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ARTICLE 17: ABOLITION OF UNTOUCHABILITY¹**ABSTRACT**

The right to equality is a component of the rule of law principle, and Article 17 of the Constitution expressly prohibits the practise of untouchability. Untouchability is illegal, and anyone who practises it faces legal consequences. The Untouchability Offenses Act of 1955, which was renamed as the Protection of Civil Rights Act in 1976, which basically imposes fines for prohibiting anybody from getting to a place of worship or getting water from a tank or well, in addition to other things. This article, when read in conjunction with Directive Principles of State Policy Article 39(a) (ii), makes it clear that untouchability has been abolished and its practise is prohibited. Article 18 also establishes a framework for protecting or reversing discrimination against individuals, and it is prohibitory in nature. In this vein, the National Awards do not violate Article 18 because the doctrine of equality does not exclude the recognition of merit.

Keywords: Equality, Rule of Law, Supreme Court, Titles, Untouchability

INTRODUCTION

According to Article 17 of the Indian Constitution, it states that "Untouchability is outlawed, and any type of it is prohibited. Any disability imposed as a result of Untouchability would be considered a criminal offence punishable by statute." The abolition of untouchability is mentioned unequivocally in the Indian Constitution. The Protection of Civil Rights Act, which was renamed the Untouchability Offenses Act in 1976, imposes fines for prohibiting an individual from accessing a place of worship or taking water from a tank or well.² Furthermore, Article 18 establishes a procedure for the protection or reversal of discrimination against

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² Gayathri. U, 'A Study on the Abolition of Untouchability' IOSR Journal of Humanities and Social Science (IOSR-JHSS). Volume 22, Issue 7, Ver. 11 (July. 2017) PP 78-81. <<http://www.iosrjournals.org/iosr-jhss/papers/Vol.%2022%20Issue7/Version-11/J2207117881.pdf>> last accessed 4th May 2021.

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individuals, and it is prohibitory in nature. The Indian Constitution extends the spirit of the Universal Declaration of Human Rights into the social and legal sphere, enshrining the multidimensional spirit of human liberty, independence, equality, and dignity, as well as the ideal of brotherhood.

Untouchability is a long-standing tradition in Indian culture, as is the fight against it. Our country saw a lot of social movement against this tradition of untouchability before independence, i.e. even before the British ruled. Untouchability, a long-standing and patriarchal tradition in Indian society, is the subject of this essay. Mahatma Gandhi, Jyotibha Phule, and Dr. B. R Ambedkar were prominent opponents of untouchability during the British period. Mahatma Gandhi went so far as to say that "untouchability is a Hindu sin." The term untouchability is the main theme of the entire article 17. However, it is interesting to note that it is not specified in the constitution or in any law passed by Parliament. The words "untouchability" was described in the cases of *Jai Singh vs. Union of India*³ in the Rajasthan High Court and *Devarajiah vs. B. Padmana*⁴ in the Madras High Court. According to the court, the word "untouchability" is written inverted commas in article 17, indicating that it is not to be interpreted literally or grammatically. The word's definition can be deduced from historical development and historical activities. Untouchability is a social handicap levied on certain groups of people as a result of their birth into a backward society. As a result, any social boycott of a few people or their removal from religious institutions, for example, is not protected. As a result, the term untouchability in article 17 only refers to untouchability based on caste.

The court ruled in *People Union for Democratic Rights vs. Union of India* that the protections provided by articles 15 and 17 apply to both state and private individuals. It means that all people are shielded from both the state and private individuals who practise untouchability. As a result, both papers have wider consequences than the others. Apart from the Civil Rights Protection Act, another statute, the 'ST-SC Prevention of Atrocities Act, 1989,' defines the penalty for untouchability. This Act also contains important details such as how the trial must be held, what types of relief are available, how special courts are formed, and so on.

EXPLANATION:

Neither the Constitution nor the Act defines untouchability. It refers to a social phenomenon in

³ AIR 1993 Raj 177, 1993 CriLJ 2705, 1993 (2) WLC 1.

⁴ AIR 1958 Kant 84, AIR 1958 Mys 84, (1958) 36 MysLJ.

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which some depressed groups are looked down upon solely because of their birth and are subjected to discrimination on this basis. Others were thought to be polluted by their physical contact. Untouchable castes were forbidden from drawing water from the same wells as the upper castes or using the pond/tank that the upper castes used. They were denied access to certain temples and were subjected to a variety of other restrictions. The Constituent Assembly placed a high value on the abolition of this evil activity, as shown by this provision's inclusion in the Constitution. Article 17 is also important from the standpoint of equality before the law (Article 14). It ensures social justice and human dignity, two rights that have been denied to a large section of Indian society for decades⁵. This right is aimed at private individuals. The essence of untouchability makes it impossible to imagine a situation in which the state might practise it. The Supreme Court held in *People's Union for Democratic Rights v UOI*⁶ that whenever a fundamental right contained in Arts. 17, 23, or 24, it would be the State's constitutional duty to take the required measures to stop the violation and ensure that the person respects the right. The fact that the aggrieved individual may defend or enforce his or her infringed fundamental rights did not absolve the State of its constitutional obligations. Article 35, when read along with Article 17, gives Parliament the power to enact legislation imposing penalties for practising untouchability. The Untouchability (Offences) Act of 1955 was passed by Parliament. It was renamed 'The Protection of Civil Rights Act, 1955' in 1976, after it was made more stringent. It defines a "civil right" as "any right conferred on an individual by Article 17 of the Constitution's abolition of untouchability." Many of the Act's offences are now non-compoundable. It is also illegal to offend a Scheduled Caste member on the basis of untouchability, preach untouchability, or justify it on historical, philosophical, religious, or other grounds.

The Act stipulates that banning anybody from accessing a place of public worship or worshipping, restricting entry to any store, public restaurants, hotels, or places of public entertainment, refusing to admit people to hospitals, and refusing to sell goods or provide services to anyone would result in a penalty of 1-2 years in jail. The 'Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989' was passed by Parliament to prohibit the commission of offences or atrocities against members of the Scheduled Castes and Scheduled Tribes. The Act establishes special courts for the prosecution of violations of the Act, as well

⁵Rakesh Chandra, 'Social justice and untouchability in India: A constitutional perspective' International Journal of Law. Volume 3; Issue 4; July 2017; Page No. 107-111. <<file:///C:/Users/User/Downloads/3-4-28-129.pdf>> last accessed 4th May 2021.

⁶1982 AIR 1473, 1983 SCR (1) 456.

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as for the relief and rehabilitation of victims of such violations. If the survivor is still suffering from social disability, atrocities committed against a Hindu SC or ST who had converted to another religion can be charged under the Act. The Supreme Court, in *State of Karnataka v Appa Balu Ingale*⁷, expressed its displeasure with the practise of untouchability, ruling that it was an indirect form of slavery and the only extension of the caste system.

PROTECTION OF CIVIL RIGHTS ACT, 1955

The Untouchability (Offenses) Act, 1955 was enacted by the parliament of India in relation to the powers conferred by Article 35. This Act was altered by the Untouchability (Offenses) Amendment Act, 1976 and it extends in order to make the law more rigid to eliminate the danger of Untouchability from the society at all levels like individual, cultural, regional and national. And now it has been renamed as the protection of Civil Rights Act, 1955⁸. Under the protection of Civil Rights Act, 1955 any discrimination on the ground of Untouchability will be viewed as an offense. An individual convicted for the Untouchability is prohibited for contesting the parliamentary elections or state legislatures elections. This act mainly deals with the provisions related to the punishments with respect to any kind of discrimination and they are:

Section 3 deals with punishment of imprisonment for the term not less than one month and not more than six months and also a fine of not less than one hundred rupees and not more than five hundred rupees will be given to any person who prevents any person from entering into any public worshipping place or performing any religious services.

Section 4 deals with the punishment of imprisonment for a term not less than one month and not more than six months and a fine of not less than one and rupees and not more than five hundred rupees given to any person who prohibits the entry of any person in any shop, public restaurant or hotel and place of entertainment. Also, restraining any person with the use of utensils, and other things kept in Dharamshala, public restaurant, or to use of any stream, river, tanks, etc. will be a punishable offence on the basis of untouchability.

Section 5 deals with punishment of imprisonment up to 6 months and with a fine of not less than one hundred rupees and not more than five hundred rupees for any person who prevents anyone from entering into the hospital, dispensary, educational institution or any hostel which is

⁷AIR 1996 SC 770.

⁸LAKSHMI DEVI, 'THE PROTECTION OF CIVIL RIGHTS ACT 1955 (AS AMENDED IN 1976): SOME OBSERVATIONS'. <<http://ijsw.tiss.edu/greenstone/collect/ijsw/index/assoc/HASH01fd/56231f23.dir/doc.pdf>> last accessed 5th May 2021.

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for public use.

Section 6 deals with imprisonment for not less than one month and not more than six months and also with fine to whosoever on the ground of untouchability refusing to sell goods and to provide jobs to any person.

Section 7 deals with punishment of imprisonment and fine on whosoever preventing any person from exercising the rights of Article 17 or molest, cause injury, annoy, insult, or attempt to insult any person on the ground of untouchability. It was also said in this article that that any person would be punished with imprisonment and fine if he/she refused any person to use or occupy any house or land for the purpose of work or business and abstain anyone from social, professional, or business relationship on the ground of untouchability.

Section 7A deals with the punishment of imprisonment for not less than three months and not more than six months and with the fine of not less than one hundred rupees and not more than five hundred rupees, if any person forces other on the ground of untouchability to be subject to slavery, practice sweeping or forcing any person to remove the skin of animals and other jobs similar to that.

CONCLUSION

Castesim has become unavoidable. The practice of untouchability has been abolished in unequivocal terms and it is an offence which is punishable by law. The most terrible thing is that the caste system or untouchability is in the level where it can't be removed overnight. It is in light of a legitimate concern for both the individual and society that casteism ought to be eradicated from society at the soonest. The untouchables have experienced different social, economic, political and religious disabilities. For the sake of Religion, they were altogether exploited in the cruelest way. In spite of its constitutional abolition in 1950, the act of untouchability and the inconvenience of social disabilities on people by reason of birth into a particular caste remains very much a part in rural area. In 1950 National Constitution of India legally abolished the given measures for discrimination in both educational institution and public service for Dalit's who falls within the caste system. As individuals are turning out to be instructed, this system of discrimination has gradually become less pervasive, still it is a long way from being over. India government has consistently making an attempt to make its status up, yet needs to work out. According to the provisions of the Protection of Civil Rights Act, 1955 it provides penalties for any person committing any act which amounts to the practice of untouchability mentioned in article 17 of the Indian constitution and makes all offences rightly

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as non-compoundable⁹. Articles 330-345 of the Indian Constitution provides for special provisions that safeguards the interests of the Scheduled Castes, Scheduled Tribes, Anglo-Indians and the backward classes. Of all the remedies of eradication of untouchability, the first is law itself. Therefore, the law for the abolition of Untouchability should be implemented in letter and spirit so as to achieve the goal of Social equality, Social Justice and Rule of Law.



⁹TOWSEEF AHMAD, 'Abolition of Untouchability and Abolition of Titles: An Indian Perspective' International Journal of Research in Humanities & Social Sciences. Vol. 2, Issue: 8, Oct.-Nov:2014.
<http://www.raijmr.com/ijrhs/wp-content/uploads/2017/11/IJRHS_2014_vol02_issue_08_05.pdf> last accessed 6th May 2021.

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