CHAPTER IV
CHAPTER-IV(A)
RESERVATION POLICY (EXPLAINED)

The package of the ‘Reservation’ aims at removing the socio-legal disabilities of certain specified group in order to facilitate their equal participation in the national main stream and to protect them against social, injustice and exploitation. It intends to bring unequal at the level of equals in order to achieve the constitutional mandate of egalitarian society. Reservation policy is meant for correcting injustice. But, these very objective could not be achieved after the lapse of four decades even today the oppressed sections of our society are where they were five centuries ago. The reason for this that the fruits of reservation are by and large monopolised by the elite.

The constitution makers visualised that social justice should be done to scheduled cast and scheduled tribes by reservation for number of years and simultaneously effort are made to uplift these classes so that they could compete with other on equal terms. But we have failed to achieve our goals because of electoral politics. Therefore it is necessary to make ‘reservation policy’ a permanent and to extend it to those who really deserve it.

Reservation is one of the mechanisms of protective discrimination, as the social policy of the state enshrined in the constitution to ensure the participation of the traditionally neglected section of the society. It involves fixation of quotas in Legislative Bodies, in Educational Institutions and in Public Employments.

(i) CONCEPT OF RESERVATION IN BRITISH INDIA.

Before coming of the constitution of India, the policy of the British Government was to make commonly representation in Service upto 12-1/2% of the vacancies in open competition in favour of candidates
belonging to certain communities which were considered as backward and weaker section of the society. Reservation were made in services for Anglo Indians. The framers of the constitution of India reviewed their policy in the light of relevant provisions which lay down certain exceptions that no discrimination be made in the matter of appointments to the services under the state on grounds of race, religion, caste etc. These provisions are made for scheduled castes and scheduled tribes in all services and for Anglo-Indians in those services in which they had special reservations on the 14\textsuperscript{th} August, 1947. At the census 1951, the Government of India decided to make following reservations in the recruitment to posts and services under them. A resolution Number 42/21/41 was adapted by the Ministry of Home Affairs on September 13, 1950. The Ministry recognised the following reservations:

(a) **SCHEDULED CASTES:**

The existing reservation of 12 ½ % of vacancies filled by direct recruitment in favour of scheduled caste will continue in the case of recruitment of posts and services made an All India basis, by open competition. Where the recruitment is made otherwise than by competition, the reservation for Scheduled Castes will be 16 - 2/3 % as at present.

(b) **SCHEDULED TRIBES:**

Both recruitment by open competition and in recruitment made otherwise than by open competition there will be a reservation in favour of members of scheduled tribes at 5% of the vacancies filled by direct recruitment.

(c) **ANGLO INDIANS:**

The reservations which were in force in favour of Anglo Indians in the Railway Services, the posts and Telegraphs
Department and the Customs Department etc. on 14th August, 1947, will be continued subject to the provisions of Articles 336 of the Constitution.

The above reservations were applied in the case of recruitment made on an All Indian basis under the Constitution all citizens of India are eligible for appointment to posts and services under the central government irrespective of their domicile of place of birth and there can be no recruitment to any central service which is confined by the rule to inhabitants in the specified area. In many cases the percentages of reservations for scheduled castes and scheduled tribes was fixed by the Government taking into account the percentage of the scheduled castes and scheduled tribes in the area.

(ii) RESERVATION POLICY AND SCHEDULED CASTES:

The government of India adopted reservation policy after independence to safeguard through constitutional measures the interest of certain deprived groups known as Scheduled Castes, ex-untouchables, Harijans or Avarnas. This policy is called protective discrimination, positive discrimination and affirmative discrimination. This has recently become a subject of serious criticism and the various castes group protested it. The criticism is due to the ineffectiveness of the policy in raising the social and economic status of Scheduled Castes. This gave rise to the elitist groups within the scheduled castes and this increased inter-caste conflicts in various regions of the country. This criticism was due to the diverse economic and political interest. Some critics were not at all in favour of continuing this policy. They demanded the complete removal of this policy, whereas other stress on changing the criterion of reservation from caste to economic backwardness so that it does not affect the efficiency of work and does not create social tension.
The Constitution makers visualised that social justice should be done to scheduled caste and scheduled tribes for number of years and simultaneously efforts are being made in order to uplift these very classes so that they could complete with other an equal terms. But inspite of our best efforts. We have failed to achieve our target. We have no alternate due to reason of electoral politics. But we should try our best to make reservation a permanent feature and to extend them.

The purely electoral motives of the government is proved by the fact that the reports which forms the basis of their decisions were lying among the dead files and were re-asserted only a few weak before either general election, Assembly elections or major by elections.

The caste based reservations had been supported by the policy makers because of the historical deprivations faced by the Scheduled Castes who were at the bottom of social hierarchy. They were characterised by the convergence of multiple marginalities and cumulative inequalities by the upper castes.

(iii) **RESERVATION FOR ECONOMIC UPLIFTMENT:**

Economically the poorest of the poor are those who engaged themselves in unremunerative and after degrading occupations. These include landless bonded agricultural labourers or marginal share croppers. Socially they are unprivileged because they were not allowed to adopt the cultural and religious values of upper castes due to social sanctions. Any attempt of the scheduled caste to violate the social norms to change the style of life and to assert for their civil right was asserted and resented by the upper castes. They were not even allowed to wear the clothes and jewellery which the high caste worn. For the improvement of their status, they take shelter under the British system of justice which was based on the principle of equality before law. But this system was also inclined
towards caste Hindu. Thus the lower and exploited conditions of these groups emanate from cumulative inequalities in economic, political and ritual systems. A few legislative measures were adopted by the British Government but no concerted move worth the name was made on a large scale to eradicate this evil from our midst.

The target of social justice can be achieved by bringing social inequality in the society. The deprivation is considered to be the product of the distorted economic management. Therefore a change in the property, relations is advocated as the cure of social malady. This change is only possible by a revolution, the society should be prepared and wait for the outcome.

There are various provisions in the constitution of India which forms the part of the economic safeguards. Article 23 prohibits traffic in human beings and beggar and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with the law. It does not specifically mention SC & ST but since the majority of bonded labourers belong to SC & ST this article has a special significance for SC & ST. In pursuance of this article there is the Bonded Labour (Abolition) Act, 1976, and there is a centrally sponsored scheme for identification, liberation and rehabilitation of Bonded Labour. Article 24 provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. There are central and state laws to prevent child labour. This article too is significant for SC & ST as a substantial portion, if not the majority, of child labour engaged in hazardous employment belong to SC & ST.

Beside this there are other specific safeguards for SC’s and ST’s Article 244 (1) the provisions of the Fifth Schedule shall apply to the
administration and control of the Scheduled Areas and Scheduled Tribes in any state other than the states of Assam, Meghalaya, Mizoram and Tripura. Clause 2 of Article 244 provides for the provisions of the sixth Schedule which shall apply to the administration of the tribal areas in the states of Assam, Meghalaya, Mizoram and Tripura.

Article 275(1) provides that 'there shall be paid out of the consolidated fund of India as grants-in-aid of the revenues of a state such capital and recurring sums as may be necessary to enable that state to meet the costs of such schemes of development as may be undertaken by the state with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that state or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that state". A similar provision exist in this article for paying such special grants to the states covered under the Sixth Schedule out of the consolidated Fund of India.

Fifth Schedule contains provisions regarding the administration and control of the Scheduled Areas and Scheduled Tribes. There are eight states having scheduled Areas viz., Andhra Pradesh, Bihar Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa and Rajasthan. The Governors of these states have special responsibilities and powers. These states have Tribes Advisory Councils. The Governors of these eight states have the power to make regulations for the peace and good government of any Scheduled Area, particularly for the following purposes to prohibit or restrict the

(a) transfer of land by or among members of the Scheduled Tribes in such area.
(b) To regulate the allotment of land to the members of the Scheduled Tribes in such area.

(c) To regulate the carrying on of business as money under by person who lend money to members of the Scheduled Tribes in such area’’.

(iv) RESERVATION FOR SPECIAL EDUCATIONAL FACILITIES:

The reservation for special educational facilities and admissions to educational institutions aimed at raising the educational level of the deprived group in order to bring these groups at par with the rest of the population. They are given preferential treatment in matters relating to education such as fee concession, pre and post matriculation scholarship etc. Initially the provided facilities were limited, but subsequently it was enlarged for example, the scheme of post matriculationship to the Scheduled Caste and Scheduled Tribes was started in 1944-45 with 114 awards and in 1980-81 this number was increased to 7.50 lakh. The scheme of pre-matric scholarship started in 1977-78 for the children of those who engage in so called unclean occupations like scavenging of dry latrines, farming and flaying. Many coaching and allied schemes were started for improving their representation in various posts. Therefore, the reservations in educational facilities and subsequent developments were made to improve the conditions of the scheduled castes. Apart from reservation in different spheres the welfare of the scheduled castes and scheduled tribes were given the special attention by the central and the state governments. Special welfare programmes have been undertaken in the successive five years plans. The union government of India set up three parliamentary committees in 1968, 1971 and 1973 to examine the implementation of the
constitutional safeguards for the welfare of the scheduled castes and scheduled tribes.

The education is a cardinal element of social equipment. So it is necessary for the policy makers to ascertain who are educationally backward and extend protective discrimination to that section of society. This criterion may pose problem when applied, as the adaption of 'education' as the basis of classification would include a vast number of illiterates. 'Education' as the basis to determine the socially backwardness could be suitable critria on the evil of the casteism could be eliminated and a simple formula for the application of the protective discrimination could be evolved.

"Ignorance and illiteracy are great causes and sources of all social evils. Education would not only bring the down trodden to the level of the society but enable every individual to rationalize other social and religious practices. It is because of ignorance and less education particularly in rural India where the people are comparatively much caste sensitive, education would certainly mould the thinking and reconstruct the social practices. The old rigid social norms might be broken by the impact of education". Educational safeguards are provides in the constitution of India. Article 15 (4) empowers the state to make any special provision for the advancement of socially and educationally backward classes of citizens or for SC & ST. This provision was added to the constitution through the constitution (First Amendment ) Act 1951 which amended several articles. This provision has enabled the state to reserve seats for SC & ST in educational institution including technical, engineering and medical colleges.
(v) **JOB RESERVATION**:

Today the interpretation of job reservation policy is viewed contradictory to fundamental rights, and this is constitutionally self defeating. But it is not so. Moreover fundamental rights are supplementary to job reservation policy. Mere letters of the constitutional clause in isolation would be discarding to the spirit underlying the constitution.

Ambedkar knew that the economic stability is the foundation of social and political renaissance. While detailing out the scheme of economic stability, Ambedkar postulated education and employment as an instrumental to do it. He advised the Scheduled Castes to take white colored jobs which might enhance their society status and not the pretty professions like carpenter, ironsmith or a low grade technician. It needed high education. Till recently, no zeal regarding higher education was found among the Scheduled Castes. As such special rights to them in the field of jobs and higher learning go hand in hand.

In order to understand the present issue, it would be better to examine the constitutional provisions with certain qualified exception. It is provided that “there shall be equality of opportunity for all citizens on the matters relating to employment to any office under the state”. It further says that no citizen shall an grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for or discriminated against in respect of any employment or office under the state. These clauses bring all citizens on equal footing in respect of opportunities in employment areas. Article 16 (4) of the Indian Constitution imposes a restriction on the above clauses in order to safeguard the interests of the Scheduled Castes and Scheduled Tribes by the stating that, nothing in this article shall prevent the state from making any provision for the
reservation of appointment or posts in favour of any backward classes of citizens, which in the opinion of the state, is not adequately represented in the service under the state. No doubt, while framing these clauses, the whole backward of the Indian situation was not put aside by the framers of the Indian Constitution. Neglecting this background an argument is made that clauses (1), (2) and (3) of Article 16 constitute the main body of the principle of equality and 16(4) is an exception and an instance on it would render the three provisions meaningless. It is clear that Article 16(4) stands when it refers to socially and economically backward people and only if such people are not adequately taken up in the state services. About this Dr. B.R. Ambedkar feared that it may too often challenged by the contenders if the Phrase "not adequately represented" is not used. Finally the part of the clause "classes which in the opinion of the state are not adequately represented", was accepted. Thus the backward classes do claim a privileged position in employment.

For the provision of special facilities to the backward classes, it is necessary to define Scheduled Caste and Scheduled Tribes. The President of India identifies and notifies these classes. It is provided that 'Scheduled Caste' means such races or tribes, castes as are deemed under Article 341 to be Scheduled Castes for the purpose of this constitution. Though the Indian Constitution does not define backward classes or who are equally backward or less backward as compared to Scheduled Castes and Scheduled Tribes. Then backwardness generally implies that they are economically poor having scanty education facilities. Education and economic difficulties result from adversities and this is a very much true of the Indian backward classes. K.M. Munshi classified that the term Backward Classes, means such groups which, irrespective of castes, need special protection in the area of employment. Article 335 provides that the
claims of the members of the scheduled castes and scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union of the State. Article 320(4) provides that consultation with the UPSC or any Public Service Commission shall not be required as respects of the manner in which any provision under article 16(4) may be made or the manner in which effect may be given to the provisions of Article 335. An injustice was done to Brahmin Community in Mysore because all except the Brahmins were declared as backward classes. Even the court upheld that the community which was adequately represented in services had to wait till the so far unrepresented communities enter the various fields of employment. Thus the misuse of this ‘term’ was made and this created resentment among the High Caste Hindus and Minorities like Muslims and Christians. As a whole the interest of all the backward classes including Scheduled Castes and Scheduled Tribes, the high castes captures services in greater proportion than their population.

The systems of reservation in government jobs did not achieve adequate results till late sixties as the entrants of scheduled castes and tribes were too few and junior in their ranks, ranks to pose any threat to the status quo of the upper castes. In 1967 it was felt that the constitutional safeguards were not fully implemented and in 1968 a high power committee was constituted in recruitment of Scheduled Castes and Scheduled Tribes in services. On the suggestion of this committee a number of changes were introduced in 1970 and the quantum of reservation was increased from 12 to 15% and the period to carry forward unfilled reserved vacancies was increased from two to three years. Reservations were extended to promotions on the basis of seniority subject to fitness in groups A, B, C and
D in 1972 and to higher grade in 1974. In June, 1976 reservations were extended to appointments in scientific and technical side. To carry forward the reservation in December, 1977 was permitted to exceed 50%. All these directions were effective in public undertakings, statutory and semi government bodies, autonomous bodies including municipal corporation, cooperative institutions, universities and voluntary agencies receiving grant in aid from the government. This rapid acceleration both horizontally and vertically in jobs during the seventies had been the outstanding feature of the reservation policy. But certainly the acceleration in the implementation of the policy brought anti-reservation feeling in the upper castes. They resisted preferential treatment to low merit Scheduled Castes. However, “the efficiency is taken care while making the appointments of Scheduled Castes to government jobs” \(^8\). But there is no objective criterion to determine efficiency.

(vi) SOCIAL OPPORTUNITIES (ABOLITION OF UNTOUCHABILITY)

Untouchability is the worst kind of atrocity on the Harijans. The makers of the Indian Constitution were well aware of the chronic disease of untouchability. In the post Independence India, the founding fathers of the Indian Constitution took a historic and epoch making step by abolishing the stigma of untouchability associated with Scheduled Castes by not only grating them equal rights with other citizens but also by ensuring them special privileges for educational, economic and cultural upliftment to enable them to catch with those who were ahead of them. The Constitution of India banned untouchability by emboding Article 17 which states that “untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising act of untouchability shall be an
offence punishable by courts. Five years after the commencement of the Constitution, the Untouchability (offences) Act, 1955, was passed and set into operation. The enforcement of the Act, however was not satisfactory. A Bill ‘Untouchability (offences) Amendment and Miscellaneous Provisions’ was introduced in the Lok Sabha in 1976. After receiving several amendments by the joint committee, it was passed, renaming it as Protection of Civil Rights Act in 1976. This Act has a little impact on the abuse of untouchability, particularly in the rural areas. The rural people practice untouchability in connection with temple entry, fetching water from public wells, hotels and other shops providing services of daily life. The observance of untouchability is based on the idea of purity and impurity specially connected with occupations – clean and unclean. The existence of such discrimination could date back to ancient time. In Chhandogyopanished, though there are some contrary references about Chandal, he was degraded and was ranked with that of dog and pig. This refers to either unclean living of Chandal or the unclean nature of their occupation or both. But the progeny of the most hated of the reverse order of mixed unions that of a Brahmin female and Shudra Male. According to I.P. Desai untouchability is a kind of behaviour which is based on the concept of pollution and that it has religious and secular sanctions. He further adds that the religious conversions could not improve their social status. Article 23 and Article 24 of the Indian Constitution provides Social safeguards for Scheduled Castes and Scheduled Tribes.

From the above discussion it is clear that the reservations in appointments of jobs and in education brought significant consequences for Scheduled Castes as well as for the non-Scheduled Castes. A number of studies have shown that the spread of education among the Scheduled Castes has been slow as compared to non Scheduled Castes. Secondly,
among these castes themselves same groups have made for more rapid progress than some others. Thirdly, their capacity to utilize the privileges offered by the government has tended to vary from one sub-group to another, which may be attributed to the varied degree of their political consciousness, social and occupational positions in traditional hierarchy, capacity to break away from this hierarchy and influence of urbanization.

Keeping in mind the consequences of reservation policy, there is a need to continue the benefits for Scheduled Castes. The gap between the Scheduled Caste and the non-Scheduled caste is still very wide. What is important is that the tendencies of elitism must be checked with in the Scheduled Castes. The privileges should reach those who have not benefit from reservations. So far Institutional and other measures may be adopted for the withdrawal of benefits from those who have already reached their status. Thus the reservations with in the reservations may be introduced to check elitism. It was suggested by Shah in 1985 and Agarwal and Ashraf in 1970, a time bound reservation policy which in Galanter’s (1984) terminology is a process of de-scheduling and de-reservation. The process of locating the real beneficiaries and of granting benefits to them and to de-schedule them should be a continuous one. There may be problems for the implementation of this process as the scheduled castes do not constitute a homogenous cultural entity and are wide spread in geographical regions of the country. For this the regional specific criteria may be adopted other measures may be not to allow reservation in job or promotion to a person more than once, and the children of a scheduled caste with certain economic positions should not be allowed to benefit from the reservation policy. The concept of reservation within the reservation may reduce anti-reservation feeling among the non-scheduled castes.
The other way could be to generate awareness through improvement in communication among the Scheduled Castes to enable them to know about the existence of special privileges, financial allocation and other reservations. Such an exercise may prove useless if a large number of them are ignorant and illiterate. Institutional Structural measures may be adopted to raise their literacy rate. Further more, the conditions of the work may be changed in occupations with which still the stigma of untouchability is associated. But such a task may involve long span of time. Therefore, it is necessary that the short term changes like proper administration and implementation of the policy may prove useful.

REFERENCES:


2. Article 16(1) of the Indian Constitution.

3. Article 16(2) of the Indian Constitution.


5. Article 341 of the Indian Constitution.


8. Article 335 of the Indian Constitution.

10. Ibid., at p.309.

CHAPTER-IV (B)
DR. B.R. AMBEDKAR AND RESERVATION POLICY AND HIS SPEECHES IN THE CONSTITUENT ASSEMBLY

Reservation of seats for Depressed Classes in legislatures, and other places was absolutely necessary, according to Dr. B.R. Ambedkar. Thus by this his community could receive representation in the making of laws, public services and educational institutions. He had demanded reservation in Military and Police. The social and economic conditions of the Depressed Classes, was not very sound. This prevented them from competing with caste Hindus and unless and until the reservations are given to them they will not be able to get any place anywhere. The most important result of such a provision would be that the seats reserved for Depressed Classes would definitely be filled up by the members of community, and, they would be in a position to do something for safeguarding the interests of their fellow-beings as well as raise themselves to higher levels of thinking and living. They would be able to receive technical and professional education which should get them good jobs; gradually, they would gain general respect and equal status. As a member of Legislature and executive, they would be able to raise their voice against the situation in which they had been living for centuries.

Dr. B.R. Ambedkar viewed with disfavour the so-called representatives of Depressed Classes who by their grandiose talk about their improvement were misleading people. He suggested that there should be special Employment Exchange at the centre and in the provinces to ensure reservation of post for Scheduled Castes, “These Employment Exchanges would function as liaisons between the Governments and the employment seekers from the Scheduled Castes”1.
He advised setting up of "an independent Minorities Commission having jurisdiction over these Employment Exchanges to see that the Reservation is properly administrated". In other words, he stressed the need for suitable agencies at Central and provincial levels to ensure that the provisions for reservation was implemented faithfully.

Dr. B.R. Ambedkar urged that the Depressed Classes should be classified as a distinct community, entirely different from the Hindu. Therefore, some posts should be reserved for them in the legislatures and that the existing practice of nominating one or two members should cease. He demanded that "Depressed Classes should have 22 out of 140 seats in the Bombay legislative council". He also complained about the behaviour of Bombay Council towards untouchables. Thus Dr. Ambedkar build up a case for reservation of seats to ensure the proper working of safeguards at the centre and in the provinces.

Dr. Ambedkar made social justice a founding faith and built into it humanists provisions to lift the level of the lowly Scheduled Castes and Tribes to make democracy viable on an equal footing.

In his final address to the Constituent Assembly, Dr. Ambedkar gave a caution and premonition and derived home this point not to interpret but to illumine the scheme of the equality code and casteless society plea. He observed:

'The third thing we must do is not to be content with the mere political democracy. We must take our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy means? It means a way of life which recognises liberty, equality, fraternity as the Principles of life. There principles are not to be treated as
Separate items in a trinity. They form the union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorce from liberty. Nor can liberty and equality be divorced from fraternity, without fraternity, liberty and equality could not become a natural course of things. It would require a constable to enforce them. We must began by acknowledging the fact that there is complete absence of two things in the Indian Society; one of these is equality. On the social plane, we have India a society based on the principles of graded inequality which means elevation of some and degration of others. On the economic plane, we have a society in which there are some who have immense wealth as against many who live in abject poverty. On the 26th January, 1950. We are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognising the principle of 'one man one vote and one vote one value'. If our social and economic structure continue to deny the principle of one man one value, how long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible movement or else those who suffer from inequality will blow up the structure of political democracy which this Assembly
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*has so laboriously built up*.  

It is true to say that the drafting of the Constitution of India was done by Dr. Ambedkar himself. He accomplished this task within a record time at the end of 1948. Shri Krihnamachari on 5th November, 1948 delivered a speech in the Constituent Assembly which shows that Dr. Ambedkar was in fact the chief architect of our democratic constitution. He also candidly stated: “Ultimately the burden of drafting the constitution fell on Dr. Ambedkar and I have no doubt that we are grateful to him for having achieved this task in manner which is undoubtedly commendable”. Even today the constitution of India drafted by Dr. B.R. Ambedkar has stood the test of time and made India a strong and stable democratic country in the world.

Dr. B.R. Ambedkar had a great sympathy for the Depressed Classes. He felt determined to assert their rights of equality and tried to safeguard their interests through legal recourse. He held that emancipation of untouchables was a matter of right upheld by law and statutes and not ‘through derivative concession’. Dr. Ambedkar’s approach on this issue was “radical realistic and emancipative”.

Dr. Ambedkar took Gandhian concern and work for untouchables with a pinch of salt. He did not seek for mercy but justice for his people. He was convinced that unless and until they are given representation in the Legislative Assemblies. They would not be able to improve their lot. Ambedkar was sure that unless Depressed Classes were recognised as a separate political entity they would have no place in political and social life. He was of the view that separate electorates along were not sufficient, separate electorates without means are useless, political safeguards are necessary to make this provision useful. He maintained that Depressed Classes has no rights and even if they had any, the majority would not
permit them to enjoy those rights. “There are chances that they are discriminated against either in the legislation, or in administration, or in public rights of citizenship. Therefore, it is necessary to safeguard the position of minorities, constitution should provide certain limitations to prevent the abuse of power”.

Dr. Ambedkar stressed that there should be a provision for “certain safeguards in the constitution itself or an instrument of advice to the Governor regarding the Education of the Depressed Classes and their entry in to the public services”. He contended that in India public services were almost exclusively manned by people of one community; there was great danger of the vast power being abused against a particular class or section. He advised an admixture of castes and creeds, including Depressed Classes in public services of the country. He demanded a ‘certain percentage in public services to be reserved for the Depressed Classes’ and observed “there would be no difficulty in guaranteeing such safeguards by a clause in the constitution”. He insisted on safeguards because “the handicap of Depressed Classes is real, but these safeguards should not be such that they will perpetuate the differences which must be bridged. It is an obligation on the majority to consent for these safeguards and on minorities not to insist such safeguards as will block the way of the unity”. Thus Dr. Ambedkar had all along pleaded for safeguards for Depressed Classes in any constitutional arrangement.

(i) DR. B.R. AMBEDKAR AND CONSTITUENT ASSEMBLY DEBATES:

Dr. Ambedkar was elected to the Constituent Assembly of India by the members of the West Bengal Legislative Assembly though he was defeated in Bombay. He was elected on the Drafting Committee and later appointed as its Chairman. The Constituent Assembly met first on 9th
December 1946 on 15th. August, 1947, it become sovereign Constituent Assembly of free India. The first Draft of the Constitution was presented on 4th November, 1948 and final constitution was adopted on 26th November, 1949.

Ambedkar's main objective in the Constituent Assembly was to safeguard the interest of the Scheduled Castes. He said that he had not the ambition of Drafting the Constitution. It was charged in the Constituent Assembly that the Draft Constitution was a copy of Government of India Act, 1935. Ambedkar replied that there is nothing to be ashamed of in borrowing. It involves no plagiarism. In his opinion to appoint a Constituent Assembly was superfluous. The main thing was to delete those sections of Government of India Act which were inconsistent with dominion status. The only work in the Constituent Assembly was to find out the solution of the Communal problem. According to Dr. Ambedkar the legislature should not be trusted to prescribe the form of the Constitution. He justified that the forms of administration must be incorporated in the Constitution.

Dr. Ambedkar in the Constituent Assembly said that what is very eminent is that Indian Society is allowing itself to consolidate as and equitious system for practising political equality to Indian citizens by sustaining inequality in social and economic life. The probability is that this contraction between political equality and social and economic inequality in our society may surface disastrously in our democracy at any time. He further said that this contradiction should be removed at the earliest possible time otherwise those who suffer from inequality will blow up the structure of political democracy.

The most important aspect of Constitutional provisions dealing with citizenship was that it had established a uniform or single system of
citizenship for the whole country. This was in striking contrast to the double citizenship prevailing in federal states. Dr. Ambedkar said that in all the dominion countries, the residents would be divided into three categories. This would mean that the citizens of the dominions residing in India would not be treated as aliens would not have, but they would certainly not be entitled to get full rights of citizenship which was given to the people of India.

The term minority was used in Article 18 of the Fundamental Rights not in the technical sense of the word minority as it was used for the purpose of certain political safeguards. It was used to cover which were none the less minorities in the cultural and linguistic sense. Dr. Ambedkar classified that the Articles regarding minorities (29 and 30) intended to give protection in the matter of culture, language and script not only to minority in the wider sense of the term. Claims of minority communities to service and posts were emphasized by him. The Scheduled Castes were socially untouchables, this social stigma worried Dr. Ambedkar very much. He thought that once political and social equality was established and educationally the Scheduled Castes were advanced, every other difficulty would disappear. For him Fundamental Rights would mean establishment of equality only. He replied that we are having the liberty in order to reform our social system which is so full of inequalities, discriminations and other things which conflict our Fundamental Rights. For pulling their weight in the political field, he depended on adult franchise there was bound to a big change.

The Constituent Assembly task was to draft a constitution that would serve the ultimate objective of social revolution. If this social change cannot be brought, Mr. J.L Nehru warned that all our paper constitution would become useless. He declared. If India goes down, all well go down.
If India thrives, all will thrive, and if India lives, all will live 18. Accordingly to Mr. Devendranath Samantha, the Indian independence was the outcome of untold sufferings and immense sacrifice of the masses of the country and therefore Constitution should be such as to promote the interest of the masses and to benefit the country as a whole 19.

The objective resolution passed by the Constituent Assembly sets – put the aims and objectives in framing the Constitution. It expressed the resolve of the Constituent Assembly to frame a Constitution committed to the ideal of social revolution by guaranteeing and securing to all the people of India, justice, social, economic, political, equality of status and of opportunity before the law, freedom of thought expression, belief, faith, worship, vocation association and action subject to law and public morality and where in adequate safeguards shall be provided for minority, backward and tribal areas and depressed and other backward classes 20.

The Expression 'place of birth' was inserted in Article 9 by way of amendment on the motion of Syed Abdul Rauf 21, in the Constituent Assembly on 29th November said that 22 the intention of the Article 9 is to prohibit discrimination on grounds of religion, race, caste or sex. We have prohibited discrimination on grounds of religion, race, caste, or sex. But I am afraid that the evil elements who might attempt to make discrimination against citizens will do so not on the ground of religion, race, caste or sex. In my opinion attempts only be make discrimination against citizens on the ground of place of birth and under guise of local patriotism. To guard against this possibility. I have brought this amendment. This amendment was duly accepted by Dr. B.R. Ambedkar who was the Chairman of the Drafting Committee and the Constituent Assembly 23. Thus the expression occurs in clause (1) and (2) of Article 15 of the Constitution.
When Dr. B.R. Ambedkar asked whether the word ‘shops’ in the expression “access to shops in Article 9 of the Draft Constitution of India 1948 also included places like ‘a barber’s shop’ or a ‘shaving saloon’ or laundaries. On this point Dr. Ambedkar replied that the word shop does not include laundary and shaving place. A laundary man would be a man sitting there offering his service for any person who enters his saloon.

Dr. B.R. Ambedkar also made clear in reply to some other questions that the word ‘tanks’ in Article 9 included ponds and the expressions “places of public resort” would include a burial (or cremation) ground subject to the fact that such a burial ground would partly or wholly maintained out of public funds.

In regard to the expression ‘state funds’ in Article 15. This expression was substituted by the Constituent Assembly on 29th November, 1948, on the motion of Dr. Ambedkar himself. Dr. Ambedkar in support of his motion said that why the Drafting Committee felt that the words the revenues of the state should be replaced by the words ‘state funds’ is a very simple thing.

In the Constituent Assembly Domodar Das was apprehensive that reservation policy might give rise to casteism and favouritism. Though our constitution does not use caste as criterion of discrimination, it speaks of backward class, still caste consciousness is bound to creep into the reservational benefits.

The problem of protective discrimination aims at the perpetuation of self abolition in the course of time. Though Article 15(4) and 16(4) do not speak of transitory nature, but close scrutiny of the provisions may warrant periodicity. During the Constituent Assembly Debates one member who was staunch supporter of reservation wanted the continuation of reservation
for 150 years on the plea that it had been the period during the opportunities had been denied to backward classes.\(^28\)

Damodar Das Seth who was the member of the Constituent Assembly proposed that, the necessary facilities should be given to the backward classes for improving their educational qualifications and raise general level of their uplift. But appointments and posts should be left to the discretion of public service commission to be made on merit and qualifications and no concessions whatever should be allowed to any class on the plea that the same happen to be backward.\(^29\)

To quote K.M. Munshi, “The word backward signifies that class of people - does not matter whatever you call them untouchables or touchables belonging to this community or that a class of people who are so backward that special protection is required (for them) in the services.\(^30\)

Dr. B.R. Ambedkar who had emerged as champion of the cause of depressed classes had become accommodating by the inaugration of the Constituent Assembly. During the Debates he realised the political reality and expressed optimism when he said “I know today we are divided politically, socially and economically. We are a group of warning camps and I may go even to the extent of confessing that I am probably one of the leaders of such a camp. But, Sir with all this I am quite convinced that given time and circumstances nothing in the world will prevent this country from becoming one, with all our castes and creeds, I have not the slightest hesitation that we shall in same form to be a united people.\(^31\) He too felt that preferential treatment of Depressed Classes was a means to the end of united national building. He said, “so far as the ultimate goal is concerned, I think none of us need have any apprehensions. None of us need have any doubt. Our difficulty is how to make the heterogenous mass
that we have today take decision in common and march on the way which
leads us to unity.\footnote{32}

Dr. Ambedkar’s compromistic attitude is also clear from his
memorandum submitted to the Advisory Committee headed by Sardar Patel
and moderation. He strongly refuted the charge that the Scheduled Cases
were not a minority and asserted that the Scheduled Castes were more then
a minority as “their social, economic and educational condition was so
much worse than that of the citizens and other minorities that in addition to
protection, the Scheduled Castes would require special safeguards. He had
submitted a list of safeguards for the Scheduled Castes and had suggested
their continuance for 25 yrs, when the position might be reviewed. But
when the committee decided a period of 10 yrs. Dr. Ambedkar happily
agreed to it with note that if it was considered necessary to extent the period
at the end of 10 yrs. “it would not be beyond their capacity or their
intelligence to invent new ways to getting the protection which they were
promised here.\footnote{33}

The development since the inauguration of the Constituent
Assembly disclosing its objective of the adequate safeguards for the
minorities backward and tribal areas and depressed and other backward
classes subsequent formation of the Advisory Committee on minorities,
Fundamental Rights and its reports\footnote{34}, to the President’s Constituent
Assembly of rejecting separate electorates, reservation in cabinets and
services and reservation of seats for Muslims, Christians, Sikhs and other
religious minorities and ultimate minimization of concessionary benefits to
the Scheduled Castes and Anglo-Indians explains the peculiar
statesmanship of the framers of the constitution to wipe out the statutory
basis of communalism\footnote{35}. Ultimately schism lost and unity won. The
abolition of reservation as communal grounds was hailed by Nehru as a 'historic turn in our destiny'.

The banner of minority was avoided in the case of reservation in the services. The basis of special treatment was backwardness and not communalism. Backwardness was not dependent on majority minority consideration. The use of expression 'backward' was purposive. As B.N. Rah pointed out, absence of such an objective could extend the scope of special treatment and would have included any class who were not adequately represented in the Services under the state. The ultimate result would have been as apprehended by Dr. Ambedkar “unless you use same qualifying phrase as backward the exception made in favour of reservation will ultimately eat up the rule altogether”. K.M. Munshi classified that the benefit of reservation was to go really to the backward class of people. The provision was argued to have two purposes: 'In the fundamental right in the first clause we want to achieve the highest efficiency in the services of the state...... At the same time, in view of the conditions prevailing in several province, we want to see that backward classes, classes who are really backward should be given scope in the state services ...... the backward signifies that class of people – does not matter whether you call them untouchables or touchables belonging to this community or that a class of people who are so backward that special protection is required (for them) in the services.'

Pandit Nehru said in the Constituent Assembly “but where you are up against a full blooded democracy, if you seek to give safeguard to a minority and a relatively small minority, you isolate it. May be you protest it to a slight extent, but at what cost? At the cost of isolating it and keeping it away from the mainstream. Dr. Ambedkar had also expressed the apprehension of segregating the SC’s and ST’s from the general life.
It has been noted that at appropriate places even during the Constituent Assembly Dalits some members had expressed apprehensions that preferential treatment might put a premium as backwardness and inefficiency and would amount to the very negation of efficiency and good government.

Ambedkar was one of the principal architects of the constitution that emerged from almost three years of deliberation. Ambedkar's hope of leading an independent political party in which untouchables played a central role founded in 1945 provincial election as they had in the 1937 elections. Through the good offices of the Muslim League, he became a member of the Constituent Assembly, which became the governing body of India when the country was divided and given independence on August 15, 1947. In a gesture of reconciliation, Prime Minister Nehru appointed him Law Minister and he was chosen as Chairman of the Drafting Committee of the Constituent Assembly. It is a federal constitution: authority is explicitly apportioned between the center and constituent territorial units. There is a greater subordination of the units to the center than in the United States, but the states have considerable autonomy and are more than mere administrative divisions. It is a written Constitution— with the distinction of being longest in the world. It had to be written in order to be federal — in order to arrange the division of powers between the centre and the states, but also — and this accounts for its length because there were a number of other matters which the Constitution — makers wished to put beyond the reach of temporary or narrow majorities. These include safeguards for various minorities and a large part of the fundamental structure of govt. apparatus. Thus detailed provisions regarding the judiciary, the civil service, and the proceedings of legislatures, adopted without fundamental change from the British administration are all entrenched in the
Constitution. There is a written and enforceable set of Fundamental Rights — modeled in large measure after the United States Bill of Rights. There is a set of Directive Principles of state policy, which specify the general goals of governmental policy — the right to work, higher living standard, free and compulsory education, etc. — and anticipate a welfare state which was described by one skeptical observer as 'Fabian Socialism without the socialism'. Finally judicial review is explicitly provided the constitution is to be interpreted and its provisions enforced by a unitary national judiciary.

The fundamental rights contain bans on discrimination on grounds of religion, caste, sex, language etc. The attempt to secure equality goes beyond guarantees of equal treatment by government. Crucial provisions regulate not only 'state action' but also the behaviour of private persons and groups. Caste discrimination by government or by private individuals is banned. But it was recognized that even handed treatment would not suffice to overcome the cumulative disadvantages of those at the bottom of social hierarchy. To promote the advancement of the untouchables, tribals and other 'socially and educationally backward classes', the constitution allows protective or compensatory discrimination in their behalf. The nation of communal quotas and safeguards which had become an accepted and principle of administration during the last forty years of British rule was decisively rejected as a general principle of governance. There are no safeguards for religious minorities apart from the guaranteed fundamental rights. Only for the S/C and S/T (and to a lesser extent, for other backward classes) are these devices counteracted. There is a deliberate departure from formal norms of equality in order to offset the historic inequalities of these groups.
Ambedkar’s role in the Constituent Assembly under lives the decisive rejection of Gandhian notions of village self-rule. While Gandhi idealized village India and its handicraft technology, Ambedkar despised Indian villages as idem of ignorance, narrow mindedness and communalism and ardently supported machine technology which would provide leisure, cultural advancement and finally equality. To the same end, he rejected Gandhi’s ideal of trusteeship by the rich in favour of a kind of state socialism which would promote rapid industrialisation. He was the supporter of centralized parliamentary govt. rather than of village autonomy. In all this Ambedkar stood closer to the left wing of congress than either stood to Gandhi.

The constitution incorporated much of the secular program he had championed, but Dr. Ambedkar was dissatisfied with the congress govt. performance. After a bitter political disappointment in the 1952 election, he disoccuried his role as designer of the constitution. Dr. Ambedkar’s bitters disappointment is understandable, but in retrospect and from afar, his sense that the constitutional protections which he designed or atleast concurred in were a failure seems less than fully warranted. The untouchables, unlike the Muslims were a scattered minority with no territorial base, no unity among themselves no rallying point in religion or historical glories, and with little capacity and fewer resources for organisation. If ultimately they had little choice but to accept what they were given by the majority, their leadership did well by them in obtaining safeguards and preferences out of the independence struggle. Although their constitutional position might have been even stronger, the major shortfall has been not in constitutional protection but in organisation and imagination to utilize effectively the protections and opportunities that are available. Through out his career Dr. Ambedkar had written on the historical aspects of the caste system and
displayed a strong interest in Buddhism, which he considered a religion of equality and social reform. In 1955 before his death, he launched a mass movement for conversion to Buddhism that inspired millions of untouchables to abandon Hinduism and embrace Buddhism. A generation later, the Buddhists were a significant element of both political militancy and intellectual leadership; and Dr. Ambedkar was the venerated ‘patron saint of the untouchables. He was respected as a ‘founding father’ and was a prime symbol of self assertion by low castes.

The framers of the constitution were well aware of the peculiar problems of Indian society. They wished to safeguard against dangerous effect of weakness, which cherished in our society and projected to give special favours to redress the wrong done in the past by creating social disabilities Sardar Patel had said that to do right thing to all manner of people. There was peculiar desire to protect socially depressed. People along with maintenance of societal goods. Preferential treatment was aimed to confine only to deserving classes. This was the reason why T.A. Ramalingan Chattiar suggestion delete the word ‘backward; from clause (3) of Artcile 16 was negatived. The drafting committee reconciled opposite points of view to produce a workable. Proposition which would be accepted by all. This idea of harmonious relation between backward and non backward classes contributing effectively to main stream of national life was clear during the Assembly debates. It was very optly pointed out by Dr. K.M. Munshi:

\[\text{What we want to secure by this clause of Article 16(4) are two things. In the fundamental right in the first clause we want to achieve the highest efficiency in the services of the state.... At the same time, in view of the conditions in our country prevailing in several provinces we want to}\]
see that backward classes, classes who are really backward, should be given scope in the state services;........ the word “backward” signifies the class of people – does not matter you call them untouchables belonging to this community or that – a class of people. Who are so backward that special protection is required for them in the services 45.

Protective discrimination was to serve as an effective formula of societal balance between the enhancement of status of backward community and general social good. To quote Dr. Ambedkar: “If reservation were made for a community or collection of communities, the total of which came to something like 70% of the total posts under the state and only 30% of the total posts are retained as the unreserved, could anybody say that the reservation of 30% as to general competition, would be satisfactory from the point of view of giving effect to the first principles, namely that there shall be equality of opportunity. Therefore the seats to be reserved, if, the reservation is to be consistent with sub clause (1) of Article 10 (now 16) must be confined to a minority of seats 46. The Constituent Assembly was acting as first parliament after the commencement of the constitution, when it inserted a new clause to Article 15 immediately after the Supreme Court decision in State of Madras V Champkam 47.

The Constitution clearly indicates the balancing tendency. The Constituent Assembly and its product the constitution intended to harmonize between the claim of special treatment for weaker section of the society and administrative efficiency i.e. social requirements.

The Constitution makers aimed, at reservation policy 48. The object behind the reservation was clarified by Sardar Patel as “Even if today any concession is made it is with the sole object of easing the suspicions of even the smallest group in this house, because I think that a discontented
minority is a burden and a danger and that we must not do anything to injure the feeling of any minority so long as it is not unreasonable”

The framers were alive to the problem of national integrity and peculiar backwardness of some societies. They intended to produce secular state on secular criterions. That was the reason prevailing rejection Prof. K.T. Shah’s amendment to Draft Article 15 for adding the words ‘or for Scheduled Castes or Backward Tribes, for their advantage, safeguard or betterment. The object of his amendment was “In regard to Scheduled Castes and Scheduled Tribes, it is an open secret that they have been neglected in the past and their rights and claims to enjoy and have the capacity to enjoy as equal citizens happens to be denied to them because of their backwardness. I seek, therefore by this motion to include them also within the sub clause (2), so that any special discrimination in favour of them may be regarded as violating the basic principles of equality for all classes of citizens in the country. They need and must be given, for sometime to come at any rate, special treatment in regard to education, opportunity to employment and in many other cases where there present inequality, their present backwardness is only a hindrance to the rapid development of the country”.

Even Scheduled Caste leader Dr. Ambedkar was ready to deny protective discrimination in educational institutions. He thought that it would create problems of societal assimilation like Black and Whites in America due to ‘Separate’ but equal policy. Dr. Ambedkar said: “the object which all of us have in mind is that the Scheduled Caste and Scheduled Tribes should not be segregated from the general public. For instance none of us would like that a Separate School should be established for the Scheduled Castes when there is a general school in the village, open to the children of entire community. If these words are added,
it will probably give a handle for a state to say, 'well we are making special provision for the Scheduled Castes’. To my mind they can safely say so by taking shelter under the Article if it is amended in the manner the Professor wants it’ 50. The idea of evolution of secular idea in Indian Society, wished by the framers may be supported by protective discrimination which speaks in terms of backwardness and not of caste. This sociological approach of framers has been continuously felt by the judiciary.

The general rule under Article 16 indicates that the whole of the nation is an employment unit and by non discriminatory selections efficiency in services should be maintained. Article 16 (3) recognises an exception to the general non discriminatory provisions to relating to employment. It stipulates parliamentary laws prescribing residential qualification in relation to any class or classes of employment under a state or territory. Such restrictions in case of state employment was engrafted for the sake of efficiency. Dr. Ambedkar pointed out, "'........ it must be realized that you cannot allow people who are flying from one province to another, from one state to another, as mere birds of passage without any roots, without any connection with that particular province, just to come, apply for posts and, so to say, take plums and walk way 51. The framers were well aware of the existence of rules fixing residential qualifications for services in most of provinces and therefore they wished a uniform period of residence to be prescribed by the parliament 52.

Minority problem was one of the prominent issues confronting before the Constituent Assembly. The issue of majority/minority disbelief was at surface even at the time of famous Nehru Report of 1928 and it played a vital role in formulation of fundamental rights. The problem of minority was acute though there is controversy regarding the reasons
encouraging minority consciousness. Most of the prominent Assembly members thought that it was entirely a creation of the British Government ensuing from the introduction of separate communal electorates. As a means of divide and rule policy. According to Dr. K.M. Munshi, as a staunch Assembly member, the most important task of Constituent Assembly was to secure political consolidation of the Nation. Its basis had been destroyed by the British by statutorily fragmenting political idea into religious communities under the guise of protecting the minorities. To others minority based divisive tendency was largely the result of fundamental antagonism between Hindu and Muslim cultures. Throughout the debates the efforts of nationalist leaders was to inspire a feeling of broad mindedness and mutual confidence among all sections of the Indian Society. Pandit Govind Ballabh Pant appealed to the members at the time of moving the resolution for the election of Advisory Committee:

“........ Let not the lesson of history be lost. It is a lesson which should be burnt deep in the hearts and minds of all minorities that they can find their protection only from the people in whose midst they live and it is on the establishment of mutual good will, mutual trust, cardiality and amity that the rights and interests not only of the majorities but also of the minorities depend. This lesson of history. I hope will not be forgotten” 53.

Raj Kumari Amrit Kaur who had the privilege to become the first woman member of the union Cabinet, opposed both reservation of seats and weightage for any community for her, “anything in the nature of privilege for any special class or section........... was wrong in principle and when it was given on the ground of religion, it was doubly wrong, for all religions stood for brotherhood of man, and non for separation”. Mr. H.C. Mukerjee too speaking for Christian community gave up all claims of safeguards in the interest of national solidarity. He moved on May 11,
1949, a resolution, “That the system of reservation for minorities other than
the Scheduled Castes in legislature be abolished”, which was passed by the
advisory committee. Nehru greeted this move by saying that, it shows that
we are really sincere about this business of having a secular democracy” 54.
Advanced Communities like Parsis claimed safeguards over and above
fundamental rights. The Advisory Committee appointed by the Constituent
Assembly consisted of members drawn from Muslims, Scheduled Castes,
Sikhs, Anglo-Indians, Parsis and representatives of Tribal Areas. The
safeguard claimed by minorities fell into different classes. Minorities
claimed safeguard for representation in legislatures reservation of seats for
minorities in the cabinet, Reservation of posts for minorities in the Public
Services and Administrative Machinery to ensure equal protection of
minority rights. There was great pressure to ensure constitutional
safeguards for them. To some minority vocal leaders, the very first fact that
minority consented to remain with majority had sufficient jurisdiction for
such special privileges and protections. Dr. B.R. Ambedkar a staunch
Harijan leader stated before the Assembly:

"Speaking for myself that the Constituent Assembly has
done wisely in providing such safeguards for minorities
as it had done. In this country both minorities and majorities
have followed the wrong path. It is wrong for the majority
to deny the existence of minorities. It is equally wrong for
the minorities to perpetuate themselves. A solution must be
found which will serve a double purpose. It must recognise
the existence of minorities to start with. It must also be
such that it will enable majorities and minorities to merge
some day into one. The solution proposed by the Constituent
Assembly is to be welcomed because it is a solution which
serves two fold purposes. To diehards who have develop a kind of fanaticism against minority protection. I would like to say two things. One is that minorities are explosive force which, if it erupts, on blow up the whole fabric of the state. The other is that the minorities in India have agreed to place their existence in the hands of majority”.

Under unavoidable and compelling circumstances Assembly had to concede certain safeguards in favour of minorities by trying to minimize, as far as possible, the adverse effect of minority consciousness. Consequently in order to remove completely all semblances of communal reservation from the constitution the range of provision concerning special consideration for appointment in the Public Services and appointment of special officer to safeguard (Article 338) was limited only to the Scheduled Castes. The ideas of separate electorate for minorities and reservation of seats for minorities in the Cabinet was abandoned. The protection of minorities took two forms. First, was the inclusion of non discriminatory treatment, freedom of religion relating to cultural and educational rights of minorities in the fundamental rights and the second made to protect minority interest was inclusion of certain provisions in the constitution but not within the Fundamental Rights such provision included adequate minority representation in Parliament and state legislatures, civil services etc.

Not only religious minorities need special safeguards but also the minorities based on language culture or script. The judicial interpretation also finds support from the Constituent Assembly Debates and academic writings. It rules out isolationist ideas and ensures that not only religious minorities can enjoy constitutional protections of Article 29(1) but all sections of society which are in need of such protections. Dr. B.R.
Ambedkar said “the term ‘minority’ was used therein not in the technical sense of the word ‘minority’ as we have been accustomed to use it for purposes of certain political safeguards……. It is also used to cover minorities in the technical sense, but which are minorities in the cultural and linguistic sense……. that is the reason why we dropped the word ‘minority’ because we felt that the word might be interpreted in the narrow sense of the term, when the intention of this house was…… to use this word minority in a much wider sense……. It was felt that this protection was necessary for the simple reason that the people who go from one province to another and settle there permanently. They do not uproot themselves from the province from which they have migrated but they keep their connections” 57.

Thus we have seen that in the Constituent Assembly debates the assembly emphatically as pleaded for the welfare of the society as well as individuals at all levels. The aimed objectives of the assembly informing the constitution was to protect the interest of all the constituents of the territory by maintaining harmony. The Constituent Assembly has wisely taken into consideration the rights as well as the duties of every person as well as the state for maintaining harmonious stability in the constitution. As Chairman of the Drafting Committee Dr. B.R. Ambedkar had greater scope than any other individual for shaping the constitution. But it should be realized it was a Constitution written and finalized by adopting the most democratic method of open deliberation. The task of B.R. Ambedkar was to give the required shape to the constitution. He produced a formidable document incorporating the ideas and directives that emanated in the Constituent Assembly. Ambedkar expressed the ideas and directives in a coherent fashion using his unsurpassed constitutional skill and legal acumen. The constitution, therefore, bears his impact from the beginning to
end. He had the unique privilege of moving the draft constitution for consideration in the Constituent Assembly. He had to explain every clause of the draft and reply to the criticism from the members. In this work Ambedkar got an opportunity to understand his basic and political ideas. This formidable edifice that established a democratic machinery could not be over the handiwork of one man. Dr. Ambedkar is honoured for his contributions is being the Principal architect of the Constitution. His contribution is substantial, significant and spectacular. He should be remembered not only as a great social reformer, a patriot, a vigorous Champion of justice and freedom but much more as great constitution maker that the nation could produce.

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56. Article 335, Constitution of India. The Sub Committee of Minority was of the opinion that:

By an inevilable extension of similar privileges to other communities” it may lead, “to a disrupting of the whole conception of the secular state which is to be the basis of our new constitution

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