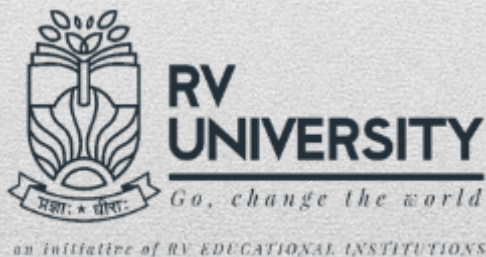


A Theoretical Proposition for Structural Victimology: Problematizing Dalit Victimization and Access to Justice



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In India, 400 Dalit manual scavengers die every year out of suffocation due to poisonous gases inside while cleaning sewage, gutters and septic tanks....

Dalit grooms in several Indian villages are physically attacked for riding horses....

**Untouchable but Dalit women are
overexposed to rape and other
violent crimes.....**

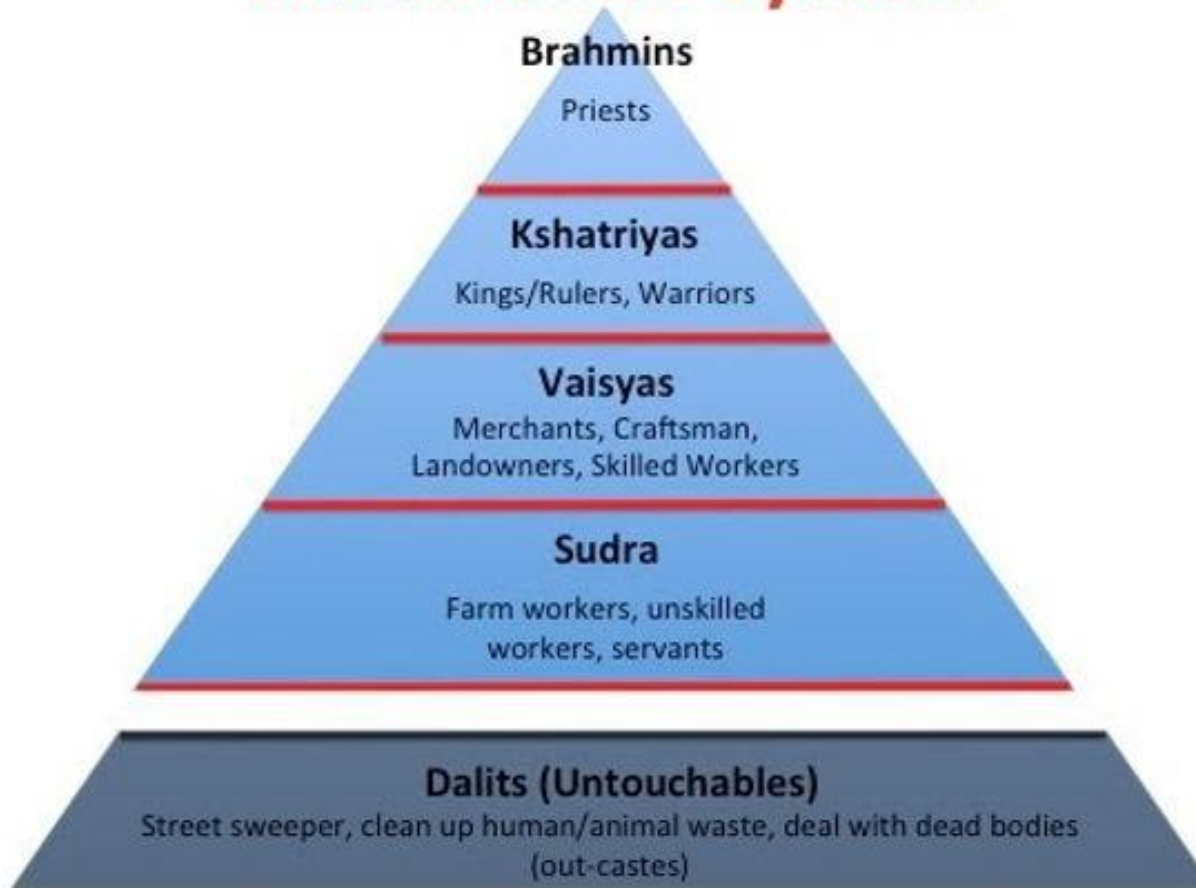
Dalit students still bullied and beaten in classrooms.....

Dalit employees are bullied and harassed at workplaces.....

Dalits

- In India, constitutionally known as **Scheduled Castes**.
- Historically known as **Achhut (untouchables)**.
- Dalits constitute about **17.8%** (about **270 million**) of the total population of India.
- Dalits now found in all religions by virtue of religious conversions.
- However, significant majority of Dalits are still a part of Hindu religion.

Indian Caste System



Caste: A Problem of Indian Sub-continent across the Religions

- Caste is **legitimised** by social customs and traditions and **sanctified** by Hindu mythology and Hindu religious texts.
- The most established reality of Indian society.
- **Caste exists in all religions in *Indian sub-continent*.**
- Indian society is nothing but a collection of Castes. We have about **7,500 castes and sub-castes** officially recognized.

Caste Determines

1. Power structure
2. Social relationship
3. Social behaviors of individuals
4. Caste determines rights, duties, and availability of and exclusion from material resources.
 - Caste Operates from birth to death
 - Caste regulates every aspect of human life such as- culture, ethics, individual and collective social moralities.

Caste Determines

- Dress code (clothing patterns)
- Marriage
- Surnames
- Occupation
- Location of house in the village
- Separate places of worship
- Cremation ground

Dalit and Poverty

- Overwhelming majority of Dalits struggle with poverty and illiteracy.
- Precisely because of historical discrimination, being deprived of human and fundamental rights.

Dalit and Discrimination

Deprived of the following rights –

- Right to education
- Right to property
- Rights to human dignity
- Right to freedom
- Right to equality
- Right to justice
- Socially excluded, subjugated and persecuted for three thousand years.
- Why not call them victims of Hindu religion?

- Being on the bottom of the Caste hierarchy Shudras and Dalits are treated as untouchables by Hindus and Hindu religious scriptures for three thousands years.
- Untouchability is the most extreme form of discrimination.
- Their mere physical touch or even touch of their shadow was/is believed to pollute the non-Dalit Hindus.

Forms and sites of untouchability and discrimination

% of villages and forms of untouchability and discrimination practices

Marriage and festival processions of Dalits on public roads not allowed	27.4
Dalits forced to stand in front of higher-caste men	25.6
Dalits cannot wear new/ 'bright' clothes	19.0
Dalits cannot use umbrellas on public roads	16.7
Dalits cannot wear dark glasses, smoke etc.	13.7

Borooah, V. K. (2017). Caste and regional influences on the practice of 'untouchability' in India.

Forms and sites of untouchability and discrimination

% of villages and forms of discrimination practices

No entry of Dalits inside police station

22.6

No entry of Dalits inside post offices

19.2

Access to public roads/ right of passage but can use only by lanes

18.4

Dalits not allowed to wear shoes and have to be bare footed on public roads

10.6

Dalits cannot use any vehicle, including bicycles on public roads

7.1

Manual Scavenging as Religious Duty

- ‘Holy’ scriptures of Hindu religion say Dalits have the **exclusive duty** to clean the filth of the society and drag the dead animals out of the villages.
- They are generally assigned menial and obnoxious jobs.
- forced to do this job throughout the country.

- According to the official reply of the Govt. of India in 2022 in the Parliament, average **400** Dalit manual scavengers die every year out of suffocation due to poisonous gases inside while cleaning sewage, gutters and septic tanks.









Fact Sheet

According to the National Crime Record Bureau's statistics, on an average about:

- **1,300** Dalits are **lynched** every year.
- **3,000** Dalit women are **raped** every year.
- **750** Dalit houses are **burnt** every year and
- **1,000** Dalit are **abducted** every year.

Status of Dalits in CJS

- An average **67% of cases** of violence and crimes against Dalits never get registered by police or they are not allowed to go to police to file complaints (Human Rights Watch, 2022).
- That means, in **67% of cases** Dalits are out rightly excluded from access to criminal justice system.

- According to the Supreme Court of India in *State of Karnataka vs. Ingale* case- **75% cases** of violence against Dalits brought before courts **end up in acquittal** either due to faulty investigation or faulty trial.

Law against Discrimination of Dalits in India

- ‘Equality’ as basic thrust of the constitution of India
- **Article 14:** *equality before law, equal protection of law and equal treatment by law*
- **Article 17:** abolishes untouchability

- Under SCs/STs (Protection of Atrocities) Act, 1989 untouchability is a punishable offence.
- International Convention on the Elimination of All Forms of Racial Discrimination includes descent based discrimination
- European Parliament resolution of 10th October 2013 on caste-based discrimination (2013/2676(RSP))

Enforcement of the Laws

- Enforcement of anti-discrimination laws is unbelievably ineffective.
- Untouchability and caste based discrimination still prevails in many parts of India.
- This is precisely because Caste is a **Collective Social Psyche** integral to the conscience in Hindu religion and now it has crept into other religions in India.
- Law has its inherent limitations. Law can deal with the consequences of Caste disabilities **but law can not change the Collective Social Psyche.**

Theoretical Proposition of ‘Structural Victimology’

- The term ‘**Structural Victimology**’ would refer to a potential branch of victimology that seeks to focus on the hierarchical aspects of victimisation in a hierarchical social structure.

- In **Structural Victimology**, victimisation takes place when-
- *in a well-designed structural hierarchy of a society, victimisation is exerted systematically by the social groups on the higher side over the social groups on the lower side of the structural hierarchy.*
- **For example**, Hindus placed higher in the caste hierarchy, victimise Dalits placed on the bottom of the caste hierarchy.

- Victimization creates a highly asymmetrical power structure and power relationship which ultimately results into structural inequalities and injustice in terms of rights, dignity and material resources.

- Victimization may not be caused directly on day to day basis –there are **gross and subtle ways**.
- Discrimination caused by the very existence of the hierarchy.
- The victimization generally manifested in **untouchability, violence and discrimination**.
- Untouchability is a **cultural norm** and discrimination is a **‘normalised’** social phenomenon.

- Not only Caste but race and gender are also the **representative hierarchical structures** which can also be the subject matter of the study of the proposed theoretical construct of **Structural Victimology**.
- The proposed epistemology includes the scientific study of the **processes** of historical construction of hierarchy, **norms generating processes, value system and beliefs** playing important role in structured victimisation.

- **Structural Victimology** in final analysis, is an epistemology and scientific study of structure of power and powerlessness in reference to the social hierarchy leading to structural victimisation not only in criminological sense of justice but also sociological and constitutional sense of justice.

Why Structural Victimology?

- The proposed branch of Victimology is different in the following terms-
- Firstly, all other approaches to victimology, whether traditional or modern, hitherto focused on the **immediate and contingent aspects of victimisation**. However, in Structural Victimology the victimisation founded on hierarchical social structure is of **chronic and persisting nature, rather than immediate and contingent nature**.

- **Secondly**, *individualist approaches vs. collective social victimisation.*
- **Third**, consequences of victimisation vs. root causes of victimisation.
- The proposed Structural Victimology not only seeks to address the consequences of victimisation but also studies and analyse the causes, especially the structural causes of victimisation.

Structural Victimology Versus Traditional Approaches

- Traditional approaches essentially forge a **typological relationship** between crime, victim, law and society, in general and study this typology primarily in the perspective of Criminology.
- This is precisely because the **genesis of victimology** is traced to criminology and study of criminal justice.

- The idea of justice is undoubtedly in the core of the victimological conscience.
- Nevertheless, the traditional approaches seek to provide a **superficial answer to victimisation and injustice to victims** by way of **reparation/compensation and institutional victim assistance** like- immediate medical help and momentary physical and psychological rehabilitation etc.

- Hence, traditional approaches provide safety valve to the structurally unjust social system and essentially creates an **illusion of justice** rather than imparting real and substantial justice.

Structural Victimology Versus Modern Approaches

- When it comes to the **modern approaches**, especially the *Critical Victimology* do not essentially forge this kind of relationship and have expanded its horizons of understanding of victimisation, vulnerability and victim assistance.
- Critical Victimology is undoubtedly an attempt to examine the wider social context of victimology involving the policy response and service delivery to the crime victim.

- Critical victimology emphasises that the victimisation is reified through power structures (Mawby & Walklate, 1994; DeKeseredy & Schwartz, 2009)
- Critical victimology relates the incidence of victimisation with social groups in society and seeks to point out how some social groups (such as women and the poor) are structurally more at risk of crime
- However, Critical Victimology does not specifically focus on the power structure founded on hierarchical social arrangement.

- In the case of *gender* there is a structural hierarchy wherein man is on the top and woman in the middle and transgender is on the bottom.
- However, women themselves are not a homogenous entity that exists in singularity within the hierarchy of genders.
- That means, all women **can not be put together horizontally** in terms of nature, degree and magnitude of victimisation.

- Within the structural construct of gender there are **overlapping sub-hierarchies with multiple identities** such as- Brahmin woman, Dalit woman, white woman, black woman, educated woman, uneducated woman, urban woman, rural woman, rich woman, poor woman, healthy woman and physically or mentally challenged woman. There is a **hierarchical relationship within the gender construct.**

- When it comes to **ethnicity**, within ethnicity there is **hierarchy of multiple identities of races**. For example- **Whites, Latinos, Blacks** and so on and victimisation is based on supposed superiority and inferiority of races.
- Similarly, when it comes to **Caste**, there is a clear hierarchy of castes and sub-castes. For example- Brahmins, Khatriyas, Vaishyas and Shudras- all are vertically positioned in terms of rights, dignity, and material resources.

- It is true that modern approaches seek to provide answer to victimisation by way of providing different kinds of **institutional assistance**
- Modern approaches also provide coping skills through **psychiatric help** to the victims for their psychological rehabilitation so that the victims may return to normal life.

- The focus of all the approaches so far has been essentially the rehabilitative and restorative justice.
- However, the fact remains that all approaches to victimology have **largely failed** to comprehend and explain the **structural issues of hierarchical victimisation such as caste victimisation, gender victimisation and racial victimisation.**

- Whether traditional or modern, all approaches hitherto believed in **symptomatic treatment of victimisation** rather than tracing the **roots of victimisation into the hierarchical social system.**
- **Hence, the need of Structural Victimology.**

- The proposed Structural Victimology is not only capable of explaining but also providing comprehensive understanding of this kind of hierarchical victimisation and potential vulnerability of the social groups.
- This is precisely because the Structural Victimology approach has been conceptualised under a specific sociological background of **structural hierarchy of power and powerlessness**.



Thank you!!



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