Chapter 2

Nature and Scope of Untouchability and Atrocities
"It is mischievously propagated by Hindu scriptures that by serving the upper classes the Shudras achieve salvation. Untouchability is another appellation of slavery. No race can be raised by destroying its self - respect. So if you really want to uplift the Untouchables, you must treat them in social orders free." 
--- Dr.B.R. Ambedkar.

I. HISTORY AND EVOLUTION OF ‘UNTouchABILITY AND ATROCITIES’

Due to the lack of hard evidences, the origin of the Untouchability in South Asia is a subject of many debates. The most popular theory traces the origin of four-Varṇa system through the Indo-European speakers, roughly in the period 1400 B.C.E. The main source of this theory is Rig Veda, which is being dubbed as ‘myth’ by Edmund Leach and Sucheta Majumdar and which explains the origin of caste system in cosmic terms.

According the Rig Veda, the oldest of the four Vedas, the distinction of the four Varnas dates back to the origins of the human race: According to Rig Veda, Samhita, X 90.12. “That is to say, at the time of creation, the Brahmin was born from mouth of his the Purusha (the Primeval man), the Kshatriya from his arms, the Vaishya from his thighs, and Shudra from feet. Nevertheless, in order to analyze justly the origin of Untouchability, it becomes imperative to examine the religious texts, travellers’ accounts, etc., of the ancient times.”

Dharmasutras (600-300 BCE)

The Orthodox Brahmins refined the four-Varṇa system ideologically over a period of times. The Dharmasutras, which were complied between 600 and 300 BCE**, represents the crystallization of these efforts by the orthodox Brahmins whose homeland was the upper Ganga basin. However, from the very beginning, the four-Varṇa system was filled with contradictions. Therefore, the Brahmins had to revise the basic principle to conform to the realities of daily life, resulting unavoidably in quite loose interpretations and relaxation of the rules. In the Dharmasutras, we can see much difficulties incurred by the Brahmins in defining the status of Shudra.

** Dr. B.R. Ambedkar, The Rise and Fall of the Hindu woman (Blumoon Books, New Delhi, 1999), published in Maha Bodhi Journal, May-June 1952on 'Untouchability'

Before Christian Era.
According to the rules contained in the Dharamsutras, because Shudras were born from the feet of the Universal Soul, they were destined to serve three upper varnas born from his mouth, arms, and thighs (Rig Veda Samhita, 4487). Defining the duties of these four Varnas, Rig Veda mentions in Samhita XI.235. That, they were to support themselves and their families with the small compensations received for the services that they rendered. Despite all these rules and regulations intended to segregate Shudras in ancient Indian Society, in their every day life the twice-born Varnas were unable to adhere to them thoroughly. Having outlined these rules and restrictions, the Dharamsutras then discussed how to compromise in practice, by offering some haziness for getting around them. There were in general two kinds of haziness: Prayachistta (Penance or purification) and exceptions to the rules. In order to address the phenomenon of inter-varna sexual intercourse, and also to give privileges to the Brahmans, the Dharamsutras recognized the practice of two types of marriages, i.e., Anuloma and Pratiloma. The Anuloma was a marriage to a woman of lower varna (Gautama Dharamsutra IV, 17, 27-28), while in contrast, the practice of Pratiloma was a marriage to a woman of higher Varna, which continued to be discouraged and scorned, and Shudra male who had sexual intercourse with a twice-born woman was heavily punished by having his penis severed and his wealth confiscated, and if the woman has a husband or patron of some kind, these above two punishments will be followed by death. (Gautama Dharam Sutra XII, 2-3).

The Buddhist Millennium (300 BCE – 400 CE*)

Buddhist Scriptures and Arthashastra

The Buddhist Scriptures and Kautilya’s Arthashastra, both of which were created after the death of Buddha, came into existence during the process of the formation of new urban societies in the mid-Ganga basin. The former were complied by the Buddhist clergy, the representatives of the heterodox sects of those days, while the latter was the work of political thinkers. And they both describe a model of society different from the one contained in the Dharamsutras compiled by orthodox Brahmans with their roots in the agrarian regions of the upper-ganga basin.

* CE means Christian Era.
During this era of Buddhist millennium, a set of folk-stories, the Jataka tales, were also compiled by the Buddhist monks. The story of "A Lost Friend Found by a Song", is a document of social commentary of that time in India. This Jataka tale consists of two Chandala friends who were hated for their identity and origin. Once a villager invited a teacher to offer him food. But due to rainfall in the previous night, he could not attend and instead sent his two pupils. There they pretended being Brahmins and had food. Somehow, Sambhuta—one of them thought that the food was cool enough and put it into his mouth. As the food was very hot, his mouth got burnt. Immediately, the other friend Citta told him in his own (Chandala) language to spit that out. The villager-host got suspicious and questioned them about their language. The moment the villager came to know that those two were Chandalas, they beat them up very severely and threw them out of the village. After this incident, they left for the woods and embarked on a series of rebirths, until they were finally born as Brahmins and Kshatriyas. However, remembering about their past, the tale ends with their declaration that of the "impermanence of things created", suggesting that life is too important to be spent hating others for their birth based status.¹ The contents of the tale are very significant. Many of the Jataka tales described discrimination paralleling the more-recent Untouchability.

The Arthashastra, which is said to have been written by Kautilya, the Chief Minister of the Mauryan dynasty that rose up in Magadha, takes the varna system as the ideal basis of the society and lists the obligations of each varna. Many of the provisions of the Arthashastra resemble those contained in the Dharamsutras concerning social discrimination against the Shudras. The Arthashastra goes beyond other Dharamshastras in spelling out relatively more punishments for Shudras than for other varnas² and relatively greater protections for Brahmins than for other varnas in the idealized society. The punishment to Shudra for putting on a sacred thread and other sings of the twice-born is extremely severe-death.³ The Arthashastra also suggest that Chandalas be employed in guarding forests.

2. Vasishtha Samhia, XIX.
In ancient India the references were made to the stigmatized groups by such general terms as Antya or Antyaja (the far end or lowest people) and Bahya (outcasts). As early as the Dharamsutras, the Chandalas were defined as “People who would pollute the twice-born by either direct or indirect contact.” Any twice-born person who did come in contact with them would have to perform purification rites. The word Chandala does not denote one single homogenous class of people. It is one word for many classes of people, all different from one another in their ostensible origins. Nevertheless, there are two kinds of Chandalas mentioned in the Dharamsutras. One is Janam Chandala that is a Chandala by birth and other is Karam Chandala that is Chandala by conduct. Vashishtha says that “the atheist, the miser, the ungrateful and the one who cherishes anger for long-these are the four Chandalas by conduct and only the fifth is by birth.”

The Jain texts also mention about Jungitas or excluded people to whom Diksha or initiation was refused in Jain Sangha. They were Jati-Jungitas (born untouchables), Karma-Jungitas (untouchable by conduct) and Sarira - Jungitas (untouchable in body). Hunters, painters, fisherman, tailors and acrobats are classified as Jungitas by birth. Those who practiced hunting, acrobatic exercises and barbers’ work as avocations are called Jungitas by conduct.

In Buddhist scriptures, people considered to be inferior to the Shudra are often referred as Chandalas, Nesadas, Venas, Rathakaras, and Pukkusas. According to Gautam Dharamsutra, a son begotten by a Shudra and a woman of a superior caste is called a Patita (outcaste). The son of a Brahmin by Shudra woman is called Nishada by Buddhayana. The offspring of a Nishada male and Shudra female is called pulkasa and son of begotten by a Shudra on a female of the Nishad caste is known as Kukkuaka. An offspring of Kashtriya man and Shudra woman is called as an Ugra.

6. Anguttara Nikaya, 1.107, ii.85.
7. Budhhayana, PP.1, 9.17.3.
8. Ibid. IV at 17P
9. Ibid IV at 17P
Vishaya male and Shudra female is called a Rathakara.\textsuperscript{10}

In the Shashtras, five different hypothetical origins for Chandalas are identified:

- The offspring of Shudra father and Brahmin mother,
- The offspring of an unmarried women,
- The offspring of a union with a Sagotra woman,\textsuperscript{11}
- The offspring of who after becoming an ascetic, returns to the householder’s life,\textsuperscript{12}
- The offspring of a man a barber father and a Brahmin mother.\textsuperscript{13}

Closer contact, like sexual intercourse with a Chandala woman, required more difficult penance, including fasting. Chandalas, like Shudras, were completely excluded from the religious (Brahministic) practices of the twice-born.

According to the Jatakas, members of \textit{Varna} society, especially those belonging to the upper strata beginning with the Brahmin, were to take pain to avoid contact with Chandalas. In Jatakas we discover the stories of daughters of Brahmin and wealthy merchant washing their eyes after looking upon a Chandala, a Brahmin who was so hungry that he ate food left by a Chandala then died from embarrassment (\textit{Jataka-II. 82-84}). The Jatakas describe Chandalas as segregated from the rest of the community, living in-groups on the out skirts of cities and villages. Buddhist scripture also mentions people among them who live by acrobatic performances and those who possessed especial magical powers. Although the Jatakas are, ultimately, unverified folk stories, the frequency and consistency of the described patterns of discrimination against them suggest that there may have been historic accuracy to the Jatakas’ descriptions.

\textbf{The Hindu Legal Code (500-100 BCE*)}

The theoretical basis of the four-Varna system as described in the \textit{Dharamsutras} was systematized in the \textit{Mama Smriti}, which was complied between

\begin{itemize}
  \item \textsuperscript{10} \textit{Ibid IV at 17P}
  \item \textsuperscript{11} Ved Vyasa Smriti, pp.9-10
  \item \textsuperscript{12} Yama Parasura Madhavya quoted by Dr. Ambedkar The Untouchables, p.138.
  \item \textsuperscript{13} Anusasana Parva, 29-17. (Maha Bharatha).
  \item * Before Christian Era.
\end{itemize}
500-100 BCE. This legal code, which from antiquity has been the most respected guide to Hindu social life, lays out in an even more substantive manner than the Dharamasutras provisions about discrimination against the Shudra Varna and the Chandalas and their exclusion from the rest of the Indian Society.

The *Manu Smriti* continues the burden of *Rig Veda* with regard to the Varna. The Brahmin, however, is the pick of the bunch. It is for him almost that all Creation creates and acts. He not only enjoys the top position in the Varna hierarchy even declared “in all justice (dharma-teh) the lord of the entire creation”\(^{14}\) and lord of the Varna due to the performance of the special rite\(^{15}\) (Samskara). He may not be learned (avid vamsc, vidvamsca); he all the same as veritable is a ‘great god’ (*daivatam-mahat*).\(^{16}\) And thus being *param daivita* (great god), the “Brahmins are to be reverenced”.\(^{17}\)

However, contrary to the above position enjoyed by the Brahmins, Manu has been fanatically severe on Shudras. The Shudra finds his due place in the summary dispensing of the sage. “The Shudra among men and horse among animals; therefore those two, the horse and the Shudra, are the conveyances of beings; therefore the Shudra is not fit (ordained) for sacrifice.”\(^{18}\)

According to the Hindu law code, the Chandala, the representative of the untouchable of ancient times, was the progeny of a Shudra father and a Brahmin mother, i.e., the offspring of the most condemned Pratiloma marriage. But this theory of origin of the untouchables is far more the product of the Varna conception of the orthodox Brahmins than anything based on historical facts.

The Brahmins used ideas of ritual purity to legitimize their supreme position in the top-society rank as priests by stressing their own purity and sanctity. This emphasis on purity gave rise to people on the opposite end of the society who were considered to be impure.

However, the provisions set down in the *Manu Smriti* concerning the Chandalas

\(^{14}\) Manu Smriti P.I.93.
\(^{15}\) Ibid 11 at 19P.
\(^{16}\) Ibid 11 at 19P.
\(^{17}\) Ibid 11 at 19P.
\(^{18}\) Ibid 11 at 19P.
specify that they must reside outside of the village and can interact only with members of their own group. They are to wear the clothing worn by the deceased, eat the food out of broken dishes laid on the ground for them by the twice-born, and wear personal ornaments of black iron, etc.

II. INDIA’S EYE-WITNESS ACCOUNTS OF UNTOUCHABILITY:
Magasthenes’ Indika (305 BCE*)

The Indika of Magasthenes is a source material that tells us about Indian Society around the time when the *Arthashashtra* was written. According to the descriptions written by this Greek ambassador sent to the court of Chandragupta, the first king of Mauryan dynasty, seven kinds of meros (the Greek word) existed in India at that time. Indians could enter only occupations within their own meros and were forbidden to marry outside meros lines. The seven meros observed were (1) Philosophers, (2) Cultivators, (3) herders and hunters, (4) artisans and merchants, (5) warriors, (6) overseers or spies, and (7) high-level bureaucrats. Magasthenes’ description of meros differs in significant ways from the idealized, like Buddhist scriptures and the *Arthashashtra* are Vague as to the distinction, Brahmins endorsed four Varnas, suggesting important discrepancies between the ‘real world and certain Brahmins’ views of how they might like the world to be.

Late 300-400 CE*:

There have been several other Chinese travellers who have provided descriptive accounts of social situation in the Indian sub-continent during 300 to 400 CE. Nevertheless, during 400 AD,** the Chinese traveller Fa-Hsien described a word in which the “Chandalas….were fisherman, hunters, and sell flesh meat” (42-43).

630-640 CE*:

After two centuries, another Buddhist monk from China, Hsuan Tsang, travelled

*BCE means Before Christian Era.
**AD means After Domain.
to India. In his travel accounts he described Chandalas as 'evil men.' (Hsuan Tsiang, to India.) He also mentions of four types of classifications of the people, i.e., Brahman (Polo-men), Kshatriya (T'sa-ti-li), Vaisyas (Fei-she-li) and Shudra (shu-t'oi-lo). In these four classes purity and impurity of rank was assigned to every one of his place.

Fictionally, the Untouchability itself has been rationalized in Hindu religious thought as the ultimate logical extension of the concepts of Karma and rebirth that are supposed to determine all caste identity. One was born into an untouchable caste because of the accumulation of especially heinous sins in previous birth. This burden of sin made the untouchable a hazard to higher caste persons, who would be polluted by contact. The ancient legal text, Manu Smriti (the laws of the mythic codifier. Manu) prescribed draconic punishment for untouchables who so defined others. The untouchable was assigned economically and socially critical tasks that were, however, considered 'polluting' themselves – sweeping, tanning leather, and handling a plough that could destroy insect life. According to the prevailing myth, the untouchable was forbidden to hear sacred text (Manu prescribed pouring molten lead in the ears of offenders) even though untouchables played menial roles considered essential to many rituals.

Thus, it should be noted, however, that Vedic religion is a fictional entity about which nothing whatever is genuinely known. Vedic text may have a bearing on this system of ideas, but they are not primary in either a chronological sense or a theological sense. The Aryan invasion never happened at all. It is only a constructed fiction to serve the vested interests of the people. The term Arya as used in the Vedic land later scriptures were never used in the sense of an ethnic or linguistic category. It simply had the meaning of 'noble' or 'superior' as evidenced by such combination as 'aryas of dasa descent' and use of the term in Buddhist and Jain writings to indicate the 'noble truths of Buddhism'. However, to the upper caste Hindus of India, the fiction of Aryan theory of Indian history and the caste system became cherished scientific fact of their superiority over low caste people and consequently they have practiced Untouchability. Though we have received several archeological contrary facts during the twentieth century but the fiction of Aryan origins still haunts the minds of upper caste Hindus.
II.1. Untouchability in South Asia During Two Thousand years preceding 1947

Though Buddhism does not appear to have practiced discrimination against the Shudras, it seems that it did discriminate against the Chandalas. The evidence can be drawn from the following story from Anadanasa, a collection of Buddhist stories similar to those given in the Jatakas around the first century CE. According to the story Prakriti, a Chandala girl, falls in love with Ananda, Buddhas’s favourite disciple, offers herself for marriage. Buddha suggests that the best course for her was to join the order of monks, like Ananda, which she does. But she is not accepted in the order before being purified. Nilakanta Shastri writes, “that is, the Buddha removed from her all traces of sin that had brought about her low birth, and having thus purified her he made a Bhikshuni (nun) of her—sufficiently clear statement that even according to the reformer, the Chandala girl was not fit for the practice of asceticism as she was and that, as preliminary condition, she had to be released from that state of sinfulness and bondage and ignorance.”19

700-1050 CE*

On his travel during the seventh “century to the Indian sub-continent, Xuanzang noted that in India there are four castes: the pure and ascetic (Brahmins), the nobility (Kshatriyas), the merchants (Vaishyas) and cultivators (Sudras). Each of these forms an exclusive social group.”20 However, during the eleventh century, Alberuni—the Afghan traveller, also mentioned in his travel account about the four Varna system. Explaining about the social position of Chandalas in Indian caste system, he says that “they are occupied with dirty work, like cleansing of the villages and other services…..they are illegitimate children; for according to general opinion they descend from a Sudra father and Brahmin mother as the children of fornication.”21 This confirms

21. Schall, Edward C.(1962), Alberuni’s India, Lahore, PP.135-6
* CE means Christian Era.
that during Alberuin’s visit to India, the Chandalas were kept at the same social position in the society that they had centuries ago.

Rajaraja-I, the Chola King ruled from 985 to 1016 CE* and extended his territory from Kaveri delta to the extreme south of Indian Peninsula by defeating the Pandayan Kingdom and later occupied northern parts of Sri Lanka. He built a temple of Shiva in Thanjavur and granted villagers worship in his temple. Inscriptions on the temple describe his grant and also mentions about non-taxable land in those 40 villages around the temple. In the inscription, is found the references to ‘Tina-Cheri’ along with other categories of residential area. Cheri in Tamil means ‘Street’ or ‘residential area’, and the relative participle Tina means ‘untouchable’. Tina-Cheri is a whole, therefore, means the residential areas of untouchables. However, apart from these inscriptions of Rajaraja-I, there seems to be very few direct references to untouchables or Untouchability in Tamil inscriptions. However, during the late period of 10th CE, references are found about the Paraiyas and Pulayas, which are called as untouchable communities by the non-Paraiyas and non-Pulayas.

Nevertheless, during the 12th century and later, class or occupational distinctions were crystallized. Artisans, servants, priests and money lenders were the main groups. Under these circumstances, it was necessary for the orthodox Brahmins to abandon their traditional ideas about Shudra Varnas. What happened was that the village – based Brahmins began to conduct ceremonies, beginning with life cycle and yearly rituals, for Local Shudras and became independent for their livelihood on the compensation received for these services. Therefore, a situation arose in which excluding Shudras from religious ceremonies in accordance with the traditional law codes would result in Brahmins losing their means of livelihood. Brahmins who were being so pressured to make concessions, finally compromised with reality by opening the Mahabharata, Ramayana, Puranas, and other religious texts respected as holy Hindu scriptures, to Shudras. That is to say that, Shudras were allowed to listen to the lessons, taught by Brahmins from these scriptures

* CE means Christian Era.
and attend ceremonies at which they could recite the holy mantras taken from them. However, only Brahmins were permitted to preside over these rituals. In the midst of this evolution from Brahmins to Hinduism the new mantras were given more importance over the Vedic mantras, and the religious discrimination against the Shudra almost lost effect. The Hindu society, which accepted the Shudras as members, continued to develop; but in this the number of untouchables excluded from the four Varnas increased. Many aspects of the social discrimination reserved for the Shudra in ancient Indian society now got transferred into the principles of Untouchability.

As Alberuni has mentioned earlier, we can say that such changes were already in progress during the eleventh and twelfth centuries. It would, therefore, be correct to understand and examine these changes as a part of the transition or evolution from ancient untouchability concentrated on the Chandalas to the medieval untouchability. These were characterized by discrimination against many socially stratified castes scattered throughout the local region in segregated communities on the outskirts of agrarian villages. The following four points can accordingly be offered to explain what generally happened in such transition.

To begin with, within the tribes who lost their hunting and collecting territories due to the expansion of agrarian society (with the Shudra its major force cultivators), there were those who could not make the transition to agriculture and were thus forced to make their livelihood on the periphery of agrarian society engaged in necessary task (often looked upon as too impure for the four Varnas to participate in) to supplement agricultural life.

Secondly, from sixth and seventh centuries, characterized by the establishment of a feudal order based on the regional decentralization of political authority and decline of urban commerce in favour of regional economies, village organization went through significant changes into strongly self-subsistent communities supported by many artisans and service rendering castes. Within this process, some artisan castes broke up, and their members migrated to villages all over the region. The untouchable and other inferior

groups living on the periphery of agrarian society were also caught up within this village organization, moving to the outskirts of individual villages and maintaining their tribal organization in the form of castes.

Thirdly, the ideology of purity and pollution, which was developed by the religious leaders of Hindu society, the Brahmins, contributed to the social stratification in villages organized according to my castes. Along with the development of this ideology, strata of inferior castes and artisans who were previously not looked upon with different degrees of pollution, resulted in exclusionary behaviour among them.

Finally, the existence of Untouchables functioned to reduce the tense relationship arising from inequality within the village community and brought about a certain amount of stability. This process of order and stability of this village community brought about the order and stability of the regional society and ultimately of the medieval state. Therefore, developments of Untouchability were responses to the expectations of ruling classes and landlords. The role played directly or indirectly in the development of Untouchability during this time by the ruling classes on both the state and local level was a very important one.

1000-1600 CE*:

The period between 1000-1600CE* witnessed a new era of protest against the practice of Untouchability. The untouchables who were deliberately degraded by the Brahmanic forces had never accepted their position. At first their response to Untouchability came to the force in the form of the Bhakti cult. The Bhakti cult, which originated in later 7th century CE in South India and spread in northern India later during 10th century CE*, was an antithesis of the Vedantic philosophy propounded by Shankracharyas. They believed in Dhyan and Karma as the only two ways to achieve salvation. The high castes, especially the Brahmins had the monopoly over both the ways of salvation. The saints belonging to the Bhakti Cult stood up against the Vedantic philosophy. They believed in spiritual equality and Bhakti or devotion to God as one of the means to achieve salvation. They substituted songs, music, dancing waving the lights

* CE means Christain Era.
for Vedic Mantras. However, there were two main Bhakti traditions prevalent in India. There were the (a) Niguana Bhakti tradition comprising Kabir and others and (b) Saguna Bhakti tradition prevalent in Southern and western India. The Saguna was less confrontational and maintained a commitment to traditional belief and worship, including the adoration of idols.24

From time to time, the plight of untouchables touched various social reformers in India who worked for amelioration in different ways. The reformers protested against the exclusiveness of the caste system and notions of superiority and inferiority, which it bred.

Among the early reformers, Basavana or Lingayats (1106-1168CE*), Ramanand (1400 CE*), Kabir (1440-1518CE*), Ravidas or Rai Das (late 15th CE*) Nanak (1469-1533 CE*), Chaitanya (1485-1533 CE*), Eknath (1533-1599CE*). However, The Untouchable saints like Ravidas, Chokhamela, and many others were attracted towards the Bhakti Cult.25 However, Chokhamela and Kanaka the untouchable saints, were not allowed to enter the temple of Vithal at Pandharapur and the temple krishan at Udippi respectively. Nonetheless, M.G. Ranade said that “the effect of their teaching was to humanize society and to introduce and emphasize the doctrine of mutual toleration.”26

Nevertheless, the untouchables who were getting disgusted due to their all-sided oppression in Hinduism, naturally must have been inclined to shun it and embrace Islam which was philosophically more fascinating due to its monotheism and egalitarianism, in addition to being a religion of the ruling community. The rise of Sufism and preaching and propagation of Islamic principles by the Sufi saints in a virtually indigenous and attractive way also must have attracted the untouchables towards Islam.

1600-1900*:

The untouchables resorted to conversions as a means to get rid of Hinduism,

* CE means Christain Era.
which brought all miseries to them in various forms including the practice of Untouchability. Moreover, they expected to get a new social status, which was an obvious motivational force for conversion to Islam, Christianity or Sikhism, in addition to certain material benefits.

In order to relinquish the Untouchability and caste system, some of the Untouchables, especially the sweepers Bhangis belonging to Lalbegi and Malkana Castes converted to Islam. They adopted Islamic names and rituals, but at the same time retained their old Hindu rituals and ceremonies. The Muslims were reluctant to have blood relationship with them.

In 1675, some of the untouchables especially the Chuhuras (Scavengers) in Punjab had converted to Sikhism. It is said that the chuhuras rescued the body of Guru Tegh Bahadur, the ninth Guru who was executed by Aurangzeb. They carried the Corpse of the Guru to Amritsar. Thus, after having observed the courage of the chuhuuras sepoys in carrying the corpse of the Guru, the tenth Sikh master, Guru Govind Singh, allowed them into the faith; and as a result, they were called Mazhabi or “Faithful”. Most of Chuhuras followed the first converts.27

The social and religious reforms continued throughout the nineteenth century. Raja Ram Mohan Roy (1772-1833) founded the Brahmo Samaj, which attacked the caste system. The Brahmo Samaj, preached “Ek Dharam (one Religion), Ek Jati (one caste) and Ek Bhagavan (one God)”.28 Another social reformer of nineteenth century was Mahatma Jyoti Rao Phule (1827-1890). Being a Shudra himself, he attacked on the Caste system and untouchability and sought a complete destruction of social structure. In Gulamgiri (Slavary), he examined the motives and objects of the cruel and inhuman laws framed by the Brahmin, “Who under the guise of religion has finger in everything, big or small, which the Shudra undertakes”29 Mahadeo Govind Ranade (1842-1901), another major social reformer, envisioned that downfall of Indian was due to weakness in

and political issues. He argued that there were no rights in the Hindu community: there were privileges for few and disabilities for the vast majority. He struggled to create rights and strove to improve the moral tone of Hindu Society.30

Similarly in Bengal, the life of Ramakrishna Parmahamsa left an indelible mark. He was a simple priest, with no formal education, a man in direct tradition of Indian saints. In his gospel, he used expressions such as “the devotees” have no caste. One accept food even from a Priah, if the caller is a devotee of God”. His famous disciple, Swami Vivekananda, established the Ramakrishna’s Mission in 1896. The mission translated Ramakrishna’s teachings into action by devoted services to the poor regardless of their caste or religion. In his views, “all members of society ought to have equality of opportunity. For inequality is the bane of human nature, the curse upon mankind, the root of all misery—this the source of all bondage, physical, mental and spiritual.”31

Gopal Krishna Gokhle founded the Servants of India Society which was another group pledged to social reforms. Its members were pledged to a life of, service to India. Some of its members worked in the villages and helped the untouchables. Gokhle said in 1903 that “every well-wisher should consider it his duty to rouse self-respect in these classes and place facilities for education and employment within their reach”32 However, some of Indian princes were also Statesmen who undertook measures for eliminating untouchability in their States. Sayji Rao Gaekwad III (1863-1939), Maharaja of Baroda and Chhatrapati Shahu, Maharaj (1874-1922) of Kohlapur, were the most prominent among these.

The Portuguese missionary, St. Francis Xavier attempted a large scale conversion of lower classes on the coastal areas of Western India (1542).33 Later on the church of England got engaged very actively in proselitization among the lower castes. Nonetheless, the untouchables who were victims of aggravated forms of Untouchability especially in Travancore, became a Christian’s majority. According to 1891 Census there

30. See Mahadeo Govind Ranade, Rise of the Maratha power.
were a total of 2,284,172 Christian converts in India; out of them 1,491,584 were in British provinces and 7,92,714 were in native States.\textsuperscript{34} It could presumably be said that the process of conversion to Christianity must have started before the pre-rebellion period.

However, conversion to Islam, and Christianity proved to be good, but only in a limited sense. Muslim community included two classes namely Ashraf and Ajlaf, meaning Muslims who traced their ancestry outside of India and Muslims whose pre-Muslim ancestors had lived in India. Even therein existed one more – the Hindi speaking regions namely Arzal, which included persons “engaged in filthy occupations like Sweepers, Scavengers, Mehtars, Mahars, Mussalis, etc.”,\textsuperscript{35} and they were subjected to untouchability. Even among Indian Christians there existed two classes, one converted from higher castes and other from lower castes. It was but a fact that only high caste converts could derive more and more benefits from the missionaries than the lower castes converts.

\textbf{Conversion to Buddhism:}

Conversion as a way out of the untouchable status was not new in India. Islam and more especially Christianity, drew large numbers of their converts from lower caste and Sikhism in the twentieth century actively encouraged untouchable conversions. Actually, conversion to Buddhism was not yet known, although its members in Madras and on the Malabar Coast were small. The Madras Buddhists generally declared themselves as Hindus, but in Cochin in 1931 census Commissioner reported 96 Buddhists, mostly educated Malayai Iluvans, an untouchable Caste, who disgusted with the social disabilities to which their caste was subjected within Hindu fold, became Buddhists converts.\textsuperscript{36}

Indian Scholarship, from the 1980s onwards, stimulated both European studies in Buddhism and as part of Indian heritage. In 1935, Dr. Ambedkar announced his decision to quit Hinduism. But at that time Buddhism was not seen as a viable alternative

\textsuperscript{34} Smith George, The Conversion of India, P.201.
\textsuperscript{35} Das, Bhagwan, Thus spoke Ambedkar, Vol-IV, P.143.
\textsuperscript{36} Zelliot Eleanor (1996), From Untouchable to Dalit, PP. 187-96.
for the Mahars. But Ambedkar was aware of the increased intellectual interest in Buddhism. He himself had received as an examination prize in 1907 a biography of the Buddha in Marathi from its author, a Bombay school teacher.37 Once speaking himself in 1935, he said that “unfortunately, I was born a Hindu. It was beyond my power to prevent that, but I solemnly assure you that I will not die a Hindu.”38 However, after the above announcement, it took about 20 years for Ambedkar to embrace Buddhism on 14 October, 1956 in Nagpur.

II.2. Untouchability During the British Rule

When in 19th Century the British established their rule over most of India, their policy too was one of non-interference but there was a pressure on them to change the social order in India. But the policy of non-interference was formed in 1857. However, some of their policies had an impact on the social order. For example they established a nationwide legal system, which resulted in the movement of disputes from caste and village tribunals to the Government’s Courts, which supported the norm of equality before the law. Therefore, the British Law, in principle, did not recognize the caste structure as far as criminal/commercial law was concerned. However, when the caste Hindus took it upon themselves to enforce their exclusive rights and privileges against the lower castes, the courts were reluctant to provide remedies against such actions, which included social boycott.39 The higher courts endorsed the high caste dominance in settled ways, while at the lower levels there was often active governmental support for the demands. In civil laws, the British legal principle of ‘precedent’ meant enforced ‘legitimacy’ of whatever hierarchical practices were in place when the British acquired control of territory. Nevertheless, with the spread of schools and growth of a class of educated Indians, many new egalitarian social ideas began to spread. The new class began to question many assumption and beliefs of Indian society. Many of them devoted

37. Ibid 36 at 29 P.
themselves to renewing social institutions with a view to promote equality and social justice.

By the early twentieth century, the communal quota began to be viewed as a step towards equality. Though the state of Mysore inaugurated the first regime of communal quota in 1918 the reservations were only for non-Brahmin 'backward castes'. Some relief was given by the 1919 reform. Of much greater importance is the fact that the voice of some untouchable leaders began to be heard around this time in political assemblies. While Mahatma Gandhi described Untouchability as an ugly outgrowth of Hinduism and appealed to caste Hindus to do penance and purify themselves and Hinduism. Dr. Ambedkar at the same time addressed the untouchables and directed their attention to the potentialities of action to be taken by the government. Hence we see the conflict between those who tried to assimilate the untouchables into Hinduism and their leaders who opposed it, focusing on government.

The communal award of 1932 has to be see in this context. It granted the demand of the untouchables for a separate electorate in areas where they were concentrated, in addition to the regular votes they would cast as members of the general electorate. Gandhi objected this award, because that would signify a perpetual split in Hinduism, perpetuating stigma of Untouchability and making impossible their assimilation into mainstream Hinduism. He could not accept these demands because the Congress could not afford to lose the Hindu base of its support. Hence the Congress-led Governments of 1937 attempted to reform Hinduism. In 1938, for the first time in British India, governments intervened to secure the opening of temples when the Bombay and Madras legislatures passed temple entry Acts. Encouragement to the education of the untouchables increased and measures were taken to secure for them some posts in government service. Before independence, 27 Acts had been enacted by various legislatures to give more legal rights to those had till then experienced social and

40. Ibid. 38 at 30 P.
41. Ibid. 38 at 30 P.
42. Ibid 38 at 30 P.
II. 3. Untouchability in India Since 1947

Many Social Scientists and serious observers of Indian society believe that a large proportion of those now identified as ‘Untouchables’ today have descended from people who suffered severe oppression in the past. Many also believe that there are today, as there have been historically, a body of people who are so ill-treated and so distinct from other Indians that they can be separated out and labelled ‘Untouchables’ or some synonymous term. Many also believe that ‘Untouchables’ are a social category into which some families have moved and out of which some families have moved over the years. To focus on the practice of Untouchability and to separate fact from fiction, I have chosen to divide my answer into three sections, namely, (a) Untouchability and Legal Practice (b) Untouchability and Social Practice (c) Sanskritization, Westernization and Industrialization.

II. 4. Untouchability and Legal Practice

At the transfer of power in 1947, it was widely accepted that discrimination on the basis of caste would have no place in independent India. Consequently, the Indian Constitution in its very preamble assures every citizen of social, economic and political justice and equality of status and opportunity. Article 17 forbids the practice of Untouchability in any form. Among the fundamental rights, Article 14 enunciates the right to equality; Article 15 prohibits discrimination on grounds of religion, race, caste, sex or place of birth. Article 25(2)(b) assures all classes and sections of Hindus access to Hindu religious institutions of a public character. The Directive principles of State Policy, which serve as guidelines for the State in making laws, contain specific provisions, viz., Article 38, 39, 39A, which enjoin on the State, the duty to ensure the creation of a just social order and Article 42, which asks the State to promote with

43. *Ibid* 42 at 31 P.
special care the educational and economic interests of the weaker sections especially the Scheduled Castes.

However, in spite of having numerous reform movements, constitutional provisions and legislative measures, the levels of discrimination against untouchables are far from encouraging. Caste prejudices and the practice of Untouchability continue in rural as well as urban areas of India.

II.5. Untouchability and Social Observance:

Untouchability has remained a complex social problem for many years. Since the independence of India in 1947 particularly, it has assumed critical significance because of the confluence of several factors. Many scholars have argued that nature of Untouchability has changed substantially. This is true, and there are evidences to support this contention. The problem is, why the issue of Untouchability should surface so frequently despite the penetration of modern Secular State? An answer to this question requires vigorous inquiries into several dimensions of Untouchability. One dimension, is assessment of the ideology or the theoretical approach of the leadership of the untouchables in the past. Obviously, the two great leaders who devoted a significant part of their lives towards the question of Untouchability are Mahatma Gandhi and Dr. B.R. Ambedkar.

Ambedkar and Gandhiji on Untouchability

Both Gandhi and Ambedkar addressed themselves to the problem of the removal of Untouchability and the upliftment of the untouchables. Yet, they differed in their approaches and strategies so much that one criticized the other bitterly. Gandhiji believed that Untouchability was not an authentic part of Hinduism; the sooner Hindu understood this, the sooner Untouchability would disappear. He believed that Untouchability could be removed only when the majority Hindus realize that it was a crime against God and man and are ashamed of it.\(^{45}\) Hence, for him the battle against

Untouchability included a religious component. He, therefore, called for a change of heart among the Hindus as an act of explanation and reparation for the centuries of oppression. And by change of heart he meant acceptance of his interpretation of a purified Hinduism on the part of high castes. Ambedkar viewed Untouchability as an institutionalized expression of socio-religious oppression and exploitation by the dominant elements. He traced the roots of the problems in the structure of the Hindu Four-Varna system. He believed that the untouchable is a by-product of both the Varna system and the caste system, hence there will be untouchables as long as there are castes. At the end of his life, Ambedkar concluded that nothing can emancipate the outcaste except the destruction of the system. For many years, he tried to improve the lots of untouchables by means of struggle. He argued that "the salvation of the depressed classes will come only when the caste Hindu is made to think and is forced to feel in that the must alter his ways." Further he stated that "I want a revolution in the mentality of - the caste Hindus."

During all these years upto till June 1947, Ambedkar sensed that the Congress has usurped the politics of Untouchables while he had largely lost. To show the world the hollowness of the Congress claims and actions, he prepared an exhaustive questionnaire on 6 July, 1946 which he gave to B.K. Gaikwad, President, Bombay Provincial Scheduled Caste Federation, to take up with the Congress and Gandhi. In the questionnaire, he stressed the violation of the Poona Pact, and asked about the place of Untouchables in the Swaraj, if they were minority, what political safeguards would be provided for them, and why they could not have separate electorate.

Gandhi replied to the questionnaire under the caption "Scheduled Castes" in Harijan of 3 November, 1946. As the place of the Schedules Castes in Swaraj, he said, "In the Swaraj of my conception the place of untouchables will be the same in every respect as that of the so-called caste Hindus." In August 1946, the Viceroy, Lord Wavell,

47. Forr Anglo-Saxon Protestant Mission in India, P.102.
49. Ibid. 49 at 34 P.
invited Nehru to form the Interim Government in which Dr. Ambedkar and Jagjivan Ram were included in the Ministry.

The period from 1947 to 1951 was for Ambedkar period of creative cooperation with Congress Government. He now assumed the role of a practical statesman to grant the untouchables equal status and fundamental rights in the Constitution of India. Nevertheless, there was a change now in Ambedkar's attitude towards Hinduism. When a large number of Scheduled Castes in Pakistan were not allowed to come to India and they were forcibly converted to Islam, Ambedkar issued a press statement to the Free Press Journal on November 28, 1947, “I would like to tell the Scheduled Caste who happen today to be impounded inside Pakistan to come over to India by such means as may be available to them. The second thing I want to say that it would be fatal for the Scheduled Castes whether in Pakistan or in Hyderabad to put their faith in Muslims or the Muslim League. It has become a habit with the Scheduled Caste to look upon the Muslims as their friends because they dislike the Hindus. This is a mistaken view.......All those who are forcibly converted to Islam would be received back in the fold and treated as brethren....Whatever the tyranny and oppression which Hindus practiced on them, it should not warp their vision and swerve them from their duty.”

This statement of Dr. Ambedkar shows that he was very close to the views of Gandhi at this time. Much of nationalist press eulogized this change in attitude of Dr. Ambedkar. It clearly showed that time in his life, Dr. Ambedkar believed that the Scheduled Castes could remain within the fold of Hinduism and hope to receive fair treatment.

The era of cooperation with the Congress ended for Dr. Ambedkar in 1951, just before independent India's first general elections. He resigned as Law Minister and participated in the first general election as an opponent of the Congress. However, his party, the Scheduled Castes Federation, did not secure many of the votes. On losing elections, he advised his supporters not to lose heart and told that the “Success of the principle and programmes in the victory of the party.
Dr. Ambedkar's forecast has literally come true in at least one way. Today, every political party sets its eye on the powerful vote bank of the Scheduled Castes. Any adverse swing in this vote can violently tilt the swing against any established party. The politic of Untouchability has come to stay. Every political party in its manifesto gives a prominent place to the welfare and upgradation of the Scheduled Castes. However, the Indian Constitution adopted several measures to ensure the equal participation of Underprivileged castes. The first Prime Minister of India, Jawaharlal Nehru told the Constituent Assembly that "the first task of this Assembly is to free India through a new Constitution, to feed the starving people, and to people, and to clothe the naked masses and to give every Indian the fullest opportunity to develop himself according to his capacity." Consequently the Constitution provided for protective discrimination under various Articles (15, 16, 29, 38, 46, 330, 332, 334 and 335) with a view to accelerating the process of building an egalitarian social order. The protective discriminations or reservations have three components: (1) political reservations (2) educational reservations and (3) job reservations.

Articles 330 and 332 provide for reservations of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and Legislative Assemblies for the States. Initially, the reservations were for ten years, but they have been periodically extended at present, Articles 15(4) and 29 provide the reservations to these underprivileged castes into the educational institution for their admissions. In India there are two types of educational institutions: (1) Public Institutions and (2) Elite Institutions. The former are without adequate facilities and the latter, which have facilities, serve a small section of the society, most of which belong to upper castes.

Under Article 16(4), 320(4) and 333, 15 per cent and 7 per cent of the positions are reserved at all levels in the government and public sector for SCs and STs. Somehow, the reservations in jobs has never been fulfilled yet.

50. Quoted by Granville Austin (1972), The Indian Constitution: Corner Stone of a Nation, Oxford.
Both Gandhi and Dr. Ambedkar were great men, while Gandhi was the father of the Indian nation, Dr. Ambedkar was the father of the Indian Constitution. While Gandhi was an apostle of peace and non-violence, Dr. Ambedkar became a Buddhist, which preached universal peace and non-violence. It is unfortunate that Gandhi died on January 30, 1948 and could not see for himself the progress made by the Scheduled Castes arising out of the safeguards provided in the Constitution, but he finally concluded that for India’s Untouchables to achieve equality they should leave Hinduism and adopt Buddhism. And in October 1956, he himself adopted Buddhism.

II. 6. Untouchability in Contemporary India

Ever since India became independent, there have been a number of Amendments to the Constitution of India to improve the socio-economic and political status of India’s backward classes in addition to the Scheduled Castes and Scheduled Tribes. In August 1989, V.P. Singh the then Prime Minister of India, announced to implement the recommendations of Mandal Commission which was set up in 1978 and submitted its report in 1980. V.P. Singh’s decision led a wide-spread protest, especially by the members of upper castes. However, after the implementation of the Mandal Commission’s recommendations the incidents of violence against low caste people have increased. The caste Hindus’ purification of the Sampoornand Statue in Varanasi in 1978 after the ‘polluted’ touch of an untouchable leader Jagjivan Ram and the killings of low caste people by the upper caste private army Ranbir Sena in Bihar and by the police in Bombay, the killings of Dalits by the upper caste people at Karamchedu, Tsundur and at Nirukonda in Andhra Pradesh demonstrate that caste based prejudices and Untouchability persist in the minds of many caste Hindus.

The Indian untouchables have been denominated by several terms for the Chandalas to the Dalits. Though they have been victims of their low caste, identity, but after independence, they have been seriously engaged in different kinds of activities to get rid of their Untouchability. The fact is that the government has made several legal

provisions to protect low caste people from the oppression. But unfortunately these laws
do not get translated completely into reality. Today, some of the low caste people get
butchered and killed. All too often, their higher caste attackers are not held accountable.

II. 7. Different names to denote ‘Untouchables’

The term ‘Harijan’ was adopted by Mahatma Gandhi in 1933 as the winning
entry in a national competition for a suitable name to replace the terms noted below.
Gandhi’s object was to invent a name which identified the relevant people without fixing
them with an inferior status – ‘Harijan’ is translatable as ‘People of God’. This term was
widely adopted in the general population and also by Untouchables themselves, but in
recent years the name has lost support. To many the word appears as a patronizing and
ultimately meaningless exercise. This term has come to be seen as a symbol of the non-
radical integrationist politics of Gandhi and his followers. As early as the 1930’s the
word became something of an epithet among Untouchables themselves – ‘he is a Harijan’
was sometimes used pejoratively by militant activists to denote a person who had
internalized attitudes of inferiority and had an accepting view of his place in the Hindu
world.

The word ‘Dalit’ is now fast supplanting the other generic names for persons
descended from the old Untouchable castes. This is a word in the Marathi language of
Western India, and is apparently derived from Sanskrit. In an 1831 dictionary the word is
defined as ‘ground’ or ‘broken or reduced to pieces generally’ (Molesworth’s Marathi-
English Dictionary 1831). It was seemingly first used in the context of caste oppression
by the great nineteenth-century reformer Phule, but its modern history dates from the
early 1970s among activists from the Untouchable Mahar Caste. By now the term has
spread to Karnataka and increasingly throughout India. Although this word is now quite
widespread, it still has deep roots in a tradition of political radicalism inspired by the
figure of B.R. Ambedkar. Until it loses this association the term will wrongly tend to
suggest that the huge Untouchable population of India has been swept up into a single
radical politics. Connected with this problem, in very large regions like Bihar, West
Bengal and most of Uttar Pradesh, 'Dalit' is still not widely used as an expression of self-identity. But since the term is undoubtedly gaining ground among Untouchables and even in the media, we will have frequent occasion to employ it when we are analyzing contemporary political movements.

The second category is a cluster of terms devised mainly in British bureaucratic contexts—above all the Census—from late in the nineteenth century to the 1930s. These terms included 'Outcastes', 'Depressed Castes' and 'Exterior Castes'. The end point of this line of verbal/conceptual development is the term 'Scheduled Castes', now the official identifier of what we are calling the Untouchables. The so-called Schedule is a list of castes entitled to parliamentary seats, public employment and special educational benefits. This Schedule was originally promulgated by the British Government of India in 1936 but the term 'Scheduled Castes' only became widely used after Independence. While the term has a useful moral neutrality, it is essentially legal in nature: the people in question have been transformed into a special legal class of citizens for certain purposes of the State.

Perhaps the least attractive term is 'ex-untouchable', often used in the early years after Independence and still to be found today. The term is legally sound—Untouchability was abolished by the Constitution of India—and also appears to distance the practitioner from the morality of Untouchability. But the term is sociologically false, if one takes the view that Untouchability has not in fact been dismantled.

The word 'Untouchable' is of early twentieth century origin and it can variably be viewed as the invented term belonging to terms like 'Out Castes' or as a free translation of vernacular words such as achuta in Hindi. 'Untouchable' is perhaps a reasonable translation of achuta.

II.8. Traditional Hindu Society and Untouchables

Untouchables have for many centuries occupied a deeply ambiguous place within Indian society. From the standpoint of the Great Tradition represented by the Vedas, Untouchables have no place at all. What much later became known as Hindu society was
divided by the *Vedas* into four categories or *Varnas* associated with particular social occupations: Brahmin (priest and teacher), Kshatriya (ruler and warrior), Vaishya (trader) and Shudra (servant). These Varnas are often, but quite misleadingly, called 'caste' (which itself is the translation of a Portuguese word, rather than being of Indian Origin). The absence of Untouchables from the Varna scheme may arise simply from the later emergence of this social condition: the weight of opinion suggests that Untouchability only crystallized in the second century of the common era, whereas the Varna principle seems to have been established over one thousand years earlier. But since the Varna classification as persisted as a representation of the whole Hindu order, the position of Untouchables as Hindus has been contradictory. Their presence cannot be denied, but they have no legitimate place in the order.

In everyday life, particularly in the villages, the operative conception of caste is *jati* rather than Varna. There are thousands of jatis in India, the largest containing many millions of persons and the smallest perhaps only hundreds. Jatis are endogamous (in-marrying) units with individual traditions and rules as to personal conduct. The existence of jatis is often reconciled with the Great Tradition by asserting that they are simply an elaboration of the four varnas. But just one of the problems of this approach is that Untouchables are organized in jatis just as other Hindus are. Chamar, Bhangi, Dhobi, Pulaya, Paswan, Madagi are some of the many hundreds of Untouchable jatis scattered through every region of India. At the local level everyone knows that there are particular Untouchable castes rather than Untouchables in general. And yet because of their absence from the Varna scheme, the Untouchables are often depicted as being 'Out Caste' or without caste. They are seen as a lower grouping to be distinguished from 'Caste Hindus'.

But in another sense Untouchables can be analytically represented to be at the very core of Hinduism. Thus the most influential (also the most contested) recent account of caste locates its essence in the counter position of Brahmin and Untouchable. This is the most perfect representation of the dichotomy between purity (the Brahmin) and pollution
(the Untouchable), a dichotomy that Dumont argues to be the basis of the whole caste hierarchy and thus Indian Civilisation as a whole. For Dumont this jati hierarchy constitutes ‘the caste system’, though it derives some of its strength from the existence of the parallel but incomplete varna hierarchy.

For most Hindus impurity is either a temporary or a limited affair. Thus women are polluted during menstruation and on this account may not cook food for their family. Daily pollution arises from the secretions of the body and the left hand is permanently polluted by its use in cleaning the body. Birth and death engender great pollution and the new mother must be sequestered for a period of some days before she will be fit to be seen and touched. Texts such as Manu and Jataka-difficult to date, they seem to have been written early in the present era-lay down the duties and sins of the varnas, paying particular attention to Brahmans. ‘A Chandala [Untouchable] and a boar, a cock and also a dog and a woman in her courses and an eunuch, may not see the Brahmans eating. But pollution from an Untouchable is particularly serious. So the Jataka tells the tale of a famished young Brahmin who shares the food of a Chandala and then goes off to die in despair in the forest. This degree of expiation is perhaps hortatory: the normal mode prescribed for reinstating purity is to bathe oneself.

 Alone, the Untouchables are a permanently polluted people. Their status is said to arise from the work they perform, such as skinning animal carcasses, tanning leather and making shoes; playing in musical bands; butchery of animals; fishing; removal of human waste; attendance at cremation grounds; washing clothes; coconut harvesting and the brewing to toddy, to name some of the principal grounds of permanent pollution. Ostensibly, then today’s Untouchables – all 150 million of them – are descended from persons polluted by their unclean work.

Just why either the Varna system or Untouchability developed in India is far from clear, but perhaps it had something to do with the incursion of ‘Aryans’ who migrated from Europe and established themselves in India. One persistent line of thought is that the varnas represent the efforts of the Aryans to create a social order in which they came to terms with pre-Aryan (including Dravidian) India but simultaneously asserted their
apartness and moral, political and economic superiority. On this view, the higher Varnas are either composed of or have some favourable connection with the Aryans. Conversely the Shudras were at the bottom of the status hierarchy and were also the people who did much of the hard physical labour of society. Later, in ways that are even less satisfactorily explained than the origins of varna, the still more lowly Untouchables were constituted. Gandhi and many other Indian thinkers have sought to argue that varna was originally a benign division of labour without attribution of differential moral worth and that it was only later corrupted by the development of moral hierarchy and Untouchability and Untouchability in particular. But there is no evidence for this, and it seems inherently implausible. Rather, the early convergence of what might be called status and class in India lends credence to analytical approaches that proceed from a presumption of exploitation.

A simply ritual basis for Untouchability is rendered problematical by the lack of identity between Untouchable status and employment in polluting occupations. Today, most Untouchables do not perform the work that is the polluting mark of their caste. So among Chamaras, the largest Untouchable caste in India, only a small minority are employed in connection with their hereditary and polluting work with skins and leather. Chamaras are above all agricultural labourers. Some important Untouchable Castes, including the Dusadhs of Bihar and the Mahars of Maharashtra, traditionally performed work that was mostly non-polluting. The Mahars had no specialized skills but were general village servants and messengers, though they did sometimes collect the skins of fallen animals. And the Dusadhs were field labourers and servants to individual high-caste families. It is scarcely plausible that 150 million people are all descended from people who were once employed in the comparatively small number of deeply polluting occupations.

II. 9. Anti-Untouchability Movements

A Historical overview:

In this topic the researcher has made an attempt to understand the reader about anti-untouchable movements in a historical overview. Dalits have appeared in history not
only in the role of victims, but also as resisting and struggling against their subjugation. Dalit revolts, protests and assertions against oppression and injustice have occurred all over the country and in all periods of history. Despite its diverse nature, modes of organization and scale of these struggles, they were generally ignored by mainstream historians and scholars.

Historically, perhaps the best-known challenge to caste oppression was by the Bhakti movements that spread over many regions of India between the 10th and the 13th centuries. It is famed for its revolutionary poet-preachers who opposed caste distinctions and the hypocrisy of Brahminical rituals that had overtaken the Hindu religion. Bhakti saints underlined the presence of the divine in each person, where every individual regardless of their birth could have equal access to spiritual enlightenment through the ethical conduct of everyday life. Bhakti saints like Kabir, Tukaram, and Basavanna popularized their teachings through the popular folklores and songs, which often addressed caste injustices.

Anti-Untouchability movements were not confined to the staging of protests or claiming spiritual equality before God. The Arya Samaj, which emerged as part of a major movement for Hindu revival in north India, opened schools for Dalit children and also launched movements against the practice of Untouchability by upper castes in some places. But its impact was limited to Punjab, Uttar Pradesh and other parts of north-west India. Mahatma Gandhi also organized a number of welfare activities through the Harijan Sevak Sangh to educate Dalit children and organize cooperative societies for Dalit artisans such as weavers and cobblers in Gujarat and Maharashtra. After Independence the Indian State has also launched a number of welfare programmes specifically aimed at empowering Dalits.

Some ati-Shudras have improved their economic condition by abandoning their traditional occupations, and have successfully attained higher status within the caste hierarchy. They have tried to emulate the rituals, norms, value system and lifestyle of the upper castes and claimed higher status by imitating and/or competing with them. Caste and family names have been changed to erase traditional identity; most often such
upwardly mobile groups claim Kshatriya or Vaishya status. For such groups, their former low status was attributed to a fall from political and economic power. Thus, many lower castes created new histories for themselves, which explained how they were former rulers who were defeated in battles and reduced forcibly to low-caste status. However, such attempts have not always been successful, and aspiring Dalits have often faced a renewed imposition of the strong civic restriction traditionally imposed on them. Only a small portion of Dalits have managed social mobility through improved economic status and with significant state support. The Shanars or Nadars of Tamil Nadu have, however, crossed the boundary of Untouchability. The Ezhavas of Kerala have also blurred—if not completely erased—the line of Untouchability though their success is not as striking as that of the Nadars.

Traditionally, the Nadars and Ezhavas were toddy-toppers in south India. They were treated as exterior *jatis* by caste Hindus. Until the end of the 19th century, they were forbidden entry into roads. They were also prohibited from carrying umbrellas and wearing shoes. Their women were not allowed to wear upper garments to cover their chest. Besides toddy-tapping, the Nadars engaged in petty trade-selling palmyra products, salt and dried fish. With the advent of British rule, road communications improved and taxes on internal trade were abolished, which helped the Nadars improve their economic condition. Under the influence of missionaries, a section of the Nadars became Christians. Other formed caste organizations called the Mahimai and the Uravinmural to strengthen unity among the Nadars in certain villages and towns. These organizations constructed wells, schools and public buildings for the community. The traders adopted the title Nadar and rejected the popular appellation Shanar because it was degrading. Some made an attempt, in the 19th century, to disassociate themselves from the traditional callings of the community. They began to imitate the dress and rituals of the upper castes. These attempts were violently opposed by Caste Hindus. In 1899, high scastes and Shudras united against the Nadars in Tirunelveli. They looted about 150 Nadar villages. Hundreds of Nadar houses (figures varied from 1,600 to 4,000) were destroyed, and some Nadars were killed. The army had to be deployed to control the
riots. The local court, the High Court and even the Privy Council in London gave verdicts against the Nadars for their attempts to enter the temple. The Courts declared that the Nadars had gone beyond their hereditary callings. They were asked to pay Rs.500 to cover the necessary purification ceremonies for the temple. Despite these setbacks, the Nadars continued their efforts to raise their status, though they put off the temple-entry programme. With the change in their economic condition, they succeeded in registering themselves as Nadar-Kshatriyas in the 1921 Census. They mobilized to obtain political positions. They have now moved from the lower rungs of the ritual hierarchy to a position of status and power.

The Ezhavas of Kerala have a similar story. They formed their caste organization, called the Sree Narayana Dharma Paripalana Yogam (Association for the Maintenance of Dharma founded by Sri Narayana), to collectively improve their status in the social structure. They launched a Satyagraha for temple entry in the 1920s. They bargained with the government and political parties for economic opportunities and political positions. But such cases of upward mobility are few and far between. They are the exception rather than the rule.

The Nadar and Ezhava struggles attempted to seek higher status within the socioreligious frame work of Hinduism. However, there have been a number of attempts to denounce Hindu religion and evolve an alternative social system. The anti-Brahmin movements in the mid 19th century in Maharashtra and Tamil Nadu mounted a major challenge to Brahminical hegemony. The pioneers of the movement were Jotirao Phule and Shanu Maharaj of Kolhapur in Maharashtra and E.V. Ramaswami Naicker or ‘Periyar’ in Tamil Nadu. Phule established the Satya Shodhak Samaj (Society of Truth Seekers) in 1873 to liberate the Shudras and ati - Shudras and to prevent their exploitation by the Brahmins, while Periyar led the Adi-Dravida movemet in south India, mobilizing for the same goal. As a staunch rationalist, Periyar asserted that Hindu dogmas were the root cause of Brahminical dominance.

Another major radical anti-Untouchability movement, which had a widespread impact on the mobilization of Dalits in the 20th Century, was initiated and led by Dr.
Bhimrao Ramji Ambedkar. Initially, Ambedkar organized the Dalits of Maharashtra for temple entry and to claim access to drinking water from the public tanks. He exhorted Dalits to educate, organize and struggle for their rights. According to him, social and economic equality could be attained only through political means. In 1933, he appealed to his followers: You have now a way of bringing about change, an improvement in your life conditions. That way is through political action, through appropriate laws.....you can make (the) government provide for you what you are now denied-food, clothing, shelter, education.....Hence instead of resorting to rosary counting or prayer, you should now depend on the political path; that will bring you liberation....The conflict, hereafter, will not be between the British and the Indians, but between the advanced classes of India and backward classes. No borrowed or hired person who does not belong to your class can further your welfare by the least degree. You must rid yourselves of internal divisions and organize strongly.

In order to have effective political say in government, Ambedkar pleaded that the depressed classes be given separate electorates. Representation was made to the British government in the late 1920s for this provision, but it was rejected due to opposition from the majority upper-caste Hindus. This resulted in Ambedkar's falling out with Gandhi. Though Ambedkar gave up the demand under pressure, large-scale satyagraha protests were launched for separate electorates before the state assemblies in Poona, Nagpur, Lucknow and Kanpur in 1946. The Independent Labour Party was formed to organize all members of the labouring classes in the 1930s. Later, the Scheduled Caste Federation (SCF) was formed in 1954 to flight elections and to promote the interests of the Dalits. The Scheduled Caste Federation later recognized itself as the Republican Party of India (RPI).

Along with his political campaign, Ambedkar also launched a struggle for collective spiritual enlightenment. He told other Dalits that they would remain Untouchable as long as they remained within the Hindu fold. They had to renounce Hinduism as it was the root cause of inequality and Untouchability. He chose Buddhism as the alternative because he believed it was an emancipatory religion that preached
egalitarianism. Buddhism has 'no place for God and Soul; Shankar Rao Kharat, a leading Dalit Buddhist intellectual said: “I have accepted the Buddhist Dharma. I am a Buddhist now I am not a Mahar nor an untouchable nor even a Hindu. I have become a human being. I have now become equal with high caste Hindus. I am equal with all. I am not low born or inferior....with the acceptance of Buddhism my Untouchability has been erased. The chains of Untouchability which shackled my feet have now been shattered. Now I am a human being like all other....I am now free. I have become a free citizen of Independent India.”

Though most Dalits did not convert to Buddhism, its ideology was immensely influential. The Buddha has been adopted by Dalits as their god along with their traditional Hindu deities. Portraits of the Buddha are found in many Dalit homes along with those of Ganesh, Krishna and Durga and also of Jesus and Mahatma Gandhi. The emergence of Buddha as the god of equality and emancipation gave Dalits a new cultural identity irrespective of their religious persuasion. (Shah 2001).

III. VIOLENCE AND ATROCITIES AGAINST SCHEDULED CASTES AND SCHEDULED TRIBES

The caste system has produced numerous rules about untouchability that govern everyday interactions between social groups in rural India. From not being allowed to use certain wells and handpumps to being forced to eat separately, rules regulate all aspects of life for Dalits and constantly reinforce their sense of subordination. While norms about maintaining caste boundaries apply to all castes and even upper-caste individuals may be socially ostracized by their caste members for violations, Dalits are most severely punished for transgressions. When Dalits attempt to resist the unjust rules imposed upon them, retaliation by upper castes is swift and often violent. Dalits who try to assert their rights face the risk of social and economic boycott and even physical intimidation, humiliation and beating.

In what must surely be a perversion of religion, acts of brutal inhumanity and profanity, such as forcing Dalits to eat excreta, rape and lynching, are justified by upper castes who invoke the Hindu scriptures to seek moral legitimacy. One of the reasons why
Dalits are forced to suffer extreme humiliation and violence is the traditional caste belief, that regards Dalits as inauspicious. Not only their touch but even their shadow is treated as polluting. It is believed that Dalits cause drought and diseases.

Reportage of violence done to Untouchables is a burning affair, as can be seen from the reports of the Commissioner for Scheduled Castes and Scheduled Tribes. As the Constitutional authority charged with measuring the progress of the Scheduled Castes (Article 338), the Commissioner has been reporting on cases of violence and Atrocities against Scheduled Castes and Scheduled Tribes. The complaints received by the Commissioner of Scheduled Castes and Scheduled Tribes are going to be registered under the category called ‘Cases of Atrocities and Harassment, a nomenclature which seemed to fit mounting concern about violence done to Scheduled Castes and Scheduled Tribes.

The violence and atrocities against Scheduled Castes and Scheduled Tribes are of two broad categories: First, ‘traditional’ violence; and Secondly, that which flows from modern forms of resistance on the part of untouchables or is a caste Hindu response to the changing situation of Untouchables. This Second category is now dominant, and it tends to revolve around a new still emerging social and political identity constructed over the period of the present century.

Traditional Violence against Untouchables

Clearly violence against Untouchables is not a new phenomenon, despite the silence of the historical record. Their vulnerability arose partly from their utter dependence on their masters: it defies belief to think that a slave, for example, was always free from the physical wrath of brutish master. The position of women must have been particularly weak. It is possible to find other examples of ‘traditional’ violence against Untouchables. There are reports of violence or at least force being applied to Untouchables on the basis of their association in the caste Hindu mind with the dark forces of life: they are taken to embody and have power over evil spirits. In a village in the Saurashtra Region of Gujarat State the people (presumably caste Hindus) believed that the Untouchables were the cause of disease being suffered by cattle of the village.
They went in a mob to an Untouchable house and forced a woman and her daughter to go to the cattle and remove the curse upon them by stretching their hands over the beasts and eating an offering of coconut.

Similarly, in a village in Saharsa District of Bihar a boy from a lower-caste family died of snake bite. After the body was brought back from the hospital his family was persuaded that the tragedy had come about from the witchcraft of an aged Untouchable woman. Four women and the male head of an Untouchable family physically isolated from the other Untouchables of the village were dragged from their house to the home of the dead boy, and the women were ordered to chant mantras to bring the boy back to life. The women pleaded their ignorance of witchcraft and the furious caste Hindus stripped, kicked and beat them. When this produced no results, 'iron sickles were heated in front of the women and their feet, arms and other delicate parts were branded.'

Whether or not there were contributing circumstances to these events, there is no doubt that a belief in the dark powers of Untouchables is an important aspect of folk culture throughout India. In Maharashtra the Mahars are typically the guardians of Mariai, the goddess of cholera, and her shrine is located in their colony.

Untouchability was practiced in the Siva temple of a suburban village of Azamgarh District, Utter Pradesh: the Untouchables had to gain darshan from outside, and could offer money but not flowers or edible items. But this discrimination was relieve at certain times of the year. ‘During the Dashara and Bhagwati Puja, when the goddess is propitiated to ward off an epidemic like small pox, no caste discrimination is observed’ reported by Commissioner, Scheduled Castes and Scheduled Tribes. So the potency of Untouchables in warding off evil spirits gains them some temporary favour from custodians of the temple. These incidents reveals the dimension of caste Hindu attitudes towards the Untouchables. At the same time, and with the crucial exception of sexual

assaults/coercion of women, we can say that most contemporary acts of violence against Untouchables should not be classified as 'traditional'. Rather, to repart, they arise in the context of the new and still emerging identity of the Dalits. Sometimes violence is directly provoked by their claims, whereas at other times there is caste Hindu backlash against new government benefits or rising economic and status levels enjoyed by Untouchables. Perhaps most disturbing of all, there is abundant evidence of severe mistreatment and often violence visited upon Untouchables by the very government agencies supposed to protect them—notably the police.

III.1. Violence resulting from resistance to ritual Untouchability

III. 1.a. Removal of dead cattle

The Commissioner of Scheduled Castes and Scheduled Tribes reported that a ‘Harijan’ family was harassed and beaten because of ‘their refusal to lift the dead cattle.’ The Commissioner in his report referred Harijans to the Chamars, who represent the largest Untouchable caste in India. The occupation of the Chamars, or their equivalents in other parts of India, includes the removal of carcasses of dead cattle and all dealing in hides, including skinning and tanning, and the fabrication of leather articles, such as shoes, saddles and leather buckets for wells. Some Chamars perform only particular elements of this broad occupational connection with leather: for example, particular Chamar sub-caste or at least occupational communities will work with finished leather but not engage in the lower-status activity of tanning. Some will remove the carcasses of camels and horses but not cattle, whereas other communities will do the reverse. Overwhelmingly the Chamars are agricultural labourers, often working for high-caste land-holders for whom ploughing is a sin.55

Another violent incident reported from Rajasthan. A Raegar (Closely related to the Chamars) refused to remove a fallen buffalo in conformity with a decision of his caste fellows in the village and in the wider Jaipur region. This provoked a major crisis for the Rajput landholders of the village, and they delivered a heavy beating to the dissenting Raegar. He was forced to resume his traditional duty, and it was not until a couple of

55. Briggs 1920: 22, 24, 56-57; (Kolenda 1978:54)
years later that the Raegars of the village managed to make their ban stick. In a village near Lucknow a case with the same essential ingredients resulted in a mass attack by some forty armed Ahirs; thirteen Untouchables were hospitalized.\textsuperscript{56} Even in West Bengal—supposedly free from ritual Untouchability today—there are reports of atrocities against Scheduled Castes and Scheduled Tribes.

III. 1.b. Access to water:

Access to water by Untouchables continues to be a source of discord and sometimes violent conflict. In Gujarat, a case reported relating to violence against Untouchables, in which the murder of two Untouchables and the injury of a number of others. Water had dried up in the wells used by the Untouchables, so they had to take recourse to the common wells of the village. The Patels, presumably the dominant landholders of the villager, objected to this. The Dalits registered a case under the ‘Untouchability Offences’ Act, 1955. Two low-level policemen were assigned to the village to keep the peace. But several weeks later the conflict broke out again and the Patel men by beating up the police and then ransacking houses of the Dalits and severely beating a number of them, in two cases leading to death.

III. 1.c. Teashops:

There are widespread reports of Untouchability continuing to be practiced in teashops in various parts of India; clearly this problem is more likely to occur in villages or small towns where the identity of customers will be known. One such case exploded into a major incident at the town of Hathras, Aligarh District of Utter Pradesh. Five young men from the Valmiki (Bhangi or Sweeper) Community ‘who happened to be under the influence of drinks’ asked for lassi (butter milk) at a tea stall in the town. As was apparently the custom in the shop, they were served the drink in Kullarhs or disposable earthenware pots. The men became angry at being served in this way and demanded that the drink be served in glasses. The issue quickly ignited into a major clash between the Valmikis and the Caste Hindu shopkeepers.

\textsuperscript{56} Report of the Commissioner, National Commission for SCs and STs, 1982.
III. 1. d. Marriage Processions

There are a number of violent incidents that arise from wedding processions. The most serious report of this kind comes from the mountainous Almora District of Uttar Pradesh, an incident in which fourteen Untouchables were killed. It began when Caste Hindus demanded that the groom dismount from the palanquin at the entrance to a village which lay on the path to the marriage party’s destination. This was required, the caste Hindus said, to show reverence to the deity located in a temple at the other end of the village. A week earlier the very same situation had arisen, and the Untouchables had given in. But apparently this time the ‘youths’ were determined to pass ahead. A scuffle broke out and one of the Caste Hindu was stabbed to death. The infuriated caste Hindus regrouped and chased some of their opponents into a house, which was torched with the loss of six lives. Another eight Untouchables were stoned and clubbed to death.

The same incidents were occurred at Belchi or Pipra.

III. 1. e. Land, Wages and Social Oppression

The most severe conflict of a routine kind that now involves Untouchables is over land. This phenomenon is a comparatively new development, predominantly confined to the last two decades. Sometimes the dispute is over ownership of land; more often it is over the level of wages paid to Untouchables for working the land. This issue in a sense brings the Untouchables into conformity with the rest of the agrarian population. For rural India as a whole, land has been the predominant issue in dispute for the whole of the modern period.

IV. REASONS FOR PRACTICE OF UNTOUCHABILITY AND ATROCITIES

In spite of all efforts to wipe out Untouchability, it still continues. The question, therefore, arises as to why this system prevails and what are the difficulties in the way of government to end the system. A study conducted by the National Commission for Scheduled Castes and Scheduled Tribes on ‘Atrocities on Scheduled Castes and Scheduled Tribes: Causes and remedies pointed out various casual factors for Atrocities: land disputes; land alienation; bonded labour; indebtedness; non-payment of minimum wages; caste prejudice and practice of Untouchability; political factors on caste lines;
refusal to perform traditional work such as digging burial pits, arranging cremations, removing carcasses of dead animals and beating drums, etc. The deep root for such Atrocities is traceable to the caste system, which encompasses a complete ordering of social groups on the basis of the so-called ritual purity. A person is considered as a member of the caste into which he is born and remains within that caste until death*.

Considered ritually impure, Scheduled Castes have been physically and socially excluded from mainstream society, denied basic resources and services, and discriminated against in all areas of life. Accordingly, they face various forms of exploitation, insults and violence, as well as degrading practices of Untouchability. The Scheduled Tribes were equally exploited on grounds of not falling within the caste system but having a distinct culture and old view of their own. "Women belonging to these castes and tribes bore double burden. They were exploited by caste and gender, and were vulnerable to and powerless against sexual exploitation."**

The greatest difficulty is that attitude of the people on the whole has not changed. The people still believe in caste system and those who belong to high caste are psychologically and mentally not yet prepared to freely mix up with the untouchables and still want to keep them off.

The another difficulty is that 80 per cent of India’s total population still lives in the villages. The villagers are not aware of the changes that are taking place in social and political system in the cities. They still live in the limited world of their own in which untouchables should be kept of and not to be touched.

Illiteracy is then another cause. The people, particularly those putting up in the rural areas are illiterate. They can’t read wild criticism which has been advanced in retaining Untouchability by the enlightened world. They are guided by half literate or rather little literate people who interpret things in their own way and justly the retention of Untouchability.

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** Parliamentary Committee on the welfare of SCs and STs, 4th Report 2004-2005, New Delhi, 2005, Para 1.4
Religious mindedness of the people is still another cause. Untouchability in India has made by Brahmin caste as a part of our religious system. It has been argued out that those who touch, mix or live with the untouchables will be offending Gods. Since vast majority in India believes in religion therefore, they do not wish to annoy their God by mixing with the untouchables. Superstitions have in no way been less contributing to the retention of the system. It is believed that by mixing with the untouchable, many troubles will come to the family and individual who will take that bold step.

In this way Untouchability still continues. It continues also because even 65 years after independence unfortunately the untouchables have not advanced considerably to the extent in social, economic and political life of the country on the one hand and educationally on the other. In case they came up in these fields the problem will be considerably solved. For this the Government will have to make serious efforts.

India is the only country in the world where only a particular section of the society is traditionally responsible for keeping the habitation clean by removing human excreta through primitive methods. This is a disgrace to the country. India won freedom from the slavery of the British people 65 years ago but could not liberate from human bondage more than half million people who are called Bhangis, Mehtars, Balmikis, etc., more particularly the Untouchables.

IV. UNTOUCHABILITY AND ATROCITIES – A SIN AS WELL AS A CRIME AGAINST HUMANITY

"Annihilation of Untouchability is my birthright. Untouchability has ruined the untouchables, the Hindus and ultimately the nation as a whole." 57

Dr. B.R. Ambedkar

"Untouchability is abolished and its practice in any form is forbidden by virtue of Article 17 of the Constitution, succeeded in abolishing Untouchability in it working. It is nowhere seen, observed or felt in its day to day working. There are no differences like Brahmin, Maratha, Aspirikyas, in the Sangh. Swayamsevaks are in fact not even aware of what castes many of our Swayamsevaks brethren belong to; nor are they interested in knowing it. It is enough for them that they are all Hindus. Only emphasizing of the inherent oneness of all Hindus can abolish feelings of high and low, and Untouchability. Then only will the spirit of fraternity be reflected in their sincere behaviour, and not merely in words. May our hearts be in Union." 58

-- Dr. K.B. Hedgewar, the founder of R.S.S.

58. Rig Veda, 10 – 191 – 4: First of four Vedas, given by sages.
While addressing Arjuna, Lord Krishna says in *Gita* that no heart is devoid of God. All hearts are the abodes of Almighty.

*O Arjuna Supreme Being dwells in the hearts of all creatures.*

Man is born free, but later on he finds himself in chain of inequality. The elements of nature serve all human beings with the same fervour and enthusiasm. Water quenches thirst of all men alike. The sun imparts light and heat to both palace and cottage in equal quantity and quality. Both king and cowherd equally enjoy the moon lit nights. The trees provide cool shade and fresh air to all alike. Lord and Nature are equally kind to all, then there is no reason as to why do men fight with one another on trivial differences of castes, creed, colour and community. It is a matter of utter astonishment that ants can crawl, together, birds of feather flock together and cows can graze together, but men can not. But the people, say that the world has progressed and modern man, unlike uncivilized ancient people, is civilized.

But it is not a sign of civilization that children of black colour are not still allowed to sit with brown ones in the same class for study. Birds, insects and animals, can sit, eat and drink together, but men cannot. They hate one another on the ground of caste, creed and colour. Those who are inferior by caste or creed are called untouchables. They are too unholy to be touched by the people of superior caste. The untouchables are not allowed by them to enter the temples or draw water from the wells.

Other untold atrocities are being inflicted on the unfortunate untouchables. The government has made laws to stop this condemned and cursed Untouchability, but the illiterate people ignorant of true Vedic religion, still pursue their narrow-minded dogmatic course stubbornly. Disease of Untouchability prevails in most parts of the world in one or the other form. The laws made by the governments cannot eradicate this evil unless the hearts are transformed. This can be done only when each heart imbibes the truth of Vedic religion, which emphatically nullifies Untouchability and ordains mankind to look at all with an eye of friend and well-wisher. Let us look at all with

59. Bhagavat Gita: 18 – 61, Famous Hindu Epic
friendly eye. Vedas urge upon all men of the earth to fling away petty differences of caste and get themselves called Arya. The word Arya means civilized, supreme and sublime. The ancestors of all men on the globe were Aryas. Arya is the most ancient race from which originated all other branches. There was no other race on the earth when Aryas came into existence.

The Society is a functional organization and all functions which are essential for the health of society, are to be regarded as socially equal. Individuals of varying capacities are bound together in a living organic social system. National rejuvenation could only be achieved by complete surrender of the 'self' for the total good of the 'society'. Gandhiji's love and devotion to the Sublime teachings of Indian Philosophy did not make him blind to the defects and weakness of our society. He strove his utmost and staked his all to eradicate them. In that process he even drew upon himself bitter criticism from his own people. But he did not relent to the lost breath of his life.

Sri Ramakrishna Paramahamsa was described as *achandala yasya premapraavahah*, meaning an uninterrupted flood of love even to the lowliest. There hangs a tale. Once he went to a well to quench his thirst. The man drawing water said to him: "Sir, you appear to be a Brahmin. I am an Untouchable". For Ramakrishna it was an expression of agony. Pat came his reply.

“If, however, you feel hesitant, take the name of God. The name of Rama made even the rocks to float on water, after all, you are a human. Take the name of Rama and give me water.”

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61. Yajur Veda 36 – 18, Second among four Vedas.
62. The historians who wrote that the Aryas came to India from middle Asia or Europe are much more misled and misguided. Vedas are the most ancient scriptures in the world. Vedas are not man-made Scriptures. When Vedas were revealed, there was no book in the world. They are Devine revelation. God Revealed Vedas to four holy rishis (Sages) Named Agni, Vayu, Aditya and Angira who transmitted the divine Knowledge to Brahma, from whom the Vedic light spread and lit the Whole universe. The ancient sages who recited the holy mantras of Vedas on the banks of the river Indus (Sindu) during the days of yore, were called Aryas, because they were the sublime, Supreme and civilized people as the word Arya signifies.
"I regard untouchability as the greatest blot on Hinduism."63

... Mahatma Gandhi.

Untouchability is the sin of the Hindus. They must suffer for it, they must purify themselves, they must pay the debt they owe to their suppressed brothers and Sisters.64 Untouchability is not a sanction of religion, it is a device of Satan. The devil has always quoted scriptures. But scriptures cannot transcend reason and illuminate truth.65 When the poison of Untouchability entered Hinduism, the decline began. If Untouchability lived, Hinduism would lose its glory. Untouchability is a bye-product of the caste-system and caste – system is a need of Feudalism. In India, the Capitalism entered in the economic structure during British rule but it was in the interest of these colonial rulers to maintain the caste-system and other out-dated values in order to rule us. It is painful to note that during the British period laws with regard to abolition of Untouchability did not enjoin much explicit Governmental sanction. Discrimination with regard to religion was not only recognized but even enforced. Courts granted injunction in order to restrain a member of a particular caste from entering of temples. It was regarded as a criminal offence for a member of a particular caste to knowingly pollute a temple by his presence and touch.

Gandhi once said, "I do not want to be reborn but if I am reborn I wish that I should be born as a Harijan as an untouchable so that I may lead a continuous struggle, a life long struggle, against the oppression and indignities that have been heaped upon these classes of people. We are guilty of having suppressed our brethren: we make them crawl on their bellies; we have made them rub their noses on the ground."66

"The word, 'Untouchability' has no legal meaning, although politically we are all well aware of it, but it may lead to a considerable amount of misunderstanding as in a legal expression."

63. Mahatma Gandhi, Young India 27-4-1921, P.135.
64. Mahatma Gandhi, Young India 1-5-1924, P.144.
65. Mahatma Gandhi, Young India, 19-1-1921, P.22.
A Serpent can take life out of a man but we kill the man in the untouchables. A lion preys upon the beasts without remorse, so do we treat the untouchables as without repentance for the wrong committed by us. Though in our treatment of them the element of ill-will is absent, yet the harm done to them is incalculable. The great heart of our people will not weigh down with grief unless and until God sends down for the Untouchables a leader like Ambedkar. It was Dr. Ambedkar who would courageously revolt against the existing state of affairs and organize the Harijans so as to knock down those who discriminate unfairly between man and man under the influence of wealth caste, creed or occupation. He must be a curious creature who would dare to call Harijans as integral part of the Indian nationhood, unless we break sharply with our social system and customs and treat the Harijans as our own kith and kin we cannot improve our lot as a nation.

The ‘untouchable’ can be applied to so many varieties of things that we cannot leave it at that. It may be that a man suffering from an epidemic or contagious disease is an untouchable; then certain kinds of food are untouchable to Hindus and Muslims. According to certain ideas women of other families are untouchables. Then according to Pandit Thakuradas Bhargava, a wife below fifteen would be untouchable to her loving husband on the ground that it would be ‘marital’ misbehaviour.\(^{67}\)

‘Untouchability’ is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of ‘Untouchability’ shall be an offence punishable in accordance with law.\(^{68}\)

Dalits live in sub-human social existence, abject poverty, and economic exploitation. Dr. Rebati Ballav Tripathi, in Preface to her book “Dalits: A Sub-human society” writes: “Historical evidence shows that the Harijans have been completely bypassed by the controlling elite group. The elite formation and circulation process such as wars, pre-British royal land grants, British-India land settlements, industrial expansions and spread of English education has neglected them. The British rule


\(^{68}\) Constitution of India, Article 17, P.M. Bakshi, Universal Law Publishing Co., Pvt. Ltd.
awakened Harijans to the enquiry of certain social customs and religious traditions. One such socio-religious tradition was the practice of Untouchability among Hindus. Before independence, the reform movements and political awakenings during 19th century were urban. Western education dispelled from their minds the age-old superstitions and caste rituals.

Dr. B.R. Ambedkar advocated for rapid political participation of Harijans. Dr. Ambedkar considered political participation and mobilization of Harijans as signs of advancement. He fought for such legislative measures as would give a clear weightage to the Harijans in political bodies. Poverty did not seem to disturb him so much as lack of education, political power and self-respect. Ambedkar emphasized the fact that political power was the key to all progress and that the Scheduled Castes could achieve salvation if they captured power by organizing themselves into separate party. Ambedkar believed that only when they achieved political power could the social and economic conditions of the Scheduled Castes be improved. The Constituent Assembly of Independent India passed a provision legally abolishing Untouchability on November 29, 1948. Article 17 States “Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of Untouchability shall be an offence punishable in accordance with law.”

To Mahatma Gandhi, “Untouchability is a crime against the God and Humanity”. The National Campaign on Dalit Human Rights, said: “We are human beings and we want to live as human beings in this country. We need all your solidarity and support in this endeavour.”

The Global Conference against Caste Discrimination, organized by the National Campaign on Dalit Human Rights jointly with other national, regional and international organizations, drafted a Declaration on abolishing caste-based discrimination related to occupation and decent addressed to the World conference Against Racism, UN, governments and international community. The declaration affirmed that caste, as a basis for the segregation and oppression of people in terms of their descent and occupation, is a form of apartheid and a distinct form of racism. It also condemned the attempts of the
government of India to oppose the inclusion of caste-based discrimination in the agenda of the World Conference Against Racism and urged other governments to support its inclusion. At the international level, the Global Conference called upon the United Nations to: “Declare that Untouchability and atrocities committed on the basis of Untouchability is a Crime against Humanity. Include caste-based discrimination on the agenda, declaration and programme of action of the World Conference Against Racism and identify concrete measures for combating this kind of discrimination.”

At the national level, it called upon governments to: “Enforce and implement an effective and time-bound programme to abolish Untouchability an similar practices in all spheres. Enact and enforce laws related to compulsory primary education and the elimination of child labour, bonded labour, manual scavenging and other practices that disproportionately affect Dalits. Urge statutory and constitutional bodies such as national human rights commissions, commissions on women, race, minorities and other relevant bodies, as well as the Asia-Pacific Coordinating Committee of National Institutions, African Coordinating Committee of National Institutions and the International Coordinating Committee of National Institutions, to take up the issue of caste-based discrimination and to support its inclusion in the World Conference Against Racism”.

VI. SOCIAL JUSTICE

VI.1.a. Meaning of the term ‘Social Justice’

The term ‘Social Justice’ may be defined as the right of the weak, aged, destitute, poor, women, children and other under-privileged persons to the protection of the State against the ruthless competition of life. It gives the necessary adventitious aids to the under-privileged so that they may have the equal opportunity with the more advanced sections of the society in the race of life. In other words, it is the balancing wheel between the ‘haves and have-nots’. The concept of ‘Social Justice’ has emerged from the heritage of social injustice and it seeks to remove social disability by birth resulting in social and economic inequality. It ensures equality of status, equality of opportunity and developmental facilities to all. It has an important social content intended to promote
public welfare. It not only provides for a just society, but also removes all patent sources of disunity and disharmony among the people. Thus social justice is of great value in providing a stable society and securing the unity of India.\textsuperscript{69}

It may be said that ‘social justice’ is an art, which implies ‘just, fair and reasonable’ guidance to all the dispensers that “justice—according to law is necessary in society to establish some accepted standards of the common good.” In \textit{Prakash Cotton Mills V. Bombay}, Chief Justice Chagla said that ‘social justice was hard to define, but submitted that court should import its own ideas of social justice in interpreting statutory provisions; social justice was an objective of the Constitution and it was an inarticulate major premise which was personal and individual to every court and every judge, depending on the judge’s outlook on life and society; and laws cannot be interpreted without reference to social justice to the achievement of which our country was pledged.’ Justice Krishna Iyer is of the view that, ‘social justice’ in our socialist republic is ‘socio-economic revolution in the current miasmic milieu.’ He further explains the term ‘social justice’ as under: “The vice of social inequality assumes a particularly reprehensible form in relation to the backward classes and communities which are treated as Untouchables; and so, the problem of social justice is as urgent and important in India as is the problem of economic justice.....I am using the term ‘social justice’ in a comprehensive sense so as to include both economic justice and social justice. The concept of social justice thus takes within its sweep the objective of removing all inequalities and affording equal opportunities to all citizens in social affairs as well as economic activities.”

According to former Chief Justice of India, K. Subba Rao, the word ‘social justice’ has two-fold meaning. He said: “The expression ‘social justice’ has a limited as well as a wider meaning. In its limited sense it means the rectification of injustice in the personal relations of the people. In its larger sense it seeks to remove the imbalances in the political, social and economic life of the people. Social Justice is to be understood in the latter sense. As the three activities are inter connected, there cannot be social justice even in its limited sense, unless the society progresses in all

\textsuperscript{69} Article 14 of the Constitution, P.M. Bakshi, Universal Law Publishing Co., Pvt., Ltd.
directions. In short, social justice helps to bring about a just society."

This shows that, ‘social justice’ is a balancing wheel between the haves and have-nots. It is not aimed to pull down the advanced sections of society but only to uplift the backward sections thereof without unduly and unreasonably affecting the interests of the haves. It only prevents unjust enrichment at the expense of the under-privileged sections of the society. Besides, it ensures balanced development between rich and poor, equal opportunity for the under-privileged in public employment and education in various public institutions. The main object of this concept of ‘social justice’ is to transcend the welfare ideology of capitalist theory into the egalitarian goal of socialist system wherein there is a scope for upliftment and balanced development of every section of society. It disallows unjust enrichment and protects against undeserved wants. In short, it may be said that social justice means treating a human being as a human being. It includes equality of treatment, equal opportunity for betterment and equality of status.

VI.1.b. Measures to Promote Social Justice

Indian ‘Constitution is a document vibrant with a social and economic ideology geared to the goal of socio-economic justice. To lay down the foundation of this document of social restructuring in 1947, there was no one better prepared for the job of constitution-crafting than Dr. Babasaheb Ambedkar. With his vast funds of knowledge of Constitutional Law and grassroot experience of country’s complex socio-economic and political issues he set out his thinking about the nation’s constitutional needs. As a consequence, the doctrine of Rule of Law, Part III and IV of the Constitution, that is, Fundamental Rights and Directive Principles of State Policy, an independent judiciary as an arm of social revolution, the charter of equality, liberty and justice: Social, economic and political to all, along with some constitutional safeguards to the downtrodden groups (SCs, STs, OBCs, minorities and women) form the core of social revolution. These constitutional convictions are as follows:

1. Articles 14,15,16 ensures equal protection of law, non-discrimination by the State on grounds of religion, caste, sex or place of birth particularly in matters relating to employment, absence of any disability or restriction among citizens in the
matter of access to public places or use of places of public resort. Articles 15 and
16 commands the State to make special provisions through reservation or
otherwise in favour of Scheduled Castes, Tribes, women, children as well as other
backward classes of citizens.
2. Article 17 abolished Untouchability and made criminal prohibition of its practice
in any form.
3. Articles 23 and 24 prescribes prohibition against exploitation and of traffic in
human beings and forced labour.
4. Articles 25, 29 and 30 provides for equal entitlements of every person to freedom
of conscience and the right to freely profess, practice and propagate ones religion,
protection of interests of minorities and their right to establish and administer
educational institutions.
5. Articles 38 directs the State to secure a social order for the promotion of welfare
of the people by elimination of inequalities in status, facilities and opportunities
including social order founded on justice: social, economic and political.
6. Article 39 lays down the State policy towards securing adequate means of
livelihood for every citizen, equal pay for equal work to men and women and
preventing concentration of wealth to the common detriment.
7. Article 39A assures equal justice under law and towards that end providing free
legal aid to the poor.
8. Article 45 directs the State to provide free and compulsory education to all
children within 10 years of the commencement of the Constitution.
9. Article 46 directs the State to promote educational and economic interests of
Scheduled Castes, Scheduled Tribes and other weaker sections and also
commands the State to protect them from social injustice and all forms of
exploitation. Article 335 directs the State to maintain the claims of SCs and STs
to services and posts.
10. Along with the policy of reservation of job quota and in educational institutions
for the Scheduled Castes and Scheduled Tribes, Articles 330, 332 and 334
provide reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People and in the Legislative Assemblies of the State.

11. Article 338 makes the provision for National Commission for the Scheduled Castes and Scheduled Tribes to advise on the socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate their progress under the Union and States.

12. Article 340 provides for the Commission to investigate the conditions of backward classes and to make recommendations as to the steps that should be taken by the State.

Thus, along with the general constitutional guarantees, there are specific safeguards for the downtrodden groups. These provisions speak for the State's commitment and conviction to create a just, humanitarian social order, an egalitarian society premised on the constitutional spirit of liberty, equality, fraternity and justice.

VI.1.c. Atrocities in American Society

Blacks in America and the Scheduled Castes in India are not reconciled to their current positions because their actual human causes have not yet been honestly addressed in the public space of law and politics. All the solutions publicly pursued have foreshortened the perspectives in which they must be seen to be understood and ameliorated.

VI.1.d. Comparison between American Black People and Indian Scheduled Castes and Scheduled Tribes


Under international Human Rights Law, Blacks in the United States of America and the Scheduled Castes in India belong in the same category: both qualify as minorities
Under Article 27 of the International Covenant of Civil and Political Rights. In fact, under the criteria of Article 27, they are much more similar than they need to be in order to qualify, and quality in more ways than most minorities do:

Both comprise approximately 12.5% to 15% of the population.

1. Both have an ethnic\textsuperscript{71} background, both not they and the dominant culture believe\textsuperscript{72} to be distinct from the dominant culture.
2. Both have been subject to massive violations of the right to enjoy their own culture, so much so that they are often said to have been deprived of their culture.
3. Both have been forced to assimilate themselves to the dominant culture\textsuperscript{73} in what that culture regards as privative manner\textsuperscript{74} that is, they are usually regarded as possessing not their own culture, but merely an inferior version of the dominant culture.
4. The religion of Blacks kidnapped in Africa were as systematically destroyed as their languages. They were also excluded from White Christianity. Blacks developed their own version of Christianity, which Whites partially tolerated in the belief that Black beliefs were meaningless but pacific. Less is known about the much longer historical development of the religions of Scheduled Castes, (who may for sometime have been Buddhist) but exclusion from upper caste Hindu religious practice was more intense than exclusion of Blacks from White Christianity. The current results of the suppression of original religions and

\textsuperscript{70} "In those States in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their religion, or to use own language."

\textsuperscript{71} The ICCPR's use of the term "ethnic" is, of course, subject to whatever stipulative definitions of the Convention's Committee on Human Rights gives it, and so cannot be authoritatively second-guessed by anthropologists, who, in turn, because of the complexities of their subject and the needs of their own theorizing are forced to stipulate their own definitions.

\textsuperscript{72} The sense in which race or ethnicity may be scientifically verifiable phenomena are subject to elaborate technical issues.

\textsuperscript{73} The extent of deprivation varies widely from place to place and time to time; there is evidence of vibrant Black and Untouchable culture, language and religion at various times and places.

\textsuperscript{74} I used the term in Heidegger's sense in Sein und Zeit (Beig and Time); ideal talk is the privative form of discourse, fear the Privative form of anxiety.
exclusion from the religious rituals of the dominant culture have been development of their own versions of the dominant religion, and, in recent times, conversion to other religions-in the US, Islam, in India, Christianity, Islam and Buddhism.

5. Neither group, moreover, under any name, has ever been taken to have the characteristics which would make it fit within the other, more recent international legal category minorities, the Indigenous People. Though arguably indigenous in the modern legal sense, the Scheduled Castes, Untouchables, Dalits, or Harijans have always been held to be distinct from the groups now designated as the Scheduled Tribes, and their "minority" status has not been attributed to indigenousness. American Blacks, Africans or Afro-Americans have never been confused with Native Americans.

Representatives of both Blacks and Scheduled Castes have complained to the Human Rights Committee set up by Part-IV of the International Covenant on Civil and Political Rights (ICCPR). The committee on the Elimination of Racial Discrimination set up by the Convention on the Elimination of All Forms of Racial Discrimination (CERD) also holds both to be racial minorities. So their minority status is accepted.75

Thesis 2: Minority Status under International Human Rights Law does not capture the Salient Legal Features of the Position of the Blacks and the Scheduled Castes.

The legally significant similarities between the Blacks and the Scheduled Castes do not end with the features Article 27 identifies. Consider the following:

1. Both were traditionally used as disposable people.
2. Both were traditionally forced to do the work no one else would do.
3. Both were traditionally the cheapest possible sources of labour.
4. Traditionally, both have been physically excluded from all the amenities of the

75. India currently contests applicability of CERD to both SC and ST in India's 10th to 14th Reports to the Committee on Elimination of Racial Discrimination, India claimed that it did not need to report on the condition of the Scheduled Castes.
majority culture: neither could enter the houses of the dominant groups or could only enter through servant's entrances, and so on. In India this exclusion was the subject of extraordinarily complex rules which, if broken, also made the upper castes vulnerable to the need for ritual purification, and so were enforced against both sides.

5. Both traditionally have been subject to a firm rule against intermarriage, but the dominant group was allowed to use lower group women with impunity and without responsibility for the resulting children.

6. Both were excluded from inter-dining. (In India this was a greater pre-occupation of the upper castes because of the numerous religious rules regarding food; the Scheduled Castes were not allowed to touch water for the upper castes, and could not serve or be served by Brahmans.)

7. Both were regarded with visceral repulsion; the dominant group claimed the subordinate group smelled bad, was dirty, uncouth, and contaminating. The visceral repulsion recognized under Hindu law as a subject corollary of ritual purity; Christianity in the southern states introduced the doctrine that Blacks were cursed because he saw his father, Noah, naked. The notion of ritual impurity was thus entwined with the emotional response. The two together formed the basis for casual behavior by the dominant groups which would have been considered tortious, or criminal if inflicted on any other group. The emotional climate the threat of visceral disgust creates is the basis of the sense of inferiority dominant groups sought to instill in Blacks and the Scheduled Castes. Behavior which did not exhibit the indicia of inferiority was held socially punishable.

8. The family structure of both Blacks and the Scheduled Castes is looser than that of the dominant culture. This is generally the result of hardship: Black family members during slavery were frequently sold separately, so traditionally the family core was a mother and her children. Later, Welfare discriminated against

76. Disgust is such an effective instrument in creating a sense of inferiority because every human infant is exposed to the threat of it when completely vulnerable before and during toilet training.
married women. Black and Dalit women were often subject to sexual abuse, prostitution, and concubinage by White and upper caste men. Dalit women were often required to go bare breasted.

9. Both groups were for centuries excluded from education. Until 1865 it was illegal for any person to teach a southern Black in the South to read. The Laws of Manu prescribed the punishment of pouring molten lead in the ears of any lower caste person who heard the Vedas recited.

10. Both were traditionally cheated in money dealings because they had no legal recourses, no social connections, no political power, and no education.

11. Both were and are lynched when the dominant group wants to put them “back into their place” if they’re “getting uppity”. In the U.S. lynching peaked between 1890 and 1950; in India atrocities have been increasing over the thirty years. This is a social guerilla war initiated by the dominant group against the weaker group. Some counter movements, such as the Black Panthers, MOVE, the Black Muslim, and the followers of John Williams in the U.S. and in India, the Dalit Panthers and Naxalite Movement, have advocated self-defense, (and, at times, retaliation) and have been violently suppressed.

13. The militant movements of both are close: the Black Panthers and the Dalit Panthers, the role of Ambedkar in the mass conversion to Buddhism in Maharashtra and the role of Elijah Mohammed, Malcolm X, and Lewis Farrakhan in conversion to Islam. The link between militancy and religious conversion demonstrates a widespread belief among the weaker groups that one purpose of the dominant religion was to suppress them, and that, for them, belief in the dominant religion amounted to self-betrayal.

Thesis 3: White treatment of Blacks in the United States and caste Hindu treatment of those outside the varna system are prototypes of prejudicial exploitation.

77. Legal mandates for the inclusions of both groups in educational institutions has progressed over roughly the same time period.
“Caste Hindu treatment of those outside the Varna system is similar, as is White treatment of Blacks, Asians, and “Coloureds” in South Africa, Yamato treatment of the Eta in Japan, French treatment of Algerians, British treatment of West Indians, and Israeli treatment of Palestinians”.78 The treatment of Blacks by Whites in the United States, despite differences in its origins, is startlingly similar to the treatment of the Scheduled Castes by those within the Varna System in India. The cultural concept of caste which provides the framework for the social practice of castism has little79 or no basis in race. But the cultural concept of race underlying the practice of American racism also has no clear basis in race80. First, modern genetic studies indicate that races do not exist.81 Hence the verbal Paradox that races do not exist but racism does92 Caste and race are both cultural constructs designed to justify the behavior one dominant culturally identified group metes out to weaker culturally identified group. I do not claim that castism is identical to racism, but that the relationship of those within the caste system to those excluded from it has the same function as the relationship of Whites to Blacks.

Thesis 4: The basic reason that the grievances of groups injured by exploitative racism cannot be resolved by legal means; international or domestic, results from the fact that the injuries such groups sustained were inflicted by operation of law. Such

78. Spanish descendents’ treatment of the descendents of the Incas in the Andes has many similarities; others it shares with treatment typical of White treatment of indigenous people such as Native North Americans, Australian Aborigines, and the Maori in New Zealand
79. Shrirama, in “Untouchability and Stratification in Indian Civilization”, in S.M. Michael, ed., Dalits in Modern India, Vision and Values, (Delhi: Vistaar, 1999), gives a plausible explanation of the degree of racial distinction involved in castism on pp.42-43.
80. In the United States before Emancipation the general rule was that race was traced through the mother.
81. The Harvard geneticist Richard Lewontin claims that 98% of the human gene pool exists in every group of 1500 individuals, no matter how isolated, but that any two individuals chosen at random share only 38% of their genes.
82. “In fact, as a geneticist, I believed that, thanks to biology, I could help people see things more clearly by saying, “You talk about race, but what does the word means?” And I showed them it couldn’t be defined without arbitrariness or ambiguity....In other words, there is no scientific basis for the concept of race and, as a result, racism must disappear.
grievances are ineradicable so long as ex post facto laws\textsuperscript{83} are prohibited.

Governments operate, as it were, behind their own heavy corporate veils. But the issue is not just sovereign immunity, which is waivable, or evils that prevent one reaching the individual culprits, for the veils could be pierced—though no government has ever made itself liable for the legislation and enforcement of its own past unjust laws.\textsuperscript{84} The Real issue is that the government, in framing prejudicially exploitative laws, both claimed to have been acting as the agent of the state (a claim it cannot relinquish because it holds it to be the basis of its own legitimacy) and exempted its citizens from liability. Consequently no Black can sue because his ancestors were kidnapped, tortured, falsely imprisoned, extorted, and killed. The White legislators who made these torts and crimes legal, or who made actions brought on them non-justiciable, cannot be sued or prosecuted no matter how much they profited from the laws they made. This exemption of the lawmakers, executives, and judges—of the entire governmental structure—is the root of the continuing injustice after the laws are changed.

Thesis 5: \textit{International law has no answer to the grievances of the victims of prejudicial exploitation.}

In negotiations for the ICCPR and CERD, the Indian delegation stated the relevant facts more clearly than any other. It offered the reservation system as a model for resolutions of the problems created by exploitative racism—and India has gone further legally in this effort than any other country. But it has become apparent that Indian version of affirmative action is little more successful than the American version. Resolution of Blacks and Scheduled Caste grievances would take a much greater expenditure of social, economic, and political energy than either government is willing to

\textsuperscript{83} Marx asserted this, but Marxists have traditionally asserted that racism and castism would disappear with the demise of capitalism, often with the implication that capitalism develops and uses racism and castism to keep wages down, and that without capitalism they will lose their motive force.

\textsuperscript{84} Such liability has been imposed on two German governments, and subsequently on Swiss banks, as a result of the Nuremberg trials, but no government has done this voluntarily, and it has not occurred without the accession of a new government. The assumption of such liability seems to be a revolutionary act.
consider. I know of no nation that has resolved the issues of the history of exploitative racism. 85 Because no nation has accomplished the feat there is no international model for how it can be done. Because there is no nation able to advocate one, and no convention built on such a model. All the existing conventions are designed on assumptions that misrepresent the grievances of exploitative racism. Customary law, of course, is even worse than the conventions. Under the traditional structure of international law, peoples have no rights whatsoever because they are not subjects of international law and have no legal personality; they are only illegitimate competitors of states, hence groups of potential traitors.

VI. 1. 5. International attempts to Prevent Atrocities based on Ethnic, Racial, Social and Religious grounds:

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, 1992.*

Adopted by General Assembly Resolution 47/135 of 18 December 1992

The General Assembly,

Reaffirming that one of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion. Reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.

Article 1

Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and

85. The closest to a model of resolution is Canada’s policy towards the Quebeois. British Canadians exploited French speakers for cheap labour for over 200 years, though the bases of the exploitation were linguistic and ethnic rather than racial, and the degree of exploitation was never as severe as exploitation under slavery, sharecropping, or confinement to the rules of the Scheduled Castes.

86. The largest transfers of money for injuries to members of a racially victimized group have been required by the settlements of the civil suits following in the wake of the Nuremberg Trials; the government of former East and West Germany—and Swiss banks—have delivered billions of dollars to the descendants to Jews killed in concentration camps.

* Abstract from United Nations Organisation Data.
Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations, inspired by the provisions of Article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live,

Emphasizing that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,

Considering that the United Nations has an important role to play regarding the protection of minorities,

Bearing in mind the work done so far within the United Nations system, in particular by the Commission on Human Rights, the Sub-commission on Prevention of Discrimination and Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,
Taking into account the important work which is done by inter-governmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Recognizing the need to ensure even more effective implementation of international human rights instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Proclaims this Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities:

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

4. Persons belonging to minorities have the right to establish and maintain their own associations.

5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.
Article 3

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.

2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or no-exercise of the rights set forth in the present Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.

3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.
Article 5

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6

States should cooperate on questions relating to persons belonging to minorities, inter alia, exchanging information and experiences, in order to promote mutual understanding and confidence.

Article 7

States should cooperate in order to promote respect for the rights set forth in the present Declaration.

Article 8

1. Nothing in the present Declaration shall prevent the fulfillment of international obligations of States in relation to persons belonging to minorities in particular, States shall fulfill in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.

3. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not prima facie be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.

4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.
**Article 9**

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence.

**VII. BRIEF SUMMARY OF THE CHAPTER**

Thus this chapter shows the nature and scope of Untouchability and Atrocities. The History and Evolution of Untouchability, the practice of Untouchability, etc., in a comprehensive manner. Further, the incidents of atrocities against Scheduled Castes and Scheduled Tribes from the past and the causes for the practice of Untouchability in the present day society is also discussed. Meaning of the word ‘Social Justice’ and measures taken by the government to promote ‘Social Justice’ is also discussed. Finally measures taken by the United Nations Organisation to prevent commission of atrocities against people based on Ethnic, Racial and Religious grounds are also discussed.