

## CHAPTER - 6

In modern times, the term "minority" has been applied to more or less distinct groups, living within a state, which are (1)  
dominated by other groups .

Constitutional safeguard  
of minority interests and  
the influence of Gandhi:

This term should normally be

applied to groups whose members share a common ethnic origin, language, culture, or religion, and are interested in preserving either their existence as a national community, or their particular distinguishing characteristics (2) .

"A fundamental distinction may be drawn between (a) minorities whose members desire equality with dominant groups in the sense of non-discrimination alone, and (b) those whose members desire equality with dominant groups in the sense of non-discrimination plus the recognition of certain special rights and the rendering of certain positive services" (3) .

Some States have succeeded in promoting the ~~promoting~~ progressive voluntary assimilation of the minority by arousing in its members a sincere enthusiasm for, and feeling of solidarity with, the destiny and forms of life embodied in the state. Others have achieved contrary results when they tried to assimilate the minority. Generally, it was found that fair treatment to the minorities and granting them liberally the protection they desired could soften their hostility towards the dominant group and establish closer relations with them inspite of differences in traditions, language, culture, etc. (4) .

There is practically no State in the world which does not contain racial, linguistic or religious minorities. Throughout history, minorities have been given a back seat in constitutions where majorities govern. But there is an increasing measure of appreciation of the fact that minorities deserve better treatment and more generous recognition as much in the interest of the State concerned and of world peace as in that of the minorities themselves. Therefore, one of the pressing and urgent tasks of democracy to-day is to secure adequate and effective protection for them and to associate them in the work of administration (5)

In India, no problem perhaps taxed the brains of statesmen more than the adjustment of the rights and obligations of divergent religious, racial and linguistic groups of mankind. Dr. P. S. Deshmukh observed: "there is no more monstrous word in the history of Indian politics than the word minority. Ever since India emerged out of its political infancy, the demon of the interests of minorities and their protection stood before us and appeared to bar the progress of the country...." (6)

The history of communal representation, is the history of the counterpoising policy of the British in India, a history of the offsetting of one sectional interest against another, one class against another. Morley, Montagu, and MacDonald, each successively contributed to the history of these struggles. At one time, Moslems were bestowed generous favours with a view to counter the Hindu professional classes; at another time, the Depressed

Classes were favoured to offset the caste Hindus. Morley liked mohammedans. Sydenham liked the non-Brahmins. Montagu liked the Sikhs. MacDonalld favoured the Depressed Classes. Their personal likes coincided with the imperial policy of offsetting one class against another (7) .

The Moslem, Sikh, Indian Christian, Anglo-Indian, Untouchables, Professional Classes were unequal educationally, politically and economically compared with the Hindu professional classes. The reforms and political ambitions increased this rivalry between these classes. This struggle had taken the name of the problem of minorities or the problem of communal electorates (8) . Therefore, a special feature of the political life in India under the British was the existence of communal electorates. Nationalist opinion was always opposed to it. Yet it continued.

Gandhi raised his voice against the British policy of fragmenting India into religious communities under the guise of protection of minorities. In 1932, he opposed Communal Award. But later on, realising that the problem of minorities had bedevilled the Indian politics and was holding up the country's freedom, he suggested protection of minorities. The solution of the communal tension, he wrote, could be made if, in the first place, all minorities were given representation in the elected bodies in an appropriate proportion, and, in the second place, the public employment should be made by a committee including representatives of minorities also. He wanted reservation of seats

in the elected bodies, only for the transitional period. He suggested that measures should also be taken to reduce the educational, social, political and economic backwardness of various minorities instead of giving artificial protection<sup>(9)</sup> .

Gandhi was of opinion that "the rule of majority has a narrow application, i.e. one should yield to the majority in matters of detail. But it is slavery to be amenable to the majority, no matter what its decisions are. Democracy is not a state in which people act like sheep. Under democracy, individual liberty of opinion and action is jealously guarded"<sup>(10)</sup> .

To Gandhi, non-violence rules out the tyranny of the majority and requires that minorities should be treated with due consideration. Thus, in regard to the Congress, he wrote "I have always held that when a respectable minority objects to any rule of conduct, it would be dignified for the majority to yield to the minority"<sup>(11)</sup> .

He undertook the fast of September 1932 to sting Hindu conscience to right religious action and to pit his own life against the efforts of the British Government to separate the depressed classes from the caste-Hindus by giving the former separate electorates, and thus ensuring their bondage in perpetuity. The Calcutta fast (September 1947) was an appeal to Hindus and Muslims to stop communal violence and live in peace. His last in the series of fasts (January 1948) at Delhi was for the protection

of the Muslim minority in India and the establishment of communal  
(12)  
harmony .

The last sixteen months of his life were devoted to the eradication of communal violence which broke out in India as a result of the decision to divide the country. Communal violence was, according to him, fatal to freedom and democracy. The majority community should constitute themselves into the guardians of the minority and give to the latter full religious and cultural freedom. The minority should be fearless and should neither migrate in panic nor depend on the police and the military  
(13)  
for their protection .

Shriman Narayan Agarwal, in his book "Gandhian Constitution For Free India", which found approval of Gandhi, observed - "In fact a non-violent state of Gandhi's conception will not be confronted with the problem of minorities at all because the essence of non-violence is tolerance and respect for one another's rights. There will be absolutely no cause for fear,  
(14)  
distrust and insecurity" .

This 'Gandhian Constitution' emphasised the following points in the future constitution in order to solve the problem of minorities:-

- (a) The Fundamental Rights shall guarantee to all the communities full protection of their cultures, languages, scripts, education, profession and practice of religion, social custom and personal laws.

- (b) Each territorial unit shall have the fullest possible local autonomy in economic, political and cultural spheres. With the organisation of self-sufficient and self-governing village communities in the country, the problem of minorities would, in fact, hardly exist as a constitutional difficulty.
- (c) Joint electorates with adequate reservation of seats and the right to contest additional seats, shall form the basis of the Constitution. Although under the Gandhian Constitution of non-violent state, it would be unnecessary even to reserve the seats, such provision may however, be made for the period of transition.
- (d) Franchise shall be extended to all adults without any distinctions and limitations.
- (e) In public services, appointments shall be made by non-party, Public Service Commissions which shall have due regard to the principle of fair share for all communities, consistent with efficiency of administration.

Details relating to Minority rights and representation could be worked out by a Committee of the Constituent Assembly  
(15)

"With the advent of Swaraj the state will have to concentrate on the question of raising the standard of living of masses. The problem of minorities, would then disappear like the morning mists" observed Gandhi. He said, "I have not a shadow of

doubt that the iceberg of communal differences will melt under the warmth of the Sun of freedom" (16) .

In the evolution of the policy which the Congress followed regarding the communal problem, Gandhi's influence played a determinist role. His theory of non-violence, his messages to the Congressmen, all these constituted the background. The policy which ultimately emerged was a policy not only to do full justice to them (minorities) but to go beyond that in order to infuse confidence and goodwill in them.

A brief retrospect will justify the above statement. For a long period, it had been the practice of the Congress, to pass frequent resolutions to allay the misgivings of the minority communities.

In the Nagpur session in 1920, the Congress, assuring the Sikhs, stated in its resolution: "in view of the fact that misunderstandings exist among the Sikhs as to the position of their community in the future policy of India, this Congress assures the Sikhs that their interests will receive the same protection in any scheme of swarajya for India as is provided for Mahomedan and other minorities....." (17)

The Congress resolved in its Madras Session in 1927 that in any future scheme of Constitution, so far as representation in the various legislatures is concerned, joint electorates in all the provinces and in the Central legislature be

constituted.

It also resolved that, with a view to give full assurances to the two great communities that their legitimate interests will be safeguarded in the legislatures, such representation of the communities should be secured for the present, and if desired, by the reservation of seats in joint electorates on the basis of population in every province and in the Central Legislature, provided that reciprocal concessions in favour of minorities may be made by mutual agreement so as to give them representation in excess of the proportion of the number of seats to which they would be entitled on the population basis in any province or provinces, and the proportion so agreed upon for the provinces shall be maintained in the representation of the two communities in the central legislature from the provinces (18) .

The Congress session at Lahore in 1929 resolved that "..... as the Sikhs in particular, and the Muslims and the other minorities in general, had expressed dissatisfaction over the solution of communal questions proposed in the Nehru Report, the Congress assures the Sikhs, the Muslims and other minorities, that no solution thereof in any future constitution will be acceptable to the Congress that does not give full satisfaction to the parties concerned" (19) .

The Working Committee in 1931 gave assurances to the Anglo-Indian Community. It resolved that "the Congress has always stood for religious and cultural liberty, equality of

opportunity in the matter of education and public employment and freedom to pursue any trade or calling for all children of the motherland, irrespective of whatever creed or community to which they may belong and assures the Anglo-Indian community that a national government will guarantee these rights" (20) .

The Karachi Congress assured to the people, inter alia, - (i) freedom of conscience and the free profession and practice of religion, (ii) protection of the culture, language, and scripts of the minorities; (iii) no disability to attach to any citizen by reason of his or her religion, caste or creed or sex, in regard to public employment, office of power or honour or in the exercise of any trade or calling and (iv) equal rights to all citizens in regard to public roads, wells, schools and other place of public resort etc (21) .

The Working Committee in 1931 passed the following scheme:-

- 1(a) The article in Constitution relating to Fundamental Rights shall include a guarantee to the communities concerned of the protection of their cultures, languages, scripts, education, profession and practice of religion and religious endowments;
- (b) personal laws should be protected by specific provisions to be embodied in the constitution;
- (c) protection of political and other rights of minority communities in the various provinces shall be

- the concern, and be within the jurisdiction of, the federal government.
2. The franchise shall be extended to all adult men and women.
  - 3(a) Joint electorates shall form the basis of representation in the future constitution of India;
  - (b) for the Hindus in Sind, the Muslims in Assam, and the Sikhs in the Punjab and North Western Frontier Provinces, and for Hindus and Muslims in any Province where they are less than 25 per cent of the population, seats shall be reserved in the Federal and Provincial Legislatures on the basis of population with the right to contest additional seats.
  4. Appointments shall be made by non-party Public Service Commissions which shall prescribe the minimum qualifications, and which shall have due regard to efficiency of the public service as well as the principle of equal opportunity to all communities for a fair share in the public services of the country.
  5. In the formation of federal and provincial cabinets, interests of minority communities should be recognised by convention

(22)

The Congress Scheme circulated by Gandhi among the delegates of the Round Table Conference emphasised the need and desirability of joint electorates and adult suffrage for all classes of people irrespective of their class, creed, colour or

economic efficiency. Gandhi added a rider to the Congress electoral scheme and suggested that, wherever possible, the electoral areas should be so determined as to enable every community to secure its proportionate share in the legislature (23) .

The Working Committee in 1937 stated that "the objective of the Congress is an independent and united India where no class or group or majority or minority may exploit another to its own advantage, and where all the elements in the nation may co-operate together for the common good and the advancement of the people of India. This objective of unity and mutual co-operation in a common freedom does not mean the suppression in any way of the rich variety and cultural diversity of Indian life, which have to be preserved in order to give freedom and opportunity to the individual as well as to each group to develop unhindered, according to its capacity and inclination". The committee also reiterated the rights assured by the Congress from time to time in its resolutions (24) .

The Haripura Congress in 1937 approved of, and confirmed the resolution of the Working Committee on Minority Rights passed in Calcutta in October 1937, and declared afresh that "it regards it as its primary duty and fundamental policy to protect the religious, linguistic, cultural and other rights of the minorities in India so as to ensure for them in any scheme of government to which the Congress is a party, the widest scope for their development and their participation in the fullest measure

in the political, economic and cultural life of the nation" . (25)

The A.I.C.C. in 1939 stated that "the Committee desires to declare afresh that Indian freedom must be based on democracy and unity and the full recognition and protection of the right of all minorities to which the Congress has always pledged itself" (26) .

The Working Committee, in its election manifesto in 1945, stated that "the Congress has stood for the unity of all communities and religious groups and for tolerance and goodwill between them". The manifesto contained a long list of fundamental rights. The relevant among them were - right of free opinion, expression and association, freedom of conscience and to profess and practice one's religion, protection of the culture, language and script of the minorities, equality before the law, irrespective of religion, caste, creed or sex, public employment, office of power or honour or exercise of any trade or calling shall remain open to all irrespective of religion, caste, creed or sex, equal rights of all citizens in regard to wells, tanks, roads, schools and places of public resort etc.

In 1946, when an elected Constituent Assembly was first set up to draft a Constitution for free India, the Congress Party under Gandhi's leadership readily accepted the commitment it had made in the meeting of the Working Committee in 1937 and which was confirmed by the Haripura Congress in the same year (27) .

Therefore, in conformity with these assurances, efforts were made at the time of framing this Constitution to solve the problems relating to minorities by granting rights to various minorities in the Chapter on 'Fundamental Rights' and by providing protection under various other provisions of the Constitution.

Gandhi's suggestions for solving the problem of minorities had been remembered, and his ideas and wishes had found considerable support in some prominent members of the Constituent Assembly. ~~(axixakaxifx)~~ The protection of minorities figured very prominently, and it caused a great controversy in the Constituent Assembly. Many minorities put forward their claim for safeguards. Some among the minorities on the other hand disliked concessions. Members were sharply divided on this issue.

Sardar Ujjal Singh supported the resolution on Aims and Objects mainly because of the fact that the third part of the resolution gives an assurance to the minorities and the backward classes to the effect that their interests will be adequately safeguarded. He wanted that the safeguards should not only be adequate but should also be satisfactory to the Sikhs. In this context he recalled the relevant part of the assurance given to the Sikhs in the Congress Resolution of December 1929, passed at the Lahore Session of the Indian National Congress (28) . Sardar Singh also mentioned the resolution of the Congress Working Committee of 9th August, appealing to the Sikhs to reconsider their position; which made them review their position and to lift the ban on participa-

tion in the work of the Constituent Assembly (29) .

Jaipal Singh, while supporting the resolution on Aims and Objects, on behalf of the Adibasis said: "we want to be treated like every other Indian" (30) . And he reminded the Assembly what Maulana Azad said at Ramgarh ----- "The Congress does not want to dictate its own terms. It admits the fullest rights of the minorities to formulate their own safeguards. So far as the settlement of their problem is concerned, it would not depend on the word of the majority" (31) .

During general discussion on the motion moved by Dr. Ambedkar on the Draft Constitution, Krishna Chandra Sharma (32) , Lakshmi Kanta Maitra (33) , Ram Narayan Singh (34) , N.G.Ranga (35) , Reruka Ray (36) , Mahavir Tyagi (37) opposed reservation of seats and special advantages to the minorities.

Jainarayan Vyas (38) expressed his dissatisfaction on the grant of special educational advantages to the minorities.

According to B.A. Mandloi, "the minorities would be in a better and stronger position if they could surrender the safeguards" (39) .

In the opinion of Thakur Dass Bhargava, "the reservation of seats would encourage separatism" (40) .

Choudhary Ranabir Singh stated that "reservation

of seats and safeguards were unnecessary. It would defeat the realisation of our ideal of secularism". He further said that "constitutional safeguards to Harijans would only perpetuate the word 'Harijan' and hinder in the way of forming a classless state" (41) .

R. K. Sidhwa, although accepting in principle the reservation, expected that all the groups like the Parsee Community "will refuse with thanks the offer of the majority" (42) .

On the other hand, Jawaharlal Nehru, supporting the measures taken in the Report, said that "these were directed towards bringing the backward classes to the level of the rest of the people". He opposed regimented unity and opined that these concessions were in keeping with the Indian ideal of 'unity in diversity' (43) .

Sardar Bhopinder Singh Man said: ".... to gain the goodwill of the minorities is to add to the glory of the country and to increase the strength of the nation. When there is no third power and the days of the unreasonable attitude of the minorities has come to an end, the responsibility of the majority has increased. The majority has to gain the confidence of the minority....." (44)

B. Pocker Sahib Bahadur thought that "the only way of protecting the rights of the minorities was by giving separate electorates and if that was not practicable, reservation was absolutely necessary" (45) .

What was definite and clear was that, although there were acute differences of opinion among different sections of the people regarding special rights for minorities, they were all agreed that the Constitution should embody a charter of fundamental rights guaranteeing effective protection of life, liberty and religion. The demands put forward by different groups might be broadly and roughly grouped under two main heads, namely, (1) certain general principles of the Constitution guaranteeing fundamental rights to the citizens and providing protection against any possible discrimination in political, economic and religious matters on grounds of race, caste, creed or colour, and (2) certain clauses in the Constitution for the special protection of particular minorities (46) .

The Assembly, therefore, formed a Committee, the Advisory Committee on Fundamental Rights and Minorities, with Sardar Patel as its Chairman, to study the different aspects of the problem and make recommendations to the Assembly so that these recommendations could be given due recognition in the provisions of the new Constitution. The Committee took over two years to prepare a detailed report which favoured some form of reservations for the minority communities. The Committee submitted its Report to the Constituent Assembly on 27th August, 1947.

The Minority Report primarily dealt with what may broadly be described as political safeguards and covered the

following points —

- (i) Representation in legislature; joint versus separate electorates and weightage,
- (ii) Reservation of seats for minorities in cabinets,
- (iii) Reservation for minorities in the Public Services,
- (iv) Administrative machinery to ensure protection of minority rights <sup>(47)</sup>.

A large number of the Assembly members expressed their deep pleasure and satisfaction at the preparation and submission of this Report. Many of them considered it a fulfilment of Gandhi's wishes on this issue.

V.I. Muniswami Pillai considered it as the "Magna Charta for the welfare of the Harijans of this land". According to him, it was Gandhi who felt the disabilities of a section of the Hindus, namely depressed classes known by various names, and came to their rescue and took that epoch-making fast which evoked all the Caste Hindus in the whole realm of India to think what was 'untouchables', what was 'Depressed classes', what was 'Scheduled Castes' and what should be done for them; and it was the Poona Pact which produced a great awakening in this country <sup>(48)</sup>.

While presenting the Report on "Minority Rights,

Sardar Vallabhbhai Patel made it clear to the House that the chapter on Fundamental Rights "..... cover a very wide range of the rights of the minorities which gave them ample protection, and yet there are certain political safeguards which have got to be specifically considered ...." (49)

In this Report the minorities were classified into three groups according to their population. Group A, consisting of those with a population of less than  $\frac{1}{2}$  per cent in the Indian Dominion, excluding the Indian States, included, Anglo Indians, Parsees and Plains' tribesmen in Assam. Group B, consisting of those with a population of more than  $\frac{1}{2}$  per cent, but not exceeding  $1\frac{1}{2}$  per cent in the Indian Dominion excluding the Indian States, included Indian Christians and Sikhs. Group C, consisting of minorities with a population exceeding  $1\frac{1}{2}$  per cent in the Indian Dominion excluding the Indian States, included Muslims and Scheduled Castes. The Committee recommended (a) that there should be no reservation of seats in the Legislatures for the Anglo-Indians and the Parsee communities but the President and the Governors should be given the power to nominate representatives of the Anglo Indian Community to the Lower House of Parliament and to the Lower Houses of the Provincial Legislatures and if, after a period of ten years, it was found that the Parsee Community had not secured proper representation, the position should be reconsidered; (b) that there should be reservation of seats in the Central and Provincial Legislatures for the Muslims and the Scheduled Castes and in the Central Legislature and the Legislatures of Bombay and Madras, seats should be reserved

for the Indian Christians; (c) that a convention should be established for including, as far as practicable, representatives of important minority communities in the Cabinet, and (d) that the Central and the Provincial Governments should, in making appointments to public services, keep in view the claims of the minorities. The Anglo Indian Community used to enjoy certain facilities in the matter of employment in certain services. Certain percentages of the posts were reserved for them. The educational institutions of the Anglo Indian Community also used to get special grants from the governments. The Committee recommended gradual curtailment of these facilities and gradual reduction of the grants (50). It was decided that the question of minority rights for the Sikhs would be considered separately.

At the time of discussion of the Report in the Constituent Assembly, K. M. Munshi pointed out that "..... the Harijans, generally known as Scheduled Castes, are neither a racial minority nor a linguistic minority, not certainly a religious minority" (51). He further said: "....any safeguard as a minority, so far as the Scheduled Castes are concerned, is illogical and will possibly prevent their complete absorption in the Hindu fold" (52). It was therefore, decided by the Assembly that they should not be regarded as a minority, but that there should be reservation of seats for the Scheduled Castes in the Central and Provincial Legislatures on the basis of their population. (53)

The Committee also recommended that provision should

also be made for the setting up of a Statutory Commission to investigate into the conditions of socially and educationally backward classes, to study the difficulties under which they laboured and to recommend to the Union or the Unit Government, as the case may be, the steps that should be taken to eliminate the difficulties, and that an officer should be appointed by the President at the centre and by the Governors in the provinces to report to the Union and the provincial legislatures respectively about the working of the safeguards provided for the minorities<sup>(54)</sup>. The recommendations of the Committee were accepted by the Constituent Assembly on 27th and 28th August, 1947.

These provisions were incorporated in Part XIV of the Draft Constitution. The matter was, however, reconsidered by the Advisory Committee in May 1949. Independence, and the problems created by partition, brought about a new outlook and a substantial change in the attitude of many members who belonged to the various minority communities in the Assembly. H. C. Mukherjee, an Indian Christian leader from Bengal, took the lead and appealed for the abandonment of the proposal for reservations in legislatures. This proposal soon found favourable response from many others<sup>(55)</sup>. Some members of the Committee then felt that "conditions having vastly changed since the Advisory Committee made their recommendation in 1947, it was no longer appropriate in the context of free India and of present conditions that there should be reservation of seats for Muslims, Christians, Sikhs or any other

religious minority. Although the abolition of separate electorates had removed much of the poison from the body politic, the reservation of seats for religious communities, it was felt, did lead to a certain degree of separatism, and was, to that extent, contrary to the conception of a secular democratic state." Accordingly, the Committee decided that there should not be any reservation of seats for the minorities <sup>(56)</sup>. The Committee, therefore, recommended that the provisions of Part XIV of the Draft Constitution should be amended in the light of the new decision taken by it <sup>(57)</sup>.

The decisions of the Constituent Assembly, arising out of the discussions on the recommendations of the Advisory Committee, opened a new trend in Indian politics. The main features of this new trend were (1) abolition of separate electorates, (2) abolition of reservation of seats in the legislatures and (3) abolition of special safeguards to minorities. The only exceptions made were with regard to the three communities, Scheduled Castes, Scheduled Tribes and Anglo Indians, each of which had a special case. But even in these cases the special provisions were to exist only for a limited period.

The special provisions relating to certain classes came up for discussion in the Constituent Assembly on 23rd August 1949 <sup>(58)</sup>. On the 24th August 1949, the Assembly concluded discussion on article 292 of the Draft Constitution (article 330 of the present Constitution) and it was decided that seats should be reserved in the House of the people for "(a) The Scheduled Castes;

(b) The Scheduled Tribes except the Scheduled Tribes in the Tribal areas of Assam; (c) The Scheduled Tribes in the autonomous districts of Assam" (59) .

On the same day, article 294 of the Draft Constitution (article 352 of the present Constitution) was also discussed and the Assembly decided that seats should be reserved for the Scheduled Castes and Scheduled Tribes, except the Scheduled Tribes in the Tribal areas of Assam, in the Legislative Assembly of every state specified in Part A or Part B of the First schedule, and that seats should also be reserved for the autonomous districts in the Legislative Assembly of the state of Assam (60) .

On the 25th of August, 1949, the Assembly adopted a new article (article 295A of the Draft Constitution or article 334 of the present Constitution) which provided that "the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the people and the Legislative Assemblies of the states; and the representation of the Anglo-Indian Community in the House of the People and in the Legislative Assemblies of the states by nomination, shall cease to have effect on the expiration of a period of ten years from the commencement of this Constitution (61) .

In August 1947, the Constituent Assembly had decided that there should be some special provisions regarding representation of the Angle Indian Community in the House of the People and in the Legislative Assemblies of the states. Those

decisions had been incorporated in articles 293 and 295 of the Draft Constitution (articles 331 and 333 of the present Constitution), which were adopted by the Assembly on 24th August, 1949<sup>(62)</sup>. Article 293 accordingly empowered the President to nominate not more than 2 members to the House of the People if he was of opinion that the Anglo Indian Community was not adequately represented. And article 295 states that the Governor of a state may, if he is of opinion that the Anglo Indian Community needs representation in the Legislative Assembly of the state and is not adequately represented therein, nominate such number of members of the community to the Assembly as he considers appropriate.

Articles 297 and 298 of the Draft Constitution (articles 336 and 337 of the present Constitution) which were adopted on the 16th June, 1949, incorporated the decisions of the Assembly taken in August 1947, with regard to the special provisions for the Anglo-Indian Community, in certain services and with regard to educational grants for the benefit of that community<sup>(63)</sup>.

On the 14th of October 1949, the Assembly decided that the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State<sup>(64)</sup>. These provisions were incorporated in article 296 of the Draft Constitution (article 335 of the present Constitution).

On the same day, the Assembly deliberated on article 301 of the Draft Constitution (article 340 of the present Constitution), and decided that "the President may by order appoint a commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties...." (67)

This part of the Constitution, containing 'special provisions relating to certain classes' is a vindication of Gandhi. Throughout his life he had struggled hard to establish the backward classes on solid base. Through his innumerable publications and statements he had tried to draw attention of all on this subject. Under his guidance, the Congress Party attached due importance at the rights and privileges of these classes which had been reflected in its different resolutions. Thus grounds for adequate protection were so well prepared by Gandhi that a climate of opinion in their favour could easily be marked in the Constituent Assembly. A good number of the members were keen on some form of reservations for the Depressed Classes. As a result, the provisions that finally emerged, were to a great extent the fulfilments of Gandhian ideas.

Gandhi had a horror of majority rule. He considered liberty of the minority communities to be utmost important in a

true democracy. The principle of democratic equality could work only if the nation as a whole was brought on the same level, as far as that was practicable.

He utterly disliked protection of minorities on communal or religious point of view; on the contrary, he wanted their protection on the basis of their population. According to Gandhi, communal tension could be solved if all the minorities were given representation in the elected bodies in an appropriate proportion. He wanted reservation of seats in the elected bodies only for the transitional period, and suggested that measures should also be taken to reduce the educational, social, political and economic backwardness of various minorities.

After Gandhi's assassination, as the most practical tribute to his campaign for the emancipation of the Scheduled Castes and Tribes, it was decided by the Constituent Assembly, to embody in the Constitution a number of provisions for their advancement and welfare, which had the full support of their own representatives (68) .

Accordingly, our Constitution prescribes certain temporary measures to help the backward sections to come up to the same level with the rest of the nation, as well as certain permanent safeguards for the protection of the cultural, linguistic and similar rights of any section of the community who might be said to constitute a 'minority' from the numerical, not communal, point of view, in order to prevent the democratic machine from being used as an engine of oppression by the numerical majority.

NOTES AND REFERENCES.

1. Definition and classification of Minorities — memorandum submitted by the Secretary General, United Nations - Commission on Human Rights, 1950, p. 2.
2. Ibid., p. 11.
3. Ibid., p. 2.
4. Ibid., p. 12.
5. Dharendra Nath Sen, The Problem of Minorities, Calcutta University Publication, 1940, pp. XXV-XXVI.
6. Constituent Assembly Debates, Reprint 1966, Vol. V, p. 201.
7. K.B.Krishna - The Problem of Minorities or Communal Representation in India, London, George Allen & Unwin, 1939, p. 221.
8. Ibid., p. 296.
9. O. P. Minocha, "The Impact of Gandhian Ideology on The Indian Constitution" in The Indian Political Science Review, Vol. IV, No.1, p. 132.
10. Young India, March 1922, p. 129.
11. Harijan, August 1940, p. 244.
12. His statement to the press, dated September 21, 1932, Harijan, September 14, 1947, p. 324; January 18, 1948, p. 314, cited by Gopinath Dhawan - "The Political Philosophy of Mahatma Gandhi", Navajiben, Ahmedabad, 1946, p. 149.
13. Dhawan, (n. 12) p. 204.
14. S. N. Agarwal, Gandhian Constitution for free India, Kitabistan, p. 117.
15. Ibid., pp. 117-119.
16. The Case of Swaraj, p. 103, cited by S. N. Agarwal, (n.14) p. 120.
17. Congress Session, 1920, Nagpur, Resolution No. XIX.
18. Congress Session, 1927, Madras, Resolution No. XIV.
19. Congress Session, 1929, Lahore, Resolution No. VIII.

20. Congress Working Committee, January 21, 1931, Allahabad.
21. Congress Session, 1931, Karachi, Resolution No. XV.
22. Congress Working Committee, July 7 to 12, 1931, Bombay.
23. D. N. Sen, op.cit., (n.5) p. 345.
24. Congress Working Committee, October 26 to November 1, 1937, Calcutta, Resolution No. XV.
25. Congress Session, 1937, Haripura, Resolution No. XVI.
26. A.I.C.C., October 9 & 10, 1939, Wardha.
27. B. Shiva Rao, "Elimination of all forms of racial discrimination and India" in L.M. Singhvi Ed., Horizons of Freedom, National, Delhi, 1969, p. 191 and also see n. 25.
28. Constituent Assembly Debates, Reprint 1966, Vol. I, p. 105.
29. Ibid., p. 106.
30. Ibid., p. 143.
31. Ibid., p. 145.
32. Constituent Assembly Debates, Vol. VII, p. 231.
33. Ibid., p. 248.
34. Ibid., p. 250.
35. Ibid., p. 351.
36. Ibid., p. 357.
37. Ibid., pp. 361-62.
38. Ibid., p. 270.
39. Ibid., p. 272.
40. Ibid., pp. 276-77.
41. Ibid., p. 289.
42. Ibid., p. 267.
43. Ibid., p. 323.

44. Ibid., p. 226.
45. Ibid., p. 364.
46. D. N. Sen, op. cit., (n.5) p. 346.
47. Constituent Assembly Debates, Vol. V, p. 243.
48. Ibid., p. 202.
49. Ibid., p. 198.
50. Ibid., pp. 243-51.
51. Ibid., p. 227.
52. Ibid., p. 228.
53. Ibid., pp. 235, 238-39.
54. Ibid., p. 249.
55. Constituent Assembly Debates, Vol. VIII, pp. 269-72.
56. Reports of Committees of the Constituent Assembly, Third Series, pp. 240-45 (cited by Pratap Kumar Ghosh in his book "The Constitution of India, how it has been framed", Calcutta, World Press, p. 312.
57. Pratap Kumar Ghosh, p. 313.
58. Constituent Assembly Debates, Vol. IX, p. 632.
59. Ibid., p. 659.
60. Ibid., pp. 663, 674.
61. Ibid., pp. 674, 698.
62. Ibid., pp. 659, 662, 674.
63. Constituent Assembly Debates, Vol. VIII, pp. 937, 941.
64. Constituent Assembly Debates, Vol. X, p. 251.
65. Ibid., pp. 251, 264.
66. Constituent Assembly Debates, Vol. VIII, p. 943.
67. Ibid., pp. 943, 948.
68. B. Shiva Rao, op. cit., (n. 27), p. 192.