



Should the 50% Reservation Cap Be Raised?

For Prelims: [Reservation](#), [Article 14](#), [Article 15](#), [Article 16](#), [economically weaker sections \(EWS\)](#), [Supreme Court of India](#), [Scheduled Castes](#), [Scheduled Tribes](#)

For Mains: [Reservation](#), Challenges and Way Forward

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Why in News?

Bihar's Opposition leader has proposed increasing **quotas to 85%** if voted to power, while the **Supreme Court** has sought the Centre's response on applying the '**creamy layer**' concept to SCs and STs.

- These debates on **reservation** challenge the **50% constitutional cap** and raise concerns about equitable distribution of benefits among marginalised groups.

What are the Key Provisions Related to Reservations in India?

- **About:** Reservation is a form of **positive discrimination aimed at promoting equality for marginalized groups** and addressing social and historical injustices. It provides **preferential treatment in education and employment** to uplift disadvantaged communities.
 - At the central level, reservations include **27% for OBCs, 15% for SCs, 7.5% for STs, and 10% for EWS**, making a **total of about 59.5%**, though the **share differs across States** as per their policies and demographics.

The journey of reservations

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

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

- **Key Provisions:** The **Constitution of India** incorporates various provisions to promote **social justice and ensure adequate representation** for historically disadvantaged communities.
 - These provisions span across **Part III (Fundamental Rights)** and **Part XVI (Special Provisions Relating to Certain Classes)**.
 - **Articles under Part III on Reservation:**
 - **Article 15(3):** Empowers the State to make special provisions for women and children.
 - **Article 15(4):** Enables the State to make special provisions for the advancement of socially and educationally backward classes, including SCs and STs.
 - **Article 15(5):** Allows for reservation in educational institutions (including private, unaided institutions but excluding minority institutions) for socially and educationally backward classes, SCs, and STs.
 - **Article 15(6):** Introduced via the 103rd Constitutional Amendment (2019), allows the State to make special provisions, including reservations, for Economically Weaker Sections (EWS) among unreserved categories.
 - **Article 16(4):** Permits reservation in appointments/posts for any backward class of citizens not adequately represented in state services.
 - **Article 16(4A):** Allows reservation in promotions for SCs and STs (77th Amendment Act, 1995, modified by the 85th Amendment Act, 2001 to include consequential seniority).
 - **Article 16(4B):** Allows the State to carry forward unfilled reserved vacancies from previous years without breaching the 50% ceiling (81st Amendment Act, 2000).
 - **Article 16(6):** Provides for reservation in public employment for EWS, distinct from the backward class reservations.
 - **Articles under Part XVI on Reservation:**
 - **Article 330 & 332:** Provide for the reservation of seats for SCs and STs in the Lok Sabha and State Legislative Assemblies, respectively.
 - **Article 233T:** Ensures reservation of **seats for SCs and STs** in every Municipality.
 - **Article 243D:** Mandates reservation for **SCs and STs in every Panchayat**.
 - **Article 335:** States that the claims of **SCs and STs shall be taken into account in the making of appointments** to public services and posts, consistent with the maintenance of administrative efficiency.
- **Key Judicial Rulings Shaping the Reservation Framework:**
 - In ***Balaji vs. State of Mysore, 1962*** case, **Supreme Court (SC)** held that **reservations under Articles 15 and 16** must be **within "reasonable limits"** and **should not**

exceed 50%, viewing them as an **exception to equality of opportunity (formal equality)**.

- In the [State of Kerala vs. N.M. Thomas 1975 case](#), SC recognized 'substantive equality', stating that **reservations are not an exception but an extension of equality of opportunity**.
- In [State of Punjab vs. Davinder Singh, 2024](#), the SC suggested that **policies be framed for applying the creamy layer principle** within **SC/ST reservations**. However, the Union Cabinet clarified that the **creamy layer exclusion does not apply to SC/ST quotas**.

Landmark Cases and Judgements regarding Reservation

Cases	Judgement	Fallout
State of Madras v. Champakam Dorairajan, 1950	Court ruled that caste-based reservations violate Article 15(1) of the Constitution. It said reservation was an exception to equality and hence violated the right to equality.	Led to the introduction of the First Amendment of the Constitution, which invalidated the judgment.
M. R. Balaji v. State of Mysore, 1963	The Mysore government's 68% reservation in college admissions was ruled as excessive and unreasonable, and was capped at 50%.	The Supreme Court in the Indra Sawhney case imposed the 50 % limit on reservations in 1992.
Devadasan v Union of India, 1964	The court ruled that if reservations go beyond 50% they would be invalid.	Reservation was rationalised and was termed a facet of equality.
State of Kerala v NM Thomas	Reaffirmed the idea that reservation is not an exception but is necessary to establish equality. It ruled that Article 16(1)'s conception of equality itself includes remedial action to ensure due representation for hitherto excluded classes.	The ruling is considered to be the first definite judicial endorsement of the philosophy of reservation
Indra Sawhney & Others v. Union of India, 1992	The court upheld separate reservation for OBCs but excluded the "creamy layer". It rejected economic reservation and set a ceiling of 50 % for all reservations.	The case was pressed again in 1999 and the Supreme Court reaffirmed the creamy layer exclusion and extended it to SCs and STs.
M. Nagaraj & Others v. Union of India and Others, 2007	Upheld 77th Amendment which extended reservations for promotion in employment for SCs and STs.	The court ruled that promotions should satisfy the triple test of backwardness, representation and the need for efficiency. Backlog vacancies were excluded from the 50% limit.
I. R. Coelho (deceased) by LRS. v. State of Tamil Nadu, 2007	Tamil Nadu advised by Supreme Court to follow 50% reservation limit	Tamil Nadu reservations were put under the 9th Schedule of the constitution, which had already been upheld by the court.
P. A. Inamdar v. State of Maharashtra, 2005	Reservations cannot be enforced on private educational institutions which do not receive government funding.	Led to 93rd Constitution Amendment introduced Art 15(5).
Ashoka Kumar Thakur v. Union of India, 2007	Upheld the 93rd Amendment on reservation for admission to unaided educational institutions	Recommended reviews of backwardness every 10 years.
Ram Singh & Ors v Union of India, 2014	Struck down the inclusion of Jats in the Central list of OBCs	Proposed new ways to determine backwardness
Jaishri Laxmanrao Patil v Union of India, 2021	Maratha reservation struck down as unconstitutional	The 50 % ceiling on reservations was reaffirmed
Janhit Abhiyan vs Union Of India, 2022	Upheld 103rd Amendment which introduced 10% reservation for Economically Weaker Sections in education and public employment	A new reservation regime created

Formal Equality Vs Substantive Equality

- **Formal Equality** refers to the principle of "**equality before the law**" and "**equal protection of laws**" under **Article 14**, ensuring identical treatment for all citizens regardless of caste, religion, or socio-economic status.
 - However, it may overlook historical disadvantages and systemic inequalities, potentially leading to unfair outcomes.
- **Substantive Equality** focuses on **achieving fair outcomes by addressing historical disadvantages and systemic inequalities**.

- It **goes beyond identical treatment**, aiming to provide equitable opportunities and outcomes, and is reflected in policies like reservation. However, it requires differentiated support and its implementation can be complex.

What are the Arguments For and Against Exceeding the 50% Reservation Cap?

Arguments For	Arguments Against
Demographic Justification: Backward classes (OBCs, SCs, STs) constitute over 60% of India's population, and the current 50% ceiling limits proportional representation.	Legal Constraints: The SC in <i>Indra Sawhney (1992)</i> reaffirmed the 50% ceiling to balance merit and social justice, allowing exceptions only in extraordinary circumstances.
Addressing Unequal Benefits: The Rohini Commission (2017-23) found 97% of OBC benefits go to 25% of sub-castes; raising quotas and introducing sub-categorisation could correct this imbalance.	Implementation Challenges: 40-50% of reserved seats remain unfilled, indicating that raising quotas without improving implementation will not increase representation.
Promoting Substantive Equality: The SC in <i>State of Kerala vs. N.M. Thomas (1975)</i> stated that reservations are a continuation of equality, not an exception, and should not be limited by numerical caps.	Creamy Layer Concerns: As the <i>Davinder Singh (2024)</i> case emphasized, intra-caste inequalities within SCs and STs must be addressed. Expanding reservations without excluding the creamy layer could worsen disparities.
State-Level Precedent: States like Tamil Nadu, Haryana, and Maharashtra have implemented reservations beyond 50%, reflecting the need to adapt policies to social realities.	Administrative Efficiency: Raising quotas excessively could compromise administrative efficiency by sidelining merit, potentially affecting governance.

What Measures Can be Taken for Effective Implementation of Reservation in India?

- **Data on Population:** Undertake a **comprehensive caste census** to collect **accurate data on population distribution** and **socio-economic status of various communities**.
- **Sub-Categorisation & Creamy Layer:** Implement *Rohini Commission recommendations* such as **sub-categorisation for OBCs** and consider **creamy layer exclusion** for SCs/STs to ensure **equitable distribution** within communities.
- **Two-Tier Reservation for SC/STs:** Prioritise **more marginalised sections** before extending benefits to relatively better-off members within these communities.
- **Address Backlogs:** Focus on **filling vacant reserved posts** and improving **administrative efficiency** to make reservation policies effective.
- **Skill Development & Employment:** Complement reservations with **training programs and job creation initiatives** to meet the aspirations of India's **large youth population**.

Conclusion

The reservation debate balances **formal equality** (equal treatment) with **substantive equality** (correcting historical disadvantages). While exceeding the 50% cap is constitutionally sensitive, it reflects demands for **greater inclusion**. Effective implementation requires **data-driven policies, sub-categorisation, and focus on marginalised groups**, complemented by **skill development**, to ensure reservations empower rather than exclude.

Drishti Mains Question:

Critically examine the role of reservation in promoting social justice in India. How can its benefits be made more equitable?

UPSC Civil Services Examination, Previous Year Question:

Prelims

Q. Consider the following organizations/bodies in India: (2023)

1. The National Commission for Backward Classes
2. The National Human Rights Commission
3. The National Law Commission
4. The National Consumer Disputes Redressal Commission

How many of the above constitutional bodies?

- (a) Only one
- (b) Only two
- (c) Only three
- (d) All four

Ans: (a)

Mains:

Q. What are the two major legal initiatives by the State since Independence addressing discrimination against Scheduled Tribes (STs). (2017)

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