Chapter II

Genesis of Reservation Policy in India
Chapter II

GENESIS OF RESERVATION POLICY IN INDIA

Evolution of Depressed Classes

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

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

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

The real origin of these lower classes is like the history of entire caste system, a question much disputed among India’s well known historians. Race, conquest and occupation seem to have been the main factors in the first stages of the development. Later the spirit of the Brahmanic religion and philosophy entered and turned the natural divisions into the elaborate caste system of “supernatural” rigidity. The great majority of the untouchables represent original people who had been the masters of India before the *Dravidas* and the Aryans invaded their country and subdued them.
Subsequently invasions submerged some of them still more without obliterating them. Such scheduled and ostracized people were reduced by their conquerors and masters to an ever more servile status. They become the menial servants in the households and the diggers in the fields. Gradually the more unpleasant duties were assigned to them. They were made the sweepers and scavengers of towns and villages, the flayers of dead animals and the leather workers in general\(^3\). Gradually an impenetrable barrier of rules and practices grew up between the ruling classes and these surfs. The outcastes are denied every sort of education. Naturally the schools of caste Hindus are outside their reach; in the government schools, which are supposed to be open to all, they are hardly admitted, and if they manage to get in, they are treated with such contempt and subjected to such indignities that they have often to stay away for some time or leave the school altogether.

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

Gandhi struggled for a better treatment of the Indian coolies in Africa. He was painfully conscious of the fact that their brethren at home, the outcastes, who formed nearly one-fifth of India’s population, were treated no better by their own countrymen and, in fact, much greater wrongs from them in every respect. Gandhi realised that a country bearing the stigma of untouchability could not claim a place of honour among the other nations of the world. In Africa though he did not aim at a complete abolition of the caste system, which in his opinion is something inherent in human nature and reduced to a science by Hinduism. Elean Zellot taking a case study of untouchables in India points out the distinction in the approaches of Ambedkar and Gandhi towards the problem of untouchability. According to him, Ambedkar saw advancement of
untouchables in terms of using political means to achieve social and economic equality with the higher caste in a modern society. Gandhi adhered to a more traditional concept of a varna system.\(^4\) Now the big challenge before leaders was that how these groups are to be identified.

**Classification and Identification of Depressed Classes**

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

(a) The Scheduled Castes

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

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

(b) Scheduled Tribes

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

(c) Other Backward Classes

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

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

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

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

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

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

Reform Measures and Evolution of Reservation Policy

The evolution of reservation policy can be traced back to the colonial period. In the middle of the 19th century, there emerged reform movements in many parts of India. One such reform was the by-product of proselytizing the natives especially the
depressed classes by the Christian missionaries. This might have inspired the Hindus to start social reforms or they might have felt ashamed to have practices as caste discrimination. Consequently there were such moderate reform movements in many parts of the sub continent. For instance a movement was started in the Madras province in 1852. In 1858, the government of Bombay presidency declared that all schools maintained at the sole cost of government shall be open to all classes of its subjects without discrimination. But this policy was hardly enforced. By 1923 the same government decided to cut off aid to educational institution that refused admission to members of the depressed classes.\(^{10}\) But often the reform movements addressed the issues which were considered anachronistic and superstitious; the reform movements were considered not with the evil of caste system as such, but of broader social issues like widow remarriage and education of women and opposition to child marriage. As Galanter says that these are issues which reflected higher caste practices and options and caste system as such was not challenged. Some authors tried to discover 'Brahmanism' as the root reason for the discriminatory behaviour.

Jyotiba Phule, a social activist felt the necessity of reforms within the Hindu society. In 1860 he called attention to the deplorable conditions in which the depressed classes lived and also the discriminatory treatment meted out to them. In 1880's, the British administration set up scholarships, special schools and other beneficial programmes. Progressive minded princes in the native states like Baroda, Kolhapur and Travancore took similar initiatives.\(^{11}\) Tracing the historical evolution of the policy of reservation the Committee on the welfare of Scheduled Castes and Scheduled Tribes stated:

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

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

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

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

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

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

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

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

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

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

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

On August 1932 the prime minister of Britain Ramsay Mac Donald announced communal award to grant separate electorate. The award was based on the principle of communal representation and gave separate electorates to the depressed classes, the Muslims, the Sikhs, the Europeans and the Indian Christians.16 Gandhi termed communal award as “an attack on Indian unity” and nationalism and he started fast unto death at Yervada jail. Gandhi argued, “Muslims and Sikhs are all well organized, the untouchables are not. There is very little political consciousness among them and they are so horribly treated that I want to save them against themselves. If they had separate electorates, their lives would be miserable in villages which are the strongholds of Hindu Orthodoxy............you must understand I can tolerate the proposal for special representation of the Musalmans and the Sikhs only as a necessary evil. It would be a positive danger for the untouchables............. the only thing needed is to put them on the voters’ list and provide fundamental rights for them in the Constitution."
Ambedkar was opposed to Gandhiji so he did not take his fast seriously. Finally both reached an agreement, known as Poona Pact, which was signed on 24th September 1932. Poona pact is known as a centre point of the modern reservation policy.17 These developments reflected finally in Government of India Act 1935. This replaced the term "depressed classes" with "Scheduled Castes". Accordingly list of Scheduled Castes were notified in 1936.18 The Act defined the Scheduled Castes "such castes, races or tribes or groups within a caste. The Act provided the facility of reservations in legislative bodies through election for the first time to the Scheduled Castes.

While Gandhi started Harijan Sevak Samaj to uplift the depressed classes, Ambedkar formed the Independent Labour Party, later became All India Depressed Classes Federation, to put pressure on government for obtaining more resources for the depressed classes. Ambedkar submitted a memorandum to the government for reservation not only in legislative seats but also in education and government employment. This demand was accepted which finally provided the basis for the policy of reservation in India. The Government of India vide its resolution dated 11.3.1943 provided for reservation of 8.33 percent of the vacancies in the government for the Schedule Casts.19 This provision was made after realising the limited results of the earlier policy of nominating candidates belonging to the depressed classes to the public services.

Prior to independence the British Government adopted and used the policy of caste based reservation to divide the Indian society and to create hatred between different groups and communities. There had been resentment against the policy from many quarters. The principal of King Edward Medical College, Lahore who was a noble Englishman resigned the job when admission was ordered to be made on the basis of caste. He said, "I cannot entrust human beings to inefficient hands. What has caste or religion to do with medical care? Only merit should count."20

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

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

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

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

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

71
Shri Damodar Swarup Seth while discussing draft Art. 10 (corresponding to Art 16 of the Constitution) stated:

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

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

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

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

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

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

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

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

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

Shri V.I. Muniswamy Pillay stated:

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

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

Shri Shantanu Kumar Das emphasises on reservation by stating that:

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

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

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

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

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

He has defined word 'backward by stating:

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

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

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

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

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

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

"If members were to try and exchange their views on this subject, they will find that there are three points of view which it is necessary for us to reconcile if we are to produce a workable proposition which will be accepted by all. Of the three points of views, the first is that there shall be equality of opportunity for all citizens...Another view mostly shared by a section of the House is that if this principle is to be operative ...and it ought to be operative in their judgment to its fullest extent ... there ought to be no reservations of any sort for any class or community at all, that all citizens, if they are qualified should be placed on the same footing of equality so far as the public services are concerned that is the second point of view we have, then we have quite a massive opinion which insists, that, although theoretically it is good to have the principle that there shall be equality of opportunity, there must at the same time be a provision made for the entry of certain communities which have so far been outside the administration ...supposing for instance, we were to concede in full the demand of those communities who have not been so far employed in the public services to the fullest extent, what would really happen is that we shall be completely destroying the first proposition upon which we are all agreed, namely, that there shall be an equality of opportunity. Let me give an illustration, supposing for instance, reservations were made for a community or a collection of community, the total of which came to something like 70% of the total posts under the state and only 30% are retained as the unreserved. Could anybody say that the reservation of 30% as open to general competition would be satisfactory from the point of view of giving effect to the first principle, namely, that there shall be equality of opportunity. It cannot be in my judgment. Therefore the seats to be reserved if the reservation is to be consistent with sub clause (l) of Article 10 must be confined to a minority of seats. It is then only that the first principle could find its place in the constitution and effective in operation. If honourable members understand this position that we have to safeguard two things, namely, the principle of equality of opportunity and at the same time satisfy the demand of communities which have not had so far representation in the state, then, I am sure they will agree that unless you use some such qualifying phrase as 'backward' the exception made in favour of reservation will ultimately eat up
the rule altogether...Nothing of the rule will remain. Somebody asked me, "What is a backward community?" Well I think anyone who reads the language of the draft itself will find that we have left it to be determined by each local Government. A backward community is a community which is backward in the opinion of the Government. My honourable friend Mr. T. T. Krishnamachari asked me whether this rule will be justifiable. It is rather difficult to give a dogmatic answer. Personally, I think it would be a justifiable matter if the local Government included in this category of reservations such a large no of seats, I think one could very well go to the Federal Court and the Supreme Court and say that the reservation is of such a magnitude that the rule regarding equality of opportunity has been destroyed and the court will then come to the conclusion whether the local government or state Government has acted in the reasonable and prudent manner."

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

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

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

Constitutional Provisions and Amendments

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

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

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

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

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

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

PREAMBLE:

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

JUSTICE, social economic and political;

LIBERTY of thought, expression, belief faith and worship;

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

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

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

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

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

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

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

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

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

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

Article 340 of the Constitution corresponding to Article 301 of the Draft
Constitution says:31

(a) The President may by order appoint a commission consisting of such persons as
he thinks fit to investigate the condition of socially and educationally Backward

81
Classes within the territory of India and difficulties under which they labour, to make recommendations as to the steps that should be taken by the Union or any state to remove such difficulties and to improve their condition and as to the grants that should be given for the purpose by the Union to any State and the condition subject to which such grants should be given and the order appointing such commission shall define the procedure to be followed by the Commission.

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

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

Article 341 says (a) the President may with respect to any State or Union Territory and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes which shall for purpose of this constitution be deemed to be Scheduled Castes in relation to that State or Union Territory as the case may be. (b) Parliament may by law include or exclude from the list of Scheduled Castes specified in a notification issued under clause (a), any caste, race or tribe or part of the group within any caste, race or tribe, but serve as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.¹²

Article 342 says that the President may with respect to any State or Union Territory and where it is a state..., after consultation with the Governor...... Thereof by public notification specify the tribes or tribal communities which shall for the purpose of this constitution be deemed to be Scheduled Tribes.¹³

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

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

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

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

Committees and Commissions and their Recommendations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

When the commission submitted its report in 1980, the congress party was in power and was unwilling to act on the report. Thus it was only in 1990 when a non-Congress coalition government came to power that it proposed the implementation of the Mandal Commission recommendations. The historic decision prompted widespread disturbances and violence in several parts of the country. Despite the violent protests the government went ahead and implemented the decision on 27 percent reservation for OBCs in central government jobs. This was done through an executive order following a decision in the cabinet. In 1991, the congress government added a notification for reservation of 10 percent for ‘other economically backward section of people’ who were not covered by existing scheme of reservations. The constitutional validity of these decisions was challenged in Supreme court in *Indira Sawhney vs Union of India* (Mandal case). In a majority decision the apex court upheld the 27 percent reservation for socially and educationally backward classes but struck down the 10 percent reservation for economically backward people. The court also upheld caste as criteria for identifying OBCs. The court also directed the Central
Chapter II

Genesis of Reservation Policy in India

Government to set up a permanent body at central and state levels to look into complaints of over-inclusion or under-inclusion in the OBCs lists. This was necessary because a caste group can enter the OBC category only on the recommendation of National Commission for Backward Classes.

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

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

1. Marc Galanter, *Competing Equalities: Law and the Backward Classes in India*, Oxford University Press, Delhi, 1984, p. 11
3. Ibid, p. 5
4. Ibid, p. 8
5. Marc Galanter, *op.cit*, p.8
6. Ibid, p. 122
7. Ibid, p. 132
8. Ibid, p. 147
9. Ibid, p. 156
10. K.S. Pady, *op.cit*, p. 15-19
13. K.S. Padya, *op.cit*, p. 18
15. Ibid, p. 20
16. Dr. Ram Samujh, *op.cit*, p. 54
17. Ibid, p. 56-57
18. K.S. Pady, *op.cit*, p. 20
20. Marc Gallenter, p.286
23. K.S Pady, *op.cit*, p. 20
24. Arvind Kumar, *op.cit*, p. 228
25. Ibid, p. 229
26. K.S. Pady, *op.cit*, p. 32
27. Arvind Kumar, *op.cit*, p. 230
28. *Ibid*, p. 32
29. Arvind Kumar, *op.cit*, p. 230
30. K.S. Pady, *op.cit*, p. 33
31. Arvind Kumar, *op.cit*, p. 231
32. K.S. Pady, *op.cit*, p. 35
33. *Ibid*, p. 35
34. Dr. Ehsanullah Khan, *Indian Polity and Reservation of Rights*, Bait-Al-Hikma Trust, New Delhi, 1991, p.19
35. *Ibid*, p.19
36. Arvind Kumar, *op.cit*, p. 235
38. Arvind Kumar, *op.cit*, p. 236
40. Dr. Ehsanullah Khan, *op.cit*, p. 20
41. Arvind Kumar, *op.cit*, p. 241
42. K.S. Pady, *op.cit*, p. 46
43. *Ibid*, p. 47
44. *Ibid*, p. 47