

ATROCITIES AGAINST THE SCHEDULE CASTE IN INDIA

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ABSTRACT

Atrocities against Schedule caste is the scope and subject matter of this paper. Moreover, in this paper we will be discussing in detail the atrocities against the scheduled caste in India with special reference to the type, causes for the crimes and the impact it has on the people of the scheduled caste and tribes. The atrocities against these marginalized castes can be traced back by their historical background which depicts the emergence of crime and ill treatment against these castes which is too painful to be forgotten. The critical analysis of the crime rate against the schedule caste across the decade made us acknowledge the fact that even after achieving freedom in 1947, India is still captured by the clutches of brutal caste system due to which the atrocities have been suffered by these schedule caste and tribe in the era of modernity and technological development. Even the legislative support provided in the Indian Constitution and various special laws for schedule caste by various jurist have not been able to prevent them the way they should be due to various lacuna in the implementation procedure as well as lacuna in the administration system. This paper further elaborates the research methodology and findings of various research work.

Keywords: Atrocities, Schedule Caste, Crime Rate, Caste System

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RESEARCH METHODOLOGY

This paper has followed the descriptive analytical legal research which is a non-empirical study, which is descriptive and qualitative style. It is a specific type of research that involves critical thinking skills and the evaluation of facts and information relative to the research being conducted. Would be discussing about Atrocities against Schedule Caste. This paper aims to study the atrocities faced by them and how we can prevent it by strengthening it with analytical legislative support.

INTRODUCTION

Albert Camus once said that democracy is not the law of the majority but the protection of the minority. As India is the largest democracy in the world, one of the main pillars it stands on is that it values diversity. But these words are just too good to be true when it comes to the protection of minorities. B. R. Ambedkar said that the rights of minorities should be absolute. He has considered Scheduled castes below the minority line. He believes that by just doing the bare minimum for the minorities like giving them immunity against discrimination and violence as given to any other citizen will not be beneficial in uplifting them¹.

In this paper we will be discussing in detail the atrocities against the scheduled caste in India with special reference to the type, causes for the crimes and the impact it has on the people of the scheduled caste. In furtherance, the paper will deal with the historical background of the scheduled caste and their evolution from former depressed class and untouchables to the most disadvantaged socio-economic group of the country today. The crimes rates recorded against the SCs/STs are ever increasing. Each year we see a rise in the crime rate percentage as compared to the previous year. These records are just about the crimes which are being reported. There are many such crime, such as women being raped, which is never recorded. Women who are belonging to the scheduled caste and scheduled tribes get raped more as compared to women of any other caste. There are many legislative provisions that the government has provided for their protection and safeguard. One such legal provision was the Prevention of Atrocities act which was brought into force in 1989. The main aim of this act was to trace the cause of crime and segregate the area with maximum crime rate. Last but not the least, the

paper enlists some recommendations that would help ameliorate the current condition of the Scheduled castes in India.

CONCEPTUALIZATION

Minorities are not people who are less in number but rather they are the ones who are discriminated by the “majority”. For time immemorial, the scheduled caste and scheduled tribes of India have been subjected to violence. In the British colonial period, the SC's and STs were considered the depressed class of the society and were looked down upon. Even today, after 75 long years of Independence, their condition more or less, remains the same. Today, they are the most marginalized and disadvantaged socio economic group of India. On 30th January 1990, the Prevention of Atrocities Act, 1990 was passed in the Parliament to curb discrimination, violence and hate crime against the Scheduled Caste and Scheduled Tribes. The main objective of the act is to identify acts which constitute crime against SC and STs, set up fast track courts to deal with cases filed under the act and to identify areas with high crime rates. Many constitutional mechanisms have been brought into force in order to help uplift the Scheduled caste and Scheduled tribes. For instance, Article 17 of the Constitution abolishes untouchability. Article 16 (4)(A) guarantees for the reservation in services under the state.

It is a very general perspective that the scheduled caste and scheduled tribes being the minority group of India, benefit from the reservation criteria but the truth is a lot more different that what meets the eye. They are constantly subjected to violence and discrimination. The number of cases of violence and hate crime against them have increased tremendously. The Hindu caste system had four main classes. They were the Brahmins, the Kshatriya's, the Vaishyas and the Shudras. This was called the *varna* system. It was not long ago that this system characterized the scheduled caste and scheduled tribes under the *Shudras* category and were subjected to all kinds of sanitation and low grade work. They were referred to as “*harijans*” which means children of god but in reality they are deemed “untouchable”.

From time and again, the upper caste has inflicted violence and hate crime on the lower castes. They are superior to them in all ways possible including a better economical status which

results in social supremacy. Had the economic conditions of the SC be better, they would have been able to protect and prevent themselves from all types of discrimination and violence. Having a stable economic condition will help them gain recognition and respect because generally the lower castes are 'invisible' in the eyes of the society.

Article 341 and 342 of the Indian Constitution determines the who would come under the definition of Scheduled caste in relation to that particular state or union territory. So the question arises, who are the SC.

In the British era, they were the 'depressed class' of the society and not much has changed in the respect as today they are the most disadvantaged socio economic group of India. Around 40,000 cases of crime against SCs were reported in 2017 according to the National crime records bureau. Since then, there has been a 7% increase in crimes against them and more than 80 registered rape cases as published in the National crime records bureau in 2019. These are just the official data as there are many such cases that are not reported. These atrocities take place because of the age old caste system that was prevalent which is the world's longest existing communal hierarchy. The non-reporting of such hate crimes and rapes of women results in the masses to believe that they are above the law which further worsens their conditions.

SUMMARY OF RELEVANT LITERATURE

For many years in India, an extreme form of prejudice and discrimination against the marginalized Scheduled Castes by the upper castes in the form of violence exists. Scheduled Castes have always remained a target of the upper castes for crimes and atrocities against them only because of their low caste identity. Murder, rape, abuse, police brutality, and harassment are some of the many crimes that these groups have been facing for a very long time now.ⁱⁱ

There has been a 7% increase in crimes against the Scheduled Castes and a total of 88 rape cases are recorded every day against Scheduled Castes in India, this data was published for the year 2019 by the National Crimes Record Bureau.

Crimes against the vulnerable to date have not been reduced. In this pandemic era, where most of the population of the country has been living in a state of lockdown, the rate of criminal activities has increased and gone beyond par. The country is witnessing the highest rate of unemployment ever and every year almost 56,000 children living in slums die. In these helpless situations where people should come together to help solve these problems, they seem to have forgotten an empathetic attitude towards their equals, let alone marginalized people. In the situation in which the world is currently, with so much vulnerability everywhere, think about the historically discriminated Scheduled Castes, the atrocities, and crimes they must be facing as they have always been a soft target due to their low caste identity.

A woman belonging to a Scheduled Caste always remains at the lowest end of the gender's class because of the stratification and the hierarchical arrangement of the castes, and due to this, the rate of sexual violence against these women has been very high. The upper caste members, unfortunately, take advantage of this discrimination to use sexually violent behavior against these women to prove their dominance.

The crimes against women of scheduled castes have never been recognized and treated as how they truly are. In reality, they are interrelated to the history of the caste system and their social identities. This mindset of the discriminatory caste system is what led a sessions court judge to say that the accused could not have raped the Dalit victim as they belong to the higher caste, Gujjars, in the Bhanwari Devi case. According to the logic, the accused would have had to sacrifice their caste purity to commit the crime, which he could not have done, according to the judge. Even though the violence occurred due to caste inequality, it was ignored in the court.

STRUCTURAL VIOLENCE AGAINST SCHEDULED CASTES

The violence that Scheduled Castes have to face is largely structural, meaning it doesn't exist alone. There is a structure of religious, cultural, economic, and political aspects to it that have prevailed since the creation of casteism, and continue to act as causes of violence. The violence members of this community face are not focused on any individual, but on the community as a whole. This means the person is subjected to that form of violence since he/she is a member of that community and the violence is a result of long-term socio-economic ideals that have been followed by the society. The division in society based on work had a big role to play in it

as well. This division was formed based on social division based on religious preachings and the obligations of the lower castes towards their superior castes. People of lower caste were mistreated and not given enough pay for their work when on the other hand higher castes were rewarded. Even though this system was problematic there seemed to be no way out of it, but there were means to continue this prejudiced system. People in power are always threatened by change and it is the same way upper caste people feel about changing social structure, whether it is for the good or bad, so they do not allow it to occur. So people trying to alter this system can cause conflict between their community and the upper caste.

- I. Cultural Structures of Violence: In olden times, society was divided and people in different groups regulated themselves differently, according to the prevailing norms and rules. The caste system in India did not allow for members of a clan to break these rules of their dharma, every individual was bound to follow them. Every member was responsible to keep themselves in check according to the rules of their varna. They weren't rewarded to abide by these rules but in case a person broke any rule, they were severely punished. This punishment was received without any rebellion or anger. This customary morality existed not only intra-caste but also inter-caste. Even though the caste had the feeling of interrelation and bonding, they were not truly a clan as they did not have the freedom to choose the rules for their caste, meaning they did not have the freedom to govern themselves. The relationship between different castes depended on the customary morality of each caste. Unjust practices such as untouchability were accepted by lower castes as the intercaste relationships were bound by these norms under the term *jati dharma*.
- II. Religious Structures of Violence: Hinduism preaches the caste system and over time the society created a social system based on it where people of a certain caste were only allowed to practice certain professions. They were not allowed to move up that ladder, their choice of profession solely depended on the caste they were born into. The way the religion is structured, gave rise to caste-based violence with rules such as the non-allowance of Dalits to enter temples. Even though that has changed today, they still are banned from ever becoming priests and performing rituals. The religion portrays the Gods to be vigilant toward untouchability and support it. This gave the pure a higher standard and allowed for prejudiced treatment

of the impure. This concept of purity propagated that the impure had to be dedicated servants to the upper castes to gain a better birth in their successive life. The religion also disallowed education for these lower caste members which made them devoid of knowledge and awareness.

III. Political Structures of Violence: In India, there is a system of reservation in both the houses and high-level offices that allows members of Scheduled Castes to represent their communities adequately. This compulsory reservation is thought of as a way of empowerment for these castes. But since the beginning, it has been a source of conflict between the higher caste, influential officials, and the Dalit representatives. Most times the higher castes are unwilling to accept the lower castes in power due to which they either try to place submissive members in positions of power or tolerate them. The upper castes have grown rather unimpressed and outraged with the growth of education in lower caste communities, leading to social movements and efforts for their upliftment. This has caused conflict between these groups, especially in rural areas.

IV. Economic Structures of Violence: Lower caste people did not have the right to own any sort of property in this society, as a way to exploit them. The caste system allows for this unfair treatment. Lower caste members are instructed and expected to serve the upper caste with hard labor as landless workers and bonded laborers. These jobs come with negligible pay and terrible living conditions that they are forced to live with. Even today in backward areas, Dalits are marginal or landless farmers, courtesy of the varna system that is deeply embedded in the society. Labour division, as discussed before, has been a part of the varna system, a quite discriminatory one at that. People were forced to pursue the profession of the caste they were born into as intercaste movement was restricted. The attitude of people has not changed a lot as they are conditioned to obey these rules, even though there have been improvements. Today, the lower castes can own land, move to find better jobs and even rise in political power and these ways have empowered these communities to rise in society and break the norms. Still the lowest of these people remain depressed, economically, due to their being far away from the upliftment facilities.

CAUSES OF ATROCITIES AGAINST SCHEDULED CASTES

There is a reason why the caste system has survived and had an impact for such a long time. And it is because of a major factor known as division of labour, because of the caste system it was easier to divide the work amongst the different people of the society. The Scheduled Castes were always made to carry out the work which had a lower status in the society, it means that the work which the upper caste people restricted themselves from doing due to their social status, they made the people belonging to the Scheduled Castes carry it out for themⁱⁱⁱ.

British rule was a major factor for this condition of the Scheduled Castes as the poverty and deprivation rate of these lower caste people was at a rise during this period. Independent India was also not successful in resolving these problems as there were too many unsuccessful attempts to create a proper land reform or to provide primary education to these marginalized people.

Primary education is a very important factor for a country to grow its literacy rate and the fact that independent India could not provide this basic necessity to these discriminated castes there was no scope for them to develop their skills and take a stand for themselves and their community. This also resulted in the low literacy rate of the country. Government schools lacked proper infrastructure, teacher attendance and basic requirements to help these marginalized communities to complete its education. This is one of the major reasons why Scheduled Castes had so much difficulty to claim a normal life in this country.

Various reforms and other initiatives by the government brought a rise in the living standards of the Scheduled Castes and this was a major factor behind the violence these historically discriminated people have been facing. According to a research paper published in 2014 it was found out that there was a rise in the crimes committed by the upper castes against the Scheduled Castes because of the increase in the consumption-expenditure ratio of the Scheduled Castes to that of the upper castes.

A reform ensuring Scheduled Castes reservation seats in various fields both in the job sector and the educational institutions has created a sense of hatred towards them by the upper castes. The Scheduled Castes have always been facing discrimination and deprivation of the fact that this reform helps them enjoy this privilege has not been easy for the upper castes to accept. Due to this there are more crimes and violence is being reported and registered against the Scheduled Castes.

HISTORICAL BACKGROUND AND EVOLUTION OF SCHEDULE CASTE

Crime against the Schedule caste and Schedule tribes is one of the most sensitised issues ongoing in India and Crime against these oppressed social group has a prolong history, but few of those issues have become too sensitive since decades. Like any other social phenomenon crime is also spread unevenly over this country.

The term Schedule Caste was adopted in 1935 and this term is a legal destination which was listed by the British as the lowest ranking Hindu caste. Moreover “Schedule caste” is a relevant term which is mostly used in the context of legal provisions, Government programs to reduce the atrocities and politics.

Scheduled Castes are historically marginalized group of people belonging to their ascribed caste which according to the hierarchical arrangement and stratification of the caste are deemed to be in the lower division of the system. Even though the Indian Constitution has separate reservation provisions for members of these Scheduled Castes, upper caste people continue to misuse their power to force these people to follow the ancient prejudiced form of social stratification. The attacks on these people most times are to send a message to the entire group and to punish and intimidate members who fight for their rights^{iv}.

People who were considered violating social norms of the society was punished by regarding them as untouchables earlier, this was not considered the lowest caste but it was not at all considered a caste. It was just the people who were deemed untouchable in addition to their descendants and were further condemned and completely thrown outside of the caste system in India in a cruel manner. The untouchables were considered so impure during the previous era that their mere contact with any other member of the so called upper caste would contaminate the latter. And as a result the polluted person was instructed to bathe and wash his or her clothes immediately so that they can be considered purified and pious. The untouchables historically did those word which no one else would do or shall we rather say nobody else other than the untouchables were instructed to do works like scavenging animal carcasses, leather-work, killing rats and other pests^v. Untouchables were not even allowed to eat at a place where the other caste members would and moreover they could not be cremated in the same ground^{vi}. All this shows the ruthlessness and inhumane aspects of the caste system created by people of the country. The Scheduled caste were to be known and considered as the Untouchable Hindu

Castes and at the same time these were defined as castes, who contact with whom i.e. the schedule castes or the untouchables entails purification on the part of high caste Hindus^{vii}. People belonging from Schedule Castes were very bottom of the Indian Caste system they have been suffering from cultural discrimination, health discrimination, economic discrimination, educational discrimination, multiple forms of exclusion, lower status of hierarchy, civic disability etc. and this list of discrimination and exclusion goes on and on.

The Census Commissioner, J.H. Hutton set up nine criteria to determine which are the castes who would be scheduled^{viii}. The most important criteria which Hutton said was whether the caste suffered the following;

1. Civil Disabilities being one of the criteria like denial of access to roads, wells, schools, then there were religious and social debarring as well.
2. People considering that caste who are scheduled caused pollution in the society by touch or proximity.
3. They were even denied access to the interior of ordinary Hindu temples.
4. They were denied the services of clean Brahmins also.
5. The services given by the same barbers etc. was also denied to them as the one who were barbers were the one who served the high caste Hindus as well.
6. They were also subjects to the rules concerning acceptance of water i.e. the people belonging to scheduled castes were even not allowed to accept water from the high caste or vice versa.

The following three criteria was there to tell that the caste was not to be scheduled if;

7. If the person is an educated member was treated as a social equal by a high caste man of the same level of education; or if it was depressed only because of its
8. Occupation or
9. Ignorance, illiteracy or poverty

All these criteria were workable enough in many areas of the country but in south India these criteria were broken down because they would have included too much portion of the Hindu population. Thus, all these additional criteria of illiteracy and poverty were applied to select the most depressed one. Whereas in the northernmost provinces these criteria broke down for the opposite reason i.e. the lower caste did suffer from disabilities, but these were milder and thus varied in various form due to which the criteria could not be strictly applied without

leaving all of those authorities which felt to be included. Therefore, they were included by the same criteria which are of illiteracy and poverty.

Thus it would be appropriate to state that the impact of constitutional safeguards and various public welfare schemes and measures was brought to bring about the change in positions of Schedule castes in the Indian Society so that they could be accepted, respected, treated equally. Moreover, the active way of implementing any schemes, programmes, awareness should be brought up by the Government and its bodies. There has been a legal, economic recognition of the people belonging to Schedule Caste but very less recognition when it comes to giving them overall social recognition because of the abhorrence people of the so called upper caste system have against the Schedule caste. Considering the overall Evolution of Schedule caste from pre independence era in India to the recent times, it would be appropriate to say that the marginalised caste indeed have got constitutional right, they are protected by various special provisions which have been implemented keeping their interest in consideration but not much have change in the way, they have been treated. The way of oppression would have taken dynamic changes in the metro, cosmopolitan cities but it still persists there if we look the recent crime trends against them and the way of oppression in rural areas is still witnessed at the same level in Various places. Thus in order to bring an evolution in social status they must be the duty of not only the Government, the administration system, Courts, provisions but it's the duty of all the citizens of the Country in Unison^{ix}.

THEORETICAL PERSPECTIVE ON CRIME AGAINST THE SCHEDULE CASTE

The process of defining “vulnerability”, “violence” and “abuse” is not a matter of hair-splitting or academic precision; it is a way of describing and making visible the abuse of people who are often not able to bring their experiences into the public domain or onto a public agenda. Not being “able” in this context may be – but is often not – a direct result of impairment, immaturity or physical or mental frailty but normally has a strong social dimension encompassing the fact that less powerful groups are often actively discouraged or prevented from bringing charges or complaints, and their experiences of violence are minimized or excused.

Criminal activities are generally connected to varied thinking processes of different people. Actions are a result of the feelings of a person and the way he thinks. This idea is quite abundantly seen in psychology. These feelings can become hostile at times and it can lead to behavioral changes leading to crime. A reason for this can be the difference in the way criminals have grown up in comparison to other people, leading to inability to differentiate between good and bad, right and wrong. This is a result of lack of conscience. Another reason for violent, criminal behavior is long term exposure to such behavior. People who come from such backgrounds where violence is projected from childhood feel like it is normal. In our society people have been subjected to violent and discriminatory attitude towards lower castes from a long time and that attitude gets passed on to new generations creating a cycle of violence.

Crimes against lower castes may seem as a normal crime but there is a crucial difference and that is the intention. These crimes are a result of violent behavior towards the members of a caste in order to discriminate and harm them. An individual that is a victim to such a crime only suffers it as he/she is a member of a certain caste. Hence it is not only related to law and order but also to social injustices.

The National Commission of SC and ST reported in 1997 that when Scheduled Castes tried to use their rights to bring upliftment, they were highly suppressed by the upper caste members. Violence against lower castes has been present for a long time and it is the historically disadvantaged tribals that face violence in the hands of the upper castes.

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ANALYSING THE CRIME DATA OF SCHEDULE CASTE IN INDIA ACROSS THE DECADE

India has always been committed to the welfare of its people and the overall development of its people especially those who belongs to vulnerable sections of society in particular, i.e. the schedule caste and schedule tribes. Equality of status in the society and opportunity to all the citizens of the country is guaranteed by the very law of the land i.e. the Indian Constitution, which also states that it's a fundamental right which states that no individual shall be discriminated against on the grounds solely on the basis of religion, caste, sex etc. The Strategy of a country like India is to secure distributive justice and allocation of resources to support programme which are initiated for social, economic and educational advancement of the weaker sections in general and specifically persons belonging to the Schedule caste and Schedule Tribes in particular. The crime against people belonging to schedule caste and schedule tribe are dealt and broadly classified into two categories i.e. under the Indian Penal Code and under special laws which are protection of civil rights act, 1955, the scheduled castes and the scheduled tribes (Prevention of Atrocities) Act 1989.

The data on crime against Schedule castes and Schedule tribes are getting compiled with the provision so that there is a district-wise reporting of these crimes which has been put into effect from the year 2001. Moreover, cases which are filed under the special laws regarding schedule

caste and schedule tribes have also been segregated to have a clear picture on which basis we can analyse the atrocities against these minorities. The crime rate against Schedule castes and schedule tribes has been interpreted using only the population of Sc's and St's based on the population census in 2011.^x

The year 2013, has witnessed a gradual increase of 17.1% and in the National Crime Records Bureau data for 2020 also revealed an increase in crime rate by 9.4% compared to 2019. The crime rate has increased from 22.8% in 2019 to 25% in 2021 which shows a gradual increase in atrocities committed against the Schedule castes. This increase in atrocities gives us the alarming situation of Schedule caste in our country^{xi}. Moreover, an increase in 66.7%, 31.5%, 28.2%, 27.1% and 11.1% was reported under crimes like dacoity, rape, kidnapping and abduction, hurt respectively in the year 2013. The rate of crime against Schedule Caste was observed 25% increase during the year 2020 as per the National Crime records bureau. Madhya Pradesh has reported the highest crime rate against Schedule caste i.e. 60.8% as per the population census of 2011 present there in year 2020 followed by Rajasthan, Bihar, Uttar Pradesh which is 57%, 44.5% and 30.7% respectively as per the National Crime records bureau^{xii}.

CRIME HEAD-WISE ANALYSIS OF ATROCITIES/CRIMES AGAINST SCHEDULED CASTES

Murder

A total of 676 cases of murder were reported in the country during the year 2013 which embarks an increase of 3.8% in a year, whereas 748 cases reported in the year 2020 as per the 2020 National Crime Records Bureau^{xiii}.

Hurt

A total of 4901 cases of hurt were reported in the country during the year 2013 which embarks an increase of 27.1% in a year, whereas 13145 cases reported in the year 2020 as per the 2020 National Crime Records Bureau^{xiv}.

Rape

Well, a total of 2703 cases of rape of women who belongs to Schedule castes were reported in the country during the year 2013 whereas 2959 cases were reported in the year 2020 as per the 2020 National Crime Records Bureau^{xv}.

Kidnapping & Abduction

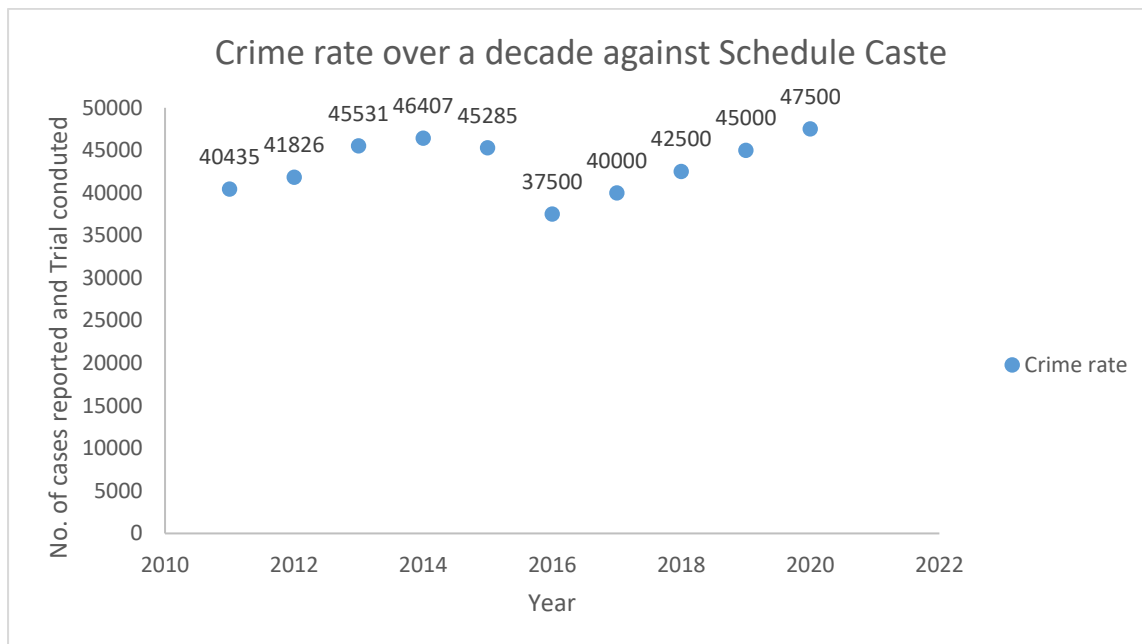
In total 628 cases of Kidnapping and abduction of persons belonging to Schedule castes were reported during the year, 2013 whereas 112 cases were reported in the year 2020 as per the 2020 National Crime Records Bureau^{xvi}.

Dacoity

In total 45 cases of Dacoity were reported during the year, 2013 whereas 57 cases were reported in the year 2020 as per the 2020 National Crime Records Bureau.

Moreover, the recent incidents like the incident of Hathras, Uttar Pradesh which further highlights the issue of atrocities which the person belonging to Schedule caste has to face on the sole reason of belonging to a marginalised community is astonishing in the recent crime trends against the Schedule caste in the country as well as it's an eye opener for every person in the country^{xvii}. This incident and many other incidents like this portrays that in spite of various developments in numerous sectors of the country, there still exist issue of caste-based discrimination and violence. In the Hathras incident the victim was belonging to the schedule caste while the alleged perpetrators belong to the so called influential caste^{xviii}. There are various similar incidents which have been reported from states like Uttar Pradesh and Rajasthan but no pertinent and strong steps have been taken to prevent further atrocities against these marginalised caste. Although we have special legislations made to prevent the crime against the Schedule Caste, even the law of our Land i.e. the Indian Constitution has also considered equal treatment to people in our country, a fundamental right but the incidents regarding the atrocities are contrary to what it should be. This portrays a lacuna in the implementation of these laws made for the protection of the minorities especially the schedule castes.

Graphical Representation of the crime trends against the Schedule caste over the decade are as follows^{xix}:



EXPLANATION

Their population is increasing over years but their condition is worsening and degrading. Most of them do not have their own land and are landless. The basic human rights are seized from them. Numerous legislations had been passed to improve their condition. But still they are victims of the abuses human rights^{xx}.

The NCRB report also brought to light many more statistics related to crimes against these vulnerable groups:

- Every 15 minutes, a Dalit is the victim of a crime.
- There are 6 women belonging to the Dalit community that are raped every day.
- In the decade between 2007 and 2017 crimes against Dalit community have witnessed a growth of 66%.
- 50,291 cases of crimes against SCs were reported in 2020, marking a 9.4% increase over

the 2019 number.

- The rate of crimes against these groups increased to 25 per lakh from 22.8 per lakh population in 2020.
- 32.9% of these cases were simple hurt cases, which formed the majority.
- Other categories included under these cases are cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act at 8.5% and criminal intimidation cases at 7.5%.
- There is a large chunk of the population in the Dalit community that makes leather from cow skin and there has been an increase in cow vigilantism, especially targeting these groups.^{xxi}

To get a clearer idea of the violence and where it is prevalent it is first important to note the states of India where the ST population is highest. Madhya Pradesh is the state with the highest Tribal population followed by Odisha, Maharashtra, Rajasthan, and Chhattisgarh, according to the 2011 Census^{xxii}. Madhya Pradesh also tops the list when it comes to violence against Tribals in India. In the year 2020, it accounted for 29% of the total 8272 cases.

Other states to report a high number of cases are Rajasthan at 22.7%, Maharashtra at 8%, and Odisha at 7.5%. Upper class, powerful, and so-called educated people undermine the Tribals, who are the natives of this country, based on their different lifestyles and lack of modernization and they use violence to silence them. These occur as a part of efforts to display that tribal people have a lower place in society. Various types of cases have been reported against STs in 2020 according to the NCRB with the highest cases belonging to the category of simple hurt cases at 2247 (27.2%) cases.

Rape was the category with the second-highest number of cases at 1137 (13.7%) cases followed by 'assault on women with intent to outrage her modesty at 885 (10.7%) cases.^{xxiii} According to a National Human Rights Commission interim report in March 2016, through an investigation done by the NHRC itself, it was confirmed that in Bijapur, Chhattisgarh 16 tribal women were victims of violence such as rape, sexual assault, and physical assault by security

forces. Among these, there were 8 women who were raped, 6 who were sexually assaulted, and 2 who were physically assaulted in less than a week's period between 19 and 24 October 2015^{xxiv}.

Even with the Prevention of Atrocities on SC and ST Act, the Government of the State did not take immediate action against such blatant misuse of power and violence against the members of Scheduled Tribes. There were also other cases reported such as 19 gang rapes which made the case tally for sexual violence by security forces rise to 46 from October 2015 to January 2016^{xxv}.

A report tabled in the Rajya Sabha claims that Between 2017 and 2019, the number of crimes against SC/ST women and children increased by 15.55 percent, with a conviction rate of 26.86 percent in March 2021. This shows that what happened in Chhattisgarh is just one of the thousands of examples of violence against STs.^{xxvi}

LEGISLATIVE SUPPORT FOR THE PROTECTION OF SCHEDULED CASTES

The Scheduled castes and Scheduled tribe's prevention of atrocities act has a huge aim. And the aim is that over the longest period of time scheduled castes and scheduled tribes that is, the Dalit's and the Adivasi's have faced discrimination. So much discrimination that the founding fathers of the constitution ensured that they should not face any kind of Untouchability. That's why article 17 was placed in the constitution as the part of fundamental right. So, *Article 17* was very clear that there was abolition of untouchability in all the forms neither in words nor in gesture nor in support. No one can practice untouchability in any form. But Dr. Ambedkar and the founding fathers of the constitution did not define untouchability. So any kind of untouchability is prohibited under the law. But interesting part here is that article 17 is not only a constitutional article. It also makes practice of untouchability a punishable offence and that was *the protection of civil rights act* which was in 1976. This law was not that strong. It was not functioning as per the aim and requirement for which this act was made. So to make the stringent and strict law, *the scheduled castes and scheduled tribe's prevention of atrocities act*, 1989 was made. This law contains extraordinary law: -

- It will create special courts and exclusive special courts. It means it will not merge with the cases of different courts.
- The offender should only be of nonscheduled castes or nonscheduled tribes. It means the members of scheduled castes and scheduled tribes will not be accused. The offender has to be somebody who is making this offence against the members of scheduled castes and scheduled tribes.
- There is no provision of anticipatory bail. Anticipatory bail means if you are apprehending arrest or if you feel that there is arrest possible then you can make an application under section 438 of criminal procedure code and you can take anticipatory bail from the session judge or from the honorable high court. Either way the scheduled castes and scheduled tribes prevention of atrocities act does not allow anticipatory bail. And that's why this was very powerful law and this is a very powerful law.

This act was a step which was taken in favor of dalits. Its most important part is in Section 3. Under this section there is a list of numerous offences.

The case was the public interest litigation which was filed by Dr. Subhash Kashinath Mahajan who is the appellant in this matter put an application regarding this which said that "My lord you have put no anticipatory bail in the stringent provision". It takes away the guarantee of personal liberty which is mentioned in Article 22 which says that there shall be protection from arrest and detention in certain cases. In other words, retain or ensure the bail and personal liberty as soon as possible that is required as constitutional guarantee. Hence, in Supreme Court's special judgement in the initial stages was said that "bail is the rule jail is the exception". So, now it is said that there is no anticipatory bail. So, this was challenged that is it acceptable or is it allowed and if it is not allowed then it should be strike down. So the court in this case decided that "this is not good. We don't allow this. This is slightly arbitrary and this is unconstitutional. Hence, we are giving some directions". So, Supreme Court in 2018 badly diluted the scheduled castes and scheduled tribes prevention of atrocities act.

- (i) There should not be this kind of stringent law. The court decided that the provisions which are of immediate arrest in SC ST act now cannot immediately arrest any public servant. They can only be arrested after the approval of appointing authority.

- (ii) Any private person can only be arrested when there will be the permission of superintendent of police. In other words, lower police officers cannot do anything they want.
- (iii) When arrested by police must be produced before the magistrate within 24 hours. Then further magistrate gave orders which are called as remand orders. But here it is said that even if any appointing authority give permission then the magistrate will look at that record. Those written record will be scrutinized. If magistrate thinks that there should be further detention then only he will allow if he is satisfied.
- (iv) If you register an FIR, you must conduct what is called as preliminary inquiry under this act to see that is it justified and legally valid offence or is it being misused.

To justify this statement Supreme Court said that 15 to 16 percent of the total number of complaints was false. There was the abuse of the process of law. Hence, it became very dangerous mechanism due to which any person can face harassment who is falsely accused. Under the light of these dimensions and facts the Supreme Court diluted the act so that it cannot be misused. According to honorable Supreme Court, on the one side it is very important to protect scheduled castes and scheduled tribes. On the other side it should also be maintained that there should be inurement of constitutional guarantee and constitutional spirit. So, the act was diluted.

However, it was not taken lightly. The moment this judgement came, there were quite a bit of demonstrations and quite a bit of protest especially from scheduled caste and scheduled tribe communities. They said that now everything will be over. Because for example, let's look at the preliminary enquiry. If the police did preliminary inquiry before filing the case, then again there is chance that nothing will come out in preliminary inquiry. That's why the SC ST act was made there was a delay due to which case was not even filed or enquired. Now, if preliminary enquiry will be allowed then the whole story will come to the end. And it will be same thing which was in the previous laws like that of protection of civil rights act. So what is the use of this? The entire statement of object and reason is something else. The statement of object and reason says that we will treat it "especially". That is not available over here and actually the whole spirit is finished. Also, in this case the Supreme Court had said that there will be an anticipatory bail. So now the entire scenario here is that the objectors to this dilution

said that if there will be anticipatory law, people will get bail. Then the entire thing will be going down the drain. The whole spirit will be gone. And then there was a massive pressure on the parliament. And the government responded.

The parliament passed another act that was scheduled castes and scheduled tribe's prevention of atrocities amendment act of 2018. Now the government does two things. First, they put review petition against Supreme Court judgement under article 137 saying that we do not agree with this judgement. Parliament had so much pressure that the decision of review petition hasn't come yet and the parliament amended it. And by amending, section 18A was inserted and it was written that preliminary inquiry is not required. Investigating officer does not need any approval, if they feel that he has committed an offence then there will be no procedure other than provided in this act should be applied. And anticipatory bail will not be applied to the case under this act.

The question that was happening that again a review petition was filed in the Supreme Court challenging that how 18A was inserted. It cannot be done. Parliament should not be allowed to insert 18A because section 18A is again violating the entire constitutional guarantee.

The three judge bench absolutely upheld section 18A. Now they will go under Status Quo Ante. It means that the original scheduled castes and scheduled tribe's prevention of atrocities act will be retained. They are overruling the decision which the honorable Supreme Court had done by diluting it. So the Supreme Court said that "We don't think as a three judge bench that dilution is allowed. It should not have been allowed. It is wrong. It is impractical. It should not be done. It takes away the spirit of SC ST prevention of atrocities act". In absolutely extraordinary circumstances in very rare case, only the high court can grant anticipatory bail.

The important scenario is that just because it is noticed that some cases have been misused it doesn't mean that the entire law should be thrown out of the window. The founding fathers have recognized earlier the need of such law. This is our responsibility as a country or as a nation that all the discrimination which was held in the name of the caste has to stop. And article 17 was not only saying it in terms of philosophy. Article 17 also wanted to become the principle in terms of making it a punishable offence. Scheduled castes and scheduled tribe's prevention of atrocities act is one step in that direction. There is a criticism that it is a very strong law. There could be misuse. But this is the finding of courts many a times that just

because a law is misused does not mean that the law is bad. Maybe it's important to improve its execution. But for the time being this law is not unconstitutional.

RECOMMENDATION

- Strict administrative measures should be taken by the government authorities for effective implementation of various legislations present for the Schedule castes and Scheduled Tribes.
- There should be formation of an Equal opportunity commission which will emphasize on the size and the complexity of any issues involved in our country with respect to the scheduled caste and tribes and help the special commission set up for scheduled caste and tribe to function effectively, this will be a specialized agency which will promote various constitutional goals on behalf of deprived and disadvantaged sections of people. This commission will be aiming to address those groups where discrimination and denial of equal opportunity to those disadvantaged sections, and will help in being the watchdog to evaluate any affirmative action.
- Special Legislative provisions made for safeguarding the Scheduled caste and tribes should be evolving with time, amendments should be made keeping in consideration crime data reports against Scheduled caste and scheduled tribes.
- Special tribunals should be made who would be only accountable for cases registered in view of atrocity against scheduled caste and Scheduled tribes, this will help in keeping control of cases pending in courts and due to this the burden of court would be reduced. Moreover, there will be a delivery of Speedy justice. This will further help the people who are victimized to speak against the wrong committed against them and speedy justice will give them the confidence to live with pride in the brutal society indulged in the caste system.
- Government and its bodies should spread awareness regarding the violation of rights, the schedule tribes and castes are facing, there should be campaigns held in various districts, villages regarding the same. They should be made aware of their rights as well

as the schemes which government is providing them for their upliftment. There should be regular check by the government and its bodies on this awareness programs and campaigns. This will help those people of schedule caste and tribes who are poor and deprived of basic necessities and education to come up and take help from the government who is there for doing these requisites.

CONCLUSION

Scheduled castes are considered as the most backward and vulnerable section of our society. They are ranked lowest in Hindu caste system. These castes are given by birth. They have always been socially, economically and psychologically boycotted. Caste system was practiced even before independence. They were poor and marginalized. They were prevented to visit any public places and were kicked out of their villages by upper caste people and were forced to live in the outskirts of cities and towns. They do not even get health access and proper education. They have been exploited from ages. They were called as unclean and polluted people. By the passage of time they began to be referred as untouchables because of the jobs they did. They didn't even get the proper opportunity for any decent job. They were prohibited to drink water from the same source which was used by upper castes. All demeaning works were done by schedule caste people. Even when these people were to meet any higher caste people they had to take off their shoes. They are exploited in every spheres of life and even denied from their fundamental rights. These groups suffer from extreme isolation and are not considered as a part of Varna system.

As per the census of 2011, 16.6% of Indian population is scheduled castes. There were a lot of changes during the evolution of scheduled castes. It was influenced by many kingdoms and dynasties from Mughal Empire to British Empire. The British passed the Government of India Act 1935 and in this act reservations were made for these depressed castes people. After Independence, the constituent assembly continued to prevail the definition of scheduled castes. Dr. B.R. Ambedkar became the chairman of the drafting committee and constitutional lawyer of scheduled castes who himself was of lower caste. These communities are referred to as scheduled castes as per Article 341 of the Indian Constitution. Their situation came into broad light since the internet is active.

The violence against scheduled castes is not because of wrongdoing of any individual but it is the outcome of evils of caste system itself. Most of the violence remains unchecked. People were bound to do the particular work which was entitled to their Varna. No reward was given at the fulfillment of task as it was considered as their dharma but they were punished for their violence. In the beginning, they were not even allowed to enter temples but in the later phase entry in temples were permitted. Still they cannot work as Poojaris. They were not allowed to read scriptures. Hence, they didn't get the knowledge of their tradition and remain uneducated. Scheduled castes people work as bonded labors and were not paid. They were restricted to move from their caste which was assigned to them by birth. They got reservations in political positions in the constitution but many orthodox upper caste Hindus were not willing to accept this.

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positions in the constitution but many orthodox upper caste Hindus were not willing to accept this.

Scheduled castes had faced almost every kind of atrocities this whole time. To protect them, the government has also put so much effort. Many articles were enacted in favor of them for their growth and upliftment like Article 17 for the removal of untouchability. To promote their economic and educational rights, Article 46 was enacted. They also had reserved seats in Panchayats and Municipalities. A separate National Commission was made for them. When everything was not going as per the plans of the government they again enacted many laws with stringent punishment. Protection of civil rights act was passed. And lastly the schedule castes and schedule tribe's prevention of atrocities act, 1989 was passed. Under this act anticipatory bail was removed. Special courts were created. And the offender must not be from Schedule caste community. A list was also made for various offences under Section 3 (1).

Cases were not filed and proper punishments were not given to the people who commit these crimes. Due to this, these people began to lose their faith in judicial reforms. They didn't get social equality till date. To achieve this challenging and difficult target government is still giving their best in upgrading various incentives.

Many times they were evicted and displaced from their lands because of any governmental projects. They are still fighting their battle for their land. Number of land conflict is ongoing in India. Many tribal are there who are still un-notified. That means they are not categorized as scheduled. Consequently, they became more vulnerable because they lack legal protections. Tribal women are raped on a daily basis. It became the tool to show women their right place in society by patriarchal force. Tribal women are considered "less than human" by maximum Indians. They are not considered equal. They are deprived of their freedom, equality, livelihood and identity. Their voice is being suppressed. There was increase in the number of crime cases such as 'rape', 'kidnapping and abduction', 'dacoity' and 'arson' against scheduled tribes. Adivasi's are socially excluded.

The increase in the literacy rate of tribal made them more prone to violence. It is because whenever these people try to be equal in any field the non-tribal exploit them and made it more difficult for them. It is a challenge for state to provide scheduled tribes the knowledge which

they are deprived of. They should not be referred as 'others' but should be recalled under the category of 'humans'.

They are agriculturists, forest dwellers, forest workers, hilly tribes and plainsmen. They were barred to work in industrial areas. With the clearance of forests their way of living disrupted. They became homeless. Due to huge debt their lands was also seized and they became dependent on moneylenders for their livelihood. Trade of tribal young girls also increased and polyandry was practiced. And these girls were not treated with dignity. They lived their lives as sex slaves and were forced to work for long hours in very unhygienic place without getting paid. Due to this their life span began to be shortened. No security was provided to them.

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