
SOCIO-LEGAL COMPLEXITIES OF THE COLONIAL PERIOD (1850 TO 1870): AN ANALYTICAL STUDY

Jyotiba Ashok, Babashaheb Bhimrao Ambedkar University, Lucknow

ABSTRACT

Discrimination based on religion and caste has existed in Indian society for centuries. It intensified in the 19th century. The social divisions based on caste, class, and gender gradually became a permanent part of socio-legal practices within India. Untouchability and caste and class superiority constituted major sources of social discrimination and inequalities. Differential treatment of persons accused of the same offence also became part of the socio-legal framework. Many social obligations and religious restrictions were imposed on women. Initially, the British refused to interfere in the internal socio-legal affairs of Indian society. However, over time, the British changed their policies. In the colonial period, the British identified social evils and enacted numerous laws, regulations, and legal provisions to eliminate them. Between 1850 and 1870, major socio-legal transformations occurred. However, they aimed to establish their own system of governance. These interventions significantly altered India's customary legal traditions.

Keywords: Socio-legal transformation, inequalities, discrimination, accusation, punishment.

Introduction

At the beginning of the “later medieval period,” the Indian socio-legal system was at one of its lowest stages.¹ Feelings of Indianness were seriously hampered due to the situation of different hierarchies and inequality. This study will examine various socio-legal issues between 1850 and 1870. During this period, the British passed almost four dozen acts, and several others were under the process of legislative enactment or in the drafting phase.² The Indian socio-legal system evolved through centuries of customary traditions, religious norms, and political institutions. Numerous structural inequalities and discriminatory practices existed within society. Most of these have disappeared over time, whereas several social problems remain persistent.

The research article will discuss the three sections of society. The first section examines the socio-legal positions of Untouchables. The second section examines the classes that were recognised under British policy. Finally, this study examines the socio-legal problem affecting half the entire population, i.e., women.

Literature review

Ram Sarana (2021) stated that India’s idealistic society began with the Harappan civilization. However, during the Vedic era, social transformations occurred which led to the fall of the socio-legal structure. K.C. Srivastava (2004) and Parash Diwan (2019) further add that the emergence of the Varna system and patriarchal society were among the major transformations. In the later Vedic era, Jainism and Buddhism opposed and attempted to eliminate discriminatory social practices. Paranjape (2004) further discusses that the discriminatory practices originating in the Vedic era became part of society in the 19th century.

According to Ambedkar (1937), during the early British period, Indian society was divided into many religious sects and sub-sects. Various inequalities and discrimination were at their peak. Murray (1995) explains that the practices and traditions of each sect were fully distinguished, and their systems of justice were completely different.

¹ Satish Chandra, *Madhya Kaleen Bharat Rajniti, Samaj, Or Sanskriti 8^{vi} Se 17^{vi} Sadi Tak*, Orient Black Swan, New Delhi, 1st edn., Hindi, 2009.

² M. P. Jain: *Outlines of Indian Legal and Constitutional History*, LexisNexis Butterworths Wadhwa, 6th edn., 2012.

According to Hastings (1910), the British initially refrained from intervening in internal customs and religious matters. Macaulay (1820) argued that over a long time, they bombarded of the laws on all social demerits uniformly.

Bogle (1970) and Nicholes (1986) express that during the colonial period, prominent social issues including severe caste-based discrimination, class-based inequalities, and gender-based discrimination were normal. Manu, in chapter 2, emphasised that variation in accusations and punishments for equal offences is the core part of Hindu social culture.

Overall, the literature review demonstrates a comprehensive and interdisciplinary approach to understanding the complexities of the socio-legal system in India, the influence of British laws, the experiences of the caste system and social stratification, and the evolving legal frameworks.

Research gap

The existing literature review is based on the socio-legal issues and emergence of inequalities and discrimination within Indian society between 1850 and 1870. The colonial period played a prominent role in socio-legal transformations. This period faced the Sepoy Mutiny and the shifting of power from the company to the Crown. Major statutory laws included the enforcement of the IPC, 1860, in the 19th century, causing social transformations. All of these contributed to revolutionary socio-legal changes from 1850 to 1870. However, there is limited scholarly research on this socio-legal transitional phase.

Nevertheless, studies on discrimination, oppression, and prohibition on the level of caste, class, gender, and punishment from 1850 to 1870 are very limited.

Aim, objective and scope of the study

The research study aims to analyse socio-legal complexities during the period from 1850 to 1870 of traditional Indian social structures and the influences of the British-enacted laws. The research will examine the influence of uniform laws on unequal accusations. The objective of the research study is to assess the past legal and social shortcomings that existed in India.

While the study aims to be comprehensive, there are certain limitations in the examination of legal reform during the period from 1850 to 1870 due to the breadth of the topic. Along with this, the study will focus only on the four prominent sections of Indian social structure: a) caste,

b) class, c) gender, and d) accusation.

Research Questions

Q. 1. What were the socio-legal complexities (1850 and 1870) within colonial India?

Q. 2. How did the British laws influence the socio-legal structure of colonial India?

Q. 3. What socio-legal transformations occurred after uniformity in laws?

Research hypothesis:

The study seeks to test the hypothesis that,

1. The socio-legal structure of India was transformed from 1850 to 1870 through the enforcement of uniform laws.

Research methodology

The research study will primarily use a doctrinal analytical methodology. This research will be based on both primary and secondary research. The primary sources would include religious and statutory laws, rules, and the policies of the colonial period. The study aims to analytically examine the socio-legal complexities and critically assess the social situation of the 19th century, from 1850 to 1870.

The secondary sources would include various relevant books, articles, and authentic information available on internet websites related to the topic.

Discussion

Social structure:

The Indian social structure is a hybrid of many cultural diversities and social policies. There are always pros and cons that exist in any society. However, some shortcomings should be resolved urgently. The Vedic principles have a great influence on the Indian socio-legal structure.³ The Vedic period evolved through interaction with Indo-Aryan and Iranian migrant

³ Jawaharlal Nehru, *The Discovery of India*, Penguin Books, New Delhi, 1st edn., 2004.

peoples.⁴ Therefore, the culture of the Vedic period was generally termed as Proto-Indo-Iranian culture. The early phase of the Vedic era began with patriarchal social concepts and division of human society based on “varna”.⁵ Manusmriti supports this socially discriminatory division and also adds unusually unequal punishment and the provision relating to criminal accusations. Later, these principles of gender and caste superiority and division evolved into social demerits that persisted throughout the colonial period.

Caste, class, gender, and variation in punishments for the same offences were prominent socio-legal issues of colonial India. People were divided by religious identity, and further, they were divided into numerous sects and sub-sects. Caste associates with religion, and sometimes it's a synonym of Varna. The division of class was mainly into two broad sections. i) superior and ii) inferior. This division was discriminatory against one another and created a form of social inequality. Inferior groups were later called ‘Dalits’; they were further divided into two sub-subsections: a) touchable and b) Untouchable.⁶ Further, they were divided into numerous additional subgroups, sections, and sub-sections over time. They lacked equal access to resources, living standards, work, education, and other social or individual rights.⁷ They were forced to do the same thing that had been imposed on their ancestors.⁸ They were forcefully relocated outside the villages. This was the historical journey of today's Dalit communities. It was prominent in the 19th century.

Similarly, the formation of "social classes" also occurred during the colonial period.⁹ During the early stages of industrialization, power shifted from the monarchy to the wealthiest individuals. This was because India's centralized system had become too weak, and the British had entered into agreements with the larger states. The zamindari system was even more brutal and casteist than the monarchical system.¹⁰ However, the zamindari system was not founded on merit; it was entirely based on revenue collection. Due to the lack of equal opportunities, a particular caste became a class. Although social differentiation was not new, colonialism made it more apparent and sharply divided the population into new groups.¹¹

⁴ *Ibid.*

⁵ Ram Sharan Sharma, *Bharat ka Parchin Itihas*, Oxford University Press, New Delhi, 13th Ed. Hindi, 2021

⁶ B.R. Ambedkar, *The Untouchables*, Bheem Patrika Publications, New Delhi, 1st edn., 1948.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Satish Chandra, *Madhya Kaleen Bharat Rajniti, Samaj, Or Sanskriti 8^{vi} Se 17^{vi} Sadi Tak*, Orient Black Swan, New Delhi, 1st edn., Hindi, 2009.

¹⁰ *Ibid.*

¹¹ Shashi Tharoor, *An Era of Darkness: The British Empire in India*, Aleph Book Company, New Delhi, 1st edn.,

The social position of women was more serious than the caste-based discrimination because they also experienced discrimination within their own caste in the form of a patriarchal society. Religious restrictions would help to maintain the "purity and stability" of caste.¹² With very few exceptions across India, women had little legal identity, no property, no education, and no equal opportunities.¹³ Even they were considered similar to untouchables with different social obligations, and faced unequal punishment. Conclusively studying the social structure of the medieval period, scholars found:¹⁴

- The social status of women was at the lowest phase.
- Girl children also faced many forms of social restrictions.
- Varna culture was at its peak.
- Lack of equal opportunities.
- In the 19th century, the emergence of class was based upon the land.
- Emergence of the "Prada paratha" system.

Legal transformation:

Punishment is intended to deter offenders and maintain social order, but unreasonable, excessive, and alternative punishments may themselves constitute legal injustice.¹⁵ Making a difference between similar offenders of similar offences is a form of legal inequality. In the early British period, penal laws related to religion were biased.¹⁶ In the 19th century, kinds of punishment were based on religious laws.¹⁷ In the 19th century, punishment principles were based on religious laws. Even the caste system and the treatment of women were subject to

2016.

¹² *Supra* note 5 at 4.

¹³ Diwan Paras: modern Hindu law (codified and uncoded), Allahabad Law Agency, 24th edn., 2019.

¹⁴ Satish Chandra, *Madhya Kaleen Bharat Rajniti, Samaj, Or Sanskriti 8^{vi} Se 17^{vi} Sadi Tak*, Orient Black Swan, New Delhi, 1st edn., Hindi, 2009. Also read in: Jawaharlal Nehru, *The Discovery of India*, Penguin Books, New Delhi, 1st edn., 2004. Also read in: Shashi Tharoor, *An Era of Darkness: The British Empire in India*, Aleph Book Company, New Delhi, 1st edn., 2016.

¹⁵ N. V. Paranjape, *Criminology & Penology with Victimology*, Central Law Publications, 18th edn., 2019.

¹⁶ Manu Smriti, chapter VIII 301-302, 319-335, 364, 371-372; Vishnu chapter V, 19-39, 60, and 77-90; Yajnavalkya Smriti chapter II, 204-211; Narada Smriti chapter XV; Apastamba smriti chapter II, 10, 18-24, and 27, Manu smriti chapter VIII, 319-335.

¹⁷ N. V. Paranjape, *Criminology & Penology with Victimology*, Central Law Publications, 18th edn., 2019. Also read in: K.I. Vibhuti, *P.S.A. Pillai's Criminal Law*, LexisNexis Butterworths, Haryana, 13th edn., 2017.

such divisions. There was a lack of uniformity in punishment and accusations for the same offences.¹⁸

To maximise extraction, the British made legal transformations in the name of making India great. The British primarily followed the principle of non-interference in religious matters,¹⁹ but later they identified discriminatory social practices and inequalities. Afterwards, they codified the laws and ensured their uniformity. To abolish the caste system, they brought the Caste Disabilities Removal Act, 1850. The British enacted laws that emphasised that discrimination, oppression, or prohibition based on caste is a social crime. The capitalist class emerged as the Indian economy integrated into the global capitalist system, termed “landlords”. The country's industrialization began in the 1850s, with the establishment of textile and coal mining companies. To stop the landlords, the British did numerous land reforms and shifted the judicial system from ‘durbar’ to ‘court’. They also enacted a procedural code, the Code of Criminal Procedure 1861. It was a revolutionary change for equality in criminal trials. Similarly, they intervened in repressive laws that were against women. In the early British period, religious law imposed the most severe restrictions on women. People believed that these restrictions would help to maintain the "purity and stability" of caste. The British enacted laws for the remarriage of women²⁰, limiting the age of marriage²¹, requiring consent for sexual intercourse²², and prohibiting female infanticide²³. In addition to these laws, the British introduced numerous penal sections under the Indian Penal Code, 1860 (45 of 1860).

Conclusion

Indian social diversity has a long journey. It traces its roots to the Vedic era, with social divisions. Unfortunately, social demerits like inequality and discrimination are also part of that. Firstly, these people were divided into different religions and further into different castes and subcastes. A few people became superior, and others inferior among them only because of caste or subcaste. Similarly, in the 19th century, a new division of society emerged based on revenue collection, called class. The division of class contributed to social inequalities and

¹⁸ G. O. Trevelyan, *Life and Letters of Lord Macaulay*, Bookswagon, New Delhi, Vol. 2, 2nd edn., 2018.

¹⁹ G. W. Forrest (ed.): *Selections from the State Papers of the Governors-General of India*, vol. II Warren Hastings Documents, Oxford 1910, pp. 295-6. Cited in: Ludo Rocher: *Indian Response to Anglo-Hindu Law*, *Journal of the American Oriental Society*, Vol. 92, No. 3 (Jul. - Sep. 1972), pp. 419-424 (6 pages) available at: <https://www.jstor.org/stable/600567> (last visited: 07-04-2026).

²⁰ The Hindu Widow's Remarriage Act, 1856.

²¹ The Divorce Act, 1869.

²² The Indian Penal Code, 1860.

²³ The Female Infanticide Prevention Act, 1870.

discrimination. Women were also suppressed, often by those who were themselves oppressed. Discrimination and inequalities were not only social but also present in legal systems. Inequalities between accused for the same offences were due to the relevance of religious laws.

The British enforced uniform laws. They enacted several laws, reforms, and rules. They made provisions against discrimination against women. Between 1850 and 1870, the British socially transformed Indian society. They enacted uniform laws and enforced them equally for everyone, regardless of religious caste or other classes. Consequently, the period between 1850 and 1870 represents a transitional phase rather than a complete socio-legal transformation.