

**SOCIAL JUSTICE VERSUS UNTOUCHABILITY**

Dr. Kishori Lal

LL.D.

**Abstract****^तुम रचना को न ठुकराओ| अपमान रचियता का होगा।\*\***

The word untouchability in the protection of civil rights act 1955 has been used in the same sense as in article 17 of the constitution<sup>1</sup>. But this term untouchability has not been defined either in the constitution or the act 1955. It was a product of the Hindu caste system, according to which a particular section amongst Hindus had been looked down as untouchable by the other section of that society<sup>2</sup>. The supreme court held that untouchability was an indirect form of slavery and only an extension of caste system<sup>3</sup>. It was however generally accepted in the constituent assembly that the purpose of article 17 was to abolish untouchability in all its forms whether it was untouchability within community or between various communities<sup>4</sup>.

**Keywords** : untouchability, eliminate, dishonour bestowed, democracy subsumes, coercive, strengthening, emanated, solidarity, synonyms, vices, ostracized stalwart, rescue, fabric, notwithstanding, assimilate.

**Introduction**

The dream of social justice can be realised when the devil of the untouchability will be eliminated from the society. the untouchability is a sin against the God and humanity as well as defence against the nation.

It is the bitter truth of life, that a dishonour is worst death, the nature bestowed the equality and equal amenities, dignities to all but man has created his own world with his own choice with full of abhorrence and discrimination.

"देख तेरे संसार की हालत क्या हो गई भगवान कि कितना बदल गया इंसान।"

The definition of democracy as government by the people of the people and for the people. And some wise head jibed at the plotter statement that our government is run on the track of "*rule of the law*". But the jumbo charge which traumatically subsumes the triple myth about the constitution democracy and rule of law, is that justice especially social justice is legally untouchable factually unapproachable and intellectually left inarticulate and vague.

"Law is a contribution of the rules and behaviour (norms) established or sanctioned by the State authority, reflecting the will of the ruling class. Rules of behaviour whose application is assured by the coercive power of the state for the purpose of protecting, strengthening and developing relationship and procedures suitable and beneficial to the ruling classes". (Keshavanand Bharati vs State of Kerala 1973 SCC 225).

The concept of social justice emanated from the principles of natural justice and the modern concept of social justice was first coined by **Sicilian Priest Taparalli d Azigilo** in the year 1840. Thus, social justice could be justice for society right and social justice generally refers to the idea of creating a society or institution that is based on the principles of equality and solidarity. it is a concept of making opportunities available to all or in other way social justice is a synonyms for socialist government.

The concept of social justice is incomplete unless, untouchability, discrimination along with other social vices are prevalent in our society. Untouchability is an evil which has been prevalent in Indian society since centuries. It's origin can be traced to the Hindu caste system with Brahmin occupying the highest rung of structural hierarchy; and the Shudras, the so-called untouchable of the other end. History as recorded a host of human atrocities being committed on those who are unfortunate to be born on the lowest rung of the caste ladder. Apart from being forced to do unclean job, they were also socially ostracized and denied access to public places like Wells, bathing ghats restaurants etc. In some parts of India even if the shadow of an untouchable fell on a high caste Hindu, it called for elaboratic cleaning rituals. It was the great Indian leader, social reformer, farmer of the great Indian constitution stalwart Dr. B.R. Ambedkar who came to the rescue of these unfortunate masses and sought to remove the word "untouchability" from the Indian social fabric.

The Art. 17 of the Constitution of the India which laid down that 'untouchability' is abolished, and its practice in any form is forbidden. Later Parliament also passed the Untouchability (offence) Act, 1955 under which the practice of untouchability became a cognizable offence. In 1976 several important amendments were carried out by the parliament and rechristened as to "The Protection of Civil Rights Act, 1976". This act has an overriding effect and its provisions are to take notwithstanding anything inconsistent in any other law for customs or usages.

The object of the Act is to liberate the so called "untouchables" from the shackles of the slavery in to which the caste system had put them since years and to assimilate them into the mainstream of India's social life. The Act seeks to established an ideal Indian society, where none would suffer from ancient system of untouchability. It's seeks to liberate the masses of downtrodden and neglected part of India's population and to adorn them with the dignity and self-respect without which the content of preamble and basic goal of the Indian Constitution would never turn in reality.

It is very interesting to know that the word "untouchability" is not defined in Article 17 of the Constitution or in the Protection of Civil Rights Act, 1955. The term is perhaps not capable of a precise legal definition and is intended to cover all acts and atrocities committed against an "untouchable" in any form what so ever the world "untouchability" is always used with inverted commas, perhaps to indicate that it is not to be understood in its dictionary meaning but in a broader historical sense. The Supreme Court in State of Karnataka versus Appa Balt (AIR 1993 SC 1126) has remarked that although "untouchability" is totally abolished on paper, it is never the less being practiced with impunity all over the country. This could be due to general apathy, both at the state level and the individual level. More vigilance is called for so that the goals set out by our constitution may be achieved. The following are the acts which may amounts to the offence of "untouchability".

- (a) Enforcing religious disabilities
- (b) Enforcing social disabilities.
- (c) refusing to admit person to hospital.
- (d) Refusing to sell goods or render services.

(e) Other offences arising of untouchability.

The Hon'ble Supreme Court (*in Devaraji versus Padmna AIR 1958 Mys 84*) has held that the fundamental rights under Article 17 are available against private individuals and it is the Constitutional duty of the state to take necessary steps to see that these fundamental rights are not violated Art. 15 (2) is also adminiculate to Art. 17 in the eradication of untouchability. The provision of it enshrined in our constitution as follows.

- a) Refusing admission to any person to public institution such as hospital, dispensary, educational institution.
- b) preventing any person from worshipping for offering prayers in any place of public worship.
- c) Subjecting any person to any disability with regard to access to any shop, public restaurants, hotel or public entertainment or with regard to the use of any reservoir tab or other sources of water, road, cremation ground or any other place "**where services are rendered to public**".

The following are the methods by which a person can commit an offence of untouchability

- (i). Insulting a member of downtrodden society, SC/ST on the ground to untouchability.
- (ii). Reaching untouchability directly or indirectly.
- (iii). Justifying untouchability on historical, philosophical, religious ground or on the traditional of caste system.

The untouchability is a social practice of ostracizing a minority group by segregating them from the mainstream of the civilization, democratic front of the nation. The various provision related to untouchability in our Constitution has been enshrined in Art. 15, 17, 38, 46 and 51 A(e) which have emphasize on the ideology of the social justice. The fundamental duties of the Indian is that "to promote harmony and the spirit of the common brotherhood amongst all the people of the India transcending, religious, linguistic and regional or sectional diversities to remove practices derogatory to the dignity of the women."

### Conclusion

Untouchability may be classified as mental and physical, the evil of untouchability is a stigma on the democracy of India and such leprosy curse which restrained the versatile development of our society. Though this evil has been abolished in writing in the Constitution, but genuinely, it required to be removed from the mental surface of the people. The contribution of Dr. B. R. Ambedkar against the eradication of this social vice will be reminiscence forever.

### References

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