

SECTION – I

VIOLENCE: THE SOCIAL EDIFICE

Organised violence directed against members of identified groups/communities has been a distinct feature of the Indian society for quite sometime. Though violence does take place in the process of change in many societies, and particularly so when radical alterations take place in the existing social and power relations, it usually does not choose its victims on the basis of birth in a given social entity. In India, however, this is precisely what has defined the character of violence in relation to certain groups. The country has witnessed increase in both caste and communal violence since independence which the processes of modernization have not abated. Rather, in some respects, it has been intensified by them. While communal violence is a relatively recent phenomenon rooted in the events leading to partition, caste violence has a much longer history and a firmer anchorage. It also has the distinctiveness of being embedded in the social structure of the dominant community itself which lays down the norms of conduct between its more privileged groups and the subdued and subordinated segment. It is this age old caste relationship in Hindu Society which is getting disturbed by pressure of forces both from above and below. The frequency and intensity of violence is an offshoot of desperate attempts by the upper caste groups to protect their entrenched status against the process of disengagement and upward mobility among lower castes resulting from affirmative action of State Policy. The violence takes brutal forms and turns into acts of atrocities against a whole group of people, such as massacre, rape, burning of houses and through more subtle methods like social boycott, which are intended to block their access to basic necessities and services. This phenomenon has to be positioned in the larger perspective of State-Society dynamics in order to understand why it happens and how it can be checked.

The target of caste violence is largely the people belonging to the lowest rung in the hierarchy of Hindu social order, who are known as the 'untouchables', or Scheduled Castes bound to the rest of the caste society in immutable relationship of rights and obligations. The practice of "untouchability" characterises this relationship. The emergence of untouchability in the caste based social order has a complex history with little consensus or clarity on its origin¹. While some have attributed it to the growth of agricultural civilization in the country and the emergence of agricultural castes, who

¹Naval, TR, Law of Prevention of Atrocities on Scheduled Castes and Scheduled Tribes (2000), p. 4-7

needed assured access to manual labour² for agricultural operations, others have traced its genesis to expansionist phase of Indian civilization which led to the conquest of indigenous inhabitants and their consequent enslavement by the Aryans. The 'shudras' in the social hierarchy towards the end of the Rig Vedic period represent these enslaved persons who were assigned inferior status, which was related to their birth in that community³. Whatever be the explanation of its origin, the institutional structures which governed social conduct in the society are subsumed under the nomenclature of 'Caste System', which broadly represents a vertical arrangement of social division of the Hindu population into four major groups, known as 'Varnas'. At the top of this arrangement are the Brahmana (priestly class), followed by 'Kshatriya' (the warrior class), and 'Vaishya' (trading and artisan class). 'Shudra' (labouring and service class) stood at the bottom of hierarchy⁴. The 'untouchables' were not a part of this Scheme. However, over a period of time, the exigencies of situation led to the addition of a Fifth group to this classification which was not given any 'caste status' as such, but nonetheless integrally linked to the social order and is referred to as 'untouchables' or 'outcasts'. The membership of this group was determined by birth and could not be changed by individual effort or social acceptance. These four 'Varnas' subsequently transformed/got divided into hundreds of sub-castes, known as 'jati', each 'jati' having its own norms of social conduct. The caste structure is characterised by six important features⁵:

1. Segmented division of Society,
2. Hierarchy,
3. Restrictions on feeding and social intercourse,
4. Lack of unrestricted choice of occupation,
5. Civil and religious disabilities and privileges of different sections, and
6. Restrictions on marriage

The segmentation of society into four groups represents a tightly divided arrangement, of both status and occupation which is linked to each other in a hierarchical relationship. Brahmins occupy the top slot in the hierarchical ladder and 'untouchables' the bottom. As the caste hierarchy operates around the concepts of 'purity' and 'pollution', 'untouchables' are considered as the most degraded because they perform polluting tasks. The restrictions on feeding and social intercourse incorporates code of conduct for each caste on what one can see and cannot see, what one can and cannot touch and what can or cannot be accepted by a person of one caste from a person of another caste. Restrictions on occupation are intended to prevent any destabilization of hierarchy⁶. Civil and religious disabilities mandate 'untouchables' to live at a distance from the main village, not to

²Krishnan, PS: Keynote address delivered at the National seminar on Implementation and Impact of SCs/STs (Prevention of Atrocities) Act, 1989 on the Scheduled Castes organised by Centre for Social System, School of Social Sciences, JNU, March 22-23, 2000.

³Naval, op. cit., p. 4

⁴Human rights Watch, Broken People, Caste Violence against India's untouchables, 1999; p. 25

⁵Ghurye, G.S. quoted in Bhopal Document - Chartering a New Course for Dalits for the 21st century, Government of Madhya Pradesh-March 2002, pp 16-17

⁶Bhopal Document, op. cit., p. 16

draw water from village well, enter the village temple, wear the sacred thread, acquire education or recite the religious texts. Untouchables are required to undertake the most polluting and degrading occupations, such as cleaning filth, including human excreta, flaying dead animals, digging graves, etc. The absolute restriction on marriages outside the caste and, in fact, even sub-castes ensures that there is no mobility from one group to another. Thus, the untouchables face total segregation in all matters, subjected to acute discrimination, do the most menial and degrading jobs and have no right to change their status. The transition from caste disabilities to commission of atrocities, has been traced to 3rd and 4th Century A.D. when varna system faced crisis of deviations from the prescribed social conduct and the need was felt for coercive measures to enforce caste discipline and boundaries. The King emerged as the Upholder of the system. Those who violated the system were subjected to secular punishment as well as performance of various rituals⁷. This is how physical violence by higher castes on the lower castes was sanctified. This situation continued for centuries. The persons of suppressed communities acquiesced in this arrangement, as there was no option for them to escape from it. Perhaps they may have been made to believe that life in the next birth may be better if discipline imposed by existing status is adhered to.

During the medieval period some saints, Kabir, Nanak, Ravidas were critical of existing social order and preached a religion of love, compassion and consideration and a more tolerant social arrangement. But there was no protest against the caste system and its social ramifications as such. The prevailing laws continued to support the caste system and the rulers upheld them. During the Muslim Rule in India, some people from the suppressed communities might have converted to Islam as a way out of their degraded status, but there is no evidence that the Muslim rulers ever tried to interfere with the Hindu caste system or reform it. Their strategy of governance may have prevented them from doing so. The British established the rule of law which was based on a concept of equality. The law applied to all persons irrespective of their position. This was a major departure from the pre-British judicial system where caste distinctions were not only recognized but also enforced and differential punishment was awarded, for the same offence, depending on the caste status of the offender. In any case, the suppressed castes neither had the courage nor resources to seek any relief under the new system. But even in the British period caste distinctions remained relevant in matters relating to Hindu Law. The general features of the legal system did not change the status of lower castes, as the overall British policy remained one of non-interference⁸. In matters such as entry to temples, ritual pollution and rights to exclusiveness, the Courts supported the customary laws of Hindus and their view was upheld even at the level of Privy Council. There was, however, some difference in the attitude of Courts towards secular public facilities such as streets and roads where such disabilities were not enforced. However, the Courts did not provide any support for removing caste disability in matters which came up before their consideration⁹.

⁷Naval, op. cit., p. 10

⁸Naval, op. cit., p. 13

⁹Naval, op. cit., p. 15

On a social plane, the period witnessed many reform movements in Hindu Society, such as Brahma Samaj, Prarthana Samaj, Arya Samaj, Ramakrishna Mission, Theosophical Society, the Social Conference which attacked the caste system and some other features of Hindu social order. These movements, while supporting the four varnas, condemned the inhuman practice of untouchability. Later, during the freedom movement, Gandhiji contributed a great deal towards abolition of untouchability and later founded the All India Harijan Sangh for this purpose. In south, self-respect movement was launched against Brahminical tyranny. It was Dr. Ambedkar, who took up the fight against caste oppression more vigorously through the All India Depressed Classes Federation. Around 1909, the issue of untouchability acquired political significance when proposals were made for special legislative representation for untouchables. In 1917 the Congress passed anti-disabilities resolution. In the 1930s anti-disabilities bills were introduced in Central Legislative Assembly, Madras and Bombay Legislatures. In 1938, Madras Legislature passed the first comprehensive law to remove social disabilities making it an offence to discriminate against the untouchables. In fact, in the publicly supported facilities, such as roads, wells, transport vehicles, etc. as also in other secular institutions, such as restaurants, hotels, shops, the law also prohibited judicial enforcement of any customary right or disability. This was followed by similar legislations in other provinces. Later, initiative was also taken by Madras to facilitate temple entry for Scheduled Castes by making it a criminal offence for any person to prevent any Hindu from entering or worshipping at any temple. Similar Acts were passed in other provinces later¹⁰.

However, the British Government never took positive action to improve the condition of shudras and untouchables and to remove their disabilities. Apparently, the larger consideration of consolidating their rule prevented them from interfering with the customary practice associated with indigenous religions. Thus, at the time of independence, the traditional status of untouchables and caste disabilities, which prevented them from leading a life of dignity and self-respect continued to prevail. It was, therefore, left to the Constitution of India after independence to make the first comprehensive break with the past and to pronounce the policy of abolition of untouchability and declare total equality for the shudras and untouchables in Indian society. The Constitution also laid down means to achieve these objectives.

¹⁰Naval, op. cit., p. 16