CHAPTER V

SOCIO - RELIGIOUS GUARANTEES TO DEPRESSED CLASSES UNDER THE CONGRESS RULE (1937-39 AND 1946-1967)
Thiru C. Rajagopalachari
Prime Minister 15-7-1937 to 29-10-1939.
[Ministry Resigned]
Chief Minister 10-4-1952 to 12-4-1954.
CHAPTER V

SOCIO-RELIGIOUS GUARANTEES TO DEPRESSED CLASSES UNDER THE
CONGRESS RULE (1937-'39 AND 1946-'67)

The Harijan Temple Entry Movement was dear to Gandhiji. After the entry of Gandhiji into Indian politics from 1920, Harijan welfare became the boom of Congress Party. Therefore, Rajaji, as soon as he became the First Premier of the Madras Presidency, introduced the Malaber Temple Entry Act, 1936, the Temple Entry Ordinance (Ordinance I of 1939) and the Madras Temple Entry Authorisation and Indemnity Act, 1939 so as to remove the temple entry disability of Harijans. Of course it was started by the Justice Party Government but due to want of public opinion it became an abortive one. Furthermore, the Hindu Religious Endowment Board Acts were also stood as deadlocks for the opening of the temples to the Harijans. Therefore, Rajaji, with forethought, amended the Hindu Religious Endowment Bill and removed hurdles for the free entry of Harijans in the temples. He also enacted the Removal of Disabilities Act, 1938 which secured the civil rights to the Depressed Classes. When T. Prakasam Pantulu was the Premier of Madras Presidency, the Communal G.O. was revised and the Temple Entry Bill was introduced on 28th January, 1947 and became an Act and when O.P. Ramaswamy Reddi was the Chief Minister of Madras Presidency, the Removal of Civil Disability Act, 1938 was amended in 1947.
REMOVAL OF CIVIL DISABILITIES AMONG CERTAIN CLASSES OF HINDUS

Both the Justice Party and the Congress Ministers passed certain Bills of Temple Entry of Harijans. But the removal of disabilities of the Depressed Classes was different from the temple entry. Therefore, the removal of disabilities Bill was in no way affected temples or religious institutions.

Removal of Civil Disability Bill of 1937 (L.A. Bill No.9 of 1937)

This Bill was introduced by M.C. Rajah and dealt with only the secular institutions. Rajaji defined the secular institution, such as hotels, restaurants, meals hotel, burial grounds (or) cremation wards, saloon, public well, stream, river, tank, pathway, transport, etc. The aim and object of the Bill was to grant the freedom to Depressed Classes to enter into these secular institutions without any objection or prevention if they were prevented on the basis of customs and usage or on the base of untouchability the preventers were to be dealt by Law suitably.¹

During discussions K.R. Kerant wanted to remove the word 'public' in the clause that enumerated the secular institutions. But Rajaji defined that the word 'public' was inserted before the word 'well' because there were two kinds of wells, one the public well and the other the private well. Those wells dug and maintained by the Government were called public wells, and

therefore, no person should prevent an Untouchable to take water from the public well. Further the Speaker Sambamurti enumerated that the word 'public' was to be prefixed for public properties like pathway, tank, sanitary convenience, transport, etc., here the Untouchables were allowed of their free movements. After this explanation Karant accepted the clause and withdrew his objection.

Muthiah Chettiar by supporting the Bill and congratulating M.C. Rajah, the mover of the Bill, M.C. Rajah said that for the past three decades all the leaders irrespective of their party, tried their best to remove the disabilities of Depressed Classes and enacted certain Laws on temple entry and on removal of disabilities. The public also were ready to welcome such enactments and they made no objection when they were enforced. However the leaders and reformers were to further educate the public, this Bill was intended not to a particular community but to the Indians as whole to wipe out the stigma of untouchability.

At the end M.C. Rajah the mover of the Bill thanked the House further unanimous support. The Bill was amended as suggested by all the members. Premier Rajesh with a joyful mood said, that this Bill was done unanimously though it was belated. It

2 Ibid., p.163.
3 Ibid.
4 Ibid., p.166.
was long overdue and he said that this Bill would go into the Statute Book and the names of members who were responsible for it would be remembered throughout the country and through the ages to come. Then the Bill was passed as an Act called The Madras Removal of Disability Act of 1938. *

Provisions of the Act

This Act was the first 'Penal Act' passed by Rajaji to remove social disabilities, making it an offence to discriminate Harijans not only in regard to publically supported facilities, such as roads, wells and transports but also in regard to any other secular institution to which the general public were admitted. This Act also banned judicial enforcement of any customary rights or disabilities based on membership in such a group. Violation was made a cognizable offence and larger fines and upto six months imprisonment for subsequent offences. 5

This Act granted civil rights to the Harijans to use any public stream, river, well, tank, pathway, sanitary conveniences, or means of transport of any secular institution which the general public were using.

Further, the Act protects the Harijans from executing by civil, criminal and revenue courts for their Acts of enjoying the

* Vide Appendix IV.
rights of secular institutions. The Act defined secular institutions as any refreshment, restaurant, coffee house, eating house, boarding house, lodging house, hotel or any other place which were provided with food, drinks, shelter or sleeping or other accommodation. Any place of public entertainment, any place where goods are sold, any laundry, any sheving or hair dressing saloon, or any other place where services were rendered to customers; any place used for the burial, cremation or disposal of the dead.

Refusal or sale of articles to Harijans considered as an offence by this Act. All offences punishable under this Act would be cognizable. Any person who molested or obstructed would be punishable, in the case of first offence, with fine which might extend to fifty rupees; and in the case of second or subsequent offence, with imprisonment which might extend to six months or with fine which might extend to one thousand rupees or with both.

Impact of the Act

The civil disabilities of the Depressed Classes which were imposed by social custom and usage and some of which were recognized by the Law both civil and criminal, were removed. The ideas of justice and social solidarity were enforced by this Act. The Untouchables had their free movements and slowly began

to achieve their progress in all walks of life. The Government's report itself appreciated the Bill of M.C. Rajah's for Removal of Civil Disabilities as a remarkable achievement in the society.  

But practically their disabilities were not completely removed. In the Thopputhurai Village, Tiruthuraipoondu Taluk, Tanjore District, an Adi-Dravida boy was admitted in a Government school. Immediately Caste Hindus withdrew their wards from the school.  

It was clear evidence of existing untouchability even after the Act.

A Bill to amend the 'Removal of Civil Disabilities Act of 1938'  

The Removal of Disabilities act of 1938 (Madras Act XXI of 1938) was passed by Rajaji to remove the disabilities of Depressed Classes. Since, his ministry had resigned in 1939, the Advisor's Government was in charge of the Interim Government from 1939 to 1946. During its regime the Act became a dead letter and moreover, this Government bluntly denied the civil rights of Harijans and said, that the Harijans had no legal rights to enter into coffee hotels, restaurants or meal hotels. Since the Congress leaders were in jails they could not question or agitate for this injustice done to Untouchables. The impact of the inactive Interim Government was a cause for the utmost

7 Fortnightly Report, First Half of December, Fort St. George, Madras, 19th December, 1938.

8 Viduthelai, 29th August, 1938.
communal atrocities on Harijans. They were suppressed, oppressed and depressed by the Caste Hindus.

As soon as the Congress leaders were released from the jails and came to power, their first act was to enforce the removal of civil disabilities of the Harijans. In order to give more vigorous force to the Civil Disability Act of 1938, they wanted to amend the Act. Hence, it was amended and enforced from 1947.

On 10th February, 1947 Vemula Kurmayya, the Minister for Public Information in the T. Prekeem Pentulu Ministry, introduced in the Council the "Madras Removal of Civil Disabilities (Amendment) Bill of 1947" and moved that Bill to be taken into consideration at once. While he was introducing the 'Amendment Bill', Kurmayya explained the aims and objects of the amendment Bill. He said, the Act XXI of 1936 was passed with the sole object to grand all the civil right to the Harijans but even after nine years the Harijans had not got any right to enter into coffee hotels or restaurants or meals hotels. The Government had been receiving complaints from various districts saying that the Harijans were undergoing lot of social and civic disabilities.9

Further, he explained that the Removal of Civil Disabilities Act of 1938 was not effective because the 'punishment section' was not properly executed; so it became inactive. After the

Congress Government resigned, in 1939, the Advisor's Government had issued a communique stating that Harijans had no legal right regarding entry into coffee hotels or meals hostels, and to draw water from the wells constructed at the cost of Government.\textsuperscript{10} The Labour Welfare Department was started in 1920 to uplift the Harijans but even after 25 years, the Harijans were not allowed even to enter into hotels. They were treated as aliens and worse than dogs and pigs. There, it was taken as the duty of the popular Government to see that the Harijans also were allowed to enter into all public places. 'The Removal of Disabilities Bill of 1938' was introduced by M.C. Rajah, unfortunately, there was no sanction behind the Act to enforce its provisions.

The Bill was supported by K.T.M. Ahmed Ibrahim Sahib Bhadur, but he wanted it to be sent to a "Select Committee" while supporting the Bill, he said that when dogs and pigs were allowed to have access where human beings reside, it was denied to the human beings. Islamic Law treated all as equals.\textsuperscript{11}

Then the Bill was referred to 'Select Committee' consisting of eleven members and K. Ehashyam, the Minister for Information was nominated as the Chairman of the Select Committee.

On 11th February, 1947 the Bill was returned to the Council

\textsuperscript{10} Ibid., p.157.

\textsuperscript{11} Ibid., p.159.
by the Select Committee. The Council members again discussed the clauses of the Bill. The Bill recognised the Untouchable offences as cognizable offences. This term 'Cognizable' was opposed by a member of the Council V.K. John. He said, that Untouchable offences should not be treated as cognizable offences, if so, the police would take law in its hands and punish anybody on its whims and fancies. Suppose, a shop-keeper denied to sell his article to a Harijan it was his privilege to sell it or not to sell it. For this action, he would not be taken into task under the Untouchable offence and treated it as cognizable. This might be dealt by Local Board Act.\textsuperscript{12}

The Removal of Civil Disabilities (Amendment) Bill of 1947, considered that denial of burial and cremation grounds to Harijans was a cognizable offence. Some members of the Council argued that burial and cremation grounds were religious institutions and so they were not permitted to the entry of Harijans. But Venmula Kurmayya denied their argument and said they were not religious institutions but secular in character.\textsuperscript{13}

He wanted that the term 'cognizable offence' in Clause 7 should be retained there. His statement was upheld by R. Suryanarayana Rao and he said, if there was no punishment, no law

\textsuperscript{12} Ibid., p.191.

\textsuperscript{13} Ibid.
would be materialised, and the offenders must be arrested without warrant. 14

T.S.S. Rajen also wanted Clause 7 of the Bill to be retained. 15 Followed by him, K. Madhavan, K.O. Anthoni, K.T.M. Ahemad Ibrahim Sahib Bahadur, Mrs. Mona Hensemen, M. Narayana Rao and others supported the Bill. Amendments were also approved and incorporated in the Bill. Then, it was passed as an Act on 12th February, 1947.

After it was passed as an Act by Madras Legislative Council, it was sent to Legislative Assembly for consideration. Again, Vemula Kurmayya introduced the Bill in the Legislative Assembly. Before, introducing the Bill, he narrated the story of sages, saints and reformers who took steps to uplift the Harijans. 16 And he said the aim and object of the Bill was to give the civil rights even to the lowest man in the society. 17

The 1938 Removal of Disability Bill of M.C. Rajen had not defined correctly the term 'secular institution'. So in 1947 when amendment was brought, during the discussion in the Assembly the Harijan members wanted the correct definition of the Secular

14 Ibid., p.192.
15 Ibid., p.193.
17 Ibid., p.400.
Institution. V.V. Giri, the Minister for Industry and Labour, and the Parliamentary Secretary B.S. Murthy had simply said that the Secular Institutions included coffee hotel and meals hotel. But under the Act of 1938 the courts could not force on any shop-keeper or any man who was incharge of public refreshment room the right to enter.\textsuperscript{18}

Kurmayya, himself took his Christian friends to a Non-Erahmin hotel in Masulipatnam. The hotel proprietor prevented them to enter into the hotel, Kurmayya wrote a complaint to the Government to take action against the hotel owner. The Government replied that the licence was given to him only to run the business and it would not interfere in other matters.\textsuperscript{19} From this it was presumed that the intention of the Act of 1938 was not to give full right of access to the Harijans to these places. Therefore, the aim of the Madras Civil Disabilities (Amendment) Bill of 1947 was to give full civil rights to the Harijan Community.\textsuperscript{20}

Kurmayya emphasised that if at all the Hinduism could be saved and consolidated it could be possible only by the Harijan Community because the Harijans were always staunch believers of Hinduism even before three hundred years they were not completely converted to Christianity. Despite of communal atrocities

\textsuperscript{18} Ibid., p.401.
\textsuperscript{19} Ibid.
\textsuperscript{20} Ibid., p.403.
by the Caste Hindus still they were remaining in Hinduism. The Harijans were honest, straightforward and religious minded. Therefore, the Harijans were religious, orthodox and strictly following the Hindu principles. Kurmayya felt that, there were certain drawbacks among the Scheduled Castes. Their illiteracy, disunity, want of proper knowledge of politics and leadership were the causes for their disabilities. 21

During the course of discussion certain members had contributed their suggestions for the amendment of the Bill. S. Nagappa, suggested that the offenders should be severely punished and their names should be published in the Gazette and their names should also be removed from the voters’ list their civic and civil rights should be cut off; their water and electricity connection should be disconnected; their complaints should not be admitted in the police stations: the sign boards like Brahmin hotel, Kamre hotel, Muslimman hotel etc., should be removed, and only the names like vegetarian hotel and non-vegetarian hotel should remain. 22

Another member of the House, Begum Sultan Mir Amiruddin quoted the views of great historian Tarachand, and recalled the attempt of the reformers and Law makers which failed in the society. Inspite of Madras Removal of Disabilities Act of 1938, the Harijans were being prevented even from drawing water from public wells

21 Ibid., p.404.

which have been constructed by the Government or local bodies. This sort of acts were beneath and dignity of men; repugnant to the ideal of democracy; it was a bar to social progress and out of place in the present day society.\textsuperscript{23}

Another Muslim member Abdul Hameed Khan Sahib Bahadur called the Act as a 'Magna Carta' and supported the Bill. However he suggested that the Scheduled Castes themselves should come forward to run their own hostels instead of approaching the Caste Hindu hotel owners.\textsuperscript{24}

At the end of the discussion V. Kurmayya said, that the Bill was supported by all the members including Muslim league. The Bill was amended suitably and passed as the "Madras Removal Civil Disabilities (Amend) Act of 1947".\textsuperscript{25}

Even after the passing of the Act, both the public and Depressed Class themselves were not aware of the enactment. Communal atrocities all over the Presidency were the routine affairs that occurred in every day. The police were not in keen to arrest the offenders, and the victims themselves were not courage enough to registered complaints against the offenders. Therefore, this Act was not truly felt by the public. The Depressed Class


\textsuperscript{24} Ibid., p.409.

\textsuperscript{25} Ibid., p.440.
people due to their traditional complex solemnly followed the custom and usage, that meant they were not bold enough to walk in public paths, take water in the public wells etc. In short the Secular institutions like hotels, saloons etc., were not utilised by them. In 1938, M.C. Rajah in his failed to define correctly the terms Secular institutions. This was correctly defined with examples in this Civil Disability Act of 1947. Even then the Depressed Class peoples were not properly utilised these institutions. This Act clearly defined and differentiate between Secular institution and religious institution. And thereby made the Untouchable offences as cognizable and punishable under the Law.

The Republican Indian Constitution introduced on 26th January, 1950. When this constitution Untouchable was made an offence subject to punishment. It also provided 'Fundamental Rights' to every individual. Therefore discrimination on the basis of caste, colour, religion, etc., were completely wiped out and equality became the rule of Law.

Following this, a specific Act that covered the Untouchable offences was also enacted in 1955 by the Parliament called the Untouchable (Offences) Act of 1955 popularly called as 'The Protection of Civil Rights Act', 1955 (Act No.22 of 1955).
TEMPLE ENTRY MOVEMENT (1937-47)

While C. Rajagopalachari (Rajaji) was the Premier of Madras Presidency (14th July 1937 to 29th October, 1939) the Malabar Temple Entry Bill was passed in 1938. Rajaji a true Gandhian was instrumented for the introduction of C.S. Rangaiah's Bill in the Central Legislatures and also gathered support for P. Subbarayan's Bill.

Maharaja of Travancore issued a Proclamation on 12th November, 1936 opening the temples in the State to the Untouchables. C.P. Ramaswamy Iyer, the Premier of Travancore was the real active force behind this event. As soon as Rajaji became the Prime Minister of Madras Presidency, the very first Act done by the Legislative Assembly was to pass a resolution for the historic Proclamation of Maharaja of Travancore. The measure was hailed by Rajaji and he declared that Hinduism had been purified.26 The North Arcot District Adi-Dravida Conference is inaugurated by the Development Minister V.I. Munusami Pillai on 4th July, 1937. A resolution was passed thanking the Maharaja of Travancore for opening the State Temples to Adi-Dravida.27 Except T.T. Krishnamachari, all other members of the Legislatures, spoke in favour of the resolution. Rajaji utilised this occasion to drive home his view that steps should be taken in the Presidency to do away with the disabilities binding the Depressed Classes.


M.C. RAJAH (1883-1943)
M.C. Rajah's Bill

M.C. Rajah a renowned leader of Harijans introduced a Bill on 17th August, 1938 to remove the disabilities of Harijans with regard to entry into Hindu temples. The following were the features of the Bill:

1. The Bill sought to throw open the doors of temples to all Harijans at once, whether Caste Hindus liked it or not;
2. The Bill sought to give every congregation of Hindu worshippers, the right of deciding the question of opening temples to Harijans instead of being dictated to by the majority;
3. The Bill also contained provisions for creating a machinery for the education and ascertaining opinion and for giving practical expression to it;
4. If in any locality the majority of Caste Hindu worshippers decided to open any of their temples in that area to Harijans, the Bill enabled them to do so, even though a small minority might object to it; and
5. If the majority of the people did not favour this view, the Bill would compel nobody to throw open the temples to Harijans.28

The Bill was opposed by all the members of the Assembly. M.C. Rajah accused the Premier and the Congress Party of having betrayed the cause of Harijans. He said, that public opinion had been found to be most favourable to the Bill and so he refused to withdraw the Bill. But at the end the Bill was withdrawn

28 Venkataraman. S.R., op.cit., p. 44.
as requested by Rajaji as the Government itself would be shortly introducing a measure for Temple Entry in Malabar.

In 1932, P. Subberayan's Bill was introduced to thrown open the Hindu temples to Harijans. It was a voluntary act of the Government. The Untouchables never demanded their entry into Hindu temples. But M.C. Rajah's Bill wanted the opinion of every worshipper regarding the opening of the temples to the Untouchable. Temple Entry should not be a dictation of the majority. The Bill insisted the ripeful opinion of the public before to go for any Temple Entry Legislation. If the majority refused the entry of Harijans into Hindu temples the Bill would not compel them to open the temples.

Thus, the Bill of M.C. Rajah was an acid test on the Congress and the Hindu public. When it was opposed, he realised that the Poona Pact became a lapsed document. Hence, he accused the Premier and the Congress. His motion to refer the Bill to the Select Committee was lost. So he commented that the society was part and parcel of Hindu society, but for the sake of Vote Lank, their heads were counted as if they were in the list of Hindus. The Hindus wanted freedom from the British but they refused the same to their brethren, the Depressed Classes.

M.C. Rajah who had always opposed Ambedkar and had believed in the Mahatma Gandhi and always banked on Congress support for the real 'uplift' of the people .... was suitably
paid by his own people. When he introduced his Madras Temple Entry Bill in the Madras Legislative Assembly out of 30 members of his community 28 members opposed his Bill by joining hands with the Congress Premier Rajaji, the "Deputy Mahatma". Gandhiji said to the Depressed Classes that their community had no better friend than Rajaji. 29

In a speech delivered at Madras on 12th November, 1941 M.C. Rajah said "I expected that the Congress Government would wholeheartedly supported by Temple Entry Bill which the Premier (Rajaji) himself had drafted for me .... My Bill was forbaden".30 This was a great shock to M.C. Rajah who wanted the Depressed Class to progress in all spheres. 31

This Temple Entry Bill of 1938 was identical with once drafted by P. Subbarayan, Minister for Education in the Madras Cabinet, six years ago (1932). M.C. Rajah then a member of the Indian Legislative Council. Rajaji helped Subbarayan to draft that Bill and he was keen on getting the Bill to be passed, but the Bill of M.C. Rajah was withdrawn.32 The reason behind it was, that Rajaji wanted to be glorified by the Harijans as the Savior of Harijan Community as praised by Gandhiji. With this

29 Dawn, Bombay, 26th December, 1942.
30 Sunday Observer, 18th November, 1941.
31 Sanjana, J.E., Caste and Outcaste, Bombay, 1946, p.8.
selfish motive be set aside the Temple Entry Bill of M.C. Rajah and C. Ranjier's Bill to remove the disabilities of the Depressed Classes to entry into Hindu temples. This was depicted by T.T. Krishnamachari while the Malabar Temple Entry Bill was discussed in the Assembly.33

The Malabar Temple Entry Bill, 1938

The Congress Ministry in Madras was responsible for the Madras Temple Entry Act, the Temple Entry Ordinance and the Temple Entry Indemnity Act. The Harijan Sevak Sang started its early untouchability activities in Malabar. Swami Vivekananda describes Malabar as "the land of lunatics, a land which was noted for its high scholarship in Sanskrit no less than for its practices of untouchability, unseability, unapproachability based upon bigotry and orthodoxy of a narrow type.34

After the release of Travancore Temple Entry Proclamation the temples of Travancore State were thrown open to Harijans. This gave impetus to Premier Rajaji and so he passed a resolution of appreciation in the very first session of his Assembly. But to his surprise all the members of the Assembly opposed M.C. Rajah's Bill in pursuance of the undertaking given by him to M.C. Rajah. Rajaji introduced a Bill on 1st December, 1938

34 Swami Vivekananda, To the Youth of India, Calcutta, 1939, p.123.
to remove the disabilities of Harijans in regard to temple entry in the district of British Malabar.\textsuperscript{35}

On the introduction of the Bill T.T. Krishnamechari (M.L.A.) raised a preliminary objection that it was not within the competence of the Provincial Legislature to legislate a matter relating to religious institutions as the Government of India Act of 1935 (Lists 1, 2 and 3 of Schedule VII) did not refer to religious institutions. The Speaker Sambamurthy replied to T.T. Krishnamechari that the State Government had every right to introduce legislation on religion and religious matters. To promote social reforms, such legislation was necessary and it was introduced on the responsibility of Indian Ministers. The merits and demerits or the advantage and disadvantage were depending upon the ministers and if necessary they could consult the Governor. But it was not required that they should get his previous permission.

Thus, in the light of the opinion of the Joint Select Committee, the Speaker over-ruled the objections raised by T.T. Krishnamachari and allowed the Premier to proceed with the Bill.

Provisions of the Bill

A Trustee or Trustees of a temple, on receipt of a requisition

in writing and signed by not less than 50 Caste Hindu voters (whose names are found in the voters list) to throw open the temple to Harijans, should forward and the said requisition to the Provincial Government, who would by their turn direct the Trustees to refer the matter again to voters to ascertain their opinion. If a majority of voters were in favour of throwing the temples open to Harijans; the Trustees should publish in the prescribed manner an order to the effect that the temples would therefore be thrown open to Harijans.

The Trustees were also given power to notify the public then proposal to throw open the temples to Harijans. If within a month, fifty voters preferred their objections to the proposal, the same should be forwarded to the Provincial Government. The Provincial Government, in turn would send back to the Trustees to ascertain the opinion of voters. If there was no objection to the proposal, these temples would be thrown open to Harijans.

Within two years of the opening of a temple in their Revenue Taluk, by the majority decision of voters the Trustees were empowered to throw open any temple to Harijan without reference to voters.

Premier Rajaji moved the Bill in the Legislative Assembly and discussion commenced on 2nd December, 1938.36 He said,
the Malabar Temple Entry of Hindu society and the temples were thrown open in Malabar would enable other districts to follow it. During the discussion A.T. Panneerselvam said, that the question of temple entry did not arise in the case of Christians. In the Churches, all people irrespective of their castes were allowed to enter to and worship. In the case of Travancore Temple Entry it was done by Maharaja of Travancore who was an autocratic but in the case of British Malabar it came under Madras Presidency and the Madras Government would be responsible for all the activities that occurred in Malabar. Therefore, Rajaji could not do anything independently without the approval of the public.37

Another member of the Assembly Abdur Rahman Khan Sahib pointed out that the sufferings and disabilities of the Depressed Classes was an age old one. Therefore, he requested the House that the Malabar Temple Entry Bill should be taken immediately and passed as an Act. This would met out equal justice to a large community (Depressed Classes). Social reforms should not be dragged on or abandoned because the communal harmony would be jeopardized. So also Prohibition Act and Agricultural Relief Act, etc., were done in the past with the sole motive of social reform as against the opposition of zamindars and merchants. Therefore he wanted that the Bill should to be passed immediately.38

38 Ibid., p.430.
A.S. Shahajananda, a member of the Assembly suggested that this Bill would be passed step by step as in the case of Bombay Temple Entry Bill. In Bombay there was no Hindu Religious Endowment Board, but for each and every movement towards religion, the Madras Presidency must confirm the Acts of Madras Religious Endowments Board. Therefore Bombay was left free to do anything with the religious affairs. Instead of taking Law in our hands the Trustees of the temples would be empowered with the opening of the temples to the Harijans. 39

G. Krishna Rao opposed the Bill on the ground that sudden change throwing open in the temples to Harijan would disturb the Harijans themselves. 40 Menickem, a member of the Assembly supported the Bill and he said, some years back M.C. Rajah had introduced a Bill on same subject but unfortunately it was opposed by the House now with lesser importance of M.C. Rajah's Bill, the Malabar Temple Entry Bill was introduced by Premier Rajaji. Again he said that, there was no caste system either in Christianity or in Islam. But in Hinduism the caste system was very rigidity and it prevented certain classes of people to enter into temples. In order to save Hinduism and to safeguard Hindu temples, the temples should be thrown opened to cut-castes. 41

39 Ibid., p.432.
40 Ibid., p.436.
41 Ibid., pp.439-440.
At last, the Bill was supported by 106 members of the Assembly and only two G. Krishna Rao and R.M. Palat opposed the Bill. The latter felt that most of the temples in Malabar were owned by individuals and therefore the Malabar Temple Entry Bill would not be effectively enforced in Malabar.42

After the Bill was passed, it was referred to a Select Committee for its opinion twelve members were nominated to the Select Committee to review the Bill and T.S.S. Rajan was appointed as the Chairman of Committee. The Committee consisted of P. Subbarayan, A.V. Kuttimalu Amme, V.I. Mundswami Pillai, M.C. Rajah, R.M. Palat, Bhakthavathsalu Nayudu, E. Kannan, R. Raghava Menon, E.S. Murthi, K.V.R. Swami. Rajaji was the mover of the Bill.43

The Select Committee did some amendments in above Bill. Therefore, it was passed as an Act. Despite the Act, not a single temple out of about fifty temples which came under the purview of the Act was thrown open in Malabar. But the Act has removed the legal bar against Harijans entering temples and will of Trustees throwing open the temples to Harijans.

When Malabar Temple Entry Bill was introduced Gandhiji not accepted it. He said, it was pre-matured one. Despite of his opposition Rajaji took bold step and passed the Bill. Hence

42 Ibid., p.444.
43 Ibid., p.478.
he was praised by press and the public. 44

The Malabar Temple Entry Bill was discussed in the House. R. Srinivasan did not accept for public referendum, but direct action it was done in the case of opening of the Travencore Temples to the Untouchables. 45

M.C. Rajeh in his Presidential Address in the Adi-Dravida Mehejana Sabha Conference held at Erode on 30th December, 1938 said, that the Malabar Temple Entry attempts made by the Government was only an eye-wash and it was not came out of the heart of Caste Hindus. Moreover, the Depressed Classes did not care for the temple entry because they could bring them no material benefits. 46

Criticism

Since the legislation was permissive in character it was not materialised. The people were not properly educated and their ripeful public opinion was not gained. Trustees were given free hand and the legal obstacles were removed. But the Section 40 of the Principal Act (Hindu Religious Endowment Act of 1926) required the maintenance of all ancient usages was not repealed. However, certain usages were altered.

44 Viduthalai, 30th August, 138.
45 Viduthalai, 20th September, 1938.
46 Viduthalai, 31st December, 1938.
The restriction binding the Trustees was removed and so the Trustees were empowered on certain conditions to allow Harijans to enter into Hindu temples. If the Trustees breached the conditions, they were liable to be removed from office. This condition was also removed and the Trustees were given power to throw open the temples to Harijans on the public opinion.

Speaking at a public meeting at Kumbakonam, Rajaji declared that temples could be opened to the people. He further pointed that only Brahmins (with few exceptions) and other wealthy Hindus opposed the measure, the former due to religious justice and the latter due to social prestige. Change of heart was not found in the society but they wanted change of Government.

Emergence of Temple Entry Movement in Tamilnadu

The Malabar Temple Entry Act, 1932 had met with a sad failure. It was a great shock to the leaders of Temple Entry Movement and the leaders of Harijan Sevak Sangh. The cardinal principle for the success of such Act was to gain ripeful public opinion. Therefore, the leaders put forth their united efforts to gain the alround support of the people. Mrs. Rajeswari Nehru, the Vice-President of the All India Harijan Sevak Sangh, Delhi and a prominent leader of the Women's Movement came to south on Harijan tour, presided over the Temple Entry Conference was

47 Nilkan Perumal, _These Eighteen Months_, Madras, 1939. p.34.
held at Madurai on 13th June, 1939. She requested the Executive Officer of Meenakshi Temple, Madurai to throw open the temple to Harijans. The officer expressed his inability that the Law could not permit him to do so. In this connection, she met the leaders of the Congress Party. Premier C. Rajagopalachari and other leading personalities who sincerely loved the cause of Harijans wanted to throw open the Meenakshi Temple to Harijans.

Rajaji who attended the Temple Entry Conference at Madurai presided over by Mrs. Rameswari Nehru, met the Executive Officer and other temple officials and ordered for the opening of the temple. But, they pointed to him the legal obstacles. Therefore, even if they truly wished to throw open the temple they could not do so in the absence of any law permitting such entry to Harijans. The deadlock was centered round the public opinion. How to gain public opinion was the question of everybody who entangled in the Temple Entry Movement.

Role of A. Vaidyanatha Iyer

At the critical juncture, Madurai Gandhi A. Vaidyanatha Iyer appeared in the scene as the hero of Temple Entry Movement in Tamilnadu. In 1936, A. Vaidyanatha Iyer succeeded T.S.S. Rajen of Trichy as President of the Tamilnadu Harijan Sevak Sangh. Due to the inspiration given by Rajaji, the Tamilnadu Harijan Sevak Sangh's workers under the leadership of A. Vaidyanatha Iyer,

planned to launch a vigorous campaign for temple entry in Tamilnadu. They held public meetings in many places advocating temple entry. 49

Vaidyenatha Iyer also attended the Temple Entry Conference. When a resolution was moved to request the Government of Madras to pass a resolution for temple entry, Rajaji said, "Don't worry about Temple Entry Legislation, but prepare the way and arrange for the opening of temples for Harijans. If the Law resorted to for the purpose of preventing your achieving goal, I will give legislation within eight days". 50

After this conference, a Temple Entry Propaganda Committee was constituted in Madurai under the leadership of A. Vaidyenatha Iyer. 51 The workers of Sengh, made laudable efforts and published notices and hand bills everyday. Well posters adorned every car with the following words "Harijans are Hindus and please give them temple entry". 52 Public meetings became common feature and not even a day was passed without two or three meetings in every nook and corner of Madurai Town. Many eminent leaders like Veluswamy, M.L.A., L. Krishnasami Bhareti, Krishnakunthu,

50 The Mail, 16th June, 1939.
P.K. Ramachari, Munegala Pattabhi Ramayya and many others were invited by A. Veidyanatha Iyer to address the public. The workers of Harijan Sevak Sangh carried on door to door propaganda and met the leading people of all communities. 53 Pasum Pon Muthuramalinge Thevar who was at Madurai on the even of the temple entry in the Meenakshi Temple instructed the Hindus not to impede the temple reform. 54

Veidyanatha Iyer prepared the minds of Archakas, Sanatnikas and the supervisors of worships of Madurai Meenakshi Temple for temple entry by Harijans. On 8th July, 1939 at 8.50 A.M., he, heading a batch of Harijans numbering five and one Nadar, entered into the Meenakshi Temple. L.N. Gopalaaswamy, the Secretary of Harijan Sevak Sangh followed him. P. Kakken, Semi Murrganandam, Muthu, V.S. Chinniah, V.R. Poovalingam and S.S. Sharmuga Nadar of Virudnagar were the six Harijans who were taken into the temple. 55 R.S. Neyudu, the Executive Officer, A. Chidambaram Mudaliar, a member of the Meenakshi Temple Devasthnaram Committee, the Superintendent, the Pieshkar (Official of supervising the worship) and the other servants of the temple were present at the entrance and they received them. Nobody

54 Sseivarna Thever, Pasum Pon Thevar Jeyanthi Viseda Chuvadi (Temil)(Special Book Pasum Pon Thevar's Eirth Day Celebration), Madurai, 1960, p.67.
55 The Hindu and Mail, 8th July, 1939.
raised any objection. Veidyanantha Iyer and his party peacefully entered the temple and worshipped at the shrines in the temple.56 Huge crowds of people witnessed this wonderful event and news of this event spread at once like wild fire.57 In the history of India it was the greatest event that ever occurred and so millions of Hindus read the news with joy.

Significance of the Event

The Temple Entry in the Meenakshi Temple, Madurai was the greatest land-mark in the campaign against untouchability. It was a remarkable reform in the Hindu religion as it brought about equality among the worshippers of God. A great change was taken without violence and blood-shed! The Temple Entry in Madurai is therefore called a 'Bloodless Revolution'. Rajaji the Premier, called the Temple Entry in Madurai as a beautiful and historic event. This great change took place as a result of propaganda and not by the exercise of any authority of Law.

Mahatma Gandhi paid the following tribute to the event, "The Proclamation opening the State Temples of Travancore was no doubt a very big step! But it was the prerogative of the Maharaja. The Maharaja and Maharani and the Diwan Sir C.P. Ramasami Iyer brought about the transformation. But the opening of the celebrated temple at Madurai is a greater event in that line, it is the popular will that has brought about the

56 The Hindu, 8th July, 1939.
57 The Hindu, 8th July, 1939; The Times of India, 10th July, 1939.
happy consummation. It reflects a decided conversion of the temple goers of the Meenakshi temple. A. Veidyanatha Iyer and his co-workers deserve all the praise for the ceaseless efforts they have put forth in educating public opinion". 58

Rajaji once dreamt, "If the gates of Shri. Padmanabe Shrine at Trivandrum and of Shri. Meenakshi Temple at Madurai have been thrown open, the exclusion may be taken as automatically abolished". 59 "A. Veidyanatha Iyer chose the right time and place to drive the dagger deep into the heart of untouchability". 60

Following the Madurai Meenakshi Temple Entry, the other famous temples in Madurai such as Kallazagar and Koodeal Azagar were also thrown open to the Harijans. But N. Natesa Iyer, President of the Varnashrama Swarajya Sangh, Madurai sent telegrams to Governor of Madras, and Gandhiji stating, that the Meenakshi Temple was defiled, desecrated and polluted owing to the entry of Harijans and Nadars. The Sanatanists headed by N. Natesa Iyer and K.R. Venkatarama Iyer wanted Rs.300 for the performance of Semprokshenam* in the temple. The Sanatanists

59 Ibid.
60 Harijan, 16th July, 1939.

*Semprokshenam - A ritual (Abrishegam) to be performed to sanctify the temple.
filed suit against the Protagonists of temple entry.61

At this critical juncture, the Government prepared a Bill which was to be introduced in the Legislative Assembly. In the meantime, since, the State Legislature was not in session, Lord Erskine, the Governor of Madras, on the advice of the Premier, issued an Ordinance on the lines of the proposed Bill. Thus, the Madras Temple Entry Ordinance (Ordinance I of 1939) was promulgated on 11th July, 1939.

The throwing open of these temples created rather a grave situation. Under the Penal Code, entry by the Excluded Classes into the Hindu temples constituted the offence of defilement of place of worship. Every Trustee or other authority in charge of the temple who permitted such entry and every officer of the Government or local authority who assisted such entry could be prosecuted thereof. It was against the policy of the Government that persons assisting in a social reform of this kind should be subjected to Civil or Criminal Proceedings. Therefore, Ordinance was promulgated only to save the temple officials from punishments.62

The Madras Temple Entry Ordinance (Ordinance I of 1939)

The Ordinance was promulgated by the Governor of Madras,

61 Original Suit No.40/1939, Sub-Court, Madurai, AIR : 1945, Madras, p.211.

Lord Erskine under Section 88, of the Government of Indis Act of 1935. The Ordinance indemnified the Executive Officers and other servants of the temples in Madurai, Tenjore and Tinneveli districts from all liability in respect of all Acts associated with the temple entry. After the promulgation of the Ordinance Rajaji visited Madurai on 31st July, 1939 when Sanatanists staged a Black Flag demonstration protesting against the Temple Entry Ordinance. In the public meeting held on the same day, Rajaji explained to the people the circumstances that had necessitated the promulgation of the Temple Entry Ordinance. But some section of people branded the Ordinance as against the spirit of the constitution.

Because of the promulgation of the Ordinance, the Trustees and the Executive Officers were saved from court litigation. The temples were thrown open to Harijans and Nadars to gain their civil rights. The Trustees, Archakas (Priests) and other temple officials thrown open the temples to the Excluded Classes. Since, the public opinion was in favour, there was no agitation on the part of the public.

Following this event, temples in Madurai, Tenjore, Tinnevely and other places were also thrown open. The most important of these temples were: (1) Kudalezagar Temple, Madurai, (2) Kalamega Perumal Temple, Madurai District, (3) Sundararaja Perumal Temple,

63 Madras Administrative Reports, 1939-'40, p.7.
64 Navasekthi, 4th August, 1938.

Arrangements were made by the Government for the entry of Harijans into the Meenakshi Temple secretly to prevent opposition from Caste Hindus. At mid-night the Harijans were taken to almost all temples. In the case of Madurai Temple on the evening of 11th July a priest of the Meenakshi Temple locked the inner Shrine and went away with key. The temple Executive Officer immediately brought in another priest and worship was conducted uninterruptedly. The Methodist had raised hue and cry, but the general public was calm and quiet in favour of the temple worship by Excluded Classes. A private criminal complained had been filed against Executive Officer of the temple and others for thrown open the temple to the Excluded Classes, but the Government immediately published a Bill which proposed to introduce in future. Since the Assembly was not in function this Bill was proclaimed as an Ordinance on the same lines to cover the intervening period. This Ordinance was proclaimed by the Governor on 11th July, 1939. This followed elsewhere 16th July, 1939 Tanjore Temple open to Harijans without disturbance. 65

The Madras Temple Entry Authorization and Indemnity Bill of 1939

In lieu of the Madras Temple Entry Indemnity Ordinance issued on 11th July, 1939 Rajaji introduced the "Madras Temple Entry Authorization and Indemnity Bill", in the August Session of the Assembly in 1939. While introducing the Bill Premier Rajaji told to the members of the House, that the Bill was published in the Fort St. George Gazette on 11th July, 1939 and again with some amendments on 1st August, 1939. When T.T. Krishnamachari objected the Bill as ultravires, the Speaker said, that it was not a federal subject and so it was within the power of the Provincial Legislature to legislate upon.

Then Rajaji began to enumerate the temple entry incidents that occurred in the Southern part of Tamilnadu where the Orthodox people dominated. He said, from 8th to 27th July about half a dozen famous temples were thrown open to the Harijans by the Trustees. This was a great landmark in the history of our country, so far Hinduism was concerned. When these temples were opened the Government took necessary action to move towards the reformation. And so, he said, that this sort of legislation was to be considered as the necessary action of the Government.

67 Fort St. George Gazette, 1st August, 1939.
69 Ibid., p.29.
Further, he said it was an evil custom that certain classes were excluded from entering the temples. This custom and usage had been taken by the judges and delivered their judgements based on them. It was Sir T. Muthuswami Ayyar who punished, a bonafide Harijan devotee who entered a temple and worshipped. The Indian Penal Code said that the entry of a Excluded Class man in the temple was an offence of defiling the worshipping place. This custom was covered into Judge-made-Law and punished the offender under the Indian Penal Code. In order to remove this punishment section Rajaji said, that the Bill was introduced.

The Congress wedded fundamentally to "Triple Constructive Programme", they were kader, Hindu-Muslim unity and Removal of untouchability. These were the twenty year old original programme of the Congress. For the past twenty years the Congress had been trying to removal of untouchability and temple entry was considered as one of the ways to remove untouchability. But Orthodox Hindus wanted untouchability to remain, according to the Hindu Sastras and so temples could not be opened to Untouchables. 70

But Rajaji said, that neither the public opinion nor the religious sanction, was necessary for this noble reform and the opposition of Sanathanists was pure unqualified opposition. When, custom opposed public policy, it could not be enforced as a Law.

70 Ibid., p.31.
Therefore, a suitable Law should be made to set aside the custom and enforce temple entry. Public policy might be changing often. Though the earlier policy prevented the Excluded Classes from entering temples, the present policy was in favour of allowing them into temples. Hence, Rajaji insisted that custom should bow before public policy. 71

Further he said, that the duty of the Government was to look after the welfare of the people as a whole. When custom which affected human passions and human feelings of very large number of people, say about one-fifth of the population, it was the duty of the Government to put an end to such customs. 72

The fundamentalists and the Sanatanists did not want to open the temples and they said, that the Agamas were against it; the Trustee could say that he was on behalf of God and religion but not of democracy; and even if 99 percent of people were in favour of change, one could not change religion by revolution. When such was the case, it was impossible to open the temples without breaking these customs and usages.

When the fundamentalists and Orthodox people could change their mode of life breaking the old tradition of crossing of seas etc., they were against Sastras and Sambrayatas. Therefore in temple entry too they gradually should break customs.

71 Ibid., pp.32-33.
72 Ibid., p.33.
The Harijans entered the temples, the world had not come down, and the sky had not tumbled down. Therefore, customs had to be broken and the reforms had to be made possible. In order to enforce reforms, the persons siding the cause must be protected. Therefore Rajaji said, that he was keen on introducing the Bill. 73

With great inspiration and enthusiasm Rajaji, depicted an historical incident in the House. That was the participation of making the famous Poona Pact on 24th September, 1932. He was one of the main personalities who pacified B.R. Ambedkar to sign in the Pact. That was the Promissory Note bounded on Solemn promise. According to the promise that temples should be thrown opened to the Excluded Classes. This Promissory Note was not one which could be made the subject matter of a suit for breach of contract but was made between Gandhiji as the leader of Caste Hindus and B.R. Ambedkar as the leader of downtroddens on good moral and ethical codes. Therefore, he said, temple entry was not merely an enthusiasm for reform but a sense of feeling that people were doing wrong. That was the inspiration that stood behind the Bill, said Rajaji. 74

T.T. Krishnamachari said, that the 'Untouchables' had

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73 Ibid., p.38.
74 Ibid.
no right to enter temples. He asked the Government to devise a more legitimate way to get their right. When M.C. Rajah moved his Temple Entry Bill it was not supported by any one of Premier's party men and the Premier himself did not accept the Bill. So, Rajah failed in his attempt. Even Malabar Temple Entry Act was not very successful. No temple was opened to Harijans. It became a dead-letter and adorning the statute-book.

T.T. Krishnamachari said, that the Ordinance was not necessary, and there was no grave emergency, or trouble or violence. Therefore, he condemned the Bill as it was not based on fundamental principles which a democratic Government should respect. 75

M.C. Rajah while speaking about the Bill, he said, that there had been growing public opinion demanding the removal of the disabilities imposed by custom and usage on certain classes of Hindus, in respect of their temple entry. While introducing reform legislation, there might be two groups of people, one the progressive who accept reform and another the Orthodox to oppose it. As far as Adi-Dravidas concerned, they never bothered about to go to particular temple. They had their own temples, and prayer halls. If they were regarded as Hindus they should be permitted to enjoy all the privileges, rights and liberties as any other Hindu.

75 Ibid., p.56.
Further, M.C. Rajah said, that the Bill was intended to replace the Indemnity Ordinance. This Ordinance was unwanted. This method would have been applied to my Bill but Rajaji betrayed me. The aim of the Bill was the social and religious harmony of the people. Once the religious equality of all the Hindus was recognized, the social equality would follow and the barriers of caste would naturally vanish. Inspite of some difference of opinion M.C. Rajah supported the Bill at the end. 76

Swamy Sahajananda another Harijans member of Chidambaram gave a long speech on the Sastras, and said that, no scriptures prevented the Harijans to enter into temples. And he also supported the Bill.

V.I. Muniswami Pillai, a Harijan member and minister in Rajaji's Cabinet, appreciated Vaidysama Ayyar for his bold action. He also paid tribute to the Premier and supported the Bill. 77

A.T. Pannirselvam, a member of the Justice Party partially disapproved the Bill. He said, instead of giving the right to the Excluded Classes to enter and worship in the temples, that Bill made them to look at mercy of the Trustees. Suppose an Adi-Dravida was entering into a temple after the due permission of the Trustee but a Samathanist came and obstructing him from entering the temple, the poor Adi-DraVIDa had to go back.

76 Ibid., pp. 62-63.
77 Ibid., pp. 74-75.
Because he was not given the right to enter temple. That right vested with the Trustee. So, the Adi-Dravida could not claim the entry as a matter of right but only was depending on the permission of the Trustee. Therefore, the Adi-Dravida was placed in an unduly embarrassing position. Therefore, Pennirselvam said, that the Adi-Dravida must straight away be given the right to enter into the temple. 78

One individual Trustee could throw open the temple to the 'Untouchables', provided got the sanction of the Government. This was the routine affairs for every time to allow an 'Untouchable' to enter temple. It meant, when an Adi-Dravida entered a temple, he was committing an offence and to get rid of that offence, he must be granted permission from the Trustee and the Trustee from the Government. This sort of round about way was to be removed. Temple Entry was not a gesture or goodwill of the majority towards minority. This made the Untouchables to be driven out to somewhere. Therefore, once again Pennirselvam insisted that, that Bill must straight away given the right to them instead of through Trustee. 79

Kumara Raja Muthiah Chettiar had summarised the whole proceedings of the House and concluded that the right given to to the Depressed Classes was not voluntary but by legislation.

78 Ibid., p. 77.
79 Ibid., pp. 77-78.
The 215 members of the House were legislating that right. So, he concluded that in future the untouchability would cease to exist and it would not leave behind any bitterness. 80

N.M.R. Subbaraman, M.L.A., of Madurai summarised the impact of temple legislations. He said, whenever the temple entry Bills were brought in the House, one way or other, they were prevented and so they became as abortive Bills. P. Subbarayan's Bill became an abortive one and M.C. Rajah Bill was withdrawn. Therefore, Premier, Rajaji cleverly adopted the emergency method of using Ordinance and introduction the "Temple Entry Authorization and Indemnity Bill" and he succeeded in his attempts. He said, the temple entry at Madurai was successful. All the six Trustees who sided for the temple entry campaign were re-elected by the public. The temple entry in Madurai was purely a religious reform but not a political game. He also refuted the charge made by T.T. Krishnamachari, that the people were not so much in favour of the temple entry by Harijans.

Harijans, after this temple entry campaign, awakened with new vigour, strength and alertness. It gave them an impetus to advance in all walks of life. Following the Madurai event, many ancient temples in the Southern Tamil Nadu were thrown opened to Harijans. So, there had been a growing volume of public opinion demanding the removal of the disabilities imposed by custom.

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80 Ibid., p.100.
and usage on certain classes of Hindus in respect of their entry into and offering worship in Hindu temples; Vaidyanatha Ayyar took with him 50 Harijans and visited Travancore. There, they found, that after the temples were thrown open to Harijans the evil of untouchability itself was vanished. Harijans in Travancore State were given civil rights and so their civil disabilities were completely removed. He concluded that this attempt must be from the public and they should open their heart to Harijans. 81

V.I. Muniswami Pillai had summarized certain effects and defects and praised Rajaji that his name would go down in the history of India for the bold and courageous step he had taken to purify Hinduism.

Certain opposition members sought to introduce the principle of referendum for ascertaining public opinion on the line of Malabar Temple Entry Act. But Rajaji replied that public opinion was already received and there was no hue and cry among the public. Moreover, it was not possible to get the public opinion as to for each and every event and it would be considered in future.

Then the motion was put and carried. And the Bill was passed into Law on 4th August, 1939. 82

After it was passed by the Legislative Assembly, it came

81 Ibid., pp.149-153.
82 G.O.Ms.Nos.260-261, Legal Department, 9th August, 1939
up for consideration before the Legislative Council. V.S. Srinivasa Sastri opposed the Bill, stating that the Trustee's opinion should not be taken to carry out the social reform. Further, he said, this was contrary to the method of Malabar Temple Entry Act of 1938. But K.V. Reddi said, that in his view Premier Rajaji had done the right thing to promulgating Ordinance under the right circumstances and it was against the unfair, unjust and wicked custom. After the discussion, the Bill was passed in the Legislative Council, and Lord Erskine signed the Bill on 12th August, 1939 and reserved it for the consideration of the Viceroy of India. It received the assent of Viceroy Lord Linlithgow on the 4th September, 1939. It was published in the Fort St. George Gazette on 11th September, 1939. This Act was called the Madras Temple Entry Authorization and Indemnity Act, 1939 (Madras Act XXII of 1939). 83

'The Temple Entry Authorization Indemnity Bill' was passed but the controversy over the temple entry continued. Sanatanists held a large number of public meetings and flashed the controversy over the temple entry by the Excluded Classes. In course of time the Sanatanists had obtained public support further opposition not only from the city of Madras but also all over the Presidency. On the contrary the reformers also vehemently conducted counter meetings and gather supports from the public comparatively. The

83 G.O.Ms.No.293, Legal Department, 11th September, 1939; Vide Appendix No.V.
reformist meetings become more popular, more reciprocal and more well attended by the public. Many temples all over the Presidency, particularly in Chengleput and Coimbatore districts were thrown open to the Excluded Classes and the pretention of the Sanatanist failed before the reformist activitist.\(^{84}\)

The passing of the Temple Entry Bill by the Government of Madras was an outstending Act and the Congress Working Committee at its meeting held at Wardha on 12th August, 1939 congratulated the Madras Government for passing the Temple Entry Bill and hoped that the noble example of Madurai would be followed by the Trustees and worshippers of other temples.\(^{85}\) The Trustees or the other authorities of Hindu temples in the Province should not oppose the Harijan worshippers to enter into temples. They might thrown open the temples with the approval of the Government.\(^{86}\)

The temples thrown open in July 1939, had been deemed to be duly and properly thrown open under the Act. Subsequent to the passing of the Act the Government granted permission to throw open the Dhandayudhepani Swami Temple, Palani and all the temples under its control to Excluded Classes.

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84 *Fortnightly Reports, First Half of August, 1939*, Fort St. George, Madras, 18th August, 1939.


86 Madras Government Administration, 1940, p.6.
In few other cases Government had to refuse permission to throw open the temples as there was no unanimity of opinion among the Trustees. 87

The Sanatanists of Madurai continued their activities by opposing temple entry even after the enactment of Temple Entry Legislation by the Government of Madras. Under the leadership of N. Natesa Iyer they appealed to the Government either to repeal the Temple Entry Authorization and Indemnity Act or to stop the implementation of the Act. They wanted to restore the original order prohibiting the Excluded Classes from entering the temples. They demanded that Samprokshanam should be performed in all the temples thrown open to the Excluded Classes.

The Second World War broke out in September 1939, and as the Government of British India made India a participant in the War without the consent of the people of India. The Congress Ministers in the Provinces including Madras resigned in October 1939. The Congress also resolved not to co-operate with the British in the War efforts. The Sanatanists on the other hand, affirmed their support to the Government in its War efforts and pleaded for the repeal of the Temple Entry Act. 88 But Governor Erskine declined to comply with the request of the Sanatanists and N. Natesa Iyer was told that the Temple Entry Act could

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88 Kumaran, 18th January, 1940.
neither be revoked nor kept in abeyance and the temples opened as per the Act of 1939 could not also be closed.\textsuperscript{89}

Except this Sanatanists, almost all other public welcomed the Temple Entry Reform. The Nadar Communities also welcomed the reform and expressed their gratitude to A. Vaidyanatha Iyer and Premier Rajaji and also appealed to the nationalist Nadars to support all efforts of Congress Movements for the attainment of the country’s freedom.\textsuperscript{90}

**Legal Battle of Sanatanists**

But the conflict between State and the Sanatanists had been a continuous process. During 1941, the Sanatanists in Madurai held meetings and passed resolutions demanding the repeal of the Temple Entry Act. But their efforts of the Sanatanists ended in fiasco. When they failed in dissolving the public opinion, they started legal battles. Their appeal to Madras High Court was also dismissed.\textsuperscript{91} When the Sanatanists took up the matter to the Federal Court, Delhi it was again dismissed.\textsuperscript{92} The Executive

\textsuperscript{89} *Ibid.*

\textsuperscript{90} *The Hindu*, 15th and 16th September, 1941.

\textsuperscript{91} Original Suit No.48/1939/Sub-Court, Madurai - High Court Records: Appeal Suit No.51/1942, District Court, Madurai, Second Appeal No.1546/1943, High Court, Madras; *The Indian Law Reports*: Madras, 1945, pp.697-710.

\textsuperscript{92} *The Madras Law Journal Reports*, Madras, 1946, II, pp.17-19; Federal Court of India, Delhi, Civil Appeal No.3/1945, Judgment delivered on 27th March (1946).
Officer of the Meenakshi Temple, Madurai dismissed 19 priests who disobeyed the Act and they went to the Court where their dismissal was upheld. They demanded Semprokshanam for the temples where the Excluded Classes entered but after their defeat in their litigation, they had to obey all lawful orders of the Executive Officers.  

The Act was not imposed on the people but it only recognized people's will. The High Courts in India held that the Temple Entry Act was valid in so far as the Constitutional Provisions were concerned. The temple entry was a much needed reform and the Act passed in 1939 was perfected by another Act passed by the Government of Madras subsequently. In the history of Temple Entry Movement, Madurai made history in the campaign for removal of untouchability in the country and Gandhi who once refused to enter in the Meenakshi Temple entered in 1946 because Untouchables were entering and worshipping the temple.

The objection raised by the Sanatanists could not be completely over-ruled because Section 40 in the Hindu Religious Endowments Act was not repealed. The Madras Temple Entry

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93 High Court Records, Original Suit No.288 of 1942, District Munsif Court, Madurai, Second Appeal Nos.1507 to 1525/1943 High Court, Madras, Letters Patent Appeal Nos.49 to 87/1944, High Court, Madras.

Authorization and Indemnity Act (Madras Act XXII of 1938) authorised and indemnified the Trustees, officers and the persons for action taken in respect of entry into the Hindu temples by Excluded Classes from the public temples of this Act suitably altered Section 40 of the Principal Act and the Trustees could throw opened the temples if the public opinion so desired, since Zamorin of Calicut as the Trustee of the temple refused to throw open the Guruvayur Temple to the Untouchables and in support of his action, he cited Section 40 of the Hindu Religious Endowments Act which said, that no Trustee could do anything against the custom and usage of the temple entrusted to him. After the passing of Subbarayan’s Bill the Caste Hindus opposed it. So, the question of temple entry was hanging on the condition of getting the public opinion. Then the Bills of M.C. Rajah, Rangaiar of Rajají’s rule were turned down for want of public opinion.

But the two Acts, Madras Act XX of 1938 and Madras Act XXII of 1939 were not adequate to effect the reforms as the Provincial Government and others had to wait for the people to take the initiative and apply it for approval. The Trustees taking the Law in their hands, to open or not to open the temples to the Excluded Classes was left with their whims and fancy. Nobody thought of removing Section 40 of the Principal Act. This lacuna was removed by the Act V of 1947.
TEMPLE ENTRY MOVEMENT, 1947

During the Second World War the Congress Ministry resigned in the Madras Province. After the World War, O.P. Ramaswamy Reddiar became the Prime Minister and was then succeeded by Prakasam Pantulu. To rectify some of the defects in the Temple Entry Authorization Indemnity Act, 1939 (Madras Act No.XXII of 1939), the Madras Authorization Bill was introduced.

The Madras Temple Entry Authorization Bill of 1947

This Bill was published on 28th January, 1947 when T. Prakasam Pantulu was the Prime Minister of Madras Presidency (30th April, 1946 to 23rd April, 1947). This was moved by T.S.S. Rajan, a Minister for Labour Department. When he introduced the Bill, he recalled the various steps taken by ex-Premier Rajaji who was responsible for the Malabar Temple Entry Act of 1938 (Madras Act XX of 1938), the Madras Ordinance No.1 of 1939 and the Madras Act No.XXII of 1939.

He said, 140 major temples and 18 minor temples were thrown open to the Excluded Classes in this Madras Province. People requested the Government to open some more temples. The public opinion was feasible and the temples were opened. Moreover, while entering the temple, the Excluded Classes were left unhurt as they were escorted by the prominent leaders.\textsuperscript{95} These were to

be changed. Though the Bill was introduced during the time of Prakasam Pantulu, it was passed on 6th June, 1947 while O.P. Rameshswamy Reddier, was the Premier of Madras Presidency (24th March, 1947 to 6th April, 1949). Even before he became the Premier, he used to take the Harijans into the temples. As soon as he became the Prime Minister he nominated Kulasekera Doss, a Harijan M.L.A. of Tindivanam Reserve Constituency as the Trustee of Tirumalai Tirupathi Devasthanam. Kulasekera Doss was the first Harijan Trustee in the whole of India. He also took Harijans into Rameswaram Temple. 

86 Aims and Objects of the Bill

1. According to the previous Bills, the Trustees were asked to take a referendum on the subject of Temple Entry and they had to follow up the referendum by an application for the permission of the Government, and the Government had to satisfy themselves that the temple could be opened and whether they had an absolutely overwhelming majority of the Hindu public for it. But, at present, the Government has come to the conclusion, that all the Hindu temples all over the Province should be opened and they need not wait for such referendum.

2. The very important object of the Bill was, while opening these temples the Government also have to concede the right of these

86 Somale - Vivasaya Mutalamaichar, Biography of O.P. Ramaswamy Reddier (Tamil), Vedaranyam, 1979, pp. 203-205.
Excluded Castes to bath in all sacred tanks, rivers, walk over to the place of worship and take in rites and ceremonies. Thus, the worship of the Harijans was to be made a lawful one. Fortunately these Acts of Harijans were not considered as the illegal interference with the process of temple worship. This was the new addition of this Bill. So, nothing could interfere in his process of worship and if the worshipper found any difficulty according to this Bill, he could apply to the Law to get the security and guarantee under the Law to protect him and to allow him to worship.

3. Customs and usage were to thrown out.

4. The fourth object of this Bill was to grant legal right of temple worship to all Hindus including the Excluded Classes. The Temple Entry Acts of the previous Governments caused no adverse effect to religion or society. When temple a solace to the society they added grace and glory to the temples. When Hindus converted to other religions they were not condemned. But when the Harijans wanted to offer worship by entering into the temple, they were ill-treated by the Caste Hindus. This was illegal, immoral and sinful act before God and man. This led the Harijans to go in search of another religion, where they could get more liberty and equality in religious matters.

When the Government, as a reform measure allowed the Harijans to enter into Hindu temples, it was not the intention of the Government to descerate the temples or make them deserted.
All depended upon the willingness of the general public. That was why Rajaji made it a point to get the ripeful public opinion or referendum.

Therefore, after eight years of Rajaji's Act, this Bill was moved with some more added points. After 1939, there had been change of heart of the Hindus, many temples were thrown open to the Harijans and the Temple Entry Movement has gathered momentum. But in villages there were more disturbances. By passing the Bill it was hoped that the temple entry would prove to be successful.

T.S.S. Rajen condemned the view of certain Orthodox people like Srinivasa Sastri who pleaded that certain temples should be excluded for the Orthodox people. As the custodian of the rights of the citizens of the Province, the Government could excluded certain people from entering public temples.  

At one stage T.S.S. Rajen warned the Caste Hindus that if they denied temple entry to Harijans, Hinduism would be ruined and once again Islam would invade Hindu religion and culture. Conversion to Islam would be followed by the affected people. The Harijans had got unshaken faith and conversion in temple worship and who in spite of their age long oppressions and suppress-  

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sions had stuck to the Hindu-fold and so, they had got the right to go into the temples more than the Caste Hindus. He said that there should be no reservation of certain temples to Orthodox people. Opening the temples to Harijans was not the pride of Caste Hindus, but it was the Prayachityam (atonement) for what the Caste Hindus had done so far to the Harijans. "We are only doing what is just and belated justice," said T.S.S. Rajan.

'The Madras Temple Entry Authorization Bill, 1947' (L.A. Bill No. 9 of 1947) was supported by all the members of Scheduled Caste and most of the Caste Hindus as well. The main aim and object of the Bill was to repeal Section 40 of the Madras Hindu Religious Endowments Act, 1926. Swami A. Sahajananda who supported the Bill said that no one should be prevented to enter into the temples for worship.

Vedas and Ahavas allow all the persons to go for temple worship. He quoted Thirumoolar, who compared the various structures of temples as that of Soul and its various stages. Preventing a person from temple worship is the prevention of Soul from joining God. Lord Nataraja asked to allow Saint Nendanar to enter into Thillai Ambal: Thirumal opened His temple to Tiruppanalwar and Sri Ramanuja opened temple at Melkote to Harijans and all.

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99 Ibid., pp. 484-486.
100 Ibid., p. 608.
these Acts allowed the soul in joining God.¹⁰¹

But H.M. Jagannathan, a member of the Harijan Community vehemently criticised the temple entry campaign. He said, that this measure was a political stunt, got up at this psychological moment for propaganda and advertisement to the outside world. He recalled the tireless zeal and energy that the great pioneers M.C. Rajesh and Rettaiyalai Srinivasan had rendered yeoman services for the ameliorations of the lot of Untouchables. He was not satisfied on throwing open temples to the Harijans but he wanted the Four Freedoms declared by President Roosevelt: freedom for want, freedom from fear, freedom of speech and freedom of worship.

Speaking on behalf of the eight million Untouchables in this presidency, H.M. Jagannathan said, "We can only think of entering into your temples and worshipping God, if our stomachs are full and if we are assured of freedom from want and freedom from fear."¹⁰²

When the discussion was going on, Dr. Syed Tajuddin Sahib raised a doubt about the behaviour of Gandhiji. He asked, why Gandhiji was unwilling to throw open the shrines for the use of the Untouchables before 1832.¹⁰³ But these doubts were not cleared by the members of the House. V.K. John has compared Hinduism

¹⁰¹ Ibid., p. 468.
¹⁰² Ibid., p. 563.
¹⁰³ Ibid., p. 567.
to a chariot with two sheels, the one was untouchability and the other was the caste system, if you remove one of them the whole structure would topple down, because they were intimately interlinked with each other. He expressed that most of the Hindu-Muslim tangle was due to caste system.

K. Venkataswami Neyudu said, that the aim of the Bill was to get equality in the temple but V.K. John, K.M. Jegennathan and others wanted social equality. K.T.M. Ahmad Ibrahim Sahib Bahadur pointed out that Islam believes in equality, there was no inequality by birth because birth was not attached with sin or Karma in Islam. Muslims were turning towards west and praying God and that was for their uniformity and unity but 'west' was not the symbolic form of idol worship. Since, the Bill was for equality, uniformity and unity of Hindu society he welcomed the Bill.104

Some of the members elaborately discussed 'Pollution' and 'Cleanliness'. When a person was deemed to be with clean body, his Soul might not be clean. That was why the Chendala asked Sankarchariye whether it was pollution of Soul or body. There was nothing as impure or unclean or pollution as a bar to enter into temple. It was insisted that important amendment to be included to permit all the Hindus including Harijans to be allowed

104 Ibid., pp.570-572.
to go up to Sanctum-Sanctorum and worship the Shrine.

At the end, 'Madras Temple Entry Authorization Bill, 1947' (L.A. Bill No.9 of 1947) was passed in the Assembly.\textsuperscript{105} It was brought into force on 6th June, 1947. Under this Act many temples in this Province including the well known Shrine at Tirupathi which till then were closed to Harijans and other "Excluded Classes" were thrown open to them. Report from districts indicated that there was not much opposition to this measure from the more Orthodox sections.\textsuperscript{106}

The Temple Entry Campaign gained strength during the Congress rule. The first Congress rule during Rajaji Premiership (1937–'39) have enacted three Acts and succeeded to some extent. But there arose certain legal obstacles like getting public opinion existing custom and usage and the Section 40 of the Hindu Religious Endowments Act of 1926.

In the Second General Election after the Act of 1935, took place in 1945. Congress won the election and came to power. T.S.S. Rajan, introduced the Madras Temple Entry Authorization Bill, 1947. After the Bill was passed as an Act, all the three Acts passed during Rajaji period were repealed. Therefore, the legal obstacles and Section 40 of the Hindu Religious Endowments

\textsuperscript{105} Ibid., p.594: Vide Appendix No.VI.

\textsuperscript{106} Fortnightly Reports, First Half of June, 1947, Fort St. George, 28th June, 1947.
Act of 1926 met with natural death. The sincere attempts made by the Congress Government brought fruitful result.

The direct impact of the 'Madras Temple Entry Authorization Act of 1947' had become a settled and permanent reform and hitherto excluded Classes were freely entering into and worshipping in all the temples other than sectional temples as a matter of right. However, one Narasimharai petitioned to O.P. Ramasamy Reddiar, the Chief Minister of Madras Presidency not to open all the temples but certain temples were reserved for exclusively for Sanatanis. He further assessed that the Harijans were allowed to enter into the temples the number of temple goers were reduced.

One N.S. Anantakrishnan had filled a suit in the High Court that temples should not be opened to the Harijans.

When Gandhiji was questioned about the conversion of Harijans to other religions he replied that the Harijans had converted to other religions in order to avoid illtreatment by the Hindus and with the hope to get good life in other religions.

That was the direct impact of denying temple entry to

Harijans. Therefore, during the discussion on the Temple Entry Bill in the Council majority of the members supported the Bill. V.K. John, said, that temple income should be spent for the upliftment of Depressed Classes people.\textsuperscript{111} Therefore, the 'Madras Temple Entry Authorization Act' (Madras Act V of 1947) had become a settled and permanent reform and hitherto Excluded Classes were freely entering into and worshipping in all the temples other than sectional temples as a matter of right.\textsuperscript{112}

Periyar E.V.R. wanted that the Depressed Classes should not only allowed to enter into the temples but also they should be allowed to enter into Sanctum-Sanctorum to touch and worship the deity.\textsuperscript{113}

On 25th April, 1947 P. Subbarayan announced in the Council that so far 140 big temples, and 8 small temples were thrown opened to the Untouchables.\textsuperscript{114}

But the Temple Defence Federation was held at Tirupathi on 3rd May, 1947 under the Chairmanship of V.N. Giri Bellary

\begin{itemize}
\item[111] \textit{Viduthalai}, 4th April, 1947.
\item[113] \textit{Viduthalai}, Erode, 24th April, 1947.
\item[114] \textit{Viduthalai}, Erode, 26th April, 1947.
\end{itemize}
and condemned the temple entry of Harijans. In this conference, all the Vaishnava Samstaniists and the Madathipethis of Vaishnava Cult had participated and unanimously condemned the temple entry.\textsuperscript{115}

But Viduthalai in its editorial had strictly warned that if anybody prevented the Untouchables entering into temples would be punished by Law. From 2nd June, 1947 all the temples would be thrown open to all the classes of people without any distinction.\textsuperscript{116}

As a result, the 'Madras Temple Entry Authorization Act of 1947' (Madras Act V of 1547) paved the way to pass the Madras Devadasi (Prevention) of Dedication Act of 1947 (Madras Act XXXI of 1947) which removed the block spot in the administration of Hindu temples. The reform was overdue and the Act put a seal on advanced public opinion which had always been against the vicious custom of dedication of girls for services as Devadasis in temples.\textsuperscript{117}

All the three enactments of Rajaji were not cent percent successful because they required 'Public opinion' that became

\textsuperscript{115} Viduthalai, 4th May, 1947.

\textsuperscript{116} Viduthalai, 29th May, 1847.

a lacuna of operating the Acts. Here, in this Act that was not found. Moreover, the Section 40 of the Hindu Religious Endowments Act of 1926, was also repealed. Hence, the question of removing the Trustees from service for allowing Excluded Classes into the temples did not arise. Thus, all the hurdles were completely removed and the Act made all the Hindus to enter into and worship the deities in the temples.

Moreover, the freedom of religion and other fundamental rights were incorporated in the Indian Constitution. Hence, nothing was prevented anybody entering into temples.

The Madras Temple Entry Authorization Act of 1947, was amended in 1948. Finally, the Act was amended in 1949 (Madras Act XIII of 1949) and in the preamble the words "Certain Classes of Hindus were replaced by the words". All the classes of Hindus to be allowed to enter into the temples.

COMMUNAL GOVERNMENT ORDER

The introduction and implementation of Communal G.O. of 1922 and 1925 have been already analysed. After Independence once again the Communal G.O. was reviewed. When O.P. Ramaswami Reodier (24th March, 1947 to 6th April, 1949) was the Chief Minister of Madras Presidency, he was much interested in the

118 G.O.Ms.No.1866, Legal Department, 6th December, 1948.
Harijan welfare he curved cut a separate Harijan Welfare Department from Labour Welfare Department.

P.S. Kumareswami Raja (7th April, 1949 to 5th April, 1952) succeeded C.P. Ramaeswami Reddiar and during his period the Communal G.O. could not be enforced because of the writ petition filed against Communal G.O. by two students and as a result, it was quashed by the Supreme Court.

Case

Chambakam Dorairejan, a candidate seeking admission to the Madras Medical College, belonging to the Brahmin Community filed a petition for issue of a writ of Mandamus, restraining the Government from enforcing the G.O. Another candidate of the Brahmin Community who applied for Engineering College also filed a suit. The writ petitions were filed in 1950 in the Madras High Court. Almost all the Brahmin Journals wrote against the G.O. Leading lawyers of the Brahmin Community volunteered to argue against the G.O. The Salem Brahmin Sevasangam sent a petition to the President of India praying for a declaration that the Communal G.O. was ultra vires, illegal and opposed to the fundamental rights guaranteed by the constitution.

119 The full bench of the Madras High Court, after hearing the case, delivered the judgement against the G.O. The judgement

119 The Hindu, Madras, 16th April, 1950.
stated that the Communal G.O. denied equal treatment for all citizens under like conditions, both in the privileges conferred and disabilities imposed. In its effect and operation the Communal G.O. discriminated markedly against the members of a particular caste and shut out students having high qualifications, solely on the ground of their caste or religion and let in others with inferior qualifications on the same ground.\textsuperscript{120}

Seeing the judgement, F.V. Ramaswamy called all party meeting on 13th April, 1950. He explained the history of Communal G.O. and under what circumstances it was passed as an order. And he said, that three percentage of Brahmans should not be led to suppress the 97 percent of the Non-Brahmins in the state. He said that Non-Brahmins should not allow the three percent of population monopolise and dominate the Sudras. The Sudras should demand their rightful share in the administration, justice and respect.\textsuperscript{121}

The title of his speech "Why Communal G.O."? attracted the mess and all the political parties including the newly born D.M.K. joined his junds. The whole State of Madras observed a complete hartal on 14th August, 1950.\textsuperscript{122} This alarmed both


\textsuperscript{122} Vidutheilai, 15th August, 1950.
the Central and State Government authorities and the only alternative left behind was to amend the constitution. "If Communal G.O. was repugnant to the constitution the Communal G.O. cannot go, but the constitution should be amended". 123

At this juncture P.S. Kumaraswamy Raja was the Chief Minister of the Tamilnadu and H. Sitarama Reddi was the Labour Welfare Minister. Immediately, the Chief Minister had moved the case to Supreme Court of India and appealed against the judgment of Madras High Court. Advocate-General of Madras argued that the Article 46* of the Indian Constitution authorising the State Government to promote educational and economic interests of the weaker sections of the people could over-ride Article 29(2).

During this period, the question of Communal G.O. was discussed in the Madras Legislative Assembly. B.S. Murthy, a Barijan M.L.A., M.S. Abdul Majid, M. Muhammed Razakhan and K.M. Seethi wanted to know about the review of Communal G.O. For all their doubts, K. Madhava Menon, Minister for Agriculture replied, since the question of revival of Communal G.O. was pending in Supreme Court, it could not be discussed in the Assembly


*Article 46 - Promotion of Educational and Economic Interests of S.C., S.T. and other Weaker Sections - "The State shall promote with special care the educational and economic interest of the Weaker Sections of the people, and in particular of the S.C. and S.T. and shall protect them from social injustice and all forms of exploitation".
or in any place outside the court.¹²⁴

But, however, it was rightly argued that communal distribution of seats in colleges was tantamount to assisting Weaker Section of the population. But the Supreme Court rejected the argument and upheld the judgement of the Madras High Court State of Madras versus Charpakan Durairajan.¹²⁵ It was felt that the Supreme Court had given no alternative proposal to the State Government of Madras to hold the Weaker Sections in the society according to Article 46.¹²⁶

In the meantime, the Supreme Court delivered its judgement, and upheld the appeal of Government of Madras and accordingly the constitution was amended in 1951.

After the verdict of the Supreme Court the Madras Government revised and enforced the Communal G.C. as follows:

¹²⁵ State of Madras Vs. Charpakan Durairajan, A.R.1951, SC.72, SCR.525, Case No.65.
¹²⁶ Veeramani,K., op.cit., p.42.
### The Communal G.O. of 1951

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Community</th>
<th>Roster Point</th>
<th>Reservation Percentage</th>
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<tr>
<td>1.</td>
<td>Backward Classes</td>
<td>5</td>
<td>25</td>
</tr>
<tr>
<td>2.</td>
<td>Scheduled Castes</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>3.</td>
<td>Scheduled Castes &amp; Scheduled Tribes</td>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td>4.</td>
<td>Open Competition</td>
<td>12</td>
<td>60</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td><strong>20</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

In the previous G.Os of 1922, 1925 the reservation for Brahmins was given. Instead a new category called "Open Competition" was added and the Forward Classes including Brahmins were ignored.

In the 1922 G.C. Brahmins were given reservation of 16.66 percent that was over and above of their population. In the 1925 G.O. they were given 14.28 percent.

After 1951, the communities like Brahmins, Muslims, Indian Christians and Anglo-Indians were removed from the communal reservations and only the Backward Classes and Scheduled Castes and Tribes were included.

In the Communal G.C. of 1925 two categories, Backward

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127 G.O.Ms.No.2432, Public (Service), 27th November, 1951.
and Non-Brahmins were included. Neither the word backward nor the word 'Non-Brahmins' was not found in the constitution. Therefore, the Brahmins were waiting for an opportunity to quash the Communal G.O. of 1951.

Quashing of the Communal G.O. and the First Amendment of the Indian Constitution 1951

The Communal G.O. was quashed by the Madras High Court and by the Supreme Court of India on the ground that the G.O. was violating and over-riding the Article 15(1)\footnote{Article 15(1) - Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth: - "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex place of birth or any of them". Madras Book Agency, Madras, 1978, p.6.} and 29(2)\footnote{Article 29(2) - "No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State Funds on the grounds only of religion, race, caste, language or any of them". Ibid., p.12.}
of the constitution.

Defence of the Communal G.O. by Ambedkar

E.R. Ambedkar, the First Law Minister of Free India said that the Article 15(1) and 29(2) are for the protection of the rights of those who were denied the ordinary human rights for thousands of years. But these were used as arms by the Brahmins who caused the oppressions of the Depressed Classes and the G.O. was quashed abruptly. The quashing of this Communal G.O. jeopara-
discussed the Backward Classes of the Madras Presidency and they raised hue and cry under the leadership of E.V. Ramaswamy. Alladi Krishnaswamy Iyer who was the fountain head for quashing the Communal G.C. and other leading Brahmins influenced the Prime Minister Nehru and others not to yield to the agitation but to go by constitution. But B.R. Ambedkar the real sympathiser of Backward Classes confidently approached Nehru and said, that if India wanted the 'Socialistic Democratic Society' it must upgrade the Backward Classes in par with that of 'Forward Classes' and till that social equilibrium was achieved such Communal G.C. was a must. Prime Minister Nehru readily accepted to his request and the First Constitutional Amendment was moved in 1951. Nehru and his Congress Party, unanimously voted for the amendment of the constitution.

In the House of Parliament B.R. Ambedkar, as the champion of the Weaker Section of the society, attacked the Supreme Court judgement and remarked that was vitally unsatisfactory and was not in consonance with the Articles of the Constitution. This remark created a storm in the House. He strongly advocated the cause of the Backward Classes by quoting the constitution itself and recommending an amendment.

How this Amendment was carried out by B.R. Ambedkar?

Fundamental rights come under Part III of the Indian Constitution. They cannot be over-ridden by any Article because they
Ambedkar as the champion of the Weaker Section inserted in Article 15, Clause 4 of the Constitution enabling special provisions for the advancement of Socially and Educationally Backward Classes of Citizen notwithstanding in the Article 15 or in Clause (2) of Article 29. This is the First Amendment Act of the Constitution which was made in 1951 by B.R. Ambedkar himself. 130

Thus, the Communal G.O. took its re-birth and benefitted the Backward Classes and Depressed Classes. The amendment was supported by a overwhelming majority of the House including those who opposed because of the very eloquent and impressive speech delivered by B.R. Ambedkar.

Ambedkar's pre-oration for its incisiveness and lucidity of exposition concerning difficult and dedicate, constitutional and legal issues must rank as one of the most outstanding debating performances ever witnessed in the Parliament. 131

Thus, Article 15(4) enables the State to make protective discrimination in favour of "Socially and educationally Backward Classes", in matters pertaining to admission into educational institutions. The phrase "Socially and educationally Backward Classes" has been used juxta position with the phrase "Scheduled Castes

130 First Amendment Act 1951, S.2.

131 The Times of India, Bombay, 19th May, 1951; Dr.Ambedkar's 'Life and Mission', Government of Bombay, Maharashtra, pp.430-31.
and Scheduled Tribes". Therefore the phrase "Scheduled Castes and Scheduled Tribes" was different from Socially and educationally Backward Classes. So, the criteria to determine the social backwardness was different from those used to ascertain the Scheduled Castes.

"Caste" was the important test in preparing the list of Scheduled Castes, but the same test could be taken as the only test to determine social backwardness of people. But in practice "Caste" had been taken as an important factor in preparing the 'Backward Class List'. But Judiciary stressed that "Caste" might be taken as one of the tests but not the sole test. Hence, the Supreme Court had rejected the "Caste" test alone to determine the Backward Classes.

However, the concept of "protective discrimination" contemplated in Article 15(4) had helped to bring about social transformation gradually through the process of reservation of seats in educational institutions in favour of all those who were socially and educationally backward.132

Impact of Communal G.O. of 1951

In order to revise the Communal G.O. for the first time

Indian Constitution was amended Article 15(1) and 15(2) which forbade discrimination on caste, religion and life differences were amended by an additional provision that nothing in the Article would "prevent the State from making any special provision for education, economic or social advancement of any Backward Class of citizen". By this, "Special Assistance" to the Backward Classes became a constitutional right.

But 'The Hindu' criticised, that it had created injustice to meritorious individuals and it was a grave danger to efficiency and public interest.133 Because of this G.O. the constitution was amended to reverse the Judicial interpretation.134 Further, 'The Hindu' said, that there was no need for this order and the Congress Party in power wanted to exploit the political situation.135

Despite this criticism of the press, the Government was firm in enforcing the order and the recruitment to State Services was carried out on communal basis. And this was constitutionalised by the constitutional amendment. There were differences between the Communal G.O. of 1922 and the Communal G.O. of 1951. When the dyarchy Government executed the G.O. to ought to relax the communal rotation rules. Moreover, there was a foreign Government.

133 The Hindu, 31st May, 1951.
134 The Hindu, 14th April, 1951 and 15th May, 1951.
135 The Hindu, 19th May, 1951 and 26th May, 1951.
in between for anything and everything. The dyarchy Government was unable to appoint persons as per the Communal G.O. because, the appointments were done on the discretion of the Secretaries to Government and Collectors (who were Europeans). The Communal G.O. was interpreted and applied casually by them. Moreover, it was applied only at the 'recruitment' stage but not at the stage of 'confirmation'.

In 1951 there were only three communal groups namely Forward, Backward and Scheduled Castes and Tribes therefore applying of communal rotation became easy. Among the Backward Classes and Scheduled Castes and Tribes the number of qualified persons both in Arts and Science became numerable and so they were able to compete in the open competition also.

In 1962, among 60 permanent Deputy Collectors in the Madras Civil Service (Executive Branch), there were 7 Brahmins, 22 non-Brahmin Hindus, 6 Scheduled Castes, 21 Backward Classes, 2 Christians and 2 Muhammadans.

Backward Classes were most benefitted people by the Communal G.Os. The number of members of the Backward Classes rose from 270 in 1956 to 510 in 1960 among Gazetted Officers in the State.

136 G.C.Ms.No.228, Public, 27th February, 1939.
137 Annual Civil List, 1962.
138 Madras Annual Civil List 1956 to 1960.
The cause for the increase of Backward Classes was the inclusion of Backward Caste from Christianity and Islam.

Thus the impact of Communal G.O. was the increasing of percentage of opportunities to the Backward Classes and not so much of Depressed Classes and Brehmins.

THE UNTOUCHABILITY (OFFENCES) ACT OF 1955 (ACT XXII OF 1955)

The Government of India was keen on improving the condition of the Depressed Classes. So, the Central Legislature passed Acts which were also implemented by the State Governments. The problem of untouchability and its eradication was a puzzle. Morally, ethically and constitutionally it was tried to eradicate but met with a thorough failure. Even during the British rule constitutional attempts were made to prevent discriminations against the Untouchables. Steps were taken against, their disabilities and civil, and civic rights were given to them. 'Temple Entry Movement' started in the Madras Presidency was mainly to eradicate untouchability but it was also not much to the expectation. When the Republican Sovereign Democratic Indian Constitution was enforced from 26th January, 1950 it was put in black and white in Article 17 that untouchability was abolished and its practice in any form was forbidden. The enforcement of disability arising out of 'untouchability' shall be an offence punishable in accordance with Law.
Article 15(2) of the Constitution guaranteed the civil rights to all irrespective of their caste, colour or creed. Right against exploitation was given in Article 23, right to freedom of religion was given in Article 25 and the uniform Civil Code for the citizens throughout the territory was guaranteed in Article 44.

The above said constitutional guarantees were already guaranteed by various Acts of the State and almost all of them were incorporated in the Republican Constitution. However, these constitutional safeguards were not sufficient to protect the Depressed Classes from the communal atrocities. The poor disunited Harijans in the country could not launch "Civil Rights Movement" like American Negroes.

It was a strange event that there was punishment for treating Harijans as equals. The Caste Hindus had adopted their own mundane (customary) laws such as social boycott those who treated Harijans as equals. In Vazhappady of Salem district, the Harijans were prohibited from being employed by the non-Harijans. But one Sellamuthu (a non-Harijan) employed nine Harijans for farm work. He was fined by his castemen but he refused to pay the fine and also lodged a complaint in the police station. The villagers condemned him as an anti-social element and boycotted. One-day when he was inspecting his field a country bomb was hurled at him and he died. 139

139 The Hindu, 20th May, 1983.
Therefore, even by law and order, the Government could not prevent the communal atrocities on Harijans. Customs and usages had ruled the religion, society and politics. Even the Judiciary approved the custom and usage and it became the 'Rule of Law' in those days. The notion of 'Pollution' of an Untouchable was recognised and enforced by the Indian Penal Code. A regulation was passed by the British Administrators in 1832 at Bengal and then its Section 9 (Regulation VII, 1832) was enacted and enforced throughout India since 1850. It was the "The Caste Disabilities Removal Act" as Act 21 of 1850. There were laws to deal with the Untouchable offences but that those laws were not enforced by the enforcement machinery due to local politics. Moreover, the laws were not uniform throughout India. The Untouchable offences were not considered as cognisable and non-bailable offences all over the country. Therefore, Parliament was specially directed to make laws prescribing punishment. Under those circumstances a special law became inevitable. So, the Parliament enacted the Untouchable (Offences) Act of 1955. The Parliament exercised this exclusive power and passed this Act, which marked the culmination of anti-disabilities legislation. Thus, this Act of 1850 had removed the caste disabilities of Depressed Classes and made the old custom and usage null and void theoretically. But in practice, the custom and usage continued. In the Court of Law, the judges delivered their judgements based on custom and usage.

Therefore, whenever the legislatures had tried to remove the disabilities of certain section of Hindu Community, there were legal obstacles. Despite all these hurdles, the Madras State had tried its best and passed the 'Removal of Disabilities Act of 1938 and 1947' with the support of the social workers. By these Acts, the unprivileged section of Hindu Community slowly gained their civil and civic rights such as the right of free movement in the streets, entry into the temples and access to the secular institutions. The Indian Constitution of 1950 has incorporated the fundamental and special rights of the unprivileged people and the Government of India also passed the Untouchable (Offence) Act, 1955. Thus, the usage and custom were erased from the birth of its soil, the Rule of Law came to exist and untouchability was abolished on the deterrent punishment. In the annals of the abolition of disabilities, the Untouchability (Offence) Act 1955, was passed to spell out Article 17 of the constitution so as to give consent to the idea of justice, liberty, equality, fraternity set forth in preamble to the constitution.

Importance of Untouchability (Offences) Act, 1955 (Act XXII of 1955)

It was passed by the Parliament and received assent on 8th May, 1955. It was extended to the whole of India and it prescribes punishment for the practice of untouchability. The award of punishments were sub-divided on various Untouchable

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offences. They were punishments for enforcing social disabilities, refusing to admit to hospitals etc., refusing to sell goods or render services and other offences arising out of untouchability, punishments by cancellation or suspension of licence in certain cases and suspension of grants made by Government, punishments for abetment of offence. The provisions of enhanced penalty on subsequent offences were also found in this Act.

At any cost no custom or usage or any instrument could prevent the execution of this Act. A company i.e., a corporate body including a firm, or an association of individuals was not exempted from punishment for the guilty offence. If a company committed offences under this Act, the Manager, Director, Secretary or other offices of the company was to be considered as the offender.

The Untouchability Offence Act was implemented in every district special police officers were appointed to deal with the Untouchable offences. Sub-divisional Magistrates were directed to give priority for the conduct of Untouchable offence cases. The number of such cases and their related particulars were to be submitted to the Central Government at regular intervals.

Even after the enforcement of Untouchability Offence Act of 1955, the crimes against Depressed Classes like murder, rape and arson had become a routine affair in Tamil Nadu. Most of
the cases were left unpunished and so the Act was practically felt by the people. In 1955-'56, 153 cases were registered under the Untouchability Offence Act, 99 were convicted and 20 were acquitted and 34 were left pending.\textsuperscript{142} So the result was only marginal but not to the expectation and satisfaction.

Under the Untouchability Abolition (Offences) Act of 1955, no information was available in Madras State. As per the Administrative Report of the Madras Presidency, the number of cases during 1953-'54 were 43. In this 35 were convicted under the Civil Disabilities Act of 1947. And under the Temple Entry Authorization Act, 29 cases were registered, of which 13 were convicted.\textsuperscript{143}

As the Untouchability Abolition (Offences) Act of 1955 did not make the offences non-compoundable and cognizable, this Act had to be amended. After this amendment this Act was popularly known as the Protection of Civil Rights Act and came into force from 19th November, 1976. It made all offenders under this Act as cognizable and non-compoundable. This Act provides for strict enforcement and stringent punishment for untouchability offences.

This Act was popularly called as Protection of Civil Rights of Scheduled Castes and Scheduled Tribes and it was strictly enforced by appointing enforcing machineries.

\textsuperscript{142} Madras Administrative Reports, 1955-'56, Madras, p.161.