CHAPTER-V

SHAHU CHHATRAPATI AND SOCIO-ECONOMIC LEGISLATION

CHAPTER-V

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Shahu Chhatrapati as the ruler of Kolhapur State enjoyed executive, legislative and judicial powers. He was the important law-maker in the Kolhapur State. The power of law-making originated from the Chhatrapati himself and the orders made by Shahu Chhatrapati were circulated for the knowledge of people through the Gazettes. These laws there after were used by the different judicial institutions in Kolhapur State. In this Chapter only the significant acts and orders issued by Shahu Chhatrapati and published under the District Magistrate or other competent authority are taken into consideration. The orders of Shahu Chhatrapati, which become law of the Kolhapur State, touched the social, educational, religious and agrarian conditions of life in Kolhapur State. These orders and acts as aspects of judicial organisation have been studied in this Chapter. The Chapter is, therefore, divided into the following parts:

- 1) Social Legislation
- 2) Compulsory Education Act.
- 3) Religious matters
- 4) Agrarian conditions, and
- 5) Currency.

1) Social Legislation:

In the study of social legislation made by Shahu Chhatrapati some important subjects are chosen for study. They are

- (1) Drinking Water, (2) Health and Sanitation of the people,
- (3) Position of Women, (4) Marriage and Divorce and
 - (5) Untouchability.

Shahu Chhatrapati was deeply interested in social matters right from his early career. The interest in the initial stages was concerned with health and sanitation of the people. The different government notifications aptly reflect on this.

Orders for Maintaining Purity of the Drinking Water:

The people of Kolhapur in those days used the water from Kalmba lake as drinking purposes. It was noticed by Shahu Chhatrapati that the people bathed, washed clothes and animals in lake. He, therefore, by a notification ordered that no people should entered within the princts of the lake distance of 400 yards from the maximum water level of lake in the rainy season. In the similar manner Shahu forbade the people of Mouje Kalavikatthe July 16, 1895, to wash clothes or bathe in the public well for the drinking water. Similar orders there also issue in case of wells and tanks in different villages, like mouje Hamidwada, Kasba Sarud, mouje Chinchli, and mouje Ispurli, in Kolhapur State. In 1906, a well a was dug in the Kapilthirth areas which was a like that was filled up by an

order it was laid down that no-body should bathe or wash clothes, and utenciles within ten feet of the well. It is interesting to note that Shahu ordered not to throw clay idols of Ganpati or any other deity alongwith the <u>Nirmalya</u>⁸ (Flowers etc. removed from the idol after the worship).

Other Orders Regarding the Health and the Sanitation of the Peoples:

The plauge epidemic repeately occured in the Kolhapur State during the period of our study. There was the practice of giving away the clothes of the dead person, to the Mahars. Shahu by the government notification of the 12th March, 1898 ordered, through the Plauge Commissioner, that the clothes of the Plauge victims should be burnt and should not given to Mahars.

Sodar Bazar in Peta Karveer of butchering animals in the houses where was meat and bones were stored. This traditional practice was dangerous to the health of the people in the surrounding areas. It was, therefore, ordered in 29th March, 1909, that the butchers should cut animals and sale the meat at places especially allotted to them.

Position of Women:

A few significant orders were passed by Shahu Chhatrapati in removing the disabilities of women and establishing with men. In the Khalsa area, according to the Act of 1875, it was laid

down that a person above the age of eighteen years was to be regarded as a legal major. In the Act there was no specific mention about men and women becoming legally major. By an order of 1906, it was laid down that as person meant both men and women. The minimum age in which a women in Kolhapur State attained was eighteen years. 12 The prevelent Hindu Law based on Smrutees and Shastras degraded the position of women to a certain extents. One such degradation of women was that a man could not adopt his daughters' son, as his adopted son and heir. 13 Shahu Chhatrapati, disregarding the injuctions of the Smrutees and Shastras laid down that it was necessary that a adopted son should be emotionally attached to the adopting father. A daughter's son being linked by blood and affection could be adopted by a man without any male issue. Shahu, therefore, ordered that Hindus of all Varnas including the Brahmins and Kshatriyas could legally adopted daughter's son. 14

women inferior in the Hindu society. The policy of non-interference in socio-religious matters, as suggested by some political leaders would have let to the continuation cruelty towards womens. Shahu Chhatrapati personally passed an important amendment to the then prevelent Indian Penal Code. In this amendment which was to be applicable to the Kolhapur State. Shahu Chhatrapati gave a statement of objects and reasons for rules for the Suppression of the cruelty of women. Shahu pointed out that the permission given by the Hindu law givers to the guardians of women has degraded, resulting into

the evil of ill treatment of women. He did not believe in the policy of laissaze faire in this matters. "Social advancement in such as are backward, 19 Shahu Chhatrapati says, "Cannot be brought about without having recourse to the legislation."20 This act of Kolhapur State has been divided into IV Chapters alongwith illustrations to explain the rules laid down in the act. 21 These rules were to be called, "Rules for the suppression of the cruelty to women 22 and were to come in force from the day of 2nd August, 1919. 23 According to these rules a man bringing into his house where his wife was staying, a concubine in opposition to wishes of his wife was quilty of an offence. 24 Similarly tortouring younger brothers widow, 25 insulting and troubling the daughter-in-law, 26 illtreating the children of step-mother²⁷ and insulting and starving one's own wife, were regarded as offences 28 under these rules. A proper legal procedure was laid down in these rules were by a court of Sessions or a Magistrate of 1st and 2nd class under the Criminal Procedure Code could try such cases. 29 These rules referred to as Karveer Sarkarcha Kanu (Act of the Kolhapur State) has been signed by Shahu Chhatrapati himself. 30

Marriage and Divorce :

Shahu Chhatrapati made certain acts affecting the institution of marriage as practiced by Muhammadans, 31 Jains 32 and Hindus. 33

By a <u>Jahirnama</u> of 16th June, 1916, it was pointed out that while there was no objection to a marriage officiated by a person

other than the <u>Kazi</u> in the court of law a Muslim marriage could not be regarded as legal, if it was not officiated by a Kazi. 34

By another order Shahu Chhatrapati sanction legality to the inter-caste marriages among the Hindus and Jains. No marriage was to be considered illegal on the ground the bride and bridegroom were not from the same caste. 35

On 12th July, 1919, two acts were issued by Shahu Chhatrapati in Kolhapur State relating to the institution of the marriage. One was the Marriage Act of Kolhapur State 36 and the other was Divorce Act of Kolhapur State. 37 The Marriage Act of 1919, there was not applicable to Jains and Hindus. 38 The minimum age of marriage for men and women was laid down as eighteen years and fourteen years respectively. 39 Provision was also made for the Registration of marriage. 40 It was also laid down neither married man nor married woman should marry for a second time. A second remarriage was to be regarded as an offence and punishable under the Indian Penal Code No. 494/ 495. In the Divorce Act of Kolhapur State the conditions under which the petition for the dissolution of the marriage could be made by husband or wife were laid down. 42 In case of husband the guilt of andultry of the wife could be the ground for petition. 43 The wife could the petition for the dissolution of the marriage if the husband was suffering from lepreray, lunacy, impoltacy of the husband. 44 The discontinuation of co-habitation by the husband by two years or more could also be

the ground for the petition. 45 In the act provisions were also made for the payment of damages to be paid by the adulter or alimony to be paid to the wife by the husband. 46

Removal of Untouchability Act:

Just as Shahu Chhatrapati believed in using the powers of State for the spread of education among the masses, Shahu he Chhatrapati firmly believed in the use of law in removing the practice of untouchability in Kolhapur State. Untouchability was practice/in public places and it was this practice untouchability that came to be attack by Shahu through his Hujur Orders. 47

By three orders issued on 20, 22 and 23rd August, 1919⁴⁸ Shahu abolished the practice of the untouchability in the governmental departments, educational institutions, and charitable hospitals.⁴⁹ All these three orders has given strong and sympathethic orders. The orders are sympathetic towards the untouchables and very strong and punitive against those who would refused the follow these orders.⁵⁰

Shahu Chhatrapati gave protection through his Untouchability Act to them who were newly have been entered in the State services. Therefore, he ordered his revenue, judicial and general department officers, "to treat the untouchability who have entered the State services with kindness and equality." 51

when Shahu Chhatrapati knows that in the educational were bodies the touchable and the untouchable are treated differently and untouchables are not allowed to approach the school prisincts, he he ordered that he educational bodies to gave quarters to the untouchable. He made for this purpose act of untouchabilities in which he ordered, "The State quarters of the educational bodies are not given to them as their private property and so they have no right whatever to treat the so-called untouchables human beings so definately but they are expected to give them every consideration." 52

Shahu advised and warned the State medical employees, to treat the untouchables like human beings. He ordered, "Any patient, whether touchable or untouchable whene he goes to the residential quarters should be treated respectfully like gentleman, taken into the house, is examined carefully and not turned out like an animal or beast." 53

shahu Chhatrapati in support of his opinion further says, "Charitable Institutions are meant for the poor people and even the poorest untouchable human being has a right to be treated ona footing or equality. His highness earnestly hopes that medical staff will follow the good example set by foreigners, especially by the American Mission at Miraj." 54

It was Shahu's desire to remove untouchability through coercive acts of State by order, "If any State Officer has any objection to treat the untouchables according to the above

orders Shahu warns the officers, he will have to give notice of retination within six weeks from the receipt of this order and resign his post. He will be entitled to no pension. The Act was applicable to the State revenue, judicial, general, educational and hospital employees. 56

In his order to educational bodies he says also that if the, "helped or aided educational bodies have any objection, of course, the <u>Darbar</u> will have to stop the grant-in-aid or help which they are receiving. (play-grounds, houses and other movable or immoveable). property, which have been given to them by the State will be heavily taxed." 57

In the same Act Shahu further says that, "If any private Educational body goes against the wish of the donor it will be taxed upto 7% on movable and immovable property." 58

Shahu was thus using the power of the Chhatrapati as his disposal to remove the practice of untouchability from Kolhapur State.

2) EDUCATION : COMPULSORY EDUCATION ACT

Shahu Chhatrapati gave atmost encouragement to the spread of education among the socially backward class in Kolhapur State. It was under his leadership the different hostels were started it was because these hostels that the socially and economically backward people could take education. He provided for higher, collegiate and technical education in Kolhapur State. Shahu thus encouraged secondary and higher

education. But by 1917, he became aware of the importance of spread of primary education ⁵⁹ in Kolhapur. He released that while a previleged few got the opportunity of higher education, the majority of the people were denied right of basic primary education. It was because of this understanding that Shahu taught of diverting the expenditure from the higher education to the primary education. He for a while stopped the expenditure on account of Rajaram College. Moreover, it was because of this understanding that Shahu reite@rted the principle, "No cake to a few unless all are served with bread." ⁶¹

Against this background Shahu Chhatrapati by his order 11th September, 1917, passed the Compulsory Education Act. 62 The Act was based upon the rules and recommendation made by the President, Compulsory Education Committee Kolhapur. 63 aim of the act was that the subjects of Kolhapur State should know reading and writing and thereby understand the conditions in which they lived. These rules were to be applicable to the Karveer Ilakha. 65 Children between age of seven to fourteen were to be regarded as children to be sent school. 66 parents, it was laid in the Act to sent their children to school. 67 It was only exceptional cases that exemption to some children for not attending the school was to be given. The physically and mentally disabled children, children required to nurse their old and invalid parents were given the exemption. Similarly, if the school was not within then area of one mail. from the residence of the child, Exemption would given. The

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Act was not be applicable to the children who had passed IVth standard. 68

The parents had to send their children to the school. If the students was found to be absent for a long period the Police Patil of the village upon the report of Head Master, could impose fine on the parents. The Patil in turn was to communicate to government to communicate to Mamalatdar the detail regarding the fine collected.

Act. Shahu believed in providing infrastructure to primary education which can be known from the number of primary schools that were opened in Kolhapur, in this period. At the same time he seems to have believed that compulsion on parents and children's to take atleast the basic primary education was necessary for the people to be fit for self-government. 72

3) RELIGIOUS MATTERS :

The acts passed in Kolhapur State under Shahu Chhatrapati in religious matters are by and large concerning the Hindu religion. Cow-slaughter, the Vedokta Contraversy, management of the Mahalaxmi temple and need for the establishment of Religious Bench are some of the subjects, that are included in the study of this subject.

Cow Slaughter:

Shahu Chhatrapati was a devote Hindu and, therefore, one of the earliest orders of Shahu Chhatrapati is regarding the

prohibition of Cow-slaughter. In accordance with the Resolution No. 276⁷³ of 4th September, 1899, it was declared that according to the orders of Shahu Chhatrapati Cow-slaughter was forbidden in Kolhapur State. Any one violating this order was to be punished according to the law. Shahu Chhatrapati however, became aware of the possibility of litigation and in order to avoid it passed another order that any legal suit to be made on a person guilty of a cow-slaughter⁷⁴ should need the permission of the Chhatrapati. In 1919, Shahu want a step further in this matter and ordered on 26th August, 1919, that no cows could be sold at any place or any time in Kolhapur State to a butcher. If a person was found sailing cows to a butchers, it was laid down in a order, that the sailer of the cow would be punish with heavy fine.

The Vedokta Controversy in Kolhapur State:

The famous vedokta controversy in Kolhapur State had different significant aspects, viz. social, religious and judicial. The genecious of Vedokta controversy can be seen in the Brahmin idealogy expressed in a few Puranas and Shastras which claimed that viz. the only two <u>Varnas</u> the Brahmin and the <u>Shudra</u> existed. The existence of Kshatriyas and Vaishyas in the <u>Kaliyuq</u> was not accepted scrupulously attempted to implement this Brahminical idealogy. The coronation of Shivaji the great, according to the Vedic rites was opposed by Brahmin orthodoxy. This opposition was not powerful because of the great position enjoyed by Shivaji in the then society.

In the 18th century under the rule of the Peshwas the Brahmin idealogy claiming the non-existence Kshatriyas in Kaliyug was again imposed on the society. Raja Pratapsinh of Satara was also sized by this problem. 77 In British India different rulers like Sayajirao Gaikwad of Baroda had to face opposition from the Brahmin orthodoxy to their claim of Kshatriyahood. 78 The Vedokta controversy thus had a long tradition in India and this conflict was essentially a focul point of Brahmin-Kshatriya conflict. Shahu Chhatrapati of Kolhapur also faced this opposition, which was led by Narayanrao Sadashiv alias Appasaheb Rajopadhye, the official priest and servant of Kolhapur State, supported strongly by Prof. Vijapurkar, Lokamnya Tilak and the Vast Brahmin orthodoxy. We are here concerned with judicial aspect of the Vedokta controversy in Kolhapur State. In year 1900, Narayanrao Rajopadhye assigned Shudra status to Shahu. 79 Shahu Chhatrapati initially adopted mild approach and passed written orders asking Rajopadhye to perform the religious rites in the palace according to the vedic Mantras. 80 Rajopadhye supported by Brahmin orthodoxy leaders flatly refused to perform vedic rities in the palace in Kolhapur. The Kolhapur Darbar gave the decision on 6th May, 1902, by which Rajoapadhye was removed from the post of the royal priest. 81 The Inam villages and lands and the civil, criminal and revenue powers all of which was given by Kolhapur State to perform religious duties in the palace according to the orders of the Chhatrapati were confiscated by the court of Kolhapur Darbar. 82 The Rajopadhye made an appeal to the court

of Kolhapur on the 28th July, 1902, to revoke the order of 6th May, 1902. 83 The court of Kolhapur Darbar by its order of 10th September, 1902, dismissed the Rajopadhye from Darbar. 84 Rajopadhye, therefore, appealed to Political Agent on 9th January, 1903, requesting him to restore his confiscated rights and villages. 85 The political Agent however, dismissed the appeal of Rajopadhye. 86 Rajopadhye thereafter made an appeal to the Bombay Government which also did accept his argument. 87 Rajopadhye on 5th January, 1905, appealed the Government of Governor General, which was supplemented by an appeal on 10th April, 1905. 88 The Government of Governor General and Viceroy by its decision of 9th May, 1905, accepted the final power of Chhatrapati of Kolhapur in all these matters. 89

It can be seen, therefore, that Narayanrao Sadashiv alias Appasaheb Rajopadhye made appeal to the Courts of Political Agent, Government of Bombay and Government of India against the decision of Kolhapur Darbar. These appeals reflect upon the judicial procedure prevalent in Princely State like Kolhapur. The decision of all the Courts went in favour of Shahu Chhatrapati of Kolhapur. The Vedokta Controversy and the stand taken by leaders like Lokamnya Tilak, influenced to a large extent, the socio-religious and political policy of Shahu Chhatrapati in future. The slavery imposed by Brahmin idealogy and supported by leaders like Lokamnya Tilak was it seemed to Shahu more severe, more in-human and more depressing than even rule of British.

Mahalaxmi Temple : Karveer Niwasini Deosthan :

The arrairs of the Mahalaxmi Temple were managed by one <u>Pradhan</u> before the take-over by the Kolhapur government. For the expenditure of Mahalaxmi <u>Deosthan</u> Pradhan purchased different articles on loan from merchants. As Pradhan failed to repay the loan, suits were filed against <u>Kamgar</u> and <u>Khasgi-Kharbari</u>, appointed by the Kolhapur government of Deosthan. According to the decision of the civil court the loan was repay out of the income of the Mahalaxmi temple. By November, 1916, a second suit was filed against the Khasgi-Karbari for the similar reason. 91

In order to avoid legislation involving the Mahalaxmi temple and as Mahalaxmi temple as came under the management of Kolhapur Darbar, it was laid by the Kolhapur government under Shahu Chhatrapati that the department inquiry would be made regarding the pending dues and loan taken on behalf of the Mahalaxmi temple. The decisions in these matters were to be made by Shahu Chhatrapati through the departmental inquiry.

Establishment of Religious Bench:

A need was fell for establishing Religious Bench deciding cases of religious nature. Shahu Chhatrapati by his order of 20th September, 1918, made provision for the establishment of religious bench. 93 The Bench was to be headed by

Gundo Sakharam Pishvikar, Dharmadhikari, and Ganpatrao Ingale Raj-Dharmadhikari. ⁹⁴ The Bench to be located in the Old Palace ⁹⁵ with one Karkun knowning both Sanskrit and English and three peons. ⁹⁶ Gundo Sakharam Pishvikar was to be get monthly salary Rupees forty and a provision for a monthly expenditure of rupees eight was made. ⁹⁷ Both Dharmadhikari and Raj-Dharmay dhikari were given the right to take witness from persons on oath. ⁹⁸ It may be mention here that Pishvikar the Dharmadhikari was brahmin by caste, while Ingale was Maratha. Shahu Chhatrapati, therefore, as in the case of Shastra Jagatguru recognise the right of Maratha scholar, in additional to brahmin scholars, the right of deciding cases involving religious matters.

Jogatya-Murlya Prohibition Act:

In Kolhapur and the adjoining areas there are Hindu deities like Khandoba and Yellamma. There has been a practice of offering boys and girls, to deities for the fulfilment of vow among the followers of these deities. The boys and girls so offered to the deities are sexually and socially exploited by the people and found themselves ultimately in the brothels of Bombay. Shahu Chhatrapati by the beginning of the 20th Century passed an act in prohibiting this practice. The act was operative in Kolhapur State and, therefore, the practice came to be discontinued in the temples of these deities in Kolhapur State.

4) AGRARIAN CONDITION:

Shahu Chhatrapati succeeded to the Kolhapur gadi in 1894. 100 One of the earliest orders of Shahu is concerning welfare of the cultivators in Kolhapur State. The cultivators use to take loan on the surety of bullocks used for cultivation of the land. When the cultivator fail to repay the loan, according to the orders of the court of law, the bullocks or other animals were attached by the bankers. This practice was formerly (on 16th August, 1855) was declared null and void by the Political Agent. 101 When the question of following the tradition or order of the Political Agent in Kolhapur before Shahu Chhatrapati. He ordered in favour of Political Agent's order as it was sympathetic towards the cultivators. Shahu, therefore, ordered the discontinuation of the traditional practice of the said of animals useful for agricultural operations. 102

The other matter that was given attention was the weights and measures. For the sale and purchase of gagery, as maund consisting of sixteen seers was to be used. 103 Similarly the wood for sale was to be weighted with the help of the iron maund of forty seers, instead of the stone a maund that was used in Kolhapur city 104 prior to 1899.

There was the practice of collecting Faski¹⁰⁵ in the weekly markets. Faski was a handful of shample which could be collected by the Patil or Shette while moving in the weekly markets. By this practice the cultivators lost some part of

their produce. Shahu by his order of 18th June, 1895, look declared the practice of Faski as illegal. It was also declared that any persons collecting Faski would tried in the criminal courts and punished accordingly.

established at Shahupiri according to the order of market of animals 108 was to be established on the bank of the tank and the bazar of the other commodities in the Peth of Shahupuri. New markets were also established according to the demand of the people. In village Chanwad 109 (Petha Panhala) an village Yelwade 110 (Petha Karveer). Weekly markets were established according to orders of the District Magistrates.

Due to the failure of the corps there were famine condition in Kolhapur in the 1899 to 1900. There was shortage of food because of the failure of the crops. K.N. Pandit the Sar-Nyayadhish there upon instruction of Shahu published and order of distontinuing the judicial orders attaching the land the other possessions 111 of the cultivators. Later on in 1906 to 1907 there was famine in Kolhapur and orders were issued not to attach the landed and other property of the cultivators. 112

The cultivators used to send their agricultural product to the newly established Shahupuri market in bullock-carts.

These bullock carts were used for other purposes and money was extracted from the drivers of the bullock-carts by the police department of the Kolhapur State. Consequently the

peasants to a certain extent discontinued to send their produce to the Shahupuri market, resulting into the loss of Shahupuri market and the merchants. A Shahu, therefore, ordered the police department not to trouble the bullock-carts of the cultivators. If they were so troubled by the police the bullock-cart drivers could seek justice from the District Magistrate or city Magistrate. 114

The Baluta system was the practice in Kolhapur State. The practice was misused by the Balutedars and the government servants. The Balutedar Barbar, and carpentar used to bycott the artisens coming from outside. Shahu Chhatrapati, therefore, on 5th March, 1919, 115 made an attempt to discontinued the practice of Baluta on the Holyday. By another order of 21st June, 1919, it was laid down that the cultivators should not give the Baluta or Baite (Share of grain) to the balutedars. If a government servant or a banker or any other person forciably demanded Baluta he was to be punished with fine and regerous punishments. 116 The Sahukars in order to collect their debt used to bring attachment on the grain at the time of harvesting. The cultivator could not get proper legal advise at such places. It was, therefore, laid down by order that the Sahukar or other persons could not attach the grain of the cultivator still it reached the cultivators house. 117

In the mountaineous area of the Kolhapur State the boars in the jungle use to destroy the standing crops of the cultivators. It was, therefore, declared upon the instruction

by the District Magistrate that the Patils of the villages, sufferings due to the boars should hunt the boars with the help oft the cultivators. The necessary supply of guns to hunt the boars was made by the Kolhapur government under proper restrictions. 118

On the other hand the peasants in the villages in the vicinity of the jungles use to encroach in the forest area.

Such encroachments by peasants and their cattle were forbidden by the Jungle Act No. 52 of Kolhapur State.

Currency:

The coins of the British government were in circulation in Kolhapur State. 120 The Rupee coins meanted in 1835 and 1840 were also in circulation in Kolhapur State. 121 When the people of Kolhapur started to reject the British coins meanted 1835 and 1840. R.V. Sabnis, Diwan of Kolhapur government by an order of 21st September, 1901, made it clear that the coins were circulation and should not be rejected. 122 As the coins of the British government were circulation in the Kolhapur State, the British government was interested in cases involving counterfut coins. 123 The British government ask the Kolhapur government to supply all the details regarding the suits involving the counterfut coins. Similarly melting the gold or the silver coins was an offence in British India. Due to the first world war by which prices of gold and silver increased,

the tendency to melt the silver and gold coins increased.

R.R. Shirgaonkar, the Additional Diwan of Kolhapur State, controlling the Legislative Department of Kolhapur state issued and order to effect that melting silver or gold coins was an offence, For which the guilty person could punished with fine and imprisonment. 124

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