

# **LEGAL EYE PARTNERS**

## **Article**

### **Atrocities Against Scheduled Caste and Scheduled Tribe**

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#### **ABSTRACT**

India is culturally a very rich country but it is very fact that the Indian society is based on caste system. In this caste hierarchy the whole of the society is divided into different castes where members of different castes enjoy different positions and status in society and family setup. People belonging to the upper caste enjoy higher status in the society and their social condition is better than other lower caste"s people. But the status of members belonging to the Scheduled Caste category is not only very low but their condition is very pathetic and they are forced to survive their life in social-economic and political deprivation. Various types of violence and atrocities are committed against them in the name of caste. There is much evidence that incidents of violence against the Scheduled and Scheduled tribes communities have been committed by the upper caste to hurt their dignity intentionally.

#### **INTRODUCTION**

We are living in the 21st century and we have spent about more than seventy years of independence where equal status and equal opportunity along with liberty of thought and expression are provided to the people of India without any discrimination on the basis of caste by the supreme law of the country. Yet many atrocities are still continuing against the members of Scheduled Caste and Scheduled Tribes. It is very well known that in the state of Rajasthan a bridegroom was opposed to riding on the horse during his marriage because he was a Scheduled Caste. In the state of Uttarakhand a person was killed in a restaurant by the upper caste people because he was Scheduled Caste. In the state of Uttar Pradesh ten people of Scheduled Tribes have been killed by the upper caste people. It

becomes so worse when all the accused are acquitted by the judiciary with honor. Helpless victims of atrocities are often left without justice. They feel homeless in their home land and strangers in the motherland. This is very pathetic to them. They get only antipathy at the place of sympathy in the society across the country.

Our country has opted democratic form of government through a secular democracy by the Constitution to secure the rights and freedom of all its citizens, to provide social-economic and political justice, liberty of thought, expression belief faith and worship along with the equality of status and to promote fraternity among the people for the unity and integrity of the nation. But any type of discrimination on the basis of caste raises a challenge to the integrity and unity of the country. In the Constitution many specific provisions for Schedule caste and Scheduled Tribes were inserted since its drafting. In the provision of abolition of untouchability the untouchability is abolished and its practice in any form is forbidden<sup>1</sup>. The enforcement of any disability arising out of untouchability shall be an offense punishable in accordance with the law. In the provision of promotion of educational and economic interest of the Scheduled Caste and Scheduled Tribes people an obligation is imposed on the state to promote educational and economic interest of weaker section particularly of the Scheduled Caste and Scheduled Tribes people with special care and it also impose duty on state to protect them from social injustice and all forms of exploitation. Through the Eighth-ninth Constitutional Amendment Act in 2003, the provision to constitute a National Commission for the Scheduled Castes and Scheduled Tribes was inserted with duties to investigate and monitor all matter regarding to provide safeguards for them under the constitution and any other law for time being enforce and evaluate the working of such safeguard<sup>2</sup>. It is also a duty of the commission to investigate and inquire into specified complaints with the respect to the deprivation of rights and safeguard to the Scheduled Caste and Scheduled Tribes people.<sup>3</sup> The specific term atrocity is an expression of a crime which is commonly committed against Scheduled Castes and Scheduled Tribes in India. It is

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<sup>1</sup> The Constitution of India, art. 17

<sup>2</sup> The Constitution of India , art. 46

<sup>3</sup> The Constitution of India, art. 338

defined under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989.

It denotes the quality of being disgracefully cruel and inhumane, crime punishable under the atrocities law<sup>4</sup>. It implies any offense under the Indian Penal Code committed against Scheduled Castes by non-Scheduled Caste persons, or against Scheduled Tribes by upper caste persons. Caste consideration is necessary to make an offense in case of atrocity. In the case of atrocities, the victims of crime must be members of Scheduled Caste and the offenders should belong to the upper caste. The caste's consideration is the root cause of the crime under the atrocities Act. In the atrocity cases the charge sheet consistently filed late.

Thus, besides the non-registration of cases, delay of investigation by the police, conspiracy with offenders and manipulation of witnesses and evidence are responsible to reduce the effectiveness of legislation on atrocities. Through the various reports it was observed that the accused have been often released on bail even in serious crimes and judicial delay as well as dilution of the scope and applicability of the Act of 1989 has resulted in denial of justice to the Scheduled Caste. Police files false counter cases against dalit victims to manipulate the case and puts pressure on the victim.

### **Scheduled Castes**

The expression „Scheduled Castes „was first coined by the Simon Commission and used in the Government of India Act-1935 to refer to certain castes. The framers of the constitution adopted the same expression and embodied it in the constitution but did not try to define it clearly. Article 341 of the Constitution empowers the President, in consultation with the head of the particular state, to notify by an order “the castes, races or tribes or parts of or groups within castes, races or tribes which for all the purposes of the constitution be deemed to be scheduled castes in relation to that state”.

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<sup>4</sup> Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989, sec. 3(1)

Keeping this article in view, Prof. Ghurye defines Scheduled Castes as, “those groups which are named in the scheduled castes order in force for the time being”.

These Scheduled castes are the lowest castes of the Hindu society and are mostly untouchable castes. These castes are found all over India. Theoretically, these castes are not a part of Hindu Social Organisation because according to the doctrine of Chaturvarnya, there are only four divisions in Hindu society and there is no place for a fifth division.

The origins of these castes are not clear. Hindu tradition says that the untouchable castes are formed as a result of the practice of the forbidden Pratiloma marriage. It is, for instance, said that the children born out of the union between Brahmin females and Sudra males belong to the untouchable caste namely the Chandala. According to Riseley and Majumdar, the origin of untouchable castes lies in racial and cultural differences. Nesfield holds the association of these castes with dirty and unclean occupations responsible for their being untouchable. Ghurye is of the opinion that the ideas of occupational or ceremonial purity and pollution are responsible for the origin of untouchable castes. Hutton on the other hand says that race, religion and social custom all have contributed for the growth of untouchable castes.

These castes suffered from various social, economic, and religious disabilities for centuries. Their touch, even their sight was considered to be polluting and therefore, they were not allowed free movement in a village or a town. In some parts of the country they were even prevented from coming out of their houses during day time. They were not allowed to draw water from public wells. Their children could not attend school. They were the poorest of the poor and were traditionally associated with such low and despised occupations like Scavenging, basket making, working in leather etc. they were not allowed to enter into Hindu temples. They were treated as communal slaves and so their position was worse than that of a slave. Efforts are afoot to bring about radical changes in the position of these castes. The Constitution abolishes untouchability and contains a number of special provisions for the promotion of the interests of these castes. As a consequence of these constitutional provisions, a certain number of seats, roughly in

proportion to their population, are reserved for them in both central and state legislatures. A convention has been developed to include at least one member of these castes in the central and state cabinets. Their representation is assured at all levels of the Panchayati Raj system.

## **ATROCITIES AGAINST SC ST**

After the 6<sup>th</sup> century people from the scheduled caste and scheduled tribe adopted Buddhism to get rid of the atrocities which were committed against them .

- According to recent reports, there are more agricultural laborers from the SC/ST community than any other section of the society.

Talking about child labour, it is reported that out of the 60 million child labour in India, 40 % come from SC families. Such evidence lets us infer that people from communities such as SCs/STs are more inclined towards labor rather than educating themselves.

Women face a lot of problems in their daily life. The schedule women are seen as a enjoyable object in their daily life. The women in the workplace face a lot of problems and they are looked down upon even in the workplace.

There is a lot of discrimination in politics. The candidates of scheduled caste and scheduled tribe are given the ticket for the only reserve category. They are not given tickets to contest elections from the general seat. And also they face discrimination during convessing time.

Nowadays we are seeing a lot of violence against scheduled caste and scheduled tribe people from the upper caste trying to exploit the scheduled caste and scheduled tribe.

In the very recent in the state of Madhya Pradesh we have seen that an upper caste person was peeing on a person who was from the community of schedule tribe.

And in a recent case of Uttrakhand where a schedule caste person was beaten because he was eating in the restaurant which was owned by the person of upper caste

In the state of Rajasthan a person from the scheduled caste was not allowed to ride on Ghodi during his marriage ceremony by the upper caste community.

Untouchability is a very common atrocities. This is a very common form of discrimination against scheduled caste and scheduled tribes. They also face discrimination in the workplace also.

## **LEGAL PROVISION RELATED TO ATROCITIES**

We have several provisions related to preventing atrocities, in our constitution article 17 prohibits untouchability and this article states that untouchability is prohibited and its practice in any form is punished according to procedure established by law .

But the constitution was not enough to prevent atrocities against the scheduled caste and scheduled tribe.

Then we introduced a new law that is Untouchability (Offences) Act 1955 but the lacunae and loopholes of this act impelled the government to project a major overhaul of this legal instrument. From 1976 onwards the Act was refurbished as the Protection of Civil Rights Act. Despite the various measures adopted by the government to remove this gap between lower and upper caste and to protect the dalits from humiliation, disrespect, offenses, indignities and harassment they still remained a vulnerable category. After against the practice of untouchability against them the vested interest cow them down and terrorize them. Recognizing these existing problems the Parliament passed “Schedule Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Rules, 1995

The provision of the act prevention of atrocities act is divided into three categories

The first category contains provisions related to criminal law. This category in generally establishes criminal liability for a number of specifically defined crimes, and also extends the scope of certain categories of penalizations given in the Indian Penal Code (IPC).

The second category contains provisions for relief and compensation for victims of atrocities

The third category contains provisions that set up special authorities for the exertion and monitoring of the Act.

## **JUDICIAL RESPONSE TOWARDS THE SC/ST ACT**

The Apex courts of India has defined the terms used in the different provisions from time to time to make it clear and distinct so that the implementation of major provisions could be possible in the deliberation of justice to the members of Scheduled caste and Scheduled Tribes. The researcher has analyzed the landmark decisions of the courts which are given below within the different heading. About the Scope, Extent and Applicability, in the case of ***State of Madhya Pradesh v. Ram Krishna Balothia***<sup>5</sup> The Supreme Court referred to that practice by observing as, "looking to a historical background relating to the practice of 'untouchability' and the social attitudes which led to the commission of such offenses against Scheduled Castes and Scheduled Tribes. In the case of ***Bapu Gowda V. State of Karnataka***<sup>6</sup> The Karnataka High court held that the offenses which are enumerated under section 3 and offenses which to say the least, denigrate members of Scheduled Castes and Schedule Tribes in the eye of society, and prevent them from leading a life of dignity and self-respect. Such offenses are committed to humiliate and subjugate such members with a view of keeping them in a state of servitude. These offenses constitute a separate class and cannot be compared with offenses under the Panel Code. In the case of ***Valsamma Paul v. Cochin University***<sup>7</sup> the Supreme Court held that the injured or the deceased belonged to Schedule Caste or the Schedule Tribes, or cases in which question was relating to the property, the provisions of SC and ST Act cannot be invoked unless the condition has been satisfied, namely - whether the injured / deceased belonged to Scheduled Caste and Scheduled Tribes but in any case the assailant should not belong to such caste of the Tribes<sup>36</sup>. In

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<sup>5</sup> AIR 1995 SC 1198:

<sup>6</sup> Cr LJ 1996 Kant 1117

<sup>7</sup> AIR 1996 SC 1011

another case ***Karan Singh v. State of Madhya Pradesh***<sup>8</sup> where two parties and the spot claimed fishing rights on a tank, not knowing each other. The accused addressed the complainants by their Tribe's name, it was held, firstly, that the address was not made as an intentional insult, and second it was not in the "public view", therefore it was not sufficient to make out an offense under section 3(1)(x) of the Act. [For further details on "public view" -please see note on section 3(1)(x)]. The most important observation was made as - special and stricter provisions have been made in the Act, hence it is the duty of the prosecution to examine the case more carefully. They have to be vigilant to avoid any possibility of the Act "being misused for harassment of the citizens" . Registration of the offenses under the Act is not sufficient only because the complaint belonged to Scheduled Caste. "Such a mechanical exercise authority has to be deprecated. The Courts have to see immediately after a case is brought to it whether an offense under the Act is purely made out<sup>38</sup>. In the case of ***State of Karnataka v. Annappa***<sup>9</sup> It was held that the punishment provided under section 3 of SC & ST Act, from the very beginning and since its coming to force, whenever the Scheduled Caste and Scheduled Tribes.

### **Suggestion**

In my personal opinion this Act is an exhaustive one, in preventing atrocities against Scheduled Castes and Scheduled Tribes. There is no need to enact other laws for preventing atrocities against Scheduled Castes and Scheduled Tribes. The only thing which the legislature has to do is to rectify the defects in the Act, with immediate effect, in order to have enough strength to this Act in letter and spirit. From my research study I find the following modifications necessary for the effective implementation of the Act. They are:

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<sup>8</sup> Cr LJ 1992 MP 3054

<sup>9</sup> Bishanlal v. Hargovind, RLW 2000 (3) (Raj) 1680



1. Increase the punishment: To prevent the commission of atrocities the present punishment 'five years and with fine' to the culprit shall increase up to seven years and it shall not be less than two years.

2. Adequate compensation to the victims: The Government shall provide compensation to the victims and the land/premises/water supply shall be restored where necessary to Government cost, full payment to be made. Apart from this, the land belonging to the accused shall be taken away by the Government and the same shall be distributed to the victims in proportion to the land on which the atrocity was committed. .

3.Establishment of National Vigilance and Enforcement Authority: For the effective implementation of this 'The Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989, the Central Government shall set up a 'National Vigilance and Enforcement Authority. This National Authority shall be given adequate powers to coordinate the activities of the State Governments and different agencies, working under this Act. For the prevention of Atrocities as well as against Scheduled Castes and Scheduled Tribes.

4.Suggestions for the speedy disposal of 'atrocity' cases: (i) For the purpose of providing for speedy trial, the State Government shall set up a court of session to be a special court to try the offenses under this Act. These shall be exclusively meant for the trial of atrocity cases only. (ii) The State Governments shall establish as many special courts as possible in district,

where the incidence of atrocities are more.

5. Establishment of 'State Vigilance and Enforcement Authority: For the effective implementation of 'The Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989, the State Government shall set up a 'State Vigilance and Enforcement Authority. This State authority shall be given adequate powers to coordinate the activities of State Government and district agencies and different agencies those are working under this Act; for the prevention of atrocities against Scheduled Castes and Scheduled Tribes. 35

## CONCLUSIONS

Basically ‘The Scheduled Castes and Scheduled Tribes Act, 1989 is very effective to prevent atrocities against Sc and ST , but because of some defects in the Acts, its implementation does not yield the expected results. Social Justice and Equality before the law, are the important features of our Indian Constitution. But, unfortunately these things are not available to the Scheduled Castes and Scheduled Tribes. This Act provides less punishments for the atrocities that is why the rate of increase in atrocities is very high. Prevention of Atrocities, awarding severe punishments to atrocities and providing complete rehabilitation to the victims of atrocities is only one aspect of the problem. But the fundamental aspect is that to develop the people belong to Scheduled Castes and Scheduled Tribes on par with other developed groups in our Indian Society. To attain this objective the Government shall take some stringent measures like distribution of land holdings to the land less Scheduled Castes and Scheduled Tribes.

By adopting “Integrated Irrigation water facility programme” (in it includes community bore wells, tube wells, reservoirs etc.,) the Government shall provide irrigation water facilities to the agricultural land holdings belonging to Scheduled Castes and Scheduled Tribes. It will give financial stability to these people.

The Government shall take measures for providing reservations in the field of Education, employment and thereby uplift the people belonging to Scheduled Castes and Scheduled Tribes.

The effective implementation of this Act is very important for the diversified Indian society as well as to the nation as a whole. Nowadays our country is facing a number of problems within and outside the country. To tackle these challenges posed by neighboring countries effectively, the country should have a strong harmonious social order. To achieve this harmonious social order, there is a need to provide social, educational, and financial assistance to people belonging to Scheduled Castes, Scheduled Tribes and Backward Classes. The society must be released from the evil clutches of caste system and Untouchability. Then only these people try their best to the

development and progress of the country. The continuation of the practice of Untouchability and atrocities are not only a sin to humanity, but also a crime against the entire nation. That is why, the effective implementation of this Act and amending the provisions, suitable to the present day social conditions are very essential.

## **BIBLIOGRAPHY**

### **By Books,Articles:**

■ G Agrawal and Colin Gonsalves. Dalits and the Law, New Delhi:

Human Rights Law Network, (2005).

■ D.C. Ahir The Legacy of Dr. B.R Ambedkar. Publishing Corporation

Publication, Delhi (1990).

■ Alladi Kuppaswami ,The constitution what it Means to the people, Gogia

Law Pub., Hyderabad. (1996).

■ B.R Ambedkar. The Untouchables, Bangalore: Dalit Sahitya Academy,

(1948).

■ B.R Ambedkar. Annihilation of Caste with Reply to Mahatma Gandhi

Ed. Samata Prakashan Publication, Nagapur, 3rd (2001).

■ B.R. Ambedkar The untouchables who were they and why they became,

untouchables? Kaushalya Prakashan Publication, Aurangabad. (2003).

■ K.D. Gour Criminal Law : Cases and Materials, LexisNexis Butterworths

Wadhwa Nagpur (2009) 6th Edition.

### **By Internet**

■ [www.Wikipedia.com](http://www.Wikipedia.com) (Accessed on April 28, 2022)

■ [www.Legalserviceindia.in](http://www.Legalserviceindia.in)(Accessed on April 30, 2022)

■ SCC online(Accessed on May 1, 2022)

■ [www.blog.ipleaders.in](http://www.blog.ipleaders.in)(Accessed on May 3, 2022)

■ [www.Vidhi.org](http://www.Vidhi.org)>Setbacks of the Indian Constitution(Accessed on May 5, 2022)

■ [www.Indian Legal Online.in](http://www.Indian Legal Online.in)(Accessed on May 5, 2022)

■ [www.White&Blackjournals.in](http://www.White&Blackjournals.in)(Accessed on May 5, 2022)

■ [www.legalserviceindia.com/article/1440-Scheduled-Castes-and-Tribes-Act](http://www.legalserviceindia.com/article/1440-Scheduled-Castes-and-Tribes-Act)-(Accessed on May 8, 2022)

■ [www.blog.ipleaders.in/scheduled-castes-scheduled-tribes-prevention-atrocities-act-1989/#Judicial\\_Response](http://www.blog.ipleaders.in/scheduled-castes-scheduled-tribes-prevention-atrocities-act-1989/#Judicial_Response)(Accessed on May 10, 2022)

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