



EXPLORING THE LEGAL FRAMEWORK AGAINST UNTOUCHABILITY IN INDIA: A COMPREHENSIVE ANALYSIS OF RECENT DATA AND SOCIO-LEGAL IMPLICATIONS

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Abstract: Untouchability is a widespread practice in India that involves discrimination and segregation of people based on caste. Untouchability in any form has been banned and has been made a punishable offence. Despite its flaws, the SC/ST (PoA) Act has protected underprivileged people from blatant abuse. The state has an obligation to prevent violations of the fundamental right guaranteed by Article 17 of the constitution. The recent data shows that thousands of cases are reported where heinous offences are committed against untouchable groups. The disturbing trend in the report stated that the conviction rate is very low in these cases. While progress has been made, it remains essential to persist in the battle against untouchability through education, awareness, and the strict application of laws.

Index Terms: Untouchability, Constitution, Atrocity, Dalit, Judiciary, Investigation

Introduction

“The root of ‘untouchability’ is the caste system; the root of caste system is religion attached to Varna and Ashram and the root of varnashrama is the Brahmanical religion and the root of religion is authoritarianism and political power”.

Dr. B.R. Ambedkar

With more than a billion people, India is not only the largest democracy in the world but also one of the oldest civilisations. Its Constitution is the longest and most comprehensive in the world and it ensures that all of its residents have the right to live in dignity. However, a portion of most marginalised population still experiences cruel discrimination and atrocities in the twenty-first century since they were born into castes that have historically been devalued in the Hindu social order. According to the Indian Constitution, these groups are categorised as Scheduled Tribes (Adivasis) and Scheduled Castes (Dalits). As per the latest 2011 Census of India, the number of Scheduled Tribes in India is 20,13,78,086 which constitutes 16.63% of the total population and the population of Scheduled Tribes is 10,42,81,034 people which constitutes 8.61% of the total Indian population.¹

For generations, the scourge of untouchability has pervaded the society. Since ancient times, untouchables have endured cruel treatment just because they were not members of the "elite class" of society. One type of social institution that legitimises and upholds discriminatory, degrading, excluding, and exploitative acts against members of particular social groups is untouchability.

Meaning of Untouchability

The Encyclopaedia Britannica (2024) gives the concept of untouchability that can be summarised as untouchability is a social institution that discriminates against people based on their caste and occupation. It

¹ Schedule Tribes in India, available at: <https://www.jagranjosh.com/general-knowledge/schedule-tribes-in-india-1448689214-1> (last visited on Dec. 22, 2024).

is a form of social exclusion that is based on the Indian Caste System. The term "untouchable" is most commonly associated with the Dalit communities in the Indian subcontinent.

Untouchability refers to the practice of discriminating against various individuals and groups based on their caste and occupation. This practice has existed for long time. It is rooted in the Indian caste system. Individuals classified as untouchables often endure cruel treatment because of their lower caste status. They have been subjected to various forms of discrimination across nearly all aspects of life.

The term Dalit means 'oppressed' or 'broken' and is commonly used to describe those who were historically deemed 'untouchable' due to the impurity associated with their traditional 'outcaste' jobs. Dalits encounter discrimination at nearly every level from obtaining education and healthcare to limitations on where they can reside and what employment opportunities are available to them.

Objective of the Study

The present study has been undertaken with the following objectives-

- i) To study the effectiveness of the international provisions and constitutional guarantee for abolition of untouchability.
- ii) To study the efficacy of the Scheduled Caste and Scheduled Tribe (PoA) Act, 1989 and other laws relating to this problem.
- iii) to analyse the magnitude of the offences inflicted against untouchable communities.
- iv) To highlight the provisions of existing laws and to evaluate role of judiciary to abolish this evil practice and to protect the rights of untouchable groups.

Literature Review

The material for the study was collected from primary and secondary sources i.e. numerous books, articles, journals, reports, laws, court decisions etc. have been consulted. This study also made extensive use of materials available on websites.

International Human Rights Law

International Convention on The Elimination of All Forms of Racial Discrimination, 1965

The Committee on the Elimination of Racial Discrimination (CERD) affirmed that "the situation of Scheduled Castes and Scheduled Tribes falls within the scope of "the International Convention on the Elimination of All Forms of Racial Discrimination, 1965.

Article 6 of the convention provides that state parties shall "assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other state institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination."

According to Article 7, "States parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups.....".

International Covenant on Civil and Political Rights, 1966

A multilateral agreement known as the International Covenant on Civil and Political Rights (ICCPR) binds states to uphold people's civil and political rights, such as the freedom of expression, the right to vote, the right to life, the right to freedom of religion, the right to free speech, the right to assemble, and the right to due process and a fair trial.

The Covenant's Article 6 acknowledges each person's "inherent right to life" and mandates that it be legally protected. Torture and cruel, inhuman, or degrading treatment or punishment are forbidden by Article 7. Article 9 guarantees the right to liberty and security of person, which includes the right to be free from arbitrary arrest and detention, the right to a fair trial or release, and the right to compensation for those who have been wrongfully arrested or detained.

The right to equal protection is guaranteed by Article 26 of the ICCPR, which also forbids discrimination on the basis of race, sex, religion, political or other opinions, social origin, birth, or any other status.

International Covenant on Economic, Social and Cultural Rights, 1966

According to Article 2 of the Covenant, States Parties should make sure that the rights outlined in this agreement are exercised without any form of discrimination based on race, colour, sex, language, religion, political beliefs, national or social origin, property, birth, or any other status.

Article 7 of the International Covenant on Economic, Social and Cultural Rights provides that state parties shall "recognize the right of everyone to the enjoyment of just and favourable conditions of work". These include "fair wages and equal remuneration for work of equal value without distinction of any kind," and "safe and healthy work conditions".

Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, 1984

The Convention requires member states to take effective measures to prevent torture in any territory under their jurisdiction, and forbids member states to transport people to any country where there is reason to believe they will be tortured.

The convention defines torture as:

“Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”.²

Provisions under Indian Constitution against Untouchability

The goal of the Indian Constitution, as a significant social document, is to change the hierarchical, mediaeval society into a modern, egalitarian one. The construction of social justice for India's poorer classes and marginalised groups is the goal of the Fundamental Rights, the Directive Principles of State Policy, and the Reservations rules in Public Service.

The Preamble

The Preamble, essential to the Constitution of India, encapsulates justice—both economic and political—liberty of thought and expression, and the fraternity among individuals. Through the 42nd Constitutional Amendment Act of 1976, the terms socialist and secular were incorporated into the preamble. The term socialist signifies India's strong commitment to establishing a socialistic structure of society, founded on economic and social equality. The term Secular holds particular importance as it is a fundamental aspect of the Indian Constitution. In the Preamble, 'Fraternity' emphasizes human values by honouring the dignity of individual personality. Article Seventeen pertains to the 'Abolition of Untouchability,' promoting the idea of brotherhood.

Consequently, social justice requires the elimination of social disparities rooted in caste, colour, race, creed, etc. Economic justice excludes any differentiation among individuals regarding economic worth. "The unchecked accumulation of wealth would lead to the division of Indian society, and economic exploitation results in the rise of social inequalities."

The Preamble clearly affirms social justice. The Preamble to the Constitution of India addresses social justice, promoting a society founded on economic and social equality. In India's context, the marginalized groups and downtrodden classes have long aspired for a society like this; while the caste system and its associated ills persist, a socialistic patterned society will remain a fantasy. Thus, the eradication of caste and economic disparity are the directives of the Constitution's Preamble. The term "Fraternity" in the Constitution's preamble emphasizes human values by honoring the dignity of individual personalities. Article 17 of the Constitution, which signifies the elimination of untouchability, serves as an example of the promotion of the idea of Equality.

Article 17 of the Indian Constitution

Article 17 of the Indian Constitution explicitly forbids the practice of untouchability in all its forms. It declares that "Untouchability" has been eliminated and that any form of its practice is banned. The imposition of any disability resulting from "Untouchability" shall be considered a punishable offense under the law. This provision was added to the Constitution to guarantee the abolishment of untouchability in Indian society and to safeguard the rights of Dalits.

The issue with the perception of untouchability is its ongoing link to the Scheduled Castes, despite the Protection of Civil Rights Act, 1955, (PCRA) stating in its object and reasons that the Act's application is not limited to Hindus alone. Moreover, there is a belief that an individual from the Scheduled Caste, who has historically faced untouchability, cannot likewise engage in the practice of untouchability. A definition of

² *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

ADOPTED 10 December 1984 by General Assembly resolution 39/46, United Nations Human Rights, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading> (last visited on 20 Dec. 2024).

untouchability that tackles this issue must clarify that the idea of untouchability is distinct from any varna hierarchy or affiliation with any caste or religion.

Even with constitutional measures and several laws enacted to safeguard the rights of Dalits, discrimination and violence towards them persist in different regions of India. They encounter social, economic, and political marginalization, and their opportunities for education, healthcare, and employment are restricted. Many Dalits are compelled to take on poorly paid positions like manual scavenging, which entails removing human waste, a practice that is prohibited yet persists in certain regions of India.

The Directive Principles of State Policy and Social Justice

Part IV of the Indian Constitution addresses the Directive Principles of State Policy. It is once again a confirmation that is already included in the Preamble to the Constitution, a societal structure founded on social justice, i.e. "Liberty, Equality, Fraternity, and Human Dignity." It signifies the creation of an equal society, founded on economic and social fairness.

Article 38 states that "The State shall endeavour to enhance the well-being of the populace by ensuring and safeguarding to the best of its ability a social framework where justice social economic and political shall prevail in the structure of national existence." It aims to achieve social and economic equality. Dr. B.R. Ambedkar stated that political democracy cannot thrive in the absence of social and economic democracy. Social and economic democracy form the foundation and essence of a political democracy. The more resilient the tissue and the fiber, the stronger the body politic.³

Article 46 states that "The State shall ensure special attention to the weaker sections, especially the SCs/STs, and will safeguard them from any form of exploitation and social injustice." In *M.R. Balaji v. State of Mysore*, the apex court highlighted the necessity of balancing the interests of the groups of people protected by Article 46 with those of the broader society. In the case of *Kesavananda Bharati v. State of Kerala*, the Hon'ble Supreme Court has acknowledged a broad application of article 46 in relation to articles 15 and 16, especially regarding special provisions for the SCs.

The Protection of Civil Rights Act, 1955

Throughout the 19th and 20th centuries, the rule of law brought about social change. The goal of criminal law was to deter deviance. Therefore, the threat of criminal law is a powerful tool for bringing about social change. Untouchability was outlawed and its practice made unlawful by Article 17 of the Constitution. In order to penalize the practice of untouchability, Parliament passed the Untouchability (Offences) Act in 1955. This was later changed to become the Protection of Civil Rights Act of 1976. This Act made it punishable to practice "untouchability" due to social and religious disabilities. The Preamble of the Protection of Civil Rights Act, 1976 says:

"To prevent the commission of offences of atrocities against the members of Scheduled Castes and Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto."

Article 17 of the Indian Constitution states that untouchability is outlawed and that its practice in any form is prohibited. The Protection of Civil Rights Act, 1955, is an act that establishes penalties for the propagation and application of untouchability and the enforcement of any disabilities resulting from it. According to the Act, anyone who prevents someone on the grounds of "untouchability" from: (a) entering a place of public worship that is accessible to other people who practice the same religion or any section thereof, as such or (b) worshiping, praying, or performing a religious service in any place of public worship, or bathing in, or using the waters of, any sacred tank, well, spring, or water-course, river, or lake, or bathing at any ghat of such tank, water-course, in the same way and to the same extent as other people who professing the same religion, or any section thereof, as such shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

The Protection of Civil Rights Act nearly fell short of its goals because of legal flaws and less severe penalties than those found in the Indian Penal Code (IPC). To enforce such social legislation, the law enforcement apparatus lacked the necessary professional training and even social inclination. Therefore, in order to shield SCs and STs from violence perpetrated by other communities, a more comprehensive and harsher Act was needed.

³ Prof. Dr. Lella Karunyakara, AMBEDKAR'S CONCEPTION OF DEMOCRACY, *International Journal of Creative Research Thoughts*, (IJCRT), available at: <https://ijcrt.org/papers/IJCRT2103329.pdf> (last visited on Jan. 10, 2025).

The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989⁴

It is a special statute that addresses offences committed exclusively against Indian SC/ST members. In addition to offering victims legal assistance, the law is in place to register and prosecute a variety of discriminatory acts against caste and tribal identity. The purpose of the Act is to prevent atrocity crimes against members of Scheduled Castes and Scheduled Tribes, to establish Exclusive Special Courts for the trial of such crimes, to provide relief and rehabilitation to victims of such crimes, and to address issues related to or incidental to these crimes.

When the Bill was introduced in Parliament, it was noted in the "Statement of Objects and Reasons" that, in spite of several efforts to improve the socioeconomic circumstances of Scheduled Castes and Scheduled Tribes, they continued to be at risk. They face numerous offences, humiliations, harassment, and indignities in addition to being denied a variety of civil rights. They have been brutally dispossessed of their property and life on multiple occasions. They are the target of severe atrocities for a variety of historical, social, and financial reasons. The Act, for the first time, lays down the contours of 'atrocities' so as to cover all multiple ways through which members of scheduled castes and scheduled tribes have been for centuries humiliated, brutally oppressed, degraded, denied their economic and social rights and relegated to perform the most menial jobs.

The SC/ST (PoA) Act, 1989, states in Sections 21(1) and (2) that the State Government must take all necessary steps to ensure its effective implementation. The Central Government is authorised by Section 23(1) of the Act to establish regulations for implementing the Act's objectives. Based on this section, the Scheduled Castes and Scheduled Tribes (PoA) Rules of 1995 were formulated.

The SC/ST (PoA) Act, 1989, provides under Sections 21(1) and (2) that the State Government must take all necessary steps to ensure its effective implementation. The Central Government is authorised by Section 23(1) of the Act to establish regulations for implementing the Act's objectives. The Scheduled Castes and Scheduled Tribes (POA) Rules of 1995 were formulated with authority from this clause. The Act's regulations were announced on March 31, 1995.

Despite its flaws, the SC/ST (PoA) Act has protected underprivileged people from blatant abuse. Tribals and Dalits continue to be discriminated against. However, stories about the abuse of the Act's powers against innocent people have been continuously developing. According to the Supreme Court of India, some people are using the SC/ST (PoA) Act as a means of "blackmail" to get "vengeance" and appease special interests.⁵ With the elaborate arrangements to protect SCs, it was necessary to monitor whether benefits were reaching the targeted communities and safeguards were getting enforced. Therefore, laws were made to set up watchdog institutions to look after this task. Four such institutions have been set up. While the National Commission for SCs and STs has been set up under the Constitution itself, National Human Rights Commission, National Commission for Women and National Commission for Safai Karamcharis were the creation of separate Acts, i.e. Protection of Human Rights Act, 1993, National Commission for Women Act, 1990 and National Commission for Safai Karamcharis Act, 1993 respectively. National Human Rights Commission and National Commission for Women cater to complaints of all sections of society irrespective of caste within their specified mandate.

Magnitude of the Problem – Recent Scenarios

Atrocities against the weaker classes make headlines every day in India, where class supremacy is a prevalent practice. These individuals frequently experience violence, exclusion, and discrimination.

The National Crime Records Bureau of India reports that one crime against a Dalit occurs every 18 minutes. Every week, 13 Dalits are killed. Every day, 27 Dalits are the victims of atrocities. An estimated 45,935 violent incidents are reported annually. Tragically, violence against Dalits occurs on a daily basis.⁶

More than half (54%) of Dalit children suffer from undernutrition, 21% are seriously underweight, and 12% pass away before turning five, according to the National Human Rights Commission (2012). Dalits have

⁴ The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, herein after called as SC/ST (PoA) Act.

⁵ Prathvi Raj Chauhan & Priya Sharma v. Union of India, available at: https://www.scobserver.in/wp-content/uploads/2021/09/SC_ST_Petition_1.pdf (last visited on Jan. 10, 2025).

⁶ David Alton, *1 crime is committed against a Dalit every 18 minutes. 13 Dalits murdered every week. 27 atrocities against Dalits every day. According to India's National Crime Records Bureau, some 45,935 cases of violence are recorded each year. Violence against the Dalit is a tragic, daily occurrence.*, available at: <https://www.davidalton.net/2024/09/27/1-crime-is-committed-against-a-dalit-every-18-minutes-13-dalits-murdered-every-week-27-atrocities-against-dalits-every-day-according-to-indias-national-crime-records-bureau-some-45935-cases-of-v/> (last visited on Jan. 10, 2025).

an infant mortality rate of 83 per 1000 live births. Just 27% of Dalit avail institutional facilities to give birth child. Public health personnel declined to visit Dalit families in 33 percent of the villages.

The National Human Rights Commission (2012) reports that more than half (54%) of Dalit children suffer from undernutrition, with 21% classified as severely underweight, and 12% do not survive past their fifth birthday. The Infant Mortality Rate for Dalits stands at 83 per 1,000 live births. Only 27% of Dalit women have access to institutional deliveries. In 33% of villages, health workers have refused to visit Dalit households.⁷

As per data from the National Crime Records Bureau (NCRB), more than 130,000 crimes against Dalits were recorded between 2018 and 2020. Uttar Pradesh had the highest incidence of anti-Dalit crimes at 36,467, followed by Bihar at 20,973, Rajasthan at 18,418, and Madhya Pradesh at 16,952.⁸

More than 1.44 lakh cases of atrocities against Scheduled Castes and 23,408 cases of atrocities against Scheduled Tribes were brought before the courts in 2016, the year the National Crime Record Bureau last published data on the subject. The majority of victims are either women or members of the underprivileged social groups. Violence against Dalits has persisted far into the twenty-first century, despite constitutional safeguards protecting their rights in post-independence India. It has been noted that society and the State work together to maintain their marginalisation. Police institutional bias is sometimes the first obstacle victims of caste violence face when they attempt to get justice. The police need to record their First Information Reports (FIR), which they are often reluctant to do.

The National Crime Records Bureau (NCRB) reports that in 2020, there was a 9.3% increase in atrocities against Dalit people. According to the annual report, which was released on August 29, 2021, crimes and atrocities against scheduled castes rose by 1.2% in comparison to 2020. (50,291 instances).⁹

The SC/ST (PoA) Act's most recent government data shows that 13 states accounted for 98.91% of all atrocities committed against Scheduled Tribes (STs) in 2022. From 25.3 in 2021 to 28.6 in 2022, the crime rate increased. With 12,287 instances, Uttar Pradesh contributed for 23.78% of the 51,656 cases filed under the law for Scheduled Castes (SCs) in 2022. Rajasthan and Madhya Pradesh followed with 8,651 (16.75%) and 7,732 (14.97%) cases, respectively. According to a review of this data from 2018 to 2022, the conviction and charge-sheeting rates remained pitifully low despite an increase in atrocity cases against SC and ST populations.¹⁰

As per the Citizens for Justice and Peace (CJP) report available at their official online source, since last year during July to September around 22 brutal incidents highlighted. Few incidents are mentioned to highlight the level brutality and inhumanity inflicted to these helpless persons.

In a shocking instance of caste-based violence in July 2024, three young people from the higher caste forced a 15-year-old Dalit kid from Uttar Pradesh's Shravasti district to swallow urine. In August, there was another incident in the Koppal area of Karnataka where a 26-year-old Dalit man was fatally stabbed. In another incident, on July 21, 2024, an armed group viciously attacked Anish Kumar, a 24-year-old Dalit youth, in Kanakapura, Karnataka. In a startling display of violence, the attackers cut off Anish's left hand. In the Sabarkantha area of North Gujarat, a group of upper-caste males brutally attacked Ajay Parmar, a 24-year-old Dalit youngster.¹¹

Other heinous occurrences have occurred in the same months, such as the alleged attack and caste-based taunting of a Dalit woman in Uttar Pradesh's Banda area by a farmer and his son. Another incident was an attack on a Dalit groom and a number of guests at a wedding in Muzaaffarnagar, Uttar Pradesh. In one instance, which took place in Uttar Pradesh, the complainant claimed that following a personal argument with his wife,

⁷ *Socially Exclusion and Inequality: Opportunities in Agenda 2030, Sustainable Development Goals (SDGs): Their role in ending inequalities in India*, available at:

<https://sustainabledevelopment.un.org/content/documents/11145Social%20exclusion%20and%20Inequality-Study%20by%20GCAP%20India%20.pdf> (last visited on Jan. 11, 2025).

⁸ Kavita Chowdhury, Seven Decades After It Was Abolished, 'Untouchability' Continues to be Practiced in India, August 23, 2022, available at: <https://thedi diplomat.com/2022/08/seven-decades-after-it-was-abolished-untouchability-continues-to-be-practiced-in-india/> (last visited on Jan. 11, 2025).

⁹ Dhruvo Jyoti, *Crimes against Dalits, tribals increased in Covid pandemic year: NCRB*, Hindustan Times, New Delhi, available at: <https://www.hindustantimes.com/india-news/crimes-against-dalits-tribals-increased-in-covid-pandemic-year-ncrb-101631731260293.html> (last visited on Jan. 11, 2025).

¹⁰ *NCRB data shows increase in crimes against SCs and STs, UP and Rajasthan on top*, TNM Staff, 07 Dec 2023, available at: <https://www.thenewsminute.com/news/ncrb-data-shows-increase-in-crimes-against-scs-and-sts-up-and-rajasthan-on-top> (last visited on Jan. 10, 2025).

¹¹ *The alarming rise of anti-Dalit violence and discrimination in India: A series of gruesome incidents since July 2024*, 05, Sep 2024, CJP Team, available at: <https://cjp.org.in/the-alarming-rise-of-anti-dalit-violence-and-discrimination-in-india-a-series-of-gruesome-incidents-since-july-2024/> (last visited on Jan. 11, 2025).

police officials at the Dakiya Chowki police station cruelly tortured him. After passing their official vehicles, Rohit Valmiki, a Dalit sanitation worker in Khajuraho, Madhya Pradesh, claimed he was assaulted by police officers. In a shocking incident, a Dalit mother and her minor son were brutally beaten by police officials inside the Katni GRP police station in Madhya Pradesh in July, 2024.¹²

In September this year a case of Karnataka, where a 21-year-old Dalit woman named Mariamma from the Madiga community was allegedly poisoned to death following her inter-caste marriage. Another disturbing incident of Karnataka's Dakshina Kannada district, a 67-year-old Dalit elder person was viciously assaulted by a shopkeeper. In the same month, a 16-year-old Dalit girl was kidnapped and raped by a businessman's son in Barabanki district of Uttar Pradesh.

In another horrific incident in August 2024 in Gaya district of Bihar, a Dalit girl was raped by two upper-caste men in her own home. In another scary incident in Uttar Pradesh, a six-year-old Dalit child studying in class one was reportedly forced by teachers to clean toilets in his school and was later found locked in a classroom after classes had ended. In March this year, an eight-year-old Dalit boy was reportedly attacked in a village in Rajasthan's Alwar district for touching a bucket of water near a hand pump. In another case, which appeared shocking, a judge in Rajasthan's Karauli district reportedly ordered a Dalit gang-rape victim to strip naked so that her injuries could be examined.¹³

Untouchability is present in almost every sphere of life and is practiced in an infinite number of forms. At the village level, Dalits are barred from using wells used by non-Dalits, barbershops and temples, while at the level of employment and recruitment, Dalits are sympathetically paid less, ordered to do most manual work and are rarely promoted. Even in schools, children from untouchable communities may be asked to clean toilets and eat separately.

Status of Cases

The NCRB disclosed that there were 70,818 pending cases of atrocities against SCs that were awaiting investigation as of the end of 2021, which also included cases from the previous year. In the same manner, there were 12,159 pending cases of atrocities against STs awaiting investigation, and a total of 2,63,512 atrocities against SCs and 42,512 against STs were presented for trial in court. The conviction rates under the SC and ST (PoA) Act and the Indian Penal Code (IPC) remained at 36% for SCs and 28.1% for STs. By the end of the year, 96.0% of the cases of atrocities against SCs were still pending trial, whereas the figure for STs stood at 95.4%.¹⁴

As mentioned in the 2022 report, about 69,597 cases related to SCs and 12,417 cases concerning STs were recorded by the Police. Among these, chargesheets were submitted in 49,852 cases, and 77 cases were moved to another State or Agency. In the investigation phase, 65 cases were either dismissed or stayed by the court, and final reports were presented in 12,113 cases due to factors like false cases, of fact or law, or inadequate evidence, among others. It was noted that 60.38% of the cases involving Scheduled Castes were charge sheeted in courts during 2022, while in 14.78% of SC cases, final reports were submitted (including cases of false claims, errors of fact or law, or valid cases lacking sufficient evidence) throughout 2022. Importantly, the disturbing trend in the report also indicated that the conviction rate under the SC/ST (PoA) Act fell to 32.4% in 2022, a notable decrease from 39.2% in 2020.

As section 14 of the SC/ST (PoA) Act authorized the state government to set up Exclusive Special Courts for one or more districts to handle cases of atrocities and violence against Scheduled Castes and Scheduled Tribes with the aim of ensuring a swift trial in these matters, the existing number of Exclusive Special Courts in India is insufficient; there are only 194 special courts established among the total of 498 districts nationwide. The total number of special courts in the country falls short of even half of the total districts within the nation.

Judicial Observation

Regarding the problem of untouchability, Bhagwati, J., in C.M. Arumugham v. V.S. Rajgopal¹⁵, offered the following justification that "It is the orthodox Hindu society still dominated to a large extent, particularly in rural areas, by medievalist outlook and status-oriented approach which attaches social and economic

¹² *The alarming rise of anti-Dalit violence and discrimination in India: A series of gruesome incidents since July 2024*, 05, Sep 2024 | CJP Team, available at: <https://cjp.org.in/the-alarming-rise-of-anti-dalit-violence-and-discrimination-in-india-a-series-of-gruesome-incidents-since-july-2024/> (last visited on Jan. 11, 2025).

¹³ Aman Khan, *BJP-ruled states account for highest Dalit violence cases, UP on top, MP records highest reported crimes against STs*, September 25, 2024, available at: <https://sabrangindia.in/bjp-ruled-states-account-for-highest-dalit-violence-cases-up-on-top-mp-records-highest-reported-crimes-against-sts/> (last visited on Jan. 10, 2025).

¹⁴ *NCRB Report Shows Rise in Atrocities Towards Dalits and Adivasis*, News click Report, 31 Aug 2022, available at: <https://www.newsclick.in/NCRB-Report-Shows-Rise-Atrocities-Towards-Dalits-Adivasis> (last visited on Jan. 11, 2025).

¹⁵ AIR 1969 SC101

disabilities to a person belonging to a Scheduled Caste and that is why certain favoured treatment is given to him by the Constitution. Once such a person ceases to be a Hindu and becomes a Christian, the social and economic disabilities arising because of Hindu religion cease and hence it is no longer necessary to give him protection and for this reason he is deemed not to belong to a Scheduled Caste. Eventually the respondent who was decided as Christian and failed to prove his reconversion to a Hinduism was adjudged as not to belong to a Scheduled Caste”.

The Supreme Court ruled in *Devarajiah v. Padmanna*,¹⁶ that Article 17 was intended to put an end to the cruel practice of classifying some people as unclean just because they belong to a particular caste.

The Supreme Court ruled in *State of Karnataka v. Appa Balu Ingale*¹⁷ that untouchability was only a continuation of the caste system and an indirect form of slavery. The Court noted that untouchability and the caste system have stood together and will continue to do so. The caste system must be abolished as soon as possible for democracy and the rule of law to work properly.

In the case of *Surya Narayan Choudhary v. State of Rajasthan*,¹⁸ the Rajasthan High Court vehemently disagreed with the custom of purifying Dalits only before allowing them to worship in the temple by requiring them to wear "Kanthimala," dousing them in "Gangajal," and administering "Tulsidal." Because the practice violates Articles 14, 15, and 17 of the Constitution, the court ordered that it be stopped. C.J J.S. Verma in this case observed that “It is tragic that on the eve of Gandhi Jayanti we are debating a Harijans right to enter a public temple for worship as an equal; and directions of the Court be needed for enforcement of this right to equality. All men are born equal and the classification between them thereafter is manmade and artificial against the divine dictate. To present them as unequal before God is, therefore, injustice and an insult to our Maker besides being contrary to the guarantee and mandate of equality in our constitution and basic human right.”

"Article 17 illustrates the evil repercussion of the doctrine of waiver in its impact on the fundamental rights," noted J. Subba Rao in *Basheshar Nath v. Commissioner of Income Tax Delhi & Rajasthan*.¹⁹ Untouchability is expressly prohibited by this Article, it goes without saying that no one can request the State authority to relax those who involve in crimes.

The Rajasthan High Court examined how Article 17 of the Constitution is similar to the 13th Amendment of the US Constitution, which outlawed slavery, in the case of *Jay Singh v. Union of India*²⁰. Further, Court held that the state has an obligation to prevent violations of the fundamental right guaranteed by Article 17 of the constitution, which can be used against private individuals.

In *Dr. Ram Krishna Balothia v. Union of India and Ors.*²¹, the Madhya Pradesh High Court ruled that the SC/ST (PoA) Act's overall goal is to safeguard Scheduled Caste and Scheduled Tribe members while also ensuring a Special Court and a prompt trial for any violations. In order to address the underlying causes of atrocities that had deprived SCs and STs their fundamental civil rights, the Act includes affirmative action measures. The issue of justice administration has been resolved by the Act, but the issue of "rehabilitation" has not been addressed. The National Commission for Review and Working of the Constitution's report states that victims of atrocities and their families should receive all necessary financial assistance as well as any other help necessary to enable them to become financially independent.

An important ruling in Indian legal history is the case of *Dr. Subhash Kashinath Mahajan v. The State of Maharashtra*. This instance demonstrates the abuse of the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Additionally, the Supreme Court emphasised the necessity of strict procedural safeguards to stop arbitrary arrests and false accusations under the Act. This decision made clear how crucial it is to shield non-public citizens and public employees from pointless lawsuits while making sure that valid complaints under the SC/ST Act are taken care of.²²

Concluding Remarks

The Constitution of India prohibits the practice of untouchability; however, this social ill continues to persist in various regions of the country. Untouchables still face significant challenges in their quest for upliftment and recognition. As citizens of the Democratic Republic of India, it is our duty to honour the legacy of our reformers and the architects of our Constitution. We must strive to elevate all individuals, fostering a

¹⁶ AIR 1961 Mad. 35

¹⁷ [1992] Supp. (3) S.C.R. 284

¹⁸ AIR 1989 RAJ. 99

¹⁹ 1959 AIR 149

²⁰ AIR 1993 RAJ 177

²¹ AIR 1994 MP 143

²² AIR 2018 SUPREME COURT 1498, available at: <https://testbook.com/landmark-judgements/dr-subhash-kashinath-mahajan-vs-the-state-of-maharashtra> (last visited on Jan.10, 2025).

nation where people are evaluated based on their abilities and dedication rather than their caste. It has been aptly stated that "a small step taken today will undoubtedly lead to a larger step tomorrow."

While progress has been made, it remains essential to persist in the battle against untouchability through education, awareness, and the strict application of laws. India can only progress towards a society liberated from the constraints of untouchability by confronting entrenched biases and fostering inclusivity.

Nevertheless, it is evident that gradual changes are occurring; the mindset of the contemporary generation is evolving. The youth of today, equipped with modern education and a global perspective, are approaching the social structure from a standpoint of equality and fairness, rather than through the lens of religious or traditional beliefs.

It is to be hoped that the evil practice of untouchability will be eradicated from society in the near future, allowing our nation to enter a new era characterized by social equality and fraternity, embodying the true vision of India as envisioned by Gandhi and Ambedkar.

