



FACULTY OF JURIDICAL SCIENCES

COURSE: LLM TWO YEARS Constitutional & Administrative Group /Criminal group/ corporate & business group

Semester-II

SUBJECT: Law and social transformation in India

SUBJECT CODE: LLM-221

NAME OF FACULTY: DR. SHIV KUMAR TRIPATHI

Lecture-2



Law as the Product of traditions and culture.

Some believe that in the olden days men lived in a perfect state of happiness and such a time was golden time for man. Indian people admire "Satyug" like anything and always found lamenting that society has deteriorated in "Kaliyug" a time not so desirable and full of all sorts of deceit, conceit, cheating and fraud. According to Indian mythology man has passed through four ages (1) Sat Yug (2) TretaYug (3) DwaparYug and (4) Kali Yug. The Sat Yug was the best age in which man was honest, truthful and perfectly happy. Thereafter degeneration and deterioration began to take place. The modern age of Kali Yug is the worst period where in man is said to be deceitful, treacherous, false, dishonest, selfish and consequently unhappy. This concept is found in Hindu mythology, according to which Sat Yug will again start after the period of Kali Yug is over. But looking to various wars fought between different Kings and Emperors in those times, we come across many examples wherein deceit, treachery, falsehood,

dishonesty, selfishness and all vices even from today's point of view were order of the day and even there were no regulatory mechanism to check the same. There was no room for rights of women, Rights of Dalits and noble principles of Liberty, Equality and Fraternity which are noblest cornerstones of to-day's polity. It all depends on how we view the primitive, the past and the present time.

Criticism and evaluation of Law in the light of colonization

Social changes can be brought about by various methods. The social change can be brought by preaching of religions, by launching social reform movements like one done by Raja Ram Mohan Roy, Swami DayanandSarswati, Justice Ranade, Shahu Maharaj, JotibaPhule, Gandhiji, and Dr. B.R. Ambedkar and other such prominent social thinkers. But such efforts have no legal obligations or force of law remedial measures in cases where individuals do not agree to a prescribed social behavior and conduct. Such optional, sweet will obedience was found not bearing desired fruits in right direction and therefore need arose to formulate laws purely to bring about social change prescribing and providing necessary penal mechanism in case of not confirming to change and violating provisions of such law which aimed at social change from extant social process as procedures and practices. A cursory quick look back on history of Dalits/ Scheduled Castes/Harijans/Depressed Class/Shudras/Anti-Shudras/Antyajas as they were variously called or addressed contemptuously by fellow Indians will give an interesting scenario of social change that took place during the passage of time and would be of immense importance from this study's view point.

Every Seventh person in India is a Scheduled Caste. The Scheduled Caste have been oppressed right from post Vedic period. And hence positive discrimination, protective discrimination, affirmative action

(American Concept) and occupational mobility in their favor for their upliftment are warranted. In spite of reform movements in ancient and medieval times, they continued to

remain the most backward and deprived groups in Society. Society was comparatively flexible during the Rigvedic period, however, with the passage of time, the Varna system and Caste.

Cobweb of outmoded traditions, meaningless rituals, harmful customs had made the life of Hindus a complex and miserable existence.

The Brahmin controlled every aspects of daily life of a Hindu from birth till death. If he wanted to travel he must consult the priest for auspicious days.

If he decided to marry or start a business or enter his own house, he could not do so unless the Brahmin approved of the time and date.

Dr. Ambedkar always raised voice for the upliftment of the untouchable in our society. He felt that in the matter of pollution, there is nothing to distinguish the Hindus from the Primitive or ancient People.

He studied Hindu scriptures and objected to wherever he found degrading remarks against the untouchables and the Shudras. He was very strong critic of Manusmriti which prescribed various indignities for the Shudras almost in all matters of human life. Manu had made a provision for getting rid of defilement by transmission through a scapegoat namely by touching the cow or looking at the sun after sipping water. The curse of untochability has its roots too strong to be easily uprooted. The non-Hindu society only isolated the affected individuals. They did not segregate them in separate quarters. The Hindu society insists on segregation of Untouchables. The Hindus will not live in the quarters of the untouchables and will not allow the Untouchables to live inside Hindu quarters.

This is a fundamental feature of Untouchability as it is practiced by the Hindus. It is not a case of social segregation, a mere stoppage of social intercourse for a temporary period. It is a case of territorial segregation and of a cordon sanitarium putting the impure people. The first shot to herald the freedom of the Untouchables was fired by Dr. Ambedkar in 1927 at Mahad, in Kolaba district of Maharashtra.

The Kolaba district is now renamed as 'Raigad' to honour the memory of Chharapati Shivaji, in 1923. The Bombay legislative Assembly had passed a resolution moved by S.K.Bole, a prominent social reformer in those days. That the untouchables be allowed to use all public watering places, Wells, Schools, dispensaries etc. In pursuance of this resolution. The progressive Municipality of Mahad resolved in 1924 that the local Chowdar Tank be thrown open to the untouchables. However, the caste Hindus did not allow them to take water from the tank. This promoted Dr. Ambedkar, the liberator and the emancipator of the downtrodden, to launch an agitation to exercise the right of free access to the Chowdar Tank. In response to his call, more than ten thousands men and women assembled at Mahad on 19 March, 1927. Next day the delegates began their March from the venue of Conference to the Chowdar Tank to assert their right of drinking water from the Municipal Tank. Ambedkar was at the head of the procession. Ten thousand volunteers followed their leader in a file of

fours wading through the streets of Mahad in a disciplined and peaceful manner, the procession reached the Chowdar Tank. Dr. Ambedkar, the most gifted and qualified untouchable ever born in India, asserted the right of the suffering humanity by drinking water from the forbidden Tank. Most of the Volunteers also followed suit and vindicated their right. This was truly an historic event. Never before the so called untouchables had demonstrated their determination to assert their right in such a glorious manner. The participants of the procession returned to their venue of Conference peacefully. Meanwhile a rumor spread that Ambedkar and his men were planning to enter into the Veerashwar temple.

The fanatic caste Hindus attacked unarmed men. Women and children and mercilessly beaten them up. The commando attack on the 'Pandal' was followed by attacks on splinter groups of the delegates returning to their villages, in spite of all this beating and humiliation. Ambedkar advised his followers to be calm and not to retaliate. Thus first part of the epic struggle of the victims of untouchability was over. Soon after news came that the orthodox Hindus had performed a tank purification ceremony which they thought had been polluted by Ambedkar and his people. In the meanwhile the Mahad Municipality revoked on 4 August, 1927 its resolution in accordance with which the Chowdar Tank was thrown open to the untouchables. Hence the untouchables decided to besiege Mahad again. Accordingly Thousands of Satyagrahis reached Mahad on 2nd December, 1927. This time more than fifteen thousand untouchables turned up for the Mahad agitation

