

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

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**Volume 4 | Issue 4**

**2021**

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# Emancipation of Dalits

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## ABSTRACT

*The aim of this paper is to examine the seeds of inequality planted in traditional Indian society and its ever-expanding roots that continue to haunt the conscience of the entirety of the sub-continent. In examining these differences and discriminations, the paper follows a timeline of the attempts made by the legislature to promote equality and emancipate Dalits ever since India got independent. In between, the paper attempts to examine reasons of why all these acts, articles, precedents, and laws legislated were necessary to protect the interests of marginalised communities in India. Then the paper proceeds bring out role of judiciary in protecting the rights of Dalits through historic judgements that have encouraged emancipation of Dalits. The overarching conclusion is that even after the discouragement and prohibition of various judicial decrees, such discriminatory practices exist because of the collective greed of the upper class and the ruling class, fought fiercely by an overburdened, yet righteous judiciary that continues to spread the principles of justice and equality.*

**Keywords:** Emancipation, Dalits, Marginalised, Protection, Constitution, Judiciary

## I. INTRODUCTION

The stringently rigid disparity amongst various castes prevalent in the Indian society shines light on the important issue of a revolting and regressive bias - one that stratifies the dominant religion, Hinduism, into exclusive, hierarchal groups. Membership to these groups is assigned at birth, determined by the kind of family one is born into. Apart from the innumerable sub-sections, there are four major sections, i.e., castes: brahmins, kshatriyas, Vaishyas, and Shudras. The very existence of these groups and sub-groups stands against the principles of the architect of India's constitution, Dr. Bhim Rao Ambedkar. The eminent scholar and philosopher's vision of each citizen being an Indian "firstly and lastly" has been trampled by the culture of caste-related discrimination that continues to plague Indian society till this date. In his book *Annihilation of Caste*, Dr. B.R. Ambedkar talks about the deeply ingrained nature of casteism and caste-based differences by describing the state of a typical Indian village:

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*“Ask any village policeman in India what his job is and he’ll probably tell you it is to ‘keep the peace.’ That is done, most of the time, by upholding the caste system. Dalit aspirations are a breach of peace. Annihilation of Caste is a breach of peace.”*

The aforementioned quote points to a gaping hole in the way people live their lives. Caste affects people’s daily lives in more ways than they can fathom. It’s in their names, the way they refer to each other, in the work they do, in the clothes they wear, in the marriage that are arranged and in the languages that are spoken. Until and unless the benefactors of this division are willing to confront this reality, this gaping hole will not cease to exist.

In any civilised society, the right to access to a decent quality of life is not met by simply fulfilling basic standards. This is a fundamental right and is achieved only when people are ensured all provisions that help them grow and all hindrances to such provisions are removed. In India, the social treatment a person deserves or is subjected to depends on several labels, often assigned at birth, that cannot be changed or modified later. In this paper, these ridiculously rigid labels are examined at length and their flourishing existence, affected in part by a damaged social conscience and encouraged by indifferent political leadership, is challenged through various case laws and legal judgements that oppose their subsistence.

A part of the Article 38<sup>3</sup> of the Indian Constitutions provides that:

*“The State shall strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but amongst groups of people residing in different areas or engaged in different vocations.”*

By considering several other provisions of this nature enshrined in the constitution and further granted by judicial institutions, the paper aims to shine light on the dire state of India’s socio-economic and political landscape that easily outcasts certain people and groups based on age-old considerations that don’t and should not hold any value of any kind if the 21st century. Furthermore, the inequalities and differences that are indirectly born out of caste-based discrimination are also examined. Therefore, the empirical part of the paper is established through various philosophical, moral, and theoretical inspections. The next part of the paper seeks to clearly exhibit the rules, guidelines, and suggestions that need to be enforced to ensure that charges of bigotry of any kind against anyone are thoroughly investigated and if proven, the perpetrators are brought to justice.

The paper is concluded by laying out a vision of the future; of India being a country that has

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<sup>3</sup> INDIA CONST. Art. 38.

accountable institutions standing for truth, equality, and justice, wherein the fundamental rights of everyone are valued and protected.

## II. THE NEED FOR EMANCIPATION OF DALITS IN A POST INDEPENDENT INDIA

In 1852 Frederick Douglass, a leading Black abolitionist of slavery described his agony on the eve of America's Independence Day thus:

*“This Fourth of July is yours, not mine. You may rejoice, I must mourn. To drag a man in fetters to the grand illuminated temple of liberty and call upon him to join you in joyous anthems, were inhuman mockery and sacrilegious irony.... I say it with a sad sense of the disparity between us. I am not included within the pale of this glorious anniversary.... The blessings in which you, this day, rejoice, are not enjoyed in common. The rich inheritance of justice, liberty, prosperity, and independence, bequeathed by your fathers, is shared by you, not by me. The sunlight that brought light and healing to you, has brought stripes and death to me.”<sup>4</sup>*

Similarly, on the eve of August 15, 1947, Indian Independence Day, the poignant agony of the Indian Scheduled Castes, Untouchables, or ‘Dalits’ was on display.

Even though the founders of our country fought for the independence of India with the aim that people take pride of being citizens of an integrated India which provided the ideals of liberty, equality, and fraternity, casteism; sectional and religious diversities and parochialism kept disintegrating the people. The social stratification system needed to be restructured. Democracy entailed fundamental changes in people's social and economic lives, as well as the absence of inequitable conditions, inequalities, and discrimination. Founders of our country realised there can be no human dignity without equality of status and opportunity. Denial of equal opportunities in any aspect of social life amounts to denial of equal status and prevents equal participation in social interactions as well as deprivation of equal access to social means. Human ties founded on democracy, equal treatment of laws without prejudice, and a sense of equality as participants in the democratic polity will create amity and affinity among the diverse parts of Indian society. Adoption of a new culture and atmosphere were therefore needed to turn a diffracted community into one with a high degree of mobility to create an inclusive social order in the Secular Socialist Democratic Indian Republic.

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<sup>4</sup> Gradesaver.com. 2021. *What to the Slave is the Fourth of July? Quotes*. [online] Available at: <<https://www.gradesaver.com/what-to-the-slave-is-the-fourth-of-july/study-guide/quotes>> [Accessed 19 July 2021].

### III. CONSTITUTION AND EMANCIPATION OF DALITS

The Indian Constitution declared the decision of the Constituent Assembly (which drafted the constitution) to ensure civil, political, and economic justice for everyone. To that end, the constitution was drafted with numerous laws to protect and strengthen the status of scheduled castes. The constitution had two effects on social rights. First, it granted men and women equal protection by “fundamental rights” that can be upheld in court. Second, it required states to follow "directive standards of public policy." While these are not enforceable in Indian courts, they were seen deemed to be central to the country's constitution and therefore have legal and political importance.

The Indian constitution attempts to emancipate every marginalised community in the country. The constituent assembly legislated several Articles, provisions, Acts, and Laws to ensure there is protection and there is emancipation of every marginalised community. The Indian Constitution to that end prohibits discrimination on grounds of caste besides discrimination on grounds of religion, race, sex or place of birth through Article 15 and ensures equality before law through Article 14. Article 16 ensures there is equal opportunity in public employment.

One big problem Indian society inherited post-independence, that came against the idea of equality was “untouchability”. Therefore, Indian Constitution incorporated Anti-caste discriminatory provision in Article 17 by abolition of untouchability. Further, Article 23 and Article 24 provided the right against exploitation to ensure caste discrimination is prohibited from Indian society. As a result, the right to equality is guaranteed under articles 14 to 18 of the Indian Constitution. Similarly, minorities' human rights, particularly Dalit minority, are guaranteed under the Indian Constitution.

Despite Constitution’s attempt to ensure freedom from atrocities to every marginalised community and ensure that the society progresses equally, all the provisions of the Constitution failed to enforce equality in Indian society and failed to abolish the tradition of untouchability. That is when a new legislation was required, and the **Untouchability (Offenses) Act 1955** was enacted.

### IV. LEGISLATURE AND EMANCIPATION OF DALITS

The Indian legislature from time and again, has attempted to make laws and rules that promote free and an equal society and ensure the marginalised communities emancipate and every individual who attempts to marginalise any person is charged with seriousness. The first time an Act was made to promote emancipation of Dalits was “Untouchability (Offenses) Act, 1955”. Then, after 21 years, the Act was refurbished as the “Protection of Civil Rights Act.”

This Act had even stringent measures to curb untouchability. It made the wilful negligence of complaints related to untouchability by investigating officers as tantamount to abetment. Eventually, when the seeds of equality planted in our society refused to die, a new legislation was carried out, named “Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 and Rules, 1995.” The legislation defined “Atrocity” and brought out even more stringent measures to curb marginalisation of Dalits.

### **Untouchability (Offenses) Act 1955**

The Untouchability (Offenses) Act<sup>5</sup> went into effect on June 1, 1955. Until the Act was amended on September 2<sup>nd</sup>, 1976 and renamed Protection of the Civil Rights Act, the Act prescribed penalties for the practise of untouchability. The conduct of untouchability was a punishable offence under the Untouchability (Offenses) Act of 1955, and it specified fines for enforcing any disability resulting from untouchability.

In the case of a first offence, the Act placed a 6-month sentence or a Rs.500 fine for those accused of imposing the disabilities of untouchability on anyone else. In the event of a future offence, the accused party will face both a prison time and a fine. There was also provision for increasing the sentence if deemed necessary.

Preventing a person from accessing a temple/place of worship or any other public place; preventing a person from drawing water from holy water sources, wells, etc.; and preventing a person from using a ‘dharmashala,’ restaurant, store, hotel, hospital, public conveyance, educational establishment, or any other place of public entertainment were among the offences protected by the Act. It also concerned the refusal to use bridges, waterways, grounds, wells, and so on. Other offences included imposing professional, trade, or vocational disabilities, prohibiting an individual from benefiting from a charity, refusing to allow another person to carry out a career, refusing to sell goods/services to a person, and injuring, molesting, excommunicating, boycotting, or annoying a person based on untouchability.

The Act was passed in the Indian Parliament to end untouchability in the land but the flaws and loopholes in this act compelled the government to project a massive overhaul of this legislative instrument. From 1976 onwards the Act was refurbished as the Protection of Civil Rights Act.

### **Protection of Civil Rights Act 1955<sup>6</sup>**

If the tradition of untouchability increased, it was important to bring about a reform; Provisions

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<sup>5</sup> Socialjustice.nic.in. 2021. [online] Available at: <<http://socialjustice.nic.in/writereaddata/UploadFile/arprc08.pdf>> [Accessed 19 July 2021].

<sup>6</sup> The Protection of Civil Rights Act, 1955, No. 22, Acts of Parliament, 1955 (India)

that could help in mitigating caste distinctions and laws that also aide in closing the divide between the upper and lower castes. The act aimed to gives lower caste people the freedom to exercise their citizenship and live a regular life as anyone else. Untouchability makes them feel isolated, humiliated, and violated, and people of higher caste treat them inhumanely, which has a negative effect on society. The Protection of Civil Rights Act 1955 attempts to bring this to an end.

But, despite the numerous steps taken by the government to close the caste gap and shield Dalits from ridicule, disrespect, offences, indignities, and violence, they remained a vulnerable community. After being taught about their rights, as they attempt to claim them or speak out against the tradition of untouchability against them, the special interests bully and terrorise them.

Dalit leader Emmanuel Sekaran was one of those civil rights activists who was assassinated for defying untouchability-based interdictions on schedule castes. Other cases of bullying and cruelty on Dalits were on February 24, 1968 at Kanchikacherla in Krishna district, Kanchikacherla Kotesu was set on fire by upper caste people who poured kerosene on him and accused him of stealing a bronze tumbler.<sup>7</sup> One being when police fired on Adivasis for organising a public meeting on April 20, 1981 to raise their voices against encroachments and exploitation, killing 60 people.<sup>8</sup>

The cases of atrocities on Dalits were never ending and the regular provisions of Protection of Civil Rights Act of 1955 and the Indian Penal Code, were considered insufficient to stop these crimes and offences against Schedule Castes and Schedule Tribes. Recognizing these pre-existing issues, Parliament passed the “Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 and Rules, 1995.”

### **Schedule Cast and Schedule Tribe (Prevention of Atrocities) Act, 1989 And Rules, 1995**

When the Bill was tabled in Lok Sabha, the intent and aim of this more severe piece of law were clearly stated.

“Despite various measures to improve the socio-economic conditions of the SCs and STs, they remain vulnerable... They have, in several brutal incidents, been deprived of their life and

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<sup>7</sup> News, C., News, v. and 50 years after Dalit’s killing, t., 2021. *Atrocities Against Dalits: 50 years after Dalit’s killing, things remain the same | Vijayawada News - Times of India*. [online] The Times of India. Available at: <<https://timesofindia.indiatimes.com/city/vijayawada/50-yrs-after-dalits-killing-things-remain-the-same/articleshow/63456541.cms>> [Accessed 19 July 2021].

<sup>8</sup> The Hindu. 2021. *Why did police fire on Adivasis in Indervelli on April 20, 1981?*. [online] Available at: <<https://www.thehindu.com/news/national/telangana/why-are-ativasis-and-lambadas-fighting-over-indervelli-martyrs-column/article23619066.ece>> [Accessed 19 July 2021].

property... Because of the awareness created, through spread of education, etc., when they assert their rights and resist the practice of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorize them. When the SCs and STs try to preserve their self-respect or honor of their women, they become irritants for the dominant and the mighty...

Under the circumstances, the existing laws like the Protection of Civil Rights Act 1955 and the normal provisions of the Indian Penal Code have been found to be inadequate to check and deter crimes against them committed by non-SCs and non-STs... It is considered necessary that not only the term 'atrocities' should be defined, but also stringent measures should be introduced to provide for higher punishment for committing such atrocities. It is also proposed to enjoin on the States and Union Territories to take specific preventive and punitive measures to protect SCs and STs from being victimized and, where atrocities are committed, to provide adequate relief and assistance to rehabilitate them. ”<sup>9</sup>

As a result, the act's goal was extremely clear, emphasising the Indian state's determination to deliver justice to the Dalit class while simultaneously abolishing the heinous practise of untouchability. The Atrocities Act and Rules are divided into three categories, each of which contains a list of concerns or topics linked to atrocities against SC/ST people and their place in society.

The first category includes provisions pertaining to criminal law. This category, in general, provides criminal culpability for several precisely defined offences, as well as broadening the scope of various penalizations specified in the Indian Penal Code (IPC).

The second category includes measures for atrocity victims' relief and compensation.

The third group includes measures that establish particular authorities for enforcing and monitoring the Act.

Most important features of this act include creating new forms of offences that are not covered by the Indian Penal Code (IPC) or the Protection of Civil Rights Act of 1955 (PCRA). Also, Barbarity can only be perpetrated by non-SCs and non-STs on members of the SC or ST groups, for example. Crimes committed between SCs and STs, or between STs and SCs, are not covered by this Act. The act defines several forms of atrocities against SCs/STs and imposes severe penalties for them. The Act improves the quality of punishment for certain offences and increases the minimum punishment for public workers as well as the penalty for a public

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<sup>9</sup> National Commission for SCs, First Report 2004-05, New Delhi, 2006, pp.222-3

servant's failure to perform his or her obligations.

Special Courts were created through this act and Special Public Prosecutors were also appointed. The act allowed the government to levy large fines on a group of people and permitted weapons licences in places where an atrocity is suspected or has occurred and permitted seizure of all unauthorised fire weapons and grant weapons permits to SCs and STs. Through this act, victims of atrocities or their legal heirs were provided reimbursement, relief, and rehabilitation.

It also offers a framework for monitoring the state's reaction to atrocities against Scheduled Castes and Scheduled Tribes, in addition to the rules. Monthly reports (from the District Magistrates), quarterly review sessions by the District Monitoring and Vigilance Committee (DVMC) at the district level, and half-yearly reviews by a 25-member State Monitoring and Vigilance Committee (SVMC) led by the Chief Minister are all mandated under the Act and Rules. Lastly, every quarter, the Director of Public Prosecutions (DPP) will assess the activities of each Special Public Prosecutor (SPP). Every year, by the 31st of March, annual reports must be submitted to the federal government.

The Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 and Rules, 1995 has helped a lot in emancipation Dalits in India and safeguarding their rights to promote and free and fair society. But despite the fact that it has the potential to be a strong piece of legislation, it is also true that atrocities on Dalits are still a frequent reality in the society that we live in. That is where role of Judiciary in safeguarding the rights of Dalits come in. The Indian Judiciary, from time and again has come in as saviour for everyone in the community who is a victim of the atrocities committed by the members of upper caste. Here is an analysis of Judiciary's role in emancipation of Dalits.

## **V. JUDICIARY AND EMANCIPATION OF DALITS**

James Madison, one of the original authors of the American Constitution, stated that the judiciary is “truly the only defensive armour of the country and its constitution and laws”. If this armour were to be stripped of its onerous functions it would mean, “the door is wide open for nullification, anarchy and convulsion”.<sup>10</sup>

Because of the proactive role performed by the Indian courts, liberty and equality have persisted and thrived in India. Emancipation of Dalits would not have been possible without Judiciary playing an active role in making sure every Dalits is benefited by the rights granted

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<sup>10</sup> Founders.archives.gov. 2021. *Founders Online: James Madison to Joseph C. Cabell, 1 April 1833*. [online] Available at: <<https://founders.archives.gov/documents/Madison/99-02-02-2711>> [Accessed 19 July 2021].

to him. Although it is debatable whether the courts have always trodden the path of liberty, equality, fraternity, and justice, and set an example before others, it has often, more than any other institution in the country, has been seen the last resort for Justice.

Because India has an independent judiciary that has been upheld, among other things, the rule of law, one of the most important aspects of effective government, persists. It is also because of the support and aid of an independent bar that has been brave in arguing for the disadvantaged, the deprived, and those parts of society who are unaware of or unable to acquire their rights due to different handicaps, an informed public opinion, and a lively media that keeps all state agencies on their toes. The Indian judiciary has taken a proactive approach, ensuring that basic human rights are protected meticulously and overzealously for members of the marginalized community. As interpreted in *State of Karnataka v. Appa Balu Ingale*,<sup>11</sup> “The judges, therefore, should respond to the human situations to meet the felt necessities of the time and social needs; make meaningful the right to life and give effect to the Constitution and the will of the legislature. This Court as the vehicle of transforming the nation's life should respond to the nation's needs and interpret the law with pragmatism to further public welfare to make the constitutional animations a reality. Common sense has always served in the court's ceaseless striving as a voice of reason to maintain the blend of change and continuity of order which is sine qua non for stability in the process of change in a parliamentary democracy. In interpreting the Act, the judge should be cognizant to and always keep at the back of his/her mind the constitutional goals and the purpose of the Act and interpret the provisions of the Act in the light thus shed to annihilate untouchability; to accord to the Dalits and the Tribes right to equality; give social integration a fruition and make fraternity a reality.”

In case after case, Indian Courts have issued several instructions and lessons to law enforcement agencies and society in general, covering a wide variety of issues relating to making laws stronger and how Dalits should be emancipated and how society need to grow up from this old age caste system that we have inherited which continues to block the way for our country to be a welfare state. Some instances:

**In *National Campaign on Dalit Human Rights v. Union of India*, (2017) 2 SCC 432: (2017) 1 SCC (Cri) 734: 2016<sup>12</sup>**

The petitioners were a non-profit organisation dedicated to the liberation of Scheduled Castes and Scheduled Tribes people. The petitioners brought this writ petition because they were

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<sup>11</sup> AIR 1993 SC 1126

<sup>12</sup> (2017) 2 SCC 432

aggrieved by the failure to execute the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Act") and its Rules, seeking directions from Supreme Court in effective implementation of the act.

Disposing off the petition, the Supreme Court held:

“We have carefully examined the material on record, and we are of the opinion that there has been a failure on the part of the authorities concerned in complying with the provisions of the Act and the Rules. The laudable object with which the Act had been made is defeated by the indifferent attitude of the authorities. It is true that the State Governments are responsible for carrying out the provisions of the Act as contended by the counsel for the Union of India. At the same time, the Central Government has an important role to play in ensuring the compliance with the provisions of the Act. Section 21(4) of the Act provides for a report on the measures taken by the Central Government and State Governments for the effective implementation of the Act to be placed before Parliament every year. *The constitutional goal of equality for all the citizens of this country can be achieved only when the rights of the Scheduled Castes and Scheduled Tribes are protected. The abundant material on record proves that the authorities concerned are guilty of not enforcing the provisions of the Act. The travails of the members of the Scheduled Castes and the Scheduled Tribes continue unabated.* We are satisfied that the Central Government and the State Governments should be directed to strictly enforce the provisions of the Act and we do so. The National Commissions are also directed to discharge their duties to protect the Scheduled Castes and Scheduled Tribes. The National Legal Services Authority is requested to formulate appropriate schemes to spread awareness and provide free legal aid to members of the Scheduled Castes and Scheduled Tribes.”

**In *J.P. Ravidas v. Navyuvak Harijan Utthapan Multi Unit Industrial Coop. Society Ltd.*, (1996) 9 SCC<sup>13</sup>**

The respondent society was established for industrial purposes under the Cooperative Societies Act. The Government of India granted the organisation two acres of land in Bombay for the development of a housing colony to accommodate members of the organisation at reduced prices, with the Harijan community's welfare in mind. Originally, the Society included 28 members from Scheduled Castes and 5 members from Other Backward Classes. According to the bylaws, the membership shall be made up of 80% Dalits and 20% others. Originally, a total of 112 people were supposed to be a part of the club. As a result, there should be 90 Dalits and 22 non-Dalits on the board. However, according to the bylaws, the respondent Society did not

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<sup>13</sup> (1996) 9 SCC.

have 90 Dalit members. The Society's president at the time sought applications for membership. 78 people applied because of the answer. The Registrar of Cooperative Societies instructed the Society to enrol them all as members. When the appellant, a member, raised an objection, it was overturned, and the High Court eventually dismissed the case, ordering that all 78 people be enrolled as members of the Society. It was argued before the Supreme Court that, in the lack of a matching change to the Society's byelaws stating that the Society's membership shall consist of 90 Dalits and 22 others, the High Court was correct in mandating the enrolment of non-Dalit members.

The Supreme Court dismissed the argument and granted the appeal and held:

*” It was, therefore, obligated on the State to provide adequate means of livelihood to all citizens distributing the material resources of the community for common welfare. The ultimate object of the Directive Principles is to liberate the Indian masses, free them from centuries old coercion, ignorance, abject conditions and to prevent exploitation. The Union of India in implementation of the above Directive Principles in Article 39(b) and in discharge of its obligation under Articles 38 and 46 to provide facilities and opportunities to the Dalits, has allotted two acres of land in Bombay city for construction of houses to make their right to settlement and life meaningful, to enable them to live with dignity of person; and provided economic empowerment of settled residence to enjoy the right to meaningful life. The benefit of economic empowerment having been given to these members and they are having secured the property, neither the President of the Society nor the builder has any right to induct any member other than the prescribed percentage as per the byelaws. It is necessary to follow that the Society should consist of 90 Dalit members and 22 outsiders. Any contract or action which is opposed to constitutional animation and public policy is void. The action of the President of the Society and enrolment of non-Dalits defeats the purpose of the Government of India behind giving the land for construction of houses by Dalits. Therefore, the direction of the Registrar of Cooperative Societies would defeat the public policy. Any action taken in violation thereof is void. Accordingly, the orders of the High Court and the Registrar are unconstitutional and are set aside.”*

**In *Chameli Singh v. State of U.P.*, (1996) 2 SCC 549<sup>14</sup>**

The court in discussing how Right to Shelter is important to bring the Dalits and Tribes into the mainstream of national life and providing these facilities and opportunities to them is the duty of the State as fundamental to their basic human and constitutional rights, held that in any

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<sup>14</sup> (1996) 2 SCC 549

organised society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to live guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights. Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually, and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation, and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being. Want of decent residence, therefore, frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself.

***In Tekan v. State of Madhya Pradesh (Now Chhattisgarh)*<sup>15</sup>**

The court heard the case of a person who was convicted of raping a blind woman many times on the promise of marriage. The High Court was aware of the accused's abuse of the woman's disabilities and sentenced him to seven years in jail. The Supreme Court later affirmed the conviction and punishment. The Court also considered the amount of compensation to be granted to the prosecutrix, as well as the bodily harm she suffered because of her impairment. Justice M Y Iqbal, speaking for the two-judge bench, said as follows:

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<sup>15</sup> Tekan v. State of Madhya Pradesh (Now Chhattisgarh), <https://main.sci.gov.in/judgment/judis/43390.pdf>

“15. Coming to the present case in hand, victim being physically disadvantaged, she was already in a socially disadvantaged position which was exploited maliciously by the accused for his own ill intentions to commit fraud upon her and rape her in the garb of promised marriage which has put the victim in a doubly disadvantaged situation and after the waiting of many years it has worsened. It would not be possible for the victim to approach the National Commission for Women and follow up for relief and rehabilitation. Accordingly, the victim, who has already suffered a lot since the day of the crime till now, needs a special rehabilitation scheme.”

***In Kaliyaperumal And Anr vs State Of Tamil Nadu on 27 August, 2003<sup>16</sup>***

The most prevalent kind of cruelty against Scheduled Caste people is to refer to them by their caste with the sole purpose of hurting their feelings and sentiments. There must be an allegation that the accused insulted or threatened the complainant with the aim to humiliate the complainant in order to form an accusation of an atrocity under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Hon'ble Court correctly remarked that the precise averments mentioned in the complaint demonstrated that the accused insulted and intimidated the complainant by calling her by her caste name and using filthy language. All of this, according to the court, constituted an offence under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

These were some of the many instances where judiciary protected the interests of the members of the Scheduled Castes and Scheduled Tribes community and tried to highlight the problems faced by them and at the same time offered solution. Judiciary on most occasions has worked towards protecting and emancipating the marginalised community. Although what more can be done on their part is subjective, it can be said without any debate that Judiciary of this country has done more for emancipation of Dalits in the country than any other institution.

## **VI. CURRENT SCENARIO**

One might think, after so many legislations and so many judgements, Indian Dalits would have come a long way from where they started in 1947. But the sad part is, brutality has not stopped, continued humiliation has not stopped. The Indian Government told the Rajya Sabha on 3<sup>rd</sup> February 2021 that crimes against Scheduled Castes (SCs) and Scheduled Tribes (STs) rose by 7.3 percent and 26.5 percent, respectively, in 2019. In the previous year, there were 45,935 incidents of crime or atrocities against Dalits and 8,257 incidences of crime against tribal

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<sup>16</sup> Kaliyaperumal and Anr vs State of Tamil Nadu, <https://main.sci.gov.in/judgment/judis/19275.pdf>

people. The state with the highest cases of crime against SCs was Uttar Pradesh, with 11,829 cases, or 25.8% of all such cases in the country. Rajasthan comes in second with 6,794 instances (14.8 percent of all cases), followed by Bihar (14.2 percent) and Madhya Pradesh (14.2 percent) (11.5 percent). Madhya Pradesh has the highest rate of crimes against STs, at 23.2 percent. Rajasthan (21.8 percent of all cases) and Uttar Pradesh came in second and third, respectively (8.7 percent).

According to a research, between 2009 and 2018, the number of instances of atrocities against Dalits and Adivasis registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (PoA Act) grew by 281.75% and 575.33 percent, respectively.

The way in which the PoA Act is implemented has been a major source of concern among Adivasis and Dalits. According to a status report on the implementation of the PoA Act released by the National Dalit Movement for Justice (NDMJ), the average conviction rate for cases of atrocities against Dalits and Adivasis under the PoA Act remained at 25.2 percent and 22.8 percent, respectively, over the decade prior to 2018. A total of 3,375 incidents of assault on women (including adults and children) from SC groups with the goal to shock modesty have been reported under the PoA Act, which is a concerning trend. The state with the most rapes against Dalit women was Rajasthan (554), followed by Uttar Pradesh (537), and Madhya Pradesh (510).

The numbers are extremely worrying and are completely against the idea of equality. These trends destroy the aim of emancipation of Dalits. These numbers show how members of upper castes continue to practise untouchability and discrimination. But why do members of the upper castes continue to practise untouchability and discrimination? What are the main reasons for the failure of constitutional law adopted to safeguard the rights of Dalits to be implemented? When Dalits seek legal access to Human Rights and equal participation in the social, political, religious, cultural, and economic spheres of communal life, why do non-Dalits resort to physical and other forms of violence rather than helping each other out in a way to promote equality and liberty?

The reasons for widespread untouchability, atrocities, and other violent reactions by the higher caste, as well as non-implementation of various provisions of the constitution and legislations, can be found in high caste Hindus' continuing belief and faith in the sanctity of the caste system and untouchability. On the one hand, Dalits continue to be excluded from day-to-day communal interactional relationships based on caste hierarchy, while sectarian interests force them, directly or indirectly, to remain within the Hindu Society in order to present it as a

"homogenised Hindu Whole" and thus ensure their majority status.

Education plays a big part in liberating a human being. One can be a theist but still understand many problems associated with religion and argue about it. But, as Ambedkar argues, most Dalits, being uneducated, ignorant, and god-fearing, believe in the caste system and conduct caste discrimination among themselves, though to a lesser amount than the higher caste. As a result, they remain divided and unable to act collectively against caste tyranny. To emancipate Dalits, education needs to encourage, as evidently, States with poor education infrastructure struggle in controlling atrocities on Dalits than states with better education infrastructure.

Another reason why Indian government has failed on most days in emancipating Dalits is also because despite the fact that SCs/Dalits account for over 16 percent of the Indian population, they are too few in any village to collect the confidence to take the law into their own hands and go to the police and courts to punish upper caste Hindus who violate their rights.

Living in a country that is more capitalist in nature, In India, most Dalits remain landless and rely on the very castes who violate their rights and dignity to make a living. So, despite the existence of laws in their favour, they would not dare to use them to defend their source of income. This is one of the cultural impacts of a country not able to do economically well.

Thus, this is the current scenario of the country that aimed to liberate every citizen when it was newly formed.

## **VII. CONCLUSION**

The aim of this paper was to properly examine the infestation of caste-based inequalities that continue to prevail, prosper and persevere in modern-day India. After establishing a brief history by travelling back to post-independence India, the paper dives into the theoretical aspects of caste-related enshrined in the Indian constitution. Moving forward, the paper tackled the immoral nature of such differences existing currently, through examples and precedents established by the Indian legislature and judiciary by the means of various orders, decrees, laws and judgements.

The overarching conclusion of the analysis of past and present caste-based inequalities was that lack of education and faulty implementation of official programmes were some of the biggest reasons behind such differences refusing to disappear.

Stalin K, a prominent documentary filmmaker and human rights activist, remarked that caste-based inequality deserves the "same level of attention" as the apartheid regime in South Africa. There isn't enough awareness or outrage about caste-related problems amongst the people of

India themselves. The emancipation of Dalits and other disadvantaged groups is restricted by exploitative attitudes of the benefactors of such differences. It is these restrictions that must be removed before India's Dalits can embark upon their long overdue journey out of discrimination and oppression.

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