CHAPTER - 6

STATE POLICY AND ITS APPRAISAL

The state politics of democratic setup is required to uphold the rights of all without any discrimination of caste, creed and colour. It is also requested to respect the dignity of the human personality and assure justice to all by regulating socio-economic and cultural activities of the people in the larger interests of society and cannot allow any one class to exploit another. India is a Secular, Democratic, Republic and Sovereign state, and has also committed herself to the idea of socialistic pattern of society to bring about an equality and social justice for all sections without any discrimination in society. It is therefore, an essential function of the welfare state to render appropriate services to the weaker sections. It is also the duty of the modern state to take effective steps to remove illiteracy, poverty and solve the problems of unemployment. It is thus incumbent on the state to protect the rights of all minority communities so that they might play their part in the over all development of the country.

The responsibility of the welfare state for satisfying the basic needs of every section of society such as economic security, education and social welfare is clearly enshrined in the Directive Principles of the state policy in Indian constitution. Dr. Ambedkar, Chairman of the Drafting Committee of the Constituent Assembly had stated that "Directive Principles are specially designed to establish inter-alia social and economic democracy". Article 38 of Indian constitution provides that “the state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice-social economic and political shall in form all the institutions of national life”.

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Acknowledging the urgency of the need to provide an adequate standard of living for every section within state, the Indian state has committed itself to the establishment of a welfare state by democratic processes. The welfare state and a socialist pattern of society are now the avowed goals, and planning for social development is accepted as the national policy. Laws have been passed with a view to reform the family, raising the status of women and improving the conditions of the backward sections of the society.

As has been mentioned in the foregoing chapters, this study is related with minority community i.e. Christians, who believe that "the Holy Bible teaches us to regard the state as a good gift of God by which, in the conditions created by sin, God provides for all men to see a kind of justice which is a true image of ‘Righteousness of God’. But it is never the Righteousness of God itself, and The Bible sees that the state is always in danger of claiming that it is end of setting itself up as the source of all life.”¹ Apostle Paul in Romans Chapter 13 has given us sound advice: He says,

"Everyone must submit himself to the governing authorities, for there is no authority except that which God has established. The authority that exist has been established by God, he who rebels against the authority is rebelling against what God has instituted and those who do so will bring judgement on themselves".²

India is known as the democratic state in the world that has given the due place to the religious minorities by safeguarding their culture as well as educational rights. In modern times, the state has developed many constructive

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functions which were beyond the horizon of the Biblical writers. As far as Indian state is concerned, it has formulated many policy plannings and programmes for the upliftment of the backward classes and minority communities of India from time to time.

I

Reservation for Christians During the British Rule

During the British rule, Indian Christians enjoyed many constitutional facilities in various states of India. In 1874, Mysore government started job reservation for “backward classes” including the dalits except Brahmins and Anglo Indians”. In 1885, Madras Presidency provided grant-in-aid programme for dalit students. This included all dalits and Christians. In 1909 Morley Minto recognized special representation for the depressed class. This started a social movement for organizing caste association as to demonstrate to backwardness of the caste. By the Act of 1919 the Government of India provided for job reservation for Muslims, Sikhs, Anglo-Indians and Indian Christians. Prof. Remy Y. Denis also expressed that the British Government in 1925 made job reservation for backward classes (including Christians) in ICS, Class I and II services. Special regiment had been established by the British government in Army, Navy and Air Force. On August 17, 1931, the government of India made provision for separate electorate for dalits as well as for all other minorities and depressed classes.4

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When the Government of India (Scheduled Caste) order, 1936 further specified the ‘Scheduled Caste’ for statutory benefits as minority group, the Scheduled Caste Christians along with other Indian Christians were enjoying all statutory benefits as another parallel minority group called the “Indian Christian” and therefore, the said Government of India (SC) order, 1936 in order to avoid double entry of Scheduled Caste converted to Christianity as Scheduled Caste and as ‘Indian Christian’ specified that no Indian Christian shall be deemed to be a member of Scheduled Caste”\(^5\). Jose Daniel further added that the same order applied to the persons who professed Buddhism or Tribal religion in West Bengal. Under this context, it was a question of providing equal justice to the Scheduled Caste who did not follow Christianity, Islam, Sikhism and Buddhism and the government of India (Schedule Caste) order 1936 and earlier orders rectified this discrimination.\(^6\)

From 1931 to 1949, the Government of India covered the Christians under three minority communities: (a) Anglo-Indian, (b) Tribals of Assam and Bengal (c) and Indian Christians. The tribal Christians of North-East and Chhota Nagpur were covered under the Tribal minority.

On August 8, 1947 in the context of Partition and resulting communal conflict, the Christian leaders in the Constituent Assembly voluntarily gave up their electoral reservation, a privilege they had enjoyed since 1931, in order to bring about communal harmony and secular outlook. The Muslims, the Sikhs and other minorities also followed the example set up by the Christians. However, the dalits who had not embraced Christianity, Buddhism, or Sikhism


and also the Anglo-Indians were allowed to retain their electoral reservation. This led to a dilemma that if the above non-convert majority dalits were no more a minority community as per 1931 Poona pact, on what basis should they be granted electoral reservation. The right step was to repeal the Poona pact. After the partition of India and Pakistan, the new Constitution of India was established on November 26, 1949 and Article 341 brought the Scheduling of reservations for dalit castes under the power of President and the Parliament, thus superseding all the previous provincial as well as central government reservations for dalits and Article 340 brought all the other castes and communities other than the Dalits under the backward classes commission, again superseding all the previous reservation for the non-Dalit communities.

Issue of Reservation after 1947:

On February 13, 1948, the Presidential order regarding the reservations for Dalit. Drafting Committee, under the Chairmanship of Dr. Ambedkar rejected the religious clause of Para 3 as unconstitutional and debated it, but in 1950 it was re-entered door in para 3 and was enacted to provide reservation through this. It was only for seats in Parliament and State Legislature. It is not the Constitution of India, but the Presidential order called the Constitution (SCs) order of 1950 that discriminates the Scheduled Caste Christians. During the Constituent Assembly discussion 1947-49, the framers of the Constitution of India had first envisaged to give representation to all minorities.

The 1st paragraph introduced the presidential order itself and called it 'The Constitution (Scheduled Caste) order 1950' and paragraph 2 of the order specified the castes, sub castes, races and tribes in the list of the Scheduled Castes. The original draft also contained paragraph 3 of the Presidential order stated “Notwithstanding anything contained in paragraph 2, no person who

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professes a religion different from Hinduism shall be deemed to be a member of a Scheduled caste.”

The Drafting Committee realised that the Paragraph 3 was against letter and spirit of secularism and during the sitting on February 13, 1948. The Drafting Committee deleted the third paragraph from the original draft. Thus for the first time a religious criterion was introduced into the definition of Scheduled Castes. This clearly violated the principle of equality and religious freedom enshrined in the Constitution Article 14, 15 and 25.

Paragraph 3 of the presidential order was also highly communalistic since it provided reservation facilities to only those who professed a particular religion and denied them to others only on the basis of religion. The communalistic nature of the Presidential order or at least its interpretation was further confirmed when in 1959 a government circular clarified that, if a scheduled caste convert to Christianity reverted back to Hinduism, he or she will be “eligible for all the privileges and the assistance provided for the members of Scheduled Caste.”

Thus the presidential order of 1950 or its interpretation by the government not only discriminated against some scheduled castes on the basis of their religion but it also became an instrument in the hands of the fundamentalists to convert scheduled castes to Hinduism. Jose Kananaikil pointed out that: “The presidential order as it was interpreted was not only communalistic, it was also anti-Dalits. It tended to divide the Dalits on the basis of religion.”

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Dalit converts to different religions protested against this unjust treatment. They also protested against the use of reservation facilities as an inducement to reconvert Dalits to the Hindu religion. The Dalit converts to Sikhism objected that many Dalits converted to Sikhism were leaving their religion and joining the Hindu religion to take advantage of the reservation of facilities given only to the Hindu Dalits.

Keeping in mind this situation, in 1956 Parliament amended the presidential order to extend reservation facilities to Dalit converts to Sikhism. Dalit converts to Buddhism also protested and after a long time in 1990 Parliament amended the Presidential order 1950 to include Dalit converts to Buddhism. Para 3 of the presidential order now reads.10 “Notwithstanding what was contained in paragraph 2, no one who professes a religion different from the Hindu, the Sikh or the Buddhist religion shall be deemed to be a member of a Scheduled Caste”. (Only Paragraph 3 of the constitution (Scheduled Caste) order 1950 can be amended by an ordinance or by a simple majority in Parliament). The continuing discrimination against the Scheduled Caste Christians is in every respect, an apartheid policy being practised by the government. The deeper one goes into its implications, the more one is bound to doubt India’s real commitment to Human Rights, secularism and equal justice.11

Therefore Paragraph 3 of the Presidential (SC) order 1950 denies all the SCs and OBCs the freedom to believe or not to believe in a religion of their choice and yet receive the benefits due to them as disadvantaged citizens of the country. The SC applicants for caste certificates are humiliated and insulted by officials, if any sign or symbol of Christianity is found in their

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application forms, or in their houses. This, which amounts to discrimination on the basis of religion, is a blatant violation of Article 18 of the Universal Declaration on Human Rights and Articles 14-15-16 and 25 of the Constitution of India.12

After the presidential order of 1950, Christian community of India is totally disappointed and discouraged as they are deprived of their rights. They met the various Prime Ministers and also submitted memorandum (see Appendix X) or staged protest rallies and organised dharnas. The New Delhi Boat Club massive rally on August 17, 1990 or the 10 lakh Christians gathering at Trichy in 1989 or the 15 lakh signatures by Christians submitted to the Hon’ble Prime Minister of India and said, “to convince the powers that the discrimination against Scheduled Caste Christians is the most burning problem of the Christians in India and goes against secularism and denies equal justice to a section of the Indian citizen”.13

There is also fear among some of the non-Christian and Hindu leaders that if reservation is extended to Dalit Christians, many Dalits will become Christians. To this, it may be pointed out that reservation is given to all Tribals, the Tribals have not become Christians because of this “Reservation is given to converts to Sikhism or Buddhism because of this. At any rate is not it a shame to say that denying reservations to the Dalits who might leave Hinduism is the only way to keep them within Hinduism.”

Secondly the extension of reservation to Dalit Christians would mean sharing of the same cake by more people. It was the main fear in the minds of the non-Christians leaders. Jose Kananaikil pointed out that jobs are reserved

12 Ibid. P.183 and Also See Smith, D.E. op.cit.pp.117-118
13 Daniel Jose op.cit. p.7 and also see Dogar Vaidya Sagar J. op.cit. p.279. and also see Massey James, op.cit. p.165.
14 Kananaikil Jose, S.J.op.cit., p.22
for the Dalits on the basis of their percentage in the population. When reservation was extended to the converts to Sikhism the percentage of the reservation was automatically increased. The same has been done when reservation was extended to Dalit converts to Buddhism.\footnote{Ibid. p.23.} Therefore it was wrong to keep the fear in the minds about the reservation of the Dalit Christians.

The reports and findings of the various commissions like the Mandal Commission (1980), Kaka Kalekar Commission (1955), Kumara Pillai Commission (1965), Elayaperumal Commission (1969), Santhanananumal Commission (1970), Chidambaram Report (1975) and Report of the Backward Commission of Andhra Pradesh (1970) etc. have in clear terms identified Scheduled Castes converted to Christianity on par with the Scheduled Caste Hindus in their socio-economic disabilities and cultural and educational backwardness and have asked to extend all statutory and non statutory benefits to them as given to the Scheduled Caste Hindus.

The Parliament has been rectifying this lacuna arising out of the provision of Para 3 as piece meal solution by taking government the initiative to amend the Constitutional (SC) order of 1950, to include SCs in Sikh religion in 1956 and SCs in Budhism in 1990. Doubts are being raised by certain fundamentalists regarding the explanation of Article 25-2(b) of the Constitution of India which says\footnote{Basu, D.D. (1992) Introduction to the Constitution of India, Prentice Hall of India Private Limited, New Delhi. pp. 112-113.}: “Hindus shall be construed as including a reference to persons professing the Sikh, Jain or Buddhist religion to delay equal justice to the SC Christians”.

Jose Daniel expressed his remarks and said\footnote{Daniel, Jose – \textit{op.cit.},} If the Sikhs and Budhists

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were to be construed as Hindus in reference to Constitution (SC) order Para 3, 1950, on the basis of Article 25-2(b) what was the necessity of obtaining an amendment to the order in 1956 for Scheduled Caste in Sikhism and in 1990 for Scheduled castes in Buddhism? The benefits should have been applied to SCs in Sikhs and Buddhists since 1950 with the original order. Daniel also enquired what about the Fundamental Rights of an Indian to profess and practice a religion of one's choice as per the Article 14, 15, 16 and 25 of the Constitution of India and Article 18 of the Universal Declaration on Human Rights by UNO.

Regarding the clarification on cut-off date, when the Constitution (SC) order Para 3, 1950 was amended in May, 1990, there was a mention in the statement of objects and reasons that the Neo-Buddhists as a religious group came to existence in 1950 as a result of mass conversions of the Scheduled Castes under the leadership of Dr. Baba Sahib Ambedkar. This date is considered as the cut-off date of the Neo-Buddhists. In the case of Scheduled Caste converted to Christianity, how can the cut-off date be determined? Majority of the Scheduled Caste converted to Christianity did not become Christians on a particular date.18

At that time, when both these amendments (SC Privileges to the Neo-Buddhists and Dalit Christians) were mooted the Christian Community in India had high hopes that its long plea with the government would be considered and the Christians of untouchable origin will finally be granted protective discrimination. But to their great disappointment the Government of India turned a deaf ear to the long-standing demand of the Indian Christian Community. When the list of Scheduled Caste was prepared by the President of India in 1950, the major consideration for identifying the societies was not

merely their economic disability but also, and more significantly, the added factor that they belonged to caste groups which were subjected to the practice of untouchability. Most of the people within the Indian Christian community felt that the government's failure to extend Scheduled Caste privileges to Christians of untouchable origin was a serious discrimination on religious grounds in violation of Articles 14, 15 and 25 of the Indian constitution which guarantee freedom and justice for all people.\textsuperscript{19}

### II

**Advisory and Minority Committee's Report and Reservation**

After 1947, a report was submitted by the Advisory Committee and the Minority committee at a time when conditions were different and even the effect of partition was not fully comprehended or appreciated. At that time even when the report was passed suggesting the acceptance of reservation of seats in the legislature on population basis, there was difference of opinion and it received certain notes and memorandum from the representatives of minority communities and organisations. A well known Christian leader H.C. Mookerjee, Vice-Chairman of this House, from the beginning opposed such reservation in the constitution.

As their spokesperson said, “I am a member of the minority community myself and I feel proud that the community of which I am a member has decided to give up all special privileges.\textsuperscript{20}

But this statement represented only the feelings and sentiments of the few upper caste Christians, not of millions of Christians having the Dalit background. Some Christian leaders along with other minority leaders

\textsuperscript{19} John, T.K. see in Banerjee, Sumanta \textit{op.cit.}, pp. 183-184.

\textsuperscript{20} Sivaprakasam, M.N., \textit{op.cit.}, p. 246.
betrayed their communities by taking bribe.\textsuperscript{21} After independence, in August 1947 the reservation for Muslims, the Christians, the Parses, the Sikhs and Anglo Indians were abolished. The Brahmin Bania combination bribed the minority community leaders to surrender the reservations. Christian leaders like Amrit Kaur, Maharaj Singh and H.C. Mookerjee who were appointed on higher posts. And on the other side, Modi who was the leader of Parses was also appointed governor of Bombay and Uttar Pradesh. All were obliged to compensate the betrayal of their communities.\textsuperscript{22}

Amrit Kaur also at that time shortly opposed these reservation. She did submit a memorandum and as representative of the Indian Christian she said: “Privileges and safeguards really weaken those that demand them. They are a definite bar to unity, without which there can be no peace, as also to efficiency without which the standards of good governance are lowered.”\textsuperscript{23}

Frank Anthony and S.H. Prater submitted their separate memorandum on behalf of the Anglo-Indian in which they claimed special treatment for the community as was given to them under the British regime. They laid emphasis on ‘a specific clause’ in the constitution that required.

(1) guarantee as a fundamental right of facilities to receive education in English.

(2) Liberal educational grants secured for Anglo-Indian and European Schools by the government of India Act 1935, to be not only continued but also increased in relation to their requirement, and

\textsuperscript{21} Ibid., p. 246.

\textsuperscript{22} Ibid., p. 246, and also see Jha, Shefali Rights versus Representation : Defending Minority Interests in the Constituent Assembly see in Economic and Political Weekly, Vol. XXXVIII No. 16, April 19-25, 2003, Mumbai, pp. 1579-1583.


\textsuperscript{24} B.Sinha Rao, op.cit. pp. 343-611 also see K.K. Wadhwa op cit, pp 55-56.
A provision for securing a preferential claim to a certain percentage of appointments in Railways, Customs and Posts and Telegraph Department – a privilege enjoyed by them in the past. Reservation in the legislatures was also demanded.²⁵

No specific communal demands were put forward on behalf of the Parsis, Humi Mody said that his community had never asked for any special privileges, but if other minorities were accorded special representation anywhere, the Parsis should also receive treatment _pari passu_ as given to the smaller minorities.²⁶

Muni Swamy Pillai, who was representing the Scheduled Castes, moved an amendment to the effect that the provision for reservation, so far as the scheduled castes are concerned, maybe continued for a period of ten years. The general opinion in the Advisory committee was, which was almost unanimous, accepted by the House.

Another important memorandum was received by the sub-committee on behalf of the Sikh Community. The central point of the memorandum was that the Sikh occupied a special position in India on population basis. The memorandum stated that the Sikhs maintained that "the Punjab was and must remain the Home land and the ‘Holyland of the Sikhs.’ It suggested some precise political safeguards for the community. Another important demand outlined in this memorandum was that the backward classes among the Sikhs known as Majahbis, Ramdasia and Kabir Panthis should be provided with the same special education facilities and reservations in the public places that

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²⁶ Sabhash, Manju _op.cit._, p. 60 see more detail on Minority Rights in India, Chandoke Neera, _op.cit._, pp. 56-64.
were provided for Scheduled Castes and aboriginal tribes. The constituent assembly accepted the proposal of the Sikhs and included in the list of Scheduled Castes for the province. So that they would be entitled to the benefit of representation in the legislatures given to the Scheduled Castes.

Although the other minorities like Muslims and Sikhs followed the example set up by the Christian leaders, but the Muslim league members took this issue very critically and demanded the separate electorates, Ch. Khaliquzzaman, the supporter of the Muslim League said, “if you concede separate electorates the Muslim community feels that they help in returning their true representatives.” But there were also organisations among the Muslim Community which preferred joint electorate to separate electorate. Gobind Ballabh Pant and S. Vallabh Bhai Patel, both strongly opposed the proposal of Muslim League. At last, the proposal which was moved by the Muslim league was rejected by the Assembly.

III

Constitutional Provisions Relating to Religious Minorities

India is one of the few states that has given due place to religious minorities by protecting their Fundamental Rights. Our constitution seeks to achieve political and national unity with cultural, religious and social diversity. According to the Christian scriptures we find the existence of the Jews living in Egypt before Moses. Besides this example, there are two more examples of an ancient religious minority. First example related with the imperial power of King of Babylon who made an attempt to build a world

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28 Wadhwa, K. K. op. cit., P.60 and also see Subhash Manju op. cit., pp. 65-66.
order based on mono-language, mono-cultural, and possibly non-religion. The second story is of the day of Pentecost. According to this story, on the day of Pentecost, people from any countries and nations were present when the Holy Spirit came upon to believers and the message which they delivered was understood by everyone. Both present the truth about the need of diversity on one side and unity on the other. This is the principle upon which the concept of minority in our Indian Constitution is based. The framers of the Constitution were aware of the presence of minorities in India and that was the reason to include many provisions.

At the time of partition of the country, the minority communities were given certain assurances by the leaders that their interest and separate identity would not be swallowed by the majority community. To ensure them that they would be free to follow their own religion and develop their language script and culture, specific provisions were incorporated in the constitution of India in the form of fundamental rights. By protecting the interest of all minority communities the state is providing a lot of privileges for their protection.

Indian Constitution specially recognized religious minority, linguistic minority, and cultural minority, and also the minorities possessing script of their own, untouchables, socially and educationally backward classes and scheduled castes and Scheduled Tribes. In the Constitution, different articles and provisions have been made for all the sections of the society in order to fulfill the aspirations of the founding fathers. The Preamble of the Constitution stands for social, economic and political justice and equality for all, which states as following:

“We, the PEOPLE OF INDIA having solemnly resolved to constitute India into a Sovereign, Socialist, Secular Democratic and Republic and to secure to all its citizens: Justice, social, economic and political; liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all Fraternity
assuring the dignity of the individual and the unity and integrity of the Nation;" 

The constitution draft prepared by the Constitutional Advisor in October 1947, and it incorporated the decisions of the Constituent Assembly on the problems of minorities. The Drafting Committee which met on February 5 and 6, 1948 formulated the various general and specific provisions into ten Articles and placed them in part XIV under the title "Special Provisions Relating to Minorities".30

**SOME GENERAL PROVISIONS IN INDIAN CONSTITUTION**

The general provisions which are enjoyed by both majority and minority equally are called general provisions which are the following articles of the Indian constitutions: Article-14 Equality before law. Article-15 Prohibition of Discrimination. Article – 16 equality of opportunity in matters of Public employment, Article–25-28 Freedom of Religion, Article – 29 (2) Equality of Educational opportunity and Article – 325-326 dear with Universal Adult Suffrage etc.

Minority Rights are protected by two strategies31 (a) negative (b) positive. Negative strategy was aimed at protecting the minorities from government discrimination on the basis of their minority characters. Therefore, non-discrimination and equality clause were provided in the constitution to protect minorities against any possible discrimination. These rights included:

(I) Equality before law (Article 14),

(II) Prohibition of discrimination on grounds of religion, race caste and sex etc. (Article 15).

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30 Sabhash, Manju *op.cit.*, p. 66

(III) Equality of opportunities in matter of public employment (Article 16).

(IV) Right to six freedom (Article 19),

(V) Right to free profession, practice and prorogation of religion and

(VI) Freedom to manage religious affairs available to any member of a minority community along with the rest of the people.

The other strategy, positive in nature, included collective rights which are available to minorities as groups/communities. These rights were designated to allow minorities to preserve their language, religion and culture. These rights are grouped under “Cultural and Educational Rights” (Article 29 and 30)²²

The high object of equality, the keynote of democratic institutions and a positive guarantee to the minorities were aimed to be realised through the following articles of the constitution of India.³³ Article 14 declares that “the state shall not deny to any person equal before the law or equal protection of the laws within the territory of India”. Though this article appears to be very short and simple. It is one of the greatest pillars of democracy. It protects both minority and majority alike against the discriminatory conduct of the government both negatively and positively.

According to Article 15 “the state does not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them”. Article 16 guarantees equality of opportunity in matters of public employment. The state is prohibited from showing any discrimination against any citizen on grounds of religion, caste, race, sex, descent, place of birth or residence”.

Article, 325 and 326 deal with universal adult suffrage. The meaning of

²² Ibid, pp. 35-36.
this term is that all citizens whether male or female are entitled to vote if they have reached a specified age and there must be complete equality amongst all electors irrespective of religion and Article 44 relates to uniform civil code for the citizens.

Right to Freedom of Thought, Conscience and Religion are guaranteed under Articles 25 to 28 of the constitution. These Articles guarantee freedom of conscience, free propagation, and free profession and practice of religion. However, Article 25 further provides that states can make law for social reform and welfare or the throwing open of the Hindu religious institutions of public character to all classes and sections of Hindus. But the freedom to process, practise, propagate, the freedom to manage religious institutions without any payment of taxes is also guaranteed. Subject to the following factors: public order, morality, health and provisions dealing with fundamental rights. These are introduced in order to respect religious feelings of all. Individuals are guaranteed freedom as to payment of taxes for the promotion of any particular religion (Article 27). However, these rights are subject to consideration of public order, morality and health which are necessary in the interest of general public. Article 28 further prohibits imposition of religious beliefs on the persons attending any educational institution receiving state aid. It further provides that no student can be required to take part in any religious instructions that may be imparted in such an institution recognised by the state or to attend any religious worship that may be conducted in such institution without the consent of the student or his guardian when he is a minor.34

Eulogising the provisions made by Articles 25 to 30, Justice H.R. Khanna of the Supreme Court commented that the provisions enshrined a befitting pledge to the minorities in the constitution of the country for which

its greatest son had laid down his life. "As long as the constitution stands as it is today, no tampering with these rights can be countenanced. Any attempt to do so would be not only act of breach of faith, it would be constitutionally impossible."\(^{35}\)

Similarly, Article 350 of the constitution confers right on the linguistic minorities for getting redressal of their grievances relating to languages. Article 350 A and 350 B specifically provide facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups and appointment of a special officer for linguistic minorities to investigate all matters relating to safe guards provided in the constitution.

To provide justice to every individual and to the society as a whole. Under Article 32, (Remedial Rights) the Supreme Court of India has been empowered to enforce fundamental rights and to exercise check on their violations. Article 32 of the Indian constitution has been described as the corner stone of the democratic edifice raised by the constitution. It is one of the highly cherished rights. It is not merely a right of the individual to move Supreme Court but also a duty of the Supreme Court to enforce those guaranteed rights.

The court is thus constituted "as the protector and guarantor of Fundamental Rights". Furthermore, the constitution empowers the High Courts in each state through Article 226 to issue writs, directions or orders for the enforcement of fundamental rights and for any other purpose.\(^{36}\) Moreover, the constitution of India also has the provision of “Judicial review”. Its main purpose to secure and protect the welfare of the people as effectively. It


\(^{36}\) Massey, I.P. op.cit. p. 55
ranges from reviewing the constituent power to any legislative, executive or administrative power of the state.

Some important other provisions

(a) Lok Adalats\textsuperscript{37} are additional arm of the existing Judicial institution. Lok Adalats are the means to take justice to the doorsteps of the vast masses of downtrodden, dalit and poor people in the country. They also help in creating the necessary awareness among the people of their rights and obligations by providing some education in the basic laws governing day to day life, involving their in judicial processes at the grass root level and preparing social workers to function as a para legal force to give ‘first aid’ in law. Social action groups are extending their support to the organization of various Lok adalats.\textsuperscript{38}

(b) Another significant part of the Constitution in this context is part IV, the Directive Principles of State Policy. It is the Directive Principles which provide the main plank for affirmative action in favour of the deprived and under the privileged sections of our society. The Directive Principles contained in Part IV cast upon the state a duty while making laws to apply principles like the right to adequate means of livelihood for all; prevention of concentration of and means of production; equal pay for equal work for both men and common; prevention of exploitation of labour because of extreme need; equal justice and free legal aid, right to just and humane conditions of work, to education and to social security, free and compulsory elementary education, and promotion of the economic interests of weaker sections etc.

Though not justicable, and therefore clearly a weaker formulation in comparison to the Fundamental Rights, the Directive principles still have the

\textsuperscript{37} Lok Nyayalya or people’s court are different names given to Lok Adalats.

\textsuperscript{38} Dewan, Paras "Justice at Doorstep", \textit{The Tribune}, December 25, 1985, Chandigarh.
status of a powerful constitutional beacon of the direction state policy is expected to take, to legislate where necessary and create new niches for human rights to take firm root.

(c) The greatest safeguard for the religious minorities in a multi-religious society, besides other things, lies in a secular polity. A theocratic state cannot promise to safeguard the interest of religious minorities. On the other hand, the secular state acts as a guardian of the religious minorities. The concept originated during the days of Roman Empire when the Caesars demanded allegiance from their Christian subjects in all walks of their life including the religious. Those Christians who refused to render their religious allegiances to the Caesars were subjected to severe persecution. It was at the time that its philosophical foundations were laid in a sermon of Christ recorded in the Bible, “Render to Caesar the things that are Caesar’s and to God the things that are God’s”. 39

Although the Indian constitution is secular in a sense but there are elements in it that subtly emphasize the Hindu character of the country. Expression like “India that is Bharat”, Hindi in the devagari script have subtle overtones. The activities and behaviour of groups like the Rashtriya Svayamsevak Sangh (R.S.S.) and Shiva Sena give cause for anxiety about the reality of the secular spirit in India. The R.S.S. asserts that “we are all Hindus” and organises militant prades and rallies; it has been responsible for attacks on minority communities like Christians. Such statements are a threat not only to the secular character of the State but also to its unity.

The underlying assumption of this concept is simply that religion and the state function in two different areas of human activity, each with its own objectives and tools. One must not interfere with the working of the other. It

stands on the principle of duality in the spiritual and the temporal, each with its appropriate loyalties and demands that there should be a wall of separation between the two institutions i.e. State and Religion.

In this context, it may be said that secularism means divorce of government and state from the religious spheres. This concept has been graphically described by Muni Shri Nagaraj. In the secular system, religion and politics should not have a husband and wife relationship but a brother and sister relationship.\(^{(d)}\)

India is a secular state and this commitment was honoured by the leadership in the post independence period. (The word secularism as it is well known was inserted into the constitution only in 1976 vide the forty-second constitution Amendment.) However, the philosophy of secularism was enunciated in the preamble of the constitution. I.P. Massey rightly expressed that “the forces of secularism are further strengthened by plural and democratic structure of the polity. Values of secularism have been internalized by the constitution. The adoption of secularism as an organising principle of Indian society fulfilled all these requirements. Secularism as a creed that the state should treat all religious equally, was adopted by the Indian National Congress as one of its core principle simply because it was moral, relevant and appropriate for the needs of our society to cross over the barriers of their diversity.\(^{(41)}\)

The distinctive feature of a secular state is neither tolerance of all faiths nor non-discrimination against religious minorities. The state in India being secular shall have no concern with any religion, creed or profession of faith, and shall observe an attitude of absolute neutrality in all matters relating to the

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\(^{(41)}\) Massey, I.P. *op.cit.*, pp. 52-53.
religion of any class of its citizens or other person in the union. The Indian constitution does not raise a wall between the state and religion. It allows state to be equidistance from each of them. State is to treat all religions equally. All these constitutional narratives provides a normative base for the protection and promotion of the rights of the minorities in India.

Specific provisions for Religious Minorities:

The provisions which are intended to protect the specific demand of the religious minorities are discussed under this category. These provisions are stated in the following articles of the Indian constitution: (a) right to conserve (b) right to freedom of education and (c) right to state aid.

The special provisions relating to minorities in the draft constitution published in February 1948, amendments were adopted to negate each of these articles during discussions of the draft in October 1949. The amendments effectively removed religious minorities from the purview of these safeguards and restricted the scope of these articles mainly to the Scheduled Caste / Scheduled Tribe. The rest of their paper analyses the arguments in the Constituent Assembly.

Separate electorates, reserved quotas for communities in the legislators in proportion to population in the Constituent Assembly facilitating the representation of minority in the legislation. Article 292 reserved seats in the House of the people for Muslims, Scheduled Castes, Scheduled Tribes and in the states of Madras and Bombay for Indian Christians. Article 283 authorized the President of India to nominate not more than two members of Anglo-

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42 Gangwal, Sunita op.cit. p.7. (The word ‘Secular’ has been included by 42 Amendment in 1976 during the regime of Congress Government).


Indian community to the Lok Sabha. One more useful provision was made under Article 301 for appointment of a Commission to investigate the conditions of all socially and educationally backward classes.45

Articles 29 and 30 of the Constitution are grouped together under the sub-head "Cultural and Educational Rights". The text and the marginal notes of both the articles show that their purpose is to confer four distinct rights on those sections of the communities called minority communities. Articles 29 is a general protection given to the minorities to conserve their language etc.

Article 29 (1) says: "Any section of the citizens residing in the territory of India or any part thereof having a distinct language script or culture of its own shall have the right to conserve the same" From the text of the article, the stress is on the word ‘conserve.’ It intends to preserve the special traditions and characteristics of the minority which distinguish it from the dominant group. The right of conservation is of primary importance for the health and growth of every minority. The term ‘conservation’ has been given a wide connotation in the constitution. It is not limited to the literal meaning: ‘to retain or to preserve.’ It include both positive and negative aspects.46 In this reference, D.K. Sen remarks: "the right of conservation includes the following rights:

1. the right to profess, practise and preach its own religion, if it is a religious minority;
2. The right to follow its own social, moral and intellectual ways of life;
3. The right to impart instruction in its tradition and culture;
4. The right to perform any other lawful act or to adopt any other lawful

46 Wadhwa, K.K. op.cit., p. 98.
measure for the purpose of preserving its culture.\(^{47}\)

(5) Another important thing to be noted in this article is the application of the term ‘any section of society’ (minority). It has been applied in a much wider sense, the scope of the article to conserve seems to be extraordinarily wide and meaningful for the minorities in India. It gives an assurance to the minorities that their language, religion and culture will be guarded for a definite development.

Art 29(2) is a counterpart of the equality clauses of Art 15. There should be no discrimination against any citizen on the ground of religion etc. in the matter of admission in any educational institution maintained or aided by the state. Clause (2) of Article 29 prohibits discrimination against any citizen on the ground of religion etc. in the matter of admission into any educational institution maintained or aided by the state. The right conferred by that clause is an individual right given to the citizens an such and not as a member of any minority community unlike clause (1) which protects the rights of a section of the citizens.

Under Article 30 (1) of the constitution of Indian State, minorities have also the right to administer educational institutions of their choice. This right relates to management of the affairs of the institutions. This right is not made subject to any restrictions or limitations say like Article 19. The protection under Article 30(1) expended to an institution established by a minority after the commencement of the constitution as well as before. In the Kerala Educations Bill reference the State had contended that the Article applied to only those institutions as were established after the coming into force of the constitution. The Court rejected rightly. So, this fallacious argument by giving the analogy of the protection under Article 19 (1)(g) that extends to a business established even before the commencement of the constitution. Chief Justice

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S.R. Das held that the right to administer (an educational institution) would cover pre-constitution schools just as Article 26 covers the right to maintain pre-constitution religious institutions.48

The state may legitimately insist that reasonable restrictions be prescribed to ensure the excellence of the institutions before giving aid or recognition. In the recent judgement of Supreme Court said that state can apply regulations to unaided minority education institutions to achieve educational excellence. In the opinion of Justice S.R. Das that is also an indication of taking into account public interest or national interest as he upheld some of the impugned clause as permissible regulations because these were designed to give protection and security to the ill paid teachers who are engaged in rendering service to the nation and protect the backward classes.49

In S.K. Patro V. State of Bihar, Shah J. followed this line and further decided that unlike Article 29(1), Article 30(1) did not expressly refer to citizenship as a qualification for the members of the minorities. It is true, he said, that the minority competent to claim the protection of Article 30(1) and the Privilege must be minority of persons residing in India.50

This Article assures the minorities the right to maintain religious and charitable institutions, the former guarantees the right to establish and administer educational intuitions of their choice. It gives to the minorities two rights (1) The right to establish and (2) the right to administer educational institutions of their choice. While Article 30 gives a special right to the minorities to establish institutions of their choice. Non is the choice taken away if the minority having established an educational institutional of its

48 Gangwal, Sunita op.cit, p. 158.
49 Pandey, B.N. op.cit, pp. 110-111.
50 Subhash, Manju op.cit, p.87 and also see Gangwal, Sunita op.cit, p. 158, and also see AIR 1970, SC 259.
choice also admits members of other communities. The Supreme Court has again dilated upon the relation of Articles 29 & 30 in the recent Guru Nanak Dev University Amritsar case. It is guarantee of very positive nature in the field of education for religious minorities of the country.

Today, the Minority Communities are enjoying these rights and have established thousand institutions of their choice for the general welfare of the people of the society.\(^{51}\) Article 30 means religious and linguistic minorities who are entitled to have educational institutions of their choice. It does not mention that the education for minorities must be religious. The Supreme Court not only says so that the education should be according to the teachings of their religion but that the object will be to create a total environment favourable to the promotion of its particular religious value. The word to establish in Article 30(1) means to bring into existence but when an educational institution has been established by the government, it cannot be held to be established by a minority merely because it has been established as a result of the efforts of such a minority. This point was examined and clarified by the judiciary in a case Azeez Basha Vs Union of India.\(^{52}\) The issue involved was about the character of Aligarh Muslim University. This University came to exist in 1920 by Centre legislature Act of the Aligarh Muslim university. It doesn’t, the Aligarh Muslim University Act not mean that this University established for the Muslim minorities.\(^{53}\)

The right to establish also implies the right to “establish a real institution” which means an institution recognised by the government. However, this does not give right to a minority to establish any fake

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51 Subash Manju op.cit. p. 86, and also see St. Stephens College vs. University of Delhi, AIR 1992, SC 1630, at 1659 Para 84 per Jagannath Shetty J.
52 Azeez Basha Vs. Union of India AIR 1968, SC 662, p. 672 (Para 25)
53 Wadhwa, K.K. op.cit. p. 100 and also see Gangwal, Sunita op.cit. p. 160.
institution. It must be a genuine educational institution. In order to decide whether the institutions genuine or not assertion of the minority is not final. Government, University and the Court can go behind the claim of the minority to find out whether the claim is a mere crock or pretension and the real motive is business venture. Thus, supreme court held that the refusal of the state government to accord permission to the A.P. Christian Medical Society to establish medical college which had been established merely a business venture does not violate the right of minorities under Art 30(1).  

The Landmark Judgement of the Supreme Court

In the recent Judgement of the Supreme Court, right of minorities, Articles 29 and 30- Fundamental rights- Rights with regard to education- Right of minorities to establish and administer educational institutions- Whether admission of students to minority educational institutions, aided or unaided, can be regulated by the state government or by the university to which the institution is affiliated – Whether the right to establish and administer educational institutions includes the procedure and method of admission and selection of students- Whether the rights, procedure and method of admission would be affected in any way by the receipt of state aid. Held, admission to unaided institutions cannot be regulated by the state or the university except for providing the qualifications and minimum conditions of eligibility. So long as the admissions to such institutions are on a transparent basis and merit is adequately taken care of, there can be no interference.

A minority institution does not cease to be so the moment grants in aid are received. Such an aided institution would be entitled to have the right of admission belonging the minority group but would be required to admit a reasonable extent of non minority students. State government can notify such

54 Massey, I.P. op.cit. p. 63, and see Gangwal, Sunita op.cit. p. 158.
percentages for admission of non minorities.\textsuperscript{36}

Ratio laid down in St. Stephen's College v. University of Delhi \{JT 1991 (4) SC 548\} is correct but rigid percentage cannot be stipulated. Reasonable percentage can be stipulated by the authorities having regard to the type of institution, population and educational needs of the minorities. In the case of aided professional institutions passing of common entrance test held by state agency can be stipulated as a necessary procedure.

In respect of seats for the non minorities the admission to such institutions should be normally on the basis of common entrance test held by the state agency. Procedure and method for selection should be fair and merit should not be ignored. While giving aid to professional institutions it is permissible for the authority giving the aid to prescribe the rules or regulations and prescribe conditions for grant of admission to students and it is open to the said authority to devise any means to ensure that admission is granted in such aided institution on the basis of merit.\textsuperscript{37}

The right to 'administer' an educational institution may include the right to choose its managing or governing body, to choose its teacher to use its properties for the benefit of the institution and the right to select its own medium of instruction. The import of the words of its choice in Article 30 was considered in a Gujarat case (Krishna Rangnath Mudholkar Vs Gujarat University). The High Court asserted : a minority has a right to establish educational institutions of its choice without the State having a right to impose it any particular mode of method of administering them. If that were so, the minorities would cease to administer educational institution of their choice. It will be no longer a choice but an imposition.\textsuperscript{58}

Regarding of the right to choose educational institution, in Kerala

\textsuperscript{36} Ibid.
\textsuperscript{37} Ibid.
\textsuperscript{58} Wadhwa. K.K. \textit{op.cit.} pp. 100-101.
Education Bill Apex Court\(^{59}\) held that the word ‘their choice’ necessarily, includes the right to establish education institution not only to conserve cultural, language or religion but also for the purpose of imparting general education. The nature and purpose of the institution of entirely left to the discretion of the minority community. In Bombay Education case,\(^{58}\) the Supreme Court had to consider the scope of states power to prescribe medium of instruction and restrict the right of admission to minority institution. The court pointed out that where there is a minority has a fundamental rights to established and administer educational institutions of their choice.

But in the landmark judgement of Supreme Court on the right to establish and administer educational institution “All citizens have a right to establish and administer educational institutions under 19(1) of and 26 but this right is subject to the provision of Articles 19 (6) and 26(a). Minorities have been specifically entrusted with the right to establish and students is subject to the manner specified by the Supreme Court in this case.\(^{60}\)

However the words ‘own choice’ do not mean that rights are unlimited. Firstly minority cannot ask for recognition and aid for an institution which is mismanaged in the sense that it is being run in unhealthy surroundings without proper infrastructure, without competent and qualified teachers and does not maintain a fair standard of teaching and is subversive of the interest of the students and society.\(^{61}\) Secondly, the constitution prohibits compulsory religious instructions or worship in any educational institution recognised and or aided by the state. This prohibition equally applies to minority institutions also, (ST Xavier’s College Vs State of Gujarat) which seek recognition and or

\(^{59}\) AIR, 1958, SC 956.

\(^{58}\) AIR 1954, SC 561.


\(^{61}\) Massey I.P. op.cit. p. 65.
aid from the state and no student can be compelled to attend such religious exercise without his consent or if he/she is minor, consent of his/her guardian. However, what is prohibited is religious and not moral educations which is not associated with any religion.62

Since in modern times, it is impossible to run an educational institutions without aid, so the right of a minority community under social 30(1) to establish and administer educational institutions of its choice indirectly carriers with it in a right to receive state aid. Under clause 2 of the Articles. The state shall not, in granting aid to educational institutions, discriminate against any educational institutions on the ground that it is under the management of a minority, whether based on religion or language.

So, minority institution can also claim state aid like other institution under the same conditions on which it is available to the majority community institutions. Recently Madras High Court has also held in the case of “State of Tamil Nadu V Melapalayam Muslim Magalir Kalvi Sangam”, that the minorities could not be asked to maintain their educational institution without state aid. The state is thereby enjoyed not to discriminate in granting aid to educational institutions on the ground that the management of the institution is in the hands of a minority. D.K. Sen has a twofold objective. It implies that an educational institutions belonging to a minority is entitled to ask for aid from the state. Secondly it also means that the conditions under which grant-in-aid should be available to minority educational institutions must be the same as for all other educational institutions.63

While allowing recognition and aid, state may lay down certain pre-conditions. But it does not mean that state can lay down any condition as it pleases. A pre-condition in order to be valid, must be reasonable non-

62 Ibid. p. 65.
discriminatory and must not destroy the right of establishment and administration of the institution for the purpose of ensuring sanitation, competence of teacher, maintenance of discipline, conditions of service.

State may lay down a condition to ensure that the aid is properly utilized for the purpose it is given. But it cannot lay down a condition that the state may take over management of the institution or may acquire under certain contingencies, for it would be unreasonable and would completely destroy the right of the minority community to administer its institution.

An Eleven Judge Constitution bench headed by Chief Justice B.N. Kirpal by a 6:5 majority rules that the state could not regulate the admission of students to unaided ‘Minority Educational Institutions’ (MEI’s) like school and under graduate colleges, where the scope of merit based selection was practically nil so long as the same was done transparently. The Bench deliberated among other issue, the meaning of minorities and minority educational institutions” (MEI’s) and the criteria to determine whether an educational institutions is an minority educational institutions. Accordingly this judgement, the following points emerge from the court ruling.64

All citizens have a right to establish and administer educational institutions under 19(1) (8) and 26 but this right is subject to the provisions of Article 19 (6) and 26 (a):

- The right to administer minority educational institutions (MEI) is not absolute.
- State can apply regulation to unaided MEI to achieve educational excellence.
- Aided MEI’s should admit certain percentage of non-minority students.

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64 The Tribune, November 21, 2002, Chandigarh and See also Judgements Today, Vol. 9, No. 1, November 16, 2002.
• Percentage of non-minority students to be admitted to an aided MEI to be decided by the state or university.

• Fees to be charged by unaided MEI cannot be reputed but no institution can charge capitation fee.

• State can prescribe minimum qualification for teachers and principal in an unaided MEI.

• Tribunal headed by District Judge should be constituted or redressal of grievance of employees of MEIs.

• State can provide the manner of admission in case of aided MEI to ensure that it is done on the basis of merit.

• Merit could be determined through common entrance test.

• Unaided MEI’s could have their own procedure for admission but the same had to be fair and transparent.65

It is most comprehensive report, the 11 members bench, which heard the case, was the largest during last 30 years. Even Sorabjee also expressed his view that37 “It does not erode the rights of minorities. At the sometime, it recognizes the rights of the majority community. It is balanced judgement.

The leaders of the community like Joseph D’Souza and John Doyal also welcomed the landmark judgement of the Supreme Court on the issue of the rights of minorities to run their educational institutions.66 “We congratulate and thank the Chief Justice of India, Hon’ble Justice B.N. Kirpal and his brother judges, for reiterating the constitutional rights of the minorities”.


37 Ibid. p. 46.

66 Ibid. p. 11
The main objective of the minority educational institution may be to impart secular education also. It was left to the choice of minorities to establish such educational institutional as would serve the purpose namely conservation of their religion and also imparting a thorough education to their children.

The study of the constitutional provisions for religious minorities in India reveals that the Indian Constitution accords not only sufficient protection to minorities but also deals with the subject matter in greater detail. In most of counties the problems of minority safeguards has been dealt with through legislation. In India, however, the minority safeguards are enshrined in the constitution itself. Further, the Indian constitution guarantees not only a large number of safeguards but also provides comprehensive machinery for investigation into all matters relating to the working of the safeguards. The composition of minority Commission and the Justiciable character of fundamental rights provided to religious minority further enhance the importance, prestige and scope of their safeguards.

The aims and objects for giving the special rights to minorities under Article 30 (1) are:

The main purpose of Article 30 to create a sense of unity in India by accepting and tolerating their culture, and religions and to promote feeling of security by safeguarding the religious atmosphere in which the minority community want their children to grow up i.e. in the Kerala Education Bill, 1957 the Supreme Court said, “The minorities quite understandably regard it as essential that the education of their children should be in accordance with the teachings of their religion and they hold quite honestly that such as education cannot be obtained in an ordinary school, designed for all the

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members of the public but can only be secured in schools conducted under the influence and guidance of people well versed in the tenets of their religion and in the traditions of their culture."

The minorities evidently desire that education should be imparted to the children of their community in an atmosphere congenial to the growth of their culture. The constitution makers recognized the validity of their claim and to allay their fears, conferred on them the fundamental rights. The object of this right is to develop a sense of equality among the unequal sections of the nation, giving freedom to minorities to prepare their children for careers in life in the way they, consider best. In the Ahmedabad ST Xavier’s college society vs state of Gujrat Justice Khanna observed.

“The idea of giving some special rights to the minorities is not to have a kind of privileged or pampered section of the population but to give to the minorities a sense of security and feeling of confidence”.

The Minorities Commission framed guidelines in 1986 on the basis of Judicial decision.

The benefits of Article 30 (1) can be claimed by a community only on proving that it is a religious or linguistic minority and the institution was established by it. The question of proof in a court of law is regulated by the provisions of the Indian Evidence Act. This Act requires that when there is a written document, other evidence is to be excluded, but if there is no written document other evidence is admissible. It is not always necessary that the objects for which a minority may establish and educational institution must include the conservation of its language, script or culture Art. 30 (1) only.

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69 Ahmedabad ST Xavier’s College Vs. State of Gujrat.
emphasizes that the body establishing and administering an educational institution belongs to a minority based on religion or language. 71

An institution seeking recognition must fulfil the statutory requirement concerning academic standards and qualifications of teachers and of students seeking admission. It must have the financial resources and the capability to run on a sustained basis. The state government or a University is not empowered to prescribe the medium of instruction to be followed by minority educational institutions. However, in case of institutions receiving grants in-aid, there are certain standards of proficiency to be observed. No judicial decision lays down the teaching of a state language is compulsory within the conditions for grant of aid. 72

Minority educational institutions must be free to induct competent and reputed individuals from other communities in their managing committees/governing bodies. The minority character of an institution is not impaired so long as the constitutions of the managing committee/governing body provides for an effective majority to be members of the minority community. He should not have any power, directly or through a university, to direct the constitution government bodies in a manner so as to deprive a minority of an effective administration of its educational institutions. However, the state or a university may lay down general guidelines to ensure that only qualified persons find in place in the governing bodies.

On the other side, the management should exercise the disciplinary control over staff, it must be ensured that they hold an inquiry and follow a fair procedure before any punishment is given with a view to preventing the possible misuse of power by the Management, the state has the regulatory power to safe-guard the interest of their employees and their service

71 Ibid, p. 185.
72 Ibid, p. 186.
conditions including procedure for punishments to be imposed.73

Minority educational institution must have the freedom to give special consideration to the students of their own, commonly in matters of admission and in granting admission to children of the community the rules of natural justice and fairplay must be applied and regarding the appointments of the teacher, the government cannot enforce the rules of reservation in favour of scheduled castes, scheduled tribes and other backward classes for the posts of teachers and other staff in minority educational institutions.74

The problem of minorities in such that it has evoked enquiry not only in India but in almost all democratic countries of the world because a true democratic set up envisages not only a majority rule but a system, political, economic, social and legal in which every section of the community is provided with an opportunity of participation in the national reconstruction without losing its separate entity. Keeping this end in view, the constitution of India makes certain special provision for the protection of some genuine interests of the minorities that a condition may be created in which democratic political institutions can work successfully. Of all the basic rights given to the minorities perhaps the educational rights given under Article 30 (1) are most important because it is through education alone that minorities can conserve their language, script and cultural heritage.

From the above analysis, it may appear that the provisions made by the constitution to safeguard legitimate minority interests and rights are quite adequate. It, however does not mean that the minority groups have no problems. Stories of harassment of the minority groups or an weaker sections are heard every day. The court have also played a very remarkable role in this area. On the whole, they have interpreted the relevant constitutional

74 Ibid. p. 187.
provisions so as to confer on the minority groups due safeguards consistent with national interest and due interests of the majority groups.

IV

Recommendation of the Backward Classes Commissions

From time to time the various governments appointed a number of commissions, special officers and committees to consider the case of Dalit Christians for reservation in various jobs and to review the implementation. The reason for appointing the commission was to observe the socio-economic and political conditions after the conversion from Scheduled Castes to Christians. The first backward classes commission headed by Kaka Kalekar was appointed on January 29, 1953 by the President of India to observe the practice of untouchability among the south Indian Christians. This commission submitted its report on March 30, 1955.75

(1) He recommended that the state should declare the Christian as backward class and entitled to special educational and economic aid all persons whose total family income is low;

(2) He also supported to provide grants and scholarship for members of the backward classes and

(3) He opposed the reservation of posts for the backward classes in government services.

The task of the commission included determining the criteria for identifying section of people who could be included in the list of backward classes.76 The central government also gave the direction to state governments to fix their own criteria defining backwardness. As a result, a number of states,


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Andhra Pradesh, Bihar, Gujarat, Uttar Pradesh and Tamil Naidu set up their state level commissions. Many states like Himachal Pradesh, Tamil Naidu, Orissa, Rajasthan, Kerala, Andhra Pradesh, Karnataka fixed their reservation quotas for the backward classes. Punjab also fixed twopercent reservation in government services and educational institutions for backward classes during the tenure of Giani Zail Singh as the Chief Minister of Punjab. Here it is notable that Christians in Punjab as backward class is also entitled for this reservation.

Mandal Commission Report

The second backward class commission known as Mandal Commission, under the Chairmanship of the B.P. Mandal was officially appointed on January 1, 1979 which submitted its report on December 31, 1980. Mandal Commission report without any doubt has included Indian Christians in the list of backward classes.

The Backward Classes Commission recommended that a reservation for the Christians should apply to all governed services as well as technical and professional institutions both in the centre and the states. In regard to the reservation of 27 percent of the OBC this clearly within the maximum prescribed by the judgement of the Supreme Court in the Balaji case. But the Mandal Commission report did not stop at making an analysis of the conditions of the Christians of Scheduled Caste origin. It also made an effort to identify the percentage of these Christians. The criteria that it used for this purpose were not the same as it used to identify the Backward classes having a Hindu background. The commission used to followed two criteria to identify people belonging to other backward classes among the non-Hindus, including Christians.  


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(I) All untouchables converted (to Christianity) in Punjab and converted Christians from Scheduled castes.

(II) Such occupational communities which are known by the name of their traditional hereditary occupation and where Hindu counterparts have been included in the list of OBCs.

In volume VI of the report, the list of other backward Classes from 21 states has given. Out of 21 states, only twelve states (including Punjab and Chandigarh Union Territory) lists include Christians of Scheduled Caste origin. In brief, the Mandal Commission Report has uncovered one fact that the Christian of Scheduled Caste origin (Christian Dalits) suffer the same disabilities as their counterparts belonging to other religions. Although the government of India has provided this benefit and protections of Dalits but these are not applicable to the Christians Dalits, they lose their basic human rights and fundamental rights. These include protection of Civil Rights Act 1955, protection of civil rights rules 1979 and Scheduled Castes and Scheduled Tribes (prevention Atrocities) Act 1989.

Besides all these report, many other reports and findings of various commissions like Kumara Pillai Commission (1965), P.G. Menon report, 1955, the statement by Dr. Ambedkar, Mahatma Gandhi and Jagjivan Ram have approached the government of India to extend all kinds of facilities and benefits to them as given to Scheduled Caste Hindus.

Discussing the policy of government towards Christian minority community, D.E. Smith remarks “the policies of both central and state government towards the Christians have usually been fair. Over half of the

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78 Sivaparakasam, M.N. op. cit. p. 218.
79 Ibid. p.219.
Indian Christians and Roman Catholic, and several significant gestures of good will and acceptance have been made towards that community. Official recognition of the international ties of Roman Catholicism was accorded when an Indian ambassador Diraj Lal Desai, was sent to the Vatican.\textsuperscript{81}

**Fifteen Point Programme for the Welfare of Minorities:**

The need for promotion of communal harmony and prevention of communal violence and improvement in the socio-economic condition of minorities was emphasised by the late Prime Minister Indira Gandhi in her letter to Chief Ministers dated May 11, 1983. This letter laid the foundation for the 15-Point programme for the welfare of minorities.\textsuperscript{82} The programme also envisages special consideration for minorities in recruitment of police personnel and fair and adequate share in development programmes.\textsuperscript{83}

The programme classifies measures broadly under three categories namely safety and protection of life and property, representation in the jobs under state and central governments and socio-educational development. The programme envisages special consideration for minorities in recruitment of police personnel and fair adequate share in development programmes. The programme is being implemented by state / Union Territories and the concerned Central Ministries/Departments.

(a) **Communal Riots**

In the areas, which has been identified as communally sensitive riot prone, District and Police Official of the highest known efficiency, impartiality and secular record must be posted. In such areas and even elsewhere, the

\textsuperscript{81} Smith, D.E. op.cit. p. 435.

\textsuperscript{82} Its objectives was providing security to their life and property and special consideration in Public employment.

\textsuperscript{83} Pathak, Bindeswar and Srivinas, B.N. op.cit. pp. 56-57.
prevention of communal tension should be one of the primary duties of District Magistrate and Superintendent Police. Their performance in this regard should be an important factor in determining the promotion prospects. Good work done in this regard by District and Police Officials should be rewarded. Severe action should be taken against all those who incite communal tension or take part in violence.

Special court or courts specifically earmarked to try communal offences should be set up so that offenders are brought to book speedily. Victims of communal riots should be given immediate relief and provided prompt and adequate financial assistance for the rehabilitation. Radio and TV must be used in restoring confidence, communal harmony and peace in such affected areas. It is unfortunate that certain sections of the press sometimes indulge in the tendentious reporting and publication of objectionable and inflammatory material which may incite communal tension. Editors, printers, publishers and other concerned should co-operate in finding ways to avoid publication of such material. 84

(b) Recruitment to State and Central Services

The programme also envisages special consideration for minorities in the recruitment of police personnel, state governments should be advised to give special consideration to minorities. For this purpose, the composition of selection communities should be representative. The central government should take similar action in the recruitment of personnel to the central police forces. Large scale employment opportunities are provided by the railways, nationalised banks and public sector enterprises.

The direction was also given to the concerned departments would ensure that special consideration is given to recruitment from minority

84 Ibid. p. 56.
communities. In many areas recruitment is done through competitive examination. Often minority groups have been handicapped in taking advantage of the education system to complete on equal terms in such examination. To help them to overcome these handicaps step should be taken to encourage the starting of coaching classes in minority educational institutions to train persons to complete successfully in these examinations.

The acquisition of technical skills by those minorities who are today lagging behind would also in national development arrangements should be made to set up ITI and polytechnics by government or private agencies in predominantly minority areas encourage admission in such institutions of adequate number of persons belonging to these communities.85

(c) Other measures

In various development programmes including the 20-Point Programme care should be taken to see that minorities secure a fair and adequate measure that benefits flow there from. In the various committees which are set up to oversee the implementation of such programmes, members of these communities should be actively involved.

Apart from the above general issues there are various local problems which develop into needless irritants to minorities. For instant encroachment of wakf properties and on graveyards have led to protests and grievances in some places. Suitable steps should be taken to deal with such problems on an expeditious and satisfactory basis. Problems relating to minorities need to be attended to on a continuing basis so that apprehensions are allayed and genuine grievances redressed. To facilitate this, a special cell will be created in the Ministry of Home Affairs to deal with matters relating to minority.86

85 Ibid. pp. 56-57.
86 Ibid. p. 57.
No doubt, the 15 points programme which was lunched by Indira Gandhi, former Primer Minister, was a good step for the welfare of minorities. Many states in India, hesitate to implement. Even these states are not paying any special attention and consideration towards, minorities. Atrocities on the minorities on the one side and communal conflicts and tension on the another side, are increasing day by day. There is a lot of violations of minority rights. The development programme and planning are only an eye wash particularly for minorities in various states of India.

**Assurance for Reservation During the Different Regimes.**

From time to time, central government made many schemes for the welfare of the minorities. From 1952 to 2004, many common programmes have been implemented by Pandit. J.L. Nehru, the first Prime Minister of India, took the minorities community into confidence and stressed to maintain socialistic pattern of society to bring the minority in the mainstream of India. The idea of secular and socialist, was included Prime Minister Indira Gandhi by the Constitution through the 42nd Amendment. It gave the encouragement to minority to participate in every field without any discrimination. But today, attitude of R.S.S. and its family group towards minorities in India gave cause for anxiety about the reality of secular and socialist spirit and imposing softnisation culture to disintegrate the Nation.

During Janta Party regime, the Janta government constituted the minorities commission, on Jan. 12, 1978 with a view to safeguarding the interests of the minorities, whether based on religion or language. It was further stated by the then government that in order to preserve the secular traditions and to promote national integration the government of Indian attaches the highest importance to enforcement of the safeguards provided for the minorities.  

87 See Notification No. 160 12/2/77/NID (D) Government of India, New Delhi.
Rajiv Gandhi, former Prime Minister of India had guaranteed that the Congress Party would extend all the reservation facilities to the Dalit Christians as was done to the Neo-Buddhists in 1990. The Indian Christian Community has been bitterly disappointed with the government’s failure to introduce the bill extending reservation facilities to Dalit Christians in the monsoon session of Parliament. They had been given every assurance from the Prime Minister that the bill would be introduced but the monsoon session elapsed without any action being taken in this matter.

The hitch seems to have come from the Welfare Ministry, indeed from Sita Ram Kesri himself. Why this should have been so difficult to understand. In fact, when Kesri met the high level delegation of All India United Christians Movement for Equal Rights (AIUCMER) on 21st August 1995, he had reiterated his stand and told them that the government cannot discriminate between the Scheduled Castes on the basis of religion and was therefore committed to provide reservation facilities to Scheduled Caste converts to Christianity. He had held that their demand was justified since change of religion had not eliminated the disabilities arising from the traditional practices of untouchability. (See in detail in Chapter IV).

In 1996, that the National Front and Left Front combine, together with their allies, the Janta Dal and Samajwadi Party, promised in their manifestoes that the policy of reservation for the deprived and underprivileged sections of society in public employment, education and other departments of social life would continue. The Janata Dal in its manifesto promised to extend these reservations to Christians of Scheduled Caste origin. So did the congress party, whose leader former Prime Minister Narasimha Rao had promised the Christian community on April 11, 1996.

So, it was natural that in the Common Minimum Programme (CMP) of United Front government it should be clearly laid down that “The Policy of reservation in Public employment for scheduled castes, scheduled tribes and
other backward classes will be implemented vigorously. The benefits of reservation will be extended to Dalit Christians. Special courts will be set up under the Scheduled Tribes (prevention of Atrocities) Act to ensure quick justice to victims of atrocities.”

When the United Front government took over, delegations of Christian leaders again met the Prime Minister H.D. Dev Gowda, Balwant Singh Ramoowalia Welfare Minister and other ministers to remind them of their pledges and manifestoes. But unfortunately, the Dev Gowda’s government could not serve for long time. Then Inder Kumar Gujral became the Prime Minister of India. Who did not take initiative due to internal politics of United Front.

Despite the safeguards provided in the constitution and the laws in force, there persists amongst the minorities a feeling that they are discriminated against. For pressuring secular character of security and promoting communal harmony, government of India attaches the highest importance to the enforcement of the safeguards provided for minorities. The government of India, set up minorities commission in 1978 to act as a watch dog for minorities the effective implementation of various central and state laws and implementation of various programmes and policies for welfare of minorities.

**The National Commission for Minorities Act**

In May 1992, the National Commission Minorities Act. 1992 was enacted giving statutory status to the erstwhile minorities commission and making it a more effective body to safeguard the interests of minorities. Basically, the National Commission for Minorities came into being on May 17, 1993 under the National Commission for Minorities Act, 1992 (No. 198
of 1992). The Act also defines the role of the commission according to which it is now asked to "monitor the working of the safeguards provided in the constitution and in laws enacted by Parliament and the State Legislatures".

(i) the functions of the commission are to evaluate the progress of the development of minorities by the Union and states;

(ii) to monitor the working of the safeguards provided in the Constitution and in various Acts of Parliament and state legislatures;

(iii) to make recommendation for the effective implementations of safeguards for the protection of the interests by the centre/state governments;

(iv) to look into specific complaints regarding deprivation of rights and safeguards of the minorities and

(v) to take up such matters with the appropriate authorities vide notification S.O.No. 816 (E) dt. Oct. 23, 1993 issued by government. Five religious communities viz: Muslims, Christians, Sikhs, Buddhists and Zoroastrians are enjoying the status of minority communities in the country.

The non-statutory status of the Minorities Commission has believed its importance through the government as it had introduced. The Constitution (Forty Sixty Amendment) Bill in the Parliament, 1978 to add Article 338-A to give constitutional status to the Minorities Commission. However, the Bill when brought for discussion before the Lok Sabha in May, 1979. fell through

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as it could not attract a quorum in the House. In 1979, Indira Gandhi specially took initiative and put it into the election manifesto.

This Commission was created through an executive order and no statutory status was conferred on it. The Minorities Commission was entrusted with following functions.\(^\text{90}\)

(a) Evaluate the progress of the development of minorities under the union and states;

(b) monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures;

(c) make recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the centre/state governments.

(d) look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities;

(e) cause studies to be undertaken into problem arising out of any discrimination against minorities and recommend measures for their removal;

(f) conduct studies research and analysis on the issue relating to socio-economic and educational development of minorities;

(g) suggest appropriate measures in respect of any minority to be undertaken by the central government or state government;

(h) make periodical or special reports to the central government on any matter pertaining to minorities and in particular difficulties confronted by them; and

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\(^{90}\) Massey, James Minorities in a Democracy, \textit{op. cit.}, pp. 127-128 and also see Pathak, Bindershwar and Srivastava, B.N. \textit{op. cit.}, pp. 188-190.
(i) any other matter which may be referred to it by the central government.

2. The central government shall cause the recommendation referred to in clause (C) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendation realizing to the Union and the reason for the non-acceptance, if any, of any of such recommendations.

3. Where any recommendation referred to in clause (c) of sub-section (1) or any part thereof is such with any state government is concerned, the Commission shall forward a copy of such recommendation or part of it to such state government who shall lay it before the legislature of the state along with a memorandum explaining the action taken or proposed to be taken on the recommendation relating to the state and the reasons for the non-acceptance, if any, of any of such recommendation or part.

4. The Commission shall, while performing any of the functions mentioned in sub-clauses (a), (b) and (d) of sub-section (1) have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely:

a) summoning and enforcing the attendance of any person from any part of India and examining him on oath:

b) requiring the discovery and production of any document:

c) receiving evidence on affidavits:

d) requisitioning any public record or copy thereof from any court or office:

e) issuing commissions for the examination of witnesses and documents: and

f) any other matter which may be prescribed.

So far the composition of the commission is concerned that there shall be a chairperson (a Vice-Chairperson) and five members, to be nominated by the central government from amongst persons of eminence, ability and
integrity. Provided that five members including the chairperson shall be from amongst the minority communities.\textsuperscript{91}

The composition of the commission gives the impression that the centre had taken a cognizance of the grievance of the Muslims, Sikhs, Christians and Parsi only. The Christian nominee (Rev) Dr. James Massey hailed (1997-2000) from Punjab. It was first time since 1952, that centre government gave representation to Christian from north India and especially from Punjab otherwise Christians from this region has been ignored by the centre government.

Since the Minority Commission was created by an executive order and did not have a constitutional or statutory status, it was not very effective. M.R. Masani, the first Chairman resigned because the commission was neither allotted a suitable accommodations nor was it consulted on matters concerning the minorities such as the Aligarh University Bill.

It was not only the state government but the centre also refused to accept the recommendations of the minorities commission. For example, the Commission recommended to the Punjab state government in connection of Ludhiana incident against Christians during the regime of Akali – BJP government. To take action against involving persons and authority but state government did not pay any attention to words the commission’s recommendation. The second example, the commission reconsidered the amendment of the constitution to declare Aligarh Muslim University as a Minority institution (Article 30) but the government refused to do so. Sangh Parviar’s members have demanded scrapping of the minorities commission. According to them the formation of the Minorities commission could not be justified in a democratic society.

\textsuperscript{91} Massey, James, Minorities in a Democracy, \textit{op.cit.}, p.133.
Other facilities for Weaker Sections of Society

(1) In 1984, Government of India, formulated a scheme on coaching classes for competitive examination for weaker sections amongst educationally backward minority communities. It has been stated in the programme of action, ‘New Education Policy’. 1986 the UGC has approved coaching classes in 20 university and 33 colleges for the upliftment of the minority communities but the people from the minorities are not aware of such type of facility. In Punjab, the following centres have been set up at DAV College, Jalandhar, SD College, Hoshiarpur and Government College Malerkotla for the upliftment of minority communities. The selected universities/colleges organise appropriate coaching classes to prepare minority communities to enable them to compete in various competitive examinations. (See Appendix VII).

(2) State governments have been directed to ensure no discrimination against minorities by employment exchange in registering and sponsoring names to recruitment agencies and conducting special registration in minority concentration areas and minority educational institutions.

(3) The government also set up a National Minorities Development and Financial Corporation which provides economic and development activities for the benefit of backward section among the minorities. It gives preference to occupational groups and women.

(4) Nehru Rozgar Yojna (NRY) Urban (basic service for poor) and Prime Minister’s Urban Unemployment/Poverty Eradication Programme came to exist on 1st December 1997. The main purpose is to provide (a) self-employment opportunities to the urban including the minority communities and backward classes; (b) to provide wage employment through setting up community assets; (c) to provide training to the urban poor and backward classes for improving their employment prospects; (d) special schemes for the welfare of women, children, Scheduled Caste’s and disabled persons.
Yesu Krist Jayanti 2000

Yesu Krist Jayanti-2000 (Anno Domini 2000) was celebrated the world over as “the year of Christ”. After a series of changing calendar years, December 25, was declared as Christmas Day by Pope Jullius I in 350 A.D. and it has been celebrating so far the past 18 centuries. The Prime Minister Atal Bihari Vajpayee announced on December 2000, that India will celebrate the ‘Yesu Krist Jayanti’. The bubble burst within days when Vajpayee took the matter to the Cabinet. And Murli Manohar Joshi said there was no way the government of India was going to officially celebrate the years of Christ. Christ was as alien, Christians was an alien religion. Nothing to do with Bharat Mata.92

Delhi government was the first state of India that resolved to establish a state level year of Christ Celebration Committee. A similar state level committee has been set up by Chief Minister Digvijay Singh in Madhya Pradesh. Delhi Chief Minister Sheila Dikshit also allocated 10 (Ten Million rupees) (about US $ 213, 850) as an “initial amount” for "Yesu Krist Jayanti 2000" (Jesus Christ birth anniversary 2000) activities which go beyond the celebration at the stadium.93

The Prime Minister of India, Atal Behari Vajpayee, on December 25-2000 released a commemorative postal stamp of the Great Jubilee 2000 Yesu Krist Jayanti 2000 at Vigyan Bhavan in New Delhi. By releasing the stamp he said “I hope the release of the stamp would usher in faith and hope in the heart of all the people of India and calling the nation to follow the Principles of true secularism and also exposed that religious bigotry, notions of superiority,
exclusivism in the name of religion and especially, discrimination against religious minorities are alien to our values and culture". 4

**Ten Point Programme for the Minorities Proposed by the Church Councils**

The government of India is formulating the tenth five year plan from year 2001. The development and welfare measures for minority community have not been implemented in any great measure. The Christian community is a particular victim of this. It is feared that the economic and development impact on the minority community in the future will be drastic. The Church Councils together with other Christians Welfare Organisations have therefore called the government and the Planning commission to include in the plan scheme for the welfare of the minority community. 5 The Council projected a ten Point Programme for the minorities to be included in the Tenth Five Year Plan.

1. Implement 15 Point Programme of May 1983 in full which was suggested by former Prime Minister Indira Gandhi.

2. Implement full scope of constitutional provisions (including freedom to practice, profess and propagate faith and provisions of Articles 25 to 30.

3. Take steps to encourage political and social uplift by correcting the aberrant parties that block the rights of Dalit Christians. This is not an issue of reservations in government services, but of equal opportunity in all spheres of Political and economic activity.

4. Special income generation and housing schemes for minorities in rural areas – farmers, landless peasantry, agriculture labour and traditional craftman.

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(6) Honest implementation of Article 30 specially to encourage educational institutions in sunrise areas. Such as medical engineering information technology and management college.

(7) Ensure adequate and compensatory representation of Christians and Muslims in particular in Civil Military, administration and judicial services.

(8) Reverse discriminatory laws such as the Orissa, Member Parliament and Arunachal Pradesh Freedom of Religion Acts, the Harassment in VISA provisions and the bigotry in FCRA and administration.

(9) Involve diverse schools of society in evolving a population policy and assure that never again will aspect of ‘Internal Security” be misused against vulnerable segments of the society.

In the press meeting, all India Christian Council also called upon the government to take immediate steps to restore confidence and sense of security among the minority and marginalised groups who continue to be victims of violence and hate campaigns.

In India, many test surveys show that the Christian community lacks middle class and does not have an entrepreneurial class. The National Minorities Development Finance Corporation has failed singularly in reversing poverty and unemployment. The former Union Finance Minister Yashwant Sinha earmarked all of Rs. 41 crores for the corporation in 2001. Considering that there are 0.7 percent Buddhists, 2.4 percent Christians, 0.5 percent Jains, 1.9 percent Sikhs, and 11.2 percent Muslims take 16.7 percent

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of the years projected national population of 96.56 crores, this works out to something like Rs.4 only per person belonging to the national minorities in this counting for year 2001.

The corporation was set up and made a corpus of Rs. 500 crores during the regime of former Prime Minister Narasimha Rao for the welfare of the minority community in India. It was meant to make loans available to encourage self-employment and entrepreneurship among the youth of the minorities communities.

V

Punjab Government Policy and Programme Towards Dalit Christians

In Punjab, the Christians are socio-economically oppressed, religious-culturally marginalized community mainly because of their distinctive heritage is not in conformity with the traditions of the Sikhs and the Hindus. Majority of the Christians are living in rural areas whose living conditions are comparable only to other untouchable communities. They are totally deprived of all the Scheduled Caste privileges Constitutionally. While all other ‘untouchable’ communities like the Mujabisikhs, the Balmikis, the Chamars and the several other are being granted ‘protective discrimination’ with all the privileges entailed, this is being unjustly denied to the Christian Dalits. It is observed that non-Dalits are generally treated as untouchables in the rural area. Inspite of this fact the Christians are not included in the schedule in the constitution and thus are officially deprived of the state benefits. Thus the continued state discrimination against the Christian Dalits in the form of the denial of Scheduled Caste benefits is aggravated further by the growing communalization in the socio-economic and political life. This treatment to them has created serious crisis in their lives. Godwin Shiri has rightly
observed that⁹⁷, “The very fact that if one has a ‘Christian’ or ‘Biblical’ name, one is automatically debarred from availing of Scheduled Caste benefits is indeed very alarming.”

Yet in spite of all these problems and hardships, the Christian dalits still continue to try to secure Schedule Caste benefits. A few of them have actually succeeded in this venture, in ‘whatever way’ possible to them. In fact, the Christian dalits are caught between three forces — a discriminating state, a caste and communally antagonistic society, and a moralistic and demanding church. There was a time when the church was very vociferous in demanding and ‘exhorting’ the Christian dalits not to declare themselves as Scheduled Caste’s at any cost in order to secure benefits. However, it is observed that the Church is no longer vociferous in this matter, partly because of the realization of its own failure to help these socially degraded and economically improvised people, in any significant way.

**Demand of Legislative Council**

At present time, there is no special provision in Punjab for the representation/nomination in the State Legislature and State Legislature Council for the community. Since 1952, there was the provision of Legislative Council in which every section of society had the provision for representation to watch the community’s interest from time to time. This facility was also enjoyed by the Christian community from 1952 to 1967. When the Akali Dal government came to power under the leadership of Sardar Gurnam Singh, the Akali Dal moved a resolution in the Legislative Assembly to abolish Legislature Council. This resolution was passed with the help of some congress MLA’s in 1968. After this, not a single Christian could be elected and nominated.

On asking respondents the question whether legislative council, should be revived for proper representation to minority community in Punjab; responses were received from 84.58 percent of the Christians who favoured this status to the community. Even, majority of the Christian organizations are also demanding to revise Legislative Council (Vidhan Parishad) in Punjab.

Table No. 6.9

Table showing the distribution of the Christian respondents on the revision of Vidhan Parishad (Second House) in Punjab

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Respondents response Revision of Second House</th>
<th>Mahja</th>
<th>Malwa</th>
<th>Doaba</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Yes</td>
<td>105</td>
<td>47</td>
<td>51</td>
<td>84.58</td>
</tr>
<tr>
<td>2.</td>
<td>No</td>
<td>6</td>
<td>5</td>
<td>4</td>
<td>6.25</td>
</tr>
<tr>
<td>3.</td>
<td>No response</td>
<td>9</td>
<td>8</td>
<td>5</td>
<td>9.17</td>
</tr>
<tr>
<td>4.</td>
<td>Total</td>
<td>120</td>
<td>60</td>
<td>60</td>
<td>240 (100.00)</td>
</tr>
</tbody>
</table>

As depicted in the above table no. 6.9 very few respondents were not in favour because they described that it is very difficult to revise the second house. It was also observed that only well educated Christians knew what are the main difficulties in the way of revision i.e. Vidhan Parishad. The following types of the response received.

1. Difficult to revise the *Vidhan Parishad* without the co-operation of opposition parties in the House.
2. Due to Constitutional problems.
3. Some leaders from both the parties (Congress (I) and the Akali Dals) not in favour.
4. Difficult to get the majority in Legislative Assembly.
5. State and Centre government is not serious for this revision.

**Backward Class Status**

Gyani Zail Singh as Chief Minister of Punjab paid attention towards the Christian community and declared Christians as “backward class” in Punjab. A circular on the classification of certain classes was issued on August 16, 1972 by the Financial Commissioner and Secretary to the Government Punjab, Department of Social Welfare. He stated, “I am directed to address you on the subject cited above and to say that government has decided to declare all the Christians, whether converts or others, residing in the state of Punjab as a backward class”. This has provided the following benefits:

i) two per cent reservation in state services, and

ii) award of scholarships to the Christians students

According to the decision of the Punjab government, the Christians in this state enjoy the benefits of being a backward Class. Broadly speaking, the reaction of the community towards this provision was not positive. The elite and moderately educated groups were, however, more critical of this provision. They have the opinion that the provision is not sufficient for the community as there are many more classes have already been declared by the government as a backward classes and they are also entitled for same benefits. Salamat Masih a leader of Christian Community expressed about the reservations “The Punjab government should provide all facilities of Schedule Caste to the Christians of Punjab. Because the socio-economic conditions of community is more deplorable than Schedule Castes”.

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99 Salamat Masih a well known a Christian leader and Convener of Minority Department of Punjab Pradesh Congress. He expressed his views in a interview on dated December 8, 2003, Gurdaspur (Punjab).
When asked about their opinion on this question, that whether there should be reservation for Christians on Schedule Caste basis in jobs. The responses were received from 78.33 percent of the Christians who give two type of view. Firstly, 25.00 percent say that they are strongly in favour of reservation for Christians on Scheduled Caste basis in jobs. Secondly, 53.33 percent expressed that they want reservation as a Christians not as Scheduled Caste. They want Schedule Caste facilities as Christian in Punjab. It has also been observed during the time of interview that the educated class of Christian community hesitates to attach word ‘dalit’ with their name and the community. They have the opinion that those person who had adopted Christ in life they are no more dalit. Even an educated or higher gentry class of the community is not in favour of reservation as dalits.

Table No. 7.0

Table shows the distribution of the respondents on the issue of reservation for Christians on Schedule Caste basis.

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Region</th>
<th>In favour</th>
<th>Not in favour</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Mahja</td>
<td>90</td>
<td>30</td>
</tr>
<tr>
<td>2.</td>
<td>Malwa</td>
<td>50</td>
<td>10</td>
</tr>
<tr>
<td>3.</td>
<td>Doaba</td>
<td>48</td>
<td>12</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>188 (78.33)</td>
<td>52 (21.67)</td>
</tr>
</tbody>
</table>

From the both category I (Favour - 78.33), category II not in (Favour - 21.67).

Some of the respondents (25.00) want to enjoy Schedule Caste facilities on schedule caste basis. A majority of the respondents (53.34) not in favour and want to enjoy all the benefits as a Christian. It is also a demand of
all the Christian organizations that government should provide all facilities of Schedule Castes to Christian Community. The following table shows two category of the respondents.

Table No. 7.1

<table>
<thead>
<tr>
<th>Sr.No.</th>
<th>Response</th>
<th>As a Schedule Caste</th>
<th>As a Christian</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Yes</td>
<td>60 (25.00)</td>
<td>128 (53.34)</td>
</tr>
<tr>
<td>2.</td>
<td>No</td>
<td>17 (7.08)</td>
<td>35 (14.58)</td>
</tr>
</tbody>
</table>

Although the Christians of Punjab were entitled for reservation as a Backward Class, but this reservation could not satisfy the community's aspirations. They want that the state government should implement Scheduled Castes facilities for the Christians at state level. If not, then the government should declare the Christians as the "Most Backward Class" in Punjab. In 1998, a deputation of Punjab Christians under the leadership of Dr. James H. Massey, former member, National Minority Commission, Government of India met the Chief Minister of Punjab, P.S. Badal to discuss the Christians problems. He appealed to the Chief Minister to declare Christians as a 'Most Backward Class' in Punjab. He also suggested to constitute a co-ordination committee for the upliftment of the Christian community.¹⁰⁰

Many respondents from the high gentry Christians from the different regions expressed their views on reservation, that their consciousness do not allow them to reconvert to this previous scheduled caste status. Some Christians assert that it is a matter of pride that they belong to ‘Christian Community’.

¹⁰⁰ Seven members : Hamid Masih, Principal Nazir Masih, Emanuel Nahar, ISSAC B.Das, Laddu Masih, Councillor, Principal, R.N. Chaudhary and Ajit Masih Gill.
Panchayati Raj Act 1994

Under the Punjab Panchayati Raj Act, 1994, there is also provision for backward classes in Panchayat election. The Christian community of Punjab also falls under this category. In many villages of Amritsar, Ferozepur and Gurdaspur districts, the Christians have hold and they carry good weightage. According to Punjab Panchayati Raj Act, 1994, section 11(4) “one office of Panch shall be reserved for Backward Class (BC) in a Gram Panchyat where population of backward classes in the Gram Sabha is more than 20 percent of the total population of that Gram Sabha area. And section 12(3) says that there shall be no reservation in the offices of Sarpanches for backward classes. The Municipal Corporation Act, 1911 Section 8. Reservation 8(1) B- one seat is reserved for backward classes in Municipal Corporation”.  

Backfinco for backward classes and Minority Communities

In Punjab, many corporation/boards have been set up by the Punjab government to solve the problems of the people, and even some corporations /Boards have also been set up for the downtrodden or minority communities. The main purpose of Punjab Backward Classes Land Development and Finance Corporation (BACKFINCO) to provide loans and subsidy under different schemes to the Backward Classes including Christian community of Punjab. But the community is not aware about such type of schemes of the state government. In this scheme government provides various loans for various purposes to the backward classes. During the present Govt. Congress in Punjab, Congress government gave the representation to the Christian community in this Corporation. Mushtaq Masih and Salamat Masih prominent

Christian leaders\textsuperscript{102} were the Director of this BACKFINCO.

Under this scheme, BACKFINCO has disbursed amount of Rs. 72 lakhs to 473 families in 1997-98. In the previous years, Rs. 376.50 lakhs were provided to 2472 families in the current financial year. Upto 30\textsuperscript{th} September 1998, an amount of Rs. 9720 lakhs has been disbursed to 708 families\textsuperscript{103} (including backward Christians of Punjab).

**Shagun Scheme for the Poor Christians**

An unique Shagun Scheme was started by the former Punjab Chief Minister Parkash Singh Badal w.e.f. 24.4.98 vide notification No. AVP 11/14/97 F.E. 6/40. Under this scheme, Rs. 5100/- are given on the occasion of marriage of Christian girls in Punjab. For this facility, the age of the girl has been fixed above 18 years as already provides the Hindu Marriage Act, and the annual income of the family should not exceed Rs. 36000/-. Secondly, the parents of the girls should be domicile of Punjab to avail this facility. The Shagun is also payable on the re-marriage of widows/ divorced girls subject to the production of court/ other documents in support of proof. During 1998-99, an amount of Rs. 20.00 crore has been provided under this scheme to cover 39,215 Scheduled Castes and Christian girls.

A sum of Rs. 20 crore was proposed to be provided during the year

\begin{footnotesize}
\textsuperscript{102} Mushtaq Masih was also appointed as a member of Khadi Board during the regime of Surjit Singh Barnala. And during the Congress regime (1992 –1997), he was also appointed as a member of Punjab Selection subordinate Board. The Punjab government headed by Parkash Singh Badal, nominated Rani John, Christian lady from Amritsar as a Director of this Corporation. During the regime of Maharaja Amrinder Singh, the four Christians like Salamat Masih, Mushtaq Masih, Hans Raj and Kamal Bakhshi were nominated in various Boards and Coropolations.

\end{footnotesize}
1999-2000 covering 32,215 such girls. 104

Under this welfare scheme of Punjab government, an application is to be submitted by the parents to the concerned Sub Divisional Magistrate, one week prior to the marriage of the girl to receive the amount. The facts as stated in the application have to be attested by the Sarpanch / Panch / and Municipal Commission / Member of Legislative Assembly/ Member of Parliament / village / town / Assembly / Constituency concerned in which the applicant resides.

Munawar Masih, 105 in a personal interview expressed, “This unique Shagun Scheme is a wonderful scheme for the poor Christians and many Christians from the districts of Gurdaspur, Amritsar, Ferozepur and Hoshiarpur etc. have availed of this facility”. But one of the prominent leader and president of “Punjab Christians Movement”, Hamid Masih, 106 took this critically and expressed his remarks as, “this facility in only an eye wash for the Christian community and income criteria is not suitable and more than 98 per cent people of this community do not come under this scheme and further he also expressed that the government should remove all the terms and conditions. 107 When the present Congress government came into power it planned to review this facility.

Even, in response to question asked what facilities have been given to the Christians by the Akali Dal during Akali government. The respondent

105 Munawar Masih is a well known Christian leader from Gurdaspur and a supporter of Akali Dal (B). He express his views in a personal interview in Dec. 2003.
106 Hamid Masih is a President of Punjab Christian Movement.
mentioned the following facilities. Very few Christians (37.92 percent) received these facilities. (See Chapter III)

- An unique Shagun Scheme of Rs.5100/-.
- Fund or grant for Christian Community Bhavan.
- Grant for Church Buildings.
- Loans through BACKFINCO.
- The celebration of Christmas as a state level function.
- Fixed deposit scheme of Rs.4500/- in the name of Christian girl child.

62 percent of the respondents do not know of such benefits. It was found to be more extensive in Mahja area in compared to Malwa and Doaba. Apparently the Christians of Malwa and Doaba appear to have a relatively higher awareness about state benefits as compared to counterparts in Majha area. On the other side, urban state of the Punjab have higher awareness about state benefits than the rural area of the Punjab.

Munawar Masih in a interview opined that the Akali Dal government (1997-2002) also decided to launch a good scheme for poor people of the society. They decided to provide (Fixed Deposit) FD Scheme of Rs. 4500/- in the name of girl child and Rs. 500/- for her mother. He also added that Christian Community of Punjab should also be entitled to this facility. During the Akali Party regime. The Akali Government under the leadership of Parkash Singh Badal also launched an old age pension scheme for all communities. Under this scheme, old age pension to all eligible men above 65 years and women above 60 years was to be provided. It was a rare gift of Rs.145/- crores to senior citizens of Punjab. Many old men & women including Christians would be entitled for this scheme and would also enjoying this benefit without any discrimination.

Fee concession to the Christian Students and Representation:

In the educational institutions state government has given scholarship and fee
concession facilities to the Christian students. Punjab School Education Board (PSEB) always put one name of Christian in advisory board or other committee of Board from time to time. In the governing body of Guru Nanak Dev University, Amritsar which comes under the Punjab government the Governor of Punjab always nominates at least one representative from Baring Union Christian College, Batala in he governing body of University. As far as Panjab University is concerned, the Chancellor of Panjab University (Vice-President of India), always nominates one or two Christian from Punjab and Chandigarh for the period of four years in the governing body of Panjab University.\footnote{Abraham Thomas, Joshi, J.L. and Nahar Emanuel were nominated by the Vice-President of Indian from Punjab in the governing body of Panjab University, Chandigarh in December 1996 for the term of 4 years.}

**Christmas as a State Level Function:**

For many years, Christians' Associations like Indian Christian Welfare Association (ICWA), Punjab Christian Front and Punjab Christian Movement (PCM) are demanding that Christmas celebrated as a state level function in Punjab. Munawar Masih, expressed that this demand of the Christians has been accepted by Akali Government headed by Mr. Badal. The First function was organised by the Punjab government at Naushera Majha Singh, then at Dhariwal in Gurdaspur district head quarter in 1998 it was also organised at Gurdaspur. In December 2002, this was also organized by Congress government at and two places i.e. Ajnala in Amritsar district and Dhariwal in the Gurdaspur district. But it was not announced by the government that Christmas was to be celebrated as state level function in Punjab. On the other hand, Delhi and Madhya Pradesh Government are the only states in India where the government declared that Christmas to be celebrated as a state level function.
Akali Dal government during their regime made provision to build community Hall for Christians at Gurdaspur, Amritsar and Ferozepur and government also sanctioned money for this purpose. Even government also promised to allot land for graveyard wherever Christians are residing in the state of Punjab.

From 1952 to the present time, various governments came to power. Neither the Congress (I) nor the Akali-B.J.P. alliance paid any special attention towards this neglected community. Both the Governments failed to take keen interest in implementing any special welfare scheme. Both political parties played a harmful role by abolishing the Legislature Council in 1968. Giani Zail Singh the former Chief Minister of Punjab, who realized the problems of the community in 1972, declared the Christians as a backward class in Punjab but the educated Christians did not feel satisfied by this declaration. They wanted Scheduled Caste facilities to be given to the Christians of Punjab.

Generally speaking, the Christian Community played a very positive role along with other people of the Punjabi society for the development and growth of the Punjab but they could not get their due share of development. They played a progressive role in the development of Punjab and particularly during the Green Revolution. But the impact of the Green Revolution however was not universal. The poor farmers and landless labours (including Christian community) were pushed further backward. Only the big landlord class took the benefits from the policies of the government.

A.S. Narang has rightly observed that the “Green Revolution” has benefited only the upper strata of cultivators, and the process of development has led to miserable conditions of weaker section of society. According to him, some of the small cultivators unable to face the fierce competition from mechanised farms, are selling their land and joining the reserve army of rural proletariat. They, therefore believe that the extent of poverty has substantially
increased in Punjab as a consequence of the Green Revolution.\textsuperscript{109} On the other side the Green Revolution resulted into two types of contradictions. First, at the inter-caste and inter-religious levels. The low castes (including the rural Christian Community of the Punjab) were exploited by the landlords and government.\textsuperscript{110} The landlord/Sikh Jats with domination in religious affairs, agriculture, industries and politics both in Akali and non Akali parties pitched them against the dalits in the Political circles. Dalits hesitated to jump into Punjab politics due to socio-economic conditions, political compulsion and communal crisis in Punjab. The growing unemployment among the dalit youth especially in rural areas, joined hands with the militant groups. They also got involved in other anti-social activities in Punjab for their survival.

The conditions of the community remain miserable. They could not improve their socio-economic status. Vidya Sagar’s study after surveying the attitude of the government toward the community. He said: “dealings of the government with the Christians reveal a very negative view as 91.71 percent Christians perceive that the government deals with them unfairly and 97.57 percent point out that they are discriminated against in the distribution of relief or other welfare facilities”.\textsuperscript{111}

\begin{itemize}
\item \textsuperscript{110} Ibid.
\item \textsuperscript{111} Dogar, Vidya Sagar J., \textit{op.cit.}, p. 286.
\end{itemize}
Table No. 7.2

The table showing the distribution of the respondents on the issue of discrimination against the Christians by the state and center government.

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Respondent's response</th>
<th>Numbers</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Yes</td>
<td>146</td>
<td>60.83</td>
</tr>
<tr>
<td>2.</td>
<td>No</td>
<td>53</td>
<td>22.08</td>
</tr>
<tr>
<td>3.</td>
<td>No response</td>
<td>41</td>
<td>17.09</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>240</strong></td>
<td><strong>100.00</strong></td>
</tr>
</tbody>
</table>

This study has discovered that a significantly large number of the Christians were aware of the reason why they are discriminated against the Christian community as compared to other people. The single largest number of 60.83 percent of the Christians/respondents have reported clearly that they were discriminated against due to many reasons. (see table No. 7.2) While 22.08 percent of the Christian stated there is not any discrimination by the center or the state governments.

Table 7.3

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Reasons</th>
<th>Numbers</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Discrimination on the basis of religion</td>
<td>53</td>
<td>22.08</td>
</tr>
<tr>
<td>2.</td>
<td>Both governments consider them Swarn Jatti not a depressed class.</td>
<td>35</td>
<td>14.58</td>
</tr>
<tr>
<td>3.</td>
<td>Discrimination due to conversion</td>
<td>29</td>
<td>12.08</td>
</tr>
<tr>
<td>4.</td>
<td>Christians are known as foreigner on her mother land</td>
<td>07</td>
<td>2.92</td>
</tr>
<tr>
<td>5.</td>
<td>Discrimination during the time of job</td>
<td>14</td>
<td>5.83</td>
</tr>
<tr>
<td>6.</td>
<td>Any other reason</td>
<td>08</td>
<td>3.34</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>146</strong></td>
<td><strong>60.83</strong></td>
</tr>
</tbody>
</table>
Above table (7.3) shows that 22.08 percent respondents reported that they are discriminated on the basis of Christian religion. In the Second category, 14.58 percent respondents expressed that both governments consider them in the Swarn Jati (higher caste) not in depressed classes. In the third category, 12.08 percent respondents expressed that discrimination with Christians because of conversion. In the next category 2.92 percent respondents felt the feeling that they are being considered as a foreigner on motherland. In the fifth category 5.83 percent respondents replied that they were pushed back during the time of job because of Christian religion.

The change of religion did not change the socio-economic status of Christians in Punjab. On the other side, the community failed to pin point the problems. There are major needs in this regard:

- It is the duty of the Punjab state to make effective plannings and policy for their welfare;
- Centre/State Government should take the effective steps to improve the socio-economic conditions of dalit Christians;
- Government should declare the community as a 'Most Backward class" in the Punjab;
- That Government should implement the reservation policy on the basis of economic instead of social conditions not their social or caste back ground;
- It is necessary to secure adequate information and data regarding the socio-economic conditions of the community; and
- to provide proper representation in decision making.

On the Other Side, Community’s Own Role:

- Christians should organize themselves for rights.
- They should be made conscious of their rights and duties towards themselves and their society.

- They should make effort to improve their educational, socio-economic status and increase confidence.

- Community should keep contact with Members of Legislature Assembly Member of Parliament, and put pressure on them to solve its problems.

As Christians, have a special responsibility for personal honesty, hard work, self-sacrifice and social action for the eradication of corruption, nepotism, tax-evasion and all other evils existing in society, all of which are hindering national progress.

**State Policy: An Evaluation**

The basic purpose of writing this chapter is to trace the policy, programmes and special facilities and benefits, being given to the minority community i.e. Christian Community by the Centre as well as Punjab government since 1947 till 2004. In response to the question asked, what benefits are draws from the Punjab government being a Christian? Only small percentage of respondent have stated in the favour of benefits which received from the government. Many of respondents denied and expressed their feeling against the government (See Table 5.3) On the pertinent question regarding, what facilities have been provided to Christian by the Akali Dal or present government of the state, a variety of responses were received which show an awareness among the respondents. Majority of the respondents stated that neither Akali Dal nor Congress Party gives any facility to the Christians in Punjab. (See Table No. 5.4)

After independence, the Punjab state extended various benefits to the Schedule Castes for their welfare from time to time. How much of these benefits are extended to the Dalit Christians who actually form the poorest of
the poor section of rural population by the Akali and Congress governments? A deep and growing sense of frustration prevails among the Christian community in this regard, since they feel that they are being blatantly ignored and denied state benefits for the fact that they are converted Christians. The Christians are not only being denied their privilege but also often they are rebuked and humiliated whenever they approach the concerned authorities. The continued denial of facilities and benefits to Christian will inevitably have many serious repercussions. It will create an unbridgeable gulf between the Christian and Dalits. Secondly, this will eventually lead to socio-economic conditions that are extremely pathetic and beyond recovery.