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THE EVOLUTION OF RESERVATION SYSTEM IN INDIA- Divya Negi¹**ABSTRACT**

The reservation policy, also known as affirmative action or positive discrimination, is a contentious and complex subject that has generated a lot of discussion and debate. This study aims to investigate the impacts and current applicability of reservation policies in various contexts. It examines the historical background of reservations, their justification for being implemented, and the ways in which they impact employment, education, and social dynamics. In addition, the paper examines other approaches to addressing social inequality as well as the challenges and objections to reservation laws. This study examines the efficacy, limitations, and potential future modifications of the reservation program through a comprehensive review of the body of prior research and empirical data.

INTRODUCTION

Our nation has an amazing diversity of religions, cultures, and languages. The British were skeptical about our ability to rule ourselves because of this multifaceted diversity. India has silenced all of its doubters, as it stands tall in all its glory and boasts one of the fastest-growing economies. The caste system in our nation is one of its unique and characteristic aspects.

Reservation is either cited as the cause of ongoing caste inequality or as the answer to castebased discrimination in India's reservation discussions. Ambedkar himself did not think that reservations or affirmative action would solve the caste issue. It is important to consider the Indian Caste System when discussing our nation's reservation system. Although term is used only to the Hindu community, caste has elements in non-Hindu communities as well. Dr. BR Ambedkar described caste as an enclosed class and an endogamous unit. An ascending scale of reverence and a descending scale of contempt is how he put the Caste system. The caste system was not a benign division of labor, but a division of labourers, according to Ambedkar. It is a

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hierarchical structure where workers are ranked higher than lower. This division is based on the attempt to assign tasks to individuals in advance, selected not on the basis of trained original capacities, but rather on the social status of the parents. It is neither spontaneous nor based on natural aptitude. Andre Beteille clarifies that caste is a small, designated group of people who live a particular lifestyle, often pursuing a particular career by tradition, and are distinguished by endogamy and hereditary membership. Castes are typically connected with a different ritual rank within hierarchical systems.

In our nation, there are roughly 4000 castes and subcastes. The top and bottom of the caste system are clearly distinguishable, notwithstanding regional variations in the hierarchy. This structure has the effect of reflecting a caste's social and economic power in relation to its position in the hierarchy. Each caste has its own unique traditions and customs. Hindu society is divided into four groups, or varnas, according to the Varna System, which is based on caste.

However, it was vital to pinpoint the people that caste prejudice has left out of society in terms of politics, economy, and social isolation in order to actually create a casteless society. Therefore, post-independence preferential treatment for the formerly oppressed classes and marginalised tribes persisted. Even if the affirmative action policy dates back to the early 20th century, the arguments in favour of reservation are supported by data from the present day.

THE BRITISH ERA

It was as traders, conquerors and not as social reformers that the British made their way to India. The British made significant changes to our nation's social structure. The British introduced significant developments in public services and education. However, the Brahmins and other upper castes were the ones who benefited most from it. Following the denial of admission to a maharajah in a government-run school due to concerns about his untouchability, Public Policy was declared in 1856 to open admission in educational institutions to all without any distinction of Caste, religion, and race. The Caste Disability Act was eventually passed in 1872 as a result of this strategy.

The East India Company lost its authority over India to the British crown in 1857. The British government realised that giving locals more political representation was the only way to tighten their hold on power. The British were eager to accomplish this at this point. However, the British viewed Indians only in terms of religion and consequently any political representation that was granted to the Indians was essentially in the form of communal and group rights, rather than individual rights.

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In 1874, reservations were made in Mysore for the lower classes. It said that non-Brahmins, Muslims, and Indian Christians would occupy the remaining 80% of lower and medium level roles in the Police department, with 20% of those positions being reserved for Brahmins. In 1918, the State of Mysore classified all communities—except from Brahmins—as Backward Classes and set aside seats for them in public services and educational institutions. This could be considered the Modern Community Quota System's inception. 50% of public sector jobs in the princely state of Kolhapur were set aside for members of the lower classes.² All other groups except the Brahmins were collectively referred to as the backward classes. In addition to being crucial in giving Indians political representation, the Government of India Acts of 1909, 1919, and 1932 planted the seeds of reservation in the political sphere.

INDIAN COUNCIL ACT OF 1909 (Morley Minto Reforms)

The national movement's leaders, who were primarily represented by Congress, pushed for greater political representation by the start of the 20th century. Indians wanted political representation, and in 1905, Lord Minto and Lord Morley, the Viceroy and Secretary of State, respectively, were eager to provide it to them. To examine the matter of boosting local representation in the political system, a committee was established. Muslims at this time were keen to get political representation because they were afraid of cultural and that, in the view of the British, they were lagging behind the Hindu community. The Muslim League was established in 1906, and a delegation of ten members met with the viceroy in Shimla to request political safeguards.

As a result, the Indian Council Act of 1909, the right to choose members from local communities to serve on Legislative Councils was granted to Muslims, landowners, and a variety of business interests in British India. A representation of communities is the only representation that India is currently suited for. In 1910, Minto expressed the same ideas in his speech to the Legislative Council. We have consistently argued that popular representation is not feasible in India because of the conditions there, and that representative government in the Western sense is completely inappropriate for the Indian Empire and would be inimical to the customs of the Eastern populations.³

²M. Varn Chandola, "Affirmative Action in India and the United States: The Untouchable and Black Experience", *IND. INT'L & COMP. L. REV.* 101, 118 (1992)

³ Andre Beteile, *Caste, Class and Power: Changing Patterns of Stratification in a Tanjore Village* 46 (Oxford University Press, Delhi, 3rd Edition, 1996)

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However, we have been deeply struck by the evolving political landscape that I mentioned in my note, and we have made every effort to adapt by broadening the representation in 1893, extending its procedural rules and creating more debate opportunities, inviting the leaders of Indian public opinion to collaborate with us in the British administration, and securing the representation of those significant interests and communities that constitute India's true strength while simultaneously acknowledging the assertions of progress in education. The British were consequently compelled to concede group representation in exchange for local knowledge and a lack of belief in popular representation.

GOVERNMENT OF INDIA ACT (1919)

The British expressed remorse for allowing Muslims to vote separately following 10 years of Morley-Minto reforms. The British regretted the decision, as expressed by the writers of the Montague-Chelmsford Report, because they thought that giving minorities special representation would cause them to become complacent and discourage them from working to improve their status relative to the majorities. The Montague Chelmsford Report advised retaining special representation even though it was convinced of its detrimental effects. This was because the British felt it would be unjust to renege on a political pledge made to certain communities.

Any general there has been pressure on us to extend the waiver to more communities. While some have claimed to be in an advanced state, others have based their claims on their backward. It is becoming more harder for us to withstand these other accusations because of our decision to keep separate electorates for Muslims. However, we firmly believe that any widespread expansion of the communal system would only serve to fuel more demands and would be disastrous to the growth of national representation, which is the only foundation upon which a responsible government system can reasonably be built. Because they were not politically organised, the Scheduled Castes, also known as the depressed classes at the time, were disregarded by the Morley-Minto Reforms. But by 1917, BR Ambedkar had organised the Depressed Classes, and by 1919, he was calling for political representation for them.⁴

The Montague-Chelmsford Report's proposals were to be reviewed by the South Borough Franchise Committee. Ambedkar stated that Untouchables may be represented by untouchables alone since they had been treated like slaves for so long that they knew nothing else in his

⁴Gurpreet Mahajan and D.L Sheth , *Minority Identities and the Nation- State* 114 (Oxford University Press , New Delhi,1999)

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testimony to the committee. Ambedkar thought that by uniting different castes, special representation for the downtrodden classes would serve to lessen social bias. A caste's or group's mindset will stay fossilised as long as it is isolated. However, the resocialization of the fossilised mindset is certain to occur the moment various cities and organisations start interacting and working together.

Ambedkar persuaded the Franchise Committee that the lower classes should have special representation. Thus, a separate electorate for religious groups and established a nomination system of a few representatives from the depressed classes were maintained by the Government of India Act 1919.

Consequently, the downtrodden Classes were acknowledged as a separate community. The Government of India Act stipulated that one member of the 14 non-official members nominated by the Governor-General to the Central Legislative Assembly must come from the lower classes. In a same vein, four nominees in the central provinces and one each in Bengal and the United Provinces represented the depressed classes in the provincial legislature.

SIMON COMMISSION

It was the Simon commission's responsibility to offer suggestions for more reforms in 1927. The Indian National Congress boycotted the Simon Commission due to the commission's dearth of Indian members. The Simon Commission opposed separate electorates but supported maintaining special representation for lower groups and minorities.⁵ All of the major parties came together in Congress to draft a new constitution. A commission to draft a new constitution was established under the direction of Sri Motilal Nehru during the third All Party Conference in Delhi in January 1928. The Nehru report from 1928 advocated proportional representation and language rights for minorities, opposing special representation in favour of minority religions and the lower classes. Dr. B. R. Ambedkar was adamant about the necessity for either reserved seats or a separate electorate that favoured the lower classes and rejected the Nehru report from 1928.

THE ROUND TABLE CONFERENCES AND THE COMMUNAL AWARD OF 1932

The majority of India's political elite rejected the Simon Commission's recommendations, so the British summoned the country's leaders to a roundtable conference in London to discuss more

⁵Ashwini Deshpande , Affirmative Action in India 4 (Oxford University Press , New Delhi,1st Edition, 2013)

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political reforms. In London, three Round Table Conferences took place. Congressmen abstained from the First Round Table Conference (November 1930–January 1931) because several of their leaders had been imprisoned as a result of their involvement in the Civil Disobedience Movement. BR Srinivasan and Dr. BR Ambedkar represented the downtrodden classes. Ambedkar sent a memo to the committee on minorities. A seat in the cabinet, equal rights, and adequate representation for the depressed classes in the legislature were demanded. Additionally, adult suffrage and a distinct electorate for the first ten years were demands made by Ambedkar. According to Ambedkar, the Depressed Classes should have reserved seats with a shared electorate for ten years following Independence, along with adult suffrage and a distinct electorate.

Gandhi opposed the creation of separate electorates for any group during the Second Round Table Conference, which took place from September to December 1931. However, Gandhi grudgingly admitted to separate electorates for Anglo Indians, Muslims, Christians, and Sikhs. Gandhi, on the other hand, was adamant about the Depressed Classes not having their own electorate and promised to fast till death if they were granted special representation. Gandhi suggested, as an alternative, a constitutional guarantee of the Minority's language, culture, and religion. In addition, he suggested adult franchise and joint electorates with proportional representation of seats. Ambedkar requested quotas for depressed classes in Legislature, Executive and the Public Services at the 17th Round Table Conference. In response, the Communal Award of 1932 was passed. Under the communal award, distinct communal electorates were awarded to Muslims, Sikhs, and the Depressed Classes. In seventy eight constituencies, the depressed classes were granted separate electorates; in the remaining constituencies, they were granted the right to vote.

THE POONA PACT

Gandhi embarked on a hunger strike to protest the existence of separate electorates for the lower classes. The Sikhs might continue to be like this forever. Both Muslims and Europeans are free to do so. Would the status of the untouchables never change? I would much sooner see the demise of Hinduism than the continuation of untouchability.

On September 24, 1932, the Poona Pact was signed following negotiations between the leaders of the Congress and Ambedkar. In exchange for 151 reserved seats in provincial assemblies with combined electorates, Ambedkar renounced his demand for 78 separate electorates. Additionally,

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the Poona Pact stipulated that the depressed classes shall be granted 18% of the seats in the Central Legislature. With respect to the administrative share, the Poona Pact stipulated that: Anyone who belongs to the lower classes shall not be excluded from local body elections or appointed to the public service on the basis of that person's membership in the depressed classes. Under these conditions, every effort will be made to ensure that the downtrodden classes are fairly represented.⁶

Under the possible educational requirements for appointment to the public services, every effort will be taken to ensure equitable representation of the lower classes in these areas. The government enacted resolution No F 14/17-B 33 dated July 4, 1934 (Gazette of India, part I, July 7, 1934) about reservations in services for minorities, with the exception of the depressed classes, as a result of the Poona Pact. The government felt that, given the state of general education in the nation, there would be no practical benefit from accepting applications for posts designated for the lower classes. Ambedkar delivered a paper requesting reservation in public services, scholarships etc for the Depressed Classes and was appointed by the Viceroy to his executive council. The viceroy approved of this and officially suggested it to the secretary of state. For the first time in Indian history, central services and other facilities saw the reservation of 8.5 percent of seats for Scheduled Castes in 1942. That in every province, out of the educational grant, an adequate sum shall be earmarked for providing educational facilities to the members of the depression classes, was the demand made in the Poona Pact.⁷

THE GOVERNMENT OF INDIA ACT 1935

The 1935 Government of India Act included provisions for the reserved seats of the poorer classes. The word Scheduled Castes was introduced by the Act to replace Depressed Classes. Such castes, races, tribes, or parts of groups within castes, races, or tribes, being castes, races, tribes, parts of groups which appear to His Majesty in council to correspond to the classes of persons formerly known as the Depressed Classes, as his Majesty in council may specify, is how the Act defined Scheduled Castes. Later, the list of Scheduled Castes across the nation was defined by the Government of India (Scheduled Castes) Order, 1936. Additionally, the Government of India Act of 1935 established communal reservation in public services. Such reservations were imposed with the intention of strengthening the status of Muslims and appeasing other minority groups in India.

⁶ Francesca R. Jensenius, "Mired in Reservations: The Path-Dependent History Of Electoral Quotas in India" 74 The Journal Of Asian Studies 90 (2015)

⁷ Arundhati Roy, *The Doctor and the Saint* (Penguin Publications, India, 2019)

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2.3 CONSTITUENT ASSEMBLY DEBATES

The duty of writing a new constitution for India fell to the recently established Constituent Assembly, whose chairman was Dr. BR Ambedkar. Nehru introduced a resolution on December 13, 1946, which marked the start of the Scheduled Castes constitutional reservation and minorities protection. There were eight clauses in the aim resolution.

Wherein Underprivileged groups, tribal and backward places, and depressed and other backward classes shall have access to sufficient safeguards.

The task of formulating recommendations regarding the representational guarantees of minorities was assigned to the Subcommittee on Minorities. Dr. Ambedkar informed the committee on the historical maltreatment of Scheduled Castes and the many steps required to improve their socioeconomic standing. He insisted on giving the socioeconomic mobility of the downtrodden strata special consideration.

Ambedkar presented the Subcommittee with a demand for separate electorates for the lower classes, while the Anglo Indians sought reserved seats in the railway, postal, and telegraph departments. Although the Muslim lawmakers called for reservations in the legislature, there was less of a demand for them in the public sector.⁸

- (1) Representation in legislature, joint versus separate electorates and weightage;
- (2) Reservation of seats in the cabinet;
- (3) Reservation in services;
- (4) Administrative machinery to ensure protection of minority rights are the issues that the Subcommittee identified for consideration based on the various demands that were made before it. The Committee rejected the requests for separate electorates and reserved seats in the cabinet, but it did recommend reserved seats for Scheduled Castes and minorities based on population, along with reserved posts in public services.

On August 27, 1947, the advisory committee's report was delivered to the Constituent Assembly. Sardar Vallabhai Patel contended that reserved seats for Scheduled Castes and 21 Minorities were required as a compromise option so that they could become used to the new electoral system. Patel said that communal representation was a poison which has entered into the body politic of

⁸Marc Galanter, *Competing Equalities*, Law and The Backward Classes In India 9 (University Of California Press, United States Of America, 1st Edition, 1984)

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our country.⁹ Afterwards, however, Sardar Patel spoke against the reservation system in the assembly, saying that those who represent the Scheduled Caste must understand that the Scheduled Caste must be completely eradicated from our society, and if it is to be eradicated, those who have ceased to be untouchables and sit among us must forget that they are untouchables or else if they carry this inferiority complex, they will not be able to serve their community.

Now that they are here, the only way they can help their community is by feeling Since they are no longer members of the Scheduled Caste, they must behave differently, and I implore them to maintain good relations with the remaining members of the Scheduled Caste. Although there are groups inside them, each person attempts in accordance with his or her own light. It is time for us to start over. Thus, let us put these divisions and crossovers behind us and continue to stand as a single, cohesive unit. For years together, the Congress party has been associated with the demand that there shall be joint electorates with reservation, stated Jerome D. Souza in support of reserved seats in the parliament. Giving up reservations at this point, as some of my friends want to do, would go against the pledges made, if not explicitly than implicitly.

Muniswami Pillai, a representative of the SC from Madras, reminded the Assembly of the Poona Pact in his speech, saying, A great awakening in this country was produced by that Poona Pact, to which you yourself have been a signatory along with me and Dr. Ambedkar. Then, Sir, everyone was wondering if the caste Hindus in this country would show any evidence of reversing their decision to support the Poona Pact. I can tell you now, sir, that if not a complete 100% of the transformation has occurred, then at least 50% of it has.¹⁰

Here, I might offer you several examples. The very fact that Dr. Ambekar is a member of the current Dominion Cabinet indicates a shift in the attitudes of the Hindu caste that the Harijans are no more neglected .With the words, I want my due share; though I am innocent, ignorant, dumb, yet I want you to recognize my claim, SC lawmaker S. Nagappa demanded a reservation in the Cabinet. S Nagappa moved amendment number 25, which stated that a candidate in a reserved constituency needed to receive 35% of the SC Community's votes in order to be elected. When we go and appeal to these people, these Harijans say Get out man, you are the henchmen and show-boys of the caste Hindus, he said, if we get elected to reserved seats today during agrarian unrest and conflicts between the Harijans and the agriculturists. You have come

⁹Supra note 3

¹⁰Grey Elliot Minto, India, Minto and Morly, 1905-1910: compiled from the correspondence between Viceroy and the Secretary of State 102 (Macmillan, London ,1934) as cited in Id. at 91

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here on their behalf after selling our neighborhood in order to cut our throats. You are not authorized to represent us.¹¹

To prevent that, Sir, I proposed that a particular proportion of Harijans chose the candidate so that he may inform them that he has the support of some of them and that he will have the authority and voice as their representative.

The drafting committee felt that the word backward should come before the phrase class of citizens in draft Article 10(4) (now Art. 16(4)). As a result, the committee added the word to the draft constitution even though it was not present in the version of clause 10(4) that the Constituent Assembly had passed. Dr. Ambedkar provided an explanation for the Committee's decision, saying, they will find that subclause (1) of Article 10 embodies the view of those who believe and hold that there shall be equality of opportunity. It is a general idea. As previously mentioned, we also needed to find a way to balance this formula with the demands of some communities, who demanded that the administration, which has historically been controlled by one or a few communities, be eliminated and that all communities be given the opportunity to enter the public service. Even if we were to fully grant the demands of the communities that have not yet received the fullest employment in the public services, for example, we would be destroying the first principle upon which we are all in agreement: that there should be equality of opportunity.

Assuming, for example, that reservations were made for a community or group of communities, totaling approximately 70% of all posts under the State, and that only 30% of posts remain unreserved. Could anyone argue that, in terms of implementing the first principle—that there shall be equality of opportunity—the 30% reservation as open to broad competition would be satisfactory? My opinion cannot be the case. Therefore, only a minority of seats must be reserved in order for the reservation to be compliant with subclause (1) of Article 10.¹²

The first principle could then only be included in the Constitution and put into practice. Honorable Members will no doubt agree that, absent some qualifier like backward, the reservation exception will eventually destroy the rule entirely if they comprehend our stance, which is that we must protect the principle of equality of opportunity while also meeting the demands of communities that have not yet been represented in the State. There won't be any rule left. If I may say so, that is, I believe, the reason the Drafting Committee took it upon itself to

¹¹Supra note 6

¹²Bhagwan Das , “Moments in History Of Reservations” Economic and Political Weekly 3832 (October 28, 2000)

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introduce the word backward, which, I confess, did not initially find a home in the basic right in the form that this Assembly passed it.

But with the division, members' attitudes regarding giving minority members reservations shifted. A resolution to end reservations in favor of religious minorities was voted in May 1949. It was decided to provide the Scheduled Castes a ten-year reservation term, even though the quotas for religious minorities were removed. Reservation is a self-destructive weapon which separated the minorities from the majority from time to time, said Begam Aizaz Rasul. In a similar vein, TajamulHusein declared that the British invented the term minority, and the minorities have vanished along with them.¹³ These buddies from the scheduled castes are not as fortunate as thousands of Brahmins and Kshatriyas. Thus, those who lead happy lives are referred to as Scheduled Caste, and a small number of these castes receive benefits. This is not an accurate portrayal. There is never a caste benefit from this reservation. Minorities have to exist and be taken care of. Peace will not exist as long as minorities are not taken care of.

POST INDEPENDENCE ERA

One of the tenets of the Indian Constitution is equality. The right to equality is guaranteed for all under Article 14. Article 15 forbids discrimination on grounds only of religion, race, caste, sex, place of birth, or any of them, thereby reiterating Article 14. Equality of opportunity for all in matters relating to employment under the state is guaranteed by Article 16. 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 their protection from social injustice and all forms of exploitation, according to Article 46 of the Directive Principles of State Policy. The Supreme Court overturned the Communal Government Order, which reserved seats in professional 32 institutions on a communal basis, in State of Madras v. ChampakamDorairajan (1951) on the grounds that it violated the equality principle.

The result was the First amendment of the Constitution in 1951, which added Section 4 to Article 15 that nothing in this article or clause (2) of Article 29 shall prohibit the State from doing so. The 1950 Constitution allowed for the SC and ST to be reserved seats in legislative bodies. The government made public its policy on the hiring of Scheduled Castes and Scheduled Tribes for public positions in 1950. The 12.5 percent reservation for Scheduled Castes in public service positions, where appointments were made through direct recruitment, was maintained by

¹³Gurpreet Mahajan and D.L Sheth , Minority Identities and the Nation- State 114 (Oxford University Press , New Delhi, 1999)

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the policy. The policy maintained the reserve of certain posts for Anglo Indians, which they had been enjoying since August 15, 1947. The government stated unequivocally that promotion-based hiring would not be restricted in any way.¹⁴

For SC and ST, the appointment of Special Officer was specified in Article 338. The National Commission for Scheduled Castes and Scheduled Tribes took the position of special officer in 1990 when the Constitution's 65th Amendment Act took effect.

People who are members of the backward classes or other backward classes have been designated as the new recipients of reservations since 1994. The appointment of a commission to investigate the conditions of Socially and Educationally Backward Classes and to recommend measures for their advancement is mandated under Article 340 of the Constitution. Sri Kaka Kalelkar served as the head of the First Backward Classes commission when it was established in 1953. To determine the criteria for identifying Socially and Educationally Backward Classes was the Commission's mandate.

Low social position in the traditional caste hierarchy, lack of general educational advancement among the major section of a caste or community, inadequate or no representation in government service, and inadequate representation in the field of trade, commerce, and industry were the criteria set forth in the commission's 1955 report. For the benefit of the national government, the Kaka Kalelkar Commission also designated 2399 castes as socially and educationally backward. Reservation of 25 percent in Group A, 33.33 percent in Group B, and 40 percent in Groups C and D was the recommendation made in the Majority report. Public offerings. On the other hand, the chairman presented an independent report criticizing caste-based reservations. The Government rejected the KakakaKalelkar Commission report because it was unable to acknowledge caste as a foundation for backwardness. Therefore, the SC and STs were the only groups to get new reservations under the central government.

A memo reserving 27% of Central Government posts in favor of the Socially and Educationally Backward Classes was issued by the VP Singh Government in 1990. The memorandum was updated by the PV Narasimha Rao government in 1991 to include an extra 10% reserved for economically disadvantaged sections not already covered by the current reservation plan. There was a lot of public outcry about this, and Indra Sawhney V. Union of India was filed as a challenge before the Supreme Court. According to the Supreme Court, economic criteria can't be the exclusive basis for Reservation.

¹⁴PattabhiSittaramaihya, The History of the Congress 538 Vol I 538 (The Congress Working Committee, Allahabad,1935) as cited in S.R Maheswari, “ Reservation Policy in India : Theory and Practice” 43 Indian Journal Of Public Administration 664 (1997)

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The Mandal Commission's conclusion that social backwardness leads to educational and economic backwardness was upheld by the court. As a result, the Supreme Court declared that the 10% reservation for economically disadvantaged areas was unconstitutional. The Commission proposed that the Central Government reserve 27% of its posts for members of the Backward Classes.¹⁵

AFFIRMATIVE ACTION IN INDIA AND UNITED STATES- A COMPARISON

Affirmative action policies, particularly those pertaining to reservation, were implemented in the US and India to make up for the injustices that caste and racial discrimination had historically inflicted upon particular populations. Caste can be called a system non-ascriptive or non-color based disparities if race is a system of ascriptive or color based disparities. The comparative analysis of 36 affirmative action programs in the United States and India is noteworthy due to the comparable histories of prejudice experienced by Black Americans and Untouchables in India. Jim Crow laws and Black codes were two forms of oppression that Black Americans had to endure. Black people were only allowed to work in menial labor due to Black Codes.

The Jim Crow laws, which barred Black people access to public facilities, such as schools, churches, restaurants, and transportation, were founded on the idea that White people were superior to Black people. In *Plessy v. Ferguson*, the US Supreme Court even endorsed Jim Crow laws. According to the US Supreme Court, maintaining separate facilities for blacks and whites did not violate either the Thirteenth or Fourteenth Amendments. The Supreme Court defended the decision, holding that even when different facilities are offered, this does not imply racial inequality. Thus, in the same way that the caste system discriminated against the untouchables, the Jim Crow laws discriminated against Blacks.

Unlike the US Constitution, the Indian Constitution clearly allows for affirmative action. The interpretation of the Fourteenth Amendment has allowed for affirmative action in the United States. In the US, there is also debate over whether quotas are constitutionally allowed. The Court overturned *Plessy* and found in the famous case. In his analysis of *Brown*, Justice Matthew of the Indian Supreme Court notes that the United States has finally started to make amends for the disparity between its ideals and how it treats black people, starting most notably with the Supreme Court's 1954 condemnation of school segregation. Despite not resulting in actual equality or even equality of opportunity, these measures logically required the following step,

¹⁵Constituent Assembly Debates on 13th December, 1946 available at : https://www.constitutionofindia.net/constitution_assembly_debates/volume/1/1946-12-13

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which was to constructively utilize government power to establish the prospect of actual equality.¹⁶

The Civil Rights Act of 1964 was passed with the goal of achieving increased equality. The act's Title VII aimed to end discrimination based on race and other factors. Affirmative action was thus made possible in the United States by the Civil Rights Act of 1964 and a number of court rulings on the legality of the quota used by the University of California's 42 medical college. The Court further concluded that race could be taken into consideration in an admissions process in order to create a diverse student body.¹⁷

The two rulings, which addressed reverse discrimination, happened around the same period. Thomas unequivocally supported quotas, despite Bakke's invalidation of their implementation. Therefore, an attempt has been made to incorporate the ideas of substantive equality within a framework of legal equality through 43 American and Indian legislation.

HISTORY OF RESERVATION IN INDIA: 10 MAJOR MILESTONES- A TIMELINE

1. 1874: Twenty percent of police department positions, excluding higher level positions, were reserved in Mysore for Brahmins and the remaining eighty percent for non Brahmins, Muslims, and Indian Christians.
2. 1902: The Backward Classes were granted 50% of Public Service Jobs.
3. 1918: Backward classes in educational institutions and Public Services were allotted seats in Mysore.
4. 1932: The British government's Communal Award creates distinct electorates in India for Christians, Muslims, Buddhists, Sikhs, Anglo-Indians, Europeans, and the Downtrodden Classes. Afterwards, the Poona Pact sets aside 148 seats in the main election for the underprivileged class.
5. 1950: The government made public its policy regarding the appointment of SC and ST personnel to public positions.

¹⁶ Malavika Prasad, "From the constituent assembly to the Indra Sawhney case, tracing the debate on economic reservations", available at <https://caravanmagazine.in/law/economic-reservations-constituent-assembly-debates>

¹⁷ M. Varn Chandola, "Affirmative Action in India and the United States: The Untouchable and Black Experience", *IND. INT'L & COMP. L. REV.* 101, 118 (1992)

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6. 1951 saw the adoption of the First Amendment, which established reservations for Scheduled Castes and Scheduled Tribes, as well as socially and educationally backward classes.
7. 1953: Kaka Kalelkar appointed as chairman of the Backward Classes Commission
8. 1990 saw the implementation by Prime Minister V P Singh of the Mandal Commission report, which recommended a 27% quota for OBCs.
9. 1992: The Supreme Court overturns the executive decision capping reservation at 50% and reserving 10% of government positions for impoverished members of the Upper Castes. The Supreme Court maintained the 27% OBC reservation, subject to the creamy layer's exclusion.
10. 2019: A 10% quota for the poor is introduced in higher education and employment under the Constitution's 103rd Amendment Act.

CONCLUSION

Examining the development of India's reservation system reveals that, throughout the British colonial era, legislative reservation received greater attention than reservation in public jobs and education. The British also believed that Americans were not politically prepared to have individual rights, which is why they were keen to offer legislative representation on a community basis. When B.R. Ambedkar led the depressed classes to organize in 1917, there was a demand for separate electorates. Ambedkar felt that the only way to heal the caste system's ills was to ensure that the depressed classes were represented in legislatures, public employment, and education. SCs were originally requested reservations because they had distinctively their own interests that others would not be able to represent. However, as a result of their economic, social, and educational backwardness, SCs are now granted reservations. Reservations were therefore a legal response to a social issue, even though they might have unintentionally helped to reduce poverty. Regarding the reservation beneficiaries, a few participants emphasized the importance of prioritizing economic and other considerations over caste. The Continental Assembly was persuaded to believe otherwise. It is regrettable that the original intentions behind granting reservations have been superseded by insignificant political considerations, even though reserves as a legal remedy were never meant to last forever.