Chapter -2

The historical background of caste system and atrocities related to the Scheduled Castes and the Scheduled Tribes

Every society is stratified in one way or another and the possibility of absence of any stratification in any society is almost very remote. In India we find social stratification in the form of caste, based on the birth of the individual in a particular caste/family.

The meaning and origin of the word caste:-

The word "Caste" owes its origins to the Spanish word 'Casta' which means 'breed, race, strain or a complex of hereditary qualities.' The Portuguese applied this term to the classes of people in India, known by the name of 'jati.' The English word 'Caste' is an adjustment of the original term 'Casta.' According to Henry Maine "Castes started as natural division of occupational classes and eventually upon receiving the religious sanction became solidified into the existing caste system. The caste system comes into being when it becomes an integral part of religious dogma which divides the people into superior and inferior groups with different responsibilities, functions and standards of living." Martindale and Monocheest defined Caste as "an aggregate of persons whose share of obligations and privileges are fixed by birth, sanctioned and supported by religion and usage." According to Anderson and Parker "Caste is that extreme form of social class organisation in which the position of individuals in the status hierarchy is determined by descent and birth." According to Williams, "Caste is a system in which
an individual's rank and its accompanying rights and obligations are ascribed on the basis of birth into a particular group." Magasthenes, the Greek traveller in the third century B.C. to India, mentions two of the features characterising the institution of caste. He says "It is not permitted to contract marriage with a person of another caste or to undertake an occupation other than ancestral nor for the same person to undertake more than one, except if he is of the Caste of Philosophers, when permission is given on account of dignity.³

Features of Caste System-

1. Segmental division of society:-

Primarily Hindu Society is divided into four Varnas and many castes and sub-castes and thus totally stands not only segmented but fragmented vehemently based on the idea of high and low, superior and inferior, pure and impure, touchable and untouchable. There are two main characteristics on which the caste system is based:-

   (i) Hereditary - All such caste based distinctions or divisions are hereditary and irrevocable and unchangeable.

   (ii) By Birth - The caste status is not an achieved status but an ascribed one for which an individual does not have to put any effort. No amount of wealth and no amount of penance or prayer can change his caste status.

2. Social and religious hierarchy:-

The Shudras are socially as well as religiously neglected and are not treated as human-beings but are treated even worse than dogs and cats
i.e. even less than sub-human beings. Servitude is proclaimed to be a permanent condition of Shudras. According to Kautilya, "a Shudra, if he violates a Brahmin female, shall be burnt to death. If he intentionally reviles or criminally assaults a Brahmin, the offending limbs shall be cut."

3. Restrictions on feeding and social interaction:-

The various restrictions were put on Shudras and Ati-Shudras in the matters of residence, marriage, feeding etc. and the social theory of social exclusion worked as its peak in Indian Social context. Here theory of pollution also played its detrimental role. Even simple touch of Shudras used to pollute, defile the caste Hindus thus rendering the existence of Shudras worse than animals as animals' touch did not pollute / defile caste Hindus but Shudras' touch did pollute them and hence various socially and religiously codified norms of behaviour were laid down for the Shudras. In Kerala a Nair may approach a Namboodiri Brahmin but must not touch him while a Tiyan must keep a distance of 36 steps from the Brahmin and a Pulayan may not approach him within 96 (ninety six) paces.

![Diagram of social hierarchy and restrictions]

- Tiyan -- distance of 36 paces to be maintained.
- Nayar - can approach but cannot touch.
- Pulayan -- distance of 96 paces to be maintained

Namboodiri Brahmin
A Pulayan must not come near any of the Hindu Castes.

4. Endogamy:-

A person born in a caste remains in it for life and dies in it. Dr. B.R. Ambedkar, the architect of Indian Constitution had declared that though he was born Hindu, he would not die as Hindu. He changed his religion from Hindu to Buddhism at the fag end of his life but the fact remained that though he changed his religion, he could not change his caste which remained a 'Mahar' only. Endogamy is, closely linked with Caste System as it does not permit marriage out of the same caste or tribe and thus endogamy is essence of caste system.⁴

5. Lack of unrestricted choice of occupation:-

The Shudras had to stick to only the menial jobs prescribed for them and they cannot even think of changing the same even though they might have interest and inclination for other occupation. In such regimented social order, the question of likes and dislikes for occupation does not arise at all. The Shudras had to compulsorily engage themselves in their hereditary menial occupations only. It was also true for other caste Hindus except the Brahmins. Everyone had to do his own caste occupation only and thus there was total absence of upward social mobility in such a social structure.

6. Civil and religious disabilities:-

Under the Marathas and the Peshwas, the Mahar and Mangs were not allowed within the gates of Poona between 03-00 P.M. to 09-00 A.M. because before nine and after three bodies cast too long shadow which falling on members of the higher castes defiles them. Sawai Madhavrao Peshwa's time, Mahars were treated as Ati-Shudra - beyond Shudra.
The origins of caste system:-

Though there are several theories, opinions and beliefs in this regard, the exact origin of caste cannot be traced. Indo-Aryans reached India about 2500 B.C. The Caste System took its birth after the arrival of Aryans in India. But it can be decidedly said that the Varnashram Vyavastha did exist before Caste System.

1. Racial Theory:-

According to Dr. Majumdar, the caste system took its birth after the arrival Aryans in India. In order to maintain their separate existence, the Indo-Aryans used for certain groups and orders of people the favourite word 'Varna,' 'Colour.' Thus mainly two prominent groups Aryan and Dasa varna became known not by their occupations or other characteristics but by their colour. Rigvedic literature stresses very significantly the difference between the Aryan and Dasa, not only in their colour but also in their speech, religious practices and features. The name of the fourth class, the 'Shudra' occurs only once in the Rig Veda. It seems class represented domestic servants, approximately very nearly to the position of slaves. The Shudra is described as "the servant of another," "to be expelled at will," and "to be slain at will." The Panchavimsa Brahmana defines his position still more precisely when it declares that the Shudra, even if he be prosperous, cannot but be servant of another, washing his superior's feet being his main business. Other three classes - Brahmins, Kshatra and Vis are frequently mentioned in the Rig Veda. Brahmin was poet-priest and Kshatriya was warrior chief and all the common people were Vis. The Shudra class represented domestic Servants.
2. Political Theory:-

According to this theory, Caste System is a cleaver device invented by the Brahmins in order to place themselves on the highest ladder of social hierarchy. 'Caste' is a Brahminic child of Indo-Aryan culture cradled in the land of the Ganges and thence transferred to other parts of India, says Dr. G.S. Ghurye. The Brahmin post Vedic literature mentions certain mixed classes i.e. "Sankara Jat" and also group of outcaste classes 'Antyavasin.' The first three classes are called 'Dwija' because they have to go through the initiation ceremony which is symbolic of re-birth. The Shudra was called 'Ekjati' (one born). The word "Jati" hence means the numerous sub-divisions of a "Varna." The God created Shudra to be the slave of all. He is given the name of "Padaja" (born from the feet). He is to be supported, to be fed, to be clothed with the remnants and castaways of food and raiment by the three Varna. Then distinction began to be made between things pure and impure.

3. Occupational Theory:-

(i) Better and Respectable Profession = Superior.
(ii) Dirty Profession = Inferior

The persons or castes engaged in better and respectable profession used to consider them superior and the persons or castes engaged in manual and dirty profession were treated as inferior in the social setup of the day which is continuing till date world over but in India touch-me-not-ism entered into the social setup whereas the same seems to be absent elsewhere in the world. Nesfield says that, "function and function alone is responsible for the origin of Caste Structure in India."
function differentiation there came in occupational differentiation and numerous sub-castes such as Lohar, Sonar, Chamar, Bhangi, Barhai, Patwa, Teli, Nai, Tamboli, Kahar, Garadia etc. came into existence.

4. Traditional Theory:-

The traditional theory is based on Divine origin. It says that Varna and Caste are not man-made but the same are created by God and such references are available in Hindu scriptures like Rigveda, in its 10th Mandal, Hymn No.90, Verse No.12 and in Bhagavad Gita, Chapter No.4, Slok No.13. Both in Rigveda and Bhagavad Gita, the theory of Divine creation is put in the mouth of God. Bhagavad Gita is very specific about the creation of Varnas when it mentions that "Chaturvanas" are created by the God. "I have created four varnas" declared Lord Krishna on the battle field of Kurukshetra, on an open ground while exhorting Arjun to fight against the Kauravas. The Lord says, "According to the three modes of material nature and the work associated with them, the four divisions of human society are created by Me. And although I am the creator of this system, you should know that I am yet the non-doer, being unchangeable."

Actually if one go though the entire text of Chapter-4 and all Slokas preceding and succeeding the above Sloka No.13 of Gita, one would certainly feel that this is a subterfuge interpolated intelligently and cleverly by some one eminent from priestly class as no relevance is noticeable in preceding and succeeding Slokas with the Sloka No.13 in question. Thus it seems that some clandestine efforts might have been made by someone to put such words in the mouth of the Lord Almighty to create an impression that the Varna system is the creation of God
and not man-made and give it a divine status in order to ensure that the same is never challenged by the victim varna or caste and adherence to the same remains complete and unquestionable. Same may appear true in the case of Rigveda's Verse (Sloka) No.12, Hymn No.90, known as "Purush Sukta" of 10th Mandal which says that all Varnas are produced from different parts of the body of the God. The Almighty God, in above Verse No.12 of the Rigveda said that the "Brahmin, Kshatriya, Vaishya and Shudra were produced by Him respectively from His mouth, arms, thighs and the feet". The preceding and succeeding slockas of Slock No.12 mentioned above do not bear any relevance with this slock No.12. So the repugnancy of the said Verse No.12 of Rigved can easily be understood even by a man of ordinary prudence and intelligence. Either it might be interpolation or it might be the conscious efforts of someone to incorporate it at original stage as it stands and seen to-day. The divine theory of creation of Varnas says that the Brahmins are born from His mouth, the Kshatriyas from His arms, the Vaishyas from His thighs and the Sudras are created from the feet of the Lord, the Purna-Purusha. He created Brahmins with Gayatri Mantra (Metre), the Kshatriyas with Trishutubh, the Vaishyas with Jagati and the Sudras without any metre. The first three Varnas are twice born (Dwij), the first birth being from the mother and the second from the investiture with the sacred girdle. In the second birth Savitri is the mother and the teacher is the father because he gives instruction in the Vedas. Therefore, the first three Varnas are born twice while the Sudra is born only once. "It is popularly held that in the beginning, there were only three Varnas and the fourth Varna of the Shudra is an outcome of the fight between Brahmins and Kshatriyas for the Supremacy in the
Varna hierarchy."15

The Sudras are therefore also called "Padaja." i.e. born from the feet and therefore the lowest ones. Such divinity ascribed to Varna System and Caste System successfully survived through centuries and ages in India and drew strength from such divine theory and lived on its sustenance.

5. Guild Theory:16

As per Guild theory, specific occupation, trade, business, calling, commerce indulged in by a group of people created a class or caste which followed same means of livelihood which resulted in social bond knitting them together for all social and economic common goal, aims and objectives. This is a system by which the resources, methods and profits of each industry should be controlled by a council of its members. In India such guild used to be formed of individuals of the same caste or varna which in a way supported Varna System and Caste System, rather perpetuated the same providing all nourishment to the system with pride and glory.

6. Religious Theory:17

The Hindu religion, as mentioned above, through its priestly class, propagated the divinity of the Varna and Caste System emphasising the same to be the creation of God and hence unchangeable and life-long and leaving no scope for modification, amendment or change in the same system. As the same is creation of God, man has no right to effect any change, whatsoever, in the Varna or Caste System was the main thrust of religious theory. This theory was further supported and strengthened by
the theory of "Karma" and "Rebirth" i.e. "Punarjanma." The Shudras are suffering the sins of their previous birth was the justification offered by the scriptures and propagated by the 'dwij' varnas.

7. Evolution Theory: -

This theory believes that the Caste System did not come into existence all of a sudden. Number of factors played their parts which are as under:-

(1) Hereditary occupation.

(2) The desire of Brahmins to keep themselves pure.

(3) The lack of rigid unitary control of the State.

(4) The unwillingness of the rulers to enforce a uniform standard of law and custom and their readiness to recognise the varying customs of different groups as valid.

(5) Belief in re-incarnation and the doctrine of Karma.

(6) Ideas of exclusive family, ancestor worship and the sacramental meal.

(7) Clash of antagonistic cultures particularly of the Patriarchal and Matriarchal System.

(8) Clash of races, colour prejudices and conquest.

(9) Deliberate economic and administrative policies followed by the various conquerors particularly by the British.

(10) Geographical isolation of the Indian Peninsula.

(11) Static nature of Hindu Society.

(12) Foreign invasions.

(13) Rural social structure.

(14) Hindu traditional mind-set of social exclusion making large section of society as untouchable and unapproachable.
Merits and demerits of Caste System in India:- In India, the Brahmins retained their supremacy over Sudras and others for two thousand years. The interdependence of Caste i.e. "Jajmani System" - 'Jajmani means "Patrons" and Parjan means "Servant" System reduced into exploitation of lower Castes. The caste system provides fixed social environment and fostered fellow feeling among members of the same caste. Economic pursuits are well defined in the caste system and hence focussed concentration used to be there which can strengthen expertise easily. Caste system did not breed class struggle. The demerits of caste are many. It denied vertical mobility to the members of other castes who belonged to the Shudra and Ati-Shudra varnas and castes. Untouchability was born out of caste system which is a blot on the Hindu society. Individual Caste solidarity was there but the national solidarity was retarded due to the caste system. Caste is an obstacle to national unity. It was also an obstacle to social progress and quite anti-democratic in nature and character. It promoted undesirable spirit of casteism and narrow mindedness in the people of the country. It created the idea of high and low among people.

Modern trends of Caste System in India:-

Social change requires social adaptation. Law as an instrument of Social Change compels social as well as legal adaptation. Vishwamitra was Kshatriya and subsequently became Brahmin but such social mobility is rarely seen in the social scenario existed then and now.

1. Reform movement and western education:-

It brought about tremendous change in Caste System and the Caste
rigidity slowly and gradually started melting under the new British dispensation. The British brought with them to India a casteless culture and literature full of thoughts on individual liberty. The social reformers like Raja Ram Mohan Roy, Devendranath Tagore, Swami Dayanand Saraswati (Arya Samaj), Jotiba Phooley, Dr. Ambedkar and others played crucial roles in reforming Indian Society especially Hindu Society. Though Arya Samaj is opposed to Castes but it thought of substitution of Castes by four fold system i.e. Varnashram Vyavastha (System). Mahatma Joti Rao Phooley from Poona of Maharashtra was Mali by Caste. His contribution in removal of untouchability and upliftment of downtrodden was quite commendable. He established "Satya Shodhak Samaj" in Maharashtra and carried out social and educational reforms. He established Primary School for untouchables and for girl child in Maharashtra. He advocated all castes representation in local bodies. Keshavchandra Sen started crusade against caste. He advocated intercaste marriages. The Theosophical movement started by Annie Besant who (was President of the Theosophical Society) advocated abolition of Caste System since 1893. The Nationalist movement led by Mahatma Gandhi laid special emphasis on removal of untouchability. Mahatma Gandhi made programme for removal of untouchability a national one. Dr. B.R. Ambedkar led a relentless crusade against social evils of untouchability and casteism including Varnashram Vyastha and firstly depended on social awakening of Dalits by various Satyagraha like temple entry, drawing water from public lake etc. and then realised that law was in fact the real instrument for social change in a desired manner and therefore put all his efforts and energies in formulation of various social legislations and ultimately drafting and enacting Constitution of India.
2. **Legislation during British Rule:-**

The Britishers introduced Uniform Criminal Law in India which totally abolished Caste based discrimination in the matters of dispensation of justice and especially in the matters of punishment which was not based on gravity of crime but was based on the caste of the victim or the perpetrator of the crime. For the same offence, sentence used to be different for Brahmin, Kshatriya, Vaishya and Shudra. There was very little punishment for Brahmin even for grave offences whereas punishment meted out to Shudras for the same matters used to be extremely harsh. All such anomalies based on Caste and Varna was done away with by the Britishers under Uniform Criminal Law introduced by them in British India. They removed from the Panchayats many matters that used to be erstwhile adjudicated by them. They also tackled the Civil matters on uniform patterns. They introduced (1) The Widow Remarriage Act, 1856. For the first time Hindu women in history of India, got the right to re-marry which no authority had introduced earlier prior to the advent of Britishers in India. They also introduced (2) The Caste Disabilities Removal Act, 1850 - This law gave blow to caste integrity. The Act facilitates conversion to another religion or admission into another caste without affecting the property rights of the person. (3) The Special Marriage Act, 1872 - Any person can marry in any caste or creed provided the marriage is registered. Britishers recognised the rights of the untouchables to be properly educated and to be given all social, economic and political benefits. Britishers thus removed the civil disabilities. In 1925 in Madras, all public wells and schools were thrown open to all classes including the depressed castes. Government
Role of new education introduced by the Britishers:-

The Britishers introduced English system/Western system of education. The educational institutions were open to all without caste distinction. For the first time in the history of India the Shudras, the Ati-Shudra, the lowest castes' people and the women got the taste and benefit of education. During British rule, Jotiba Phooley opened girls schools in which girls belonging to the low castes Mahars, Mangs, Chamars and others were admitted by him. He had drawn inspiration about female schools belonging to American Mission conducted by Miss. Farrar and was highly pleased with the manner in which the girls in those schools were educated. Miss. Farrar expressed to Jotiba and Govande "great sorrow at the neglect of female education in the country." "Immediately on my return to Poona," Jotiba said, "I opened a low caste female school, allowing such boys as wished to do so to attend, to attend also." Modern schools were started in India in the second decade of the nineteenth century. The first school for Hindu girls was started in Calcutta in 1819. The American Mission started one in Bombay in 1824. The American Missions started girls' schools in the neighbourhood of Poona in 1840. There was a girls' school kept by the Scottish Missionaries in Poona. Thereafter in entire India Britishers started schools and colleges and also encouraged native people in this regard. The new education brought new ideas of liberty, equality, fraternity and secularism. The role of education can be appreciated by the fact that it produced a great giant like Dr. B.R. Ambedkar, an
untouchable who drafted the Constitution of independent India. His grand-father Maloji Sakpal was Havaldar in the Bombay Army of East India Company. His father Ramji Sakpal also joined the British army as a civilian teacher and became Headmaster with the rank of Subedar Major. The Britishers had made education compulsory for the children of their soldiers and thus Dr. B.R. Ambedkar's father and Dr. B.R. Ambedkar got the benefit of the new education. The Britishers extended necessary help in this regard and as a result the Shudras and the untouchables who joined British army got benefit of education for their children without any distinction of caste, creed or religion. Thus new education introduced by the Britishers facilitated vertical social mobility for the Shudras, Ati-Shudras and the women and also facilitated their choice of occupation which was restricted before the advent of the Britishers in India due to the rigid caste and varna system. The new education changed many old values. Many social dogmas vanished with the spread of education. The total exclusion of the Shudras, untouchables and women from receiving education right from Vedic period by the various scriptures, disappeared due to introduction of new education system by the Britishers in India. Montengue Chelmsford Scheme extended special representation to depressed class. Though the Britishers were first to make the beginning in extending various benefits to Scheduled Castes and Scheduled Tribes, the measures were felt to be half-hearted.

**Impact of Industrial Revolution:-**

Industrialisation led to urbanisation. Urbanisation led to the weakening of Caste bond. Industry used to employ workers from all
community. Occupational mobility took place. Hereditary occupational superiority disappeared and lower castes for the first time got an opportunity to change their traditional occupation. This led to the enhancement in their status and role also. They migrated to urban centres from villages. Their own viewpoint on many aspects of life also got widened. Their caste consciousness or class consciousness increased due to identical problems and situations they all faced at work places. Their children also now started receiving better education compared with urban centres. Thus the industrialisation proved to be a boon to the Dalits as it led to their advancement in life.

**Number of Scheduled Castes in India :-**

Statement showing Castes enumerated as Scheduled Castes\(^2\) as per Census of India, 1961, Vol. I, Part V-A (1) Special table for the Scheduled Castes is as under:-

**Table NO.2-1**

*State-wise Castes enumerated as Scheduled Castes.*

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>States/Union Territories</th>
<th>No. of castes enumerated as Scheduled Castes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Andhra Pradesh</td>
<td>60</td>
</tr>
<tr>
<td>2.</td>
<td>Assam</td>
<td>16</td>
</tr>
<tr>
<td>3.</td>
<td>Bihar</td>
<td>23</td>
</tr>
<tr>
<td>4.</td>
<td>Gujarat</td>
<td>42</td>
</tr>
<tr>
<td>6.</td>
<td>Kerala</td>
<td>70</td>
</tr>
<tr>
<td>7.</td>
<td>Madhya Pradesh</td>
<td>73</td>
</tr>
<tr>
<td>8.</td>
<td>Tamil Nadu</td>
<td>79</td>
</tr>
<tr>
<td>9.</td>
<td>Maharashtra</td>
<td>77</td>
</tr>
<tr>
<td>10.</td>
<td>Karnataka</td>
<td>127</td>
</tr>
<tr>
<td></td>
<td>State</td>
<td></td>
</tr>
<tr>
<td>---</td>
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<td>---</td>
</tr>
<tr>
<td>11.</td>
<td>Orissa</td>
<td>94</td>
</tr>
<tr>
<td>12.</td>
<td>Punjab</td>
<td>37</td>
</tr>
<tr>
<td>13.</td>
<td>Rajasthan</td>
<td>114</td>
</tr>
<tr>
<td>14.</td>
<td>Uttar Pradesh</td>
<td>66</td>
</tr>
<tr>
<td>15.</td>
<td>West Bengal</td>
<td>63</td>
</tr>
<tr>
<td>16.</td>
<td>Delhi</td>
<td>36</td>
</tr>
<tr>
<td>17.</td>
<td>Himachal Pradesh</td>
<td>52</td>
</tr>
<tr>
<td>18.</td>
<td>Manipur</td>
<td>7</td>
</tr>
<tr>
<td>19.</td>
<td>Tripura</td>
<td>37</td>
</tr>
<tr>
<td>20.</td>
<td>Dadra and Nagar Haveli</td>
<td>4</td>
</tr>
<tr>
<td>21.</td>
<td>Nagaland</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>1106</td>
</tr>
</tbody>
</table>


The untouchable castes are not known by the same names in all the States of India. The above list is not exhaustive as even the Chamar itself had as many as 1156 Chamar castes and sub-castes. These figures are not inclusive of untouchables belonging to Christianity and Sikhism even though they continue to be practically untouchables despite their change of religion.

Various Hindu Scriptures supported Varna, Caste and Untouchability and that is the reason why it is so difficult to root it out from Hindu society. The religious sanction created a social code of conduct which in turn created economic and political codes. For example, the untouchables were not supposed to touch animate and inanimate objects because it was believed that those things would get polluted if they
were touched by the untouchables. In such a situation, the untouchable cannot become economically independent. Everything touched by him would get polluted and therefore, persons belonging to the other castes will not touch anything that he prepares. Hence he cannot start a restaurant. This is just one of the many examples which points out the sheer helplessness of an untouchable in the matter of pursuing a viable, gainful economic activity "observed N.D. Kamble.\(^\text{22}\)

**Legal position with regard to the Shudras and the Untouchables in ancient as well as medieval India:**

The ancient and medieval laws in India were heavily biased and prejudiced against Shudras and untouchables i.e. mainly present day OBCs, Scheduled Castes and Scheduled Tribes. The ancient and medieval laws did not provide for any mechanism for social change as is the case now. On the contrary status quo was rigidly stuck to and followed firmly and deviation, even slightest one used to be considered for the most severest of the severe punishments, not uniformly for all but for Shudra only.

**Status of Brahmin:** The Brahmin enjoyed enviable status, the supermost as compared to rest of the Varnas. For deviant behaviour, for culpable crimes including murder, rape, arson etc., the Brahmins were subjected to very minor punishment, or in many cases, no punishment at all. The entire legal system and all Laws governing the conduct of citizens/subjects very leniently supported even their (Brahmins') misdeeds whereas the prescribed punishment for Shudras for similar misdeeds was unimaginable, most cruel and unkindest of all. The Brahmins' social, economic, political and cultural status was unparallel in society as they not only enjoyed respect from all Varnas, but were
revered and considered on par with God and even at times superior than God as mentioned in several Verses and Slokas in many scriptures including Manusmriti.

**Status of Kshatriyas:-** The Kshatriya, always and all time enjoyed second number status in the Varna-Vyastha. They enjoyed absolute political power but always subject to the Brahminical dictates and they accepted Brahminical superiority without any word of protest and felt abundantly proud in receiving blessings from them - i.e. Brahmins. All Kshatriyas including Rama and Krishna, Pandavas and Kauravas submissively obeyed the political, social, economical and cultural directions and guidance, advice and admonition tendered by Brahmins. In fact obedience to such advice was so powerful that many a times, the Kshatriya Kings and Emperors blindly followed what was tendered to them in the form of optional and voluntary advice. Take the example of a King no less than Lord Rama himself, who killed Shambuk, a Shudra, on the very strange advice from Brahmins, even without any crime and even without the slightest provocation from Shambuk who was simply practising penance in deep forest and was unarmed and engrossed in meditation when his head was chopped off by Lord Ram without any dialogue or warning or providing any opportunity to be heard for commission or omission, if any, on his part.

**Status of Vaishyas:-** The Vaishyas enjoyed third role and status in ancient as well as medieval period and as they too were deprived from the privilege of possessing and using sacred girdle (Janoi), they too at times had to face Varna and Caste discrimination. They had accepted their third status in social structure of status as fate accompli. They
looked after agriculture, cow protection, trade and commerce. They were not, in any way, connected with the affairs of the state.

**Status of Sudra:** The Sudra's status was last and at the bottom of social hierarchy. They were supposed to have been born from the feet of the Supreme Lord and hence they enjoyed rather suffered the lowest status in society. Enjoying highest or lowest status is no problem world over because the phenomenon of the highest and the lowest status was and is prevalent everywhere but what was and is objectionable and reprehensible in India is the imposition of most cruel sanctions and restrictions on them merely because they were born in low caste and certainly not on account of any other consideration. As mentioned by N.D. Kamble,\(^\text{23}\) many restrictions were imposed on the Shudras of which a few could be mentioned to evaluate or compare the status of Shudra.

1. The Shudra was prohibited from milking a cow whose milk was to be used for Agnihotra.\(^\text{24}\)
2. He was prohibited from witnessing performance of sacrifice.\(^\text{25}\)
3. He was prohibited from taking soma drink.\(^\text{26}\)
4. He was prohibited from initiation (Upanayana or wearing of the sacred thread) and he was also prohibited from studying the Vedas and from kindling the sacred fire (right of sacrifice).\(^\text{27}\)

If a Vaishya or Shudra comes as a guest to Brahmin's house he should be served food along with the servants.\(^\text{28}\) If a Shudra comes as a guest to a Brahmin's house he shall be given work\(^\text{29}\) for his hospitality he be punished 100 pannas,\(^\text{30}\) because the Shudra is not worthy of respect on the ground of his age or wealth or knowledge, howsoever considerable those may be.\(^\text{31}\) He cannot be anything else but a servant.\(^\text{32}\)
The Shudras were not only prohibited from learning the Vedas, the Vedas could not even be recited before the Shudras by law. The recitation of the Vedas was interrupted merely by a look at the Sudra women. The food touched by the first three Varnas is impure but not unfit for eating, while if it is touched by the impure Shudra, it should not be eaten. If a Brahmin dines with a Shudra at a Shraadha ceremony (ceremony of worshipping dead ancestors) all merits of the dinner will be destroyed. If a Brahmin dines off food given by a Shudra he is reborn as a village pig or in a Shudra family. After the food if he indulges in sexual intercourse with a Shudra woman and a child is born, he becomes a Shudra and shall not ascend to the heaven. Neither the Shudras are carried by the twice born nor the twice born are carried by the Shudra. A Brahmin may not dwell in the kingdom of a Shudra or invader or low born men.

Such was the discrimination among Varnas especially between twice born and the Shudra. Most of the rules, almost all invariably, were to the advantage of higher Varnas and to the disadvantage and were detrimental to the Shudras. The higher was the position of a Varna in the social hierarchy, the more was the advantage to that Varna from these rules and regulations. In such system, the Shudra had no privilege but slavery ascribed into his fate by injurious, unjust, unreasonable and atrocious Varnashram Vyavastha which at times is glorified by some social scientists. Due to such deplorable restrictions the Shudras, they were in fact rendered helpless in matter of pursuing gainful economic activity.

Ancient and medieval Indian Justice System faulty and deplorable:-

If law is made for common good, greatest good of the largest number
of people, the same can work wonders for people's welfare but when law and judicial systems are not just, not fair, not reasonable, judicial system itself becomes injudicious and atrocious as can be seen from the dispensation of justice prevalent in those days as listed out in following statement. Even the judiciary was most discriminative in those days. For the same and similar offences punishment prescribed was rigorous for the lower Varnas in general and the Shudras in particular but for the same offence the Brahmins were subjected to very light punishment or at times no punishment at all. Statement showing discriminative justice in ancient India is under:-

**Table N0.2-2**

**Discriminative and atrocious Justice in Ancient India.**

(Worst Victim of Atrocities - Shudra)

<table>
<thead>
<tr>
<th>Offence</th>
<th>Offender</th>
<th>Victim</th>
<th>Punishment to Offender</th>
</tr>
</thead>
<tbody>
<tr>
<td>Killing</td>
<td>Any one</td>
<td>Kshatriya</td>
<td>Giving 100 cows to Brahmins</td>
</tr>
<tr>
<td>Killing</td>
<td>Any one</td>
<td>Vaishya</td>
<td>Giving 100 cows to Brahmins</td>
</tr>
<tr>
<td>Killing</td>
<td>Any one</td>
<td>Sudra</td>
<td>Giving 10 cows to Brahmins</td>
</tr>
<tr>
<td>Abusing</td>
<td>Kshatriya</td>
<td>Brahmin</td>
<td>200 (karshapanas)</td>
</tr>
<tr>
<td>Abusing</td>
<td>Vaishya</td>
<td>Brahmin</td>
<td>150 (karshapanas)</td>
</tr>
<tr>
<td>Abusing</td>
<td>Brahmin</td>
<td>Kshatriya</td>
<td>50 (karshapanas)</td>
</tr>
<tr>
<td>Abusing</td>
<td>Brahmin</td>
<td>Vaishya</td>
<td>25 (karshapanas)</td>
</tr>
<tr>
<td>Abusing</td>
<td>Brahmin</td>
<td>Sudra</td>
<td>Nil</td>
</tr>
<tr>
<td>Reviling</td>
<td>Vaishya</td>
<td>Kshatriya</td>
<td>100 panas</td>
</tr>
<tr>
<td>Reviling</td>
<td>Kshatriya</td>
<td>Vaishya</td>
<td>50 panas</td>
</tr>
<tr>
<td>Reviling</td>
<td>Kshatriya</td>
<td>Sudra</td>
<td>20 panas</td>
</tr>
<tr>
<td>Abusing</td>
<td>Sudra</td>
<td>Vaishya</td>
<td>Compelled to pay fine</td>
</tr>
<tr>
<td>Abusing</td>
<td>Sudra</td>
<td>Kshatriya</td>
<td>Payment of fine doubled that of</td>
</tr>
<tr>
<td>Action</td>
<td>Offender</td>
<td>Victim</td>
<td>Punishment</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------</td>
<td>--------------</td>
<td>------------------------------------------------</td>
</tr>
<tr>
<td>Abusing</td>
<td>Sudra</td>
<td>Brahmin</td>
<td>The highest fine. To be killed, Capital punishment</td>
</tr>
<tr>
<td>Reviling</td>
<td>Kshatriya</td>
<td>Brahmin</td>
<td>100 panas</td>
</tr>
<tr>
<td>Reviling</td>
<td>Vaishya</td>
<td>Brahmin</td>
<td>150 - 200 panas</td>
</tr>
<tr>
<td>Reviling</td>
<td>Sudra</td>
<td>Brahmin</td>
<td>Corporal punishment</td>
</tr>
<tr>
<td>Insult</td>
<td>Brahmin</td>
<td>Kshatriya</td>
<td>50 panas</td>
</tr>
<tr>
<td>Insult</td>
<td>Brahmin</td>
<td>Vaishya</td>
<td>25 panas</td>
</tr>
<tr>
<td>Insult</td>
<td>Brahmin</td>
<td>Sudra</td>
<td>12 panas</td>
</tr>
<tr>
<td>Murder</td>
<td>Any one</td>
<td>Brahmin</td>
<td>Penance</td>
</tr>
<tr>
<td>Murder</td>
<td>Any one</td>
<td>Kshatriya</td>
<td>1/4 of the penance prescribed for slaying a Brahmin</td>
</tr>
<tr>
<td>Murder</td>
<td>Any one</td>
<td>Vaishya</td>
<td>1/8 of the penance prescribed for slaying a Brahmin</td>
</tr>
<tr>
<td>Murder</td>
<td>Any one</td>
<td>Sudra</td>
<td>1/16 of the penance prescribed for slaying a Brahmin</td>
</tr>
<tr>
<td>Slaying</td>
<td>Brahmin</td>
<td>Kshatriya</td>
<td>1000 cows and bulls or three years (with senses subdued and locks braided, follow the observances of one who has slain a Brahmin living in a place far from town, his dwelling place shall be the foot of a tree.)</td>
</tr>
<tr>
<td>Slaying</td>
<td>Brahmin</td>
<td>Vaishya</td>
<td>Punishment for one year as above and giving of 10 cattle (heads of cattle) to Brahmin.</td>
</tr>
<tr>
<td>Action</td>
<td>Offender</td>
<td>Victim</td>
<td>Punishment</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>----------</td>
<td>--------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Slaying (Involuntarily)</td>
<td>Any one</td>
<td>Sudra.</td>
<td>Same observance for six months or giving of white cows and a bull to a priest (Brahmin).</td>
</tr>
<tr>
<td>Insulting Superior caste by limbs</td>
<td>Any one</td>
<td>Superior caste</td>
<td>King shall cut off the limb</td>
</tr>
<tr>
<td>(a) Seating on a seat of superior</td>
<td>Any one</td>
<td>Superior caste</td>
<td>Banishing with a mark on buttocks</td>
</tr>
<tr>
<td>(b) Spit on superior</td>
<td>Any one</td>
<td>Superior caste</td>
<td>Lose both lips</td>
</tr>
<tr>
<td>(c) Breaking wind against superior caste</td>
<td>Any one</td>
<td>Superior caste</td>
<td>Lose his hind parts</td>
</tr>
<tr>
<td>(d) Abusive language</td>
<td>Any one</td>
<td>Superior caste</td>
<td>Lose tongue</td>
</tr>
<tr>
<td>(e) Instructing about duties about pride to higher caste</td>
<td>Any one</td>
<td>Superior caste</td>
<td>Hot oil be dropped into his mouth</td>
</tr>
<tr>
<td>(f) Mentioning the name of superior revilingly</td>
<td>Any one</td>
<td>Superior caste</td>
<td>Ten fingers long (hot red) iron pin shall be thrust into his mouth.</td>
</tr>
</tbody>
</table>
### Prohibitions

<table>
<thead>
<tr>
<th>(g) Teaching the</th>
<th>Sudra</th>
<th>Nil</th>
<th>Cutting off his tongue</th>
</tr>
</thead>
<tbody>
<tr>
<td>precepts of religion or uttering Vedas insulting a Brahmin&lt;sup&gt;67&lt;/sup&gt;</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| (h) Listening<sup>68</sup> intentionally to the Vedas | Sudra | Nil | (i) Ears shall be filled with (molten tintac). |

| (i) Reciting<sup>69</sup> Veda | Sudra | Nil | (ii) Tongue shall be cut off |

| (i) Teaching Sudra or<sup>70</sup> learning from Sudra | Dwija | Nil | Unfit for being invited at the performance in honour of Devas and Pitris |

| (ii) Advising, giving food or butter to Sudra that has been offence<sup>71</sup> | Dwija | Nil | Together with Sudra shall sink in the darkness of hell called Asamvrita |

| (iii) Teaching of law to Sudra<sup>72</sup> | Dwija | Nil | Together with Sudra shall sink in the darkness of hell |

| (iv) (Giving instructions on religious matters<sup>73</sup>) | Dwija | Nil | Together with Sudra shall sink in the darkness of hell called Asamvrita |

<p>| Adultery&lt;sup&gt;74&lt;/sup&gt; Adultery Criminal intercourse&lt;sup&gt;75&lt;/sup&gt; | Dwija | Sudra woman Dwija woman Any woman | Shall be banished Capital punishment Organ (penis) shall be cut off and property be confiscated. If the woman has a protector (i.e., under |
| Guardianship of somebody. Sudra shall be executed after having undergone above prescribed punishment | Loving a girl(^ {76}) of Dwija | Sudra | Dwija woman | Corporal punishment | Cohabiting(^ {77}) with Dwija women | Sudra | Dwija woman | If she is not guarded, deprive his members and all his property and of anything if she is guarded | Intentionally reviling by criminal abuse or assault(^ {78}) | Sudra | Dwija woman | Shall be deprived of the limb with which he offends | Assuming equal position with twice born in laying down in conversation or on the road(^ {79}) | Sudra | Dwija woman | Corporal punishment | Assault with virulent words(^ {80}) | Sudra | Dwija | Cut off his tongue | Mentioning names in insulting manner(^ {81}) | Sudra | Dwija | Red hot iron rod ten fingers long be thrust into his mouth | Instructing priest regarding his duties(^ {82}) | Sudra | Brahmin | Boiling hot oil be poured into his mouth and ear |</p>
<table>
<thead>
<tr>
<th>Offense</th>
<th>Caste</th>
<th>Social Group</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lifting up hand or staff</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off his hands</td>
</tr>
<tr>
<td>Smites with feet in anger</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off his feet</td>
</tr>
<tr>
<td>Sits down by the side of high born</td>
<td>Sudra</td>
<td>Dwija</td>
<td>To be banished after being branded on his hip or his backside be cut off</td>
</tr>
<tr>
<td>Spitting</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off lips</td>
</tr>
<tr>
<td>Making water</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off penis</td>
</tr>
<tr>
<td>Breaking wind</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off anus</td>
</tr>
<tr>
<td>If he seizes by the locks</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Split tongue and put on stakes</td>
</tr>
<tr>
<td>False accusation</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off both his hands also (if he seize by feet) hand, neck, testicles</td>
</tr>
<tr>
<td>Insulting, referring with contempt</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off tongue, ten fingers long red hot iron rod should be thrust into his mouth</td>
</tr>
<tr>
<td>Giving lessons to Brahmins about their duty</td>
<td>Sudra</td>
<td>Brahmins</td>
<td>Hot oil be poured into his mouth and ear</td>
</tr>
<tr>
<td>Offending</td>
<td>Sudra</td>
<td>Dwija</td>
<td>The concerned limb should be cut off</td>
</tr>
<tr>
<td>Seating with high caste</td>
<td>Sudra</td>
<td>Dwija</td>
<td>To be branded on his hip, banished or his backside be gashed</td>
</tr>
<tr>
<td>Arrogance spit</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off lips</td>
</tr>
<tr>
<td>Making water</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off penis</td>
</tr>
<tr>
<td>Breaking wind</td>
<td>Sudra</td>
<td>Dwija</td>
<td>Cut off buttocks</td>
</tr>
</tbody>
</table>
The above statement shows the extent of atrocious behaviour and conduct against Shudras by other Varnas. They were even subjected to severe punishments even for natural instinct like breaking wind for which cutting off their buttocks was provided in Narada Smriti. Even seating with high caste entailed punishment of branding on hip, banished or backside be gushed. The punishment of cutting off anus was provided for breaking wind by a Shudra in Manu Smriti Chapter VIII, verses 279-84. Such atrocity and cruelty cannot be found in any scriptures all over the world except in India in Hindu religious scriptures.

Law as an instrument of change did wonders when the above ancient laws were replaced in India by Britishers providing just, fair and reasonable laws based on principle of equality before law and equal protection of law in the form of Indian Penal Code, Code of Criminal Procedure, Evidence Act and many Special Laws enacted to bring desired change in Indian Society through law as an effective instrument of social change.

**Functions, works and occupations of various Varnas were as under:-**

We can see discrimination done to the Shudra communities in distribution of work and different functions in the society. Duties/works and occupations of different Varnas were as under:-

**Brahmins' duties/works/occupation were:**

1. teaching,
2. study
3. sacrifices (as priest) for others and also giving and receiving gifts.
The Kshatriyas' duties/works/occupations were:-
(1) defence of the people
(2) giving alms
(3) sacrifice
(4) study and absence of attachment to objects of senses.

The Vaishyas' duties/functions/occupations were:-
(1) tending cattle
(2) giving alms
(3) sacrifice
(4) study
(5) trade and agriculture

The duties/functions/occupations of Shudra were:-
Serving the upper castes without grudging was the duty of the Shudras. A Brahmin may take the belongings of the Shudra with perfect peace of mind as nothing belongs to the Shudra but to his master. The mere sight of possession of wealth by the Shudra injures a Brahmin. A Shudra giving judicial decision would sink the kingdom into misfortune.

The region chiefly inhabited by the Shudras is bound to be oppressed by famine and disease. Even if freed by his master, the Shudra, whether bought or not by the Brahmin, may be compelled to practise servitude as he was created merely to serve the Brahmin. To serve the upper three castes was ordained for the Shudra. The higher the caste he served, greater would be the merit. If the Shudra pursues his duties without complaining against the system, then he gains in
this world as also in the other world.\textsuperscript{105} His mild speech, submissiveness to the Brahmins give him a higher birth.\textsuperscript{106} He may serve the Kshatriya for subsistence, the Vaishyas for support of life and the Brahmin for the heaven. However, food which was left over, old clothes, blighted part of grains and very old furniture could be given to the Sudras.\textsuperscript{107} Thus the social, cultural and educational position of Shudras was worst in ancient times. Thus we can see the discrimination done to the Shudra communities in distribution of work and different functions in the society. The Shudras were given menial work/occupations which were considered to be impure and untouchable. These works were lowly paid or they had to perform without any financial remuneration. Originally the Shudras were the Kings and belonged to the ruling class.\textsuperscript{108} They were made slaves and were subjected to above mentioned indignities in all fields of human activities.

Untouchability in ancient India:- Shudras were divided into "Bhojyanna" (food prepared by whom is partaken by Brahmins) and "Abhojyanna" (food prepared by whom is not partaken by Brahmins). The first includes owned slaves.\textsuperscript{109} Historically the untouchables were abhojyanna and therefore, were not Dasas or Slaves or domestic Servants in ancient times. Shudras known as Chandalas, Vishadas, Vartyas or untouchables were out of the Varna System. They lived outside the localities. For example, an untouchable caste in Karnataka State, Mang and Mahar castes in Maharashtra, Adi Dravidas in Tamil Nadu, Chamars in North India and Domes in Bengal live on the outskirts of the villages. These castes are also known as 'Avarnas' meaning thereby that they do not belong to the 'Varnas'.

There was no fifth Varna in the earlier Smritis but the untouchables
were referred to as 'Panchamas'. Panchamas were also regarded as 'Hinas' of four types. (1) Hina Janmana (born against rule of marriage), (2) Vratyas (failure of Dwija in performing 'Upanayananam' at proper time), (3) Mlechas living in Mlecha land. (4) Kshatriyas who stopped performance of sacred ceremonies. The Hinas did not accept the authority of the Vedas, the system of the twice born and the caste system laid down by the Brahmins. The Jains and the Buddhist did not accept the Vedas, the Varnashram System of twice born.

Dasas or Dasyus were Non-Aryans and did not belong to the Varnas hence they are treated as Avarnas. They were opposed to Varna System and did not follow Brahminic ceremonies. They were conquered and gradually made slaves. They had to suffer a lot. The very name Shudra is derived from Shue (sorrow) and Dru (overcome) which means that one who has overcome sorrow. Dasyus or Dasas are the same as Nagas. Dasa is a Sanskritised form of the Indo-Iranian word 'Dahaka' who was the King of the Nagas. Indra consigned the base Dasa Varna to the Cave and undertook task of subjugation and destruction of Dasa. He made Dasyus Hinas and gradually transformed them into Shudras. Dasas and Dasyus are synonymous and in some places they are described as Asuras. It seems several wars were fought between Aryas or Aryans and Dasas. During these wars the Aryas prayed to Indra for subduing the Dasa in favour of Aryas.

The Kings like Kshemagupta and Shri Harsha in Kashmir dealt ruthlessly with the Buddhists. At the instance of Kumaril Bhatt, the Buddhists were driven out of Kerala. King Sudhanvan issued an injunction that from the Bridge of Ram is Shri Lanka to the Himalayas,
one who does not slay a Buddhist, both old and young, shall be slain.\textsuperscript{126} Thus, many Buddhist countries were destroyed because of their non-believing in the Vedas and the Varna System. After their conquest they were made slaves and were not given the position of even Shudras but Chandalyas - the untouchables. Therefore they were kept outside of the Varna System - whereas the Jains who not only accepted\textsuperscript{127} the Varna System but also the superiority of Brahmins and Brahmins were made the priests of Jain temples.\textsuperscript{128} They did not have alternative but to surrender to Brahminism. As a reward the Jains were not regarded as Mlechas or Panchamas.

**Marriages and Caste multiplication:-** Legally, the Shudra could marry only a Sudra woman, Vaishya could marry a Shudra and/or a Vaishya woman, Kshatriya could marry a Shudra, a Vaishya and a Kshatriya woman while a Brahmin woman could be a wife of only a Brahmin.\textsuperscript{129} Shudra did not have the right of property.\textsuperscript{130} The Dwijas took advantage of it and reduced the Shudra woman's position to that of Dasi or Concubine. The powerful Shudra married a Brahmin woman. In order to prevent such marriage, pratiloma marriage was prohibited and persons concerned were regarded as Chandalas.\textsuperscript{131} Their status was degraded i.e. after the touch of a Chandala, one should converse with a Brahmin and after seeing a Chandala, one should look at either the sun or the moon or the stars for purification. A child born to a Brahmin by a Shudra woman was deprived of Brahminhood.\textsuperscript{132} Then both Anuloma (higher caste male and lower caste female) and Pratiloma (lower caste male and higher caste female) marriages were prohibited.\textsuperscript{133}

The offsprings of Anuloma marriage were given intermediate caste above the mother's caste and below the father's caste.\textsuperscript{134} This law
multiplied castes. Some examples can be cited as under:

**Table N0.2-3**

**Intermediate caste given to the offsprings of ‘Anulom’ marriage**

<table>
<thead>
<tr>
<th>No.</th>
<th>Male caste</th>
<th>Female caste</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Brahmin man</td>
<td>Vaishya woman</td>
<td>Ambastha</td>
</tr>
<tr>
<td>2.</td>
<td>Brahmin man</td>
<td>Sudra woman</td>
<td>Nishad</td>
</tr>
<tr>
<td>3.</td>
<td>Kshatriya man</td>
<td>Sudra woman</td>
<td>Ugra</td>
</tr>
<tr>
<td>4.</td>
<td>Kshatriya man</td>
<td>Brahmin woman</td>
<td>Suta</td>
</tr>
<tr>
<td>5.</td>
<td>Vaishya man</td>
<td>Kshatriya woman</td>
<td>Magadha</td>
</tr>
<tr>
<td>6.</td>
<td>Vaishya man</td>
<td>Brahmin woman</td>
<td>Vaideha</td>
</tr>
<tr>
<td>7.</td>
<td>Sudra man</td>
<td>Vaishya woman</td>
<td>Ayogara</td>
</tr>
<tr>
<td>8.</td>
<td>Sudra man</td>
<td>Kshatriya woman</td>
<td>Kshattar</td>
</tr>
<tr>
<td>9.</td>
<td>Sudra man</td>
<td>Brahmin woman</td>
<td>Chandala</td>
</tr>
<tr>
<td>10.</td>
<td>Brahmin man</td>
<td>Ugra woman</td>
<td>Awritas</td>
</tr>
<tr>
<td>11.</td>
<td>Brahmin man</td>
<td>Ambastha woman</td>
<td>Abhita</td>
</tr>
<tr>
<td>12.</td>
<td>Brahmin man</td>
<td>Ayogava</td>
<td>Shigyana</td>
</tr>
<tr>
<td>13.</td>
<td>Nishada man</td>
<td>Sudra woman</td>
<td>Pukkasa</td>
</tr>
<tr>
<td>14.</td>
<td>Sudra man</td>
<td>Nishada woman</td>
<td>Kukkutta</td>
</tr>
<tr>
<td>15.</td>
<td>Kshatriya man</td>
<td>Ugra woman</td>
<td>Swapaka</td>
</tr>
<tr>
<td>16.</td>
<td>Vaidehaka man</td>
<td>Ambastha woman</td>
<td>Vena</td>
</tr>
</tbody>
</table>

Thus the entire social system was governed by the Brahminical law which was regressive in its character and was used as an instrument by socially privileged Dwijas who were also economically and politically powerful to keep the Shudras and the Avarnas in subjugation and perpetual poverty. An arrangement was made so that the subjugated class could never rise even in future by way of depriving them of any chance of economic power. This has continued even to-day and as a
result the Avarnas/Panchamas or scheduled castes are deprived of the economic power or property.

In Hindu Varna System stratification, those who were outside its fold/system were known as Avarnas or Panchanas or Antyajas in different span of time. They were external in the sense that they were required to stay outside the village settlement. The concept of pollution was attached to them and they were treated as untouchable castes. These castes were systematically listed in the 1931 Census of India. These untouchable Castes were officially defined as "depressed castes" in 1932.\textsuperscript{136} Before that in 1931, Gandhiji named them Harijans where 'Hari' means God, 'Jan' means people and thus 'Harijan' means "people of God." Gandhiji seems to have borrowed this word from a Gujarat poet Narsinh Mehta who had used this word "Harijan" first in his devotional songs. This word in Marathi, Gujarati, Hindi and other languages means a child whose father's identity is unknown,\textsuperscript{137} and hence bastard progeny. Therefore, the name Harijan was not only disliked but was hated and opposed by the untouchables. Their reaction is not adverse to the word "Scheduled Castes" or even to the word "untouchable." As a result, there was wild cry, an agitation and strong opposition to the Bill using the word Harijan in the Bombay Legislative Assembly. It was duly replaced by the term Scheduled Castes\textsuperscript{138} in 1938 and it continues to be used as Scheduled Castes in Government records and circulars even to-day. The expression Scheduled castes was first coined by the Simon Commission and embodied in the Government of India Act, 1935. While castes were listed systematically in the 1931 Census of India, the terms Scheduled Castes (S.Cs.) were applied to these castes for the first time in the Government of India Act, 1935.
Until then, they were known as untouchables, depressed classes or exterior castes. Then the Government of India published a list of Scheduled Castes under the Government of India (Scheduled Castes) Order, 1936.

In the process of evolution of caste on the principles of graded Chaturvarna (four Varnas) and ceremonial purity, large number of people variously known as the Panchamas or exterior castes or Antyajas or Ati-Shudras fell outside the pale of the Chaturvarna System and hence are known as Avarnas (not belonging to Varnas). It seems probable that inter-varna struggles and other religious and historical developments were predominant in the evolution of the four Varnas and the fifth group of the Avarnas. They were denied the rights enjoyed by the Brahmins, Kshatriyas, Vaishyas and even Shudras such as the rights of Upanayana (to wear the sacred thread), learning, bearing arms, trade and other "clean" occupations. They had no status as persons in the eyes of law as observed in the Hindu Shastras. Moreover they were forced to live on the outskirts of the savarna-village (belonging to higher Varnas) thus restricting their mobility. In effect, they were segregated and became the Antyajas and Untouchables. Lord Buddha, who was perhaps the first great teacher of mankind, raised a revolt against caste. The Untouchables (Panchamas or Avarnas) were out of the Varna System and had no share in the social, political and the judicial powers. On the contrary they were slaves and were offered as presents to friends or gifts to temples and were brought, sold and mortgaged in the same manner as the land on which they dwelt or as the cattle or other property of their owners. The master had the right even to kill a slave. The British rule through the East India Company in 1792 banned the slaves.
The practice of selling the slaves for arrears of land revenue was discontinued in 1819. In 1843 an act was passed by which the right of any person claiming a slave could not be investigated by public officers or courts. The penalties of slave dealings were inserted in the Penal Code of 1860, (Act XLV of 1860) but all caste distinctions, ceremonies and prohibitions were respected.\textsuperscript{141} Despite these acts, caste tyranny and oppression have remained vigorous.

During the modern times we find that the situation which existed since Manu not only continued but worsened in the Peshwa regime. The Mahars and Mangs, (Scheduled Castes in Maharashtra), were not allowed to enter in the gates of Pune City after 3 P.M. and before 9 A.M. because during those hours the body casts too long a shadow which, when it falls on a member of the higher castes, especially the Brahmin, pollutes him.\textsuperscript{142} During the Peshwa rule in Maharashtra, the Scheduled Castes had to carry earthen pots tied to their necks for their spitting purpose so that they would not spit on the public roads. They were required to carry brooms behind them as trails to efface their so called polluted footprints. The lower castes hierarchies were required to keep a respectable physical distance from the higher castes. For example in Kerala Kammalas (artisan caste) had to keep a distance of 24 feet from the castes above them.\textsuperscript{143} Izhavas and castes in that group (Polet Jatis) had to keep a minimum distance of 36 feet. Pulayas and other Scheduled Castes had to keep a minimum distance of 64 feet.\textsuperscript{144} The touch of all castes below the Shudra caste group downwards caused pollution to the castes above them.\textsuperscript{145}

Untouchability in India is intimately, organically associated with the institution of caste.\textsuperscript{146} Its rigid form is logical outcome of a peculiar
notion of pollution (miscalled ceremonial purity) sanctified by religion and codified by the Brahminical discriminative laws. This not only institutionalised the caste hierarchy and untouchability but gave it socio-religious-legal approval. While talking with higher castes, the untouchables had to (a) keep a distance ranging from 30 to 64 feet according to the caste hierarchy of the person to whom he was talking. (b) bend his body, (c) cover his mouth by his hand, (d) address higher castes by "Lord", "Sir", "Parents", etc., (e) address himself as slave, his children as calves, his house as hut, his paddy as chaff and his rice as dirty gruel.

Men and women untouchables both were prohibited from:-
(a) wearing clothes above the waist and below the knees,
(b) wearing new clothes (Even when new clothes were bought they were to be made dirty by dipping them in mud or rubbing on the dark spots,
(c) wearing gold and silver ornaments and,
(d) using shoes not withstanding the thorns and sharp stones of the jungle, paths.

Shanan Caste women who were much above the untouchable caste in caste hierarchy were not allowed to cover their bosom, covering of which led to riots in South Travancore in 1932. If this was the case with the Shanans, what could have been the plight of the untouchables? The untouchable was not allowed to enter the house of the higher up. However, he was allowed to work as a labourer during construction, repair or storing the grains etc. But later the house was purified by sprinkling cow urine or cow dung. If the Scheduled Caste touched the utensils and other things, then non-inflammable things were to be put
on fire and then purified by sprinkling cow urine, while things like clothes were to be purified by only sprinkling cow dung\[152\] if it was touched by a Scheduled Caste. Food was served to the Scheduled Caste only outside the house in leaves or broken vessels which were to be washed by him before and after use.\[153\] A caste served only the caste above it and since the Scheduled Caste was the lowest caste they had to serve all castes and no caste served it.\[154\] The Scheduled Caste member was not allowed to walk on public roads or enter the temple. In the Court of justice, he had to shout from the appointed distance and take his chance of being heard. This is because he was prohibited from entering the village or town and hence virtually prohibited from employment, business and contact with the people.

**Forms or types of Untouchability:** The Government of Madras Presidency, was perhaps the first to put on record the manifest forms of untouchability in the proceedings of its Board of Revenue (No.7237 of the 5th November, 1892). There were forms of oppression, hither to only hinted at which are listed for punishing disobedience of Pariahs against their masters.

1. Bring false cases in village court or in the criminal courts.
2. Detain, on application from Government, waste land lying all around the paracheri so as to impound the Pariah's cattle or obstruct the way to their temple.
3. Have mirasi names fraudulently entered in the Government account against the paracheri.
4. Pull down the huts and destroy the growth in the backyards.
5. Deny occupancy right even under possession from times immemorial sub-tenancies.
forcibly cut the Pariahs' crops and on being resisted charge them with theft and rioting.

under misrepresentation, get them to execute documents by which they are afterwards ruined.

cut off the flow of water to their fields.

without legal notice have the property of sub-tenants attached for the landlord's arrears of revenue.

In 1936 Dr. Ambedkar recorded that the Balais (Scheduled Castes) of Central India were forced to observe certain rules regarding the apparel, certain duties that they were asked to do did not entitle the Balais any remuneration. The injunctions on Balais were as follows:-

1. The Balais must not wear gold lace bordered puggree and dhotis with coloured or fancy borders.

2. The women must not use gold or silver ornaments or fancy gowns or jackets.

3. They must render services without demanding remuneration and must accept whatever a Hindu is pleased to give.

4. They must convey information of the death of any Hindu to relatives of the deceased, no matter how far they might be living.

5. They must play music before processions of all Hindu marriages and on some occasions. On one occasion when the Balais refused to render the above mentioned services, the fanatic Hindus did not allow them to take even water from the village wells and forced them to abandon their houses where their ancestors lived for generations.

The Hindus of Kavitha (Gujarat) ordered the untouchables
not to send their children to the Government School in the village, which required them to undergo terrible suffering. In 1935 fetching water in metal pots by the Scheduled Castes women was taken as an affront to the dignity of the Hindus and hence the Scheduled Castes women were often assaulted.

A Scheduled Caste member of Chakwara, after his return from pilgrimage, arranged a dinner to his fellow castes of the village as an act of religious obligation. He prepared sumptuous meals with some items in ghee. While the Scheduled Castes were engaged in partaking of the food, hundreds of Hindus armed with lathis, rushed to the scene, spoiled the food and belaboured the Scheduled Castes who ran for their lives. According to the Hindus, the Scheduled Castes host was impertinent enough to serve ghee and his Scheduled Castes guests were foolish enough to taste it. The Scheduled Castes in village in Rajasthan were harassed and beaten, the crops were destroyed on their refusal to lift and flay the cattle carcasses.

The villagers in Saurashtra (in Gujarat) thought that the Scheduled Castes were the cause of a cattle disease in the village and went in a mob to assault them but the latter were not present and hence the assault did not materialise.

In September 1957 a series of riots and police firing took place in Ramanathapuram district of Tamilnadu, when 122 villages were affected and a number of houses of Pallers and Maravass (Scheduled Castes) were burnt by Caste Hindus. In some places the Scheduled Castes are not allowed to use common Paths and village Banias do not supply their necessitates. The scavenger was required to carry a broom in his hand or under his arm and was required to shout announcing his
The excessive untouchability in rural areas coincided with the lethargic attitude of the police in curbing this evil. The Scheduled Castes were not allowed to draw water from public wells constructed by State Water Board and they had no access to hotels and Dharamshalas.

In spite of taking prior permission of the Police Patel and brothers of village Sarpanch for playing musical instruments at the wedding of a Scheduled Caste, as the Sarpanch was out of station, the Rajputs and Thakors attacked the Scheduled Castes with lathis and dharias and a Scheduled Caste succumbed to the injuries in Sargasan village in Kalol taluka of Mehsana district in Gujarat.

A person is an entity upon whom legal rights, powers and privileges are conferred, to whom liberties are given and duties are prescribed. Avarnas were not regarded as persons in the eyes of Law. This practice continued till the rule of the British in India. The Sudras were originally Kshatriyas. The Panchmas were also known as Hinas from the Buddhist countries which the Brahmins regarded as Mlechas or Hinas. Mlechas captured in war were made slaves. Brahmins, Kshatriyas, Vaishyas and Shudras were regarded as Aryans. According to Kautilya, the Aryans could in no case be allowed to remain slaves. In the case of sale of a minor from the four Varnas, the person was fined twelve pannas, in case of Shudra it was twice or even four times in the case of other Varnas.

The memorandum submitted to the United Nations by the Scheduled Castes persons assembled in the Adi-Andhra Convention at Hyderabad in December, 1968 enlisted 21 (twenty one) atrocities perpetrated by caste Hindus on Scheduled Castes. One incident in the statement of
Mr. Rajnarayan, Member of Parliament, should be highlighted because of its unique, morbid character. On 29 July, 1969, a Police Party led by in-charge of Bakewar Police Station (Uttar Pradesh) raided the house of Ramcharan, a poor Scheduled Caste man, took his wife and son to the house of Chairman of the town area of Lakhana, stripped them naked and the police forced mother to lie down on the floor and compelled the son to rape her.

In general the atrocities on Scheduled Caste persons are as follows:-

1. Locking up families in their homes and setting the house on fire.
2. Burning alive these people individually or collectively.
3. Murdering on the ground of untouchability.
4. Sacrificing them in the name of Hindu deities.
5. Setting houses on fire.
6. Stripping women naked, beating them violating their modesty, parading them naked in broad day light through the village and raping them thereafter.
7. Throwing excreta into their drinking water wells, polluting their wells by throwing into them filth, dead dogs, cats and bones of animals.
8. Belabouring and threatening them with death.
9. Destroying the standing crops in their fields.
10. Compelling them to perform duties laid down by the tradition which are against their interest.
11. Preventing them from exercising rights as citizens and compelling them to refrain from exercising individual freedoms.
12. Denying them to access to eating houses, public drinking water well, obstructing their marriage and other processions, denying
them access to temples etc.
13. Preventing them from taking part in cultural programmes of caste Hindus in the villages and towns.
14. Preventing them from playing band etc. on marriage and other auspicious occasions.
15. Preventing them from taking services of Barbar, Shehnai player etc. in the villages.
16. Preventing them from exercising their right to franchise.

Thus it can be seen and experienced that various forms of untouchability in actual life conform to their prototype enumerated in the Code of Manu. Though the Untouchability (Offences) Act, 1955, de jure overrides the code of Manu, yet the Manu Code is to this day the de facto Law throughout the length and breadth of India.\textsuperscript{169}

Practically not a single day has passed without atrocities being committed against the untouchables either before independence or after independence, who are economically poor, socially depressed and oppressed and politically unorganised. The management of Law and Order is in the hands of those people who belong to the Upper Castes that commit offences against the untouchables. The depressed position in which they find themselves does not permit them to seek justice which is costly and beyond their reach due to their poverty. Their grievances cannot be voiced by their representatives in Parliament, State Legislatures and Parishads. This is because they are the tools in the hands of majority which happens to be the caste Hindus. Reservation in a way a right given to Hindus to nominate untouchables as representatives of untouchables but in reality as tools in the hands of Hindus for exploitation.\textsuperscript{170}
The elections are dominated by caste loyalties rather than principles. The role of election manifestoes and ideologies of Political Parties are of minor significance in election. Therefore, it has strengthened rather than weakened casteism and caste loyalties in the country. In such an election system a Scheduled Caste Candidate who is acceptable to the majority which happens to be of the caste Hindus will be elected. On the contrary even if all untouchables cast their votes to a candidate who is acceptable to them and who according to them might represent their hopes and aspirations in the legislature will be very badly defeated, if the caste Hindus feel otherwise.

This will explain why Dr. Ambedkar, the Champion of the cause of the untouchables, was defeated in post-independence elections in India. This is evident in almost all reserve constituencies of all states and regions. This is because the Caste Hindus form the overwhelming majority of voters, while the untouchable voters form less than one-fifth of the voters, in various states and regions in India. The political parties also approve the candidature even in reserved seats of those who are acceptable to the caste Hindus rather than to the untouchables. This is precisely because they want their candidates to be elected by hook or by crook. Members thus elected naturally cannot be other than the show pieces or rubber stamps in the hands of caste Hindu-Politicians. If the untouchable legislator or a minister tries to talk about the welfare of untouchables, he is sacked to please the caste Hindus as is evident in the removal of Mr. B. Basavlingappa from the Karnataka ministry, Mr. Tirupade from Maharashtra Ministry and Mrs. Satyavani Muthu from the Tamil Nadu ministry.

This is perhaps why Scheduled Caste members in the State Legislature
and Parliament are discovered opening their mouths only accidentally or once in a while. Even this limited speaking may have to be done according to the wishes and guidelines given by their party bosses who are none other than the caste Hindus. If the candidates elected in reserved seats fail to comply, their obtaining tickets for the next election is ruled out and even if tickets are given under the pressure of the political party, their chances of getting elected are bleak. This is why the elected Scheduled Caste members are representatives of the general constituency and not of the untouchables. This is why these meek Scheduled Castes Members of Parliament (Ms.P) and Members of Legislative Assembly (Ms.L.A.) cannot voice the problems of untouchables in the legislatures even if they feel like doing so. Ironically non-Scheduled Caste members are at times found raising the problems of untouchables in the Parliament and State Legislatures.¹⁷¹

The political powers and authority that get vested in untouchables in the form of representation in State Legislatures and Parliament thus becomes redundant bringing no fruits of power and authority to the Scheduled Castes. They are absolutely powerless even though they occupy positions of power and authority. There is dire need to change the present election system of the reserved constituency for the Scheduled Castes. At present general seat members for the Legislatures are elected by all voters including untouchables and the same should continue as usual but instead of allowing all members of the constituency to cast their votes for the reserved seat, the untouchables alone should caste their votes. As a consequence a candidate from among many who is acceptable to the untouchables and who according to them might represent their problems in the respective legislature
effectively will be elected. Such a candidate will be really representing the untouchables as he will be directly interested in the problems of untouchables besides the problems of general public. Such a candidate might present the problems of untouchables better without any fear or favour of the majority castes. This will wipe out most of the evils of caste system in general and untouchability in particular. This will go a long way in establishing equality and justice. In turn it will remove poverty and exploitation. This approach might be branded as separatist or against national integration. But it is not really so. It will end the slavery of the untouchables though effort may not be to the liking of the touchable majority. Dr. Ambedkar had given in only because of the liking of the touchable majority and to save the life of Mahatma Gandhi and gave up the demand for the separate electorate system for the untouchables. The contradiction of political inequality and inequality before law and socio-economic inequalities and injustice in day-to-day life will force the hungry masses and oppressed untouchables to blow up the political super-structure so laboriously built up so far. The naxalite movement, perhaps, seems to be a pointer in this direction. The untouchables know for certain that they have nothing to loose except perhaps their chains. When that day comes one knows not, but time may tell!

**Review of Literature:-**

**Ancient Period**

The Vedas do not contain any reference for Caste as the concept of Caste was alien to Vedas. In Vedas especially the first reference only once appears in the Rigved, 10the Mandal, Hymn No.90, Verse (Slok) No.12 wherein the four Varnas are mentioned and a divine status is given to the creation of varna system by proclaiming that the Brahmin, Kshatriya, Vaishya and Shudra were respectively produced from the mouth, arms, thighs and feet of the Almighty God. Vedant and Shruti also do not contain much tight type compartmentalisation of social hierarchy. The Purans contains all mythological stories about various God and Godesses. Actually it is the Smriti period when all discrimination and distortion of social order seems to have taken their roots. Almost all Smritis contain adverse references against Shudras and other low Varnas, Avarnas, Antyajas, Chandals etc. The epic period of Ramayan also contains references about discriminatory practices followed by higher Varnas against the Shudras and other low born ones. Though there are umpteen numbers of examples about Anulom marriages, but the social harmony, equality and social justice seem to be absent even during Ramayan period when Lord Ram ruled the land. His father Dasharath had four queens as against popularly known three i.e. Kaushalya, Sumitra and Kaikeyi. The fourth queen named Parivriti was from Shudra Varna. Even Lord Rama's preceptor Vashishta's wife Arundhati, original name Akshamala, was originally from a Scheduled Tribe and was renamed as Arundhati after marriage with Vashishta. Even Shravan, when he was shot by Dasharath under mistaken identity,
thinking him to be deer, when he was filling water in his pot from a lake, revealed to the sorrowful Dasharath while taking his last breath that, "O best among men, please do not worry that a Brahmahatya (Killing of Brahmin) has taken place by you as I am Shudra, produced by Vaishya father and Shudra mother and not a Brahmin.

Ayodhya Kand - 63 - 50-51.

Thus it can be seen that Anulom marriages were permitted in those days and Varna rigidity might not have been as strong as it is noticed in subsequent period. However, examples of Pratilom marriages are very rare and most negligible. Even though such inter-varna marriages took place, Varna based injustice seems to be order of the day and used to take place even on slightest pretext. The glaring example is the merciless killing of Shambook by Lord Rama on most flimsy ground or no ground at all. The Mahabharata period also seems to have the same tendency as Ramayan as many Varna based discriminatory references are available in epic Mahabharat and other literature of the day. The Smristi period tightened the narrow mindedness about Varnas and Manu Smriti is main among other Smritis in advocating discriminatory practices against the Shudras and other so called low born Varnas. All damaging disparagement against Shudras during said period has been seen in the foregoing paragraphs of this chapter and hence no repetition is done here. This has been covered in chapter one and beginning of this chapter also and it is worth taking note of how, in Bhagwad Gita Lord Krishna advocated principles of equality not only among all men but also among all living entities. He said that there is no difference between a Brahmin and a cow, elephant, dog and dog eater i.e. Chandal. (Gita, Chapter-5,
verse-18) It seems that evil of discriminatory Varna System might have had raised its most ugly face in the period preceding and during Mahabharat times which seems to have compelled Lord Krishna to denounce the inequal treatment meted out to certain Varnas. Though it is claimed that Chaturvarna system was created by Lord Krishna Himself but this seems to be an interpolation done by the vested interest.

**Ancient Period:-**

During ancient period, Lord Buddha was first to attack Varnashram Dharma, Caste System and discrimination arising out of both the systems. He preached equality of all human beings irrespective of their status in Varna or Caste hierarchy. He attacked the ritual purity which went a long way annihilating the division of human beings into watertight compartments of castes. However, the revival of the Vedic movement during and after Gupta period in ancient India suppressed the movement led by Lord Buddha and further aggravated the caste multiplication in India.

**Medieval Period:-**

In medieval period in India Saints and their Bhakti Cult preached equality of human beings before God. They advocated that even the low caste person can attain the bliss of God and salvation through faith in God. The Saints spread the knowledge to common masses by preaching in common, local languages rather than in Sanskrit. This was very important because, hitherto all religious precepts and knowledge was in Sanskrit which was not common man's language. It was known to Brahmins and few people belonging to the Dwijas' varna,
while a vast majority of the masses in general and Shudras and Ati-Shudras or Panchamas in particular were prohibited from even learning Sanskrit and religious verses. However the Saints did not preach strongly the necessity of social equality. They bothered only about the salvation after death and did not bother much about the sufferings in this life. As a result they laid emphasis on the equality of souls, salvation and heaven. Some casual references were made to the problem of human segregation and generally preached that before God all are equal.

**Modern Period:**

(1) The Madras legislative Council was first to introduce a legislation for throwing open the Hindu temples to all Hindus by enacting "Removal of Civil Disabilities Act and the Malabar Temple Entry Act in 1938".

(2) The Bombay Harijan Temple Worship (Removal of Disabilities) Act was passed in 1938 granting temple entry rights to the untouchables.


(4) The Bombay Harijan Temple Entry Act, 1947

Inspite of passing such acts, the observance of untouchability did not become illegal.

Nevertheless in general, people were influenced by the Liberal Western education which never advocated watertight segments of the society like the caste system in India. The impact of western education on Indians put them into two minds, one believing in traditional casteism and untouchability and second believing in a liberal society. Slowly western educated caste Hindus, because of their association with westerners
and introduction of western education became less violent and rigid unlike their female folk and other caste Hindus. Such men projected themselves as liberal in the public but remained conservatives and caste-minded in the private, in their family lives.

**Social reform movement:** It was Mahatma Phooley, the first Indian Social Reformer from Maharashtra in 19th (nineteenth) century, who had not only attacked the caste system and untouchability but led a movement in an organised way through his "Satya Shodhak Samaj." Satya Shodhak Samaj was actively engaged in anti-untouchability movement. This movement was the first of its kind to organise the masses and gain confidence for abolishing caste system and untouchability. The movement was a considerable force in Maharashtra till early part of the 20th (twentieth) century.

The British enacted some Laws as a result of which the grip of caste system did not remain as strong as before. Thus the laws enacted by the Britishers worked as an affective instrument of social change. In the late thirties of 20th (twentieth) century the rise of Dr. Ambedkar and his collective struggle for emancipation of untouchables created an atmosphere in favour of eradication of untouchability. For this the untouchables and their leaders did not mind paying a huge price as they realised that freedom cannot be achieved without sacrifice.

The Britishers were interested in the maintenance of law and order for their own ends and not for the welfare of the Indian Communities and certainly not for the untouchables. In fact, after the "revolt" of 1857, the British Government pledged not to interfere with the religious customs and traditions of India. Moreover, interpretation and enforcement of the Law showed respect to Hindu traditions and customs
which were against the untouchables. For instance, under section 61(m) of the District Police Act, 1890, the court convicted Bhagi for her drawing water from a public cistern, knowing that the water could be drawn from it only by the high caste people without objection being raised by the Marathas or the Kumbis, even though it could not be said that the water was rendered physically less fit for the purpose for which it was originally used. (Queen Empress V/S Bhagi Kom Nathiaba).

An untouchable could be punished under section 295 of the Indian Penal Code for the offence of entering into a caste Hindu temple as observed in the case of Bhagya Mahar in 1880. In 1924 Justice Predeaux held an untouchable guilty of a similar offence. In Atmaram V/S. King Emperor the learned Judge held "When a custom that has held for many centuries ordains that an untouchable, whose very touch is, in the opinion of devout Hindus, a pollution, should not enter the enclosure surrounding the shrine of any Hindu God and when an untouchable with the knowledge, deliberately enters a temple and defiles it, he has committed an offence within the purview of section 295 of the Indian Penal Code."

The British rulers brought with them the western judiciary system which treated all persons as equal before the law. However, they did not disturb the Indian Social Order because it would not have worked in their favour. They did not attack the practice of untouchability. Thus it can be seen that laws were differently interpreted to protect the practice of untouchability due to fear from majority of a backlash like 1857 revolt. This was nothing, but a sheer helplessness on the part of British rulers.

For the first time in India after the establishment of the British rule
traffic in human beings was legally prohibited. The British brought with them the legal system which treated all persons as equal before Law. However, they too maintained the status quo in the social structure and relations and did not make any direct attempt to abolish untouchability because they were interested in preserving and expanding the British Rule in India and not in bringing about social change. For achieving their end they did not touch the caste system and untouchability.

They brought with them western Literature, Science, Commerce, Philosophy and their ideology of constitutional law and jurisprudence which had a great impact on Indian Social life. As a result the position of the untouchables improved gradually because they began to regain their status as persons in the eye of law. The Indian Penal Code of 1860 was generally made applicable to all persons irrespective of their caste or creed or religion in British India.

According to section 10 of the Indian Penal Code, the word "Man" denotes a male human being of any age and the word "Woman" denotes female human being of any age, for the purpose of applying the law equally to all persons without showing favour to any person on grounds of birth or otherwise. Section 2 of the Indian Penal Code laid down that "Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within India."

Thus the law did work wonderfully well as an effective instrument of social change. Man and woman were defined and Varna or Caste were kept out from crime and punishment for the first time in Indian soil which was otherwise littered with Manu Smriti's and other Smritis'
diktat which were most irrational, illogical, unjust, unfair, unreasonable, fanciful and casteist in nature and character.

**Attack of Indian Constitution on Caste - PART-III-Fundamental Rights**

**Right to Equality**

The Indian Constitution is the consolidated major and almost final attack on caste and caste based disabilities faced by the Sudras / Untouchables / Scheduled Castes. The various provisions of Indian Constitution have almost nullified all irrational, illogical, surprising, shocking, discriminatory, devastating, unjust, unfair, unreasonable, biased, prejudiced and inhuman provisions contained in various Hindu Scriptures including and mainly Manu Smriti and other Smritis against the Shudra and other lower caste people of India. How deadly blow and powerful punch the Constitution has delivered against all such disabilities and infirmities thrust upon the Sudras / untouchables on caste basis can be seen from following main provisions of the Constitution of India:-

**Article 14. Equality before law.** - The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

**Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.** - (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-
(a) access to shops, public restaurants, hotels and places of public entertainment: or
(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.
(3) Nothing in this article shall prevent the State from making any special provision for women and children.
(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Article 16. **Equality of opportunity in matters of public employment.**

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.
(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be person professing a particular religion or belonging to a particular denomination.

Article 17. **Abolition of Untouchability.** - "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

Article 18. **Abolition of titles.**

(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign
State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

Right to freedom:-

Article 19. Protection of certain rights regarding freedom of speech, etc.-

(1) All citizens shall have the right-
(a) to freedom of speech and expression;
(b) to assemble peaceably and without arms;
(c) to form associations or unions;
(d) to move freely throughout the territory of India;
(e) to reside and settle in any part of the territory of India; and
(g) to practise any profession, to carry any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and
integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions
on the exercise of the rights conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,-

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to exclusion, complete or partial, of citizens or otherwise.

Right against exploitation:-

Article 23. Prohibition of traffic in human beings and forced labour.-

(1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service, the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

PART-IV-Directive Principles of State Policy:-

Article 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker
The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

PART-IX-The Panchayats:-

Article 243  D. Reservation of seats.-

(1) Seats shall be reserved for-
(a) the Scheduled Castes; and
(b) the Scheduled Tribes,
in every panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be
reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide;

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in Panchayat at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State;

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayat at each level shall be reserved for woman:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a
State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

PART-IX A-The Municipalities:-

Article 243  T. Reservation of seats.-

(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall
be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

Part X - The Scheduled and Tribal Areas:-

Article 244. Administration of Scheduled Areas and tribal areas.-

(1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the State of Assam, Meghalaya, Tripura and Mizoram.

(2) The provisions of the Sixth Scheduled shall apply to the administration of the tribal areas in the State of Assam, Meghalaya, Tripura and Mizoram.

Article 244A. Formation of an autonomous State comprising certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefore.- (1) Notwithstanding anything in this Constitution, Parliament may, by law, form within the State of Assam an autonomous State comprising (whether
wholly or in part) all or any of the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule and create therefore-

(a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the autonomous State, or

(b) a Council of Ministers,

or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) may, in particular.-

(a) specify the matters enumerated in the State List or the Concurrent List with respect to which the Legislature of the autonomous State shall have power to make laws for the whole or any part thereof, whether to the exclusion of the Legislature of the State of Assam or otherwise;

(b) define the matters with respect to which the executive power of the autonomous State shall extend;

(c) provide that any tax levied by the State of Assam shall be assigned to the autonomous State in so far as the proceeds thereof are attributable to the autonomous State;

(d) provide that any reference to a State in any article of this Constitution shall be construed as including a reference to the autonomous State; and

(e) make such supplemental, incidental and consequential provisions as may be deemed necessary.

(3) An amendment of any such law as aforesaid in so far as
such amendment relates to any of the matters specified in sub-clause (a) or sub-clause (b) of clause (2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds of the members present and voting.

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.

Part XVI - SPECIAL PROVISIONS RELATING TO CERTAIN CASES:-

Article 330. Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.-

(1) Seats shall be reserved in the House of the People for -
(a) the Scheduled Castes;
(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and
(c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State for Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Scheduled Castes in the State or Union territory, or of the Scheduled Tribes in the State or Union territory.
Territory, or part of the State or Union Territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.

(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bear to the total population of the State.

**Explanation.**- In this article and in article 322, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census.

**Article 332.** Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.-

(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.

(2) Seats shall be reserved also for the autonomous districts
in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or the Scheduled tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year 2000, of the number of seats in the Legislative Assembly of the State of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be.-

(a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears the
total number of seats in the existing Assembly.

(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year 2000, of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district.

Article 335. Claims of Scheduled Castes and Scheduled Tribes to services and posts.- The claims of the members of the
Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments in services and posts in connection with the affairs of the Union or of a State.

Article 338. National Commission for Scheduled Castes and Scheduled Tribes.-

(1) There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the powers to regulate its own procedure.

(5) It shall be the duty of the Commission-

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution or under any
other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendation as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before House of Parliament along with a memorandum
explaining the action taken or proposed to be taken on the recommendation relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendation relating to the State and the reasons for the non-acceptance, if any, of any such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
(b) requiring the discovery and production of any document;
(c) receiving evidence on affidavits;
(d) requisitioning any public record or copy thereof from any court or office;
(e) issuing commissions for the examination of witnesses and documents;
(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes and Scheduled Tribes.

(10) In this article, references to the Scheduled Castes and Scheduled Tribes 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.

FIFTH SCHEDULE [Article 244(1)]

Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes

Part B

Administration and Control of Scheduled Areas and Scheduled Tribes

4. Tribes Advisory Council.-

(1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not the Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State; Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State
is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.

(3) The Governor may make rules prescribing or regulating, as the case may be,-

(a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof;

(b) the conduct of its meetings and its procedure in general; and

(c) all other incidental matters.

5. Law applicable to Scheduled Areas.-

(1) Notwithstanding anything in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.

(2) The Governor may make regulations for the peace and good government of any area in a State which is for the
time being a Scheduled Area.

In particular and without prejudice to the generality of the foregoing power, such regulations may-

(a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;
(b) regulate the allotment of land to members of the Scheduled Tribes in such area;
(c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

(3) In making any such regulation as is referred to in sub-paragraph (2) of his paragraph, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4) All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

(5) No regulation shall be made under this paragraph unless the Governor making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council.

Part C

SCHEDULED AREAS

6. Scheduled Areas.-

(1) In this Constitution, the expression "Scheduled Areas" means such areas as the President may by order declare
to be Scheduled Areas.

(2) The President may at any time by order\textsuperscript{173} -

(a) direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area or a part of such an area;

(aa) increase the area of any Scheduled Area in a State after consultation with the Governor of that State;

(b) alter, but only by way of rectification of boundaries, any Scheduled Area;

(c) on any alteration of the boundaries of a State or on the admission into the Union or the establishment of new State, declare any territory not previously included in any State to be, or to form part of, a Scheduled Area;

(d) rescind, in relation to any State or States, any order or orders made under this paragraph, and in consultation with the Governor of the State concerned, make fresh order redefining the areas which are to be Scheduled Areas;

and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and proper, but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order.

Conclusion:-

Thus all above Constitutional articles which provide various safeguards for the well-being and welfare, amelioration and
emancipation of the Scheduled Castes and the Scheduled Tribes have worked wonders and have made a real difference in the conditions of these classes of people who once suffered man-made disabilities and infirmities through laws like law of Manu and various Smritis restricting them from enjoyment of equality before law and equal protection of law in ancient and medieval times. This itself gives us abundant clarity as to how, law as an instrument of social change can change the life and fate of the people. Though slow, the social change through instrument of laws and constitutional law has certainly come in and is noticeable. Though caste system is not abolished and neither the constitution, in fact, aimed at it, as some believe, but the constitutional efforts have really produced fruits which these deprived sections of society have started to reap to certain extent.

Sociologist Sumner has given theory of classification of groups. It is called Sumner's classification. He has defined "in-groups" and "out-groups." The classificatory words are "We" and "They" or "Other." Such Constitutional provisions for deprived sections of Indian society crystallized groups and its classification. The individual belongs not to one group but to many groups and the membership is overlapping even though the Constitutional provisions created new groups in Indian Society such as S.Cs. / S.Ts. / O.B.Cs. and General. Cooley's classification of groups is in two parts mainly Primary Group and Secondary Group. Primary Group is basic group; reference group and it relates to reference behaviour of the individuals forming such groups. Family is a Primary Group and School is a Secondary Group. Man is an imitative animal. His desire to imitate other individuals or groups is instinctive in him. When one finds another person progressing in
life, he also desires to progress likewise. The concept of group was given by Hayman Turner, Merton and Sheriff further elaborated this concept. Through Constitutional measures, the S.Cs. and S.Ts. have progressed quite well in almost in most of the fields. At the same time, Constitution has created consciousness in them and the groups' mindset is strengthened and desire to progress like caste Hindu group has increased in them.

The Constitution of India rekindled a new hope for better to-morrow for the Scheduled Castes and the Scheduled Tribes as well as other Backward Classes also. It provided much needed social mobility to these sections of society. Social mobility is to be distinguished from migration which is a movement in geographical space. But migration too helps in Social mobility and occupational independence. Mainly Sociologists have divided mobility in two parts; (1) Vertical mobility and (2) Horizontal mobility. The Vertical mobility involves complete change of status whereas in horizontal mobility, there is no change in the status. This concept shows how one's achieved status, compares with one's ascribed status. When mobility is discussed, normally comparison with special order of other country is also viewed in concerned social context. American Society is "Open" Society whereas Indian Society is based on birth and caste only. Inter-generational mobility refers to father and son's generations. Parental generations. The law and Constitutional Provisions have brought about intergenerational mobility.

Social change is inevitable and law as an instrument of Social Change is very powerful and effective weapon of social change. If Social Change is inevitable, the social mobility is also similarly inevitable. Social
change is a natural phenomenon and the moment there is a Social Change there is also social mobility either vertical or horizontal. Probably no society absolutely forbids social mobility and no society is immobile. The law as an instrument of social change accelerates the social change and mobility both with equal speed and force. In India, the rate of Social Mobility is naturally low because of the caste system and the farming culture of the country. The State alone can make rules of universal application and the law as an instrument of social change envisaged in The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 has the universal application all over India as the same is central Law aimed at bringing social change all over India in an uniform desired manner aimed at establishment of an egalitarian Indian society. **The Constitution (Scheduled Castes) Order, 1950 (C.O.19) The Schedule Part IV - Gujarat**

**Scheduled Castes of Gujarat:**

1. **Ager** : Throughout the State except the Rajkot Division and the district of Kutch.

2. **Bakad or Bant** : Throughout the State except the Rajkot Division and the district of Kutch.

3. **Bawa (Dedh) or Dhedh-Sadhu** : In the Rajkot Division.

4. Bhambi, Bhabhii, Asadaru, Asdi, Chamadia, Chamar, Chambhar, Chamgar, Haralayya, Harali, Kholpa, Machigar, Mochigar, Madar, Madig, Telegu, Mochi, Kamati Mochi, Ranigar, Rohidas, Rohit or Samgar : Throughout the State except the Rajkot Division and the district of Kutch.

5. **Bhangi** : In the district of Kutch.

6. **Bhangi or Rukhi** : In the Rajkot Division.
7. Bhangi, Mehtar, Olgana, Rukhi, Malkana, Halalkhor, Lalbegi, Balmiki, Korar or Zadmalli: Throughout the State except the Rajkot Division and the district of Kutch.

8. Chalvadi Channayya: Throughout the State except the Rajkot Division and the district of Kutch.

9. Chamadia: In the Rajkot Division.

10. Chamar: In the district of Kutch.

11. Chamari, Nalia or Rohit: In the Rajkot Division.

12. Chenna Dasar or Holaya Dasar: Throughout the State except the Rajkot Division and the district of Kutch.

13. Dangashia: In the Rajkot Division.

14. Dhor, Kakkayya or Kankayya: Throughout the State except the Rajkot Division and the district of Kutch.

15. Garmatang: In the Rajkot Division.

16. Garoda: In the Rajkot Division and in the district of Kutch.

17. Garoda or Garo: Throughout the State except the Rajkot Division and the district of Kutch.

18. Hadi: In the Rajkot Division.

19. Halleer: Throughout the State except the Rajkot Division and the district of Kutch.

20. Halsar, Haslar, Hulasvar or Halasvar: Throughout the State except the Rajkot Division and the district of Kutch.

21. Holar or Valhar: Throughout the State except the Rajkot Division and the district of Kutch.

22. Holaya or Holer: Throughout the State except the Rajkot Division and the district of Kutch.

23. Lingader: Throughout the State except the Rajkot Division and
the district of Kutch.

24. **Mahar, Taral or Dhegu Megu**: Throughout the State except the Rajkot Division and the district of Kutch.

25. **Mahyavansi, Dhed, Vankar or Maru Vankar**: Throughout the State except the Rajkot Division and the district of Kutch.

26. **Mang, Matang or Minimadig**: Throughout the State except the Rajkot Division and the district of Kutch.

27. **Mang garudi**: Throughout the State except the Rajkot Division and the district of Kutch.

28. **Meghval or Meghwal**: Throughout the State except the Rajkot Division and the district of Kutch.

29. **Menghwar**: In the Rajkot Division and in the district of Kutch.

30. **Mochi**: In the district of Dangs and Umbergaon taluka of Surat district.

31. **Mukri**: Throughout the State except the Rajkot Division and the district of Kutch.

32. **Nadia, Hadi**: Throughout the State except the Rajkot Division and the district of Kutch.

33. **Pasi**: Throughout the State except the Rajkot Division and the district of Kutch.

34. **Senva**: In the Rajkot Division.

35. **Shemalia**: In the Rajkot Division.

36. **Senva, Shenva, Chaenva, Sedma or Rawat**: Throughout the State except the Rajkot Division and the district of Kutch.

37. **Thori**: In the Rajkot Division.

38. **Tirgar or Tirbanda**: Throughout the State except the Rajkot
Division and the district of Kutch.

39. **Turi**: Throughout the State.

40. **Turi-Barot**: In the district of Kutch.

41. **Turi-Barot, Dedh-Barot**: In the Rajkot Division.

42. **Vankar, Dhedh or Antyaj**: In the Rajkot Division.

**References and Notes:-**


8. Ibid, p.376
11. Ibid,
14. Ibid,
15. Ambedkar, B.R., Dr. Who were the Shudras? Thackar and Company Limited, Bombay, 1946, p.69
17. Ibid,
18. Ibid, p.377-378
20. Ibid, p.437
23. Ibid,
24. The Kathaka Samhita (XXXI 2) and the Maitravani Samhita
25. (a) Satapatha Brahmana (III.i.110)  
(b) The Maitravani Samhita (vii.1.1.6)  
(c) Panchavimsa Brahmana (vi.1.11)  
26. Satapatha Brahmana (xiv.1.31) and Kathak Samhita (xi.10)  
27. Ambedkar B.R. Dr., Who were the Sudras, Thackar and Company Limited, Bombay, 1946, p.31  
28. Manu Smriti, Chapter IV, Verses 110-112  
30. Apasthamba Dharma Sutras, Chapter V, Sutras 115  
31. Manusmriti Chapter II, Verses 135-136  
32. (a) Ataraya Brahmana, Chapter VIII, Verse 29.4.  
(b) Panchavimsa Brahmana (vi. 1.1.)  
33. Vishnu Smriti, Chapter XVIII, Verses 11-15  
34 (a) Apasthamba Dharma Sutras, Prasana 1, Patala 5, Skand 16, Sutras 21-22  
(b) Vasistha Dharma Sutras, Chapter-XIV, Verses 1-4  
35. Manu Smriti, Chapter IX, Verse 178  
36. Vasistha Dharma Sutras, Chapter VI, Verses 27-29  
37. Vishnu Smriti, Chapter XIX, Sutras 1-4  
38. Manu Smriti, Chapter IV, Verse 61  
39. Apasthamba Dharma Sutras, Verses 1-3  
40. Ibid,  
41. Ibid,  
42. Apasthamba Dharma Sutras, Chapter XIII, Sutras 8-13; same points
are mentioned in Brihaspati's Dharma Sutras.

43. Ibid,
44. Ibid,
45. Ibid,
46. Ibid,
47. Brihaspati's Dharma Sutras, Chapter XX, Verses 7-11
48. Ibid,
49. Ibid,
50. Ibid,
51. Ibid,
52. Ibid,
53. Manu Smriti, op,cit.
54. Ibid,
55. Ibid,
56. Ibid,
57. Manu Smriti, Chapter VIII, Verses 267-268
58. Ibid,
59. Ibid, Chapter XI, Verses 127-131
60. Ibid,
61. Ibid,
62. Ibid,
63. Ibid,
64. Ibid,
65. Ibid,
66. Vishnu Smriti, Chapter V, Sutras 19-25
67. Brihaspati Smriti, Chapter XII, Verse 12
68. Gautam Dharma Sutras, Chapter XX, Verse 46
69. Ibid,  
70. Manu Smriti, Chapter III, Verse 156  
71. Ibid., Chapter IV, Verses 78-81  
72. Ibid,  
73. Ibid,  
74. Apasthamba Dharma Sutras, Prasana II, Patala 10  
75. Gautam Dharma Sutras, Chapter XII, Sutras 2-3  
76. Manu Smriti, Chapter VIII, Verse 366  
77. Ibid., Verse 374  
78. Gautam Dharma Sutras, Chapter X, Sutras 50, 56 59  
79. Ibid, Chapter XII, Sutras 1-7  
80. Manu Smriti, Chapter VIII, Verses 270-72  
81. Ibid,  
82. Ibid,  
83. Ibid, Chapter VIII, Verses 279-84  
84. Ibid,  
85. Ibid,  
86. Ibid,  
87. Ibid,  
88. Ibid,  
89. Ibid,  
90. Ibid,  
91. Narada Smriti, Chapter XV, Verses 22-27  
92. Ibid,  
93. Ibid,  
94. Ibid,
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96. Ibid,
97. Ibid,
98. Manu Smriti, Chapter I, Verses 87-91.
100. Ibid, Chapter X, Verses 129.
101. Ibid, Chapter VIII, Verses 20-22,
102. Ibid,
103. Ibid, Chapter VIII, Verses 412-14.
104. Apasthamba Dharma Sutras, Prasana I, Patala 1, Skand 1, Sutras 7-8.
105. Manu Smriti, Chapter X, Verse 128.
106. Ibid, Chapter IX, Verses 334-35.
108. Ambedkar B.R. Dr., Who were the Sudra? Bomby Thacker and Company Limited, Bombay, 1946, p.119-20
109. Kane, P.V., History of Dharmashastras, Bhandarkar Oriental Research Institute, 1979, p.121-22
110. Manu Smriti, Chapter X, Verses 31 and 39.
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112. Manu Smriti, Chapter II, Verse 23.
114. Manu Smriti, Chapter X, Verse 45.
115. Das A.C., Rigvedic Culture, p.133; Quoted in Ambedkar B.R.,
Who were the Sudras? p.104.


117. Ibid, p.55

118. Ambedkar, B.R. Dr., The Untouchables: Who were they and why they became Untouchables? New Delhi: Amrut Book Company, 1948, p.47

119. Rigveda, Chapter II, Verses 4 & 12.

120. Ibid, Chapter V, Verses 6 & 34.

121. Ibid,

122. Ibid, Chapter IV, Verses 4 & 28.


124. Ibid, p.26

125. Rigveda, 1, 51, 8, 1.103.3 Quoted by N.D. Kamble, The Scheduled Castes, p.24.


130. Ibid., Chapter X, Verse -25.


132. Manu Smriti, Chapter III, Verse 17.


135. Manu Smriti, Chapter X, Verses 8, 11, 12, 18, 19.
137. Ibid., p.40.
139. This was in case of Pulayas, the Untouchable Caste in Kerala. For details see Matter, Rev. Samuel, The Land of Charity: A Descriptive Account of Travancore and its People, John Snow and Company, London, 1871, p.45.
143. The untouchables were required to keep 64 feet distance from Brahmins and Nairs, 40 feet from Kamnalans and 30 feet from Izhavas, the three castes in descending order in the caste hierarchy. These distances are derived from the Table given in the Census of India, Cochin, Part I (1901), pp. 181-182
144. Ibid,
145. Ibid,
146. According to the Census of India, 1971, the strength of untouchables (Scheduled Castes) is 7,99,95,896. For details see: Census of India, 1971, Series-I, Paper I of 1972, Final Population Tables. In Japan, there are above 3,00,000 "Untouchables” known as Burakumin (including) the Tokushu Burakumin, the Eta and the Yotsu. The Eta are believed to have migrated to Japan from the Philippines Islands. They are still socially and economically discriminated against due to the prejudice of the majority community. Like the untouchables of India, the Burakumins of Japan have to live outside the Japanese villages and cities. Sri Lanka too appears to have untouchables in the Roade community, akin to the Mahar caste of Maharashtra. In India, untouchability has religious sanctions, elsewhere it is not necessarily so. For details see Hiroshi Wagtsume (Social Science Research Institute, University of Hawaiji) "The Pariah Caste in Japan" in Anthony De Reuk and Julie Knight, "Caste and Race" Comparative Approaches (a Ciba Foundation Volume, London; J and A Churchill, 1966).

148. Census of India, Cochin, Part I, (1901), pp.181-182. Pulayas, the untouchable caste in Kerala, addresses higher castes by appropriate honorific titles like "Tampuram" (Lord) for Nambudris (Brahmin Caste). "Land Lord" for Syrian Christians, etc. "Panikka" (Sir) for Syrian Christains of low economic order. "Tandor" for headman appointed by the King to direct their

Similar expressions are observed in Maharashtra. For example: "Rao Saheb" (Sir) for Brahmins, "Bali Raja" for Marathas (King Bali is believed to have fought Brahmins and demolished Brahminical tyranny in ancient times and emancipated Shudra communities but not untouchables from the slavery of Brahmins. Hence the propriety of the title Bali for the Marathas. See Mahatma Phule Samgr Vagamaya (in Marathi language Government of Maharashtra Publication, 1969), p.160.

149. In Kerala, untouchables refer to themselves as "Adivan" (Slave), their children as "Kidongal" (calves), their houses as Madms (huts), their paddy as "Patir" (chaff), their rice preparation as "Kari-Kadi" (Kari-dirty, kadi gruel, prepared for cattles).

150. Ibid,

151. The Maharaja had no objection to Shanan woman using coarse cloth but they were not to use it like the women of the higher castes. For details see: O. Maller, L.S.S., Indian Caste Customs, Cambridge: 1932, pp.148-54.

152. In 1936 the untouchables of Maharashtra under the leadership of Dr. B.R. Ambedkar launched a satyagarh to take water from a public Tank at Mahad (District Kolaba, Maharashtra). At this time members of the various castes beat the untouchables and threw mud in their food. Afterwards the tank water was "purified" by mixing tons of cow dung at the hands of a Brahmin along with the reciting of hymns from holy scriptures. For details, see

153. Even after more than 26 years of political independence, in 1974 this practice was prevalent not only in the rural areas but also in the so called westernised cities like Ahmedabad where Mahatma Gandhi spent a good part of his life. For example in Ambavadi and Navrangpura, Central localities of Ahmedabad City, untouchables have to use broken cups kept outside for drinking tea for which they too pay same price as touchables.


156. Ibid, p.7

157. Ibid,

158. Ibid, p. 7-8


165. Ibid, pp. 41-42.

Note:-

From above references following references are quoted from Kamble N.D., The Scheduled Castes, Ashish Publishing House, H-12, Rajouri Garden, New Delhi-110027, 1982 with details as under:-

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P.10. from above Sr. No. 29 to 37
P.11. Sr. No. 38
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P.18-19. from above Sr. No. 68 to 97
P.20. from above Sr. No. 98-103
P.21. from above Sr. No. 104-108
P.22. from above Sr. No. 109
p.23. from above Sr. No. 110-116
P.24. Sr. No. 112
P.28. Sr. No. 135 where name of Publisher, place, year etc. are not quoted.