



GOVERNMENT OF MAHARASHTRA

# REPORT

OF

THE COMMITTEE FOR ABOLITION  
OF CUSTOMARY AND HEREDITARY  
RIGHTS IN MAHARASHTRA



**SOCIAL WELFARE, CULTURAL AFFAIRS, SPORTS AND TOURISM  
DEPARTMENT, MANTRALAYA, BOMBAY 400 032**

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## CHAPTER I

### INTRODUCTION

1-1. The circumstances in which this Committee came to appointed are rather unusual. The prevalence of customary and hereditary rights, particularly in the Hindu community, can be traced back far into our history right upto medieval times or perhaps even beyond. The impact of these rights, which have evolved over long periods of time, cannot however be regarded as creating any extraordinarily serious social disharmonies or serious law and order problems resulting in grave violence. The exercise of these rights, particularly in rural areas, may have sporadically resulted in fouling social relationships snowballing into minor violence even, but there can be no room for the assumption that the result has been perennial serious social disorder and mayhem. Yet, the prevalence of these rights and their impact, howsoever minor, on social and societal milieu has resulted in irksome situations and has impinged on the exercise of democratic rights by the ordinary run of the people and has therefore been a positive barrier to the goal of creating a modernistic and egalitarian type of society envisaged in our Constitution.

1-2. Precisely for these reasons the question of abolishing all customary and hereditary rights by positive legislation has been exercising the minds of our legislators for the last several years. Shri Keshavrao Dhondge, a one-time Member of the Maharashtra Legislature for many years, has been particularly seized of this problem and has been spearheading the agitation in this behalf on the floor of the House, sometimes even with great vehemence and alacrity. The question of elimination of these rights has been, from time to time, the subject of vital interesting debates in our Legislature right from the year 1963. A few important extracts of these debates are given in Appendix 'E' so as to enable right conclusions being drawn therefrom and also, in a way, to indicate the interest and the controversy which this subject evoked in the Maharashtra Legislative Assembly.

1-3. The question came up again for detailed discussion in the Legislative Assembly in the year 1973 and a number of Members participated in the debate. On the occasion in question the late Shri V. P. Naik was the Chief Minister and Smt. Pratibha Patil was the Minister for Social Welfare. At the conclusion of the debate Shri Naik and Smt. Pratibha Patil agreed with the consensus of the opinion expressed in the Assembly but suggested that as the whole matter would require an in-depth study it might be necessary to form a small committee consisting of some Members of the Legislature and other non-officials. Accordingly, the present Committee came to be set up in October 1973 with the following membership :—

- |  |        |                   |
|--|--------|-------------------|
| (1) Smt. Pratibha D. Patil, Minister for Social Welfare  | ...    | Chairman.         |
| (2) Shri D. T. Rupavate, Minister of State for Social Welfare  | ...    | Vice-Chairman.    |
| (3) Shri K. S. Dhondge, M.L.A.   | ... .. | Member.           |
| (4) Shri V. G. Prabhugaonkar, M.L.A.   | ... .. | Member.           |
| (5) Shri N. L. Vhatkar, M.L.A.   | ... .. | Member.           |
| (6) Shri K. B. Mhaske, M.L.A.  | ... .. | Member.           |
| (7) Shri Shivajirao Baburao Patil, M.L.A.  | ... .. | Member.           |
| (8) Shri R. K. Meghe, M.L.C.   | ... .. | Member.           |
| (9) Shri M. U. Lahane, M.L.C.  | ... .. | Member.           |
| (10) Shri W. M. Shaikh, Deputy Secretary, Social Welfare, Cultural Affairs, Sports and Tourism Department. | ...    | Member-Secretary. |

1-4. This Committee was given the following terms of reference :—

(i) To examine all the customary and hereditary rights accrued to persons by virtue of their holding hereditary offices under Government or as servants of the community (Mahar Vatsans, etc.) as a whole, even though such rights may be of a religious nature or character.

(ii) To enumerate all the rights mentioned in (i) above exercised or practised both in urban and rural areas of the State and to trace their historical evolution in a broad way and to determine their present detrimental impact on social, cultural and economic development.

(iii) To determine whether and, if so, in what way, such rights are inconsistent with the fundamental rights guaranteed by the Constitution of India and also whether such rights can be regarded as an anachronism and a positive hindrance to a free, open, egalitarian and democratic society to which the Nation is committed.

(iv) To consider whether elimination of the rights should be left to social and economic forces such as rapid spread of education, industrial development, advancement in technology, etc. which are currently underway in the country or whether it is necessary to undertake positive legislation for the abolition of these rights.

(v) In case legislation is considered necessary, to suggest a proper and detailed mechanism for it, including whether the offences committed in contravention of the proposed legislation should be treated as cognisable, the penalty or penalties for such offences, the manner of appeal, grant or otherwise of compensation, the quantum of such compensation, etc.

1.5. Subsequent to the appointment of the Committee in October, 1973 changes in its constitution were made from time to time by addition of some new members or by appointment of new Chairman and Vice-Chairman due to political changes depending upon the persons who were at respective times Minister for Social Welfare or State Minister for Social Welfare. The present Membership of the Committee is as shown below :—

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|--|-------------------|
| (1) Shri Arjunrao Kasture, Minister for Social Welfare (Resigned) ...  | Chairman.         |
| (2) Smt. Shanti Naik, Minister of State for Social Welfare (Resigned). | Vice-Chairman.    |
| (3) Shri Keshavrao Dhondge ...   | Member.           |
| (4) Shri Udhavrao Patil ...  | Member.           |
| (5) Shri Namdeorao Vhatkar ...   | Member.           |
| (6) Shri V. G. Prabhugaonkar ...                                       | Member.           |
| (7) Shri T. P. Kamble ...  | Member.           |
| (8) Shri T. S. Bharde ...  | Member.           |
| (9) Shri Nanasaheb Mane ...  | Member.           |
| (10) Shri M. B. Kakde ...  | Member.           |
| (11) Shri S. H. Auchar ...   | Member.           |
| (12) Shri Anantrao Patil ...   | Member.           |
| (13) Shri Maheshwar Thakur ...   | Member.           |
| (14) Shri W. M. Shaikh, Deputy Secretary ...                           | Member-Secretary. |

1.6. At the initial stage when the Committee was formed a detailed Questionnaire was drawn up by the Committee having regard to the terms of reference set up by Government for it. This Questionnaire was circulated to about 2,300 people, including MLAs, MLCs and MPs from Maharashtra, prominent social workers, educationists, senior Government officials, Zilla Parishads, Panchayat Samitis, Municipal Corporations, Municipal Councils, etc.

1.7. A copy of the Questionnaire mentioned above is attached as Appendix 'A' to this Report. Out of about 2,300 persons to whom the Questionnaire was circulated about 2,000 replies were received.

1.8. Besides evaluating this problem through the traditional method of the Questionnaire, the Committee also took oral evidences of responsible senior Government officials and a number of distinguished political and social workers, educationists, legislators, members of Zilla Parishads, members of Panchayat Samitis and so on.

1.9. For purposes of holding oral evidences and for on-the-spot-study, the Committee visited a number of places in the State and some even outside the State but close to its borders. A list of all the places visited is attached at Appendix 'B'.

1.10. The studies and the investigations of this Committee were confined mostly to the practice of customary and hereditary rights as prevalent in the Hindu community. The Committee had had no occasion to go into similar studies of rights that may be prevalent in the minority communities like Muslims, Christians, Parsis, Jains, etc. There were two reasons for this. Firstly, the nature and the scope of such studies would have been immensely vaster requiring an altogether separate treatment. Secondly, the minorities are governed mostly by their own personal laws or systems of jurisprudence. The areas to be explored are thus extremely sensitive and controversial. The Committee, therefore, did not consider it advisable to go into the question of practices appertaining to these communities. Yet, reformist trends motivated by the modern and civilising influences of the present times are very much in evidence and it is better that, if any reforms in these communities are to be forged, they should come out of their respective leaderships. The Nathani Commission, for example, has suggested several reforms so far as the Bohra community is concerned.

1.11. The Committee acknowledges with a deep sense of regret that a lot of delay has occurred in the preparation and submission of this Report. There are two or three basic reasons for this. Most of the members of this Committee were members of the Legislature also. This being the position for most of the time that the Committee has been in existence, it was natural that the legislators were necessarily pre-occupied with their own duties as legislators and therefore not much time or energy was available with them for the work of this Committee. Besides, political instability and political changes from time to time were another disrupting factor in the work of this Committee.

1.12. The Committee records its appreciation of the services rendered to it by Shri W. M. Shaikh, Deputy Secretary of the Social Welfare Department and also the Member-Secretary of this Committee. The Committee is also grateful to Under Secretary, Shri M. V. Sanzgiri (since retired), Under Secretary, Shri S. L. Latkar, Shri M. H. Kamble, Shri R. N. Dhage, Shri M. N. Deshpande, Section Officers in the Social Welfare Department. These officers had been continuously engaged in the work of this Committee right from its inception and were responsible for assembling all the necessary data required by the Committee.

1.13. Shri T. S. Bharde was appointed as a member of this Committee on 26th December 1978, that is, at a very late stage of the Committee's work. Shri Bharde has sent his minutes of dissent which are given in Appendix 'C'.

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## CHAPTER II

### EVIDENCES AND WRITTEN REPLIES

2.1. The terms of reference assigned to this Committee broadly pose the following questions :—

(i) Whether customary and hereditary rights are inconsistent with the fundamental rights guaranteed by the Constitution.

(ii) Whether such rights are an anachronism and a hindrance to a free, open, egalitarian and democratic society.

(iii) Whether elimination of such rights should be by positive legislation or left to social and economic forces.

(iv) Whether, in case such rights are to be abolished by legislation, the offences that might be committed against such legislation should be treated as cognisable.

(v) If in case the rights are to be abolished by law, whether there is need for grant of any compensation to persons who are at present in the enjoyment of such rights.

2.2. These terms of reference were the broad guidelines that were adopted by the Committee in its various studies and investigations. These were also the questions with which we went to various places for discussions with various persons over a comparatively greater part of the State. Such individuals were either administrators, social workers, educationists or persons connected with local bodies and institutions either as their members or office-bearers. In addition to oral evidences, the Committee also circulated a Questionnaire prepared by it as earlier mentioned. The response to this latter technique was indeed much too encouraging since out of 2,300 people, as many as 2,000 people sent up their replies to the Committee. The replies focus on and reveal some of the practices which could be considered as bizarre and even mysterious. These things are also not widely known nor are any published documents available recording them in a detailed fashion. The evidences and the written replies can, therefore, indeed be treated as a basic and original source of valuable information and data on the subject. The Committee, therefore, thinks that it might be proper to indicate here in this report, however briefly, the evidences recorded by some of the important persons before it as well as a gist of written replies to all the Questions included in the Questionnaire. Some of the replies may appear slightly disjointed and even ungrammatical from the point of view of the language. But in this the Committee finds itself helpless for reasons which are obvious.

#### Oral Evidences

*Dr. V. M. Dandekar, Director, Gokhale Institute of Politics and Economics*

2.3. I am no an expert in this line. I can talk only from my experiences. Such of the rights (Mahara-Watans, etc.) which were conferred on certain individuals by law have now more or less gone. I do not know whether you want to mix up the question of 'Man-Pan' with other rights and abolish 'Manpans' by law.

2.4. Personally I would not recommend the abolition of customary and hereditary rights. These rights have been in existence for many years and perhaps with few exceptions they have not caused any particular disturbances. I agree that the rights of precedence in certain festivals, such as, 'Pola' should be abolished. But there is one difficulty here. If we abolish, the persons who are practising this will be divested and then the question will arise about substitutes. Somebody will have in the long run to practise 'Manpans' as there is a ritual in every social function in the social life of the country. The question of divesting the present persons and substituting them with another set of persons is a difficult problem and we shall have to have a detailed, cumbersome legislation on the subject. I agree with your suggestion that we could invest

certain rights, which are at present exercised by certain individuals, like Patels, etc. in Sarpanchas of Panchayats. But then here again you are giving a political colour to legislation. I feel that people should themselves evolve their systems and procedures and Government should not interfere in this by legislation. Abolition of the present rights and their replacement with another set of persons should not create a new breed of 'mankaris'. The feudal element has to go, no doubt. But, if we wish to legislate then this particular aspect may be made clear in the preamble of the proposed legislation. The old cultural system cannot and should not be abolished although the feudal system will have to go. Festivals will have to continue. If people yet desire that Patel himself should be given the right of precedence then this should not be treated as an offence.

*Dr. A. Bopagama, Professor of Sociology, Gokhale Institute of Politics and Economics*

2-5. The customary and hereditary rights have created social tensions and conflicts in villages. I, therefore, agree that such rights should be abolished by legislation. I will give you an example of what happened in Chinchwad village (District Pune) some four or five years back. I was present on the spot. A Palki procession of a certain Hindu deity was to be taken out in this village and the right of holding the umbrella on this Palki was that of a Muslim gentleman called Ahmed. For some reasons this gentleman could not come in time for the procession and the procession could not start till this man arrived on the spot. Now, this is something which does not fit into our present conditions.

2-6. You have asked as to how these customs came into existence. Now, this is a right question and as far as I am aware these rights had their origin in our hoary past when the barter system was prevalent and money transactions were unknown. Recognition of services rendered was either through the grant of land or through confirming of a particular right. The British rulers also did not disturb this system. Difficulties arose when money transactions came into being. In certain villages the Balutedars are now insisting on payment in cash rather than in kind. The Gosavis are also Balutedars and they enjoy a certain status and honour in the village set-up. Thus, status problem is linked with the Balutedari system.

2-7. I agree that there should be legislation for the abolition of customary and hereditary rights and that such legislation should cover all communities in the State. I found that in certain places it is the right of 'Mullas' alone to slaughter goats on certain occasions in the Muslim community. For this there is no legal sanction but a social sanction does exist. On account of the Balutedari system the Balutedars have of necessity to remain at one place and there is no inclination on their part to leave their villages. This has retarded mobility of labour with consequences on economic development. I do not think it will be possible for Government as such to suggest any solution to this problem. Time alone will solve the problem and we shall have to create a proper atmosphere and public opinion through various means of communications and information, such as Radio, TV, etc. Propaganda is very essential for spreading enlightenment. If we abolish the rights of 'mankaris' we shall have to provide suitable compensation to them.

2-8. In other States in the North like U.P. etc. customary and hereditary rights are widely prevalent and in a much more acute form, leading some times to violence, murders, etc. If rights are abolished by law it will enable people in the lower strata to move about freely.

*Shri B. K. Chaugule, Commissioner, Aurangabad Division, Aurangabad*

2-9. I personally recommend that the customary and hereditary rights which are not useful from the point of view of service should be abolished. These rights have neither sanction of the society nor they are protected by law. Mostly in villages these rights create tension and conflict. Such rights should be abolished by legislation and there should be provisions for punishment in the law and the offences committed in violation

of provisions of the law should be treated as cognizable. I feel that the existing machinery for implementing this law is sufficient and there is no necessity of having additional machinery. This law should be made applicable to all communities. It is not proper to wait with the hope that these rights will be abolished after passage of time. But I think that those rights which are in the form of services rendered for the welfare of the people and by which the person does not become a slave, such rights should not be abolished. But services not rendered for public welfare but rendered as sacred rite should be abolished. It is not necessary to give compensation. There should be provision in law for obligatory duties.

*Shri S. P. Kulkarni, Commissioner, Pune Division, Pune*

2-10. I would not personally recommend abolition of customary and hereditary rights. First of all, I would divide these rights into two categories, that is, rights which are symbolic in nature and rights which are not so. The symbolic rights are minor and innocuous and do not contemplate payment of any remuneration to persons concerned. But there are rights which also contemplate remuneration. I am afraid, if rights are abolished we shall create conditions in rural areas which might tantamount to anarchy. If the rights are taken away from the existing persons some sort of a vacuum would be created and we shall be hard put to find substitutes for the present persons. For instance, if the customary right of the 'Patel' to take his bullock first on the Pola Festival is abolished, a question would certainly arise as to who should now be given this right. Perhaps, such right could be handed over to the Sarpanch of the Gram Panchayat. In that case the right shall have been conferred on a particular office-bearer and not vested in a particular person. The Sarpanchas keep on changing and, therefore, no vested interest as such will emerge.

2-11. I have a feeling that we should not pay much attention to smaller rights as their exercise is symbolic and they do not result in serious quarrels. For bigger 'Devasthans' such as, at Tuljapur, Shirdi, Mahalaxmi, etc. either Trusts could be formed or the control vested in Government by forming a separate Department of Devasthans such as we have in Madras. So far as the smaller rights are concerned, I think, they will have to be left alone as otherwise Government would be required to create some sort of an elaborate machinery at various levels for attending to these matters. Besides, in regulating small rights, bye-laws will create a number of complexities and there will also be serious gaps between the provisions of the law and their actual implementation.

2-12. Thus, I would suggest that for bigger temples, such as, at Tuljapur, Shirdi, etc. there should be regular Trusts and for medium temples a separate Government Department should take unto itself all the powers. So far as the smaller rights are concerned either they should be left alone or they should be handed over to Sarpanchas of Gram Panchayats.

2-13. The law that we might formulate should cover the customary and hereditary rights of all the communities but we should take sufficient precaution not to create confusions at various levels, particularly at the lowest level. The law should be flexible and the officials at the lowest rank of the administration should be able to comprehend it and also to implement it promptly without referring matters to higher levels. Such a law, when made, could be reviewed from time to time, say, after 4 to 5 years and any rigidities noticed removed as early as possible.

*Shri J. G. Kanga, Collector of Pune*

2-14. The right of precedence for bullocks on the occasion of Polo festival still continues and the exercise of this right sometimes leads to disputes and quarrels. In Pune District there were 2 or 3 incidents of this type in the past. However, in certain talukas I have seen that the Tahsildars were made to perform pujas, ceremonies, functions, etc. on Dasara day. Such quarrels usually occur in Indapur and Khed talukas and I had declared section 144 in these areas.

2-15. I do not think it is necessary to abolish customary and hereditary rights. I agree that at some stage of time these rights will have to go but not immediately. The country is facing many important problems and I feel that we should concentrate on these rather than engage ourselves in matters of minor importance. If at all we want to legislate on this subject then the law should be easy to comprehend and implement.

2-16. In the Parsi community there are no customary and hereditary rights. In fact, there is no priestly class as such in this community. Any Parsi can perform any ceremonies. However, the essential pre-requisite for this purpose is training, which is arranged by the Parsi Panchayat at Navsari and Surat. The system is so flexible that no particular person is vested with a particular right or power.

2-17. The total Parsi population in the world today is 1,33,000 of which 80,000 are in Bombay alone.

*Shri Vithalrao Satav, President, Zilla Parishad, Pune*

2-18. Customary rights are seen to be prevalent even now. For instance, on the occasion of the 'Pola' festival, bullocks are taken out in procession and as to whose bullock should go first becomes a menacing, controversial question resulting in quarrels. About 6 to 7 years ago a murder had taken place at Vadgaon-Shinde (Taluka Haveli, district Pune) due to this question of right of precedence. The persons concerned were tried by the law and awarded suitable punishment. But I feel that such quarrels are now becoming somewhat rare.

2-19. Some years back no 'pooja' could be performed unless the priest (Bhatji, Gurav and Jangam) was there to do the job. This trend is also diminishing now and the impact of such custom is not much. The new generation that is coming up is paying scant attention to such matters and the customary right of priest to perform a pooja is losing importance. There are numerous Ganpati temples but people are allowed access upto certain limits only for taking 'darshan'. This is happening at places like Ranjangaon. The Bhatjis and Guravs, are the controllers of these temples and still they are exercising their right to demand some monetary remuneration for the services rendered by them. Besides the Bhatjis, Guravs and Jangams, no other persons are in control of the temples. The Bhatji also appropriates whatever 'dakshana' (charity) is given by the visitors to the temple.

2-20. It is not possible to say whether rights are by virtue of customs or by virtue of caste and birth. Such a distinction is somewhat hard to make.

2-21. I entirely agree that there should be legislation on the subject. Customary or hereditary rights will have to be abolished by law only. Perhaps, we may not be able to implement such a law to the fullest extent at various levels but at least we shall have created a climate and a feeling among the people that the existence and exercise of such rights is something very wrong and noxious. Once the rights are abolished by law, any breach of the provisions of the law should be deemed as a cognisable offence.

2-22. I agree that legislation should cover the customary rights of other communities also, such as, Muslims, Christians, Parsis, etc.

*Shri Bhausahab Chavan, Ex-Mayor, Pune*

2-23. The Mahars have also been efficient soldiers and they have fought many battles during the British days. In recognition of their loyalty and faithfulness the British rulers granted them certain lands as Watans called "Mahar-Watans". These Watans were given with good intention. But in course of time they developed into a slavery system. In 1874, in the days of Queen Victoria, a legislation was enacted for giving these watans. But as I said, this later developed into a sort of slavery. Dr. Ambedkar made vigorous propaganda for abolishing these inferior Mahar-Watans. But the legislation for abolishing was



enacted in 1958, that is, after Dr. Ambedkar's death. On the abolition of Mahar-Watans, the lands were resumed by Government and sold to different persons on payment of suitable compensation to the original Mahars. I would request that these lands should be regranted to the original Mahars and the present period of limitation for regrant of lands upto 1968 may be extended upto 1980. I would also request that in the record of rights the expression 'Mahar' should be removed as it is derogatory. Instead of specifying the Mahar caste in the record of rights the surname of the individuals should be noted.

2.24. I find that so far as these watan lands are concerned various facilities of Government, such as, Tagai loans and loans by Departments for purchase of seeds, agricultural equipment, etc. are not available. These facilities should be provided to persons even on these lands.

2.25. If we abolish 'manpan' no compensation need be given as persons have rightly or wrongly enjoyed all these years all the benefits that accrued to them from their manpans. The manpans should be abolished by law and the offences should be treated as cognisable. The exercise of Manpan has resulted in many violent quarrels. I had seen this happening in Hingani-Gada (Taluka Daund) and Daherigaon. In certain places I have also found that families are called upon by compulsion to dedicate either one of their daughters as Devdasi or a son as Potraj. All this has to go. There is also a festival of 'Mariaai' goddess and the idol of this goddess is required to be carried to the outskirts of the village, after the completion of the function, by a particular Mahar only. I would suggest that while the festival of 'Mariaai Gaada' might remain, the right of carrying the Mariaai should not belong to a particular Mahar only.

2.26. After having brought out the oral evidences of important persons recorded before the Committee we shall now proceed to summarise some of the written replies received in response to the Questionnaire.

**Question No. 1.—What is your idea of customary and hereditary rights, including 'Manpan', etc., observed on the occasions of Dassara, Diwali, Pola, Shimga, Padva, etc. and similar customs prevailing in villages, towns and cities in Maharashtra from generation to generation ?**

*Tahsildar, Mahad, district Kulaba*

2.27. Dassara, Diwali, Shimga and Padva festivals are observed. Each such festival has its own religious importance since ancient times. There is a belief that good actions, events, etc. taking place on these days will have successful endings and will enable people performing such actions to live a happy and comfortable life.

*Principal, Junior College of Education, Nandgaon, District Nashik*

2.28. On the occasions of Dassara, it is the Patil or some other person of equal status who arrogates to himself the right of making puja. On all similar occasions, it is the Brahmin who is called upon to recite the 'Mantras'. On the other hand, people belonging to backward classes like Mahars, Mangs, etc. are compelled to play 'vajantri'

*Principal, Government College of Education, Ambajogai (Beed)*

2.29. Customary and hereditary rights of 'manpan' are prevalent in backward areas only.

*Principal, Government Junior College of Education, Nanded*

2.30. Customary and hereditary rights, including 'manpans', came into existence because of the services rendered by chivalrous persons to their rulers and the latter conferred upon them (i.e. on such chivalrous persons some rights as rewards for their chivalrous deeds). In respect of religious ceremonies, the rights came to be conferred upon certain persons because of their exemplary behaviour and piety. For example, on the occasion of Dassara

a prominent personality, such as, Deshmukh, Deshpande, Jagirdar, Patil or some such person who was regarded as 'great' and 'worthy' and 'honourable' was designated to worship the 'Shami Tree' as the first worshipper. Take another example On the Pola day, the Patil, Deshmukh or some such prominent person is given manpan of taking round the Maruti temple his bullocks in the first place.

*Principal, Government Junior College of Education, Basmathnagar*

2-31. On the 'Pola' day bulls of the villages are taken out in procession and these bulls are serially numbered as per their traditional customs.

*Registrar (Admn.), Nagpur University, Nagpur*

2-32. In Maharashtra, following functionaries enjoyed hereditary rights :

- (i) Patil—Village Headman.
- (ii) Kulkarni—Revenue Clerk/Accountant.
- (iii) Gurav—Temple Priest.
- (iv) Tarals (Mahars)—The Village Servants.

These categories of persons were given gifts of land and other hereditary privileges. There were other hereditary servants, like Goldsmiths, Carpenters, etc. These rights were protected by custom and public sentiment.

*Shri J. G. Kanga, Collector of Pune*

2-33. (i) On the occasion of Pola festival in some villages the Patil has the right to put his bull at the first place in the procession.

(ii) Certain hereditary rights and customs, such as, claim to parade bulls on Pola' day, claim for precedence in worship of God Maruti by applying 'Shendur' are prevalent in the rural areas of Maharashtra. On the 'Dasara' day, the villagers gather before Chawdi or a temple of village and go on the border, namely, 'Shiv' by playing musical instruments. The Patil and other prominent persons in the village performs puja of 'Shami' and 'Apta tree' and then start to take leaves of the above tree which is named as 'Sone Lootne'. People belonging to backward class community go on Diwali day from house to house to offer 'tilak' to Kulkarni, Patil, etc. and in return they receive sweets, grain or old clothes.

(iii) 'Pola' is a prominent festival celebrated all over the rural areas by agriculturists in the month of August (Shravan-Bhadrapad). On these days bullocks and cows are worshipped and decorated and then taken in procession to the village deity. The bullocks are not put to any work on this day. Bullocks help Indian farmers in agricultural operations. Therefore, this day is of the utmost significance to them.

Question No. 2.—Do you think that in your areas any customary and hereditary rights conferred on individuals or communities by previous regimes or social and societal dispensation are continuing to be exercised even during the present times? If so, what are they and what is their nature-social, religious, economic and also wherefrom the authority of these customary rights or 'manpan' have been derived? Could you spell out your ideas and all the information that you have in this connection?

*Shri Ashok Chaudhari : (Editor, 'Samaj Kranti', Marathi Newspaper, Parbhani)*

2-34. (1) 'Manpans' can be classified into three categories :—

(i) Social, (ii) religious and (iii) economic. Social 'manpans' include ignition of fire on Holi and procession of bullocks on 'Pola' day. The religious category covers recitation of 'Mantras' and fortune-telling based on Astrology. In the economic category will be Balutedars. Now, Kotwals are also demanding 'balutas'. All these 'manpans' are the result of old social systems. For example, Sardeshmukhi, collection of Chauthai, etc. are still being recovered in rural areas.

*Shri P. S. Patil, Ex-M.L.A.*

2-35. (i) There is a community called 'Talwar' which exercises the right to announce public auctions of any goods or commodities. They are not paid for their services. But this work is extracted from them under hereditary custom. This should be stopped and work of auctions given to Kotwals.

(ii) In certain villages there are still some men and women who are offered to goddesses or local deities as their servants and they are, by custom, required to remain single and unmarried for the whole of their life. This leads to prostitution.

*Tehsildar, Mahad, District Kulaba*

2-36. The following rights are still in vogue :—

(i) Carrying Palkies (palanquins) of deities by certain persons in the village on important festival days.

(ii) Receiving 'manpan' at the time of worship of deities and having precedence over all other people.

(iii) Receive on behalf of certain deity some offerings like coconut, khan (piece of cloth) and other sweets and ornaments offered by people to the deities.

(iv) Having a certain place of honour in the temple of deity.

(v) Right to receive offerings kept before the deities.

(vi) To enjoy the usufruct of the property of deity.

All these rights are generally bestowed on persons performing 'puja' and persons responsible for the upkeep and maintenance of temples. These rights are being enjoyed by these people from generation to generation since ancient times.

Question No. 3.—Besides the above, are there any traditional rights prevalent in your area by virtue of birth or caste? If so, could you indicate their origin, that is, how they came into existence and for what purpose? Could you also state their nature?

*B.D.O., Panchayat Samiti, Soegaon, District Aurangabad*

2-37. On the occasions of certain festivals, certain caste persons go from door to door, serve the people and thereby derive some income. Examples of this are—

(a) giving massage to important persons in the village like Watandars, (b) performing of 'arti' by women belonging to Dhobi community or Mahar community. These services are rendered exclusively by people belonging to the lower castes. These practices originated right from feudal times. Their purpose is to give social importance to Watandars and also provide a source of income to the poorer people belonging to lower castes. But, it appears that these practices are by themselves disappearing as there is no compulsion on anybody to render these services. Mostly it seems that the practices are followed by the poorer people for earning some income.

*Indian Council of Social Welfare, Bombay*

2-38. Take the example of 'Madhukari' in Maharashtra where only a Brahmin is entitled to collect food or gift. We feel that in the present society any right based on birth or caste has no place.

*Smt. Sushila Gadgil, Principal, Adarsh Balshikshan Mahavidyalaya, Nashik*

2-39. By virtue of birth or caste, a Brahmin born in Brahmin family, performs puja, marriage ceremony, thread ceremony, Bhoomi puja and different kinds of religious functions. Generation after generation, Brahmins used to live this sort of life and, as such, they got predominance in this branch of social rights and religious rights.

Patils in the villages had the first right to plough their fields in the villages by first precedence (By implication this means that cultivators in villages could not commence their ploughing operations unless the Patil had taken the initiative).

*Collector of Sangli*

2-40. There are number of socio-religious functions which take place annually and where traditional and customary rights are followed by virtue of birth and caste. They have their origin in antiquity and it is not easy to tell definitely as to how these came into existence. For this purpose, a special inquiry will have to be instituted. But these rights had the definite purpose of contributing to the unity and stability of the rural society. Though the religious value has diminished, their social function is even today important. Various hereditary and customary rights which are an essential part of these functions came into existence almost simultaneously. These rights and 'manpans' have been given to a particular family or caste in the olden times because of the social and economic influence of that family or caste over the village as a whole. Particularly, the Balutedar had had an important role to play in these functions. The Balutedar and out-caste were given specific 'manpan' mainly with a view to recognise and reward their services to the entire village. Now, since the system of Balutedar has vanished, the particular family which was given a particular 'manpan' in the past might not be following that particular profession today. For example, a person from a gold-smith family may be earning his livelihood from other sources but nevertheless at the time of the 'Utsava' the villagers will call upon him to perform his hereditary rights and thus have his 'manpan'. This indicates that the economic aspect of these functions has vanished but the socio-psychological feelings are persisting even today. In the absence of these 'manpan' many of these 'Utsava' simply cannot take place.

*Tehsildar, Mahad*

2-41. Certain performance in respect of certain deities in a village is entrusted to certain families irrespective of their caste, etc. This is being done since generations.

*Principal, Junior College of Education, Nandgaon, District Nashik*

2-42. In our area, only Brahmins are allowed to perform pujas for certain Gods. Only some families have the right to apply 'shendur'.

*Shri Shaikh Ramzan, Editor, Tabeer, Akola*

2-43. I belong to Gavali community. The history of this community has the distinction and pride of guarding and bringing up Bhagwan Shri Krishna. In Maharashtra we may find such persons belonging to this community in the nooks and corners of all big cities along with their cows and buffaloes. The economically backward and ignorant section of the society is in the clutches of those who are in the enjoyment of certain hereditary rights. In every city, there are three groups or sections which are dominating the entire social structure. Firstly, there is the 'Chaudhari' whose services are deemed to be essential for performance of social ceremonies. Without him, a ceremony or marriage cannot be performed or begun. In domestic disputes or social matters the Chudhari's word is the last word. After the Chaudhari the Patel takes the secondary position in all religious ceremonies. Festivals, like Diwali or Dasara cannot be performed without him. For the purpose of these duties, he demands monetary consideration according to his own sweet will and fancy. The third august personality is that of 'Gurav'. This gentleman is the deputy of the foregoing two persons and exercises his powers in their absence. These persons have spread the belief that their rights have been conferred upon them by Bhagwan Krishna and whose commandments every 'gavali' is in duty bound to obey.

*Shri B. S. Mane, President, Zilla Parishad, Kolhapur*

2-44. There are certain traditional rights prevalent in our area by virtue of birth or caste and custom, e.g. 'manpan' of Patils and Balutedars in public functions or religious ceremony or marriage ceremony. These rights also might have originated since many years.

**Question No. 4.—Could you list out all the rights, customs, manpans, etc. of the type referred to above and now existing in your area ?**

*Indian Council of Social Welfare, Bombay*

2-45. Very broadly, customary and hereditary rights of manpan include Kulkarni, Deshmukh, Deshpande, Patel Watans, etc. Bombay Pargana and Kulkarni Watans (Abolition) Act, 1950 and Bombay Inferior Village Watans (Abolition) Act, 1958 and Maharashtra Revenues Patels (Abolition of Office) Act, 1962 have provided an excellent context for social change. However, only a legal frame-work is not adequate to abolish social rights created through traditional society, such as, right to abolish levy of customary fees in money or in kind or liability to render services, but *de-facto* we do not think that equality has yet been created. Particularly, when we review the status of tribes in Maharashtra we find that Adiwasis are still oppressed and exploited to a great extent. Legislations mentioned above are essentially able to provide frame-work for an effective implementation, but we would not be able to achieve what we wanted through these Acts and much remains to be done in tribes.

*Shri S. R. Desai, Principal, Junior College of Education, Ratnagiri*

2-46. Following are the Watandars in villages :—

(a) *Dharmadhikari*.—He is the head of the religious rites performed in villages. He is one who advises on all religious matters and he is respected by all.

(b) *Gaonkar*.—He is the chief of the Wadi or particular part of the village. He represents that part and works as the head of it. People call him as 'Gavadya

(c) *Khot*.—Khot was the leader of the village when various functions were being celebrated. People honour this Khot by giving 'manpan' either in cash or in kind and he is the most respectable fellow on such occasions.

(d) *Mahajan*.—He is assistant to Khot. In the absence of Khot, all his 'manpans' are conferred on Mahajan. He is incharge of the treasury of the village.

(e) *Kulkarni*.—He is the Secretary of the village. He keeps accounts and files.

*Collector of Solapur*

2-47. The following are the rights, customs, 'manpans', etc. of the type referred to above (other than those prevailing by virtue of birth and caste) and now in existence in this District (Solapur):—

(i) Right of Police Patils to parade bullocks on Pola day.

(ii) Right of Deshmukh, Deshpande of village Natepute in Solapur District over the income of Guptalinga and Girijapati God at the time of fair in Chaitra-month.

(iii) Right to compel playing of 'vajantri' on Dasara, Diwali, etc. before the house of the 'mankari'.

(iv) Right of Ramoshis of patrolling at night in the village and collecting bread (Bhakari) from the public of that locality.

(v) Right of pujaris to receive offerings of the deity of the temple

*B.D.O., Panchayat Samiti, Beed*

2-48. (i) First bullock of a particular Watandar or so should lead all other bullocks on the Pola day.

- (ii) On Dasara, member of a particular family should lead all others in the village.  
 (iii) Newly married couple of the family should obtain the blessings of certain Mankari family.  
 (iv) Some social gatherings or celebrations cannot start without their arrival.

*Tehsildar, Mahad*

- 2-49. (i) Moving of palanquin by certain persons on their shoulders in village at the time of festival of particular deity or festival of a common nature.  
 (ii) Receiving 'manpan' or other offerings at the time of puja or function of deity.  
 (iii) To receive on behalf of deity, offering received from persons visiting temple or making certain offers to the deity.  
 (iv) To receive allowances and share in income on behalf of the deity.  
 (v) To enjoy the lands given in the name of deity for the maintenance and upkeep of the deity.

*Superintendent of Police, Buldana*

2-50. At Chikhli, the President of the Municipality has the first privilege of leading the Devi procession

*Collector of Pune*

- 2-51. (a) During the period of Navratra (of Karla deity) the right of slaughtering a goat is with the Patel of village Varsoli, taluka Mawal, district Pune.  
 (b) The right of making 'Jagran-Gondhal' before Khandoba of Jejuri is with the Vaghya-Murali of that village.

*Shri Ashok Chaudhari, Parbhani*

2-52. The following rights are in existence :—

- (i) Slaughtering a goat on the Dasara and applying Tilak.  
 (ii) To take out procession alongwith 'mashal' on Dasara.  
 (iii) To bathe horse and hold horse in procession on Dasara day.  
 (iv) Application of cosmetics (utane) on the person of mankaris on the Diwali Day.  
 (v) Playing musical instruments on Dasara and Diwali.  
 (vi) Worship of 'Shami' Tree and worship of 'Apta' leaves on the day of Dasara and hoisting of flag on the Dasara day.  
 (vii) To arrange bullock fights on the days of Dasara, Padva, etc.  
 (viii) Right of asking tip or monetary gifts on Diwali, Padva.  
 (ix) To sell coconuts and other offerings in front of the temple.  
 (x) Right to take the offerings offered for the deity.  
 (xi) To receive dead or live animals offered to the deities.  
 (xii) Right to stay in the temple.  
 (xiii) To ignite Holi fire and to receive Naivaddya.  
 (xiv) Right to receive the Tila, Pan-supari on the occasion of wedding ceremony  
 (xv) Right to carry 'Palakhi' of the deity.  
 (xvi) To remove the skin of the carcasses.

*Editor, Gramin Samachar, Bhandara*

- 2-53. (i) Right to destroy the effigy of Ravana.  
 (ii) To cut 'toran' and to offer bread (Bhakari) on Pola day.  
 (iii) On the day of Diwali to offer tip.

*Shri Shankar Date, Pune*

To receive the Palkhi of Sant Dnyaneshwar which is brought from Alandi to Pune. The Mayor of Pune has the right to receive this Palkhi.

**Question No. 5.**—All Patel Watans, Kulkarni, Deshmukh, Deshpande, etc., Watans and all inferior village watans have been abolished under the Maharashtra Revenue Patels (Abolition of Office) Act, 1962, Bombay, Pargana and Kulkarni, Watans (Abolition) Act, 1950 and the Bombay Inferior Village Watans Abolition Act, 1958. Also, under the said three Acts, all Patel Watan lands, Kulkarni, etc., Lands and inferior village Watan lands have been resumed by Government and all incidents pertaining to the said Watans, including the right to hold office and Watan property, the right to levy customary fees or perquisites in money or in kind, and the liability to render services pertaining to the said Watans have been extinguished. Do you think that in spite of all this, any office or customary right or the right to levy customary fees or the right to demand any services still continue? If so, could you give details of these? Also, please state whether the legislation mentioned above has been effective. If not, what steps would you suggest to make the legislation effective and successful?

*Collector of Yavatmal*

2-54. No office or customary right or the right to levy customary fees or the right to demand any service is now continued. The legislation is effective.

*Indian Council of Social Welfare*

2-55. Discussing generally the conditions of Adiwasis as well as scheduled castes in Maharashtra, we would like to observe that to develop an open, socialistic society we cannot depend on reservation in employment or such provision for BCs unless we define backwardness simultaneously in economic terms and try to take list of communities which have developed to a great extent. This will gradually provide social standard in society. Defining backwardness on economic basis and developing programmes for economically backward people is the only solution to the problem. It is further observed that the entire gamut of programmes for scheduled castes, scheduled tribes seems to lack an orientation of service and research in planning and implementation.

*Collectors of Solapur and Sangli and Tehsildar, Edlabad, District Jalgaon*

2-56. The legislation made as mentioned above is effective and successful.

*Principal S. R. Desai, Junior College of Education, Ratnagiri*

2-57. Legislation has been no doubt effective but the mentality of these watans is still alive in the old generation. But the new generation is completely free from this mentality. In some villages, specially those in interior parts of the District, it is found that Deshmukhs are still enjoying their hereditary rights but on a very small scale. The spread of education is enough to make legislation more and more effective.

*Tehsildar, Beed*

2-58. After the abolition of watans, the customary rights to levy fees or the right to demand any services, etc. has been stopped. But the said legislation does not adumbrate for the stoppage of all such customs.

*Principal, Government College of Education, Yavatmal*

2-59. Since they have been abolished by the above referred legislation, the practices are not seen as before. Legislation has done much to achieve the aim.

*Commissioner, Pune Division*

2-60. The legislation mentioned above has been proved to be successful. But this legislation provided abolition of customary and hereditary rights appertaining to the respective watans and offices under them only. Such rights and privileges pertaining to Devasthanans and charitable institutions still exist.

*Registrar, Marathwada University*

2-61. Government should learn to rule less. How and why should the people respecting or not respecting a custom, the concern of the Government? If the people are willingly according customary respect to any one, say, Patil or Kulkarni, the Government cannot and should not do anything in the matter. If the Patil or Kulkarni is trying to browbeat and demand the customary 'manpan' when odds are against him, surely he is fighting a losing battle. In either case the Government does not come in the picture except to maintain peace and order.

Government should release proper socio-economic forces so that the people would adapt themselves to the new situation in a desired way. Slow education and social forces are the sure way to social change. Law, if it is too ahead of the people, might give rise to contrary trends. It can go only one step ahead.

*Commissioner, Nagpur Division*

2-62. So far as the Nagpur Division is concerned, all Malguzari Estates, Jagirs, Inams, etc. were abolished in the year 1951 under the M. P. Abolition of Proprietary Rights (Estates Mahals, Alienated Lands) Act, 1951. The Watandari system of Patels and Patwaris which was in vogue in the 4 Berar Districts viz. Amravati, Akola, Buldana and Yeotmal was abolished in 1956 under section 214 of the M. P. Land Revenue Code, 1954. All the grants under which the lands were held for rendering service as village Kotwals were also cancelled in 1962 under section 150-A of the M.P. Land Revenue Code. No hereditary office or customary right or the right to demand any service still continue. The above-mentioned legislations have been quite effective and no more steps are necessary to make them effective and successful.

*B.D.O., Panchayat Samiti, Deori, Bhandara*

2-63. Current legislative measures have been proved to be effective. It is, however, suggested that supervising extension agency at block level connected with social welfare activities over the executive of village panchayat need to be vested with statutory powers to watch the implementation of the legislative measures. Village Panchayats should be saddled with some responsibility in relation to the breach of the statutory measures to the concerned authorities for which the Bombay Village Panchayats Act will require to be suitably amended.

*C.E.O., Zilla Parishad, Wardha*

2-64. Legislation has been effective and no rights mentioned above are in existence now.

*Sub-Divisional Magistrate, Dapoli*

2-65. The above said Acts have been fully implemented and there is no trace of the perquisites enjoyed by the old Watandar.

**Question No. 6.—Do you think that the rights of the type referred to above, that is, social, religious and economic rights of Manpan or the special rights to render service (Mahar Watan, etc.) and which have been traditionally in existence differ from district to district and area to area? If so, could you indicate the difference or differences and also give whatever information you have in this behalf?**

2-66. The general consensus of opinion on this issue is that there are no marked differences in customary and hereditary rights from area to area or district to district.

**Question No. 7.—Could you classify these customary and hereditary rights and give a brief historical evolution of each of such rights?**

*Collector of Yavatmal*

2-67. These traditions are being followed from times immemorial. No authoritative source is available to show the historical evolution.



*B.D.O., Panchayat Samiti, Soegaon, District Aurangabad*

2-68. Dipawali 'arti' by washerwomen, massage by barbers and 'pan-supari' by Mahars are customary and not hereditary rights. Their origin seems to be in the feudal system of the village society. Rights like puja by Brahmins, etc. have become out-dated. They have no more importance.

*Indian Council of Social Welfare.*

2-69. The customary and hereditary rights are categorised into following

- (1) Rights that accrue economic benefits either in cash or in terms of service
- (2) Rights that accrue social status and those that create stratification socially and
- (3) Rights that give religious prerogatives.

It is not possible to give the historical evolution of each of these as this is a subject for fulfilled study.

*Collector of Sholapur.*

2-70. These customary rights are a combination of religious, social and economic rights. They cannot be rightly classified.

*Collector of Sangli*

2-71. These rights have sprung from the idea of socio-economic utility to the rural people. The social structure was organised in such a way that a particular caste was supposed to follow a particular profession. The basic idea was that the Balutedar should function in such a way that every village should be self-sufficient entity and no village was even dependent on another village. In this type of economic set-up, it was necessary that the Balutedar should be socially and economically rewarded. This instinct was satisfied by giving the hereditary and customary rights and 'manpan' to these families at the time of annual 'Utsav'. These 'manpans' co-exist along with the religious ceremony because religion had a very strong influence on the rural population. In short, it may be stated that these 'manpans' have evolved out of social and economic necessity. The factor of economic necessity has vanished after the Second World War as a result of tremendous economic changes. Socially, these 'manpans' bring together the different groups of the society. From the religious point of view it has been observed in the rural areas that religion has a very useful purpose to play in the present society. Since religion is important even today, the 'manpans' and other rights which are an integral part of the religious ceremony are equally important in the villages today. This is the possible explanation for the existence of different hereditary and customary rights even today.

So far as the classification of these rights is concerned, the rights could be broadly divided into two major groups :—(1) social and (2) rights belonging to religious groups.

These rights are more commonly associated with religious functions. Purely social rights are comparatively less in number.

**Question No. 8.—Do you think that such rights are having a detrimental impact on our social, cultural and economic development? If so, could you indicate briefly the nature of such detrimental impact?**

*Collector of Yavatmal.*

2-72. No detrimental effect or impact on social, cultural and economic development is noticed.

*Indian Council of Social Welfare.*

2-73. Such customary rights which are not based on equal opportunity definitely have a detrimental impact on the socio-economic development of the State. These rights have retarded socio-economic development to a great extent and they do not have any value in terms of democratic opportunity and socialistic relationship. Further development in any society depends on economic opportunity to do any services, such as, health, education, welfare, communication; etc. Such a right and prerogative based on birth or caste

should be abolished. No trade is hereditary and no occupation belongs only to a certain given class and, therefore, this stratification results in a situation where the younger generation is unable to accept. The Bombay Corporation has not been able to employ even a single Bhangi to the sweeping profession. In the area of leather work techniques and process of qualities and skin we have not been able to employ even a single non-Chambar unless the industry is highly mechanized. Therefore, these remnants of caste-ridden society are creating a reactionary effect on social development. Therefore, in the interest of socio-economic development, these rights, based on heredity and custom, should be abolished.

*Tehsildar, Beed*

2-74. It is a fact that the continuance of such rights gives a superior position to an individual or a particular set of people in dominating the village affairs as they always happen to keep this right in existence so as to exalt their social status. These rights are performed even today with old traditional methods and so they often come in clash with the new methods which the younger generation of the village professes for performance of such function. The economic aspect which the villages used to get in the past is no more cared for.

*Collector of Solapur*

2-75. Such customary rights have no detrimental impact on social, cultural and economic development.

*Collector of Sangli*

2-76. The existence of such rights has no detrimental impact on our social, cultural and economic development. On the contrary, socially, they have a unifying effect, culturally, they are useful because they depict the cultural tradition of our society in a glorious way. From the economic point of view, no detrimental effect is caused. On the contrary, these occasions provide time for marketing and entertainment.

*Principal, Government College of Education, Yavatmal*

2-77. As the present set-up has a marked change from the old agrarian society, the rights having social and religious sanction have lost their effect. As a matter of fact, customary and social rights have their merits and demerits in the context of the social set up.

*Commissioner, Pune Division*

2-78. Most of these rights are of religious nature. When these rights proved an impediment in the implementation of any scheme in relation to social, cultural or economic development, the Mankaries as well as the members of the society stand to oppose such a development scheme. This is because of the religious impact on the minds of the individuals in general. These rights are thus having a detrimental impact on our social, cultural and economic development and many a time they pose as an impediment in developmental activities.

*Registrar, Marathwada University*

2-79. It is difficult to pass a summary verdict on the customary rights. They may prove conducive in some cases and dysfunctional in others to economic development. The question, however, treats social, cultural and economic development as either synonymous, simultaneous, coterminous or concomitant results of a single process. The hackneyed use of these terms has left them vague and undefined. It may so happen that with economic development (whatever it may mean), cultural degeneration (whatever it may mean) might set in and social inequality might be on the increase. Thus, a particular customary right while it resists economic innovations might hold the social peace and inter-dependence. On the other hand, an economically acceptable process among the people might give rise to social disruption and the moral tenor of the people might reach the abysmal depth.

*Commissioner, Nagpur Division*

2-80. The said customs, wherever they continue, have absolutely no detrimental impact on our social, cultural or economic development.

*C.E.O., -Zilla Parishad, Wardha*

2-81. By and large, these rights have no detrimental impact on our social, cultural and economic development. The only detrimental impact was to remind every one that the caste system is still prevalent in the country.

*B.D.O., Panchayat Samiti, Beed*

2-82. The institution of traditional rights has certainly detrimental impact on our social and cultural development. It defeats the principle of equality which is the very spirit of democratic and culturally developed society. One man being treated superior to another for no genuine reason is against the principle of justice and also illogical. It is a rotten culture where this institution prevails.

*Collector of Pune*

2-83. With the abolition of the important watans, such as. Kulkarni, Patel, Deshmukh and Deshpande the major hereditary rights which are given by these watans have now ceased to exist. Whatever customary and hereditary rights now remain are of a very petty and insignificant nature. While it is true that the existence of these rights is inconsistent in a socialistic and democratic state, their observance has the effect of establishing a certain procedure which continued to be followed due to the sanction of time. For instance, the determination of the fact that a particular person's bullock will take precedence or that a particular person will perform a particular ceremony prevents conflicting claims from arising on each occasion. By and large, the rural masses respect these old customs and accept them and that is why it is only occasionally that there are quarrels and fights which arise from conflicting claims. On occasions during the Po'a festival we have to apply Section 144 of Criminal Procedure Code. If these privileges are abolished by any law, it will be necessary to substitute other persons for those who are enjoying these rights due to hereditary rights. For instance, if the Patel's bullock is not to be the first bullock in the procession of Pola, the law will have to decide whose bullock should be the first and unless the process of determination is clear-cut it may lead to more law and order problems as different conflicting claims will have to be settled. Similarly, if the Patel is not to do the puja some one else will have to be selected for doing this and this selection may lead to the same type of conflicts which occur before the election. While I admit that these rights are inconsistent today, I am of the view that due to the fact that they are of insignificant nature, there is certainly no urgent justification for passing a law to abolish.

*Shri Shankar Date, Pune*

2-84. The customs are beneficial for the cultural development of the society. It is, however, necessary to effect changes in the customs prevalent in the ancient times.

**Question No. 9.—Do you think that in the context of a new social pattern based on National solidarity, Industrial development, etc. which followed in the wake of our independence, these old customs, Baluteda-i system, traditions, manpan, etc. are beneficial to our society? If so, which of such rights, customs, etc. should be continued if you think that they are beneficial or discontinued if you think that they are harmful?**

*B.D.O., Panchayat Samiti, Soegaon, District Aurangabad*

2-85. No more beneficial. None of them need to be continued.

*Sub-Divisional Officer, Katol, District Nagpur*

2-86. The rights would disappear very fast in their own way. They are neither useful nor harmful to the society in the present form.

*Indian Council of Social Welfare*

2-87. We are surprised that this question should be asked. The new economic structure of our society maintains only one caste i.e. poor which cuts across religious and traditional boundaries. We cannot imagine that any hereditary or customary rights should be continued.

*Tehsildar, Edlbad, District Jalgaon*

2-88. Since independence these old customs, such as, Balutedari system, traditions, Manpans, etc. are not beneficial to our society. The question of continuing these rights, therefore, does not arise.

*Principal, Junior College of Education, Ratnagiri*

2-89. Making the law more stringent or passing of any other strict Act will not serve the purpose. I think social education and constant propaganda will suffice for the purpose.

*Tehsildar, Beed*

2-90. In my view all old customary and hereditary rights are no more useful in the context of a new social pattern based on national solidarity, industrial development, etc. which followed in the wake of our independence.

*Collector of Solapur*

2-91. These old customs, balutedari system, traditions and 'manpan' are no longer beneficial to our society in any way.

*Tehsildar, Paranda, District Osmanabad*

2-92. Balutedar system is nothing but to pay the remuneration of personal services to the farmers in the form of agricultural produce. This payment in shape of agricultural produce mainly depends on the aggregate quality produced by the agriculturists. This is effected twice in a year. The life of balutedars mainly depends upon this income. The Balutedars are unable to do any other work. Likewise, the poor farmers are unable to make cash payment for service given to them by the Balutedars like carpenters, barbers, etc. The present balutedari system now prevailing in villages may be continued for a further period of ten years.

*Collector of Sangli*

2-93. Economically these old customs have lost their significance now. But mostly these customs are useful to the society even today because they bring together the stratified society, satisfy religious feelings and play an important role of public entertainment. But there has to be a fuller inquiry into this matter. Only after a full inquiry, the question of continuance or dis-continuance of the hereditary and customary rights can be answered.

*Commissioner, Pune Division, Pune*

2-94. All customary and hereditary rights need to be abolished. These customary privileges should not be allowed to continue as a matter of right.

*Commissioner, Nagpur Division*

2-95. Whatever the old customs are, they may not be beneficial to the society but at the same time, they are also not pernicious. There is no instance of anybody going to a Court of Law for enforcing these customs and in the present times nobody is interested in seeing that the customs are rigidly observed.

**Question No. 10.—Do you think that the existence of such rights and the exercise thereof are consistent with the fundamental rights guaranteed by the constitution of India and whether such rights can be regarded as an anachronism and a positive hindrance to a free, open, egalitarian, socialistic and democratic society to which the nation is committed. If so, in what way ?**

*Collector of Yavatmal*

2-96. These customs and traditions do not violate or offend the fundamental principles of our Constitution.

*Collector of Solapur*

2-97. The existence of such rights and the exercise thereof are not consistent with the fundamental rights guaranteed by the Constitution of India, as these so-called rights have no originality of authority except that they are followed from generation to generation. If such traditions are continued, they may create anti-social feelings, such as, superiority inferiority complex among the society and those who exercise such rights may have the over-powering attitude.

*Principal, Government College of Education, Yavatmal*

2-98. These customary rights should be re-shaped suitably in the light of needs of the modern man. The rights stated before are inconsistent with the fundamental rights guaranteed by the Constitution.

*Commissioner, Pune Division*

2-99. These customary rights and the exercise thereof are inconsistent with the fundamental rights guaranteed by the Constitution of India. Many times these rights are not exercised properly and they lead to social discrimination and co-lateral events creating possible situation, resulting in threat of disorder and discord amongst the rural population.

*Registrar, Marathwada University*

2-100. The answer to this question, if ventured upon, is bound to turn out to be equally vague and meaningless.

*Principal Government College of Education, Basmatnagar.*

2-101. Existence of such rights and exercise thereof are not consistent with the fundamental rights guaranteed by the Constitution of India. Such rights should aptly be regarded as an anachronism and a positive hindrance to the free play of the principle of equality of all citizens.

*Superintendent of Police, Ahmadnagar*

2-102. These rights are inconsistent with the concept of egalitarian society. Such rights can be considered as a positive retrograde step in the present social climate.

**Question No. 11.—Do you think that the elimination of these out-dated customs, rights, (man-pan) (superior-inferior), etc. which are positively harmful to the society as a whole or to specific social and religious groups should be left to social and economic forces. Such as, spread of education, industrial and technological advance, special reform movements etc which are currently underway in the country or whether it is necessary to undertake positive legislation for the abolition of these rights. etc. ?**

*Collector of Yavatmal*

2-103. It does not appear necessary to undertake positive legislation.

*Indian Council of Social Welfare*

2-104. It would be naive to believe that these rights would vanish automatically with the advent of industrial and technological society unless the improvement in education, trade unions, industrialization, urbanisation, etc. are achieved. It is our belief that there is need to undertake positive legislation for abolition.

*Principal, Junior College of Education, Ratnagiri*

2-105. By positive legislation, we will not get expected changes. So, it is necessary to adopt other constructive measures like education, meetings, films, seminars, etc. which would help a lot in the major task of elimination of these out-dated customs and rights.

*Collector, Solapur*

2-106. It is necessary to undertake positive legislation.

*Collector, Sangli*

2-107\* Social education will have to play an important role. Positive legislation is not necessary. The abolition of customary rights means practically that these religious functions will be prohibited from performance. Therefore, if these functions are abolished without introducing substitutions this will create annoyance in the minds of rural people.

*Commissioner, Pune Division*

2-108. Positive legislation is necessary.

*C.E.O., Zilla Parishad, Wardha*

2-109. Positive legislation is not necessary.

**Question No. 12.—In case legislation is considered necessary, could you suggest a proper and detailed mechanism for it, including whether the offences committed in contravention of the proposed legislation should be treated as cognisable, the penalty or penalties for such offences, the manner of appeal, grant or otherwise of compensation, the quantum of such compensation, etc.**

*Indian Council of Social Welfare*

2-110. It would not be correct to believe that all social evils should be remedied by mere legislation. Legislation only provides a social context and it is a kind of legal direction provided. However, we would recommend legislation which would take steps to abolish any right based on birth, caste or heredity. The question regarding the treatment or manner of appeal cannot be discussed in a brief proforma like this. It should be referred to a technical committee. If such a committee is appointed, the Indian Council of Social Welfare will be very happy to extend its co-operation.

*Principal, Junior College of Education, Ratnagiri*

2-111. In my opinion, no legislation is necessary for this purpose. The question of suggesting a proper and detailed mechanism for the same therefore does not arise. In my view, any Act will not help to promote the cause of social justice.

*Collector of Solapur*

2-112. Legislation is considered necessary. An independent machinery consisting of adequate staff need to be created. The offences committed in contravention of the proposed legislation may be treated as non-cognisable. Minor penalties may be provided for and the offender be treated as disqualified for a period of five years for elections. As regards grant of compensation, it is stated that since these rights have no legal and documentary footing, no compensation for their abolition needs to be granted.

*Collector of Sangli*

2-113. Legislation is not considered necessary but it is suggested that a detailed inquiry into social, economic and psychological functions involved in the existence of these hereditary and customary rights is necessary. For this purpose, a separate inquiry commission may be appointed. Similar customary rights prevailing in the tribal areas may be enquired into.

*Commissioner, Pune Division*

2-114. (a) Offences under the proposed legislation should be treated as cognisable, (b) penalty prescribed under section 5 of the Bill of Shri Dhondge appears reasonable and there seems to be no objection to accept it, (c) the provision regarding compensation under section (7) of the Bill (mentioned above) is reasonable and (d) the provision of one appeal against the award of compensation by the Collector to the M.R.T. appear reasonable and sufficient, as similar provision was made in all the land revenue tenure abolition laws passed so far.

*Principal, College of Education, Parbhani*

2-115. These rights should be abolished by passing an Act after the manner proposed by Shri Dhondge and offences under the Act should be made cognisable and punishment to the extent of six months' simple imprisonment or fine which may extend to Rs. 500 may be provided.

## CHAPTER III

### ENUMERATION AND CLASSIFICATION OF RIGHTS

3-1. From the discussion and information given in the previous chapter it would be noticed that rights, numerous and variegated as they are, are also of different nature. While some of the rights are religious in character others have a social base. Yet others have an economic bent. In this Chapter we shall try not only to classify rights in the three broad categories mentioned above, but will also, briefly, spell out the major festivals of Maharashtra and the role which village personalities like Patil, Deshmukh, Deshpande, Kulkarni, Gurav, Bhatji and others have been and are playing in respect of these festivals.

3-2. Dassera or Dushera is one of the most important festivals of India as it is of Maharashtra. This festival is usually held in the month of Kartik (September or October) and symbolises the victory of Rama over Ravan. Hindu mythology attaches considerable significance to this festival because it celebrates not only the redemption of Seeta, the consort of Rama, in Sri Lanka with the help of God Hanuman and his army of monkeys but also represents the victory of good over evil.

3-3. The celebrations are held all over the country for a period of ten days (Navaratra Ustav). In Northern India the festival is called 'Vijaya-Dashmi' celebrating the victory of Rama over Ravana. In Bengal it is Durga Puja. In Gujarat it is Navaratra or festival of nine nights. In Maharashtra Dassara is celebrated not only in rural areas but also in urban centres. In villages, on completion of nine days of festivities, the idol of local god or goddess is put in a palanquin and taken out in procession right upto the borders of the village. At this point the congregational worship (puja) of the 'shami tree' is arranged. After the ceremony of worship is completed, 'Apta' leaves of Shami tree are distributed publicly after such leaves are first offered to the local god. Now, the man who first performs the worship and takes 'Apta' leaves is either Patil or the Deshmukh, that is, some watar or 'mankari'. The precedence accorded to him for the worship of the goddess and taking 'Apta' leaves grew out of the past customs.

3-4. 'Pola' is another colourful festival of rural Maharashtra. This is usually celebrated in villages in the months of Ashad-Shravana-Bhadrapada (August-September) and the festivities of the occasion are centered around decoration and worship of bullocks. The three months mentioned usually cover a period when agricultural operations are on an intensified scale and the need of the bullocks is the greatest. Bullock is the symbol of Indian agriculture and has almost a sacred status.

3-5. On the day fixed for this festival cultivators give a thorough bath to their bullocks and decorate them with clothes of different colour and many jingle bells. The horns of bullocks are painted in red or pink. The servants of the families who are, throughout the year, engaged in the maintenance of the bullocks are also given special treatment by way of serving special food ('puran poli') and some minor gifts. After the bulls are bathed and decorated they are taken out in a procession which includes musician who keep on beating their drums or playing their 'shehanais' and 'lezims'. This procession ends up usually at the village chawdi. In the whole procession the pair of bullocks belonging to the village Patil (Mankari) takes precedence and is placed at the first place. All bullocks forming part of the procession are serially numbered and the Patil's pair of bullocks are given the first two numbers. This practice is customary and the right of the Patil for the precedence is a customary right.

3-8. 'Diwali' or the festival of lights marks the climax of the festive season in the country. It is the gayest Hindu festival and is celebrated in all parts of the country in one form or the other in a splendid manner. The word 'diwali' seems to have been

derived from the word 'deepawali' which means 'cluster of lights' (divas-small earthenware lamps). In addition to 'diva', electric bulbs are lit in every home, every town, every city, thus turning the whole country into a magnificent fairy land. Usually, diwali celebrations are held on 'Amavashya', the 15th day of the dark fortnight of the Hindu month of "Asvina". This corresponds to October/November. According to a fable in Hindu mythology this is the day on which Rama is supposed to have returned from his fourteen years of exile in the forest. On this return of Rama, people of Ayodhya greeted him with a blaze of lights. Diwali, as a matter of fact, is celebrated over a time of five days. On the fifth day, which is the diwali day, Hindus invariably wake up before sun rise, take oil bath and put on new and colourful clothes. The day is heralded by fire works and crackefs. The third day of Diwali is devoted to propitiation of Laxmi, the goddess of wealth and prosperity. On this day every home is decorated with flickering diwas to welcome her. There is a belief in Hindu mythology that unlit homes are ignored and overlooked by the goddess and this is regarded as inauspicious and foreboding evil.

3-9. On the diwali day there is custom in villages that the barber of the village, being one of the twelve balutedars, visits the houses of the local dignitaries like Patil, Deshmukh, Deshpande and trims their hair and shaves their beards. He then massages the bodies of these dignitaries and applies cosmetics ('utane') on their person. Thereafter the 'dhubin (washer-woman) steps in and performs the 'arti' of these persons.

3-10. The festival of Holi is celebrated all over the country, including Maharashtra. The day falls in the course of the year in the month of March corresponding to 'Falgun' which is the last month of the Hindu calendar. The ignition of holi fire on this particular day signifies the termination of the season of Rabi and the harvesting of Rabi crops. The occasion is marked by gay celebrations and a universal spirit of merriment. The celebration has particular significance and relevance to the rural parts of Maharashtra because the festival is linked with agricultural operations as mentioned above. In urban centres particularly the celebrations result sporadically in violence and disturbance of peace. In villages, on the day of the holi, the watandar has the right of precedence in igniting the holi fire. Sometimes this right is disputed by others and the upshot is violence, even if minor. The custom of giving precedence to watandars cannot be historically traced but it would not be wrong to conjecture that the festival has been in existence for thousands of years and that the customary right giving watandars the right to ignite the fire may have originated in feudal times.

3-11. Padva is another festival which is peculiar to Maharashtra. It heralds the commencement of Hindu-Marathi New Year. On this day Maharashtrian families partake of leaves of neem trees ('kadu-nimb'). The consumption of this material is hygienically recommended and is considered as a preventive remedy for many diseases and ailments to which human flesh is heir. The celebrative part of the festival consists of putting up small flags, woven out of cloth, on house tops and elevated places. 'Kadu nimb' is also attached to these flags. The flag is popularly known as 'Gudhi'. This is why the festival has come to be known as 'Gudhi Padva'. On this occasion the Hindu households prepare dishes of sweets. The day is also regarded as a good omen for commencement of any good activity. On this day, persons from lower castes are compelled to visit the houses of the 'mankaris' and play 'vajantris'.

3-12. In his non-official Bill moved in the Maharashtra Legislative Assembly, Shri K. S. Dhondge, the then MLA, specified some twenty-two customary and hereditary rights, which, he proposed, should be abolished by law. He also suggested in the Bill that offences committed against the law repealing these rights should be treated as cognisable and that proper punishments (fine, etc.) be imposed on the offenders. The study made by this Committee has revealed the prevalence of a very large number of customary and hereditary rights, that is, many more rights than those enumerated by Shri Dhondge. Perhaps, further investigations and studies might reveal many more hidden rights being practiced in several remote villages of Maharashtra. Anyway, the large variety of rights that



this committee has so far come across are classified below into three broad categories, namely, social, religious and economic. It is possible there might be overlapping in several cases so that some rights could be both economic and social in nature while others might be religious and economic in character. Or, the overlapping may be universal.

#### *Religious Rights*

- (1) Right of precedence in applying Shendur to the idol of Maruti deity on festival days and right of precedence in performing puja of Maruti.
- (2) Right of precedence in beating 'Dak' before Kamai deity.
- (3) Right of precedence in breaking the curd-pot on a religious festival and moving in a palanquin.
- (4) Right of breaking of chains and parading of carts and chariots during festivals.
- (5) Right of precedence in performing puja and procession of Shiralashet Bhuloba idol.
- (6) Right of performance of 'puja'.
- (7) Hereditary right to perform religious ceremonies in Devasthanans of Shri Samaji and Kalkai, Janani Devis at Morgin, taluka Poladpur, district Kulaba.
- (8) Manpan of worship of god 'Jyotiba' of village Wadi-Ratnagiri, taluka Panhala, district Kolhapur.
- (9) Right of management over religious functions of Sukhai-Deity in Kherdi village, taluka Khed, district Ratnagiri.
- (10) Right to perform puja and celebration in respect of village deity "Gangoba" in Tehsil Rajapur, district Ratnagiri.
- (11) Right of ownership and performance of "Karukes" of the Deity in Isavali village in Rajapur taluka of district Ratnagiri.
- (12) Right as Mankari and ownership of the Vithai Temple at Devli, taluka Rajapur, district Ratnagiri.
- (13) Right of receipt on behalf of certain deity some offerings, such as, coconut, khan, etc.
- (14) Moving of palanquin by certain persons on their shoulders in village at the time of festival of particular deity or festival of a common nature.
- (15) At Chikhli, the President of the Municipality has the first privilege of leading the Devi procession.
- (16) During the period of Navratra (of Karla deity) the right of slaughtering a goat is with the Patel of village Varsoli, taluka Mawal, district Pune.
- (17) The right of making 'Jagran-Gandhal' before Khandoba of Jejuri is with the Vaghya-Murali of that village.
- (18) Slaughtering a goat on the Dasara and applying Tilak.
- (19) To arrange bullock fights on the days of Dasara. Padva. et
- (20) Right to carry 'Palakhi' of the deity.
- (21) Right to destroy the effigy of Ravana.

#### *Social Rights*

- (1) Manpan of twelve Balutedars in villages.
- (2) Right of precedence in the worship of Balajichi Kathi, Mahadevachi Kathi, Palkhi of Khandoba, Palkhi of Jyotiba.
- (3) The mans of Mahakali, Kadak Laxmi man and Jokhmar man.
- (4) Rights known as Faski, Pandhari man, Man-dhan, Manachi Supari and Manacha Shidha.
- (5) Right of performance of Tulsi Marriage first in the House of the Mankari accompanied by 'vajantri'.
- (6) Right to compel playing of 'vajantri' before the House of the Mankari on Dasara, Diwali, Shimga and Padva.
- (7) Right of taking the turban cloth offered to Maruti deity during Shevanti ceremony in a marriage.
- (8) Right of precedence in accepting 'tilak' and betel-nut on wedding ceremony.
- (9) Right of precedence in reading of 'Parat' and drinking of neem juice on Gudi Padwa day.

(10) Right of precedence in applying Shendur to the deity accompanied by playing of musical instruments and right of Bhandara (cooking and distributing food to the devotees) on Hanuman Jayanti Festival.

(11) Right of precedence to parade bullocks and breaking the Toran on Pola day accompanied by playing of musical instruments.

(12) Right of precedence in performing the puja of 'shami' and 'apta' trees accompanied by playing of musical instruments of offering Bali (sacrifice) and hoisting of flag at Chawadi or fort on Dasara day.

(13) Right of precedence in applying Shendur on Diwali day.

(14) Right of precedence in igniting Holi and performing other rights on that occasion accompanied by playing of musical instruments.

(15) Right of giving head-load of fire-wood on the occasion of Dasara and Pola.

(16) Right of Mahar in respect of Athi Sola and Kathi.

(17) Right of the cobbler to give shoes to the bride and bridegroom at the time of marriage.

(18) Right to dig pit and bring wood for performing funeral rites in case of deaths in higher caste.

(19) Right of sending message about death in higher caste by a person from lower caste.

(20) Right of distributing Pan-Supari on occasions like wedding ceremony, etc.

(21) Right to break chain and the right to take the Palkhi/Rath in procession.

(22) Right to have first preference for conducting Tulsi Marriage in the house of Mankari with Vajantri.

(23) Right to apply 'utane' by Nhavi (barber) and performing Arti by dhobin to 'mankari'.

(24) Right of preference in bringing 'Ganpati' idol in Ganpati utsav.

(25) Right of preference of taking out chariot.

(26) The practice of visiting houses of 'mankaris' in order of precedence and offering 'tilak' and in return to receive grain.

(27) Right to announce public auctions of public goods or commodities by particular community.

(28) The practice of offering men and women to Goddess or local deities as their servants and requiring them to remain unmarried throughout their life.

(29) Receiving Manpan at the time of worship of Deity and having precedence over all people.

(30) Practice of receiving 'Madhukari' by brahmin students.

(31) Right of mankaris to plough their fields first.

(32) Right of precedence of "Kumbhar" for giving earthen pots in marriages.

(33) Right of Ramoshis of patrolling at night in the village and collecting bread (Bhakari) from the public of that locality.

(34) Newly married couple of the family should obtain the blessings of certain Mankari family.

(35) Some social gatherings or celebrations cannot start without arrival of Mankari.

(36) To bathe horse and hold horse in procession on Dassara day.

(37) To remove the skin of the carcasses.

### *Economic Rights*

(1) Right of Wati of Jogan.

(2) Right of Pujaris of Deosthans to receive offerings before the deity and receiving benefits from the movable and immovable property of the temple.

(3) Traditional rights of Priests and Mankaris over the income of temples at Pandharpur, Singapur, Tuljapur, Jyotiba, Vajjnath, Khandoba and other places.

(4) Right of cultivation of land for the maintenance of 'Deity'.

(5) Right of making arrangements of light in front of deity from the annual income of the temple.

- (6) Right to sale proceeds of coconuts, sarees, flowers, etc. and other articles presented to the idol.
- (7) Right to receive dead or living animals offered to a deity.
- (8) Right to receive articles presented to the idol, such as, Prasad, Abhishek articles, etc.
- (9) Right of residence in the temple.
- (10) Right to use the temple for personal purpose.
- (11) Right to receive payment for performance of puja.
- (12) Rights of balutedars to earn income.
- (13) Practice of begging for livelihood by Madari, Kadak Laxmi, Nandiwale, Dombari, Gondhali, Daori, Fakir, Devdasi, Waghya Murali, Jogati etc.
- (14) Right of Jangam to receive payment and Shidha in token of ditribution of 'Bel' on 'Srawan Mondays' and on holy days among various families.
- (15) Right to receive Shidha by higher communities from lower communities in different religious functions.
- (16) Right to receive payment for making announcement (Davandi) by beating drums.
- (17) Right of Deshmukh, Deshpande of village Natepute in Solapur District over the income of Guptalinga and Girijapati God at the time of fair in Chaitra month.

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## CHAPTER IV

### CONCLUSIONS AND RECOMMENDATIONS

4-1. In the previous three chapters we have indicated the circumstances in which this Committee came to be appointed, the oral evidences of some of the important individuals recorded before the Committee, the written replies received from knowledgeable people or institutions with reference to each Question included in the Questionnaire. In the third chapter we have enumerated the various rights which the Committee has discovered and classified them into three broad categories, namely, religious rights, social rights and economic rights. In the same chapter we have also spelt out briefly the important festivals of Maharashtra and the role which the privileged persons in villages are playing in these festivals. In the present and the concluding chapter we shall deal with some of the fundamental questions involved in the subject, namely, whether the operation of various rights is discriminatory in character and repugnant to the spirit of the Constitution of India, whether the various rights should be abolished by law and, if so, which of such rights should be abolished, if the rights are to be abolished by law whether any particular penalty should be proposed for the offenders, etc.

4-2. But before we do this let us have a brief look at history. Most of the rights which we have seen seem to have their origin in the peculiar caste system that is prevalent in India. In the whole structure of Indian society, caste is of vital consideration and is of the highest importance and interest to the majority of Hindus and perhaps also to Muslims and Christians most of whom, over a period of time, were converted to the Hindu faith and have not been able to rid themselves of the various age-old customs. For example, some of the Muslims still have the privilege of carrying or holding an umbrella on the palanquin of Hindu deities carried in procession.

4-3. The word 'caste' has been derived from the Portuguese word 'castus' which means 'pure' and the word is used to designate different tribes and classes into which people of India are divided. The most ancient classification divides the people into four main castes. The first and the most distinguished of all these is that of Brahmins: the second in rank is that of 'Kshatriya', the soldiers; the third 'Vaishyas' or land holders or merchants; the fourth 'Shudras', the cultivators or menials. The original idea of caste comes from colour (Varna). This idea emerged when the conquering Aryans absorbed the conquered population into a new system of society. The name given to these people by invaders was 'dasyu' (enemy). But this word later came to mean 'slave'.

4-4. The division of people into castes was some sort of occupational identification in which the Brahmins arrogated to themselves the most respectable profession of priesthood, the Kshatriyas became warriors and the Vaishyas, the commercial people; and this class included cultivators, traders, goldsmiths, weavers, potters and so on. The Shudras were assigned the position of menials engaged mostly in unclean occupations. Historically only three classes existed and it was the Indo-Aryans who added the Shudras to the classification. This functional structure was given a sort of divine origin in the Vedas which describes how, when Purusha, the archtypal man, was sacrificed, the Brahmins rose from his head, the Kshatriyas from his arms and the Vaishyas from his thighs and the Shudras from his feet. Michael Edwards writing in his "History of India" observes:

'Caste is the steel frame of Hindu society and an organisation of almost incredible complexity, but the basis is the belief in the divine origin of four castes, fixed and unchanging, the gulf between them impassable. To destroy caste would be to demolish the whole Hindu social structure. Conquerors and invaders, Buddhists, Muslims, Christians, have been forced to accept its all-pervading strength'.

4.5. Pervasiveness of the caste system has been commented upon at various times by scholars, historians and writers. Ronald Segal's comments on this subject in his book : "The Crisis of India" deserve particular attention :—

'It is the pervasive importance of caste that more than anything else characterises India. There may be other societies where caste exists in a rudimentary form, but nowhere outside India is caste the very structure of social survival. And in India caste is ubiquitous. It is overwhelmingly Hindu in operation, but it is not exclusively so. Muslims, Christians, Jews have all, in varying degrees, succumbed to its influence. Caste is not a mere custom, like table manners, or a measure of social status, like accent and dress. It is in India the fundamental rhythm of life itself.

'A caste is a group of people traditionally pursuing a common occupation and inhabiting a linguistically limited region who may marry each other and eat together without ritual offence and who, in consequence of their common occupations and habits, possess a generally accepted place in a basically religious hierarchy. Caste penetrates every aspect of living. It conditions how and when and what and where a person eats and washes and talks and prays, from whom specific foods and drinks and specific utensils may be taken, or to whom offered; the way the hair is worn, the kind of clothes, the shape of ornaments, the form of funerals, the frequency of sex (orthodox Brahmins in Tanjore make love only on Fridays). Increasingly, despite the secular commitment of the Indian Republic, caste selects candidates and determines votes, no less in national elections than in village ones.

'Caste cannot be properly understood in isolation from Hinduism, for it is Hinduism that provides caste with its sanctions and gives to the whole system its moral meaning. Hinduism itself is the most spacious of all religions, with comfortable accommodation for the disciples of one god, many gods and no god at all, for the worship of animals, ancestors, and ideas. Yet, there are certain beliefs held by almost all Hindus, and it is these that together morally underpin caste. Samsara (rebirth), karma (transmigration the repayment for an individual's deeds in the condition of his next life), papa (sin), punya (merit), moksha (salvation), dharma (duty) are all concepts intrinsic to the sustenance of caste. And of them all, karma and dharma are the twin essentials, for karma proclaims that the Hindu is born into a particular caste because of his deeds in a previous life, and dharma demands that he should accept his condition without protest, performing as well as possible the functions appropriate to it.

'The word dharma means in essence a natural attribute. It is the dharma of a river to flow, the dharma of a pond to stand still. And just as a river or a pond possesses its dharma, so does every human being. The dharma of shoe-maker is to make shoes; the dharma of a soldier is to fight'.

4.6. This historical description of the caste system as prevalent in India has particular relevance to the subject of this Committee, because it is caste which determines occupations in the different strata of the Hindu society. For example, the Chambhar (shoe-maker) has the specific occupation of making shoes. He, therefore, belongs to the Chambhar community. Similarly, a Dhobi, a Kumbhar, a Sonar, a Carpenter, a Barber each has his own specific occupation to pursue throughout his life and that also is the designation of his particular caste. This obviously the most unique system in the whole world and probably there is no other country or nation which possesses anything approaching the elaborate caste system of India. It has been condemned, on the one hand, as a factor "leading to a degree of social disunity to which no parallel can be found in human history" and on the other, eulogised in hyperbole by other intellectuals, including no less a person than Abbe Dubois, who has otherwise been highly critical of Brahminism and Brahminical manners and customs. Says Abbe Dubois :—

'To establish the justice of this contention we have only to glance at the condition of the various races of men who live in the same latitude as the Hindus, and to consider the past and present status of those among them whose natural disposition

and character have not been influenced for good by the purifying doctrines of Revealed Religion. We can judge what the Hindus would have been like, had they not been held within the pale of social duty by caste regulations, if we glance at neighbouring nations west of Peninsula and east of it beyond the Ganges as far as China. In China itself a temperate climate and a form of government peculiarly adapted to a people unlike any other in the world have produced the same effect as the distinction of caste among the Hindus.

'After much careful thought I can discover no other reason except caste which accounts for the Hindus not having fallen into the same state of barbarism as their neighbours and as almost all nations inhabiting the torrid zone. Caste assigns to each individual his own profession or calling: and the handing down of this system from father to son, from generation to generation, makes it impossible for any person or his descendants to change the condition of life which the law assigns to him for any other. Such an institution was probably the only means that the most clear-sighted prudence could devise for maintaining a state of civilization amongst a people endowed with the peculiar characteristics of the Hindus'.

4.7. There are two other areas which have relevance to the subject of our study. One is the system in which village life is basically organised and the other is the Balutedari system. There are 5,00,000 villages in India, of which 35,000 are in Maharashtra. We have about 22,000 village panchayats in Maharashtra. 'India lives in villages' is not a cliché but a statement of fact. About eighty per cent of India's population is in villages and about sixty per cent of this population is engaged in farming and the remaining are employed or self-employed on other jobs. Each village has its own identity and is compact and self-sufficient to a very large extent. No doubt, processes of industrialisation and urbanisation have made some dents in the compactness and monolithic structure of the Indian village. The coming of electricity, railways and new concepts and ideas have changed and are changing the rhythm of life in villages. Prosperity and affluence are bringing in modernity and a new life-style to areas which are now rich in irrigation and other important facilities and inputs of agricultural production. This is particularly true, for example, of sugarcane producing tracts of Maharashtra. Motorcycles, radios, transistors, modern footwear and clothes are very much in evidence in a large number of villages which have felt the impact of a flourishing agriculture over the years. Frequent trips to adjacent cities and towns have become all too common. But leaving aside such prosperous villages, life in the rest of the villages, particularly remote villages, seems to drag on in the same old languorous fashion with the same old drabness and monotony. Here, life in general seems to be organised, and centered around the Grampanchayat, the village temple, the village Chowdi, the village school and the village agricultural fields. In some villages there might also be primary health centres or sub-centres attending to the health needs of the villagers. In this whole system the privileged persons like 'mankaris' and 'watandars' have an altogether dominating role.

4.8. Let us now turn to the Balutedari system which is still operative in villages. There are twelve Balutedars as shown below :—

- (1) Chamber (Shoe-maker).
- (2) Kumbhar (Potter).
- (3) Nhavi (Barber).
- (4) Sonar (Goldsmith).
- (5) Dhor (Tanner).
- (6) Mang (Rope-maker).
- (7) Dhobi (Washerman).
- (8) Sutar (Carpenter).
- (9) Ramoshi (Guardsmen).
- (10) Lohar (Ironsmith).
- (11) Mahar (Village Inferior Servant).
- (12) Koli (Water-carrier).

4-9. Balutedari system came into existence in feudal times when the barter system was prevalent and money transactions were comparatively unknown or on a very insignificant scale and when recognition and payment for services rendered to the rulers was either through grant of land or through conferment of particular rights. The British rulers also did not disturb this system. Difficulties arose when money transactions came into being and we have been told by one of our respondents that in certain villages the 'balutedars' are now insisting on payment from the land-holders and others in cash rather than in kind, such as, foodgrains, old clothes, etc. Similarly, Gosavis are also in the category of Balutedars and along with, 'Jangams', 'Badves', 'Guravs' and similar other backward class people who are performing religious rites and ceremonies as 'deputies' of the village Brahmins, have also, over time, acquired certain status and honour in the village set-up.

4-10. The various rights which are enjoyed by privileged and the non-privileged classes in villages are operative both ways. In other words, rights are enjoyed by both categories of persons, that is, those belonging to higher castes and those belonging to lower castes. For example, it is the 'right' of the 'mankari' or the brahmin priest to perform puja in temples and perform worship or recital of 'mantras' on occasions of wedding ceremonies and similar other ceremonies which have a religious character. Another example : it is the right of the low caste 'dhors', to remove dead animals from the village neighbourhood and to remove the skins of such dead animals. This is regarded paradoxically as a 'right'. Similar, examples of 'rights' of the low caste communities could also be instanced. So, largely our conclusion is that 'rights' are not only vested in people belonging to higher castes but are also vested in people of the lower castes. But, generally, it is only with respect to unclean or inferior occupations of the villages that 'rights' are enjoyed by the lower caste people. Now, this is a kind of situation which appears both contradictory and paradoxical. Such rights even when exercised by the lower caste people are positively anti-democratic and repugnant to the spirit of the Constitution and would need to be forthwith abolished by law.

4-11. Occasions of festivals like Pola, Dasara, Diwali, Shimga, etc. are a perpetual source of riots, resulting sometimes in minor violence, and a cause of endless animosity amongst the villagers. The Committee, therefore, enquired of the Inspector General of Police, Maharashtra whether complanits and cases resulting in disputes and violence due to the exercise of customary and hereditary rights were brought to police stations or chowkies, during the last three years or so and whether ultimately such matters were taken to courts of law. The Committee also wanted to know the number of cases of this type brought to police station or chowkies in each district and how the matters were ultimately dealt with and whether injunctions upholding or rejecting the rights of manpan of mankaris were issued by courts. The IGP was therefore requested to furnish to Government information of the above nature for each district in a prescribed proforma. Analysis of each such case reported by the IGP is as shown below :—

#### *District Buldana*

4-12. It was *customary* to give first preference on Pola day to the bullocks of one Shri Pralhad Dayaram Koli of village Gotmara in Buldana District. But on the 27th August, 1973, that is, the Pola day, one Shri Motiram Fatru Lodhi desired that his bullock should be given first preference. As a result there was exchange of hot words and lathis and stones were freely used resulting in a riot between the Kolis and the Lodhis of the village. Both the parties reported to the police station at Dhamangaon and two criminal cases were registered under sections 147, 149 and 337 of the Indian Penal Code against ten Kolis and eight Lodhis. The persons concerned were arrested on the 30th August, 1973 and the case was sent upto the Court of Law. The cases were reported to be subjudice.

#### *District Yavatmal*

4-13. (a) On the 20th August, 1971 a dispute arose between the Maratha and Banjari communities in the village Sailona at the time of Pola festival. The members of the Banjari community assaulted the 'mankari' when he was arranging the bullocks below the

'toran'. Both the groups, consisting of nine to ten persons, assaulted each other. On receipt of counter complaints two criminal cases were registered at the police station, Mahagaon. The cases ended in compromise.

4-14. (b) In the village Wadki there was a dispute over the 'manpan' of Pola festival. On the 7th September 1972, Police Patil Shri Balwantrao Deshmukh, his three sons and a servant took their bullocks and made them stand on the place where the bullocks of one Shri Gulabrao Kakde used to stand every year. This was objected to by Shri Kakde. After the Pola festival was over, Shri Balwantrao Deshmukh, his sons and the servant went to the house of Shri Gulabrao Kakde with sticks and threatened to kill him. A criminal case was registered at the Police Station, Wadki. The case was reported to be still pending in the Court.

4-15. (c) On the 7th September 1972, a criminal case was registered at the Police Station, Ladhed, because one Shri Sawtram Zama Banjari of Dahiphal and his associates abused the Police Patil in Pola and thus created disturbances in the performance of the festival. The case was reported to be pending in Court.

#### *District Nanded*

4-16. On the 20th August, 1971 one Shri Subhanrao Hanumantrao Sarpanch and twenty-one others assaulted Shri Niwraati Mashna Hatkar, resident of the village Junna, over 'manpan' of Pola. Two counter criminal cases were registered at the Police Station, Mukhed. The case was reported to have ended in a compromise on 19th July, 1973.

#### *District Aurangabad*

4-17. On the 27th August, 1973 one Shri Ramrao Punjabi Walke, resident of Bhaigaon, taluka Vaijapur, district Aurangabad, was assaulted by a knife by Shri Shahu Devaji Thombare and Shri Appa Devaji Thombare on account of Pola 'manpan'. The case was reported to be subjudice.

#### *District Osmanabad*

4-18. (a) On the 7th September, 1972 one Shri Havagivrao Bhimrao Patil, resident of Davan Hipparaga, had taken a procession of his bullocks on the Pola festival. Near the Maruti Temple of that village, one Shri Sarup Keshavrao Patil and eight others picked up a quarrel and assaulted Shri Havagivrao Patil. A criminal case was registered at the Police Station, Deoni, against Shri Sarup Patil and others and they were charge-sheeted in the court on 12th February, 1973. The case was reported to be pending in the court and no injunction was given by the court upholding or rejecting the 'manpan'.

4-19. (b) In the village Satala, District Osmanabad, one Shri Shrirang Tukaram, the Police Patil of Satala, was enjoying the customary right i.e. 'manpan' of taking the procession of bullocks first to Maruti Temple. But on the 27th August 1973, Shri Sayaji Rao Shinde and others of the same village took up the procession first. On this incident, a petty quarrel took place between the two parties. No complaint was, however, lodged at the Police Station. Hence, no offence was registered.

#### *District Thane*

4-20. On the 17th October, 1972, one Shri Dharma Kanu Patil of Dahagaon, District Thane, alongwith some other persons had gone to the boundary (Ves) of village to distribute leaves of Apta tree on the occasion of Dasara. While returning, Shri Ladku Budha Pawar and others met Shri Patil on the way and asked him why he went before Shri Pawar to distribute 'Sone'. There was an exchange of hot words and Shri Pawar assaulted Shri Patil and the persons accompanying him by sticks, stones and fist-blows causing injury to seven persons. Shri Pawar also entered the house of Shri Patil and damaged the walls. Shri Patil lodged a complaint on 18th October 1972 at the Police Station, Shahapur. The case was reported to be pending trial in the Court.



4-21. The idea in giving this information is to pin-point the fact that the exercise of the so-called right of the precedence of 'mankaris' on the occasions of festivals led to serious disputes, resulting even in violence, although the riots did not produce any fatalities. Besides, the courts of law to which such cases were reported did not give any clear verdict upholding or rejecting the manpans. Obviously, as pointed out above, the rights of 'manpans' have no legal sanction but have grown out of customs originating in feudal times.

4-22. Articles 14 and 15 of the Constitution of India (Fundamental Rights) lay down the principle of equality before the law and also adumbrate that there should be no discrimination and that no citizen should, on grounds of religion, race, caste, sex, place of birth be subjected to any disability, liability, restriction or condition with regard to several matters mentioned in Article 15. Besides, the thrust of the Directive Principles of the Constitution is to work for an India where the good of the people is the main consideration and where every Indian is *equal* in all matters, whether they be of wealth, power, etc. In other words, our ideal is to build up an India where there are no classes, no castes, and no divisions of any description and where every one shares equally in everything. All the rights which this Committee has discovered and which we have enumerated and classified in Chapter III of this Report violate the principle of equality and human dignity. They are discriminatory in nature and iniquitous in law. The Committee, therefore, recommends that all these rights mentioned in Chapter III should be abolished by law. It is indeed a tragedy of the Maharastrian history and, on a larger canvass and in a nationwide context, the tragedy of India as a whole that these rights have been allowed to subsist even after more than 30 years of Independence and run their turbulent and often noxious and malicious course all these years. The Committee is surprised that this work of suggesting the abolition of such rights instead of being taken up as a worthwhile social reform movement by social reformers and organisations of social reforms, should have been left to an individual like Shri Dhondge who had been pleading this cause for several years from various platforms, including the floor of the Maharashtra Legislative Assembly. The Committee would, therefore, like to offer congratulations and felicitations to Shri Dhondge who can indeed be regarded as a pathfinder and a trail-blazer in this vital cause. A reference to Chapter II would indicate that a majority of our respondents have unequivocally pronounced that prevalence of such rights is contrary and repugnant to the Fundamental Rights and Directive Principles as enshrined in our Constitution. They have clearly and forcefully recommended that all these rights should be abolished by legislation. The Committee concurs in this view. The Committee feels that the day of mankaris, watandars, ji-huzurs, Swamis, Patils, Kulkarnis, Deshmukhs, Deshpandes, Jangamas, Gurus, Gosavis is over with respect to the rights which they have enjoyed so far and that time has now come to terminate them forthwith by positive legislation.

4-23. The case for bringing about improvements in this respect by the play of social, economic and educational forces (and not by law) has been argued before us with some force. We do not agree with this view and feel that this is a mere dream. Indian society and the Indian village system are largely conservative and superstitious. Therefore, inspite of education, inspite of technological advance, inspite of modernism, the present rights would continue to be exercised by 'mankaris' and others for many many long years to come unless a radical step is taken by Government to abolish these rights by legislation.

4-24. It has also been argued before us that some rights are major and some minor; that some are more harmful and some are less harmful. A distinction has, therefore, to be made with respect to these considerations. We do not find any particular force in this argument also. Some rights cut and yet others cut more deeply. In either case the effect is incisive.

4-25. We have been told by some of our respondents that if the rights are removed by legislation then the question of 'substitution' would arise. For example, when the right of precedence in certain festivals like Pola etc. is abolished the question would arise

as to which person would exercise such right in future. Suggestions have been made that such rights should be transferred to be exercised by the Sarpanchas of Gram Panchayats. But when we do this we would be giving a political colour to the legislation which would be brought into existence as a result of this Committee's recommendations. We think that the question of 'substitution' should not be given any particular importance. Once the rights are abolished, it would be for the people to evolve a consensus on this issue and allot precedence to any other person or persons.

4-26. The question of compensation consequent to the abolition of rights is another question which has been raised before us. It is, in fact, a part of the Questionnaire that the Committee had evolved. The Committee feels that this is a somewhat amusing question. The mankaris have enjoyed their rights all these years willingly or unwillingly and have earned income out of such enjoyment for long periods of time. Besides, these rights have a conventional basis and have no sanction in law. The Committee, therefore, recommends that once the rights are abolished no compensation whatever should be paid to the existing mankaris, etc.

4-27. Regarding penalties, the Committee agrees with the view taken by Shri Dhondge in his non-official Bill and would recommend that offences against the law to be framed should be cognisable offences and that they should be punishable with imprisonment for a term which may extend to one year *and* also with a fine which may extend to Rs. 500.

4-28. There is one minor point. Question No. 5 of the Questionnaire asks whether in spite of the abolition of Patil Watans, Kulkarni, Deshmukh, Deshpande Watans and all inferior village watans by various enactments of the Maharashtra Government from 1950 onwards any rights to levy customary fees, etc. still continue and whether the legislations abolishing these watans have been effective. Practically, all our respondents have pointed out that no customary fees, etc. are now levied and that the legislations have been largely successful in their aims and objectives. The Committee generally agrees with this view.

4-29. Many of the customary rights which this Committee has seen are centred around temples involving performance of worship according to the tenets of the Hindu faith. The Brahmins, the Guravs, the Jangams, the Gosavis are playing a dominating role with respect to these sacred spots. We have suggested the abolition of all such rights converging on sacred spots. The Committee, however, recommends that for all big temples like Tuljapur, Shirdi, Vajjnath, etc. Public Trusts should be formed and that for all other minor and smaller temples and places of Hindu worship there should be a separate Department in Government for the management of all such temples. It has been reported to us that a Department of Devasthanans is functioning in Tamil Nadu under the Tamil Nadu Government. The Committee would recommend that such a Department may be created in Maharashtra Government also.

SMT. SHANTI NAIK,  
Vice-Chairman.

SHRI KESHAVRAO DHONDGE,  
Member.

SHRI V. G. PRABHUGAONKAR,  
Member.

SHRI M. B. KAKDE,  
Member.

SHRI S. H. AVACHAR,  
Member.

SHRI A. S. KASTURE,  
Chairman.

SHRI NAMDEORAO VAHATKAR,  
Member.

SHRI ANANTRAO PATIL,  
Member.

SHRI NANASAHEB MANE,  
Member.

SHRI MAHESHWAR THAKUR,  
Member.

W. M. SHAIKH,

Deputy Secretary to Government and  
Member-Secretary.

BOMBAY :  
Dated the 11th April, 1980.

## APPENDICES

- (1) APPENDIX 'A' ... Questionnaire.
- (2) APPENDIX 'B' ... Showing names of places visited by the Committee.
- (3) APPENDIX 'C' ... Minutes of dissent by Shri T. S. BHARDE.
- (4) APPENDIX 'D' ... A copy of Non-Official Bill of Shri K. S. DHONDGE, L. A. Bill No. III of 1973.
- (5) APPENDIX 'E' .. Showing Extracts of Debates in Maharashtra Legislative Assembly.

## APPENDIX 'A'

### Questionnaire

(1) What is your idea of customary and hereditary rights, including 'Manpan' etc., observed on the occasions of Dasara, Diwali, Pola, Shimga and Padva and similar customs prevailing in villages, towns and cities in Maharashtra from generation to generation?

(2) Do you think that, in your area, any customary or hereditary rights conferred on individuals or communities by previous regimes or social and societal dispensation are continuing to be exercised even during the present times? If so what are they and what is their nature—social, religious, economic—and also wherefrom the authority of these customary rights or 'Manpan' have been derived? Could you spell out all your ideas and all the information that you have in this connection?

(3) Besides the above, are there any traditional right prevalent in your area by virtue of birth or caste? If so, could you indicate their origin, that is, how they came into existence and for what purpose? Could you also state their nature?

(4) Could you list out all the rights, customs, 'Manpan', etc., of the type referred to above and now existing in your area?

(5) All Patel watans, Kulkarni, Deshmukh, Deshpande, etc., watans and all inferior village watans have been abolished under the Maharashtra Revenue Patels (Abolition of Office) Act, 1962, Bombay Pargana and Kulkarni Watans (Abolition) Act, 1950 and the Bombay Inferior Village Watans Abolition Act, 1958. Also, under the said three Acts, all patel watan lands, Kulkarni, etc., lands and inferior village watan lands have been resumed by Government and all incidents pertaining to the said watans, including the right to hold office and watan property, the right to levy customary fees or perquisites in money or in kind, and the liability to render service pertaining to the said watans have been extinguished. Do you think that in spite of all this, any office or customary right or the right to levy customary fees or the right to demand any service still continue? If so, could you give details of these? Also, please state whether the legislation mentioned above has been effective. If not, what steps would you suggest to make the legislation effective and successful?

(6) Do you think that the rights of the type referred to above, that is, social, religious and economic rights or 'Manpan' or the special rights to render service (Mahara Watan; etc.) and which have been traditionally in existence, differ from district to district or area to area? If so, could you indicate the difference or differences and also give whatever information you have in this behalf?

(7) Could you classify these customary and hereditary rights and give a brief historical evolution of each of such rights?

(8) Do you think that such rights are having a detrimental impact on our social, cultural and economic development? If so, could you indicate briefly the nature of such detrimental impact?

(9) Do you think that in the context of a new social pattern based on national solidarity, industrial development, etc., which followed in the wake of our Independence these old customs, Balutedari system, traditions, Manpan, etc., are beneficial to our society? If so, which of such rights, customs, etc. should be continued if you think that they are beneficial or discontinued if you think that they are harmful?

(10) Do you think that the existence of such rights and the exercise thereof are consistent with the fundamental rights guaranteed by the Constitution of India and whether such rights can be regarded as anachronism and a positive hindrance to free, open, egalitarian, socialistic and democratic society to which the Nation is committed? If so, in what way?

(11) Do you think that the elimination of these customs, rights, 'Manpan' (superior/inferior) etc., which are positively harmful to the society as a whole or to specific social and religious groups should be left to social and economic forces, such as, spread of education, industrial and technological advance, social reform movements, etc., which are currently underway in the country or whether it is necessary to undertake positive legislation for the abolition of these rights, etc. ?

(12) In case legislation is considered necessary, could you suggest a proper and detailed mechanism for it, including whether the offences committed in contravention of the proposed legislation should be treated as cognisable, the penalty or penalties for such offences, the manner of appeal, grant or otherwise of compensation, the quantum of such compensation, etc. ?

## APPENDIX ' B '

### Showing places visited by the Committee

- (1) Nashik.
- (2) Surgana.
- (3) Peint.
- (4) Trimbakeshwar.
- (5) Satpura village on the border of Gujarat.
- (6) Thane.
- (7) Kosbad.
- (8) Talasari.
- (9) Bhiwandi.
- (10) Various temples in Greater Bombay like  
Mumbadevi, Mahalaxmi, Siddhi Vinayak, etc.
- (11) Pune.
- (12) Jejuri.
- (13) Saswad.
- (14) Alandi.
- (15) Dehu.
- (16) Chinchwad.
- (17) Khandala.
- (18) Solapur.
- (19) Pandharpur.
- (20) Tuljapur.
- (21) Aurangabad.
- (22) Khuldabad.
- (23) Ajantha, Ellora.
- (24) Grhishneshwar.
- (25) Ahmadnagar.
- (26) Mahismal.
- (27) Shirdi.
- (28) Gokhale Institute of Politics and Economics, Pune.
- (29) Kolhapur-Mahalaxmi and Ambabai Temples.
- (30) Hatkanangle.
- (31) Jyotiba Mandir.
- (32) Various Temples in Goa.
- (33) Diu-Daman.

## APPENDIX 'C'

### Minute of Dissent of Shri T. S. Bharde

I was nominated on the Committee at a later stage. I had already given a note on the subject which was generally approved in the Committee meeting held in Pune.

It was also decided to consider various suggestions taking the already prepared draft report as the base and drafting of the relevant chapters was entrusted to some members. But that was not followed up. I do not want to mention this by way of criticism but as I am required to add my signature to the report I have mentioned this point.

I do not want to say anything about the historical and the social analysis presented very ably in the report. There may be two opinions on some points. I, therefore, would like to touch the recommendation part of the report only.

In the Chapter IV conclusions and recommendation some recommendations have been made. Hereditary rights conferring some status or privileged position resulting in discrimination in society should be abolished by law and no person should be allowed to enjoy any social privilege on the basis of birth. But where the right or the privilege is not hereditary and where some functions or duty is enjoyed, along with the right, by the local authorities, public bodies or public trusts, to person concerned, the matter becomes entirely different. Our whole emphasis should be on hereditary 'Mankari' rights which result in social inequality and rivalry. And all such 'Manpans' or rights should be straight way abolished by law. In para 4-25 it has been stated that the question of substitution should not be given any importance. I entirely agree. But it has also been stated "once the rights are abolished, it would be for the people to evolve a consensus on this issue and allot precedence to any other person". I differ. This would result in complication and unhappy situation. I would like to suggest that when the rights are abolished the local Govt. officials would be in a better position to manage the situation from the point of law and order as they normally do on public functions, festivals or procession.

With respect to recommendation regarding temples (Para. 4-29) : The Committee, however, recommends that for all big temples like Tuljapur, Vaijanath, public trusts should be formed. I want to state that even at present there are public trusts. What is needed is to pass an act on the lines of the Pandharpur temple act to abolish the vested hereditary rights of the pujaris and the like.

I am against the Committees recommendation regarding minor temples. It has been recommended that for small temples there should be a separate department in Government. I do feel that such an arrangement will be detrimental to the very spirit of temple worship. The representative body of the devotees working under the public trust Act is the best alternative.

Sd/- T S. BHARDE,

Pune, 21st April 1980.

APPENDIX ' D '

Copy of Non-Official Bill of Shri K. S. Dhondge

L. A. BILL No. III OF 1973

*A BILL*

*to provide for the abolition of certain hereditary and customary rights*

WHEREAS, it is expedient to abolish certain hereditary and customary rights prevailing in the State of Maharashtra and to provide for certain consequential and incidental matters hereinafter appearing ; It is hereby enacted in the Twenty-Fourth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Maharashtra Abolition of Hereditary and Customary Rights Act, 1973.
  - (2) It extends to the whole of the State of Maharashtra.
  - (3) It shall come into force at once.
2. *Definitions.*—In this Act, unless the context otherwise requires,—  
“Schedule” means the Schedule appended to this Act.
3. *Abolition of hereditary and customary rights.*—Notwithstanding any law, custom or usage to the contrary, the hereditary and customary rights specified in the Schedule shall be abolished.
4. *Power of State Government to amend the Schedule.*—The State Government may, by notification in the *Official Gazette*, add any hereditary and customary right in the Schedule and upon such notification, the Schedule shall be deemed to be amended accordingly.
5. *Penalty for offences.*—Whoever, in contravention of the provisions of this Act, enforces or abets enforcement of any hereditary and customary right abolished by this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year and also with fine which may extend to five hundred rupees.
6. *Offences under this Act to be cognisable.*—Offences under this Act shall be cognisable.
7. *Payment of compensation for abolition of right to property.*—*If in consequence of any right under section 3, any person is deprived of his property he shall be entitled to compensation equal to six times the cash value of the average income in money or in kind received by such person during the three years immediately preceding the date on which such right is abolished ; such cash value shall be determined in the prescribed manner.*
8. *Method of awarding compensation.*—(1) A person entitled to compensation under section 7 may make an application to the Collector for compensation in the prescribed form within the prescribed period.



(2) On receipt of the application referred to in sub-section (1) the Collector shall, after holding a formal inquiry in the prescribed manner make an award determining the compensation in the prescribed manner.

(3) Every award under sub-section (2) shall be in writing signed by the Collector and shall specify the amount awarded together with the grounds of awarding the said amount.

9. *Appeal against Collector's award.*—An appeal shall lie against an award of the Collector to the Maharashtra Revenue Tribunal.

10. *Procedure before Revenue Tribunal.*—(1) The Maharashtra Revenue Tribunal shall, after giving notice to the appellant and the State Government, decide the appeal and record its decision.

(2) In deciding an appeal under this Act the Maharashtra Revenue Tribunal shall exercise all the powers which a Court has and shall follow the same procedure which a Court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908.

11. *Limitation.*—Every appeal made under this Act to the Maharashtra Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal.

12. *Court fees.*—Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Maharashtra Revenue Tribunal shall bear a Court-fee stamp of such value as may be prescribed.

13. *Finality of award and decision of Revenue Tribunal.*—The award made by the Collector subject to an appeal to the Maharashtra Revenue Tribunal, and the decision of the Maharashtra Revenue Tribunal on the appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

14. *Inquiries and proceedings to be judicial proceedings.*—All inquiries and proceedings before the Collector and the Maharashtra Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

15. *Rules.*—(1) The State Government may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters :—

(i) under section 7, the manner in which the cash value shall be determined ;

(ii) under sub-section (1) of section 8, the form in which and the period within which an application for compensation, shall be made ;

(iii) under sub-section (2) of section 8 the manner in which inquiry shall be held and the compensation shall be determined ;

(iv) under section 12, the value of the Court-fee stamps to be affixed to an appeal.

(3) All Rules made under this Act shall be subject to the condition of previous publication.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the sessions in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

### SCHEDULE

(See section 2)

#### *Hereditary and Customary Rights*

Serial No.	Name of the Right	Remarks, if any
(1)	(2)	(3)
1	Right of precedence in applying <i>Shendur</i> to the idol of Maruti deity on festival days and right of precedence in performing Pooja.	
2	Right of precedence in beating <i>Dak</i> ( दक ) before Kamai deity	
3	Right of <i>Wati</i> of Jogna	
4	Right of precedence in breaking the curd-pot ( दहीदही ) on a religious festival and moving in a palanquine ( पालखी ).	
5	<i>Man pau</i> of twelve <i>Balutedars</i> in the village	
6	Right of place at the right side and getting oil at the time of Sawari in Durgahs, Tajwa (Tabut), Sandal and right of precedence in worship of Balajichi Kathi, Mahadevachi Kathi, Palkhi of Khandoba, Palkhi of Jyotiba.	
7	Right of Poojaris of Deosihans to receive offerings before the deity and receiving benefits from the movable and immovable property of the temple.	
8	Right of breaking of chains and parading of carts and chariots during festivals	
9	The <i>mans</i> of Mahakali, Kadak Laxmi <i>man</i> and Jokhmar <i>man</i>	
10	Rights known as Faski, Pandhari, <i>man</i> , <i>Man-dhan</i> , Manachi Supari and Manacha Shidha.	
11	Right of performance of Tulsi marriage with Mankari <i>Bhat</i> first in the House of Mankari accompanied by Vajantri ( वाजंत्री ).	
12	Right to compel playing of Vajantri ( वाजंत्री ) before the House of Mankari on Dasera, Diwali, Shimga and Padva.	
13	Traditional rights of Priests and Mankaris over the income of temples at Pandharpur, Shingnapur, Tuljapur, Jyotiba, Vajjnath, Khandoba and other places.	
14	Right of taking the turban cloth ( शेला ) offered to Maruti deity during <i>Shevanti</i> ceremony in a marriage.	
15	Right of precedence in accepting the <i>tilak</i> and betel nut on wedding ceremony	
16	Right of precedence in reading of <i>Parat</i> and drinking of neem juice on Gudi Padwa day	
17	Right of precedence in applying <i>Shandur</i> to the deity accompanied by playing on musical instruments and right of Bhandara (cooking and distributing food to the devotees) on Hanuman Jayanti festival.	
18	Right of precedence in performing puja and procession of <i>Shiralashet Bhuloba</i> idols.	
19	Right of precedence to parade bullocks and breaking the <i>Toran</i> on <i>Pola</i> day accompanied by playing on musical instruments.	
20	Right of precedence in performing the puja of Shami and Apta trees accompanied by playing on musical instruments, of offering Bali (Sacrifice) and hoisting of flag at Chawadi or fort, on Dasera day.	
21	Right of precedence in applying <i>Shandur</i> on Diwali day	
22	Right of precedence in igniting Holi and performing other rights on that occasion, accompanied by playing on musical instruments.	

## STATEMENT OF OBJECTS AND REASONS

Certain hereditary rights and customs such as claim to parade bullocks on the Pola day, claim for precedence in worship of God Maruti by applying red pigment (चंदूर) precedence in *man-pan* on certain festival occasions like padva, holi, etc. are still prevalent in the rural areas of Maharashtra. The court recognizes these rights of Mankaris and if anybody has overridden their rights court orders either temporary or permanent injunction or gives decisions in favour of Mankaris. These rights and customs are inconsistent with the fundamental right of equality guaranteed by the Constitution and are an anachronism in the present socialistic pattern of society. Besides, in their very nature these rights are an exception to this common law and lead to social discrimination and consequent threat of disorder and discord amongst the rural population. It is, therefore, highly expedient to abolish these rights forthwith.

The Bill seeks to achieve this object.

K. S. DHONDGE,  
Member-in-charge.

Bombay, dated the 9th February, 1973.

## MEMORANDUM ON DELEGATED LEGISLATION

Clause 15 of the Bill empowers the State Government to make rules to carry out the purposes of the Act. The various matters in respect of which such rules may be made have been specified in sub-clause (2) of that clause and relate to the manner of determining the cash value, the form in which and the period within which application for compensation shall be made, the manner in which inquiry shall be held and the compensation shall be determined the value of Court-fee stamps to be affixed to an appeal. It is difficult and cumbersome to make provisions for these matters of detail and procedure in the Act itself. The delegation of Legislative power is of the normal type.

## APPENDIX 'E'

1968 Debates (Translated from Marathi)

**Shri K. S. Dhondge, M.L.A., from Kandhar**

In the rural areas of Maharashtra there are certain customs inconsistent with the provisions of the Constitution of India. There are many customs which are undesirable. All such customs, hereditary rights, etc. should be discontinued forthwith. There are some customs for the discontinuance of which there is a need for education. But in respect of undesirable customs and rights, the State Government not only recognises them but if any effort is made by the society to discontinue such undesirable customs and to abolish them forthwith, Government does not give adequate support to such efforts on the part of the society. On the contrary, those who raise their voice against such undesirable customs don't get protection at the hands of Government, which means that Government is protecting the 'man' or the right of such 'Mankaries' and such mankaries even go to the Court of Law and bring injunction from the Court. Such rights, though they are inconsistent with the provisions of the Constitution of India and are against the principles of equality, are recognised by Government and are hereditary. I would like to know why such undesirable customs are allowed to continue by Government because of these hereditary and Watandari customs several generations have been destroyed. So the support of Government to such customs should be withdrawn, even with the help of law. Even though we have abolished the Watans of Kulkarnis, discontinued the Jagirs and have abolished the Nizamshahi, yet the followers of such hereditary customs are still in existence and they have become a problem for law as well as for the society.

In the charter of human rights it is stated :-

"All human beings are born free and equal in dignity and rights. The third faith is that all men and women, irrespective of race, colour, sex, religion, language, opinion, nation, birth, property and status are equal in dignity and before law."

If necessary, Government may appoint a Committee to consider this question. Whether and how much compensation may have to be given may be decided by Government. After all these formalities are over, the Bill should be sent to the Select Committee. If the Bill is brought by Government itself it would be most welcome.

These customary and hereditary rights have affected villages to a great extent and even murders have taken place. The prevalence of these customary and hereditary rights results in rivalry in villages and Government is expected to take cognisance of this situation. There is no need for compensation, if such customs are discontinued. We have nothing to say about the old customs which are good and beneficial to the society but undesirable customs which result in creating disparity should be stopped forthwith.

**Shri M. R. Ghate, M.L.A. from Degloor**

In my own constituency, I have experienced that on the 'Pola' day, a number of instances take place which are shameful for the humanity, so much so that acts are totally inconsistent with the Indian culture or humanity and are a stigma to the society. Such undesirable customs cannot be done away with by framing a law but this requires a complete social revolution. For example, we have the Prohibition Act. Though this Act has been passed by the State Government, for want of public co-operation, prohibition policy could not be implemented successfully. So we have to solve this problem by social revolution for which we must educate the society.

**Shri T. M. Sawant, M.L.A. from Gangakhed**

So long as there is no social revolution, it is of no use framing the law. The various 'Manpans' which are in vogue cannot be abolished by mere framing a law. In many places, temples have now been made as endowment property. No person, irrespective of his caste or creed or sex, is prohibited from visiting or entering such temples. The various disputes which arise between two parties on account of 'Manpans' is due to the rivalry existing between them and this cannot be stopped without social education.

**Shri B. M. Bharaskar, Minister for Social Welfare**

Various customs have been quoted here of which I have also myself observed some. They cannot be done away with even though we frame a law for abolition of undesirable customs. But there are some customs which add to the dignity of the Indian Culture and may need protection. The undesirable customs are automatically being extinguished with the spread of education, and I do not find the necessity of framing a law. In this connection, I make the following statement :—

“The Rights/'Manpans' quoted in the Schedule of the Bill are related to the religious types of customary and hereditary rights in rural areas most of which are in existence from the days of Moghul and Maratha regimes and continued by the British during the British regime. All these have been abolished under the Watan Abolition Act. So also, with the exception of Devasthan Inams, no Inams are now in existence. Under Article 14 of the Constitution of India, these old customs have now no scope. The Rights quoted in the Bill are hereditary one and no rights can be acquired by any individual. A particular hereditary custom, in a particular part of the country has the sanction of the local public and such rights are meant for specific period only and not for all the times to come. The customs now in existence are not inconsistent with the provisions of the Indian Constitution and there is no social discrimination in these rights. Generally, people from rural areas are orthodox. In case they meet with a natural calamity they believe it is an act of God and in such circumstances if Government interfere they will have a firm belief that this is also an act of God. If we interfere in the existing customs, the minds of people will be hurt and they may get agitated on the festival days. Thus Government interference, instead of being helpful, it may be harmful and hence not proper. Generally, social reforms are to be brought by social and educational revolution rather than by legislation. Really speaking most of these customs are disappearing and if they are to be abolished completely, expansion and spread of education is the only solution. This can be done more properly by social reforms or peoples' representatives. I, therefore, request the Hon. Member to withdraw this Resolution. While requesting the Hon. Member to withdraw the Resolution I would like to say that I shall apprise the Hon. leader of the House, Shri Vasanttrao Naik about this matter.

#### 1969 Debates (Translated from Marathi)

**Shri K. S. Dhondge**

Hon. Chairman, I am placing before you an important question at the instance of this Bill. The Bill indicates the existing position of hereditary customs at present prevalent in various rural parts of this State. Even though these are the days of democracy and man has landed on the Moon, in Maharashtra one man is considered higher than the other. The Patils, Vatandars in the village are still preserving the hereditary customs which are in vogue at present. Really speaking all are equal before the law and even though the vatans, jagirs and Saranjamshahi have been abolished and their special privileges have been done away with, yet, in Maharashtra, in each village, in the name of hereditary customs, certain 'manpans' are still in existence, which are being enjoyed by the higher class people. The law is on the side of the Mankaris. The police is also on the side of the Mankari. At times, we claim that Maharashtra is a progressive State and even though this is the position, the customs which have no place in the Constitution, are still being enjoyed by certain vatandars who treat themselves as members of superior class over others and this has resulted into creating an inferiority complex in the minds

of other villagers, who are leading a miserable life. The law does not recognise superiority or inferiority; all are equal before the law and in this context, the system of 'manpans' is highly objectionable and needs to be investigated by Government. If, anyone takes objection to such customs or manpans, the mankaris bring injunction from the court of law and their manpans are protected. So, I ask as to why Government should be afraid of framing a law for discontinuance of such manpans? If we consider ourselves as really progressive, then we should be able to stop forthwith these undesirable manpans. There should be no distinction between man and man.

**Shri P. R. Sanap (Mangaon)**

In our Society various customs which are in vogue from generation to generation, are required to be amended, reviewed and at times also need to be abolished. In the society several mankaris in the State desire that their Manpans should be preserved and much more so, in the case of temples. In view of this, there is a feeling of superiority or inferiority complex and results in discontent and ultimately in quarrels. Even though the Mankari may belong to an inferior community, his particular 'Man' (right) cannot be taken away by the other and if anybody tries to take away his right/or Manpan, the people boycott such person. Even though, a Minister may like to perform the Puja of Vithoba, I would tell him that he has no right to perform the Puja of Vithoba, because it is the right of Pujari of the particular Deosthan. However we may be eager to perform the Puja, we cannot perform it. Even in Deosthans there are dalals, and without the help of these dalals as if our prayers do not reach the God/Goddess. This is a factual position. Our Government and administrators have adopted the policy of secularism for which I congratulate them. But efforts should also be made to put a stop to the high-handedness of such priestly dalals. People are called for dinner on the thirteenth day of a death in a particular family. Only the relatives in that family should attend the dinner and others need not attend. So, is the case with other customs. If the Vatandari, Inamdari, Jagirdari are abolished, all people should be treated as equal before the law. Such disparity or the continuance of manpans is a challenge to the society. So, I request that these undesirable customs should be done away with by framing a law. The Social Revolutionists should accept the Bill introduced by Shri Dhondge and if not acceptable, Government itself should introduce a bill and we will support it.

**Shri K. N. Ghatge (Vadgan)**

Chairman, today we find that our educated young generation is not after these Manpans. But the hereditary customs, which are inconsistent with the provisions of the Indian Constitution, and which create disparity between man and man should be carefully gone through by the Government and unwanted customs should be stopped forthwith by the help of law. When undue advantage of the existing practices is being taken by the public at large, Government has to frame the law for putting a stop to the illegal practices. It is hoped that this will be agreed to by Government.

**Shri Shivairao Bhaurao Patil (Nilanga)**

I agree in general with the views expressed so far on this Bill of Shri Dhondge. Such types of practices are performed not only in Marathwada area, but also in Western Maharashtra and Vidarbha area. Such customs and manpans are the root cause of quarrels in the society and many a time, there are court cases. Earlier, Shri Dhondge had brought two Resolutions on this subject. I had also brought one Resolution in the past but that was not considered. Therefore, this bill requires deep consideration as we are the followers of democracy and hence, these rights should be done away with.

**1971 Debates (Translated from Marathi)**

**Shri K. S. Dhondge**

At present the Watandars, taking the protection of law, try to keep their hereditary rights intact by coercion under the name of 'Manpan'. Government also not only accept the claims of these people who take themselves as someone superior to a common man

and hence claim these rights. But even the courts of law give them protection. This is a disparity in the society, found especially in rural area and is objectionable in this modern age.

Really speaking, today's real honour should lie in removing the injustice being done to the poor, downtrodden people so as to enable them to live with honour. I shall sacrifice my life for such people.

This inequality or disparity is nothing but a cancer in rural areas. It is a disease which widens the disparity or segregation amongst human beings. If this disease has a sanction of law, that should be stopped forthwith.

While replying on the issue of Nadkarni Commission, the Hon. Finance Minister had said that the God Vithal should get emancipation. But how is Government going to implement the Nadkarni Commission's Report? There are some rights and manpans given to 'Badves' (Pujaris). If those rights are to be abolished and if the Nadkarni Commission's Report is to be accepted, a change or amendment in the law is necessary without which the customary rights of these pujaris cannot be abolished. The Nadkarni Report cannot be implemented and the God Vithal will never get emancipation. I would therefore, request that at this time only, thousands of small Vithals in the society and the downtrodden people also should be given emancipation and the slavery of Manpan be abolished.

**Shri V. G. Prabhugaonkar**

The peculiarity in India is that there has been a political transformation but no social reform. Hon. Shri Roy has said that if social reform is not brought about before the political reform takes place, both these reforms go futile. As there is no social reform, we are not getting the fruits of social development to the extent desired. The reason for this is that there is no leadership coming from the common strata of the society and only the watandar class is getting the credit. The Constitution has assured us the right of equality. I am not talking of political or economic equality but of social equality and it is our duty to see that social equality is brought about. The Bill brought by Shri Dhondge is only a small and brief thing. If any one tries to abolish these rights, it would not be possible to do so easily, especially when we look at this problem on the experience of Russian and French Revolutions. These hereditary rights will be abolished in course of time, as the society gets educated but if the particular Department of Government has a backing or support towards this task, the work will be easier. The Bill is naturally incomplete, being very concise and brief. Shri Dhondge has said that the rights in section 4 of the Bill should be abolished. But the question is that these rights cannot be so easily abolished. For that purpose, the Bill should be amended, considerably. We shall also have to think as to how the vacuum which will be created because of the abolition of these rights as per the provisions proposed in the Bill, could be filled in. If this is not done, many complications will be created in future. There should be some substitutes in their places. The property of the Bill is beyond doubt. But it would be better if a comprehensive Bill is presented, after giving a careful and detailed thought to the problem.

**Shri C. N. Patil**

There are so many laws for bringing about social reforms. We know what is their state of affairs. We have created Monogamy law, Sharda Act, etc. But we know their fate. I am, therefore, of the opinion that such questions could be solved only through social reforms and not by law. I am in agreement with the views of Shri Dhondge. In this country, it will not be sufficient to abolish these rights but there should be a social reform for this purpose. So, long as we do not make applicable the uniform Civil Code to the people of all castes and religions, there shall not be a real equality. Everyone goes even upto the Supreme Court for his rights. It is possible that this issue may also go to the Supreme Court. In this country there were many personalities, saints, etc. who proclaimed equality. But for solving this problem, I would request Shri Dhondge not to make haste. There should be social reform and this could be done through seminars, social gatherings and by creating public opinion.

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