

# Quota System in Various Countries

By

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**Abstract :** This paper discusses affirmative action policies in various countries. The main purpose of the paper is enunciate that protected treatment for under privileged sections of the society is not specific to India alone. This paper also examines the different approaches to employment quotas for women and physically challenged persons and critically evaluates the reasons for divergence.

**Introduction:** In 1989, the International Convention on the Elimination of All Forms of Racial Discrimination stipulated in its Article 2.2 that affirmative action programs in order to rectify systematic discrimination may be required in countries that ratified the convention. It also states that such programs "shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.<sup>1</sup>It also proclaims:

‘The principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant.’

Hence, apart from India, many other countries also have the quota or reservation systems, or positive discrimination ( in the UK and employment equity in SA and Canada) as a part of their inclusive policy, generally termed as ‘affirmative action’ as many of them have already realized that a comprehensive development is not possible without inclusion of all social groups. The following countries have inclusive policies in one or the other way:

1. Brazil
2. Bangladesh
3. Canada
4. China
5. Finland
6. Germany
7. Israel
8. South Africa
9. Malaysia
10. Japan
11. Macedonia
12. Nepal
13. New Zealand
14. Norway.
15. Pakistan
16. Romania
17. South Korea
18. Sri Lanka
19. Sweden
20. The United Kingdom
21. The United States

Though, unlike India, these countries do not have a cast system, but they adopted affirmative policies to include the minority groups or aborigines into the mainstream. However, quota for endogamic social groups - caste, tribe, and ethnicity exists to some extent, though under the guise of bumiputra, sons of soil or indigenous people in South Asian countries that were influenced by the Indian caste system in olden days.

## Main content

Brazil, in 2001, announced its racial based affirmative action by providing quota for black students in public funded institutions of higher education which generally intakes the students on the basis of a Vestibular exam, a kind of entrance test. It was a surprising step as the Brazilian democracy has been generally tagged as a racial democracy. Under this system 49 out of 95 government run (state and federal) universities have adopted quota system while some universities have introduced a 'point' system which gives additional "points" to the applicants belonging to disadvantaged class. In 2012, National Congress approved a law (Quota Law) that made it mandatory for all federal higher education institutions to implement quotas on the basis of family income, race (being indigenous, black, or brown) and previous attended school (for students who came from government schools). It is assessed that around 45 thousand students are benefited by this system by the end of 2010.<sup>2</sup> Further, the University in Sao Paulo reserved its 50% of seats to the black students.

In Bangladesh, a relatively conservative country with negative bias towards women, approximately 10% quota has been reserved in parliament constitutionally for women initially for 10 years and later extended through presidential proclamations upto 2001. It has similar quota in local bodies also. This system relatively empowered the women in otherwise men-dominated country.<sup>3</sup> Further, there is a 5% quota for Tribals.

Canada passed, in 1986, the Employment equity law that requires employers to adopt measures to increase the representation of four designated groups, namely Women, Aboriginals (Indians, Inuit (the Aboriginal people of the Arctic), Métis (people of mixed French-Aboriginal ancestry in western Canada), and Visible Minority (other than Aboriginal non-Caucasian in race or non-white in colour) and Disables.

Though, this law falls under the category of 'soft laws' that are usually regarded rather an initiation than mandatory, the Canadian government claims that the law has been a success as the categories of the people mentioned in this laws has been employed more than their share in the work force. For instance, Women surpassed their share in work force of 52.2% by 1.8% margin and Visible Minority group by 0.8%. They form 13% of work force but after implementing of this law their representation in working force raised to 13.8%. Similarly, the aboriginals and handicaps got 5.1% and 5.6% respectively against their workforce availability of 3.4% and 4.4%.<sup>4</sup>

In China has its own affirmative action policy called Youhui Zhengce, since 1949, under which the Minorities receive proportional representation in local government institutions. The minority regions need not to send taxes to the central government; all of it can be spent locally. The government offers interest-free loans to businesses-men belonging to minorities. Minority students receive bonus points in the National Higher Education Entrance Examination. There are some exclusively minority universities also and the minority students get additional assistance through bilingual programmes to learn *Mandarin Chinese*, the official Chinese language. The Chinese government officially allows minority couples to have more than one child inspite of One Child Policy that has been strictly imposed upon Han people. Some prominent government posts may be filled by minority-model citizens.<sup>5</sup>

**Finland** has certain quota -- in some, not all, universities such as Helsinki University -- for those who achieve a certain degree of skills in the Swedish language; for these students the education is partially arranged in Swedish. There is separate autonomous School of Social Sciences in Helsinki University for Swedish minority linguistic group. Apart from this, women may get preferential treatment in recruitment for certain public sector jobs if there is a gender imbalance in the sector.<sup>6</sup>

South Africa also has an affirmative action plan, similar to that of Canada, under the Black Economic Empowerment law generally called as BEE. This act, adopted in 2003, makes it mandatory for Employers with more than 50 workers, local government institutions, and state-organs to employee people belonging to disadvantage sections of the population, namely Women (without colour/race discrimination), handicapped (without colour/race/sex discrimination), and Blacks in accordance with their representation in population. The commercial Companies must have 70% blacks, 10% Coloured and 8% Indians, and 10% Whites in their Board of Directors. If they fail to comply, the Department of Labour can impose fines and may also prosecute such defaulters.<sup>7</sup>

However, there is an astonishing fact about BEE that it is not meant for any minority group but for the majority. The BEE commission defines its aims as 'to ensure broader and meaningful participation in the economy by black people to achieve sustainable development and prosperity'. Later, in 2007, another broad based programm named as 'Broad-Based Black Economic Empowerment' (B-BBEE) has been initiated to coup up with the shortfalls of the previous programme. The later include the, previously excluded, South African Chinese also under the term Black, though, through a court intervention.<sup>8</sup>

Similarly, Malaysia, after the racial riots of 1969, adopted a *New Economic Policy (NEP)* in 1971. This policy was also intended to protect the economically and socially backward Malay majority against the economically well developed Chinese minority. Officially, the policy has been aimed to provide assistance to all Malaysians in: *Finding employment, Securing participation in economic activities, Acquiring ownership in various economic sectors.*

This policy has been more concentrated on provision of economic hold to the *Bumiputras*, 'the Sons of the Soil' or in other words, indigenous people belonging to Malay race. The distinguishing feature of this imperative action was to set aside a 30% equity shares for *Bumiputra* investors in all Initial public offerings (IPOs) and to provide 7% discount on houses or property.

Apart from the wealth distribution, the NEP provided quota system for the *Bumiputras* in admission to government educational institutions, qualification for public scholarships, marking of universities exam papers, special *bumiputras*-only classes prior to university's end of term exams, for positions in government, and ownership of businesses. Though the quota system was canceled in 2002 but in its place an additional points-rewarding system has been introduced in entrance exams. Further, the policies framed under the influence of NEP include:

- Companies listed on the Kuala Lumpur Stock Exchange (*Bursa Saham Kuala Lumpur*) must have 30% *bumiputra* ownership of equity to satisfy listing requirements. Foreign companies that operate in Malaysia also must adhere to this requirement.
- For a limited period, certain percentage of any new housing scheme has to be sold to *bumiputra* owners with a minimum 7% discount
- A basket of government-run and profit-guaranteed mutual-funds are exclusively available only for *bumiputras*. The *Amanah Saham Nasional (ASN)* has return rates approximately 3 to 5 times that of local commercial banks.
- Many government-tendered projects require that companies submitting tenders be *bumiputra* owned.
- Certain Projects were earmarked exclusively for *bumiputra* contractors.
- Approved Permits (APs) for automobiles preferentially allow *bumiputra* to import vehicles. Automotive companies wishing to import cars need to have an AP that is possible if the company have at least 70% *bumiputra* ownership.

The above measures successfully increased the economic hold of indigenous Malay people in Malaysian economy and wealth-holding.<sup>9</sup>

**Germany**, introduced quotas in 2001 for Women and disabled persons in the public employment sector, but its implementation in private sector employment still faces serious opposition. Opinions still differ as to whether Articles 3(2) and 3(3) of the Constitution allow the affirmative action with regard to women and disabled person's employment or not as the amendments to the Basic Law in November 1994 did not clearly endorse this approach. Nevertheless, there are programs initiating that if men and women have equal qualifications, women have to be preferred for a job; Similarly, the disabled should be preferred to non-disabled people. This was applicable for all positions in state and university service as of 2007<sup>10</sup>

Israel has a unique quota system, in four university admissions that is based on structural disadvantages, especially neighborhood Socio-economic status and high school rigor. Further, individual hardships are also weighed. Apart from the above, Women, Arabs, Blacks and handicaps are entitled to Affirmative Action in the civil service employment and they are entitled for full University tuition scholarships by the state.

New Zealand provided Affirmative action under section 73 of the Human Rights Act 1993 and section 19(2) of the New Zealand Bill of Rights Act 1990. Under this programme individuals of Māori or other Polynesian descent are often offered improved access to university courses, and provided special scholarships.

In the UK, affirmative action is rendered illegal as it is based upon racial discrimination.<sup>11</sup> On the contrary the approach to equal treatment is described as being "color blind" or "positive action" that ensures the absence of prejudice to the criteria of merit. The focus here tends to be on providing equal opportunity and for this purpose measures such as targeted advertising campaigns to encourage ethnic minority candidates may be launched. However, it allows selection of a equally qualified candidate from an "under-represented" group, practically, ignoring another potential candidate belonging to the sufficiently-represented group.

However, there are certain exemptions to the above anti-discriminatory law. For instance, The Sex Discrimination (Election Candidates) Act 2002 allows the all-women shortlists to increase

women representation in various elected bodies. Similarly, the Good Friday Agreement, that is the outcome of the Northern Ireland Peace Process, make it mandatory to maintain 50:50 balance in Northern Ireland police force between Protestants and Catholics.

In the USA affirmative action was initiated in 1965. The Federal Government through the Executive Order 11246 affirms its commitment "to promote the full realization of equal employment opportunity through a positive, continuing program in each executive department and agency". Later, it was extended to women by Executive Order 11375. In original purpose of the U.S. affirmative action was to pressure institutions into compliance with the nondiscrimination mandate of the Civil Rights Act of 1964.

In Taiwan Ministry of Education and Council of Aboriginal Affairs announced in 2002 that Taiwanese Aboriginal students would have their high-school or undergraduate entrance exams boosted by 33% for demonstrating some knowledge of their tribal language and culture. The percentage of boost have been revised several times, and by 2013 it reached to 35%.<sup>12</sup>

In Norway, Sweden, and Finland certain special provisions are provided to Sami people such as certain areas were excluded for them in respect to the purchasing of property and Reindeer rearing.<sup>13</sup>

In Macedonia, the gender-reservation was provided to the 'under-represented sex' that practically means women, who at that time forms only 3% in Macedonian elected bodies. The Election law, passed on 25<sup>th</sup> June 2002, made it obligatory for all political parties to enlist at least 30% of the women candidates for the elections of national elective bodies where as in local bodies certain positions are earmarked for women.<sup>14</sup>

Conclusion : the above observations shows that in several countries of the world, apart from India, the quota system is in vogue. In some countries it is on ethnic, or religious base and in some countries it is gender base or dis-ability based.

<sup>1</sup> United Nations Committee on Human Rights, General Comment 18 on Non-discrimination, Par. 10

<sup>2</sup> Edward Telles and Marcelo Paixão, 'Affirmative Action in Brazil' *Lasaforum*, Spring 2013, vol. XLIV : issue 2

<sup>3</sup> Prof. Najma Chowdhury, Proceedings of 'Regional Workshop on The Implementation of Quotas: Asian Experiences by International Institute for Democracy and Electoral Assistance (IDEA) on 25 September 2002 in Jakarta, Indonesia : 'The Implementation of Quotas: Bangladesh Experience — Dependence and Marginality in Politics'.

<sup>4</sup> 23<sup>rd</sup> (2014-15) Annual Report to Parliament on Employment Equity in the Public Service of Canada by the President, Treasury Board of Canada, Catalogue No. BT1-28E-PDF; ISSN: 1926-2485

<sup>5</sup> Singer, Rena. "China's Minorities Get Huge Affirmative-Action Benefits." *Knight-Ridder Newspapers at The Seattle Times*. Tuesday August 26, 1997. Retrieved on January 4, 2014.

<sup>6</sup> <https://www.helsinki.fi/en/swedish-school-of-social-science/about-sockom>

<sup>7</sup> WageIndicator 2017 - Mywage.co.za - Affirmative Action

<sup>8</sup> <http://www.bee.co.za/content/Information.asp%7D>

<sup>9</sup> Just Faaland, Mukhriz Mahathir and Khairy Jamaluddin (2003). *Malaysia's New Economic Policy: An overview*. Utusan Publications & Distributors Sdn Bhd

<sup>10</sup> Stock, Anke J., Affirmative Action: A German Perspective on the Promotion of Women's Rights with Regard to Employment. *Journal of Law and Society*, Vol. 33, No. 1, pp. 59-73, March 2006

<sup>11</sup> The UK Labour law prohibits discrimination against a person because they have one of the "protected characteristics", which are, age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, and sexual orientation.

<sup>12</sup> Alain Kralsfield *et al*, *Intrnational Handbook on Diversity management at work*, 2<sup>nd</sup> ed. 2014, Edward Elgar Publishing, Glos, UK)

<sup>13</sup> Wikipedia/taiwan

<sup>14</sup> Daniela Dimitriveska, *Quotas, the case of Macedonia*, paper presented in a conference on The Implementation of Quotas: European Experiences, organised by IDEA, at Budapest, Hungary, on 22-23 Oct, 2004,