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### EWS Reservation: A Shift from Social to Economic Justice

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#### Abstract

*In India, reservation or should I say caste system has become such a tradition that it cannot be ended suddenly no matter how many amendments are made or policies are introduced in the constitution. Before reservation, we knew it by the name of Varna system which has now been changed to caste and reservation. Dr Bhim Rao Ambedkar's sole aim of bringing reservation policies was to completely eliminate the discrimination in the society and to build a new society, a new country so that people from every section can freely enjoy their rights in the right way and get the respect they deserve. But day by day, it is being used in the wrong way, sometimes for voting, sometimes for employment. This reservation in government jobs, government policies, government benefits, rations, etc. can ever change the mindset from poverty, so today in India the focus is on economics and not on caste. For the first time in India after the 2019 103 amendment, 10% concession will be given to the EWS (economically weaker section) in government jobs to those people who are economically below the poverty line. India cultural, rituals and hospitality are called feelings but how much love there is for each other is not hidden from anyone, so more than reservation, we should teach each other the path of ethics, manners and behaviour so that in the times to come, people should not believe in reservation but in changing the system and not in the masses, otherwise it will take the form of a life taking pandemic which will not be a reason for anyone's salvation, it will put us in a sad situation, which does not know about development.*

**Keywords:** *Articles 15 and 16, socio-economic, distribution justice, conflict of constitution and individual right, foreign reservation*

## Introduction

I will start this with a question rather than details: Do we still need reservation, whether it is 10% or 50%? This reservation are based on Economically Weaker Section (EWS) introduced by the 103<sup>rd</sup> Constitutional Amendment of 2019. They provides 10% quota in educational institutions and government jobs for economically disadvantage individuals who do not fall under the Scheduled Caste .



Scheduled Tribes (ST), other Backword Classes (OBC), categories. This policy mark a significant shift towards economic critical in affirmative action, aiming to extend social justice to the economically vulnerable in the general category. By addressing economic disadvantage irrespective of caste or community, the EWS reservation reflects evolving approaches to inclusion and equality in India's socio- economic landscape.

Gross family income must be below rupee 8 Lakh per annum. Household should not own 5 acres of agriculture land, a residential flat of 1000 sq. ft. or more, or certain specified residential plots.

Basically, both the parties want reservation but only for those people who actually need it. Whether discrimination existed in Scheduled Caste earlier or is seen somewhere else now, identity is being created more than benefits, this gap was created for the society but it is increasing the distance. Why will more people benefit, from the economic policies that the government has taken this stand, because it will not benefit any section of the society but will benefit only those people who actually need it, with the benefits of which they will be able to improve the condition of their families and will create a different identity in the society.

### **Historical Background of Reservation Policy in India**

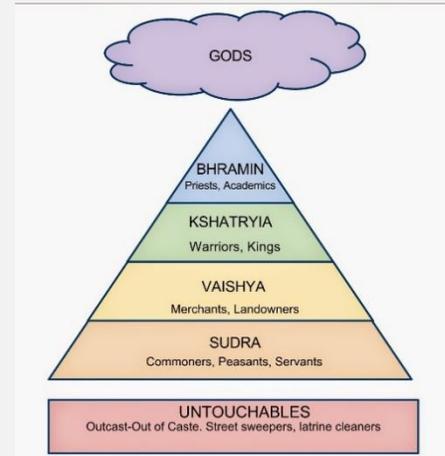
The varna system is an ancient Hindu framework of social Stratification dividing society into four hierarchical

Categories based on occupation and aptitude: Brahmins, Kshatriyas, vaishyas and shudras.

Varna basically divided into work based not as caste

Based:

1. Brahmins: Priests, scholars, and teachers responsible  
For spiritual guidance.
2. Kshatriyas: Rulers, administration and warriors.
3. Vaishyas: Farmers, merchants, and traders
4. Shudras: Laborers and service providers.



Notes: classical text such as Manusmriti, describe these varnas as part of a theoretical hierarchical classification, and prescribe their occupations, requirement and duties or dharma. <sup>1</sup>

The concept is found in the Purusha Sukta hymn of the Rigveda (10<sup>th</sup> Mandala). While early Vedic society was more fluid, the system solidified into a rigid, birth-based structure by the Gupta period. Originally based on guna (aptitude) karma (action), it shifted to being based on birth. The top three Varnas were considered twin-born-first biologically, and second during the Upanayana (sacred thread) ceremony. A group existed outside this four-fold system, historically untouchables. Varna is a theoretical, four-fold classification. Jati refers to the thousands of rigid, hereditary, and occupational groups prevalent in daily life. They have so many Indian text will be mention as the varna system as per Manusmirit, Mahabharata, Bhagavad Gita, Puranas etc will mention of it.

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<sup>1</sup> Wikipedia

## The Evolution of the India SOCIAL SYSTEM

STAGE	SYSTEM NAME	BASIS OF MEMBERSHIP	CORE CHARACTERISTIC
Ancient	Varna system	Guna & Karma (Talent/ Action)	A fluid division of labour; one could change their varna through education or deeds.
Medieval	Caste system (jati)	Birth (hereditary)	System became rigid and hierarchical; social mobility was lost, and “untouchability” emerged
Year 1950	Caste Reservation	Social & Educational Backwardness	Constitutional quotas (SC/ST/OBC) were introduced to correct historical injustices and provide representation.
Year 2019	EWS Reservation	Economic status	A 10% quota for general category individuals based solely on poverty, regardless of caste.

Basically reservation to EWS with 103<sup>rd</sup> amendment, the government added a new dimension where financial need became a valid reason for reservation, even for those in “upper” caste.

## **Indian Philosopher who give a point of view:**

Philosopher and reformers have held diverse views on this system, often distinguishing between its theoretical, merit-based origin and its degenerate, birth-based reality.

1. Mahatma Gandhi (Reformer/ philosopher): Gandhi held a nuanced, often misunderstood view of the varna system, distinguishing it sharply from the rigid, discriminatory "caste system".

Position: Gandhi supported the original concept of varna, which he believed was based on innate nature and inherited, but not necessarily rigid, occupation. He argued that varna fixes duties, not rights.

Positive Aspects: He believed Varna prevented unhealthy competition and class struggle. He emphasized the "dignity of labour," arguing that no work should be considered inferior—a sweeper's work has the same value as a scientist. He believed it promoted economic stability through hereditary skills.

Negative Aspects/Degeneration: He vehemently opposed the "caste system" (Jati) and "untouchability," which he considered a "prostitution" of the Varna system. He criticized the "degenerate" version where superiority was claimed by birth. Later, he favoured a more fluid system based on merit, not birth.

## **2. Dr. B.R. Ambedkar (Jurist/Philosopher/Reformer)**

Ambedkar was a staunch critic of the Varna system, viewing it as the root cause of the caste system and social inequality.

Position: Ambedkar argued that the Varna system was, in practice, a "division of labourers" rather than a "division of labour," resulting in forced, unequal, and hereditary occupations.

Positive Aspects: In his critique, he largely argued that the system had no redeeming qualities in its historical execution, as it was based on dogma, not function. However, he acknowledged that in the very early Vedic period, it may have been more flexible.

Negative Aspects: He regarded the system as "unscientific, impractical, and unjust," arguing it created a "graded hierarchy" that killed public spirit, inhibited individual potential, and maintained the oppression of Shudras and untouchables. He famously proclaimed that to achieve equality, the caste system needed to be annihilated, which required destroying the religious sanctity behind it.

## **3. Swami Vivekananda (Philosopher/Vedant)**

Vivekananda looked at the Varna system through the lens of spiritual equality, focusing on its essence rather than its later distortions.

Position: He argued that the caste system as it existed (in his time) was not the original Varna system. He maintained that in the Vedanta, "there is no caste".

Positive Aspects: He believed the original Varna system was a form of social organization based on merit and individual quality.

Negative Aspects: He strongly opposed the "caste-based distortion" of the Varna system. He believed the birth-based, rigid structure was a social evil that led to the degeneration of Hindu society, arguing that the system had outlived its purpose.

### **Foreign Philosophers point of view:**

#### **1. John Rawls (Theory of Justice)**

Rawls is one of the most influential political philosophers regarding fairness.

The "Veil of Ignorance": Rawls suggests that if you didn't know which family (caste) you would be born into, you would choose a system that protects the least advantaged.

Difference Principle: He argues that social and economic inequalities are only justified if they benefit the weakest members of society.

Perspective on Reservation: He would likely support the principle of reservation as a tool for "substantive equality" (helping those with historical handicaps), but he might caution that it should be a temporary measure to reach an ideal state of fairness.

#### **2. Michael Sandel (Justice & Meritocracy): Sandel is a famous Harvard professor who often discusses the "tyranny of merit".**

Critique of Meritocracy: He argues that "merit" is not just about hard work; it is also about luck and the circumstances of one's birth.

Perspective on Reservation: Sandel sees reservation as a way to achieve genuine equality of opportunity. He highlights that both the U.S. (Affirmative Action) and India (Reservation) are trying to address historical injustices, though he notes that such systems can sometimes harm social solidarity by creating "winners and losers".

#### **2. Thomas Pogge (Global Justice & Compensation): Pogge focuses on how institutions cause harm and the duty to fix those harms.**

Compensatory Justice: He believes that if a social order (like the historical caste system) has caused massive suffering, those who benefit from that order have a moral duty to fix it.

Perspective on Reservation: He would likely view reservation as a rectificatory measure—a way for the state to fulfil its "negative duty" not to uphold unjust institutions by actively compensating the descendants of those who were harmed.

#### **4. Martha Nussbaum (Capabilities Approach)**

Nussbaum, who has written extensively on India, focuses on what people are actually able to do and be.

Human Capabilities: She argues that true justice isn't just about giving money or seats, but about ensuring everyone has the basic "capabilities" (health, education, dignity) to live a good life.

Perspective on Reservation: She generally supports affirmative action but emphasizes that reservation in higher education or jobs is not enough if the government fails to provide quality primary education and healthcare to marginalized children from birth.

### **Understanding Social Justice and Economic**

Social Justice and Economic Justice are foundational ideals enshrined in the Preamble and Directive Principles of the Indian Constitution. Although interrelated, the two concepts are grounded in distinct philosophical and practical frameworks.

#### **Social Justice: A Historical and Constitutional Framework**

Social justice in India is intrinsically linked to the eradication of caste-based hierarchies, systemic oppression, and unequal access to rights, dignity, and resources. It recognizes that historically marginalized communities, particularly Dalits, Adivasis, and backward classes, have been subjected to structural barriers in education, employment, and public life, not merely due to poverty, but because of deep-rooted social exclusion.

The Indian constitutional commitment to social justice is evident in provisions such as:

1. Article 15(4) and 15(5): Allowing special provisions for the advancement of socially and educationally backward classes.
2. Article 16(4): Permitting reservation in public employment for backward classes not adequately represented in the services.
3. Article 46: Mandating the state to promote the educational and economic interests of the weaker sections, particularly SCs and STs.

Social justice thus aims to achieve substantive equality by acknowledging unequal social starting points. It is not a compensatory tool for poverty alone, but a corrective mechanism for historical wrongs, focusing on groups subjected to systemic and intergenerational disadvantage.

#### **Economic Justice: The Emerging Paradigm**

Economic justice, on the other hand, concerns itself with the equitable distribution of wealth, income, and opportunities among individuals, regardless of caste or religion. It assumes that economic hardship alone can be a valid ground for state intervention to ensure access to education, jobs, and public goods. The growing discourse around economic justice is driven by the realization that poverty is not exclusive to any one caste group. There are economically disadvantaged individuals within the so-called "forward castes" who, despite lacking financial resources, have been excluded from the benefits of affirmative action due to their social classification. Advocates of economic justice argue that focusing solely on caste ignores a rising class of impoverished

citizens who, though not facing social stigma, experience economic deprivation. In this light, economic criteria-based reservation is seen as a means of ensuring horizontal equity, where all poor citizens, regardless of social identity, receive state support.

### The Intersection and Tensions Between the Two

While both concepts aim to ameliorate inequality, the nature of disadvantage they address

differs:

1. Social justice is group-centric, targeting historically excluded communities.
2. Economic justice is individual-centric, focusing on income and material deprivation.

This divergence raises several questions:

1. Can economic hardship replicate the institutional discrimination and social
2. alienation faced by marginalized castes?
3. Does prioritizing economic justice dilute the original intent of the reservation policy?
4. Can both forms of justice co-exist within the same affirmative action framework without undermining each other?

In practice, blending the two may lead to policy incoherence. While social justice seeks to compensate for non-merit-based social disadvantages, economic justice often leans on meritocratic notions wherein only the poor deserve assistance. This tension creates the risk of pitting poverty against caste-based marginalization, rather than addressing them as intersecting axes of disadvantage. Moreover, there is concern that economic criteria may become a politically convenient tool, allowing dominant groups access to benefits historically reserved for the underprivileged, thereby restructuring reservation from a tool of empowerment to one of appeasement.

## **Constitutional and Judicial Perspective on EWS Reservation**

The introduction of 10% reservation for Economically Weaker Sections (EWS) through the 103rd Constitutional Amendment Act, 2019 marked a paradigm shift in India's reservation

policy. Historically, affirmative action was rooted in social and educational backwardness, as articulated in Articles 15(4) and 16(4) of the Constitution. The EWS quota, by contrast, was justified solely on the basis of economic disadvantage, introducing a new dimension to the discourse on equality and justice.

### **The 103rd Constitutional Amendment: A New Framework**

The Amendment added two new clauses:

1. Article 15(6): Allows the state to make special provisions, including reservation in educational institutions, for economically weaker sections of citizens other than those mentioned in Article 15(4) and 15(5).
2. Article 16(6): Permits the state to provide up to 10% reservation in initial appointments in government jobs to economically weaker section. What sets this apart is its exclusion of SCs, STs, and OBCs from the EWS category, making it solely for non-reserved (general) category economically weaker persons. This move shifted the constitutional emphasis from social group-based affirmative action to individual income-based considerations.

### **Analysis of Case Study**

*Indra Sawhney vs. Union of India (1992)*, also known as the Mandal Commission Case, is one of the biggest and most important decisions in India's reservation history. It laid down the rules for the modern reservation system.

1. 27% OBC Quota: The Supreme Court upheld the Mandal Commission's recommendation and approved 27% reservation in government jobs for Other Backward Classes (OBCs).
2. 50% Limit: The Court drew a Lakshman Rekha (line) that total reservation should not exceed 50% under any circumstances.
3. Creamy Layer Concept: The Court stated for the first time that those in the OBC category who are wealthy or hold high positions (Creamy Layer) will not be eligible for reservation benefits, ensuring that benefits reach only the most needy.
4. No Reservation in Promotion: The Court clarified that reservation would apply only to initial appointments, not promotions.
5. Caste as Basis: The Court acknowledged that while caste may be a valid criterion for identifying backwardness, backwardness should only be social and educational, not merely economic.

## **Relation to EWS:**

In this 1992 case, the Supreme Court struck down the then Congress government's attempt to create a 10% quota for poor General Category members. The Court believed that the Constitution then only addressed 'social backwardness'; it could not be solely based on 'money' (economic).

What happened in 2005 (Sinho Commission)?

After the economic quota was struck down in the Indra Sawhney case, the UPA government formed the Major General S.R. Sinho Commission in 2005.

1. Demand: This commission was formed to assess the plight of poor people in the General Category.
2. Report: In 2010, it reported that poverty persisted even within the General Category and that they too should receive reservation or assistance.
3. Result: Based on this report, the 103rd Amendment (EWS) was introduced in 2019.
4. The Indra Sawhney case made "Caste" the basis and set a "50% limit", whereas the 2022 EWS case crossed this limit and made only "Money" (Economy) the new basis.

## **Conclusion**

Let took to my topic, Reservation, this word sounds quite interesting because if its meaning is seen normally then it means securing something for future purpose. Reservation means booking of future orientation for life, job, education, travelling, care booking, when we go to watch a movie, when we go to eat food in restaurant, when we buy a house, then this is the place from where it is used so that the desired thing can be purchased. Well, what comes to your mind when you hear the word reservation? Do you relate reservation to social justice or erosion of merit or do you see reservation as discrimination? Most importantly, what do you think about reservation at present or it is important to know how people use reservation, whether it is necessary for daily basis, for practical life or for luxury life or has it become a necessity. If seen, this reservation has become a strategy for every vote. Many countries believe that India has become such a country where people are fighting to be called backward, are they trying to show themselves as backward, or have they become used to this word? The question is from many and the answer is also there but there is a difference between writing it, speaking it and saying it. In conclusion, the Economically Weaker Sections (EWS) reservation represents a paradigm shift in India's affirmative action by introducing economic status as a standalone criterion for reservation, independent of social backwardness. While it aims to provide a safety net for the poor in the general category, it remains contentious due to its exclusion of SC/ST/OBC groups and its potential to erode the original representative purpose of the reservation system.

Applicability in Bihar: Bihar has integrated EWS reservation into its complex state-level quota system, though recent legislative changes have faced legal hurdles.

1. **Current Status:** Bihar implemented the 10% EWS quota in 2019.
2. **Total Quota Complexity:** In November 2023, following a caste-based survey, the Bihar government increased reservations for SC, ST, OBC, and EBC groups from 50% to 65%. Combined with the 10% EWS quota, this brought the total reservation in Bihar to 75%.
3. **Judicial Intervention:** On June 20, 2024, the Patna High Court struck down the 65% hike (for SC/ST/OBC/EBC), ruling it unconstitutional for violating the 50% ceiling set by the Supreme Court. However, the 10% EWS reservation remained valid, as it is protected by the 103rd Constitutional Amendment.
4. **Sector Expansion:** Bihar recently expanded the 10% EWS reservation to include judicial services and state-run law colleges and universities.
5. **Eligibility in Bihar:** Residents must have a family income under ₹8 lakh and meet specific land/asset limits (e.g., less than 5 acres of agricultural land) to apply for an EWS certificate via the Bihar RTPS portal.

### The Way Forward

The path ahead requires balancing competing demands for social justice and economic relief:

1. **Data-Driven Refinement:** The government may need to refine the ₹8 lakh income threshold based on more granular, state-specific data to ensure the quota reaches the "poorest of the poor" rather than those in the relatively stable middle class.
2. **Supreme Court Resolution:** The Bihar government has appealed the Patna High Court's decision to the Supreme Court. The final verdict will determine if states can permanently exceed the 50% limit using population-based data.
3. **Focus on Skill Development:** Experts suggest that reservation is not a permanent solution for unemployment. The way forward should involve improving the quality of education and fostering entrepreneurship so that citizens become "job-givers" rather than just "job-seekers".
4. **Welfare Complement:** Economic backwardness may be better addressed through targeted direct benefit transfers (DBT), scholarships, and housing subsidies—measures Bihar has already begun pairing with the EWS certificate.