



Indian Institute of Dalit Studies
New Delhi



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Rosa Luxemburg Stiftung

Historic Legacy of Untouchability *and* Caste Enslavement *A Case for Reparative Justice*

Amit Thorat

2021

STUDY REPORT



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South Asia**



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Executive Summary

The untouchables constitute about one fifth of India's population. As a social minority they have suffered discrimination and exclusion of the worse forms for the longest time in history. The untouchables have had the misfortune of having experienced double bondage-that of untouchability and of slavery. Disabilities associated with untouchability and caste slavery constitute a deadly combination of double exploitation, rarely seen elsewhere, that crippled them completely ever since the institution of untouchability emerged between 200 CE-400 CE. However some scholars argue that untouchability dates back to BCE 600 and it continued till 1950 when it was finally banned under the Indian constitution. The Indian Constitution in 1950 recognised the past injustices suffered by untouchables and banned its practice in any form. Subsequently in 1955, an Untouchability Offence Act, later renamed as the 'Protection of Civil Right Act,' was passed under which the practice of untouchability was made an offence. An Affirmative action policy, or what is officially referred to as 'Reservation Policy', was developed to secure for them a fair share, proportional to their population share, in the nation's legislatures, public services, government education institutions, and public housing. Other policies were also developed to improve their access to property, land, industries and education. Since then there has been some improvement in their condition, however the progress has been limited and a high proportion of erstwhile untouchables, also called Dalits, continue to be landless, assetless, and less educated. Therefore, they continue to suffer from high poverty levels, hunger, malnourishment, ill-health, illiteracy as indicated by social and well-being indicators, and also a lack of civil rights. The Affirmative Action Policy and other inclusionary measures have had a limited success in overcoming the disadvantages suffered by untouchables. They have not been adequately compensated for the denial of property, education, human and civil rights for the longest period in time by any social group anywhere in the world. While some policy measures were formulated to reduce the consequences of untouchability, nothing substantial was done to compensate for the adverse consequences suffered by untouchables as slaves. In fact slavery amongst untouchables has been entirely neglected by researchers and policy makers.

This study argues that for bridging the persistent developmental gap, a necessary condition would be to understand, acknowledge, and repair the historic wrongs through an appropriate 'Reparation and Compensation' policy, apart from the existing reservation policy, that provides for reparation as well as safeguards against continuing discrimination and exclusion



experienced by untouchables despite legal safeguards. In support of reparations, this study makes an early attempt at providing evidence on account of historic injustices due to both caste untouchability and enslavement.

The study tries to provide an account of the disabilities imposed on them as a result of being designated as untouchables. It also provides evidence on exploitation of untouchables as caste-slaves during the ancient, medieval and British period which continued unabated till the dawn of India's independence. The inter-generational down the stream consequences of such exploitation are reflected in their ownership of wealth, assets and income gap, landlessness, and lower land-size ownership, higher incidence of poverty, hunger, ill-health, and deprivation at community as well as individual level trauma, hurt and humiliation. Unfortunately, the legacy of double bondage; of being termed and treated as untouchables and caste-enslaved continues to be inherited/ experienced by their progeny. Based on evidence, the study builds up a strong case for a policy of 'Reparations and Compensation' to Dalits for achieving redistributive justice.





Acknowledgement

The author and supporter of this study would like to acknowledge and thank the Rosa Luxemburg Stiftung, South Asia for sponsoring this study. This work would not have been possible without the support of the Foundation. I therefore express my profound gratitude to the Regional Representative, RLS South Asia Mr Jakob Littmann, for his keen interest in the study and his continued support and encouragement. I am grateful to Mr. Tauqueer Sabri at RLS, who coordinated this study on behalf of the Foundation, and has been exceedingly helpful and supportive all through the journey. I thank him for his commitment, support and understanding. At the Indian Institute of Dalit Studies, where this study was carried out, the project coordinator Dr. Vinod Mishra has been the pivotal support and manager, handling and coordinating the project seamlessly. I must thank him for his understanding and assistance for completing the study. I am also immensely thankful to Director, Indian Institute of Dalit Studies, Dr G C Pal Delhi for taking up this study in the first place and encouraging me with his constant support. Last but not in the least, I am thankful to Md Aquil for research assistance without whom this study would not have been possible.

The origins of the idea for the study in fact came from a project on Reparation covering ten minority groups, initiated by the Harvard School of Public Health and Policy. My thanks goes to Dr Richardson Eugene who invited me and Prof. S.K. Thorat to be a part of this ten-nation study group, representing the case of Dalits from India. The discussions held in two workshops helped me to shape my ideas of Reparations for the descendants of the ex-untouchables and ex-enslaved of India.

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CHAPTER

1



The Persisting Developmental Gap for Untouchables

1.1 Recognition of Untouchables' problem

The untouchables constitute close to one fifth of India's population. Being at the lowest level of hierarchy in the caste system they suffered from exclusion from the rights to property, education and civil rights. Besides the denial of property rights, they also suffered caste slavery. Denial of economic rights on account of being an untouchable and as a caste slave; the two together constitute a deadly combination which has economically and socially crippled the entire community for the longest period of time in history.

The Indian Constitution recognised the past injustices of untouchables and made provisions for equality and non-discrimination on grounds of caste, religion, ethnicity, gender, and region. Its adoption in 1950 aimed to overturn the regulatory framework of the caste system based on the rule of graded inequality.

In Article 14 of Constitution it is stated that "The State shall not deny to any person equality before the law or equal protection of law." Further, Article 15 of the Constitution states, "the State shall not discriminate against any citizen on grounds only of religion, race, sex, place of birth, or any of them, and no citizen shall, on grounds, only of religion, race, caste, sex, place of birth, or any of them, be subject to any disability, liability restriction or condition with regard to access to shop, public restaurants, hostel and places of public entertainment, or the use of wells, tanks, bathing ghats, roads, and places of public resort maintained wholly or partly out of State funds, or dedicated to the use of the general public. The Constitution also in Article 16 guarantees equality of opportunity in matters of public employment. It states: "(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to office under the state, (2) No citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, resident or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State.

Most important is the provision in Article 17. The Constitution prohibits untouchability, which states "Untouchability is abolished and its practice in any form is forbidden. And it makes practice of untouchability subject to punishment. The enforcement of any disability arising out of "Untouchability shall be considered an offence punishable in accordance with law."

Equally important is the provision by the State to undertake policies for the discriminated communities and make provision of equal opportunity in education and public employment.

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Article 15 states that, “nothing in this Article shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. Article 15(4) empowers the state to reserve seats for Scheduled Castes and Scheduled Tribes in educational institutions. Article 16 states, “Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

Most important is the provision in Article 46, The Directive Principles of State Policy: “The State shall promote with special care the educational and economic interests of the weaker sections and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustices and all forms of exploitation.”

Thus, the Constitution recognised equality, equal opportunity and the principle of non-discrimination in all public and private spheres and made the observance of discrimination based on untouchability an offence subject to punishment. In order to give effect to these provisions, the constitution also empowered the State to develop policies for the weaker sections, particularly for the Scheduled Castes and Scheduled Tribes.

In order to give legal backing to the provision of equality before law and equality of opportunity, the government developed three sets of policies for the ex-untouchables.

The legal safeguards against the practice of untouchability is one of them. In order to provide legal safeguards against discrimination, the Parliament enacted the Untouchability (Offence) Act, in 1955. To make provisions of this Act more stringent, the Act was subsequently amended in 1979 and renamed as the Protection of Civil Rights Act 1955 (PCR); it prescribed punishment for the preaching and practice of untouchability. Another Act, namely the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act was enacted 1989 to provide legal safeguards against violence and atrocities committed against SCs and STs. According to the Act, atrocities is defined as violent acts which are atrocious, cruel and shocking, and brutal in nature.

The policy for representation in legislature, government jobs, and educational institutions to ensure a fair share to the Scheduled Castes and Scheduled Tribes is another measure introduced by the State. It was introduced to give effect to the provisions (Article 15, Article 46) in the Constitution including the Directive Principles of State Policy under which the State framed the ‘Reservation Policy’ to ensure fair share to the SCs, proportional to their population share in legislatures, government/public services, government educational institutions, and public housing and other public spheres.

Thirdly, the State also devised general economic policies to improve the ownership of capital assets like agricultural land and enterprises/business, and also measures to promote education among them.

These policies have had some positive impact on the plight of the Scheduled Castes. The legal safeguards against caste discrimination have brought about some improvement in access to civil and economic rights to them (Saha et al, 2010).The reservation in legislature has given



opportunity to the scheduled castes to participate in making laws and policies as members of legislative bodies. The reservation in government jobs helped directly to assure them share in public employment. A similar policy has improved their participation in public education institutions and helped to improve their educational levels. The policy also resulted in some improvement in their ownership of agricultural land and non-farm enterprises and business. Together these measures have brought some improvement in income and reduction in poverty, and upward social and economic mobility among the Scheduled Castes (Thorat, 2010).

Where do the Scheduled Castes stand today with respect to the guarantee provided in the Constitution? It seems from the available evidence that despite these positive changes, these policies have had a limited success in overcoming the backlog and in bridging the gap between them and other castes to ensure equality of rights and opportunities (Thorat, 2010).

It has been seventy years since the discriminatory practices of untouchability were put to an end by the Constitution in 1950 and then through a law against untouchability five years later in 1955. The legal safeguards, notwithstanding, the age-old practice of untouchability continues to rip the country's social fabric apart as subtle forms of discrimination continue. For instance between 1995-2014 a total of 2,43,552 cases of caste discrimination in civil, social, political and economic spheres were reported by the scheduled castes. Many primary studies have reported denial of civil, religious, and political rights to untouchables in some spheres, if not all (Saha et al, 2010). The SC also face discrimination in employment, wages, occupations, and in farming and non-farm enterprises including housing. The SC are also not immune from discrimination in non-market institutions like educational institutions, delivery of public goods and services supplied by government administration/organisations such as health, food and other services (Thorat, 2010; Vani *et al.* 2018)

In case of reservation policy, despite efforts to give representation to SC in government jobs and admission in educational institutions, their economic mobility has been limited. The gaps in human development indicators between the SC and high castes remain significantly high. The per capita income (in terms of monthly per capita consumption expenditure - MPCE) is low and poverty incidence is high as compared to the all India average and high castes. The monthly per capita consumption expenditure of the Scheduled Castes was almost half that of the higher castes, as a result poverty among them was almost three-and-a-half times higher than the higher castes in 2011-2012, the latest year for which data is available. The low consumption expenditure results in high malnutrition and poor health among the scheduled castes, which is reflected in health indicators such as high mortality rates and anaemia among males, females as well as children in 2015/16. The cumulative impact of this deprivation is reflected in reduced life expectancy. The average age of death for SCs is 53 years, which is six years less as compared to 59 years for higher castes and four years less than the national average of 57 years. All this goes on to show that SCs continue to suffer from high degree of poverty and malnutrition, both in absolute and relative terms, in comparison with the high castes and all India average.

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Those who have enquired into the causes of chronic poverty among SCs attribute it mainly to the structural factors, which mainly include low ownership of capital assets i.e. agricultural land, non- agricultural enterprises, low education level and dependence on low paid manual wage labour and discrimination in market and non-market exchanges (Thorat, 2010; Vani et al, 2018).

While these causes of low development among the Scheduled Castes are evident from empirical data, they can be traced back to the rules of caste system which prohibited the ex-untouchables from right to property (agricultural land and enterprises except the lower artisan activities) and employment in the occupations of the higher castes such as teaching and preaching, military, trade and commerce, and agriculture other than manual labour). These restrictions were in place till early part of the 19th century since their codification by Manu in about 200 BCE; nearly two thousand years—the longest period of discrimination ever experienced by any community in the world. Thus, the untouchables in the past faced restrictions in four spheres namely ownership of agricultural land, enterprises/trade, employment in decent work (in the occupations of four castes above the untouchables), education and civil rights. It is precisely in these spheres that the state government has intervened through policies for improving their ownership of property and in education. However, the progress in ownership of land, enterprises, employment, and education has been limited keeping them at low level of human development. Reference to recent data on these aspects reveals the sorry state of affairs of the scheduled castes.

In case of agricultural land, the Economic Census of 2013 revealed that the SC owned about seven percent of the country's wealth which is much less than their population share of 17 percent, while almost 45 percent of the country's wealth is owned by high caste—that is almost twice their population share of 21 percent. The Other Backward Castes (OBC) owned about 31 percent of wealth which is less but fairly close to their population share of 36 percent. The poor ownership of wealth is reflected in wealth per household too. For instance, the average value of wealth per household at all India level was Rs 15 lakh, Rs 29 lakh for higher caste, followed by Rs 13 lakh for OBC, and Rs 6 lakh for SC. Thus, the wealth per household of SC was nearly five times less compared to high castes and two times less as compared to OBC. Land and building account for bulk of the wealth in the country—about 56 percent and 33 percent respectively. Of the total wealth in land, the share of the SC is only seven percent, much less than their population share of 17 percent. The data from the National sample survey on land holding survey, 2013 shows that the policy to improve land ownership by SCs has nearly failed. In 2013, of the total scheduled caste households in rural areas about 55 percent are landless and nearly landless (owning less than one acre). If we add the proportion of those who owned 1.23 acres it comes to 77 percentage of total SC households. The average land owned by an SC household thus is the lowest at 0.67 acres compared to other groups including Scheduled Tribes.

Therefore, the percentage of land owning farmers among the SC is low. In 2019/20, of the total SC rural households about 25 percent were farmers, which is low as compared to 44 percent among the high castes/OBC.



Similarly according to the National Sample Survey 2019/20, the ownership of non-farm enterprises/ business among the SC is low: of the total SC households in rural areas about 14 percent were self- employed entrepreneurs. In the urban areas the self-employed account 22.7 percent of Scheduled Caste households as compared to 31 percent for OBC and high castes.

According to the Economic census 2013 which collects data on ownership of organised industries/enterprises, of the total organised enterprises in the country the share of SC is about 11 percent, lower than their share in population, while the high caste and OBC owned about 42 percent each which is much higher than their shares in population.

Further, the bulk of enterprises owned by the SC are household enterprises, designated as own account enterprises. In 2013/14 for example, the household enterprise constitute about 83 of the total enterprises owned by the SC, which is higher than 70 percent for high castes and 76 percent national average.

The National Sample Survey separately collected data on ownership of unorganised private enterprises in 2015. Of the total unorganised enterprises, the share of SC was 12 percent, while the share of high castes was 49 percent, which is higher than their population share of about 22 percent. The bulk of the SC enterprises were household enterprises - of the total SC owned enterprises 93 percent were own account and seven percent 'establishment' while the high castes' share in own account enterprises (OAE) was 77 percent and 23 percent in Establishment enterprises. The respective percentage for OBC, was 86 percent and 14 percent for own account and establishment enterprises respectively. Thus, the gap between SC and OBC/high castes persist in ownership of organised as well as unorganised enterprises.

Other spheres where the Scheduled Caste faced exclusion in the Hindu laws was employment in the occupation of four castes above them, except the manual labour. The pattern has not changed much. Of the total SC workers, the share of regular salaried workers was 20.5 percent as compared to 35 percent for the high castes, while the all India average was 23 percent. This is despite the reservation for the SC in regular salaried government jobs. Consequently in 2019/20 as per the Employment survey, of the total SC workers about 37 percent were employed in elementary occupation, which was nearly three times higher than the 12.7 percent for high castes. In fact the SC workers account for 33 percent of elementary workers in the country that is much higher than their share in population.

Because of restriction on ownership of land and enterprises and in employment of high caste occupations (preaching and teaching, military, trade /commerce, farming), they were traditionally employed in manual wage labour. This has continued into the present, despite some positive changes. In 2019/20, of the total SC workers about 35 percent were casual wage labourers, while this ratio was 10 percent for high castes and 21 percent for the OBC. In fact, of the total casual wage labour in the country, SC casual wage labourers account almost 34 percent, which is double their share in population of 17 percent, while the share of high castes was eight percent way below their share in population. Thus, despite policies, the SC predominantly continue as manual wage labour.

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Lastly, education is another area which was prohibited to the Scheduled Castes under the Hindu caste laws. Therefore, schemes were developed for the SC, which mainly includes reservation in faculty, staff and students in government universities and colleges, and scholarship, free ship, fee-waiver, hostel facilities and similar help to enable them to access school and higher education. However despite these measures, the gap in the educational attainment between the Scheduled Castes and high castes remains. In 2017/18, the enrolment rate among the SC at secondary and higher secondary level was 74 percent which is lower than 94 percent for high castes and 82 percent for OBC, and the national average of 78 percent. Similarly, the enrolment rate in higher education was 21 percent for SC, 41 percent for high caste and 28 percent for OBC, while national average was 26 percent. Thus, the enrolment rate of SC in higher education was half of that of high castes.

This empirical account of the progress of the Scheduled Castes for the recent years shows that although there has been some improvement in their ownership of agricultural land and non-farm enterprises, employment gap in regular salaried jobs in the occupations of the four castes above them (teaching/preaching, military, enterprise/trade, farming) and education, vis-à-vis the high castes and the national average still persists. As a result the Scheduled Castes continue to suffer from high level of poverty and deprivation.

1.2 Limitations of Present Policies

Why is the progress of Scheduled Castes so limited? It is now reasonably clear that the limited progress of the SC is closely linked with the shortcomings of the present policies. Among other things, the limitations of the policies are that they mainly focus on safeguards against discrimination in the 'present' in employment, and education but measures to correct the consequences of the 'past' (i.e. exclusion from the right to property, education, and civil rights) and to empower them with ownership of capital assets has had a very limited scope in the policies. A look at the present laws and policies of the Central and state governments will make it clear.

Over a period of time the Central and state governments have developed policies for the Scheduled Castes, which could be grouped into the four categories viz.

- (a) Law against discrimination to ensure equal citizenship rights—equality before laws and equal opportunity to the Scheduled Castes.
- (b) Policies to give a fair share to the Scheduled Castes in legislature, government jobs, educational institutions, and other public spheres such as public housing through Reservation policy as safeguards against discrimination in the “present.”
- (c) Policies to improve their ownership of income earning assets like agricultural land, non-farm enterprises and business, and finally
- (d) Measures to enable Scheduled Caste students to access school and higher education.

It is believed that without these safeguards the SC may not get their due share in employment,



educational institutions, legislature and other public spheres. The Reservation Policy at the minimum level intended to give to the SC a share proportional to their population.

However these policies, as mentioned earlier, have their shortcomings and limitations. The legal safeguards against discrimination such as Protection of Civil Rights Act (1955) has had limited success in ensuring equal access to the Schedule Castes to the citizenship rights, including equal economic rights. The Protection of Civil Rights Act also includes equal opportunity in employment, and wages. It also includes equal opportunity in undertaking any occupation, and in conducting business and participation in the sale and purchase of goods and services in various markets and non-market institutions. However, in spite of these safeguards the Scheduled Castes face discrimination (in terms of denial of equal access) in different fora mainly because the old customs and norms supportive of caste discrimination and untouchability continue to influence the social and economic behaviour of the higher castes towards them. It may be mentioned that several of these decisions are in private (non-government) spheres and laws have their limitations in regulating economic and social behaviour in the private spheres of individuals. These are governed by traditional norms and customs and prejudices about the Scheduled Castes.

The policy of law against untouchability only provides safeguards against discrimination. It does not address the norms and customs which result in discrimination. It has its limitation in reforming the sources of discriminatory behaviour of the high castes towards the untouchables. Dr. Bhim Rao Ambedkar who was instrumental in developing legal safeguards was immensely aware about such limitations of law more than anybody else; for he had observed that the laws would be effective if violation is by an individual but not when the entire community is opposed to the rights of a minority. In this regard he quoted Edmund Burke:

There is no method found for punishing the multitude. Law can punish a single solitary recalcitrant criminal. It can never operate against a whole body of people who are determined to defy it. Social conscience is the only safeguard of rights. If social conscience is such that it recognises the rights which the law chooses to enact, the rights will be safe and secure otherwise not.

Unfortunately, the social and moral conscience that governs the behaviour of high castes is not much in favour of equality. The social beliefs that support inequality continue to influence the behaviour of the high caste people. This belief system is at the root of the denial of rights and the use of violent methods against Dalits. The past does not remain in the past; its legacy continues to influence behaviour towards Dalits in the present. Dr. Ambedkar argued that actions of people are a natural outcome of their belief in caste codes. Unfortunately, there is no engagement by the government and high-caste Hindu civil society with people who practise untouchability. What is required are the direct efforts on the part of government and high caste Hindu civil society towards building a social consciousness in support of equal rights to the Scheduled Castes. Nothing else will work if majority of the higher castes continue to believe and practise the norms which deny equal rights to untouchables. The efforts on this count are very less. This is the limitation of the legal policy adopted by the State.

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The second policy namely, reservation also has its limitations: both in jobs and education. The reservation policy excludes the private sector and confines it to the small government/public sector. Of the total regular salaried employees in 2019/20 about 73.5 percent were in private sector. They stand excluded from the reservation policy and only 26.6 percent government and public sector jobs are covered under reservation. Reservation in the 26 percent government/public sector jobs accounts only six percent of the total SC workers in the country. For obvious reasons such a low proportion of regular salaried workers under the reservation policy would have limited impact on the upward mobility and wellbeing of the Scheduled Castes.

The reservation policy in educational institutions also suffers from similar limitations. Like reservation in employment, here too reservation is confined to government/public educational institutions and a growing private sector is excluded from the purview of reservation thus affecting their access to education. In 2018/19 about 39 percent of universities and 78 percent of colleges were private. In the same year about 55 percent of students were studying in private higher educational institutions. Of the total students in secondary/higher secondary, about 40 percent were studying in private schools. The share of the Scheduled Castes was low at 31 percent, compared to 51 percent of high caste, 42.6 percent of OBC and the national average of 40 percent. Since private education is quite costly as compared to education in public or state-owned institutions, the SC students fall back on public educational institutions; a higher proportion of them --about 69 percent-- depend on government schools, which is higher than high castes (48.8 dependency on government institutions) and OBC (57.3 percent depending on government institutions).

Besides the factors which enable the access of Scheduled Castes students such as financial assistance in the form of scholarships, fee ship, tuition waiver, hostel, etc. is inadequate and limited in support. The factors are not adequate enough to improve the educational attainment of the Scheduled Castes to bridge the gaps between them and high castes and bring them on par with other castes. Privatization of the higher education sector has also reduced the share of SC teachers and staff in education as it has narrowed down the presence of government in the higher education sector.

The most serious limitation is related to the policies for improvement in ownership of capital assets namely agricultural land and enterprises/business. Unlike the reservation policy in jobs and education, the land redistribution and entrepreneurship development policy for the SC is without any legal base. It has been left to the central and the state governments to develop policies and schemes for land redistribution to the Scheduled Castes to reduce landlessness among them. Similarly, it has been left to the central and state governments to develop policies for improvement in the SC ownership of enterprises/businesses. The general approach of the state governments has been to give preference in the redistribution land under ceiling and giving ownership right for land cultivated under tenancy. Some states have developed specific schemes for the redistribution of public land and/or private land to SC--latter through purchase from private parties for distribution to the SCs on a limited scale. Given the general apathy towards SC and resistance to policies benefiting them, there are hardly any serious efforts on



the part of the state governments to improve SC ownership of agricultural land and enterprises through any comprehensive policy. Therefore, in the end a small acreage of land was distributed to the SCs though land reform measures particularly the ceiling on land holding and special programme of land distribution; thus these efforts failed to reduce the landlessness among the Scheduled Castes (Thorat, 2010).

The policy efforts for improvement of ownership of enterprises/business are even more inadequate in magnitude to build up a sizable entrepreneurship and business community among the Scheduled Castes. As we have seen above the percentage of SC entrepreneurs is much less compared to high castes. Further, among the households who managed to operate some entrepreneurship/business, a bulk of them are household enterprises with extremely low turnover.

1.3 Considerations underlying present policies

Why do the policies of legal safeguards, reservation, and of improvement in the SC ownership of agricultural land and enterprises and education have had a limited impact. The problem seems to lie in the underlying considerations which went in to the making of these policies. The main consideration was to provide legal safeguards against discrimination faced by the scheduled castes in the “present” in accessing economic and education rights, as discrimination against SC continues despite the laws against discrimination. For instance, the reservation policy was primarily devised to give share to Scheduled Castes in government jobs and in educational institutions in proportion to their population, which otherwise may not get achieved due to discrimination. In case of land and enterprise/business, consideration was also given to allocating them some share in ownership of agricultural land, and enterprises and business. The government tried to achieve this by giving preference to SC in land distribution under the ceiling and tenancy Acts, although in some states group specific schemes were developed to re-distribute public and private land as a supplementary measure. Similar approach was followed for improving the SC ownership of the enterprises/business. But in both cases such efforts were meagre. Thus, policy was guided by the consideration of providing safeguards against discrimination and ensuring fair share in employment, education, land and enterprises. The policy to correct the consequences of denial of right to property, and education due to exclusion in the “past” for long time received much less consideration. The awareness to deal with the consequences of the exclusion of the untouchables in the “past”(for about two thousand years from the codification of Hindu Laws by Manu around 200 BCE) for a long time and to correct the historical wrong done to untouchables found much less place in framing of the policies by the states. It is necessary to recognise that the high incidence of manual wage labour, high illiteracy, massive landlessness, and low ownership of enterprises/businesses among the SC was not the side effect or indirect outcome of general iniquitous working of the economic and social system in the country, but actually the outcome of purposeful prohibition on employment of SC in high caste occupations(except manual labour), and purposeful denial of their right to education and property in land and enterprises/businesses to them through laws.

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There is also a contrasting feature which needs consideration: While the rights to employment (other than manual labour), education and property were denied to the untouchables, at the same time special rights and privileges were bestowed on the high castes. And further, these privileges to the high castes, particularly to Brahmins were at the cost of the denial of same rights to untouchables. The gains to the high castes were at the cost of losses to untouchables. Therefore, if we see the concentration of land and enterprises/trade/business in the hand of the higher castes, it is because the same was denied to the untouchables for centuries together in the past. Similarly, if the higher castes are found to be greater in number in government and private sector employment, it is because employment in high caste occupations (that is teaching/ preaching the traditional occupation of Brahmins, military - the occupation of Kshatriyas, trade/business the occupation of Vaishyas and farming the occupation of Shudras) was proscribed for untouchables, who were only allowed to earn through manual labour. If we see high education attainment among the higher castes and massive illiteracy among the ex-untouchables or SC today, it is precisely because the right to education and learning was denied to them and made exclusive privileges of the Brahmins. The gains of high castes were thus at the cost and loss to untouchables. While we provide evidence in greater detail in the relevant chapters later, I reproduce only a few provisions from the Hindu law book namely the Manu Smriti to give some idea about this feature of the caste system.

As per the law of Manu, the untouchables were prohibited from the right to property, right to education, and in employment in the occupations of higher castes.

The restrictions regarding ownership of property and wealth are as follows:

No collection of wealth must be made by a shudra even though he be able to do it, for shudra who has acquired wealth gives pain to Brahmins. (Buhler 1886, Law of Manu)

No superfluous collection of wealth must be made by a shudra, even though he has power to make it, since a servile man, who has amassed riches, becomes proud, and, by his insolence or neglect, gives pain even to Brahmins.

A Brahmin may take possession of goods of a shudra with perfect peace of mind, for, since nothing at all belongs to this shudra as his own, he is one whose property may be taken away by his master.

The restrictions on employment are as follows:

One occupation only the Lord prescribed to the shudra; to serve meekly even these other three castes.

If shudra unable to subsist by serving Brahmin seeks a livelihood, he may serve a Kshatriya, or he may also seek to maintain himself by attending on the wealthy Vaishya.

The remnants of their food must be given to him, as well as their old clothes, the refuse of their grain, and their old household furniture.



But let the shudra serve the Brahmin.

The restrictions on education are as follows:

A twice-born man who has--(improperly) divulged the Vedas (to shudra and women) commits sin, atones for his offence, if he subsists on a year on barley.

If the shudra intentionally listens for committing to memory the Vedas, then his ears should be filled with (molten) lead and lac, if he utters the Vedas his body should be cut to pieces.

There were similar restrictions on education under the Hindu law (Manu Smriti):

Let the three twice-born castes (that is Brahmin, Kshatriya, and Vaishya), discharge (prescribed) duties, study (the Vedas) but among them, the Brahmin (alone) shall teach it, not the other two, that is and established rules. (Buhler, 1886, Law of Manu, pg 401)

Privileges of a Brahmin at the cost of Shudra:

But let a Shudra serve Brahmins, either for the sake of heaven or with a view to both this life and next, for he who is called the servant of a Brahmin thereby gains all his end.

The services of the Brahmins alone is declared to be an excellent occupation for shudra, for whatever else besides this he may perform will bear no fruits.

Whatever exists in the world is the property of the Brahmin, on account of excellence of his origin the Brahmin, indeed, is entitled to all.

Wages to Shudra:

The remnants of their (higher castes) food must be given to him, as well as their old clothes, the refuse of their grain, and their old household furniture.

From the afore-mentioned references in Manu Smriti it is clear that there is a close connection of disabilities of shudras with the privilege of the Brahmin caste. The Brahmin could have been given special rights and privileges without denying the normal rights to Shudras, there was no need for denial of normal rights to shudras. But it seems that for some reason the Brahmin scholars were not content with privileges bestowed on them but insisted on disabilities for the untouchables. The Brahminical scholarship does not stop there, it goes a step ahead and makes it obligatory for the untouchables to serve the higher castes particularly the Brahmins. However, it does not stop at that too. Worried over a possible backlash against this iniquitous arrangement, the Brahmins offered justifications to ensure that there was no opposition from the Shudras. Therefore, some justification was necessary for privilege to the Brahmins and disabilities to the shudra and the service of Brahmin as the only occupation of the shudra. Consequently, the laws of the caste ordained that service to the Brahmin was in the interest of shudra; it was an excellent occupation for them; and that service to the Brahmin was the only best thing for shudra to realise all his ends and that nothing else would bear fruits. The Brahminical scholarship in fact did not want to leave any loophole and be doubly sure that the

shudra did not oppose and continued to serve them. Thus, the Brahmin scholarship ordained that the shudra should not have property rights and amass wealth, because if he acquired wealth, it would cause pain to Brahmin. Thus, the shudra through their acts should not cause pain to Brahmin but make him happy. To serve the Brahmin and make him happy should be the ultimate goal of Shudra, and only sacrifice of his rights to property, education, and civil rights would bring happiness to the Brahmin. This provision leaves no doubt whatsoever that the privileges of the Brahmin under Manu laws were at the cost and sacrifice of the basic rights of the shudra. There cannot be an ideology so ingenious, mischievous, and full of greed than Brahminical social ideology of caste system. This is a unique situation which had serious consequences for the shudras leaving them without property, education, and civil and political rights beside social and physical isolation and segregation due to their 'impure and polluting status' and untouchability. In such a situation an ordinary policy of legal safeguards to shudra against discrimination and a policy of giving a share in employment and education through reservation, although necessary was not enough and adequate. What was required was a comprehensive policy of compensation for the wrongs done in the "past" over a long period of time which literally crippled the shudra for so long. Therefore, there is a clear legal and moral justification for compensation to untouchables because the higher castes benefited at their cost and therefore they ought to pay back for the lost (stolen) wealth, human resource and dignity of the Shudras. The successive generations of high castes are the beneficiaries of the accumulated wealth and human resources which are carried forward through intergenerational transmission of property, employment and education, the status of authority and power. So, the present generation of high castes cannot claim that they are not responsible for denial of rights to property and education by their forefathers in the distant past. The present generation is enjoying privilege in the present as a living legacy of the past. The Reparation or Compensation policy is necessary for exclusion from rights to property, employment, and education in the "past" for improvement in the ownership of agricultural land, enterprises, business and education of the Scheduled Castes as one time measures (while the present laws and reservation policy in employment, and education continue as safeguards against the discrimination in the "present").

An equally important factor that justifies reparation or compensation for redistributive justice is the status of the untouchable as slave caste. Hinduism recognised slavery in a graded form. Graded slavery means a person cannot hold another person of a caste higher than their own as a slave, but can be a slave of all castes above them, particularly Brahmins. The Manu Smriti ordains:

"A Shudra, whether bought or unbought, should be reduced to slavery because he is created by God for the service of a Brahmin."

Manu further says:

"Even if a Shudra is made free from the services of a master one should not consider this as his absolute freedom from slavery, because servitude remains in him as (an) integral part of his nature or it is one of his basic tendencies to serve others from which none can actually disassociate him." (Sahoo, 2013: pg 453 Manu Smriti 8.417).



Thus, on account of both, the forceful and coercive denial of economic and social rights due to their status as untouchable, and also as a slave caste, there is moral and legal justification for reparation or compensation to the ex-untouchables.

The proposed Reparation Policy, which involves redistribution of agricultural land, capital in the form of enterprises/business and measures to enhance education as a onetime solution, is unavoidable for correcting the gravest economic and psychological harm done to untouchables in the past over along period-at least from the time of Manu's laws dating 200 BCE till the British abolished slavery in 1843 followed by other Princely states in stages thus gradually giving equal right to untouchables in education, property, and civil rights.

This study thus focuses precisely on this important issue. It builds up a case for a policy of reparation or compensation for redistributive justice to Scheduled Castes. To be able to justify the policy of reparation, this study provides an account of disabilities imposed on ex-untouchables and also of special rights and privileges to the castes above them, particularly Brahmins. It also analyses Hindu slavery and the exploitation of untouchables as slave castes. It then provides empirical evidence on slavery of untouchables in the ancient, medieval, and British periods. That is followed by evidence on the woeful consequences of poverty and deprivation as a result of disabilities of Dalits on account of being untouchable and as slave castes. In the end, the study puts forth a justification for the policy of reparation or compensation for the untouchables and also suggests the method of compensation.



CHAPTER

2



Caste System, Untouchability and Untouchables

It has been argued in the previous chapter that among other things inequality in the economic and educational status of the lower castes, ex-untouchables, and higher castes is partly due to the limitation of perspectives on the reservation policy and the strategy used to address the problem of ex-untouchables. It has been argued that the present policy of reservation is necessary for the Dalits as a safeguard against discrimination in the “present” to ensure for them a fair share in employment, education and other spheres. However it has its limitations in overcoming the disadvantages suffered by them in the “past” due to denial of economic, education, and social rights over a long period of time leaving them without assets, education and decent employment. The proposed Reparation policy is thought to be an appropriate instrument to deal with the consequences of the “past exclusion” suffered by ex-untouchables. The justification for a Reparation policy is built on the ground that the chronic poverty of ex-untouchables is closely linked to low ownership of property and low education among them as a result of denial of same in the past; the impact of which is felt even today. The slavery of ex-untouchables is an additional but an important reason for their deprivation that continues till date. The uniqueness of this phenomenon (caste system) is that the loss of rights to property and education as well as civil rights, and slave labour of ex-untouchables came at the cost of unjustified gains through special economic, education and employment privileges to the higher castes. In other words the gains to the higher castes were at an immense loss and exploitation of ex-untouchables. But this supposition necessarily requires an evidence on the disabilities of the ex-untouchables and privileges and rights of succeeding chapters the higher castes. It also requires evidence on the slavery of the untouchable castes. While a detailed account of disabilities of ex-untouchables in terms of denial of economic, education, and civic rights and the privileges and special rights of the higher castes and slavery of untouchables is discussed in the, this chapter attempts to bring clarity on some issues in order to place the later discussion in proper perspective.

We discuss the origin of the caste system and its features, and the place of shudra and untouchables in it. We also discuss the issues related to origin of the institution of untouchability and its main features and linkages between the two institutions. Although there is clarity on some of the theoretical and empirical issues which are marked with considerable complexity and differences of opinion, yet it is necessary to place the discussion against a proper backdrop.

Thus, first we discuss the notion of caste system and its essential features and the place of Shudras and untouchables in it. Secondly we discuss the notion of institution of untouchability and the position of untouchables as a fifth caste. Finally, we examine the process of integration of untouchables into the caste system, as the fifth caste.

2.1 Institution of caste and untouchability: origin, essential features and linkages

2.1.1 Origin and Features of the Caste system

Let us look into the issue of what is caste and how does the system work so as to infer its functions and explore its origins and evolution over time. The caste system is the social organisation of Hindus that regulates the social, religious, cultural, and economic aspects of life since ancient times. It continues to do so in several covert and overt ways even today. It laid down a legal and normative framework for conduct of social, religious, and economic affairs and had some unique features. Primarily, the caste system involves the division of Hindu population into five social groups, called castes. The castes are socially isolated and segregated from each other through restrictions on inter-caste marriages (endogamy), inter-caste dining and social relations, and also with residential segregation, particularly the lowest caste considered untouchable. It not only divides the Hindus into castes, but assigns rights in advance to each caste based on birth. The economic, social, education and religious privileges of each caste are governed by the principle of 'graded inequality.' For instance, in case of economic rights, it fixes the occupation of each caste and makes them hereditary and permanent without freedom to switch professions or occupation. The entitlement of occupation or property rights of each caste is fixed in an unequal manner. Further, these ideal norms which regulate all aspects of social life of Hindus including property rights, have been codified as laws and made mandatory. From these follow other features: Once the rules are made legally binding, then penalties and punishment for violation of caste rules flow. Thus, deviation from caste rules is subject to punishment. The obligation to enforce the caste system is placed on the State as well as on the higher caste communities. Lastly, the institution of caste is believed to be of divine origin with religious sanction, and therefore rendered sacred and a matter of faith. These are the essential features of the caste system. Let us elaborate on each of these features in some detail with reference to the original Hindu religious literature. Drawing evidence from the original texts is necessary because changes in the caste system and its persistence in the present could be meaningfully studied only with reference to the original provisions from Hindu literature.

The caste system is said to be of divine origin. The reference to the divine origin of the caste system first appeared in the Purusha Sukta of Rig Veda (BCE 1500- BCE1000). It contained a divine injunction; prescribing a particular form of constitution of society.

2.2 The Purusha Sukta reads

'For the prosperity of the world He (the creator) from his mouth, arms, thighs and feet created the Brahmin, Kshatriya, Vaishya and Shudra' (Ambedkar, 1987: 112).



This social order called Chaturvarnya has been reiterated and justified by later religious law givers. For instance, Apastamba Dharmasutra states:

‘There are four castes—Brahmin, Kshatriya, Vaishyas and Shudras. Among these, each preceding (caste) is superior by birth to the following.’

This is repeated by Vasishtha Dharmasutra which says:

‘There are four castes (Varnas): Brahmins, Kshatriyas, Vaishyas and Shudras’—it further adds—‘The four castes are distinguished by their origin and by particular sacraments,’ The Brahmin was His mouth, Kshatriya formed from His arms, the Vaishya from His thighs, and the Shudra was born from his feet.”

Many other lawgivers have repeated the theme of Purusha Sukta. The Manu Smriti extended the sanctity of ideal set out in Purush Sukta thus:

‘The Brahmin, Kshatriya (and) Vaishya (constitute) three twice-born castes, but the fourth the Shudra has only one birth.’

Manu further adds ‘Vedas is the only and ultimate sanction for Dharma.’

The Purusha Sukta being a part of the Veda, Manu invested the social ideal of Chaturvarna contained in the Purusha Sukta with degrees of divinity and infallibility.

The Hindu epics Ramayana and Mahabharata also speak of the caste system. The Ramayana cites the theory of creation of four Varna of Prush Sukta, saying: Brahmins were born from mouth, Kshatriyas from chest, Vaishyas from the thighs and Shudra from the feet, so says the Veda.’

The Mahabharata states:

Explain to me whence the Brahmin, and whence the (other) three castes were produced? Matarisvan answered: The Brahmins was created from Brahman’s mouth, the Kshatriya from His arms, the Vaishyas from His thighs, while for the purpose of serving (these) three castes Shudra was produced from His feet.’

Bhagwad Gita also justifies the Varna system: It considered the Varna system of divine origin and even provides the rationale for the creation of the Varnas or castes: In Bhagwad Gita, Lord Krishna says:

‘I myself have created the arrangement of the four castes

(Brahmins, Kshatriyas, Vaishyas and Shudras) consistently, with differences in their qualities and actions. It is I who am the maker of it.’

“O, Parantapa! The respective duties of Brahmins(priests), Kshatriyas (warriors), Vaishyas

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(tradesmen) and Shudras (menials) have been individually fixed with reference to qualities arising from their inherent natures, that is, from Prakriti.’

‘The inherently natural duties of a Brahmin are peace, self-restraint, religious austerities, cleanliness, quietness, straightforwardness (humanity). Knowledge (spiritual knowledge), Vijnana (Imperial knowledge) and Astikya-budhi (belief in a future world). The inherently natural duty (karma) of the Kshatriya is bravery, brilliance, courage, intentness, not running away from a battle, generosity, and exercising authority (over subjects) goraksya (keeping cattle), and vanijya (trade) is inherently the natural duty of the Vaishya; and in the same way, service is inherently the natural duty of the Shudra.”

From this it is clear that Hindu religion consecrated (Oxford Dictionary defines consecrate as “to state officially in a religious ceremony that it is holy and can be used for religious purposes) every aspect of life. Most importantly it also consecrated occupation. Dr. Ambedkar argued that nowhere else in the world has the religion consecrated a society’s occupation—the ways of earning a living.

‘Economic activity has always remained outside the sanctity of religion. The hunting society was not without a religion. But hunting as an occupation was not consecrated by religion and rendered sacred. Pastoral society was also not without religion. But pasturage was not consecrated by religion and made sacred. Farming as an occupation did not become consecrated by religion and made sacred. Feudalism with its gradations, with its Lords, villains and serfs was purely social in character. There was nothing sacred about it. The Hindus are the only people in the world whose social order—the relation of human to human is consecrated by religion and made sacred, eternal, and inviolable. The Hindus are the only people in the world whose economic order—the relation of workman to workman, is consecrated by religion. The Hindus are singular in this respect. This is what has given the Hindu social order its abiding strength to defy the ravages of time and the onslaught of time. (Ambedkar, 1989)

The second most important feature is that, the caste system not only divided the society into four castes but also fixed the social, cultural, religious and economic rights of each caste. In case of economic or property rights, it fixed the occupations of each Varna (caste):

‘To the Brahmin, it assigns teaching and preaching of religion, defence to Kshatriya, trade and agriculture to Vaishya and service of these three castes to Shudra,’ (Ambedkar, 1947: 75).

The occupations of each caste are fixed and made hereditary and permanent by birth in specific castes without the freedom to change. But most importantly the assignment (and entitlement) of property right (and other rights civil, cultural, and religious) of each caste were determined by the principle and rule of ‘graded inequality.’ The principle of graded inequality is the unique feature of the caste system. Graded inequality is different from the simple idea of inequality



in the sense of either having or not having rights as two extremes. In graded inequality on the other hand, ‘the four classes are not on a horizontal plane, i.e. different but equal. They are on a vertical plane; not only different but also unequal in status, rights and entitlement, one standing above the other. In the scheme of Manu, the Brahmin is placed at the first rank. Below him is the Kshatriya. Below the Kshatriya is the Vaishya and below the Vaishya is the Shudra and below the Shudra is the Ati-shudra or the untouchable’ (Ambedkar, 1987: 197).

The gradation is shaped by the Brahminical notion of ranks and status of occupations. Each occupation carries high and low status, some are considered superior and some inferior. In this sense the assignment of occupation to each caste is also linked with the social status. Thus, the Brahmins, who are placed at the top of the caste hierarchy in terms of social status, have all the economic rights and privileges. Successively the economic rights get narrower in a graded manner as we move down the caste hierarchy from highest caste (Brahmin), to higher caste (Kshatriya), to the middle caste (Vaishya), to the lower caste (Shudra), and the lowest caste (Ati-shudra or untouchables). The work of teaching/religious preaching, which is considered a noble profession, is assigned to Brahmins, the military, considered second in rank after teaching, has been assigned to Kshatriya, trade to Vaishya, agriculture to Shudra and service of the four castes above them through manual labour to the ati-shudra i.e. untouchables. The untouchables, located at the bottom of the caste hierarchy, practically have no property rights except to serve the four castes above them as labour. Thus, the principle of graded inequality formed the foundation for assignment of economic rights (as well as civil, social, cultural, and religious rights), which are fixed in an unequal but graded manner — without freedom for change.

It is important to recognise that the caste codes which began as norms or ideas were converted into laws. The credit of converting caste norms into legal code goes to Manu.

Manu made the system legal and penal in Manu Smriti, which is supposed to have been written around BCE 200 (Ambedkar, 1947, pg 9). Once the provisions concerning occupation, education and other economic rights were made legal, it became necessary to prescribe the punishment for violation of laws. Manu Smriti as well as the other lawgivers provided a set of punishments for transgressions. What is important is that the type of punishment for the violation of same (caste) codes or rules is applied unequally to the five castes. For the violation of same caste rules or code the punishment is lower to Brahmins, and it gets stringent as we go down the caste hierarchy from Brahmin caste to the untouchables. Inequality before law is the main feature of the Brahminical jurisprudence. The punishment is the lowest for Brahmins and highest for the ati-shudra/untouchable. The caste codes being legal for obvious reasons the responsibility for their enforcement lay with the State.

Manu thus ordained: ‘The King has been created (as) the protector of the Varnas (castes) and orders, who all according to their rank, discharge their several duties.’ (Ambedkar, 1987; Ambedkar, Buhler 1886, Laws of Manu: 221).

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‘The King should carefully compel Vaishya and Shudra to perform the work (prescribed) for them, for if these two (castes) swerved from their duties, they would throw this (whole) world into confusion.’ (Ambedkar, 1987; Buhler 1886, Laws of Manu: verse 418: 327).

Equally unique feature of the caste system is the enforcement of system by the communities. Thus besides the State, it is the responsibility of the higher caste community to enforce the caste code by using the most effective instrument of social ostracism and other punishments for violation of the caste code. The punishments were prescribed both for higher castes and untouchables for a behaviour deviating from the caste codes/rules. This instrument of social boycott and ex-communication is as powerful as the law itself, in fact more effective than the law. It is this mechanism of social ostracism by the high caste community which brought rigidity to the system and made it possibly the most stubborn institution the world has ever seen, and which keeps it alive for centuries despite some outward changes.

From these features of the caste system flow other features. These imply the group character of caste system, exclusion and isolation, involvement as slave labour, and anti-social attitude with contempt of the high caste towards low caste.

The caste system exists in plural and not in singular form. It exists as a system linking five castes, with a set of pre-determined relations between them. Thus, caste in a sense means a group position and group rights rather than in terms of an individual and their rights. In this sense the caste system does not recognise an individual, his worth and distinctiveness. In this context Ambedkar (1987) states: The Hindu social order does not recognise the individual as a centre of social purpose. For the Hindu social order is based primarily on the class or Varna and not on individuals - the unit of Hindu society is not the individual. The unit of Hindu social order is the class or Varna. If an individual has privileges it is not because it is due to him personally. The privilege goes with Varna and if he is found to enjoy it, it is because he belongs to that Varna. Contra wise, if an individual is suffering from a wrong, it is not because he, by his conduct deserves it. The disability is the disability imposed upon the Varna, (99-100).

The group character of caste results in group consciousness. The castes as groups possess specific feelings or attitudes which are always present in caste consciousness. In case of higher caste there is “a feeling of superiority in status and rights, a feeling that the lower caste is intrinsically different and alien, and a feeling of proprietary claim to certain areas of privilege and advantage (Blumer, 1956). Since the focus is on ‘group position’ there is ‘group effort’ for maintaining material interest and high social status. There are real material interests at stake in the efforts of the dominant group to preserve its privileged position and also the more intangible, and psychic benefit of high status. The caste acquired a group character because the economic and social rights of each caste are defined as group rights based on caste identity. In effect the actions of the individuals are influenced by a motivation to optimise the material interests of the community through group action. The prime motive of group action thus remains pecuniary



in nature. The way the economic rights are appropriated by higher castes, the material gains remain a prime motive.

Group consciousness gives rise to another feature that is ‘isolation and exclusiveness’ in social and in economic life. The rules related to property rights and occupation bring an economic isolation and exclusion in economic relations between the untouchables and high castes. The economic relation between the two groups, the untouchables and the high caste community decreases with the increase in discrimination. The way the economic rights are assigned between the higher castes and the untouchables it brings about an economic isolation and each caste gets along with its own resources. Since members of each society would be working only between themselves, complete economic isolation also involved complete economic segregation (Baker, 1956). The untouchables face complete exclusion in all economic relations except manual labour. In so far as the untouchables are denied the right to land, business and education they get excluded from the high castes in exchange in economic activities both in market and non-market transactions.

While economic exclusion is the main feature, there is an exception to this rule: The untouchables are excluded from access to employment as an employee in teaching, military, trade and commerce, and farming—the occupations of the high castes and also as self-employed farmers and entrepreneurs/businessmen. As ‘impure’ and ‘polluting castes,’ the untouchables are also excluded from works that involve direct physical contact, domestic work; and work related to religious events (rituals). However at the same time, the untouchables are included and obliged to work, or forced to work in all these occupations as manual labourers. Thus they are excluded from all works but manual work is made an exception. Therefore, their only occupation under the caste rules is service to the higher castes. In fact, their work or occupation assumes the form of slave labour. Manu and other lawgivers recognized slavery; but in a graded manner, which means that a person could be slave only of caste above them and not the slave of caste below. Since the untouchables are located at the bottom of caste hierarchy, in a natural course they were considered as slave of all castes above them, and thus a slave caste, particularly of the Brahmin caste. In fact the way untouchables face restrictions and loss of freedom with respect to economic rights, and are obliged to work for the higher castes, in effect it amounts to slavery. Ambedkar argued, ‘with reference to the inner meaning, a slave, as defined by Plato, means a person who accepts from another the purposes which control his conduct. In this sense, a slave is not an end in himself. He is only a means for filling the ends desired by others. Thus understood, the Shudra is a slave. In their economic significance, the rules put an interdict on economic independence’ (Ambedkar, 2008: 40). However, the interpretation apart, as mentioned Brahminism recognised and supported slavery. Manu’s laws recognised the practice of Hindu slavery in a graded manner by which the untouchable is treated as a slave. As slave labour, their wage-earnings were extremely low and below subsistence level.

Denial of social and economic rights, and isolation and exclusion in economic relations

between the untouchables and high castes also bring to fore another feature of the caste system and institution of untouchability: 'Anti-social attitude,' which is inimical and contemptuous. An emotion of ill will and a feeling of contempt towards the untouchables. Anti-social spirit is the worse feature of the caste system and institution of untouchability. Ambedkar argued that anti-social spirit is found wherever one group has an 'interest of its own,' which shuts it out from full interaction with another group so that its prevailing purpose is the protection of what it has got. 'The higher castes' primary concern is to protect their interest against other castes, and other castes' interest is to protect their interests against higher castes. The caste system thus involves not merely an assortment of castes but they are so many antagonistic groups each living for themselves and for their own interest' (Ambedkar, 1936 Third Edition 2016, : 52). If we find constant opposition to the government policies for the Scheduled Castes and Other Backward Castes by 'others' (high castes) the roots lie in this feature of caste and untouchability, that is, anti-social attitude—a constant attempt by high castes to protect their own interest vis-à-vis other castes.

2.3 Legal provision about graded status of castes

The untouchables constituted the fifth caste in the hierarchy of the caste system. Exceptions apart, all Hindu law texts, including Manu Smriti recognised only four castes in the early period. However Manu and Dharmasutras did recognise the existence of 'outcastes'-- outside the four-fold division of caste system. For instance, Manu said, 'All those tribes in this world, which are excluded from (the community of) those born from the mouth, the arm, the thighs and the feet are called Dasyus, whether they speak languages of Mlekkas (barbarians) or that of Aryan' (Buhler, 1886: 24). It is a common view that the Brahminical idea of 'impurity and pollution' has given rise to avoidance of physical contact and untouchability, and the emergence of untouchables as the fifth caste. While attributing the origin of untouchability to the notion of 'impurity and pollution,' and those considered as impure and polluting as untouchables- it may be clarified further that pollution was not just considered to be caused by physical touch alone but also by sight, approach, and other senses.

This raises the question: How and when did the untouchables get integrated into the caste system and become the fifth caste? Opinions differ on this complex issue. However, there is a general agreement that the Brahminical idea of pollution and defilement resulted in the emergence of untouchables as the fifth caste, even though differences persist over the period of its origin and the process of integration as the fifth caste below the Shudras.¹

¹Jha (2018) argued that untouchability emerged in four phases: 'The first phase up to BCE 600 provides the Vedic background when the tabooed sections of society appear first. The second phase extends up to 200CE when untouchability begins and takes firm and definite shape with respect to a few groups. The third phase up to 600 CE is marked by an intensification of the practice whose numbers record an increase. The ranks of the untouchables swelled considerably by the accession of several new castes in the fourth and final phase which extends up to 1200 CE and beyond and shows untouchability at its peak' (pg 23). While Jha argues that it was around 200 CE when untouchability began and took firm and definite shape with respect to a few groups, Ambedkar places the date of the origin of untouchability around 400 CE. We can, therefore, say with some



In order to understand the social and economic status of the untouchables and their disabilities, it is necessary to develop an insight on the evolution and formation of the institution of untouchability and its linkages with the caste system.

The Caste system the way it has evolved over a period of time acquired specific features (which we have discussed earlier) in its mature stage. Scholars have identified various stages in its evolution—the Rigvedic period (BCE1500-BCE 1000), the later Vedic period (BCE 1000-BCE 600), post-Vedic period (BCE 600- BCE 200), early medieval period (between BCE 600 and CE 200), and later medieval period (CE 600–CE 1200). Then we have the post medieval period covering from CE 1200 to 1757 that also includes the Moghul period and the British period (1757–1950).

The evolution of caste as a social phenomenon is traced through the study of two terms, Varna and *jati*. During the Rigvedic period (1500BCE - 1000BCE), the Brahmin and Kshatriya are mentioned in the Rigveda a few times in the context of functional groups. However, the professions had not become hereditary at this stage and were open; these were a matter of achievement rather than inheritance (Jha, 2018).

The first definite indication of the social organisation based on four-tier Varna group with graded inequality is found among Vedic people with the use of the term Varna, in the famous Purusha Sukta of the Rigveda, which represent the Brahmins as the mouth, the rajanya (Kshatriya) as the arms, the Vaishya as the thighs and the Shudra as emanating from the feet of the divine Purusha. This accorded divine sanction to the emerging social structure, with specific occupations of these four Varnas (provision of Purush Sukta are elaborated in the earlier section).

In the later Vedic times (BCE1000 - 600 BCE) the process of social differentiation went on steadily and the four Varnas, distinct and separate from each other, appear as a full-fledged social reality: the Brahmins as a specialised class of priests monopolising the complex rituals as scholars and teachers, the Kshatriyas as warriors and rulers controlling larger territorial units and material resources, the Vaishyas as traders, artisans, peasants, and cattle-rearers, and the Shudras as domestic servants, agricultural labourers and slaves. Towards the end of the later Vedic period (BCE 600) the Varnas tended to become hereditary, endogamous and birth-based, leading to the formation of *jatis* or the caste system. Birth slowly emerged as an important factor of social ranking. The Varna system which was based on merit and open with respect to occupation (during Rigvedic period) gradually turned in to a rigid system (Jha, 2018).

This early Vedic time (BCE 1000 - BCE 600) also saw the beginning of the process of assimilation, acculturation, and integration of the aboriginal tribes into the social organisation of caste at various levels. Caste was evidently in its formative stage during the later Vedic period and jati was imbibing many of the traits of Varna. Till the end of the later Vedic period confidence that untouchability had appeared in its full form sometime between 200 CE and 400 CE (Ambedkar, 1948: 379).

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(BCE 600), however, inter-dining among the four Varnas was not prohibited, inter-varna marriages did take place, and there was no untouchability.

The post-Vedic period (BCE 600- BCE 200) is marked by the emergence of a more stratified society and consolidation of the varna-jati structure. The Dharmasutras (BCE 600 -BCE 300) place the hierarchical social position and occupational roles of the four Varnas in a legal setting and detail the privileges of the first three twiceborn (dvija) Varnas, demarcating them clearly from the shudras, who are saddled with numerous and varied disabilities. These included obligatory services to the twice-born and physical work as landless agricultural labourers, artisans, wage earners, and slaves, denial of initiation with sacred thread (upanayana), exclusion from Vedic study and sanskaars or sacraments with Vedic mantras, inequality before law in matters relating to inheritance, rates of interest, and criminal offences, lack of access to judicial and high administrative positions, and restrictions such as commensality, association and marriage with superior Varnas (Jha, 2018).

The Brahmin carried out six-fold duties of study, performing sacrifices for self and others, giving gifts, teaching, and receiving gifts for the Brahmins and participating in battles, protecting people and wielding political, administrative, and judicial authority for the Kshatriyas. The Brahmins were also permitted to take up agriculture and trade provided they did not directly engage in it. If unable to maintain themselves through their 'lawful' occupations, they were allowed to adopt the Kshatriya profession of arms and, failing in that, the Vaishya occupations of agriculture and trade albeit with restrictions. Jha (2018) argued that despite the flexibility shown by the lawgivers owing to considerations of practical constraints, there is no doubt that sizeable sections of Brahmins and Kshatriyas who could afford it tended to withdraw themselves from primary productive activities and came to broadly represent 'status' and 'power' respectively; the Shudras substantially provided productive manual labour; and the gap between the elite and the masses widened, intensifying the notion of the high and the low.

Thus, the caste system emerged in its full form with some of its essential features—clear separation of people in groups, jatis or castes, separate from each other and made socially exclusive through the institution of endogamy or marriage within caste, restrictions on inter-caste dining and social relations, and residential segregation, which evolved in stages. The social fabric at this time was, however, in a tremendous flux and several professions, crafts and tribes were crystallizing as distinct entities multiplying sub-castes (Jha, 2018).

2.4 Integration of untouchables as the fifth caste

Similar to the caste system, the institution of untouchability also emerged parallelly in phases. Untouchability was an extension of caste system in so far as it served as a supportive feeder to the emergence of notion of purity and pollution which form the basis for untouchability. The system of untouchability embedded all the features of the caste system, namely separation and exclusive character of each caste made possible through restrictions on marriage, dining,



social relations, religious rights, and occupations. Additionally, it brought another feature to the caste system; namely treating some out social groups (mainly the tribes) as ‘impure and polluting,’ causing defilement to the higher castes above them. The impure and polluting character of some out- castes led to the emergence of the fifth caste as untouchables. Thus, it is the notion of ‘impurity and pollution’ associated with some social groups that distinguish and separate the untouchables from other castes including the low Shudra caste.

Jha (2018) has identified four phases in the evolution of the notion of untouchability and the emergence of untouchables as the fifth castes. “The first phase is up to BCE 600 which provides the Vedic background when these sections of society appear first. The second phase extends up to CE 200: Between BCE 600 and CE 200 untouchability begins and takes firm and definite shape with respect to a few groups. The third phase (CE200- CE600) is marked by an intensification of the practice whose numbers record an increase. The ranks of the untouchables swelled considerably by the accession of several new castes. The fourth and final phase (CE 600–CE 1200), which extends up to CE 1200 and beyond shows untouchability at its peak (Jha, 2018: 23). Jha argued that untouchability began and took firm and definite shape with respect to a few groups around CE 200. However Ambedkar places the date of the origin of untouchability around CE 400. We can, therefore, say with some degree of confidence that the origin of untouchability in its full form occurred sometime between CE 200 and CE 400, although early signs of the caste system go back to around BCE 600 (Jha, 2018).

The first phase covers time before BCE 600 that relates to the Rigvedic period (BCE 1500–BCE 600). The Rigveda shows no acquaintance with people with whom contact was even remotely tabooed. Even in the later Vedic period, people who were at the lower rungs or social levels were not treated as untouchables. The Vedic antecedents of untouchables proper are evidently somewhat nebulous, although there is mention of groups which later began to be recognised as untouchables (Jha, 2018; Sharma, 1960)

The second phase (BCE 600–CE 200), Jha (2018: 63) states, ‘The notion of pollution becomes a potent reality and is seen in full play with respect to the Chandala, whose untouchability is not left in any doubt–untouchability of Chandala becomes explicit and is institutionalised and legalised.’ Chandala is considered as an instrument which possesses inherent pollution and transmits it to others through contact. The beginning of infection through sight, speech, and proximity occur. The commensal (social and economic relations) and connubial (related to marriage) become severe and absolute. Segregation was the natural corollary of pollution—a definite barrier in free mixing. Besides Chandalas, other groups were added to the category of untouchables (words such as anta, antya, bhya, antyayoni, and antyavasayin appeared which relate to physical/residential segregation of the untouchables).

Kautilya in his Arthashastra also provides information. ‘The untouchables now began to hold a role in the socio-economic set up. And there is mention of their occupations that include working



at and staying near a crematorium, punishing offenders in criminal cases, and defending new settlements.

Manu Smriti composed around BCE 200 marks the culmination of all the stages mentioned in earlier literature. The Chandala and other groups and new groups constitute the untouchables and unassailable, with no connubial and commensal contact with high castes. Segregation becomes more complex. Branding is prescribed for untouchables. Entry to the town or village at night is forbidden. His occupation is that of corpse-carrier, an executioner of criminals, hunter, and butcher. He depends on others for food and stays away—employed at burial grounds and considered the most degraded and downgraded to the lowest level. Manu Smriti mentions their occupations that include hunting, boat rowing, bamboo-work, basket making, drummer, leather-worker, carpenter, charioteer—all these were economically backward castes. Apartheid was strictly observed with regard to Chandala (Jha, 2018: 67). Chandala is thought to be contaminating the atmosphere, polluting, through sight and from distance. Sexual relationship with untouchables cannot even be imagined. Taboo on food from him is absolute. Untouchables were engaged as corpse-removers and cremators, executioners, night guards, sweepers, public performers and musicians, refuse-cleaners, etc. The Chandala eked out a miserable existence. Thus, the existence of high and low castes was fully recognised towards the close of the Vedic period (BCE 600); the situation getting aggravated in post-Vedic times. Thus, untouchability, the way it emerged, was the most sickening and pernicious development of the overall system. Taboo which has played such an important part in the development of caste, has along with economic and social inequality in society, has been a key factor of untouchability as well. Suvira Jaiswal (1978) observed that “the institutionality and the theory of purity and pollution ought to be treated as a further development of the Varna system and its ideology rather than an independent development. Taboo in the form of prescribed do’s and don’ts for different groups of people on the occasion of birth, performing rituals, sharing food and drinks, marriage and sex, and death, as well as on normal days took the form of enforceable rules and injunctions. These became an integral part of the caste system and untouchability when inequality grew and class become a historical reality.

The third phase (CE 200 to CE 600) is marked with the integration of untouchables as part of the caste system. The word *asparshya* (literal meaning untouchable) emerged during this period around CE 300 (Vishnu smriti). The untouchable, to whom the stigma of causing pollution is permanently and hereditarily attached- appears in its true perspective of the general notion of pollution current in Indian society. There is a fine and corporal punishment to untouchables for violation of caste rules. For the first time the law giver (Narada) mentioned the precise distance within which he (an untouchable) becomes unapproachable. There is total agreement among all legal and religious texts about the Chandala being at the bottom of the caste hierarchy: their complete segregation; engagement in ‘cruel’ pursuits; non-observance of food taboos by them, and on their polluting trait.



The fourth phase covers the period from CE 600 to CE 1200 and beyond during which untouchability is seen in its fullest form. The untouchable are oppressed further. An untouchable is supposed to be the embodiment of all kinds of pollution for the twice-born (higher castes) and quite a few for the shudra as well. New forms of pollution are seen emerging: for example, for the first time they are seen to be polluting highways by walking on it, polluting tanks by drinking water from one excavated by them, purification of houses of high caste if an untouchable woman enters, the shadow of an untouchable is also regarded as polluting within a certain distance, etc — a clear departure from earlier norms. They were thus required to hang humiliating leather thongs for identification. Also, the professional categories of hunters, fishermen, butchers, executioners, and scavengers appear as untouchables under new labels during this period. The caste of leather workers, washermen, bamboo-workers and hunters were also degeraged, but not as much as the Chandala. Beef eaters were for the first time dubbed as untouchables in this phase.

Thus, the evolution of untouchability with the history of untouchables in India up to CE 1200 has occurred in phases which Jha (2018) has captured in meticulous detail with evidence. The Rigveda (BCE 1500 -BCE 1000) period shows no traces of untouchability. The later Vedic texts also do not give any indication of the practice of untouchability, although the tribal groups of Chandalas and the Pulkasas (who become untouchables in later periods) are mentioned with much spite and revulsion. In the period extending upto CE 200 certain tribes such as Chandalas and Pulkasas emerge clearly as untouchables. The period up to CE 600 is a continuation of the eerier period and shows some more ethnic groups as untouchables. But the peak is attained in the fourth phase extending from CE 600 to CE 1200 when a number of occupational groups are also degraded to the category of untouchables and several more ethnic groups are added to the list.

Laws related to caste and untouchability in later medieval period after CE1200 till British Period (1772)

There are only a few studies on the practice of caste system and untouchability after CE1200. We have a few studies of the later period on South India (that cover Karnataka, Andhra Pradesh, and Tamil Nadu) and western India that include Bombay Presidency (the present day Maharashtra). Shireen Moosvi explores the attitude of the Muslim rulers and how they dealt with caste and the custom of caste order which was in an advanced stage at the time of arrival of Islamic rulers. The analysis cover the rule of Muhammad Qasim (CE 712- 714) in Sind and southern Punjab, Ghaznavis (CE 1082-83), Khilji (CE 1296-1316) and Tughlaqs (CE 1324-88) a period that covers CE 7th to 14th centuries. Based on the original report, Moosvi states that ‘there was no desire at all to declare a war against either the caste system or undermine it. They continued to regard the caste system as a permanent feature of the society on which the

Sultanate rested.’ The Arab policy in Sind and southern Punjab which they occupied between 712 and 714 CE, ‘held the Brahmins in esteem and ordered that they be reassured and offered honours and rewards. Brahmins were deemed as religious leaders and scholars.’ This was accompanied by a continuance of repression of those whom the preceding Brahmin dynasty had kept in a humiliating position. The Brahmin ruler had imposed all kinds of constraints on them, forbidding them from wearing anything but coarse clothing, and requiring them to walk barefoot and to be always accompanied by dogs. They were ‘Chandalas and beef-eaters’ and formally Buddhist.

The next line of Muslim rulers who established themselves in the Indus basin were the Ghaznavis. Moosvi quotes a writer who wrote in CE 1082-83: ‘The people of India are different from other people in that while all people mix together, the Hindus do not- their custom is that men of different occupations do not inter-marry. Thus green-grocers marry with green-grocers’ daughters, butchers with butchers’, bakers with bakers’, a soldier with another soldier’s, a Brahmin with a Brahmin’s. But the best of them are benevolent, as well as wise and brave; one of such is either a Brahmin. The Brahmin is wise, the Raut brave, the Kirar a head of householders. The Brahmin is (usually) a scholar, the Raut a good soldier.’ Moosvi observes that quite clearly here there is not only no animosity towards the caste system but almost an appreciation of it. Caste remained an integral feature of society under both the Arabs and the Ghaznavis. Under Tughlaq (CE 1351-88), the Brahmins were shown favour by exempting them from tax. On the other hand, there is no evidence that any of the oppressed castes secured better treatment. Indeed, the attitude of contempt towards the ‘menial’ castes is shown with the use of the words bhangri, bhangi, khurafati as abuses—‘bhangri’ and ‘bhangi’ being popular words of contempt for the caste of sweepers and scavengers.

While providing an explanation for reinforcement of caste order during Islamic rule, Moosvi argues that within the Islamic thought there was a strong hierarchical streak, which, for example, greatly distinguished between the free-born and the slave- ‘slaves were intrinsically low-born, and subjected to contempt being vain fellows and purchased ones.’ Thus, the society in which Islam arose had deep rooted concepts of tribal differentiation which continued under Islam. When Arab Caliphs conquered Iran they suppressed the indigenous Zoroastrians—in fact Zoroastrians form almost an oppressed class within the Islamic community. According to Moosvi, ‘with this experience in Iran behind them, the Arab policy in Sind and southern Punjab, which the Caliph’s armies occupied in CE 712-14, could well have been predicted’.

In South India, Nandi (1973) has examined the aspects of caste and untouchability in the states of Karnataka, Andhra Pradesh, and Tamil Nadu during the medieval period. In Karnataka the social isolation of low professional groups was observed in eighth century which mainly



include the Shudras, divided into ‘touchables’ and the ‘untouchables.’ The touchable Shudras were essentially workmen and artisans and therefore could not be ex-communicated. The untouchable Shudras who lived on the outskirts of towns and villages were residentially segregated. They were evidently essential as village servants (like Chandalas in the North) whose chief functions included making mats, baskets, and cremation of the dead. In the 10th century there is evidence of instances of pollution resulting from the touch of outcastes—their touch could pollute drinking water. To avoid eventual pollution to higher castes, social segregation was practised. In Tamil Nadu, Mysore, and Malabar the Brahmins, Shudra and untouchables used separate streets. Similarly, the ban on the entry of untouchables in religious institutions became rigid with the construction of temples in early medieval period. The Brahmin priests recruited some low Shudra and untouchables as slaves of the temple and extracted free services from the numerous Shudra artisans, and at the same time observed discrimination by denying them access to the temple and religious ceremonies. The pollution by untouchables scared the medieval law givers who prescribed total exclusion of untouchables from all social functions as indicated in religious texts of the tenth century in south India. It may be mentioned that till recently some untouchable castes in south India were obliged to ring a bell while moving on public streets so that people belonging to higher castes may become aware of their presence and avoid pollution. As regards their occupation, the untouchable was thought to be impure by birth, and was assigned unclean jobs such as scavenging, keeping guard on cremation grounds, tanning hides, and so forth. In the days of the Vijaynagar empire (around CE 1425) the kings and Brahmins joined hands to overburden the Shudra castes with heavy taxation so that they could not accumulate wealth and depended on high castes for a living (Nandi, 1973).

Other studies on South India shed further light on the status of untouchables in Tamil Nadu based on inscriptions and other historical sources in Tamil which cover the period CE 985 to CE 1016 (Noboru Karashina, 1997). The Tamil inscriptions confirm the residential and social segregation, low social position of untouchables and their engagement in low or inferior occupations.

One such inscription refers to *tindā-cheri* along with other categories of residential area. Cheri in Tamil means ‘street’ or ‘residential area’, and tindā means ‘untouchable’. Tindā-cheri as a whole, therefore, means the residential area of untouchables. This usage of tindā-cheri in the inscriptions is one of the very few ‘direct’ references to ‘untouchables’ or ‘untouchability’ in Tamil inscriptions. The inscriptions also mention parai-cheri as another residential area in a village. This means the residential area of the Paraiyas, the most well-known untouchable community in Tamil Nadu. Residential segregation which is feature of untouchables mentioned for northern India was quite clear in the villages of southern India also. 15th century inscriptions from Tiruvaigavu find in ascending order the communities of watchmen, washer

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men, barbers, potters, goldsmiths, carpenters, blacksmiths, oil-merchants, weavers, merchants, and others. The Paraiyas are listed below, indicating a descending order comprising security persons and toddy tappers. It also confirmed the very low social position held by Paraiyas in the 15th century. The Paraiyas were engaged in inferior occupations such as pruning grass for horses, weaving and other crafts in the early fifteenth century, so, they are often referred to as 'craftsman Paraiyas.'

Being on the lowest rung of the social ladder and polluting, untouchables faced intense religious discrimination with the denial of entry in Hindu temples to them. They had been engaged in farm labour as slaves, and were objects of transfer from one owner to another. Another inscription records the sale of land, houses, and slaves. Among the slaves the Paraiyas appeared most prominently.

Besides the inscriptions the authors also provide evidence from other sources such as a literary text, and palm leaf documents. The following facts are borne out from them (1) Certain communities were considered untouchable during the Chola period, (2) Paraiyas, who were nearly at the bottom of the social hierarchy, were engaged in an array of activities such as cultivation, grass mowing, leather work, and other handicrafts like weaving; and (3) Paraiyas and Pulaiyas were made slaves and transferred from one owner to another.

The situation in Western India is similar although with region specific characteristics. Some studies shed light on the social life of untouchable castes in the 17th and 18th centuries in the western Deccan and Konkan region under the Marathas (Peshva government). In the 17th and 18th centuries, the number of discriminated (untouchable) castes was much higher than in ancient India (Hiroyu, Kotani, 1997).

Untouchability persisted throughout the 18th century. Contact with an untouchable or Ati-Shudra was regarded as bringing impurity upon oneself and this impurity was considered to be transmittable from a person directly touched by an Ati Sūdra to other persons who happened to come into contact with him. Based on an original record, the author cites some examples of the practice of untouchability. For instance, in one case when it was discovered by a Brahmin family that the servant in their house was from the chamar untouchable caste, all members of the family had to undergo a purification ritual to offset the impact of physical contact with the untouchable servant. In another incident, a female slave who had sexual relations with an untouchable person was regarded as having become impure like an untouchable. Since all members of her high caste owner's family had necessarily come into contact with her, so all of them were considered to have become impure. They were therefore, ordered to undergo a purification ritual. Further, purification involved a fine for males, females, and children and, the amount was supposed to be given to a Brahmin. Besides, the house of those rendered impure



also had to be purified. Wooden floors and doors were destroyed because, as per the belief system, wood could not be purified. Such instances indicate that contact with an untouchable or Ati Shudra person did not necessarily mean direct physical touch but it also included indirect contact (association) through living together in the same house.

Importantly as well, physical touch with an Ati Shudra was likely to occur in a crowded place like a pilgrimage centre which merited necessary protection. For example, considerable number of Ati Shudras (Mahars and others) used to join the pilgrimage to the famous temple of Vithoba (Lord Vishnu) to Pandharpur in Maharashtra. There was a high probability of an untouchable's physical touch with a Brahmin en route. Brahmins therefore appealed to the authorities (Peshva government) to keep Ati Shudras away from the Vithoba shrine. The government resultantly decreed as follows:

‘There is a stone image of Chokhamela to the north of the Vithoba Temple and Ati Südras (must) make their pilgrimage to it. The place is near the road frequented by pilgrims so that they happen to come in touch (sparsäsars) with an Ati Südra. This is against (the dharma of) a Brahmin. Therefore, Ati Südras should worship the image of Chokhamela by the side of the lamp-pillar in front of the Vithoba Temple or in the Mahärvädä. Ati Südras must not approach Vithoba Temple itself. If they violate this edict, they must be punished.’

As this case indicates, physical contact with an Ati shudra was regarded as an event to be avoided at all cost. In villages where villagers knew each other well, physical contact with an Ati Shudra was not likely to occur. But in towns or at sacred places where unknown people gathered, the possibility of physical contact with an Ati Shudra was certainly not unlikely. In Nasik, a barber who came to know about the caste of his untouchable client stopped the hair cut midway. He was excommunicated from his caste and had to undergo a purification ceremony to undo the wrong.

To prevent any physical contact with Ati Shudras the places where they could dwell were restricted from being approached by high-castes. In the medieval Deccan, these Ati Südra dwelling sites were generally called mahärvädäs and were situated just outside the village walls. The author gives an example of a village Katraj (Karyat Maval district) where in the homes of untouchable castes such as Mahars, Mangs and Chamars were thought to be adjacent to the village site. Therefore, their houses were destroyed and the government provided money and material for relocation of the houses of the untouchables. In another case, the houses of Mahar untouchables were relocated across a river to enable Dadaji Konadev, a minister under Shahaji the father of Shivaji Maharaj, to use the water of the river. These incidents indicate that the dwellings of Ati Shudras were occasionally relocated to suit the needs of the village to which they were affiliated.

The untouchables had specific duties and occupations. Among the Ati Südras, the most numerous Mahar, Mang and Chamar were incorporated in village system with specific duties in what was called the 'Vatan System'. Among the services provided to the villagers was disposing off carcasses of cattle. This was the main occupation of Vatandar Mahars who could keep the cattle hides as a reward except for those of plough bullocks which had to be handed back to the owners.

Vatandar Mahars played an important role in boundary disputes between villages. The solution of the boundary disputes involved subjecting an untouchable, Vatandar mahar to violent ritual that invariably resulted in burn injuries to them. The author recounts one such incident: The ordeal entailed the use of a hot anvil. First, the hands of a vatandar Mahar were cleaned and some characteristic points of his palm were noted down. Subsequently, a red-hot anvil heated with charcoal was put in the hand of Mahar who ran through seven circles drawn on the ground and then threw the anvil onto a heap of hay. The scorched hand was then covered by a small cloth bag or pouch and sealed. After three days the villagers gathered again and unsealed the hand to examine it. If the hand of the Mahar did not show burn marks, the village boundary marks recorded previously according to the Mahar's statement was acknowledged as being true and the decision was in the favour of his village.

Another popular ordeal that has been recorded was the agni-divya (fiery ordeal) ordered by Peshva Bajirao in 1723-24. In this type of ordeal a small piece of iron called ravä was used. The ravä was put in a vessel filled with hot oil or ghee. A Mahar, the untouchable person who was to undergo the ordeal on behalf of his village, had to put his hand into the vessel and take out the ravä. If his hand was not burnt he was adjudged successful in the ordeal. The author describes the resolution of one boundary dispute between two villages: the Vatandar Mahars of the villages were to undergo the agni-divya with hot anvil. At first, their hands were cleaned with soap and then the characteristic mark on their palms were noted down on a paper. Thereafter, their hands were sealed in a small pouch. On the day of the ordeal, charcoal was brought from the villages to heat an anvil. The hands of the two Mahars, representing their villages, were unsealed and cleaned by ritual bathing. The Mahar of the complainant village touched the red-hot anvil first. Local officials and other attendants put seven leaves of papal on his palm and then his hand was sealed again. After three days, his hand was unsealed and examined. It was found that his palm was burnt and the inner side of his thumb was also blistered. In contrast, the hand of the Mahar of the defendant village was found to be clean. Thus, the Mahar of the defendant village was acknowledged as being successful in the divya (ordeal). These cases indicate that Vatandar Mahars invariably underwent the ordeals, which were injurious to life—by caste code and custom it was only the untouchable Mahar who was required to undergo this test and not the high caste people.



Thus, the reality of Ati Shudra castes in the later medieval Deccan region in the 17th and 18th centuries is that they were deeply incorporated into the caste system, but with inferior social status as untouchables. Untouchability resulted in residential segregation, limited social relations with higher castes, and engagement in lowly and perilous occupations. As a village servant they had a role in multiple spheres, including ones that posed a great risk to their lives.

We now look at the legal status of the untouchable castes under the British colonial period (Kotani, Hiroyuki 1997). British rule did not bring much change in the legal status of the untouchables. The British, like Islamic rulers, did not interfere in the Hindu legal system based on caste laws and customs. Warren Hastings, the then Governor of Bengal, made the following rule in 1772 when he introduced full-scale reforms in the judicial system for the first time in the history of British colonial rule in India.

That in all suits regarding inheritance, marriage, caste, and other religious usages as institutions, the Laws of the Koran with respect to Mohammedans and those of the Shaster (Shastras) with respect to Hindoos, shall be invariably adhered to; On all such occasions the Maulvis or Brahmins shall respectively attend to expound the Law, and they shall sign the report & assist in passing the decree.

(The Committee of Circuit's Plan for the Administration of Justice in Bengal, dated 15th August, 1772, in D.N. Banerjee, Early Administrative System in Bengal, vol. I, Calcutta, 1943, p. 667.)

'Shaster' (Shastra) referred to in this rule meant a series of classical law books written in Sanskrit amongst which the most important had been Manu Smriti. But in the medieval period (after the post-Gupta period), these classical law books were reinterpreted and readjusted to the reality of the medieval society, which is given in the commentaries on classical law books. Amongst these commentaries, the most influential was Mitākṣarā, a commentary on Yājñavalkya-Smriti, which was composed in the Deccan under the Western Chalukya dynasty during the course of the early twelfth century. The so-called Shastra in the British judicial documents also included these medieval commentaries.

The 'Brahmins' (Pandits) well-versed in Shastras were posted in the supreme courts (King's courts set up in the Presidency towns of Calcutta, Madras, and Bombay). These Pandits were required to submit the 'Report' pertaining to the specific case known as *Vyavastha* to the courts.

In this process, the outline of 'Shastras' as such had gradually become clear as a result of which the so-called Hindu Law was formed. The Hindu Law was, consequently, not the classical Brahminical law itself. It was a law system based on the Brahminical law but readjusted for the British judicial administration. In this sense, the Hindu Law was the law produced under

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British colonial rule for administering jurisdiction over Hindu subjects. The Hindu Law as such established by the 1830s included only family law with other laws like contract law being anglicised.

This Hindu Law contained a kind of legal fiction in it: The Hindu society of the nineteenth century was presumed to be composed of four Varnas, namely Brahmin, Kshatriya, Vaishya and Shudra in consequence of its being based on classical Brahminical laws like Manu Smriti. In addition to this, the four Varnas were equated with castes so that Hindu society in the nineteenth century was assumed to be a 'Caste Society' comprising four 'castes' as per the Hindu Law.

This legal fiction of the Hindu Law had a delicate relevance to the legal status of the depressed castes formerly known as the 'untouchables'. For one thing, the Hindu Law revived the classical distinction between the upper three Varnas (the so-called twice-born) and Shudra (the once-born) and all the castes other than those belonging to the twice-born were considered to belong to Shudra Varna because the Hindu Law did not recognize the existence of the 'Fifth Varna' being based on classical law books like Manu Smriti (X-4). Thus the oppressed castes did not have a special legal status distinguishable from Shudra castes under the Hindu Law.

An example of social discrimination against the oppressed castes covered and kept intact by the legal fiction of the Hindu Law was the problem of 'temple entry' of the oppressed castes. In 1908, the Legal Committee of the Privy Council decided in an appeal case from the Madras High Court that the custom of excluding a 'depressed' caste from entry into a Hindu temple was legal. This denotes, if a long ('immemorial') custom or usage to exclude depressed castes from entering a Hindu temple was proved to exist, then the law courts recognised and respected this custom or usage. Thus, social discrimination against the suppressed castes was kept intact in the name of custom and usage during British colonial rule.

As regards equitable access to education to the Depressed classes, it was only by the order of 19th July 1854 that education was made open to all. This order is regarded as having laid down the foundation of mass education in British India. But in practice it was marked with opposition by higher castes. In June 1856 a Mahar boy filed a petition that he had been denied admission to the Dharwar Government School. Due to the opposition by the schools, the government compromised and resorted to an alternative that included separate school for the low caste boys and encouragement to missionary bodies to undertake education for the 'depressed' classes by giving grants.

However the Government of India Act of 1919 enabled a new legal category of social stratum called the 'Depressed Classes' to be introduced. This legal category of 'Depressed Classes' comprised not only the oppressed castes but the so-called tribes as well. A great advance in



this regard was the Government of India Act of 1935. This Act permitted the introduction of a new legal category of people called the ‘Scheduled Castes.’ In 1936, the castes which were to be included in this category of the Scheduled Castes were listed (‘scheduled’) in accordance with the Government of India (Scheduled Castes) Order of 1936. The castes listed in this Order corresponded for the most part to the oppressed castes. The ‘specific legal status of the depressed caste was established by the 1930s, and special acts to secure their public rights also were passed by the State Legislative Council. One of the typical acts of this sort was the so-called Temple Entry Act passed by many states in the 1930s which provided the right of entry to Hindu temples to the Scheduled Castes.

Lastly the Indian Constitution bans untouchability and its practice was made an offence. Based on this provision of the Constitution, an Untouchability Offence Act was enacted in 1955.





CHAPTER

3



Disabilities of Untouchables and Privileges of High Castes

3.1 Introduction

The discussion in the preceding chapter clearly brings out that under the caste system entitlement and assignment of rights was determined by the idea and laws of graded inequality in economic, civic, religious, and social spheres including education. The untouchables being placed at the bottom of caste gradation or hierarchy were denied all rights—economic, education, civic, social as well as religious. The only duty of the untouchables was to serve the higher castes as manual labourers. However their engagement as manual labour was akin to slave labour—forced labour in selected domestic work, agriculture, and other public services. Thus, the untouchables were denied right to property, such as agricultural land, trade and enterprises, and work in the occupation of the four higher castes, namely teaching/preaching by Brahmins, defence or military by Kshatriya, trade and commerce by Vaishya, and agriculture by Shudra except manual work in the occupation of the four higher castes. Other than manual labour they were allowed to earn their livelihood through so called ‘inferior’ arts and crafts as artisans and craftsmen.

The uniqueness of this division of rights and work is that the loss of rights to property, employment, education, and civic rights and free labour of untouchables came as gains of special rights and privileges to the high castes, particularly the Brahmins in ownership of property, education, employment and civic rights. The gains to the higher castes accrued at an immense loss of economic, educational, and civil rights to the untouchables and their exploitation as slave labour. The Brahminical theory provided the explanation and justified the special rights and privileges of high castes and denial of the same to untouchables.

In this chapter we, therefore, examine the disabilities of the untouchables in terms of denial of economic and education rights and correspondingly the special rights and privileges of high castes. We provide an evidence on these aspects by drawing from the legal and customary provisions in the Brahminical literature. The discussion covers the relevant aspects related this issue. It first examines the economic and educational rights of untouchables—the occupation they are assigned by laws and customs. Secondly, we discuss the special rights and privileges of the high castes, particularly the Brahmins. We then explain as to how the gains to high castes amount to loss to untouchables. This would eventually develop a case for the policy of

compensation to the untouchables for the loss that they have suffered over several centuries, at least from the period of Manu since BCE 200 when the earlier legal provisions were put together and new were added and codified into laws to be enforced by the state.

Section I

3.2 Disabilities of the untouchables

We have seen earlier that the caste system is based on the principle of unequal assignment of economic and educational rights among various castes. Manu who legalised the caste system around BCE 200 states that:

‘For the prosperity of the world, He (the creator) from his mouth, arms, thighs, and feet created the Brahmin, Kshatriya, Vaishya and Shudra’ (Ambedkar, 1987: 112).

However, the divine power not only created four castes but also fixed their occupations (or property rights). In this connection Manu Smriti states:

‘To the Brahman, it assigns teaching and preaching of religion, defence to Kshatriya, trade and, agriculture to Vaishya and service of these three castes to Shudra’ (Ambedkar, 1947:75).

From this it is clear that the untouchables, who are located at the bottom of the caste hierarchy, practically have no rights to property and education except to serve the four castes above them as wage workers.

The lack of property right to untouchables is explicitly made clear by Manu, who prohibited the Shudra from accumulating wealth:

‘No collection of wealth must be made by Shudra even though he is able to do it, for Shudra who has acquired wealth gives pain to Brahmins.’ (Ambedkar, 1987; Buhler, 1886; Laws of Manu, 129: 439).

‘A Brahmin may take possession of goods of a Shudra with perfect peace of mind, for, since nothing at all belongs to this Shudra as his own, he is one whose property may be taken away by his master’ (Ambedkar 1946: 50, Buhler 1886, Laws of Manu).

This makes it very clear that with the denial of right to property and education the only work assigned to untouchables therefore was the service of the castes above them, particularly the Brahmin. For instance, Manu ordained:

‘He (Shudra) should serve Brahmins for the sake of heaven or for the sake of both, for when he (Shudra) has the name “Brahmin” attached to him, he has done all there is to do.’

‘The service of a Brahmin alone is declared to be the pre-eminent activity of a Shudra for whatever other work he may do brings him no reward’ (Ambedkar, 1987; Bhuler 1886, Laws of Manu, 122: 429).



The services of the Brahmin although is the main task of untouchables, they are also obliged to serve the other three castes. In this respect Manu states:

‘If a Shudra desires to earn a living, he may serve a Kshatriya, or he may seek to earn a living by serving even a wealthy Vaishya. He should serve Brahmins for the sake of heaven or for the sake of both, for when he has the name “Brahmin” attached to him, he has done all there is to do’ (Ambedkar, 1987; Buhler, 1886; Laws of Manu 123: 428).

The remuneration prescribed to the Shudra for the service to Brahmin and castes above him was pathetically low. In dealing with wages, Manu states:

‘The remnants of their food are given to him, as well as their old clothes, the refuse of the grains, and their old household furniture’ (Ambedkar, 1987; Buhler, 1886; Laws of Manu, 125: 429).

Further, sage Gautama reiterated in Dharmasutra what Manu prescribed:

‘Shudra serves the upper castes; seeks his livelihood from them; uses their discarded shoes, umbrellas, clothes, mats, and the like; and eats their leftovers’ (Ambedkar, 1987: 430).

The engagement of the Shudra as a manual labourer mainly assumed the form of a slave labourer with low earnings, worse work conditions and exploitation. The Hindu law recognised and approved third slavery; for Manu ordained:

‘A Shudra, whether bought or unbought, should be reduced to slavery because he is created by God for the service of a Brahmin.’ (Ambedkar, 1987:26, Buhler 1886; Laws of Manu: 24).

‘A Shudra, though emancipated by his master, is not released from servitude, since that is innate in him, who can set him free from it.’ (Ambedkar, 1987: 26; Buhler, 1886; Laws of Manu: 24).

However quite independent of the practice of slavery to which the untouchable caste was subjected, the rules related to property, wages, and obligation of work literally amounted to slavery.

Ambedkar observed that:

‘The rules have a two-fold significance, spiritual as well as economic. In the spiritual sense they constitute the gospel of slavery. This may not be quite apparent to those who know slavery only by its legal outward form and not by reference to its inner meaning. With reference to its inner meaning a slave as defined by Plato means a person who accepts from another the purposes which control his conduct. In this sense a slave is not an end in himself. He is only a means for filling the ends desired by others. Thus understood the Shudra is a slave. In their economic significance the rules put an interdict on the economic independence of the Shudra. A Shudra, says Manu, must serve. There may not be much in that to complain of. The wrong however consists in that the rules require him to serve others. He is not to serve himself,

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which means that he must not strive after economic independence. He must forever remain economically dependent on others.'

Repeating some of the provisions mentioned earlier will indicate the lack of freedom to the untouchable and his complete attachment to the higher caste for livelihood; Manu says:

'One occupation only the Lord prescribed to the Shudra to serve meekly even these other three castes.'

Manu's rules regarding the wages to be paid to the Shudra when employed by the three higher classes are very instructive: On this point Manu states the following.

'They must allot to him (Shudra) out of their own family property a suitable maintenance, after considering his ability, his industry, and the number of those whom he is bound to support.'

What is this suitable maintenance? Manu states:

'The remnants of their food must be given to him, as well as their old clothes, the refuse of their grain, and their old household furniture.'

This is Manu's law of wages. It is not a minimum wage law. Rather it was an iron law fixed so low that there was no fear of the Shudra accumulating wealth and obtaining economic security, observed Ambedkar. But Manu did not want to take chances and he went to the extent of prohibiting the Shudra from accumulating property. He states imperatively:

'No collection of wealth must be made by a Shudra even though he be able to do it; for a Shudra who has acquired wealth gives pain to Brahmins.'

Thus, in these laws related to economic rights and work, there is no choice of avocation. There is no economic independence and there is no economic security. Economically, speaking of a Shudra is a precarious thing.

Engagement in inferior occupations: Besides manual labour, the untouchables were allowed or forced to do tasks which were considered inferior. Their occupations included that of a corpse-carrier, an executioner of criminals, hunter, and butcher. He (the untouchable) depended on others for food and stayed away from village habitation—he was employed at burial grounds and considered the most degraded and downgraded to the lowest level.

Manu smriti mentions about their other occupations such as hunting, boat rowing, bamboo work, basket making, drummer, leather-workers, carpenter, fishermen, butchers, executioners, and scavengers.

The denial of Right to Education in addition to the denial of property rights, untouchables were also debarred from formal education. The provision in Manu Smriti states;

'He who teaches for hire, also one who learns by paying hire (a Shudra) teacher and one who learns from him are unfit for being invited at the performance in honor of the Devas and Pitris.'



One may not teach him (Shudra) the law or enjoin upon him religious observances.’

‘For he who tells him the law and he who enjoins upon him (religious) observances, he indeed together with that (Shudra) sinks into the darkness of the hell.’

In olden times the study of the Vedas was considered education. Manu declared that the study of the Vedas was not a matter of right but that a matter of privilege. He deprived the Shudra of the right to study Vedas. He made the study of Vedas a privilege of the three higher castes. Not only did he debar the Shudra from the study of Vedas but he also enacted penalties against those who might help the Shudra to acquire the knowledge of Vedas.

In summarizing the discussion on the economic status of the untouchables, we find that they were denied the right to property, agricultural land, trade and enterprises, and employment in several works that were the occupation of high castes, except manual work. The rules related to property rights, education and wages and employment of untouchables turned out to be most sickening and pernicious. The untouchables eked out a miserable existence.

Further, their polluting status itself had direct impact on the type of tasks they would get engaged in: Being ‘polluting’ persons they stood excluded from jobs which involved physical contact or even proximity to high caste people. Therefore, they were forced into ‘inferior’ and even risky jobs such as that of corpse-removers and cremators, or as executioners, night guards, sweepers, and refuse-cleaners. Their occupations also included ‘inferior’ professions like goldsmith, carpenter, barber, iron-smith, tailor, oilmen, and even public performers, and musicians.

The main occupation however turned out to be service to the high castes as manual labour in agriculture and related activities with very low remuneration and inhuman working conditions. As manual labour the untouchables were not free. The working relationship was governed by caste rules that were similar to that of slaves, in so far as it involved complete lack of freedom with respect to work. In fact, it is argued that the status of an untouchable labourer was worse than of a slave. Ambedkar (2008: 40) argued:

‘With reference to the inner meaning, a slave, as defined by Plato, means a person who accepts from another the purposes which control his conduct. In this sense, a slave is not an end in himself. He is only a means for filling the ends desired by others. Thus understood, the Shudra is a slave. In their economic significance, the rules put an interdict on economic independence.’

He further argued that:

A slave is a human being who is not a person in the legal term. Person means one who has the capacity to acquire rights and duties. The human being is not a person; it means he/she does not have any rights and is not free. Since a slave did not have any rights, he/she was not regarded as a person. Untouchability is worse than slavery because a slave has a personality in

the sense that he/she has some rights, while untouchables do not have personality as he/she has no right whatsoever. Thus, untouchability is worse than slavery because it carries no security as to livelihood as the slave does. No one is responsible for feeding, housing, and clothing of the untouchable. From this point of view untouchability is not only worse than slavery but is positively crueler as compared to slavery.

However, it must be mentioned that quite independent of slave-like relations embedded in the caste rules, and the condition of untouchable labourers, the Hindu laws recognised slavery. Manu makes a mention of slavery as early as in BCE 200. It was a practice that continued unhindered since those ancient times through the medieval and British periods till 1843 when it was finally banned by the British. Unfortunately, in that Brahminical notion of slavery, the untouchables turned out to be the slave castes pushing all untouchables into most deplorable slave labour. Thus, the untouchables had to undergo the double misfortune of being held in bondage of slavery as well as that of untouchability. (Ambedkar, 1987: 742).

Section II

3.3 Privileges and special rights of high castes

The caste system fixed the occupation of each of the five castes without freedom of change or switching from hereditary professions. However, the laws as given in Manu Smriti and other Hindu Dharmashastras made an exception for the Brahmin caste. Manu Smriti also provided the justification for it.

The freedom to the Brahmin caste from the rigidity of sticking to its caste occupation and other rights flowed from the unique status and power bestowed to it in the Manu Smriti. This unique status formed the basis for the position of privilege of the Brahmin. A few of the verses in Manu Smriti relating to the supreme status accorded to the Brahmin caste are cited as under.

‘As Brahmins sprang from the God’s mouth, as he was first born, and as he possesses the Vedas, he is by right the lord of the whole creation’ (Ambedkar, 1987: 117).

‘The very birth of a Brahmin is an eternal incarnation of the sacred law (Veda) for he is born to (fulfil) the sacred law, and become one with Brahman (God)’ (Ambedkar, 1987: 117).

‘A Brahmin coming into existence is born as the highest on earth, the lord of all created beings, for the protection of the treasury of the law’ (God); (Ambedkar, 1987: 117).

‘The Brahmin is (hereby) declared to be the creator (of the world), punisher, the teacher, (and hence) a benefactor (of all created beings); to him let no man say anything unpropitious, nor use any harsh word’ (Ambedkar, 1987: 117)

‘From priority of birth, from the superiority of origin, from a more exact knowledge of scripture, and the distinction in the sacrificial thread, The Brahmin is the lord of all classes’ (Ambedkar, 1987: 117).



‘For the self-existent that is God, having performed austerities, produced him first from His own mouth, in order that the offerings might be conveyed to the gods and manes and that this universe might be preserved.

‘Of created beings the most excellent are said to be those which are animated, of the animated those who subsist by intelligence; of the intelligent mankind, and of the men the Brahmins.’

‘The Brahmin eats but his own food, wears but his own apparel, bestows but his own in alms; other mortals subsist through the benevolence of the Brahmin.’

‘Let the king, rising early in the morning, worship Brahmins who are well-versed in the threefold sacred science and learned (in polity) and follow their advice.’

‘Let him daily worship (the) aged Brahmins who know the Vedas and are pure...’

‘Whatever exists in the world is the property of the Brahmin; on account of the excellence of his origin the Brahmin is indeed entitled to it all. Being a deity, the Brahmin is above law and above the King’ (Ambedkar, 1987: 118).

These are amazing provisions which elevate the power and status of Brahmins to super-human level; rather they elevate the Brahmin to the position of God Himself. The Brahmin is considered the lord of the whole creation or created beings. By virtue of being held lord of all created beings, he is made the benefactor of all created beings too. Therefore, whatever exists in the world is the property of the Brahmin, and indeed he is entitled to it all, so ordained the Manu Smriti. In fact Brahmin is above the law and the state, which means, although his rights are laid down in the caste system, yet he is not bound by either rules of the caste or of the state. The Brahmin himself is sovereign not governed by anybody, but governs himself. It is because of this ‘superhuman’ position that the Brahmin is not bound by the restrictions of the caste system.

It’s because of this unique position that the Brahmin enjoyed unlimited rights and privileges. Under the occupational scheme of the caste system the occupations and duties of each caste were fixed and made hereditary without any freedom for change or switching professions. However, the Brahmins were exempted from these rules and freed from such restrictions. They could undertake any occupation except that of the Shudra. In this regard, Manu Smriti states:

‘From interpreting the Veda, from officiating at sacrifices, or from taking presents, though in modes generally approved for Brahmin, no sin is committed by priests in distress; for they are as pure as fire or water.’

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‘Yet (a) Brahmin, unable to subsist by his duties, may live by the duties of soldier, for that is the next in rank’ (Ambedkar, 1987: 120).

‘If it be asked, how he must live, should (he) be unable to get a subsistence by either of these employments, the answer is, he may persist as a mercantile man applying himself in person to tillage and attendance on cattle’ (Ambedkar, 1987: 120).

‘But a Brahmin and a Kshatriya, obliged to subsist by the acts of a Vaishya, must avoid, with care, if they can live by keeping herds, the business of tillage, which gives great pain to sentient creatures, and is dependent on the labour of others, as bulls and so on.’

‘If, through want of a virtuous livelihood, they cannot follow laudable occupations, they may then gain a competence of wealth by selling commodities usually sold by merchants, avoiding what ought to be avoided.’

‘The Brahmin, having fallen into distress, may receive gifts from any person whatever; for by no sacred rule can it be shown, that absolute purity can be sullied.’

A Brahmin, be he ignorant or learned, is a great divinity, just as fire, whether carried forth (for the performance of a burnt oblation) or not carried forth, is a great divinity.’

‘Thus, though the Brahmins (may) employ themselves in all (sorts) of mean occupation, they must be honoured in every way; (for each of) them is a very great deity.’

‘Whatever exists in the world is the property of the Brahmin, on account of the excellence of his origin; the Brahmin is indeed entitled to it all. Being a deity, the Brahmin is above law and above the King’ (Ambedkar, 1987: 118).

Thus, it clear from these provisions that there are no restrictions on the Brahmin caste from resorting to an occupation designated for any other caste except the Shudra.

The Manu Smriti and other religious Dharamshastras accorded other privileges to Brahmins castes as well. For instance, if a Brahmin discovered a hidden treasure he was free to appropriate the whole of it without giving the usual share to the king ‘since he was the lord of all.’

The Brahmin was entitled to claim half if a treasure was discovered by another person. He was entitled to the whole amount accumulated from legal fines from a king whose death was due to some incurable disease. The Brahmin was also exempted from taxation. He was entitled to compel the king to provide for his daily food and to see that he did not starve. His property was free from the law of escheat.

There is another aspect which needs to be mentioned of the rules related to caste. Since the rights related to a caste are for all persons belonging a particular caste, the rights exists in the



sense of group rights, which members of the higher caste hold. They do not hold the right as an individual. While stating that caste does not recognise an individual, his worth and distinctiveness, Ambedkar states:

‘The Hindu social order does not recognise the individual as a centre of social purpose for the Hindu social order is based primarily on the class or Varna and not on individuals - the unit of Hindu society is not the individual Brahmin, or the individual Kshatriya, or the individual Vaishya, or the individual Shudra or the individual panchama (untouchables). The unit of Hindu social order is the class or Varna. In the Hindu social order, there is no room for individual merit and no consideration of individual justice. If an individual has privileges it is not because it is due to him personally. The privilege goes with Varna and if he is found to enjoy it, it is because he belongs to that Varna. Contra wise, if an individual is suffering from a wrong, it is not because he, by his conduct deserves it. The disability is the disability imposed upon the Varna (Ambedkar, 1987: 99-100).

It is clear that caste acquired a group character because the economic, education, religious, and social rights of each caste have been defined as a group’s rights based on caste identity. The actions of individuals are influenced by a motivation to optimise the material interests of the caste as a whole. Thus, group interest is central to the action of individuals as a member of the group.

The motivation is mainly pecuniary, although the non-pecuniary motive of high status is not altogether absent. However in the end the way in which the economic and non-economic rights have been appropriated by higher castes, the material gains turn out to be the main motive reflective of their sheer greed and selfishness. In this context Ambedkar (1987: 72) states, ‘To a question of what is right and what is good, the answer which the philosophy of Hinduism gives is remarkable. It holds that to be right and good the act must serve the interest of this class of supermen, namely the Brahmins.’

3.4 Linkages between disabilities and privileges

3.4.1 Privileges of high castes at the cost and loss of rights of untouchables

We have studied the disabilities of untouchables and the corresponding privileges and special rights of the high castes, particularly Brahmins. There is a unique dimension to the disabilities of untouchables and privileges of the high castes, which needs to be recognised. The rules of caste do not end with fixing the right of each caste with unequal entitlement, but they go beyond. This organization could have been stopped at the unequal assignment of rights across various castes. It could also have been stopped at the justification of no rights to untouchables due to their ‘impure’ and ‘polluting’ status and privileges to Brahmins for their ‘pure’ and ‘superior’ origin. However it does not stop at that. It goes a step ahead. The Brahminic theory



did not want to leave any loose ends; so it tried to make a fool-proof case on the injection of disabilities of untouchables such that it would not be questioned on ethical or moral grounds. Hence it provided justifications so that no untouchable would try to protest the denial of rights to them and try to gain their due entitlements with respect to property, education and civil rights. Some of the following verses from the Dharmashastras and Manu Smriti can be cited on this count.

Manu Smriti states: ‘No collection of wealth must be made by Shudra even though he is able to do it, for Shudra who has acquired wealth gives pain to Brahmins’ (Ambedkar, 1987; Buhler, 1886, Laws of Manu, 129: 439).

‘He (Shudra) should serve Brahmins for the sake of heaven or for the sake of both, for when he (Shudra) has the name “Brahmin” attached to him, he has done all there is to do. The service of a Brahmin alone is declared to be the pre-eminent activity of a Shudra’ (Ambedkar, 1987; Buhler 1886, Laws of Manu, 129: 439).

‘Service to Brahmin alone is declared to be the pre-eminent activity of a Shudra, for whatever other work he may do brings him no reward’ (Ambedkar, 1987; Buhler 1886, Laws of Manu, 122: 429).

‘If a Shudra desires to earn a living, he may serve a Kshatriya, or he may seek to earn a living by serving even a wealthy Vaishya.

‘A Brahmin may take possession of goods of a Shudra with perfect peace of mind, for, since nothing at all belongs to this Shudra as his own, he is one whose property may be taken away by his master’ (Ambedkar, 1946: 50, Buhler 1886, Laws of Manu).

Manu further ordains:

‘A Brahmana (Brahmin) may confidently seize the goods of (his) Shudra (slave), for that (slave) can have no property, his master may take his possession’ (Ambedkar, 1987; Buhler 1886, Laws of Manu, 129: 439).

These legal and moral provisions of the Dharmashastra provide justification for denial of property rights to untouchables and at the same time give reasons for the privileges to Brahmins. From the content of these aforementioned verses few points emerge clearly:

The provisions clearly indicate that it is the legal duty of untouchables to serve Brahmins. What is the reason for the dedicated service that untouchables are required to do for the Brahmins? The reason stated is that their service ‘brings benefits’ to untouchables. The untouchables’ services to Brahmins are supposed to bring them prestige and credit; of being associated with a Brahmin thus elevating their esteem and position. The law also mentions that by doing so, that is servicing a Brahmin, an untouchable achieves his ultimate goal in life (“Brahmin”



name attached to him, he has done all there is to do). The law also cautions untouchables that disservice to the not bring them any rewards.

Besides the disability of service to Brahmins under exploitative conditions, the untouchables are also barred from accumulation of wealth. The reason for not allowing acquisition of wealth to the untouchables being it ‘gives pain to Brahmins.’ Thus, in both cases, that is if untouchables avoid service to Brahmins, or accumulate wealth—they act against the law: ‘It brings pain to the Brahmin.’ The Brahmin lawgivers were aware that if wealth accumulation was allowed to the untouchable, his dependence on the former will be reduced and as a result he could avoid serving Brahmins. So, in order that untouchables continue to serve Brahmins, they were barred from accumulating wealth; hence, forced to depend on Brahmins and other higher castes for their livelihood and remain in their service forever. In fact, if for some reason an untouchable acquired wealth or property through his slave labour, Manu’s laws gave power to the Brahmin to take possession not only of the wealth but also goods possessed by untouchables. All these legal injunctions make it quite clear that every conceivable justification was provided by the Brahmin lawgiver to make the untouchable castes serve them and other castes above the untouchables. By any principle of ethic and morality, this legal provision is outrageous and unjustifiable. To tell the untouchables that their salvation lies not in accumulating wealth but in service of Brahmins as manual labour is the highest level of ingenuity revealed by Brahminical theology. Further, to tell untouchables that their salvation lay in not accumulating wealth, not getting educated, and in service of the Brahmins and other high castes is reflective of an unethical act of highest degree. To tell an untouchable not to accumulate wealth, not to seek education and only serve Brahmins and other high caste people, and further make it legally binding and even compel the state to enforce it is an immoral act of the highest order on the part of the Hindu lawgivers.

It also goes on to show that the Brahminical prescription shows a close connection between the disabilities of untouchables and the privileges of Brahmins and high castes. The untouchables are required to surrender their rights to property, education, and free labour for the ‘well-being’ of the Brahmin. Also, not following the injunctions would not only ‘cause the pain to Brahmins’ but also have adverse consequences for untouchables themselves. By not having ownership of property, education or free labour, the untouchables would be a deprived lot without any viable means of livelihood; pushed into perpetual poverty. This implies a clear linkage between the poverty of untouchables and the prosperity of Brahmins and other high castes. The high prosperity of the Brahmins and other high castes obviously came at the cost of high poverty and deprivation of the untouchables. The loss to untouchables was the gain to the Brahmin and high castes. If we now see high levels of landlessness, illiteracy, and incidence of manual wage labour among untouchables today, it is because of the monopolisation of wealth, education, and quality employment by the Brahmin and other higher castes. This means actually it were

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the untouchables' sacrifices of rights to property, education and employment that resulted in the high lifestyle and prosperity of Brahmins and high castes. These legal provisions from Manu indicate that the Hindu social order was openly and avowedly devised and intended for the good of the Brahmins and higher castes. In it everything was ordained for the highest caste. The Brahmins had rights but no duties; everything was prescribed to secure the interests of the high castes, particularly the Brahmins. The natural outcome of this feature is the degradation of untouchables. As against the Brahmin the untouchable has no right property, education, and free labour or, in short, pursuit of happiness. The untouchable is there to sacrifice everything for the sustenance of the life and dignity of the Brahmin and higher castes. The Hindu social order prescribes that such sacrifices should be made willingly by untouchables. Indeed, it preaches that the untouchables should respond to such calls for sacrifice in the interest of the Brahmins as their supreme duty.

As the landlessness, illiteracy, and poverty of the untouchables is the direct outcome of monopolisation of the same by the Brahmins and high castes as well as under-payment of untouchable slave labour by the high castes, they owe a huge social debt to untouchables. This is where there is a justifiable case for compensation to the untouchables for the loss they have suffered over centuries.

3.5 Responsibility of state to uphold the social order

The State is assigned the legal responsibility for upholding and maintaining the social order. Manu does this in quite clear terms. He ordained thus:

'The King has been created (as) the protector of the Varnas (castes) and orders, who all according to their rank, discharge their several duties.' (Ambedkar, 1987; Buhler 1886, Laws of Manu: 221).

'The King should carefully compel Vaishya and Shudra to perform the work (prescribed) for them, for if these two (castes) swerved from their duties, they would throw this (whole) world into confusion' (Ambedkar, 1987; Buhler 1886, Laws of Manu, verse 418: 327).

VIII. 410. 'The King should order each man of the mercantile class to practice trade or money-lending or agriculture and attendance on cattle; and each man of the servile class to act in the service of the twice-born.'

VIII. 418. 'With vigilant care should the King exert himself in compelling merchants and mechanics to perform their respective duties; for, when such men swerve from their duty they throw this world into confusion.' (Buhler, 1886, Laws of Manu)

Manu's rules do not stop with the mere enunciation of the duty of the King. The rules ensure that the King shall at all times perform his duty to maintain and preserve the established order. Manu's law therefore, makes two further provisions: First is to make the failure of the King to



maintain the established order a punishable offence. The King became liable for prosecution and punishment like a common felon. This is clear from the following citations from Manu:

‘Neither a father, nor a preceptor, nor a friend, nor a mother, nor a wife, nor a son, nor a domestic priest must be left unpunished by the King if they adhere not with firmness to their duty.’

‘Where another man of lower birth would be fined one pana, the King shall be fined a thousand, and he shall give the fine to the priests, or cast it into the river, this is a sacred rule.’ (Buhler, 1886, Laws of Manu)

The other provision made by Manu against a King who is either negligent or opposed to the established order is to invest the three classes, Brahmins, Kshatriyas and Vaishyas with a right to rise in armed rebellion against the King.

‘The twice-born may take (up) arms, when their duty is obstructed by force; and when, in some evil time, a disaster has befallen the twice-born classes.’ (Buhler, 1886, Laws of Manu)

The right of rebellion is also given to the three higher castes and not to the Shudra and untouchables. This is only natural because it is only the three upper castes who would benefit by the maintenance of this system. But supposing the Kshatriyas joined the king in destroying the system what is to be done? Manu gives the authority to the Brahmins to punish all and particularly the Kshatriyas.

‘A priest, who well knows the laws, need not complain to the king of any grievous injury; since, even by his own power, he may chastise those, who injure him.’

‘His own power, which depends on himself alone, is mightier than the royal power, which depends on other men; by his own might, therefore, may a Brahmin coerce his foes.’

‘He may use, without hesitation, the powerful charms revealed to Atharvan, and by him to Angiras; for speech is the weapon of a Brahmin; with that he may destroy his oppressors.’

320. ‘Of a military man, who raises his arm violently on all occasions against the priestly class, the priest himself shall be the chastiser; since the soldier originally proceeded from the Brahmin.’ (Buhler, 1886, Laws of Manu)

How can the Brahmins punish the Kshatriyas unless they take up arms? Manu knew this, and therefore he allowed the Brahmins to arm themselves to punish the Kshatriyas:

‘Command of armies, royal authority, power of inflicting punishment, and sovereign dominion over all nations, he only well deserves, who perfectly understands the Veda Sastra’ i.e., a Brahmin.

Since the caste system is created by divine power of God, as such it is sacred, not open to

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abrogation, amendment, not even to criticism. Therefore, God has taken up on Himself to protect and maintain the system. This is made clear from the following verses from the Bhagvad Gita and Manu Smriti. Shri Krishna, one of the Hindu gods, whose word is the Bhagvad Gita said:

‘I myself have created the arrangement of the four castes (into Brahmins, Kshatriyas, Vaishyas and Shudras), consistently with the differences in their qualities and actions. It is, I who am the maker of it.’

‘O, Parantapa! The respective duties of Brahmins (priests), Kshatriyas (warriors), Vaishyas (tradesmen) and Shudras (menials) have been individually fixed with reference to the qualities arising from their inherent natures (Prakriti). The inherently natural duties of a Brahmin are peace, self-restraint, religious austerities, cleanliness, quietness, straightforwardness (humanity), Knowledge (that is, spiritual knowledge), Vijnana (that is Imperial knowledge) and Astikya-budhi (that is belief in a future world). The inherently natural duty (karma) of the Kshatriya is bravery, brilliance, courage, intentness, not running away from battle, generosity, and exercising authority (over subject people), ‘goraksya’ (that is the business of keeping cattle), and vanijya (trade) is the inherently natural duty of Vaishya; and in the same way, service is the inherently natural duty of the Shudra.’

When the Hindu social order breaks down, Lord Krishna, the God takes the responsibility to restore it. This is evident from the following admonition contained in the Bhagvad Gita. Says Krishna:

‘O! Arjun, descendant of Bharat, whenever righteousness declines and unrighteousness increases, then I take birth in different eras (Yugas) for destroying the unrighteous and for establishing righteousness.’

Krishna also forbids propaganda against the Hindu social order. He says:

‘As the ignorant act with attachment to action so a wise man wishing to keep the people to their duties, should not shake the convictions of the ignorant who are attached to action, but acting with devotion (himself) should make them apply themselves to all action.... A man of perfect knowledge should not shake these men of imperfect knowledge in their convictions.’

3.6 Summary and Discussion

In this chapter we have looked into three issues: First, we have studied the nature of disabilities of the untouchables, followed by the privileges and special rights of the Brahmins and high castes and finally we examined the linkages between the disabilities of untouchables and the privileges of the Brahmins and the rights of high castes. We examined how the privileges of the high castes caused the disabilities of untouchables, indicating that the benefits of the Brahmins and high caste came at the loss of economic rights of the untouchables.



In the first issue it is seen quite clearly that the Hindu laws denied the untouchables the right to property such as agricultural land, non-farm enterprises, and employment in several works i.e., occupation of high castes, except manual work. The rules related to property rights, education, and wages and employment of untouchables proved to be extremely detrimental for them. Further, quite independent of the denial of property rights and employment (other than manual labour), their 'polluting' status had a direct impact on the type of tasks in which they would get engaged. Being 'polluting' persons they stood excluded from several tasks which involved physical contact with high caste. Therefore, they were forced to pursue inferior works such as corpse-removers, or cremators, or as executioners, night guards, sweepers, and refuse cleaners. They were also limited to art forms and crafts that were considered 'inferior' such as public performers, goldsmiths, carpenters, barbers, iron smiths, tailors and oilmen. With denial of rights to income earning assets, the main occupation for untouchables turned out to be service to the high caste as manual labour in agriculture and allied activities with low remuneration and worse working conditions. As manual labour the untouchables were not free. The working relations regulated by caste rules were similar to that of slaves, in fact the status of an untouchable labourer turned out to be worse than slavery. Further quite independent of slave-like relations embedded in the rules related to untouchable labourers, the Hindu laws in fact recognised slavery. The Hindu laws recognised slavery also in 'graded form' with deep caste overtones. Even in slavery, only a person from a caste lower than that of the so-called 'master' could be his slave. By default, the slave's caste had to be lower than that of his master/owner. By this definition of 'graded slavery,' Brahmins who were at the top of the caste hierarchy could never be slaves. On the other hand, untouchables being located at the bottom end of the caste hierarchy were obliged to be the slave of all other castes above them. Therefore, by the very definition of graded slavery the untouchable turned out to be the 'slave caste.' Thus, the untouchables underwent the misfortune of double bondage: that of untouchability and of slavery.

Secondly, the discussion on the privileges of Brahmins and the high castes indicate that although the occupations of each caste were fixed yet the Brahmins were made an exception to this rule.

The exception to the rule of rigidity of occupation and other rights was made for the Brahmin castes because of their unique status and the power. The unique status literally elevated the Brahmins to the position of God. The Brahmin was considered the lord of the whole creation or created beings. By virtue of being held lord of all created beings, he was declared benefactor of all created beings. Therefore, all that exists in the world was considered to be the property of the Brahmin. In fact, the Brahmin was considered above law and the state itself. He was not bound by the rules of caste or of the state. The Brahmin himself was sovereign not governed by anybody, but himself. It is because of this amazing provision that they were excluded from the restrictions of the caste system.

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As a result of this unique position, the Brahmin enjoyed unlimited rights and privileges. Though, as per caste rules, the occupations of Brahmins were fixed, yet they could undertake any occupation, namely military, trade and commerce, and agriculture but not the occupations of untouchables, i.e. manual labour. Among other privileges they enjoyed were the following; first claim on the discovery of hidden treasure, exemption from taxation, supply of food by the state whenever necessary.

Thirdly, the analysis of the disabilities of the untouchable and corresponding privileges and special rights of the high castes shows a close connection between the two. The privileges of Brahmins became the source of disabilities and poverty of untouchables. As per caste rules the untouchables were required to forego their rights to property, education, and free labour for the well-being of the Brahmins. Thus the untouchables were obliged to do so failing which they would have 'caused the pain to Brahmins.'

Rather the untouchables were told that their wellbeing lay in following caste rules, especially of not acquiring wealth and not refusing to serve the Brahmins as slave labour. This obviously affected the untouchables. By not allowing them ownership of property, education and free labour, the untouchables got deprived and remained without any viable means of livelihood that pushed them into perpetual poverty. This implies clear linkages between the poverty of untouchables and the prosperity of Brahmins and other high castes. The prosperity of the Brahmins and other high castes obviously came at the cost of deprivation and acute poverty of the untouchables. The loss of untouchables was gain for the Brahmin and high castes. If we today see a high level of landlessness, illiteracy, and incidence of manual wage labour among untouchables, it is because of the monopolisation of wealth, education, and quality employment by the Brahmins and other higher castes. Thus, the caste laws are such that they were blatantly devised and intended for the benefit of the Brahmins and higher castes at the expense of untouchables. The natural corollary of complete monopolisation of wealth, education, and quality employment was the degradation and deprivation of untouchables. As against the Brahmin, the untouchable had no right to property, education, and free labour, or simply put no means for being happy. The untouchable was meant to sacrifice everything for the sustenance of the life and dignity of Brahmin and other higher castes.

Thus we see that landlessness, illiteracy, and poverty among untouchables is the direct outcome of monopolisation of the property, education and employment, as well as under payment of slave labour to untouchables by the high castes. That is the single direct cause of their marginalization that continues till today.

The fourth point is that the State was assigned the legal responsibility for upholding and maintaining the social order. Manu's rules did not stop with mere enunciation of the duty of the



King in preserving the social order. The rules made it obligatory for the King to perform his duty to maintain and preserve the established order, failing which he would be liable for prosecution and punishment. If the King was either negligent or opposed to the established order, Manu's laws gave the three higher classes, namely, Brahmins, Kshatriyas and Vaishyas the right to rise in armed rebellion against the King. Further, if any Kshatriya joined the king in destroying the caste system, Manu gave authority to the Brahmins to punish them all, particularly the Kshatriyas. Manu in fact authorised the Brahmin to use arms, although it was not their primary duty, to preserve the social order under such extra-ordinary circumstances when the king and Kshatriyas were not preserving the social order.

So deep is the culture of caste that holy scriptures such as Bhagwad Gita also has verses in which Lord Krishna, regarded as an incarnation of God, have spoken in favour of the four division Varna system and the need to preserve it.



CHAPTER

4



Untouchables a Slave Caste: Ideology and Law

4.1 Introduction

From the discussion in the preceding chapter, it is seen that untouchables suffered from multiple disabilities for being placed at the bottom of caste hierarchy and for being treated as ‘impure’ and ‘polluting’ caste. As the lowest caste, the untouchables legally stood excluded from right to property (agricultural land and non-farm production enterprises/business), education, and civil rights. They were also excluded from employment in the occupations of the four castes above them, viz. teachers and preachers (occupation of Brahmin), soldiers (occupation of Kshatriya), trade and commerce (occupation of Vaishya), and agriculture (occupation of Shudra). Due to their impure and polluting status, the untouchables were also excluded from some more works such as domestic work, work related to religious functions, etc. A unique aspect of their work, however, was that while they were excluded from these tasks exception was made with respect to manual labour. The untouchables were forced to work as manual wage labour in the occupations of the other castes. As manual labourers they were engaged in high caste occupations as ‘slave labourers.’ As we shall see in this chapter, the untouchables being placed at the lowest rank of caste hierarchy, in effect, turned out to be a ‘slave caste’ required to serve all castes above them in various ways. ‘Thus, the untouchables had to undergo the misfortune of being held in double bondage; the bondage of untouchability and the bondage of slavery (Ambedkar, 1987: 742). In the preceding chapter, we have examined their bondage and disabilities as an untouchable caste, which more than anything else amounts to being a slave in spirit and practice. In this chapter we shall develop an insight on the untouchable as slave caste. We argue that slavery has been an important aspect of Hindu law, but given the graded character of Hindu slavery, the untouchables legally and in practice turn out to be a slave caste, and an entire community was forced into the position of slaves and suffer from grave exploitation. The untouchables have suffered slavery for the longest period of time that possibly any community has ever suffered in the world- for about two thousand years from its origins in later Vedic period around BCE 600 till it was legally banned by the British in 1843 (Banaji, 1930).

In this chapter, we discuss both the ideological and legal aspects of untouchable slavery as an aspect of Hindu slavery. This chapter includes an analysis of the concept of Hindu slavery, the status of untouchables’ slavery as a part of Hindu Slavery, and the ideological justification for

making untouchables a slave caste. It is reiterated that per se, the focus of this study is not on slavery in India; the central focus is on the nature of untouchables' slavery as part of Hindu slavery. Therefore, we have discussed here Hindu slavery in brief to serve as a background to some detailed analysis of untouchable slavery, which is the central issue of this study—an issue that has been neglected and on which there is limited literature.

4.2 Definition of Slavery

The international definition of slavery was established in 1926, and confirmed in 1956, although aspects of slavery remained disputed. The definition goes as, 'Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.'¹

The above definition recognised ownership as a prime feature of slavery—that a person must own another person, to make them a slave. It is maintained that the 1926 definition also has contemporary relevance in situations where a person does not legally own another. It is accepted that while the 1926 definition applied in de jure situations—that is, where a person legally owns another—it also applied in de facto situations where a person exercised powers attaching to the right of ownership instead of exercising the right of ownership over a person. In other words, a person could be in a condition of slavery without legal ownership, if it could be shown that he or she was treated like a slave in fact, if not in law. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery in 1956 (often referred to as the 'Supplementary Convention' or the '1956 Convention') extended and broadened the definition of slavery put forth in the 1926 Slavery Convention. The provisions of Article 1 oblige states parties to abolish certain institutions and practices analogous to slavery that create the circumstance of 'servile status.' Among others, these include a 'Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.'

Thus, slavery is an institution under which certain persons known as slaves are deprived of personal freedom and compelled to perform labour for others. The term also refers to a condition of those persons who are treated as the property of another person. Slaves are held against their will through capture, purchase or birth, due to poverty, and deprived of the right to leave, receive low remuneration in return of their labour, and subject to harsh punishment. It is a system of work which involves extreme form of exploitation.

4.3 Defining Hindu Slavery

Hinduism recognized slavery as an idea and in law. Various Hindu *shashttras* laid down the ideology as well as legal provisions of slavery. However the concept of slavery in Hinduism

¹Kevin Bales *Understanding Global Slavery: A Reader* University of California Press Los Angeles 2005



has its distinctive features. Let us, therefore, discuss the concept and meaning of Hindu slavery. How is Hindu slavery articulated in ideological and legal terms? We shall look into these questions in two parts. First, we shall develop an understanding on the idea of slavery, its meaning, and its translation into law. Secondly, we will develop an insight on the slavery of untouchables as an integral part of Hindu slavery and analyse how the untouchables in effect turned out to be a ‘slave caste.’

The Hindu *Shastras* laid down the idea of slavery. Among these, the Manu Smriti, the Narada Smriti, the Yajanyalakya Smriti, Kautilya, Mahabharata, and other literature presented the ideas and laws related to slavery since the early ancient period (BCE 1500- BCE 600) to later Vedic period (BCE 200–CE 400). Scholars observe that although the idea and law of slavery had evolved from the Rigvedic period, (BCE 1500 - BCE 600), but it took a definite shape in the later Vedic period when it was clearly codified by Manu, Narada, and Kautliya during the period between BCE 200 and CE 400. By early medieval period slavery had matured and developed into a fully blown institution. The institution of slavery enlarged in its scope and dimension in the medieval period. The important aspect which needs to be recognized is that the laws relating to slavery as developed by the Smritis have remained in operation from the early Vedic period through the medieval period including the Islamic period, and later during the British period (1758-1843) till slavery was banned in 1843. Therefore, to understand the evolving concept of Hindu slavery, and laws related to it, we have examined the literature from early Vedic period, and medieval period till CE 1200.

Chanana (1960) who is among the pioneers in studying slavery in India in ancient period provided an interesting information table on the types of slaves as conceived by three main Hindu lawgivers namely Kautilya (BCE 100 -CE100), Manu (BCE 200) and Narada (CE 500). To that we have added the list of slaves mentioned in Mahabharta, Kautilya (CE 200), Katyayana (CE 400-600) and their interpretation in later period (Yajnavalkaya CE 1200). We have added to the original table three more authors, namely Medhatithi in a commentary on Manu and Yajnavalkaya right up to CE 1200 (Refer Table 4.1). These Hindu lawgivers described the types of slaves, which indicate the sources of slavery, rights of slave owners and of slaves, punishments for slaves, and the conditions under which a slave could be freed from bondage. We have briefly discussed here the different categories of slaves, the sources or causes of slavery, the rights of slave owners over slaves, and the rights of slaves, wages or remuneration to slaves, the nature of punishment proposed in laws for violation of terms of slavery, and finally the conditions under which a slave could be liberated by the owner or by the slave himself/herself.

The Hindu lawgivers have mentioned about the various modes by which a person could become the slave of another (Colebrooke, 1829; Mancnaghten 1899). Table 4.1 shows that Manu has mentioned about seven types of slaves, Narada mentions fifteen kinds of slaves, while Kautilya nine, Medhatithi seven, and Vijaneshcara in a comentry on Yajnavalkaya has reiterated the list of fifteen slaves in CE 1200. The classification of Manu resembles that of Kautilya, whereas the

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list of Narada is longer. There has been an increase in the list of slaves from period of Kautilya and Manu to Vijaneshcara till CE 1200. The increasing number in the category of slaves given in Table 4.1 leaves no doubt that the institution of slavery not only gained momentum but also expanded with the passage of time.

Table 4.1: Slavery during the early, later Ancient period through Medieval period (BCE 200- CE1200): Types and sources

Kautilya (later half of 4th century BCE 360-300)	Manu (Around BCE 200)	Mahabharata	Narada (CE 100-500)	Medatithi (commentry on Manu)	Vijanesh-cara's commentary on Yajnaval-kaya (CE 1200)
Dhvajah-aajritah (bought with the flag)	Dhvaja-aahritah	Dhvajhrta (imprisoned in war)	Praaptoyuddat (obtained from war)	War prisoners	Garhajata (born of a female slave)
Udara-dasah (stomach-slave)	Bhakta-dasah (slave of rice)	After losing in gambling	Bhakta-dasah	Bhaktadasa (one who accepts slavery for food in scarcity)	Krit (purchased)
Griha-jaatah (born in the house)	Grihe-jaatah	Datrim (given in gifts)	Grihejaatah	Grahaja (born of a female slave)	Labdha (obtained as acceptance of gift)
Kritah (purchased)	Kritah	Purchased (kriti)	Kritah	Krit	Dayad-upagat (inherited)
Labdhah (found/received)	Dattrimah (given)		Labdah	Labdhah	Akalbhart (one who accepted slavery during famine)
Daaya-aagatah (inherited)	Paitrikah (received from father)		Daayaadupaagatah	Davaja-dasa (sentenced to slavery by court decree)	Ahit (one who pledged himself against loans)
Danda-pratinah (brought by justice)	Danda-dasah (slave of justice)		Mahatorinaatmocitah (Freed from a big debt)		Rimadasa (given as in repayment of debt)
Aahitkah (mortgaged)			Svaminaaaaahitah (mortgaged by master)		Yudhaprapta (war prisoner)
Atma-vikrayi (who sells himself)			Aatmanahvikretaa		Panejit (one who has been won in in gamble)
			Pane jitah (obtained in a bet)		Upagat (one who declares 'I am a slave')
			'tavaaham' itiupaagatah ('I am yours')		Parvar jyavatis (an apostle from ascepticism)
			Pravarjyaa-avasitah (returned from ascetism)		Kart (one who is enslaved for a stipulated period)
			Anaakaala-bhritah (maintained in time of famine)		Bhaktadasa (one who accepted slavery for maintenance)
			Eadavaa-hritah (slave because of living with a woman slave)		Vadavahart (one who has married a female slave and thus reduced to the status of slave)
			Kritah (made slave)		Atamvikreta (one who sells himself)

Source: Slavery in Ancient India, Devraj Chanana (1960: 114)

The types of slaves can be broadly categorized as captured in war, voluntary submission for diverse reasons (pecuniary consideration, maintenance during famine, poverty, debt, mortgage, etc.), voluntary submission for discharge of debt, or by way of punishment of specific offence,



birth, (in slave family), offering of female slave, gift, sale, or transfer by a former owner, sale or gift of offspring by parents.

What are the features of slavery in Hinduism? The Hindu law on slavery treats a slave as the absolute property of his/ her master, wherein one person owns another and uses his/her labour. A slave is deprived of most rights ordinarily held by free persons. Slavery allows no right of property and earnings to slaves, even their own acquisitions, unless by indulgence of their master. Thus, as a general principle the Hindu law denied slaves the right to acquire or possess property. Two nearly identical passages of Narada and Manu on this subject, declare that a wife, son, and a slave can legally have no exclusive property of their own, and that whatever they acquire belongs to their owner or household head. ‘This principle runs through the all of the early ancient Hindu slave legislations with some exceptions at the indulgence of the master’ (Banaji, 1933: 213). The power of owner over slave extended further to sale to another master or being given away as a gift to another individual or, deposited as a security. In the extreme case, a slave legally had no right even on his body. He/she was likely to be chattel as his master’s oxen, buffalo, gold and silver, garment, sandal wood, house and treasures, etc. (Banaji, 1932).

The related aspect of slavery is the punishment to slave. The slave being the absolute property of the master, the master had right to punish the slave at will. Macnaghten who compiled the Hindu laws including those related to slavery observed,

‘It treats the slave as the absolute property of his master, familiarly speaking of this species of property in association with cattle under the contemptuous designation of “bipeds and quadrupeds.” It makes no provision for the protection of the slave from the cruelty and ill-treatment of an unfeeling master, nor defines the master’s powers over the person of his slave, neither prescribed distinct limits to that power, nor declaring it to extend to life and limb.’ (Macnaghten, 1829: 114).

The punishments cover physical harm, beating, causing injuries, torturing, inhuman behaviour with derogatory expression, abuse, etc. Colebrooke for the first time compiled and interpreted the Hindu laws in 1801. Later in 1899, Macnaghten compiled and interpreted the principles and precedents of Hindu law along with selected legal opinions, and court judgement in two volumes. Banaji (1933) examined both legal on Hindu slavery in his book *Slavery in British India* in a section, ‘Early Hindu Law of Slavery and Administration in British India (207-225).

In the contemptuous sense, psychological harm was done through punishment such as separating children from parents, and wife from husband, and even killing of a slave. Sometimes they were intentionally marked with permanent signs (tattoos) in order to publicise their identity as slaves. The slaves remained in complete observation of their master. As Macnaghten (1829) mentions there were no rules regarding the limits to punishment, with some exceptions of milder punishments such as beating with a thin cord or a stick always on the back and avoid hitting on head (mentioned by Kautilya, Manu, and others (Chanana, 1957; Banaji, 1932).

The Hindu slaves were required to do all kinds of work which could be classified into household work, work in productive activities like agriculture and non-farm production activities, and others. The household work included menial work like sweeping of entrance gate, roads, cleaning of dry latrines, throwing away night soil, cleaning gutters and reservoirs, smearing the floor with cow dung and cleaning the internal body parts of the master. The productive works in agriculture, as indicated in Kautilya's laws, included ploughing, sowing, threshing, and even clearing of forest to prepare land for cultivation (Banaji, 1933). However, their working conditions were bad. No specific duty hours were fixed for them and they were required to work twenty-four hours without any rest. They were required to work in excessive rain, extreme cold, or, oppressive heat without respite or complaint. The wages were not specified by law. The slave was entitled to bare maintenance. The slave was only to be fed, clothed, and given footwear; nothing more.

Lastly, coming to manumission, Hindu law had provision for emancipation from slavery. As there were rules for enslavement, similarly there were rules and practices for a slave's freedom although not for all slaves. Narada laid down the rules that among the fifteen classes of slaves mentioned by him, those born and those acquired by purchase, or gift or by inheritance were doomed to permanent servitude along with their descendants (Macnaghten, 1829). However in some cases, exceptions were made to this iron-bound rule of emancipation. The exceptions included, pleasing the master with complete devotion, buying out a slave through payment of equivalent amount of money for which he was purchased, extraordinary valour performed by a slave captured in war, and repayment of debt in debt-related slavery. However, in practice these were not necessarily observed by the masters. Other than the afore-mentioned exceptions, slaves who were born in the house of their slave-parents' master, those who were purchased, or received as a gift or in inheritance could only be set free at the mercy of their masters. In these categories, the old Hindu laws aptly served to illustrate the slaves' hopeless condition in their present life as there was no possible escape from servitude (Colebroke, 1819).

Thus, Hindu slavery in the end turned out to be an institution under which individuals were deprived of personal freedom and compelled to perform labour for others. A slave was treated as the property of his/ her owner, hence could be sold and mortgaged at will. Slaves were held against their will through capture in war, purchase, or by birth in slave family, or forced into slavery due to poverty and hunger or other desperate situations. The ownership of slave as property also gave the right to masters to cause them physical harm and even kill them for causing them displeasure. The slaves worked continuously for twenty four hours without rest, with very low remuneration in return of their labour. It was distinct from other forms of labour in so far as it was done in the most inhuman and exploitative economic institution.

Let us bring a conceptual clarity on these features of Hindu slavery. We do this by referring to those who have captured and interpreted the accumulated ideas, laws, and practices of Hindu slavery. Donald Davis (2020) in his excellent interpretation of the views expressed in *Smṛticandrika* by Devannabhatta has disclosed the underlying meaning of the features that we have mentioned earlier. He observed that all those who got engaged in work or employment



are referred as ‘servant’ in Dharmashastra literature. However, within this broad category of ‘servant,’ it recognised the distinction between worker and slave. There is a common element between worker and slave which binds them as a servant; both ‘lack legal independence.’ (Davis interprets legal independence to mean the legal capacity to enter into transactions, to make decisions for oneself and to do things for one’s own benefit.) It certainly connotes ‘freedom,’ the converse of which is the legal incapacity and un–freedom. However, although both worker and slave lack legal independence or freedom, there is a crucial difference between the two. Workers lack legal independence only during the period of employment bound by the contract. Workers have legal independence outside the contract of their employment. Workers thus face restriction only during the period of their employment. In this arrangement there is ‘narrow’ obligation to benefit another. ‘Narrow’ here means ‘mere’ or ‘simple’ and indicates a restricted form of service, in which only specified work is done for the benefit of the master, not all work, interprets Davis (2020).

The slave labourers on the other hand do not have legal independence outside or inside their employment. Legally a slave is an un-free person. Slaves face an extreme form of common incapacity of individuals, freely and fully to engage in work. Davis (2020) quotes Devannabhṭṭa saying, Kātyāyana distinguishes slaves from workers by drawing an analogy between slaves and wives: ‘Just as wifehood arises from the gift of a woman’s body for the enjoyment of her husband, so slavehood arises from the gift of one’s own legal independence for the benefit of another person. By this statement we should understand that slaves are servants under total obligation to benefit another. And, total obligation to benefit another means that they are obligated to benefit another person by denying any means of livelihood for their own personal benefit. The notion of “total obligation to benefit another” characterises the legal status of a slave. “Total” might be rendered as “extreme,” but the idea is that a slave’s subjugation to the interests and benefits of the master is absolute. “The master’s power over his slave was total—the master had power over all aspects of his slave’s life.” Slaves have to suppress their own interests and benefits at every turn in favour of those of their masters. The legal agency and capacity of masters expand to the limits of the physical bodies under their control. The law empties slaves of their own desires, decisions, and benefits and fills them with the master’s. Thus, what distinguishes slavery from work, is the extremity of the legal and personal disability imposed by slave status (Davis, 2020: 6-9).

4.4 Graded caste slavery and untouchables as slave caste

After having brought a good deal of clarity on the question of what constitutes slave labour under concept of Hindu slavery (as different from free worker), we now discuss the status of untouchables under Hindu slavery; how the slavery of untouchables is embedded in Hindu slavery and eventually turned untouchables into a ‘salve caste.’ There are a limited number of scholars who have enquired into the caste dimension in Hindu slavery and its outcome for the slavery of untouchables (Davis, 2020; Ambedkar, 1987; Sahoo, 2013; Banaji, 1932). Davis (2020) in his analysis and interpretation of the Dharmashastra literature in *Smṛticandrika* by Devannabhṭṭa, identified features related to caste, and untouchable/Shudra slavery. ‘All categories of service in this title of law are differentiated by distinctions of caste, work, and

livelihood’ (Davis, 2020: 7-8). We examine the dimensions of caste, work, and livelihood in Hindu slavery in relation to untouchables.

Let us discuss the caste dimension of Hindu slavery first. It is clear from the law related to Hindu slavery that a slave can be of any caste--high, middle, or low, but with caste binding. Slavery is allowed in a reverse order of caste, which is designated as ‘graded slavery’ (Ambedkar, 1987).² Graded slavery laid down the rules regarding ‘who could enslave whom?’ ‘It is governed by the idea and law of “graded caste slavery” which is a unique feature of the Hindu slavery, and is distinguished from the notion of slavery elsewhere.’

With regard to rule of who could enslave whom, the rule of graded slavery is made quite explicit by Hindu legislations. The following citations from the *Narada Smriti* and the *Yajnavalkya Smriti* are revealing:

Narada Smriti:

‘In the inverse order of four castes slavery is not ordained except where a man violates the duties peculiar to his caste’ (Ambedkar, 1987).

Yajnavalkya Smriti:

‘Slavery is in the descending order of the Varnas and not in the ascending order’ (Ambedkar, 1987).

From this rule it follows that in making the individual a slave from any of the five castes, it is imperative that the caste order is maintained in a manner such that a slave is never of a higher caste than his/her master. Slavery is to be practised in direct order of the castes; and not in reverse order. Each subsequent caste must be the slave of each preceding caste. It means that a Brahmin may become the slave of another Brahmin. But Brahmin shall not be the slave of a person of caste below him i.e. of the Kshatriya, Vaishya, Shudra, or Ati-Shudra/untouchable. On the other hand, a Brahmin may hold as his slave any one belonging to the four castes below them. A Kshatriya can have a Kshatriya, Vaishya, Shudra and Ati-Shudra/untouchable as his slaves but not one who is a Brahmin. A Vaishya can have a Vaishya, Shudra and Ati-Shudra/untouchable as his slaves but not one who is a Brahmin or a Kshatriya. A Shudra can hold a Shudra and Ati-shudra/untouchable as his slave, but not a Brahmin, Kshatriya, or Vaishya. The untouchables being at the bottom of caste hierarchy are obliged to become the slaves of all the four castes above them, namely the Brahmin, Kshatriya, Vaishya and (pure) Shudra. This means that the rule of caste status is not to be superseded by the rule of slavery, which is subordinate to caste. It’s the caste status which would decide who can be slave of whom. This also meant that the principle of graded caste inequality is superimposed on slavery, making it

²Ambedkar, B.R. made reference to this issue in ‘Slave and Untouchables’ in ‘Unpublished writings- Untouchables or the Children of India’s Ghetto and other Essays on Untouchables and Untouchability–Social-Political-Religious’–

Writing and Speeches of Dr Babasaheb Ambedkar, Vol 5, Government of Maharashtra, Higher Education and Technical Education Department, Mumbai, and in ‘Philosophy of Hinduism’, in *Dr Babasaheb Ambedkar, Writing and Speeches*, Vol 5, Higher Education and Technical Education Department, Government of Maharashtra, Mumbai, 1987.



graded caste slavery and bringing the principle of graded inequality in hiring of slave from the five castes.³ The reason for this is that, if the rule of slavery had been left free to take its own course, that is, if slavery would have been made open, in the sense that slaves could be taken from any caste, it would have violated the principle of inequality which is the foundation of caste, and would not have been allowed at any cost by the Brahminical lawgivers.

Graded slavery was legal; hence its violation was also subjected to penalty. Enslavement of Brahmin and others against the rule of graded slavery was made illegal and subject to punishment. For instance, Vishnu, another Hindu lawgiver, declares the punishment for enslavement against the social order of caste. 'The highest fine is prescribed for one who places a person of higher caste in slavery.' Brahmins may never be enslaved, even in the time of emergency. There is also a provision with regard to use of force for making somebody a slave. It ordained that a Kṣatriya or Vaishya should not be made slave by force to display power. A Brahmin made slave by Kshatriya and Vaishya by power is subject to punishment. But this rule of punishment did not apply to the Shudra. Thus, although the display of force is to be avoided, yet in case of Shudras force could be used to make them slave of all castes above them. Davis (2020) interpreting Devannabhatta mentions that 'an assertion of power defines slavery when it relates to the lowest varṇa, but not when it relates to the exigent slavery of the middle varṇas - to enslave the middle varṇas "against their will" is a fineable offense, but the Shudra was "created for slavery."' The idea of graded slavery necessarily followed the caste graded inequality in status. Thus as with many issues in Hindu law, slavery was also made subordinate to the rule of caste. So slavery takes a backseat with respect to the preservation of the varṇa hierarchy. 'Slavery is uncivilised and punishable in the face of "against the social order" enslavement, but it is otherwise acceptable and especially appropriate for the lowest social stratum,' observed Davis (2020).

³In the context of the present discussion it is necessary to recognize the difference between the Shudra as lowest caste as part of four fold division caste system, and untouchables as outcastes. There is an overlap between the two. Like Shudras, the untouchables were also denied economic, education, civic and religious rights. Therefore, many disabilities of Shudra as low caste mentioned in Hindu laws prescribed by Manu Smriti also apply to untouchables—the outcaste. The reason for this overlap is that at a later stage the untouchables as a distinct group were formed combining the outcastes and 'impure' sub-castes from the Shudra caste. These 'impure' sub-caste of Shudra caste were separated from Shudra and designated as *ati-shudra*. Thus the *ati-shudra* and outcaste constitute the untouchables as fifth caste. Many aspects of the social discrimination mentioned for the Shudra (in Manu Smriti) in ancient Indian time were now transferred to the principles of untouchability to the untouchable caste. Therefore, the disabilities imposed on Shudra caste by Manu Smriti also apply to untouchables when *ati-shudra* and outcaste were formed into one untouchable caste. (Yamzaki Genichi, 1997: 10). Around early 7th Century some sub-castes among Shudra took to cultivation, herding and artisanship, the occupations which were previously with the Vaishya caste. Because of this acceptance of occupation, these sub-castes were able to shed their 'impure' status and began to be recognized as 'pure' Shudra castes. At the same time the number of outcastes considered as 'impure' increased. Eventually, it is through the merging of impure subcaste from Shudras and outcastes that untouchables emerged as a caste and got integrated into the caste system and formed the fifth caste (Yamzaki Genichi, 1997: 10). Social discrimination in ancient India and Transition in the Medieval Period, in H. Kotani (Ed) *Caste system, untouchability and the depressed*, Manohar publication).

There are clear consequences of graded slavery for the shudra/untouchables. The untouchables/ati-shudra being located at the bottom of caste hierarchy, turned out to be the slave caste obliged to serve all castes above them (Ambedkar, 1987: 26). The Hindu law about slavery leaves no doubt about the slave status of untouchables.

4.5 Idea and legal provision which made untouchables a slave caste

The Hindu law in the most explicit legal term recognised untouchables as a slave caste with full ideological justification. All attributes which enslave a person under slavery are clearly specified in Hindu laws. These can be categorised into three features. First the Hindu law recognised the group or community character of untouchables' slavery—untouchables being the slave caste (as against the notion of individual as a slave in case of other castes). Second, it laid down terms and conditions related to rights and work as a necessary attribute of the slave. These attributes include lack of legal independence related to work, unregulated service to the master without any fixed time, work on very low wages, harsh punishment for violation of terms and conditions of work, no property rights, and no control over his/ her earnings and property. Thirdly, while these features of slave are ubiquitous in nature for a person to be a slave, there are some features which are unique to the untouchable slave. These unique features arise in case of untouchable slave due to their polluting and impure status under the rule of caste. As a person the untouchable is considered 'impure' and a 'source of pollution to the high castes.' Being a 'polluting' person their touch, physical proximity, and even sight would cause pollution to high caste; as a result they were not to be touched, approached, or seen, which made them 'un-touchable,' 'un-approachable' and 'un-seeable.' Their physical presence in close distance, and even sight during activities such as dining, or during a religious ritual was considered inauspicious—causing pollution to the higher castes. This result in social isolation and distancing of the untouchables from the high caste. The polluting status of untouchables had a direct consequence on their work and employment. The untouchable slave would be debarred from work which involved physical contact, or proximity with the high caste. Effectively, the untouchable slave would get excluded from domestic work and any activity that brought them in physical contact with their high caste master. The untouchables were also excluded from work in religious and other social and cultural functions. As a result of this, their slave labour would remain confined to outside work mainly in agriculture. The 'agro-slavery' or 'soil-slavery' in which untouchables were mainly engaged was also due to the stigma of their polluting status. Domestic work was mainly assigned to the (pure) Shudra slave. All of these restrictive features which are embedded in work and employment of untouchables constitute the main features of untouchable slavery covering caste as a whole.

We now provide evidence on these features from the legal literature related to untouchables' slavery.

About the recognition of untouchable/ati-shudra as a slave caste, Manu ordained:

A Shudra, whether bought or un-bought, should be reduced to slavery because he is created by



God for the service of a Brahmin.

(Ambedkar, 1987: 26; Bhuler 1886,
Laws of Manu: 24).

A Shudra, though emancipated by his master, is not released from servitude, since that is innate in him, who can set him free from it.

(Ambedkar, 1987: 26; Bhuler 1886,
Laws of Manu: 24).

Thus, according to the Hindu law of caste, servitude to high castes is innate in an untouchable which is a permanently inherited quality and is ever present among them and no human being can change it as it is of divine origin—untouchable having originated from the feet of the divine power or God.

The lack of property rights which is the main feature of slavery is explicitly made clear by the Hindu lawgiver Manu, who prohibited the (ati)Shudra from accumulating wealth.

No collection of wealth must be made by Shudra even though he is able to do it, for Shudra who has acquired wealth gives pain to Brahmins.

(Ambedkar, 1987; Bhuler 1886,
Laws of Manu, 129: 439)

The lack of right to possession and earning which is also the feature of slavery is clear from the following provision.

A Brahmin may take possession of goods of a Shudra with perfect peace of mind, for, since nothing at all belongs to Shudra as his own, he is one whose property may be taken away by his master.

(Ambedkar, 1946: 50; Buhler 1886,
Laws of Manu).

The Hindu law provided a curious justification for service by the ati-shudra/ untouchable with complete devotion to the Brahmin. Some such verses are as follows:

He (Shudra) should serve (the) Brahmins for the sake of heaven or for the sake of both (this life and the next), for, when he (shudra) has the name “Brahmin” attached to him, he has done all there is to do.

The service of a Brahmin alone is declared to be the pre-eminent activity of a Shudra for whatever other work he may do, brings him no reward.

(Ambedkar, 1987; Buhler 1886,
Laws of Manu, 122: 429).

Manu further states:

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If a Shudra desires to earn a living, he may serve a Kshatriya, or he may seek to earn a living by serving even a wealthy Vaishya.

Why should the untouchable serve a Brahmin alone? The following verse from Manu Smriti explains it in unequivocal terms.

The most sacred duty of a Shudra is to serve the Brahmins, always, reciting the words 'Brahman' with utmost devotion. Such a Shudra will get salvation. Otherwise he will die a worst death and will go to the worst hell.

Manu X-121

Gautama reiterated what Manu prescribed:

Shudra serves the upper castes; seeks his livelihood from them...

(Ambedkar, 1987: 430).

The underpayment of wages is another feature of slave labour. For Manu says:

One occupation only the lord prescribed to the Shudra to serve meekly even these other three castes.

The rules regarding wages for Shudras, when employed by the three higher classes as slave labour, are outrageous and degrading. Dealing with the question of wages to Shudras, Manu says:

They must allot to him (Shudra) out of their own family property a suitable maintenance, after considering his ability, his industry, and the number of those whom he is bound to support.

What is suitable maintenance? Manu states:

The remnants of their food must be given to him, as well as their old clothes, the refuse of their grain, and their old household furniture.

Gautama reiterated what Manu prescribed:

Shudra serves the upper castes; seek his livelihood from them; uses their discarded shoes, umbrellas, clothes, mats, and the like; and eats their left overs.

(Ambedkar, 1987: 430)

Thus, the Hindu law of wage or remuneration related to untouchable/ati-shudra slave is not a minimum wage law. It is also an iron law fixed so low that there was no fear of the Shudra accumulating wealth and obtaining economic security (Ambedkar, 1987). But Manu did not want to take chances and he went to the extent of prohibiting the Shudras from accumulating property and becoming economically independent. He says imperatively: 'No collection of wealth must be made by a Shudra even though he be able to do it; for a Shudra who has acquired wealth gives pain to Brahmins.'

Besides, these ubiquitous dimensions of slave labour, which are clearly present in case of



untouchable slave labour, the untouchables also suffered from disabilities, which are unique only to them. The Hindu notion of work, draws a distinction between what is called pure and impure work. Some tasks are considered pure while some impure. Tasks which are treated as impure or vile were invariably forced upon slave labourers. However between the untouchable slave labourer and the non-untouchable slave labourer, the impure work was forced upon the untouchable/ati-shudra slave labourer as he was considered a polluting person and carrying on vile work was his legitimate responsibility. Performing vile or impure work by untouchable community signifies the community character of untouchable slavery. The vile work was an attribute of Hindu slavery and is clearly embedded in the work or employment of untouchable slave labour. Devannabhata makes a close connection between slavery and impure work (Davis, 2020: 8-9); Ambedkar, 1987) while ‘pure’ work was confined to non-untouchable slaves. These so-called impure and inferior tasks included carrying corpses, carrying out executions of criminals, hunting, and butchering animals. Manu Smriti also included hunters, boatmen, bamboo-workers, basket makers, drummers, leather-workers, carpenters, fishermen, butchers, executioners, and scavengers among impure or untouchable workers. The Chandalas,⁴ forerunner of untouchable caste, were obliged to perform tasks of cleaning house-entrances and dirty spaces.

The untouchable slaves’ disabilities did not remain confined to work, employment, and property rights but encompassed social relations as well. Their polluting status resulted in complete residential segregation and social isolation from high caste people including dining and marriage. Their touch, proximity, sight, shadow, sweat and spit are considered polluting. Taking food, gifts, water, or any consumable items from untouchables was not accepted by high castes—it persists among many high castes even today. They were also denied access to common civic amenities such as public roads, water bodies, wells, temples, and so on. They are required to use clothes of dead people, and wear ornaments of iron only. They also faced restrictions on wearing shoes and covering their whole body with clothes. As identity symbols, they were required to place a thread or leather string around their neck. While walking on public streets they were required to carry with them a broom to sweep out their footprints. They were also required to hang an earthen pot around their necks to spit, and a wooden stick with a bell to give advance warning to others about their movement. Their surnames were such that conveyed utter contempt. It is this caste tyranny that led them to being treated in the most inhuman manner conceivable. It was thus total and extreme form of exclusion, which perhaps has no parallels elsewhere in the world. It is such extremity of ruthlessness that made the untouchables hapless victims of double bondage, that of untouchability and of slavery. It also distinguished them from higher caste slaves, who at least did not face physical and social isolation.

⁴Jha (2010) traces the origin of untouchability to around BCE taking Chandala outcaste as an example. Ambedkar, B. R. (1948) on the other hand in a book does not consider Chandala as proper case for the origin of untouchability; he considered Chandala as an ‘impure’ caste who suffered from temporary impure status. In his view, the ‘impure’ and ‘polluting’ as permanent stigma emerged around CE 400. (Ambedkar, 1948: 379).

Davis (2020) in fact has raised a question: Slavery among the untouchables as such was bad enough, most exploitative and inhuman institution; was there a need to make Hindu slavery subordinate to caste status and make slavery hierarchical instead of keeping it open across castes? Ambedkar (1987) has provided an answer to this important question. He argued that if the rule of slavery had been left free to take its own course, that is, if the making of slaves across castes was open and free without any consideration of caste status, it would have violated the principle of graded inequality (which forms the foundation of caste system), and the Brahminical ideology would not have allowed that to happen. Had the rule of slavery been open and free across castes, the openness would have had at least one beneficial effect. It would have been a leveling force, argued Ambedkar. The foundation of caste would have been shaken drastically. It means, in theory under the open system a Brahmin might have become the slave of the untouchable and the untouchable would have become the master of the Brahmin. But it was seen that unfettered slavery was an egalitarian principle and an attempt was made to nullify it. Therefore, Manu and his successors while recognising slavery, saw to it that it would not be recognised in its inverse order (Ambedkar, 1987). The Hindu lawgiver did not want to give up or undermine at any cost the principle of 'graded inequality' in articulating slavery. The principle of inequality was retained in its full form by giving the concept of 'graded inequality' precedence over open or caste-free slavery. Graded-caste slavery brought two new aspects to the slavery of untouchables. It made the entire untouchable community the subject of slavery as a whole instead of slavery of individuals as was the case of slaves from higher i.e. non-untouchables castes. Group-based slavery for the untouchable but individual-based slavery for other castes! Secondly, caste based graded slavery brought to the untouchable slaves all those disabilities which were associated with untouchability as the *ati-shudras* (fifth caste). Thus as mentioned earlier, the untouchable was doomed to face double bondage: one on account of bondage of being untouchable, and on account of being a slave. Thus, was prepared a road for the most inhuman treatment in human history. In Ambedkar's view untouchability was worse than (Western concept of) slavery, and the combination of caste and slavery rendered the plight of the untouchables far more precarious and miserable than their counterparts from higher castes.

Ambedkar (1987) in an essay 'What is worse untouchability or slavery' examined the relative position of an untouchable and a slave vis-à-vis their rights and disabilities. He provided an insight on this issue by unfolding the very concept of slavery and its various aspects. In his view 'the slave is a human being who is not a person in legal term.' A person is one who has capacity to acquire rights and duties. When the human being is not a person, it means he/she does not have rights. 'Untouchability is worse than slavery because the slave has a personality in the sense that he/she has some rights, while untouchables do not have any rights and therefore they are not person. Furthermore, untouchability is worse than slavery because it carries no security to livelihood as slavery does. The 'impure' and 'polluting' social status of untouchables reduces



them to non-persons completely—bereft of any right to which a person is entitled. The ‘personhood’ of an untouchable, according to Ambedkar, is completely mutilated beyond any recognition of personhood. ‘No one is responsible for feeding, housing, and clothing of the untouchable. From this point of view untouchability is not only worse than slavery but is positively crueler as compared to slavery,’ he observed (Ambedkar, 1987). Ambedkar further elaborated on this aspect of slave status of an untouchable under the Hindu laws. He argued that ‘the rules related to slavery and to untouchability have a two-fold significance: spiritual as well as economic. In the spiritual sense they constitute the gospel of slavery with reference to its inner meaning: a slave, as defined by Plato, means a person who accepts from another the purposes which control his conduct. In this sense a slave is not an end in himself. He is only a means for fulfilling the ends desired by others. Thus understood, the Shudra is a slave. In their economic significance the rules put an interdict on the economic independence of the Shudra. A Shudra must serve others. He is not to serve himself, which means that he must not strive for economic independence—and forever remain economically dependent on others (Ambedkar, 1987).

A number of other researchers have interpreted the legal provisions related to slavery of untouchables and its connection with caste system. Chanana (1957) states: since the practice of untouchability has had extension by now, the life of those groups of Shudras, who are now treated as untouchable, has become much harder than before—in any case the social and legal restraints on Shudras compelling them to do slave’s work, did mean a change for the worse for the Shudra and could have led, at a later stage, to considering all the Shudras as Brahmins’ slaves (Chanana, 1957: 116). Davis (2020:14) observes that the *Smṛticandrikā* makes a strong connection between Shudras and slaves using the standard Dharmashastra framework of Varṇa and confirms that in the view of Devaṇṇabhata ‘Shudras are slaves- by whatever means necessary, one should subject a Shudra to slavery’-‘The institution of slavery should not interfere with or upset the “natural” order of caste. ‘Upper-caste slavery may be temporary and a necessary legal instrument for times of emergency, but lower-caste slavery is hard to distinguish from slavery itself. Both are explicitly power-driven, respect-denying processes of social exclusion and coerced labour. (Davis, 2020: 14). Davis (2020) also cites the opinion of Roacher (2012: 509) as saying, ‘Yet scholars have noted the term *dasa* is not always used in the technical meaning slave, but that it occasionally stands as a synonym for Shudra.’ Olivelle asserts that Roacher’s observation suggests the possibility that Shudra may be also a synonym for *dasa*. Olivelle also observes that the Shudra group—included a motley array of people including subjugated non-aryans, servants, and slaves (Davis, 2020: 8-9). In similar vein, other researchers also confirm the linkages of slavery and caste, and Shudras as slave castes. Howard Temperley (2000: 178) observed, ‘What rendered slavery in India most bewildering to Europeans, however was its relations or precisely, the way it was superimposed on India’s caste system.’ Lorenzo (1991: 134) observed, “the institution of slavery in India is linked up with the idea of innate dependence of Shudra and their perpetual slavery as one of the axioms



of Brahminism, because the Shudra issued from the feet (of God) denoting service. Rekha Sharma (1978: 192) says, 'A labourer belonged to the Aryan society (Brahmin, Kshatriya, Vaishya and Shudra), but slaves hailed from *dasa* Varna (some Shudras and Melchhas). Banaji (1932) mentions caste as one of the sources of slavery. Banaji (1932: 39-42) observed:

'It may also be safely affirmed that the caste system with its rigid exclusiveness did much to further the spread of slavery, as may be gathered from ancient legendary accounts whose very age seems to warrant that there is to be found in them a substratum of reality. As ruthless as the tyrannical customs of the caste system were the enactment of Hindu law wherever was concerned, so that the Hindu law was one of the most prolific source of slavery for it legalised the principle of slavery of descent by birth. Caste tyranny was largely responsible for the spread of slavery.'

4.6 Synthesis

In this chapter we tried to develop an understanding about the nature of slavery with respect to the untouchables' castes. Based on available literature we have presented credible evidence on the untouchable castes being legally and by custom being considered as slave castes. It becomes reasonably clear from the analysis of available literature that the untouchable's slavery had all the attributes that made them a slave community engaged in the service of higher castes on hereditary and permanent basis, as birth-based slavery. We surmise the main finding of the analysis.

Universal features Hindu laws recognized slavery from earliest time. Its origin goes back to Vedic period (BCE 1500- BCE 600) when slave relations had begun to take shape in initial form. However slavery emerged in a much mature form in later Vedic period (BCE 600) and remained a part of Hindu social organisation for about two thousand years till the British abolished it in 1843.

What are the features of Hindu slavery? Hindu slavery possesses some universal features which make an individual a slave anywhere in the world. However Hindu slavery also possesses some features which are unique to it. We first look at the universal features of Hindu slavery.

The Dharmasastra literature elaborates on the concept of Hindu slavery. Taking the literature collectively, it presents terms such as servant, workers and slaves. It identifies all those who get engaged in work or employment as 'servant.' Within this broad category of 'servant,' it makes a distinction between the worker and slave. These terms are similar in some respects but different in others. As regards similarity, both workers and slaves lack legal independence or freedom. While lack of independence is a common feature for both workers and slaves, there is a crucial difference between the two. The workers lack legal independence only during the period of employment, as bound by their contracts, and enjoy legal independence outside the contracts of their employment. Workers thus face restriction only during the period of their employment. On the other hand, slaves lack legal independence both outside and inside



their employment. Legally, a slave labourer is an un-free person. The slave faces extreme form of legal incapacity to engage freely and fully in allocated work. The slaves are servants under total obligation to benefit their masters/ owners. The total obligation to benefit another means that they are obligated to benefit another person by denying any means of livelihood for their own personal benefit. The notion of ‘total’ obligation to benefit another characterizes the legal status of Hindu slave. ‘Total might be rendered as ‘extreme,’ but the idea is that a slave’s subjugation to the interests and benefits of the master is absolute. ‘The master holds the power over all aspects of a slave’s life’. Thus, what distinguishes a slave from a worker is the extremity in lack of freedom related to work and other aspects of the slave’s life. In this context, Ambedkar observed,

‘The human is a person, in the sense that a person has some “rights”, but those rights under slavery are withdrawn in different degrees. In other words slave is a “non-person” possessing no rights whatsoever, being the property of his master’.

The Hindu slavery possesses all universal features that emerged from the lack of freedom as slave labour. Like Western slavery, the Hindu laws treat the slave as the absolute property of his master, where one person owns another and uses his/her labour while the latter is deprived of most rights ordinarily held by free persons. The law denying property rights to slaves, runs through the whole body of the early Hindu slave literature with some exceptions at the indulgence of the master. The owner holds complete control over the slave with power to sell them to another person or give away as a gift to another individual or deposit as a security. The slave being the absolute property of the master, the latter had the right to punish them at his/her free will without any legal protection to the slave against cruelty and ill-treatment. The slaves remained under complete observation of their master. The Hindu slave was required to do all kinds of work inside the home and outside on farm, or other activities without any specific duty hours and wages with bare maintenance. As there were rules for enslavement, similarly there were rules and practices for a slave’s emancipation or freedom from slavery too, albeit not for all slaves. Those born, and those acquired by purchase, or by gift or inheritance were doomed to permanent servitude along with their descendants. They could only be set free at the mercy of their masters/owners. In these categories of slaves, the old Hindu laws aptly served to illustrate the untouchable slaves’ hopeless condition in the present life, since for them there was no possible escape from servitude.

Graded slavery While the universal features of slavery are very much part of Hindu slavery, there are some unique features which are specific to Hindu slavery. This unique feature, as mentioned earlier, relates to the superimposition of the rule of graded inequality (which is the foundation of caste system) on to the concept Hindu slavery. As per the notion of Hindu slavery a person of any caste-high, middle or low could be made a slave, but within the bounds of the hierarchy of the caste order. Slavery was thus allowed in a direct order of caste, designated as ‘Graded slavery’ by Ambedkar (1987). The graded slavery laid down the rules, as to ‘who could

enslave whom.’ In making the slave, the caste order is to be adhered to in a manner that a slave would never be of a higher caste than his/her master’s caste. Thus, slavery was to be practised in direct order of the castes; and not in reverse order. Each subsequent caste must be the slave of each preceding caste. The untouchables being at the bottom of caste hierarchy were obliged to become slaves to all of the four castes above them, namely the Brahmin, Kshatriya, Vaishya and (pure) Shudra. The idea of graded caste slavery necessarily follows the rule of caste graded inequality in status. Thus as with many issues in Hindu law, all other issues are subordinated to the rule of caste. So slavery is subordinate to the preservation of the caste hierarchy.

It is this graded caste slavery which engulfed the untouchables as a whole and subjected the entire community to slave bondage. Thus, the source of group characteristic of untouchable slavery covering the entire community lies in the ideology and legality of Hindu graded caste slavery. This is obvious from the rules related to Hindu slavery. The untouchables/ati-shudra being situated at the bottom of caste hierarchy, were obliged to serve all castes above them. Service to castes above them was legal and imposed with force; its violation was made punishable. In making the untouchable community a slave caste brute physical force was legally permissible, while it was not so for other castes. Simply put, while the untouchables could be forced into slavery by force, the Brahmins, Kshatriyas and Vaishyas could not be made slaves by force. There were conditions and circumstances by which they became slaves. ‘An assertion of power defines slavery when it relates to the lowest caste, but not when it relates to the exigent slavery of the middle castes - to enslave the middle caste ‘against their will’ is a fineable offense, but the Shudra was ‘created for slavery,’ observed Davis (2020) while interpreting the view of Devannabhata on aspects of caste slavery.

Features of Untouchables slavery The Hindu laws about slavery leave little doubt about the community-based character of untouchables’ slavery. Legally it recognised the untouchables as a whole as a slave caste and also provided ideological justification for it. The reality of untouchables’ slavery, was idealised and eventually transformed by the Brahminical lawgivers into laws for the state to implement. All attributes which made a person slave are clearly specified in Hindu Laws for untouchables’ caste. First the Hindu law recognised a group or ‘community character’ of untouchables’ slavery, as against the notion of an individual as a slave in case of higher castes. Secondly, it laid own rules for untouchable slavery. These attributes included lack of freedom related to work, unregulated service to the master without any fixed time, work on very low wages, harsh punishment for violation of terms and conditions of work, taking away their right to property, and their control over earnings and property. Thirdly, there were other features of slavery which were unique only to the untouchable slave. This uniqueness arose from their so-called ‘polluting’ and ‘impure’ status. The Hindu notion of work draws a distinction between what is called ‘pure’ and ‘impure’ work. Some tasks are considered pure while others impure. But between the untouchable slave labourer and their non-untouchable counterparts, ‘pure’ work was assigned to (pure) shudra



castes and not to untouchables (due to the stigma of their ‘impure’ and ‘polluting’ nature. Their physical presence in close physical proximity, and even sight during some activities such as eating or during religious rituals was considered inauspicious and causing pollution to the higher castes). The ‘impure’ work was forced upon the untouchable/ati-shudra slave labourers, who included corpse-carriers, executioners of criminals, hunters, butchers, cleaners of gateways and dirty spaces, boatmen, bamboo-workers, basket makers, drummers, leather-workers, carpenters, fishermen, and scavengers. The ‘polluting’ status of untouchables also affected their engagement in work inside homes and outside homes of the higher castes. The untouchable slave thus stood excluded from domestic work. They are pushed into outdoor work as in agriculture and allied activities. The ‘agro slavery’ or ‘soil slavery’ in which untouchables were forcefully engaged was the outcome of their stigmatic ‘impure’ and ‘polluting’ status. Consequently domestic work was mainly assigned to the (pure) shudra and other high caste slaves. All of these restrictive features which were embedded in work and employment rules constituted the main features of untouchables’ slavery. The untouchables’ slavery being birth-based and hereditary, it was permanent with no hope of redemption.

Justification: A pertinent question that is raised in the context of untouchable slaves is Why were untouchables made a slave community forever–hereditary and by birth? Since slavery for them was birth-based, there was no emancipation or freedom from it. It was carried on through generations. The Brahminical scholars provided justification for caste slavery without any remorse or guilt. In this respect, Ambedkar (1987: 72) quotes Oscar Wilde: ‘to be intelligible is to be found out. Indeed Manu, the Hindu lawgiver, is neither afraid nor ashamed of being found out. He expressed his views in resonant and majestic notes.’ Indeed Manu and other Dharmashastra legislature declared untouchables as a slave caste. Manu mentioned that untouchables could not be freed from *dāsya* or slavery, because servitude remained in them as an integral part of their nature; it is one of their basic tendencies to serve others from which none can actually dissociate them. On this point Sahoo (2014) quotes Kullukabhata who said:

If the master grants (a) Shudra freedom from his service he becomes apparently released from the service of that particular master but he should always remember that being Shudra his inborn duty is to be always at the service of the twice-born communities. And this sort of engagement is for the sake of acquiring some unforeseen merits for himself. Both the text and commentary have recorded the view that a Shudra should not be given absolute freedom from his service towards others.

Sahoo (2013) also quotes Medhātithi who made an observation with respect to a Shudra serving the twice-borne wholeheartedly, considering it as his moral duty. Such a Shudra, according to him, could form another category of slaves and there would have been eight instead of the seven types of slaves mentioned by Manu:

Thus a Shudra who is scrupulous and serves others being prompted by his own conscience cannot be treated as any ordinary slave like the Manu’s seven slave categories. There is a human value reflected within such an individual in the form of complete devotion towards

one's duty towards high castes irrespective of personal gain or loss, pain or pleasure. Therefore due to this virtue, by birth he is a Shudra and liable to be treated as a slave. (Sahoo, 2013)

Manu and other Dharmshastra lawgivers justified service to the Brahmin by untouchables on the ground that service by them (as slave) brought prestige and honour to him and elevated his esteem for rendering services to the Brahmin... By serving the Brahmin, an untouchable achieved his ultimate goal in life. ("Brahmin" name attached to him, he has done all there is to do). On the other hand, disservice to the Brahmin would deprive them of their highest goal. Similarly, the Hindu laws provided justification for denial of right to property to untouchable on the ground that accumulation of wealth by untouchables 'gives pain to Brahmins.' Thus, any act of untouchables that involved avoiding service to a Brahmin and accumulating wealth would bring pain to the Brahmin. Therefore, in the interest of Brahmin, the untouchable should serve the Brahmin and also avoid amassing wealth. All these legal injunctions make it obvious and leave no doubt that every conceivable provision was made by the Brahminical lawgivers to make the untouchables serve the Brahmins and other castes above them as slaves. By any yardstick of ethics and morality, these legal provisions could be considered 'outrageous and unjustifiable'. To tell the untouchables that their salvation lay not in accumulating wealth but in the service of another human being (Brahmin) as slave labour is the highest level of ingenuity revealed by Brahminical jurisprudence. To decree the untouchables not to accumulate wealth, not to get educated but only serve Brahmins and high castes as slave and make it legally binding on the state to enforce such laws, in Ambedkar's view, is 'nothing less than a criminal and immoral act of highest order rarely to be found elsewhere' in the world. This legal binding goes against the principles of ethics, morality and equality before law.

The laws related to untouchables did not remain confined to the economic sphere of work, employment and property rights; the untouchables' disabilities were extended to social spheres as well. Their 'impure' and 'polluting' status resulted in residential segregation and social isolation with other including partaking food with them and marriage to high castes persons, which is considered a taboo among most Hindus even today. The untouchables' touch, proximity, sight, even shadow were considered polluting. Food, gifts, water, or any consumable items from untouchables were not to be accepted by the high castes. They were deprived of all civic rights and access to public services such as public shrines, community wells and tanks. The slavery of untouchables was thus extremely de-humanising, and it is this which makes it different from not only the slavery of other castes but also slavery elsewhere in the world.

Ambedkar throw light on the extremity and pathetic misery which involve worse kind of un humanness and turn it into a dreadful evil. Ambedkar did this by reflecting on the very idea of the slavery. Ambedkar states that the slave is human being who is not a person in legal term. The person means who has capacity to acquire rights and duties and lack freedom. Since a slave does not have any right, he/she is not a person. The untouchability therefore turn out to more worse than slavery and it positively cruel, because the slave have at least some rights, untouchable



have not. Ambedkar goes on to add “ that the rules related to slavery of untouchables have a two-fold significance, spiritual as well as economic. (Ambedkar 1987).

It is this unique context Donald Davis (2020), raised a question, that the slavery as such was bad enough, most exploitative and inhuman institution, and given this what was the need to make the Hindu slavery subordinate to caste hierarchy in status.” (Donald Davis 2020). By making slavery on subservient to the institution of caste system and untouchability, it brought the worse feature of these two institutions and combine them with equality worse aspects of slavery. The untouchable thus suffered from double bondage: the bondage of untouchability and bondage of slavery. In his own way Ambedkar argued that if the rule of slavery had been left free to take its own course, that is, if the slavery would have been made open, in the sense that slaves could be taken from any castes without any regard to caste status, it would have undermined the principle of graded inequality which is the foundation of caste system, and which no Hindu lawgiver would forego. It would have acted as a leveling force as under the open slavery system a Brahmin could have become the slave of an untouchable and the Untouchable would have become the master of the Brahmin. But it was seen that unfettered slavery was an egalitarian principle and an attempt was made to nullify it. Therefore, Manu and his successors while recognising slavery ordained that it would not be recognized in its inverse order contrary to the caste order. The Hindu lawgivers did not want to give up the principle of inequality in articulating slavery. The principle of inequality was thus retained in its full form by developing the concept of ‘graded caste slavery’ instead.



CHAPTER

5



Untouchables Slavery: Ancient and Medieval India

After having studied the concept of Hindu slavery and its features, we now look at the practice of slavery particularly relating to untouchables by examining the empirical evidence during ancient, medieval and British period, till 1843, the year when it was banned by the British. This chapter discusses the practice of slavery during ancient and medieval period, while slavery during the British period and some developments after 1843 would be taken up in the next chapter.

5.1 Slavery during Ancient period

Before we begin a clarification on some points relating to literature may be useful. While the literature on practice of Hindu slavery in ancient and medieval period is sizeable, the studies relating to its linkages with caste and untouchables during the ancient and medieval period are limited. Fortunately there are empirical studies on the practice of caste slavery for the British period from 1772 to 1983 and later. The empirical evidence on untouchables' slavery during British period reveals that there was indeed a continuation of the legacy of slavery of the preceding medieval and ancient periods. This is also borne out by the fact that slavery in general and that of untouchables in particular was akin to the concept of Hindu slavery defined in the Hindu laws relating to caste and untouchables in the ancient and medieval periods. Exceptions apart, there was remarkable continuity in the practice of ancient slavery relating to untouchables during the British period.

Slavery has been in existence in India for long periods of human history. There are traces of slavery even during the Indus civilization (BCE 2500 to BCE 1500). Dev Raja Chanana (1957) has done an extensive study of the slaves in early Indian history, from 6 century BCE to the beginning of the Christian era (CE), including reference to antecedents from Mohen-jo-daro downward and *Smriti* period. His study gives a general idea of antecedents of slavery during the Indus valley civilization and the Rigveda period. He mentions that slaves may have existed during the period of Mohen-jo-daro civilization and, in all probability, had been left as a legacy from that time onward. During the early Vedic period (BCE 2500- BCE 1500), Chanana observes that the type of people called *Dasas* and *Dasyus* are clearly mentioned in Rig Veda-the word *dasa* has since then been denoting slaves. Apparently, through conquest

the Aryans were able to make the conquered people slaves; conferring the rights of master on the conquerors and the obligation of slaves on the conquered. Thereafter, the word *dasa* began to signify the slave. Chanana further observes that *dasa* was completely under the domination of his master and if we judge from the certain verses of Vedas—was included in the goods to be given in charity. A *dasa* enjoyed no rights, all his possessions could be appropriated by his possessor, his master - since there is mention of an entire people which has been made servile, one can conclude that persons engaged in guarding of cattle, in agriculture, etc., as also their families were designated together as *dasa* (Chanana, 1957: 105). For the subsequent Vedic period till the beginning of Buddhist period (BCE 1500 - BCE 600), Chanana (1957: 106) observes: 'From the legal point of view the *Dasa* or *dasi*, could be subjected to any treatment according to the desire of their masters; there were no criteria, ethical or religious, which could be invoked for their respite — all these *dasas* continued to be considered and enumerated as part of possessions of their masters.'

Chanana also studied the practice of slavery from BCE 600 up to AD 400. This period spans the Buddhist, Kautilya (BCE 320) and the Smriti period. By the advent of the Buddhist period (BCE 600–BCE 200) slavery had been well established and accepted as a norm. This is reflected in the fact that types and sources of slavery become a lot more precise. The main feature of slavery, was the *dasa* being treated as any other item of possession owned by his master surviving all his life as a slave labour in agriculture and household work. Slavery continued to flourish during the Mauryan period (BCE 321–BCE 185); there was debt slavery, slavery due to famine, slavery due to war, and slavery due to inheritance, which emerged quite clearly. During the post Buddhist period, (BCE 200 - CE 400), the literature covering Smritis, Manu, Yajnavalkya, Narada, and Brihaspati indicate that slavery had become 'sufficiently precise and exact.' Kautilya (later half of 4th century BCE) gives a list of nine types of slaves, while Manu (BCE 200) seven, and Narada (CE 500) and Medhatithi, in a commentary on Manu, enlist fifteen kind of slaves. Vijaneshcara's commentary on Yajnavalkya in AD 1200 also has a list of fifteen slaves indicating that the institution of slavery gained momentum and expanded its scope in the post-Vedic period. Thus, it is fairly clear that in early medieval period slavery had developed into a full-fledged institution with various categories of slaves. And, in later periods it continued with an enlarged scope as is found in the identical list of slaves during 12th century CE.

Although not in detail Chanana as also highlighted the linkages between slavery and caste in ancient India. Referring to the Buddhist period he observes: 'In the oligarchs' houses, they (the slaves) do not have even the privileges of commensality, and certain places are supposed to become impure by the presence of *dasa* (Chanana, 1957: 107). This indicates the caste background of the slave or *dasa*, as impure and untouchable. Because of their impure and polluting status, they had much less social relations with their masters, and were not allowed to have physical presence



at certain events and places. During the Smriti period (BCE 200 - CE 400), the untouchable status as slave caste becomes increasingly obvious. Chanana (1957: 116) observes:

Since the practice of untouchability has had extension by now, the life of those groups of Shudras who are now treated as untouchable, become much harder than before in any case the social and legal restraints on the Shudra compelling them to do the slave's work, did mean a change for the worse for the Shudra and could have led, at a later stage, to considering all the Shudras as the Brahmins slaves.

R.S. Sharma's study (1960) covers Rig Veda period till CE 500. Although the study focuses on the status of Shudra, yet it refers to their slavery and labour relations and throws light on the Shudra and untouchable slave status (Shudras being at the lower end of the caste hierarchy, virtually slaves).

According to Sharma, Shudra appear in the later Vedic period (BCE 1000 - BCE 600). He studied the status of Shudra during this period. Shudra appear in post Vedic times mainly as the serving class.

There are some references to the functions of Shudra as the serving class—that shudra is created from the feet of Prajapati—the lord of the house are his gods and he earns his living by washing feet—in other words, he has to live by serving people of higher caste. (Sharma, 1960: 44).

Shudra is also described as nourisher—which means that he was the tiller of the soil; thus engaged in sustaining and producing activities for nourishment of society. There are statements like slave being labour classes and Shudra symbolized hard work. What were the relations between the Shudra workers and their employers? The author of Vedic index says that slaves were certainly included in the term Shudra (pg 45)—Shudra women were slaves in considerably more in number as compared to Shudra males. Slaves working on land are reported towards the end of the Vedic period (BCE 600). Slaves, particularly the Shudras were given away along with land. Thus towards the close of Vedic period, Shudras were employed as slaves working on lands owned by individuals (mostly ruling chief) and they could be given away as gifts along with lands.

For Vedic period Sharma summaries the situation as follows:

It is difficult to define the position of Shudras in the Vedic period in terms of slavery or serfdom. Although the references give the impression of their being labouring masses, generally they do not seem to have been slave or serf owned by individuals. During the post Vedic Period (BCE 600 - BCE 300), Shudras are found to be landless. Shudras possessed no property in the form of land, and as such most of them had to work on the land of others—"use of sickle and the carriage of crops on the pole hung over his shoulder."



There is evidence to show that the *dasa* also mostly belonged to the *shudra* (Sharma, 1960: 91). The earliest identification of slave is in Pali literature, and it is during post Maurya period that Manu states this position in clear and strong terms. The mass of the slave labour was being supplied by *Shudra* varna. Debt, purchase, free will, which has been a source of slavery, can obviously be expected in the case of people of lower orders than that of the higher *varnas*. While some of the slaves, especially women were employed in domestic service, others were engaged in agriculture. So agro-slavery was mainly confined to *Shudra* in *RigVedic* period and later *Vedic* and post-*Vedic* period (BCE 600- BCE 300). In the later *Vedic* period (1000 BCE onwards), the artisan sections of the tribal people were reduced to the position of *Shudras*. Gautama informs that the *Shudra* could live by practicing mechanical arts.

The Brahminical theory that *Shudra* are meant for the services of three higher castes is broadly reflected in the employment of slaves and labourers by the Brahmins and other higher castes. The mass of the *Sudra* population was employed in agriculture; according to the *Dharmashastras*. The fact that *Shudras* didn't have to pay any land revenue shows that they were landless labourers. *Sudras* possessed no taxable property of their own and had to live on the property of others. During this period the *Dharmasutra* literature, of which the *Manusmriti* is a part, made the explicit and emphatic statement that the duty of a *Shudra* was to serve the three higher *varnas*, and to maintain his dependants. The *Shudra* population, hence, was being consistently reduced to virtual slavery. The *Dharmasutras* also throw light on the living conditions of the members of the *Shudra* Varna. Gautama decreed that the *Shudra* servant should use the shoes, umbrellas, garments and mats, which are thrown away by the people of the higher *Varnas*. The same picture is obtained from the *Jataka*¹ story which informs us that clothes gnawed by rats were intended for the use of the *dasas* and the *kammakaras*.² Gautama further adds that the remnants of food are meant for the *Shudra* servant. There does not seem to be much difference between the various subsections of the serving population. A Jain text places servants, slaves and beasts of burden in the same category. In contrast to the *kammakara*, the slave was regarded as the property of the master and could be inherited and shared.

There seems to be some difference between the *kammakara* and the *bhataka* (wage earner). In the *Vinay Pitaka* (Buddhist scripture), the *kammakara* is defined as a *bhataka* who is an *ahataka*. The authors of the Pali-English dictionary interpret the term 'ahataka' as beaten. There is little evidence for the view that in the pre-Mauryan period the *kammakaras* were free labourers who entered into contracts as to their work and wages and that in the case of disputes wages were settled by experts.

We can have some idea of the economic position of the *Shudras* from the rules governing the relations between employers and employees. It is characteristic of the predominantly agrarian and pastoral economy of the pre-Mauryan period that the rules of this kind refer to the relations

¹Buddhist tales

²Pali for landless agricultural labourers



between the master on one hand and their agricultural labourers and herdsmen on the other. It is laid down by the Apastamaba Dharmasutra that, if the servant in tillage gives up his work, he shall be punished. The same provision applies to the herdsman who abandons tending cattle; it is further provided that in such a case the cattle shall be entrusted to some other herdsman. The Dharmasutras mention about the imposition of compulsory service on artisans for a day or month by the king. Gautama laid down that in order to pay for the expenses of the wedding of a girl, and when engaged in a rite enjoined by the sacred law, a person could take money by fraud or force from a Shudra.

The law of inheritance also contains discriminatory provisions relating to the share of the son of a Shudra wife of a slave owner. According to the Baudhayana Dharmasutra in the case of issues from wives of different castes, four shares would go to the Brahmins, three to the Kshatriyas, two to the Vaishyas, and one to the Shudra son. Gautama laid down for the disinheritance of the Shudra son of the Brahmin in a very clear and emphatic terms: According to him if a Brahmin died without male issue, though his son by the Shudra wife might be obedient like a pupil, yet he could receive only a provision of maintenance out of the estate of his deceased father.

It was this function of service which imparted homogeneity to the otherwise heterogeneous elements of that Varna. As members of the serving class, the Shudras performed the role of the primary producers, and thus provided the material foundations of the society. Further, as artisans, the Shudras contributed to technological development and produced marketable commodities, which led to the rise of numerous towns with their thriving trade and commerce. Towards the end of the later Vedic period, the Varnas tended to become hereditary, endogamous and birth-based, which ultimately descended into *jatis*.

In the Buddhist period, (BCE 600-300 BCE) the institution of slavery was quite well established. The lawgivers in this period had started classifying slaves into different categories. Slavery existed purely and simply with respect to economic factors. Slaves could be bought with money, and sold at will. 'The dasas are considered property of the master, from the legal point of view. The female slaves, or Dasis, were kept as concubines, and enjoyed no privileges.

Kautilya's Arthashastra which is supposed to have been written in around the first millennium gives a detailed account of the slaves and institutions of slavery of the times (Sharma, 1978). Kautilya has devoted a whole chapter to discuss the position of slaves (III, 13. Dasa-Kalpa). He supported slavery by suggesting that it was a necessary element of the society, although he provided certain rights to enable them to achieve the emancipation.

According to Kautilya an Arya could not be subjected to slavery. This was the main dictum of Kautilya's theory of slavery. In fact the selling and mortgaging of an Arya slave was punishable.



There were slaves who accepted slavery for their living. Kautilya termed them as *udaradasa* (slaves for the stomach) which means that they were compelled to choose slavery in order to fill their stomach in the days of distress and poverty. He also used the word *Aryapranam* (of the Aryan Society) which means that these types of slaves could attain freedom because an Arya could accept slavery for his living in the days of distress or in famine but he had to serve only for a stipulated period, it seems that it was not true with the Melchha slave. Kautilya mentioned about those slaves who were born slaves. These were slaves who were born in the house of the master from female slaves. Although Kautilya has explained that if a master begets a male child of a female slave, she with her child will be freed. Yet it would have been possible that this law was not applied in the society.’ (Sharma, 1978)

Kautilya further laid that a mortgaged person would always remain a slave. ‘One who has been mortgaged by other would remain permanently a slave if he escapes twice’(ibid).

Such was the case in the Mithila kingdom (modern day Bihar). Mithila witnessed continuous political instability and constant warfare that coincided with the process of feudalisation. To protect the privileges of the upper-caste, various books on *Smriti* and *Nibandh* were written, and compiled during the reign of Hari Simhadev (Deo, 2020). The book laid down the duties of the four castes, and was a resistance against any kind of possible egalitarian set-up. The social formation in early Mithila underwent several changes. During the period of instability, Mithila became a shelter for Rajput clans. The migration of Shudras was causing certain commotion and instability in the closely guarded social and political environment of Mithila. The lawgivers of the Mithila such as Chandeshwar, Vaschapati and others tightened the Brahminical domination of the environment. Chandeshwar who was one of the ministers of Harsimha, wrote a number of digests, known as *Ratankaras*. The social work envisaged in these works divided the Mithila society into four castes viz. Brahmins, Kshatriyas, Vaishyas, and Sudras. The Brahmins were the most privileged in the Mithila hierarchy. The Sudras came at the bottom. The untouchables came below the Sudras. The Sudras were also called *Mandajati*. The Sudra life can be gauged from Jyotriswaras Varnaratnakara (CE 1324) which gave a detailed account of the social life of Mithila life in this period. He enumerates a list of excluded and non-excluded class. There is a long list of castes he enumerates, thus pointing to the explosion of castes in this period. The Sudras lived in exclusion and spoke different language from the common people. The well-known languages of that period were not spoken by those men. There were several oppressive ritual injunctions made against the sudras in this period. If a person of low caste were to look at the person of high caste, the food had to be thrown away. Mithila writers differed from one another on the mode of punishment to be afflicted by transgressing lower castes and Chandalas. Vachaspati, quoting Yajnyavalkya, stated that the Chandala touching superior person would be



fined 100 panas. However, his contemporary Vardhamana held that the Chandals, untouchables etc. should not be fined, but beaten. This clearly indicated the deterioration of the condition of untouchables.

5.2 Slavery in Medieval India (Early medieval period CE 700–CE 1200)

The time period between 700-1200 A.D. is referred to as ‘Early Medieval’ Period. The Medieval period marked the decline of the Gupta period and the advent of Islam in Northern India. The Brahminical ideal, as mentioned earlier, was leading to the fragmentation of the social order into *jatis*. The Varna system worked at the theoretical level, while the jati system worked at the functional level of the society. The social transformation in the early medieval period was portrayed as the onset of *kaliyuga* marked by expansion of class distinctions and hierarchies, and subjugation of women. In the Brahminical discourse, the kali-yuga was projected as the polar opposite of the other three preceding yugas- krita, treta and dvapara in terms of societal decline. Descriptions of the kali age appear in the epics and puranas from about 300 CE onward and are also echoed in some early medieval texts and inscriptions. The changing social situation in the early medieval period is also reflected in the comments of authors of Brahminical texts of the time.

Many medieval texts created a binary of the Brahmin (twice-born) and all non-Brahmins, or *advija* (non-twice born). The Shudras stood for all non-Brahmins. Several indigenous tribes, orders, frontier people, foreign migrants, etc. were incorporated into the Varna-jati structure, while others were excluded and ostracised as *mlecchas*. The Brahmins continued to occupy the upper echelons of the society through their power over land, rituals, and scriptures. They received patronage from the ruling clans for creating connected genealogies linking them to puranic and epic heroes and deities. Thus, Brahmins emerged as legitimizers of the ruling powers. The Brahmins and their temples were given plenty of land grants for this favour. They also emerged as a major landholding community.

This period also coincided with the proliferation of many Shudra jatis. Brahmanavavaitartapurna dated between 10th to 15th century CE from Bengal witnessed 17 sat-Shudra jatis and various *asat-shudra*jatis, with ‘*patita*’ and ‘*adhama*’ implying their ritually impure status. The practice of untouchability intensified in the early medieval period. Brahminical normative texts declared Ambasthas or Vaidyas or physicians as Shudras and barred the *dvijas* from taking up their profession. The period was also marked by an increasing peasantisation of the society. Tribal lands were taken over by the caste society and the tribes absorbed in the Hindu fold.

The untouchables originally were classified as those who did unclean jobs. However, the list started expanding. Originally, the lawgivers only regarded Chandala as untouchables. In the twelfth century however, Aparaka considered cobblers, huntsmen, washermen, oilmen,

butchers, actors and others on the list of untouchables. The Jain authors in Karantaka had already in 8th century divided shudras as touchables and untouchables. The touchable *karushudras* were essential workmen and artisans and therefore could not be excommunicated. The untouchable *karushurdas* who lived in the outskirts of towns and villages, were evidently inessential village servants like Chandalas.

An eastern Ganga record from Ganjam registers the gift of a perennial water source (*udfkamarga*) to some members of the brahmin colony of a village, with the specification that in summer months when no other source of water would be left, other families could draw water from it. The ‘other families,’ however, did not include the Shudras and other untouchables. If water can cause ritual pollution, physical touch would cause ever more pollution. This is shown by the record 1007 of the Chalukya king of Kalyani. It refers to the loss of caste (*jatinisa*) resulting from the ravages of the Chola army which indulged in murdering Brahmins and seizing women. In Tamil Nadu the custom of separate streets for different castes is as old as Silappadikaram.³ The access to temple by the Shudras was curtailed and virtually stopped by the dominant castes. The Periya Purana stories are replete with religious discrimination against the Shudras. The drum makers were excluded from access to the temple. The ‘pollution’ status led the medieval lawgivers to prescribe total exclusion of untouchables from all social functions, instances of which were reported by Somadeva in the 10th century. The Jaina poets mention that when royal procession moved, troops were used to drive away the untouchables.

In the days of Vijayanagar empire, the kings and the Brahmins joined hands to overburden the Shudra castes with heavy taxation. Driven to desperation the castes sometimes united to resist oppressive collections. According to a record the Valangai and Idangai castes of Vrdhachalam in South Arcot district made an agreement for inflicting corporal punishment upon those who helped the tax-collectors of the king, the Brahmins, and the landlords. Similar measures were also decided against those who wrote the accounts.

Slavery was well-entrenched by this time. Lekhapaddhati, a 13th century text, provides in detail the manifold duties of a female slave in household and fields and even permits sending them overseas. Slaves totally depended on their masters for their livelihood. They did not have any kind of proprietary rights. Slavery was equally prevalent in South India where it had been present since the Sangam times (200 BCE to 200 CE). Additionally, tribes which did not follow Hindu fold were referred to as mlecchas.

Various law books at this time offered details about slavery and its legal and social implications. *Smritichandrika*, an important medieval Dharmasastra, described slavery (*dāsatva*) as a special

³Silappadikaram (Tale of the Anklet) is one of the oldest Tamil epics, attributed to a prince-turned-monk Ilanko Atikal, composed in BCE 600 or BCE 500.



form of service (śuśrūṣā), and those providing the service were a special type of servant (śuśrūṣaka).

The fifth century *Narada Smriti* or Laws of Nārada, cited by Devaṇṇa Bhatta, contains the earliest list of servants: Five types of servants are recognised by the authorities in the texts: four types of worker and fifteen types of slave. Workers are defined as students (śiṣya), apprentices (*antevāsin*), wage-labourers (*bhṛtaka*), and overseers (*adhikarmakṛt*), the fourth category are the slaves—who have 15 subtypes, such as the house-born, etc. Servants include both ‘workers’ (karmakara) and ‘slaves’ (dāsa). Authorities declared that these workers had one trait in common; that they lacked legal independence. According to the *Smṛticandrikā*, the 4 categories of ‘workers’ (karmakara) and the 15 categories of ‘slaves’ (dāsa) ‘share in common a dharma marked by a lack of legal independence or self-governance.’ What was distinctive to each worker, however, was determined by their caste and work, as well as their means of livelihood.

The concept of *svatantrata* in Dharmaśāstra refers to the legal capacity to enter into transactions, to make decisions for oneself and to do things for one’s own benefit.

5.3 Slavery in the Islamic period

Slavery remained a prime institution during Islamic period-- both Hindu and Islamic slavery. Indians began to be sold as slaves in various capacities with the arrival of Islamic rule. Islam recognized slaves as the property of the master. In the Arabian lands, it was encouraged by Islam to treat slaves kindly. However, the kind treatment was not without conditions attached. Slaves remained the property of the masters, and they could be asked to do anything at the will of the master. A property inherited by the slave was owned by his master. Islam also had provisions for freeing slaves. The Turkish rule was established in Delhi in the twelfth century. The Turkish had been practising slavery for years. The Turkish slave dynasty was established when the rule passed onto the military slave. The Turkish slave system, called *Bandagaan*, was unique in that it also had its own military experts. The uniqueness of the Turkish slaves is captured by Fakhr-i-Mudabbir, who stated: ‘[W]hen the hearts [of the Turkish slaves] turn to Islam, they do not really remember their homes, their place of origin or their kinsmen... the further [they] are taken from their hearth, their kin and their dwellings, the more valued, precious and expensive they become, and they become commanders and generals.’

The Mughals, who established a large empire in the subcontinent in the early years of the 16th century, did not inherit any slaves. However, they enslaved people, by authorizing the capture and enslavement of rebels and of men who had defaulted on revenue payments. This policy served the purpose of subjugating rebel lands within the empire, enhancing revenue collection

and acquiring horses for cavalry.⁴ In this period, a stream of slaves from Africa made headway to Middle-East, from where they were further sold to Deccan. They entered elite households as slaves and servants.

The free labourer faced a stiff competition from the slave labourer, in those days, because a free labourer, however poor and helpless, enjoyed under the Islamic law certain rights which the slave did not aspire to enjoy. Thus under the Islamic law, every artificer whose work produces a visible effect upon an article (such as dyer) is at liberty to detain such article until he received his hire. But a slave did not enjoy any such right as privilege, on the other hand he was a property of master. A master had authority to beat his own slave or to put him to death even like a sheep or cattle. A slave has no property, in the eye of the Muhammadan law. Naturally, it was easier and more useful to employ a slave rather than a free man. The slave could be utilised for any and every work, for domestic work and for personal comfort. The female slaves were employed for various other purposes like singing, dancing and the beautiful among them served as concubines of the rich Amir and Maliks, and in the royal establishment. True it is that often the slaves were treated as family members, but that is no compensation for the loss of freedom.

Moreover, when the slave became useless, from either sickness or old age or for some other reason they were to be sold away, according to the opinion of some Muslim political thinkers. Thus, the institution of slavery served to support the parasite class in the society. The slaves, at the same time, were useful and skilled word hermitages. “During the reign of Firoz Shah Tughluq there were 365 *Karkhanas*. These were in the charge of Khwaja Abu-i-Hasan khan. Under the same sovereign who had a fad for collecting slaves, altogether 12,000 slaves became artisans; others were provided with various kinds of jobs, such as copying books, acting as guards, or as royal retainers or domestic servants. Thus the slaves served various purposes.”

In rural localities, agricultural labourers worked on lands of peasants at different tasks. Fixed ‘share-cropping’ arrangements with such labourers are not reported. Usually wages were paid in cash or in kind on a daily basis, or partly daily and partly on seasonal basis. It is, however, possible that here the caste system in the shape of general repression of the ‘untouchables’, influenced the level of wage-rates and depressed them in relation to what they would have been if the ‘outcastes’ had also been land-holders or been allowed full freedom of choice and movement. Three categories of slaves are mentioned in some texts of the period.

Indentured labour: In contrast to reference of debt slaves in Kautilya’s *Arthshastra*, such practice seems to have been very rare in most parts of Mughal India. Debt-slavery obliging the debtors to work on the fields of the creditor is known to have prevailed only in certain areas of Bihar in early colonial times.

⁴Slavery and South op.cit



Demiurgic labour This is a category of semi-commodified productive labour, which is, perhaps, largely confined to India. It was a system in which the occupational fixity of the caste system and a semi-hierarchical village organisation (conventionally called ‘the village community’) created a system of set obligations and rights under which the so-called ‘rural servants’ (balutas), etc., worked and obtained their livelihood. In general in return for their services, they were allowed to hold small pieces of tax-free land (the tax on which was usually borne by the village as a whole), and/or to claim some small shares in grain, given to them by each peasant on harvest. Persons such as hereditary barbers, potters, carpenters, blacksmiths, watchmen, shoe-makers and carcass-removers, sweepers, etc., rendered certain recognised services to all (or the leading) villagers, with extra payments for work rendered outside of these customary services. Such arrangements, with certain variations, existed practically all over Mughal India. Here customary entitlements to land and wages in cash and kind were inextricably mixed up; and these kept the families of the artisans and labourers practically tied down to the village, though there was seemingly no legal bar to their movement, so far as we can see.

Domestic service: The domestic service sector in Mughal India was exceedingly large. Not only did the aristocracy maintain a large number of servants, but the employment of domestic servants by ‘middle-class’ groups was also quite large. Pelsaert writing c. 1626 at Agra noted that “Peons or servants are exceedingly numerous in this country, for everyone be he a mounted soldier, merchant or king’s officials - keeps as many as his position and circumstances permit”. 21 Bernier, the French traveller (in India between 1658 and 1668), wrote that personal servants in the Mughal army were “indeed numerous” 22 and Fryer (1672-81) remarked more specifically that “however badly off a [cavalry] soldier is, he must have three. In his account of Hinduism in the A’in-i Akbari, Abu’l Fazl reproduces the classical conceptions of the caste hierarchy.”

5.4 Slavery in Medieval Bengal

In Bengal as in other parts of India, there were several recognised ways by which bondage or slavery was imposed on a person or persons. The most common situation was when a person sold himself or their family members due to poverty. All the related documents reveal that the sale occurred due to paucity of resources required for subsistence by the seller. Ironically this was at a time when in contemporary documents Bengal was described as Jannat ul-bilad- the heavenly place. Some documents mentioned the sale occurred during times of famine. There is mention of a case which clearly mentioned that the writer was selling himself and his wife due to want of food and for reason of falling into debt in the year of the famine. Though it was generally held in Mughal times that Bengal was a famine-free area, here there is evidence of

famine in the Bengali year 1101 (CE 1694). Once the sale took place, the master had full right over the slave. He was saleable as chattel and he could be alienated as a gift. In document No. V it is clearly stated that the purchaser and his descendants will have the right of selling the children that the slave girl would bear. Right over the slave was thus a hereditary right. The slaves' children thus were also slaves and could be separated from their parents any time through gift or sale, as mentioned in one case where, one Muchiram Ganga sold himself and his whole family, including children, sister and wife. Here it is unequivocally stated that the master has all rights over them and he can by his own will, sell or gift any of his slaves to anyone else. Since the slave was the property of the master it was legal to punish run-away slaves. The stipulations given in this set of documents regarding such offence are quite interesting: It is mentioned that, the seller, the father of the slave girl, gives in writing that 'If I ever lay a claim on her or try to take her away. I may be punished by impounding all my properties including homestead.' A destitute widow who sold herself for being unable to satiate hunger and thirst, simply stated: 'If I try to escape, my master will have every right to punish me according to his whims.'

The issue which is intermingled with religion is the caste status of the slave. Apparently a master could make a slave perform work which did not conform to the status of the caste to which he or she belonged before enslavement. This has been mentioned with respect to thirteenth-century Gujarat, where a Kshatriya woman had to perform both clear and defiling work. It states that the slave girl has to perform household chores like fetching water, thrashing paddy and defiling work.

One of the common modes of slavery was the sale and purchase of children under pressure of starvation. Selling of children without parents was also common. It appears, that the parents perhaps considered that their children would at least get food and clothing which they themselves were unable to provide. The amount, little more than nominal which they got in return was perhaps spent to feed other undernourished children. In case when they were selling themselves also, the amount went to their creditors. A case of a destitute mother who sells her two girl-children aged eleven years and six years has been mentioned. Thus, in Bengal instances of parents giving away children as slaves because they were unable to provide for them were many. Once a slave was bought, the master would try to exact as much work as possible. The conditions of manumission hence were very rigid and mostly impossible: For instance, the girl who was enslaved at the age of eleven would be freed in her seventieth year! It was thus practically life-time bondage. The guarantee of manumission at an old age may appear as an act of benevolence by a magnanimous master, giving his slave the benefit of retired life after years of toil. In actuality, however, it could very well be a means of cutting down expenditure



by freeing a probably infirm and hence unproductive slave. That the owner was far from being a benevolent soul is further evidenced by the conditions imposed for early manumission in the document itself. Since slavery was a recognised institution at that time, the legal parlance used in the documents gives us some impression of the prevailing state laws then. In one case, the seller, the father of the slave boy, wrote that henceforth “he (the slave) will have nothing to do with myself or my inheritance.” Considering the fact that the seller was an impoverished menial forced to sell his son, stipulations regarding inheritance appears to be written according to the legal format of the then times CE 1735.





CHAPTER

6



Slavery in British India: 1772-1843

The British who took over India in the second half of the 18th century (CE 1775) from the Mughals, faithfully carried forward the Hindu and Islamic slavery right from 1772 to 1843 when it was banned by them. They instituted the Anglo-Indian law in 1772, under which Hindu slavery would be governed as per the provisions in Hindushastras, and Islamic slavery as per the Quran. Due to lack of knowledge of Sanskrit and Urdu the British judges were unable to apply and interpret the Hindu and Islamic laws about slavery; so they appointed a Brahmin and Muslim law-officer, whose job was to advise the British on relevant Hindu and Muslim laws based on the ‘*Dharma-shastras*’ and Quran and signed reports and assisted in passing judgments. The 1772 Anglo-Indian law states, “*In suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions, the Hindu laws with regard to Hindus are to be considered the general rules by which the judges are to form their decision.*”

For instance, in 1824 the appointed Hindu law officer to the British court was asked to clarify on Hindu enslavement; he simply recounted the seven descriptions of the enslaved as mentioned in Manu Smriti (William, 1840: 54-55). Thus, the Hindu laws of enslavement were in effect applied un-interruptedly from BCE 200 to CE 1772 and further till 1843, when the British finally abolished slavery. It is thus clear that the British accepted the caste laws as they existed at that time in India. In this chapter we shall focus on Hindu slavery and the status of untouchables as slave castes in British India.

The Law commissioner’s Report on Indian slavery of 1910 which formed the evidence for practice of slavery and the basis its abolition in 1843 provides the status of slavery in general and also of untouchables as was prevalent in the country. The report gives status of slavery by region. For the Orissa province of Bengal Presidency the report observed:

In Cuttack, the Hindu domestic slaves consist of such low castes as are considered pure, viz. Shudra proper, Gowala, Gowria, Chasa, etc. In Shahbad, some of the tribes are slaves to the Brahmins. For the domestic slavery of the Hindoo family, it is necessary that the slave should be a Hindoo of pure caste, otherwise the family could not drink water brought by him, and would be in danger of pollution from him in various ways. In Cuttack, the slaves of pure caste are employed both in domestic and agricultural labour; those of impure caste, of course, only in outdoor work. In Assam a very large proportion of the land and all the land of the best quality is held by Brahmins, who are also principal holders of slaves.



6.1 Price of Slaves

In Tipperah the price of young Kayet man varies from	Rs 20 to 40
A young kayet woman	Rs 40 to 100
A kayet male child	Rs 10 to 25
A kayet female child	Rs 20 to 30
A young Chandal man or woman	Rs 10 to 20
A Chandal child, female or male	Rs 7 to 10

According to a report on the origin of agrestic slavery in Masulipatnam which comprised the overwhelming populations of the Tamil country, People subjected to such agrestic slavery are of Pariah tribe. From the Board of Revenue reports of 1819 and 1835-36, it appears that the agrestic slaves in other districts of the Tamil country are generally either Puller or Pariar. As to the origin of slavery of the Puller and Pariar, there is no distinct and positive information. Mr Place observed that ‘it would now be difficult to institute any investigation on this point, and that it is one of those things we must be content to know existed with the Hindu constitution. The Board of Revenue, in reviewing the reports made to them in 1819, noticed the various ways in which slavery can originate by the laws of Hindus, but did not attempt to determine the original cause of the peculiar slaves of the Tamil country.’ The Board of Revenue, in their proceedings dated 25th November, 1810, in which they reviewed the answers of the collectors to their queries on the subject of slavery, observed, that ‘the present state of Hindoo slavery, as described by the collectors, appeared to be nearly the same as it was defined and intended by the laws of Manu.’ Major Walker, one of the first officers employed in this province, in his report on the tenures of Malabar, observed that the ‘Chermas or slaves of the soil are said to have been reduced to slavery in the following manner: The Brahmins, when Parsharam divided among them the lands presented to him, said that without assistance they must remain uncultivated; accordingly Parsharam went in search of wild people, who at that time inhabited the jungles, collected them and presented to Brahmins. They were thence forward considered as jenm, and continue to this day cultivate the land in Malabar.

With respect to social distancing between slaves and people of pure (higher) castes, Mr. Graeme states that ‘the rules of Malabar prescribe that a slave of the castes of Poolyan, Waloovan, and Parian, shall remain 72 paces from a Brahmin and from a Nair, and 40 (paces) from a Teean, and the other (slave) castes generally 48 paces from a Brahmin and Nair, and 24 from a Teean.’

Pargana Mymensingh- In a country I speak of, all kinds of Shudras, except Kaiets (Kayets) are to be found, sometimes in a state of slavery. The slaves of Hindus are low caste Hindus.

Several other studies speak about the practice of agro-slavery on wide scale in which untouchables were involved. Thomas (1999) observed that slaves were an integral part of the production system in Malabar. The Parayas, Pulayas, Cherumas, and Kuravas were the main



aggressive slave castes. The Cherumas were two sections one of which, Iraya Cherumas was of slightly higher social standing than the Pulayas. In 1827, the principal collector estimated that the Pulayas and Cherumas constituted about half of the whole slave population of Malabar district except Wayanad (Ibid).

In 1801, Buchanan stated that almost all cultivators possessed slaves. He remarked that in Palghat, South Malabar a farmer with 35 acres required five ploughs and 10 oxen, and five families of slaves. In Teillicherry, in North Malabar, the cultivators were poor and maintained very few slaves. The slaves were mainly used as field labourers. All the drudgeries of paddy cultivation were on their shoulders. They were reduced to the level of oxen and worked like them in the paddy fields. The degree of slavery was most deplorable in the cases of “soil slaves”- who had been employed in field labour. These slaves had no right of control on land and were to work like beasts of burden.

The landlords, intermediary tenants and simple lease holders utilised the labour of Cherumas. While examining the problems in the agrarian sector T.H. Baber, a British official, had several complaints from people. The most important were:

The forcible seizure of the (landowner's) Parayas: the orders prohibiting them from growing the tobacco they require for the consumption of their Parayas and Cherumas (without which their people will not work) and their inability to purchase that necessary article at the company's monopoly price. It is evident that the Parayas and Cherumas were treated as the property of the landowners and the colonial rule sometimes resorted to capture them to compensate revenue demands. 'There is no race or people in India in a condition so utterly wretched as the slaves of Malabar and Wynad,' reported Sullivan in 1841. The Zamindars and proprietors of slaves retained the power of mortgaging and letting slaves out for hire as well as of selling with or without the land. There was no alteration or any improvement in the tenures up on which 'slave property' was held since Graeme's report in 1822. According to the census of 1838 there were 1,44,371 slaves in Malabar. The regulation of 1843 abolished slavery in Malabar. But slave practices continued. Though a Cherumas could consequently sell his labour wherever he chose, he still continued in the same condition as before, cultivating the land on which he was born and receiving from his janmi such returns as he was pleased to give.

A Brief View of Slavery in British India, of Wilson Anti-Slavery Collection, indicates that the existence of slavery to an enormous extent in the presidencies of Bengal, Bombay, and Madras had been fully established by official papers which had been laid before Parliament, and by the concurrent testimony of the most eminent and best informed of the East India Company's servants; although it is impossible to arrive at the exact details. In Malabar, Canara, Coorg, Waynad, Cochin and Travancore, there are 4,01,000 slaves, in Tinnevely 3,24,000, in Trichinopoly 10,600, in Arcot 20,000, in Assam 11,300, in Surat 3,000, in

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Sylhet and Buckergunge 80,000, in Behar 22,732, in Tirhoot 11,061, in the district lying between the rivers Krishna and Toongbutra 15,000, in the Southern Maharatta country 7,500 and in the British settlements of Ceylon, Malacca, and Penang above 30,000; making in all 9,36,183 slaves.

What the legal condition of these slaves was could be gathered from *The Mohammadan* which declared that the 'property in slaves is so absolute and complete that it is assigned as a reason for subjecting an owner to no worldly punishment or penalty for the murder of his slave; he has of course entire power over his person, being restrained by no provisions of law adapted to protect the slave from ill-treatment.'

The labour exacted from them was onerous and oppressive:

They are employed in all kinds of agricultural labour, rice tillage, and the sugarcane, without the intermission of a single day, so long as their masters can find employment for them. They have no particular work hours which they can call their own, nor any day in the week set apart for rest or devotion. In the Tamil country, the men are employed in ploughing the land and sowing the seed, and on all the various laborious works necessary for irrigation of the land upon which rice is grown; The slave has to toil from morning till evening; after which he has to keep turns at night, in sheds erected on an open platform in the centre of the paddy field, several feet under water, exposed to the inclemency of the weather, to scare away trespassing cattle or wild animals. Besides, their ordinary agricultural employments, these slaves, occasionally, are called upon, by requisition of the collector or magistrate issued to their masters to aid in stopping any sudden breach in the great works of irrigation conducted at the expense of government, or in dragging the enormous cars of the idols round the villages.

Rev. Joseph Fenn in his testimony sated: 'as far as my observation reaches, slavery is by birth only, but report speaks of other ways. I speak only of Travancore. I have no means of knowing in Cottayam, where the population, exclusive of the slaves, was between 3,000 and 4,000, I have sometimes assembled some hundreds. They are, as far as my observation goes, employed wholly in agriculture, and would not be allowed within doors. I think slavery is recognized by the Hindoo code and by the local laws. They present a wretched appearance to the beholder. There is a custom of giving them a cloth occasionally, the only clothing they wear. I am not aware of any provision for age or sickness. They may work for other persons when their masters do not want them, and they then receive one or two chuckraws a day, or the equivalent in rice. They are employed in all kinds of agricultural labour, rice tillage and the sugarcane. Those in the possession of the Nairs, work with their master, or under the eye of an overseer, who generally works with them. But as they are not numerous in comparison with the other classes of the population, they are distributed by small numbers among different owners. Many owners have not more than one, two or three slaves. I have never seen the lash used. Corporal punishment prevails much in India. I am not aware that it prevails more among the slaves. They



are protected by the letter of the law as far as life is concerned; but I question whether they enjoy the actual protection of the law in the kingdom of Travancore. I do not know whether they can be witnesses. Their masters cannot legally take their lives. Slaves are out of society, out of caste, except as between themselves; they live together in the fields and out-parts adjacent upon the villages. They are frequently transferred. The price of a good slave, a male, is about 300 pence. I suppose they are sizable for the debts of their masters. I know of no restriction. Husbands and wives are, I know, separated by sale to different parties. I have met with an instance; whether it is of frequent occurrence I do not know: perhaps not, as it was brought to my notice as a hardship. I heard while in Travancore that slaves could not be manumitted, but that all slaves without a proprietor were the property of the Government. But I incline to think that the statement, if true, refers to one class of slaves only, a class differing from the other only by caste, and not, that I am aware, in any other particular. In all the cases above enumerated, the varieties and sources of domestic slavery are very numerous; namely, those persons who are the off spring or descendants of freeborn persons captured during wars; out-caste Hindoos, who had been sold into slavery under or by former Governments; kidnapped persons brought by bagaras and other travelling merchants from distant inland states, and sold into slavery; persons sold, when children, by their own parents in times of famine or great dearth; the offspring of illegitimate connexions, that is, of cohabitation between low-caste Hindoo men and Brahmin women, and generally between Hindoos of different castes, or within the prohibited degrees of kindred; persons who, in consideration of a sum of money, or in discharge of a security for the payment of a debt, have bound themselves, by a voluntary contract, to servitude, either for life or a limited period, all which have in former times, or do now prevail, more or less, wherever domestic slavery is found, but chiefly in the southern Mahratta country, both in the Company's and *Jaggheer* portion of it, and in the Kolapore rajah's dominions; also in those of Coorg and Mysore. Of agrestic slavery, the origin is of very remote antiquity: the general term given for this description of slavery is Adami, or literally, as I understand the term, serf, aboriginal or indigenous, being held precisely under the same tenures and terms as the laud itself throughout, under some slight modifications, the Malabar coast, in the Balagat districts already mentioned, and even in the western parts of the table-land of Mysore.

In the zillah of Canara the total number of slaves, agrestic and domestic, (their numbers) may be fairly computed at 80,000, or about one in twelve of the gross general population, which, when I left the Malabar Coast in 1828, amounted to nearly a million of souls. In 1801, Mr. Ravenshaw, the collector of the southern division, reported the gross population at 396,672. The northern division may be calculated at one-third of this number; and Ravenshaw further reported the slave population to be 52,022, besides 722 illegitimate children, whom, he writes, 'it was the custom of the Biddenore government to take possession of and sell as slaves; and also slaves imported from Arabia, of whom there were many.' In 1819 the honourable Thomas Harris, the principal CO of all Canara, reported the number of slaves at 82,000, of whom

20,000 were taken in battle, or concubines, or Brahmin and Shudra women, who had lost caste by having connexion with men of inferior caste: the two last descriptions were sold under the Mussulman government, and their descendants continue as slaves; and that under Mr. Baber, (when he was) magistrate here, some stop was put to this practice; but there is no doubt it exists in an underhand manner at this day. 'I should here add that Mr. Harris also stated that "the number of slaves had never been correctly ascertained." By a census taken in 1807 of all Canara, the total number of inhabitants was found to be 576,640; as I have above stated, in 1827 the gross population amounted to nearly a million, making an increase of 70 per cent, in 20 years, while the slave population has been stationary. In the zillah of Malabar, the daily wages for a freeman field-labourer are about a third more, varying from two to two and a half yedungallies of paddy in the northern, and from two and a half to three in the southern division, but then he works only till noon, whereas the slave has to toil from morning until evening with no other sustenance than his morning's *canjee* (rice water) and evening meal, after which he has to keep watch by turns at night in sheds erected on an open platform in the centre of the paddy field, several feet under water, exposed to the inclemency of the weather, to scare away trespassing cattle, or the wild animals with which every part of Malabar, excepting the vicinity of populous places, is infested.'

If an (untouchable) slave accidentally touches a Brahmin, he must purify himself by prayer and ablution, and by changing his *poonool*, (Brahminical thread.) Hence it is that untouchable slaves are obliged to leave the road, and call aloud from as far off as they can see a Brahmin coming. Nairs and other castes who purify themselves by morning ablutions, if polluted as above, must fast and bathe, or as they say'. Deposition alluding to the slave chastisements, says, "they would be seized and flogged and put in the stocks, and their noses cut off, according to the magnitude of the fault they may have committed; at present the practice of cutting off the nose has been entirely abandoned."

The domestic slaves of Malabar consist of the descendants of outcaste persons who had been excommunicated, either through some aberration from caste rules, such as eating with, or the food cooked by, men of low caste, or from cohabitation with persons of lower caste than themselves, or within the prohibited degrees of kindred, and of brahmins convicted of robbery or theft, who had been sold by former governments into slavery to Chetties, Moplas, and to whomsoever would purchase them. Rupa Viswanathan (2008) brought a further insight on the slavery in south India in 'Spiritual Slavery, material malaise: 'untouchables' and religious neutrality in colonial South India.' Around 1891 a debate on the forms of discrimination and labour servitude to which Pariahs were subjected entered newspapers and speeches in Madras; the debate was dominated by Protestant missionaries, who dubbed it 'the Pariah problem'. The state responded to this public outcry with wide governmental concerns regarding the welfare of the lower orders in the face of a series of severe nineteenth century famines by directing J.H.A. Tremenhare, then collector of Chingleput district, to conduct an enquiry into the



condition of Pariahs-- a few years before Kabis's contentious encounter with village elites in 1897. The settlement of the conflict in which Kabis became embroiled was determined by the way in which the state received and legislated upon Tremenheere's findings, as well as by the forms of agrarian labour control upon which legislation impinged. The bulk of Tremenheere's report, 'Note on the Pariahs of Chingleput', pertained to the abuses of Pariahs facilitated by state protection of a system of rights claimed by rural elites known as Mirasidars; the rights themselves were dubbed Mirasi rights, and in state parlance, mirasidarship was a system of 'land tenure', although it entailed far more than this. Mirasidarship was also the system of tenure under which Mannur village, Chingleput district, where Kabis sought to acquire land for the converts, was settled. Mirasidars held 'shares' of a village--entailing rights of cultivation, as well as access to water and other resources and successfully claimed to be traditional 'sons of the soil' who legitimately exercised leadership in all aspects of village administration and in dealings with supra-village authorities. But of the myriad privileges that the colonial state accorded mirasidars, perhaps the most significant was the preferential right to apply for titles to 'waste land', that is, unoccupied arable land. By this right, whenever waste land in the village was to be sold for cultivation, the body of Mirasidars was granted the right of first refusal; only if no mirasidar expressed an interest in the land could it then be offered to non-Mirasidars. Mirasidarship comprised control of labour as much as of land and in the late nineteenth century it also had an indelible caste character. Mirasidars were overwhelmingly either Brahmins--a disproportionately powerful minority claiming, and widely understood to represent, the highest position in the caste system--or Vellalas, a prominent landowning caste who, in their own self-fashioning, were at once the original settlers of the Tamil homeland and the bearers of its cultural heritage. Conversely, in villages held under Mirasi tenure Pariahs were almost exclusively landless labourers, workers paid in kind (*patiyal*) or hereditary bondsmen (*pannaiyal*). This was therefore a form of labour relations that admits of no abstract separation between caste and class: a Pariah was simply a bondsman, and to be a Mirasidar was to be of 'high' caste. Pariahs, moreover, worked in conditions that some nineteenth-century British officials dubbed slavery, and Tamils themselves often deemed these servants as *atimai* or 'slave'. To ensure the terms of their own domination, Mirasidars acted in concert to maintain a monopoly over land, thereby preventing their labourers from becoming independent cultivators. And it is here that the preferential right to apply for titles proved an indispensable tool. When land was put up for sale in a Mirasi village, a particular Mirasidar would assert his right, often in the absence of any desire to cultivate the land, as evidenced by his ensuing neglect of the plot. When the land went into arrears, and was again put up for bidding, it would once more be offered to Mirasidars first, so that another Mirasidar might claim it; this procedure could be repeated indefinitely. Thus, with the express sanction of the state, it was effectively impossible for a Pariah to become a landholder in a Mirasi village, and indeed extremely difficult for any non-Mirasidar. Supplementing the preferential right of application, Mirasidars claimed that tradition granted them final authority over a category of land known as communal

land (*purampokku*), meaning ‘of the commons’ or ‘public’, the purpose of which was officially defined as the ‘welfare of society as a whole’ (*camutac yananmai*). These were the uncultivated areas of the village and included lands required for dwellings, grazing, threshing, tanks, roads and so on—in short all the uncultivated ground required to meet the routine needs of agricultural society. All villagers were assumed to have access to communal lands and, in theory, every family had full rights to their dwelling sites. In fact, however, Mirasidars claimed, and were more often than not able to arrogate, the rights to Pariah house-sites. Although the government, in its published regulations, did not officially recognize Mirasi claims to absolute rights over all village commons, asserting their own ultimate jurisdiction over them, colonial officials routinely failed to enforce this claim. Mirasidars thus enjoyed absolute rights over communal lands in practice, and they could, therefore, additionally maintain labour subordination with threats of eviction. Tremenheere described many of these features of Mirasidarship, but his superiors proved dismissive and even hostile. Referring to the report as ‘highly-coloured’ and ‘greatly exaggerated’—after all, it was to be ‘borne in mind that the wants of the lowest classes in India are very small’—the government concluded with a promise to provide some means to promote Pariah education, but made no commitment whatsoever to changes that might alter the structures of agrarian domination. Tremenheere’s indictment of Mirasi rights was thus brushed aside in favour of a view that had been around for at least a couple of decades, namely that Mirasi rights were the result of a ‘dog-in-the-manger’ mentality, a ‘bugbear’, to be sure, but one that would most likely retreat of its own accord. The state’s response stemmed in part, no doubt, from an unwillingness to legislate against those who were utterly indispensable in a dual capacity—Mirasidars and other elites were the highest tax payers and, in addition, ensured the functioning of the revenue machinery and other aspects of administration at the village level. Extant agrarian arrangements, it was furthermore alleged, were traditional, and in this sense official reaction to Tremenheere was in perfect accord with one dominant strand of late nineteenth century governance—its inordinate respect for custom. But further guaranteeing the state’s particular vision of the customs that made up traditional labour relations was the fact that information about labourers was usually carefully filtered through village elites. State officials, for their part, had little if any first-hand knowledge of Pariah labourers and few had ever even set foot in the settlements in which Pariah labourers lived. For Madras’s villages were separated into *ceris*, in which Pariahs were forced to live in segregation, and the main village, the *ur*, in which all others dwelt; the *ceri* was usually a good distance from the village, and frequently did not permit easy access. Thus, while it is undeniable that the practices of the colonial state consolidated certain aspects of caste, thereby contributing to a modern form of caste politics, it is equally the case that at this period in the history of colonial south India, Pariah subjugation was massively downplayed, when not flatly denied. And at the same time critical documents like this one abstracted caste from agrarian political economy such that the caste character of Mirasi rights, as well as of traditional relations of bondage, was made to seem not a matter of essence but of mere accident. Thus, under-secretary of state Sir John



Gorst, when questioned in Parliament on whether Pariahs faced discrimination in land holding, maintained that, 'There is no bar either in law or in practice to low caste people obtaining and cultivating waste lands on the same terms as high caste people'.

Benedicte Hjejle (2011) has also dealt with the issue of 'Slavery and agricultural bondage in South India' in the nineteenth century: It is mentioned that in the Tamil country and in Malabar and Kanara a large portion of the labouring classes lived in a state of bondage which appeared to have existed from time immemorial. Their situation varied according to the different tenures of landed property which existed within the province. In the Tamil country they often belonged to a community rather than to an individual, and slaves were seldom sold or mortgaged except along with the land to which they were attached. In Malabar and Kanara, where land was held as private property, the labourer was the personal slave of his proprietor who sold and mortgaged him at pleasure. In the Telangana land the labourers had formerly been slaves, and despite the fact that they had emancipated themselves they generally remained in the same villages attached to the same family of Ryots from generation to generation. In the areas where the ancient Hindu institutions had been left relatively undisturbed the position of labour was abject. The Paraiyans, who were placed at the lowest scale of the caste system, were untouchables and lived in separate quarters on the outskirts of the village, the so-called *paraicheri*, where they were allowed to hold the sites of their huts and small backyards free of rent. They were entitled to various fees in grain and money for the work they performed, and were also paid for the services which they rendered the village in various lowly offices such as scavengers, watchmen and messengers. If these fees were not enough to secure them a subsistence the village as a whole was liable to add to their wages. Occasionally they were given land to cultivate on their own with the necessary implements and seed; but in that case they were made to pay a larger share of the produce to the Mirasidars than was done by the *Parakudis*. Author observed that some more detailed information about the slaves is given in a paper which was delivered to the Board of Control in 1832 by A. D. Campbell of the Indian Civil Service. Campbell had acquired his knowledge of agrestic slavery when he was posted as collector and magistrate in Tanjore. He explained that the agrestic slaves invariably belonged to the lowest and most degraded castes such as Pallans and Paraiyans; the majority them in Tanjore belonged to village communities and Hindu Temples. He explained that the slaves worked together in bodies and that their work was recorded by the village accountant. They were not placed under any superintendent or driver. Usually they worked from sunrise until sunset with a few hours' rest for their midday meal. They had to perform various other tasks when called upon by their masters to do so. The more important of these were the repair of the irrigation works and the drawing of the idol cars when these were dragged round the villages during the Hindu festivals. Pallans were by law everywhere the serfs of landlords. A truant Pallan could be returned to his master by force and, except by agreement between two landlord communities, could not change the village of his alliance and could find no other work. Between

them men and women performed practically the whole work of grain cultivation of the village. In Malabar the slaves accounted for a substantial part of the population. In the divisions where an attempt at enumeration had been made they amounted to somewhere between 9 and 15 per cent of the population.” In Palghat, Buchanan explained that by far the greater part of the work in the fields was performed by slaves, or Churmars (Cherumas) as they were usually called. A great deal of confusion exists in almost all the official records with regard to the castes to which the slaves of Malabar did belong. The confusion, however, can easily be explained; it all turned on the use of the expression Cheruman. The Cheruman was only one of the slave castes in the ‘province; but in certain areas, as explained by Buchanan, the term had become synonymous with a slave. Apart from the Cherumans, the Paraiyans were kept in slavery together with certain of the mountain tribes whose caste names it is difficult to identify (Buchanan named them Parrians and Cotal or Curumbal. Buchanan considered both tenures utterly abominable and thought their conditions were much inferior to that of the slaves in the West Indies. ‘In fact’, he wrote ‘the slaves are very severely treated; and their diminutive stature and squalid appearance show evidently a want of adequate nourishment. A farmer was considered quite a substantial man if he possessed five families of slaves, five ploughs and ten oxen; if that was the case he took no part in the cultivation himself, but hired a servant to superintend the slaves.’ In the northern part of Malabar the farmers were not affluent. In Kurambranad the farmers in general only owned one plough or probably two, but almost all of them had slaves and only a few were reduced to work with their own hands. In Kottayam, which was a mountainous and sparsely cultivated taluk, the slaves were few. Here the farmers took part in the cultivation themselves and free labourers of the Tiar caste were also employed. In the Chirakkal taluk bordering on Kanara and Coorg slavery was common again, although the greater part of the cultivation was carried on by hired servants of various castes. These servants were free but they were severely treated and frequently flogged. The first province-wide inquiry of 1916-1918 into the problems of untouchability makes it painfully clear how little interest the authorities had shown in the out-caste communities. By now the castes which were untouchables were known under the common name of Panchamas. In the majority of districts the Board of Revenue simply asked the collectors to state what measures had been adopted for the improvement of depressed classes and any they could suggest for the future. Special attention was, however, directed at the four districts of South Arcot, Chingleput, Tanjore and Malabar. J. Gray, who had been appointed a special commissioner to inquire into the methods of collecting statistics of wages, was asked to combine his investigation with a survey of the depressed classes in these districts.: “From the collectors’ answers and the accompanying report from the Board of Revenue, it is obvious that the problems of the depressed classes had been neglected. In 1902 the collectors had been given discretionary powers to set aside the preferential rights in the land laws, and to grant wasteland to the Panchamas. Only a few of the collectors had made use of this power, though many grants had been made to missionaries who wanted to establish agricultural settlements. Their converts were almost exclusively untouchables. The



missionaries had certainly done good work both in establishing Panchamas as independent cultivators and in educating their children; but their efforts were generally limited to particular areas in the neighbourhood of their stations. All that the government could claim, apart from some efforts in education, was that 5,000 acres.

While this is the story of south India Akansha Narayan Singh presents the agricultural bondage in Uttar Pradesh. Agricultural slavery was one of the most striking characters of agriculture in colonial India. It was a combination of customary services offered to the landlord or master in turn for patronage and security. This relation was ritualistic and legitimised by generations of practice. The master played the role of a patron who took care of his slave or servant through thick and thin. The services of a slave carried on from generation to generation and for them these dependent relations were anything but unnatural. Such relationships were not just defined by caste, but also need for subsistence during scarcity and other necessities occasioned by life rituals such as birth of child, marriage, death, etc. it was frequently recorded that that most of the cultivating castes were in debt to a greater or lesser extent either to their Mahajuns or their Zamindars or Mokuddums for advances of seed-grain or food, purchase of cattle or marriage expenses; but they all seemed to look on indebtedness as natural state of affairs. It was rather creditable than otherwise to be down for a good amount in the local moneylender's books, as it demonstrated how much a person is worth for.





CHAPTER

7



Legacy of Untouchability and Slavery: Consequences of Double Bondage Persists

From the discussion in the earlier chapters, especially ‘Disabilities of the Untouchables, and Privileges of high castes,’ and ‘Untouchables as slave caste,’ we have seen that untouchables had suffered the misfortune of being forced into the double bondage of untouchability and slavery. The worst of both the institutions were combined in the most deviant manner to engineer the extreme exploitation of an entire community for eternity. We have seen earlier how untouchables were excluded from rights to property (agricultural land, and non-farm production enterprises/business, and any kind of asset accumulation), education, and employment in the occupations of the four castes above them. Because of their ‘impure’ and ‘polluting’ status they also stood excluded from jobs that brought them in physical contact or proximity with high caste people such as indoor domestic household work, or work related to religious and social functions. And, despite the fact that untouchables were excluded from all kinds of occupations of the higher castes, exception was made with respect to engaging them in manual labour of the four higher castes. We have also seen how Hindu slavery, which assumed the form of graded slavery, converted untouchables into a slave caste.

The untouchable as a slave caste complemented some of the features of untouchability such as denial of property rights and forced labour with those of slavery. For instance, the slave was considered a property of his master, and thus it also gave their masters the right to sell, mortgage, or transfer them to other people, or separate them from their spouses and children which was the worst form of inhumanness.

The double bondage had its consequences on the economic and social life of the untouchables. The denial of right to property resulted in their being bereft of agricultural land, and any kind of non-farm enterprises/business. The denial of right to education turned them into an illiterate lot. Restrictions on employment in the work of four high castes reduced their access to regular and decent work. And compulsory labour as slaves, turned them into a labour class. The principal occupation of untouchables thus became slave labour. Their polluting status kept them away from domestic work in the houses of their high caste masters and pushed them into manual work in agriculture or ‘agro-slavery’ and high risk non-agricultural work, which began as early as the time of Kautilya.

Slavery was banned by the British in 1843 while untouchability was banned in 1950 and its practice in any form was made a criminal offence. The government has developed policies

to increase the ownership of agricultural land and non-farm enterprises among erstwhile untouchables (Dalits). Also, special financial assistance is provided to encourage them to access education. In order to provide safeguards against discrimination in employment, educational institutions, and legislature was guaranteed through the Reservation policy. The goal was to bring about an improvement in the well-being of untouchables and reduce the gap between Dalits and the high castes.

To what extent has this goal of empowering Dalits by providing them access to property, education, and employment (other than casual wage labour) been achieved? To what extent has the social gap between them and higher castes been reduced? In this chapter we shall examine these two issues. First we will study the extent of Dalit ownership of capital assets, namely agricultural land, agricultural, and non-agricultural enterprises/business, their improvement in attainment of education and regular salaried jobs and reduction in casual wage labour among them. Secondly, we will study the improvement in human development among Dalits, in terms of per-capita income, poverty, education, health status, and access to housing and civic amenities. Thirdly, we will study to what extent the untouchables have gained equal access to opportunities to capital and consumer goods and services exchange through various market and non-market institutions.

Thus, we look at the present status of the erstwhile untouchables with respect to these three aspects by using the present official data to make a realistic assessment of the how much as been gained and how much more needs to be done. In other words, we can also gauge to what extent does the legacy of past continue to mar their inclusion and complete integration into the present day society as equal citizens, and to what extent the ancient past remains alive in the present.

7.1 Ownership of Agricultural land

The policy of land reform, post-independence was aimed at redressing the huge inequalities in land ownership between the landlords and the cultivators. The policy of land distribution for the untouchables aims to improve their land ownership. The land reforms in general and for ex-untouchables in particular have largely failed to transfer land to the actual tiller, except in some small pockets as most of the transfers were appropriated by the middle-men (tenants, rent collectors, etc.) who were a go-between the landlords and the cultivators.

If we look at the landholding size distribution across various social categories (castes) (Table 7.1), we find that for the same year (2013), of the total scheduled caste households in India, 90.5 percent of households are in the marginal and small land ownership category as compared to 79.3 percent for the general (high-caste) category households.

Since bulk of the SC are marginal farmers the average size of the land owned by them is also very small. Thus, there is a substantial gap in the average landholding size of an SC household as compared to their higher caste counterparts for the year 2013 (Table 7.2). While the non-reserved or general category households (non-scheduled caste or scheduled tribe and non-other backward



castes) on an average owned 2.03 acres of land, the average landholding size of a scheduled caste household is 0.67 acre—nearly one third of land owned by general category households.

Table 7.1: Distribution of households across landholding size classification by socio-religious groups in India (percentages for 2013)

Class	ST	SC	Hindu OBC	Hindu HC	Muslim	Rest	Total
Landless (0.002 HA)	9.4	7.2	6.8	7.3	8.0	7.5	7.4
Marginal (0.002 - 1.000 HA)	68.8	85.7	73.8	66.3	84.3	69.4	75.4
Small (1.000 - 2.000 HA)	14.6	4.8	11.4	13.0	5.1	10.6	10.0
Semi-Medium (2.000 - 4.000 HA)	5.7	1.8	5.6	8.6	2.0	7.4	5.0
Medium (4.000 - 10.000 HA)	1.4	0.5	2.2	4.2	0.5	3.9	1.9
Large (> 10.000 HA)	0.0	0.0	0.2	0.6	0.0	1.4	0.2
Total	100	100	100	100	100	100	100

Source: Land and Livestock survey of India, 2013 (author's calculations)

Table 7.2: Distribution of households, land area and average landholding size in India-2003 and 2013

Social groups	Households (%)		Area (%)		Average Land Size (Ha)		Average Land Size (Acres)	
	2003	2013	2003	2013	2003	2013	2003	2013
ST	10.5	11.9	11.1	13.1	0.77	0.65	1.90	1.61
SC	21.6	20.1	9.0	9.2	0.3	0.27	0.74	0.67
OBC	41.6	44.8	43.5	45.7	0.76	0.60	1.88	1.48
Others	26.3	23.2	36.3	32	1	0.82	2.47	2.03
All	100	100	100	100	0.73	0.59	1.80	1.46

Source: Land and Livestock survey of India, 2013 (author's calculations)

The Economic Census of 2013 (the latest year for which the data on wealth are available) provide information on ownership of wealth by quintile groups (Refer Table 7.3). It indicates that the top 20 percent of people own almost 76 percent of the wealth in the country while the bottom 20 percent owned less than one percent of the country's wealth, and the 20 to 40 quintile owned 2.7 percent wealth. Thus, the ownership of wealth is highly unequal and concentrated in a few hands.

Table 7.3: Wealth ownership by quintile group population: India, 2013

Asset quintile group	% share in wealth
0-20	0.6
20-40	2.7
40-60	6.3
60-80	13.9
80-100	76.5
Total	100.0

Source: Debt and Investment and Survey, NSS, 2013

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There are significant inequalities in the ownership of wealth by the caste and ethnic groups. The caste group inequality in ownership of wealth is measured by taking the share of SC, OBC, and High Caste (Hindu) in total wealth owned by various groups. (Hindu here includes Hindu (high caste, Buddhist, and Sikh, who constitute about 75 percent and the rest 25 percent) in relation to their population. The share of SC in total Indian population is stood 18.6 percent, OBC 36 percent, the high caste 21 percent, and the rest 24 percent).

Table 7.4: Ownership of property and assets across castes in India in 2013

Social groups								
	Land	Building	Livestock & Farm equipment	Non-farm equipment	Transport equipment	Financial asset	Gold	Total asset
SC	7.3	7.2	11.7	3.8	7.3	8.7	10.0	7.4
OBC	35.3	23.7	43.8	39.1	30.5	26.3	39.2	31.3
HC	41.2	53.1	25.5	40.4	46.0	48.5	32.6	45.0
Rest	16.3	16.1	18.9	16.6	16.2	16.6	18.3	16.3
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Debt and Investment and Survey, NSS, 2013

In 2013, almost 45 percent of the country's wealth was owned by high caste, which is more than double of their population share of 21 per cent (Table 7.4). The OBC owned about 31 percent wealth which although less than their population share of 36 percent is yet fairly close to it. The SC, however owned, only seven percent of country's wealth which is much less than their population share of 18.6 percent. Thus, we see that the graded inequality in ownership of wealth still persists despite policies to improve ownership of wealth among the Dalits.

Of the total income generating assets or wealth, land accounts for about 56 percent followed by 33 percent building assets, about four percent each of financial assets and gold, transport equipment two percent and livestock and farm equipment and non-farm equipment less than one percent each.

Of the total wealth in land assets 41 percent is owned by high caste, followed by 35 percent by OBC and seven percent by SC (Table 7.3). Thus, while it exceeds the population share for high caste -almost double- it is on par with population share for OBC, but for SC it is much less (almost 2.5 times less than their share in population).

In case of building asset, the high caste owned 53 percent of total wealth in building assets. The share of OBC is 23 percent and of SC seven percent. In case of both OBC and SC the share is less than their population share. Since the share of high caste in building is much high, they would receive high capital gains in terms of rental income.

Similar disparities are observed in case of financial assets comprising shares and deposits in banks. The high caste account for about 48 percent of the total financial assets in the country, while their population share is 21 percent, followed by 26 percent by OBC and eight percent by SC. Like building the high caste would also receive or earn more capital gains on shares and



deposit than OBC and SC. Needless to say that their shares of these assets are also way behind their population shares in case of SC and OBC excepting High caste.

In case of livestock and farm equipment, the OBC's share is highest with 49 percent which exceed their population share of 36 percent, followed by high caste with 25 percent and SC with 11 percent. We have also seen that share of OBC in land is on par with their population share, agriculture being the main pre-occupation of OBC.

In case of non-farm equipment the high caste and OBC owned about 40 percent each, so the two together own almost 80 percent of the wealth in non-farm equipment, which exceeds their cumulative population share of 57 percent. On the other hand the share of SC is only four percent as compared to 18 percent population share. This shows a substantial lag in ownership of non-farm enterprises.

Finally, in case of gold ownership also similar pattern is observed. The OBC's share is high at 39 percent, followed by 32 percent for high caste, and 10 percent among SC. Thus we see that in case of SC or ex-untouchables in none of the income-generating assets is their ownership at par with their population share, it is invariably less while the opposite is true for the Hindu high caste in ownership of any kind of wealth asset.

Similar inter caste disparities are observed in average value of assets or wealth per household. The average value of wealth per household at all India level is Rs 15 lakh. It is Rs 29 lakh for higher caste, followed by Rs 13 lakh for OBC, and just Rs six lakh for SC households. The SC owned almost five times less wealth per household as compared to high caste and twice as less as compared to OBC. The OBC households owned more wealth than SC households, but almost two times less as compared to high caste household. Thus the graded inequality which is the core feature of caste inequality is clearly reflected despite the grant of equal rights to property to all sections of population.

In case of individual assets, the same pattern is observed for all assets (except OBC for land, it is higher than high caste).

Thus, the ownership of main assets, namely land, building, and financial assets is heavily concentrated in the hands of high castes. In case of OBC except the building and financial assets, in the case of other assets, the share is in proportion to their population share. In case of SC, their share at overall level and for all assets is much less than their population share.

Occupation Pattern: Ownership of capital assets (Self-employed) and wage labour

The unequal ownership of capital assets among various social groups is reflected in their employment or occupational patterns. The National Sample Survey, on the basis of main source of income classifies the occupation of a household into self-employed (assets owners), and wage worker. The latter are further divided into regular salaried and casual wage labour

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(the occupational category of a household is decided depending on major source (more than fifty percent) of household income earning from a particular occupation). In 2013, of the total households among the SC about 15 percent are land owning farmers as compared to 27 percent for OBC and 23 percent for higher caste. Similarly, about 17 percent of SC owned non-farm enterprises, as compared to 21 percent for OBC, and 25 percent for high caste.

Due to low ownership of land and non-land capital assets a higher proportion of SC depends on wage labour: about 44 percent, followed by 26 percent from OBC as compared to only 11 percent by high caste. The share in regular salaried workers at 17 percent is also low for SC as compared to 30 percent for the high caste people.

If we consider the share of self-employed, regular salaried workers and casual wage labour of three castes in India, it is found that the concentration of SC in wage labour is pretty high. The SC account for about 31 percent of the wage labour in the country which is close to twice their population share of 18 percent. The share of OBC among wage labour is also high at 35 percent, while it is only nine percent for high caste. The opposite is the case for self-employed and regular salaried workers, wherein the share of SC is way behind other social groups. In India's total regular salaried workers, the share of OBC is 32 percent, while that of high caste is highest at 34 percent as compared to a lowly 15 percent for SC among regular salaried workers. In case of self-employed farmers, the share is highest for OBC at 44 percent, followed by 22 percent for high caste, and a mere 12 percent for SC. The same is the pattern among castes vis-à-vis non-farm enterprises.

Thus, the restriction on SC on the ownership of property, farm and non-farm enterprises in the past, is reflected in the present, in their low ownership of capital assets, and high dependence on casual wage labour.

The unemployment rate among SC is also high. In 2012, the unemployment rate was about 5.86 percent. But it was higher for SC at 7.3 percent as compared to 5.2 percent for OBC and 4.3 percent among the high caste.

Table 7.5: Distribution of workers (age 15+ years) by activity status in each socio-religious groups in India in 2011-12

Socio-religious groups	Activity Status			
	Self-employed	Regular salaried	Casual worker	Total
SC	36.9	15.9	47.3	100.0
OBC	56.0	16.1	28.0	100.0
HC	57.9	29.7	12.4	100.0
Rest	53.7	14.7	31.6	100.0
Total	52.2	18.5	29.3	100.0

Source: Employment Survey, NSS, 2011/12



7.2 Caste discrimination in employment, farming and enterprises/business: Discrimination in employment, wages, and occupation

We have seen that about 39 percent difference in wage earnings, jobs and employment between the high caste and SC, and 35 percent between OBC and SC are due to caste discrimination faced by them in market and non-market spheres. We present the evidence based on the National Sample survey for 2012 on the discrimination in wage earning, jobs and employment.

Wage Discrimination: In the urban regular labour market, there exists a wage gap between SC, OBC, and High caste workers. In 2012 the average real daily wage of an SC regular worker was Rs 146, while it was Rs 163 for an OBC worker and Rs 229 for a high caste worker. Thus, the wage received by an SC worker for the same task was lower than OBC and high castes. Among other reasons for wage gap between SC, OBC and high caste, caste discrimination is recognised as one such factor. This gives the discrimination by alternative methods of measuring wage discrimination (Reimer 1983, 1985; Cotton, 1988; Neumark, 1988; and Oaxaca and Ransom, 1994). The least objectionable method of estimates of discrimination (Oaxaca and Ransom method) indicates clear and substantial evidence of discrimination against SC and OBC in the labour market. We find that human capital difference between SCs/OBCs and HCs contributes much to the earnings differential between them. In 2012, the wage difference between SCs and HCs due to skill was 71.5 per cent in the regular labour market; it was 80.6 per cent in the public sector, and 68.3 per cent in the private sector, respectively. In other words, the contribution of discrimination to wage differential between SCs and HCs is 28.5 percent in the regular labour market, 19.4 percent and 31.7 percent for public and private sectors, respectively.

The discrimination component was decomposed into overpayment to HCs and underpayment to SCs in the labour market. It was found that the over payment or treatment advantage to HCs (benefit of being HC in the labour market) was 8.3 percent in the regular labour market; 5.3 percent in the public sector and 8.1 percent in the private sector, respectively. This was the difference between current wages of HCs and what they would receive in the absence of discrimination. It also reflects nepotism towards higher castes. On the other hand, the underpayment or treatment disadvantage to SCs (cost of being SC in the labour market) was 20.1 percent in the regular labour market; 14.1 percent in the public sector and 23.6 percent in the private sector, respectively. This is the difference in the current SC wage and the wage they would have received in the absence of discrimination. The cost of being SCs in the labour market is very high. They are hugely underpaid in the labour market.

Similarly, in 2012 about 61 per cent of the wage gap between high caste and OBCs was on account of endowment difference. While the wage gap between OBCs and SCs that was attributable to endowment difference is 92.6 per cent.

Table 11 depicts the relative contribution of each independent variable to the observed wage

gap between FC and SC workers. It was found that higher education contributes more than 50 percent of the wage gap between SCs and high castes in both public and private sector.

Moreover, with respect to sources of discrimination in public and private sector of the regular urban labour market, it was found that in the public sector, education variable was favourable for SCs; whereas in private sector besides education, variables like nature of employment, marital status, were favourable for higher castes while they contributed positively to discrimination against SCs in the labour market.

It was also found that in the regular labour market, the extent of caste-based wage gap as well as discrimination varied significantly across the quintiles of the wage distribution. The wage gap between SCs and HCs that is attributable to discrimination is higher at top quintiles than at lower quintiles of wage distribution. It was also seen that irrespective of the wage quintiles, the wage gap attributable to discrimination was higher in the private sector than in the public sector. Besides, the wage gap attributable to discrimination decreased within the public sector as one moved along wage distribution, whereas the wage gap attributable to discrimination increased within the private sector as one moved along wage distribution. This reflects the fact that SCs and higher castes have different jobs.

7.3 Wage and job discrimination in the urban labour market

We find that discrimination against Scheduled Castes, and OBCs partially operates through occupational segregation. In the regular labour market, job discrimination against SCs is more pronounced than wage discrimination in almost all occupations except in service and elementary occupations. The prevalence of job discrimination against SCs in administrative and professional occupation implies that job discrimination against SCs is high in white-collar jobs.

In the public sector, job discrimination against SCs is more pronounced than wage discrimination in all categories of occupations, except in elementary occupation. In the private sector, job discrimination against SCs is more pronounced than wage discrimination in all categories of occupations except in clerical and elementary occupation. The magnitude of job discrimination is higher in the private sector than in the public sector in almost all occupations except in clerical, production, and trade-related occupations. In other words, job discrimination against SCs is more in high paid administrative and professional jobs in the private sector.

Further, we have decomposed the wage discrimination component into wage overpayment to HCs and wage underpayment to SCs. It is observed that the treatment disadvantage (cost of being SC in the labour market) component for SCs is higher than the treatment advantage of HCs irrespective of the type of occupation and sector except in elementary occupation of the public sector.

Similarly, the extent of job discrimination against OBCs is more than wage discrimination in almost all occupations except in service, production and elementary occupations.



In summary, we find that in the regular labour market, discrimination accounts for a substantial part of the gross earnings differential between SCs/OBCs and HCs, with occupational discrimination (inequality in access to certain occupations) being considerably more important than wage discrimination (unequal pay within a given occupation, given one's educational and skill level). The pattern remains same for both public and private sectors.

Employment discrimination in the labour market: We also look at the issue of unequal access to employment by social groups in the labour market. The gross difference in employment rate between SCs and HCs in 2012, is decomposed into factors attributable to differences in human capital endowment between them and those attributable to discrimination in the labour market. We found that there exists unequal access to employment in the labour market. The decomposition of gross difference in employment rate between SCs and high caste shows that discrimination accounts for 71 per cent of the differences in employment due to discrimination, whereas endowment difference accounts for 29 per cent. Further out of the total unexplained difference, 25 per cent is accounted for the advantage to high castes and 46 per cent is accounted for the disadvantage of being SCs in the labour market. In the private sector the high difference in employment rate between SC and high caste is largely due to prevalence of discrimination in the labour market.

7.4 Evidence from primary survey on market discrimination in rural area, 2013 and other studies

There are some primary surveys on the caste discrimination faced by scheduled caste. The findings of a primary survey of 1992 households, from 80 villages in four states, namely Maharashtra, Tamil Nadu, Haryana, and Uttar Pradesh done in 2013, gives us an insight into the nature of discrimination in employment and wages. It also provides an insight on discrimination faced by SC farmers and entrepreneurs/business in purchase of inputs, including land and the sale of goods and services. The SC wage labour faced restrictions on hiring and wages, both as regular salaried and casual labour. The SC business person engaged in grocery, restaurant/eatery and transport service faces discrimination in which their goods on sale and transport services are less used by the high caste thus affecting their income and profitability. SC farmers faced discrimination in purchase of inputs and sale of output and in credit, including agricultural land. These experiences of discrimination are faced by many SC people, if not all. Empirical findings from this survey are provided as under.

Discrimination in hiring: The survey included 441 farm wage labour, 389 non-farm wage labour, and 314 regular salaried workers. We only report the discrimination in employment or hiring and wages.

Farm wage labourers faced discrimination in employment and wage earning. About 41 per cent were denied work by the high castes due to caste background. About 76 percent were denied work in grain harvesting, 20 percent were denied work in vegetable cultivation, and 12 percent

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were denied role in drying of grains and chilly while 11 percent were denied domestic work due to their polluting status. The SC are also forcibly engaged in hard manual tasks with 72 per cent respondents acknowledging it, while 47 percent admitted to taking up hazardous work while 36 percent admitted saying yes to risky jobs for want of livelihood. Due to discrimination the SC farm wage labour loses on average 33 days of employment. About 44 percent SC workers attributed the loss of employment to caste discrimination. About 14 per cent reported less wages compared to the high caste for similar work. About 24 per cent reported work for more than eight hours for which they are not paid. About 36 per cent attributed lower wages to caste discrimination. About 24 per cent of SC farm workers reported wages being paid late. Among them who received late payment, 57 per cent received wages after three weeks.

The caste discrimination results into low employment and wage earnings. About 71 percent of SC farm wage labour reported loss of employment due to discrimination in hiring. The average loss of employment days in a year is about 43 days. The average loss of wage income is about Rs 5761 in a year.

Similar discrimination is faced by the SC non-farm wage labourers. Altogether 389 non-farm wage labour were interviewed. About 52 per cent reported denial of work due to caste background. The caste restrictions are mostly in domestic work such as cooking in high caste people's homes, serving food in restaurants, occasional work in construction of temple, and cultural and religious ceremony or activities. Like farm wage labourers, SC non-farm labourers are compared to non-SC farm wage labourers. Among them 65 percent acknowledged that they were engaged in hard manual jobs while 45 percent admitted they were doing 'risky' (life threatening tasks), and 36 percent were stuck in traditional caste work. About 40 per cent SC non-farm wagers reported reduction in employment due to caste discrimination. The average annual loss of employment in number of days in the survey year was about 28 days. Similarly, about 48 percent received lower wages compared to the non-SC non-farm wage labourers for same work. Caste discrimination as a factor for low/under employment was reported as a reason by 19 percent respondents. About 14 per cent reported over work for which they were not paid wages. About 27 percent reported wages being paid after a long gap. This ratio is only four percent for non-SC wage labour. The average loss of wage income due to less employment is Rs 7162.

Similar pattern is observed in case of SC regular salaried workers in the private sector. Altogether 314 regular salaried workers were interviewed. About 18 percent SC respondents reported discrimination in selection in the form of high caste person with less education (compared to SC person) being selected, 22 percent reported high caste employers giving preference to other high caste persons in employment and about 23 percent admitting that the high caste person selected with less qualification. Discrimination is reported in salary, and about 30 per cent SC employee-respondents said that they received less salary as compared to the high caste for similar work. About 84 per cent said caste prejudice was the reason for low salary.



The discrimination in hiring results in less employment, living on low income, reduced food consumption, clothing, health, education of children, forced to do odd jobs and borrowing. The discrimination and humiliation has many consequences, one of which is leaving jobs (about 15 per cent mentioned this consequence).

Discrimination in Business: In case of business, 336 business household were interviewed. Three business activities were studied which include grocery shop, restaurant, or eatery and transport (auto, car, jeep and Rickshaw). In case of grocery, a very small proportion of high caste make purchases from SC grocery owners. About 37 percent of the respondent reported high caste's unwillingness to buy from their shop. Some only buy some specific goods such as packed goods. About 28 percent of the SC grocery owners attribute caste background as a reason for high caste refusal to buy from SC owned grocery shops. About 12 per cent of SC persons reported restriction on buying from the high caste grocery shops.

The SC restaurant or eatery operators reported that bulk of their or customers person from their own caste and low castes. The proportion of high caste customers was much less. About 44 per cent SC restaurant /eatery owners reported caste background as reason for refusal by high caste to eat from their restaurant/eateries.

In case of transport, about 65 per cent SC respondents mentioned that high caste people avoid using their transport, and the average annual loss of income is about Rs 11200. According to the respondents the discrimination has negative consequences such as closing down the business, operating business with low profit margins, which often results in high loan.

The scheduled castes engaged in production and service enterprises faced a similar discrimination. On the basis of the life histories of 90 Dalit entrepreneurs from 13 districts in six states of India, Aseem Prakash (2015) observed caste barriers faced by SC entrepreneurs/businesspersons in renting or buying a strategically important physical space for their businesses, resulting in their having to shift shop to their own caste locality and cater to consumers of their own caste; difficulties in securing initial orders for business; compulsion to sell goods (particularly in the case of retailers of food and beverages) at lower prices than their higher caste counterparts; the threat of their caste identity being invoked, resulting in negative publicity against them as 'impure' sellers by high caste traders to prevent competition from them; discrimination from the state in the procurement of state resources like licenses and other approvals; and lack of access to the social or caste network. Thus, while Dalits are able to enter the markets as owners of capital, they experience numerous forms of discrimination, resulting in poor economic outcomes (Prakash, 2015). This market-based discrimination affects the income of the ex-untouchables resulting from the barriers to their economic engagement.

Discrimination in farming: The SC farmer also faced discrimination in purchase and sale of land, farm output, and in purchase of input for operations and credit in market and non-market transition. A total of 512 farmer households were interviewed. In case of purchase of various inputs used in agriculture, the survey indicated discrimination faced by SC farmers.

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In case of seeds nearly 21 percent reported purchasing from government and cooperative society and remaining 79 percent from private dealers. Among general reasons for low purchases from government/cooperatives, like non-availability of seeds, non-membership of cooperatives, untimely availability of seeds, and distance, about 10 percent of the SC cultivators also reported their lower caste background as the reason for not having enough access to government / cooperative seeds shops. Among those SC cultivators (about 21 percent) who had purchased seeds from government/cooperative society, some of them complained of differential treatment from these sources. Nearly 12 percent reported paying more prices, 51 percent did not get the seeds on time and 19 percent considered receiving poor quality of the seeds. However, 53 percent of the SC cultivators felt treatment like any other buyer. Much high proportion of SC farmers end up buying seeds from private sellers.

In case of market purchase from private persons, 20 percent of the SC cultivators reported high caste background for refusal to sell the seeds with 12 percent reporting it sometimes, five percent rarely and three percent most of the time. To a separate question, about 11 percent of the SC cultivators reported caste discrimination as reason for refusal and nearly 81 percent of the cultivators never felt such unfair denial from high caste. Some of the SC cultivators, who purchased seeds from high caste, reported differential treatment -about 20 percent of the cultivators felt having paid higher prices, 16 percent got lesser quantity than demanded and untimely supply was reported by 14 percent. A high proportion of SC cultivators reported same treatment as with others by high caste persons.

In case of fertilizers and pesticides, nearly 40 percent of the SC cultivators reported purchase from government and cooperative societies and rest from private sellers. The unavailability of the stock was the most common reason cited by 52 percent of the cultivators. About 11 percent also reported their caste background as the reason for denial of input products. However, some of the SC cultivators who had access to the purchase of fertilizers and pesticides also reported differential treatment by the government and cooperative societies. Around eight percent of the cultivators complained of paying higher prices, 36 percent did not receive on time and 11 percent received poor quality of input. About 62 percent of cultivators felt equal treatment by government and cooperative societies in the purchase of inputs.

In case of purchase of fertilizers from the open markets/individuals sellers in the market, nearly 77 percent of SC cultivators never felt unfair denial from the high caste people while remaining 23 percent felt discriminated. Of this 23 percent, about 14 percent felt it sometimes, six percent felt it rarely while three percent felt it most of the time. The SC cultivators who purchased the inputs from high caste reported differential treatment in one form or another. About 20 percent of the cultivators complained of being charged higher prices by high caste people, 13 percent got lesser quantity than demanded, 15 percent got untimely supply and 13 percent reported supply of bad quality inputs.



Finding of the primary survey in 2013 in villages of India, gives us an insight into the nature of discrimination in employment and wages, business and farming operation. The SC wage labour faced restrictions on hiring and wages, both in regular salaried and casual labour. The SC business persons engaged in grocery, restaurant/eatery and transport service faced discrimination in which their goods on sale and transport services were less used by the high caste thus affecting their income and profitability. Farmers faced discrimination in purchase of inputs. While the input and employment are fairly open to SC, they also experience discrimination—although not cent percent. These obviously affect the income of SC wage workers, farmers and business persons/entrepreneurs, and land them in situation of poverty.

7.5 Why caste Discrimination persists despite law?

We return to the question posed at the beginning of this paper, namely, as to why graded inequality continues to persist. We have seen that the Scheduled Caste lack in endowment and also face discrimination. The latter is one of the important causes of low access to assets, employment, and education, which results in low income and high poverty for the Scheduled Caste and OBC. The question is what are the motives behind discrimination? Way back in 1956, Nobel laureate economist Becker (1956) provided the reason in response to a similar question, that the white males discriminate against their black counterparts because they have a taste for discrimination from which they derive utility, and this taste emanates from prejudices that an individual from one group holds against individuals of another group, in this case blacks and women. Another Nobel laureate, Kenneth Arrow came up with an alternative explanation in 1973, that people discriminate because they perceive that people from another group are, on an average, less productive and therefore, they make their decisions about the hiring and wages for the other group members on the basis of that belief, which may be wrong and may result in a discriminatory outcome. Yet another Nobel laureate, George A. Akerlof and his colleague Rachel E. Kranton (2010) bring in social categories or social identities and their norms into the realm of economic decisions. The Identity Theory postulates that social categories and their norms would determine how individuals in the social category would behave towards others, as individual decisions are socially framed. The Identity Theory implies that the behaviour of whites towards blacks is determined by group norms, which perpetuate a distinction of ‘us’ and ‘them’. The whites think of blacks as ‘them’ rather than including them in the category of ‘us all’. This division of norms on the basis of ‘us’ and ‘them’, or what authors call ‘oppositional identity’, results in discrimination.

In the Test, Belief, and Identity theory, discrimination results from prejudice, which is embedded in the individual psychology. Social psychologists have also provided more insights on the causes of prejudice and motive of discrimination. Allport (1954) treats prejudice primarily as something which is rooted in an individual’s psychology. A psychology of prejudice, which produces stereotypical (false) beliefs by the dominant group, and which yields discriminatory behaviour towards the subordinate group, a view that is similar to the Test theory. Blumer

(1958) questions Allport's theoretical construct of prejudice, as a set of individual feelings and argues that "race prejudice exists in sense of group position rather than in a set of individual feelings which members of one racial group have toward members of another racial group" (Blumer, 1958: 3). Blumer shifts the locus of the origin of prejudice from individual beliefs to "attitudes of group about the relative status and material benefits associated with membership in the group harbouring stereotypical beliefs toward the 'other'. The extent to which the dominant groups perpetuate advantage for their own and disadvantage for subordinate groups is a key factor for group outcomes" (Blumer, 1958: 3-4). In Blumer's notion of prejudice, there are four basic types of feelings or attitudes that always seem to be present in (race) prejudice by the dominant group: "a feeling of superiority, a feeling that the subordinate race is intrinsically different and alien, a feeling of proprietary claim to certain areas of privilege and advantage, and perhaps the most important, a feeling of fear that the subordinate race harbours designs on the prerogatives of dominant race" (Blumer, 1958: 4). Thus, Blumer shifts the axis of prejudice away from individual sentiments toward collective interests in maintaining a relative group interest. The focus is on group position and group efforts (rather than on individual efforts) for material interest and high social status. Prejudice becomes an operative, mobilizing instrument for preserving the advantaged position of the dominant group. There are real (material) interests at stake in the efforts of the dominant group to preserve its privileged position, and also the more intangible, and psychic benefit of a high-status advantage.

Building on this, Darity, et al. (2006) brought further insights on the role of economic or material interest in shaping the (racial) identity norms. Racial identity norms are shaped by the relative income gains from racial or non-racial or mixed strategy in social interaction. Identity norms are determined by the relative income gains (or what authors called the productivity of identity norms in social interaction) from each of the identity norms. It brings the relative income gains into the norm formation of racist, secular, and mixed identity in social interactions.

What are the lessons of these theoretical insights for the institution of caste? In Test, Belief, and Identity theories, individual prejudice becomes the basis for discrimination. The prejudice as an individual psychological feeling produces stereotypical (false) beliefs about the others, which results in discriminatory behaviour. The group-based theory shifts the focus from individual psychological feelings to group feelings in order to constitute prejudice. This prejudice is treated as an amalgam of attitudes of the dominant group towards a subordinate group, developed with the purpose to derive material benefits and high social status. The racial identity norms would persist as long as it brings income gains and high social status for the whites in social interactions; this high social status also provides an avenue for material gains. The discriminatory behaviour of the dominant group towards the subordinate group thus assumes a functional or instrumental role for the derivation of greater material benefit by the dominant groups at the cost of the subordinate groups. Group-based theory shifts the focus from an individual's prejudicial feelings to the group's prejudicial norms and also from the



utility and psychological gains to more tangible material gains and high social status emanating from discrimination. The shift is two-fold, from individual (psychological) feeling to group feeling, and in purpose from utility and psychological satisfaction to material and social status through discrimination. These are the most valuable insights from the efforts made by social scientists to identify the motive for caste-based discrimination.

Ambedkar's analysis of caste squarely falls in the group-based theoretical perspective. It not only presents the caste system as an empirical case for the group theory of prejudice, but also brings in new insights on the role of religious ideology in the formation of norms or beliefs that form group prejudice and discrimination (1987). In Ambedkar's view, the caste system entails the division of the Hindus into five social groups called 'castes' (with several sub castes), with each of them being isolated through the rule of endogamy or marriage within one's caste, and restriction on social relations, making caste a separate, isolated and exclusive entity, with some inter-caste obligations. It involves the fixation of economic rights (pertaining to occupations or property), civic and religious rights of each caste well in advance and making it hereditary by birth. The rights are, however, assigned in an unequal and graded manner among castes, making "graded inequality" the foundation of the caste system. The castes consisting of members other than the untouchables form the dominant groups, perpetuating a hierarchy of dominance by placing the Brahmins at the top with all rights and privileges. The untouchables located at the bottom, on the other hand, have no rights and bear the stigma of pollution, which makes them the subordinate group. The most unique feature of the caste system is the provision of a mechanism to enforce the system that involves excommunication and penalties for any deviation from the caste codes. The fear of losing the privileges, which Blumer mentioned as the key feature of prejudice, is not left to chance, but is fully protected through the use of a community level mechanism of social ostracism. Added to that is the protected cover from Hindu religious philosophy. Caste is thus made up of divine origin, receiving a solid backing from Hindu ethics and morality. The moral principle of graded inequality forms the basis of the observance of customary and formal laws by everyone. It is this double injection of moral and legal philosophy which imparts solidity to the institution of caste. The principle of graded inequality with privileges accruing to the dominant groups and disabilities or disadvantages being imposed on the subordinate group constitute the very foundation on which the structure of the caste system is erected "sanctified by the Hindu religious ethical, moral and legal philosophy, and made sacred, eternal, and inviolate" (Ambedkar, 1987:129).

Akerlof highlights the role of ideology in the formation of norms. Ambedkar provides evidence on how religious philosophy, both moral and legal, is used as a means to justify the privileges and superior economic and social rights of the higher castes at the cost of denial of the same to the lower castes. Caste-based prejudice is ideologically grounded to serve the material interests and high social status of the high castes. It is in this sense that caste discrimination becomes functional and an instrument in the hands of the higher castes to hold on to traditional economic



and social privileges. Since discrimination serves the economic and social purpose of high castes at the cost of denial to lower castes, the inter-caste inequality continues to persist.

7.6 Human Development and Human Poverty of SC

We have seen thus far that although there has been some improvement in the plight of the erstwhile untouchables with respect to ownership of property, namely agricultural land and non-agricultural enterprises, and regular salaried employment, yet the bulk of them remain landless and with little access to non-farm capital assets and employment in decent jobs. Due to lack of access to capital assets, the SC are dependent on manual wage labour for their livelihood in much greater magnitude than other social groups above them. The gap between them and higher castes continue to persist.

The lack of access to income earning capital assets and employment have resulted in low human development and high poverty among SC as compared to other groups. The empirical evidence on the indicators of human development indicators and indicators of human poverty such as per capita income, poverty, malnutrition, life expectancy, education, housing, drinking water, electricity, and drainage among others reveals their precarious situation.

Taking the per capita monthly consumption expenditure (MPCE) (as substitute for income) in 2012, the latest year for which the data are available by social groups, the gap between the SC and other groups continues to exist. The average monthly per capita consumption (at current pieces) was Rs 1645 at All India level, however it was Rs 2413 for high caste, Rs 1531 for OBC and 1294 for SC households. The MPCE declines as one moves from high caste to OBC and to the Scheduled Caste, indicating the persistence of graded inequality in income.

Income and poverty. The low consumption expenditure by the SC is reflected in high poverty (percentage of people below a certain critical minimum defined as poverty line) among them. In 2012 about 22 percent of Indians were poor. The figure however was highest among SC at 30 percent, which was as much as three times higher as compared to nine percent of high caste people being poor and 20 percent OBCs being poor (below poverty line).

Malnutrition and health status: High poverty results in high malnutrition and poor health. It affects the nutrition and health status of the afflicted households. The 2015/16 data show that a high proportion of Scheduled Caste suffered from high mortality, anaemia and low life expectancy compared with other social groups.

At the all India level about 36 percent of children upto five years of age were underweight. The figure was high for SC children under five years at 39 percent as compared with 36 percent for OBC, and 26 percent for high caste children. Similarly, the incidence of anaemia among children (under five years) was high among the SC children. On an average about 59 percent of children were anaemic. But the proportion among the SC children was highest at 61 percent, followed by 59 percent for OBC children and 55 percent for children of higher caste groups.



Similarly in 2015/16, the percentage of women suffering from anaemia was highest among the SC women at 56 percent as compared to the national average of 53 percent. In comparison the incidence of anaemia was 52 percent for OBC women and 50 percent for others (higher caste group). Similarly, the incidence of underweight women (BMI) was high among the SC women at 25 percent compared with 17 percent for OBC women and 22.6 percent for others (high caste group), while the all India average stood at 22.6 percent.

For obvious reasons the poor status with respect to malnutrition results in low life expectancy. In 2018 the average age at death at all India level was 57 years. But the average age at death was low for SC at 55 years, compared to 57 years for OBC, and 60 years for others (higher castes).

Education: As in health, similar inter-group disparities between SC and others are present in education attainment. In 2014/15 about 78 percent of students entered the secondary/ higher secondary level of education. The enrolment rate was low for the SC at 73 percent as compared to children from other social groups: 97 percent for high caste and 80 percent for OBC. Similarly, in 2018/19 the enrolment rate for higher education was low for SC at 21 percent as compared to 43 percent for high caste, and 29 percent for OBC. Thus, the enrolment rate for SC children was half that of their high caste counterparts.

Civic Amenities: The status of SC with respect to access to civil amenities like housing, electricity, drinking water at home is equally poor as compared to the higher castes and Other Backward Castes. In 2018/19, about 12 percent people lived in bad housing at the India level. But the proportion of such household was 18 percent for SC, 11 percent for OBC and 6.7 percent for high castes. A high percentage of SC also live in slums: 13 percent of SC are slum dwellers compared as compared to six percent OBC and 4.6 percent from higher castes, while the all India average is 7.3 percent.

Similarly, the highest percentage of households without a latrine belong to the Scheduled Caste (71 percent) as compared with 65 percent for OBC and 37 percent among high castes households against an all India average of 59.5 percent.

About 62 percent of SC households did not have drainage facilities that was higher than 52 percent for OBC households and 34.6 for high caste households.

Also the percentage of households without a bathroom was high among the SC households at 64 percent as compared to 50 percent among OBC households and 26 percent high caste households that did not have a bath room within the house.

The SCs also continue to suffer from equal access to civic rights. Between 1995 and 2015, the average number of cases registered annually by the SC under the protection of civil rights Act and Prevention of Atrocities Act was about 14,000.

Thus, in case of all indicators of human development such as monthly per capita consumption expenditure, percentage of poor people, malnutrition and educational attainment, the graded

inequality is evident exactly in the manner decreed by ancient Hindu caste codes. The high caste are way above other groups in all indicators followed by the middle castes such as OBC while the SC or erstwhile untouchables lag behind all groups in all indicators of human development indicating that they continue to be situated at the bottom of caste hierarchy notwithstanding constitutional and legal guarantees for them in post independent India.

7.7 Concluding Observations

The preceding analysis reveals that despite general and affirmative action policies, practically for all indicators of human development, the Scheduled Castes lag behind the higher castes as the traditional gaps between them and high castes continue to persist even today. The aggregate measure of well-being, the monthly per capita consumption expenditure of SC is half that of high castes as a result of which poverty among them is more than three times higher than among high caste people. With inadequate income they are unable to meet their basic needs that lead to high incidence of malnutrition, underweight, and anaemia among SC children and women. Also mortality rates among their children is very high. The Scheduled Caste also lack civic amenities such as good housing, availability of drinking water, electricity, and drainage facilities in their houses. All these result in poor health outcomes and low life expectancy as compared to other social groups.

The analysis also indicates that low human development (or high human poverty) of the Scheduled Castes is mainly due to the poor ownership of income earning capital assets -agricultural land and non-farm enterprises, low employment in regular salaried jobs, and low education attainment. The SC own only seven percent of the country's wealth which is much less than their 18.6 percent share the country's population. The average value of wealth of an SC household is almost five times lesser than an average high caste household and twice as less as Other Backward Caste households. The education attainment in higher education is three time less than higher castes. Due to low education level their share in regular salaried jobs is also less. The lack of income earning capital assets and regular salaried jobs, makes the dependence of the Scheduled Caste on low wage manual wage labour very high. Their engagement in manual casual wage labour is four times more than high castes.

Thus, it is clear that lack of ownership of agricultural land and non-agricultural capital, education and employment are the main reasons for high human poverty of the Scheduled Castes. It must be mentioned that precisely it is from these spheres that the Scheduled Castes were excluded for centuries together and continue to suffer till date notwithstanding introduction of laws and policies to inclusively integrate them in the society on an equal footing. This exclusion in the past on account of untouchability and slavery for a long time remains the primary cause for high incidence of human poverty among them. The analysis further shows that exclusion and discrimination did not end with the legal and constitutional provision of equal opportunities and non-discrimination; rather the past came alive in the present as the Scheduled Caste



continued to face discrimination in various market and nonmarket institutions. The analysis has cited primary surveys to show that SC workers continue to face discrimination in the labour market in seeking employment, wages, and occupation. The discrimination in employment is quite prominent; almost three fourth of the differences in probability of employment between Scheduled Caste and high caste were due to discrimination in hiring. The Scheduled Caste also face discrimination in farming, production, and business enterprises. Thus, the Scheduled Castes' deprivation is both due to exclusion and discrimination in the past and its continuation in modified forms in the present.

This also means that the policies implemented by the government for improving ownership of agriculture land and production /business enterprises among the Scheduled Castes have their limitations. Similarly, the government reservation policy in employment and education which is intended to provide safeguards to the SC against discrimination and assure fair share in employment and educational institutions has its limitations. In order to increase the ownership of agricultural land and enterprise/business to undo the harm caused by the denial of property right, a policy of compensation to correct the wrong done in the past is necessary. The reservation policy which at present is confined to government jobs and government-run educational institutions should have been extended to cover the vast private sector also. In the light of the insights gained from the discussion in earlier chapters, we provide a justification for a 'Reparation Policy' to increase the ownership of agricultural land and non-farm capital assets (in the form of private enterprise/business), and enhance the education level among Scheduled Castes in the next chapter. In the same discussion, we also advocate for extending reservation in private jobs and educational institutions, including a policy for Dalit enterprises/business by the private sector.



CHAPTER

8



The Case for Reparations

The previous chapters have described in detail the long and painful historic legacy of the caste based Hindu social order, graded division of society, untouchability and caste-enslavement. It is an unenviable record of a deeply-entrenched social system of exclusion, discrimination, exploitation, surplus appropriation, and denial of human, civil, social, political, and economic rights of one community at the cost of privileges to others. These 2200 to 2500 years of continuous oppression is rare and unseen anywhere across the world geographically or historically. For this grave, historic wrong to be undone and a national reckoning to take place, a cleansing and atonement of the soul of the country, it is imperative to hold a serious discussion, dialogue, and deep introspection.

8.1 Philosophical arguments for Reparations

To make an argument for reparations it would be helpful to understand the meaning of the terms compensation, restitution and reparation; how these can be seen to be similar to each other in meaning but how they are, in fact, different in their true connotations.

Restitution According to the The New Oxford American Dictionary 2000, restitution means ‘restoration of something lost or stolen to its rightful owner.’ It is conditional on separation of something from its rightful owner. It however does not take for granted always, that a wrongdoing has occurred in the act of separation. For instance, if *A* steals *B*’s bike (or finds it) and then simply returns it to *A*, without any explanation or expression of remorse or apology, one can say restitution has happened (but not reparation).

Reparation can happen only after any loss or damage has occurred from a wrongdoing. Reparation is a right or a cluster of rights, while restitution is not always a right. In the above example, if *A* returns *B*’s bike and also apologises for the wrongdoing, then one can say reparation has happened, as *B* now feels that not only has the bike been returned (restitution) but the apology also satisfies *A* for the emotional distress caused to her and now feels satisfied. In the above example, if the stolen bike is lost or destroyed and *A* apologises for it, and *B* feels satisfied with it, then reparation has happened without restitution. Restitution, therefore, is not a necessary condition for reparation.

Compensation On the other hand, compensation, while sounding similar to both reparation and restitution, is in essence different from both. It implies merely covering up of any loss, harm or damage, that was caused by either a wrongdoing or not. ‘Something fully compensates

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a person for a loss if and only if it makes him no worse off than he would otherwise have been; it compensates person *X* for person's *Y*'s action *A*, if *X* is no worse off receiving it, if *Y* had not done *A*.' (Nozick, 1974: 57).

Compensation does not, therefore, presuppose that a wrongdoing has occurred. A damage or loss could be suffered by someone without being wronged by someone. In that case compensation is due but not reparation. Quite often when reparation is due, as a result of a wrong doing, then it would include restitution, that is the return of what was taken away, and in case restitution is not possible, then compensation might be given, in an attempt to make the person no worse off than what she was before the wrongdoing occurred. However, restitution for that which can be returned and compensation for that which cannot, by themselves together do not amount to reparation (though some might feel it is enough), unless accompanied with an admission of the wrong doing by the harming party along with an expression of remorse and/ or apology.

8.2 John Locke on Reparations

John Locke (1689) can be credited with being one of the first to propose a cogent argument for reparations. His propositions have formed the basis for many subsequent arguments put forth for Black reparations. He believed that people have natural rights that they derive directly from the Natural Law. These rights were equal for all, and that people were naturally disposed to live in peace and harmony. This was in contravention to Hobb's argument of 'state of nature' that people were naturally disposed to be in a state of competition, conflict, and chaos. In order to discourage the defiance of these natural rights of people, Locke (1689: Sec 8) proposed punishment. According to him, punishment must be administered 'with so much severity as will suffice to make it an ill-bargain to the offender, give him cause to repent, and terrify others from doing the like.' To restore the harm that crime 'commonly' causes 'some person or other,' Locke proposed reparations. He stated, reparation must give the 'satisfaction due to any private man, for the damage he has received' (Ibid: sec 11). For him, the right to reparations emerges from the right to self-preservation. These rights could be demanded only against the 'goods and services of the offender' (Ibid). It implies that the victim of a wrong doing has rights to reparation only from the wrong doer. This, however, does not imply that the recipient has to be the immediate victim of the wrong doer. He was of the opinion that a crime usually harms 'some person or other.' For example, if a girl's parents are murdered, she has a claim to reparation for the harm and the ensuing hardships of life that this act causes her. Even when a harm does not lead to material loss for the victim, it causes damages to the victim's 'self-respect and moral standing and she deserves on part of the wrong doer an admission of the harm done and an apology and if all of these require the wrong doer to be punished then repentance and reparations for the victim may also include punishment.'



Locke, however, makes a distinction between the right to reparations and the right to punish; the latter he gives to the state. Even when the wrong doer does not gain materially from the act or harm, reparations are due to the victim for her mental, personal, and psychological satisfaction. In the event that wrong does get enriched then reparation may include, restitution and/or compensation.

8.3 The Harm Argument

‘The harm argument relies on the idea that transgressions of slavery (*caste-untouchability, caste-enslavement*) initiated an unbroken chain of harms linked as cause and effect that began with the slaves (*ex-untouchables and ex-caste-enslaved*) and continues among U.S. blacks (*Dalits*) to the present day. Therefore, since the transgressions of slavery (*caste-untouchability, caste-enslavement*) harm present day U.S. blacks (*Indian Dalits*) they have rights to reparations against those who committed those transgressions’ (Boxill, 2015).

While this argument is made to justify reparation for the present day black (Afro-asian) descendants of slavery, it applies to the descendants of *caste-enslaved* and near slave *caste-ex-untouchables* in equal measure or to any other present day group, who in the past or whose ancestors faced similar harm.

8.4 The Inheritance Argument

‘The inheritance argument for black (*Dalit*) reparations states that the freed people (*ex-enslaved*) have rights to reparations for their injuries; that they held these rights against the slave holders (*owners*) and also against the State and federal governments for failing in their duties to protect them from the slave holders; that these rights were never honoured; and finally, that they passed on the right of inheritance to present day U.S. blacks (*Dalits*) (who are their descendants and heirs (*ex-untouchables and ex-caste-enslaved*)) (Corlett, 2010).’ While Corlett makes this argument specifically in the context of Black-slavery, it applies to the case of the *Dalits* in equal measure.

In 1843, the British in India legally abolished all kinds of slavery including *caste-enslavement* under the Anglo-Indian law. Till then caste-based enslavement (largely agrestic slavery, but not confined to it) was a traditional practice that was followed unabashedly. Once the law was passed to abolish caste-based enslavement, the freed castes, had a right to reparation for the denial of human, civil, social, economic and other rights. The British government and subsequent governments that came to power post-independence made no formal announcements for any form of compensation, restitution, or reparations for them.

While, the British crown owes reparations to the Dalits of India for delaying the enactment of the anti-caste-enslavement law, for ten years after it abolished slavery back home. Even after enactment of the anti-enslavement law in India, they failed to announce any form of reparation measures for the *caste-enslaved*, for instance of the kind that were, for freed black slaves in the

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U.S., such as the ‘forty acres and a mule’ order. A reparation measure of this sort would have helped erstwhile caste-slaves to get detached from their agrestic masters and start anew.

In the absence of any such reparative proclamations, which could have made the *enslavers* liable to make the reparative transfers or payments, the *caste-enslaved*, despite being legally now termed as free on paper, had no means whatsoever of alternative sources of livelihood. As a consequence, they had no option but to continue to work for their masters, but now as attached, bonded, or indentured labour, which was no different from their earlier predicament in all practical senses.

8.5 Spiritual Renewal Argument

The Spiritual Renewal Argument says that while, compensation and restitution are essential and the starting points in the process of healing and reconciliation, true reparations would demand in addition, an acceptance/ admission of historic crimes and injustices and that these actions/practice led to a causal chain of events that carried forward and affected (and continues to affect) the lives of the descendants of the victims of *untouchability and caste-enslavement*.

To quote Coates (2014), ‘What I’m talking about is more than recompense for past injustices—more than a handout, a payoff, hush money, or a reluctant bribe. What I’m talking about is a national reckoning that would lead to “spiritual renewal”... Reparations would mean a revolution of the American consciousness, a reconciling of our self-image as the great democratizer with the facts of our history.’

While Coates makes this argument in the context of black slavery, it very well applies to the context of caste-enslavement and untouchability also. Without a recognition of historical facts, crimes, violence, denials and that these and their harmful consequences are passed on inter-generationally to their present day descendants (and further on) and without a sense of atonement and apology people, groups, and the country cannot truly move forward on the path of reconciliation, healing, and growth of a new national consciousness.

For each of the arguments put forth above, there are problems or counter criticisms posed by many who feel the need to argue against the idea of reparations. In turn these counter arguments have been responded to and addressed quite adequately in literature, however given the scope of this particular piece, it is not possible to get into the lengthy argument of this long- standing debate.

Once we agree that reparations are morally and ethically just and necessary, then the task ahead will be to decide what form the reparation would take. Experience from around the world has taught us that each case is different, and the nature and forms that reparations take varies from one country to another.

Such an initiative will begin with first, an acceptance of *enslavement* and near enslavement in



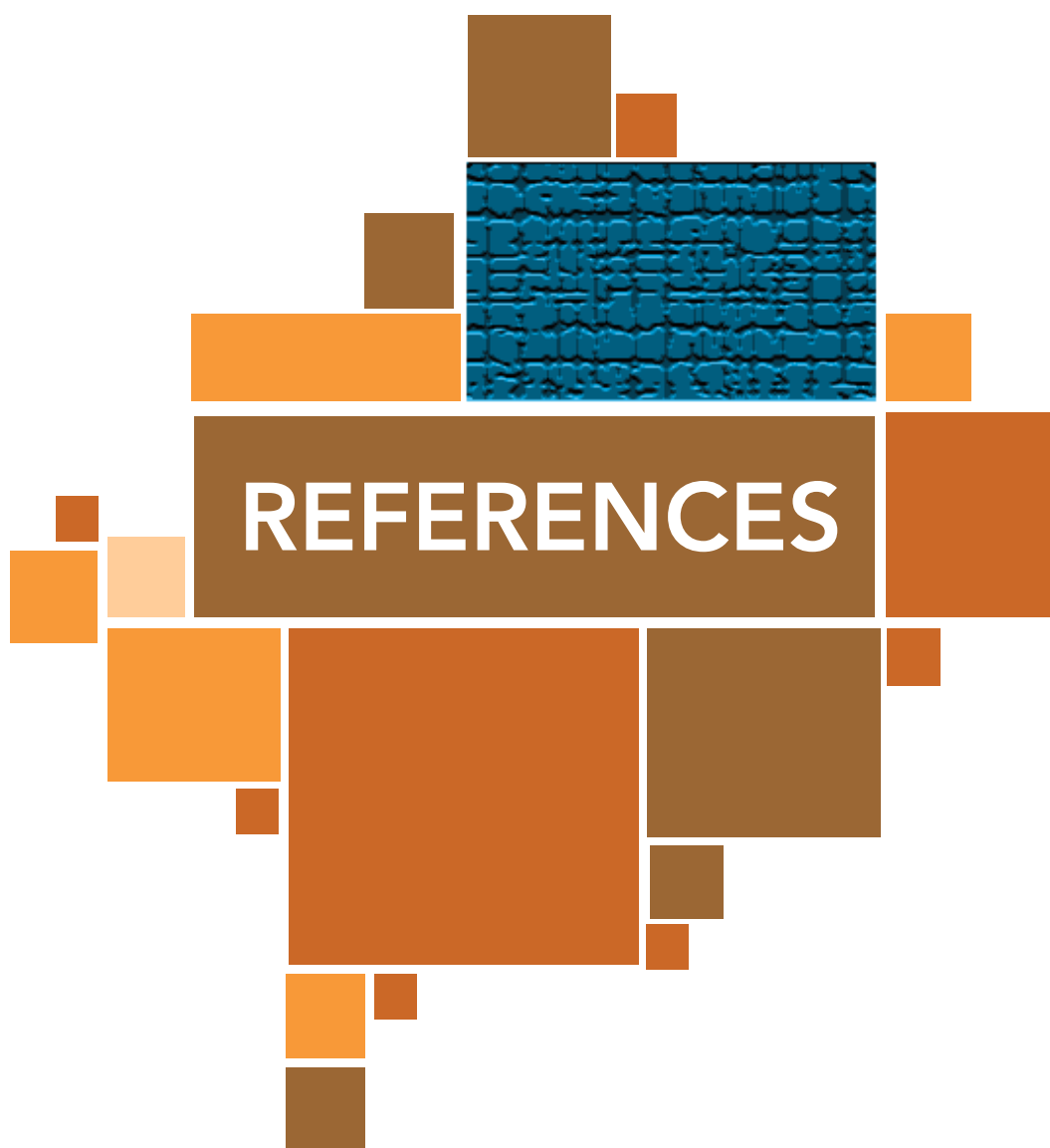
the form of *untouchability*, of a large section of the society, its various forms, its implementation and practical day to day practice historically and in the present, and its grave harm to the victims by the state as well as by the descendants of the enslavers and those who benefitted from the labour of the untouchables and enslaved labour.

Secondly, accepting responsibility of these transgressions and offering an unconditional apology for this grave historic wrong. Thirdly, this would involve setting up a *Reparation Commission* that will look into all aspects of this long and slow process. The commission should constitute separate committees with subject experts from the *Dalit community*, practitioners, and policy makers to examine and suggest compensation, restitution, and reparation measures in different spheres of lives of Dalits. These spheres could be, but not limited to, the following.

- (a) ***Economic reparations*** Land redistribution, wealth redistribution through a tax or a cess, especially targeting the top ten percentile of the population, share in the financial markets, in terms of a proportion of top executive decision-making seats reserved in (private) firms, reserved seats on the boards of companies, proportion of shares, equity and other financial instruments earmarked for dalits, buying of financial instruments or of goods, inputs, services etc. from enterprises owned by minority (Dalit) community members, amongst others. Access to cheaper credit over longer duration and many other such provisions in every aspect of economic life.
- (e) Access to better and cheaper health care, education, housing, transportation, public spaces, etc.
- (f) Encouraging inter-caste marriages, dining, cohabitation and other social, political, and cultural interactions.

Not only will this initiative and process be necessary for the Dalit community to feel that the injustices they endured are being acknowledged and to some extent an attempt is being set in motion for a healing process to begin. But it is essential for the national social psyche (non-Dalit population) to change to ensure a successful transformation of the nation's social structure.







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Annexures

Annexure 1: Household types by social groups, 2019-20, Rural India, row %

	SEA	SENA	RS	CLA	CLNA	Others	Total
ST	44.1	8.1	11.6	15.3	12.4	8.5	100
SC	25.5	13.9	12.7	19.2	20.0	8.6	100
HOBC	44.0	15.9	11.3	9.6	10.9	8.3	100
HHC	43.7	15.9	17.3	6.8	5.5	10.8	100
Muslim	26.5	24.0	12.5	10.0	16.7	10.3	100
Rest	34.3	20.9	17.5	5.9	9.3	12.1	100
Total	37.8	15.5	12.9	12.0	12.9	9.1	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Notes: SEA: self-employed agriculture; SENA: self-employed non-agriculture, RS: regular salaried; CLA: casual labour agriculture; CLNA: casual labour non-agriculture

Annexure 2: Household types by social groups, 2019-20, Rural India, col %

	SEA	SENA	RS	CLA	CLNA	Others	Total
ST	13.3	5.9	10.2	14.5	11.0	10.7	11.4
SC	15.5	20.6	22.6	36.9	35.7	21.7	22.9
HOBC	43.9	38.7	33.2	30.2	32.1	34.4	37.7
HHC	18.6	16.6	21.7	9.1	6.9	19.2	16.1
Muslim	7.0	15.5	9.7	8.4	12.9	11.4	10.0
Rest	1.8	2.7	2.7	1.0	1.4	2.6	2.0
Total	100	100	100	100	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Notes: SEA: self-employed agriculture; SENA: self-employed non-agriculture, RS: regular salaried; CLA: casual labour agriculture; CLNA: casual labour non-agriculture

Annexure 3: Household types by social groups, 2019-20, Urban India, row%

	SE	RS	CL	Others	Total
ST	21.0	42.7	17.9	18.4	100
SC	22.7	46.2	20.5	10.7	100
HOBC	31.6	41.1	12.3	15.0	100
HHC	31.6	48.3	4.9	15.2	100
Muslim	37.3	32.4	15.2	15.0	100
Rest	32.6	42.0	7.2	18.2	100
Total	30.8	43.1	11.5	14.7	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Notes: SE: self-employed; RS: regular salaried; CL: casual labour

Annexure 4: Household types by social groups, 2019-20, Urban India, col%

	SE	RS	CL	Others	Total
ST	2.4	3.5	5.6	4.5	3.6
SC	10.4	15.1	25.3	10.2	14.1
HOBC	34.1	31.7	35.6	33.8	33.2
HHC	33.4	36.4	14.0	33.7	32.5
Muslim	15.8	9.8	17.3	13.3	13.0
Rest	3.9	3.6	2.3	4.6	3.7
Total	100	100	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Notes: SE: self-employed; RS: regular salaried; CL: casual labour

Annexures

Annexure 5: Wage workers by Formal and Informal, 15 plus population, India, 2019-20, row%

	Informal (Neither contract nor social benefit)	Formal (Either contract or social benefit)	Total
ST	80.8	19.2	100
SC	81.0	19.0	100
HOBC	74.0	26.0	100
HHC	53.6	46.4	100
Muslim	83.2	16.8	100
Rest	58.9	41.2	100
Total	72.5	27.5	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Annexure 6: Wage workers by Formal and Informal, 15 & above, India, 2019-20, col%

	Informal (Neither contract nor social benefit)	Formal (Either contract or social benefit)	Total
ST	10.0	6.3	9.0
SC	26.7	16.5	23.9
HOBC	34.0	31.6	33.3
HHC	15.4	35.2	20.8
Muslim	11.7	6.2	10.2
Rest	2.3	4.3	2.9
Total	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Annexure 7: Regular salaried workers by government and non-government, 2019-20, 15 & above, India, row%

	Non-government	Government	Total
ST	61.2	38.8	100
SC	68.8	31.2	100
HOBC	75.0	25.0	100
HHC	74.1	25.9	100
Muslim	81.1	18.9	100
Rest	78.1	21.9	100
Total	73.5	26.6	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Annexure 8 Table: Regular salaried workers by government and non government, 2019-20, 15 & above, India, Col%

	Non-government	Government	Total
ST	5.0	8.8	6.0
SC	16.9	21.2	18.1
HOBC	33.3	30.7	32.6
HHC	30.5	29.6	30.3
Muslim	10.2	6.6	9.3
Rest	4.0	3.1	3.8
Total	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20



Annexure 9: Percentage share of government regular salaried workers in total workers, 15 & above, 2019-20, India

Regular salaried govt.	15 & above
ST	4.92
SC	6.08
HOBC	4.87
HHC	8.82
Muslim	3.87
Rest	7.36
Total	5.86

Source: Periodic Labour Force Survey (PLFS), 2019-20

Annexure 10: Literacy rate by social groups, 7 years & above, 2017-18

Social Group	Literate
ST	69.6
SC	72.4
HOBC	77.4
HHC	87.9
Muslim	74.9
Rest	89.9
Total	77.7

Source: 75th round NSS data on social consumption, education, 2017-18

Annexure 11: General Enrolment Rate (GER) in higher education India, 2017-18

	GER
ST	15.8
SC	21.2
HOBC	28.2
HHC	40.7
Muslim	16.6
Rest	43.3
Total	26.3

Source: 75th round NSS data on education, 2017-18

Annexure 12: General Enrolment Rate (GER) in secondary & higher secondary, India, 2017-18

	SHS
ST	66.7
SC	73.8
HOBC	82.0
HHC	94.1
Muslim	61.0
Rest	93.4
Total	77.8

Source: 75th round NSS data on education, 2017-18

Annexures

Annexure 13: Unorganised enterprises, India, 2015 (col %)

	OAE	Establishment	Total
ST	4.4	2.0	4.0
SC	13.5	5.4	12.2
OBC	49.6	44.0	48.7
Others	29.6	46.4	32.3
NK	2.9	2.2	2.8
Total	100	100	100

Source: 73rd round NSS data on Unorganized unincorporated enterprises (Excluding construction), 2015

Note: OAE: own account enterprise

Annexure 14: Unorganised, Unicorporated enterprises, India, 2015 (row %)

	OAE	Establishment	Total
ST	92.2	7.8	100
SC	93.0	7.0	100
OBC	85.7	14.3	100
Others	77.2	22.8	100
NK	87.6	12.4	100
Total	84.2	15.8	100

Source: 73rd round NSS data on Unorganised unicorporated enterprises (excluding construction), 2015

Note: OAE: Own Account Enterprise

Annexure 15: Unicorporated enterprises, India, 2015 (in thousands)

	OAE	Establishment	Total
ST	2346.6	198.1	2544.7
SC	7186.3	542.9	7729.2
OBC	26465.9	4411.8	30877.7
Others	15802.8	4659.5	20462.3
NK	1557.7	220.3	1778.0
Total	53359.3	10032.7	63392.0

Source: 73rd round NSS data on Unorganised unicorporated enterprises (excluding construction), 2015

Note: OAE: own account enterprise

Annexure 16: Proprietary enterprises, 2013-14, India, (in thousand)

	SC	ST	OBC	Others	Total
OAE*	4,949	2,375	17,106	15,509	39,939
NDE	970	418	4,002	6,149	11,539
DE	54	20	220	519	813
Total	5,973	2,813	21,329	22,176	52,291

Source: 6th Economic Census, 2012-13;

Note: The economic census covers all economic activities (agricultural and non-agricultural), except those involved in crop production and plantation, public administration defence and compulsory social security, related to production and/or distribution of goods and/or services other than for the sole purpose of own consumption.

* own account enterprise;



Annexure 17: Proprietary enterprises, 2013-14, India, (row %)

	SC	ST	OBC	Others	Total
OAE	12.4	5.9	42.8	38.8	100
NDE	8.4	3.6	34.7	53.3	100
DE	6.6	2.5	27.1	63.9	100
Total	11.4	5.4	40.8	42.4	100

Source: 6th Economic Census, 2012-13

Note: OAE own account enterprise;

Annexure 18: Proprietary enterprises, 2013-14, India, (col %)

	SC	ST	OBC	Others	Total
OAE	82.9	84.4	80.2	69.9	76.4
NDE	16.2	14.8	18.8	27.7	22.1
DE	0.9	0.7	1.0	2.3	1.6
Total	100	100	100	100	100

Source: 6th Economic Census, 2012-13

Note: OAE own account enterprise;

Land Ownership

Annexure 19: Share of land Owned across Holding Categories in India (In percent)- 2013

Land Holding Size	ST	SC	OBC	Others	Total
Landless (0.0 to 0.002 Ha)	20.76	29.58	37.34	12.33	100.00
Near-Landless (0.002 to 0.005 Ha)	7.82	28.47	43.95	19.76	100.00
Semi-Marginal (0.005 to 0.5 Ha)	11.85	18.46	46.39	23.29	100.00
Marginal (0.5 to 1 Ha)	12.08	17.97	46.51	23.44	100.00
Small (1 to 2 Ha)	17.23	9.51	46.54	26.71	100.00
Semi-medium (2 to 4 Ha)	13.28	7.36	46.51	32.85	100.00
Medium (4 to 10 Ha)	7.96	4.24	45.83	41.97	100.00
Large (10 Ha and above)	1.07	2.40	44.32	52.21	100.00
Total	13.06	9.23	45.68	32.03	100.00

Source: Land and Livestock survey, 2013

Annexure 20: Average Household Land Ownership across Holding Categories in India (Hectare)- 2013

Land Holding Size	ST	SC	OBC	Others	Total
Landless (< 0.005 acre)	0.001	0.001	0.000	0.000	0.000
Near-Landless (0.005 to 0.012 acre)	0.011	0.011	0.012	0.013	0.012
Semi-Marginal (0.012 to 1.236 acre)	0.188	0.107	0.143	0.150	0.140
Marginal (1.236 to 2.471 acre)	0.280	0.215	0.239	0.236	0.238
Small (2.471 to 4.942 acre)	1.366	1.330	1.384	1.402	1.380
Semi-medium (4.942 to 9.884 acre)	2.525	2.608	2.616	2.580	2.591
Medium (9.884 to 24.7 acre)	5.511	4.945	5.713	6.003	5.775
Large (20.7 Ha and above)	11.816	12.738	14.977	14.172	14.446
Total	0.650	0.272	0.603	0.816	0.592

Source: Land and Livestock Survey, 2013

Annexures

Wealth Ownership-2013

Annexure 21: Wealth ownership and household share across Socio-religious Groups in India (In percent) — 2013

Socio-religious Groups	Wealth Ownership			Households Share		
	Rural	Urban	Total	Rural	Urban	Total
ST	5.9	1.9	3.7	12.0	3.6	9.1
SC (HBS)	10.1	5.0	7.3	20.2	13.7	17.9
HOBC	39.2	24.1	30.8	37.9	31.9	35.8
HHC	26.4	52.6	40.9	16.5	32.6	22.2
Muslim	9.0	7.2	8.0	11.3	13.6	12.1
Rest	9.5	9.2	9.3	2.1	4.5	2.9
Total	100.0	100.0	100.0	100.0	100.0	100.0

Source: All India Debt and Investment Survey (AIDIS), 2013

Annexure 22: Per household asset owned across social groups in India at current prices (In Rs. 000')- 2013

	Rural	Urban	Total
ST	513	1227	613
SC(HBS)	517	871	612
HOBC	1074	1783	1296
HHC	1657	3819	2773
Muslim	822	1263	995
Rest	4668	4826	4753
Total	1037	2369	1504

Source: All India Debt and Investment Survey (AIDIS), 2013

Annexure 23: Share of Wealth across Socio-religious Groups by Type of Assets in India (in percent) — 2013

Socio-religious Groups	Land	Building	Finance	Total
ST	4.2	2.7	3.9	3.7
SC(HBS)	7.1	7.0	8.6	7.3
HOBC	34.7	23.4	26.3	30.8
HHC	35.3	51.4	46.3	40.9
Muslim	7.7	8.5	6.0	8.0
Rest	11.0	6.9	8.9	9.3
Total	100.0	100.0	100.0	100.0

Source: All India Debt and Investment Survey (AIDIS), 2013

Amenities

Annexure 24: Access to latrine, 2012

	Row (%)				Col (%)			
	Latrine exclusive	no latrine	Non- exclusive	Total	Latrine exclusive	no latrine	Non-exclusive	Total
ST	18.0	74.7	7.4	100	6.5	14.5	9.7	11.5
SC	20.8	70.9	8.3	100	13.6	24.8	19.8	20.8
HOBC	27.9	65.7	6.4	100	32.9	41.7	27.8	37.7
HHC	52.2	36.8	11.0	100	27.6	10.4	21.2	16.9
Rest	47.0	38.8	14.2	100	19.5	8.7	21.5	13.2
Total	31.9	59.4	8.7	100	100	100	100	100

Source: 69th round NSS data

Age Group	Percentage
18-24	15%
25-34	20%
35-44	25%
45-54	20%
55-64	15%
65-74	10%
75-84	5%
85+	5%

Bathroom	Row (%)			Col (%)		
	Yes	No	Total	Yes	No	Total
ST	29.6	70.4	100	5.1	13.3	9.0
SC	35.8	64.2	100	12.8	25.1	18.7
HOBC	50.0	50.0	100	34.5	37.6	36.0
HHC	73.5	26.5	100	30.8	12.1	21.9
Rest	60.5	39.5	100	16.8	12.0	14.5
Total	52.2	47.8	100	100	100	100

Annexure 26: Access to drainage, 2012

Source: NSSO 69th rounds, 2012-13

Social Groups	Slum	Non-Slum	Total
ST	13.5	86.5	100
SC	13.2	86.8	100
HOBC	6.1	93.9	100
HHC	4.6	95.4	100
Muslims	6.9	93.1	100
Total	7.3	92.7	100

Annexure 28 Social group wise ownership of housing by quality: aggregate, 2018 (in percent)

Source: NSSO, 76th round, 2018

Annexures

Annexure 29: Health Status, India based on NFHS-4: 2015-16

Childhood Mortality: Per 1000

Childhood Mortality has been calculated on children born in last five years to women of 15-49 years.

Neonatal Mortality Rate (NNMR): Death within first 28 days of life

Infant Mortality Rate (IMR): Death within first year of life

Under Five Mortality Rate (U5MR): Death within first four year (Under five years) of life

Nutrition: Children whose Z-score is below minus two standard deviations (-2 SD) from the median of the reference population are considered chronically undernourished. Children who are below minus three standard deviations (-3 SD) are considered severely undernourished. Above -2SD is considered as healthy children. All the calculation is done for children of under five years (Age up to 59 months). The calculation of Z-score is based on **WHO Child Growth standard** (WHO, 2006) latest in this regard.

Stunting: Height for Age

Wasting: Weight for Height

Underweight: Weight for Age

Anaemia (Haemoglobin Level): for Children of 6-59 months aged. For Women of age 15-49 years

Any Anaemia: <11 gram/decilitre

Mild Anaemia: 10.0-10.9 gram/decilitre

Moderate Anaemia: 7.0-9.9 gram/decilitre

Severe Anaemia: <7.0 gram/decilitre

No Anaemia: >11.0 gram/decilitre or higher

Health Status in India by Social Groups

Annexure 30: Childhood mortality rate by social group in India: 2015-16 (per 1000)

All India	SC	ST	OBC	Others	India
Neo Natal Morality Rate (NMR)	33	31	30	24	29
Infant Mortality Rate (IMR)	45	44	42	33	41
Under Five Mortality Rate (U5MR)	56	57	51	39	52

Source: National Family Health Survey (NFHS-4): 2015-16

Annexure 31: Stunted children under five years by social group in India: 2015-16 (in %)

	Moderate	Severe	Stunted
Schedule Caste	23.7	19.0	42.7
Schedule Tribe	23.8	20.1	43.9
OBC	22.1	16.6	38.7
Others	18.9	11.7	30.6
Total	22.0	16.5	38.5

Source: National Family Health Survey (NFHS-4): 2015-16

Annexure 32: Wasting children under five years in India: 2015-16 (in %)

	Moderate	Severe	Wasting
Schedule Caste	13.7	7.5	21.3
Schedule Tribe	17.1	9.9	27.0
OBC	13.3	7.3	20.6
Others	12.7	6.5	19.2
Total	13.7	7.5	21.1

Source: National Family Health Survey (NFHS-4): 2015-16



Annexure 33: Underweight children under five years in India: 2015-16 (in %)

	Moderate	Severe	Underweight
Schedule Caste	26.5	12.7	39.2
Schedule Tribe	28.9	16.1	45.0
OBC	24.7	10.9	35.6
Others	20.8	7.8	28.6
Total	24.8	11.2	36.0

Source: National Family Health Survey (NFHS-4): 2015-16

Annexure 34: Anaemia among children under five years in India: 2015-16

	Severe	Moderate	Mild	Any Anaemia	No anaemia
Schedule caste	1.7	30.7	28.4	60.8	39.2
Schedule tribe	1.5	33.4	28.9	63.8	36.2
OBC	1.6	29.4	27.6	58.7	41.3
Others	1.5	26.0	27.2	54.7	45.3
Total	1.6	29.5	27.8	58.9	41.1

Source: National Family Health Survey (NFHS-4): 2015-16

Annexure 35: Anaemia among 15-49 year-old women by social groups in India: 2015-16

	Severe	Moderate	Mild	Any Anaemia	Not anaemic
Schedule Caste	1.2	13.9	40.8	55.9	44.1
Schedule Tribe	1.3	14.9	43.7	59.9	40.1
OBC	1.1	12.2	38.9	52.2	47.8
Others	0.8	10.6	38.4	49.7	50.3
Total	1.1	12.5	39.7	53.2	46.8

Source: National Family Health Survey (NFHS-4): 2015-16

Annexure 36: Body mass Index of 15-49 year-old women in India: 2015/16 (%)

	Underweight	Normal	Overweight	Total
Schedule Caste	24.8	58.2	17.0	100
Schedule Tribe	31.0	59.2	9.8	100
Other Backward Classes	22.5	57.0	20.5	100
Others	17.4	55.5	27.0	100
Total	22.6	57.1	20.3	100

Source: National Family Health Survey (NFHS-4): 2015-16

Annexure 37: Average age at death in India, 2018 (In years)

Social groups	Age at death
Schedule Caste	55
Schedule Tribe	48
Other Backward Classes	57
Others	60
All	57

Source: NSS 75th round, 2018

Annexures

Tables on Pattern of Occupation: Ownership of Capital Assets

Annexure 38: Household by occupational background, Rural, India, 2019-20 (row %)

Rural household	SEA	SENA	SE Total	RS	CLA	CLNA	CL Total	other	Total
ST	44.1	8.1	52.2	11.6	15.3	12.4	27.7	8.5	100
SC	25.5	13.9	39.5	12.7	19.2	20.0	39.3	8.6	100
HOBC	44.0	15.9	59.9	11.3	9.6	10.9	20.5	8.3	100
HHC	43.7	15.9	59.6	17.3	6.8	5.5	12.3	10.8	100
Muslim	26.5	24.0	50.5	12.5	10.0	16.7	26.7	10.3	100
Rest	34.3	20.9	55.2	17.5	5.9	9.3	15.2	12.1	100
Total	37.8	15.5	53.3	12.9	12.0	12.9	24.8	9.1	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Note: SEA: self-employed agriculture; SENA: self-employed non-agriculture; RS: regular salaried, CL: Casual Labour; CLNA: Casual Labour non-agriculture

Annexure 39: Households by occupational background, rural, India, 2019-20 (col %)

Rural	SEA	SENA	SE Tot	RS	CLA	CLNA	CL Tot	Others	Total
ST	13.3	5.9	11.1	10.2	14.5	11.0	12.7	10.7	11.4
SC	15.5	20.6	17.0	22.6	36.9	35.7	36.3	21.7	22.9
HOBC	43.9	38.7	42.4	33.2	30.2	32.1	31.2	34.4	37.7
HHC	18.6	16.6	18.0	21.7	9.1	6.9	8.0	19.2	16.1
Muslim	7.0	15.5	9.5	9.7	8.4	12.9	10.7	11.4	10.0
Rest	1.8	2.7	2.0	2.7	1.0	1.4	1.2	2.6	2.0
Total	100	100	100	100	100	100	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Note: SEA: self-employed agriculture; SENA: self-employed non-agriculture; RS: regular salaried, CL: Casual Labour; CLNA: Casual Labour non-agriculture

Annexure 40: Households by occupational background, urban, India, 2019-20 (col %)

	SE	RS	CL	Others	Total
ST	2.4	3.5	5.6	4.5	3.6
SC	10.4	15.1	25.3	10.2	14.1
HOBC	34.1	31.7	35.6	33.8	33.2
HHC	33.4	36.4	14.0	33.7	32.5
Muslim	15.8	9.8	17.3	13.3	13.0
Rest	3.9	3.6	2.3	4.6	3.7
Total	100	100	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Note: SE: self-employed; RS: regular salaried, CL: casual labour

Annexure 41: Households by occupational background, urban, India, 2019-20 (row %)

	SE	RS	CL	Others	Total
ST	21.0	42.7	17.9	18.4	100
SC	22.7	46.2	20.5	10.7	100
HOBC	31.6	41.1	12.3	15.0	100
HHC	31.6	48.3	4.9	15.2	100
Muslim	37.3	32.4	15.2	15.0	100
Rest	32.6	42.0	7.2	18.2	100
Total	30.8	43.1	11.5	14.7	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Note: SE: self-employed; RS: regular salaried, CL: casual labour



Annexure 42: Households by occupational background, rural+ urban, India, 2019-20 (row %)

	SE	RS	CL	Others	Total
ST	48.0	15.8	26.4	9.9	100
SC	35.6	20.5	34.9	9.1	100
HOBC	51.3	20.3	18.0	10.3	100
HHC	45.7	32.7	8.6	13.0	100
Muslim	45.4	20.3	22.2	12.2	100
Rest	44.4	29.3	11.4	15.0	100
Total	45.8	22.9	20.4	10.9	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Note: SE: self-employed; RS: regular salaried, CL: casual labour

Annexure 43: Households by occupational background, rural+ urban, India, 2019-20 (col %)

	SE	RS	CL	Others	Total
ST	9.2	6.1	11.4	7.9	8.8
SC	15.5	17.9	34.2	16.6	20.0
HOBC	40.5	32.2	32.0	34.1	36.2
HHC	21.4	30.8	9.1	25.6	21.5
Muslim	10.9	9.7	11.9	12.2	11.0
Rest	2.5	3.3	1.4	3.5	2.5
Total	100	100	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Note: SE: self-employed; RS: regular salaried, CL: casual labour

Annexure 44: Distribution of workers by type of employment, 15 & above, India, 2019-2020, col (%)

	SE	RS	CL	Total
ST	11.2	6.1	13.1	10.5
SC	15.4	18.3	34.1	20.5
HOBC	40.8	32.6	32.6	37.0
HHC	20.3	29.9	8.3	19.7
Muslim	10.0	9.4	10.5	10.0
Rest	2.4	3.8	1.4	2.5
Total	100	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Note: SE: self-employed; RS: regular salaried, CL: casual labour

Annexure 45: Distribution of workers by type of employment, 15 & above, India, 2019-2020, row (%)

	SE	RS	CL	Total
ST	57.1	13.4	29.5	100
SC	40.2	20.5	39.4	100
HOBC	59.0	20.2	20.8	100
HHC	55.1	34.9	10.0	100
Muslim	53.6	21.5	24.9	100
Rest	51.9	34.9	13.2	100
Total	53.5	22.9	23.6	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Note: SE: self-employed; RS: regular salaried, CL: casual labour



Annexures

Annexure 46: Workers in principal activity by occupation type, 15 years & above, 2019-20 (col %)

	ST	SC	HOBC	HHC	Muslim	Rest	Total
Legislator	3.3	5.5	8.7	13.4	11.5	16.2	8.9
Professional	1.8	2.7	3.3	9.1	3.4	9.6	4.3
Technicians	2.3	3.0	3.5	6.4	3.0	7.3	3.9
Clerk	1.0	1.5	1.8	3.6	1.1	3.0	2.0
Service workers	4.8	7.1	8.7	11.5	12.2	10.4	8.9
Skilled agricultural	47.4	24.4	37.6	28.2	19.0	22.5	31.8
Craft and related	7.1	13.5	11.3	8.6	19.0	11.7	11.6
Plant and Machine ope	3.7	5.1	5.4	6.4	7.6	8.2	5.7
Elementary workers	28.8	37.3	19.7	12.7	23.2	11.2	23.0
Total	100	100	100	100	100	100	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Annexure 47: Workers in principal activity by occupation type, 15 years & above, 2019-20 (Row %)

	ST	SC	HOBC	HHC	Muslim	Rest	Total
Legislator	3.8	12.7	36.1	30.0	13.0	4.4	100
Professional	4.3	12.7	28.0	41.8	7.8	5.4	100
Technicians	6.1	15.5	33.5	32.6	7.8	4.6	100
Clerk	5.2	15.7	33.7	36.0	5.7	3.7	100
Service workers	5.6	16.2	36.0	25.7	13.7	2.8	100
Skilled agricultural	15.5	15.6	43.6	17.7	6.0	1.7	100
Craft and related	6.3	23.9	36.0	14.9	16.4	2.5	100
Plant and Machine operator	6.8	18.4	35.2	22.6	13.5	3.5	100
Elementary workers	13.0	33.1	31.6	11.0	10.1	1.2	100
Total	10.4	20.4	36.9	19.9	10.0	2.4	100

Source: Periodic Labour Force Survey (PLFS), 2019-20

Wealth Ownership-2013

Annexure 48: Wealth ownership and household share across socio-religious groups in India (in percent) — 2013

Groups	Wealth Ownership	Households share
ST	3.7	9.1
SC(HBS)	7.3	17.9
HOBC	30.8	35.8
HHC	40.9	22.2
Muslim	8.0	12.1
Rest	9.3	2.9
Total	100.0	100.0

Source: All India Debt and Investment Survey (AIDIS), 2013



Annexure 49: Per household wealth owned across social groups in India at current prices (In Rs. 000’)- 2013

	Rural	Urban	Total
ST	513	1227	613
SC(HBS)	517	871	612
HOBC	1074	1783	1296
HHC	1657	3819	2773
Muslim	822	1263	995
Rest	4668	4826	4753
Total	1037	2369	1504

Source: All India Debt and Investment Survey (AIDIS), 2013

Annexure 50: Share of wealth across socio-religious groups by type of assets (in %) — 2013

Socio-religious Groups	Land	Building	Finance	Total
ST	4.2	2.7	3.9	3.7
SC(HBS)	7.1	7.0	8.6	7.3
HOBC	34.7	23.4	26.3	30.8
HHC	35.3	51.4	46.3	40.9
Muslim	7.7	8.5	6.0	8.0
Rest	11.0	6.9	8.9	9.3
Total	100.0	100.0	100.0	100.0

Source: All India Debt and Investment Survey (AIDIS), 2013

Land Ownership

Annexure 51: Land Ownership across social groups in India- 2013

Social group	Share of Households (%)	Share of Land Owned (%)	Average Land Ownership (Ha)
ST	11.9	13.1	0.650
SC	20.1	9.2	0.272
OBC	44.8	45.7	0.603
Others	23.2	32.0	0.816
Total	100.0	100.0	0.592

Source: NSS 70th round on land and livestock

Annexure 52: Share of households by land size categories in India- 2013

Land Holding Size	ST	SC	OBC	Others	Total
Landless (0.0 to 0.002 Ha)	9.41	7.14	6.98	7.40	7.40
Near-Landless (0.002 to 0.005 Ha)	23.21	47.54	31.55	24.37	32.10
Semi-Marginal (0.005 to 0.5 Ha)	38.97	63.09	53.21	49.15	52.56
Marginal (0.5 to 1 Ha)	25.40	29.17	30.50	29.97	29.50
Small (1 to 2 Ha)	14.67	4.93	10.37	11.34	10.02
Semi-medium (2 to 4 Ha)	5.83	1.85	5.22	7.22	5.08
Medium (4 to 10 Ha)	1.38	0.48	2.03	3.41	1.96
Large (10 Ha and above)	0.03	0.03	0.23	0.55	0.24
Total	100.00	100.00	100.00	100.00	100.00

Source: NSS 70th round on land and livestock

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