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Judicial Activism: A way to Social transformation in India

Dr. Nidhi Sandal*

Rupal Rathore**

Introduction

Our country is governed by an elaborately written constitution. This constitution also formulates a system of division of work and authority and mutual discipline between the three organs of government - the executive, the legislature and the judiciary.

Nevertheless, there is always room for mutual tussle and gradual expansion of jurisdiction, which obviously increases in any period of rapid change. This is what is happening today. It is in this context that a two-judge bench of the Supreme Court becomes particularly important to remind the judiciary of its limitations. Judicial activism refers to the active role played by the judiciary in protecting the rights of citizens and promoting justice in society. In other words, it refers to the assertive role played by the judiciary to compel the other two organs of government (legislature and executive) to discharge their constitutional duties.

Judicial activism is also known as "judicial dynamism". It is the antithesis of "judicial restraint", which means self-control controlled by the judiciary.

Justice seeker usually goes to court, but when the court itself comes to justice seeker then it is called judicial activism. Judicial activism refers to the active role of the judiciary in protecting the rights of citizens.

Evolution of Judicial Activism

The practice of judicial activism first started and developed in the United States. The Supreme Court and High Courts in India have the power to examine the constitutionality of any law and if such a law is found to be inconsistent with the provisions of the Constitution, the court can declare the law unconstitutional. It should be noted that subordinate courts do not have the power to review the constitutionality of laws.

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Mainly Public Interest Litigation (PIL) or Social Action Litigation (SAL) has been instrumental in the development of judicial activism in India. According to the procedure of law, when a person has a problem, he goes to the court for its solution. It means that in case of violation of rights or being involved in any dispute, the person takes recourse to the court. There was a change in this concept in the year 1979. In the year 1979, the court heard a case whose petition was filed by other persons in place of the aggrieved person. Since this matter pertained to public interest, the matters relating to it came to be known as Public Interest Litigation. At the same time, the case related to the rights of prisoners was heard by the Supreme Court. After this, a large number of social workers and voluntary organizations filed many cases in the courts, whose purpose was to ensure public interest in issues like protection of existing rights, improvement of living conditions of the poor, protection of environment and so on through judicial intervention. Public interest litigation is also considered as the most important tool of judicial activism.

Judicial activism due to the efforts of Justices V R Krishna Iyer and P N Bhagwati is seen as a success in liberalizing access to justice and providing relief to disadvantaged groups.

The Blacks Law Dictionary defines judicial activism as "a judicial philosophy that prompts judges to depart from traditional precedents in favor of progressive and new social policies."

The concept of Public Interest Litigation (PIL) is always discussed in judicial activism.

Judicial Activism: Characteristics

In the United States, it is most important in the theory of limited or constitutional government. Due to this right, the Supreme Court in the United States of America, as the guardian of the Constitution, has drawn its attention to the interests of the poor and downtrodden classes and started providing them legal aid.

1. This is a comprehensive right. Due to the principle of supremacy of Parliament in Britain, the judiciary there does not have the right of judicial review.
2. Under this, not only does it provide legal aid to the poor and helpless people, but it also provides legal aid to ordinary citizens who can neither arrange lawyers for their cases nor go to other legal organizations and Nor are they able to present their cases before any kind of administration.

3. In India also, the judiciary has started the process of hearing such cases which are lodged by or on behalf of the poor or such matters which are related to public interest.
4. The Supreme Court and the High Courts have significantly reformed and expanded their judicial process relating to these matters by reinterpreting constitutional rules.
5. Thus, judicial review is a process under which such cases are disposed of, which are related to public interest and social welfare and their solution is impossible under the traditional judicial process.
6. The judiciary interprets such cases and takes their side.
7. It is also not necessary that the court should resort to the traditional judicial process and predetermined rules in the disposal of such cases.

Methods of Judicial Activism

There are various methods of judicial activism which are followed in India. They are:

- ❖ Judicial review (the power of the judiciary to interpret the constitution and to declare void any such law or order of the legislature and the executive, if it finds them contrary to the constitution)
- ❖ constitutional interpretation
- ❖ Access to international law to ensure constitutional rights
- ❖ Supervisory Power of High Courts over Lower Courts
- ❖ Public interest litigation (the person filing the petition should not have any personal interest in the litigation, this petition is accepted by the court only if it involves the interest of the larger public; the aggrieved party does not file the petition).

Importance and need of Judicial Activism

- ❖ It is an effective tool to uphold the rights of citizens and enforce constitutional principles when the executive and the legislature fail to do so.
- ❖ Tried to make other organs of the government functional.
- ❖ When all other doors are closed, the citizens have the judiciary as their last hope to protect their rights. The Indian judiciary has been considered as the guardian and protector of the Indian Constitution.
- ❖ Through judicial activism, an attempt has been made to give real shape to the concept of welfare state.

- ❖ This concept was strengthened in the changing socio-economic conditions as a result of globalization.
- ❖ There are provisions in the Constitution itself for the judiciary to take an active role. Article 13 read with Articles 32 and 226 of the Constitution confers on the higher judiciary the power of judicial review to declare any executive, legislative or administrative action void if it is in contravention of the Constitution.
- ❖ The Constitution has been made dynamic by linking it with modern values.
- ❖ According to experts, the change from locus standi to PIL has made the judicial process more participatory and democratic.
- ❖ Important work started being done in relation to the protection of environment and ecology.

Judicial Activism example

It all started when the Allahabad High Court rejected Indira Gandhi's candidature in 1973. In 1979, the Supreme Court of India ruled that under trials in Bihar were already served longer periods if convicted.

1. Golaknath case: In this case the questions were whether the amendment is a law; And whether fundamental rights can be amended or not. SC expressed satisfaction that Fundamental Rights are not liable to parliamentary restriction as stated in Article 13 and amendment of Fundamental Rights would require a new Constituent Assembly. It has also been said that Article 368 gives the procedure to amend the Constitution but does not confer power on the Parliament to amend the Constitution.
2. Kesavananda Bharati case: This judgment defined the basic structure of the Constitution. The Supreme Court observed that though no part of the Constitution, including the Fundamental Rights, is beyond the amending power of Parliament, "the basic structure of the Constitution cannot be repealed even by a constitutional amendment." This is the basis of Indian law in which the judiciary can nullify an amendment passed by the Parliament which is contrary to the basic structure of the Constitution.
3. In the 2G scam, the Supreme Court canceled 122 telecom licenses and spectrum allotted to 8 telecom companies on the ground that the process of allotment was flawed.

4. The Supreme Court in 2018 imposed a complete ban on firecrackers in the Delhi-NCR region with few exceptions.
5. Supreme Court invokes terror law against alleged money launderer Hasan Ali Khan.

Objections to Judicial Activism

Judicial activism has also faced criticism several times. In the name of judicial activism, the judiciary often mixes personal bias and opinion with the law. Another criticism is that the principle of separation of powers between the three arms of the state goes for a toss with judicial activism. At times, the judiciary intervenes in the administrative sphere in the name of activism, and ventures into judicial misadventure/transgression. In many cases, the fundamental rights of any group are not covered. In this context, there is talk of judicial restraint.

1. Judicial hyperactivism jeopardizes the continuing public confidence in the political impartiality of the courts, which is essential for the continuance of the rule of law.
2. By acting in this way, the Court may surrender its credentials. Because by acting like this, the court transcends its limits and becomes incapable of fulfilling its original role.
3. It cripples people in fulfilling their moral and political obligations. And they become dependent on the court.
4. Judicial hyperactivity creates uncertainty in law, while certainty and stability in law are essential for the administration of justice.

Judicial Activism and Indian Constitution

The Indian Constitution has made a gross division of the functions of the three organs of the government, the executive, the legislature and the judiciary, and it has been expected from the three organs that they should not interfere in each other's work. But at the same time, it has also been provided in the constitution that if any of the three organs of the government violates the limits of their functions or acts in excess of their powers, then all these organs should establish control over each other. . Keeping this in mind, judicial and parliamentary control over the executive has been established. And control is established by the judiciary over the legislature and over the judiciary by the legislature.

Despite these limitations and limitations, there is a conflict between the judiciary and the legislature in India, and the biggest reason for this is that the Constitution of India establishes a welfare state and requires the

implementation of the constitution and the final interpretation of the constitution. The power lies in the judiciary. When this power is used harshly by the Supreme Court, then the court gets criticized. And it is said that the court has become more active.

The Supreme Court has also referred to the delays on the part of the executive in giving decisions on several important matters brought before it. This action of the court is being considered as interference in its work on the part of the government, while in the judicial field this work of the court is being considered as judicial activism.

Judicial Activism and Public Interest Litigation

Public interest litigation is the process under which poor and helpless people who are unable to go before the court for their rights due to social incapacity, poverty and ignorance, their rights are placed in the court by any public representative or social worker on their behalf.

For this it is not necessary that the petition should be filed through a lawyer through the traditional procedure.

If people are injured collectively in an accident and there is a violation of the constitution or any law, then in that case any person can file a public interest litigation.

This means that any representative of the public or a social worker can file a public interest litigation in the following two situations, even if he is not himself a victim in that case-

Public interest litigation can be filed in such a case if the victim or victim is not a particular person or a person belonging to a well-known community but a large part of the society like loss due to gas leak. Cases related to water pollution of rivers and damage to any public place also come under this.

The judiciary cannot remain silent and passive in the matter of human rights violations and people can get justice through Public Interest Litigation (PIL) but sometimes it is mixed with judicial activism. "In case of human rights violations, the judiciary has to act and the law has to be enforced," he said.

He also stressed on the right to protection from abuse of power and crime. The judiciary cannot remain calm if the rights of the people are violated. Judiciary cannot sit with folded hands if human rights are being violated.

Right to access to justice can be achieved through public interest litigation, but sometimes it becomes troublesome because of giving it the form of judicial activism.

Judicial activism runs for better objectives but it does not mean that only judges are the true reformers of the society.

Many times these people issue their instructions to the institutions without knowing the problems and nature of them. Critics argue that judges have no right to play their part in setting policies or evaluating democracy.

Judicial Activism and Women Empowerment

Women empowerment can be defined in very simple words that it makes women powerful so that she can take all the decisions related to her life on her own and can live well in family and society. Women empowerment is to enable them to achieve their real right in the society.

The Constitution of India is the supreme law of India. The main feature of the Indian Constitution is that equal rights have been given to every man and woman in it. The framers of the constitution were aware of the sociology of the problem of women's freedom. They knew that gender equality was indispensable for national development. Keeping these objectives in mind, a provision was made for three things: The Constitution of India is the supreme law of India. The main feature of the Indian Constitution is that equal rights have been given to every man and woman in it. The framers of the constitution were aware of the sociology of the problem of women's freedom. They knew that gender equality was indispensable for national development. Keeping these objectives in mind, a provision was made for three things - (1) Prohibition of discrimination on the basis of gender (2) The power to make laws keeping in mind the specific psychological, biological and social status of women. (3) Directive Principles of Policy to give directions to the States for these legislations.

Many legislations have been adopted to establish the women's laws found in the constitution.

In our country, the independent judiciary, on the one hand, interprets the laws in the traditional form, while justice, through judicial activism, plays the role of going beyond the laws for the protection of humanity.

The object of Article 15(3) is specifically to provide protection to women because women are different from men in physical, mental, economic and other respects. For all these reasons, they require special protection at some places. That is why it is appropriate to empower the state to make special laws for them.

The Supreme Court, through its decisions in various cases, has given a wide variety of rights to women by interpreting Article 21, some of which are as follows- Right to privacy, Right to live with human dignity, Right to

education, Medical Right to help, protection against death in police custody, right against sexual exploitation during employment, right to interim compensation to a woman who has been raped, to protect women from prostitution and to direct the government to rehabilitate their children Protection against inhuman treatment, Right to suspension from death penalty.

Judicial Activism and Environment Protection

Certainly the contribution of constitutional provisions and the efforts of the court is important in increasing the sensitivity towards the environment. Before going into the related provisions included in the Constitution of India, we will look here at one such idea of Mahatma Gandhi which will inspire us to move forward in this direction. Gandhiji has said, 'The earth has enough resources to satisfy the needs of all human beings, but not to satisfy the greed'.

The first international conference on the protection of the human environment was held in Stockholm in the year 1972. After its approval by India, Article 48 (A) and Article 51 (A) were added in the year 1976 by the 42nd Constitutional Amendment, in which the responsibility of protecting the environment has been entrusted to the state and the citizens respectively. In addition, this amendment included several subjects of the State List in the Concurrent List, such as forest in entry 17(a), wild life in 17(b) and population control and family planning in 20(a). Indian judiciary is doing important work to deal with the problem of environment, it is changing its form and outlook from conservative to progressive.

The judiciary has been playing an active role as a protector of individual interests as well as a protector of social and environmental interests.

The court is also playing a positive role in environmental protection through public interest litigation, which has led to a significant improvement in environmental protection.

Judiciary has made significant contribution in environmental protection through judicial activism, various environmental movements and operation of CNG buses to create clean environment in Delhi is a direct example of this.

The judiciary, while ruling in various cases, has clarified that the basic requirement of a quality life is that human beings should live in a clean environment.

Judicial recognition of the right to the environment was given in the Dehradun lime mine case (Rural Litigation v. Uttar Pradesh) in 1987, and

again in 1987 in the Shriram gas leak case (MC Mehta v. Union of India). : Emphasized. The judiciary has also heard a number of cases in which environmental goals and development needs have been harmonized. In most cases, the judiciary has been of the view that although the importance of development cannot be given secondary importance, development cannot be given importance at the cost of the environment, even if there is a short-term loss in the process such as loss of some jobs or revenue. etc.

Conclusion

When the judges start believing that they can solve all the problems of the society and from this point of view also start performing the functions of the legislature and executive themselves (because they feel that the legislature and executive have failed in discharging their duties) then various problems arise.

Of course, judges can intervene in some extreme cases, but they are inappropriate to come forward to solve all the major problems of the society because they neither have the expertise nor the resources for this.

Simultaneously, when the judiciary begins to encroach upon the domain of the legislature or the executive, it avoids a sharp reaction from politicians and others.

After all, the activism of the courts gives relief to the common man. Before questioning the judiciary, one has to try to see its decisions with the right intent. Also, if the executive performs its functions impartially, there will be no unnecessary burden on the judiciary and no such disputes will arise.

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The Religion Factor in Dalit Identity & Politics: An Analysis

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Abstract

The continuous effect in change of nature of religion as a factor in Dalit identity and options of religion show the changes which have been observed in the society. Dalits have been marginalised in the Indian society not only from the perspective of caste but also in the economically and culturally with more than 70 percent of Dalits are landless. The multi religious culture of the Indian politics could not accommodate the identity of Dalits as their inseparable part, but the work assigned to them of maintaining cleanliness, sanitation and hygiene had been classifying them to become a separate part of the society resulting the exclusion of the people. Dalit identity and Dalit politics run under the guidance of upper caste and religion. The emergence of many caste-based political parties could not resist for longer period time and those who survived had been limited to a small margin. Moreover, when we discuss about the categorization of the Dalit community which shows the different smaller groups in it, we find a lacuna of an umbrella head to include all in one root whether it is the Anti-Religion movements or the demand for reservation.

Keywords – Exclusion, Dalit, Religion, Identity, Caste

Introduction - India in its Amrutakaal period celebrating the 75 years of independence from the British rule. Talking about rules, the Indian society has also been observed to be ruled by the upper caste. When the Prime Minister of the country stating India is the mother of Democracy worldwide the facts also shows that never a Dalit community person got a chance to be the Prime Minister of the world's Largest Democracy. The internal politics of the country has been observed as ethnic based politics. There are many factors that played a crucial role in the casting of vote in Indian elections, one of the ethnic factors is caste. In Indian context caste plays a crucial role as an ethnic factor in the Indian politics. The Indian society is divided in castes and categories marginalising peoples according to their caste and provides a social hierarchy in society. The origin of caste belongs to the Hindu religion, but it had been observed that the caste not only discriminate in Hindus but also in Islam and Christianity. Brahmin Christians and Dalits Christians and separate church of both from the British era till now are some of the examples. The classification of Dalits in different groups of devotees in the Nirguna of Bhakti-kaal period divided Dalits into different groups and classified them as non-Hindus. The pre independence movement of adding Dalits to their side for the political majority is done by many religious leaders of different religions. The Dalits were marginalised and are very backward in terms of financial, economic and social status in the society. The role of religion in context of caste shows the different dimensions of the society to discriminate. Different phrases in which the Dalit identity and religion as a part of it been evolved and changed through the condition of the society varies in the contemporary era. When we discuss the Dalit politics, we mainly observe we find a lack of leadership and division of groups in different sub castes. The contribution of religion is also been observed as an important role in Indian politics and when the caste and religion factor mixed up together it shows a different scenario in Indian politics. For understanding Christian Dalits votes differently than Hindu Dalits. The small castes in Dalit Hindus votes differently than upper castes Dalit Hindus. The topic discusses the evolution of religion and its affect in the Dalit identity and politics.

Hindu-Religion And Dalits - What is the basic sense of Religion? Kant explains it with stating - "Religion has been associated with a sense of Moral Duty" (Kant, 1890). and Alexander Men describe it in his words- "Religion is a reflection of existence in people's minds". In the 18th century some of the atheists gave a concept which is religion is the product of ignorance of primitive men who did not know the laws of nature (Men, 2021). Caste has been a basis for the organisation of Hindu society for around two millennia (Kaivan, 2019). The history of caste system can be traced from the divided groups mentioned in Hindu mythologies and Vedas. It has also been pointed out that the particular caste and

category is not mentioned in the Vedas but to be classified by the term Chandalas (P.Muthaiah, 2004). The fight or war was between the Aryans. Who were the Aryans? They were migrated a long time back around 2500BC from the Iranian plateau. They headed their journey towards south in search of new territory and cattle's. They crossed Himalayas and settled down in the southward's regions of India. They conquered Dravidians and other native tribe of the land and called them with the name "Dasyu" and settled down on the conquered land. Aryans were musical tribes and the storytellers and singers of their tribes called as rishis and they use to create hymns. The hymns of the Rigveda are strikingly disparate and at times even contradictory in their nature (Men, 2021). The categorization of Aryans can be seen in the satapatha brahmana written as Aryans consist of Brahmana, Kshatriya or Vaisya. Aryans stand in the opposition to Dasyu but also the Shudras (Macdonell, 1995). In the Tattiriya Brahmana it is represented that Sudrayau's were ambitious, but shows originally Sudra and Aryan for in Mahavrata ceremony fight as one between a Brahmin and a Shudra. In the Vedas the Sudras or Dalits were given the name of Chandalas. Manu smriti which was composed nearly a time period between 1-700AD states chandala (Dalit) were the result of a Sudra male and Brahmin women (Burnell, 1884). It can be observed that all Brahminic writers of later Vedic period in 800-600BC created hatred against Dalits, equating them with dogs and stated that Brahmins, Kshatriya and Vyshyas are born in pleasant womb and while Chandalas are born in stinking womb (Hume, 1921).

Role - Willam Crooke in his book (The Tribes and Castes of North Western Provinces and Oudh 1896) writes "Devotionalism or bhakti had been the dominant form of Hindu worship in medieval north India for several movements". The social changes that can be observed during the bhakti-kaal was a revolution inside the Hindu religion. The whole society was divided into two groups of devotees that were Saguna & Nirguna form of devotees. Saguna consists of those who were involved in the Idol worship, majorly in Hindu religion the temples were the place of Idol worship & the Nirguna form of devotees were the group of peoples who were revolutionary and choose the form of Universal worship that majorly focus in that God is one and it does not have statues. Many of the leaders of the form were from the Lower castes- Ravidas, Kabir and because of this it gave an alternation of choosing over the orthodox religion which did not even allow the entry of the lower caste in the temples (Crooke, 1896). The Leaders were from different area and different region which also affected a major factor in diving the groups of lower castes peoples in different group who follows the values and lessons of the particular leader. This created a sub- category in the lower castes such as – Satnami's (follows the value of Guru Ghasidas) Kabirpanthi (followers of Kabir) and Ravidasiya Samaj (followers of Ravidas) (Irschick, 1969). Many subcastes of Dalit outreach their glorious past and identity outside of the Hindus which were Balimikis of Punjab, Satnami's of Chhattisgarh, Chamar, Pasis and Bhangis of Uttar Pradesh, Shilpakar of Kumaon and Mahar's and Chambers of Maharashtra.

British Era And Dalits - The act of settlement 1781 providing the judgement been approved in supreme court of British Era on the people was on the basis of religious law. Hindu will be punished according to the law books of Hindu religion same as Muslims will be testified and decision will be made on the basis of Mohammadi laws. The laws in the Hindu religion gave the brahmins a different punishment for a hardcore crime and a serious punishment to the Dalits on small crimes due to caste hierarchy. Manu smriti describes that whatever is in the world is the righteous of Brahmana because he is the highest in the earth and sacred. Brahmana and Sudras both have different punishment for same crime. Manu writes there are 10 reasons in which the all 3 other castes can be punished except the Brahmana. "(For mutual abuse) by a Brahmana and a Kshatriya a fine must be imposed by a discerning (king), on the Brahmana the lowest amercement, but on the Kshatriya the middlemost. 277. A Vaisya and a Sudra must be punished exactly in the same manner according to their respective castes, but the tongue (of the Sudra) shall not be cut out; that is the decision" (Buhler, 1886). During the British regime in late 18th century the Britishers needed skilled labour to perform their work. And the major population of skilled labour in the British bureaucracy were consisted from the upper castes mainly brahmins. There were many attempts been made by the Britishers to correct the social order, but they saw a lacking in the efficient administration and for the better flow of administrative work they accepted the pre-existing social-order (Irschick, 1969). The major benefits were directly gained by the upper castes in the British regime as they were at the superior places in the offices. This led to caste-based differentiation in job to the demand of representation of state, as the control of political and bureaucratic institution were in the

hands of the upper castes. Observing this difference and voices the Britishers categorised the Dalits into a separate category which is named as Depressed classes in the society. This gave them certain benefits and their political representation (Duskin, 1972).

During the pre-independence phase, the Arya Samaj a society aiming reforms in the Hindu religion launched two resolutions for the reform in the Hindu society and attracting the Dalits to their fold. The first resolution was to affect the individuals as well as the society to reconceive the boundaries of the Hindu society, nomenclature, labelling untouchables as Hindus without having consulted them. An assertion of the Lordly right of giving names (Nietzsche 1989: 26) that invokes Brahminical and colonial authority and the dialogical persuasion in a communalist mode. In 1909 the letter of H H the Aga Khan to then Viceroy, Lord Minto in which he asked for representation for Muslim community in legislature, executive and public services. The letter addressed as "the Mohamedans of India number according to the census taken in the year 1901 over sixty-two millions or between one-fifth and one-fourth of the total population of His Majesty's Indian dominions, and if a reduction be made for the uncivilised portions of the community enumerated under the heads of animist and other minor religions, as well as for those classes who are ordinarily classified as Hindus but properly speaking are not Hindus at all, the proportion of Mohamedans to the Hindu Majority becomes much larger" (Ambedkar D. B., 2020).

after the categorization of the Depressed classes in separate column it was observed that many movements to add Dalit in their fold started by many religious organisations. In 1920 the Khilafat movement against the conversion of Lower caste to Islam started to control the Hindu majority in the country (Hardy, 1972). In the census report of 1931, it was mentioned that how the different organisations private societies such as Christian missionaries, Depressed classes Union, Poor school society, social services league started work for development of the Depressed classes. Religious organisations such as Hindu Mahasabha made an attempt to include Depressed caste in Hindu fold with an objective of swelling their political majority. In the year 1928 the Hindu Mahasabha passed a resolution declaring so called untouchables equal rights with Hindus to study in schools and use wells, roads & temples. The same resolution asked the barber, tailors and brahmins to offer services to the Dalits. Ambedkar has opposed to inclusion of Dalit in Hindu fold and wanted to have separate identity. In the 1931 Roundtable Conference Ambedkar suggested that Untouchables should be renamed as protestant Hindus or conformist. (Ambedkar D. B., 2020). In his writing Ambedkar explain that congress party claims to be the party of all Indian which attract foreigner but the reality is not like that (Ambedkar D. B., 2020). Gandhi gave the title of Harijans (peoples of Hari/God) to the Dalits and wanted to add the Dalits in Hindu to suits his politics in 1930's (P.Muthaiah, 2004). Ambedkar in his writings tell the discussion between the Christian Missionary and Gandhi in International fellowship over conversion. From the time 1920-30 Britishers wanted desire to keep Depressed class Christians from Hindus. The Hindu organisations were working to fold Dalit there side and other religions conversion such as conversion of Dalit into Christian was also affected the Christianity like there was division of converted people of Brahmin-Christian and Dalit-Christians. The British government giving Communal Award in 1932 which gave separate electoral rights to the scheduled caste which Gandhi opposed on the base of Dalits are part of Hindu religion. This separate electoral given by Ramsey M.C. Donold declaring communal awards gave two benefits (1) a fixed quota of seats to be elected by separate electorates for untouchables and to be filled by the persons belong to the scheduled caste. (2) second votes one for the separate electorate and second for general election. Ambedkar describes that it was opposed by Gandhi with hunger strike in the Errawada jail. Unwillingly Ambedkar agreed to joint electorate with reserved seats for the scheduled caste (Ambedkar B., 2020). In government of India Act 1935 Dalits were treated as scheduled caste in section 2. same order in the Act section 3(a) states that no Christian of India shall be deemed to be a member of scheduled caste. Marc Galanter in his book (Competing Equalities: Law and the Backward Classes in India) explains the constitution makers of India eschewed any attempt at connotative definition of Untouchability and adopted the sort of solution as had the British. A scheduled castes order was promulgated by President of India in 1950 which basically re-enacted the 1936 list.

Ambedkar And Dalits - Ambedkar in his book (The Untouchables: Who Were They) explains the census of 1910 was the first report which shown different categories under Hindus were (1) Animists and Tribals, (2) the Depressed classes or untouchables Dr. Babasaheb Ambedkar states this as the war