GROWTH AND EVOLUTION OF THE POLICY OF RESERVATION

India was a country with highly rigid Caste based hierarchal structure, with ascending order of privileges and descending order of disabilities, which operated for about 2,500 years. In 185 B C, Samavedhi Sunga Brahmin called Pushymitra who was serving under the Magada Empire as a commander killed the Buddhist king Brihadratha Maurya in a bloody coup and usurped the throne and a bloodiest chapter in the history of mankind started opening. He established the Sunga Dynasty based on Braminical religion which gave birth to series of tyrants. It was during this period that the dreaded Mansumrithi was codified. Buddhist Memorials, Sthoopa’s, Vihara’s and Chithya Bhoomis were raised to ground. Buddhist Universities were set on fire. Buddhist monks were murdered mercilessly. Pushymitra set a price of 100 gold pieces on the head of every Buddhist monk. New-born babies were crushed to ground and their brains were dashed out in front of the very eyes of their mothers. They did not even spare Buddhist widows who were pregnant. They were captured, dragged, in streets and burnt alive enmass like heap of wooden logs. It was the most inhuman persecution unparalleled anywhere in the world. About these events the Baba shaheb Ambedkar said, “Pushymitra’s revolution was a political counter revolution engineered by the Brahmins to overthrow Buddhism, the Brihadratha Maurya killed by Pushyamitra sunga such a revolution is great revolution than French revolution.

After destroyed maurya dynasty, Pushyamitra started the Brahminal regime. In his regime he enforced the Mansmrithi and it was the rule of law, afterwards he divided the society into four classes, Brahmins (Priestly class) Kshatriya (warier class ), Vaisya (Trading class) and Sudra (service class). Pusyamitra sunga who is acclaimed as the greatest law giver for Hindus. The code of Mansumrithi gave legal sanction and strength for compartmentalization of the Hindu society into various Castes and gave the
Brahmins a most prestigious place in Hindu society. Gross discrimination, pampered and favored treatment for Brahmins formed the basis and foundation of the Manu code. According to Mansurmithi, king must enquire into the Caste and settle the law according to the Caste. Equality before law and equal protection of law, equal application of law never recognized by the Hindu law. The Hindu law was mainly based on Mansumrithi. The Hindu law varied according to Caste. Tell your Caste and I will tell the law was how the Hindu law was administered before the advent of the British rule in India. The Mansumrithi mandated the king never to tax a Brahmin even when all other sources of revenue have failed. According to that the “Brahmin by a divine right is the head of all living creatures all that exists in this universe is the Brahmins property”. Even if a Brahmin commits any heinous crime he was not to be killed. The king might exile but allow him to keep his property. The Manu code curtailed the rights of Sudra’s and imposed sever disabilities on them. If a Sudra listens to the reading to the Vedas his ears were to be filled with molten lead. If he recites them his tongue should be cut off. If he committed them to memory, he should be cut into pieces. According to Mansumrithi, there was complete prohibition of education for the Sudras and untouchables. Ban on the sudras and untouchables in occupying places of power and authority, complete disarmament of sudras and untouchables. In India education, power, properties are monopolized by the Brahmins; these were reserved for only Brahmins.

This kind of system was existed up to 1848 more than 2000 years the Brahmins enjoyed the privileges and immunities, Brahmins are created the Caste with a purpose. They are beneficiary by the Caste system, but Scheduled Caste Scheduled Tribes are victimized by the Caste system, they were subjected to many hardship, exploitation, injustice and unequal treatment for many centuries. Scheduled Castes were the lower Castes in the Caste hierarchy of the Hindu social system. The Scheduled Tribes were the tribes that had not confirmed to Hindu and in the historical perspective and lived animistic
lifestyles. Therefore the framers of the Indian Constitution decided to give special benefits to the Scheduled Caste Scheduled Tribes by forming a reservation policy. Especially the impulse of the people belonging to weaker section was very much felt by Ambedkar, who also came from the lower strata of the society. As a result he fought for equality, liberty and justice in various committees constituted by the Constituent Assembly. The result of his endeavour to secure justice to weaker sections ultimately found place in the Constitution of India in the form of reservation.

2.1 History of Reservation

The concept of reservation is one of the crucial factors in the Constitution of India to secure socio-economic justice to the weaker sections and bring them to the mainstream of the national life. The political, social and economic inequalities, which existed in our country prior to our Constitution, came into being made many revolutionary and social thinkers to agitate for securing socio, economic and political justice. Consequently, when the Constitution of India was being drafted, the Constitution makers inserted the concept of equality, so that no individual shall be treated inequality. Based upon individual achievement was too hypocritical in our Caste ridden society where group identification had been historically used for the purpose of discrimination and separateness. Therefore, the makers of the Constitution adopted a policy of “preferential treatment” in favour of certain weaker sections of the society to offset of the effects of inherited inequalities and remedy historic injustice. The policy of reservation under the Constitution of India operates in three fields, which are legislature (political reservation), Services under the state (Job reservation) and Educational reservation. To understand and appreciate the policy of reservation, there is need to look into the history of reservation, this policy of reservation has got its own history.


2.2 Reservation in Bombay province:

In India the process of reservation was initiated on 26th July 1902 by Chatrapati Shahu Maharaj of Kolhapur. He extended the educational facilities and job reservation to the depressed classes in his kingdom. In his administration he started giving 50% reservation to the depressed classes in the Indian history. The first time in India the process of reservation started in the regime of Chatrapati Shahu Maharaj. In his state, Untouchables live or are made to live outside the village in an out of the way corner, which is the dirtiest and filthiest part of the village. They are not to draw water from the public wells of village. They are not to enjoy the benefits of the public rest houses. They may die of thirst but they cannot touch the tank or pond of the village. Even for service of the lowest kind, they are not to enter the Hindu household, their very touch is a sin to be avoided at all costs. Their chief duty is with the dead beasts of the villages to bear the carcasses of animals out of the village, feed themselves on the rotten flesh of dead animals and at the best, work in their primitive ways on the skins of those animals. In the Kolhpur state the shadow of an untouchable is sufficient, it falls on a member of a higher Caste, to be pollute him 1.

Dr. Ghurey evaluates the work initiated by Jothiba Phuley and Chatrapati Shahu Maraj in following words.

Phuley’s was a revolt against Caste in so for as Caste denied ordinary human rights to all the members of Hindu society and not merely a non brahmin movement to cast off the diminution of Brahmins. The movement did not receive any support from the Brahmins in general. Even among the non Brahmins the progresses of Phuley’s ideas slow. It was Shahu Maharaj who

1 “Chatrapati shahu the pillar of social democracy”, Editor P.B.Shalunkhe, The Education Department Govt. of Maharastra Publication, Bombay. 1994, P.143.
infused new life into the agitation so much so that Mantego and Chelmsford, in their Indian political reforms had to grant the demands.²

The untouchables in India remained under the thralldom since the time immemorial. Jotiba Phuley probably was the first in India to carry on a forceful crusade against the practice of untouchability in modern time. Jotiba Phuley was rightly regarded as a pioneer of untouchability movement in India in general and Maharashtra in particular. The movement started by Mahatma Phuley was further carried on by Chatrapati Shahu with full strength, vigour and earnestness. Hence, Shahu Maharaj earned the position of an apostle of the coming movement of the untouchables after him.³ Notification of 26th July 1992 When Shahu Maharaj took the administration in his hand in 1894, majority of the state officials were Brahmins. Other backward classes remained aloof from education and consequently from state services. Thus, from the beginning Shahu realized the necessity of setting on the right track the whole social machine which for ages had strayed along lines harmful to national growth. To do this he had to embark on a strenuous campaign against the evils of the traditional hierarchy of Castes. He set about his work systematically his first step, to this effect was the reservation of 50 percent of posts for backward classes including untouchables.

In the year 1902, his highness was invited to England to attend the coronation of his majesty king Edward VII. During this sojourn in England, he issued the order from England, to the effect that 50 percent posts for the state services should be reserved for the backward class candidates. This was indeed a landmark in his carrier as social reformer. The original order dated 26th July 1902 stated, “Endeavours have been made in recent years in the Kolhapur state to faster and encourage the education of all Castes of the subjects. So for, but Highness regrets to have to recorded that those endeavours have not in the case

² Ghurye G.S. Caste and Race in India, P.287.
³ “Chatrapati shahu the pillar of social democracy” editor P.B.Shalunkhe, The Education Department Govt. of Maharasra Publication, Bombay, 1994, P.144.
of more backward classes met with the success that was hoped for. His Highness, has the matter under very careful consideration, has come to the conclusion that this want of success in due to the fact that the rewards for the higher education are not sufficiently widely distributed. To remedy this to a certain extent and to establish with in the state an incentive to the backward classes of his Highness has decided that it is desirable to reserve for those classes a larger share of employment in the state services than has hither to been the case. He immediately ordered from the date of this order 50 percent of the vacancies that may occur shall be filled by recruits from among the backward classes. In all offices in which the proportion of officers of the backward at present is less than 50 percent, the next appointment shall be given to a member of those classes.

Shahu Maharaj was keen on extending all facilities for education of the lower classes. By the order of 1911, he exempted them completely from the school fees. He granted in 1919 Scholarship to students who are admitted to the school. To encourage untouchables to education he also deposited promissory notes of 10,000 in the state treasury in memory of late Shivaji Maharaj.

Maharaj was a champion of social justice and equal opportunities for all. He believed in protecting the weak against strong. The aim of his measures was to raise the lower Castes from their object position in society by employing them and fitting them for hither to closed avenues of life. For lack of educated men among them he had to content himself by employing them in his household services. He appointed untouchable coach men. The coach men, placed on the coach boxes of state carriages on all occasions, even during his daughter’s marriage, came publicly in association with the upper Caste men who had to tolerate their presence and touch on all occasions. In India, since past, it was considered a privilege to serve as an elephant driver. His Highness

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4 “Chatrapati shahu the pillar of social democracy” editor P.B.Shalunkhe Pub. The Education Department Govt. of Maharastra , Bombay. 1994, P.146.
employed some untouchables in this popularly exalted position. The right to have swords in their belts on public ceremonial occasions was a badge of KshatriyashiP. His Highness gave some of them these swords of honour and allowed them to appear in state functions, like the soldiers and sardars of warrior classes.

Maharaja took various administrative measures with the object of removing the bar of untouchability. The first step was the appointment of the untouchables as Talathis (village accountant), the new stipendiary village ministers, who were hither to member of the heaven born, Brahmin community. The untouchable Talathis, thus appointed became important officers of village. Preference was given to fit men of the depressed classes over everybody else. They were allowed then to be promoted according the merits to every departments of the state\(^5\).

His Highness extended to them special representation in the Kolhapur municipality, which was now reconstituted on a communal basis in 1920-21 and a young man of the chamar Caste soon became the chairman of the board. The chief among other measures adopted were,

1. The abolition of untouchability on water pipes, tanks, wells, in Dharmashals, hospitals, schools and other public places.
2. Free boarding houses for them at the station Bungalow.
3. Abolition of separate schools for the untouchables.
4. The enrolment of several untouchable members as pleaders in the state.

To end the discriminative treatment to the untouchables in the state departments, Maharaja issued prompt orders to all the authorities directing them to fallow his instructions in this respect rigorously. His order of 15\(^{th}\) January 1919 was thus.

\(^5\) Chatrapati shahu the pillar of social democracy editor P.B.Shalunkhe Pub. The Education Department Govt. of Maharashtra Bombay. 1994, P.150.
“All officers in the state, revenue, judicial or general department must treat the untouchables who have entered the state services with kindness and equality. If any state officers have any objection to treat the untouchable according to the above order, he will have to give notice of registration within six weeks from the receipt of this order and resign his post. He will be entitled to no Pension. His highness expects every subject of his should be treated like a human being and not like a beast”\(^6\).

2.3 Reservation in Mysore province:

Karnataka state has got a long history of protective discrimination policy for uplifting the socially and educationally backward sections of the population of the state. In order to understand and appreciate the significance of the role played by the state Government in improving the socio economic and educational conditions of Scheduled Caste and scheduled tribes, other backward classes and minorities in the state it is necessary to review the history of reservation policy in Karnataka.

The present Karnataka was created in 1956 by integrating Kannada speaking areas of former Hyderabad State and the former Bombay and Madras provinces with the then princely state of Mysore. Though the reservation policy of the Government of the Princely State of Mysore was influenced by the social reform movement in the former Madras province, particularly the social revolt sponsored by the justice party, the Princely State of Mysore had developed its own rudimentary policy of reservation as far back as 1874. During the period between 1874 and 1895, the Government of Mysore reserved 20 percent of middle and lower level jobs in police department for Brahmins and 80 percent for Muslims, Hindus and Indian Christians, again from 1914, the Government of Mysore introduced a system of nomination of qualified backward class candidates to the post of Assistant commissioners. Even so it was realized that

\(^6\) Ibid, P.151.
the backward classes including SCs and STs could not break the monopoly of the Brahmins in the state Government service.

It may be interesting to know the between 1881 and 1910 the demand for the jobs for locals, inspired by a sort of “sons of soil” theory was going on with in the group of Brahmins. At the time, the Mysore Maharaj was advised to appoint Diwans, from outside the state who came mostly from former Madras province. These Diwans used help their kiths and kins belonging to their own sub Caste to get employment in the state Government jobs. This was resulted by the local Brahmins who raised hue and cry against Tamil Brahmins domination of Government jobs in the Princely State of Mysore. This would appear as though the Mysore Brahmins themselves behaved like backward classes asking for reservation. However, it was more like agitation of the “Sons of soil” and this controversy came to an end with the appointment of Sir. M.Visveswaraiah as Diwan of the Mysore state in 1910. But, Visveswaraiah himself resigned in 1918 on the issue of reservation for backward classes in Government service.

This social reform movement and the resultant communal order in the madras province and the monopoly of the Brahmins in Mysore Government jobs created a lot of discontent among the backward classes. No Government could ignore the demands of a vast Majority of the people for a share in the Government service. As a positive response to this demand, the first backward classes committee held on under the Chairmanship of the Chief judge of Mysore High court, Leslie. C. Miller was appointed and this committee which submitted its report with in a record time about 11 months laid the basic foundation for the future formulation of the reservation policy for the backward classes in the State of Karnataka. In fact the report which runs over 31 pages brizzles with original ideas about the criteria to be adopted for identifying backward classes, measures needed for promoting their education and the

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reasons for compromising merit with equality of representation in Government service.

The Miller committee was the result of the political awakening of the OBC’s in the Princely State of Mysore. The economic strength of two dominant communities’ vokkaliga’s and lingayat’s was prominent, but their educational level was low. Therefore, they could not compete with Brahmins for Government service through Brahmins constituted only 3.4 percent of the population. Hence, they took the lead in demanding reservation in the state Government jobs. They are supported by other backward Castes, Muslims, Indian Christians, SCs and STs. They got a semi democratic political forum to articulate their demand. Afterwards Sri Nalwadi Krishnaraj Wodeyer, constituted the Representative Assembly. It was a forum for consulting different sections of the society on the state Government policy matters. Most of these members were nominated on the basis of their economic and social background. This Representative Assembly gave rise to political awakening among the backward classes though economically better of among them took the lead.

It was this coalition of self interest group which compelled the Maharaja of Mysore to break the monopoly of Brahmins in Government service and throw it open through reservation to non-Brahmins. Even then the fortunes of the backward classes fluctuated. Their interests came to depend upon the social background of the Diwans who succeeded Sir. M.Visveswaraya as also their political whims and fancies. Even so, the Maharaja could not reverse the policy of reservation as it was demanded by a vast chunk of influential section of the people of Princely State of Mysore. After independence up to the time of reorganization of the state (1947-1956), the Miller committee recommendations

9 Ibid P.277.
were implemented. Thus, the Nalwadi Ktrishnaraja wodeyer extended the reservation to non Brahmins up to 75 percent in his state\textsuperscript{10}.

By that time India a achieved independence and princely state was integrated into the Indian union. The Brahmins had accepted willy-nilly the growing power of the backward classes, because of their numerically minority position as the new political system came to depend significantly upon the numerical strength of the Castes. During this period the numerically dominant communities along with the SCs/ STs and also Muslims resorted to yet another interesting strategy of driving Brahmins out of the rural areas. The dominant communities which controlled elected Government after independence introduced tenancy abolition legislation and made the Brahmins to lose their inam lands to the tenants. If may be mentioned in this context that in south India, the Brahmins never cultivated the land though they owned vast land under the inamdar system. It so happened their tenants belonged to the dominant communities though in some places there were Scheduled Caste also so the political strength was effectively and intelligently used by the dominant communities to weaken the economic base of the Brahmins moved in the rural areas\textsuperscript{11}. As a result, after losing their lands the Brahmins moved to urban areas in search of white collar jobs. Though they suffered during that transition period, they had the ingenuity of using their limited resources for rehabilitating themselves comfortably in the urban areas.

After the integration of the state in 1956, it became necessary to the exercise of reservation in view of the merger of the area’s from other states which did not have any consistent reservation policies. The attempts of the Government of Karnataka to prepare a uniform list applicable the people of all the integrated areas were frustrated by the high court. Therefore, the second backward classes committee was appointed under the chairmanship of

\textsuperscript{10} Reservation crisis in India, editor, Vinay Chandra Mishra, 1991 Ed, Pub. The Bar Council of India Trust, AB/21, Lal Bahadur Shastri marg, New Delhi, P.278

\textsuperscript{11} Ibid, P.279
Evolution of the Policy of Reservation

backward classes’ political leader Dr. Nagannagowda in 1960, to determine the backward classes and recommend the extent of reservations, the committee identified the backward classes basically on the basis of Caste though it was educational test and proportion of people of each Caste in Government service as additional declared one of the dominant communities Lingyats, as forward, this led to legal battle which ended in the supreme court striking down the state Government order on reservations.

This period (1956-1972) was also marked by the role of Lingyats in Karnataka under the chief Minstership of Sri S Nijalingappa and Sri Veerendra Patil and they did not want their own community to be excluded from the list of backward classes and lose the benefit of reservation. At the same time it was alleged that the two dominant communities cornered all the benefits under reservation policy and also a new set of guidelines was required for determining the backward classes. At this juncture, the backward class’s movement took a different turn under the political leadership of Sri Devaraj Urs. Until that time all the non-Brahmins Castes and communities were considered as backward classes. But a general feeling that Lingayats and Vokkaligas dominated the political, economic educational and even administrative spheres. By that time Sri Devaraj Urs used the new political strategy after the 1969 split the congress party to wrest political power from the two dominant communities in the state. He tried to unite the non dominant minority backward Castes, Muslims and Scheduled Castes and Scheduled tribes. Though he was in his attempt to begin compelled him not to ignore Vokkaligas totally. He wanted to formulate a new reservation policy consistent with his new political strategy. For this purpose he found in L.G. Havanur, who was already an active proponent of new backward classes’ ideology, an able policy adviser. While the earlier backward classes’, inquiry bodies enjoyed the status of only committee, elevated its status to that of commission.

Accordingly Sri Devaraj Urs appointed the first backward classes commission in 1972 under the chairmanship of Sri Havanur. This commission submitted its report after prolonged deliberations in November 1975. But the state Government modified its recommendations and implemented them\(^\text{13}\). This commission also left out certain sections of the Lingayat community forcing them to seek justice in court. When the Government order of reservation was implemented, rational emergency was in operation and therefore Lingayat’s could not take to streets against the recommendations of the Havanur commission. Therefore, they had to wait for a more appropriate time, after the emergency, they decided to seek judicial remedy. The Karnataka high court upheld the recommendations of Havanur commission but partially struck down the modifications introduced in the Government order. Even then Lingayats went in appeal to Supreme Court such directed both the Government of Karnataka and Tamilnadu to review the list of backward classes in the light of fresh data. The judicial decision forced the Government of Karnataka to appoint the second backward class’s commission in 1982 and the second backward classes’ commission which submitted its report in 1986 excluded not only Lingayats and Vokkaligas; the two major communities which dominated for long the backward classes movement and allegedly cornered the benefits under reservation policy, but also thirteen other communities which were still educationally in a majority positions\(^\text{14}\). These recommendations sparked-off a state-wide agitation and ultimately forced the Janata Government to reject the recommendations of the commission. The fresh Government order which was issued in 1986 brought back most of the communities (the former non-Brahmins) to the backward classes list for the purpose of reservation. This in brief is history of reservation movement in Karnataka.

\(^{13}\) “OBC, Women status and educational empowerment” by S.K. Sing, A.K. Singh, P.97  
\(^{14}\) Ibid. P.101
2.4 Reservation under the British Period.

The era of emancipation of untouchables began with the advent of the British rule, as the advent of the British rule with the consolidation of political regime and introduction of the western oriented education system, produced many structural disturbances in Indian Caste structure also. Brahmins, being the literate Caste, responded promptly to the western liberal education and entered in big numbers to Governmental services and the professions. The emphasis of British rule upon the egalitarian system of justice with new ideas of equality of opportunity in the beginning came in handy of Brahmins, as they monopolized all the Government jobs and professions only in the name of full and free competition\textsuperscript{15}.

It is but seen that really effective measures began to be taken only after the reforms of 1910. For the first time, the census report of 1910 divided the Hindu into three categories. (a) Hindus, (b) Animists or Tribes and (c) The depressed classes or untouchables. As a result the census report of 1910 giving separate importance to untouchables acquired a new political dimension. In 1910, the basis adopted by the census commissioner for separating the different classes of Hindus into (a) those who were hundred percent Hindus and (b) those who were not hundred percent Hindus. Those who were not hundred percent are, deny the supremacy of Brahmin, do not receive the Mantra from a Brahmin, deny the authority of the Vedas, do not worship the Hindu gods, not served by good Brahmins as family priests, no Brahmin priests at all, denied access to the interior of the Hindu temples, cause pollution by touch or within a certain distance, bury their dead, those who are consume beef and do not revere the cow. These tests are dividing the Hindus from untouchables\textsuperscript{16}.

\textsuperscript{15} Reservation policy in India by K.S.Pandya & Jayashree, Mahapatra, Pub. S.B. Nangia, Ashish Publishing House, New Delhi, P.15
\textsuperscript{16} Ibid.16
The systematic attempt for the welfare depressed classes was made with the introduction of Mantego Chelmsford reform 1919. But under this reform a very few could qualify for the restricted franchise.

At this time Ambedkar started for the social emancipation and political mobilization of the people of the oppressed state. He was effective in highlighting the inhuman treatment to which they were subjected by Hindu philosophy. He divided Hindu civilization into touchable Hindus and untouchable Hindus and pleaded for their representation only on the ground of separate interests which require protection\(^\text{17}\).

According to Ambedkar, the untouchable classes must have their own men in the council hall to fight for the redress of their grievances. The non-Brahmins as a class are subjected to the social and intellectual domination of the Brahmin priesthood and may rightly, advocate separate representation. On the basis of this he applied two principles such as the standing of a community and principle of minority of determine their quota of representation. The Mantego Chelmsford reforms thus recognizing the differentials and divisions for depressed classes to the legislative council\(^\text{18}\).

On 29\(^\text{th}\) May 1928, when Dr. Ambedkar submitted before the Simon commission, his statement demanding protection of the interests depressed classes through adequate representation. Dr. Ambedkar made it clear that the depressed classes and untouchables were synonymous and they must be treated as distinct minority separate from the Hindu community\(^\text{19}\).

The Round Table Conference held in 1930 marked “the beginning of the claims of the untouchables in the arena of the devolution of the political power from the British rulers to the Indian natives. In this conference Ambedkar shifted his position arguing for separate electorates for the depressed classes.

\(^{18}\)Ibid. P.17  
Evolution of the Policy of Reservation

What is separate electorate? As per the Bhaba Saheb Ambedkar’s proposal put before the Round Table Conference in 1931-1932. Separate electorate means a territorial constituency comprising exclusively of untouchables only in which they alone will vote for their hand picked candidates.20

This is the meaning of separate electorate and this was the demand of all “Minorities” at the first Round Table Conference in which the congress party of M.K.Gandi refused to take part.

However, in the second round table conference in which the congress was also present under the leadership of Gandhi. Hindu representatives opposed the demand saying that the “minority” representatives at the conference were not genuine representatives of the untouchables, Muslims, Sikhs, etc and congress party alone represented all the people of India including its minorities so there was dead lock at the Round table conference and the only hope lay in arbitration to which every body including Gandhi agreed except Babasaheb. So at the second Round Table Conference the delegates did not agree upon a solution to the communal problem.21

After wards the British Prime Minister Ramsay Mac Donald decision on communal question was accepting the demand of Dr. Ambedkar announced the famous “communal award” on 17 august in 1932, where separate electorates for depressed classes were to be created sanctioning them distinct status. As per this award, the untouchable will have two votes in general constituency and another in a special communal constituency comprising exclusively of untouchables to be carved out in areas where they are most numerous.22

Gandhi took objection to this award after having given his consent to abide by the decision (communal award) of the Prime Minster. His main objection was that the award would take untouchables away from Hindus and

20 Saparate electorate & separate settlement by V.T.Rajshekar, pub. Dalit Sahitya Academy, Bangalore, 1996, P.5
21 “OBC, Women status and educational empowerment” by S.K. Sing, A.K. Singh. P.19
22 Ibid P.20
Hinduism and that the interest Hinduism would suffer. Gandhi was aware of the
danger of allowing untouchables to vote in an exclusively communal
constituency. Gandhi wanted to avert this danger and save his Hindu people.
Gandhi was more interested in protecting his Hinduism. Not his dear
untouchables. So far as Hindus are concerned separate electorate would surely
vivisect and disrupt it. He wrote in a letter to Samuel Hoare, then secretary of
state for India23.

Gandhi said “I do not mind the untouchables being converted to Islam or
Christianity. I should tolerate that, but I cannot possibly tolerate what is in
store for Hinduism of there are these two divisions set up in every village.
Those who speak of political rights of untouchables do not know India and do
not know how Indian society is today constructed. Therefore, I want to say
emphasis that I cannot command that if I was the only person to resist this thing
I will resist it with my life24.

But the British Government, refused to bow to his threat, Prime Minster
Ramsay MacDonald in a latter tried “his best to assure Gandhi and through him
the Hindus that this award would not take away the untouchables from Hindus
and Hinduism. In all general constituencies, he said, the untouchables will vote
with Hindu electorate on equal footing. Only in limited special constituencies,
they will vote separately. He said such a step was necessary to safeguard their
rights and interests that we are convinced, is necessary under present
conditions25. the untouchables were given two votes only to see that they voted
with the rest of the Hindus and remained in Hinduism, the Prime Minster
pleaded.

Gandhi and his Hindu leaders did not agree to the communal award and
Gandhi went on “Fast unto death” in Poona Yarawada jail and the Hindu press

23 “Gandhi-Ambedkar Dispute” by A.K. Vikil., P.68.
24 Reservation policy in India by K.S.Pandy & Jayashree, Mahapatra, Pub. S.B. Nangia, Ashish
Publishing House, New Delhi, P.19
25 Writings & Speaches of Babasaheb Ambedkar Pub. The Education Department Govt. of
came out with wide propaganda that Bhabasaheb Ambedkar was bent upon killing the father of nation. This wily Gandhi went on his well advertised fast against separate electorate and the entire Hindus of India joined in the mad frenzy against Bhabasaheb Ambedkar and entire untouchables of India. They are not only threatened Ambedkar life and said “if Gandhi were to be die, they would burn the houses of all the untouchables in the whole India”. The entire fascist forces of the country joined hands to blackmail Bhabasheb Ambedkar who was finally forced to surrender. Dr. Ambedkar ultimately agreed to amend the award in accordance to the wishes of Gandhi26.

This was famous “Poona Pact” signed by Dr. Ambedkar and Gandhi in 1932 sep 24. Ambedkar was quite unhappy with this pact and blamed it squarely for depriving the SCs and STs their genuine rights. After signed the Poona Pact the right to separate electorate, the right to elect the true representatives was gone. As the result of Poona Pact whatever Ambedkar brought from the London he last it at Poona27.

Then some press people asked Ambedkar, as to how was he feeling after signing the Poona pact. At that time Ambedkar said “People call Mr. Gandhi as Mahatma. But I cant call him Mahatma, I cant even call him a human being. I brought a fruit from London for my people. I was thinking to hand it over to my people. Hoping to see they are enjoying it. But meanwhile Mr. Gandhi snatched the fruit from my hand. He squeezed the fruit and gave the juice to his people and threw the rind on the face of my people. To day, I am facing as a person on whose face rind of the fruit has been thrown” Gandhi whom Bhabasheb Ambedkar has described as the enemy No.1 of untouchables28.

As a result of Poona pact came to act as a compromise between the depressed classes and the Hindu community. It declared that the scheme of

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27 “Ambedkar: The Prime Mover” by D.R. Jatava. 2004, P.32
28 Let us take the caravan of Babasaheb Ambedkar to its logical end, A message from KanshiRam. Compiled by M. Gopinath, P.10
Evolution of the Policy of Reservation

Reservation of seats for the depressed classes out of general electorates in the provincial as well as in central legislature through election by joint electorates. It also declared about the representation to these classes in the public services. The number of seats reserved for the depressed classes was increased to equal their proportion of population, with representatives being chosen in general from both communities\(^\text{29}\).

Similarly the policy of reservation was provided by the Government of India act 1935 with the effort of the Dr. Ambedkar. The expression Scheduled Caste, which was first coined by Simon commission was introduced in the Government of India Act 1935. Under it the “Scheduled Castes” replaced “Depressed classes” and separate list of “Scheduled Castes” were notified for various provinces in 1936. In this for the protection of SCs and STs, abolition of untouchability, the special safeguards and reservation for SCs and STs introduction of universal adult franchise were adopted\(^\text{30}\).

On January 1947 however after taking into consideration the serious implications of reservation of seats for the minorities at the meeting of advisory committee a resolution was moved to abolish reservations of seats to the SCs and STs especially Sardar Patel had passed a resolution to abolish the reservation. In the Constituent Assembly there were 28 SC/STs M.Ps including Babashaheb Ambedkar. The Congress leaders did everything to prevent Babashaheb Ambedkar entering the Constituent Assembly through Muslim league from Khulna and Jaishore of undivided Bengal. Out of 28 SC/ST members there were only two non Congress members. The minority committee of Constituent Assembly decided to abolish the reservation for all minorities but Babashaheb Ambedkar sternly opposed it his voice was a lone. So his voice

\(^{29}\) Ambedkar and Nation Building Edtd. By Samalal, P.66
\(^{30}\) Reservation policy in India by K.S.Pandya & Jayashree, Mahapatra, Pub. S.B. Nangia, Ashish Publishing House, New Delhi, P.21
was not heard by the Congress body. Babasaheb Ambedkar thought of seeking the support of the SC/ST members of parliament to continue the reservation\textsuperscript{31}.

He went to the Wellington hospital to see Jagjivanram, Babasaheba Ambedkar told him that both were financially well off and capable of maintaining their children for one or two generations. But he was much worried about the 10 crores of SC/ST who were orphans, what would happen to them if the reservation was abolished. Therefore he came there to seek his and others support in the Constituent Assembly to continue the reservation for some years to come. Jagjivanram said he had a great faith in the sincerity of Gandhi and Congress. So he was not infavour of continuation of the reservation he was afraid of the iron rod of the Congress. No body had the courage to oppose Sardar patel. So he expressed his inability to extend his support in the matter. There were 28 MPs in the Constituent Assembly including Babasaheb Ambedkar but all other 27 MPs did not co operate with Babasaheb Ambedkar in his efforts. This is an evil role played by the SCs MPs. The upper Castes used SC MPs to stab their own people. There was of course the lone voice of Nagappa from Andhra Pradesh who opposed the resolution in the Constituent Assembly. He was punished for his support, Sardar Patel warned him saying that Dr Ambetkar would not give him anything, if he supported him but Nagappa did not care for the warning he has to suffer for it; he came and told Babasaheba Ambedkar the full details as to how the congress action would only lead the country’s independence into a dangerous spot after some years\textsuperscript{32}. All minorities would certainly raise their voice and achieve what they wanted. It depended on their unity and how they put-up a united front against the Congress. He assured Nagappa that he was hopeful that he would find some

\textsuperscript{32} What Congress and Gandhi done to the Untouchables by Dr. Ambedkar P.32.
solution. He was sorry; the congress had gagged all the MPs not to open their mouths to save their own community rights\textsuperscript{33}.

Babasaheb Ambedkar was taking rest in room no 41 of the western court New Delhi. It was in January 1947 that the reservations for all the communities were abolished. This decision to scrap reservations was approved by the Constituent Assembly. Babasaheb Ambedkar absented himself from the proceedings of the Constituent Assembly, because he was totally opposed to this move. Sardar patel, who was presiding over in the minority committee, played a trick by asking Acharya Kripalani to preside over the meeting. The leader who endorsed Vallabhabahai patels stand were amply awarded with the high posts such as governors etc. When the Constituent Assembly voted for the abolition of reservations the newspapers particularly Hindustan times and statesman hailed the move as a “Red letter day” in the history of India. As he was reading the newspapers to him he heard this sentence and shot back saying “This would not be a Red letter day but would be a Dead letter day. He had been persistently pleading that reservations were the human rights of all SC/ST/minorities and therefore it should not be abolished. Because the educated young men of the minority communities have been looking towards the reservation, the educated young men of these communities would now go underground. Babasaheb Ambedkar was almost a lonely man in the Constituent Assembly. Yet the Manuvadis were afraid of him. They decided to drop him from the Constituent Assembly through giving away the place from where he was nominated to the East Pakistan at the time of partition of India\textsuperscript{34}.

The British forced the congress to get Ambedkar elected to the Constituent Assembly and make him the custodian of rights of SC & STs, one Mr.Jayakar was forced to resign from Poona constituency vacating it in favour of Babasaheb Ambedkar on 9\textsuperscript{th} July 1947 Ambedkar was elected to the

\textsuperscript{34} Ibid. P.10.
Constituent Assembly and on 10th July 1947 the British announced that they would quit India on August 15, 1947. But in this battle, Babasaheb Ambedkar ultimately succeeded in installing himself as the chairman of the drafting committee with the help of British. On August 29 1947 was a memorable day in the Constitutional history of India. As chairman he incorporated the very reservation in services as the fundamental rights of the under the present Constitution of India.\(^{35}\)

In this way, the tools of the Constitutional provisions regarding protective discrimination in favour of the backward classes goes back to the decade of freedom struggle.

### 2.5 Historical Background behind the Cause of low status of women

In general, Indian society to day is totally male dominated and biased against the female gender. This results in all sorts of exploitation and discriminatory practices. Obviously the status of Indian women is unjust and inhuman. For instance, female foeticide and female infanticide are widespread and the practice of sati has also not disappeared. Yet women are frequently tortured in the broad day light because of insufficient dowry. Hundred of women commit suicide either due to humiliating sexual atrocities on them or because of unbearable tortures from the husband or in-laws an account of dowry. Women on their part have been struggling through various organization and movements to liberate themselves from the clutches of the male dominated social order.

#### 2.5.1 Status of women in Vedic period:

In the Vedic period women enjoyed all sorts of necessary rights which are essential for a human being.\(^{36}\) The women had access to all branches of learning, the women enjoyed a position at par with men. Women played an

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important role in religious ceremonies. The girls were free to choose their own life partners by swayavara system they married, after attaining puberty. They had all the opportunities to pursue education, including study of Vedas and were even eligible for Upanayana. They could end a marriage and remarry widows re-married even during Kautilya’s time, women lived with dignity.

The vedic hymns informed us that both husband and wife were joint owners of family property and a daughter whether married or unmarried retained her right of inheritance in the property of her deceased father. Women were actively involved and associated with men in every socio-religious ritual and ceremony. The examples of polygamy were rare and mainly confined to ruling class. Dowry system was prevalent but only in rich and royal families. A wife was regarded as indispensable member of husbands family and a centre of domestic world. She proved herself a sincere friend, partner and a guide of her husband. She could move freely out of her house and enjoyed freedom of movement by attending fairs and festivals, Sabhas and Assemblies of learned persons. Marriage was regarded as indissoluble holy union and divorce was unknown, Sati system was not prevalent. A woman had an absolute ownership over the property and it was regarded as her “Stridhan”\textsuperscript{37}. Thus, a woman was regarded as equal partner, friend and equal sharer in joys and sufferings of her husband’s life in Vedic period. In social, cultural and educational activities she enjoyed considerable freedom and more or less possessed equal rights in matters of religion. She was considered as human being and enjoyed a status and prestige in the society.

\textbf{2.5.2 Status of women in later Vedic period:}

In the later Vedic period women were treated as bonded laborers like slaves the honorable position and status of woman enjoyed in Vedic period gradually declined. She was regarded has subservient to man and confined to

\textsuperscript{37} Women and Law by Dr. Anjani Kanth. P.22.
household chores and child bearing. The writer of Manusmrithi was very harsh and cruel to woman. Manu in his Manusmrithi had prescribed number of laws with respect to woman. Manu stated that “there is a vital structural difference man and women and a woman could not posses an independent status”. During the later vedic period her whole life a woman should be an appendage to male. Father protects her during the period of maidenhood, husband protects her during the period of covertures and sons protector during the period of widowhood and thus a woman never free\textsuperscript{38}.

Manu expected too much from virtuous wife by merging her personality of her husband. He emphatically stated that “Even if they husband is immoral, a debauch and lack of good qualities the wife must still worship and she thought he was god to herself. Manu imposed manifold duties on a woman. She should be virtues and loyal to her husband also even after his death and she should not be cohabited with another man after death of her husband\textsuperscript{39}.

The social status of women was undermined, many restrictions were imposed on them and they were deprived of many basic human rights. Even though women were in majority in the society they were discriminated against humiliated and ill treated by men\textsuperscript{40}.

A woman shall not perform the daily sacrifices prescribed by the Vedas if she does it she will go to hell. Manu clearly enunciated that a widow should never even dream of remarriage and divorce. Only women can get married and bear children, divorce and remarriages were absolutely forbidden. Child marriages for girls and sati system were in practice\textsuperscript{41}.

This clearly indicates how women were totally discarded in the society without having any privilege they were treated with contempt and had no opportunity either go for remarriage or to live with dignity in society. The

\textsuperscript{39} Social Justice of Dr. B.R. Ambedkar by K.L. Bhatia, P.179.
\textsuperscript{40} Ibid. P.191.
\textsuperscript{41} Ibid. P.193.
potrail of the condition of women in manuscripts was so deplorable and in human.

Shankaracharya\textsuperscript{42} of Kerala proclaimed that a woman is a gate to hell and she is poison in the disguise of vector. The golden age of Guptas had been dark age for women. The Gupta kings strictly practiced the Brahminical law by upholding certain rules for women like sati and celibacy of widows. Later in the medieval period Muslims invaded India and introduced the purdah system. The position of women was not better even during the time of Shankara Charya where she was not provided with any social status in the society.

\textbf{2.5.3 Status of women in British period:}

After ages of suffering suppression and enslavement the new hope dawned in the lives of women with the introduction of British period in India\textsuperscript{43}. The introduction of western education enlightened many Indians and many social workers started to purify the Hindu society from its evils. Father of social revolution Mahatma Jyotiba Phuley worked hard for the abolition of sati system. Mahatma Jyotiba Phuley sacrificed his life for the education of girls, with all the hindrances of Brahmins he gave the education to women in his life time, Britishers encouraged him in this task. Periyar E.V. Ramaswamy Nayakar pleaded for the rights of women especially in the self respect marriage formula. There were many other social workers who had sacrifices their lives for the cause of women\textsuperscript{44}.

\begin{itemize}
\item \textsuperscript{42} B.R. Ambedkar on Federalism, Ethnicity and gender justice. Edited by Prof. Nazeer H. Kan, Aligarh Muslim University. Aligarh, Deep & Deep pub. New Delhi, P.199.
\item \textsuperscript{43} Women and Law by Dr. Anjani Kanth. P.70.
\item \textsuperscript{44} Ibid. P.73
\end{itemize}
2.6 Women and Ambedkar Movement

Right from the days of Mook nayak and Bahishkrit bharat, oppression of women remained a major plank of Dr. Ambedkar’s movement. He involved women in all his social struggles. In mahad satyagraha women participated in large numbers. The temple entry movement gave him a courage to criticize the Hindu society vehemently, Dr. Ambedkar made an in depth study of Hindu scriptures i.e. smiritis and shastras, the fundamentals of Hindu scriptures faith that ordained graded socio-religious economic and cultural status to the chaturvarnas and threw the women in the irrationality, in humanity and hollowness of manusmirti.\textsuperscript{45}

Manu had prescribed a number of laws with respect to woman as follows

1. By a girl, by young woman or even by a aged one, nothing must be done independently even in her own house.

2. A woman shall not perform the daily sacrifices prescribed by the Vedas. If she does it, she will go to hell.

3. A wife, a son and a slave these three are declared to have no property, the wealth which they earn is for one to whom they belong.

4. Liquor, slaying woman, shudras, vaishyas, kshatriyas and atheists are all minor offences.\textsuperscript{46}

In the light of these laws Dr. Ambedkar observed that manu was basically responsible for the fall of Hindu woman.

Dr Ambedkar criticizing Manu, he said, “A woman in the eyes of Manu was a thing of no value. It was Manu who was responsible for the degradation of woman in India. Most people are perhaps aware of this. But they do not know what is peculiar in manu. There is nothing new or startling in the laws of manu about woman. They are the views of Brahmins ever since Brahmanism

\textsuperscript{45} The Legacy of Dr. Ambedkar, by D.C. Ahir, BR pub, Delhi, P.119

\textsuperscript{46} Ibid. P.129.
was born in India. Before manu they existed only as a matter of theory. What manu did was to convert what was social theory into the reason which led manu to impose these disabilities upon woman. Shudras and woman were the two chief sections of the Aryan society which were flocking to join the religion of the build and there by undermining the foundation of the Brahmanism religion. Manu want to stem the tide of woman flowing in the direction of Buddhism.

Dr Ambedkar again observed manu was the greatest opponent of Buddhist religion. This is the secrete of the Many inequalities which he heaped upon woman. For he knew that if the home is to be protected against the invasion of Buddhism. It is the woman who must be put under restraint. And he did it all the responsibility for the decline and fall of woman in India must be fastened upon Manu.

According to Ambedkar even Muslim woman were influenced by the Indian environment created by many laws contrary to the laws of Islamic shariah. Lamenting to the sad plight of Muslim women, Dr Ambedkar observed, no Muslim girl has the courage to repudiate her marriage although it may be open to her on the ground that she was a child and that it was brought about by persons other than her parents. No Muslim wife will think it proper to have a clause entered into her marriage, contract reserving her right to divorce. In what, even, her fate is, once married always married. She cannot escape the marriage however irksome it may be while she cannot repudiate the marriage, the husband can always do it without having to show any cause. Dr Ambedkar even opposed the Indian Muslim purdah system of Islam.

Dr. Ambedkar observed, “as a consequence of the purdah system a segregation of the Muslim woman is brought about. The ladies are not expected to visit the outer rooms, verandahs or gardens their quarters are in the back

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49 Ibid. P.82
50 Supra 47, P.202.
yard. All of them, young and old are confined in the same room. No male servant can work in their presence. She cannot go even to the mosque to pray and must wear Burka (veil) when she has to go out. This Burka woman walking in the streets is one of the most hideous sights one can witness in India. Such seclusion cannot but have its deteriorating effects upon the physical Constitution of Muslim woman. They are usually victims to an anemia, tuber colossi, and pyorrhoea. Their bodies are deformed with their backs bent, bones protrudes, hands and feet crooked Ribs, joints and nearly all parts ache. Heart palpititation is very often present in death at the time of delivery. Purdah deprives Muslim woman of mental and moral nourishment. Being deprived of healthy social life, the process of moral degeneration must and does set is being completely secluded from the outer world, they engage their minds in petty family quarrels, with the results that they become narrow and restricted in their out-look

They have no desire for knowledge, because they are taught not to be interested in any thing out side the four walls of the house. Purdah woman in particular become helpless, timid and unfit for any plight in life. The evil consequences of purdah are not confined to the Muslim community only. It is responsible for the social segregation of Hindus from Muslims which is the bane of public life in India. This argument may appear far fetched and one is inclined to attribute this segregation to the unsociability of the Hindus rather than to purdah among the Muslims. But the Hindus are right when they say that it is not possible to establish social contact between Hindus and Muslims because such contact can only mean contact between woman from one side and men from the other.

Owing the purdah a Muslim has no contact with any woman out side those who belong to his own house hold. Even with them his contact extends

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52 Ibid, P.204.
only to accessional conversation. For a male there is no company of and no co mingling with the females except those who are children aged this isolation of the males from females is sure to produce bad effects and morals of the men. It required no psycho analyst to say that a social, system which cuts off contact towards sexual excesses and unnatural and other morbid habits and ways.

In this way Dr. Ambedkar worked not only for the up-liftment of Hindu woman but also for the Muslim woman for equalizing them with men. After having observed the above facts Dr Ambedkar has given equal status to woman at par with men by providing many provisions in the Constitution. Number of Articles in the Constitution helps the woman to improve their status and to compete with their male counter parts.

One of the most important contributions of Dr. Ambedkar in relation to the upliftment of the status of woman in India was his initiative to draft and introduce the Hindu code bill in the Constituent Assembly. Being India’s first law minister and chairman of the Drafting Committee of the Constituent Assembly, he thought it appropriate to liberate woman from the age old enslavement, exploitation, harassment by reforming the Hindu social laws created by manu. Besides providing Constitutional guarantees to women Dr. Ambedkar introduced and got passed four Acts such as,

1. The Hindu Marriage Act, 1955
2. The Hindu Succession Act, 1956
3. The Hindu Minority and Guardianship Act, 1956
4. The Adoption and Maintenance Act, 1956

Dr. Ambedkar took the care of woman as a member of the family and also of society. His aim was to reconstruct and reorganize the Hindu society from the grass root level. He endeavored to solve the problems relating

54 Dr. Babasaheb Ambedkar, Vol.3, P.308.
marriage of girl child, re marriage of widows, sati convention among Hindus, reformation the laws of adoption, marriage and succession in Hindu society

Polygamy was held to be privilege reserved for the twice born classes. As regards property right, a wife had no separate right in the property because her identity is merged in the personality of the husband. On husband’s death she acquired only limited interest in the husband’s property. The women could exercise control over her stridhan only.

Thus, in the later Vedic period, women lost her individuality and status in society. Her existence and happiness was dependent on that of her husband. Conjugal fidelity, obedience and faith fullness were regard as wife’s virtues even if the husband was debauch, drunkard, sadist or cruel to wife. Women’s life was full of sacrifice and child marriage, denial of education to daughters. Polygamy and restrictions on her free movements were the main factors for the degradation of women.

After the struggle of so many social reformers, the British Government for the purpose of eradicate the social evils like, child marriage, sati system, pardha system, dowry prohibition, female infanticide, enacted the so many legislations. The first enactment passed by the British Government in India at the instance of these social reformers was the Sati System Abolition Act 1829, the Caste Disability Removal Act 1850, the Hindu Widow Remarriage Act 1856, the Female Infanticide Prevention Act 1870, and the Child Marriage Restraint Act 1929, were other major enactments of British period for the protection and enlightenment of position and status of women.

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57 Ibid. P.125.
2.7 Conclusion

The aforesaid discussion shows that, an attempt has been made to explain the history of reservation, in Bombay province, in Mysore province, under the British period and Historical Background of status of women in vedic period and later Vedic period, in the British period also women and Ambedkar movement.

The, Hindu Social system is liable for the growth and evolution of the policy of reservation. Hindu Social System divided into various classes and Castes. i.e., the upper Castes and the lower Castes. As a matter of fact, the Hindu social system denied the education to the women, Scheduled Castes and Scheduled Tribes. Justice was given to the women and Scheduled Castes and Scheduled Tribes only during the British period with the efforts of Dr. B.R. Ambedkar.

The policy of Reservation is special preferential treatment, it is very much necessary to bring equality among unequal. Unless special provisions are made for the uplift of women, Scheduled Castes and scheduled Tribes, who are in no position to compete with the more advanced section of the society.

For the purpose of compete with the advanced sections, the policy of reservation is required, that is why Dr. B.R. Ambedkar, incorporated the special provisions in the Constitution of India. It is very relevant.

During the British period, especially in Bombay province and Mysore province the kings like Shau Maharaj and Nalwadi Krishna Raja Wodeyar provided the reservation to the weaker sections or backward classes, it is very significant contribution in Indian Society. Further Dr. B.R. Ambedkar fought against the social injustice and struggled a lot to improve the conditions of women and Scheduled Castes and Scheduled Tribes. These sections of Society suffering from atrocities, exploitations and injustice since centuries. Therefore, in order to uplift them socially, economically the reservation policy is very essential.