“I thought for long that we could rid the Hindu society of its evils and get the depressed classes incorporated in to it on terms of equality. That motive inspired the Mahad Chawda tank Satyagraha and the Nasik temple entry Satyagraha. With that object in mind we burned the manusmriti and performed mass thread ceremonies. Experience has taught me better. I stand today absolutely convinced that for the depressed classes, there can no equality among the Hindu because on inequality rest the foundations of Hinduism. We no longer want to be part of the Hindu society”.1

Dr. Ambedkar was the first untouchables (Dalit) leader of India. In this capacity he is almost an enigma, how did he himself away from his social background to acquire this standard and become a genuine Statesman and even certain facts which seem to reflect, it such as the support of Maratha Maharajahs, are in fact a part of the context. His struggle hearted back to Anti-Brahmin Movement which emerged in Western Maharashtra from mid nineteenth century onwards, a precocity that only the Dravidian South the other key that of Anti – Brahmin Mobilization could match.

To summaries, the 1920s and the 1930s, saw three distinct trends in the ideological attack on untouchability, the first embodied in Gandhi, a Hindu not opposed to caste but actively condemning untouchability as a shameful perversion of Hinduism, the second in Ambedkar, a Dalit struggling for political rights of the untouchables through reservation and already thinking about taking the Dalits away from the clutched of Hinduism through conversion to Buddhism, and the third in periyer who
simultaneously a tacked caste and religion, linking the liberation of man and woman with a militant atheism in the 1940s periyer assumed the mental of the ailing jubilee party, and transformed it into the Dravid Kajagam (Association of Dravidians). His aim was to use D. K. as a platform for waging an ideological struggle against Brahminical views and for mobilizing think and agitators paradigms on the other wise great Tamil culture and society.2

Emancipation is thus first an eternal process. It involves a process of liberation of the self from the old internationalized prejudices. But what are the goals? Generally, the model for emancipation is set (even if unwillingly) by upper castes themselves. For many Dalits emancipation is Tantamount to an adoption of mainstream behaviour. The ultimate goal, in this processes a dissolution of the “pariahood” or “dalitness”. To free oneself from the traditional bonds and enter a free labour market is just a first to speak and wear clothes as other do to have access to what they enjoy, whether in the village space, in the sphere of power, in the professions, or in the religious world there are the many tests of the real possibilities of not just proving one’s martial life, but more generally, and as importantly, breaking the old discrimination barriers enclosing Dalits in their multifaceted submissive status. Such a model of successive emancipation implies intention of at least some Dalits in the mainstream society. Confirmation of emancipation through assimilation comes when honors are bestowed upon a Dalit by members of upper castes themselves. This is true all over India when a Dalit
is elected or nominated at a post of high responsibility. The most significant case in this regard was the almost unanimous election in 1997 of the first Dalit Indian president, K. R. Narayar. ³

4.1 EARLY MOVEMENT:

It was not until the nineteenth century that events got under way. The objection of untouchables at the time held them at a certain distance from the first movements. But the success of these early protests meant that better condition in society were not only possible, but ethically desirable at least, if one referred to the new values introduced by the British thus chamars of Senapur were struck by the Yadava, efforts to win a better place in society. This was the first time a low caste had been bold enough to challenge. Thakur supremacy and their daring, which was crowned with a measure of success, encouraged the chamars to rise up against the destitution in which they had been vegetative for centuries. At the same, those who managed to move up in society provided proof that untouchables too were capable of learning to read and write to handle a gun or to do jobs that had, until then, been closed to them and in 1930, one of their own, Dr. B. R. Ambedkar was invited to sit down with government ministers at the round table conference (The Mahars pride) such examples repute Hindu natural law or the Dharmashastra, which taught that the untouchables even inferior category, barely human, incapable of rising to the level of the higher castes, from then on, untouchables had living proof of their capacity to above the destitution in which they had been kept for thousands of years.
The nineteenth century social movements made a few inroads on an Indian society and shook the traditional caste order. Untouchables were still relatively uninvolved in these movements, but they very impressed as the first breaches in the old order were opened, new hopes were born. 4

4.2 ANTI-BRAHMIN MOVEMENT:

The most memorable figures of this Maharashtra Movement was indisputably Pule, he was a Mali, from a caste horticulturalist and held a respectable position in the local hierarchy. As a social reformer, Pule first targeted the evils besetting Indian society and quickly came to hold Brahmins entirely responsible for the social and intellectual decline society, he argued, was split into two clans. On the one side, Brahmins and on the other side, Shudras whom he regarded as the community of the oppressed. But we must not let this whiff of population obscure the fact that the debate revolved above all around the interests of the dominant classes untouchables drifted along with the current, but the debate did not really interest them, true, Pule multiplied the initiatives on the their behalf, for example by urging education for the untouchables. But they were also an alibi that he used to illustrate the oppression in which were mired, he argued all those whom he lumped together under the term ‘Shudra’. For instance, he led a struggle against the Brahmin monopoly of priestly every important stage of the life year, and he urged shudras to do without their services in the various ceremonies. This injunction had little to do with untouchables, whom Brahmin have always refused to serve any way. 5
The province of Madras was to be the site of another Anti-Brahmin movement. This one differed on a few respects from its counterpart in Maharashtra, it had strong ‘Dravidian’. Overtone, for example, contrasting the indigenous (non-Brahmin) inhabitants with the invaders from the north (the Brahmins) opposition to Brahmins has took the form of an Anticlerication with strong rationalist connotations, and finally the Tamil movement find quickly found a political expression. That is still deeply a live today. But regards to the position of the lower castes with in the movement, we find the same features as in Maharashtra. Tamil society is divided into three categories, Brahmin, Non-Brahmins middle castes and untouchables. As in Maharashtra it was the second group that would lead the Anti-Brahmin Movement.  

4.3 CENSUS REPORT OF 1901:

The Census Report of Kolhapur of 1901 give very vivid and graphic description of the untouchables throwing much light on their miserable conditions. It appears from the report that the untouchables numbered 103,889 in the year 1901 in Kolhapur and in S.M.C. the mahars, mangs, chambhers and dhors were enumerated as untouchable in the report.

The first are very useful villages servants, the carcasses of cattle are their special perquisites and in these days hides, bones and horns are valuable, their incomes have increased. The mangs are also useful to the village community, they are professional rope – makers. All of these are supposed to be unclean and no Hindu will touch them. The penalty for an
accidental or willful touch as a bath with all the clothes worn at the time of the contamination. In Ratnagiri and other Konkan Districts, the treatment, which these despised classes receive is very harm and unreasonable. So, unreasonable is the conduct of the high caste Hindu in respect of the low castes, that they will not even touch any of them however, good he may be. The material prosperity of the low castes is of the lowest.  

**Notification of 26th July 1902:**

When Shahu Chhatrapati took the administration in his hand in 1894, the majority of State officers were Brahmins. Other backward classes remained a loof from education and consequently from State services. Thus, from the beginning shahu realized the necessity of setting or right track the whole social machine which for ages had strayed along lines harmful to national growth. To do this, he had to embark on a strenuous campaign against the evils of the traditional hierarchy of castes. He set about his work systematically. His first step, to this effect, was the reservation of 50 percent of posts for backward classes. In the year 1902 His Highness was invited to England to attend the coronation of His Majesty King Edward VII. During this Sojourn in England, he issued an order from England, to the effect, than 50 percent posts of the State services should be reserved for the backward class candidates. This was indeed a land mark in his career as a social reformer.  

8
4.4 SOCIETY FOR THE PROMOTION OF EDUCATION ON AMONGST THE UNTOUCHABLES:

The problems of untouchables were very dear to the heart of Maharaja. In the month of February 1908, he founded an education society with object of spreading education among the untouchable classes of the Kolhapur State. Rao Bahadur Sabnis was the president and the G. K. Kadam and A. B. Olkar, B. A. were its secretaries. They had at that time, seemed an annual subscription of Rs. 300 and the society expected a substantial help from His Highness Shahu Chhatrpathi, major wide house, then political agent, also took a deep interest in the society and became a first class member of it. The immediate object of the society was to help some of the promising boys of those classes to complete their secondary and higher education in the local Rajaram High School and College. They founded a special class to coach up some boys in their vernacular studies. Students were attending the class. One of the secondary objects of the society was to raise them to the higher level of social life. Special prizes were awarded to clean boys in the coaching class and four such scholarships had been awarded to pupils of the untouchables classes at Kolhapur. Again a course of lectures had been arranged by this society to foster a desire for education among these classes and small, but numerous prizes were proposed to be awarded to deserving students belonging to these classes, studying in the primary schools in the State the administrative report of 1907-08 States.
“His Highness is a great believer in the policy of leveling and his steady efforts, a lift up the educationally backward classes by giving them a helping hand, have so far been successful. The founding of the above institute was given an impetus to the education of the comparatively illiterate communities and the Maharaja has been further encouraging them by offering them suitable appointments in the State”. 9

4.5 MISS VIOLET CLERK AND SHAHU CHHATRAPATHI:

Maharaja has regard and respect for those who, like him, supported the cause of the under dogs. Miss Clarke, the daughter of George Clarke, the government of Bombay, who as such a one who had sympathy for untouchables, she had rendered great service for the emancipation of the depressed classes in Bombay presidency. Shahu’s mission was the same, Shahu had great regard for Miss Clarke. She was arranging a concert and collecting money for her mission. Maharaja came in active contact with her when she visited Kolhapur with her father in March 1908 to attend the marriage of Maharaja’s daughter. The correspondence between the Maharaja and Miss Clarke throws some light on her effort to aid the depressed classes. She wrote the following letter to Maharaja on 14th August 1908.

“I am getting up a concert in aid of the depressed classes (Hindi). I want to get some of the representative big names to put on the list of patrons. My father and the Maharaja Gaikwar have consented to be patrons and I should be so pleased if you would let me add your name also? This may encourage some of the Indians to come to the concert.”10

As an ardent supporters of the cause Shahu reciprocated it in his following letter dated 12th September 1908.
My dear Miss Clarke,

“I enclose herewith cheque, Rs. 200, on the Bombay Bank in aid of the concert for the depressed classes which you have kindly organized. I hope it may prove a perfect success as the cause deserves. I am sure the four helpless people will keenly appraise your kindness and ever remain grateful to you. The committee have also very much appreciates the movements.”"^{11}

Unfortunately, for the depressed classes, Miss Clarke did not live long. She died in 1908 leaving her mission incomplete.

The administrative report of the year, 1912-13 throws much light on the policy adopted by the Maharaja to spread education among the low castes. Report says:

His Highness is very anxious to spread education among the lowest castes to raise and elevate them. The success in this direction is still moderate and the reason is obvious to all who know the condition of these classes. The number of separate schools for antyaja children increased from 24 to 27 with 636 boys learning in them. Total number of boys studying in all these vernacular and other schools increased from 810-850.

4.6 VOKKALIGA SANGHA, JUSTICE AND SELF MOVEMENT:

The Vokka Sangha launched an Anti Brahmin movement in Mysore in 1905, it posed a challenge to the supremacy of the Brahmins and agitated for the social of quality. Accordingly, in Madras presidency, the justice movement was started by C. N. Mudaliar, T. M. Nair, P. Tyagaraja. This movement struggled to secure jobs and representation for the Non-Brahmins in the legislature in 1919 Madras Presidency Association was formed. Then association demanded separate representation for the lower
caste in the legislatures E. V. Ramaswamy Naiker a Balija Nadu started self respect movement in mid 1920s. This movement denounced and rejected the Brahmin religion and culture. Accordingly to Naiker this is very religion was the prime instrument of exploitation of the lower castes. The movement denounced the idolatry and the supremacy of Brahmin and to determine the position of Brahmin priests formalized weddings without priest. 13

4.7 BILL TO REMOVE DISABILITIES AFFECTING UNTOUCHABLE CASTES OF THE HINDU COMMUNITY:

Whereas by usage and custom prevalent in Hindu community certain castes of Hindu are regarded as untouchable and unfit for association and whereas this impurity imposes serious disabilities on such castes, injures their self respect and general well being, and deprives them of the benefits of institution foundations, conveniences and services dedicated to or maintained for public use, and whereas many Hindu believe that imputed impurity is not in accordance with the true interpretation of the precepts of Hinduism and desire that the said disabilities should be remove and whereas it is just and proper to relieve all such castes from the said disabilities, in order that such relief may tend to the promotion of the public welfare and the solidarity of the Hindu community, it is enacted as follows:

1) This Act may be called the Hindu Untouchables Castes (Removal of Disabilities).

2) It extends to the whole of British India

3) It shall come into force on the 1st day of 1933.
4) No person belonging to Hindu community shall be deemed to be incapable, by reason of his caste of sharing the benefit of a religious or charitable trust created for the general benefit of persons professing the Hindu religion or of sharing the benefit of a convinces, utility or service dedicated to or maintained on licensed for the use of the general public, any custom or interpretation of the law to the contrary not with standing.  

4.8 ABOLITION OF UNTOUCHABILITY:

The Constitution of India makes a provision for the abolition of untouchability a social evil practiced in this country from time immemorial. Article 17 provides that “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.

A perusal of the above Article shows that it prohibits untouchability and practice of it in any form is made an offence punishable under the law. This is the unique feature of the Indian Constitution since in no their country of the world social evil has been abolished through a Constitutional provision. Sir Ivor Jennings considers it a bad taste on the part of the framers of Indian Constitution. According to him social evils in a country should be mitigated through social reforms and should have no place in a Constitution which is fundamental law of the land. Sometimes entities of the Constitution put the question. What is the right that is created by this article? It is true that it does not create any special privilege for any one. Yet, it is a great
fundamental right, a charter of deliverance to one sixth of the Indian population from perpetual subjugation and despair, from perpetual humiliation and disgrace. Right in fact is a remedy against a disability. The abolition of untouchabilities is then a fundamental right in true sense of the term.  

Untouchability the very word is obnoxious has been a custom left over on the Hindu institution of varna or a four caste groups of the post Vedic age. Those at the top of the caste hierarchy denied every human right to the so called untouchables except to live and serve the rest of the community on terms commanded by the former, the this custom of untouchability not only thrown millions of Indian people in to darkness, but it had also eaten into the very foundation of the nation. The framers of the Constitution, therefore, thought it proper to eradicate the evil by incorporating a separate article into the chapter on fundamental rights in the Constitution.  

Since, the untouchability has not been defined either in Article 17 or in the Untouchability (Offences) Act 1955 judicial decisions have classified the meaning of the word untouchability. In Devarajah V/s Padmanna the Mysore High Court held that the term is not to be understood in its sense and that the word untouchability in the Act refers to the social disabilities historical imposed on certain castes and does not include an investigation of social boycott by reason of the conduct of certain persons. According to Dr. B. R. Ambedkar of leaving it to our parliament to a State legislature to
make the enforcement of any disability arising out of untouchability a crime, itself declares any such enforcement an offence punishable by law. 17

Mahatma Gandhi was the chief exponent of abolition of untouchability and stood for total eradication of this evil. He was a great champion of the cause of Harijans and once remarked.

“I do not want to be reborn, but if I am reborn, I wish that I would be reborn as a Harijan, as an untouchable so that I may lead a continuous struggle against the opposition and indignities that have been heaped upon these classes of people.”

It was an irony of fate that a man (Dr. B. R. Ambedkar) who was driven from one school to another who was forced to take his lessons are outside the classroom and who was thrown out of hotel in the dead of night. All because he was an untouchable, was entrusted with the task of framing the Constitution which embodies this article and which dealt the death blow to this “precious social custom”. A vigorous movement, with the fast of Mahatma Gandhi in 1932 against the “Communal Award” was launched against untouchability throughout the country. This movement had some positive result and untouchability was considerably eradicated in urban areas particularly. But the evil continues to exist in rural areas and even after 30 years of independence atrocities of Harijan have become a regular feature in village life. The Home Minister of India, while speaking on the untouchability offences bill which was passed into an act in 1955 very rightly observed.
“This cancer of untouchability has entered into the very vital of our society. It is not only a blot on the Hindu religion, but it has erected intolerance, sectionalism and fissiparous tendencies. Many of the evils that we find in our society today are forceable to this heinous monstrosity. It was really strange that Hindu with their sublime philosophy and their merciful kind heartedness even towards in sects should have been party to such an intolerable dwarfing of manhood. Yet untouchability has been there for centuries and we have how to at one for it. The idea of untouchability is entirely repugnant to the structure Cper and provisions of the Constitution.”

The Untouchability Offences Act which may be said as a supplements Act of Article 15 give Constitution, came into force in June 1955. The Act meant for prescribing ‘punishment’ for the practices of untouchability for the enforcement of any disability arising there from and for matter connected there with the Act provides punishment for enforcing certain religious social and other disabilities on the ground of untouchability, if further is “punishable with the punishment provided for the offence”. Some other legislative measures such as the Madras removal of Civil Disabilities Act XXI of 1938, the Madras Temple Entry Act 22 of 1939, and Act V of 1947, the Bihar Harijan removal of Civil Disabilities Act of 1949 etc., have also attempted to eradicate the social disabilities arising out of untouchability, before the passing of Untouchability Offences Act there were more than the Acts such legislative to deal with the problem arising that of untouchability. Bengal Hindu social disability removal Act 1948 was one of them which was challenged in a famous case Banmali Das V. Prabhu Bandari on grounds of Constitutionality. The facts of the case in brief were as follows.
Banamali, who was a Harijan (Cobbler by caste) filed a complaint against Pakhu Bhandari and others alleging that the accused had refused to his hair and also to render similar services to other members belonging to Harijan community. On behalf of defendants it was argued that the Bengal Hindu Social Disabilities Removal Act 1948 was violation of Constitutional provision. Since, it imposed unreasonable restriction at barbers while excising their profession. It was also alleged that the validity of the Act was discriminatory in its tendency in an unanimous decision, the Calcutta High Court rejected this contention it held that there was nothing in all Act out down the right to carry on the profession of a Barber. “All it does is to prohibit him from discriminating one Hindu and another in carrying out his duties as a barber. It does not deny any person equally before law. It tends to make are persons equally in society and before the law and it cannot possibly be argued that this Act denies any persons equal protection of laws. Likewise the U.P. Removal of Social Disabilities Act 1947 was challenged in the Allahabad High Court in State V. Bandari case. This court also unanimously upheld the Act and observed that the petitioners had not right to refuse to render their service to Harijans. In P. S. Charya V/s State of Madras, the Madras High Court held that the Madras Temple Entry Authorization Act 1947, as amended in 1949 was not repugnant to any of the provisions of the Constitution. To prevent certain classes of Hindu who were once called depressed classes from entering into a public meeting was certainly to practice untouchability. What was provided in the Act of 1947
was merely the fulfillment of the directives given under Article 17 of the Constitution.  

In spite of these Constitutional and several legal provisions India cannot claim to have up-rooted the evil of untouchability which has become a cancer on our body politic. As a matter of fact, legislation is not the only remedy since the abolition of untouchability requires active public cooperation. In recent years atrocities on increase and have taken a menacing form. Thus, abolition of untouchability badly needs sincere efforts not only on the part of government, but also from the general public as well. The government with the active support of the public leaders social reformers and people in general must create a social order in which Harijans can live as rightful citizens of a free and democratic country. Until this condition is not created we can not claim to be a democratic sovereign country.  

4.9 UNDER THE INDIAN CONSTITUTION:  

The concept of social justice has been enshrined in the Indian Constitution. The Fathers of the Indian Constitution had the dream of new social economic and political order the soul of which was social justice, Dr. Ambedkar was the Chief Architect of the Indian Constitution. He was fully aware of the pattern and problems of the society and their conflicting interests. The Constitution is a monumental example of social engineering. Social justice is not defined in the Constitution but it is relative concept taking in its wings the time and circumstances. The people, their
backwardness blood, sweat and tears. The Constitution of India brings a renaissance in the concept of social justice when it weaves a trinity it in the prejudice, the fundamental rights and the Directive Principles of State Polices and this trinity is the “the core of the commitments to the social revolution”. This is the conscience of the Constitution. 22

The preamble of the Indian Constitution is the mirror of the social justice. It provides social economic and political justice to the citizens of sovereign. Socialist secular democratic, public of India. The first task of his Assembly was to formulate the objectives and the guiding principles of Indian Constitution. Therefore, the resolution of the preamble and objectives of the Constitution was discussed in the Constituent Assembly for nine days from December 13 to 19 and January 20 and 22 of 1947. 23

Before, the actual work of the Constituent Assembly had commenced in full seeing, Dr. B. R. Ambedkar proposed a memorandum on 15 March 1947 entitled “States and Minorities”. What are their rights and how to seem them in the Constitution of free India. Then proposed explained the aspect of social justice for minorities in free India. Although no cognizance was taken in this memorandum on the ground of academic interest. However, feeling expressed by Dr. Ambedkar in his memorandum was special protect the minorities and weaker section. Besides the proposed memorandum submitted, he was himself presided the meeting of Draft for the preamble of the Constitution. After long debate it was passed on 26 November 1947 by the Constituent Assembly. The preamble of our Constitution declares that
we the people of India, to having solemnly resolved to constituent India into “sovereign, socialist, economic democratic, republic” and to secure to all its citizen justice, social economic, political, liberty of the right and expression. Behalf faith and worship, equality of status and of opportunity and to promote among them all fraternity asserting the dignity of the nation. This indeed is a social justice granted by the Constitution of India, because it strives to create a “balancing wheel between freedom. Political and economic indeed, makes the survival of democracy”. Dr. Ambedkar concluded the debate on the preamble in these words. “I say that this preamble embodies what is the desire of every member of the house that this Constitution should have its roots its authority, its sovereignty, from the people that it has”.

Part III of the Constitution as fundamental rights is related to the social justice. The fundamental rights inculcate the sense of reconstruction and faster social revolution by generating equality amongst all, prohibiting discrimination on the grounds of caste, religion, sex, creed, place of birth, abolishing untouchability and making its practice punishable by law banning trafficking in human beings and forced labour. Moreover, the Indian Constitution has empowered the States to make special provisions for the advancement of any socially, educationally backward classes and also for the Scheduled Caste and Scheduled Tribes. 24

These provisions of the fundamental rights of the Constitution are related to the real concept of social justice. In this regard at the time
Constituent Assembly debate Dr. B. R. Ambedkar expressed his views that all of us desire that this unfortunate class could be entitled to the same privileges as members of the other communities without any let or hindrance from any body. He recreated that if any community or person will violate his provision it will impose duty on the State to stop such violation through the law, because the Constitution contains ample provisions. The important part of the social justice is the part of IV of the Constitution as Directive Principles of State of Policy. Although this part of Constitution is enforceable by any court. However, the principles laid down, there are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in ending laws. In this regard Dr. Ambedkar said,

“It is not intention to introduce in this part these principles as impious declaration. It is the intention of the assembly that in future both the legislative and the executive should not merely pay lip service. These principles enacted in this part but that should be made the bases of all executive and legislature action that may be taken hereafter in the matter of the governance of the country”.

The ideology of the Dr. B. R. Ambedkar influenced the Indian judiciary on the basis of this ideology Supreme Court of India declared that directive principles or State policy are enforceable with the fundamental rights. Court observed that the provisions in part – II should be interpreted having regards to the preamble and the Directive Principles of the State Policy. 25

In addition to these the Directive Principles of State Policy also expression in categorical terms the ideas of social justice Article 38 of the
Constitution requires the State interalia to minimize the inequalities in income and endeavour to culminate in equalities in status, facilities and opportunities, not only amongst individual, but also amongst group of people residing in different areas or engaged in different vacations. Article 39 of the Constitution requires the State to make available to all the citizens adequate means of livelihood, to distribute ownership and control of material resources. So as to sub-serve the common goal, to operate the economic system in such a way that it does not result in concentration of wealth and means of production to the common detriment, that there is equal pay for equal work, to protect the health and strength of workers men and women and the trade age of children against abuse and the citizen are not forced by economic necessity to enter avocations unsuited to their age and strength that children are not given opportunities and facilities to develop in as healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and mental abandonment.26

4.10 ARTICLE 15 PROHIBITION OF DISCRIMINATION ON GROUNDS OF RELIGION, RACE, CASTE, SEX OR PLACE OF BIRTH:

Article 15 provides for a particular application of the general principle embodied in Article 14. When law comes within the prohibition of Article 15, it cannot be validated by recourse to Article 14 by applying the principle of reasonable classification. It is when the discrimination is based upon one of the grounds mentioned in Article 15 the reasonableness of the classification will be tested under Article 14. 27
1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth are any of them.

2) No citizens shall, on grounds only of religion race, caste, sex, and place of birth or any them be subject to any disability liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainment or (b) the use of wells tanks, bathing ghats, roads and places of public entertainment or wholly or partly out of State funds or dedicated to the use of the general public.

3) Nothing in this article shall prevent the State from making any special provision for women and children.

4) Nothing in this article not in Clause (2) of the Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.

5) Nothing in this article or sub Clause (g) of Clause (l) of article 19 shall prevent the State from making any provisions, by law, for the advancement of any socially and educationally backward classes of citizens for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions related to their admission to education institution including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred in Clause (1) of the Article 30.
4.11 ARTICLE 16 EQUALITY OF OPPORTUNITY IN MATTER OF PUBLIC EMPLOYMENT:

Article 16(1) guarantees equality of opportunity for all the citizens in the matter of employment or appointment to any under the State Clause (2) says that no citizen shall on grounds only of religion, race, caste, sex, decent place of birth, resource or any of them, be ineligible for or discrimination against in respect of any employment or office under the State Clause (1) and (2) of Article 16 lay down the general rule that no citizens can be discriminated or office under the State on grounds only of religion, race, caste, sex, decent, place of birth or residence Art. 16(1) and (2) applies only in respect of employment or office under the State Clause (3), (4), (4A), (4B) and (5) of Article 16 provide four exception to this general rule of equality of opportunity. Clause (4) enables the State to make provision for the reservation of posts in government jobs in favour of any backward class of citizens which in the opinion the State is not adequately represented in the services of the State. The newly added Clause (4A) (added by 77th Amendment 1995) empowers the State to make any provisions for reservation in matters of promotions for SC and ST’s which in the opinion of the State are not adequately represented in the services under the State. 28

These provisions are towards social transformation and reconstruction of the Indian society which constitute the gist of social justice Dr. Ambedkar was of the view that social justice alone could lead to social harmony, social stability and patriotic feelings. He believed that a
democracy, which enslaves the working a class that devoid of education which is devoid of means of life, which is devoid of any power of organization, which is devoid of intelligence, is no democracy, but a mockery of democracy. The only safety against such people is to have the political rights which untouchable claim as safeguards against the tyranny of Hindu majority defined in the Constitutions. Are the untouchables extravagant in demanding this safety?

4.12 PROCESS OF CONSTITUTION:

India, after a long struggle success in attaining freedom on August 15, 1947, accordingly, Nehru enacted a board based national government, which included somewhat known non congress men in his cabinet. Dr. Ambedkar was also included in the ministry. He was given the portfolio as free India’s first minister of law. With transfer of power to India the Constituent Assembly became sovereign in all respects. Therefore, it shifted its focus on the important task of giving formal shape to the Constitution on August 29, 1947, the Assembly appointed one of its important committees namely the drafting committee with Dr. Ambedkar as chairman and six other members namely N. Gopalaswami Ayangar, Alladi Krishnaswami Ayyar, Saiyed Mohd. Sa’adiulla, K. M. Munshi, B. L. Mitter and D. P. Khaitan (Later N. Madhava Rao was appointed in B.L. Mitter’s place and T.T. Krishnamachari was appointed in the vacancy caused by the death of D. P. Khaitan).20
The work of the Drafting Committee was carried out painstakingly in 141 days. They prepared a draft Constitution under the leadership of Dr. B. R. Ambedkar who later on presented to the president of the Constituent Assembly on February 21, 1948, subsequently, the draft Constitution was circulated to all the then provincial legislatures and Indian public for their observations, comments and views. Meanwhile, the constituent assembly took a break.

Dr. Ambedkar formally moved the draft Constitution as prepared by the drafting committee for consideration in the Constituent Assembly on November 4, 1948; while presenting the draft Constitution, he outlined the silent features of the new Constitution and commanded it to the Constituent Assembly and the people of India for acceptance sign that it was “good enough to make in this country a start with”. This is what the father of the Constitution said in justification of the draft Constitution.

The draft Constitution as it has emerged from the drafting committee is bulky document. It contains 315 Articles and 8 Schedules. It must be admitted that the Constitution of no country could be found to be so bulky as the draft Constitution. It would be difficult for those who have not been through it realize it salient and special features.

The draft Constitution had been kept before the public for eight months. During this long time, friends, critics and adversaries have had more than sufficient time to express their reactions to the provisions contained in it.
Sri. T. T. Krishnamachari a colleague of his in the Drafting Committee, said in one of his speeches in the Constituent Assembly.

“The house is perhaps and are that of the seven nominated by you, one had resigned from the house and was placed. One had died and was not replaced. One was away in America and his place not filled up and another person was engaged in State affairs, and there was a void to extent. One of two people were far away from Delhi and perhaps reasons of health did not permit them to attend. So it happened ultimately that the burden of the drafting this Constitution fell upon Dr. B. R. Ambedkar and I have no doubt that we are grateful to him for having achieved this task in manner which is undoubtedly commendable.”

To read this today is an experience a kin to being present at the creation of the Constitution. As Shri. R. Venkataraman the former president of the India said “Dr. Ambedkar Anticipated every conceivable requirement of the new polity”. His words lighting the context and the intent of the provisions of the Constitution that are periodically being interpreted and re-interpreted by our courts. They also certain statutory warning that we must pay need to if we are to preserve the structure and the spirit of the Constitution. The unity of the nation and the welfare and progress of the people that it was intended to protect and advance.

Pandit Jawaharlal Nehru had discussed Dr. B. R. Ambedkar as “a symbol of the revolt against all the oppressive feature of Hindu and society”. Dr. B. R. Ambedkar symbolized the economic revolution and was instead of the symbol of revolt by all the oppressed and deprived sections the Indian society. A symbol that is to day inspiring millions of our people into widespread social and political action is still prevalent in Indian today. A passionate believer in democracy Dr. Ambedkar also believed that “Social and economic democracy is the fiber of political democracy”.
Dr. Ambedkar warned in one of his speeches in the Constituent Assembly,

“to leave equality between class and class, between sex and sex which is the soul of Hindu society untouched and to go on passing legislation on relating to economic problems is to make a force of our Constitution and a build of palace on a dung heap”.

It is this passion for equality and social justice which was expressed in different but equally impassioned forms by Mahatma Gandhi and Jawaharlal Nehru. The principles of social justice and equality were embodied in the Constitution. Dr. B. R. Ambedkar made Indian democracy not a fragile “people on a dung heap” but a social justice that has stood the stresses and strains of our myriad and massive problems. Dr. Ambedkar’s Constitution to this was of seminal importance.

Dr. Ambedkar believed that Constitution under, his chairmanship would serve this double purpose. Dr. B. R. Ambedkar had faith in the Constitution that he helped to devise for India. I feel, he said,

“that it is workable, it is flexible and it is strong enough to hold the country together both in peace time, and in war time. Indeed, if I may say, if things go wrong under the new Constitution, the reason will not be that we had the bad Constitution. What we will have to say is, that man was vile”.

His faith in the future of India and in the people India was profound. He told the Constituent Assembly,

“I know today we are divided politically, socially, and economically. We are a group of warning camps, and I may even go to the extent of confessing that I am probably one of the leaders of such a camp. But, sir with all this, I am quite convinced that given time and circumstances nothing in the world with prevent this country from becoming one”.

130
Dr. B. R. Ambedkar emerges as not only as a man of immense erudition and foresight, but he is also one who had faith in the people of India and in the future of India under a political system which is at once strictly Constitutional and socially and economically progressive.

Prime Minister Nehru, while paying a tribute to “Dr. Ambedkar in the Lok Sabha said Dr. Ambedkar had played the most important part in the framing of India’s Constitution”.

He told two facts:

1. Dr. Ambedkar has played a very constructive role in the making of the Constitution even before election to the Drafting Committee.

2. No one took greater trouble and care over the Constitution making than Dr. B. R. Ambedkar.

Dr. Rajendra Prasad, the president of the Constituent Assembly while showering tributes on Dr. B. R. Ambedkar said:

“Sitting in the chair and watching the proceeding from day to day I have realized as nobody else could have with what zeal and devotion, the members of the drafting committee and specially its chairman, Dr. Ambedkar, inspite of his indifferent health, have worked. We could now make a decision which was or could ever be so right as when we put him on the drafting committee and made him its chairman. He has not only justified his selection but has added luster to the work he has done”.

President Rajendra Prasad very carefully watched voluminous work done by Dr. Ambedkar inspite of ill health. He very affectionately mentions Dr. Babasaheb Ambedkar’s zeal and commitment in completing this incredible work of drafting the sacred Indian Constitution.
While drafting the historical Constitution of India. He had to keep aside his own demands regarding the uplift of the untouchables. He was deeply engrossed in the epic work of making the Indian Constitution in order to defend our country. He described the lapses on the part of Indian of loosing independent earlier in one of his speeches. Dr. B. R. Ambedkar said in his famous speech on 25th November, 1949,

“will history repeat itself? He asked the Honorable His anxiety was deepened, by the realization of the fact that in addition to their old enemies in the form of castes and creeds people have too many parties with diverse opposing creeds. He, therefore, urged the people of India to resolutely guard against the eventuality of parties placing their creed above the country or else our independence will be put in jeopardy a second time and probably be lost for ever. We must be determined to defend our independence till the last drop of our blood.”

A greater stress was been laid by our Constitution on equality which is a basic aspect in the jurisprudence of social justice. However, a question remains as to how to accomplish social justice following the path of equality in a society based on gross in equality. It is a very difficult task. The fact is that inequality leads to exploitation of the people while equality aims at liberation of the people. Equality in the Indian society is socially graded. It would mean elevation of the privileged castes and degradation of the under privileged castes and communities. Dr. Ambedkar held that equal treatment to unequal will certainly lead to future disparity. He also observed that equal opportunities to the privileged communities and backward classes alike in an age old society, which is based on inequality would lead to further in equality. According to him, the caste system has been the Anti thesis of a social order based on the principles of liberty, equality and social
justice. Corrective measures are very necessary for the rebuilding of the caste based society. The oppressed classes should be given special facilities and more opportunities to enable than to complete with the advanced sections of the Indian society. This principle can be well described as “corrective on remedial justice”. This has been included in the Constitution of India for the benefit of the Scheduled Castes and the Scheduled Tribes. Therefore, it is noticed that there are granted representation in Central and State legislatures. To improve their social and economic conditions the policy of reservation in services too has been adopted and implemented. These Scheduled Castes and Tribes have been given educational facilities to enable them to improve their quality of life. These remedial measures for the improvement their socio-economic conditions. The reason for providing the above mentioned facilities is that they have been victims of disagreeable in equalities perfect reacted and perpetuated over the centuries. Thus, Dr. B.R. Ambedkar made a sincere attempt to evolve the jurisprudence of social justice in the Constitution through these corrective measures and to as determined to eliminate all kinds of disparities and backwardness.

The caste system is indigenous in India and eventually and obviously responsible for the backwardness and dreadful conditions of the masses. In a country like India, it is supremacy that clusters of castes represent classes. This is the main reason for providing special opportunities and facilities to the socially and educationally backward castes and tribe in educational institution and public services. As a part of social justice the Mandal
Commission was appointed to examine the conditions of the socially and educationally backward classes. It came out with certain recommendations which reveal that the realities in India are very gloomy and dismal. It also revealed that a number of castes are still living in miserable conditions. One may say that Dr. Ambedkar’s pulse is seen in the mandal commission.

Dr. Ambedkar’s ultimate goal was to create a casteless Indian society based on social justice and equality. The reservation policy has been adopted not for preservation of caste, but for progressive elimination of caste disparities by positive upgradation of backward communities. 

It was Dr. B. R. Ambedkar was wanted to create a nation where there would be no contradictions in political, social and economic life. He was a true visionary who wanted political democracy in the real sense of the term. He was of the opinion that we cannot afford to have equality in political life and inequality in economic life. Dr. B. R. Ambedkar questioned

“how long shall we continue to live this life of contradiction? How long shall we continue to deny equality in our social and economic life? He rightly apprehended that if we continue to deny it for long we would so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible movement or else those who suffered from inequality will blow up the structure of political democracy which this assembly has so laboriously built up.”

The Preamble of the Constitution of India:

It should be made clear here that the preamble is not an integral part of any Constitution. However, at the same, it is a necessary constituent of a Constitution, because it broadly highlights the purpose and objects that the Constitution seeks to achieve. In fact, the preamble is considered a kind of
‘key’ to intentions or purposes of the framers of the Constitution. The preamble to the Constitution of India reads as follows.

“We, the people of India, having solemnly resolved to constitute India into a sovereign democratic republic and secure to all its citizens, justice, social, economic and political liberty, of thought, expression, belief, facts, and worship. Equality of status and of opportunity fraternity, assuring dignity of the individual and the unity of the nation”. In our Constituent Assembly … Do hereby adopt. Enact and give to ourselves this Constitution.33

The above preamble is based on the objectives of the resolution adopted by the Constituent Assembly in January 1947, the Drafting Committee made two important changes while final shapes was being given to the Constitution. This made the preamble more meaningful and reflective of the aspirations of the people. The Drafting Committee replaced the independent by the word democratic added a new Clause dealing with fraternity which was not be found in the objectives resolution.

In fact, various other articles in Part IV of the Constitution (Article 36 to 51) are also direct towards securing a new social and economic order imbued with justice. Thus, there are provisions for right to work, to education and to public assistance in certain cases, for just and maternity relief for promotion of educational and economic interests of weaker sections for separation of judiciary from executive etc. Political justice means equal shares to all citizens in the political process without any distinction of
race, caste, creed, religion or place of birth. Article 16 guarantee equality of 
opportunity in makers of public employment and Articles 325 and 326 
provide for equal rights to all adults to participate in elections.

On 26th January 1950 we are going to enter into a life of 
contradictions. In politics we will have equally and in social and economic 
life we will have in equality. In politics, we will recognizing the principles of 
one man vote and vote value. In our social and economic life, we shall by 
reasons of our social and economic structure, continue to deny the principle 
of one man one value. 34

Village Panchayats System:

The directives speak about that the State shall take steps to organize 
village Panchayats and endow them with such power and authority and 
may be necessary to enable them to function as units of self government. 
In view of this directive, union government finally got the Constitution 
Amended by 73rd and 74th Constitution Amendment Act of 1992, 1993 
addicting Schedule XI and XII in the Constitution of rural and urban self 
governments respectively. The Panchayats bodies have acquired 
Constitutional status and union government can now direct the States to 
enact the laws having uniform provision for the governance of the 
Panchayats Raj. As a result now, most of the States either enacted fresh laws 
or have modified the existing laws in tune with basics principles and 
objective now contained in Article 243 and these new Schedules. 35
Protection of Labourers, Children, Women and Persons Belonging to SC/ST:

The Supreme Court has issued directives from time to time to the State to enact the laws for the welfare of the labour class. The following provisions specifically touch the lives of the above group of persons.

Article 41 speaks that

"the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work to education and public assistance in cases of public unemployment, old age, sickness and disablement, and to other cases of undeserved wants".

This speaks the nature State as a welfare entity. The Constitution not only expect from the government that it should provide the means of livelihood to all able bodied persons but also to take care of aged persons, who are helpless. It also specifically urges the States to ensure the education, the elementary as well as higher. In a recent case, the Supreme Court had held education as a fundamental right as implied under Article i.e., life and liberty. 36

Promotion of the Education as a Potent Means of Social Justice:

Indian society is a caste ridden society. In every walk of life, things start from the caste. Caste has become a mental status of the people. Everybody speaks against the evil of the system. However, it has been seen that is the education by which a man acquire power and necessary strength to fight against the social evils. On the other hand, it also works in negative form. People having good education desist from observing caste system. Dr. Ambedkar while stressing the need of education to improve the
degraded conditions of oppressed class said that there are only three powers which alone are important in this world i.e., mental power, money power and man power. Article 45 speaks about compulsory education to all children until they complete the age of fourteen years. In pursuance of this directive, some States have declared free education for girls even up to XII standard, which is collected as basic education.

Even after fifty years of independence of country’s literacy rate as per 1991, census is 52.11 percent and women literacy is only 39 percent. The percentage of literacy among weaker sections of the society including Scheduled Caste and Scheduled Tribes is much lower. We still have nomadic tribes in this country who are always on the move in search of their livelihood. Labours in sugar factories and brick making industry also face the same fate as the nomadic tribes. There is further difference in quality of education in rural and urban areas. Article 46 specifically imposes responsibility on the State to undertake education for weaker sections such as SC/ST. The Articles run as follows. The State shall promote with special care the educational and economic interest of the weaker. 37

4.13 CONCLUSION:

Emancipation is thus, first an eternal process. It involves a process of liberation of the self the old prejudices. Chhatrapati Shahu Maharaj. His first step to this effect was the reservation of 50 percent of posts for backward classes candidates. This was indeed a land mark in his career as a social reformer.
The Constitution of India makes a provision, for the abolition of untouchability a social evil practiced in this country from immemorial, Article 17 provide that untouchability is abolished and its practice in any form is forbidden.

The State shall promote with special care the educational and economic interest of the weaker sections of the people of the Dalits and shall protect them from social injustice and all forms of exploitation, Article 46 of the Constitution State.

In the preamble, the Constitution vows to secure for all Indian citizens justice liberty “equality of status and opportunity”. “Fraternity assuring the dignity of the individual”, Article 15 prohibition of dissemination has obvious references to untouchability when it mentions “access to shops, restaurant hotels, use of wells bathing ghats roads”, we must recall here that the Constitution and the laws of independent India have not banned castes they simply out lawed untouchability and made it a punishable offense Article 17 proclaims that “untouchable is abolished and its practice in any form is forbidden”.
REFERENCES:


2. Jean – Lue Racine Josiane Racine, Dalit Identities Aid the Diabetes Oppression and Emancipation in a Changing India: Tamil Case and Beyond, p. 8.


5. Ibid, p. 150.


10. Ibid, pp. 7-8.


17. Ibid, p. 130.


22. S. Guruswamy Dr. Ambedkar View on the Concept of “Protective Discrimination” Relative to Women Scheduled Castes and Scheduled Tribes Under the Contribution of India with Special Reference to Karnataka State Unpublished a Thesis, Department of Studies and Research in Law, University of Mysore, Manasagaugothri Mysore, July 2009.


30. Ibid, p. 95.