

Overview of Untouchability: A New Perspective

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Abstract: The treatment of Untouchability as important objects is not a new phenomenon. It has existed in the society from time immemorial through the medium of erotic literature and drawings which involved law. The modern sense of Untouchability came into existence with the invention of new law and most important of all the development of guidelines. Untouchability abolished by Article-17 of Indian Constitution but practically it exists in the society till now because non-proper and effective enforcement of this The Protection of Civil Rights Act (PCRA), 1955. Although The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and other code provisions are being enforced through the court but it is not sufficient to the social upliftment of the SC in 21st century. The growth rate of problem has rendered the making of Untouchability and has also made the untouchability. The other problem lies is that present descendent of the former race are known as the “twice borne” or the caste Hindus and that of the later are called the “depressed classes” or the Scheduled Castes and Scheduled Tribes in modern times. Lately, even Indian Government has put in efforts to curtail, Untouchability and Poverty but all the efforts are failing. The efforts put by the government are in proper direction or not that is the matter of the more serious concern. This research is done in consideration with these things in mind. This present research article shall discuss the various law and other issues responses to Untouchability and Poverty and shall also discuss the whether the existing laws sufficiently tackle this misdeed.

Index Terms - Untouchability, PCRA Act, Constitutional

I. INTRODUCTION

The text must be in English. The problem of untouchability and poverty of the Scheduled Castes has been with us as an existential reality from times immemorial. Scheduled Castes named as harijans by Gandhi are entangled in sub-human social existence, abject poverty, economic exploitation, a sub-culture of submission and political powerlessness. The details of the origin of untouchability and the racial, ethnic composition of the Scheduled Castes population are shrouded in mystery. They have been the weakest constituent of the Indian social structure except the adivasis. They are designated with a variety of nomenclatures such as untouchables, harijans, depressed classes, weaker sections, panchamas, atisudras, avarnas and antyajas and Scheduled Castes. The present descendent of the former race are known as the “twice borne” or the caste Hindus and that of the later are called the “depressed classes” or the Scheduled Castes and Scheduled Tribes in modern times. Who have been gradually driven to the menial and humble roles of life. The Aryans on arrival in the new country took the step towards the original inhabitants, they submerged and suppressed them. The literature of Aryans bears sufficient testimony to the fact. The hymns of the rigveda reveal two hostile people. viz., the ‘Aryans’ and ‘Dasyu’ or ‘Dasa’. The term ‘Arya’ means noble or virtuous. The words ‘Dasyu’ and ‘Dasa’ signify enemy and slave respectively.

In course of time when the Aryans, having grown in overwhelming numbers, they classified themselves into four divisions according to their different qualities (guna) and actions (karmas) in order to organize their society and set it upon sound basis. These four fold classification known, as varnas has been a pre-dominant feature of Hindu social fabric.

The Rig Vedic age and the strong rigidity of the age of the Sutras. The term Varna was now used in the sense of the caste not in the sense of color in this age. In the sutra period Varna system was rigid. Various restrictions were imposed. In this period only untouchability had begun to creep in.

The idea was certain person’s defile, while others sanctify the company. If they sit down to a meal in one row is present in the sutras. In this idea may be discerned the origin of the later practice not to dine in the same row with people of other castes than one’s own. The idea that an impure person imparts pollution by his touch and even by his near approach to a member of the first three castes finds definite expression in the law texts of this period generally with reference to the persons who are out-casted and even specifically in relation to a class of people called chandalas.

In post-vedic times society was clearly divided into four varnas. Each varna was assigned well defined functions, although it was emphasized that varna was based on birth and the two higher varnas were given special privileges. The first three varnas were dvijas or twice-born, were entitled to wearing sacred thread and studying Vedas and the sudras did not possess any such rights. The sudras were treated as slaves and has only right to serve the three other higher varnas. Some of the sudras

were treated as untouchables. Who lived outside the city gates and had to strike a bamboostick on the floor, while traveling on the road-side so that people might take precaution and were not touched.

II. CRITICAL IMPACTS

Internet is said to be mode of Global Communication but with the benefit it imparts there are various evils which are easily spread through it. The biggest of the evil being *Untouchability and Poverty* which not considered as evil in most of the developed nation and considering the same to be the part to be free speech and expression right but even in these nation the law related to banning of *Untouchability* has been made as there are limitation as to what the content can be considered as part of right to speech and expression. Now to understand what do we mean by poverty we need to understand what actually it is and how the Internet actually helps in progress of the same. To define *Untouchability* is a tedious task as the perception to the inclusion of various persons and to what extent of this phenomomina can be the consideration of what to include in the definition. The researchers have been examined this problem in various religions environment.

2.2 Hindu Period

The aborigines after a long period of struggle were subdued but could not be obliterated. They were branded as untouchables or out-castes who serviced amid all sorts of calamities and hardships. Before the advent of the Aryans they lived and flourished in India. They ruled the country and had a well-establishment government. They however left no written records. Their literature perished with their power. Form the rude stone circles and the slabs and mounds beneath which they buried their deeds we come to know that they knew how to make round pots of hard, thin earthenware's: that they fought with iron weapons and wore ornaments of copper and gold.

The aborigines tribes were also not devoid of religious rites, they adorn, says an ancient Sanskrit book: the bodies of their deeds with gifts, with raiment with ornaments: that thereby they shall attam the word to come. The dasyus as a whole did not wish to enter the Aryan social structure. They had their own religion and rites, and were also through superstition, averse from eating food cooked by or drinking water afforded by the Aryans. They was a very bold and courageous people. Many of their tribes never yielded to the Aryan invaders. The aboriginal hill tribes are recognized to this day as distinct from the Hindu population. The santhals and the bhils are counted among the bravest and boldest tribes in India.

2.2 Muslim Period

An Iberuni, writing in about A.D. 1020, grouped together dom and chandala. as two of the groups not reckoned among any caste or guild. They are occupied with dirty works, like the cleansing of villages and other services and distinguished only by their occupations. So the Hindus had developed a very complex social structure by the beginning of the 11th century. Inter-marriage and inter-dinning were strictly prohibited. The untouchables lived outside the towns and villages^[5, 6]. They suffered from many social and economic disabilities which made their lives miserable. The ruling elite and the orthodox Brahmin shut themselves into the ivory towers of caste-system and were cut-off from the main stream of the society or the masses. Because of much rigidity, the untouchables became a prey to the process of conversion started by the Muslims. Many of these untouchables and low caste people embraced Islam and joined the invaders partly to avoid prosecution, partly in search of freedom^[7].

2.3 British Period

Conjunction with the non secular, subculture and linguistic diversity, India has additionally developed a unique form of social stratification referred to as the caste machine. But, what's greater good sized than the caste gadget is the advent within the Indian society of social organizations which might be identified as? Untouchables? ^[1, 2 and 4]. At the same time as those social businesses that managed the monetary assets and wielded political energy have become the privileged upper castes, others were handled as social outcastes. Without access to the vital monetary sources and bargaining power, they became the most exploited peripheral organization within the Indian society. The social customs disadvantaged harijans in their proper to are looking for higher social reputation by means of taking to occupations other than the hereditary ones economically they have been the poorest of the poor, toiling in maximum unremuncrative and regularly degrading occupations. Historic evidence indicates that the harijans had been completely with the aid of handed by using the controlling elite institution^[3]. They have been unnoticed via the elite formation and flow procedure together with wars. Pre-British royal land grants, British India land settlements, industrial expansions and spread of English training. The British rule wakened harijans to the enquiry of sure social customs and spiritual traditions. One such socio-spiritual tradition became the practice of untouchability most of the Hindus. So before independence, the reform movements and political awakening at some stage in 19th century had been urban and more often than not remained as upper caste affairs.

III. INDIA'S LEGISLATIVE RESPONSE TO UNTOUCHABILITY

The rapid growth of internet and technology has resulted in the rise and availability of untouchability and poverty in India. In the light of these technological advancements and otherwise, the Indian Government has enacted various reforms to strengthen the legal frameworks.

3.1. Constitutional Abolition

The Constitution of 1950 enacts as justifiable fundamental rights a battery of provisions designed to eliminate caste discrimination on the part of government bodies^[1]. Most of the Fundamental Right conferred by the Constitution is restrictions solely on the actions of the state^[1]. But several provisions, including those concerning untouchability, go beyond this to regulate private as well as official behaviour.

Untouchability abolished by Article-17 of Indian Constitution but practically it exists in the society till now because non-proper and effective enforcement of this **The Protection of Civil Rights Act (PCRA), 1955**, Although The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) **Act, 1989** and other code provisions are being enforced through the court but it is not sufficient to the social upliftment of the SC in 21st century.

Article 17 provides that: “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability in arising out of “Untouchability” shall be an offense punishable in accordance with law^[1].

Article 29 (2) forbids persons in charge of “any educational institution... receiving aid out of state funds” to deny admission to an applicant “on grounds only of religion, race, caste, language or any of them” **Article 23**^[4] prohibits beggar and forced labour.

Article 25, which guarantees freedom to progress, practice and propagate religion is specifically made subject to the other fundamental rights provisions and is explicitly qualified by the proviso that ;

(2) Nothing in this article shall affect the operation of any existing law or prevent the state from making any law

(b) Providing for social welfare or reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Thus a broad range of disabilities is directly outlawed and government is empowered to take corrective action.

Article 17 not only forbids the practice of “untouchability” but declares that “enforcement of disabilities arising out of ‘Untouchability’ shall be an offense punishable in accordance with law.”

Article 35 provides that “parliament shall have” and the Legislature of a state shall not have. Power to make laws prescribing punishment for those acts which are declared to be offense under this part” [i.e., the Fundamental Rights section of the Constitution]. Parliament is specifically directed to “make laws prescribing punishment” for acts declared offenses in part III “as soon as may be after the commencement of this Constitution. “Until parliament discharged this duty, existing law prescribing punishment for such acts were continued on force”. “Until alerted or repealed or amended by parliament”^[1, 6, 10 and 11]. Thus existing state (i.e., provincial) law was continued in force^[1], but was frozen in its then-existing form, beyond the power of the state legislatures to modify or repeal^[1, 3].

Under Article 35 (a) (ii), Parliament passed the Untouchability (Offences) Act 1955. The **Untouchability (Offences) Bill 1954 (No 14 of 1954)**, which took final shape as The Untouchability (Offences) **Act 1955** was introduced in the Lok Sabha on 15th March 1955 [2,7]. The Members of Parliament while commending the bill, labeled it as a ‘belated measure’ because it took more than four years for the Government to introduce such legislation after the promulgation of the Constitution. After inviting suggestions from various organizations the bill was introduced in the Lok Sabha. During the discussion on the Bill in the Rajya Sabha, Dr. Ambedkar had had said that the name of the legislation should be ‘**The Civil Rights (Untouchables) Protection Act**’ so that it would indicate enforcement and protection of rights in addition to punishment of offenders^[4].

It is trite to say that law is an important tool for social change. Through its systems of incentives and deterrents, law plays a pivotal role in shaping public opinion, and this is the first step towards moving away from deeply entrenched values and mores which have lost their justification in present-day society^[8]. Keeping this in mind, this Study will first examine the legal responses to untouchability from pre-British times up to independence, and then examine the legal framework for combating untouchability following the enactment of the Constitution^[5]. It will focus on the working and implementation of **The Protection of Civil Rights Act (PCRA), 1955**, and will discuss issues pertaining to the substantive content of the Act as well as the institutional setup for operationalizing the Act. This report has made use of data collected through a field study as well as other secondary sources on this issue. The constitutionality of this Act was challenged in **Banamali Das V. Pankhu Bhandari**, High Court held that the act was constitutional and valid.

IV. ANALYTICAL VIEW

In order to study the relevance of under on “The Protection of Civil Rights Act, 1955 and Its Implementation an analytical study” present study in Figures1.



Fig.1 Analytical view of Civil Rights

V. CONCLUSIONS

India being one the youngest nations in the world has a large fault of poverty and untouchability to account for. In this regard the laws should be made in consonance and for the betterment of this task as they serve as the future of this country. The problem related to regulation of the same are huge and some suggestions in this regard are a) Acquire technical knowledge and expertise in Internet tools. b) Establish links with other agencies and jurisdictions. c) Establish links with Society. d) To strengthen the central authority and a proper communication channel to be setup. It is important to have an international understanding and consolidated effort to abolish poverty. As discussed above, a lot of international and national initiatives have been taken place in this century to curtail untouchability. But even now a lot has to be done to achieve this goal. The present law needs to be improved to churn out untouchability. Moreover, the law enforcement officials, much like technology must evolve from time to time so as to meet the needs of the society and protect the interests of the society.

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- [2]. Shamdasani V. Central Bank of India, A.I.R. 1952 S.C. 59. The “State” includes all governmental authorities, local as well as central Art.12.
- [3]. Only two other provisions in the Fundamental Rights section of the Constitution regulate private as well as public conduct: Art. 24, which forbids child labor in hazardous employment; and Art. 18(2) which prohibits acceptance of titles from foreign states.
- [4]. Article 15(1) forbids discrimination by the state on grounds of caste. Other provisions deal with specific areas of governmental activity: Art. 16(2) with government employment; Art. 23(2) with compulsory public service; Art. 29(2) with admission to state-aided educational institutions. Cf. Art 325 which forbids separate electorates for parliament or state of these legislatures on caste lines.
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