THE POLITICS OF RESERVATIONS:  
A COMPARATIVE STUDY OF GUJJARS AND  
PAHARIS OF JAMMU AND KASHMIR

ABSTRACT  
OF THE  
THESIS  
SUBMITTED FOR THE AWARD OF THE DEGREE OF  

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BY

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ABSTRACT

The Hindu social order is responsible for the legal evolution of the concept of reservations. The problem of untouchability has deep socio-economic roots in the Indian society. It was anticipated that reservation will be a necessity for the establishment of a true egalitarian society in tune with the social and economic needs of the country. The framers of the Indian Constitution evolved a compensatory scheme and incorporated different provisions in the Constitution itself to offset centuries old inequalities entrenched in the Indian social fabric. Since the beginning, the reservations turned out to be illusory and counterproductive and increasingly leading to caste wars, group clashes and communal conflicts.

Reservation policy is an extremely contentious topic in the Indian politics. Protagonists claim that a policy of positive discrimination is the only way to rectify the past injustices against India’s poor masses. Opponents claim that reservation policy creates perverse incentives that strength traditional caste boundary.

Reservation has always remained subservient to politics. It has been used as a political gimmick/tactic by the ruling political parties to increase their vote bank in the name of reservation. The Jammu and Kashmir state has its own exclusive framework for all the policies, though for reservation policy of the state, same pattern has been followed. The criteria extend from caste basis and area basis to occupation basis. Now, the ongoing demand of the Pahari speaking people for Scheduled Tribe status, if considered, would open a Pandora’s box as it will add language as one more criteria to reservation. Since the inception of reservation scheme in the state, different commissions and committees have been appointed to sort out the loopholes in the reservation policy. The sole aim and objective of the reservation was to alleviate the downtrodden masses and bring them at par with other developed groups but unfortunately, it had widened the gap between different groups. Creamy layer of the reserved categories take the lions share and rest downtrodden are still leaning on the ground.

Since inception of the reservation, it has always remained a tool in the hands of political parties for creating their vote banks, which has given rise to clashes between different sections of the society. Every passing day is witnessing agitations,
protests and hartals, which hamper the development of the state. The state is already going through an armed conflict since last 30 years.

Amongst the contemporary internal conflicts in Jammu and Kashmir, the political and social clashes between the Gujjars and Paharis are perhaps one of the most serious challenges to internal peace at the micro level, and an emerging impediment to handling the Kashmir issue at large. The political parties provide selective patronage to one group against the other. These political parties are using the issue as shield for every upcoming election. Even the small petty decisions are being decided keeping in view the Gujjar-Pahari issue, whether it is to construct a road, dispensary, school or providing a mandate to contesting candidates for elections or even to appoint office bearers of different political parties at local level. So far no government has shown seriousness in resolving this issue but in every upcoming elections, they play the Gujjar-Pahari cards to maximise their gains.

This conflict transcends all regional boundaries and religious divides within Jammu and Kashmir and beyond. Historical literature traces the roots of conflict between Gujjars and Paharis to several decades ago but the differences have sharpened following the inclusion of Gujjars into Scheduled Tribe category in 1991. This situation has worsened with a similar demand being made from numerous ethnic identities and castes from Muslim, Hindu and Sikh groups which congregate under an identity of a Pahari speaking community. There is now simmering tension between the Gujjars and Paharis who nurse huge contempt for each other. Now, the well organized movements and counter-movements are going on in the state from both the communities and every ruling party is playing politics on the issue.

Presently, the reservation has become a debatable issue in the state. Keeping in view the importance of the issue, the present study is an attempt to know the extent of politics related to reservation policy, especially on the issue of Gujjar-Pahari tussle. It is the first of its kind in the state; not even a single study has been conducted on this topic. The study is guided by the following objectives:

- To study the profile of Gujjars and Paharis of Jammu and Kashmir state.
- To trace out the genesis of reservation policy of India
- To study and evaluate the reservation policy of Jammu and Kashmir state.
• To study and analyze the issues confronted to reservation policy of Jammu and Kashmir state.
• To examine whether the reservation has become a tool in the hands of political class.
• To examine whether the reservation to Gujjars was a genuine demand or a political grant.
• To study the tussle between Gujjars and Paharis on the issue of reservation.
• To carry out a comparative study of Gujjars and Paharis on SES scale.
• To find out the feasibility of the proposed reservation to Paharis.

In order to achieve the above mentioned objectives, the following research questions have been framed by the researcher:

• Whether the reservation policy of the state of Jammu and Kashmir is affirmative in nature or it is discriminatory in nature.
• Whether the reservation policy of the state of Jammu and Kashmir is responsible for the unrest and the regional tension.
• Whether the reservation policy has become the tool for vote bank in the hands of political class.
• Whether the existing criteria for inclusion of any caste in the list of reserved category are reasonable and just.
• Whether the demand of Paharis for Scheduled Tribe status is a legitimate demand.

The data base of present study has been collected with the help of primary sources like information/interview schedule and secondary sources available in different government documents, books, magazines, journals. The statistics have been drawn from different census reports published by Registrar General and Census Commissioner of India. A descriptive-analytical and comparative method has been adopted for the present study.

The research methodology employed in writing this thesis is no less tedious and painstaking. The study is based on the source material open for public perusal of various government documents, reports, books, surveys, journals, studies, magazines, newspapers and various acts. The amendments and the famous judgments of the Supreme Court have been consulted to make the study more informative and broad-
based. Some important and recent information has also been collected from the internet.

However, to ensure socio-political harmony and finally to achieve the goal of a casteless, classless, egalitarian, socialist society, the need has come to take a fresh look on the policy of reservation. In this context the present work attempts to provide an in-depth insight related to the politics confronted to reservation policy of Jammu and Kashmir State. To obtain the aforesaid objectives the entire work has been divided into five chapters,

Chapter I titled ‘The Jammu and Kashmir State: An Overview’ is an introductory chapter comprising of two parts; the first part deals with the land, people, history of the state of Jammu and Kashmir, and the second part deals with the profile of the Gujjars and Paharis.

The diversity of the state has been shown by the population composition based on religion. It is followed by the historical background of state. Political developments leading to the formation of the state have been briefly discussed. In the economic profile of the state, the different resources and the economic scenario of the state have been briefly dealt with. The socio-cultural profile deals with the cultural diversity of the state. The social structure among the Hindus and Muslims has also been shown. All the major events of the political history of the state have been briefly noted down. The social make up has been discussed and all the major ethnic groups of the state have been mentioned. Specifically, the profiles of Gujjars and Pharis have been discussed in detail under the second part of the first chapter.

Chapter II titled “Genesis of the Reservation Policy in India” deals with the emergence of the national reservation policy at national level. In this chapter firstly the evolution of the depressed classes has been traced out, followed by their identification and classification as SC’s, ST’s, and OBC’s. Then the different reform measures for their alleviation have been noted down, which include the collective effort of different organizations from national to state level. Debates in the Constituent Assembly of India, reflecting different aspects of reservation policy have also been included in this chapter. Subsequently, for eradicating the loopholes in the reservation policy, different commission and committees have been appointed and
they have given reports and recommendations for making the policy more purposive and judicious.

Chapter III titled "Evolution of Reservation Policy of Jammu and Kashmir" deals with the evolution of reservation policy in the state of Jammu and Kashmir. In the beginning of this chapter the social make up, religious heterogeneity and social stratification has been given which helps in the identification and classification of the disadvantaged groups in the state.

These disadvantaged groups raised their voice through different reform movements in the state, e.g., Dogra Sadar Sabha, All Jammu and Kashmir Hrijan Mandal, Depressed Classes League, Dalit Sudhar Federation, Backward and Minority Community Employees Federation etc. All these organizations pressurized the governments of the state to take necessary measures for addressing their grievances. In this direction the first ever ‘The Glancy Commission’ was appointed in 1931 for taking note of the under-representation of the Muslims in the state services. Thereafter, number of commissions and committees have been appointed at the state and at central level to make the reservation policy more judicious.

Chapter IV titled “Reservation Politics and Gujjar-Pahari Issue” deals with the different issues related to the reservation policy of the states, especially on the Gujjar-Pahari issue. The criteria for reservation have always remained controversial and debatable. Either, it has been adopted on caste basis, area basis or profession basis. On caste basis, entire population of Scheduled Castes of the country has been given the status of reserved category, keeping in view their bad economic condition in general and their social exclusion in particular. Similarly, some tribes have been included in the list of Schedule Tribe category and they also have been identified with their caste like Meena Community of Rajasthan and Gujjar Bakkarwal of Jammu and Kashmir etc.

Some communities have been identified with their professions like Cobblers, Barbers, Carpenters etc., and these sections have been given reserved category status in the name of social castes in Jammu and Kashmir. Not only this. Another formula has been adopted in the state of Jammu and Kashmir on the basis of geographical area, which is called Resident of Backward Area (RBA) or the area adjoining actual line of control. The irony of the fact is that while including these groups in the list of
reserved categories, no barrier has been put between rich and the poor of the same
group which was given the status of reserved category. As a result, the poor of the
group are still at the worst end while the rich of the community are enjoying all the
benefits of reservation. Further, the criteria for the other backward classes have been
based on the socio-economic and educational profile of the particular community.
Contrary to it, in the state of Jammu and Kashmir, the RBA and ALC category have
been included in the OBC list of the state.

The introduction of the Inter-District Recruitment (Amendment) Act, 2010 was
the best example of the politically motivated action of the state government. Despite
enjoying the numerical majority in the State Assembly, the National Conference (NC)
chooses to go by the Congress Party stand on the Bill. It shows how the state’s
politics is subservient to the preferences of Congress Party. The message conveyed
was clear that state political parties can compromise their mandate for the sake of
their bosses at the centre.

The Act in its amended form is bound to divide communities and groups on
geographical lines. The Act is also against the state’s Muslims, particularly those
belonging to the Kashmir Valley. As per the amended Act, the Scheduled Castes
comprising of certain Hindu castes particularly of Jammu region will enjoy 8 percent
reservation in all the districts of the state. Whereas the fact is that there are no
Scheduled Castes in the ten district of the Valley but they will enjoy there reservation
too. This is the best example of vested interests of the national parties in the state of
Jammu and Kashmir who consolidate their vote banks in Hindu dominated areas at
the expense of Muslims. The Act is not only against the Muslims of the state but also
it has a potential to further divide the state on ethnic, religious and geographical lines.
This Act raises some serious questions on the basic idea of reservation applicable to
the state of Jammu and Kashmir.

The state of Jammu and Kashmir seemed to take reverse turn on the
developmental path because more and more people are demanding the backward
status for their areas. It is only in the Jammu and Kashmir state that geographical area
had been made the criterion for granting reservation to backward and underprivileged
classes. Besides it, in this backward area category there has been no ban or barrier
between the poor and the millionaires but the only criteria is to be a resident of that
particular area. Revenue records are sufficient to claim resident of backward area
(RBA) category. No matter whether they are living in the cities or the posh colonies of the metropolitan cities. There are hundreds of examples where the wards of high ranking officers are snatching the rights of those poor people who deserved to be given special chance to excel but unfortunately the creamy layer of the area is the only beneficiary of the area-based reservation policy. It has been established that granting the reserved category status is a major aim to bring underprivileged section of the society at par with advanced category but the reservation policy has been misused or moulded to suit vested interests, as RBA status has been extended to areas which enjoy educational and other facilities at par with people of advanced categories. As a result, the state has been consigned to the hands of an incompetent administrative officers, undeserving doctors and unqualified engineers. The State Commission for Backward Classes is flooded with thousands of requests for inclusion and complaints of exclusion. In the state of Jammu and Kashmir a number of villages with all necessary educational facilities and high social status are enjoying the fruits of RBA status. The irony of the fact is that some tehsil headquarters with all facilities have been listed in the RBA category due to vote bank politics.

While implementing the Mandal Commission Recommendations, like all other states, Jammu and Kashmir too appointed a permanent body in order to include and exclude the areas and categories from the list of reserved categories. The Jammu and Kashmir State Commission for Backward Classes (SCBC) was constituted in 1997. The Act says that the Government should revise the list contemplated under section 2 (d) of the Act after expiration of every succeeding ten years period. The objective is to exclude from such lists those classes who have ceased to be backward or for including in such lists new backward classes. Fifteen years have passed when the Act was promulgated but there has been no exclusion of any area from the RBA list.

Another major issue confronting the state of Jammu and Kashmir pertains to the other backward classes who always remained the matter of debate from the beginning. Due to persistent and stringent demand of the neglected socially and educationally backward classes, the Government of India appointed the first backward class commission “Kakasaheb Kalelkar Commission” on 29 January 1953. After a detailed ground work the commission submitted its report on 30th March 1955 and listed 2399 castes as socially and educationally backward class. Pursuant to its
criteria, the Government of Jammu and Kashmir also appointed a committee which recommended 50 percent reservations for Muslims of Kashmir, 40 percent for Hindus of Jammu and 10 percent for Kashmiri Pundits. This decision itself was flawed as it was done on communal lines, which was antithetical to the Constitution of India and was subsequently struck down by the Supreme Court in the case of Triloki Nath v. State of Jammu and Kashmir.

The backward classes of the State were constantly ignored and discriminated. The Gajendragadkar Commission in 1967, made some recommendations for determining the multiple criteria for backward classes like economic backwardness, occupation, place of habitation, student ratio and caste in relation to Hindus. It also recommended the fresh revision of reservation policy based on the above mentioned multiple criteria. So the Government of Jammu and Kashmir appointed a high powered committee (J.N.Wazir Committee) which took fresh revision. On the basis of its report, the new rules were framed, which provided for 8 percent reservation for SC's and 42 percent for backward classes including 2 percent reserved for Laddakh District. During the scrutiny of these rules, the Supreme Court, while pointing out certain defects, directed the state government to cure these defects. A committee under the chairmanship of Justice A. S. Anand was constituted in September 1976. The Committee submitted its report in September 1977, and recommended 2 percent reservation for social castes, and inclusion of RBA and ALC categories with 27 percent reservation in the broad category of socially and educationally backward classes. The Mandal Commission in its report submitted on 12 December 1980 identified 63 castes, communities as "socially and educationally backward classes" and recommended 27 percent reservation for them. The Commission had not recommended any reservation for "residents of backward areas or areas adjoining the line of control" in the state of Jammu and Kashmir or in any other part of India.

Subsequently, the Mandal Commission recommendations were challenged before the Supreme Court in the case titled Indira Sawhney v. Union of India in which the Court held that the States and Union Territories under section 123(A) provides for constituting a permanent body within four months for entertaining, examining and recommending upon requests for inclusion and under-inclusion in the list of backward classes.
Following the judgment of the Supreme Court, the Jammu and Kashmir Government constituted Justice K. K. Gupta Commission, which proved merely an eye wash as the said commission worked only on the report of over ruled Anand Committee of 1977. It recommended reservation on the following formula.

1. SC 8%
2. ST 10%
3. Socially and Educationally Backward Class:
   a. RBA 20%
   b. ALC 3%
   c. Weak and Underprivileged Classes
      Social Castes 2%
4. Handicapped Persons 2%
5. Ex-servicemen and Children of Defence Personnel 5%

Formally, the state government appointed a permanent State Commission for Backward Classes in 1997 with eminent retired jurists but the Commission, even after the passage of 15 years, failed to provide 27 percent reservation to socially and educationally backward classes identified by Mandal Commission. The inclusion of backward areas and areas adjoining to actual line of control under section 2(o) of the Act and Rule 4(c) of the SRO of 2005 is against the provisions of Article 15(4), Article 16(4) and Article 340 of the Constitution of India. The RBA and ALC people does not carry the stigma of social backwardness. In addition to it, Mandal Commission nowhere mentioned the area wise reservation on geographical basis. Further, the National Commission for Backward Classes also does not accept RBA and ALC reservations for central government services. Thus the backward classes are not only discriminated in state but also are debarred from the reservation by the central government also because of the ambiguous policy of the state. Only mere 2 percent social castes of the state of Jammu and Kashmir get reservation in the centre under 27 percent reservation quota meant for other backward classes. Thus, the reservation in a certain way created further social, regional and political fragmentation.
The Gujjar-Pahari Issue:

Historically the Gujjar-Pahari issue unfolded itself with Gujjar confrontation with Rajputs. Rajputs being Zamindars employ Gujjars as tillers, domestic help for centuries, which gradually led to social differentiation between them. This conflict transcends all regional boundaries and sharpened in 90's when ST status was granted to Gujjars. This led to Pahari demand for ST status. The Gujjar-Pahari divide has become a dominant factor in all decisions- political and administrative, from selection of candidates for assembly elections, appointment of political parties to posts of government officers, even identifying government projects like schools, dispensaries, roads and bridges etc. The political parties are playing Gujjar-Pahari cards in every upcoming election which further aggravates and sharpness the conflict.

However, it was in 1975 when Shiekh Abdullah, who came back to power after a gap of 22 years, did try to mollify the Gujjars and Bakerwals, and conceded that in future 4 percent seats would be reserved for them in medical and engineering colleges which perpetually led to the constitution of Gujjar and Bakkerwal Advisory Board. The Gujjars achieved a major breakthrough in April 1991 which entitled them to a share of 10 percent quota.

The main confrontation over which Gujjars mainly oppose the reservation demand of Paharis is that there is nothing in the official records, statute books, historical works, sociological and anthropological studies which suggest the existence of any such nomadic tribe as Paharis in Jammu and Kashmir state. But the only instance is A.G. Grierson whose Linguistic Survey of India referred that Pahari means of or belonging to the mountainous region.

To alleviate the sufferings of the people in the remote areas of the state which were declared “Bad Pocket Areas” and benefits of the scheme were equally shared by all the sections in respect of reservations in recruitment, border allowances, scholarships etc., In 1989 Jammu and Kashmir government had recommended 7 communities for Scheduled Tribe status:

1. Pahari speaking people
2. Gujar Bakerwal
3. Argone of Leh
4. Sheena Dard
5. Gaddi
6. Sippi
7. Balti

All were granted the ST status except Paharis due to the inadequacy in the eligibility criteria, but the demand was endorsed strongly which led to constitution of Jammu and Kashmir Pahari Advisory Board in 1997. Since then all the state functionaries have accepted the demand of Paharis for the grant of ST status. It has also been endorsed by the resolution passed in Jammu and Kashmir Legislative Assembly in 2004 and the Jammu and Kashmir High Court also substantiated to the demand of Paharis. But the file has been turned down by the central government due to the inadequate criteria of reservation on linguistic basis.

Chapter V titled ‘The Comparison between the Gujjars and Paharis on SES Scale’ deals with the economic scenario of the two communities. An interview schedule/questionnaire was prepared to include the items related to their identity, habitation, reserved categories, education, occupation, pattern of house, family pattern, availability of electricity facility, drinking water facility, sources of cooking fuel, bathroom/toilet facility, land owners among the two communities, crop pattern, economic status, ration store subsidy, government scheme beneficiaries, facilities in the village; like Pakka road, healthy centre, aganwadi centre, public transport, primary school facility, mode of media, livestock possession, scholarships to the students of both the communities, assets, annual income, livestock possession, Scholarship to students of both the communities, pressing problems of the area.

The information schedule was administered through purposive sampling technique over the 400 households from both the communities in four highly Gujar-Pahari concentrated districts of Jammu and Kashmir state. The overall analysis of the data took investigator to a conclusion that these people are mainly residing in the remote far-flung areas of the state. People from both the communities are facing equal hardships and overall economic position of both the communities is not much stable. Therefore some alleviative measures are definitely needed to provide them equitable share in the employment, admissions in educational institutions and some reformative measures are also needed for improving their socio-economic status.

The diversity of multiple ethnicities and languages, which should have been a source of strength for the state, has become a disadvantage as it has become a
constant point of friction among the diverse identities in the state. Even today the social differentiation continues to be a major factor for the gap between Gujjar-Pahari inhabited areas. Thus there exists a huge danger for social unrest which is being proliferated by the political parties.

Instead of trying to resolve this issue in a collective perspective the political parties and the governments are playing the Gujjar and Pahari cards which further hardened their stand and sharpened the conflict. Psychological irritation due to social differences and wilful tendencies of getting at odds with each other are commonly seen among them. There are serious and dangerous signals of an impending conflict in Jammu and Kashmir which is already going through a high level of armed conflicts. While the Gujjars-Pahari divide offers a huge vote bank dividend to the political parties, but further deepening of this divide will become unmanageable for the future incumbents.

To prevent further escalation one needs to understand who exactly these people are, what are the stakes involved, where can one place them in larger conflict zone of Jammu and Kashmir. What has gone wrong so far and how can these things be corrected.

Apart from the politics of reservation and reservation debates, amidst these reservation demands, the haunting question remains that whether reservations alone are enough to bring the marginalized and disadvantaged groups to the mainstream and help them to achieve the level of other members of the society?

If Pahari demand for reservation is met what can be its fallouts on the holistic mainstream and reserved sections of Jammu and Kashmir state and finally how it will be observed by Gujjars; this remains a bigger curiosity. Shall Paharis only feel emancipated or empowered once Scheduled Tribe status is granted to them or do we really need a change in the discourse of reservation and welfare programmes meant for the marginalized in the entire country. Is the Pahari demand really a genuine story or merely the manifestation of the Gujjar-Pahari tussle and competition between the two communities, is also a curious question to be looked at. Also if the Paharis demand for Scheduled Tribe status is a Gujjar nightmere, and is enjoying of Scheduled Tribe status by Gujjars itself a Pahari nightmere?

Do we need to do away with permanent reservations to different communities
and instead launch special developmental and welfare programmes aimed at inclusive growth of the marginalized groups of the state? Can we really afford granting further reservations to different groups at such a critical juncture when the state is facing acute unemployment crises and youth bulge? These issues needs to be given further thought and demands further research.

Suggestions

The foregoing discussion clearly shows that all is not well with the reservation policy and it is high time that a dispassionate thinking is focused upon it. The following suggestions are mooted in order to make the reservation policy judicious, reasonable and purposive.

➢ Government should do something seriously to preserve the culture of the communities feeling discriminated and there must be an emphasis on conducting studies/research and documenting their practices and life pattern.

➢ The difference need to be understood between Paharis and Gujjars as they are identified as one lot which it is not. Therefore research needs to be carried out on culture and socio-economic aspects of the both communities.

➢ Government should definitely look into the upliftment of backward sections of the society seriously. However granting a privilege forever is not an apt solution to the problem. One time package for education, livelihood, or holistic welfare of such groups can be a step farward but why is the granting of reservation to any community so important. Government should seriously look into the repercussions before granting any such status to any section of the society.

➢ The Pahari community is devoid of adequate socio-economic and educational development. Therefore, a strong socio-anthropological insight is badly needed to look into the culture and life pattern, identity crisis and overall pressing issues of the Paharis.

➢ The viable solution to resolve the historical divide between Gujjars and Paharis lies in the capability of the government to alleviate the socio-economic profile of the two communities. A survey of the socio-economic profile of all the communities in Gujar-Pahari heartland can be another approach to reach an understanding on the needs and problems of these people residing in Jammu and Kashmir. To solve these problems, the central and state governments should act in a pragmatic way instead of succumbing to a policy of appeasement.
Both the communities are living in congruent geographical conditions and have adopted similar life styles. Both the communities either live in remote, far flung and inaccessible hilly areas mainly in the Pir Pahchal region or their basties (habitations) are located around LOC. So they face similar problems of economically backwardness. Therefore, both the communities need equal ameliorative measures. We cannot alleviate one community and left other in the shackles of backwardness.

A joint Gojri-Pahari intellectual conferences can contribute in diffusing age old tensions between the two communities through dialogue and reconciliation.

There is urgent need for the restoration of the old traditions of brotherhood between them.

The Paharis have not yet been given a proper definition by the planning department of Jammu and Kashmir state and no proper survey has been made of their economic vulnerability. So there is an urgent need for conducting a proper socio-economic survey so that sustainable development of all sections of the society can take place.

For rebuilding confidence among the Paharis a seat of chair can be established at the University of Jammu for a more systematic development of the Pahari speaking people.

There is an urgent need for greater understanding and reconciliation among these communities. To this end, NGOs, social activists and religious figures could come forward and start the journey towards peace and reconciliation. On the part of government, efforts should be made to strengthen ties between these communities to restore peace, happiness and harmony in these regions. These efforts will really help in de-escalating tensions between these two communities.

If the government is really concerned about the upliftment of the poor people of the society, then why not adopt the BPL formula. All the BPL households of the state whether they belong to any community, area or linguistic group be declared as reserved category without consideration of their caste or color. And this all should be done after cancelling all reservations based on area and caste criteria.

The whole question of reservation needs a serious debate in the state at every level. Fostering the reservation politics in the state will kill meritocracy and increase the animosity among various sections of the society.
Reservations should not be made a permanent feature. Any privilege provided permanently makes the beneficiaries a privileged class and gives wrong signals to others. This situation affects adversely the social harmony among the different sections of the society. So, only one generation should be permitted the benefits of reservation.

Periodic review of reservation is necessary. Once a person has been benefitted, he should not be further provided quota. The benefits of reservation should be provided only once that is at the stage of admission in educational institutions or recruitment or promotion and not at every stage of one's career.

Identification and classification of backward classes should be dictated by the economic criteria of the household. A class which is declared as backward may turn out to be the most advanced in a particular region.

Any decision of the government regarding extensions of the reservation to any group should be accountable to an independent authority as in most of the cases these decisions are based on political expediency. Further the government which is supposed to be reflected by merit, efficiency and expertise in specific branches of services must maintain a balance between merit and concession.

It has been a premier goal of mankind to establish an egalitarian society. The political scientists should make an assessment by conducting an empirical study over the attainments of the members of any backward class. If it is found that the backwardness of a particular class has ceased to exist, the class should be removed from the orbit of reservation.

The politics of reservation and reservation debates apart, amidst these demands for reservation, the haunting question remains that, are reservations alone enough to bring the marginalized and disadvantaged groups to the mainstream. We really need a change in the discourse of reservation and welfare programmes run for the marginalized sections of society.

The permanent perpetual reservations to different backward communities should be abolished, instead special developmental and welfare programmes aimed at inclusive growth of marginalized groups of the state should be executed.

The definition of the whole area as the backward, and treating all residents therein as backward is unjustified as the classification of socially and educationally backward classes cannot be on the basis of geographic, climatic or backwardness of an area, as that backward region may also comprise of upper
caste people, they would be sole beneficiaries of the reservation policy as enacted in the said Act and rules. Hence this creamy layer should be excluded from the purview of reservation.

➢ Persons availing benefits of reservation through corrupt practices must be dealt severely. Acquisition of fake caste certificates should be made a cognizable offence, punishment should also be handed out to the offenders including the issuing authorities and forfeiture of all benefits secured through such certificates should be made compulsory.

➢ The provision of protective discrimination enlisted in Article 15(4) and 16(4) and the mandate of Article 29(2) cannot be stretched beyond a particular limit. The state is bound to serve its people but there are some services which demand expertise and skill. In such services, there cannot be room for reservation, merit alone must be the sole and decisive consideration for appointments.

➢ The constitution should be amended. All extensions or prolongations of reservation should be done by the act of legislation and not by an executive decree.

Constitutional bench of Supreme Court delivered its historical judgment on November 16, 1992 in a case titled as *Indra Sawhney and others Vs Union of India*. In this landmark judgment Supreme Court held that

"Reservation is not an end in itself. It is a means to achieve equality. There will be no need for reservation or preferential treatment once equality is achieved. Every reservation founded on benign discrimination and justifiable adopted to achieve the constitutional mandate of equality, must necessary be a transient passage to that end. It is temporary in concept, limited in duration, conditional in application and specific in object"
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ALIGARH-202002, INDIA
2014
Dedicated to my Beloved Parents.
CANDIDATES'S DECLARATION

I, Javeed Ahmad Bhat, Department of Political Science, certify that the work embodied in this Ph.D thesis is my own bonafide work carried out by me under the supervision of Dr. Iftekhar Ahemmed at Aligarh Muslim University, Aligarh. The matter embodied in this Ph.D thesis has not been submitted for the award of any other degree.

I declare that I have faithfully acknowledged, given credit to and referred to the research workers wherever their works have been cited in the text and the body of the thesis. I further certify that I have not willfully lifted up some other's work, para, text, data, result, etc. reported in the journals, books, magazines, reports, dissertations, theses, etc., or available at web-sites and included them in this Ph.D. thesis and cited as my own work.

Date: 30-05-2014

Javeed Ahmad Bhat
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Certificate from the Supervisor

This is to certify that the above statement made by the candidate is correct to the best of my knowledge.

Dr. Iftekhar Ahemmed
(Associate Professor)
Department of Political Science
Aligarh Muslim University, Aligarh

(Signature of the Chairman of the Department with seal)
COURSE/COMPREHENSIVE EXAMINATION /PRE-SUBMISSION SEMINAR COMPLETION CERTIFICATE

This is to certify that Mr. Javeed Ahmad Bhat Department of Political Science has satisfactorily completed the course work/comprehensive examination and pre-submission seminar requirement which is part of his Ph.D. programme.

Date: 31.5.14

(Signature of the Chairman of the Department)
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Title of the Thesis: THE POLITICS OF RESERVATIONS: A COMPARATIVE STUDY OF GUJJARS AND PAHARIS OF JAMMU AND KASHMIR

Candidate’s Name: JAVEED AHMAD BHAT

Copyright Transfer

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Javeed Ahmad Bhat
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Javeed Ahmad Bhat
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<thead>
<tr>
<th>Abbreviation</th>
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<tr>
<td>AD</td>
<td>After Death of Christ</td>
</tr>
<tr>
<td>AFSPA</td>
<td>Armed Forces Special Power Act</td>
</tr>
<tr>
<td>AIDCF</td>
<td>All India Depressed Class Federation</td>
</tr>
<tr>
<td>ALC</td>
<td>Actual Line of Control</td>
</tr>
<tr>
<td>AS</td>
<td>Al-eh-Salam</td>
</tr>
<tr>
<td>BPL</td>
<td>Below Poverty Line</td>
</tr>
<tr>
<td>DCL</td>
<td>Depressed Class League</td>
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<tr>
<td>DSS</td>
<td>Dogra Sadar Sabha</td>
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<tr>
<td>GAD</td>
<td>General Administrative Department</td>
</tr>
<tr>
<td>GSDP</td>
<td>Gross State Domestic Product</td>
</tr>
<tr>
<td>HSC</td>
<td>High School</td>
</tr>
<tr>
<td>IAY</td>
<td>Indra Awas Yojna</td>
</tr>
<tr>
<td>ICDS</td>
<td>Integrated Child Development Scheme</td>
</tr>
<tr>
<td>J&amp;KPAB</td>
<td>Jammu and Kashmir State Pahari Advisory Board</td>
</tr>
<tr>
<td>JKLF</td>
<td>Jammu and Kashmir Liberation Front</td>
</tr>
<tr>
<td>JKTRCF</td>
<td>Jammu and Kashmir Tribal Research Cultural Foundation</td>
</tr>
<tr>
<td>LHDC</td>
<td>Ladakh Hill Development Council</td>
</tr>
<tr>
<td>LPG</td>
<td>Liquefied Petroleum Gas</td>
</tr>
<tr>
<td>MGNAREGA</td>
<td>Mahatma Gandhi National Rural Employment Guaranty Act</td>
</tr>
<tr>
<td>MUF</td>
<td>Muslim United Front</td>
</tr>
<tr>
<td>NC</td>
<td>National Conference</td>
</tr>
<tr>
<td>NCBC</td>
<td>National Commission for Backward Classes</td>
</tr>
<tr>
<td>NHPC</td>
<td>National Hydro-Electricity Power Corporation</td>
</tr>
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<td>NRHM</td>
<td>National Rural Health Mission</td>
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OBC  Other Backward Class
PDP  Peoples Democratic Party
PDS  Public Distribution System
PMGSY  Pradhan Mantri Gram Sadak Yojna
RBA  Rural Backward Area
SC  Scheduled Caste
SCBC  State Commission for Backward Classes
SCEF  Scheduled Cast Employees Federation
SSC  Senior Secondary School
ST  Scheduled Tribe
UN  United Nations
UPA  United Progressive Alliance
US  United States
USSR  United Soviet Socialist Republic
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PREFACE

One of the striking features of Indian society is its division into different groups, known as castes with varying degrees of respectability and circles of social mingling. In India the literary records of Indo-Aryan culture contain the first mentioned continuous history of factors that make up the caste system. More often this hierarchical caste system took the turns of conflicts and clashes between lower castes and higher castes. Gradually, the world evoked to the need of moving towards a more egalitarian society. Policies of preferential treatment and compensatory justice were adopted to promote social justice. One of the aims of preferential treatment is to provide counter balancing benefits to those individuals who have been left out from the purview of equality in the past.

The framers of the Indian Constitution evolved a compensatory scheme and incorporated different provisions in the Constitution itself to offset centuries old inequalities entrenched in the Indian social fabric. Since the beginning, the reservations turned out to be illusory and counterproductive, and increasingly lead to caste wars, group clashes and communal conflicts.

Reservation has always remained subservient to politics. It has been used as a political gimmick/tactic by the ruling political parties to fulfill their vote bank on the name of reservation. The Jammu and Kashmir state has its own exclusive framework for all the policies, though for reservation policy of the state, same pattern has been followed. The criteria extends from caste basis and area basis to occupation basis. Now, the ongoing demand of the Pahari speaking people for Scheduled Tribe status, if considered, would open a Pandora box. It will add language as one more criteria for reservation. Since the inception of reservation scheme in the state, different commissions and committees have been appointed to plug the problems in the reservation policy. The sole aim and objective of the reservation was to alleviate the downtrodden groups and bring them at par with advanced groups but unfortunately, it had widened the gap. Creamy layer of the reserved categories took the lions share and rest downtrodden are still leaning on the ground. It seems that Jammu and Kashmir state took reverse turn on the path of development, more and more people are demanding concessions on the name of reservation.
Since the inception, the reservation has always remained a tool in the hands of political parties for creating their vote banks which has given rise to clashes between different sections of the society. Every passing day witnesses agitations, protests and hartals, which added impediment to the development of the state, which is already going through an armed conflict for last 30 years.

Amongst the contemporary internal conflicts in Jammu and Kashmir, the political and social clashes between the Gujjars and Paharis are perhaps one of the most serious challenges to internal peace at the micro level, and an emerging impediment to handling the Kashmir issue at large. The political parties provide selective patronage to one group against the other. These political parties are using the issue as shield for every upcoming election. Even the small petty decisions are being decided keeping in view the Gujjar-Pahari issue, whether it is to construct a road, dispensary, school or providing a mandate to contesting candidates for elections or even to appoint office bearers of different political parties at local level. So far none of the governments has shown seriousness in resolving this issue but in every upcoming election they play the Gujjar-Pahari cards for winning the maximum number of seats.

This conflict transcends all regional boundaries and religious divides within Jammu and Kashmir and beyond. Historical literature traces the roots of conflict between Gujjars and Paharis to several decades ago but the differences have sharpened following the inclusion of Gujjars into Scheduled Tribe category. This situation has worsened with a similar demand being made from numerous ethnic identities and castes from Muslim, Hindu and Sikh groups which congregate under an identity of a Pahari speaking community. There is now simmering tension between the Gujjars and Paharis who nurse huge contempt for each other. Now the well organized movements are going on in the state from both the communities and every ruling party is playing politics on the issue.

To prevent further escalation, it is hightime to provide better solution which is rational, objective and unbiased to realize the goal of establishing an egalitarian society. In this context suitable criteria for determination of backwardness should be made while extending concessions to these groups. It is submitted that caste should not be exclusively at all a criterion for granting reservation benefits. But it can be taken into consideration only when the entire caste is socially and economically
backward. Such criteria will reveal a society where there is no politics of reservation policy and establishment of a real socio-economic democracy.

Presently, the reservations has become a debatable issue in the state. Keeping in view the importance of the issue, the present study is an attempt to know the extent of politics related to reservation policy, specifically on the issue of Gujjar-Pahari tussle. It is the first of its kind in the state as not even a single study has been conducted on this topic. The study is guided by the following objectives:

- To study the profile of Gujjars and Paharis of Jammu and Kashmir state.
- To trace out the genesis of reservation policy of India
- To study and evaluate the reservation policy of Jammu and Kashmir state.
- To study and analyze the issues confronted to reservation policy of Jammu and Kashmir state.
- To examine, whether the reservation has become a tool in the hands of political class.
- To examine, whether the reservation to Gujjars was a genuine demand or a political grant.
- To study the tussle between Gujjars and Paharis on the issue of reservation.
- To carry out a comparative study of Gujjars and Paharis on SES scale.
- To find out the feasibility of the proposed reservation to Paharis.

In order to achieve the above mentioned objectives, the following research questions have been framed by the researcher:

- Whether the reservation policy of the state of Jammu and Kashmir is affirmative in nature or it is discriminatory in nature.
- Whether the reservation policy of the state of Jammu and Kashmir is responsible for the unrest and the regional tension.
- Whether the reservation policy has become the tool for vote bank in the hands of political class.
- Whether the criteria or grounds for inclusion of any caste in the list of reserved category is justifiable.
- Whether the demand of Paharis for Scheduled Tribe status is a legitimate demand.
The database of present study has been collected with the help of primary sources like information/interview schedule and secondary source material available in the different government documents. The statistics have been drawn from different census reports published by Registrar General and Census Commissioner of India. A descriptive-analytical and comparative method has been adopted for the present study.

The research methodology employed in writing this thesis is no less tedious and painstaking. The study is based on the source material open for public perusal of various government documents, reports, books, surveys, journals, studies, magazines, newspapers and various acts. The amendments and the famous judgments of the Supreme Court have been consulted to make the study more informative and broad-based. Some important and recent information has also been collected from the internet.

To ensure socio-political harmony and finally to achieve the goal of an egalitarian, and socialist society, the need has come to take a fresh look on the policy of reservation. In this context the present work is an attempt to provide an in-depth insight related to the politics confronted to reservation policy of Jammu and Kashmir state. To obtain the aforesaid objectives the entire work has been divided into five chapters.

Chapter I titled “The Jammu and Kashmir State: An Overview” is an introductory chapter divided into two parts. First part is related to overview of the Jammu and Kashmir state wherein briefly the land, people and history has been discussed. The second part introduces the profile of the Gujjars and Paharis, generally, the historical background, social construction, culture and life style, settlement, economy and other important aspects have been mentioned.

In Chapter II titled “Genesis of Reservation Policy in India”, the national reservation policy has been discussed to find out the genesis of the reservation policy at the national level. Simultaneously the classification and identification of the disadvantaged groups like Scheduled Castes, Scheduled Tribes and Other Backward Classes has been studied. In the light of above, the Constituent Assembly Debates for the reservation policy have also been noted down.

Chapter III titled “Evolution of Reservation Policy of Jammu and Kashmir” reveals the evolution of reservation policy in Jammu and Kashmir state,
and important events related to reservation policy have been thoroughly studied. Furthermore, every single commission and committee appointed to sort out the loopholes of the reservation policy of Jammu and Kashmir has been critically discussed.

Chapter IV titled “Reservation Politics and Gujjar-Pahari Issue” highlights the reservation politics and the Gujjar-Pahari issue in the Jammu and Kashmir state. In this chapter, different issues related to reservation policy have also been taken up for discussion. The controversy between the Gujjars and Paharis has been minutely studied in detail along with perspectives from both the communities highlighting points of contention between them.

Chapter V titled “Comparison between Gujjars and Paharis on Socio-Economic Status Scale” exhibits the comparison of socio-economic status between the Gujjars and the Paharis on SES scale, studying different aspects related to socio-economic domain of both the communities.

At last the conclusion sums up the whole study. Suggestions have been mooted out for making the reservation policy really beneficial to deserving. Suggestions have also been put forth for measures to be taken to de-escalate the controversy between the Gujjars and Paharis in Jammu and Kashmir state.

None of the researches on any topic can be considered complete in itself, because every research work has its own limitations. It is impossible to cover every aspect of the problem in limited time with limited resources and other related limitations. Due to the these constraints, only one aspect of the politics of the reservation policy of the state of Jammu and Kashmir has been undertaken in the present study, other aspects of the politics confronted to reservation policy of the state may be investigated in future researches. I hope that the present work would make a substantial contribution in the relevant field.
Chapter 1

The Scourge of India and Kashmir.
CHAPTER 1

THE STATE OF JAMMU AND KASHMIR: AN OVERVIEW

Geographical Overview

The state of Jammu and Kashmir is located in the northern part of the Indian sub-continent in the vicinity of the Korakarm and western mountain ranges.\(^1\) The total area of Jammu and Kashmir is about 222,236 square kilometers, lying between 32.17\(^\circ\) and 36.58\(^\circ\) north altitude and east to west 73.26\(^\circ\) and 80.30\(^\circ\) longitude.\(^2\)

The state of Jammu and Kashmir is bounded by China in the north and east, Afghanistan in the north-west and Pakistan in the west. In the south, it is linked with the rest of the country. After crossing the Pir Panchal, we enter into the beautiful Valley of Kashmir which is surrounded by high mountains.

The state is divided into three distinct physical units each separated from the other by a prominent mountain range. The Valley is separated from the Jammu region by the famous Pir Panchal range. The inner Himalayan range separates the Valley of Kashmir from the Ladakh province.

Administrative Divisions

In the light of above mentioned geographical description of Jammu and Kashmir, it can be discerned that the state of Jammu and Kashmir is divided into three divisions namely Jammu, Kashmir and Ladakh, each of which is headed by Divisional Commissioner. However in case of Ladakh, which comprises of districts Leh and Kargil comes under the domain of Kashmir division for the purpose of administration.\(^3\) The state comprises of twenty-two districts, of which 10 fall in Kashmir Valley, two in Ladakh, as mentioned earlier, and 10 districts in Jammu region.\(^4\) A deputy commissioner who is also district development commissioner heads each district.

The total population of Jammu and Kashmir, according to 2011 census, is about 12,548,926, excluding the Pakistan administered Kashmir.\(^5\) However, the distribution of population of the whole state among the three regions namely Jammu, Kashmir and Ladakh is highly uneven.\(^6\) The Kashmir Valley is the most densely populated, while the region of Ladakh is the sparsely populated.
able 1.1, Population composition of Jammu and Kashmir based on Religion

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<th>Males</th>
<th>Females</th>
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<td>3005349</td>
<td>1647533</td>
<td>1357816</td>
</tr>
<tr>
<td>2</td>
<td>66.97%</td>
<td>Muslims</td>
<td>6793240</td>
<td>3525446</td>
<td>3267774</td>
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<tr>
<td>3</td>
<td>0.20%</td>
<td>Christians</td>
<td>20299</td>
<td>12933</td>
<td>7566</td>
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</tbody>
</table>

*Note: Census of India, 2011*

**Historical Background of the State**

The state of Jammu and Kashmir, which was earlier under Hindu rulers, passed into the hands of Muslim rulers in 1324 AD. The most notable Muslim rulers were Zain-ul-Abedin and Yousouf Shah Chak. However, the virtual defection of Jammu and Kashmir was lost in 1587 when the Mughal emperor Emperor Sher Shah Suri conquered Kashmir. In 1752, the Afghan ruler Ahmad Shah Abdali seized Kashmir from the Mughals. Again in 1819, the Sikh ruler of Punjab captured Jammu and Kashmir from the Afghans and ruled Kashmir till they were defeated by the British in the Anglo-Sikh war in 1845. Thereafter the Britishers sold Kashmir to Maharaja Gulab Singh of Jammu for petty amount of Seventy five Lakh Rupees under "Treaty of Amritsar" in 1846. The reign of Dogras is remembered as one of the most terrible in the entire history of Kashmir. It was in this context that Kashmiris launched a freedom struggle against the Dogras in which Sheikh Mohammad Abdullah emerged as one of the most popular leaders.

In 1947, when the entire subcontinent was divided on the communal basis between India and Pakistan, all the princely states were given an option to accede to either of the two newly born states. Jammu and Kashmir being a Muslim dominant state with the Hindu ruler made a Stand Still Agreement with both the dominions. In the meantime, the state became a subject of an armed attack from Pakistan and
Maharaja acceded to India temporarily by signing the "Instrument of Accession". Whereby, the state has been given the special status under Article 370 of the Indian Constitution against the other states of the union of India.

Economic Profile

The state of Jammu and Kashmir is full of natural resources of great economic potential but the external events and natural disasters cause volatility in its State Domestic Product (SDP).

Agriculture is the mainstay of the state’s economy, as about more than 80 percent of the population depends on it. Out of the total area of the state only 5 percent is available for crops particularly in the outer plains of Jammu and in fertile plain valleys of Kashmir.\textsuperscript{11} Besides providing food, agriculture also provides raw material for number of important industries. The agriculture allied sectors specifically contributed about 30 percent to the Gross State Domestic Product (GSDP), while as agriculture sector specifically contributed 10 percent to the Gross State Domestic Product (GSDP) during 2007-2008.\textsuperscript{12}

However, during the winter season, which is extremely cold and the out door work is very difficult, most of the craftsmen utilize their leisure as well as creative intelligence in handicrafts like papier mache, wood carving, carpet weaving and shawl making which are famous throughout the world. Handicraft industry in Kashmir provides employment to about 10 lakh people and earns substantial foreign exchanges for the country.

Another important source of economy is the tourism sector which provides livelihood to lakhs of people engaged in it directly and indirectly, thereby making a substantial contribution to the State Domestic Product (SDP). The industry has great impact on the socio-economic activity of the state.

The state is also rich in water resources which can generate hydro- electricity\textsuperscript{13} on a large scale. The other natural resources include fruit, timber, minerals and herbs which are found in abundance. In industrial sector, the state is one of the most underdeveloped states in the country and according to State Economic Review, the contribution of manufacturing sector to the State Domestic Product (SDP) does not exceed 9 percent on constant prices. This has been due to undeveloped local skill and
of adequate infrastructural facilities such as power, means of communication and material.\textsuperscript{14}

Furthermore, the uprising during the late 80's brought a great debacle to the economy which proved major hindrance to the growth of industries. Here it can be asserted that the state is one of the poorest states in the country despite a lot of potential. Its per capita income is lowest in the country. The annual average growth of per capita income is not growing at desired level and hence is not able to keep pace with the national average. This has resulted in poverty, unemployment and lack of welfare to common masses. However, there is not much difference in income distribution among the different sections of society contrary to the national scenario which resulted into emergence of middle class.

\textbf{Cultural Profile}

The state of Jammu and Kashmir is a land of many cultures, religions and ethnic groups, distinct in their looks, dresses, food habits, customs, speech and manners. There have been constant impulses of immigration from the north, west, north and east directions. The alien races, ethnic groups and various religions have blended the cultural ethos and mode of life of the people of the state. The state is a symbol of composite culture, where we see that the people of the all religions with a sense of harmony. The people of the three regions not only live differently also speak different languages, worship different gods and have different ethical moral codes. The people of the state speak Kashmiri, Dogri, Ladakhi, Urdu, Hindi, Pahari and Gojree languages. The Jammu division is mainly inhabited by the Hindus, Kashmir Valley by Muslims and the Ladakh region by the Buddhists.

The social structure of Jammu and Kashmir has undergone many changes as first described in Kalahan's \textit{Rajatarangni}.\textsuperscript{15} The ethnic composition of Jammu Kashmir state underwent a radical change with the advent of the Islam in the 14\textsuperscript{th} century AD with the coming of the Muslim saints from Persia and Central Asia.\textsuperscript{16} Most of the people embraced Islam. Brahmins first resisted but with the passage of time they too became the followers of Islam. The new social structure which emerged after the advent of Islam is as follows:
Table 1.2. Social Structure of Hindus and Muslims

<table>
<thead>
<tr>
<th>Hindu</th>
<th>Muslim</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brahmans</td>
<td>Sayed</td>
</tr>
<tr>
<td>Kshatriyas</td>
<td>Shiekh</td>
</tr>
<tr>
<td>Vaishya</td>
<td>Mughal, Phathan</td>
</tr>
<tr>
<td>Shudra</td>
<td>Taidaran</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>Adna Agwam / Nangars</td>
</tr>
</tbody>
</table>

Hassan in 1896 was the first after Kalhan to present a post-Islamic ethnic profile of the Jammu and Kashmir state.\(^{18}\) During this period due to large scale conversion, the socio-cultural profile of Kashmir underwent a drastic change. The traditional Varna order\(^{19}\) was replaced by an Islamic system of values based on equality among all people. The Brahmans got converted partially but groups below Brahmans were converted en masse and occupational nature of castes also got transformed to a newly converted society.

The newly converted Brahmans, Rajputs, Damalas and Kaysthas adopted the rank of Shiekh, lower to that of Sayaids who were immigrants and held prime position by virtue of their consanguine relation to Prophet Mohammad (SAW).\(^{20}\) Next to Sheikhs were placed Mughals and Pathans. The Shudras and Nishads joined the ranks of Taifdars\(^{21}\) (occupational groups).

Walter Lawrance placed Brahmans on the top of the hierarchy to be followed by Rajputs, Chattari, Thakur and Dogra Rajputs in Jammu whereas in Kashmir Saiyaiads held the prime position in the hierarchy followed by Sheikhs, Mughals, Pathans, Faqirs, Taifdarn/ Nangars.\(^{22}\)

Mohammad Fouq in 1934 extended the scheme of social stratification further. He placed Saduat (Saiyaiads) at the top most position followed by Sheikhs, Mughals, Afghans, Rajputs, descendents of Vaishyas, miscellaneous groups and Adna Agwam\(^{23}\) (most backward community). However, on the other side, the ethnic composition of Jammu region remained more or less the same due to the restricted scale of conversion. Some members of the Rajputs clans like Chib and Manhas got converted
the lower castes were largely influenced by Kabir’s Bhakti movement and a
demi of them identified themselves as Kabirpanthi. Sikhism too reached Jammu24
many Brahmins and Khastri groups got converted to this faith, especially in
uch and Rajouri districts. The conversion to Christianity, however, took place
ng the Churas of Jammu and Budhas of Ladakh, who now themselves call
stians.

ical History
The state of Jammu and Kashmir in its present form came into being on March
1846, when the Britishers handed over the state to Raja Gulab Singh through the
ity of Amritsar’. Before this it had three broad regions (Kashmir Valley, Jammu
Ladakh), which were governed separately under different rulers. These three
ons having distinct cultures, languages, ethnic and socio-psychological
acteristics were brought under one administrative unit for the first time under the
ity of Amritsar’.25

On account of it being a princely state, the state was ruled by Dogra princes
one hundred and one years (1846-1947).26 The Dogra rule was ruthless and
oritarian from the beginning. The Muslims were living life of sufferings and
don. Beggar-system was in practice. The anguish of the people against their ruler
be manifested around 1920. The force behind the movements’ expansion was
neo-educated people who after completing their higher education from different
es, including Aligarh, returned to the state and started mobilizing people against
 feudal regime. Prominent among them was Sheikh Mohammad Abdullah. These
an began to meet at the Muslim Reading Room Party27 at Srinagar. This communal
sciousness among the Muslims was basically created and reinforced by the
ture and policy of the Dogra state itself.

Formally, the Muslim religious leaders mobilized the general masses through
 preaching and political speeches in the congregations. Since organized political
vities were not allowed, the media of mosques and religious congregation played a
isive role in converting the movement into a mass movement without which the
al regime would never have taken any cognizance of the socio-economic and
tical grievances of the people.
Basically this movement was a fight of exploited masses against a hereditary and oppressive feudal class, but on account of a mix of religion and politics it had often acquired communal connotations. In a meeting on 21 June 1931, Sheikh Mohammad Abdullah took a public oath, with the Holy Quran in his hand, to never betray the cause of Kashmiri Muslims. A young man, Abdul Qadeer who was employee of a British army also gave a fiery speech. He was arrested and put on trial for disloyalty.

On 13 July 1931, a large number of Muslims gathered at the gate of the Central Jail in Srinagar to witness Abdul Qadeer’s trial and mark protest against this arbitrary action. Police opened fire, killing 22 protestors. All the Muslim leaders were arrested including Sheikh Mohammad Abdullah and martial law was imposed throughout the Valley. The ruthless killing, mass imprisonment and agitations against the Maharaja made 13 July 1931 a turning point in the history of Jammu and Kashmir. It is observed as ‘Martyrs Day’ throughout Kashmir and marks the beginning of the formal freedom struggle. Because of increased repression by the Maharaja and increased resistance by the Muslims, the British appointed a committee to investigate the causes behind the agitation. The commission recommended:

1. Restoration of shrines (Khanqahs) occupied by Durbar.
2. Grant of property rights of land to the tenants.
3. Fair share in government jobs to all communities.
4. Abrogation of unauthorized taxes.
5. Abolition of marriage taxes.

Following the commission’s recommendations, the Maharaja adopted a state constitution guaranteeing freedom of speech and association, and created a legislative assembly with limited powers. The legislative assembly included forty two nominated and thirty five elected members. Of the elected members, twenty one were Muslims, ten were Hindus and two were Sikhs.

With the Glancy Commission’s recommendations to form political parties and the publication of newspapers in the state, Sheikh Abdullah, Mirwaiz Mohammad Yousuf and others formed an ‘All Jammu and Kashmir Muslim Conference’ in October 1932 to reinforce the wide social base of support in the Valley. On December 1933, in Mirpur session of Muslim Conference, Shiekh Abdullah invited
1-Muslims to join the party, thus beginning the secular political movement in Kashmir. Muslims were divided into factions viz- one led by Mirwaiz Mohammad Usuf and the other led by Sheikh Mohammad Abdullah. Latter on S. M Abdullahion became the Jammu and Kashmir National Conference to adopt “secular,ocratic and progressive” approach.33

In March 29, 1936, the Muslim Conference met in Srinagar, and appealed to Maharaja to widen the scope of the constitutional provisions enacted in 1934 ch the committee had stated. It had done considerable harm to the development of representative and responsible administrative institutions in the state. The working of the committee’s national demand was to transfer the effective powers to the Assembly, ension of franchise and the abolition of the separate electorates.34

In 1939 the Maharaja of Kashmir introduced a new constitution to gain uar support and to counter the Muslim agitation, thereby increasing the number of members in the legislative assembly to forty. However, communal politics continued as Maharaja appointed two popularly elected members as his ministers, one of whom was Wazir Ganga Ram and the other Mirza Afzal Beig.35

In February 1944, the programme of National Conference named Naya smir envisaged a scheme of constitutional reform for the state. It included a bill of its and a frame of representative political institutions besides a national economic plan and a plan for cultural and educational development.

However, in March 1946, Sheikh Abdullah launched the ‘Quit Kashmir movement’. He declared that the sale of the Valley of Kashmir by British had no legal idity and, therefore, the Maharaja must quit Kashmir. In response to this, Sheikh dullah was arrested and sentenced for three years imprisonment on charges of ition.36 The familiar pattern of protests, processions, hartals and police firing, ing scores of people repeated itself, and finally martial law was declared.

To cool the frayed tempers the Maharaja ordered fresh elections for gislative Assembly in which National Conference boycotted but Muslim nference participated and won fifteen (elected) Muslim seats and become the ority Muslim party in the Assembly.37 It passed a resolution favoring merger of amu and Kashmir with Pakistan. So on the eve of the transfer of power in August 17, the Maharaja had still not found the required degree of support in the Valley,
and had still not decided about the merger with India, Pakistan or independence. Finally Sheikh Abdullah won the favor of the Maharaja because he believed that Muslim Conference leaders would drag whole of Jammu and Kashmir into the Pakistani Camp. Sheikh Abdullah was seen as a leader who was interested in creating an independent Kashmir with affiliations with India. At this juncture the tribal invasion\textsuperscript{38} from Pakistan hastened the release of Sheikh Abdullah from detention and the accession of Jammu and Kashmir to India.

When the Maharaja failed to decide after August 1947 whether to join India or Pakistan, he merely postponed the day of reckoning because he wanted to remain independent but was not sure whether the people would allow him to continue as their ruler. As late as 10 October, when the first full-fledged infiltration into Kashmir had begun,\textsuperscript{39} Sheikh Abdullah signed a ‘Stand Still Agreement’ with India and sought urgent assistance from India. India agreed to assist provided it had some legal sanction to do so, in other words, only after Jammu and Kashmir acceded to India. This move forced the Maharaja and Sheikh Abdullah to sign Instrument of Accession with India to throw out the raiders from the Valley of Kashmir.\textsuperscript{40}

After a series of negotiations, a cease fire was finally effected on January 1949 in accordance with a UN resolution. The salient features of the resolution were:\textsuperscript{41}

- Part I – Cease fire order ‘Agreement on Cease fire’.
- Part II – Truce agreement, withdrawal of Pakistan troops/tribals from entire Jammu and Kashmir state.
- Part III – The governments of India and Pakistan reaffirmed their wish that the future of the state shall be determined in accordance to the will of the people.

Sheikh Mohammad Abdullah bitterly opposed the Prime Minister and, the Maharaja himself did the same on account of tussle over land and social reform programs for the upliftment of the people.

Eventually Prime Minister M.C. Mahajan quit in March 1948, and Maharaja Hari Singh himself had to leave in June 1949 due to the pressure from Sheikh Abdullah. The Maharaja handed over power to his son Karan Singh, who was adopted as constitutional head and elected Sadr-i-Riyasat for a five year term by the Constituent Assembly.\textsuperscript{42}
In October 1951, when the Jammu and Kashmir Constituent Assembly was convened, the National Conference won all the seventy five seats. Twenty five seats were reserved for Pakistan administered Kashmir, which of course remain unfilled. In July 1952, Delhi Agreement was signed which was supposed to clear certain institutional uncertainties, as:

Commitment to Article 370, which provides special status to state of Jammu and Kashmir.
The president would be the head of the whole of India including Kashmir.
Kashmir would be allowed to have its own constitutional flag.

In 1953, the genuine autonomy was denied and Sheikh Abdullah was, therefore, removed and arrested, and Bakshi Ghulam Mohammad was made the Prime Minister. This arbitrary action led to widespread protests which shook the state. In January 1954 the Constituent Assembly headed by Bakshi Ghulam Mohammad was ruptured and in 1957 the Constitution of Jammu and Kashmir became formally rative with a bicameral legislature. With this, the Supreme Court and Comptroller Auditor General of India were given jurisdiction in the state. Resentment had been against Bakshi and Mirza Afzal Beig formed a ‘Plebiscite Front’.

To add further flux to the tender situation Sheikh Abdullah and his well wishers were now once again gaining his favor in Delhi and he was released from detention in January 1958, but soon after his release, he made several provocative statements which openly advocated plebiscite:

“One of the most important objects underlying the entire political movements in the state has remained to secure the right of self determination for the people of the state”.

Several such statements and other actions landed Sheikh Abdullah back into trouble and Mirza Afzal Beg was also arrested on charges of conspiracy and collusion with Pakistan. In the 1962 elections, National Conference secured seventy seats. Immediately after the elections Bakshi Ghulam Mohammad announced major changes in the Constitution of Jammu and Kashmir. Hereafter, the Sadr-i-Riyasat was be called ‘Governor’ and the Prime Minister of Kashmir was henceforth to be ed ‘Chief Minister’. Direct elections to the Lok Sabha from the Jammu and Kashmir were also-proposed.
However, on 4th October 1963 Bakshi Ghulam Mohammad was dismissed under the Kamraj Plan and Khawja Shamsuddin was made Chief Minister. The situation in the Valley had started deteriorating fast and matters came to a head on 26 December 1963, when the sacred relic (Moe Muqaddas) of the Hazrathbal Shrine was stolen.

As an outcome of all this turmoil, the first extremist group in 1964, the Jammu and Kashmir liberation front (JKLF), was formed to fight for an independent state. The turmoil continued for a long time. Finally a series of meeting between the central governmental and Sheikh Abdullah worked out a compromise formula. At one level Sheikh Abdullah insisted publicly that a compromise could be reached if pre-1953 status of Jammu and Kashmir was restored. Eventually what subsequently came to be known as the Kashmir Accord between Sheikh Abdullah and Mrs. Indra Gandhi, former Prime Minister of India that promised greater autonomy to the state of Jammu and Kashmir.

National Conference Party won overwhelmingly 1977 Assembly elections, which were considered to be free and fair to some extent. After Sheikh Abdullah’s death in 1982, his son, Dr. Farooq Abdullah took over as Chief Minister. The politics of replacing and reinstalling chief ministers in Jammu and Kashmir which had started from 1953 was repeating itself, of course, with the same disastrous results. The ruling Congress Party removed Farooq Abdullah in 1984 and then his successor G.M. Shah in March 1986, which led to a grave tension and new phase of violence began in the Valley.

To control the situation for the first time the central government imposed governor’s rule. Governor, Jagmohan Malhotra took charge of the state administration until fresh elections could be held. In 1986, Prime Minister Rajiv Gandhi and Farooq Abdullah signed a new political agreement, establishing an electoral alliance. This only added to a sense of betrayal among Kashmiris, who were shocked at Farooq Abdullah’s compromise with the very Congress Party that had pushed him out of power two years earlier. There were also allegations of widespread corruption and incompetence during his previous rule. As a result of this, there seemed to be increasing support for a new party, the Muslim United Front (MUF), amalgam of several Muslim parties including Jamaat-e-Islami. The people largely supported this amalgam in the 1987 Assembly elections. This was the turning point in the history of
Jammu and Kashmir. There were mass arrests of MUF candidates and party workers, widespread protests over these rigged elections. This struck a serious blow to the bureaucratic process, economy stagnated, unemployment grew and administration remained corrupt and unresponsive.

As against this, people become determined to fight for their rights and some of them resorted to violence. Jammu and Kashmir Liberation Front (JKLF) headed the agitation, causing damage to government buildings and public transport. JKLF members kidnapped the daughter of former Home Minister Mufti Mohd Sayid, which widely criticized. The law and order situation was out of control and in 1989 people boycotted the Lok Sabha elections.

On 19 January 1990, because of the rapidly deteriorating security situation, Mohan, who was seen as party to New Delhi’s dismissal of an earlier government, once again appointed Governor. Even Chief Minister Farooq Abdullah resigned in protest and Governor’s rules was imposed, putting New Delhi in direct confrontation with Jammu and Kashmir people. There were daily protests and demonstrations in every street, calling for independence. Armed groups (militants) too were attacking security forces. The situation becomes so tense that the Hindu families were forced to grate from the Valley to Jammu, Delhi and other parts of India. Jagmohan lhotra was called back and Grish Chander Saxena, a security advisor to Prime Minister was appointed Governor. Since the 90s, the struggle intensified against the Indian betrayal, constitutional despotism, negation of socio-cultural identity, economic deprivation and repression. Indian security agencies responded with unprecedented brutality, counter insurgency laws such as the Armed Forces Special Powers Act (AFSPA) and Jammu and Kashmir Disturbed Areas Act were adopted. Security agencies were given draconian powers of detention and interrogation. This mately led to brutal killings, torture, disappearances, custodial killing, rape and extortion, and arbitrary detentions. Latter on even peaceful demonstrations were dispersed by indiscriminate firing by the security forces; particularly in January 90 in Srinagar, in October 1990 at Lachowk, Srinagar and in 1993 in Bijbehara.

Meanwhile, after a series of collapsed coalition governments in New Delhi, P.V. Narasimha Rao government put some efforts to talk with the separatists but failures against people continued. In mid-1992, ‘catch and kill policy’ was adopted for operations called ‘Operation Tiger’ and ‘Operation Shiva’ were reported by
Human Rights watch in 1993. India offered to negotiate, but often claimed that there were no Kashmiri representatives with whom they could hold talks. In response, the All Parties Hurriyat Conference (APHC), an umbrella organization of over twenty groups, was founded to act as the political voice of the movement.

The armed conflict in Kashmir was backed by Pakistan. The armed groups operatives, were Harkatul-Mujahedin, Al Badr, Jaish-e-Mohammad and Lashker Taiba which claimed responsibilities over for any attacks. India responded to the influx of foreign fighters by introducing Rastriya Rifles, an elite unit of counterinsurgency operations in 1993. In 1999, Pakistan infiltrated into Indian territory in Kargil sector India responded with effective force. The U.S. administration of Bill Clinton, fearing an all-out war between the two nuclear armed neighbors, stepped-in and pressurised Pakistan to withdraw the intruders.61 After the attack on Indian Parliament in December 2001, India deployed more troops on the border, as did Pakistan; both countries began to threaten nuclear war. However, international community stepped in to pull both sides back. After the pressure from United States to Pakistan to demonstrate its commitment to the war on terror, militant infiltration decreased noticeably.

In 2002 elections in Jammu and Kashmir coalition government led by Mufti Mohammad Sayeed of the Peoples Democratic Party (PDP) replaced the Farooq Abdullah government.62 The main focus was put on human rights violations issues. So in March 2003, it initiated investigations by setting up a cabinet committee to examine charges of tampering with evidence in the earlier cases. A common man felt enough relief from the war of terror and government initiated the peace process by announcing road links, trade relations and people to people contact. In November 2005, coalition partner Ghulam Nabi Azad of the Congress Party took Chief Ministership from Mufti Mohammad Sayed and he too called for an end to human rights violations and custodial killings.

The UPA government led by Dr Manmohan Singh has held several meetings with their Pakistani counterparts and initiated dialogue process and reiterated their commitment to the peace process. In the recent years, the protests have been marked by the people against the government for wrong policies like Amarnath land row of 2008 agitation and Shopian rape and murder case in 2009 and in 2010 uprising against human rights violations. The Jammu and Kashmir state remains heavily militarized.
According to the International Centre for Peace Initiatives, there are about five
dred thousand army and paramilitary personal deployed in Jammu and Kashmir
some seventy nine thousand police personals.63

Recently the Government of India appointed working group committees and
interlocutors to hear the voice of common men and suggest the possible ways for
development of the state. The mainstream too reiterated demilitarization, AFSPA
ocation, restoration of autonomy and separatists are firm on their demand for
dom.

for Ethnic Groups

An ethnic group is an inclusive group which shares among its members
mon identity, marriage patterns and political power. According to Winthrop
lan, ethnic group is a group of people possessing a common ancestry and cultural
ions with a feeling of belonging and cohesiveness, living as a minority in a large
ety.64

As mentioned earlier there are a number of distinct ethnic groups in the
mu and Kashmir state which were to a great extent influenced by the immigrants
in the Turkamenia, Tazakistan, Uzbekistan, Kazakhstan, Georgia, Azberbajian
mer USSR), Turkey, Iran, Iraq and Afghanistan.65 Although various ethnic groups
the Jammu and Kashmir state intermingled, but they have their areas of high
centration. For example, Kashmiris are mainly concentrated in the Valley bottom,
s occupy the Valley of Gurez, Hanjis are confined to the water bodies of
mir, Gujjars and Bakerwals live in the hilly areas and Dogras occupy the
skirts of Punjab plains while Chibalis and Pahari speaking people live along the
um river. Moreover, there are numerous small ethnic groups like Rhotas, Gaddis
Sikhs, who live in isolated areas of the state.

shmiris

Kashmiris are mostly inhabited in the Valley of Kashmir, and also in
shthwar, Doda, and Ramban districts of the Jammu division. Kashmiri is a wide
which has loosely been applied for several stream of immigrants, mainly from
key, Iran, Central Asia, and Afghanistan who settled in the Valley.66 There is a
se impact of the Indo-Aryan on the racial composition of Kashmiris. Moreover, the
influence of Dardas, Ladakhis and Punjabis has also moulded the ethos of Kashmiri culture.

Most of the Kahmiris live in villages and are dependent on agriculture. Paddy, orchards and saffron are the main crops grown by them while the urban Kashmiris are engaged in business, tourism, hotel management, carpet making, silk industry, shawl making, paper machie and several other handicrafts. Kashmiris have enriched the composite culture of state through their innovative art. Mostly Kashmiri language is spoken throughout the Valley.

**Dards**

The major concentration of Dards lies in Dardistan (Derdesa), the area to the north of Kashmir Valley especially in the catchment area of Kishnganga, north of Sardi, Gurez and Tilel. In the opinion of Jean Ann Leithner, Dards belong to Aryan stock. This opinon is also supported by Ray who is of the opinion that the Dardic Aryans parted from the main Aryans just after their entrance into India. These Dardic Aryans then colonized the Pamir region from where they spread to Chetral and Gilgit. In the social hierarchy they are divisible into Renue (ruling class) Shins (religious sect) Yaskun (cultivators) and Dum (menial class). Dards are dependent on agriculture, pastoralism, cottage and trade.

**Ladakhis**

Ladakhis have been named as the people of snow, living in an arid plateau, surrounded by mountains. The people of Ladakh are the result of blending together of Dards and Mongolians. The people of Ladakh comprise of Buddhists, Muslims and Christians. Buddhism does not recognize any caste or social distinction but some differentiation is made on the basis of social and occupation considerations. The Buddhists may be classified among three principal categories, namely Rigzing, Mongariks who constitute the middle class consisting of Lamas, Unpos, Nungru, Lorjo and Thaksas. The lowest class which is known as Rignu includes Beda, Mou, Garsa, Shinkhan and Lankhun etc. The population of Ladakh has not increased as compared to other two regions that is Kashmir and Jammu due to the harsh climatic and economic conditions which have been constantly operating against the development of population and its increase in number. The cultivation of crop is hampered by severe cold and non-availability of water for irrigation.
Dogras

Dogras are a distinctive ethnic group of Jammu division. The major concentration of Dogras, however, occurs between the two holy lakes that is Sarinsar I Mansur. In the opinion of some social anthropologists 'Dogra' word is derived from Rajasthani word 'Durgora', which probably is a tribal designation like 'Gurjara' - gion of the modern Gujjar.²²

However, the word Dogra may be traced out from the Aryan race and they speak the Dogri language. Most of the Dogras have adopted the Brahmi way of life. A large section of the Dogras embraced Islam during 16th and 17th centuries.³³ At the time of partition of the sub-continent in 1947, most of the Muslim Dogras migrated to Pakistan. Dogras are well known as martial community. Dogras have also enriched the Pahari school of miniature-paintings which are famous throughout the world.

Hanjis

Hanjis constitute a significant ethnic group in the Valley of Kashmir. As Hanjis are the dwellers of water, they are mainly confined to the Dal, Wular, Anchar lakes and the Jhelum river especially between Khanabal (Ananthnag district) and Sattabal (Srinagar district). Most of the scholars are of the opinion that 'Hanjis' long to one of the ancient racial groups who were essentially Nishads (boatman). Some of the Hanjis claim themselves as the descendants of Prophet Noah (AS).⁴⁴ On the basis of occupation and social status, Hanjis are categorised into different types. The type of boat which a Hanji owns and uses for earning his livelihood or the product he deals with, to a great extent denotes his class and social status. Hanjis as a particular ethnic group are considered as one of the most backward community in Jammu and Kashmir. The living conditions of the general types of Hanjis, Gad-Hanz shermen) and Dem-Hanz (vegetable grannies) are poor and unhygienic, while those who are house-boat owners have better income and social status.⁵⁵

Gujjars and Bakerwals

Gujjars and Bakerwals constitute a significant proportion of the population of the state. In general, they have nomadic character and largely depend on flocks and cattle rearing for their livelihood. There are several theories about their origin. Having their place of origin as Georgia and moving towards the subcontinent of India, they settled several settlements after their name, for example Gurjar (Central Asia), Gujrs
(Gurjara), Gujrabad, Gujru, Gujristan, Gujiabas, Gujdar, Kotta, Gujargar, Guj rakhan, Gujranwala in Iran, Afghanistan, Turkamenia, Pakistan and India.\textsuperscript{76}

Cumingham (1970) is however, of the opinion that the Gujjars are the descendent of Kushan and Yachi tribes which are considered to be the tribes of Eastern Tartars\textsuperscript{77} (USSR). The diffusion and spread of Gujjars in the state of Jammu and Kashmir is not known with certainty. When the Gujjars are asked about their origin they simply say that their forefathers had migrated from Gujrat and Rajputana (Rajasthan). The Gujjari language is now recognized to be a form of Rajasthani language, which supports the hypothesis that Gujjars have migrated from Rajputana\textsuperscript{78} (Rajasthan). The major concentration of Gujjars lies in Jammu, Rajouri, Udampur, Poonch, Uri, Gandarbal, Ananthnag, Daksum, Narang and the hilly areas of the Jammu and Kashmir division.\textsuperscript{79}

The Bakerwals do not have a permanent settlement and are regularly moving from one place to another especially the southern slopes of the Siwaliks and the Margis (Alpine Pastures) of Central Himalaya. Though, most of the Bakerwals are cattle rearers but some sections among them have started farming also. In the state of Jammu and Kashmir, the Gujjars are classified on the basis of their occupation and settlements into (i) Cultivators, who have sedentised themselves in the side valleys and (ii) the Gujjars who practice transhumance. The second category is further subdivided into Dodhi Gujjars (milkmen) and Bakerwal Gujjars\textsuperscript{80} (sheep and goat rearers).

The Gujjars and Bakerwals live in houses which are known as Kothas and Bandis, made of mud and devoid of ventilation. The Gujjars and Bakerwals are generally followers of Islam, except a few who live in Bimber, Mirpur and Rajouri.\textsuperscript{81} The Gujjars are known for their hard work and gentle nature. They have simple food habits: maize, milk and milk products are the main ingredients of their diet. The Gujjars and Bakerwals have no written language and no written history beyond word-of-mouth tales and traditions. They have no art beyond traditional tribal songs and the simple tribal patterns. The assets and resources vital to them are pasture lands, migration routes and water resources. The resources and assets are owned commonly by the tribe and maintained collectively. They have a subsistence economy and try to produce everything they need in their daily life.
Profile of Gujjars and Paharis of Jammu and Kashmir

Profile of Gujjars

India is home to the largest concentration of tribal population in the world. According to the recorded history of human transhumance and settlement, the Aryans of Central Asia had domesticated the horse and this provided an unlimited mobility to the Aryans. When they observed the vast potential of the Himalayan pastures, they grazed and initially settled here. Later, they spread to the plains and the entire northern India came under influence of the Aryans. The history of settlement of various tribes and cultural groups in the state of Jammu and Kashmir is a record of instant impulses of immigration from north-west, west, east and south.

The state of Jammu and Kashmir is inhabited by different communities, some settled, quite a few are nomadic. In the latter category, the most prominent are the Gujjars and Bakkerwals. The former form part of a large conglomerate of small communities inhabiting many adjoining parts of the sub-continent and are variously known as Gijar, Girijars and Gujjars. These are mainly concentrated in the lo-Gangetic plains, the Himalayan region, and the eastern parts of Afghanistan, though the Gujjar diaspora is found in other places as well.

Origin and History

The origin of the Gujjars is still a matter of debate. The problem requires gathering of information from diverse sources, etymological, historical, ethnological, ecological, folklores, traditions, customs, place names and ethnicity etc. The main question concerned is about their ethnicity and origin: whether they are from a foreign stock or an indigenous one. The word “Gurjara” has been interpreted according to conceptions of various scholars, which differs from each other and lead towards ambiguity. Some scholars are of the opinion that “Gurjara,” is the name of a tribe which migrated to India with the “Huns”. This complicated question still remains unsolved. Nevertheless some facts were produced by different scholars by producing evidence from the ancient history that Gujjars are not migrants, but one of the oldest tribes of this country. The ancient history of this tribe reveals the fascinating record of their past, glorious and heroic deeds. In 19th century, elementary analysis of this tribe was made by foreign scholars who gave preliminary information but it was not satisfactory because scholars of the present age
contradict the outdated theories of the ancient historical record. However, there are two schools of thought advancing their arguments and counter-arguments which are given below. As per Bombay Gazetteer vol. 1-

"The word 'Gurjara' is an Indian form of 'Khazars' a tribe that entered India along with white huns." 84

A.M.T. Jackson identifies the Gurjaras with Gaudas. This fact appears in the Journal of Royal Asiatic Society, 1905, at page nos. 163-164. He describes that:

"The Gour Brahmans were indeed the Parohits of Hindu Gujjars and still minister to some who are converts to Islam." 85

He identifies Gujjars with Khazars, as available in the Bombay Gazetteer, vol. I, which is endorsed by Dr. Bhandarkar. Moreover, Mr. Compel identified the Gujjars with Khazar tribe of Central Asia, which is illustrated in the Bombay Gazetteer, vol. IV.

The views of Dr. Rudolf Hoernle were published in the Journal of the Royal Asiatic Society, 1905 and he said that the Tomars were a clan of the Gurjaras, and indeed their imperial or ruling clan. Dr. Bhandarkar, a well known historian, who suggests in the Journal of the Bombay Branch of the Royal Asiatic Society, vol. XXI, that:

"The exact ethnic relation of the Gujaras to the Huns is still very obscure but as working hypothesis, Dr. Hoernle thinks that in the earlier part of the 6th century A.D., a great invasion of Central Asian people, Huns, Gurjaras and others, whose exact ethnic relation we do not know, took place." 86

Vincent A. Smith writes in his book, *Early History of India* that:

"The early Gujjars who live in parts of north and west of the country seem to have been foreign immigrants closely connected with and probably allied to the White Huns." 87

Further, he writes:

"The Gujjars are believed to have entered India either along with or soon after the White Huns and have settled in large numbers in Rajputana. But there is nothing to show what part of Asia they came from or to what race they belonged."
It is apparent from the Glossary of the Tribes and Castes of the Punjab and the W.F.P. that according to the popular convictions the foundation of the town Gujrat, w in Pakistan, could be assigned to Raja Bachan Pal, a Surajbansi Rajput, who ne from Gangetic Doab. In the *Waktat-i-Jahangiri*, the Mughal Emperor records t when Akbar, the Great was proceeding to Kashmir, he built a fort on the other e of the river and made the Gujjars to settle there who has been hitherto leading a : of loot and plunder. This place was consequently named Gujrat and formed a 
arate Pargana. 88

The historians opine that in the 9th and 10th centuries A.D. the greater part of jasthan was called by the name of Gurjara Desa. 89 Historically, it is not clear that en they came and how they reached to the territory of state of Jammu and Kashmir, t there seems to be two points of view in this regard that they are immigrant people m central Asia and that, they are ancient indigenous inhabitants of India.

Brain, 90 emphasizing the first view point, places their homeland in central ia, and says that they gradually drifted, in course of time, into the Indian sub-tinent. The process was a prolonged one and took centuries to complete. In this stext, it has been pointed out that the word “Gijar” is a mutilated form of the central ian “Khizers”, people who came to India from Central Asia, along with the ‘white ns’.

According to Badarkar, 91 Gujjars came to India as a separate group with the un” Carvanas in the 6th century AD. According to Kennedy, the Gujjars, who are w predominantly settled in Jammu and Kashmir, were Sun worshippers. This may pply that their original home land was somewhere in Russia where the cult of sun wship was prevalent.

The Hun connection of the Gujjars is again imphasised by Bhoker, who while scribing the Gujjars of Rajputana says, that they are part of the “Huns” who settled Rajputana. Dr. Bogchi also opines that “Lue seen” is a part of the Aryan Tribe, the rd having been ancietly derived from the word ‘Dosuen’ which in 4th century AD s ‘Guseer’ from which the word Gujjar is derived.

According to Campbell, 92 the identification of Gujjars with the Khazer tribes central Asia is obvious from the early history of the Gujjars. He points out their ival during the last quarter of 6th century AD. According to him the Gujjars seem to
be a part of the great horde of which the ‘Juan-Jwan’ or Avans and ‘Ephthalites yatas’, a white, Hyun, were leading element.

The Gujjars of India were distinguished in the past as vagrant, predatory, marauders, and must have assimilated various foreign elements. W. Crook\textsuperscript{93} writes, “Gujjars have always been noted for their turbulence and habit of cattle breeding”. Sir Campbell is also of the opinion that the Sisodia are Gohlet Rajputs, the most illustrious of the Rajput clan, are of Gujjar stock as well as the Parihars and Chohans etc. K.M. Munshi\textsuperscript{94}, who has studied the history of the tribe, is of the opinion that the “Gujjars of the Jammu and Kashmir are outsiders”.

In contrast to the views expressed above, quite a few scholars maintain that the Gujjars are purely of Indian origin.\textsuperscript{95} In the middle of the 5\textsuperscript{th} century AD, there was a Gujjar Kingdom in south-western Rajasthan from where they were driven by the ‘Balas’ in to Gujrat and about the end of the 9\textsuperscript{th} century Allah Khan a Gujjar king of Jammu ceded the present ‘Gujjardesh’, corresponding very nearly to the Gujrat district (Pakistan), to the king of Kashmir.

However, there are facts on which historians do not agree. In any case the Gujjars appear to have flourished during the medieval period in every part of northwestern India, from Indus to Ganga and from Hazara to the Peninsular of Gujrat. Many Gujjar dynasties existed in this region, more important among them being Jagadari-Burya, and even today the Gujjars are quite numerous in these parts.\textsuperscript{96} The Gujjars of Jammu and Kashmir belive that they have come from Rajisthan and adjoing areas of Gujrat and Kathiawar.

The Mughal historian, Abul Fazal, mentions the presence of Gujjars along the route across Sialkote. Contemporary historical record also mentions many complaints made by the inhabitants of Bimber and Sialkote against the Gujjars.\textsuperscript{97} An old history of Poonch by Fouq reveals certain interesting facts. For instance mention is made of the fact that in the 17\textsuperscript{th} century AD, the Gujjars of Poonch areas were holding high ranks in the services.

The most prevalent theory is that, before entering the Indian subcontinent, Gujjars were the inhabitants of Gurjistan, a territory situated between the Black sea and the Caspian Sea and Caucasus mountain range in the north.\textsuperscript{98} Under certain pull and push factors, i.e. demographic, social, economic and political, a section of these
people migrated from their habitat towards east, through Iran, Afghanistan, Central Asia and crossed over the Suleiman passes to enter the plains of Indus Valley. From here in the course of their southward march they occupied the areas of peninsula of Gujarat and Kathiawar. The groups having originated from Gurjistan (Georgia) and moving towards the sub-continent of India, have left a long trail of evidence in the form of the names of locality and settlements once occupied by them. These localities spread from Gurjistan to the Indian sub-continent through Central Asia i.e. Kutch, Gujrat, Juzar or Jurz, Gujar, Guzru, Gurjistan, Gujarabad, Gujar Khas, usak Gujar, Gujarat, Kathiawar, Gujjar Khan, Gujranwala, Gujarat (Pakistan), Jarghar, Gwalior, Gujarat (Saharanpur).

The Gujjars of Jammu and Kashmir have no authentic historical record of their gradation. It is difficult to ascertain with exactness the essential features of their gradation to the hills of Jammu and Kashmir. The assumption is that the main reasons for their migration were persistent drought, insufficient grazing facilities in their original lands, increase in their population, political or religious persecution in the plains of Punjab by invaders from the west. To quote R.P. Khatana, "they entered by one route or another to seek refuge, in these hills. At times of invasions and persecutions, the flow of refugees from the Punjab plains into the Kashmir hills ceased. It can be assumed that the members of a clan or caste fled in scattered parties and established themselves in one place or the other. Later on over the years or centuries the word spread in favor of a particular locality which was considered congenial place for them."\(^{101}\) They congregated in those localities where there were favorable opportunities. The Gujjar historians claim that though the early history is ent about their settlement in Jammu and Kashmir but even here they did enjoy a prominent official position especially in Poonch during 17th century. They lived at the shore- Kot, now known as Loren in the Havili tehsil of Poonch district. They assisted ministers to assist the rulers of the area. One of the Gujjar leaders, Ruhallah Khan rose to be the representative of Raja of Poonch until the son of Raja succeeded him. The dynasty started by Ruhallah khan was known as the Sango line of Gujjars.\(^{102}\)

As regards the advent of Gujjars into Jammu and Kashmir, the Census Report 1941 shows: "The migration of a part of the tribe to the territories that now known Jammu and Kashmir state is attributed to the outbreak of a serious famine in the regions inhabited by the tribe, now known as Rajputana, Gujerat and Kathiawar. The
exact period has not been fixed but it is known as the Satahsiya famine. It is stated that some parts of the migrating tribes moved to the Punjab whilst others moved further north to the areas now known as Kaghan, Swat, Hazara, Kashmir and Gilgit. The Gujjars now living in the state are parts of two separate migrations, one direct from the Gurjara tribes of Rajputana, Gujrat and Kathiawar, the other and later migration from the Gujjar tribes settled in the Punjab.103

The Gujjar families now living in Rajouri, Reasi, Jammu, Poonch, Udhampur and Kathua regions claim their ancestry from the Gujarat district of Punjab (Pakistan) having migrated to these hills after the outbreak of a serious famine. They settled along the Mughal imperial road leading to Srinagar via Rajouri and Pirpanjal pass. The Gujjars of Kashmir Valley claim that their ancestors had entered the territories of Kashmir in 1539-42 A.D. Others claim that their ancestors entered Kashmir in about 1127-1154 A.D. when Bajay Singh was the ruler of the area beyond the Pir Panjal.104 The Gujjar dynasty of Poonch came to an end about 1824 when the state was conquered by Maharaja Ranjit Singh.105 With the conquest of Poonch state by Ranjit Singh, the Gujjars lost their sway in the region and were reduced to a subservient position. The loss of political supremacy also gradually disrupted the cohesion of the Gujjars society, which split into small groups who settled in different areas of the state, mostly along the Mughal route and the slopes of the Pir Panjal Mountain where pastures for animals were available.106

Habitat, Distribution and Demography

Gujjars claim that they form the third largest majority in terms of their ethnic identity after the Kashmiri Muslims and Dogras of Jammu and Kashmir. The Census of Government of India, 1931, recoded the population of Gujjars as 402281107. Spread in various parts of the state, they are estimated to form around 8 to 10 percent of the population of the state. There are areas where they are concentrated in larger percentage. The main areas of Gujjar concentration lie in Rajouri, Poonch, Kangan, Kupwara, Uri, Shopian, Daksum and the kandi areas of Jammu and Kashmir. According to Zutshi, the population of Gujjars in the district of Poonch is 35 percent of the total population, 33 percent in Rajouri, 18 percent in Doda, 13 percent in Udhampur, 12 percent in Kupwara, 6 percent in Baramullah and Anathnag each. Gujjars are mostly concentrated in the upper reaches of Pir Panchal range (53%), Chinab Valley (35%) and lesser Himalyas (15%). It is only till the Census of 1941,
at the figures of Gujjar population are available as the census of that time counted 3jri speaking people of the state. The Census of 1941 recorded the number of this inguistic group as 381457. However this figure is contested by the Gujjar storians and geographers. As per the 1961 and 1971 censuses, the number of Gojre eaking population was 105000 and 330456. In the same manner, the number of ajjar and allied tribe in 1981 could be taken to be 469000.

As far as the present distribution of Gujjar is concerned, they are settled all over the state, except the Laddakh region, where a few Bakkarwals go during the nner in search of pasture in the Kargil district. Gujjars usually have been on the wer slopes and valleys of the Pir Panjal and the Shivalik, where suitable ecological nditions exist for their nomadic pastoral economy, especially during winters.

In the Jammu Division the Gujjars have occupied the areas in the state which re suitable for their animals. The areas down to the contour level of 1220 metres in u south on the outer hills do not receive snowfall in winter. This area includes the illeys and slopes of Poonch, Mendhar, Surankot, Darhal, Rajouri, Nowshera, Sunder ini, Udhpur, Jammu and Kathua districts. The areas from 1220 to 2440 metres ontour level on the southern side of the Pir Panjal mainly the middle mountain ages and valleys in Rattan Pirshah, Gool Gulab Garh, Arnas, Bhadarwah, udhatar, Dudu Basant Garh, Doda Sarthal which receive snowfall for less than ree months, are also inhabited by the Gujjars. In Kishtwar and Doda districts their itations are near the summer pasturing grounds. In Kashmir valley the areas above .35 to 2440 metres contour level are inhabited by the Gujjars. These are the side illeys and slopes of Lidder, Sind, Lolab and their tributaries. The mountain slopes d valleys surrounding the Valley of Kashmir are studded by the Gujjar settlements. ese areas are Uri, Baramulla, Kupwara, Ganderbal, Kangan, Pahalgam, Anantnag, aksum and Kulgam administrative divisions. The higher reaches of Pir Panjal and eater Himalayas are the summer pastures of these people, which are known as hoks (pastures). Their villages consist of Kothas (mud houses) which are chitecturally quite different from the Kashmiri houses. These Kothas are scattered on the slopes, surrounded by maize fields and an enclosure for animals.

In the Jammu district, before partition, the Gojri population was accounted for 7 percent of the total district population. The important areas of Gujjar and akkarwal population concentration in Jammu district are Jandrah, Jahri, Grot
Golad, Charwal, Samoo, Kathi and Kandi, Bindi, and upper Sambha Hill. Dodhi Gujjars are settled in tehsil Ranbir Singhpora, Miransahib, Kotli and in a number of villages of outer plains and in proper Jammu at Gujjar Nagar and outskirts of Jammu town.  

In Kuthua district the boundaries touch with Himachal Pradesh and Punjab, which are said to be the migration roots of Gujjars. In these districts the Kandi area is occupied by the Bakerwals during winters when they return from high altitudes pastures. The outer plains of this district are occupied by the Dodhi Gujjars.

The Gujjar population on the whole is not numerically very important in Udhampur district accounting for only 10 percent of the total district population, but the upper reaches, especially in Mahore tehsil, the Gojri speaking population constitute a majority. Certain villages of the Reasi tehsil specially Poni, Parakh, Arnas villages are usually occupied by the Bakkerwals during winter season. In the foothills of Ramnagar, Chenani and Katra Bakkerwal population is supplemented especially during winters by large numbers of Dodhi Gujjars and Bakkerwals.

The Gujjars are also highly concentrated in Rajouri and Poonch districts where about 20 percent of the total Gujjar population of the state are residing. Gujjar population is also settled in most of the parallel valleys which are formed by the offshoots of the Pir Panchal range. The most famous of the valleys, locally known as “Nalas” are Darhal, Thana Mandi, Peer, Panahad, Ramgarh and Kotranaka etc. Here the Bakerwals come during the winter season and construct thatched huts for their stay. Some of them have also permanent shelters there. The Kishtwar and Bhadarwah tehsils of the Doda district are mainly the home of Dodhi Gujjars whose main settlements are found at Najwa, Odelbajran, Kasdan, Saradi, Chinta, Jahi, Sunbain, Sartingal, and Bhonesia etc.

Gujjars are also well distributed in the Kashmir region. They are to be found especially during summers on all hills and mountains surrounding the main Valley of Kashmir. Gujjars are found considerably in a large proportion in the districts of Baramula, Kupwara, Anantnag, Budgam and partially in Srinagar and Pulwama district. In Srinagar Sindh Nallah and Laar valley are well known for Gujjar settlement. There is a heavy concentration of dodhi Gujjars and Bakerwals in Kangan sub-division. During summers higher slopes are mostly occupied by Bakerwals who annually migrate to this region from Jammu across the Pir Panjal.
There are some high altitude Gujjar settlements at Phiryanwar, Taripora, shiabala, Manpara, Chhan, Panjanoor, Balapora etc. Seasonal Gujjar settlements are observed in Uri, Handwara, Karma, Bandipora tehsils of Baramulla district. The in settlements are Sukhdar, Gulta, Urikhas, Gharqut and Punjayan, Jondi, jjarmarg and Modichand etc. In Lolab valley of Kupwara district the villages of Idar, Bahmipora, Hafatroda, Khadi, Garatwar, Hihamami, Gujjarsori, Mhajanozpur and Qazipur have Gujjar settlements. In Anantnag and Pulwama districts the in seasonal settlements are Daksum, Phalgam, Siadu, Killar, Dipura besides a mber of other smaller places.

Generally speaking the Gujjar settlements are found mainly in comparatively v altitude ecological zones while the high altitude pastures on the mountains rounding the Kashmir Valley are mostly occupied by Bakkerwals.\textsuperscript{118}

Table 1.3. Gujjar Population of Jammu and Kashmir-1931

<table>
<thead>
<tr>
<th>me of e area</th>
<th>Total Gujar population</th>
<th>Gujar Male</th>
<th>Female</th>
<th>Total Bakerwal population</th>
<th>Bakerwals Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>K State</td>
<td>402281</td>
<td>215958</td>
<td>158823</td>
<td>5349</td>
<td>2888</td>
<td>2461</td>
</tr>
<tr>
<td>Jammu Province</td>
<td>270610</td>
<td>149646</td>
<td>130964</td>
<td>3798</td>
<td>2078</td>
<td>1720</td>
</tr>
<tr>
<td>Jammu</td>
<td>61439</td>
<td>33558</td>
<td>28881</td>
<td>362</td>
<td>216</td>
<td>146</td>
</tr>
<tr>
<td>Kathua</td>
<td>17936</td>
<td>9463</td>
<td>8473</td>
<td>109</td>
<td>71</td>
<td>38</td>
</tr>
<tr>
<td>Udhampur</td>
<td>24871</td>
<td>13057</td>
<td>11814</td>
<td>918</td>
<td>483</td>
<td>435</td>
</tr>
<tr>
<td>Reasi</td>
<td>71725</td>
<td>38232</td>
<td>33493</td>
<td>3368</td>
<td>1280</td>
<td>1088</td>
</tr>
<tr>
<td>Mirpur</td>
<td>26414</td>
<td>14027</td>
<td>12387</td>
<td>29</td>
<td>20</td>
<td>09</td>
</tr>
<tr>
<td>Jagir</td>
<td>76647</td>
<td>41031</td>
<td>35616</td>
<td>12</td>
<td>08</td>
<td>04</td>
</tr>
<tr>
<td>Srinagar</td>
<td>578</td>
<td>278</td>
<td>300</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>Srinagar</td>
<td>119073</td>
<td>65554</td>
<td>53519</td>
<td>1551</td>
<td>810</td>
<td>741</td>
</tr>
<tr>
<td>Baramula</td>
<td>29742</td>
<td>15605</td>
<td>14137</td>
<td>1523</td>
<td>797</td>
<td>726</td>
</tr>
<tr>
<td>Muzafarabad</td>
<td>32982</td>
<td>18048</td>
<td>15934</td>
<td>27</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Muzafarabad</td>
<td>55349</td>
<td>31901</td>
<td>23448</td>
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<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>Illaqa</td>
<td>3098</td>
<td>1758</td>
<td>1340</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>Lgit</td>
<td>644</td>
<td>359</td>
<td>285</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>Lad Area</td>
<td>2485</td>
<td>1399</td>
<td>1055</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
</tbody>
</table>

\textsuperscript{118} Source: Census of India 1931, Vol. 34, part II, Jammu and Kashmir.
Table 1.4. Gujjar Population of Jammu and Kashmir, 1961

<table>
<thead>
<tr>
<th>Province/Districts</th>
<th>Gujjar %age</th>
<th>Bakerwals</th>
<th>Total %age</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anantnag</td>
<td>0.27</td>
<td>Nil</td>
<td>0.27</td>
</tr>
<tr>
<td>Srinagar</td>
<td>0.14</td>
<td>Nil</td>
<td>0.14</td>
</tr>
<tr>
<td>Baramula</td>
<td>0.23</td>
<td>Nil</td>
<td>0.23</td>
</tr>
<tr>
<td>Total Kashmir Provide</td>
<td>0.64</td>
<td>Nil</td>
<td>0.64</td>
</tr>
<tr>
<td>Doda</td>
<td>0.25</td>
<td>Nil</td>
<td>0.25</td>
</tr>
<tr>
<td>Udhampur</td>
<td>0.25</td>
<td>0.03</td>
<td>0.28</td>
</tr>
<tr>
<td>Jammu</td>
<td>0.06</td>
<td>0.01</td>
<td>0.07</td>
</tr>
<tr>
<td>Kathua</td>
<td>0.03</td>
<td>0.01</td>
<td>0.04</td>
</tr>
<tr>
<td>Rajouri &amp; Poonch</td>
<td>0.86</td>
<td>0.01</td>
<td>0.87</td>
</tr>
<tr>
<td>Total J &amp; K</td>
<td>2.19</td>
<td>0.06</td>
<td>2.25</td>
</tr>
</tbody>
</table>

Source: Census of India, 1961 (Gujjars) Jammu and Kashmir State, Vol XVI, part III

Table 1.5. Gojari Speaking Population in J&K, Census of India, 1981

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of the District</th>
<th>Total Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Anantnag</td>
<td>30576</td>
<td>7.1%</td>
</tr>
<tr>
<td>2</td>
<td>Pulwama</td>
<td>27297</td>
<td>6.0%</td>
</tr>
<tr>
<td>3</td>
<td>Srinagar</td>
<td>15022</td>
<td>3.5%</td>
</tr>
<tr>
<td>4</td>
<td>Budgam</td>
<td>12021</td>
<td>2.8%</td>
</tr>
<tr>
<td>5</td>
<td>Baramula</td>
<td>25222</td>
<td>5.8%</td>
</tr>
<tr>
<td>6</td>
<td>Kupwara</td>
<td>40120</td>
<td>9.4%</td>
</tr>
<tr>
<td>7</td>
<td>Doda</td>
<td>55168</td>
<td>12.9%</td>
</tr>
<tr>
<td>8</td>
<td>Udhampur</td>
<td>46763</td>
<td>10.9%</td>
</tr>
<tr>
<td>9</td>
<td>Jammu</td>
<td>11193</td>
<td>2.5%</td>
</tr>
<tr>
<td>10</td>
<td>Kathua</td>
<td>6552</td>
<td>1.5%</td>
</tr>
<tr>
<td>11</td>
<td>Rajouri</td>
<td>73512</td>
<td>17.1%</td>
</tr>
<tr>
<td>12</td>
<td>Poonch</td>
<td>84657</td>
<td>19.7%</td>
</tr>
<tr>
<td>13</td>
<td>Leh</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>14</td>
<td>Kargil</td>
<td>03</td>
<td>Nil</td>
</tr>
</tbody>
</table>


Ethnic Composition

The Gujjars, on the basis of their occupation and settlements in the state of Jammu and Kashmir, are classified as (i) cultivators (*Muqami*) who have settled in the villages on the slopes or valleys, (ii) The Gujjars who practice transhumance. They
e further sub-divided into Banihara or Dodhi Gujjars (milkmen) and Bakarwals (who rear sheep and goats). The Banihara or the Dodhi Gujjars tend buffaloes and sell dudh (milk) and milk products and for this reason they are known as dodhi milkmen. They live in bans (forests) for which reason they are also known as miharas (the residents of forests). The Gujjar Bakarwals keep large herds of bakri oats and this is the reason they are called Bakarwals. The nomenclature of unshumant Gujjar groups is based on the type of animals and animal products used for their economic pursuits. The Bakarwals tend goats and sheep whereas the miharas rear buffaloes. The nick-names of Bakarwals, Baniharas or Dodhi were given by non-Gujjars to indicate the profession of Gujjars and with the passage of time this appellation got stuck.¹¹⁹ The main sub tribes of the Gujjars in Jammu and Kashmir are:

Banihara/Dodhi Gujjars are presently inhabited in the areas of Jammu, Udhampur, Kuthwa and Doda. The main business of the sub-tribes is dairy.

Bakkarwal Gujjars is another sub-tribe which resides almost in every district of the state in substantial numbers. However, they are mostly the residents of Kalakote, Riasi, Nowshaira, Bandipora, Shopian, Kulgam, Pahalgam, Tral, and Uri etc.

Alahiwal Gujjars: this sub-tribe has migrated from the frontier province of Pakistan and are mostly nomads.

Kanhari Gujjars: this sub-tribe has migrated from Swat and Hazara areas, presently in Pakistan, and good number of these Gujjars lives in Kalakote of Rajouri district.

Semi-nomadic Gujjars: one more sub-tribe of Gujjars, these have by and large prominently settled in various parts of the State. There are almost 150 castes/gotras of Gujjars in the state of Jammu and Kashmir out of the total 900 castes of Gujjars are scattered in the subcontinent. ¹²⁰

Gujjars are divided into several “Gotras”, “Kabilas” and “Deras”. Some of their main Gotras are Bajran, Khatana, Awana, Boken, Berger, Banth, Baru, Balesher, ogdi, Baniya, Gorci, Barwal, Chopra, Kohli, Chabra, Chad, Doi, Rathore, Dhahe, a, Hakla, Jagal, Kandal, Kasana, Khaiper, Kalas, Khari, Lohda, Mehsi, Mander, fehlu, Mukri, Noon, Nager, Poswal, Pore, Sangu, Sood, Thekria, Tass, and Bhati. Each Kabila has its own Mughdam and a council of Jirgas (panchayat). While as the
Muqdam controls the clan and looks after its needs. Jirgas administer justice in civil and criminal cases to which the members of the clan are parties.\textsuperscript{121}

Gojri Language

As far as the Gojri language is concerned, it is the language of all the Gujjars of Jammu and Kashmir. The Gujjars of Jammu and Kashmir have managed to retain their language which continues to be akin to Rajasthani rather than Pahari. A. G. Grierson was of the opinion that the Gojri spoken by the Gujjars of the submountain districts of the Punjab and Kashmir was allied to Rajasthani. Grierson opined,

"One of the two things is quite certain, either Gojri is a form of Rajasthani and conversely, Rajasthani is a form of Gojri and resemblance of Gojri to Mewari is very striking. But still closer is of Gojri to Mewari dialect of Rajasthani spoken in Alwar, some distance to the north of Mewar and separated from that state by the territory of Jaipur".\textsuperscript{122}

In the 1941 Census, Gojri, the language of Gujjars and Bakarwals (now declared as Scheduled Tribes), was included as a dialect under Rajasthani due to its close affinities with that language. But Pahari which is closely connected with Gojri and continues to be spoken in much the same areas, was enumerated separately. The Census listed 2,83,741 Gojri speakers and 5,31,319 Western Pahari speakers (including those speaking Bhadrawahi, Gaddi, Padari, Sarori dialects). Reasi, Jammu, Poonch, Haveli, Mendhar, Baramulla, Anantnag and Muzaffarabad districts were shown as the main concentration points of Gojri and Western Pahari speakers, thereby testifying to their widespread distribution throughout the state. That the 1941 Census Report put the total population of Gojri tribe in Jammu and Kashmir state at 3,81,457 it shows that all the Gujjars did not identify their mother tongue as Gojri at that time. The subsequent Census Reports of 1961, 1971 and 1981 have removed this anomaly of enumerating Gojri and Pahari separately. However, the Census Reports of 1971 and 1981 have followed a new anomalous practice of including Gojri (Rajasthani), Bhadrawahi, Padri Hindi. This has not only inflated the numbers of those claiming Hindi as their mother tongue but also camouflaged the actual strength of Gojri speakers, thereby causing disenchantment among this tribal community.\textsuperscript{123} As most of these Hindi albeit Gojri speakers have been shown as concentrated in Baramulla, Kupwara, Poonch, Rajouri and Doda districts, their Gujar identity becomes obvious. The 1961 Census, which does not mix up Hindi with Gojri, puts the number of Gojri
eakers at 2,09,327 and that of Hindi speakers at 22,323,13. Urdu is placed next
th only 12,445 persons claiming it their mother tongue.

Gojri speakers constitute the third largest group in Jammu and Kashmir state
er Kashmiri and Dogri speakers being at first and second position respectively. Till
ey, the Constitution of Jammu and Kashmir had included Pahari as one of the
ional languages in its VI Schedule. However, this anomaly is reported to have been
oved now with the State government's decision to include Gojri as a regional
age in its VI Schedule. Gujjars of Jammu and Kashmir have been demanding
ir identification and enumeration by the census authorities on the basis of their
al rather than linguistic identity so as to avoid any overlapping with Paharis and
sequent underestimation of their population.

Table 1.6, Population of Gojri Linguistic Group (As per Census Reports)

<table>
<thead>
<tr>
<th>Census</th>
<th>Language</th>
<th>J&amp;K State</th>
<th>Kashmir Province</th>
<th>Jammu Province</th>
<th>Total population J&amp;K</th>
</tr>
</thead>
<tbody>
<tr>
<td>41</td>
<td>Rajasthani</td>
<td>2,83,741</td>
<td>92,392</td>
<td>1,87,980</td>
<td>40,21,616</td>
</tr>
<tr>
<td></td>
<td>(Gojri)*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Western Pahari**</td>
<td>5,31,319</td>
<td>1,70,432</td>
<td>3,60,870</td>
<td></td>
</tr>
<tr>
<td>61</td>
<td>Gojri</td>
<td>2,09,327</td>
<td>64,493</td>
<td>1,44,834</td>
<td>35,60,976</td>
</tr>
<tr>
<td>71</td>
<td>Hindi</td>
<td>6,95,375</td>
<td>1,80,837</td>
<td>5,14,177</td>
<td>46,16,632</td>
</tr>
<tr>
<td></td>
<td>(Gojri)***</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>81</td>
<td>Hindi (Gojri)***</td>
<td>10,12,808</td>
<td>2,55,310</td>
<td>7,67,344</td>
<td>59,87,389</td>
</tr>
</tbody>
</table>

Gojri, the language of Gujjars was included with Rajasthani in the 1941 Census.
Pahari, which was enumerated separately in 1941 Census, is closely connected with
ji and is spoken in much the same areas.

Gojri has been included in Hindi in both 1971 and 1981 Censuses.

* Mainly in Baramulla and Kupwara districts.

** Mainly in Doda, Poonch and Rajouri districts.

Social Construction

The Gujjars form a distinct identity in the state of Jammu and Kashmir. They
ntinue to be identified mainly on the basis of their occupation and settlement. They
 generally known to be nomadic even if many of them have abandoned their
adic life and have settled on land and taken to cultivation. So distinct is their
entity that despite their stay in Jammu and Kashmir for centuries together, they
tain their distinction in terms of their language, customs and culture. Despite the
fact that Gujjars follow the religion of Islam yet they assert their distinct identity vis-a-vis the other Kashmiris and Jammu Muslims.

The pattern of social structure which has emerged out of the needs to meet the demands of migrating mode is based on kinship groups and functional groups. The Gujjars and Bakkarwals have ordered themselves in three principle kinship groups, the Dera (household), the Dada-potra (lineage) and the Gotra (clan). The importance enjoyed by each group has tended to vary according to series of both internal and external changes to which the Gujjars and Bakkerwals have been exposed from time to time.

Dera is the basic unit among the Gujjars and Bakkerwals. They count their members and describe grazing and Kafila groups in terms of number of Deras. It is, therefore, the central point of Gujjar life. According to R.P. Khatana, a Dera usually comes into existence when a person establishes an independent household which normally happens after his marriage. Each son thus establishes his own Dera as he gets married. The Dada-Potra unit is to be understood in terms of lineage and property. As far as property distribution is concerned, father divides his property when his children get married, but the division of pastures and migration routes is postponed. This happens in a situation when all the descendants continue to depend upon him for migration and access to pasture roots during his lifetime. The generation of Dada-potra unit extends into several generations and includes cousins and other relatives. The right to pastureland remains within this unit of Dada-potra. The gotra is the third unit which is a distinct system of clans. The members of a clan are supposed to be descendants of a common ancestor. To quote Khatana, ‘the presence of Gotra among the Gujjars, Bakkerwals seem to be derived from their Hindu ancestry. This view receives some support from the fact that the names of the Gujjar-Bakkerwal Gotras are the same as those found among the Hindu Gujjars in other parts of the country. The gotra names were usually used by the Gujjar, Bakkerwal as a suffix to their names.’

Initially the Gujjars were Hindus but during the rule of Mughal King Aurangzeb, most of them converted to Islam but retained their Hindu gotras or subcastes. The Gujjars of Jammu and Kashmir have also retained these gotras, and marriage in the same gotra is strictly prohibited. They speak a dialect which is different from Dogri and Kashmiri, the major languages of the state. The corpus of
iefs, rituals and ceremonies should be considered in the context of these meanings, the cycle of migrations which dominate the life and organize most of the activities transhumance. The ceremonies, customs and beliefs have been influenced by their ironment and pastoral way of life. Different groups have their adherence to a saint r) of the area wherein they move about. The famous shrine to which the Gujjakerwals pay respect enroute Pir Panjal pass route are Rattan Pir Shah (near anamandi). Neelana (near Poshima) Pakharpur, Chirari Sharif and Wangat arief.\textsuperscript{127}

The Gujjars, like most of the tribal societies, are highly conservative. In fact, servatism, backwardness, and belief in superstition and myths is the hallmark of Gujjar's day-to-day life. Taweez, Mantar and Phook are taken by the Gujjars to an a boon for their own person and also for their cattle. Polygamy, child-marriage, pement with paramour and abduction of females are some other distinct features ich dot the Gujjar social life.

\textit{Makki ki roti}, Butter and Lassi constitute the Gujjars' staple food. Cooking of getable or Dal is something very rare. The Gujjars love to wear their traditional stumes and ornaments. While as the male dress consists of loose Kameez, a ourful waist-coat studded with buttons, a Tahlund, a small chadder, a majestic ite Turban and excessively iron-nailed leather footwear. The female dress includes oose Kurti studded with several varieties of buttons and an extensive embroidery it, a black 'suthen', a multi-colour dupatta and a round cap with a long tail. A shris (female Gujjars), young and old, are fond of heavy jewellery which include ngans, Karras, Seheeri, Mahail, Loung and Baltis made of gold and silver. But r is highly unique and complex is the hair style of the Mehris. It takes almost a y to weave the Mehris hair into a large number of plaits which they undo only once a month when they wash their heads.

The Gujjars recreate themselves in several ways. On festive occasions singers d flute players are asked by the Mukkadam of the Kabela to display their skill. Baitazi (poetry recital), wrestling, Bugdar (weight lifting) and Beni (holding arm of er who applies all his force to disengage) constitute some of the major means of reation.\textsuperscript{128}
Impact of north Indian culture is to be seen on their lifestyle. Some of the cultural festivals of Gujjars are similar to those celebrated in Punjab. According to Khatana, the festival of Baisakhi has a great importance for them because it occurs at the beginning of the main spring migration and therefore marks the beginning of a new year in a very real sense... After celebrations of Baisakhi they settle the accounts with the local shopkeepers and Zamindars and leave the winter resorts to move towards summer areas.

Socio-Economic and Educational Backwardness

The living condition of the Gujjars is very miserable. They usually live in huts and tents at the high lands. On account of their migratory character they does not invest much on their housing. The huts which are locally known as Kothas are without any ventilation and windows, and are made up of mud and rough stone. The roofs of these huts are made up of Prali, paddy straw supported by wooden planks and are flat. The hut room is packed during night with the herds, flocks and other human inmates which adversely affect the respiration of the children. This life which they lead is absolutely intolerable, particularly during the winter when icy winds, snow fall and rain are beyond imagination. Because of the migratory character of these Gujjars, they are unable to participate in the electoral process. The traditional profession of the Gujjars and Bakkerwals is to graze their cattle and supply its produce: milk, ghee etc. to the urban people.\textsuperscript{129}

Gujjar economy is, therefore, quite traditional and the economic conditions of the community is very backward. Many of the Gujjars do not even own the flock. Khatana has referred to a class of agri-shephard as Ajris who graze not their own animals but of others. The actual owner of the flock is known as Malik. It is observed that all Ajris are shepherds at will, though they enjoy certain rights. The rights of Ajris are also protected by the opinion of the members of the Kafila. During migration hired Ajris also migrate with the Malik. The wages for flock grazing are almost paid in food and clothing. Money is rarely paid.\textsuperscript{130} Based on the ownership of the flock, the flock owners are divided into four categories, big flock owners, small flock owners, small land owners and Ajris. There is a clear cut distinction maintained between Malik and the Ajris and is quite pronounced in the socio-economic field, but due to migration, this distinction is not very apparent in day-to-day life. But on social
herings, the Ajris and their family have to take food separately. They also have to share utensils.131

The Mukaddam owners of large flock enjoy big socio economic status and power. They maintain their privileged position due to the system of intra-status marriage. These marriages reaffirm political and social position of the Mukaddams. They have the authority to punish by levying fines on the members of their group. The source of authority of the Mukaddam is an indicator of status or rank.

Gujjars are mostly illiterate due to the migratory character. They do not like to send their children to school on the plea that they would not take up their ancestral traditional occupation of cattle rearing and other agricultural practices after being educated. They send their children with cattle for grazing in the jungles or to cut the grass. Their children help them in daily routine work. Moreover, most of the Gujjars lead nomadic and semi-nomadic life. Their migratory mode of life stands biggest road in the way of getting regular education. However, with the advent of special grammes for spreading education amongst Gujjars in Jammu and Kashmir, it is chine up fastly. The Jammu and Kashmir Government has opened up a number of schools for them which move to high altitude and come down to plain with the movement of Gujjars. Nonetheless, due to the lack of effective supervision and control by the government authorities over the field staff working in such remote and isolated areas, regularity and punctuality on the part of staff employed is rare. Minal even though they belong to their community and areas. The people of this community do not favor girl education out of their sheer ignorance, age old social 100s, outdated thinking and backwardness.132

Gujjars are known to be very conservative in their life. It is because of the lack of exposure to the modern ways of life that they are known to be governed by the superstitions. According to Masoud Choudhary, “they are highly superstitious due to illiteracy and backwardness which has also made them timid. The superstitions and rituals of course play dominant role in their day to day life”.133 As compared to other communities, the Gujjars of Jammu and Kashmir are much more deprived and backward. They are not represented in government services in any significant form. A survey conducted by Tribal Research and Cultural Foundation reveals that more than 37 percent Gujjars who are migratory by tradition have relinquished their madic lifestyle during the last 20 years. Many Gujjars have left their basic
profession and now doing wage work here and there. Because of this force shift they can’t sustain their economy. The survey also found that during last 62 years only three women from this community have qualified combined service exam of state of Jammu and Kashmir. In the police department the situation is worst as there is no representation of Gujjars among officer level posts. The same is the case with state judiciary. The data reveals that only 7 percent of the Gujjars get education in the schools and for girls the number is still lower—only 3 percent. As per the survey, 40 percent of the children leave their studies at the primary level, whereas poverty does not allow 30 percent children to get admission, while 10 percent students have enrolled themselves in the schools only to get scholarship.\textsuperscript{134}

The backwardness of the community becomes clear from their stagnated life style. They do not seem to have taken much advantage of modernization and their pattern of life does not seem to have changed much in last one century. This becomes clear in the words of Fedrick Drew, who in his book, \textit{Jammu and Kashmir Territories}, published in 1975, where he wrote:

I found them to be a possessor of herds of buffaloes. They have with them their families and wives, spinning wheels.... Their gains are chiefly derived from the sale of ghee, butter, the preparation of which occupies them continually, during their stay among pastures though holding some lands. They do not chiefly depend on it for sustenance. They are migrating pastoral tribe who seek for their needs, pastures in various parts and live mostly by the produce of their cattle.\textsuperscript{135}

Zutshi, in a field study conducted in 1997, noted that “there was no significant increase in literacy pattern among Gujjars, wide variations in the literacy rate was found among the villages from Gujjar and Bakerwal areas compared to other areas.” Zutshi further argues that the low literacy is one of the major reasons for the continued backwardness of the Gujjars.\textsuperscript{136}

\textbf{Settlement}

It has been an active policy of government to encourage the Gujjars to settle down at one place so that they can overcome the handicaps of nomadic life and get exposed to the benefit of development. The researcher during his fieldwork in Gujjar-concentrated area of Jammu region noticed that some of the Gujjars have settle down now for two or three generations, own land and are also involved in other economic
ivities. This clearly shows the changing pattern of their life style from nomadic to lentary one. Though, there are not many among the land owners who are involved large scale commercial farming but many of those who have been settled for a few erations produce enough to sell rice, vegetables, wheat and fodder in the market. r many others land provides a basis of personal substance. Many, other who do not n sufficient amount of land, work as daily wagers and are engaged in odd job in stories, road construction, etc.

Among those who are settled, there is a very small class of educated Gujjars o have joined government jobs. Many of them have joined police in lower and ddle ranks. Many of them have joined army as well. Some of the prosperous ijars are very well educated and take the advantage of the reservation policy in ms of governmental employment. Among other occupations in which they are olved are business related to honey, forest guard, drivers, milk-seller etc.

With the exception of the small class of educated Gujjars, for most of the embers of the community there have not been many opportunities for socio-nomic mobility. Despite settling in villages and towns, cattle rearing remains their ror activity. While only a few Gujjars do the milk-selling business on a large scale, ost of them do it at a very low scale in their own neighborhood. But for the new eration, this traditional vocation is seen with a lot of contempt. The educated ijars want to leave this job behind. Their preference is for white collared jobs.\textsuperscript{137} overnment employment is therefore their first priority.

While taking to settled life, Gujjars like to live in their own localities. This is e reason that many Gujjar localities have sprung up in whole of Jammu and shmir. These localities help Gujjars to manage their own community life. Even at sent, most of the Gujjars marry within the community. However, there exists a archy between the settled and nomadic Gujjars and the settled Gujjars look down on the nomadic way of life. Hence, not many marriages are solemnized between the p groups.

The semi-nomadic Gujjars have taken a substantial step by founding rjardesh Charitable Trust at the winter capital of the state, Jammu. Established on ly 17, 1992 ostensibly to ameliorate the socio-cultural life of the Gujjars and serve and promote their identity.\textsuperscript{138}
Struggle for Identity and Scheduled Tribe Status

The politics of Gujjar identity has been revolving around certain demands. These demands have been ranging from socio-economic empowerment and modernization of the community to political representation. The demand for socio-economic empowerment arises from the very basic context of backwardness, arising mainly due to the nomadic nature of their lifestyle as well as their existence on the edges of the society. Of all these communities in Jammu and Kashmir, the Gujjars are among the most backward ones.

Keeping in view the backwardness of Gujjars, especially those who continue to be nomadic, the community leadership has been demanding special attention. To cater to such demand, a board for development of Gujjars, namely Jammu and Kashmir Gujjar and Bakerwals Advisory Development Board, was constituted. The first chairperson of the Board was Begum Abdullah, the wife of Sheikh Mohd Abdullah. However, constitution of such a board could not improve the overall situation of the Gujjars. Gujjar leaders and intellectuals seriously contest the role of the Board in providing a positive direction in the empowerment of the community. According to them, this Board has failed to serve the cause of Gujjars. It could not, they feel, take advantage of the initial package meant for the development purposes. The amount of Rs.17 crores sanctioned by the central government could have been sufficient at that time to establish a university. But the Board, due to lack of planning and the spirit, doled the funds on creation of few hostels for the Gujjars and Bakerwals and shelled out the rest of the money on insignificant scholarships.¹³⁹

Apart from backwardness, Gujjars have been asserting their identity as a separate tribal identity and have been demanding reservation for them in the educational institutions, in the state government and in the Legislative Assembly. In early eighties, Gujjars were declared a definite social caste and 3 percent reservation was made for them in professional colleges. However, they achieved a major breakthrough on April 19, 1991, when President of India at the instance of the Chandera Shekher's caretaker government took a momentous decision and conferred on the Gujjars and Bakerwals the status of Scheduled Tribe.¹⁴⁰ The April 19 decision, inter-alia, entitled the Gujjars and Bakerwals to a share of 10 percent reservation in the state services and other sectors and it also entitled the Gujjar-dominated areas to liberal financial grant. To quote Javeed Rahi, "this was a mile stone in the social

37
amelioration of Gujjars in Jammu and Kashmir and with 10 percent reservation (to 12 tribes) opened up educational and service avenues for the Gujjars.”

The fulfillment of the demand for the grant of ST status has opened way for other demands of the Gujjars. Among other demands that are being made by them include: inclusion of Gojri in the 8th Schedule of the Indian Constitution, recognition of this language by the Sahitya Academy, and opening of a Gojri department in the universities of Jammu and Kashmir, Providing the political reservation for them in the Houses of the state legislature, speedy implementation of development schemes for Gujjars, suitable market facility for livestock and milk products etc., These historical steps will strength Gujar identity in the state and the people belonging to far-flung areas of the state will be able to play their positive role in the development and the progress of the State.

The Paharis: Origin and History

From ancient period, the Pahari speaking people are settled in the hilly areas of Pir Panchal mountain range. The Pahari speaking people of Jammu and Kashmir are one of the ancient races, much more ancient than the Buddhist period in Kashmir. They belong to the Aryan race which had once invaded India. They are mostly concentrated in the hilly areas of Jammu and Kashmir. The Pahari speaking people are living in the areas of southern upper hills of Pir Panchal particularly from western Banial to Muzaffarabad, Drawa and Nangaparabath adjoining areas. Pahari intellectuals have written their histories viz- Tariekh-e-Pahaad by Mohammad Ali, Rajgani-Rajwar is the history of Rajouri written by Mirza Zaffarullah, Aqwami Poonch is the history of Poonch written by Munshi Mohammad-din Fouq and Galdan by Mohammad Yaqob Khan and Tariekh-e-Jabwal by Awatar Singh Chib. All these histories have provided a detailed account of the different aspects of life, identity and the origin of the Pahari speaking people. These people got settled in the distant hilly areas and gradually started to speak Pahari language and become part of the local culture and tradition. The history of the Pahari speaking people can be traced from the period of the Mahabaratata. The Panchal Desh, which is mentioned in the Mahabarta whose ruller was named as Panchal Naresh and his daughter Draopadi was also known as Panchali, all these names sounded a kind of a connection with the Pir Panchal mountain range. So many historians stated that the Pir Panchal was the Panchal Desh which is mentioned in Mahabarta. The stone deities which are
mentioned in *Mahabarata* are also found almost in every village of Karna, Uri to Poonch, Rajouri and Badel. All these things relate the Pahari areas to the age of *Mahabarta*.

Littrally, the word ‘Pahari’ refers to the people who are settled on the mountain ranges of Jammu and Kashmir. while Drukpa, Brokpa, Bol, Boto, Sheena, Dard, Gadi, Gujjjar Bakerwal communities could also be included in this group but, according to Motilal Saqi, “The unique historical, linguistic, social and political characteristics has given a new meaning to the word Pahari, once we speak out the word, we refer to particular community of people whose mother tongue is Pahari and who are inhabiting in the Pir Panchal range from the middle areas from river Jehlum to river Chinab. In the ancient period, the residents of Kohistan (Pirpanchal) were known as the Paharis. These people reside there for centuries with distinct way of life, their unique cultural heritage and with their composite culture.”

Fedrick Drew in his book *Northern Barrier of India* has called the Pahari people as brave, hard working and the people of ancient period. Today also the Pahari community is considered as brave, strong, beautiful, sensitive, trusted, cultured, talkative and impressive people. These people have maintained their unique identity, because of the simplicity, interesting and sweet language, unique characteristics, beautiful physique, traditional dress, glorious and rich cultural heritage.

Pahari is a name of composite culture which has assimilated diverse cultures and it has now become a mixture of Muslim, Hindu and Sikh cultures. So in this way this multicolored cultural diversity has now become the identity of the Pahari speaking people. Krishan Chand, well known prose writer, who spent his childhood in a Pahari village and grow up in traditional Pahari environment, in his book, *Mitti ke Sanam* compared the Pahari culture with the ‘Qaleen’ (Carpet) in which the different colorful weaving threads adds the tranquility. In the same way the different races, religions and communities combined together to form a complete culture of Paharis. The Pahari community is also being compared with Deodar trees of Pir Panchal mountain forests as these trees are always upright and evergreen despite adverse climatic conditions.
Distribution and Dwellings of Paharis

Nazir Ahmad Massoodi has mentioned in his book, *Pahari Log* that the region of Pahari people extends between the river Chinab to river Jhelum. The region starts from the southern bank of Banihal and extends over the areas of Bedal, Rajouri, Mirpur, Bamber, Kotli, Poonch, Uri, Karna, Dalawa, Muzferabad, to the region of Nanga Parbat upto the historical place of Sharda Devi.149

There are also the Gujjar Bakerwal settlements in these hilly areas but Pahari speaking people are in majority, almost comprises of 57 percent who speak Pahari language. Despite some local lingual variations from the Badel to Karna hills, people have maintained a common identity and culture. After 1970’s these common local languages were unanimously termed as the Pahari language and afterwards the unique identity of this neglected language was preserved. In addition to Pir Panchal Pahari region, the Pahari people are also settled in some areas of the Kashmir Valley. Prominent settlements are: Qazipora, Chak Ferozpur, Chak Terian, Neelsar, Dardpora, Darwespora in Tangmarg area Charisharief, adjoing areas of Pach Sangerwani, Kariwa Malno, Kariwa Zowora, Sayidpora in the northern side of Shopian, Kandimarg near Aherbal waterfall, Paripora, Mazmoo, Qazigund, Brah, Daksum areas: block Draway, block Saleeya, Hapatnar in Ananthnag district, Dara Harwan, some areas of Qasbalar, southeastern areas of Mount Harmukh, Khagni and Hazara in Srinager district. Kawihama, Malangam, Chatibanday, Kowdara, Chakarsala Khan in Ghatlibag Ganderbal area are the prominent Pahari settlements.150

After partition, the Hindu and Sikh Pahari population migrated from Pakistan administered Kashmir to this side of border. These people are living in Jammu, R.Spora, Sambal camp, Bakshinager, Rehari and in areas of Rajouri, Poonch and Baramullah. So the Pahari community, besides being residents of hilly areas, is also settled in other parts of the state and are distinguished from the rest of the people by the identity of their mother tongue, Pahari.

Ethnicity

The Pahari are the people from diverse races, castes and religions whose distinct cultural heritage, life style and mother tongue has ascribed them a composite cultural identity. Amongst them are Hindus, Muslims and Sikhs who have been co-habitng together from many decades. There are people from diverse religions and
sects in Paharis. The commonly found are Sayed, Qureshi, Dhand, Sadan, Khakad, Ferozal, Dhomal, Jeral, Chib, Chadak, Manhas, Pathan, Turk, Dowi, Brahman and Khatri, Kashmiri etc.

Amongst Muslim Paharis, the Rajputs are in majority who classify themselves into different castes like the Thakur, Kamlak in Ilaqa Badal, and the Jral Malik in Thana Darhal, the Jral in Rajouri, Behroute, Manjakote and in Mendar, the Ferozal, Manhas, Chib, Chadak, Thakyal, Domal in Uri, Khakey in Hatmal, the Bambay, Rajay in Karna etc. similarly in Muzaffarabad of Pakistan-administered-Kashmir, the Khakey, Hatmal, Bambay, Godey and in Dopta, the Rathore in Saderwan, Khakad in Mirpur, Chib in Bambar and the Dimal and Thakyal tribe in Thakyala Prawa are in majority.

These Rajput tribes established their kingdom in their respective areas and had also defended the Valley for a long time. After Rajputs, the Sayeeds are next in hierarchy, whose ancestors had come from Central Asia and settled down in the Pahari areas. Historians are of the opinion that for the first time in 11th century Islam spread in Pahari area of Rajouri region. However in 1015 A.D. the army of Mahmood Ghaznawi could not annex Kashmir but annexed most of the areas of Rajouri and Poonch. This is the reason that the Sultan Mahmood’s son came Rajouri with Shah Masood Albaurini in 1036 A.D. Along with his arrival, the Sayed groups also began to come to spread Islam. Some travelled towards Kashmir. But many of the Sayed groups settled in the Pahari region and gradually adopted Pahari way of life, Pahari culture and Pahari language and completely got mixed with the Pahari people. Afterwards, the Pathan and Mughals started annexation policy towards the Kashmir, as all the important routes for Kashmir were passing through the Pahari areas and ending at Kashmir. So Mughal, Pathan, Turk and Mir also settled around these routes and with the passage of time became part of local society and forget their ancestral native nations and languages. The Pahari speaking people of Mendar, Thakyala, Prawa and southern Poonch add title Sardar with their name. These people trace their ancestry to the Rajput race and today also live with the Rajputana dignity. The western Poonch area which is now under the territory of Pakistan has Suden Pahari tribe in majority which are very brave, hardworking and have participated in second world war from India. On the other side in the Uri area, the Hatmaat people are in majority whereas in Jagir of Khatri and Godi Dopta areas, the Khak Pahari dominated
the area. While there is difference of opinion regarding Khak Bamber tribe, some of the historians exclusively consider them among Muslim tribes and trace their ancestry from Bunia Umia. However M.A. Stein, in a note in Rajtarangini considered them among Khash tribe. While the well renowned historian Pandit Hergopal Khasta in Gulladast-i-Kashmir considered the Khaks and Bombs the changed Muslim names of Khastril and Brahman Hindus. The Pahari tribes of Khak and Bomb had rulled Muzaffarabad, Karna, Drawa, Godi, Dopta, Katali etc. over centuries.

However, during 10th and 11th centuries, Pahari areas were ruled by the Hindu emperors and were settled by Pal and Khash tribes. After the spread of Islam, the people accepted Islam. In 17th and 18th centuries, the Pahari areas were ruled by the local Muslim Rajas and because of their religious tolerance, the Hindus and Sikhs again came and began to settle in the region. The Khakkad Sardar of Mirpur, the Chib Sultans of Bambar, the Jaral of Rajouri and the Rather of Poonch had recruited the Hindu and Sikhs in their army. This was the period when Gulab Singh (Maharaja Gulab Singh) came to Pahari Raja of Bambar, Sultan Khan for employment and was appointed as the Qiladar of Kotli Qila. In the same period, Jeral Muslim Rajputs had started mass employment of Hindu Rajputs in army and had appointed Mehta family people their Wazir. The Raja Rustam Khan had persuaded Hindus and Sikhs to trade in Poonch, and large population of Hindus and Sikhs settled in Muzaffarabad, Uri, Karna which became part of Pahari sects. Among Pahari Hindus, majority of the Brahman Zamindars and Thakur Rajputs considered themselves original inhabitants of the area. Furthermore, shopkeepers of Khastril tribe have come from Jhelum, Khasak, Wahali and Rawalpindi for trade and settled here and gradually adopted Pahari way of life and culture and became part of Pahari community.

In 1616 A.D., 6th Guru Hargovind Singh ji Maharaj along with Mughal emperor Jahangir travelled through ilaqa Bambar Rajouri towards Kashmir and returned Lahore through Baramullah route. During his arrival, the Sikhs also settled in the Pahari area. A major chunk of Sikhs was residing before independence in Muzaffarabad, Chakara and Poonch and were exclusively from Khak Pahari tribe. After independence these people settled in Baramullah, Poonch and Nowshehra areas and due to their mother tongue, Pahari became part of the Pahari society.

However, the Pir Panchal mountains seperate Kashmir Valley from rest of India and important roads like Mughal road (termed Namak road in olden days), road
of Toshamaidan (which passes through through Ilaqa Poonch) and Jehlam Valley road (which passes through Uri Muzaffarabad) fall all along in the Pahari region.

In the ancient period, the trade between Kashmir and Punjab was carried through the *mandies* which were established in Thanamandi of Rajouri and Loran mandi of Poonch area, as a result so many Kashmiri traders settled around these mandis. The people of these areas adopted the Pahari way of life and became part of it. Notable among them are Khawaja, Wani, Banday, Tamrey, Bhat, Jaan. In addition to them, Mughal, Turk, Sayed, Qureshi, Lodhi, Pathan, Hatmal, Khan, Sheikh, Pir, Bab, Baigh, Khokhar, Dhand, (Abasi Aiwan) are included in Pahari people. Despite diverse religious, race, sect and community traditions, these people have adopted common composite culture and are living peacefully.

**Pahari Language**

Language is the identity of the man. It is due to the particular language that a man is distinguished from other men and group. According to G.A. Grierson, the word ‘Pahari’ means ‘of or belonging to the mountains’ and is specially applied to the groups of languages spoken in the sub-Himalayan hills extending from the Baderwah, north of the Punjab, to the eastern parts of Nepal. The Pahari language has its own historical and geographical background. No doubt this language remains dormant for a long period of time, but despite that, this language remained the mother tongue of the marvelous people. This language had been a medium of communication for trade and commerce, used for writing the prescriptions of Tayaibs and Hakeems and was also used by Sufis for the propagation of their message.

Though, geographically, the state of Jammu and Kashmir is divided into three regions as Jammu region, Kashmir Valley and Ladakh, linguistically and culturally, the state could be divided into five zones. First the Dogri speaking area which covers the district of Jammu, Kathua, Udampur and some areas of Doda; second, the Kashmiri spoken area which includes entire Valley of Kashmir and some parts of district Doda; third, the Ladakhi which includes the area of Leh and Kargil. Fourth, the Dardi spoken area which includes Gilgit, Askardo and Gurez; and fifth, the Pahari speaking areas which include Mirpur, Bamber, Kotli, Rajouri, Baddel, Poonch, Uri, Karna and Muzaffarabad which extend up to Mount Marry hills. This position stood till 1947. However, these broad linguistic regions are interspersed with pockets of
other lesser known dialects or there exists intermixing of adjoining regional languages i.e Kashmiri in Poonch, Muzferabad and Rajouri, Pahari speaking in the Valley such as Kariwa Malnoo and Kariwa Zooora in Shopian, Lalaab, Check Ferozpora, Teraian in Baramullah, Hapathnar, Salija, Drawa in Anathnag, Lessipora in Budgam and hundreds of small other hamlets.  

After the Census of 1931, the Pahari had been written under different names at different places for a long time as Chibali in Bambar Rajouri, Mirpuri in Mirpur district, Poonchi and Pothari in Poonch, Hindko in Uri, Khagni and Hazarwi in Karna and Muzaffarabad. These all are the synonyms of Pahari language. Despite some small variations in pronunciation, it was spoken in all the Paharis dominated areas from Pir Panchal range which extends from river Jhelum to river Chenab and was spoken by majority of the people, excluding Gujjars. It was the Pahari language which ascribed its name in 1977 and was given a unique identity.  

The history of the Pahari language can be traced from the Ashoka period whose rule spread from Nepal to Kashmiri hills. The preachers of Buddhism were in need of a language which people could easily understand and this led to the establishment of the Sharda Peeth in the Pahari area of Drawa which enjoyed the patronage of government of the time. Significantly, the 4th Budh Conference was held here in which king Kanishka participated in 141 B.C. In this conference it was resolved by the Buddhist intellectuals that instead of Sanskrit the holy books of Buddhism would be written in such a language which will be close to local languages and whose dialect would be easier than the Kharosti dialect. This decision led to the birth of Sharda script in addition to Sanskrit in which the words of local languages were included. So with the spread of Buddhism the new language also became common and later this was called Pahari, which extends from Nepal to Kashmir’s hilly areas, Almora, Kamanu and Himachal Pradesh. Being the language of common masses, the Budhism was preached and propagated in Pahari language.  

By the beginning of the 10th century, the Budhism started to decline in Kashmir and in other Pahari areas. With the revival of Hinduism in the region not only Budhism was wiped out but also the Pahari language, particularly its script referred to as Sharda/Shorseini lost its clout due to the lack of official status and patronage that it received earlier. Gradually like other parts of the India, the Hindu religion spread in these Pahari areas and Hindu emperor started patronage of Sanskrit
and the language which was used for the spread of Buddhism also got vanished with the downfall of Buddhism. The lovers of Buddhism migrated from cities, towns and from big villages to upper hills and the language also remained confined to these hills. The development of literature also got closed and the new generation also forgot the Sharda dialect. And for centuries the language remained confined to these areas and there was not any meaningful means for its study and development. So with the passage of time it assumed various shades, connotations and local names and whenever written, it took different scripts. Renowned historian Robert Bein has classified Pahari language of India into three broad sub groups.158

**Eastern Pahari areas:** this is being spoken in Nepal. There, it is known as Khasoora. But in 18th century, all the Pahari areas were occupied by Gorkhas and then this language was termed as Nepali.

**Middle Pahari areas:** this type of Pahari was present in Dehradun, Almaoda, Nanital and in the hilly areas of Kamoun, which were called as Kamouni.

**Western Pahari areas:** this shade of Pahari language extends from Himachal Pradesh to Muzafarabad and was spoken up to the Mount Mere hills in Himachal Pradesh. The Pahari language is spoken in Himachal Pradesh and known by various names as Himirpure, Ounwi, Sarmure, Beghati, Kuwanri, Mahasawi, Lahaouli, Kalwi, Munyali, Belaspuri, Khangdi, Chanbyali, etc. In Himachal Pradesh the tradition of writing in Pahari language was practiced from 16th century. Today, the Himachal Pahari is written in Devanagri script. All these groups were broadly called as the Pahari. Like Himachal Pradesh, the Pahari people of Jammu and Kashmir also spoke Pahari with local variations like Chibali, Mirpuri, Rambani, Poonchi, Hindku, Khagni and Hazarvi. This is the mother tongue of all the Pahari people of the state. In 1977, the Pahari intellectuals ascribed it the name Pahari in place of all these names and gave this language the new identity and space.

The present day Pahari spoken in Jammu and Kashmir is a further modified language written in Nastaliq (urdu script) in the north west part of Himalayas from Sathluj up to Sindh in sub mountainous belt. Pahari is an offshoot of Indio Aryan family of languages just as Sindhi, Punjabi, Bengali and Urdu etc.
Dialect of Language:

The dialect of the Pahari language was Sharda or Brahmi script, which changed with the time, environment and belief. In Himachal Pradesh, for a long time, its amended form Takri was found, and in the Pahari area of Jammu and Kashmir Takries changed shape, Lunday was existent for a long period of time. By the beginning of the 20th century, the Pahari merchant people of the state wrote their registers in Lunday dialect for long period of time but in Pahari region the majority of the people were Muslims who were not much acquainted to Lunday dialect while in their neighboring areas like Hazara and western Punjab, people adopted Shahmuki dialect for their way of life. So the earlier poets and writers of the Pahari areas had also adopted Shahmuki dialect at the beginning. The base of Shahmuki came from Persian dialect. In the beginning, Sufi poetry was also commonly written in the same language. So it was called Shahmuki which is being used presently for writing the Pahari literature while the Pahari is also written in Gurmukhi and Devanagri dialects at certain places.

Noted historian Sukhdev Singh wrote in his book the Beautiful India, some significant characteristics of Pahari language which differentiates it from rest of the neighboring languages. As there are more basic letters and consonant than Punjabi and Hindi.199

It is evident from all these things that Pahari is a complete language, it had its historical background, territorial jurisdiction, and its own dialect and its speakers are settled outside the Pahari speaking area. Other people like Gujjar, Dogra, Kashmiris and Punjabis living in the Pahari areas also understand and fluently speak Pahari language.

In 1975, Sheikh Mohammad Abdullah’s government worked hard for sorting out the regional differences and social inequality and also worked for the development of various locally spoken languages and Pahari also got flip. In 1977, a separate Pahari department was established in the State Cultural Academy. Astha-adab, Sheeraza, Lokgeet and Lok Kahaniya were started for publication. Furthermore, the broadcast in Pahari language started from Radio Kashmir Srinagar and from All India Radio Poonch, and Doordarshan Srinagar and Jammu also started broadcasting programmes in Pahari language.160 The Magazines like Resal-e-Gulvestan-e-adab by
Yusuf Naseem Larvi and Shamsabri by Zafar Iqbal Manhas were also started. Pahari writers started their writing in their local Pahari language. The Pahari conferences Mehfil-e-Mushera, Mahbil-e-Maqala and Mehfil-e-Afsana and other literary works were started in the main Pahari areas, cities and towns and a new wave of modern Pahari poetry got started along with the traditional literature. So it would not be incorrect to mention that Pahari language was trying to establish its legacy. Inspite of fact that the Pahari language stands recognized in the 6th Schedule of the Constitution of the Jammu and Kashmir state, unfortunately the language was neglected on all fronts.

Society, Culture, Belief and Occupation

In the ancient era, people used to share their experiences in the form of stories; it was a kind of an entertainment and source of knowledge. Especially Band story tellers went from village to village for their work. It is because of the Merasi people that the Pahari folk literature came to an existence. There were no adequate means for knowledge; so these stories and poetry also got transferred by these Merasies from one generation to other. These stories, plots and poetry are called ‘Lok adab’ because people create it based on their own experiences, own understandings and on their own feelings.

Folk Literature (Lok Adab) is always found in the mother tongue of each community in every corner of the world. It is the reflection of people’s lives, thoughts and behaviors. People make it memorable and protect it in their heart and soul and transfer it to their future generations as a heritage. In one side of the ‘Lok Adab’ there are instances of joy and sadness, suppression and conflux, win and loss, love and affection, miseries and atrocities of man over man but on the other side there are instances of art and culture, fears and festival, custom and tradition, way of life, food habits, social and economic aspect of life.

Pahari lok Adab (folk literature) is not confined to a particular community, caste or religion but it is the composite heritage of the Pahari society. Like the Lok Adab of other languages, the Pahari Lok Adab can be divided into two parts: Lok Kahaniya (folk stories), and Lok Geet (folk songs). Apart from the rich folk literature, modern Pahari language has made rapid strides in the past few decades to the literature of the other sister languages. Besides Saiful Mulook, masterpiece written in
Pahari, many other books like *Sirajul Qasus* by Molvi Habibullah Shah is a detailed account regarding the linguistic entity of the Paharis of Jammu and Kashmir.\(^{162}\)

**Pahari Economy**

Geographically, the Pahari dominated area is hilly, remote and far-flung area. Most of the population is settled over rough terrain of Pir Panchal range. Some of them are living in the villages falling near the Actual Line of Control where the life is very miserable and the economy of the area is based on agricultural, exclusively depending on the changing climate or locally made tools. The establishment of industries and business are not possible in these Pahari dominated areas due to unavailability of modern means of transport, electricity and other facilities.

However, in the recent years, government has established several schools to educate the Pahari people. The backwardness continued from the past time and due to inadequate share of government employment, the 70 percent of the economy was based on the production of small landforms available over the rough terrain. Besides agriculture, the people also rear the sheep and goats. In the good leisure days, the people engaged in their manual laboring. Due to the favorable climatic conditions various types of fruits are grown in Pir Panchal adjoining areas of Uri, Keran, Karna, Thana, Sewankote, and Bedal. These areas are famous for the production of Walnuts and Almonds. In addition Plum, Mulberry, Apricot, Peas, Apple and Cherry fruits are also grown.

Usually the Pahari people build their houses at the upper riches by using mud and big logs for their flat roofed thatched houses. However, people living in villages build the concrete house. The houses have two parts; first part is called *Dab* which often collides with the land and is kind of a big hall. These square shaped rooms usually possess high short window (*roshandan*) and a chimney for evacuation of smoke which is known as *Ugun*. In other words, the Dab is also called Bande which is usually meant for the cattle. The rest of the house is built in the back of Dab. The roof of the *Dab* is usually used as a terrace of the house. The house is usually composed of open gallery, kitchen, drawing room, bed rooms and store for storage of grains and other valuable items. Jewellery and cloths are kept in boxes. The two storey buildings are called *Ladey*.\(^{163}\)
Pahari females usually wear shalwar kameez and odhni (khesh or chapra), shoes and sweaters. Footwear is called as gurgab, and joda, which is made by local cobbler, are also used. Females also wear the Hijab. Hindu Rajput females in villages wear white coloured Hijab. Majority of the females are fond of red coloured suit.

The men of rich families usually wear white coloured shalwar, khadi shirt (bosiki) black vasket whose buttons are entangled through chains and a pagdi. The poor wear khaddar shalwar, kameez and pesheri lungi to cover their head. The old women of villages wear Tajiskistani tophies. Pahari women have significant identity for their jewellery. Zamindar people are silver jewellery. The Hindu and Sikh women use golden chains, lockets, bangles, and earings etc.\textsuperscript{164}

Bull race, horse ridding, buffalo war, latthabazi, samsherbazi, wrestling, hide and seek and kabaddi are the common games played by Pahari youths. Besides this the people are also fond of songs and dances like tadi, mangha, shamsharbazi, dohta, bhangda, and hatmal.\textsuperscript{165} These are the common dances performed during marriage ceremonies.

In the Khari period, 88 percent land is used for the maize production. So in this way makki ki roti (maize bread), sattu tea, rice, lassi, saag, milk, kehwa (spiced tea) are the common dishes. In Hindus, in addition to above things kada, puri, halwa, paratha, kanji, sharbat are also famous.

Pahari handicrafts have their own unique identity. Wood carving, shamadan, kangia, chamchey, toothpin, suthiyan, swords and trays are the common handicraft items made by the skilled Pahari people. 'Chashambulbul' blankets are very famous from the earlier period. White puttu, pitavey are the locally made handicraft items. Women used to make baskets which are known as chanji.

Though the Pahari people belong to different religions like Hindu, Muslim and Sikh but their customs and traditions are common among all the religions. These traditions extend from cradle to grave. The birth ceremonies are also common amongst all religions.

Socio-Economic Backwardness

These people are mostly concentrated in hilly and border areas, stretching from Badhel in Rajouri upto to Keran and Teetwal in Kupwara, are compelled to live
in a very pitiable condition. They are caught between the devil and the deep sea. The geographical-cum-topographical conditions coupled with border area have made their life miserable. Devoid of day to day normal facilities of education, healthcare, financial support and social upliftment, they have been facing aggression, tension, violence etc, prevalent on the borders from the last 60 years. They have been uprooted time and again and had to bear the agony of dislocation. The central and state government have added to their miseries. These Paharis allege that the central government, by denying the Scheduled Tribe status to Pahari speaking people, has virtually sealed the future of this community. The state government has already recommended Pahari speaking people for ST status in 1989. Since then the case is pending with the central government.\textsuperscript{166}

To conclude, we can say that both the Gujjars and the Pahari speaking people are linguistic, ethnic, and cultural entities. They possess almost similar racial and cultural characteristics. It is difficult to differentiate and to tell that to which community they belong as their dresses are generally common. Their customs, rituals and traditions are also the same. The only difference between the two communities is of the language they speak.
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2. Mushtaqur Rahman, Divided Kashmir: Old Problem, New Opportunism for India, Pakistan and the Kashmiri People, Bahri Sons, New Delhi, 1993, p. 21

3. In the Ladakh region, the Ladakh Hill Development Council (LHDC) was established in 1995 as a part of democratic decentralisation of planning at grass root level owing to the difficult geographical location. It is autonomous in nature.


5. Pakistan administered Kashmir: Area of former princely state of Kashmir Known as Azad Kashmir spread over Korakarm and Gilgit Baltistan, the territory is disputed since 1947.


7. Ibid.


10. Stand Still Agreement was signed on 29th November, 1947 by the Maharaja Hari Singh of Kashmir, whereby it ensured that rulers be allowed to make up their minds and announce their decisions till new agreements were made.

12. Ibid.

13. National Hydro-Electric Corporation (NHPC) is unconstitutionally and illegally controlling different power projects in Jammu and Kashmir. It has potential of 20000 mwts, but Government of India is not allowing to tap this potential, which could have boasted the economy of the state.


15. Kailhana, a poet wrote Rajtarangni, History of various dynasties which ruled Kashmir from the earliest period to the time of author (12th century A.D.)


18. Ibid, p. 12

19. The society was divided in accordance with the occupational hierarchy as Brahmans (priestly and literate class), Ksatriyas (warriors), Vaishas (cultivators), Shudras (menial untouchables).


23. K.S. Singh (ed.), op.cit, p. 13

24. Ibid, p. 14


26. Mridu Rai, op.cit, P. 288

27. Reading Room Party was a group with an aim for an emancipation of Kashmiris. Initially the members met for discussing the future of Kashmir.

28. P.S. Verma, op.cit, p.16

29. Ibid, p.17
30. Bertrand Glancy, on 12th November, 1931 was appointed as Chairman of the Commission for constitutional reforms and this was constituted of four non-official members representing the Muslims & Hindus.


33. P.S. Verma, *op.cit.*, p. 18


35. S.N. Koul, *op.cit.*, p.140

36. *op.cit.*, p.141

37. S.N. Koul, *op.cit.*, p.141

38. In 22 October, 1947, Pakistan tribesmen attacked the state of Jammu and Kashmir to invade the territory and they looted the property of Kashmiris.


40. S.N. Koul, *op.cit.*, p. 142


42. S.N. Koul, *op.cit.*, p. 147

43. P.S. Verma, *op.cit.*, p. 114

44. S.N. Koul, *op.cit.*, p. 148


46. Mirza Afzal Beg formed the “All Jammu and Kashmir Plebiscite Front” on August 9, 1955 for the cause of free and fair plebiscite and raised slogans “Long live Abdullah, we want plebiscite”, each year 9th August is observed as “black day” and emphasized that sovereignty belongs to people.

47. S.N. Koul, *op.cit.*, p. 150


49. The plan under which designated chief ministers resigned their office to party work.


51. S.N. Koul, *op.cit.*, p. 151

53. Kashmir Accord: For reconciliation a six-point accord between the then Prime Minister Mrs. Indira Gandhi and Chief Minister Sheikh Mohammad Abdullah in February 1975 was signed and declared that constitutional measures under Article 370 will continue to govern the state.

54. Ganguly, (ed.), *the Kashmir Questions*, p. 190


57. Mridu Rai, *op.cit.*, p. 290

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59. AFSPA is a law which has been passed in 11 September, 1958 by the Parliament of India. It conferred special powers upon armed forces in disturbed areas like unwarranted detention, no prosecution for killing. It has been in existent in Kashmir since July 1990

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63. International Centre for Peace Initiatives, *Cost of Conflict between India and Pakistan*, p. 74


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147. *Ibid*, p. 33

148. *Ibid*, p. 34

149. *Ibid*, p. 35


151. Khush Dev Maini, *op.cit*, p. 48

152. *Ibid*.

153. *Ibid*, p. 49


157. Farooq Anwar Mirza, *op.cit*, p. 110
158. Khush Dev Maini, *op.cit*, p. 54
159. *Ibid*, p. 57
160. Farooq Anwar Mirza, *op.cit*, p. 108
161. Khush Dev Maini, *op.cit*, p. 64
162. *Ibid*, p. 70-71
163. *Ibid*, p. 89
164. *Ibid*, p. 90
165. *Ibid*, p. 92
166. Farooq Anwar Mirza, *op.cit*, p. 105
Chapter II

Genesis of Reservation Policy in India
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GENESIS OF RESERVATION POLICY IN INDIA

Evolution of Depressed Classes

Marc Gallenter described Indian society as a compartmental society within which a vast number of groups maintain distinct and diverse styles of life. *Jati* or *caste* is the factor specifying rank in the Hindu social order. The origin of *Varna* and *jati* is usually associated with the advent of Aryans on the Indian soil.

Indian society is divided into four *varnas*, or castes. The *varna* order had its origin in the *Rigveda*, dating back to 1500-1000 BC. At the top of the hierarchy are the Brahmins, or priests, followed by the *Kshatriyas*, or warriors then the *Vaishyas*, or farmers and artisans and at bottom are the *Shudras*, the class responsible for serving the three higher groups. Finally the untouchables fall completely outside of this system. It is for this reason that the untouchables have also been termed *avarna* (no class). The general belief among Hindus is that the *Brahmins* proceeded from the mouth of *Bramha*; the *Kshatriyas* from his arms; the *Vaishyas* from his thighs; and the *Shudras* from his feet.¹

Literally, Caste has a Spanish and Portuguese origin. Caste means lineage or race. It is derived from a Latin word *costes* which means pure. The Spaniards were the first to use it, but its Indian application is from the Portuguese who had so applied it in the middle of the fifteen century. The current spelling of the word is after the French word “caste”, which appears in 1740 AD. in the academics and is hardly found before 1800 AD. Before that it was used as early as 1555 AD. The Spanish word “casta” was applied to the mixed breed between Europeans, Indians and Negroes². But caste was not used in its Indian sense till the 17th century.

The real origin of these lower classes is like the history of entire caste system, a question much disputed among India’s well known historians. Race, conquest and occupation seem to have been the main factors in the first stages of the development. Later the spirit of the Brahmanic religion and philosophy entered and turned the natural divisions into the elaborate caste system of “supernatural” rigidity. The great majority of the untouchables represent original people who had been the masters of India before the *Dravidas* and the Aryans invaded their country and subdued them.
Subsequently invasions submerged some of them still more without obliterating them. Such scheduled and ostracized people were reduced by their conquerors and masters to an ever more servile status. They become the menial servants in the households and the diggers in the fields. Gradually the more unpleasant duties were assigned to them. They were made the sweepers and scavengers of towns and villages, the flayers of dead animals and the leather workers in general. Gradually an impenetrable barrier of rules and practices grew up between the ruling classes and these surfs. The outcastes are denied every sort of education. Naturally the schools of caste Hindus are outside their reach; in the government schools, which are supposed to be open to all, they are hardly admitted, and if they manage to get in, they are treated with such contempt and subjected to such indignities that they have often to stay away for some time or leave the school altogether.

Such has been the condition of about sixty million Indians. That is, nearly one fifth of the total population of the country for many centuries. They didn’t think of voicing their grievances for they knew it was useless and believed it was sinful. They remained the silent suffering victims of tyranny and superstition. But now, according to Mr. S.R. Nekaljav, president of the All-India Depressed Classes Conference at Amraoti, 27 April 1930, “the cry of the dumb millions of this vast continent of India, oppressed socially, economically, politically and religiously for centuries, has reached the throne of the creator of the universe.” The ‘dumb millions’ are awakening; they are in a state of volcanic eruption. This awakening has been brought up by not only the leaders from low recognised castes but also from the superior caste persons like Gandhi and Rabindranath Tagoo etc.

Gandhi struggled for a better treatment of the Indian coolies in Africa. He was painfully conscious of the fact that their brethren at home, the outcastes, who formed nearly one-fifth of India’s population, were treated no better by their own countrymen and, in fact, much greater wrongs from them in every respect. Gandhi realised that a country bearing the stigma of untouchability could not claim a place of honour among the other nations of the world. In Africa though he did not aim at a complete abolition of the caste system, which in his opinion is something inherent in human nature and reduced to a science by Hinduism. Elean Zeliot taking a case study of untouchables in India points out the distinction in the approaches of Ambedkar and Gandhi towards the problem of untouchability. According to him, Ambedkar saw advancement of
untouchables in terms of using political means to achieve social and economic equality with the higher caste in a modern society. Gandhi adhered to a more traditional concept of a varna system. Now the big challenge before leaders was that how these groups are to be identified.

Classification and Identification of Depressed Classes

The Constitution of India does not permit preferential treatment as a general principle of operation. Such treatment is given only for the limited purpose of advancing the backwards. The Scheduled Caste and Scheduled Tribes constitute the bulk of those receiving preferential treatment, and they receive a large quantum of preferences than other backward classes. The Scheduled Castes and Tribes comprises of those who were at the bottom of the Indian social order. Those groups, who because of their low status in hierarchical Hindu order were subjected to disabilities and lack of opportunity. The constitution provides that the Scheduled castes and Scheduled Tribes shall be designated in the first instance, with subsequent modifications only by the Act of Parliament. It further provides that the President shall appoint a special officer to investigate all matters relating to the safeguards for the Scheduled Castes and Schedule Tribe and report to Parliament on their working. Accordingly the office of the Commissioner of SC and ST was established in 1950 for the purpose of coordinating and reporting but had not administrative functions. Primarily three categories of groups have been identified (a) Scheduled Castes (b) Scheduled Tribes and (c) other (socially and educationally backward classes).5

(a) The Scheduled Castes

The "Scheduled Caste" category is comprised of the isolated and disadvantaged groups by their "untouchability" and are exposed to maltreatment, severe disabilities and deprivation of economic, social, cultural and political opportunities. In the beginning of the twentieth century these depressed classes had become an important focus of concern among reformers. After 1901, proposals for special legislative representation for these classes to eradicate the untouchability had become vibrant among the political circles. Concerns for untouchability grew and demands were made on their behalf. There was sharp disagreement about the number of persons who belonged to this category.
From 1901 onwards, it was claimed by several writers that untouchables numbered 50 million or more—about 24 percent of the Hindu population or just fewer than 16 percent of the total population of India, according to the 1914 census. Although Madras had compiled a list of depressed classes during the 1920s, the Government of India refrained from any official classification until 1936 on the ground that it would be unfair to stigmatize these groups by official acknowledgement of their low status. But several governmental bodies attempted to assess their numbers.

Finally the groups have been identified officially, scheduled in 1936 for the purpose of giving effect to the provisions for special elected representation in the Government of India Act, 1935. Lists were to be prepared for the area of these castes which deserved a special treatment. After the independence, the constitution provided only a procedure for determining these groups. The President is empowered to specify, after consulting with the government of a state, those “castes, races or tribes or parts of or groups within castes, races and tribes which shall for the purpose of this constitution be deemed to be Scheduled Castes in relation to that state.” Once promulgated, this list can be changed only by the Act of Parliament.

(b) Scheduled Tribes

There has been much less dispute about the identification of the Scheduled Tribe than about the Scheduled Castes or the other backward classes. The general notion is that this category should include those groups distinguished by “tribal characteristics” and by their special and cultural isolation from the bulk of the population. The Britishers attempted to protect these “aboriginal” people by placing areas in which they were concentrated outside of ordinary administration to permit a policy of insulating them from exploitative or demoralising contact with outsiders. These territories were placed outside the operation of general law and were the object of broad executive powers to provide special protective regulation. Some provinces had undertaken a policy of protective treatment for tribals outside these areas. In the 1935 Act, provisions for representation were made for backward tribes in the reformed provincial legislatures and a list of backward tribes was promulgated in 1936 for all the provinces except Punjab and Bengal. The 1941 census counted 25.4 millions tribal people.
The Constitution carried forward this dual treatment of tribal areas in a set of provisions for their protection and advancement for more elaborate and detailed than the provisions for the other categories of backward classes. Along with reservation in legislatures and services for the Scheduled Castes, there are provisions for direct central control over administration, for direct central financial responsibility. The formal mechanism of designating the Scheduled Tribes is same as that for Scheduled Castes. Although the list contains groups throughout the country, the tribal population is heavily concentrated in central, eastern and north eastern India. The Scheduled Tribes were defined partly by habitat and geographic isolation, but even more on the basis of social, religious, linguistic and cultural distinctiveness- their tribal characteristics.

(c) Other Backward Classes

The other backward classes for whom preferential treatment are authorised are not defined in the constitution, nor is any exclusive method or agency for their designation. At the time of independence, the term ‘backward classes’ had a less fixed and definite reference, the term had a variety of referents in different places. The above cited variations can be discussed as:

"In 1917 the Maharaja of Kolhapur recounted to Mr. Montague that he had been taking very keen interest in uplifting the backward classes”. After that the term appears in the terms of reference of the Southborough committee which was to advice on measures to secure representation of “minorities of special interests, or of backward classes.” But the committee didn’t mention any such groups in its report, other than depressed classes. The joint select committee of the British Parliament which reviewed the Southborough report mentioned in passing the importance⁹ they attached to “the educational advancement of the depressed classes and backward classes.”

The term had never acquired a definite meaning at the all India level. There had been no attempt to define it or employ it on the national level and there were no nationwide backward classes’ organisations or spokesmen. The term had definite meanings in local contexts with some minor variations. After the listing of Scheduled Castes, the usage as a synonym for untouchables drops away. Two major species of usage emerge: (1) as the more inclusive group of all those who need special treatment,
(2) as a stratum higher than the untouchables but nonetheless depressed. This double usage even continues today, while the former is the usage of backward classes in the wide sense (including Scheduled Castes and Scheduled Tribes); the latter in the usage as equivalent to other backward classes.”

According to Marc Galanter, “The princely state of Mysore instituted a system in which all communities other than Brahmins were provided concessions from 1918, like places were reserved for them in colleges and state services and this has inaugurated the first modern regime of communal quotas.”

“Backward classes” was first technically used in the princely state of Mysore. In 1918, the Mysore government appointed a committee to enquire into the question of encouraging members of the “backward communities” in public service. In 1921, preferential treatment of “backward communities” was instituted, and they were defined as “all communities other than Brahmins, who are not now adequately represented in the public services.”

The Reforms Enquiry Commission (1924) didn’t find occasion to use the term, but the ministry report refers to its use as a synonym for the depressed classes (untouchables) and in contradiction to “non Brahmins”. In 1930 the Starte Committee in Bombay recommended that “depressed classes” should be used in the sense of untouchables, a usage which “will coincide with existing common practices”. They proposed that the wider group should be subdivided into depressed classes; aboriginals and hill tribes, other backward classes. They note that the groups currently called backward classes should be renamed “intermediate classes”. In addition to 36 depressed classes and 24 aboriginal and hill tribes, they list 95 other backward classes. In the mean time, the objective resolution of the Constituent Assembly, moved by Jawaharlal Nehru on December 13, 1946 had resolved to provide adequate safeguards for minorities, backward and tribal areas, and depressed and other backward classes. So adequate reform measures were initiated by the various reformists.

Reform Measures and Evolution of Reservation Policy

The evolution of reservation policy can be traced back to the colonial period. In the middle of the 19th century, there emerged reform movements in many parts of India. One such reform was the by-product of proselytizing the natives especially the
depressed classes by the Christian missionaries. This might have inspired the Hindus to start social reforms or they might have felt ashamed to have practices as caste discrimination. Consequently there were such moderate reform movements in many parts of the sub continent. For instance a movement was started in the Madras province in 1852. In 1858, the government of Bombay presidency declared that all schools maintained at the sole cost of government shall be open to all classes of its subjects without discrimination. But this policy was hardly enforced. By 1923 the same government decided to cut off aid to educational institution that refused admission to members of the depressed classes. But often the reform movements addressed the issues which were considered anachronistic and superstitious; the reform movements were considered not with the evil of caste system as such, but of broader social issues like widow remarriage and education of women and opposition to child marriage. As Galanter says that these are issues which reflected higher caste practices and options and caste system as such was not challenged. Some authors tried to discover ‘Brahmanism’ as the root reason for the discriminatory behaviour.

Jyotiba Phule, a social activist felt the necessity of reforms within the Hindu society. In 1860 he called attention to the deplorable conditions in which the depressed classes lived and also the discriminatory treatment meted out to them. In 1880’s, the British administration set up scholarships, special schools and other beneficial programmes. Progressive minded princes in the native states like Baroda, Kolhapur and Travancore took similar initiatives. Tracing the historical evolution of the policy of reservation the Committee on the welfare of Scheduled Castes and Scheduled Tribes stated:

Realising the unequal distribution of posts in the administration between different castes and communities, the rulers of some of the then princely states, who were genuinely interested in the upliftment of disadvantaged section of society, took initiatives and introduced reservations in the administrative posts in favour of backward castes and communities in their states as early as in the first quarter of the 20th century. Mysore and Kolhapur were amongst the first to do so. Because of the movement for social justice and equity started by the justice party, the then presidency of Madras initiated the reservation in government employment in 1921. The Census of 1910, classified the population into (a) Hindu, (b) Animistes and Tribals and (c) the depressed classes, thus the plight of depressed classes was addressed for the first time.
Eight years later in 1918, the Maharaja of Mysore, having received petition from the depressed class people appointed Miller Committee to go into the question of adequate representation of non-brahmin communities in the service of the state.

In the beginning, some politicians like Dadabhai Naoroji, Badruddin Tayabi, W. C. Banerjee and Surendra Nath Banerjee wanted to include in their manifesto the activity of social reform along with the main political goal of achieving independence. Dr. Ambedkar quoted two incidents that compelled the Indian National Congress to rethink about its social reform activity.\(^{12}\)

A. In 1917, people from ‘Depressed Classes’ organized two separate meetings in the city of Bombay under the chairmanship of two different personalities. Late Sir Narayan Chandavarkar chaired the first meeting while Bapuji Namdeo Bagade the second one. In both the meetings, they, on the one hand made a demand of free and compulsory education for the children of depressed classes and on the other they unanimously passed the resolution not to support the ‘Congress-League Scheme’. Through these meetings, they also presented their demands for ‘granting rights to the untouchables to elect their own legislators in the various legislative bodies to ensure their social and political rights’. This was the first time in the country when the depressed classes organized themselves at national level and put their political demands before the British Government.

B. In the meantime on August 20, 1917, late Montague, the then Secretary of State for India announced the new policy of “gradual development of self-governing institutions with a view to progressive realization of responsible government in India as an integral part of the British Empire.

Indian National Congress in its annual session held in Calcutta in 1917 took serious note of the said two major incidents and consequently passed the resolution of social reform. In Bardoli meeting held in 1922, the Congress passed a resolution “to organise the depressed classes for a better life, to improve their social, mental and moral condition, to induce them to send their children to national schools and to provide for them the ordinary facilities which other citizens enjoy.”

The reservation of seats on communal basis in legislative bodies was made for the first time through the Indian Council Act, 1909. However, it did not include depressed classes because they were neither having any political say nor the British
had any interest in their upliftment. The Southborough Committee recognized separate political existence of the depressed classes and strongly recommended that measures should be taken to protect their interest in the ensuing constitutional reform.

When the First World War started in 1914, Britain began to pay more attention to the war. To illicit the support of the people in India, Britain thought about some constitutional reforms. After studying the views expressed by various organisations in India, it was decided to provide representation in the provincial assemblies and in the central legislative assembly. In the provinces ruled by the British a systematic attempt for the betterment of the depressed classes was started with the introduction of Montague-Chelmsford reform incorporated in the Indian Councils Act, 1919, a demand for the adequate representation in the legislatures was justified on the ground that the depressed classes were subjected to the intellectual and cultural domination of Brahmin priest class.\textsuperscript{13}

The result of the first dispatch on Indian constitutional reforms was that the existence of depressed classes was recognised for the first time in Indian history under the Indian Councils Act, 1919, with the result that among the fourteen non-official members nominated by Governor General to the Central Legislative Assembly, one was the representative of the depressed classes. The Indian Councils Act, 1919, had a provision that the statutory commission would be appointed after ten years to report on the matter of establishing a responsible government in India. The Simon Commission report focussed on the issue of the depressed classes not only as a social issue of caste, but also an issue with serious political safeguards.

Many provinces like Bihar and Orissa suggested they would opt for 'nomination’ because the depressed classes were too backward to choose their own representative. In 1926 the Government of Bombay set up a committee under the chairmanship of O.A.B. Starte to identify the backward classes and recommend special provisions for their welfare.\textsuperscript{14} In the meanwhile, under the leadership of Ambedkar the depressed class people had began to articulate forcefully their demands. In the words of Galanter, Dr Ambedkar, by this time recognised as an important spokesman, appealed before the commission to demand reserved seats for the untouchables in legislative bodies, special educational concessions, and recruitment to government posts recommendations substantially accepted in the commission’s report.
In the Simon Commission Report, submitted in 1930, backward people were categorised: (a) depressed classes (b) aboriginals and hill tribes (c) other backward classes. The depressed classes demanded a separate electorate but the commission didn’t favour this. However the commission was not against reserving seats for them. The commission recommended reserved seats for the depressed classes in general constituencies and these seats would be filled by election in which both depressed classes and others would participate.

There was stiff opposition to the recommendations of the Simon Commission Report. Though Gandhi, the charismatic leader of the national movement, was opposed to any kind of reservation, he later changed his position to set up separate electorates to religious minorities like Muslims, Sikhs and Christians, but opposed vehemently separate electorate for the depressed classes.

In 1931, a round table conference was convened in London to review the Simon Commission Report and to make recommendations for drafting the constitution. Ambedkar and Rao Bahadur Srinivasan represented the depressed classes in the conference who demanded separate electorate but the discussion failed to make any consensus.15

On August 1932 the prime minister of Britain Ramsay Mac Donald announced communal award to grant separate electorate. The award was based on the principle of communal representation and gave separate electorates to the depressed classes, the Muslims, the Sikhs, the Europeans and the Indian Christians.16 Gandhi termed communal award as “an attack on Indian unity” and nationalism and he started fast unto death at Yervada jail. Gandhi argued, “Muslims and Sikhs are all well organized, the untouchables are not. There is very little political consciousness among them and they are so horribly treated that I want to save them against themselves. If they had separate electorates, their lives would be miserable in villages which are the strongholds of Hindu Orthodoxy.........you must understand I can tolerate the proposal for special representation of the Musalmans and the Sikhs only as a necessary evil. It would be a positive danger for the untouchables............. the only thing needed is to put them on the voters’ list and provide fundamental rights for them in the Constitution."
Ambedkar was opposed to Gandhiji so he did not take his fast seriously. Finally both reached on an agreement, known as Poona Pact, which was signed on 24th September 1932. Poona pact is known as a centre point of the modern reservation policy. These developments reflected finally in Government of India Act 1935. This replaced the term “depressed classes” with “Scheduled Castes”. Accordingly list of Scheduled Castes were notified in 1936. The Act defined the Scheduled Castes ‘such castes, races or tribes or groups within a caste. The Act provided the facility of reservations in legislative bodies through election for the first time to the Scheduled Castes.

While Gandhi started Harijan Sevak Samaj to uplift the depressed classes, Ambedkar formed the Independent Labour Party, later became All India Depressed Classes Federation, to put pressure on government for obtaining more resources for the depressed classes. Ambedkar submitted a memorandum to the government for reservation not only in legislative seats but also in education and government employment. This demand was accepted which finally provided the basis for the policy of reservation in India. The Government of India vide its resolution dated 11.3.1943 provided for reservation of 8.33 percent of the vacancies in the government for the Schedule Casts. This provision was made after realising the limited results of the earlier policy of nominating candidates belonging to the depressed classes to the public services.

Prior to independence the British Government adopted and used the policy of caste based reservation to divide the Indian society and to create hatred between different groups and communities. There had been resentment against the policy from many quarters. The principal of King Edward Medical College, Lahore who was a noble Englishman resigned the job when admission was ordered to be made on the basis of caste. He said, “I cannot entrust human beings to inefficient hands. What has caste or religion to do with medical care? Only merit should count.”

When Independence came in 1947, caste was in bad order. The hardships inflicted on the lowest castes inspired humanitarian revolution. It was widely accepted that caste would have no place in independent India and that efforts to ameliorate the effects of past inequalities were in order. As power passed into the Indian hands, the exclusion of untouchables from public facilities and from Hindu temples were made statutory offences throughout most of India. All these developments led to the era of
new thinking at every quarter of life. And the reservation issue was also widely debated in the Constituent Assembly.

Constituent Assembly Debates\textsuperscript{21} and Policy of Protective Discrimination

Here the views of the Constituent Assembly members are projected to highlight the then prevailing trend of compassion and concern towards the weaker sections of the country. The over-all theme of the discussion was that those citizens who trailed behind in achieving the social, economic and educational stream of the country for any reason, should be given protection to such an extent that they should be at par with the mainstream of the country. This protection is provided to them by providing the privileges in the employment and in the education.

While discussing the draft Art. 9 (Corresponding to Act, 15 of the constitution) Prof. K.T. Shah moved an amendment for inclusion of Scheduled Castes or backward tribes and commented that:

"This discrimination is in favour of particular classes of society which owing to an unfortunate legacy of the past suffer from disabilities or handicaps. Those, I think, may require special treatment, and if they do require it, they should be permitted special facilities for some time so that real equality of citizens be established. It is only intended to safeguard, protect or lead to their betterment in general so that the long range interests of the country may not suffer. In regard to the scheduled castes and backward tribes, it is an open secret that they have been neglected in the past, and their rights and claims to enjoy as equal citizens happen to be denied to them because of their backwardness they need and must be given, for some time to come at any rate, special treatment in regard to education, in regard to opportunity for employment and in many other cases where their present inequality, their present backwardness is only a hindrance to the rapid development of the country. Any section of the community which is backward must necessarily impede the progress of the rest, and it is only in the interest of community itself, therefore, that it is but right and proper that we should provide facilities so that they may be brought up to date so to say and the uniform progress of all be forwarded. I have of course, not included in my amendment the length of years, the term of years for which some such special treatment may be given that may be determined by the circumstances of the day. I only want to draw your attention to the fact that there are classes of our citizens who may need, though no fault of theirs, some special treatment if equality is not to be equality of name only or on paper only, but equality of fact".

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Shri Damodar Swarup Seth while discussing draft Art. 10 (corresponding to Art 16 of the Constitution) stated:

"Who will not believe it, that reservation of posts or appointment in services for the backward classes means the very negation of efficiency and good Government? Moreover, it is not easy to define precisely the term 'backward', nor is it easy to find a suitable criterion for testing the backwardness of a community or class. If this clause is accepted, it will give rise to casteism and favouritism which should have nothing to do in a secular state. I do not mean that necessary facilities and concessions should not be given to backward classes for improving their educational qualifications and raise general level of their uplift. But Sir, appointments to posts should be only left to the discretion of the public service commission, to be made on merit and qualifications, and no concession whatever should be allowed to any class on the plea that the same happens to be backward."

Pandit Hirday Nath Kunzru had moved an amendment for restricting the reservation of posts for ten years while discussing the draft Art. 10 of the Constitution. He commented:

"I am not in principle against the protection of the interests of classes that are at present unable to look after themselves unaided; but this article, as it is, presents several difficulties. In the first place, the word "backward" is not defined anywhere in the Constitution- whether any class is backward or not should be left to the law courts to decide. It is therefore our duty to define the term 'backward' so that there may be no dispute in the future above its meaning It seems to me that in fairness to the country, protection can be granted to any class, whether you call it a backward class or a minority, only on the ground that it is backward and it left to itself, would be unable to protect its interest. It was recognized that for the time being they were necessary, but it was insisted on that whatever protection might be considered necessary now, should be granted temporarily only, so that the population of the country might become fully integrated, and no community or class might be tempted to claim special advantages for itself.

Shri R.M. Nalavade contributed a very important aspect to the discussion. He stated:

"---But the words "backward classes" are so vague that they could be interpreted in such a way as to include so many classes which are even educationally advanced. They are found mentioned in the list of backward classes. Our experience in the provinces, though there are provisions for reservation of the services, is bitter. Even though the depressed classes are
educated and qualified, they are not given chances of employment under the provincial Governments. Now that we have provided for this in the Constitution itself, there is no fear for scheduled castes."

Dr. Dharam Prakash threw light on the backwardness. He stated:

"---it is an undoubted fact that "backward" class has not been defined so far and there is no possibility of its being defined in the near future. There are backward people in every community. Personally I believe that if there is to be any reservation for backward classes in the services it is very necessary to see as to what is the present position and what is to be the future of a particular class which has been backward for centuries, whether religiously or economically or socially. I personally hold the view that in this free country it is not proper to make reservation for Hindus, Muslims, Christians and Sikhs on the ground that they are minorities. But in so far as that section of Hindu is concerned who are called Harijans, and they are really backward, it appears to be appropriate that there should be reservation for some time. When they reach the same level of culture as other sections of population, I would be the first person to oppose any reservation what-so-ever for them. So long as they do not attain that position, I favour reservation."

Shri P. Kakkan while discussing on Art. 10 commented:

"The poor Harijan candidates hitherto did not get proper appointments in government services. The higher officers selected only their own people, but not the Harijans sir, even in the matter of promotions, we did not get justice. The Government can expect necessary qualifications or personality from the Harijans, but not merit. If you take merit alone into account the Harijans cannot come forward. I say in this House that the Government Must take special steps for the reservation in appointments for the Harijans for some years."

Shri V.I. Muniswamy Pillay stated:

"---I may tell this House that it is not the object of any of the leaders of the Harijan community to perpetuate the communal bogey in this land forever, but so long as they remain so backward in getting admission into the services, it is highly necessary that they must be given some protection."

Shri T. Channiah while discussing the issue narrated that backward communities suffer from two disabilities namely, social disabilities and educational disabilities:
"I am really sorry that the honourable Pandit Kunzru should have felt that the backward class should be given this opportunity only for a period of ten years. Sir, I want this reservation for 150 years which has been the period during which opportunities have been denied to them."

Shri Shantanu Kumar Das emphasises on reservation by stating that:

"At present there is reservation in the elections and thereby we get a chance to discuss our problems here. But if there was no such reservation it would not be possible for us to come here as we would not be able to win in general elections. I therefore, submit that there should be reservation in services and elections. There is one thing more. It has been said that reservation should be kept for ten years, why only for ten years? If we get equal rights within two years all would be on the same level after that period and there would be no need for reservations."

Shri H.J. Khandekar projected the factual condition of the Harijans by stating:

"---if I leave aside the political aspects of the community and come to social, educational, economical and religious aspects, the condition of the scheduled caste in this respects also is more deplorable than that of any man living in this country. As was said here by certain friends of mine, Communalism is going on, and provincialism is going on and other things are also going on and I am afraid if these things are continued even if this clause is brought into operation, the scheduled caste will never get a chance, as the word 'backward' would be interpreted in such a way that we people would get no chance in the services because the people of other castes will also claim to be backward and get the chances on reserved posts."

Mr. Mohamed Islam sahib has criticized the word 'backward' in his speech. He stated:

"The word 'backward' has not been defined at all anywhere in this constitution. But I may tell you it has been defined in certain places. In Madras it has got a definite and technical meaning. There are a number of castes and sub-castes called backward communities. The Government of Madras have counted and scheduled more than 150 of these classes in that province and in that province when you utter the word 'backward', it is one of those 150 and adds communities that are meant, and not any community that is generally backward. I submit that it should not in any way be taken to mean that the backward classes as those of the minority communities such as Muslims, Christians and the scheduled caste people are excluded from the purview of this clause. As a matter of fact, there are backward people amongst the non-majority people as
well. The Christians are backward. As a matter of fact, they are not adequately represented in the services of the provinces. So are the Muslims and also the scheduled Castes. If any provision is made, it has to be made for such really backward people."

He has defined word 'backward by stating:

"The backwardness of the people is the result of conditions which have been persisting and in existence for several centuries and ages and it will not die off easily. So the measure really should be the steps that are being taken to liquidate that backward condition, and it should be the forwardness of the people which has resulted as a consequence of those steps. Therefore, when those people advance and have come forward as much as any other community in the land, then these very reservations would automatically disappear. I feel that no period need be stipulated at all for this purpose."

Shri K.M. Munshi while participating in the discussion commented:

"---I cannot also imagine a time when there is any backward class in India which does not include the scheduled caste. What we want to secure is two things. In the first clause we want to achieve the highest efficiency in the services of the state ---- highest efficiency which would enable the services to function effectively and promptly. At the same time, in view of the conditions in our country prevailing in several provinces we want to see that backward classes, classes which are really backward, should be given scope in the state services, for it is realized that state services give a status and an opportunity to serve the country and this opportunity should be extended to every community even among backward people. We need not, therefore, define or restrict the scope of the word 'backward' to a particular community, whoever is backward will be covered by it---".

Shri T.T. Krishnamachari raised altogether different perspective of backwardness when he said:

"May I ask who are the backward class of citizens? It does not apply to scheduled caste or to any particular community. I say the basis of any future division as between 'backward' and forward' or non-backward might be the basis of literacy. If the basis of diversion is literacy, 80% of our people fall into the backward class citizens, who is going to give the ultimate award? Perhaps the Supreme Court. It will have to find out what the intention of the framers was as to who should come under the category of backward classes. It does not say 'caste'. It says class, is it a class which is based on grounds of economic status or on grounds of literacy or on grounds of
birth? What is it? That the word 'backward is liable to different interpretations is the fear of some of my friends, though I feel that there is no need for such fear, because I have no doubt it is going to be ultimately interpreted by the supreme authority on some basis, caste, community, religion, literacy or economic status."

Against this back-drop Dr. B.R. Ambedkar's discourse is quite significant:

"If members were to try and exchange their views on this subject, they will find that there are three points of view which it is necessary for us to reconcile if we are to produce a workable proposition which will be accepted by all. Of the three points of views, the first is that there shall be equality of opportunity for all citizens...Another view mostly shared by a section of the House is that if this principle is to be operative...and it ought to be operative in their judgment to its fullest extent...there ought to be no reservations of any sort for any class or community at all, that all citizens, if they are qualified should be placed on the same footing of equality so far as the public services are concerned that is the second point of view we have, then we have quite a massive opinion which insists, that, although theoretically it is good to have the principle that there shall be equality of opportunity, there must at the same time be a provision made for the entry of certain communities which have so far been outside the administration...supposing for instance, we were to concede in full the demand of those communities who have not been so far employed in the public services to the fullest extent, what would really happen is that we shall be completely destroying the first proposition upon which we are all agreed, namely, that there shall be an equality of opportunity. Let me give an illustration, supposing for instance, reservations were made for a community or a collection of community, the total of which came to something like 70% of the total posts under the state and only 30% are retained as the unreserved. Could anybody say that the reservation of 30% as open to general competition would be satisfactory from the point of view of giving effect to the first principle, namely, that there shall be equality of opportunity. It cannot be in my judgment. Therefore the seats to be reserved if the reservation is to be consistent with sub clause (l) of Article 10 must be confined to a minority of seats. It is then only that the first principle could find its place in the constitution and effective in operation. If honourable members understand this position that we have to safeguard two things, namely, the principle of equality of opportunity and at the same time satisfy the demand of communities which have not had so for representation in the state, then, I am sure they will agree that unless you use some such qualifying phrase as 'backward' the exception made in favour of reservation will ultimately eat up
Chapter II

Genesis of Reservation Policy in India

dr. Ambedkar had discussed the issue of reservation precisely and fully. He had elaborated the entire theme and scheme of reservation in a lucid manner.

The members who participated in the discussion discussed threadbare the pros and cons of the provision of reservation. In this discussion of the Constituent Assembly members only two exhibited different visualization, otherwise all the rest were in favour of reservation. The two members were (1) Shri Damodhar Swarup Seth and (2) Pandit Hriday Nath Kunzru. Shri Damodar Swarup Seth expressed that he would not mind providing facilities to backward classes to improve upon their present position but he was not in favour of reservation in employment. He was of the view that provision of reservation in employment would result in some severe consequences in the society and for this reason he opposed reservation. Pandit Hriday Nath Kunzru had raised a pertinent point about duration of reservation and whether it should be limited to ten years. Pandit Kunzru had brought the focus on another important point of backwardness. As such except K. M. Munshi and Dr, Ambedkar all other members on discussion of backwardness wanted that the word 'backwardness' should be clearly defined Pandit Kunzru is of the view that every aspect of reservation had to be made clear in the Constituent Assembly itself so that all other future problems could be avoided and instead of perpetuating the problem, the stability to that effect would be reached. But that was not agreeable to Shri Munshi and Dr. Ambedkar because of the scheme of reservation. And as per the scheme it is the state which decides how much percentage it needs and which communities or castes are to be covered under the reservation. Not only this, but if the state fails in implementing
this policy properly, that can be challenged in the court and the effectual remedy sought. Hence, Mr. Munshi and Dr. Ambedkar stated that as per the existing Indian climate, the word 'backward' would be comprehensive. This word covers all the communities, all the religions and all those who trailed behind in the social and economic sphere of life. As per the scheme of reservation which was narrated by Dr. Ambedkar, the word 'backward' suits the scheme, it being the only appropriate word.

In the above manner the provision of reservation was embodied in the constitution, Art 16 (4) incorporated in the constitution, corresponds to draft Art. 10(3). The Constituent Assembly Debates indicate that the draftsmen themselves were not sure about the criteria to be adopted in determining "backwardness." They wanted to maintain flexibility in the matter and to leave the matter upon every state government to determine "backwardness" with ultimate review by the court. The Constituent Assembly members were expected to provide a clear, accessible and demarcating scheme of reservation. Instead of providing such scheme they provided a scheme of reservation which is entirely left to the sweet will and pleasure of the state government. The state government, is expected to apply and implement this scheme of reservation as per its requirement and necessity. If we view this scheme from the point of view of welfare of the backward people then it suits appropriately, provided the government implements it with sincerity and impartially, otherwise it would mean that the Constituent Assembly members have provided an instrument of politicization in the hands of the government to be utilized by it towards its political end. This also can be called as politics of reservation. And if the government is actively involved in this politics of reservation without preserving the spirit of reservation, then the very purpose of providing the reservation and attaining equality would be defeated. If we analyze the approach of the government towards reservation then it seems that the government has implemented the reservation as a part of its politicization. Above narration highlights various issues involved in the discourse of reservation in the Constituent Assembly and after the detailed debates, provisions in the constitution were implemented.

**Constitutional Provisions and Amendments**

The Constitution of India is an elaborate document. The framers of the Indian Constitution had to make special provisions to safeguard and promote the interests of the Scheduled Castes, Schedule Tribes, and Other Backward Classes which had
suffered for many centuries because of the basically unjust and unequal social system in India.

The framers of the constitution were great social engineers and the constitution is an excellent piece of conceptual framework of social engineering. In order to appreciate it in its proper perspective the philosophy underlying our constitution and the rationale for providing a special set of provisions for the Scheduled Castes, the Scheduled Tribes, the Backward Classes and the Minorities, one has to look back to the historic Objective resolution of Pandit Jawaharlal Nehru adopted by the Constituent Assembly on 22 January, 1947. The Objective resolution inter-alia stated:22

“This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution-

Wherein shall be guaranteed and secured to all the people of India Justice—social, economic and political, equality of status, of opportunity and before the law—freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and

Wherein adequate safeguards shall be provided for minorities, backward and tribal areas and depressed and other backward classes—”

The concern of the constitution makers for the protection and promotion of the interests of the weaker sections is amply reflected in the preamble of the Constitution, which as amended in 1976, succinctly proclaims the aims and objects of the Constitution:

PREAMBLE:

WE THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, DEMOCRATIC REPUBLIC, and to secure to all its citizens:

JUSTICE, social economic and political;

LIBERTY of thought, expression, belief faith and worship;

EQUALITY of status and opportunity and to promote among them all.
FRATERNITY assuring the dignity of the individual and the unity and integrity of the nation.

In this way, the protestant and reformist movement of Ambedkar against the age old abuse and disabilities of the untouchables and the commitment to Gandhian ideology for social and economic upliftment of these castes that weighed in the minds of constitution makers find its expression under the various provisions of the constitution for the welfare of these classes.

Though equality before law constitutes the most precious democratic right of an Indian citizen, that is enshrined, elaborated and made specific in Articles 15, 16 and 29 of chapter III of the Indian Constitution, one cannot ignore the economic position and social status of some backward sections. The very principle of equality, establishing egalitarian social order appears just and fair, but its emphasis is on equality among equals. So the very objective of this policy is obviously economic as well as social upliftment. The concessions are provided not because these classes are assertive and powerful, but because of national consensus. Article 15(1) of the Constitution of India specifically bars the state from discriminating against any citizens of India on grounds of religion, race, sex, caste, place of birth or any of them. Further Article 29(2) also guarantees protection to citizens, against state action which discriminates admission to educational institutions on grounds of religion, race, caste, language or any of them.23

The decision of the Supreme Court in the two cases of State of Madras Vs. Champakam Doraiarajan and Jugwant Kaur Vs. State of Bombay (AIR 1951 SC) led to the first amendment of the constitution, incorporating clauses (4) to (15).24 It empowers the state to make special provisions for the advancement of any socially and educationally backward class of citizens or for the Scheduled Castes and Scheduled Tribes. The debates over the amendment centred on the desirability of providing educational preferences to backward classes and partly to the identification of them.

The Article 16(4) incorporated in the constitution corresponding to Draft Article 10(3) reads “Nothing in this article shall prevent the state from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, who, in the opinion of state, are not adequately represented in the services
under the state.\textsuperscript{25} In fact it provides an exception to the principle of equality of opportunity in public employment guaranteed under the article.

Article 17, that prohibits untouchability in any form, seems to be broad enough to liberate all Indians from the evils of untouchability. It means "any action even discriminatory on the ground of the caste notion amounts to be action on account of untouchability."\textsuperscript{26}

The law of protective discrimination also finds its place in Article 29(2) which says "that nothing in this article shall prevent the state from making any special provisions for the advancement of any socially and educationally backward class of citizens or for Scheduled Castes and Scheduled Tribes.\textsuperscript{27}

Then Article 46 of the Constitution corresponding to Article 37 of the Draft Constitution reads that the state shall promote with special care the educational and economic interests of the weaker sections of the people and in particular of the Scheduled Castes and Scheduled Tribes and shall protect them from all forms of social injustice and exploitation.\textsuperscript{28}

Article 164 of the Constitution also provides appointment of a minister in charge of tribal welfare in the States of Bihar, Orissa and Madhya Pradesh. Article 275 provides grants from the union to certain States for the purpose of promoting the welfare of Scheduled Castes and Tribes and raising the level of the administration of the scheduled areas in the state.\textsuperscript{29}

The part-XVI of the Constitution containing Articles from 330 to 342 is significantly entitled "special provisions relating to certain classes." Article 330 deals with reservation of seats for Scheduled Castes and Tribes in the House of People and Article 332 with reservation of seats for them in the legislative assemblies of the states. Article 335 says that the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration, in the making of appointment to services and posts in connection with the affairs of the Union or of a state.\textsuperscript{30}

Article 340 of the Constitution corresponding to Article 301 of the Draft Constitution says:\textsuperscript{31}

(a) The President may by order appoint a commission consisting of such persons as he thinks fit to investigate the condition of socially and educationally Backward
Classes within the territory of India and difficulties under which they labour, to make recommendations as to the steps that should be taken by the Union or any state to remove such difficulties and to improve their condition and as to the grants that should be given for the purpose by the Union to any State and the condition subject to which such grants should be given and the order appointing such commission shall define the procedure to be followed by the Commission.

(b) A Commission so appointed shall investigate the matters referred to them and present to the President of India a report setting out the factors as found by them and making such recommendations as they think proper.

(c) The President shall cause a copy of the report so presented, together with a memorandum explaining the action taken thereon to be laid before the Parliament. This came up for the consideration before the Constituent Assembly on 16 June 1949.

Article 341 says (a) the President may with respect to any State or Union Territory and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes which shall for purpose of this constitution be deemed to be Scheduled Castes in relation to that State or Union Territory as the case may be. (b) Parliament may by law include or exclude from the list of Scheduled Castes specified in a notification issued under clause (a), any caste, race or tribe or part of the group within any caste, race or tribe, but serve as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.32

Article 342 says that the President may with respect to any State or Union Territory and where it is a state..., after consultation with the Governor…… Thereof by public notification specify the tribes or tribal communities which shall for the purpose of this constitution be deemed to be Scheduled Tribes.33

In this way, the social realities that existed forced the founding fathers to give recognition to the untouchable communities as the scheduled castes. The reservation policy thus adumbrated in the Constitution in 1950 was based on certain assumptions.

Firstly, it is not a permanent way of bringing the deprived sections of the society into the mainstream of Indian society on the basis of equality, freedom, dignity, self-respect and power. A time limit of ten years was set in the Constitution in
1950, with the hope that the government would implement the policy sincerely and dynamically.

Secondly, it was realized that the problem of untouchability has deep socio-economic roots in the Indian society as well as in the Indian psyche. It was anticipated that with this policy the power and the creative energies of the State and the individual in India will be deployed towards bringing out structural changes such as radical reforms, basic educational reforms, efforts to return to India’s cultural and civilizational roots and for building up of a political and economic democracy in tune with the needs of this country.

Thirdly, the majority of the members endorsed the policy as a continuing social duty and as an expression of atonement on their part for the inhuman exploitation of the untouchables. Fourthly, that there will be a national consensus on the issue between all the political parties and that it will not be treated as a political issue to derive political mileage. Finally, backward classes should strive to develop reliance through this policy and the government will review the policy, making suitable modifications in the light of experience and the prevailing circumstances.

Committees and Commissions and their Recommendations

In 1927 the Madras Government had classified the citizens of the state under five heads, providing reservation in governmental jobs for all the five groups. This practice continued until 1947 when the same government made amendments in the respective laws. In 1951 this law was annulled by the Supreme Court of India. This aroused fear in the minds of the backward classes that they would not be able to compete with Brahmins without due protection. They raised a hue and cry against the verdict of the Supreme Court. The protest gathered such volume and momentum that the central government was compelled to amend the constitution and it was resolved that socially and educationally backward classes must be provided with legal safeguards in the form of reservation.

After this constitutional amendment the first commission of backward classes was appointed on February, 29th 1953 under the chairmanship of Kaka Kalelkar, which presented its report on March, 30th 1955. The commission issued a questionnaire comprising 182 questions for eliciting the views of the state governments and general public on various aspects of its enquiry. It also undertook
extensive touring of the country to collect on the spot evidence. After shifting and sorting the facts, the commission formulated the following criteria for identifying the socially and educationally backward classes:\(^{36}\)

1. Low social position in the traditional caste hierarchy of Hindu society
2. Lack of general educational advancement among major sections of a caste or community
3. Inadequate or no representation in government service
4. Inadequate representation in the field of trade and commerce

It also prepared a list of 2399 backward castes or communities for the entire country and 837 of these were classified as the ‘most backward’. The Registrar General and the Census Commissioner of India assisted the commissioner in making population projections of the 1930 backward castes and communities.\(^{37}\)

The recommendations of the commission for the upliftment of the backward classes are extremely wide ranging and comprehensive. They cover such diverse fields as extensive land reform, reorganization of the village economy, representation of the backward class in the government services etc. Some of the most noteworthy recommendations of the commission were:\(^{38}\)

1. Undertaking caste wise enumeration of population in the census of 1961
2. Relating social backwardness of a class to its low position in the tradition of caste hierarchy of Hindu society
3. Treating all women as a class as backward
4. Reservation of 70% seats in all technical and professional institutions for qualified students of backward classes
5. Minimum reservation of vacancies in all government services and local bodies for the other backward classes on the following scale:

   Class I: 25%, class II: 33 1/3%, class III & IV: 40%

After a detailed examination of the commission’s report the government laid its copy together with a memorandum of action taken before each house of the Parliament on September 3\(^{rd}\), 1956 in compliance with Article 340(3) of the Constitution. In this memorandum it was observed that “for the purpose of inquiry specially contemplated in Article 340 of the Constitution, it was necessary to consider whether these other backward sections could be properly classified, and the
commission had to find objective tests and criteria by which such classification were to be made”. It was further stated, “the commission list contains as many as 2399 communities out of which 930 alone account for an estimated population of 11.5 crores; the Scheduled Caste and Scheduled Tribes will make .......... a class.\textsuperscript{39}

The first decision taken by the government was that the Central Government would have nothing to do with the protection of the rights of the backward classes, leaving it entirely on the state governments to take their own decisions on the issue of backwardness and would be well advised to have regard for the economic conditions instead of caste.

Consequently, a number of state governments set up their own commissions or committees for drafting criteria for backwardness and recommending measures for its removal. So, certain state governments have set up fifteen commissions and committees in this behalf. These states are: Andhra Pradesh, Karnataka, Kerala, Maharashtra, Punjab, Uttar Pradesh and Tamil Nadu. Further, other states and union territories have notified list of the backward classes for the grant of various educational, employment and other benefits. These are: Assam, Meghalaya, Orissa, Delhi, Himachal Pradesh, Pondicherry and Rajasthan.\textsuperscript{40} These state governments and union territories relied on the list of OBC’s maintained by them for the grant of post-matric scholarships etc.

The report of commission was not passed by the central government and so another commission was appointed in January 1979 under the chairmanship of B. P. Mandal, a former Member of Parliament, who presented his report in December 1980.

During the commission’s tour to various states, a large number of representations were received for including particular castes in the list of OBC’s Most often the respondents expressed similar views on the criteria of upliftment. A country wide socio-educational field survey covering 405 out of the 407 districts was conducted with the help of the Bureau of Economics and Statics of the various states from February to June 1980. The terms of reference of the commission were:\textsuperscript{41}

(1) To determine the criteria for defining the socially and educationally backward classes.

(2) To recommend steps to be taken for the advancement of the socially and educationally backward classes of citizens so identified.
(3) To examine the desirability or otherwise, of making provision for the reservation of appointments of posts in favour of such backward classes of citizens which are not adequately represented in the services of both the Central and State Governments or Union Territory Administration.

(4) To present a report setting out the facts as found by them and making such recommendations as they think proper.

Schedule Castes and Schedule Tribes constitute 22.5 percent of the country’s population.\(^{42}\) Accordingly a prorate reservation of 22.5 percent has been made for them in all services and public sector undertakings under the Central Government. In the states also, reservation for SCs and STs is directly proportional to their population in each state.

The population of OBCs, both Hindu and non-Hindu, is around 52 percent of the total population of India. Accordingly, 52 percent of all posts under the central Government should be reserved for them. But this provision may go against the law laid down in a number of Supreme Court judgments wherein it has been held that the total quantum of reservation under Article 15(4) and 16(4) of the Constitution should be below 50 percent. In view of this proposed reservation for OBCs would have to be pegged at a figure which when added to 22.5 percent for SCs and STs, remains below 50 percent. In view of this legal constraint, the Commission is obliged to recommend a reservation of 27 percent only, even though their population is almost twice this figure.\(^{43}\)

States which have already introduced reservation for OBCs exceeding 27 percent will remain unaffected by this recommendation.

With the above general recommendations regarding the quantum of reservation, the Commission proposes the following overall scheme of reservation for OBCs: -\(^{44}\)

(1) Candidates belong to OBCs recruited on the basis of merit in an open competition should not be adjusted against their reservation quota of 27 percent.

(2) The above reservation should also be made applicable to quota at all levels.

(3) Reserved quota remaining unfilled should be carried forward for a period of three years and dereserved thereafter.
Relaxation in the upper age limit for direct recruitment should be extended to the candidates of OBCs in the same manner as done in case of SC and ST candidates.

The above scheme of reservation in its toto should also be made applicable to all recruitments to public sector undertakings both under the Central and State Governments, as also to nationalised banks.

All private sector undertakings which have received financial assistance from the government in one form or the other should be obliged to recruit personnel on the aforesaid basis.

All universities and affiliated colleges should also be covered by the above scheme of reservation.

Regarding the period of operation of the commission's recommendations, the entire scheme should be reviewed after twenty years. We have advisedly suggested this span of one generation, as the raising of the social consciousness is a generational progress. Any review at a shorter interval would be rather arbitrary and will not give a fair indication of the impact of our recommendations on the prevailing status and life-styles of OBCs.

When the commission submitted its report in 1980, the congress party was in power and was unwilling to act on the report. Thus it was only in 1990 when a non-Congress coalition government came to power that it proposed the implementation of the Mandal Commission recommendations. The historic decision prompted widespread disturbances and violence in several parts of the country. Despite the violent protests the government went ahead and implemented the decision on 27 percent reservation for OBCs in central government jobs. This was done through an executive order following a decision in the cabinet. In 1991, the congress government added a notification for reservation of 10 percent for 'other economically backward section of people' who were not covered by existing scheme of reservations. The constitutional validity of these decisions was challenged in Supreme court in Indira Sawhney vs Union of India (Mandal case). In a majority decision the apex court upheld the 27 percent reservation for socially and educationally backward classes but struck down the 10 percent reservation for economically backward people. The court also upheld caste as criteria for identifying OBCs. The court also directed the Central
Government to set up a permanent body at central and state levels to look into complaints of over-inclusion or under-inclusion in the OBCs lists. This was necessary because a caste group can enter the OBC category only on the recommendation of National Commission for Backward Classes.

The Sawhney judgement spawned a large number of constitutional amendments. There have been five amendments to get around the ban on reservations in promotions and stipulation that reservations cannot exceed 50 percent of the seats. Three of five amendments were designed to undo the court’s decision to end the practice of providing reservations in promotions for SCs and STs. The other two amendments sought to circumvent the 50 percent limit on reservations.

To conclude we can say that the vows of the depressed class got addressed gradually through different reformatory movements in India. These movements helped the disadvantaged groups in their identification and classification as SC’s, ST’s, and OBC’s. Pitiable conditions of these groups have been thoroughly discussed in the Constituent Assembly Debates, which finally led to the legislation of different constitutional provisions in the Constitution of India. Since then number of commissions and committees have been appointed who have given different reports and recommendations for making the policy more purposive and judicious.
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Chapter III
Evolution of Reservation Policy of Jammu and Kashmir
Chapter III

EVOLUTION OF RESERVATION POLICY OF JAMMU AND KASHMIR

Jammu and Kashmir is a pluri-cultural, pluri-lingual and pluri-religious state of India. In a sense, it represents sub-continental diversity. The state of Jammu and Kashmir owes its growth to many historical and political factors. The diverse social groups are dispersed in diverse regions of the state. To a larger extent, Kashmir region represents a heterogeneous, ethno-culture, religious and linguistic identity, although there are some distinct linguistic and cultural groups also dispersed in different parts of Kashmir. These groups being located in definite territorial locations have a genuine claim to be treated as sub-regions of Kashmir.

Historically, Kashmir was divided in two regions, viz. Maraj (locally called Marz) and Kamraj (locally called Kamraz). The Maraj part fell in the western part of Kashmir. Akbar had divided the Kashmir into four regions, viz. Maraj, Kamraj, central Kashmir and external Kashmir. The external Kashmir comprises outer mountainous region including Banihal, Kashtwar, Rajauri and Poonch. This region also included Gilgit, Askeroo and Laddakh, etc. The Dogra ruler had divided Kashmir for administrative purposes, first in six and later reduced to four regions called Wazarats. These were Wazarat-i-Shahar-i-Kahas, Wazarat-i-Anatnag, Wazarat-i-Kamraj and Wazarat-i-Muzaffarabad.

The society of Jammu and Kashmir is heterogeneous in terms of its ethnic composition and religious orientation. The heterogeneity of the state is multifaceted and can be seen at racial, linguistic, cultural and religious levels. Dogras, Chibalis, Paharis, Mongolian, Kashmiris, Ladakhis, Gujjars are the various racial groups inhabiting the State. In Laddakh region Champa, Ladakhi, Balti and Dard races inhibit. The first three categories belong to the Tibetan stock. Champa and Ladakhis are Buddhist in religion while the Baltis and Dards are Muslims. According to F. Drew:

The Dogra and Chibalis were originally one, but they have now become separated in many characteristics, from the later have become Mohammedans, while the Dogra remained Hindu.
The Kashmir is a Muslim majority region. Besides, there had been a small community of Hindus commonly known as Kashmiri Pundits. The Kashmiri Pundits are divided into one hundred thirty three exogamous gotras and form a distinct class of their own. In addition Herdsmen, Shepherds, Galawans, Dums, Boatmen, Minstrels, Watals, Gujjars etc. are important tribes of Kashmir. Gujjars, Bakkarwals and Gaddis are the main tribal communities recognized by the government. The Paharis constituted linguistic group living at the hilly tracks both in Jammu and Kashmir. They have their own dialect, tradition and life style. While in Kashmir region their distinctiveness is defined by their difference from the Kashmiri and Gujjar population, in Jammu they are differentiated from the Dogras, Punjabis and Gujjar population. Though predominantly Muslims, Paharis also include a large number of Hindus. Gujjars and Bakkarwals form the third largest ethnic groups in terms of their population in the state. Their main areas of concentration are Rajouri, Poonch districts in Jammu and Kangan, Kupwara, Uri, Sopian, Daksum and Kandi areas of Kashmir Valley.

Table 3.1. Population composition in Jammu and Kashmir

<table>
<thead>
<tr>
<th>Religious Groups</th>
<th>%age</th>
</tr>
</thead>
<tbody>
<tr>
<td>Muslims</td>
<td>67%</td>
</tr>
<tr>
<td>Hindus</td>
<td>9.6%</td>
</tr>
<tr>
<td>Sikhs</td>
<td>2%</td>
</tr>
<tr>
<td>Buddhists</td>
<td>1.1%</td>
</tr>
<tr>
<td>Christians</td>
<td>0.2%</td>
</tr>
</tbody>
</table>

Source: Census of India, 2001

The religious heterogeneity of the state is of two types: inter-religious and intra-religious. The state is a home to the major religions viz. Islam, Hinduism, Buddhism, Sikhism and Christianity. Though Islam is the religion of the overall majority of people in the state, yet there is Hindu majority in Jammu region and Buddhists constitute majority in district Lach and 50 percent of the total Ladakhi population. However diversity of religions extends beyond the next regional division. Kashmir is the only region with almost homogeneous religious population. The other two regions have a mixed religious composition. Of the six districts of Jammu, three districts, with lesser population are Muslim majority districts. Similarly, of the two
district of Laddakh region, Leh is Buddhist majority and Kargil is Muslim majority. Leh has sizeable Muslim population and Kargil has only one tehsil of Zanskar where Buddhist are in majority. Though a majority of Sikhs are concentrated in the Jammu region, a small number also lives in the Kashmir Valley.  

The Jammu and Kashmir state comprises of three different sub-cultures. The hilly tract of Jammu which reaches down to the plain land of Punjab from the south of Kashmir Valley is inhabited by an ethnic group called Dogra of Indo-Aryan stock and professing both Hinduism and Islam. According to legends Jammu was founded about 3000 years ago by Jambulochan who establish his rule over the areas on the left bank of river Tawi. According to historians Jammu came into existence around 900 AD. The earlier reference of Dogger Desh is found in two copper plates inscription of the 11th century. The term Dugger and Dogra have been derived from it.

The primitive Indian society was divided into tribes, each of which had its selected chieftain who controlled the tribal affairs of all kinds, while the head of each family group, i.e. Kulapa, acted as captain and priest within the tribe. When these tribes became settled and gave up their nomadic way of life, many took to agriculture, some engaged in trade and handicrafts. Some of them practiced wielding of weapons and acted as warriors. The persons they captured out of the savage tribes or imprisoned in battle were made slaves. Thus people adopted various activities necessary for an organized, corporate society, out of their free will, choice and ability but after some time people with exceptional intellectual capacity began to constitute themselves as religious teachers and political guides of the people and formed a group called Brahmins or Divines. They ensured their superior position in society. They framed stringent social rules and monopolized the spiritual authority. They also divided society into four professional groups and declared this division by the divine power and propounded the theory of the transmigration to the higher castes by following the caste karmas or duties with multiplication of social functions and activities and interaction of various castes which they named Varnas, the castes and sub-castes multiply through vast centuries.

The social order in ancient India was based on the principle of binary opposites like purity and pollution, inferior and superior, included and excluded, upper and lower castes etc. it represented sheer exploitation against lower castes. It was one sided social order favorable to the upper caste but discriminatory against
those who were on the opposite side. The traditional Hindu society was constituted of numerous castes and sub-castes functioning within the wider format of the Varna based caste system.

One of the prominent Indian experts of the ancient society and culture of India G.S. Ghurye describes the caste system by drawing attention to its six main features: i) segmental division of society ii) hierarchy of groups iii) restriction on feeding and social intercourse iv) civil and religious disabilities and privileges of different sections v) lack of unrestricted choice of occupation and vi) restriction on marriage.\(^{10}\)

It was in this manner that the present vast and inter-caste system of caste came into existence. To take up the Hindu community first which is known for the hierarchical social order, we find it was divided into four large groups in the State of Jammu and Kashmir as elsewhere. The society in Jammu like that of the other parts of the country seemed to have been homogeneous before the advent of the Turk or Muslim rule in India, although it was formed and stratified on the principles of castes and sub castes.\(^{11}\) With the establishment of the Muslim rule in India a new religious element entered in Indian society and as an action and reaction of different ideas, new sub-castes, sects and groups came into being. Consequently, society in this country became heterogeneous in formation. Commenting on the social profile of the Jammu, the Census Commissioner of Jammu and Kashmir in his report on the Census 1911 has remarked that\(^{12}\)

"The caste system in its true sense existed only in the Dugger illaqa. Here the influences of Brahmanism have always been the strongest and complete hierarchy of castes and sub-castes is met with its perfection."

The most respectable among were Brahmans among the Hindu population of Jammu province. They constituted 28.4 percent of the total population. Their proportion was highest in the Poonch district 80.03 percent. Their proportion in other district was 33.37 percent in Reasi, 29.69 percent in Kuthwa, 26.91 percent in Jammu, 22.94 percent in Mirpur and 22.08 percent in Udhampur. However the total Brahman population in Jammu province was 173175 in 1921, 191205 in 1931 and 198004 in 1941.\(^{13}\)

Rajputs also occupied an important position in the hierarchy of castes. Though numerically smaller than the Brahmans in the Jammu province, the Rajputs enjoyed a
high social status because of the fact that they were the members of the ruling class and held important posts, especially in the army. In Jammu region, the Rajputs including the Thakkars, numbered 1,39,461 in 1921, 1,56,623 in 1931 and 1,68,582 in 1941. In 1941, the Hindu Rajputs were found in large number in Udhampur district with over 61000, followed by Kathua and Jammu with over 36000 and 35700 respectively. Reasi came next with nearly 21000 and Mirpur with over 8000. In Poonch, their number was not very substantial. Most of the Rajputs in the plain tract had preferred service and agriculture as their main occupations. But ‘Mian’ Rajput considered it derogatory to be called agriculturists. The Dogra Rajputs have always maintained their separate identity because of their collective pride, political power, high social status and velour.\[14\]

Besides some Muslim families in Kashmir, the trade and finance were monopolized mainly by the Mahajans, Khatris and Aroras in the state. Among them the Mahajans constitute the largest trading group. The total population of Mahajans in the state in 1921 was 19,761, in 1931 was 20,848 and more than 23000 in 1941.\[15\] They were mainly concentrated in the districts of Jammu, Kathua and Mirpur. The Khatris are migrants to the state. Most of their ancestors had migrated to this state from Punjab during the reign of Maharaja Gulab Singh and Maharaja Ranbir Singh. Though scattered all over the state, their main concentration was at business centers of Jammu and Mirpur districts. The reason was quite obvious; both the towns were the principal commercial towns of Jammu province. Like the Khatris, Aroras too had migrated to this state. The Aroras are found both among the Hindus and the Sikhs. Their main habitat was Jammu district, though they were found in smaller number in other district too. They numbered only 1,624 in 1921 and 1,625 in 1931.\[16\]

During the Sikh rule, the state of Jammu and Kashmir was a part of Ranjeet Singh’s kingdom. It was since then that the Sikhs of Punjab came and settled in this state. Therefore, the Sikhs were found mostly in the border district of Jammu, Mirpur and Poonch in Jammu region and in Kashmir Valley and Muzaffarabad. In 1941, there population in the whole state was 65,903 i.e. 1.64 percent of its population.\[17\] Besides the Jats, the Sikhs in the state were mostly Brahmns, Khatris, Aroras and Lobhanas.

The other castes like Jains locally called “Bhabras” are mainly confined to Jammu city. They are mostly engaged in trade and commerce. The people of this
community are immigrants from other parts of northern India and have settled here since the reign of Maharaja Gulab Singh and Maharaja Ranbir Singh. They belonged both to the “Swetamber” and “Digamber” sects. Of the total 597 Jains in 1931 in the whole state, the Swetamber sect claimed 353, while the Digamber numbered 128 and the rest 116 did not claim to belong to either sect.\(^{18}\)

Kashmiri pundits form a distinct class of their own. They all are Brahmans but do not follow the rules and restrictions normally observed by other Brahmans in northern India. They are broadly divided into two groups ‘Malmasi’ and ‘Bammasi’. Basically, Kashmiri Pundits constitute a small highly advanced community with more than 90 percent of them being literate. Their chief occupation is government service. In 1941, the total population of Kashmiri Pundits was 2, 00,000.\(^{19}\)

The social profile of the society of Jammu and Kashmir apparently reflects the Hindu hierarchical social order based on the Varna system prevailing in the society. Theoretically, we cannot find any such hierarchical system in Islam, since Islam completely rejects any form of social inequality, especially caste stratification among its followers. In reality, it stands for an egalitarian social system in which nobody is discriminated on the basis of birth, origin, race, culture. In principle, it emphasis on negation of all signs and basis of social differentiation in Muslim–Ummah–Society. The most sacred and most authoritative sources of Islam- the Holy Quran and the Prophet’s sayings- are glaringly clear in this regard. Quran says:

“O mankind, we have created you from a single (pair) of a male and a female and made you into nations and tribes that you may know each other (not that you may despise each other). Verily the most honored of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well acquainted (with all things)”

\[\text{(al-hijrat, 13)}\]

The Prophet of Islam (PBUH) has in clear words said that every human being in Islam is equal. There can be no inequality established on the basis of race, colour and region. No Arab is superior to non-Arab nor can there be any preference for white over black. In other statement, Prophet conveyed to His daughter, Fatima, that her deeds rather than her association (to the Prophet) will be rewarded in the hereafter by Allah.\(^{20}\)
Chapter III  

Evolution of Reservation Policy of Jammu and Kashmir

The actual situation related to caste among Muslims in India reveals a paradox and contradiction. It follows that while Islam stands for complete egalitarian social system and rejects all types of social inequality, Muslims in India do practise caste in practice, wholly or partly though they criticize/oppose it at ideological/theoretical level. They maintain and regulate it in their actual life. However, comparatively speaking, the emphasis of relevant Islamic ideal such as opposition to segregation and purity, pollution dilutes its application and implication in the actual situation. The sociological studies of social stratification in the Indian Muslim society reveal the following types:

<table>
<thead>
<tr>
<th>Sayyids</th>
<th>Ashrafs</th>
<th>Muslims of foreign origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Khans</td>
<td>Ajlafs</td>
<td>Muslims of local origin</td>
</tr>
</tbody>
</table>

The Muslims practise the practices of endogamy, occupational specialization, hereditary status and segregation (partly) but abhor the practices of purity-pollution, dharma karma and ideological justification. In totality, it has been observed that Muslims in India practice some caste traits but not as a system and not on the Hindu pattern. Caste exists as a social phenomenon and stands functional in Kashmiri Muslim society. The caste system prevails among Muslims in Kashmir despite the fact that Islam rejects it in all its forms and manifestations. The social structure, social organization, social order of Kashmiri Muslim society reflects the caste system clearly and conspicuously. This can be explained in terms of its recent pre-Islamic Hindu origin and tradition- some Hindu caste traits such as caste names, cast endogamy, occupational specialization and segregation are aptly glaring in the Kashmiri society. However, the caste system in its structural functional dimension among Muslims is different from that is being practiced among the Hindus.

The Kashmiri Muslim society is composed of the following castes; first, the Sayyid as they claim the ancestry of the family of the Prophet of Islam (PBUH), have converted locals to Islam and considered themselves as custodian of religion. The Sayyids claim the higher status among the others. The Khans composed of the nobility and their descendants feel themselves as superior for their foreign origin and, they claim higher status among the other caste other than Sayyids. The third is the occupational castes composed of different occupational communities or groups.
dealing with trade and commerce which were converted to Islam six centuries back. They claimed the higher status among the service castes. The last is the service castes who stand at the lowest stratum of the society composed of groups providing basic or essential services and menial jobs to the society. They also include Hanji and Gujjars. The Hanji community composed of the component part of the lower service castes in the caste structure of the Kashmiri Muslim society. The main difference of the community lies in its members living in the houseboats on water but they have started constructing their houses on the main land in the recent past. Gujjars living in the hilly areas also represent lower castes in the caste structure of Kashmiri Muslim society. They speak Gujjar language and trace their origin to land out of Kashmir.

The population of Muslims in Jammu region is much larger as compared to those of Hindus. And among Muslims, the Muslims who are converts from Rajput constitute the largest group. Non-Rajput Muslims had migrated to Jammu from other parts of India and from the adjoining countries. Thus in the formation of Muslim society in Jammu, the order stood as follows:

1. Original Muslims (immigrants) were:
   Sayyids, Quraisy, Mughal, Pathan and Awans

2. Converts:-

   (a) Converts from Rajputs were:

   Chib, Foral, Bhaу, Ghakkhaе, Durвах, Manhaе, Bhatia, Chauhan, Charak, Salaria, Katal, Khokhar, and Thakkar, Katoеh, Thakiyал, Khasha, Janjuha, Tegial, Domal, Bains, Budhan, Sudhan, Bohdla.

   (b) Converted Vaishyas were Khojas from Aroras, Kakezai from Kalals, Gujjar, Kamboh, Seni and Arain.

   Among the Kashmiri Muslims the significant sub-castes are Bhat, Dar, Ganaе, Khan, Lone, Malik, Mir, Parrey, Rather, Shah, Wani, Geelani, Jeelani, Wattal, Tantray, Beig, Jan, Lankan, Zarger, Pandit, Raina, Bakshi, Sheikh and others. They inhabit mainly the Kashmir province, Doda and Udhampur district and are found in small numbers in Muzaffarabad and Poonch also. Unlike other Muslims they are very good in certain crafts, like the world famous shawls, carpets, wood carving and other beautiful products of wood, paper machie etc. They are good at business and also engage in tourism industry. They are proud of their Hindu ancestry and often
retain their original family names and Hindu social practices; around 15 percent of them are Shias.  

The Muslims of Skardu tehsil in Ladakh district were all Baltis. The most important town of this region is Skardu. They were of the Mongolian origin and had the distinct culture, dress and dialect to differentiate them from others. The total population of Baltis was 2,00,000 in 1911. Almost the whole of Gilgit was inhibited by the Dards. The majority of them in Gilgit and Nagar are ordinary Shias, while those of Hunza belonged to the Ismaeli sect.

In the society of Jammu region, there was predominant number of Rajputs who converted to Islam due to various reasons but mainly because of political nature. By the end of 19th century the number of Muslim Rajputs was even more than double of Hindu Rajputs in Jammu province. The majority of Muslim population of Jammu province consisted of converted Hindus. A number of Hindu castes like Jats and Rajputs were found in Muslim community. For example the Rajput sub-castes like Awans, Bains, Bambas, Gekhars, Janjuans, Khahhas, Khokkars, Manials, Mangrals, Narmas, Salarias, Jhakars, and San are also found among the Muslims. Whereas, many among the Chibs, Jerals, Salarias, Bhattis and Manhas have accepted Islam, a considerable number of Bhans, Chouhans, Bhatias, are also found in the Muslim community.

Muslim Rajputs have their strong holds in the Mirpur and Poonch district, though some of them are found in Reasi also. In the rest of the State their number is rather insignificant. Though converted to Islam, most of the Rajputs still practice many of the customs and traditions of their Hindu brethren. Apart from retaining Hindu family names they wear jewelry and dresses like them. In rituals relating to marriages and death, they have some similarities with Hindu Rajputs. Worshipping the local deities of the Hindus and plastering the floors of their houses with cow dung are quite common among them. The total population of Muslim Rajputs in Jammu region in 1921 was 1,41,420, which rose to over 2,26,000 in 1941.

Muslim Jats too lived mostly in western Jammu province. According to the census report of 1941 their number was over 1,21,000 and majority of them were found in Mirpur district. Their traditional occupation was agriculture as elsewhere in the country. Besides, many served in defence services. Sudhans were virtually
descendants of Suchan Brahmins who inhabited Sudnuti tehsil of Poonch. Later on they embraced Islam and sought employment in the rank and file of British army and proved themselves as fine soldiers during World War II. The Sayeds and Mughals were mainly confined to Poonch, Muzaffarabad and Mirpur districts though a small portion of their population was found in every district of the state. According to Census of 1941, the number of Sayeds was 52000 and Mughals was 42000 in the state. Syed claimed their descent from the Prophet Mohammad, whereas Mughals were descendants of foreign invaders who mingled with the local Muslim population.

The Gujjars of the state are Sunni Muslims and mainly graziers by occupation. They are believed to have entered state territories through the Punjab and North Western Frontier province. They are said to be dwelling in this region even before the advent of Mughals. The first mentioned reference to Gujjars in Jammu and Kashmir is found in Chamba copper plates which refer to their presence as early as 10th century. They were Muslims, probably they had converted to Islam before they immigrated to this part of the country. The Gujjars had always maintained their distinct identity by speaking Gojri (parimu) a dialect of Rajasthani and by wearing Gojri dress. Some Gujjars living in Bhimber, Rajouri, Mirpur and Reasi claimed that their ancestors had come from the Gujar district of Punjab.

The Gujjars have several sub-castes. There are as many as fifty-four sub-castes among them. Some of the sub-castes allowed inter caste marriages, though not frequently. But others like the Awans, Bigyls, Chuchans, Khans, Lones, Manhas, Mirs, Moti, Mooner, Plaser, Pathan, Qureshi, Rather, Saiyed, Sheikh and Thakial sub-castes allowed marriage within their own fold. In customs, manners, dress, food and habits they have nothing in common with other Muslims. Marriage outside their own tribe was resented. In recent years Gujjar families have started taking education and to improve their ways of life. Many of them, however, continue to be nomads. In 1921 the total population of Gujjars was 2,43,292 and in 1931 it was 2,80, 610 whereas in 1941 the population of Gujjars in the whole state was 2,72,431.

Bakerwals being nomadic graziers of goat and sheep usually keep more goats and sheep than cows and buffaloes. Thus they acquired a distinct name Bakerwal. By a notification issued in 1920, the government prohibited the entry of foreign Bakerwals in the state territories. This was done so as to prevent the damage being caused to the forests from goats. However, the government renewed its earlier stand
in 1931 and amended the 1928 notification which provided them more facilities. This again promoted the Bakerwals to enter Jammu region causing a sharp rise in their number from 3798 in 1931 to 14,511 in 1941. The sheep grazer called as Gaddis resided in the valleys of the main Chenab basin and form a separate group with their own culture, folk song and customs.

In Jammu region, the next important community was depressed classes called Harijans. They constituted nearly one fourth of Hindu population of Jammu province, but stood at the base of the Hindu social hierarchy. Like Brahmans and Rajput, this community was too divided into number of castes and sub-castes. The lower depressed castes of the state include Lohar, Tarkhans, Kumar, Nai, Jhewars etc. and other depressed castes who fall below the service castes. The main sub-section of the Harijans are Megh, Doom, Chamar, Chura, Batwal, Ratal, Saryana, Koli, Barwal, Basith, Dhyarand and Muchi etc. The vocation followed by each sub-caste was the criterion to judge the extent of its population and its status. Churas, Dooms and Batwals stood lowest in the social scale and the Meghs were the highest. Meghs would shun a Chamar and Chamar would not take food or water touched by a Doom or Chuhra on account of their association with unclean jobs. However, by 1947 many of the objectionable restrictions on them had been removed by law and they had been granted access to public schools, wells, tanks and temples etc. besides being provided with new job opportunities.

The strength of the depressed classes treated as untouchables was recorded by the Census Report of 1931 as 1, 70,927 persons i.e. 23.3 percent of the entire Hindu population of the state. The Barwals were most numerous in Jammu district and were found in Jammu province only. The Basiths were predominant in Reasi and Mirpur district. The Chamaras on the one hand were distributed all over the region, the highest concentration being in Jammu region. The Churas were largely found in Poonch. The Dhyar caste was found in all the district of Jammu province, with highest percentage in Jammu district. The Jalohas were confined to Reasi district. The Meghs were most numerous in Jammu, Udhpamur and Reasi district. The Wattals which signify another term for Chuhra were found in Srinagar district of Kashmir province only. Megh constituted the largest segment of the Harijan castes, their population in Jammu province in 1931 was 70,010. Chamar/Ramdasi is second largest among
Harijan castes. Their population was 41,150 as per the Census of 1931. They were mostly leather workers usually called Mochis in the plains of Jammu region.

Other prominent depressed castes in Jammu are Doom and Barwala. Dooms presently identify themselves as Mahasha or by colloquial form of Sanskrit word Mahashay that was given to the caste by Arya Samaj. As per 1931 census they were 34,329 in number. They work as agricultural and construction labours, bamboo and cane craftsmen. Barwals traditionally have worked as load carriers on their load carrying animals. In the census report of 1941, their total population exclusively in Jammu province was recorded as 1,13,422. The Barwala were most numerous in Jammu district and were found in Jammu province only. The Basiths predominated in Reasi and Mirpur districts. The Chamars were mainly concentrated in Jammu district, the Churas in Poonch district, the Dhyars in all district of Jammu province, the Jolahas in Reasi district, the Ratals in Udhampur and Reasi and Watals in Srinager district.

The heavy concentration of depressed classes in Jammu province is attributed to the fact of the presence of sizable number of land owing Rajputs who were ruling elites in the regime of the Maharaja Gulab Singh but absence of any sizable number of Sudra or peasantry castes who were generally engaged in cultivation as tenants of the land owing castes in the mainland India. The depressed castes people earned their livelihood as peasants, agricultural labourers and through other traditional menial occupations. They were not allowed to participate in social intercourse and had to and still suffer discrimination and untouchability. Before 1930s the condition of the Scheduled Castes in the state was miserable. Narratives from the Scheduled Castes respondents revealed the following facts. They were not allowed to cover the upper part of their body. They could not wear Turban or new clothes (especially white). During their marriage or any other occasions they were not allowed to sit on horseback and they could neither hire musicians nor could go for any public procession. Those who broke these social rules had to face atrocities. They had to face discrimination in different walks of life.

However, Maharaja Hari Singh granted them access to temples and other public places and admissions in government schools in 1931-32. This removal of legal restrictions on the Harijans on the entry to public places was probably the first of its kind in this princely state of India. The grant of this right without any strong
struggle by Harijans or absence of any public reaction against this grant by the upper classes shows the non-rigidity of untouchability and discrimination against the Harijan in the state. The removal of restriction by the Maharaja resulted into gradual end of denial and discrimination and improvement of their social situation. 32

Reform Movements

By the beginning of twentieth century important social and religious groups had begun to form their own organizations for reformation, particularly in Jammu province. Their efforts yielded some influence in reforming the lives of the depressed classes. Prominent organizations directly and indirectly working for the welfare of the Harijans were:

The Dogra Sadar Sabha

In order to discuss various problems of the people of this state, a meeting of about 700 notable persons belonging to different castes and religions was convened at Jammu in 1904. In this meeting, it was unanimously agreed by those present to form a body known as Dogra Sadar Sabha to promote caste identity of the people and to realize their cherished desires and aspirations. This was the first public platform in the state to deliberate, articulate and represent the aspirations and feelings of the people to the Maharaja. Out of the various objective of the Sadar Sabha, one was the need of imparting education to lower castes and of granting liberal scholarships to students. The resolution of the Sadar Sabha carried much weight with the Maharaja’s Government since the members of the Sabha were mostly influential persons directly or indirectly associated with the government. Inclusion of the issue of education of the lower castes i.e. Harijans as one of the objectives of the first public organization formed by the ruling elites of Jammu clearly exhibits that the denial and discrimination against the Harijans was not institutionalized.

All Jammu and Kashmir Harijan Mandal:

The first organization of the Harijans in the state was All Jammu and Kashmir Harijan Mandal that was organized in 1920s. The leaders of the organization derived their aspirations from All India Depressed Caste Movements i.e. Adi-Andhra, and Adharmi. Prominent leaders of the Mandal were Mahasha Nahar Singh, Choudhary Rangila Ram, Bhagat Chajju Ram, Mahasha Lal Chand, Mangat Ram Bhagat, Mahasha Tuli Ram and others. The main purpose of the organization was to regain
their lost social status in Hindu society particularly in Dogra Desh. In 1932 the Mandal organized a rally in which one lakh people participated. It was a non-political organization and was social in character. Main achievement of the appeals and the representations of this organization was that for the first time in the history of Jammu and Kashmir the Harijans got entries into temples, schools and other public places. Gradually, this organization disintegrated. It barely remained noticeable by 1952 and later on became redundant.

Harijan Mandal

In 1951, another organization of the depressed castes of the state, Harijan Mandal was established. This was formed on the pattern of Central Harijan Mandal and Milkhi Ram was its president. It was primarily a political party. It participated in the first election organized in the state on the principle of adult franchise in the year of its formation i.e. 1951 to constitute the State’s Constituent Assembly. It contested the 1951 election from 19 general seats because there was no political reservation for the depressed castes at that time. None of them were elected. In 1957 assembly elections one of its candidates was elected to the State Legislative Assembly. The last assembly elections in which it participated was 1967. None of its candidates won in the election. As a result of not making any significant achievement in three successive elections the party started disintegrating and vanished by 1970.

From 1952-57 this organization mainly played the role of an opposition. It articulated the interests of this community and presented their demand to the government. The main demand of the party was the adoption of political, educational and job reservations in the state as it was in the rest of India. The party began an agitation on the issue of job reservation in 1952 that included organization of public meetings, dharnas and hunger strike by its leaders. As a result of this agitation the State Government provided 8 percent reservation to the depressed castes in government jobs.

Depressed Class League

All India Congress Party organized its Dalit front christend as Depressed Class League, to bring the Scheduled Castes closer to the party. A branch of the league was started in Jammu and Kashmir in 1962. Prominent leaders of the league in Jammu and Kashmir were Amar Nath Bhagat, Bhagat Chajju Ram, Parmanand and the others.
This organization demanded the provision of complete facilities to the students from the community pursuing higher studies. They further demanded housing subsidy, land to landless tenants, reservation as per Scheduled Castes population etc.

Scheduled Castes Employees Federation

The Scheduled Caste State Government Employees founded this organization in 1972. Their aim was mainly to protect and promote the interest of the Scheduled Caste employees. Being an association of the government employees it had not launched any movement or struggle. Its strategy was moderate one, limited only to appeal and petition not agitation.

Dalit Sudhar Federation

This organization was formed in 1979 with Seva Ram as its president to unite the Scheduled Castes and the Other Backward Classes to pursue their common objective of securing affirmative action programmes in their favour from government. Its leader along with some other backward class leaders formed Jammu and Kashmir Backward classes Federation. They demanded reservation of seats for backward classes in Legislative Assembly, admission to technical institution and reservation in government services.

Backward and Minority Community Employee Federation

This organization was formed on the initiative of Seva Ram under his presidency in 1979 with an objective to fight for the education of the depressed classes. This organization aspired to include practically all Hindu castes of Jammu and Kashmir without any distinction of their social and educational status.

Other New Organizations

There has been a mushrooming of Scheduled Caste organizations in the state. Many of them are one-man caste specific organizations without any distinction of their social and educational structure. Few prominent among them are: Jammu and Kashmir Batwal Council, Scheduled Caste Welfare Association, Jammu and Kashmir Dalit Sena, All India Jammu and Kashmir Ravi Das Sabha, Jammu and Kashmir Mahasha Sabha, Guru Ravi Das Sabha, Udhampur, Bhartiya Dalit Sahitya Academy, Peoples Republican Party of India.33
Although the problem of backwardness is not new from the historical point of view, broadly speaking its origin can be traced back at least when the awakening amongst the people was not sufficient because of inherent suffering. Backwardness and extreme poverty as well as illiteracy in particular, led to the miserable conditions of these people. It was in the year 1920 that the downtrodden people of the State started struggle claiming right of existence but more oppressive methods were adopted by the rulers, the more strength the movement of the people gained. At some stages it seemed that it had become uncontrollable for the said rulers. It was with this background that the government of the time had to take steps by way of constituting commissions and committees from time to time.

The Glancy Commission

In the late twenties and early thirties there were complaints that the Muslims were not adequately represented in the state services as that was also true of certain other minority communities of the state. So, it was in November 1931 that a Commission popularly known as Glancy Commission headed by an European member Bertand, J. Glancy of the Indian civil service was constituted under the command dated 12th November 1931 of His Highness Maharaja Hari Singh Bahadur. The Commission was required to go into various matters including complaints and disabilities, problems relating to education and employment in public services of the state as well as inequitable representation of the classes of the people in the services. The area of granting the scholarship and other educational loan also came within the scope of the said Commission.

The Glancy Commission conducted an exercise and came to a tentative conclusion that generally the Muslims and other minority communities were inadequately represented in the services of the state. It accordingly made wide-ranging recommendations, with a view for achieving a more equitable method of recruitment to the services and affording every community a fair chance of representation. Its main recommendations on the subject are summarized below:

1) While there need not be different standards for different communities, the standard should not be more exacting than efficiency demanded and those who possessed qualifications in excess of that standard should not be held to deserve appointment as a matter of right.
2) There was no need to change the age limit which was then thirty years.

3) Appointments and scholarships should be properly advertised and given as wide publicity as possible.

4) Due regard should be paid to the legitimate interests of every community in the matter of recruitment to government services and the grant of scholarships for training provided that suitable candidates were forthcoming.

These recommendations were accepted by His Highness the Maharaja Bahadur but despite that the people of the state were not so content because they were still not getting what was due to them.

**Recruitment Rules Committee**

The recommendations of the Glancy Commission did not bring about a final solution to the problem. When the people of the state continued their struggle for a rightful existence a committee known as the Recruitment Rules Committee was constituted in the year 1938 in consultation with the British Government of India. The committee made detailed proposals regarding the classification of each service. The main recommendations of the committee are: 35

1) For direct recruitment, the age limit should be reduced to 28 years except for gazette appointments in departments such as the justice, education and medical departments where higher educational qualifications were required. In the Justice and Education departments, the age limit of 30 years was recommended and in case of the medical department, a still higher age limit of 32 years was proposed.

2) For gazetted officers, the normal method of recruitment should be by a competitive examination. Direct recruitment by nomination was provided for in most of the services but the committee did not consider it desirable to fix a ratio between nomination and recruitment by competition as it thought that recruitment by nomination should be resorted to only in exceptional cases and should not be regarded as a normal method. The committee recommended a portion between direct appointments and promotions, including transfers, varying from 50 to 75 percent according to the circumstances of each department. One consideration on which a larger proportion was recommended.
for direct recruitment was that it would give a better chance for regulating communal representation.

3) For non-gazetted services, the committee recommended five methods of recruitment, namely, selection, nomination, competitive examination, promotion from a lower category or grade and transfer from another class. Recruitment partly by one method and partly by another was also recommended. For technical departments, recruitment by competitive examinations was considered necessary and nomination or selection was considered sufficient.

The report of the committee indicates that though no definite orders existed at the time on the subject of communal representation, 50 percent representation for the Muslim community was supposed to be the aim. As the government followed the old procedure and methods with regard to the reservations, apart from the fact that quite negligible number of appointments in higher ranks were made by political cadres. It was in October 1953 that the state government, while reviewing the recommendations of the Glancy Commission and Recruitment Rules Committee, decided to constitute another committee known as “Jammu and Kashmir Public Service Re-organization Committee. This Committee could not finalize its report due to certain differences amongst its members and ultimately, the government at its own appointed a Recruitment Board on 31.12.1954 known as ‘Jammu and Kashmir Public Service Recruitment Board’ for the matters relating to recruitments to non-gazetted and other superior services of the state. This Board too could not function for about four months in the absence of its scope of reference etc. It was only on 2nd of May 1955 that powers, functions and duties of the Service Recruitment Board were defined. Again, this board could not accomplish its task due to various administrative difficulties and differences amongst its members and the State administration. Resultantly it was abolished on 2nd September 1957. Obviously there had been no effective solution to the problems of the common man. This is how the chequered history of ‘reservation’ travelled from different stages and phases during the last several decades.

The Constitution of India contains in part III ‘Fundamental Rights’ as well as other provisions of the Constitution of India have been made applicable to the state of Jammu and Kashmir. The Directive Principle of State Policy laid down under part IV of the Constitution of Jammu and Kashmir and Particularly section 23 provide equitable representation to the various communities of the state in the services.
Prior to the coming into force of the Constitution of India, reservations in the services of the legislature etc. in the country were made on the basis of religion. The recommendations of the Glancy Commission also seem to have followed the same pattern. Article 370 of the Constitution of India which came into force on 26 January 1950 makes a special provision with respect to the state of Jammu and Kashmir. The President issued an order on 14th May 1954 that Article 370 extends the application of the provisions of Constitution of India to the state of Jammu and Kashmir and indicates the exceptions and modifications subject to which they should apply. This order made Article 15 of the Constitution, prohibiting discrimination on ground of religion, race, caste, sex or place of birth and Article 16 guaranteeing equality of opportunity in matters of public employment, applicable to the state of Jammu and Kashmir, subject to following modifications:38

I) The reference to Scheduled Tribes in clause (ii) of Article 15 is to be omitted, and

II) The reference to state in clause (iii) of Article 16 is to be considered as not including a reference to the state of Jammu and Kashmir.

Article 29 dealing with protection of minorities became applicable without any modification. Section 10 of the Constitution of Jammu and Kashmir which came into force on 17 November 1956, guaranteed to permanent residents of the State all the rights guaranteed to them under the Constitution of India including the provisions of Article 15, 16 and 29. Under section 23 of the Constitution of Jammu and Kashmir it is laid down that the State shall guarantee to the socially and educationally backward section of the people special care in the promotion of their educational matters and cultural interests and protection against social injustice.39

In the beginning none of the tribes of Jammu and Kashmir was treated as Scheduled Tribe in the Constitution. No special constitutional safeguards had been made for such tribes. For Scheduled Castes, only the Article 355 in the Constitution of India deals with the claims of Scheduled Castes to services and posts has been rendered applicable to services and posts in connection with the affairs of Jammu and Kashmir state by virtue of sub para II of para 2 of the Constitution (application to Jammu and Kashmir) Order 1954.40
The Government of Jammu and Kashmir does not appear to have followed any clear-cut policy either in classification of backward class or in the matter of special benefits to be given to them. In February 1956, the Government of Jammu and Kashmir issued a notification in which certain classes were recognized as backward classes; the list has been amended from time to time.

Jammu and Kashmir Civil Services (classification and appeal) Rules, 1956

In June 1956, the state government issued the Jammu and Kashmir Civil Services (classification and appeal) Rules in which a clause was included to enable the state government to make reservation in government services in favour of any backward class which in the opinion of the government was not adequately represented in the services. In the same year in a writ petition submitted by two teachers to the Supreme Court of India, the state government filed an affidavit that 50 percent of the posts are to be filled by Muslims from the entire state of Jammu and Kashmir and 40 percent of them are to be filled by Jammu Hindus. The state government sought to justify this working rule in the Supreme Court on the ground that Muslims as a community in the whole of the state of Jammu and Kashmir formed backward class of citizens and they were not adequately represented in the services of the state and that similarly Hindus from the province of Jammu formed a backward community and were not adequately represented in the service of the state. Accordingly representation in the matter of appointments to posts and promotions in the services of the state was made in respect of both these classes. The Supreme Court examined the position in the case of Triloki Nath and others vs State of Jammu and Kashmir and others and observed:

"The state of Jammu and Kashmir had, it is admitted from time to time, framed lists of backward communities but it is not claimed that in making promotions to the gazetted cadre in the educational service the authorities acted in pursuance of the lists as already observed the normal rule contemplated by the constitutional provision is equality between aspirants to public employment, but in view of backwardness of certain classes it would open to the state to make provision for reservation of appointments or posts in their favour. When the state proceeds not to make reservations in favour of any backward class but to distribute the total number of posts or appointments on the basis of community or place of residence, no reservation permitted by clause (4) of Article 16 can be said to be made. In effect the
state policy which Malik Gulam Nabi spoke to was a policy not of reservation of some appointments or posts, it was a scheme of distribution of all the posts community-wise. Distribution of appointments, posts or promotions made in implementation of the state policy is contrary to the constitutional guarantee under Article 16(1) and (2) and it is not saved by clause (4)."

The Muslims of the entire state together with the Jammu province form 94.2 percent of the total population of the state. The task of determining as to which class constitutes the backward class is not simple. In its report submitted to the Union government in March 1955, the Backward Class Commission has attempted to lay down certain criteria for general guidance in the matter. The test recommended by the commission, however, appeared to the government to be vague. The Supreme Court in the Balaji case\(^4\) held that the recommendation of Backward Class Commission is not a condition precedent for the state to make special provision for the backward class under Article 15(4). The state is competent to classify the classes of persons as backward by executive and legislative action.

**Gajendragadkar Commission**

While the government was staking high for formulation of concrete policies, the common masses widened their activities and struggled for their rightful existence which had gained momentum in the 1966-67. So a Commission of Enquiry headed by Dr P.B. Gajendragadkar was constituted in the year 1967. Amongst other areas, the Commission was required to examine:

1) the recruitment policies of the government and to recommend measures for giving equitable shares in the government employment to various regions and communities, having special regard to the claims of the Scheduled Castes and other economically, educationally and socially backward communities, classes and groups among the citizens of the state consistent with the maintenance of efficiency of administration.

2) the policies of the state government about admission to institutions of higher education and scheme of assistance by way of scholarships and loans with a view to ensuring an equitable distribution of the available facilities to the various regions and communities and having special regard to the claims of
Scheduled Castes and other economically, educationally and socially backward communities, classes and groups among the citizens of the state.\textsuperscript{44}

After examining the various reports of the commissions and committees, rules made by state government from time to time, orders and judgments of the Supreme Court, the commission thoroughly examined the reservation policy of the state and in view of making this policy more efficient and more workable the commission had given the following recommendations in its report submitted to state government in the year of 1967\textsuperscript{45}:

1. The following multiple criteria should be adopted for determining which classes should be treated as backward:-
   
   (i) The economic backwardness of the class
   (ii) The occupation/occupations pursued by that class of citizens
   (iii) Their place of habitation
   (iv) The average of student population per thousand in that class
   (v) Caste, in relation to Hindus

2. The existing list of backward classes should be revised and a fresh list drawn up by a high powered committee after applying the multiple criteria mentioned above relating to social, educational and economic backwardness.

3. Article 335 of the Constitution of India should be made applicable to the Jammu and Kashmir state and the reservation for the Scheduled Castes be made in the services in proportion to the population.

4. Reservation in the services should also be made for the backward classes, as freshly determined, in proportion to their population, subject however to the condition that the total reservation for the backward classes and the Scheduled Castes should not ordinarily exceed 50 percent. The balance of the posts should be filled strictly and solely on the basis of merit. In filling the post reserved for the backward classes and Scheduled Castes, persons belonging to each of these categories should be selected on the basis of merit.

5. Reservation of places in educational and professional institutions should be made for the backward classes and Scheduled Castes in proportion to their respective population, subject to the condition that the total reservation does not ordinarily exceed 50 percent. The balance of the place in such institutions
should be filled strictly and solely on the basis of merit. In filling the places
reserved for the backward classes and those reserved for the Scheduled Castes,
merit should be the criteria for selecting the persons in each of these categories.

6. A certain proportion of the provision available for the grant of scholarships and
study loans should be set apart for the backward classes and the Scheduled
Castes. The provision should be separate for each of them and should not be less
than the proportion that either of them bears to the population of the state.

The Gajendragadkar Commission submitted its report to the government in
November 1968, which was latter examined and considered by the state government.
Amongst other things the commission had also recommended that the state
government should constitute a high powered committee for the purpose of
determining and identification of the classes constituting backward on the basis of
multiple criteria. An emphasis was laid that the high-powered committee should
comprise men of caliber having expert knowledge and experience in this behalf and
command general respect amongst the public. Besides, the commission was expected
to lay down foundation for more effectively identifying the deserving classes of
people for purposes of benefit of ‘reservation’ such like Scheduled Castes, backward
classes, etc thereby catering to the aspirations of the people and also for ensuring
promotion in the field of higher and technical education, particularly for the down
trodden classes of people in terms of commitment under article 35 of the
Constitution of India [entry 25 of list II, schedule VII. In order to achieve the goal, it
needed a rational, board-based and result-oriented policy for promotion in the field of
higher and technical education.

Janki Nath Wazir Committee

It was with this background that the state government constituted a high
powered Committee vide Government Order No. (252-GD of 1969) under the
chairmanship of Justice J N Wazir. This Committee was required to consider the
observation and recommendation of the Gajendragadkar Commission relating to
identification and classification of classes of people as backward, weak and under-
privileged. It formed a detailed questionnaire and gave it maximum publicity so as to
enable the people from each corner of the state to come forward with their view point.
and suggestions. Even the prominent and knowledgeable persons were also called upon to assist the said committee in its task.

The committee undertook extensive tour throughout the length and breadth of the state covering quite far off, remotest and inaccessible areas and gave patient hearing to the people belonging to different sections. Finally, this committee submitted its report to the state government on November 29, 1969. In the said report, the committee had specifically identified and classified in clear and explicit terms:

i) Weak and under-privileged section

ii) Residents of backward areas such as:

a) Bad Pockets

b) Areas falling within eight kilometers of the Actual Line of Control.

Besides, the said committee had specifically laid emphasis upon the government to take further steps in the matter of statutory enactment, an executive order or directions in such a manner as would ensure that the benefit underlined the scheme would reach the really deserving people and not the imposter.

The Jammu and Kashmir Scheduled Caste and Backward Classes (Reservation) Rules 1970 and,

The Jammu and Kashmir Scheduled Castes and Backward Classes (Reservation of Appointment by Promotion) Rules 1970:

As per the suggestions given by the Wazir Committee the state government framed two sets of rules. First, the Jammu and Kashmir Scheduled Caste and Backward Classes (Reservation) Rules 1970 and second, the Jammu and Kashmir Scheduled Castes and Backward Classes (Reservation of Appointment by Promotion) Rules 1970.

Under the Jammu and Kashmir Scheduled Castes and Backward Classes (Reservation) Rules 1970, the reservation for socially and educationally backward classes which were specified as traditional occupations, social castes, cultivators, pensioners, persons belonging to areas adjoining cease fire line and bad pockets was provided. The reservation scheme under the rule is given below:

(a) Scheduled Castes: 8 percent
(b) Backward classes 42 percent, inclusive of 2 percent of seats reserved for the permanent residents of Ladakh district

Under the Jammu and Kashmir Scheduled Castes and Backward Classes (Reservation of Appointment by Promotion) Rules 1970, reservation for Scheduled Castes and backward classes in promotion was provided. The scheme of reservation under this rule is given below:\(^{50}\)

(a) Where the direct recruitment quota specified under the rules or orders regulating such service, class, category or grade is at 25 percent or less, the reservation in the promotion quota will be:

(1) For Scheduled Castes: 8 percent

(11) For Backward Classes referred to in rule 18 (part iii) of the principal rules 42 percent

(b) Where the direct recruitment quota specified under the rules and orders regulating such service, class, category or grade is more than 25 percent, the reservation shall be:

(i) For Scheduled Castes: 4 percent

(ii) For Backward Classes referred to in Rule 18(part iii) of principal Rules 21 percent

As a consequence of the enforcement of the said Scheduled Castes and Backward Classes (Reservation/Reservation of Appointment) Rules 1970, various state government departments made appointments and promotions particularly in the education department. Such actions of the government were challenged before the Supreme Court of India through the writ petition No’s 173, 359 and 360 of 1971 entitled _Jangi Prasad Parimoo and Ors. Vs State of Jammu and Kashmir and Others._\(^ {51}\) The Supreme Court of India while pointing out certain defects therein directed the state government that till the defects were cured, the rules were not capable of being given effect to, so far as these rules pertain to reservation for Scheduled Castes and Backward Classes. Accordingly, the state government issued the Government order\(^ {52}\) to the effect that

(i) No authority shall issue any certificate to any person claiming to be backward by virtue of the rules referred to above: and
(ii) No selecting or appointing authority shall take into consideration, any certificate issued under the said rules in favour of any person claiming to be backward and percentage of reservation specified in the said Rules for backward classes shall not be given effect to.

Justice A. S. Anand Committee

It had been established to form a concrete and long term and result oriented reservation policy in accordance with the requirements of the society. The state cabinet reviewed the total gamut of things on 14-7-1976 and decided to constitute a committee of persons of eminence, having legal, social and political background and expertise knowledge on the subject. Therefore, on the basis of the said cabinet decision an order dated 24th August 1976 was issued, constituting a committee under the chairmanship of Justice A.S. Anand.

Initially, the scope and terms of reference of the said committee was quite limited to the extent of examining the defects in the two sets of Rules of 1970. But when the committee, at the outset, glanced over the problem and examined the chain of events which took place during the past periods, it felt that unless and until the government widened the scope of reference, the legal infirmities, shortcomings etc., as pointed by the Supreme Court of India, could not be cured effectively and properly. Therefore, at the instance of the said committee, the government reviewed the matter and after appreciating the view point of the committee, issued another order dated 22, September 1976. Vide this order, the committee was required to:

(1) Examine the criteria relating to social, educational and economic backwardness to be adopted for determining as to which class and/or section thereof should be treated as backward;

(2) To identify such classes and sections thereof and prepare list after applying the criteria as are adopted for the purpose;

(3) To categorize backward classes and examine the safeguards that should be provided to ensure balanced and orderly development of all sections and classes of the state;

(4) To examine the question of providing reservation for recruitment to various posts under the government and/or promotion/selections to various posts
consistent with the needs of ensuring efficiency in administration and minimum standards for job requirements.

The committee was of the view that the six categories made by the Wazir Committee could be cut down to two broad categories as under:

(a) 22 weak and underprivileged class

(b) Residents of Backward areas, i.e

I) Bad pockets and

II) Areas near the line of actual control

Having undergone a detailed discussion with the cross-section of people at various levels and various areas, the committee found that 22 groups of people should be classified as backward. The committee regarded them weak and underprivileged classes.

The committee noted the desire of the government to remove the backwardness of certain classes of people of the state so as to enable all groups of the population to live as equals and have equality of opportunity in all spheres of life. The committee supported preferential representation for the backward class in government services with due regard being paid to administrative efficiency. The committee prepared the list of backward classes:

(a) Weak and underprivileged sections and

(b) Residents of backwards areas, that is of;

I) Bad pockets and

II) Regions within 8 kilometers of the line of actual control.

Justice Anand Committee submitted its report to the government in September 1977 and on the recommendations of the Justice A.S. Anand Committee, a notification, dated 3-7-1982 was issued by the government to provide following reservations:

(1) Scheduled Castes:- 8 percent

(2) Socially and educationally backward classes:

(a) Weak and underprivileged classes.

(1) Gujjar and Bakerwal:- 4 percent

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(2) Other social castes: 2 percent

(b) Residents of backward areas:
(i) District Leh: 2 percent
(ii) District Kargil: 2 percent
(iii) Other backward areas excluding Leh and Kargil districts: 20 percent
(iv) Areas near the Actual Line of Control: 3 percent

(3) Children of Freedom Fighters: 2 percent

(4) Children of permanent residents of Defence Personals: 3 percent

(5) Candidates possessing outstanding proficiency in Sports: 3 percent

S.M.Sikri Committee

Meanwhile in the year of 1977-78, the District Recruitment Board of district Poonch made some appointment of school teachers with which the substantial elements of the population of Poonch Town was dissatisfied and they started an agitation in 1978 which gained strength in course of time. With this background, the state government constituted a Commission of Inquiry under the chairmanship of Justice S.M. Sikri to review the policies underlying developmental programmes and allocation of financial resources and examine the recruitment policy of the government and recommend measures for equitable sharing in government employment to various regions, examine the policy of the government to admissions in professional institutions and to recommend measures to ensure equitable distribution and consider any other grievance.

The committee submitted its report on August 25, 1980. Regarding recruitment policy the committee recommended: 38

(1) The reservation in services for Scheduled Castes should not be made by district, it should be made on the basis of the population for the state as a whole.

(2) Government and recruitment agencies may make efforts to accelerate the entry of Scheduled Caste candidates in government services in order to reach reservation levels.

The notification of 1982 issued by state government notified certain areas constituting socially and educationally backward, weak and underprivileged classes and also the areas falling near the line of actual control. The state government after
receiving some representations from the people demanding declaration of some more areas as backward, the government referred all such demands and representations to the Territorial Deputy Commissioner for examining them and making appropriate recommendations in the light of broad based criteria laid down by Justice A. S. Anand Committee. On the basis of the recommendations made by the Territorial Deputy Commissioner, the government issued a notification on 22 August 1988 identifying and notifying some more areas which fall within the definition of socially and educationally backward for the purpose of Article 15(4) and 16(4) of the Constitution of India.

Mandal Commission Recommendations with regard to Jammu and Kashmir

At national level with a view to determine and investigating the conditions of socially and educationally backward classes in India as per Article 340 of the Constitution, on 1st January 1979, under a Presidential order, Second Backward Class Commission known as Mandal Commission was appointed under the chairmanship of B. P. Mandal to verify the conditions of socially and educationally backward classes. The aforesaid commission commenced its functioning on 21.3.1979 and completed its works on 12th December, 1980 and identified 63 castes/communities as socially and educationally backward classes in Jammu and Kashmir state and recommended 27 percent Reservation for these castes in Jammu and Kashmir state on the basis of social and educational backwardness. The Mandal Commission had not recommended any reservation for “Residents of Backward Area or area adjoining the Actual Line of Control” in Jammu and Kashmir state or in any other part of India.

The recommendations of Shri B. P. Mandal Commission were challenged before the Hon’ble Supreme Court of India in a case titled “Indira Sawhney etc. vs. Union of India and others” in which Hon’ble Supreme Court of India vide its Judgment dated 16.11.1992 issued following directions to the Government of India, to the State Governments and to the Administrations of the Union Territories:

“123 (A) The Government of India, each of the State Governments and the Administrations of Union Territories shall, within four months from today, constitute a permanent body for entertaining, examining and recommending upon requests for inclusion and complaints of over-inclusion and under-inclusion in the lists of other backward classes of citizens. The advice tendered by such body shall ordinarily be binding upon the Government.
(B) Within four months from today the Government of India shall specify the basis applying the relevant and requisite socio-economic criteria to exclude socially advanced persons/sections (creamy layer) from "Other Backward Classes". The implementation of the impugned office memorandum, dated 13th September 1990 shall be subject to exclusion of such socially advancing persons (Creamy layer)."

Constitution (Jammu and Kashmir) Scheduled Tribes Order 1989

In 1989, the President of India through Presidential order namely the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989 declared certain tribes or tribal communities as Scheduled Tribes in relation to the state of Jammu and Kashmir. In pursuance of this order the state government framed the rules called Scheduled Tribes (Reservation in Services) Rules 1990 which provided 2 percent and 1 percent reservation for them for direct recruitment and departmental promotions. Later vide notification SRO 205 of 2nd July 1991, the reservation quota was increased to 10 percent and 5 percent respectively.

Identification of the Weak and Underprivileged Classes

With a view to implement the judgment and order of the Supreme Court dated November 16, 1992, the Government of Jammu and Kashmir reconsidered its earlier policy of reservation based on the recommendations of various commission/committees such as, Gajendragadkar Commission, Wazir Committee and Anand Commission and noticed that on the basis of their recommendations the state had already identified and notified the following classes of people as weak and underprivileged:

1. Gujar and Backwards including Gaddis.
2. Bahach Hanjies and Shikara wallas not attached with House Boats or owned by House Boat owners.
3. Fishermen including Gada Hanz.
4. Markabans whose livelihood depends on markabani.
5. Village potters (kumhars)
6. Shaksaz
7. Shoe repairers (working without the aid of machines).
8. Bangles khakrobas (sweepers)
9. Barbers (rural only)
10. Village washerman.
11. Bhands
12. Mirasis
13. Madari/Bazigars
14. Kulfaqir
15. Damball Faqir
16. Dooms
17. Shupri wattal.
18. Sansis.
20. Jhewears
21. Grati
22. Teeli (Rural)

**Identification of Backward Areas**

The state government has also amended the list of backward areas through the notifications issued on 3rd July 1982 and on 22nd August 198862. The total number of villages identified as backward areas as under

**Kashmir and Jammu Divisions**

**Table 3.2. Number of Backward Villages in Kashmir and Jammu Division**

<table>
<thead>
<tr>
<th>District</th>
<th>Villages</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Srinagar</td>
<td>49 villages + Pattis</td>
</tr>
<tr>
<td>District Budgam</td>
<td>273 villages</td>
</tr>
<tr>
<td>District Pulwama</td>
<td>138 villages</td>
</tr>
<tr>
<td>District Kupwara</td>
<td>202 villages + 6 pattis</td>
</tr>
<tr>
<td>District Baramulla</td>
<td>318 villages + 2 pattis</td>
</tr>
<tr>
<td>District Ananthnag</td>
<td>214 villages + 10 pattis</td>
</tr>
<tr>
<td>District Leh</td>
<td>Entire District</td>
</tr>
<tr>
<td>District Kargil</td>
<td></td>
</tr>
</tbody>
</table>

121
Jammu Division

<table>
<thead>
<tr>
<th>District</th>
<th>Number of Villages</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Jammu</td>
<td>128 villages</td>
</tr>
<tr>
<td>District Udhampur</td>
<td>303 villages</td>
</tr>
<tr>
<td>District Poonch</td>
<td>152 villages +1 Mohra</td>
</tr>
<tr>
<td>District Rajouri</td>
<td>204 villages +6 Mohras</td>
</tr>
<tr>
<td>District Kathua</td>
<td>101 villages +2 Mohras</td>
</tr>
<tr>
<td>District Doda</td>
<td>556 villages +3 Moras</td>
</tr>
</tbody>
</table>

Revised Reservation Policy

The state government reviewed its earlier policy of reservation, keeping in view the socio-economic and other conditions of backwardness of the of Jammu and Kashmir state and approved the following percentage of reservation vide decision No. 37 of 1st April 1993\(^3\) taken by the State Administrative Council headed by Governor, K.V. Krishna Rao:

1. Scheduled Castes 8%
2. Socially and Educationally Backward Classes
   (a) Scheduled Tribes / Weak and Underprivileged classes:
      (i) Gujjar and Bakkarwal 6%
      (ii) Residents of Leh 2%
      (iii) Residents of Kargil 2%
   (b) Other Social Castes 2%
   (c) Residents of Backward Areas
      (Excluding Leh-Kargil) 21%
      (reduced to 20% later)
3. Area near the Line of Actual Control 3%
4. Children of Permanent Residents Defense 3%
5. Personnel candidates possessing proficiency in Sports 2%

In addition to the above percentage of reservation, the state government provided 1% quota for police and other Para-military forces and the total reservation comes to 49 percent which is in accordance with the dicta of the apex court.\(^4\)
K. K. Gupta Commission

With a view to implementing the judgment of the Supreme Court dated 16 November 1992 in *Indira Sawhney's case*, the state government vide its order, dated 27-4-1993 issued by General Administration Department set up a commission headed by Justice K. K. Gupta, to make the recommendations to the government in regard to the criteria for identifying such classes of persons as falling within the ambit of 'Creamy Layer' for purposes of disentitlement from reservation for appointment to public offices and posts.

After taking into consideration various factors and other conditions prevailing in the state, the commission made various recommendations in its report submitted to the state government on 10th September 1993 which was approved by the state Administrative Council headed by the Governor, General K.V. Krishna Rao, and accordingly, a notification dated 28-6-1994 was issued by the General Administration Department, framing new rules called The Jammu and Kashmir Reservation Rules 1994.

The Jammu and Kashmir Reservation Rules, 1994

According to the above mentioned rules, several constitutional, executive, political and other posts have been classified / identified which fall within the ambit and scope of creamy layer to which the rule of exclusion from the reservation for appointment against the public offices and posts in connection with the affairs of the state, would apply.

The above rules also modified the earlier reservation policy of the state and included some new categories in the list of the castes which are entitled for the reservation. The modified reservation policy under this rule is as follows:

a) Scheduled Castes 8%
b) Scheduled Tribes 10%
c) Socially and Educationally Backward Classes-
   i) Residents of Area Adjoining Line of Actual Control 3%
   ii) Weak and Under Privileged Classes (Social Castes) 2%
   iii) Resident of Backward Areas 20%
d) Handicapped person 2%
e) Ex. Servicemen and Children of Defense Personnel 5%

In order to include and exclude the areas and categories from the list of reserved categories, the state government passed the Jammu and Kashmir State Commission for Backward Classes Act 1997. In order to implement the provisions of the Act the state government appointed the State Commission for Backward Classes. Section 9 of the Act made a provision about the inclusion of any class of citizen in the list. Under this section, the commission shall examine requests for inclusion of any class of citizens as a backward class in the list and hear complaints of over-inclusion or under-inclusion of any backward class in such list and tender such advice to the government as it deems appropriate. The advice of the Commission shall ordinarily be binding upon the government. Section 11 of this Act is also significant as it made mandatory provision for the state government for the periodic revision of the list. The government may at any time, and shall at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the list with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes. The government shall, while undertaking any such revisions consults the commission.


The state government passed the Jammu and Kashmir Persons with Disabilities (Equal Opportunities, Protection of Rights and Full participation) Act, 1998 for making special provisions for the protection of rights of disabled persons of the state. Section 21 of this Act provides for identification of posts which can be reserved for persons with disabilities. Under this section, the government shall: (a) identify posts in the establishments which can be reserved for the persons with disabilities; (b) at periodical intervals, not exceeding three years, review the list of posts identified and up-date the list taking into consideration the development in technology. Section 22 makes provisions for reservation of posts. Under this section
the government shall appoint in every establishment such percentage of vacancies not less than three percent, for class of persons with disabilities of which one percent, each shall be reserved for persons suffering from (i) blindness or low vision; (ii) hearing impairment; (iii) locomotors disability or cerebral palsy, in the posts identified for each disabilities, provided that the government may, having regard to the type of work carried on in any department or establishment by notification, subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

The Jammu and Kashmir Reservation Act, 2004

Further, in 2004, the state government passed The Jammu and Kashmir Reservation Act, 2004\(^1\) with an objective to provide reservation in appointment and admission in professional institutions for the members of Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes and for matters connected therewith or incidental thereto. Chapter II of this Act makes provision for reservation in appointment by direct recruitment. Section 3 of the Act provides for reservation in appointment. Under this section the vacancies notified by the government from time to time shall be reserved for appointment by direct recruitment from amongst the person belonging to:

(a) Scheduled Castes and the Scheduled Tribes which shall not exceed the ratio and proportion as the population of each such category bears to the total population of the state as per the latest available census; and

(b) Socially and educationally backward classes:

Provided that the total percentage of reservation shall in no case exceed 50 percent;

Provided further that the government shall exclude the services and posts, which, on account of their nature and duties are such as call for highest level of intelligence, skill and excellence, from operation of the Act.

Chapter III of the Act provides for reservation in government service by promotion. In this regard section 6 provides that the available vacancies notified by the government from time to time shall be reserved in any service, class, category or grade carrying a pay scale the maximum of which does not exceed the pay scale of the post of Deputy Secretary to government, for promotion from amongst the persons
belonging to the Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes:

Provided that total percentage of reservation shall not exceed [31%]\(^72\) of the available vacancies;

Provided further that the government shall exclude the services and posts, which on account of their nature and skill are such as call for highest level of intelligence, skill and excellence, from the operation of the Act.

Further, chapter IV of the above Act provides for reservation in professional institutions. Section 9 says:

(1) The government shall reserve seats in the professional institutions for candidates belonging to reserved categories and such other classes and categories as may be notified from time to time:

Provided that the total percentage of reservation shall in no case exceed 50%.

(2) The government shall prescribe the percentage for each category in admission in the professional institutions:

Provided that different percentage may be prescribed for different courses;

Provided further that 50 percent of the seats in each category including open category for admission to MBBS and BDS, shall be selected from amongst female candidates belonging to such category;

Provided also that the seats in any reserved category, which cannot be filled for want of candidates belonging to that category, shall be filled from amongst the candidates belonging to open merit category.

**Jammu and Kashmir Reservation Rules, 2005**

Consequently, in exercise of the powers conferred by section 23 of the Jammu and Kashmir Reservation Act, 2004, section 22 of J and K Persons with Disabilities Act, 1998 and all other relevant provisions of the law in this behalf, the state government framed the Jammu and Kashmir Reservation Rules, 2005\(^73\). Rule 4 provides for reservation in direct recruitment. It says that the available vacancies shall be reserved for direct recruitment in each service, class, category and grade in favour of permanent residents of the state belonging to any of the below mentioned
categories which shall, as nearly as possible, constitute the percentage of available vacancies shown against each:

a) Scheduled Castes 8%
b) Scheduled Tribes 10%
c) Socially and Educationally Backward Classes (other than Scheduled Castes and Scheduled Tribes)
   i) Weak and under privileged Classes (social caste) 2%
   ii) Residents of areas adjoining Line of Actual Control 3%
   iii) Residents of backward areas 20%
d) Ex-Servicemen 6%
e) Physically Challenged Persons 3%

Rule 9 provides for reservation in promotion. Under this rule the available vacancies shall be reserved in any service, class, category or grade carrying a pay scale the maximum of which does not exceed the pay scale of the post of Deputy Secretary to government, for promotion from amongst the persons belonging to the Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes:

a) Where the direct recruitment to a particular post is at 25% or less, the reservation shall be;
   i) Scheduled Castes: 8%
   ii) Scheduled Tribes 10%
   iii) Socially and Educationally Backward Classes
      a) Weak and under privileged Classes (social caste) 1%
      b) Residents of areas adjoining Line of Actual Control 2%
      c) Residents of backward areas 10%

b) Where the direct recruitment is more than 25% the reservation shall be:
   i) Scheduled Castes: 4%
   ii) Scheduled Tribes 5%
   iii) Socially and Educationally Backward Classes
      a) Weak and under privileged Classes (social caste) 1%
      b) Residents of areas adjoining Line of Actual Control 2%
      c) Residents of backward areas 10%
Rule 13 provides for reservation in professional institutions. It says, seats shall be reserved for Scheduled Castes, Scheduled Tribes and Socially and Educationally Backward Classes in each course of professional institutions which shall, as nearly as possible, constitute such a percentage of the available seats in that course as shown against each category or group hereinafter:

i) Scheduled Castes 8%

ii) Scheduled Tribes
   a) Gujjars and Bakkarwals 6%
   b) Residents of district Leh 2%
   c) Residents of district Kargil 2%
   d) Other than (a), (b) and (c) above 1%

iii) Socially and Educationally Backward Classes (other than Scheduled Castes and Scheduled Tribes)
   a) Weak and Underprivileged Classes (Social Caste) 2%
   b) Residents of area adjoining Actual Line of Control 3%
   c) Residents of Backward areas 20%

Rule 14 provides for other reservation. It provides that in addition to the reservations specified in rule 13, the following reservation is also made in favour of the following categories of the permanent residents of the state to the extent shown against each:

a) Children of Defence Personnel 3%

b) Children of Para-Military Forces 1%

c) Candidates possessing outstanding proficiency in Sports 2%

In this context it is significant to note that the report of Commission for Backward Classes submitted in the year 2005-06 recommended for enhancement of reservation quota of social castes from 2 percent to 27 percent as per the judgment of the Supreme Court on Mandal Report.

Jammu Kashmir Civil Services Decentralization and Recruitment Act, 2010

On 9 April 2010, the Jammu and Kashmir State Assembly passed a controversial Bill which bans inter-district recruitment and provides a quota for Scheduled Castes in government jobs in all districts. With the passage of the Inter-
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District Recruitment Bill, a person can now apply for government jobs only in his own district. A person belonging to the Scheduled Castes community can apply in any of the 22 districts in the state, including the Kashmir Valley. The relevant provision regarding the reservation of Scheduled Castes under the above bill which now became Jammu Kashmir Civil Services Decentralization and Recruitment Act, 2010\textsuperscript{74} in section 13, says:

(1) Person shall be deemed to be resident of a particular district or division if he/she has resided in such district or division, as the case may be, for a period of not less than 15 years before the date of applying for a particular post and is actually residing in the said area.

(2) Notwithstanding anything contained in sub-section (1), a person shall not be disentitled from claiming the residence in a particular district or the division only on the ground that his her father/mother or the person on whom he/she is dependent is living in a place outside the said district or the division, as the case may be, on account of his/her employment, business, profession, vocational reasons or temporary dislocations from his/her original place of residence due to security reasons.

(3) Notwithstanding anything contained in sub-section (1), the candidates applying under Scheduled Caste category for any post in the Divisional or District cadre shall, irrespective of their place of residence in the State, be eligible for selection against the posts reserved for the said category at such selection.

Conclusion

To conclude we can say the reservation policy of the state passed through different stages, it was way back in 1932 that Maharaja, Hari Singh first time allowed the depressed classes to visit temples for Darshan. Gradually, these disadvantaged groups raised their voice through different reformatory movements to take cognizance of their grievances which provided the way for the genesis of the reservation policy of the state. Since then different commissions and committees have been appointed at national and state level to make the reservation policy more reasonable and judicious, but unfortunately malicious designs have been followed by political class to represent their vested interests so the reservation policy too has been the victim of politics in the state.
Chapter III

Evolution of Reservation Policy of Jammu and Kashmir

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Chapter IV

Reservation Politics and Gujar-Pahari Issue
Chapter IV

RESERVATION POLITICS AND GUJJAR-PAHARI ISSUE

Introduction

The main objective of reservation has been and is to redress inequality so that all citizens who surely require equality are assured “the provision of a social minimum” or in other words, in the total social, cultural and economic milieu of the country “all boats are enabled to float” that in real terms would imply moving towards inclusive growth. But reservations are now driven by vote bank politics. This has become soft option for political parties and has assumed the role of vote gathering device. The whole purpose of bringing about an egalitarian society has got distorted and, often the problems of the genuinely poor and disadvantaged do not get addressed in real terms. Though the overall limit, as laid down by the Supreme Court of India, is 50 percent for all types of reservations put together, various states have exceeded the limit considerably by various legal and administrative strategies. Political parties suggest measures as devices for improving their election prospects and often use it as a path to gain power and influence. It directly or indirectly encourages reservation agitations and utilizes such mechanisms in a way that the issue of reservation becomes surrogate for caste politics.

Fragmentation

At the time of the partition of the subcontinent of India there had been a systematic division on regional, ethnic and communal lines in the state of Jammu and Kashmir suiting the political interests of the government of the time. Today the division has trickled down to Mohalla and village level. Firstly the divisions at province level are now significantly visible within the state. Jammu’s Dogras and Laddakhi Buddhists stand against the Kashmiri speaking people of the Valley. Muslim Paharis against Muslim Gujjars and Bakkarwals, Sunni Muslims against Shia Muslims, Hindu Dogras against Hindu Rajputs, Hindus of Jammu Kuthwa against Muslims of Rajori Poonch-Doda, Buddhists of Leh district against Muslims of Kargil district, Kashmiri speaking Muslims of Doda, Baderwah, Rajouri, Poonch against Pahari-speaking Muslims of the same area. Another significant division is between well developed urban Srinagar and rest of the rural Kashmir. The divisions are now
deeply embossed in the minds of people. Now they are demanding autonomy which further has re-enforced such divisions. The nefarious designs of such people got vent with the creation of Laddakh Autonomous Hill Development Council in 1995. In addition to it, the state government was compelled to appoint a Regional Autonomy Committee for Jammu province. Recently, a new wave of division started for the creation of new districts and tehsils. The sole reason of the above divisions is the preference of exclusive party agendas over genuine decentralization model. The regional tension, divisiveness and the disparity existing in the state of Jammu and Kashmir is not new. It was way back in 1961 when some grievances arose in Jammu that led to the appointment of Gajendra Gadkar Commission which under political pressure, recommended the establishment of Regional Development Boards which sowed the seed of the communalism in the state. To the end of 80’s, almost all the state government departments were bifurcated or trifurcated. Most of the state level posts were replaced by divisional level posts. The reservation for socially backward classes and ethnic groups created further social, regional and political fragmentations.

Ambiguous Criteria for Reservation:

The practice of reservation has been there since the independence of the country, for which the pretext is given to upliftment of the economically weaker sections of the society. As per the statics, about 40 percent of total population of India is enjoying reservation on various grounds. The criteria for reservation have always remained controversial and debatable. Either, it has been adopted on caste basis, area basis or on profession basis. On caste basis, entire population of Scheduled Castes of the country has been given the status of reserved category, keeping in view their bad economic condition in general and their social exclusion in particular. Similarly, some tribes have been included in the list of Scheduled Tribe categories and they have been also identified with their caste like Meena community of Rajasthan and Gujjar Bakkarwal of Jammu and Kashmir etc. While as some communities have been identified with their professions like Cobblers, Barbers, Carpenters etc., and these sections have been given reserved category status with the name of social castes in Jammu and Kashmir. Not only this, another formula has been adopted in the state of Jammu and Kashmir on the basis of geographical area, which is called Resident of Backward Area (RBA) and the area adjoining Actual Line of Control (ALC). The irony of the fact is that while including these groups in the list of reserved categories,
no barrier has been put between millionaires and the poor of the same group which was given the status of reserved category. Result, the poor of the group is still at the worst end while the millionaire of the community is enjoying the benefits of reserved category. While the criteria for the other backward classes have been based on the socio-economic and educational profile of the particular community, contrary to it, in the Jammu and Kashmir state, the RBA and ALC category has been included in the OBC list of the state.

The Issue of SC Reservation

While to talk of SC Issue, the introduction of the Inter-District Recruitment (Amendment) Act 2010 is the best example of the politically motivated action of the state government. Despite enjoying the numerical majority in the State Assembly, the National Conference (NC) chooses to go by the Congress Party stand on the Inter-District Recruitment (Amendment) Bill. It shows how the state’s politics is subservient to the preferences of Congress Party. The message conveyed was clear that state political parties can compromise their mandate for the sake of their bosses at the centre.

The Act in its amended form is bound to divide communities and groups on geographical lines. The Act is also unjust to the state’s Muslims particularly those belonging to the Kashmir Valley. As per the amended Act, the Scheduled Castes that comprise of certain Hindus particularly of Jammu region will now enjoy 8 percent reservation in all the districts of the state. Whereas there are no Scheduled Castes in the ten district of the Valley but they will enjoy their reservation too. This is the best example of vested intrests of the national parties in the state of Jammu and Kashmir who motivate to consolidate their vote banks in Hindu dominated areas at the expense of Muslims. The Act is not only against the Muslims of the state but also it has a potential to further divide the state on ethnic, religious and geographical lines. This Act raises some serious questions on the basic idea of reservation applicable to the state of Jammu and Kashmir.

The Issue of RBA (Resident of Backward Area)

Further to talk of RBA issue, the state of Jammu and Kashmir seems to take reverse turn on the developmental path because more and more people are demanding the backward status for their areas. It is again the issue of misnomer work of the
policy makers. It is only in the state of Jammu and Kashmir that geographical area had been made the criteria for granting reservation quota to backward and underprivileged classes. Besides it, in this backward area category there has been no ban or barrier between the poor and the millionaires but the only criteria is to be a resident of that particular area. Revenue records are sufficient to claim resident of backward area (RBA) category. It does not matter, whether they are living in the cities or the posh colonies of the metropolitan cities. We have hundreds of examples where the wards of high ranking officers are snatching the rights of those poor people who deserved to be given special chance to excel but unfortunately the creamy layer of the community is the only beneficiary of the area based reservation policy. It has been established that granting the reserved category status is a major aim to bring underprivileged section of the society at par with advanced category but the "benign discrimination" has been misused or moulded to suit vested interests, as RBA status has been extended to areas which enjoy educational and other facilities at par with people of advanced categories. As a result, the state has been consigned to the hands of an incompetent administrative officers, undeserving doctors and unqualified engineers. The State Commission for Backward Classes is flooded with thousands of requests for inclusion and complaints of exclusion. In the state of Jammu and Kashmir a number of villages with all necessary educational facilities and high social status are enjoying the fruits of RBA status. The irony of the fact is that the tehsil headquarters with all facilities have been listed in the RBA category due to vote bank politics.

In order to implementing the Mandal Commission recommendations, like all the states, Jammu and Kashmir too appointed a permanent body in order to include and exclude the areas and categories from the list of reserved categories. The Jammu and Kashmir State Commission for Backward Classes (SCBC) was constituted in 1997. The Act says that the government should revise the list contemplated under section 2 (d) of the Act after expiration of every ten years period. The objective is to exclude from such lists those classes who have ceased to be backward or for including in such lists new backward classes. Fifteen years have passed when the Act was promulgated but there has been no exclusion of any area from the RBA list. According to justice Bhat, Chairman SCBC, in an Article published in Kashmir Life, "Upto March, 2009 there were 1755 representations pertaining to grant of RBA or
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reserved category status pending with the commission. Out of it 1154 are from Kashmir and 601 from Jammu division”.

The Jammu and Kashmir Reservation Act, 2004\(^8\) says that the children of any person whose annual income from all sources exceeds Rs. 3 lacs or such amount as may be notified by the government from time to time in accordance with the prescribed norms shall be excluded from the category of socially and educationally backward classes. However, the Jammu and Kashmir Reservation (Amendment) Bill, 2009 proposed that “the income ceiling shall not apply to a person who has lived and completed entire school education from an area identified as backward or areas adjoining Actual Line of Control, as the case may be, and in case such schooling is not available in such area, from the nearest adjoining area.”

The Issue of OBC’s

Another major issue confronting the state of Jammu and Kashmir pertains to the other backward classes who always remain the matter of debate from. Due to persistent and stringent demand of the neglected socially and educationally backward classes, the Government of India appointed the first Backward Class Commission “Kakasaheb Kalelkar Commission” on 29\(^{th}\) January 1953. After a detailed ground work the Commission submitted its report on 30\(^{th}\) March 1955, listed 2399 castes as socially and educationally backward class.\(^9\) Pursuant to its criteria, the Government of Jammu and Kashmir also appointed a committee which recommended 50 percent reservations for Muslims of Kashmir, 40 percent for Jammu Hindus and 10 percent for Kashmiri pundits. This decision itself was flawed as it was done on communal lines, which was antithetical to the Constitution of India and was subsequently struck down by the Supreme Court in the case of Triloki Nath v. State of Jammu and Kashmir\(^10\).

The backward classes of the state were constantly ignored and discriminated against. Notably first time the Gajendragadkar Commission in 1967 made some recommendations for determining the multiple criteria for backward classes like economic backwardness, occupation, place of habitation, student ratio and caste in relation to Hindus.\(^11\) It also recommended the fresh revision of reservation policy based on the above mentioned multiple criteria. So the Government of Jammu and Kashmir appointed a high powered committee (J.N.Wazir Committee) which took
fresh revision. On the basis of its report, the new rules were framed, which provided for 8 percent reservation for SCs and 42 percent for backward classes including 2 percent reserved for Laddakh district. During the scrutiny of these rules, the Supreme Court while pointing out certain defects directed the state government to cure these defects. So again a committee under the chairmanship of Justice A.S. Anand was constituted in September 1976. The committee submitted its report in September 1977, and recommended 2 percent reservation for social castes, and inclusion of RBA and ALC categories with 27 percent reservation in the broad category of socially and educationally backward classes. The atrocious system of reservation was followed by Mandal Commission in 1980. The Mandal Commission in its report submitted on 12 December 1980 identified 63 castes, communities in Jammu and Kashmir as “socially and educationally backward classes” and recommended 27 percent reservation for them. The commission had not recommended any reservation for “Residents of Backward Area or Areas Adjoining the Line of Control” in the state of Jammu and Kashmir or in any other part of India.

Subsequently, the Mandal Commission recommendations were challenged before the Supreme Court in the case titled Indira Sawhney v. Union of India in which the court held that the States and Union Territories under section 123 (A) provides for constituting a permanent body within four months for entertaining, examining and recommending upon requests for inclusion and under inclusion in the list of backward classes.

Following the judgment of the Supreme Court, the Jammu and Kashmir Government which was under Governor rule at that time also appointed retired Justice K.K. Gupta Commission, which proved an eye-wash as the said commission worked only on the report of over-ruled Anand Committee of 1977 whereas this fraud can very well be judged from the below:

1. SC 8%
2. ST 10%
3. Socially and Educationally Backward Class:
   (i) RBA 20%
   (ii) ALC 3%
   (iii) Weak and Underprivileged Classes Social Castes 2%
4. Handicapped person 2%
5. Ex-Servicemen and Children of Defense Personnel 5%

Formally, the state government appointed a permanent State Commission for Backward Classes in 1997, with eminent retired jurists but the commission even after the passage of 15 years failed to provide 27% reservation to socially and educationally backward classes identified by Mandal Commission. The inclusion of backward area and areas adjoining to Actual Line of Control under section 2(o) of the Act and Rule 4(c) of the SRO of 2005 is against the provisions of Article 15(4), Article 16 (4) and Article 340 of the Constitution of India. The RBA and ALC people does not carry the stigma of social backwardness. In addition to it, Mandal Commission nowhere mentioned the area wise reservation on geographical basis. Further, the National Commission for Backward Classes, New Delhi, also does not accept RBA and ALC reservations for central government services. Thus the backward classes are not only discriminated in state but also are debarred from the reservation by the central government also because of the ambiguous policy of the state. Only mere 2% social castes of the state of Jammu and Kashmir get reservation in the centre under 27 percent reservation quota meant for other backward classes.

The Gujjar-Pahari issue

The issue of multiple ethnicities and diverse languages, which should have been a source of strength for the state, has become a disadvantage as it has become a constant point of friction among the diverse identities in the state. There are several historical facts behind the Gujjar-Pahari issue. In the early years of their arrival, the Gujjars of Jammu and Kashmir took direct confrontation with Rajput clans for political and strategic reasons. Rajput being the Zamindars have been employing Gujjars and tillers, domestic help and casual labourers for centuries. The tussle between Zamindars and tillers is an old story. Even today the social differentiation continues to be a major factor for the gap between Gujjar-Pahari inhabited areas. Thus there seems a huge potential for social unrest which is being proliferated by the political parties.

As far as the contemporary internal conflicts in Jammu and Kashmir is concerned, the political and social clashes between the Gujjars and Paharis are perhaps one of the most serious challenges to internal peace at the micro-level and an emerging impediment to solving the Kashmir issue at large. This conflict between the Gujjars and the Paharis transcends all regional boundaries and religions within Jammu
and Kashmir and beyond. Historically, this fault line erupted several decades ago but the issue became sharpened in 90’s when Gujjars were included in the Scheduled Tribes list of the state. The situation worsened when a similar demand was made by numbers of other groups and castes from Muslims, Hindu and Sikh groups unified under a Pahari speaking community.

The controversy is taking much heat day by day on a large scale because the political parties extend selective patronage to one community against other for vote bank politics. It is only the political parties and the government of the state who helped, directly or indirectly in escalating conflict between the two communities from time to time. This resulted in the tension between Gujjars and Paharis who nurse huge contempt for each other. In Rajori and Poonch districts of Jammu province and some parts of Baramulla, Kupwara, Bandipora and Badgam districts of the Kashmir province where these communities are predominant, the Gujjar-Pahari divide becomes a dominant factor in all decisions-political and administrative, from selection of candidates for assembly elections, appointment of ministers in the cabinet, nominating office bearers of political parties to posting of government officers at different levels in the districts, even identifying government projects like schools, dispensaries, roads and bridges etc. Instead of resolving the issue, the political parties are playing the Gujjar and Pahari cards which further aggravate the situation and sharpen the conflict.

As we know that India has the second largest concentration of tribal population in the world constituting 8 percent of the total population. According to the census of 1991, these tribes are mainly found in the states of Madhya Pradesh, Utter Pradesh, Bihar, Orissa, Maharashtra, Rajasthan, Andhra Pradesh and in the Northeast.17 There is no definition of Scheduled Tribes in the Constitution of India; however, these essential characteristics include primitive trades, geographical isolation, distinct culture and educational and economic backwardness. In order to bring these tribes at par with main-stream through upliftment in social, economical and educational fields, the Government of India set up a separate Ministry for Tribal Affairs to give a boost to the welfare of the Scheduled Tribes and the Scheduled Castes.

The state of Jammu and Kashmir has many areas which remain cut-off from the rest of the world due to snowfall on the passes because of fair weather roads and long distances from the capital cities: Jammu and Kashmir. The rate of the essentials
in these areas remains very high and the purchasing capacity of the people residing there is very low. These areas are located almost along the Line of Actual Control or form a part of forested areas in the Valley and in Jammu province. These include Leh, Kargil, sub-division Gurez, Uri in district Baramullah, district Poonch, district Rajouri, Kurnah, Keran, Machal, Jammagand, Kenthawali, Lashdat of district Kupwara and some inhibitions in Kashmir Valley and in Jammu. These regions are inhabited by linguistic minorities exhibiting diverse cultures and speak languages that include Pahari, Balti, Dard, Sheena, Gojri, Ladakhi etc. For the speedy development of people of these areas and bringing them at par with accessible and advanced areas in educational, social and economical fields, the government declared these areas decades ago as 'bad-pocket areas'. Later on these areas were declared as 'backward areas' and more recently the inhabitants of these areas were declared as Scheduled Tribes. Ladakh and Kargil districts have gone one step ahead with the formation of Hill Development Council in these districts.18

Gujjar Perspective

The Gujjars, in Jammu and Kashmir are a nomadic Muslim tribe who form the third largest community in the state after the Kashmiri Muslims and Jammu Dogras. Besides Jammu and Kashmir, the Gujjars are a significant and distinct ethnic, cultural and linguistic identity in more than ten states of Northern and Central India with faith lines in Islam as well as in Hinduism.19 Ever since 1947 there have been organized attempts by the ruling class to politicize the Gujjars of Jammu and Kashmir to meet their interests.

Gujjar leaders are of the opinion that they were first politicized in 1970s when Prime Minister Indira Gandhi cultivated them and propped them up as a possible counter-weight to the Muslims of the Valley. The first step in this direction was the recognition of the Gojri language and allocation of time on Jammu and Kashmir Radio Station for its programmes,20 though this was a genuine demand, but came as a political concession from Government of India. However, the quest for the Scheduled Tribe status under the Indian Constitution, which provides recognition and some privileges, however, took a long time to achieve these benefits. They started articulating their grievances in the early 60s. But all their endeavors to persuade the government to take some concrete measures in order to regenerate their socio-cultural and politico-economic life failed to evoke any response till 1974. It was only in 1975
that Sheikh Abdullah, who came back to power as Chief Minister, after a gap of 22 years, did try to mollify them by holding out an assurance that in future 4 percent seats would be reserved for them in the medical and engineering colleges and that a Gujjar and Bakerwal Advisory Board would be set up in order to look into the problems of the community as well as ensure its all round development.\textsuperscript{21}

But the Gujjars complained that all these commitments turned out to be mere rhetoric, that the Sheikh Abdullah did constitute the Gujjar and Bakerwal Advisory Board, but it utterly failed to do anything concrete for the neglected community as it was (and is) a powerless body. The only substantial step that the Sheikh’s administration took was the construction of a few Gujjar hostels which to the utter dismay of the Gujjars were put under the charge of those persons who were close to the state government.

The Gujjars, however, achieved a major breakthrough on April 1991, when the President of India at the instance of the Chandra Shekhar’s caretaker government took a momentous decision and conferred on the Gujjars and Bakerwals the status of Scheduled Tribe.\textsuperscript{22} The 19\textsuperscript{th} April decision entitled the Gujjars and Bakerwals to a share of 10 percent in the state services and other sectors. And it also entitled the Gujjar dominated areas to liberal financial grant. According to the leaders of the Gujjars and Bakerwal community, the Pahari leadership had taken the view, that the April, 19, 1991, Government of India decision was the fall-out of the feudal Gujjars conspiracy hatched to wipe out the Pahari culture and unsurf the share of the backward and neglected Paharis of Rajouri and Poonch districts in the Jammu region and Kupwara and Baramullah districts of Kashmir Province.

In other words, the Gujjars held that the decision of the Central government had produced two-fold impact:

First, it provided for a definite mechanism which would enable the Gujjars and Bakkerwals to secure their due, if not fully, at least partly, in the state’s politico administrative and economic structure; and

Secondly, it stimulated the rapid growth of a movement by Paharis in Rajouri, Poonch, Kupwara and Baramulla districts for achieving the Scheduled Tribe status. The arguments advanced by the Paharis were that they like the Gujjars and
Bakerwals speak a distinct language and, hence, they should also be treated as the Scheduled Tribe.

The simmering volcano erupted in 1989, when first time, the Pahari speaking people of Rajouri, Poonch, Kupwara and Baramullah districts had confronted Gujjars when the central government leaders came out with a categorical assurance that the Gujjars and Bakerwals, along with Ladakhis, Sippis and Gaddis, would be given the status of Scheduled Tribe. As a matter of fact, that year they met the then Chief Minister, Dr. Farooq Abdullah, and also demanded Scheduled Tribe status for the Pothwari-speaking Muslims. The crux of their argument was that they, like the Gujjars and Bakerwals, constituted a distinct group and are living along with them, and therefore, they also deserve a special and preferential treatment.

As for the state government’s response is concerned, it fully endorsed the demand and set in motion a process which was to culminate in the grant of Scheduled Tribe status to such sectors of population. The state government, however, conveniently overlooked the other aspect that there was a substantial chunk of other non-Muslim Pothwari speaking people who had migrated from the Pakistan administered Kashmir to the Jammu region in the aftermath of partition in 1947. The people saw through the game and naturally demanded a similar treatment. The immediate consequence of the demand made by the Pothwari-speaking non-Muslim migrants was the collapse of the state government’s proposed plan. So, the government decided to keep the Gujjars out from the purview of the Jammu and Kashmir Scheduled Tribe Order of 1989,\(^\text{23}\) which conferred the status of Scheduled Tribe upon the Baltis, Bedas, Bats, Botos, Brokpas, Dards, Shinas, Chaugas, Garras, Mons and Purigpas.

Convinced, that their language plank had failed to carry conviction with the powers-that-be after the fall of Dr. Farooq Abdullah’s government on January 19, 1990, the Pothwari-speaking people approached the then Governor of Jammu and Kashmir, Girish Chander Saxena, and told him that Rajouri, Poonch, Kupwara and Baramullah districts housed- apart from the Gujjars and Bakerwals- Paharis, who are also tribal people and that they should be treated in the same fashion as the nomadic Gujjars and Bakerwals. They strongly advocated their case\(^\text{24}\) and Girish Chander Saxena lost no time to set up a Pahari Board on March 7, 1992 with its jurisdiction extending to all the areas of Rajouri, Poonch, Kupwara and Baramulla districts.
The Gujjars alleged that the Pahari Board was constituted for the purpose of controverting the newly gained influence of the grossly neglected Gujjars and Bakerwals and can be seen from the fact that it consisted of seven Kashmiri Muslims, five Rajput Muslims, one Sayyid and one Hindu at the time of its Constitution\textsuperscript{25} at present it consists of eight Kashmiri Muslims, eight Rajput Muslims, two Sayyids and four non-Muslims. Besides, the Chief Minister, Minister of State for Social Welfare; Financial Commissioner, Planning and Development Department, Additional Chief Secretary, Education Department, Secretary, Social Welfare Department; and Secretary, Academy of Art, Culture and Languages are its official members and Minister for Finance, Minister of State for Power and Minister for State for Forests special invitees.\textsuperscript{26}

Not content with this, Pahari speaking people again reiterated their demand immediately after the establishment of the Pahari Board in favour of Scheduled Tribe status. Their plea was that, it alone could meet their political aspirations and economic needs. However, they failed to convince Girish Chander Saxena of their claim to all rights under the Scheduled Tribe status owing to the bitter opposition by the Gujjars as well as the pressure of the Pothwari-speaking refugees for similar rights and privileges.\textsuperscript{27}

In 1993, Girish Saxena was replaced by General K.V. Krishna Rao as the State Governor. This development emboldened the votaries of Pahari identity to again press for Scheduled Tribe status. And, so strong was their pressure that General Rao was constrained to come out openly in support of the Paharis and made a statement on December 18, 1993 in such strong terms saying that the Paharis rightly deserved Scheduled Tribe status. He had already strongly urged the central government to take necessary steps in this regard, and he would soon meet the then Prime Minister P.V. Narasimha Rao to clinch the issue in favour of the Paharis.\textsuperscript{28} But this proved to be far more rhetoric than a reality.

The Gujjars held that the December 18 declaration makes it absolutely clear that the Paharis had deeply influenced the state government and requested the Governor to reject outright serious objections of the leading Gujjars and other prominent political and non-political leaders against the creation of the Pahari Board, as also against the official move that sought Scheduled Tribe status for Pahari speaking people.
Chapter IV

Reservation Politics and Gujjar Pahari Issue

It is pertinent to mention here that the Gujjars have been vehemently opposing the April 19, 1991 decision on six grounds, which according to Gujjar leaders are:

First, the constitution of Pahari Board and the proposed move to grant Scheduled Tribe status to the Paharis are part of the deep-rooted conspiracy of the political parties to reestablish their hegemony and domination in Rajouri, Poonch, Kupwara and Baramullah districts.

Secondly, there is nothing in the official records, statute books, historical works, sociological and anthropological studies which could even remotely suggest the existence of any such nomadic tribe as Pahari in Jammu region, or for that matter in Kashmir province, as a matter of fact, the entire population of Jammu and Kashmir could be termed as Pahari as the whole of the state is a mountainous region.

Thirdly, the Paharis have all along claimed themselves to be the descendants of the ruling clans and called themselves as Rajas, Sardars, and Peerzadas and so on.

Fourthly, there is no reference whatever to show that the Paharis have at any point of time been recognized as members of the Other Backwardness Classes (OBCs).

Fifthly, the entire Pahari controversy is the brain-child of the leaders who, in collaboration with certain vested interests, are desperately seeking to frustrate the Gujjars' firm resolve to obtain additional seats in the State Legislative Assembly and tilt the balance in favour of the hitherto neglected communities.

And, sixthly, the government have completely overlooked the legitimate claims of those who migrated from the Pakistan administered Kashmir in 1947 and took shelter in the refugee camps set up in Jammu, Kathua and Udhampur districts. The exclusion of these people from the Pahari Board is being constructed as something mischievous by the Pothwari-speaking non-Muslim, including the Hindus and Sikhs. And, the demand in favour of inclusion of the Pothwari- speaking non-Muslim or the non-Muslim migrants from Pakistan administered Kashmir in the Pahari Board is something mischievous for the protagonists of Scheduled Tribes status to the Paharis, as they do not subscribe to the thesis that the entire population of the Pakistan administered Kashmir or of the entire state, is Pahari.29

Established tribes are always well defined with their roots fully known and identified. The people of established tribes have their own distinct common ethos, traits of life and cultural background.
A renowned linguist, A. G. Grierson, in his widely-acclaimed book *Linguistic Survey of India* while referring to Pahari language observes that the word Pahari means of or belonging to the mountain and is especially applied to the groups of languages in sub-Himalayan hills extending from Bhaderwah, north of Punjab to eastern parts of Nepal. He, in addition, classifies Pahari language into three groups and writes: in the extreme East there is Khas-Kura of eastern Pahari, commonly called Nepali, the Aryan language, spoken in Nepal. Next in Kumaon and Gharwal we have Central Pahari languages, Kumauni and Gharwali. Finally in the west we have the Western Pahari languages spoken in Jamur-Bawar, the Shimla hill states, Kulu, Manali and Suket, Chamba and western Kashmir.\[^{30}\]

As per the Census Report of India, 1941, Western Pahari language was spoken by 5,31,319 persons in the entire Jammu and Kashmir State. Of these, 3,60,870 resided in the Jammu region, 2,37,582 persons in Chenani and Poonch. Jagirs and in Kashmir province the number of Western Pahari-speaking persons had been 1,70,432 persons.

The Census Report of 1941 gives district-wise breakup of the number of Western Pahari-speaking people of Jammu and Kashmir which is as follows:\[^{31}\]

**Table 4.1. Number of Pahari Speaking People in Jammu and Kashmir as per Census 1941**

<table>
<thead>
<tr>
<th>District</th>
<th>Western Pahari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jammu Province</td>
<td></td>
</tr>
<tr>
<td>Jammu</td>
<td>63</td>
</tr>
<tr>
<td>Kathua</td>
<td>4,312</td>
</tr>
<tr>
<td>Udhampur</td>
<td>38,507</td>
</tr>
<tr>
<td>Reasi</td>
<td>60,628</td>
</tr>
<tr>
<td>Mirpur</td>
<td>19,778</td>
</tr>
<tr>
<td>Jagirs</td>
<td></td>
</tr>
<tr>
<td>Chenani Jagir</td>
<td>869</td>
</tr>
<tr>
<td>Poonch</td>
<td>2,37,582</td>
</tr>
<tr>
<td>Kashmir Province</td>
<td></td>
</tr>
<tr>
<td>Baramulla</td>
<td>9,681</td>
</tr>
<tr>
<td>Ananthnag</td>
<td>5,156</td>
</tr>
<tr>
<td>Muzaffarabad</td>
<td>1,55,595</td>
</tr>
<tr>
<td>Frontier District</td>
<td>17</td>
</tr>
<tr>
<td>Ladakh</td>
<td>5</td>
</tr>
<tr>
<td>Gilgit leased</td>
<td>---</td>
</tr>
<tr>
<td>Gilgit Agency</td>
<td>---</td>
</tr>
</tbody>
</table>
George Grierson in the census report referred to above makes it clear that Pahari language was common name of various languages, classified by him in three main groups- Western Pahari, Central Pahari and Eastern Pahari. Professor Sudheshwar Verma, yet another internationally known linguist in his monumental works on Himalayan languages, especially of Jammu and Kashmir, has offered an identical view. T. Grahame Bailey’s Linguistic Studies from the Himalayas and Shiv Nath’s History of Dogri Literature also tell the same story.

The people of the Pahari tribe have not been able to identify clearly to which group their Pahari dialect belongs. Their concept of Pahari-speaking tribe as such appears quite vague and ambiguous.

It is also significant to mention that they have not approached the Gajendragadkar Commission, the Sikri Commission, the Wazir Commission (1969), the Anand Commission (1976) and the much-talked about Mandal Commission and have demanded the status of Scheduled Tribe, or pleaded for all those concessions to which the other backward classes are entitled.

The Gujjars allege that there is no doubt that the people of the Pahari Tribe belong to the upper strata and respectable class of legislators. Some of the Paharis are experienced bureaucrats, well off businessmen, landlords and above all what the Gujjars call them, the earlier masters. Their move for staking claim to the Scheduled Tribe status, it appears, have a particular objective and design to achieve. What can be this design? It can easily be deduced even by a layman that the motive behind the move is to seek enlistment of Pahari-speaking people in the approved list of Scheduled Tribes and compromise the privileges granted to the Gujjars and Bakerwals. And, they have succeeded in their game plan to a considerable extent, notwithstanding the fact that they have failed so far to obtain the Scheduled Tribe status.

It appears that neither the Pahari leaders nor the rulers are prepared to look over facts. Leaders, on the contrary, are making one statement after another to the effect that their government is committed to making the central government to accept the Pahari’s demands. Similarly, the Pahari leaders have intensified their campaign in order to achieve the status the Gujjars and Bakerwals were granted 22 years ago.

The Pahari leaders ably backed by the National Conference Government, have nearly succeeded in convincing the higher ups in New Delhi in favor of their
demands. According to them what is likely to be accepted by the Union government at the behest of the National Conference leaders is the compromise formula, worked out by the Paharis residing in Rajouri, Poonch, Kupwara and Baramulla districts to marginalize the already marginalized Gujjars and Bakerwals. According to this compromise formula, the Paharis have given up their demand for Scheduled Tribe status and instead demanded Scheduled Tribe area status for all the four districts viz Rajouri, Poonch, Kupwara and Baramulla.

The favorable attitude of the authorities to the compromise formula has only served to anger the Gujjars and Bakerwals who point out that to declare Rajouri, Poonch, Kupwara and Baramulla districts as Scheduled Tribe area would be to negate all that has been done so far to ameliorate their politico-economic and social life. Yet another refrain of them is that the cry of the Paharis for Scheduled Tribe area status for Rajouri, Poonch, Kupwara and Baramulla district alone smacks of an intrigue against them.

During the last twenty five years, the Gujjars have submitted a large number of memoranda to the Indian Prime Ministers and others in New Delhi concerning the grave dangers that would follow on the introduction of changes brought about by the crusade directed by the Paharis speaking people of the state. Two points are common in all these memoranda. One is that the demand putforth by the Paharis has all the ingredients of snowballing into a major conflict and that the demand, if accepted without following the laid down criteria, has the sufficient potential of triggering widespread disturbances in the border belt. The other is that the grant of political concession as demanded by certain affluent and influential people would simply lead to a situation as it existed between 1947 and 1991 under which their life was only one of toil and penury.33

It seems desirable to reproduce here at least one of the several memoranda34 submitted by the leading Gujjar. A study of it would help us to determine their attitude to the controversy triggered off by the Paharis. It was submitted to the Prime Minister in 1993 and reads like this:

"Many ethnic groups, after recognition of Gujjars, Bakerwals, Gaddis, Ladakhis and Sippis of the Jammu and Kashmir State as Scheduled Tribe, have now started demanding this status. Some political leaders with shady bonafides are trying to make out a case for securing similar benefit for a particular area of the State
on the plea of being Paharis (term recently invented). In support of their contention, they have projected some irrelevant and illogical points which carry no weight for consideration. The motive behind such a move is more political than just and lawful demand. These leaders are desperate to retain their hegemony and domination over the tribes. Among these leaders are some Ex-MLA’s and Ex-Ministers who want to undo the benefits of reservations of seats in the Legislative Assembly in the State. They are well conscious of the strength and might of these tribes declared as Scheduled Tribes and apprehended that myth of the majority, which they have been claiming, shall be once for all shattered.

"These leaders had been claiming to be members of upper classes and are manipulating this status for three districts of the State with an eye to deprive the Scheduled Tribes of the State of the benefits ensured by the Constitution. They are also a part and parcel of the bureaucracy which has inbuilt bias and prejudice against the tribes. Had they been fair and just towards these tribes, there would have been no socio-economic and political injustice.

"Whenever the Central government wanted to accede to the demand of conferring Scheduled Tribe status on these tribes the ruling clique on one or the other pretext scuttled this issue. Since the Central government has now very rightly and lawfully recognized those communities as Scheduled Tribes, the biased and vested interests in the bureaucracy abetted by these leaders have started creating obstacles in the sincere implementation of the programmes and policies, meant for the tribes under the Constitution.

"Those who are now making out a case for Scheduled Tribes status are, without any logic, confining themselves to areas of district Poonch, Rajouri and some parts of Baramulla and Kupwara district, and have started calling themselves as Paharis. In fact, the entire Jammu and Kashmir state is hilly and mountainous region and all people living in the state could be called as Paharis.

"The demand has absolutely no justification and is the outcome of a deep-rooted conspiracy of those who are responsible for present turmoil and trauma in the state.

"We are not against any particular community to be declared as OBC or Scheduled Tribe in the state, but would like to bring certain very relevant points to your kind notice for examination and verification so that a judicious view is taken to finally settle the issue lest it opens a Pandora Box.
"In Jammu and Kashmir no community, class of people or inhabitants of any region ever called themselves as Paharis in the past and, contrary to it, the entire State is mountainous and hilly and all those living in the state could be in a common parlance called Paharis like people of Himachal Pradesh and Garhwal region of Uttar Pradesh etc.

"People speaking Dogri language and its other sister-dialects in Jammu region have been in fact claiming Dogri as Pahari as reflected in many census reports and other records as their mother-tongue as both the names symbolized one language. There is no particular class of people who could be said to have Pahari different than Dogri as their mother tongue.

"There is no identification or definition of any such tribe who claims to be Paharis by virtue of its being inhabitant of particular area, or speaking particular dialect and, therefore, attributing this term for a confined area has absolutely no justification.

"The interpretation of Pahari region also does not fit in because it would only exclude people from plains of Jammu, Udhampur and Kathua districts. And, by implication exclude only members of a particular community. Thus creation of such a region on flimsy and parochial groups is bound to create bitterness and estrangement between various sections of people living peacefully and amicably since ages.

"Advocates of so-called Paharis, of late, have been asserting that the population of districts Rajouri, Poonch and Tehsils Uri and Karnah is 2.35 lacs. These figures are not only factually incorrect but also highly misleading. In fact, the population of districts Poonch and Rajouri and parts of Baramulla and Kupwara as per present (1993) estimates are more than 8 lacs. Besides this, there are 4 lacs of people of Pakistan administered Kashmir belonging to Poonch, Rajouri, Baramulla who are all Hindus and Sikhs and had migrated in 1947 to this side and presently scattered all over Jammu and other parts of the country. Any benefit given to people presently residing in district Rajouri, Poonch, Baramulla cannot be denied to those who belong to these districts and are living as refugees. The total population, keeping in view these facts, comes about 12 lacs and under these circumstances any concession to such a large chunk of population without proper study and examination shall render the whole exercise infructuous and the fate of the downtrodden and oppressed shall never change.

"Since independence state government has instituted various committees and commissions such as Gajendragadkar, Wazir and Anand Commission from time to time to identify and declare weaker sections and other backward classes for the
purpose of their socio-economic upliftment. No such class known as Pahari figures either as a weaker sections or a backward class in any (of the) reports of these commissions. Rather, no such class existed even for considretion. Therefore, the claim of the status of Scheduled Tribe for people who are not even OBCs is not legally maintainable.

It is also intriguing to find that protagonists of Paharis have never made any demand in the last 50 years of being backward. And it is also not a matter of coincidence alone that no historian or public man could discover that the people living in the entire region adjoining Pakistan administered Kashmir have common culture and are backward. The Mandal Commission, which has made an in-depth study of the people of Jammu and Kashmir, also did not find any such class and thus these people did not find any mention in the report.

“There is no such tribe known as Pahari living in the district of Poonch, Rajouri, Baramulla and Kupwara. There are many Pahari speaking and Dogri speaking communities such as (a) Jats, (b) Battees, (c) Telis, (d)Lohars and Tarkhans, (e) Mochis, (f) Julahas, ((g) Hajams,(h) Rains, (i) Markbans, (j) Bhalas and other social groups with a sizable population and the communities mentioned above have nothing in common. If the language or dialect is the criteria then these backward classes are also scattered all over the State and mostly already declared OBCs cannot be left out.

“In the light of above facts it is requested that the matter may kindly be got verified and examined through agencies under the command so that further implications arising out of the confusion created by vested interested could be avoided and sincere implementation of the concessions granted under law are ensured to the Scheduled Tribes of the State.”

This over 20 year old controversy between the Gujjars and Paharis over the crucial issue of Scheduled Tribe status needs to be resolved forthwith to the satisfaction of all and all those who genuinely deserve some extraordinary care owing to their extreme backwardness must be treated as such.

**The Pahari Movement**

The word “Pahari” literally means “belonging to hilly or mountainous areas”. The very word describes the true nature of the people. They dwell far away from main roads except a few cities/ towns viz, Poonch, Rajouri, Surankote, Mendhar, Mandi, Nowshera, Sunderbani, Kalakote, Karna and Uri, where Pahari population has clustered in absolute majority. The Paharis claim that, being Pahari majority districts
and tehsils, these areas are continuously ignored in developmental activities and other amenities as compared with other district and tehsil headquarters of the State. Tilling hilly lands and cattle rearing had been their main occupation and the only source of earning as livelihood. The partition of 1947 had been the main cause of their sufferings. It parted their families almost never to meet again. Border restrictions, day to day skirmishes and shelling and loss of grazing area further intensified the sufferings of the people everywhere on the border area. The advent of militancy proved the last nail in the coffin.

To promote and safeguard the educational and economical interests of these weaker sections of the society is one of the basic obligations of the government. To alleviate the sufferings, the border regions were declared ‘Bad Pocket Areas’ and the benefits of the schemes were equally shared by all the sections of the people in respect of reservation for recruitments, border allowances for the government employees, scholarship etc. From the time of partition till 1990, the people in these areas were jointly identified as a single unit with all the benefits accruing equally to Paharis, Gujjars, Bakerwals, Sheenas and Ladakhis, without any discrimination on the basis of name, caste or creed.36 This had created a sense of unity amongst these groups and a feeling of being the members of the same family without any consideration of the differences in languages that they speak.

It was in 1989 that the Jammu and Kashmir government recommended to the Union Government vide cabinet decision number 159 dated 8-8-1989, the following seven classes37 to confer Scheduled Tribe status upon:

1. Pahari speaking
2. Gujjar Bakerwal
3. Argone of Leh
4. Sheena Dard
5. Gaddi
6. Sippi
7. Balti

Struggle for Scheduled Tribe Status

It was in the year 1991 that these communities were declared Scheduled Tribe on the basis of their culture, language, geographical location and poor living
conditions, except the Paharis, by the Central government. It has been since then that the Pahari people intensified their demand, that the Gujjars, Bakerwals and Paharis who reside in the same areas, face equal hardships and disadvantages must be entitled to equal rights.

The Pahais complained that inspite of the common locations, almost same occupations, lingual similarity, the Paharis represent a distinct social identity. It is ironical that demographically the Gujjars and the Paharis are counted as one lot but in respect of privileges and benefits it is the Gujjar class, the one-fifth of the totality that is benefitted and four-fifths, the Paharis are deprived altogether. Politically and statistically the Paharis are included to swell the Gujjar population and reap more and more benefits. It is pertinent to point out that not a single separate Gujjar habitation exists in the state. They have settled everywhere in small number and form a part of the Pahari population.

Sir Walter Lawerence in his book Valley of Kashmir in Chapter XII has identified Paharis as Gujars by saying that

“They are semi nomadic tribe which grazes buffalos and goats along the Himalayas and Shiwaliks. They have for some time past turned their attention to Kashmir where they rapidly make clearings of forests and built their flat, topped houses for themselves and their precious Buffalos. Their language known as Parimu or Hindkoh is wholly different from the Kashmiri language and they rarely intermix with the Kashmiris and when they take to cultivation they grow maize rather for Buffalo then for themselves. They are ignorant inoffencive and simple people and in their relations with the state they are infinity more honest than the Kashmiris.”

Parimu and Hindkoh are the languages spoken by Paharis only not by Gujjars as is stated above. It is pertinent to mention here that the Scheduled Tribe status was awarded to communities more or less on linguistic basis vis-à-vis Balti, Dard, Sheena and Gojri, but Paharis were neglected altogether, though the other communities enjoying Scheduled Tribe status also did not qualify for Scheduled Tribe status as per the laid down parameters, but still a political decision of Government of India favored them. Initially Government of India was not convinced about the merit of the demand of the Gujjars and Bakerwals for Scheduled Tribe status: that is why they were not included in the original notification issued in 1989, but they were included in the subsequent notification after reconsideration of their demand by the Registrar General
of India who treated Gujjars and Bakarwals as a marginal case, but left out Paharis who also sailed in the same boat and had a similar criteria.

In the first list of the Jammu and Kashmir Scheduled Tribe Order of 1989, the Scheduled Tribe status was conferred upon the Baltis, Bedas, Bats, Botos, Brokpas, Dards, Shins, Chaugas, Garras, Mons and Purigpas.

The Paharis held that the then Registrar General of India who visited the state to assess the living conditions of various classes claiming Scheduled Tribe status unfortunately identified Paharis as Gujjars. This discrimination and injustice with Paharis is evident from the fact the Registrar General of India even recommended ‘Prigpas’ of Ladakh for tribal status on the grounds that these people have a distinct culture as they believe in spirits and keep animals. Remarkably, the report of Registrar General of India was silent about the geographical isolation of Prigpas which historically is the only criteria to identify the Prigpas (Prig is the valley from Zanskar to Kargil) because Prigpas comprised of 53781 souls out of the total population of 77433 in Kargil district at the time of survey. Discrepancies in their identification by Registrar General of India led to controversies and writ petitions among the claimants of Scheduled Tribe under Prigpa category. Later on, a clarification was issued by the then Deputy Commissioner of SC/ST Government of India which clearly stated that the two communities ‘Chungpas’ and ‘Prigpas’ actually denote the inhabitants of specific regions i.e. Chang valley and Prig valley respectively; their inhabitants could either be Buddhists or Muslims. The clarification by C.B. Tripathi reveals that Prigpas of Ladakh have been granted Scheduled Tribe status purely on the basis of geographical location rather than culture, belief and living habits. The grant on which Registrar General of India recommended the Schedule Tribe status to this community clearly shows that recommendations of Registrar General of India were ambiguous.40

The Paharis claim that, contrary to the Prigpas, the Paharis have more distinct culture, history and language and are also inhabitants of specific region along the line of Actual Control inhabited by Gujjars and Bakarwals and other Scheduled Tribes communities as well. The state government while recommending the other tribals of the state for Scheduled Tribe status have also recommended Paharis in the same file at S. No. 1 vide cabinet decision no. 159 of 1989 which is also quoted in its recommendation letter No: PSSW/03 of 06/2003. As in view of the facts mentioned
above it is clear that the Paharis have a strong claim to the status of Schedule Tribe as any other ethnic group that has been notified as Scheduled Tribe. Government of India, at the level of prime minister has repeatedly held out assurances that this demand will be accepted to satisfy the genuine aspirations of Paharis and to honour the political commitments made by the leadership of the country. So, it is absolutely essential that the Paharis are treated in the same way as were treated ethnic groups.

The Paharis allege that the file and recommendations remained unattended from 1989 with the Government of India, they have released Scheduled Tribe and Scheduled Castes Order in 2002 in the Gazette\textsuperscript{42} of India on 8\textsuperscript{th} of January 2003 in the Second Schedule (2) in the Constitution “Scheduled Tribe (Utter Pradesh) Order, 1967” made after entry 5 and insert “Gond, Dhuria Nayak, Ojha, Pathari, Raj Gond in the district of Maharaj Ganj, Sidharth Nager, Basti, Gorakpur, Deoria, Mau, Azamgarh, Junpur, Ballia, Gazipur, Varanasi, Mirzapur and Sonbhadra, 13 Pathri (in the district of Sonbhadra)”

In the Constitution (Scheduled Tribe) Utter Pradesh while inserting entry 6 Pathari (Pahari) inserted as Scheduled Tribes in the district of Sonbhadra at serial no 13, and in Orissa entry no 29 at the end inserted ‘Pahari Kharia’ and in UP at serial no. 6 the name Pathari is inserted with not only by name but by culture and resembles with all the above groups with Pahari of Jammu and Kashmir and so same insertion or amendment is possible in case of Paharis of the state of Jammu and Kashmir.\textsuperscript{43}

**Constitution of Advisory Board for the Development of Pahari Speaking People**

According to Pahari leaders it is against this injustice that the Pahari speaking people had launched an organized movement under the banner of Pahari Cultural and Welfare Forum and several other organizations and approached the then Governor of Jammu and Kashmir, Girish Chander Saxena, and told him that Rajouri, Poonch, Kupwara and Baramalla districts housed-apart from the Gujjars and Bakerwals-Paharis, who are also tribal people and that they should be treated in the same fashion as the nomadic and the tribal Gujjars and Bakerwals. The Governor after acknowledging their demand constituted, The Jammu and Kashmir State Advisory Board for the Development of Pahari Speaking People in the year 1989 in the light of the cabinet decision no: 227 dated 20-10-1989 vide government Order No: 1439-GAD of 1989 dated 26-10-1989 with Governor/Chief Minister of the state as Chairman of the Board and the Vice Chairman having Minister Of State status.
nominated by the government may be from the members of the Pahari speaking community. The Board was first constituted in the year 1997 vide Government Order No: 444-GAD of 1997 dated 27-3-1997 and the last in the month of November, 2010.44

The terms of reference of the Board are:

1. To identify the specific schemes which will benefit Pahari Speaking Community under various developmental sectors, their prioritization and earmarking of funds.

2. Finalizing Annual Action Plan and recommending allocations/earmarking of funds including additional developmental schemes wherever necessary along with allocation of funds.

3. More emphasis on educational upliftment by way of establishment of Pahari boys/girls hostels and grant of scholarship etc.

4. Formulation of Pahari sub-plan on the pattern of Tribal sub-plan for filling up of critical infrastructural gaps including income generation activities by respective District Development Commissioners in consultation with State/ District Pahari Advisory Board members

In 1993 Girish Chander Saxena was replaced by General K. V. Roa as the State Governor, the Paharis came again with their demands. Endorsed by the recommendation of the State Cabinet, the Governor of the state during the President's Rule after conducting the thorough genesis of the case again made strong recommendations in favour of Pahari speaking people. The recommendations of the Governor of Jammu and Kashmir state are reproduced here45:

"That the Pahari Speaking People of the state are mainly concentrated in remote border areas and are put to considerable economic distress, as is evident from their backwardness in reference to socio-economic indices. On the one hand they are not able to compete with higher sections of the society, who are better placed in terms of socio-economic position as also in terms of access to services like education and health care, due to the above mentioned disadvantages.

"That the Pahari speaking people, despite sharing the same kind of disadvantages as faced by the Gujjars an Bakerwals, have been caught in the unfortunate middle (Trishanku Swargil). It is imperative that the Pahari speaking people are also brought into the mainstream of the developmental process, by providing them the same benefits in terms of scheduling as tribes on priority
basis for reasons of equity and ensuring equitable development, in fact, they are convinced that all their ills are due to their being denied justice. The undercurrent of simmering discontentment amongst the Pahari speaking people because of an obvious gap in development could well lead to an agitational approach, if there is further delay in scheduling of these people as tribes by the government of India. The State cannot afford to do without their continued support and responsible behavior in the present security scenario, more so, in view of the fact that the areas inhabited by Pahari speaking people are close to the Line of Control and they always remained loyal and steadfast.

So, the Governor, K. V. Krishna Rao, came out openly in support of the Paharis and made a statement on December 18, 1993 that 'the Paharis rightly deserve Scheduled Tribe status. He had already strongly urged the central government to take necessary steps in this regard and that he would soon meet the then Prime Minister P. V. Narasimha Rao to clinch the issue in favour of the Paharis.

The Government of India has itself admitted presumably on the basis of some reliable records that Pahari is a language spoken by 60 different ethnic groups. Existence of Hindu, Muslim and Sikhs within the Pahari community does not weaken their case for ST status as it has been granted to communities of different faiths like Christians, Buddhists and Hindus.

Political commitments of Pahari movements

Earlier, the then Prime Minister H.D. Devegoda during his public meeting at Uri and Rajouri in February 1997 has in clear terms made commitment to grant Scheduled tribe status to Pahari speaking people. The former Prime Minister Mr. Atal Bihari Vajpayee on 8th December 1998, in a mammoth public gathering at Tangdhar (Kupwara) also agreed in principle to issue the orders of Scheduled Tribe status to Paharis very soon. A Pahari delegation led by Mirza Addur Rashid, former MP, along with other Pahari MLAs called on former Prime Minister, Mr. Atal Bihari Vajpayee on August 28th 1999 and demanded Scheduled Tribes status to Paharis and the Prime Minister assured the delegation for releasing the ST status soon. The delegation made a reference and reminded the prime minister of the assurance given by him in a public rally at Tangdhar (Karnah) during his visit to Jammu and Kashmir state in the year 1998 that Pahari community will be declared Scheduled Tribe.
It is quite relevant to mention here that the then Chief Minister Farooq Abdullah had reiterated his government’s commitment that due status will be given to Pahari speaking people. Dr. Farooq Abdullah wrote a letter to P.C. Sethi, the then Home Minister, Government of India, that the people living in areas like Gurez, Karnah, Keran, Machal, Poonch, Rajouri, Leh, Kargil etc be declared as Scheduled Tribe. It is clarified that the areas mentioned above are those areas where the entire population is Pahari. Besides this some villages among these areas are partially inhabited by Gujjar and Bakerwals. It is unjustified that people living in the same peculiar conditions and geographical isolation are given different status- one community has been accorded Scheduled Tribe while the other has been ignored. The then Chief Minister Dr. Farooq Abdullah on 18th December, 1999, said that the Government of Jammu and Kashmir will seek Scheduled Tribe status for Paharis.

Further, in reply to an un-starred Rajya Sabha question No: 2399 the government stated in a written reply on 13th August, 2001, that the then Prime Minister Mr. Atal Bihari Vajpayee while addressing a public gathering in Karnah in Kashmir on 8th December 1998 had announced that the proposal of Paharis for Scheduled Tribe status will receive consideration of the government and the issue will be resolved very soon. The then Chief Minister of state, Dr. Farooq Abdullah while releasing fresh addition of the Shamasbari, a Pahari magazine on April 20th 2001 had assured status for Pahari people of Jammu and Kashmir state. In February 2, 2002, the state cabinet had constituted a sub-committee for granting the Scheduled Tribe status to people living in the Pahari areas. The grant of ST status was part of National Conference’s election manifesto and the process for this had been initiated about three years ago.

Dr. Farooq Abdullah, the then Chief Minister of Jammu and Kashmir state, had categorically announced in the State Legislative Assembly on the 1st day of the Assembly Session on 5th April, 2002, that Pahari people of the state will be declared Scheduled Tribe before the Assembly elections of that year:

“Special emphasis will be paid on promotion of backward communities including Gujjars and Bakkerwals, Gaddis, Scheduled Castes and Scheduled Tribes. The government will strive for the extension of Scheduled Tribes status to the Pahari tribals of the state.”

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Mr. Ghulam Nabi Azad, the then in-charge Congress Party for northern zone and former Chief Minister, promised to take up the issue of Scheduled Tribe status to Paharis on 29th December, 2002. Congress also promised to agitate for the extension of Scheduled Tribe status for the Pahari Speaking population of the state besides fulfilling the long pending demands of Scheduled Tribes communities of the state. He promised to take up Scheduled Tribe status for Paharis. Congress on 28th Dec, 2002, assured the Pahari Speaking People, that their demands regarding the grant of ST status would be favourably recommended to central government by the coalition government in the state.\textsuperscript{53} Mr. Omar Abdullah, the then Minister of State for External Affairs stated that the then Chief Minister Dr. Farooq Abdullah is vociferously pursuing the case of Schedule Tribe status with the Union Government and a decision to this effect was likely to be taken very shortly, however, in the mean time the state government was ready to accord OBC status to Paharis. He also publicly promised that OBC status to Paharis will be given very soon.\textsuperscript{54} On October 28th 2003 the then Chief Minister of Jammu and Kashmir state, Mufti Mohammad Sayeed assured in a public meeting at Karnah that he will approach Prime Minister of India to explore possibilities of granting Schedule Tribe status to Paharis on the basis of geographical conditions. His government unanimously recommended, through a cabinet decision twice, Schedule Tribe status for Paharis.\textsuperscript{55}

In a move to win hearts of people, the state cabinet for the first time recommended to Central government to consider Scheduled Tribe status for the Paharis on 10th January 2004.\textsuperscript{56} The then Chief Minister, Mufti Mohammad Sayeed while addressing Gujjar Bakerwals one day convention at Jammu on 29th March 2004 defended his government’s decision of February 9th, 2004 regarding recommendation for granting Schedule Tribe status to Paharis people.\textsuperscript{57}

“I do admit that Schedule Tribe status was not given to Gujjar and Bakarwals in time but you should not react to the recommendation regarding same status for Pahari tribals”. He advised “we are not snatching your rights, all Pahari people are not rich and majority of them too deserve same benefits.”

On 9th February, 2004, The then Chief Minister, Mufti Mohammad Sayeed after getting Dogri included into 8th Scheduled, said the government would vigorously pursue with the centre for another long pending issue of granting of Scheduled Tribe status to the Pahari People of the state. The present government has also passed a
unanimous resolution in the State Assembly recommending Schedule Tribe status to Paharis to the Central Government as under:\textsuperscript{58}

"Resolution passed by the Jammu and Kashmir Legislative Assembly on 30\textsuperscript{th} of September 2005 (moved by Mr. Muzaffer Hussain Beigh, Law and Parliamentary Affairs Minister), "this house requests the central government to declare Pahari speaking people of the Jammu and Kashmir state as a Scheduled Tribe."

The cabinet of Jammu and Kashmir government has already recommended the inclusion of Pahari people in the Scheduled Tribe category and believed that they were an ethnic group for the inclusion. Giving the background the then Chief Minister said that the Registrar General of India has excluded Paharis when the Schedule Tribe status was granted to Gujjar and Bakerwals, it was felt that Paharis should not have been excluded and accordingly recommendation was made for their inclusion, and it was said that when two people are living at same place and under the similar conditions, we cannot include one and exclude the other.\textsuperscript{59} In July 2005, a team of legislators, ex-ministers/ M Ps and members of Pahari Cultural Welfere Forum / Pahari employees Forum under the leadership of Mohd. Sharief Niaz, the then Minister for Power, Jammu and Kashmir state, called on UPA Chairperson Mrs. Sonia Gandhi, Home Minster Mr. Shivraj Patil and Mr. Ghulam Nabi Azad, the then Minister of Parliamentary Affairs and former Chief Minister of Jammu and Kashmir at Delhi. The Registrar General of India was present in the meeting and informed the members that even Gujjar and Bakerwals did not fulfill the criteria for their inclusion in Scheduled Tribe category but a political decision was taken by the then government to declare them as Scheduled Tribe. The then Home Minister directed the Registrar General to take a similar decision in case of Pahari tribals of Jammu and Kashmir in presence of the delegation members. So far nothing concrete has come out inspite of the commitment made by the Home Minister.\textsuperscript{60}

It is pertinent to mention that the earthquake of October, 2005 shook the Pahari belt Uri, Karnah, Poonch, Rajouri bringing sufferings and miseries to Pahari people which added to their backwardness. His Excellency, the then President of India, Mr. APJ Abul Kalam, Mr Mannmohan Singh, the Prime Minister of India, and Mrs. Sonia Gandhi, UPA Chairperson while visiting Uri and Tangdhar and Karnah after a few days of the devastating earthquake expressed deep solidarity with the people living in these areas. The Prime Minister told that it was due to the politicos
vested political leadership who do not want Paharis to be uplifted. Further, the then Chief Minister of Jammu and Kashmir, Mr. Ghulam Nabi Azad, while releasing Pahari publication *(Shamsbari)* at a convention complex in Srinager on 20th July 2006 said that Paharis in Jammu and Kashmir are to get the Scheduled Tribes status shortly.61

As the state government had strongly taken up this matter with the centre, he pointed out that demand had been recognized by the Congress Party by incorporating the same in its election manifesto of 2002 and also in the Common Minimum Programme. Mr. Azad complimented Pahari tribals for the distinguished historical role they had played for the unity and development of Jammu and Kashmir. Inhabiting the vast areas of Poonch, Rajouri, Uri, Baramulla, Kupwara, Karnah and other border areas of the state Paharis constitute a vital component of the state’s composite culture and pluralistic character. Mr. Azad said on Oct.11, 2006 that the Paharis had not only demonstrated high standards of patriotism, time and again, but also contributed to the intellectual field.62 There could be no development of Pahari speaking people living in mountainous regions till they given special status of Scheduled Tribe and the efforts were on for the same. He said that Pahari hostels at Baramulla and Ananthnag were in full swing and directed the board members to identify the areas for opening of mobile schools under Serva Siksha Abiyan for Pahari students.63 He assured granting of Schedule Tribe status to Pahari speaking people. He, however, made it clear that there should be no clash among the Gujijars and Paharis on the issue as the quota given to Paharis would not be at the cost of Gujijars. Not even a half percent of the Gujar quota woudl be reduced to give benefit to Paharis. They would be given their share from general quota.

The Paharis are of the view that those who claim that Paharis enjoy 20 percent of RBA quota including 3 percent of ALC are far from the reality. They even do not know that RBA is not meant for Paharis only as its jurisdiction has been extended throughout Jammu and entire Valley leaving municipal areas64 only. As such the remote areas where Pahari mostly reside cannot compete with accessible areas under RBA in the Valley or in Jammu division. Thus, the Paharis under RBA and ALC quotas remain as leftovers. This needs to be probed by any competent agency or through the High Court of the state. It is not out of place to mention here that Gujjars
in addition to their ST quota also enjoy the benefits under backward area (RBA) and ALC.

Enumeration:

In recent past Pahari Cultural and Welfare Forum in collaboration with State Pahari Advisory Board vide Govt. Order NO. PSP Board order N. 47-ABD/PSP of 2006 dated 24-01-2006 conducted door to door enumeration of Pahari/ Gujjar Bakerwal population and the same figures were released on 8th Nov., 2007 in a press conference at Jammu.

The total figures are as under:

**Table 4.2. Number of Gujjar Bakerwal in Jammu and Kashmir**

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Total Pahari/ G.B.</th>
<th>Pahari only</th>
<th>G.B. only</th>
<th>Pahari Votes</th>
<th>G.B. votes</th>
<th>Total Pahari/ G.B. votes</th>
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</thead>
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<tr>
<td>1.</td>
<td>2398346</td>
<td>1820183</td>
<td>567163</td>
<td>979258</td>
<td>341690</td>
<td>1320948</td>
</tr>
</tbody>
</table>


While releasing the survey report, the Pahari leaders held that the figures confirm the fact that the Pahari population of the state stands at number three after Kashmiris and Dogras. As already mentioned, on account of certain similarities the Paharis are clubbed with the Gujjars and it is thought that they too are covered under Scheduled Tribe benefits. But the fact is that major group suffers deprivation and neglect. There lies the misidentification and confusion to be dispelled. At present this group is covered under the category of ‘Other Backward Classes’ only with other people of the state.

Stating that the issue of granting political reservation has potential to create ripples in the state, the then Deputy Chief Minister Mr. Muzaffer Baig said ‘the decision to the effect should be taken only by the consensus among the political parties in the state after the recommendation of the state government to grant similar status to Pahari speaking people by the central government.’

Reacting to the statement of Chief Minister wherein he had called for political reservation of Scheduled Tribe including Gujjars and Bakerwals, Baig said Paharis do not want to stand in the way of Gujjars and Bakerwals getting what was due to them but he insisted that government after getting consensus from various political parties
should push the case for ST status and reservation for Pahari community one of the reasons of backwardness of Paharis in the state is the inaccessibility in every field of life.66

The Minister for Social Welfare of Jammu and Kashmir Mr. Ab. Gani Vakil in a meeting of State Advisory Board at Jammu strongly advocated the granting the Scheduled Tribe status to Paharis and said that a community which has been cohabiting the same place as their Gujjar brethren in an identical environmental and social milieu certainly deserves Scheduled Tribe status. Vakil also called for committee to explore the possibility of extending OBC status to Pahari community till the grant of Scheduled Tribe in pursuance of direction of the then Chief Minister Ghulam Nabi Azad.67

On 8th February, 2008 All Parties Pahari legislators arranged a party to celebrate a day of promises and to felicitate Mr. Muzaffer Hussain Beig for his reappointment as Dy. C.M. at Garden Estate Trikuta Nagar, Jammu, where the then Chief Minister Mr. Ghulam Nabi Azad was the chief guest. The Pahari legislators jointly had arranged dinner for the guest participants just to celebrate the 20th anniversary of ST status promises to Paharis and further promised to continue the struggle till the demand of the community is not met.68

The Paharis along with other lingual and religious minorities suffer deprivation while residing in far flung and remote areas and this neglect has been felt very seriously by Pahari people. With a view to sort out some remedial measures they assembled at Heerpur district Shopian of South Kashmir on 9th October 2011,69 the place which is equidistant from Kashmir Valley and Jammu region. In the day witnessed day long deliberation a resolution was unanimously passed to bring the community on the state developmental map as it is being willfully ignored by the state government which had turned a deaf ear towards their legitimate demands. The demands needed active consideration of the central government by way of direct funding and keeping these areas under vigil for knowing the factual position. The Resolution of Demands was put forth by the Chairman and explained point by point, which was unanimously approved in full by all the member delegates.

The Pahari Cultural and Welfare Forum, under the Chairmanship of Sharafat Ali Khan also got Paharis registered with the National Commission for Backward
Classes, which is an indispensable step towards getting Scheduled Tribe status or OBC. It must be remembered here that one of the factors responsible for the rejection of Scheduled Tribe status to Paharis at the initial stage was the fact that this community had never been recommended by any central or state level commission for backward classes appointed by successive governments for the said purpose. The Pahari political leaders although aware of this fact continued to lure the people by promising ST status at the earliest but never even once approached any commission for the registration of Paharis.\textsuperscript{70}

Paharis appreciated the move put by Mr. Ghulam Nabi Azad, the Ex-Chief Minister of the state, who, during his tenure, pleaded the case of Scheduled Tribe status to the Paharis in five round table conferences. It is because of his efforts that Sagheer Commission along with recommending autonomy for the state of Jammu and Kashmir also advocated imparting Scheduled Tribe status to Paharis. For the first time, after two decades of struggle by Paharis, a central commission recognized the need of declaring Paharis as Scheduled Tribe.\textsuperscript{71}

The community was also included in the report of the Central Commission for Economically Backward Classes which on the direction of Prime Minister of India visited Kashmir during July-August 2009. After April 2010 Valley witnessed powerful demonstrations, stone pelting and lawlessness over the folly of state government when the law enforcement machinery failed completely. The Government of India on the recommendations of All Parties Delegation that visited the Valley sometime in June appointed three renowned and intellectual members of the civil society as interlocuters for assessing the situation in Kashmir Valley and recommending remedial steps for confidence building measures. After visiting the Valley, the interlocuters convened a series of meetings with the people from different areas of life including some renowned personalities, separatist leaders, and members of different political parties, NGOs as well as the members of the other non-political organizations at provincial, district and tehsil headquarters and discussed the issues related to the complicated problem of Kashmir. They also had a number of meetings with Pahari, Gujjar and Bakerwal delegations including Pahari Cultural and Welfare Forum headed by Sharafat Ali Khan and had a deep look into the neglected status of the Pahari community at the hands of respective state governments. The interlocutors felt it their moral responsibility to recommened ST status in favour of Pahari.
community for removing the disparity among Gujjars, Bakerwalas and Paharis which are co-located communities. The recommendations of interlocutors afforded a fresh sigh of relief to the Pahari community.\textsuperscript{72}

The above proofs fairly strengthen the fact that the demand has been a continuous and persistent. On the one hand it is a continuous struggle and on the other hand it is by the government commitments/assurances and promises with the continuous delaying political tactics. The struggle continues and the delaying policy prolongs it. Briefly, the major events or facts of the Pahari movement are as:

Since 1989, all the Prime Ministers, Home Ministers and Presidents of India have accepted the demands of Paharis and assured to grant Schedule Tribe status to them. Likewise all the state Chief Ministers during their tenures have also accepted and recommended the justification of this demand and promised its fulfillment at the earliest. Realizing the gravity of the demand, it was included in the Common Minimum Programme of the present coalition government of the state and it existed in the election manifesto of National Conference in 1996 and that of Indian National Congress in 2002. BJP leadership has also agreed to settle the issue as was declared by former Prime Minister Mr. A. B. Vajpayee on his visit to Karnah and the case was also recommended by the state BJP leadership to the centre for approval. The recommendations of the Social Welfare Department to the Registrar General of India, the State Assembly Resolution of 2004 and the decision of the High Court of Jammu and Kashmir substantiate the demand. Former Chief Minister, Ghulam Nabi Azad has pleaded in favour of this demand in five Round Table Conferences, made announcements in many public functions in Poonch, Rajouri, Karnah, Uri, Convention Complex Srinagar and Abhinav Theatre Jammu, and time and again assured that the demand will be accepted. So far nothing has happened. The state governments have almost identified the entity of Paharis and extended them rights in sponsored schemes. For instance, both the Gujjar Bakerwalas and Paharis have separate Advisory Boards; Pahari language is introduced in the 6\textsuperscript{th} Schedule of the Constitution of the state; scholarships from primary to university level are extended to Paharis. Free hostels have come up almost in all the districts of the state to provide free accommodation to the Pahari students, a Pahari wing has come into being in the State Cultural Academy and radio and TV programs in Pahari language are given the
right to promote the language and culture. A separate Pahari sub-tribal plan for Pahari tribe has been recently sanctioned by the state government.

Conclusion

The Pahari speaking people are lagging behind as compared to general masses, and therefore, deserve immediate protection and safeguards. The border areas of Jammu and Kashmir state along with Valley and forest areas are badly affected on account of disturbances and militancy. The state is declared as Disturbed Area. Such a situation does not exist in any other state of India. Moreover, the case of Paharis is misunderstood, and that requires clearance of doubts and confusions. The government should view the case in real perspective.

The only aim of the reservation is to ensure that no section of the society is deprived of its rightful place in a true democracy. Reservation is a device right for participation in education, service and politics etc., It is now easily used as soft option by political parties as their vote gathering device. Political parties use reservation as a device for improving their election prospect and to gain power. The state of Jammu and Kashmir is not an exception to it, where reservation policy has always remained a tool in the hands of political establishment, suited to their vested interests. Every political party in power has amended the policy through their own unique criteria ranging from caste base, area base to profession base, ignoring the spirit meant for reservation enshrined in the Constitution of India. This negligence on the part of policy makers sowed the seeds of division at regional, linguistic, ethnic and communal lines which proved to be a Tower of Babel in the state.

The Government of Jammu and Kashmir has appointed a number of commissions and committees to sort out the issues but yet the reservation policy is being amended day in and day out in their own way. Somewhere the reservation is being demanded on caste basis, which is antithetical to the state of Jammu and Kashmir, as it is a Muslim majority state. Islam believes in an egalitarian society, which does not recognize the caste system, but still the caste based reservation policy continues to exist, which does not differentiate between the millionaires and the poor of the same caste. The defective pattern of reservation resulted in a race in which every section and group is demanding reservation on self defining criteria supported by the political parties.
The only possible solution for this conflict lies in the capabilities of the government to alleviate the socio-economic profile of the two communities. Giving the Schedule Tribe status to Paharis would further aggravate the situation. It also runs the risk of opening a Pandora's Box of similar demands from other ethnic groups. It is strange to analyse that besides the demand of Paharis for ST quota, they already are the major stakeholders of 20 percent RBA category and 3 percent ALC category. The reservation policy needs a fresh review in the light of the burning issues, ranging from ethnic, regional, linguistic, communal social and political.
References


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4. Act No. XVI of 2010

5. Arjimand Hussian Talib, *op.cit*, p. 13

6. Choosy Reservation, *Kashmir Life*, p.4

7. Ibid.


10. Arjimand Hussian Talib, *op.cit*, p. 14


12. Ashok Kumar Bosotra, *op.cit*, p. 3

13. Ibid.

14. AIR 1993 SC 477


16. Ashok Kumar Bosotra, *op.cit*, p. 4


18. Ibid, p. 3


20. Ibid, p. 4

31. Census of India, XII, Part I, 1941.
33. Hari Om, op.cit, pp. 97-98.
34. Memoranda of Paharis.
36. Ibid, p. 2
37. Ibid.
38. Ibid, p.3.
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42. The Gazette of India, Extraordinary, Part II, Section I
43. Amendment act of 2002 Gazette of India no 10 of 2003
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47. Greater Kashmir 18 April, 1997,
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71. Ibid.
72. Ibid. p.24
Chapter V
Comparison between Gujjars and Paharis on SES Scale
Chapter V

COMPARISON BETWEEN GUJJARS AND PAHARIS ON SOCIO-ECONOMIC STATUS SCALE

The socio-economic status is an important concept being employed in day to day matters to know the ranking of an individual in the society he lives in, in terms of his material belongings and cultural possessions along with the degree of respect, power and influence. Thus “Socio Economic Status” is the person's position in any group, society or culture as determined by education, occupation, wealth and social class. In this context, the researcher made an attempt to draw comparison between Gujjars and Paharis of Jammu and Kashmir on SES scale in order to know the difference in their overall ranking in the social and economic hierarchy. It had also helped us to know the economic position of these two communities, simultaneously it was a modest attempt to know, if reservation had really alleviated the backwardness of Gujjars and to what extent the demand of the Paharis for Scheduled Tribe is legitimate and genuine, because socio-economic backwardness of a community or a group is being as an important criteria for granting reservation to that particular group.

In this context, the researcher made an attempt to draw comparison between the two communities i.e. Gujjars (Scheduled Tribe) and the Paharis (non-scheduled). The comparison is based on the lines of the socio-economic status through using an information schedule which includes the items related to identity, social, economic and educational indicators. The items in the information schedule were open and close ended. While as the house hold characteristics such as income, available facilities, and economic status represents the shared house hold.

The selective sample of the required type and size becomes indeed very decisive for any systematic and scientific method of enquiry. Adequate sample design involves the number of considerations such as nature and characteristics of the population from which the sample is drawn, accessibility of the subject chosen, availability of time and resources at the disposal of the investigator and appropriateness of the measurement of data etc.
The population of the study includes all the Gujjars and Paharis of the Jammu and Kashmir in general and residents of four districts namely, Rajouri, Poonch, Kupwara and Shopian in particular, where the major chunk of people from both the communities are residing. Out of total population of Gujjars and Paharis in these four districts, only 400 respondents were selected through purposive sampling technique. In order to make the study more convenient and purposive, 200 respondents were approached from each of the community; the 100 respondents were selected from each of the district; that is 50 from the Gujjars and 50 for the Paharis accordingly.

The data collection was really the most difficult and challenging task for the researcher because of primitive and nomadic characteristics of Gujjars and Paharis. The investigator wanted to approach maximum number of respondents but due to non-cooperation of the members of both the communities, high altitude, dispersed population, lack of transport facility, security reasons, and non-availability of the respondents during the administration of the information schedule, the researcher came across different difficulties but it was tried to remain all active and sincere. Conducting research over primitive communities is very difficult. Hence it is necessary to use sophisticated methodology and care should be taken right from the selection of tools and techniques for the data collection.

In the light of above facts, the method adopted for the present study can be said to be as descriptive in nature. Descriptive research describes and interprets what exists at present. It is concerned with conditions or existing relationships, prevailing practices, beliefs, points of view or attitudes, effects that are being felt or trends that are developing. The description is combined with comparison or contrast involving
measurement, classification, interpretation and evaluation. The present study attempts to evaluate the reservation politics through a comparison between the Gujjars (Scheduled Tribe) and the Paharis (Non-Scheduled) on the basis of their socio-economic status through using percentage statistics method.

The results are given in the following tables. Each table is followed by the graphical presentation for quick appraisal of the content.

Table 5.1. Habitat of the Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Gujar</th>
<th>Pahari</th>
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<tr>
<td>Rural</td>
<td>62%</td>
<td>42%</td>
</tr>
<tr>
<td>Urban</td>
<td>38%</td>
<td>58%</td>
</tr>
</tbody>
</table>

The living habitat is conditioned by several determinants like income, occupation, education, and other facilities in the area. In the light of above mentioned factors, the researcher made an attempt to draw comparison between the Gujjars and Paharis on the basis of rural urban location. It has been found that 62 percent of the Gujjars are living in the rural-areas and 38 percent have migrated to urban areas, who had shunned their nomadic way of life, whereas, in case of Paharis, the researcher observed that 42 percent are living in the rural areas and about 58 percent are now settled in the urban areas of the state.

The data reveals that a large proportion of Gujjars lives in the rural areas because they are yet confined to primitive jobs like cattle rearing, selling charcoal made from forest residues etc. These primitive jobs somehow compel them to live
over such places. Besides it, they need adequate green pastures for grazing their livestock which are not found in urban areas. They move to mountainous pastures along with their cattle in summer and return back to the plains in winter before snowfall. It is evident from the fact that from the past 20 years, many of these nomadic Gujjars have settled in plains due to the ameliorative measure of Schedule Tribe status. The fact is corroborated by an independent survey conducted by the Tribal Research and Cultural Foundation in 2007 which found that more than 37 percent Gujjars are migratory by tradition and have relinquished their nomadic life style during the last 20 years but this type of settlement in the urban areas is adversely affecting their culture, life style and habits.

On the other hand, the Pahari speaking people are living on mountainous terrains, remain all along busy with their cultivated land farms and they too largely have adopted the new trend of migration to city life but it is only possible for the well off people.

Table 5.2. Reserved Categories among Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>General</th>
<th>S.C.s</th>
<th>S.T.s</th>
<th>OBC</th>
<th>ALC</th>
<th>RBA</th>
<th>ST+RBA</th>
<th>ST+ALC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjars</td>
<td>0%</td>
<td>0%</td>
<td>80%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>7.5%</td>
<td>12.5%</td>
</tr>
<tr>
<td>Pahari</td>
<td>72%</td>
<td>0%</td>
<td>0%</td>
<td>4.5%</td>
<td>10.5%</td>
<td>13%</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

The Table 5.2 illustrates that 100 percent of the Gujjars exclusively enjoy the Scheduled Tribe status, 7.5 percent and 12.5 percent are enjoying double reservation in the form of Resident of Backward Area (ST+RBA) and Actual Line of Control (ST+ALC) status respectively. While as, the researcher further noticed that 72 percent
of the Paharis are from General category, 4.5 percent belong to OBC, 10.5 percent fall under ALC and 13 percent are covered under RBA category.

The data shows that the reservation policy of Jammu and Kashmir is ambiguous and haphazard. The criteria for reservation have been adopted either on caste base or area base and/or on profession base. While including these people in the list of reserved categories, no barrier has been put between millionaires and poor. These loopholes can be observed by the result shown in the table that a considerable proportion of population have been included in more than one reserved categories, so they are enjoying double, sometimes triple reservation benefits. On the other hand, creamy layer of the community identified as reserved categories is getting all the benefits at the cost of other poor people of the community. These poor people are still languishing at the level on which they were decades ago. But unfortunately, the government is still promising some more reservations in the name of cast or language. The latest ongoing demand is the inclusion of the Pahari speaking people of the state in the list of Scheduled Tribe categories despite the fact that a good proportion among them are already included in OBC, ALC and RBA categories.

Table 5.3. Educational Status of Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Illiterate</th>
<th>HSC</th>
<th>SSC</th>
<th>Undergraduate</th>
<th>Postgraduate</th>
<th>Professional/ Technical</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjar</td>
<td>52%</td>
<td>18%</td>
<td>12%</td>
<td>8%</td>
<td>6%</td>
<td>4%</td>
</tr>
<tr>
<td>Pahari</td>
<td>37.5%</td>
<td>6.5%</td>
<td>8.5%</td>
<td>17.5%</td>
<td>18%</td>
<td>12%</td>
</tr>
</tbody>
</table>

Education

- Gujjar
- Pahari

![Education Chart](image)
Chapter V  

Comparison between Gujjars and Paharis on SES Scale

The Table 5.3 shows that 52 percent of the Gujjars are still illiterate and rest literates got employment opportunity at the early stage of their education, so they do not prefer higher education. Whereas, the Paharis are very much found in abundance in higher education. The researcher found that 18 percent of the Paharis are studying in various higher educational institutions and 12 percent are pursuing the professional/technical education. The researcher further found that 18 percent of the Gujjars are studying at HSC level, 12 percent at SSC, 8 percent at under graduation, 6 percent at post graduation level and small proportion of 4 percent are pursuing processional/ technical education. Whereas, in case of Paharis 37.5 percent were found illiterates, 6.5 percent in HSC and 17.5 are studying at undergraduate level.

The data reveals that there exists a considerable difference between the Gujjars and Paharis in terms of educational attainment. The proportion of the Gujjars in education is considerably low than the Paharis. There are several factors responsible for the low literacy rate among the Gujjars. A large number of Gujjars are still living nomadic and semi nomadic life, their nomadic character does not allow them to fully reap the benefits of education. They are very much negligent and ignorant in their approach towards the importance of education. They do not prefer to send their wards to school rather prefer to engage them with the livestock rearing. In addition to this, the migratory character of the Gujjars and Paharis is the biggest obstacle in their educational field. However, during field work, the researcher observed that the government has opened up a number of mobile schools which migrate to high altitudes during summer and come down to plains in winter with them, but large number of schools were found defunct due to lack of basic infrastructure and dearth of adequate staff. Gradually, the Gujjars living in the remote areas have realized the importance of reservation in educational institutions, recruitment and promotions. Due to reserved quota, they get government employment as early as in intermediate stage or at undergraduate level so a least proportion of Gujjars were found in higher education.

While as, the literacy rate among the Paharis is found better than the Gujjars because the Pahari population is not much dispersed as the Gujjars and thus possess adequate educational facilities. Due to fewer employment opportunities at the intermediate or at undergraduate level, they are largely found in higher education.
Table 5.4. Occupation of Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Farmer</th>
<th>Govt. Servant</th>
<th>Self Employed</th>
<th>Wage Laborer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjar</td>
<td>42.5%</td>
<td>30%</td>
<td>20%</td>
<td>7.5%</td>
</tr>
<tr>
<td>Pahari</td>
<td>57.5%</td>
<td>23.5%</td>
<td>17.5%</td>
<td>1.5%</td>
</tr>
</tbody>
</table>

The Table 5.4 shows that 42.5 percent of Gujjars are associated with cultivation of land. And due to reserved quota, 30 percent are government employees, 20 percent are self-employed and 7.5 percent are laborers doing work here and there. Whereas, the Paharis are the land owners from the ancient period, the researcher observed that 57.5 percent of the Paharis are farmers and 23.5 percent are the government employees who have migrated from far off remote areas to cities and towns of the state. It was further noticed that 17.5 percent of the Paharis are engaged in trade and a least proportion of about 1.5 percent are working as laborers.

Since ages, the nomadic Gujjars have been practicing the cattle rearing and are always eager to add more to their livestock but now many of Gujjars have left their nomadic profession because their economy is determined by the availability and utilization of natural pastures. It was noticed that at the upper hills, number of Gujjars traditional dhokas (grazing areas) in Keran, Kupwara, Bandipora, Karna, Zojila, Poonch, Rajouri, Doda and many other places are restricted for grazing by the security forces. And the other reason is that due to reservation benefit they got
sadantrised and migrated to urban areas where they buy land for cultivation and adopted other means to earn their livelihood.

The researcher further observed that the ratio of the Gujjars in employment are somehow more than that of the Paharis. This significant difference is the result of the scheduled tribe status of Gujjars from 1991, which provide them reserved quota in admission in educational institutions, employment and in promotions. They get assistance and special subsidy from Scheduled Caste Development Corporation in order to run their small scale business establishments, and it was noticed that a good proportion of population from Gujjars had got edge from self employment schemes of the government for running their own business establishments at local level. Where as the Paharis remain all along busy in cultivating their own land farms. Having fewer chances of employment opportunities at early stage of education, they are somehow compelled to go for higher education and develop the competence for government employment but since their demand of scheduled tribe status, government had launched several schemes specially focused for the development of these Pahari people.

Table 5.5. Type of House among Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Tent/Hut</th>
<th>Semi Pakka</th>
<th>Pakka</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjar</td>
<td>12%</td>
<td>36%</td>
<td>52%</td>
</tr>
<tr>
<td>Pahari</td>
<td>6.5%</td>
<td>31.5%</td>
<td>62%</td>
</tr>
</tbody>
</table>

![Houses Graph]

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The nomadic Gujjars of the state are living in the Kothas/ huts which are made up of mud, straw and thatched roofs, scattered on the slopes. In the summer season when they migrate to upper reaches, they made temporary settlements of tents. The researcher observed, as shown in table 5.5, that a considerable proportion of population of Gujjars of about 12 percent are living in Tents/ Huts, 36 percent in semi Pukka and 52 percent in Pukka houses after shunning the nomadic life. They now prefer a permanent settlement in order to be counted for the different welfare schemes of the government. Whereas, in case of Paharis, a miniscule proportion of population (of about 6.5 percent) lives in the temporary settlements, who are rearing the cattle and buffalo. The researcher further noticed that the Pahari speaking people live altogether in a community, they are not as scattered as the Gujjar settlements. And about 31.5 percent of the Pahari speaking people are living in semi Pukka and 62 percent in the Pukka houses.

Besides the climatic conditions and the geographical location, the type of house is determined by the living standard of the people. The data reveals that the migratory character of the Gujjars and the Paharis deeply affects the type of house they possess. It was noticed that Gujjars are more migratory than the Paharis; so this feature has also affected their shelter pattern and accordingly more temporary structures like Tents/ Huts were found among Gujjars than the Paharis. However, since the last 20 years, the people from both the communities engaged with modern professions and have shunned their nomadic character, and have constructed semi Pukka and Pukka houses.

<table>
<thead>
<tr>
<th></th>
<th>Gujjar</th>
<th>Pahari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joint</td>
<td>27%</td>
<td>52.5%</td>
</tr>
<tr>
<td>Nuclear</td>
<td>73%</td>
<td>47.5%</td>
</tr>
</tbody>
</table>

Table 5.6. Family Pattern among Gujjars and Paharis
The Gujjar house-hold is known as dera. The researcher observed that a dera comes into existence after independent household which usually happens after the marriage of a person. Each son establishes his own dera as he get married. Table 6 shows that 73 percent of the Gujjars have nuclear families. Whereas, in case of Paharis speaking people 47.5 percent possess nuclear family set up. This nuclear set up is more visible among those who migrate to urban areas leaving their ancestors behind at their original dwelling places. The Pahari speaking people have somehow followed the Kashmiri pattern of family set up. They prefer to live in joint families. The data reveals that 52.5 percent people are living in joint family set up in comparison to Gujjars of about 27 percent.

The researcher further observed that there exists a significant difference between the Gujjars and Paharis on the basis of family pattern. Majority of the Gujjars prefer to live in nuclear family setup because the childhood marriage is common among them. They have the notion that every succeeding male child will add up their earning. Thus desiring to produce maximum number of male child and a time arrives when the large families become unmanageable, which results in childhood marriage and separates them for establishing their own dera. While as, the Paharis are well aware about the consequences of large families though they prefer least number of child which tend to bound them for living in a joint family set up.

**Table 5.7. Electricity facility in Gujjar and Pahari areas**

<table>
<thead>
<tr>
<th></th>
<th>Gujjar</th>
<th>Pahari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>38%</td>
<td>62%</td>
</tr>
<tr>
<td>No</td>
<td>62%</td>
<td>38%</td>
</tr>
</tbody>
</table>
The researcher observed that the Gujjars' habitations possess inadequate electricity facility because they are sparsely populated over the rough slopes but somehow, the sedantrization of these Gujjars made it convenient for the government to provide electricity to them. The researcher further observed that 38 percent of the Gujjar hamlets possess electricity where as 62 percent of Pahari speaking people hamlets have been equipped with electricity facility.

The adequate electricity facility to Paharis in comparison to Gujjars is because they live mostly over plains and prefer group living and so are not much dispersed as the Gujjars. The research reveals that the ratio of electricity facility to Paharis is almost double than that of Gujjars. The clustered pattern of settlements of Paharis makes it convenient for the Power Development Department (PDD) to install a single electric transformer for the whole village. However, some people from both communities show negation for the electricity as they complained that the government was providing meager 2 to 4 hours electricity supply in 24 hours and charging high fee ranging from 200 to 600 per month.

Table 5.8. Sources of Drinking Water for Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Tap</th>
<th>Handpump</th>
<th>Well</th>
<th>Tank</th>
<th>Pond</th>
<th>Spring</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjar</td>
<td>23%</td>
<td>17%</td>
<td>27%</td>
<td>33%</td>
<td>54%</td>
<td>64%</td>
</tr>
<tr>
<td>Pahari</td>
<td>35%</td>
<td>25%</td>
<td>31%</td>
<td>42%</td>
<td>46%</td>
<td>42%</td>
</tr>
</tbody>
</table>
Water is the basic necessity of human being. The humans always prefer to cluster around the water bodies. The Gujjars and Paharis of Jammu and Kashmir are found around the Chenab belt. The table 5.8 shows that 23 percent of the Gujjars use Tap water, 17 percent use Hand pump, 27 percent use Well, 33 percent use Tank water, 54 percent use Pond and 64 percent use Spring water. Where as 35 percent of Paharis use Tap, 25 percent use Hand pump, 31 percent use Well, 42 percent use Tank, 46 percent use Pond and 42 percent use Spring water.

The data reveals that they are not exclusively dependant on single source of drinking water. They use multiple sources as per their own convenience. So the frequency of every response can be measured from total sample as the respondents were asked to provide response for every single item.

The researcher observed that there exists a considerable difference between the Gujjars and Paharis in relation to availability of drinking water facility. The life style of the human being determines the extent of consciousness related to health and hygiene. The data reveals that the Ponds and Springs which do possess maximum chances of water borne diseases are mostly used by nomadic backward Gujjars. The other safe sources like Tap, Hand pump, Tank etc. were mostly used by the Paharis.

| Table 5.9. Sources of Cooking Fuel for Gujjars and Paharis |
|-----------------|-----------------|-----------------|-----------------|-----------------|
|                | Firewood | Kerosene | LPG | Heater |
| Gujjar         | 71%      | 52%      | 18% | 23%    |
| Pahari         | 58%      | 43%      | 26% | 38%    |

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The Gujjars and Pahari speaking people live very much close to nature, and so the firewood is easily available in these areas. The researcher observed that the Gujar use not only firewood for cooking but also sells the charcoal made from the firewood in the cities and towns for earning their livelihood. The table 5.9 shows that 71 percent of the Gujjars use firewood for cooking purposes, 52 percent use kerosene, and 18 percent use LPG and 23 percent use heater; Whereas 58 percent of the Paharis use firewood, 43 percent use kerosene, 26 percent use LPG and 38 percent use heater for cooking purpose.

The data reveals that for cooking fuel, people generally use multiple sources and are not exclusively dependent on single source of cooking fuel, so every single response has been drawn from the total sample. Majority of the people from both the communities use firewood for their cooking purpose but it has been noticed that mostly Gujjars use it to an optimum level as compared to Paharis, because Gujjars mostly roam around with their livestock over the hillocks where they are exclusively dependent upon forest residues like firewood for their cooking purpose. The Paharis also use it to a good considerable level as they too dwell in the remote places of the state. Besides the main cooking fuel like firewood both the communities use subsidized kerosene provided under Public Distribution System (PDS) but the proportion of the Gujjars using kerosene was found more than that of the Paharis. However, LPG and heaters were mostly found to be used by Paharis in comparison to Gujjars because modern means for cooking fuel does not appeal much to these nomadic Gujjars.
### Table 5.10. Bathroom/Toilet facility for Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Open fields</th>
<th>Common</th>
<th>Private</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gujjar</strong></td>
<td>68%</td>
<td>20%</td>
<td>12%</td>
</tr>
<tr>
<td><strong>Pahari</strong></td>
<td>54%</td>
<td>12%</td>
<td>34%</td>
</tr>
</tbody>
</table>

**Bathroom / Toilet Facility**

- **Gujjar**
- **Pahari**

The Table shows that 68 percent of the Gujjars and 54 percent of the Paharis do not have bathroom/toilets in their houses. The hamlets of Gujjar people possess a single room for humans surrounded by the cattle, living an unhealthy life. The researcher observed that 20 percent of Gujjars and 12 percent of Paharis use common toilet/bathroom. A small proportion of about 12 percent possesses private bathroom/toilet facility. Whereas, in case of Paharis it is 34 percent.

The data reveals that the people from both the communities do possess weak sense of healthy life style. But it was noticed that Gujjars are the worst sufferers than those of the Paharis. The proportion of the Gujjars using open field for bathroom/toilet or common public toilets/bathrooms was found more than that of the Paharis, because they are more backward and downtrodden than these Paharis.

Health and hygiene are very important for the growth of human being and development of the civilization. Now a day’s pollution has risen to an alarming stage, so it is very important for the humans to be careful and adopt healthy life style. For this purpose bathroom/toilet should be built in every house hold. The Rural Development Ministry of Government of India facilitates the construction of public toilets and even provides subsidy in constructing one’s own private toilet, but
unfortunately, the people of Jammu and Kashmir mostly from remote and far-flung areas are unaware about such schemes of government and do have weak sense for healthy life style.

Table 5.11. Land Owners among Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Gujjar</th>
<th>Pahari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>44%</td>
<td>63%</td>
</tr>
<tr>
<td>No</td>
<td>56%</td>
<td>37%</td>
</tr>
</tbody>
</table>

The table shows that 44 percent of the Gujjars posses land whereas 63 percent of the Pahari speaking people are associated with land farming. The researcher observed that some of the Gujjars, who do not possess their own land, cultivate the land, of Paharis and in turn earn a share of the produce.

The economy of Jammu and Kashmir is an agrarian economy. Most of the people are associated with the farming sector. The same is the case with the Gujjars and Paharis speaking people who all along remain busy with their land farms, cultivating different crops.

The data shows that there exists a considerable difference between the Gujjars and Paharis in land possession for agricultural purposes. The Paharis possess more land farms than the Gujjars because of the migratory character of the nomadic Gujjars. They are not as big land owners as the Paharis.
Table 5.12. Crops Grown by Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Rice</th>
<th>Wheat</th>
<th>Maize</th>
<th>Mustered</th>
<th>Pulses</th>
<th>Vegetables</th>
<th>Fruits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjar</td>
<td>15%</td>
<td>31%</td>
<td>53%</td>
<td>22%</td>
<td>23%</td>
<td>18%</td>
<td>11%</td>
</tr>
<tr>
<td>Pahari</td>
<td>23%</td>
<td>38%</td>
<td>42%</td>
<td>22%</td>
<td>28%</td>
<td>34%</td>
<td>40%</td>
</tr>
</tbody>
</table>

The food habits of the two communities are totally different. The food of human beings is conditioned by several factors: economic status, climatic conditions, mobility pattern etc. The table 5.12 shows that 53 percent of the Gujjars and 42 percent of the Paharis grow maize, 31 percent of Gujjars grow wheat for making roti (bread). Only 15 percent grow rice, 22 percent grow mustard, 23 percent grow pulses, 18 percent grow vegetables and 11 percent grow fruits. Whereas, 38 percent of Paharis grow wheat, 15 percent grow rice, 22 percent mustard, 23 percent pulses, 18 percent vegetables and 11 percent grow the fruits.

The data reveals that there is a significant difference between the Gujjars and Paharis in the crop pattern. The Gujjars prefer to grow the wheat, maize for making the roti (bread), which suits to their taste and as they roam with their livestock, it always remains convenient for them to take light food items with them. Whereas, the Pahari people are settled permanently in a particular area and are mostly the land owners, and so they grow fruits, rice, vegetables in bulk quantities in addition to wheat and maize.
Table 5.13. Economic Status of Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Gujjar</th>
<th>Pahari</th>
</tr>
</thead>
<tbody>
<tr>
<td>BPL</td>
<td>67%</td>
<td>43%</td>
</tr>
<tr>
<td>APL</td>
<td>33%</td>
<td>57%</td>
</tr>
</tbody>
</table>

The table 5.13 shows that 67 percent of the Gujjars and 43 percent of the Paharis live under below poverty line (BPL). The data reveals that there is a significant difference between the Gujjars and Paharis on the measure of socio-economic status. The economic status of the Gujjars is lower as compared to Paharis because the economy of Gujar people is based on cattle rearing and a major chunk of population do manual labor in towns and cities. Some of the Gujjars engage in milk trade but not on a large scale. Whereas, the Pahari speaking people are economically sound than the Gujjars. They possesses land for farming and a major proportion of population is engaged in trade and business.

Table 5.14. Ration Store Subsidy availed by Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Gujjars</th>
<th>Paharis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>78%</td>
<td>63%</td>
</tr>
<tr>
<td>No</td>
<td>22%</td>
<td>37%</td>
</tr>
</tbody>
</table>
The data reveals that 78 percent of the Gujjars and 63 percent of the Paharis get subsidized ration at the government ration stores. Mainly floor, kerosene, rice and sugar are provided under public distribution system. The researcher observed that the people from both the communities are heavily dependent on subsidized ration, as a large proportion of population from both the communities live in the remote and far flung areas living in abject poverty and are exclusively dependent on the government subsidy. Mostly the Gujar people who are economically low as compared to Pahari speaking people, are dependent on subsidized ratio.

Table 5.15. Government Schemes Beneficiaries in Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>IAY</th>
<th>PMGSY</th>
<th>NRHM</th>
<th>MGNREGA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujar</td>
<td>24%</td>
<td>38%</td>
<td>22%</td>
<td>45%</td>
</tr>
<tr>
<td>Pahari</td>
<td>17%</td>
<td>47%</td>
<td>53%</td>
<td>41%</td>
</tr>
</tbody>
</table>
Chapter V

Comparison between Gujjars and Paharis on SES Scale

The Government of India have launched several schemes for the welfare of the people. Several schemes are focused on the development of specific areas and simultaneously generating the employment opportunities for the local masses. During the field work the researcher also took stock of several schemes like IAY, PMGSY, NRHM MGNAREGA, etc. The table 5.15 shows that Gujjars take benefit from the different schemes like 24 percent from Indra Awas Yojna (IAY), 38 percent from Pradhan Mantri Gram Sadak Yojna (PMGSY), 22 percent from National Rural Health Mission (NRHM) and 45 percent from Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).

While as in case of Paharis, it was observed like 17 percent take benefit from (IAY), 47 percent from (PMGSY), 53 percent from (NRHM) and 41 from MGNAREGA.

The data reveals that there is a significant difference between the Gujjars and Paharis in terms of availing benefits from different welfare schemes of the government. The researcher observed that in IAY, Gujjar beneficiaries are more than that of Pahari beneficiaries because the aim and objective of the scheme is to provide free shelter to the poor masses and in the same fashion, it has focused more on Gujjars than that of Paharis. However, in PMGSY, NRHM, MGNAREGA, it was observed that the ratio of the Paharis is more than that of the Gujjars as they are focused on the development of the area and simultaneously generating the employment opportunities for the local masses, so these schemes have appealed more to Paharis than the Gujjars, as the Gujjars are always engaged with their livestock, and are hardly aware about such schemes of the government.

Facilities in the villages/areas

The topography of the state of Jammu and Kashmir is totally different from rest of India. The whole state is surrounded by the mountains and hills. The Gujjar and Pahari speaking people live in the remote areas of the state. Next important factor is that the state is sparsely populated and the habitations are dispersed located over the hilly areas. So the roads, electricity, health centre, Aganwadi centres, public transport etc. are the distant dream to a considerable proportion of population.

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Table 5.16. Pukka Road facility in Gujjar and Pahari Areas

<table>
<thead>
<tr>
<th></th>
<th>Gujjars</th>
<th>Paharis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pukka Road</td>
<td>42%</td>
<td>58%</td>
</tr>
</tbody>
</table>

The table 5.16 shows that only 42 percent of the Gujjar areas have pukka roads whereas, 58 percent of the Pahari areas have pukka roads.

The data reveals that there is a significant difference between the Gujjars and Paharins in terms of the road connectivity facility. The proportions of the Gujjars having road connectivity facility is less than that of the Paharis because the Gujjars mostly live over hillocks and are much dispersed than the Paharis who live jointly in a particular area. Thus, it becomes difficult for the government to construct roads over those hillocks for these dispersed habitations.

Table 5.17. Health Centre facility in Gujjar and Pahari Areas

<table>
<thead>
<tr>
<th></th>
<th>Gujjars</th>
<th>Paharis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health Centre</td>
<td>28%</td>
<td>46%</td>
</tr>
</tbody>
</table>
Chapter V  
Comparison between Gujjars and Paharis on SES Scale

The table 5.17 shows that only 28 percent of the Gujjar habitations possess health centre facility whereas 46 percent of the Paharis possess it. The data reveals that there is significant difference between Gujjars and Paharis in the availability of health centre facility. The Pahari areas possess more health centre facilities than the Gujjar areas as Paharis live over the bottom of the hillocks and are clustered on the pattern of village though it becomes easy for the government to provide health centre facility. While as the Gujjars are living on the hilltops and are very much dispersed.

Table 5.18. Aganwadi Centre facility in Gujjar and Pahari Areas

<table>
<thead>
<tr>
<th></th>
<th>Gujjars</th>
<th>Paharis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aganwadi Centres</td>
<td>22%</td>
<td>63%</td>
</tr>
</tbody>
</table>

The table 5.18 shows that 22 percent of the Gujjars have Aganwadi centres whereas 63 percent of the Paharis have aganwadi centres in their villages. The data reveals that there is a significant difference between the Gujjars and Paharis in the availability of the Aganwadi centres. The Gujjar areas are least facilitated with Aganwadi centres than the Paharis because the scheme is focused for the child development but during the field work, it was noticed that the Gujjars are not much aware about such schemes and they engage their children with their nomadic profession like cattle rearing and hardly bother about the future of their wards. But the Pahari people are well aware than the Gujjars and they take benefit from the every scheme of the government. In this ICD scheme, the nutritional needs of the child are full-filled and simultaneously formal basic education is provided by local appointed teacher, which is only possible in the village type of environment like in a Pahari area, where the people live a community life quite adjacent to one another.
Table 5.19. Public Transport facility in Gujjar and Pahari Areas

<table>
<thead>
<tr>
<th></th>
<th>Gujjar</th>
<th>Pahari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public transport</td>
<td>57%</td>
<td>73%</td>
</tr>
</tbody>
</table>

The table 5.19 shows that 57 percent of the Gujjar and 73 percent of the Paharis area possesses public transport facility. It is evident that there exists a significant difference between Gujjar and Paharis in terms of public transport facility. Gujjar areas possess less public transport facility than the Pahari areas as Gujjars live on the top of the hillocks and they roam around with their cattle covering long distances by foot to graze them in distant pastures. Besides, they are more dispersed than the Paharis, who live collectively in villages which are easily accessible by public transport.

Table 5.20. Mode of Media used by Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Radio</th>
<th>TV</th>
<th>Newspaper</th>
<th>Magazine</th>
<th>Internet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjar</td>
<td>63%</td>
<td>27%</td>
<td>15%</td>
<td>8%</td>
<td>6%</td>
</tr>
<tr>
<td>Pahari</td>
<td>48%</td>
<td>53%</td>
<td>26%</td>
<td>12%</td>
<td>9%</td>
</tr>
</tbody>
</table>

Mode of Media

- Gujjars
- Pahari

Radio: 63% Gujjar, 48% Pahari
Television: 27% Gujjar, 53% Pahari
Newspaper: 15% Gujjar, 26% Pahari
Magazine: 8% Gujjar, 12% Pahari
Internet: 6% Gujjar, 9% Pahari
It is the inquisitiveness of man that he wants to be well informed in this age of information. The field work reveals certain interesting things that despite socio-economic backwardness, both the communities have made access to various types of sources of information. The table 5.20 shows that 63 percent of the Gujjars possess radio, but those who have migrated to cities and towns possess television also (27 percent). And educated people take very keen interest in reading the newspapers (25 percent). Besides these things a minuscule proportion of population has made access to magazines (8 percent) and internet (6 percent).

Whereas, the Pahari area are much accessible than the Gujjars. The researcher noticed that 48 percent of the Pahari households posses radio, 53 percent posses T.V, 26 percent of the people have access to newspapers, 12 read magazines and 9 percent have access to internet.

The data reveals that there is a considerable difference between the Gujjars and Paharis in using the mode of media. It was noticed that Gujjars possess more radio sets than Paharis as the Paharis are well to do and have adopted modern means of communication whereas, the Gujjars are still living the nomadic way of life, and are very much fond of the folk programs broadcasted on regional radio stations. It was observed that they take radio sets with them while roaming to distant pastures for grazing their live stock. However, other modern modes of media like T.V, Newspaper, Magazine, Internet etc. were found to be more used by Paharis than the Gujjars because they are well aware about the importance of these things, and they have somehow adopted modern life style by taking benefit from the above facilities.

Table 5.21. Livestock possession in Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Cow</th>
<th>Buffalo</th>
<th>Sheep</th>
<th>Goat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjar</td>
<td>43%</td>
<td>58%</td>
<td>45%</td>
<td>37%</td>
</tr>
<tr>
<td>Pahari</td>
<td>68%</td>
<td>46%</td>
<td>28%</td>
<td>22%</td>
</tr>
</tbody>
</table>
The livestock is the base of the economy for both the communities. The Gujjars mostly rear herds of sheep and goats. They move to mountainous pastures for grazing their live stock and in summer they migrate to far off places along with their cattleflocks. But now modern life style has affected the people to a larger extent and they now get sedentarized and live a community life.

The researcher observed that almost 45 percent of the Gujjars posses sheep, 43 percent possess cow and 37 percent posses goats which help them to run their economy. Some of the 58 percent possess buffalo by Gujjars who are involved in the milk business, and are called dhodi. Whereas, 68 percent of the Pahari speaking people posses cow, but they don’t keep cow for the milk business but for the milk, they need in their own house and for running the economy almost 28 percent posses sheep and 22 percent of the Pahari speaking people have goats and 4 percent have buffalos for the milk business.

The data reveals that there is a considerable difference between Gujjars and the Paharis in possession of the live stock. The live stock is the base of the economy for Gujjars who rear herds of sheep and goats for sustaining their livelihood. It was noticed that cow is more found among the Pahari households than the Gujjars because they keep cow for the milk, required in their own family not for the milk business like Dhodi Gujjars. However, buffalo, sheep and goat are more found among the Gujjjars than the Paharis as Gujars mostly rear these cattle to sustain their livelihood. In addition to cattle rearing, the Paharis are also engaged in other trade and businesses.
Table 5.22. (a) Scholarships availed by Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Gujjar</th>
<th>Pahari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>46%</td>
<td>42%</td>
</tr>
<tr>
<td>No</td>
<td>32%</td>
<td>38%</td>
</tr>
</tbody>
</table>

Table 22 (b) Scholarships and Free Hostel Accommodation to Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Scholarship</th>
<th>Fellowship</th>
<th>Free hostel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujjar</td>
<td>32%</td>
<td>14%</td>
<td>18%</td>
</tr>
<tr>
<td>Pahari</td>
<td>24%</td>
<td>18%</td>
<td>23%</td>
</tr>
</tbody>
</table>

The frequency of the every response can be measured from total sample as the respondents were asked to provide responses for every single item. The table 5.22(a) & (b) shows that almost 46 percent of the Gujjars and 42 percent of Paharis get scholarships and 14 percent of the Gujjars and 18 percent of Paharis are provided fellowship who are studying in various institutions of higher education. Nearly 23
percent of the Gujjars and 18 percent of the Paharis are provided free hostel accommodation.

The data reveals that a good proportion of the students from both the communities get scholarships from elementary to higher education level. Besides scholarships they are also given free uniform, books, and free hostel accommodation at every district headquarter. However, it was noticed that the proportion of the Paharis getting fellowship is more in higher education than Gujjars due to the non ST status. They are not employed like Gujjars in early stages of their education whereas, the proportion of the Gujar students in getting scholarships and free hostel is more than that of the Paharis because Ministry of Tribal Affairs had launched several schemes focusing on enhancing the enrolment ratio of the tribal students in different educational institutions.

<table>
<thead>
<tr>
<th>Gujar</th>
<th>Phone</th>
<th>Two wheeler</th>
<th>Fan</th>
<th>Washing machine</th>
<th>Computer</th>
<th>Car</th>
<th>Refrigerator</th>
</tr>
</thead>
<tbody>
<tr>
<td>69%</td>
<td>12%</td>
<td>34%</td>
<td>11%</td>
<td>13%</td>
<td>4%</td>
<td>8%</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Pahari</th>
<th>Phone</th>
<th>Two wheeler</th>
<th>Fan</th>
<th>Washing machine</th>
<th>Computer</th>
<th>Car</th>
<th>Refrigerator</th>
</tr>
</thead>
<tbody>
<tr>
<td>84%</td>
<td>31%</td>
<td>53%</td>
<td>23%</td>
<td>28%</td>
<td>11%</td>
<td>11%</td>
<td>17%</td>
</tr>
</tbody>
</table>

### Table 5.23. Assets owned by Gujjars and Paharis

![Bar Chart: Assets owned by Gujjars and Paharis](chart.png)

Human being always need certain things to sustain their life. With the passage of time the needs of humans grow by leaps and bounds. Primarily, which were considered assets, had now become the necessities of life, so the Gujjars and Pahari speaking people also possess these necessities in their day to day life.
Chapter V  

Comparison between Gujjars and Paharis on SES Scale

The frequency of the responses can be measured from the total sample as the respondents were asked to provide responses for every single item. The table shows that 69 percent percent of the Gujjar households possess mobile phones whereas in case of Paharis, 84 percent posses it. Further, it was noticed that 12 percent Gujjars have two wheelers, fans (34 percent), washing machines (11 percent), computers (13 percent), refrigerators (8 percent) and Cars (4 percent). Whereas in against the Gujjars, Paharis are well off and possess more assets than the Gujjars, two wheelers (31 percent), fans (53 percent), washing machines (23 percent), computers (28 percent), cars (11 percent) and refrigerators (17 percent).

The data reveals that their exists a considerable difference between the Gujjars and Paharis in terms of the possession of the assets. The researcher noticed that Paharis posses more assets than the Gujjars as it is evident that Paharis are well off than the Gujjars. They are engaged in trade and business which had helped them to alleviate their position whereas Gujjars are still doing primitive jobs like cattle rearing that is why these modern assets do not have much appeals to them. Besides it, their fragile economy does not allow them to buy these costly assets.

Table 5.24, Annual Income of Gujjars and Paharis

<table>
<thead>
<tr>
<th>Income range</th>
<th>Gujjar</th>
<th>Pahari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below &lt; 50,000</td>
<td>56%</td>
<td>44%</td>
</tr>
<tr>
<td>51,000 - 1,00000</td>
<td>36%</td>
<td>29%</td>
</tr>
<tr>
<td>1,00000 - 5,00000</td>
<td>5%</td>
<td>19%</td>
</tr>
<tr>
<td>5,00000 and above</td>
<td>3%</td>
<td>8%</td>
</tr>
</tbody>
</table>

Annual Income

- Gujjar
- Pahari
The table shows that 56% of the Gujjars have annual income below 50,000 rupees. Where as 44 percent of the Paharis have annual income under this range, 36 percent of the Gujjars were found to be falling under the annual income range of 51,000 to 1,00000. Whereas in case of Paharis, 29 percent were found to be falling under this range. A least proportion of 5 percent among Gujjars were found to have annual income in the range of 1,00000 to 5,00000, while as 19 percent of the Paharis were found under this range. A very small proportion of about 3 percent Gujjars have annual income range of 5,00000 and above. Whereas, in case of Paharis about 8 percent fall under this range.

The data reveals that their exists a considerable difference between Gujjars and Paharis in terms of annual income. It was noticed that the annual income range of the Gujjars is considerably less than that of the Paharis because the nomadic fragile economy of the Gujjars does not add much to their annual income whereas the Paharis, who are no doubt well off than the Gujjars, are engaged in trade and business and thus have more annual income than the Gujjars.

Table 5.25, Five most Pressing Problems of Gujjars and Paharis

<table>
<thead>
<tr>
<th></th>
<th>Electricity</th>
<th>Road</th>
<th>Sanitation</th>
<th>Education</th>
<th>Drinking water</th>
<th>Govt. service delivery</th>
<th>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujar</td>
<td>56%</td>
<td>37%</td>
<td>39%</td>
<td>31%</td>
<td>17%</td>
<td>13%</td>
<td>16%</td>
</tr>
<tr>
<td>Pahari</td>
<td>42%</td>
<td>26%</td>
<td>23%</td>
<td>23%</td>
<td>13%</td>
<td>7%</td>
<td>7%</td>
</tr>
</tbody>
</table>

Pressing Problems

- **Gujjar**
- **Pahari**

<table>
<thead>
<tr>
<th></th>
<th>Health</th>
<th>Education</th>
<th>Road</th>
<th>Electricity</th>
<th>Drinking water</th>
<th>Govt. service delivery</th>
<th>Sanitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gujar</td>
<td>16%</td>
<td>31%</td>
<td>37%</td>
<td>42%</td>
<td>17%</td>
<td>39%</td>
<td>13%</td>
</tr>
<tr>
<td>Pahari</td>
<td>7%</td>
<td>23%</td>
<td>26%</td>
<td>13%</td>
<td>7%</td>
<td>23%</td>
<td>7%</td>
</tr>
</tbody>
</table>

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Chapter V

Comparison between Gujjars and Paharis on SES Scale

The Gujjars and Paharis live around the Chenab belt of the state of Jammu and Kashmir in far off places from the main towns. The people living in these areas face tremendous difficulties in their day to day life. In this context, the investigator enquired about the five most pressing problems of the area and the results are shown below:

The data shows that 56 percent of the Gujjars do not possess electricity, 37 percent are without road connectivity, 39 percent do not have proper sanitation, 31 percent face problems in getting education, and 17 percent are without drinking water facility, 13 percent complained of in proper government service delivery and 16 percent are confronted with the problems related to the health.

Whereas in case of Paharis, 42 percent complained of electricity facility, 26 percent are without road connectivity, 23 percent do have problem of proper sanitation, 23 percent complained of education facility, 13 percent do not possess safe drinking water, 7 percent complained of govt. service delivery mechanism and 7 percent complained of health related issues.

The data reveals that there is a considerable difference between Gujjars and Pahari in terms of the availability of the facilities in their respective areas. It was noticed that there are more problems in Gujjar areas as compared to Pahari areas because generally the Gujjars are located on the hilltops and are sparsely populated and a considerable proportion are migratory in character. All these factors are responsible for the acute shortage of the facilities in Gujjar areas whereas, the Pahari areas are generally found at the bottom of these hills, living a community type of life in village set up and are easily accessible by roads, possess all the necessary facilities like electricity, sanitation, education etc.

Conclusion

It is evident from the factual information collected by the researcher by administering an information schedule to the people from both the communities that the socio-economic status of both the communities is at par, and specifically the Gujjars, who live in less concentrated and remote areas than the Paharis, are worstly affected.

Their nomadic character somehow confined them with their primitive jobs like cattle rearing, selling charcoal made from forest residues etc. that is why the data
showed that 62 percent of the Gujjars are still living in the rural, farflung areas of the state as compared to 42 percent of the Paharis rural population (Table 5.1). These nomadic Gujjars have been given Scheduled Tribe status in 1991, but it is evident that such ameliorative measures had not reached to the needy and deserving people i.e. a creamy layer class got developed who have migrated from their ancestral villages and are living in the main cities and towns of the state. They left behind their community in the shackles of nomadism and backwardness. Now, there is a competition within the community between the people who got edge through reservation and are posted at the prime positions in the state and the people who are yet living at the hillocks and remote and backward areas of the state.

This sort of discrimination got developed because of the politics with the reservation policy of the state. These loopholes were observed by the result of data, which shows that a large proportion of population have been included in more than one reserved categories. 7.5 percent and 12.5 percent of the Gujjars enjoy double reservation benefit in the name of Resident of Backward Area (ST+RBA) and Actual Line of Control (ST+ALC) status respectively (Table 5.2).

Unfortunately, the government is still promising more reservations in the name of caste, area, occupation and language. The latest ongoing demand is the inclusion of the Paharis in the list of Scheduled Tribe category despite the fact that a considerable proportion of population among them are already included in the OBC, ALC and RBA categories.

Furthermore, while making comparison between the Gujjars and Paharis, the data showed certain significant results, the educational status of the Gujjars is comparatively low as compared to Paharis as their nomadic character had not allowed them to fully reap the benefits of education. The data (Table 5.3) illustrated that 52 percent among the Gujjars are still illiterate in comparison to 37.5 percent of the Paharis. Mostly the Paharis were found associated with the business and trade and they posses their own land for growing different crops. Near about 63 percent of the Paharis own land for farming in comparison to 44 percent of the Gujjars (Table 5.11).

The data in Table 5.5 showed that 12 percent people among Gujjars are living in the temporary shelters like tents and huts in comparison to 6.5 percent of the Paharis. This difference is because of the fact that Gujjars migrate to upper reaches
during summer season for grazing their livestock and return back in winter. But since the last 20-30 years, people from both the communities got themselves somehow engaged with modern professions and have shunned their nomadic character to certain extent and have constructed semi Pakka and Pakka houses.

While making comparison of the different facilities available to Gujjars and Paharis, it can be ascertained that both the communities are living in the remote farflung areas of the state. Thus the people from both the communities face equal hardships and there is always dearth of the basic amenities in these far off places. But Gujjars are the worst sufferers. The data in Table 5.16 showed that only 42 percent of the Gujjar areas posses Pakka road in comparison to 58 percent of the Pahari areas. Only 57 percent of these Gujjars posses public transport facility in comparison to 73 percent of the Pahari areas (Table 5.19). This variation in the available facilities was observed because Gujjars usually live over the hillocks and are sparsely populated while as the Paharis are living in community type of environment and are usually found at the bottom of these hillocks which makes it easy for the government to construct roads and provide drinking water facility, electricity facility, health centre, aganwadi, primary school etc.

Further, the comparison between Gujjars and Paharis had been drawn to know the assets they posses. The result (Table 5.23) showed that 69 percent of the Gujjars posses mobile phone in comparison to 84 percent of Paharis, 12 percent of Gujjars own two wheeler in comparison to 31 percent of the Paharis, 34 percent of the Gujjars posses fan in comparison to 53 percent of the Paharis, 11 percent of the Gujjars posses washing machine in comparison to 23 percent of the Paharis, 13 percent of the Gujjars posses computer in comparison to 28 percent of the Paharis. The data revealed that their exists a considerable difference between the Gujjars and Paharis in terms of the possession of the assets. Because of the fact that Paharis are no doubt well off than the Gujjars, they are associated with trade and business which helped them to alleviate their position while as, Gujjars are still confined to their nomadic primitive jobs that is why these assets did not appeal much to them.

Thus it can be concluded that people from both the communities are not much stable economically as they are living in the remote farflung areas of the state. They are facing equal hardships in their day to day life, but specifically Gujjars are worst sufferers. Therefore some ameliorative measures are definitely needed to alleviate
their socio-economic position but it can be ascertained that reservation had not proved to be a tool for this alleviation. Instead it had divided society and creamy layer of the community is taking all the benefits. So it is right time to took introspection of the reservation policy and instead launch some reformative measures which will really help the needy and deserving.
Conclusion

with

Suggestions
CONCLUSION AND SUGGESTIONS

The societies all around the world are highly stratified. Indian society is also composed of intersecting and overlapping groups and subgroups based on religion, sect, vocation, wealth, language, location and political affiliation. However, one of the most significant features of the Indian society is the hierarchal caste system. These caste barriers from centuries together created a highly stratified societal structure with a hierarchy of castes and communities separated by barriers of exclusiveness and social inequality.

With the passage of time, the perpetual injustice leads to conflict. The history is replete with instances of conflict arising from inequality. The classes excluded from culture, education and jobs have raised their voices against those whom they saw as their oppressors. In western societies, these conflicts have essentially been drawn on economic lines. The third world countries, however, are witnessing conflicts on the basis of primordial divisions like religion, race, and caste, and this is only natural because these have been the basis of stratification in traditional societies.

However, every problem arises with its own inherent solution. Since the very dawn of civilization, it has been the dream of mankind to build a just society. The Indian constitutional philosophy is based on the notion that certain social group in India are inherently unequal and are victims of social discrimination and thus require compensatory treatment. At the time of making the Constitution of India one could have hardly thought the policy of reservation would become a major source of social and political unrest. From the beginning, one’s experience with the quota system is only a crude strategy of social reconstruction, it had lead the society to traumatic tensions.

In the modern India the extension of reservation has evoked violent group response, street violence and political conflict. The perpetual expansion of the reservation has become the tool of aggrandizement in the hands of political parties which always try to strike political bargains from backward classes which permanently want to retain the privilege of being classified as backward even at the expense of the really needy and the deserving. Even the ruling parties often see the advantages in the system for winning their political supporters. Backwardness has become a vested interest and any attempt of withdrawal of concessions from
designated backward groups is strongly resisted. This results in cast riot and social tensions.

After almost 60 years of the implementation of reservation policy, it has reached a stage where both its supporters and critics are unhappy about it, the former are unhappy because it has not brought a noticeable change in the social and economic conditions of the disadvantaged groups. Majority of them still continue to be socially isolated, illiterate and poor. Its critics complain that in matters of employment, promotion and admissions, reservations have been stretched too far at the cost of merit, efficiency and equity giving rise to frustration and alienation among the unreserved categories. Once a concession is granted, it takes the form of a right as the time passes and the beneficiary individual or group resists any attempt to withdraw it.

Moreover, the Scheduled Castes and Scheduled Tribes constitute almost 30 percent of the population and no party in power at the center or in the states can take the risk of abolishing the reservation granted to them and lose the support of this solid vote-bank in subsequent elections. Parties out of power also cannot displease these categories for almost the same reasons. They put pressure on the ruling party in another way by instigating other backward sections of the society to demand similar benefits. In such a situation the ruling party cannot afford to remain far behind and in its apparent zeal to help the poor and the down-trodden sometimes overreacts. It projects itself as the sole guardian of the weaker sections by granting them all sorts of benefits irrespective of their long-range implication for the nation.

Special programmes of financial aid, special scholarships, special training programmes, relaxed standards in admissions and recruitment etc. are illustrations of various steps taken to keep these groups contended and happy. Whether these concessions are reaching to the poorest of the poor among them is hardly anybody’s concern.

There is no doubt that no social institution containing so large an element of inequality and discrimination towards the majority of people can survive for a long period in a purely social democratic set up. So this reservation policy was the method contemplated by the founding fathers of constitution to compensate with the centuries old disadvantages that the depressed classes had to face due to the social stigma.
The history of reservations is replete with the record that the real benefits have never trickled down to the intended beneficiaries because the latter had never an opportunity to come to the educational level required for the earmarked claim, as the persons for whose benefit the provisions were made in the constitution, suffered throughout from the lack of educational upliftment. The unintended outcome of the intended purpose behind reservations went on multiplying, this leads one to the crucial point at stake whether the son of Deputy Inspector General of Police or that of a Commissioner of Revenue from Scheduled Castes or Scheduled Tribes or other backward classes is entitled to the benefits of reservations? In the same context comes the question whether the son or daughter of an illiterate peasant or labourer from the Scheduled Castes or Scheduled Tribes or other backward classes would ever be entitled to claim much less than getting the reservation?

There are some problems attributed to reservation policy.

- Instead of bridging the gap between the Scheduled Castes and Scheduled Tribes on the one hand, and the rest of the Indian society on the other hand, this policy has indirectly widened the divide between the two. The beneficiaries of this policy have become objects of jealousy of those into whose privileges they are imagined to have cut because of reservations. This jealousy gets reflected in various forms in work places, towns and villages. This is not a very happy trend for national integration.

- As a result of reservation policy it was expected that in course of time the affected groups will throw up local leaders, like Ambedkar, who shall fight for the welfare of these depressed classes and see to it that more and more of them ascend the economic ladder.

- It is unfortunate that blanket reservation and ad-hoc quotas have been fixed at all levels, from primary education to professional colleges and skilled government jobs, when it is a well known fact that the percentage of literacy among the reserved categories is abysmally low. A number of nationalized banks and other public undertaking have not been able to fill office cadre reserved categories.

- This policy and its extension to backward classes has given rise to problems of law and order for those who are already facing a serious challenge from various separatist elements in Kashmir, Punjab and the North-East. The most serious
agitation against reservation was witnessed in Gujrat where political strategies led to the degeneration of this movement into communal riots which, so often, get sparked off in the state on one issue or the other.

Nehru was against undertaking any steps which would lead to separatism and create a psychology of dependence in this section of the Indian society. He had said so many times, that external props like reservation should be used only as a transitory measure to help the reserved categories to overcome the socio-economic handicap. Like Gandhi, he also favoured programmes to help them develop inner strength to compete in a healthy manner with other sections of the society on an equal footing. So long as they continued to rely heavily on the external props of reservation, they would not learn to stand on their own and the moment these external props are withdrawn they would find themselves in a helpless situation from where it may not be possible to pull them out easily.

The purpose of granting reservation to disadvantageous groups of Jammu and Kashmir was to uplift these weaker sections of the society. But this reservation has of late been misused or moulded to suit vested interests, as the criteria for granting reservation have always remained controversial and debatable. Either, it has been adopted on caste basis, area basis or on profession basis. On caste basis, whole population of Scheduled Castes has been given the reserved category status, keeping in view their bad economic condition in general and their social exclusion in particular. Similarly, some tribes mainly Gujjar Bakkerwal has been ascribed Scheduled Tribe status. Whereas some communities have been identified with their professions like cobblers, barbers, carpenters etc., and these sections of the society have been given social caste status under OBC reserved category in Jammu and Kashmir. Not only this, but one more formula has been adopted on the base of geographical area, like residents of backward area (RBA) and actual line of control (ALC). The irony of the fact is that while including these groups in the list of reserved categories, no distinction has been made between rich and the poor of the same reserved group. This led to the result that the poor become poorer and while rich of the community took lion's share of benefits at the cost of others. The other loopholes of Jammu and Kashmir reservation policy can be noticed while analyzing that usually for OBC category, the socio-economic backwardness of the community is measured but contrary to it, in Jammu and Kashmir state, the RBA and ALC categories has been
included in the OBC list of the state which is not accepted by the National Commission for Backward classes. Thus only 2 percent of the social castes of the state are eligible for the 27 percent reserved quota for OBC at the national level.

Jammu and Kashmir is a pluralistic society with varied geography, religions, languages, ethnicity and cultures. This large diversity sometimes becomes hostile through not paying due heed to the aspirations of diverse identities. The perpetual feeling of being neglected gave birth to conflicts and group tensions. Amongst the contemporary internal conflicts in Jammu and Kashmir, the Gujjars-Pahari controversy is perhaps one of the most serious challenges to internal peace at the micro level, and an emerging impediment to handle the Kashmir issue at large. This conflict between the Gujjars and Paharis, transcend, all regional boundaries and religious divides in Jammu and Kashmir. Historical literature traces the roots of tussle to several decades ago but the differences sharpened in 1991 when Gujjars were included in the Scheduled Tribe list. Therefore, tension began to simmer in the Pahari community. They felt neglected by the state and central government from the benefits which were being provided to other communities living under the same social, geographical conditions and face problems alike. Thereafter, the Paharis started a struggle for schedule tribe status.

The perpetual demand of the Paharis compelled the state government for opening a Paharis section in the Jammu and Kashmir Cultural Academy for the development of Pahari language and the Jammu and Kashmir Advisory Board for the development of Paharis speaking people was created for working as a nodal agency for building residential hostel for the Paharis student at every district headquarter and provide scholarship to Paharis student and fill the critical developmental gaps in the Paharis areas.

However, the Pahari people remained adamant for the grant of Schedule Tribe status. The controversy between these two communities is becoming prominent on a large scale because of the fact that the political parties extend selective patronage to one community against the other for securing easy vote-bank. Infact the political parties and the state governments have helped, overtly or covertly, in escalation of conflict from time to time. There is a hidden tension between the Gujjars and the Paharis who nurse huge contempt for each other. In Rajouri and Poonch districts of
the Jammu province and some parts of Baramulla, Kupwara, Bandipora and Badgam districts of the Kashmir province where these communities are predominant, the Gujjar-Pahari divide is a major political and social discourse in day to day life and their divide has become a dominant factor in all political and administrative decision. From selection of candidates for assembly elections, appointment of ministers in the cabinet, nominating office bearers of political parties to posting of government officers at different levels in the districts, even identifying government project like school, dispensaries and roads and bridges, have became a major determining factor.

Instead of trying to resolve this issue in a collective perspective the political parties and the governments are playing the Gujjar and Pahari cards which further hardened their stand and sharpened the conflict. Psychological irritation due to social differences and willful tendencies of getting at odds with each other are commonly seen among them. There are serious and dangerous signals of an impending conflict in Jammu and Kashmir which is already going through a high level of armed conflicts. While the Gujjar-Pahari divide offers a huge vote bank dividend to the political parties, but further deepening of this divide will become unmanageable for the future incumbents.

To prevent further escalation one needs to understand who exactly these people are, what are the stakes involved, where can one place them in larger conflict zone of Jammu and Kashmir. What has gone wrong so far and how can these things be corrected.

Apart from the politics of reservation and reservation debates, amidst these reservation demands, the haunting question remains that, whether reservations alone are enough to bring the marginalized and disadvantaged groups to the mainstream and help them to achieve the level of other members of the society?

If Pahari demand for reservation is met what can be its fallouts on the holistic mainstream and reserved sections of Jammu and Kashmir state and finally how it will be observed by Gujjars; this remains a bigger curiosity. Shall Paharis only feel emancipated or empowered once Scheduled Tribe status is granted to them or do we really need a change in the discourse of reservation and welfare programmes meant for the marginalized in the entire country. Is the Pahari demand really a genuine story or merely the manifestation of the Gujjar-Pahari tussle and competition between the
two communities, is also a curious question to be looked at. Also if the Paharis demand for scheduled tribe status is a Gujjars nightmare, and is enjoying of Scheduled Tribe status by Gujjars itself a Pahari nightmare?

Do we need to do away with permanent reservations to different communities and instead launch special developmental and welfare programmes aimed at inclusive growth of the marginalized groups of the state? Can we really afford granting further reservations to different groups at such a critical juncture when the state is facing acute unemployment crises and youth bulge? The questions are so many, however, with no satisfying answer till date.

Suggestions

The foregoing discussion clearly shows that all is not well with the reservation policy and it is high time that a dispassionate thinking is focused upon it. The following suggestions are mooted in order to make the reservation policy judicious, reasonable and purposive.

➢ Government should do something seriously to preserve the culture of the communities feeling discriminated and there must be an emphasis on conducting studies/research and documenting their practices and life pattern.

➢ The difference need to be understood between Paharis and Gujjars as they are identified as one lot which it is not. Therefore research needs to be carried out on the culture and socio-economic aspects of the both communities.

➢ Government should definitely look into the upliftment of backward sections of the society seriously. However granting a privilege forever is not an apt solution to the problem. One time package for education, livelihood, or holistic welfare of such groups can be a step forward but why is the granting of reservation to any community so important. Government should seriously look into the repercussions before granting any such status to any section of the society.

➢ The Pahari community is devoid of adequate socio-economic and educational development. Therefore, a strong socio-anthropological insight is badly needed to look into the culture and life pattern, identity crisis and overall pressing issues of the Paharis.
The viable solution to resolve the historical divide between Gujjars and Paharis lies in the capability of the government to alleviate the socio-economic profile of the two communities. A survey of the socio-economic profile of all the communities in Gujjar-Pahari heartland can be another approach to reach an understanding on the needs and problems of these people residing in Jammu and Kashmir. To solve these problems, the central and state governments should act in a pragmatic way instead of succumbing to a policy of appeasement.

Both the communities are living in congruent geographical conditions and have adopted similar life styles. Both the communities either live in remote, far flung and inaccessible hilly areas mainly in the Pir Pahchhal region or their basties (habitations) are located around LOC. So they face similar problems of economically backwardness. Therefore, both the communities need equal ameliorative measures. We cannot alleviate one community and left other in the shackles of backwardness.

A joint Gojri-Pahari intellectual conferences can contribute in diffusing age old tensions between the two communities through dialogue and reconciliation, there is an urgent need for the restoration of the old traditions of brotherhood between them.

The Paharis have not yet been given a proper definition by the planning department of Jammu and Kashmir State and no proper survey has been made of their economic vulnerability. So there is an urgent need for conducting a proper socio-economic survey so that sustainable development of all sections of the society can take place.

For rebuilding confidence among the Paharis, a seat of chair can be established at the University of Jammu for a more systematic development of the Pahari speaking people.

There is an urgent need for greater understanding and reconciliation among these communities. To this end, NGOs, social activists and religious figures could come forward and start the journey towards peace and reconciliation. On the part of government, efforts should be made to strengthen ties between these communities to restore peace, happiness and harmony in these regions. These efforts will really help in de-escalating tensions between these two communities.
If the government is really concerned about the upliftment of the poor people of the society, then why not to adopt the BPL formula. All the BPL households of the state whether they belong to any community, area or linguistic group be declared as reserved category without consideration of their caste or color. And this all should be done after cancelling all reservations based on area and caste criteria.

The whole question of reservation needs a serious debate in the state at every level. Fostering the reservation politics in the state will kill meritocracy and increase the animosity among various sections of the society.

Reservations should not be made a permanent feature. Any privilege provided permanently makes the beneficiaries a privileged class and gives wrong signals to others. This situation affects adversely the social harmony among the different sections of the society. So, only one generation should be permitted the benefits of reservation.

Periodic review of reservation is necessary. Once a person has been benefitted, he should not be further provided quota. The benefits of reservation should be provided only once that is at the stage of admission in educational institutions or recruitment or promotion and not at every stage of one’s career.

Identification and classification of backward classes should be dictated by the economic criteria of the household. A class which is declared as backward may turn out to be the most advanced in a particular region.

Any decision of the government regarding extensions of the reservation to any group should be accountable to an independent authority as in most of the cases these decisions are based on political expediency. Further the government which is supposed to be reflected by merit, efficiency and expertise in specific branches of services must maintain a balance between merit and concession.

It has been a premier goal of mankind to establish an egalitarian society. The political scientists should make an assessment by conducting an empirical study over the attainments of the members of any backward class. If it is found that the backwardness of a particular class has ceased to exist, the class should be removed from the orbit of reservation.
The politics of reservation and reservation debates apart, amidst these demands for reservation, the haunting question remains that, are reservations alone enough to bring the marginalized and disadvantaged groups to the mainstream. We really need a change in the discourse of reservation and welfare programmes run for the marginalized sections of society.

The permanent perpetual reservations to different backward communities should be abolished; instead special developmental and welfare programmes aimed at inclusive growth of marginalized groups of the state should be executed.

The definition of the whole area as the backward, and treating all residents therein as backward is unjustified as the classification of socially and educationally backward classes cannot be on the basis of geographic, climatic or backwardness of an area, as that backward region may also comprise of upper caste people, they would be sole beneficiaries of the reservation policy as enacted in the said Act and rules. Hence this creamy layer should be excluded from the purview of reservation.

Persons availing benefits of reservation through corrupt practices must be dealt severely. Acquisition of fake caste certificates should be made a cognizable offence, punishment should also be handed out to the offenders including the issuing authorities and forfeiture of all benefits secured through such certificates should be made compulsory.

The provision of protective discrimination enlisted in Article 15(4) and 16(4) and the mandate of Article 29(2) cannot be stretched beyond a particular limit. The state is bound to serve its people but there are some services which demand expertise and skill. In such services, there can not be room for reservation; merit alone must be the sole and decisive consideration for appointments.

The constitution should be amended. All extensions or prolongations of reservation should be done by the act of legislation and not by an executive decree.

Constitutional bench of Supreme Court delivered its historical judgment on November 16, 1992 in a case titled as Indra Sawhney and others V/s Union of India. In this land mark judgment Supreme Court held that
"Reservation is not an end in itself. It is a means to achieve equality. There will be no need for reservation or preferential treatment once equality is achieved. Every reservation founded on benign discrimination and justifiable adopted to achieve the constitutional mandate of equality, must necessarily be a transient passage to that end. It is temporary in concept, limited in duration, conditional in application and specific in object"
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Appendices
Appendix - 1

Information Schedule for Socio-Economic Survey
(for research purpose only)

Name:
Address:
Area: Rural/ Urban
1. Category
   a. General  
   b. SC  
   c. ST  
   d. OBC  
   e. ALC  
   f. RBA  
2. Mother Tongue: Gojre/ Pahari
3. Education
   a. Illiterate  
   b. HSC  
   c. SSC  
   d. Graduate  
   e. Post graduate  
   f. Professional/Technical  
4. Occupation
   a. Farmer  
   b. Govt. Servant  
   c. Self Employed  
   d. Wage Laborer  
5. Type of House
   a. Hut / Tent  
   b. Semi Pukka  
   c. Pukka  
6. No. of family members
7. Type of Family
   a. Nuclear  
   b. Joint  
8. Electricity Facility: Yes/ No  
9. Sources of Drinking Water
   a. Tap  
   b. Hand pump  
   c. Well  
   d. Tank  
   e. Pond  
   f. Spring  
10. What type of bathroom/toilet arrangement do you have?
    a. Open fields  
    b. Common  
    c. Private in home  
11. What type of cooking fuel do you use
    a. Firewood  
    b. Kerosene  
    c. LPG  
    d. Heater  
12. Do you own land yes/no  
13. Type of Crop
    a. Rice  
    b. Wheat  
    c. Maize  
    d. Mustered  
    e. Pulses  
    f. Vegetables  
    g. Fruit  
    h. None of the above  
14. Economic Status
    a. APL  
    b. BPL
15. Are you getting Ration Ghat subsidy:
   Yes / No

16. Are you getting any benefit from any of
   the Govt. scheme
   a. Indra Awas Yojna (IAY)
   b. Pradhanmantri Gram Sadak Yojna
      (PMGSY)
   c. National Rural Health Mission
      (NRHM)
   d. MGNREGA
   e. None

17. Facilities in your village/mohalla/area
   a. Pakka road
   b. Electricity
   c. Health centre
   d. Aganwadi centre
   e. Public transport
   f. Primary school
   g. None

18. What type of media communication
    do you have?
   a. Radio
   b. T.V
   c. Newspaper
   d. Magazine
   e. Internet
   f. None

19. Number of cattle
    Name    Number
   a. Cow
   b. Buffalo
   c. Sheep
   d. Goat

20. Are your children getting any benefit of
    the below:
   a. Scholarship
   b. Fellowship
   c. Free hostel
   d. None

21. Assets owned by you
   a. Phone
   b. Two wheeler
   c. Fan
   d. Washing machine
   e. Computer
   f. Car
   g. Refrigerator
   h. None

22. Annual income

23. Name five most pressing problems in
    your area
    1. Electricity
    2. Road
    3. Sanitation
    4. Education
    5. Drinking Water
    6. Govt. service delivery
    7. Health

24. Give suggestions for the solution
    of above problems

   ————————
   ————————
JAMMU & KASHMIR STATE COMMISSION FOR BACKWARD
CLASSES, JAMMU/SRINAGAR
STATEMENT SHOWING THE INDICATORS FOR INCLUSION IN THE
LIST OF BACKWARD AREA

1. Name of the village:
2. Name of the Patwar circle:
3. Name of the Tehsil:
4. Name of the District:
5. Distance from the Tehsil headquarter:
6. Whether village is connected by metal top (Magdam), fair weather or no road:
7. If not connected by any road, the distance from the nearest point of metal top road:
8. Distance from the nearest adjacent, declared Backward:
9. Population of the village / area:
   a. Total adult male
   b. Total adult female
   c. Total boys between the age of 5 to 15
   d. Total girls between the age of 5 to 15
10. Total number of hamlet of the village:
11. Total number of households (Hamlet wise):
12. Average family strength of the households:
13. Total land area of the village:
14. Total cultivated land area:
15. Total irrigated land area:
16. Main source of irrigation of land:
   a. River
   b. Canal / Lifts
   c. Rain
   d. Pond

Signature
Assessing Authority
(Not below the rank of Naib Tehsildar)
With Seal

Signature
Verifying Authority
(Concerned Tehsildar)
With Seal

Signature
DC / A / C
With Seal
17. Number of crops per year. (Crop pattern):

18. Average yield per year, per acre of crops and its total value:

19. Method of cultivation:-

20. Total number of houses, built with bricks, cement, and concrete. (Pacca Houses):

21. Total number of house built with earth, un-backed bricks, mud and wood (Kacha Houses):

22. Total number of households with following facilities
   a. Television                                b. Refrigerator                        c. Motor Cycle
   d. Car                                      e. Telephone

23. Main source of lighting in average household:-

24. Main source of fuel for cooking house hold in average:-
   a. Cow dung:                                b. Kerosene
   c. Coal                                    d. Wood:                                 e. Gas:

25. Toilet facilities in average house hold:-
   a. Dry:                                     b. Water:
   c. Public:                                  d. Open-air latrine:

26. Average value of assets of each household:

27. Main occupation for earning of livelihood:
   a. Agriculture                             b. Industrial labour
   b. Govt. Employee                          c. Labour

28. Average area of land holding of a household or a family:

29. Number of households in Traditional occupation like, Barber, Shoe maker, Washer man, Carpenter, Mason, etc:

30. Average income of a family / house hold:

31. Any subsidiary occupation undertaken by the inhabitants of the area, to supplement their income. Give details:

   Signature                      Signature                     Signature
Assessing Authority (Not below the rank of Naib Tehsildar (Concerned Tehsildar) DC / A / C
(With Seal) With Seal With Seal)
32. Total number of male workers who are engaged in subsidiary employment like, manual coolies, daily wages, Agriculture labour:

33. Total number of females who work for supplementing the income of their family for sustenance, and livelihood:

34. Average number of days of economic activities per year

35. Number of households who have taken loan and are in debt:

36. Purpose of taking of loans and source of loans:

37. Availability of educational facilities:
   a. Primary School:       b. Middle School:       c. High School:
   d. College:             e. If no school/College in the area, distance
                          from the nearest school / College:

38. Educational status, sex wise:
   a. Primary level:  Male ...........  b. Secondary level:  Male ...........
                     Female ...........                      Female ...........
   c. Graduation:  Male ...........  d. Post Graduation:  Male ...........
                   Female ...........                      Female ...........
   e. Technical Education: Male ...........
                   Female ...........

39. Non-student population between the age group of 5 to 15 years having never joined or attended any School:

40. Number of drop outs in the age group of 5 to 15 years and reasons for not continuing the studies in the school:

41. (a) Number of matriculates: ...........
    (b) Number of Graduates: ...........

42. Literacy percentage:

43. Facility of health care:
   a. Dispensary:       b. Primary Health Centre:   c. Sub-District Hospital:

44. Distance from Primary Health Centre:

45. Distance from the nearest Sub-District / District Hospital:

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46. Main Source of drinking water:
   a. Govt. Sponsored Water Supply Scheme:
   b. Well  
   c. River  
   d. Pond:
   e. Tank:  
   f. Hand Pump:

47. Average distance of source of water from the houses. Whether less than 500 Mtrs. or more:

48. Average age of marriage of male and female:

49. What is the total number of un-employed persons of the area/ class registered with the Employment Exchange of the State:

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1. Certified that I have personally inspected the area and made a survey in the locality. The entries made above are correct on the basis of such inspection.

Assessing Authority
(Not below the rank of a
Naib Tehsildar)
With Seal

2. Certified that I have verified the entries made by the Assessing Authority and the same are found to be correct.

Verifying Officer
(Not below the rank of a
Tehsildar)
With Seal

3. Certified that the finding of the Assessing Authority and verifying officer are correct.

DC / Asstt. Commissioner
With Seal
THE JAMMU AND KASHMIR
RESERVATION ACT, 2004

[Act No. XIV of 2004]

[Received the assent of the Governor on 19 March, 2004 and published in Government Gazette dated 23rd March, 2004].

An Act to provide for reservation in appointment, and admission in Professional Institutions, for the members of Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes and for matters connected therewith or incidental thereto.

Be it enacted by the State Legislature of Jammu and Kashmir in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement. — (1) This Act may be called the Jammu and Kashmir Reservation Act, 2004.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) It shall come into force from the date of its publication in the Government Gazette.

2. Definitions. —In this Act, unless the context otherwise requires,—

(a) “Act” means the Jammu and Kashmir Reservation Act, 2004;

(b) “Appellate Authority” means the authorities prescribed under section 17;

(c) “areas adjoining the actual line of control” means the area declared as such by the Government from time to time;

(d) “available vacancies” means the vacancies, permanent or temporary, in any service and includes other posts under the Government, statutory authorities, autonomous bodies and Public Sector Undertakings owned and managed by the Government;
(e) "backlog vacancies" means those reserved vacancies which remain unfilled for want of suitable candidates after two attempts in the recruitment year to fill up those vacancies;

(f) "backward area" means the villages and areas declared as socially and educationally backward by the Government from time to time;

(g) "Competent Authority" means the authority competent to issue a certificate under the Act;

(h) "Government" means the Government of Jammu and Kashmir;

(i) "prescribed" means prescribed by rules framed under the Act;

(j) "Professional Institutions" means the institutions notified from time to time, by the Government and shall initially include Government Medical College, Srinagar/Jammu, Government Dental College, Srinagar, Government Polytechnics, both male and female, Government College of Education and Government College of Engineering and Technology, Jammu;

(k) "recruitment year" means the year in which the selection agencies make recommendations for appointment of candidates for a particular service or post to the appointing authorities;

(l) "reserved categories" means the categories for which reservation is to be made under the Act;

(m) "Scheduled Caste" means the castes specified in the Schedule to the Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956 made by the President under clause (1) of Article 341 of the Constitution of India;

(n) "Scheduled Tribe" means the tribes or tribal communities or parts of or groups within tribes or tribal communities as specified in the Constitution Scheduled Tribes Order, 1989 made by the President under clause (1) of Article 342 of the Constitution of India;
(9) “socially and educationally backward classes” mean—

(i) persons residing in the backward area;

(ii) the persons residing in the area adjoining Actual Line of Control; and

(iii) weak and under-privileged classes (social castes), declared as such under notification SRO-394 dated 5-9-1981 read with notification SRO-272 dated 3-7-1982 and notification SRO-271 dated 22-8-1988 as amended from time to time:

Provided that the Government may, on the recommendations of the State Backward Classes Commission, make inclusions in, and exclusion from, the said category from time to time:

Provided further that the persons specified below and their children shall be excluded from the category of socially and educationally backward classes:

(i) Governor (serving or retired);

(ii) Chief Justice and Judges (serving or retired) of High Court or the Supreme Court of India;

(iii) Chief Minister and Ex-Chief Minister;

(iv) Ministers and Ex-Ministers of Cabinet rank;

(v) Ministers of State and Deputy Ministers having more than one term;

(vi) Chairman and members of Jammu and Kashmir Public Service Commission or the Union Public Service Commission;

(vii) Members of the State Legislature (elected and nominated both) having more than one term irrespective of the period under the second term;

(viii) Members of All India Services;

(ix) any person whose annual income from all sources, determined in the prescribed manner, exceeds rupees three lacs or such amount as may be notified by the
Government from time to time in accordance with the prescribed norms:

\(\text{[Provided that the income ceiling shall not apply to a person who has lived and completed entire school education from an area identified as Backward or Actual Line of Control, as the case may be, and in case such schooling is not available in such area, from the nearest adjoining area;]}

(x) such other persons as the Government may notify from time to time;

(p) "selection agency" means the agency, authority, Board or official committee, as the case may be, prescribed for recommending appointments or promotions or for selecting candidates for admission to professional institutions and includes the appointing authority wherever selections are made directly by such authority;

(q) "weak and under-privileged classes" mean the classes declared as such under notification SRO-394 dated 5-9-1981 read with notification SRO-272 dated 3-7-1982 and notification SRO-316 dated 18-7-1984 as amended from time to time.

(2) The words 'service', 'class', 'category' and 'grade' shall have the same meaning as assigned to them in service rules in force in the State.

CHAPTER II

RESERVATION IN APPOINTMENT BY DIRECT RECRUITMENT

3. Reservation in appointment. Except as otherwise provided hereinafter, available vacancies to the extent as may be notified by the Government from time to time shall be reserved for appointment by direct recruitment from amongst the person belonging to:

(a) Scheduled Castes and the Scheduled Tribes which shall not exceed the ratio and proportion as the population of each such category bears to the total population of the State as per the latest available census; and

---

1 Proviso inserted by Act No. III of 2009, s. 2, w.e.f. 5th March, 2008.
2 Existing section 3 renumbered as sub-section (1) of section 3 ibid.
(b) socially and educationally backward classes:

Provided that the total percentage of reservation shall in no case exceed 50%:

Provided further that the Government shall exclude the services and posts, which, on account of their nature and duties are such as call for highest level of intelligence, skill and excellence, from operation of the Act.

\[1\] [Notwithstanding anything to the contrary contained in any law for the time being in force, any person appointed against any available vacancy on the basis of his being a resident of backward area or an area adjoining Line of Actual Control shall serve in such areas for a period of not less than seven years:

Provided that in case the post against which he has been appointed is not available in such area, he shall be posted in the nearest adjacent backward area.

(3) Any person who, after being appointed on the basis of reservation, declines to serve in the reserved area as provided under subsection (2) shall be liable to termination from service:

Provided that no order of termination shall be issued without affording a reasonable opportunity of being heard to such person.]

4. Reservation not to bar appointment in open merit. — Nothing contained in section 3 shall prevent the appointment of any person belonging to any reserved category against unreserved vacancy on the basis of his merit and such appointment shall not result in reduction in the number of posts reserved for that category.

5. Vacancies to be carried forward. — (1) Subject to the provisions hereinafter contained, if a sufficient number of candidates is not available from any reserved category during a recruitment process, the posts shall remain vacant and shall be carried forward to the next recruitment process:

Provided that nothing herein contained shall prevent launching of a special drive by a selection agency to fill the carried forward vacancies by inviting applications exclusively from persons belonging to such

\[1\] Inserted by Act No. III of 2009, s. 3, w. e. f. 5th March, 2008.
category.

(2) If in the first attempt of recruitment, suitable candidates are not available, second attempt may be made in the same recruitment year and if even then suitable candidates are not available, the vacancies shall be treated as backlog vacancies.

(3) In subsequent year, when recruitment is made for reserved vacancies, the backlog vacancies shall also be notified:

Provided that the total number of reserved vacancies including backlog vacancies shall not exceed the percentage reserved for such categories.

(4) The reserved vacancies remaining unfilled for a period exceeding three years shall be treated as de-reserved.

CHAPTER III
RESERVATION IN GOVERNMENT SERVICE
(BY PROMOTION)

6. Reservation in promotions. —Except as otherwise provided in the Act, available vacancies to the extent as may be notified by the Government from time to time, shall be reserved in any service, class, category or grade carrying a pay scale the maximum of which does not exceed the pay scale of the post of Deputy Secretary to Government, for promotion from amongst the persons belonging to the Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes:

Provided that total percentage of reservation shall not exceed 1[31%] of the available vacancies:

Provided further that the Government shall exclude the services and posts, which on account of their nature and skill are such as call for highest level of intelligence, skill and excellence, from the operation of the Act.

7. Assessment of the members of the reserved categories. —In filling vacancies by promotion carrying a pay scale the maximum of which exceeds the pay scale specified under section 6, the concerned selection authority shall assess the officers who are members of any reserved category by relaxed standards.

1 Substituted for “25%” by Act No. III of 2009, s. 4, w. e. f. 5th March, 2008.
& Reservation not to bar promotion. — Nothing in section 6 shall bar the promotion of a member of any reserved category against the vacancies other than, or in addition to, those reserved for them under the Act, if such member is found to be qualified for such promotion on the basis of his merit and seniority.

CHAPTER IV

RESERVATION IN PROFESSIONAL INSTITUTIONS

9. Reservation in professional institutions. — (1) The Government shall reserve seats in the Professional Institutions for candidates belonging to reserved categories and such other classes and categories as may be notified from time to time:

Provided that the total percentage of reservation shall in no case exceed 50%.

(2) The Government shall prescribe the percentage for each category in admission in the Professional Institutions:

Provided that different percentage may be prescribed for different courses:

Provided further that 50% of the seats in each category including open category for admission to MBBS and BBS, shall be selected from amongst female candidates belonging to such category:

Provided also that the seats in any reserved category, which cannot be filled for want of candidates belonging to that category, shall be filled from amongst the candidates belonging to open merit category.

10. Reservation not to bar admission in open merit. — Nothing contained in section 9 shall bar admission of members of the reserved categories against seats other than, or in addition to, those reserved for them under the said section, if such members are found qualified for admission on merit as compared with candidates not belonging to any reserved category.

CHAPTER V

MISCELLANEOUS

II. Roster. — With a view to giving effect to the reservation provided in the Act, the appointing authority shall maintain a roster in such manner and
form as may be prescribed.

12. Preparation of the select list. — The selection agency shall prepare the select list of candidates in such manner and form as may be prescribed.

13. Authority competent to issue certificates. — The Government may, by notification in the Government Gazette, invest any revenue officer, not below the rank of Tehsildar, with powers to issue certificates in favour of members of the reserved categories:

Provided that in respect of remote and inaccessible areas, the Government may invest any officer of the Revenue Department, not below the rank of Naib Tehsildar, with such powers.

14. Presentation of application. — A person claiming benefit under the Act shall apply in the prescribed manner to the Competent Authority for grant of a certificate.

15. Registration and verification. — The Competent Authority shall, on receipt of the application, —-

(i) immediately record it in a register to be maintained by it and issue to the applicant a receipt to that effect; and

(ii) scrutinize the application and conduct enquiries as may be necessary for verification of the details of the application as also with regard to the eligibility of the applicant for the certificate.

16. Issuance of Certificate. — The Competent Authority shall, within fifteen days from the date of the receipt of the application and for reasons to be recorded in writing either accept the application or reject it. On acceptance of the application, the authority shall immediately issue the requisite certificate to the applicant in the prescribed form.

17. Appeals. —(1) Any person aggrieved by an order of the Competent Authority under section 16, may, at any time before the expiry of ninety days from the date of the order, prefer an appeal to—

(i) Deputy Commissioner, if the order appealed against is passed by an officer below the rank of Deputy Commissioner in his capacity as Competent Authority; or

(ii) Divisional Commissioner, if the order appealed against is
passed by Deputy Commissioner in his capacity as Competent Authority.

(2) The Appellate Authority shall, within 30 days from the date of receipt of the appeal, pass such orders on it as it deems fit:

Provided that no order shall be made against any person without affording him a reasonable opportunity of being heard.

18. Revision. — The Appellate Authority may, suo moto or on an application made to it, call for the records of the proceedings taken, or orders made, by any Competent Authority for purposes of satisfying itself as to the legality or propriety of such proceedings or orders and may pass such orders in reference thereto as it deems fit:

Provided that no order shall be made against any person without affording him a reasonable opportunity of being heard.

19. Choice. — A candidate belonging to more than one category shall be entitled to claim the benefit of reservation in one category only, as per his choice, for appointment or promotion in Government service or admission in Professional Institutions, as the case may be.

20. Monthly statements. — The Competent Authority shall prepare monthly statements of all persons in whose favour certificates have been granted and shall submit the same to the Government.

21. Duplicate certificate. — If a certificate of being member of any of the reserved categories, issued under the Act, is lost, damaged or destroyed and the applicant desires to have a duplicate certificate, the Competent Authority may, after due verification of the genuineness of the applicant’s statement, issue within fifteen days from the date of such application, a duplicate certificate recording thereon in block letters the word “Duplicate” or refuse to issue such certificate communicating the reasons of refusal to the applicant.

22. Penalty for contravention of the provisions of the Act. — Any person who obtains a certificate under the Act by misrepresentation, fraud or concealment of any material fact or impersonation shall, in addition to prosecution under the law for the time being in force, be liable to—

(a) cancellation of the certificate and forfeiture of benefit;
(b) removal or dismissal from service; and

c) fine of not less than rupees ten thousand.

23. Framing of rules. — The Government may make rules to give effect to the provisions of the Act.

24. Repeal and saving. — (1) All rules, notifications and orders corresponding to the provisions of the Act shall, in so far as they are inconsistent with any provision of the Act, stand repealed.

(2) Notwithstanding such repeal—

(i) anything done or any action or any order issued under the rules, notifications or orders, so repealed, shall be deemed to have been done, taken or issued under the corresponding provisions of the Act;

(ii) the reservation in appointment or promotion against available vacancies and for admission in Professional Institutions provided under the repealed rules, notifications and orders, shall continue to be in force till a notification under the provisions of the Act is issued.
His Highness' Government, Jammu and Kashmir—Notifications.

PROCLAMATION.

His Highness the Maharaja Bahadur is pleased to command that the State Temples shall from this date be thrown open for admission of the Depressed Classes for the purpose of Darshan and prayers.

This Proclamation shall be published in a Gazette extraordinary.

A Hindi translation of this Proclamation shall be publicly recited by the Minister-in-charge Devasthan at the Shree Raghunathji Temple at Srinagar and by the Director of Devasthan at the Shree Raghunathji temple at Jammu.

(Sd.) HARJSINGH,

Maharaja,

G. C. I. E., K. C. V. O., A. D.

Srinagar: 31st October 1933.

श्री हुजूर राजेश्वर महाराजाजीराज वहादुर जम्मू वा काश्मीर वाला देवता हैं कि जागृत की तारीख से रथवाट के सर्व सहारी मद्दिन प्रार्थना वा दर्शनार्थ व्रतवश के लिये मिस्त जाली के व्यक्तियों के लिये खोल दिये जावे हैं।

हरि सिंह,

महाराजा,

श्री-श्री-आर्य-रूप-श्री-श्री-योग-प. श्री-श्री.
Appendix

LIST OF SUB-CASTES IN GUJJARS OF JAMMU AND KASHMIR

<table>
<thead>
<tr>
<th>No.</th>
<th>Sub-Caste</th>
<th>No.</th>
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<td>48.</td>
<td>MASI</td>
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### LIST OF SUB-CASTES IN PAHARIS OF JAMMU AND KASHMIR

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<td>52. Qureshi</td>
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<td>54. Qazmi</td>
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<td>27. Koshi</td>
<td>57. Ruby</td>
<td>87. Gandotra</td>
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**Source:** Jammu and Kashmir Pahari Advisory Board, Jammu

**Note:** From serial No. 74 to 119 are Hindu and Sikh sub-castes residing in Pahari dominated areas.
Publication
All Indian Rights Organization (AIRO)
(A Chapter of Naina-Dayal Foundation)
Assessment, Evolution and the Politics of Reservation in Jammu and Kashmir

Javeed Ahmed Bhat*

Abstract

Jammu and Kashmir is a pluri-cultural, pluri-lingual and pluri-religious State of India. In a sense, it represents sub continental diversity. The diverse social groups are dispersed in diverse regions of the State. To a larger extent, Kashmir region represents a heterogeneous, ethno-culture, religious and linguistic identity, although there are some distinct linguistic and cultural groups also dispersed in different parts of Kashmir. The criteria for reservation has remain always been controversial and debatable. Either it has been adopted on caste basis, area basis or profession basis. While the criteria for the other backward classes have been based on the socio-economic and educational profile of the particular community, contrary to it, in the State of Jammu and Kashmir the RBA category has been included in the OBC list of the State. The Government of Jammu and Kashmir has appointed a number of commissions and committees to sort out the issues but yet the reservation policy is being amended day in and day out in their own way. Somewhere the reservation is being demanded on caste basis, which is antithetical to the State of Jammu and Kashmir, as it is a Muslim majority State. Islam believes in an egalitarian society, which does not recognize the caste system, but still the caste based reservation policy continues to exist, which does not differentiate between the millionaires and the poor of the same caste. The aim of this paper is to critically assess and evaluate the policy of reservation in the State of Jammu and Kashmir as well as to discuss the present politics in the State.

Introduction

Introduction Reservations are now been driven by vote bank politics. This has become soft options for political parties and has assumed the role of vote gathering devices. The whole purpose of bringing about an egalitarian society has got distorted and, often the problems of the genuinely poor and disadvantaged do not get addressed in real terms. The main objective of reservation has been, and is to redress inequality so that all citizens who surely require equality are assured, “the provision of a social minimum” or in other words, in the total social, cultural and economic milieu of the country “all boats are enabled to float” that, in real terms would imply moving towards inclusive growth. However, reservation has been increased in proportionately, the overall limit, as laid down by the Supreme Court of India, is 50 percent for all types of reservations put together. Various States have exceeded the limit considerably by various legal and administrative strategies. Political parties suggest measures, as devices for improving their election prospectus and often use it as a path to gain power and influence. It directly or indirectly encourages reservation agitations and utilizes such mechanisms in a way that the issue of reservation becomes surrogate for caste politics.

Criteria for Reservation

The practice has been there since the independence of the country, for which the pretext is given to uplift the economically weaker sections of the society. As per the statics, about 40 percent of total population of India is enjoying reservation on various grounds. The criteria for reservation have always remained controversial and debatable. Either, it has been adopted on caste basis, area basis or profession basis. On caste basis, entire population of

*Research Scholar, Department of Political Science, Aligarh Muslim University, Aligarh, U.P, India.
scheduled castes of the country has been given the status of reserved category, keeping in view their bad economic condition in general and their social exclusion in particular. Similarly, some sections/tribes have been included in the list of schedule tribe categories and they have been also identified with their caste like Meena community of Rajasthan and Gujjars Bakarwal of Jammu and Kashmir etc. While as some communities have been identified with their professions like Cobblers, Barbers, Carpenters etc., and these sections have been given reserved category status in the name of social castes in Jammu and Kashmir. Not only this, another formula has been adopted in the State of Jammu and Kashmir on the basis of geographical area, which is called Resident of Backward Area (RBA) or the area adjoining actual line of control. The irony of the fact is that while including these groups in the list of reserved categories, no barrier has been put between millionaires and the poor of the same group which was given the status of reserved category. Result, the poor of the group is still at the worst end while the millionaire of the community is enjoying the benefits of reserved category. While the criteria for the other backward classes have been based on the socio-economic and educational profile of the particular community, contrary to it, in the State of Jammu and Kashmir the RBA and ALC category has been included in the OBC list of the State.

Evolution of Reservation Policy in the State

The life of the common man in the State of Jammu and Kashmir has been worst hit itself from the beginning because the State was always in the clutches of slavery of rulers. Gradually people revolted against such atrocities by organizing certain movements. The rulers were pressurized by the agitations and were compelled to take cognizance of the problem of the people. So in the beginning of the first quarter of twentieth century, the government had to take steps by way of constituting committees and commissions from time to time. Firstly, it was in November 1931, Maharaja Hari Singh appointed a commission known as Glancy Commission to look into the matters of complaints and disabilities particularly the problems related to education and employment. The Commission undertook a detailed exercise and observed that Muslims were inadequately represented in the services of the State. The Commission also recommended that there should be uniform standard for a particular job keeping in mind the legitimate interest of every community. The above recommendation provided a way for establishing a Recruitment Rule Committee in 1938 which recommended for holding a competitive examination for selecting the deserving candidates. But for higher ranks it was in October 1953 the Jammu and Kashmir Public Service Recruitment Board was constituted.

The Constitution of India enshrined various provisions for adequate representation of every community. Special care has been given to socially and educationally backward sections of the society under the Constitution of the State of Jammu and Kashmir as well. Initially, not a single tribe of the state of Jammu and Kashmir was recognized as scheduled tribe under the Constitution of India. The State Government also could not device definite or clear cut criteria for identification and classification of backward classes. It was only in February 1956, that a notification was issued for certain classes recognized as backward classes which have been amended from time to time. It was in June 1956, the State Government issued the Jammu and Kashmir Civil Services (Classification and Appeal) Rules for making the reservation in Government services for backward classes which are inadequately represented in the services. In the same year a writ petition was filed in the Supreme Court for challenging the constitutionality of the above rule. The State Government submitted before the court that 50 percent posts are to be filled by muslims of the State because they are
inadequately represented and formed backward class and 40 percent posts are to be filled by Jammu Hindus because Hindus also formed a backward community in Jammu region and 10 percent were reserved for Laddakh. The rule was declared unconstitutional on the basis of community wise distribution of posts and was whittled down by the Supreme Court of India in the case of Triloki Nath v. State of Jammu and Kashmir and others. The first Backward Class Commission was appointed in Mach 1955, which attempted to lay down criteria for the identification of backward classes but due to the diversified nature of the country a uniform formula was not possible so it was turned down in the Balaji case in which the Supreme Court held that the States are competent enough to classify the classes of backward people in their respective States. The State Government was stalking high for the formulation of concrete policy, so it was in 1967, that a commission of inquiry headed by Dr. P. B. Gajendragadkar was constituted to examine the recruitment policies and policy of admission to higher educational institutions and suggest measures for equitable distribution as well as equitable share of employment to various regions and communities. The Commission recommended that multiple criteria should be adopted for the determination of backward classes on the basis of economic, occupation, habitation and caste. It also recommended for constitution of a high powered committee for determining an identification of the classes on the basis of above mentioned multiple criteria. Pursuant to this recommendation the Government constituted a Committee under the chairmanship of Justice J. N. Wazir to consider the observation and recommendation of Gajendragadkar Commission. The committee undertook an extensive tour throughout the State and submitted its report on November 29, 1969. In its report the Committee identified and classified in explicit terms: a) weak and underprivileged section, b) residents of backward areas- i) bad pockets and ii) areas within eight kilometers of actual line of control. The State Government considered the suggestions of the Committee and framed two sets of rules. Under these rules the scheduled castes were provided 8 percent reservation and the backward classes were provided 42 percent reservation in the matter of appointment and promotions. The lacunas in the above mentioned rules have been challenged in the Supreme Court in the case of Janki Prasad Parimoo and others v. State of Jammu and Kashmir and others wherein the court directed the State Government that the rules should not be given effect to till the defects were not cured.

The State Government reviewed the total gamut of things and decided to constitute a committee under the chairmanship of Justice A. S. Anand on 24 August 1976. The Committee observed that the six categories made by the Wazir Committee could be cut down to two broad categories namely; a) 22 weak and underprivileged class and b) residents of bad pockets and areas near line of actual control. The Committee supported preferential representation for the backward classes without compromising the administrative efficiency. Finally the Committee submitted its detailed report in 1977, and on recommendation of the committee a notification was issued by the Government to provide following percentage of reservation: 1) Scheduled Castes - 8 percent, 2) Socially and educationally backward classes: a) Weak and underprivileged classes. i) Gujjar and Bakerwal- 4 percent ii) Other social castes 2 percent, b) Residents of backward areas: i) District Leh- 2 percent, ii) District Kargil 2 percent, iii) Other backward areas excluding Leh and Kargil districts 20 percent, iv) Areas near the actual line of control- 3 percent, 3) Children of freedom fighters- 2 percent, 4) Children of permanent residents of defence personals- 3 percent, 5) Candidates possessing outstanding proficiency in sports- 3 percent.
Due to the regional imbalance in employment the Government of the State was compelled to constitute another committee under the chairmanship of Justice S.M. Sikri in 1978, to review and examine the recruitment policy and recommend measures for equitable share to various regions and to ensure the equitable distribution of posts and the Committee submitted its report on August 25, 1980 and recommended that the reservation for scheduled castes should be made on the basis of population of the whole State not on the particular district. Meanwhile in the year of 1989, the president of India declared certain tribes of the State as scheduled tribe and consequently the state Government framed the rules for reservation of these tribes of the State.

At the national level with a view to determine the more comprehensive criteria for socially and educationally backward classes the Government of India appointed Mandal Commission under the chairmanship of B.P. Mandal on 1st January 1979. The Commission undertook a detailed study of the State also and identified 63 castes as socially and educationally backward in the State of Jammu and Kashmir and suggested 27 percent reservation for these castes. It is worth to mention here that Mandal commission had not recommended any reservation for “residents of backward area” or “area adjoining the actual line of control” in the State or in any part of the country. The recommendations of the Commission were challenged before the Supreme Court in the case of _Indira Sawhney v. Union of India and other_ in which the Supreme Court directed the State Governments to constitute a permanent body within four months for entertaining, examining and recommending upon requests for inclusion and complaints of over inclusion in the list of other backward classes.

With a view to implement the above judgement the State Government reviewed its earlier policy and also amended the list of backward areas and also appointed a commission headed by Justice K.K. Gupta for identifying the creamy layer for purposes of disentitlement for reservation. On the basis of its recommendation the Government vide notification dated 28-6-1994 had framed the Jammu and Kashmir Reservation rules 1994. The modified reservation policy under this rule is as follows: a) Scheduled Castes- 8%, b) Scheduled Tribes-10%, c) Socially and Educationally Backward Classes- i) Residents of Area Adjoining Line of Actual Control- 3%, ii) Weak and Under Privileged Classes (social castes)- 2%, ii) Resident of Backward Areas-20%, a) Handicapped person- 2%, and b) Ex. Servicemen and Children of Defense Personnel- 5%.

In the year 1997, the State Government acted over the directions of the Supreme Court and framed the Jammu and Kashmir State Commission for Backward Classes Act. To implement the provisions of the Act, the Government appointed a permanent commission known as the State Commission for Backward Classes to examine the requests for inclusion of any backward class of the State and to hear the complaints of over-inclusion and under-inclusion in the list of backward classes and made a periodic revision of the list. The commission has submitted a report in 2006 for enhancement of reservation from 2 percent to 27 percent for other backward classes but till date no action has been taken by the State Government to include the other social castes in the list.

Finally, in 2004 the State Government passed the Jammu and Kashmir Reservation Act 2004 for reservation in appointment, admission in professional and educational institutions for the members of scheduled castes, scheduled tribes and other socially and educationally backward classes.
The Jammu and Kashmir Reservation Act, 2004

Further, in 2004, in order to ensure upliftment of the reserved categories by proper and effective compliance the State Government passed The Jammu and Kashmir Reservation Act, 2004 with an objective to provide for reservation in appointment, and admission in Professional Institutions, for the members of Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes. With the making of this Act the State of Jammu and Kashmir has achieved a rare distinction of being among the few States of the country that has a statutory cover for reservation policy that would go a long way in its effective implementation.

Chapter II of this Act make provision for reservation in appointment by direct recruitment. The vacancies notified by the Government from time to time shall be reserved for appointment by direct recruitment from amongst the person belonging to Scheduled Castes and the Scheduled Tribes which shall not exceed the ratio and proportion as the population of each such category bears to the total population of the State as per the latest available census; and Socially and educationally backward classes, provided that the total percentage of reservation shall in no case exceed 50%, provided further that the Government shall exclude the services and posts, which, on account of their nature and duties are such as call for highest level of intelligence, skill and excellence, from operation of the Act.

Chapter III of the Act provides for reservation in Government service by promotion. The available vacancies notified by the Government from time to time, shall be reserved in any service, class, category or grade carrying a pay scale the maximum of which does not exceed the pay scale of the post of Deputy Secretary to Government, for promotion from amongst the persons belonging to the Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes, provided that total percentage of reservation shall not exceed 1[31%] of the available vacancies, provided further that the Government shall exclude the services and posts, which on account of their nature and skill are such as call for highest level of intelligence, skill and excellence, from the operation of the Act.

Further, chapter IV of the above Act provides for reservation in professional institutions. The Government shall reserve seats in the Professional Institutions for candidates belonging to reserved categories and such other classes and categories as may be notified from time to time, provided that the total percentage of reservation shall in no case exceed 50% and the Government shall prescribe the percentage for each category in admission in the Professional Institutions, provided that different percentage may be prescribed for different courses, provided further that 50% of the seats in each category including open category for admission to MBBS and BDS, shall be selected from amongst female candidates belonging to such category, provided also that the seats in any reserved category, which cannot be filled for want of candidates belonging to that category, shall be filled from amongst the candidates belonging to open merit category.

Jammu and Kashmir Reservation Rules, 2005

Consequently, in exercise in exercise of the powers conferred by section 23 of the Jammu and Kashmir Reservation Act, 2004, section 22 of J&K Persons with Disabilities Act, 1998 and all other relevant provisions of the law in this behalf, the State Government framed the Jammu and Kashmir Reservation Rules, 2005. Rule 4 provides for Reservation in Direct Recruitment. It says that the available vacancies shall be reserved for direct recruitment in each service, class, category and grade in favour of permanent residents of the State.
belonging to any of the below mentioned categories which shall, as nearly as possible, constitute the percentage of available vacancies shown against each:

(a) Scheduled Castes: 8%
(b) Scheduled Tribes 10%
(c) Socially and Educationally Backward Classes (other than Scheduled Castes and Scheduled Tribes):
   i) Weak and under privileged Classes (social caste) 2%
   ii) Residents of areas adjoining Line of Actual Control 3%
   iii) Residents of backward areas 20%
(d) Ex-servicemen 6%
(e) Physically Challenged Persons 3%

Rule 9 provides for Reservation in Promotion. Under this rule the available vacancies shall be reserved in any service, class, category or grade carrying a pay scale the maximum of which does not exceed the pay scale of the post of Deputy Secretary to Government, for promotion from amongst the persons belonging to the Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes:

(a) Where the direct recruitment to a particular post is at 25% or less, the reservation shall be;
   i) Scheduled Castes: 8%
   ii) Scheduled Tribes 10%
   iii) Socially and Educationally Backward Classes
      a) Weak and under privileged Classes (social caste) 1%
      b) Residents of areas adjoining Line of Actual Control 2%
      c) Residents of backward areas 10%

(b) Where the direct recruitment is more than 25% the reservation shall be:
   i) Scheduled Castes: 4%
   ii) Scheduled Tribes 5%
   iii) Socially and Educationally Backward Classes
      a) Weak and under privileged Classes (social caste) 1%
      b) Residents of areas adjoining Line of Actual Control 2%
      c) Residents of backward areas 10%

Rule 13 provides for reservation in professional institutions. It says, seats shall be reserved for Scheduled Castes, Scheduled Tribes and Socially and Educationally Backward Classes in each course of professional institutions which shall, as nearly as possible, constitute such a percentage of the available seats in that course as shown against each category or group hereinafter:

i) Scheduled castes 8%
ii) Scheduled tribes
   a) Gujjars and Bakkarwals 6%
   b) Residents of District Leh 2%
   c) Residents of District Kargil 2%
   d) Other than (a), (b) and (c) above 1%

iii) Socially and Educationally Backward Classes (other than Scheduled Castes and Scheduled Tribes)
   a) Weak and Underprivileged classes (social caste) 2%
   b) Residents of area adjoining Actual Line of Control 3%
   c) Residents of Backward areas 20%

Rule 14 provides for Other reservation. It provides that in addition to the reservations specified in rule 13, the following reservation is also made in favour of the following categories of the permanent Residents of the State to the extent shown against each:

   a) Children of Defence Personnel 3%
   b) Children of Para-Military Forces 1%
   c) Candidates possessing outstanding proficiency in sports 2%

In this context it is significant to note that the report of Commission for Backward Classes submitted in the year 2005-06 recommended for enhancement of reservation quota of social castes from 2 percent to 27 percent as per the judgment of the Supreme Court on Mandal Report.

Jammu Kashmir Civil Services Decentralization and Recruitment Act, 2010

On 9 April 2010, the State Assembly passed a controversial Bill which bans inter-district recruitment and provides a quota for Scheduled Castes in government jobs in all districts. With the passage of the Inter-District Recruitment Bill, a person can now apply for government jobs only in his own district while a person belonging to the Scheduled Castes community can apply in any of the 22 districts in the state, including the Kashmir valley. It says that person shall be deemed to be resident of a particular District or Division if he/she has resided in such District or Division, as the case may be, for a period of not less than 15 years before the date of applying for a particular post and is actually residing in the said area. But if the candidate is applying under Scheduled Caste category for any post in the Divisional or District cadre shall, irrespective of their place of residence in the State, be eligible for selection against the posts reserved for the said category at such selection.

Politics of Reservation

At the time of the partition of the subcontinent of India there has been a systematic division on regional, ethnic and communal lines in the State of Jammu and Kashmir suiting the political interests of the government of the time. Today the division has trickle down to Mohalla and village level. Firstly the divisions at province level are now significantly visible within the state. Jammu's Dogras and Laddakhi Buddhists stand against the Kashmiri speaking people of the valley. Muslim Paharis against Muslim Gujjars and Bakkarwals.
Sunni Muslims against Shia Muslims. Hindu Dogras against Hindu Rajputs. Hindus of Jammu Kuthwa against Muslims of Rajori Poonch-Doda. Buddhists of Leh district against Muslims of Kargil district. Kashmiri speaking Muslims of Doda Baderwah Rajori Poonch against Pahari-speaking Muslims of the same area. Another significant division is between well developed urban Srinagar and rest of the rural Kashmir. The divisions are now deeply embossed in the mind of people. Now they are demanding autonomy which further had facilitated such divisions. The nefarious designs of such people got vent with the creation of Laddakh Autonomous Hill Development Council in 2003. In addition to it the State government were compelled to appoint a Regional Autonomy Committee for Jammu province. Recently, a new wave of division started for the creation of new district and Tehsils. The sole reason of the above divisions is the preference of exclusive party agendas over genuine decentralization model. The regional tension, divisiveness and the disparity existing in the State of Jammu and Kashmir is not new. It was way back in 1961 when some grievances arise in Jammu that led to the constitution of Gajendragadkar Commission which were also politically influenced, recommended the establishment of Regional Development Boards which sowed the seed of the communalism in the State. To the end of 80's, almost all the State Government departments were bifurcated or trifurcated. Most of the state level posts were replaced by divisional level posts. The reservation for socially backward classes and ethnic groups created further social, regional and political divisions.

The issue of SCs

The introduction of the Inter-District Recruitment (Amendment) Act 2010 was the best example of the politically motivated action of the State Government. Despite enjoying the numerical majority in the State Assembly, the National Conference (NC) chooses to go by the Congress Party stand on the Bill. It shows how the State's politics is subservient to the preferences of Congress Party. The message conveyed was clear that State political parties can compromise their mandate for the sake of their bosses at the centre.

The Act in its amended form is bound to divide communities and groups on geographical lines. The Act is also unjust to the State's Muslims particularly those belonging to the Kashmir Valley. As per the amended Act, the scheduled castes that comprise of certain Hindus particularly of Jammu region will now enjoy 8 percent reservation in all the districts of the State. Whereas there are no scheduled castes in the ten district of the valley but they will enjoy their reservation too. This is the best example of vested interests of the national parties in the State of Jammu and Kashmir who motivate to consolidate their vote banks in Hindu dominated areas at the expense of Muslims. The Act is not only against the Muslims of the State but also it has a potential to further divide the State on ethnic, religious and geographical lines. This Act raises some serious questions on the basic idea of reservation applicable to the State of Jammu and Kashmir.

The issue of RBA

The State of Jammu and Kashmir seemed to take reverse turn on the developmental path because more and more people are demanding the backward status for their areas. It is again the issue of misnomer work of the policy makers. It is only in the State of Jammu and Kashmir that geographical area had been made the criteria for granting reservation quota to backward and underprivileged classes. Besides it, in this backward area category there has been no ban or barrier between the poor and the millionaires but the only criteria is to be a resident of that particular area. Revenue records are sufficient to claim for resident of backward area (RBA) category. No matter, whether they are living in the cities or the posh
colonies of the metropolitan cities. We have hundreds of examples where the wards of high ranking officers are snatching the rights of those poor people who deserved to be given to special chance to excel but unfortunately the creamy layer of the community is only the beneficiary of the area based reservation policy. It has been established that granting the reserved category status is a major aim to bring underprivileged section of the society at par with advanced category but the “benign discrimination” has been misused or moulded to suit vested interests, as RBA status has been extended to areas which enjoy educational and other facilities at par with people of advanced categories. As a result, the State has been consigned to the hands of an incompetent administrative officers, undeserving doctors and unqualified engineers. The State Commission for Backward Classes is flooded with thousands of requests for inclusion and complaints of exclusion. In the State of Jammu and Kashmir a number of villages with all necessary educational facilities and high social status are enjoying the fruits of RBA status. The irony of the fact is that the tehsil headquarters with all facilities have been listed in the RBA category due to vote bank politics.

Implementing the Mandal Commission Recommendations, like all the States, Jammu and Kashmir too appointed a permanent body in order to include and exclude the areas and categories from the list of reserved categories. The Jammu and Kashmir State commission for Backward Classes (SCBC) was constituted in 1997. The Act says that the Government should revise the list contemplated under section 2 (d) of the Act after expiration of every succeeding ten years period. The objective is to exclude from such lists those classes who have ceased to be backward or for including in such lists new backward classes. Fifteen years have passed when the Act was promulgated but there has been no exclusion of any area from the RBA list. According to justice Bhat, Chairman SCBC, in an Articled published in *Kashmir Life*, “Upto March, 2009 there were 1755 representations pertaining to grant of RBA or reserved category status pending with the Commission. Out of it 1154 are from Kashmir and 601 from Jammu division”.

The Jammu and Kashmir Reservation Act, 2004 says that the children of any person whose annual income from all sources exceeds Rs. 3 lacs or such amount as may be notified by the Government from time to time in accordance with the prescribed norms shall be excluded from the category of socially and educationally backward classes. However, the Jammu and Kashmir Reservation (Amendment) Bill, 2009 proposed that “the income ceiling shall not apply to a person who has lived and contemplated entire school education from an area identified as Backward or areas adjoining Actual Line of Control, as the case may be, and in case such schooling is not available in such area, from the nearest adjoining area.”

The issue of OBC

Another major issue confronting to the State of Jammu and Kashmir pertains to the other backward classes who always remain the matter of debate from the beginning. Due to persistent and stringent demand of the neglected socially and educationally backward classes, the Government of India appointed the first backward class commission “Kakasaheb Kalelkar Commission” on 29 January 1953. After a detailed ground work the Commission submitted its report on 30 March 1955, listed 2399 castes as socially and educationally backward class. Pursuant to its criteria, the Government of Jammu and Kashmir also appointed a committee which recommended 50 reservations for Muslims of Kashmir, 40 percent for Jammu Hindus and 10 percent for Kashmiri pandits. This decision itself was flawed as it was done on communal lines, which was antithetical to the Constitution on India and was subsequently struck down by the Supreme Court in the case of
Triloki Nath v. State of Jammu and Kashmir.\textsuperscript{34}

The backward classes of the State were constantly ignored and discriminated. Notably first time the Gajendragadkar Commission in 1967, made some recommendations for determining the multiple criteria for backward classes like economic backwardness, occupation, place of habitation, student ration and caste in relation to Hindus.\textsuperscript{35} It also recommended the fresh revision of reservation policy based on the above mentioned multiple criteria. So the Government of Jammu and Kashmir appointed a high powered committee (J.N.Wazir Committee) which took fresh revision. On the basis of its report, the new rules were framed, which provided for 8 percent reservation for SCs and 42 percent for backward classes including 2 percent reserved for Laddakh District. While the scrutiny of these rules, the Supreme Court while pointing out certain defects directed the State government to cure these defects. So again a committee under the chairmanship of Justice A.S.Anand was constituted in September 1976. The Committee submitted its report in September 1977, and recommended 2 percent reservation for social castes, and inclusion of RBA and ALC categories with 27 percent reservation in the broad category of socially and educationally backward classes. The atrocious system of reservation was followed by Mandal Commission in 1980. The Mandal Commission in its report submitted on 12 December 1980 identified 63 castes, communities as “socially and educationally backward classes” and recommended 27 percent reservation for them. The Commission had not recommended any reservation for “residents of backward area or areas adjoining the line of control” in the State of Jammu and Kashmir or in any other part of India.

Subsequently, the Mandal Commission recommendations were challenged before the Supreme Court in the case titled Indira Sawhney v. Union of India\textsuperscript{36} in which the Court held that the States and Union Territories under section 123 (A) provides for constituting a permanent body within four months for entertaining, examining and recommending upon requests for inclusion and under inclusion in the list of backward classes.

Following the judgment of the Supreme Court, the Jammu and Kashmir Government which was under Governor rule at that time also appointed retired justice K.K.Gupta Commission, which prove mere an eye wash as the said commission worked only on the report of over ruled Anand Committee of 1977 whereas this fraud can very well be judged from the below : a) SC-8%, b)ST-10%, c) socially and educationally backward class: 1) RBA-20%, 2) ALC-3%, 3) weak and underprivileged classes (social castes)-2%, d) handicapped person-2%, e) ex-servicemen and children of defense personnel-5%.\textsuperscript{37}

Formally, the State Government appointed a permanent State Commission for Backward Classes in 1997,\textsuperscript{38} with eminent retired jurists but the Commission even after the passage of 15 years failed to provide 27% reservation to socially and educationally backward classes identified by Mandal Commission. The inclusion of backward area and area adjoining to actual line of control under section 2(o) of the Act and Rule 4(c) of the SRO of 2005 is against the provisions of Article 15(4), Article 16 (4) and Article 340 of the Constitution of India. The RBA and ALC people does not carry the stigma of social backwardness. In addition to it, Mandal Commission nowhere mentioned the area wise reservation on geographical basis. Further, the National Commission for Backward Classes, New Delhi, also does not accepted RBA and ALC reservations for central government services. Thus the backward classes not only discriminated in State but also are debarred from the reservation by the central government also because of the ambiguous policy of the State. Only mere 2% social castes of the State of Jammu and Kashmir get reservation in the centre under 27 percent reservation
quota meant for other backward classes.

**The Gujjar-Pahari issue**

As far as the contemporary internal conflicts in Jammu and Kashmir is concerned, the political and social clashes between the Gujjars and Paharis are perhaps one of the most serious challenges to internal peace at the micro-level and an emerging impediment to solving the Kashmir issue at large. This conflict between the Gujjars and the Paharis, transcends all regional boundaries and religions within Jammu and Kashmir and beyond. Historically, this fault line erupts several decades ago but the issue becomes sharpened in 90's when Gujjars have been included in the scheduled tribe list of the State. The situation has worsened when a similar demand had been made by number of ethnic groups and castes from muslims, hindu and sikh groups congregate under a pahari speaking community.

The controversy is taking much heat day by day on a large scale because the political parties extend selective patronage to one community against other for vote bank politics. It is only the political parties and the Government of the State who helped, directly or indirectly in escalating conflict between the two communities from time to time. This resulted in the tension between Gujjars and Paharis who nurse huge contempt for each other. In Rajori and Poonch district of Jammu province and some parts of Baramulla, Kupwara, Bandipora and Badgam district of the Kashmir province where these communities are predominant, the Gujjar Pahari divide becomes a dominant factor in all decisions- political and administrative, from selection of candidates for assembly elections, appointment of ministers in the cabinet, nominating office bearers of political parties to posting of Government officers at different levels in the districts, even identifying Government projects like schools, dispensaries, roads and bridges etc., is a major determining factor. Instead of resolving the issue, the political parties are playing the Gujjar and Pahari cards which further aggravate the situation and sharpen the conflict.

The issue of multiple ethnicities and diverse languages, which should have been a source of strength for the State, has become a disadvantage as it has become a constant point of friction among the diverse identities in the State. There are several historical facts behind the Gujjar-Pahari issue. In the early years of their arrivals the Gujjar of Jammu and Kashmir took direct confrontation with Rajput clans for political and strategic reasons. Rajput being the Zamindars employ Gujjars and tillers, domestic help and casual labourers for centuries. The tussle between Zamindars and tillers is an old story. Even today the social differentiation continues to be a major factor for the gap between Gujjar-Pahari inhabited areas. Thus there seems a huge potential for social unrest which is being proliferated by the political parties. The only possible solution for this conflict lies in the capabilities of the Government to alleviate the socio-economic profile of the two communities. Giving the ST status to Paharis would further aggravate the situation. It also warns of the risk of opening a Pandora's Box of similar demands from other ethnic group. It is strange to analyse that besides the demand of Paharis for ST quota, they already are the major stakeholders of 20 percent RBA category and 3 percent ALC category. Though, the reservation policy needs a fresh review in the light of the above burning issues, ranging from ethnic, regional, linguistic, communal social and political.

**Conclusion**

The reservations, though express some different perspective, but marked some purpose and objective is known by different names; benign discrimination, contemporary discrimination,
positive discrimination, protective discrimination, affirmative action and reverse
discrimination. The only aim of the reservation is to ensure that no section of the society is
deprived of its rightful place in a true democracy. Reservation is a right for participation in
education, service and politics etc., but it is now easily available as soft option for political
parties as their vote gathering device. Political parties use reservation as a device for
improving their election prospectus to influence and gain power. The State of Jammu and
Kashmir is not an exception to it, where reservation policy has always remained a tool in the
hands of political parties to suit their vested interests. Every political party in power has
amended the policy through their own unique criteria ranging from caste base, area base to
profession base, ignoring the fundamental provisions meant for reservation enshrined in the
Constitution of India. This negligence on the part of policy makers sowed the seeds of
division at regional, linguistic, ethnic and communal lines which proved to be a tower of
Babel in the State.

The Government of Jammu and Kashmir has appointed a number of commissions and
committees to sort out the issues but yet the reservation policy is being amended day in and
day out in their own way. Somewhere the reservation is being demanded on caste basis,
which is antithetical to the State of Jammu and Kashmir, as it is a Muslim majority State.
Islam believes in an egalitarian society, which does not recognize the caste system, but still
the caste based reservation policy continues to exist, which does not differentiate between
the millionaires and the poor of the same caste. The unconstitutional/illegal pattern of
reservation resulted in a race in which every section and group is demanding reservation on
self defining criteria aggrandized by the political parties sidelining the very purpose of
reservation. In a diversified State of Jammu and Kashmir the only solution to all the above
mentioned issues is the socio economic amelioration of the disadvantaged masses.

Notes & References

1 R. C. Gupta, A Manual on Reservation for Selection to Professional courses and Appointment to

2 Ibid

3 Part III and part IV of the constitution of India, which is equally applicable to the State of Jammu
and Kashmir.

4 Particularly section 23,

5 1 1969 SCR [1] 103

6 AIR 1963 SC 649

Press, Jammu, 1967, p. 1

8 Government order no. 252- GD of 1969

9 Supra note 1, p. 14

10 Notification No. 37- GR of 1970 and Government order no. 60- GR of 1970

11 AIR 1973 SC 930
12 Government order no. 54-GR of 1976
13 Government notification vide SRO No 272
15 The Constitution (Jammu and Kashmir) Scheduled Tribes order 1989
16 Notification SRO 205 of 2/7/1991
17 AIR 1993 SC 477
18 Government Notification SRO 126 dated 28/6/1994
19 Act No XII of 1997
20 Act No XIV of 2004
21 Chapter II, section 3
22 Chapter III, section 6
23 Chapter IV, section 9
24 Notification vide SRO 294 in October, 2005
25 Act No. XVI of 2010
26 Section 13
28 Supra note 7, p. 94
29 Supra note 27, p. 13
30 Supra note 19
31 Section 11,
32 Supra note 20
33 Ashok Kumar Basotra, O.B.C.s of J&K - Fighting for their Fundamental Rights Since Independence, 10 October, 2008, p. 1 available at ........
34 Supra note 5
35 Supra note 7
36 Supra note 17
37 Supra note 18
38 Supra note 19

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