Chapter 1

Introduction

1.1 Introduction

In India, it is axiomatic that the Indian society is arranged hierarchically according to the nature of work they perform. The Indian society is caste-ridden. The word Caste is of Portuguese origin, the Sanskrit equivalent being ‘Jati’, which means race (R.K. Pruthi, 2004). The different caste groups are the Brahmins (teacher, scholar, and priest), the Kshatriyas (kings and warriors), the Vaishyas (traders, landowners, and some artisan groups), and Shudras (agriculturists, service providers, and some artisan groups). Other sub-castes are more than 3000 in number and they are called "Untouchables" or "Dalits". (Himansu Charan Sadangi, 2008). The Dalits are socially excluded by the above groups. The word 'Dalit' denotes, the 'Dal' which means, 'to break' or 'broken and downtrodden'. The clusters of epithets include Out-Castes, Exterior-Castes, Depressed Classes, Untouchables, Ex-Untouchables, Harijans, and Dalits. (Devakumar J, 2007). They are also called Scheduled castes.

The Indian caste system is an extreme form of social stratification (Louis Dumont 1980), where the scheduled castes are facing the problem of untouchability. It is one of the biggest challenges in Indian democracy and about 16.21 percent of India’s population is declared as untouchables. Such discriminations are not only in the Hindu religion, but also in plethoric references to the social condition of scheduled castes after conversion into other religions. The same types of discriminations have been confronted by the converted Christians, Sikh, and Muslims (Elze Sietzema-Riemer, 2009). Incessant human rights violations have been affecting the different categories of Scheduled castes.
In India, the scheduled caste population, according to the census of 1881 is simply described and enumerated as castes in the various provinces and states. The *Varna* categories were often used to group them and so the Dalit *jatis* generally appeared at or near the end of the lists. The 1891 Census, however, adopted a standard classification of castes according to the occupational categories as field laborers, leather workers, scavengers, watchmen, and village menials. The 1901 Census classified Hindu castes, in the order of social precedence, "as recognized by native public opinion". In 1931, J. H. Hutton, the census commissioner, chose to use the term "exterior caste". (Michael. S. M. 1999)6.

J. H. Hutton (1931) set forth nine criteria to determine which castes were to be scheduled. The most important criterion, he said, was whether the caste suffered (1) civil disabilities like denial of access to roads, wells or schools. Five more were religious and social criteria: whether the caste (2) caused pollution by touch or proximity; (3) was denied access to the interior of ordinary Hindu temples; (4) was denied the services of “clean Brahmans”; or (5) the services of the same barbers, etc., who served high caste Hindus; and (6) was subject to the rules concerning drawing of water. These six criteria were meant to include castes. The remaining three were meant to exclude them. The caste was not to be scheduled if (7) an educated member was treated as a social equal by a high caste man of the same education; or if pressed only because of its (8) occupation or (9) ignorance, illiteracy or poverty, “and but for that would be subject to no social disability.” (Devakumar J, 2007)7.

After this, the term scheduled caste was used by the Simon commission for the first time in the Government of India Act, 1935. The Act defined the term Scheduled Caste as the “castes, races and tribes corresponding to the classes of persons formerly known as the depressed classes as His Majesty in Council may specify”. After this Act the British Government issued the Government of India
(Scheduled Castes) Order in April, 1938 which specified certain castes as scheduled castes in different provinces of India (Mohinder Singh, 1996). After, the adoption of the Indian Constitution, the scheduled castes were included in Articles 330 to 342 in the Indian Constitution (Shanti Swarup Gupta, 1991).

Eventhough the Indian Constitution has no classification of citizens, it has a list of scheduled castes and scheduled tribes. Indian Constitution has identified a group of people as socially marginalized and give reservation to them in the legislatures and positions in governments. Part III of the Indian Constitution guarantees to every citizen the fundamental rights, which include the right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and Educational rights, and right to constitutional remedies. It also accepts the justification for giving reservation for Scheduled castes and scheduled tribes.

Even after 66 years of enactment of the Indian Constitution, in most parts of India, the fundamental rights are not accessible to a large number of scheduled caste people. To many, those fundamental rights are only in the book of law and in the day-to-day life they are denied fundamental rights and many other legal rights. According to Upendar Baxi (2007), in India, there are two sets of law. Namely, constitutional laws and social laws. They co-exist and sometimes social laws are more powerful than constitutional laws. Social laws are enforced by the society on the ground level. The constitution and legal laws are expected to be enforced by the administrative machinery. As the administrative machinery in India is not always very strong, the constitutional laws are not properly enforced. Sometimes social and constitutional laws are in contradictions and in such cases, social institutions are not ready to accept the constitutional laws. Many times, social institutions work against the enforcement of constitutional laws. After the enactment of the Indian Constitution,
the interests of the Scheduled caste have been safeguarded by various laws and regulations. They are shown in the following table:

**Table 1.1. Legal timeline of laws for the protection of rights**

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Acts and Rules</th>
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<tbody>
<tr>
<td>1.</td>
<td>Protection of Civil Rights (Anti-Untouchability) Act, 1955</td>
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<tr>
<td>2.</td>
<td>The Immoral Traffic (Prevention) Act, 1956</td>
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<td>3.</td>
<td>India’s Bonded Labour System (Abolition) Act, 1976</td>
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<td>4.</td>
<td>The protection of Civil Rights Rules, 1977</td>
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<td>5.</td>
<td>The Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989</td>
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<td>6.</td>
<td>The Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Rules, 1995</td>
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<tr>
<td>8.</td>
<td>The prohibition of employment as Manual Scavengers and their Rehabilitation Act, 2013</td>
</tr>
</tbody>
</table>

Source: National Commission for Scheduled Castes, GOI. (http://ncsc.nic.in/pages/display/19)

Eventhough the Indian Constitution has guaranteed freedom of movements, freedom of profession and occupation to a great extent, the social laws operate against their freedoms on the ground level. In most of the villages, the fundamental rights, particularly the right, which guarantees the free movement (Article 2 of the Indian Constitution) are openly violated. Particularly, access to the common property in rural areas is denied in most parts of India. It is widely recorded that in most parts of India, the Scheduled Castes are denied access to commons and public utilities. Like, Temple, Temple car, Water taps, Graveyard, Pond, Roads, Thrashing yard, Bathing ghats (River), Minor Forest, Public Schools, Playground, Canals, Car stand, Anganwadi, village administrative officers’ office, village Panchayat officers’ office and primary health centre. They have been discussed by various researchers (Sukhadeo Thorat, 2016¹¹; Gupta P.R. 2016¹²; Palanithurai. 2009¹³; and Hinansu Charan Sadangi, 2008¹⁴).
1.2 Statement of the problem

In most of the Indian villages, the scheduled castes’ access to common resources are either restricted or denied. They are not able to access commons as equal members of the community. Even though scheduled castes’ access to the commons is reported in urban areas, the problem is more severe in rural areas (Robert F Kennedy, 2012). The states and the administrative machinery have legal obligations to guarantee the right of access to commons to scheduled castes but they fail to fulfill their legal obligations. The discrimination against scheduled castes exists in various forms and decrees still practised in most parts of India particularly in villages of India. In cities, the discrimination of scheduled caste is indirect and covert. In rural areas, it is direct and overt. In rural areas, discrimination is not the end, but it is only a beginning and continues in the process of exclusion. Discrimination leads to frequent atrocities against scheduled castes.

Atrocities are also in various forms and intensity. Scheduled castes are expected by the dominant castes to tolerate discrimination and atrocities. Indian villages have an apparent social harmony and peace. Whenever scheduled castes resist discrimination, oppression, and atrocities by the dominant castes, conflicts occur. As the state and administrative machineries are more interested in maintaining status quo, they do not have the inclination to take up the issues related to discrimination and atrocities against the scheduled castes for legal action. For the administrative machinery, maintenance of law and order is more important than ensuring justice. The political executives and elected representatives are also not interested in taking up scheduled caste issues. In the electoral democracy, political parties need the support of the majority communities to win the elections and as such, they are not ready to antagonize the majority community by supporting the scheduled castes (Ragupathy, 2013). So, they are not ready to take up the cause of scheduled castes. The entire
in institutional arrangements of the state are not ready to take up the scheduled castes’ issues as per the constitutional and legal requirements. In this process, the legal and constitutional rights for scheduled castes are compromised.

The rural society is still dominated by the feudal ideas and feudal institutions. Untouchability is a very strong feature of Indian tradition and it is the core of Indian feudalism. The traditional feudal institutions are perpetuating the idea of untouchability and discriminations of scheduled castes. In most of the Indian villages scheduled castes are not able to live as equal partners and they are not permitted to live and to own houses in the main village. Exclusion of scheduled castes in separate settlements is the common practice in villages. So, exclusion is the hardcore feature of the Indian villages even today. The village community does not treat scheduled castes as part of the village community and they are not included as the members of the village community. They are still outcastes.

The village community does not consider scheduled castes as members of the village community. Rather they are considered as outsiders. The commons in the village are considered as the common property resources of the village community and only the dominant communities are entitled to use them. As the scheduled castes are not members of the village community, by default, scheduled castes are not allowed to use the commons of the villages in most parts of India. The dominant castes consider the commons as the common property of the dominant castes in the village and they have exclusive rights over the common property resources. As a result, access to commons to the scheduled castes is denied by the local community as per their traditional systems and socio-cultural practices in the management of commons.

Another important reason for the denial of access to commons is related to ownership of the properties and common resources.
Traditionally, the scheduled castes are denied the rights to own properties in different forms. They remain as assetless and landless. Their access to commons is indirectly related to ownership of access and, in particular the ownership of land in villages. Most of the traditional institutions are controlled by landowning class and the landless scheduled castes are disempowered and excluded from their legal rights to access the commons.

The minority status of the scheduled castes in the Indian villages is a challenge to the process of access to their legal rights. The people of scheduled castes are easily denied access to commons by the majority dominant caste groups. In the process of scheduled castes' access to commons, their numerical strength plays a critical role. The state machinery is not willing to antagonize the majority communities and in the name of maintenance of peace, law and order in the society. Rather, they prefer to compromise the rights of the scheduled castes to access the commons. The elected democratic governments are also not ready to enforce their legal responsibilities towards ensuring the scheduled castes' access to commons. The elected government is more influenced by stronger groups and the influence of the minority like scheduled castes is weaker compared to that of the majority community. As a result, even after seven decades of independence the basic and fundamental rights are not guaranteed by the state and administrative machinery.

In India, the civil society has played a critical role in building awareness on issues related to the exclusion of scheduled castes and restriction of denial of access to commons. These institutions have played a significant role in mobilizing scheduled castes and empowering them in their struggle for their constitutional rights, in particular, their access to commons. Some of the social movements have also taken up the cause of scheduled castes and the scheduled castes' access to commons. The organizations and political parties which support scheduled castes have a long history in fighting for the
rights of scheduled castes. In spite of the efforts of all these institutions and organizations, scheduled castes are still not able to exercise their fundamental rights. In most parts of India, their access to commons is restricted and in fact denied on various socio-economic grounds.

In this context, when the constitutional, legal and political systems fail to enforce the law and guarantee the constitutional rights, the role of Judiciary becomes paramount. The constitutional and legal remedies to protect the fundamental rights of scheduled castes, particularly their rights to access common, have been enforced by the Judiciary and often the courts delivered justice to the people who belong to scheduled castes. Judicial interventions have helped the scheduled castes to enjoy their constitutional rights in regard to access to commons. Against this background, this study is an attempt towards analyzing the status and outcome of the judicial intervention in scheduled castes’ access to commons in Tamil Nadu.

1.3 Review of Literature

There are many studies conducted by various researchers on the Scheduled Caste issues in various parts of India. The studies have presented the condition of Scheduled Caste and the noxious practices against the Scheduled caste community. Secondly, a plethora of researches on the issues of scheduled caste’s access to the commons are discussed. Thirdly, the studies pertaining to the institutional role towards the scheduled caste issues are presented. The various issues of Scheduled Castes discussed in various journals are listed below:

Nagaraju Vadapalli (2015)\(^\text{17}\) has analyzed the social, economic, and political rights violation in different cases covering Andhra Pradesh, Bihar, Gujarat, Rajasthan, and Tamil Nadu. The study has presented the Constitutional provisions guaranteed about human values for all the subjects excepts the Scheduled Caste by the
dominant caste. The Dalits confront various discriminations from the dominant castes in village. The author concludes that because of the exploitative social order, violence continues.

**Micheal M (2007)** has discussed the historical perspective of the scheduled caste problems especially untouchability in four parts. Primarily, it deals with the historical origin and development of untouchability in Indian civilization. Secondly, it contests mainstream explanations and shows that the Scheduled Caste vision of Indian society is different from that of the upper castes. Thirdly, it offers a critique of the Sanskrit perspective of traditional Indian society, and fieldwork-based portraits of the Hinduisation of Adivasis in Gujarat, Scheduled Caste patriarchy in Maharashtra and Scheduled Caste power politics in Uttar Pradesh. Finally, it concentrates on the economic condition of the Scheduled Castes.

**Vivek Kumar (2006)** has critically analyzed the political and social exclusions of scheduled castes. This study reveals that some groups did try to pull them towards violence and armed struggle but these attempts did not evoke any response from the community. The author has documented the different stages of the struggle of Scheduled Castes for their human rights which started alongside with the Indian struggle for freedom. According to him, their struggle commenced with the assertion to represent themselves rather than being represented by somebody else. The study has briefly touched upon the involvement of minorities within the fold of Scheduled Castes’ movement. Also, it seeks empowerment asserting their social and political rights and privileges.

**Thomas Giddens (2015)** has discussed the discrimination against the Scheduled Castes and offered legal remedy in the India context. A legal affirmative action policy was given in the Constitution of India in 1950. The study addressed the historic discrimination and upliftment of the downtrodden. The legal elements are precise and
draw on the historical struggle for equal treatment for all castes. The Indian Constitution suggests legal protections against caste discrimination. This graphic account is particularly concerned with the implementation of legal remedies, and the gaps between legal protection and discrimination, violence and atrocities experienced by the Scheduled Caste.

Senapati Tushar Kanti (2014) has critically analyzed the magnitude of the human rights violation. This paper deals with the conceptual category of Human Rights and Scheduled Caste and its historical underpinning for being discriminated. It also deals with the sociological and legal constraints for Scheduled Caste getting justice. Further, it also endeavours to trace the compatibility of Human Rights with the social order in villages and has tried to trace the nature and magnitude of Human Rights violation against Scheduled Castes. Sometimes the whole Scheduled Caste community in the village is socially boycotted. The author has insisted on the democratic movement from the grassroots level to be launched against discrimination and atrocities as they are more apparent in rural areas. These types of caste conflicts have been inflicted upon the Scheduled Castes because of their caste identity and the Hindu scriptures.

Muzaffar Assadi and Rajendran S (2000) have examined Kambalapalli case where seven Scheduled Caste members were killed by a dominant caste. He claims that the incident represents two things: one, the changing nature of caste conflicts at different structural levels and two, new forms of identity formation, mainly among the sub-caste groups leading to a vertical split within Scheduled Caste politics or the movement. In the latter case, Karnataka has followed the path of Andhra Pradesh where the debate on the issue of reservation has vertically divided Scheduled Caste politics into sub-caste politics of Malas and Madigas. The caste conflicts or contradictions in Karnataka have changed over the years.
Ashalatha P (2014)\(^{23}\) in an article, has asserted that the atrocities on the Scheduled Castes lead to gross violation of Human Rights in a larger context. An attempt was also made to identify the reasons for perpetuating atrocities despite the various safeguards provided under the Constitution and legislations enacted by the Parliament in different periods. The research revealed that the hardship of Scheduled Caste and failure of the legislations which were enacted to protect the interest of Scheduled Caste are the results of the continuing belief and faith of the upper caste people in the sanctity of the institution of the caste system and untouchability which is legitimized by Hindu religious scriptures. The author wanted the citizens to be united, nationally and internationally, to force the Indian government to rise above an entrenched caste-mentality and to properly enforce its laws, implement its policies, and fulfil its responsibility to protect the basic human rights of all of its citizens.

Singh Swapnil (2013)\(^{24}\), has discussed the characteristics and features of caste system and other issues related to the caste system in the contemporary situation. Subsequently, it focused on the characteristics of caste which are still continuing today, its features which have changed partially and also which have undergone complete changes. This paper also focuses on various Indian intellectual interrogations which talked about caste as an evil meant to be destroyed and eliminated from our society. This paper is an effort to bring to the fore the deeply embedded institution of caste in India and moreover, the kind of importance given to it and the role that one’s caste plays in one’s day to day life.

A Report on Crimes in India (2013)\(^{25}\) has discussed the status of scheduled caste access to various commons. It was reported that the cases against Scheduled Caste were 39408 registered across the country by the end of the year 2013. It is 17 percent higher as in the year 2012, a total of 33655 crimes against Scheduled Castes were registered in the country. A total of 60,527 persons (70.6 percent) out
of 85,748 persons (including persons under investigation of the previous year), were arrested for committing crimes against Scheduled Castes, charge-sheeted by the police, accounting for the charge-sheet rate of 70.6 percent. A total of 8,719 persons were convicted by the court, out of 39,691 persons against whom trials were completed, representing a conviction rate of 22 percent.

Robert F Kennedy (2012) conducted study on untouchability practices in 1,589 villages from 5,462 respondents in Gujarat on the issue of untouchability. The study presents both a general and multi-disciplinary view of current untouchability practices across rural areas in Gujarat and provides evidence to refute the belief in untouchability. In reference to practices regarding touch, seven practices appear on the index. This study offers little proof that the Scheduled Castes were not asked to sprinkle any water on the dominant castes and even at common bathing places or when Scheduled Caste members were washing their hands or clothes. Defilement was considered to have occurred when a Scheduled Caste accidentally touched the dominant castes. They were not allowed to hire cooking pots for wedding ceremonies, and to avail themselves of services of local Barbers, Potters, and Tailors.

Sampath (2012) has analysed the problem of Scheduled Castes in holding the Panchami land and also the problem in having access to the commons in Tamil Nadu. He pointed out the atrocities perpetrated on the Scheduled Castes in various forms throughout the state and also the details of many historic struggles against them. The Panchami land allotted to Scheduled Castes have been occupied by persons dominant castes who refuse to return them. Moreover, Panchayats led by Scheduled Castes are also discriminated against by the state government, which refuses to allocate funds. The dominant castes do not allow the elected Panchayat representatives from the Scheduled Caste communities to function. The Scheduled Castes are
also not allowed any share in the common property of the village. This is also highlighted by the author.

**Hanchinamani Bina B (2001)** has analysed the human rights violation against Scheduled Castes in India in the day-to-day life. Despite living in a country whose rich civil rights history has inspired freedom movements around the world, many of India’s 160 million Scheduled Castes, or “Untouchables,” still suffer from egregious caste discriminations. In addition to being targets of physical and sexual violence, Scheduled Castes are often required to eat and drink from separate containers in restaurants, attend separate religious services, walk miles to get water, and work in degrading conditions. Although Indian law contains extensive protections against such caste discriminations, the government still fails to enforce its domestic and international obligations to ensure Scheduled Caste rights. Such mistreatment is inexcusable under both India’s domestic laws and its obligations under international law. The major concern is until the atrocities against Scheduled Caste end, the international community ought to continue to publicize the conditions of India’s disenfranchised population and encourage India to live up to the standards established in its domestic laws and international obligations.

**Akepogu Jammanna and Pasala Sudhakar (2014)** have discussed the atrocities against Scheduled Castes still persisting despite the various provisions existing to safeguard. The study also has discussed the paradoxes and contradictions of Scheduled Castes. The author’s intrinsic human rights concern was interesting to note. They have themselves become the assets owned by a few and denied to many like the other material assets such as land, capital and technical and entrepreneurial skills. The author found that the caste based atrocities are still persisting in the world’s largest democracy despite the legal safeguards and the human rights of this group are under a cloud of danger which quite often burst upon them making
them vulnerable and denying them their right to be human. Significantly, Majority of women from scheduled castes suffers from suppression and violation of human rights.

**Subhadra M C and Joan P M (2013)** have explored a series of findings. Those at the bottom have their own interpretations and follow a rationality that is tutored by their own life conditions and not what is fed to them from the top. These views from the bottom are indicative of the way in which the oppressed live their lives, make critical judgments, and also stage protests, both symbolic based on real violence against the oppressive system. The author adds that though people of ‘liberal’ views accept their colleagues of low castes, almost everyone would protest if their children opted to marry a Scheduled Caste member.

**Paramjit S Judge (2012)** has explored the alternative strategies adopted by the Scheduled Castes to improve their social status in India. It has been argued that in these stages different strategies were employed by the Scheduled Castes. They have been facing two kinds of challenges. The first is emerging from outside the milieu of Dalithood and the second is the challenge of inclusion. Until today, they have remained excluded in various ways. The second challenges emerge from within the Scheduled Caste discourse is the challenge of exclusiveness. The Scheduled Caste discourses are bond enough and cover different aspects of the existential conditions of the Scheduled Castes. The author mapped out various strategies and considered the four historical stages, namely, medieval period, renaissance, postcolonial modernity and post modernity.

**John C.B Webster (2001)** has narrated the Scheduled Castes situation and indicated strategies of Scheduled Castes on Political, economic, social and religious to attain dignity, equality, justice and respect under a common name. There are Christian Scheduled Castes who are staunch advocates of each of the four Scheduled Castes
strategies described above and are working hard at implementing those strategies. The author found no evidence that one strategy, or even one combination of strategies, has become clearly predominant in Scheduled Castes Christian circles. Over the past two decades, Christian Scheduled Castes have been working more closely with other Scheduled Castes to achieve common aims and objectives than was true earlier. Scheduled Castes solidarity is an end and means much desired but difficult to achieve, yet many Scheduled Castes Christian leaders have come to the conclusion that their Christian hopes for their own people cannot be realized in isolation from the realization of the hopes of all the Scheduled Caste people.

Extensive literature reviews of existing research on the issues of Dalits access to commons are enumerated. The studies have listed the various forms of discriminations against the scheduled caste communities while they access the commons and the public utilities in their areas.

**Gupta P.R. (2016)** has discussed the various constitutional provisions to safeguard the Scheduled Castes. The State cannot discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. This removes the barrier of discrimination to ensure equality in society. It means no person can be discriminated on the basis of religion, race, case, sex or place of birth. Every one has equal access to public places like public parks, museums, wells, bathing places temples, shops, public restaurants, hotels and places of public entertainment without any discrimination.

**Daisy Deomampo (2016)** has explained the various discriminations against the Scheduled Castes. The author has confirmed that the Scheduled Castes have historically been segregated and denied access to education and public places such as temples, drinking water wells and restaurants. Caste bears racial connotations and carries with it a colonial history in which Indians have historically
confronted caste and race. The author has highlighted the fact that B.R. Ambedkar, a leader of the Scheduled Castes movement, called for the conversation of Scheduled Castes to Buddhism as an act of rejection of the caste-based system that relegated them to the lowest rungs of the hierarchy.

David Keane (2016) has identified and condemned caste-based discrimination against Scheduled Castes in education, employment, marriage, access to public places including water sources and places of worship, the committee express serious concern about the harmful effects of this prevailing form of discrimination on the physical, psychological and emotional well-being of the Scheduled Caste children.

Peniel Rajkumar (2016) has discussed the noxious practices of certain classes against Scheduled Castes. Their historical consciousness in India depicts even greater and deeper pathos than is found in the deuteronomic creed. They did not enjoy the nomadic freedom of the wandering Armenian. As an outcaste, they were denied entry to the temples and places of worship. The Several Scheduled Caste theologians have recognized their identity as an important theological category, and explicated various theological motifs and paradigms which creatively engage the issue of Scheduled Castes identity affirmation. The concept of historical Scheduled Castes consciousness was the primary datum for a Christian Scheduled Caste theology because it was related to the question of their identity.

Baldev Raj Nayar (2015) has highlighted that the Indian Constitution abolished untouchability and prohibited discrimination against any citizen on grounds of caste whether in public employment or access to shops and public places. This study is a full-scale study of Punjabi politics since Indian independence and has discussed the major political problem. The study has also discussed discrimination on the basis of religion as well as on ground of race, caste, sex, or
place of birth is on exception is made for the advancement of socially backward classes. Equality of opportunity is provided for in public employment.

**Sukhadeo Thorat and Nidhi Sadana (2014)** have discussed discriminatory practices when access to common property resources like grazing land, fishing ponds and other resources provided important sources of livelihood and a subsistence base to scheduled castes. Moreover, the dominant castes have developed a stronghold on the commons. In some cases, commons located in the Scheduled Caste areas had been encroached upon by dominant castes. Efforts to regain such lands or to gain access to the village commons by scheduled groups resulted in the implementation of severe punitive measures against scheduled caste by higher castes. Exclusion and discrimination occur in terms of access to government, public institutions, water bodies, grazing land and other common lands.

**Suryakant Waghmore (2013)** in a study has stated that the Scheduled Castes are kept away from equal access to the village road, temple, Panchayat building or village squares. Violence against Scheduled Castes has can be viewed as a reaction against their claims to citizenship rights in public spaces. They are also not allowed to walk with footwear along the road leading to the temple. Most conflicts between Scheduled Castes and dominant castes are still associated with the 'mode of Scheduled Castes entry' into the village.

**Mukulika Banerjee (2014)** has discussed how far Indian democracy has gone in addressing the caste issues. The question that remains is whether Scheduled Castes have had the opportunities to achieve a greater economic and social equality. The author has answered the provocative question: has the position of Scheduled Castes improved or deteriorated in contemporary India? The author noted caste-based differences in the terms and conditions of contracts, prices, and the services in education, housing, health,
access to common property resources, to public space and to other infrastructure.

**Sakarama Somayaji and Smrithi Talwar (2011)**\(^{41}\) conducted an empirical study in six villages. The results indicate that there has been a substantial loss of common property compared with the pre-displacement situation. In the pre-displacement situation, every household had access to grazing land, but, in the relocated site, only 29.3 percent of other castes, 37.6 per cent of Schedule Caste, and 39.4 per cent of Schedule Tribe, families have got access to grazing land.

**Palanithurai (2009)**\(^{42}\) conducted a study in the districts of Cuddalore, Theni, Perambalure, Sivagangai and Madurai. The study found the prevalence of two tumbler system. In some of the villages, the Scheduled Castes are not permitted to enter the temples. Also, discrimination in school is in vogue. They are also discriminated in the public distribution system and public health centres. In many of the villages, they are not allowed to use the common properties and government properties. The Scheduled Castes are asked to carry the dead animals and cremate the dead bodies. They are also not permitted to dress their hair in the saloons situated in the village.

**Jayshree Soni (2009)**\(^{43}\) conducted a detailed study on the water accessibility of Scheduled Castes in the villages of Gujarat. This paper examines the available water sources of the village and water accessibility to the Scheduled Castes in contemporary Gujarat. The Scheduled Castes women demanded separate water spot or sumps for them to avoid quarrels with other dominant caste women something that always occurred at the time and locations of water collection. It has been found that the degradation of natural resources, like water, due to unsustainable development model of state and mismanagement of water sources, leads to disempowerment
to the scheduled caste people particularly women, in drinking and domestic water sector.

**Sukhadeo Thorat (2009)** has asserted the status of Scheduled Castes in the country by presenting all India and state level analyses of various human development and related social and economic indicators. In connection with commons, this study confirms that the grazing land, fishing ponds and other resources are supplementary sources of livelihood in the rural areas. These sources are particularly important for the Scheduled Castes because a majority of them are landless, and these commons provide them with an alternative livelihood support and a subsistence base. The data also indicates that the Scheduled Caste faced exclusion and discriminatory treatment in access to village level commons.

**Hinansu Charan Sadangi (2008)** has made a detailed scholarly analysis of the Scheduled Castes situation. It describes the unsurmountable difficulties and unspeakable pathos faced by the Scheduled Castes since time immemorial and has classified them into seven chapters. The study elaborately throws light on historical attitudes and discrimination against them and the various reform movements notable leaders. The author has pointed out the atrocities perpetrated among them in daily lives, in the places of worship, education, housing, land ownership, use of common property resources such as wells and village water taps, roads, buses and other public places.

**Jagan Karade (2008)** has discussed the caste-based discrimination in the ownership of land resources in rural areas. The Scheduled Castes, who are placed at the bottom of the social hierarchy, are deprived of rights through the process of social exclusion. They face discriminatory treatment in having access to common land resources like grazing land. Further, this study has prescribed certain protection and safeguard for the Scheduled Castes
and scheduled tribes with the objectives of promoting their education, economic and political interests. The author has suggested providing various plans and programmers offering them opportunities to develop.

David Mosse (2006) has highlighted the condition of Scheduled Castes in many parts of the country with respect to access to the common property. The village level systems of irrigation control are shaped, not by kin or caste-based rules of allocation, but by vertical relationships of control and dependence between hereditary headmen and Scheduled Castes water turners and channel watchers. The Common properties such as tanks were strategic sites in several ways: first, members of Scheduled Castes laid claim to these material and symbolic resources as a challenge to dominant caste landlords and contractors; second, because these commons constituted government property (Purumpokku, Public Works Department, action over them could invoke support from the state (Public Works Department, revenue, or police) for claims to equal access as citizens in the face of dominant caste exclusions; and, third, by organizing action on tank repair or water supply, politically ambitious individuals could appeal to common interests and so mobilize.

Shinde (2005) has discussed the background of Scheduled Castes history in India. Further, the author highlighted the atrocities against Scheduled Castes in various forms by the caste Hindus. Significantly, the author throws some light on the constraints of Scheduled Castes in accessing commons. He emphasized the oppression on Scheduled Castes for about 3000 years. They were segregated in all spheres of social life: in places of worship, education, housing, land ownership, use of common property resources such as wells and village water taps, roads, buses and other public places. The author views the Scheduled Castes’ facing a lot of problems in gaining access to public properties.
Prem Kumar Shinde (2005)\textsuperscript{49} has revealed that the murders of the Scheduled Castes leaders of Melavalavu Panchayat were clearly because 'untouchability' was still ingrained in the social system. The economic conditions in the village were abysmal, but the power was concentrated in the hands of a privileged few. These people had hitherto enjoyed a hold over the common properties such as fish ponds, temple land and forest produce and did not want to relinquish these privileges to the Panchayat Raj system run by the downtrodden.

Manohara N Gowda and Savadatti P M (2004)\textsuperscript{50} made an empirical study in four villages in Dharwad District of Karnataka. The study was undertaken to study the status, trends, contribution towards rural poor and gender with regards to commons. Moreover, the accounted for more than one-fourth the total income of the poor households and 22 percent of the total income of non-poor households; Forest area accounted for more than 95 percent of the total commons; Fuel-wood collection from commons meets more than $2/3$rd of the total energy requirements of households; More than 50 per cent of the total fodder requirements of the households were met from the commons. These are some of the highlighting findings at the end of the study. Moreover, the commons offered the rural poor livelihood especially from the natural resources like the forest.

Emmanuel Bon (2000)\textsuperscript{51} has chosen two case studies and analyzed the commons, the privately-owned grasslands which were not fenced but access is restricted to the owning families. Natural boundaries such as a tree, a stone, a rivulet or a crest are traditionally used to demarcate the boundaries of property. This study was conducted in two villages namely Dhamla and Chauras. These two case studies show that common pool resources and private property regime complement each other. We have shown how government bias that favours forestry at the expense of grass, has resulted in the enclosure of commons by the rural elite as a rational response to state expansionism. Both the factors explain why the forest is intensively
used for green lopping and cattle grazing. Communal control could help in curbing the open access situation which currently prevails.

**Tony Beck (2000)** has critically analyzed the issue related to access to natural resources in West Bengal. Indeed commons are literally of vital importance to the poor, and particularly poor women. In addition, access to these resources is declining as commons are increasingly commercialized or becoming more scarce, or as access to these resources is restricted. In other words, the article will focus on an area that, as will be shown, the rural poor see as crucial. He speculates that if the conflict over this access takes its place in the overall class friction, struggle or bargaining between poor and rich over the distribution of village resources and village ideology will be the result.

**Manikumar K A (1997)** has elaborated the caste clashes occurred in the southern part of Tamil Nadu. The author took two communities for the study, one is Maravars, a Dominant agricultural caste and the other one is Pallars, a Schedule Caste. The Villages wells and temples are still out of bounds to Pallars. In addition, Separate places of worship and deities also exist. Though stainless steel tumblers have replaced coconut shells or aluminum cups, Pallars continue to be served separately in tea stalls. In Tirunelveli region, the district Arivoli Iyakkam which is a part of the National Literacy Mission conducted separate classes for Maravars and Pallars. In many villages, Pallars have no access to Maravar streets. The Pallar members of Panchayat councils are made to sit on the floor as a matter of routine.

**Harry W Blair (1993)** has explored the relationships among the three elements of democracy, equity, and common property resource management, at both national and local levels. This article addresses the relationship between those three mentioned elements in South Asia, both at the national and at the local levels. Its substantive
focus will be largely on forests, and its geographical concentration mostly on India, although other sectors (primarily water) and areas (Nepal and Bangladesh) will also be included. The research suggested that the local user groups, however, do much better at common property resource management, because they can restrict membership and thus avoid free riders, and they can establish a close linkage in their members’ minds between benefits and costs of participating in group discipline to maintain the resource.

Thirdly, the studies that analyzed the role of various institutions intervening in the various issues of scheduled caste are discussed. The intervention of judiciary on the issues associated with the scheduled caste is presented.

Om Prakash Dwivedi and V. G. Julie Raja (2016) have analyzed the various institutions working for the Scheduled Castes issues. The All India Mahila Adhikar Manch is a national forum of Scheduled Castes women committed to issues concerning violence against Scheduled Caste women. Despite the lack of disaggregated data on the extent of violence against them, there is no doubt that women are affected disproportionately in these incidents. The All India Mahila Adhikar Manch has brought cases of violence against Scheduled Caste women to the attention of the Indian government through forums where Scheduled Caste women publicly testify to incidents of violence. Navsarjan is another similar organisation working side by side with Scheduled Castes women in Gujarat to eradicate manual scavenging and to gain access to safety, security and human dignity through economic independence. It is to be noted that these initiatives are led by the Scheduled Caste women leaders lobbying internationally for their protection.

Ross Michael Pink (2016) has discussed the role of National Human Rights Commission and the issues associated with the Scheduled Castes. The author noted that the Human Rights
Commission requested a formal report from the Bihar government over the denial of water to Scheduled Castes by the dominant caste people in Kishanganj. In a submission to the commission, a Scheduled Castes Human Rights Non-Government Organisation noted, "some of the violation, which Scheduled Castes face in India, are the following: exclusion in access to basic services and extreme poverty, exclusion, segregation, and discrimination against them in education and health sector remain a widespread problem in India". Discrimination and violence against them in the area of water security has been a prolonged and severe human rights issues.

Ajaya Kumar Sahoo and Johannes G. de Kruijf (2016) have analyzed the national and international non-government organization handling the issues of Scheduled Castes. The fact speaks about the utilization and sharing of online technology for mobilizing and raising voices against ill-practices. For these reasons, perhaps, Scheduled Caste movements and campaigns including the International Dalit Solidarity Network, the World Council of Churches Dalit Solidarity Program and the National Campaign for Dalit Human Rights systematically engage international forums and transnational alliances in a boomerang pattern of activism, which aims to bring pressure to bear on the Indian state by activating transnational network at United Nation forums and international conferences against Racism and Caste-based Discrimination and various world Social Forum events. The National Campaign on Dalit Human Rights, formed in 1998, sought to bring international attention to the issue of atrocities against the Scheduled Castes.

David Keane (2016) has discussed the role of the judges in that they are in their capacity to enforce laws penalizing the practice of untouchability in any form as nevertheless being swayed by the centuries of dehumanizing traditions that are behind the constitution. He stated that the High Court judge had fallen into the trap of traditional mould and found doubt where none exists in atrocities.
cases. Judiciary would be able to fulfill its purpose under the constitution: The judiciary does not forsake the ideals enshrined in the constitution, but makes them meaningful and makes the people realize and enjoy the rights guaranteed by law. The internal mechanism in India is adequate in addressing untouchability. The difficulty is that the Indian government continues to operate under the assumption that it has done all in its power to eliminate discriminatory traditions against Scheduled Castes.

**Ojha Jai Prakash (2015)** has analyzed the tangible activities of various movements. In the colonial regime, the movements favor reservation in jobs and legislature and enactment of socially progressive legislation to ameliorate people’s pitiful conditions. The movement could not get the desired impetus due to its limited spread and incongruence with the prevailing national mood of the time which was of resistance against the forces of colonialism and imperialism. Despite the obvious shortcomings, the movement did manage to achieve some tangible benefits to the depressed communities like access to public places and temples that were previously denied to them owing to their inferior social status. The popularity graph of Ambedkar soared as he began to undertake more agitations for the rights of the depressed classes to enter temples and gain access to public places.

**Jayachandran and Sekar (2014)** have aimed at evaluating the working of session court process in Scheduled Castes and Scheduled Tribes prevention of atrocities Act, 1989 cases. The investigating officers did not follow section 160 of Cr.P.C. The special Public Prosecutor appointed U/S. 15 of Scheduled Castes and Scheduled Tribes Act that belongs to Scheduled Castes and Scheduled Tribes community. Sometimes, the Public prosecutor does not get any cooperation from the police. One of the causes for delaying the case is that when the accused lawyer is not available, the special judge and
Special public prosecutor examine the witness. The accused will not be cross-examined.

**Babu and Suresh N R (2014)** conducted a study on caste conflicts in the two villages of Tamil Nadu. The study revealed that the police and general administration failed to protect life and property of the Scheduled Castes and the police always sided with the dominant castes. In this allegation, Supreme Court of India reprimanded the Tamil Nadu police for siding with caste Hindus. Moreover, the fact that the police side with the caste Hindus can be substantiated by the incidences of non-registration of atrocity cases on the Scheduled Castes. The cases are registered by the police only after an external pressure is applied. Even if the cases are registered then investigation takes time or it is not done at all. Though, there is a special provision for the same in the atrocities Act, 1969. Perhaps the best evidence was found viz. severe reprimand of police, delay in justice and improper arrangements of the special court.

**Sthabir Khora (2014)** has commented on the 'final reports' under Scheduled Castes and Scheduled Tribes Atrocities Act. The author argued on the Justice delivered by the court based on the First Information Report. It was not trusted because if the police had not recorded all the facts about the case, justice will not be impartial. The cases under the Scheduled Castes and Scheduled Tribes Act, 1989 also resulted in filing false cases. The prevailing discourse is that women and members of the Scheduled Castes and Scheduled Tribes misuse Section 498A and the Act, respectively. Men and members of the upper castes can misuse these laws by using women and Scheduled Castes and Scheduled Tribes members as proxies. Periodically there is an uproar about the injustice due to the refusal or delay in filing an FIR and the very low rate of conviction in court under these laws. Moreover, the police even apply Sections 182 and 211 of the IPC for “lodging false cases” in some instances.
Kavita Krishnan (2013) has analyzed the issue of Laxmanpur-Bathe massacre incident, the acquittal of the 26 people found guilty in the Laxmanpur-Bathe massacre of 1997 by the Patna High Court. It is a grave miscarriage of justice. This article traces the events of that time and the manner in which the ruling of the Sessions Court, finding these accused guilty, was overturned. It claimed that Bihar did not witness a “caste war”, rather it was a situation where mainstream political parties have supported and defended sustained violence against the Dalits and lower caste, the landless and the powerless by the likes of the Ranveer Sena. It was also observed that the Police did not verify the hiding places where the witnesses claimed to have taken refuge. The High Court concluded that the eyewitnesses who testified in court did not know the names of the assailants on 2 December. The author pointed out that the conclusion of judgment was flawed because it failed to take into account the actual circumstances following the massacre. Of the many possible explanations for a certain set of facts, the High Court chose the one best suited to benefit the accused.

Anand Teltumbde (2012) has written an influential article. The major concern of the article was about the SC/ST in the Constitution. The author wrote that the most concrete manifestation of castes was atrocities. The study found that the police machinery, hand in glove with high caste perpetrators, would not register the crime; if registered, would not investigate it; if investigated, would not present; if presented, it would not be pleaded in the courts by the prosecution, and ultimately the case would fail. It is said that only 10-20 percent of the actual number of atrocities enters the police record and still the total number of atrocities per year has been hovering above 35,000. The dismal rate of convictions that has been less than 10 percent until recently testifies to the bias in state machinery against the victims.
Raj Kumar (2012)\textsuperscript{65} has viewed that the role of Communist Party of India (Marxist), as a main stream political party, has been engaged in working for the welfare of Scheduled Castes over many years. It has included various documents, reports and speeches relating to the party’s efforts to raise Scheduled Castes issues in various political forums and platforms. Nevertheless, it contains a lot of micro-level data on various governmental schemes which aim at bringing about a change in the lives of Scheduled Castes. After assessing the ground realities, the book argues that even after more than six decades of working of the Indian Constitution, the Indian Republic has miserably failed to protect the lives and interests of the Scheduled Castes, who continue to suffer due to the age-old, oppressive caste system.

Raj Sekhar Basu (2011)\textsuperscript{66} has attempted to identify the course of depressed class politics in Tamil Nadu since the early decades of the twentieth century. The author has argued that the depressed class politics in Tamil Nadu did not follow a single trajectory, but remained caught between different sets of ideologies and political parties. In Tamil Nadu depressed class politics, commonly referred to as Adi Dravida politics, emanated largely from the activities of the articulate sections of the Paraiyar community. The author has confirmed that the political conflicts with the dominant non-Brahmin caste groups and through their own narratives of the past that the depressed classes were able to project their own identity that was different from those of both the Brahmins and the upper caste Hindus. Indeed, all these provided them with a framework to claim an appropriate share in the power structure of the colonial state.

A Report, Evidence (2011)\textsuperscript{67} has analyzed the issues related to atrocities on Scheduled Castes women. Thus, this study is an attempt to find out the barriers that Scheduled Castes women face while accessing justice by analyzing the responses of the law enforcement agencies and the judiciary through the reported cases from three selected districts in Tamil Nadu. The research was conducted in three
The district of Tamil Nadu namely Madurai, Theni and Sivagangai. This report has found that very few of the accused were arrested by the police and in some case the Scheduled Caste was registered with a false case. In the majority of the cases, the investigation was not completed within the stipulated time. Importantly, some of the cases reveal that they were neither informed of the status of the case not was bail granted to the accused.

Seckinelgin H and Billy Wong (2011) have discussed the organizational interventions on the Scheduled Caste issues. The earliest attempts to take the issue of caste to the international level were made as far back as 1982 by some organizations of Scheduled Castes immigrants in North America and Scheduled Caste groups active in India. The Dalit Liberation Education Trust (DLET) in India, Volunteers in Service to India’s oppressed and Neglected (Vision) in the US, and the Ambedkar centre for Peace and Justice (ACPJ), Canada, had succeeded in creating interest among the London-based Minority Rights Group (MRG). This Dalit activism went against the Indian government’s official stand which preferred to treat untouchability and caste-based discrimination as an ‘internal’ problem.

Saksena H S (2010) has crucially examined the Scheduled Caste and Scheduled Tribes Act, 1989. This study provides a critical evaluation of how far the law has stood, on the ground reality. The research examines the police records of more than 50% of the cases registered during the five years. The practice of untouchability contributes the most to the notion of inequalities in India. The findings show that the nature of atrocities ranged from forced drinking/eating obnoxious substance, removing clothes, encroachment of land, forced labour, outraging women’s modesty, sexually exploiting, arson during worship and the fouling water source and much more. The various causes of the atrocities in the case
studies were mainly due to inter-caste tensions, followed by disputes, sex, wages and old disputes.

Shyam Babu D and Chandra Bhan Prasad (2009)\textsuperscript{70} have pointed out in the research papers presented at the conference held at the University of Pennsylvania. Six paradoxes of the Scheduled Caste, viz. the political paradox, religious paradox, and paradox of Indian feminism, the paradox of Marxist and non-Brahmin ideologies, the paradox of the post-colonial state and paradox of the market. The author writes that in the past two centuries, religious, social, political and economic reforms sought to address the Scheduled Castes problem so as to transform India from the caste-ridden system of discrimination into a modern and cast-neutral society. It is fair to say that these reforms have not sufficiently succeeded in improving either social standing of Scheduled Castes or their economic conditions.

Roberto Gargarella et al. (2006)\textsuperscript{71} have examined the role of courts as a channel for social transformation for excluded sectors of society in contemporary democracies. This study took up case studies drawn from Latin America, Africa, India and Eastern Europe and presented these with a focus on social rights litigation in post-authoritarian regimes or in the context of fragile state control. The authors assess the role of judicial processes in altering (or perpetuating) social and economic inequalities and power relations in society. Drawing on interdisciplinary expertise in the fields of law, political theory, and political science, the chapters address theoretical debates and present empirical case studies to examine recent trends in social rights litigation. This study examines the changing role of courts as a channel for social redress for disadvantaged sectors of society, processes of social and economic transformation and the reduction of inequalities in society.

Rakesh Shukla (2006)\textsuperscript{72} has discussed how the judiciary has dealt with cases relating to the upper-caste humiliation of Scheduled
Castes, as also sati and its glorification. This article was an examination of the Judicial pronouncement of the courts delivered in the context of the Scheduled Caste and Scheduled Tribe (prevention of Atrocities) Act, 1989, the Protection of Civil rights act, 1995 and the Rajasthan Sati (Prevention) Act, 1987. The caste problem like casteist insults, inter-caste dining, sati and its glorification, and the Bhanwari Devi case are critically analyzed and commented. Many of the court cases set aside the accused person, and the judgment itself has lacunae. In one of the rape cases, according to the judge, the accused are middle-aged and therefore respectable citizens, while teenagers usually commit rape. The author found the flaw in the judgment and confirmed the lack of evidence.

Siri Gloppen (2005)\textsuperscript{73} has made a study of Public Interest Litigation and the social rights of the marginalized people. In fact, Public Interest Litigation was a strategy to advance the social rights of marginalized people and it’s broader sense of changing social policy. This paper draws on reported experiences with social rights litigation in different parts of the world to develop a framework identifying conditions that are favorable to public interest litigation. In many cases, judicial decisions are influenced by political pressures, the authority exercised by higher judicial officers, or the influence of extra-institutional actors (economic elite, pressure groups, lobbies, demonstrations)

Vivek Kumar (2004)\textsuperscript{74} has elaborated the Dalit Diaspora in India as well as overseas. The author has classified Dalit Diaspora into two major streams the ‘old’ and the ‘new’. The ‘old’ comprises indentured labourers and assisted labourers who were taken by the colonial powers and the contractors to different countries. This Diaspora is confined to south Asian and African countries. The new Diaspora includes semi-literature and professionally trained Dalits who have emigrated especially to London and US as industrial labourers, technicians, other professionals, and students. Hence, the Dalit
Diaspora makes the Dalits united through technology and it makes them more visible.

**Naval T R (2004)**\(^{75}\) has critically analyzed some of the High Court cases. The Courts granted injunctions to restrain members of particular castes from entering temples those that were publicly supported and dedicated to the entire Hindu community. In Anandrav Bhikaji Phadke vs. Shankar Daji Charya case, the Bombay Court upheld the right of Chitpavan Brahmins to exclude Palshe Brahmins from worshipping at a temple. The attitude of the Courts regarding secular public facilities such as schools, wells and roads were, however, different. The Courts declared that no right could be maintained to exclude other castes or sects from the use of streets and roads. The situation was more complicated in regard to the use of water sources for a lower-caste person to take water from a public well. The Lahore Court held that other users had no right to prevent Chamars from drawing water from a public well. However, other courts conceded that a right to exclude might be upheld if a custom of exclusive use by high castes could be proved.

**Smitha Narula (1999)**\(^{76}\) has narrated how the local police, district administrations, and even the state government are acting on the issue of scheduled castes. A Case in point, the government auction of common properties in the village, such as ponds and tamarind trees. The Dalits were demanded their rights to participate. The same evening, Vanniyars entered and destroyed 400 Dalit huts. Human Rights Watch spoke to the Judge assigned to the Madurai District court. Compensation in these cases was handled by the district collector and the district magistrate and not by the court itself. Interestingly, the Judge explained the reason for the delay in getting Judgment was highlighted, without more Special Courts to share the caseload, the judge explained, and the rate at which cases were tried would remain slow. Because of the length of time it takes to reach trial, and because of the severity of punishment under the act, the
judge added that the accused were attempting to compromise cases by influencing witnesses, most of whom were already afraid to come forward for fear of the consequences.

The plethora of literature on Scheduled Caste issues have noted that in India, due to the caste system, the Scheduled Castes have been treated with indignity. They are subjected to various offences such as social rights, economic rights, and political rights. Despite the various legal remedies for the offences guaranteed in the constitution of India, they are denied rights in various aspects. Mainly the women from the Scheduled Castes are sufferers of the various offences. Further, the caste discrimination is visible not only in the rural but also in the urban areas. The Scheduled Castes are exploited and their lands (Panchami) are occupied by the dominant caste. In fact, the caste ideologies are inborn in people.

Further, the Scheduled Castes are asked to carry the dead animals and cremate the dead bodies. Moreover, in some villages of Tamil Nadu stainless steel tumblers have been replaced to avoid untouchability practices but the Scheduled Castes continue to be served separately in tea stalls. The social order in the Hindu society was the backbone of all such violence. Every year, crimes against Scheduled Castes are gradually increasing. Even though, the Dalits Diaspora were united, the modern technologies made them more visible.

The Scheduled Castes have historically been segregated and denied access to bathing places, buses, drinking water wells and water taps, education, fishing ponds, government properties, grave yard, grazing land, hotels, housing, land ownership, museums, public entertainment, public parks, public restaurants, roads, saloons, shops, temple, temples shops, and footwear in the road leading to the temple etc. In some places there are separate places of worship and deities also exist. Notably, in Tamil Nadu, the National Literacy
Mission conducted separate classes for dominant castes and Scheduled Castes (Pallar).

The non-government organisation includes activists, civil society, international bodies who have a significant role in dealing with the Scheduled Castes issue. They involved in campaign, addressing an issue, building network, helping for legal remedies, involving in movement, etc., for the Scheduled Castes. On the other hand, the government institution such as police, revenue department, human rights commission, state government, judiciary and district administration have responsibility in the Scheduled Castes issue. The various studies found that the First Information Report was not trusted because the police did not record all the facts about the case. Besides, the police machinery, was hand in glove with high caste perpetrators. The police do are not register the cases with all the evidence. Thus sometimes diluting the seriousness of the offenses.

More importantly, many researchers have highlighted not only the high incidence of crimes against the Scheduled Castes but also high conviction rate in such cases. Very few of the accused were arrested by the police and in some case, a Scheduled Caste man was implicated with a false case. Moreover, the investigating officers do not follow some sections of Scheduled Caste and Scheduled Tribe Act, 1989. In some cases, the cases are registered by the police only after an external pressure is applied. In some cases, Supreme Court of India has reprimanded the Tamil Nadu police for siding with caste Hindus.

In brief, the studies on the issues of Scheduled Castes have revealed the social stigma prevailing in the society. The studies on Scheduled Castes and commons have found that the Scheduled Castes face problems while seeking access to public places and the commons. Next, the judicial intervention in the issue associated with Scheduled Castes is an alarming issue in the present day context.
Equally, the roles of state government and the non-governmental organisation have occupied a major part. Though there are studies discussing the issues of Scheduled Castes and the intervention of various institutions on the Scheduled Castes issues there have been no studies conducted on the status of Scheduled Castes’ access to the commons. Thus, this study contributes to the theory of filling the research gap.

1.4 Objectives

The primary objective is to study the judicial intervention on scheduled castes’ access to commons. The other specific objectives are:

a. To study the historical process of exclusion of Scheduled Castes from access to commons in rural areas

b. To study the issues associated with Scheduled Castes in accessing commons

c. To study the role of State institutions in ensuring Scheduled Castes’ access to commons

d. To study the Judicial Intervention in the process of Scheduled Castes’ access to commons

1.5 Methodology

1.5.1 Operational Definition

1.5.1.1 Commons: The word Commons in the study means all the available common resources in a particular geographical area. In this study, canals, car stand, graveyard, thrashing yard, village market, temple, temple car, village Panchayat office, village administrative officers’ office, minor forests, pond, bathing Ghats, roads, water tap, public school and water foundations are mentioned as commons.
1.5.1.2 **Scheduled Castes:** There are 64 types of scheduled castes identified by the state government of Tamil Nadu. In the study, three segments namely Parayar, Pallan, and Arunthathiyar are the three predominant caste groups in terms of population. These are identified as scheduled castes in this study.

1.5.1.3 **Dominant castes:** In the study area, the Vanniyar, Thevar, Goundar and Pillai communities are identified as dominant castes.

1.5.2 **Type of study**

Since the study is basically an analytical one, it administers a combination of methods and tools for collection of the needed data for analysis. It involves focus group discussion, case analysis and case narratives.

1.5.3 **Source of Data**

The primary data were gathered through focus group discussions with different caste groups (dominant caste groups as well as scheduled caste groups). Informal interviews were conducted with the victims, offenders, village Panchayat representatives, members of the political parties in the village, village administrative officer, local police officials, petitioners, and politicians. The secondary data were collected from the judgments given by the High court of Madras on Scheduled Caste access to commons. Also they were collected from the newspapers, weeklies and monthly magazines, journals, books, and websites of government and non-governmental organizations.

1.5.4 **Delimitations**

The constitution of India has abolished untouchability and the Parliament passed (i) Untouchability Act in 1955 (ii) Protection of Civil Rights Act, 1976, and (iii) Scheduled Caste and Scheduled Tribe
(Prevention of Atrocities) Act, 1989. Despite these measures, many cases are filed in the High court of Madras under these three Acts. The High court of Madras has given judgment in these cases. This study concentrates on only the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Further, it has focussed only on the cases for which judgment were given by the High court of Madras pertaining to the scheduled caste access to the commons up to 2015. During this period only in six cases, the High court of Madras has given judgment. These cases are taken for the study and the other cases of atrocity are left out. The list of the cases filed in the High court of Madras and judgment given by the High court of Madras were collected from ‘Manupatra’ and ‘Indiankanoon’. These two web sources were selected after consultation with the experts from Dr. Ambedkar Law University, Chennai.

1.5.5 Plan of the study

The first chapter presents the statement of the problem, review of literature, the objectives of the study and the methodology. The second chapter describes the status of the scheduled caste in Tamil Nadu, specifically, the historical backdrop of scheduled castes history and origin of untouchability, and the caste structure in Tamil Nadu. Further, this chapter explains the social exclusion of scheduled castes in access to commons. It also discusses the constitutional provisions related to the welfare of the scheduled caste, role of various movements, political parties and judiciary, related to scheduled caste issues. The third chapter analyzes the case studies on scheduled castes’ access to commons in Tamil Nadu. The study was conducted in the villages of Kandadevi, Kandampatti, Mandalamanikam, Sampatti, Pootai and Uthapuram in Tamil Nadu. The events are arranged chronologically. The happenining before 2015 are clubbed into two chapters and the latter part forms the subsequent chapters. Three cases are discussed in the fourth chapter. The fifth chapter presents an integrated analysis and the conclusions of the study.
References


