was to clean the roads and polish the shoes as if this is some thing they would never approve or like to do. This is the mentality of the so called highly educated upper caste people towards certain kind of jobs in the so called democratic country called India where people do not have any respect whatsoever for other's source of livelihood.

The government it seems is not concerned about the backlog. The backlog of vacancies for Dalits even after over 50 years of the Constitution is terrible and there is backlog of 70 percent in Group A jobs and even 45 percent in D group the lowest job of peons, khallasis etc. In the public sector it is more shocking being 88 percent. The backlog of appointments of S.C and S.T is reported to be about a million in various government services (Sachar, 2004).

### 3.2 Reservation in Higher Education

Table 3.2

**Percentage of Representation of Scheduled Castes in Teaching Posts in Central Universities**

UNIVERSITIES	LECTURER	READER	PROFESSOR
Ambedkar University,	12.5	Nil	Nil
Assam University,	39	Nil	5
Benaras Hindu University,	9.4	0.2	0.2
Aligarh Muslim University,	Nil	Nil	Nil
J.N.U.	8.5	3	1
Jamia Milia Islamia,	Nil	3	Nil

<b>Nagaland University</b>	Nil	4.7	Nil
<b>Hyderabad University</b>	29.5	2.7	1.39
<b>Pondicherry University,</b>	22.5	4.2	Nil
<b>Vishwa Bharati University,</b>	8.5	1.4	0
<b>Delhi University,</b>	6.4	1	0.9
<b>Nehru &amp; Tezpur Universities</b>	Nil	Nil	Nil

**Sources:** Sixth Report of the National Commission for Scheduled Castes and Scheduled Tribes (1999-2000 and 2000-01) pp. 183

So far as the teaching faculty is concerned the table given above clearly shows the representation at the professor level is almost NIL in all the leading central universities of the country and the level of associate professor their number is very meager though at the entry level in the university teaching post there is some respite. The logic, which is given, is not found suitable. In one of the seminars held in JNU dated 25.05.06 Prof. Gopal Guru asked that what is the guarantee that despite merit and skill a dalit will get the job? The ultimate result is given by the selection board / selection committee who enjoys discretionary power. So the posts go vacant as human element is involved in this.

Scores of dalit students clear the National Eligibly Test every year conducted by UGC the highest authority in the field of Education for the teaching posts but when they face the interview they could not make their presence felt. The reason is non-existence of Dalits in the recruiting process. Enrolment of Scheduled Caste (SC)/Scheduled Tribe (ST) in Higher Education (Classes above XII)

**Table 3.3**  
**University/Institute-wise Total Number of Admissions in Graduate and Post-Graduate Courses in Central Universities and Indian Institutes of Technology (IITs) and the Percentage of SC/ST Candidates in Comparison to Reservation Quota in India (2001-2002 to 2003-2004)**

University/ Institute	Academic Year	Total Students Admitted in Graduate and Post Graduate Levels	Number of SC Students	Percent	No. Of ST Students	Perc ent
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Hyderabad University, Hyderabad	2001-2002	2348	489	20.83	130	5.53
	2002-2003	2388	497	20.81	161	6.74
	2003-2004	2477	517	20.87	185	7.47
M. Azad National Urdu University, Hyderabad	2001-2002	8244	4	0.04	48	0.58
	2002-2003	11183	11	0.09	80	0.71
	2003-2004	13920	23	0.17	210	1.5
Assam University, Silchar.	2001-2002	481	48	10	8	1.67
	2002-2003	585	58	9.91	26	4.44
	2003-2004	581	53	9.12	21	3.61
Tezpur University, Tezpur (Assam).	2001-2002	271	39	14.39	20	7.38
	2002-2003	272	38	13.97	25	9.19
	2003-2004	257	32	12.45	23	8.94
M.G. A .H. Vishwavidyalaya, Wardha	2001-2002	30	1	3.33	0	0
	2002-2003	32	7	21.87	3	9.37
	2003-2004	41	5	12.19	1	2.43
North-Eastern Hill University, Shillong.	2001-2002	10186	160	1.57	8223	80.72
	2002-2003	11729	167	1.42	9633	82.12
	2003-2004	11589	165	1.42	9684	83.56
Mizoram University, Aizawal	2001-2002	6967	80	1.14	6797	97.55
	2002-2003	6069	37	0.61	5929	97.7
	2003-2004	6569	54	0.82	6412	97.61
Nagaland University, Kohima.	2001-2002	8471	28	0.33	8354	98.61
	2002-2003	9014	64	0.71	8830	97.96
	2003-2004	10495	75	0.71	10264	97.8
Banaras Hindu University, Banaras.	2001-2002	15177	1934	12.74	295	1.94
	2002-2003	16105	1777	11.03	321	1.99
	2003-2004	14668	1973	13.45	379	2.58
Aligarh Muslim University, Aligarh	2001-2002	4764	48	1	6	0.12
	2002-2003	4687	52	1.11	3	0.06
	2003-2004	4547	99	2.18	12	0.26
B.B. Ambedkar University, Lucknow	2001-2002	115	43	37.39	5	4.34
	2002-2003	117	52	44.44	7	5.98
	2003-2004	106	40	37.74	2	1.89
Visva-Bharati Santiniketan, Kolkata	2001-2002	1432	241	16.82	67	4.67
	2002-2003	1505	256	17	74	4.91

	2003-2004	1568	249	15.88	115	7.33
University of Delhi, Delhi	2001-2002	39027	4499	11.53	1211	3.1
	2002-2003	39139	4845	12.38	1237	3.16
	2003-2004	39139	5077	12.97	1280	3.27
Jawaharlal Nehru University, New Delhi	2001-2002	831	118	14.2	83	9.99
	2002-2003	730	105	14.38	63	8.63
	2003-2004	780	120	15.38	70	8.97
Jamia Millia Islamia, New Delhi.	2001-2002	2225	206	9.25	77	3.46
	2002-2003	2717	388	14.28	104	3.82
	2003-2004	2987	335	11.21	144	4.82
I G N O U New Delhi	2001-2002	151427	7586	5.01	4912	3.24
	2002-2003	136044	20634	15.17	8443	6.21
	2003-2004	178064	17833	10.01	13732	7.71
Pondicherry University, Pondicherry.	2001-2002	810	134	16.54	15	1.85
	2002-2003	807	162	20.07	18	2.23
	2003-2004	807	137	16.97	16	1.98
Indian Institute of Technology, Bombay	2001-2002	1248	106	8.5	35	2.8
	2002-2003	1278	90	7.04	18	1.41
	2003-2004	1463	133	9.1	37	2.53
Indian Institute of Technology, Delhi	2001-2002	1544	143	9.26	26	1.68
	2002-2003	1712	162	9.46	23	1.34
	2003-2004	1666	177	10.62	40	2.4
Indian Institute of Technology, Kanpur	2001-2002	2660	252	9.47	59	2.22
	2002-2003	2815	316	11.23	69	2.45
	2003-2004	3112	288	9.25	65	2.09
Indian Institute of Technology, Kharagpur	2001-2002	1361	158	11.6	41	3.01
	2002-2003	1451	182	12.54	48	3.31
	2003-2004	1659	197	11.87	54	3.25
Indian Institute of Technology, Madras	2001-2002	1099	137	12.46	66	6
	2002-2003	1170	120	10.25	54	4.61
	2003-2004	1150	159	13.82	43	3.73
Indian Institute of Technology, Guwahati	2001-2002	288	27	9.37	9	3.12
	2002-2003	355	38	10.7	7	1.97
	2003-2004	438	41	9.36	19	4.33
*Indian Institute of Technology, Roorkee	2001-2002	0	0	0	0	0
	2002-2003	1134	134	11.81	36	3.17
	2003-2004	1273	132	10.6	47	3.69

Note : \*The University of Roorkee was converted into the IIT, Roorkee w.e.f. 21.9.2001 by the Government of India.

Source: Lok Sabha Starred Question No. 287, dated 21.12.2004.

The table suggests that despite reservation, dalits students are not making it to the IITs. Though the number of students in IIMs is not given in that table but that too would not be very satisfactory. It means Brahmins have monopolized entire educational sector in India. The Brahmin caste forms only 3 percent of India's population but it occupies all top scholastic positions. The reason is that the large populations of dalits is still living in the poverty and are not able to pay the hefty fee for the coaching and books. So the condition of dalits is not very good and somewhere government is unable to do justice with the dalits. Just providing reservation and leave it on the mercy of the recruiting agency will not serve. Strict guidelines should be issued to the universities and the other sector where reservation policy is applicable to comply with the government orders or pay the price. There are many where still reservation has not been applied and some have just started. So the delivery mechanism needs to be sensitized. They should be made accountable.

**The Case of IIT Madras:** Out of 427 faculty members in IIT Madras, only 2 belong to the Dalit community that too at the lower cadre. This means that instead of 22.5 percent of positions being allotted to Dalits only 0.4 percent reservation is being given. While the number should be 96 Dalit faculty members. (IITM). Out of 427 nearly 400 faculty members belong to the Brahmin community. This means that the Brahmins occupy 93 percent of the teaching community in the institute although they are only 3 percent of the total population. Rests are from different caste and communities (Ibid).

What does it means? It means caste system continue to be maintained despite the government's attempts to provide equality for its people. Delicate forms of discrimination, institutional biases and denial of education resources, along with more overt oppression, brutality and violence, are used by higher castes to perpetuate the lower condition of untouchables.



In the year (2001), out of 537 students selected to join B.Tech in IIT Madras, 503 students belong to the general category and only 34 students belong to the Dalit community. Instead of 22.5 percent reservation eligible to Dalits only 6.3 percent is being filled up. Had reservation been properly implemented there should have been 121 Dalit students in B.Tech course (IITM).

There is no doubt that in higher education a considerable improvement has been made in terms of promoting diversity in admissions after the introduction of reservation policy. However, this is not adequate in view of the proportion of SC/ST population still outside the fold of higher education. For instance, the percentage of share of scheduled caste students in higher education is only 7.77 per cent and that of scheduled tribes is 2.33 per cent of the total enrolment in 1996-97 [MHRD 1997]. This is negligible in terms of the expected levels of enrolment of dalits in higher educational institutions. Further, there has been a far lesser participation of dalits in prestigious subjects/courses of study which are in demand for high salaried jobs. In 1996-97, a majority of dalit students are enrolled in the arts subjects (56.5 per cent among SCs and 77.7 per cent among STs), followed by science (13.3 per cent among SCs and 8.7 per cent among STs) and commerce (13.2 per cent among SCs and 9.4 per cent among STs) at the undergraduate level. The enrolments at the post-graduate level also show similar signs. The proportion of dalits in the professional stream is very low – 7.9 per cent among SCs and 2.1 per cent among STs are in professional courses like engineering and medicine taken together. Therefore, the share of dalits in those courses that are market-friendly is far from satisfactory. The emerging areas of software, bio-technology, bio-informatics, etc, are almost beyond the reach of the dalits. This is where one has to focus more when the demands for diversity in admissions are made.

The Bhopal Conference has also asked for a due share in the quality professional education for the dalits at the state's expense. This is a significant dimension as it

reiterates the position of dalits in asking for fairer treatment in institutions such as IITs and IIMs. The proportion of dalits in the IITs is appalling. The shortfall in admission ranges from 45-65 per cent in the case of scheduled castes and 87-92 per cent in the case of scheduled tribes in almost all the IITs in 1994-95 [Lok Sabha Secretariat 1998-99]. This reveals a serious dilemma of equality versus excellence and merit versus reservations that prevails in the contemporary society and the education system. This dilemma in education emanates primarily from the political pressure for social justice and equalisation on the one hand, and the stress on merit and achievement in the present-day market driven economy, on the other.

According to the *Report of the Working Group on the Empowering SCs* appointed by the National Commission on Scheduled Castes, the SCs lost about 1.13.430 job opportunities in the central government during the period 1992-97, constituting a decline of 10.07 per cent (Louis 2004). The condition of dalits in the higher bureaucracy is more pathetic. Dalits feel excluded because out of 168 Government of India Secretaries there is no Dalit in that post. There are 439 posts of Joint Secretaries and only nine people belong to SCs and STs (Rajya Sabha, 2004).

The hard reality in India today is that despite policies of social justice the representation of higher castes goes on increasing from the level of a lower division clerk to the top level of a senior secretary in the central secretariat. Though reservation has benefited a few, even a impression of social justice remains unattained (Literacy Rate for Scheduled Caste (SC)/Scheduled Tribe (ST)

**Table 3.4**  
**Percentage of Literacy Rates Among Scheduled Castes and Scheduled Tribes in India**

Years	General Category			Scheduled Castes			Scheduled Tribes		
	Male	Female	Total	Male	Female	Total	Male	Female	Total

1961	40.4	15.35	28.3	16.96	3.29	10.27	13.83	3.16	8.54
1971	45.96	21.91	34.45	22.36	6.44	14.67	17.63	4.85	11.3
1981	56.38	29.76	43.57	31.12	10.93	21.38	21.52	8.04	16.35
1991	64.13	39.29	52.21	49.91	23.76	37.41	40.65	18.19	29.6
2001	75.3	53.7	64.8	66.64	41.9	54.69	59.17	34.76	47.1

Sources: Indiatat.com, accessed on 22 May 2006

But some good news too. The literacy rate among Dalits is increasing rapidly. The female literacy is also satisfactory. Over a period of time the literacy rate has been very good and now almost 65 percent of dalit population is literate. Reservation may not have helped directly in this but certainly it did indirectly. Because India is such a country where peer group matters a lot and this help people realize to change according to the needs and deeds of the peer group.

Another socking news is that there is 239 universities (including 12 central universities) in the country and reservation to the dalits have been given. So according to the reserved quota almost 69,000 individuals should have been employed in these universities. But only 2 per cent of the 23 per cent posts have been filled. In its report the National Commission for SCs and STs has expressed its shock over this sorry state of affairs. There is no denying that their share has increased over the years, it is still almost nothing in propòrtion to the percentage of the population (Jogdand, 2004).

The picture of the government jobs and education in Delhi is more complex. Xaxa (2002) attempts an assessment of reservations in the University of Delhi, one of the premier institutions in the country. Despite quota, In 1999-2000, of all the undergraduate students, only 8.6 percent were SC and 1.8 ST. Of the post- graduate students, 5.5 percent were SC and 2 percent ST. so the quota has never been filled completely. The situation in the teaching posts is even worse. Despite constitutional provision teachers in Delhi University opposed the introduction of reservation policy so it could be introduced as late as 1996. At

that time, out of the 700 teachers in postgraduate departments, 7 were SCs and 2 STs. Out of the 4512 teachers in university affiliated undergraduate colleges, 11 were SCs and none ST.

This is such a shocking state of affair in the capital of India. Situation in the other Indian universities can be easily understood. The discrimination, which is still practiced in the elite institutions, can be more dangerous if appropriate action is not taken to implement the constitutional provisions. It is clear that the whole academic system has been monopolized by the upper castes and they want to retain their hegemony over it for long.

This is the situation where reservation is applicable now think about the sectors and departments where it does not apply for example judiciary. In 1999, there were 481 judges in High Courts of India out of which only 15 were of Scheduled Caste background while there were 21 judges in the Supreme Court and there was not a single judge from Scheduled Caste background. And now there are only 20 judges belonging to SC and ST communities among a total of 610 High Court judges. And anywhere else where there is no reservation media, judiciary, export-import, businesses and high skilled technical and professional jobs for instance they are entirely nonexistent for instance. Over more than 100 celebrities participated in Olympic Torch Relay in Delhi but not a single Dalit was part of it (Raj, 2004).

Many a times it is said that there is not enough candidates for the post which is not true. There are lots of educated dalits in all the streams. There are some 6,32,689 Dalit graduates today. Out of them there are 30,193 BE and 12,615 MBBS. Therefore, the Government machinery has to find some other lacunae for the posts still vacant in different sectors. The long established excuse that candidates are not available or not suitable does not hold (Kumar, 2004).

It's also a hard truth that a very small percentage of the people belonging to the Scheduled Castes and Scheduled Tribes have received the opportunity, but now they do live a dignified human life. If some body is not accepting this fact will be to shutting ones eyes to the truth. And this by itself is evidence enough to prove that if the position of more people from these sections is to be improved, if their right to equality is to be ensured, this reservation in jobs for them must continue (Singh, 2005).

The economy in recent years has emerged as a service oriented economy – consisting of sectors like trade, commerce, transport, construction, communications, banking, insurance, public administration, and all professional services – which contributes more than half of the real gross domestic product (GDP). The representation of dalits in the workforce of these emerging sectors is virtually non-existent. When there are no government jobs as also private sector employment, where would the large chunk of disadvantaged go? ( S Srinivasa Rao).

### **3.3 DALITS IN MODERN INDIA**

The conditions of the dalits have really changed over these years. Some positive signs can be seen in all spheres of life. Today dalits are everywhere from peon to president. It's all because of the government's policies. But there is lot more to be done to bring equality in the society. No society is perfect and certainly India cannot be the exception. But India in itself is a country which it known for its culture, its tolerance, its harmonic atmosphere among the various groups. India is almost peaceful country despite many castes, many languages and many religions. Reservation though is a preferential policy and it has discriminatory character but this is reservation only, which has brought the people of all caste together at the same platform. Not quite often people are on the road and shouting against the

reservation policy. But as has been said there is a room for improvement and it cannot be possible without the strong political will.

What is the present condition of dalits? Here some of the present situation of the dalits will be examined.

**Table 3.5**  
**Social Indicators for Dalits (1998-1999)**

	Dalits	Non-Dalits
<b>Infant Mortality Rate</b>	83	61.8
<b>Child Mortality Rate</b>	39.05	22.2
<b>Undernourishment</b>	54	41.1
<b>Life Expectancy (Years)</b>	62	66

Source: Thorat & Nidhi Sadana (2002:99)

The dalits today though have improved their positions but when a comparison is done with the other category the scene seems to be so glaring. The above table shows that the poverty still have not left the dalits. The infant mortality rate among dalits is much more higher than the non-dalits and the same is the case with child mortality case. The reason is very obvious and that is lack of access to the health care, which in turn is the function of their poverty though not in all cases but certainly in many cases. Children of the dalits are the victims of undernourishment and the life expectancy is also less than the non-dalits. Again the same theory can be applied.

**Table 3.6**  
**Economic Indicators for Dalits (1999-2000)**

	Rural Dalits (Percent)	Rural Non-Dalits (Percent)	Urban Dalits (Percent)	Urban Non-Dalits (Percent)
<b>Self-Employment in Agriculture</b>	16	41.11	3.28	4.3
<b>Self-Employment Non-Agriculture</b>	10.18	14	27.76	38.7
<b>Wage Labour</b>	61	29	64	15
<b>Employment Rate</b>	46	48.4	45.8	50
<b>Unemployment Rate</b>	5	3.5	5.2	3.5
<b>Poverty Rate</b>	35.4	20	39	21

Source: NSS Employment Survey, 1999-2000, CSO, Delhi.

The above table shows that the poverty among the dalits is higher than the non-dalits. It has to be noted why this disparity among the different groups. Government must do some thing to minimize the gulf between the people. The difference between employment and unemployment is also wide. It could have been reduced to the minimum had the reservation policy been implemented properly.

**Table 3.7**

**Percentage of SC/ST and All Population Below Poverty Line (During 1977-78, 1983-84 & 1987-88)**

Year	SC	ST	All Population
1977-78	56.30	68.10	48.30
1983-84	50.10	57.20	37.40
1987-88	41.50	49.90	29.90

Source: National Commission for Scheduled Castes and Scheduled Tribes, Fourth Report 1996-97 & 1997-98, Volume

The poverty is the second most powerful reason responsible for the pathetic condition of the dalits. See the gap, while population wise the rest of population in India is just about 20 percent but in all social indicators they are the one who is enjoying every thing from prestige to power from playground to parliament. Of course the data at the same time also show that the rate of percentage of the poverty is on the decrease.

**Table 3.8**  
**Occupational Diversification**

Category	Total		Scheduled Caste	
	1991	2001	1991	2001
Cultivators	39.74	33.11	25.44	22.08
Agricultural laborers	19.66	20.29	49.06	39.16
Household Industry	02.56	03.90	02.41	03.71
Other workers	38.04	42.70	23.08	35.05

Source: Census of India 1991 & 2001, Registrar General of India, New Delhi.

The above table suggests that the dalits are still agricultural labourers in the large number. Some are daily workers. The basic problem is that they are not working on their own land rather working on other's field for them. Many of dalits do not get the opportunity to do that even and they run towards the city and start doing some pretty jobs to support their family.

**Table 3.9**  
**Literacy (Percentage)**

Year	Total			Scheduled Castes		
	Male	Female	Total	Male	Female	Total
1991	64.13	39.29	52.21	49.91	23.76	37.41
2001	75.00	54.00	65.00	66.64	41.90	54.69

Source: Annual report Ministry of social justice and empowerment Government of India 2004-05

India got independent way back in 1947, almost six decades back. But the fact is that more than half of the dalit population is still illiterate. And the condition of dalit women is really bad. The data show that dalits literacy is quite low as compare to the total population of the country. Government has made many policies and programmes to eradicate poverty but the situation of literacy is in a bad state. Dalits should be given extra care and some motivational schemes should be made to abolish this age-old phenomenon of illiteracy.

**Table 3.10**  
**All India-Crimes against Dalits-1992 to 2000**

Types of cases	1992	1993	1994	1995	1996	1997	1998	1999	2000	Total
<b>Murder</b>	616	510	546	571	543	513	516	506	526	<b>4847</b>
<b>Rape</b>	849	798	992	873	949	1037	923	1000	1083	<b>8504</b>
<b>Kidnapping &amp; Abduction</b>	213	246	251	276	281	243	253	228	268	<b>2259</b>
<b>Dacoity</b>	81	102	78	70	90	58	49	36	38	<b>602</b>
<b>Robbery</b>	265	197	259	218	213	162	150	109	108	<b>1681</b>
<b>Arson</b>	406	369	533	500	464	389	346	337	290	<b>3634</b>
<b>Hurt</b>	NA	NA	4542	4544	4585	3860	3809	3241	3497	<b>28078</b>
<b>PCR Act</b>	2900	2531	1731	1528	1417	1216	724	678	672	<b>13397</b>



<b>POA Act</b>	NA	NA	14938	13925	9620	8070	7443	7301	7386	<b>68683</b>
<b>Others</b>	19592	20220	10038	10492	13278	12396	11425	11657	11587	<b>120685</b>
<b>Total</b>	<b>24922</b>	<b>24973</b>	<b>33908</b>	<b>32997</b>	<b>31440</b>	<b>27944</b>	<b>25638</b>	<b>25093</b>	<b>25455</b>	<b>252370</b>

Source: Crime in India, National Crime Record Bureau, Ministry of Home Affairs, Government of India, New Delhi, 1994-2000

This is some thing, which should not have been there. This table really opens the eyes of the people. This table put a question upon the safety of the dalits particularly in the rural areas where caste still speaks it language. There is a saying when power speaks no body checks the grammar and in this caste it is more than true. The reason of this violence is that n the rural areas people of the upper caste still believes in the caste system and this provokes the tension between the two groups. These data reveals that even today dalit women are raped they are paraded naked. All kind of atrocities is inflicted upon them. There is not much to write. This table is enough to make the point clear that the government should seriously reconsider about the policies it had made for the people eof weaker section of society.

## *Chapter –4*

# *RESERVATION IN PRIVATE SECTOR*

## CHAPTER-4

### RESERVATION IN THE PRIVATE SECTOR

*“Unequal treatment has been the inescapable fate of the untouchables in India and in country like India where it is possible for discrimination to be practiced on a vast scale and in a relentless manner fundamental rights have no real meaning for untouchables”.*

*(Dr. Ambedkar, State and Minorities 1947, pp 406 to 407)*

*“If the societal discrimination in private domain is the justification for reservation in public sectors, why cannot such a policy be extended to the private sector?”*

*(Thorat, 2004)*

First and the most basic question, which should be worth thinking here, is why reservation in private sector which are not controlled by the state? Why now? Why it was not included earlier when the policy of reservation was devised for the government sector? As in the previous chapter it has been clearly shown how caste discrimination still exists though not in very visible manner but in the modified form. Liberalisation, Privatisation and Globalisation has brought down public sector significantly. This has led to the serious concern about the fate of the present public sector reservation policy. Since reservation policy which is applicable to the public sector only and not in the private sector and there is an indirect and backdoor de-reservation, it is therefore necessary to demand for some sort of affirmative action policy for the private sector (Thorat, 2004).

With Liberalisation, Privatisation and Globalisation (L.P.G) in their mind and aspirations in their heart the Dalits particularly the Dalit youth of this country, feel that they are being neglected, excluded, alienated and isolated. The reason is very clear i.e. the government has given many agencies to the private sector. There is a big question if any agency in the private sector has been given to a Dalit or a Scheduled Caste?

**Table 4.1**  
**Privatised Enterprises**

S.No.	Name of the Privatized PSU
1	Lagan Jute Machinery Company Limited (LJMC)
2	Modern Food Industries Limited (MFIL)
3	Bharat Aluminium Company Limited (BALCO)
4	CMC Ltd. (CMC)
5	HTL Ltd. (HTL)
6	IBP Co. Ltd. (IBP)
7	Videsh Sanchar Nigam Limited (VSNL)
8	Indian Tourism Development Corporation (ITDC)
9	Hotel Corporation of India Limited (HCI)
10	Paradeep Phosphates Limited (PPL)
11	Jessop and Company Limited
12	Hindustan Zinc Limited (HZL)
13	Maruti Udyog Limited (MUL)
14	Indian Petrochemicals Corporation Ltd. (IPCL)

Source: <http://www.divest.nic.in/pvtpsu/maruti.htm>.

The table suggests that the public sectors are being privatized. Lots of public sectors are being disinvested. The process of disinvestment is still on. If the process of privatisation and disinvestment continue in the same speed the day is not far when only few public sector will remain with the government and that too which can not be given to the private hands due to the national security reasons. It is not that all the privatized PSUs were incurring losses, among them most are performing very well. The number of PSUs given in the list might suggest that only small number has been privatized so far but that is not true. Many more are in the pipeline.

Now the problem is that the private hands may not give the opportunity to all the employees to continue in the company. Many might be asked to quit. In

that case what will happen to the dalits. Though one can argue that even the other category people will also suffer but the magnitude of that will be quite less. The upper caste people with good social connection may land at the better place but dalits may not.

Thorat (2004) argues that the character of the Indian caste system is such that the ascribed occupations involve exclusion of one caste from undertaking the occupation of another. Economic exclusion and discrimination is the inbuilt outcome of the caste system. In India division of occupations operates through inter-caste restrictions in markets like land, labour, capital, and in services. Caste wise division of labour segregate the mobile market. On the other hand, members of the corporate class have decided to oppose the quota system on the ground that it could be disastrous for the future of the private sector (Guru, 2005).

Economic discrimination and deprivation of discriminated groups affect the marginalised people as property and income distributions are assigned unequally across castes. It is quite clear that the unequal and hierarchical assignment of economic and property rights affects the low castes as they face exclusion from access to all economic rights, except manual labour. The restrictions on labour mobility result in high unemployment among the low caste untouchables. So the economic and social impact for low caste untouchables is more devastating than any other social groups in Hindu society (Ambedkar, 1936).

Now the things have changed. The caste-based division of occupation has now been formally replaced by an egalitarian legal framework. Under the new practice low castes now have equal access to occupations, property rights, employment, wages and education. But it does not however mean that caste system is no more, it still continues to manifest itself in its modified forms. The demand for reservation in private sector is based on the persistence of economic

discrimination. But there is very limited availability of literature and data on economic and market discriminations (Thorat, 2004).

Since private sector in India has been excluded from the purview of reservation policies ever since the 1950s. The reason was that, at that time private firms were not there in large numbers. Secondly there was little apprehension that the reservation in the private sector will have negative impact on competitiveness and productive efficiency in those sectors. On the other hand private industry also argues they are fair in their recruitment methods (Thorat, 2005).

The demand for reservation in private sector came quite late. It started with Bhopal declaration in 2002 and legislation in Maharashtra in this regard. Another important factor as argued by Beteille is that it came at a time when Indian economy is changing it's gears. Due to the new economic policy Indian government has relaxed the whole lot of rules and regulations and have given full autonomy to the market to flourish and meet the global challenges. As Beteille says that Indian economy cannot do well nationally unless it becomes competitive internationally. Beteille argues that private and public sector are two different entities as far as it's nature of work is concerned. He says that Privatization, liberalization and globalization require an employment policy different from the policy applicable in public and government sector (Beteille, 2005).

Rigid and quota-based employment policy will have the same effect as it is there in the public sector and if applied in private sector, the Indian economy cannot maintain the momentum given to it by the reforms started in 1991. To maintain the high levels of performance, Beteille says that it is necessary to maintain efficiency. Distribution of rewards, including promotions, to all employees depend on the performance and not the seniority of the employees. Mandatory caste quotas will affect the working of the private sector, as it has to give the employment to the employee for life long and will be difficult to dislodge

from his position and it is virtually impossible to terminate his services. This will lead to non-performing employees who in turn will be more difficult to deal with than non-performing material assets. He asks “If quotas are bad for manufacture, and for imports and exports, how can quotas in employment be economically beneficial” (Ibid)?

At the same time he also ask why business and industry can be so indifferent to a problem that is deeply rooted in the structure of Indian society. For him affirmative action can be better a response to a problem, which is there in Indian society for centuries. He argues that no other society has nourished such deep and pervasive inequalities based on false and superstitious beliefs about inherited ability and character. According to Beteille “ Those inequalities and the beliefs and practices on which they are based are as bad for business as they are for public life and they cannot be expected simply to vanish of their own accord”. Beteille very strongly argues, “If the public sector has carried the burden of the backward classes for so long, why should the private sector not now carry a part of it? After all the private and the public sectors are both parts of the same society, and no major stakeholder in it should remain indifferent to it’s well-being”. Instead of seeking to extract it’s pound of flesh from business and enterprise, the government should encourage private companies to devise their own programmes of affirmative action. For this tax concessions may be offered to companies that diversify the social composition of their employees. It will be in the long-term interest of the companies, and not just in the public interest, to adopt active measures to seek out, stimulate and nourish the vast reservoir of unutilized talent that exists in the socially and educationally backward communities. There should be far greater private investment in education and training. Again, the government should encourage private companies to stimulate and foster talent among members of socially disadvantaged groups (Ibid).

Narayana Murthy, the CEO of Infosys Technologies, has also criticized reservation system and said, 'It was not easy for people like us from a certain section of society that was considered already advantaged to get a job in Karnataka because of the reservation system and so I postponed the career decision for two years by doing my masters' Poornananda,

### **Responses From the Industry**

"Mandatory reservation in any form is not conducive to competitiveness of the industry. It is not acceptable. R Seshasayee, president of CII

"Investment will be more uncertain in an increasingly competitive world, if jobs are given on the basis of my birth and not on the basis of my capability."

Arun Shourie, Ex-divestment minister

"I'm not against reservation, but it should be based on economics and not caste. If a person is hampered by resources, I think those people should be given reservation." N.R. Narayana Murthy, chairman and chief mentor, Infosys.

"It's ludicrous. The entire industry will go down the drain. The dream of a multi-billion dollar business process outsourcing industry, forget about it."

Vikram Talwar, CEO, EXL Services:

"If our hands are tied behind our backs, we cannot race ahead. Many of us employ people from these classes and everyone is treated on merit. Why then create an artificial division within employees?" Arun Bharat Ram, Chairman, SRF

"Reservation will not increase job penetration for the lower sections. Industry is already disadvantaged with high cost, bureaucracy and delays. You can't add one more and expect us to produce growth," Rajeev Chandrashekhar, Chief, BPL Innovision.



"We're ready to initiate a public-private partnership where we can make such people more employable through training programmes. But we're not ready to compromise on merit. This will have a negative connotation in the external world and FDI may be affected." N. Srinivasan, Director-General-Designate, CII.

"We're looking at a mass scale massacre kind of a situation. The MNCs will never understand this and software contracts to India may start slowing. I need skilled people to develop mission-critical software. There can be no compromise on that just for social reasons." Vishnu Dusad, MD, Nucleus Software

This was the first reaction of India Inc. to the idea of bringing in reservations for the backward castes in the private sector. Quoting from the Outlook, Teltumbde says, "Not a single businessman Outlook spoke to was pro-reservation on caste basis. Most were anti- any sort of reservation, while some felt if it has to be there, it should be on economic and not caste basis. The unanimous view: in a competitive scenario only merit and performance should matter." (Teltumbde, 2005)

The implications of the proposal could be that labour productivity in the private sector may decline, the undeserving among the SC/STs and OBCs may get most of the benefits as they have managed to in the public sector in the past and for the really marginalised SC/STs reservations may not mean much as they are not equipped to avail of the benefits (Ibid).

Rahul Bajaj, chairman of Bajaj Auto, opposed any imposition of reservation policy on the private sector and said that it will harm merit and that the private sector has already given one-third of jobs to the SC/STs and OBCs on merit, without any discrimination (The Times of India, September 21, 2004).

‘We would rather move out of Maharashtra, if the state government decides to implement the reservation policy in the private sector’ ‘The Big Fight’, NDTV, 19-06-2004.

Sunil Kumar Munjal, president of CII, opposed the move by arguing that “We cannot be forced to take individuals who do not have the required skills. We cannot afford to compromise on efficiency. That would affect our competitiveness. We cannot compromise on merit. Corporate sector does not go by the colour of skin, caste or the last name” (The Times of India, New Delhi, June 23, 2004).

N R Narayana Murthy, chairman of Infosys, has commented: “I am not against reservations, but it should be based on economics, and not caste. If a person is handicapped by resources, I think those people should be given reservation.”

Rahul Bajaj, a leading industrialist of India puts it very bluntly when he says “Reservation and merit are antithetical concepts, beyond a shadow of doubt” (Bajaj, 2005).

These are the reactions of the people who hold the whole corporate world in their hands. Now the problem is if this kind of attitude they are having towards the people who have been marginalised, how can the dream of equality and social justice be achieved. Singh argues that we should not forget about building up of an egalitarian society, the principles of social justice and the constitutional mandate to guarantee the right of equality to every citizen of the country? He argues that the government should not shirk its responsibility to protect and uplift the downtrodden sections of our society (Singh, 2005).

So more or less the corporate sector has opposed affirmative action of any sort on grounds that it does not discriminate in hiring which is not true. It has

further argued that a reservation policy of the type used in the public sector in India will reduce competitiveness and efficiency. The corporate world refuses to recognize the need for market intervention in the form of affirmative action to overcome market imperfections caused by caste-based discrimination and to induce market competitiveness.

Industrial houses are ready to help the weaker sections through scholarships, company run schools, joint programmes with the government, special training camps and such other activities. In other words, they are willing to give alms to the poor as an act of charity but not prepared to shoulder the social responsibility, which they owe to the society which has given them the chance and the means to grow.

Another argument in The Times of India dated 7.6.2005 says. till today nobody has tried to force reservations on private business and gave solid reason for that. The reason they gave is that businesses need to maximize profits for shareholders, therefore, hire people who best fit their needs and not any body and every body. “And there can hardly be any doubt that Private Business stands for profits and profits alone” (The Times of India dated 7.6.2005).

The question arises whether these industrial houses have in the past shouldered any social responsibility voluntarily without the compulsion of law. There is hardly any capitalist spending large sum of money on philanthropic activities. There is no deny that they have built big temples to satisfy their religiosity and to gain immortality of name and fame for themselves or some other members of their own families and not to promote social equality or social justice (Singh. 2005).

The infection of caste in the private sector is structural and does not require formal deployment. It is already incipient in the system, not a deliberate design to seek dalit exclusion. (Guru, 2005)

But Papola is not convinced and comes with empirical studies on the working of labour and other markets. Studies provide evidence of the persistence of market discrimination, particularly of former untouchables, and its end result in the form of lack of access to fixed capital assets, employment, human development and culmination in high poverty and deprivation among them. The studies also bring out the exclusionary and discriminatory working of private industrial labour markets (Papola, 2004).

So the claim of the corporate sector that it follows fair and competitive hiring practices does not seem to be correct. It is a well-known fact that more Than 60 percent of recruitment is done through internal sources or through informal channels which means exclusion of many dalits. So, Thorat says affirmative action is thus necessary for promoting competitiveness and economic growth, if not for the goal of equal opportunity. Which means affirmative action on the other hand help in bringing competitiveness. (Thorat, 2005)

Another point which private industry brings is that it will have the negative consequences of the methods used to ensure fair access to employment for discriminated groups by giving relaxations in qualifications for appointment. But the problem is that this argument is not true in any case. The reason is that recruitment under reservation in the public sector in India and elsewhere rarely involves the alteration of minimum norms of eligibility. Therefore, the question of compromising on productive efficiency does not arise.

And if at all there is any possibility of employees being not up to the prescribed standard there is a department known as human resource management

or personnel management responsible for whole lot of issues related to the employees including training. And some firms do take steps to guard against possible problems by initiating proper screening and orientation before recruitment and, later, through on-the-job-training of affirmative action employees.

But the main problem is that there is no empirical evidence on this issue. There is hardly any evidence where one can say that yes because of the reservation or affirmative action the company is incurring losses and its efficiency has come down. This is simply the one of the ways of avoiding the inevitable. There is no study available on the relative efficiency of workers recruited under affirmative action and other workers, whether in India or elsewhere.

There is hardly any doubt about the discrimination based on the caste. But in the job market it is more operative because there, contacts are more important for recruitment in which recruitment involves informal methods. A number of other studies have also brought out evidence on the influence of caste status on occupations in Indian urban centres, and the discriminatory working of the private sector labour market in India (Thorat, 2005)

Though some industrialists have agreed to have voluntary affirmative action rather than formal reservation as in U.S. where there is no constitutional reservation quota for minority groups like African-Americans and Hispanics. But voluntary affirmative action in India may not serve much as social responsibility has not yet become an essential part of Indian organizational culture. In a country like India where the constitutional/legal obligations are arrogantly violated voluntary affirmative action will not serve the intended purpose. Why discrimination is practised, the answer is because society tolerates it. So in such a social environment, encouraging voluntary anti-discrimination attitude and

practice is difficult and legal enforcement of anti-discrimination becomes necessary.

Supreme Court has ruled that the Constitution does not permit economic criterion as the basis for reservation, N R Narayana Murthy has advanced economic criterion for reservation in the private sector. Since reservation based on economic grounds will be unconstitutional, only reservations based on social and educational backwardness of some classes/groups of people who are the descendents of the victims of historical wrongs can be allowed.

It has to bear in the mind that the Constitution makes provision under Article 16(4) for reservation in employment for socially and educationally backward people. But it does not mention either the private or public sector. So it is up to the government to make reservations regarding reservation in any particular sector. Taking the advantage of such absence of mention of the private or public sector, the Maharashtra government enacted legislation for providing reservations in the private sector. The study sponsored by the National Human Rights Commission on 'Prevention of Atrocities against SC/STs' in 2002 has raised serious doubts about the constitutional sustainability of reservations in the private sector. The study group has observed: "That is why in the peak period of commitment to reservation as a strategy of empowerment of the SCs and STs, the government did not consider introducing reservation of jobs in the private sector" (The Telegraph, October 25, 2004).

But since the government provides free land, tax exemption, credit from government-owned banks and many other infrastructure facilities to private industries, it is morally entitled to ask in return reservations for socially backward people.

Now the big question is what is so private about the private sector, especially in the light of the types of concessions given to it by the government, like land and registration charges at concessional rates, tax holidays, bank loans, besides the indirect contribution made by government in their development in the form of maintaining law and order, development of technology, research and development, trained human resources, road, rail and air and communication facilities, etc. (Kumar, 2005)?

Indian economy is now dominated by the private sector. Till 1999-2000, of the 1,31,558 companies, 1,09,131 (or 83 per cent) were in the private sector. So it is expected from the private sector to have greater social responsibility of developing the depressed classes (The Tribune, Dec.19, 2004). The total employees in the private sector up to March 31, 2002 are 84.32 lakh as against 181.73 lakh in the public sector. This means that there are more than 40 percent employees in the private sector. Now since centre has provided more space to the private sector in economic development, as a result job opportunities have declined in the public sector and has increased in the private sector. So the policy of reservation gets a big jolt. The number of unemployed youth among the SC/STs is increasing, creating a gulf between the haves and the have nots (Economic Survey, 2003-04).

#### **4.1 DISCRIMINATION IN PRIVATE SECTOR**

It is a well-known fact that discrimination exists there in the private sector. Beteille accepts that although the new occupations in the office and factory are in principle caste free, but at same time the association between caste and occupation is carried over from the traditional to the modern occupational settings. He says that all the castes are not represented in the occupations according to their proportions in the population. It is because of the caste discrimination that the inferior castes in general and the scheduled castes in particular are very thinly

represented in the superior administrative and managerial occupations (Beteille 1997: 203).

Indian society has adopted the principle of equality of opportunity but its members are very conscious of caste distinctions. Beteille gives reason why the untouchables and other inferior castes are so thinly represented in the higher occupations. According to Beteille it is the widespread prejudice against the inferior castes in general and the untouchables in particular which is responsible for the low representation of these castes. This prejudice is some thing which cannot be easily measured and by its nature it is difficult to establish in the individual case. It is more visible at the lower levels of employment where recruitment, tenure and promotion are to a large extent personalized. Beteille strongly believe that some candidates are at every level rejected on account of prejudice even when they have the necessary qualification (Ibid: 203-04).

In the name of cost-effective choices, the equal employment opportunities is denied in the private sector. They apply an informal and opaque medium of recruitment making appointments of personal choices without advertizing the jobs. This recruitment pattern is increasing day by day. According to Human Resource Head of the software company, Adobe India, "Employee referrals are a major source of recruitment for us. Our employees understand our requirements very well and have friends with a similar academic background and skills". The director of MAQ Software speaks in same tune and says, "we reach candidates with better profiles who cannot be reached otherwise through other channels like online sites or placement agencies". Infosys and Wipro too have internal employee's referral schemes for employment (Singh, 2004). The demerits of this system of recruitment in India are yet not known but the discrimination cannot be ruled out. Since it is very personal and dalits in particular lack the sources of information about the vacancy.



The apprehension of the industry is that reservation will ruin their competitive edge if merit is compromised. They argue that the dilution of merit in the name of reservation will impose low labour productivity on their industries, which means they will be out of global markets. This up to some extent is true also as our past experience in public sector enterprises and even in government departments has shown. There is no doubt that those who get secured jobs, many a times become indifferent to their duties and responsibilities. This is the reason of low productivity of public enterprises and government departments. Since private enterprises are accountable to the board of directors and shareholders, private enterprises cannot afford to become inefficient and lose on productivity. A reservation policy in the private sector may impose regulation on the selection process and the standard yardsticks for selection which may take away the freedom which the private enterprises enjoy (Thimmaiah, 2005).

If implemented the reservation policy may also act as a regulation of the recruitment policy and practice of private enterprises and the autonomy of the private industry would be lost. Mehta in this regard has rightly argued, “Indian industry is not entirely unfounded in its fears of yet another dose of state regulation. Indian industry has barely begun to emancipate itself from overbearing, costly and counterproductive regulation, rather than an opposition to reservations per se that is driving the response of much of the corporate sector. And it would be folly to dismiss this fear out of hand, as unfounded” (Mehta, 2004).

But how far it is true? This is very clear that there is no reservation till date in the private sector which means the private industry should be highly global, very competitive lots of global products. But this is not the case. The Indian economy has not been able to throw up a challenge against global companies and products? Not even one Indian product can be labeled as global

brand? (Raj, 2004). These private companies benefit from the State. They get land, utilities and infrastructure at the throw away price. They are given a plethora of concessions in tax, duties etc. in the name of investment incentives. They do not share the cost of education with the State when it draws its human resources? In one line the private sector receives a lot from the state so they are no more private. Therefore private sector should come forward and share the responsibility along with government in realizing equality and social justice for the Indian state.

But seeing the attitude of the leading corporate houses there is very dim chance to see this happen in the few years from now. Kumar has rightly observed "Though there is a need for the policy of affirmative action in the private sector because of a shrinking number of Government and public sector jobs due to privatisation, liberalisation globalisation, and disinvestment Dalits are not convinced that the policy will see the light of day in the near future"(Kumar, 2004).

#### **4.2 SOCIAL RESPONSIBILITIES OF BUSINESS**

Before coming down straight to the basic question of reservation in private sector it is utmost important to understand why there has been so much of concern about the reservation policy in the private sector. Reservation as has already been discussed in the previous chapters is one of the effective ways to address the problems of the marginalized section of the society. As has seen in he previous chapters that reservation has not only changed the entire notion of purity and pollution but also has brought the nation at the place where it can be said to be a democratic country. Democratic country in the sense people across the nation are participating in the growth and the development of the country.

One very important factor in the whole issue of reservation in private sector is that why private sector should provide reservation to any community.

Are they bound to do that? There was a time when profit making by the business was the sole objective. But today business cannot strictly adhere to the only one objective of maximizing the profit. But it does not mean that the business should not try to accelerate profit. Naturally without earning profit how can they survive and progress. So one of the primary objectives of all the businesses is to maximize profit for the survival, growth and development of the business. Another reason why business should accelerate profit is that it will attract investors to invest fund in business establishments. Since the success of the business can be judged only by the profit they earn, they have no option but to maximize their profit.

Now the point is how and from whom they earn profit. They earn profit by exploiting the employees, consumers and consequently society. So the profit they earn come from the society but if they do not show any concern for the society the whole existence of the business can be threatened. So the corporate houses should not forget their social responsibility. Social responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large. It is about capacity building for sustainable livelihoods.

Like every other profession businesses too have business ethics and responsibility. Business ethics is the branch of ethics that examines ethical rules and principles within a commercial context, the various moral or ethical problems that can arise in a business setting and any special duties or obligations that apply to persons who are engaged in commerce.

There is a general agreement that business and industry and not just the government have social responsibilities. So the private sector too should engage in affirmative action. But Beteille argues as long as affirmative action continues to be equated with mandatory numerical quotas administered under strict bureaucratic supervision it is not going to happen. The quota mentality has taken

deep roots in India since independence, and it has been a serious obstacle to economic development and social progress (Beteille, 2005).

Corporate class and its supporters have continuously argued that the corporate sector has been rational enough not to practice casteism while recruiting its own personnel. They are fair in recruiting employees in fact is not true and Gopal Guru calls it 'veil of ignorance'. So they should not wear that 'veil of ignorance'. It is the responsibility the corporate class to adopt conscious measures to treat dalits by taking a moral lead in providing not only enabling conditions but for converting opportunities into real assets also. The business houses are supposed to assign some worth to dalits who need to be treated as part of a common pool of assets and not refuse to be pushed to the margins of the garbage and sanitary sections (Guru, 2005).

The responsibility of the business includes non-discriminatory practice. Business houses should not indulge recruiting people by internal network. They should not discriminate people on the basis of caste or gender. Any community is the bigger concept of nation. India cannot develop unless people of all section of society progress. There is no doubt about the capacity of these houses. If they wish they can change the face of Indian society. The argument is not about recruiting people who do not possess required skill and qualification but at the same time it is not true also that there are not educated and skilled dalits.

It is true that corporate houses are ready to give scholarships and other training but as long as the recruiting agencies do not consider their worth all training and qualification go in vain. In the previous chapters it has been shown that even in the government sector quota is not full and not only that in some of the sectors the condition is more pathetic and dalits in those sectors are almost negligible.

### 4.3 MERIT AND EFFICIENCY

*"Merit is not the monopoly of any particular caste or community"*

*(The pioneer, June 24,2006)*

Merit and efficiency have always been in the picture whenever the issue of reservation is raised. The anti-reservationists have the feeling that merit is compromised and efficiency will start disappearing if reservation is there based on caste. One has to really think that there are strict guidelines about the minimum standard to be maintained in hiring the employees and giving the admission to the students. It is not that any body and every body get the name in the list irrespective of his or her worth. And more so why the people who oppose the reservation do not think about the need of reservation? Why at all this was needed? What were the social and economic conditions when the policy of reservation was introduced? The dalits were not allowed to read and write and were exploited like any thing for more than 2000 years. Who should be held responsible for the Miseries and the atrocities heaped upon the dalits. They were discriminated in all walks of life.

The discrimination in the social life is responsible for lower strata to remain as they were. All the higher and clean occupations were occupied by the higher castes people and the lower caste people were left with no options than serving as slaves (bonded labour) and carrying the human waste by cleaning their latrines. It is really shocking to expect the same merit from these people as from the people who have monopolized the whole knowledge system for centuries. How can one expect to compete with the twice-borns in the socio-economic and educational sphere? This is what K. Veeramani (2004) argues "how could there be free, fair and equal competition among unequals"?

Liberalization, Privatization And Globalization has privatized educational institutions? And for these institutions the pocket of parents is more important

than the intellectual standard of the students. So the outcome is quite clear and that is that the lower caste students are not able to buy the standard education required for the competitive job market and the so-called private sector.

Another thing is that there is no such thing as pure merit. Whosoever gets opportunity of education and exposure can realize the merit. It is not just schooling rather one's economic, cultural and social capital also help in determining one's merit.

Jayati Ghosh is of the view that the policy of reservation in the private sector would definitely not affect its efficiency but would help in a small way in correcting historically entrenched and still pervasive social discrimination. So the logic of efficiency, merit, competitiveness etc. which the corporate world gives to avoid reservation in the private sector are based neither on theory nor empirical facts. (Ghosh)

According to Omvedt term like merit is insulting and erroneous. They allow the reality of ongoing processes of exclusion and discrimination in the society based on social identity to be ignored. The processes of caste discrimination begin from birth, both from poverty and lack of opportunity and from the real prejudice faced by Dalit. In hiring for jobs and in making judgments about merit and qualification caste and kinship links and identities are rampant. (Omvedt 2005)

But now it is the responsibility of the government to prepared a concept paper on the issue of 'merit' in general and 'merit and efficiency' in the private sector in particular. The reason is that whenever the issue of reservation crops up the dalits are portrayed as devoid of any merit. Is it not true that there are millions of dalits who survive without availing any sort of reservation? Every time it is the rest of society, which is depicted as meritorious while the merit of the other, side (Dalits) has never been assessed.

The government should critically evaluate the performance of the private sector in terms of its inefficiency. These private industries are heavily involved in tax evasion. The government should come forward and reveal that despite merit a large number of private industries die every year or declare themselves bankrupt.

One can assess the merit of the private sector by the contribution they make in the world market. The contribution of the meritorious private sector to the world export market is a just 0.7 per cent only. Even then the private sector boast of its efficiency and merit? (Kumar, 2005) asked “If Indian industry was so meritocratic why is it that it has not produced a single brand or item, which can be called an international commodity”?

It is a well-known fact that industrialists of today have inherited the companies. Rarely among the top industrialists is a first generation industrialist. Of course they have expanded the business but again because they belong to a certain family background. That is why the concept of merit seems to be a myth. This is why the rewards in the educational and economic system are not based on merit. (Kumar, 2005).

So the educational and occupational attainments are directly related to the family background rather than talent and ability. There is a direct correlation between money and education. More money means more qualification or rather better qualification. This is why the children of the wealthy and powerful tend to obtain high qualifications and then highly rewarded jobs irrespective of their ability. That is why it is being said now that money is merit. And the story of money and merit nexus is getting stronger every day. There is always an argument put forward by the private sector and even the government sectors/universities that there is not enough qualified and trained dalits. There is a need that the government should use its own data to show that enough trained and qualified dalits students are available for jobs in the private as well public sector. This can

negate the argument put forward by the private sector and even public sector that the dalit candidates are not available or suitable from the available data (Ibid).

**Table 4.2**  
**Number of Dalit Students in Different Streams**

Arts Graduate s (1)	Science Graduate s (2)	Commerc e Graduates (3)	BE (4)	MBB S (5)	Bed (6)	MA (7)	MSc (8)	Professional s (4+5+6)	Total (1-8)
3,61,894	1,42,686	82,118	30,193	12,615	13,004	44,093	10,134	55,812	6,32,689

Source: National Commission for Scheduled Castes and Scheduled Tribes, Sixth Report, 1999-2000 and 2000-01.

The table above suggests that there are enough qualified people among Dalits in every discipline who can shoulder any responsibility. But they are denied the opportunity to show their talent. Thus the bogey of merit, efficiency, foreign direct investment etc. which they raise to avoid reservation in fact want to maintain local hegemony

According to (Dumont, 1970:69) Brahman, Kshatriya and Vaishya were assigned particular functions. The Brahman had the privilege of teaching, the Kshatriya of protecting all creatures, and vaishya living by commerce. Then how come dalits are expected to have the same merit when dalits was forced to serve all three castes described above and were not allowed to read and write?

### **SOME FACTS**

According to the Human Develop Index (HDI) of India: India is placed at the 124th position in the group of 174 countries. According to Transparency International India Report 2004: In the 'Corruption Perception Index' for the year 2004 India ranks 90th in the group of 146 countries. According to Economic Survey (2003-04:128): The external debt of India is Rs 5,11,861 crore. There is hardly any drop out in IITs, IIMs and AIIMS.



The reason of giving those fact is to tell that all the meritorious economists and administrators are managing the affairs of the country without any reservation, even then why is the situation so bad? The situation in science and technology is also not very encouraging. Out of 500 universities of the world only three figures and those are the Indian Institute of Science (260) and the Indian Institutes of Technology at Kharagpur and Delhi (459) and (460)” (Mohan, 2004).

So there is nothing like merit. It is very vague and relative term. For example, for a poor patient the doctors of All India Institute Of Medical Sciences New Delhi would be meritorious but for wealthy people it is the USA or UK based doctors who are meritorious. Or in other words if the Indian doctors and medical specialists are so meritorious then why is it that most of the VVIPs run away to foreign countries for treatment of their illnesses. Former Prime Minister Atal Behari Vajpayee had to call in an NRI orthopaedic surgeon for his knee operation. And the latest in the list is the case of Pramod Mahajan when a specialist Mohammad Rela from abroad was called for his treatment. And what about the professionals passing out from the various private engineering, medical, management, etc, colleges where a seat can be bought for few lakhs of rupees? (Kumar, 2005).

So the word ‘merit’ means different things to different people. For the corporate recruiter, merit merely mean competence the ability to do a job well. It is not ultimately about marks and academic brilliance. Merit based systems have not operated in Indian society. In India most systems rely on ‘connections’, patronage and nepotism and not on merit alone. Jogdand ask what is the definition of merit? There is plenty of evidence to show that merit can be bought making it a purchasable commodity in Indian society (Jogdand, 2004).

The fact is that most private sector companies have serious problems regarding their hiring policy. Gupta believes that in the private sector it is

connections and network that count and not necessarily merit. Since dalits lack this network so they are naturally excluded from the hiring process, (Gupta, 2005). There is hardly any advertisement for the jobs in the private sector. The reason is that they prefer applicants that are recommended. They are reluctant to go to the open market to search for prospective employees. This excludes a vast majority of potential applicants from any active job consideration in such organisations especially in family run private organizations. So according to the leading Indian sociologist the rule of thumb for private sector recruitment in most cases is “no network connections, no jobs” (Ibid).

Reservation of seats does not mean lowering of standards. It only suggests that a person in the identified category must receive preference. So it is clear that reservation does not mean someone without merit and necessary competence would be given the job. And more over it is wrong to assume that the communities now being included are without merit and talent (Mahajan, 2005). The merit argument is deeply problematic. The reason is that if at all there is any demerit, it is the result of a historical disadvantage and exclusion of dalits from the opportunity structures. The corporate class treats merit as a natural and not socially produced capability is wrong.

There is no doubt that the private sector and even the public sector suffer from an inherent bias that mostly favours the upper castes. This means that there are only two options left with dalits. One is either to seek dignified isolation from the private sector or to accept humiliating placement in scavenging or sanitary occupations. So it is expected from the private sector to think over these issues and share the social responsibility (Guru, 2005).

Last but certainly not the least the problem of brain drain. In IITs there is a saying, one leg in IIT and another in AIR INDIA. Meaning there by that most of the engineering graduates, management graduates and medicine graduates leave the country after full utilization of Indian resources to help in the economic

growth of foreign country. Is this the merit? India loses 6 to 7 percent of GDP because of brain drain. No body wants to do research here. That is why in one of the seminars in JNU dated 25.05.06 Prof. Prabhat Patnaik did not hesitate in saying that if IITs and IIMs are shut down country is not going to suffer.

#### **4.4 Comparative study of Affirmative Action in the other parts of the World**

Theoretical literature indicates that market discrimination brings inefficiency in the allocation of resources and produce less than optimum economic outcomes. And therefore measures have to be taken for market interventions to overcome discrimination and to improve the mobility of factors, particularly the labour and capital and to improve an access of the discriminated groups to various markets.

Whenever the issue of reservation is raised America comes into the picture. America has been the role model for affirmative action. So the reservation policy in India is quite often compared with the American programme of affirmative action. But the comparison is often misleading. In the United States affirmative action is a policy and not right. According to Ronald Dworkin it is good policy to have racial preferences in institutions such as universities in the interest of greater diversity in their social composition (Beteille, 2005).

Reservation to Scheduled Caste and Scheduled Tribes in the private sector is the need of the hour. There are plenty of reasons why private is no more private and their only motive to maximize profit will not work. India is not the only country where these kinds of policies are demanded. There are a large number of countries where these policies are already functioning. The irony is that even at this juncture only demand for jobs in private sector has been raised while in many countries affirmative action includes housing agriculture land, capital market, and education etc.

The economic sphere varies from country to country. In USA and Northern Ireland where ninety percent of the work force is in the non- agriculture sector focus is mainly on affirmative action policies for labour market, both in public and private sector. In USA it has not limited to the labour market only rather also cover education, housing, and government contracts for construction and purchases of goods from minority businesses. While in Malaysia where substantial portion of population is engaged in agriculture sector not only in labor market the affirmative action measures have also been extended to agriculture land, capital market, education and housing etc.

Varshney (2006), says that the argument which says that the quota will hurt India's rise as an economic power, and the government should leave the market forces and merit alone to produce a 21st century economy is very weak. He asks if there is any country whose economy has been halted or blocked by quotas in employment and/or education? By giving the example of the two countries Sri Lanka and Malaysia he says that both the countries have progressed in the economy and in the educational sector despite the quota. The new economic policy of Malaysia (1971) mandated that private companies mostly in Chinese hands will allocate 30 percent of their share has to the Malay individuals and the financial institutions within two decades. Quotas were applied to the private sector too.

He further says that it was necessary to reduce social conflict and violence and ethnicity. After the Malaysian strategy was adopted the violent social conflict dramatically came down. There has been no Malay – Chinese riot since 1969. He says that despite the quota the Malaysian progressed and the Chinese on the other hand continued to prosper. On the issue of Indian quota that it will create more caste conflict and quota will directly lead to inefficiency in use of the resources in principal is right but it does not follow that the Indian economic success will be aborted as a result. He says that economic growth depends on not only how

efficiently public and private investment is used, but also on how much investment is made in the economy. He says that high economic growth and social justice can be combined and talking about opposite is to not consider the historical and comparative evidence seriously. (Ibid)

Japan can be another example where Japanese Samurai surrendered their powers in the national interests, which led to overall growth of the Japanese nation. Diversity makes companies more competitive and not less. For example in 1982, American media came to know that there were only two per cent of Afro-Americans in media. This stunned editors and owners of big-time newspapers and they started making extra effort to search for the minority candidates. Finally, they trained them and employed them. One more survey was done after 7-8 years and within this short span; it came out that their participation has reached 8-9 per cent. This is called patriotism. In Michigan University a white student who had secured more marks than an Afro-American but who still failed to get admission in Law School- challenged the Affirmative Action and lost the case in US Supreme Court by a margin of 5-4. It is to be noted that most of big businesses, educational institutions and philanthropic organisations like Ford Foundation came in support of the Black Student and aired their views that under no circumstance should the Affirmative Action be discontinued. Finally, US Supreme Court gave a verdict in favour of reservation for Blacks, (Raj, 2004).

*Chapter –5*

***CONCLUSION***

## CHAPTER-5

### CONCLUSION

*“Implementing reservation norms in the private sector is the only remedy to ensure job security to the oppressed classes.”*

*(Deccan Herald, 2005)*

*To wipeout inequalities generated in the past centuries on account of caste structure reservation is a must.*

*(Mehta & Patel, 1985: 45)*

Despite its constitutional abolition in 1950, the practice of untouchability, the imposition of social disabilities on persons can be seen in rural India. It has not been wiped out completely. Cases of atrocities and violence can be seen in all part of the country. Dalits in the villages are still not safe. It seems that there exist hidden apartheid in entire villages in many Indian states and they remain completely segregated by caste.

It is true that policy may not have achieved the desired effect till date. Yet it has to be admitted that some positive changes have certainly been made in the social structure of the Indian society. Moreover some changes can be seen in the position of people belonging to scheduled castes and scheduled tribes even if marginally. Today they are finding place in the highest services like IAS and IPS, which was almost impossible at the time of independence. Discrimination based on caste has diminished at least visibly, as the mindsets cannot be changed overnight. One has to believe that 55-60 years is not a long enough time to wipe out the caste-based discrimination engraved in the inner layers of the psyche of a caste-ridden society (Singh, 2005).

The government's basic objective of providing reservation to the Dalits has been to uplift them socially and economically. This has been partially achieved as far as jobs in the government and public sector are concerned.

Private sector in India was in its infancy when the policy of reservation was implemented in the government and public sector. But after more than five decades it has now achieved multiple growth in its size and magnitude. It has now acquired the assets and capital investment as well as output. Even in the private sector there is organized sector and unorganized sector. Those in the unorganized sector have either surrendered or subordinated to the organized sector. Private sector has accelerated in the field of production and industrial production.

India is one of the biggest technical as well as non-technical manpower in the world the result of which is that it is readily available to the private sector. But the problem is that the manpower is taken from amongst the better off section of the population keeping others aside. Rapid technological change and modernisation, including mechanization, automation etc has also contributed in shrinking of the jobs in the government sector. Now as public sector is shrinking and private sector is flourishing, private sector now is the biggest creator of the job-opportunities. Private sector does not have any believe in welfare though it boasts of having human and societal consideration. The worst sufferers of this decline are obviously the most disadvantaged and marginalised section of society such as SCs/STs. These are the ones who have almost negligible representation in the better-paid jobs in the private sector the reason obviously is the caste-based social discrimination.

Discrimination can be seen in various markets, namely capital, agriculture land, employment, product and consumer goods, education, housing, health and others. To wipe out this government must enact law to improve their effective access to private employment, agricultural land, capital, production and consumer goods, and private education. While the better off section of society are benefiting



from the new economic policy but the plight of vast majority of scheduled castes and scheduled tribes have multiplied and have been further marginalised. Anti-discrimination measure like reservation is now needed for growth and equity. Because the reservation and reservation only will provide fair and non-discriminatory access to historically excluded and discriminated dalits and at the same time remove constraints imposed by caste discrimination on labour markets. This will on the other hand bring competitiveness and economic growth (Thorat, 2005).

Kumar (2005), rightly argues in this regard and says that the government should come out with a white paper on the present status of reservations which should identify reservation in all the sectors, keeping-record of jobs which have been filled and how many vacancies have remained vacant. The main objective of this white paper should be to look into the causes of omission and commission, and help plug the gaps as well.

It is said that where there is a will there is a way but now it can be modified and put forth as where there is will there is a better way. So If socially and economically backward sections of society have to be carried along in the country's march for prosperity and general upliftment, they must be given due representation in the private sector, which is presently driving the engine of growth. As has been said in previous chapters privatisation has open the floodgates for job opportunities and that is why the question of reservation in private industries became more acute and urgent. In other words due to privatisation and globalisation on the one hand the Government jobs have started shrinking and on the other hand the private sector became the prime mover of economy with immense opportunities for jobs for the marginalised sections of society.

Reservation is necessary because the individuals and the institutions controlling the economy today have come up only at the expense of these

deprived sections of the society. So far as the time limit of reservation is concerned it should be continued till dalits too come up to the level of the other part of the society. The basic principle should be that this section of society and its children would be given ability to compete. So the reservation in the private sector must be seen as a policy that would definitely not affect "efficiency" of private sector functioning rather would go only a small part of the way in correcting historically entrenched and still persistent social discrimination (Ghosh, 2005).

Like Malaysia Indian government should also make a policy to increase the participation of SC/ST in the private capital. Malaysia has made it mandatory for foreign companies to reserve a percentage of the share capital for the minority community. This is the best way for redistribution of private capital ownership to SC/STs. Malaysia has achieved share of private capital in favor of native Malays from 2 percent to 20 percent in two decades.

Thus there cannot be any question about reservations in private sector or any other sector so long as these sectors belong to India. Reservation is a must for the societal disability to go away with. It is not open for negotiation. If the upper caste elites want reservations to go, they should come forward to work for removing this societal disability rather than crib against reservations, (Teltumbde, 2005).

Relating reservation with merit, efficiency and foreign direct investment is simply and the easiest way to avoid reservation while reservation has nothing to do with these. The argument against reservation is nothing but the age-old prejudices in Indian society vis-à-vis the lower castes and is without any rationale. There is no connection of merit with reservation. Reservation as has been said already does not mean accepting anyone just on the criterion of birth. Reservation simply means that a person having requisite qualification for the job should not be denied it just because he or she is born in a certain caste.

Reservation does not have any connection with efficiency too. The efficiency of the firm depends on the organization's culture, working conditions, and motivation etc. If a person in the organization is not efficient, the onus must shift to the manager and not to an individual. Reservations do not have any connection with foreign direct investments either. The foreign investments do not flow by seeing the caste of employees. Had this been the case India would have multiplied its growth. But this is not true and that why all these years when India was exclusively ruled by Brahmans and Baniyas, foreign investors did not even look at it, (Teltumbde, 2005).

In this regard Das has rightly observed, "Those who are vociferous and loud in their criticism of reservations invariably belong to the dominant groups, who have been enjoying the benefits of, if not a monopoly over education, wealth, land and public services. On the other hand, the worst victims of the condemnation, persecution and exploitation of contemporary society have been the shudras, dalits (untouchables, unseeables and unapproachables) and women" (Das, 2000)

Reservation is a Constitutional contrivance against the disability of Indian society to treat dalits equally and justly. And only this premise can have a promise to end reservation by removing the disability of the society. Reservation in the private sector thus becomes just a correction to the basic policy enshrined in the Constitution. There needs to be a genuine political will backing the policy to get it implemented (Teltumbde, 2005).

In view of the structural denial of opportunities in the private sector and the lack of actual placement in a sphere other than the sanitary divisions, the demand for procedural and not simply protective justice, appears legitimate. Procedural justice in turn demands a constitutionalization of reservation provisions in the private sector. (Guru 2005)

The captains of industry should meet the aspirations of the SC/STs and provide them assured avenues of employment in their concerns. This has become necessary because disinvestment of public sector will result in declining employment opportunities. This, in fact, is a social necessity. Reservations in private sector is not a charity but a social necessity

Reservation in the private sector is must to ensure the proper representation of the dalits. No other mode of affirmative action will be as effective as reservation in the country like India where caste plays a crucial role. For this legislation has to be made. Special training can be provided to the people of these castes if so required to meet the challenges of the global market.

Since caste is the basis of all the atrocities, manual scavenging, untouchability, exploitation, murder, rape discrimination etc., only caste should be the criteria of the reservation. Constitution clearly mention that the social and educational backwardness will be the sole parameter for providing reservation. So the argument that economy should be the basis of reservation cannot be a viable measure. Since caste was the ground on which some communities had previously been excluded and segregated, caste offered an appropriate criterion for identifying those who needed to be included as equals (Mahajan, 2005).

It has been shown in the last chapter that even government agencies have not fulfilled the quota, it will be a tough call for the private sector to do the same unless some laws mandating it will not be enacted. "Government should promulgate an ordinance to make the constitutionally guaranteed reservation facilities for SC and ST applicable even in private sector" (Deccan herald, 2005). "Even the government has not been able to fill its quotas for the oppressed - private firms will not comply in the absence of laws mandating this".

It is very much clear from the paper that the corporate world uses the discriminatory hiring policies and not solely on the merit of the job seekers. So a fixed quota in the private sector is must for the development of the country.

So the whole paper can be summarized that the reduction of jobs in the government sector is faster for SC/ST than that of non-SC/ST. The economic policy has adverse impact in job market especially in the government sector. It has worsen the condition of dalits. Despite all the measures, polices, programmes for the over all development and the empowerment of the dalits, there is no total transformation in the conditions of the dalits. The policy of the reservation has not been implemented fully and many institutes/ universities have almost negligible representation of the dalits.

The most important outcome of the research is that reservation alone will not serve much. The other part of the story like its proper implementation, special care of the basic education of the dalits, and the atrocities on the dalits have to be looked into properly for the total transformation / overall development of the dalits. The data show that in the category D and the sweepers there is over representation of the dalits. The reason is quite clear. There is a social stigma attached with this occupation. The atrocities on dalits are still on. It seems that the terms Inequality, deprivation, untouchability, inequality, discrimination, exploitation, oppression and atrocities are synonyms of dalit. And finally it is at the same time true that some development can be seen among the SCs/ STs but they are still far behind the upper caste.

Dalits are lagging behind their upper caste counterparts in finding entry into the job openings in multinational companies. more persons belonging to upper caste communities were finding entry into private and multinational companies which did not have any binding in matters concerning appointment of employees. This could nullify the reservation policy of the government for the upliftment of dalits and the oppressed communities. Unless the government introduces job reservation in the private sector, the entry of multinational companies in big cities in the wake of globalisation is detrimental to the interest of dalits. The Government should evolve a policy for the reservation of jobs for

dalits in private sector to arrest this unhealthy trend which might put dalits under another era of oppression (Deccan Herald Friday, April 15, 2005)

On the whole the issues that a dalit confront today have more to do with living in a civil society with honour and dignity. The attitudes perception and treatment that the dalits confront in their everyday life require a lot more preparation on the part of the state and the educational institutions. It is just not sufficient to wash off responsibility after making policies and programmes for upliftment of the disadvantaged sections. Therefore, focus should be more on respect for diversity in order to facilitate a better tomorrow and an effective democracy.

As of now some positive responses from the private sector have started coming. Now the top industry houses hold the view that there is a need to provide greater economic opportunities to the disadvantaged group of the society. (The Pioneer June 24, 2006). Indian industry has finally agreed to work with the government to improve the employment opportunity for the backward classes beginning September 2006. “The industry commits, in principal, to align the workforce in its companies and units with the diversity goals for greater representation of the targeted communities, starting September 2006 progressively”. But it’s too early to rely on this news (Times of India, 2006).

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