

**HUMAN RIGHTS AND DALITS:
A SOCIOLOGICAL ANALYSIS WITH SPECIAL REFERENCE TO
EX-UNTOUCHABLES OF INDIA**

*Dissertation Submitted to the Jawaharlal Nehru University
in partial fulfillment of the requirements
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MASTER OF PHILOSOPHY

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CERTIFICATE

This is to certify that the dissertation, "HUMAN RIGHTS AND DALITS: A SOCIOLOGICAL ANALYSIS WITH SPECIAL REFERENCE TO EX-UNTOUCHABLES OF INDIA," submitted by Tushar Kanti Senapati in the partial fulfillment of the requirements for the award of the Degree of MASTER OF PHILOSOPHY of this University is an original work to the best of our knowledge and has not been submitted for any other degree of this University or any other institution.

We recommend that this dissertation may be placed before the examiners for evaluation.


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In Memory Of My Grand Father

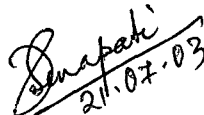
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Chapter-1
INTRODUCTION

The great gift of classical and contemporary human thought to culture and civilization is the notion of human rights. The struggle to preserve, protect and promote basic human rights continues in every generation in each society.

The concept and practice of human rights is the hallmark of any modern society. Since times immemorial, the story of human rights has been the story of human wrongs. It is perhaps to contain and curtail the wrongs by one human being or a group or a body of human beings against the other individual, or a group of beings against the other, that the institutions like family to society as a whole come into existence. Man is born to be free and all that he must do is that he must be devoted to the well-being of human beings-every kind of human being- of whatever race or religion, caste or creed or whatever sex and in all societies, developed and underdeveloped, traditional or modern. This truth, this great objective, belongs equally to everyone. This also sums up the basic objective of human rights, which over the years has gained considerable importance in international thinking and has been the subject of much discussion and debate in recent times. These have been and still are, discussed in international forum such as United Nations, in national parliaments, and in the media, and civil rights activists, have been taking up the cause of emphasizing the importance of human rights for a civilized and healthy society.

1.1 The Concept

The subject of human rights has agitated the minds of human beings in all ages. But the concept of human rights has been under going a change over different ages. The subject being basic to human thinking across the globe is varied and wide as human beings themselves. It is thus an idea with a history; an idea that changes both content and social function. Human rights is a dynamic concept and endeavors to

adapt itself to the needs of the day. New thoughts arise from the womb of the old.¹ Today the sphere of human rights thought and action has been widened to new arenas and constituencies. That is why the definition and understanding of the term “human rights” depend much upon the conditions and opinions prevailing in a given society at a given time; further, human rights attains new dimensions and connotations with the march of history.² In the similar vein, the universality of human rights is also another dimension to reckon with³.

Human rights, generally speaking, are regarded as those fundamental and inalienable rights that are essential for life as human beings. To quote A.J.M. Milne, “There can be no human community without rights. Having rights is part of what is to be member of any community. A community necessarily consists of members who have rights and obligations. Unless there are members, there cannot be community. There have be rights if there is to be any social life. Thus, rights enable an individual with at least some of the elements of a place, an identity and a role in social milieu”⁴ According to R.J. Vincent,⁵ human rights are the rights that everyone equally has by virtue of “their very humanity” and also by virtue of their being grounded in our appeal to our “human nature.” In similar vein, Devid Shelby says, “Human Rights pertain to all persons and are possessed by everybody in the world because they are

¹. Upendra Baxi, “From Human Rights to the Right to be Human: Some Heresis” in Upendra Baxi (ed.) *Right to be Human*, Lancer International, New Delhi, 1987, p.185.

². G.S. Bajwa, *Human Rights in India: Implementation and Violations*, Anmol Publishers, New Delhi, 1995, p.1.

³. L.J. Macfarlane, *The Theory and Practice Human Rights*, Maurice Temple Smith, London, 1985, p.6.

⁴. Quoted in Arun, K. Ray, *National Human Rights Commission of India: Formation, Functioning and Future Prospects*, Vol.1 Khama Publishers, New Delhi, 2003, p.8. Also see A.J.M. Milne, *Freedom and Rights*, George Allen and Unwin, London, 1968.

⁵. R.J. Vincent, *Human Rights and International Relations*, Cambridge University Press, New York, 1986, p.10.

human beings, they are not earned, bought or inherited, nor are they created by any contractual undertaking.”⁶

Another exponent, Scott Davidson offers a very precise and contemporary definition on the subject.⁷ According to him, the concept of human rights is closely connected with the protection of individuals from the exercise of state, government or authority in certain areas of their lives; it is also directed towards the creation of societal conditions by the state in which individuals are to develop their fullest potential. Therefore, most of the writers have described human rights on the context of human nature, human dignity and existence of a healthy society. Human rights as such are a legacy of classical and contemporary human thought to culture and civilization. To understand it, one must therefore first examine its genesis.

1.2 Historicity of Human Rights.

There is no doubt that the term⁶ “Human Rights” is a twentieth century phraseological invention. However, man’s consciousness of human rights is not of recent origin. Mostly, the researcher trace the concept back into ancient Greece and Rome where it was closely linked with the pre-modern natural law doctrine of Greek stoicism.⁸ This school of thought which was initially founded by Zeno of Citium, held the view that a universal working force pervades all creation and that human conduct, therefore, should be judged according to, and brought into harmony with, the law of nature.⁹ This theory of stoicism played a key role in theories of natural rights both in Greece and Rome¹⁰

⁶ Devid Shelby, *Human Rights*, Cambridge University Press, Cambridge, 1987.

⁷ Scott Davidson, *Human Rights*, Philadelphia Open University Press, USA, 1993.

⁸ Richard Pierre Calude and H. Weston Burns (ed.), *Human Rights in the World Community: Issues and Actions*, University of Pennysyluania press, Philadelphia, 1989.

⁹ Ibid.

¹⁰ “Natural Law” and “Natural Rights” have been discussed in the next chapter for better understanding and its philosophical moorings.

In the medieval period, which stretch from 13th century to the peace of Westphalia (1648), encompassing the period of Renaissance and the decline of feudalism, certain basic changes in the belief and practices of society were witnessed because people felt the idea of human right as a general social need and reality. It was during this period when resistance to religious intolerance and economic bondage began, the real foundation of human rights was truly laid. The teachings of Aquinas (1224-1274) and Hugo Grotius (1583-1645) in Europe and certain declarations like the Magna Carta (1215), the petition of right (1628) and the English Bill of Rights (1689) were testimony to the popular view that all human beings are endowed with certain eternal and inalienable rights and they could never be renounced even when humankind contracted to enter the Civil society.¹¹

However, the modernist conception of natural rights took real shape only during 17th and 18th century. The scientific and intellectual achievements of the 17th century-the discoveries of Galileo and Newton, the materialism of Hobbes, the, the rationalism of Rene Descartes and G.W. Leibniz, the pantheism of Spinoza, the empiricism of Francis Bacon and John Locke-encouraged belief in natural law and universal order. During the 18th century, the so called Age of Enlightenment, a growing confidence in human reason and in the perfectibility of human affairs led to its more comprehensive expression in the writings of English philosopher John Locke and the works of Montesquieu, Voltaire and Rousseau. John Locke, the father of modern liberalism argued in detail, mainly in writing associated with the Glorious Revolution (1688), that certain right like right to life, liberty and property self-evidently pertain to individuals as human beings because they even existed in the “state of nature” before humankind entered into civil society. He further argued that

¹¹ . Richard Pierre Claude and H. Weston Burns, op.cit.

while entering into civil society through contract humankind surrendered to the state only the right to enforce these natural rights and not the right themselves. He also cautioned that if state fails to protect these rights people also have the right to revolt against the state. The liberal philosophers though belonged to varied current of thoughts had a common supreme faith in reasons and vigorously attack religious and scientific dogmatism, intolerance, censorship, and socio-economic restraints. They also sought to discover and act upon universally valid principles based on law of nature, human reason, civil society and of course inalienable rights of man.

The philosophy associated with John Locke and others had a tremendous influence on the Western World in the late 18th and early 19th century. The practical examples of England's glorious revolution of 1688 and the resulting Bill of Rights in 1689 as well provided the rationale for the wave of a revolutionary agitation which influenced the West, most notably in North America and France. Certain historic texts like Pennsylvania Declaration (1776), Maryland Declaration (1776), New Hemisphere Declaration (1783), The American Declaration (1787), The French Declaration of the Right of Man (1789), and The Massachusetts Declarations (1789), reflected the intellectual milieu of the contemporary socio-political situations spawning the struggle against political absolutism.

The idea of human rights as natural rights still remained controversial due to its abstract nature and the link with religious orthodoxy. In England, for example, David Hume held the view that natural rights are an abstract concept and being absolute in nature would certainly come into conflict with one another. Another philosopher, Jeremy Bentham, one of the founders of Utilitarianism asserted that right is the child of law, from real law come real right; but from imaginary laws, from 'law of nature' come imaginary rights. This attack on natural law and natural right,

thus began during late 18th century and became intensified and broadened during 19th and early 20th century by philosophers like J.S. Mill, Sir Henry Maine and John Austin. Thereafter, under the influence of Hegel's idealism and rising European nationalism, the Marxian school of thought emerged. The Marxists depicted the birth of social rights. Consequently, certain institutional bases were developed over the time to preserve and protect people's rights in a more systematic and decent way.

With the establishment of the League of Nations after the First World War, human rights were further developed in the international sphere. Though human rights were not explicitly mentioned in the covenant of the league of Nations, the organisation was alive to the task of seeking to protect the rights of people in two particular spheres, namely, the minorities, and persons inhabiting the colonies of the defeated powers.¹² Another important field from the human rights perspective in which the league was active was on the protection of worker's rights and indeed the goal of fair and human conditions of labour for man and children¹³ this particular objective has been put into practice through International Labour Organization (ILO) since its inception in 1919. Now it works as a specialized agency in the UN system.

The horrors of the Second World War led to the birth and recognition of the modern human rights movement in the international sphere. But it was the establishment of the UN in 1945 and the subsequent international concern for the commitment of human rights that widened the scope of this movement. In fact, "the second half of the 20th century has seen a universal acceptance of human rights in principle, and general agreement on its content"¹⁴ A corner stone of this post war

¹² . *Human Rights Manual*, Department of Foreign Affairs and Trade, Australian Government, Publications Services, Canberra, 1993, p.12.

¹³ . Ibid. p.14.

¹⁴ . L.Henkin, *The Rights of Man Today*, Westview Press, Colorado, USA, 1978, p.18.

in a rudimentary form in ancient times, in formative stage in middle ages fully grown in the 20th century with the formation of the United Nations”¹⁶

1.3 Indian Perspective on Human Rights.

The vast literature that has grown in the West around the concept of rights is in itself an indication that the concept had to be defended and philosophically justified. In the long history of the Indian civilization, the freedom of thought and speech, the freedom of one’s life in the light of one’s beliefs, the freedom of association, the freedom of public debate between the contending philosophical schools were taken to be the natural foundations of human relationships. It was always taken for granted, and consequently there is hardly any literature on the idea of rights. When the word “*Adhikar*” was used to convey a similar sense, it always had a much deeper meaning. However, the freedom of the individual in the western societies was secured after a long and bitter struggle against the Church and the State; in India, those freedoms were seen as the very substance of human existence. Therefore, in view of the fact that the west possesses rich literature to its defense, and the same is absent in India, it would be wrong to conclude that the idea of freedom is chiefly a Western one.¹⁷

Indian philosophy characterises the foundation of human rights as such in the ancient conception of *Dharma* and *Danda* which regulated the governance of state and its citizen. The Sanskrit word for law is *dharma*, which has very wide connotations. Sir Monier Williams used the term *dharma* to imply that which is established or firm, steady, fast, decree, statute, ordinance, law usage, practice, customary observance, prescribed conduct, duty, right, justice, virtue; morality and

¹⁶ . G.S. Bajwa, *Human Rights in India: Implementation and Violation*, Anmol Publications, New Delhi, 1995, p.45.

¹⁷ . Badrinath Chaturvedi, “Dharma and Jainism; Universal foundation of Human Rights”, *The Times of India*, Sept 25, 1995.

religion.¹⁸ Dharma means “one that binds together. The ancient Indian legal philosophers were universalists, humanists and moralists who conceptualized dharma to government the human life in terms of the civil, religions or other actions, be it king or his subjects¹⁹ In fact the proper working of dharma was dependent on the fact that every individual must recognize the duties he was expected to perform and act accordingly. Essentially Hindu law is a code of duties.²⁰ The idea of dharma was fully articulated in the theory of *Varna-ashrama* dharma, where one’s duty is defined not only in accordance with the caste to which he belongs,²¹ but also in accordance with whether he is a student, householder, an ascetic etc.

Dharma was also the foundation of individual as well as collective security. Lawmakers who were by and large, members of the Brahmin Caste, and who naturally tried to maintain the superiority of that caste framed the rules of dharma. While the Brahmin enjoyed the highest status in caste hierarchy and had privileges higher than those afforded to other castes, the level of punishment to be meted out to them for the same faults was higher and stricter than given to lower castes. According to Manu, “Judicial punishments were required to take into consideration the caste of the offender.”²² The lower order in the caste hierarchy had more obligations to perform, almost no rights to claim. In this heavily caste-ridden society, the lowest of them, the *shudras*, got alienated and treated as untouchables. Even the status of women was gradually lowered. The right to education was concentrated among the upper castes. Thereby leading to the denial of basic human rights to the *shudras*.

¹⁸ M.M. Williams, *A Sanskrit English Dictionary*, Oxford, 1956, p.510.

¹⁹ Dr. S.N. Dhyani, *Fundamental of Jurisprudence: Indian approach*, 1992, P.28, Also quoted in Dr. D.P. Khanna, *Reforming Human Rights*, Manas Publications New Delhi, 200, p.79.

²⁰ V.T. Thamilmaran, *Human Rights in Third World Perspective*, Har Anand, New Delhi, 1992, p.47.

²¹ The notion of *Varnashrama Dharma* has been contested later as we proceed with the notion of human rights in the forthcoming arguments..The notion of *Varnashrama Dharma* has been contested later as we proceed with the notion of human rights in the forthcoming arguments.

²² Quoted in Romila Thapar, “The problem of Human Rights in Hindu and Budhist Traditions,” *Human Rights Teaching*, Vol.IV, UNESCO, 1985, pp.34-38.

Paradoxically, Vedic ethics idealized all human beings to be equal, and that conduct is moral which is based on the principle of equality. Long before Hobbes, the epic Mahabharata described the civil liberty of the individual in a political state. Mahabharata also emphasizes the point that without ethical and moral principles, there is not true happiness and a society cannot hold together; the principles such as truth, self control, asceticism, generosity, non-violence, constantly in virtue should serve as the means of one's success. The concept of absolute monarchies had always been rejected and the supremacy of "dharma" over the kings was respected in letter and spirit.

The best-known ancient treatise, Arthashastra, authored by Kautilya (326-291 BC) on the subject of the principles of law and government, treats the "duties" of a king towards his subjects rather than of divine "prerogatives."²³

However, at the individual level, there were significant contributions by religious prophets with regard to human rights. Mahavir, the founder of Jainism said that foundations of human freedom in its deepest sense, is truth, known as *Anekantaved*, which demonstrates the idea of the relative pluralism and many sides of truth. The attitude towards truth gives a profound implication for various aspects of human life- personal and social. The legendary king Ashoka in the post-Kalinga regime had sown the seeds of a humanitarian society. Coming in as a reaction to the Brahminical order, the Buddhist tradition marked a contrast to the earlier caste system. It rejected the caste division and advocated the equality of all before the law. Thus Buddhist thought has a comparatively wider spectrum regarding the concept of human dignity and rights than others. Besides, "Buddha preached belief unto oneself,

²³ . Mentioned in Dr. D.P. Khanna, op.cit. Also see Kautilya, Arthashastra, (English) 9-39 Mysore University, 4th edn. 1960, p.42.

to be torch bearer unto oneself by taking recourse to righteousness.”²⁴ Thus one finds a distinct links between the evolution of the concept of human rights and the Buddhist Doctrines.

In the medieval period, especially during the era of Mughal rulers, particularly that of Akbar, that the administrative policy based on human rights principles of universal reconciliation and tolerance ushered in a new era. Though the Mughal Government could be typically characterized as centralized despotism, its judicial administration contained all the basic elements of modern doctrine of due process of law, fair trial and independent judiciary.²⁵ Akbar’s great regard for rights great regard for rights, justice and secularism could be cited as an example in this regard. In his religious policy *Din-e-Ilahi* (devine religion), he tried to preach the ideas of secularism and religious tolerance. Similarly parallel to Akbar’s exquisite reform policies, religious movements like *Bhakti* (Hindu) and *Sufi* (Islamic) made remarkable contribution towards elimination of irreligious practices from the contemporary society. These movements tried to revive the ancient humanist tradition and preached the sacred principles of humanism and universalism denouncing the narrow sectarianism prevalent in both the religions-Hinduism and Islam.²⁶

In the modern era, influenced by English Education, leaders like Raja Ram Mohan Roy demanded abolition of Sati system, female infanticide, and caste rigidities and initiated a movement for widow remarriage and female education. Further, establishment of Brahma Samaj (1828) and Arya Samaj (1875) lend support to this cause.

²⁴ . B.P. Sehgal, *Human Rights in India*, deep and Deep publications, New Delhi, 1995, p.245..

²⁵ . Yogesh Kumar Tyagi, “Third World Response to Human Rights”, *Journal of International Law*, Vol.21, 1981, p.119.

²⁶ . Sebasti Raj and Bansidhar Pradhan, “Human Rights and Indian Cultural Values”, in Jefferson R. Plantilla and Sebasti Raj (ed.), *Human Rights in Asian Cultures: Continuity and Change*, Hurights Osaka, Japan, 1997, pp.58-62.

The Indian National Congress prepared the 1895 Constitution of India Bill, also known as Home Rule Bill against the British rule. The bill envisaged a free India, a Constitution guaranteeing every citizen basic human rights like freedom of expression, the inviolability of one's own home, the right to property and equality before law. Influenced by the reformist movement in different parts of the world for the cause of freedom, the Nehru Report of 1928, the first commitment to civil liberties, and the Karachi Resolution of 1930, the most important commitment to individual and group rights were prepared. These were included in the Constitution of free India as Fundamental Rights in Part III and as Directive Principles of State policy in Part IV respectively. Hence sociologically, the Indian perception of human rights does not emanate from the theory of a -priori or natural rights doctrine of the West, rather it has its own base in ancient Indian culture and civilization. "The Indian vision of rights emphasizes not only the individual but also the total person, a person whose interdependent rights and duties are determined by his/her position within a hierarchical network of relationship."²⁷ The impact of Islamic religion, renaissance and reforms movements, British colonialism and the nationalist ideology played a vital role in the formation and practice of human rights in India. With the advent of modern human rights institutions in the changing society; the perception, institutionalisation and functioning of "human rights" is trying to adapt to the new needs of society at large in India.

1.4 "Dalits" and their "right to be human."

Dalit, which literally means 'Oppressed' or 'broken', was used in the 1930s as a Hindi and Marathi translation of 'Depressed Classes', the term British used for what

²⁷ Chiryankandth James, "Human Rights in India: Concepts and Contexts", *Contemporary South Asia*, Vol.2, No.3, p.224.

are now called the Scheduled Castes.²⁸ B.R. Ambedkar also used the word in his Marathi speeches. Although the word 'Dalit' literally means oppressed persons, it has acquired a new cultural context to imply those who have been broken down by those above them in a deliberate and active manner.²⁹

The Dalit Panthers revived the term and their 1973 manifesto expanded its referents to include the Scheduled Tribes, neo-Buddhists, the working people, the landless and poor peasants, women and all those who are being exploited politically, economically and in the name of religion.³⁰ Therefore, since early 1970's the word has been used in the media and in common parlance in a wider context than the original caste based context.

It is viewed that Dalit as a category was first used by Ambedkar in his fortnightly *Bahishkruti Bharat*. He defined it comprehensively: 'Dalithood is a kind of life condition which characterizes the exploitation, suppression and marginalisation of Dalits by the social, economic, cultural and political domination of the upper caste brahminical order.³¹ Baburao Bagul offering a radical definition provided an ideological face to the Dalit Panther manifesto; which promotes the use of Dalit as a revolutionary category for its hermeneutic ability to recover the emancipatory potential of the historical past of Dalit culture. He argues that this category has a greater capacity to reach out to a larger section of people. It is a historically constructed through the revolutionary struggle of Dalits.³² In the similar vein, S.P.Punalekar, Ghanshyam Shah and Gail Omvedt define Dalit category more or less

²⁸ Gail Omvedt, *Dalit Visions: The Anti-Caste movement in Colonial India*, Sage Publications, New Delhi, 1995, p.77.

²⁹ See E. Zelliot, *From Untouchables to Dalit*, Manohar publishers, New Delhi, 1992.

³⁰ Manifesto of Dalit Panther Movement, Bombay, 1973, Quoted in Gail Omvedt, *Dalit Vision*, Orient Longman, New Delhi, 1995, p.72.

³¹ BR Ambedkar, *Yanche Bahishkrit Bharat and Muknayak* (Marathi), *Education Department*, Government of Maharashtra, 1990, pp.194-98.

³² Baburao Bagul, *Dalit Sahitya Ajeche Kranti Vidyanan*, Buddhist Publishing House, Nagpur, 1981, P.105. Also see Gopal Guru, "The Politics of Naming", *Seminar* 471, November 1998, p.15.

as an intellectual construct and the expression of the powerless and voiceless.³³ K.L.Sharma attributes "Dalit" to be more emotional and effectual appeal than rational and logical. He considers Dalit to be an adhoc concept; a culture bound construction; a reactive and not a generative concept; a concept in making.³⁴ In the recent years the term Dalit has been discarded as a socially reactionary category by a section of community who prefer 'bahujan' over Dalit category. Moreover the urban, educated middle class Dalits have criticized this 'category' as socially regressive, derogatory and hence undesirable. These middle class Dalits argue that this category forces Dalits to carry the load of their historical pasts³⁵

The category 'Harijan' was also criticized which cannot be encapsulated within 'Dalit category' since it was considered to be entirely metaphysical.' As Gopal Guru puts it, "it imputes an element of 'resigned fate' to the subject and therefore can render it inactive. The term 'Harijan' is an ascribed one since it does not flow from the untouchables own experience."³⁶ In contrast Dalit is not a metaphysical construction. It derives its epistemic and political strength from the material social experience of the community. It is this social construction of Dalithood, which makes it authentic and dynamic rather than passive and rigid.³⁷ In other words, it is an emancipatory project, which strives for a humane world.

The history of the social origin of Dalits³⁸ or what is traditionally known as sudras or untouchables is age old. Among the early Hindu epics, *Dharma shastras* and *Smritis* dealing with the origin of varna system, the Rigveda is the oldest one

³³ . See Ghanshyam Shah, *Social Movements in India* Sage, New Delhi, 1998; Gail Omvedt, *Dalit and Democratic Revolution*, Sage, New Delhi, 1994.

³⁴ . K.L. Sharma, *Reconceptualizing Cast, class and Tribe*, Rawat Publications, Jaipur, 2001, Ch-3, pp.101-102.

³⁵ . Gopal Guru, op. cit., p.15.

³⁶ . Ibid., p.16.

³⁷ . Ibid., p.18.

³⁸ . 'Dalit' has gained a broader connotation in the present times. Now it has encompassed all the subdued communities in the society (as discussed in the preceding pages.)

civil society, the nation and the state.⁴⁴ Majority of Dalits in the country are even today live below the poverty line and are victims of social and economic exploitation. In theory, untouchability might have been abolished but in practice, Dalits continue to be subjected to discrimination, harassment and humiliation. They are denied the basic human rights of self-respect, equality and freedom despite constitutional guarantees. If these people attempt to challenge the traditional oppressive practices, they are subjected to further insults, humiliation and deprivation⁴⁵

The State, which is supposed to create the necessary conditions to enable the weaker sections to exercise their rights and protect them when they are attacked often, behaves in a manner that helps only the oppressor. Thus millions of Dalits are faced with a helpless situation in which they are not allowed even to enjoy the rights guaranteed under law.⁴⁶

Conspicuously the problem of realization of the social, cultural⁴⁷ civil and economic rights by the Dalits remains unrealised. In general, the denial of basic human rights to the Dalits poses a threat and challenge to the Indian society to create a humane world.

Scholars have written about Dalits in different approaches. Two kinds of approach predominate this discourse; those using a class analysis of Indian society which subsumes Dalit within such class or occupational categories as peasants, agricultural labourer, factory worker, students and the like. This can be seen in most

⁴⁴ . Rajni Kothari, "Rise of the Dalits and the Renewed Debate on Caste", in Partha Chatterjee (ed.), *State and Politics in India*, Oxford University Press, Delhi 1997, p.439.

⁴⁵ . See Mumtaz Ali Khan, *Human Rights and Dalits*, Uppal Publishing House, New Delhi, 1995.

⁴⁶ . P.K. Kodian, "Atrocities on Harijans and Weaker Sections" in A.R. Desai (ed.), *Repression and Resistance in India*, Popular Prakashan, Bombay, 1990, p.320.

⁴⁷ . discussion on cultural rights has been done extensively by Kancha Ilaiah. See "Constructing a concept of Dalit –Bahujans and Human Rights" in R.M. Pal and G.S. Bhargava (ed.), *Human Rights of Dalits: Societal violation*, Gyan Publishing House, New Delhi, 1999, pp.45-54.

A. R. Desai's, 'Violation of Democratic Right in India's'⁵⁰ adequately discusses how far the fundamental rights guaranteed by the Indian constitution are enjoyed by the people of India. A systematic attempt has been made which exposes violation of legitimate rights of the people against the backdrop of the right given in the Constitution of India and in the Universal Declaration of Human Rights. This book provides useful data relating to the violations of the right to life in India.

The edited book by B.S. Waghmare, 'Human Rights: problems and prospects'⁵¹ contain articles which endeavour to touch wide array of human rights fields. It examines idealism involved in Human rights. Cultural relativism and its debate with universalism is also dealt here. Terrorism, Dalit rights, Ambedkar movement, children with relation to human rights is discussed and analysed.

Dumont⁵² postulated that caste is the most fundamental and the most specifically Hindu institution of Hindu society. He calls his approach 'structuralist,' for the oppositional structure of pure/ impure governs the operation of the Caste system. According to him, caste represents the institutionalization of hierarchical values. The opposition of Brahmin and Untouchable is a complementarily- the completion of a 'whole' by two equally necessary but unequally ranked parts. 'The impurity of the untouchable is conceptually inseparable from the purity of the Brahmin. Since the execution of impure tasks by some is necessary to the maintenance of purity for others... society is a totality made up of two unequal but complementary parts.' Hence Dumont has tried to describe the Caste system in the light of binary opposition.

⁵⁰ . A.R. Desai, *Violation of Democratic Rights in India*, Popular Prakashan, Bombay, 1986.

⁵¹ . B.S. Waghmare (ed.), *Human Rights: Problems and Prospects*, Kalinga Publishers, Delhi, 2000.

⁵² . Louis Dumont, *Homo Hierarchicus: The caste system and its Implications*, Paladin Granada Pub. Ltd., London, 1970.

socio-cultural practices impinging on the question of Dalit women. It is also argued in this book that Dalit women are thrice alienated by class, patriarchy and caste.

The two edited book (a) 'Dalit in Modern India: vision and values'⁵⁶ and (b) 'Dalits and the State' by S.M. Michael⁵⁷ and Ghanshyam shah respectively, deal with the 'Dalit' as an identity sociologically tracing its history and theoretical position taken by various scholars. The problem of untouchability has been dealt with. Also the atrocities and other form of violence; denial of rights has been analysed citing studies conducted by various sociologists. The Dalit movement, Buddhism, Ambedkarism has also been discussed at length. Constitutional provisions undertaken and Dalits future in the liberalized global era is also analysed.

1.5 Objective of the Study

Though this research work would try to trace the causes, consequences and overall denial/ realization of human rights by the Dalits in India. But the arguments, analysis and citation of data would primarily hover around

- Compatibility/ incompatibility of Hindu social system with the notion of "human rights" in Indian society and to trace its significance with respect to Dalits.
- To examine human rights realization of Dalits when compared to the upper castes and how far the upper castes are willing to give a humane space to the Dalits.
- To examine the intensity and magnitude of human right violations.

⁵⁶ . S.M. Michael (ed.), *Dalits in Modern India: Vision and Values*, Vistaar Publications, New Delhi, 1999.

⁵⁷ . Ghanshyam Shah (ed.), *Dalits and the State*, Concept Publishing Company, New Delhi, 2002.

- Also to analyse how far the legal and constitutional provisions provided to Dalits to acquire access to social, cultural political and economic rights, have been able to become a weapon for them.

This study makes a modest attempt to examine the above mentioned and other cognate questions which may arise during the course of analysis.

Methodology

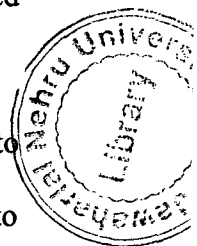
This research study has relied on the available literature in the form of books, articles from journals newspapers. The secondary sources, hence has nourished all the points of arguments and analysis in this work. In addition to these, different reports has been used for this research work. This research work has been couched sociologically in Dalits perspective to study Dalits situation in Indian society.

“Dalit”, the term has been used here chiefly to refer to ex-untouchables, although more recently it has been sometimes extended also to include other oppressed groups, such as tribals, women, bounded laborers, minorities and so on. But for the purpose of this study, we will confine our usage to the popular interpretation of the term only to ex-untouchables or the scheduled casts. This would make our study more focused and cater to the time constraint we face for this study.

Chapterisation

The present study is divided into five chapters, which includes the Introduction and concluding remark on the study.

Chapter-I is the Introductory part which examine the conceptual aspect of human rights and then endeavours to trace the historical genesis of it. Human rights is also seen here through Indian perspective. Dalits identity and their right to be human is also dealt with from a conceptual angle.



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Chapter-2

**PERSPECTIVE ON HUMAN RIGHTS:
THE PHILOSOPHICAL FOUNDATION AND SOCIOLOGICAL
DIMENSION OF HUMAN RIGHTS**

We are living in an age when human rights have not only found a positive expression in national laws, but have been embodied in international law as well. About fifty-five years ago there was no body of international human rights law to speak of. There were, to be sure, philosophies, and theories, but the international rules that reflected them were absent.

Why to reflect on the philosophy of human rights

Jerome J. Shestack suggests a least four reasons for reflection on philosophy of human rights.¹ He opines, "First, the justification of moral principle is an attempt to make coherent sense about the principles which govern and should govern the ways human being treat each other. Our own attitude towards the subject is likely to remain obscure, so we try to understand the philosophies, which shape them. Second, we further fidelity to human rights law by understanding the moral justifications that underlie human rights laws. Third, understanding the philosophical foundation of human rights help us to bridge the gulfs of creed and dogma, a necessary exercise if there is to be universal recognition of human rights principles. Fourth, understanding of moral philosophy of human rights also help us to delineate the structures of human thought in a manner which reveals the implications of thinking and speaking about rights in a particular way, the relationships of rights to one another and the nature of the conflicts or tension among rights."

Therefore, there is no denying of the fact that present day conceptualization and law of human rights have traces of philosophical and theoretical formulations of the 17th and 18th century.

¹ Jerome. J. Shestack, "The philosophical foundation of human rights" in Janusz Symonides (ed.), *Human Rights: Concepts and standards*, Rawat Publication, Jaipur, 2002, p. 31.

2.1 Sources of Human Rights

Religions as a source of Human Rights

'Human Rights' in its present form is not found in and conflict traditional religions. Nonetheless, theology presents the basis for a human right theory through its own spiritual and moral philosophies, which include primordial principles of human worth and dignity.

Hinduism

The worldview of Hindu² faith as presented in the Upanishads and other sacred writings is based on unity of all things. As Mahmoud Ayoub³ opines that while the law of karma which is in the end determines human inequality as entrenched in the caste system of Hindu society, on the level of devotion to God (*Bhakti*) and the vedantic monistic philosophy, all creations—human and animal—have equal worth and meaning as manifestation of the devine. Likewise the concept of *svadharma* of the Bhagwat Gita directs every individual to fulfill his dharma, or duty in life, with resigned dignity and satisfactions.

The dignity of man is put fourth by Bhagwat Gita:

“who sees his Lord
Within every creature
Deathlessly dwelling
Admist the mortal: That an sees truly....”

In other words, in a religions context, every human being is considered sacred.⁴

Hinduism gives the right to religious freedom. It does not believe in monotheism and is often described as a way of life allowing enough flexibility in the forms of worship and gods, the fundamental goals of Hindu being salvation (*Moksha*)

² . In any attempt to promote human rights through cultural values, the positive aspect that support the human rights provisions, either in letter or in spirit need to be popularized. The most effective negative aspects is analysed in the next chapter.

³ Mahmoud Ayoub, “Asian Spirituality and Human Rights” in *Human Rights Education Pack*, AARC, Bangkok, Thailand, May 1995, p. 160

⁴ Qouted in Jerome Shestack,op.cit.,p.35.

There has been an engagement of religious philosopher of all faiths in the process of interpreting religious doctrines towards the end of effecting a reconciliation with human rights prescription. As put up by Jerome J. Shestack,¹⁰ “Despite the problem in the theological approach, religious doctrine offers a promising but still largely undeveloped possibility of selecting elements of various religious traditions to construct a broad intellectual rationale which supports the various fundamental principles of equality and justice which underlie international human rights”.

Natural law; Natural Rights

Natural law has its origin in the classical literature of Ancient Greece, natural law they believed, just as the world is governed by eternal laws of nature, so the laws and rules governing human society are eternal and immutable. The prominent Greek philosophers who speculated on this concept of justice were sophocles and Aristotle. This was followed by Roman jurists like Cicero, Ulpian who based Roman law of reasoning not on positive legal norms but on “natural reason”. The modern secularized view on natural law marked a turning point following the contribution of Hugo Grotius and Pufendorf. As Grotius opines, “The law of nature, again is unchangeable - even in the sense that it cannot be changed by God.”¹¹ Grotius defined natural law as law of reason pure and simple. Therefore, some theorists regard him as father of modern international law. Christian philosopher St. Thomas Aquinas stressed on natural law, which conferred immutable rights upon individuals.

Natural rights were derived from natural law and were propagated by social contract exponents like Hobbes, Locke, and Rousseau. They assumed that men had natural rights before the origin of the state and he surrendered some of them to a

¹⁰ Jerome. J. Shestack, op. cit., p. 36.

¹¹ Quoted in Frede Castberg, “Natural law and Human Rights: An Idea – Historical Survey”, Asbjorneide & August (eds.), *International Protection of Human Rights, 7th Nobel Symposium*, Interscience Publishers, New York, 1968, p. 17.

superior authority, i.e. civil society, in order to safeguard the rest of them. Hobbes considered right to life as natural right. Locke declared right to life, liberty and property as natural rights. Rousseau opined liberty and equality as the gift of nature.¹² Nevertheless natural rights theory asserted individual's enterprise, opinion and belief against the traditional ecclesiastical authority. It provides security and support for human rights system, both domestically and internationally, as put up by Dowrick.¹³ The doctrine of nature rights in effect argues that its precepts should be implemented in all societies at all times.

Positivism

The positivistic theory is relatively simpler than natural rights. In positivism, only those rights are acknowledged as human rights which are a part and parcel of the positive legal system that is, a person is simply what the law says he is,¹⁴ these positive rights are either incorporated in the National laws as citizen's rights or appear in the international positive law.¹⁵ In the international arena it has to take consensual will of the states and are not recognized unless expressed in statutory rules.¹⁶ This philosophy came to dominate the legal theory during most of the nineteenth century and commands allegiance in the twentieth century.¹⁷

Traces of this trend can be found in the works of Hobbes when he opines that the right of every individual is that of self preservation and this rights could best be

¹² See R.C. Vermani, *An Introduction to Political Theory*, Geetanjali Publication House, New Delhi, 1996.

¹³ See F.E. Dowrick, *Human Rights: Problems Perspectives and Texts*, Grover Publishing Co Ltd., Hampshire, England, 1979.

¹⁴ Manoj K. Sinha, *Implementation of Basic Human Rights*, Manak Publications, New Delhi, 1999, p-7.

¹⁵ Imre Szabo, "The Theoretical Foundations of Human Rights" in Asbjorneide and August (eds.), op. cit., p. 38.

¹⁶ Ibid., p. 38.

¹⁷ H.L.A. Hart, "Positivism and separation of Law and morals", *Harvard Law Review*, Masschusetts, Vol. 7, pp. 543-630.

deceiving bourgeois structure of rights. In other words, for socialists, human nature is largely determined by the conditions of man's life. Bertell Ollman contends that for Marx the nature of man lies in his powers and his needs; powers are his capabilities, which his needs change in light of particular societies. Only a communist society can fulfill man's potential nature.²³ Marx visioned a classless future devoid of state power unlike in capitalism where civil and political rights are viewed as bourgeois rights which tends to serve the interests of the capitalists. Therefore the actualization of man's potential, is contingent on a particular social content – namely communism; “communism (is) the complete return of man to himself as a social (i.e. human) being... it is genuine resolution of the conflict between man and nature and between man and man”²⁴.

2.2 Modern Human Rights Theories

Rights based on the Yardstick of Utility

Utilitarianism is considered to be the revival of classical hedonism of Epicurus – which means that all men seek pleasure and avoid pain. Jeremy Bentham, a great exponent of Utilitarianism writes: “Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what he ought to do well as to determine what we shall do.”²⁵ He proposed every policy and legislation to be made on the principles of the same calculation of pleasure and pain and; the sole criterion of determining the ‘greatest happiness of the greatest number’. He opined that each individual should be treated as one unit and that none should be given special consideration.

²³ Bertell Ollman, *Alienation: Marxist Conception of Man in Capitalist Society*, Cambridge University Press, New York, 1971.

²⁴ Karl Marx, *The Economic and Philosophic Manuscript of 1844*, Dirli J. Struik (ed.), International, New York, 1964, p. 135.

²⁵ Jeremy Bentham, *Introduction to the Principles of Morals and Legislation*, 1879.

from knowing the full details of others talents. This situation in which people find themselves is called by Rawls as 'original position' in which everyone has 'particular wisdom' and 'general ignorance'. Rawls believes that the society chosen on these impartial grounds would be a just society and the concept of justice arrived at would be 'Justice as Fairness'.

Hence Rawls presumes that every one will choose a kind of society which minimizes his possible losses and make sure that even the worst of person is not too destitute. Rawls calls this maximizing principle because it maximizes their minimum welfare. Considering the maximum advantage and the distribution of primary goods, Rawls says that the people would choose two principles.

- (i) Each person is to have an equal right to the most extensive basic liberties compatible with similar liberties of others.
- (ii) Deals with distributive justice. It hold that 'social and economic inequalities are to be arranged so that both are (a) to the greatest benefit of the least advantaged, and b) attached to positions and offices open to all under conditions of fair equality of opportunity'.²⁸

Rawls avers that people will give first principle an absolute priority over the second even an improvement in the welfare of everyone in an insufficient justification for inequitable abridgement of liberty. "Basic human rights thus conceived by Rawls not to express any foundational philosophical doctrine, but rather to express a minimum standard of well-ordered political societies guided by a common good conception of justice".²⁹

²⁸

Ibid.

²⁹

Sudhir Kapoor, *Human Rights in 21st Century*, Mangal Deep Publication, Jaipur 2001, p. 34.

Rights based on Reaction to Injustice

Edmund Cahn asserts that it is better to approach justice from its negative rather than affirmative side even though there may be universal a priori truths concerning justice from which the rights or norms may be deduced.³⁰ He avers that, it is easier to identify injustice from experience and observation than it is to identify justice. Hence, justice is the active process of getting rid of or preventing what arouses the sense of injustice. He further opines that the need to rectify wrong has the capacity to produce action with emotion which would evoke a practical urgency to press for the satisfaction or repair of some need, deprivation, threat or insecurity. Hence it is apparent that Edmund Cahn's theory of justice seems to have a particular appeal to the human rights activists.

Rights based on Dignity

A secular exposition of value-policy oriented approach of human rights founded on the protection of human dignity was presented by McDougal, Lasswell and Chen,³¹ who put forth the cardinal premise that demand for human rights are demands for wide sharing in all the values upon which human rights depend and effective participation in all community value processes. These interdependent values under the rubric of human dignity are demand relating to (1) respect (2) power (3) enlightenment (4) well being (5) health (6) skill (7) affection (8) rectitude.

McDougal et al. observe a great discrepancy between the rising demands for human dignity values with and the realization of them. They see a democratic distribution of values available resources utilized for the protection of human

³⁰ Edmund Cahn, *The Sense of Injustice: An Anthropological View of Law*, University Press, New York, 1949.

³¹ M.S. Doughal, H.D. Lasswell and L.C. Chen, *Human Rights and World Public Order*, Yale University Press, New Haven, 1980.

Dworkins theory; Preferred liberties

Ronald Dworkin has tried to reconcile theory between natural rights and utilitarian theories. Dworkin postulates that the liberal–egalitarian state must be neutral between different conceptions of good life. He is an egalitarian.³⁵ Hence Dworkin delineates political morality i.e. the governments must treat all their citizens with equal concern and respect.

Dworkin points out that there is no general rights to liberty as such.³⁶ Some liberties are more than others. He points out that we have a right to some specific liberties, such as freedom of speech, requires special protection against the governments interference. Dworkin opines that we have the right to some liberties like freedom of speech, freedom of religion or freedom of political activity but not the less important liberties because our right to specific liberties is grounded in our more general right to equal respect and consideration.

Dworkin has suggested the difference between personal preferences, which are preferences that a person has for his own enjoyment of some goods or opportunities and external preferences, which are preferences for the assignment of goods and services to others.³⁷ He thinks that utilitarianism minus external preferences like prejudice and discrimination, harmonizes with the doctrine of equal rights to respect. Hence Dworkin's theory has been seen to benefit from natural rights and utilitarian theory without the need to sacrifice basic individual rights.³⁸

³⁵ Vinit Haskar, *Equality, Liberty and Perfectionism*, Oxford University Press, New York, 1979, p. 258.

³⁶ See. Ronald Dworkin, *Taking Rights Seriously*, Harvard University Press, Cambridge 1978.

³⁷ Ibid.

³⁸ Jerome J. Shestack, op. cit.

Nature of Human Rights

L.J. Macfarlane has considered human rights as those rights which are owed to each man or women solely by reason of being human. He distinguishes human rights from other moral rights in possessing the following inherent characteristics.³⁹

- (i) Universality
- (ii) Individuality
- (iii) Paramountcy
- (iv) Practicability
- (v) Enforceability

(1) Universality

Human rights differ from other moral rights in being the rights of all people at all times and in all situations.⁴⁰ Therefore, the Universal Character of Human rights is to be determined by whether all men require it if they are to live as full human beings, not by whether its realization and enjoyment is compatible with the continued existence of particular forms of society, whether past or present. Further Macfarlane suggests that Universal rights should be seen as those claims, which can establish Universal entitlement, rather than claims, which have universal support. Universal rights necessarily preclude any discrimination or exclusion, whether on the grounds of 'race, colour, sex, language, religion, political or other opinion and national or social origin, property, birth or other status.'⁴¹

³⁹ L.J. Macfarlane, *The Theory and Practice of Human Rights*, Maurice temple smith, London, 1951.

⁴⁰ Maurice Cranoton, *What are Human Rights?* The Bodley Head, 1973.

⁴¹ L.J. Macfarlane, op. cit., p.5.

(ii) Individuality

The concept of rights is grounded in and derives much of its support and colouring from the acceptance of man as a free individual, a being of dignity and worth, endowed with reason and consciences, and capable of moral choice and free activity. Where that value is not accepted there is no place for rights as of right, but only for rights as of concession or of custom.⁴²

(iii) Paramountcy

Maurice Cranston delineates that there are certain deeds which should never be done, certain freedoms which should never, be invaded, something which are supremely sacred.⁴³ It would be wrong for a government to override simply on the grounds that the exercise of the right in contrary to the majority will and interest.

iv) Practicability

Macfarlane opines that human rights are never made to what is physically impossible (to live forever), to what/must necessarily be restricted to a very small minority (to have one's own personal and exclusive private physician). Therefore practicability has rather to be established in terms of the profitability. The proposed changes will help meet the basic economic and social needs of the poor with the minimum disturbance of existing rights and customary ways.⁴⁴

(vi) Enforceability

Though standards and forms of treatment are bound to be different for markedly different states, there are certain minimum standards which states are morally required to uphold. For that matter, Maurice Cranston avers, "There is nothing essentially difficult about transforming political and civil rights into positive rights. All that is

⁴² "Universal Declaration of Human Rights in Ian Brownlie *Basic Document on Human Rights* (2nd Edition), Clarendon Press, Oxford, 1981, p. 22.

⁴³ Maurice Cranston, op. cit. pp. 67-69.

⁴⁴ L.J. Macfarlane, op. cit.

individuals. Individual self-aggrandizement defined in terms of ownership of material objects was then added to the nature of man. Thus, private property became the pivot of a free enterprise economic system and subsequently became a fundamental human right, thereby making the approach to right as politico –materialistic in nature. A competitive economic system and a liberal State system thus provided the institutional frame work for the defense of private property and the free exercise of rights reflected in the nature of developing capitalism in the West⁴⁶. In this context, inalienable, individual, civil and political rights became the base of the new society.

The bourgeois that emerged out of the industrial revolution rebelled against the constraints and control imposed by the government on the one hand, and demanded their rights, freedom, the free interplay of market forces and political power, on the other. Political power, in turn, was to be attained and maintained through a representative political system grounded in the exercise of individual, civil and political rights. This kind of system, subsequently is gross inequality and economic imbalances in society. To counter all these socio-economic upheavals, a new kind of political system called 'welfare state' emerged during the early 20th century. The idea of welfare state, however, characterizes that the government is responsible to provide certain benefits for the unemployed, the handicapped, the aged and encompasses certain principles of both capitalism, individualism and of socialism. However, the principles of welfare state with individualism and capitalism as its base are found in USA and most of the Western European countries where the Lockean tradition of representative government prescribes state infringement of certain basic human rights.

⁴⁶ C.B Macpherson,,*Democratic Theory;Essays in Retrieval*, Oxford University Press, London,1973,p.234.

The Socialist Perspective

The socialist countries do not share the historical experiences, cultural patterns, economic systems and ideologies of the industrialized capitalist States of the West. According to socialist thought, human nature is largely determined by the conditions of man's material life and not as an autonomous individual in the state of nature. Engels argued that prior to civilization, men and women lived in a state of primitive communism⁴⁷. It was a communal existence characterized by equality among all, an existence in which land, animal and tools were shared. The accumulation of individual wealth, private property, ownership of the means of production and class differences were developed at the later stages of history, where the property owners claimed their rights and principles over others. This, according to socialists, became the very basis of capitalism.

The reality of this class structure of primitive society, which was the detriment of an individual's ability to exercise his right and to enter into contracts with equals was ignored by the liberal political philosophers. Socialist philosophy, however, contends that civil and political rights are bourgeois right emerging out of the rise of capitalism which serve the interests of capitalists. So they are not necessarily natural rights.

Socialists strongly argue that man's realization of self-fulfillment is his abilities are to be used to the fullest extent and his expanded needed are to be satisfied. They are of the opinion that man is social being, not a competitive, atomized and self aggrandized one. In order to achieve social good he has to perform certain basic obligations that the society has put before him. The mutuality between rights and obligations, in fact, is the key to attain both freedom and equality. The

⁴⁷ Fredrick Engels, *The Origin of Family, Private Property and The State*, International, New York, 1942.

State is the embodiment of the collective people and is responsible for the welfare of all members and thereby progressive realization of economic and social rights. Keeping this in view, most of the socialist countries such as China, Hungary, Cuba and North Korea give priority to social and economic rights, rather than to civil and political rights, both in theory and practice.

The Third World Perspective

After having a general idea about both liberal and socialistic perspective of human rights, it almost becomes imperative to look at the Third World perspective of human rights, so as to make the study complete. Most of the Third World Countries, freed from the cluster of colonial legacy recently, have three important things to achieve, viz. economic development, industrialization and nation-building. In due course of time, of the most important ~~was~~ ^{is} as pertinent question that has made the process of development all the more difficult is the question of the rights. World countries are characterized by their traditional cultural patterns and ethnic social set up; they do not fully share either the intellectual heritage of the West or that of the socialist interpretation of rights. However, the contemporary nationalist elite, having been influenced by concepts and ideologies of the West, have developed a new kind of approach to the theory and practice of human rights.

The natural and individual rights of liberals, and the social and economic rights of the socialists have not been incorporated in totality in the Third World Perspective of human rights. Rather, they give emphasis on group rights or the rights of the minority because of their heterogeneous social set up. They say that the concept of rights of an individual has relevance in relation to the employment of rights of others in the society. In other words, rights of an individual can be enjoyed with the shared value and shared experiences with other members of the society.

system, the clan the tribe caste the village etc. Regardless of the particular traditional cultural patterns and the specific social relations, the individual has been perceived as an integral part of a group within which he or she has a defined role and status.⁵⁰

Consequently, “Dalit rights” is derived from the relational situations with others, it is the interaction among Dalits; Dalits with out-groups and the nature of that interaction that sets rights. Such a conception of rights is congruent with the notion of self not as an autonomous individual but as an integral part of a group; the individual has identity and a self, only in terms of his or her relations with others in the reference group.

Inferentially, a Dalit perspective seeks entitlement of the societal resources for concretizing right to be human. For right to be human is to enable to person to satisfy his or her most basic requirement of human hood. Further Dalit perspective assumes that right to be human unlike state constituted, is historically constituted through struggle for human treatment led by phule, periyar, Ambedkar and many others. The right to be human has come form the Dalits struggle for parity. This parity principles within the Dalit perspective has to be organized around dignified and honourable conditions of human existence.⁵¹

Dalit perspective on human rights in distinct due to its group character as against legalistic, individualistic approach. As a matter of fact the human rights definition in the Indian context needs to be expanded so as to include in its gamut not only the individual rights but Dalit rights to move from the immediate to abstract. Thus in other words, it means that Dalit perspective on human rights does

⁵⁰ Andamatia Pollis, *op.cit.*

⁵¹ Gopal Guru, “Human Rights and the Dalits”, in R.M. Pal & B.S. Bhargava (eds.) *Human Rights of Dalits*, Gyan Publishing House, New Delhi, 1999.

Chapter-3
HUMAN RIGHT SITUATION OF
DALITS IN INDIA

More than one-sixth of India's population, some 160 million people live a precarious existence, shunned by much of society because of their rank as "untouchables" or Dalits. The imposition of social disabilities on persons by reason of their birth remains conspicuous in the society today. This caste society has the religious sanctions which yield what sociologists term as 'purity and pollution' concepts.¹ The root of these religious sanctions can be tracked back to Manusmriti. Manusmriti is a code of discrimination practiced by the Brahmins against other castes and supported by state. This way the caste system, with myriad aspects of rites and rituals, confusions and contradictions, strictures still exist in the present day Indian society, with its different degrees of rigidity and flexibility. The society has segregated Dalits from the rest of the society to such an extent that the basic human rights that one enjoys in order to ensure one's bare existence is denied to them.

Also, this hierarchically interlinked character of the caste system implies a concept of 'human rights' and 'human-hood' which is different and unique. In this particular order of hierarchy, the Brahmins are not only placed at the top but are considered superior social beings' worthy of all special rights and privileges. At the bottom, the Dalits are treated as 'sub-human beings or lesser human beings' considered unworthy of any rights. Dalits are considered inferior social beings and therefore not entitled to any individual rights, i.e., civic, religious, political and economic. In fact, the disabilities they suffer are so severe that they are physically isolated and excluded from rest of the society. Isolation and exclusion of Dalits is a unique feature of Hindu social order. Therefore it becomes imperative to analyse and examine the antagonistic Hindu social system which makes the human rights applicability difficult. The caste system comes directly in conflict with the universal

¹ See Louis Dumcunt, *Homo Hierarchieus: The caste system and its implication*, Granada Publication Ltd., London, 1970.

human rights framework and poses a bottle-neck on the way of making the world more humane. As we move on with our analysis, empirical data would also be taken to learn the incidence and magnitude of human rights violations taking place.

3.1 Dereliction of Social Cultural and Civil Rights

The practice and prevalence of inequality has both the religious sanction and the sanction of the law books or the Dharmashastra. According to Manusmriti, the untouchables had not only religious and cultural disabilities but they were simultaneously not allowed to have possession of wealth since wealthy Sudra could torture a Brahmin. Thus the sudras did not suffer only from the religious, cultural and educational disabilities but they were posed with economic disabilities as well the Dharmashastra gives no equal protection to all the sections of the society. The untouchables carry maximum punishment as compared to upper castes.² Therefore, the religious ideals which govern the Hindu society, hold that act to be right and good which would serve the interest of a class of supermen, namely Brahmins. Viewing this Ambedkar considered Hinduism not a 'civilization' but 'felony'. He refuted it vehemently and thus looked for alternatives. He understood well that mere survival does not constitute a warranty of the worth of a social institution. Ambedkar argues:

“The main point is not whether the civilization is ancient and whether it has survived. The main point is what are the merits of civilization? What is its worth, if it has survived, on what plane? In other words, the principal question is, is this Hindu civilization, the social heritage a burden or a benefit? What does it offer by way of growth and expansion to classes and individuals?”³

When we contextualize human rights, the Hindu caste system by its very nature goes against socio-cultural and economic rights of Dalits. It does not pay respect for an individual's dignity, right to recognition as a person, right to freedom of opinion and expression, etc.

². Romila Thapar, “The Problems of Human Rights in Hindu and Buddhist Traditions”, *Human Rights Teaching*, Vol. IV, UNSECO, 1985, pp. 34-38.

³. B.R. Ambedkar: *Writing and Speeches*, Vol. 5, Government of Maharashtra. 1979.

Untouchability-Tool of violations

What underlie untouchability is the notion of pollution, defilement and contamination. Referring to the notion of purity, Ghurye has said: "Before 800 B.C., we find the idea of ceremonial purity almost full fledged and even operative in relation to not only despised and degraded group of people called 'Chandals' but also the fourth order of the society, the Shudras".⁴ Ambedkar has, however maintained that while the impure as a class came into existence at the time of the Dharmashastras, the untouchables came into existence much later than 400 A.D. He further adds that if anthropology is a science which can be depended upon to determine the race of the people, then the result obtained by the application of anthropometry to the various strata of Hindu society disprove that the untouchables belong to a race different from the Aryans and the Dravidians. The Brahmins and the untouchables belong to the same race.⁵ Hutton's opinion is that the origin of the position of the exterior castes is partially racial, partly religious and partly a matter of social custom.⁶

In the contemporary times, untouchability continues to be practiced today against Dalits with stringent prohibition broadly on; Sitting on par with dominant castes in public and private places; Taking out marriage processions in dominant caste localities; Walking footwear on roads or pathways of dominant castes; Carrying Dalit corpse through the dominant caste villages; Drawing water from public village ponds etc; Entry to the Hindu temples; Access to the social services of washer man, Barber restaurants etc.; Discrimination in employment, etc.

⁴ G.S. Ghurge, *Caste and Class in India*, Popular Book Depot, Bombay, 1957.

⁵ B.R. Ambedkar, *The Untouchables*, Amrit Book Co., New Delhi, 1948, p.62

⁶ See J.H.Hutton, *Caste in India: Its nature, functions and Origins*, 3rd Edition Cambridge University Press, London, 1946.

privileges assigned to it. Many also find that they are ultimately unable to escape treatment as “untouchables”.⁹

While untouchability has been legally abolished, studies, reports and newspaper accounts suggest that this pernicious practice is still widespread, particularly in rural India. However, the magnitude of untouchability and its relative hold on different spheres of society today is yet to be fully understood. A survey conducted of 1155 villages in 12 states found that 53 percent of sample villages still barred members belonging to hereditary untouchable castes from using village wells.¹⁰ Similarly Desai's study in Gujarat revealed that 74 percent of 69 villages practiced untouchability in relation to water facilities.¹¹ A study conducted in 1990 by Lal and Nahar in Rajasthan noted that the upper castes by and large do not accept water from utensils of Scheduled caste. This was substantiated by denying the Dalits access to the temples and inter-dinning was rarely reported.¹²

In everyday life situation, ex-untouchables are subjected to segregation, insult, humiliation and frustrations. In this regard earlier studies such as J.M. Freeman's study of Bauris in Orissa village, reveals that in everyday social life Bauris are suppressed, cheated, insulted and used by the so called high castes.¹³ Even the recent volume on caste by Searle-Chatterjee, which argue that western anthropologists have epitomized Indian society in term of caste and that there is a need to 'put caste in its place', does not deny the centrality of caste as lived and performed reality in Indian

⁹ Smita Narula, *"Broken People" Caste Violence against India Untouchables*, Human Rights Watch, 1999. USA.

¹⁰ Report of The Scheduled Castes and Scheduled Tribes Commission 1978-79, *Government of India*, New Delhi, 1980.

¹¹ I.P. Desai, op. cit.

¹² S.K. Lal and U.R. Nahar, *Extent of Untouchability and Pattern of Discrimination*, Mittal Publication, New Delhi, 1990.

¹³ J.M. Freeman, *Untouchables: An Indian Life History*, George Allen and Unwin, London, 1965.

The magnitude of the untouchability is enormous in Indian society. Let us see the human right violation with respect to scheduled caste on an all-India level (Table1)

Table 1
Untouchability in Practice (Cases Registered, 1980- 1997)

Year	Number of Cases Registered
1980	4303
1981	4085
1982	4987
1983	3949
1984	3925
1985	3332
1993	2531
1994	1731
1995	1528
1996	1417
1997	1157

Source: Annual Report of Commissioner for SC/ST (1980-85) and Commission for SC/ST, Delhi (1993-1997).

Atrocities and mass violence against Dalits

Despite the Schedules Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 came into effect, yet the rate of crimes against Dalits continues to climb over higher unabated. The nature of atrocities range from forceful intake of human excreta; polluting their drinking water sources; turning their living premises into dumping grounds of obnoxious and detestable waste matter to premeditated mass attacks; false implications and subjecting to humiliating nude parades through villages and towns. Even though the penalties stipulated against the violators of the prevention of Atrocities Act are comparably serve to the conventional ones, the enforcement of the Act is bringing contrasting picture with the law enforcement machinery itself being a

The Dalits in their reaction against atrocities pay a very heavy price including social boycott, denial of public facilities and employment on farms by the landlords. Such incidents have taken place quite frequently in Bihar, Uttar Pradesh, Gujarat, Maharashtra, Tamil Nadu, Rajasthan etc. In the Belchi Killings in 1977, nine Harijans and two others – all agricultural labourers were tortured and then burnt alive by dominant caste Hindus.²⁰ Similarly Singh also provides a vivid account of atrocities and oppression of the Dalits in Madhya Pradesh.²¹ Though, Sinha²² comments on Bihar situation and observes that it is class war against Harijans, and not atrocities but in 1977, Bihar, among all states accounted for the largest number of cases of atrocities against Dalits. To this K.L. Sharma²³ avers that logically this view could be accepted on the basis of class war thesis. But it is only partially true. There is an element of Harijaness in the atrocities committed by the caste Hindus on the Dalits.

Civic Facilities and Atrocities

After many years of independence, a majority of Dalits have been deprived of basic amenities, they continue to have separate wells or source of drinking water, the quality of which is considerably poorer than the general source of drinking water in the village. Some of the atrocities are related to lack of facilities essential or access to in Dalit localities. A few illustrations are.²⁴

²⁰ S. Bhushan, "Bihar: The Belchai Killings", *Economic and Political Weekly*, Vol. XII, No.25, June 18, 1977, p. 1974.

²¹ N.K. Singh, "Madhya Pradesh: After the massacres", *Economic and Political Weekly*, Vol. XII, No.25, June 18, 1977, pp. 1800-02.

²² A. Sinha, "Bihar: Violence against the Poor", *Economic and Political Weekly*, Vol. XII, No.15, April 8, 1977, pp. 2037-40

²³ K.L. Sharma, *Essays on Social Stratification*, Rawat Publication, Jaipur 1980, p. 176.

²⁴ P.S. Krishnan, "Untouchability and Atrocities" in Ghanshyam Shah (ed.), *Dalits and the State*, Concept Publishing Company, New Delhi, 2002, p. 285. Also see, Deepak Verma, "A Dalits Caste: Between Law and Society", *Economic and Political Weekly*, Vol. XXXVIII, No.25, June 21-27, 2003, pp.2474.

Now let us see some data revealing the crimes and atrocities against Dalits
(Source: Crime in India 2000; National Crime Records Bureau, Ministry of Home Affairs)

Table -3

Number of crimes against Scheduled Castes during 1998 to 2000

Sl. No.	Year	Crimes Against Scheduled Caste				Percentage change over the previous year			
		Violent (IPC)	Others (IPC)	SLL	Total	Violent (IPC)	Others (IPC)	SLL	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	1998	2237	15234	8167	25638	-6.9	-6.3	-12.1	-8.3
2	1999	2216	14898	7979	25093	-0.9	-2.2	-2.3	-2.1
3	2000	2313	15084	8058	25455	4.4	1.2	1.0	1.4

Note: - 1.2 violent crimes includes Murder, Rape, K&A, Dacoity, Robbery & Arson

2. 'Others' include Hurt cases

Crime head-wise incidence reported the years 1998 to 2000 along with the percentage variations over respective years presented below.

Table - 4

Incidence of crimes against Scheduled Castes by Crime heads during 1998 to 2000

Sl. No.	Crime-Head	Years			Percentage variation in	
		1998	1999	2000	1999	2000
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Murder	516	506	526	-1.9	4.0
2.	Rape	923	1000	1083	8.3	8.3
3.	Kidnapping & Abduction	253	228	268	-9.8	17.5
4.	Dacoits	49	36	38	-26.5	5.6
5.	Robbery	150	109	108	-27.3	-0.9
6.	Arson	346	3337	290	-2.6	13.9
7.	Hurt	3809	3241	3497	-14.9	7.9
8.	PCR Act	724	678	672	-6.3	-0.9
9.	SC/ST (Prev. of Atrocities) Act	7443	7301	7386	-1.9	1.2
10.	Others	11425	11657	11587	2.0	-0.6
11.	Total	25638	25093	25455	-2.1	1.4

PCR Act - Prevention of civil Rights Act

The data radiates an alarming increase in crime against Dalits. It relates to atrocities both to caste prejudice and untouchability, on the one hand, and political and economic issues regarding land, wages, indebtedness, bondage etc. on the other. Disputes related to land are identified as the single most important cause, including disputes related to implementation of land reform, allotment of cultivable land and house sites, envy of a good crop raised by Dalits, use of community land etc. Likewise any attempt by Dalit agricultural labourers to agitate for reasonable wages usually meets with violence at the hands of land owning classes.

Naxalites and violation of civil liberties

The origin of the Naxalite movement can be traced to a breakaway Maoist group in West Bengal. The group initiated a series of peasant uprisings beginning in a village in the state of West Bengal called Naxalbari, from which rebel leaders took the name 'naxalite'. The peasant communities who are mainly Dalits seized land, burned property records and assassinated exploitative landlords and others identified as "class enemies". By 1970, Naxalite groups had expanded their efforts to large areas of the country-side stretching from West Bengal to the southern of Kerala. Naxalite groups also carried out bombings and arsons in areas where they are likely to cause civilian casualties and summarily executed and in some cases tortured to death, suspected as police informers. All such practices constitute gross violation of international law. Although the Naxalite insurgency was brought down to an end in most parts of the country by a brutal police crackdown designed to eliminate the militants and their supporters, the movement continues to survive, albeit with some splits and regrouping, in rural areas of West Bengal, Orissa, Andhra Pradesh and Bihar.

The matter of concern is that the government has assaulted on civil liberties by resorting to extra – legal measures to deal with the Naxalite threat, including extra – judicial execution, torture and forced disappearances. As Vinita Ray puts it, “The climax was reached when the Government involved emergency powers in 1977. Likewise, through the maintenance of the internal security Act, passed by Parliament on the assurance that it would not be used to suppress the legitimate struggle of the people, the Government not only used it during the Emergency but also structured it in a way to do away with the court interventions. Overall the period of emergency marked the nadir of human rights in India; basic freedoms were asphyxiated, access to judicial justice denied and the right rescinded by torture, cruelty and inhuman treatment”.²⁵

3.2 The Dalits Right to Education

In all societies of the world, education as an instrument of socialization is considered a powerful catalytic agent of social change.²⁶ It adds dignity, grace and prestige to ones personality. It directly influences ones’ attitudes, opinions and behaviour patterns. It is also considered as a powerful media of reducing prejudices and discrimination in societies, torn by communal and racial conflicts. It is also considered as an important level of generating both horizontal and vertical mobility, even proponents of conflicting uses of education share a common belief that education makes a difference and thus is worth personal and collective investment. Therefore, Article 26 of UN Declaration on Human Rights proclaims that everyone has the right to education.

²⁵ Vinita Ray, “The State of Human Rights in India and role of Human Rights Group”, in B.S. Waghmare (ed.), *Human Rights: Problems and Prospects*, Kalinga Publications, Delhi, 2000, p. 37.

²⁶ A.R. Kamat, “Education and Social Change among the Scheduled Caste and Scheduled Tribes”, *Economic and Political Weekly*, XVI, No.31,1982, PP. 1279-84

said of some communities that they were prohibited from walking on the roads on the roads in daylight because even their shadow was considered polluting.³¹

The reaction of caste Hindus was one of continued opposition to the education of those who, in their eyes were fated to life and ignorance. Official reports of 19th and 20th century are replete with accounts of many trials and tribulations of untouchable's children, who preserved to receive an education even in the special schools, set up exclusively for them. For instances it is reported that Cherumar (slave caste) boys used to have their book snatched out of their hands as they went to schools established for them in Calicut.³² Similarly the Kallar of Ramnad laid down a number of strictures on Exterior castes', which included one that emphasized that 'their children should not read and get them literate and educated.'³³

Ambrose Pinto³⁴ has examined the value associated with higher education in relation to Dalits. He points out that by its very nature, higher education is elite. Only 6 percent of the relevant age group enrolls in it. These are mostly the Children's of politicians, bureaucrats, landlords, businessmen and professionals hailing from upper castes and classes with a clear value system of their own. The culture of the universities is their culture. An 'individual' self image is inculcated in children of higher castes from birth. The values of competition ingrained right from the cradle. Memory work is encouraged in the study of slokes and sacred texts even before enrolment in schools. This way Pinto considers the whole culture of education to be the culture of the upper caste and classes. He further says that because of the caste value the Dalit have internalized and the colonial educational

³¹ G. S. Ghurye, *Caste and Class in India*, Popular Book, Bombay, 1957, pp. 166-167.

³² Hunter, *Indian Education Commission*, 1882, referred from Geetha B. Nambissan, op. cit.

³³ J.H. Hutton, *Census of India 1931*, Vol. 1, Part 1 Report, Manager of Publication, Delhi, 1933, mentioned in Geetha. B. Nambissan, op.cit.

³⁴ Ambrose Pinto, *Culture Values and Dalits in Higher Education*, in S.Bhattacharya (ed.), *Education and the Disprivilege*, Orient Longman New Delhi, 2002.

system they encounter in the Universities and colleges, Dalit students feel inferior. Many Dalit student drop out, for they find the environment not congenial. Those who survive either pass out with a feeling of inferiority or get co-opted by the higher castes and classes. By the higher castes and classes. By moving them out from their social milieu, the higher education system does a lot of violence to the culture of the Dalits. Since the culture that is prevalent in higher education in the creation of the caste people who teach and administer at these centers of learning. One does not expect caste teachers to behave very differently in colleges and universities than they do in society. On the other hand, a Dalit student, besides overcoming his own internationalized self-image of inferiority, pollution, self rejection, impurity and fear, has to encounter teachers and students who too have a hostile attitude towards him or her. In fact such attitudes sometimes even destroy the little self-image they may have.

The educational system does not function in a vacuum. It is built around our social system of caste. As Ambedkar once said, "No real progress can be made in education if education is entrusted to the teachers from the Brahmin community, whose minds conceived an abhorrence for the lower classes and showed callous disregard for the intellectual uplift of any other classes".³⁵

The state of schools in which the Dalits study in remote areas is humiliating. They have to sit outside the classroom or on separate benches.³⁶ In this case the experience of B.R. Ambedkar is worth mentioning. He faced a hostile atmosphere in school. He was not allowed to answer questions for fear of polluting the teacher. Caste Hindu pupil was afraid that if Ambedkar touched the blackboard he would pollute their lunch boxes kept behind it. In high school, Ambedkar was prevented

³⁵

Ibid.

³⁶

Harold, R. Isaacs, *India's Ex-Untouchables*, Asia Publishing House New Delhi, 1965 Also see Pratap Aggarwal, *Halfway to Equality*, Manohar, New Delhi, 1983.

from studying Sanskrit as the language was considered the key to the Vedas.³⁷ This way the institutions of formal learning hardly supported the Dalits for gaining education; whom the society had even denied the human dignity. Geetha Nambissan after evaluating the usefulness of the non-formal education programmes (NFEP) argues that NFEP offers an inferior system of schooling that is vaguely formulated and difficult to monitor. She observes, "In the over all context of inadequate public resources for schooling, greater privatization of quality education for the elite, and the search for non-formal alternatives for the educationally backward, it is likely that socially and economically vulnerable groups will suffer greater neglect".³⁸

Poverty is a serious impediment to the schooling of an average Dalit. The economic constraint is translated into the inability of families to provide adequate resources to meet the direct and indirect costs of educating children. For instance they may be unable to meet the expenses that have to be directly incurred on uniforms, books, transport, hostels, and so on. In addition schooling represents an indirect cost of families where children are involved in economic (including household activities both within and outside the home) children may be required to participate in such activities full time, part-time or seasonally. This usually leads to non-enrolment, irregular attendance and drop out of school. For instance, it has been observed that at the time of harvesting, children of landless labourers are required to assist their families in the fields.³⁹

Literacy rate is an essential indicator of educational development and accessibility of Dalits to knowledge. Let us analyse All-India literacy rates and

³⁷ Dhananjay Keer, *Dr. Ambedkar: Life and Mission*, Popular Prakashan, Bombay, 1971, pp. 12-19

³⁸ Geetha B. Nambissan, *op.cit*, p. 120.

³⁹ S.K. Yadav, *Education of Scheduled Castes*, Common Wealth Publishers, New Delhi, 1991, p. 27.

compare it with rest of population in order to have a clear notion of their backwardness.

Table - 5
All -India Literacy rates

Year	SCs	Rest of Population	Literacy gap with rest SCs
1961	10.27 (3.24)	27.86 (16.59)	17.59 (13.30)
1971	14.67 (6.49)	33.80 (17.11)	19.13 (10.67)
1981	21.38 (10.93)	41.22 (29.51)	19.84 (18.68)
1991	37.41 (13.76)	57.40 (44.96)	19.99 (21.20)

Figures in brackets represent female literacy rates

Source: Govt. of India, VII Five year Plan, P. 330 and Govt. of India, Educational Development of Scheduled castes and Scheduled Tribes, 1995, p.2

The table shows that between 1961 and 1991, the literacy rate rose from 10 percent to 37 percent among SCs and 27 percent to 57 percent for the rest of population. Despite the increase in literacy, the gap between SCs and the rest has been widening.

Table - 6

State-wise % of total SC student enrolment in higher education as on 1995

Maharashtra	21.74
Uttar Pradesh	13.92
Tamil Nadu	9.04
Andhra Pradesh	7.68
Karnataka	7.63
Gujarat	6.80
West Bengal	5.06
The enrolment in other States/Union Territories is below 5%	

Sources: National SC/ST Commission Report, 1996-97 & 1997-98, p. 77

Likewise Table 6 clearly indicates that the enrolment of Dalit students in higher education is as miserable as 5.06 percent in West Bengal.

Thus, Article 26 of UN Declaration which proclaims that everyone has the right to education is neglected more on Dalits front. The socio-economic background of Dalit and the pattern of untouchability in the educational institution add to the misery of Dalits. Moreover, the highly unsuitable living condition and the medium and culture of learning being alien become a major bottleneck for Dalits to achieve higher academic goal and earn a respectable living.

3.3 Dereliction of economic Rights

Caste played an 'ascriptive' role in as much as it allocated economic functions in the society. Such distribution of economic activities among different individuals has been a characteristic feature of every human society, either in crude or in very complex form. But the unique feature of the caste system was that it assigned an occupation not to an individual, but to a group of individuals. A particular individual was ordained to undertake a particular occupation just because he or she belonged to a particular caste. This led Dr. Ambedkar to argue that the caste system did not result only in division of labour, 'but it culminated in the division of labourers'.⁴⁰ Therefore, like in the social sphere in the economic sphere too the caste system amounted to a travesty of individual freedom.

Thus, the absence of freedom of occupation, low earnings, implicit restriction on needs and stigma on menial labour destroyed the economy of the lower castes. They came to be wholly dependent on the upper castes for their bare economic existence. As a result the Dalits remained socially outcaste and economically dependent.

The Relevance of Land: The importance of landholding as a main source of livelihood in rural areas can hardly be overemphasized. According to 1991 census, 77

⁴⁰ B.R. Ambedkar, Writings and Speeches, Vol. II. *Government of Maharashtra*, Education Department, Bombay, 1979.

The unemployed and underemployed character of Dalits is due to many reasons. Dalits, mostly forming the unskilled or having low level of formal skill do not get preferences from the employer. This is due to their poverty and inaccessibility to learn the formal skills. In the agricultural sector, due to being landless in most of the cases have to depend on the mercy of landlords for their economic existence. This way they are underpaid also. There have also been cases of caste-based discrimination against SCs in occupation, employment, wages and others.

Now if we analyse the percentage of Dalits representation in government jobs as given in Table 6

Table – 7

SC % in Central Government Service

	1965	1995
Class I	1.64	10.12
Class II	2.82	12.67
Class III	8.88	16.15
Class IV	17.75	21.26
Total	13.17	17.43
Sweepers	*	44.34
Grand Total	13.17	18.71

**Figures relating to sweepers in 1965 are not available and not included in the figures for Class IV.*

Source: National SC/ST Commission Report, 1996-97 & 1997-98, p. 14

We find that, the lower the type, social status and salary of the class of services, the greater the number of Dalits. This suggests that after a long gap of 30 years between 1965 and 1995, the increase in the intake of Dalits for all the classes of services has been very minimal. One striking factor is that the quantum of increase of Dalit recruit for each class of service in the same reflects the same hierarchical pattern of the caste system and class of services. Therefore the overall picture of Dalits in the employment sphere remains dismal and shows no sign of encouragement. Now let us examine and analysis the socio-economic profile of Dalits.

Urbanization is one of the most significant indicators of geographical social and economic mobility. It is disappointing to observe that in 1991 the rate of urbanization was only 18.72 percent for SCs and as low as 7.39 percent for STs compared to 25.73 percent for the national average. It is further observed that 48 percent of SC population comprised agricultural labourers, while cultivators were barely 28 percent. It is needless to say that generally SC cultivators are 'marginal'. What is worse, 66 percent of the bonded labourers in the country belongs to SCs. If we glance at the employment profiles of the SCs and STs vis-à-vis the population as a whole, it could be observed that 77 percent of the SCs and 90 percent of the STs have been employed in the primary sector as against 67.53 percent for the country as whole. Further, only 9.83 percent of SCs and 3.85 percent of the STs worked in the secondary sector compared to 11.97 percent of the national average. Lastly, 13.096 and 6.12 percent of the SCs and STs worked in the tertiary sector compared to 20.50 percent for the population as a whole. As a result of all these multiple but inter-related factors 50 percent of the total SC population was below poverty line.

It is obvious from our analysis of the data from Table 8 that the overall socio-economic position of Dalits in the Indian society is pathetic. Neither the facts are encouraging in the rural sphere nor showing any substantial socio-economic mobility in the urban sphere for the Dalits. They still lie in the vicious circle of exploitation and poverty due to the human rights violations incurred on them. Do the Dalits have a ray of hope in the future? we will later examine the prospect of Dalits in the era of Globalization.

The police, who should prevent such crimes, are also parties to inhuman crimes. Despite the adoption of legislation against most of these crimes, oppression and violence are subjected to the Dalit Women.

Sexual Violence

For Dalit women, the fact that their labour outside the family is crucial for the survival of the family, leads to the lack of stringent control on their labour, mobility and sexuality and this renders them impure or lacking in virtue. In several instances the rape of Dalit women may not be considered as raped at all because of the customary access that the upper caste men have had to Dalit women's sexuality. In almost all regional languages in India, the word for 'rape' is equivalent to the phrase 'stealing the honour of' and since lower caste women by the virtue of their double oppression have no 'honour to speak of the rights to redressal is often denied. In an incident at Birati in West Bengal, the police argued that since the women, 'crying rape' were prostitutes the matter could be overlooked.⁴⁴ Likewise Dalit Women suffer rape as a part of the ongoing caste confrontations. In rural India, defiance of caste restrictions by the Dalits have most often resulted in arson and gang rapes of women of the low castes.⁴⁵

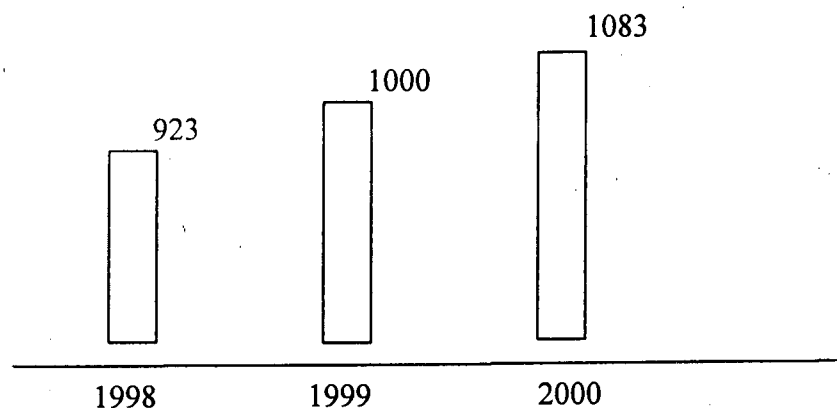
Sexual violence may be a general problem from which women in general suffer; in case of Dalit women, it is far more intense and widespread. Because of lower social attitude towards Dalit women and their economic dependence, they become victims of the high caste sexual violence, on a scale far greater than that of the non Dalit women. If we see the data the hard reality would come to the fore. But this is only a tip of an iceberg.

⁴⁴ T. Sarkar, "Reflections on the Birati Rape Case", *Economic and Political Weekly*, Vol. XVI No. 3 Feb 2, 1981.

⁴⁵ Sharmila Raje, "Caste and Gender: The violence against Women in India, in P.G. Jagdanad (ed.) *Dalit Women in India: Issues and Perspectives*, Gyan Publishing House, New Delhi, 1995, p. 30

No of Rapes Committed against Dalit

(Crime in India 2000: National Crime Records Bureau, Ministry Home Affairs).



The most shameful aspect of this reality is that the incidence of such violence is not decreasing. The recent data shows that the crime against women is still looming large. There were 923, 1000 and 1083 rape cases in the year 1998, 1999 and 2000 respectively (*Crime in India – 2000*).

The Devadasi System: Ritualized prostitution

The practice of devadasi, in which a girl usually before reaching the age of puberty, is ceremoniously dedicated or married to a deity or to a temple priest, continues in several southern states including Andhra Pradesh and Karnataka. Literally meaning “female servant of god,” devadasis usually belong to the Dalit community. Once dedicated, the girl is unable to marry, forced to become a prostitute for upper caste community members, and eventually auctioned into an urban brothel. The age old practice continues to legitimize the sexual violence and discrimination that have come to characterises the intersection between caste and gender. The patrons of devdasis are generally from the higher castes because those from the devadasis own castes are too poor to afford to pay for the rituals.

The 28th report of the commissioner for scheduled caste and scheduled tribe reported that by February, 1986 there were about 10,000 joginis belonging to Scheduled Castes in Nizamabad district of Andhra Pradesh. The prevalence of this system has been observed in large parts of Andhra Pradesh. The survey conducted by district collector and scheduled caste Finance Corporation revealed the prevalence of 1580 cases and 80 percent of the joginis belong to scheduled castes.⁴⁶ This kind of socially "sanctioned" prostitution has been prevalent in large areas of Telengana, which adjoins Karnataka where similar practice of Devadasi exists. The Devadasi system also exists in part of western Maharashtra (Kolhapur, Solapur and Dharwad).

The system of joginis is worse than that of devadasi, who are dedicated to god and look after the temple. Unlike a Devadasi who lives in a temple, a Jogin lives in a Juhuggi, with her parents, where the landlord visits her. They take no responsibility of the Children begotten of the Union and the female children have no option but to become Joginis. These girls cannot marry again, cannot step out of their village and are no better than bonded labourers. This sanctioned prostitution has been there since a long time.

In 1992 the Karnataka state government passed the Karnataka Devadasi (prohibition of Dedication) Act and called for the rehabilitation of devadasi women like many laws aimed at protecting women and lower castes, the act suffers from a lack of enforcement. Moreover, the police themselves have been known to use devadasis. Their perceived status in society as women who are supposed to serve men sexually, also makes it difficult for devadasi to approach the police for help.

⁴⁶ Vimal Thorat, op.cit.

“When a devadasi is raped, it is not considered rape. She can be had by any man at any time”.⁴⁷

In reviewing India’s third periodic report to the United Nations Human Rights Committee, submitted under Article 40 of the *International Covenant on Civil and Political Right* (ICCPR) in July 1997, the human Rights Committee regretted that the lack of national legislation to outlaw the practice of Devadasi, the regulation of which is left to the states, and added that, it appears that the practice continues and that not all states have effective legislation against it. The committee emphasized that the practice was incompatible with the ICCPR and recommended that, all necessary measures be taken urgently towards its eradication.⁴⁸

Education of Dalit Women

The educational status of Dalit women is miserable if compared with others. This lack of literacy detracts from women their dignity, keeps the women economically poor and mentally isolated and does not allow them to play dominant role in society. It acts as breaks on the social development, economic progress and political maturity of the women. Also due to illiteracy Dalit women could not develop their children properly. They could not educate them property. The inferiority complex is developed among them and they are incapable to build confidence among themselves. Their latent capacity is not used properly for national development.

If we see the 1991 census, there is a great disparity between SC women illiteracy rate (76.24) and the general population (47.79) and SC male counterparts (50.09). Though literacy among SC women has grown since 1961, there continues to be a consistently large literacy gap between SC women and general female population during these 30 years. It can be interpreted from the table below.

⁴⁷ Smita Narula, op. cit.

⁴⁸ Consideration of Report by India to the Human Rights Committee, CCPR/C/79/Add.81, August 4, 1997, in Smita Narula op. cit.

Table-9**Female Literacy rates for All India and SCs from 1961-1991**

Year	All-India Total	All-Indian Female	SC Female	SC Male
1961	24.02	12.95	3.29	16.96
1971	29.46	18.72	6.44	22.36
1981	43.67	29.85	10.93	31.12
1991	52.21	39.29	23.76	49.91

Source: 1991 Census data taken from National Commission for SC/ST Report, 1996-97 & 1997-98, p. 12

Now let's see the drop-out rates of Dalit women which is very alarming from the table below.

Table-10**Drop-out Rate at Two Different Time-Periods for Different States (%)**

Primary				Middle			Secondary		
Time Period	SC Girls	SC Boys	Gen. Girls	SC Girls	SC Boys	Gen. Girls	SC Girls	SC Boys	Gen. Girls
1998-89	53.39	47.24	49.69	73.6	64.37	68.31	85.62	NA	79.46
1990-91	46.27	46.27	45.97	73.24	64.34	65.13	83.38	74.23	76.96

Note: NA = Not available

Source -1 1998-89 data from Annual Report 1992-93, Department of Education, Ministry of Human Resource Development as cited in "Rural Development Statistics", National Institute of Rural Development, Hyderabad, 1996, p. 251, 269.

2 1991 data for SCs: National Commission for SC & ST Report, 1996-97 & 1997-98, p. 7

3 1991 data for General Girls: Ministry of Human Resources Development cites in "Manpower Profile India Year book 1998", Institute of Applied Manpower Research, Manak Publication, 1998, p. 112.

It is apparent that the SC female drop-out rate at every stage of education is higher than that of either SC boys or the general female. Over 83% of SC females drop out of school at the secondary stage, the most crucial one for the next stage of higher education and for future employment is a tragedy. Though the drop out rate for

the general school-going female population fell from 3 to 4 percent in each stage between 1988-89 and 1990-91 the drop-out for SC females barely changed for either the primary or middle stages – extremely important stages in early education-during the same time period. As a result, the fall in drop-out rates between SC girls and general girls in these two stages has widened by 3 to 4 percent in just three years.

Economic Status of Dalit Women

Owing to illiteracy and poverty among Dalits, as an economic necessity women belonging to these communities have to seek work outside their poverty stricken household. They mostly perform agricultural jobs. Their low social status illiteracy, un-skill, force them to undertake manual jobs; they work both in organized and unorganized sectors.

Women work for longer hours than their male counterparts. Most of women spend a great deal of time working outside the home; they fail to fulfill the responsibility towards their children. In spite of hard work, inside and outside they are humiliated, beaten up by their husbands. Although women work for long hours and add to their family income, they are not perceived as workers by others, women themselves or the men. Hence their income is always undervalued.

There is a high degree of discrimination in the wage rate. In most cases the Dalit women workers are paid unequal wages. They are paid lower wage for similar work than of male workers. They are also often discriminated against wage employment programmes, they do not get continuous assured work which they need badly but generally find work in times of scarcity of workers. “More than 80 percent of Dalit women work in agricultural sector. This sector is unorganized and does not have facilities of social securities found in other Industries and the organized sector Dalit women are not benefited by maternity/child leave, medical support, P.F.gratuity

etc. Even as labourers of the industrial sector they do not enjoy many schemes of social securities. Some times women are not allowed to go to their children for feeding them during working hours. And sometimes landlord's employers do not prefer such women as agricultural labourers."⁴⁹

In 1991 about 71 percent Dalit Women workers worked in rural areas as agricultural labourers. Only 19 percent of them owned land. Similarly, in urban areas the unemployment rate for the Dalit Women was 3.27 percent. This was only 1.98 percent for non-Dalit Women. "Moreover lack of income generating assets and heavy dependence on wage employment of Dalit women of high caste landlord provide a situation for the later to exploit them sexually and otherwise. Thus the economic situations of Dalit Women compel them to surrender their civic political and economic rights".⁵⁰

There is also gross denial of child rights due to the predominance of girl child labour who generally come from Dalit families. A micro-level study made in Guntur district, Andhra Pradesh⁵¹ revealed; Almost all the Dalit Women workers enter the labour market before the age of 20; 31.6% of all girl children from Dalit communities are child workers; It is due to the lack of permanent and secured income in the family, the girl child is forced into such situation where she not only has to substitute the labour of parents at home, but also supplement the family income as a girl child worker.

Therefore, it becomes apparent that there is a gross denial of all kinds of rights to Dalit Women. Dalit women still remains in the cesspool. They are the most exploited lot in Indian society.

⁴⁹ A.S. Jadhav, "Dalit among Dalits Scheduled Caste and Scheduled Tribe Women", in P.G. Jogdand (ed.), op. cit., P. 181.

⁵⁰ Vimal Thorat, op. cit.

⁵¹ M. Indira, "Caste and Women Participation in Labour Markets: A study of Landless Labourers" in C. Charkrapani and S. Vijaya Kumar, *Changing Status and Role of Women in Indian Society*, M.D. Publications, Delhi, 1994, pp. 197-198.

implement the reservation policy. Therefore whatever rewards such a policy may bring for the economy, it is likely to affect adversely on the Dalits.⁵² So in the name of privatization, it is a systematic attempt to put an end to reservation policy which has played a major role in instilling a hope among the Dalits.⁵³

This shows that market which is guided by the sole purpose of profit making would not care for the poor. Thus, poor who don't have a purchasing power, for them, market is useless and on the other hand poor are also useless for the market. The state in this run is likely to withdraw more from its welfare obligation by reducing its share in the social sector investments such as health, education and so on. And once education and health becomes commodities in the market, these people cannot afford the access in view of their poor base. The process of privatization and commercialization of higher education may halt the process of development of the Dalit. In other words, the commodification of social services⁵⁴ is going to adversely affect the Dalit fortunes. In sum the atrocities on the Dalits not only shall continue but may also be increased on account of the reforms with no social securities disposed in the Dalits hand.

Hence we examined that, Dalits are subjected to gross human rights violations on a routine, systematic and daily basis. India's version of apartheid and racism, caste discrimination and "untouchability" affect every facet and dimension of Dalits' daily lives-economic, social, cultural, civil and political.

⁵² B.L. Mungekar, "State, Market and the Dalits: Analytics of New Economic Policy" in S.M. Michael (ed.), *Dalits in Modern India: Vision and Values*, Vistaar Publications, New Delhi, 1999, p. 296.

⁵³ P.G. Jogdand, "Consequences of New Economic Policy on Dalits: Some Observations", in P.G. Jogdand, (ed.) *New Economic Policy and Dalits*, Rawat Publications, New Delhi, 2000, p.143.

⁵⁴ B.L. Mungekar, op. cit. p. 301.

When Dalits defy practices of “untouchability” and resist caste oppression, they are murdered, attacked, raped, stripped and paraded naked, publicly humiliated, and their homes and property are destroyed. These atrocities, as these acts of violence have come to be commonly known, are perpetrated by dominant castes in order to brutally suppress their resistances and “put them in their place” within the social hierarchy, mediated by caste and “untouchability.” Atrocities against Dalits have become so alarmingly commonplace in recent years, that the Indian Government was compelled to pass legislation in 1989 known as the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. Privatization and free market components of the reforms are certainly impacting very adversely on the job situation as we have examined. The impact of the reform in terms of increasing inequality has also been established. Therefore, it can be inferred that the reforms are potentially incapable to pacify the pain of Dalit masses. In sum, the atrocities on the Dalits, is seen to be perpetuating with denial of their basic human rights.

Chapter-4
STATE RESPONSE TO RIGHTS OF DALIT

One of the greatest accomplishment of civilization in the 20th Century is the acceptance of human rights as an integral part of governance for which the state, whatever its form, has accepted obligations and accountability. Today the United Nations may be characterized as a human rights maintenance organization, clarifying, promoting and monitoring the human rights related activities of the governments the world over. There is hardly a constitution, which does not speak of the rights of individual, groups vis-à-vis the state and the mechanism whereby they are to be made accessible to the citizens. As seen already, for historical and socially wrong reasons, the Indian society perpetrated a system of exploitation and dehumanization of Dalits. Therefore of the various undaunting tasks confronting the Constitution makers, the most important one was the one relating to the all round upliftment of those belonging to the Scheduled Castes and Scheduled Tribes who constituted a little over 22% of the country's population. ¹ The hopes and aspirations of these people found expression through the personality of their greatest leader until now, Dr. B.R. Ambedkar who launched a life long crusade for their emancipation from centuries old enslavement and ostracism.² Gandhi and other social reformers also tried to fight this menace. Therefore the new independent India based on egalitarianism incorporated legislative measures and subsequently human right mechanisms to deal with the menace of backwardness and human rights violations against the Dalits.

¹ Government of India, *Census of India Report*, 1991.

² Dhananjay Keer, *Dr. Ambedkar: Life and Mission*, Popular Prakashan, Bombay, 1981, p. 392.

4.1 Constitutional and Institutional Framework of Human Rights in India for Dalits

The legislative measures for societal transformation and strengthening human rights of Dalits can be broadly be categorized as under³:

- (A) Protective
- (B) Political
- (C) Developmental

Protective Measures

The Protective measures safeguard the interest of the SCs and STs through the following Articles of the Constitution:

1. Article 15(4); protects them from the discrimination on the grounds of place of birth in the particular low caste or tribe, for providing special educational facilities to SCs/STs Article 29 is also formulated.
2. Articles 16(4), 320(4) and 330; safeguard the employment opportunities for these people for getting benefits of these safeguards. These categories of people are considered as socially and educationally backward.
3. Article 17; which is later amended as the protection of civil rights Act in 1976 makes untouchability behaviour as a cognizable offence. This Act declares following acts as offences and punishments are prescribed for the same i.e.
 - (i) Refusing admission to public institutions such as schools/colleges, etc.

³. See for details Giridhar Gomango, *Constitution Provisions for Scheduled Castes and Scheduled Tribes*, Himalaya Publishing, Bombay, 1992; B. Gopal, "National Pledge for Upliftment of SCs/STs: A stock Taking", *The Indian Journal of Political Science*, Vol. 52, No.4, October-December 1991, p. 531.

- (ii) Preventing any person from worshipping or offering prayers in any place of public worship;
 - (iii) Subjecting any person to any disability with regard to any shop, public restaurant etc;
 - (iv) Insulting a member of the SC on the ground of untouchability; and
 - (v) Preaching untouchability directly or indirectly.
4. Article 23; It abolishes the forced labour;
 5. Article 19; Provides economic safeguards to the STs;
 6. Article 46; Provides protection from the social injustices and all forms of exploitation. It also promotes the educational and economic interests of the SCs/STs. In the plans also a separate sector namely "Backward classes sector, has been specifically mentioned.
 7. Articles 244 and 339 with the clause 244A facilitate the special administrative provisions through the Fifth and Sixth Schedules. The Fifth Schedule applies to the administration and control of the Scheduled areas and Scheduled Tribes of any State other than the States of Assam, Meghalaya and Tripura. Whereas the Sixth Schedule applies to the administration of tribal areas in the states of Assam, Tripura, Meghalaya and the Union Territory of Mizoram.
 8. Article 338 makes it obligatory on the part of Central Government to appoint a National Commission for SCs/STs for laying the role of watchdog of their Constitutional safeguards. The duties of the Commission are:

- (a) To investigate and monitor all the matters relating to the Constitutional safeguards for SCs/STs.
 - (b) To inquire into specific complaints with respect to the deprivation of their rights and safeguards.
 - (c) To participate and advise on the planning process of the socio-economic development of SCs/STs.
 - (d) To present to the President of India the annual or fact-finding reports on the contemporary conditions of SCs/STs.
 - (e) To make recommendation for effective implementation of Constitutional provisions.
 - (f) To discharge such other functions in relation to the protection, welfare ,developmentand overall advancement of SCs/STs.
9. Article 31B protects the interest of SCs/STs included in the Ninth Schedule of the Constitution. Thus, this Article offers a complete cover for any of the fundamental rights.

Political Provisions

Political Provisions are those which provide special procreations for SCs/STs in legislative bodies of people's representation and reservation of posts in various Government services. They are as under:

1. Article 164 guarantees for the appointment of a Minister-in-charge to look after the welfare of SC/ST selections.
2. Article 330 facilitates the reservation of seats for SC/ST in the House of the People's Representatives in the proportion of their respective population in the nation as a whole or the States as the case may be.

3. Article 334 provides the reservation of seats for SC/ST in the Lok Sabha or State Assemblies.
4. Article 335 protects the claims of SCs/STs to the services and posts in all the Government departments as per their population ratio. This Article removes some of the limitations of Article 16(4). While Article 335 relates to the SCs/STs only, Article 16(4) applies to OBCs generally. As per this Article, the Central Government provides 15 and 7.5 per cent reservation quota for all the services and posts for the SCs and STs respectively. The State Governments are directed to follow the same reservation principle as per the ratio of their populations. For example, Rajasthan Government provides 12 per cent reservation of posts in all Government services to the STs and 16 per cent to the SCs.
5. Article 341 and 342 provide for the Presidential Notification of the lists (Schedules) of SCs and STs respectively. All the Constitutional provisions are applicable to the caste and tribes mentioned in these respective Schedules only. The Parliament may include or exclude any caste or tribe from these Schedules by specific notification. In pursuance of these two Articles of 341 and 342, specified castes and tribes have been declared in those Schedules and time-to-time some modification of the SCs/STs have also been made.

Developmental Provisions

Right to development of Dalits is not only the right to be human but also to remain human. Developmental provisions are made for both the SCs/STs to promote their interests of social change. They are as under:

1. Article 46 gives directions to the States for promotion of special care of the educational and economic interests of SCs/STs. These sections have to be protected from the social injustice of any sort and all forms of exploitation.
2. Article 275 provides grants from the Central Government to the States for welfare of Scheduled Tribes and raising the level of administration of the scheduled areas.
3. Articles 39 A provides for equal justice and free legal aid to all the SCs/STs and OBCs. This Article is under the Directive Principles of State Policy.

Apart from these, the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities, POA) Act, 1989* prevents the commission of offences like atrocities against the members of the SCs and STs; and it also provides for special courts for the tribals, of such offences and for the relief and rehabilitation of the victims of such offences. Comprehensive rules were also framed under the SCs and STs (POA) Act in 1995. It envisages the relief rehabilitation and preventive measures for them.

Many schemes and institutions for the welfare of Dalits are also undertaken. Some of these are –*State Scheduled Castes Development Corporation (SCDCs)*⁴ was introduced in 1978-79 to uplift the SC/ST population living below poverty line. In 2001-02, an amount of Rs. 21 Crores was released as Government of India's contribution. A National scheme of *Liberation and Rehabilitaiton of Scavangers* and their dependents in alternative

⁴ Government of India, *India 2003: A Reference Annual*, Information and Broadcasting, 2003, p. 252.

of National Human Right Commission (NHRC), National Commission for Schedule Castes and Schedule Tribes etc.; encourage NGOs and institutions working in the field of human rights, and perform any other functions that NHRC may deem necessary for promotion of human rights. Different NGOs also get assistance from the government for monitoring and help in implementation of human rights. The freedom of Press is also given due importance which is monitored chiefly by the Press Council of India since 1979 etc. All these provisions and measures are equally significant for availing the basic human rights and the right to development of the Dalits.

4.2 Developmental Programmes and Dalits Right to Development

It was felt that development would help break down the rigidities of the caste system and social hierarchies. Therefore, the government is striving to provide basic minimum services to the Dalits in order to equip them to reap the fruits of freedom, social justice and economic development. We would discuss only few important developmental programmes which are exclusively meant for Dalits and the others which encompass the whole rural population would be touched peripherally.

As we have noted that Special Component Plan (SCP) was adopted for the development of SCs during Sixth Plan, it was viewed that the state has been somewhat successful in ensuring to target the Dalit population. Most importantly the adoption of SCP strategy is that it has ensured allocation of funds and flow of funds to be utilized exclusively; for the development of SCs and over a period of time it has also contributed towards increasing the size of SCP in terms of financial allocation. But at the same it was observed that large number of states are not allocating funds to the SCP in proportion to the Dalit population

a source of fodder for the animal. Presumably the most common arrangement is the exchange of unpaid labouring work for the landowner in return for access to cattle fodder. In another case in Karnataka, where grazing an IRDP buffalo on land belonging to upper castes have led to atrocities on them and becoming major cause of poisonous relationship between Dalits and the high caste landlords.¹¹ It can be inferred that were the state is taking measures like IRDP to allocate assets to Dalits, but the inherent flaws of IRDP and difficulties in maintaining the asset by the Dalit makes it less effective.

The efforts for economic development of the Scheduled castes and Scheduled Tribes are also being made by providing facilities for income generation activities. The role of financial institutions in this context is very vital. The *National Scheduled Caste and Scheduled Tribes Finance and Development Corporation* (NSFDC) and the *Scheduled Caste Development Corporation* (SCDC) play a major role to cater credit requirement of Dalits along with other banks. During 1992-93, 1993-94 and 1994-95 these corporations have assisted 5.35 lakhs, 7.54 lakhs and 5.83 lakhs Scheduled Caste families respectively in the Country.¹² “The SCDCs does not get the share capital contribution from state governments in time which hampers their smooth functioning”, observes SC and ST Commission, 1997. In the recommendation given to the government, the Commission avers that NSFDC and SCDCs should be given the status of banking institution. These institutions also need to simplify the procedure for granting loans by removing income ceiling.¹³ These lessons from the incorporation of new property alleviation schemes radiate that were

¹¹ Ibid.

¹² Fourth Report, *National Commission for Scheduled Caste and Scheduled Tribe* Vol. 1, 1996-97 & 1997-98, p. 111.

¹³ Ibid., p. 117.

policies would not be suffice, rather the matrix of accessibility, implementation and sustainability for these schemes has to be studied and mended for the Dalits to realize their right to development. Meticulous targeting of the Dalit community through these schemes and wiping of societal bottlenecks confronting the Dalits has to be reckoned.

Land Reforms: Giving land to the tiller was a promise made during the Independence movement. True, the Dalits are not merely poor or landless: their condition is perpetuated by elaborate structures and attitudes, which are not reducible to any single material cause. But equally, their social position is inescapably adhered to their condition of landless poor condemned to work in the land of upper caste landlords.¹⁴ Several micro level studies¹⁵ proved this state of the landless Dalits; as has been inferred in the study of Namcharaiah in Andhra Pradesh, Kamble in Maharashtra Guhan in Tamil Nadu and Thangaraj in Tamil Nadu too. These studies, by and large, show the acquisition of land by the Dalits due to land reforms and the vicissitude associated with their life chances.

The main objectives of land reform policy was the abolition of intermediary tenures, tenancy reforms, ceiling on ownership of agricultural holdings, consolidation of holdings, compilation and updating of land records and distribution of ceiling surplus and other types of land to the landless had been clearly set in the Sixth Plan. As per the information available in the Annual Report of the Ministry of Rural Area and Employment for the year 1996-97, the total extent of land declared surplus in the entire country till 30.9.96 was 74.94

¹⁴ Oliver Mandelsohn and Marika Vicziny, "The Untouchables" in Oliver Mandelsohn and Upendra Baxi (ed.), The Rights of Subordinated People, Oxford University Press, New Delhi, 1994, p. 101.

¹⁵ All the studies cited have been taken from M. Thangaraj, "Access to Land by Scheduled Caste and Scheduled Tribes in India", in Ghanshyam Shah, (ed.), *Dalits and The State*, Concept Publishing Company, New Delhi, 2002, pp. 55-56.

lakh acres. Out of this 64.84 lakh acres have been taken possession and 52.13 lakh acres distributed to 51.21 lakh beneficiaries. About 36% of the beneficiaries belong to Scheduled Castes and about 14% to Scheduled Tribes. Though it is observed that the Dalit community has been benefited out of it but it is seen that the implementation of ceiling laws has not been given due importance by the states. Moreover large number of areas declared surplus are yet to be taken possession by the state governments as seen from the data. The National Commission for Schedule Castes and Schedule tribes observes "The state governments should take immediate steps for early redemption of the lands which are in litigation in the courts, by making suitable changes in the law itself. Similarly the lands, which are free from encumbrances and awaiting distribution, should be distributed among eligible SCs & STs and other poor families so that they can make use of land at the earliest for their livelihood".¹⁶

We have examined that land reform not only have an immediate impact through increasing the income and life chances of Dalits but also would lessen the exploitable conditions of the community. Consequently land control becomes an effective asset to change the social and economic structure in Indian society. The government has to take an activist approach to allocate lands, which is a basic possession to earn one's livelihood. Government in a number of ways and means has dealt with Dalits right to education. Pursuant to the National Policy on Education (NEP), some of the special provision of Dalits have been incorporated in the existing schemes of the Department of Elementary Education and Literacy and Secondary and Higher Education: (a) Relaxed norms for opening of primary schools (b) Abolition of tuition fee in all states in government

¹⁶ Fourth Report, *National Commission for Scheduled Castes and Scheduled Tribes*, 1996-97 and 1997-98.

schools at least up to upper primary level. Most of the states have abolished tuition fee for SC/ST students up to senior secondary level (c) Provision of incentives like free text books, uniforms school bags etc. (d) The major programmes of the Department of Education, viz., *Sarva Shiksha Abhiyan* (SSA), *District Primary Education Programme* (DPEP), *Shiksha Karmi* (SK) and National Programme for Nutritional Support to Primary Education, accord priority to areas of concentration of SCs and STs (e) Reservation of seats in Central Government institutions of higher education (f) To improve academic skills and linguistic proficiency of students in various subjects and special coaching is provided to SC/ST students. (g) Scholarships for SC/ST students (h) Districts have been identified as low female literary districts to be given focused attention ,etc.

A prerequisite for assertion of human rights by the Dalits in particular and other poor sections in general is awareness; awareness of the present and a vision for future based on that awareness. The most essential factor contributing to this awareness is literacy. We have examined the state literacy in relation to Dalits in the earlier chapter. Where it was 10.27 in 1961, it escalated to 37.41 in 1991 according to the census reports respectively. The difference between the upper castes and Dalits has been widening. As far as dropouts are concerned at primary and secondary level, we have examined that it is very high. The National Human Rights Commission (NHRC) has taken a number of initiatives by way of addressing different agencies of the government to fulfill the promise of Article 45 of the Constitution.

Compensatory discrimination which the government undertook is one of means through which a Dalit is supposed to uplift himself/herself. We would

and fraternity.²⁰ Reservation to public employment for the scheduled castes has had greater impact than electoral reservation. Many Dalits have been benefitted from the quota of public jobs available to them. Aggarwal and Ashraff averred that in some cases the reservation policy was a major factor in the upward mobility of Dalits but their number is small.²¹ It is observed that the Dalits are changing through the process of change which is complex, multilayered and multidimensional creating new status distinctions.²² Nandu Ram in the similar vein observed that as a result of social mobility among Dalits, a new class has emerged in the city of Kanpur in Uttar Pradesh. He avers that the most important indicator of mobility is the social perception of individuals belonging to a group about their own social status. About 98 percent of the respondents in Ram's study were found upwardly mobile compared to their fathers but they neither could identify themselves with Dalits nor with the middle class in general. Thus the scheduled caste middle class is seeking a new identity.²³ A small prosperous and self-perpetuating 'Dalit Elite' has evolved through this process of protective discrimination. Sachidananda avers that reservation has created a privileged elite devoted to its own petty advancement and un-caring about wider untouchable community.²⁴ Consequently, a small body of people has captured the great majority of reserved positions and that these 'Dalit Elite' are self-perpetuating-their children too

²⁰ Deepankar Gupta, "Positive Discrimination and the Question of Fraternity – Contrasting Ambedkar and Mandal on Reservations", *Economic and Political Weekly*, Vol. XXXII, No.31, August 2, 1997, pp. 1971-1978.

²¹ See P.C. Aggarwal and M.S. Ashraff, op. cit. Also see S. Chitnis, *A Long Way to Go..*, Allied Publishers, New Delhi, 1981.

²² K.L. Sharma, *Social Stratification in India: Issues and Themes*, Sage Publications, New Delhi, 1997, p. 164.

²³ See Nandu Ram, *Mobile Scheduled Caste: Rise of a New Middle Class*, Hindustan Publishing, New Delhi, 1998.

²⁴ Sachidananda, *The Harijan Elite*, Thompson Press, New Delhi, 1977, p. 170.

the Constitution. Therefore the commitment to eradicate old patterns of caste relations and the concerted efforts to remove caste disabilities are essentially post 1950 developments. A close scrutiny of the evidence would reveal the state of Dalit as far as PCR Act is concerned. The cases registered under PCR Act in 18997 was 1157 but as observed by commission for SC/ST, the cases under PCR Act are still prevalent in a number of states and acquittal is high in most cases²⁹ It is also important to note that the cases registered under PCR Act are reducing year by year.

In view of the increasing trend of atrocities on the Scheduled Castes and Scheduled Tribes, the existing provisions under the Protection of Civil Rights Act (PCR) had been found inadequate and an additional legislation called the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to check and deter crimes against them was passed and brought into force w.e.f. 30.1. 1990. A close analysis of number of cases registered and disposal of cases would throw light on the effectiveness of this law. If we take the case of Bihar, the total number of cases challaned in 1997 was 5059 out of which 4525 cases were pending. Only 8.46 per cent cases were disposed. Similarly 4606 cases were lying pending for trial in special courts in the case of Orissa till the end of June 1988. In case of Punjab which has the proportionally largest Scheduled Caste population, the cases registered in 1997 & 1998 were 27 and 48 respectively³⁰ As can be comprehended from the trend, the number of cases of atrocities on SC/ST pending for disposal before the Court is very large, while intake of cases is also increasing every year.

²⁹ . Fourth Report, *National Commission for Scheduled Caste and Scheduled Tribe*, Vol.1, 1996-97

³⁰ . See Fifth Report, *National Commission for Scheduled Castes and Scheduled Tribes*, Vol.II, 1998-1999.

The efficacy of a legislative measure aimed at bringing about a positive change presumes that those for whom it is intended are aware of its existence and its practical value to them. Considering that majority of Dalits are illiterate and reside in remote areas, it becomes difficult for them to avail the legislative measures meant for them. Sometimes the Dalits are subjected to intimidation like denial of grazing rights apart from beating torture, etc, if they are the complainants or the witness.³¹ And if the complainant does have witnesses and a good case, he is likely to be subjected to pressure to compound it. Moreover, delay makes litigation more expensive., this throws the Dalit out of race if the case prolongs. There are also complaints against police of refusing to register complaints³² There fore it becomes imperative for the state to prevent atrocities. Exclusive special courts should deal with POA Act cases as the special courts are overburdened with other cases. The state has to take an activist stance for the prevention of such atrocities.

4.4 National Human Rights Commission and Dalit Rights

India enacted the Protection of the Human Rights Act in 1993 more in response to considerable international pressure than the domestic compulsions.³³ Doubts about the setting up of a national human rights institution were raised. But it may be said that whatever may be the motives, it is important that there exist a mechanism supposed to be autonomous and free from state's influence to undo the inhuman wrongs in the society. We have discussed earlier the functions of

³¹ . N. Jayaram, "Can Law Save Scheduled Castes", *Mainstream*. May 17, 1986, pp.16-17.

³² . Ibid.,

³³ . Arun Ray, *National Human Rights Commission of India: Formation, Functioning & Future Prospects*, Vol.I, Khama Publishers, New Delhi, 2003 (Second Edition) pp.49-51; Also see K.P. Saksena (ed.), *Human Rights : Fifty years of Indian Independence*, Gyan Publishing House, New Delhi, 1999, P.185.

National Human Rights Commission (NHRC), now we would analyse the effectiveness or shortcomings which would throw light on the areas to strengthen or refurbish its way of functioning. Since human rights mechanism needs to be consolidated to undo and control inhuman wrongs.

Now let us try to examine the functioning of National Human Rights Commission (NHRC) through some of the cases it has dealt with. In a case: Atrocities on Dalit Women by Forest Officials in Uttar Pradesh (Case No.2731/96-97/NHRC).³⁴ The Commission took *suo moto* cognizance of a news entitled 'Girls paraded naked by the 'Daroga' and called for a report from Director General of Police Uttar Pradesh. Under the preliminary report, the charges had been proved against all the forest officials. Considering the above report, the Commission directed the state government to grant sanction for the persecution of the errant officials expeditiously. An interim payment of Rs. 50 thousand as compensation to each of four girls was provided.

In another case³⁵ : 'Seven Boys from Balmiki Community Paraded Naked by Police, Haryana' (Case No:393/7/1999-2000): On complaint to commission an Asst. Sub Inspector and two constables had picked up seven boys, stripped them naked and paraded them on the streets. In its proceedings the Commission accordingly held that the concerned police personnel had abused their power. The Commission, therefore, directed the Superintendent of Police, Gurgaon to file charge sheet against the three errant police personnel under the appropriate provisions of the Indian Penal Code and SC.&ST (Prevention of Atrocities) Act, to pursue the case diligently and also initiate disciplinary action. The state

³⁴ Arun Ray, op.cit., pp.427-433.

³⁵ Ibid.

government has subsequently reported to the Commission that it has paid the compensation to the youths and are complying with its recommendations.

In similar vein, National Human Rights Commission (NHRC) has been effective in some of the cases,³⁶ to cite a few: Rape of four SC & ST Women in West Godavari, Andhra Pradesh (Case No.343/1/98-99/NHRC); Suicide by a Dalit woman, following rape by Eight Persons including Four Constables, Karnataka (Case No.581/96-97/NHRC); Rape of a Minor Girl by Protector of Law, Uttar Pradesh (Case No.9133/24/98-99/ NHRC) etc. Though NHRC has been able to effectively handle some of the cases but its power is also limited against the state. There are many cases, which are delayed due to legal hassles. Moreover NHRC handles plethora of cases of different kinds, which makes it difficult for it to give special attention to atrocities on Dalits.

It is recognised that NHRC does not seem to have taken societal violation on its agenda with the seriousness it deserves. Therefore it becomes imperative for NHRC that to handle the violations of human rights arising out of caste and religious intolerance, it should be bold enough to give verdict on the caste system even at the risk of becoming unpopular with dominating section of our society.³⁷

It is also found out that the government and parties have treated the issue of human rights with indifference. Furthermore, there has been hardly any debate or discussion on NHRC's report or on its recommendation in the Parliament. Nor there is any record to indicate that the Opposition demanded any debate or discussion! The publication of reports of NHRC are delayed. What was expected of the Commission is to establish its credibility by exposing all the elements

³⁶ Ibid.

³⁷ R.M. Pal, "NHRC Credibility at Stake" in G.S. Bhargava and R.M. Pal, *Human Rights of Dalits: Societal Violation*, Gyan Publishing, New Delhi, 1999.

coming on its way. "Today the NHRC credibility is at stake. If the NHRC does not put its foot down at the initial stage, it too will end up like other Commissions, which are mostly sinecures".³⁸

Therefore, it has been inferred that though the state has been able to empower Dalits by providing different protective measures and developmental programmes, but it is not sufficient enough to bring a transformational change among them. The sociological evidences have shown vertical social mobility among a miniscule of Dalits thereby leaving behind large section of Dalits in the cesspool. The state has to take an activist position and should work in tandem with civil society groups for the realization of Dalits right to be human and remain human.

³⁸ Ibid., p.285.

Chapter-5
CONCLUSION

The story of human rights is the story of human wrongs. Today the protection of inalienable rights of individuals or groups against their infringements by other beings or by other agents is finding new definition and dimension. The days of debate between needs and freedom are almost over as far as rights are concerned. Therefore new rights have germinated from the older one. A search and assertion for Dalits rights in the Indian social sphere though seems nascent in terms of awareness but holds within itself a humane world and a strong India.

Henceforth, we endeavored to examine the perspectives on human rights. Because it becomes pivotal to delineate the structures of human thought in a manner which reveals the implication of thinking and speaking about rights in a particular way. This way one understands the relationship of rights to one another. Moreover, the genesis of human rights concept owe to the different humane philosophies graduating with the passage of time in different regions of the world. We examined how world religions like Hinduism and its ethical context under the rubric of justice and propriety preached the notion of dharma. Hinduism gives the rights to religious freedom. In similar vein, in Islam, both Quran and Sunna taken together radiate compassion (*rahmah*), equality, human dignity etc. Buddhism had the basic tenets of non-violence (*ahimsa*), tolerance, personal morality and so on. Christianity also teaches about the human dignity.

Natural law in the classical literature of Ancient Greece believed the world is governed by eternal laws of nature. Natural rights were derived from natural law and were propagated by Social Contract exponents that men had natural rights before the origin of the state and he surrendered some of them to a superior authority i.e. civil society, in to order to safeguard all the rest of them. Hobbes considered right of life as natural right. Locke declared right to life liberty and property as natural rights.

Rousseau opined liberty and equality as gifts a nature. Positivism then came to dominate the legal theory during most of nineteenth century. Marxism, on the other hand considered the notion of individual rights a capitalist society were deceitful and veil behind which the bourgeois minority hid its exploitation of the proletarian majority. It considered that actualization of man's potential is contingent on a particular social content-namely communism. We also discussed the modern theories of human rights. Theories on utilitarianism, justice, dignity etc were examined. Bentham as an utilitarian proposed every policy on the sole criterion of determining the greatest happiness of the greatest number. Rawls theory on justice in human rights perspective proposes a reconciliation of tensions between egalitarianism and non-interference, between demands of freedom by advantaged and demands, for equality by the less advantaged. Edmund Cahn considered rights to be based on reaction to injustice. Mc Douglas, Lasswell and Chen have shown how basic value such as dignity – a value on which most people would agree - can be a springboard for structuring a rights system. The reconciliation tried between natural rights and utilitarian theories was done by Ronald Dworkin. He considers utilitarianism minus external preferences like prejudice and discrimination, harmonizes with the doctrine of equal rights to respect, cultural relativism gave the universality of human rights concept a new dimension. Relativists defend cultural conditioning in relation to the standards of human rights reflected in disparate cultures and not the individual choice in the society. Liberal, Socialists and Third world perspective of human rights was examined which give a pattern of interpretation and functioning of human rights in different societies. Liberal perspective considers man by nature to be autonomous and possessing inherent rights. Socialist thought finds human nature to be largely determined by the

conditions of material life. They consider man as a social being not atomized. And as far as Third World perspective is concerned, they give emphasis to group rights because of heterogeneous social set up. The conflicts between their inherited socio-political, economic infrastructure and their projected desires for development is clearly visible in their approach towards human rights. A Dalit perspective on human rights is found to be derived from the relational situations of Dalits with others. It is historically constituted through the struggle by various reformers like Ambedkar, Phule, Periyar, etc. This approach would certainly run from Dalits experiences. A Dalit perspective on human rights is distinct due to its group character as against legalistic, individualistic approach.

We have examined that the world view of Hindu faith as presented by Upanishads and other sacred writings is based on unity of all things. All creations – human and animal – have equal worth and meaning as manifestation of the divine. But on the contrary, the practice and prevalence of inequality has both the religious sanction and the sanction of law books like *Dharmashastras*, the essence of human dignity was denied to the so called *Chandals* or the untouchables who occupied the lowest strata of the caste hierarchy. Even punishments were required to take into consideration the caste of the offender according to the law books of ancient times. With the passage of time and society striving for a more humane world, the caste rigidity and the denial of basic human rights to dalits only has been diluted to a meager extent. The notion of human rights with respect to caste system is struggling to find compatibility. The notion of human rights is alien to the traditional caste system where Dalits are treated as sub-human. This obviously brings a conflict between what has been envisaged by the constitution and what we find in the Hindu social system.

It is found out that denial of human rights and atrocities on them is predominantly a rural phenomena. Though not absent in urban areas too. Considering the data of the magnitude and incidence of atrocities or denial of basic amenities, it is found out that most of the reported cases came from rural areas where caste structure is still too rigid to give a humane space to the Dalits. There is no denying of the fact that Untouchability is practiced less in public situation than in private sphere. Several studies have shown bus traveling, post office service, seating arrangement in school are subjected to less incidence of untouchability than in private sphere at home or ritual domain. It is found less in cities where exigencies of city life becomes prime to the individual.

It is also inferred that the gap between the Dalits and their ritual superior in terms of realization of human right is widening. This is apparent from various studies and data. Denial of basic human right and inaccessibility to civic amenities, education, landholding employment is conspicuous. In addition data and studies suggest that there is a substantial incidence of untouchability (present in different forms), atrocities, poverty and brutal suppression of Dalits when they assert their rights.

The condition of Dalit women in terms of human rights is not at all encouraging. They are lagging behind in all fronts. As they have been doubly suppressed; by their own male counterparts and by the upper castes for being a Dalit. It is observed that the literacy rate of the Dalit women is almost half of the general women, forget comparing with the general males. Again Dalit women are subjected to sexual violence. The practice of Devadasi in which the girl usually hail from Dalit Community is observed to have become a ritualized prostitution. The rape of a Devadasi is not considered as a rape. Hence Dalit women can be

rightly said as 'greater Dalit among Dalits'. Dalits even in the 21st Century are subjected to atrocities like rape, murder, arson, abduction, untouchability, etc. Sometimes a cow's life becomes precious than a Dalit's.

Basic to all the developmental efforts for the Dalits is a respect for their human rights; respect to the equality and equal opportunity, a rights to life with dignity, a right to enjoy the rights guaranteed by the Constitution. The right to development of Dalit is not only the rights to be human but also to remain human. We infer after analyzing the developmental policies that though some positive signs have emerged in the form a social mobility and decreasing of atrocities but a major proportion of Dalits still lie below poverty line. Exclusive developmental strategy like *Special Component Plan* (SCP) for Dalits could not meet their targets and allocated funds could not be utilized in some of the states. The story is almost similar with programmes like *Integrated Rural Development Programme* (IRDP). It is observed that though several families have been assisted under it, new form of dependence upon upper caste becomes inevitable. For instance, it is traced that for a Dalits *Integrated Rural Development Programme* (IRDP) milk animal to graze on the land belonging to upper caste, he has to work unpaid in exchange for it. Similar is the fate of other developmental programmes like land reforms, *National Scheduled Castes and Scheduled tribes Finance and Development Corporation* (NSFDC), *Scheduled Caste Development Corporation* (SCDC) etc. Hence all the central policies in relation to Dalits have not been able to meet the targets and most importantly have not made any remarkable difference in a Dalit's life world.

Protective discrimination in the form of reservation, in simple sense, is a tool for right to development for Dalit. It is also considered for undoing historical social inequality and achieving substantive, rather than formal, equality in our society.

Sociological evidences show that attitudes on the reservation system are determined by differential existential position in caste hierarchy. The attitude of upper caste on the continuation of the positive discrimination is negative predominantly. Another bottleneck that has curbed the poor Dalits to use reservation and other facilities as a weapon is the emergence of a self perpetuating Dalit middle class and Dalit elite. Thereby leaving the poor Dalit in the same viscous circle of denial of human rights. Data have also revealed that the representation of Dalits in different classes of job is similar to their hierarchical position in the society. More Dalits are employed in Class IV jobs and almost negligible amount in the Class I job. Reservation policy is only a partial attack on Dalits unemployment and social mobility. With the advent of market economy; where consumerism is flourishing, contraction of public sector and government jobs along with downsizing of social sector budget occurring, commodification of social services is taking place, the Dalits are bound to be affected adversely. This has triggered a negative message and trend towards the struggle of Dalits for their rights to be human.

Statutes and schemes are important, but they become meaningless in the absence of a commitment to enforce them or implement them, Project and programmes for the Dalits would remain on paper, or they would get derailed unless the agencies charged are not only sensitized but also made effective. The role of human rights organizations and activists in the sensitization of government functionaries is of great importance. We have seen that different institutional agents like National Scheduled Castes and Scheduled Tribes Commission and *National Human Rights Commission* (NHRC) have not been able to live up to the expectation. The reports are delayed and there is hardly any substantive discussion on the report and recommendations of these institutions. Lack of awareness of the

- National Commission for Schedule Castes and Scheduled Tribes has to be given more powers. Debate on the annual reports of the National and State-level Commissions for Schedule Castes and Scheduled Tribes has to be made compulsory in Parliament. Annual reports and action-taken reports should be made public.
- Provide Compulsory and free education for Dalits, increase the amount and number of scholarship at all levels i.e. School, College and University. It is to be seen that only the economically backward among Dalits are able to take advantage of it.
- Preference should be given to the needy and vulnerable sections among Dalits. Slowly the Dalit Elites has to be wiped out of the reservation system. Needy Dalit women should be given the highest preference.
- To create awareness about an international instruments on human rights and their implications and about the constitutional provisions, National laws and Governmental affirmative actions.
- The state should actively work in tandem with civil society groups to create awareness of human dignity and rights especially among Dalits.
- Special care has to be provided to Dalit women. They should be categorised separately in development schemes and programmes. Moreover the representation of Dalit women is required in NHRC and other similar institutions.
- Immediate Rehabilitation and compensation of the affected Dalit families from atrocities like arson, rape, murder etc. should be provided.

- Make affirmative action mandatory for Corporate sector which receive State privilege in any form. Help for development of skills and capacities of Dalit has to be done to make them face the demands of different sector.
- Subject on human rights should be included in school curriculum. The introduction of 'human rights' as a compulsory paper should be made at graduation level in all the Universities.
- The role of human rights organisations and activists in the sensitization of Government functionaries is of great importance.
- National Human Rights Commission (NHRC) should be strengthened and more statutory powers be given to it. It should be given immunity from governments influence. Discussion on report should be made compulsory and made public annually.

Dalits right to be human cannot be attained by they themselves being mere spectator. Dalits have to spearhead this human rights movement and all the progressive forces should join their hands with them. Let the subject of human rights ignite and agitate the mind of all people. These agitated minds will certainly give Dalits their dignity and rectify the past injustices.

“It is not a hope, it is just a matter of time.....”

Appendix

Table1: A Comparative Analysis of Universal Declaration of Human Rights (UDHR) and the Indian Constitution

Indian Constitution	UDHR
Art. 14: Equality before Law.	Art. 7: Equality before Law.
Art. 15(i)-(ii)-(iii), Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth	Art. 2: Everyone is entitled to all the rights and freedoms...without distinction of any kind, such as race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth or other status.
Art. 16(i) Equality of opportunity in matters of public employment.	Art. 6: Right to recognition everywhere as a person before the law. Art. 21: Everyone has the right of equal access to public service in his country.
Art.19 (a) Freedom of Speech and expression (b) To assemble peacefully and without arms (c) To form associations and unions; (d) To move freely throughout the territory of India. (e) to reside and settle in any part of the territory of India.	Art. 19: Freedom of opinion and expression.. (and to seek, receive and impart information and ideas through any media...) Art. 20: Right to freedom peaceful of assembly and Association. Art. 20(2): No one may be compelled to belong to an association Art. 23(4) Everyone has the right to form and to join trade-unions for the protection of his interests. Art. 13(i) Right to freedom of movement and residence within the borders of each state. Art. 13(i) Right to freedom of movement and residence within the borders of each state.
Art. 20: Protection in respect of convention for offences	Art.5: No one shall be subject torture or to cruel, inhuman or degrading treatment or punishment.
Art. 20(2): Once a prosecution and punishment for one offence .	Art. 11(i) & (2): Right to presume innocence and protection against Ex-post-facto laws.
Art. 21: Protection of life and Personal Liberty	Art. 3: Right to life liberty and security of person.
Art. 22: Protection against arrest and detention in certain cases.	Art. 9: No one shall be subjected to arbitrary arrest, detention or excile.
Art. 23. (i) Prohibition of traffic in human beings and forced-labour	Art. 4: No one shall be held in slavery or servitude.
Art. 25 to 28: Right to freedom of religion	Art. 18: Right to freedom of thought, conscience and religion... freedom to change religion or belief... to manifest his religion or belief in teaching, practice, worship or observance.
Art. 29-30: Protection of Interests of minorities	Art. 27: Right to freely participate in the cultural life of the community.

Art. 31A: Saving of laws providing for the acquisition of estates (properties)	Art.17(2) No one shall be arbitrarily deprived of his property.
Art. 32: Remedies for the enforcement of Rights.	Art. 8: Right to an effective remedy by the Competent National Tribunals for acts violating the fundamental rights granted to him.
Art. 38: State to secure a social order for the promotion of welfare of the people	Art. 22: Right to social security... for his dignity and the free development of his personality.
Art.39: Principles of policy to be followed by the State-e.g. adequate means of livelihood, equal pay for equal work, ownership and control of material resources of the community, to subserve the common good etc.	Art. 23(2) Right to equal pay for equal work. Art.23 (3) Right to just and favourable remuneration. Art, 25(1) Right to a standard of living adequate for the health and well being of himself and of his family.. including ...right to security in the event of unemployment, sickness, dis-ability, widowhood, old age or other lack of livelihood in circumstances beyond his control
Art. 41: Right to work, to education and to public assistance in certain cases.	Art. 23(i) Right to work, to free choice of employment to just and favourable conditions of work.. Art. 25. & 26. right to education.
Art. 42 Provision for just and humane conditions of work and maternity relief.	Art. 24: Right to rest and leisure, including reasonable limitations of working hours and holidays.
Art. 43: Living wages etc. for workers.	Art. 25(1): Op. cit & 27 (i) right to participate in the cultural life.
Art.45: Provision for free and compulsory education, for children.	Art. 26(i) Education shall be free, atleast in the elementary and fundamental stages . Elementary education shall be compulsory.
Art.51: Promotion of international peace and security	Art. 28: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.
Art. 05: Right to citizenship	Art. 15(i) Right to a nationality
Art. 325: No person to be ineligible for inclusion in or to claim to be included in a special electoral roll on grounds of religion, race, caste or sex.	Art. 15(i) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
Art. 326: Elections to the House of the People and to the legislative Assemblies of States to be on the basis of adult Suffrage.	Art. 21(3): The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be held by secret ballot or by equivalent free voting procedures.

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