Conclusion and Suggestions

CHAPTER 7

CONCLUSION AND SUGGESTIONS

Reservation is one of the many facets of equality and undoubtedly a means to bring unequal’s and down-trodden to the levels of equals and to provide them social justice. It is undeniable fact that by reservation at least some families in the backward classes gained sufficient means to develop their capacities to compete with others in every field. Such change was not only because of reservation but it was a combined effect of lots of factors. With the increase of industrialization and urbanization which necessarily followed in its wakes, the advances on political, social and economic front made particularly after the commencement of the constitution, the social reform movements of the last several decades, the spread of education have played their roles.

The working appraisal of the policy of preferential treatment in the form of reservation clearly shows that the policy has failed to achieve the desired objective underlying in it. On the contrary, a vested interest has developed in it for extraneous considerations. The policy devised to build a classless and casteless society, has instead perpetuated distinctions. The policy as implemented, enlarged and perpetuated has almost completely distorted the original philosophy. It has on the one hand created a vested interest in backwardness and on the other hand resulted in what is seen as a reverse discrimination against the general or unreserved class.

The caste system- origin of which is highly controversial and we cannot say much about it with great exactitude, has put a great impact on the Indian societies. As Hindu constitutes the majority of Indian society, the caste system divided Indian societies into four different classes and determined their occupations. People of these
Conclusion and Suggestions

classes were to follow the occupations assigned to their classes and they were not free or allowed to deviate from this. They were not allowed to even give up their occupation. The mobility to upper caste is forbidden, even today if a person of lower caste pursues the profession of upper caste, he continues to be a member of the lower castes even if his achievement are higher than of those belonging to the higher castes. In social intercourse, he has to take his assigned place.

One of the worst affects of caste system was that a particular segment of the society had been denied the bare human rights. Their educations, wages, living conditions, social status were dictated by the whims of upper strata of society, reducing them to destitution. The lower castes were denied the access to knowledge and learning. Naturally, all the posts in the administrative machinery except those of the menials were manned by the higher castes, which had the monopoly of learning. The concentration of the executive power in the hands of the select social groups had its natural consequences. It is difficult to guage the extent and depth of social and economic exploitations that resulted in discrimination, misery, poverty and other disabilities for an appreciable large section of our population. The economic backwardness brought social backwardness which consequently made them down-trodden and thus depriving them even of the dignity of life. Consequently, in a society compact, metalized on caste basis, upper caste controlled the levers of power inability themselves to run their whips, pry indicial to the interest of lower segments of the society.

Caste is an important feature of Indian society and played an important role in determining the backwardness of a people. The constitution nowhere defines the caste. Caste has always been used as a criticism for identifying backwardness of a class. In various cases, the apex court has accepted caste as a relevant factor for asserting caste as the sole or dominant criterion. Backwardness of certain castes and communities has been attributed to the Indian social structure in which rigid endogamous groups inherently sustain the inequality due to traditional values and taboos. Whatever might have been true in traditional India, in examining today
whether caste as a whole can be treated as backward or whether caste and class are
synonymous, one should not lose sight of the present day sociological realities. Today
there is no necessary correspondence between caste-status and socio-economic status.
Education and occupation are now relatively open to everyone regardless of one’s
caste, religion or race. Some sociological studies have revealed that upward mobility
among the lower-status castes is increasing with gradual disappearance of social
status based upon ritual-rack-ordering. Instead of status based upon ritual status being
the criteria of mobility-new criteria of occupation, education, wealth, political
influence and leadership positions are instrumental in reducing the positive
relationship between caste status and achieved (education, income, occupation) status
and thus creating the possibilities of changing the status summation characteristics of
India society with these changes in the profile of social stratification in India ‘caste’
can no longer be characterized as homogeneous and non-competitive. Today there is
a great amount of differentiation among the members of a caste group in terms of
income, occupation and status and therefore it is no longer accurate to talk of caste as
class.

Caste criteria are unreliable because the social and economic backwardness
may easily become confused with low ritual status. The caste-status which is
determined by birth, of an individual is static or immutable out the social, economic
and educational attainment which is achievable is dynamic and it is questionable how
a static factor (caste) can determine a dynamic factor (backwardness). Moreover the
non-discriminatory provision of the Indian constitution also rejects the caste of social
organization and envisions a new egalitarian and secular society. As the constitution
prevents discrimination on the basis of caste, the caste as a factor to determine
backwardness is something reviving the caste discrimination in the society.

The prospects of material advancement through job reservation have led to a
kind of competition creates a vested interests in backwardness and it combines the
worst feature of a hierarchical and a free-market society. It stifles individual initiative
Conclusion and Suggestions

without creating equality between individuals and it obstructs the national process through which the barriers between castes and communities can be affected.

The aim of Indian constitution is to establish a socialistic pattern of society based on parliamentary democracy. The constitution of India directs that the state shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of national life. It has been stated that all citizens have the right to an adequate means of livelihood and that the ownership and control of the material resources of the community are as distributed as best to sub serve the common good. The directive principles also enjoin the State to ensure that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

The principal aim of a socialist state as envisioned in the preamble is to eliminate inequalities in income and status and standards of life. The basic framework of socialistic is to provide a descent standard of life to the working people and especially to provide security from cradle to grave. One of the main objectives of the constitution is to building of a welfare state and an equalitarian social order in our country. The constitution of India guarantees the right to equality through Articles 14 to 18 and it is one of the magnificent corner-stone of Indian democracy. The doctrine of equality has many facets. It is a dynamic and evolving concept. Its main facets relevant to Indian society have been referred to in the preamble and the Articles under the heading right to equality. Among others the concept of equality before the law contemplates minimizing the inequalities in income and eliminating the inequalities in status, facilities and opportunities the inequalities not only amongst individuals but also amongst groups of people, seeming adequate means of livelihood to its citizens and to promote with special care the educational and economic interest of the weaker sections of the people, including in particular the Scheduled Castes Scheduled Tribes and backward classes and to protect them from social injustices and all forms of exploitations.
The varying needs of different classes of persons require special treatment. A principle of reassemble classification was developed by classifying reasonably. It becomes imperative, therefore to adopt a policy of compensatory or protective discrimination as equalizer to those who were made too weak to compete with the advanced sections of the society in the race of life consonant with its resolve in the preamble to secure to all citizens. Article 16(4) is the instances of protective discrimination. The provision of protective discrimination are not intended to be negative or derogatory of the equality guarantee of Article 14, 15(1), 16(1) and 16(2) but are definitive of equality in relation to the backward groups. Article 15(4) and 16(4) therefore classify that where making a classification showing favored treatment to the backward classes, the state might use the forbidden criteria because any real classification will have to take, religion, race etc. criteria.

The protective discrimination is one of the important methods through which constitutional goals like social and economic justice can be secured to the Scheduled Castes, Scheduled Tribes and Backward Classes people. Protective discrimination means preferences given in public employment to the weaker sections of the society including the Scheduled Castes, Scheduled Tribes and other backward classes. Its aim is to balancing the benefits of a social welfare state between the haves and the have-nots.

Reservation is one of the measures adopted by the constitution to remedy the continuing evil effects of prior inequalities stemming from discriminatory practices against various classes of people which have regulated in their social, educational and economic backwardness. The purpose of reservation is to help the weaker sections of the society. It aims at seeming proper representations in administration to all sections of the society, intelligence and administrative capacity being not the monopoly of any one class, caste or community.
Conclusion and Suggestions

The Constitution permits preferential treatment in the form of reservations for three categories of people: 1. scheduled caste, 2. Scheduled Tribes and 3. Other backward classes. The reservation of these classes are given in three specific areas: reservation of seats in the legislature reservation of jobs and reservation of seats in the educational institutions. Article 330 and 332 provide for the reservation of seats for the scheduled caste and Scheduled Tribes in the house of the people and the legislature assemblies of the states. These special provisions for the reservation of the seats in the legislature were provided purely as a transitory measure. An objective assessment of the policy of legislature reservation warrants its early reversal. To ensure the protection of backward classes of citizens it was necessary that members of backward classes be appointed in state services and so the power was given to the state to provide for reservation of such appointment. Since education is primarily the responsibility of the state government and the union government also has certain responsibility specified in the constitution as matter relating to institutions of national importance and certain other specified institutions of higher education, it is the responsibility of the governments to promote the educational opportunities of the weaker sections of society. That is why constitution provides reservation for backward classes in educational institutions.

The concept of social justice denotes a philosophy of life and sets a way in which all social life showed behave. Further this concept is believed to be of a revolutionary import. There has been a historical process through which this concept, which was initially a doctrine of social philosophy, had entered into state-craft and captured the constitutional fields. Justice is generally divided into legal and social. Legal justice concerns the punishment of wrong doing and the compensation of injury through the creation and enforcement of a public set of rules. Social justice requires equitable or just distribution of the social goods and evils or of burdens and benefits. The task of just distribution in the present day society has to be performed primarily by the state and, therefore, through social justice may cover even private, or in Aristotle’s language ‘corrective justice’, yet it is mainly concerned with distribution through the agency of the state.
Conclusion and Suggestions

A just state would then be one which can supply in abundance the needs of her people. The welfare of the people lies in the fulfillment of their needs. In the modern phraseology, a welfare state is rightly another name for a just state. The first and greater necessity is food which is the condition of life and existence. The second is dwelling, the third clothing, the education, then right to work and leisure, then freedom from exploitation, and so on and so forth. The more a state is able to make provision for the greatest number of wants, the more she is approximate to the idea of a luxurious state. The more she is so, the more she will be able to secure social justice to her people.

As justice in the key-stone of our constitution and the equality is the very foundation of justice but our society has always been full of inequalities. In order to check furtherance of injustices and sufferings of people because of their handicaps of being born in a particular class, community or caste, our constitution prohibits the state from discriminating on grounds of religious, race, caste, sex or place of birth. The state has vast power to make reservation in employment and admission for such backward people or down-trodden people. Any state-socialistic or otherwise, which think in terms of well being of its inhabitants, has to take care of the last person of its soil. In a nation with limited resources like ours, the need to treat those unfortunate millions by distributing higher dividends could not rationally be debated. This is the supporting treatment to the less-equals to minimize the imbalance. This is the civilized society orders. It takes shape of constitutional objectives, which are, however, to be accomplished by the modus operandi evolved and within the parameters prescribed by the constitution itself social justice as one of the constitutional objectives, is to be aimed at accordingly. Distributions have to reach to the less equals in a proportion as commanded by the constitutional scheme.

Reservations are provided for backward classes and who are these backward class people and how they are to be determined, all these questions are not answered in the constitution categorically. The Supreme Court rendered some important
Conclusion and Suggestions

decisions on this point. Different backward class commissions have been appointed since independence to determine these questions. The commissions lay down different factors in this respect. The present reservation policy is based on the second backward class commission, popularly known as Mandal commission.

Reservation under Article 16(4) no doubt falls under part III of the constitution comprising the fundamental rights but every provision of part III, however does not confer a fundamental right. Some of the provisions of part III are just definitional; others are on the effect of fundamental right on the existing and future lams. Still others provides for the enforcement and implementation of the fundamental rights while some other provide exceptions to the fundamental rights. It may be mentioned here that beginning from *M.R. Balaji v. State for Mysore* until the nine judge bench decision of the supreme court in *India Sawhney v union of India*, Article 16(4) and 15(4) have been treated as enabling provisions. There is no indication in the constitution that the state need reserve any minimum part of it s resources to their benefits. Articles 15(4) and 16(4) do not confer on backward groups any fundamental right to such arrangements.

The policy of reservation creates an obligation on the state to treat everyone with equal respect and concern and in this sense this policy serves the principle of equal treatment. The policy of reservation does not create any corresponding individual right in favour of the member of the beneficiary group.

The present policy of reservation is based upon the recommendation of Mandal commission and the Mandal commission recommended on the basis of the caste census of 1930. After 1930 there is no caste census. It is clear that after 930 there is tremendous changes occurred in India society and thee changes influenced the Indian people. The life of backward people developed to large extent. Their social conditions also improved. After independence, our own government has taken various measures which changes the social condition of so called backward rigid caste system so to identity the true beneficiaries of reservation, a fresh caste census in inevitable.
Conclusion and Suggestions

Moreover caste, at present time is not as rigid as it used to be in pre-independence days and it will not be proper to rely on caste only. Therefore the data supplied by the Mandal commission is not trustworthy. Any reservation made on this basis is just misleading.

There is no indication in the Constitution that the state need reserve any minimum number of posts in government service or seats in educational institutions; nor divert any minimum part of its resources to their benefits. Preferences are not mandatory but only permitted. In absence of any specific limit on the extent of reservation under the constitution, various governments have been resorting to implement reservation in educational institutions and government jobs to the maximum extents. The claimants of reservations under the constitution are three, the scheduled caste, Scheduled Tribes and the other backward classes. Their population being 15%, 7.5% and 52% respectively. At present the Scheduled Castes are given 15%, Scheduled Tribes 7.5% seats and other backward classes are given 27% reservation.

Apart from this, the central government has made a reservation of seats to the tune of 27% for socially and educationally backward classes in the central Educational Institutions.

For determining as to what extent reservation would be reasonable we must take into account two factors: - one its effects on the fundamental rights of the candidates of the general category under Article 15(1) and 16(2) of the constitution and the other about its effect on march and efficiency in administration. There is no doubt that reservation adversely affects both and has to be tolerated to a reasonable extent as something necessary to compensate for injustices populated by society on the Scheduled Tribes as well as other backward classes in the past. Since every reservation under Article 16(4) claims a victim from the general category the power conferred by the said Article should be exercised sparingly with great care and certain
Conclusion and Suggestions

only where other means of promoting the interests of certain weaker sections of the society under Article 15(4) and Article 16(4) must be very strictly construed.

With the increase of industrialization and the urbanization which necessarily followed in its wake, the advance on political, social and economic fronts made particularly after the commencement of the constitution, the social reform movements of the last several decades, the spread of education and the advantages of the special provisions including reservations secured so far, have all undoubtedly seen at least some individuals and families in the backward classes, however small in number, gaining sufficient means to develop their capacities to compete with others in every field. That is undeniable fact.

Therefore, some members of the designated backward classes are highly advanced socially as well as economically and educationally and they constituted the forward section of that particular backward class-as forward as any other that particular backward class-as forward as any other forward class member and that they are lapping up all the benefits of reservations meant for that class, without allowing the benefits to react the truly backward members of that class. These persons are by no means backward and with them a class cannot be treated as backward. Legally, therefore, they are not entitled to be any longer called as part of the backward classes whatever their original birth mark.

The protective discrimination in the shape of job reservations has to be programmed in such a manner that the most deserving section of the backward class is benefited means test ensures such a result. The process of identifying backward class cannot be perfected to the extent that every members of the said class is equally backward. There are bound to be disparities in the class itself. While reservation for backward classes, the department should make a condition precedent that every candidate must disclose the annual income of the parents beyond which one could not be considered to be backward. What should be that limit can be determined by the appropriate state.
Conclusion and Suggestions

Therefore, creamy layer from the backward classes must be excluded in all circumstances. There are instances where the creamy layer even amongst scheduled caste and Scheduled Tribes are also seen and there creamy layer among these classes should also be excluded from the benefit of reservation.

Special provisions by way of reservation for scheduled caste and Scheduled Tribes as well as backward classes were introduced as a temporary measure to raise them to the status of an overage enlightened citizen of India whose dignity and status depend on being an Indian and not on his belonging to this castes or that or any other sub-division of society of this nature. Once all distinctions of high and low depending on race caste or religion etc, disappear, the special provisions for reservation etc would no longer be necessary.

The reservation of seats for Scheduled Castes and Scheduled Tribes in the house of the people and legislative assemblies of the states; was to continue only for 10 years from the commencement of the constitution under Article 334. This means that the constitution makes expected that with the aid of the provisions made for the benefit of backward class in consonance with the demand of social justice, a casteless society would be established within a period of 10 years and therefore, there would be no need for reservation at all. It is true that for the reservation under clause (4) of Article 16 no time limit was prescribed but it is obvious that once the stage is reached when there could be no need for reservation under the Constitution. Reservation of post in a single post -cadre amount to 100% reservation in the cadre. So there cannot be reservation in a single post.

Reservation in educational institutions have created problem for the educational institution system itself. The statistical data in connection with the SC/ST student’s shows that out of total SC/ST candidates admitted, 13 percent did not join the course at all, 10 percent withdrew on their own and 23 percent left the course in between resulting in only 4 percent completing their studies. To this the statistical graph sadly further moves to point out that in the medical education out of 4 2 SC
Conclusion and Suggestions

Student sonly 4 could complete their studies in the prescribed time schedule; whereas there were 12 SC students who had to their credit 6 to 7 years and 7SC students took a record time of 7 to 8 years to pass the MBBS course. Unfortunately there is no study about the output of such pass outs\(^{773}\).

No one can oppose the protective discrimination in favour of backward classes because it was one of the measures to uplift the down trodden, the backward classes to level of forward classes who suffered for historical wrongs. That is why our founding father of caste evolved such measures. No doubt it is a pious and a very welcome step but it is a matter of serious concern that even after 60 years of independence or the coming into existence of free India constitution, still a large number of Indian population is backward. It shows that there is some problem with the reservation policy.

This might have been envisaged that the aim of Article 16(4) and 15(4) was not to eliminate all inequalities but only those associated with traditional social structure.

Reasons for backwardness or inadequate representation in services of backward Hindus prior to 1950 were caste division, lack of education, poverty, feudalistic frame of society and occupational helplessness. All these barriers are disappearing Industrialization has take over. Education through state effort and due to awareness of its importance, both, statistically and actually has improved. Feudalism died in fifties itself. Even the Mandal commission concepts this reality. Any identification of backward class for purposes of reservation, therefore, has to be tested heeping in view these factors as the exercise of power is in present. Importance of ward ‘is’ in Article 16(4) should not be lost of backwardness and inadequacy should exist on the date the reservation is made. Reservation for a group which was educationally and socially backward before 1950 shall not be valid unless the group

Conclusion and Suggestions

continues to be backward today. The group should not have suffered only but it should be found to be suffering with such disabilities. It a clean or comments ceases to be economically represented than no reservation can be made as it no more continuous to be backward even though it may not be adequately represented in service or it may be backward but adequately represented.

Examining the issue of reservation from the vantage point of spirit behind the reservation one is forced to reflect upon the continuance of reservation in the light of the rationale that guides reservation polices. We cannot declare honestly that the sole aim of all reservations as they stand today is the upliftment of the weaker and disadvantaged sections of our society.

The recent proposal of the government to extend the benefits of reservation from 5-10 percent for economically backward among the higher castes only serves to put a big question mark on the geniuses of the intentions behind the reservation measures was the government in such emergent urgency to declare the provisions, that days after having done it, it was forced to propose an amendment by addition to it? Another instance of the responsiveness of the government perhaps? By the same logic of the proposed extensions does it not become imperative that the section of the economically advantaged among the socially backward and the scheduled caste/tribe be removed from the ambit of these provisions.

One can say that it is a case of deliberate myopia or simply that of offering the sacrifice of national interests and integrity on the demanding alter of political ambition. Such as the degradation in the image and perceived nationalism of our political leaders today that an average man on the street wonders whether the government is really interested incardinating the evil of caste discrimination? By consistently sticking to non viable and seemingly unfair criterion of deciding up on the beneficiaries of reservations, is the politician of today committing the nation to his individual vote bank or is he genuinely committed to an India unspoiled by caste and class riffles?
Conclusion and Suggestions

Reservation policy is guided and influenced more by the politics of backwardness than by the prescription of the courts. The analysis of the modus operandi of the various backward classes’ commission and of the state governments has amply revealed that the designation of backward classes is determined largely by caste-mobilizations, caste equations and the power game. Even the reaction over the reservation policy depends upon political consciousness and dominance of castes. There are instances where some political parties have shown vested interest in whipping up frenzy among the dominant backward castes for their own political base.

The backward classes are classified by application of multiple tests which lead to poverty. Such tests are low level of income, low level of occupation, low level of education and low level of living conditions. In either way it can be said only economic test that go by caste be applied for the identification and classification a backward classes. It has been repeatedly observed in a number of decisions of the Supreme Court that poverty is the root cause of special and educational backwardness and this poverty was the gift of the British Rule. It would be wrong to assume that all those who have been socially and educationally backward are victims of social injustices perpetrated by the upper castes. Only some of them such as SC and ST and some other communities very close to them can be said to have suffered as result of social injustices others suffered due to poverty.

The other backward classes have a very different position in Indian society from that of the Scheduled Castes and Scheduled Tribes. It is true that their traditional ritual status was low and that they were latecomers to the competition for universities degree and government jobs. Only the Harizans and Adivasis have been for centuries the victims of active social discrimination, through segregation in the first case and isolation in the second case. They alone have suffered the kind of psychological and moral injury that justifies their being now treated with special consideration. The castes and communities grouped together as the other backward classes have not suffered collectively king of injury is either the recent or the distant past. They
Conclusion and Suggestions

include locally dominant castes, some of whose leaders are among the worst tormentors of Harizans in the rural area today.

SUGGESTIONS

The existing policy of reservation needs fundamental and drastic changes. Neither it could bring about the desired social reconstruction, nor it helped to ameliorate the socio-economic conditions of the weaker sections. Instead of resorting to reservation and thus creating distrust and tension between various segments of society, a time bound programme to uplift all the weaker sections is needed.

While making a strong case of caste-wise census, Justice M. N Rao, Chairperson of the National Commission for Backward Classes said that the present form of reservation is not yielding desired results envisioned by the framers of the policy. In this respect we have to be very cautious while framing the policy of reservation. Just to provide social justice to backward classes should not respect in causing injustice to the non-recipient classes. So a harmonious approach is required. We can do that only by not enlarging the list of backward classes and by excluding the advanced classes from the backward sections of people.

It should be realized by everyone that reservation under Art. 16(4) is an extreme step to raise the level of the backward classes. The discretionary power conferred by it on the government has to be exercised with care and caution because it causes grave hurt to teenagers of the middle classes who have nothing to rely except on their merit and industry to build-up their future. For politicians it is a simple and cheap device to gain popularity and therefore, they are tempted to make use of it for the power on backward communities without realizing what grave consequence it has on the future prospects of teenager of the general categories.
Conclusion and Suggestions

There is urgent need to identify the receivers of protective discrimination; otherwise the great edifice of our democracy might suffer a jolt and crumble and crumble to pieces under the sheen weight of its own contradictions. The benefits of this policy cannot be allowed to be squandered on the undeserving. Even if a class or a section people is found to be backward today, the courts or the legislature should not act on the presumption that class would continue to be backward for all times to come. Social scientists and the lawyers would have to conduct empirical studies periodically to assure the attainments of the members of that class in different attainments of the members of that class in different walks of life. If such studies reveal that the backwardness of class has ceased to exist, then that class should be removed from the orbit of backwardness. It should not be forgotten that national resources have to be mobilized in such a way that the benefits of our welfare state reach the teeming millions even without reservations. A stage must reach when ever without claiming protection of backwardness, or individual may be able to get non-discriminatory treatment and equality of justice.

No single criterion can be useful in identifying the Other Backward Classes. If the class as a whole is treated as backward then only the prosperous segments among the designated backward classes will get the lion’s share of the benefits. So the creamy layer amongst the backward must be excluded from the purview of backwardness for the benefit of reservation. The income criteria for the exclusion of creamy layer must be revised and those whose annual income is more than rupees 180,000 per year must not get the reservation.

Caste can only be used as an evidence of backwardness and not as unit of backwardness. Caste and class are not synonymous. No single criteria can be useful in identifying the other backward classes. Today there is no necessary congruence between caste hierarchy and occupational, economic and social position even among the members of the same caste groups. Even the occupation cannot be the sole determinant of backwardness because of the changing occupations and of the difficulties of ascertaining the occupation of the communities which do not follow
Conclusion and Suggestions

traditionally low occupation. An exclusive income test would fail the cases where it is difficult to estimate the income of the beneficiaries such as farmers, traders, self-employed and whose income record is often concealed or unrecorded. Therefore, the backward classes should be drawn by applying multiple tests. All conceivable attributes of backwardness such as low level of occupation, low level of health, nutrition, housing and adverse environmental or geographical conditions-must is taken into account. Since backwardness is a matter of degree and kinds, backward groups selected for one purpose need not be the groups for all purposes. On applying the multiple tests one might find that some groups need only health care and housing, some need educational concessions, some need only reservation in services and some need all these benefits.

Reservation should be commensurate with the degree of backwardness rather than with the percentage of backward class population. Reservation cannot be covered into a system of proportional representation. The principle that reservation should be commensurate with ratio of the population of each backward class makes sense only when the beneficiaries are properly selected. By whatever standard backward classes are selected some will be more backward than others. The term backward class contemplates plurality of backward classes. In state one backward class may be more underrepresented in services as compared to another backward class. All backward classes need not be uniformly backward. The present system of uncompartmented or aggregate reservations is benefiting only the elites among the backward classes and is operating to the detriments of the most needy and deserving backward classes and thus negating the very idea underlying compensatory justice.

Therefore, the creamy layer should be excluded not only among the other backward classes but also from the scheduled caste and Scheduled Tribes.

The process of chronic development and the spread of education have resulted in narrowing the gap between the classes considerably. As larger percentages of backward class member attain acceptable standards of education and employment,
Conclusion and Suggestions

they should be removed from the backward classification, so that attention is given to those classes that genuinely need help. It would be a useful exercise to review the classification of backward classes once again and also check whether the criteria used for classification of backwardness is relevant for today’s conditions. If this is not done, it will provide the backward classes incentive to remain backward, because in the knowledge that, with relatively little effort and qualification the government still guarantee them adequate educational and employment opportunities.

The list of the OBCs must be reviewed periodically once a backward always a backward cannot be made a rule. Review of caste as backward must be made on the caste census report. A periodical re-examination of the classification of backwardness and a progressive reduction of reservation percentage, couple with expansion of educational facilities is the policy that will suit the country best in the long term. Governments may be reluctant to reduce reservation or attempt a re-classification because of their tremendous political implications, but it would be consistent with the principle behind helping the genuinely needy only.

Reservation should be confined to initial appointments only and when a backward class is in a position to take off, it should be left for the open competition. Therefore, there should not be any reservation is promotion. It is not something confining the backward in initial jobs rather it would be an effort to make them independent, self reliant and more competitive.

By definition, the system of reservation is short lived and a temporary measures complemented by long range developmental measures which when began to produce results, the reservations can be slowly withdrawn. There is thus a need to re-orient the system of reservation rather than to pass sever judgments against its continuance. Moreover it is too unrealistic to talk of scrapping the system of reservation which can be done only by an amendment to the constitution which seems unthinkable in the light of the political realistic of today’s India. What is needed today is that the state should divert more and more of its resources to increase the overall
Conclusion and Suggestions

competitiveness of the identified beneficiary groups rather than to stick to reservation as the only best means to promote equality.

The states may have their own lists quite different from the Central list. The Commission appointed by the president under Article 340 is not a continuing body with a power to revise the list. Nor is there any provision for revision of Presidential specification of OBCs. This is why in 1956 the Home Ministry, while rejecting Kaka Kalelkar’s report took the view that although there was an obligation to compile a list in accordance with requirement of Article 340, the Constitution of India did not mandate drawing of a central list. The Central government showing its helplessness to draw such a list took the view that of even if such nationwide list could be drawn, it would still be open to every State government to draw up its own lists and any all-India list would have no practical utility.

In the words of Professor B. P. Dwivedi “the class distinction in Indian Society is not of different castes but it is the distinction between the rich and the poor. The rich always treated the poor as slaves and chattels and nothing more. These oppressed and suppressed people could not imagine enjoying any status in life in the society. Thanks to the framers of the constitution in general and the Judiciary in particular who thought and tried to eliminate this distinction.”

With all these suggestions I would like to recommend the continuation of reservation for further period. Here I would like to add one line inspiring from the Nobel Laureate Md. Yunis’s speech. During his Nobel Prize speech he said, “I firmly believe that we can create poverty-free world if we collectively believe in it. In a poverty-free world, the only place you would be able to see poverty is in the poverty museums.” So, I also firmly believe that, if the reservation policy is implemented wholeheartedly and properly, the concept of reservation would be a subject of

Conclusion and Suggestions

History and it would be found only in the Museum. The day will come and I hope that day will come soon.