“PROTECTION OF CIVIL RIGHTS ACT (UNTOUCHABILITY)”

PREFACE

"God never made man that he may consider another man as an untouchable."

- Mahatma Gandhi

The Know Your Rights booklet is a part of the curriculum in the subject of Human Rights & International Humanitarian Law. The topic undertaken for this activity was a study on the Rights against ‘Untouchablility’. India being the largest democracy is still suffering from the disease of ‘Untouchability’. The issue is a serious matter in an era where the people are talking about Human Rights at one side and on the other such ill practices still exist in the Indian society. Though the practice of untouchability had also been criminalized through the Indian Constitution and other statutory laws, still the problem exist and have become a complex issue. In the study we will comprehensively look into the matter of ‘untouchability’, its historical background, ways in which it is practiced, the International Conventions to abolish the same, various National Laws which can be used as weapons by the Dalits and the Scheduled Caste for the enforcement of their rights. Here we are only focusing on the practice of ‘untouchability’ in relation to the caste system or followed in the Hindu religion. Though different type of untouchability is also practiced nowadays, relating to AIDS, people are stringent and fear that they will suffer from AIDS if they’ll touch any person suffering from the disease.
Q1.) WHAT IS UNTOUCHABILITY?

India’s Constitution abolished “untouchability”\(^1\) way back in 1950 by which the dominant castes could no longer legally compel Dalits to perform any “polluting” occupation. Yet sweeping, scavenging, leather work and other degrading activities still remain the monopoly of the scheduled castes and the members of such castes are threatened with physical abuse and social boycotts for refusing to perform the humiliating tasks. Migration, reservation in the government jobs and services, obscurity of the urban environment has in some cases resulted in upward professional mobility among Dalits. But still the majority continues to stick with their traditional functions. Looking back to the origins of the untouchability the concept can be traced back to the Varna system which existed in the ancient times of Indian history, i.e. 600 BC–c. 600. In the ancient times or the Vedic period they were referred to as ‘Chandals’, then in the medieval period they were referred as ‘achhuta’. In the British era they were referred as Exterior Caste and in the present times they form the part of Schedule Caste or ‘Dalits’.

According to the Varna system the people were categorized as per their occupation. To understand the same, a flowchart is given below. The term ‘Harijans’ was ascribed to the lower caste by Mahatma Gandhi in his reformation practice to abolish the concept of ‘untouchability’.

\(^{1}\) Article 17 of The Constitution of India, 1949 “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.
Dalits across the country who account for roughly 1/5th of the population continue to suffer birth-based discrimination and humiliation.\(^2\) They represent a community of 170 million in India, constituting 17% of the population. One out of every six Indians is Dalit, yet due to their caste identity they regularly face discrimination and violence which prevent them from enjoying the basic human rights and dignity promised to all citizens of India.\(^3\) Though there can be no proper definition as to what is untouchability or who are identified as untouchables but this can be answered based on the practices that are carried out by the upper caste people. Also the practice of untouchability is compared to the practice of Apartheid. Both the practices are similar in nature and the atrocities were carried out the dominant class on the subjugate class of people. Though the latter has been successfully abolished through various reforms and initiatives and it is time to abolish the practice of ‘Untouchability’ in the era where Human Rights are having pre dominance over the Fundamental Rights given by the state.

Q2.) WAYS IN WHICH UNTOUCHABILITY IS PRACTICED?

“The first day when I was cleaning the latrines and the drain, my foot slipped and my leg sank in the excrement up to my calf,” Sona, a manual scavenger in Bharatpur, a city in the northwestern


state of Rajasthan, told HRW. “I screamed and ran away. Then I came home and cried and cried. I knew there was only this work for me.”

There are more than 90 ways in which ‘untouchability’ is practiced. Though the notions of practice had changed from the ancient times to the present still many of the forms in which the practice is carried out is heinous and unacceptable to the human nature and are against the human rights. Manual scavenging is one such form of practice but to list others are- the Dalits reside outside the village area, prohibition from entering into temples, expected to sit separately and others. A study conducted by Action Aid in 2001-2002, in 565 villages of 11 states (Punjab, Uttar Pradesh, Bihar, Madhya Pradesh and Chhattisgarh, Rajasthan, Maharashtra, Orissa, Andhra Pradesh, Karnataka, Kerala and Tamil Nadu), shows that:

- In 73% of the villages, dalits cannot enter non-dalit homes.
- In 70% of the villages, dalits cannot eat with non-dalits.
- In 64% of the villages, dalits cannot enter common temples.
- In 53% of the villages, dalit women suffer ill-treatment at the hands of non-dalit women.

Other ways in which ‘untouchability’ is practiced are-

- Prohibition from eating with other caste members
- Prohibition from marrying with other caste members
- Separate glasses for Dalits in village tea stalls
- Discriminatory seating arrangements and separate utensils in restaurants
- Segregation in seating and food arrangements in village functions and festivals
- Prohibition from entering into village temples
- Devadasi system - the ritualized temple prostitution of Dalit women
- Prohibition from entering dominant caste homes
- Prohibited from using common village path
- Separate burial grounds

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• No access to village’s common/public properties and resources (wells, ponds, temples, etc.)
• Segregation (separate seating area) of Dalit children in schools
• Sub-standard wages
• Bonded Labor face social boycotts by dominant castes for refusing to perform their ‘duties’
• Manual scavenging

There are many other ways in which the practice is carried out and these are just the major ways which we see on daily basis. Apart from this we can also categorize this discrimination into disabilities which are faced by the Dalits. These can be categorized into social disabilities which include education disability, lower social disability, disability relating to social habits; economic disabilities like no right to property, no right to choose occupation and lastly religious disabilities.

Though by giving reservation to the Dalits and the Schedule Caste and tribes, the government had tried to deal with the issue of untouchability as it provides them with economic facilities, employment opportunities which lead to their upliftment in their standard of living. But apart from social awareness is one of the significant criteria for initiating changes and reforms, rather in the abolition of ‘untouchability’.

**Q3) STEPS TAKEN FOR ERADICATION OF UNTOUCHABILITY?**
International conventions –

5. Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief, 1981.

National laws –


Other steps-

1. The Dalits and the Schedule caste and tribes should boycott such practices
2. Spread of education, legal awareness
3. Providing economic facilities, employment opportunities
INTERNATIONAL CONVENTIONS

The concept of Human Rights in the International arena had witnessed with the landmark changes for the growth of the society. Being born as a human, an individual has some inherent Human Rights which ensure dignity and equality. India being a signatory to such International Conventions which uphold the rights of people and prohibits Untouchability or various forms of discrimination has inscribed those rights and remedies under its domestic laws.

Q4.) WHAT ARE THE VARIOUS INTERNATIONAL LAWS ENACTED FOR THE PROTECTION OF UNTOUCHABILITY ESPECIALLY IN REFERENCE TO HUMAN RIGHTS?

1. **Universal Declaration of Human Rights (U.D.H.R.), 1948**

   The Aims and Objectives of UDHR has been incorporated under the Fundamental rights and Directive Principles of State policy of the Constitution of India which ensures protection of dignity and equality inherent in all human beings as they all are born free and pledged to promote and encourage respect for observance of human rights and fundamental freedoms of all groups of people without any kind of distinction on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. **International Covenant on Civil and Political Rights, 1966**

   This convention not only protects Discrimination of any kind including social origin based discrimination but also protects any kind of torture, degrading treatment, arbitrary arrest and detention (if unlawful compensation to the victim), and promotes equality in the courts, liberty, security of a person and equal protection of the law and prohibits discrimination on any ground. All the Countries which are parties to this covenant will ensure the rights of the individual within their jurisdiction by adopting adequate legislation for the schedule castes and schedule tribes.

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3. **International Covenant on Social and Economic and Cultural Rights, 1966**

The above convention recognizes fair and equal social political and cultural rights for work without any kind of discrimination. For example the right to equal pay and equal work comes under this category. The covenant allows the people for an international right to follow their social and cultural right, and they cannot be discriminated or treated unequally. Everyone is provided with equal political, social and economic cultural right.

4. **International Convention on Elimination of all Forms of Racial Discrimination, 1965**

The State under this Convention had an obligation to prohibit or give effective protection and bring to an end the racial discrimination (in India with reference to SC/STs) done by any person or any group of organization by all appropriate means including passing any laws so that they can enjoy their civil, cultural, economic, political and social rights.

5. **Elimination of all Forms of Intolerance and Discrimination Based on Religion or Belief, 1981.**

The above declaration is a resolution to adapt the speedy yet necessary measures to eliminate or abolish any discriminatory practices that take place in the name of religious tolerance or belief. While the rest of the Conventions emphasize that all humans are born equal in dignity and right and are integral part of humanity. There is no scientific basis of presumed superiority or inferiority and hence, if done, it infringes the moral and ethical principles of humanity. Because of the discrimination practice an anti social belief emerges which stops the growth of the victim as an individual.

These are the various international laws in addition to the Indian domestic laws for securing the dalits rights and provide protection against the mistreatment.

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8 www.ohchr.org/EN/ProfessionalInterest/Pages/Cescr.aspx last accessed on August 20, 2014.

9 www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx (hereinafter CERD) last accessed on August 28, 2014.

Q5.) CAN UNITED NATIONS UNDER INTERNATIONAL CONVENTIONS RECOMMEND INDIAN GOVERNMENT TO TAKE INITIATIVES OR MEASURES TO ABOLISH UNTOUCHABILITY?

1. Yes! The United Nations Committee established under the International Conventions can submit reports or recommendations to the Indian Government to take measures on the failure to meet the International and domestic legal obligations to uphold the rights guaranteed by UDHR, International Conventions on Civil and Political rights or CERD.\(^{11}\)

2. The United Nations Watch can also ask to establish committees to survey the conditions in India and keep a check on the establishment of institutions and the measures taken to control untouchability or forms of racial discrimination.

Q6.) WHAT ARE THE REMEDIES AVAILABLE AGAINST UNTOUCHABILITY UNDER THE INTERNATIONAL LAWS?

1. **Committee:**
   - If any country fails to comply with such obligation the Human Rights Committee has the power to recommend any measures as an obligation under ICCPR.
   - The state can be asked to establish a core committee to keep a check on any form of untouchability, the failure of which can be reported by the CERD.
   - CERD Committees can hear complaints from individuals against the violations of the rights protected by the convention. Although India is not governed under the CERD committee, but Individuals can approach the same after exhausting all of the domestic remedies.\(^{12}\)
   - Government appointed committees to include NGO’s to estimate the loss or the gross violation facts faced by the victim against racial discrimination.


\(^{12}\) CERD, Article 14 (1965).
2. **Court or Dispute Resolution Mechanisms:**

- The government should establish district courts and tribunals specifically dealing with the violation of above conventions and provide compensation or damages for the same.\(^{13}\)

- A dispute resolution mechanism such as tribunals can be established by the UN on the violation of International Conventions and raise the dispute under the International Court of Justice against the parties.

**NATIONAL LAWS**

After the Independence, India got freedom from the colonial rule where all the people got united irrespective of their caste, class, religion & gender. But the issue of Untouchability or rather exploitation on the grounds of Untouchability was still seen prevalent. The atrocities faced by those who were considered untouchables on the grounds of their class, caste, religion or gender have been spreading like a plague in the Indian democracy. To tackle this menace, the Preamble and Article 17 of the Indian Constitution came into force for the prevention of atrocities faced by the victims so as to prohibit all forms of caste based discrimination, crime against humanity and ensure equality, fraternity and unity among all.

**Q7.) WHAT ARE THE CONSTITUTIONAL ASPECTS IN LIEU OF PREVENTION OF UNTOUCHABILITY IN INDIA?**

1. **Preamble:** The Preamble is the integral part of the constitution, democratic form of the government, federal structure, unity and integrity of the nation, Secularism, Social justice and judicial review are the basic features of the constitution. According to the words of this preamble it suggests, that since India follows secularism which itself suggests that there shall be no discrimination on the basic of the cast of the person or its religion whatsoever.

2. **Article 14:** The words of this article say that” the state shall not deny any person equality before law or the equal protection of laws within the territory of India.” This refers that every person in the territory of India is equal in the eyes of law and the matter of race, caste, gender and sex shall not be the discriminating factor. But the important part of the

\(^{13}\) CERD, Article 11, 13 & 22 (1965).
article suggests that the government has the power to make reasonable classification of the protection and development of the backward classes

3. **Article 15:** The words of the phrase say “the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them”. The matter of untouchability is focused more in Article 15(2) which says that No citizen shall on these grounds be subject to any disability or restriction with regard to access to shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing Ghats, roads and places of public resort maintained wholly or partly out of State funds or out of State funds or dedicated to the use of general public.

4. **Article 16:** The words of the phrase says that “Article 16 provides that no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, discrimination against in respect of any employment or office under the State. Under this article the state tries to prohibit choosing of candidates on the basis of above stated reason, but even government has right to choose best candidate from the good one. This article contends to prevent class, cast, and sex or gender bases discrimination.

5. **Article 17:** The words of the phrase say “the ‘untouchability’ is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of ‘untouchability’ shall be a punishable offence in accordance with law.” Thus all the major grounds of untouchability is covered in article 15, but there are other well known social disability connects with untouchability, for instance there can be discrimination against them in regard to use of utensils and other articles kept in public restaurants, hotels, dharamshalas etc or practice of any profession, trade or business or the enjoyment of any benefit under the trust created for the benefit of general public or acquisition of any residential property or observance of any religious ritual. All these practices are now forbidden.

6. **Article 21:** The words of the phrase say “no person shall be deprived of his life or personal liberty except according to procedures established by law.” This Article is inclusive of the right to dignified life where they are treated at par with everyone else.

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14 Constitution of India, art 15
15 Constitution of India, Art 16
They are treated in equal terms with people of other cast, class, and religion, race in terms of political, economical and cultural affinity. Further they are not discriminated under the legal arena, that is the dignified life.

7. **Article 25**: The words of the phrase say “freedom of conscious and free profession, practice and propagation of religion”. This article guarantees to every person and not merely to the citizens of India, the freedom of conscious which connotes a person ‘spirit to entertain beliefs which are regarded by him to be conducive to his spiritual well being. A person has freedom to believe in religion tents of any sect or any community. This right to practice religion is subjected to the limitations of public order, health and morality, but this article also concludes that state has right to make any laws regulating or restricting any economical, financial, political or other secular activity which may be associated with religious practices.

8. **Article 38**: It provides that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in form all the institutions of the national life.  

9. **Article 46**: It provides that the state shall promote with special care the educational and economic interests of the weaker sections of the people and in particular of the Scheduled Castes and Tribes, and shall protect them from social injustice and all forms of exploitation.

10. **Article 325**: It provides that there shall be one general electoral role for every constituency for election to either House of Parliament or either House of the Legislature of a State and no person shall be ineligible for exclusion in such roll or claim to be included in any special electoral role for any such constituency on grounds only of religion, race, caste, sex or any of them.

11. **Article 330**: It provides that seats shall be reserved in the house of the people for the Scheduled Castes and the scheduled tribes as nearly as may be in proportion to their population as ascertained at the last preceding census of which the relevant figures have been published. Article 332 makes similar provisions in the legislative assemblies of the states.

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10 Bemal Tofan, Issue of untouchability in modern India, Orissa law review, pg 2
17 Ibid
18 Mahendre P. Singh, The Constitution of India, 10th ed., pg 811
12. **Article 334**: It provides that the reservation of seats for the Scheduled Castes and scheduled tribes shall cease on the expiry of 10 years. (However, this provision has been amended from time to time and now provides for reservations to cease on the expiry of 50 years.)

13. **Article 335**: It provides that the claims of the members of the Scheduled Castes and scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of services and posts in connection with the affairs of the union states.

14. **Article 338**: It provides that there shall be a special officer for the Scheduled Castes and tribes to be appointed by the president. It shall be the duty of the special officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and tribes under the constitution and report to the president on the working of those safeguards at such intervals as the president may direct, and the president shall cause all such reports to be laid before each house of parliament.19

**Q8.) WHAT DOES OTHER ACTS IN INDIA PROVIDES?**

The other Acts provides for -:

1. **The Protection of Civil Rights Act** – This Act imposes punishment on persons who commits offence of untouchability which results in disability to victims20.

2. **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act** – This Act is to prevent commission of offence atrocity on Scheduled Caste and Scheduled Tribes and to provide Special Courts from where the victims of such offence can get relief and rehabilitation21.

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19 Supra note 3
Q9.) WHAT ARE THE OFFENCES AND ATROCITIES PUNISHED UNDER THE ACTS AND PUNISHMENT PRESCRIBED UNDER THE ACTS ON COMMISSION OF SUCH OFFENCES AND ATROCITIES?

PROTECTION OF CIVIL RIGHTS ACT, 1955

The following Acts are punishable under Protection of Civil Rights Act, 1955:

1. **Disability to practice Religion**\(^{22}\) - Anyone who stops any person on ground of Untouchability in any of the following ways:
   i. To enter into the place of worship where any other person of the same religion is allowed
   ii. To worship, to offer prayers or to perform any religious ceremony or offer any religious service or bath at worship place or to use water from the sacred tank, spring well or from any other source, in the same manner as any other person of same religion is allowed to do.

   **Punishment** :- Such person shall be punished with the imprisonment for the term of atleast one month but not exceeding 6 months along with the fine of atleast 100 Rs. but not more than Rs. 500.

2. **Social Disabilities**\(^{23}\) - Whoever discriminates any person on the ground of Untouchability in any way such as:-
   i. Access to shop, hotel, restaurant, place of public entertainment ;
   ii. Use of utensil which are provided in the hotels, dharamshala or any other public place for the use of general public or for a specific class of people;
   iii. To practice any profession or carry out any of the occupation, business or trade;
   iv. The use of water from spring well, tank, river, stream, water taps or any water place, or stops using bathing ghat, sanitary convenience, burial or cremation ground, road, passage or other thing meant for general public.


v. Use and access to any public places such as park etc which are maintained by the funds of State for the use of general public.
vi. Enjoyment of the benefits arising from the charitable trust created for general public.
vii. Use and access to public conveyance;
viii. To construct, acquire any of the residential premises in any locality;
ix. Use of places such as dharamshala, sarai or musafirkhana meant for the use of general public;
x. To practice any of the custom, cultural or religious ceremony;
xi. To use any jewellery or finery.

Punishment -: Such person shall be punished with the imprisonment for the term of atleast one month but not exceeding 6 months along with the fine of atleast 100 Rs. but not more than Rs. 500.

3. **Refusing Admission**\(^\text{24}\) -: Whoever on the ground of Untouchability denies a person admission or discriminates the person after admission in the following places:
i. Hospital
ii. Educational Institution
iii. Hostel

which are meant for the use and access to general public.

Punishment -: Such person

i. Shall be punished with the imprisonment for the term of atleast one month but not exceeding 6 months along with the fine of atleast 100 Rs. but not more than Rs. 500.
ii. Such person shall also not be entitled with the grants given by the Government and shall be suspended from that service as the Court may deem fit\(^\text{25}\).

4. **Refusing to sell goods or render service**\(^\text{26}\) -: Whoever on the ground of Untouchability refuses or discriminates a person in selling goods or in rendering services with the same

terms and conditions in which they rendered to the general public in the ordinary course of business.

*Punishment* :- Such person

i. Shall be punished with the imprisonment for the term of atleast one month but not exceeding 6 months along with the fine of atleast 100 Rs. but not more than Rs. 500.

ii. Also the License of such person shall be cancelled for the time as the Court may deem fit.

5. **Compulsory Labour**\(^{28}\) :- Whoever compels any person to sweep, scavenge, or to remove any carcass or to flay any animal or to remove the umbilical cord or to do any other job of a similar nature.

*Punishment* :- Such person shall be deemed to have practice “Untouchability” and shall be punished with the imprisonment for the term of atleast three months but not exceeding 6 months along with the fine of atleast 100 Rs. but not more than Rs. 500.

6. **Other Offences** :-

1. Such person shall be punishable under law who does any of the following\(^{29}\):
   a) Prevents any person from acquiring rights provided under Art 17 of the Constitution of India; or,
   b) Molests, insults, boycotts\(^{30}\) or create an obstruction in exercising the right; or
   c) Molests, insults, boycotts any person who has exercised his rights; or
   d) By any manner, spoken or written encourages or incites\(^{31}\) any person to practice “Untouchability”; or

\(^{30}\) Boycotting under this section is defined in the Explanation 1 of Section 7 of the Protection of Civil Rights Act, 1955 as person who:-
   1. Refuses or let the person refuse that person to hire land or house, or do business, or to render any service to that person or any such thing which he in the ordinary course of business has done so.
   2. Refuses to maintain any kind of personal, social or professional relationship with that person as he would ordinary maintain with such person.
e) Insults or attempts to insult any person on the ground of “Untouchability”

2. The person \(^{32}\)
   a) Who on the ground of “Untouchability” denies any person the rights and privileges available to that person being a part of that community; or,
   b) Who excommunicates with the person who has denied to practice “Untouchability”.

*Punishment* :- Such person shall be punished with the imprisonment for the term of atleast one month but not exceeding 6 months along with the fine of atleast 100 Rs. but not more than Rs. 500.

7. **Offences done by Company** \(^{33}\) :-
   i. If any person who on the behalf of the Company has practiced “Untouchability”; or
   ii. If the Director, Manager, Secretary or any other official of the Company would have practiced “Untouchability”.

*Punishment* :- Such person may be Director, Manager, Secretary or any other Official of the Company shall be deemed to be guilty on behalf of the Company and shall be prosecuted for the offence.

**THE SCHEDULED CASTE AND SCHEDULED TRIBES (PREVENTION OF ATTROCITIES) ACT, 1989**

1. **The Atrocities are** :- Whoever not being a member of Scheduled Caste or Scheduled Tribe commits any of the following Atrocities to any member of SC/ST:-
   i. Forces any member to drink or eat inedible or obnoxious substance.
   ii. Does any act to cause injury, insult or annoy any member by dumping excreta, waste matter, carcasses or any obnoxious substance in his premises.

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\(^{31}\) Person shall incite in this section is defined under Explanation 2 of Section 7 of the Protection of Civil Rights Act, 1955 as person who:-
1. Directly or indirectly practice “Untouchability” in any form.
2. Tries to prove on the ground of religion, philosophy and history that practice of caste system and “Untouchability” is valid.


iii. Forces any member to become naked or with painted face or body, or does any act which derogates human dignity.

iv. Illegally occupies or cultivates land allotted to any member.

v. Illegally takes away the possession of land/house given to any member, or interferes with the enjoyment of that land/house.

vi. Compels any member to become beggar or bonded labour other than compulsory services imposed by Govt.

vii. Forces any member to not to vote any candidate or to vote in other manner than that provided under law.

viii. Initiates any false suit against any member.

ix. Gives false information to any public servant and that public servant on receiving such information injures or annoy any member.

x. Insults or humiliate any member in public.

xi. Assaults or Use any power against the women of SC/ST.

xii. Dominates the women of SC/ST in order to exploit her sexually.

xiii. Corrupts or fouls the water of spring, reservoir or any other source used by members of SC/ST.

xiv. Denies any member to use passage or to visit public resorts.

xv. Forces any member to leave his house, village or any other place.

Punishment :- Such person shall be punished with the imprisonment for the term of atleast six month which may extend to five years along with fine.

2. Other Atrocities\(^{34}\) :- Any person not being SC/ST

i. Gives or fabricates false evidence against any member of SC/ST to be convicted for capital.

Punishment :- Such person shall be imprisoned for life along with fine.

ii. If any innocent member gets convicted with death/ or imprisonment for life because of false or fabricated evidence.

Punishment :- Such person shall be punished with death.

\(^{34}\) Section 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Attrocities) Act, 1989, http://tribal.nic.in/WriteReadData/CMS/Documents/201303131039493105468poaact989E4227472861.pdf
iii. Gives or fabricates false evidence against any member of SC/ST to be convicted for 7 years or upwards.

iv. Commits mischief by fire or any explosive substance with the intention to damage any property belonging to SC/ST.

**Punishment :-** Such person shall be punished with the imprisonment for the term of at least six month which may extend to seven years along with fine.

v. Commits mischief by fire or any explosive substance with the intention to damage any worship place or a place of human dwelling of any member of SC/ST.

vi. Commits any of the offence under IPC against any member of SC/ST.

**Punishment :-** Such person shall be punished with the imprisonment for life and with fine.

3. **Public Servant** 35 :- If any public servant not being a member of SC/ST abstains to perform duties required to be performed under the Act.

**Punishment :-** Such person shall be punished with the imprisonment for the term of at least six month which may extend to one year.

**Q10.) WHAT IS A PERSON REPEATEDLY GETS CONVICTED OF THE OFFENCES OR ATROCITIES PROVIDED UNDER THE ACT?**

There are provisions under the Act that if :-

1. The person is convicted for the second time; such person shall be punished with the imprisonment for the term of at least six month but not exceeding one year along with the fine of at least 200 Rs. but not more than Rs. 500 36.

2. The person is convicted thrice, such person shall be punished with the imprisonment for the term of at least a year but not exceeding two year along with the fine of at least 500 Rs. but not more than Rs. 1,000 37.

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Q11.) WHAT ARE THE DUTIES OF GOVERNMENT TO PROTECT RIGHTS OF PEOPLE?

Under Protection of Civil Rights Act, 1955 and The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the duties of State Government and Central Government are defined as:

**Duty of State Government**\(^{38}\) -:

1. To take such measures as to abolish “Untouchability” in the fullest manner\(^{39}\).
2. To provide legal aid any other facilities to the person who was subjected to disability arising from “untouchability”
3. To appoint officers for supervising over prosecutions for the contravention of the provisions of this Act
4. To set up of special courts\(^{40}\) for the trial of offences under this Act.
5. To set up Committees at appropriate levels as the State Government may think fit in implementing the measures and to Support the State Government.
6. To do periodic survey of the working of the provisions of this Act and suggest measures for the better implementation of the provisions of this Act.
7. To identify the areas where persons are under any disability arising out of “untouchability” and adopt such measures as required to remove disability from such areas.

**Duties of Central Government**\(^{41}\) -: To take such appropriate Actions as may be required for Coordinating with the Actions taken by the State Government.

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Q12) WHAT ARE THE RECOMMENDATIONS GIVEN BY CENTRAL GOVERNMENT TO THE STATE GOVERNMENT IN REGARDS TO UNTOUCHABILITY?

The following are the recommendation given by Central Government to State Government:-

a. Ensure full implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, including the appointment of special courts, special prosecutors, and vigilance and monitoring committees. Provide training in proper procedures under the act to judges and prosecutors charged with trying atrocities cases. (See related recommendations under Recommendations to the Government of India.)


c. Implement measures designed to ensure that states are in compliance with Article 46 of the constitution, which directs states to promote with special care the educational and economic interests of the scheduled castes and scheduled tribes and to protect them from social injustice and all forms of economic exploitation.

d. Study and publicize the extent to which land and wage reforms have been implemented in the state. In particular, state governments should determine industry compliance with minimum and living wage standards, particularly those industries that employ a majority of Dalits, as well as the status of land reforms, land ceiling laws, and distribution of surplus land.

e. Take immediate steps to prevent further violence, social boycotts, and other forms of discrimination against Dalits and to investigate and punish those responsible for attacks and acts of discrimination in affected districts.

f. Take decisive steps to ensure that police do not conduct raids on villages or engage in arbitrary and unlawful destruction and seizure of property in response to caste clashes.

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43 ibid
44 Supra note 20
Police involved in such activities should be promptly investigated by an independent judicial body and prosecuted accordingly.

g. Establish independent monitoring agencies to review cases of Dalits and Dalit activists detained under detention laws. All cases found to be without merit, or in violation of proper detention procedures, should be withdrawn.

**GUJARAT CONTRIBUTION**

**Q13.) WHAT IS GUJARAT'S CONTRIBUTION IN ABOLISHING UNTOUCHABILITY?**


The District Government Pleaders have been designated as Special Public Prosecutors for conducting the cases of Atrocities in these Special Courts.

- In all, 19 Special Courts have been sanctioned at Ahmedabad (Rural), Palanpur Dist. Banaskantha, Bhuj Dist.Kutch, Amreli, Vadodara, Junagadh, Godhra Dist. Panchmahal, Rajkot, Surat, Surendranagar, Navsari, Valsad, Dahod, Rajjipala, Dist. Narmada, Himmatnagar Dist. Sabarkantha, Patan, Mehsana, Bhavnagar and Jamnagar.

- (1) Mehsana, (2) Ahmedabad (Rural), (3) Junagadh, (4) Banaskantha, (5) Kheda, (6) Amreli, (7) Rajkot (Rural), (8) Kutch, (9) Surendranagar, (10) Vadodara (Rural), and (11) Bharuch districts have been identified as sensitive districts.

- Special Inspector General of Police, Scheduled Caste/Scheduled Tribes, Gandhinagar has been appointed as Nodal Officer.

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46 ibid

47 ibid

48 ibid
• Addl. Chief Secretary/Principal Secretary/Secretary, Department of Social Justice and Empowerment, Govt. of Gujarat, Gandhinagar has been appointed ex-officio Nodal Officer.\textsuperscript{49}

• The Vigilance Officers of Ahmedabad, Vadodara and Rajkot have been appointed as Special Officers.\textsuperscript{50}

• Provision has been made to organize an annual two day State-level Seminar on prevention of untouchability with a provision of expenditure upto Rs. 30,000; whereas at the district level, provision is made to organize a two-day workshop for prevention of untouchability with a provision of expenditure upto Rs.3000; and at the Taluka Level, provision is made to organize camps for prevention of untouchability with a provision of expenditure upto Rs.1000 per camp.\textsuperscript{51}

• Provision has been made to establish 25 Awareness Centers at all 25 districts through Non-Governmental Organizations and to sanction a grant of upto Rs.15,000 for each Awareness Center.\textsuperscript{52}

• Provision has been made to make expenditure of Rs.5000 per camp for dissemination of information on various schemes of Government among Scheduled Caste members with a view to reconsideration of their traditional beliefs and to expand scope of education among members of the this community, by organizing two Social Education Camps in each districts.

• The following Committees have been constituted for effective enforcement of the acts in prevention of untouchability\textsuperscript{53}:

  i. State Level Vigilance and Monitoring Committee under the Chairmanship of the Hon'ble Chief Minister.

  ii. State Level Review Committee under the Chairmanship of the Secretary, Department of Social Justice and Empowerment

  iii. District Level Vigilance and Monitoring Committee under the Chairmanship of the Collector.

  iv. City Vigilance Committee under the Chairmanship of the Police Commissioner or the Collector.

\textsuperscript{49} ibid
\textsuperscript{50} ibid
\textsuperscript{51} Supra note 7
\textsuperscript{52} ibid
\textsuperscript{53} ibid
v. Taluka Vigilance Committee under the Chairmanship of the Mamlatdar.

- In terms of Rule 12 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, a Police Protection Cell at the State level has been created under the Additional Director General of Police at Gandhinagar for the purpose of analysis and controlling of various offences committed against members of the Scheduled Castes and Scheduled Tribes.\textsuperscript{54}

**Q14.) WHAT ARE THE WAYS IN WHICH VICTIMS CAN ENFORCE THEIR RIGHTS?**

The ways in which Victims can enforce their Rights:

1. **Filing FIR**: The Victims should as soon as they face the Atrocity should file FIR in the nearby Police Station. The procedure for filing FIR is\textsuperscript{55}:
   a. It must be filed immediately.
   b. If you give complain orally, you must give it in writing and explain the officer in charge of the incident in detail.
   c. It should be recorded in copies of four.
   d. It must be recorded in first person.
   e. Give in the language you are comfortable.
   f. Make sure the officials’ attitude towards you is sympathetic.
   g. FIR must contain all the necessary information about the incident.
   h. After completion you must read it carefully and then sign it.
   i. The FIR must be recorded in the Register maintained by the Police Officers.
   j. The Affidavit also needs to be submitted.

2. **Special Courts**: You can also approach the Special Courts under the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 and the offender punished.

3. **Writ Petition**: Writ Petition for enforcement of Article 17 can also be filed under Article 32 of the Constitution.

\textsuperscript{54} ibid
\textsuperscript{55} How to File An FIR, http://www.ipaidabribe.com/how-to/how-file-fir-first-information-report#gsc.tab=0
4. **Reservation**: For uplifting the deprived class in the society, the Government has also given reservations in all the Public Employments and Educational Institutions. The Percentage of Reservation is as follows:\n
<table>
<thead>
<tr>
<th>CATEGORIES</th>
<th>PERCENTAGE OF RESERVATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scheduled Castes</td>
<td>15%</td>
</tr>
<tr>
<td>Scheduled Tribes</td>
<td>7.5%</td>
</tr>
<tr>
<td>Other backward Classes</td>
<td>27%</td>
</tr>
</tbody>
</table>

**JUDICIAL PRONOUNCEMENTS**

Q15.) ARE THERE ANY IMPORTANT JUDICIAL PRONOUNCEMENTS WITH REGARD TO ABOLISHMENT OF UNTOUCHABILITY?

*State of Karnataka v Appa Balu Ingale*\(^{57}\)

This was the first case to have come before the Supreme Court under the act the respondents were tried for the offences under Section 4 and 7 of the protection of civil rights act1955 and were convicted and sentenced to undergo simple imprisonment for 1 month and a fine of rs 100 each. The charge against the respondent was that they restrained the complainant party by show of force from taking water from a newly dug up bore well on the ground that they were untouchables. The high court acquitted them. The Supreme Court upheld the conviction. The court held that “the object of article 17 and the act is to liberate the society from blind and ritualistic adherence and traditional beliefs which has lost all legal or normal bases. It seeks to establish new ideas for society- equality to Dalits at par with general public, absence of disabilities, restrictions or prohibitions on ground of cast or religion.

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\(^{57}\) AIR 1993 SC 1126
**Deverjja v padmanna**\textsuperscript{58}

The Mysore high court in this case held that the term ‘untouchability’ is not to be understood in its literal sense or its grammatical sense but to be understood as the’ practise as it had developed historically’ in this country. Understood in this sense, it is a product of Hindu caste system according to which a particular section amongst the Hindus had been looked down as untouchables by the other section of the society. A literal construction of the word include persons who are treated as untouchables either temporarily or otherwise for various reasons such as suffering from infectious disease or an account of social observance such as are associated with birth or death or on account of social boycott resulting from caste or other dispute. In such cases the person can seek protection under article 17 of the Indian constitution.

\textsuperscript{58} AIR 1958 Mys 84