



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

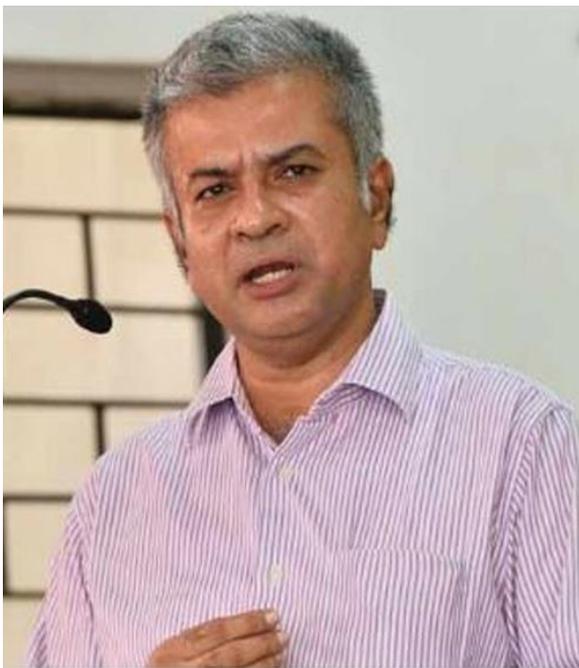
DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service **officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

diploma in Public

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



A BROADER LENS ON UNTOUCHABILITY: REASSESSING ARTICLE 17

AUTHORED BY - UJJAWAL AHUJA

Introduction:

The Historical Background of Untouchability Untouchability is an idea that originates from the very beginning of Indian history, particularly from the caste system—a rigid social order within Hinduism. People from the so called "lower castes" have faced severe exclusion and discrimination under this system, wherein they were usually not included in any form of social or religious life, resources, or basic rights. Indian founding fathers decided to put an end to this inequality as it was badly affecting the people. Untouchability has its origins in India's caste system, which dates back thousands of years. The inflexibility of this system exacerbated social inequality by excluding "lower" caste people from social, economic, and educational opportunities and causing them to be ostracized and persecuted. After India attained independence, its leaders realized that resolving caste-based discrimination was essential to achieving freedom and equality. As a result, outlawing untouchability became crucial to building an inclusive and democratic India.

Article 17 of the Indian Constitution, established in 1950, has a strong remedy for this injustice. Untouchability is strictly prohibited and, therefore, is unlawful too, and those perpetuating it are legally prosecuted. Though when untouchability was defined at the time of creation, it was mainly based on caste value or principles. However, for a range of biases that have emerged in modern India, there is also an immediate appeal to understand untouchability in the larger sense of the society. Therefore, the addition of Article 17 to the Constitution was a radical step that deviated from long-standing cultural customs. However, the 1950 article's scope did not take into consideration the other social exclusions and marginalizations that have surfaced since then because untouchability was primarily viewed within a caste framework. This historical constraint emphasizes the necessity of broadening the understanding of Article 17 to include discrimination in modern contexts.

Article 17: Its Provisions and Significance

The phrase and extent of Article 17 are unique in their own right. It is a fundamental right that stays with the person's equality and dignity in society. The text of this article is: The "untouchability" practice is illegal in all its forms. All the disability caused by "untouchability" must be considered a crime against law. This simple message seems full of ambition and power. Article 17 sets up high protection standards for human rights in India by declaring untouchability a crime. It signifies commitment to constitutional objectives in the removal of social barriers standing against free and equal lives. Development of the Untouchability (Offenses) Act of 1955.

Article 17 was supported by the Indian Parliament in its enactment of the Untouchability (Offenses) Act in 1955. As it aimed at ridding the country of the evil of untouchability by punishing offenders, it was amended in 1976 and renamed the Protection of Civil Rights Act, 1955, with the still mounting difficulties on one hand and growing need for stronger protection in such cases on the other. The new law also made the punishments much graver and enlarged the connotation of untouchability. But the most it highlighted was the caste-specific exclusions faced by Dalits. Though this focus was crucial then, it remains crucial today, but within Indian society, other forms of exclusion comprising equal social barriers have emerged, which demand a more inclusive expression.

Legislative Framework and the Protection of Civil Rights Act, 1955

The Untouchability (Offenses) Act of 1955, which made untouchability a crime and attempted to penalize violators, was passed by the Indian Parliament in order to uphold the goals of Article 17. In 1976, this law was renamed the Protection of Civil Rights Act, which further strengthened it. In order to address new types of discrimination, this act expanded the definition of untouchability and the range of punishments. However, the Protection of Civil Rights Act was primarily concerned with caste-based untouchability, frequently ignoring more recent instances of social exclusion and marginalization brought about by biases related to gender, economics, or health. Due to this scope restriction, India has a strong legal system in place to prevent discrimination based on caste, but it is still unable to address other forms of untouchability.

Expansion of the Concept: New Manifestations of Untouchability

Discrimination and exclusion are not only present in the case of caste alone in modern India. Social and economic marginalization of hundreds of groups and individuals could be termed as a form of "modern untouchability." The above idea can be expanded in the following domains:

1. **Economic Exclusion and Poverty-Based Discrimination** Whether of any low caste, the economically backward sections in different parts of India are reviled and ostracized by some sections in society. This is reflected in the treatment of homeless people, manual laborers, and street sellers. Economic untouchability prevents them from accessing jobs, healthcare, and education, pushing them further into a state of marginalization. A type of untouchability based on social class and poverty has been brought about by the growth of economic disparity. In India, the impoverished frequently experience social marginalization and have difficulty finding work, healthcare, and education. For example, homeless people, manual laborers, and street sellers face discrimination and exclusion in public places. Systemic obstacles that impede economic mobility exacerbate economic untouchability, perpetuating cycles of poverty and marginalization. Increasing the scope of Article 17 could strengthen rights for economically excluded groups and stop discrimination based on income status, which would help fight economic untouchability. Article 17 could be supplemented by laws that guarantee equal access to essential services including public utilities, healthcare, and education.
2. **The Untouchability of Gender** Typically, the societal status of women is denied or divorced from participation fully within society, specifically in rural India. An excellent example of the traditional attitude of untouchability would be exclusion based on perceived 'impurity,' like menstruating segregation, which bars women from attending temples, kitchens, or public areas while they are menstruating. In Indian society, gender-based discrimination persists, often intertwined with traditional norms. For example, women in rural India are sometimes treated as "untouchable" during menstruation, barred from participating in religious or communal spaces. Such practices perpetuate stigma and reinforce harmful stereotypes, limiting women's social freedoms and undermining gender equality. Applying Article 17 to gender-based untouchability could serve as a critical step toward dismantling these harmful norms. Legal reforms should challenge practices rooted in menstrual stigmatization or other

forms of social exclusion based on gender. Furthermore, public awareness campaigns can help eradicate discriminatory practices against women, promoting equality in all spheres of life.

3. **Untouchability on grounds of Religion and Ethnicity** Cases in India depict some minority religious and ethnic groups facing discriminatory behaviors that can be described as untouchability. There are instances where, based on ethnicity or religion, Muslims, Christians, and some minority individuals may be restricted from participating in communities, social activities, or employment opportunities. Religious minorities in India's multicultural society can experience treatment akin to untouchability because of social bias or prejudice. Examples include refusing someone housing, a job, or the opportunity to participate in the community because of their ethnicity or religion. Such actions violate constitutional rights and erode national unity. Article 17's recognition of discrimination based on religion as untouchability may offer a legal foundation for combating these prejudices. A more inclusive society could be promoted by enforcing equitable treatment for all religious and ethnic groups through the strengthening of antidiscrimination laws.
4. **Discrimination in relation to health** Health discrimination is not far from untouchability, especially in case of diseases like HIV/AIDS or even mental illnesses. Such people are often ostracized and deprived of services or facilities. For example, frontline health care workers were ostracized and branded as pariah during the COVID-19 pandemic.
5. **Digital Social Media Exclusion and Untouchability** Digital technology has altered the nature of social exclusion. At times, online untouchability is enabled through digital communities and social media to troll and dox individuals for reasons that include but are not limited to their economic standing, gender, race, or political views. Aside from limiting access to these digital spaces, where public engagement is supposed to occur freely, it also inflicts deep psychological injuries. Social exclusion occurs on internet platforms in the digital age. People may experience "untouchability" on social media due to trolling, doxxing, and social exclusion for political, racial, gender, or economic reasons. Despite not being physical, this type of prejudice can have major psychological repercussions that affect people's social engagement and mental health. The government could enact legislation to prevent cyberbullying, online harassment, and digital exclusion by recognizing digital untouchability under Article 17. A more equal online environment would result from these safeguards, enabling people to

interact freely without worrying about prejudice or exclusion.

Article 17: Evolving through Judicial Findings

There are instances where the Indian judiciary has tried to read Article 17 broadly. Where the issue is that of caste discrimination, they have underlined that this equality principle can't be reduced to such limited confine on caste alone. They have at times looked into social and economic exclusion as relevant under Article 17. The meaning of untouchability still requires a lot of clarification and elaboration, however. In characterizing more recent types of discrimination as "untouchability," the courts might face the actual issue, which is the exclusionary and degrading practices that still divide Indian society from one another.

The requirement for changes in legislation and policy If Article 17 were to be modified to include modern manifestations of untouchability, legal provisions would likewise need to be changed. For example:

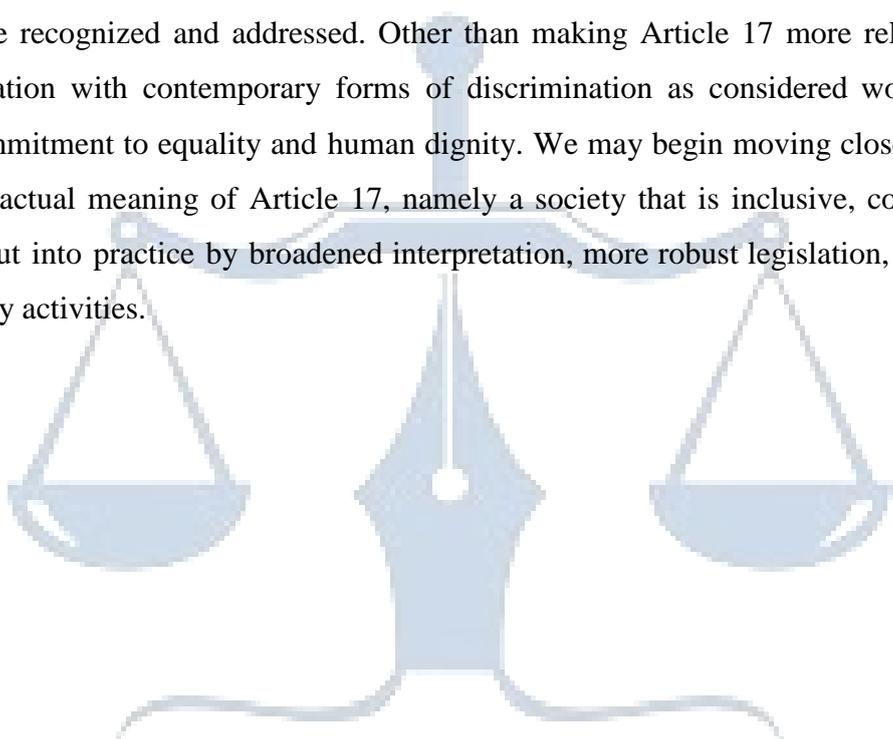
1. **New Definitions and Penalties in the Law** The new forms of untouchability must be legislatively defined, and there must be specific punishments for contraventions. In a more general sense, this will protect poor minorities from social ostracism and render punishment for ostracizing a person based on his or her economic status, religion, or health condition.
2. **Consolidation of anti-discrimination laws** Some of the contemporary expressions of untouchability could be reduced with the assistance of pro-inclusive laws in the processes of housing, healthcare and employment benefits. Laws should ensure that all in society, regardless of their background, religion and colour, have access to resources on a non-discriminatory basis and without fear or threat.
3. **Education and Public Awareness** Educating the public can promote awareness of modern manifestations of untouchability within society. Campaigns toward increased awareness of gender bias, digital ethics, and health-based discrimination may reduce the problems further. Schools, companies, and community organizations can all help individuals gain insight into the negative effects of discrimination.

Activism and civil society perform important functions: The extension of untouchability requires an active role of civil society. Such activists can apply pressure on policy makers as well as less well-known forms of discrimination. Grassroot movements have played an

important role in many areas of India in championing broader definitions of untouchability and yet remaining critical of institutions that commit untouchability.

CONCLUSION:

Article 17 aims at creating a society in which nobody is excluded by social barriers. On the face of it, this can only be possible if untouchability is seen not merely in its caste forms but also in various other forms in the modern era. A society is considered free from discrimination when all types of untouchability—whether based on gender, caste, religion, economic status, or health—are recognized and addressed. Other than making Article 17 more relevant today, reconsideration with contemporary forms of discrimination as considered would reaffirm India's commitment to equality and human dignity. We may begin moving closer to a world where the actual meaning of Article 17, namely a society that is inclusive, courteous, and equal, is put into practice by broadened interpretation, more robust legislation, and ongoing civil society activities.



WHITE BLACK
LEGAL