

labourers;

xiii) Their participation in business is negligible .

xiv) The same is the position with regard to their representation in State govt. services. It is only 10%, while their population forms 30% of the State population:

xv) Jats will have to face many difficulties if they are not included in the list of backward classes in the context of privatisation and liberalisation in which might is right:

xvi) The Mandal Commission has included other peasant (Kisan) castes in the OBC category and improved their level, but unfortunately Jats have not been included in this category though they are economically and socially very backward like other backward classes.

xvii) In the Mandal Commission case of 1994, the Supreme Court had stopped reservation for those who are economically and socially backward and without doubt the Jat caste comes under this category.

F Data furnished by State Governments

47. None of the State Governments has furnished any data. The case of Jats is said to be under survey in the case of Rajasthan and Uttar Pradesh by the respective State Commissions.

48. The Rajasthan State Backward Classes Commission has made certain remarks which may indirectly be relevant to the case of Jats. In their letter dated the 14th July 1997, which is about various communities, the Rajasthan State Backward Classes Commission has made the following remarks in respect of four castes viz: Mew/Mewati, Jat,

AUTHENTICATED

P. S. Krishnan
120 P. S. KRISHNAN
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Sirvi and Silawat.

"In the opinion of the Rajasthan State Backward Classes Commission, it is not appropriate or possible to take a decision about the inclusion of the following castes/classes in the list of Backward Classes on the basis of 'Fast-Track'. While considering the Requests of castes which do not have an identity in the shape of a separate occupational class and those which are agricultural castes, it is necessary to keep in view the requests of other agricultural castes, which are of equal social and educational level as these. It is necessary to make a detailed survey, examination and hearing of the social and educational level of these castes so that the decision may be in accordance with the Constitutional provisions and Law: otherwise other agricultural castes may create legal complications. Therefore, the RSBCC will, after a detailed survey of their social, educational and economic aspects, and comprehensive discussions with public representatives and social organisations, furnish its recommendations to the State Government." After naming these four, the State Commission has also given a small note to the effect that Sirvi is an agricultural caste and detailed survey is in progress; and Silawat call themselves "Adi Gaur" Brahmins and do not consider themselves to be socially backward and their organisation has given in writing to the State Commission that they do not desire to be included in the list of backward classes and their case may not be considered.

49. In the same letter, another specific point mentioned by the State Commission is that of population. Since the SCs and STs have a population of 16% and 12% of the State and the same percentage of reservation is made for them and the Supreme Court has fixed a ceiling of 50%,

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the State Government has fixed 21% reservation for the Backward Classes. Therefore, it will be appropriate and necessary for the NCBC to keep in view the percentage in the State population that the new castes, which have applied for inclusion, constitute.

IV. Analysis of Data

A. General Background and Principles

50. Since about 100 years, lists of Backward Classes have been prepared in different parts of the country at different points of time. The process started in the provinces and Princely states of the peninsula and later it was taken up in other parts of the country by stages. At the Central level, the first list of Backward Classes was prepared by the Kaka Kalelkar Commission (1953-55). Prior to that the Central Government maintained lists of Backward Classes for the purpose of educational concessions. The Kalelkar list was intended not only for educational purposes but also for job reservations and for developmental and welfare purposes. But the Kalelkar recommendations were rejected by the Govt. of India in 1961. This was followed by the list of the Mandal Commission (1979-80) and then the Central List (1993) based on the principle of commonality between the Mandal List as well as the List of each State. Many of the old provincial/Princely State lists and subsequent State lists are based on the Reports of Commissions or Committees. After Independence, these lists got a Constitutional base, relatable to Articles 341(1), 15(4) and 16(4).

51. All these lists show certain broad patterns arising from the peculiar nature of the Indian Caste System. One of these common features is that the Castes of peasants are generally (subject to a limited number of exceptions) found included in the lists of Backward Classes identified by different Commissions and States and promulgated by different

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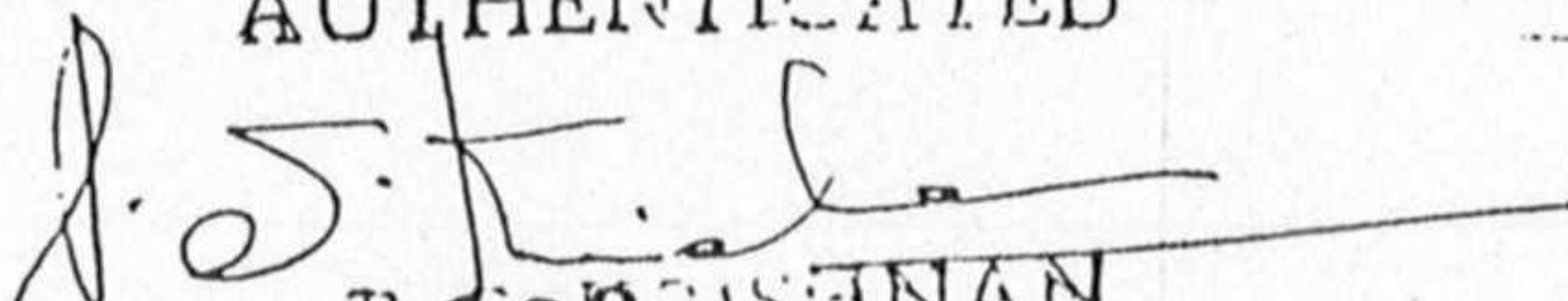
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provincial/Princely State/State Governments at different points of time [P.S.Krishnan, "Welfare of Backward Classes", in Dr.S.Subramanian (ed.), "50 Years of India's Independence", Manas Publications, New Delhi, 1997]. Though there are also other common features with regard to the list of Backward Classes, they need not be referred to here and the present analysis is confined only to peasant castes. This common pattern has its own rationale, which as mentioned above, derived from the peculiar features of the Indian Caste System. Peasants belong to different peasant castes and are manual labourers engaged in agriculture. Their manual labour in agriculture involves not only the men but also the women and the children of the family. It is well-known that manual labour has been traditionally looked down upon in Indian Society. This is also true of many other traditional societies as amply brought out by Gunnar Myrdal in his monumental book "The Asian Drama or The Poverty of Nations". While thus the contempt for manual labour and the low status accorded to those engaged in manual labour have been a common feature of many pre-capitalist societies, in India the situation was rendered more complex by the existence of the Caste System, whereby castes of those engaged in manual labour, have been collectively accorded a low status, the lowliness being of different degrees of intensity and depth and of different forms of expression.

52. Apart from the low status accorded, the work of the peasantry and therefore of the members of peasant castes has involved heavy labour and their life has been full of uncertainties and hardships, partly caused by the vagaries of the monsoon at a time when reliable artificial irrigation was much more limited than at present and partly caused by man-made customs, institutions and structures designed to perpetuate privilege on the one hand and deprivation on the other. Their life in the rural areas kept them at a distance from urban

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facilities which could have possibly helped them or at least individual members to improve their educational, economic and social status.

53. They were subjected to heavy taxation, rent and other exactions to meet the un-ending demands of the feudal States, the rulers and potentates of India -- ancient, medieval as well as modern -- irrespective of the religion to which they paid allegiance and notwithstanding the standards spelt out in certain traditional codes which limited the share of the rulers to only 1/6th of the product of the peasant's labour. The Wars between them and foreign invasions and the need to maintain armies for all contingencies had their heavy cost. When there was no war, the wasteful consumption of the elite imposed its own cost. All these burdens had to be borne by the producing classes, and in Indian conditions, by the producing castes, among whom peasants and peasant castes had their own significance as producers of food-grains and other agricultural commodities. The common mechanism which imposed heavy burden on the peasants included intermediary tenures created by the Rajas and Sultans, known as Jagirs and by other names. Such Jagirdars, Zamindars and Chieftains while coming by their Jagirs on account of their relationship to the rulers or as reward for their loyalty and services to the rulers, also had to maintain militias, ready for service in the wars of the rulers. Notwithstanding tradition and age-old Customs, which vested occupancy right/ownership right, occupancy in earlier times and ownership in later times on cultivating peasants, the superior position of Jagirdars, Zamindars, and other Grantees was used by them to treat the cultivators virtually as tenants-at-will.

54. The life and work and exploitation of peasant castes in different parts of India have been described in accounts of historiography by authorities like Tapan Raychaudhuri, Eric

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124

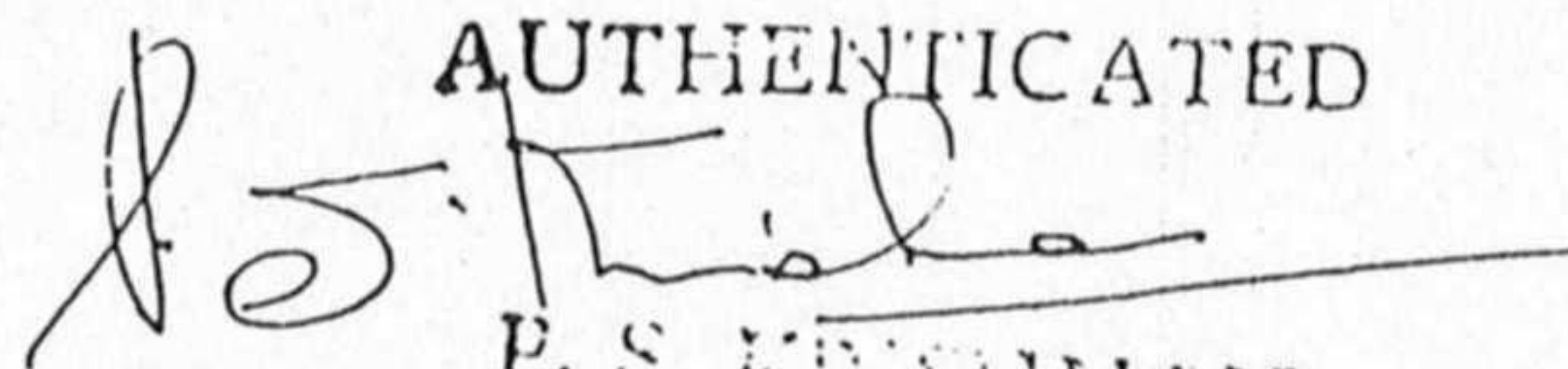
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Stokes, B. Chaudhuri, H. Fukzawa, Tom G. Kessinger, Angus Maddison, S. Bhattacharya, Dharma Kumar, V. D. Divekar, R. S. Sharma, Sumit Sarkar, Irfan Habib, etc. The references from some of these historiographic accounts that are given below are only illustrative.

55. Changes began to occur in modern times. But at the early stages of the modern times, the sufferings of peasants were accentuated by the representatives of the British East India Company who introduced the Permanent Settlement especially in East India and Eastern parts of Northern India. In addition, even in the modern period, about 1/3rd of India was under the rule of "native princes", most of whom maintained traditional forms of feudal tenures in land and attendant modes of exploitation, though there were princely states which were exceptions to this.

56. Improvement slowly began within the last one to one-and-a-half centuries, coinciding with the post-1857 direct British Rule in the two-thirds of India that was not comprised in princely States, resulting in gradual amelioration of the conditions of peasant castes. This process was noticeable in non-Zamindari, non-Jagirdari areas, i.e., in areas where the tenure was Ryotwari or of similar type with no intermediary between the State and the peasants, and in areas where artificial irrigation was introduced for reasons that suited the then rulers' need for assured trouble-free revenue and recruitment to the colonial Army. Among the parts of the country where development of artificial irrigation by canals on a large-scale took place during the British regime after 1857 are the stretch of territory from Punjab (including the part of Punjab which is now in Pakistan) upto and including western Uttar Pradesh, and the areas watered by the Godavari system and the Krishna system in the then Northern Circars or northern

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districts of the Madras Presidency (now the central coastal region of Andhra Pradesh) and the Kaveri system of southern Tamil Nadu (which was really not a new system but a modernisation of a 1000-year old system dating back to the Cholas).

57. Under these circumstances, a few peasant castes progressed to a level where, when lists of Backward Classes were prepared, they were not considered to fulfil the criteria for inclusion in such lists or in other words they were not found to be "socially backward", though almost all peasant castes were found to continue to have the disadvantage of what is currently referred to as "social backwardness". Among such exceptional peasant castes who rightly did not find place in the lists of Backward Classes are the Reddy and Kamma of Andhra Pradesh, a section of the Vellala of Tamil Nadu and Jat of north-west India. A study of these exceptional castes shows that they had the following advantages:-

- (i) Non-subjection to intermediary tenures like Jagirdari and Zamindari (in the areas inhabited by them or most of the areas inhabited by them).
- (ii) Residence in areas not under princely rulers or Chieftains belonging to other castes.
- (iii) Availability of dependable irrigation.
- (iv) Accession of political power in the recent past, i.e., late medieval and modern period, though rulership and chieftainship of native State rulers of their own castes.

58. The first two were necessary conditions. The third was a highly facilitating condition, the fourth was not absolutely essential but certainly gave a tremendous advantage. It is the accrual and accretion of these conditions in different

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126

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combinations that enabled a few of the peasant castes such as the one mentioned above to make sufficient social as well as economic progress that they came to be regarded by themselves as well as by others as advanced communities and objectively they ceased to fulfil criteria of "social backwardness". However, as mentioned earlier, they constitute exceptions to the generally prevalent reality of peasant castes still being socially backward.

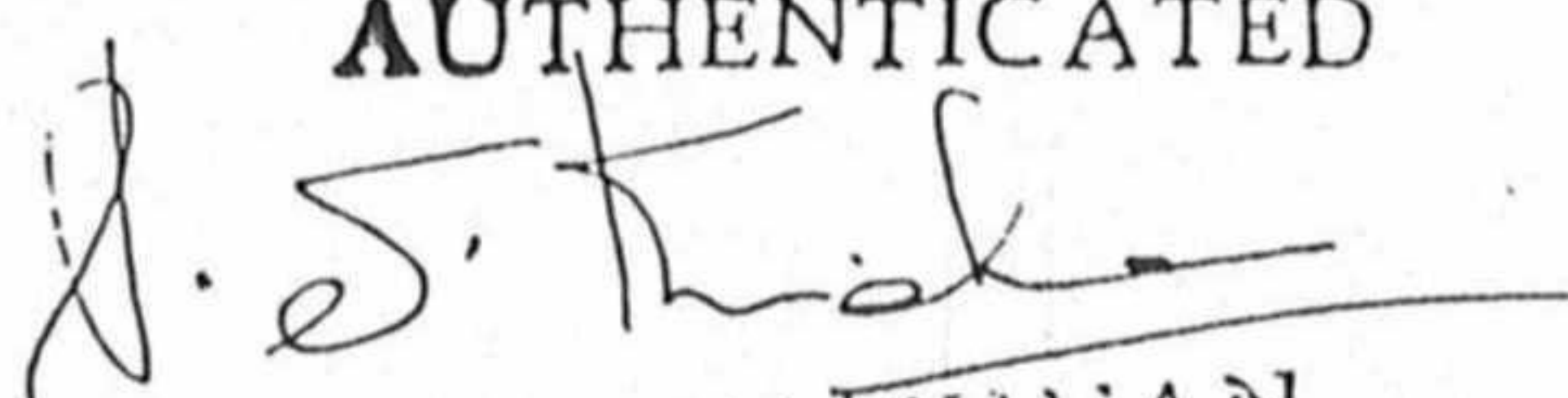
59. Even before the British conquered North Western India, on the ruins of the late Mughal Empire a powerful State arose in the region in which Jats who followed the Sikh religion got control over the levers of political power, which combined with their economic power arising from their landownership, conferred on them high social status. Even after Maharaja Ranjit Singh's Empire became a thing of the past and direct British Rule was established, there were a few princely States in the area, of most of which the rulers were Jat Sikhs like Patiala, Nabha, Jind, Faridkot and Kapurthala.

60. It is this situation prevalent in most of the territory inhabited by Jats that has resulted in the general perception of their being a socially advanced community and in their not finding place in the lists of Backward Classes.

B. Historical account of the conditions of Peasants and Peasant Castes in India

61. R.S.Sharma recognising that generally the term "Feudalism" is applied to society in Europe from the fifth to the fifteenth century A.D. and that there are many definitions of feudalism, interprets feudalism in the Indian context as essentially consisting of the institution of serfdom in which peasants were attached to the soil, held by landed

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intermediaries placed between the king and the actual tillers, (who had to pay rent in kind and labour to them) and organisation of the whole administrative structure on the basis of land. He traces the development of the feudalisation of the State apparatus in the post-Maurya period, especially from the Gupta times when the practice of making land grants to the Brahmanas was a striking feature. This grant was accompanied by not only abandonment by the donor, usually a ruler or a big feudatory or chieftain, of his revenues but also the right to govern the inhabitants of the villages that were granted, in favour of the donee. Cultivators and artisans were expressly directed by their respective rulers not only to pay the customary taxes to the donees but also to obey their commands. These grants helped to create powerful intermediaries wielding considerable economic power, including the functions of the collection of taxes, levy of forced labour, regulation of mines, agriculture etc. and maintenance of law and order and defence. These intermediaries initially belonged to the priestly class and later to the warrior class and their numbers went on increasing. The donees on the one hand maintained law and order in their charge areas, which were initially in the periphery of the empire/kingdom but also rendered valuable services to the rulers including impressing upon the people in their charge-area --- tillers and artisans and other labouring and serving classes and their castes --- of the sacred duty of carrying out their Varna functions and obeying the king who was represented as embodying in his person the attributes of various gods. Along with grants of this type made in favour of Brahmanas and later in favour of members of the warrior or kshatriya classes, between the fifth and seventh centuries A.D. land-owning temples and still later land-owning Mathas arose. From the account of Fa-hien and I-tsing and Hsuan-Tsang, we also have a picture of such grants of villages in favour of viharas like the Nalanda Vihara. From their accounts, it could be seen that tillers of

128

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the soil of the lands of such monasteries were not hired labourers but were semi-serfs or temporary tenants paying rental to the land-owning monasteries as in the case of temples.

62. The peasants were also required to render labour services or vishti. There is evidence of exaction of such labour service from peasants and artisans in the Gupta period in the Central and Western India. There is clear indication of the use of forced labour from peasant women for agriculture in Gupta and post-Gupta times even in Vatsyayana's Kamasutra! This power to exact forced labour was transferred to donee of villages and their descendants.

63. Another aspect of the progressive feudalisation of the peasantry (to which we shall confine ourselves in the present context, leaving out other classes like artisans and landless labourers) was the imposition of several new taxes, comparable to feudal dues and forced contributions designed to meet the needs of the army and State not only to be sent to the State Treasury but also to be consumed locally by royal troops & officers. This further lowered the position and status of the free peasantry. These forced-labour services and forced contributions were rendered more oppressive by the donees who were men on the spot with a hereditary vested interest in the exploitation of the resources of the village and the people of the peasantry and other labouring populations of the village.

64. R.S. Sharma gives instances of the growth and prevalence of this system in different parts of the country North and South, West and East. Analysing the epigraphic records, he concludes that this system of peasant serfdom began in the peripheral areas and then gradually spread to the heart of the country in Northern India. It originated in mountaineous or backward regions with peasant-labour scarcity, but because of the powers it gave to the grantees over the cultivators, it later spread even to the developed areas to cover the peasantry in general. By the middle of the eighth Century, serfdom became fairly common in northern India.

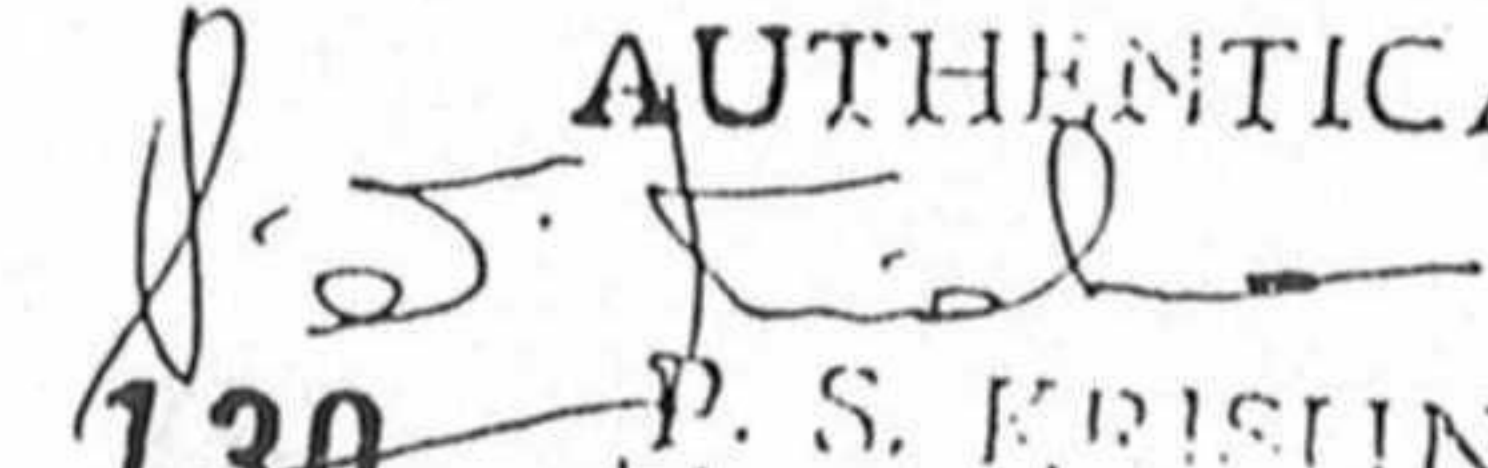
65. While from the end of the 6th century AD, there is also record of charters granted to guilds of merchants, bringing the merchant class or Vaishya varna also within the ambit of the benefit of the feudal dispensation turning them into some kind of landed intermediaries, with the same immunities and privileges as were enjoyed by priests and feudal chieftains and which gave them a large measure of autonomy and power to extract forced labour particularly from the secondary producer class of artisans, this need not hold us in the context of the peasantry which is relevant to the case of Jat.

129
P. S. KRISHNAN
Member Secy NCB

66. From the point of view of Jats of Rajasthan, it is interesting that a grant of a village was made in 959 A.D. in the Alwar area to the guru of a Matha and his successive disciples by a vassal of the Pratiharas. An instance of sub-infeudation under the Pratiharas has been noticed in the shape of a donation by one Vatsaraja, himself a donee, who transferred part of his donated village in favour of a sub-donee somewhere in the Jodhpur area where the inscription has been discovered. There are many other instances of sub-feudation, in which powers to make sub-grants were conferred on donees, individual as well as institutional, and their exercising this right. In the present context of Jats, especially of Rajasthan, it is worth noting that Sharma refers to the imposition of clan aristocracies on old settled villages as a distinguishing feature of the Rajput polity.

67. Between secular as well as religious grantees, both individual as well as institutional, they together constituted important intermediaries in land between the King on the one hand and actual tillers of the soil on the other. Those intermediaries became, for all practical purposes, the occupiers and enjoyers of the villages at the cost of and to the disadvantage of the actual tillers. From the record of evidence pertaining to the Pala, Pratihara and Rashtrakuta times (about 750 A.D. to 1000 A.D.) and territories, Sharma concludes that the position of peasants in villages given as grants was not materially different from that of serfs in the West European feudal economy. From the wording of the rights granted to the grantees under the Pratiharas in their dominions which included Rajputana or Rajasthan, by which the beneficiaries got the power of sub-infeudation and ejection, the peasants did not enjoy security of tenure. Another feature which reduced the status of peasants was the extension of the practice of forced-labour or Vishthi, etymologically the same as Veth-Begar. Subjection of peasantry through sub-infeudation, eviction and imposition of non-customary taxes and forced-labour is mentioned by Sharma as one of the four broad developments in the early medieval economy of India (about A.D. 750-1000), with peculiar reference to North

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130 P. S. KRISHNAN
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India and Rajasthan, Gujarat and Maharashtra. Among the grantees of villages, there are Brahmanas, Kshatriyas, Vaishyas, Temples, Merchants, Monasteries and even Kayasthas, relatives of the rulers and officials, civil as well as military in North India. Sharma also brings out the increasing trend of granting of villages throughout the country from Assam in the East to Gujarat in the West, from the sub-Himalaya regions in the North to the Vindhya in the South in the period prior to the Turkish Conquest. There are regional variations. For example, in Rajasthan the number of villages held by the kinsmen of the royal family, vassals and officials were more than the number of villages held by temples and Brahmanas, and the former category seem to have held the major portion of land in these areas as fiefs, while in U.P. and Central India, more villages were held by the priests than by secular assignees. Though Sharma's survey is primarily about North India and leaves out Southern India, there is evidence of similar grants in peninsular India also with regional variations. While the grants were typically in favour of persons of the "Dwija" castes, there are instances of grants to persons belonging to labouring classes/castes like washermen. But the latter were more in the nature of serfdom attaching them to the service of persons of the upper classes. This system, oppressive and exploitative, was not only imposed on peasants but also on artisans and the landless labourers, but the present analysis is limited mainly to the peasants because of the nature of the community involved in the present case.

68. In this system, so far as peasants are concerned, they constituted a class of subject peasantry, of which every family could retain only its needs of subsistence, and the balance was paid to the landlord or ruler or grantee of villages. The peasants actually possessed, occupied and worked on the land, but were compelled to pay heavy rents, in kind, labour or cash, -- cash being a later phenomenon. The peasants made heavy payments because of custom and legal sanction. The priests, who were prominent among the grantees wrote religious books which tried to prove the low origins and social status of the peasants

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131
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for Backward Classes
Secretary
New Delhi

and producing classes in comparison with those who did not produce but lived on rents.

69. This operated not merely as a class process, but operated also as a caste process. According to Sharma, the socio-economic aspect of feudalism in India was intimately connected with the transformation of Shudras, who were treated as the common helots of the three high Varnas, into peasants from the Gupta period onwards. The Shudra peasants consisted of pre-existing Shudra labourers who were provided with and put to work on land on the one hand and on the other a large population of tribal peasantry who were annexed to the brahmanical system through the land grant process and who were also thereafter called Shudras. It is understandable that Hsuan Tsang described the Shudras as agriculturists and four centuries later Albiruni also did the same. This period of assimilation of tribes as Shudras including Shudra peasants had the effect of proliferating the number of castes.

70. The pre-Turkish Conquest medieval period is referred to by Sharma as the classical age of feudalism in India, which partly continued after the Turkish conquest, but was modified by the introduction of large-scale cash payment by Muslim rulers, which loosened the direct control of land intermediaries over the peasants.

71. Walter Rubin, briefly covering the same period as R.S.Sharma, described the Shudras as the "Masses of agrarian producers and workers in handicraft in their stationary village communities, now forming the masses of exploited people." He described Varnas that emerged in the ancient Indian society as "the order of the four ranks" characteristic of ancient Indian Society. People of the higher Varnas appropriated the products of the village communities to themselves, leaving to helot-like producers as little as possible. A.K.Warder also refers to the Maurya economy as one "based on Sudra cultivators" and according to him it would seem to be "appropriate for India to keep the

132 AUTHENTICATED
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Indian term 'Shudra' to describe the main productive class in that period, with 'helot' as the nearest European equivalent." He commends the account of the development of this "Shudra-based society" by R.S.Sharma. D.N.Jha has traced the growth of temples as landed magnates in early medieval South India (A.D. 700-1300). From the point of view of the peasant class and peasant castes, the relevant aspect of this phenomenon of temples becoming rich land-owning institutions was that temple administrations got their extensive lands cultivated by tenants to whom these lands were leased out. This gave rise to feudal agrarian relations and the deprivation of the peasantry. The burden on the peasantry increased with the practice of "Parihars" or fiscal concessions granted to Devadana lands and villages suggesting a correspondingly heavier burden of taxes, due to the State, on the peasantry who were not given such concessions, which they may have found difficult to pay. There is evidence of eviction of tenants from temple lands indicating that the grant of fiscal privileges with land or villages to the temples caused greater economic subjection of the peasants. Jha also provides evidence of the practice of levying fresh imposts on local inhabitants for the maintenance of temples in Chola times which added to the burden on the peasants.

72. Irfan Habib provides a historical survey of social distribution of landed property in pre-British India. Coming to the period of 550 to 200 B.C., for which period there is considerable source material available, he finds the existence of peasant communities, continuing from the earlier times, in which productive effort of certain kinds were undertaken by the peasants in common, and side by side with them men who possessed wealth particularly in the form of cattle or slaves and controlled large stretches of land. He cites references in the Jatakas to big Brahmana landowners, Setthis (merchants or merchant-officers) possessing villages and fields and land-owning Kshatriya tribal oligarchies. He is of the view that ordinary peasants had by that time everywhere fallen under some kind of subjection to local superior classes whose members were

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123

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designated as gahapatis and kutumbikas (who included Setthis), who controlled the villages and also possessed land in their own right, and engaged in usury which must have helped to further their control over the peasants through their obtaining a share in the crop. This was accompanied by a new and important form of landed property, the King's domain to which Kautilya attaches great significance from the point of view of the King's revenues. Part of King's lands was leased out to share-croppers ("ardha-sitikas") for cultivation. In addition to the taxes levied on the leased royal lands, there were heavy additional charges for irrigation and labour services or Vishti taken from subjects, composed apparently of Shudra labourers. Kautilya lays down that the settlement of royal lands ought to consist overwhelmingly of Shudra peasants (Shudra Karshaka) and low-class elements, whom he regards as more amenable to discipline. According to Irfan Habib, who draws upon D.D. Kosambi, the settlement of Shudras as cultivators, which Kautilya lays down as a deliberate measure of policy to be enforced by the King, led in the Maurya period to the transformation of a substantial part of the Shudra population into peasants. Later, the practice of the King's alienation of villages and his rights to the subordinate chiefs and others, who came to have direct relations with the peasantry, started the process of what Kosambi refers to as "Feudalism from above", which seems to have reached an advanced stage during the period of Guptas (fourth-fifth centuries A.D.) and Harsha (seventh century A.D.).

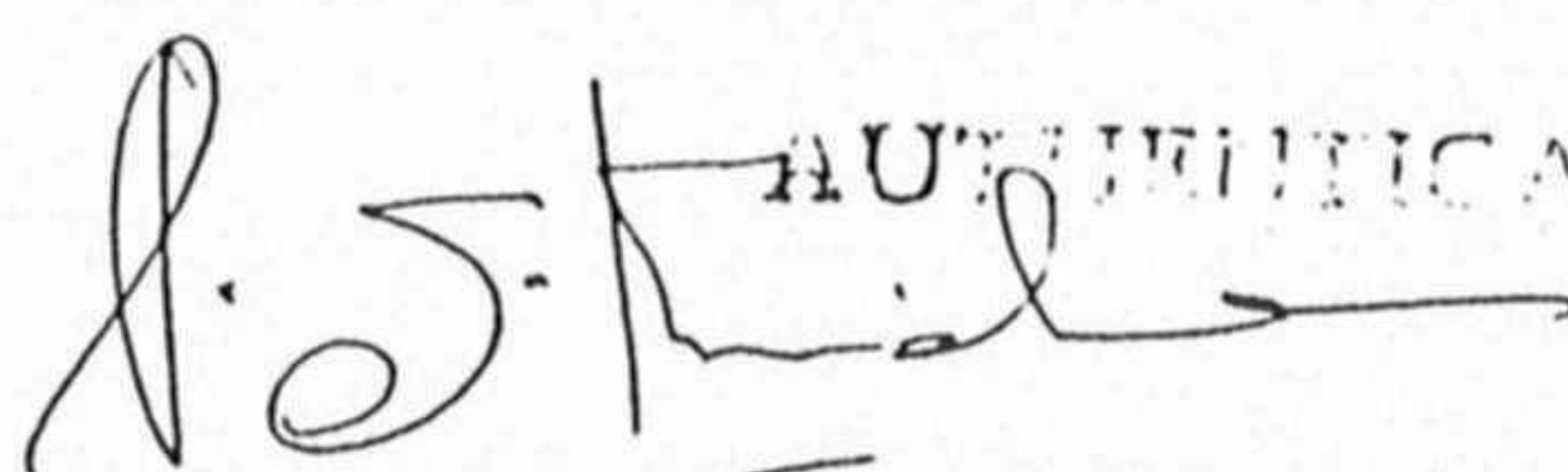
73. Regarding the existence of serfdom in the period from the 7th to 12th centuries, designated often as "feudal", Irfan Habib cites epigraphic records inter alia from Marwar, which is part of Rajputana/Rajasthan, attesting to the transfer of individual peasants and labourers as part of grants of lands. He cites Sharma's quotation of a Chinese account of A.D. 732 to show that the practice of donating villages together with the villagers --- of whom naturally peasants were predominant --- to monasteries and temples was universal in India, thus indicating a general emergence of serfdom. Irfan Habib cites

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L.Gopal to provide illustration of a claim to a share in the barley crop made from peasants by potentates in Marwar, on account of the Persian wheel (Arghata) which was at that time owned by the potentates.

74. While Irfan Habib first covers the same period as Sharma, he is particularly enlightening in his recording of the developments with regard to feudalisation and the concomitant subjugation of the peasantry from the 13th century onwards with the establishment of the Delhi Sultanate (1206-1526), which is the true beginning of the medieval period in India. According to Habib, the principal achievements of the Sultans lay in a great systematization of agrarian exploitation and an immense concentration of the resources so obtained, ensuring that land revenue (kharaj/mal) demanded on their behalf should comprehend the bulk, if not the whole of the peasant's surplus produce and the King's bureaucracy thereby became the principal exploiting class in society. This was perfected by Alauddin Khalji at the beginning of the 14th century who decreed that the land revenue should be set at half of the produce and should be levied separately on the holding of each individual cultivator. For this purpose the tax on each unit of areas (biswa) was worked out and levied. The practice of payment in cash was introduced but in a manner generally to the disadvantage of peasants. Thus the screw was tightened more efficiently than before. In addition to the land revenue, other burdens were also imposed like the tax on cattle or grazing-tax. Territorial units known as Iqtas were assigned by the Sultan to individuals of the ruling class. The territory not so distributed, was designated as Khalisha, from which revenues were directly collected for the Sultan's own treasury. The Iqta-holders or muqtis were entitled to the revenue levied in their respective Iqtas. The Iqta was not only a revenue assignment but also an administrative charge of which the muqti was the governor. This system underwent changes, including sub-assignment by the principal Muqtis (Walis

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or Iqta holders), who were territorial commanders and governors, of parts of their territory to their subordinates and so on downward, the ultimate assignee levying the land revenue directly from the peasants, thus loading a many-layered structure of exploitation on the peasants. From the time of the Tughlaks, the estimated revenue income (Jama) from the Muqtis was fixed permanently, so that the assignees could take all benefits of increase in actual revenue collection and thus they were provided incentive to maximise the collection by squeezing the peasants hard.

75. Gradually the composition of the ruling class was broadened to include "upstarts", Indianised Turks, Indian slaves, lower strata of the Indian population and also Hindus. The hold of the ruling class on the lands and territories granted to them at the cost of the peasants was strengthened by recognising hereditary succession to official posts and presumably to grants.

76. Irfan Habib also traces the emergence of a superior rural class during this period, partly consisting of the Turkish pre-Sultanate ruling class, whose position had been considerably lowered, who now became rural and village chiefs and collected land revenue from the peasantry on behalf of the Sultans and his assignees, while they themselves were usually exempted from land-revenue in respect of their own land-holdings. He also refers to the social consolidation of this superior ruling class, through absorption of its various elements as clans or sub-castes, into the great Rajput caste over the larger part of Northern India. According to him this new caste cohesion of the rural aristocracy, which surfaced in the sixteenth century Persian records, must have quietly evolved in the preceding period and possibly developed out of a real class-cohesion. He also refers to the conflict of interests between this superior rural class and the common peasantry, the former tending to escape from land revenue on their own lands while collecting it from the general peasantry besides levying their own imposts on

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National Commission

the peasantry. "

77. Coming to the Mughal period from the sixteenth century, when there still were large stretches of virgin lands available for cultivation in almost all regions of the Mughal empire and peasant cultivation continued to be the most popular form of agricultural production, the only important factor missing compared to the beginning of the 19th century was the extensive irrigation canal system laid out by the British chiefly in the Indus basin and the upper Ganga region. Peasants were no doubt indebted to money lenders for their seed and cattle and for meeting their revenue demand. The Mughals consolidated the process at work under the Sultans of claiming from the peasant the bulk of his surplus produce, but had the means to enforce it better, which tightened the exploitation of the peasants. By his exaction of the land revenue, the Mughal emperor enjoyed a major share of the fruits of the peasant's occupation and labour. Over the larger portion of the empire, he transferred his right to collect the land revenue and other taxes due to him to assignees known as Jagirdars. The areas whose revenues were assigned were known as jagirs. Jagirdars were officers and servants of the emperors and their jagirs were assigned to them in lieu of their pay and for maintaining cavalry contingents of the prescribed sizes required to be maintained by each of them for the emperor's service in accordance with the respective rank or mansab assigned to each of them. Besides these ordinary jagirs, there was another category of jagirs known as the Watan Jagir, which was the territory of the subordinate chiefs who had been enrolled in the Imperial services and granted a Mansab or rank. His pay as Mansabdar was supposed to be met from the income of his own territory which was treated as hereditary jagir. The Watan jagir mainly comprised many of the subjugated kingdoms of Rajputana and also certain other parts of the country. Lands not assigned in jagir formed the category known as Khalis-i-sharifa, the revenue of which was collected directly for the King's treasury. The Mughal system of jagirs was essentially similar to the Iqta system of the Sultans with some

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137
103

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106

variations. While there was a period when jagirs were transferred periodically there is evidence to show that the assignments held by the big Jagirdars covered a very large portion of the empire. Irfan Habib points out the extreme degree of concentration of wealth in Mughal India and pauperisation of the common people including particularly the peasantry by pointing out that a mere 445 higher mansabdars controlled over 61% of the revenue-income of the empire, the revenues comprising the bulk of the peasant's surplus and the empire comprehending the larger part of the Indian sub-continent. This top elite of 445 must have held well over half of the empire in jagir. This ruling class included princes of the Imperial family, members of leading families of Muslim nobles, Rajput officers in respect of whom the hereditary element was preponderant, their Watan jagirs being hereditary but not divisible, and new recruits from abroad and from among zamindar-chiefs (esp. Rajputs) and from ruling groups in annexed Kingdoms (of which the Marathas and the Dakhinis were the most significant examples). Irfan Habib has pointed out that while the process of consolidation of a superior rural class known as the Rajput caste over the larger part of the Northern India was largely completed by the beginning of the Mughal period, the designation of zamindar evolved for the rural exploiting class. Zamindari is described by him as, in essence, a right superior to that of the peasants and originating, in the main, independently of the existing Imperial power, with a claim to a share in the produce of the soil which was completely distinct from, though parallel to, the land revenue demand. This claim took many forms like cess on the cultivator, levied in kind or cash; or the difference between the zamindar's actual collection of land revenue from the peasants and the amount assessed by, and due from him to, the State; or the amount compounded by the authorities for a definite share (malikana), either out of the land revenue or by allotment of revenue-free land. Besides exercising this right to a share in the produce of the soil, the zamindar also levied a number of other cesses and exacted certain customary perquisites from the peasants under him.

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103

Zamindari right was to be found in one form or another in every locality or pargana of the empire. But side by side, in most regions there were also villages termed raiyati or peasant-held which were not subject in any way to a zamindar. Part of the lands with the zamindar was Khud Kasht Land cultivated by them through their serfs or hired labour while the rest were cultivated by peasants who were apparently treated as tenants-at-will. Irfan Habib points to the close association of caste and clan with zamindari at its historical roots. The zamindars formed a powerful local element and therefore Mughal authorities including the jagirdars used the zamindars for the collection of land revenue from the peasantry.

78. In the Mughal empire, there was a practice of periodic transfers of jagirs as a means of preventing its officers from developing into local autonomous rulers. This resulted in jagirdars having no local ties and, therefore, encouraged excessive exploitation of the peasantry and mounting pressure on the zamindars under the jagirs to collect higher and higher revenues leading to uprisings of peasants comprising especially of Jats, Sikhs and Satnamis often under the leadership of zamindars or by the zamindars themselves as in the case of Marathas with the local peasants as their fighting force. Wherever the zamindar-leaders of the Marathas or Jats were successful, they not only sought to overthrow Mughal jagirdars but also replaced other zamindars by themselves, and thus themselves became rulers-cum-zamindars. Irfan Habib specifically mentions the expansion of the Jat zamindari in Middle Doab. In some parts, mere revenue farmers sought to acquire hereditary status by claiming the position of zamindars. This was the agrarian system which the British stepped into, of which the pivot was the large revenue demand, the property (vested in government by immemorial usage) of 10/11th of the net rental of the country.

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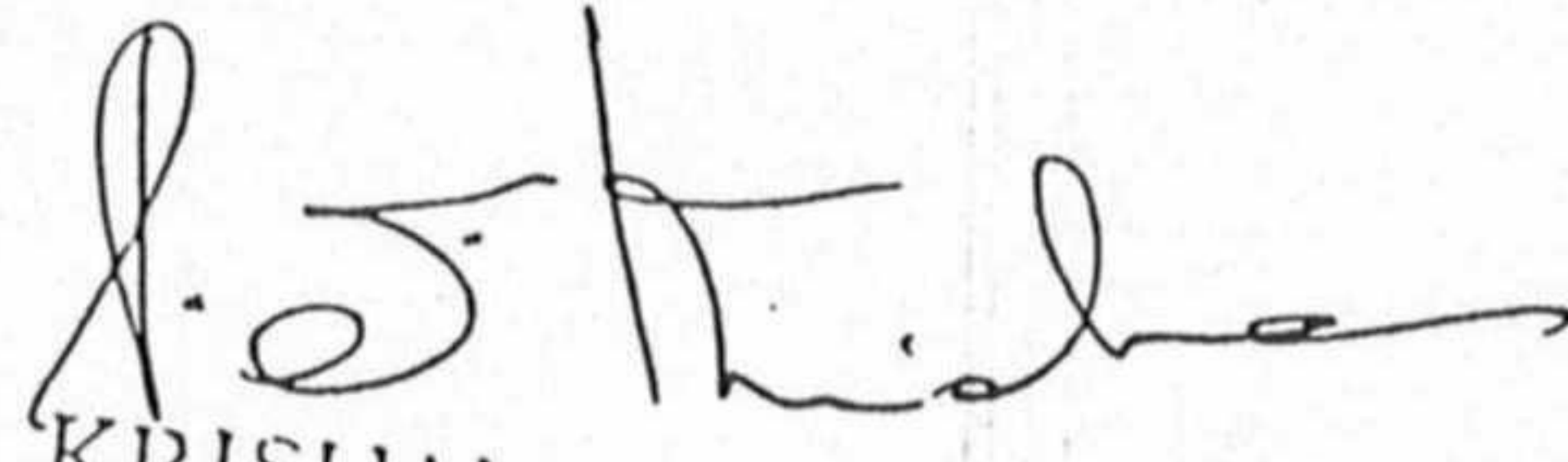
Division
for Backward Classes

139

105

79. The social structure and the economic system of Mughal India has been described by Angus Maddison as one involving a high degree of exploitation through the fiscal system and caste. The primary economic aim of the Mughal elite under the fiscal system was short-term maximization of the tax levy of the peasantry. By squeezing the peasantry too hard, the Mughal elite reduced productivity, and the caste-hierarchy within the village society also reduced productivity. The social structure of the Mughal empire, the distribution of the population of the labour force and share in the national income after tax has been presented by Maddison in a tabular form separately for Non-village Economy and the Village Economy:-

Percentage of Labour Force		Percentage of National income after tax
18	NON-VILLAGE ECONOMY	52
1	- Moghul Emperor and Court - Mansabdars - Jagirdars - Native Princes - Appointed zamindars - Hereditary zamindars	15
17	- Merchants and bankers - Traditional professions - Petty traders and entrepreneurs - Soldiers and petty bureaucracy - Urban artisans and construction workers - Servants - Sweepers - Scavengers	37
72	VILLAGE ECONOMY	45
	- Dominant Classes - Cultivators and rural artisans - Landless labourers - Servants - Sweepers - Scavengers	
10	TRIBAL ECONOMY	3


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 for Backward Classes

80. On this base, Maddison presents the important consequences of the colonial rule. Among these consequences were the truncation of the Mughal social pyramid at the top; the sharp reduction of the share of the Mughal aristocracy in the national income; transfer of part of the Mughal surplus to the upper caste village capitalists and money-lenders, thereby increasing the income inequality within the villages; and transfer of part of the fiscal resources to create a more compact, smaller, more efficient modern military, bureaucratic machine. But they did not bring about any major change in village society or in the caste system or in production techniques in agriculture. Confining ourselves to agriculture in the present context, the colonial government made institutional changes in agriculture, one of which was the abolition of the top-layer of Mughal property rights, viz. "the Jagir", except in the autonomous princely states which included the 21 princely states of Rajputana/Rajasthan. The second layer of Mughal property rights, viz., those belonging to Mughal tax-collectors known as Zamindars (other than those Zamindars who were of pre-Sultanate aristocracy and therefore had hereditary status) was reinforced by being given hereditary status in certain parts of India settled earliest by the East India Company, viz., Bengal, Bihar, Orissa, Eastern UP and small parts of Andhra Pradesh and Tamil Nadu. But these Zamindars were shorn of their judicial and administrative functions. In most of Peninsular India and also in the rest of UP and the Punjab, the British dispossessed many of the old Mughal and Maratha nobility and big Zamindars of the pre-colonial period and vested property rights and tax obligation on individual peasants under a revenue system known as 'ryotwari' or peasant tenure system or its variants, characterised by absence of intermediary layers. The property rights so vested under the ryotwari system did not go down to lower-caste cultivators, who became mere tenants of members of traditional dominant castes in villages who mostly got land titles or recorded land occupation under the ryotwari system. But it did strengthen the position --- economic and social --- of the hereditary dominant peasant castes. They

further benefitted by the much lower level of taxation under the British rulers compared to the Mughal tax system. The benefit of the much lower level of fiscal burden was reaped by Zamindars in zamindari areas mainly in Eastern India and the eastern part of North India and by the peasants of dominant castes in the ryotwari areas. The status of money-lenders was also improved.

8/. An important development during the colonial rule was its contribution towards increased output through large-scale canal-irrigation, both as a source of revenue and as a measure of protection against famine, resulting in an 8-fold increase in the irrigated area. A good part of the irrigation works undertaken within the boundaries of the present India was in Punjab, which included the present Haryana, and in Western UP. One of the additional motivations for establishment of canal irrigation in this belt was to provide incentives for officers and men to offer themselves for recruitment to the British Indian Army. Maddison also presents the altered social structure at the end of the British rule, percentage of population of the labour force provided by different social classes and the sharing of national income, again separately for Non-village society and Village society:-

Percentage of Labour Force		Percentage of National Income
18	NON-VILLAGE ECONOMY	52
0.06	{ British officials and military British capitalists, plantation owners, traders, bankers and managers }	5
	{ Native Princes Big zamindars and jagirdars }	3
0.94	{ Indian capitalists, merchants and managers }	3
	{ The new Indian professional class }	3

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142

P. S. KRISHNAN
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for Scheduled Castes

17	{ Petty traders, small entrepreneurs, traditional professions, clerical and manual workers in government, soldiers, railway workers, industrial workers, urban artisans, servants, sweepers and scavengers }	30
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VILLAGE ECONOMY

3	{ Village rentiers, rural moneylenders, tenants-in-chiefs, small zamindars }	20
20	{ working proprietors, protected tenants }	18
29	{ Tenants-at-will, sharecroppers, village artisans and servants }	12
17	{ Landless labourers, scavengers }	4

7	TRIBAL ECONOMY	2
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82. The continuities included the persistence of a large class of landless labourers (who expanded in population share during the British period) and the persistence of other most under-privileged classes like scavengers, sweepers etc., but there are also significant changes like the elimination of the Mughal empire and Court, Mansabdars, sharp reduction of jagirdars except in limited areas like Rajputana/Rajasthan, sharp reduction in the class of quasi-autonomous native princes of whom only a quarter survived and substantial reduction of local chieftainry or zamindars who survived in only about 40 percent of India. In village society, one important change was that the cultivators were divided into 2 classes, viz., the working proprietors and the tenants-in-chief on the one hand and the more insecure tenants-at-will and share croppers on the other. The working proprietors, tenants-in-chief and the share-cropping tenants were no longer squeezed by taxation and their share in national income probably increased.

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83. The specific situation of the peasantry of Rajputana/Rajasthan among whom Jats were prominent come out from the nature of peasant movements in the late 19th and 20th centuries described by Sumit Sarkar ["Modern India 1885-1947", Macmillan India Ltd., Madras, Bombay, Delhi, Patna, 1985, first published 1983] and Pushpendra Surana ["Social Movements and Social Structure (A Study in the Princely State of Mewar)", Manohar, 1983]. In the case of Ryotwari and similar areas, peasant movements and peasant-riots were mainly for resisting increase in tax-revenue or for protection against grabbing of peasant lands by non-peasant money-lenders etc. taking advantage of peasant indebtedness, especially during and after famine, price hike and the like. Such examples are the anti-Sowkar Deccan riots in 1875 (in Pune and Ahmednagar districts) against immigrant Marwari and Gujarati Bania money-lenders for protection against loss of their lands through "debt bonds" executed on account of widespread peasant-indebtedness following fall in cotton-prices after the boom and sharp upward rise in land revenue; the Deccan riots again from 1896 to 1899 demanding revenue remission following famine conditions; enforcement of non-payment of revenue hiked up by the British in temporarily settled ryotwari areas in the Kamrup and Darrang districts of Assam in 1893-94, no-revenue movements at Kheda in Gujarat in following plague and famine between 1898 and 1906 and government revenue enhancements, resistance to land-revenue enhancements in Bardoli in 1927-28 and in coastal Andhra in 1928-29; agitation at Loharu in Punjab against a tax on camels in 1935, champaran in 1917-18 inter alia for remission of rent due to poor crops. In respect of such struggles the Congress took a more or less unambiguous position and this helped the peasants of ryotwari and similar areas engaged in this type of movements.

84. Leaving aside the tribal peasant movements, and the movements of landless labourers generally of the "untouchable" Scheduled Castes like the one inter alia for imposition of ceiling and distribution of surplus lands and the landless labourers as in Telengana in 1944-48, both of which had thier

144. *[Signature]*
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own characteristics and are not relevant in the present context, another important genre of peasant movements was to protect the rights of tenants at-will and share-croppers in the zamindari and jagirdari areas against ejections and for giving them occupancy/ownership rights and for reduction of heavy rents and abolition of the proliferation of cesses. The peasant agitations in the present State of Rajputana/Rajasthan, in which the Jats took a major hand, fall in this genre along with the endemic Moplah riots in the Jenmi-tenure-dominated Malabar region of Kerala from 1836 to 1919 which was rooted in agrarian discontent of tenants-at-will and labourers subjected to increasing number of rent suits and eviction decrees. Among the princely states of Rajputana/Rajasthan, Mewar was the scene of a number of important peasant movements of this genre, of which Bijolia, a big Mewar jagir held by a Parmar Rajput, where there were 86 different types of cesses on Kisans, against which there were agitations in 1905, is a well-known example. This agitation took the shape of collective refusal to cultivate land and the threat to migrate to the neighbouring areas led among other by Vijay Singh Pathik, referred to in the Memorandum by the Jats of Rajasthan. Sumit Sarkar has referred to the princely states as, for the most part, remaining as "social, cultural and political backwaters, petty despotisms which did not have to bother about the legal forms and civic rights which had developed in British India." The powerful anti-feudal Kisan movement built around Bijolia by Vijay Singh Pathik and Manik Lal Verma wrested from the jagirdars some concessions in the shape of reduced cesses, but provoked alarmist reports like in the Wilkinson's Rajputana Agency Report of 1921 which described Mewar as "becoming a hotbed of lawlessness. Seditionist emissaries are teaching the people that all men are equal and that the land belongs to the people and not to the State or landlords". There were also comparable agitations in other princely states of Rajputana/Rajasthan. This category of agitations was more difficult, partly because the peasants were weaker there than in the ryotwari areas, the oppression and repression in princely States and in jagirdari/zamindari areas

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145

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Member Secy, NCBC

111

were more severe and unbridled and the Congress itself avoided in getting embroiled in such movements till the Haripura Congress and the State Peoples Congress in 1936 which for the first time drew up a programme of agrarian demands and some section of the Congress, viz., Swarajists even opposed statutory amendemnts giving tenancy rights to Bargadars (share-croppers).

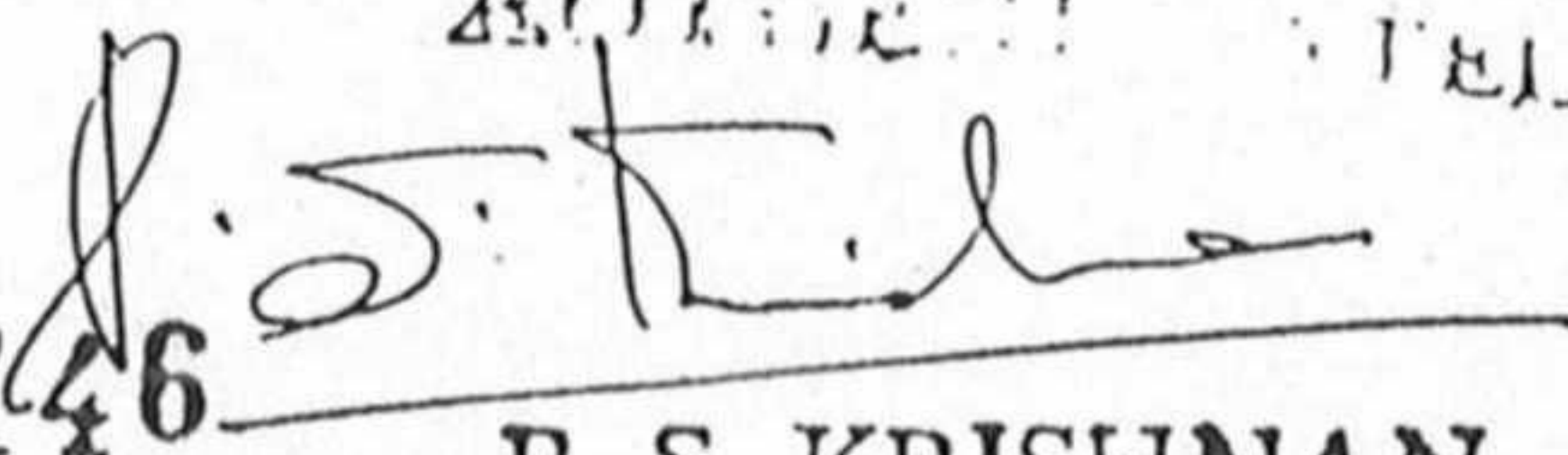
C. Position of Jats

(i) GENERAL

85. The above historical account of conditions of peasants and peasant castes in India has been briefly given in the above section in order to bring home the sequence of socio-historical events, one of the important results of which was the reduction of the peasant class --- and in the Indian context of the castes of peasants -- into the abyss of social and educational backwardness and economic exploitation by the combined operation of what has been termed as Indian Feudalism and of the Indian Caste System. This also helps to see why different Commissions at different points of time and different provincial/Princely State/State Governments at different points of time, both before Independence as well as at different periods after Independence, and the two National Commissions, viz., the Kaka Kalelkar Commission and the Mandal Commission have generally been in agreement in independently including peasant castes in general in their respective lists of Backward Classes.

86. At the same time, the listing Commissions and governments have also been generally able to reflect in their lists the reality of the changing socio-economic environment shortly before and during the British rule whereby certain peasant castes became exceptions to the general phenomenon of peasant castes being found to be socially backward. The Jats are one such exception.

87. Fortunately for the Jats, they have been in occupation

146 

P. S. KRISHNAN
Member - Secy, NCBC

as the principal peasant caste, mainly of that part of India where the beneficial effects of the British rule for the peasantry were maximally felt, viz., Punjab, Haryana and Western U.P. in terms of the present territorial divisions.

88. The Jats in this area have all or most of the advantages enumerated in para 57 of sub-Section A of Section IV. This area was free from intermediary tenures like Jagirdari and Zamindari, which were both socially as well as economically debilitating for the peasants as brought out in sub-Section B above. Most of this area came under direct British rule and became free from princely rulers from the middle of the 19th Century. Most of the princely rulers of the princely States in the area, which outlived the introduction of direct British rule, belonged to the Jat caste itself which re-enforced the social as well as economic position of the Jat peasantry of such princely States.

89. In a major part of this area, even prior to the entry of the Britishers, over the debris of the late Mughal Empire, Jat principalities and a major kingdom had arisen -- particularly the powerful Sikh kingdom of Maharaja Ranjit Singh in the Punjab (which was vast than the present Punjab) in which power was mainly wielded by Jats who were adherents of the Sikh religion, and the kingdom of Bharatpur created at the beginning of the 18th Century by Thakur Badan Singh and his celebrated son Maharaja Suraj Mal, the boundaries of which extended beyond the present Bharatpur to include large parts of the present Haryana upto Rohtak and the major part of Western Uttar Pradesh including Agra, Mathura, Etah, Aligarh and Meerut [K.Natwar-Singh, "Maharaja Suraj Mal 1707-1763", B.I.Publications, New Delhi]. Thus at its peak, just before British rule Jat political power extended from Western Uttar Pradesh upto the greater Punjab more or less contiguously. After these Jat kingdoms were reduced with the death of Maharaja Ranjit Singh at one end and Maharaja Suraj Mal at the other, most of the native princely States, allowed to survive by the paramount British power, were ruled by the Jat princes as in Patiala,

147

P. S. KRISHNAN

Member Secretary

National Commission

113

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Nabha, Jind, Bharatpur, Kapurthala and Faridkot, some of them following the Sikh religion and the others following the Hindu religion.

90. * This is also the territory in which British irrigation canal construction was maximum, actuated by certain clear political motives of the British rulers. Just as the social backwardness of the generality of peasant castes is not accidental or sporadic phenomenon, similarly, the socially advanced status of the peasant caste of Jats in this territory is also not accidental or sporadic but occasioned by the concatenation of the above developments.

91. In their case subject to the exception of one area in the entire territory of their occupation, the two necessary conditions mentioned in para 50-51 of sub-section A of Section IV have been fulfilled, the highly facilitating condition has also been fulfilled, and even the condition giving a tremendous advantage has been fulfilled.

92. It is relevant in this context also to note that the Arya Samaj movement which was against caste-based inequalities and the varna-based hierarchical order had great vogue in Punjab, Haryana and Western U.P. and in particular Jats, among the peasant castes, were strong adherents of this movement. This too gave a positive turn to their attitude and self-esteem and has contributed to a situation in which they are not socially backward in this belt over and above the other socio-historical factors mentioned earlier. It is also a social reality that the development of the capability ^{or} to ideologically challenge and in practice reject the varna order by a land-owning peasant community with substantial resource-base traditionally categorised as Shudra helps it to attain a socio-psychological state which becomes an important additional facilitating factor in the process by which it ceases to be socially backward.

93. But, while this is the general position regarding Jats, the very mention of their name should not create a bias against objective examination of the claim of these conditions not being fulfilled in respect of Jats of any part and therefore such Jats falling into the general pattern of the peasant-castes. In fact, it is the case of the Jats of Rajasthan that they, except in Bharatpur and Dhaulpur, are an exception to the general situation of social and other overall advancement of Jats of North-West India as a whole.

94. Keeping these general observations in view, the position of Jats are examined in each State to which they are native, including those from which there are specific Requests for inclusion in the list of Backward Classes.

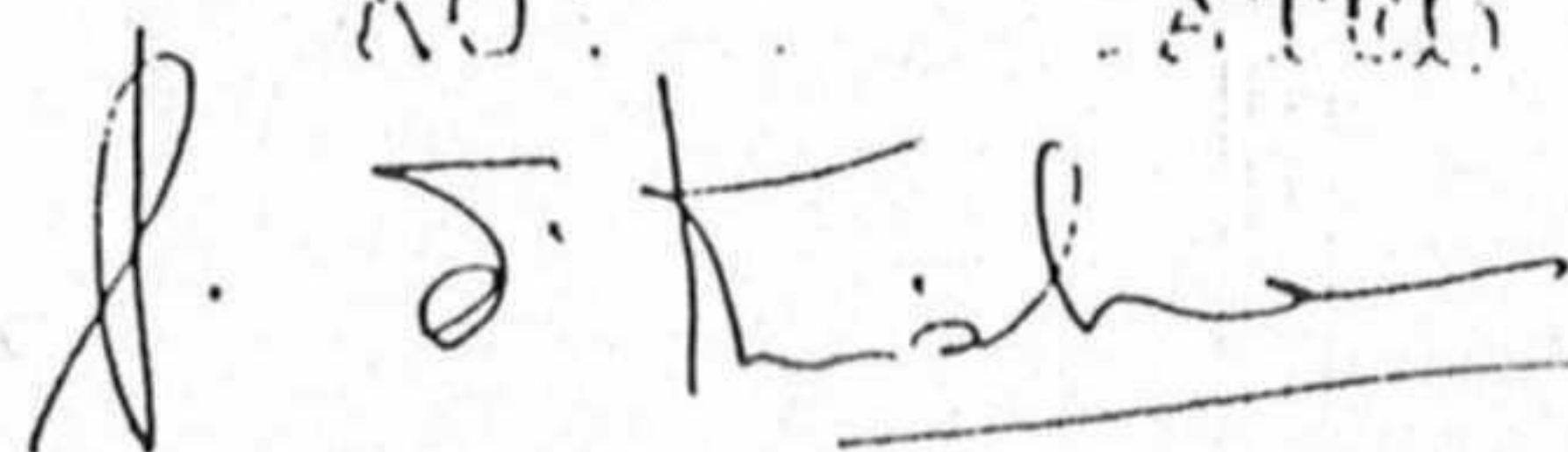
(i) Punjab

95. As mentioned earlier, the Jats in Punjab have had all the four factors of advantage enumerated in para 50 of sub-section A of Section IV. They are certainly not Socially Backward here. It is a matter for appreciation that the Jats of Punjab, mostly following the Sikh religion but some also following the Hindu religion, have been self-respectful and truthful, like the Kammas and Reddies of Andhra Pradesh, not to seek inclusion in the list of Backward Classes.

(ii) Haryana

96. In the case of Haryana, the fact that the Request-making Sabha has not been able to fill up the NCBC's Questionnaire and return it, even though addressed to do so more than a half-year back, is a factor of weakness that goes against them.

97. It is surprising that this Sabha has not cited the Report

AUT. DATED

149 P. S. PRISHNAN
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of the Backward Classes (Gurnam Singh) Commission appointed by the Govt. of Haryana, which was specifically for Haryana, though this Report has been cited by the Request-making parties of Uttar Pradesh and Madhya Pradesh in favour of their claim for the inclusion of Jats of those States in the BC list.

98. Among the specific averments made by the Sabha, the fact that the Jats have adopted agriculture as their main occupation and that the ruling class has always tried to oppress the peasants are no doubt true, but the Sabha has not taken into account the events of the 18th and 19th centuries which brought about significant changes in the condition of Jats of Haryana as in the case of Jats of Western UP and Punjab. It is also true, as pleaded by the Sabha, that before Independence the money-lenders exploited the Jats in this area, as they exploited peasants in many other parts of India, especially after British laws facilitated mortgage and transfer of peasant land. But the Punjab, which then included Haryana, was one area where the peasants were able to put up a strong movement against acquisition of peasant land by money-lenders, and thereby compelled the provincial government to place restrictions on such alienation of peasant land, for the first time anywhere in India -- thus the Land Alienation Act (XIII of 1900) was passed, by which the Government notified in each district certain tribes as "agricultural tribes", and statutorily defined "agriculturists" and prohibited any member of agricultural tribes from selling or otherwise permanently alienating his land to any one who was not an 'agriculturist' of the same village or a member of an agricultural tribe["Imperial Gazetteer of India, Provincial Series, Punjab", Vol.1, Atlantic Publishers & Distributors, New Delhi, 1992]. This Sabha as well as Associations of some other States have referred to the judgements in which the Jats were declared as belonging to "Shudra" varna. It is true that the Jats like all peasant castes in general have been classified as belonging to the "Shudra" varna. There are some non-peasant categories of Backward Classes which have also been classified as "Shudra". Though

150

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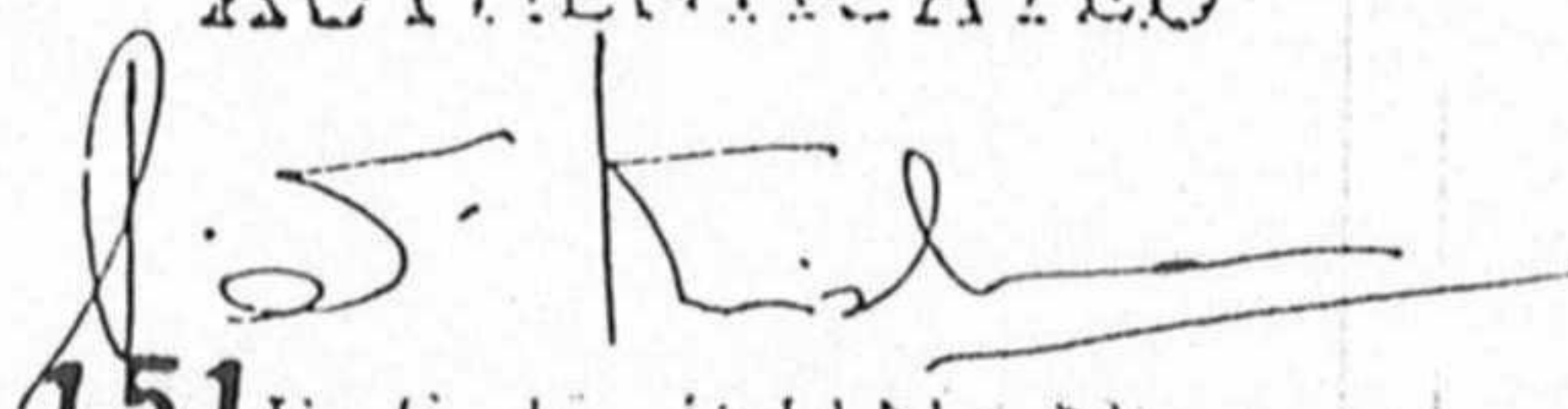
116

typically and normally all castes which are included in the lists of Backward Classes have been traditionally categorised as of "Shudra" Varna, all communities traditionally classified as belonging to "Shudra" Varna are not necessarily included in the lists of Backward Classes, the examples being Reddy and Kamma of Andhra Pradesh and Nair of Kerala. While the castes which have been classified as belonging to the three 'Dwija' Varnas of Brahmin, Kshatriya and Vaishya are not normally and typically included in the list of Backward Classes, and any Request by any of them should appropriately be subjected to what is referred to in jurisprudence as "strict scrutiny", the classification of a caste or community as "Shudra" is not by itself a determining factor in its classification as a Backward Class.

99. The fact that the participation of Jats in business is negligible also does not help their claim because all socially advanced castes do not have business as their occupation, and it is only some castes among forward castes who are business castes or trading castes or Vaishya castes or Bania castes. The reference to Tod does not help Haryana Jats because he has written about the Jats of Rajasthan and not the Jats of Haryana. A statement like the one that the Jats have been converted into landless labourers is not supported by the representations before the Gurnam Singh Commission, for example, by Shri Z.S. Rana, Shri Satvir Hooda of Rohtak, Shri Hoshier Singh Sangwal of Rohtak, Shri Sukhbir Singh Kataria of Gurgaon, Shri Balwan Singh of Jind etc. Some of them no doubt say that their holdings are small or have become small, but none of them has said that they have become landless labourers. Shri Kataria of Gurgaon also says that their land has been acquired by the Government and no compensation has been given to them, but this is different from claiming that the Jats have been reduced to agricultural labourers on account of sub-division of lands etc.

100. This plea also does not fit in with the trend revealed by Table 28-29 in which the Gurnam Singh Commission has given the caste-wise distribution of agricultural holdings. According

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151 J. S. P. SHANAN
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to this, the average holding of the sample 7159 Jat households is 6, and that of the 433 sample Jat Sikh households is 11, whether acres or hectares is nowhere mentioned. Only Bishnoi -- with average 11 among the sample 254 households --, Kamboj -- with average 8 among the 282 sample households -- and Mochi -- 6 among the 4 sample households (in fact too small a sample to rely upon) -- are comparable to Jat and Jat-Sikh. In Table 21, the Gurnam Singh Commission gives caste-wise distribution of value of household assets, in which the average value of assets of Jats is shown as Rs 217865 and for Jat-Sikhs as Rs 345267. There are few communities which are above the two lakh mark. The average for the 32,051 sample households of 80 communities plus the 81st "others" comes to Rs 134759. 58 communities apart from the blanket "others" are shown as having average household assets of below 15% of the State average and, notably, Jats and Jat-Sikhs are not among them. This too does not go with the generalised and unsubstantiated claim of the Haryana Jat Sabha that the Jats have been converted into landless labourers.

10/. The Sabha's averment about the "Mandal Commission case of 1994" -- apparently referring to the Supreme Court Judgement in Indra Sawhney and Others, commonly referred to as the Mandal Judgement, which was delivered in 1992 -- is confused; even if what they mean to say is that the Supreme Court has approved of reservation for those castes who are economically and socially backward, it is not correct that the Supreme Court has approved of reservation for "economically and socially backward castes", but only for Socially Backward Castes or Socially and Educationally Backward Castes. All the other averments made by the Sabha are too general, not backed up by data and not helpful to their case.

102. Before leaving the case of the Jats of Haryana, it is necessary to refer to some more aspects of the Report of the Haryana Backward Classes (Gurnam Singh), Commission, 1990, though it has, surprisingly, not been referred to by the Haryana Jat Sabha, but, equally surprisingly, has been invoked by the

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152

P. S. KRISHNAN

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Commission

118

Request-making parties on behalf of the Jats of Madhya Pradesh and Uttar Pradesh. It is not known why the Haryana Jat Sabha has not invoked this Commission's Report in their favour and whether it is because they are aware of the weakness of the contents of this Report in so far as it relates to the Jats including Jat Sikhs.

103. The Haryana Backward Classes (Gurnam Singh) Commission was set up on 7.9.90 and started functioning w.e.f. 17.9.90 and submitted its Report on 30.12.90. It was headed by Justice Gurnam Singh and had two other Members. Of its 4 terms of references, the second one was to "investigate the reasons for backwardness of various agricultural classes/communities in the State such as Ahirs, Gujars, Sainis, Jats, Jat Sikhs, Rors and Meos etc."

104. Coming to the specific data contained in the Report, there are internal aspects which throw doubt on the value of its data and findings so far as Jats are concerned. Thus in Table-36, in respect of Social criteria, the number of points scored by Jats is 24 out of 36 --- the higher the score the more backward being the community. According to this, Jats are not only more backward than the other agricultural communities like Ahir (15 points), Bishnoi (21 points), Kamboj (15 points), Saini (6 points) etc., but also more backward than the artisan/artisanal and low occupational communities like Bhisti/Kahar (18 points), Chhipi (15 points), Dhimar (15 points), Gadaria (12 points), Dhobi (18 points), Kanjar (15 points), Kumhar (12 points), Lohar (12 points), Manihar (12 points), Mirasi (15 points), Mochi (12 points), Ramgarhia (9 points), Teli (12 points), Tonk/Darzi (9 points), Nai (9 points), Khati/Jangra (15 points) etc. The data also show that the Jats are behind most of the Scheduled Castes, namely, Dalimiki (16 points), Bawaria (15 points), Chamar (18 points), Sanak (21 points), Jullaha (9 points), Khatik (9 points), Kori (9 points), Nat (21 points), Raigar (6 points), Sansi (15 points). They are also more socially backward by social

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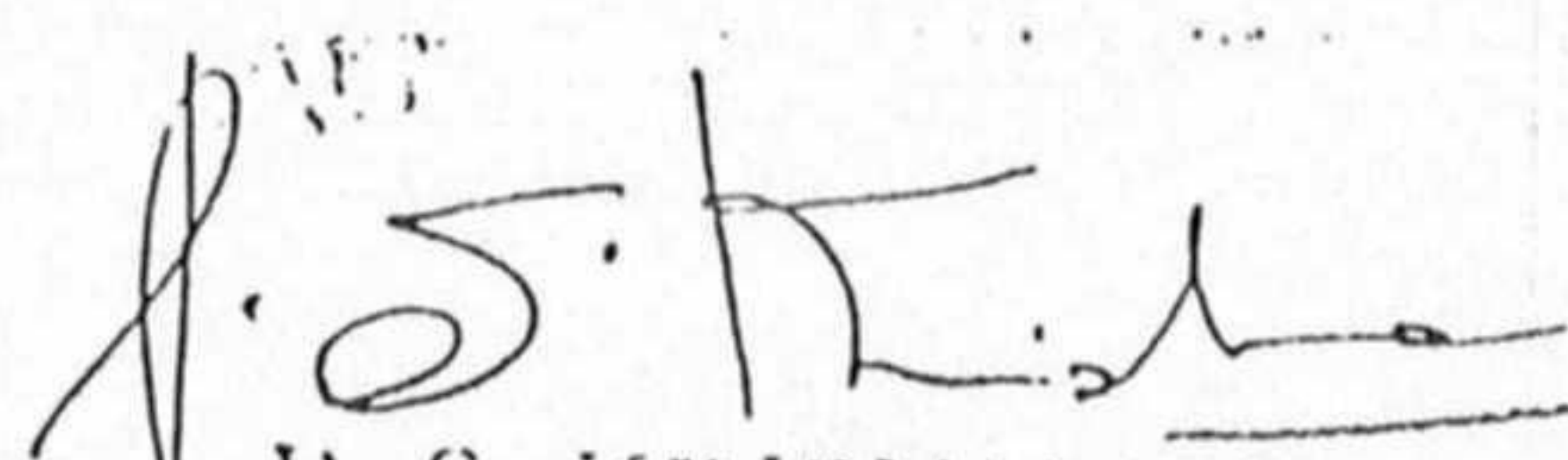

P. S. KRISHNAN
Member Secretary
National Commission

153

119

criteria than Meo (15 points) and Muslim (15 points). According to the social criteria, out of the 80 castes of Haryana apart from the 81st "Others" listed in Table-36, the Jats are ahead of (ie more backward than) only 3 castes, viz., Barra (27 points), Bazigar (27 points) and Mazhabi (27 points), of which the latter two are SCs, and are at level with 3 other castes, viz., Gujjar (24 points), Od (24 points) and Shergir (24 points). The wide gap between the 24 points of Jats and the 15 points of Jat-Sikhs is difficult to explain rationally. It will be impossible for any one who knows the social conditions of North India and in particular of Haryana to accept that Jats are socially more backward than many of the Scheduled Castes, including those who are traditionally associated with "scavenging". Assuming that the score for Jat Sikhs represents more correctly the real score for Jats under social criteria, the Jats, like Jat Sikhs, would not have been statistically capable of being included in the List of Backward Classes. In the case of Jat Sikhs, whose total score was 24 under all criteria [social 15(out of 30) + Educational 4 (out of 20) + Economic 5 (out of 10)], the justification for its inclusion is given as "Jats cannot be divided on religious grounds". Even if the Jat scores under educational and economic criteria is kept as they are, and only the social score is brought on par with Jat-Sikhs, Jats would not make the grade.

105. Thus, what has been given as the backwardness score in the Gurnam Singh Commission's Report is, to put it mildly, undependable, so far as the Jats are concerned. In this context, it has to be mentioned that there is an application seeking the inclusion of Jat-Sikhs of Haryana in the Central List of Backward Classes. During the Public Hearing, the representative of this community has frankly admitted that the Jat-Sikhs of Haryana are not socially backward and the only ground on which its inclusion in the List of BCs is sought is that of political discrimination on account of religion. While it is true that there should not be any political discrimination on ground of religion, without going into whether it is actually


P. S. KRISHNAN
Member Secretary
National Commission

154

120

present in this case or not, the Commission has taken the view that the Jat-Sikhs cannot be included in the List of Backward Classes and the rejection of the Request is being separately advised to the Government of India. Agreeing with the observation of Gurnam Singh Commission's Report that the Jats cannot be divided on religious grounds, the Jat-Sikhs not being backward, both on their own admission as well as according to the data contained in the Gurnam Singh Commission's Report, the case of the other Jats, as shown in the above analysis, cannot be significantly different.

106. Further, according to Gurnam Singh Commission's Report, the representation of Jats in Class-I and Class-II services is 17.82% against their population percentage of 25% in the State as per Table 37. A level of representation in the higher State civil services, which is nearly 3/4th of the population-equivalent proportion, secured only by merit, cannot be considered to fulfil the Constitutional criteria of "not adequately represented in the services of the State" and does not also constitute convincing evidence of social backwardness. This does not take into account the Jat representation in the officer category of the military services. It is well known that Jats, both Sikhs and Hindus, are among the communities well-represented in the armed forces including the officer categories. In the North-Western States, military service has been enjoying a high level of preference and prestige. One would have expected the Haryana Backward Classes Commission, which has given as many as 37 Tables apart from Annexures, to give also statistics of representation of different communities in the armed forces, particularly in the officer categories. Its omission cannot be rationally explained and it can be presumed that, if those statistics had been given, the case of the Jats of Haryana for inclusion in the List of Backward Classes would have completely fallen.

107. Certain other contents of the Gurnam Singh Commission's Report also need to be noted here. In Table-1, the Report gives

AUTHENTICATED

[Signature] 155

SECRETARY

General

a sample of 32051 households of 80 communities plus a blanket "Others" distributed by "Opinion about Backwardness by others and themselves". According to this Table, the proportion of Jat households considered to be backward by others is only 11% and in the case of Jat-Sikhs the proportion is only 2%, while in the matter of self-perception only 9% of Jat households consider themselves as backward, and in the case of Jat-Sikhs the proportion is zero. The corresponding proportion for all the 80 castes and the 81st "Others" is respectively 31% and 4%. The difference between Jat and Jat Sikh is not rationally understandable. It is absurd to believe that a larger percentage of Jats perceive them as Backward than do the Scheduled Castes Balmiki(0%), Chamar (1%), Jogi (1%), Khatrik (0%), Mochi (0%), Bawaria (0), Dhanak (2%), Jullaha (0%), Kori (0%), Raiger (3%), Sansi (2%). Jat-Sikhs of Haryana do not make the grade of "backwardness" by this criterion and Jats by the first part of this criterion. The Jat Sikh score may be more correctly descriptive of the Jat score also. Yet, after Table-1, the Report of the Commission has surprisingly listed both Jats and Jat Sikhs among "castes considered backward by others and themselves" without taking into account the above percentages. In another statement (Table-9) the Report of the Commission gives distribution of households by opinion about backwardness by Govt. and Court. In the case of Jats, the percentage of households considered as backward by both the Govt. and Court is 'nil' and in the case of Jat-Sikhs, the percentage is nil by the Govt. and 1 by court. The corresponding proportions for all 80 castes plus the 81st "Others" is 1 and nil. After this Table, the Report of the Commission surprisingly lists both Jat and Jat-Sikh among "castes declared backward by Court of Govt.". The Report has put the figure "*1" against Jat and has given a footnote that "*1 Jats are declared Shudras by Court of Law". The Gurnam Singh Commission seems to have treated declaration of Jats as "Shudra" on account of their marriage customs as automatically amounting to declaration as backward by the court. But to judge from Table-9, this observation of the Court seems to be about Jat Sikhs and not about Jats.

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P. S. SHARMA