



## **INDEPENDENT STUDY**

### **THE CASTE SYSTEM INHERITED ANCIENT SOCIETIES SHAPING SOCIAL STRUCTURES AND ITS IMPACTS ON HUMAN RIGHTS OF PEOPLE AND COMMUNITY**

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## ABSTRACT

The objectives of this research were: 1) to study concepts and theories of caste system and human rights; and 2) to analyze caste system existence in contemporary world and the possibility to dismantle caste system. This research applied qualitative research by using documentary research methods. The secondary data were collected from various documents, including academic books, research reports and papers, review articles and newspapers, official reports of governments and international organizations. The data were used to analyze the conceptual contradiction between the Indian caste system and the doctrine of human rights, including their philosophical foundations, socio-legal impacts, and their lived experiences of caste-based discrimination. The study further explored the intersectionality of caste with gender, economic class, and political exclusion to evaluate the structural challenges in achieving substantive equality. The data analysis was conducted by using content analysis, logical analysis, and comparative analysis, in order to make the research's conclusion, discussion and recommendations.

This research found that the Indian caste system had impacts on individual rights and universal human rights as a whole. The research demonstrates how caste system, which is based on religious, social, and economic hierarchies, profoundly contradicts the equality, dignity, and non-discrimination values inherent in international human rights law. Moreover, the rigid caste system violates fundamental individual rights of Dalit women and also discriminates gender equality and social justice of untouchable persons. The research shows that the caste-based exclusion continues to pose a serious threat to social fairness and democratic principles through compared case studies and legal frameworks.

**Keywords:** caste system, India, human rights, equitable society, social justice

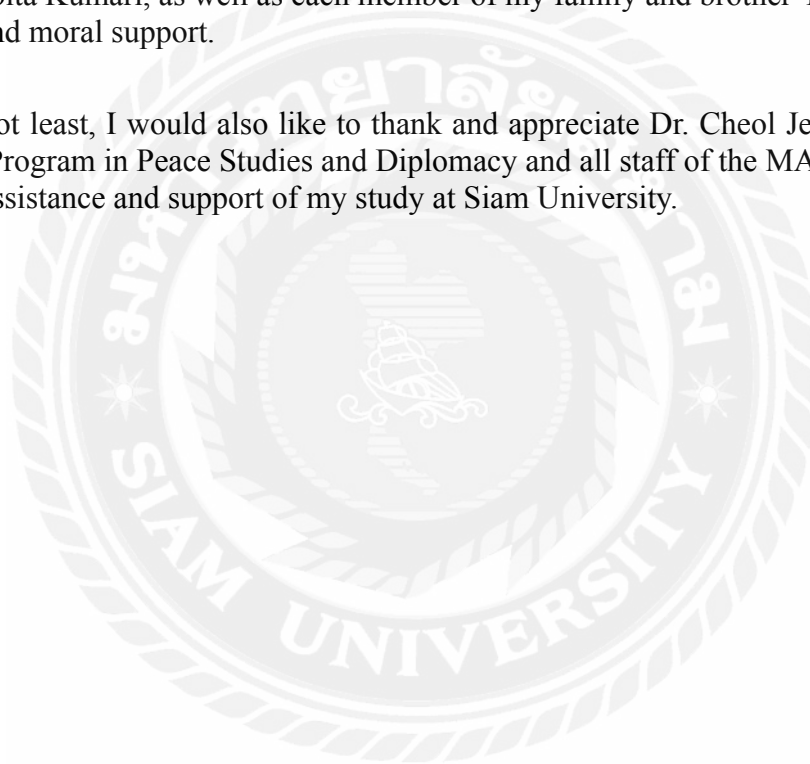
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Harsh Vivek Raj



## DEDICATION

This independent study is dedicated to Lord Buddha, Dr. B.R. Ambedkar, my mother Babita Kumari who taught me to live a life of dignity and die serving people. This is dedicated to my Father Dir. Vinod Kumar, all my sisters especially Anchal Anand, Uncle Mr. Manoj Kumar.

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Harsh Vivek Raj

**DECLARATION**

I, Harsh Vivek Raj with student ID 6517800006, do hereby declare that this research is entirely my own work and that it is original unless specific acknowledgements state otherwise. I have done this independent study by myself, under the close supervision of an advisor.

Signature



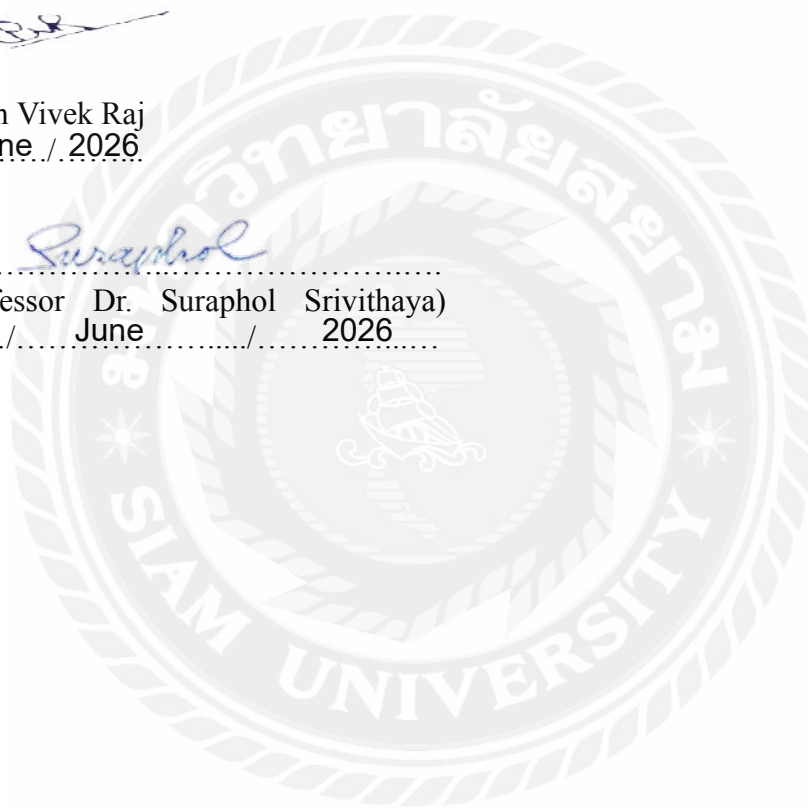
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## TABLE OF CONTENTS

v

|                              |      |
|------------------------------|------|
| Abstract                     | i    |
| Acknowledgement              | ii   |
| Dedication                   | iii  |
| Declaration                  | iv   |
| Table of Contents            | v    |
| List of Tables               | vii  |
| List of Diagrams and Figures | viii |

### **Chapter 1 Introduction**

1

|                                             |   |
|---------------------------------------------|---|
| 1.1 Background and Significance of Research | 1 |
| 1.2 Research Questions                      | 2 |
| 1.3 Research Objectives                     | 2 |
| 1.4 Research Scope                          | 2 |
| 1.5 Research Methodology                    | 2 |
| 1.6 Conceptual Framework                    | 3 |
| 1.7 Definition of Terms                     | 4 |
| 1.8 Limitation of Research                  | 5 |
| 1.9 Expected Benefits of Research           | 6 |

### **Chapter 2 Literature Review**

7

|                                                             |    |
|-------------------------------------------------------------|----|
| 2.1 Concept and Theory of Caste                             | 7  |
| 2.2 Concept and Theory of Human Rights                      | 9  |
| 2.3 Theory of Human Rights in India                         | 11 |
| 2.4 Overview and Review of Scholarly Works and Case Studies | 13 |

### **Chapter 3 Key Principles and Legal Instruments of Human Rights and Caste System**

15

|                                                                   |    |
|-------------------------------------------------------------------|----|
| 3.1 Key Principles of Caste System                                | 15 |
| 3.2 Key Principles of Human Rights                                | 16 |
| 3.3 Comparison of the Principles of Human Rights and Caste System | 17 |
| 3.4 The Conflict between Caste System and Human Rights            | 18 |
| 3.5 The Legal View of Caste System in India                       | 19 |
| 3.6 The Legal Instruments of Caste System and Human Rights        | 29 |

|                                                                                                                               | Page      |
|-------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>Chapter 4 The Impacts of Existing Caste System on Human Rights Protection and the Possibility to Dismantle It in India</b> | <b>32</b> |
| 4.1 The Impacts of Existing Caste System on Individual Human Rights                                                           | 32        |
| 4.2 The Caste System Impacts on Dalit Women in Indian Society                                                                 | 33        |
| 4.3 The Rigid Caste System in Brahman Verses Discriminates against Rights of Untouchable Castes                               | 34        |
| 4.4 The Combating Social Movements on Eradication of Caste System in Indian Society                                           | 38        |
| 4.5 The Analysis of Possibility to Dismantle the Untouchable Caste Discrimination in India                                    | 39        |
| 4.6 The Movements for Caste Abolition and Human Rights Advocacy in India                                                      | 41        |
| 4.7 Limitations of the Caste Abolition and Human Rights Advocacy                                                              | 44        |
| <b>Chapter 5 Conclusion, Discussion, and Recommendations</b>                                                                  | <b>46</b> |
| 5.1 Conclusion and Discussion                                                                                                 | 46        |
| 5.2 Recommendations                                                                                                           | 48        |
| <b>References</b>                                                                                                             | <b>52</b> |
| <b>Student's Biography</b>                                                                                                    | <b>60</b> |



## List of Tables

| Table                                                                                  | Page |
|----------------------------------------------------------------------------------------|------|
| Table 2.1: Legal Frameworks and Social Realities of Caste Discrimination in South Asia | 14   |
| Table 4.1: Verses of Brahmanical Text Contradicts Indian Civilization (Buddhist)       | 37   |
| Table 5.1: Recommendation Plan for India (Phase wise)                                  | 50   |



**List of Diagram and Figures**

|                                                                 | <b>Page</b> |
|-----------------------------------------------------------------|-------------|
| Diagram1: Conceptual Framework of Research                      | 4           |
| Figure 4.1: Classification of the Varna System in Vedic Society | 35          |



# CHAPTER 1

## Introduction

### 1.1 Background and Significance of Research

The world is flourishing with rapid globalization and developed AI tools. People sharing and understanding different cultures will create an alternative responsible world hoping for peace all around the world. However, human emotion of happiness and problems in common also get global challenges, e.g. issues of feminism, gender equality, social discrimination and cast system. The human rights, freedom and liberty were getting celebrated, when the new world order was shaping with the end of colonialism and the collapse of communism after the end of cold war. Within the part of South Asia, the caste system was a major issue of human rights in India. Theoretically, the caste system is different from the class system as 'caste' is believed to be divine origin on the basis of birth and status is permanent. It is a 'closed group' with no social mobility and inherits hierarchically; while 'class' is purely open system depends on economic factors and social circumstances. Lower caste i.e. Shudras (Backward caste) and Untouchables (Dalit/schedule caste and Adivasi/schedule tribe) were socially and economically excluded from rituals, education, temples, wealth accumulation, and public services etc. at every section of society i.e. hidden apartheid they had to suffer (Backelin-Harrison, 2018).

The history can be traced by various factors i.e. archeological evidence, literary sources, and languages, existed and foreign travelogues. The fact which covers the political or king rise successfully mostly land on the foundation of social and cultural revolution led by their group of intellectual and philosophers. For example, after the Buddha's revolution in India society, the Buddhist kings like King Asoka the Great, after revolution of Adi-Shankracharya Shaivites kings rise (later Hindu kings), similarly poets, saints and scientific intellectual philosophers like Ravidas, Guru Nanakdev, and Kabir etc. Sikh kingdom rise and after that history it connects with Chokamela and Namdev philosophy that led to establish Hindvi King Sivaji, Joytirao Phule and Dr. B.R.Ambedkar to BAMCEF and Bahujan Samaj Party and Party of Social Justice rise, e.g. Ayyankali, Gadge Maharaj, Adi-Dravida Mahajana Sabha, Kumaran Asan and Periyar philosophies led to DMK rise and it is major power in South India but its philosophies in modern times impact all Indians and rationales. So before any successful revolution in power capturing foundation is lead on social and cultural revolution otherwise power shrinks and latter vanishes without proper ideology.

The Indian caste system, which is strongly founded in religious traditions and social structures, is in direct opposition to the global ideals of human rights that assert dignity, equality, and freedom for every individual. The caste system, which originated in Brahmanical literature and is organized around concepts of purity, pollution, and occupational heredity, institutionalizes discrimination and social exclusion, disproportionately harming Dalits and marginalized communities. Human rights frameworks, which are based on natural law and current legal theory, emphasizes the inalienability, indivisibility, and interdependence of rights, and serve as the foundation for global justice and democratic governance. This independent study analyses the fundamental conflict between these two theories by examining the philosophical, legal, and socio-political components of caste and human rights.

The significance of this study stems from its multidisciplinary methodology, which combines critical legal studies, intersectionality, and comparative international frameworks to

investigate how caste-based discrimination continues despite constitutional safeguards. This study aims to add to the discourse on social justice by investigating both theoretical perspectives and lived realities. It will also influence policy reforms that align Indian social structures with worldwide human rights norms.

This research intended to analyze the philosophical and legal foundations of two doctrines, their historical evolution, and their socio-political implications in contemporary India. Through qualitative documentary research, this study investigated how caste practices violate human rights norms and evaluates existing constitutional and legal measures in India. It further sought to provide policy-oriented recommendations to reconcile these two conflicting doctrines and promote inclusive social transformation to answer the following research questions, in order to conclude the research results and provide recommendations.

## **1.2 Research Questions**

This independent study analyzed caste system and human rights contradictions in order to answer the following research questions:

1.2.1 How does the caste system traditionally originate from the clash of civilization as a threat to human rights and still exists?

1.2.2 How does the caste system have various impacts on human rights protection of India people and community?

## **1.3 Research Objectives**

This independent study had the following research objectives:

1.3.1 To analyze concepts and theories of the caste system and human rights in the comparative analysis;

1.3.2 To investigate the existed caste system that has various impacts on human rights protection of India people and community.

## **1.4 Research Scope**

This research was scoped to study the historical origin and contemporary existence of caste system in India, the way caste system violates human rights and perpetuates discrimination in society. Caste system dynamically affects social life i.e. social exclusion and discrimination, political scenario i.e. political participation, discriminatory practice in governance, legal and policy framework and economically i.e. wages disparities, economic inequality, occupational segregation, and entrepreneurship and business opportunities.

## **1.5 Research Methodology**

This research applied a qualitative approach by using a documentary research method. The secondary data were collected from various documents, including academic books, research reports and papers, review articles and newspapers, official reports of governments and international organizations. The collected data were used to analyze the existed caste system that

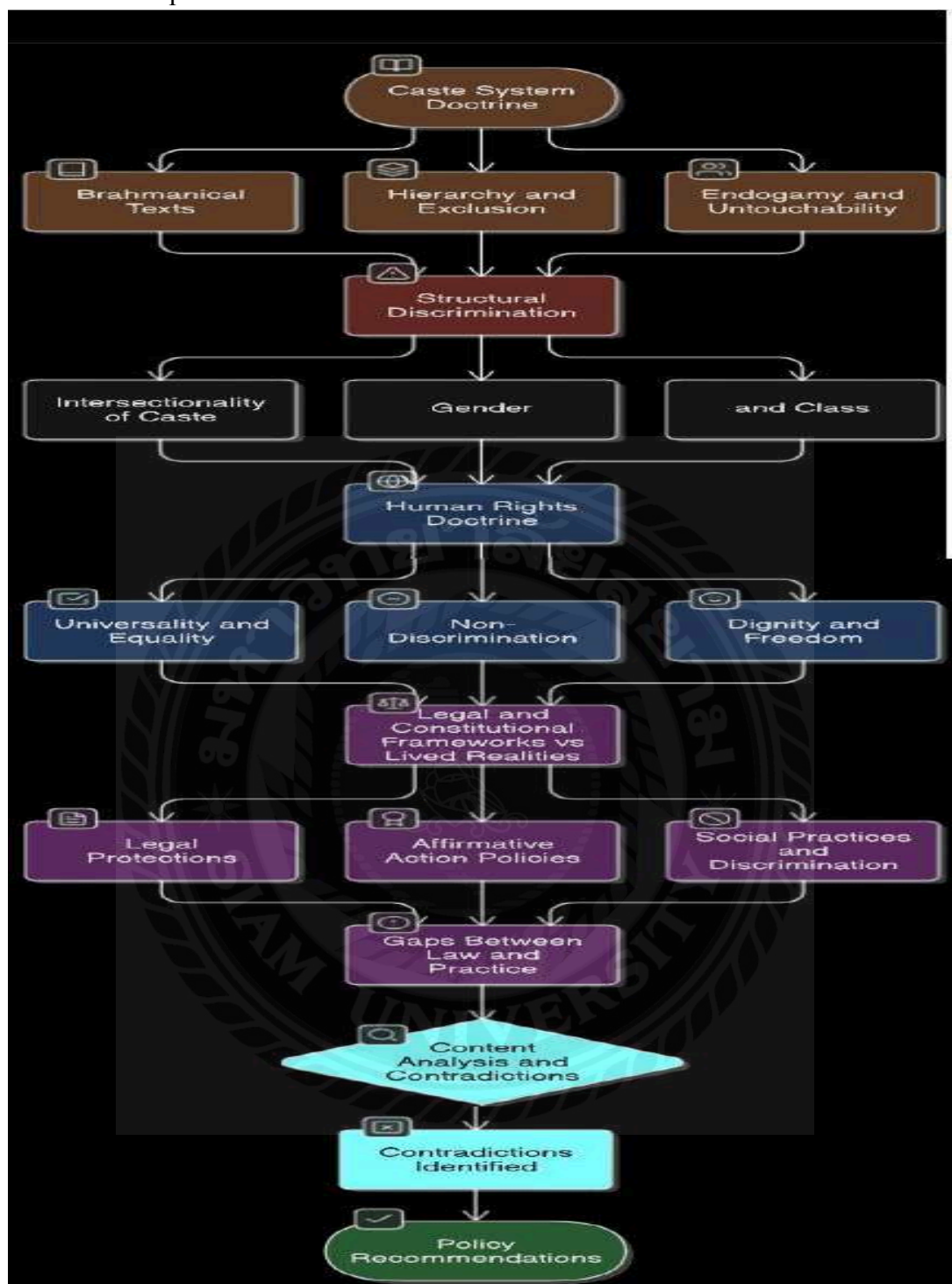
has various impacts on human rights protection of India people and community. The researcher analyzed all collected data by using content analysis, logical analysis, and comparative analysis, in order to achieve the research's conclusion, discussion and recommendations.

## **1.6 Conceptual Framework**

The caste system, embedded in socio-religious tradition and legitimized by Brahmanical texts, promotes graded social hierarchy and exclusion. In contrast, human rights emphasize universality, equality, and individual dignity. The study used intersectionality (caste, gender, class) to analyze how caste-based exclusion affects access to rights and justice. Through documentary analysis and content interpretation, the research identified systemic inconsistencies between the Indian legal framework, constitutional values, and persistent caste-based discrimination as shown in Diagram 1.



**Diagram 1.1: Conceptual Framework of Research**



## 1.7 Definition of Terms

**Caste** means a social hierarchy structure that is prevalent in India and certain other South Asian countries. It classifies people based on their birth, family history, and inherited factors. Caste is frequently linked to work and social duties. Inheritance: Caste is often carried down through generations and inherited from one's parents. In traditional caste-based societies, changing

one's caste is difficult. Caste systems are highly rigid and hierarchical, with little social mobility between castes. Geographical Concentration: Caste-based communities in India are frequently concentrated in distinct regions. Discrimination: Caste has historically been linked to inequality and social exclusion, notably against outcast people.

**Class** means a social grouping based on economic variables such as income, education, occupation, and wealth. Unlike caste, class is not firmly hereditary and allows for mobility, which means that people can change classes over time owing to employment or education. Class systems exist all around the world, however they vary by society. Classism, or socioeconomic status discrimination, can limit opportunities and exacerbate inequality, although it is caused by material disparities rather than a set social identity.

**Race** means a socially constructed notion that classifies people based on physical characteristics including skin color, facial shape, and hair. Though typically associated with lineage and geography, race is not physiologically established or inherited in the same way that caste is. Its significance varies according to culture and history. Racial categories are socially changeable, but they have resulted in long-standing inequalities. Racism, or discrimination based on racial identification, limits opportunities and causes social exclusion, and it remains a serious concern worldwide, despite legal prohibitions.

**Indigenous** means a region's original people who have distinct cultural, spiritual, and social traditions linked to ancestral lands. Their identity is founded on historical continuity, self-identification, and recognition by their peers. The notion varies globally depending on colonization, culture, and legal status; examples include Native Americans, Aboriginal Australians, and India's Adivasis (Dalits). Despite international frameworks such as the UNDRIP, indigenous peoples continue to experience systemic discrimination, land dispossession, and cultural marginalization. Their experiences interact with environmental, political, and human rights issues, emphasizing the importance of inclusive policies that preserve their rights and identities.

**Social hierarchy** means a systematic ranking of persons or groups within a community based on their status, power, or social role. It frequently reflects historical disparities and cultural norms, which influence access to resources, respect, and decision-making power.

**Structural discrimination** means a systemic inequality ingrained in institutions, laws, and societal norms. It leads to unequal treatment and outcomes for particular groups, not just because of individual bias, but also because of long-term policies that promote exclusion and disadvantage.

**Graded inequality** means a layered or ranked system of discrimination in which individuals or groups are classified as superior or inferior. In caste systems, this results in uneven access to rights, dignity, and resources depending on birth status.

## 1.8 Limitation of Research

There are limited comparative analyses while caste and racial or ethnic discrimination share structural similarities; legal and social responses differ significantly. While there is considerable research on caste in South Asia, fewer studies compare caste discrimination. In terms of International Legal Frameworks, the role of the UN Committee on the Elimination of Racial

Discrimination (CERD) in addressing caste under "descent-based discrimination" could be noted. But caste-based discrimination is not explicitly recognized in major human rights treaties, limiting legal redress at the international level. However, in the field of intersectionality, the lack of intersectional studies on Dalit women, LGBTQ+ individuals, and persons with disabilities within caste hierarchies is a significant gap. Existing literature often treats caste as an isolated issue rather than examining its intersection with gender, disability, and economic class.

## **1.9 Expected Benefits of Research**

1.9.1 To offer scholarly understanding of how the Indian caste system violates universal human rights principles, particularly equality, dignity, and non-discrimination.

1.9.2 To assess the efficacy and limitations of India's legislative and constitutional systems in combating systematic caste prejudice.

1.9.3 To advance interdisciplinary debate by investigating compounded forms of human rights breaches through the intersectionality lens (caste, gender, class, disability).

1.9.4 To make policy-relevant suggestions for aligning India's domestic socio-legal procedures with international human rights norms.

1.9.5 To inform future academic and legal study by exposing existing gaps in international human rights treaties and lobbying for explicit recognition of caste-based discrimination as a universal human rights concern.



## CHAPTER 2

### Literature Review

#### 2.1 Concept and Theory of Caste

Caste, as a deeply entrenched social stratification system, continues to shape the lived experiences of millions across the world, particularly in South Asia. In Pali, "jāti" means "birth," not caste, referring to saṃsāra and the arising of mental phenomena. It signifies the cyclical emergence of beings and conditioned existence. The term "caste" is derived from the Portuguese word *casta*, meaning "lineage" or "race" but from an Indian perspective as it was widely practiced here, so it fit more with descent. Because here they are not only simply saying, sequence of ancestors and descendants but they carry materials of caste that is discrimination (untouchability) and social boycott like outcaste. In the Indian system, the context of the caste system is rooted in Varna, popular as Jati. Varna is a broad classification into four groups: Brahmins, Kshatriyas, Vaishyas, and Shudras as well as the fifth one who does not fit in Varna, they are outcaste 'the untouchables', while jati further expands itself to thousands of sub-castes based on occupation, culture and locality in broader sense. The caste system is traditionally endogamous, meaning marriage occurs within the same caste, it is very dynamic but static in fundamental rule. Caste operates through rules of purity and pollution, gender discrimination, patriarchal discrimination, race, color, religion, culture, economically and way more. It's dynamic in sense that it changes adaptability through times it practices nature varies in degree but it's fundamental rule of discriminating and maintaining social structural hierarchy (status quo) remains static. As Ambedkar says, birth or origin of caste builds its foundation through Brahmanical scriptures which promotes endogamy that gives value addition to degree of discrimination which is its core. So, caste carries all material that helps in destroying oneness, unity of society, natural rights to fundamental and human rights, and its impacts affects overall humanity, creating disruption and unbalanced society. Thus, the character of caste builds automatically through practice in society as it works in the structural layer where each caste discriminates with each other but degree varies.

Hierarchy formed in a way to practices that build caste characteristics. Like, hereditary status here a person's caste is determined by birth. So, when it comes to choosing a life partner (bride or groom) marriage is restricted within the caste group (Endogamy) also some sort of family and patriarchal restrictions. As hereditary and descent builds social hierarchy means castes are ranked in a social order, with few considered superior and others inferior. Here comes the role of Brahmanical scriptures that also determines specialization in occupations that is carrying descent materials role, traditionally, thus caste roles often dictated one's profession. From here it becomes more dynamic and degrees vary among its inclusivity. One part that forms an unbalanced and disruptive society is practices of purity and pollution means social interactions, including food and physical contact, were regulated by notions of purity. Now, it put restrictions on freedom in the form of restrictions in social mobility that meant movement between castes was not allowed, not free to choose profession and live life with dignity. Overall, it restricted all the rights, from natural rights to fundamental rights and human rights. Several scholars have proposed theories and it links with other forms of discrimination explaining the origins and functions of caste. Few most propounded theories are follows as; Brahmanical religious theory found in Brahmanical texts like the Veda, Gita, Upanishad, Manusmriti, and epics like Ramayana and Mahabharata, caste is believed to have divine origins. From Purusukta, the Varna System divides society into four groups, with Brahmins at the top performing spiritual duties and Shudras at the bottom performing

manual labor while fifth one the outcast comes much later. So, it raises questions on its staticity and divine origin concepts mentioned in its Brahmanical scriptures. So overall the scriptures are in the question.

In linking caste with the racial theory, scholars like Herbert Risley (British anthropologist) suggested that caste originated due to Aryan invasion, where the fair-skinned Aryans imposed social hierarchies upon the native Dravidians. In the process of building modern republic India, Dr. Ambedkar rejects invasion theory and raises doubt on its authenticity. In invasion theory which posited that lower-caste groups were oppressed by Aryans, to negate any claims of racial inferiority among Dalits, migration theory was widely accepted later. Post-independence, very modern scholars after new findings and modern discovery of scripts, and archeology-based evidence and studying various sources of Buddhism (widely accepted due to detailed and authentic writings, helped in excavation findings) from neighboring India, denied its concept of invasion and explains it was a process of migration instead like today also people migrate for better opportunities and takes citizenship of other countries. Invasion theory has been denied but was historically used to justify colonial narratives by Brahmin scholars as B.G.Tilak explains their ancestors are from Arctic (Arctic home of Aryans).

Caste dynamically from time to time links or inclusively takes inside other forms of discrimination in ease as it becomes its part just like inside the 'caste black hole' nobody knows how many forms and degree of discrimination it carries, most commonly practiced is occupations based which is the most propounded theory also. Today also occupations are seen as sin in society. Scholars like William Jones and Nesfield argued that caste originated as a division of labor. Dr. Ambedkar argued it is division of laborers, despite being labor they also carry caste division. Occupations became hereditary over time, leading to rigid social structures. This enters in new form of functionality, in broader sense structural functionalism i.e. functionalist theory. Scholars like Emile Durkheim and G.S. Ghurye viewed caste as a functional system that maintained social order. It ensured division of labor and social cohesion, though at the cost of equality. Further, In Marxist Theory framework, Karl Marx sees caste as a system of economic exploitation. Castes are seen as forms of class struggle, where the upper castes control resources while the lower castes provide labor. In his 1847 work Poverty of Philosophy, Karl Marx explicitly wrote about caste systems:

"Under the patriarchal system, under the caste system, under the feudal and corporative system, there was division of labor in the whole of society according to fixed rules. Originally born of the conditions of material production, they were raised to the status of laws only much later."(Karl Marx, 1847)

In his last reference to caste was in Capital, Volume 1 (1867), he criticized historians who assumed castes were primary and gave rise to division of labor. He viewed caste as a system of social organization rooted in economic conditions. It ignores social lens which is foundation of caste as a system, as social dimensions are broader and dynamic, while economical perspective is just a subpart. Later in revolutionary history from Buddhism to Ravidas and modern Ambedkarite Critique, viewed caste as a system of social exclusion, suspension of rights leads to oppression. B.R. Ambedkar emphasized its institutionalized discrimination and sought to dismantle it through legal and social reforms. Propounded the classical concept of 'Revolution and Counter Revolution, and crystallized it as battle between 'Buddhism (The Untouchables) and

Brahmanism'. For cultural socio-economic (CSE) transformation Dr. B.R. Ambedkar argues that to achieve this feat, human rights and education must be used as a vital force for individual advancement and social change, aiming to moralize and socialize people. He also advocated for the destruction of religious scriptures that perpetuate social injustice. He believed that the governing classes in India, led by Brahmins, were primarily concerned with their own interests and held the servile classes in contempt. Transformation in social structural status will see the emergence of a new governing class. This will lead to political gain and transformation in the existing village system that perpetuated economic dependence and social subjugation of Dalits. In this process human rights become a vital tool.

## **2.2 Concept and Theory of Human Rights**

"Human rights are inherent, universal, inalienable, and indivisible entitlements that belong to every individual by virtue of their humanity, ensuring dignity, freedom, equality, and justice, irrespective of nationality, gender, ethnicity, or any other status. These rights form the foundation of ethical, legal, and political frameworks that seek to protect individuals against oppression and guarantee their well-being within societies." Jack Donnelly in *Universal Human Rights in Theory and Practice* (2003), Donnelly argues that human rights are universal because they are grounded in the inherent dignity of every human being. He emphasizes that human rights are not granted by states but are inalienable and cannot be taken away arbitrarily. While, Henry Shue on *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (1980), Shue highlighted that human rights are essential for the enjoyment of all other rights, categorizing them as "basic rights" necessary for survival and dignity. He asserts that human rights should not be viewed as hierarchical but rather as interdependent. Another scholar, Pogge (2002) in *World Poverty and Human Rights*, critiques the global order for perpetuating inequality and argues that human rights obligations extend beyond national borders. He supports the universality of human rights but stresses that economic and political structures must align with human dignity. However, Rawls (1999) in *The Law of Peoples* discussed human rights as fundamental norms that apply universally, forming the basis of international justice. He maintains that human rights should be recognized across different political systems, emphasizing their role in securing global peace and cooperation.

The modern concept of human rights is shaped by centuries of philosophical thought, legal evolution, and global activism. The concept's origins trace back to ancient philosophies and religions, but it emerged explicitly during the 18th-C.E. Enlightenment, emphasizing individuals' inalienable rights against governments. The concept of human rights is built on several core principles like universality, inalienability, indivisibility, and interdependence. In terms of universality human rights apply to all individuals equally. Lebanese philosopher and diplomat Charles Malik called the Universal Declaration of Human Rights "an international document of the first order of importance". Eleanor Roosevelt, first chairperson of the Commission on Human Rights (CHR) that helped draft, stated that it "may well become the international Magna Carta of all everywhere." Inalienability means they cannot be taken away, except in specific situations (e.g., legal penalties). Alan Dershowitz argued that the basis of rights need not have cultural or philosophical origins but can be a response to common injustices humanity has seen. O'Byrne described a modified Kantianism, with rights based on fundamental dignity "inherent in human beings, without distinction or exception". Inalienability doesn't mean rights are absolute but that rights holders cannot lose them temporarily or permanently due to bad conduct or voluntarily giving them up. It questions whether all human rights are truly inalienable, using imprisonment as an example where the right to freedom of movement is forfeited. Hannah Arendt argued that rights

are inseparable from statehood and citizenship, suggesting "inalienability has turned out to be unenforceable". She concluded that the only true right was 'the right to have rights' because modern rights had become linked inextricably to the emancipated national state. While, Jacques Rancière critiqued Arendt, suggesting that humans can never be entirely depoliticized and devoid of rights, even when stateless, as they are inherently political beings by the mere fact of birth.

Following Inalienability comes with Indivisibility which focuses on economic, social, cultural, civil, and political and rights and states these rights are interdependent. The first reference to the indivisible nature of human rights can be found in the 1968 Proclamation of Teheran. Indivisibility suggests that major categories of rights, particularly civil and political rights (CPR) and economic, social, and cultural rights (ESCR), are complementary and mutually reinforcing. This means the fulfillment of one right depends on the fulfillment of others. They are best realized when implemented together. Dorothea Anthony notes that inconsistencies in the reasoning of indivisibility could allow CPR to prevail over ESCR, thus perpetuating the Western focus on CPR. The Convention on the Rights of Persons with Disabilities (CRPD) has fostered a new understanding of indivisibility by blurring the distinction between CPR and ESCR, shifting the focus towards the actual enjoyment of human rights. On the other side, interdependence play impactful role, here, interdependence means the realization of one right often depends on others. Bruce Porter argues that the affirmation of interdependence in the Vienna Declaration aimed to reconstruct the holistic architecture of rights embodied in the Universal Declaration of Human Rights (UDHR) by placing economic, social, and cultural (ESC) rights on the same footing as civil and political rights. He views interdependence as a dynamic principle for interpreting and applying human rights, allowing different rights to inform, reinforce, and grow together. Porter suggests that the separation of civil and political rights from ESC rights has been detrimental, leading to systemic human rights violations. (OHCHR) have identified discrimination as a cross-cutting form of human rights violation that reinforces the indivisibility and interdependence of human rights, interdependence rejects selectivity.

There is a theoretical approach to human rights rooted in ancient classical philosophy. Beginning with Natural Rights Theory that is rooted in classical philosophy (e.g., Aristotle) and Enlightenment thought (e.g., Locke, Rousseau), this theory argues that human rights are derived from nature and exist independently of government. The theory has been influential in movements for social justice and human rights. Aristotle distinguished between what was "just by nature" and what was "just by law". He recognized that natural justice isn't always the same as legal justice. Miller argues that Aristotle consistently employs certain terms in ways that correspond to each of the four elements in the Hohfeldian analysis of rights. Burns argues that Aristotle's "principle of equity" maintains that "those who are equal in some relevant respect ought to be treated equally in (relevantly) similar circumstances. John Locke argued that individuals enter into a social contract to protect these rights, and no sovereign has the authority to infringe upon them and as proponent of natural rights, asserted the rights to life, liberty, and property. Jean-Jacques Rousseau also supported this. Locke's philosophy significantly influenced the United States Declaration of Independence. While, Thomas Hobbes discussed natural rights in his moral and political philosophy, conceiving them from the perspective of humans in a "state of nature" and argued that the essential natural right was the use of one's power for self-preservation. Immanuel Kant supported natural rights theories, suggesting that fundamental rights are inherent to being human. Legal positivism asserts that rights exist only through laws enacted by states. Thinkers like Bentham and Austin argued that human rights need legal codification to be meaningful. Social Thesis states, legal positivism asserts that law is a human creation, with its content determined by

social facts like legislation, judicial decisions, and customs. While Separation Thesis states Law and morality are conceptually distinct; a norm can be law even if unjust. Jeremy Bentham, a prominent British legal positivist, distinguished between "expositors" that explain the law without moral judgment and "censors" who critique it based on morality. He believed law should be explained and obeyed rather than debated. Thomas Hobbes theorized that law is based on sovereign power, depending on the sovereign's will regardless of its perceived justice. Hans Kelsen separated law from both morality and empirical facts, introducing the concept of a norm as an "ought" statement distinct from a factual "is" statement. He believed legal norms are coercive, unlike moral norms, and derive validity from a "basic norm" (Grundnorm). H.L.A. Hart was influenced by Kelsen but had differing legal philosophies. Hart explains inclusive positivism allows for the possibility of a legal system incorporating moral principles or values as criteria for legal validity.

In 1989 Kimberlé Crenshaw coined the term "intersectionality" to describe how race, class, gender, and other individual characteristics "intersect" with one another. Crenshaw introduced intersectionality to address experiences of oppression that could not be adequately understood as the result of ordinary patterns of discrimination. She explains intersectionality as a lens to see where power comes and collides, interlocks, and intersects. Basically, the idea enters on legal cases that dealt with issues of both race and gender, arguing that the law seemed to forget that Black women are both Black and female, and thus subject to discrimination based on both. Intersectionality emphasizes that different dimensions of identity are not isolated from one another; instead, they intertwine and overlap in intricate ways, overlapping, creating unique forms of oppression, in distinct advantages or disadvantages. On similar lines the intersectionality of caste and human rights, caste mechanized itself as mentioned earlier caste inclusive nature gallops all kinds of discrimination. So, highlighting the compounded discrimination faced by marginalized groups, particularly Dalits and other historically oppressed communities. Caste discrimination manifests in various forms, violating several human rights and fundamental rights principles, exacerbating inequalities in access to justice, education, employment, and social mobility etc. Intersectionality helps to analyze how Dalits and marginalized communities experience multiple layers of disadvantage.

### **2.3 Theory of Human Rights in India**

The concept of human rights in India draws from ancient traditions, religious texts, colonial experiences, and modern constitutionalism. The protection and promotion of human rights are enshrined in India's legal system, ensuring dignity, freedom, and equality for all individuals. Looking at historical development of Human Rights in India's ancient times where concepts of companionship, justice, equality, and freedom were found in religious and philosophical texts of Buddhism and Jainism which advocated defensive war and non-violence (Ahimsa), and the welfare of all beings. Ashoka's edicts promoted human dignity, religious tolerance and welfare policies. Bhakti and Sufi movements encouraged social justice and equality. B.R. Ambedkar in *The Buddha and His Dhamma* (1956) highlights the beacon of Buddhism that was rooted in the principles of social justice, equality, and rationality, rejecting caste-based discrimination and advocating dignity for all beings. Also, Arapura (1972) regarding spirituality of Jainism, emphasized that Jain philosophy, through Ahimsa and Aparigraha (non-possessiveness), laid an ethical foundation for human rights by promoting the well-being of all creatures. In *The Wonder That Was India*, Basham (1954) underscored Ashoka's commitment to Dhamma (moral law), which advocated kindness, non-violence, and justice as state policies, reflecting a precursor

to modern human rights principles. Further explained that Ashoka established one of the earliest forms of welfare states, emphasizing social responsibility (fundamental duties), religious tolerance, and state support for the underprivileged. Habib (2008) in *Medieval India: The Study of a Civilization* highlighted how Sufi saints like Nizamuddin Auliya and poets like Kabir and Basava, intellectual leader like Ravidas promoted unity beyond caste and religion, reinforcing the humanist values of dignity and fraternity. Ramanujan in *Speaking of Siva*, explores the journey of Bhakti poets challenged social inequality through devotional poetry that advocated a direct relationship with the inner divine and rejected any supernatural god or creatures, bypassing hierarchical structures. However, Human rights in India are legally codified, particularly through the Constitution of India (1950) and statutes like the Protection of Human Rights Act, 1993. The Indian state, through its most celebrated Constitution, is seen as an entity that ensures the protection of rights in return for the duties of its citizens. Here communist idea states an important thing that is socio-economic rights, emphasizing state intervention in reducing inequalities, as reflected in the Directive Principles of State Policy (DPSP).

However, Indians believe in democratic republic which is vested in a secular constitutional framework that provides a strong foundation for human rights protection. Dr. Ambedkar states India is a union of states, so it is a nation in making. So, diversity was taken care of with people of India in the central part of the theme. So, Fundamental Rights (Part III, Articles 12-35) include the right to equality, freedom of speech, protection from discrimination, and right to life and personal liberty (Article 21). Then comes the Directive Principles of State Policy (Part IV, Articles 36-51) which provide guidelines for the state to ensure social and economic justice. Last but not the least in line is Fundamental Duties (Part IVA, Article 51A) that encourage citizens to uphold the sovereignty and integrity of India and promote human rights principles. While DPSP and Fundamental Duties are non-justiciable (See Indian Law Context) and not binding on Indian citizens but it must be there for guiding principles to make India as a nation. India is quasi federal so it has established several institutions that work as protection mechanisms to safeguard human rights at both national and regional level. The National Human Rights Commission (NHRC) was established under the Protection of Human Rights Act, 1993, to investigate human rights violations. State Human Rights Commissions (SHRCs) address regional human rights issues. At superimposition level, constitution the law book guides Judiciary and Public Interest Litigation (PIL) which were established with the crucial role in interpreting and enforcing human rights. While Zhao Tingyang proposes an alternative framework called "credit human rights," where rights are tied to responsibilities, critiquing the traditional human rights framework for arising from Western culture and conflicting with justice principles. Cultural Relativists suggest human rights aren't entirely universal, conflicting with some cultures and threatening their survival. Rights of women are often contested, citing practices like female genital mutilation. Some view universalism as cultural, economic, or political imperialism. Michael Ignatieff argues cultural relativism is often used by those in power who commit human rights abuses, while the powerless suffer compromised rights.

Critically, on the other side of the coin, Karl Marx and Jeremy Bentham are among the philosophers who have critiqued natural rights theories. Marxist thought critiques human rights as bourgeois tools that protect capitalist interests, advocating for socio-economic rights over political rights. Critical legal studies and feminist perspectives challenge traditional human rights frameworks, emphasizing power dynamics and systemic inequalities. Martha Nussbaum has argued that the concept of natural rights is rooted in a Western tradition and may not be applicable to all societies. Ronald Dworkin is an influential critic of positivism, rejecting the theory that law

cannot be identified without recourse to its merits. Despite its constitutional guarantees, India grapples with significant human rights challenges. Caste and gender discrimination persist, disproportionately affecting marginalized communities like Dalits and women. Freedom of expression faces restrictions through laws on sedition and defamation. Custodial violence and police brutality remain serious concerns. Religious and ethnic conflicts continue to spark communal violence and discrimination. Finally, pervasive economic inequality limits access to basic rights like healthcare and education for many. We can understand the problem lies in the will of politicians and administration to implement the policy on constitutional arrangements as they are caste biased. To uphold constitutional values, state measures must first ensure equal access to education, healthcare, and security laying the foundation for substantive equality. Only then can graded inequalities like caste be justly addressed through affirmative action, securing dignity and justice for all.

## **2.4 Overview and Review of Scholarly Works and Case Studies**

In *Annihilation of Caste* (1936), Ambedkar argues that the caste system is fundamentally opposed to human dignity, justice, and equality. He asserts that caste is not just a division of labor but a division of laborers, reinforcing structural discrimination. Caste is a religiously sanctioned system of social stratification that denies fundamental freedoms and dignity to lower castes. He calls for the complete abolition of caste rather than reform. In his later works, including *The Untouchables: Who Were They and Why They Became Untouchables?* (1948) highlighted caste as a system of graded inequality. The historical origins of untouchability, linking it to economic and religious marginalization, and argues that caste is inherently hierarchical and directly violates the principles of human rights parallelly incompatible with human rights.

All the scholars agree that (a) the caste system fundamentally contradicts the core human rights principles of equality, dignity, and non-discrimination. Whether analyzed from a historical, legal, or lived-experience perspective, caste is seen as an oppressive structure that denies basic human freedoms. (b) Despite progressive laws and constitutional safeguards (e.g., affirmative action, anti-discrimination statutes), deep-seated social hierarchies and bureaucratic or judicial shortcomings render these legal measures largely ineffective in delivering substantive equality. (c) Caste discrimination is not seen as an isolated legal or policy issue but as a systemic problem that permeates social, political, and economic spheres.

While there are differences among their views i.e. (a) Ambedkar calls for the complete abolition of caste, presenting it as an irredeemable, inherently hierarchical system that must be eradicated to secure human dignity and rights. (b) On the other hand, Galanter focuses on the shortcomings of India's legal and affirmative action frameworks, arguing that despite the existence of legal remedies, deep-seated biases and bureaucratic hurdles prevent effective change. Shifts the discussion towards lived experiences of Dalits differentiating between formal institutional discrimination and the continuous psychosocial humiliation Dalits endure. This adds a qualitative, everyday dimension to the discussion that complements the structural critiques. A. Teltumbde (2016) focus on the evolution of Dalit struggles under neoliberal policies, pointing out that modern legal remedies sometimes perpetuate rather than dismantle caste hierarchies and critically argues that affirmative action policies have been co-opted by dominant caste interests, thus limiting their transformative potential and failing to address the deeper structural inequities. A. Rao (2009) observes that legal frameworks are undermined by social hierarchies while acknowledging the importance of political action, they tend to stress that without broader structural reforms and



economic changes, and political mobilization alone cannot eradicate caste inequalities, as shown in Table 2.1

**Table 2.1:** Legal Frameworks and Social Realities of Caste Discrimination in South Asia

| COUNTRY  | CASE/LEGAL CONTEXT                                                | KEY ISSUES                                                                                                             | LEGAL OUTCOME & IMPLICATIONS                                                                                                          | CRITIQUES & SCHOLARLY PERSPECTIVES                                                                                                                                    |
|----------|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| India    | National Campaign on Dalit Human Rights (NCDHR) v. Union of India | - Systemic caste-based violence<br>- Police inaction under SC/ST (PoA) Act, 1989 - Low conviction rates for atrocities | - Highlighted institutional bias - Weak enforcement despite legal protections - International scrutiny of India's human rights record | Navsaran Trust (2011): Laws exist but Dalits face barriers in accessing justice. Anupama Rao (2009): Legal frameworks undermined by social hierarchies.               |
| Nepal    | Khatun v. Nepal (UN Human Rights Committee)                       | - Denial of justice to a Dalit woman - Violation of ICCPR Article 26 (Right to Equality)                               | - UNHRC recognized caste discrimination as a human rights violation - Reinforced Nepal's obligation to combat caste oppression        | Sara Shneiderman (2015): Structural discrimination persists despite 2011 Anti-Caste Law. Gautam Bhatia (2018): Sets precedent for state accountability in South Asia. |
| Pakistan | Dalit Discrimination in Sindh (HRW Reports)                       | - Forced conversions of Dalit women - Bonded labor in agriculture/kilns - Lack of political representation             | - No specific legal protections for Dalits - Article 25 Bonded Labour Abolition Act (1992) poorly enforced                            | Mehboob Ali (2021): Pakistan's laws ignore caste as a category. Reetika Khera (2016): Similar discrimination in India/Pakistan due to social hierarchies.             |

**Source:** (Asian Dalit Rights Forum, 2021; Ali, 2021; Rao, 2009; Shneiderman, 2015)



## CHAPTER 3

### Key Principles and Legal Instruments of Human Rights and Caste System

#### 3.1 Key Principles of Caste System

Beginning in ancient India, the caste system was originally centered on Varna, with Brahmins (priests) and, to a lesser extent, Kshatriyas (rulers and warriors) serving as the elite classes, followed by Vaishyas (traders and merchants) and finally Shudras (laborers). Outside of this system are the oppressed, marginalized, and persecuted Dalits (also known as Untouchables) and Adivasis (tribals). Over time, the system became increasingly rigid, and the emergence of jati led to further entrenchment, introducing thousands of new castes and sub-castes. With the arrival of Islamic rule, caste-like distinctions were formulated in certain Muslim communities, primarily in North India. The British Raj furthered the system, through census classifications and preferential treatment to Christians and people belonging to certain castes. Social unrest during the 1920s led to a change in this policy towards affirmative action (Guha, 2019). The caste system is a unique social stratification found in Indian society. The term “caste” is derived from the Spanish word “casta,” signifying breed, race, and hereditary qualities. The Portuguese also used this term to refer to groups known as “jati” in India. The Sanskrit term for caste is “varna,” which means color. The caste system is rooted in the “Chaturvarna” system, which divides Hindu society into four main varnas: Brahmins, Kshatriyas, Vaishyas, and Shudras. This Varna system was initially based on the division of labor and occupation, but the present caste system may have evolved from this earlier model. However, it is important to note that spirit behind the both varnas and castes are the same.

In India, social classification based on caste has its origin in ancient times. It was transformed by various ruling elites in medieval, early-modern, and modern India, especially in the aftermath of the collapse of the Mughal Empire and the establishment of the British Raj. Caste is traditionally associated with Hinduism, but is more pervasive in extent: an estimated 98% of contemporary Indians, including Hindus, Muslims, Christians, Sikhs, Buddhists, and Jains, identify with a caste. Thus, key principles of a caste system involve rigid, birth-ascribed social stratification, hierarchy, endogamy (marriage within the group), occupational inheritance, and strict rules of social interaction based on notions of purity and pollution, limiting mobility and defining one's status, role, and potential contact with others. These principles create distinct, segregated groups with little to no social mobility, reinforced by cultural norms and sometimes law, which can be considered in seven core principles (Stanton, 2012) as follows:

**1) Ascribed Status:** Membership in a caste is determined at birth, not by achievement, making it hereditary hierarchy in India society;

**2) Hierarchy:** Society is divided into ranked groups, with some castes considered superior (e.g., Brahmins) and others inferior (e.g., Shudras, Dalits), though the specifics vary;

**3) Endogamy:** Marriage is strictly limited to members within the same caste or sub-caste (jati) to maintain group purity;

**4) Occupational Restriction:** Links caste to specific, often demeaning or hazardous, hereditary jobs (e.g., manual scavenging). Caste system is traditionally linked to specific, inherited occupations, with certain jobs seen as degrading.

**5) Purity and Pollution:** Complex rules dictate ritual purity, restricting social interaction, dining, and even physical proximity between higher and lower castes, which justifies segregation and exclusion, with higher castes seen as pure and lower castes (Dalits) as polluting;

**6) Segregation and Social Distance:** Lower castes are often forced to live on the periphery, with restricted access to common resources like wells or streets; social & economic boycott make lower castes face social ostracization, denial of resources, and economic exclusion.

**7) Limited Social Mobility:** Moving between castes is extremely difficult, if not impossible, creating a fixed social structure; principle of karma and rebirth thinks that traditional justification for one's caste position based on deeds in past lives.

According to the above principles, the caste system can be understood as the combination of two sets of principles one based on difference and separation and the other on holism and hierarchy. Each caste is supposed to be different from – and is therefore strictly separated from – every other caste. Thus caste system is a form of social and economic governance that is based on principles and customary rules. It involves the division of people into social groups (castes) where assignments of rights are fixed by birth, often includes an occupation and are hereditary.

In brief, the caste system in India is a complex social phenomenon with deep historical roots. Various theories attempt to explain its origin, ranging from traditional and religious perspectives to racial and occupational explanations. The evolutionary theory, which takes a multiple-factor approach, seems most comprehensive, acknowledging the interplay of racial, occupational, religious, and socio-political factors in the development and perpetuation of the caste system. While the caste system has undergone significant changes in modern times, its legacy continues to shape Indian society, influencing social relations, economic opportunities, and political dynamics. However, Geographical and philosophical factors are important but cannot be given much importance in the interpretation of the caste system. The fissiparous tendency of the groups and the spirit of unity and “we feeling” in each caste was backed by socio-political factors such as the lack of rigid military control of the State. The apathy of the ruler to enforce a uniform standard of law and custom, their readiness to recognize the varying customs of different groups as valid, and their tendency of allowing things somehow to adjust themselves all encouraged the formation of castes based on insignificant distinctions.

### **3.2 Key Principles of Human Rights**

#### **1) Universality and Inalienability**

Human rights are universal, meaning they apply to all individuals regardless of race, nationality, or social status (Donnelly, 2003). The Universal Declaration of Human Rights (UDHR) (1948) enshrined this principle, asserting that “all human beings are born free and equal in dignity and rights” (Article 1). Inalienability means these rights cannot be arbitrarily removed, except through due process, such as lawful imprisonment following a fair trial (Nickel, 2007).

Claude (2002) emphasized that universality is grounded in natural law traditions, dating back to the Stoics and later reinforced by Enlightenment philosophers like Kant and Locke.

## **2) Equality and Non-Discrimination**

The principle of equality and non-discrimination asserts that all individuals deserve equal protection under the law (Rawls, 1971). The concept gained prominence through The French Declaration of the Rights of Man and of the Citizen (1789) and later in international treaties like the International Covenant on Civil and Political Rights (ICCPR). Scholars such as Sen (1999) argued that justice and equality must be actively pursued through policies addressing systemic discrimination, particularly against marginalized groups.

## **3) Indivisibility and Interdependence**

Human rights are interdependent and indivisible, meaning civil, political, economic, social, and cultural rights are equally important (Vienna Declaration, 1993). Violating one right often leads to the violation of others. For example, denying education (a social right) can limit political participation and economic opportunities. Shue (1980) argued that fundamental rights, such as security and subsistence, are necessary for the enjoyment of all other rights.

## **4) Participation and Inclusion**

Participation in governance and decision-making is fundamental to democracy (Dahl, 1989). The UDHR (Article 21) states that “everyone has the right to take part in the government of their country.” Habermas (1996) emphasized that inclusive dialogue strengthens democratic legitimacy, ensuring diverse voices shape policy. Scholars like Nussbaum further argue that inclusion fosters social justice, particularly for vulnerable groups such as women and minorities.

## **5) Accountability and Rule of Law**

The rule of law ensures that human rights are protected through legal mechanisms (O'Donnell, 2004). Governments and institutions must be held accountable for rights violations, as seen in international legal frameworks like the International Criminal Court (ICC). Sen (1999) highlighted that legal and institutional mechanisms must be in place to uphold rights, prevent abuses, and offer remedies.

### **3.3 Comparison of the Principles of Human Rights and Caste System**

Generally, the human rights principles champion inherent equality, human dignity, and universal freedoms, directly opposing the caste system's core tenets of hierarchical birth-based status, hereditary exclusion, discrimination (especially against Dalits/lower castes), forced menial labor (like manual scavenging), restricted social mobility, and systemic violence, all justified by notions of purity, pollution, and past life karma, highlighting a fundamental conflict where caste perpetuates severe human rights violations, including slavery, sexual violence, and economic exploitation.

### **3.3.1 The Principles of Born Equal vs. Hereditary Inequality**

Human Rights Watch underscores caste systems as barriers to civil, political, economic, social, and cultural rights, necessitating dynamic human rights interventions. Austin (1966) framed Article 14 of India's Constitution as "revolutionary egalitarianism" designed to dismantle caste hierarchies. In contrast, Ambedkar (1946) identified the caste system as a hierarchical system of graded hereditary inequality, denying dignity and freedom to Dalits thus institutionalized exclusion. Dalit children inherit social subjugation through rituals, segregation, and educational exclusion, institutionalizing a discriminatory form of human exclusion akin to indigenous marginalization globally.

### **3.3.2 The Principle of Non-Discrimination vs. Discrimination**

The human rights principle of non-discrimination directly opposes the caste system, which institutionalized inequality. This structural discrimination is reinforced through social cultural practices, economic barriers, and systemic neglect. Engineer & Dabhade (2020) stated that caste operates as a form of structural discrimination, akin to race, and should be recognized under international human rights law as a violation of Article 2. Gorringer (2005) argued that caste should be framed as an international human rights issue, as domestic interventions have failed. The phrase "other status", birth and social origin is interpreted to include outcast, caste-based discrimination, ensuring protection for those facing social exclusion. Even the critical term "descent" this has been interpreted to include caste-based discrimination globally. Likewise, Bilgrami (2014) argued that Dalits and Adivasis fit within international human rights definitions of "marginalized" groups, necessitating global attention, accessing "developmental justice."

### **3.4 The Conflict between Caste System and Human Rights**

The caste system violates principles of human rights and dignity of millions worldwide. According to the UN report on caste-based discrimination to the Human Rights Council, at least 250 million people worldwide still face appalling and dehumanizing discrimination based on caste. This is a global problem affecting communities in Asia, Africa, Middle East, the Pacific region and in various diaspora communities. The caste-based discrimination and violence goes against the basic principles of universal human dignity and equality, as it differentiates between 'inferior' and 'superior' categories of individuals which is unacceptable. Therefore, the caste system is in conflict and contradictions with the principles of human rights for four reasons (Stanton, 2012)) as follows:

**3.4.1 Violation of Equality:** A caste system intrinsically violates human rights' principle of inherent equality by creating a permanent hierarchy;

**3.4.2 Systemic Discrimination:** A caste system institutionalizes discrimination, directly contradicting non-discrimination principles, leading to violence, forced labor (bonded labor), and trafficking, notes;

**3.4.3 Restriction vs. Freedom:** It denies freedoms of choice in education, work, and social life, forcing individuals into prescribed roles, a stark contrast to human rights ideals.

**3.4.4 Dignity Denied:** Practices like "untouchability" inherently assault the dignity and worth of individuals, a core tenet of human rights.

In essence, Human Rights aim to uplift and equalize, while the Caste System operates by creating and maintaining deep, often violent, inequality and dehumanization based on birth.

### **3.5 The Legal View of Caste System in India**

The legal view of the caste system in India may be considered under three general headings which, although they overlap at times, classify the subject conveniently. They are (1) personal law; (2) caste autonomy; (3) precedence and disabilities (Galanter, 1963), which can be analyzed as follows:

#### **3.5.1 Personal Law**

"Personal law" refers to caste as it determines the legal rights and obligations of persons - i.e., instances in which the rule of law applicable to a particular person is determined by the identity of the caste group to which he belongs. Under the legal system which the British established in India all persons in the territory of India are subject to the same law in criminal, civil, and commercial matters. During the British period -at least the part under discussion - caste was little used to determine the incidence of legal regulation; for the most part, all castes had the same legal rights and duties. The legal system was based on law which was territorial rather than personal in its application. There were some local and piece-meal exceptions to this: e.g., restriction of rights of purchase land to certain "agricultural" castes; special police regulations and punitive levies might be applied to particular caste groups. However, from the early days of the "British" legal system a group of matters that might roughly be described as family law - marriage and divorce, adoption, joint family, guardianship, minority, legitimacy, inheritance, and succession, religious endowments - were set aside and left subject to the laws of the various religious communities; i.e., the applicable law in these fields was "personal" rather than territorial. In these family and religious matters Hindus were ruled by Dharmashastra not by the ancient texts as such, but as interpreted by the commentators accepted in the locality.

At first the courts relied on Brahmin pundits or shastras to advise them on the applicable rules and their interpretation, but this institution was abolished entirely by 1864. Common law judges took over the job of deciding which rules were applicable and applying them to the cases. The doctrine that "clear proof of usage will out weight the written text of the law" was early accepted as part of the Hindu law. Thus the courts undertook to apply the locally accepted commentaries as modified by prevailing custom -the custom could be that of a locality or even a family, but the usual unit was the caste group. The diversity engendered by this rule was limited by the application of stringent common law requirements for proving a valid custom. All of this made it rather difficult to prove variation from the rules of the law books and had the effect, apparently, of extending the rules of the classical law books to sections of the population which had previously been strangers to them. Aside from variations introduced by caste customs, the Hindu law applied by the courts contained a number of instances in which the different rules were to be applied to members of different castes -in most cases one rule to the three twice-born Varnas and a different rule for Shudras.' The most notable of these differences were in the law of succession, the law of adoption, and the law of marriage. Again, marriages between members of different Varnas were not valid at all -with the limited exception of Bombay and the capacity to

adopt a child of another Varna was unknown. In order to apply these rules which differed according to Varna, it was necessary to determine which castes and individuals were included within which Varna. To determine whether a given group was twice-born or Shudras, the courts evolved lists of diagnostic customs; e.g., admission of illegitimate sons to commensality and marriage within the group, the prevalence of second marriages for widows, marked the group as Shudras. Another line of cases developed an alternative approach of testing the standing of a caste group by its consciousness as to its status and by the acceptance of this self-estimate by other castes in the locality. Hindu law did not address itself to the multitude of actual caste groups, but recognized only the four Varnas (and occasionally the intermediate classes of classical legal theory.) In application of personal law, Shudra was treated as a residual category including all those who were not twice-born. This included not only untouchables, but such marginals as the child of an outcaste, converts to Hinduism, etc. But in discussing status to determine the extent of customary disabilities the courts often did recognize groups as being below Shudras or outside the four Varnas.

### **3.5.2 Caste Autonomy**

Administration of Hindu personal law involved the courts in assigning places in the four-Varna system to actual castes - this presented an opportunity, often availed of, for eliciting legal recognition of the ceremonial status of the group and certification of its claims for higher status. This formed an exception to the over-all policy of non-interference in matters concerning caste. As early as 1827 a Bombay regulation withdrew from the civil courts jurisdiction over cases involving caste questions. This was paralleled later in other provinces and extended throughout British India by the Civil Procedure Code in 1859. It is still law today. Castes were early recognized as juridical entities with the power to sue and be sued, to sue on behalf of their members, to acquire, hold, and manage property. The core of caste autonomy consisted in the power of a caste to make rules for itself and to constitute tribunals to enforce these rules; the decisions of these tribunals would not be disturbed by the government. Caste power was limited by confining jurisdiction over certain matters -e.g., criminal law or the validity of marriages-to the civil courts. But on most matters the caste could make, revoke, and modify its rules. The majority or the established authorities within a caste could not be overruled by the civil courts on these "caste questions."

Caste questions were said to include all matters affecting the internal autonomy and social relations of a caste. The right to have a fellow caste member accept one's food, gifts, or invitations; the right to receive invitations from him; the right to have precedence in leading one's bullock in a procession - in all of these cases of dignity, acceptance or precedence within the caste, the civil courts would not entertain a suit. Again, claims to leadership of a caste, claims to a caste office, claims to enjoy privileges as priest, and were held to be caste questions. Even if the dispute resulted in the expulsion of one person or faction, the courts would take no cognizance in such cases - a policy readily understandable in terms of the drastic difficulties of enforcing a decree and supported by judicial respect for caste disciplinary power as a useful moral surveillance. A caste might then make whatever rules it wished about these matters and might enforce them by social sanctions. It might forbid the wearing of European clothing or departure from customary headdress; it might prohibit intercourse with members who participated in widow re-marriage.

Publication of a sentence of excommunication to other castes members was privileged - i.e., immune from a claim for defamation - so long as it was not more extensive than necessary to

effect the purpose of informing the caste. But the courts were willing to take jurisdiction where they found that the claim was not merely for social acceptance or dignities, but involved enforceable civil or property rights -these included rights in caste property, rights to offices with pecuniary emoluments and the right to reputation. Even here, the courts were wary about the extent of intervention and set up a series of standards that emphasized procedural rather than substantive supervision. The courts would entertain claims only: (1) that the decision of a caste tribunal had not been arrived at bona fides; (2) that the decision was taken under a mistaken belief; (3) that the decision was actually contrary to the rules or usage of the caste; or, (4) that it was contrary to natural justice. The latter was the most important of these rules-violations of natural justice included omission of proper notice to the accused and the denial of an opportunity to be heard and to defend him-self.

### **3.5.3 Precedence and Disabilities**

Some instances of regulation of intercourse between members of different castes have already been noted -the enforcement of endogamy in the field of personal law; and, in the area of caste autonomy, the unwillingness of the courts to interfere with the enforcement of caste rules regulating relations with other castes. Precedence and 'disabilities refer to legal intervention explicitly regulating the relations between castes. Prior to British rule, some Indian regimes had actively enforced the privileges and disabilities of various castes and there is some of this to be found in the earlier days of British rule. However, by 1860 the beginning of our base-line period the prerogatives and dignities of castes were not supported by active government sanctions. But, as part of the policy of non-interference with social and religious matters, there was little effort to interfere with such usages. Caste groups did enjoy the support of the courts in upholding their claims for preference and exclusiveness with respect to the use of religious institutions. Courts granted injunctions to restrain members of particular castes from entering temples - even those which were publicly supported and dedicated to the entire Hindu community. Damages were awarded for purificatory ceremonies necessitated by the pollution caused by the presence of lower castes; such pollution was actionable as a trespass to the person of the higher caste worshippers. It was a criminal offense for a member of an excluded caste to knowingly pollute a temple by his presence. These rights to exclusiveness were vindicated by the courts not only where polluting persons were "untouchables" but against such "touchables" as Palshe Brahmins and Lingayats whose presence in the particular temple was polluting. In regard to "secular" public facilities such as roads, schools and wells, exclusionary practices did not enjoy such judicial support. The courts declared that no rights to exclude others from the use of streets and roads could be maintained. Similarly, the courts refused to intervene to prevent the use of wells and tanks by untouchables, though it was conceded that proven immemorial custom might support such a right. The courts refused to penalize such defiance of customary disabilities as failure to dismount from a wedding palanquin or failure to concede to another caste an exclusive right to ceremonial deference. The courts were equally unwilling to intervene to protect claims for higher position; where Brahmins tore the sacred thread from the neck of an Ahir who had lately taken to wearing it, the court ruled that since he was a Shudra, the wearing of it was not part of his religion and therefore the injury was not to his religious susceptibilities - an offense - but only to his dignity.

The prevailing notion was that purely social and religious matters did not give rise to legal rights unless the right was the sort of thing that could be possessed and made use of. There is a graduation from the temple cases, where exclusionary rights were readily enforced, to water sources, where (it seems) they would be enforced if difficult technical requirements were met, to

customs that were in no way connected with the use of property, where there was no enforcement at all. Where the courts could not visualize the claim to precedence or custom as consisting in rights to use certain property in particular ways, they were unwilling to enforce it. (Note the parallel to the caste autonomy field where judicial intervention was available only to vindicate rights in caste property or paying offices). In the reported cases it can be observed that the local officials were almost uniformly unsympathetic to the claims of the lower castes – even where these claims were subsequently vindicated by the High Court. Though it is impossible to say how typical were these lower court proceedings, they suggest that at the level of the magistrates' courts, assertion of rights by groups suffering customary exclusion or disabilities met with little encouragement if not active hostility. The cases show widespread acquiescence by local authorities in the enforcement of these disabilities and suggest that active governmental support of these practices at a local level was at least not uncommon. It should be emphasized, however, that these prescriptive rights and disabilities received their greatest governmental support not from direct judicial enforcement but from the recognition of caste autonomy -i.e., from the refusal of the courts to interfere with the right of caste groups to apply sanctions against those who defied these usages. Members of a caste could be outlasted and outsiders could be boycotted for violations of customary privileges and disabilities. The broad sphere of autonomy enjoyed by caste groups permitted them effective enforcement without resort to the courts and immune from governmental interference.

As a result, the Constitution scheme of 1950 envisages a new order both as to the place of caste in Indian life and the role of law in regulating it. This new dispensation did not arrive on the scene suddenly; it represents the culmination of more than half a century of increasing anti-caste sentiment among reformers, the gradual acceptance by politicians of the need for reform of caste, the enactment of a variety of provincial anti-disabilities and temple-entry legislation and the growing conviction that caste was inimical to democracy and progress and should play a restricted role in the new India. The implications of the new constitutional scheme may be traced in the three areas discussed previously (Galanter, 1963):

**1) Personal Law:** The Constitution contains a commitment to replace the system of separate personal law with a "uniform civil code." But in spite of its strictures against discrimination on the ground of religion, the Constitution has been interpreted to permit the continuing application of their personal laws to Hindus and Muslims. The constitutional ban on caste discrimination has not been read as abolishing differences in personal law between Hindus of different castes. Although legal enforcement of disabilities against lower castes was occasionally rationalized in Varna terms, the use of Varna distinctions in the personal law is not included within the constitutional abolition of untouchability. The Hindu Code bills in 1955-56 largely abandoned the shastras as the basis of Hindu law and established a more or less uniform law for Hindus of all regions and castes. The new legislation severely curtails the opportunities for invoking caste custom in order to vary the generally applicable Hindu law. The new law creates the hitherto unknown capacity to marry and adopt across Varna lines and with a few minor exceptions, eliminates all of the distinctions along Varna lines embodied in the old law. Varna has virtually been eliminated as an operative legal concept -although for the present the courts may still have to apply it.

## **2) Precedence and Disabilities**



When the Constitution was enacted, customary exclusion of lower castes from temples and secular facilities, previously recognized and to some extent enforceable at law, had been transformed into statutory offenses throughout most of India. The Constitution broadened the prohibition of this conduct and entrenched freedom from such discrimination as an enforceable fundamental right. Caste discrimination with regard to access to facilities such as wells, tank shops, restaurants, schools, is prohibited. Untouchability is abolished and its practice in any form is forbidden. The guarantee of freedom of religion is explicitly qualified to save temple-entry legislation. The Untouchability Offenses Act (UOA) of 1956 outlaws the imposition of disabilities "on grounds of untouchability" in virtually all fields of activity excepting home life, private religious ceremonies, and private employment. Enforcement of disabilities is made a crime, punishable by fine or imprisonment, and the power of civil courts to recognize any custom, usage, or right which would result in the enforcement of any disability is withdrawn. The previous provincial enactments, which had also withdrawn any government sanction for these usages, did not venture into the area of caste autonomy. But the UOA punishes not only the direct enforcement of disabilities but also indirect social support of untouchability. The use of social boycotts against persons who exercise rights under the Act, the use of sanctions, including excommunication, against persons who refuse to practice untouchability, the instigation of the practice of untouchability in any form - all of these are prohibited and penalized. The Act contains one further novel and notable feature - it provides that where any of the forbidden practices is committed in relation to a member of a Scheduled Caste, the court shall presume, unless the contrary is proven, that such act was committed "on ground of 'untouchability.'" In order to appreciate the scope of the UOA, it is necessary to determine the meaning of "untouchability." Neither the Constitution nor the Act defines it. It is yet unclear what constitutes a "disability arising out of untouchability" or its "enforcement".

Three possible meanings suggest themselves. In its broadest sense "untouchability" would include all instances in which one person treated another as ritually unclean and polluting. In this sense women at child-birth, persons with contagious diseases, mourners, etc., might be considered untouchables. It is clear that Article 17 does not seek to prohibit the observance of such temporary untouchability. Therefore, the untouchability which follows upon expulsion or excommunication from caste, like temporary and expiable states of ritual uncleanness, apparently falls outside the prohibition of Article 17, which does not deprive caste groups of the power of outcasting. Thus, the "untouchability" banned by Article 17 is confined to that ascribed by birth rather than that attained in life. A second, somewhat narrower, sense of the term would include all instances in which a person is treated as unclean and polluting not because of personal history, but because of his origin or membership in a particular group - i.e., where he is treated as "untouchable" because of a difference in religion or membership in a lower or different caste. This view has been rejected. Thus, for Jain to regard non-Jain as untouchable in certain respects is not within the scope of the untouchability forbidden by Article 17. There remains a third and still narrower sense of the term "untouchability." In the words of the first High Court which considered the questions, it includes only practices directed at "those regarded as 'untouchables' in the course of historic development" -i.e., those relegated" beyond the pale of the caste system on grounds of birth in a particular class". This narrower sense does not include practices based on avoidance due to a difference of religion or caste, except insofar as the caste was traditionally considered "untouchable" and "outside the pale of the caste system." Thus disabilities imposed by Brahmins upon non-Brahmins, by one Brahmin caste on another, or by "right-hand" on "left-hand" castes, would all fall outside the prohibition of Article 17. So, when Brahmins or other "touchable" castes

discriminate among themselves, it is seen as Intercaste rivalry or hierarchy, not as the specific "untouchability".

The meaning of untouchability then is to be determined by reference to those who have traditionally been considered "untouchables." But it is no easier to define untouchables than it is to define untouchability". "Beyond the pale of the caste system" is a misleading and unworkable formulation. Even the lowest castes are within the system of reciprocal rights and duties; the disabilities and prerogatives are articulated to those of other castes. Presumably the court - and here it is interesting to note that it is a Mysore court - means by this phrase, outside the four varnas of the classical law books. In reference to their customary rights, untouchables have sometimes, particularly in southern India, been referred to as a fifth Varna, below the Shudras. But in other places they were regarded as Shudras. For purposes of personal law, the courts have never attempted to distinguish untouchables from Shudras; all Hindus other than the twice-born have been lumped together as Shudras. Even where untouchables are popularly regarded as Shudras, they cannot be equated with them since there are non-touchable groups which belong to this category. Thus, the tests used for distinguishing Shudras from the twice-born, cannot be used 'as a satisfactory measure of untouchability.

In attempting to identify untouchable groups for the purpose of giving those benefits and preferences the government has not tried to apply general criteria, but has adopted the device of compiling lists of castes in each locality. Such lists derive from earlier attempts in the 1930's to find a single set of criteria to measure untouchability". These included such tests as whether the caste in question was "polluting" or "debarred" from public facilities-which may admit of no equivocal answer - and whether they were served by "clean" Brahmins which have only a local and comparative reference. All attempts to set up tests based on the assumption that "untouchables" are set off by some uniform and distinctive pattern of practices proved inadequate to isolate the groups which local administrators felt deserving of inclusion. Additional criteria of poverty and illiteracy had to be added. The government lists then give little guide to the meaning of untouchability. There is no adequate inclusive list of all groups considered untouchable or any single set of criteria for identifying them. Thus the "untouchability" forbidden by law is confined to discriminations against certain not readily defined classes of persons. It includes not every discrimination against them, but only those imposed because of their position in the caste system. Thus, exclusion of untouchables by Jains is not forbidden insofar as it is on the ground that they are non-Jains rather than because of their caste. And disabilities, which apply either uniformly against all groups in a locality or against a number of groups, some of which are not untouchable, would seem to be outside the scope of the UOA. Rules that equally restrict all groups or several groups (including touchable castes) in a locality are not considered "untouchability" under the UOA. The UOA (now replaced/continued in the Protection of Civil Rights Act) was meant to punish untouchability against Dalits / untouchable castes, not general caste feuds or restrictions among "touchable" groups. But refusal to serve untouchables in anticipation of reprisal or economic detriment is refusal on grounds of untouchability and is punishable.

The practice of untouchability is not confined literally to avoidance of pollution by touch or to practice based on such avoidance. It would seem to include any invidious treatment of a person associated with his membership or origin in an untouchable group, even if this treatment does not involve avoidance of pollution- e.g., imposing restrictions on the ceremonial of dress of untouchables. The enforcement of disabilities includes more than the actual physical compulsion; it extends to annoyance, obstruction, etc.; vulgar abuse and insult have been held to constitute

enforcement of a disability. But it is questionable whether it would be an offense to persuade an untouchable to abide by usage voluntarily. The small number of prosecutions under the UOA (about 600-700 a year in recent years) is not in itself an indication of the effectiveness of the Act. Many of these cases are probably registered by local officials anxious to make a good record in the eyes of superiors who exhort them to enforce the Act. Most of the incidents that come to the attention of (the authorities) there are untouchable groups which belong to this category. Thus, the tests used for distinguishing Shudras from the twice-born, cannot be used as a satisfactory measure of untouchability; because real untouchability concerns caste groups treated as "untouchables" (Dalits), not just "lower-touchables" like Shudras.

Instead of attempting to apply general criteria, the government has used the method of creating lists of castes in each locality in an effort to identify untouchable groups for the purpose of granting those benefits and preferences. These lists are the result of past efforts (in the 1930s) to identify a single set of standards for determining untouchability. (These included tests like whether the caste in question was "polluting" or "debarred" from public facilities, which may have no clear answer, and whether they were served by "clean" Brahmins, which have only a local and comparative reference). To isolate the groups that local administrators believed should be included, all attempts to set up tests based on the presumption that "untouchables" are set off by some uniform and distinctive pattern of practices proved insufficient. It was necessary to add the criteria of poverty and illiteracy. The definition of untouchability is then not well explained in the government lists. There isn't a comprehensive list of all the groups that are deemed untouchable, nor is there a single set of standards for doing so. Therefore, the legal prohibition of "untouchability" is limited to prejudice against specific, difficult-to-define groups of people. It only covers discrimination against them based on their caste status, not all forms of discrimination. Therefore, it is not illegal for Jains to exclude untouchables on the basis of their non-Jain status rather than their caste. Furthermore, it would appear that the UOA does not apply to disabilities that are applied consistently against all groups in a community or against several groups, some of which are not untouchable. However, refusing to serve untouchables out of fear of retaliation or financial/materialism harm is untouchability-based refusal, which is illegal.

Most of the incidents that come to the attention of to make "any special provision for the advancement of any socially and educationally backward classes ...." (Art. 15(4)). The Scheduled Castes and, to a lesser extent, "backward classes" enjoy benefits in the form of reservations in government service and on local political bodies, in educational institutions and an array of welfare schemes, chief among which are educational benefits.

These provisions extend not only to untouchables but to other "backward classes"; the Constitution does not define these favored groups but only sets up a procedure for designating them. The Scheduled Castes are to be specified by the President in the first instance and this list can be changed only by act of Parliament. Backward classes, however, can be designated by state as well as central authorities and by administrative as well as legislative organs. In spite of persistent attempts to set up a uniform central list of backward classes, their designation has remained with the states. Although the Constitution refers to backward classes, this has been taken to permit the use of caste groups as the units or classes designated as backward; low standing in the social hierarchy as been commonly taken as sufficient indication of their backwardness. Increasing criticism of preferences on communal lines, within and without the government, has been accompanied by an increasing willingness by the courts to subject preferences for backward classes to close scrutiny. Selection of recipients along caste lines has been getting diluted and

replaced by economic and educational criteria in several states. A recent Supreme Court decision has disallowed the use of caste standing as the primary test of backwardness. While caste remains an acceptable criterion in designating Scheduled Castes, there is at least some doubt about its continuing permissibility in designating backward classes.

### **3) Caste Autonomy**

Notwithstanding the standard rhetoric about the casteless society, the Constitution is quite unclear about the position of the caste group in Indian life. There is a clear commitment to eliminate inequality of status and invidious treatment and to have a society in which government takes minimal account of accretive ties. Beyond this, caste is not mentioned. While there are guarantees to preserve the integrity of religious and linguistic groups, there are none for the caste group it would not seem to enjoy any constitutional protection as such. This silence may represent anticipation that caste will wither away and have no important place in the new India. Or it may represent an implicit ratification of the old policy of non-interference. It is clear that the policy of non-interference is abrogated in at least one respect - the whole range of discriminations and disabilities is no longer immune from governmental interference. The UOA marks the first attempt to control disabilities by restricting caste autonomy - by outlawing the expulsion of caste fellows or the boycott of outsiders for failure to enforce disabilities. Perhaps a more effective assault on "untouchability" would require further attention to the internal disciplinary machinery of caste and village groups-either weakening them to the extent that their disciplinary power is no longer effective or controlling it by group penalties and rewards. It is quite unclear how much the Constitution would protect the caste group from such inroads. What is left of caste autonomy? What remains of the prerogatives previously enjoyed by the caste group? The caste retains the right to own and manage property and to sue in court. Section 9 of the Civil Procedure Code, with its bar on judicial cognizance of caste questions is still in force. Courts still refuse to entertain suits involving caste questions (e.g., fitness of an officer to manage property), and castes retain their disciplinary powers over their members (e.g., the courts refused to declare invalid the assessment of a fine for an alleged breach of caste rules). The caste retains its power of excommunication. It is still a good defense to a criminal action for defamation to assert the privilege of communicating news of an excommunication to one's caste fellows. Yet these powers are subject to some restriction-the UOA makes inroads by outlawing any disciplinary action directed to enforcement of untouchability.

In one sense the autonomy of caste group is enhanced by the constitutional provisions. One of the basic themes of the Constitution is to eliminate caste as a differentia in the relationship of government to the individuals - as subject, voter, or employee. The Constitution enshrines as fundamental law that the government must regulate individuals directly and not through the medium of the communal group. The individual is responsible for his own conduct and cannot, by virtue of his membership in a caste, be held accountable for the conduct of others. Thus the imposition of severe police restrictions on specified castes in certain villages on grounds of their proclivity to crime was struck down as unconstitutional since the regulation depended on caste membership rather than individual propensity. Similarly, the Supreme Court held unconstitutional a punitive levy on a communal basis since there were some law-abiding citizens in the penalized communities. Thus it would appear that regulative or penal measures directed at certain castes are beyond the power of government; a caste, then, enjoys a new protection from regulation directed at it as a corporate whole. There are two other guarantees in the Constitution that seem to affect the position of the caste group. The first of these is Article 26 which guarantees every "religious

denomination or section thereof" the right to establish and maintain religious and charitable institutions, own and administer property and manage its own affairs in matters of religion. At least some castes can qualify as religious denominations (or sections) and are therefore protected in their exercise of these rights. Thus the Supreme Court has found that the Gowda Saraswat Brahmin community is a religious denomination. A denomination's right to manage its own affairs in matters of religion includes not only matters of doctrine and belief, but also practice regarded by the community as part of its religion -even its practice of restricting entry into its temple. The constitutional protection accorded the denomination's practices does not extend to the complete exclusion of other groups from their temples, however; it was held that this right to manage its own affairs in matters of religion; runs subordinate to temple-entry rights.

In a recent and important case the Supreme Court held that the power to excommunicate for infractions of religious discipline is part of the constitutional right of religious denomination to manage its own affairs in matters of religion." The case, involving excommunication from a Muslim religious sect, held unconstitutional a Bombay Act making excommunication a criminal offense. This does not imply a similar protection for caste groups as such; it would presumably protect only those that can qualify as religious denominations. It probably would not protect excommunication that was merely social and was not "to preserve the essentials of religion." Even if the excommunication were a matter of religious discipline, it would not be constitutionally protected if the breach of discipline involved failure to observe untouchability. It has been argued that caste groups may merit protection afforded by Article 29 (1) which provides that "Any section of ... citizens ... having a distinct language, script, or culture of its own shall have a right to conserve the same." Are castes cultural groups? Article 29 (1) has never been before the courts independently, but only in the context of the assertion of rights under the Art. 30(1), which provides that "all minorities, whether b) ascend on religion or language, shall have the right to establish and administer educational institutions of their choice." Apparently to qualify as a cultural group it is not necessary that the group be a minority or that its distinctiveness be either religious or linguistic; presumably every religious denomination would qualify, as well as such groups as the Arya Samaj. Their right to "conserve" their culture apparently concerns the "sphere of intellect and culture" and "does not involve dispensation from obedience to general regulations made by the state for promoting the common good of the community. It seems to include the right to transmit this culture; "the right to impart instructions in their own institutions to children of their own community in their own language," has been referred to as the "greater part of the contents of Article 29".

At least some caste groups may qualify to enjoy the protection of the guarantees for religious denominations and cultural groups. The scope of these guarantees is not yet clear -but it is conceivable that they might present a constitutional barrier to some of the more radical anti-caste schemes which are proposed from time to time-e.g., taxation of communal enterprise, abolition of caste schools and charities, bans on caste names, even prohibitions of intra-caste marriages. The contents of these constitutional protections are unclear, but they are there; and if the climate of opinion should swing away from the present disfavor of caste, it might be possible for the courts to erect formidable barriers against the governmental interference in caste affairs. In independent India today, the higher castes have lost support legally for their claims for precedence and have lost some of the immunity once enjoyed by caste action in support of these claims. The lower castes have gained government intervention in favor of their claims for equality and preferential treatment in the distribution of benefits Caste groups cannot be recognized electorally. The Constitution rules out caste-wise electorates to Parliament and state legislatures. Communal

electorates in local bodies have been held unconstitutional. Nor can caste be used as a criterion in delimiting territorial constituencies (e.g., by excluding from a ward "house of Rajputs in the east of the Village"). And appeals to caste loyalty in electoral campaigning are forbidden.

Apart from these explicit restrictions on caste, there is a tendency to discourage any arrangements which promote the coherence and integrity of the caste group as such. Thus, for example, the Supreme Court recently struck down as unreasonable restrictions on property right laws providing for pre-emption on the basis of vicinage. The Court held that the real purpose of these laws was to promote communal neighborhoods, a purpose which could have no force as public policy since the desire to promote such exclusiveness could no longer be considered reasonable. Yet the government is not prevented from taking account of caste in certain contexts. The caste remains a juridical entity. Just as Varna distinctions are still permissible in the application of Hindu law, so the caste group remains a relevant unit for determining the existence of customs which vary the law. Most importantly, the caste unit can be used for the purpose of distributing benefits and preferences to untouchables and to a lesser extent to backward classes. The revolution in the relations between the government and caste has not been as far-reaching as its proponents anticipated or as its opponents feared. From the point of view of the law, caste has not been abolished or removed from the legal view of society. The British policy of non-interference required that the law take the measure of the caste system and support certain features of it -a policy that could not avoid fostering changes in the caste system. The present policy of abolition of caste distinctions or leveling also involves the recognition of caste in order to regulate it. It may be expected that the new legal categories which are used to do this will have an impact on the caste system just as did the categories used by the British to stake out what they were not going to interfere with. British courts and census authorities disseminated notions of caste in terms of cultural characteristics which indicated Varna standing. The theory of Varna has now declined in prominence. It is almost displaced in the area of personal law, where it had reigned supreme. It is no longer available, along with the notion of pollution, to rationalize government support of precedence and imposition of disabilities. Notions of ritual rank and pollution are almost, if not quite, dead as legal categories. The caste unit is recognized by the law for the purpose of "protective discrimination" and for the purpose of exercising its autonomy. But for these purposes, the law regards castes as groups distinguished by certain economic, educational, and social characteristics. Its income, occupation, literacy, and representation in government services are the crucial variables. The law is now the source of new notions about caste which emphasize its economic and educational characteristics.

So far, the only successful legal defense of traditional prerogatives has been when the caste has successfully claimed that it is a distinct religious denomination. One might anticipate that with increasing pressure from lower castes, those higher castes that want to assert their special rights in temples or other religious facilities may be inclined to stress their distinctive religious and sectarian character. Thus the courts present an alternative image or images of the caste group - not images of occupational interdependence with a network of local groups or of ritual standing in an ideal all-India system of ceremonial ranks - but images in terms of economic, educational, and political attainments, and of sectarian or cultural distinctiveness. These new conceptions of caste seem congenial to the new opportunities for political and legal action provided by a welfare state, and a secular democracy which guarantees freedom of religion. The British period may be seen as one in which the legal system rationalized the intricacies of local customary caste relationships in terms of classical Hindu legal concepts like Varna and pollution. To borrow and slightly distort Srinivasan' terms, we can think of the British period as a period of "Sanskritization" in legal

notions of caste (Srinivas). In independent India, as Varna and pollution give way to the notion of groups characterized by economic, educational, political, and religious characteristics, we may think of this not as the abolition of caste, but as the "westernization" of notions of caste.

According to Ambedkar's (1957) anti-caste viewpoint in the "Riddles in Hinduism", "Hinduism" was never a single, cohesive religion since it was historically a collection of warring, fragmented sects like Shaivism and Vaishnavism. Ambedkar contended that in order to maintain their social dominance during the British era, upper-caste elites fabricated a cohesive "Hindu" identity. The ruling classes effectively weaponized contemporary welfare and religious laws by projecting this false monolith while rigidly upholding the oppressive Varna (caste) hierarchy. This made it possible for them to uphold graded inequality and defend exclusive temple rights under a single religious banner.

### **3.6 The Legal Instruments of Caste System and Human Rights**

In principle, caste discrimination should be included under "descent" because it involves hereditary status and social exclusion (Bossuyt, 2000). In the year 2005 UNHRC Resolution on Discrimination Based on Work Descent officially acknowledged that discrimination based on work and descent is a human rights violation. This encouraged UN member states to implement anti-discrimination laws and policies. Assigned Special Rapporteurs to study the impact of caste discrimination and propose measures for its eradication. In 2009 UN Special Rapporteur on Racism concluded that caste discrimination meets the definition under ICERD Article 1 further contradicting India's stance. In 2016 UN Special Rapporteur on Minority Issues Report on Caste-Based Discrimination highlights caste-based discrimination as a global human rights issue, not just limited to South Asia but also present in Africa, the Middle East, and diaspora communities. Reports by the UN Special Rapporteur on Extreme Poverty have emphasized the economic marginalization of Dalits.

Caste-based exclusion in India remains deeply institutionalized, denying Dalit children's core tenets of equal access to education, healthcare, employment, and dignity, making anti-discrimination measures critical. The International Dalit Solidarity Network (IDSN) documents UN bodies compilation of UN References to Caste including the Human Rights Committee, CERD, and ICESCR have condemned caste discrimination, with the UPR urging stronger enforcement of anti-discrimination laws to dismantle caste hierarchies. Jaffrelot (India's Silent Revolution, 2003) highlights caste as an imposed, stigmatized identity, trapping Dalit children in systemic oppression and violating their right to self-determination.

The caste system is fundamentally anti-democratic and anti-republic and works as "anti-democratic institution," mirroring the political disenfranchisement of indigenous peoples in colonial and post-colonial states (Ambedkar). Dalits face systemic political exclusion, with dominant castes controlling governance that extends to disabled Dalits. Caste and disability often intersect leading to compounded discrimination. Despite reserved seats (15% SCs, 7.5% STs), Dalit leaders are threatened or tokenized, never securing key ministries (Finance, Home, Defense, External Affairs) e.g. Babu Jagjivan Ram (Defence Minister) exceptional. Caste-based intimidation, vote suppression, limited leadership with symbolic representation and decision-making power persist. Dalit votes are often manipulated through identity-based politics, dominant parties offering short-term welfare schemes rather than long-term structural change.



While only one Dalit-led national party like the BSP challenged upper-caste dominance, they struggled against coalition politics, funding disparities, and mainstream parties that co-opt Dalit leadership. Lacks own political vision and agenda for championing social justice. Dalit candidates in panchayat elections face severe violence, including physical attacks, booth capture, and forced withdrawals. Dr. Ambedkar's vision of political training institutes to develop future leaders was neglected, leaving parties without a skilled cadre in economics, diplomacy, or education, building character and moral courage. This hindered their ability to counter electoral funding disadvantages (present & future, coalition pressures, and sabotage by dominant-caste leaders).

Legal interventions are crucial to challenge systemic hierarchies. According to Articles 330 and 332 of Indian Constitution, Constitutional safeguards are undermined by institutional discrimination, violence, and co-optation, hindering real empowerment. While Dalits have gained political visibility, social and political barriers continue to marginalize Dalits in South Asia. This principle aligns with the Universalist approach to human dignity emphasized by Henry Dunant (1862), the founder of the Red Cross, who advocated for impartiality in humanitarian care. Dalits face systemic denial of healthcare and protection, even in conflict zones. Farmer links this exclusion to structural violence, where caste discrimination persists in emergencies. Medical care must prioritize urgency over identity (Pictet, 1952).

India's legal framework, rooted in its Constitution (Articles 14, 15, 17), abolishes caste discrimination (untouchability) and guarantees equality, enforced through laws like the Protection of Civil Rights Act (1955/79) and the SC/ST (Prevention of Atrocities) Act (1989). However, these instruments clash with persistent caste-based discrimination and human rights violations, particularly against Dalits, highlighting a gap where societal practice of caste outpaces legal enforcement, despite broader human rights laws like the Protection of Human Rights Act (PHRA), 1993. Legal instruments against caste system and for human rights in India are as follows: (1) constitutional mandates in Article 14: Equality before the law; Article 15: Prohibits discrimination on grounds of caste, religion, etc.; Article 17: Abolishes untouchability and makes its practice a punishable offense. Therefore, the "untouchability" is abolished and its practice in any form is forbidden by the constitution. The enforcement of any disability arising out of "untouchability" shall be an offence punishable in accordance with law. (2) specific laws: Protection of Civil Rights (PCR) Act, 1955 (formerly Untouchability (Offences) Act): Implements Article 17; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (POA), 1989: Aims to prevent atrocities against marginalized castes; human rights framework: Protection of Human Rights Act (PHRA), 1993: Establishes commissions to protect human rights, referencing international instruments like the UDHR. In brief, the caste system is one of the oldest and most complicated systems of social stratification throughout India and the world. Although it was formally prohibited by the Constitution of India in 1950, the cultural embeddedness of caste system and its manifestations in institutions is inescapable.

The caste-based discrimination in India functions similarly to racial discrimination in other societies (Galanter). However, Omvedt (1994) aligned closely with Dr. Ambedkar, which mandates states to eliminate "massive and flagrant violations" of human rights caused by systems like racism, colonialism, and apartheid. The caste discrimination close to hidden apartheid, arguing that Dalits face institutionalized oppression akin to apartheid. Similarly, caste-based social exclusion functions as a barrier to full citizenship, much like the marginalization faced by indigenous peoples in settler-colonial societies. Later argues that the practice of untouchability is



learned through social interaction within a casteist mindset, which wouldn't exist in other societies. The racial theories of caste were dangerous for the advancement of Dalits because the fixity of race naturalized their oppressed condition. He connected untouchability to specific spaces, like villages and parts of town, where Dalits were compelled to "self-racialize" by adopting markers of their caste status. Ambedkar offered alternative explanations for the racialization of Dalits, suggesting they were "broken men" who lost their clan after conflict and were outcasts for refusing to abandon Buddhism and Buddhists continued to eat beef. Despite being legally abolished (Article 17 of the Constitution), untouchability remains widespread in daily life.



## CHAPTER 4

### **The Impacts of Existing Caste System on Human Rights Protection and the Possibility to Dismantle It in India**

In this Chapter, the researcher analyzed the impacts of caste system on the principles of human rights protection and the possibility of dismantle it in India as follows:

- 1) The impacts of existing caste system on individual human rights.
- 2) The caste system impacts on Dalit women in Indian society.
- 3) The rigid caste system in Brahman verses discriminates against rights of untouchable castes.
- 4) The combating social movements on eradication of caste system in Indian society.
- 5) The analysis of possibility to dismantle the untouchable caste discrimination in India.
- 6) The movements for caste abolition and human rights advocacy in India.
- 7) Limitations of the caste abolition and human rights advocacy.

#### **4.1 The Impacts of Existing Caste System on Individual Human Rights**

The caste system has a substantial impact on individual rights, particularly for Shudras (Other Backward Castes) and Untouchables (Schedule Caste/Tribe), and this frequently results in the restriction and even denial of some basic rights for individuals based on their caste or social position (Hoff et al., 2011). This shows they were treated not even as humans who comprise around more than 500 million persons (UN NEWS, 2011). According to Human Rights Watch:

**1) Right to Equality:** Lower-caste individuals have historically been denied the right to equality due to social, economic, employment, housing, public service access and educational disparities with higher-caste individuals.

**2) Right to Freedom:** Lower castes were restricted freedom of choice in many parts of life, such as marriage, profession, and social relationships as well as interactions even 'Right to Life was in peril.

**3) Right to Dignity:** Lower caste dignity was eroded and has been targeted by discriminatory and degrading practices, e.g. untouchability, depriving people of basic human dignity and respect as well as impacted serious psychological and emotional implications.

**(4) Right to Education:** Due to social and economic prejudice, lower castes have had inadequate access to education. Denial of educational chances limits their right to education and impedes their social advancement as well as integration in society.

**5) Right to Employment:** In India, traditional jobs e.g. leather work (cobbler), sanitation works etc. are connected with distinct castes. Lower caste face discrimination in employment based on caste identification has limited one's ability to work freely and pursue a career of one's choosing.

**6) Right to Political Participation:** The caste system has influenced political

involvement and representation, as well as lower castes have faced impediments to political participation and holding positions of power that can influence their lower caste community and making policies which can help lower caste in upliftment.

**7) Right to Social Mobility:** Individuals from lower castes have had restricted social mobility due to the fixed caste system. Upward mobility opportunities have been limited, sustaining economic and social inequities.

**8) Right to Security:** People from lower caste are frequently victims of violence and discrimination. They have faced physical threats, particularly when questioning the established status quo or demanding social equality.

**9) Right to Property:** Discrimination based on caste has impacted individuals' property rights, particularly land ownership. Caste issues have influenced access to land and control over resources.

**10) Right to Marriage:** The caste system has placed limits on inter-caste marriages, resulting in social and familial constraints that limit an individual's freedom to pick their life mate. There are several incidences of honor killings when two people from different castes marry.

**11) Right to Access to Justice:** Due to bias structure and social discrimination within the judicial system, justice has frequently been limited for lower-caste citizens. They may encounter difficulties reporting to police stations and getting remedies for caste-based violence and discrimination.

**12) Right to Freedom of Religion:** Historically, temples and religious institutions barred lower castes from participating in religious activities. Religious practices and prejudice within religious communities have been affected by the caste system.

#### **4.2 The Caste System Impacts on Dalit Women in Indian Society**

In Indian society, the caste system has significant and interconnected effects on women, frequently aggravating the difficulties they encounter as a result of both gender and caste discrimination additional to economic disparities. Savitribai Phule, Ambedkar, and Periyar, among many others, played crucial roles in social justice movements also "Hindu code bill" drafted by Dr. B.R. Ambedkar plays a game changing role in their life. "I measure the progress of a community by the degree of progress which women have achieved" (Ambedkar, 1987). Double discrimination occurs when women from lower castes face prejudice based on both their gender and caste. They have to cope with not only traditional patriarchal conventions, but also with the hierarchy within their own caste group. Due to economic constraints and societal discrimination, women from lower castes may have limited access to quality education. This lack of education can limit their possibilities and create poverty loops in pattern as well as fewer rights to land and property also 75% girls are primary school dropouts, which jeopardizes their economic security and independence. Early child marriages are common and these practices can have a negative impact on young girls' health, education, and overall well-being. Limited economic opportunities i.e. women from lower castes, for example, are frequently relegated to low-paying and demeaning employment, such as agricultural labour or manual scavenging.

This economic exploitation has the potential to hinder their financial independence and mobility. Exploitation and violence are frequently more vulnerable to many sorts of violence, such as Devadasi system, forced labor, domestic abuse and sexual harassment. Caste and gender discrimination can make it difficult for them to seek assistance or justice. In terms of access to healthcare services during pregnancy and childbirth. Mostly receive insufficient or discriminatory healthcare, resulting in maternal and reproductive health inequities. Women's reproductive rights are affected, as is the freedom to accept a girl or male as a kid. They may have restricted access to family planning and healthcare services, limiting their ability to make educated reproductive health decisions. Access to political representation is difficult. Their ability to engage in decision-making processes may be limited if the political system does not effectively represent their interests and decision making policies to uplift their lifestyle. In terms of self-respect and dignity; exclusion and social stigma and encounter humiliation and ostracism, this can undermine their sense of dignity and self-worth. Freedom of speech is suspended and limited voice within their families and communities. They may have little input in major decisions that affect their everyday lives which may not have positive result. So, poverty, illiteracy, and restricted access to healthcare are all at the nexus of much vulnerability. These intersecting circumstances have the potential to further marginalize them (Hossain, 2016).

Hindu Code Bill (1955-56) granted rights to women i.e. Hindu personal laws are being reformed and modernized. The measure attempted to resolve several concerns including Hindu marriage, divorce, property rights, and succession. The law was met with strong opposition from conservative Hindus, particularly religious leaders and traditionalist groups. They said that the reforms violated Hindu traditions and beliefs. The Hindu Marriage Act, the Hindu Succession Act, the Hindu Minority and Guardianship Act, and the Hindu Adoptions and Maintenance Act were subsequently split into four different bills as follows:

**1) Marriage and Divorce:** Establishing monogamy as the norm, establishing a legal marriage age, and simplifying divorce procedures. It attempted to ensure equal rights for couples in marriage and divorce;

**2) Inheritance and Property Rights:** Hindu women's inheritance and property rights are governed by legislation. Its goal was to eliminate gender inequities and ensure that daughters received a proportionate share of their family's property;

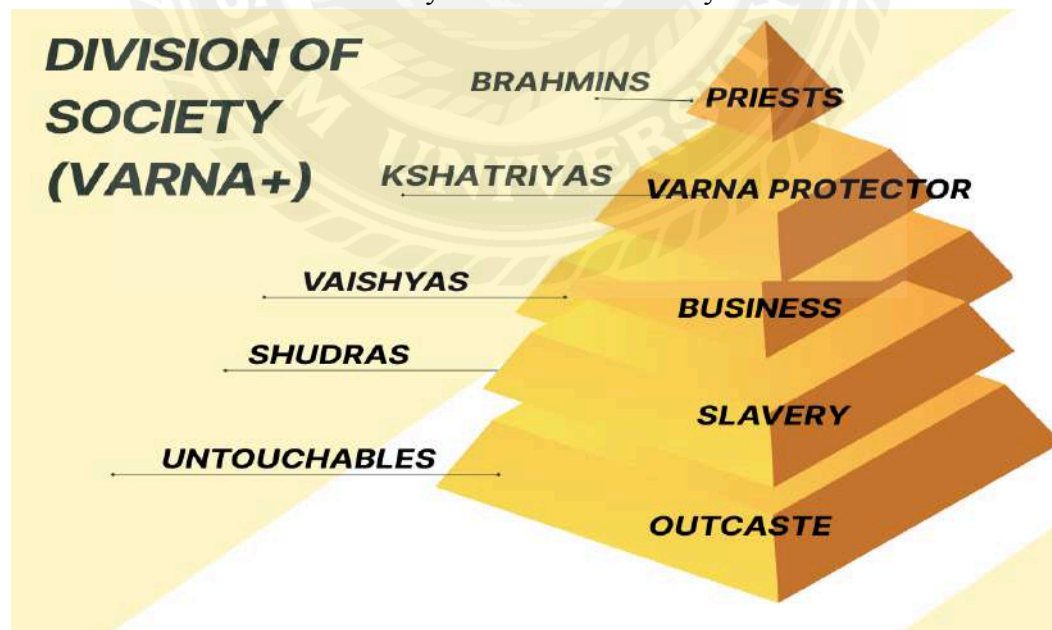
**3) Adoption, Guardianship and Succession:** Streamlining legal procedures for adopting children and setting clear criteria for minor guardianship. Establish universal property succession regulations to ensure that property is divided evenly among successors, regardless of gender; and

**4) Hindu Law Codification:** Successfully attempted to codify Hindu personal rules, offering a complete legal framework to replace numerous contradictory customary practices existing in different parts of India (Ambedkar, 1987). It was a major step forward in modernizing Hindu personal laws and ensuring more gender equality within the Hindu community. These reforms were seen as significant achievements in the early years of independent India, and they played an important role in creating the country's legal landscape (Kaushiki, 2023).

#### **4.3 The Rigid Caste System in Brahman Verses Discriminates against Rights of Untouchable Castes**

The origins of the rigid castes of the Varna system in Vedic society remain historically ambiguous, with no definitive evidence from the Indus Valley Civilization (2600 - 1400 BCE), which displayed advanced urban planning, a drainage system, and Buddhist-like artifacts (e.g., stupas, meditation posture, dancing figurines). Discovered in 1873 by Alexander Cunningham from text of Faxian (422 C.E), this civilization lacked any mention of Hindu kings or caste hierarchies. The Vedic period (1400 - 600 BCE) is often cited as the genesis of caste through the Purusha-Sukta (Rigveda's 10th book), introducing the Varna system and the marginalized Panchama (Dalits). However, this claim relies on oral traditions, lacking archaeological or scriptural proof. UNESCO (Ref N° 2006-58) dates the oldest Rigveda manuscript to the 1464 CE (Lodi dynasty) timeline, written in Sharda script derived from Brahmi (8<sup>th</sup>- 12<sup>th</sup>CE) raising questions about Brahminical influence's timeline (UNESCO, UN, 2004). Buddhism's prominence (600 BCE - 7thCE) further challenges caste's early existence. King Ashoka's era (3rd C.E. BCE) and Greek historian Megasthenes' Indica describe Indian society as class-based (e.g., philosophers, cultivators, herdsman, artisans and traders, soldiers, overseers, and councilors (Schwanbeck and Kuldeep, 2015), not caste-ridden. The linguistic divide also undermines Brahminical claims: Pali, Prakrit, and Tamil dominated ancient inscriptions, while Sanskrit's absence suggests it emerged later, complicating Brahmin narratives of Vedic antiquity (not present parallelly). If Brahmins speak Sanskrit and Indian people speak Pali (Prakrit), how do they communicate without a common language? This type of logical question is still unanswered by the greatest scholars. During Buddhist King Harsha (6th C.E), Xuanzang noted marginalized individuals residing outside Village getting taught by monks but no caste existed. Thus, caste likely solidified post-Buddhism; with Brahminical texts retroactively legitimizing hierarchies, while early India's egalitarian structure evident in archaeology and foreign account remained obscured by later ideological revisions, as shown in Classification of the Varna System in Vedic Society.

**Figure 4.1:** Classification of the Varna System in Vedic Society



**Source:** The Researcher, 2025.

There is no doubt that brahmanical text advocated untouchability and discrimination against women, Dalits (SC/ST) and Shudras (OBC) even supports and uphold abusive castesim verses. It had dismantled human rights even the basic natural rights for human and they cannot posse's life of dignity. Placing Brahmin in top of social order by birth makes it rigid and no social mobility is present. Presenting some abusive verses from Vedas, Manusmriti (law book), Upanishads, Bhagavad Geeta different shastras and smritis and how it holds caste system with full rigidity. In Valmiki Ramayana 2.109 Verse 34 abuses even Buddha means Sanskrit evolved later Pali; and does not have exact date to be written, now decoding verse states that "The Buddha is a thief in the same way. Understand that the Tathagatas are atheists. They are the most hated men in the community. A wise person should shun atheists" (IIT Kanpur).

According to the hymn of Purusha Sukta, Purusha (Human) is divided into several sections, including Brahmins (priests) from his mouth, Kshatriyas (warriors) from his arms, Vaishyas (merchants and farmers) from his thighs, and Shudras (servants) from his feet. This passage is frequently cited as an early allusion to socioeconomic differences. The Four Varna castes imply that each has a distinct role in society. Warnings to never breach caste laws and 'fear' considerations are added in the verses to keep people from deviating from their caste duties. Because caste duties stay constant throughout life, one should concentrate solely on his caste duties. The Vedic concept of Varna can be seen as a broader division of humans into vocational categories. This passage refers to the division of labour among diverse groups within society, implying that numerous occupational groups coexisted and contributed to the community's well-being. Upanishads make caste based slurs and abusive on lower caste. Those whose conduct has been good here will soon be born as a Brahmana, a Kshatriyas, or a Vaishya. Those whose behaviour has been evil will soon be born in evil births, such as the birth of a dog, pig, or Chandala i.e. Shudras (Srivastava, 2021).

Manu categorizes Hindus into four Varna, or castes. He not only categorizes Hindus into four Varna, but also ranks them. Manu, in addition to dictating rank and occupation, provides Upper caste privileges and penalizes Shudras. Brahma, the greatest creator, gave birth to the Brahmins from his mouth, the Kshatriyas from his shoulders and Vaishyas from his thighs, and the Shudras from his feet for the sake of humanity. God stated that a Shudras duty is to serve the upper Varna faithfully, without murmuring. There are numerous Manu Smriti Codes against Shudras In the company of the Shudras; he must never read the Vedas. All these verse are abusive; A Shudra was not to have any relationship with a lady of the higher classes, and Manu considered adultery committed by a Shudra with her to be a deadly offence. In terms of acquiring understanding and expertise, Manu's successors went far beyond him in their cruelty towards the Shudra for studying the Veda. For example, Katyayana states that if a Shudra overhears the Veda or attempts to say a Vedic term, the king shall chop his tongue in two and pour boiling molten lead into his ear (Ambedkar, 1987). Men and women are not born equal, according to Manu's law book and the Brahmins' rigorous adherence to it. Individual merit and individual justice are not taken into account. If the individual obtains the advantage, it is not because of his or her own merit (Ambedkar, 1987). The privilege is associated with class, and if he or she is fortunate enough to enjoy it, he or she is destined to be born in the privileged class. On the other hand, if a person is suffering in a class, it is because he is a member of that class. As a result, according to Manusmriti, the suffering of Shudras and women is due to the fact that they are members of their caste and gender, respectively. The 'Smriti' (law book) of Narda openly advocates slavery, but because Varna system (Manu's establishment of caste system) was important and deviously

intertwined into religion, to subdue the Shudras through superstitions like opium to an addict, the Brahmins let the slaves die (Ambedkar, 1987).

**Table 4.1:** Verses of Brahmanical Text Contradicts Indian Civilization (Buddhist)

| SCRIPTURE<br>/<br>TEXT  | BORN<br>UNEQUAL<br>&<br>JUSTIFIED<br>HIERARCHY                                          | SLAVERY,<br>FORCED<br>LABOR&E<br>CONOMIC<br>EXPLOITATION                                                                                    | SOCIAL<br>CULTURAL<br>OPPRESSION (INCL.<br>EDUCATION &<br>BIASED<br>LEGAL<br>SYSTEMS)                                                                    | DEGRADING<br>TREATMENT<br>OF<br>WOMEN                                                                   | BUDDHA'S<br>EIGHTFOLD<br>PATH<br>VIOLATIONS                                                                                                                                          |
|-------------------------|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rigveda<br>&Atharvaveda | Purusha Sukta<br>(10.90.12)                                                             | Justified                                                                                                                                   | 9.63.5(Killing<br>infidels)                                                                                                                              | 10.17 (Rape),<br>1.109.2<br>(Bride<br>purchase),<br>6.55.4<br>(Incest),<br>14.2.18<br>(Niyog<br>Pratha) | Right<br>Understanding/<br>Thought: Caste<br>hierarchy<br>contradicts<br>Buddha's<br>equality<br>teachings. Right<br>Action: Violence<br>(9.63.5) violates<br>defender<br>principle. |
| Manusmriti&<br>Nirukta  | I-31 (Divine<br>casteorigins),<br>X-125 (Fixed<br>duties),<br>II.31-32<br>(Varnaduties) | VIII.413,<br>X.121-124<br>(Shudrasas<br>slaves),<br>VIII-50,56,59<br>(Forced<br>labor),<br>VIII-417,<br>X-129<br>(Economic<br>restrictions) | VIII.20,<br>VIII.272,<br>VIII.374 (Caste<br>enforcement),<br>III.156,<br>IV.78-81<br>(Education<br>denial),<br>VIII.21,<br>VIII.270-271<br>(Biased laws) | IX-3, IX-18<br>(Women's<br>subjugation),<br>6.9(Bride<br>purchase)<br>12.10 (rape)                      | Right<br>Speech/Action:<br>Caste slurs<br>(VIII.21). Right<br>Livelihood:<br>Forced labor<br>(VIII-50)opposes<br>ethical work.                                                       |

| SCRIPTURE<br>/<br>TEXT                                 | BORN<br>UNEQUAL<br>&<br>JUSTIFIED<br>HIERARC<br>HY  | SLAVERY,<br>FORCED<br>LABOR &<br>ECONOM<br>IC<br>EXPLOIT<br>ATION | SOCIAL<br>CULTURAL<br>OPPRESSI<br>ON (INCL.<br>EDUCATIO<br>N &<br>BIASED<br>LEGAL<br>SYSTEMS) | DEGRAD<br>ING<br>TREAT<br>MENT<br>OF<br>WOMEN           | BUDDHA'S<br>EIGHTFOLD<br>PATH<br>VIOLATIONS                                                                                   |
|--------------------------------------------------------|-----------------------------------------------------|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Bhagavad Gita                                          | 4.13(Caste by birth),<br>18.41-48<br>(Varna duties) | 3:26, 3:35<br>(Duty-bound labor)                                  | 3:4-5(Caste obligations)                                                                      | 9:32<br>(Women's inferiority)                           | Right Understanding: Birth hierarchy (4.13) vs. Buddha's merit-based path. Right Effort: Fatalism (3:35) opposes Self-effort. |
| Chhandogya Upanishad                                   | 5.10.7(Caste by birth)                              | Justified                                                         | Justified                                                                                     | Justified                                               | Right Understanding: Caste by birth contradicts Buddha's rejection of fixed identities.                                       |
| Puranas<br>( <i>Brahma, Shiva, Matsya, Brahmanda</i> ) | Justified                                           | Justified                                                         | Justified                                                                                     | Rape in 4.42-43, 5.35.32-34, (11.34-37), (2.3.59.74-76) | Right Action/Mindfulness: Rape in Vedic society promote harm and attachment to Patriarchal norms.                             |

Source: The Researcher, 2025.

#### 4.4 The Combating Social Movements on Eradication of Caste System in Indian Society

The result of this independent study on caste system focuses on eradication of caste from every layers of Indian society. So when system becomes oppressive there is needed to make resistance fashionable. Affirmative action measures have been adopted in India through reservations in education, government jobs, and political representation for Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). These policies seek to create possibilities for historically marginalized caste groups while also promoting social fairness. Legal changes include the creation and implementation of legislation prohibiting caste discrimination. These laws are intended to preserve the rights and dignity of people of lower castes e.g. SC/ST



Act. Dalit rights groups, founded by luminaries such as B.R. Ambedkar, campaign for the rights and dignity of Dalits (untouchables). They aim to end caste-based prejudice and advance social justice. Other Backward Classes (OBC)/Shudras movements strive to address their special concerns and push for affirmative action measures that benefit their communities. These movements seek to empower OBCs and close socioeconomic gaps.

The Ambedkarite movement, inspired by B.R. Ambedkar's views and ideologies, focuses on social and political engagement to end caste prejudice and promote equality. It places a premium on education and empowerment as strategies of achieving social justice. Local grassroots organizations and initiatives seek to combat caste-based discrimination. To empower marginalized caste groups, they frequently engage in community development projects, awareness campaigns, and education programmes. Measures aimed towards the socioeconomic development of marginalized castes are included in inclusive policies. These measures seek to enhance access to education, healthcare, and economic opportunities while diminishing caste inequities. Movements and organizations work to prevent and remedy caste-based atrocities and violence against lower-caste people. They raise awareness, support victims, and advocate for justice in incidents of abuse and discrimination. Initiatives promoting inter-caste and inter-faith marriages challenge caste-based societal conventions and promote social integration. These endeavors aim to break down caste barriers and create social peace. Some organizations and efforts focus on cultural and educational programmes to challenge prejudices, develop understanding between castes, and foster a sense of unity and equality. The Indian government has adopted inclusive policy interventions and social programmes with the goal of improving the socioeconomic position of marginalized communities.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and scholarships for SC/ST students are two examples. Reserved seats in the legislatures for SC's and ST's have to assure their political representation. Giving these communities a voice in decision-making processes improves social fairness. In the 1970s, the Dalit Panthers were a social and political movement. It attempted to combat caste-based discrimination and violence by focusing on subjects such as land reform and Dalit rights protection. The BSP is an Indian political party that primarily defends the interests of Scheduled Castes and Tribes. Kanshi Ram created it, and it has grown in popularity in numerous areas, particularly Uttar Pradesh and became national party. Education, healthcare, economic development, and social welfare may be the emphasis of programmes. Movements address the interlocking types of prejudice faced by Dalit women in particular. They advocate for gender equality and the rights of Dalit women. On April 14th, the birth anniversary of Dr. B.R. Ambedkar serves as a platform for supporting social justice and raising awareness about caste-based discrimination. Media sources, documentaries, and cultural projects can help raise awareness about caste discrimination and challenge preconceptions. In colleges and educational institutions, student-led movements frequently campaign for social justice and against caste-based discrimination and hold awareness campaigns, protests, and debates.

#### **4.5 The Analysis of Possibility to Dismantle the Untouchable Caste Discrimination in India**

After the arrival of the British, it was also observed from modern history even from thoughts of Periyar and Ambedkar, that the reformers among the high-caste Hindus were enlightened intellectuals who focused their efforts on ending forced child marriage, enforced widowhood, and other social injustices (Burton, 1998). However, they did not see the need to

campaign for the abolition of castes and advancement of lower caste (shudras and untouchables), including lower caste females, nor did they have the courage to do so. In India, by saints political revolutions were preceded by social and religious reforms. During British administration, the issue of political independence took precedence over social reform, and therefore social reform remained neglected. E.g. Congress and Social Conference were two wings with the same goal and activity. Congress defined the weak spots in the political organization, while the Social Conference's role was to remove the weak points in the Hindu Society's social organization, but the Conference was taken over by political wings and so fell apart (Scales, 1998).

Socialists must first combat the demonic forces of caste, whether before or after the revolution. Caste is a division of laborers rather than a division of labour. Caste, as an economic organization, is also a destructive institution (Ambedkar, 1936). As one possible solution to the problem is promoting inter-caste marriage (Lohia, 2009) and abolition of Priestly caste if not then through examination everyone despite different caste must pass exam to become priest not on heredity basis. Everyone who claims to be a Hindu must be eligible to become a priest (Veeramani, and Periyar). A priest should be a servant of the state, subject to disciplinary action by the state in matters of morals, beliefs, and worship, in addition to being subject to the regular law of the land like all other citizens. The number of priests should be controlled by law to meet the needs of the state. No ceremony performed by a priest who does not have a Sanad (ritual) shall be considered valid in law, and it should be declared a crime to officiate as a priest without a sanad. Better suggestion is that untouchables who were “The Untouchables” must go back to their original religion of Buddha and must follow Buddhist teaching and practice. If something stops then the underlying cause of preserving castes i.e. Brahmanical textbooks such as Vedas, Manusmriti shastras, and so on, hence dynamite should be applied to it and it must be destroyed from the root (Ambedkar, 1936). According to Ambedkar, "Make every man and woman free from the thralldom of the 'Shastras', cleanse their minds of the toxic notions founded on the 'Shastras' and he or she will interdine and intermarry" and “The one who doesn’t know history cannot create history” pointing towards untouchables and shudras. Thus, Ambedkar reclaimed natural state of homecoming to former Buddhism on 14 October 1956 with more than 1 million follower is biggest mass homecoming in history of world i.e. few cite this event as “The Great Conversion.” Also set twenty two vows or oaths (Kulkarni, 2022) before anyone who want to become Buddhist as he said previously in 1935 “I was born as Hindu but I will not die as Hindu” (Aakash, 2023) because he was aware of real history.

Caste, class, and race are three independent but interconnected social conceptions used to categorize and classify people within civilizations. Mentioning differences; Caste is a social hierarchy structure that is prevalent in India and certain other South Asian countries. It classifies people based on their birth, family history, and inherited factors. Caste is frequently linked to work and social duties as follows:

**1) Caste** is often inheritance carried down through generations and inherited from one's parents. Traditionally caste-based societies, changing one's caste is difficult. Caste systems are highly rigid and hierarchical, with no social mobility between castes. Despite difference in race and class a person can be same caste. Geographical Concentration: Caste-based communities in India are frequently concentrated in distinct regions. Discrimination: Caste has historically been linked to inequality and social exclusion, notably against lower-caste people.

**2) Class** is the differentiation based on economic characteristics and is also a social categorization based on economic characteristics such as income, wealth, education, and occupation. It represents a person's socioeconomic standing in society. Inheritance: While family heritage might influence class, it is not normally inherited in the same manner that caste is. It might alter over a person's lifespan due to things such as education and employment. Fluidity: Because social class is more fluid than caste, social mobility is stronger. Individuals can advance or fall in class based on their achievements and circumstances. The concept of social class is more universal and may be found in many different societies around the world. Discrimination: Class discrimination, often known as classism, can occur, however it is mainly due to socioeconomic discrepancies rather than inherent features.

**3) Race** is a social construct that classifies people based on physical qualities such as skin color, facial features, and hair type. It is frequently linked to shared ancestry, culture, or geographical origin. Race is not inherited in the same way that caste or statuses are. It is a social construct that has historically been used to classify and differentiate people based on perceived physical characteristics. While racial categories can be fluid in some ways, systematic racism and discrimination can limit people's chances based on their racial or ethnic heritage. Global Variation: Because race and racial categories are embedded in the historical and cultural environment of each location, the concept of race and racial categories vary greatly among cultures and locations. Discrimination: Racial discrimination, often known as racism, has been a major concern in many regions of the world. Individuals are treated unequally based on their racial or ethnic identity.

## **4.6 The Movements for Caste Abolition and Human Rights Advocacy in India**

### **4.6.1 The Evolution of the Movements for Caste Abolition**

The historical landscape of India witnessed significant challenges to the deeply entrenched caste system through various socio-religious movements. From the early centuries of the Common Era to the cusp of the modern age, distinct yet resonant reformative waves emerged across the subcontinent. In South India, between the 7th and 18th centuries, Hindu anti-caste movements arose, questioning Brahminical supremacy, rejecting discriminatory practices, championing local languages, and advocating for social parity. This spirit of resistance continued with later Bhakti saints in Tamil Nadu, Karnataka, and Kerala during the 15th–18th centuries. Simultaneously, North India experienced a radical social and religious transformation between the 13th and 17th centuries, spearheaded by Bhakti saints and Sufi mystics. This period saw a unique confluence of Hindu and Muslim traditions, as reformers contested religious orthodoxy and the dominance of the priestly class, promoting spiritual egalitarianism, social justice, and vernacular literary expression. These movements, while geographically diverse, shared a common thread of challenging the hierarchical structures of caste and religious exclusivity.

The South Indian movements against caste between the 7<sup>th</sup> to 18<sup>th</sup> centuries were pivotal in challenging Brahminical orthodoxy and caste hierarchies. The Alvars (Vaishnavite) Divya Prabandha and Nayanars (Shaivite) Tevaram early Tamil Bhakti saints rejected caste divisions, using Tamil instead of Sanskrit to democratize spirituality, with many lower-caste saints openly opposing Brahmin dominance. The Lingayat (Virashaiva) movement, led by Basava (12th C.E.), radically rejected caste, priesthood, and temple rituals, empowering Dalits and women like Akkamahadevi as spiritual leaders through Vachanas vernacular Kannada poetry critiquing social injustice. Similarly, the Tamil Siddha poets (12<sup>th</sup>- 15<sup>th</sup> C.E.) combined mysticism with anti-caste resistance. Later, the Satnami movement (15<sup>th</sup>- 18<sup>th</sup> C.E.) founded by Guru Ghasidas, promoted

ethical living, social equality, and defiance against oppression, emphasizing self-discipline and inner purity. These movements collectively undermined caste oppression through vernacular literature, egalitarian worship, and radical social inclusion, leaving a lasting legacy in India's struggle for equality.

The Bhakti movement in North India (13<sup>th</sup>- 17<sup>th</sup> C.E.) was rooted in the belief that God does not recognize caste; spiritual purity was determined by devotion and ethical conduct, not birth. This principle emerged radical social and religious reform movement contradicted Brahminical hegemony, which enforced Varna hierarchies. Bhakti saints argued that all humans were equal, dismissing caste as a social evil rather than a divine mandate. They particularly criticized Brahmins, asserting that no intermediary was needed to reach salvation. By composing poetry in vernacular languages like Hindi, Punjabi, Marathi, and Awadhi, they made religious discourse accessible to the oppressed, bypassing Sanskrit's exclusivity.

#### **4.6.2 The Modern India Ideological Progression Continues**

The struggle against caste oppression in India has manifested through diverse social, religious, and political movements, each challenging Brahminical hegemony in distinct yet interconnected ways. Early resistance emerged in the 17th centuries, with Adivasi communities like the Santhals and Mundas rejecting exploitation by landlords and Brahminical traditions, followed indigenous spiritual traditions. These movements laid the groundwork for later organized anti-caste struggles. By the 19th C.E., India's witnessed first schools for Dalits and girls founded by Jyotirao and Savitribai Phule, radicalized the discourse by framing caste as institutionalized slavery in book *Gulamgiri* compared slavery of U.S, founding the Satyashodhak Samaj to democratize education and dismantle Brahminical control a vision expanded by Periyar in the 20th C.E. through the Self-Respect Movement, which advocated atheism, Dravidian identity, and the complete rejection of Hinduism still influencing politics of Tamilnadu (Land of Periyar).

Meanwhile, B.R. Ambedkar transformed anti-caste resistance into a constitutional, educational and political project; Independent Labour Party (1936) and later the Scheduled Castes Federation (1942), securing legal safeguards as an architect of the Indian Constitution (1950) for Dalits and ultimately leading a mass restoration of Buddhism (1956) via homecoming known as great conversion to end caste and sanskritization. In contrast, Gandhi's Harijan Movement sought reform within Hinduism, emphasizing social harmony but failing to address caste's structural roots, believing in Varna hierarchy with dignity. Together, these movements reflect an evolving dialectic of resistance from localized rebellions to systemic critiques highlighting the tension between abolitionist and reformist approaches in the fight for caste annihilation. Their legacies endure in contemporary debates over social justice, representation, and the unfinished project of caste emancipation.

#### **4.6.3 The Evolution of Post Ambedkar Development**

The post-Ambedkar era witnessed a transformative phase in Dalit activism, marked by radical resistance, political assertion, and global human rights advocacy. Babu Jagjivan Ram dedicated his life to fighting for the rights and equality of Dalits, advocating against caste-based discrimination and for their social upliftment. He founded organizations like the All India Depressed Classes League to mobilize the community and demand political representation. His efforts ensured the inclusion of provisions for social justice and affirmative action for Dalits in India's Constitution. Emerging from Dr. B. R. Ambedkar's legacy of social justice and constitutional safeguards, movements like the Dalit Panthers in 1972 redefined anti-caste

resistance by adopting militant strategies inspired by the Black Panthers. Through literary activism, protests, and legal battles, they demanded land redistribution, job reservations, and justice for caste violence victims, particularly in Maharashtra. Since 1980s this radicalism was complemented by structured political mobilization under Kanshi Ram's Bahujan Movement, which sought to unite Dalits, OBCs, and minorities under the Bahujan Samaj Party (BSP), influencing international human rights reports on political inclusion. By emphasizing electoral power and bureaucratic representation through organizations like BAMCEF, Kanshi Ram transformed Dalit politics into a national force.

Parallely, Dalit Mahila Andolan (1981), a movement dedicated to Dalit women's rights and empowerment, fights for the implementation of legislation that protects Dalit women. The Narmada Bachao Andolan (1985), led by Medha Patkar, became a pivotal movement for Dalit and Adivasi rights, resisting forced displacement by dams without fair rehabilitation. It highlighted the intersection of caste, class, and environmental justice. Meanwhile, the National Federation of Dalit Women (1990s) and Mahila Jagran Manch amplified Dalit women's struggles. Internationally, the International Dalit Solidarity Network (IDSN 1998) pushed UN bodies to recognize caste oppression, linking local resistance to global human rights advocacy.

The Ambedkarite movement expanded through education, Buddhist conversion, and legal advocacy, with groups like the National Campaign on Dalit Human Rights (NCDHR) leveraging international platforms. The IDSN's litigation and UN lobbying secured milestones like the UN CERD's recognition of caste as descent-based discrimination (2002) citing it in their General Recommendation 29, amplifying global scrutiny on India's caste apartheid. Dalit women's movements further intersectionalized the struggle, with All India Dalit Mahila Adhikar Manch (AIDMAM) and Dalit Women Fight exposing caste-gender violence and linking it to global campaigns like #MeToo. Grassroots organizations led by Dalit women focus on entrepreneurship, skill development, and financial independence to break the cycle of poverty.

Safai Karmachari Andolan, Dalit Bahujan Shramik Union (DBSU) and Dalit Mahila Vikas Mandal addressed manual scavenging and economic empowerment, while literary voices like Urmila Pawar and Bama fostered a Dalit feminist revolution. In the digital age, Dalit Lives Matter and Equality Labs have globalized the movement, documenting caste oppression in diaspora and mobilizing international solidarity. From UN forums, Golden Triangle to Ivy League debates, these efforts have cemented caste discrimination as a universal human rights issue, ensuring Ambedkar's vision remains a living, evolving struggle for equality.

#### **4.6.4 The Impacts and Contribution of Movements**

The Bhakti, Lingayat, Vachana, and Varkari movements collectively dismantled Brahminical hegemony by democratizing spiritual access and empowering marginalized communities. The Alvar and Nayanar saints challenged Brahmin monopoly by centering Dalits in temple worship and composing vernacular Tamil literature, weakening Sanskrit's dominance and inspiring later Bhakti saints like Kabir and Tukaram. Similarly, the Lingayat movement institutionalized caste resistance by creating casteless communities and elevating women and Shudras to leadership roles. The Vachana poets, through anti-caste Kannada poetry, laid the ideological groundwork, while the Tamil Siddha and Veerasaiva traditions merged spiritual and social rebellion rejecting temple hierarchies, advocating bodily autonomy, and integrating tantric wisdom with social critique.

Kabir and Ravidas expanded this legacy by building casteless spiritual sects (Kabirpanthis, Ravidasias) that directly influenced Sikhism's egalitarian ethos, as seen in Guru Nanak's inclusion of Kabir and Ravidas' hymns in the Guru Granth Sahib. Guru Gobind Singh later fought against caste discrimination turned into war. The Battle of Bhangani (1688) against Bhim Chand symbolized the Sikh resolve to resist oppression and uphold righteousness, against the caste system. The Varkari and Satnami movement further radicalized Dalit assertion, with figures like Chokhamela, Tukaram and Ghasidas inspiring 19th-C.E. reformers like Jyotirao Phule drew from their Marathi poetry to attack Brahminism influenced Periyar and Ambedkar.

Dr. Ambedkar canonized Chokhamela's writings, framing Buddhism as the culmination of anti-caste spirituality. These movements collectively eroded Sanskrit's religious monopoly, decentralized temple power, and provided a theological basis for modern movements from Phule's Satyashodhak Samaj to Self-Respect Movement and Ambedkarite Buddhism. Their legacy persists in Dalit literature, Dravidian and North Bahun politics, and global human rights advocacy, underscoring caste oppression as a systemic issue. By interweaving spiritual and social liberation, they forged a continuous anti-caste resistance, bridging medieval dissent with contemporary struggles for equality. BSP mainstreamed Dalit political representation, proving marginalized communities could govern, advocating for affirmative action and policy influence.

Supreme Court Judgments in *State of Karnataka v. Ingale* case (1992) upheld caste-based reservations as a necessary tool for social justice. Grassroots organizations like the Savitribai Phule Resource Centre-AIISCA led by Rahul Sonpimple, and Bhim Army led by Chandrashekhar Azad mobilized Dalit youth to build own institutions, combat atrocities through legal aid and protests, as seen in the Ravidas Temple Movement (2019), which sparked national outrage. Legal frameworks in the SC/ST (Prevention of Atrocities) Act, 1989, and its 2018 amendment, emerged from sustained activism, though enforcement remains inconsistent. Cultural and intellectual resistance has been equally transformative. Dalits literature was exemplified by works like *Joothan* by Omprakash Valmiki and *Karukku* by Bama challenges caste narratives, while films like *Asuran*, *Kaala*, and *Jai Bhim* etc amplify Dalit struggles. Independent media initiatives like Dalit Camera, The Ambedkarian Chronicle and The Caravan's Dalit journalism disrupt dominant-caste narratives, fostering alternative discourses.

Internationally, organizations like the International Dalit Solidarity Network (IDSN) and reports by Human Rights Watch have globalized caste discrimination, prompting bodies like the UN and EU to address it as a human rights violation, although it remained largely symbolic due to India's economic and diplomatic clout. Economically, Dalit entrepreneurship, promoted by groups like the Dalit Indian Chamber of Commerce and Industry (DICCI), disrupts traditional caste-based labor hierarchies. Meanwhile, California's Proposed Anti-Caste Discrimination Law (2023), Silicon Valley's recognition of caste bias, spurred by lawsuits against Google and Cisco, reflects the movement's global reach. Despite progress, challenges persist, from manual scavenging to inadequate implementation of reservations. Yet, anti-caste movements endure as a revolutionary force, dismantling oppression through legal, cultural, and political resistance, and redefining democracy for marginalized communities.

#### **4.7 Limitations of the Caste Abolition and Human Rights Advocacy**

The Bhakti and Sufi movements, though spiritually transformative and reforms, failed to dismantle caste hierarchies, as Brahmin priests later absorbed Bhakti into orthodox Hinduism by process of Sanskritization, and Lingayat and Sikhism readopted caste structures. These

movements lacked economic and political radicalism, focusing on spiritual rather than structural change, allowing caste discrimination to persist. Similarly, Phule's efforts, though pioneering, remained regionally confined to Maharashtra and lacked broader political mobilization. Periyar's anti-caste resistance, while influential in Tamil Nadu, did not significantly alter economic structures or achieve nationwide impact. Ambedkar's movement, despite its legal and ideological rigor, faced political fragmentation, weakening Dalit unity. Gandhi's reformism was limited by his reluctance to abolish caste entirely, and his paternalistic approach was rejected by Dalits in favor of Ambedkar's assertive activism. After Kanshiram parinirvan BSP lost its foundational ideological pillars, the core ideology of Buddha, Phule and Dr. B.R. Ambedkar. Collectively, these movements faced absorption, regional constraints, and insufficient structural change, highlighting the enduring complexity of caste oppression in India.

Ambedkar (1936) envisioned that caste privilege would persist due to upper-caste resistance, a reality evident in contemporary challenges to Dalit empowerment. Politically, dominant castes frame affirmative action as "reverse discrimination," while caste-based parties dilute anti-caste radicalism for electoral gains, co-opting Dalit leaders into compromising their agendas. Fragmentation within marginalized groups such as Dalit-OBC tensions or intra-Dalit hierarchies further weakens collective resistance. Economically, dependence on upper-caste employers and landlords stifles dissent, as fear of boycotts, job loss, or eviction discourages mobilization. Socially, anti-caste activists face violent repression, from mob lynchings to sexual violence against Dalit women, with figures like Jignesh Mewani and Chandrashekhar Azad enduring state persecution. Internationally, Gayer & Jaffrelot (2014) noted caste oppression receives less attention than religious or racial discrimination, with India rejecting UN interventions by framing caste as a domestic issue. Global advocacy is further hampered by weak enforcement, selective focus, and restrictive policies like FCRA regulations, which curb NGO funding. Together, these barriers political co-optation, systemic violence, and global neglect undermine substantive caste annihilation, perpetuating structural inequities.

## CHAPTER 5

### Conclusion, Discussion, and Recommendations

#### 5.1 Conclusion and Discussion

This independent study investigated the multiple facets of caste-based discrimination and its ramifications for individuals and communities through a thorough examination of historical, cultural, and contemporary viewpoints. It is clear that custom practices of Brahmans later evolved into culture and religious form during the 7th century later wards. Dismantling the Hindus/Brahmanical believe that caste system is a divinely ordained system as none of texts were created by divine means and UNESCO reports uncovers that the evidence of oldest script Rigveda of Brahmins have been dated 1464 C.E. The beginning of ancient archeological evidence does not reflect any mentions about caste and brahmanical caste order which is found in contemporary India. Significant impediment to the advancement of both people and the nation, and frequently regarded as a block to growth.

The caste system's impacts on human rights are not limited to India; it resonates with global issues on discrimination, social fairness, and human rights promotion. Caste system has many flaws only positive side is that who are in upper strata of system are benefitted with cultural power and resources while it has negative impact as it affects more than 85% of the Indian population. The social inequality, economic disparities, educational barriers, occupational restrictions, social divisions, political exploitation, inefficiency in resource allocation, violation of human rights discrimination, and violence are all examples of social inequalities. Caste impacts on national identity due to a lack of social mobility and strengthening social exclusion. It's important to note that efforts have been made in independent India to address these issues. Affirmative action policies, such as reservations for Scheduled Castes (SCs) and Scheduled Tribes (STs), have been implemented to promote equality, rights and welfare of individuals from marginalized castes and provide opportunities for historically disadvantaged groups.

In addition, various legislations and initiatives aim to combat caste-based discrimination and protect the rights of individuals regardless of their caste background. Dalits in modern institution discriminated e.g. after independence they started getting entry to public and government educational institutions at that time Dalits were not available in large spaces in these fields but after education now they are rejected on basis of not found suitable this is modern way of discrimination and social exclusion. The Constitution of India advocated in protections against caste-based discrimination also policies, anti-discrimination laws, and social reform movements played significant role. Reservations for women in local governance (panchayats/village) and various organizations have worked to empower women from lower castes and raise awareness about their rights. Achieving gender and caste equality requires comprehensive efforts to combat both forms of discrimination and promote social and economic empowerment for all women and 'The Hindu Code Bill' and the subsequent acts played a pivotal role in promoting gender equality and social justice within the Hindu community. The impact of the caste system on individual rights remains a complex and evolving issue in India.

However, challenges persist in fully realizing these rights and eliminating caste-based



discrimination and inequalities. Dr. Ambedkar's commitment to these reforms underscored his dedication to advancing the rights and dignity of marginalized groups in India. Before any political revolution Dalits must concern on socio-economic, religious and cultural revolution as these will work as foundation to gain sustainable political power. One of way to dynamite this rigid caste system is to embrace Buddhism as it was successful attempt by Ambedkar in 1956 and people along with Ambedkar who reconverted to Buddhism are most developed in terms of well-being and educational literacy compared to Dalits who are still following Brahmanical Dharma (Hindu), according to IANS report 2017.

The legitimacy of the caste system, which is anchored in Brahmanical religious texts and reinforced by social traditions and institutions, significantly undermines India's modern constitutional and human rights frameworks. Despite legal prohibitions on untouchability (Article 17), affirmative action policies, and provisions for equality and non-discrimination (Articles 14, 15, 16, and 21), the persistence of caste-based discrimination demonstrates the limitations of a rights-based approach when dealing with deeply embedded social hierarchies. This conflict has been underlined throughout the research in areas such as education, healthcare, labor rights, freedom of expression, and political representation. Using a documentary research method based on qualitative analysis, the study critically analyzed the conceptual origins and present consequences of caste and human rights. It was discovered that, while the concept of human rights grew globally, drawing on natural law theory, Enlightenment ideals, the Universal Declaration of Human Rights (UDHR), and modern constitutionalism, the caste system remained rigidly hierarchical.

The Indian Constitution, while progressive and inclusive in spirit, frequently fails to translate these objectives into actual realities due to administrative indifference, sociopolitical resistance, and the dominant caste structure's deep entrenchment in administration. The study also examined caste via an intersectional perspective, investigating how it interacts with gender, class, disability, and other identities. The Dalit women, in particular, face triple marginalization, being subjugated by patriarchy, caste, and economic destitution. This investigation demonstrated that caste prejudice is a multidimensional issue that affects all aspects of human development and political engagement. The caste-based exclusion, as demonstrated in this study, has the same impact as racial apartheid, but receives far less global notice and condemnation. International human rights documents such as the UN Convention on the Elimination of Racial Discrimination (CERD), Special Rapporteur reports, and the Universal Periodic Review (UPR) have defined caste as "discrimination based on work and descent". This disagreement is more than just legal or political; it reflects a clash of civilizations.

While the philosophy of Buddhism and human rights supports liberty, fraternity, and equality, the caste system encourages separation, inequality, and division. Ambedkar's vision of social democracy, in which liberty, equality, and fraternity are not only legally protected but also lived out in spirit, remains a faraway goal. The structural casteism, socio-religious supremacy, and systemic policy failures continue to impede genuine growth. This study indicates that the caste system and human rights cannot coexist without conflict until transformative change is achieved by constitutional morality, efficient legislative execution, inclusive policy-making, and the preservation of socio-cultural norms of the Indian society.

This study demonstrates that the caste system and human rights cannot coexist without conflict until transformative change is achieved by constitutional morality, effective legislative

execution, inclusive policymaking, and the preservation of socio-cultural norms. The solution goes beyond legal change; it requires a cultural revolution that reshapes values, dismantles social hierarchies, and rebuilds Indian society on the principles of fairness and equality. Finally, the Indian caste system directly contradicts the notion of universal human rights. To safeguard human dignity and achieve substantive equality, India must not only strengthen its legal and administrative frameworks, but also address the historical and cultural origins of caste prejudice. Only by doing so can it truly fulfill its constitutional promise and international human rights obligations in the global society.

## **5.2 Recommendations**

India can draw critical lessons across nation Nepal's and Japan's approaches to caste based on work and descent-based discrimination and to reform legal and enforcement mechanisms. First, "The Untouchables" must go back to their original religion of Buddha and must follow Buddhist teaching and practice. If something stops then the underlying cause of preserving castes i.e. Brahmanical textbooks such as Vedas, Manusmriti shastras, and so on, hence dynamite should be applied to it and it must be destroyed from the root (Ambedkar, 1936). According to Ambedkar, "Make every man and woman free from the thralldom of the 'Shastras', cleanse their minds of the toxic notions founded on the 'Shastras' and he or she will inter-dine and intermarry" and "The one who doesn't know history cannot create history" pointing towards untouchables.

Then, India must expand its legal framework to address not only violent crimes but also systemic discrimination in social, economic, and private spheres. Nepal's Caste-Based Discrimination and Untouchability Act (2011) offers a model by criminalizing exclusion in housing, employment, and social interactions gaps that India's SC/ST (Prevention of Atrocities) Act, 1989 overlooks. Implement anti-discrimination committees with real power. A new Caste Discrimination Prohibition Act (CDPA) should be introduced, explicitly banning caste-based hiring bias, housing segregation, and digital discrimination, akin to Japan's Buraku Protection Act (2016). Second, enforcement must be strengthened through fast-track courts, mandatory judiciary police caste sensitization training, and harsher penalties for officials who neglect caste-related cases. Nepal's strict penalties for bureaucratic inaction and Japan's National Caste Discrimination Monitoring Commission model underscore the need for independent oversight bodies in India, such as a Dalit-led NCDMC with investigative powers. Third, institutional accountability should be enhanced via time-bound resolutions for cases, annual parliamentary & UNHRC, CERD reviews, and a Caste Discrimination Scorecard to track progress. By integrating Nepal's comprehensive legal coverage and Japan's rigorous implementation mechanisms, India can transition from reactive punitive measures to proactive systemic reform.

### **5.2.1 Aligning with International Human Rights Standards**

India must recognize caste discrimination under international human rights law by adopting Nepal's and Japan's progressive approaches. First, India should accept CERD's interpretation of caste as descent-based discrimination, aligning with General Recommendation No. 29 of 2002. This entails acknowledging caste discrimination in UN reports, engaging constructively with the Universal Periodic Review (UPR), and ratifying ILO Convention No. 111 to address labor exploitation. Additionally, India should invite UN Special Rapporteurs to assess caste-based violations, mirroring Nepal's transparency to scrutiny, rather than resisting international oversight. Furthermore, India must empower community-led activism, drawing from

Japan's Buraku Liberation League (BLL), by amplifying Dalit representation in UN forums and partnering with global organizations like Amnesty International to enforce and track accountability. To shame communal government international monitoring of caste-based bonded labor and manual scavenging cases is must. Finally, leveraging global business pressure by integrating caste equity into ESG (Environmental, Social, and Governance) policies and trade compliance can institutionalize anti-discrimination measures.

### **5.2.2 Political and Economic Empowerment of Dalits via Legal and Policy Interventions**

To enhance Dalit political representation, India should adopt Nepal's proportional representation model, ensuring reserved parliamentary and political seats and equitable inclusion in governance, judiciary, and bureaucracy, while empowering the NCSC with enforceable authority for systemic equity. To dismantle caste-based economic disparities, Nepal's anti-discrimination laws, which criminalize caste-based labor restrictions, offer a model for India. Similar measures such as banning caste-based barriers in business ownership and land leasing should be enforced. Complementing this, a Corporate Social Responsibility (CSR) mandate for Dalit employment in large firms, coupled with diversity audits, would ensure accountability. Economic empowerment requires targeted policies like a new Caste-Based Economic Empowerment Act, extending beyond reservations to include land redistribution, Universal Basic Income (UBI) pilots, and Special Economic Zones (SEZs) for Dalit entrepreneurs, supported by subsidized loans and skill training. Private sector inclusion can be incentivized through tax benefits for caste-diverse hiring and government contract preferences. Additionally, enforcing bans on manual scavenging with rehabilitation and promoting integrated urban housing through strict anti-discrimination practicing laws would foster equitable development.

To combat caste discrimination, India must integrate anti-caste education and Dalit contributions into school curricula, countering communal narratives. Strengthening media representation through Dalit journalists and filmmakers can challenge stereotypes. Educational reforms should ensure effective SC/ST scholarships, timely funding, and mentorship programs in STEM, law, and politics. Skill-training centers linked to industries can uplift Dalit youth, mental health services as part of rehabilitation. While an AI Ethics Board should address algorithmic caste bias. Public awareness campaigns via media, (TV, radio, movies, OTT platforms, and influencers) and inter-caste cultural initiatives like mixed community projects with monitoring policy to measure effectiveness can foster social integration. Ensuring justice for marginalized communities requires legal reforms, grassroots mobilization, and international advocacy. Policy enforcement, education, and economic gaps are must for cultural shifts and achieving socio-cultural transformation. Contemporary measures foundation for annihilation of caste implementation timeline along with accountability framework.

**Table 5.1: Recommendation Plan for India (Phase wise)**

| PHASE                 | ACTION ITEMS                                                                                           | IMPLEMENTATION TIMELINE | RESPONSIBLE AGENCIES                                     |
|-----------------------|--------------------------------------------------------------------------------------------------------|-------------------------|----------------------------------------------------------|
| Phase 1<br>(Year 1-2) | Enact Anti-Caste Discrimination Law, Set Up NCDMC, Strengthen SC/ST Act                                | 2025-2026               | Ministry of Law, NCDMC, State Governments                |
| Phase 2<br>(Year 3-4) | Expand Dalit SEZs, Introduce Affirmative Hiring Policies in Private Sector, Improve Dalit Scholarships | 2027-2028               | Ministry of Finance, Corporate Affairs, Education        |
| Phase 3<br>(Year 5-6) | Enforce AI & Digital Anti-Caste Bias Regulations, Strengthen Global Advocacy at UN                     | 2029-2030               | Ministry of IT, External Affairs, UN Human Rights Bodies |

Source: Researcher, 2025.

Caste-based oppression manifests through forced labor, economic exclusion, and judicial bias, perpetuating cycles of discrimination despite legal frameworks. Centuries of oppression have normalized caste hierarchy. Slavery and exploitative labor systems persist under cultural pretexts, with weak ILO enforcement enabling caste-based wage gaps and occupational segregation. “Equal by Law, Unequal by Caste”, legal protections remain ineffective, as caste operates beyond formal statutes evidence in wrongful convictions, denial of bail, and systemic bias against Dalits in courts. André Béteille’s observation that caste evolves rather than disappearing underscores that discrimination adapts, necessitating transnational accountability. The silencing of caste in global discourse, coupled with India’s resistance to external scrutiny, highlights the need to link caste apartheid to ICCPR and CERD violations, reinforcing international pressure. Martin Macwan (2018) notes that despite international efforts, domestic political resistance often undermines these recommendations, limiting their real-world impact.

Economic marginalization is entrenched through state neglect and internalized oppression e.g. caste-based surveillance and discriminatory data collection practices. Caste hinders strengthening labor protections to end caste-based wage gaps. While foreign universities promote inclusive lifelong learning, India’s upskilling programs ignore caste barriers, leaving Dalit artisans displaced by modernization. Reservations alone cannot rectify historical injustices; dismantling caste hierarchies requires enforceable labor rights, anti-discrimination policies, and Dalit-led entrepreneurship initiatives. Some Dalits adopt upper-caste customs i.e. Sanskritization or conceal their identity to evade discrimination; Dalits must follow Ambedkarite way to Buddhism to escape or crush Sanskritization. Similarly, education remains a contested space where "merit" masks caste privilege. Jean Drèze notes welfare schemes’ limited impact without structural reforms such as increasing Dalit faculty representation and decolonizing curricula to challenge institutional bias. Political representation alone fails to ensure equality, as caste violence and electoral suppression endure. Grassroots movements and global solidarity must push for holistic policies, integrating caste justice into SDGs and corporate accountability frameworks. Only by addressing caste as intersecting with labor, education, and human rights can sustainable emancipation emerge. To effectively address caste discrimination and align with SDGs, institutions must adopt a multi-phase approach. Begin with short-term measures like caste-sensitive audits and strict

penalties for atrocities. For medium term actions i.e. capacity building for Dalit youth and women. Strengthening local governance with marginalized representation, and integrating caste sensitization and implement roll out education programs. Long-term success requires cultural transformation dismantling hierarchies through grassroots movements, ombudsman Dalit-led monitoring, and caste-inclusive VNRs. This ensures systemic change, equitable progress, and sustained accountability.



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## Student's Biography

Harsh Vivek Raj is an accomplished academic and human rights advocate with a multidisciplinary background in engineering, peace studies, and international human rights. A 2021 graduate after getting qualified for JEE Mains (2017) from the Indian Institute of Engineering Science and Technology (IIST), Shibpur, later pivoted to social justice, pursuing higher studies in Peace and Diplomacy at Siam University, Bangkok (2022). The research focuses on caste-based discrimination, Dalit rights, and transnational advocacy, blending grassroots activism with global policy frameworks.

During the tenure in Thailand, actively engaged with UNESCO to advance SDG 4 (Quality Education) and delivered a keynote speech on "Buddha and Peace" at the UN International Peace Day (2023). The scholarly contributions include two peer-reviewed papers presented at the ICEBIS Conference: one critiquing the caste system's historical impact on human rights (2023) and another analyzing Dalit activism through the lens of Transnational Advocacy Networks (TAN) and global labor rights (2024). A certified TEFL instructor (China), the combined pedagogy with activism, fostering inclusive dialogue. Mainly, work exemplifies a unique synergy of engineering precision, Buddhist principles of equity, and UN aligned advocacy, positioning him as an emerging voice in the fight against caste apartheid and for global human rights accountability. In 2023, Harsh moved in the University of London's School of Advanced Study for Human Rights, where he drafted a UN advocacy statement on Dalit women's rights. Returning to Vaishali, Bihar, Buddha's place and founded a Human Rights Centers to empower oppressed communities through education, legal awareness, and global collaboration. His initiative bridges local grievances with international human rights mechanisms, leveraging a diverse team of experts.

In future Harsh aims to expand his Human Rights Center into a transnational hub for research and advocacy, fostering partnerships with universities and NGOs worldwide. The vision includes developing a digital archive of caste-based discrimination cases to strengthen evidence-based policymaking. Grounded in Buddhist principles of compassion and equity, his approach combines legal rigor with community mobilization making a distinctive voice in contemporary human rights discourse.