

Historical Perspective of Reservation

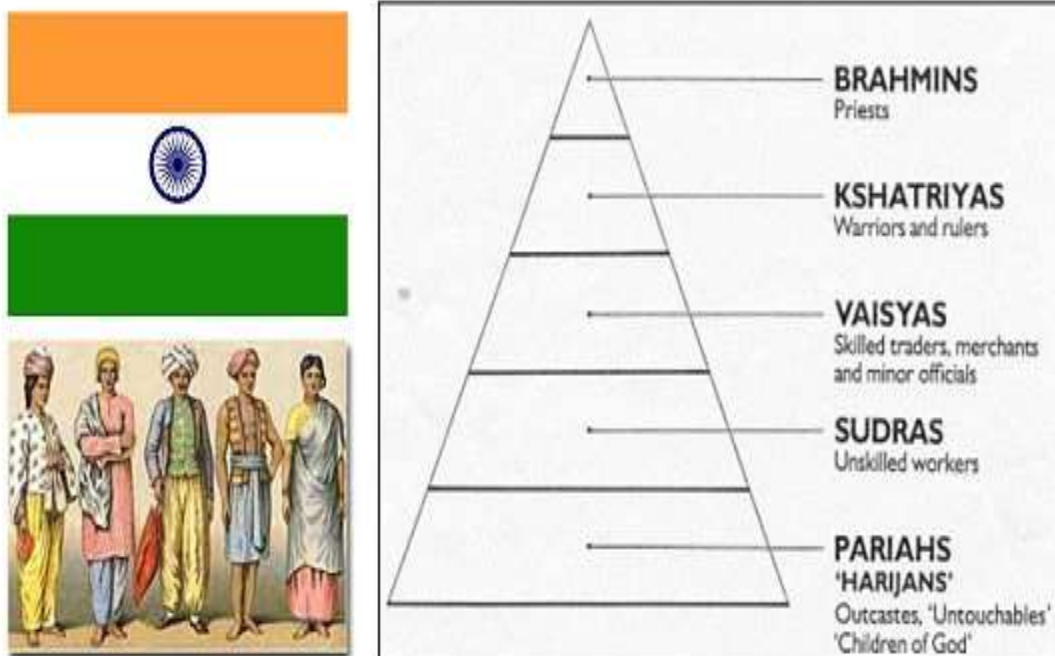
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The Indian Caste System



The reservation policy is an age old policy being practiced in India. Its origin has its roots scatter ed from the ancient times when the practice of ‘untouchability’, caste system and Varna system w as dominant in the society. In ancient times, the Hindu society was divided on the basis of Varna,

Jatis or classes and they were as follows in the descending order of their social hierarchy- the Brahmans, the Kshatriyas, the Vaisyas and the Shudras. There was another class of people or rather no class people known as “untouchables” or “avarna” that is who has no class. These untouchables were considered to be impure for the society and were excluded from the social system¹. They had to reside outside the village and had no social rights. In some parts of the country such as Southern India, if even their shadow was casted on the upper-class people then it was considered that the person has got impure. There were strict restrictions on them for social gatherings and social life and if they violated any social norm, they were severely punished and in some cases were even killed. The division of society on the norms of purity and impurity was a very cruel system, and it had adverse effects on the development and growth of these lower class people where the skill and labor of an individual were recognized merely on the ground of him being a member of a lower caste². The epics like Mahabharata also quote of many instances wherein a warrior like Karna was not allowed to showcase his talent merely on the ground of him being a Shudra. He was often referred to as ‘Shudra Putra’ and humiliated because of his caste. The then prevalent caste system was a major reason for the advent and advancement of the Reservation Policy in India. The idea of giving reservations to a certain class of people originated because of the prevalent atrocities being done on the certain class of people. To give them an equal opportunity, an equal status in society, to uplift them socially, to bring them at par with ot

¹ *Quota or Reservation System in India: History & Present*, Knowledge Of India, (Oct.5, 2017, 7:38 AM), <http://knowledgeofindia.com/quota-or-reservation-system-in-india/>

² *Id*



her sections of society and moreover to bring development in the lower strata of society, were the reasons for the adoption of Reservation Policy in India.

RESERVATION POLICY IN PRE-INDEPENDENCE ERA³

The legal origin of Reservation Policy in India began with lying down of the Government of India Act, 1919 which came during the turbulent period of World War I. During this period, the British were more focussed on Europe rather than on India yet they passed much important and significant legislation that aimed at the development of the Indian Territory. This Act of 1919 not only introduced several reforms for the Indian Governmental institutions but also addressed many issues of minorities including the formation of communal electorates. Though the system was criticized firmly by Montague-Chelmsford as a system that could be a hindrance to the self-development policy but because Muslims already had a communal electorate through the Minto-Morley reform of 1909 and, therefore, they found it unfeasible to take away the separate electorates of Muslims.

After the Act of 1919, the controversial Simon Commission came up in 1927 to scrutinize the Montague-

Chelmsford reforms. After touring the entire Indian provinces, their representatives proposed for combining separate electorates and reserving seats for depressed classes and demand for the w

³ *Reservation in India*, realityviews, (Oct.5,2017, 8:04 AM), <http://www.realityviews.in/2010/03/reservation-in-india-brief-history.html>



ider franchise was there as the economic, educational and social position of these depressed classes did not allow them to vote properly. To stamp and scrutinize the report of Simon Commission and the reforms proposed by them and how to incorporate them into new Constitution, a Round Table Conference was convened in London in 1931. There were many Indian delegates from various interests groups. The conference was chaired by Prime Minister Ramsay Macdonald. There were appeals for separate electorate from B.R Ambedkar but Mahatma Gandhi strongly opposed the appeal for separate electorate for depressed classes and because of this strong opposition from Mahatma Gandhi and Congress the issue of minority remained unresolved in the Conference.

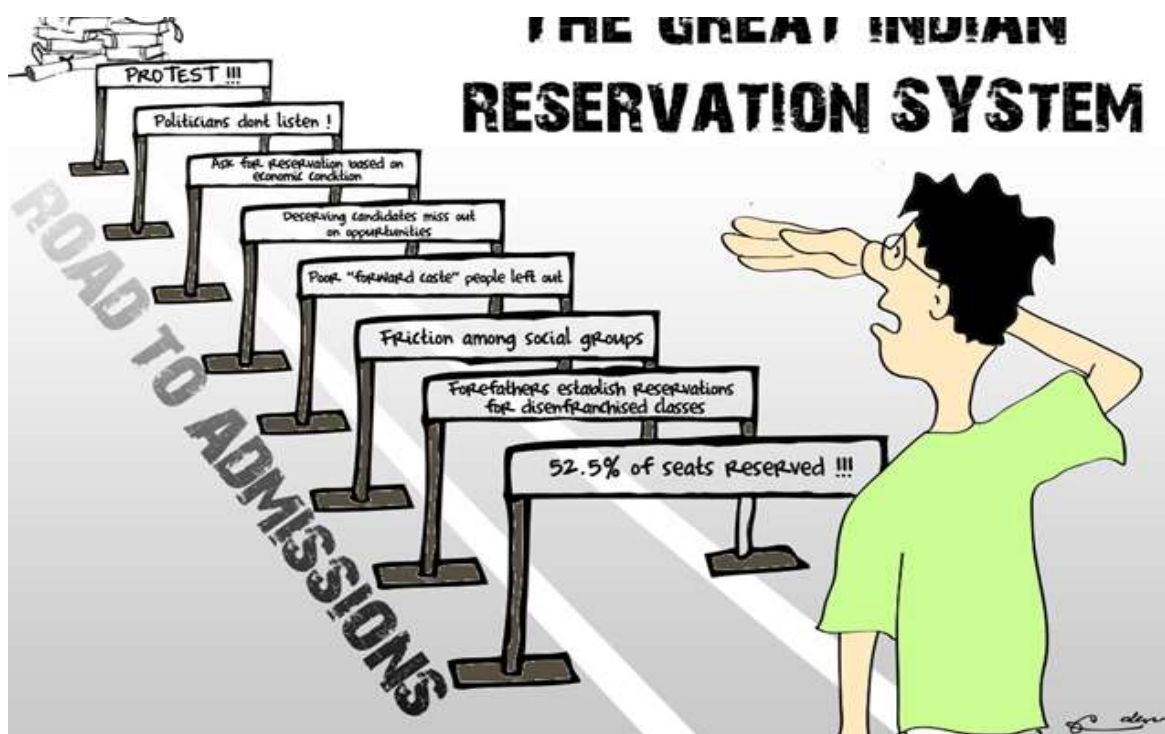
After this the Communal Award and the Poona Pact of 1932 came into force wherein the Prime Minister Macdonald announced the communal award where the separate representations were to be provided to Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans and Dalits Depressed classes' were assigned a number of seats that were to be filled by election from special constituencies in which voters belonging to the depressed classes could only vote.

The award brought in criticism from Mahatma Gandhi but was strongly supported by Dr. BR Ambedkar and other minority groups. As a result, of the hunger strike by Mahatma Gandhi and widespread revolt against the award, the Poona Pact of 1932 came into being which brought in a single general electorate for each of the seats of British India and new Central Legislatures. The



stamping of the provisions of Poona Pact, 1932 were done in The Government of India Act of 1935 where reservation of seats for depressed classes was allotted. This was the scenario before the independence of India⁴.

DIFFERENT TYPES OF RESERVATION IN INDIA



The Indian Government's approach towards the SC/ST population has primarily been shaped by the provisions in its Constitution which basically guarantees equality before the law, and empowers the State to make special provisions to promote the educational and economic interest of the SC/ST and to provide legal and other safeguards against discrimination in multiple spheres. T

⁴ Id

he Government has applied a two fold strategy which includes: (a) legal safeguards against discrimination, (b) proactive measures in the form of ‘reservation policy’ for state sector and state supported sectors, and (c) policy in the form of informal affirmative action for private sector (namely agriculture and private industry, in which more than 90 percent of the SC/ST workers are engaged) as part of a general developmental or empowering measure. Antidiscriminatory measures include enactment of Antiuntouchability act of 1955 (renamed as protection of Civil rights Act in 1979) and Schedule Caste/Tribe Prevention of Atrocities Act, 1989. Under the first Act, practice of untouchability and discrimination in public places and services is treated as offence. The second Act provides legal protection to SC/STs against violence and atrocities by the high castes. Reservation for both SC/ST in government services, educational institutions and political bodies like legislature also falls under ant-discriminatory, but pro-active measures.

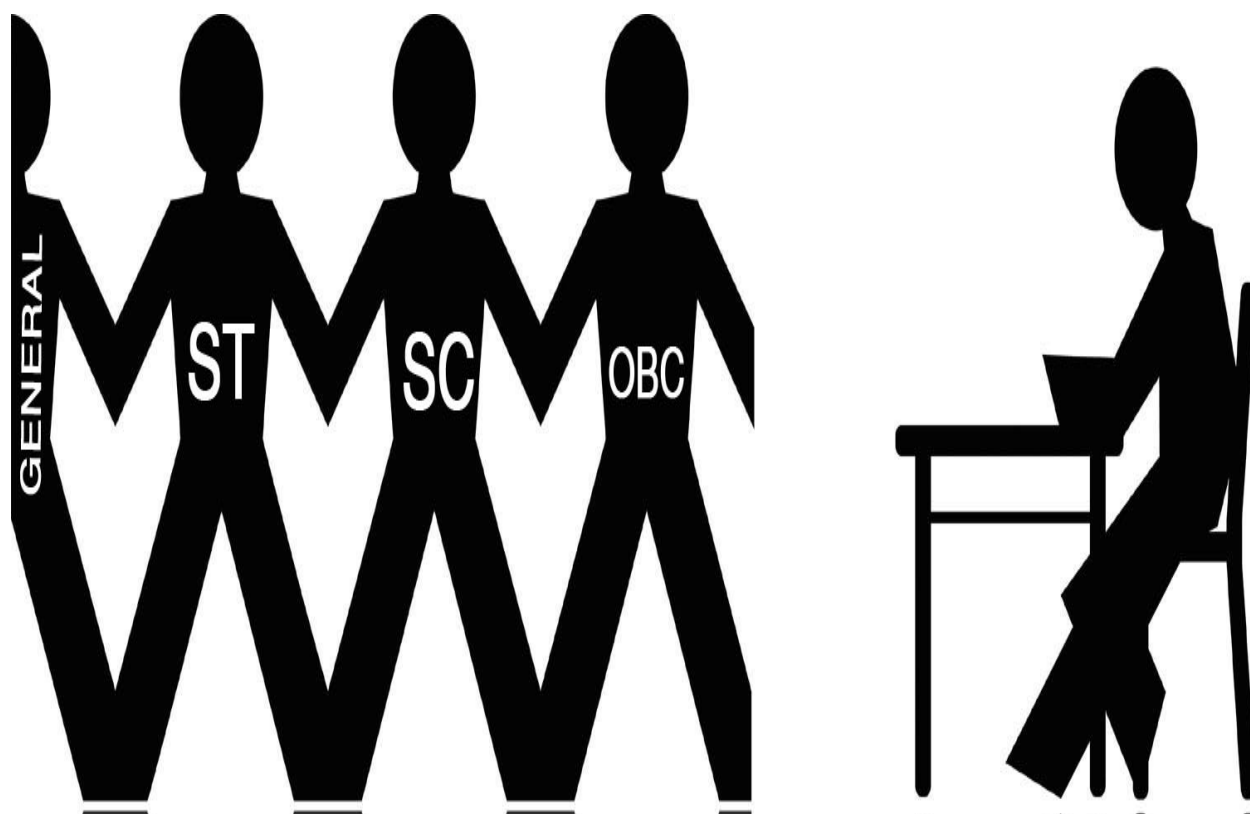
These pro-active measures

have been used to ensure proportional participation of the SC/ST in various public domains. The reservation policy is confined to a tiny state-run and state-supported sector, whereas the vast private sector where more than 90 per cent of the SC/ST population workers are engaged are excluded. They therefore remain unprotected from exclusion and discrimination. In the absence of reservation policy in the private sector, the state has used ‘general programmes’ for economic, educational and social empowerment of the SC/ST. The focus has been to improve the private ownership of fixed capital assets (land and nonland), education,



and improved access to social needs like housing, health, drinking water, electricity and others⁵. The strategy for improving or building the private ownership of capital assets, education and social needs, which has been generally taken as a part of the anti-poverty programme, is also used as a method of earmarking quotas in an informal manner for the SC/ST population of the country.

3.1 Reservation in Government Sector



⁵ All about reservation policy in India, ipleaders, (Oct.5, 11:20 AM), <https://blog.ipleaders.in/reservation-policy-india/>

It is important to note that the Indian affirmative action policy is confined to government and government aided sector of services and educational institutions; the private jobs and educational institutions are completely excluded from the purview of the policy. Accordingly, the reservation policy is operative mainly in three spheres: government jobs, admission to public educational institutions and seats in central, state and local legislatures and bodies. Over a period of time, as the government sphere expanded, so did the scope of reservations to include newer spheres like: government housing, government spaces for shops and commercial activities and a number of other small spheres. The most important is the reservation in government services. Article 16(A) permits reservation in favour of backward castes and in pursuance of this provision, the Government has made reservation for SC/ST in proportion to their share of population (See Table 1 B). There is also reservation in promotion of employed persons. The government services generally include government civil service, public sector undertakings, statutory and semi-government bodies, voluntary agencies, etc. which are under the control of the Government or receiving grant-in-aid⁶. However, there are also certain services at the central level that do not come within the purview of reservation policy: these prominently include the defense and the judiciary. Reservation policy is accompanied by an array of other special provisions designed to facilitate and enhance the probability of the reserved groups to compete for government jobs. These include: relaxatio

⁶ Sanjeev K Ahuja and Smriti Kak Ramachandran, *Govt employees against reservation in promotions*, hindustantimes, (Oct. 5, 2:43 PM), <http://www.hindustantimes.com/india-news/govt-employees-against-reservation-in-promotions/story-sPiRl4gQChydSWIQBNuVKJ.html>

n of minimum age for entry into the service, relaxation in minimum standard of suitability withi
n reasonable limits (subject to required minimum qualification), relaxation in fee, and provision
for pre-
examination training, separate interview for SC/ST persons, provision of expert from SC/ST bac
kground on selection committee and others⁷.

⁷ NIRANJAN SAHOO, RESERVATION POLICY AND ITS IMPLEMENTATION ACROSS DOMAIN IN INDI
A: AN ANALYTICAL REVIEW, (Academic Foundation (1 November 2009))

