GOVERNMENT OF INDIA

REPORT

OF THE

BACKWARD CLASSES COMMISSION

First Part

Volumes I & II

1980

VOLUME I

THERE IS EQUALITY ONLY AMONG EQUALS. TO EQUATE UNEQUALS IS TO PERPETUATE INEQUALITY.

CONTENTS

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भारत सरकार
GOVERNMENT OF INDIA

पिछड़ा वर्ग आयोग
BACKWARD CLASSES COMMISSION
5, Dr. Rajendra Prasad Road,

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New Delhi

दिनांक
Dated : December 31, 1980

Respected Rashtrapatiji,

By the grace of God Almighty, I have got the privilege of presenting this report to you.

2. On the 20th December, 1978, Shri Morarjibhai, the then Prime Minister of India announced on the floor of the parliament the decision to appoint Backward Classes Commission under my Chairmanship, with four other members. They were : Dewan Mohan Lal, Shri R. R. Bhole, Shri Dina Bandhu Sahu and Shri K. Subramaniam. The terms of reference were also announced on the floor of the House.

3. One of our Members, Shri Dina Bandhu Sahu, resigned his membership on 5th November, 1979 on grounds of health. He left this world on 7th October, 1980. We are sorry to have lost his valuable services in the midst of our work. The vacancy caused by his resignation was filled up by appointing Shri L. R. Naik.

4. We started our work after the inaugural speech of Shri Morarjibhai Desai, Prime Minister of India on 21st March, 1979 and ended with the valedictory Address by Smt. Indira Gandhi, Prime Minister of India on 12th December, 1980.

5. It may be mentioned that although this Commission was appointed by previous Janata Government, Smt. Indira Gandhi's Government not only gave two extensions but extended all support and cooperations in the discharge of our work. This clearly shows her devotion and commitment to the cause of the suppressed, depressed and the oppressed.

6. The Commission had to face many difficulties and challenges in carrying out its work like the dissolution of Lok Sabha in July 1979, followed by further dissolution of nine State Assemblies in March 1980. As the State machineries were engaged in preparation for polls, the Commission's work had to be slowed down. The Commission got three extensions, first for three months from 1st January to 31st March, 1980 and two more extensions from 1st April to 30th September and 1st October to 31st December, 1980. In spite of all these difficulties and time constraints, the Commission finished its work in a short period of less than two years.

7. Our task was confined to our terms of reference according to which we had to "determine the criteria for defining the socially and educationally backward classes" and "to recommend steps to be taken for the advancements of the socially and educationally backward classes of citizens so identified". We have, accordingly, fixed the criteria for the identification of such classes and recommended the steps to be taken for their upliftment. The necessary law laid down by the Supreme Court regarding the maximum quantum of reservation for the socially and educationally backward classes, under the meaning of Article 15(4) and 16(4) has also been kept in view in our report.

8. Our report, however, does not stand in the way of the States if they want to take any measure for the upliftment of the weaker sections of the people like the women and the poorer and others who are not covered by our terms of reference. It may be noted that there is no bar to make further reservation for them. For example, the Karnataka Government has reserved 48% seats for the socially and educationally backward classes, which includes SCs, STs and OBCs and further more 18% has been earmarked for the other weaker sections. The total reservation of 66% of that

Government was challenged in the judiciary and it was upheld. The reservation for OBCs under Article 15(4) and 16(4) should not, however, be amalgamated with any other reservation pertaining to any other criteria. In Subhashini Vs. State (AIR 1966 Mys 40)) it was held "The validity of the reservation for classes other than socially and educationally backward classes SCs and STs had to be tested on the basis of the requirement of Article 14. Such reservations should not be mixed up with the special reservation under Article 15(4). The upper limit laid down in Balaji case, has application only to reservation to be made under Article 15(4). It does not include any reservation otherwise made". In some of the Northern States even a small percentage of reservation is not reaching the socially and educationally backward classes of people as contemplated under Article 15(4) and 16(4) due to such linking.

9. On the basis of our extensive tour throughout the length and breadth of India the response received from the general public at large, I would like to state that the Backward Classes of this country repose high hopes in the Government's positive response to our recommendations. Apprehensions were rightly expressed before us that in case the report of my Commission also meets the same fate as that of Kaka Kalelkar's Commission, the legitimate hopes and aspirations of the socially and educationally backward classes, which constitute a bulk of the population will be dashed to ground.

10. We had to face enormous difficulties in the absence of caste enumerations figures after the 1931 Census. To avoid such difficulties in the future, a reference was made by me in my letter of 15th June, 1979 and 18th August, 1979, addressed to S/Shri H. M. Patel and Y. B. Chavan, respectively. I had also requested Giani Zail Singh, Home Minister to this effect in my letter of 31st March, 1980. I was informed that it had been decided that caste enumeration will not be carried out during the 1981 Census and that the present policy of not having enumeration of caste in Indian Census, will be continued, which needs reconsideration.

11. We were hoping to submit a unanimous Report to you and all the members of the Commission were agreed on this point. At the last moment when the Report was about to be signed one of the members, Shri L. R. Naik, decided to record a minute of dissent and it forms Volume VII of the Report.

12. Shri Naik's main contention is that the State-wise list of Other Backward Classes should be split into two parts : one pertaining to Intermediate Backward Classes and other to Depressed Backward Classes. Under Depressed Backward Classes, he has grouped those castes which, according to him, constitute the most deprived and under-privileged sections of the Backward classes. His contention is that they should be treated as a separate entity for purposes of benefits and concessions recommended in the Report. Clubbing these two categories, he feels, will not result inequitable distribution of benefits to these two groups.

13. Whereas the Commission sees the point of Shri Naik's contention, the acceptance of his approach will result in a situation which is repugnant to Article 15(4) of the Constitution. In the case of Balaji Vs. State of Mysore the Supreme Court has clearly held "In introducing two categories of Backward Classes what the impugned order, in substance, purports to do is to devise measures for all the classes of citizens who are less advanced compared to the most advanced classes in the State, and that, in our opinion, is not the scope of the Article 15(4)". This observation has been repeated in a number of other cases and, by now, it has become established case-law. In view of this, the Commission did not find it possible to agree to Shri Naik's view of dividing other Backward Classes into two categories.

14. Further, the population figures of the so-called depressed backward classes, worked out by Shri Naik, are also very arbitrary and based on pure conjecture.

15. It may also be pointed out that Shri Naik has deemed it proper to adopt the above line despite the fact that earlier from 10th to 14th November, 1980, he had signed every page of the State-wise lists of O.B.Cs., which treat all Other Backward Classes as one group.

16. Before I end this letter, I will be failing in my duty if I do not express my thanks to my colleagues, who have worked hard to finalise this report. The Commission consisted of members from Other Backward Classes and one Shri L. R. Naik from the Scheduled Caste. Dewan Mohan Lal, who is the eldest among us, never lagged behind to give his valuable contributions and the Commission has been benefited by the wisdom of his age and vast experience of his life. Shri Justice R. R. Bhole, M.P. had varied experience of legislature and judiciary and rural and urban life of India, was of immense help to the Commission. Shri K. Subramaniam, an intelligent and experienced

*A.I.R. 1963 S.C. 649

person, having had varied experience of rural life besides journalism and devoted to the service of the down trodden had made valuable contribution to the Commission. Shri L. R. Naik, who was appointed in the Commission after a lapse of several months, was the most hard working member in our lot. When other members were getting tired to continue the extensive tour of the country, he was ever unfatigued.

17. I have this signal privilege of submitting this report to you and hope you will have no hesitation in accepting our recommendations and redress the long felt grievances of the socially and educationally backward classes of our country.

With regards,

Yours sincerely,

Sd/-

(B. P. MANDAL)

Shri Neelam Sanjiva Reddy,
President of India,
Rashtrapati Bhavan,
New Delhi.

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COMPOSITION AND TERMS OF REFERENCE OF THE COMMISSION

* * *

In exercise of the powers conferred by Article 340 of the Constitution, the President appointed a Backward Classes Commission to investigate the conditions of socially and educationally backward classes within the territory of India. The composition of the Commission was as follows :—

1. Shri B. P. Mandal (ex-M.P.)	...	Chairman
2. Shri R. R. Bhole, M.P.	...	Member
3. Shri Dewan Mohan Lal	...	Member
4. Shri L. R. Naik* (ex-M.P.)	...	Member
5. Shri K. Subramaniam	...	Member
6. Shri S. S. Gill	...	Secretary

Chairman and the members were appointed on part-time basis and worked in an honorary capacity.

2. The terms of reference of the Commission were :—

(*i*) to determine the criteria for defining the socially and educationally backward classes;

(*ii*) to recommend steps to be taken for the advancement of the socially and educationally backward classes of citizens so identified;

(*iii*) to examine the desirability or otherwise of making provision for the reservation of appointments or posts in favour of such backward classes of citizens which are not adequately represented in public services and posts in connection with the affairs of the Union or of any State; and

(*iv*) present to the President a report setting out the facts as found by them and making such recommendations as they think proper.

In this connection, the Commission may also examine the recommendations of the Backward Classes Commission appointed earlier and the considerations which stood in the way of the acceptance of its recommendations by Government.

3. (1) The Commission may :—

(*a*) obtain such information as they may consider necessary or relevant for their purpose in such form and such manner as they may think appropriate, from the Central Government, the State Government, the Union Territory Administrations and such other authorities, organisations or individuals as may in the opinion of the Commission, be of assistance to them; and

(*b*) hold their sittings or the sittings of such sub-committees as they may appoint from amongst their own members at such times and such places as may be determined by, or under the authority of the Chairman.

(2) During the visits of the Commission or of any sub-committee appointed by them to any State and during any sittings held by the Commission or any such sub-committee in any State, the Commission may co-opt two persons, who belong to that State and who are members of backward classes, to be additional members of the Commission or the sub-committee, as the case may be.

4. The Headquarters of the Commission were located at Delhi.

5. The Commission was required to present their Report to the President not later than the 31st December, 1979.**

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*Shri L. R. Naik was appointed in place of Shri Dina Bandhu Sahu, who resigned from membership of the Commission on November 5, 1979 on health grounds.

**Later extended in stages upto December 31, 1980.

PREFACE

Notification setting up Backward Classes Commission was issued on January 1, 1979, and this Report is being submitted in December, 1980, Technically speaking, the Commission has taken 24 months to complete its work. In actual effect, the working time available to us was much shorter.

Except for the Secretary, the Administrative Officer and a couple of Stenographers the remaining staff of the Commission got into position in June-July, 1979 only. The formulation of staff proposals, their sanction and recruitment of suitable personnel took more than four months. Thus, while the Commission was formally inaugurated by the then Prime Minister, Shri Morarji Desai, on March 21, 1979, it became fully operational only in the middle of 1979.

By the time the Commission's work got into full swing, the Parliament was dissolved in August, 1979 and States got busy with preparations for the next General Elections. By the time these elections were over, 9 State Assemblies were dissolved, and the assembly election became the major concern of the administrations of these States.

The above developments had an unsettling effect on the work of the Commission, specially so far as its tour to various States was concerned. The progress of the country-wide socio-educational field survey which commenced in February, 1980 was also seriously hampered. Owing to paucity of time and somewhat disturbed conditions in the 7 north-eastern States, the Commission could not undertake the tour of this region.

As indicated in Chapter III of this Report, the Commission adopted a multilateral approach to the collection of data in connection with its inquiry. This was a huge task covering several disciplines and the entire length and breadth of the country, and it would not have been possible to complete it within the allotted time except for the ready cooperation we got from all the concerned agencies and individuals. Whereas it will not be possible to thank each one of them separately, the Commission would like to express its gratefulness to those without whose invaluable assistance we would have been considerably handicapped.

The Commission had issued detailed questionnaires to all State Governments, Union Territories and the Ministries and Departments of the Government of India. All these agencies put in a lot of effort to compile the desired information. State Governments and Union Territories also made excellent arrangements in connection with the Commission's tours. Our grateful thanks are due to all concerned.

A large number of members of Sixth and Seventh Lok Sabha, Rajya Sabha, State Legislatures and representatives of a number of voluntary organisations, thousands of social workers and members of the public appeared before the Commission to tender evidence and we are extremely grateful to them all for having responded to our invitations.

We also acknowledge with gratitude the valuable assistance given by Prof. M. N. Srinivas (Indian Institute of Management, Bangalore), Prof. Jogendra Singh (Jawaharlal Nehru University) and Prof. B. K. Roy Burman (Vishwa Bharati University) in connection with the Commission's socio-educational field survey. Dr. K. C. Seal, Director General, Central Statistical Organisation, also deserves very special mention in this behalf.

While expressing this gratitude, the Commission owns full responsibility for all aspects of the field survey. Electronic Commission did an excellent job of work in the computerisation of field data of socio-educational survey. Tata Institute of Social Sciences, Bombay, and Indian Law Institute, Delhi, prepared two special reports for the Commission and we place on record our great appreciation for the fine quality of their work.

Shri P. Padmanabha, Registrar General of India and Commissioner, Census Operations, took a very keen interest in the work of the Commission and rendered all possible help. And, of course, Ministry of Home Affairs, was always very helpful and showed a sensitive appreciation of our problems.

The staff of the Commission, an *ad hoc* assemblage of personnel on deputation from several Ministries and Departments, worked hard as a well knit team despite several constraints and hardships. Research and Survey Wing of the Commission had a very exacting task to handle and under the able leadership of Dr. N. R. Parthasarathy, Joint Director, it did commendable work in processing the voluminous data received from several sources.

Last, but not the least, the Commission would like to place on record its very high appreciation of the performance of its Secretary, Shri S. S. Gill. Normally, a person in his position has to carry the main responsibility for drafting the Report. In the instant case, his contribution to its conceptualization was also very substantial. It was the shared view of all members of the Commission that Other Backward Classes could not have found an abler advocate of their cause than Shri Gill.

CHAPTER 1

THE FIRST BACKWARD CLASSES COMMISSION

1.1 The First Backward Classes Commission was set up by a Presidential Order under Article 340 of the Constitution of India on January 29th, 1953 and it submitted its report on March 30th, 1955. The composition of the Commission and its terms of reference are given in Appendix-I, Volume II of this Report.

1.2 The Commission issued a Questionnaire comprising 182 questions for eliciting the views of the State Governments and the general public on various aspects of its inquiry. It also undertook extensive touring of the country to collect on-the-spot evidence.

1.3 After sifting and sorting the facts collected as above the Commission formulated the following criteria for identifying socially and educationally backward classes :—

(i) Low social position in the traditional caste hierarchy of Hindu society.

(ii) Lack of general educational advancement among the major section of a caste or community.

(iii) Inadequate or no representation in Government service.

(iv) Inadequate representation in the field of trade, commerce and industry.

It also prepared a list of 2399 backward castes or communities for the entire country, and 837 of these were classified as 'most backward'. The Registrar General and Census Commissioner of India assisted the Commission in making population projections of 930 backward castes or communities.

1.4 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 Reforms, Reorganisation of Village Economy, Bhoodan Movement, Development of Livestock, Dairy Farming, Cattle Insurance, Bee-keeping, Piggery, Fisheries, Development of Rural and Cottage Industries, Rural Housing, Public Health and Rural Water Supply, Adult Literacy, University Education, Representation of Backward Classes in Government service, etc. etc. Some of the most noteworthy recommendations of the Commission were—

(i) Undertaking caste-wise enumeration of population in the Census of 1961 ;

(ii) Relating Social backwardness of a class to its low position in the traditional caste hierarchy of Hindu society;

(iii) Treating all women as a class as 'backward';

(iv) Reservation of 70 per cent seats in all technical and professional institutions for qualified students of backward classes;

(v) Minimum reservation of vacancies in all Government services and local bodies for other Backward Classes on the following scale :—

Class I	..	25%
Class II	..	33-1/3%
Class III & IV	..	40%

1.5 It is pertinent to note that the Commission could not present an unanimous report. In fact five of its Members recorded minutes of dissent. Dr. Anup Singh, Shri Arunangshu De and Shri P. G. Shah were opposed to the view of linking caste with backwardness. They were also opposed to the reservation of posts on the basis of caste. On the other hand, Shri S. D. S. Chaurasia strongly advocated the acceptance of caste as the criterion for backwardness in his 67-page minute of dissent. Shri T. Mariappa's minute of dissent was concerned only with the inclusion of a couple of castes in the list of Other Backward Classes.

1.6 Shri Kaka Kalelkar, the Chairman, took a rather equivocal stand on this issue. Though he did not record a formal minute of dissent, in his forwarding letter to the President he opposed the acceptance of caste as the basis for backwardness. He also expressed his reservations regarding several other important recommendations made by the Commission.

Government Action on Kaka Kalelkar Commission Report

1.7 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, "For the purpose of the enquiry specifically 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 fin

objective tests and criteria by which such classifications were to be made; they had to find indisputable yardsticks by which social and educational backwardness could be measured. The report of the Commission has not been unanimous on this point, in fact, it reveals considerable divergence of opinion." It was further stated, "The Commission's list contains as many as 2399 communities out of which 930 alone account for an estimated population of 11.5 crores; Scheduled Castes and Tribes will make up another 7 crores" (on the basis of 1951 Census). Regarding the acceptance of caste as criteria for backwardness, it was stated, "It cannot be denied that the caste system is the greatest hindrance in the way of our progress towards an egalitarian society, and the recognition of the specified castes as backward may serve to maintain and even perpetuate the existing distinctions on the basis of caste."

1.8 Regarding the recognition of a large number of castes and communities as backward, it was pointed out, "If the entire community, barring a few exceptions, has thus to be regarded as backward, the really needy would be swamped by the multitude and hardly receive any special attention or adequate assistance, nor would such dispensation fulfil the conditions laid down in Article 340 of the Constitution.".

1.9 In view of the above, the Government considered it necessary that "some positive and workable crtieria should be devised for the specification of the socially and educationally backward classes" and to undertake further investigations "so that deficiencies that have been noticed in the findings of the Commission are made good. . . ." It was also pointed out in the Memorandum that the Planning Commission had already formulated the development programmes for the removal of backwardness and "the main point to be stressed was whether the special needs of the backward classes could be intensively and effectively served by appropriate shifts of emphasis or by rearrangement of priorities within the framework of the existing programmes or whether additional programmes needed to be drawn up"

Incidentally, the Commission's report was not discussed by the Parliament.

1.10 After presenting the Memorandum to the Parliament, the Government made efforts "to discover some criteria other than caste which could be of practical application in determining the backward classes." The Deputy Registrar General was asked to conduct a pilot survey to see if backwardness could be linked to occupational communities instead of caste. Such a survey was undertaken but it failed to throw up the desired criteria. The matter was also discussed at a conference of State representatives on 7-4-1959 and subsequently reviewed at a meeting of State officers convened by the Ministry of Home Affairs, but no consensus emerged as a result of these efforts.

1.11 The Central Government ultimately took a decision that no all India lists of backward classses should be drawn up, nor any reservation made in the Central Government service for any group of backward classes other than the Scheduled Castes and Scheduled Tribes. Consequently, on August 14th, 1961, the Ministry of Home Affairs addressed all the State Governments stating, "While the State Governments have the discretion to choose their own criteria for defining backwardness, in the view of the Government of India it would be better to apply economic tests than to go by caste." Regarding the preparation of lists of backward classes it was observed, "Even if the Central Government were to specify under Article 338(3) certain groups of people as belonging to 'other backward classes', it will still be open to every State Government to draw up its own lists for the purposes of Articles 15 and 16. As, therefore, the State Governments may adhere to their own lists, any all-India list drawn up by the Central Government would have no practical utility".

Some Observations on Kaka Kalelkar Commission Report

1.12 It is well worth remembering that Kaka Kalelkar Commission Report was the first national level inquiry of its kind after the adoption of the Constitution. Since then ten States have set up fifteen Commissions and their reports provide a wealth of material on this subject. Further, the present Commission has the additional benefit of a plethora of judicial pronouncements by the Supreme Court and several High Courts on the question of extending various types of benefits to backward classes other than the Scheduled Castes and Scheduled Tribes.

1.13 But despite making due allowance for its handicaps, it cannot be denied that Kaka Kalelkar Commmission Report suffers from grave flaws of methodology and serious internal contradictions. For instance, the Commission was required to determine the criteria for identifying socially and educationally backward classes and, in accordance with such criteria, to prepare a list of such classes. The criteria evolved by the Commission is given in para 1.3 of this Chapter. The list of 2399 backward classes identified by the Commission is contained in Volume II of Kaka Kalelkar Commission Report. But it is not clear from the Report as to how the lists of backward classes were derived by the application of that criteria. The Commission's State-wise lists are based on the lists prepared by the Ministry of Education for the grant of scholarships etc., to 'Other Educationally Backward Classes' in 1949. The Ministry of Education, in its turn, had compiled these lists on the basis of the recommendations received from the respective State Governments.

1.14 It is seen that Ministry of Education had prepared its list not only without undertaking any special survey for the identification of the backward classes, it was meant only for 'Other *Educationally* Backward Classes' and not for 'Socially and Educa-

tionally Backward Classes' as contemplated in Article 340 of the Constitution.

1.15 Of course, Kaka Kalelkar Commission modified the Education Ministry's original lists in the light of the evidence collected by it. But the fact remains that it broadly adopted the lists of Other Educationally Backward Classes prepared by another Government agency for an entirely different purpose, and created it as the list of socially and educationally backward classes of India. This was done without undertaking any field survey to check their validity for the purpose of the Commission. Nor were they tested against criteria evolved by the Commission for identifying socially and educationally backward classes.

1.16 As stated in para 1.4 of this Chapter, Kaka Kalelkar Commission recommended different percentages of reservation of seats/vacancies in educational institutions, Government services, etc, for other Backward Classes (OBCs). For instance, it recommended reservation of 40% posts in Class III and Class IV categories, 25% in Class I category and 70% of the seats in professional and technical institutions. But in the absence of any explanation of the rationale for fixing different percentages for different groups of posts etc, the approach appears somewhat arbitrary.

1.17 Though the above failings are serious, yet the real weakness of the Report lies in its internal contradictions. As stated in para 1.5 of this Chapter, three of the Members were opposed to one of the most crucial recommendations of the Report, that is, the acceptance of caste as a criterion for social backwardness and the reservation of posts in Government services on that basis. This degree of dissidence greatly compromised the force of the Commission's recommendations. But it was the 30-page forwarding letter of Shri Kaka Kalelkar to the President which demolished the very basis of the Report. The following extracts from this letter speak for themselves :

> "Being convinced that the upper castes among the Hindus have to atone for the neglect of which they were guilty towards the 'lower' classes, I was prepared to recommend to Government that all special help should be given only to the backward classes and even the poor and the deserving among the upper classes may be safely kept out from the benefit of this special help. My eyes were however opened to the dangers of suggesting remedies on the caste basis when I discovered that it is going to have a most unhealthy effect on the Muslim and Christian sections of the nation...."
>
> "This was a rude shock and it drove me to the conclusion that the remedies we suggested were worse than the evil we were out to combat."
>
> "This painful realisation came to me almost towards the end of our labours. I could not stem the current of opinion within the Commission itself and ultimately decided, though reluctantly, to side with the majority with whom I had co operated throughout in formulating remedies on caste basis. It is only when the Report was being finalised that I started thinking anew and found that backwardness could be tackled on a basis or a number of bases other than that of caste. I only succeeded in raising the suspicion of the majority of my colleagues that I was trying to torpedo the recommendations of the Commission. This was another reason why I signed the Report without even a minute of dissent...."
>
> "....If such communities have negelcted education it is because they had no use for it. Now that they have discovered their mistake it is for them to make the necessary efforts for making up the leeway."
>
> "Till recently, good many Communities were organising caste conferences and collecting funds for granting scholarships to boys and girls of their own community. That was a good lesson in self help and a good number of communities have thus come forward in material well-being. But now all burden is sought to be thrown on the common exchequer and those who have thoughtlessly neglected education in the past are now seeking preferential treatment in Government services. This is anything but fair...."
>
> "I am definitely against reservation in Government Services for any Community for the simple reason that the services are not meant for the servants but they are meant for the service of society as a whole...."
>
> "I believe that in Class I and Class II services, the backward classes will stand to gain, both morally and materially, if they do not demand a reservation percentage in the vacancies and simply rely on the fair-mindedness of the administration to use their preference in favour of the backward classes...."

1.18 The above extracts form an eloquent testament of Shri Kalelkar's views on backwardness and social justice. It must have caused this gentle Gandhian no end of anguish to refrain from recording a formal note of dissent to a Report which recommended caste as one of the main criteria for determining social backwardness. Despite giving such clear expression to his views, he observed in a latter para of this letter, "Following the analogy of the proverb, *viz.*, 'Use the thorn to remove a thorn', we held that the evils of caste could be removed by measures which could be considered in terms of caste alone". Here, the strain of squaring the circle becomes so palpable that one can only sympathise with Kaka Sahib in his predicament.

1.19 A Report so fragmented in its conceptual design carried within itself the logic for its rejection.

Some Observations on Government Action

1.20 Whereas Kaka Kalelkar Commission Report received the closest attention of the Government right upto the highest level, there is one aspect of its examination which merits special attention. Despite referring to various constitutional provisions and accepting the need to give special relief to socially and educationally backward classes, in the overall context the Government thinking was mainly conditioned by the national imperative of reducing economics disparities between different classes of society. This approach is clearly summed up in the letter that Home Ministry addressed to all the State Governments after full examination of the Report. The concluding sentence of this letter reads, "They (Government of India) also consider that while the State Governments have the discretion to choose their own criteria for defining backwardness, in the view of the Government of India *it would be better to apply economic tests than to go by caste.*" (emphasis added)

1.21 As the main thrust of Government's development programmes has always been the removal of mass poverty, this pre-occupation with economic criteria in determining backwardness is quite understandable. But howsoever laudable the objective may be, it is not in consonance with the spirit of Article 340 of the Constitution, under which the Commission was set up. Both Articles 15(4) and 340(1) make a pointed reference to "socially and educationally backward classes". Any reference to 'economic backwardness' has been advisedly left out of these Articles. Whereas we shall have more to say on this subject in a subsequent Chapter, it may be pertinent to point out that in giving primacy to 'economic tests' in determining the type of backwardness referred to in Article 340(1) of the Constitution, the Government has, perhaps inadvertently, paid less than adequate attention to the constitutional requirements in this matter. It may be possible to make out a very plausible case for not accepting caste as a criteria for defining 'social and educational backwardness'. But the substitution of caste by economic tests will amount to ignoring the genesis of social backwardness in the Indian society.

CHAPTER II

STATUS OF OTHER BACKWARD CLASSES IN SOME STATES

2.1 It is for nearly a hundred years that Provincial Governments in India have been implementing special programmes for the welfare of depressed or deprived sections of society. The first such step was taken by Madras Government with the framing of Grant-in-Aid Code in 1885 to regulate financial aid to educational institutions, providing special facilities for students of depressed classes. Subsequently, in 1921, acting on a resolution passed by the State Legislative Council, Madras Government took steps for higher representation of non-Brahmins in Government services. The scheme was reviewed in 1927 and the scope of reservations was enlarged further, dividing all the communities in the State into five broad categories and earmarking separate quota for each category.

2.2 On the basis of representations received from aggrieved communities, in 1918 the Maharaja of Mysore appointed a Committee under the chairmanship of Sir L. C. Miller, the then Chief Justice of Mysore, to recommend steps for adequate representations for non-Brahmins in the services of the State. On the basis of Miller Committee report, the Government of Mysore issued orders in 1921 extending special facilities to backward communities with regard to education and recruitment in State services.

2.3 It was in 1928 that the Government of Bombay set up a Committee under the chairmanship of Mr. O. H. B. Starte to identify backward classes and recommend special provisions for their advancement. In its report submitted in 1930, this Committee classified backward classes into three categories, *i.e.*, 'depressed classes', 'aboriginal and hill tribes' and 'other backward classes'. This Committee recommended the provision of special facilities regarding education and recruitment in Government services to the members of the above three categories of backward classes.

2.4 At the all-India level the first systematic attempt at the welfare of depressed classes' was made with the introduction Montague-Chelmsford Reforms of 1919, when separate representation on a number of public bodies was given to members of these classes. In official parlance the omnibus term depressed classes' at that time included 'Scheduled Castes', 'Scheduled Tribes' and 'Other Backward Classes'. In the Census of India 1931, the term depressed classes' was changed to 'exterior castes', which covered only the untouchable castes. Aboriginal and Hill Tribes were enumerated under the term 'Primitive Tribes'.

2.5 In addition to the depressed classes, there was another category of very backward section of society termed as 'criminal tribes'. They were notified under the Criminal Tribes Act, 1871 and several provisions were made for their rehabilitation.

2.6 It was under the Government of India Act, 1935, that the 'Scheduled Castes' replaced Depressed Classes' and separate lists of Scheduled Castes were notified for various Provinces in 1936. Simultaneously, the term 'Primitive Tribes' was replaced by 'Backward Tribes' and their lists notified in respect of Provinces where there was substantial representation of these tribes. It was only after Independence that the term 'Scheduled Tribes' was used for 'Backward Tribes' in the Constitution.

2.7 The main benefit extended to Scheduled Castes and Scheduled Tribes under the Government of India Act, 1935 was that of political representation in the Federal Legislature and Provincial Assemblies.

2.8 It was only after Independence that the Central Government tried to define Other Backward Classes (OBCs) with a view to making special provisions for their advancement. Articles 15(4) and 16(4) refer to the making of such provisions for the advancement of socially and educationally backward classes or for the Scheduled Castes and Scheduled Tribes. It was with this objective that Kaka Kalelkar Commission was appointed in 1953 under Article 340 of the Constitution. While rejecting the main recommendations of this Commission the Central Government had informed the State Governments that they were free to draw their respective lists of backward classes on the basis of criteria worked out by them and take whatever further action they deemed necessary in the matter.

2.9 Consequently a number of State Governments set up their own Commissions or Committees for defining criteria for backwardness and recommending measures for its removal. So far ten State Governments have set up fifteen Commissions and Committees in this behalf. These States are : Andhra Pradesh, Bihar, Gujarat, Jammu and Kashmir, Karnataka, Kerala, Maharashtra, Punjab, Uttar Pradesh and Tamil Nadu. Further 8 other States and Union Territories have notified lists of Other Backward Classes for the grant of various educational, employment and other benefits. These are : Assam, Delhi, Haryana, Himachal Pradesh, Meghalaya, Orissa, Pondicherry and Rajasthan. These State Governments and Union Territories mostly relied on the lists of OBCs maintained by them for the grant of post-matric scholarships, etc. under the Education Ministry's scheme formulated in 1944, and another list prepared by the Commissioner for Scheduled Castes and Scheduled Tribes at the time of drafting the First Five Year Plan.

2.10 The first attempt at giving a fair representation to depressed classes in public services was made when the Government of India issued instructions in July, 1934 that duly qualified candidates of these classes should not be deprived of fair opportunity of appointment merely because they could not succeed in an open competition. However, no definite percentage of vacancies was earmarked for them. It was only in 1943 that orders reserving 8⅓% of vacancies for Scheduled Castes were issued. In June, 1946 this reservation was raised to 12½% so as to bring it in line with the population of Scheduled Castes. No reservation was made for the backward tribes as their prevailing educational level was considered to be too low to qualify them for Government service in any appreciable numbers.

2.11 Curiously, provisions for the spread of education amongst depressed classes were made much later. It was in 1944 that the Ministry of Education prepared a scheme of post-matric scholarships etc. for the students of Scheduled Castes and it was extended to Scheduled Tribes in 1948.

2.12 A brief account of the main recommendations of the Commissions or Committees set up by the afore-mentioned ten State Governments and the action taken thereon is given below.

Andhra Pradesh

2.13 In 1966, Andhra Pradesh Government notified a list of 112 communities belonging to Other Backward Classes and ordered reservation of seats for them in Government services and professional colleges etc. Several writs were filed against this Order and the High Court of Andhra Pradesh struck it down on the ground that the State could not produce evidence regarding the social and educational backwardness of the listed communities. This decision was upheld by the Supreme Court also.

2.14 In view of this, Government of Andhra Pradesh appointed a Backward Classes Commission in April 1968 under the Chairmanship of Shri Manohar Pershad and it presented its report in June, 1970. This Commission identified four different categories of OBCs and recommended reservations of seats both in professional colleges and in Government services. The recommendations of the Commission on these two important items and the action taken by the State Government are indicated in the following table :—

TABLE

S. No.	Category of OBCs	Reservation in professional colleges and Government services	
		As recommended by the Commission	As accepted by the State Government
1.	Aboriginal Tribes, Vimukta Jatis, Nomadic and Semi-Nomadic Tribes	7%	7%
2.	Vocational groups	13%	10%
3.	Harijan Converts	1%	1%
4.	Other Classes	9%	7%
		30%	25%

2.15 The State Government also accepted the Commission's recommendation that candidates selected on merit in an open competition would not be adjusted against the reserved vacancies. The reservation of 25% was also extended to all posts under the control of local bodies, State Government undertakings, etc.

2.16 The State Government has also reserved 25% of the house-sites and 15% of the houses constructed by Housing Board for OBCs. Backward Classes students whose family income is below Rs. 6,000 per annum are exempted from payment of tuition fees and are eligible for award of scholarships, hostel facilities, etc.

2.17 The Government further accepted the Commission's recommendation for the allotment of house sites and surplus land to OBCs and to set up a separate Finance Corporation for them. The Commission's recommendation for extending scholarships and other benefits on the basis of economic criteria was also accepted by the State Government.

2.18 Subsequently, a Committee of the Fifth Legislative Assembly under the Chairmanship of Shri Agisam Veerappa was set up to recommend further measures for the welfare of backward classes. It submitted its report in 1977 and some of its important recommendations accepted by the Government are :—

(i) Grant of scholarships from the first standard onwards instead of the sixth standard, as per prevailing practice.

(ii) Enhancement in the rate of scholarships.

(iii) Lowering the qualifying marks for OBCs from 40% to 35% for admission to various institutions.

Bihar

2.19 In 1951 the Government of Bihar had prepared a list of 109 backward classes for awarding post-matric scholarships, etc., under a scheme launched by the Ministry of Education. In its letter of August 14, 1961 (referred to in para. 1.12, Chapter I), Home Ministry had informed the State Governments that they may draw up their lists of backward classes as the lists recommended by Kaka Kalelkar Commission had not been accepted. Bihar Government decided to continue with the list already prepared in 1951.

2.20 In 1964, Patna High Court*, in view of the Supreme Court's judgment in *Balaji's* case, declared Bihar Government's list of backward classes as invalid as it had relied on caste as the criterion of backwardness. In view of this, the State Government decided that the current educational benefits should be given only to such students of Other Backward Classes mentioned in the 1951 Order whose family income was below Rs. 500 per month. For admission to medical colleges, the income limit was fixed at Rs. 250 per month.

*A.I.R. 1965, Patna 372.

2.21 Bihar Government also appointed a Backward Classes Commission under the chairmanship of Shri Mungeri Lal in June 1971 and it submitted its report in February, 1976. This Commission identified 128 communities as 'Backward' and 94 of them were classified as 'Most Backward'.

2.22 The main recommendations of the Commission were :—

(i) Reservation of 20% vacancies in all Government Departments, local bodies and State Government Undertakings for the candidates of Other Backward Classes. In addition, 3% of such vacancies were recommended to be reserved for women and the same percentage for economically weaker sections. Only those candidates should be given this benefit whose family income was below the minimum income-tax limit;

(ii) Reservation of 24% seats in engineering, medical and other professional institutions for students of Other Backward Classes ; and

(iii) Grant of various other benefits like allotment of house sites, grant of scholarships, reimbursement of tuition fees, etc., to OBCs.

2.23 The State Government accepted the above recommendations in October 1978 and this gave rise to a lot of agitation. Both the forward and the backward communities were dissatisfied with the Government. The implementation of the Commission's recommendations also raised a lot of controversy. Many recruiting agencies mis-construed the provision for reservation as prescribing the upper limit for the intake of backward class candidates selected on merit. In case OBC candidates in excess of the reserved quota of 20% got selected in open competition, the actual intake was restricted to 20% only.

2.24 Subsequently, the Government of Bihar corrected this misconception in July 1979 and clarified that the reservation quota indicated the minimum and not the maximum quota for backward class candidates. It was also clarified that the percentage of backward class candidates selected on merit should not be adjusted against their reserved quota.

Gujarat

2.25 Gujarat Government set up a Backward Classes Commission in August 1972 under the chairmanship of Shri A. R. Bakshi and it submitted its report in 1976. This Commission listed 82 castes and communities as socially and educationally backward classes and recommended the following measures for their advancement :—

(i) Reservation of 10% of seats in medical engineering and other professional institutions ;

(ii) Reservation of 10% of vacancies in all Class III and IV Government services ;

(iii) Reservation of 5% of all Class I and Class II vacancies in all Government services, local bodies, State Public Undertakings, etc.

(iv) Reservation of 10% of seats in training-cum-production centres.

(v) Award of scholarships and other educational facilities to OBC students, provided their parental income did not exceed Rs. 4,800 per year. This income limit was raised to Rs. 7,200 in the case of nomadic tribes and denotified tribes.

2.26 All the recommendations of Bakshi Commission were accepted by the Government of Gujarat.

Jammu & Kashmir

2.27 In 1956 the Government of Jammu & Kashmir notified Civil Services Rules which, *inter alia*, provided that the State Government could make reservation in Government services for backward classes. In November 1967, the State Government appointed the Gajendragadkar Commission and one of its terms of reference was to examine the existing recruitment policies with a view to recommending measures for giving equitable representation to various regions, communities and backward classes in Government employment. The Gajendragadkar Commission gave its report in December 1968 and recommended that economic backwardness, occupation, habitation, literacy and caste (in respect of Hindus) should be made the criteria for determining backward communities. The Commission recommended that this job should be entrusted to a High Power Committee.

2.28 Accordingly a Backward Classes Committee was set up by the Government of Jammu & Kashmir in February 1969 under the Chairmanship of Shri J. N. Wazir and its report was submitted in November 1969. Acting on the recommendations of this Committee, the State Government framed "The Jammu & Kashmir Scheduled Castes and Backward Classes (Reservation) Rules, 1970". As a result of a petition, the Supreme Court pointed out certain lacunae in these Rules and observed that the same should be rectified before giving effect to them. Consequently, the State Government appointed a Committee under Justice (Dr.) Adarsh S. Anand in August 1976. This Committe submitted its report in September 1977, and recommended that —

Permanent residents of the State falling in the following categories be declared backward classes :—

(i) Twenty-two weak and under-privileged classes ; and

(ii) Residents belonging to specified backward areas.

2.29 Weak and under-privileged classes comprised mostly of occupational communities. Backward areas

were identified on the basis of inaccessibility, bad climate, low literacy, lack of medical facilities, etc.

2.30 The Committee recommended the following benefits for the backward classes of the State :—

(i) Reservation of 42% of vacancies arising in all Government services ;

(ii) Reservation of 42% seats in all technical and professional institutions ;

(iii) Award of scholarships and stipends to students whose family income does not exceed Rs. 3,000 per annum and award of similar scholarships and stipends at higher rates to students from backward classes with the same limit on their family income.

2.31 The above reservations in services and educational institutions are in addition to 8% reservation made for Scheduled Castes. (There are no Scheduled Tribes in Jammu & Kashmir).

Karnataka

2.32 Created as a result of the re-organisation of States, Karnataka comprised, whole or parts of five States of Mysore, Coorg, Bombay, Hyderabad and Madras. On the basis of the list earlier drawn up by some of these States, the new State prepared a uniform list of backward classes for the whole of Karnataka. This list was struck down by the Mysore High Court and a similar attempt made in 1959 also met the same fate. In January 1960 Karnataka Government appointed a Backward Classes Committee under the Chairmanship of Dr. R. Naganna Gowda, which submitted its report in May 1961.

2.33 This Committee suggested one set of backward communities for reservation in services and another set for the grant of educational concessions. It recommended that 50% of the seats in technical and professional institutions should be reserved for students of backward classes. It also proposed reservation of 45% of all Government vacancies for backward class candidates.

2.34 The Government Order of 1961 based on these recommendations was struck down by the Supreme Court in the celebrated *Balaji's* case with the observation that the State Government had committed a fraud on the Constitution. In view of this the State Government, as a temporary measure, started treating individuals instead of classes as backward for giving them special benefits.

2.35 It was in August 1972 that Karnataka Government set up Backward Classes Commission under the Chairmanship of Shri L. G. Havanur and it submitted its Report in November 1975. In its findings, the Commission stated that it had not gone by the criterion of caste in deciding the social backwardness of castes and communities. Instead, it had relied on multiple tests, such as economic, residential and occupational factors in determining social backwardness of castes and communities. Instead, it had relied categories of backward classes, worked out the percentage of their population in the State and recommended reservation of vacancies in Government services as given below :—

Name of Backward Classes	Percentage of population	Percentage of reservation
1. Backward Communities . .	19.20%	16%
2. Backward Castes . . .	14.47%	10%
3. Backward Tribes . . .	8.00%	6%
TOTAL .	41.67%	32%

2.36 Similar reservation of seats was also proposed in educational institutions.

2.37 The Commission also recommended setting up of a separate Financial Corporation and a Directorate for Other Backward Classes.

2.38 The State Government, while broadly accepting the recommendations of the Commission, ordered the following scale of reservation in services and educational institutions for various categories of backward classes :—

S. No.	Name of Backward Classes	Percentage of reservation in	
		Educational Institutions	Government Services
1	2	3	4
1.	Scheduled Castes . . .	15%	15%
2.	Scheduled Tribes . . .	3%	3%
3.	Backward Communities . .	20%	18%
4.	Backward Castes . . .	10%	10%
5.	Backward Tribes . . .	5%	5%
6.	Special Groups . . .	15%	15%
	TOTAL .	68%	66%

2.39 It will be observed that while issuing orders the Government added a new category of backward classes, *i.e.*, 'Special Group' and made a reservation of 15% for this category. Further, whereas Havanur Commission had recommended reservation of 16% in Government services and educational institutions for backward communities, Government enhanced it to 18% and 20% respectively.

Kerala

2.40 Kerala Government has set up three Committees/Commissions so far on Other Backward Classes. The first one was an Evaluation Committee appointed under the chairmanship of Shri V. K. Vishwanathan in June 1961. It submitted its report in October 1963 and its main recommendations were :—

(i) Reservation of 40% of seats in technical and professional colleges for OBC students and 10% for students belonging to Scheduled Castes and Scheduled Tribes ;

(ii) The above reservation to be made applicable to all fresh appointments under the State Government also; and

(iii) Appointment of an Expert Committee to go into the question of reclassification of backward communities.

2.41 The State Government accepted the above recommendations, except that reservation of seats for OBC students in the technical and professional institution was confined to 25% only.

2.42 Subsequently, the decision of the Government regarding the reservation of seats in educational institutions under Article 15(4) of the Constitution was challenged in the High Court of Kerala and the State Government was directed to start a fact-finding enquiry and evolve objective criteria for giving educational benefits to backward classes. Accordingly, the State Government appointed a Commission under the chairmanship of Shri G. Kumara Pillai in July 1964 and the Commission submitted its report in December 1965. Its main recommendations are given below :—

(i) It classified 91 communities as 'backward' and stipulated that the benefits recommended in the report should be extended only to those members of the Backward Classes whose aggregate family income was below Rs. 4,200 per year; and

(ii) In technical and professional institutions 25% of the seats should be reserved for OBCs. It also indicated separate quotas for various categories of OBCs in the allocation of these seats.

2.43 The State Government accepted the above recommendations with the modification that the income ceiling of Rs. 4,200 was raised to Rs. 6,000 per annum. It may be noted that the High Court had desired the State Government to institute an enquiry for granting educational benefits to OBCs under Article 15(4) of the Constitution only. In view of this the Government of Kerala did not take any action to disturb the existing arrangements regarding the reservation of 40% posts under the Government for Other Backward Classes.

2.44 Subsequently, on a petition filed before the High Court of Kerala, the State Government was told that the Rules relating to reservation of jobs for backward communities were based on obsolete and out-of-date data and, therefore, it should undertake a detailed survey and collect the relevant data periodically. Accordingly, the State Government appointed Backward Classes Reservation Commission under the chairmanship of Shri M. P. Damodaran in October 1967 and it submitted its report in June 1970. The Government took more than 8 years in examining this report and at the end of this period felt that after such a long interval the Commission's findings may have lost their validity. In the circumstances the Government decided that only by appointing a Commission the matter could be satisfactorily settled. In the meantime, certain minor adjustments were made regarding the *inter se* percentages of reservations in services prescribed for the eight separate groups of Other Backward Classes, without disturbing the overall reservation of 40 per cent. These reservations are :—

S. No.	Name of Group	Reservation for Class IV posts	Reservation for other than Class IV posts
1.	Ezhavas	11%	14%
2.	Muslims	10%	12%
3.	Latin Catholics and Anglo Indians	4%	4%
4.	Nadars	1%	1%
5.	Scheduled Castes converts to Christianity	2%	1%
6.	23 Communities like. Asaris, Kammallas, Viswakarmas, etc.	2%	3%
7.	Dheevara Community	2%	1%
8.	Other Backward Classes	8%	4%
	TOTAL	40%	40%

2.45 The State Government has not been able to appoint a new Commission so far.

Maharashtra

2.46 After bifurcation of the former Bombay State, the Government of Maharashtra appointed a Committee in November 1961 under the Chairmanship of Shri B. D. Deshmukh to 'report on reservation of Backward Classes in the services'. In its report submitted in January 1964 the Committee recommended that :—

(i) Backward Classes should be grouped under four categories, *i.e.* (a) Scheduled Castes and Neo Buddhas; (b) Scheduled Tribes; (c) Denotified and Nomadic Tribes; and (d) Other Backward Communities.

(ii) Reservation in services and educational institutions for different categories of Backward Classes should be related to the percentage of their population in the State.

2.47 The Government broadly accepted the above recommendations and made the following reservation in the State services and educational institutions for the four categories of Backward Classes :—

Name of Category	Percentage of reservation
1. Scheduled Castes and Scheduled Castes converts to Buddhism	13%
2. Scheduled Tribes	7%
3. Denotified and Nomadic Tribes	4%
4. Other Backward Communities	10%
TOTAL	34%

2.48 Subsequently, in April 1979 the State Government issued orders that 80 per cent of all vacancies under the State Government, local bodies, etc., should be reserved for Economically Weaker Sections of Society. These weaker sections were defined as families whose income was less than Rs. 200 per month. Where adequate number of suitably qualified candidates were not available to fill 80 per cent of reserved vacancies from persons with family income below Rs. 200 per month, preference for the balance of reserved seats was to be given to candidates whose family income ranged from Rs. 200 to 400 per month.

2.49 In this order, it was also clarified that 80 per cent reservation was inclusive of the earlier reservations made for other backward classes, Scheduled Castes, Scheduled Tribes, etc.

Punjab

2.50 In 1951 the Punjab Government appointed a Committee on Backward Classes and on the basis of its recommendations declared 14 castes, constituting 2 per cent of the State population, as OBCs. Identification was done on the basis of economic, educational and social backwardness. On the basis of the recommendations of the Committee, 2 per cent seats in services were reserved for backward classes. Similar concession was given in respect of admission to educational institutions also.

2.51 In 1965, the State Government appointed an Evaluation Committee under the Chairmanship of Shri Brish Bhan to review the concessions given to backward classes. In its report submitted in August 1966, the Committee recommended :—

(1) the existing list of backward classes should be rationalised so that classes or castes who are no longer backward could be excluded; and

(2) the existing reservation of 2 per cent of seats in educational institutions should be raised to 5 per cent.

The Committee also observed that reservation in services was not serving any useful purpose and Government should give concessions mainly in matters of education.

2.52 The Government did not accept the Committee's recommendation on abolishing reservation in respect of services. Actually, the reservation quota, both in services and educational institutions, was raised to 5 per cent.

2.53 In its Fourth Report, 1975-76, the Punjab Vidhan Sabha Committee on Welfare of S.C., S.T. and Backward Classes recommended that 15 per cent reservation should be made for OBCs in services. After examining this recommendation, the State Government pointed out that 25 per cent seats were already reserved for Scheduled Castes and 20 per cent for ex-servicemen. As the maximum reservation could not exceed 50 per cent, it was not possible to earmark more than 5 per cent seats for backward classes.

Uttar Pradesh

2.54 A "Most Backward Classes Commission" under the chairmanship of Shri Chhedi Lal Sathi was appointed in October 1975 and it gave its report in 1977. The Commission recommended the classification of Backward Classes into three categories and prescribed reservation of separate quota in Government services for each of the three categories as follows :—

Name of category	Percentage of reservation
1. List 'A' comprising those who are landless labourers, unskilled workers, non-artisans and domestic servants. . . .	17%
2. List 'B' comprising marginal and small cultivators	10%
3. List 'C' Muslim Backward Classes .	2½%
TOTAL .	29½%

2.55 It proposed the above scale of reservation of seats in educational institutions also and further recommended that preference may be given to students of poor families. Special provision of hostel facilities, scholarships, etc. was also recommended.

2.56 The Government of Uttar Pradesh has only partially accepted the above recommendations and ordered reservation of 15 per cent of all vacancies in Government services for the candidates of OBCs. Similar reservation has been made for admission to technical and professional institutions. Subsequently, even this order of reservation has been struck down by Allahabad High Court in 1979 and the matter is now pending in appeal before Supreme Court.

Tamil Nadu

2.57 Tamil Nadu has been the pioneer in providing special concessions to OBCs. As indicated in para 2.1, in 1927 Madras Government had classified all the communities of the State into five categories under the famous Communal G.O. and earmarked separate quota for each group for recruitment to Government services. This system continued till independence. In 1947, in view of mounting pressure from backward classes the Government revised their representation as follows :—

S. No.	Name of the Group	Group-quota reserved in 1947	Quota revised in 1947
1.	Non-Brahmin Hindus . .	5/12	6/12
2.	Brahmins . . .	2/12	2/14
3.	Scheduled Castes/Depressed Classes . . .	1/12	2/14
4.	Muslims . . .	2/12	1/14
5.	Anglo-Indian and Christians .	2/14	1/14
6.	Backward Hindus . . .	—	2/14

25 - SC
20 BS
5 OBC

2.58 The above scheme of reservation was struck down by the Supreme Court and subsequently the State Government decided in 1951 that henceforth reservation should be made for the Scheduled Castes and Backward Classes only. [Incidentally, this was the judgement which subsequently led to the insertion of Art 15(4) *vide* First (Constitution Amendment) Act, 1951]. After the separation of Andhra Pradesh, the Government of Madras ordered in 1964 that 16 per cent of all posts under the State Government should be reserved for Scheduled Castes and Scheduled Tribes and 25 per cent for Backward Classes. For admission to Medical Colleges, etc., the earlier system for linguistic-*cum*-district basis was discontinued in 1960 and Orders were issued for reserving 15 per cent seats for Scheduled Castes and Scheduled Tribes and 25 per cent for Backward Classes.

2.59 In November, 1969, Tamil Nadu Government appointed a Backward Classes Commission under the Chairmanship of Shri A. N. Sattanathan and it gave its Report in November, 1970. Its main recommendations were :—

(i) The existing list of Backward Classes contained several inconsistencies and the same should be rationalised;

(ii) 33 per cent of posts under the State Government should be reserved for the candidates of Other Backward Classes;

(iii) The above reservation should be followed in respect of admission to various professional and technical institutions also; and

(iv) Various educational concessions, special coaching facilities, etc., should be provided to the students of Other Backward Classes.

2.60 Keeping in view the recommendations of the Commission, the Supreme Court judgement in *Balaji* case and the population of Scheduled Castes and Scheduled Tribes as per 1971 Census, the State Government ordered reservation of 31 per cent of all posts for (Other) Backward Classes and 18 per cent for Scheduled Castes and Scheduled Tribes. In respect of educational institutions also the reserved quota for these two categories of students was fixed at 31 per cent and 18 per cent respectively.

2.61 The State Government has enhanced the reservation quota for OBCs from 31 per cent to 50 per cent from January 24th, 1980, both in Government services and educational institutions. This is in addition to the quota of 18 per cent reserved for S.Cs. and S.Ts. A writ against this order is pending in the High Court of Tamil Nadu.

2.62 The Tamil Nadu Government is also giving scholarships, free mid-day meals, school uniforms, text books, etc., to Backward Class students. Separate hostel and special coaching facilities have also been started for them. Occupational communities are given tools at subsidised rates.

Eight Other States

2.63 Regarding the eight States and Union Territories which have notified lists of Other Backward Classes without ordering a formal inquiry into their conditions, the position is briefly as follows :—

2.64 Haryana has provided for 10 per cent reservation in Government services and 2 per cent in professional and technical institutions for Other Backward Classes. Himachal Pradesh has reserved 5 per cent of all posts for OBCs and also extended some educational concessions to the Backward Class students. Assam and Pondicherry have not reserved any posts for OBCs in Government services, but some reservation has been made in educational institutions. Rajasthan, Orissa, Meghalaya and Delhi have neither reserved any posts in Government services nor any seats in educational institutions for OBC candidates. They extend some marginal concessions regarding school fees, books, mid-day meals etc., to backward class students. In 1961, both Orissa and Delhi withdrew the lists of OBCs prepared on the basis of caste and adopted economic criterion for determining backwardness.

2.65 The States and Union Territories which have never prepared a list of OBCs or taken any separate action for their upliftment are : Andaman and Nicobar Island; Arunachal Pradesh, Chandigarh; Dadra and Nagar Haveli; Goa, Daman and Diu, Lakshadweep; Madhya Pradesh; Manipur; Mizoram; Nagaland; Sikkim; Tripura and West Bengal.

2.66 Government of West Bengal set up a Committee on August 1st, 1980, to study whether it was necessary to invoke the powers vested in the State Government under Articles 15(4), 16(4), and 29(2) read with Article 15(4) of the Constitution. In its report submitted on August 30th, 1980, the Committee recommended that "Poverty and low levels of living standards rather than caste should, in our opinion, be the most important criteria for identifying backwardness." It also recommended the identification of occupational groups as backward and formulation of comprehensive programmes "for the economic development and educational advancement of these groups who are below the poverty line ....." The Committee was against reservation of quotas in Government services for backward classes.

2.67 The report of the Committee has been accepted by the Government of West Bengal *in toto*.

CHAPTER III

METHODOLOGY AND DATA BASE

3.1 One important reason as to why the Central Government could not accept the recommendations of Kaka Kalelkar Commission was that it had not worked out objective tests and criteria for the proper classification of socially and educationally backward classes. In several petitions filed against reservation orders issued by some State Governments, the Supreme Court and various High Courts have also emphasised the imperative need for an empirical approach to the defining of socially and educationally backwardness or identification of Other Backward Classes.

3.2 The Commission has constantly kept the above requirements in view in planning the scope of its activities. It was to serve this very purpose that the Commission made special efforts to associate the leading Sociologists, Research Organisations and Specialised Agencies of the country with every important facet of its activity. Instead of relying on one or two established techniques of enquiry, we tried to cast our net far and wide so as to collect facts and get feed-back from as large an area as possible. A brief account of this activity is given below.

(i) *State Government Questionnaire*

3.3 The Commission was formally inaugurated by the then Prime Minister on March 21st, 1979, and soon thereafter, at our request, Department of Anthropology, Delhi University, organised a two-day seminar on social backwardness. The main objective of this seminar was to start a well informed debate on the term of reference of the Commission and establish a rapport between its Members and the Academics. This proved to be a very happy augury for the Commission's work and the continuous support that we received from the academic community has, undoubtedly, benefited us a great deal.

(2) *Questionnaires*

3.4 In April 1979 the Commission issued the following three questionnaires to all the State Governments, Central Ministries/Departments and the General Public (Appendices 2, 3 and 4, Vol. II).

(i) *State Government Questionnaire*

3.5 In this questionnaire State Governments were requested to supply information on their concept of social and educational backwardness, steps taken for the welfare of OBCs, representation of Other Backward Classes in Government services, income levels and social status of manual workers and occupational communities, their educational levels and incidence of drop-outs, etc. Replies were received from all the State Governments and Union Territories.

(ii) *Questionnaire for Central Ministries/Departments*

3.6 In this questionnaire the Central Ministries/Departments and the Public Undertakings working under them were requested to supply information regarding the number and percentage of employees of Other Backward Classes employed in those Organisations. A rough and ready criteria of social and educational backwardness was also given in this questionnaire. In all 30 Ministries and Departments and 31 Attached and Subordinate offices furnished the desired information.

(iii) *Questionnaire for the General Public, Voluntary Organisations, etc.*

3.7 This questionnaire was issued to Members of the general public, social workers, publicmen, caste associations, voluntary organisations, etc., to elicit their views on the criteria for social and educational backwardness, social mobility since independence, place of caste in the social structure of India, social and civil disabilities suffered by backward classes, etc. This questionnaire was published in leading English and vernacular Papers of each State at the time of the Commission's tour and it was also widely distributed in meetings held during the Commission's tour. In all 1872 replies to this questionnaire were received by the Commission from all over the country.

3.8 Information collected in response to the above three questionnaires was systematically compiled, collated and analysed and it has been used in the relevant Chapters of this Report.

(3) *Commission's Touring*

3.9 The Commission undertook extensive tours of the country to get first hand information from various communities and sections of the public on the problems of social and educational backwardness. It toured and in the process, it visited 84 district headquarters, 37 villages, attended 171 formal meetings and received 2638 representations from publicmen and voluntary organisations. At each State Headquarters the Commission had useful discussions with Chief Ministers, Ministers, Members of Parliament, Members of Legislative Assemblies, senior officials, representatives of State and Central Public Undertakings, voluntary social organisations and other prominent publicmen.

3.10 This proved to be a most fruitful exercise and gave the Commission deep insight into the problems and conditions of Other Backward Classes and the way various sections of society react to these.

(4) *Evidence Before The Commission*

3.11 The Commission invited a number of people's representatives, eminent publicmen, sociologists, journalists, demographers, etc., for tendering evidence on various problems pertaining to the socially and educationally backward classes. In 1979, all Members of the Sixth Lok Sabha were issued invitations in this behalf and quite a large number appeared before the Commission for evidence. Quite a few Rajya Sabha Members also tendered evidence in this connection. A list of all the Members of Parliament, publicmen and experts, who appeared before the Commission in this connection, is given at Appendix-5, Volume II of this Report.

(5) *Socio-Educational Field Survey*

3.12 The Commission constituted a panel of 15 experts under Prof. M. N. Srinivas for preparing the design of a country-wide Socio-Educational Field Survey. The panel met in Delhi from July 16th to 20th, 1979, and, after detailed deliberations, prepared a set of schedules, dummy tables, instructions, etc., for undertaking this Survey.

3.13 To make full and proper use of the massive information flowing from the Survey, it was also decided that the whole operation of processing the data should be computerised. It was hoped that the results of this Survey will throw up a set of indicators which constituted the syndrome of social and educational backwardness in the Indian conditions. Full particulars of this Survey are contained in Chapter XI of this volume.

(6) *Case-Studies, Special Reports, etc.*

North-South Comparision of Backward Classes Welfare

3.14 Southern States have a fairly long and peaceful history of giving substantial benefits to Other Backward Classes and these States have done more for their welfare than any other region in India. On the other hand Northern States have been quite slow and hesitant in framing any welfare scheme for Other Backward Classes. In fact very modest reservations made in services and Educational Institutions in Bihar and Uttar Pradesh in the recent years have given rise to wide-spread protests and agitation. As it appeared necessary to have a clear understanding of local factors, social attitudes, prejudices, etc. for this contrast in responses to the same phenomenon, the Commission engaged Tata Institute of Social Sciences, Bombay, to undertake a case-study of four States, *i.e.* Tamil Nadu, Karnataka, Bihar and Uttar Pradesh with this end in view. The results of this study have been given in Chapter VIII of this volume.

(7) *Analysis of Census Data, Village Monographs and Special Reports*

Caste Indexing 1891/1931

3.15 On the basis of 1891 and 1931 Census, data was collected and analysed with a view to getting a frame for the linkage of traditional occupations by caste. The main object of this exercise was to get an idea of social mobility amongst various castes during the intervening period of 40 years. Such data was compiled fully for the States of Bihar and Uttar Pradesh and caste index by traditional occupations were prepared for these two States. This study could not be carried beyond 1931, as listing of castes was discontinued in subsequent Census operations.

Village Studies by Anthropological Survey of India, Calcutta

3.16 At the Commission's request, the Anthropological Survey of India, Calcutta, made available its village studies pertaining to Andhra Pradesh, Bihar, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Tamil Nadu, Tripura and Uttar Pradesh. From these studies the Commission could cull useful information about the socio-economic conditions of rural population of these States.

3.17 A large number of survey reports and monographs prepared by the Indian Council of Social Sciences Research, New Delhi, Labour Bureau (Ministry of Labour), National Labour Institute, Institute of Economic Growth, New Delhi, Centre for the Study of Developing Societies, New Delhi, Indian Social Institute, New Delhi, etc., provided the Commission with a mine of useful information on the conditions and problems of socially and educationally backward classes.

(8) *Legal and Constitutional Issues*

3.18 During the last 20 years Supreme Court and various High Courts have decided a number of cases regarding the reservation of posts in Government Services, allocation of seats in Educational Institutions and giving of various other benefits to Other Backward Classes by several States. As very important Constitutional and Legal issues have been discussed in these judgements, it was necessary for the Commission to take due cognisance of these judicial pronouncements in formulating its recommendations for the identification of Backward Classes and suggesting measures for their upliftment. In view of this, the Commission engaged Law Institute of India, New Delhi, to prepare a comprehensive Report on this subject.

CHAPTER IV

SOCIAL BACKWARDNESS AND CASTE

4.1 Castes are the building bricks of Hindu social structure. All sorts of virtues and evils have been attributed to caste system by the social historians. But this controversy is not germane for our purpose. Here we are mainly concerned with the manner in which caste has fragmented the social consciousness of Hindu society by dividing it into numerous groups arranged in a hierarchical order. In his Contemporary Indian Philosophy, Prof. A. R. Wadia has observed, "The high metaphysics of Upanishads and ethics of the Gita have been reduced to mere words by the tyranny of the caste. Emphasising the unity of the whole world, animate and inanimate, India has yet fostered a social system which has divided her children into water-tight compartments, divided them from one another, generation to generation, for endless centuries." It may be further remarked that in this process of division, groups called castes have been permanently assigned high or low ranks simply on the basis of birth.

4.2 One important outcome of this ritual ranking of castes ,has been to create deep-rooted vested interests in this system and to enable the higher castes to exploit the lower ones through the institutional framework of social organisation.

4.3 In fact there is nothing unusual about this phenomenon. Ruling classes everywhere have tried to perpetuate their privileges through all sorts of devices and aristocracy has generally joined hands with the clergy in this process. Giving an example of English popular preaching in the medieval ages, Owst* writes, ".....each man's first duty, he be knight or priest, workman or merchant—is to learn and labour in the things of his particular calling, resting content therewith and not aspiring to meddle with the tasks and mysteries of others. The social ranks and their respective duties, ordained by God for humanity, were intended to remain fixed and immutable. Like the limbs of the body, they cannot properly exchange either their place or function."

4.4 This is as close an approximation to the brahmanical view of caste as one can expect! The Rigvedic hymn of Purushasukta, which contains the earliest reference to Chaturvarna, also states that after the primeval sacrifice, "his mouth became the Brahmin; his two arms were made into the Rajanya (kshatriya); his thighs in the Vaishyas; from his two feet the Shudra was born." (Rigveda : 10.90). Whereas the English Priest and the Vedic hymn are saying more or less the same thing, and this view of the divine sanction of the privileges of the ruling classes was preached in most other countries, it is only in India that this concept got formalised into a cast-iron mould.

4.5 The real triumph of the caste system lies not in upholding the supremacy of the Brahmin, but in conditioning the consciousness of the lower castes in accepting their inferior status in the ritual hierarchy as a part of the natural order of things. In India caste system has endured for over 3,000 years and even today there appear no symptoms of its early demise. No social institution containing so large an element of inequality and discrimination towards majority of the people can survive that long in a purely social context. It was through an elaborate, complex and subtle scheme of scripture, mythology and ritual that Brahmanism succeeded in investing the caste system with a moral authority that has been seldom effectively challenged even by the most ardent social reformers. How religion and mythology were used to weave this magic web, we shall try to show with the help of some well-known examples.

4.6 The concept of divine origin of the caste system has the authority of the holiest Hindu scriptures, As mentioned earlier, Rigveda describes the creation of four Varnas from the limbs of Purshasukta. The Taittiraya Samhita not only ascribes the origin of Chaturvarna from the limbs of the Creater, but also interprets this origin theologically and gives divine justification of their functions and status. In Gita, Lord Krishna says, "The four-fold Order was created by Me, on the basis of quality and action."

4.7 "All Hindu Dharma Shastras take caste for granted. All Puranas assume the existence of caste and look upon it as a permanent order of society."*

4.8 "The Dharma Shastras mention that if a man does good deeds he will be born in a high caste and be well-endowed, while if he does evil acts, he will be born in a low caste, or even as an animal, a pig or a donkey."@

4.9 Ranking of the Hindu society into four Varnas furnished Brahmanical orthodoxy with the bed-rock on which it erected its elaborate caste structure. One essential feature of this institution is the concept of 'purity and pollution'. "In Hindustan proper, castes can be divided into five groups; first, the twice-born castes; second, those castes at whose hands the

*Literature & Pulpit in Medieval England by G. R. Owst, Oxford, 1961.

*'Hindu Society at Cross-roads' by K. M. Pannikar, Asia Publishing House, Bombay, 1971.

@'Caste in Modern India' by M. N. Srinivas, Asia Publishing House, Bombay, 1964.

twice-born can take "Pakka" food ; third, those castes at whose hands the twice-born cannot accept any kind of food but may take water ; fourth, castes that are not untouchable yet are such that water from them cannot be used by the twice-born ; last come all those castes whose touch defiles not only the twice-born but any orthodox Hindu."*

4.10 ".....the Shanar, toddy-tapper of Madras, contaminates a Brahmin if he approaches the latter within twenty-four paces..... A Nayar may approach a Nambudiri Brahmin but must not touch him, while a Tiyan must keep himself at the distance of thirty-six steps from the Brahmin, and a Pulayan may not approach him within ninety-six paces. A Tiyan must keep away from a Nayar at twelve paces, while some castes may approach the Tiyan, though they must not touch him."*

4.11 "....In the Maratha country a Mahar—one of the untouchables—might not spit on the road lest a pure-caste Hindu should be polluted by touching it with his foot, but has to carry an earthen pot, hung from his neck, in which to spit. Further he had to drag a thorny branch with him to wipe out his foot-prints and to lie at a distance prostrate on the ground if a Brahmin passed by, so that his foul shadow might not defile the holy Brahmin".*

4.12 Another sociologist quotes the following passage from the 'Hindu' of 24-12-1932 as an example of visual pollution :

> 4.13 "In this (Tinnevelly) district there is a class of unseeables called purada vannans. They are not allowed to come out during day time because their sight is considered to be pollution. Some of these people who wash the clothes of other exterior castes working between midnight and day-break, were with difficulty persuaded to leave their houses to interview".@

4.14 The award of punishments and levy of taxes were also closely related to an individual's caste. "A Brahmin was exempt from the usual taxes....both the person and property of Brahmin were absolutely inviolate .... Kautilaya prescribes differential rates of interests for debts according to different castes, a Brahmin being charged per cent, kshatriya 3; a vaishaya 4; and a shudra 5 per cent ..... A brahmin is entitled to whatever exists in the world. In fact the whole world is his property and others live on his charity."* The Mahabharata says, "the Shudra can have no absolute property, because his wealth can be appropriated by his master at will".**

4.15 Regarding litigation : "In a local dispute between a Brahmin and a non-Brahmin the arbitrator or a witness must speak in favour of the former."@ According to 'Satapatha Brahmana', "a murder of a Brahmin alone is the real murder, while the Yajurveda declares it to be a more heinous crime than that of killing any other man."£ On the other hand, Manu says that the "slaying of a Shudra by a Brahmin is equivalent merely to the killing of a cat, a mongoose, a blue jay, a frog, a lizard, an owl or a crow."$

4.16 "....A king shall never sentence a Brahmin though convicted of all possible crimes but may banish him with all his property secure and his body unhurt. No greater crime is known on the earth than the slaying of a Brahmin and the king, therefore, must not even form in his mind an idea of killing a priest."%

4.17 "If a shudra mentions the name and class of the twice-born with contumely, an iron nail, ten figures long shall be thrust red-hot into his mouth."*

4.18 The thoroughness with which caste-based discrimination was propagated and practised may be judged from the fact that even in matters of dress the lower castes were forbidden to emulate their superiors. The wearing of 'Janeu' (sacred thread) marked the dividing line between caste-Hindus and the Shudras and even in recent times the attempts by some lower castes to wear 'Janeu' were violently resented by the twice-born. "The toddy-tappers of Malabar and the east coast, Izhavas and Shanaras, were not allowed to carry umbrellas, to wear shoes or golden ornaments, to milk cows or even to use the ordinary language of the country."@@

4.19 In Mysore State, the women of certain lower castes were not permitted to cover their bosoms. There arose a sharp controversy over this issue resulting in civil disturbances and ultimately the Maharaja of Mysore had to issue a Royal Proclamation permitting the aggrieved castes to wear jackets or cover their bosoms, "in any manner they desire, but that they were not permitted to imitate the dress and hair styles of higher castes."**

4.20 The above account will show as to how every important facet of a Shudra's personal, social and economic activity was severely influenced by his low caste status. Mythology and scriptures were also pressed into service to establish the inherent

*'Caste and Class in India' by Dr. G. S. Ghurye, The Popular Book Depot, Bombay.

@'Rise & Awakening of Depressed Classes in India' by J. R. Kamble, National Publishing House, New Delhi, 1979.

@ Ibid.

£Ibid.

$J. R. Kamble, ibid.

%Code of Manu quoted by J. R. Kamble, ibid.

*'Social Movements and Social Transformation' by M.S.A. Rao.

@ @Ghurye, ibid.

**M.S.A. Rao, ibid.

superiority of the Brahmin and the low social ranking of the Shudras. For instance, Tulsidas states in his Ramayana :

पूजिये विप्रशील गुण हीना
नहिं शूद्र गुण ज्ञान प्रवीणा

(Venerate a Brahmin even if he is devoid of all virtue, but not a Shudra even if he is packed with virtue and knowledge).

Quoting from Apasthmba, Ghurye says, "Between a hundred year old Kshatriya and a 10 year old Brahmin, the latter is said to be like the father".*

4.21 Balmiki's Ramayana tells the famous history of Shambuk, a Shudra, who hung himself by his feet from a tree in the forests of Uttarkhand and went into deep meditation for 12 years. At the death of a Brahmin boy whose father was still living, some of his kinsfolk complained to Rama that this outrage had occurred because Shambuk had committed the sacrilegious act of meditation despite being a Shudra. Rama went to Uttarkhand forests and after verifying the truth of this allegation, beheaded Shambuk for his temerity.

4.22 Mahabharata narrates the story of Eklabya, a tribal boy, who went to Guru Dronacharaya for learning Dhanur Vidya (archery). The Guru refused to take him as a pupil, as this vidya could be imparted to Kshatriyas only. One day Dronacharaya went to a forest with his students, Kauravas and Pandavas, to practise archery. A dog accompanying the party was hit by an arrow in the mouth, when he happened to bark. Obviously, the archer, hidden from the view, had hit the dog by just aiming in the direction of his bark. Dronacharaya knew that only Arjuna was capable of such a feat. He called for the marksman and Eklabya emerged from the forest and confessed having killed the dog by his arrow. On being asked about the identity of his Guru, he replied that he was Dronacharya's pupil. In explanation he recalled the earlier episode and stated that he had learnt Dhanur Vidya from the statue of Dronacharya which he had erected in the forest. Dronacharya asked for the right hand thumb of Eklabya as Guru Dakshina. Eklabya readily complied with the wishes of his Guru, though he could never again handle a bow with his disabled hand.

4.23 If religion was ever used as an opium of the masses, it was done in India, where a small priest-class, by a subtle process of conditioning the thinking of the vast majority of the people, hypnotised them for ages into accepting a role of servility with humility. As labourers, cultivators, craftsmen, etc., shudras were the main producers of social surplus. Their social labour was the life-blood of India's great civilisation. Yet socially, they were treated as out-castes: they had no right in private property; they carried the main burden of taxes, and the heaviest punishments were awarded to them for minor infringements of the social code. As their low caste status was tied to their birth, they toiled and suffered without any hope.

*Ibid.

4.24 It may be argued that when Lord Krishna said, "The four-fold Order was created by Me on the basis of quality and action", he linked an individual's caste to his Karma instead of the accident of birth. Here, Bhagwat Gita, no doubt, marks an important change in attitude at the philosophical level. But in actual practice this philosophy of caste takes the sting off the institution (of caste) and skilfully stereotypes it.... The difference between the Sutra theory of caste and this theory is significant. The Brahmin authors of the Sutras promised salvation to the Shudra only through the intermediacy of birth in higher castes. In plain words, it was tantamount to asking him to wait till doomsday.... The Gita, on the other hand, disarms opposition on more counts than one. First, it tries to provide a rationale for the original division into four Varnas. Secondly, it unequivocally asserts the virtual equality of these divisions as far as the value of their distinct work and their inherent capacity for working out the individual salvation are concerned".*

4.25 Gandhiji developed this theme much further in his crusade against untouchability. But what was the net impact of the Gita's view of caste or Gandhiji's crusade on a common man's perception of the caste system ? When dealing with the living social reality, what counts is not the fine metaphysical concepts embodied in great religious works of a people, but the home-spun ideas that have percolated into the consciousness of the masses and become a part of their world-view. In this sense the caste system has meant division of Hindu society into numerous isolated castes and jatis who marry among themselves, dine among themselves and, broadly, pursue traditional occupations. Further, birth determines their caste and every caste has a fixed rank in the ritual hierarchy.

4.26 The above scheme of social organisation, transfixed for over 3,000 years, had far-reaching effects on the growth and development of various castes and communities. For instance, as exclusive custodians of higher knowldege, the Brahmins developed into a highly cultivated community with special flair for intellectual pursuits. On the other hand, the Shudras, being continuously subjected to all sorts of social, educational, cultural and economic deprivation, acquired all the unattractive traits of an unlettered rustic. The following passage from Rajni Kothari's 'Caste in Indian Politics' will show as to how the low castes fared in competition with the higher castes even when several of their crippling handicaps had been removed :—

> As Brahmins entered the institutions of higher learning, the professions and the services, everywhere they formed cliques from which non-Brahmins were excluded. Between 1892 and 1904, out of 16 successful candidates for the I.C.S. 15 were Brahmins; in 1914, 93 out of 128 permanent district munsifs were Brahmins; in 1944, 452 out of 650 registered graduates of the University were Brahmins.

*Ghurye, Ibid.

4.27 In case the above example appears too remote in time, and one is led to expect that after nearly three decades of special concessions and encouragement the lower castes are fast coming into their own, the following example may prove an eye-opener. Over the period of ten years from 1969 to 1978, only ten candidates belonging to Scheduled Castes and Tribes got into I.A.S. on the basis of merit. As late as 1976 and 1977 not a single S.C. or S.T. candidate could make the grade in open competition. Similarly, only six S.C. and S.T. candidates got into I.P.S. on the basis of merit during these 10 years. (Appendix 6).

4.28 This small but telling example gives some idea of the cultural lag that the depressed classes have still to make up before they are able to overcome their historical handicaps.

4.29 As caste conditioned and controlled every aspect of an individual's life, it led to the creation of a society in which there was no 'rank disequilibrium'. In other words, the lower castes were backward not only socially, but also educationally, politically and economically. On the other hand, the higher castes were advanced in all these spheres. The basic cause of this phenomenon was the higher or lower rank of a particular caste in the ritual hierarchy.

4.30 In fact the role of caste status was so pervasive in society that the idea and administration of justice were completely coloured by it. Used as we are today to the concept of the 'Rule of law', it will be interesting to compare this view with the perception of law in the earlier Hindu society where a man's worth was directly related to his status in the caste hierarchy.

4.31 "For Englishmen, the law, if it is to be universal, impersonal and impartial, ought to be blind, an idea graphically illustrated by the representation of justice as a classically clad, blindfolded women holding balanced scales. For Hindu law, the reverse was true; the differences among men in society were central to their legal identity, rights and obligations".*

4.32 The fact that despite having lived under the rule of law during the British regime and made it the corner-stone of our Constitution, in actual practice our law still makes a lot of allowance for a person's status, is an interesting example of the historical hang-over from the earlier times.

4.33 In view of the foregoing will it be too much to say that in the traditional Indian society social backwardness was a direct consequence of caste status and, further, that various other types of backwardness flowed directly from this crippling handicap ?

*'The Modernity of Tradition' by Lloyd I. Rudolph and Susane Hoeber Rudolph (Orient Longmans Ltd., New Delhi, 1967).

CHAPTER V

SOCIAL DYNAMICS OF CASTE

5.1 Two serious objections may be raised to the argument developed in the last Chapter. First, the model of caste system based on the Hindu Shastras actually represents an ideal conceptualised by the priest-class and not the actual state of social reality. For instance, it is not likely that a red hot nail was thrust in the mouth of a Shudra if he uttered the name of the twice-born or, that, slaying of a Shudra by a Brahmin mattered as little as the killing of a frog or a crow.

5.2 Secondly, caste restrictions have loosened considerably as a result of the rule of law introduced by the British, urbanisation, industrialisation, spread of mass education and, above all, the attainment of Independence and the introduction of adult franchise.

5.3 Both the above points are quite valid but, unfortunately, they do not materially alter the basic position stated in the last Chapter. Even if the caste model described by us represents an ideal State, yet it does not negate the fact that caste system has been the most enduring basis of social organisation in India or, that, it has divided the Indian society into a large number of hierarchically arranged high and low castes or, that, the lower castes have suffered crippling social handicaps for centuries as a result of their low caste status. Similarly, despite all the modifications that caste has undergone over the ages and, specially after Independence, changes in the caste system are representative more of shifts in emphasis than any material alteration in its basic structure.

5.4 Caste has endured over the ages owing to its great resilience: like the proverbial cat, it has nine lives. In fact, no scheme of social organisation can survive for long unless it keeps adjusting with changes in society and is able to produce effective answers to the contemporary problems. It was its basic resilience that enabled caste system to survive the challenges of Buddhism and Islam, the shock of the alien British culture and administration and crusades of Gandhi, Ambedkar and Lohia.

5.5 Inevitably, the Constitutional commitment to establish a casteless and egalitarian society and, particularly, the introduction of adult franchise, has unleashed the strongest forces to which caste system has been exposed so far. But, characteristically, here also this wily institution, emulating the examples of Hindu Avtars, is assuming new forms without showing much loss of its original vitality. In fact, several observers feel that the logic of democratic politics and mass mobilisation has brought caste to the centre of the stage. ". . . . where the caste structure provides one of the principal organisational clusters along which the bulk of the population is found to live, politics must strive to organise through such a structure. . . . By drawing the caste system into its web of organisation, politics finds material for its articulation and moulds it to its own design. In making politics their sphere of activity, caste and kin groups, on the other hand, get a chance to assert their identity and to strive for positions; Drawing upon both the inter-acting structures are the real actors, the new contestants for power."*

5.6 In fact, being the unit of social organisation in India, the role of caste was bound to increase under a political system based on adult franchise. "Those in India who complain of 'casteism' in politics," observes Kothari, "are really looking for a sort of politics which has no basis in society". In the process of politicisation, caste has provided a cushion for absorbing the impact of modernist forces without disrupting the social fabric. Rajni Kothari further observes that the inter-action of caste and democratic politics has produced two results : First, "the caste system made available to the leadership structural and ideological basis for political mobilisation. . . . Second, the leadership was forced to make concessions to local opinion, take its cue from the consensus that existed as regards claims to power, articulate political competition on traditional lines and, in turn, organise castes for economic and political purpose. . . . Politics and society began moving nearer and a new intra-structure started coming into being."

5.7 "Had other avenues of social advancement and status mobility been available to the aspirant caste groups," continues Kothari, "it is doubtful whether politics would have been so much impressed by caste as it is. . . . Politics affords to the lower castes an opportunity to achieve through politics what they cannot through social instrumentalities."**

5.8 The manner in which various castes and caste groups mobilise themselves in the power game depends upon the level of political action. "At the State or even at the district level minor segments merge with one another so as to be able to operate as viable units. But this kind of merger easily comes about precisely because basis for it already existed in the traditional structure. At the village level, a major segment may sub-divide and its component units be opposed to one

*Caste in Indian Politics by Rajni Kothari.

** *Ibid.*

another, again because the cleavage was present in the past."*

5.9 From the foregoing it will be seen that despite the resolve of our Constitution-makers to establish a casteless society, the importance of caste has increased in some of the most important spheres of our national life. As electoral politics is primarily a numbers game, this development was implicit in the very scheme of things. Of course, as pointed out by Rajni Kothari, the institution of caste has played a useful role by providing ready-made traditional channels of mobilisation and articulation. Yet the hard fact remains that the excessive and unrestrained use of these channels has only helped to deepen and broaden them. In fact many political observers have pointed to the importance attached to caste by all political parties in the selection of candidates for elections to the Parliament and the State legislatures. And this phenomenon surfaced soon after Independence when the stalwarts of the freedom movement were still dominating the national scene. "Strong caste rivalries were seen in Bihar during the 1951 elections. The three chief castes were : Rajput (Led by the then Finance and Food Minister, A. N. Sinha); Bhumihar (led by the then Chief Minister, Dr. Sri Krishna Sinha) and Kayastha (led by Shri K. B. Sahay, Minister for Revenue and Excise).... The Congress exploited the principal of caste in the elections. Rajkumari Amrit Kaur was brought to tour the tribal areas to wean away tribesmen, a good many of whom are Christians, from a separatist demand for tribal State to be called Jharkhand."*

5.10 Regarding Andhra, Srinivas quotes the following passage from Harrison* :

> "As an example of Hindu caste discipline in political motion the post-war decade in Andhra merits special attention. Caste has played so fundamental a role during this period that this examination becomes in effect a case history in the impact of caste on India's representative institutions."

5.11 Prof. Srinivas further observes, "Caste is omnipresent in modern Mysore. As in Andhra the Congress party is dominated by two leading castes, one of which is the Lingayat and the other, Okkaliga. Lingayat-Okkaliga rivalry is colouring every issue, whether it be appointments to Government posts or reservation of seats in colleges, or selection of local bodies and legislatures." Whereas this observation is nearly two decades old, the Commission found evidence of the same rivalry today during its tour of Karnataka.

5.12 In this process of mobilisation, the emergence of caste associations, "the amalgamation of analogous castes with a view to the exercise of social and political influence," @ has been a very significant phenomenon in the development of rivalry between the higher and the lower castes. Whereas 'fission' was an old feature of caste system where castes were "characterised by the fissiparous tendency to break down into new endogamous sub-units.... the caste association is clearly a modern creation and has been both the product and the agent of caste fusion within the over-arching caste category."* In para. 5.8 we have already noted that the level of caste mobilisation corresponds to the level of political action. In the pursuit of political power, caste associations have spilled over all the earlier restrictive boundaries. "The Ahir Kshatriya Mahasabha is organised for the Ahirs of the whole of Uttar Pradesh, while the All India Yadava Mahasabha of herding castes operates throughout India. The operational units of caste have always been much smaller than this and until recently the organisation of castes on such a large scale was exceptional."**

5.13 In fact it is mainly through the caste associations and not individual castes that caste has served as an important channel for political action. "By mobilising similar but dispersed and isolated Jatis of village and locality in horizontal organisations with common identities, caste associations have contributed significantly to the success of political democracy by providing basis for communication, representation and leadership."***

5.14 The size and area of activity of these caste associations operating in India today is truly enormous. Most of the leading castes like Rajputs, Thakurs, Kayasthas, Yadavas, Jats, etc. have forged countrywide links amongst similar caste-clusters. Other important regional castes like Kamas, Reddis, Vokkaligas, Lingayats, Nadars, Ezhavas, Mahars, Marathas, etc. are having strong regional organisations and pressure groups.

5.15 The extension of caste's operational field from the confines of village and endogamous level to the State or all-India level may give the impression that, at long last, caste system is losing its traditional, divisive role and, hopefully, we are moving towards the goal of national integration. Nothing could be farther from the truth. Whereas it is no doubt true that the forces of modernity have loosened the old

*Caste in Modern India by M.N. Srinivas (Asia Publishing House), Bombay. 1964.

@ 'Caste in India' by J.H. Hutton, Cambridge University Press.

*Caste: Fission and Fusion by R.L. Hardgrave Jr., Economic and Political Weekly, July, 1968.

**Caste, Class and Politics by Anit Bhutt, Manohar Book Service, Delhi, 1975.

***The Modernity of Tradition by L.A. Rudolph, Susane Rudolph, Orient Longmans Ltd., 1967.

caste bonds in some areas and weakened some traditional caste taboos, yet this does not imply that the caste system itself is showing signs of debility.

5.16 As noted earlier, the institution of caste has great resilience and the post-independence changes have resulted more in the shift of emphasis than in any significant decline in 'casteism'. About the real nature of caste associations, E.M.S Namboodiripad has remarked that these were "the first form in which the present masses rallied and struggled against feudalism." Today, however, it is easy enough to see.... that these caste organisations are not the class organisations of the peasantry; they had, on the contrary, concealed the caste separatism of the people in general and of the peasant in particular so that the grip of these caste organisations on the peasantry has to be broken up if they are to be organised as a class."* In the same context, Rudolphs have remarked, "The traditional authority and functions of the Jatis are declining but the caste associations' concern to control or influence those who hold political power and thereby allocate resources, opportunity and honour has revived and extended loyalties in new and larger contexts."**

5.17 The above account should serve as a warning against any hasty conclusion about the weakening of caste as the basis of social organisation of the Hindu society. The pace of social mobility is no doubt increasing and some traditional features of the caste system have inevitably weakened. But what caste has lost on the ritual front, it has more than gained on the political front. This has also led to some adjustments in the power equation between the high and low castes and thereby accentuated social tensions. Whether these tensions rent the social fabric or the country is able to resolve them by internal adjustments will depend on how understandingly the ruling high castes handle the legitimate aspirations and demands of the historically suppressed and backward classes.

*The National Question in Kerala, (Bombay, 1952).
***Ibid.*

CHAPTER VI

SOCIAL JUSTICE, MERIT AND PRIVILEGE

6.1 Equality before the law is the most precious democratic right of an Indian citizen and it is enshrined in Article 14 of the Constitution of India. This right is further elaborated and made specific in Article 15, 16 and 29 of the Constitution. These Articles prohibit discrimination against any citizen on grounds only of religion, race, caste, sex, language or place of birth, whether in respect of employment or admission to educational institutions, or access to public places, etc.

6.2 The above Articles constitute the bed-rock of a citizen's fundamental rights. But by ensuring equality of opportunity to all citizens in respect of educational and employment opportunities, we may be ignoring the special problems of some backward sections of our people who have suffered from social, cultural, educational and economic deprivation for hundreds of years. On the face of it the principle of equality appears very just and fair, but it has a serious catch. It is a well-known dictum of social justice that there is equality only amongst equals. To treat unequals as equals is to perpetuate inequality. When we allow weak and strong to compete on an equal footing, we are loading the dice in favour of the strong and holding only a mock competition in which the weaker partner is destined to failure right from the start. This approach does ensure the 'survival of the fittest'. But we must also note that survival of the fittest is the law of the jungle.

6.3 The humanness of a society is determined by the degree of protection it provides to its weaker, handicapped and less gifted members. Whereas in a jungle everybody fends for himself and devil takes the hind-most, in a civilised society reasonable constraints are placed on the ambitions and acquisitiveness of its more aggressive members and special safeguards provided to its weaker and more vulnerable sections. These considerations are basic to any scheme of social justice and their neglect will brutalize any human society.

> "In a limited sense, the right to social justice may be defined as the right of the weak, aged, destitute, poor, women, children and other underprivileged persons, to the protection of the State against the ruthless competition of life. It seeks to give the necessary adventitious aids to the underprivileged so that they may have the equal opportunity with the more advanced in the race of life. It is a bundle of rights; in one sense it is carved of other rights; in another sense it is a preserver of other rights. It is the balancing wheel between haves and have-nots."*

*"Social Justice and Law" by Shri Justice K. Subba Rao, National, New Delhi.

6.4 Our Constitution markers were fully alive to the need for providing safeguards to the weaker sections of society. Whereas Articles 15, 16 and 29 create the overall impression of according equal access to all citizens to educational, employment and other facilities, Clause (4) of Article 16 stipulates —

> (4) 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 which, in the opinion of the State, is not adequately represented in the services under the State.

6.5 Subsequently as a result of the Constitution (First Amendment) Act, 1951, a similar clause was added to Article 15 also. Thus, it will be seen that Clauses (4) of both Articles 15 and 16 make special provisions for the advancement of any socially and educationally backward classes. Further, Article 46 enjoins upon the State the obligation to promote with special care the educational and economic interests of the weaker sections of the people.

6.6 On the face of it, it may appear that special safeguards provided to weaker sections under Articles 15(4) and 16(4) are in conflict with the fundamental rights to education, employment, etc. It has been forcefully argued that the equality of opportunity and treatment granted to every citizen under Articles 14, 15, 16 and 29 of the Constitution is greatly undermined by Clauses 4 of Articles 15 and 16, which enable the State to make special provisions for the advancement of weaker sections of the society. According to this line of reasoning these two Clauses give the State over-riding powers to greatly dilute the principle of equality before the law contained in Article 14.

6.7 Here the real conflict arises from the clash between the interests of the individual versus that of society. The Fundamental Rights are primarily concerned with the rights of the individual. Claims of society do not have the same sort of immediacy and urgency as the claims of individuals. Wrongs suffered by individuals stick out much more pointedly than the wrongs suffered by the society. In view of this the exceptions contained under Articles 15(4) and 16(4) appear to confer a privileged status on backward classes which seems out of line with the over-all scheme of Fundamental Rights. It is only under Directive Principles of the State Policy that the claims of society in general are accorded due recognition.

6.8 By now the conflict between the Fundamental Rights and Directive Principles of the State Policy has become a very familiar theme of Parliamentary

debates and judicial pronouncements. This conflict was very vividly highlighted by Pandit Nehru during the Parliamentary debates on the Constitution (First Amendment) Bill, 1951. He stated,

> ".... The Directive Principles of State Policy represent a dynamic move towards a certain objective. The Fundamental Rights represent something static, to preserve certain rights which exist. Both again are right. But somehow and sometime it might so happen that that dynamic movement and that static standstill do not quite fit into each other."
>
> .... The result is that the whole purpose behind the Constitution which was meant to be a dynamic Constitution leading to a certain goal step by step is somewhat hampered and hindered by the static element being emphasised a little more than the dynamic element and we have to find out some way of solving it."
>
> ".... If in the protection of individual liberty you protect also individual or group inequality, then you come into conflict with that Directive Principle which wants, according to your own Constitution, a gradual advance or let us put it another way, not so gradual but more rapid advance, wherever possible, to a State where there is less and less inequality and more and more equality. If any kind of an appeal to individual liberty and freedom is to mean as an appeal to the continuation of the existing inequality, then you get into difficulties. Then you become static, unprogressive and cannot change and you cannot realise that ideal of an egalitarian society which I hope most of us aim at."

6.9 The dilemma pointed out by Pandit Nehru is very real and has been faced repeatedly in the course of implementing legislation aimed at the creation of a more just social order. Whereas we can take legitimate pride in having established a Democratic Republic in India, the elitist and unequal character of Indian society cannot be considered as a matter of much satisfaction.

6.10 Before we examine this issue further, it will be useful to consider the implications of 'Equality' in the context of human societies. H. G. Gans* has observed that three alternative outcomes of 'Equality' are generally considered : (i) Equality of opportunity, (ii) Equality of treatment, and (iii) Equality of results. Equality of opportunity promised under Article 16(1) of the Constitution, is actually a libertarian and not egalitarian principle as it allows the same freedom to everybody in the race of life. "People who start their lives at a disadvantage rarely benefit significantly from equality of opportunity, because, unless they are distinctly superior in skills or upward-mobility techniques; they can never catch up with the more fortunate and most disadvantaged people never even get access to the supposedly equal opportunity .... Equality of opportunity is also an asocial principle, because it ignores the many invisible and cumulative hinderances in the way of disadvantaged ; in fact, unless the children of the poor are taken from their parents at birth and brought up in middle-class homes, most are condemned to inequality of opportunity."

6.11 Equality of treatment, observes Gans, may be interpreted in two ways. "On the one hand, it means treating people as roughly equal in impersonal social intersections..... On the other hand, it means providing people with the same resources regardless of their current resources of socio-economic position; used in this sense, equality of treatment suffers from the same drawback as equality of opportunity for to treat the disadvantaged uniformly with the advantaged will only perpetuate their disadvantage. Even in the courts which pride themselves on equality of treatment before the law, the defendent who can afford only a poor or over-worked lawyer will not often obtain equal treatment from the judge."

6.12 In view of the above considerations, Gans observes, "Consequently, the only truly egalitarian principle is equality of results, which may require unequal opportunity or treatment for the initially disadvantaged so that they eventually wind up equal in resources or rights."

6.13 If a tree is to be judged by its fruits, equality of results is obviously the most reliable test of our aspirations and efforts to establish a just and equitable order. A formidable task under any circumstance, it becomes particularly so in a society which has remained segmented in a finely graded caste hierarchy for centuries.

6.14 In fact the essence of Fundamental Rights itself remains unrealised unless proper conditions are created for protecting the legitimate rights of the under-privileged. Soon after Independence every State enacted land reforms legislation, giving security of tenure to tenants and tillers, placed a ceiling on land holdings, etc. As the weak and poor tenants and cultivators did not have the means to enforce their rights and the powerful land owners had the resources and influence to evade ceiling laws, our land reform measures have fallen far short of their objectives. Stronger sections of society keep perpetrating all sorts of atrocities against Harijans and other backward classes and they are generally able to get away without any punishment. Our entire legal apparatus is so expensive and time-consuming that under-privileged sections of society generally do not have the means or stamina to get justice from law courts. Under these circumstances, the claim of 'Equality before the law' does not carry much conviction with the weaker sections of Indian society. Equality of results being the real acid test of effective equality, there is no running away from the fact that our sovereign democratic republic will remain seriously flawed unless a fair share of the fruits of freedom. Equality of opportunity and Equality of treatment are also made available to the backward sec-

*More Equality, Pantheon Books—New York, 1973.

tions of our people. In this connection, Shri Justice K. Subba Rao has observed :

> "..... unless adventitious aids are given to the under-privileged people, it would be impossible to suggest that they have equal opportunities with the more advanced people. This is the reason and the justification for the demand of social justice that the under-privileged citizens of the country should be given a preferential treatment in order to give them an equal opportunity with other more advanced sections of the community."

6.15 In this connection nothing generates so much heat and genuine indignation as the concept of 'merit'. Whereas nobody objects to the grant of special educational facilities and various other concessions to the backward classes, the provision of a reserved quota in educational institutions or services for members of Scheduled Castes, Scheduled Tribes or Other Backward Classes provokes sharp reaction. The advocates of 'merit' find it very unfair when a depressed class student securing 45% marks gets admission to a medical college in preference to a student from the general quota obtaining 70% marks. The resentment is much greater when a lower ranked backward class competitor is selected in preference to a much higher ranked general quota counterpart to an All India Service.

6.16 This sort of reaction is based on two considerations : First, it hurts a person's sense of fair play to see that a more 'meritorious' candidate has been left out in preference to a less 'meritorious' person on purely extraneous grounds. Secondly, it is argued, that by selecting candidates with lower 'merit' against reserved quota vacancies, the nation is being deprived of the services of the best talent that is available to it.

6.17 This line of argument, though plausible on the face of it, suffers from a serious fallacy regarding the nature of 'merit'. We shall try to illustrate this point by a homely example. Mohan comes from a fairly well-off middle-class family and both his parents are well educated. He attends one of the good public schools in the city which provides a wide range of extra-curricular activities. At home, he has a separate room to himself and he is assisted in his studies by both the parents. There is a television and a radio set in the house and his father also subscribes to a number of magazines. In the choice of his studies and, finally, his career, he is continuously guided by his parents and his teachers. Most of his friends are of similar background and he is fully aware of the nature of the highly competitive world in which he will have to carve a suitable place for himself. Some of his relations are fairly influential people and he can bank on the right sort of recommendation or push at the right moment.

6.18 On the other hand, Lallu is a village boy and his backward class parents occupy a low social position in the village caste hierarchy. His father owns a 4-acre plot of agricultural land. Both his parents are illiterate and his family of 8 lives huddled in a two-room hut. Whereas a primary school is located in his village, for his high school he had to walk a distance of nearly three kilometers both ways. Keen on pursuing higher studies, he persuaded his parents to send him to an uncle at the Tehsil headquarters. He never received any guidance regarding the course of studies to be followed or the career to be chosen. Most of his friends did not study beyond middle-school level. He was never exposed to any stimulating cultural environment and he completed his college education without much encouragement from any quarter. Owing to his rural background, he has a rustic appearance. Despite his college education, his pronunciation is poor, his manners awkward and he lacks self-confidence.

6.19 Assuming that Mohan and Lallu had the same level of intelligence at the time of their birth, it is obvious that owing to vast differences in social, cultural and environmental factors, the former will beat the latter by lengths in any competitive field. Even if Lallu's intelligence quotient was much higher as compared to Mohan, chances are that the former will lag far behind the latter in any competition where selection is made on the basis of 'merit'.

6.20 Let us suppose that both of them sit for the All India Services examination and Mohan secures 50% more marks than Lallu. Does it mean that Mohan's merit is 50% higher than that of Lallu or, that, he will be 50% more efficient than that village boy. Is it possible to determine that, in view of their respective native intelligence, how these boys would have faired in case they had exchanged places? If merit also includes grit, determination, ability to fight odds, etc., should not the marks obtained by Mohan and Lallu be suitably moderated in view of the privileges enjoyed by the former and the handicap suffered by the latter?

6.21 In fact, what we call 'merit' in an elitist society is an amalgam of native endowments and environmental privileges. Mohan and Lallu are not 'equals' in any fair sense of the term and it will be unfair to judge them by the same yard-stick. The conscience of a civilized society and the dictates of social justice demand that 'merit' and 'equality' are not turned into a fetish and the element of privilege is duly recognised and discounted for when 'unequals' are made to run the same race.

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* Social Justice and Law by Shri Justice K. Subba Rao, National, New Delhi.

CHAPTER VII

SOCIAL JUSTICE, CONSTITUTION AND THE LAW*

7.1 In the last Chapter we noticed the element of inherent conflict between the Fundamental Rights and the Directive Principles of State Policy and observed as to how Article 15(4) and 16(4) helped to maintain a state of dynamic equilibrium between these two vital parts of the Constitution. In this Chapter, we shall examine the extent to which these two Articles have served as instrument of State Policy for securing social justice for weaker sections of the society.

7.2 In India, the State is by far the largest employer and the greatest dispenser of all sorts of patronage. Employment under the State and admission to various technical and professional institutions represent to an Indian citizen two most important opportunities to participate in the life of the nation. It is a telling comment on our unequal society that till the introduction of reservation of seats for Scheduled Castes and Scheduled Tribes, nearly 90 per cent of higher posts under the State and seats in medical and engineering colleges were filled by candidates from about 18 per cent of the higher castes. It was the enormity of this inequity that gave rise to various lower-caste movements, particularly in the South, right from the beginning of this century. As a result of sustained agitations, specific quotas of seats had been earmarked in medical and engineering colleges in the States of Madras, Mysore, Travancore-Cochin, etc. much before Independence. In post-Independence India, the first important step to remedy this situation was taken with the incorporation of Clause 4 under Article 16 of the Constitution which empowered the State to reserve posts in favour of inadequately represented backward class citizens. The first major challenge to this policy of reservation was posed in Madras by two Brahmin candidates, one each for medical and engineering colleges respectively, who could not get admission despite higher marks. As the Supreme Court's** decision in this case is of historical importance and marked the start of a legal battle the last shot in which has yet to be fired, it will be useful to give a gist of it.

7.3 Under an Order issued by the Madras Government (popularly known as Communal G.O.) all seats in medical and engineering colleges were distributed among six communities in a fixed ratio, and candidates of various communities could compete only among themselves for admission and not with candidates of other communities. Two Brahmin candidates who could not get admission against their quota, challenged the Government Order as being violative of the Fundamental Rights under Article 29(2) of the Constitution. The Supreme Court struck down the Communal G.O. on the ground that the classification was based on religion, race and caste and, thus, it was violative of Article 29(2). Madras Government's argument that the said classification was in pursuance of Article 46, which enjoined upon the State to promote with special care the educational and economic interests of the weaker sections of people, was rejected on the ground that the Fundamental Rights were, "sacrosanct and not liable to be abridged by any Legislative or Executive act or order, except to the extent provided in the appropriate Articles in Part III. In our opinion, that is the correct way in which the provisions found in Parts III and IV have to be understood".

7.4 This decision of the Supreme Court had serious implications for the backward classes and widespread political agitations followed in its wake. These events also highlighted a lacuna in the Constitution and led to the amendment of Article 15 by the addition of Clause 4 through the Constitution (First Amendment) Bill, 1951. This clause reads as follows :—

> Nothing in this Article or in Clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

7.5 Whereas Clause (4) of Article 16 provides for reservation of posts under the State, the new clauses enjoined upon the State to make "any special provision for the advancement of any socially and educationally backward classes .....".

7.6 It may be noticed that whereas Article 16(4) refers to "any backward class citizens", in Clause (4) of Article 15, the reference is "any socially and educationally backward classes". As Pt. Nehru explained before the Select Committee, this departure was made to bring the language of Article 15(4) in line with that of Article 340, which provides that Backward Classes Commission may be set up for "socially and educationally backward class citizens".

7.7 Perusal of the Parliament debates on this amendment clearly shows that irrespective of the criteria for the classification of backward classes, there had to be a list of castes or communities. During one of the debates, Pt. Nehru observed, "We want to put an end to....., all those infinite divisions that have grown up in our social life ..... we may call them by any name you like, the caste system of religious division etc....." Ambedkar, the then Law Minister, was

*This Chapter is based on a special paper prepared by Indian Law Institute, New Delhi, for the Commission. The study constitutes Volume III of this report.

**Champakam Dorairajan v. State of Madras (A.I.R. 1951 S.C. 226).

more forthcoming when he observed, "What are called backward classes are ..... nothing else but a collection of certain castes."

7.8 Whereas the backward classes looked upon Articles 15(4) and 16(4) as a sort of charter of rights, the forward classes and upper classes felt greatly cramped by the provision of reserved quotas in educational institutions and government employment. This greatly hurt their self-interest and they considered it as a denial of "equality of opportunity", "equality before the law" and a breach of Fundamental Rights. Consequently, scores of aggrieved parties filed petitions before various High Courts and the Supreme Court for the enforcement of their alleged Fundamental Rights and, over the years, a considerable body of case law has grown on this issue.

7.9 It is well known that the development of case law on really important issues seldom follows a smooth curve. If consistency is a virtue of small minds, the judicial mind can never be accused of any smallness. In view of the highly controversial and emotive nature of providing reserved quotas for backward classes, a large number of judgments delivered over the last two or three decades contain quite divergent findings on some very vital aspects of this matter. But all the same, taking an overall, impressionistic view, one can discern the emergence of some broad consensus on the really important issues agitated before the Courts.

7.10 Instead of undertaking an academic exercise of minutely tracing the history and development of judicial thinking on Articles 15(4), 16(4) and 29(2), we shall try to briefly examine about half a dozen Supreme Court judgments which are regarded as landmarks in the evolution of case law on this subject and, then, to list some of the important findings which have acquired general acceptance by courts and the legal pundits.

7.11 Supreme Court's decision in *Balaji* v. *State of Mysore*** is the most celebrated judicial pronouncement on the question of reservation for backward classes and it has exercised a decisive influence on all the subsequent judgments delivered on this issue. A brief account of this case is given below.

7.12 On the basis of the report of the Naganna Gowda Committee, 1962, the Government of Karnataka, passed an order reserving 50 per cent of the seats in all medical and engineering colleges for the candidates of other backward classes. This was in addition to the reservation of 15 per cent of seats for Scheduled Castes and 3 per cent for Scheduled Tribes. Consequently, 68 per cent of the seats in medical, engineering and other technical colleges were reserved for the weaker sections of the society, leaving 32 per cent for the merit pool. This Committee had also observed that under the Indian conditions the only practicable method of classifying backward classes in the State was on the basis of caste and community. Further, it sub-divided Other Backward Classes into 'backward' and the 'more backward' classes and distributed 50 per cent of the reserved seats among them in the ratio of 28 : 22 respectively.

7.13 The above order was challenged on the basis that it determined the social backwardness of communities in a manner not contemplated under Article 15(4).

7.14 The first important observation made by the court was that the concept of 'backwardness' is not intended to be relative in the sense that any classes who are backward in relation to most advanced classes of the society should be included in the list of backward classes. Also, backwardness under Article 15(4) **must be social *and* educational, and not either social** or educational.

7.15 Regarding social 'backwardness', the court observed that the group of people to whom Article 15(4) applies are described as 'classes of citizens' and not as 'castes of citizens'. Of course, in the Hindu social structure caste played an important part in determining the status of the citizen. Irrespective of its origin, with the passage of time, the "functional and occupational basis of castes was later over-bounded with consideration of purity based on ritual concepts, and that led to its ramifications which introduced inflexibility and rigidity." In view of this, it may not be irrelevant to take into account the caste of a group of citizens in determining its social backwardness. But whereas "castes in relation to Hindus may be a relevant factor in determining the social backwardness of a group of classes of citizens, it cannot be made the sole dominant test in that behalf." To determine educational backwardness, the Naganna Gowda Committee had taken the State average of student population in the last three high-school classes of all high schools in the State and listed all communities as educationally backward whose average on the aforesaid basis fell even marginally below the State average. Communities with less than 50 per cent of the State average were categorised as 'more backward'.

7.16 On this point, the court observed that it is only communities which are well below the State average that can be properly regarded as educationally backward class of citizens. Classes whose average was below 50 per cent of the State average are obviously educationally backward class of citizens. Marginal variation was not relevant for this purpose.

7.17 The court also felt that the sub-classification made by the order between 'backward classes' and 'more backward classes' was not justified under Article 15(4). "In introducing two categories of backward classes what the impugned order, in substance, purports to do is to devise measures for all the classes of citizens who are less advanced compared to the most advanced classes in the State, and that, in our opinion, is not the scope of Article 15(4)."

7.18 Regarding the quantum of reservation, the court observed that the interests of the weaker sections of the society had to be adjusted with interests of the community as a whole. "Speaking generally and in

**A.I.R. 1963, S.C. 649.

a broad way, a special provision should be less than 50 per cent, how much less than 50 per cent would depend upon the relevant prevailing circumstances in each case." Accordingly reservation of 68 per cent for backward classes, Scheduled Castes and Scheduled Tribes was considered excessive and declared unconstitutional.

7.19 In view of the aforesaid reasons, the impugned order of the State Government was struck down by the Supreme Court.

7.20 The next important case in this genre is that of *R. Chitralekha* V. *State of Mysore** which is actually a sequel to the judgment delivered in the *Balaji* case.

7.21 In pursuanie of the decision in *Balaji* case, Mysore Government devised profession-cum-means test for determining social and educational backwardness and incorporated it in its order of July 1963. Under this order, 50 per cent of the seats in medical. engineering and other technical institutions were reserved for backward classes in addition to 15 per cent for Scheduled Castes and 3 per cent for Scheduled Tribes.

7.22 Validity of this Order was challenged before the Mysore High Court in *D. G. Viswanath* v. *Government of Mysore*** on the ground that the impugned Order altogether ignored 'caste' and 'residence' basis and, thus, it did not benefit the really backward classes among the Hindus. In *Balaji* case the Supreme Court had held caste, poverty, occupation, place of habitation as some relevant factors for determining social backwardness. According to the petitioner, the omission of caste and residence as relevant criteria from the Government Order ran counter to *Balaji* judgment and, therefore, it was bad in law. Mysore High Court allowed the petition and, relying on *Balaji*, stated, "As the Government had ignored caste and residence basis altogether in the instant case, the court felt that the classification of backward classes adopted did not really help the really backward classes among the Hindus."

7.23 In appeal the correctness of Mysore High Court's interpretation of *Balaji* case came up before the Supreme Court for decision in *R. Chitralekha* v. *State of Mysore** Supreme Court observed, "While this court said that caste is only a relevant circumstance and that it cannot be the dominant test in ascertaining the backwardness of a class of citizens, the High Court said it was an important basis in determining the class of backward Hindus and that the Government should have adopted caste as one of the tests ..... caste is only a relevant circumstance in ascertaining the backwardness of a class and there is nothing in the judgment of this court which precludes the authority concerned from determining the special backwardness of a group of citizens if it can do so without reference to caste. While this court has not excluded caste from ascertaining the backwardness of a class of citizens, it had not made it one of the compelling circumstances affording a basis for the ascertainment of backwardness of a class ..... We would also like to make it clear that if in a given situation caste is excluded in ascertaining a class within the meaning of Article 15(4) of the Constitution, it does not vitiate the classification if it satisfied other tests."

7.24 Regarding 'caste' and 'class' the court stated, "Though it may be suggested that the expression 'classes' is used in clause (4) of Article 15, as there were communities without castes, if the intention was to equate classes with castes, nothing prevented the makers of the Constitution to use the expression 'backward classes or castes'." The juxtaposition of the expression "backward classes" and "Scheduled Castes" in Article 15 also leads to a reasonable inference that the expression 'classes' is not synonymous with 'castes'.

7.25 In view of the above reasons, Mysore High Court judgment was set aside and the impugned Government Order was restored.

7.26 It may be observed in passing that the judgment in *Balaji* case and more so in that of *Chitralekha* represents, perhaps, the most conservative view on the relevance of caste for determining social backwardness and synonymity between 'classes' and 'castes'. We shall show presently that the passage of time has led to considerable shifting of emphasis on these two issues and the subsequent trend of judicial decisions has departed appreciably from the *Chitralekha* approach. The decision of Supreme Court in *P. Rajendran* v. *State of Madras** marks a water-shed in this connection.

7.27 Rules made by the Government of Madras regulating admission to medical colleges provided for reservation of seats for socially and educationally backward classes specified in an appendix to that Order. This Order was challenged as violative of Articles 14 and 15 on the ground that the list of classes specified in the Government Order was actually a list of certain castes. On this point the Court observed, "Now, if the reservation in question had been based only on caste and had not taken into account the social and educational backwardness of castes in question, it would be violative of Article 15(1). *But it must not be forgotten that a caste is also a class of citizens and if the caste as a whole is socially and educationally backward, reservation can be made in favour of such a caste on the ground that it is socially and educationally backward class of citizens within the meaning of Article* 15(4) ..... It is true that in the present case, the list of socially and educationally backward classes has been specified by caste. But that does not necessarily mean that caste was the sole consideration and that persons belonging to these castes are also not a class of socially and educationally backward citizens."

*A.I.R. 1964 S.C. 1823.

**A.I.R. 1964 Mys. 132

*A.I.R. 1968 S.C. 1012

7.28 The Court also held that it was for the petitioners to show that the castes specified in the Government Order were not socially and educationally backward.

7.29 The upshot of *Rajendran* case was that caste-wise classification was held valid for identifying social and educational backwardness. The criterion of 'caste' as a sole basis of classification was rejected in *Balaji* and *Chitralekha* cases. But *Rajendran*, without overruling these cases, approved of caste-wise classification on the basis that "a caste is also a class of citizens".

7.30 The above decision was slightly modified in *P. Sagar* v. *State of Andhra Pradesh.** In this case, the Supreme Court, upholding the decision of Andhra Pradesh High Court, invalidated the caste-wise classification made by the State on the basis that the State had failed to specify the criterion on which the list was based. The main contention of the petitioner in this case was that the list of socially and educationally backward classes notified by the State Government was entirely caste-based and, hence, violative of Article 15(1). The main difference between this case and that of *Rajendran* is that here, on being questioned, the State Government failed to specify the criteria for the classification of backward classes. The court observed that the expression 'classes' meant a homogenous section of people grouped together because of certain likeness of common traits and identifiable by some common attributes such as status, rank, occupation, residence in a locality, race, religion and the like. In determining whether a particular section forms a class, caste could not be excluded altogether. But in case the class was made a criterion, proper inquiry or investigation should be conducted by the State Government before listing certain castes as socially and educationally backward. "..... The assertion by the State that the officers or the State had taken into consideration the criteria which had been adopted by the courts ..... or that the authorities had acted in good faith in determining the socially and educationally backward classes of citizens would not be sufficient to sustain such a claim ..... Article 15 guarantees by the first Clause a fundamental right of far-reaching importance to the public generally. Within certain defined limits an exception has been engrafted upon the guarantee of the freedom in clause (1), but being in the nature of an exception, the conditions which justify departure must be strictly shown to exist."

7.31 The element of apparent contradiction between judgments in *Rajendran* and *Sagar*, only emphasises two aspects of the same situation. In the case of *Rajendran* "castes" listed as backward were so classified on the basis of their backwardness and not because they were castes as such and the State had produced evidence in support of the classification made by it. But in *Sagar* the State had failed to produce evidence in support of its classification. After the Supreme Court judgment in *Sagar* case, Courts have become much more particular about ascertaining the objective evidence or tests on the basis of which a particular caste was identified as socially and educationally backward.

7.32 In *Periakaruppam* v. *State of Tamil Nadu** the petitioners challeged the State Government's selection of candidates for medical colleges after dividing the State into six regions and reserving 41 per cent of the seats for socially and educationally backward classes, Scheduled Castes and Scheduled Tribes. The petitioners contended that (1) the method of unit-wise selection was violative of Articles 14 and 15 of the Constitution; (2) determination of backward classes on the basis of caste was unconstitutional; and (3) reservation of 41 per cent for backward classes, scheduled castes and scheduled tribes was excessive.

7.33 The Court allowed the plea that unit-wise selection was illegal. But it held that classification of backward classes on the basis of caste was within the purview of Article 15(4) and, that, 41 per cent reservation was not excessive. The Court observed, "Undoubtedly we should not forget that it is against the immediate interest of the nation to exclude from the portals of our medical colleges qualified and competent students but then the immediate advantages of the nation have to be harmonised with its long range interests. It cannot be denied that unaided many sections of the people in this country cannot compete with the advanced sections of the nation. *Advantages secured due to historical reasons should not be considered as fundamental rights* (Emphasis added). Nation's interest will be best served—taking a long range view—if the backward classes are helped to march forward and take their place in line with advanced sections of people..... A caste has always been recognised as a class ..... There is no gainsaying the fact there are numerous castes in this country which are socially and educationally backward." For this proposition the Court relied on the authority of *Rajendran* that the classification of backward classes on the basis of caste is within the purview of Article 15(4) if those castes are shown to be socially and educationally backward.

7.34 The Supreme Court's decision in *S. V. Balaram* v. *State of Andhra Pradesh*** is also of particular interest regarding the determination of social and educational backwardness on the basis of caste and the quantum of reservation for backward classes. As a sequel to the Supreme Court's decision in *Sagar* case, the Andhra Pradesh Government set up a Backward Classes Commission to determine criteria for classifying backward classes, etc. The Commission evolved criteria based on poverty, occupation, caste and education. The Commission also prepared a list of backward classes in the light of this criteria. The State Government notified reservation of 25 per cent of the seats in medical colleges for the candidates of backward classes. Reservation for Scheduled Castes and Scheduled Tribes was 14 per cent and 4 per cent respectively. This order of the State Government was challenged in the High Court, which held that it was

*A.I.R. 1968 S.C. 1379.

*A.I.R. 1971 S.C. 2303

**A.I.R. 1972 S.C. 1375.

violative of Articles 15(1) and 29(2) of the Constitution and was not saved by Article 15(4). Supreme Court set aside the order of the High Court and held that the lists of backward classes notified by the State were in order and the reservation of 43 per cent for educationally and socially backward classes, Scheduled Castes and Scheduled Tribes was not excessive.

7.35 The Court observed that the Backward Classes Commission appointed by the State had circulated a questionnaire to various authorities and organisations, toured all the districts in the State and recorded oral evidence of the representatives of a number of communities. On the basis of this evidence the Commission had found certain castes as socially and educationally backward and classified them as such. The Court also referred to the "criticism levelled at the Commission that it had used its personal knowledge for the purpose of characterising a particular group as backward. That, in the circumstances of the case, is inevitable and there is nothing improper or illegal. The very object of the Commission in touring various areas and visiting the huts and habitations of people is to find out their actual living conditions."

7.36 Regarding the acceptance of caste as criterion, the Court observed, "It should not also be missed that a caste is also a class of citizens and that a caste as such may be socially and educationally backward. If after collecting the necessary data it is found that the caste as a whole is socially and educationally backward, in our opinion the reservation made of such persons will have to be upheld *notwithstanding the fact that a few individuals in that group may be both socially and educationally above the general average.** There is no gainsaying the fact that there are numerous castes in the country which are socially and educationally backward, and, therefore, a suitable provision will have to be made by the State as charged in Article 15(4) to safeguard their interests.

7.37 The Court referred with approval to its observation in the earlier case of *Triloki Nath* v. *State of Jammu and Kashmir*† on the scope of Article 16(4) relating to reservation for backward classes in public employment. In that case the Court had held that the members of an entire caste or community may in the social, economic and educational scale of values, at a given time, be backward and may on that account be treated as backward classes, but that is not because they are members of a caste or community but because they form a class.

7.38 Regarding the overall reservation of 43%, the Court did not consider it to be excessive as it was within the limit of 50% laid down in *Balaji* case.

7.39 The relevance of means-test in classifying socially and educationally backward classes has also been agitated before the Courts. The case of *K. S. Jaystree* v. *State of Kerala*** was an off-shoot of the acceptance of the recommendations of Kerala Backward Classes Commission by the State Government. This Commission adopted a means-*cum*-caste/community test for identifying backward classes and recommended that such of the listed castes or communities whose family income was below a certain minimum should be treated as socially and educationally backward classes. The Kerala Government accepted this recommendation. In *Shamim* v. *Medical College, Trivandrum** the Single Judge quashed the Government order holding that irrespective of their economic status all families from the backward classes were entitled to protective discrimination as "the test of povery cannot be the determining factor for social backwardness". However, on appeal, the Division Bench of the same High Court reversed this decision and upheld the Government's order. The High Court held that economic backwardness plays a part in social and educational backwardness and, therefore, poverty or economic standard was a relevant factor. In appeal, in *Jaystree* v. *State of Kerala* the Supreme Court upheld the decision of the Kerala High Court. It also declared that a classification based only on poverty was not logical. This view was also expressed in *Laila Chacko* v. *State of Kerala*.† In this case the Court held that annual income of families alone cannot determine social and educational backwardness.

7.40 To sump up, we may refer to a very recent judgment of Allahabad High Court in *Chotelal and Others* v. *State of Uttar Pradesh*** which contains a gist of important case law on Articles 15(4) and 16(4) of the Constitution. In this case the Court observed that :—

"(i) The bracketing of socially and educationally backward classes with the Scheduled Castes and Tribes in Article 15(4) and the provision of Article 338(3) that the references to Scheduled Castes and Tribes were to be construed as including such backward classes as the President may by order specify on receipt of the report of the Commission appointed under Article 340(1), showed that in the matter of their backwardness they were comparable to Scheduled Castes and Scheduled Tribes;

(ii) The concept of backward classes is not relative in the sense that any class which was backward in relation to most advanced class in the community must be included in it;

(iii) The backwardness must be both social and educational and not either social or educational;

(iv) Article 15(4) refers to 'backward classes' and not 'backward castes'; indeed the test of caste would break down as regards several communities which have no caste;

*Emphasis added.

†A.I.R. 1969 S.C. 1.

**A.I.R. 1976 S.C. 2381.

*A.I.R. 1976 Ker. 54.

†A.I.R. 1967—Ker. 124.

**A.I.R. 1979 All. 135.

(v) Caste is a relevant factor in determining social backwardness but is not the sole or dominant test;

(vi) Social backwardness is in the ultimate analysis the result of poverty to a very large extent. Social backwardness which results from poverty is likely to be aggravated by considerations of caste to which the poor citizens may belong, but that only shows the relevance of both caste and poverty in determining the backwardness of citizens;

(vii) A classification based only on caste without regard to other relevant factors is not permissible under Art. 15(4); some castes are, however, as a whole socially and educationally backward;

(viii) The occupations followed by certain classes (which are looked upon as inferior) may contribute to social backwardness; and so may be habitation of people, for, in a sense, the problem of social bacwardness is the problem of rural India;

(ix) The division of backward classes into backward and most backward classes is in substance a division of population into the most advanced and the rest, the rest being divided into backward and most backward classes and this is not warranted by Article 15(4);

(x) Article 16(4) does not confer any right on a person to require that a reservation should be made. It confers a discretionary power on the State to make such a reservation if in its opinion a backward class of citizens is not adequately represented in the services of the State. Mere inadequacy of representation of a caste or class in the services is, however, not sufficient to attract Article 16(4) unless that class (including a caste as a whole) is also socially and educationally backward;

(xi) The object of reservation would be defeated if on the inclusion of a class in a list of backward classes, the class is treated as backward for all times to come. Hence the State should keep under constant periodical review the list of backward classes and the quantum of the reservation of seats for the classes determined to be backward at a point of time;

(xii) The aggregate reservation of posts for various categories (including backward classes) should be less than 50%; and

(xiii) The courts' jurisdiction is limited to deciding whether the tests applied by the State in determining the backward class of citizens are valid or not. If the relevant tests have not been applied it is not open to the Court either to modify the list of "backward classes" prepared by the State or to modify the extent of reservation but it must strike down the offending part, leaving it to the State to take a fresh proper decision after applying the correct criteria."

7.41 Judgment in *Balaji* case was delivered nearly 17 years ago and subsequent decisions in *Rajendran*, *Sagar*, *Balram*, etc. show a marked shift from the original position taken in that case on several important points. But the powerful influence that *Balaji* continues to exercise on judicial thinking is highlighted by the manner in which Allahabad High Court has summarised the case law in *Chotelal's* case cited above.

7.42 For instance, in paragraph 20 of its judgment in *Balaji* case the Supreme Court had observed that the backward classes for whose improvement special provision is contemplated to be made under Article 15(4) should be comparable to Scheduled Castes and Scheduled Tribes in the matter of their backwardness. This was a very controversial observation and had caused a lot of confusion. But in actual effect such a test of backwardness has neither been applied by any State Government nor insisted upon by the Supreme Court. When this matter was agitated before the Supreme Court for reconsideration in *Balram* v. *the State of Andhra Pradesh*, the Court observed that in regard to the case on hand "factually the castes enumerated as backward classes are really socially and educationally backward." After referring to the principles laid down by it in some earlier cases, the Supreme Court stated, "It must be pointed out that none of the above decisions lay down that social and educational backwardness must be exactly similar in all respects to that of the Scheduled Castes and Scheduled Tribes". Whereas various tests have been devised by State Governments to determine social and educational backwardness, nowhere the test of comparability to Scheduled Castes and Scheduled Tribes has been applied. Further, no list of Other Backward Classes prepared by a State Government has been struck down by the Supreme Court simply because the backward classes notified by it were not comparable to Scheduled Castes and Scheduled Tribes. Yet Allahabad High Court has observed in *Chotelal* that in the matter of their backwardness the Other Backward Classes should be comparable to Scheduled Castes and Scheduled Tribes.

7.43 The Allahabad High Court has also emphasised the point that Article 15(4) refers to 'backward classes' and not 'backward castes'. The case law on this point is fairly well settled by now and the judgements cited in this Chapter bring out the current thinking quite clearly. The position was amply clarified in *Rajendran's* case when the Supreme Court stated "Caste is also a class of citizens and if the class as a whole is socially and educationally backward, reservation can be made in favour of such a caste on the ground that it was socially and educationally backward class of citizens within the meaning

of Article 15(4)." In *Perriakaruppan* the Supreme Court again observed "A caste has always been recognised as a Class".

7.44 One observation made in *Balaji* case and repeated several times in subsequent judgments including Allahabad High Court's decision under reference concerns the relationship of poverty to social backwardness. In this case the Supreme Court had remarked, "Social backwardness is in the ultimate analysis the result of poverty to a very large extent. These classes of citizens who are deplorably poor automatically become socially backward." In Chapter IV of this Report we have shown as to how the lower and impure castes in the Hindu caste hierarchy were permanently assigned menial tasks and refused any access to all avenues for a better life. It was the all pervasive tyranny of this caste system which kept the lower castes socially backward and economically poor. The poverty of these castes stemmed from their social discrimination and they did not become socially backward because of their poverty. In view of this, historical and sociological evidence does not support the view that, in the ultimate analysis, social backwardness is the "result of poverty to a very large extent". In fact, it is just the other way round.

7.45 We may close this Chapter with an observation by Shri Justice K. Subba Rao on the import of Article 16(4) of the Constitution in *General Manager Southern Railway v. Rangachari**. Supreme Court held that Article 16(4) was in the nature of a proviso or exception to Article 16(1) and it could not be so interpreted as to nullify or destroy the main provision. "No provision of the Constitution or of any enactment can be so construed as to destroy a provision contemporaneously enacted therein....." In his dissenting judgment, Justice Subba Rao observed that Article 16(4) was not an exception to Article 16(1). "The expression 'nothing in this Article' is a legislative device to express its intention in a most emphatic way that the power conferred therein is not limited in any way by the main provision but falls outside it. It has not really carved out an exception, but has preserved a power untrammelled by the other provisions of the Article."

7.46 Though the observation was made in a dissenting judgment, yet it merits serious consideration while examining the implication of Article 16(4) of the Constitution for extending special benefits to Other Backward Classes.

*A.I.R. 1962 S.C. 36.

CHAPTER VIII

NORTH-SOUTH COMPARISON OF OTHER BACKWARD CLASSES WELFARE

(A case Study of Four States)

8.1 Setting right of historical wrongs is a very complex and difficult process. In the caste-ridden Hindu society, with its close correspondence of caste and socio-economic status, a handful of higher castes monopolised all the good things of life and the majority of lower castes were deprived even of the bare essentials of a decent living. In view of this, the most pressing task before the country after Independence was the reduction of disparities between the high and the low and the establishment of a more egalitarian society.

8.2 The Government of India adopted a two-pronged approach to tackle this problem. On the one hand, it formulated Five Year Plans for the overall development of the country, and, on the other, it made special provisions under Articles 15(4), 16(4), 46, etc. for the upliftment of all sections of backward classes. Whereas the Government assumed direct responsibility for the framing and implementation of Plans, the welfare of backward classes, except that of Scheduled Castes and Tribes, it left to the discretion of the State Governments. Needless to say that this approach has resulted in a serious neglect of the interests of Other Backward Classes.

8.3 Left to their own resources, State Governments have adopted a variety of approaches to this problem. Southern States, with a long history of backward class movements, have made substantial progress in implementing programmes for the welfare of Other Backward Classes. On the other hand, the approach of Northern States to this question has been generally hesitant and half-hearted. One of the most concrete measures to help the backward classes is to make reservations for them in employment under the Government and in professional institutions. Such concessions were extended in the four Southern States quite some time back and the whole operation was relatively smooth and painless. But when States like Bihar and Uttar Pradesh introduced similar concessions on a much smaller scale, there was a violent reaction from the upper castes.

8.4 On the face of it, this was a rather baffling phenomenon. Generally speaking Hindu orthodoxy had a greater hold on South than on North India and, consequently, one would have expected stronger reaction in the South than in the North. As a proper understanding of the difference in response of Southern and Northern States to the question of welfare of the Other Backward Classes was very important for the Commission's work, we approached Tata Institute of Social Sciences, Bombay, to prepare a comparative study of the implementation of O.B.C welfare measures in the four States of Tamil Nadu, Karnataka, Bihar and Uttar Pradesh. The study forms Volume IV of this Report. Except for some side observations, the following account contains a gist of this Study. The Commission does not necessarily subscribe to the views expressed in this Study.

8.5 To explain the phenomena of backlash to reservations in Uttar Pradesh and Bihar and its absence in Tamil Nadu and Karnataka, the Study formulates the following nine hypotheses :—

(1) If the communal reservation scheme has had a long history, retaliation by the forward castes is likely to be absent.

(2) If the forward castes are divided against themselves, the chances of retaliation are less.

(3) If the backward and scheduled castes are not getting on well together, the retaliation on the part of forward castes is likely to be high.

(4) If the backward castes are also politicised and organised, the retaliation on the part of the forward castes is less likely.

(5) If the upper castes are suddenly faced with the prospect of losing their political and economic position, *i.e.* if a reservation scheme is likely to bring about a sudden rank disequilibrium, then the chances of retaliation on the part of such castes are very high.

(6) If the forward sub-castes' persons can pass off as backward castes persons, the likelihood of retaliation is less.

(7) If the State as a whole has experienced a kind of revivalism or is mobilized against outside symbols, the backard class movement against the forward castes is likely to be less powerful.

(8) The capacity on the part of the backward castes to retaliate is a function of (a) their numbers; (b) political consciousness; (c) dominance, and (d) perceived lack of alternative opportunities.

(9) If the non-government tertiary sector is expanding, the retaliation on the part of the forward castes is less likely.

8.6 To place the amalgams of open caste conflicts in proper historical context, the Study observes, "The British rulers produced many structural disturbances in the Hindu caste structure, and these were contradictory in nature and impact.... Thus, the various impacts of the British rule on the Hindu caste system, *viz.*, near monopolisation of jobs, education and professions by the *literati* castes, the Western concepts of equality and justice undermining the Hindu hierarchical dispensation, the phenomenon of Sanskritization, genteel reform movements from above and militant reform movements from below, emergence of the caste associations with a new role set the stage for the caste conflicts in modern India. Two more ingredients which were very weak in the British period, *viz.*, politicisation of the masses and universal adult franchise, became powerful moving forces after the Independence.

8.7 Now we pass on to the treatment of each of the four individual States studied by the Institute.

8 *TAMIL NADU*

Being the hereditary custodians of higher learning, the Tamil Brahmins were the main beneficiaries of the British system of education and the advantages that flowed from it. This enabled them to establish a near-monopoly of all Government services and the professions. "Alerted by the advent of the Montagu-Chelmsford reforms and dyarchy the non-Brahmin elite castes took the lead in establishing first, the South Indian Liberal Federation and secondly, The Justice Party in 1916". After coming into power in 1920 this party took steps to loosen the hold of Brahmins on services. It was under the communal G.O. of 1927 that compartmental reservation of posts was made for various communities.

8.9 It may be noted that, "the Justice Party leaders were drawn from the landed classes and were not much keen on broadening their base by including the landless castes within their ranks.... The communal G. O. of 1927 represented a victory for the Vellala castes, particularly the Mudaliars". This approach eroded the mass base of the Justice Party. Its aloofness from the national movement weakened it further.

8.10 In the meantime, angered by the domination of the Congress by the Brahmins, and annoyed at Gandhiji's adherence to a purified Varna ideology, E. V. Ramaswami Naicker walked out of the Congress party and started the Self-Respect movement. He rejected the Brahmanical religion and culture and demanded a separate Dravidstan. Subsequently, with the constitution of Dravida Kazagam party anti-Hindi and anti-North planks were added to this ideology.

8.11 In 1947 the communal G. O. of 1927 was revised and an important feature of the new Order was that, "For the first time the non-Brahmin castes were bifurcated into non-Brahmin Hindus and non-Brahmin backward Hindus". This compartmental reservation was struck down by the Supreme Court and, consequently, the Government issued another order in 1951 making reservations for Scheduled Castes and Tribes and Other Backward Classes only. This did not give rise to any sharp reaction from the non-Brahmin forward castes as they "had become sufficiently powerful to hold out to their benefits and did not have to resort to any kind of protest for backlash."

8.12 A special feature of the above scheme of reservation was that it divided most major community or caste groups into forward and backward sections. "Christian converts from the Scheduled Castes are backward; other Christians are forward. While Labbai and Dakhni Muslims are backward, Urdu-speaking Muslims are forward; Adisaiva, Karghata, Kalavali-Vallals are forward; and Thuluvallas and Sozhiavallas are backward. All Reddis are forward except Ganjam Reddis, Gavara and Vadugar Naidus are backward; Kamanaidus are forward...." This manner of division also greatly reduced the potential of the forward sub-castes to protest or agitate.

8.13 In actual operation, the benefits of reservation have gone primarily to the relatively more advanced castes amongst the notified backward classes. The Tamil Nadu Backward Classes Commission took special note of it and suggested that compartmental reservation should be introduced for different categories of Other Backward Classes, but the State Government did not heed this suggestion. "The main question here is : Why did the weaker and minor backward castes who constitute 88.7% of the backward classes population did not feel resentment against the benefits of reservation going to only a handful of castes ?" In Karnataka, "Devaraj Urs capitalising on this resentment carved out a new political base of himself from these castes", but in Tamil Nadu such a movement did not take shape owing to "the peculiar Dravida Kazhagam culture.... As long as the Tamil culture revivalism continues to grip the State.... a real backward classes movement....will not emerge."

8.14 Unlike some other States, an open conflict between the Harijans and the Other Backward Classes has not developed in Tamil Nadu to eclipse the Brahmin v. non-Brahmin cleavage. "Bacause Tamil Nadu is a non-Sanskritic cultural area, the four-fold Varna system has less applicability there." Here Harijans have also promptly responded to Self-Respect movement.

8.15 The expanding Tamil Nadu economy and the relatively higher rate of urbanisation have created new avenues and job opportunities for the youth of the Brahmin and non-Brahmin upper castes. This has certainly eased the tensions which would have otherwise built up among these communities as a result of job reservation, etc.

8.16 *KARNATAKA*

Mysore Brahmins, very much like their Tamilian counterparts "had established a run-away lead over the two dominant landed gentry castes of the Lingayats and Vokkaligas.... Almost contemporaneously with the rise of the Justice movement in Madras.... the Lingayats and Vokkaligas of the princely Mysore

State became agitated over the Brahmin predominance in the Government service and education.... As the Brahmins turned increasingly urban-ward the Lingayats gentry bought up their lands." They started forming caste associations and in 1917 Praja Mitra Mandali was established to voice the claims of the non-Brahmins. The Government viewed sympathetically the grievances of the backward classes and, on the basis of Miller Committee report, issued orders in 1921 extending special educational and employment facilities to backward class candidates. This resulted in a gradual reduction in the percentage of the Brahmins in the services and professional institutions.

8.17 In the absence of a sharp focus, Praja Mitra Mandali disintegrated and its place was taken by Praja Paksha in 1928. This party was headed mainly by the "two dominant castes who had considerable exposure to the caste conflicts in the neighbouring States".

8.18 It was after Independence that the "Vokkaligas started controlling the State apparatus and the Congress party, while the Lingayats constituted their junior partners..... the formation of the unified Karnataka State in 1956 altered the caste balance considerably. The Lingayats constituted 15% of the population in the entire State and Vokkaligas about 11%. The political centre of gravity shifted from the old Mysore area to the newly integrated regions particularly the Bombay-Karnataka."

8.19 After Reorganisation, the new leaders extended the communal reservation scheme to the entire State. As a result of a number of court cases culminating in the famous *Balaji* judgment, the State Government ordered in 1963 30% reservation for Other Backward Classes and 18% for Scheduled Castes and Tribes. The beneficiaries of this scheme of reservation were the politically dominant castes of Lingayats and the Vokkaligas. This gave rise to considerable resentment amongst other minority castes, who found themselves left high and dry. "Devaraj Urs.....very carefully and sedulously cultivated the non-Lingayat and non-Vokkaliga communities." It was primarily the consolidation of this base that enabled him to rule the State from 1972—80.

8.20 In 1972 he set up Karnataka Backward Classes Commission under the chairmanship of Shri L. G. Havanur. On the basis of its surveys the Commission did not include the Brahmins, Lingayats, Kshtriyas, etc. in the list of backward classes. After modifying the Commission's recommendations the State Government divided the under-privileged classes into six broad categories and made separate reservation for each group.

8.21 The special feature of this scheme was, "that some sub-castes of the Lingayats had been classified as backward, when majority of the sub-castes have been classified as forward. Also, while the Vokkaligas have been classified as a backward community, their erstwhile senior partners in the politics of the Karnataka State, the Lingayats have been classified as mostly forward. For these reasons the Lingayat community finds itself divided on the issue of the reservation scheme, based on the Havanur Commission Report. Also, on this issue an alliance of the Vokkaligas with the Lingayats cannot take place as they find themselves in different camps of the backward and the forward. This is in total contrast with the Bihar and Uttar Pradesh situation where all the major forward caste groups, *viz.*, the Brahmins, the Kayasthas, the Rajputs and the Bhumihars have been classified as forward and can find a platform to unite upon."

8.22 Havanur Commission Report resulted in considerable controversy between Lingayats and other backward castes. But owing to effective mobilisation of the smaller backward castes, protests and agitations organised by Lingayats did not cut much ice.

8.23 "The Karnataka non-Brahmin movement in the decades following the 20's failed to produce any overarching revivalist Kannada ideology which might have prevented the cleavage among the non-Brahmins from emerging to the surface ....this more recent cleavage has displaced the older Brahmin v. non-Brahmin cleavage."

8.24 "Like the Brahmins, Kayasthas, Bhumihars and Rajputs of U.P. and Bihar, the Lingayats, the Brahmins and Bunts of Karnataka have been kept out of the reservation scheme. The Karnataka Brahmins are so weak that even if they join hands with the Lingayats, it will not make any difference. The Brahmin leaders feel that they have been slightly better off in regard to the jobs and seats since 1972. For all these reasons, the forward castes anger is muted in Karnataka and has not assumed any violent forms."

8.25 Urbanisation and rapid growth of industry in Karnataka have produced the same effect of reducing caste tensions as they did in the case of Tamil Nadu.

8.26 *BIHAR*

Unlike Tamil Nadu and Karntaka, the twice-born castes in Uttar Pradesh & Bihar are fully differentiated among themselves and also from the backward castes and the Harijans. Further, it is Kayasthas and not the Brahmins who constitute the main *literati* caste.

8.27 "In Bihar, the political struggle within the Congress till the middle of the sixties was characterised by the conflicts and competition among the twice-born castes. After the sixties, without these cleavages being significantly eroded, the conflicts between these caste groups and the lower peasant castes, and between the lower peasant castes and the Scheduled castes have come to prevail."

8.28 The three twice-born castes of Bihar *i.e.* Brahmins, Bhumihars and Rajputs were the dominant land-owning communities. Here it was the Kayasthas and not the Brahmins who took in a big way to modern education and the professions. Separation of Bihar from Bengal in 1911 was their big opportunity.

8.29 Bhumihars, who were better educated than Rajputs and more rural-oriented than the Kayasthas,

dominated the Congress politics in the State till the death of their astute leader, Dr. Sri Krishna Sinha.

8.30 In the earlier phase of post-Independence Congress rule in Bihar, social cleavages surfaced in the political life of the State. "The Kayasthas tried to bolster their sagging position by supporting and encouraging the Rajput group. The Brahmins too entered the Congress in big numbers. . . . the Bhumihar-Rajput rivalry reached its peak in the fifties." But all these developments will show that during this period the backward castes did not form an important element in this power game. It was with the rise of the Yadavas, Kurmis and Koeris that the backward castes began to organise themselves along caste lines. "The All India Yadava Mahasabha has its headquarters at Patna and the Bihari Yadavas along with their counterparts in Punjab and U.P., formed the backbone of the Indian Yadava Movement. In the initial stages, most of these caste groups functioned as appendages of the main contenders in the upper castes; leaders from the upper castes coopted men from the lower castes to leadership positions." This obviously prevented the backward peasant castes from offering a united front and each caste group entered the Congress divided. Of course, with the acquisition of political skills, they became increasingly autonomous.

8.31 It will be interesting to note that between 1934 and 1960 the percentage of the Kayastha members in the Bihar Pradesh Congress Executive Committee declined steeply from 53.84% to 4.76%; that of the Bhumihars increased from 15.38% to 28.56%. "The Rajput and the Brahmin representation, after registering some increase, declined. The backward castes (both upper and lower) began appearing around 1948 and held about 14 per cent of the posts around 1960. As Blair (1980) shows, the percentage in the Congress legislature party in 1962 of the backwards was just 24.9 per cent, an overwhelming bulk of whom were the upper backwards." This once again contrasts with the success of the non-Brahmins in South India in ousting the Brahmins from the Congress and politics in general. In Bihar, the forward castes have been too well entrenched in politics and the economy to be ousted by divided and imperfectly mobilised backwards. In 1963, for the first time in the history of the Bihar Congress legislature party there was contest between a forward caste leader (K. B. Sahay, a Kayastha) and a backward caste leader with considerable ability (Birchand Patel, a Kurmi). It is interesting to note that not only the backward caste legislators but also those belonging to the Scheduled Castes and Tribes, were divided between the two contestants. In fact, more backwards voted for sahay than for Patel."

8.32 After 1962 the strength of forward caste MLAs has declined and that of backward class MLAs increased, though in neither case the variation is very steep. It was Ram Manohar Lohia who conceived the idea of uniting the backward castes to defeat the Congress and in the sixties the Samyukta Socialist Party started wooing them assiduously. "The Congress debacle of 1967 marks an important stage in the upsurge of the backward castes. In these elections to the Vidhan Sabha the Bania, Kurmi, Koeri and Yadava candidates were returned in big numbers and constituted 31.6% of the MLAs. Most of them belonged to the SSP. This pattern repeated in the midterm polls of 1969 also. In the 1972 elections, the Congress rode back to power and the share in the Assembly of the Backward castes MLAs declined below the level of even 1962. The share went up again in 1977, when the Janata Party won. . . . . As the subsequent events have shown, the 1977 elections did not in any way signify the permanent and durable resurgence of the backward castes in the Bihar politics. Like their rise in 1967, their upsurge in 1977 was a temporary and transient one. Contrast this with the Karnataka elections of 1972 and 1978, which vindicated the durability and invincibility of the new backward castes coalition."

8.33 The pattern of land reforms in Bihar is one of the main reasons for the imperfect mobilisation of the backward castes into politics. The abolition of all intermediaries has definitely helped the hard working peasant castes like Kurmis, Koeris and Yadavas. These small peasant proprietors "work very hard on their lands and also drive their labourers hard", and any resistance by the agricultural labourers gives rise to mutual conflicts and atrocities on Harijans. In view of this, "the power structure in the Bihar countryside has not been as neatly settled as elsewhere. . . ." This situation contains considerable potential for cleavages and conflicts.

8.34 It was Karpoori Thakur's Government which introduced 20% reservation for backward classes in November, 1978. (Details of this are given in Chapter II of the Report). "Thakur was only pursuing the Lohia line of further mobilizing the backward castes. He thought that he could successfully graft the Karnataka model on Bihar. The G.O. provoked widespread backlash on the part of the forward castes. The Universities and colleges came to be closed. Trains and buses were attacked The government property was damaged."

8.35 In a recent article in Economic and Political Weekly,* James Manor has compared the achievements of Davaraj Urs and Karpoori Thakur as follows :—

> "Thakur proclaimed his policy of preferment for the 'backward classes' soon after taking office. He did so in order to signify "that the Backwards had displaced the Forwards as the dominant force in Bihar politics. that the old days of dominance in public affairs from village to "Vidhan Sabha by the 'twice-born' were gone forever". But he made this announcement before he had either consolidated 'backward class' control in the state-level political arena or developed programmes to provide 'backward class' people with new economic and political resources in the form of substantive

*E.P.W. Annual Number 1980.

patronage from government. His early offer of preferment inflamed feelings among both forward castes and scheduled castes who felt threatened by it and led to the collapse of his government before it had time to achieve its major goals. It was replaced by a government which is dominated by "Forwards and Jana Sanghis". In the words of Devaraj Urs, "Karpoori climbed into the ring before he learned how to box"."

8.36 Regarding the adroit management of OBC—Scheduled Castes relations by Urs, Manor has observed :—

> "If preferment programmes in North India have been seen as threats by the scheduled castes, how did Urs maintain an alliance between the 'backward classes' and the scheduled castes? He did so through a combination of symbolism and substantive action. On a symbolic level, he kept the scheduled caste leader, B. Basavilangappa, in the prominent role of Revenue Minister, more than doubled scheduled caste representation in the cabinet (with important portfolios) and had the Assembly Speaker chosen from among their number. Urs also sought—largely successfully, by all accounts—to re-assure the scheduled castes that reservations for 'backward classes' meant no diminution of their statutory quotas. He drove the point home by energetic efforts to see that scheduled caste quotas which had never been adequately filled in the higher ranks of government service were more fully met during his tenure. . . . ."

8.37 Unlike Tamil Nadu and Karnataka the process of urbanisation and industrialisation in Bihar has been very slow and the young aspirants of higher castes are not in a position to leave their original moorings and seek their fortunes in new avenues. This, coupled with the hold of higher castes on the Government services, has given them both the capability and the motivation to hit the backward castes whenever they try to raise their head.

Uttar Pradesh

8.38 "As in Bihar, in Uttar Pradesh too the caste system is found well differentiated in terms of the Varna model. According to the 1931 census, the forward twice-born castes constituted about 20.30% of the total population : the Brahmins formed 9.23% of the population and Rajputs 7.28%. The upper peasant castes of Yadavas, Kurmis, Jats, Lodhs and Koeris formed about 16.4% of the population. In Uttar Pradesh the Brahmins, Kayasthas and, later, the Banias, were the main beneficiaries of modern education. The Rajputs being the dominant landed peasantry, did not show much resentment at the Brahmin-Kayastha monopoly of education and the professions.

8.39 Another important reason as to why cleavages did not develop among the forward castes as in Bihar or among forward and backward castes as in Karnataka and Tamil Nadu, is that during the freedom struggle "The Hindu-Muslim and Congress-League cleavages overshadowed every other cleavages." Incidentally, this also shows how a larger issue tends to depress minor issues in the same area.

8.40 On the backward classes front, "the peasant castes of Yadavas, Kurmis, Koeris, Jats developed a high degree of affinity among themselves. . . . Despite these stirrings the OBCs could not forge a unified political front of the OBCs and the Scheduled Castes."

8.41 The caste composition of the various Ministries since 1937 demonstrates the weakness of the backward castes movement. In the 1937—39 cabinet the Brahmins held three out of six posts and OBCs none. This pattern continued till 1952, when Charan Singh, a Jat, was taken in the cabinet. Sampurnanand, C. B. Gupta and Sucheta Kripalani also continued this pattern. It was only in the S.V.D. Ministry headed by Charan Singh in 1967 that three ministerships were given to the peasant backward castes, including Yadavas and Kurmis. This became necesary as backward classes made considerable gains in the 1967 elections. "The decline of the Congress also meant the decline of the forward caste representation in the Assembly. The second Charan Singh ministry of 1970 and T. N. Singh ministry of 1970-71 also gave considerably more representation, to the upper peasant castes and inducted for the first time the artisan castes." But this trend did not represent an enduring gain for the OBCs, as the representation of forward castes again went up under the ministries formed by Tripathi, Bahuguna and Tiwari. It was only when the Janata Party came in power in 1977 that the share of OBCs increased considerably. "Like Karpoori Thakur in Bihar Ram Naresh Yadav misjudged this increase for a durable rise of the backwards and was emboldened to issue the famous G.O. of August 1977. The 1980 elections disproved the assumption of a critical change in the balance of power."

8.42 Land reforms produced similar changes in the political economy of Uttar Pradesh as in Bihar. "The tenant and share-cropping castes of Yadavas, Kurmi, Lodhs, Gujars, Koeris became owner cultivators, and industrious as they are, they are better qualified to take advantage of the modern agricultural inputs. . . ."

8.43 On the basis of the recommendations of the Most Backward Classes Commission, the Yadav Government, ordered 15 per cent reservations of Government posts for Other Backward Classes in August, 1977. It is not clear as to why a "Most Backward Classes Commission" was appointed instead of a "Backward Classes Commission". Yet the very modest reservation of 15 per cent for OBCs gave rise to strong backlash on the part of forward castes. "Even the Government servants in some areas of U.P. joined in the agitation. The gravemen of the demands of the agitators was that class and not caste should be the criterion of social and economic backwardness."

8.44 The trend shows OBCs and Scheduled Castes in Uttar Pradesh do not possess political organisation and cohesion to force a demand for a higher representation of backward classes in service and educational institutions. Even the 15 per cent reservation

made by the State Government has been set aside by Allahabad High Court. "Like Karpoori Thakur, Ram Naresh Yadav too tried to telescope the backward classes mobilisation into a span of less than one decade. Unlike Devaraj Urs, they did not try to divide the forward castes with the help of any well-conceived strategy. The Janata victories of 1977 constituted only deviant cases."

Conclusions :

8.45 In view of the foregoing account, the reasons for much stronger reaction in the North than South to reservations, etc. for Other Backward Classes may be summarised as below :—

(1) Tamil Nadu and Karnataka had a long history of Backward Classes movements and various measures for their welfare were taken in a phased manner. In Uttar Pradesh and Bihar such measures did not mark the culmination of a mass movement.

(2) In the South "the forward communities have been divided either by the classification schemes or politically or both.... In Bihar and U.P. the G.Os. have not divided the forward castes."

(3) In the South, clashes between Scheduled Castes and the Backward peasant castes have been rather mild. In the North these cleavages have been much sharper, often resulting in acts of violence. This has further weakened the backward classes solidarity in the North.

(4) In the non-Sanskritic South, the basic Varna cleavage was between Brahmins and non-Brahmins and Brahmins constituted only about 3 per cent of the population. In the Sanskritic North, there was no sharp cleavage between the forward castes and together they constituted nearly 20 per cent of the population. In view of this the higher castes in U.P. and Bihar were in a stronger position to mobilise opposition to backward class movement.

(5) Owing to the longer history and better organisation of Other Backward castes in the South, they were able to acquire considerable political clout. Despite the lead given by the Yadavas and other peasant castes, a unified and strong OBC movement has not emerged in the North so far.

(6) The traditions of semi-feudalism in Uttar Pradesh and Bihar have enabled the forward castes to keep tight control over smaller backward castes and prevent them from joining the mainstream of backward classes movement. This is not so in the South.

(7) "The economies of Tamil Nadu and Karnataka have been expanding relatively faster. The private tertiary sector appears to be growing. It can shelter many forward caste youths. Also, they are prepared to migrate outside the State. The private tertiary sectors in Bihar and U.P. are stagnant. The forward caste youths in these two States have to depend heavily on Government jobs. Driven to desperation, they have reacted violently."

CHAPTER IX

EVIDENCE BY CENTRAL AND STATE GOVERNMENTS

(A Review)

9.1 The Commission had issued two sets of questionnaires, one to all the State Governments and Union Territories (Appendix-2) and the other to the Central Government Ministries and Departments (Appendix-3), to elicit information on various aspects of its inquiry. These Questionnaire were framed with a view to :—

(i) Obtaining a comparative picture of the status of backward classes in various States and steps taken to date for their welfare;

(ii) Getting an idea of the thinking of various State Governments and Union Territories on the vexed issues of social and educational backwardness ; and

(iii) Obtaining some useful cues to help the Commission formulate its views on these questions.

A. *Questionnaire for the State Governments*

9.2 The questionnaire for the State Governments, etc. contained 86 questions, divided into 7 sections, *i.e.*, (I) Criteria, (II) Safeguards, Reservations, etc., (III) Census, (IV) Social, (V) Educational, (VI) Welfare, and (VII) Employment. This questionnaire was despatched to the State Governments and Union Territories on April 11th, 1979 and it took more than one year to get their replies.

9.3 Before we proceed to analyse these replies, it will be necessary to say something about the nature of information received by the Commission. Some of the core questions in the questionnaire necessitated collection and compilation of data from various agencies before a State Government could furnish meaningful answers. For instance, the Commission was very much interested in knowing the representation of OBCs in various local bodies, Government employment, etc. (Questions No. 10, 11 and 12). We also wanted information about OBC representation in State Public Service Commissions, judiciary and senior echelons in State Administration (Question No. 24). Similar information was sought in respect of 'education' and 'employment'.

9.4 It was rather disappointing to see that hardly any State was able to give the desired information. Of course, the States which had not notified any lists of OBCs were physically not in a position to supply the above particulars. But despite the fact that 16 States and 2 Union Territories had notified such lists and several of them had implemented fairly comprehensive programmes for the welfare of OBCs, only one or two of them furnished the necessary details. Further, several States did not choose to respond even to some simple and straightforward questions on important policy issues. Repeated reminders and contacts at personal level did not materially alter the situation.

9.5 The above observation has been made not in any spirit of reprobation, as the Commission has mostly received unfailing courtesy and help from all the State Governments and Union Territories in its work. These facts have been stated only to explain the absence of comment or analytical depth while reviewing replies to some of the most important questions in the questionnaire.

Criteria

9.6 This section contains questions pertaining to various aspects of the problems of identifying Other Backward Classes. Assam, Andhra Pradesh, Bihar, Gujarat, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan and Uttar Pradesh have recommended caste as one of the criteria for identifying backwardness. Delhi, Dadra & Nagar Haveli, Haryana, Himachal Pradesh and Madhya Pradesh have stated that caste should not be made a criterion of backwardness. Bihar, Gujarat, Himachal Pradesh, Kerala, Punjab, Rajasthan and U.P. have suggested low economic status as one of the significant tests, while Delhi, Dadra & Nagar Haveli and Haryana have desired the economic factor to be the sole determinant of backwardness.

9.7 Regarding non-Hindus, Assam has stated that there are classes of socially discriminated people amongst them also and this should serve as a basis for determining their social backwardness. Similar views were expressed by Gujarat and Maharashtra. Madhya Pradesh preferred the literacy test for non-Hindus and Haryana was in favour of the economic criterion. Kerala considered traditional occupations, economic backwardness and low social status of converts to be the criteria for this purpose. Punjab and Orissa favoured the same tests for both non-Hindu and Hindu communities.

Safeguards, Reservations, etc.

9.8 Chapter II of this Report contains particulars of the welfare measures taken by eighteen State Governments, and Union Territories for the welfare of Other Backward Classes. Quantum of reservation in Government employment and educational institutions has also been indicated in that Chapter. The remaining 13 States and Union Territories, *i.e.*, Andaman and Nicobar Islands ; Arunachal Pradesh ; Chandigarh, Dadra & Nagar Haveli ; Goa, Daman & Diu ; Lakshadweep, Madhya Pradesh ; Manipur ; Mizoram ;

Nagaland ; Sikkim ; Tripura and West Bengal have so far neither identified Other Backward Classes nor taken any steps for their upliftment. Even among the 18 States who have done so, quite a few have provided only token relief to OBSs. For instance, Assam, Pondicherry, Rajasthan, Orissa, Meghalaya and Delhi have not made any reservation in services or educational institutions and Gujarat, Haryana, Himachal Pradesh and Punjab have done so only nominally. In U.P., even 15% reservation for OBCs has been set aside by Allahabad High Court and the matter is pending in appeal in the Supreme Court.

9.9 Several questions in this section pertained to the representation of Other Backward Classes in elected bodies, services, etc. A couple of States have replied to these questions and even these replies are scrappy and inadequate.

9.10 Only Gujarat has furnished information regarding representation to OBCs in local bodies. In the three municipal corporations of Baroda, Surat and Rajkot, Backward class representation was 6%, 16% and 12% respectively. In Nyaya Panchayats and District Panchayats, OBC representation ranged from 12 to 16% and the same was the figure regarding the election of backward class candidates as Sarpanchas of Panchayats.

9.11 In Haryana, 1,114 (7.4%) Mukhiyas out a total of 15,005 belonged to Other Backward Classes. Out of 5,262 Gram Panchayats, 204 (nearly 4%) belonged to backward classes.

Only 1 out of 22 Sarpanchas of Nyaya Panchayats in Delhi was from OBCs.

9.12 Whereas the Gujarat figures, though much below the percentage of OBC population of the State are, in our view, far higher than those of several other States, it is a pity that most States, especially from the North have not furnished this information.

9.13 Regarding the actual representation of OBCs in higher public services, only a couple of States have given some information. In Kerala 4 out of 7 members of the State Public Service Commission belong to OBCs. In Assam this representation was 1 out of 3 and in Uttar Pradesh it was 3 out of 9. Out of 16 High Court Judges in Kerala, 4 belonged to OBCs. In Assam this figure was 2 out of 6 and in Maharashtra it was 1 out of 33. In Kerala 12 out of 38 District and Sessions judges and 19 out of 90 heads of department belonged to Other Backward Classes.

9.14 The above information is too sketchy and scrappy for any meaningful inference which may be valid for the country as a whole. Kerala is known to have taken vigorous and energetic measures for improving the lot of OBCs and, even there, backward classes representation is far below their percentage of the State's population. In most other States, especially in the North, the situation is bound to be much less satisfactory.

9.15 One interesting question (No. 9) pertained to the 'Varna' of the Chief Ministers of various States since Independence. It will be revealing to know that whereas immediately after Independence the Chief Ministers of all except a couple of States in the country were Brahmins, after the 1977 and 1980 assembly elections only a couple of States had Brahmins as their Chief Ministers. This is a telling evidence of the inexorable logic of electoral politics and a very significant pointer to the direction in which the events are moving.

Census

9.16 This section sought to collect information on various demographic aspects of Other Backward Classes, denotified tribes, advanced castes and to compare lists of Other Backward Classes prepared by Kaka Kalelkar Commission with those notified by various State Governments. The information supplied was very incomplete.

9.17 The comparison of lists of Other Backward Classes notified by various State Governments and those prepared by Kaka Kalelkar Commission shows wide variations in most of the cases, as will be seen from the following table :—

S. No.	Name of the State	No. of Castes included in Kaka Kalelkar Commn. report	No. of Castes notified by State Govts.
1.	Andhra Pradesh	124	95
2.	Assam	44	119
3.	Haryana	88	64
4.	Himachal Pradesh	27	48
5.	Karnataka	64	181
6.	Kerala	48	76
7.	Maharashtra	360	196
8.	Orissa	148	111 (list withdrawn)
9.	Punjab	88	62
10.	Tamil Nadu	156	124
11.	Uttar Pradesh	120	56

9.18 The main reason for this disparity is that whereas State Governments prepared their lists on the basis of some sort of field survey and investigation, Kaka Kalelkar Commission had mostly borrowed the lists prepared by the Ministry of Education for the award of post-Matric scholarships. Secondly, the pressure of field situation and local factors may have also influenced the judgment of State Governments in the preparation of these lists.

9.19 No separate lists of Other Backward Classes belonging to non-Hindu communities have been prepared by any State except Uttar Pradesh, where a list of 21 backward Muslim communities was notified. Some other States have included some backward muslim communities in their overall lists of OBCs. In Kerala, Muslims, Latin Catholics and

Anglo-Indians and Scheduled Caste converts to Christianity form three of the eight groups for whom separate reservations have been made.

9.20 Some States furnished the lists of denotified tribes. Though, in most cases they could not give their approximate population : Haryana has 9 denotified tribes, Himachal Pradesh—7, Jammu & Kashmir 2, Karnataka—62, Madhya Pradesh—21, Maharashtra—14, Orissa—11, Tamil Nadu—70, West Bengal—2 and Delhi—2.

Social

9.21 This section is mainly concerned with defining the social profile of Other Backward Classes, disabilities suffered by them, the impact of remedial legislation, etc.

9.22 Under the Protection of Civil Rights Act, open discrimination against any class of citizens or denial of social, civic and religious rights is a cognisable offence and the concerned State Governments are responsible for its enforcement. In view of this no State has admitted to the denial of social, civic and religious rights to any class of citizens. But Bihar, Gujarat, Himachal Pradesh, Haryana, Jammu & Kashmir, Kerala, Madhya Pradesh, Punjab, Tamil Nadu and Uttar Pradesh have observed the prevalence of social discrimination of backward classes. 'Segregation', 'low social status', 'unclean profession', 'social distance', 'looked down upon', etc. are some of the expressions used to describe the social situation of OBCs. Geographical isolation, pursuit of unclean professions, lack of education and employment facilities, primitive and insanitary conditions of living, socihl tabous, etc. are some of the social disabilities said to be suffered by OBCs.

9.23 Reservations of jobs in Government services and seats in educational institutions, establishment of separate departments and advisory bodies for the welfare of Backward Classes, allotment of house-sites, setting up of separate financial institutions, etc., are some of the important measures taken by some States for the removal of the above disabilities.

9.24 In some States some castes not included in the Scheduled Castes are being treated as untouchables. For instance, Neo-Budhists in Maharashtra, Muslim Mehtars in Uttar Pradesh, etc., are treated as untouchables, though they have not been listed as Scheduled Castes. Kolghas, Kolchas, Kotwalias, Me in Gujarat are treated as untouchables though the first three castes are included in the list of Scheduled Tribes. Most of the States have not replied to this question and the matter needs a more thorough probe.

9.25 There are a number of caste-groups which neither belong to the three Varnas nor they have been included in the lists of Scheduled Castes & Tribes or Other Backward Classes. For instance, Lingayats of Karnataka ; Lohars, Kadias, Suthars, Kumhars and Darjis of Gujarat ; Ahirs and Jats of Haryana ; Denotified communities of Himachal Pradesh and and Maharashtra ; Karnikar, Kurup, Irular, Nair, Nambiars, etc. of Pondicherry are the cases in point.

9.26 Regarding the caste composition of landless agricultural labourers, Assam, Bihar, Gujarat, Jammu & Kashmir, Karnataka, Madhya Pradesh, Pondicherry, etc., stated that this work-force comprised almost wholly of Scheduled Castes, Scheduled Tribes and Other Backward Classes. Haryana, Punjab, Kerala, Maharashtra, Orissa, etc., stated that in addition to the aforesaid three groups, members of other castes also worked as agricultural labourers.

9.27 As regards the segregation of living quarters, Kerala, Madhya Pradesh and Karnataka informed that Scheduled Castes and Other Backward Classes were generally found to be living in the same section of the village. But Rajasthan, Gujarat, Haryana, Himachal Pradesh and Punjab intimated that these two classes generally did not reside in the same area.

9.28 Rehabilitation of denotified tribes is a continuing process and a lot more needs to be done in this connection. A large number of them have neither been included in the list of Scheduled Castes nor Scheduled Tribes and dependable population estimates of such tribes are not available in the States. Some of the measures adopted for their amelioration are : allotment of agricultural land and house sites, provision of educational facilities, establishment of craft training centres, Ashram (rsidential) schools, hostels, etc.

9.29 All welfare schemes for denotified tribes are now being implemented by the State Governments only and the Central assistance earlier given to States in this connection was discontinued with the introduction of Fifth Plan.

EDUCATIONAL

9.30 No State Government could furnish figures regarding the level of literacy and education amongst Other Backward Classes. Regarding the special measures adopted for the promotion of education among OBCs, the position is as follows :—

Assam.—Award of post-Matric scholarships, grants for purchase of books, study tours, reservation of seats in education institutions and holding of adult literacy classes in backward areas of the State.

Andhra Pradesh.—Exemption of tuition fees, pre-Matric and post-Matric scholarships, hostel facilities, free supply of clothes and text-books, 20 per cent reservation of seats in educational institutions, 5 per cent relaxation in minimum qualifying marks at the time of admission, etc.

Gujarat.—Exemption of examination fees, scholarships, free supply of clothes, running of coaching centres, reservation of 10 per cent seats in educational institutions and implementation of adult literacy programme throughout the State. One special Ashram school started exclusively for OBC students.

Haryana.—Award of pre-matric and post-matric scholarships, reservation of 2 per cent seats in educational institutions and 5 per cent relaxation in marks at

the time of admission to various colleges, etc., and exemption of fees where parental income is below Rs. 4,200 per annum.

Jammu and Kashmir.—Establishment of 80 mobile schools for Gujjars and Bakarwals, special hostel facilities, award of scholarships, free supply of books and uniforms, reservation of seats for various categories of backward classes in educational institutions and opening of 1,100 adult literacy centres.

Karnataka.—Exemption of school fees, award of scholarships, hostel facilities, free training in workshops with free uniforms, reservation of 50 per cent seats in educational institutions and running of adult literacy centres.

Kerala.—Exemption of tuition and examination fees, special stipends, reservation of 5 per cent seats in post-graduate courses and 25 per cent seats in technical institutions and 5 per cent relaxation in marks for admission to various colleges, etc.

Maharashtra.—Running of non-formal education programmes for tribals and 10 adult literacy centres and reservation of 10 per cent seats in educational institutions. Exemption of tuition fees for all OBC students whose parental income is below Rs. 4,800 per annum.

Punjab.—Tuition fee concessions, stipends, running of adult literacy classes and reservation of 5 per cent seats in educational institutions.

Tamil Nadu.—Free education upto higher secondary level, educational concessions for higher studies and 50 per cent reservation in educational institutions.

9.31 Regarding OBC representation in University Senates, Syndicates, Academic Councils, Boards of Appointments, etc., only Karnataka and Maharashtra have reported making of a special provision for backward classes in their respective University Acts.

9.32 Bihar, Jammu & Kashmir, Karnataka and Tamil Nadu have established separate hostels for backward class students. Orissa had earlier set up 134 such hostels and after the withdrawal of OBC list these are being used for SC & ST students. In Gujarat, 20 per cent of the seats in SC/ST hostels are reserved for OBC students.

9.33 From the foregoing it will be seen that except in the South, programmes for the educational advancement of OBCs presently implemented by most of the State Governments are of an uneven, patchy and *ad hoc* nature.

WELFARE

9.34 No plan allocation is made by the Central Government for the welfare of Other Backward Classes and State Governments are required to finance all such schemes from their own resources. In Chapter II of this Report we have stated that 18 States and Union Territories have launched programmes for the upliftment of OBCs and also given brief particulars of such programmes. But it will be seen that even those States which are more sympathetic to the cause of OBCs have not been able to make adequate provision for ameliorating the lot of backward classes. For instance, Karnataka, Tamil Nadu and J. & K. spent 2.4 per cent, 0.27 per cent and 0.46 per cent respectively of their last annual budget on schemes specially prepared for OBCs. It will, therefore, be seen that the Centre will have to step in a big way to assist the State Governments in framing reasonably effective plans for the betterment of OBCs.

9.35 In most of the States, Welfare or Social Welfare Department looks after OBCs. Generally, schemes for the upliftment of tribals, Harijans, etc. are also entrusted to this Department.

9.36 The actual implementation of programmes is mostly entrusted to Directorates of Welfare and several States like Gujarat, J. & K., Karnataka, etc., have also set up advisory boards to assist the respective Governments to formulate plans for all categories of underprivileged classes. In both Tamil Nadu and Andhra Pradesh separate Directorates of Backward Classes has been set up for looking after OBCs.

9.37 In practically every State, there are a number of voluntary associations and agencies working for the welfare of backward classes, organising public opinion in their favour and espousing the cause of OBCs before official forums. For instance, there are as many as 53 such organisations functioning in Gujarat and 61 in Karnataka.

9.38 A beginning has been made in some States to set up separate financial institutions to assist OBCs. For instance, Assam has set up a development corporation for OBCs. The Karnataka Backward Classes and Minorities Development Corporation established in 1977 assists OBCs whose family income is below Rs. 6,000 per annum. It advances direct loans to borrowers as well as in collaboration with Banks. Punjab State Backward Classes Land Finance and Development Corporation advances loans to backward class applicants upto Rs. 30,000 per head for setting up small scale industries in various sectors. Himachal Pradesh has approved the setting up of an Antodaya Corporation.

9.39 State Governments were also asked if backward classes are able to exercise their franchise free from any pressures or threat of violence from the dominant castes. Assam, Gujarat, Himachal Pradesh, Jammu and Kashmir, Kerala, Madhya Pradesh, Punjab and Rajasthan stated that OBCs were not subjected to any pressures at the time of elections. Karnataka informed that such pressures operated only in the case of the more backward of backward castes. It was rather disappointing that even the States of Bihar and Uttar Pradesh, where booth-capturing was a fairly well-known phenomenon, were not forthcoming on this question.

EMPLOYMENT

9.40 We had asked the State Governments to list the main occupations of Other Backward Classes and the approximate number of families dependent on each

occupation. No State Government could furnish any precise information on this point. Most of the States intimated that OBCs worked as small farmers and landless agricultural labourers. Some States listed animal husbandry, fishing, poultry, carpentry, blacksmithy, weaving, etc. as traditional occupations followed by backward classes.

9.41 Regarding the specific steps taken to improve the lot of landless agricultural labourers, most of the States have listed the following measures :—

(1) Passing and enforcement of Minimum Wages Acts for agricultural labourers;

(2) Allotment of surplus land, mostly accruing from land ceiling laws; and

(3) Allotment of house sites.

The case of West Bengal for effective implementation of Minimum Wages Act merits special mention.

9.42 In Karnataka Deputy Commissioners have been instructed to reserve compact blocks of about 200 acres each for setting poor landless agricultural labourers belonging to Scheduled Castes and Tribes and backward tribes. In Kerala agricultural labourers have been covered by the provident fund scheme under Agricultural Workers Act. In Gujarat, Himachal Pradesh, Rajasthan, etc., special facilities are being extended under Antodaya scheme.

9.43 Regarding the impact of 'Green revolution', Bihar, Haryana, Himachal Pradesh, Jammu & Kashmir, Kerala, Maharashtra, Punjab and Uttar Pradesh replied that it has increased agricultural production as well as employment opportunities and improved the income levels of agricultural labour. Only Karnataka and Orissa observed that maximum benefit has been derived by the larger farmers. Karnataka also pointed to the widening of economic disparity between upper castes and agricultural labourers as a result of green revolution. Predictably Punjab was most enthusiastic about its beneficial effects and has referred to the seasonal mass migration of labour from Bihar, Uttar Pradesh, Rajasthan and Orissa as a result of increased demand for labour.

9.44 Regarding the prevalence of bonded labour, only Gujarat, Jammu and Kasnmir, Karnataka, Orissa and Uttar Pradesh have indicated its existence in some small pockets. In Uttar Pradesh this evil, however, seems to be little more widespread, specially in the hill areas. The State Government has prepared a scheme for the rehabilitation of bonded labourers in tribal blocks and a provision of Rs. 30 lakhs had been made for this purpose for 1979-80.

9.45 Most of the States have reported loss of employment by village artisans owing to shift in the pattern of economic activity in the villages. In Gujarat, bamboo workers, wood workers, handloom weavers, etc. have suffered on this account. Haryana has reported erosion of employment opportunities of carpenters, potters, blacksmiths, weavers, etc. Blacksmiths, carpenters, potters, leather workers and weavers have suffered a set-back in Punjab.

9.46 Regarding the protection of Other Backward Classes from exploitation by money-lenders, various States have reported the following position :—

Assam.—Extension of financial assistance to OBCs by State Development Corporation for Other Backward Classes.

Gujarat.—Financial assistance for starting cottage industries, small trades, etc., and supply of milch cattle and poultry. Vigilance under the Money Lenders Act to prevent charging of exorbitant interest rates.

Haryana.—Grant of small mid-term loans from mini banks, nationalised banks, cooperative societies, etc., for starting small scale industries and trades. Under Haryana Relief of Agricultural Indebtedness Act, 1976, debts in respect of certain categories of agricultural labourers, rural artisans, etc., have been discharged or scaled down.

Himachal Pradesh.—Vigilance over interest rates charged by private money-lenders and grant of credit facilities from various financial institutions.

Jammu and Kashmir.—District Consultative Committees set up to oversee availability of credit to the weaker sections. The Distressed Debtors Relief Act and the Usurers Loans Act have also helped backward class debtors.

Karnataka.—Under the Karnataka Debt Relief Act, 1976 debtors belonging to weaker sections with annual income below Rs. 2,400 are entitled to treat their debt wholly discharged.

Maharashtra.—Protection given under the Money Lenders Act.

Orissa.—Amended Orissa Money Lenders Act, 1939 provides adequate protection to weaker sections and heavy penalties to money-lenders for breach of any provision.

B. *Questionnaire for Central Government Offices, Etc.*

9.47 A questionnaire for collecting information regarding the representation of all categories of Backward class employees under the Government of India was circulated to all the Ministries, Departments, etc. on March 19th, 1979. As no list of OBCs is maintained by the Central Government, nor their particulars are separately compiled in Government offices, a rough and ready criteria for identifying OBC employees for both Hindu and non-Hindu communities was also furnished to the concerned organisations. Particulars of this criteria have been furnished in para. 4 of Annexure-7, Volume II.

9.48 Replies to the above questionnaire were furnished by 30 Central Ministries/Departments, 31 Attached and Subordinate offices, and public sector undertakings under the administrative control of 14 Ministries. Break-up of the information furnished by

all these agencies is given in Annexure-8, Volume II. The following table gives a summary of the over-all employment position in this behalf :—

Category of Employees	Total number of employees	Percentage of SC/ST	Percentage of OBCs
Class I . . .	1,74,043	5.68	4.69
Class II . . .	9,12,786	18.18	10.63
Class III & IV . .	4,84,646	24.40	24.40
All Classes . .	15,71,475	18.71	12.55

9.49 Two things become clear from the above table. First, the percentage of SC/ST employees and, much more so, that of Other Backward Classes, is much below the percentage of their total population in the country. Whereas the aggregate employment for SC/ST comes to 18.71 per cent against their total population of 22.5 per cent, the employment of OBCs works out to 12.55 per cent against their estimated population of 52 per cent. Secondly, the representation of SC/ST and OBC employees in Class I services is much smaller even when compared to the overall employment percentage of these classes. For instance, for Scheduled Castes and Scheduled Tribes employees, this figure comes to 5.68 per cent and for OBCs it is 4.69 per cent only. In other words, the representation of OBC employees in Class I services of the Government of India is not even 1/10th of their proportion to total population.

CHAPTER X

EVIDENCE BY THE PUBLIC

10.1 The Commission collected voluminous evidence from members of the general public, voluntary organisations, social workers, politicians, legislators, etc. The Commission also toured the country extensively and held meetings at State and district headquarters and interior villages to get representations and hear views of as many people as possible. All the evidence thus collected has been grouped into following three sections :—

I. *Questionnaire for the general public, Voluntary organisations, etc.*

10.2 A questionnaire (Appendix 4) containing 18 questions was separately prepared for the general public and widely advertised all over the country. It was published in leading vernacular and English dailies of all the States toured by the Commission. Its copies were also distributed at the meetings held by the Commission during its tours. A subject-wise summary of the replies received by the Commission is given below :—

(1) *Changes in caste structure since Independence*

10.3 Regarding the material changes that have taken place in the caste-structure of various States since Independence, nearly 63 per cent of the respondents were of the view that no material changes had taken place over this period. On the other hand, 17 per cent of the replies indicated that caste cleavages had deepened with time. Another 17 per cent were of the view that there have been changes in the political, social and economic status of several castes owing to greater social mobility. Interestingly, hardly anybody held the view that casteism is on the decline.

(2) *Criteria for defining backwardness*

10.4 Nearly 78 per cent of the respondents were of the view that caste should be accepted as a criterion for identifying backwardness. However, 28 per cent favoured the acceptance of caste as the sole criterion. Nearly 70 per cent were in favour of evolving multiple criteria based on social status, political influence, educational attainments, economic level, employment status, etc. Others favoured the inclusion of place of habitation and financial position also in the list of criteria.

10.5 Regarding non-Hindu religious groups, 62 per cent were of the view that the criteria should be based on economic status, employment, educational level pursuit of traditional occupations associated with low social status, etc. Nearly 18 per cent were of the opinion that caste was a fact of life among non-Hindus also and it should be accepted as one of the criteria for backwardness.

(3) *OBCs list of State Governments*

10.6 Nearly 82 per cent of the respondents who belonged to States which have notified lists of OBCs were aware of this fact. However 62 per cent were not satisfied with the lists thus notified for one reason or the other. It was pointed out that many advanced castes have been included in the Lists and several backward classes left out. Some people also felt that those lists were not based on objective tests.

10.7 Nearly 82 per cent of the replies showed that special facilities have been given to socially and educationally backward classes. Nearly 52 per cent testified that educational facilities as well as reservation in jobs have been extended to backward classes.

(4) *Job Reservations*

10.8 In the States where jobs have been reserved under Government employment and public sector undertakings for OBCs, nearly 75 per cent of the respondents showed awareness of this fact, but 65 per cent expressed dissatisfaction with the quantum of reservation.

10.9 Regarding the steps to be taken to enhance the intake of Other Backward Class candidates in services, 45 per cent suggested increase in the percentage of reservation. Nearly 17 per cent asked for caste-wise reservation of jobs and seats in educational institutions. Free educational facilities, relaxation of maximum age limit, special coaching facilities for OBC candidates appearing in competitive examinations, etc. were some of the other measures suggested in this behalf.

(5) *Disabilities suffered by OBCs*

10.10 Nearly 78 per cent of the respondents stated that various types of disabilities like free access to public utilities, social discrimination, lack of educational opportunities, habitation in segregated and neglected areas, etc. were some instances of such disabilities. Only 9 per cent of the replies indicated that OBCs were not subjected to any discrimination or disability.

10.11 Regarding steps taken by the respective State Governments to remove these disabilities, nearly 43 per cent were of the view that no concrete steps have been taken so far. On the other hand, 17 per cent felt that some steps have been taken in this direction, but one-third of these persons felt that the steps taken were neither adequate nor effective. Others acknowledged that measures like expansion of educational and employment opportunities, provision of housing

facilities, etc. have helped to mitigate the hardships of OBCs.

(6) *Access to employment/education*

10.12 Nearly 82 per cent of the respondents felt that OBCs have to face a number of hurdles in securing employment or admission to institutions of higher education. Increase in the percentage of reservation, relaxation of upper age limit, creation of a separate Ministry or a Commission to protect the rights of OBCs were some of the remedial measures suggested by them.

(7) *Indebtedness*

10.13 According to 71 per cent of the respondents, majority of the members of OBCs were in debt. This high incidence of indebtedness was attributed to illiteracy, poverty, social customs, etc.

(8) *Literacy*

10.14 For the promotion of literacy for the OBCs, nearly 40 per cent of the respondents recommended that free and compulsory education for the children of backward classes was necessary. Nearly 12 per cent wanted special adult education programmes for OBCs. Provision of employment to the educated amongs OBCs, assistance for higher education and vocational training, setting up of more educational institutions, provision of free books and school uniforms, as also free board and lodging and other educational facilities on par with the SC/ST students were some of the other measures recommended for the promotion of literacy among OBCs.

(9) *Steps to ameliorate hardships*

10.15 For improving the lot of OBCs, nearly 25 per cent suggested the grant of low or interest-free loans, 10 per cent were in favour of free distribution of agricultural land and house sites, 31 per cent wanted reservation in educational institutions and employment and 26 per cent suggested combination of all the facilities mentioned above.

(10) *Dominant Castes*

10.16 Nearly 50 per cent of the respondents defined dominant castes as those which indulged in social, economic or political exploitation. About 74 per cent held the view that the three upper Varnas constituted the dominant castes. As regards the factor leading to dominance of a caste in the country-side, it was attributed to educational, economic or political status or a combination of more than one of these factors. Nearly 35 per cent of the replies indicated that relations between dominant castes and OBCs were strained.

(11) *Role of Voluntary Organisations*

10.17 Nearly 72 per cent of the respondents were aware of the existence of voluntary organisations and thought that they work for the welfare of their respective castes or classes. As regards the impact of their activities, 17 per cent stated that these organisations helped only members of their own castes. Nearly 35 per cent were of the view that some sort of educational, economic, political and social benefits have accrued as a result of the activities of these organisations, but another 20 per cent felt that their impact has been nominal.

(12) *Shift in the occupational patterns*

10.18 Regarding shift in occupational patterns, nearly 45% of the respondents felt that significant changes have taken place in the last three decades. Nearly 14% stated that these changes have been for the worse and a large number of people have been rendered jobless as a result of industrialisation, social change, etc. Above 35% of the respondents were of the view that these changes have been for the better.

(13) *Economc Criteria*

10.19 Regarding validity of economic criteria for the identification of backwardness nearly 36% of the respondents were not in its favour, but 28% thought that backwardness was directly linked with poverty.

II. *Evidence of Members of Parliament*

(A) *Sixth Lok Sabha*

10.20 The Commission invited members of Sixth Lok Sabha and Rajya Sabha for expressing their views on its terms of reference. Members of Parliament were invited in six batches from March 31st to May 8th, 1979, and the list of participants is at appendix 9.

10.21 A large number of MPs including Sarvshri R. L. Paswan, Hukam Dev, Ram Vilas, L. R. Naik, K. Ramamurti, P. V. Periasamy, B. R. Mathan, Govindaran Miri, Nathu Singh, R. S. Yadav, Brahm Perkash, B. P. Maurya, Mohan Lal Pipal, Daya Ram Shakaya, Sham Lal Yadav, Kunwar Mahmood Ali Khan, R. L. Kureel, M. V. Visharad, Kaiho, Cheetubhai Famit, S. H. Lingdoh, G. Mallikarjun Rao and K. S. Narayan expressed themselves in favour of reservation of seats in Government employment and educational institutions for Other Backward Classes. They considered it an important ameliorative measure for their advancement. Further, Sarvshri L. R. Naik, P. V. Periasamy, Govindaran Miri, Brahm Perkash, B. P. Maurya, Sham Lal Yadav, Kunwar Mahmood Ali Khan, Mangal Dev Visharad, G. Mallikarjun Rao and K. S. Narayanan emphasised that in view of various historical and cultural factors, caste should be made the criterion for social and educational backwardness among Hindu communities, Sarvshri Ram Vilas, R. L. Kureel and K. N. Narayana held the view that the quantum of reservation for OBCs should be proportionate to their population. On the other hand, Sarvshri Chaturbhuj and Chandan Singh were of the view that means test or economic criteria should be adopted for identifying Other Backward Classes.

10.22 Shri Ramamurthy and Dr. P. V. Periasamy drew the Commission's attention to the false propaganda being carried on by certain vested interests to

create bad blood between Other Backward Classes and SC/ST by spreading the impression that if special concessions were given to OBCs, these will be at the cost of Scheduled Castes and Scheduled Tribes. These MPs made the very important point that the Commission should be at special pains to emphasise that there was no clash of interest between OBCs and SC/STs and that, these two groups, in fact, are the two parallel streams of the movement of underprivileged classes.

10.23 Some of the other observations made by individual MPs are as follows :—

10.24 Shri B. P. Maurya explained in detail the genesis of caste system and maintained that under the Indian conditions 'class' (in the Marxian sense) was the creation of caste and not *vice versa*. In view of this, caste has to be the basic criterion for identifying social and educational backwardness. He also expressed the view that it was iniquitous to extend the benefit of reservation, etc. to those members of OBCs who had already made reasonable progress. In view of this he suggested that the criterion of caste should be applied in conjunction with that of poverty.

10.25 Shri Ram Vilas suggested that the existing percentage of reservation for OBCs should be increased and greater educational facilities provided to them. A number of backward communities had been left out from the State lists and their claims should be re-examined. He also wanted the collection of comprehensive socio-economic and educational data about OBCs. He was of the view that in case the family income of a candidate exceeded Rs. 10,000 per year, he should not be given the benefit of reservation.

10.26 Shri Ramamurti was much concerned at the Government having ignored the recommendations of the Kaka Kalelkar Commission for the past 25 years and he was very particular that the Government should take immediate action on the report of the present Commission.

10.27 Shri L. R. Naik emphasised that a Central list of OBCs should be prepared by Government of India and, in view of the specific constitutional provisions, only those classes should be included in this list which were socially and educationally backward. He also stated that the Commission's criteria should be based on these factors only. He desired a thorough study of court judgements on this issue for the Commission's guidance.

10.28 Shri Daya Ram Shakya expressed himself against the system of interviews by various Public Service Commissions, etc. for the recruitment of candidates as he felt that it gave undue advantage to city dwellers and the children coming from well-to-do homes. He also suggested that while preparing the list of OBCs, castes left out by Kaka Kalelkar Commission should be included by the present Commission. On the other hand, such castes as had made progress since the submission of Kaka Kalelkar Commission report should be deleted from the list of OBCs.

10.29 Shri Mangal Dev Visharad pointed out that social backwardness was directly linked to caste and even when a socially backward caste becomes economically advanced, its social status does not improve. He cited the incident where Babu Jagjivan Ram had unveiled the statue of a national leader at Varanasi. Subsequently, caste Hindus washed that statue with 'Gangajal' as Babu Jagjivan Ram was supposed to have polluted it by his touch.

(B) *Seventh Lok Sabha*

10.30 As the Sixth Lok Sabha was prematurely dissolved and the Seventh Lok Sabha was in position in January, 1980, the Commission invited the Members of the new Lok Sabha also for giving evidence on its terms of reference. The country was divided into four regions and members from each region were invited separately from July 1st to 4th, 1980, to meet the Commission. Invitations were also issued to members of Rajya Sabha. List of MPs who responded to the Commission's invitation is at appendix 10.

10.31 Most of the MPs of the Seventh Lok Sabha also contended that special facilities should be given to Other Backward Classes and reservations in services and educational institutions made for them. MPs who pressed this view were : Sarvshri P. Shiv Shankar, P. Rajagopal Naidu, N. G. Ranga, R. V. Swaminathan, E. Balanandan, Narsinh Makwana, B. K. Gadhavi, Mundar Sharma, S. B. Chavan, Madhu Dandavate, G. R. Kochak, Hakam Singh, Shyam Lal Yadav, Narendra Singh, Ram Pyara Panikar, J. S. Kashyap, N. E. Horo, D. P. Yadav and C. M. Panigrahi. Most of them also held that social and educational backwardness should form the basis of identification of OBCs. Shri B. R. Reddy and Professor N. G. Ranga were of the view that benefits for OBCs should be restricted to families whose monthly income did not exceed Rs. 1,000 so that affluent section of backward classes did not get undue advantage of reservations etc. Shri S. B. Chavan was also in favour of some such restriction so that the list of OBCs does not become very lengthy, thereby diluting the benefits for backward classes.

10.32 Shri G. M. Shah, Gen. Rajinder Singh Sparrow, Shrimati Rajinder Kaur and Shri Tompok Singh were in favour of giving primary to economic criteria in determining backwardness.

10.33 Shri P. Shiv Shankar (Law Minister) suggested that it would be safer to follow the criteria of social and educational backwardness already upheld by the Supreme Court in a number of cases. Adoption of other criteria will lead to fresh litigation and create complications. He also felt that the acceptance of economic criteria would give a setback to OBCs. Lists of OBCs already drawn up by several State Governments have been, in most cases, already tested before courts and the Commission should try to adopt those lists as far as possible. He was also of the view that in addition to reservation at the time of initial recruitment, there should be 3 to 4% reservation for promotion posts also.

10.34 S/Shri B. J. Poojari and N. B. Sidman felt that Scheduled Castes' converts to Christianity, etc. should also be included in the list of OBCs. The same view was expressed by Shri E. Balanandan.

10.35 Shri R. P. Gaekwad said that lack of education was the main handicap of backward classes and all facilities should be provided for their educational advancement. But he did not see any justification for reserving jobs for them. Shri N. K. Shejawalkar was also of the view that it will not be proper to make reservation in services for OBCs. Shri Bapusaheb Parulekar stated that the goal of the nation was to establish a casteless and classless society and this goal should not be lost sight of while framing criteria for listing OBCs.

10.36 Prof. Madhu Dandavate stated that conversion from one faith to another did not change the socio-economic status of a person. It was, therefore, desirable that converts from Scheduled Castes to Buddhism, Christianity, etc. should be treated as Scheduled Castes. But until this change was brought about by legislation, all such converts should be listed as OBCs. He also felt that economically backward classes should be treated as a separate entity from socially and educationally backward classes. As an example of blind priestly prejudice against low castes, he cited the incident when Lord Mountbatten had invited Dr. B. R. Ambedkar, a member of his Executive Council to accompany him to a visit to Jagannath Puri temple. Whereas the local priests happily welcomed Mountbatten to enter the temple, they refused permission to Dr. Ambedkar.

10.37 Shri Mubarak Shah felt that in view of the special location and problems of Jammu and Kashmir, all-India model of caste-based society was not applicable to that State. He felt that geographical location and complete isolation of certain areas should form the basis for determining backwardness for Jammu and Kashmir.

10.38 Shri Jyotirmoy Bosu pointed out that caste was a legacy of the feudal system and viewing the social scene from the casteist angle was no longer relevant for West Bengal. He also stated that his party would express its considered views on various issues before the Commission after examining the matter more thoroughly.

10.39 Shrimati Gita Mukerjee stated that caste based discrimination was a thing of the past in West Bengal. Old occupational patterns had undergone changes and there was no single caste following any single hereditary occupation. She was in favour of giving special assistance to economically weaker sections of society.

III. *Commission's Tours*

10.40 The Commission toured most of the States and Union Territories of India to collect on-the-spot evidence (Appendix-11). Tour programmes of the Commission were given advanced publicity in every State and the Commission's questionnaire for the general public was also published in vernacular and English dailies. At the headquarters of the States the Commission met Chief Ministers, Ministers, Members of Parliament, MLAs, senior officials, representatives of social and caste organisations and other prominent publicmen. It also received a large number of representations during its tours of Districts and villages and recorded evidence of the speakers at its meetings. In the course of its tours, the Commission visited 17 States, 5 Union Territories received 2638 representations and recorded evidence of 1,539 persons.

10.41 Broadly speaking, two types of evidence were tendered before the Commission. First, a large number of publicmen and caste association argued their case for the inclusion of a particular caste in the list of Other Backward Classes. Some of them, whose caste was already notified as backward by the State concerned, wanted it to be included in the list of Scheduled Castes or Scheduled Tribes. Nearly 3/4th of the respondents appearing before the Commission belonged to this category. Their representations have been separately examined and the results of this examination have been incorporated in the State-wise lists of OBCs prepared by the Commission. Secondly, there were associations or persons which discussed the question of social and educational backwardness in more general terms and offered various suggestions on the terms of reference of the Commission.

10.42 An over-whelming proportion of respondents appearing before the Commission contended that caste should be the basis for determining social and educational backwardness. They were in favour of giving liberal concessions to OBCs so as to off-set their historical handicaps which they had suffered for centuries as a result of their low caste status. Some of the important measures were : reservation in Government services and educational institutions; relaxation in minimum qualifying marks and upper age limit for admission to various courses, etc.; other educational concessions like free books, uniforms and special coaching facilities; allotment of house-sites; grant of liberal loans at low rates of interest; assistance in setting up small-scale industries, etc.

10.43 A number of respondents argued that the reservations for OBCs should be in proportion to their population, as it was only just and fair that in a democratic set-up they are adequately represented in public services. Some of them also maintained that there should be reservations for OBCs in Parliament and Legislative Assemblies, as Other Backward Classes will be in a position to assert their rights only after they have acquired sufficient political clout. A number of associations and persons suggested that Public Service Commissions, Selection Boards and all other recruiting agencies should have adequate representation of OBCs so that backward class candidates could get a fair and sympathetic treatment from these bodies. It was repeatedly emphasised that with a view to ensuring proper protection and fair treatment at the hands of law-enforcement agencies, the bulk of the police force should be recruited from the

weaker sections of society. This sort of policy would not only instil confidence in the underprivileged and backward classes, but also ensure that the law enforcement agency is more sensitive and understanding towards the problems of these defenceless people.

10.44 Several respondents stated that the existing State lists of OBCs included many castes and communities which were really forward and left out some others which were actually backward. They also pointed out that the special concessions meant for the upliftment of backward classes were, in actual fact, cornered by the more influential and stronger groups and adequate safeguards should be devised to protect the legitimate interests of the genuinely backward classes. In view of this Scheduled Castes converts to Christianity, Islam, Buddhism etc., should not be denied the benefit extended to Scheduled Castes and the same should hold good in respect of OBCs. At some places it was also contended that all Muslims and all Christians should be included in the list of OBCs as these communities were really very backward.

10.45 Regarding the criteria for identifying OBCs, some people suggested that all hereditary occupations carrying the stigma of low social status should be made a touch-stone of backwardness.

10.46 It was but natural that most of the respondents appearing before the Commission belonged to OBCs, as they were the people representing aggrieved classes and they were keen to ventilate their grievances before the Commission. But at most of the places some associations or members of the forward classes or castes also gave evidence before the Commission. These respondents generally opposed the linking of caste with social backwardness and expressed themselves against reservation of posts in Government services for OBCs. They were generally in favour of applying the means-test for determining backwardness and contended that poverty was the real cause of social and educational backwardness. Interestingly enough, some Brahmins in practically every State staked their claim to be included in the list of OBCs as they neither enjoyed high social status nor could educate their children owing to lack of means.

10.47 Generally speaking, it was seen that the views of every individual, group and association were conditioned by their own class interests and the question of giving concessions to OBCs was surcharged with emotion. The Commission repeatedly noticed that at the same meeting speakers expressed diametrically opposite views on this issue and class bias was the most compelling logic behind their convictions. For instance in the meeting at Trivandrum held on 15-6-1979, Shri R. Sundaresan Nair, MLA, stated that there was no social discrimination or untouchability in Kerala and, that, economic criteria should be accepted for determining backwardness. The next speaker, Shri A. N. Nadar, MLA, contended that caste system was strongly entrenched in Kerala and caste should be accepted as a criterion for social and educational backwardness. A little later, Shri Issuddin, President, Trivendrum District Committee of All India Muslim League, expressed himself in favour of economic criteria while Shri K. Vasudevan of Akhil Bharatiya Vishwakarma Mahasabha, Trivendrum, was vehemently opposed to it. Similarly in a meeting held at Saharsa (Bihar) on 26-5-1979, Shri Jagan Nath Misra favoured the economic criteria whereas Shri Narendra Narain Yadav was wholly in favour of the caste criteria. Numerous such examples can be cited from every State.

10.48 In the following is given a gist of the views expressed by some respondents in some of the States visited by the Commission. An effort has been made to present as wide a spectrum of opinions as possible.

10.49 Shri G. Lachanna, MLA, Hyderabad, lamented the lack of any provision in the Constitution for abolishing caste system and pointed to the caste conflicts in Bihar, Uttar Pradesh and Maharashtra as indicative of increasing casteism in the country. Lower castes had suffered from discrimination for ages and remedial steps should be taken for their advancement. In his view, there was no social backwardness amongst non-Hindu communities, as they were free from the bane of casteism. Though he was satisfied with the reservation of 25 per cent made by Andhra Pradesh Government, he desired more facilities to be extended to OBCs.

10.50 Shri P. Lakshmana Rao, Ex-MLA, speaking on behalf of Agnikula Kshatriya Sangam, stated that his community of Fishermen was exceedingly poor, lived in remote villages and frequent cyclones rendered its existence very precarious. Owing to its extreme backwardness, in 1968, there was a proposal to include his community in the list of Scheduled Tribes, but somehow this did not materialise. He pleaded for separate reservation for Fishermen as a group. He also wanted interest-free loans, low-cost housing and improved communication facilities for fishermen.

10.51 Shri J. Yadagiri of Andhra Pradesh Backward Class Students Association, Hyderabad, desired that OBCs should be given adequate representation and reservation in Indian Central Services, Union Public Service Commission, Nationalised Banks, Public Corporations, etc. The quantum of reservation should be in proportion to their population. Fifty per cent of the seats in residential schools should be reserved for OBCs. There should be a standing vigilance body to ensure proper implementation of the reservation policy framed by the State Government.

10.52 Shri Ram Sunder Das, Chief Minister, Bihar, stated that the question of making adequate reservation in services and educational institutions for OBCs is directly linked with the progress and development of the nation. The country cannot progress unless the masses are actively associated with the main nation-building tasks. This was possible only if much larger number of persons from OBCs are recruited to Government services etc.

10.53 Shri Abhinash Chandra, Mukhiya, Chausa West (Bihar), stated that caste should be the criterion

for identifying social and educational backwardness. There should be 60 per cent reservation for OBCs in Government employment and educational institutions. Provision for reservation could be effectively implemented only when the recruiting agencies comprised OBCs. Other Backward Class candidates selected on the basis of merit should be excluded from the reservation quota. Seats should also be reserved for OBCs in the State Assemblies. There should be separate provision for the intake of women.

10.54 Shri Y. Ramachandran, Bangalore, stated that the demands and rights of backward classes have been denied since 1935 and it is high time that the Central Government gave adequate relief to OBCs. Under the Indian conditions caste was the only dependable criterion for social and educational backwardness. Adequate reservation in Services and educational institutions should be provided for OBCs and the quantum of reservation should be determined in the light of the Supreme Court's decisions on this matter.

10.55 Shri K. R. S. Naidu, Bangalore, stated that he had identified nine factors for determining backwardness. These were : social, educational, economic, cultural, traditional, historical, graphical (?), geographical and political. He also emphasised that Indian society was divided into two main classes, *i.e.* the manual workers and intellectual workers. This distinction was very relevant for judging the social status of a class.

10.56 Smt. Parvathi Amma, Prof. of Sociology, Mysore University stated that whereas backwardness was directly linked to caste, the unit of identification should not be sub-caste but whole communities which were socially and educationally backward. Education was the greatest anti-dote to backwardness and should be made free upto the level of matriculation. Economy should be diversified rapidly to create job opportunities for backward classes.

10.57 Shri P. K. Gopalakrishnan, Deputy Speaker, Kerala Legislative Assembly, stated during the Commission's meeting in Trichur that caste was a very important fact of our social life and person's social status was determined by four factors : the position of a community in the caste hierarchy, its ability to influence politics of the State, its financial condition and its educational and employment status.

10.58 Shri K. M. Raman of Harijan Samajam, Calicut (Kerala), expressed the view that by listing a large number of castes as backward the privileges and concessions given to the untouchables were being exploited by classes who did not really deserve them.

10.59 Shri B. B. Abdullah Koya, M.P. (Calicut), wanted 'occupation' to be the criterion of backwardness. Scholarships to the backward class students should be given liberally and there should be relaxation of upper age limit and minimum educational qualifications for entry into services. He wanted the entire Muslim community to be declared as backward and suggested the provision of free legal aid to backward classes so that they could resist exploitation by the affluent sections of society.

10.60 Shri Panna Lal Yadu, Journalist, Raipur, stated that there were several districts in Chhattisgarh, and the population of Kurmi, Teli and Yadav communities was about 25 lakhs, 20 lakhs and 17 lakhs respectively. But there was no M.L.A. or M.P. or senior official from these communities. He pleaded for the introduction of reservation for these and other backward communities in educational institutions, Government services, Parliament and State Legislatures.

10.61 Shri Viswanath Singh, Satna, representing Rajput community, wanted economic tests to be adopted for determining backwardness and pointed out that reservation on the basis of caste had resulted in riots in Bihar and Uttar Pradesh.

10.62 Shri Promode Kumar Das, representing weaver community of Balbhadrapur, Tanti (Orissa) deposed that owing to increasing popularity of powerlooms his community was very adversely affected. Only 5 out of 106 families of weavers in the village were presently following their traditional occupation. Out of 22 matriculates, 11 had joined Government service and the remaining were keen on getting training in powerloom technology. He desired reservation for his community in Government services and educational institutions and also award of stipends to students upto the matriculation stage.

10.63 Shri Hare Krishna Sahu, representing Teli community, stated before the Commission at village Bodamundei (Orissa) that none of the 36 families of his caste was engaged in their hereditary occupation of oil-pressing. Mechanical oil-pressing units had monopolised the market and oil seeds were in short supply as land was being increasingly used for paddy cultivation. Owing to extreme poverty, Telis could not impart higher education to their children. He wanted special credit facilities for the purchase of oil seeds and installation of mechanised pressing units.

10.64 Shri B. S. More, Neo-Budhist, Aurangabad, pointed out that after centuries of ostracism, the Harijans became neo-Budhists. But unfortunately they were still being subjected to all sorts of discrimination and treated as untouchables. Concessions for neo-Budhists should be continued till the practice of untouchability disappeared. Those who were financially well off and such castes which were not being treated as untouchables should be deleted from the list of Scheduled Castes.

10.65 Shri A. M. Bane, Secretary, Muslim Backward Classes Association, Nagpur, explained that several Muslim communities had the same caste structure as the Hindus and they also followed hereditary occupations. Giving examples of correspondence between Muslim and Hindu occupational communities, he stated that Qasai and Khatik, Julaha and Halba Bunkar, Pinjara and Dhunia, Lalbegi and Bhangi, Rangrez and Rangari, Teli and Tirmal were cases in point. He desired that the same concessions should be extended to the Muslim occupational communities as done in the case of Hindu communities.

10.66 Shri Dau Lal, Secretary, Rajasthan Backward Classes Federation, Jaipur, stated that Rajasthan Government has not extended any worthwhile concessions to backward classes. The backward classes had no voice in the State Assembly and he recommended reservations for them in Assemblies and Parliament. He also wanted reservation in Government services and expressed the apprehension that the Report of this Commission may meet the same fate as that of Kaka Kalelkar Commission.

10.67 Shri Om Parkash Parmar, Jodhpur, suggested that caste-wise enumeration of population should be re-introduced with 1981 Census. He wanted special concessions for occupational communities and the setting up of a Backward Classes Board in Rajasthan. He was also in favour of free education and free legal aid to members of backward classes.

10.68 Fr. Joseph Cannath, Gangtok, stated that the Christians numbered around 5,000 in Sikkim and most of them belonged to the backward tribes of Limboos and Rais. But they were not getting any special benefits owing to change of religion. He pleaded that caste should not be criterion for determining backwardness and social and educational backwardness could be removed only if economic conditions were improved. In case caste is adopted as a criterion of backwardness, the Christian community will suffer heavily.

10.69 Shri P. M. Subba, M.P., confirmed at Gangtok the observation made by some other speakers that Scheduled Tribes in Sikkim were getting more facilities and concessions as compared to Scheduled Castes : the former were given free hostel accommodation, books, scholarships, house-building advances, sewing machines, etc. which were not extended to the latter. He also pointed out that there was caste system among Nepalese in Sikkim and the low castes amongst them should be included in the list of OBCs.

10.70 Shri R. Govindarajan, President, Parvatharajakula Youth Association, Kumbakonam, Thanjavur, wanted Fishermen's community to be bracketed with Scheduled Tribes in view of its extreme backwardness. He suggested the preparation of a time-bound programme for the advancement of this community and grant of loans to unemployed for starting small scale industries, mechanisation of fishing boats, etc. He was very particular that fishing rights should be granted to members of the Fishing community only.

10.71 Shri A. Latif, MLA, Tirunelveli, contended that the Muslim representation in services was only 3 per cent though they constituted 10 per cent of the State's population. In view of this adequate provision should be made to increase their representation in services. He also wanted more Muslims to be recruited to the Special Branch and Intelligence section of the State Police Force.

10.72 Shri A. N. Saha, Secretary, West Bengal Backward Classes Federation, stated at Calcutta that economic criteria did not find any place in the Indian Constitution for identifying socially and educationally backward classes. He asserted that there was casteism in West Bengal and there were no inter-caste marriages. He also contended that over the last 25 years there has been little change in the living conditions of the 105 communities listed as backward by Kaka Kalelkar Commission. He suggested some sort of income ceiling to pick out the more backward castes for special concessions.

10.73 Shri Gur Mohan Shar, General Secretary, West Bengal Swarnakar Sabha, deposed in Calcutta that he did not agree with the State Government's view that there were only two castes, *i.e.*, the rich and the poor. Caste system was as deeply entrenched in West Bengal as in the rest of the country. He pleaded that his community of goldsmiths was socially and educationally very backward and only few Swarnakars were in Government service. He desired them to be listed as backward.

10.74 Shri Narayan Chaudhuri stated at Burdwan that people of West Bengal were against caste system and there was not much difference between high and low castes. While referring to agitations against reservations in U.P. and Bihar, and the troubled conditions in Assam and Tripura, he opined that reservations for Scheduled Castes and Scheduled Tribes should also be abolished and economic criteria should be made the basis of backwardness. He felt that only the more influential people amongst lower castes were getting the benefit of reservation. In view of this, means-test should be the only basis for giving concessions to backward people.

10.75 Shri Raghubar Dayal Verma (Boatman), Agra, stated that whereas the population of OBCs in U.P. was 56 per cent, only 15 per cent reservation has been provided for them in Government services. He wanted this figure to be raised to 60 per cent. He also desired reservation quotas for OBCs in All India Services and autonomous bodies. He suggested that all Selection Committees should include representatives of OBCs.

10.76 Dr. J. Prasad (Kachhi), Professor, Degree College, Kanpur, said that the criteria of backwardness fixed by the U.P. Government for reservation of posts for OBCs was defective, as candidates selected on merit were also counted against the meagre quota of 15 per cent. He desired that Central aid should be provided for the education of backward-class children, seats should be reserved for them in educational institutions and special programmes designed to remove their cultural backwardness.

CHAPTER XI

SOCIO-EDUCATIONAL FIELD SURVEY AND CRITERIA OF BACKWARDNESS

11.1 In their examination of Kaka Kalelkar Commission Report, the Government of India had specially noticed the absence of any objective tests for identifying socially and educationally backward classes. Several Supreme Court judgements have also emphasised the need for evolving such criteria on the basis of field investigations and other independent evidence. It was in view of these considerations that the Commission decided to tap a number of sources for the collection of data and Chapter III of this Report contains a brief account of this approach.

11.2 Socio-educational field survey was the most comprehensive inquiry made by the Commission in this behalf. Right from the beginning, this survey was designed with the help of top social scientists and specialists in the country, and experts from a number of disciplines were associated with different phases of its progress.

11.3 To begin with, a Research Planning Team of sociologists met in Delhi from June 12th to 14th, 1979 to draw up a plan of studies and researches which should be undertaken by Backward Classes Commission for determining, in a scientific and objective manner, the criteria for defining socially and educationally backward classes. The report of this team is at Appendix-12, Volume II.

11.4 Subsequently, a Panel of Experts (Appendix-13, Volume II), led by Professor M. N. Srinivas, met in Delhi from July 16th to 20th, 1979, and, after detailed deliberations, prepared a complete design of the survey along with a set of schedules, dummy tables, instructions etc.

11.5 Experts' Panel agreed with the observation of Research Planning Team that the task before the Commission was to "lay down the criteria for identifying recognisable and persistent collectivities and not individuals." It also observed, "in the Indian context such collectivities can be castes or other hereditary groups traditionally associated with specific occupations which are considered to be low and impure and with which educational backwardness and low income are found to be associated."

11.6 With a view to providing continuous guidance at the operational level, a Technical Advisory Committee was set up under Dr. K. C. Seal, Director General, Central Statistical Organisation, with Chief Executive, National Sample Survey Organisation, and representatives of Directors of State Bureaux of Economics and Statistics as members.

Schedules

11.7 The experts' Panel had prepared the following four schedules for canvassing during the field survey :—

(i) Household schedule (rural).

(ii) Household schedule (urban).

(iii) Village schedule.

(iv) Town schedule.

These schedules were pre-tested in a number of villages in West Bengal, U.P., Maharashtra and Haryana and validation checks carried out by the Research & Survey Wing of the Commission. The results were discussed by Technical Advisory Committee and, after detailed examination, it was decided that rural and urban household schedules may be combined in one composite schedule with two independent, mutually exclusive sections for rural and urban areas. It was also decided to drop the town schedule. The combined rural and urban household schedule was fully pre-coded so as to meet the requirements of electronic processing of data. The schedules thus finalised and actually canvassed in the field are at Appendices 14 and 15, Volume II.

11.8 Household schedule was divided into five parts, *i.e.*, household particulars, particulars of individual members, particulars of non-students between 5—15 years, description of assets and indebtedness. Questions under each part were so framed as to get information on such social, educational and economic particulars of a household as characterised the syndrome of social and educational backwardness in the Indian conditions.

11.9 All the questions in the schedules were direct and did not involve any probing. As indicated earlier, these schedules were pre-tested in four States, validation checks carried out at the headquarters and some modifications made as a result thereof.

Sample Size and Coverage

11.10 Experts' Panel had recommended "1% purposive sample of villages at the district level to be able to identify a vast majority of backward classes." At a subsequent meeting of Technical Advisory Committee presided over by Director General, Central Statistical Organisation, it was decided that for our purpose a sample of 1% of the country's population comprising 65 lakh persons may be too large, especially in view of the limited time available to the Commission. Instead, 100% coverage of two villages and one urban block in each district of the country was considered to be quite adequate. In

view of the vast experience of Central Statistical and National Sample Survey Organisations in conducting surveys this recommendation of the Committee was accepted. The selection of villages and urban blocks was left to the State agencies entrusted with the survey. It was, however, emphasised that, as far as possible, the villages and urban blocks selected for survey should be of a composite nature, medium-sized and should reflect typical rural or urban conditions of the concerned district. A list of the villages and urban blocks surveyed in each State is at Appendix-16, Volume II.

Organisation of Survey

11.11 Survey operations were entrusted to the State Statistical Organisations of the concerned States/Union Territories. This was made possible through the good offices of Dr. K. C. Seal, Director General, Central Statistical Organisation, who took up this matter at the Fourth Conference of Central and State Statistical Organisations held at Lucknow from September 20th to 24th, 1979 and persuaded the State representatives to accept this challenging task.

11.12 All the schedules, survey instructions, etc., were got centrally printed in Delhi and despatched directly to a number of distribution centres indicated by each State. Each State nominated a Contact Officer to coordinate survey work at the State level. The actual work of survey was entrusted to District Statistical Officers who selected two investigators per village/urban block for actual canvassing of schedules in the field. It was also decided that the filled-in schedules will be scrutinised at each district headquarters before they are forwarded to the Commission.

Training of Survey Staff

11.13 Special emphasis was laid on proper training of not only the field staff but also the District Statistical Officers and the State level Contact Officers. An orientation course for Contact Officers was held at Delhi on 9th and 10th January, 1980 and the time-schedule of field operations was also discussed at this meeting. Instructions for filling the schedules were elaborated in the light of these discussions (Appendix-17, Vol. II) and, this was followed up by issuing supplementary guidelines for filling the schedules (Appendix-18, Volume II). The State Contact Officers convened training sessions of their respective District Statistical Officers who, in turn, undertook training of field investigators and scrutinisers. Special instructions regarding the scrutiny of schedules were also issued (Annexure-19, Volume II). On-the-spot inspections by District Statistical Officers during the progress of the survey were ensured.

Time Frame of Survey

11.14 According to the time-schedule of field operations approved at the meeting of State Contact Officers held in Delhi on January 9th and 10th, 1980, it was decided that the Commission will undertake to despatch the schedules immediately so that they reach the district headquarters before January 31st, 1980. Field survey operations were to commence in the beginning of February and completed by the month end. The scrutiny of canvassed schedules was to be undertaken simultaneously with the field operations and completed by March 7th, 1980 so that scrutinised schedules could reach the Commission's office in Delhi by March 15th, 1980. This time table could not be adhered to by some States owing to the approaching assembly elections and other bottlenecks, though practically all the completed schedules from all the States and Union Territories were received by the end of May 1980.

Computerisation and Analysis of Data

11.15 Out of 406 districts in the country, our survey covered 405 districts. Household schedules were canvassed in 2 villages and one urban block in each of these 405 districts. Each household schedule contained 51 questions and there was provision for entering particulars of upto 10 members of the household in each schedule.

11.16 Data of this magnitude could be quickly and meaningfully processed by computerisation only. In view of this, arrangements were made with the National Informatic Centre of Electronics Commission of India for electronic processing of this data.

11.17 A detailed computer plan was prepared for the generation of a set of 156 tables pertaining to different variables, *i.e.*, social, educational, demographic, economic, occupational, etc. The tabulation plan was mainly aimed at the analysis of data by caste groups and similar collectivities with reference to the variables given above. Caste was also taken as an independent variable.

11.18 Technical Committee constituted a Sub-Committee of Experts (Appendix-20, Volume II) to help the Commission prepare 'Indicators of Backwardness' for analysing data contained in computerised tables. After a series of meetings and a lot of testing of proposed indicators against the tabulated data, the number of tables actually required for the Commission's work was reduced to 31 (Appendix-21, Volume II). The formulation and refinement of indicators involved testing and validation checks at every stage.

11.19 In this connection it may be useful to point out that in social sciences no mathematical formulae or precise bench-marks are available for determining various social traits. A survey of the above type has to tread warily on unfamiliar ground and evolve its own norms and bench-marks. This exercise was full of hidden pitfalls and two simple examples are given below to illustrate this point.

11.20 In *Balaji's* case the Supreme Court held that if a particular community is to be treated as educationally backward, the divergence between its educational level and that of the State average should not be marginal but *substantial*. The Court considered 50% divergence to be satisfactory. Now, 80% of the population of Bihar (1971 Census) is illiterate. To beat this percentage figure by a margin of 50% will mean that 120% members of a caste/class should be illiterates. In fact it will be seen that in