

CHAPTER - V

LEGISLATIVE MEASURES AND 'TEMPLE ENTRY OF UNTOUCHABLES'

1. PUBLIC TEMPLE AND UNTOUCHABLES

Public Temple : Public temple is a “place of public worship”; and is defined “as a place of public religious worship, or which is dedicated generally to, or used generally by persons professing any religion, or belonging to any religious denomination or any section thereof for performance of any religious service, or for offering prayers therein; and includes all lands and subsidiary shrines appurtenant or attached to such places.”

The temple entry by the scheduled caste men on equal and non-discriminatory basis along with other persons professing the same religion or belonging to the same religious denomination is a head of social reform and a law providing for this is deemed not to affect religious freedom of the caste Hindus. In terms Clause (2)(b) of Article 25 confers no right of temple entry; but enables the state to provide for this as a social reform and welfare measure. The prevention, resistance or opposition to temple entry arising out of “untouchability” is made an offence punishable in accordance with Section 3 of the UOA (Untouchability Offences Act). Whosoever prevents any person from temple-entry must be guilty not only of practising “untouchability”, but also be instrumental to deny him freedom to prefer or practice religion equally along with persons professing the same religion or belonging to the same religious denomination as him.¹

Process of social change is always gradual. Law is often used as an instrument to bring about desired social reforms. The untouchable

masses in India suffered from several social disabilities for centuries together. Social reformers of India in 19th and 20th centuries endeavoured to abolish caste distinctions and eradicate untouchability. In the 20th century Maharashtra reformers gave higher priority to the issue of temple entry of the untouchables.

V. D. Savarkar, Dr. Panjabrao Deshmukh, S. J. Kamble, Dr. B. R. Ambedkar and P. S. Sane (Sane Guruji) seriously grappled with this problem. So they initiated a campaign to seek entry for the untouchables into Hindu temples since the beginning of the 20th century. The campaign was going on in various regions of Maharashtra. But it did not yield good results. Therefore, need to bring about desired social reforms by enacting necessary legislative measures was felt. Eventually, the Governments of India as well as of Maharashtra turned their attention towards the religious rights of untouchables through the legislative measures. Hence it becomes essential for us to study the legal aids made by the government if we want to throw light on the 'untouchability and temple entry of untouchables' and cases raised in Maharashtra related to this problem. Therefore, an attempt has been made here to highlight that aspect.

2. TEMPLE ENTRY OF UNTOUCHABLE'S AND LEGAL AIDS

2.1 Pre-Constitution Period :

The Constituent Assembly convened in 1946 was to frame a new constitution for independent India. Almost all the people were preparing themselves to welcome the dawn of a new social order based on a new political order which was to be incorporated in the Constitution. The anti-untouchability movement led by Dr. B. R. Ambedkar and Mahatma Gandhi had also created favourable atmosphere for the removal of untouchability. It was this situation which impelled several states and

provinces to pass the laws to abolish untouchability in their respective states and implement them.² 'Temple Entry Laws' was one of the steps towards the removal of untouchability and creation of equality among the people. The following table shows the states and years of implementation of the 'Temple Entry Acts' in pre-constitution era.

Table - I

Sr. No.	State	Temple Entry Act
1.	Bombay	The Bombay Harijan Temple Entry Act, 1947.
2.	Orissa	The Orissa Temple Entry Authorisation Act, 1948.
3.	Punjab	The East Punjab (Removal of Religious and Social Disabilities) Act, 1948.
4.	Hyderabad	The Hyderabad Harijan Temple Entry Regulation 1358 F.
5.	Mysore	The Mysore Temple Entry Authorisation Act, 1948.
6.	Coorg	The Coorg Temple Entry Authorisation Act, 1949.
7.	Travancore Cochin	The Travancore Temple Entry (Removal of Disabilities Act, 1950)

The above table shows that out of 26 states, The Temple Entry Acts were in operation only in 7 states.³

It is satisfactory thing that The Bombay Temple Entry Act, 1947 was in force in the Maharashtra State. It has been mentioned in Part-X-1 of the Constitution (Scheduled Castes) Order, 1950 that there are total 59 scheduled castes in Maharashtra.

The scheduled caste people in Maharashtra also were denied entry in the public Hindu temples by the caste Hindus till 1947. In this

respect 'the Bombay Harijan Temple Entry Act of 1947' has greater importance. The Act was much helpful to the untouchable masses. Hence the main provisions of that Act are discussed below :

2.1.1 The Bombay Harijan Temple Entry Act, 1947 :

"Bombay Act No. XXXV of 1947"

(The Bombay Harijan Temple Entry Act, 1947)

(23rd November, 1947)

Amended by Bombay 77 of 1948 :

An Act to entitle *Harijans* to enter and perform worship in temples in the Province of Bombay.

WHEREAS it is expedient that the rights of the *Harijans* to enter and perform worship in temples in the Province of Bombay be recognised by law. It is hereby enacted as follows :

1. Short Title and Extent :

- 1) This Act may be called the Bombay Harijan Temple Entry Act, 1947.
- 2) It extends to the whole of the Province of Bombay.

2. Definitions :

In this Act, unless there is anything repugnant in the subject or context -

- a) "Harijan" means a member of a caste, race or tribe deemed to be a scheduled caste under the Government of India (Scheduled Castes) Order, 1936;
- b) "Hindus" includes Jains;
- ²[(c)"temple" means a place by whatever name known and to whomsoever belonging, which is used as a place of religious

worship by custom, usage or otherwise by the members of the Hindu community or any section thereof and includes all land appurtenant thereto and subsidiary shrines attached to any such place;]

- d) "Worship" includes attendance at a temple for the purpose of *darshan* of a deity or deities^{3**} in or within the precincts thereof.

3. Right of Harijan to Enter and Perform worship in Temples :

Notwithstanding anything contained in the terms of any instrument of trust, the terms of dedication, the terms of a Sanad, or a decree or order of a competent court, or any custom, usage or law, for the time being in force to the contrary, every temple shall be open to *Harijans* for worship in the same manner and to the same extent as ⁴[to any member of the Hindu community or any section thereof] and *Harijans* shall be entitled to bathe in, or use the waters of, any sacred tank, well, spring or water course in the same manner and to the same extent as ⁴[any member of the Hindu community or any section thereof].

4. Penalty -

1. Whoever -

- i) Prevents a Harijan from exercising any right conferred by this Act, or
- ii) Molests or obstructs or causes or attempts to cause obstruction to a Harijan in the exercise of any such rights shall, on conviction, be punishable with imprisonment which may extend to six months or with fine or with both.

2. Notwithstanding anything to the contrary contained in any instrument or any law, custom or usage, where the manager or trustee of a temple which is in receipt of a grant of land or money from

Government is convicted of an offence punishable under sub-section (1), and such conviction is not subsequently reversed or quashed, the Provincial Government may direct the suspension or resumption of the whole or any part of such grant.

5. Exclusion of Jurisdiction of Courts :

No civil court shall entertain or continue any suit or proceeding or shall pass an order or decree or execute wholly or partially any order or decree, if the claim involved such suit or proceeding or if the passing of such order or decree or if such execution, would in any way be inconsistent with the provisions of this Act.

6. Power to Arrest Without Warrant :

Any Police Officer not below the rank of Sub-Inspector may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under this Act.⁵

2.2 The Constitution of India :

The Constitution of India is the basic and supreme law of our country. It provides the philosophy of liberty, equality and fraternity which is conducive for the egalitarian and humanitarian form of society. Therefore, it may be said that the constitution is the first and foremost law which, *inter alia*, provides for abolition of untouchability.⁶

Article 17 of the Constitution states, “‘Untouchability’ is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of ‘Untouchability’ shall be an offence punishable in accordance with law.” “Enforcement” means the act of enforcing or compelling the obedience to get something done. “The enforcement of disabilities includes more than actual physical prevention of the use of facilities or compulsion of customary deference.

The Untouchability (Offences) Act makes it an offence to molest, injure, annoy, obstruct or attempt to obstruct the exercise of any right accruing to a person by reason of Article 17. Even loud words by worshipper frightening an untouchable boy to go out of a temple have been held to constitute an offence under an Act.⁷

The Constitution of India attempts to tackle the problem of untouchability in two fundamental ways - first by providing to meet more effectively the social problems of the scheduled castes typified by the term 'Untouchability' through the fundamental directive of article 17 enjoining the Parliament through article 35 specifically to lay down suitable laws. Secondly, by providing in the Constitution for special privileges and reservations in the economic and political fields for the discriminated categories known as Scheduled Castes and Schedules Tribes. There are certain other provision in the Constitution like those contained in articles 25, 26, 27, 28, 29 and 30 which secure certain rights for the minorities and other religious denominations. This third category may also have implications for the problem of scheduled castes as it may present obstacles and difficulties for actual implementation of the untouchability laws. It is true that the denominational protection was put in the Constitution to take care of the sensibilities of the minorities. The protection of religious minorities tends to go wider and has a much larger implication which is likely to be utilised by the many denominations within the Hindu society itself.⁸

'Article 25 of the Constitution relates to freedom of conscience and free profession, practice and propagation of religion.

Article 25 (1) states that the wearing and carrying of Kirpans shall be deemed to be included in the profession of the Sikh religion.



Article 25 (2)(b) also relates to providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion and the reference to Hindu religious institutions shall be construed accordingly.⁹

The Temple Entry provision of Article 25 extends to all classes of Hindus, not merely to “untouchables”. “The practice of ‘Untouchability’ includes exclusion from temples, but the entire temple entry field is not pre-empted by Article 35.” Thus, the state governments are constitutionally empowered to make laws for throwing open of Hindu Temples for all the Hindus, including Sikh, Jain and Buddhist.¹⁰

3. THE PROTECTION OF CIVIL RIGHTS ACT, 1955

The constitution has empowered Parliament under Article 35(a)(ii) to make laws for prescribing punishment for those acts which are declared to be offences under part-III - Fundamental Rights. “Untouchability” being an offence under Article 17, parliament has got exclusive power to make law for prescribing punishment for the same offence. Therefore, the state governments are no more entitled to make laws to deal with the offences of untouchability. Thus the constitution recognizes “Untouchability” as a national problem for which it intends to have a uniform and comprehensive law to be passed by the Parliament alone. The Parliament has fulfilled its responsibility of passing such law in 1955, in the form of “The Protection of Civil Rights Act, 1955.”¹¹ How are the religious rights of a person protected by this Act has been given in detail in it.

“The protection of Civil Rights Act, 1955”

(Act No. 22 of 1955)

(8th May, 1955)

(As modified upto date)

An act to prescribe punishment for the (Preaching and practice of “untouchability”), for the enforcement of any disability arising therefrom and for matters connected therewith.

Be it enacted by Parliament in the sixth year of the Republic of India as follows :

1) Short title, extent and commencement -

- i. This Act may be called ‘the Protection of Civil rights Act, 1955’.
- ii. It extends to the whole of India.
- iii. It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2) Definitions - In this Act, unless the context otherwise requires -

[(a) “Civil Rights” means by right accruing to a person by reasons of the abolition of “Untouchability” by Article 17 of the Constitution];

[(c) “Place of public entertainment” includes any place to which the public are admitted and in which an entertainment is provided or held.

Explanation : “Entertainment” includes any exhibition, performance, game, sports and any other forms of amusement];

(d) “Place of public worship” means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by person professing any religion or belonging to any religious

denomination or any section thereof, for the performance of any religious service, or for offering prayers therein; and includes -

- i) all lands and subsidiary shrines appurtenant or attached to any such place;
- ii) a privately owned place of worship which is, in fact, allowed by the owner thereof to be used as a place of public worship, and
- iii) such land or subsidiary shrine appurtenant to such privately owned place of worship as is allowed by the owner thereof to be used as a place of public religious worship].

3) Punishment for Enforcing Religious Disabilities :

Whoever on the ground of "Untouchability" prevents any person-

- a) from entering any place of public worship which is open to other persons professing the same religion 4*** or any section thereof, as such person; or
- b) from worshipping or offering prayers or performing any religious service in any place of public worship or bathing in, or using the waters of, any sacred tank, well, spring or water course (river or lake or bathing at any Ghat of such tank, water-course, river or lake) in the same manner and to the same extent as is permissible to other persons professing the same religion 4*** or any section thereof as such person;

[shall be punishable with imprisonment for a term of not less than one month and more than six months and also fine which shall be not less than one hundred rupees and not more than five hundred rupees]

Explanation - For the purposes of this section and section 4.



Persons professing the Buddhist, Sikh or Jain religion or persons professing the Hindu religion in any of its forms of developments including Virashaives, Lingayats, Adivasis, followers of Brahmo, Prathana, Arya Samaj and the Swami Narayan *Sampraday* shall be deemed to be Hindu.

***9. Resumption or Suspension of Grants made by Government :**

Where the Manager or trustee of a place of public worship (or any educational institution or hostel) which is in receipt of grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

10. Abatement of Offence :

Whoever abets any offence under this Act shall be punishable with the punishment provided for offence.

[Explanation - A public servant who wilfully neglect the investigation of any offence punishable under this Act shall be deemed to have abetted an offence punishable under this Act.)”¹²

The Government of India failed to implement that Act successfully, though it had been passed for the welfare of people. Therefore, it showed no results.

4. STATE GOVERNMENT AND TEMPLE ENTRY ACTS

It is well known that the Government of India passed ‘The Protection of Civil Rights Act’ in 1955 with the intention of protecting the rights of the untouchables.

Still the state Governments have retained their power to make laws for removing religious disabilities and authorising the untouchables to enter temples in their respective states, under Article 25(2)(b) of the constitution.¹³

At present the Temple Entry Acts are prevailing in the states viz. Hyderabad, Central provinces and Berar (1947), Madras (1947), Bombay (Maharashtra) ((1947 and 1956), Mysore (1948), Orissa (1948), Coorg (1949), Travancore-Cochin (1950), Uttar Pradesh (1956) and Kerala (1965).

4.1 State of Maharashtra :

It is important to explain the Temple Entry Act passed by the government of Bombay in detail. The Bombay Harijan Temple Entry Act of 1947 has already discussed in this chapter. Therefore, 'Bombay Hindu places of Public Worship (Entry Authorisation) Act of 1956 is given in detail below :

'After the passing of the Untouchability (Offences) Act in 1955, some states passed the 'Temple Entry Laws' in 1956 purporting to clarify the intent of the Untouchability (Offences) Act so far as it related to the disability arising out of the practice of prohibiting some groups of Hindus to enter certain public temples for purposes of worship. The Bombay Act, particularly, is a consequence of the interpretation of the Untouchability Offences Act as protecting certain denominations which attempted to exclude entry of some Hindu castes in their temples which were held by the courts as the denominational ones. Section 3 of the Bombay Hindu Places of Public Worship (entry Authorization) Act, 1956 throws open the door of even denominational institutions of worship to all classes of Hindus.¹⁴

‘Bombay Hindu Places of Public Worship**(Entry Authorization) Act, 1956’****(Bombay Act No. XXXI of 1956)**

An Act to make better provisions for the throwing open of places of public worship to all classes and sections of Hindus.

Preamble :

Whereas it is expedient to make better provision for the throwing open of places of public worship to all classes and sections of Hindus, it is hereby enacted in the seventh year of the Republic of India as follows:

1. Short Title, Extent and Commencement :

- (i) This Act may be called the Bombay Hindu Places of Public worship (Entry Authorization) Act, 1956.
- (ii) It extends to the whole of the state of Maharashtra/ State of Gujarat.
- (iii) It shall come into force (in the Bombay area of the state of Maharashtra) on such date as the state Government may, by notification in the official Gazette, (appoint; and in that part of the state of Bombay to which it is extended by the Bombay Hindu Places of Public Worship (Entry Authorization) (Extension Act, 1957; it shall come into force on such other date as the State Government may, by notification published in the like manner, appoint).

2. Definitions :

In this Act, unless the context otherwise requires,

- (a) “Place of Public Worship” means a place, whether a temple or by any other name called, to whomsoever belonging

which is dedicated to, or for the benefit of, or is used generally by Hindus, Jains, Sikhs or Buddhists or any section or class thereof, for the performance of any religious service or for offering prayers therein; and includes all lands and subsidiary shrines, appurtenant or attached to any such place, and also any sacred tanks, wells, springs and water courses the waters of which are worshipped, or are used for bathing or for worship;

(b) "Section" or "class" of Hindus includes any division, sub-division, caste, sub-caste, sect or denomination whatsoever of Hindus.

Throwing Open of Hindu Temples to All Classes and Sections of Hindus:

3. Notwithstanding any custom, usage or law for the time being in force, or the decree or order of a court, or anything contained in any instrument, to the contrary, every place of public worship which is open to Hindus generally, or to any section or class thereof, shall be open to all sections and classes of Hindus; and no Hindu of whatsoever section or class, shall in any manner be prevented, obstructed or discouraged from entering such place of public worship, or from worshipping or offering prayers thereat, or performing any religious service therein, in the like manner and to like extent as any other Hindu or whatsoever section or class may so enter, worship, pray to perform.

4. Penalty :

(1) Whoever in contravention of Section 3 -

(a) prevents any person belonging to any class or section of Hindus from entering, worshipping offering prayers, or performing any

religious service in any Hindu temple which is used as a place of public worship, or

- (b) Molests, injures, annoys, obstructs or causes or attempts to cause obstruction to, or by the threat of molestation, injury, annoyance or obstruction, overawes or discourages any such person doing or performing any of the act aforesaid, shall on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.
- (2) Nothing in this section shall be taken to relate to offences relating to the practice of "Untouchability".

5. Abatement Of Offences :

Whoever abets any offence under this Act, shall be punished with the punishment provided for the offence.

Limitation of Jurisdiction of Civil Courts :

No civil court shall entertain or continue any suit or proceeding, or shall pass any decree or order, or execute wholly or partially any decree or order, if the claim involved in any such suit or proceeding, or if the passing of any such decree or order, or if such execution would in any way be contrary to the provisions of this Act.

7. Offences to be Cognizable and Compoundable :

Notwithstanding anything contained in the Code of Criminal procedure, 1898, every offence under this Act shall be cognizable, and every such offence may, with the permission of the Court, be compounded.

8. Saving of Act XXII of 1955 and Other Laws :

The provisions of this Act shall not be taken to be in derogation of any of the provisions of the Untouchability (Offences) Act, 1955, or of any other law for the time being in force relating to any of the matters dealt with in this Act.¹⁵

As we have seen in the earlier chapters, some leaders (of social reform movement) launched 'temple entry *Satyagrahas* with the purpose of giving their right to the untouchables to enter in the public Hindu temples. In this regard Barr. Savarkar, Dr. Panjabrao Deshmukh, Shivaram Janaba Kamble and P. N. Rajbhoj, Madhavrao Bagal, Dr. B. R. Ambedkar and Shri Sane Guruji tried on their level best to remove disability of the untouchables. But with the exception of Sane Guruji none of them was successful in their *Satyagrahas*. It was the *Satyagraha* at Pandharpur after which untouchables got right to enter public Hindu temples legally. Though the leaders mentioned above strongly opposed injustice inflicted by the caste Hindus they had some difficulties as well as limitations. So the need to provide legal protection to the untouchables was acutely felt. Consequently, not only the government of India but also the government of Maharashtra tried to protect the religious rights of untouchables devising and enforcing suitable legal aids.

It was only since 1947 that the government chose to attach due importance to religious rights of untouchables and as such sought to protect them legally. The Bombay Harijan Temple Entry Act, 1947 was a landmark legislation in this regard.

'The Protection of Civil rights Act of 1955 also protected the right of worship of the untouchables in the public Hindu temples.

In spite of it the Bombay government passed 'Bombay Hindu Places of Public Worship (Entry Authorisation) Act in 1956. It was the second Temple Entry Act for the untouchables. Yet, the problem of temple entry of the untouchables is still not resolved. Though, the government of Maharashtra provided legal protection to the untouchables it failed to implement those legal aids tactfully all parts of Maharashtra.

The cases related to this problem which raised in 20th century shows the failure of the legislative measures. Some cases on this issue are as given below :

**1. Bhaichand V. State of Bombay
A.I.R. 1952 Bom. 233**

"Facts : Some members of the Digambar Jain Community, Akluj, Jain Temple, Solapur, filed a petition. The question raised in the petition was whether the *Harijans* are entitled to enter this temple by reason of the Bombay Harijan Temple Entry Act, 1947.

The contention of the petitioner was that if Hindus had no right by law or custom to worship in this Jain temple, then the *Harijans* would have no right to enter into this temple, then no right has been conferred upon the *Harijans* by this Act, on behalf of the state, the Advocate General's contention was that this Act threw open all Jain temples to all the Hindus, the right that the Hindus have by virtue of this Act can also be exercised by the *Harijans*.

Held : Mr. Justice Chagla, C.J., observed that the Bombay Harijan Temple Entry Act, 1947 has a narrow and limited objective to raise the *Harijans* in status and to bring them upto the same position as high class Hindus in respect of temple entry. The object of this legislation is not to do away with the distinction between Hindu and Jain

temples. It was further observed that the legislation was not passed in order to confer any rights upon high class Hindus. It was passed solely for the purpose of removing disabilities of *Harijans*.

It was held that on a true construction of this Act, in a Jain temple Hindus are only allowed to worship provided they have acquired that right by law or by custom. Therefore, the *Harijans* have no right to enter in this Jain temple if Hindus have no right established either by law or custom or usage.

As regards the action taken by the Collector, it was observed that the Collector's action was not fully justified by law. In fact, the Collector ordered the removal of the lock placed on the door of the temple by Jains at the instance of the *Harijans*. Section 4 provides that whoever prevents a Harijan from exercising any right conferred by this Act or molests or obstructs or causes or attempts to cause obstruction to a Harijan in the exercise of any such rights shall, on conviction be punishable in a particular prescribed way. Therefore, if the Collector in the light of the above stated judgement and interpretation, felt that the Hindus had the right by law or custom to enter this Jain temple at Akluj then the prosecution of any Jain responsible for such obstruction can be ordered; otherwise, the Collector had no right to compel the Jains to break open the lock or to assist the Harijan in entering the temple. The matters were, therefore, again referred to the Collector for necessary action in the light of the observations of this court."¹⁶

2. "Prevent"

State V. Kanu Dharma Patil
A.I.R. 1965 Bom. 390

Facts : The respondent committed an offence punishable under Section 4, Bombay Harijan Temple Entry Act, 1947 in that he had

prevented Chintu Rama Abetkar, a Harijan boy, from entering the temple of Shri Bhairi at Waral on 2-5-1963. The accused denied the charge. The Judicial Magistrate acquitted the accused of the offence on the basis that the charge had not been proved against the accused beyond reasonable doubt. The state filed an appeal before the High Court against the order of acquittal passed by the learned Judicial Magistrate First Class, Nurud, in favour of the respondent Kanu Dharma Patil.

Held : Mr. Justice Gajendragadkar observed that the conclusions of the learned Magistrate on the simple questions of fact are so entirely opposed to the weight of evidence that they can be justifiably described as perverse.

It was further pointed out that in construing the provisions of the provisions of the Bombay Harijan Temple Entry Act, and in administering them, we must take judicial notice of the position that unfortunately prevails in many places in the Hindu community today. A Harijan who seeks to exercise his rights is normally diffident and would not be expected to be aggressive in the assertion of those rights. Hindus who, out of ignorance, work to obstruct the exercise of those rights would normally be conscious that it would be unnecessary to use force or to threaten the use of force in order to prevent the exercise of such rights by a Hindu because they know too well the diffidence and weakness from which the *Harijans* suffer.

Referring to the interpretation of the words "prevents and obstructs or attempt to cause obstruction" as used in Section 4, Mr. Justice Gajendragadkar observed that the protection under the above-stated Act might turn out to be illusory if these words are given the narrow construction. As a matter of legal construction, it is not possible to hold that the word "Prevent" means only an obstruction by physical

force. Agreeing with the meaning given in Stroud's Judicial Dictionary, his Lordship stated that it is not intended to suggest that the prevention is a result of physical obstruction.

It was further pointed out that in some cases, prevention may take the form of physical obstruction. The gates of temple may be closed or the entry of the Harijan in the temple may be barred by putting a physical obstruction in his way. But it is equally possible that in some cases, where *Harijans*, who are not fully conscious of their rights and not aware of the strength of their cause, seek to enter the temple in a timid and diffident way, they might be prevented from making an entry merely by the use of words strong and loud.

It was held that words used in Section 4 cannot be given very narrow and unreasonable construction. The acquittal of the accused was, therefore, set aside and he was convicted of the offence and a fine of Rs. 50/- was imposed on the accused or, in default, was ordered to suffer imprisonment for two weeks.”¹⁷

During 1980, 1981 and 1982 Maharashtra State recorded highest number of cases related to the problem of untouchability than any other state; Tamilnadu stands second and Karnataka stands third in order of high reporting states. For every one lakh of population of Scheduled Castes, Maharashtra records 35.06 cases, Tamilnadu 14.07 cases and Karnataka records 13.58 cases. However, it should be borne in mind that the low frequency of offences cannot be a criteria of judging the magnitude of the problem of untouchability. Because most of the scheduled castes due to fear of boycott do not report the matter to the police station. Offences in respect of Temple Entry are slowly decreasing. It may be because either the scheduled castes might be

losing their faith in worshipping in the temples or the caste Hindus might have adopted a liberal attitude in respect of temple entry.¹⁸

After considering the above legal aids, especially the 'temple entry acts' which intend to give the legal protection for the untouchables' some questions do arise. Have the Indian parliament and the state legislature (Maharashtra) succeeded in giving proper justice to the untouchables in respect of their religious rights? If yes, then why the number of cases of 'temple entry' has been increasing continuously till now, not only in the state of Maharashtra but also in the other states of India? And how many people of Maharashtra enjoyed their religious rights by reporting such cases? The legal system of Maharashtra has given justice to only a few persons for exercising their religious rights. If the legal system of union as well as of Maharashtra government is properly geared up to help the weaker sections of society as untouchables, then there will be very limited scope for such cases of temple entry.

Therefore, it would not be an exaggeration if it is observed, "there is minimum co-operation and co-ordination between the agencies of the law enforcement which results in failure of justice."¹⁹

REFERENCES AND FOOTNOTES

1. Mangal Chandra Jain Kagzi, *Segregation and Untouchability Abolition*, pp. 209-210.
2. Kshirsagar R. K., *Untouchability in India*, pp. 103-104.
3. Ibid., pp. 104-106 (The Temple Entry Acts given in Table No. I).
4. Ibid., pp. 343-344.
5. Published by the Government of Maharashtra, '*Bombay Code*', vol. II, pp. 2485-2486.
6. Kshirsagar R. K., Op. cit., pp. 81-82.
7. Ibid., pp. 88-90.
8. Sharma G. S. *Legislation and Cases on Untouchability and Scheduled Castes in India*, P. 2.
9. Sharma G. S., Op. cit., pp. 16-17.
10. Kshirsagar R. K., Op. cit., P. 160.
11. Ibid., P. 159.
12. Singh Karan (Advocate), Delhi High Court and Chaudhari H. S. (Advocate), *Supreme Court of India, Civil Central Acts (Alongwith Rules and latest cases)*, pp. 535, 536 & 539.
13. Kshirsagar R.K., Op. cit., P. 160.
14. Sharma G. S., Op. cit., P. 3.
15. Kshirsagar R. K., Op. cit., pp. 325-327.
16. Ibid., pp. 104-105.
17. Ibid., pp. 74-75.
18. Ibid., pp. 203, 205 & 206.
19. Ibid., P. 272.