CHAPTER-II
RESERVATION POLICY : HISTORICAL PERSPECTIVE

A. GENERAL

Indian Society has been described as a “compartmental” society; within it a vast number of groups maintain distinct and diverse style of life. The system by which these groups are related and mutually accommodated is so complex as to defy general description. However, to place in their setting the legal developments we shall discuss, it is necessary to sketch some of the principal features of India’s social order and its recent history.

India was a country with a high rigid caste based hierarchal structure where the higher caste enjoyed most of the benefits while the lower castes were looked down upon by the higher castes.

Hinduism is the oldest way of thing and a very rich philosophy and al scientists interested in this ancient religion of world. It stress on three things, purity of Upasana, Vacha and Karma. Which means we should have pure heart sweet and soft spoken and should have justly of work caste system is a fraud and misinterpreted.

One of the distinctive and pervasive feature of Indian society is the division into castes. Caste in the narrower sense primarily applies to the Hindus, who make up 85% of India’s population. Many features of caste are also found non-Hindu groups, and the term “caste” used here applies to these groups as well as to Hindus. There are exceptions to almost any statement that can be made about caste, but only the most prominent exception will be noted here. The term “caste” itself has a variety of meanings. It takes on different shadings in the context of village, locality, region, and nation. It is in effect a set of shifting idioms for talking about affiliation and status. To start with, a caste may be taken to mean a jati – an endogamous group bearing a common name and claiming a common origin, membership in which is hereditary, linked to one or more traditional occupations, imposing on its member certain obligations and restrictions in social intercourse, and having a more or less determinate position in a hierarchical scale of ranks. It has been estimated that there are 2,000 or 3,000
such castes (or sub-castes, as they are sometimes called) in present day India. The population of these endogamous caste groups may range from hundreds to millions. An estimated places the medium size of such groups at between 5,000 and 15,000.

Membership in the caste group is ordinarily conferred by birth and is unalterable, although it may be lost by expulsion from the group. Members normally marry within the group; most social intimacy occurs within it. Ordinarily, one does not dine with those who are outside the caste. Members of the caste follow a common round of life. They have a characteristic diet, domestic routine, style of dress, and round of religious expression, its own fasts and feasts. Some cultural characteristics may be shared by all or most castes over a wide geographical area, but others may be distinctive to one or a few castes.

Although most castes have a traditional occupation, in only a few—especially the skilled artisans—is it followed by the most members today. Agriculture is in effect open to all groups and is engaged in widely by persons belonging to all groups. In many cases, caste tradition precludes entry in to certain occupations, while the network of caste ties provides access to others.

B. CASTE : MEANING AND SCOPE

Verna has different stages in social context. Caste is a Latin word which Portuguese introduced in 15th century in India which literally means “Chaste or pure”. Some clever Indian immediately used it for their interest and use of interpretation of jatti. Jattivad was always rejected by true sages of Hinduism.

There was mention of over 10000 jattis and 250,000 up jattis or sub castes. It is foolish to suggest that all these jattis or castes were part of Brahmans, Kashatriyas etc. These mention here were originally ethnic groupings of Indians which were communities of different origins which intermediated to keep their social purity. This fraud must end. Human society must perform and fear that every individual must perform his duties efficiently.

1. Essential qualities are found in a man in varying degree and prolongations.
2. Four Ashrams or orders of life are:- Brahmacharya, Grishta, Vanyaprasha, an Sanyassa. Ashram or Assama is derived from Sanskrit word ashrya or to take refugee or rest or stop. It is simply meaning a stages of life.

These four ashrams interpreted for internal purity and life\(^1\) span.

1. Brahmacharya is a period for scholarship and studies here Brahma + Achar a person with satvic gunas.

2. Grishtya means household which stage where a person is supposed to fulfill martial duties raise kinds and have a meaningful life.

3. Vanprashtha :- Ashram Literally means a stage when one should leave for forest which means a time which for reflection. Children are grown up and person opposed to retire up on routine and work and give his time for society and social trust meditation and thinking.

4. Sanyasa is complete retirement from world (Total renouncement) some clever people reinvented and altered the above as that Brahman and Sattva (White) Kshatriyas as (Red) Sudras and all other are tam (Dark) and servant of above. In India there were social in equalities discrimination on basis caste or religion. It was not only India but also colour based discrimination found in the history of U.S.A. There is large division of people based on colour of skin. Black lived as slaves colour discrimination has long existed in U.S.A. But in moral period caste and colour has been criticized by both Indian and foreign observers.

Lower caste considered “Unclean” different life style in the identity of caste. But it depends on the occupation of every man not on the caste.

From the above discussion it can be conclude that there was no distinction of caste and creed in our nation. History told us that there were rich and poor, kings and paupers.

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\(^1\) Rajesh Punia. “Reservation: Changing Aspects in Modern Times”, Economic And Political Weekly, Jan 2012, p-50
If we study the whole system there are economic disparities in our society. It is clear from the above discussion that there was a caste system in ancient time the castes are not abolished prohibited by the constitution of India. These so old castes system is still present. Now a day there is a caste based reservation in education, jobs. In spite of the above mentioned fact the State introduced caste based reservations. Our constitution abolished any discrimination to any class of person on the ground of religion race, place of birth or caste constitution abolished communal representation of reservation of seats in the legislature or any public office on the basis of religion.

Our constitution provides certain temporary measures to help the some people to come up to the same lived with the rest of nation and certain permanent safe guards for the protection of the minorities. There are some provisions for the advancement of social and educationally backward classes of citizens or SCs and STs in public employment. But these reservations are caste based which is criticized by the some people on our nation.

C. CASTE SYSTEM IN INDIA: ORIGIN AND DEVELOPMENT

The caste system began with Indo-Aryan migration of India. However the caste system of India is probably one of most ill understood entities known. It is also the source for differing emotions, actions, reactions and behavior among different people for a plethora of reasons and even non-rasons.

The word ‘caste’ is the English language translation of the Portuguese word ‘casta’ which literally means breed or lineage, and also the word caste was first used by 16th century Portuguese traders. ‘Caste’ is also used as synonym to word ‘Verna’ which literally means color and referring to the old racial differences between conquerors and conquered. The basis of the caste division was social and economic rather then racial.

India has a unique social system called the caste system, a phenomenon unparalleled in human history. This supposed to be functioning in one form or the other for several thousand years and perhaps is the world’s most durable social

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3 Ibid.
institution. The caste system is composed of rank groups, the entitlement of membership being fixed by birth. The system of endogamy makes it compact. Though economic disparities and inequality of status exist in all modern societies, untouchability exists only in India.

The Indian caste system has its roots in Varna system, a product of wisemen’s clever thoughts of the time. The distinction structure whereas Jati relationships represent “the theory of structure whereas Jati relationships represent the actual way in which society functioned, and this word is better translated as caste.” Varna become the ritual rank whereas Jati was the actual status so that its order in the hierarchy could be easily assigned.5

The Indian social system was essentially a colonial social organization in which a hierarchy of human groups was created with increasing power to those up in the pyramid. This operational part was the creation of status which was a function of birth. The status was stratified to determine privileges in society, high status with comfortable and respectable life, low status for manual work. In all societies the privileges are retained by emphasizing particular values; viz. an industrial capitalist society emphasizes efficiency and merit, a communist society emphasizes public hussies birth as the value for acquiring status. The privileges being always related to power, the Indian caste system must be seen in the ideology of power. The Indian genius invented the caste system with the primary purpose of distributing privileges to put it an order based on birth. This was consolidated through positive and negative actions in society. The areas of education and administration were kept reserved for the upper castes whereas manual and dirty work was assigned to lower castes. Caste organization must therefore be seen as a system of protecting the distribution of power through reserving the scarce social goods, like education and administration for those in power and manual work for those without power. The lower castes were kept out of power so that they are compelled to concentrate on heavy manual work and the surpluses are siphoned off by power vested castes by keeping the remunerations depressed. Religious sanctions were applied to ensure that someone will perform those tasks in society that are necessary for the functioning of society but are

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5 Thaper, R; *Past and Prejudice;* The Sardar Patel Memorial Lectures; J.N.U., New Delhi, p.27.
undesirable because of being manual, dangerous, dirty and monotonous. The primary producing castes had the worst of both the worlds; as a partner in society to lead a depressed life of servility without any participation in its management; and as a work force to do heavy and dirty manual work and to be satisfied with the remuneration dictated by the necessity of upper castes who remained entitled to enjoy all good things in life. In this sense the caste system became the instrument of deprivation by reserving education and administration, which in turn assured power income and wealth for those at the top of hierarchy. “Caste system therefore is held together by power, concentrated in certain groups, more than by consensus” and is a device “for the protection of privileged” The uniqueness of the caste system was that each member of society had a fixed status, and therefore power and privilege, according to the accident of birth. The life chances in a social system based on caste were determined by the group that stamped the individual with its own chances. A person could change his income and life style but his caste, as a rule, remained intact.

The Indian social system is unique in the sense that there is no provision of rights to individuals. Taking Karma and Dharma together members have to contend with their duties without any worldly rights. Each one is Hindu society inherits social characteristics of the caste to which he belongs. Men are born into castes and each caste is endowed with certain occupations to be followed which determines their status. Theoretically, according to the caste system, no man could enter into any kind of a contract, arrangement or understanding with any other man of his own choice independent of the social status of workers rather than by the use value of work performed. Every individual had inscriptive personality and there was nothing for him to achieve on his own. Life chances of individuals were shadowed by the chance of the caste. The relations of dependence or dominance between individuals were the by product of relations between castes. There was complete absence of any mechanism by which the needs and aspirants of individuals could change the caste rules. If there was any discrepancy the prerogative was exercised not by individuals but by the caste. “The fact, however, remains that at any particular time and place no individual as an individual could approach any other individual and offer submission and pray for protection.” There are enormous examples of individual mobility in society
but in all these cases the individuals had to leave his caste of birth and join other caste, which accepted him. In cases of violation of rules by individuals there were sanctions including the death penalty administered to the erring individual.  

Another remarkable feature of the caste system has been the absence of violence in maintaining the order of society. History does not bear any evidence of any violent revolt for the abolition of the caste system. This does not mean that there was absence of coercive power, what it means is that the commenting force of society was the conditioning of mind through the ideology of caste supported by the weight of power. There are two level at which violence was absent in Indian society. There was a large number of violent clashes among caste groups but these were mostly for the sake of improving status of certain castes rather than abolishing the system. It was never found necessary by those classes in society have been held together both by the agreement of rules and customs of caste and by the coercive power wielded by superior groups. The inferior groups conformed to their action due to the acceptance of Dharma. “The Sudra was indoctrinated to accept without protest the “Sudra Dharma” and the Chandala lived his life according to the cannons applicable to his station. Dharma put the highest premium on the acceptance of one’s station in life and the existing social order precluded any idea of rebellion. Indian history does not provide precluded any evidence of the untouchables revolting against the upper castes.”

**RECENT CHANGES**

During the last 50 years noticeable changes have taken place in the Indian scene and all of them have influenced the social system of the country. These changes have occurred in economic, political and legal fields with wide ramification for the character of our society. It is important to examine these aspects so that changes in social landscape can be understood and compared with the traditional system.

**ECONOMIC DEVELOPMENT**

The economic changes, after independence have significant implications for the social system of the country. This can be examined in the light of the

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speed of economic development and the direction of movement of the Indian
economy. India’s long term average rate of growth has been lower than the world
average; only about 3.5 per cent a year for the economy as a whole and about 1.4
percent per capita per year. The additional disappointment is that the economic
well being of people have not been uniformly affected given the slow growth. In
fact, there have been islands of prosperity and areas of deep depression. This,
however, does not identify the relationship between economic development and
economic well being of different caste groups, which may be done through
inferences from appropriate parameters of economics change.

One of the significant aspects of economic change has been the incidence
of poverty. The poverty ratio (the percentage of people below poverty line) has
been increasing over the years and is said to be around 56 percent for the country
as a whole, though in rural areas it is much higher than in urban areas. This is
reflected in the persistent hunger of people. The rural areas are the naked scene of
destitution, urban poor are largely a spill over of rural poverty. Though the
country has sizeable stock of food grains the fact is that at least a third of the rural
population, regularly and quietly, goes to bed hungry and malnourished. The
government is able to ignore this endemic hunger because neither the market
faces any shortage of food nor it upsets the system and creates chaos.” It is
estimated that in the absence of accelerated economic growth the number of the
poor in India (339 millions in 1980) would grow to 472 millions by the end of the
century7 which would mean that the poverty stricken population of the country
might be greater than the total population when it became free in the middle of
the country.

The poverty syndrome does not exhibit the implications of economic
changes on the caste structure of Indian society unless we examine it from that
angle. We must therefore supplement this with other features of economic
development.

Even these do not offer an adequate explanation of the condition of
different castes in the context of the economy as a whole. In the segment of the
concentration of income and wealth perhaps better evidences can be discovered
as to how different social groups have been shaping during planned development.
It may be worth while to examine as to which groups have concerned the lions share of national wealth and income in Indian society. There are four groups who have taken advantage of government policies and thereby have acquired enormous wealth and income in society. These are; the politicians, the bureaucrats, the industrialists and the landowners. The dominant commercial interests in India traditionally hail from upper castes of Indian society. Similarly, the bureaucrats have replaced “the old rentier class”, belonging “to similar social groups and castes” and represent disproportionately as “the administrators, engineer, educators, and so forth as they were in the old rentier class.” The landowners, on the other hand, belong mostly to upper castes and some dominant backward castes. The Marxist scholars generally portray that the capitalist farmers are traditionally of Sudra Varna, “who still represent themselves as Kisan or Shetkari(peasant) or bahujan samaj (majority community) and whose caste cultural traditions combine both a sense of caste pride and a history of resistance to high caste and landlord domination.” Harijans and a large part of backwards are, more or less, uniformly poor in the country without economic assets either in cities or in villages. They are cut off from “connections” and “access” and therefore can not take any advantage from the process of economic planning. On the other hand, most of them have lost their source of income in the wake of large scale industrial development and had to fall back upon agriculture. The backwards and SC/ST were kept submerged in the traditional activities and occupations and therefore lagged far behind in taking advantage in the expansion of modern sector. It should be noted that those either in executive seats of power can manipulate the benefits from the government policies and this cannot be other than people belonging to upper castes.

The scenario of economic development since Independence is significant to analyse the relationship between the rise in incomes and the social structure of the country. First, the people below poverty line and in destitution are overwhelmingly from SC, ST and Backward castes. It is they who suffer from caste prejudices, educational backwardness and economic stagnation, the cumulative reinforcement of which further deprives them of any possibility of emancipation. They are at the base of the pyramid of power, wealth and income.

7 Bardhan, P.; *political Economy of Development in India*; Oxford University Press; New Delhi, 1984, p.52.
in society. Second, the terms of income have been favourable to upper castes and absolutely against BC, SC and ST. This is not a random feature but rather a patterned one since the ongoing pattern of the distribution of income and wealth is not different, except marginally in some cases, the claim of traditional deprivation of lower castes gets reinforced. And third, the mode of economic domination and control has shifted from propertied class to bureaucratic class. To point out exploitation is to ignore the means of admissions, a more ruthless agent of exploitation. We must identify as to “who rules India” and who have vested interest in perpetuating crime, corruption and black market in the system.

POLITICAL DEVELOPMENT

The introduction of democracy has brought a new political pattern with enormous capacity to influence the caste system. Caste has become one of the most powerful actors in politics and its role has gone on increasing over time. There are various reasons for this. First, the caste system has found new areas of activity in politics. “Caste identities, which were still strong and articulate, provided the principal media of political participation.” Equal voting right has brought new aspirations to those castes which had no imagination for being in the race to compete for the seat of political power. It gave them unprecedented opportunities and a unique sense of power. A decentralized political process for power was a new awakening to those who till then were cut off from the main stream of politics and administration. Since election became a number–game, mobilization and articulation on caste lines proved to be the natural outcome during elections. In course of item it has been realized that the numerical strength rather than the ritual status in caste hierarchy is the essence of politics.

Second, the political parties played their part in educating people of their rights and privileges in general and in articulating the support of numerically dominant castes belonging to backwards and Harijans. The recruitment pattern of the congress Party, the most dominant political group, had its ramification in the caste system. In Bihar, politics was initially “dominated by the upper castes” which in course of item accommodated candidates from unprivileged castes because of “factionalism” in the “contending groups” of upper castes. The importance attached to caste in the selection of candidates for Parliament and
Assembly elections made politics caste ridden. The caste rivalry among upper castes to consolidate political power became an eye opener to lower castes that politics was not a national service rather a game for power.

The emergence of vertical and horizontal associations of castes have become the hallmark of political mobilization in the country. Under the exigencies of democratic politics, caste associations have emerged with obvious purpose of securing power in the state and the society. There have been important stages in the process of interaction between the political system and the caste system. To begin with, a process of competition started among upper castes which with overwhelming number, found themselves initially in the dependent relationship with the entrenched castes and in course of time, pressed their demand for sharing the patronage and power. The mobilization of lower castes into politics began and leadership form among them gradually emerged as contenders of power.

There is considered to be a logic behind the caste being a significant element in the politics of this country. No political system can survive without a social base. In India caste was the only social structure on which a new political system of the country could have relied upon for its base and origin. “By drawing the caste system into its web of organisation, politics finds material for its articulation and moulds it into its own design. In making politics their sphere of activity, caste and kin groups, on the other hand, get a chance to assert their identity and to strive for positions.” Furthermore, there are some scholars who believe that the caste associations have their own justification in consolidating political system. “Caste associations have become one of the factors that link the mass electorate to the new democratic political processes and make these processes comprehensible in familiar terms to a population still largely illiterate.” By providing bases for leadership and representation, the horizontal organizations of castes, with common identities, have contributed significantly to the success of political democracy.

IMPORTANCE OF SERVICE CLASS

The post independence economic and political developments have created a new social group endowed with high power unmatched to the traditional order
of society. Though the economy is predominantly agricultural, in terms of sustaining the population of the country, the industrial expansion has created highly remunerative jobs for semi-skilled workers for routine operations in machine work at the lowest level, in addition to high skilled workers and managers. These skilled workers together with the expansion of office work, education and government have constituted a new “service class” to be employed in white collar occupations.

The service class has several distinctive characteristics. First, the membership of this group of service class requires modern education imparted by universities. The problem, therefore, is the entry into the courses of education which require not only a standard of ability but also a level of financial health of parents of pursue higher education. Second, the group is supposed to discharge a new role to manage modern economic sector and to prepare and coordinate the society for a new political system and a different style of living. This refers not only to the responsibility but also to power of the services class over individuals and the affairs of society. Third, the service class earn abnormally high ‘quasi rent’ which is unparalleled in comparison to traditional occupations. The earnings of the service class is enormous capacity to influence the policy of the government. The government owns huge amount of property in the form of public sector. The bureaucracy is the rightful owner of the public sector in which around Rs. 30,000 crore of assets are invested. The nation is getting raw deal for investment in the public sector partly because of the absence of accountability of bureaucracy. If the loses continue at the going rate public sector can eat up all the capital by the end of the century which is nothing else than the increasing price of administration. In class through the instruments of monopoly control, foreign exchange regulation, industrial licensing, financial power and input rationing. The bureaucracy in this way is a class having economic privileges and rights. This has been elaborated here only to indicate that the means of administration can be a bigger source of exploitation than the means of production.

The order of society, in the best interest of maximum good and justice, is conditioned by the neutrality of administrators. The neutral character of order enforcing agency is dependent on two guarantees; first, that the bureaucracy acts from purely disinterested motives and has no loyalty other than the sanctity of
the order and the interest of the nation; and second, the authority above the bureaucracy, i.e. the political authority, applies sanctions to deal with behaviour in case of defence of administrative justice. The neutrality is jeopardized if the bureaucracy has not got rid of inscriptive personality and the political authority shares power by twisting the system of the power of bureaucracy. In Indian situation it is not common to find a neutral bureaucracy. There may be two ways to deal with such a situation which requires a political mobilization. And second, a change in the composition of the entire bureaucratic apparatus to correspond with the social composition of Indian society. The later part of solution rests on making the bureaucracy a structural representative of different segments of society.

Social background and connections play dominant role in using recruitment procedure in favour. “To get a job, talent and skill is no longer important. One has to have “influence” and ‘connection’. Second, the higher education in India, instead of creating new world view through character building and national awakening, has become an extraordinary non-tangible assets for personal security and power. Future is more heavily loaded to this aspect of education in India. In the emerging development strategy a higher knowledge and skill would be required since “at present many almost illiterate workmen are employed in a number of industries and powerhouses, this would not be the case even 10-15 years hence when computers and microprocessors would have come in big way, “And third, there is going to be an increasing importance of administration with the advancement of industrial society. “The future belongs to bureaucratization”, Weber said, “where once the modern trained official rules, his power is virtually indestructible, because the whole organization of the most basic provision of life is fashioned to suit his performance.” The significance of this elaboration is that the monopolistic hold of certain social segments over administration and education needs to be broken by a definite social policy. A representative service class would be close to the democratic commitment of the country.

The original caste system, verna, of India come about when the Aryan-speaking nomadic groups migrated from the north to India about 1500 B.C.
However, the theory of Indo-Aryan migration itself is a highly disputed topic. The critics claim that it was formulated to undermine the historical significance of India, and was exploited by the British to show that they had the right to invade India, as the Indians supposedly themselves were invaders. A 2006 genetic study by Indian’s National Institute of Biological supported the idea that Indians have acquired few genes from Europeans, thus disputing the Aryan Invasion Theory.  

D. RESERVATION: ORIGIN AND SCOPE

(i) British India

The Indian constitutional policy of compensatory discrimination was very much as a result of Ambedker’s dramatization of the deprivation and disadvantages suffered by the Untouchables and his endless efforts to ameliorate their socio-economic conditions. The foundation for this policy was laid after Gandhi’s historic fast at Poona in the face of Ambedkar’s demand for the establishment of a separate electorate for Untouchables. Gandhi saw Untouchability as an “excruciation” or an “appendix in the body of Hinduism” which had to be removed leaving the rest of the caste system intact and purified. Gandhi attached untouchability and not caste. Ambedkar attacked caste-system itself and wanted the destruction of the caste-system. He demanded political safeguards and political power for the untouchables and won a separate electorate for them. Gandhi opposed this separateness and declared fast unto-death to force the revision of electoral award. Congress charged Ambedkar as a tool of British plot to divide and rule. The negotiation came out as the ‘Poona Pact’ under which Ambedkar yielded up the separate electorate and accepted in its place a system of reservation for untouchables under a joint electorate with a caste Hindu majority.

The British Government followed a policy of communal reservation in public services for communities like Muslims, Christians,

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8 Dr. Santosh Heleker, Human Migration into India-new genetic data (http://www.colaconet/1/caste.htm para 1
Anglo-Indians, Parsi, Depressed classes, Aboriginas and other groups. The claims of these communities in public services were recognized and preserved in the initial stage of Constitution making but were ultimately eliminated from the final draft under which only the claims of backward classes were incorporated in the Constitution for compensatory treatment in the field of public services.

Ever since 1925 the scheme of reservation applied to Indian Civil Service, class I, Class II and subordinate services under the administrative control of the government of India with the exception of certain services for which high technical qualification were necessary. The government of India gave due consideration to the Muslim demand and issued instruction to revise its polices with a view to improve their position in services. It also considered the claims of Anglo-Indians, domiciled Europeans and Depressed classes. The Government of India issued instruction on July 4th 1934 for reserving posts for minorities and depressed classes. It was stated that adequate steps should be taken to secure to the depressed classes a fair degree of representation in public services. The Government however, did not consider it necessary at that stage to reserve a definite percentage of vacancies for the depressed classes in view of their educational backwardness. The rules provided that 25% of all vacancies to be filled by direct recruitment of Indians would be reserved for Muslims and 8½% for other communities.

It was only in 1942 that the Government of India decided to fix a certain percentage of jobs for the Depressed Classes in order to give them necessary stimulus to equip themselves with better qualification in order to become eligible for posts and services. The position, however, remained that for want of educational qualifications the candidates from these classes were not available for services. Steps were taken to grant age concession, reduction in examination fee etc. order to enable the candidates from these classes to join Government service.

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In August 1943, 8½ percent of job-reservation was provided for Depressed Classes and it was proposed to consider the question of raising this percentage as soon as sufficient number of qualified candidates were found available.\textsuperscript{14} It is noteworthy that this percentage was much bellow the percentage of Scheduled Castes population on all-India bases which was 12.75% according to 1991 census. These reservations applicable only in the cases of direct recruitment and not in cases of recruitment by promotion. Further, these applied to Central Services (class I & class II) and the subordinate services under the administrative control of the Government of India. In June 1946, however, the percentage of vacancies reserved in favour of scheduled castes was raised from 8½ to 12½ correspond to the percentage of the population of the scheduled castes in the country.

(ii) **Independent India**

In the light of the direction of the Central Government, various State Governments and Central Government itself appointed their own Commissions and Committees to investigate the conditions of backward classes and to evolve some definite criteria and test to identify the ‘backwards’ in their States:

(a) 1947-1950 – Debates of the constituent Assembly.
(b) 26/01/1950 – The Constitution of India came in force.
(c) 1953 – Kalekar Commission was established to assess the situation of the socially and educationally backward class. The report was accepted as far recommendation for OBC’s were rejected.
(d) 1956- Schedules amended as per Kaka Kalekar report.
(e) 1976- Schedules amended.

(iii) **Kaka Saheb Kalelkar Commission**

In order to eradicate the age old evil of social discrimination and to enthuse a sense of respectability by eliminating the sense of high and

\textsuperscript{14} Report of the Commission of the Scheduled Castes and Scheduled Tribes 23 (1951).
low position in society, which is the direct negation of democracy, the Government of India wanted to determine the criteria to be adopted for the identification of the socially and educationally backward classes, so that by giving them every kind of incentive the age old discrimination meted out to them may be eradicated. In fact, Government of India wanted to do something special for the economically, socially and educationally backward classes.

Keeping this object and in deference to the postulates of Article 340 of the Constitution the President of India appointed the First Backward Classes Commission under the Chairmanship of Shri Kaka Saheb Kalelkar, M.P. on January 29th, 1953.\(^{15}\) Shri Arunangshu De was the Secretary of the Commission and the other members of the Commission were:

1. Shri Narayan Sodaba Kjrolkar, M.P.
2. Shri Bheekhas Bhai, M.P.
3. Shri Shiv Dayal Singh Chaurasia
4. Shri Rajeshwar Patel, M.P.
5. Shri Abdul Quiyum Ansari, M.L.A. (Bihar)
7. Lala Jagannath (Regigned and replaced by P.G. Shah)
8. Shri Atma Singh Namdhari, M.P.

The Commission submitted its report on March 30, 1955. The objects and the terms of the reference of the Commission were to determine the criteria to be adopted in identification of socially and educationally backward classes and setting out also their approximate numbers and their territorial distribution, to investigate the conditions of all such socially and educationally backward classes. It was also to make recommendations for the steps to be taken to improve their conditions including grants to be given to them and also to investigate such other matters as the President might refer to them and was to present to the President a report setting out the facts as found by them.

\(^{15}\) Vide the Ministry of Home Affairs Notification No. 70/53.
(a) **Working of Commission**

The Commission circulated a questionnaire to solicit the opinions of various people in this regard. The members toured the different States of the country to gather evidence from official and non-official sources and from interested individuals so that the actual conditions prevailing among the backward classes existing at that time in various parts of our country may be known.

The Commission received a total of 3344 memoranda and interviewed a total of 5636 persons but it could not get the adequate data on the caste lines because in 1951 Census the caste enumeration was abandoned. The Government did so with a view to discourage caste consciousness in the affairs of the State. The Commission also did not get the information with regard to inadequacy of representation in services because only few States could supply the caste-wise figure of government employees with percentage of their representation for some years. Due to non-availability of adequate data the Commission made its conclusion on the basis of existing list of backward classes prepared by the State Governments and the Ministry of Education.\(^1\)

The Commission wanted to “dissociate caste from social backwardness present juncture, but it felt that “our society was not built essentially on an economic structure but on the medieval ideas of birth, caste and social hierarchy. The Commission even included in the list of backward classes those communities about whom it had no data at all and, therefore, it had to give them the benefits of doubt. This additional inclusion enlarged the list of backward castes. The Commission also included in the list few financially well-off communities on the ground of their educational backwardness.

The Commission proposed the following reservations:

\(^1\) BCC Report 1955.
1. 25% reservation in Class I services;
2. 33.5% reservation in Class II services;
3. 40% reservation in Class III and Class IV services, and
4. 70% reservation in Medical, Scientific and Technical Institutions.

It is pertinent to note that the Commission could not present an unanimous report. In fact, five of its members recorded minutes of dissent. Three of them, Dr. Anup Singh, Shri Arunngshu De, and hri P.G. Shh opposed to one of the most crucial recommendations of the report, that is, the acceptance of caste as a criterion for social backwardness and reservation of posts in Government services on that basis. On the other hand, Shri S.D. Chaurasia strongly advocated the acceptance of caste as the criterion for backwardness in his 67 page minutes of dissent. Shri T. Mariappa’s minute of dissent was concerned only with inclusion of a couple of caste, i.e. Urban Lingayats and Vokkalingas, in the list of other Backward Classes.

(b) Social Equality

The Government of India wanted to prepare the ground for full social equality and to devise the ways and means by the “UPEKSHIT” (suppressed) could quickly raise their heads and March shoulder to shoulder with the rest of the Indian population. The Commission had been appointed for this very purpose.

An eminent anthropologist, N.K. Bose, who had served as the Secretary of M.K. Gandhi and was later appointed the Commission for SCs and STs writing in 1954, also visualized the specific purpose of the backward Classes Commission as the devising measures to eliminate not all inequalities but specifically those associated with caste. The Commission was advised to be in

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complete agreement with the view of modern English dramatist George Bernard Shaw, who had said that complete inter-marriageability is the test of social equality and this inter-marriageability should be the goal which must be reached eventually.

Mr. N.D. Majumdar, a civil servant suggested that:

The backwardness with which the Commission is expected to deal is much more special. For one thing, the Commission cannot recognize individual backwardness, however, widespread. For its purpose, the backwardness must be collective.19

The Commission who also advised to remove inequalities associated with castes. It is, therefore, the desire and will of the Indian nation to do away with the hierarchy of caste and of its consequent social discrimination and prepare the ground for full social equality.

(c) Recommendations of the Commission:

Thus, the Commission had to take into account the lowliness by birth as an important factor in the identification. It recommended that all facts about the caste should be noted and classified in a scientific manner. It therefore, suggested that 1961 Census be remodeled and recognized so as to secure the required information. The Commission was against the listing of all Muslims as socially and educationally backward.

The caste was so important in the Indian society that the Indian Christian community also could not separate itself from the evil, though the Christianity has consistently refuse to recognize caste. The Commission found to its dismay that in certain parts of South India where Scheduled Castes have been converted it no Christianity were subjected to the caste practice in Christianity

also. The Commission enlisted such communities in the list of Other Backward Classes.\textsuperscript{20}

It also expressed the view that apart from South India if the Scheduled Castes converts to Christianity were found to suffer from any recognizable degree of segregation and social disability in other parts of our country, their case should be considered for being included in the list of Other Backward Classes.

It also recommended that the communities or groups who were treated as untouchables among the Sikhs should be included in the list of Scheduled Castes and such of the communities among the Gurkhas found in Utter Pradesh, Bihar and West Bengal and who were educationally and socially backward should also be included in the list of Other Backward Classes.

(d) \textbf{Special Provision for Women}

The Commission showed special sympathy for the women and recommended that women as a whole should be regarded as backward as the women, in India, have lived under great social hardships. It recommended the following measures for the advancement of women in general:

1. Free education at all stages to all girls whose parent’s income is less than Rs. 3000 per annum.

2. Scholarships for girls belonging to the Backward Classes.

3. Residential Hostels for girl students, with priority for the girls of the backward Classes.

4. Samata Ashrams for girls students, with priority for the girls of the backward Classes.

5. Creation of special facilities for girls to study medicine, home sciences and other subjects specially.

\textsuperscript{20} Committees and Commission in India, 1935, p.254.
6. More facilities for training women in the fine arts and in social services.

It also recommended that the “Suppression of Immoral Traffic Act” should be made more informative than punitive. Rescue homes should be started for women but it should not be mere asylums for such women. Such homes must be controlled by committees consisting of social workers under the government’s supervision. Women social workers from well-to-do sections of society should be asked to play an increasingly larger role in tackling this problem.

The Commission recommended that the ex-Criminal Tribes should hereafter be called denotified communities-VIMOCHT JATIAN. These communities should be classes as Scheduled Castes, Scheduled Tribes or Other backward Classes according to the criteria applicable to them for the purpose of relief. Group criminality should be treated differently from the acquired criminality of individuals. It also recommended that backward areas in many parts of the country should be developed by allocating more Community Project, National Extension Service Blocks, Social Welfare Extension Projects and other developmental schemes.

The Commission had prepared a list of 2399 backward groups after 2 years of hard working and recommended several measures for their economic, educational, social, cultural and political advancement. It was estimated by the Commission that about 70% of Indian population was backward and that is why, the Commission was of the view that out of 2399 castes only 913 castes accounted for an estimated population (about 32% of the total population of India).

The reservation in favor of women was removed from all the reserved categories. Later a corrigendum was also issued stating that the reservation in favor of the above 5 categories shall
be horizontal and not vertical reservation. It was also clarified that if any candidate belonging to ST/SC or other BC categories is selected in open competition on the basis of merit, then he will not be adjusted in the seats for category concerned. It is held that the horizontal reservation of 15% seats for special categories was excessive and has resulted in reduction of seats available for open category A separate horizontal reservation of 6% and 15% for special categories, for example candidates of hill area and Uttarakhand apart from and in addition to 27% reservation for OBCs is clearly illegal. The reservation for these categories is treated as that in Article 15(4) of the constitution and not Article 15(1). They are reservation in favor of socially and educationally backward classes of citizens. The Court said that the proper and correct course for filling the seats is to first fill up the OBC quota (50%) on the basis of merit and then and then fill up each of the special reservation quota. SC, ST and BC and third step should be to find out how many candidates belonging to special reservation have been selected on the above basis. If the quota fixed for horizontal reservation is already satisfied no further question arises. But if is not so satisfied the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates there from. Despite the aforesaid errors in the rule reservation the court held that it was not advisable to interfere with the admissions already finalized. The method laid down by the courts is more for the purpose of future guidance of the respondents. At the same time, to rectify of injustice done to the open competition candidates in the admissions the court directed that in the matter of admissions already finalized shall not be disturbed. The U.P. Government to create 34 additional seats in the MBBS course and admit from the OC category against those seats. If any seats are vacant on the date of the present judgement they shall also be
filled from the OC category alone. This creation of additional seats is confined to current session only.

(e) Determination of Backwardness

This humble sample survey of some States Backward Classes Commission makes it explicit that the problem of precise determination of Backward Classes is undoubtedly not simple. These State Commissions applied various tests to determine the backwardness e.g. habitational test, Occupational test, Caste test, Community test, means/income level test, educational test, means-cum-caste test etc. but it has not been possible to evolve an acceptable criterion, for the purpose of identifying them. In fact no indisputable yardstick could be evolved by these commissions despite their best and honest efforts. So we turn to judiciary to find out if any such workable criterion for identifying Backward Classes could be evolved.

The Origin of Term

It will be seen that the claims of the backward classes of citizens in the public services were considered by the Constituent assembly, the leaders of the Nationalist movement along with the minorities but the meaning of the term “backward classes” was far from being clear and was used very vaguely and variously.

The origin of the term “Backward Classes” may be treated to the latter part of the nineteenth century.

For a long time the terms “Depressed Classes”, and “backward Classes” included only untouchables and at other places this term included even criminal wandering tribes, aboriginal tribes, besides untouchables. The other words coined to denote the backward groups were “exterior castes”, “excluded castes”. The definition of the term “Depressed classes” was discussed in the Indian Legislative Council in 1916 and it was decided to include Criminal and Wandering Tribes, Aboriginal
tribes and the untouchables within this term to include classes pursuing “unclean profession” or those belonging to “unclean castes” whose touch or even shadow is polluting and also classes who were backward and educationally poor and despised and also certain classes of Muhammadans. The Southborough Committee, 1919, however defined ‘Depressed Classes’ applying the criteria of untouchability and excluded primitive or aboriginal tribes and economically backward classes.

Besides the various voluntary organizations like, Bombay Social Reform Association 1903, Bahiskrit Hitakarini Sangh 1924, Madras Provincial Backward Classes League, 1934, United Provinces Hindu Backward Classes League 1929, used the terms such as backward Classes, backward Communities, forward non-Brahmin Communities backward Communities, forward non-Brahmin Communities, backward Hindus and so on.

It is thus clear that the term ‘Depressed Classes’ or “Backward Classes” had never a definite meaning on the national level. Sometimes the term was intended to include only untouchables and sometimes it was expanded to include aboriginals, hill tribes and wandering criminal tribes. Sometimes the term included all backward castes and communities and sometimes it included a larger segment of economically and educationally backward people. The term was defined locally by the Provincial Committees or Caste-Associations responding to the local conditions and exigencies.

Galanter rightly remarks that “the question of who were the Scheduled Castes was debated and roughly settled before Independence within the executive and without the participation of the courts. But who are the backward Classes is a post-Independence question which the constitutional recognition of the category made one of all-India scope”. The term ‘Scheduled

\[21\] The Report of Indian Franchise Committee Vol. 1 para 279 P.109 (1932).
Castes’ to connote Depressed Classes was used in the Government of India Act 1935 as meaning such castes, races or tribes corresponding to the classes of persons formerly known as the depressed classes.\(^{22}\) The Indian Independence Act 1947 continued this meaning and after the Independence the Constitution of 1950 also defines the Scheduled Castes in terms of Castes, race and tribes.\(^{23}\)

After consideration of the social conditions in Indian society and causes for backwardness of a large section of the people the Commission laid down the following tests for general guidance:

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

The Commission emphasized that the economic backwardness had also to be kept in view in order to find out the ability of the community to take advantage of the available opportunities as also the recent trends in its advancement.

It underlined that the plan for economic reconstruction of the country must include measures designed for the speedy upliftment of the Backward Classes. The Government must take necessary step to create such situation as will ensure the natural growth of these classes. The economic and social causes that were operating to their detriment should be removed. It recommended the following measures to be taken to improve the lot of the backward classes specially in rural areas:

\(^{22}\) The Government of India Act 1935 Section 24; First schedule part 1.
\(^{23}\) The Constitution of India, Article 347(1).
(i) For the upliftment of the Backward Classes, it is vital to have a proper land policy. It is necessary that all kinds of intermediary tenures should be abolished to help in the formulation and implementation of a national land policy.

(ii) In order to remove the existing inequalities of the cultivator’s holding in rural areas, the Commission suggested he fixing of a ceiling on land holdings. But this should be followed immediately by placing limits on incomes from other fields of national economy. That might create a psychological satisfaction among those who were required to surrender their property for the common good. No uniform policy of ceilings on land-holdings had been adopted, the conditions of rainfall, types of crops grown, pressure of population, etc. should be taken into consideration in determining the ceiling policy.

(iii) The land available to the Government on account of the policy of ceiling should firstly be distributed among the landless and then among the owners of the uneconomic holdings. To this end land revenue rules should be severely dealt with by the state authorities.

(iv) The small and middle owners are all backward communities. Their holdings are uneconomic and seriously fragmented. The Commission suggested that their holdings should be consolidated and fragmentation beyond a certain limit should be prohibited by law.

(v) The Commission suggested the regulation of tenancy rights, record of rights and agricultural class structure. It also suggested the measures to remove rural indebtedness and to provide the marketing facilities, price support, irrigation facilities, land tax policy and scheme for rural savings, reorganization of village economy, Bhudan movement, development of livestock, dairying, cattle
insurance, and other many measures in connection with the rural development were also suggested.

(vi) It also suggested measures to prevent exploitation of the Backward Classes. The measures to eradicate the social evils must be undertaken by the Central and State Governments, so that social equality may be achieved. According to the Commission Government must enunciate and implement effectively the policy of social solidarity and national progress. It must make a necessary legislation on marriage and inheritance laws, it must prohibit by laws the social disabilities, it must insure that there is liberal use of the press, films, platforms and radio for the removal of social evil.

(f) Educational Backwardness

The Commission also went into the root causes which were responsible for the educational backwardness of the socially and Educationally Backward Classes. These were:

(i) Traditional apathy for education on account of social and environmental conditions or occupational handicaps.

(ii) Poverty and lack of educational institutions in rural areas.

(iii) Living in inaccessible areas.

(iv) Lack of adequate educational aids such as free studentships, scholarships and monetary grants.

(v) Lack of residential hostel facilities.

(vi) Unemployment among the educating which acts as a damper on the desire of the members to educate their children.

(vii) Defective educational system which does not train students for appropriate occupations and professions.
The Commission, therefore, recommended that the Government must give full assistance to promote education among the backward Classes. For his purpose non-communal hostels should be established and the cost of boarding and lodging for the poorer sections of the Backward Classes should be borne by the Government. The special type of Ashram Schools (Samata Ashrams) should be established where teachers with their families may live with the students. For University education certain percentage of seats should be reserved for the qualified students of backward Classes and liberal scholarship should be given to the poorer among them. The Government must also made adequate provisions for training students of all Backward Classes in post-graduate courses and in research centres both in India and abroad. Reading rooms and libraries in rural areas should be established and a judicious selection of books should be made for stocking in rural libraries. The Commission was of the view that a reservation of 70% of seats in all sciences, engineering, medicine, agricultural, veterinary and other technical and technological institutions should be made for the qualified students of Backward Classes till such times as accommodation is provided for all the students eligible for admission. The Commission also suggested that a new Ministry for the advancement of Backward Classes should be created both at the Centre and in the States of handle in an effective manner the problems for the advancement of the Backward Classes and also to prevent anti-social element from fostering disruptive tendencies among the Backward Classes by exploiting discontentment among them.

Thus, in Commission’s view the social inequalities and backwardness may be removed by improving the conditions of rural India. It is true, no doubt that had the measures suggested by the Commission been implemented by the Government rigorously and whole, heartedly, the eradication of the social inequalities would have been completed and discontentment among them
would have not been exploited by political parties to further their political ends.

(g) Highlights of Kalekar Commission Recommendations

The Commission’s report was laid on the table of both houses of Parliament on September 3, 1956. The Minister of Home Affairs had expressed his disappointment with the criteria and conclusions of the Commission. According to Hon’ble Home Minister the emphasis on the caste displayed the danger of separatism, and the caste system was undeniably the greatest hindrance in the way of our progress towards an egalitarian society, and the recognition of specified caste as backward may serve to maintain and perpetuate the existing distinctions on the basis of caste. According to him the Commission’s standard than caste were obviously vague. The Commission failed to find positive and workable criteria and the very expansiveness of the Commission’s list undermined its fullness because everyone, barring a few exceptions, has thus to be regarded as backward, the really needy would be swamped by the multitude and hardly receive any special attention. The Minister was of the view that the further investigations should be undertaken to make good the deficiencies that have been noticed in the findings of the Commission and the problem is solved with due regard to the requirements of Article 340 of the Commission. The Ministry of Home Affairs requested the State Government to undertake adhoc surveys to determine the number of Backward Classes and in the mean time to give all reasonable facilities to the Backward Classes in accordance with their existing list and also to such others who

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25 Ibid.
26 Ibid.
27 Ibid.
28 Ibid.
29 Ibid.
30 Ibid.
in their opinion deserve to be considered as socially and educationally backward in the existing circumstances.

The State Government did not help the Central Government in this task and the Central Government requested the Office of the Registrar General to conduct adhoc surveys to determine suitable criteria. The Government hoped that the Registrar General could determine occupational tests of backwardness. But the Deputy Registrar General reported that it would be impossible to draw up a precise and complete list of occupations whose practitioners were socially and educationally backward.

The Central Government ultimately took a decision that no all India lists of backward classes should be drawn up. Consequently, on August 14, 1961 States were informed:

While the State Government have the discretion to choose their own criteria for defining backwardness, in the view of the Government of India it would be better to apply economic tests than to o by caste.31

Regarding the preparation of lists of backward classes it was observed:

Even if the Central Government were to specify under Article 338(3) certain groups of people as belonging to ‘other backward classes’, it will still open to every State Government to draw up its own lists for the purposes of Articles 15 and 16. As therefore, the State Governments may adhere their own lists, any-all-India drawn up by the Central Government would have no practical utility.

The report of the First Backward Classes Commission was finally discussed in Parliament in 1965. The Central Government

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once again rejected the caste criteria in determination of backwardness as it was contrary to first principle of social justice and Constitution also. The report would perpetuate the caste system. The Central Government once again endorsed the economic criteria and applauded those States which had adopted this very criteria.

The Commission, really speaking, failed to suggest a positive and practicable criteria towards identification of backward Classes. It cannot be denied that Kaka Saheb Kalelkar Commission Report suffers from grave flaws of methodology and serious internal contradictions. The Chairman of the Commission himself observed in his thirty pages forwarding letter to the President that the report was so fragmented in its conceptual design, carried in itself the logic for its rejection. It is not clear from the report that how the lists of Backward Classes were derived by the application of that criteria. The Commission based its conclusion on the list prepared in 1949 by the Ministry of Education for the grants of Scholarship etc. to “other Educationally backward Classes” and not for the Socially and Educationally backward Classes as provided in Article 340 of the Constitution. It condemned the caste system yet it made it a predominant factor in identification of Backward Classes. It, therefore, failed to appreciate the Government’s determination to create a casteless society. It should have taken into account the Government decision to ignore caste in 1951 Census and the remark of the then Prime Minister Pandit Jawaharlal Nehru that he disliked the term Backward Classes and that it was basically wrong to label any selection as backward even if they were so, particularly when 90 percent of Indians were poor and backward. Thus, it faced severe criticism. The Commission’s work was not satisfactory in making the list of Backward Classes because it even included in the list of backward classes those communities

33 Ibid.
about whom it had no data at all and gave them the ‘benefit of doubt’. The Commission’s caste classification were divisive and unfitting. It applied its criteria in a casual manner. It is true that at the last minute of submission of the report the Chairman, kaka Saheb Kalelkar did not accept the caste factor as a determinative test. The following extracts from the forwarding letter of the Chairman kaka Saheb Kalelkar to the President, which demolished the very basis of the report, speak for themselves: This was a rude shock and it drove me to the conclusion that the remedies we suggested were worse than the evil we were out of combat.

Kaka Saheb kalelkar again observed in his forwarding letter:

“Following the analogy of the proverb, viz. ‘use the thorn to remove a thorn’, the Commission held that the evils of caste could be removed by measures which could be considered in terms of caste alone.”

In fact, the Commission wanted to dissociate caste from social backwardness at present juncture because the caste test was repugnant to democracy and inimical to creation of casteless and classless society.34

Kaka Saheb Kalelkar was of the view that backwardness may be measured by residential, economic, educational and cultural criteria. He recommended that not only caste standing but also use of caste units as the test of backwardness be stopped. He suggested that only individuals and families should be the units whose backwardness was ascertained.35 He, however, was of the view that where an income test was to be employed, members of the Backward Classes should be given priority.

It seems that the Commission was a house divided. The members were divided in the issue whether our Constitution

34 Ibid.
35 Ibid.
permitted organization of the State policy on the basis of caste rather than class as a criterion of backwardness.

Thus, we find that the First Backward Classes Commission could not provide us a practicable criterion towards identification of Backward Classes. It was not only a house divided but it also presented a philosophical rather than an equitable and practical solution of the problem. Ion Nehru era it was ignored and the political maturity and predominance of the backward classes in voting process enabled the leaders to take political advantage of this problem. It is clear, therefore, that the first backward Classes Commission could not achieve the objects for which it was formed. The politics of backwardisation was shelved for some times but the failure of the Commission to reach an equitable conclusion with regard to the problem hearalded a new political climate that prospered the same thing which was repudiated and termed as repugnant to democracy and inimical to the creation of a casteless and classless society by the Chairman of the Commission.

The Central Government on august 14, 1961 conveyed to the State Government expressing its view that while the State Governments have the discretion to choose their own criteria for defining backwardness, it would be better to apply economic tests rather than classifying people by their castes. It would be pertinent here to examine some of the State Commission’s effort to identify backwards.

E. BACKWARD COMMISSION IN STATES

(i) State of Mysore

In January 1895 the Mysore Government issued further circular reserving posts in favour of the backward classes. Even in 1918 the Mysore Government noted the preponderance of Brahmins in the state services and desired the other underrepresented communities should be

36 Mysore Government Circular No. 218-98 dated 21.01.1895.
adequately represented in services. That year, the Government appointed a committee headed by Miller. The miller Committee proceeded on the assumption that the expression backward classes meant castes and communities including Muslims who were not adequately represented in the services. The Committee defined the term ‘Backward Classes’ to include all the communities except Brahmins.\(^{37}\) Thus the Mysore and Madras Government followed a policy of job reservation as a result of the revolt by non-Brahmins against Brahmins domination in public services. In Madras Presidency out of every twelve posts five had to go to non-Brahmin, two to Brahmins, two to Muslims, two to Anglo-Indians or Indian Christians and one to depressed classes.\(^{38}\)

Similarly in Mysore until 1959 the Brahmins could complete for only three out of every ten posts. The Government of Travancore and Cochin, Andhra and Kerala also pursued a policy of caste-quota for reservation in the Government jobs.\(^{39}\) There did not appear to be any reservation for the backward classes in North India states mainly due to the lack of any organized movement on the part of the backward groups to press such a demand as the non-Brahmin movement had done in the Southern provinces.

**Mysore Experience : The Test of Caste**

The State of Mysore appointed a Committee called the ‘Mysore backwards Classes Committee’ with Dr. R. Nagan Gowda as its Chairman, to investigate the problem and advise the Government as to the criterion which should be adopted in determining the educationally and socially Backward Classes and the special provisions which should be made for their advancement. The Nagan Gowda Committee,\(^{40}\) came to the conclusion that in the present circumstances, the only practicable method of classifying the backward classes in the State is on the basis of castes and communities.

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\(^{37}\) Sir Leslie C. Miller Committee Report 1919 para 3, p11.
\(^{38}\) M.N. Srinivas, Social Change in Modern India.p. 109 (1972).
\(^{40}\) It submitted its report in 1961.
The Mysore Government made an order on 10th July, 1961 expressing the State’s general concurrence with the proposal made by the Committee that the Backward classes should be divided into two categories-Backward and More backward,\textsuperscript{41} and adopted the test laid down by the Report in that behalf. On the question as to the communities which should be treated as backward, the State made some variations in the recommendation made by the Committee. The Order also rejected the Committee’s recommendation of reservation of 68% all told, on the ground the such a larger interest of the State. It fixed 48% as total reservation in favour of the backward classes, Scheduled Castes and Scheduled Tribes together. But the Order of July 31\textsuperscript{st}, 1962 the percentage was raised to 68% effecting reservation of 28% of backwards, 22% to more backwards, 15% to scheduled castes and 3% to scheduled tribes, for admission to engineering and medical colleges and to other technical institutions.

(ii) State of Madras

1921 Madras presidency introduces communal reservation of 44 percentage of non Brahmans, 16 percentage for Brahmans, 16 percentage for Muslims, 16 percentage for Anglo Indian Christians and 8 percentage for schedule castes.

To draft a new Constitution involving self rule for the native Indian the British invited various leaders for Round Table Conferences in 1930-1932 Mahatma Gandhi did not attend the first Round Table Conference but attended the later conferences the concept of separate electorates for the untouchable was raised by Dr. B.R. Ambedkar. A provision already available for minorities such as Muslims Sikhs etc. at that time the British Government agreed with the Ambedkar’s contention Gandhi strongly opposed it. On the grounds that he moved good disintegrate Hindu Society. He went on an indefinite hunger strike from September 20, 1932 while lodged in the Yerawada jail in Pune against the decision of British Prime minister. J. Rom says Macdonald is communal

\textsuperscript{41} Annexure 1 of the Government Order gave a list of 81 as backward and 135 as more backward classes.
award to the pressed (untouchable) in the constitution for government of British India. The nation was worried for the concerned about the health of Mahatma Gandhi Dr. Ambedkar was under tremendous preserve to save the life of mahatma Gandhi and compromises between the leaders of caste Hindus and Ambedkar was reached on September 24, 1932, when the Poona pact was signed.

**Poona Pact:-**

In 1935 Indian National Congress passes resolution called Poona pact allocate separate electoral constitutes for depressed classes. Text of the Pact:- The text uses the term “depressed classes” to denote untouchable who were later called scheduled castes under India Act 1935 and the later Indian constitution of 1950 the untouchables are now popularly known as Dalits.

Following is the fact of the fact:

There shall be seats reserved for the depressed classes out of general electorate seats in the Provincial legislature as follows:

- Madras 30, Bombay with Sind 25, Punjab 8, Bihar and Orissa 18 Central Provinces 20, Assam 7, Bengal 30 united Provinces 20, total 145.

These figures and based on the British Prime minister is decision.

- 1935 – Indian national Congress passes a resolution called Poona Pact to allocate separate electoral constituencies for depressed classes.
- 1942 – B.R. Ambedkar established the all India Depressed Classes federation to support the advancement of the scheduled castes.42 He also demands reservations for the Scheduled castes in government services and education. In 1942 B.R. Ambedkar established to all India depressed classes federation to support the advancement of the Schedule Castes we also demanded reservation for

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42 Economic and Political weekly, Oct 28, 2000, Vol. 35, no. 43 & 44.
schedule caste in government service and education. India obtained independence in 1947. Dr. B.R. Ambedkar was appointed Chairman of the drafting committee for Indian Constitution. Indian constitution prohibits any discrimination based on any religion, race, caste, sex and birth of place. But while providing equality of opportunity for all citizens or the Constitution also contain special clause to ensure reservation for the advancement of any socially and educationally backward classes of citizens or for the Schedule Castes and Schedule Tribes separate Constituencies allocated to Schedule Castes and Tribes to ensure their political representation for 10 years.

Pandit Jawahar Lal Nehru was also opposed the reservation on the basis of caste. He wrote in his letters that help should be given on economic considerations and not on castes. It is true that we are tied up with certain in rules and conventions about helping the Schedule Castes and Tribes. He deserved help but even so he dislikes any kind of reservation more particularly in services. He reacted strongly against anything which leads to efficiency and second rate standards. He wanted our country to be a first class country in everything.”

1946 – 1946 Cabinet Mission to India proposes proportionate representation with several other recommendations. 1947 – India obtained Independence. Dr. Ambedkar was appointed chairman of the drafting committee for Indian Constitution.

The Indian Constitution prohibits discrimination on the grounds only of religion, race, caste, sex and place of birth while providing equality of opportunity for all citizens, the constitution contains special clauses for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.

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43 Ibid.
Separate political representation for 10 years (These were subsequently extended for every 10 years through Constitutional Amendment.

(iii) State of Andhra Pradesh

The State of Andhra Pradesh by an Order specified a list of certain persons belonging to ‘backward Classes’ and reserved 25% of the seats for them. It was challenged before the High Court on the ground that the Government Order offends the Constitution and that the State Government acting in fraud of its power, listed more than one hundred thirty nine castes as socially and educationally backward. It was further alleged that the list has been prepared exclusively on the basis of caste.

The Order was struck down as being fraud of powers conferred on the State by the Andhra Pradesh high Court in Sukhdev v. The Government of Andhra Pradesh.

The State Government decided, after the Government Order was invalidated by the High Court, that the criterion for determining backwardness should be only economic factor rather than the caste and issued an order scrapping the then existing list of backward classes.

It directed the State Director of Social Welfare to check up the list of backward classes and to select the caste or communities which could be considered backward on the basis of above criteria. The said cabinet sub-committee considered the recommendations made by the Director of Social-Welfare and accordingly draw up a list of 112 communities as backward.

The validity of this government Order was again challenged before the Andhra Pradesh high Court.

In consequence the State Government appointed a Commission\(^44\) to determine the criterion to be adopted in considering whether any section of the citizens of India in the State of Andhra Pradesh are to be treated as Backward Classes. A perusal of the terms of reference shows

\(^44\) It consisted of nine members, presided over by a retired Chief Justice of the Andhra Pradesh high Court, who later on resigned to be headed by a retired I.C.S. Officer. The other members included the members of the State Legislature.
that the Commission was to investigate and determine the various matters regarding the preparation of list of backward Classes for providing a reservation in educational institutions and also for appointment for posts in Government service.

**Commission’s Report**

The Commission submitted its report on June 20, 1970 to the Government and recommended a list of 92 classes, which according to it were socially and educationally backward and have to be classified as Backward Classes and for who, reservations have to be made. Chapter IV of the Report deals with the tests or criteria adopted by the Commission for ascertaining the social and educational backwardness of persons.

After an examination of the Report, the government accepted the criteria adopted by the Commission for determining the social and educational backwardness of citizens viz.-

(a) the general poverty of the class or community as a whole,
(b) occupation pursued by the class of citizens, the nature of which must be inferior or unclean or undignified and unremunerative or one which does not carry influence or power,
(c) Caste in relation to Hindus.
(d) educational backwardness.

and issued an Order which reserved 25% of the seats in professional colleges for backward classes.

(iv) **State of Kerala**

The Scheme of reservation in Kerala came up for judicial review in *State of Kerala v. Jacob Mathew*. The learned Judge, in the first instance quashed, the scheme of reservations. But on appeal, a Division Bench sustained the reservation in favour of Muslims, Ezhavas and Latin-Catholics, on the ground that they constituted socially and educationally Backward Classes of citizens.

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[^45]: AIR 1964, Ker. 316.
[^46]: Ibid.
Accordingly, the State appointed a Commission, Presided over by Sri. C. Kumara, pillai,47 to recommend which sections of the people required special treatment, having regard to their present social and educational conditions.

The Kerala backward Classes Commission assumed its office on 14th July, 1964 and submitted its report on 31st December, 1965. It found that the rich people in the backward communities, even though they have not acquired any high level of education are able to move in society without feeling any social discrimination today. They do not have any caste or communal disabilities worth mentioning and are not socially backward at present. The Commission found that the benefit of the present system of reservation based solely on caste or community is, to a considerable extent, being enjoyed by the wealthy sections to the prejudice of the poorer sections. It, therefore, found that consideration of a means-cum-caste/community test should be adopted for the classification so as to take in the poor and deserving sections and exclude the wealthier sections.

The Commission rejected the occupational test as it found that all the persons belonging to a particular caste or community may not now be following its traditional occupation.

The Commission also examined the habitational test and expressed the opinion that there are no great social differences in the State merely on account of place of residence.

F. MANDAL COMMISSION

(i) 1990 – Mandal Commission recommendations were implemented in Government Jobs by Vishwanath Pratap Singh. Students Organizations launched nationwide agitations. Rajiv Goswami, Delhi University students attempted self-immolation. Many students followed suit.

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47 A retired Judge of Kerala High Court.

(iii) 1992 – Supreme Court upheld reservations to other backward.

(iv) 1995 – Art 16 (4) (A) permitting reservation in promotions to the Schedule Castes and Schedule Tribes. Later it was further amended to include consequential seniority by 85 the amendment.

(v) 1998 – Central Government conducted large nationwide survey for the first time to estimate economical and educational status of various social groups. The National Sample Survey puts the figure at 32%. There is substantial debate over the exact number of OBC’s in India, with census data compromised by partisan politics. It is generally estimated to be sizable, but lower than the figures quoted by either the Mandal Commission has been criticized of fabricating the data. National survey indicated that status of OBC is comparable to forward castes in many areas.

(vi) 2005 August 12 – The Supreme Court delivered a unanimous judgement by 7 Judges on August 12, 2005 in the case of P.A. Inamdar & Ors. Vs. State of Maharashtra & Ors., Declaring that the State can’t impose its reservation policy on minority and non-minority unaided private colleges, including professional colleges.

(vii) 2006 – The constitution Bench of the Supreme Court in M. Nagraj & Ors. Vs. Union of India & Other. Upheld the constitutional validity of Art 16(4) (A), 16(4) (B) and proviso to Art 335.

(viii) 2006 – Reservations introduced for other backward classes in Central Government Educational Institutions. Total Reservation went up to 49% also See Recent Development.

(ix) 2007 – Supreme Court give stayed on OBC reservation in Central Government Educational Institutions.

(x) 2008 – the Supreme Court of India on April 10, 2008 upheld the Government’s move for initiating 27% OBC quotas in

\[^{48}\text{Inserted by Parliament 77^{th} constitutional amendment}\]
\[^{49}\text{AIR, 2007 SC 71.}\]
\[^{50}\text{Ibid.}\]
Government funded institutions. The Court has categorically reiterated its prior stand that “Creamy Layer” should be excluded from the ambit of reservation policy. The Supreme Court avoided answering the question whether reservations can be made in private institutions, stating that the question will be decided only as and when a law is made making reservations in private institutions. The verdict produced mixed reactions from supporting and opposing several criteria to identify creamy layer has been recommended.

Our constitution provides special provision relating to certain backward classes. It provides temporary measure to help the backward section to come up the same level with the rest of the Nation. 1979 Mandal Commission was established to assess the situation of the society and educationally backward. The Commission did not have any exact figures for a sub caste, known as the Other backward Classes (O.B.C.), and used the 1930 census data further classifying 1,257 communities as backward to estimate the (O.B.C.) population as 52 percentage.

In 1980, Commission submitted a report and recommended change to the existing quotas increasing those 22% to 49.5%. As of 2006 number of castes and backward classes list went up to 2297. This is the increased 60% from the community list prepared by Mandal Commission.

G. CASTE AND CENSUS

One instance of such a revaluation is in the so-called Mandal case of 1992. Here the Supreme Court consciously invokes the history of the checks and balances played out between non-discrimination, equal protection of the law, and the special charge on the state represented by the SCs and STs on the one hand, and the other “weaker sections” and the SEBCs. Corning full circle from the ratio of the Madras High Court in its Dorairajan and Venkatramana decisions of 1951 that quashed the Communal GO, the court reiterates that the unreserved or general category cannot be treated as a de facto quota for upper castes. It states unequivocally that those reserved category candidates who qualify to be included in the general category must be included in it – they must not be forced into the
quota seats, not can the size of the quota be reduced because of such inclusion in the “merit category”. Although, once again, this is not new (various court judgments had appeared to reach similar conclusions since 1958 (Galanter 1984, especially Ch 12)), there is something about the context that adds weight to this revaluation.

However, the most recent national level assertion of castelessness is that provoked by the proposal to enumerate caste in the Census of 2011. It is here that we see the media and civil society organizations mounting campaigns claiming precisely a casteless identity. Similar proposals to count caste in the 2001 Census had been summarily rejected by the then home minister L.K. Advani. The discussion at that time had remained largely confined to the pros and cons of gathering such data; castelessness did not emerge as a visible and vocal identity. Despite efforts to delay, block or otherwise scuttle the proposal, efforts which were ultimately successful; it did seem for a while that caste was actually going to be counted in the 2011 Census. It was this prospect that energized the upper caste elite and crystallized its claims to castelessness.

H. ANTI CASTE CAMPAIGNS

The anti-caste enumeration campaigns placed more weight on the claim of castelessness rather than on the other consequentiality arguments they had emphasized earlier (Deshpande and John 2010). One of the best known instances of protest came from the veteran actor Amitabh Bachchan who declared on his blog that census enumerators who came to his home would be told that the caste of its inhabitants was “Indian” and nothing else. Soon after, a new civil society initiative led by similarly inclined upper caste elites calling themselves “Meri Jati Hindustani” was launched. As its name suggests, the campaign urged citizens to join in the effort to scuttle the counting of caste by insisting on identifying themselves as “Hindustani”.

One sees the emergence here of a voice and a sensibility that is beginning to believe in its own castelessness. The fact that such claims invariably emanate from the upper castes – indeed from the elite among them – continues to elude proponents. Once they are successfully interrelated by the ideology of castelessness, upper caste subjects see their caste identities as incidental or
irrelevant to the claim. They can thus assert with some sincerity that it is mere coincidence that everyone who makes such a claim happens to be from the upper castes. This is the generation that is (generally speaking) distanced from the process of the conversion of traditional caste capital into secular modern caste-less capital that previous generations affected. It is objectively true that in the life-experience of such individuals – who, it must not be forgotten, may still constitute a minority within their own caste group – caste-qua-caste plays no direct role, or only a minor one. It is for this group – and this group alone – that family seems to have replaced caste as the source of social capital (Beteille 1991). Long accustomed to a comfortably homogeneous environment populated almost entirely by people like themselves, this group is unsettled by the recent arrival of hitherto excluded and therefore strange and unknown social groups in their vicinity. It is the double coincidence of the maturation of a sense of castelessness and the arrival of caste-marked strangers in hitherto upper caste social milieu that confirms and amplifies this response.

This is a good time, then, to be working towards a biography of the general category. The problem of false universals is already known to us from feminist theory and from critical race theory. We can use the insights of this literature to understand how the general category has fared as a universal in our context.

We can also examine the possibility of reclaiming and repositioning this category in the light of what we have learnt. Can we imagine a different avatar of the general category as a “true universal”?  

It is in the nature of Utopias to be ill-defined. So it is hardly surprising that b.r. ambedkar’s cherished ideal. “the annihilation of caste”, remains to this day an inspiring but vague destination without a reliable route map. But located as we now are within the post national condition, with the Nehruvian naiveties of yesteryear a distant memory, it is time perhaps to interrogate must be to render caste irrelevant as a determinant of life chances, then it is necessary to understand not only how a particular caste habitués might block or limit these chances, but also how another such habitués might enlarge or amplify life chances. Recent social science research offers us many accounts of the former but almost nothing
on the latter. When it comes to the positive and productive facets of caste we have only broad correlations between outcomes; we lack detailed accounts of processes and modalities, the concrete ways in which as upper caste identity secretes and synergies the dispositions and embodied competences that add up to that abstract term: “merit”. To understand the productive side of caste we need not one but many detailed biographies of the “general category”. In the last analysis, then, the call to interrogate the upper caste self is not about the end of illusion as it might first seem, but about the revitalization of what is perhaps our most intimate as well as our most elusive Utopia.

I. REVIEW

The policy of reservation is a right course for achieving a balanced society which has traditionally been hierarchical one. This line of argument is based on two foundations; first, that India is a caste structured society, the essential ingredient of which has not been neutralized because of its inherent resilience though some formal features have changed giving an impression that the system is weakening; and second, that a preferential treatment is one of the best courses of leveling up the retarded segments, be it social structure of economics surface, a device more appropriate for a stagnant system than for a rapidly developing economy.

Social equality in a democratic society requires that people should not only have equal political right but also must have equal social status. This cannot be brought about by free play of forces in society, a framework capable of perpetuating inequality. Moreover, to diagnose that Indians should be counted either as rich or as poor is to deceive the actual operation of society, harmful for achieving the objectives of a new society in general and for granting rights to deprived people, who have been systematically cut off from the main stream, in particular. Caste is a reality of Indian society and it must be perceived in the manner in which it actually operates.

The policy of reservation, however, is not a singly permanent cure of the malady of backward economy and a caste structured society. Only the total transformation of society can be the lasting solution. This can be brought about by planning economic development oriented to provide job to all and capable to
put economy on the road to rapid growth. This would require among other things that the country would have to restructure its political and economic power systems so that upper caste dominance is reduced and areas of sectional participation are enlarged. This would bring larger cohesiveness in society. While the social inequality can be removed only by creating opportunity to all, which is long run devise, a short term corrective measure can be adopted by making provision for larger representation in the power generating structures of society. The policy of reservation is only a short run corrective measure.

The importance of the policy of reservation lies in the fact that the road to equality will remain obstructed by the existence of caste system, even if a backward economy puts policy and resource inputs to move towards economic development by consolidating the forces of market. The case of a society, which gradually has been abandoning its objective of equality by switching over to the goal of efficiency and merit without any regard for social reality, is much more difficult for achieving social equality. For such a society there is a more pressing need for preferential treatment since in its absence a proper development of social productive forces in the country remains jeopardized. India is gradually witnessing a deteriorating social balance in the form of social rebellion engulfing the entire country with greater intensity over time. The state is becoming harsher to deal with the situation. The result is that the harmony in society is receding rapidly. This is the reflection of a stagnant society which wishes to maintain order without making deliberate attempts to curb the rising inequality inherent in its design of development. Two recent agitations over reservation, Assam and Andhra Pradesh, have added further testimony to the fact that there is no escape except to adopt definite policies towards making a representative system so that people may have a feel of participation in the national management. The neglect of this approach is taking recourse is isolated freedom and social equality.

Assam has witnessed the demand for reservation in a more intensive form particularly after the formation of the United Reservation Movement council of Assam (URMCA) on January 24, 1986 with an 11 point charter of demands. The central theme of the charter is the continuation an extension of reservation for the tribals and backwards and depressed castes of Assam. They have demanded the implementation of the Mandal Commission recommendations. They have also
claimed that reservation should be extended to post-graduate education in all Universities of Assam, also to Central Government and semi-government undertakings likes Banks, LIC, ONGC, Railways etc. The backlog of reserved quota for SCs and STs should also be filled immediately, they claim. But the most pressing demand, in the context of reservation, is for a census to determine the caste, community and tribal composition of the population of the state so that in future the policy of reservation could be provided on fair basis to all those who come under the preview of quota system.

The latest experience of Andhra Pradesh is an attestation of the intensive involvement of people over the policy of reservation. The Chief Minister on July 15, 1986 announced that the reservation in educational institutions and government jobs were being increased from the existing 25 per cent of ST, 6 per cent for special groups and 44 per cent for other backward castes, the forward communities are left with only 29 per cent of seats in education and jobs in the State. This has generated head of agitation in the State over the new policy of reservation. The sudden announcement of raising quota for OBC in AP appears to have come to blunt the strategy of Congress (I) which was organizing the State’s backward classes for purely political purpose and as an anti-Telgu Desham Party movement. The reaction, however, came sudden and wide. The State is witnessing agitation; one, organized by the Andhra Pradesh Nava Sangarshna Samity to block the action of the government on new reservation policy; and the other, by the Andhra Pradesh Backward Classes Sangum to protect their “legitimate interest”. The anti-reservationists have their claim that fair opportunity as reflected in the adherence to merit for the allotment of seats in education and jobs. The supporters of the policy, on the other hand, argue that upper castes domination being the reality of society, preferential treatment on social ground is necessary for building a new society based on social justice. Both of them have been demonstrating their strength through launching boycotts and bundhs. Though the implementation of the new policy is suspended after the judgment of the High Court, the issue is still alive and may surface any time in future.

Indian experience appears to be a pointer that the policy of reservation should be judged on the grounds of prevailing realities of Indian society without
colouring our mind either by merit or by class. Since merit being largely a reflection, in ages and class division between bourgeois and proletariat being conspicuously absent due to caste sentiment prevailing in society, distribution of scarce position of social status must accommodate both, ‘innate ability’ and ‘social contingency’, for the sake of giving effective meaning to social justice for achieving social equality. The removal of the bondage of caste is essential for the liberation of individuals, necessary for the system of merit to work and the classes to be formed. The road to the abolition Caste being a fundamental reality of Indian society and a terrifying force of stability, the strategy of social action for changing our social system must be caste based. Reservation of jobs in the government and seats in the educational institutions being the focus to such caste action, it should base itself on the criteria of caste. The fact is that “there is no sanction in the Constitution for applying economic criteria, either exclusively from using caste as a primary, for reservations. And there seems to be no escape from using caste as a primary criterion for reservations”. It is not a redressal of sentimental grievances around historical deprivation rather a scheme of equitable distribution of the very scarce social goods determining status, power and privilege in society. By adopting caste action to abolish casteism broad based participation will be possible, a more efficient system for determining merit and a homogeneous social surface congenial for class formation.

The violent reactions in the country on caste lines have provoked many thinkers to react and visualize future in their own ways assessment. Though the demand for reservation concerns only the distribution of educational opportunities and modern jobs within a democratic political system, there are some who feel that it many not out imagination of those castes, which are numerically dominant in different areas and have grievances of being deprived, to aspire for the realization of separate nationhood if the inbuilt social discrimination is not tackled in time and with determination. Though such interpretations of the demand for reservation on caste lines are more of wishful thinking than or realistic understanding of the history of a caste society, the fact remains that in the absence of the effective policy for transformation of a rotten society, the democratic stability and economic prosperity of this nation will remain vulnerable. The prevailing intolerance of upper castes and aspirations of
lower castes are glaring indications that “the Indian road to equality is going to be marked by bloody clashes between different castes, though caste may to some analysts appear to be a false category unlike class.” What is very eminent is that Indian society is allowing itself to consolidate an iniquitous system by boasting for practicing political equality to Indian citizens but sustaining inequality in social and economic life. The probability is that this contradiction between political equality and social and economic inequality in our society may surface disastrously in our democracy any time. “We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy.”

The country around the policy of reservation are liable to be resolved only when there a spirit of accommodation specially among those who for the present enjoy social advantages. The larger social interest can be protected through internal adjustment which depends upon as to “how under-stingingly the ruling high caste handle the legitimate aspirations and demands of the historically suppressed and backward classes.” It is in the best interest of the nation that the recommendations of Mandal Commission are implemented. Since the Central government is unwilling, a strong movement is needs to convince the Government that it needs to be executed soon. “A well organized struggle for the implementation of the recommendations (will) provide an opportunity to expose the implicit in the situation will become explicit as the struggle for the implementation of Mandal Commission develops and a second foundation for a movement on class basis will be built.”