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Abolition of Untouchability and Abolition of Titles: An Indian Perspective

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Abstract:
Right to equality is an element of the concept of Rule of law and Article 17 of the Constitution abolishes the practice of untouchability categorically. Practice of untouchability is an offence and anyone doing so is punishable by law. The Untouchability Offences Act of 1955 which was renamed as the Protection of Civil Rights Act in 1976 provides penalties for preventing a person from entering a place of worship or from taking water from a tank or well etc. This Article read with Article 39(a) (ii) of the Directive Principles of State Policy, makes it clear that the untouchability has been abolished and its practice is forbidden. Article 18 further provides the mechanism for protective or reverse discrimination of persons and is prohibitory in nature. It is in this vein, that the National Awards are not violative of Article 18 as the doctrine of equality does not mandate that merit should not be recognised.

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

1. Introduction

The Constitution of India articulates in unequivocal words the eradication of the Untouchability. Untouchability Offences Act, 1955 which was renamed as the Protection of Civil Rights Act in 1976 provides penalties for preventing a person from entering a place of worship or from taking water from a tank or well. Further Article 18 provides the mechanism for protective or reverse discrimination of persons and is prohibitory in nature**.** The Indian Constitution also adheres to the spirit of the Universal Declaration of Human Rights into the social and legal realm which embodied the multidimensional spirit of liberty, freedom, equality and dignity of the human beings with the ideal of brotherhood.

2. Legal Framework

Internationalisation of human rights and the humanisation of international rights begin with the United Nations Charter, according to the prominent philosopher. In exercise of the powers conferred by Article 35 the Parliament of India has enacted the Untouchability (Offences) Act, 1955.[1] This Act was amended by the Untouchability (Offences) Amendment Act, 1976 and it extends, in order to make the law more stringent to remove the menace of untouchability from the society at all levels-individual, societal, regional and national. It has now been renamed as, the protection of Civil Rights Act, 1955.

The expression "Civil Right" is defined as "any right accruing to a person by reason of the abolition of Untouchability on the ground of Untouchability by Article 17 of the Constitution." One of the major obstacles in the implementation of the Protection of Civil Rights Act, 1955 is the lack of statutory definition of the offence of Untouchability. The term Untouchability has neither been defined in the Constitution or in the Protection of Civil Rights Act, 1955. Under the protection of Civil Rights Act, 1955 any discrimination on the ground of Untouchability will be considered an offence. It imposes a duty on public servants to investigate such offence. It provides that if a public servant wilfully neglects the investigation of any offence punishable under this Act, he shall be deemed to have abetted an offence under this Act. [2]

Under the Protection of Civil Rights Act, 1955 the offences committed on the ground of untouchability are punishable either by imprisonment up to six months or by fine up to 500 Rs. or both. A person convicted of the Untouchability is disqualified for contesting the parliamentary elections or elections to the State legislatures.

The Supreme Court in 1993 in *State of Karnataka v. Appa Balu Ingale,*[3] held that Untouchability was an indirect form of slavery and only an extension of the caste system. The Court observed that Caste System and Untouchability has stood together and would fall together. It is absolutely necessary and imperative to abolish the caste system as expeditiously as possible for the smooth functioning of the rule of law and democracy.[4]

Article 18 is prohibitory in nature. The British government had created an aristocratic class by conferring titles upon persons, known as, Raj Bahadurs, Rai Bahadurs, Khan Bahadurs, Dewan Bahadur's Rai Saheb's; all these titles were abolished. This Article now prohibits the State from conferring any hereditary titles on its Citizens. Citizens of India cannot also accept titles from a foreign State. But, the military and academic distinctions can be conferred on the citizens of India.[5] The National Awards like Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Sri which were instituted in 1954 cannot be used by the recipient as a title and do not, accordingly, come within the constitutional prohibition.

The Supreme Court in 1961 in *Devarajiah v. Padmanna,* [6] held that the purpose of Article 17 was to end the inhuman practice of treating certain fellow beings as dirty by reason of their birth in certain Castes. The right under Article 17 is available more against private individuals, than against the State since the likelihood of the State promoting or supporting the untouchability is rare and hence in the view of the Supreme Court it is the Constitutional obligation of the State to take necessary action to ensure that the said right is not violated.[7]

When there was a vehement criticism from some quarters that the introduction of these awards violated Article 18, the Supreme Court, in 1996 in *Balaji Raghavan v. Union of India*, [8] upheld the validity of National Awards by saying that they should not be used as a suffix or a prefix.[9] If the same is done, the defaulter should forfeit the award/s, following the procedure laid down in the regulations. The awards were discontinued in 1977 but were finally revived by the Indira Gandhi Government in 1980. Therefore, these awards are not violative of Article 18 as the doctrine of equality does not mandate that merit should not be recognised.

3. Conclusion

The practice of untouchability and titles has been abolished in unequivocal terms. Thence the practice of untouchability is an offence and anyone doing so is punishable by law. According to the provisions of the Protection of Civil Rights Act, 1955 which provides penalties for a person for committing any act which amounts to the practice of untouchability mentioned in the said law and makes all offences rightly as non-compoundable. Articles 330-345 of the Constitution provides the special provisions for safeguarding the interests of the Scheduled Castes, Scheduled Tribes, Anglo-Indians and the backward classes. Of all the remedies of eradication of untouchability, and abolition of titles, the first is law itself. Therefore, the law for the abolition of Untouchability and titles should be implemented in letter and spirit so as to achieve the goal of Social equality, Social Justice and Rule of Law**.**

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