

Chapter 3

Electoral Law and the Electoral Method for the Scheduled Castes: Part II (1946-1951)

As discussed in earlier chapter, the British government in the year 1945 had made two announcements: one, elections to be held in the winter of 1945 for the provincial and central legislative assemblies, and two, after the elections a Constituent Assembly would be created for framing the new constitution. Interestingly the Central Legislative Assembly (CLA) had no reserved seats. The provisions of the Government of India Act, 1935 related to this were never implemented in the CLA and the CLA had only one nominated member from the Scheduled categories. On 3rd October, 1945, therefore, the All India Scheduled Caste federation (AISCF)¹ in its meeting in Poona opposed the proposed election. Later again on 4th June, 1946, the AISCF passed a resolution in Bombay, criticizing the attitude of Cabinet Mission towards Scheduled Castes and Ambedkar finally resigned from the Viceroy's Executive Council on 24th August, 1946.

Ambedkar, probably could not contest the 1946 elections to the provinces, from where the members for the Constituent assembly was to be nominated, because the Primary elections to Scheduled Caste reserved seats took place in December, 1945 when Ambedkar was continuing as a Member of the Viceroy's Executive Council. Thus, in July 1946, when members were elected by the provincial assemblies to join the Constituent Assembly, Ambedkar again stood little chance – as there were hardly any AISCF members in the Bombay province to back him. Later when he contested for the CLA on AISCF from Bombay province, the Congress in power headed by Prime Minister B.G. Kher², under

¹ Also referred as Scheduled Caste Federation (SCF).

² B.G. Kher was the first Chief Minister of Bombay Province, which consisted of present day Maharashtra and Gujrat States of India. He began his political career began in 1922 as a Secretary of the Bombay branch of the Swarajya Party and grew to become an esteemed Congressmen. *The Hindu* dated March 9, 1957

instructions from Patel ensured that Ambedkar was not elected.³ In fact, the SCF was not prepared for the elections and suffered severe loss during the 1946 elections. In the absence of Ambedkar, the Congress therefore, proposed Jagjivan Ram as the representative of the Scheduled Castes. However, the people of the Depressed Classes across the country got annoyed with this move and finally Jogendra Nath Mandal, a strong critique of Congress and head of Bengal Unit of AISCF, made way for Ambedkar to the Constituent Assembly from Bengal. Mandal managed to secure the votes of six Congress Scheduled Caste legislators in Bengal to ensure Ambedkar's nomination to the Constituent Assembly.⁴

3.1: Ambedkar's efforts for settlement with Patel - 1946

The Scheduled Castes Federation (SCF) in July, 1946 launched a satyagraha for the rights of untouchables in Bombay, Poona, Lucknow and Kanpur. As a result the "congress leaders felt that there was need for rapprochement" and Ambedkar met Patel on 18 July 1946.⁵ The talks though proposed to be held on the issue of representation of Scheduled Castes in the constituent assembly and the Poona Satyagraha, however, could come to no settlement, because the consternation for Patel remained confined to criticize on the one hand, Ambedkar's attitude towards Gandhi and on the other hand Ambedkar's book *What*

³ *Dr. Babasaheb Ambedkar Writings and Speeches*, (1993-2006, 21 volumes) Bombay, Education Department, Government of Maharashtra. Volume 13, p.5; also see Dhananjay Keer (1954), (1971) *Dr Ambedkar: Life and Mission*, Popular Prakashan, Bombay, p. 382.

⁴ Masayuki Usuda, 1997. 'Pushed towards the Partition: Jogendra Nath Mandal and the Constraint Namashudra Movement' in H Kotani (ed.) *Caste system, untouchability and Depressed*, New Delhi, Manohar Publishers, p. 254. The Bengal unit of SCF had supported Muslim League against the Congress and therefore, J N Mandal was also a Minister in the Interim Government as a nominee of the Muslim League.

⁵ As mentioned in the Letter from Dr. Ambedkar to Sardar Patel, dated 14, October, 1946, the meeting was fixed for 9 P.M. on 18 July 1946 at Sardar Vallabhbhai Patel's house. This letter is reproduced in *Dr. Babasaheb Ambedkar Writings and Speeches*, op. cit. Vol 21 pp.228-232

*Congress and Gandhi have done to untouchables.*⁶ Following the meeting Ambedkar wrote a letter along with a detailed memorandum to Sardar Vallabhbhai Patel proposing alternatives to Poona Pact.⁷

The fact that talks for a settlement broke down was evident by the continuation of satyagraha by the SCF as a result of which the Poona assembly session of the Bombay was abrogated.⁸ The details of what transpired and later the position of Ambedkar and Patel became evident in the famous letter written by Ambedkar on 14 October, 1946 where Ambedkar considered “the country greater than any individual howsoever great he might

⁶ See Dhananjay Keer, *Dr. Ambedkar: Life and Mission*, op.cit. p383. In fact this had become a bone of contention ever since it was first published in 1945. After its publication, Mahatma Gandhi wrote to C. Rajagopalachari on 26 August 1945 urging him that “there is no other person as well informed and as able as you are to answer Dr. Ambedkar’s indictment of Congress” (see *The Collected Works of Mahatma Gandhi* Vol.87, p406). C. Rajagopalachari, one of the negotiators and the signatories to the Poona Pact, wrote *Ambedkar Refuted* and published in the same year (see C. Rajagopalachari, 1946, *Ambedkar Refuted*, Hind Kitab, Bombay). Gandhi further coordinated this effort on 18 October 1945, when he once again requested K. Santhanam that “you are the next best man I would like to take up the matter” and that “Rajaji was to prepare the Congress reply but he cannot under the altered circumstances” (see *The Collected Works of Mahatma Gandhi* Vol.88,p173). Santhanam was then a Senior Editor in the Hindustan Times newspaper, and he eventually wrote, *Ambedkar’s Attack* (K. Santhanam, 1946, *Ambedkar’s Attack*, The Hindustan Press, Delhi). The latter’s draft was vetted by Mahatma Gandhi himself and deletions and corrections were made by him (See letter to A.V.Thakkar dated March 5, 1946 in *The Collected works of Mahatma Gandhi*, Volume 90, p.37). K.Santhanam was later nominated to the Constituent assembly by the Congress. Ambedkar’s book made Gandhi so furious, that on April 2nd 1946, the Secretary of State for India told Lord Wavell that he had received a letter from Gandhi making three immediate demands: (1) Release of all detainees, (2) Abolition of Salt tax and (3) Dismissal of Ambedkar (see B.R. Sampla, 1994, *Ambedkar: Messiah of the Downtrodden*, Published by K.C. Sulekh, Chandigarh, p 474). Patrick French mentions that Gandhi “demand[ed] the dismissal of his enemy, the scheduled caste leader Ambedkar and oppose[ed] any concessions that his [read Ambedkar] side looked like making. For details see Patrick French, 1997, *Liberty or Death: India’s Journey to Independence and Division*, p.239, as cited in Nicholas Mansergh (ed.) 1970-83, *Constitutional relations between Britain and India: The Transfer of Power 1942-7*, Volume VII, p.82). For more details see Appendix IV: Part A.

⁷ As quoted by Sardar Patel in his letter dated September 1, 1946, reproduced in Sumit Sarkar (ed.) 2007, *Towards Freedom: 1946*, Oxford University Press, New Delhi, pp 908-909. For details see Appendix IV: Part B.

⁸ See Dhananjay Keer, *Dr. Ambedkar: Life and Mission*, op.cit.

be.”⁹ He also said that one could be a great nationalist without being a congressman and added that he was a greater nationalist than any congress leader.¹⁰ More importantly the letter stated the issues related to Scheduled Castes representation in the Constituent assembly and the question of electoral method and separate electorates.

“Even when Congress was down and out it had not shown the wisdom to make a settlement with the Scheduled Castes and win their support for the cause of the country. How could I believe that the Congress installed on the *Gadi*¹¹ would think of settling with broken men?¹² It is only a person who lost all hopes, or with no self-respect who could think of approaching the Congress in its present condition. There is really nothing wrong and nothing shameful for a leader of one party to approach the leader of another party for a settlement. Like a wandering minstrel Mr. Churchill did go from country to country even to Russia to seek help for his country and I should do the same for the sake of Scheduled Castes.

If one looks at it in the natural way as one ought to, there is no point in discussing who met whom and at whose instance. But as Congressmen and Congress newspapers have cultivated the habit of representing the approach to Congressmen by anybody who are not Congressmen for a settlement, as an act of surrender, one must in justice to oneself make it clear from where the initiative came.”¹³

Soon after that, Ambedkar left for London to have talks with Churchill, Clement Attlee and other British leaders to plead for the representation of the Scheduled Castes, but it could not produce any positive result (details discussed in Chapter 2). Neither the British Government showed interest in the affairs of the Scheduled Castes nor the Governor General of India, Lord Mountbatten interfered into the affairs of the Constituent Assembly.

⁹ Dr. Babasaheb Ambedkar: writings and speeches, Vol. 21, pp. 228-232

¹⁰ Dhanajay Keer, *Dr. Ambedkar: Life and Mission*, op. cit. p.383

¹¹ *Gadi* means power. Congress interim government took hold of the government after the Cabinet was announced on 24 August 1946. *Emphasis added.*

¹² Broken-men also mean untouchables, a virtual meaning of the word ‘dalit’. For more details see Chapter 2.

¹³ *Dr. Babasaheb Ambedkar Writings and Speeches*, op. cit. Vol. 21, pp. 228-232

This was a great setback for Ambedkar as after the debacle of SCF in the 1946 elections, the Congress leaders including its Scheduled Caste members had already started to belittle Ambedkar in the Constituent Assembly. With the help of J.N. Mandal, when he entered into the Constituent assembly, to his surprise, he found that he was all alone in the 292 member Constituent assembly.¹⁴ None of the 'Harijan' Congressmen supported him on any issue.

3.2 Composition of Constituent Assembly, 1946¹⁵

As per the Cabinet Mission plan of May 16, 1946 there were 389 seats with 296 from the Provinces and 93 from the Princely States. The method of selection of these 93 was to be negotiated between the princely states and the Constituent assembly which took place in July, 1948 and 89 seats were eventually allotted for them. The elections to the Constituent assembly were by nomination and the Members of Legislative Assemblies of the Provinces, who were elected in the provincial elections in July, 1946 were eligible to vote and send their nominees to the Constituent assembly. Reservation of seats was granted only to Muslims and Sikhs and there were no such provision for the Scheduled Castes. In the July 1946 elections, out of the 212 general seats allotted to the Provinces (British provinces) Congress and its nominees won 201. The remaining 11 seats were occupied by Unionist party of Punjab (2 seats), Communists (1 seat), Scheduled Castes Federation (1 seat occupied by Ambedkar), and others (7 seats). Out of 78 seats reserved for Muslims, the Muslim League got 73 seats, Congress' Muslim nominees 3 seats and one seat each by Punjab Unionist Party and Praja Party of Bengal. The four seats reserved for Sikhs remained vacant. Thus the communal composition of the Constituent Assembly after the

¹⁴ Ambedkar confessed this while speaking to students of Siddhartha College at Bombay. He said that on issues related to representation even the left over Muslims in the Constituent assembly did not support him. *Dr. Babasaheb Ambedkar: writings and speeches*, op. cit. Vol. 17, p. 375.

¹⁵ For a complete list see B Shiva Rao (ed.) (1966-1968) *The Framing of India's Constitution*, New Delhi, IIPA, New Delhi; Distributed by N. M. Tripathi Private Ltd: Bombay, Sweet & Maxwell Ltd: London, Volume I, p.287-310.

1946 elections showed 161 Hindus, 80 Muslims, 3 Anglo-Indians, 6 Indian Christians, 3 Parsees, 6 tribes and 31 Scheduled Castes.¹⁶ Sikhs joined the Assembly after August, 1946. In terms of party, Congress enjoyed a majority with 212 members; Muslim League had 73 seats and 11 seats were occupied by others. After the Partition of India in 1947 and the entry of Princely States in 1948, the composition of Constituent assembly also changed and the total membership was reduced from 389 to 299. The representation of the various minority communities in the Assembly after the partition was as follows: Nepalis 1, Sikhs 5, Parsis 3, Christians 7, Anglo-Indians 3, Backward Tribes 5, Muslims 31, and Scheduled Castes 33 – a total of 88 out of the 235 provincial seats.¹⁷

3.2.1: Constitution Sub-Committee on Scheduled Castes and Minorities

When the Constituent Assembly began its proceedings on 9 December 1946¹⁸ to draft the Constitution for a new India, the issue of minorities once again assumed greater significance. However, unlike the earlier experience of the RTC at London, the Constituent Assembly this time resolved for setting up an Advisory Committee to solve this issue and several others. The Advisory Committee further set up five Sub-Committees- one of which was the Minorities Sub-Committee. It is to be noted that the term 'minority', here, did not

¹⁶ Out of 31 belonging to Scheduled Castes, 29 were Congress nominees; one from the Unionist Party, one Ambedkar himself, and one from the others (see Shekar Bandyopadhyay, *Transfer of Power and Crisis of Dalit Politics in India, 1945-1947, Modern Asian Studies*, Vol. 34, No.4, p.918).

¹⁷ Rochana Bajpai 2002, 'Minority Rights in the Indian Constituent Assembly Debates, 1946-1949', *QEH Working Paper Series – QEHWPS30*; also see her article, 'Constituent Assembly Debates and Minority Rights' *Economic and Political Weekly*, XXXV, 21- 22, May 27, 2000, pp. 1837-1845. Bajpai felt that the Cabinet Mission had no inclination to make provisions for minorities other than Muslims and Sikhs, it was largely through the intervention of the Congress leadership that Parsis, Anglo-Indians, Indian Christians, members of the Scheduled Castes, 'backward' tribes, and women were brought into the Assembly. This was also with a motive that it would have some bearing on the positions of representatives of different minority groups during the debates, with those elected through Congress support generally taking a more conciliatory stand towards Congress proposals.

¹⁸ The Muslim League boycotted the Constituent Assembly until its representatives who would remain in India after Partition began participating in the work of the Assembly from the fourth session, in July 1947. *Ibid.*

denote only the numerical status of the group but also the claim that the group suffered from some kind of disadvantage with respect to the rest.¹⁹ Thus, for the purpose of the Sub-Committee, Scheduled Castes too were included in the definition of minorities. According to Bajpai,

In minority claims, the numerical status of the group was invoked most frequently to denote numerical strength, rather than numerical paucity of the group, which made it a force to reckon with, and entitled it to safeguards over other, smaller groups. Appeals to the numerical status of the group sought to establish that the group constituted a significant element of Indian society, and one therefore with a legitimate claim to preferential treatment. The notion that groups ought to receive representation in political bodies in proportion to their population enjoyed currency in minority claims in this period, with frequent complaints being voiced in instances where a group's representation in a committee was not commensurate with its demographic share, that the group was being unjustly treated and denied its 'due' share in comparison with other groups. Claims for preferential treatment were often competitive, with representatives of each group advancing reasons for why their group was more eligible for safeguards or deserving of greater representation than any other, on grounds, for instance, that it was numerically superior, more backward than others, more distinct from the majority in its cultural practices and so on.²⁰

However, the minority status for the Scheduled Castes had not come with any claim of cultural distinctness from the majority community. Rather, it was said that they were culturally a part of the Hinduism, and hence they were only a 'political minority', where the term 'minority' connoted not that of numerical disadvantage but entitlement to special

¹⁹ For more details see Anupama Rao, 2009. *The Caste Question: Dalits and the Politics of Modern India*, Berkley, University of California Press, pp. 118-63.

²⁰ Rochana Bajpai (2000) 'Minority Rights in the Indian Constituent Assembly Debates, 1946-1949', op. cit.

treatment on account of social and economic 'backwardness'.²¹ Nevertheless, the nationalist school regarded the inclusion of Scheduled Castes unfavourable for the Hindu society and consistently sought to exclude the category from the ambit of minority.²² The Minorities Sub-Committee held its first meeting on 27th February, 1947 and H.C. Mukherjee was elected the Chairman of the Sub-Committee. The committee first circulated questionnaire to its members on related issues and asked for memorandums from the representatives of minority communities and organisations. The memorandum on behalf of the Scheduled Castes was submitted the by the Working Committee of All India Adi-Hindu Depressed Classes Association on 15th April, 1947.²³ The Association criticised the Poona Pact and submitted that the experience of the two elections (1937 and 1946) had proved that the system of joint electorates has deprived the Scheduled Castes of true and effective political representation. It urged for the abrogation of the Poona Pact. The Association demanded that the representation in the legislatures should be done by separate electorates. If not, then securing 40% of the total number of Scheduled Caste votes polled should be made compulsory for an SC candidate to win in joint electorates.²⁴

²¹ PR Thakur stated: 'We are no doubt a part and parcel of the great Hindu community. But our social status...is so very low that we do feel that we require adequate safeguards to be provided to us. Firstly, we should be considered as a minority...not in the sense in which a community is a minority on racial or religious grounds but a minority that is a separate political entity.' *CAD*, I, p.139. S Nagappa reiterated: 'I do not claim that we are a religious minority or a racial minority. I claim that we are a political minority. We are a minority because we were not recognised all these days and we were not given our due share in the administration of the country.' G. Pandey (1990) *The Construction of Communalism in Colonial North India*, Delhi, Oxford University Press, p. 284 and Muniswamy Pillai, *CAD*, V, p. 202 as cited in Rochana Bajpai (2000) *Ibid*.

²² Though they did not succeed initially, they forwarded an amendment during discussion of the revised draft of the Constitution on November 16, 1949. Details discussed later.

²³ For the full text of the memorandum see Appendix V.

²⁴ *Ibid*.

This memorandum was based on the ideas of Ambedkar, who had pointed out that the system was not an innovation but has been in operation in the elections to the Municipality of Madras and it applied to the Indian Christians in some parts of India under the government of India Act of 1935.²⁵ Seeking forth the case of his plan, Ambedkar argued that any electoral system for a minority must serve three purposes-

“It must enable the minority to send its true representatives to the legislatures. Secondly the minority must not be politically completely isolated from the majority and thirdly it must enable the minority to influence the election of the members of the majority community to the legislature. Isolation was the worst thing that would happen to a minority, no matter how large a representation was given to the minority, it was bound to remain a minority. It was very important for a minority that it should have among the members of the majority community, as many as it could have in the legislature who would be under the obligation to stand up and support the cause of the minority. The system of unqualified joint electorates served the second purpose but it enabled the majority to influence the election of the representatives of the minority community and thus disabled them for defending the interests of the minority against the “tyranny of the majority”. The system, of unqualified separate electorates served the first purpose best but it defeated the second and the third purpose. But the system he proposed served all the three purposes.”²⁶

²⁵ To illustrate the working of the system the memorandum took the case of the 151 seats which are reserved for scheduled castes in the nine different provinces of India and 416 other general territorial constituencies in which seats are not reserved for Scheduled Castes. Under the proposed plan Ambedkar said the Scheduled Castes in 151 constituencies will become included in separate electorates and those in 416 constituencies will be thrown into General electorate “showing the extensive operation of the system of joint electorate as compared with the field of operation of separate electorates under the compromise plan”. The Bombay Chronicle, dated 27th January 1947 as cited in *Source Material On Babasaheb Ambedkar and Movement of Untouchables*, Vol 1, pp333-334.

²⁶ Ibid. Ambedkar had also stated that one objection to unqualified separate electorates was the existence of British imperialism, which, it was alleged, influenced the communities (with separate electorates) to act against the interest of the country. With the end of British Imperialism it would be open to the Scheduled Castes to demand unqualified separate electorates. The Scheduled Castes were however, prepared to accept the compromise scheme as just adequate for the purpose. But at the same time, Ambedkar adds, that this was the utmost limit of compromise they could go to.

3.2.2: Minorities' Sub-Committee meetings

After receiving replies from the various groups and organizations, the committee met again on July 21st 1947 to discuss. However, soon the sub-committee decided by a majority of 28-3 that there should be no *separate electorate* for the elections to the legislature and that as a general principle there should be reservation of seats for the Scheduled Castes. While arriving at this decision, the option of discussing various methods of joint electorates, as suggested by the All India Adi-Hindu Depressed Classes Association, was left open. The Sub-Committee also decided that the reservation should be for ten years and after that, the position can be reconsidered.²⁷

The communities recognized by the Committee for reserved seats were divided in the following categories: Group A (Population not more than 0.5%) - Anglo-Indian, Parsees, and Plains tribesmen in Assam; Group B (Population not more than 1.5%) - Indian Christians and Sikhs; Group C (Population more than 1.5%) - Muslims and Scheduled Castes. It was also decided that reservation in appointment of Council of Ministers, would be provided in the Constitution, as provided under the Government of India Act, 1935. For reservation of seats for minorities in the Cabinets, while K.M. Munshi²⁸ opposed any kind of statutory provision, H. Khandekar, a Scheduled Caste member of the Congress, argued for seeking statutory reservations to Scheduled Castes in the Cabinets of both Centre and Provinces. The Sub-Committee submitted its report on 27th July, 1947²⁹ after incorporating

²⁷ B. Shiva Rao, (ed.) *The Framing of India's Constitution*, Volume II, op. cit.

²⁸ K M Munshi was a member of the Drafting Committee of the Constitution. He was strongly opposed to the idea of propagation and conversion in the constituent assembly and was also the main driving force behind the renovation of the historically important Somnath Temple by the Government of India just after independence.

the decisions mentioned above. In addition to that it also made two other important decisions. Para 10 of the report mentioned that;

The committee examined the proposal that a minority candidate standing for election for a reserved seat should poll a minimum number of votes of his community before he is declared elected. Seven members of the Sub-Committee voted for this proposal and seven against it and it was decided to refer it to the Advisory Committee.³⁰

This proposition was similar to that proposed by Ambedkar before Gandhi on 23rd April, 1933. Para 12 of the report mentioned:

Ambedkar suggested that candidates of a majority community should, before being declared elected, poll a minimum number of votes from among voters of the minority communities in their constituencies. This was lost by a large majority, only Ambedkar voting for it.³¹

The Advisory Committee comprised of at least 57 members including Sardar Vallabhbhai Patel as the Chairman. The Advisory Committee met on 28-31st July to discuss the report submitted by the Sub-Committee on Minorities. The issue of separate electorate came up for voting again and it was negated by large majority of members with only three members voting in favour of it. A proposal was moved by another member M.R.Masani that the representation of minorities should be secured not by reservation of seats but by a system of proportional representation preferably of cumulative voting in multi-member constituencies; but this also was defeated with only three votes in favour of it. The proposition that there shall be reservation of seats for ten years and the position to be

²⁹ Ibid. pp.398-402.

³⁰ For full report see Appendix VI.

³¹ Ibid.

reconsidered at the end of the period was also carried through the Advisory Committee. For Anglo-Indians, the Advisory Committee decided that instead of reserving seats, they would be nominated by the President of the Union and Governors of Provinces. The committee on the same day also accepted the minorities could also contest from unreserved seats (in addition to their reserved seats).

One of the most contentious issues that would have had major impact on the electoral method and representation of Scheduled Castes and other minorities was that the candidate contesting a reserved seat should at least receive a minimum percentage of votes from the Scheduled Castes before he is declared elected. The Sub-Committee on Minorities was divided on the issue (votes polled in favour and against the proposal was 7 each) and thus had referred this matter to the Advisory Committee. This attracted a considerable discussion before the Advisory Committee. However, K.M. Munshi moved that there should not be such stipulation and this resolution was supported by a large majority. This alternative method of electoral representation in a reserved seat was one of the options for the substitution of the separate electorates, but this was defeated. Thus, when the Para 12 of the Sub-Committee Report (mentioned above) came for the discussion before the Advisory Committee on 30th July, 1947, Ambedkar withdrew the proposal that he had made. This defeat before the Advisory Committee, however, did not deter Ambedkar from bringing it up before the full body of the Constituent Assembly, where he got full support from Sardar Nagappa (discussed later). The Advisory Committee submitted its report to the Constituent assembly on 27th August 1947.³² The recommendations of the Advisory Committee on the issues of separate electorate, joint electorate, minimum votes stipulation are reproduced below³³:

³² Ibid.

³³ Ibid.

Para 3. The first question ... was that of separate electorates; we considered this as being of crucial importance both to the minorities themselves and to the political life of the country as a whole. By an overwhelming majority, we came to the conclusion that the system of separate electorates must be abolished in the new Constitution. In our judgement, this system has in the past sharpened communal differences to a dangerous extent and has proved one of the main stumbling blocks to the development of a healthy national life. It seems especially necessary to avoid these dangers in the new political conditions that have developed in the country and from this point of view the arguments against separate electorates seem to us absolutely decisive.

Para 4. We recommend accordingly that all elections to the Central and Provincial Legislatures should be held on the basis of joint electorates. In order that minorities may not feel apprehensive about the effect of a system of unrestricted joint electorates on the quantum of their representation in the legislature, we recommend as a general rule that seats for the different recognised minorities shall be reserved in the various legislatures on the basis of their population. This reservation should be initially for a period of 10 years, the position to be reconsidered at the end of that period. We recommend also that the members of a minority community who have reserved seats shall have the right to contest unreserved seats as well. As a matter of general principle, we are opposed to weightage for any minority community.

Para 12. A proposal was made in the committee that a member of the minority community contesting a reserved seat should poll a minimum number of votes of his own community before he is declared elected. It was also suggested that cumulative voting should be permitted. The committee was of the view that a combination of cumulative voting and a minimum percentage of votes to be polled in a community would have all the evil effects of separate electorates and that neither of these proposals should be accepted.

Ambedkar knew it since the beginning that despite his strong efforts to bring in the settlement on the issue of the electoral method for the election of Scheduled Caste representatives, the Congress with its brute strength of in the Constituent assembly would

virtually sweep aside any of his proposals. His attempts for a settlement were curtailed by Sardar Patel, the Chairman of Advisory Committee on Minorities. The composition of the Minorities sub-committee and the Advisory committee were loaded against any proposal by Ambedkar, including even to bring in an alternative to separate electorates through the concept of *qualified joint electorate*. Facing a situation where even the 'Harijan' members of the Congress in the Constituent Assembly were not speaking out for the rights of untouchables, Ambedkar at one point of time even thought of disassociating himself with the Constituent Assembly itself. Speaking to his well-wishers on 14 April 1947, who came to wish him on his birthday, Ambedkar said that:

The Minorities Sub Committee will meet on 17th of April and will continue its work for some time. I am very sorry to say that two members³⁴ of Scheduled Castes who are in the Minorities Sub-Committee have sent a memorandum which is contrary to the views of the Scheduled Castes. One has proposed joint electorates than separate electorate. He has proposed joint electorate by distributive system of voting which is nothing but political slavery. I propose to fight with my back to the wall and I hope I will be able to get the support from the other minority communities in the sub-committee. I do not want to say at this stage what is going to happen; whether the committee is supposed to decide the issue by its majority or whether it proposes to negotiate, is a matter about which I have no definite mind. But if they definitely decide the issue by majority I shall certainly take very definite steps to dissociate myself entirely from the Constituent Assembly.

You should however remember that in the Constituent assembly of 292 or so I am one single, solitary individual. You should also bear in mind that no matter how great a man may have intellect or the capacity to argue and to defend, he is after all one man, a single individual. If the rest of 291 are determined not to listen to the reason, not listen to the argument but to oppose their opponent you can well realize my possible helplessness in the Constituent assembly of 292 where I am, only one."³⁵

³⁴ Probably H.K. Khandekar and Jagjiwan Ram, both represented Congress

³⁵ *Dr. Babasaheb Ambedkar writings and Speeches*, op. cit. Vol 17 (part three) p.371-372.

Later on 25th September 1947 Ambedkar while addressing students at the Siddhartha College in Bombay revealed:

In the Minorities Sub committee I stressed our demand for Separate electorate by suggesting a solution that a successful candidate should at least secure 35% of the votes of the community he represented but there, the hasty action of the Muslim group in leaving the hall at the time of voting made my proposal to secure equal votes for and against i.e 7vs7.

I tried myself in the Advisory committee and the strange thing is that Mr Muniswami Pillai³⁶, Speaker of the Madras assembly, supported my amendment. Mr. Vallabhbai Patel also did not vote against it. But in the general Constituent assembly, Mr.Pillai one of my supporters was one of the signatories to oppose this proposal. I was struck with wonder to all this. This is the second crooked role played by the rashtryia Harijans to the permanent annoyance (sic) and common interest of the Scheduled Castes at large. It is for these reasons I have not any (sic) clear line of actions for the present.”³⁷

Having lost the opportunity to push in separate electorates in the Constituent assembly and having completely being sidelined, Ambedkar told the students how he was able to get some political safeguards:

Now, I tell you one thing that the separate electorates are not the only ‘ends’ and ‘means’ of the Scheduled Castes Federation. Separate electorates with our ‘means’ are good but in themselves they are bad. You have got the separate electorates but no safeguards (sic). I don’t know what will be their lot (sic).³⁸

I could get you some political safeguards in the Assemblies and services. It is because of my efforts that the rest of the minorities like Sikhs, Indian

³⁶ V.I. Muniswami Pillai, a Scheduled Caste member, was a Minister in Congress Government in Madras before nominated by Congress to the Constituent assembly. He was also the President of All India Scheduled Castes League and was one of the names proposed by Congress to the Viceroy for the post of Member, Viceroy’s Executive Council as a Scheduled Caste candidate. This post ultimately went to Dr.Ambedkar in 1942.

³⁷ *Dr. Babasaheb Ambedkar writings and Speeches*, op. cit Vol. 17. (part three) p.375

³⁸ Probably bad translation in the Vol. 17. Can be interpreted as Ambedkar meant was that “If you have got separate electorates and no political safeguards, I do not know what would have happened to the lot”

Christians and Muslims have some safeguards. Because it was only I, who was very insistent on this demand, the Constituent Assembly had no courage to displease me at this stage. I am glad to say that I could serve the minorities in the real sense of the term”³⁹

3.2.3: Sardar Nagappa and the Qualified Joint Electorate, 1947

The report of the Advisory Committee on Minorities was moved in the Constituent Assembly for adoption on 27th August, 1947. Rajendra Prasad was the Chairman of the Constituent Assembly who conducted the proceedings of the Assembly. The report on the Minorities Rights was taken up clause by clause for discussion and adoption. In the report submitted by the Advisory Committee, Clause 6 dealt with the issue of ‘qualified joint electorates’ where the Advisory Committee recommended that there should be no condition for minimum number of votes of one’s community before he is declared elected. The proposal of Ambedkar before Gandhi on 23rd April, 1933⁴⁰ was called ‘qualified joint electorate’ because a reserved candidate contesting on a reserved seat in a joint electorate should be qualified to be elected in a reserved seat. The stipulation of such a *qualification* entails that the candidate polls a minimum number of votes from his own community. In a reserved seat for Scheduled Castes, he should get a minimum number of votes from the Scheduled Caste voters.

The stipulation of minimum number of votes in the Maulana Mahomed Ali Formula was 40% votes. Ambedkar proposed for 25% of the votes to be polled as the minimum. The memorandum submitted by All India Adi-Hindu Depressed Classes Association before the Minorities Sub-Committee asked for 40% of the votes. On 28th August, 1947, Sardar Nagappa brought in a minimum stipulation of 35% of the votes for a qualified joint

³⁹ Dr. Babasaheb Ambedkar writings and Speeches, Vol 17, op. cit. (part three) p.375

⁴⁰ Discussed in earlier Chapters

electorate. To understand how the discussion relating Clause 6 took shape before being finally adopted on 28th August, 1947 in the Constituent Assembly, ⁴¹ the clause is reproduced below:

Clause 6: No condition for a minimum number of votes of one's own community: There shall be no stipulation that a minority candidate standing for election for a reserved seat shall poll a minimum number of votes of his own community before he is declared elected.

Sardar Vallabhbhai Patel moved this clause for the acceptance of the House on 28th August, 1947 and said that:

This question has also been considered very often even in the past and it is another form of separate electorates being introduced and it has been considered and in view of the change in the situation there is no need for introducing any such thing. We have agreed no such reservation of percentage is necessary. Sir, I move the clause for the acceptance of the House.

At this point of time, Sardar Nagappa⁴² rose and said that :

Mr. Chairman, Sir, I want to bring to the notice of the House that in the case of Scheduled Classes before they are declared elected to the seats reserved for them, I would request that a certain percentage of the votes of that community the candidates must be able to poll. I know, Sir, that that gives a kind of prestige and leadership to the candidate who comes from that community. For instance today if we are elected to reserved seats, when there is agrarian trouble, when the Harijans and the agriculturists are at loggerheads and when we go and appeal to these people these Harijans they say "Get Gut man, you are the henchmen and show-boys of the Caste Hindus. You have sold our

⁴¹ *Constituent Assembly Debates*, Volume V, p.259-270.

⁴² Sardar Nagappa was a Scheduled Caste member of the Constituent Assembly belonging to Mala community of Andhra Pradesh. Nagappa was elected in 1937 and 1946 from the Congress ticket to the Madras State Legislative Assembly from the Kurnool constituency. He was nominated by the Congress and was elected to the Constituent Assembly in 1946. His ancestors got the Honorary title Sardar due to the Martial Lineage of his family. He was also the Convenor of Scheduled Castes members of the Constituent Assembly. For more details see R.K. Kshirsagar, (1994), *Dalit Movement in India and its Leaders (1857-1956)*, New Delhi: M.D.Publications.

community and you have come here on their behalf in order to cut our throats. We don't accept you as our representative." Sir, in order to avoid that what I suggested is that a certain percentage of the Harijans must elect the candidate so that he may be able to tell them that he has, the backing of some Harijans and he will have the prestige and voice as their representative. That prestige and voice he should have.

H.J.Khandekar, the other Scheduled Caste member sought to know whether he is making a speech or moving an amendment and the President of the House Dr. Rajendra Prasad asked Sardar Nagappa whether he is moving an amendment or not.

Sardar Nagappa replied that he is moving the amendment to Clause 6.

Sardar Vallabhbhai Patel taunted him by saying that he is moving an amendment only to make a speech and then withdraw it. Sardar Nagappa replied and explained how this does not amount to separate electorate and the President of the House allowed him to read out the amendment.

Shri S. Nagappa: For instance there are four candidates that are seeking election to the reserved seats. Now let us take it there are 100 Scheduled Caste votes and let us assume all the 100 Scheduled Caste voters comes and vote. A gets 36 and B gets 35, this comes to 71. Only 29 is there for the other. Now you need not take that man at all into consideration who has polled only 29 per cent. Now again you need not have two elections. You can distribute two coloured papers to the voters come and vote. A gets 36 and B gets 35, this comes to 71. Only placed only for the Scheduled Caste candidate and if one gets more than 35 per cent, of the Scheduled Caste votes, or coloured votes, you need not take the other man into consideration at all.

Sir, even if he gets 36 per cent but does not get the highest number of votes in the general election he should not be declared elected. As it is, if X gets 36 per cent of the votes of the community and Y gets only 35 per cent., if the former does not get the majority of votes of the other communities at the election he is declared to be defeated and the latter though he gets only lesser number of votes of his own community, is declared elected; if he gets more votes than, X at the general elections, been declared elected. After all, the election is completely in the hands of the general constituency or community. According to the Poona Pact you have allowed four candidates tot elected at the primary elections. This means that a man who gets 25 per cent of the votes is declared elected to the panel where you have allowed cumulative

Voting. That is almost separate electorate I do not want separate electorates. I know the evils of separate electorates. I am for joint electorates. But, while seeing that joint electorates are there, let us not put the Harijan representatives in disfavour with their community who, as it is, call them show-boys of the general community. If a provision of the kind I am advocating is adopted, we can face the people of our community and tell them "Look here, we have been elected also by a majority of 35 per cent of the members of our own community. We are not show-boys".

By my amendment, I am only seeking to reduce the panel from four to two and providing for the election of the person who gets the majority of votes of the general community. I would request Members to think over it without prejudice.

I thank you, Sir, for giving me an opportunity to move my amendment.

Immediately after Sardar Nagappa moved his amendment, K.T.M. Ahmed Ibrahim Sahib Bahadur (Madras) moved an amendment of similar nature seeking 30% minimum votes stipulation. He was supported by another Muslim member Kazi Syed Kareemuddin (C.P. & Berar)⁴³. H.J. Khandekar, a Scheduled Caste member from the Congress party from Bombay opposed the amendment proposed by Sardar Nagappa and said that⁴⁴ :

H.J.Khandekar: Mr. President, Sir, I stand to oppose the amendment which has been placed before you by my friend Mr. Nagappa. This amendment stands in the name of four Members. The first name is that of Ambedkar, and you all know that from the time of Second Round Table Conference till the Minority Sub-Committee (of the Advisory Committee assembled), he (Ambedkar) relinquished the demand for joint electorates and continued the demand for separate electorates.

On the question of this demand his message to all Harijans of his country, who belonged to his party, went to the extent that they were not even Hindus

⁴³ Ibrahim Sahib Bahadur (Madras) and Kazi Syed Kareemuddin (C.P. & Berar) were nominated by Muslim League. For details on the amendments moved by members K.T.M. Ahmed Ibrahim Sahib Bahadur and Kazi Syed Kareemuddin in support of Sardar Nagappa in the Constituent assembly on 28th August, 1947 on Qualified Joint Electorate see Appendix – VII.

⁴⁴ Ibid

that they wished to have a colony separate from the Hindus, that they were not within the fold of Hindu religion, and it was for this reason that they desired separate electorates. This thing has been going on in the country for the last fifteen years with the result that a sort of discord has been created between Caste Hindus and Harijans of Dr. Ambedkar's party, and it- has gone to the extent that Harijans of Ambedkar party do not wish to converse with Hindus. But I feel happy to state that when this matter relating to joint and separate electorates came-up before the Minority Sub-Committee, Dr. Ambedkar did not press the claim further but withdrew it on the ground that he had no argument in support of the principle.

For the last 15 years, I have listened with interest to the speeches of Dr. Ambedkar and read them in newspapers too, but, there was no argument in them in support of the demand for separate electorates. In this way, as the demand did not stand to reason, he did not press it but withdrew it. It is a great victory for us. Having withdrawn the demand, separate electorate was thought of by which the plea for percentage could be pressed.

Speaking plainly, it means that he desires separate electorates in a different form. I may explain to you the effects of separate electorates in this country. It was because of Lord Morley Minto that Muslims got separate electorates, and the result was that our country was divided into two. The same separate electorates are being brought before us in the form of percentage. If this is accepted either for Harijans or for our 'Muslim brothers, then it would mean the fulfilment of what my friend Mr. Jinnah has always said "Muslims of India and Muslims of Pakistan"-which mean-; the preparation for Pakistan within India. Much suffering has been caused already. India has been divided into two. Brother Muslims have' got what they wanted and was for their benefit. Having got that, they should, be good enough not to try to create Pakistan within India and should not bring an amendment of this sort in this House.

It has come to my notice that our Muslim brothers, who in this country are about 3 crores, have got and are going to get on the report of the Advisory Committee all the facilities which they should get. Even then they say that they should get percentage of votes in order to enable them to elect their representatives.

Once again, my friend Mr. Nagappa too, who is an ally of Dr. Ambedkar and is dancing to his tune on some expectations, says the same thing, i.e., that it is in this way alone that our true representatives will be chosen.

I want to ask these brothers, what is the meaning of a true representative? I want to cite the example of this Assembly. If my friends are not true representatives of Harijans, if Kazis are not here as true representatives of Muslims then, what will happen to this Assembly? If these honest Muslim brothers shout "Jinnah Zindabad", we shout "Bharat-Mata-ki-jai" or other slogans and such sort of pin pricks continue, what will be the result?

I would like to ask Mr. Nagappa and Kazi Sahib, who will suffer then, the majority or the minority? Any declaration of this sort is most improper and therefore I do not agree with the amendment of Mr. Nagappa.

The other thing which I have just pointed out is that this percentage of votes is through the medium of 'separate electorates. Even after the present amendment, a few more are coming before you in support of the percentage of votes) which is in fact a child of separate electorates. It is improper to bring amendments of this kind within this House. It is merely wasting the time of the House. I wish to state that whatever has happened as a result of percentage of votes is before us. I am very sorry to say that the result of separate electorates and the Poona Pact has been that in Nagpur and in Bombay, there is considerable agitation today against the Hindus and there are differences between one Caste and another.

The Poona Pact provided for primary election and cumulative voting which indirectly meant separate electorate. Do Dr. Ambedkar and Mr. Nagappa want to aggravate or eliminate this mutual conflict? If they want to eliminate they should withdraw the amendment. If the tension between the Caste Hindus and the Harijans is aggravated the latter would be the loser not the gainer.

Because of this mentality of Dr. Ambedkar and Mr. Nagappa the Harijans will permanently remain Harijans and their position would gradually deteriorate. There are sub-Castes within Castes. There are several sub-Castes among Harijans. In fact Harijans are not a part of any community but are spread throughout India in 132 sub-Castes. If percentage of 35 is passed, the 3 per cent "Chamars" who live in Nagpur will not come within the orbit of this election. If election is fought community-wise then "Mahars" who are 80 per cent will get 35 per cent votes. Therefore "Chamars", "Bhangis" and the other sub-Castes will not be able to return their representatives in elections because

they are in minority among Harijans. In that case only the 'Mahars', to which section Dr. Ambedkar and I belong and which has a predominating majority in Bombay and Nagpur, will capture all the mats of the Harijans in those provinces and other Harijans will get no seat at all.

Besides, I have to request Mr. Nagappa to withdraw the amendment. The reason being that contrary to his belief the percentage of votes is not in favour of Harijans. Harijans will not benefit by it, in- fact it would be very bad (for them). Today we have achieved freedom for this country. We the inhabitants of this country have become its masters. Under than circumstances, if we do not take the majority community into confidence, and if the majority community does not take us to its confidence, then the government of this country cannot go on. For preserving peace in the country I have to request Mr. Nagappa to kindly withdraw the amendment.

Friends, only a few days back we the Hindus, the Muslims, the Sikhs, the Christian, the Parsis and the Harijans all acclaimed with one voice that we are one nation. We all gave our respectful salute to this tricolour. It would be a pity, if today we put in this amendment which seeks separate electorates.

In the meanwhile two women members, Smt. Dakshayani Velayudan⁴⁵ (Madras: General) and Smt. Renuka Ray (West Bengal: General) both belonging to Congress spoke opposing Sardar Nagappa.

Finally Sardar Vallabhbhai Patel rose appealing to everybody that let us forget what Ambedkar or what other groups have done and that there is no Scheduled Caste between us and let us stand as one and together.

Sardar Vallabhbhai J. Patel: Sir, I am sorry to see that so much time has been taken on this amendment which I thought was going to be withdrawn and on which there would not be much debate. So far as the Scheduled Castes are

⁴⁵ Dakshayani Velayudan, the only Scheduled Caste woman member of the Constituent Assembly criticised the absence of Ambedkar and said that Ambedkar has gone for his work in the Cabinet and conveniently absented himself. Velayudan belonged to the Pulaya Caste in Kerala and was a school teacher. In the Constituent Assembly she was a 35 year old novice who was a nominated member in Cochin Legislative Council in 1945 and in less than a year got nominated to the Constituent Assembly.

concerned, I do not think very much has to be said on this amendment, because I got a representation from a large majority of the Scheduled Castes representatives in this House, except one or two or three, that they were all against this amendment (Hear, Hear), and Mr. Nagappa knew about it. But Mr. Nagappa wanted to move his amendment to fulfil a promise or undertaking or at least to show his community that he was not purchased by the majority community. Well, he has done his job, but other people took him seriously and took a lot of time.

So far as the amendment moved by the representative of the Muslim League is concerned, I find that I was mistaken in my Impression and if I had believed this, I would certainly not have agreed to any reservation at all. (Hear, Hear). When I agreed to the reservation on the population basis, I thought that our friends of the Muslim League will see the reasonableness of our attitude and allow themselves to accommodate themselves to the changed conditions after the separation of the country. But I now find them adopting the same methods which were adopted when the separate electorates were first introduced in this country, and in spite of ample sweetness in the language used there is a full dose of poison in the method adopted. (Hear, Hear). Therefore, I regret to say that if I lose the affection of the younger brother, I am prepared to lose it because the method he wants to adopt would bring about his death. I would rather lose his affection and keep him alive. If this amendment is lost, we will lose the affection of the younger brother, but I prefer the younger brother to live so that he may see the wisdom of the attitude of the elder brother and he may still learn to have affection for the elder brother.

Now, this formula has a history behind it and those who are in the Congress will be able to remember that history. In Congress history this is known as the Mohammad Ali Formula. Since the introduction of separate electorates in this land there were two parties amongst the Muslims. One was the Nationalist Muslims or the Congress Muslims and the other the Muslim League members, or the representatives of the Muslim League. There was considerable tension on this question and at one time there was a practical majority against this joint electorate. But a stage was reached when, as was pointed out by the Mover of this amendment in Allahabad a settlement was reached. Did we stand by that settlement? No. We now have got the division of the country. In order to prevent the separation of the country this formula was evolved by the nationalist Muslims, as a sort of half-way house, until the

nation becomes one; we wished to drop it afterwards. But now the separation of the country is complete and you say, let us introduce it again and have another separation. I do not understand this method of affection. Therefore, although I would not have liked to say anything on this motion, I think it is better that we know our minds perfectly each other, so that we can understand where we stand. If the process that was adopted, which resulted in the separation of the country, is to be repeated, then I say: Those who want that kind of thing have a place in Pakistan, not here (Applause.) Here, we are building a nation and we are laying the foundations of One Nation, and those who choose to divide again and sow the seeds of disruption will have no place, no quarter, here, and I must say that plainly enough. (Hear, Hear.) Now, if you think that reservation necessarily means this clause as you have suggested, I am prepared to withdraw the reservation for your own benefit. If you agree to that, I am prepared, and I am sure no one in this House will be against the withdrawal of the reservation if that is a satisfaction to you. (Cheers.) You cannot have it both ways.

Therefore, my friends, you must change your attitude; adapt yourself to the changed conditions. And don't pretend to say "Oh, our affection is very great for you". We have seen your affection. Why talk of it? Let us forget the affection. Let us face the realities. Ask yourself whether you really want to stand here and cooperate with us or you want again to play disruptive tactics. Therefore when I appeal to you, I appeal to you to have a change in your heart, not a change in the tongue, because that won't pay here. Therefore, I still appeal to you: "Friends, reconsider your attitude and withdraw your amendment". Why go on saying "Oh, Muslims were not heard; Muslim amendment was not carried". If that is going to pay you, you are much mistaken, and I know how it cost me to protect the Muslim minorities here under the present condition and in the present atmosphere. Therefore, I suggest that you don't forget that the days in which the agitation of the type you carried on is closed and we begin a new chapter.

Therefore, I once more appeal to you to forget the past. Forget what has happened. You have got what you wanted. You have got a separate State and remember, you are the people who were responsible for it, and not those who remain in Pakistan. You led the agitation. You got it. What is it that you want now? I don't understand. In the majority Hindu provinces YOU, the minorities, you led the agitation. You got the partition and now again you tell me and ask me to say for the purpose of Securing the affection of the younger

brother that I must agree to the same thing again, to divide the country again in the divided part. For God's sake, understand that we have also got some sense. Let us understand the thing clearly. Therefore when I say we must forget the past, I say it sincerely. There will be no injustice done to you. There will be generosity towards you, but there must be reciprocity. If it is absent, then you take it from me that no soft words can conceal what is behind your words. Therefore, I plainly once more appeal to you strongly that let us forget and let us be one nation.

To the Scheduled Caste friends, I also appeal: "Let us forget what Dr. Ambedkar or Ms group have done. Let us forget what you did. You have very nearly escaped partition of the country again on your lines. You have seen the result of separate electorates in Bombay, that when the greatest benefactor of your community came to Bombay to stay in Bhangi quarters it was your people who tried to stone his quarters. What was it? It was again the result of this poison, and therefore I resist this only because I feel that the vast majority of the Hindu population wish you well. Without them where will you be? Therefore, secure their confidence and forget that you are a Scheduled Caste.

I do not understand how Mr. Khandekar is a Scheduled Caste man. If he and I were to go outside India, nobody will find out whether he is a Scheduled Caste man or I am a Scheduled Caste man. There is no Scheduled Caste between us. So those representatives of the Scheduled Caste must know that the Scheduled Caste has to be effaced altogether from our society, and if it is to be effaced, those who have ceased to be untouchables and sit amongst us have to forget that they are untouchables or else if they carry this inferiority complex, they will not be able to serve their community. They will only be able to serve their community by feeling now that they are with us they are no more Scheduled Castes and therefore they must change their manners and I appeal to them also to have no breach between them and the other group of Scheduled Castes.

There are groups amongst themselves, but everyone tries according to his own light. We are now to begin again. So let us forget these sections and cross-sections and let us stand as one, and together.

Ultimately Sardar Nagappa was pressurized in withdrawing his amendment. K.T.M. Ahmed Ibrahim Sahib Bahadur's amendment was negated and the original Clause 6 was adopted. The process is reproduced:

Mr. President: I have first to put the amendment of Mr. Nagappa.

Shri S. Nagappa: I do not press my amendment. I withdraw it.

Mr. President: Does the House give him leave to withdraw his amendment?

Honourable Members: Yes.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: Then there remains Ahmed Ibrahim Sahib Bahadur's amendment....

The amendment was negated.

Mr. President: I now put the original clause 6

Clause 6 was adopted.

It was very well known in the Constituent Assembly that the amendment to Clause 6 was moved by four members including Ambedkar. However, on that day, Ambedkar was absent from the Constituent Assembly. His absence was criticised by the Scheduled Caste members Dakshayani Velayudan and H.J. Khandekar⁴⁶. Even though Sardar Nagappa was a Congress member of the Constituent Assembly, he was a great admirer of Ambedkar. During the period he was residing near the residence of Ambedkar in New Delhi⁴⁷ and he used to have several discussions with him. It was at Ambedkar's instance that Sardar Nagappa moved the resolution to amend Clause 6 for the purpose of introducing *qualified joint electorate*. This was the one last straw attempt by Ambedkar to alter the Poona Pact and to create an electoral method where the true and real representatives of the Scheduled

⁴⁶ For the support that Sardar Nagappa gave to Ambedkar in the Constituent Assembly, the Congress Party denied him a ticket in the 1952 general elections. He contested on Kisan Majdoor Praja Party (KMPP) ticket from Nandyal General Constituency and lost. But to everybody's surprise, Congress, denied ticket even to H.J. Khandekar and Dakshayani Velayudan, who had opposed Ambedkar and Sardar Nagappa in the Constituent Assembly. Both H.J. Khandekar and Dakshayani Velayudan contested from reserved seats as independent candidates from Bombay (1952) and Kerala (1951) respectively and both of them lost.

⁴⁷ R.K. Kshirsagar, *Dalit Movement in India and its Leaders (1857-1956)*, 1994, New Delhi: M.D.Publications. pp282-283

Castes could be elected to the Legislative Assemblies. However, Ambedkar's long fought battle for separate electorate, started right from the days of Southborough Committee in 1919, Simon Commission in 1928, Round Table Conferences 1931, Communal award 1932 and the Poona Pact in 1932 to the elections of 1937 and 1946, finally came to end on 28th August, 1947 in the Constituent Assembly.

3.3: Ambedkar as the Chairman of the Drafting Committee

The Constituent Assembly elected its Drafting Committee on August 29th 1947 and performing a balancing act, made Ambedkar as its Chairman. Explaining on how the Congress decided on his name, Ambedkar while addressing the students of Siddhartha College, Bombay on September 25th, 1947 said, "It was of only myself, who was so insistent in this demand (political safeguards for minorities including Scheduled Caste), that the Constituent Assembly had no courage to displease me at this *stage*."⁴⁸ The task of the Drafting Committee was to prepare the draft Constitution on the basis of suggestions and recommendations of various sub-committees and advisory committees of the Constituent Assembly. However, the ideology of the Congress Party was still a dominant factor in the decision making process and therefore left very little scope for Dr Ambedkar. Several instances came when Ambedkar was forced to express his dissatisfaction with the Congress dominated Constituent Assembly.

The most shocking instance came in May, 1948, when the Advisory Committee led by Patel decided to abolish reservations for minorities, including the Scheduled Castes.⁴⁹ For abolition of reservation for Scheduled Castes, the committee forwarded the argument

⁴⁸ *Constituent Assembly Debates*, Volume V, p.259-270. Available on <http://parliamentofindia.nic.in/ls/debates/vol5pm.htm>

⁴⁹ The reason provided by him was the partition of India and the bloodshed aftermath.

that untouchability had already been abolished under the new Constitution. It was at this stage that Ambedkar, the Chairman of the Drafting Committee of the Constitution (also the Law Minister of India) decided to walk out of the Constituent Assembly, and declared:

I have laboured for three years preparing the Constitution on the cost of my health so that I could do something for the welfare of the Scheduled Castes.... if seats were not kept reserved for the depressed classes in the Constitution, I would walk out of the Constituent assembly so that in the pages of the history it would remain written that how the Hindus opposed to the question of welfare of untouchables, when it came before them.⁵⁰

Ambedkar went out from the meeting and did not attend the House for the next 3-4 days. However, since he had almost completed the work on the Constitution and the Congress was highly dependent upon him to finish the work, its leaders agreed on the inclusion of certain provisions for the welfare of the untouchables which Ambedkar wanted and requested him to resume his duty in the Constitution making process.

3.4: Abolition of Reserved Seats for Religious Minorities

To the shock of Ambedkar and all other Scheduled Caste members of the Constituent Assembly, the provision of reserved seats for the minorities was proposed to be abolished once again in May 1949. Between August, 1947, when the report of the Advisory Committee on Minorities was adopted clause by clause in the Constituent assembly and May, 1949, India had witnessed the tragic partition into Pakistan and India. The migration of Hindus and Muslims between India and Pakistan caused great bloodshed and became unmanageable. Thus, the Constituent Assembly in 1947 while considering the whole question of minorities rights decided to postpone the discussion on political representation

⁵⁰ Prem Parkash (2002) *Ambedkar: Politics and the Scheduled Castes*, Ashish Publishing House, New Delhi.

for Sikhs and other minorities in the East Punjab (i.e., today's Punjab) and for Muslims in Bengal until the migration of people from India and Pakistan got completed. At that point of time in history, a great hatred was spreading against Muslims and the Muslim League, and the provision of Separate Electorate came under severe criticism in India.

In the meantime, Mahatma Gandhi, the only other person who understood the issues of Scheduled Castes, albeit with different frame of mind and plan of action than Ambedkar, was assassinated by Nathuram Godse on 30 January, 1948. Significantly, apart from Gandhi, there was no one in the Congress, who cared about the question of rights of Scheduled Castes. Jawaharlal Nehru had least interest in affairs of the untouchables and he barely grasped any issue regarding untouchables, including the Poona Pact. Sardar Patel, who was a witness to the Poona Pact and who understood the mind of Mahatma Gandhi, virtually took over the reins of deciding the issues related to Minorities and Scheduled Castes in the post-Pakistan and post-Gandhi India. In less than a month after the tragic assassination of Mahatma Gandhi, the Advisory Committee on Minorities held its crucial meetings under the leadership of Patel, who by then was known to have held his independent views different from the Prime Minister Jawaharlal Nehru and more so with Mahatma Gandhi. On decisions made by Patel on the Minority and Scheduled Castes issues, Jawaharlal Nehru remained mere a spectator.

With such a background, the Advisory Committee on Fundamental Rights, Minorities etc. held a meeting on 24th February, 1948 to deal with the questions of Sikhs, the rights of minorities in East Punjab and reservation of seats Muslims in West Bengal. Ambedkar suggested that in order to come to a peaceful and expeditious decision it would be better to appoint a small committee where the whole matter might be thrashed out. He proposed that the special committee should consist of Sardar Vallabhbhai Patel as its

Chairman, Jawaharlal Nehru, Dr. Rajendra Prasad, K.M.Munshi and Dr. B.R.Ambedkar as members. This special committee submitted its report on 23rd November, 1948.

The Advisory Committee on Minorities, under the Chairmanship of Patel, met on 30th December 1948 to discuss the report submitted by the special committee. The Prime Minister of India, Jawaharlal Nehru also attended the meeting on special invitation. It was in this meeting that Dr. H.C. Mookherjee, a Christian (Bengal: Congress), Tajamul Hussain, (Bihar: Muslim League) and certain other members of the Advisory Committee, gave notices for motions seeking to completely to do away with the reservations in Legislative Assemblies for the minorities. Patel in a deftly moved proposal suggested that those movers of resolutions seeking to do away with reservations should confine their proposals to their own communities, as in the absence of general agreement it would not be proper to force a minority to give up its right of separate representation. He gave an example that if Muslims by general agreement among themselves felt that they did not want any reservation, their view should be accepted, but he felt and suggestively said that such a proposal should only come from that particular community member and not from a member of any other community.

Ambedkar at this stage sensed something terribly wrong might happen and therefore raised a point of order to the effect that since the political safeguards for the minorities had been accepted by the Constituent Assembly of India, they were not within the reach of the Advisory Committee and if they still wanted to discuss the matter de novo, the proper procedure was to move amendments to the provisions contained in the draft Constitution.⁵¹ However, Patel responded by ruling that there was no bar to a discussion

⁵¹ B. Shiva Rao, *The Framing of the Constitution*, Volume IV, op. cit. p.598.

and that the committee also could recommend reconsideration of the whole matter. However he felt that again, unless there is a general agreement that conclusions already arrived at, that is to have reservations for minorities, should not be disturbed. After this a general discussion in the Committee on the position of minorities took place among the members. Ambedkar, though, effectively managed to stall the move on that day; Patel postponed it only with the determination to discuss the matter on a whole for another date to be fixed by him, alone.

Meanwhile, between December, 1948 and May, 1949 intense discussions took place outside the Constituent Assembly on the issue of the reservations for minorities. After the partition and the migration of Muslims from Punjab to Pakistan, the Sikhs demanded for separate electorate before the Special Committee. There was also a point of view that since the Muslim community demanded for a separate country and got Pakistan, there would not be any necessity to provide reservations in Legislatures for the Muslims in India. At the same time, the Sikhs of Punjab lead by the Shiromani Akali Dal, had started demanding Communal Electorate. The Special Committee rejected the demands of the Sikhs and decided to continue with the provisions in the August, 1947 report, i.e., provision of reserved seats with joint electorates. Another consistent plea of Sikhs was to include the Scheduled Castes converts to Sikhism such as Mazabis, Kabir Panthis, Ramdasias etc. to be included in the Scheduled Castes list which was accepted consequently.

One more question that was discussed outside the confines of the Constituent Assembly was if reservations for Muslim minority were to be abolished then there would be no logic in continuing reserved seats for Sikhs. A meeting of the Sikh members of (East) Punjab Legislative Assembly and Sikh members of the Constituent Assembly took place in New Delhi on May 10th 1949. The meeting in general demanded reservation of seats

according to their population for Sikhs in Punjab but they also resolved that the Sikhs will be prepared to give up reservation in Punjab if Sikh and Hindu Scheduled Castes are lumped together and seats reserved for them on the strength of their population.⁵² The Advisory Committee on Minorities met on the very next day on May 11th. The Advisory Committee approved a resolution abolishing the system of reservation for minorities other than Scheduled Castes in Legislatures. V.I. Muniswamy Pillai⁵³ (Madras: Congress) gave a notice of amendment to the resolutions moved by H.C. Mookherjee and others in the 30th December, 1948 meeting, seeking to exclude the Scheduled Castes from the purview of those resolutions. On the same day, the Advisory Committee submitted its report to the Constituent Assembly.⁵⁴ The Report mentioned that some members of the Committee felt that, conditions have changed since the Advisory Committee made its recommendations in August 1947 and;

“it was no longer appropriate in the context of free India and the present conditions, that there should be reservations of seats for Muslims, Christians, Sikhs or any other religious minority. Although the abolition of separate electorate 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 conception of a secular democratic state”.

The report also mentioned,

“it was recognized, however, that the peculiar position of Scheduled Castes would make it necessary to give them reservation for a period of ten years as originally decided”.

⁵² Ibid: p.599.

⁵³ V.I. Muniswami Pillai, a Scheduled Caste member, was a Minister in Congress Government in Madras before nominated by Congress to the Constituent assembly. He was also the President of All India Scheduled Castes League and was one of the names proposed by Congress to the Viceroy for the post of Member, Viceroy's Executive Council as a Scheduled Caste candidate. This post ultimately went to Ambedkar in 1942.

⁵⁴ B. Shiva Rao, *The Framing of the Constitution*, Volume IV, op. cit. p.599-602. For full text of the report see Appendix-VIII.

After the motion abolishing reservations for all minorities except Scheduled Castes was adopted. Patel told the Constituent Assembly that the untouchables should in future forget that they are untouchables and remain grateful that they have been provided reservations. In his own words;

“I am asking the Scheduled Caste people also to forget that they are Scheduled Castes. Although it is difficult for them to forget it, it is not difficult for the Sikhs to do so. Therefore, when you acknowledge with gratefulness the concession that we have given, I am grateful to you.”⁵⁸

The position taken by Ambedkar to ensure the political safeguards for untouchables despite the loss of reservations for minorities was result of the discussions outside the Constituent assembly. The Congress decision to abolish all the reservations and describing them as evil could be seen in many of the speeches in the Constituent assembly. The extreme stance to walk out of the Constituent assembly by Ambedkar, thereby threatening to leave the Congress in the lurch without a Constitution, might be the reason why the Congress leaders gave the concession albeit reluctantly for a limited period of 10 years.

However, later on November 16th 1949, Congress moved a resolution to substitute the word ‘minorities’ (wherever mentioned in the Draft Constitution) by the words ‘certain classes’ and exclude the Scheduled Castes from the ambit of minority permanently. Presenting the amendment KM Munshi said:

‘... my amendment seeks to clarify the position that so far as the Scheduled Castes are concerned, they are not minorities in the strict meaning of the term; that Harijans are part and parcel of the Hindu community, and that safeguards are given to them to protect their rights only till they are completely absorbed in the Hindu community’.⁵⁹

⁵⁸ Ibid.

⁵⁹ See *CAD*, V, p. 227; also see K.K. Wadhwa, (1975) *Minority Safeguards in India: Constitutional Safeguards and their Implementation*, Delhi, pp.4-8

The amendment was adopted and with this came the special provision of Reservation of seats in the House of the People for the Scheduled Castes by article 330 (1) of the Constitution. The Clause (2) of this article (330) also provided that the number of seats reserved in any State for the Scheduled Castes or the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State in the House of the People as the population of the Scheduled Castes in the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.