



Special Provisions Relating to Certain Classes

RATIONALE OF SPECIAL PROVISIONS

In order to realise the objectives of equality and justice as laid down in the Preamble, the Constitution makes special provisions for the scheduled castes (SCs), the scheduled tribes (STs), the backward classes (BCs) and the Anglo-Indians. These special provisions are contained in Part XVI of the Constitution from Articles 330 to 342. *They are related to the following:*

1. Reservation in Legislatures
2. Special Representation in Legislatures
3. Reservation in Services and Posts
4. Educational Grants
5. Appointment of National Commissions
6. Appointment of Commissions of Investigation

These special provisions can be classified into the following broad categories:

- (a) Permanent and Temporary — Some of them are a permanent feature of the Constitution, while some others continue to operate only for a specified period.
- (b) Protective and Developmental — Some of them aim at protecting these

classes from all forms of injustice and exploitation, while some others aim at promoting their socio-economic interests.

SPECIFICATION OF CLASSES

The Constitution does not specify the castes or tribes which are to be called the SCs or the STs. It leaves to the President the power to specify as to what castes or tribes in each state and union territory are to be treated as the SCs and STs. Thus, the lists of the SCs or STs vary from state to state and union territory to union territory. In case of the states, the President issues the notification after consulting the governor of the state concerned. But, any inclusion or exclusion of any caste or tribe from Presidential notification can be done only by the Parliament and not by a subsequent Presidential notification. Presidents have issued several orders specifying the SCs and STs in different states and union territories and these have also been amended by the Parliament.¹

Similarly, the Constitution has neither specified the BCs nor used a single uniform expression to characterise the BCs.² The expression ‘BCs’ means such backward classes of citizens other than the SCs and the STs as may be specified by the Central Government. Thus the expression ‘BCs’ in this context means the ‘Other Backward Classes’ (OBCs) as the SCs and STs are also backward classes of citizens.

Unlike in the case of SCs, STs and OBCs, the Constitution has defined the persons who belong to the Anglo-Indian community. Accordingly, ‘an Anglo-Indian means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only’.

COMPONENTS OF SPECIAL PROVISIONS

1. ***Reservation for SCs and STs and Special Representation for Anglo-Indians in Legislatures:*** Seats are to be reserved for the SCs and STs in the Lok Sabha and the state legislative assemblies on the basis of

population ratios.

The President can nominate two members of the Anglo-Indian community to the Lok Sabha, if the community is not adequately represented. Similarly, the governor of a state can nominate one member of the Anglo-Indian community to the state legislative assembly, if the community is not adequately represented.

Originally, these two provisions of reservation and special representation were to operate for ten years (i.e., up to 1960) only. But this duration has been extended continuously since then by ten years each time. Now, under the *95th Amendment Act* of 2009, these two provisions of reservation and special representation are to last until 2020.³

The reasons for the extension of the above two provisions of reservation and special representation by the 95th Amendment Act of 2009 are as follows^{3a}:

- (i) Article 334 of the Constitution lays down that the provisions of the Constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the House of the People and the Legislative Assemblies of the States shall cease to have effect on the expiration of the period of sixty years from the commencement of the Constitution. In other words, these provisions will cease to have effect on the 25th January, 2010, if not extended further.
- (ii) Although the Scheduled Castes and the Scheduled Tribes have made considerable progress in the last sixty years, the reasons which weighed with the Constituent Assembly in making provisions with regard to the aforesaid reservation of seats and nomination of members have not ceased to exist. It is, therefore, proposed to continue the reservation for the Scheduled Castes and the Scheduled Tribes and the representation of the Anglo-Indian community by nomination for a further period of ten years.

The reason for this special representation to the Anglo-Indians is as follows: “Anglo-Indians constitute a religious, social, as well as a linguistic minority. These provisions were necessary, for, otherwise, being numerically an extremely small community, and being

interspersed all over India, the Anglo-Indians could not hope to get any seat in any legislature through election”.⁴

2. ***Claims of SCs and STs to Services and Posts:*** The claims of the SCs and STs are to be taken into consideration while making appointments to the public services of the Centre and the states, without sacrificing the efficiency of administration. However, the ***82nd Amendment Act*** of 2000 provides for making of any provision in favour of the SCs and STs for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to the public services of the Centre and the states.
3. ***Special Provision in Services and Educational Grants for Anglo-Indians:*** Before independence, certain posts were reserved for the Anglo-Indians in the railway, customs, postal and telegraph services of the Union. Similarly, the Anglo-Indian educational institutions were given certain special grants by the Centre and the states. Both the benefits were allowed to continue under the Constitution on a progressive diminution basis and finally came to an end in 1960.
4. ***National Commissions for SCs and STs:*** The President should set up a National Commission for the SCs to investigate all matters relating to the constitutional safeguards for the SCs and to report to him (Article 338). Similarly, the President should also set up a National Commission for the STs to investigate all matters relating to the Constitutional safeguards for the STs and to report to him (Article 338-A). The President should place all such reports before the Parliament, along with the action taken memorandum. Previously, the Constitution provided for a combined National Commission for SCs and STs. The ***89th Amendment Act*** of 2003 bifurcated the combined commission into two separate bodies.⁵

The National Commission for SCs is also required to discharge similar functions with regard to the OBCs and the Anglo-Indian Community as it does with respect to the SCs. In other words, the commission has to investigate all matters relating to the Constitutional and other legal safeguards for the OBCs and the Anglo-Indian community and report to the President upon their working.⁶

5. ***Control of the Union over the Administration of Scheduled Areas and the Welfare of STs:*** The President is required to appoint a commission to

report on the administration of the scheduled areas and the welfare of the STs in the states. He can appoint such a commission at any time but compulsorily after ten years of the commencement of the Constitution. Hence, a commission was appointed in the year 1960. It was headed by U. N. Dhebar and submitted its report in 1961. After four decades, the second commission was appointed in 2002 under the chairmanship of Dilip Singh Bhuria. It submitted its report in 2004.

Further, the executive power of the Centre extends to the giving of directions to a state with respect to the drawing up and execution of schemes for the welfare of the STs in the state.

6. *Appointment of a Commission to Investigate the Conditions of BCs:* The President may appoint a commission to investigate the conditions of socially and educationally backward classes and to recommend the steps to improve their condition. The report of the commission is to be placed before the Parliament, along with action taken memorandum.

Under the above provision, the President has appointed two commissions so far. The first backward classes commission was appointed in 1953 under the chairmanship of Kaka Kalelkar. It submitted its report in 1955. But, no action was taken on it as the recommendations were considered to be too vague and impractical and also there was a sharp division among the members on the criterion of backwardness.

The second Backward Classes Commission was appointed in 1979 with B.P. Mandal as chairman. It submitted its report in 1980. Its recommendations were also lying unattended till 1990 when the V.P. Singh Government declared reservation of 27 percent government jobs for the OBCs.⁷

Table 66.1 *Articles Related to Special Provisions for Certain Classes at a Glance*

<i>Article No.</i>	<i>Subject-matter</i>
330	Reservation of seats for scheduled castes and scheduled tribes in the House of the people

331	Representation of the Anglo-Indian community in the House of the people
332	Reservation of seats for scheduled castes and scheduled tribes in the legislative assemblies of the states
333	Representation of the Anglo-Indian community in the legislative assemblies of the states
334	Reservation of seats and special representation to cease after seventy years
335	Claims of scheduled castes and scheduled tribes to services and posts
336	Special provision for Anglo-Indian community in certain services
337	Special provision with respect to educational grants for the benefit of Anglo-Indian community.
338	National Commission for scheduled castes
338A	National Commission for scheduled tribes
339	Control of the Union over the administration of scheduled areas and the welfare of scheduled tribes
340	Appointment of a commission to investigate the conditions of backward classes
341	Scheduled castes
342	Scheduled tribes

NOTES AND REFERENCES

1. These are the Constitution (Scheduled Castes) Order, 1950; the Constitution (Scheduled Castes) (Union Territories) Order, 1951; the Constitution (Scheduled Tribes) Order, 1950; the Constitution (Scheduled Tribes) (Union Territories) Order, 1951 and so on. The Parliament modified the Presidential orders by enacting the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act in 1956, in 1976 and in the

subsequent years.

2. The Constitution has used various expressions like ‘socially and educationally backward classes of citizens’ in Article 15, ‘backward class of citizens’ in Article 16, ‘weaker sections of the people’ in Article 46 and again ‘socially and educationally backward classes’ in Article 340.
3. The 8th *Amendment Act* of 1959 extended the period of ten years to twenty years, the 23rd *Amendment Act* of 1969 to thirty years, the 45th *Amendment Act* of 1980 to forty years, the 62nd *Amendment Act* of 1989 to fifty years, the 79th *Amendment Act* of 1999 to sixty years and the 95th *Amendment Act* of 2009 to seventy years, that is, until the year 2020.
- 3a. This information is downloaded from the website of the Ministry of Law and Justice (Legislative Department).
4. M.P. Jain, Indian Constitutional Law, Wadhwa, Fourth Edition, p. 756.
5. For complete details in this regard, see Chapters 46 and 47.
6. Even after the 89th *Amendment Act* of 2003, this provision of Article 338 reads as follows: “In this article, reference to the Scheduled Castes shall be construed as including references to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340 by order specify and also to the Anglo-Indian community”.
7. For complete details in this regard, see ‘Mandal Commission and Aftermath’ in [Chapter 7](#).