INTRODUCTION

The Indian society today is totally male dominated and biased against the female gender. This results in all sorts of exploitation and discriminatory practices. Obviously the status of Indian women is unjust and inhuman. For instance, female foeticide and female infanticide are widespread and the practice of sati has also not disappeared. Yet women are frequently tortured in the broad daylight because of insufficient dowry. Hundred of women commit suicide either due to humiliating sexual atrocities on them or because of unbearable tortures from the husband or in-laws on account of dowry. The Majority of Indian women who play the role of a faithful wife and self-effacing mother are forced to live a passive powerless and slavish life throughout.

The world is transforming itself fast and along with that there is also a visible change in the attitude of the people towards women. Women, on their part have been struggling through various organizations and movements to liberate themselves from the clutches of the male dominated social order. As a result of such efforts and also because of the changing environment there are signs of hope for the establishment of justice for the genuine gender. The process towards the realization of an equalitarian pattern of man-woman relationship has begun and the idea of sexual equality is slowly precipitating into the minds of both men and women.

So far as India is concerned, particularly after independence, various Constitutional provisions, different state’s legislations, judicial decisions, the democratic polity, the awakening on the part of certain section of women, the influence of the feminist movements in the west, all these have helped to initiate for the women’s liberation in India. But we have miles to go before we can claim that there is gender justice in India. Despite all these efforts to promote the welfare of women, one has to admit that even now women in India are not treated with dignity, they are neither allowed, nor encouraged to enjoy their basic rights, and they are not accepted by men as equal to them. The pity is that the women themselves have not realized that they are equal to men.
Today our nation is so engrossed with terrorism, separatism, communalism, Casteism, provincialism, nepotism, poverty, corruption, unemployment and inequality that very stream of development has been hindered. It has been effecting the thinking of citizens so much so that the anti national forces are becoming more active than loyal forces. That is why there is great danger for the unity and indivisibility of our country and also the concepts of equality, liberty, sovereignty and secularism.

Among all the problems the Caste problem is very cruel and serious in India. It is major issue of grave concern as to social disparities is SCs and STs Situation. The oppression of SCs and STs in our country has become the order of the day. As a matter of fact according to the survey of Dalit liberation on education trust “Every hour two SCs are assaulted, every day three SCs women are raped two SCs are murdered and two SCs houses are burnt”.

So far, in India, more number of Scheduled Castes people are dying due to Caste atrocities than any other natural disasters. Through the members of Scheduled Caste can escape from the problems like, disease, poisonous insects, and other dangerous animals etc, but they cannot get the protection from the inhuman Caste system in Hinduism. Like that Indian SCs have been facing immense humiliation, severe atrocities and other terrible problems.

1.1 Incidents of Atrocities on the Women, SCs and STs

Violence against women has been increasing every year. Dowry death, rape, harassment and kidnap are the major violence against women; with rape being reported once in every 54 minutes, eve teasing every 51 minutes and dowry death every 17 hours\(^1\). Legal expert’s cal for reviewing existing laws relating to women to protect them against growing incidents of crime and violence. These incidents were reported in the press also. Many women’s and voluntary social organizations were also greatly agitated over these events. These issues were also raised in parliament in one form or the other. Even to day rural women are still backward socially, educationally, politically. In

\(^1\) Indian express news paper daily, 12-5- 1999.
Urban areas women are engaged in all activities of the economy. Their economic and social status has improved and they are more educated and their awareness has increased. They are marching forward day-by-day, they have still many problems due to gender bias and sex discrimination.

In most of the atrocities in rural areas the main cause is fixation of wages or grabbing the land of the small SC farmers who have obtained pieces of land from the government. Some instances can be cited, when the upper Castes people, prohibited the SCs from taking water from the public wells. Separate utensils are kept for the SCs in hotels. They are not permitted to wear chappals and shoulder cloths. It has been reported that in certain panchayats members of SCs must remain standing till the end of meeting. Such pitiable condition of the SCs is attributable to their economic dependence on the land lords, social discrimination to them and unsatisfactory legal and judicial system.

Though, there are provisions in laws to stop every disability, social disability, political disability and economic disability including untouchability, even atrocities are continue on SCs. The atrocities include causing humiliation, insult, forceful drinking and eating of inedible or obnoxious substance, stripping outraging modesty, sexual exploitation, injury or annoyance.

The atrocities affecting properties are also not stopped. SCs are maliciously prosecuted by public servants on false information, false evidences are created, and even evidence of atrocities is destroyed. SCs are not allowed to cast their votes in election or forced to vote to a particular candidate, even in reserved constituencies the traditionally high Caste people decide their candidature. When the SCs and STs people go against the wishes of the upper Castes, the upper Castes resort to most serious actions like burning the hutments of SCs and STs or burning them alive, or dismissing from the party or their services.

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2 Reservation policy and SCs in India by A.K. Vakil, P.68.
3 Reservation policy and SCs in India by A.K. Vakil, P.38.
Now I am quoting a few instances of atrocities on SCs in India. They are, A police officer, the protector of weaker sections, raped the daughter of a SC in his presence in the police station and so the SC committed suicide as he could not bear this inhuman act\(^4\). In Bihar between 1997 and 1998, 28 massacres were committed by Ranvir Sena, in which 487 SCs were killed. The SCs students were not allowed to take their meals on the table which was used by upper Castes students in the mess of a hostel in the capital of our country\(^5\). In Gujarat 100 SCs of Pankhan village were attacked and 40 were injured heavily in 1999. the total compensation given by the government to 37 of the affected was Rs. 4,92,000. In Rajasthan in the year of 1992, 14 Jats and Jatavas were burnt down completely and 250 houses were partially burnt\(^6\).

In Karnataka of the atrocities that occur in the backlask against SCs families. The rape, humiliation and violence, murder, causing the damage to the SCs houses or properties like, crops, animals etc. violence’s are continued without any break. On September 6\(^{th}\) 1988 in a village of Karnataka state, the upper Caste Hindu went to a SC household, beat-up the son, looted the house and dragged out the teenaged daughter Geetha and raped in front of Dr. Ambedkar’s statue. In Kolar District Kambalapalli village seven SCs burnt alive by the (Hindu Youths) upper Caste people\(^7\). In Mandya District, M. Hatna village one SC member murdered by the upper Caste and SCs houses were damaged, their animals, homely needs were looted by the upper Castes\(^8\). The elected SCs were not allowed to function in four reserved panchayats – Pappapatti, Keeripatti and Neetamangalam in Madurai District of Tamil Nadu\(^9\). Even in Tsunami relief works, SCs were discriminated and not given proper relief\(^10\). In Haryana a SC youth was admitted in hospital for the injuries on the left shoulder and right leg allegedly inflicted by policemen who arrested him in

\(^4\) Indian Journal of Human rights and social justice Vol.1, Nos 1-2 (Jan-Dec), 2006, P.96
\(^5\) Ibid, p. 33
\(^6\) Ibid, p.35
\(^7\) The Hindustan times, 12-02-1999.
\(^8\) Deccan Herald 5-11-2005
\(^9\) The Hindu news paper daily , 16-06-2005
\(^10\) Ibid, 31-08-2005
a false case\textsuperscript{11}. A mob attacked a SCs colony at Mela orappanur in Madurai District on October 14, 2005 after switched off power supply and cut off water connections to the SC village. The mob also damaged 40 houses and stolen valuables\textsuperscript{12}.

In Bhubanpatti, Orissa, four SCs women were beaten up and paraded naked allegedly by a group of upper Caste on 19\textsuperscript{th} September 2005. The reason for this is that the husbands of these ladies refused to wash the feet of the groom and guests during marriage ceremonies as per custom. Their houses were also looted\textsuperscript{13}. SCs were not allowed to take out a rally to pressurize their demands\textsuperscript{14}. In Maharastra over 1000 SCs fled their village and 50 SCs houses were burnt down by a mob of 1500 persons. The reason for these riots is that higher Caste people are not tolerating the relative economic developments of the poor SCs. A few incidents occurred very recently are quoted here to substantiate the fact that crimes against SCs still continues.

In Maharastra Kairlangi Village, on 29\textsuperscript{th} September 2006, Scheduled Caste women Surekha lodge the complaint against upper Caste people. Because one of the upper Caste person committed the assault to her relative. Afterwards the policemen arrested 14 upper Caste people and the same day all 14 members released on Bail. In the fit of anger from the police station, they directly entered the village, caused the damage to the house of Surekha, dragged her into the street along with her children and committed the atrocities on the whole family. In the presence of the village people they committed gang rape on Surekha (44) and her daughter Priyanka (18). They cut their genetics, nose, ear and other parts of the body male children Rosan (23), Sudir (21) and thrown them on the road. Not only that after the death of Surekha and Priyanka they were committed the rape on the dead bodies also. It is very heinous crime, we cannot see this incident any where in the world. The reason behind this incident is that, she was leading the self respected life and she regained the land

\textsuperscript{11} Ibid, 20-6-2005  
\textsuperscript{12} Ibid, 26-10-2005  
\textsuperscript{13} Ibid, 01-10-2005  
\textsuperscript{14} Ibid, 16-8-2005
from the hands of upper Caste and cultivated it herself. She maintained all the agricultural activities and she provided the education to her children, in order to lead the life of respect and dignity. These improvements are not tolerated by the upper Castes with this jealous. They wanted to take the revenge against her family. Regarding this incident the police authorities instead of arresting them, they attempted to close the case\textsuperscript{15}.

1.2 Concept of Protective Discrimination

Protective discrimination is one of the important methods through which Constitutional goals like social and economic justice can be secured to the women, Scheduled Castes and Scheduled Tribes. Protective discrimination means preference given in admission to public educational institutions and in public employment to the weaker sections of the society including the women, Scheduled Caste and Scheduled Tribes. As India having diversity in terms of religion, Castes and communities with different levels of social and educational advancement, which made it difficult for the state to adopt uniform policy to all section of the society. Therefore, the founding father of the Constitution of India. Dr. Ambedkar in order to provide the social justice to the women, Scheduled Castes and Scheduled Tribes incorporate the many provisions in the Indian Constitution, like, special provisions for women, specials protection to Scheduled Castes and Scheduled Tribes, special representation in legislatures, public services and reservation of seats in educational institutions. This had been done for increasing the educational opportunities and representation in public services for the women, Scheduled Castes and Scheduled Tribes to provide equal opportunity as guaranteed by the Constitution.

The concept of ‘Protective Discrimination’ has gained more importance in a welfare state in providing better opportunities and benefits to the weaker sections of the society, especially to women, Scheduled Castes and Scheduled Tribes. The idea behind in incorporating the concept of protective discrimination in the Constitution of India is to secure equality in terms of

\textsuperscript{15}Gowri Lankesh, Pathrike weekly (Karnataka) 20-12-2006.
status and opportunity to bring the weaker sections to the main stream of the society. These sections of the society were subjected to many hardships, exploitation, injustice and unequal treatment for many centuries. Women were deprived of many rights and exposed to degradation in earlier society. The life of women, Scheduled Castes and Scheduled Tribes was miserable in which they were treated with contempt. Besides there was no proper mobility for these people in the society where they were deprived from enjoying certain inalienable rights endowed by nature to all people. The impulse of the people belonging to weaker sections was very much felt by Ambedkar, who also came from lower strata of the society. As a result he fought for equality, liberty, and justice in various committees constituted by Constituent Assembly. The results of his endeavor to secure justice to weaker sections ultimately found place in the Constitution of India in the form of protective discrimination. The concept of protective discrimination is benefits by the state to the weaker sections of society for their upliftment. This is so inevitable to bring about justice and equality to all people which are the mandate of the Constitution of India.

The concept of ‘protective discrimination’ is mentioned in the Indian Constitution, which embodies fundamental rights; provisions have been made in three places to enable the state to make some provisions in favour of certain categories of people. The provision of Article 15(3) which authorizes the state to make special provisions in favour of “Women”. The second provision is Article 15(4) which enables the state to make special provisions in favour of Scheduled Castes and Scheduled Tribes. The third provision is Article 16 (4) which enables the state to make reservations of posts or appointments in the government service, in favour of “Back ward Classes” of citizens not withstanding the fact that Articles 16 (1) and (2) ensures equality of opportunity in matters relating to appointments or posts in service under the state by prohibiting discrimination against any citizen based on religion, race, Caste, sex, place of birth, when filling up such posts. Thus, the three groups namely, Women, Scheduled Castes and Scheduled Tribes have been mentioned
for the purpose of special treatment. These three groups have been treated as “Weaker Sections”.

The first weaker sections is women, who virtually constitute half of the population women in this country did not occupy the position equal to men, due to certain historical facts and social norms created by men and the laws. In the past women occupied a servile position in society. Their rights regarding marriage, property, succession, education etc., were very much curtailed by men. So they lived like a slaves. The long period of suppression of women robbed them of their power and their status, their rights, consequently, they became weak both mentally and physically. Therefore, the Constitutional makers thought of ameliorating their conditions and of making amendments for the past injustice by providing various provisions in the Constitution.

1.3 Motivating factors which influenced Dr. Ambedkar to incorporate special provisions to Women, SCs and STs.

For the purpose of incorporate the Special Provisions in the Indian Constitution to the women, Scheduled Castes and Scheduled Tribes various factors are motivating the Dr. Ambedkar they are, his family back ground, Gouthama Buddha, Mahatma Jyothiba Phule, foreign education, himself he is a great humanist, social evils against women, social evils against Scheduled Castes and social evils against Scheduled Tribes.

1.3.1 Dr. Ambedkar’s Family Back Ground

The story of Dr. B.R. Ambedkar is very interesting, his struggle and achievement is unique. Dr. Ambedkar hailed from Maharashtra, his family originally belonged to Ambavade village in Khed taluk of Ratnagiri District. Malohoji Sakpal was the grand faher of Dr. Ambedkar. He belonged to very respectable family, he was an ex-service man. He had two children, son Ramji and daughter Mira. Members of this family were the devotees of Kabir. They found solace in the inevitable will of god and kindness of man in the teachings of mahatma Kabir. Kabir had unequivocally condemned untouchability, hence
the untouchable believed in this faith. Ramji son of Malhoji Sakpal Married Bhimabai of murbad village in Thana district. Her’s was a rich family known as murbadkars. Her father and six uncle were subedar Majors in the Indian Army. Dr. Ambedkar was the fourteenth child of Ramji Sakpal and Bhimabai Murbadkar. He was born on the fourteenth day of April 1891. When he was five he was admitted for primary education, as Ambedkar completed his primary education he commenced his high school career, he was then admitted into the famous Elphinstone high school of Bombay. Ambedkar passed his Matriculation in 1907 with eh encouragement the received from his father he worked very hard and passed his B.A., examination in the year 1912.

1.3.2 Gouthama Buddha:

Gouthama Buddha was the founder of Buddhist religion and it is popularly known as Buddhism. It is one of the most ancient religion in India. It is originated in India in the 6th century B.C. as a reform against Brahmanism. “Buddha” means “The Awakened one” or the “Enlightened one”. Though the Buddha was born in the royal family of king Shuddhodhana he lost interest in leading a royal life. When he got the first opportunity to come out of the royal palace he could visualize the extent of human suffering. He decided to renounce the worldly pleasures and dedicate his life entirely to discovering the cause of human suffering and finding out ways and means of removing it. He went out of the palace, traveled a cross a number of villages and towns in search of teacher. After studying under various teachers, he realized his own path and attained enlightenment under the Bodhi tree in Gaya. He thus became the “Buddha” (the enlightened one) in the real sense of the term. He later on took to the career as a preacher.

After becoming enlightened, the Buddha moved towards a deer park near Varanasi where he delivered his first sermon. This came to be known as the “Turning of the wheel of Law”. Soon his name became well-known throughout the Ganga plain. Large number of people became his followers. The

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16 Life and mission of Ambedkar, Sharth Chandra, 2006, p.21
The final goal in Buddhism is “Nirvana”. i.e., Salvation. It is the final result of the end of desire. Buddha teaches the four noble truths\textsuperscript{17} and eight – fold path.\textsuperscript{18} The Buddha stressed the moral way of attaining it. He pleaded with the people to avoid the extremes of luxury on the one hand and asceticism on the other. He advocated the middle path, which consists of moral principles such as truthfulness, charity, purity, control over passions, love, compassion, non-injury to living creatures, etc. These are all influenced the Dr. Ambedkar.

After a comparative study of different religions, Ambedkar decided that Buddhism was the best religion, he finally embraced the Buddhism. When embraced the Buddhism, he says, it gives three principles in combination which no other religion does. Buddhism teaches Prajna (understanding as against superstition and super naturalism), Karuna (love) and Samata (equality). In his article “Buddha and the future of his Religion” published in 1950 in the mahabodhi Society journal, Ambedkar has summarized his views on religion and on Buddhism in the following Manner.

1. The society must have either the Sanction of law or the sanction of morality to hold it to together without either, the society is sure to go to pieces.
2. Religion, if it is to survive, it must be in consonance with reason, which is another name for science.
3. It is not enough for religion to consist of moral code, but its moral code must recognize the fundamental tenets of liberty, equality and fraternity.
4. Religion must not sanctify or make a virtue out of poverty.

According to Ambedkar, Buddhism fulfilled these requirements and so among the existing religions it was the only suitable religion for the world. In

\textsuperscript{17} A Study of Contemporary Indian Society by C.N. Shankar Rao p.295. the four Noble truths are (i)The Noble Truth of suffering (ii) The truth of the cause of suffering, (iii) the truth of the ending of suffering and (iv) the truth of the path leading to the end of suffering. Eight-Fold Paths are 1) Right understanding. 2) Right Aspiration. 3) Right Speech. 4) Right Action. 5) Right Livelihood. 6) Right Efforts. 7) Right mind fullness. 8) Right concentration.
\textsuperscript{18} Ibid.
the same article, Ambedkar has discussed the evils of Hinduism in the following manner:

1. It has deprived moral life of freedom.
2. It has only emphasized conformity to commands.
3. The laws are unjust because they are not the same for one class as of another. Besides, the code is treated as final.

According to Ambedkar, “What is called religion by Hindus is nothing but a multitude of commands and prohibitions”. Hinduism believes in god, Buddhism has no god. Hinduism believes in soul, according to Buddhism there is no soul. Hinduism believes in Chaturvarnaya and the Caste system, Buddhism has no place for the Caste system and Chaturvarnya. Further, according to Ambedkar, Buddha did not believe in rebirth, Karma and moksha as traditionally conceived. Besides, Buddha rejected the Varna System and Caste system. Thus, Buddha motivated to Dr. Ambedkar fight against the Caste and varna System.

In relation to women in the Buddha’s time women had high regards and were treated equally with men in all walks of life. Buddha did not regard women as inferior to men either in point of intellect or character. He kept his way open to all classes of women married, unmarried widows and even to prostitutes. All could acquire merit, freedom, dignity and equality along with men. The Buddha did not hold any low opinion about women; on the contrary, he tried to elevate them to the highest possible position. The birth of a daughter is even today regarded as a calamity in Hindu Society, but the Buddha said in ancient past that a woman child may prove even a better offspring than a male for she may grow up wise and virtuous; the boy that she may bear may do great deeds and rule great realms; such a son of a noble wife become his country’s guide. What a difference of opinion and attitude in between Manu and the Buddha. Manu looks upon a woman merely as commodity to make use of where as to Buddha, She is of indispensable utility because through her only the world rulers take birth. Dr. Ambedkar was impressed by the philosophy of
Buddha, in relation women in India. Therefore, in order to protect the women in all aspects from the Hindu Social System he fought.

1.3.3 Mahatma Jyotiba Phule:

Mahatma Jyotiba Phule was the first man to revolt against social slavery in India and wake up the Shudras and Ati-Shudras to their historical destiny. He can call as a father of social revolution. Jyothiba Phule was born within ten years of the end of peshwa regime and the beginning of British rule near Pune City. Hence he could not escape the influence of the western reforms in Pune born in educationally backward Mali Caste, he had to face many obstacles on the way to education. But possessed as he was of a sharp, mature mind and an inquiring, discerning intellect, he had no difficulty in grasping the social change afoot. Few had understood, as Jyothiba Pule did in his life time, the true meaning of the revolution that had come in the wake of the establishment of British rule. Jyothiba Phule was the first to instill a sense of self awareness and introspection among the non-Brahmin masses in Hindu Society. He was the first from among the non-Brahmins to experience or recognize the social slavery of the non-Brahmins.

After complete his education Jyothiba Phule joined his ancestral florist business. Around this time an incident occurred to change his desire to seek freedom. Jyothiba Phule was invited to the wedding of a Brahmin friend, the bride groom and his parties were going in a procession to the bride’s place. But when the Brahmins came to know that he was a Shudra – a Mali accompanying Brahmins in the marriage party, a haughty Brahmin Snapped at Jyothiba Phule, “Hey what are you doing here? Joining our procession as an equal? Off with you! Like he was abused and thrown out the marriage procession. Jyothiba Phule, being deeply insulted, pained and perplexed, left the marriage procession and went to the nearly river Moolamota.19

He sat by that riverside, started weeping and brooding. “Why such a thing has happened to me? Why I was abused and thrown out of the marriage

procession? Simply because I got myself educated, it is great injustice to me,” he thought. When he was weeping there, the Mahars were preparing themselves to go to the town. During those days the preparations and the dress of the Mahar’s to go to town were different. They were supposed to tie a matka an earthen pot around their neck and a big broom behind them. If they want to spit, they were not supposed to spit on the ground. They were required to spit in that matka. While they were walking their footsteps should be removed side by side by that big broom tied behind them. And they should go to the town and come back at a time when shadow was minimum and it should not fall on any other person. Phule was known to these Mahars very well, because quite often he used to go to them. They enquired Phule as to what had happened and why he was weeping. After hearing from him what had happened they started laughing at him. Then, he stopped weeping and started thinking. He realized that nothing had happened to him. He was simply abused and thrown out of the marriage procession. But the real harm and something wrong was done to these Mahars who were kept out side the society itself. He was weeping, whereas they were laughing!. They were enjoying it, they were not unhappy, but he was unhappy.

Then onwards Mahatma Phule started thinking, reading and pondering over the human rights, the system and the people. Finally he reached to the conclusion that Shudras and athishudras were degraded people in the system. There is gradation in their degradation, the degraded, more degraded and the most degraded. These degraded people were denied education with a purpose, the purpose was that they should not understand their degradation, they should not realize that they were degraded. Mahatma Phule realized this truth and determined himself to educate this degraded people and organize them to fight against the beneficiaries of the system. The brahinical people who are in minority have created a system to enjoy the benefits at the cast of Shudras and Atishudras who are in majority. Mahatma Phule determined to destroy this system by organizing the Shudras and Adivis. He decided to create unity
among the degraded; more degraded, and most degraded people to fight against the degradation.\(^{20}\)

Mahatma Jyothiba Phule also realized that besides the Shudras and Atishudras, the women folk of these people were too denied education. All women were also treated as Shudras, he gave more importance to women than the men and hence, he gave education to his wife, Matha Savithribai Phule, so that she could impart education to the other woman. He started the first girl’s school in India in 1848 and taught his illiterate wife Savitribai Phule to become the first woman teacher of modern India. He preached that women’s emancipation was inseparable from Caste annihilation. He opened a second school for girls in Rasta Peth on 17\(^{th}\) September 1851 and a third in Vithal Peth on 15 March 1859. Later on he kept opening schools here and there. The curriculum comprised of reading, grammar, arithmetic, geography, history, map reading, etc. \(^{21}\)

British encouraged him in this task; he continued this task upto 1890 till his death. Whatever resources he could muster he had applied them for getting this people educated. And in this process Dr. Ambedkar’s father Ramji Sakpal got some primary education and he joined army. Because of little education he became Subedar in the army. He acquired the desire that his children should be more educated than him. Thus Babasaheb Ambedkar got education upto matriculation with the help of his father and Mahatma Jyothiba Phule. Later on with the help of other Shudras who were better off in life he studied further. The bright students among the Shudras and Atishudras got some help from the well-to-do Shudras to acquire education in India as well as abroad. Babasaheb Ambedkar was one among those who got such education. Thus, Mahatma Jyothiba Phule Social revolution was very much influenced on Dr. B.R. Ambedkar.


1.3.4 Foreign Education:

Ambedkar got a good opportunity of his life in June 1913. The Maharaja of Baroda had announced to sponsor a few promising candidates to America for higher studies. Ambedkar met the Maharaja Sayaji Rao Gaekwad in his Bombay palace on the subject. Ambedkar was one among the four selected for higher education in America. It was an unique opportunity to an Indian, an extraordinary event for an untouchable. Ambedkar reached New York City in the month of July 1913. Ambedkar’s life experience in New York City was wonderful by itself. He had unhindered companionship with fellow students. He was free to study, write and walk about. His life at Columbia University was a great experience.

He had no time to laze here and had no time for luxuries of rich either, he could not spare time for theaters or waste time loafing about seeing city. He worked continuously for eighteen hours a day. This hard work crowned him with glory at the end of two years. He secured his M.A., in 1915 for his thesis “Commerce in Ancient India”. In 1916 he read his Article, “Caste in India, their genesis mechanism and development” in the Dr. Golden Wieser anthropological Seminar. In the same year, Ambedkar was awarded a Ph.D., for a thesis, which he eventually published in book form as “The Evolution of Provisional Finance in British India”. After completing his doctorate he traveled to London. There he enrolled in London School of Economics. There, he studied law and prepared a doctoral thesis in economics. The expiration of his scholarship the following year, forced him to temporarily abandon his studies and return to India. However, he wished to complete his studies. The London University granted him four years respite to complete his studies knowing his position. 22

Ambedkar returned to Baroda to work as the military secretary for the state. Here, he was tormented by the sudden reappearance of Caste discrimination in his life. He then left his job to work as a private tutor and an accountant. He even started his own consultancy business, which failed owing

to his social status. With the help of an English acquaintance, the former Bombay Governor Lord Sydenham, he acquired a post as professor of political economy at the Sydenham College of Commerce and Economics in Mumbai. He returned to England in 1920 with the support of the Maharaja of Kolhapur, his Parsi friend and his own savings. By 1923, he completed the thesis on “The problem of the rupee”. He was awarded a D.SC. by the University of London. He finished his law studies and simultaneously gained admittance to the British bar as a barrister. On his way back to India, Ambedkar Spent three months in Germany, here, he continued further studies in Economics at the University of Bonn. He was formally awarded a Ph.D. by Columbia University on June 8, 1927. Dr. Baba Saheb Ambedkar returned to India fully equipped with profound knowledge to break open the traditional Indian Socio-economic legal fort and to expose it to progressive ideals.

1.3.5 Great Humanist:

Dr. Ambedkar’s father, Subhedar Ramji was a known follower of the Kabir Panth. Many of the Kabir’s Dohas are the real gems of rationalism and the most daring expressions of the humanitarian beliefs. Thus, Dr. Ambedkar’s mind was deeply impressed with Kabir’s Philosophy in the childhood days. On passing his Matriculation examination, he was praised by his teacher and was presented with a copy of a book on “The Life of Buddha”. This gift must have made a profound impact on the mind of young Ambedkar. Dr. Ambedkar stayed in America, the land of liberty for his higher studies. There he studied the western liberal thought and the humanitarian Philosophy expounded by great thinkers such as, Prof. John Dewey who was also his teacher, John Stuart Mill, Edmernd Burke and Prof. Harold Laski to name a few. The impact of these original thinkers on Dr. Ambedkar’s mind is evident from the frequent quotations one comes across in his writings and speeches. The contrast between the social environments Which he lived in and he liberal academic thought he studied could not have resulted in anything but making him an ardent humanist.
Following events in the life of Dr. Ambedkar bears testimony to his humanitarian concerns and convictions, such as, Mahad Tank Satyagraha and Poona Pact.

**Mahad Tank Satyagraha:** Untouchables were barred, however, the animals were allowed to use the water of the Chawdar tank in the Mahad town of Maharashtra. This glaring manifestation of Dr. Ambedkar to usher a new era of social revolution. On 20th March 1927, ten thousand Satyagrahis assembled at Mahad under the leadership of Dr. Ambedkar and marched to the chowder tank to assert their human right to drink the water from the public place. The procession was attacked by Caste Hindus and many Satyagrahis were injured by them. There were many ex-military persons among the Satyagrahis who had shown their bravery during the World War I, they could have retaliated in a befitting manner. However, Dr. Ambedkar appealed to his comrades not to indulge in violence. Only a person who is the humanist to his innermost core can show such strong faith in the non violence in such situation. The name of Mahad town is also permanently linked of with human rights because of one more reason. Dr. Ambedkar organised a conference of Satyagrahis on the 25th December 1927 in which the Manusmriti was burned. Burning of the manusmriti was a revolutionary step which sought to denounce the inhuman laws of scripts and proclamation of right to equality and justice.

**Poona Pact:** In the field of politics also, Dr. Ambedkar remain firm with his convictions.Signing Poona pact is perhaps the ultimate testimony of Dr. Ambedkar’s humanitarian qualities. He was fully aware of the reason for Gandhi’s fast and also the consequence of signing the pact, yet only on the humanitarian ground to save the life of Gandhi he did it. The essence of his political Philosophy, the trilogy of liberty, equality and fraternity he had borrowed from Buddha’s Philosophy. His political aims and objectives are expressed in the manifesto of the Independent Labour Party founded by him. Many of the current provisions for the welfare and protection of labour have
their origin in the manifesto of the independent labour party. Fundamental rights assured to all citizens of our country is a great leap towards establishing the basic human values in a society that was based on graded inequality. As the chairperson of the Constitution drafting committee. Dr. Ambedkar was instrumental in the incorporation of the principle of fundamental rights in the Constitution.

Dr. Ambedkar was a firm believer in the parliamentary democracy. That is why, when the fear of fascism represented by Hitler was looming large over the world, he decided to co-operate with the British Government in its fight against the fascism consequences of the victory of the fascism. Today some narrow-minded people criticize the Dr. Ambedkar for this.

However, by criticizing Dr. Ambedkar on this score they unknowingly expose their fascist learning’s. A few months before his mahaparnirvana, he embraced Buddhism. It was great tribute of a great humanist to the greatest humanistic Philosophy of Buddha. By initiating millions of his follower into the Buddhist fold, he asserted his faith in the humanistic values preached by Buddha in alleviating the sufferings of his lot. Thus, he reached the pinnacle of the humanism by becoming a Bodhisatva.

1.4 Social evils against women:

The Social evils of women are devadasis, widowhood, female infanticide, dowry harassment, sati system, prostitution, rape etc.

**Devadasi System:** Devadasi practice originated when Hindu Kings thought that the gods they worshiped should like themselves to be served by “Dasis”. These servers of god were known as “Devadasis”. However, in reality these women and girls are reduced to prostitution. Men, young and old, from the higher Castes use them for sexual purpose. Only in the lower Castes girls were offered for this purpose. In parts of Karnataka, Maharastra and Andra Pradesh this still continues.

**Widowhood:** The worst evil of the women is widowhood. Widow women are socially unacceptable and re-marriage to such women is also quite impossible.
No male members come forward to marry a widow. She is not having any role in the social life after the death of her husband. In our society there are number of restrictions to widows. The customs regarding what a widow might do and what she might not vary from community to community but most of the customs are very oppressive. Widows were considered a curse and not permitted to attend marriages and other functions. In some places widows were dumped into ashrams by their relatives to cut off contact with the outside world.

**Female Infanticide:** Female infanticide was commonly practiced in India. Female infanticide is the intentional killing of baby girls due to the preference for male babies and from the low value associated with the birth of females.23 Some times newly born baby girls were thrown in the sea at the mouth of the Ganga’s in north India. In south India young girl babies are often killed by poisoning the nipples of the Mother’s breast. The reasons for female infanticide are, economic backwardness related with great demand for dowry, social importance of male, religious faith, absence of son means no place in heaven, etc. In many cases the women are not independent agents but merely victims of a dominant family ideology based on preference for male children.24 Statistics shows that there is still a very high preference for male child in states like, Uttar Pradesh, Maharastra, Madyapradesh, Karnataka, etc. The male to females ratio in these shows that the percentage of males to females in higher.25

**Dowry harassment:** In India dowry is practiced, the customs of giving gifts like, cash or kind out of love for a daughter during her marriage has now become dowry. Now the custom has corrupted the people to such an extent that even arranging marriages has become a bargaining market. The custom of dowry has meant and continues to be a “Curse” for many young brides. Some women commit suicide in desperation of they are burnt by husbands and in-laws. Many young women are affected by emotional and mental instability due to ill-treatment. Girls from low-income families are greatly affected by this

custom and their parents are ruined economically because of their practice. In Bangalore according to statistics available by hospitals which have burnt wards, women constituted a shocking 40% to 80% of all burnt cases. Mostly in the age group of 18 to 25 years, they were young brides and often pregnant. According to NCRB report, there were 58,121 incidents of cruelty inflicted by husbands and relatives against women in 2004 and 1, 55,553 crimes against women in 2005, including 68,810 cases connected with domestic violence leading to dowry death committed by husband and his family members.  

Sati System: Sati is the practice through which widows are voluntarily or forcibly burned alive on their husband’s funeral pyre. A widow’s status was looked upon as unwanted burden that prevented her from participating in the household work. Her touch, her voice, her very appearance was considered unholy, impure and something that was to be shunned and abhorred. A woman was considered pure if she committed Sati. Two illustration very relevant in this regard, they are, in 1987 an eighteen years old widow Roop Kanwar, committed Sati in a village of Rajasthan. Roop Kanwar told her father-in-law that she wanted to commit Sati. The case went to court, but no one was charged with for her death. Sati is reported to be prevalent in north India. In another incident a 65 year old Kuttu who died of burn injuries was forced to enter the funeral Pyre of her husband Malunai. The Madya Pradesh government ordered a magisterial inquiry in Panna district in 2005. The matter was also discussed in the parliament. Meanwhile a four member National Commission for women (NCW) delegation visited Panna district to look into the incident. These incidents shown that Sati system still exists, and lack of will of the administrative, social, political and judicial machinery to remove this inhuman problems against woman.

Prostitution: Prostitution is the act of a female or male, offering her/his body for indiscriminate sexual union for payment in cash or kind with a man/woman who is not the husband or wife. Prostitution is the after cause of poverty. Girls

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and women, who have to support themselves and their families, often do not find work that will bring them an income. The emphasis on chastity, child marriage, denial of widow remarriage, dowry and inadequate employment opportunities for work are also major factors contributing to the spread of this phenomenon. It is common crime against women. Prostitution of women takes various forms call girls, cabarets, artists and even devadasis. In Indian society when other doors of earning are closed to women, many women are forced into prostitution. Some women are trapped into it by well organised social criminals. To day about 15% of Indian’s nearly 2 millions prostitutes are believed to be inducted while as children prostitution in 2004 by the Ministry of Human Resources Development Government of India, about 30% of prostitutes in the major cities of India namely, Kolkata, Bombay, Delhi, Chennai, Madras, Bangalore and Hyderabad were under 20 years of age. 39% of these women entered prostitution before they were 18 years old. But still the number of women engaged in the oldest profession of prostitution. According to one survey about 3 lakhs women are selling their bodies in Mumbai alone.

**Rape:** Rape is social evil, hardly a day passes without a case of rape being reported in Indian news papers and media. In India according to the official records around 1000 women get raped every year, which generally belonged to dalit groups inhabited areas. Out of the total number of women kept in police custody, 70% had been subjected to physical and sexual abuse. Rape is the ultimate and most powerful weapon that men use to keep women under their fear and domination permanently. The fear of rape restricts a woman’s free movements. In rape the female is the one attacked, yet society makes her feel ashamed of herself, while the male who committed the crime goes free. The consequences of rape on the victim are very devastating, psychologically and socially. A large percentage of rapes go unmentioned even to family

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members because of its social consequences. However, women of the lower
classes and communities. Rape is used by land lords or upper Castes people as
a weapon to suppress rebellion of the lower Castes. According to the National
Crime Records Bureau, the number of women, subjected to rape has risen to
40% in the last five years. 30 Every day 2 girl children are raped in India is
equally shocking.

**Sexual Harassment:** Physical or verbal and Molestation of women and young
girls continues to be an old problem of growing dimensions. Eve teasing at
college and university campuses and bottom pinching in crowded public buses
continue to haunt women and young girl in many cities. The problem of eve-
teasing is existing especially in big cities like, Bombay, Bangalore, Delhi and
Chennai. Every day thousands of women who go to work, colleges and other
areas have to contend with this problem. This problem is not restricted to
young women. Women of all ages and all classes. There is also need for strict
enforcement of laws for the prevention of eve-teasing.

**Wife Battering:** Wife battering is perhaps one of the most frequently
committed and socially accepted crimes against women in India. It occurs not
merely in illiterate homes, but also among highly educated people. The wife is
beaten not merely by the husband but also by the mother in-law, mistress of the
husband and sister-in-law. The wife has also to put up with such other things as
verbal abuse, mental torture, deprivation of food and money, denial of
permission to meet friends and relatives etc. Most common immediate causes
of wife beating are drunkenness, demanding money from the wife, demanding
more dowry, marital conflict, house hold expenses, forced sexual intercourse,
suspicion of wife’s infidelity, disputes regarding decision-making and
husband’s domination in his wife’s affairs. There are some sadistic men who
get pleasure by beating their wives. 31

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30 According to National Crime Bureau Reports (NCBR) 2005.

31 Dr. S. Gokilavani & Dr. S.G. Jelestin, “Marriage, Dowry Practice and Divorce”, Regal Publications,
1.5 Social evils against the Scheduled Castes

Scheduled Caste members suffering from various social evils, such as, poverty, illiteracy, lack of unity, unemployment, untouchability, economic disabilities, civil disabilities and political disabilities.

**Poverty:** The most important reason for the backwardness of the Scheduled Caste is poverty. Where the people of this classes suffering ill health, no shelter, no adequate food, most of the members who comes under poverty are below poverty line. Even today majority of the Scheduled Caste members are working as land less labourers. More than 80% of the members are agricultural labourers. They are lowest paid workers; some of them continue to suffer as bonded labourer at the hands of the upper Castes. The Scheduled Castes are economically exploited by the upper Caste people. They are not allowed to take up to occupations which reserved for upper Caste people. They are forced to stick on to the traditional inferior occupations such as, human wastes, sweeping, scavenging, oil grinding, spinning, tanning, shoemaking, leather works, carrying the dead animals etc., These were regarded as degraded and inferior. 32

**Illiteracy:** The another social evils, for the backwardness of the Scheduled Castes which is illiteracy. 70% of the SCs are illiterates they are not aware about the importance of the education, safeguards and protection as provided under the Constitution to ensure social justice, though the younger and children are literates their level of literacy was not satisfied where most of them discontinued their education before completion of their primary education. Now a day the Scheduled Castes are getting education due to various programmes like, vayaskara shikshana samithi, saksharatha andolana. akshara dasoha, mid day meals to the primary school children attracted the families belonging to Scheduled Caste to send their children to the school without fail not because to get education to their children but for the purpose of lunch. On the other hand due to the Constitutional benefits and reservation in education

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and employment, fellowship and scholarships, helped a lot to move forward to get the higher education to these groups. Inspite of these benefits number of graduates are very less as compared to the other groups. More ever the illiteracy and the educational background also affected on their way of life. Scheduled Castes not to get any guidance from any one or at home, this is adversely affects their academic achievement at attitudes towards life and society. 33

Lack of Unity: The word unity indicates strength but the member belongs to Scheduled Caste as suffering from lack of unity. As we seen that in the rural areas still we see the panchayat system for the settlement of disputes with in a village. The members of Scheduled Castes are divided like water tight compartments among the various land lords and to the other upper Castes. They act according to the will and wish of land lords and the upper classes, because they are depending upon them. This lack of unity made them not to rise their voice against the government and the other groups.34

For Instance, the Kambalpalli carnage was the classic illustration where due to the cold war between Scheduled Castes and upper Castes. Upper Castes are organised very well, burnt and kill the Scheduled Caste families. The main reason for the happening of this incident was due to lack of unity as they are not organized.

Unemployment : India is a agrarian society, where 60% of the population depend upon the agriculture directly where the employment opportunities to the working class, either in the agricultural farm or those industries depending upon agricultural products, depends upon the perfect monsoon; so their employment is seasonal. They won’t get job through out the year which is the main reason for their backwardness.35 In case natural calamities like, drought famine, rain, etc, arises, the first and foremost sufferer are Scheduled Castes. Because during famine they won’t get any work, they start gambling from one

35 Rabindra Kumar, Impact of Rural Development on Scheduled Castes, Anmol Publications, New Delhi, 2002. P.78
place to another, if they cannot get work they have to suffer from starvation. So it is necessary to provide an employment opportunity throughout the year to overcome the problems like food, shelter, health and education to the Scheduled Castes in rural areas.

**Untouchability:** Untouchability has damaged the self-image of the Scheduled Castes. It divided the Hindu Society into the touchable and untouchable groups and served to develop mutual dislike, contempt and sometimes even enmity between the two. It damaged social harmony and created wide social distance between the two groups. Untouchability perpetuates inequality, it cannot support the development of healthy democratic traditions and it has affected our democratic system very badly. Untouchability led to perennial conflicts between the upper Castes and lower Castes for generations, sometimes resulting in loot, arson, murder, rape, molestation, burning of houses and crops and so on. It has developed in them a sense of inferiority and lack of confidence which damaged the Scheduled Castes personality development.

Due to the practice of untouchability, the nation was deprived of the opportunity for making use of the talents, abilities and creative capacities of a sizable number of people for thousand of years. Further, untouchability provided scope for religious conversions. Untouchability who got disillusioned with the Hindu Society got converted to other religions such as Christianity or Islam. The Scheduled Castes are suffering from the problem of untouchability not only from the upper Castes but also other Castes who had been included in the list of Scheduled Caste also treat same Caste, as untouchables. They were very happy to be included in the list of Scheduled Castes to get the benefits and advantages but they failed to show their happiness in treating same Scheduled Caste as touchables. So the Scheduled Castes are facing problem of untouchability both from the upper Castes and other groups who had been included in the list of Scheduled Caste. The upper Caste people will not enter the houses of Scheduled Castes and they won’t take the food prepared by them.

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36 Such conversion of religion was reported in Meenakshi puram in Tamil Nadu in February 1981 in which about 1000 (Untouchability) scheduled castes were converted into Islam.
Scheduled Castes are not allowed to enter the houses of upper Caste even today.  

**Economic Disabilities:** In India the upper Castes own everything, they own the land in this country, control trade and also own the state, every sources of revenue and profit is controlled by them. For centuries Scheduled Castes were not allowed to have land and business of their own. The social system helps the upper Castes to have a monopoly of every thing. The Hindu society has made sure to bolt every possible door so as not to allow the Scheduled Castes to any opportunity to rise in the scale of life. In spite of reservation and other reforms measures of the government the Scheduled Castes are almost every where prevented by their insecure position from initiating any kind of economic change. The social boycott and economic power were two important weapons in the hands of upper Castes. Even today owning the land and business by the Scheduled Castes percentage is very marginal.

**Civic Disabilities:** For a long time the Scheduled Castes were not allowed to use public places and avail of civic facilities such as, village wells, ponds, temples, hotels, schools, hospitals, dharma shalas, choultries, etc. They were forced to live on the outskirts of the towns and villages during the early days. Now a day also they are segregated from other spatially. They were allowed to work as labourers during construction or repair, storing grains, etc. But later the houses were purified by sprinkling cow urine or cow dung. Upper Caste people not allowed the Scheduled Caste people to carry umbrellas to wear shoes or golden ornaments and to milk cows. The services of barbers washer men and tailors were refused to them. Thus the so called Scheduled Castes were not only kept at a distance but also denied of various civic facilities.

**Political Disabilities:** The Scheduled Castes hardly participated in the political matters for centuries. Before, British rule, Scheduled Castes were not allowed
to the politics, administration and general governance of the country. They were not allowed to hold any public post, political rights and representation were denied to them. After British rule, they were given the right to vote for the first time, due to the struggle of Ambedkar. After the independence through the Constitution, political opportunities and rights have been provided for Scheduled Caste. But politically the Scheduled Castes are yet to become a decisive force.\textsuperscript{40} The Scheduled Castes are trying to organize themselves in the form of organization to fight for their rights. But the vast masses of rural Scheduled Castes are totally unorganized. Political Parties such as, Indian Labour Party, the Scheduled Caste Federation, The Republican Party of India, started by Dr. B.R. Ambedkar. Bahujana Samaja Party is mobilizing the Scheduled Castes but so far they have not been able to form a “lobby” at the national level except in some states. Their political influence is mostly localized, their total influence in the Indian politics is so far not very much impressive.

\textbf{1.6 Social evils against the Scheduled Tribes}

The tribals who constitute 8.8% of the total population of India, 5% of the population in Karnataka respectively. They are suffering from so many disabilities such as, geographic separation, economic disabilities, cultural disabilities, social disabilities, educational disabilities. These are discussed below.

\textbf{Geographic Separation:}

Most of the tribals of India are in a way geographically separated from the rest of population. Some of them are living in the unapproachable physical area such as, deep valley, dense forest hills, mountains, etc., it is difficult for them to establish relation with others, and socially they are away from the civilized world. This kind of physical as well as social isolation or seclusion has retarded tribal development. The welfare programmes and development. The welfare programmes and development projects under taken by the government, many

\textsuperscript{40} Dasarathi Bhuyan, “Casteism in Indian Politics”, Anmol Publications, New Delhi, 2006, P.136.
times do not reach the tribals because of this geographic isolation. Hence, the
tribals need to be protected from leading an isolated life away from villages,
towns and cities. Regular contact should be maintained with them through the
net work of roads and communication system.

**Economic Disabilities:**
The tribal people are economically the poorest people in India. Majority of
them live in below the poverty line. The tribal economy based on agriculture of
the crudest type. 90% of the tribals are engaged in cultivation and most of them
are landless and practice shifting cultivation. The tribals posses uneconomic
holdings because of which their crop yield is very less. The innocence,
illiteracy and helplessness of the tribals are exploited by the Zamindars, land
lords, Money lenders, forest contractors, revenue and police officers.

**Cultural Disabilities:**
The tribal culture is entirely different from the way of life of the civilized
people. The tribals fail to understand the civilized people, their customs and
practices, beliefs and attitudes and so on. They are suspicious of the civilized
people. They are clinging tenaciously to their customs and traditions. During
the British rule some foreign Christian missionaries made an attempt to
propagate their religion in some of the tribal areas. In several tribal areas, mass
conversion to Christianity had taken place during the British period. While the
missionaries have been the pioneers in education and opened hospitals in
tribals areas.

**Social Disabilities:**
The tribal have their own social disabilities, they are traditional and custom
bound. They have become the victims of superstitious beliefs, out molded and
meaning less practices and harmful habits. Child marriage, infanticide,
homicide, animal sacrifice, exchange of wives, black magic and other harmful
practices are still found among them. Hinduisation of tribals has led to
disabilities such as, dowry, divorce, child marriage, etc. Christianization of
tribals has led to problems of separatism, alienation, religious conflict and
cultural confusion. Many tribals still believe in ghosts and spirits, they have a keen desire to maintain their own practices, beliefs, etc.

**Educational Disabilities:**
More than 70% of the tribals are illiterate and they have no faith in formal educational organization. Many of them do not know anything about education, schools, colleges, universities, degrees, etc., they feel no urge to educate their children, education appears to be a luxury for them want there little children to work along with them either in the fields or at home. The illiterate parents do not consider their primary responsibility to give education to their children. The medium of instruction is another’s hindrance to promote the education among the Tribes. Most of the tribal languages do not have a script of their own. The tribals children’s are to learn the language which is new one to them. Even in tribal areas the numbers of tribal teachers are very less. Communication problem always arises between the students and the teachers.

**Health Disabilities:**
The tribals do not take much care relating to their own health. They believe that diseases are caused by hostile spirits and ghosts. They have their own traditional means of diagnosis and cure. Number of them fall a prey to the diseases such as, skin disease, forest fever, typhoid, leprosy, malaria, venereal diseases, small pox, etc. They are lack of faith in modern doctors and modern medical facilities.

**Unemployment:** A large number of tribal young men and women are unemployed. They are not able to get jobs that can keep them occupied throughout the year. They need to be helped in finding secondary source of income by developing animal husbandry, poultry farming, handicrafts in the tribal areas are so inadequate that the tribals have mainly to depend the money lenders.
1.7 Significance of the study

The study on “Protective Discrimination” is very important because more than 70% of the population is residing in the villages and the development of the country depends upon the rural development. It is impossible for the State to provide the financial assistance to all Women, Scheduled Castes and Scheduled Tribes, by giving cash to improve their economic conditions. So the Constitutional makers have adopted so many provisions for providing reservation in education and employment. When these groups get benefits of this protection they automatically come forward without anyone’s assistance and help. Once this protection has been used by these groups our country reaches the status of any developed country. But it is unfortunate to say that still more than 50% of the Women, Scheduled Castes and Scheduled Tribes are unaware about their protection and ignorant to get those benefits, because of the problems like, poverty, illiteracy, interference of middleman, lack of will of the government etc. These groups of people have failed to obtain the complete fruits. So it is inevitable to bring systematization by the government to provide the fruits of reservation to those who actually needed and exclude the forward class from reservation. The present study on “protective discrimination” covers the relevant provisions of the Constitution of India and actual implementation of those provisions. The present work highlights the hurdles which come in the way for materializing the Constitutional goals of special treatment. The study would also highlight the role of judiciary in interpreting the protective discrimination clause provided in the Constitution of India in favour of Women, Scheduled Castes and Scheduled Tribes. Through this study, people belonging to these sections (Women, SCs and STs) would be enlightened about the Constitutional protections and benefits and the protection given to them under various laws. Besides, the conclusion and suggestions made in this research work may be utilized by the legislators, policy makers and policy interpreters to bring about justice and equality through the policy of reservation.
1.8 Identification and formulation of research problems

In this research work the researcher has identified the following problems, they are:

1. Majority of Women, Scheduled Castes and Scheduled Tribes are unaware of Constitutional benefits provided to them by the Constitutional makers with a result that they never claim as a matter of right.

2. The Judiciary, which is the protector and guarantor of Constitutional benefits, has failed to interpret the protective discrimination clause widely, so as to secure justice for Scheduled Castes and Scheduled Tribes.

3. Though Constitution of India has provided reservation to Women, Scheduled Castes and Scheduled Tribes, yet it is not strictly being implemented so as to secure them economic justice and social democracy.

4. Even after 58 years of Constitutional operation in India, the State has failed to secure equality and justice to Women, Scheduled Castes and Scheduled Tribes through State welfare programmes.

5. The reasons why the State has not been able to materialize the object of the Constitutional mandate of protective discrimination and bring about equality in terms of status and opportunities are conspicuous (not clear).

6. The present laws which are supposed to protect the interest of Women, Scheduled Castes and Scheduled Tribes, are not being strictly implemented by the authorities. As a result, the Constitutional mandate of ‘protective discrimination in the form of special privileges has not been fully materialized.

7. The welfare programmes which are taken up by the State are not reaching these people in a way they ought to reach them so as to mitigate injustice and inequality.

8. Majority of advent of Globalization, Liberalization and privatization has affected the Constitutional goal of social justice.
1.9 Review of literature

Review of literature is one of the important principles of research process which exposes the researcher to the various studies and information relating to the research area. A thorough study of academic journals, government published handbooks, books, websites and online literature has been made. So far, some research work on the Dalit Chaluvali in Karnataka, Mahila chaluvali, Karnataka government programmes for Scheduled Castes and Scheduled Tribes, Women and Ambedkar movement, backward classes in Karnataka has been done. There is no complete study on Dr. Ambedkar's view on the concept protective discrimination relating to Women, Scheduled Castes and Scheduled Tribes provided under the Constitution of India with special reference to Karnataka State and its judicial development.

However, there are some studies in these areas which do not directly but indirectly relevant to the present study. Some of them are reviewed and discussed here. The book “B.R. Ambedkar on Federation, Ethnicity and Gender Justice” (2001), edited by Nazeer H, Khan which presents well research papers on Gender justice. These studies display a wide range of issues covering different dimensions of Women and their socio-economic conditions have been analyzed.

G.B. Reddy in his book “Women and Law” 5th edition, 2006” has attempted to discuss the very important Constitutional provisions on Women, legal provisions which protect the various interests of them.

In the Book “Marriage, Dowry Practice and Divorce”, written by S. Gokilavani an attempt has been made to analyze the social evils of Women like dowry death, Women’s status and feminism, divorce Women’s status and feminism, empirical study of dowry System of Practice in Kanyakumari District. She has given the suggestions for eradication of dowry also.

The Book “Women in Indian Society”, (2005) written by Neera Desai & Usha Thakkar, they have attempted to highlight the various issues relating to
Women like, Women and work, Women and family, Women’s political participation in India, Women and law and other emerging issues in brief.


The Book “Atrocities and Untouchablity against Scheduled Caste and Scheduled Tribes (2006) has written by V Narayana Swamy, analysis the various case laws relating to untouchability. The book deals with the atrocities inflicted on Scheduled Castes and Scheduled Tribes and various provision of Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989, the protection of civil Rights Act, 1955 and Rules relating to these enactments.

Shankar. L. Gaikwad, in his book “Protective Discrimination Policy and Social Change” (1999), endeavors to examine the implementation of protective discrimination policy in various sectors. His analysis the reasons of faculty implementation and also recommends what measures should be used for its efficient and effective implementation. The book deals with the SCs conditions in Maharastra and Aurangabad, importance of educational and employment opportunities, discrimination and SCs perception of caste Hindu’s attitudes.

M.K. Dongre in the book “Dimensions of Ambedkarism” (2005) has made an attempt to analyse the Ambedkarism and its dimensions like, social, political, Constitutional, religious, educational, cultural and dimension relating to Women in the first part of the book. In the second part of the book he analysed the economic dimension, the economic structure of Indian Society, economics of caste, economics of untouchability and economic of Hinduism.

An objective study of the Socio-economic conditions of Scheduled Castes and Scheduled Tribes in Karnataka State in early 70’s was made by Prof. C. Parvathamma. The study covers all the 19 districts of the State. In the book “Scheduled Caste and Scheduled Tribes - A Socio-economic Survey”,
(1984) an attempt has been made to cover the various aspects of their social and economic conditions including demographic characteristics, caste and sub-caste composition, occupational structures, political consciousness and awareness of Constitutional benefits and the magnitude of untouchability. The study has given detailed account of the Socio-economic conditions of the most deprived sections of the population. While examining the main problems, the author opines Scheduled Caste and Scheduled Tribes in the country and the State as a whole continue that to be the most poor.

Odeyar. D. Hegde in his book “Job Reservation for Dalits and Backward Classes In Private Sector Issues and Strategies” (2005) attempts to discuss the Dalit problem, job reservation for Dalits and OBC’s in the private sector, need and significance, issues in job reservation for Dalits and OBC’s in the private sector, appropriate job creation strategies for Dalit empowerment, Dalit employment questions and need for reducing their absolute poverty.

The book “Casteism in Indian Politics” (2006), written by Dasarathi Bhuyan critically examines casteism in India, caste and Indian Constitution, the backward classes and social change, dominant caste, casteism in India politics, caste and reservation politics, steps to check casteism, caste as determinant of political participation, etc.


Dr. C.B. Raju, conducted a survey on the Scheduled Caste and Scheduled Tribes Socio-economic conditions. In his book “Social Justice and the Constitution of India” (2007), the author has attempted to examine the impact of government’s welfare programme on the Scheduled Caste and Scheduled Tribes. The book deals with the, evolution of caste system, Constitutional provisions for securing justice and judicial response, the practice of untouchability and given valuable suggestions.
The book “Globalization, Privatization and WTO with reference to India” 2003, written by Deepak Srivastava devotes to the study of impact of globalization, its advantages and disadvantages to India, privatizations, its advantages and disadvantages, the role of WTO with reference to India.

Dr. Mahabal Ram in his “Changing Economic Scenario and Social Justice in India” (2003) attempts to discuss a very important issues like, adopting new economic policies, visionless political decisions, disinvestment policy and selling crown jewels, danger of liberalization, challenge to democracy, invasion of capitalism, lack of preparations, mockery of tryst with destiny; poor and Dalits alienated etc.,

The book on “Women and the Law” (2003), written by Dr. Anjanikant has attempted to examine the historical study of the position of Women in India, Constitution and Indian Women, position of Indian Women in their respective personal laws, marital rights of Women in pre legislation era, property rights of Indian Women in their respective personal laws, the study of social and economic condition of Indian Women in seeking Constitutional and legal protection, etc.

The book on “Women, Law and Social Change” (1991), edited by Dr. Shamsuddin Shams presents a well researched papers which reflect on Women and family law, Women and property law, Women and criminal procedure law, Women and labour law, Women and Constitutional law, Women and social change. These studies display a wide range of issues covering different dimensions of the problems and the development of Women.
1.10 Objectives of the study

The researcher has identified the following objectives for the present study.

1. The study contemplates the evolution of the “Policy of Reservation” which facilitates for the development of Women, Scheduled Castes and Scheduled Tribes.

2. The present research work also focuses on Dr. Ambedkar's Vision of “Social Justice” on Women, Scheduled Castes and Scheduled Tribes.

3. The present study centers around the protective discrimination clause, it is required to find out the efficacy of the various provisions relating to protective discrimination provided in the Constitution of India.

4. After the Constitution came into force, the Judiciary has interpreted the ‘protective discrimination” clause to enlarge its scope and significance. Through the present study, it is required to examine how the interpretation made to the protective discrimination clause has really helped to Women, Scheduled Castes and Scheduled Tribes.

5. Though Constitution has provided certain special benefits to Women, Scheduled Castes and Scheduled Tribes, yet these benefits are not effectively reaching the people to whom they are intended. In view of this there is a need to examine why they are not reaching the targeted sections.

6. Through this study, it is required to examine how the State authorities are enforcing the Constitutional mandate of “Protective discrimination” in accordance with the intention of the Constitutional makers.

7. It is also required to probe into the facts through empirical study that how far, the Constitutional benefits provided are being implemented by the State to uplift the Women, Scheduled Caste and Scheduled Tribes.

8. To examine the impact of liberalization, globalization and privatization on weaker sections especially on Women, Scheduled Caste and Scheduled Tribes in securing social justice.
1.11 Hypotheses

On the basis of objectives of the study as Stated above, the following hypotheses have been derived.

1. The Constitutional benefits given to Women, Scheduled Caste and Scheduled Tribes under the “Protective discrimination” are not properly reaching them.

2. In securing social justice, the implementing authorities are not honestly discharging their duties in implementing welfare programme launched by the State.

3. In tackling the problem of social justice through reservation, the existing laws and the Constitutional provisions are not strictly being enforced.

4. Unless the caste structured society is changed to egalitarian society, the protective discrimination clause under the Constitution is meaningless and useless.

5. The role of judiciary in the interpretation of ‘Protective Discrimination” Clause is not commendable so as to secure social justice to Scheduled Castes and Scheduled Tribes.

6. Majority of Women, Scheduled Caste and Scheduled Tribes are unaware of Constitutional benefits and State welfare programmes due to their ignorance and illiteracy.

7. Ambedkar always insisted that egalitarian (casteless) society can be established by securing social and economic democracy to the Women, Scheduled Caste and Scheduled Tribes.

1.12 Sources of data

So far as collection of data is concerned there are sources such as direct source and indirect source. The former represents data collected directly from the respondents relating to the factual situation of their socio-economic backwardness, awareness of Constitutional and legal provisions, programmes and policies of the Government etc., The later comprises primary and secondary data such as, Journals, reports, legislations, Statutory rules, current
awareness, publications, legal periodicals, websites, text books, hand books sponsored by the public offices, etc.

1.13 Research Methodology

The research methodology followed in commissioning the present work covers both empirical and non-empirical methods. Under the non-empirical or doctrinal study, various legislations, text books, commission reports, judicial decisions, law journals have been comprehensively consulted and used. The empirical study focuses on the real problems and difficulties faced by respondents in availing of the Constitutional benefits. For the purpose of collecting data and information questionnaires and interview schedules are prepared and distributed to the respondents like government officials, number of Dalit leaders, number of SCs/STs political representatives etc., member of SC/ST numbering more than 800 from 4 districts which are Bijapur, Chamarajanagar, Kolar, Raichur.

1.14 The Scope of the study

In Indian Society the weaker sections have been subjected to socio economic deprivation, exploitation, discrimination and injustice of all types even after the 60 years of independence. Central and State governments have adopted several welfare programmes to promote the quality of life of these weaker sections of population. But it is disheartening to note that the fruits of any sort of developmental scheme have not yet reached the unprivileged section of the society. With this perspective, the present work has been carried on mainly in relation to “Protective Discrimination” stipulated in the Constitution. The discussion has been confined in this research work to three groups of weaker sections namely, Women, Scheduled Castes and Scheduled Tribes.
1.15 Conceptual Clarification

The concept of protective discrimination which was adopted under the Indian Constitution under article 15 (3), 15 (4) and 16 (4) is not a new concept. This concept was already enunciated in the various Constitutions of the world like, USA, UK and Canada. The underlying idea is one and the same to protect the poor and backward in order to uplift those communities from socio economic and educational problems. But it was adopted in different form according to their geographical isolation, development, class system, whereas in the caste ridden society like India we have adopted provisions for the protection of weaker sections who are socially and educationally backward.

In general, “Protective Discrimination” means bringing weaker section of society into the main stream at par with forward class people.

The term “Protective Discrimination” is known under various nomenclature as “Positive discrimination”, “Progressive discrimination”, “Positive affirmation” or even as “Reverse Discrimination”.  

The term “Protective Discrimination” was coined by C.H. Alexandrowicz to indicate the measures of protection including reservation of seats in colleges and posts in the government services sanctioned by the Constitution.

According to Dr. Ambedkar, “Protective Discrimination” is special preferential treatment or special help. It is very necessary to bring equality among inequals. Special provisions are made for the upliftment of Women, Scheduled Castes and Scheduled Tribes, who are in no position to compete with the more advanced sections of the society. For the purpose of competing with the forward classes, the protective discrimination is required.

In U.K. (United Kingdom) where the Constitution is unwritten in which the parliament enacted the Race Relation Act 1926, section 1 and 2 prohibit discrimination in any of the three forms i.e., direct or indirect discrimination.

42 Ibid. P.7
and victimization is illegal. Section 8 to 35 of the Race Relations Act 1926 proceed that it is not unlawful to offer persons of a particular racial group access to facilities or services to meet the special necessities of persons of that group in regards to their education training in welfare or any ancillary benefit.\footnote{Ibid P. 696}

In \textit{Indra Sawhney Vs. Union of India}\footnote{1992 Supp (3) Sec. 217} Lordship Jeevan Reddy observed that there are two types of reservations like, i) Vertical reservation and ii) Horizontal reservation. The reservation is in favour of scheduled castes, Scheduled Tribes and other Backward Classes, under Article 16 (4) may provide for vertical reservation. Whereas reservation in favour of physically handicapped under Article 16\textsubscript{(1)} may be called as horizontal reservation.\footnote{Supreme Court Cases Journal weekly, vol. 9, 2008, Nov. P.391.} If any woman candidate is selected on the basis of reservation in any category then she will be fixed of the reservation will be of horizontal nature.\footnote{Ibid page no. 393.}

\textbf{1.16 The Scheme of the study}

1. Introduction

2. The growth and evolution of policy of reservation.

3. Dr. Ambedkar’s Vision: “Social Justice” for the Women, SCs and STs.

4. The Constitutional and legal provisions for Women, SCs and STs.

5. The Protective Discrimination: Judicial approaches.

6. Socio-economic conditions of Women, SCs and STs: A case study of Karnataka State.

7. Conclusion and Suggestions.

\textbf{Chapter one} deals with the concept of ‘Protective Discrimination” as provided under the Constitution of India. In this chapter motivating factors which influenced Dr. Ambedkar to insert special provisions to Women, Scheduled Castes and Scheduled Tribes such as, Ambedkar’s family background, great humanist, foreign education, influence of Goutahma Buddha, Mahatma Jyothiba Phule, Social evils against Women, Scheduled Caste and Scheduled Tribes are dealt with. The present chapter also covers the significance of the
study, incidents of atrocities on the Women, Scheduled Caste and Scheduled Tribes in India in general, Karnataka in particular. The identification and formulation of research problems, the review of literature, the research objectives, hypotheses, the sources of data collection, the methodology adopted in this legal research, the scope of the work, conceptual clarification with reference to the meaning of the concept of protective discrimination, vertical reservation, and horizontal reservation are also dealt here.

Chapter two highlights the growth and evolution of the policy of reservation for the upliftment and protection of Scheduled Castes, Scheduled Tribes and Women. It examines the history of reservation, reservation in Bombay province, in Mysore province, during the British period, historical background of the status of Women, status of Women during the Vedic period, post Vedic period, pre-independent era, Women and Ambedkar movement. The concept of reservation is one of the crucial factors in the Constitution of India to secure Socio-economic justice to the weaker sections and bring them to the mainstream of the national life. The political social and economic inequalities, existed in our country prior to our Constitution, came into being which made social thinkers to agitate for securing Socio-economic and political justice. In India the process of reservation was initiated on 26th July 1902 by Chatrapati Shahu Maharaj of Kolhpur. He extended the educational facilities and job reservation to the depressed classes in his Kingdom. In his administration he started giving 50% reservation to the depressed classes in India. For the first time, the process of reservation was started during the regime of Chatrapati Shahu Maharaj in India. Karnataka State has got a long history of protective discrimination policy for uplifting the socially and educationally backward sections of the State. In 1918, Nalwadi Krishna Raja Wodeyar, the king in Mysore government, appointed a Miller committee headed by Justice Miller. In 1921 Nalwadi Krishna Raja Wodeyar extended the reservation 75% in the State to the depressed classes. The committee endeavored to afford opportunities to the depressed classes by making reservations to them in government
departments. Similarly the policy of reservation was also provided by the Government of India Act 1935 with the effort of the Dr. Ambedkar. In the 1935 Act, for the protection of Scheduled Castes and Scheduled Tribes abolition of untouchability, the special safeguards and reservation for Scheduled Caste and Scheduled Tribes, introduction of universal adult franchise were adopted. Further, Dr. Ambedkar being a drafting committee Chairman he incorporated the reservation in services as fundamental right and other provisions to the present Constitution of India.

**Chapter three** contemplates Dr. Ambedkar’s vision in securing social justice for the Scheduled Caste and Scheduled Tribes and Women. Social justice being a multi-dimensional concept has been viewed differently by scholars of Law, Philosophy and Political Science. The term social justice is quite comprehensive. Social justice in India is the product of social injustice. Our caste system and social structure is the fountain–head for social injustice. **According to Dias,** social justice is the just allocation of advantages and disadvantages, preventing the abuse of power, preventing the abuse of liberty, the just decision of disputes and adopting to change. **According to Utilitarian’s,** social justice is being one of the dimensions of justice, it stands for organization of society based on the principles of equality, liberty and fraternity. **According to Krishan Iyer,** social justice is people oriented or people’s justice, legal justice canalized, controlled and conferred by law. Social justice of to day becomes the legal justice of tomorrow.

In the **words of Dr. Ambedkar,** the term social justice is based upon equality, liberty and fraternity of all human beings. The aim of social justice is to remove all kinds of inequalities based upon caste, race, sex, power, position, wealth etc. The social justice brings equal distribution of the social, political and economical resources of the community.

Ambedkar was the chief architect of the Indian Constitution. He was fully aware of the pattern and problems of the Indian Society. He tried to achieve social justice and social democracy in terms of one man-one value. He
treated social justice as a true basis for patriotism and nationalism. Ambedkar did not accept the theories of social justice as propounded by the Varna System, the Aristotelian order, Plato’s Scheme, Gandhian Sarvodaya order and not even the Proletarian socialism of Marx.

Caste system founded on Varnashrma dharma is the negation of social justice. The Hindu Varnasrama dharma and caste system pushed forth Brahmins as the highly privileged caste with a high hereditary social status and stamped the vast majority of the people as ‘Sudras’ and ‘Untouchables’ fit for only manual labour. They were deprived of educational opportunities and condemned to a low social status. Social justice in India seeks to remove glaring inequalities in society based on a hierarchical caste system with its graded inequalities from birth on a large section of Hindu Society and the conferment of privileges and position of dominance to a small section of the society.

The concept of social justice has been enshrined in the Indian Constitution. Ambedkar was Chief Architect of the Indian Constitution. The Constitution is a monumental example of social engineering. Social justice is not defined in the Indian Constitution but it is relative concept taking in its wings the time and circumstances, the people their backwardness, blood, sweat and tears. The Constitution of India brings a renaissance in the concept of social justice when it weaves a trinity of it in the preamble, the fundamental rights and the directive principles of State polices and this trinity is the core of the commitments to the social revolution. This is the conscience of the Constitution.

Globalization in India means opening doors of our economy to the multinational in the field of agriculture, industries, communication, transportation, electricity generation and distribution and also education etc. However, before opening the door of economy to the multinational companies’ one should know the fact that these multinationals are not coming for providing charity in India but to make profit by utilizing our reserve resources, raw materials and treasury. They are not concerned with our environment,
infrastructure development or to deliver social justice. These are not in their policies and programes.

**Chapter four** focuses on various Constitutional and legal provisions which can safeguard the interest of Women, Scheduled Caste and Scheduled Tribes. Accordingly, the chapter is divided into two parts, such as Part-A Constitutional and legal provisions for women. Part-B Constitutional and legal provisions for Scheduled Caste and Scheduled Tribes. The Scheduled Caste, Schedule Tribes and Women are worst sufferers from many decades. For the purpose of protecting the interest of Women, Scheduled Caste and Scheduled Tribes the Constitutional framers (Especially Dr. Ambedkar) incorporated many provisions in the Indian Constitution. The different Constitutional provisions for Women such as, the State shall not deny to any person equality before the law or equal protection of the laws with in the territory of India under article 14. In the article 15 of the Constitution, State should not discriminate any citizen on the grounds of sex, caste, religion, race, etc., in the provision of 15(3) State can make the special provision for Women. Article 16 gives equal opportunity for all citizens in matters relating to employment or appointment to any office under the State. According to Article 23 State should prohibit the traffic in human beings and forced labour of Women. The Constitution secures equal pay for equal work for both men and Women under the Article 39. Even under the article 42, the State shall make provisions for securing the just and humane conditions of work and for maternity relief. In the provision of 44 of the Constitution the State shall guarantee with in its economic limits to all citizens, the right to work, right to education and public assistance in certain cases.

In order to prevent the violence against Women, many enactments have been made with a view to protect the rights. These enactments deal with the matters like, marriage, divorce and succession, maternity benefit, prohibition of employment of Women in dangerous activities of work place, to combat the evils of dowry and curb the immoral and other anti-social activities.

The Constitution ensures the protection and assures the promotion of the interests of Scheduled Caste and Scheduled Tribes too. The Constitution has specifically provided many provisions to the people of India in general, members of the Scheduled Caste and Scheduled Tribes in particular. For instance, the State shall not deny equality to any person before the law or equal protection of the laws within the territory of India under article 14. In article 15 (1) the State shall not discrimination any citizen on the basis of caste. In the provision of 15(4) State can make the special provision for the SCs and STs. Under the article 16 (4) State can make special provision in public employment for the SCs and STs. Article 17 abolishes untouchability, it is further provided that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. Article 46 promotes educational and economic interests of Scheduled Castes and Scheduled Tribes. Article 330 reserves representation for Scheduled Caste and schedule tribes in the house of the people. Article 338 deals with the establishment of National Commission for Scheduled Caste and Scheduled Tribes.

So far as the Scheduled Caste and Scheduled Tribes are concerned, to protect their civil rights to prevent the atrocities on them and to eradicate the bonded labour system, etc., certain legislations have been passed by the parliament. Such as, The Protection of Civil Rights (P.C.R.) Act 1955, The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989, The Bonded Labour System (Abolition) Act 1976, The Minimum Wages Act 1948.
**Chapter five** mainly focuses on the role of judiciary in interpreting and enforcing the Constitutional mandate of “Protective Discrimination”. Accordingly, the chapter is divided into two parts, such as,

Part-A Judicial approach towards Protective Discrimination of Scheduled Castes and Scheduled Tribes.

Part-B Judicial approach towards Protective Discrimination of Women.

In India, the role of judiciary in protecting the interest of SCs and STs through their judgments is not satisfactory in respect of their education, public employment and promotion etc, **In Balaji Vs. State of Mysore**, the supreme court held that under Article 15 (4) in order to get the Constitutional benefits, the SCs and STs must be both socially and educationally backward. In addition to that to extend the facilities to them, their social backwardness is the main determining factor which would be the result of poverty, occupation and place of habitation are taken into consideration. Again in **P. Rajendra Vs. State of Madras**, the Supreme Court upheld the test of backwardness which was solely based on caste. The Supreme Court observed that, it must not be forgotten that caste is also a class of citizens. If the caste as a whole is socially and educationally backward, reservation can be made in favour of such caste on the ground that it is socially and educationally backward class of citizens within the meaning of Article 15(4). Further the Supreme Court in the case of **K.S. Jayashree Vs. State of Kerala**, held that both caste and poverty would be relevant factors in determining the backwardness, social as well as educational. **In K.C. Vasanth Kumar Vs. State of Karnataka**, the five judges expressed five separate opinions on the vexed question. Their conclusion which may be relevant factors in determining the backwardness of citizens. Again the Supreme Court in **Valsamma Paul Vs. Cochin University**, observed that, SCs and STs had suffered, socially, economically, culturally and educationally. The object of reservation is permissible under Articles 15 (4) and 16(4). Further, the court said that in order to remove these handicaps, disadvantages, sufferings
and restrictions to the SCs and STs it must provide the necessary opportunities and facilities. It is very essential bring them into main stream of the society.

In **M. Nagaraj Vs. Union of India**, the Constitution validity of the Constitutional amendments Act 1977, 1981 and 1985 were challenged on the ground that they destroy the basic features of the Constitution. By these clauses 4 (a), 4 (b) were added to Article 16 which provided retrospective promotions to the SCs and STs and also provided relaxation in qualifications. The petitioners argued that these amendments were Un-Constitutional. The five judge bench of the Supreme Court, however, held that these are only enabling provisions to be followed with by the State while giving reservations (i) limit of 50 percent, (ii) deleting creamy layer (iii) roster based post. These amendments do not destroy the identity of the Constitution and therefore they are Constitutional as only applying to the SCs and STs.

Indian judiciary has applied the principle of social justice and has also appreciated the protective discrimination in favour of Women. It is proved from a number of judgments pronounced by Supreme Court that judiciary is infavour the promotion of Women’s right in securing socio-economic and political environment. A few of them are worth mentioning here.

In **Dattareya Motiram More Vs. State of Bombay**, the court endeavored to uphold the validity of certain provision of Bombay Municipal Boroughs Act 1925 which provided for the reservation of seats for Women in the elections to the Jalgon Municipality. The court held that “as a result of joint operation of Articles 15(1) and 15(3) the State could discriminate infavour of Women against men, but it may not discriminate infavour of men against Women”. Again in **T. Sudhakar Reddy Vs. Government of Andra Pradesh**, the Supreme Court has upheld the Constitutional validity of provision to sec 3 (a) of the Andra Pradesh Co-operative societies Act 1964 and of the rules 22 (c) and 22 (A) (3) (a) framed upon the mandate of Article 15(3). The provision read with the said rules provided for nomination of two Women members by the registrar to the managing committee of the co-operative societies with a right to vote and to take part in the meetings of the committee. The court
upheld the validity of this provision on the ground of Article 15(3) of the Constitution which permitted for making special provision for Women. In **Madhu Kishwar Vs. State of Bihar**, the Supreme Court observed that half of the Indian population is Women. Women have always been discriminated against and have suffered and are suffering from discrimination in silence. Therefore they should not be discriminated on the basis of sex.

In **Vishaka Vs. State of Rajasthan**, the Supreme Court laid down number of guidelines to prevent the sexual harassment against Women. In this case the court examined the definition of ‘Women Rights’ under section 2(d) of the Protection of Human Rights Act 1993. “Sexual harassment which includes any unwelcome sexually determined behaviour like, physical contact and advances, a demand or request for sexual favors, sexually coloured, removed, showing pornography and any other unwelcome physical, verbal or non verbal conduct of sexual nature”. Supreme Court further emphasized that Gender equality includes protection from sexual harassment and right to work with dignity which is a universally recognized basic human right.

All the above case laws developed by the judiciary show that Dr. Ambedkar’s concept of social justice is reflected in these decisions. Dr. Ambedkar never advocated social justice to the Women, SCs and STs at the cost of the rest of the people. But he only advocated to provide reservation in various fields with a view to achieve equality in the public life and to bring about egalitarian type of society.

**Chapter six** deals with empirical study on Socio-economic conditions of Scheduled Castes, Scheduled Tribes and Women: A case study of Karnataka State. For the convenience of empirical study, the Karnataka State has been divided into four divisions with head quarters at Bangalore, Belagum, Gulbarga and Mysore. Further the entire State is having 29 districts.

The chapter assesses the economic conditions of Women, Scheduled Castes and Scheduled Tribes, education status of Women, Scheduled Caste and Scheduled Tribes, government programmes for Women, Scheduled Caste and
Scheduled Tribes, employment status of Women, Scheduled Caste and Scheduled Tribes, poverty status of Women, Scheduled Castes and Scheduled Tribes, etc. For the purpose of examining the Socio-economic conditions and to find out how far Constitutional benefits are reaching the weaker sections generally, the Women, the Scheduled Caste and Scheduled Tribes in particularly four districts in Karnataka State have been selected for the study such as, Bijapur, Chamarajanagar, Kolar and Raichur (i.e SC/ST and women population is more here). Among these districts 800 respondents belonging to Women, Scheduled Caste and Scheduled Tribes have been selected on random basis.

Of 800 respondents 340 are Women, 340 are Scheduled Castes, 120 Scheduled Tribes respondents. Besides 40 SC/ST officers, 40 Dalit leaders and 20 Scheduled Castes/ Scheduled Tribes political representatives including MLA’s and MP’s have been selected on random basis for extracting various information relating to the problems of Women, Scheduled Castes and Scheduled Tribes. In order to get information from all the respondents, interview schedules and questionnaires were prepared and administered to them individually. Sincere attempts have been made to meet Dalit leaders, officers, MLA’s and MP’s to obtain relevant information on the Socio-economic conditions of Women, Scheduled Castes and Scheduled Tribes. In addition to this important government departments such as, Directorate of Women and Child Development Department, Bangalore, Social Welfare Department, Directorate of Scheduled Tribe Welfare Department, Ambedkar Development Corporation, Department of Agriculture, Horticulture, Animal Husbandry, Sericulture, Zillapanchayat officers from Bangalore, Mandya, Mysore, Chamarajanagar, Kolar, Bijapur, Raichur have been consulted for obtaining information about Women, Scheduled Castes and Scheduled Tribes.

For the propose of obtaining first hand information two types of questionnaires have been used i.e. Open questionnaire and Closed questionnaire. Besides, Observation techniques and Interview techniques are used to get qualitative information about their socio economic, educational and
other problems. Both the questionnaire and interview schedule are considered to draw the findings on the present chapter. The view expressed by the respondents in the questionnaire and during interview was subjective in nature and efforts were made to corroborate all such views with others and come out with balanced findings.

Chapter seven focuses on the Conclusion and Suggestions. After the entire study on Protective Discrimination as contemplated under the Indian Constitution under Article 15(3), 15(4) and 16(4) it is evident that mere adoption of these provisions are not enough so as to uplift the Women, SCs and STs from the problems of poverty, illiteracy, unemployment, etc. It is essential to create awareness to the SC/STs and Women especially in the rural areas. Then only the Women, SCs and STs can claim their Constitutional benefits and rights.