Quest For JUSTICE

STATUS REPORT ON

The Implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Rules 1995

SWADHIKAR National Dalit Movement for Justice (NDMJ) - NCDHR New Delhi

Equality

So long as you do not achieve social liberty , whatever freedom is provided by the law is of no avail to you.

> Bharat Ratna Revolutionary Dr. Bhimrao Ramji Ambedkar



Quest for Justice

Implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Rules 1995 Status Report (2009- 2018)

> SWADHIKAR National Dalit Movement for Justice (NDMJ) - NCDHR New Delhi

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Implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Rules 1995

Status Report (2009-2018)

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Glossary & Abbreviations

Adivasi	Tribal or indigenous person in India
AWSA	Following the merger of the plan and non-plan budgets in 2017-18, the SCSP is now
NWO/	referred to as Allocation for Welfare of SCs (AWSC)
AWST	Following the merger of the plan and non-plan budgets in 2017-18, TSP is now referred
	to as Allocation for Welfare of STs (AWST)
OFDAM	
CEDAW	The Convention on the Elimination of all Forms of Discrimination Against Women
Charge Sheet/ Challan	Formal document of accusation filed by the police before a court after the completion of
	investigation into a criminal case
Cr.P.C.	Code of Criminal Procedure 1973
CSOs	Civil Society Organisations
Dalit	Literally magning 'broken nearley' a term employed by rights activists to denote
Dalit	Literally meaning 'broken people', a term employed by rights activists to denote 'untouchables' or scheduled castes, the lowest group in the ritualized social hierarchy
	of the caste system, facing widespread discrimination on the basis of work and
	descent.
	ucount.
DA	Daily Allowance
DGP	Director General of Police
DHRD	Dalit Human Rights Defender
District Magistrate/ Collector	Administrative head of a district with quasi-judicial powers
DLSA	District Legal Service Authority
SLSA	State Legal Service Authority
DSP	Deputy Superintendent of Police
Dominant caste/s	Social groups with ascribed ritual status, and economic and political power, exercising
Dominant Caste/s	dominance over Dalits in particular. Invariably the term refers to every castes, except
	for scheduled castes and tribes, who are dominant vis-à-vis Dalit's
	District Vigilance and Monitoring Committees
DVMC	Committee on Economic, Social and Cultural Rights
ECSR	Foreign Contribution Regulation Act
FCRA	First report recorded by police of a crime
FIR /First Information Report	Financial Year
FY	Human Rights Council
HRC	The International Convention on the Elimination of All Forms of Racial Discrimination
ICERD	International Covenant on Civil and Political Rights
	International Covenant on Economic, Social and Cultural Rights
ICCPR	Indian Evidence Act 1872
ICESCR	Inspector General of Police
I.E.A.	Indian Penal Code 1860
IGP	Member of Legislative Assembly
I.P.C.	Metropolitan Magistrates
MLA MMs	Member of Parliament
MP	Ministry of Social Justice and Empowerment
MSJE	
WOUL	

NCSPA	National Coalition for Strengthening PoA Act
NCRB	National Crime Record Bureau
NCSC	National Commission for Scheduled Castes
NCST	National Commission for Scheduled Tribes
NHRC	National Human Rights Commission
NHRIS	National Human Rights Institutions
OIC	Officer In charge
Panchayat	Local governance institution
PCR Act	Protection of Civil Rights Act
PIL	Public Interest Litigation
PoA Act	Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989
PoA Rules	Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995
POCSO	Protection of Children from Sexual Offences (POCSO) Act, 2012
Reservations	Quotas for Dalits allowing for increased representation in education, government jobs
	and political bodies
RTI	Right to Information Act
Sarpanch	Head of a village panchayat
SC	Scheduled Caste
Scheduled Caste	Official terminology for those castes characterised as socially, educationally and
	economically backward due to the traditional practice of 'untouchability', and listed by
	the Government of India for the purposes of accessing special development, protection
	and affirmative action schemes
Scheduled Tribe	Official terminology for those communities listed by the Government of India as tribal
	communities
SDM	Sub Divisional Magistrate
SLL	Special and Local Laws
SP	Superintendent of Police
SPP	Special Public Prosecutors
ST	Scheduled Tribe
SVMC	State Vigilance and Monitoring Committees
ТА	Travelling Allowance
Untouchability	The imposition of social disabilities on persons by reason of their birth into certain 'polluted' castes
UPR	Universal Periodic Review

UPR

Universal Periodic Review

ACKNOWLEDGEMENTS

We would like to dedicate this report to Late. Sh. P.S Krishnan (Retd, I.A.S), who was an outstanding champion of the oppressed and exploited sections of Indian society. He was was the heart and brain behind the enactment of SCs and STs (PoA) Act in the year 1989. In his capacity as the Chief Advisor of National Coalition for Strengthening PoA Act (NCSPA) he worked relentlessly with coalition members in realizing and making sure that the amendments to the PoAAct are passed in the parliament. During his lifetime he continuously pushed government to fully implement the SC and ST (Prevention of Atrocities)Act 1989 and Rules 1995.

We sincerely express our deep gratitude to the contributions made by Late Mr. Ossie Farnanadez, Former Director, HRF, Tamil Nadu. He was one of the PoA amendments drafting committee members (NCSPA) in the year 2009 and was part of several consultations and actions organized across the country.

We sincerely acknowledge the struggle of victim's of Bharat Band (02.04.2018), who lost their lives, asserting that this protest is about preserving their dignity and not about demanding opportunities they have lost out on for decades. Also our heartfelt gratitude to thousands of Dalit and Adivasi survivors who were subjected to atrocities and humiliations, though recovered from the wounds but carrying the scars inflicted by delay in delivery of justice. Their tireless efforts in seeking justice, carrying scars of the wounds should be given due recognition as defenders.

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PREFACE

Dr. V.A Ramesh Nathan

General Secretary

National Dalit Movement for Justice (NDMJ)-NCDHR & Convener

National Coalition for Strengthening POAAct (NCSPA)

The Constitution of India is exemplary in its commitment to equality and social justice. Articles 14, 15, 16 and 17 contain the founding spirit, hope and aspirations of citizens of India. Marginalized communities of the society draw strength from these Constitutional guarantees. Yet the scourge of discrimination based on caste in India impedes the potential of an entire nation. Heinous acts of violence and discrimination are committed against the Dalits and Adivasis with alarming frequency. The continuing violence on Dalit and Adivasi, and the response of the law and order machinery represents deeprooted impunity in our society and demands multi-faceted action as a nation. The nature of some of these cases -naked parading of women, murder for building inter-caste relationships, social and economic boycott for protesting/breaking caste/social norms. Punishments to a whole community for the dereliction of an individual, crimes by the law enforcing and administrative machinery on the members of the community, the neglect and collusion with the perpetrators reflects continuing frame of the caste system operative in our society, and its hold in our democratic and administrative systems.

I am greatly encouraged by the National Coalition for Strengthening SC & ST Prevention of Atrocities Act (NCSPA), Dalit Human Rights Defenders, experts for their relentless work over these several years, in bringing out amendments to the principal SCs and STs (PoA) Act in 2016. These amendments are a shared aspiration and dedication of communities, organizations, individuals and survivors. However the significance of bringing amendments to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 is not only to introduce a system to deal with the issue of atrocity against Dalit and Adivasis, but also to promote speedy disposal of cases. What we have experienced is the implementation of SCs and ST (PoA) Act 1989 since its enactment has not moved up to its expectations for several reasons and the primary reason has been the differential apathy shown by state to the Act itself and inadequate friendly measures to bring survivors with in the Criminal Justice System. There are several hurdles that victims and witnesses faces in their journey to access the justice within the whole Criminal Justice System - poor investigations and prosecutions of genuine atrocity cases; denial of the right to speedy trial; absence of Exclusive Special Courts, inadequate court personnel, absence of prosecution witnesses, delay tactics by the defense, denial of the right to relevant and accurate information, denial of proper space for Dalit and Adivasis victims to participate in criminal trials, denial of the right to security of life and equal protection of the law and fair hearing and multiplicity of grounds in the judgments taking priority over the intent of the Act and the merits of the case etc. On the other hand there is no concentrated efforts by the State to file Appeals in higher courts against the acquittals of the accused persons under the Act.

For the entire nation, therefore, the need of the hour is to match words with action, constitutional promises with compliance practices, thereby providing a safe and secure environment for SCs. This is necessary for their advancement in life as citizens equal to all in rights and entitlements, and lesser to none in dignity.

This report looks at the trends with regards to the atrocities on Dalit's and Adivasis, gaps in the enforcement of the provisions of the Act at each and every stage of justice administrative systems since 2009, and provides recommendations, where state and civil society organizations can intervene.

I appreciate and acknowledge the commendable outcome of the laborious and painstaking work put in by Mr. Rahul Singh, Director, NDMJ in this study. I am hopeful that this report will help in creating a platform to engage with concerned officials (law enforcement and judiciary) as well as policy makers in proper implementation of the PoAAct.

FOREWORD

FOUNDER PRESIDENT VIDUTHALAI CHIRUTHAIGAL KATCHI (VCK)

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A mention of violence against Dalit's and Adivasis on account of their caste readily bring forth images from late 60s and 70s frequent instances of horrific instances of atrocities spreading across the country for example the Kilavenmani massacre of 42 Dalits in 1968 in Tamil Nadu; the gruesome killing of Dalit Kotesu in Kanchikacherla in 1969 in Andhra Pradesh; the killings of 10 STs by police in connection with a land dispute in Indravalli in Andhra Pradesh in 1978. In Bihar the massacres of SCs at Belchi in 1979 and at Pipra in 1980. In Uttar Pradesh the massacre following a SC bridegroom riding on horseback at Kafalta in 1980. In Madhya Pradesh the killing of Bacchdas in Mandsaur district in 1982. In Bihar the killing in police firing on 15 STs at Banjhi in Sahibganj district in 1985 and or of the more recent public flogging of Dalits in Una. Guiarat. In all above the above cases, the Indian government failed to address the vulnerabilities of marginalized communities.

Dalit and Adivasi representatives in the parliament and social activists advocated with the government over the growing incidences, which lead to monitoring 'gruesome cases' against SCs and STs in 80s. The 80s saw another spate of gruesome violence finally resulting in the passing of the SCs & STs (POA) Act in 1989. The Rules not being framed till 1995 and the Act remained only on the papers for a long time. In 1991 during the centenary celebrations of Babasaheb many social activists across the country propagated this Act, held awareness camps and meetings with the community to highlight the provisions to them. They also took the Act to the law enforcing agencies, demanding that they use the provisions of the Act when registering crimes against SC&ST communities. There was very little knowledge about the Act among the police force and much less willingness to use its provisions. The framing of the Rules in 1995 provided mechanisms for the implementation though the enforcement agencies continue to resist it. On the other hand there have been heavy lobbies for the withdrawal of the Act with out understanding the essence and spirit of the Act and Rules. It was in the late 90s again that the social activists and Dalit's/Adivasi organizations found several gaps in its implementation and review the performance of the Atrocity Act. They formed them as a National Coalition for Strengthening PoAAct (NCSPA). They advocated for the amendments, which finally came in 2016. I was also part of this process and closely associated with NDMJ-NCDHR right from the beginning.

However, even after the amendments in 2016, the caste-based violence and atrocities against Dalits and Adivasis is increasing and this violence has been systematically unleashed by dominant caste in different parts of the country. On the other hand the implementing authorities have been claiming to take several actions to improve the situation. However the implementation of the provisions of the Act and Rules on ground remain shoddy.

performance in implementing the provisions of the PoA Act is very decisive and this report "Quest for Justice" is a commendable effort in this regard. The report has been compiled based on the findings of research and analysis on implementation of the SCs and STs (PoA) Act 1989 over the last ten years (2009- 2018). This is a very important and crucial analysis done by NDMJ- NCDHR on atrocities against Dalit's and Adivasis. This report also highlights the challenges faced by the victims/survivors of atrocities in accessing criminal justice administrative system.

While the study underlines that Dalit's still face discrimination from the mainstream society. The Study also raises several key indicators in terms of non-implementation of various mandatory provisions of the Act and Rules specifically drawn up for the security of the Dalit and Adivasi community for their protection from violence. It proposes general and special measures to be undertaken by multiple stakeholders. Undoubtedly, this Study is a landmark document. Its thrust lies in bringing the state institutions to accountability and in calling them to focus on the task of full implementation of the promises expressed through concrete measures. As such, the Study offers concrete recommendations to the Government, the police, the judiciary, national human rights institutions, and other key stakeholders on the steps to be taken to ensure that Dalit's enjoy equal human rights. The challenge for the State is to recognize its obligations to end discrimination and put the recommendations of this Study into practice so as to bring in quality changes in the lives of those who experience caste based discrimination and "Untouchability" as part of their everyday life.

Hence, in this context monitoring and assessing the State's

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In specific, I appeal the Parliamentary Committee on the welfare of SCs and STs to address the issue of nonimplementation of the PoA Act. The Central government and State Governments must show their commitment now and take necessary measures to address the serious issue of impunity of the implementing officials and perpetrators in the cases of atrocities against Dalit's and Adivasis. Finally, I appeal government of India to seriously look into the recent spate of violence emerging from inter-caste marriages in Tamil Nadu and other states of India. The government should immediately consider enacting "The Prohibition of Unlawful Assembly (Interference with the Freedom of Matrimonial Alliances) Act, 2011. The legal frame work to the bill came in pursuant to the discussion in the Parliament on a Calling Attention Motion and the assurance given by the then Union Home Minister that various aspects relating to "honour killings" will be got examined, a reference was made to the Law Commission of India by the Ministry of Law and Justice in September 2009.

Finally, needless to say that this study is an important contribution on the implementation of the SCs and STs (PoA) Act 1989 and Rules 1995, hence I recommend it as a highly valuable and effective advocacy instrument for all those

interested in and committed to end violence against Dalit's and Adivasis and their empowerment.

Dr. Thol.Thirumavalavan, Ph.D

N.Paul Divakar General Secretary Global Advocacy & Networks - NCDHR & Chairperson Asia Dalit Rights Forum (ADRF)

The continuing violence and denial of justice for the Scheduled Castes and Scheduled Tribes in India epitomizes the castebased mindset and biases prevalent among all the sections in our society and demands multi-layered action as a nation. I am greatly encouraged by the National Dalit Movement for Justice for bringing this piece of work highlighting the gaps and providing concrete recommendations towards strengthening access to justice by SCs and Sts.

The SC & ST (Prevention of Atrocities) Act 1989 has been legislated to proscribe a array of discriminatory and humiliating actions carried out against members of the Scheduled Castes and the Scheduled Tribes based on caste and/or tribal identity. The act itself and the increasing number of cases filed under this act is the recognition of the fact of increasing violence and discrimination against Dalits and Adivasis and the inability of the general laws to address these issues. Despite the Article 15 which clearly highlights non-discrimination on the basis of caste and race, discrimination against SCs and STs is pervasive. Article 17 also abolishes untouchability; however we all have been hearing several brutal incidents, against SCs and STs depriving them of their life, dignity and property. The SC & ST (Prevention of Atrocities) Act was enacted in 1989 in response to the rising violence, in the post-independence era. There had been huge number of cases of atrocities soaring up across the country like the Ramanathapuram riots of 1957 in Tamil Nadu, Kilavenmani massacre in Tamil Nadu in 1968, Belchi massacre of SCs in Bihar in 1979, killing of Bacchdas in Mandsaur district in 1982 in Madhya Pradesh and so on. These growing instances of violence in post-independence era and the continuous pressure from the Dalit MPs and political leaders led to the monitoring of cases against SCs and STs from 1974-1981. The 80s saw another series of growing violence against the SCs/STs resulting in the act being introduced under the Prime Ministership of Rajiv Gandhi in 1989.

However, even after 30 years of the enactment of this Act, the number of incidents of atrocities against the members of these communities has not abated. The data reveals that 42793 cases of atrocities against Dalits were reported in 2018, a steep rise of around 6 percent in 2018 over the decade. These figures suggest that cases of crimes continued to rise even after the enactment of Scheduled Castes and Scheduled Tribes (Prevention) of

Atrocities Act in 1989 and newer forms of violence have been appearing. With every forward step, newer mechanisms are being evolved to deal with the atrocities faced by the members of the SC and ST communities by dominant caste groups, however still a long way has to be covered to enable them to live in society with dignity and self-respect, without any kind of fright, violence and suppression from the dominant caste groups.

The abysmally less number of registrations of cases in police stations and the appallingly low conviction rate raises the question on the effectiveness of the Act. Additionally the Act mainly covers body harm, hate crimes, destruction of property, abetment to crime, false witness, monitoring of the implementation of the Act, however it doesn't cover some serious forms of discrimination like access to public places, discrimination to public services, exclusion in public sphere, discrimination in market place, discrimination in recruitment, work place and supply chain in the corporate, murders due to inter-caste marriages and so on. This means that only 25% of the untouchability has been captured, scrutinized and has been brought under the oversight of the law, remaining 75% of the offences committed which are the most common forms of discrimination and exclusion are not taken in cognizance as crimes under the law and have been outlawed. The need of the hour, therefore, is to review the holistic implementation mechanisms and processes, evolve a more receptive administrative structure, so has to make the act more effective and operative.

This report brings to fore the implementation of the provisions of the POA Act and Rules and analyses the process of accessing justice through POA Act mechanisms. It presents the essential elements of the functioning of Police and Judiciary, intervention by the civil society organizations, national and state human rights institutions and other government bodies in the implementation of the Act. It provides an overall understanding of the national and international mechanisms to protect the rights of the Dalits. The work is also appreciated for building a platform in engaging with the government authorities and agencies, giving a status of implementation of the Act on the ground and gives a valuable set of recommendations to move forward.

I am greatly encouraged by the work put together by National Dalit Movement for Justice (NDMJ–NCDHR) by analyzing the performance of the different implementing mechanisms in accessing justice for the Dalits and Adivasis and hope that this will initiate the process of reform in the implementation of this Act. I sincerely hope that this impetus will lead to changes for the community on the ground, predominantly for the victims and survivors.

WORD OF APPRECIATION

The Report on Atrocities on SC/ST for the last ten years. 2009-2018 by, the National Dalit Movement for Justice -National Campaign on Dalit Human Right, is a significant accomplishment and event. I appreciate and acknowledge the contribution of all those who were involved in the preparation of this report. The report brings out the catastrophic status of violence against the Dalit community. The report reveals that when the entire world is fighting the COVID-19 pandemic, even during this crucial period, the attitude of the dominant caste continued to discriminate Dalits on various occasion. Animosity and anti-social attitude exhibited openly, in the absence of law and order in many states, as the primary focus of the state authority is fighting COVID-19. The term social distancing further reinforced the caste exclusion and atrocities during this difficult time. During the period between 2009 to 2018, more than 3.91952 atrocities cases reported against the SC and 72367 cases against Sts.

The report further came with the disturbing finding of a steep rise in violence against Dalit and Adivasi women. Dalit women often bear the brunt of violence in the hand of dominant caste; violence as grave as physical violence, sexual violence and witch branding. In the COVID 19 pandemic also Dalit women witnessed various forms of atrocities. In one case, a ninemonth pregnant Dalit woman who had to descend 250 steps from hilltop to get the daily essential was sent back emptyhanded for being Dalit. A Dalit domestic woman was beaten for raising her voice against the authority for not providing ration in Uttar Pradesh. In another heinous scenario, a Dalit woman was kept in hostage by five influential people of the village for 8 hours on her wedding day and gang-raped her several times in the state of Uttar Pradesh again. Dalit women face severe discrimination for being both a woman and a Dalit and make them a key target of violence. In the last five years, out of a total 2,05,146 registered crimes against Scheduled Castes under the PoA Act, a total of 41,867 cases (20.40%) were related to violence against Scheduled Caste women.

The year 2018 witnessed an increase in almost all the crime heads. Incidents of rape increased since 2014. The report provides data on various kind of crime against Dalit women. Total of 12,750 incidents of rapes were registered between 2014 to 2018. Similarly, the incidents related to attempt to rape also increased to 677 incidents in 2018 from 87 incidents in 2014. Assault on SC women to outrage the modesty saw an increase to 3091 incidents in 2018 from 2346 incidents in 2014. Insult to modesty increased to 148 incidents in 2018 from 56 incidents in 2014. Cases related to kidnapping to compel SC women for marriage increased to 493 in 2018 from 427 incidents in 2014. Cases of acid attack increased by 150% though the number of incidents in 2014 was two, which grew to 5 in 2018. Over these five years, (2014-2018) cases against SC Women witnessed a sharp increase of 42.63% with 5154 crimes against SC women in 2014 and 41867 in 2018. Crimes against Scheduled Caste women under the PoAAct increased by 42.63% with 5154 crimes in 2014 and 7351 crimes in 2018.

The report gives a detailed picture of the atrocities against Dalit and Adivasi women in the last ten years and also brings out the challenges faced by Dalit women. As the hope for a better future seems feeble, we have to keep our fight and efforts on.

INTRODUCTION

1 The Constitutional terms for Dalits and Adivasis are Scheduled Castes (SC) and Scheduled Tribes (ST) respectively. Both set of terminologies will be used interchangeably in the report.

Article 17 of the Constitution of India banned the practice of "Untouchability" in any form. In 1955. Parliament enacted the "Untouchability" Offences Act to criminalize the practice of "Untouchability" and any form of social disability arising from it. This Act was amended and re-named as the Protection of Civil Rights Act (PCR Act) in 1976. In the following years, however, the provisions of the PCR Act and Indian Penal Code (IPC) were found to be inadequate in deterring crimes against members of the Scheduled Castes (SCs) and Scheduled Tribes (STs). As a result, the Indian Parliament enacted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in 1989 (herein referred to as PoAAct). The PoA Act introduced a new category of offences, i.e. "atrocities" committed against a SC or ST by a person/s not belonging to a SC or ST community, and instituted special procedures for prosecuting these offences. It mandated the designation of special courts for trying cases of atrocities and imposed more stringent punishment to those found guilty of caste-based atrocities. Rules to the PoAAct were framed in 1995.

While the PoA Act was meant to address the violence and abuse faced by the SCs and STs in India, it has since proved inadequate in living up to this promise. Despite stringent provisions of the PoA Act meant to prevent caste based atrocities; offences against SCs have only increased over the years. In response to the situation and realizing that a range of reforms, including legal, judicial and institutional, needed to be instituted for dealing with delays and ensuring access to justice, in 2009 members of SC and ST communities, human rights organizations and movements, activists and experts from across the country formed themselves into the National Coalition for Strengthening SC/ST Prevention of Atrocities Act (NCSPA). The Coalition prepared a Position Paper and drafted the necessary amendments to the POA Act based on recommendations gathered from consultations with national and state commissions, civil society organizations and experts, alongside the guidelines issued by the Ministry of Social Justice and Empowerment (henceforth, MSJE) and the Ministry of Home Affairs for better enforcement of the Act. Thereafter, the Coalition launched a nationwide campaign to advocate for necessary amendments to the PoAAct.

Intense advocacy and lobbying by the Coalition members over a five-year period saw results when the Ordinance on PoA Amendments was assented to by the President of India on 4 March 2014, under the rule of the United Progressive Alliance (UPA) Government. After the May 2014 elections and the formation of the new central government under the National Democratic Alliance (NDA), on 16 July 2014, the POA Amendments Bill was tabled again in Parliament and referred to the Parliamentary Standing Committee on Social Justice and Empowerment. As a result of consistent engagement of the Coalition with the Parliamentary Standing Committee, the Committee came out with its review report on the Amendment Bill and tabled the same in Parliament on 19 December 2014. The Standing Committee report provided the following major recommendations:

1. Setting up Exclusive Special Courts and Exclusive Special

Public Prosecutors, and day-to-day trial of atrocity cases

- Cognizance of cases for trial by special courts
- 3. Insertion of new offences as identified

2.

- 4. Addition of relevant IPC offences as punishable offences
- 5. Strengthening state accountability by defining the term 'willful negligence'
- 6. Expanding the scope of presumption to minimize loopholes in the applicability of the Act, and
- 7. Inclusion of a new chapter on the "Rights of Victims and Witnesses".

In the year 2015 the amendments to the SCs and STs (PoA) Act 1989 were finally passed in the Lok Sabha and the act with new amendments are in force since 2016. What the present government is claiming is that under their rule, there have been certain amendments made to the PoA Act, which has further strengthened it. Implicitly they are claiming that their government has made strong efforts towards social justice and the upliftment of the oppressed communities. In particular, that they claim to have introduced include

- Establishment of exclusive special courts for trying offences under this act
- · Outlining the 'Rights of Victims and Witnesses'
- Defining the responsibilities of the state towards the victims, defendants and witnesses.

The Amendment Act was introduced in the Lok Sabha in the year 2014. However, this bill was introduced to replace the presidential ordinance issued in March 2014 towards the fag end of the UPA-II. The three provisions that are outlined were previously part of this ordinance. Before the ordinance was to lapse, the bill was introduced in the Lok Sabha. Thus, although it was under the NDA government that the bill with these amendments was passed, the bill was first introduced by the UPA government. This weakens the claim that this government alone has made significant efforts for social justice.

²¹

However even after the enactment of amendments to the PoA Act in 2016, the experiences of monitoring and intervening in cases of atrocities have clearly shown the large hurdles that Dalit and Adivasi victims/survivors of atrocities face in the process of seeking legal justice. Despite Constitutional rights and protective legal provisions, the reality for Dalit and Adivasi citizens who suffer atrocities is often that of delayed or denied justice. The criminal justice system as a whole serves as a limited tool for securing justice after atrocities take place. This is a law created to check and deter crimes against SCs/STs committed by non- SCs/STs due to the inadequacy of existing laws such as Indian Penal Code and the Protection of Civil Rights Act. Hurdles exist at every stage of the process to attain justice after atrocities take place, including at the stages of registration of cases, investigation of cases, charge sheeting, and during trials. Tremendous pressure is placed on the victims not to lodge their initial complaints of atrocities. They are often threatened and intimidated not to speak about the incident. Quite often police officials refuse to write the complaint of the victims or register the FIR, or to register cases under the PoA Act. Even if the case is somehow registered under the PoAAct, often police will not register the case under the proper sections of this Act. Moreover, counter and false cases are increasingly being registered against the victims at the behest of the dominant castes, sometimes in collusion with police officials. Police do not arrest the accused immediately. Cases are not investigated in time. Inquiries are not made with all the victims and witnesses during the investigation. Most of the time, the victims and witnesses of atrocities are not provided with protection during and after investigation of atrocity cases. It is also seen that the investigations into counter cases are faster than in PoA Act cases. At the time of fi ling the charge sheet, often the statements are not corroborated with the contents of the charge sheet. Sometimes, vital information is deliberately left out of the charge sheet in order to weaken the case in favour of the accused.

On the other hand over the years the number of cases of atrocities against SCs and STs have only increased. Over the decade to 2018, crime rate against Scheduled Castes or Dalits rose by 6%; from 20.1 crimes per 100,000 Dalits reported in 2009, to 21.3 crimes in 2018, according to 2018 National Crime Records Bureau (NCRB) data, the latest available. Meanwhile, the crime rate against Adivasis or Scheduled Tribes remained static with a nominal decrease by around 1.6 %, from 6.4 crimes2 per 100,000 Adivasis in 2009 to 6.3 crimes in 2018. As many as 3,91,952 crimes against Scheduled Castes were reported between 2009 and 2018. As many as 72,367 crimes3 against Adivasis (Scheduled Tribes) were reported between 2009 and 2018.

NCRB data shows that at the end of 2018, a total of 172794 crimes under SCs and STs (PoA) Act 1989 against Scheduled Tribes remained pending trial in courts across the country, accounting to 93.5% to the total number of cases came for trial during 2018, thus showing no improvement over the trial pendency rate since 2009 where in the trial pendency rate under PoAAct was recorded at 82.9%. In 2009 a total of 40759 crimes under PoAAct came for trial which increased to 953003

With regard to the disposal of cases before Courts under the SCs and STs (PoA) 1989, the average pendency rate at the end is very high. While a number of cases are entering these courts each year, most end up pending trial at the end of the year. Of the cases that reached Judgement in these Special Courts during these ten years (2009 to 2018), the overall conviction rate under PoAAct averaged at only 25.2 % for the Scheduled Castes. From 2009 to 2018 one notice that majority of the cases are seeing the acquittal or acquittal of the accused persons. Similarly, the acquittal rate under PoA Act, for the crimes against scheduled castes has been guite high over the period of ten years (2009-2018). On average 62.5% of cases ended up in acquittals during the decade. As for Scheduled Tribes the cases that reached Judgement in these Special Courts during these ten years (2009 to 2018), the overall conviction rate under PoA Act averaged at only 22.8 % for the Scheduled Tribes. Similarly, the acquittal rate under PoA Act, for the crimes against scheduled tribes has been high over the period of ten years (2009-2018). On an average 62.5% of cases for the crimes committed against STs ended up in acquittals during the decade.

in 2018 thus showing an increase by 353.4 % over 2009. In 2009 a total of 33791 crimes under PoAAct were pending trial at the end of the year, which increased to 17,2794 in 2018, thus showing an increase by 411.3 % over 2009. On average 88.5 % of cases under PoA Act remain pending trial during 2009 to 2018. As for Scheduled Tribes at the end of 2018, a total of 26282 crimes under SCs and ST (PoA) Act 1989 against STs remained pending trial in courts across the country, accounting to 92.5 % to the total number of cases came for trial during 2018, thus showing no improvement over the trial pendency rate since 2009 where in the trial pendency rate under PoAAct was recorded at 83.3 %. The trial pendency rate for crimes registered under the SCs and STs (PoA) Act 1989 has not decreased below 78 % over one decade, averaging 86.8 % over 2009 to 2018.

² Crimes against SCs reported under IPC, PCR, PoA Act, Other Legal Provisions, NCRB, 2009-2018 3 Crimes against STs reported under IPC, PCR, PoA Act, Other Legal Provisions, NCRB, 2009-2018

In addition, a number of issues contribute to the denial of speedy justice to SC/ST victims of atrocities. These include the non-appointment of judges or SPPs and the poor competency of appointed SPPs. Notably, while Rule 13(1) PoA Rules stipulates that administrative officers and other staff appointed to areas prone to atrocities should have the right aptitude and understanding of the problems of scheduled castes and scheduled tribes, this does not extend to the staff in the Special Courts trying atrocity cases.

There is also the lack of speedy trials through Special Courts: trials are delayed due to the accused, victims and witnesses not appearing for trial; the judge being absent; the defence advocates requesting frequent adjournments and undertaking long cross-examinations of prosecution witnesses; the arguments taking a substantial length of time; administrative delays where the Courts are not exclusively trying atrocity cases and are overburdened with cases. Certain procedural matters also delay the trials.

Scope of the report:

This status report presents the findings of our research and analysis on the nature, scale, and magnitude of violence against Dalit's and Adivasis and implementation of the SCs and STs (PoA) Act 1989 and Rules 1995 as over the last ten years (2009-2018). The report brings out the challenges faced by the victims of atrocities during the criminal justice administrative system and presents the essential elements across the board for effective implementation- performance of different implementing mechanisms (the police and judiciary), building of a protective environment through the additional mandates, mechanisms to discourage crimes and build confidence in vulnerable sections, urgent relief measures to support the victims and families in their fight for justice. It makes recommendations to the government to address this important issue that results in egregious human rights violations of affected communities and has severe and long-term impacts on the nation's development and on social, gender, and economic justice.

The purpose and objectives of the report:

The implementation of the PoA Act is assessed in order to highlight gaps towards strengthening access to justice by SCs and STs. The report aims to:

- Promote a greater understanding of the functioning of Police and Judiciary in strengthening the intervention by civil society organizations (herein CSOs), national and state human rights institutions; and other concerned government bodies the implementation of the PoAAct;
- Provide an overall understanding of the existing national standards and mechanisms to protect the civil and political rights of Dalits;
- (iii) Analyze the process of accessing justice through the existing legal mechanisms;
- (iv) Evidence the gaps and status of functioning of these mechanisms, and specifically the lacunae in the implementation of the POAAct; and
- (v) Develop concrete and practical recommendations for plugging the gaps and strengthening the mechanisms for easier access to justice by victims of caste atrocities.

The report is prepared through desk research and study of primary evidence in the form of case studies and responses to queries obtained under the Right to Information (RTI) Act. The secondary sources of data are largely drawn from (i) National Crime Records Bureau data (ii) Annual Reports and meeting minutes of the MSJE and NHRIs; (iii) Newspaper reports; and (iv) Study done by CSOs etc. (v) Answers given by the parliamentarians in Lok Sabha and Rajya Sabha have been taken for analysis. Hence some of the information also relates to the year 2019 and 2020.

The report is aimed at:

- (i) Monitoring and assessing the State's performance in implementing the provisions of the POAAct and Rules.
- (ii) Analyzing the process of accessing justice through POA Act mechanisms.
- (iii) Creating a platform to engage with the concerned government authorities (law enforcement and judiciary) and policy makers towards effective implementation of the PoAAct and Rules.

CHAPTER 1

HOW CASTE STILL RULES IN INDIA

"...No dispute that the members of the SCs and STs have suffered for long and still making the struggle for equality and for exercising civil rights in various areas of the country." The classes of Scheduled Castes and Scheduled Tribes have been suffering ignominy and abuse, and they have been outcast socially for the centuries. Though, Article 17 of the Constitution prohibits untouchability, whether untouchability has vanished? Untouchability though intended to be abolished, has not vanished in the last 70 years. However, one thing is sure that we have not been able to eradicate untouchability in a real sense as envisaged and we have not been able to provide downtrodden class the fundamental civil rights and amenities, frugal comforts of life which make life worth living."

The Supreme Court Of India, Review Petition (Crl.) No.228 of 2018 in Criminal Appeal No.416 Of 2018 with Review Petition (Criminal) No.275 Of 2018 in Criminal Appeal No.416 Of 2018, Judgement dated 01.10.2019.

India's caste crimes:

The rising incidents of Atrocities against Dalit and Adivasi community exhibits deep rooted caste mindset and related power dynamics that get translated into violent acts. Consistent attempts are made to appropriate the Dalit - Bahujan politics to create polarization along caste and communal lines. Oppressor castes have organized themselves along caste lines and are engaging in newer forms of Untouchability. The attempt is to malign the dignity of the Dalits and Adivasis who are 'resisting submission' and claiming their dignity and rights. This translates into politicizing issues of caste based atrocity for political gains and not furthering justice to the affected members of the community of caste violence. In past we have witnessed instances of arson in Dalit hamlets which have been the most horrifying collective assaults on members of Dalit community; wherein the hamlets, houses & property have been destroyed, Dalit women and girls assaulted, children fear to venture out or go to school, in some cases families are forced to flee from villages, people set ablaze and killed. Just to cite a few - Kilvenmani Massacre in Tamil Nadu (1986), Tsunder Massacre in Andhra Pradesh (1991), series of Massacres in Bihar 'Sarthua Bhojpur Massacres (1995), Bathani Tola (1996), Lakshmanpur - Bathe Massacre (1997), Nagari Bazaar Massacre (1998), Shankar Bigha Massacre (1999), Miyanpur Massacre (2000). Mirchpur massacre in Haryana (2010), Gohana (2005) or Khairlanji (2006) in Maharashtra have been most gruesome forms of atrocities committed4. In many of

these cases, fair judgments were given at the Session's Court convicting the perpetrators of violence; however the High Courts acquitted the accused. Not given strict verdict and in some cases the trial is not complete this reveals the extent of judicial impunity.5

This chapter documents the extent of human rights abuse, exclusionary practices and the disdain experienced by survivors of caste and gender based violence. For instance, the denial to use common resources, denial to enter temples or the act of purifying temples after being visited by a member of Dalit community, incidents of gender and caste based violence involving gang rapes, sexual assault and harassment, rape and murders, abduction, disrobing of women and parading them naked, attempt to pounder houses or land belonging to Dalits, existence of forced bonded labour and manual scavenging are all forms of caste based segregation, prejudice and assaults. In this chapter, we have documented brutal assaults that have continued in this millennial age which reveal judicial laxity in dealing with cases of caste atrocity. The backgrounds of the incidents also unearth the underlined behavioral traits of superiority the dominant caste try to demand by holding onto their caste privilege; they get uncomfortable to the growing assertion amongst the Dalit community on their rights and entitlements and have unleashed brutal forms of violence on the Dalit women, men and children in order to retain the caste social order and submission as demanded.

4 https://www.indiatimes.com/news/india/11-major-incidents-of-violence-against-Dalits-which-show-how-badly-we-treat-them-258944.html (Last Visited on 28th November 2019) 5 https://www.tribuneindia.com/news/sunday-special/perspective/caste-violence-the-terrifying new normal/646245.html (Last Visited on 12th November 2019)

1. Ranvir Sena attack on Dalits in Miyapur Village:

On 16th June 2000 in Bihar's Aurangabad district in Miyapur village 34 Dalits, including nine children and 13 women, were killed and more than 15 others injured by Ranvir Sena. The ranvir sena is a right wing outfit of Bihar's landlords who allegedly waged a series of massacre against Dalit and Naxal influence in the region. Miyapur was the last of such gruesome massacre. The Aurangabad Scheduled Castes and Scheduled Tribes (SC and ST) special court judge, Krishna Kant Tripathi, had awarded life imprisonment to 10 persons on September 20, 2007. The special court had also imposed a fine of Rs 5,000 on each, failing which three more years would have been added. However, the Patna High Court acquitted 9 accused for the killings.

2. Seven Dalits locked and burnt to death in Kambalapalli, Kolar district in the state of Karnataka:

On 11 March 2000, seven Dalits including three women were locked up in their respective houses and burnt alive by dominant caste Vokkaliga mob in Kambalapalli, Kolar district of Karnataka state. The village had strict caste social order prevailing segregated living, this particular family was denied drilling borewell, in the process one family member was murdered by the dominant caste and the family had left the

village; however they wanted to return and asked for police protection. During the conciliation process, matters were not sorted leading to killing of the family members living in 3 different houses in the village by the Vokkaliga group of men. A division bench of Karnataka High Court acquitted all 46 accused in August 2014. The bench headed by Justice Mohan Shantanagoudar held that a conviction would be "pre-judicial" to the interest of the accused given that 14 years had passed since the incident and all the 22 evewitnesses had since turned hostile. The court also observed that the investigating police officer and some of the eyewitnesses were not cross-examined properly. The witnesses in the case, many of whom had narrowly escaped with their lives, had turned hostile during the trial in a lower court, resulting in a similar acquittal in 2006. Immediately after that verdict was delivered, many of the witnesses told the media that they backtracked because of threats and no protection from the police. A subsequent plea for a retrial was rejected by the High Court.6

2003

3. Tribals of Kerala massacred for reclaiming their land in Muthanga forest:

Adivasis constituting between 1.1%, or 3.6 lakh, of Kerala's population were traditionally occupied and cultivated large tracts of forestland in Wayanad, Palakkad, Idukki, Pathanamthitta, Kollam and Thiruvananthapuram districts. In 1970s, they started losing these lands to non-Adivasis, were soon rendered landless and drove them to starvation. In 1975, the state government passed a law promising to give them back their lands, which never happened. In 2001, 30 Adivasis starved to death as the rest of the state celebrated the harvest festival of Onam. This triggered the first Adivasi agitation to take back their lands, according to Janu. Led by the Adivasi Dalit Action Council – which later became the Adivasi Gothra Maha

Sabha. But the government did not deliver on its promise in the next two years. On 19th February 2003, several hundred Adivasis walked into the Muthanga Wildlife Sanctuary, declared self-rule and started cultivating the land. Instead of negotiating with them, the state responded with force and sent the police to evict them. In the clash that followed, an Adivasi protestor had died and hundreds of community members were injured. The Adivasis, however, maintain that 16 of their community members were shot dead that day. 15 years on the Adivasi still wait for their trial to begin.7

6 https://roundtableindia.co.in/index.php?option=com_content&view=article&id=7605:kambalapalli-carnage&catid=122&Itemid=138 (Last Visited on 23rd November 2019)

⁷ https://scroll.in/article/869166/in-kerala-Adivasis-continue-to-fight-for-land-rights-15-years-after-violent-agitation (Last Visited on 29th November 2019)

4. Dalit family sexually assaulted and murdered in Maharashtra's Khairlanji village:

On 29th September 2006, in Khairlanji Village Bhandara district of Maharashtra a group of men from the dominant caste community of the village attacked a Dalit family for raising their voice against them; as the women had appeared as witness to a physical assault on a fellow Dalit man who helped them in instances when the dominant community men had assaulted the women and tried to grab their land. Bhaiyyalal Bhotmange being the lone survivor and witness to the rape of his wife and daughter and murder of all family members. His wife (44) and daughter (17) were stripped, paraded in public, beaten by a gang of 40 to 60 men with cycle chains and bullock goads, subjected to sexual assault and their bodies thrown into a canal. Bhaiyalal's sons, Roshan (19) and Sudhir (21), were also lynched by the mob. Roshan, who was visually impaired, was not spared. The village's entrenched caste hegemony and judicial impunity has been very blatant in this particular case. The biggest travesty in the initial stage, were that the caste

basis for the violence against the Bhotmange family was eliminated by the court and relevant sections of the Prevention of Atrocities against Scheduled Castes Act (POA) were not applied. In 2016, only 8 of the 54 criminals named in the FIR were found guilty and sentenced to life. Most of the accused were acquitted, including the main culprit, a known BJP leader. Others served sentences for lighter charges and the charge of rape was dropped. The case reveals the judicial impunity and justice denied to the family.8 The High Court further acquitted few of the accused and commuted the death sentence into life imprisonment of few accused. The matter is pending in the Supreme Court. The lone survivor died a few years back waiting for justice

2007

5. Ten Dalit youth lynched in Vaishali, Bihar:

Dominant Caste Villagers of Dhelpurwa village near Hajipur in Vaishali District of Bihar State attacked 11 Nats by alleging them as thieves and lynched 10 of them to death. (Nats come under the SC Category in this State) on 13.07.2007. Dominant Caste alleged them as thieves and lynched 10 of them to death. (Nats come under the SC Category in this State) on 13th September 2013. One seriously injured was hospitalized in Patna Medical College Hospital. The victims were identified as residents of Tajpur block of neighboring Samastipur District. On 13.09.07 there was a overnight Dance Program in the village and it was over in the mid night and these 11 persons came for witnessing this Dance Program and slept there for some hours to take rest as it was midnight and left around 4.30 am for their houses which is 10 km away from this village where the program was organized. Victims had an altercation with an Auto Rickshaw Driver who demanded more money to drop them at their place of residence, which resulted in the Auto Driver, just raised voice as "Thieves "Thieves" and many slept nearby came running and bashed all the 11 and two out of 11 fell dead immediately and the mob decided to kill the rest to eliminate them as they are the eye witnesses. First Information Report was registered on 13/09/07 under section 147,148,149,323,325,307,302 and Sec 3 (2) (v) of SCs and

STs (PoA) Act 1989 at Vaishali.

6. Kandhmal Violence:

In a sustained and well-planned attacks, Dalit and Adivasi Christians and their institutions, religious places were attacked by members and office bearers of various wings of Hindu supremacist on the eve of Christmas 2007, forcing poor Dalit and Tribal Christians to flee to forests. The violence saw the killing of 59 persons. Dozens of hamlets and villages were ransacked. Brutal rapes were also part of the violence. Nearly 50,000 people were rendered refugees in their own land and displaced.

⁸ https://indianexpress.com/article/opinion/columns/maharashtra-khairlanji-Dalit-rape-murder-una-vemula-caste-system-discrimination-3055056/ (Last Visited on 17th November 2019)

7. Carnage in Dalit hamlet leads to exile of entire Dalit community- Mirchpur Carnage:

On 21st April 2010, on the pretext of a she-dog belonging the Balmiki Community barked on the Dominants Castes youths, a mob of 300 - 400 Jats from the village attacked the Balmiki hamlet of the village, beating them, looting, burning and destroying their houses. They also set fire to and looted 18 Balmiki houses who were relatively prosperous and burnt alive 17-year-old polio-stricken Dalit girl Suman and her 70-year-old father Tara Chand. There was direct evidence of the SHO (police inspector) who is also the son-in-law of one of the Jat land-owner, providing support to the attacking Jat mob through telephonic coordination. Even today the 150 Balmikis families, who are the victims of Mirchpur Carnage, are forced to stay in tents in a Tanwar Farm house and not in a position to return to Mirchpur village in view of the hostile atmosphere prevailing against them, particularly after the conviction of 15 persons by the trial court.9 Later 15 persons belonging to the dominant Jat community against their conviction and sentencing filed an appeal before Delhi High Court and the High Court on 24.08.2018 consisting of a bench of Justices S Muralidhar and I S Mehta said even after 71 years of Independence atrocities on

Scheduled Castes community has shown no signs of abating. The court also directed the Haryana government to rehabilitate families belonging to the Dalit community who were displaced after the 2010 incident. The victims and the police had also appealed in the high court seeking enhancement of punishment awarded to the convicts and acquittal of others. High Court of Delhi has convicted 12 accused for Life Imprisonment, 12 accused for 2 years imprisonment and 9 accused for 1 year imprisonment and thereby out of 57 accused persons against whom Criminal Appeal was filed, the High Court convicted total 33 accused persons under different provisions of the Indian Penal Code and SC & ST (PoA) Act, 1989.

2011

8. Following an inter-caste marriage Dalit hamlet faces caste wrath and violence:

On 15 April, 2011 in Bishunpur's Harchanda village of Darbanga District in Bihar, the Dalit locality was attacked and 24 houses of Dalits were set on fire following an inter caste marriage. Around 40 people were injured in it. The violence was meted out by the dominant caste community of the village and villages around the area.10 A Case was registered against 98 people and 48 accused were arrested.

⁹ National Dalit Movement for Justice (NDMJ) directly intervened in this case and filed Public Interests Litigation for the affected community members (Last visited on 12th November 2019)

¹⁰ https://indianexpress.com/article/india/latest-news/houses-of-Dalits-set-on-fire-in-bihar-40-injured/ (Last visited on 30th November 2019)

9. Dharmapuri Violence:

The inter-caste marriage had triggered a chain of violent incidents that culminated in two deaths and resulted in caste violence at Natham Colony near Naickenkottai village near Dharmapuri, from where the youth hailed, and other nearby Dalit settlements, in November 2012. The violence left scores of huts and houses damaged. Properties worth crores of rupees were destroyed in arson by Vanniyar mobs. The main reason for the mob fury was the suicide of Divya's father, Nagaraj, on November 7, 2012, after his daughter refused to return to the family. Elavarasan was found dead near a railway track some three kilometres from the Dharmapuri railway station and behind the Dharmapuri Government Arts College on July 4, 2013, a day after Divya told the Madras High Court-which was hearing a habeas corpus petition filed by her mother-that she wished to go back to her family. The Justice S.R. Singaravelu Commission of Inquiry, which was set up by the Tamil Nadu government to probe the death of the Dalit youth E. Elavarasan of Dharmapuri in 2013, has concluded that it was a "suicide". The commission was constituted by the then Tamil Nadu Chief Minister Javalalithaa on July 8, 2013, to probe the cause of the death of Elavarasan, whose inter-caste marriage with Divya, a girl from the Vanniyar community, a most backward caste (MBC), and the subsequent caste clashes in Dharmapuri district had hogged national attention. Five years after Elavarasan's death, the commission submitted its report to Chief Minister Edappadi K. Palaniswami on August 21, 2018.11

10. Panchayat imposes 'social boycott':

In April 2012, in Hisar's Bhagana village (Haryana), there were clashes between Jats and Dalits over access to shaamlat (common land) by all in the village. The Panchayat constructed

a wall to block access by few Dalit houses as a solution to a dispute over shaamlat. The Panchayat in control of the jat community, socially boycotted the Dalits, forcing several families to leave the village. FIR is not lodged and the victims have gone in the Hissar Sessions Court with a Private Complaint for registration of FIR and Rehabilitation. The matter is still pending with the court.

11. Four Dalit girls Gangraped by Five Jat Boys in Bhagana:

4 dalit girls were raped by 5 Jat boys in Bhagana Village of Hisar district in Haryana. Initially the accused had planned to abduct one of the victim but because at the time of abduction, all the four victims were together and hence the other three tried to save the fourth one from getting abducted. All of them were abducted and raped. Later on they found themselves lying near Bhatinda Railway station. They were also threatened by the Sarpanch to not disclose any information about the incident. An FIR was lodged under Section 375 of IPC and POA Act. The FIR was registered on 25.03.14 as FIR No- 299 u/s 363/366/366A/376/120B/328 IPC & Sec 4 of POSCO Act & Sec 3 SCs and STs (PoA) Act 1989 in Sadar Police Station, Hisar District. The matter was later compromised.

2013

12. Brothers kill sister to maintain brahminical patriarchy:

Mr. Murugan, S/o Late. Mr. Sakthivel was residing in Thiruvengadapuram village of Srivaikundam Taluk of Tuticorin district. He belonged to the Scheduled Caste community and was in love with a woman named Ms. Gomathi belonged to the dominant community. Ms. Gomathi's brothers came to know about their sister's relationship with a Scheduled Caste man. Hence on 13.09.2013 Gomathi's brothers Mr. Murugan and Mr. Selvamuthu forcefully made Gomathi to drink poison and murdered her. Later they hanged her to the ceiling fan.

13. Mistaken for being a poacher, Dalit lynched:

In Haryana, May 2014, a Dalit man was killed and another critically injured by members of the Bishnoi community. Two Dalit men, Rajbir (40) and Ram Avtar (26) of Gangwa village were on their way to Hisar's Kalwas village to enquire about fodder price. They were attacked by four men, who assaulted the men; tied up their hands. And the men were beaten up with iron rods in the process one of them was lynched to death by these four accused.

14. Dalit woman stripped and assaulted:

In Hassan village on 14th February 201412, a Dalit woman was stripped and beaten up badly by other castes. The incident occurred following a peace meeting held in the to ease tension in the village following Dalit's entry into temple and mass haircut programme organized by a Bangalore based hairstylist in the village on 11th Feb 2014. Initially the police had promised to register a case but so far no case registered.

15. Dalit women and girls gang raped at gun point:

On 8th October 2014, three men raped five women including minor girls belonging to the Dalit community at gun point after forcing them to drink alcohol. The incident happened in Bhojpur (Shahabad District) Bihar. All the five women were rag pickers and went to Kurmuri to sell scraps to a dealer on their return they were assaulted by the men.13 All of the accused were arrested with one of them belonging to Ranvir Sena. Later on the accused were convicted by the court of law

16. Gangrape and murder of two minor Dalit girls in Baduan district:

Two minor girls were kidnapped, gang raped and hanged from a mango tree in Katra Sadatganj village on 27th May 2014 in Badaun district, Uttar Pradesh. The village is mainly inhabited by farm workers. The girls were gang raped by dominant caste men who were 3 brothers. The police tried to hush up the matter and did not register the missing complaint when the father went to complain as his daughters were missing, he was humiliated by the police. The CBI and the police did not follow the investigation procedure and further victimized the parents of the girls. The CBI and police also tried to prove the case as suicide and defamed the character of the minor girls. After public outrage only the case was registered. The judicial inquiry into the case witnessed a lot of outrage and condemnation from the Human Rights Institutions and UN bodies.14 Main accused as well as the one of the constable was arrested and sentenced by the Special court under POCSO Act. The case is pending in the Allahabad High Court against the decision of the POCSO court.

17. Minor Dalit boy beaten to death:

In 2014, Kathaiya Thanaa, Motipur, Muzaffarpur, Bihar a 12 year old boy from the Dalit community was was beaten to death because his buffalow strayed into the paddy fields and farm owned by the dominant caste man. The child was severely beaten up by him and his men. The child succumbed to the injuries and died. The matter is pending in before the Muzaffarpur court, but attempts have been made towards compromising the matter as the father of the victim has been paid some amount by the accused.

18. Minor girl set ablaze:

In Kurnool Andhra Pradesh, 35 year old man set a 12 year Dalit girl ablaze15 because the girl complained to her parents about the sexual harassment. Her parents warned Mohiuddin to stay away from her to which he retaliated by pouring petrol on the girl and setting her on fire on Saturday. Mohiuddin was a married man with four children. An FIR was registered against the accused under Section 307, 375 of IPC and Atrocity act.

¹² https://www.thehindu.com/news/national/karnataka/Dalit-woman-assaulted-stripped-in-hassan-village/article5685843.ece (Last visited on 28th November 2019) 13 http://www.newindianexpress.com/nation/Five-Women-Gang-raped-at-Gun-point-in-Bihar/2014/10/10/article2471023.ece (Last visited 35th November 2019) 14 https://www.bbc.com/news/world-asia-india-30739875

¹⁵ http://Dalitpost.peoplespostindia.com/35-year-old-muslim-man-sets-ablaze-12-year-old-Dalit-girl-for-not-responding-to-his-sexual-advances/

19. Dalit girl commits suicide after being raped by Jat man in Bilbilan village of Sonipat District:

A dalit girl committed Suicide after she was raped by a Jat boy while she was collecting wood near the Panchayati land in her village. The incident occurred at around 3:30 PM on 5.2.2015. After being raped, she was further threatened by the accused that he will kill her if she informs anyone about the incident. Due to shock and threatening, she later on she committed suicide. Her body was found lying in the field next day by the family members. Police registered an FIR No.45/15 u/s 376/506/306, and Section 3 of SCs and STs (PoA) Act 1989 and later the accused was arrested. The accused was convicted by the special court with a sentence of 7 yrs of imprisonment and fine of Rs 10000.

20. House set on fire, two kids charred to death

In October 2015, in Sunped Village Faridabad District in Haryana state; Two children of a Dalit family were burnt alive and their parents suffered burn injuries after their neighbours from the dominant community set their house on fire. An old enmity between the Dalit and a Rajput family was the reason behind the attack, which led to the murder of the little infants. The investigation has been very shoddy. And the police have also intimidated the parents and tried to project the case a domestic violence issue in order to protect the accused.16 CBI filed a closure report in the year 2020 and all the accused were acquitted. Later NDMJ filed a protest petition before CBI Court Panchkula, which is pending disposal.

2016

21. Dalit Youth killed on marrying a girl belonging to dominant caste:

On March 13, 2016, 22-year-old V Shankar was murdered by a gang sent by his wife Kausalya's father, Chinnasamy, a driver and a local money lender. Shankar and Kausalya met two years before the murder while they were studying at an engineering college in Pollachi. After her family opposed their relationship, she started staying at Shankar's house. Shankar was hacked to death about eight months after their marriage, on a day they visited Udumalpet town to buy clothes for his birthday and a farewell party in the college. The footage from a CCTV near the Udumalpet bus stand, which captured that murder, helped the police nab the culprits. The footage showed Shankar collapsing in a pool of blood after the attack and Kausalya pleading for help.17 The police, after detailed investigations, had filed a 1,500-page charge-sheet against 11 persons including Chinnasamy, Annalakshmi and Kausalya's maternal uncle Pandithurai. They were also detained under the Goondas Act. The police arrested 11 persons in the connection with the case, including the parents of Kausalya, and registered cases under seven different sections of the Indian Penal Code and under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The principal district and sessions court in Tamil Nadu's handed capital punishment to six of the 11 accused, including the father-in-law of the victim, Udumalpet Shankar.

The victim's mother-in-law, Annalakshmi, has been acquitted. Of the 11 accused, six have been sentenced to death, one person awarded life sentence, one given five-year sentence and three acquitted. Pronouncing the verdict, principal district judge Alamelu Natarajan read out the massive Judgement giving death sentence to six persons in one stroke.

22. Caste honour killing:

Mr. Sivagurunathan (32) was resident of Ramanathapuram village of Natham Taluk of Dindigul district. He had belonged to the Scheduled Caste community. He was in love with a woman named Ms. Kasthuri (29) belonged to the Devakulam of Tirunelveli district. On 05.10.2016 kasthuri's father Perumal made fake promises to Mr. Sivagurunathan and asked him to meet him. Believing on the fake promises he went to meet the girl's father and he was brutally murdered by the girl's father.

16 NDMJ Case Intervention - and news coverage:- https://www.indiatoday.in/india/story/two-members-of-a-Dalit-family-burnt-alive-in-faridabad-268945-2015-10-20. 17 https://indianexpress.com/article/india/tamil-nadu-death-for-6-who-killed-dalit-for-marrying-higher-caste-woman-4980055/

23. Branding Dalit woman a witch:

In July 2016 in Darbhanga village of Bihar, a Dalit woman was physically assaulted and was branded a witch by the villagers as some children in the village fell ill. The villagers mostly men and dominant caste barged into her house and assaulted her and forced her to consume urine. The case was registered later but they accused persons were absconding from the village.18

24. Refusal to play traditional instrument leads to brutal attack on Dalits in bharati nagar:

In 2016, Bharathi Nagar, Erode district, state Tamil Nadu, 30 families of the Arunthatiyar - Dalit community refused to play the musical instrument on Ganesh Chathurthi day as required of their caste community to perform. The refusal by the community men angered the dominant caste people. Due to denial of the members to abide by caste specific form of service; triggered the dominant caste men to plan a Mass Atrocity; they decided on a social boycott against the 30 Dalit families in Bharathi nagar. 19 The case is filed under SC and ST (PoA)Act and is under trial before the Special Court, Erode.

25. Dalit groom denied to offer prayers in temple:

In Haryana a groom from Dalit community was barred from offering prayer in a temple, a day before his marriage in Kurukshetra's Bhustala village in May 2016. Tension prevailed as Dalits resisted oppression from the Jats. The police later persuaded them to offer prayer at the Valmiki temple.

26. Institutional murder of Rohith Vemula:

In Hyderabad Central University, a PhD scholar student Rohith Vemula committed suicide on 17 January 2016. Vemula had been suspended from the hostel after complaints filed by Akhil Bhartiye Vikas Parishad students unit of the BJP in the university, which the MHRD took up seriously suspending even the stipend due to him. Due to which he along with other affected students staged a hunger strike on the campus, as he was denied his stipend, which put him into debt. He committed suicide for the institutional discrimination and impact it had on his life. This incident sparked protests and outrage from across India and gained widespread media attention as an alleged case of discrimination against Dalits and backward classes in India. In which elite educational institutions have been purportedly seen as an enduring vestige of caste-based discrimination against students belonging to "backward classes". Post his institutional murder the government went on to mock his ancestry also stating that Rohith was not a Scheduled caste. An FIR was lodged and 5 people were suspended following a massive outrage against Rohith's

suicide.

27. Rape and Murder in Rajasthan's Jain AdarshTeacherTrainingInstitute:

On March 28, 2016, a 17-year-old Dalit girl was raped in her hostel in Bikaner's Jain Adarsh Teacher Training Institute, Rajasthan. She was found dead in the water tank on 29 March 2016. Previous day she had complained of sexual harassment by the physical trainer in the hostel to her father. Her physical trainer allegedly attacked her when she was cleaning his room, a task she had to fulfill every day. Later that night, she called her father to explain him what had happened. He promised to pick her up the next morning. But when he arrived, he found that she had been poisoned, and her body was thrown into a water tank. The post-mortem established both rape and the murder. The teacher, the principal and the warden, the latter two suspected of being accessories to the murder, were arrested. PoA Act sections were invoked. FIR No 146 /2016 was registered. Case was charge sheeted u/s 376 (2), 305, 363, 366 IPC and 3 (2) (v) of PoA Act. The case is under trial before the SC/ST Court, Bikaner, Rajasthan.

28. Minor girl raped:

On 9th November 2015, a minor Dalit girl was forcefully picked while she was buying milk near her house and was raped near District Magistrates office in Patna.20 An FIR was lodged under Sections of IPC and SCs and STs (PoA) Act and an accused was arrested.

29. Seventeen year old gang raped:

A minor Dalit girl was gang raped in Muzaffarnagar Phulat Village under Ratenpuri police station in Uttar Pradesh by dominant caste youth and they also filmed the act threatening the girl to upload it if she complained.21 All the 5 accused were arrested under SCs and STs (PoA) Act and IPC Sections. The matter is pending before the Muzaffarnagar Special Court.

18 http://abpnews.abplive.in/crime/crime-against-Dalit-women-in-bihar-425278 (Last visited on 16th of November 2019)

¹⁹ https://timesofindia.indiatimes.com/city/coimbatore/Caste-feud-flares-up-in-Bharathi-Nagar/articleshow/54284102.cms (Last visited on 1st December 2019) 20 http://www.dnaindia.com/india/report-bihar-shocker-Dalit-minor-raped-woman-constable-molested-in-patna-2144426

²⁰ http://www.dulaindula.com/initial/report-bindi-shocker-banc-initial-apea-workar-constable-molested-in-para-21444cc 21 https://www.business-standard.com/article/pti-stories/17-year-old-Dalit-girl-gang-raped-in-up-119031800252_1.html

30. UNA Gujarat, four Dalit men stripped and physically assaulted for allegedly skinning a cow:

On 11 July 2016, the seven members of a Dalit family were skinning the carcasses of dead cow in Mota Samadhiyala village near Una in Gir Somnath district of Gujarat state of India. They had bought the carcass from Bediya village. They were approached by persons in two cars who claimed to be member of cow protection group and accused them of killing cows. Dalits tried to convince them that they were skinning dead cows. They were not convinced and tied Dalits to the car and beat with sticks, iron pipes and a knife. Four of them were brought to Una town in car and stripped and assaulted again in public. When police arrived, the attackers fled in their car. The assault was recorded on video and circulated on social media. The Dalits were moved to hospital in Una and later to Raikot civil hospital on 14 July. The investigation into the case was transferred to Gujarat CID crime branch. The investigation had concluded that the Dalits were indeed skinning a cow, which had been killed by lions in Bediya village. The CID-crime had arrested 43 accused, including then Una police inspector

Nirmalsinh Zhala, police sub-inspector Narendra Pandey, assistant sub-inspector Kanchanben Parmar who was incharge of Sanakhada outpost under which Mota Samadhiyala village falls and head constable Kanji Chudasama for alleged dereliction of duty and helping other accused by forging documents. Police have filed charge-sheet against 34 accused in the Una court and against three juvenile accused in the juvenile justice board in Junagadh. The accused have been charged with attempt-to-murder, subjecting Scheduled Caste members to atrocities etc and the case is under trial on day to day basis before the District and Sessions Court.

2017

31. Arson in Dalit hamlet in Saharanpur district's village:

On 5th May 2017, Shabbirpur village 55 houses belonging to the members of the Dalit community were set on fire, ransacked, and looted after attack by the dominant "Rajput" community. The violence broke out when members of the Raiput community from Shimlana village took out a procession to commemorate the birth anniversary of Maharana Pratap. When the parade was passing through the predominantly Dalit area of Shabbirpur, the Dalit residents objected to the allegedly boisterous celebration, triggering an exchange of heated words. Initially, the local police intervened to stop the procession and move it out of Shabbirpur. Unfortunately, the halt was only temporary. There was an issue of Rajputs objecting Dalits from constructing Baba Saheb's idol in the Ravidas temple. It erupted into violence as Rajput's from neighbouring villages gathered numbering approximately 2000 as per accounts of both the villagers and administration, entered Shabbirpur armed with swords and allegedly firearms, and set Dalit houses on fire. Following the violence on 5 May 2017, 9 criminal cases were registered at the Badgaon police station covering Shabbirpur village in Saharanpur. Of these, 4 cases were filed by the Dalit community (FIR No 62/17, 64/17, 65/17, 66/17), 1 by a journalist (FIR No 61/17 filed against the Dalits), 1 by the police (FIR No 63/17), and 3 by the dominant community (FIR No 58/17, 59/17, and 60/17). Cases are under

trial before the Saharanpur District Court.

32. Pregnant Dalit woman was killed for touching a bucket:

In Bulandshahar of Uttar Pradesh in October 2017, an eightmonth pregnant Dalit woman was allegedly beaten up so brutally by a dominant caste woman and her son in Uttar Pradesh that she died six days later from the internal injuries. Doctors at the local district hospital didn't bother to check the woman properly after the attack and dismissed her. She died of internal head injuries. Her eight-month-old male foetus also died with her.22 A complaint against Anju was filed by Savitri's husband, Dilip Kumar (30), on October 18. Tapeshwar Sagar, SHO, Kotwali (rural) police station filed an FIR against Anju and her son under IPC sections 323 and 504 on the basis of the statements recorded by the eyewitnesses on October 20. Notably, after the post-mortem report, IPC sections

²² https://www.huffingtonpost.in/2017/10/26/upper-caste-villagers-thrash-and-kill-8-month-pregnant-Dalit-woman-for-touching-and-defiling-bucket_a_23256389/ (Last visited on 16th November 2019)

304 A, 316 and provisions of SC/ST Act have been added in the complaint against the mother-son duo. Charge sheet in the case has been filed and the case is under trial before the Bulandsaher SC/ST Court.

33. Dalit grooms assaulted to ride a horse for ghurchari ritual during his marriage ceremony:

A Dalit groom was forced to climb down from the horse during 'ghurchari'. His family members were beaten up by a dozen dominant caste men in Haryana'a Dadri district, Sanjarwas village, in April 2017. The perpetrators objected to Dalits following this tradition; and said Dalits were not allowed to perform this ritual.23 A case was lodged under relevant sections of the IPC and SC/ST (prevention of atrocities) Act. One person was arrested. Charge sheet was filed and the case is under trial before the District Court, Dadri.

34. Marriage marred by violence:

Another Dalit groom was stopped from performing ghurchari by some upper caste youths in Karnal's Sagga village in March 2017. It resulted in stone pelting, leaving a cop and several others injured.24 And many had to migrate due to clashes.25 The case is compromised.

35.Caste honour killing:

Ms. Sukanya, D/o Mr. Periyakarthikeyan was residing in Veeralampatti village of Madurai district. She belonged to the Agamudaiyar community (dominant caste). She fell in love with a man named Boopathi belonged to the Nadar community and they both got married. Sukanaya's parents were against the inter caste wedding. On 13.05.2017 her father along with her brothers set her ablaze and killed their own daughter.

36. Gangrape of a minor Dalit girl:

A 16 year old girl was gang raped by 6 youths in 2017 in Betul district of Madhya Pradesh. She knew one of the rapist, who lured her to meet up and spiked her drink. The boys assaulted her brutally and tried to kill her. She was thrown outside in the open field next to her house early parts of the morning. FIR was lodged under PoAAct and POCSO.

2018

37. Dalit community attacked for commorating victory of the Bhima-Koregaon battle:

On 1 January 2018, members of the Dalit community were faced with clashes on the 200 year celebration of the Bhima Koregaon Battle. The anniversary each year commemorates Mahar's victory over the Peshwas. Though the mahars were part of the British army, they were up in arms against the Maratha Peshwa. Many Dalit activists think it was a victory of the oppressed over the upper-caste establishment of the Marathas. Like every year, members of the Dalit community from all over Maharashtra gathered in Koregaon Bhima to celebrate what they call their victory over Maratha Peshwas. This year was the 200th anniversary and that attracted a much larger crowd on January 1, on the outskirts of Pune. 'Right wing' groups opposed the Dalit celebrations saying they cannot observe a 'British' victory. The clash between 'right-wing' groups and Dalits who had congregated there turned violent with stone pelting and arson between two groups.26 Police claim that dalit and adivasi activists at the event allegedly instigated the violence through inflammatory speeches. In 2018, the Maharashtra Police arrested nine activists including Sudha Bharadwaj, Shoma Sen, Surendra Gadling, Mahesh Raut, Arun Ferreira, Sudhir Dhawale, Rona Wilson, Vernon Gonsalves and Varavara Rao. The subsequent charge sheets filed by the police accuse the HRDs of terror-related activities. Recently three more Dalit Activist, namely, Gautam Navlakha ,Anand Teltumbde and Hany Babu were arrested.

²³ https://www.hindustantimes.com/india-news/upper-caste-men-beat-up-Dalit-groom-over-riding-mare-in-baraat/story-lotmX3xk4WBaUg6YptalYJ.html (Last visted on 12th November 2019)

²⁴ https://www.indiatimes.com/news/india/a-Dalit-groom-was-thrashed-badly-by-upper-caste-people-over-ghurchari-275022.html Last visited on 12th November 2019) 25 https://www.hindustantimes.com/india-news/tension-in-haryana-village-forces-Dalit-families-to-migrate-cm-sends-minister/story-vyYMB9MbRaqgOh4S5h8QnN.html (Last visited on 11th November 2019)

²⁶ https://www.ndtv.com/india-news/maharashtra-violence-and-the-battle-of-bhima-koregaon-a-backgrounder-1795233 (Last visited on 22nd November 2019)

38. Bharat Band call – Bhind, Meerut and Muzaffarnagarviolence:

Dalit organizations called for a Bharat Bandh on April 2nd 2018 against the Supreme Court order diluting the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The dilution of the Act, which guarantees a certain degree of protection to the oppressed communities against discrimination and atrocities, was met with widespread condemnation. The Dalit groups observed Bharat Bandh on 2nd April in 10 Northern states of India namely Bihar, Delhi, Gujarat, Haryana, Jharkhand, Madhya Pradesh, Odisha, Punjab, Rajasthan and Uttar Pradesh. The peaceful protest turned violent leading to death of nine persons and left many others injured. While six people were killed in firing in Madhya Pradesh alone, two died in Uttar Pradesh and one in Raiasthan. Curfew was imposed in several places and hundreds were detained. Many children on their way home or on the way to their destiny for the day were picked up by the police. All the cases are under trial. The police arrested Dalit youths, who were below the age of 18. The State government of U.P ,M.P and Rajasthan has ordered their release. The trial in two cases, wherein two dalit children died in Muzafaarnagar and Meerut, is pending before the Muzaffarnagar and Meerut district court.

39. Dalit groom attacked for riding a horse:

In April 2018, a Dalit groom was attacked for riding a horse in Rajasthan's Bhilwara district. Eight years ago, the groom's brother was also not allowed to conduct a marriage procession.27 The case is under Trial before SC/ST Court before the Bhilwara court. FIR No 42 /2018 was registered. Case was charge sheeted u/s 143,341, 323 IPC and 3 (1) (r) (s), 3 (2) (va), 3(1) (zb) of PoAAct. The case is under trial before the SC/ST Court, Bhilwara, Rajasthan.

40. Murdered for refusing to pick up garbage:

In May 2018, 40-year-old Dalit man, Mukesh Vaniya, was allegedly murdered in Rajkot district. His wife said that employees from a local factory asked them their caste and then when it was confirmed they were Dalits, wanted the couple to pick up garbage. When they refused, they were beaten. Vaniya was picked up, tied to a pole and assaulted brutally with metal rods for more than an hour. Vaniya died as a result of the assault. A case was registered under IPC and PoA Act and 5 accused were arrested28

41. Caste honour crime:

Kevan Joseph a Dalit Christian and Neenu got married without the approval of the girl's parents. They did not approve of the

alliance as Kevin was a Dalit Christian. Kevin was abducted, tortured and killed by a gang of hired goons by Neenu's father. Neenu was aware of the fact of her father's involvement in the killing Kevin. She approached the Police and kept urging the police that Kevin was missing but they did not pay any heed and were complacent in acting on the case she reported. Neenu sat in protest outside the police station. It was only after her persistent protest and media taking on the case that the police moved in the direction for investigation.29 A Kerala court in august 2019 found 10 people guilty in a case of honour killing. Of the 14 people arraigned as accused, four were acquitted by the court. The other 10 have been charged under IPC Section 302 (murder) and Section 364A (kidnapping for ransom), among other charges.

42.Dalit women stripped and assaulted:

In Ara, Bihar in august 2018, a Dalit woman was attacked by an angry mob for a body of a 16-year-old boy was found near her house. She was badly beaten and stripped. No action was taken accept suspension of one of the Police Officer initially but later an FIR was lodged against 17 accused and all of them were convicted by the special court, Ara, Bihar.

43.Dalit boys stripped

On 10th June 2018 two Dalit boys were stripped and beaten up for swimming in a village well in Vakadi village of Jalgaon district of Maharashtra. The issue became public with one of the accused made the video of the boys covering themselves up with leaves and were being hit. The kids are apparently were stripped and beaten up in order to teach them a lesson for swimming in well that was of the so called upper caste community member.30 Two of the accused were arrested after an FIR was lodged under POCSO and POA Act. The trial is pending in the Jalgaon Special Court.

²⁷ https://thewire.in/caste/Dalit-policemans-wedding-procession-attacked-in-rajasthan (Last visited on 9th November 2019)

²⁸ https://scroll.in/article/879810/the-daily-fix-a-Dalit-lynched-for-not-collecting-garbage-is-a-reminder-of-gujarats-caste-apartheid (Last visited on 21th November 2019) 29 https://indianexpress.com/article/india/kerala-court-finds-10-guilty-in-case-of-honour-killing-kevin-p-joseph-5928752/

³⁰ https://www.huffingtonpost.in/2018/06/14/watch-two-Dalit-boys-were-stripped-and-beaten-for-swimming-in-village-well_a_23459335/
44. Abetment to suicide:

On May 22 2019, Dr Payal Tadvi, a 26-year-old Schedule Tribe gynecologist died by committing suicide in Mumbai. For months leading up to her death, she had told her family that she was subjected to ragging by three dominant caste women doctors however, the accused denied of having any knowledge of Dr Payal's tribal background. They allegedly went to the toilet and then wiped their feet on her bed, called her casteist slurs, made fun of her for being a tribal on Whats App groups and threatened to not allow her to enter operation theatres or perform deliveries. A few hours before she took her life, she had reportedly told her mother, once again, about this harassment. The accused were arrested but later bail was granted in the case. The trial is pending in the trial court of Mumbai Session court.

45. Dalits and Adivasis enslaved in a shed:

A case of bonded labour came to light in Hassan area of Karnataka state, when one bonded labourer managed to escape scaling a 12 feet wall and reached for help. 52 Dalit and tribal persons, including 16 women and 4 children, were "enslaved" in a heavily guarded, small shed and forced to work as labourers for 19 hours a day without wages across Karnataka. The police conducted raids where the victims - had been working and had lived alongside each other in inhuman conditions. Two auto drivers would target migrant workers at railway stations. Either these were workers looking for work, or the ones in transit they would walk up to them and offer a day's work for Rs 600 or so. But afterwards they would capture them and virtually enslave them. Once the auto drivers brought the workers to the shed, they were stripped off their clothes and their belongings - including identity cards, phones and money were taken away. "They were told that any attempts at escaping would lead to violence," added the officer. Most of the victims were from Karnataka, while others were from Telangana and Andhra Pradesh.31

46. Dalit and Adivasi rescued from brick kilns forced into bonded labour:

Dalit and Adivasi community members men, women and children from Bolingir district from Odisha had been duped into promise of jobs by middle men from the dominant community. They promised the labourers lucrative jobs in Telangana and Andhra Pradesh and education to the children. In a joint action by civil society32 and officials like NCPCR, Police and the CWC many children, later women and men were rescued from the kilns.33

47. Dalit policeman's wedding procession attacked for riding horse:

The groom Sawai Ram's wedding procession was attacked, as it was about to enter Dugar village in Feb 2019 by the Rajput's in the area. He claimed that people from the Rajput caste attacked the procession and verbally humiliated him. And people were attacked. Later the police arrested the accused.34 FIR No 13/2019 was registered . Case was chargesheeted u/s 143,341, 323, 349, 326, 355 IPC and 3 (1) (r) (s), 3 (2) (v) of PoA Act. The case is under trial before the SC/ST Court, Jodhpur, Rajasthan.

48. Dalit woman sarpanch and her husband were assaulted:

Dalit woman Sarpanch, Ms. Pavithra, physically assaulted by her political rivals belonging to the dominant Reddy caste, for offering a coconut to village deity during the Bonalu festival in Thurkaguda village, Ibrahimpatnam mandal, Rangareddy district, Telangana State. She was pregnant at the time of the assault and her husband was also assaulted. They belongs to the Madiga community, which is categorised as a Scheduled Caste in Telangana. She said, "Usually, every year during the village festival, the village Sarpanch would carry the Bonam (a religious offering to the deity) and visit the temple. However, when we reached the temple, the family of Prabhakar Reddy objected to it and prevented me from offering coconut to the deity".35

³¹ https://www.news18.com/news/india/how-52-tribals-and-Dalits-were-sexually-harassed-enslaved-for-3-years-in-karnataka-1978317.html (Last visited on 26th November 2019)

³² Independent Journalist Sushant, National Dalit Movement for Justice (NDMJ-NCDHR), Dalit Stree Shakti, DBSU and Ambedkar Lohia Vichar Manch advocated with the government agencies for the rescue operation.

³³ NDMJ rescue intervention case study:- https://www.thenewsminute.com/article/seven-children-working-harrowing-conditions-brick-kiln-near-hyderabad-rescued-98636 34 http://www.newindianexpress.com/nation/2019/feb/12/rajasthan-Dalit-marriaae-procession-attacked-1937772.html

 $^{35\} https://www.thenewsminute.com/article/pregnant-Dalit-sarpanch-attacked-telangana-allegedly-offering-coconut-temple-107645$

49. Refusal to lift cow dung leads to 'Social Boycott':

In Kishanganj District Bihar, the Mukhiya, Sarpanch and the members of Zila Parishad declared a socio-economic boycott of Dalits; after the parents of the girl planned to file case under SC/ST (Prevention of Atrocities) Act for forcing the Dalit girl to lift cow dung from field.36 No action were taken as such by the authorities.

50. Dalit youth physical assaulted for sporting a moustache:

Two Dalit men of a village near Gandhinagar in Gujarat were allegedly thrashed by members of Rajput community for "sporting a moustache" in two separate incidents on September 25 and September 29 at Limbodara village in Kalol taluka of Gandhinagar district. In the September 29 incident, Krunal Maheria (30), a law student, was allegedly beaten up by one Bharatsinha Vaghela.37 The FIR was registered u/s 323 IPC and PoA Act. Matter is pending trial before Gandhi nagar sessions court. A cross complaint has been filed against the victims.

51. Lynched to death for watching garba:

In Gujarat 21-year-old Dalit Jayesh Solanki was reportedly lynched to death in Gujarat's Anand district on Sunday by people from the upper-caste Patel community for attending a garba. Sanjay Patel from the Patel community told Jayesh and his cousins that "boys from the Dalit community do not have any right to watch garba and started to abuse them" as reported by an officer at the Bhadran police station. He was joined by Chintan Patel, Jignesh Patel, Rutvik Patel, Vickey Patel, Dhaval Patel, Ripen Patel and Dipesh Patel, all residents of Bhadraniya village in beating up the Dalit's.38

52. Dalit woman attacked for sitting on chair:

A Dalit woman was attacked by a mob for sitting on a chair at a school in Ahmedabad's Valthera village. She works at the Angadwari and was entrusted with distribution of Adhaar Card, seeing her sitting on the chair and doing the work, airaj Vegad a local resident was outraged to see her sit, he kicked the chair causing her to fall and later brought in a more people to attack her as per the complaint.39

53.Adivasis killed for asserting their land rights in Sonbhadra village:

In a chilling case of reclaiming their land rights in the village 10 Tribals (women and men) were shot dead as the dominant

caste opened fire at the community members protecting their land in Sonbhadra district of Uttar Pradesh. They were fighting their case through the legal course. Several others got injured with bullets still remaining in their body parts. The fight for reclaiming their land was on since independence. The IAS officers over the period of years manipulated the documents. Compensation amount of 14 lakh has been provided to the family of 11 victims. Along with them, those who were injured also got the compensation and all the victims have been provided with ownership of the land. A new police station has been established. The matter is pending in the Sonbhadra Special Court and the charge sheet has been filed under POA Act.

54. Dalits denied temple entry or offer prayers:

The caretakers of the Bairing Nag Devta Temple in Sangla, Kinnaur district of Himachal Pradesh, banned 12 families of the Regesui caste which is a former untouchable caste, from entering the temple as they refused to carry the musical instruments of Nagaras deity; an ancient practice which the community had to perform.40

55.Caste wall crushes 17 Dalits to death:

In Mettupalayam, Tamil Nadu a segregation wall was built by Sivasubramaniam, a textile shop owner, to separate his property from the Dalit homes built behind his house. He further raised the wall height from 8 feet to a looming 20 feet despite protests from the Dalit community. The community also approached the authorities on the issue but received no respite. On 3rd December 2019 the wall collapsed and fell on the people early parts of the morning.41 FIR is filed under IPC sections and not under PoA Act. The case is under investigation.

 $^{36\} http://www.thehindu.com/news/national/other-states/bihar-panchayat-imposes-social-boycott-of-Dalits/article4382631.ece$

 $^{37\} https://www.hindustantimes.com/india-news/Dalits-thrashed-for-sporting-moustache-in-gujarat-village-1-arrested/story-oqRzn9NLjxNOOURTKv1GwK.html$

³⁸ https://thewire.in/caste/Dalit-gujarat-lynched-garba

³⁹ https://www.deccanherald.com/national/Dalit-woman-attacked-sitting-chair-673992.html

⁴⁰ http://www.himvani.com/news/2007/05/17/12-families-denied-entry-into-a-temple-in-himachal/

⁴¹ https://www.thenewsminute.com/article/17-Dalits-killed-mettupalayam-how-wall-built-discriminate-crushed-them-death-113405

56. Unsafe hostels and schools:

There is rising assault on children in schools and hostels especially run for the marginalized children in the government residential schools. Deaths, neglect and abuse in state run schools and hostels is alarming42. The recent Bihar43 and Uttar Pradesh44 shelter homes incidents unravel the existence of organized trafficking. One of the incidents of sexual assault came to light when a minor adivasi student from the sixth standard delivered a baby.45 In Odisha, government run residential schools reported 155 deaths46 . Similarly, Two minor girls studying in residential tribal welfare schools in Odisha's Koraput district gave birth to children.47

57. Deaths in Hostels:

During 2010-15, as many as 882 deaths were reported. These are figures of children who lost their lives in state run residential schools for ST children. Odisha tops the list on sexual abuse followed by Maharashtra these kinds of happenings are occurring in state run residential schools.48

58. Two Dalit children hacked to death in Shivpuri district of Madhya Pradesh:

Early in the morning, on 25.09.2019 Roshni (12), D/o Kalla Balmiki and Avinash (10), S/o Manoj Balmiki, R/o Village Bhavkhedi, District Shivpuri, Madhya Pradesh, went to the field to answer nature's call around 6.30 A.M. Two dominant caste persons namely Hakim Yadav and Rameshwar Yadav got angry at the children; with their lathis began to assault them. Rameshwar Paswan assaulted on Roshni with lathi on her head twice, she got major wound in her head and one eye and Hakim Yadav gave two blows on Avinash' head from the back. The children screamed and they were bleeding from their head, and fell down on the road. The family members heard scream of the children, they rushed towards the place of incident. Seeing the family members of the children coming towards them, the accused absconded. Police was called and both the children were taken to District hospital, Shivpuri. Doctor declared them brought dead. The girl's brother also stated that the accused men had tried to molest the girl earlier.49 The accused were arrested under the provisions of IPC and SCs and STs (PoA) Act. Charge sheet is filed and the matter is pending disposal before the Shivpuri special court.

59. Dalit girl charred to death at brick kiln

A 14 year-old Dalit girl was raped and burnt to death in Uttar Pradesh's Muzaffarnagar's brick kiln. The girl's charred body was found at a makeshift room next to the brick kiln she used to work at. The police tried to hush up the matter, police is yet to make any arrests although seven accused have been booked in the case. The incident happened while her parents had left her and their 12 year old son at the brick kiln and had gone to their village for some treatment. Six men and the brick kiln owner have been booked on charges of murder, rape and sections of SC/ST Atrocities Act.50 The charge sheet has been filed and the matter is pending before the special court, Muzzafarnagar.

60. Discrimination in Educational Institutes:

Sixty Dalit students threaten to commit suicide after Bihar government stopped paying their stipend which the Bihar government was supposed to under the Dalit Student stipend scheme to Rajdhani Engineering College in Bhuvaneshwar, Odisha.51

61. "Untouchability" practiced in schools:

Cases related to "Untouchability" are clearly reflective of caste mindset - Dalit students not allowed to drink water from common tap; student made to pick up carcass of dog, abuse in caste name52 and Cook in primary girls' govt. school humiliated a Dalit girl for picking up chapaties.53

62. Children forced to eat in marked plates:

From being forced to eat mid-day meals in marked out plates to being asked to sit in the back rows of their classrooms, Dalit school children across rural Madhya Pradesh face dozens of grim abuses.54

44 https://www.ndtv.com/india-news/woke-up-in-pain-and-naked-rape-survivors-on-bihar-shelter-home-horror-1891648

defecation/articleshow/71303687.cms?from=mdr

 $^{42 \,} http://economictimes.indiatimes.com/articleshow/51871201.cms?utm_source=contentofinterest&utm_mediumtext&utm_campaign=cppstimestarc$

⁴³ http://economictimes.indiatimes.com/articleshow/51871201.cms?utm_source=contentofinterest&utm_mediumtext&utm_campaign=cppst

⁴⁵ https://indianexpress.com/article/india/up-shelter-home-abuse-case-district-magistrate-inspection-survey-government-order-12-hours-5294088/

⁴⁶ https://www.ndtv.com/india-news/class-6-student-delivers-baby-in-hostel-in-odisha-2-arrested-73810

⁴⁷ http://economictimes.indiatimes.com/news/politics-and-nation/882-tribal-children-die-in-state-run-residential-schools-across-the-country/articleshow/51871201.cms 48 http://www.hindustantimes.com/india-news/odisha-minors-in-tribal-welfare-schools-give-birth-4-such-incidents-since-jan/article1-1324031.aspx - The Hindustan Times 49 http://economictimes.indiatimes.com/articleshow/51871201.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

⁴⁹ NDMJ Case Intervention – and news coverage:- https://economictimes.indiatimes.com/news/politics-and-nation/mp-two-Dalit-kids-beaten-to-death-for-open-

 $^{50\} https://www.indiatoday.in/crime/story/Dalit-girl-raped-killed-in-uttar-pradesh-muzaffarnagar-1537155-2019-05-29$

⁵¹ http://www.thehindu.com/news/national/other-states/60-Dalit-students-in-bihar-threaten-suicide/article8184840.ece

⁵² Cases were taken up for national public hearing on Identity Based Discrimination and Violence in School Education. The cases were submitted to National commission for Scheduled Castes and Tribes for intervention. A Report on National Public Hearing, National Dalit Movement for Justice – NDMJ (NCDHR), 19 May 2015, Neelkanth, New Delhi. 53 https://indianexpress.com/article/india/rajasthan-cook-discards-food-touched-by-Dalit-student-sacked-5252710/

⁵⁴ http://www.hindustantimes.com/bhopal/kids-bear-brunt-of-macabre-caste-abuses-in-rural-mp/article1-1293731.aspx - Hindustan Times

63. Dalit students made to clean septic tanks in Rameswaran Government School:

Dalit students fell ill after being made to clean a septic tank in a government school in Tamil Nadu's Rameswaran in Mandapam area; around 120 boys and girls are enrolled. These students are residents of Santhya Nagar locality near Rameswaram bus depot. The student who raised this issue said that when foul smell began to emerge from the septic tank, school authorities ordered students from the 6th and 7th standard to clean it. 4 of them inhaled the toxic gas and began to puke. They were immediately rushed to the Rameswaram government hospital.55 The case got compromised as the teacher apologized to the family at the time of complaint stage.

64. Girl branded witch, thrown out of school:

The district administration on Sunday ordered an inquiry after a seven-year-old tribal girl of Telkoi Talasahi Primary School, was sent back home on the suspicion of being a witch. Sources said she went to school after the Christmas holidays, but the teachers stopped her from entering the hostel and instead asked her to leave. Her father Birsingh Munda went to the tehsildar, Telkoi block, and lodged a complaint.56

65. Discriminatory practices in schools:

A study by National Dalit Movement for Justice has brought out layered as well as poignant discriminatory practices in schools and hostels which are relational as well as reflect institutional prejudices towards students from Dalit, Adivasi, Other caste and religious minority communities. Differences in seating arrangement, serving Dalit kids mid-day meals towards the end, making Dalit and adivasi girls and boys to clean toilets, and other spaces in schools, scholarships delayed and scholarships scams, children abused and humiliated in caste name, insensitive teachers to caste oppression and identity just to name a few.57

66. Manual Scavenging - 88 recorded cases of sewer deaths in 2019 alone:

88 Dalit community members died cleaning sewers and septic tanks. 10 people have died in Delhi sewers alone. There are much more people from the former untouchable community who are still involved as manual scavenging. There are also many dry latrines in the country, and many women themselves are cleaning these latrines. The swacha bharat abhiyan is an eye wash. The Dark Underbelly of Sanitation Workers, and the Baggage of Caste.58

55 https://www.indiatoday.in/india/story/tamil-nadu-government-school-rameswaram-Dalit-students-septic-tank-cleaning-mandapam-1027794-2017-08-03 56 http://timesofindia.indiatimes.com/city/bhubaneswar/Girl-branded-witch-thrown-out-of-school/articleshow/28463052.cms - The Times of India

⁵⁷ Manikanta and Anne, Exclusion in Schools A Study on Practice of Discrimination and Violence, NDMJ-NCDHR, 2017

http://www.annihilatecaste.in/uploads/downloads/doc_171008102333_2922.pdf 58 https://www.newsclick.in/dark-underbelly-sanitation-workers-and-baggage-caste

Atrocities during COVID 19 Pandemic:

Despite constitutional safeguards and special legislation59 for the protection of the country's 201 Million 'Dalit's", violations of their fundamental human rights continue unabated during the lockdown. Atrocities have been perpetrated against them and in most of the cases police and higher authorities have been complacent. It is tragic that even the corona and the lockdown is not able to prevent atrocities against Dalit's and Adivasis. There have been multiple instances of murder, attempt to murder, physical violence, sexual violence, attack on human rights defenders, police brutality, cases of untouchability practices, which have been reported by a media and newspapers across the country. National Dalit Movement for Justice has documented more than 100 cases of atrocities, from April to June 2020. The gravity of the cases shows that corona virus can kill humans but not the entrenched caste based discrimination and related physical violence. Forms of violence include:

67. "Untouchability" Practices:

Widespread discrimination and "untouchability" practices during Covid -19 continued to occur across the country and is a severe obstacle for Dalit's and Adivasis in access to basic services. A man in guarantine in Uttar Pradesh allegedly refused to eat food cooked by the Dalit Women, village Head.60 Two upper caste boys, guarantined in Uttarakhand refused to eat food made by the Dalit women.61 Brahmin migrant labour in Jharkhand guarantine center denied having food cooked by the Dalit women, asked for dry ration.62 Two Dalit men assaulted by a businessman for car parking and distributing relief to poor.63 In a survey done in Tamil Nadu, it has been found that SC/ST workers neither received their wages nor they received any cash transfers as promised by the government.64 In Tamil Nadu a Panchayat President from Dalit community was forced to dig a grave by of upper caste.65 A family returning from Maharashtra asked casteist questions in Karnataka before placing them under institutional quarantine.66 Dalit youth in

Gujarat village humiliated by upper caste youth for posting a picture on Facebook sporting a moustache.67 A young boy wearing a t-shirt with B.R. Ambedkar's image on it, at a village in Chengam of Thiruvannamalai district, was beaten up and humiliated by a policeman for talking to women from a dominant caste.68 21 years Dalit youth in Uttarakhand beaten badly for sitting on a chair at the presence of upper caste in a wedding.69

68. Rising cases of Lynching's/Murder:

Instances of lynchings and have become increasingly common across India during the lockdown and the intensity with which they are comitted suggests a complete absence of fear. These crimes range from lynching and mob violence to violence inflicted by vigilantes, sexual assault and even outright murder. The trigger is either the suspected is suffering from corona or even the whiff of an interfaith or inter-caste relationship, alledged theft, or alleging petty offences. Dispute over loan in a village in Tamil Nadu led to the murder of two people from a Dalit family by a group belonging to the Devar community.70 Village head and his from a Scheduled Caste (Dhobi), was openly fired and killed by former village head, just because he was of lower caste and was assisting poor needy with the government programme of MNREGA.71 17 years old Dalit boy was murdered over performing prayer in the temple by upper caste people.72 Land dispute ended on a bloody by the dominant Maratha community note when Babu Pawar

⁵⁹ Article 17 of Constitution of India prohibits "Untouchability" practices. Special laws have been enacted for Dalits in India to protect their right to security of life for example – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Protection of Civil Rights Act, Minimum wages Act, Bonded Labour Act, 'Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, The Child Labour Prohibition and Regulation Act etc.

⁶⁰ Https://Gulfnews.Com/World/Asia/India/Coronavirus-Indian-Man-In-Precautionary-Quarantine-Refused-To-Eat-Food-Prepared-By-A-Dalit-Booked-By-Police-1.1586859626981

⁶¹ https://hindi.news18.com/news/uttarakhand/nainital-quarantined-upper-caste-people-refused-to-eat-food-cooked-by-Dalits-uksh-nodgm-3126533.html

 $^{62\} https://hindi.scoopwhoop.com/news/brahmins-in-quarantine-refused-to-eat-food-because-it-was-prepared-by-Dalit-cooks/approx$

⁶³ https://www.thehindu.com/news/cities/bangalore/case-booked-against-man-for-using-casteist-slur/article31334905.ece

⁶⁴ https://www.indiaspend.com/amid-covid-19-scheduled-caste-workers-face-discrimination/

 $^{65\} https://www.thehindu.com/news/national/tamil-nadu/panchayat-chief-forced-to-dig-a-grave/article 31742988.ece$

⁶⁷ https://indianexpress.com/article/india/man-held-for-casteist-remarks-against-Dalit-home-guard-jawan-6458938/

⁶⁸ https://thewire.in/caste/tamil-nadu-caste-atrocities-lockdown

⁶⁹ https://www.bbc.com/news/world-asia-india-48265387

⁷⁰ https://www.news18.com/news/india/4-Dalits-killed-in-4-days-activists-say-upper-castes-in-tn-using-lockdown-as-opportunity-for-assaults-2615511.html 71 https://outcasteindia.in/%E0%A4%AF%E0%A4%A5%E0%A4%AA%E0%A5%80-%E0%A4%95%E0%A4%95%E0%A4%88%E0%A4%82%E0%A4%AD%E0%A4%82-%E0%A4%AE%E0%A5%87%E0%A4%82-%E0%A4%A6%E0%A4%B2%E0%A4%BF%E0%A4%AA+%E0%A4%AA%E0%A5%8D%E0%A4%B0%E0%A4%A7/

⁷² https://outcasteindia.in/%E0%A4%AF%E0%A5%82%E0%A4%AA%E0%A5%80-%E0%A4%95%E0%A5%87-

[%]E0%A4%85%E0%A4%AE%E0%A4%B0%E0%A5%8B%E0%A4%B9%E0%A4%BE-%E0%A4%AE%E0%A5%87%E0%A4%82-%E0%A4%A6%E0%A4%B2%E0%A4%BF%E0%A4%A4-%E0%A4%AF%E0%A5%81/

and his two sons were brutally killed. The Pawars belonged to the denotified Pardhi tribe, classified as a Scheduled Tribe in Maharashtra.73 A 20-year old Dalit man was chased and beaten to death over an inter-caste relationship with a woman belonging to an "upper caste".74 A Dalit 16 years old boy in Uttar Pradesh, was shot dead inside his home for going to temple in the week before his death, which was objected by upper caste people.75 20-year-old Dalit college student was targeted and killed by Maratha men for being in a relationship with a woman from their community.76

69. Physical Assaults:

Dalit's have even been attacked on the false pretext of suffering from Corona. In maharastra false rumours were spread against Dalit man and his family being Corona positive, which resulted physical attack and were asked to leave the village.77 In Haryana Dalit family attacked by Gujjar community for not switching off the lights at 9 pm on April 5, as suggested by Prime Minister.78 Dalit doctor who served in a government hospital in Andhra Pradesh arrested, handcuffed and paraded naked for reporting difficulty without the PPE Kit.79 Dalit youth in Rajasthan beaten up by Jats for opening his essential items shop during lockdown and for keeping a picture of Ambedkar.80 Two Dalit youths were assaulted barbarically by the employer in Rajasthan on acquisition of stealing money.81 Dispute over land in the village in Madhya Pradesh, resulted torching the hut of Dalit.82 Dalit Man in Uttar Pradesh village physically attacked by six upper caste people, and absconded.83 People of upper caste entered the house of Dalit man in a village in Punjab, who made a Valmiki temple in the house. Pelted stone, and physically assaulted with tools.84

70. Violence against Dalit women:

Very often Dalit women are seen to bear the brunt of violence as they are used as a way to punish Dalit communities. At the same time they are very vulnerable due to multiple discrimination on the basis of caste & gender. The severe discrimination they face from being both a Dalit and a woman, makes them a key target of violence and systematically denies them choices and freedoms in all spheres of life. Dalit women are considered easy targets for sexual violence and other crimes, because the perpetrators are likely to get away with it.

Nine month Pregnant Dalit women who had to descend 250 steps from hilltop to get the daily essential was sent back empty handed for being Dalit.85 A Dalit domestic women, was beaten for raising her voice against not being given rations that were supposed to be distributed among all the residents of Abhishek Nagar in Uttar Pradesh.86 A Dalit woman was kept in hostage by 5 influential people of the village for 8 hr on her wedding day , and gang-raped her several times in Kanpur district of U.P87 An e-rickshaw pullers wife, with 6 month pregnancy was kicked on her stomach over the dispute of water by other neighbor in a building in Ghaziabad, U.P. This led to the death of the woman and her unborn child in the womb.88 Dalit women in Uttar Pradesh molested by a Upper caste man, when she returned back from the clinic.89 A young Dalit woman in Uttar Pradesh was gang raped by 2 men. In the police station forced to alter the complaint and case filed only against one person. 90

71. Mass Violence:

Over a dozen hutments owned by Dalits were set ablaze and massive damages were caused in 14 other houses of the members belonging to scheduled caste.91 Twenty-year-old Daly youth attacked in the village in Maharashtra by a 150strong mob of angry villagers armed with wooden sticks just for being Dalit.92

80 http://twocircles.net/2020apr26/436255.html

- 82 https://www.thehindu.com/news/national/other-states/madhya-pradesh-human-rights-panel-seeks-report-on-tribal-killing/article31718541.ece
- 83 https://www.jagran.com/uttar-pradesh/noida-three-arrested-for-attacking-Dalit-20407631.html
- 84 https://www.jagran.com/punjab/kapurthala-case-on-six-people-for-uttering-and-sabotaging-caste-words-20393136.html

- 86 https://www.newsclick.in/COVID-19-Dalit-Woman-Beaten-Denied-Rations-Saharanpur
- 87 Rajsasthan Patrika

⁷³ https://thewire.in/caste/maharashtra-beed-pardhi-men-killed-land-rights

 $^{74\} https://indianexpress.com/article/cities/pune/Dalit-youth-beaten-to-death-over-relationship-with-girl-from-upper-caste-community-6450042/$

⁷⁵ https://www.jagran.com/uttar-pradesh/amroha-city-scheduled-caste-student-shot-dead-in-hasanpur-20364110.html

⁷⁶https://thewire.in/caste/maharashtra-Dalit-men-killed

⁷⁷ https://indianexpress.com/article/cities/mumbai/coronavirus-one-held-for-beating-up-Dalit-man-spreading-virus-rumours-6357207/

 $^{78 \ \}text{Https://Scroll.ln/Latest/958665/Covid-19-Dalit-Family-In-Haryana-Allegedly-Attacked-For-Not-Following-Pms-Call-To-Turn-Off-Lights and the second state of the$

⁷⁹ https://outcasteindia.in/%e0%a4%86%e0%a4%82%e0%a4%a7%e0%a5%8d%e0%a4%b0%e0%a4%aa%e0%a5%8d%e0%a4%b6%a4%b6-

[%]e0%a4%ae%e0%a5%87%e0%a4%82-%e0%a4%a6%e0%a4%b2%e0%a4%bf%e0%a4%a4-%e0%a4%a1%e0%a5%89%e0%a4%95/

⁸¹ https://indianexpress.com/article/india/rajasthan-Dalit-youths-beaten-tortured-theft-bid-6278719/

⁸⁵ https://edition.cnn.com/2020/04/15/asia/india-coronavirus-lower-castes-hnk-intl/index.html

⁸⁸ https://www.jagran.com/uttar-pradesh/ghaziabad-Dalit-woman-kicked-in-the-stomach-child-died-in-the-womb-mother-too-serious-20419744.html

⁸⁹ https://www.amarujala.com/delhi-ncr/ghaziabad/ghar-me-ghuskar-Dalit-mahila-se-chhedchhad200

⁹⁰ https://www.jagran.com/uttar-pradesh/moradabad-city-rape-victim-said-his-story-serious-allegations-against-police-20410759.html

⁹¹ https://www.newindianexpress.com/nation/2020/jun/11/dozen-Dalit-houses-torched-in-up-communal-clash-yogi-orders-nsa-against-culprits-2155235.html

⁹² https://www.telearaph.co.uk/alobal-health/science-and-disease/said-would-murder-pandemic-sees-rise-attacks-against-indias/

72. Racial Discrimination against Communities from North East part of the country:

22 cases of hate and racial discrimination against people from North East has been observed between February 7 and March 25.93 A girl from Manipur was racially discriminated, humiliated, abused and spat upon by mainlanders in New Delhi.94 Two women from Northeast were hit by water balloons and called 'Coronavirus' by two men on a bike near Delhi University's North Campus.95

73. Violence as a reason of Inter caste marriages:

24-year-old Dalit youth killed for marrying out of caste.96 Dalit youth beaten to death in Tamil Nadu village for falling in love with a woman from a dominant caste.97 A Dalit boy in Telangana village was beaten and made to drink urine for having relationship with a young girl of backward caste.98

74. Violence against Children:

Discrimination and violence against Dalits children is widespread problem. Legislation and measures that have been taken to combat this are often inadequately implemented. In Uttar Pradesh village 4 Dalit children were physically abused by Upper caste teenagers as their cows trespassed into the farm of a higher caste community.99 14-year-old daughter of a daily wage labourer in Kerala, committed suicide, who was unable to attend online classes because she did not have a television or smartphone.100 5 year girl from Bhuiya community lost her life because of hunger in front of her mother, as the family lost source of livelihood in the pandemic in Jharkhand.101 A 12 year old girlfrom baudh community was killed by slitting her throat at Nandusa, Maharasthra.

75. Refusal to pay wages:

Dominant caste landowners of Khurd village in Punjab passed resolutions against the wages, welfare and freedom of the primarily Dalit daily-wage labourers of the village.102

76. Threats to human rights defenders

HRDs advocating against caste-based discrimination and violence against Scheduled Castes and Scheduled Tribes are at ongoing risk of attack for defending the rights of Dalit and Adivasi communities. The community facing most harassment, physical violence, abuses and untouchability practices based on their caste are Dalits and Adivasis. 32-year-old anti-caste activist was found dead under suspicious conditions minutes after he had confronted caste Hindu men, all belonging to the Other Backward Class (OBC) 'Kunbi' community.103 DHRD Annirudha Gaikwad in Maharastra was arrested on 29th April 2020, charged with section 505 of IPC & 51, 54 of Disaster ManagementAct.104

77. Increasing State sanctioned violence:

There are allegations that police officers have their own caste and gender biases and often behave towards Dalits and Adivasis in a discriminatory way. Police have failed to protect the weaker sections especially the scheduled castes and Scheduled Tribes. On the charge of LED theft, police tortured Dalit youth in the custody in Bamla, Punjab.105 Two policemen of Dhhasa police station, in Gujarat tortured eight Dalits in the custody who were arrested for alleged violation of lockdown last month.106

94 https://www.indiatoday.in/india/story/verbally-abused-spat-at-harassed-northeastern-citizens-come-under-attack-amid-coronavirus-panic-1658826-2020-03-23 95 https://www.indiatoday.in/india/story/verbally-abused-spat-at-harassed-northeastern-citizens-come-under-attack-amid-coronavirus-panic-1658826-2020-03-23 96 https://frontline.thehindu.com/dispatches/article31235723.ece

103https://thewire.in/caste/maharashtra-Dalit-men-killed

⁹³ https://www.theweek.in/news/india/2020/03/28/coronavirus-pandemic-fuels-racism-against-northeast-people.html

⁹⁷ https://thewire.in/caste/tamil-nadu-caste-atrocities-lockdown

⁹⁸ https://www.thelede.in/governance/2020/05/22/in-caste-crime-Dalit-boy-beaten-forced-to-drink-urine

⁹⁹ https://epaper.bhaskar.com/betul-bhaskar/405/27042020/mpcg/1/

¹⁰⁰ https://www.aljazeera.com/news/2020/06/unable-access-online-classes-indian-girl-commits-suicide-200603035732974.html

¹⁰¹ https://Dalitawaaz.com/jharkhand-5-year-old-Dalit-child-dies-of-alleged-starvation-in-latehar/1039

¹⁰² https://caravanmagazine.in/labour/covid19-dominant-caste-panchayats-in-punjab-pass-resolutions-to-reduce-labour-wages

¹⁰⁴ https://epaper.bhaskar.com/betul-bhaskar/405/29042020/mpcg/1/

¹⁰⁵ https://Dalitawaaz.com/punjab-barnala-bhadaur-police-station-tortured-Dalit-boy-in-custody/1219

¹⁰⁶ https://indianexpress.com/article/india/gujarat-two-cops-booked-for-beating-up-8-Dalits-6373262/

Since the Indian nation became a Republic 70 years ago, the ways in which the State has been responding to the situation of SCs/STs is striking. Atrocities against SCs and STs have caused periodic jolts to the nation's conscience. The results were the enactment of the Untouchability Offences Act 1955 five years after the adoption of the Indian Constitution, which was amended and renamed as the Protection of Civil Rights Act 1976 after 21 years. Thereafter the Parliament enacted the SCs and STs (PoA) Act 1989 after a further 13-year gap. No doubt with every forward step, the political establishment has tried to plug the loopholes and come out with new laws that are more relevant, comprehensive and effective in protecting the rights of SCs and STs. Again, as evident by the SCs and STs (PoA) Act 1989, newer mechanisms were evolved to deal with atrocities against the SCs/STs arising from new situations and perpetrated by dominant castes. However, the violence perpetrated and sketched above over the years undeniably shows is that atrocities are continued and are on rise. The above sketched violence points out various causal factors for atrocities: land disputes; land alienation; bonded labour; indebtedness; non-payment of minimum wages; caste prejudice and practice of untouchability; political factions on caste lines etc. The past decade highlights heinous attacks on Dalit hamlets, arson, land grab and sexual assault on women and minors from the community. Even Dalit's and Adivasis have been assaulted and abused on the false garb of Covid 19. Violations of their fundamental human rights continue unabated during the lockdown. Atrocities have been perpetrated against them and in most of the cases police and higher authorities have been complacent.

This also give rise to some of the probing questions such as have the SCs and STs been able to enjoy their fundamental rights, especially their right to life and security as enshrined in Article 21 of the Indian Constitution? Have the SCs and STs been able to access the law enforcement machinery as well as the judiciary as a matter of right, in order to obtain justice when faced with atrocities against them? Have the rights of the SCs and STs to justice through the Act been facilitated in terms of financial and legal assistance, safeguards for their security of life and property, etc? Have the law enforcement machinery and the courts been able to prosecute the perpetrators of atrocities with adequate punishment given the gravity of the offences? Have efforts been made to make information on this Act available to the SCs/STs? Is the Act comprehensive enough to cover every important aspect of the security and safety needs of the SCs and STs? Is there need to further strengthen the national and state level mechanisms of the Indian State to ensure implementation of the Act, and if needed, in what ways should this be done? In what ways should civil society organizations keep the Indian State continually engaged in the latter's fulfilment of its moral, legal and political obligations towards the SCs and STs?

CHAPTER 2

NATURE AND EXTENT OF CASTE BASED ATROCITIES

For centuries Dalits have been at the receiving ends of various forms of exploitation and degrading practices of "Untouchability". Of late, the country has witnessed an increase in certain crimes against Dalit's and Adivasis, which include forcing them to eat human excreta, physical assaults, grievous hurt, arson and mass killings, and individual and gang rape of Dalit women. This chapter analyses the data of the National Crime Record Bureau (herein NCRB) for the period 2009-2018 to point out the emerging trends as regards major crimes committed against Dalit's and Adivasis.

Over the years, since the SCs and STs (PoA) Act 1989 and its Rules 1995 came into existence, the number of incidents of atrocities against Dalits has only increased. Although the NCRB provides data on the extent of atrocities committed against Scheduled Castes (SCs) and Scheduled Tribes (Sts), these data do not fully reflect the ground realities where a number of cases go unreported due to factors such as fear of reprisals from the dominant caste perpetrators. Large-scale violence against the Dalit and Adivasi community has become normal in the country and the government is the mute spectator of this violence. In several attacks by extremist groups over wide ranging issues like beef eating, inter-caste marriages, gross lynching of Dalits and Adivasis, the government has been unable to take any rapid legal action against the perpetrators. These communities are forced to live with everyday fear of violence. The violence in Bhima Koregoan in January 2018 reflects government's response to the show of Dalit identity and self-respect and mobilization. Government's reluctance to take legal action against the perpetrators of violence on Dalits has also added to the environment of fear and violence.

Crimes against Scheduled Castes and ScheduledTribes (2009–2018)

2.1 Crime Rate against Scheduled Castes and Scheduled Tribes:

Dalit's or Schedule Castes, comprise 16.6% (201 million) of India's population, up from 16.2% in 2001, according to Census 2011. Adivasis form 8.6% (104 million) of the country's population, up from 8.2% over a decade. Over the decade to 2018, crime rate against Scheduled Castes or Dalits rose by 6%; from 20.1 crimes per 100,000 Dalits reported in 2009, to 21.3 crimes in 2018, according to 2018 National Crime Records Bureau (NCRB) data, the latest available. Meanwhile, the crime rate against Adivasis or Scheduled Tribes decreased by around 1.6 %, from 6.4 crimes per 100,000 Adivasis in 2009 to 6.3 crimes in 2018. 107

As many as 3,91,952 crimes108 against Scheduled Castes were reported between 2009 and 2018. The highest increase in

crime rate against SCs were recorded in eight states- Goa, Kerala, Delhi, Gujarat, Bihar, Maharashtra, Jharkhand and Sikkim, where rates rose over 10 times in one decade. As many as 72,367 crimes109 against Adivasis (Scheduled Tribes) were reported between 2009 and 2018. The highest increases in crimes were recorded in Kerala, Karnataka and Bihar.

¹⁰⁷ The NCRB 2009 report calculates the rate taking into account the overall population including SCs and NCRB 2018 calculates the crime rate taking into account only the SC population. The population projections used by NCRB to calculate crime rates are not consistent over time. Hence they have been re-estimated for this analysis and crime rate for the year 2009 has been calculated based on the SCs and STs population as per census 2001.

¹⁰⁸ Crimes against SCs reported under IPC, PCR, PoA Act, Other Legal Provisions, NCRB, 2009-2018

¹⁰⁹ Crimes against STs reported under IPC, PCR, PoA Act, Other Legal Provisions, NCRB, 2009-2018

Four states that recorded the highest crime rate in the category of "Crime/Atrocities against Scheduled Castes" (2018) Four states that recorded the highest crime rate in the category of "Crime/Atrocities against Scheduled Tribes" (2018)

Bihar occupies the top position in crime against SCs in terms of crime rate (42.6), which is defined by the incidence of crime recorded per one lakh population. Bihar registered 5,701 incidents of crime against scheduled castes in 2016 followed by 6747 in 2015 and 7,061 in 2016. Bihar reported 16.5% of total number of crimes against SCs registered in the country during 2018.

Madhya Pradesh recorded 11.1% of total number of crimes against SCs in the country in 2018 with 41.9 crime rate in the state. Madhya Pradesh recorded 4,922 incidents of crime against SCs in 2016, which increased to 5,892 in 2017 and declined to 4,753 in 2018.

Rajasthan holds third position in terms of crime rate (37.7) against SCs. Rajasthan recorded 5,134 incidents of crime against SCs in 2016, 4,238 in 2017 and increased to 4,607 in 2018. Rajasthan recorded 10.8% of total number of crimes against SCs registered in the country during 2018.

Gujarat with 1,426 incidents of crime reported against SCs in 2018, stood fourth in the table with crime rate of 35.0. Gujarat share in the all India figure for crime against SCs was 3.3% for 2016.

Kerala occupies the top position in crime against STs in terms of crime rate (28.5), which is defined by the incidence of crime recorded per one lakh population. Kerala registered 182 incidents of crime against scheduled tribes in 2016 followed by 144 in 2015 and 138 in 2016. Kerala reported 2.1% of total number of crimes against STs registered in the country during 2018.

Uttar Pradesh occupies second position in crime against STs in terms of crime rate (12.8) and recorded 2.2% of total number of crimes recorded against scheduled tribes in the country in 2018. Uttar Pradesh recorded 4 incidents of crime against STs in 2016, which increased to 88 in 2017 and further increased to 145 in 2018.

Telangana holds third position in terms of crime rate (12.7) against STs. Telangana recorded 375 incidents of crime against STs in 2016, and 435 in 2017 and 419 in 2018. Telangana recorded 6.4% of total number of crimes against STs registered in the country during 2018.

Andhra Pradesh with 405 incidents of crime reported against STs in 2018, stood fourth in the table with 12.5 of crime rate. Andhra Pradesh share in the all India figure for crime against STs was 5.1% for 2016.

2.2 Extent of crimes against Scheduled Castes and Scheduled Tribes:

According to the Crime in India, NCRB data atrocities against Scheduled Castes increased by 27.3% in 2018 over the year 2009. A total of 33,594 cases of crime against

Scheduled Castes were registered in the country in 2009 compared to 42,793 cases in 2018. As for Scheduled Tribes 5,425 cases of overall incident of crimes reported in the year 2009 and 6,528 in the year 2018 thus witnesses an increase by 20.3 % within 10 years. As many as 3,91,952 crimes110 against Scheduled Castes were reported between 2009 and 2018 and as many as 72,367 crimes111 against Scheduled Tribes were

reported between 2009 and 2018. Together a total of 4,64,319 crimes were reported against Scheduled Castes and Scheduled Tribes during 2009 to 2018. Refer Table 1 for total number of crimes against SCs and STs during 2009 to 2018.

	Table 1								
	Overall crimes against SCs and STs (2009-2018)								
Year	ear Total Crimes against SCs Total Crimes against STs (27.3% increase in 2018 over the year 2009) (20.3% increase in 2018 over the year								
2009	33594	5425							
2010	32712	5885							
2011	33719	5756							
2012	33655	5922							
2013	39408	6793							
2014	47064	11451							
2015	45003	10914							
2016	40801	6568							
2017	43203	7125							
2018	42793	6528							
Total	3,91,952	72,367							
	4,64,319 crimes against SCs and STs								
	(NCRB, Crime in India, 2009-2018)								

110 Crimes against SCs reported under IPC, PCR, PoA Act, Other Legal Provisions, NCRB, 2009-2018 111 Crimes against STs reported under IPC, PCR, PoA Act, Other Legal Provisions, NCRB, 2009-2018

2.3 Extent of atrocities against Scheduled Castes under SCs and STs (PoA) Act:

In terms of cases of atrocities recorded against Scheduled Castes under SCs and STs (PoA) Act 1989 over the period of 10 years we can observe an increase by 281.75% in the year 2018 (42,539 cases) over the year 2009 (11,143 cases). Refer Table 2 for details on crimes recorded against SCs during 2009-2018.

A total of 11,143 in 2009 and 10,513 cases of atrocities were reported under SCs and STs (PoA) Act in 2010 thus one notices a decrease by 5.65%. From the year 2010 to 2014 there is a gradual increase in cases registered under SCs and STs (PoA) Act. The number of cases registered under SCs and STs (PoA) Act increased to 11,342 in 2011 from 10,513 in 2010, increased to 12,576 cases in 2012 and further increased to 13,975 cases in 2013 and finally jumped to 40,300 in the year 2014. When comparing the 13,975 cases of atrocities reported under SCs and STs (PoA) Act 1989 in 2013 and 40,300 with 2014, once notices a sharp increase in the atrocities by 188.37% within one year. In the year 2015 the number cases recorded were 38,564, showing a decrease of 4.3% in 2015 over 2014. When

atrocities reported under SCs and STs (PoA) Act 1989 in 2015 and 40,774 with 2016, one notices a increase in the atrocities by 5.7% within one year. In year 2017 the number of cases recorded were 42,969 showing a increase of 5.3% over 2016. When comparing the cases of atrocities reported under SCs and STs (PoA) Act 1989 in 2017 with 42,969 cases and 42539 cases of atrocities reported under SCs and STs (PoA) Act 1989 one notice a decrease in cases registered under PoAAct by 1.0 % in 2018.

Despite the SCs and STs (PoA) Act 1989 being the premier legislation to protect security of life for SCs/STs, from 2009 to 2013 only one-third of total crimes against SCs across India were registered under SCs and STs (PoA) Act 1989 provisions and the rest were registered under other legislations. In the year 2009 the percentage of cases of atrocities registered under the provisions of SCs and STs (PoA) Act 1989 over total crimes against SCs stood 33.2%, decreased to 32.1% in 2010, increased to 33.6% in 2011 and further increased to 37.4% in 2012 and decreased to 35.5% in 2013. Surprisingly, from 2014 one notices a sharp and sudden increase by 85.6% in 2014, 85.7% in 2015, 99.9% in 2016, 99.5% in 2017 and 99.4% of crimes were registered under PoA Act to the total crimes registered against SCs.

	Table 2									
	Crimes reported against SCs under PoA Act (2009-2018)									
Year	Total Crimes Against Scs Crimes Registered % of PoA crimes to t under PoA Act crime against Scs									
	(1)	(2)	(2)/(1) x 100							
2009	33594	11143	33.2%							
2010	32712	10513	32.1%							
2011	33719	11342	33.6%							
2012	33655	12576	37.4%							
2013	39408	13975	35.5%							
2014	47064	40300	85.6%							
2015	45003	38564	85.7%							
2016	40801	40774	99.9%							
2017	43203	42969	99.5%							
2018	42793	42539	99.4%							
Total	391952	264695	67.5%							
	(NCRB,	Crime in India, 2009-2018)								

TRENDS

Extent of Atrocities against Scheduled Castes under SCs and STs (PoA) Act

- In terms of cases of atrocities against SCs recorded under SCs and STs (PoA) Act 1989 over the period of 10 years, we see an increase by **281.75%** in the year 2018 over the year 2009.
- Out of total crimes recorded against SCs only 34% of crimes were registered under SCs and STs (PoA) Act 1989 during 2009 to 2013.
- Out of total crimes recorded against SCs, only 68% of crimes registered under SCs and STs (PoA) Act 1989 from 2009 to 2018.
- Annual average of crimes registered against SCs under PoAAct (2009 2018) comes out to be 26469.
- Daily average of crimes registered against SCs under PoAAct (2009-2018) comes out to be 72.
- The rate of registered crimes against SCs is significantly higher than that of STs, due to such factors as the larger SC population and their greater interaction with dominant caste communities, as well as greater non-reporting of atrocities against Sts.
- The number of registered crimes against SCs/STs has shown no appreciable decline between 2009 and 2018.

Year	Crimes registered under SCs and STs (PoA) Act	Total Crimes against SCs	% of Total Crimes
	(1)	(2)	(2)/(1) x 100
2009 to 2013	59549	173088	34%
2014 to 2018	205146	218864	94%
2009 to 2018	264695	391952	68%

2.4 Atrocities registered against Scheduled Castes under SCs and STs (PoA) Act (Top 10 States):

It is evident from Table-3 that in terms of the ranking of states with 51,820 incidents registered under PoA Act, U.P reported the highest number of cases against Scheduled Castes accounting for 22.3% over 10 years (2009-2018). Followed by Uttar Pradesh is Bihar with 19.58% and Rajasthan with 10.26%, Madhya Pradesh with 8.47%, Andhra Pradesh with 6.30%. These five states reported 66.99% of cases of atrocities against Scheduled Castes.

Other 5 states – Odisha, Karnataka, Tamil Nadu, Maharashtra and Gujarat together recorded 23.16% of atrocities against Scheduled Castes from 2009 to 2018.

Interestingly, after the BJP government formed in the year 2014, with 11,696 incidents, Uttar Pradesh reported the highest number of cases of atrocities against Scheduled Castes accounting for 28.68% in 2018. From 8,066 cases of atrocities to 11,696 cases Uttar Pradesh reported an increase of 45.00% from the year 2014 to 2018. Followed by Uttar Pradesh is Madhya Pradesh with 44.00% and Rajasthan with 12.6% in 2018. Refer Table-4 for further details.

Table - 3									
Top 10 states with 69% of India's SC/ST population account for over 90% of atrocities under									
PoA Act against Scheduled Castes during 2009- 2018									
Total crimes against SCs under registered under PoA Act%Share [(1)/ overall atrocities recorded under PoA Act x 100]Rank as per % share									
		(1)							
00.00 %	U.P	51820	22.38 %	1					
66.99 % of atrocities under PoA Act	Bihar	59241	19.58 %	2					
against SCs to the over all atrocities under PoA ACT	Rajasthan	27162	10.26 %	3					
dirocities dirder FOA ACT	M.P	22427	8.47 %	4					
	A.P	16682	6.30 %	5					
	Odisha	15883	6.00 %	6					
23.16 % of atrocities	Karnataka	15211	5.75 %	7					
under PoA Act against SCs to the over all	Tamil Nadu	13075	4.94 %	8					
atrocities under PoA ACT	Maharashtra	10442	3.94 %	9					
	Gujarat	6694	2.53 %	10					
	(NCRB, Crime in Ir	ndia, 2009-2018)							

Table - 4										
	Out of top 10 states 7 ruled by NDA Government from 2014 till 2018 (Top 10 States) Total Crime/ Atrocities under PoA Act against Scheduled Caste									
State	2014	2015	2016	2017	2018	Total	Rank	Ruling Government		
U.P	8066	8357	10426	11232	11696	49777	1	BJP (2017-2018) SP (2014-2017)		
Bihar	7874	6293	5701	6747	7061	3367 6	2	BJP /NDA Alliance except in 2016		
Rajasthan	6734	5911	5134	4238	4607	2662 4	3	BJP		
M.P	3294	3546	4922	5892	4753	2240 7	4	BJP		
A.P	2104	2263	2335	1969	1830	10501	5	TDP		
Odisha	1657	1823	1796	1969	1778	9023	6	BJD		
Mah	1768	1804	1750	1688	1974	8984	7	BJP		
Karnataka	1865	1852	1869	1869	1322	8777	8	INC		
T.N	1494	1736	1287	1361	1407	7285	9	AIADMK - NDA		
Gujarat	219	1009	1322	1477	1426	5453	10	BJP		
			(NC	RB, Crime i	n India, 201	4-2018)	•			

TRENDS

Atrocities registered against Scheduled Castes under SCs and STs (PoA) Act (Top 10 States):

- During 2009 to 2018 with 22.38 % of cases of atrocities recorded under PoAAct, U.P reported the highest number of cases of atrocities against Scheduled Castes. Followed by U.P is the state of Bihar with 19.58 % and State of Rajasthan with 10.26%.
- Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Andhra Pradesh together reported 66.99 % of cases of atrocities against Scheduled Castes during 2009 to 2018.
- Odisha, Karnataka, Tamil Nadu, Maharashtra and Gujarat together recorded 23.16 % of atrocities against Scheduled Castes during 2009 to 2018.
- For the last five years (2014 to 2018), during present government regime, Uttar Pradesh ranks 1st in terms of atrocities against Dalit's, Bihar ranks 2nd and Rajasthan and Madhya Pradesh have been in the ranks of 3rd and 4th.
- Interestingly out of top 10 states from 2014 to 2018, most of the years BJP/NDA ruled 7 of them. Refer Table4.

2.5 Nature of Crimes against Scheduled Castes (2009-2013):

It may be noted that NCRB, from 2014, modified its methodology for calculating crimes registered under IPC and PoA Act against SCs and STs. Prior to 2014 crimes registered under IPC such as murder, rape, kidnapping, arson etc formed a distinct category and were not covered under the crimes registered under SCs and STs (PoA) Act. SCs and STs (PoA) Act formed a distinct category. Thereafter, from 2014 crimes registered under PoA Act as well under IPC was brought in as a new crime head. Therefore, distinct analysis has been done for 2009 to 2013 and for 2014 to 2018.

It may be seen from the Table 5 that the year 2013 has witnessed an increase in all the crime heads except three heads

i.e.: (i) Arson, (ii) Robbery (iii) PCR Act 1955). The cases of Murder (676), Rape (2,073), Kidnapping & Abduction (628), Hurt (4,901), Dacoity (45), PoA Act (13,975) and Other Crime Against SCs (16,797) in 2013 have increased by 8.33%, 54.01%, 22.66%, 11.13%, 2.27%, 25.42% and 11.37% respectively over the year 2009.

	Table -5										
Nature of Crimes against Scheduled Castes during 2009-2013											
S. No	Crime Head			Year			Percentage Variation in 2013 over 2009				
		2009	2010	2011	2012	2013	(5-1)/1 x100				
		(1)	(2)	(3)	(4)	(5)					
1.	Murder	624	570	673	651	676	8.33%				
2.	Rape	1346	1349	1557	1576	2073	54.01%				
3.	Kidnapping & Abduction	512	511	616	490	628	22.66%				
4.	Arson	195	150	169	214	189	-3.08%				
5.	Hurt	4410	4376	4247	3855	4901	11.13%				
6.	Dacoity	44	42	36	27	45	2.27%				
7.	Robbery	70	75	54	40	62	- 11.43%				
8.	PCR Act	168	143	67	62	62	-63.10%				
9.	POAACT	11143	10513	11342	12576	13975	25.42%				
10.	Others crime against SCs	15082	14983	14,958	14,164	16,797	11.37%				
11.	Total Crimes	33594	32712	33719	33655	39408	17.31%				
	· · · · · · · · · · · · · · · · · · ·		(NCRB, Cr	ime in India, 20	009-2013)						

2.6 Nature of Crimes against Scheduled Castes (2014-2018):

It may be seen from the Table 6 that the year 2018 has witnessed an increase in all the crime heads except the heads - (i) Arson (ii) Grievous Hurt (iii) SC & ST (PoA) Act & Other IPC (iv) crimes registered under PoA Act only. The cases of Murder (798) increased by 13.35% in the year 2018 over the year 2014. Attempt to Murder (677) increased by 61.19 %. Cases of Rape (2936) increased by 31.48 %, Attempt to Rape (132) increased by 51.72 %, Assault on Women (3091) increased by 31.76 %.

Kidnapping & Abduction (939) increased by 24.37 %. Insult to Modesty of woman (148) increased by 164.29 %. Cases of Riots (1316) increased by 57.04 %%. Cases of Dacoity (57) increased by 78.13 %. Robbery (69) increased by 2.99 %. Total cases registered under SCs & STs (PoA) Act 1989 (24,328) increased by 5.56%. Cases under PCR Act (254) increased by 151.49 % in 2018 over 2014.

Table - 6									
Nature of Crimes against Scheduled Castes during 2014-2018									
S.No	Crime Head		Percentage Variation in 2016 over 2018						
	Crimes under SCs/STs (PoA) Act r/w IPC	2014 (1)	2015 (2)	2016 (3)	2017 (4)	2018 (5)	(5-1)/1 x100		
1	Murder	704	707	786	718	798	13.35 %		
2	Attempt to Murder	420	547	733	640	677	61.19 %		
3	Rape	2233	2326	2541	2714	2936	31.48 %		
4	Attempt to Rape	87	74	148	105	132	51.72 %		
5	Assault on Woman	2346	2800	3172	2903	3091	31.76 %		
6	Kidnapping & Abduction	755	687	855	955	939	24.37 %		
7	Insult to Modesty of woman	56	58	81	72	148	164.29 %		
8	Arson	179	179	168	151	147	-17.88 %		
9	Criminal Intimidation	-	-	-	3282	3137	-		
10	Simple hurt	-	-	-	13099	13078	-		
11	Grievous Hurt	2155	1007	1071	1289	1196	-44.50		
12	Riots	838	1465	1725	1257	1316	57.04 %		
13	Dacoity	32	34	26	28	57	78.13 %		
14	Robbery	67	43	58	66	69	2.99 %		
15	Other IPC Crimes r/w PoA Act	21541	22632	24328	9915	10606	-50.76 %		
16	Total Crimes under SCs/STs (PoA) Act r/w IPC	21541	32559	35692	37194	38327	77.93 %		
17	Crimes under SCs/STs (PoA) Act only	8887	6005	5082	5775	4212	-52.60 %		
18	Total cases registered under SC/ST (PoA) Act (with and without IPC)	40300	38564	40774	42969	42539	5.56 %		
19	Other legal Provisions	152	324	NA	NA	NA	-		
20	PCR ACT	101	106	27	234	254	151.49 %		
21	IPC Only	6511	6009	NA	NA	NA	-		
	Total Crimes against SCs	47064	45003	40801	43203	42793	-9.07%		
	(NCRB, Crime in India, 2014-2018)								

2.7 Crimes against Scheduled Caste women under PoAAct (2014-2018):

Verv often Dalit women are seen to bear the brunt of violence as they are used as a way to punish Dalit communities. At the same time they are very vulnerable due to multiple discrimination on the basis of caste & gender. The severe discrimination they face from being both a Dalit and a woman makes them a key target of violence and systematically denies them choices and freedoms in all spheres of life. Dalit women are considered easy targets for sexual violence and other crimes, because the perpetrators are likely to get away with it. NCRB started to provide segregated data related to violence against SC & ST women from the year 2014. Seven types of offences are enumerated against SC&ST women in NCRB Data - Assault on Women to outrage her modesty. Rape. Kidnap and Abduction to compel her for marriage, Attempt to rape, Insult to modesty, Acid Attack, Attempt to acid attack. Assault on women to outrage the modesty includes Sexual harassment, assault or use of criminal force to women with intent to disrobe, voyeurism, stalking and others. In the last 5 years, out of a total 2,05,146 registered crimes against Scheduled Castes under PoA Act, a total of 41,867 cases (20.40%) were related to violence against Scheduled Caste women.

It is evident from Table No-7 that the year 2018 has witnessed an increase in almost all the crime heads. Incidents of Rape increased to 2,936 in 2018 from 2,233 incidents in the year 2014. Total of 12,750 incidents of rapes were registered between 2014 to 2018. Similarly, the incidents related to attempt to rape increased to 132 incidents in 2018 from 87 incidents in 2014. Assault on SC women to outrage the modesty saw an increase to 3091 incidents in 2018 from 2346 incidents in 2014. Insult to modesty increased to 148 incidents in 2018 from 56 incidents in 2014. Cases related to Kidnapping to compel SC women for marriage increased to 493 in 2018 from 427 incidents in 2014. Cases of Acid attack increased by 150% though the number of incidents in 2014 was 2 which increased to 5 in 2018. Over these 5 years (2014-2018) cases against SC Women witnessed sharp increase by 42.63% with 5154 crimes against SC women in 2014 and 6806 in 2018.

Table -7

Forms of offences against SC Women- 2014 to 2018 Atrocities against Scheduled Castes women account for 14.86% to total crimes registered under PoA Act during 2014-2018

(2014-2018) crime ncreased by 32.04%		Crime Head	2014	2015	2016	2017	2018	Total	Percentage Increase in 2018 over 2014	
018 by	1	Rape	2233	2326	2541	2714	2936	12750	31.48 %	
-2C sed	2	Attempt to Rape	87	74	148	105	132	546	51.72 %	
	3	Assault on SC & ST Women to Outrage modesty (354 IPC)	2346	2800	3172	2903	3091	14312	31.76 %	
5 years Vomen i	4	Insult to Modesty	56	58	81	72	148	415	164.29 %	
Over these 5 y against SC Won	5	Kidnapping &Attempt to compel her for marriage	427	455	559	527	493	2461	15.46 %	
Over 1 Igains	6	Acid Attack	2	2	0	0	5	9	150.00 %	
ago ago	7	Attempt to Acid Attack	3	0	0	1	1	5	-66.67 %	
		Total	5154	5715	6501	6322	6806	30498	32.04 %	
		(NCRB, Crir	me in India,	2014-2018	3)				

TRENDS

Crimes against Scheduled Caste women under PoA Act (2014-2018)

- Crimes against Scheduled Caste women under PoA Act increased by 32.04% in 2018 over the year 2014 with 5154 crimes in 2014 and 6806 crimes in 2018.
- Crimes against Dalit women account 14.86% to total crimes registered under PoA Act during 2014-2018. Total of 2,05,146 crimes were registered against Scheduled Castes under PoA Act and a total of 30,498 crimes related to violence against SC women were recorded during 2014 to 2018.
- 95% of crimes against Dalit women- Rape, Assault on SC & ST Women to Outrage modesty, Kidnapping &Attempt to compel her for marriage (2014-2018)

o Rape -31.48 % increase in 2018 over 2014.

o Attempt to Rape – 51.72 % increase in 2018 over 2014.

o Assault on Dalit Women to outrage modesty - 31.76 % increase in 2018 over 2014.

o Insult to modesty - 164.29 % increase in 2018 over 2014.

o Kidnapping & Attempt to compel her for marriage-15.46 % increase in 2018 over 2014.

2.8 Extent of atrocities under SCs and STs (PoA)Act1989 against Scheduled Tribes:

In terms of cases of atrocities recorded against Scheduled Tribes under SCs and STs (PoA) Act 1989 over the period of 10 years (2009-2018), we can observe an overall increase by 591.21%. In the year 2018 the number of cases of atrocities under PoAAct increased to 6,525 cases over the year 2009 with 944 cases. Refer Table 8. 1,169 cases in 2010 were reported under SCs and STs (PoA) Act against Scheduled Tribes showing an increase by 23.83% in 2010 and decrease by 1.2% in the year 2011(1,154) over 2010. One notices a increase in atrocities against Scheduled Tribes reported under PoA Act from the year 2011 to 2014 with 1,154 cases in 2011 to 1,311 in 2012 to 1,390 in 2013 and finally increasing to 6,826 in the year 2014. It dropped to 6,275 in 2015 and finally increased to 6,564. From 1,390 cases of atrocities reported under PoAAct in 2013 and 6,826 in 2014, we can observe a sharp increase in the incidence of crime by 391.07%.

Despite the SCs and STs (PoA) Act 1989 being the premier legislation to protect security of life for SCs/STs, from 2009 to 2013 around one-fourth of crimes against STs across India were registered under SCs and STs (PoA) Act 1989 provisions and the rest were registered under other legislations. In the year 2009 the percentage of cases of atrocities registered under the provisions of SCs and STs (PoA) Act 1989 over total crimes against STs stood 17.4 %, increased to 19.9% in 2010, increased to 20.0% in 2011 and further increased to 22.1% in 2012 and decreased to 20.5% in 2013. Surprisingly, from 2014 one notices a sharp increase by 59.6% and 57.5% in 2015 and finally by 99.9% in 2016, 100% in 2017 and 99.5% in 2018. Over the decade only 54.28% of crimes were registered under PoAAct for atrocities committed against Scheduled Tribes.

Table - 8										
	Crimes committed against STs under PoA Act between 2009 - 2018									
Year	YearTotal Crimes Against StsCrimes Registered under PoA Act% of PoA crimes to total crime against STs									
2009	5425	944	17.40 %							
2010	5885	1169	19.86 %							
2011	5756	1154	20.05 %							
2012	5922	1311	22.14 %							
2013	6793	1390	20.46 %							
2014	11451	6826	59.61 %							
2015	10914	6275	57.49 %							
2016	6568	6564	99.94 %							
2017	7125	7125	100.00 %							
2018	6528	6525	99.95 %							
Total	72367	39283	54.28 %							
(NCRB, Crime in India, 2009-2018)										

TRENDS

Extent of Atrocities against Scheduled Tribes registered under SCs and STs (PoA) Act

- In terms of cases of atrocities recorded under SCs and STs (PoA) Act 1989 over the period of 10 years (2009-2018) we see an increase in crimes by 595.33%.
- \cdot Out of total crimes against STs, only 20.4% of cases were registered under PoAAct during 2009 to 2013.
- Average 54.28 % of cases registered under PoAAct 1989 from 2009 to 2018.
- · Annual average of crimes recorded under PoAAct for STs (2009-2018) comes out to be 3928.
- · Daily average of crimes registered against SCs under PoAAct (2009-2018) comes out to be 11

Year	Crimes registered under SCs and STs (PoA) Act	Total Crimes against STs	% of Total Crimes
2009 to 2013	5968	29781	20.04 %
2014 to 2018	33315	42586	78.23 %
2009 to 2018	39283	72367	54.28 %

2.9 State wise crimes registered under SCs and STs (PoA) Act 1989 against Scheduled Tribes (Top 10 States):

It is evident from Table No -9 that in term of the ranking of states with 8,920 incidents registered under PoA Act, Madhya Pradesh reported the highest number of atrocities against Scheduled Tribes accounting 22.71 % over 10 years (2009-2018). Followed by Madhya Pradesh is Rajasthan with 16.51 % and Odisha with 12.97 %, Andhra Pradesh with 7.29 % and Karnataka with 7.19 %. These five states together reported 66.67 % of cases of atrocities against Scheduled Tribes. Other 5 states – Maharashtra, Jharkhand, Chhattisgarh, Gujarat and Bihar together recorded 23.04 % of atrocities against

Scheduled Tribes from 2009 to 2018 recorded under PoAAct.

Interestingly, one can notice from Table -10 that after the new government formed in the year 2014, with 4758 incidents, Madhya Pradesh reported the highest number of cases of atrocities against Scheduled Tribes in 2018 and reported an increase in incidents by 18.45 % over the year 2014. Followed by M.P is Rajasthan with a decrease by 34.86 % and Odisha with increase of 4.50 % in 2018. For the last three years i.e from 2014 to 2016, these three states have topped in terms of atrocities against Scheduled Tribes.

Table -9									
10 states with 69% of India's SC/ST population account for 90% of atrocities under PoA Act against Scheduled Tribes during 2009- 2018									
States Total crimes % Share Rank as per against STs registered % share % share									
	Madhya Pradesh	8920	22.71 %	1					
66.67 % of atrocities	Rajasthan	6486	16.51 %	2					
under PoA Act against STs to the over all atrocities	Odisha	5095	12.97 %	3					
under PoA ACT	AP	2863	7.29 %	4					
	Karnataka	2825	7.19 %	5					
	Maharashtra	2568	6.54 %	6					
23.04 % of atrocities	Chhattisgarh	2294	5.84 %	7					
under PoA Act against STs to the over all atrocities	Jharkhand	1977	5.03 %	8					
under PoA ACT	Gujarat	1639	4.17 %	9					
	Bihar	572	1.46 %	10					
	(NCRB, Crime in Inc	dia, 2009-2018)							

Table -10										
	Out of top 10 states 7 ruled by NDA Government from2014 till 2018 Top 10 States -Total Atrocities under PoA Act against Scheduled Tribes									
States	2014	2015	2016	2017	2018	Total	Rank	Ruling Government		
MP	1577	1358	1823	1868	1868	8494	1	BJP		
Rajasthan	1681	1409	1195	1095	1095	6475	2	BJP		
Odisha	533	691	681	557	557	3019	3	BJD		
Maharashtra	443	481	403	526	526	2379	4	BJP		
Chhattisgarh	475	373	402	399	388	2037	5	BJP		
A.P	389	362	405	329	329	1814	6	TDP		
Karnataka	402	386	371	321	321	1801	7	INC		
Jharkhand	402	266	280	237	223	1408	8	BJP		
Gujarat	223	248	281	319	311	1382	9	BJP		
Bihar	77	5	25	80	64	251	10	NDA/BJP Alliance except 2016		
		(NCRB, Crim	ne in India, 2	2009-2018)	· ·	·	·		

TRENDS

State wise crimes registered under SCs and STs (PoA) Act 1989 against Scheduled Tribes (Top 10 States)

- With 22.71 % of cases recorded under PoAAct, Madhya Pradesh reported the highest number of cases of atrocities against
- Scheduled Tribes. Followed by Madhya Pradesh is Rajasthan with 16.51 % and Odisha with 12.97 % over 10 years (2009-2018). For the last 5 years i.e, from 2014 to 2018, Madhya Pradesh, Rajasthan and Odisha ranked first three in terms of atrocities recorded against Scheduled Tribes.
- Madhya Pradesh, Rajasthan, Odisha, Andhra Pradesh and Karnataka together recorded 66.67 % of atrocities under PoAAct to the over all crimes recorded against them under PoAAct from 2009 to 2018.
- Maharashtra, Jharkhand, Chhattisgarh, Gujarat, and Bihar together reported 23.04% of cases of atrocities against Scheduled Tribes from 2009 to 2018.
- · Interestingly out of top 10 states BJP government from 2014 to 2018 ruled 7 states.

2.10 Nature of Crimes against Scheduled Tribes (2009-2013):

It may be seen from the Table 11 that the year 2013 has witnessed an increase in all the crime heads except robbery over the year 2009. Cases of Murder (122), Rape (847), Kidnapping & Abduction (130), Arson (33), Hurt (930), Dacoity

(8), PCRAct (25), PoAAct (1,390) and Other Crime Against STs (3301) in 2013 have increased by 3.39%, 45.28%, 58.54%, 13.79%, 18.17%, and 166.67%, 1150.00 %, 39.84%, 15.70% respectively over the year 2009.

Table -11									
Nature of Crimes against Scheduled Tribes during 2009-2013									
S. No	Crime Head	Year					Percentage Variation in 2013 over 2009		
		2009	2010	2011	2012	2013	(5-1)/1 x100		
		(1)	(2)	(3)	(4)	(5)			
1.	Murder	118	142	143	156	122	3.39%		
2.	Rape	583	654	772	729	847	45.28%		
3.	Kidnapping & Abduction	82	84	137	103	130	58.54%		
4.	Arson	29	39	24	26	33	13.79%		
5.	Hurt	787	941	803	816	930	18.17%		
6.	Dacoity	3	7	7	5	8	166.67%		
7.	Robbery	24	5	9	15	7	-70.83%		
8.	PCR Act	2	5	7	2	25	1150.00%		
9.	POAACT	944	1169	1154	1311	1390	39.84%		
10.	Other crime against STs	2853	2839	2700	2759	3301	15.70%		
11.	Total Crimes	5425	5885	5756	5922	6793	25.22%		
(NCRB, Crime in India, 2009-2013)									

It may be seen in Table -12 that year 2018 has witnessed an increase in almost all the major crime heads. Year 2014 recorded 157 cases of murders against STs, which increased to 168 cases in 2018 witnessing an increase by 7.01%. Similarly, year 2014 recorded 78 cases of attempt to murder, which increased to with 131 cases in 2018 thereby witnessing an increase by 67.95% over 2014. In 2014 a total of 925 Rapes

and 2018 total of 1008 Rapes were committed against ST women showing an increase by 8.97% over 2014. Insult to Modesty of woman increased by 12.50% in 2018 over 2014. Riots increased by 87.13% in 2018 over 2014.

Table -12										
Nature of Crimes against Scheduled Tribes during 2014-2018										
S. No	Crime Head			Percentage Variation in 2018 over 2014						
	Crimes under SCs/STs	2014	2015	2016	2017	2018	(5-1)/1 x100			
	(PoA) Act r/w IPC	(1)	(2)	(3)	(4)	(5)				
1.	Murder	157	144	139	124	168	7.01 %			
2.	Attempt to Murder	78	88	93	132	131	67.95%			
3.	Rape	925	952	974	1041	1008	8.97%			
4.	Attempt to Rape	24	15	13	22	17	-29.17%			
5.	Assault on Woman	863	818	835	925	857	-0.70%			
6.	Kidnapping & Abduction	166	124	163	201	116	-30.12%			
7.	Insult to Modesty of woman	16	12	31	21	18	12.50%			
8.	Arson	179	179	168	11	11	-93.85%			
9.	Criminal Intimidation	-	-	-	446	484				
10.	Simple Hurt	-	-	-	1503	1429				
11.	Grievous Hurt	287	145	144	204	104	-63.76%			
12.	Riots	101	133	143	118	189	87.13%			
13.	Dacoity	2	4	6	7	14	600.00%			
14.	Robbery	12	9	10	11	6	-50.00%			
15.	Other IPC Crimes r/w PoA Act	3045	2974	3156	1639	1626	-46.60%			
	Total Crimes under SCs/STs (PoA) Act r/w IPC	5704	5443	5720	6405	6178	8.30%			
16.	PoA Act only	1122	832	844	720	347	-69.07%			
	Total cases registered under SC/ST (PoA) Act (with and without IPC)	6826	6275	6564	7125	6525	-4.41%			
17.	Other legal provisions	102	435	NA	NA	NA				
18.	PCR ACT	1	1	4	0	3	200.00%			
19.	IPC Only	4522	4203	NA	NA	NA				
20.	Total Crimes against STs	11451	10914	6568	7125	6528	-42.99%			
(NCRB, Crime in India, 2014-2018)										

2.11 Violence against Scheduled Tribes women:

In the last 5 years, out of a total 2,05,146 registered crimes against Scheduled Castes under PoA Act, a total of 41,867 cases (20.40%) were related to violence against Scheduled Tribe women.

It is evident from Table No- 13 that in the year 2018 incidents of Rape increased to 1,008 in 2018 from 925 incidents in the year 2014. A Total of 4,900 incidents of rapes were registered between 2014 to 2018. Similarly, incidents related to attempt to rape decreased to 17 incidents in 2018 from 24 incidents in 2014. Assault on ST women to outrage the modesty saw marginal decrease with 857 incidents registered in 2018 and 863 incidents in 2014. Insult to modesty increased from 16 incidents in 2014 to 18 incidents in 2018. Cases related to Kidnapping to compel ST women for marriage increased to 116 in 2018 from 63 incidents in 2014. Over these 5 years (2014-2018) cases against ST Women witnesses a sharp increase by 113.21 % with 1892 crimes against ST women in 2014 and 4034 in 2018.

Table -13										
Forms of offences against ST Women- 2014 to 2018 Atrocities against Scheduled Tribe women account for 29.67 % to total crimes registered under PoA Act during 2014- 2018									% Variation in 2018 over 2014	
		Crime Head	2014	2015	2016	2017	2018	Total		
Over these 5 years (2014-2018) crime against ST Women increased by 113.21 %	1	Rape	925	952	974	1041	1008	4900	8.97 %	
	2	Attempt to Rape	24	15	13	22	17	91	-29.17 %	
	3	Assault on SC & ST Women to Outrage modesty (354 IPC)	863	818	835	925	857	4298	-0.70 %	
	4	Insult to Modesty	16	12	31	21	18	98	12.50 %	
	5	Kidnapping &Attempt to compel her for marriage	63	60	51	201	116	491	84.13 %	
	6	Acid Attack	1	0	0	4	0	5	-100 %	
	7	Attempt to Acid Attack	0	0	0	0	0	0	0	
		Total	1892	1857	1904	2214	4034	9883	113.21 %	
(NCRB, Crime in India, 2014-2018)										

TRENDS

Violence against Scheduled Tribes women:

- Crimes against Scheduled Tribe women has increased by 113.21 % in 2018 as total number of crime registered in 2014 was 1892 which went upto 9883 in 2018.
- Crimes recorded under PoA act against Scheduled Tribe women account 29.67 % to total crimes registered against Scheduled Tribes under PoA Act during 2014- 2018. Total of 33,315 crimes were registered against STs under PoA Act and a total of 9883 crimes related to violence against ST women were committed during 2014 to 2018.
- 93% of crimes against ST women- Rape, Assault on SC & ST Women to Outrage modesty (2014-2018).

o Rape – 8.97 % increase in 2018 over 2014.

o Kidnapping & Attempt to compel her for marriage-84.13% increase in 2018 over 2014.

o Attempt to Rape -29.17 % decrease in 2018 over 2014 with cases decreasing from 24 to 17.

o Insult to modesty -12.50 % increase in 2018 over 2014.

o Assault on Dalit Women to outrage modesty -0.70 % decrease with 863 cases in 2014 to 857 cases in 2018.

"NO DECLINE IN ATROCITIES"

Despite the deterrent provisions made in the PoA Act, continuing atrocities against the members of SCs and STs had been a cause of concern. High incidence of occurrences of offences against them also indicated that the deterrent effect of the PoAAct was not adequately felt by the accused.112 Annual Report 2018-2019, Page 38, Department of Social Justice and Empowerment, Ministry of Social Justice and Empowerment, Government of India

It is seen that the atrocities on the Scheduled Castes show an increasing trend despite the Acts and rules for their prevention. 113

Annual meeting on "Monitoring the Implementation of Constitutional Safeguards of Scheduled Castes" with Chief Secretaries, Directors General of Police & Principal Secretaries of Home & Social Welfare departments on 21.07.2016, Page 13, Annual Report 2016-17, NCSC. Rate of crime against SCs and the total number of crimes against SCs both show an increasing trend from 2014 to 2017. Minutes of the Haryana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Haryana (GoH) on 09.03.2018.¹¹⁴

Shri Thaawarchand Gehlot expressed his deep concern on the growing cases of atrocities against SCs and STs in many States and asked them to contain it in an effective manner.115 24th Meeting Of Committee to review protection of Civil Rights {PCR} Act, 1955 & SCs/ STs {PoA} Act, 1989.

113 http://164.100.107.69/files/AR16_17.pdf

 $^{112\} http://social justice.nic.in/writereaddata/UploadFile/Social_Justice_AR_2018-19_English.pdf$

¹¹⁴ http://ncsc.nic.in/files/Final%20minutes%20HARYANA%20CS%20meeting.pdf

¹¹⁵ https://pib.gov.in/Pressreleaseshare.aspx?PRID=1518306

HIGH RATE OF ATROCITIES - INCREASING TRENDS

Maharashtra: There was sharp increase from 1094 in 2012 to 1650 in 2013 to 1744 in 2014 of atrocities on SCs under the SC and ST (PoA) Act. Increase from 2012 to 2014 works out to about 62%. The state Government is to find solutions for this. *Minutes of the State level Review Meeting of the State of Maharashtra conducted by the National Commission for Scheduled Castes with the Chief Secretary, DGP and other senior officers on 11-12 June, 2015.*¹¹⁶

West Bengal: The State has failed to provide right figure regarding atrocity cases on Scs.117

Minutes of State Review Meeting held with Government of West Bengal on 16th October 2017 at Hotel TAJ Bengal, Kolkata.

Telangana: Rate of crime against SCs is 28.27 against National average of 20.26 in 2016, it is higher than National average in 2014, 2015 also.118

Minutes of the Telengana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Telangana (GoT) on 21.02.2018.

Haryana: Rate of crime against SCs and the total number of crimes against SCs both show an increasing trend from 2014 to 2017 (Sept 2017). The total no of crimes against SCs show an increasing trend from 2014 to 2017 (upto Sept 2017) and rate of crime is also increasing, though it is below the All India average. There is an increase in the total no of murder cases from 2014-2017 (sept) Other crimes against SCs show a sharp increase in 2017. 119

Minutes of the Haryana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Haryana (GoH) on 09.03.2018.

Rajasthan: 15.60 % and 12.6 % of total crimes against SCs in India were found committed in Rajasthan in 2015 & 2016. State was ranked at No 3, 3 and 2 in crimes against SCs in 2014, 2015 & 2016 respectively.120

Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Rajasthan on 23.05.2018 at 2.30 p.m. **Tripura:** Hon'ble Chairman appreciated that the incidence of atrocity is less in the State of Tripura.

Minutes of the State level Reviews conducted by NCSC on 05.11.2015.¹²¹

Kerala: Registration of atrocity cases against Scheduled Castes has bit increased from 1388 in 2012 to 1589 in 2013, but the Conviction rate in such cases is merely 1.7 per cent. Most of the cases were settled out of the court due to shoddy prosecution and key witnesses turning hostile. As per the data provided in 2011, 2012, 2013 the total cases registered during these three years is 2944, the disposal and withdrawal is high being 2136.122

Proceedings of the state level review meeting of the state of kerala conducted by the national commission for scheduled castes on 30.10.2014

Karnataka: The atrocity cases are increasing in the State. There are difficulties in lodging FIRs.

Minutes of State Level Reviews conducted by NCSC on 16.10.2015. $^{\rm 123}$

Jarkhand: Details provided by the State government on commission of atrocities against the SCs are found to be wrong.124

Minutes of State Level Reviews conducted by NCSC on 02.02.2016 and 03.02.2016.

Delhi: The Commission observed that though there are specific grievances about Delhi police not lodging FIRs as far as atrocities against SCs are concerned and conducting investigation prior to lodging of FIR. Also but under-investigation cases have increased manifold and cases pending trial in courts have also increased which should be looked into. The Chairman expressed deep concern about filing of counter cases and harassing the SC complaints. Security in weaker Section Juggis should be increased. Filing of FIRs should not be denied.125

Minutes of the Review meeting of NCT of Delhi by the National Commission for Scheduled Castes held on 15.09.2015 at Delhi Secretariat.

¹¹⁶ http://ncsc.nic.in/files/Maharashtra%20Minutes.pdf>

¹¹⁷ http://ncsc.nic.in/files/MINUTES%20WEST%20BENGAL.pdf

¹¹⁸ http://ncsc.nic.in/files/minutes%20Telengana%20CS%20meeting.pdf

¹¹⁹ http://ncsc.nic.in/files/Final%20minutes%20HARYANA%20CS%20meeting.pdf

¹²⁰ http://ncsc.nic.in/files/Rajasthan%20Police%20Minutes%20final.pdf

¹²¹ http://ncsc.nic.in/files/Tripura_minutes.pdf

¹²² http://ncsc.nic.in/files/Minutes%20Kerala.pdf

¹²³ http://ncsc.nic.in/files/Karnataka0001.pdf

¹²⁴ http://ncsc.nic.in/files/Jharkhand_minutes.pdf 125 http://ncsc.nic.in/files/Delhi0001.pdf

Assam: The State Government however, was appreciated for low record of atrocity cases against SCs in the State.

Minutes of State level Review of Assam State held by National Commission for Scheduled Castes at Guwahati on 28–29 May, 2015.¹²⁶

Tamil Nadu: Tamil Nadu is one of the top most 5 States in the Country in terms of high rate of atrocity committed against the Scheduled Castes. Keeping in view the increasing trend in atrocity on members of the SCs, the police administrations needs to be pro-active to prevent the atrocities. 127

Minutes of the Meeting of the National Commission for Scheduled Castes, New Delhi headed by Dr.P.L.Punia, Hon'ble Chairman held with Tamil Nadu Government on 09.07.2015

2.12 Crime against Dalit Human Rights Defenders (DHRDs)

In India, Human Rights Defenders advocating against castebased discrimination and violence against Scheduled Castes (Dalit's) and Scheduled Tribes (Adivasis) are at ongoing risk of attack129 for defending the rights of Scheduled Castes and Scheduled Tribes communities. The community facing most harassment, physical violence, abuses and untouchability practices based on their caste are Dalit's and Adivasis. When Dalit/Adivasi defenders attempts to protect and promote the rights of Dalits and Adivasis or raise voice against the violence stemming from caste-based discrimination, they face challenges and physical abuses. Crimes against them take shape in the form of 'teachings' and 'lessons' and are used as a means to deter them and others to challenge caste structures. Such crimes, therefore, attempt to instill a fear within the community; to not oppose or speak out against Caste based discrimination. Only domestic mechanism available in India is the Focal Point on HRDs at the National Human Rights Commission to deal with complaints alleging harassment of HRDs.

In specific woman HRDs are often targeted with genderspecific threats by the dominant caste and police. There are no specific mechanisms ensured for their protection. Also those engaged against illegal land encroachments, illegal prostitution and against drug mafias,130 on denouncing development projects that threaten livelihoods of marginalized communities, Right to Information activists, HRDs working on the implementation of the legislations and policies,131 defenders working on women's and child rights, defenders seeking accountability for communal programs,132 those engaged in disaster and humanitarian work and working in conflict affected areas are often targeted.

Dalits' rights activists strive for the promotion and realization of Dalits' civil, political, economic, social and cultural rights. The range of human rights violations they suffer is appalling.

UN Special Rapporteur on Situation of Human Rights Defenders, Margaret Sekaggya, at a UN side-event on 9 March 2012 in Geneva

A law on the protection of human rights defenders, with an emphasis on defenders facing greater risks, developed in full and meaningful consultation with civil society and on the basis of technical advice from relevant United Nations entities, should be enacted.¹²⁸

Ms. Margaret Sekaggya, at her conclusion statement, on the occasion of her mission to India (2011)

NHRC, India must monitor and take necessary steps for the implementation of the UPR recommendations, especially those concerning HRDs. Recommendations of the Workshop on Human Rights Defenders organized by the NHRC on 19.02.2015.

126 http://ncsc.nic.in/files/minutes%20Assam.pdf

127 http://ncsc.nic.in/files/TN%20minutes.pdf

132 http://www.thehindu.com/news/cities/Kochi/caste-wall-row-escalates-police-arrest-Dalit-activists/article22487114.ece

¹²⁸ UN Special Rapporteur on Human Rights Defenders, visit to India, A/HRC/19/55/Add.1, paragraph 144.

¹²⁹ This includes assaults in public places, torture, illegal detention, harassment, forced disappearances, extra-judicial killings, illegal imprisonment, surveillance, targeting of family members, branding as Naxalites and anti-nationals and implication in false cases.

¹³⁰ A false case was registered against one of the NDMJ activist Ramatai Ahire at Mumbai, Chembur Police Station, Maharashtra for raising voice and taking action against the illegal prostitution, illegal liquor and drugs business run by a local mafia.

¹³¹ One of the activists of NDMJ, Rameshwar Paswan went for a Fact Finding in a case of land dispute in Aurangabad, Bihar in the month of April, 2018. Immediately after the Fact Finding the HRD started supporting victims helped them in registering the FIR. But same day the perpetrators registered a Counter case against the HRD.

They are often charged of abetment, criminal conspiracy, promoting enmity between religious groups, imputations prejudicial to national interests 133, false charges of offence 134 & 135, threat to public servants, statements conducing to public mischief, criminal intimidation under the IPC136. They face a diverse range of attacks and harassment from state and non-state actors based on their caste alike, killing, physical assault 137, arbitrary detention 138, threats, judicial harassment. Police officials are often the perpetrators of violence against HRDs, which is usually carried out with impunity 139. Private companies also target them for work related to economic development projects and their impact on the local communities or the environment. 140

Participating in public assembly141, protesting142 & 143 peaceful and taking action collectively are important means to fight injustice and demand human rights. HRDs working in this context face a higher level of threat, both as organizers or participants including unnecessary and excessive use of force resulting in killings. 144

They are increasingly the targets of online hate campaigns by fundamentalist's groups.145 Targeting journalists under sections 499 and 500 of the IPC, for defamation and for writings on Dalit issues146 and covering Dalit atrocities.147 Sedition charges148 under IPC Section 124(A) have also been used to target freedom of expression and dissent.149 The FCRA, 2010 regulates foreign funding for civil society organizations and has been used to reject license renewal applications from rights-based advocacy groups that questioned governmental policies.

India voted in favor of HRC 31/32 (2016), on human rights defenders and ESCR. However, internally, the Indian State has not ratified "UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" – with this longer title is frequently

abbreviated to "The Declaration on human rights defenders". India has not enacted any specific legislation to recognize and protect the Rights of HRDs including Dalit human rights Defenders within the context of the diversity of forms the Declaration may be implemented.

During India's 2012 UPR, the Czechia and Norway made recommendations addressing the rights of DHRDs:

Enact a law on the protection of human rights defenders, with emphasis on those defenders facing greater risks, including those working on minority rights and the rights of scheduled castes and tribes" (Czechia – Noted).

Implement the recommendations made by the Special Rapporteur on the rights of human right defenders following her visit in 2011, with particular emphasis on recommendations that concern defenders of women's and children's rights, defenders of minorities rights, including Dalits and Adavasi, and right to information activists." (Norway – Noted).

diluting the spirit of SCs & STs (PoA) Act 1989. Though the FIR on behalf of Dalit HRDs has been registered same day, a false case has also been registered against the 5 HRDs.

 $^{133\} https://timesofindia.indiatimes.com/city/meerut/fresh-nsa-charges-on-bhim-army-chief/articleshow/64006187.cms$

¹³⁴ https://scroll.in/latest/863890/maharashtra-Dalit-activists-claim-youth-leader-arrested-on-false-charges-in-nanded 135 Mr.Ajinath Anand Raut, an activist from Usmanabad, Maharashtra works for the rights of Charmakar (SC) community in his area. Since he is questioning the discrimination being faced by the community, some of the dominant caste community trapped him in false offences of outraging modesty and Rape. He was beaten brutally several times, his shoe weaving shop was set on fire and was threatened to leave his

village. Though he has given several complaints to the police officials against the culprits but in vein.

¹³⁶ Indian Penal Code

¹³⁷ https://www.patrika.com/jaunpur-news/attack-on-advocate-lal-chand-in-jaunpur-1-2239991/

 $^{138\} https://newsclick.in/Dalits-mp-and-rajasthan-still-remain-police-custody-bharat-bandh-protests$

¹³⁹ https://idsn.org/urgent-appeal-Dalit-activists-brutally-assaulted-arrested-detained-police/

 $^{140\} http://www.timesnownews.com/india/article/anti-sterlite-protests-haunting-pictures-that-define-the-horror-faced-by-tuticorin-residents see-here/231597$

¹⁴¹ https://www.aljazeera.com/news/2018/01/concerns-illegal-detention-indian-Dalits-180110152033805.html

¹⁴² On 02.04.18, 5 Dalit activists from NDMJ, from East Champaran, Bihar were assaulted physically by non Dalit's, when they were

¹⁴³ http://www.annihilatecaste.in/uploads/downloads/doc_180518034312_232540.pdf

¹⁴⁴ https://www.ndtv.com/india-news/release-report-on-killing-of-Dalits-in-2012-police-firing-information-commission-to-government-1455335

 $^{145\} https://sabrangindia.in/article/did-anti-Dalit-what sapp-messages-shared-among-savarnas-trigger-violence-during-bharat-bandharat-$

 $^{146\} https://www.thenewsminute.com/article/how-Dalit-writer-tamil-nadu-being-ostracized-writing-against-caste-atrocities-36916$

¹⁴⁷ https://www.thequint.com/news/india/journalists-covering-Dalit-protests-arrested-by-kerala-police

https://www.thequint.com/news/india/journalists-covering-Dalit-protests-arrested-by-kerala-

¹⁴⁸ https://www.financialexpress.com/india-news/15-Dalit-protesters-booked-on-sedition-charges-in-karnal/720976/

¹⁴⁹ https://thewire.in/caste/lucknow-press-club-Dalit-protestparticipating in a peaceful protest organized near Gandhi Ghowk, East Champaran, Bihar against a regressive ruling of Supreme Court

At the conclusion of the HRC's 18th session in January 2014, India as one of the state under review have been the subject of recommendations that they develop a specific law or policy to promote and protect the work of human rights defenders.

Murder of a DHRD, Chandrakant Gaikwad

Mr. Chandrakant Gaikwad, a Dalit human rights defender, was shot dead in Pune district of Maharashtra, by dominant caste men in 2013. As an active DHRD, Chandrakant supported victims of castebased discrimination and atrocities to register cases against the perpetrators. During the course of his work, he filed an atrocity case against the accused for crimes against Dalits in Indapur block, Pune district in 2011. Chandrakant was also one of the witnesses in two other atrocity cases which were filed against the same accused in 2012. All these cases were registered under the PoA Act, leading to the arrest of the accused in January 2012. However, the accused secured bail six months later. Upon his release on bail, he conspired with others from his community to kill three DHRDs, including Chandrakant, who had together filed the cases against him. On 12 February 2013, when Chandrakant went to visit the co-DHRDs in Jamb district, the accused along with his supporters attacked the DHRDs, in the process killing Chandrakant on the spot.

According to the Special Rapporteur on the Situation of Human Rights Defenders, "The cost of working for the rights of Dalits, Adivasis and religious minorities has been risks to their lives and livelihood, and social ostracism. On the other hand, those collectivities striving for their rights have been victimized."150 Unfortunately, there is no corresponding domestic legislation in India to safeguard the rights of human rights defenders. Overall, in conclusion, despite the presence of the PoAAct. PCR Act and the provisions of the IPC, atrocities against SCs and STs have only increased over the last one decade. While on the one hand new overt and covert forms of discrimination and atrocities have surfaced, on the other hand, some traditional forms of discrimination and violence (e.g. non-entry of Dalits in the temples, violence for the shadow of Dalits falling on dominant castes, Devadasi system, etc.) have deepened. Moreover, the official data do not reflect the ground realities; where studies show a number of cases of atrocities on SCs and STs continue to go unreported.151 In such cases, where the registration of cases under the PoA Act and relevant sections still remains a challenge, victims are denied the protective and rehabilitative measures enshrined under this law, as will be analyzed in following chapters. Hence, the gaps in implementation and efficacy of the Act warrant much more effort from the duty bearers to address the rising incidents of caste-based atrocities through stricter penal measures. Further to this, the provision to step up preventive action against atrocities, as stipulated in the PoA Act and Rules also require urgent action.

150 Statement of the Special Rapporteur on Situation of Human Rights Defenders, 21 January 2011.

151 For example, see Irudayam, A., Mangubhai, J.P. and Lee, J.G., 2011. Dalit Women Speak Out: Caste, Class and Gender Violence in India. New Delhi: Zubaan, which showed that around 40% of incidents of violence against SC women, went unreported.

Atrocities monitored by NDMJ and Partners

National Dalit Movement for Justice (NDMJ), a unit of National Campaign on Dalit Human Rights (NCDHR) is spearheading a nationwide movement for asserting the civil and political rights of Dalits and Adivasis in India. It is a democratic, secular, nonparty movement of Dalit survivors, defenders, academicians and organizations headed by Dalit's to initiate, advocate and involve in mass action to address the issues of caste based discrimination and violence primarily "Untouchability" and atrocities to ensure dignity, equality and justice. NDMJ works with executive, judiciary, policy makers and communities for protection and promotion of human rights of Dalits and Adivasis by adopting multi-pronged strategies and intervenes at multilevel for ensuring access to justice to those affected by atrocities and discrimination in 20 states of India. Over the last past two decades NDMJ has found several procedural gaps in the implementation of the PoA Act such as non-registration of cases, delays in investigation, non arrests and delays in filing charge-sheets, delays in trial, delays in providing relief and rehabilitation to victims, and inadequate rates of compensation. The monitoring and accountability mechanisms are not implemented in its true sense.

Strategies:

NDMJ-NCDHR has been monitoring the incidences of atrocities since past two decades. Since last five years, the rise in atrocities against Dalits and Adivasis demands for more focused and intensive interventions. Over the years NDMJ has integrated effective interrelated and interconnected strategies to protect and promote the human rights and strengthened and expanded its Dalit human rights monitoring tools to provide legal, material, financial and emotional support to survivors of atrocities.

Fact Findings and Follow up:

Conducting fact-findings is core fundamental strategy and basic premise of Dalit Human Rights Monitoring in violence cases. Fact-findings provide the scope to interact with the survivors and accused to understand the nuances of the case. During the process of fact-finding and legal intervention, the survivors, advocates and defenders collectively pursue the case for accessing justice. NDMJ deploys differential gender and child sensitive mechanisms in women and children cases respectively. After the fact findings the cases are being followed with the implementing authorities and judiciary.

Legal Clinics:

Thereafter, the fact-finding cases with documents are presented in the legal clinics prior gaining legal advice. Legal clinics are organized to support and encourage the survivors and witnesses in the presence of defenders and advocates for embarking in the collective trajectory of accessing justice. During the legal clinics the documents are verified, legal recommendations are made and action is strategized by the legal experts for making the case robust.

Monitoring cases of violence and discrimination against women and children: NDMJ has built its perspectives, capacities and

enhanced its tools to monitor the child violation cases. Cases related to violence against women and children are being monitored by the defenders through media and ground level reporting using child sensitive approaches.

Capacity building programmes:

NDMJ continuously organize capacity building training programs for DHRDs and NDMJ endeavors to integrate women issues in each of its activities and the participation of women is continuously encouraged. Women led CSOs and CLOs, Women defenders and women advocates are encouraged to participate in the trainings, workshops and conferences.

Capacitation of Advocates and their appointment as SPPs: NDMJ has capacitated committed Dalits and Adivasis Advocates/ SPPs on important legislations and prosecution skills. The capacitated Advocates are part of state level advocates forums for building solidarity and gaining recognition in courtrooms. The Advocate forum consultations are a vibrant platform to share the case details to obtain expert suggestions and support in the critical cases. The legal clinics and advocates forum are intertwined strategies for supporting the survivors in identifying capacitated advocates from the advocate forums for appointment of Special Public Prosecutors of their own choice.

Establishing Legal Resource Centers:

To consolidate the experiences and interventions, NDMJ has nurtured unique model of Legal Resource Centres (LRCs) in Andhra Pradesh, Maharashtra, Rajasthan Tamil Nadu and Uttar Pradesh in collaboration with State partners to provide interface with the survivors, defenders and advocates. LRCs has repository of law books, resources materials and Judgement for providing information to support the advocates to understand the context, sharpen legal approaches and improve their prosecution practice.

Interventions in Higher Judiciary:

To ensure speedy justice NDMJ intervenes in higher courts and supreme courts in individual cases. NDMJ also intervenes in cases which involves constitutional issues or involves issues to the legislations its self.

Technology for monitoring atrocities:

To ensure speedy justice NDMJ-NCDHR has developed Atrocity Tracking Monitoring System (ATM) –a unique web based interactive monitoring tool with an objective to provide a tool in the hands of Dalit Human Rights Defenders (DHRDs) to report atrocities and avail timely justice.

Peoples Tribunal:

One of the effective DHRM strategy adopted by NDMJ-NCDHR is organizing People Tribunals for the most critical cases with the objective of receiving expert recommendations from the jury for case follow ups and to draw public and government attention on the atrocities and the delays and negligence prevalent in the legal enforcement agencies emerging out of caste prejudices.

Promotion and Protection of Human Rights Defenders:

The defenders are the critical first front interface with the communities familiar with the communities, aware of the local situation and are sensitive for the protection and promotion of Dalit Human Rights but they face numerous forms of threats and intimidation while supporting the victims/survivors for accessing Justice. These defenders especially women are always are at risk of rape, physical injury and murder.

Networking:

NDMJ is also building linkages with different CSOs and networks to share, review and strategize ways to strengthen civil society research, advocacy and collaboration on different issues related to Dalit's and Adivasis with a focus on themes including bias, caste discrimination and accountability.

International Advocacy:

NDMJ-NCDHR has been organizing sustained advocacy with international human rights institutions for recognition of castebased discrimination as serious human right violation at global level.

Fact Finding Analysis:

Over the last two decades National Dalit Movement for Justice (NDMJ) has been conducting Fact Finding Missions on the criminal offences perpetrated against Dalit and Adivasi communities and intervened those cases at various stages of criminal justice system right from the registration of cases in the Police Stations. Though NDMJ has conducted nearly 5,000 fact findings of the cases committed against Dalit's and Adivasis in 20 years of its working, we have analyzed 491 Fact Findings of 7 years in the implementation of the SCs and STs (PoA) Act 1989.

Non-implementation of the provisions of the PoA Act !

- Police officials invoking improper sections: Out of 491 cases 82 cases were registered under improper sections of PoA Act.
- Non-registration under PoA Act: Only in 72 cases FIR were registered under SCs & STs PoAAct, 1989.
- Registration of cases under old Act: Moreover, despite the fact that the SCs & STs PoA Act is amended in December 2015 and enforced on January 26, 2016, it clearly manifests the ignorance of the police as they register the cases invoking sections of the old Act in 262 cases which is more than 60% of the total registered cases.
- Relief and Compensation not reaching on time: The trend shows that more than 70% cases out of 491 fact finding cases relief /compensation as per the PoA Rules, 2016 was not released within 24 hrs from the registration of FIR.



Dalit women and children are found to be easy targets in committing crimes. The fact finding analysis states that:

- 43% of crimes are committed against Dalit women and Children together.
- 24 % of crimes were committed against scheduled caste women.
- 19 % of crimes were perpetrated against scheduled caste children.
- 41 % crimes against scheduled caste men are recorded through 491 fact-finding reports.
- 23 % of cases have been reported as compromised cases, though no documents have been found pertaining to it. The cases have been either compromised by Police with undue influence of the perpetrators or the local Panchayats and street political leaders.



Nature of crimes varies from sexual assault, rape, gang rape to rape and murder. Mass attack and arson has been a new trend adding to the list of crimes.



CHAPTER 3

RESPONSE OF THE ENFORCEMENT AUTHORITIES: POLICE

The process of criminal justice starts with the registration of information by the police about the commission of a crime. Non-registration of a crime ends the process of justice right at the beginning, without due scrutiny as per law. It violates the canons of justice in two major ways: firstly, it shuts the doors on the victims of crime to get justice; and secondly, it allows the criminals to escape from punishment. It also adds to the perception of fear and insecurity among public. When the criminals find that the crimes are not registered, they get further emboldened and tend to commit more crimes. When a large number of persons, after committing crimes, are allowed to get away and justice is not meted out to victims, it results in eroding the faith and confidence of the public in the effectiveness of the police and the criminal justice system. Traditionally vulnerable communities bear the brunt of this neglect. Police often do not register complaints or investigate crimes against Dalits under special laws enacted to ensure Dalit protection. Dalit victims are often poor and are often unable to obtain police assistance. They cannot afford to pay bribes that police ordinarily demand for FIR registration, or for the costs of investigation that victims are expected to cover on behalf of the police. They are less likely to be able to call local political figures to intervene with police on their behalf, while their perpetrators may have police protection due to political connections. In its own words NHRC152 recognized that police resort to various machinations to discourage SCs/STs from registering cases, to dilute the seriousness of the violence, to shield the accused persons from arrest and prosecution and, in some cases, the police themselves inflict violence. UN Committee on Elimination of Racial Discrimination in 2007153 noted with concern allegations that the police frequently fail to properly register and investigate complaints about acts of violence. This apathy and discrimination against SC/ST members, the high bias extends to other agencies of the government and percentage of acquittals and the low conviction rate in the district civil administration.

3.1 STAGE 1: FILING FIRST INFORMATION REPORT (FIR)

POLICE RESPONSE - 1

3.1.1 Non-Registration of FIRs:

Filing of the First Information Report (FIR) is of paramount importance as the process of justice begins with registration of an offence with the police station. The procedure for filing FIR has been given under Section 154 of Code of Criminal Procedure, 1973. The Constitution Bench of Supreme Court of India in its judgment dated 12.11.2013, in the W.P. (Criminal) No.68 of 2008 (Lalita Kumari vs Govt. of Uttar Pradesh and Ors) has, inter-alia, held that, "Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation". The offences under the PoA Act are cognizable. As such the police officials must file an First Information Report (FIR) in the Police Station of the area as per relevant provisions under Chapter II of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) (PoA) Act, 1989, as amended by the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) (Amendment) Act, 2015(No. 1 of 2016).

The implications of non registration of FIR or not registering cases under the appropriate sections of the PoA Act or registering cases under other laws are serious and include lesser punishment for perpetrators by diluting seriousness of the case; loss of appropriate compensation if case is registered under less serious sections; and investigation by police officers below the rank of Deputy Superintendent of Police (DSP) and above. This encourages the police to neglect their duties in successive cases and provides the accused a ground to negotiate compromises often with the collusion of the police, thereby also increasing the chances of the accused being granted bail. Even in cases which may be registered with the efforts of the victims, a large number of cases fit to be registered under the PoAAct, are registered either under the provisions of the IPC or other laws.

152 NHRC, Report on cases registered under the SC/ST (PoA) Act and the Prevention of Atrocities against SCs, New Delhi, 2002, pp.113-4) 153 CERD Committee Concluding Observations on India's Report, CERD/C/IND/CO/19, 2007, para 26

Delhi High Court on Section 4 of PoA Act

CRL.A. 667/2018 & CRL.M.A. 11836/2018, 2660-61/2020

In a Judgement dated 28.04.2020, Delhi High Court, as a reprimand to Delhi police, directed the trial court to initiate proceedings against police officers who refused to register a complaint of a Dalit man alleging abuse and harassment. The single-judge bench of Hon'ble Justice Suresh Kait, while noting that the Dalit man ran from pillar to post to get his complaint registered, directed that action be taken against the police officers, especially the SHO of the police station, Mr. Fatehpur Beri under Section 4 of the SC/ST (Prevention of Atrocities)Act.

Insensitivity of police in registering atrocities

Telengana: Reluctance of police to register cases – seen by cases lodged u/s 156(3) of which approx. 20% were later charge sheeted- showing that the SC victim in these genuine cases also had to take refuge of the court to get FIRs registered. Minutes of the Telengana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Telangana (GoT) on 21.02.2018.¹⁵⁴

Uttar Pradesh: It has come to notice of the commission that many of the cases have been registered under Section 156(3) of the Cr. P.C. This shows the insensitivity of the Police towards handling of the cases of atrocity on SCs. After the NCSC State level Review in 2015, cases registered u/s 156(3) of CrPC are being reviewed by the State Government. 1686 cases were registered u/s 156(3) of CrPC in 2015.

Minutes of State level reviews conducted by NCSC on 09.09.2015 and Minutes of the Meeting organized by NCSC on 'Monitoring the Implementation of Constitutional Safeguards for Scheduled Castes', on 21.07.2015 at Vigyan Bhawan, New Delhi.

Maharashtra: Another alarming factor noted by the Commission was that during the years 2012, 2013 and 2014, 102, 108 and 95 cases respectively have been registered under Section 156(3) of the Cr. P.C. This shows the insensitivity of the Police towards handling of the cases of atrocity on Scs.

Minutes of the State level Review Meeting of the State of Maharashtra conducted by the National Commission for Scheduled Castes with the Chief Secretary, DGP and other senior officers on 11-12 June, 2015. $^{\tt 155}$

Karnataka: There are difficulties in lodging the FIRs. *Minutes* of State Level Reviews conducted by NCSC on 16.10.2015 . ¹⁵⁶

Delhi: The Commission observed that though there are specific grievances about Delhi police not lodging FIRs as far as atrocities against SCs are concerned and conducting investigation prior to lodging of FIR. The chairman expressed deep concern about filing of counter cases and harassing the SC complaints. Security in weaker Section Juggis should be increased. Filing of FIRs should not be denied.157

Minutes of the Review meeting of NCT of Delhi by the National Commission for Scheduled Castes held on 15.09.2015 at Delhi Secretariat.

Tamil Nadu: FIRs should be registered promptly and under no circumstances an SC person should be made to approach the Hon'ble Court under Sec.156 (3) Cr. P. C. to get his case registered.

Minutes of the Meeting of the National Commission for Scheduled Castes, New Delhi headed by Dr.P.L.Punia, Hon'ble Chairman held with Tamil Nadu Government on 09.07.2015.¹⁵⁸

Rajasthan: 3014 cases were registered under 156 (3) of CrPC out of which 80% of cases turned out to be false cases. It was pointed out that this is a very high figure and appears that the police is reluctant to register cases.

Minutes of the Meeting organized by NCSC on 'Monitoring the Implementation of Constitutional Safeguards for Scheduled Castes', on 21.07.2015 at Vigyan Bhawan, New Delhi.

Registration of large number cases under Cr.PC 156 (3) indicate that there are problems in free and fair registration of cases in Police Stations. Minutes of Meeting on Monitoring of Constitutional Safeguards by NCSC – 21.07.2016

¹⁵⁴ http://ncsc.nic.in/files/minutes%20Telengana%20CS%20meeting.pdf)

¹⁵⁵ http://ncsc.nic.in/files/Maharashtra%20Minutes.pdf

¹⁵⁶ http://ncsc.nic.in/files/Karnataka0001.pdf 157 http://ncsc.nic.in/files/Delhi0001.pdf

¹⁵⁸ http://ncsc.nic.in/files/TN%20minutes.pdf

oo mup://neseme.in/nies/TN%20MINUtes.pd
POLICE RESPONSE 2

3.1.2 Not registering under amended PoAAct:

From non-registration of case, failure to investigate according to due process of law, not filing the charge sheet in court within stipulated time, not giving relief and compensation to the victims, not providing protective and preventive measures etc. until the judicial process159. In spite of law laid down by the Supreme Court, police do not register FIRs unless some direction is given by the Chief Judicial Magistrate or the High Courts. Even after orders are passed by the concerned courts for registration of case, the police do not take the necessary steps and when matters are brought to the notice of the inspecting Judges of the High Courts and during the course of inspection of Courts and Superintendent of police are taken to task, then only FIRs are registered .160

Police Impunity at its height- Non registration under amended Act!

Punjab: Police were found to be registering cases under the unamended sections of the SC/ST Prevention of Atrocities Act (PoA Act) despite the fact that the Act and Rules thereof have been extensively amended in 2015 & 2016 respectively.

Minutes of the Punjab State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Punjab (GoP) on 08.03.2018.¹⁶¹

Haryana: Commission noted the reluctance of police to register cases and apply the sections of the amended PoAAct. Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Haryana on 09.03.2018 at 11.00 a.m.¹⁶²

Rajasthan: Police were found to be registering cases under the unamended sections of the SC/ST Prevention of Atrocities Act (PoA Act) despite the fact that the Act and Rules thereof have been extensively amended in 2015 & 2016 respectively. Old provisions applied in many cases of 2017. Alwar, Bharatpur & Hanumangarh are top 3 districts with 156(3) cases in all the 4 years. This data shows that the SCs have to resort to approaching the Court for registering cases of atrocities against them.

Cases registered under section 156(3) of atrocities against Scs:

2014-15 – 3147 cases (c/s in 618 cases) 2015-16 – 2786 cases (c/s in 538 cases) 2016-17 – 1777 cases (c/s in 359) 2017-18 – 697 cases (c/s in 83 cases) Minutes of the Rajasthan State Review by National Commission for Scheduled Castes with Chief Secretary and senior officers of Government of Rajasthan (Govt. of Rajasthan) on 23.05.2018 and Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP,¹⁶³IG and other senior Police Officers of Government of Rajasthan on 23.05.2018 at 2.30 p.m¹⁶⁴

Whynon-Registration?

Discriminatory Treatment in Justice System

Haryana:

- Sections of the Manual Scavenging Act and PoA Act are not being added in FIRs where there are cases of death / injury to SC persons during manual cleaning of sewers, despite the issue being emphasized by NCSC State Office, Chandigarh. Between 2014-15 and 2017-18 there have been 18 deaths and 2 injured caused due to manual cleaning of sewers, and the proper sections were not added in the FIRs.
- In the 9 cases during 2017-18, the relevant section of SC/ST PoA Act was added in Sonepat & Gurgaon only after the cases were taken up by the Commission.
- In Palwal and Rewari cases the sections have not yet been added.
- It was seen that they were unaware of the sections of Prohibition of Manual scavenging Act and PoAAct as well as the Judgement of Hon'ble Supreme Court on the issue.
- Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Haryana on 09.03.2018 at 11.00 a.m¹⁶⁵ and Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Haryana on 09.03.2018 at 11.00 a.m¹⁶⁶

161 http://ncsc.nic.in/files/final%20minutes%20Punjab%20CS%20meeting%20.pdf)

^{159 6}th Report, Standing Committee On Social Justice And Empowerment (2014-15) (16 Lok Sabha) Ministry Of Social Justice And Empowerment (Department Of Social Justice And Empowerment.

¹⁶⁰ Human Rights Watch, Broken System: Dysfunction, Abuse and Impunity in the Indian police New York, 2009, p.45

¹⁶² http://ncsc.nic.in/files/final%20police%20minutes%20HARYANA.pdf>)

¹⁶³ http://ncsc.nic.in/pages/view/222/257-states-reviewed-(rajasthan)

¹⁶⁴ http://ncsc.nic.in/files/Rajasthan%20Police%20Minutes%20final.pdf

¹⁶⁵ http://ncsc.nic.in/files/final%20police%20minutes%20HARYANA.pdf

¹⁶⁶ http://ncsc.nic.in/files/final%20police%20minutes%20HARYANA.pdf

Rajasthan: Dalits often face difficulties in getting justice. The main causes of the discriminatory treatment meted out to the victims are

- · Refusal of police officials to register FIRs,
- · Lack of proceedings in the registered cases
- Withdrawal of complaints by the victims' families due to the pressure exerted by the upper caste perpetrators of the crime. 167

Rajasthan: Study shows that number of respondents stating denial by police officials to register FIR is

- Forms of discriminatory treatment in justice mechanism against SC were highest in- Bharatpur 45.62 % and least in Sriganganagar 36.25 %.
- No proceedings on registered case- highest were from Bharatpur 81.87 % and least in Tonk 66.87%.
- Lacks of knowledge about rights- highest were from Jodhpur 81.25 % and least from Bharatpur 59.37 %.
- Lacks of knowledge about procedure of getting justicehighest were from Kota 66.25 % and least from Tonk 61.25 %.
- Withdrawal of complaint due to pressure of upper casteshighest were from Jodhpur 60.62 per cent and least from Sriganganagar 47.5 %. 168

POLICE RESPONSE 3:

3.1.3 Not registering cases under SCs and STs (PoA) Act but under IPC and other legislations

Crimes against Scheduled Caste not registered under PoAAct (2009 - 2018): Despite the SCs and STs (PoA) Act 1989 being the premier legislation to protect security of life for SCs/STs,

over the period of 10 years (2009-2018) the data shows that 32.5 % crimes against SCs across India were not registered under SCs and STs (PoA) Act 1989 provisions and the rest were registered under other legislations. Between 2009 to 2013 the percentage of cases of atrocities not registered under the provisions of SCs and STs (PoA) Act 1989 over total crimes against SCs stood 66 % and during 2014 to 2018 the percentage of cases of atrocities not registered under the provisions of SCs and STs (PoA) Act 1989 over total crimes against SCs stood 66 % and during 2014 to 2018 the percentage of cases of atrocities not registered under the provisions of SCs and STs (PoA) Act 1989 over total crimes against SCs stood at 6 %. Refer Table 14 for detailed analysis.

Total 33,594 crimes were recorded against Scheduled Castes in 2009 and out of this a total of 11,143 crimes were reported under SCs and STs (PoA) Act thus 66.8% of crimes were not registered under PoA act in the year 2009. The percentage of non registration of cases remains almost static with 67.9 % crimes in 2010, 66.4 % crimes in 2011, 62.6 % crimes in 2012, 64.5 % crimes in 2013 were not registered under PoAAct. From 2009 to 2013 one notices that out of total crimes recorded against scheduled castes, on an average 66 % of crimes were not registered under PoAAct. From the year 2014 there is sudden increase in registration. The Crime in India data shows that 14.4% of crimes in 2014, 14.3% in 2015, 0.1% in 2016, 0.5% in 2017, 0.6% of crimes in 2018 were not registered under PoAAct to total crimes recorded against Scheduled Castes.

	Table -14								
	Crimes committed against SCs not registered under PoA Act (2009-2018)								
Year	Total Crimes Against Scs	Crimes Registered under PoA Act	% of PoA crimes to total crime against SCs	% of crimes not registered under PoA Act					
	(1)	(2)	(2)/(1) x 100						
2009	33594	11143	33.2%	66.8%					
2010	32712	10513	32.1%	67.9%					
2011	33719	11342	33.6%	66.4%					
2012	33655	12576	37.4%	62.6%					
2013	39408	13975	35.5%	64.5%					
2014	47064	40300	85.6%	14.4%					
2015	45003	38564	85.7%	14.3%					
2016	40801	40774	99.9%	0.1%					
2017	43203	42969	99.5%	0.5 %					
2018	42793	42539	99.4%	0.6 %					
Total	391952	264695	67.5%	32.5 %					
	(NCRB, Crime in India, 2009-2018)								

TRENDS

Crimes committed against SCs not registered under PoAAct (2009-2018)

- · 32.5 % of crimes against SCs across India were not registered under SCs and STs (PoA) Act 1989 provisions (2009-2018).
- 66 % of crimes against SCs across India were not registered under SCs and STs (PoA) Act 1989 provisions (2009-2013).
- · 6 % of crimes against SCs across India were not registered under SCs and STs (PoA) Act 1989 provisions (2014-2018)

3.1.4 Crimes against Scheduled Tribes not registered under PoAAct (2009 – 2018):

Over the period of 10 years (2009-2018) the data shows that 45.72 % crimes against STs across India were not registered under SCs and STs (PoA) Act 1989 provisions and the rest were registered under other legislations. Between 2009 to 2013 the percentage of cases of atrocities not registered under the provisions of SCs and STs (PoA) Act 1989 over total crimes against STs stood 79.96%. During 2014 to 2018 the percentage of cases of atrocities not registered under the provisions of SCs and STs (PoA) Act 1989 over total crimes against STs stood 79.96%. During 2014 to 2018 the percentage of cases of atrocities not registered under the provisions of SCs and STs (PoA) Act 1989 over total crimes against STs stood 21.77%. Refer Table 15 for detailed analysis.

Total 5,425 crimes were recorded against Scheduled Tribes in 2009 and out of this a total of 944 crimes were reported under SCs and STs (PoA) Act thus 82.06% of crimes were not

registered under PoA act in the year 2009. Thereafter, the percentage of non-registration of cases remains almost same with 80.14 % in 2010, 79.95 % in 2011, 77.86 % in 2012, 79.54 % in 2013. Between 2014 and 2015 the percentage of non-registration of crimes under PoAAct stood 40.39% and 42.51% respectively. From 2016 to 2016 almost all the cases were recorded under PoAAct.

Table -15								
Cri	Crimes committed against STs not registered under PoA Act (2009 – 2018)							
Year	Total Crimes Against STs	Crimes Registered under PoA Act	% of PoA crimes to total crime against STs	% of crimes not registered under PoA Act				
2009	5425	944	17.40 %	82.06 %				
2010	5885	1169	19.86 %	80.14 %				
2011	5756	1154	20.05 %	79.95 %				
2012	5922	1311	22.14 %	77.86 %				
2013	6793	1390	20.46 %	79.54 %				
2014	11451	6826	59.61 %	40.39 %				
2015	10914	6275	57.49 %	42.51 %				
2016	6568	6564	99.94 %	0.06 %				
2017	7125	7125	100.00 %	0 %				
2018	6528	6525	99.95 %	0.05 %				
Total	72367	39283	54.28 %	45.72 %				
		NCRB, Crime in India, 2009	9-2018)					

TRENDS

Crimes committed against STs not registered under PoAAct (2009 – 2018)

- 45.72 % of crimes against STs across India were not registered under SCs and STs (PoA) Act 1989 provisions (2009-2018).
- 79.96 % of crimes against STs across India were not registered under SCs and STs (PoA) Act 1989 provisions (2009-2013).
- · 21.77 % of crimes against STs across India were not registered under SCs and STs (PoA) Act 1989 provisions (2014-2018).

3.2 STAGE 2: CASE INVESTIGATION

3.2.1 High Pendency of cases with police and delay beyond stipulated 60-day time limit:

The amended SCs and STs (PoA) Rules 1995 mandates that the investigating officer so appointed to investigate the crime under SCs and STs (PoA) Act 1989 shall complete the investigation on top priority and shall file the charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days (the period is inclusive of investigation and filing of charge-sheet).

On the other hand it is evident from Table 16 and Table 17 that

the percentage of crimes recorded against Scheduled Castes, which are pending police investigation under PoA Act, have increased to 167.43 % from 6,095 cases in 2009 to 16,300 cases in 2018. In the case of crime against Scheduled Tribes, pendency of investigation has risen 376.88 % from 554 cases in 2009 to 2,599 cases by the end of 2018.

Table -16								
Pe	Pendency rate recorded under PoA Act against SCs (Police) (2009 –2018)							
Year	Total No. of Cases for investigation including pending cases from previous years	No. of cases pending investigation at the end of the year	Pendency %					
2009	16867	6095	36.5 %					
2010	16601	6710	40.4 %					
2011	17999	6254	34.7 %					
2012	18826	6435	34.2 %					
2013	20410	6850	33.6 %					
2014	53902	13514	25 %					
2015	51948	15456	29.7 %					
2016	56221	16628	29.6 %					
2017	59126	16448	27.8 %					
2018	59026	16300	27.6%					
	(NCRB, Crime in India, 2009-2018)							

The experience shows that even where the formality of registration of a case has been done, investigation is tardy. Shortage or non-availability of DSPs is another issue leading to delay in investigations. Staff is not assigned exclusively for the investigation of the atrocity cases. Police often delay investigation of atrocity cases, record statements from solely dominant castes, and see that incompetent or unauthorized officials investigate the case, thus laying the foundation for acquittal on technical grounds. Ignoring the complaints of victims, discouragement and even rejection of them, giving no credence to the version of victims but believing in the version of the victimizers, shoddy investigation, deliberately creating loopholes to benefit the accused persons, discouraging victims from pursuing the case, pressuring them to compromise, failing to expeditiously conclude investigation and above all failing to

provide necessary protection either before or even after the atrocity, are some expressions of these biases.

Table -17 Pendency rate recorded under PoA Act against STs(Police) (2009 –2018)								
2009	1589	545	34.3 %					
2010	1714	661	38.6 %					
2011	1791	672	37.5 %					
2012	1983	747	37.6 %					
2013	2137	759	35.5 %					
2014	9093	2191	24.1 %					
2015	8450	2527	29.9 %					
2016	9089	2602	28.7 %					
2017	9666	2787	28.8 %					
2018	9315	2599	27.9 %					

TRENDS

Crimes Committed against STs and SCs Registered under PoA Act pending police investigation (2009-2018).

- Percentage of PoA Act crimes pending police investigation for SCs have increased to 167.43 % with 6,095 cases in 2009 to 16,300 cases in 2018.
- In the case of crime against STs, pendency of investigation has risen 376.88 % with 554 cases in 2009 to 2,599 cases by the end of 2018.
- At the end of the year 2018 a total of 2599 cases (27.9%) were pending investigation with police officials under PoA Act for the crimes committed against SCs.
- At the end of the year 2018 a total of 16300 cases (27.6%) were pending investigation with police officials under PoAAct for the crimes committed against STs.

Rule 7 (2) of the SCs and STs (PoA) Act mandates that the investigating officer so appointed shall complete the investigation on top priority and submit the report to the Superintendent of Police, who in turn shall immediately forward the report to the Director General of Police or Commissioner of Police of the State Government, and the officer in- charge of the concerned police station shall file the charge sheet in the Special Court or the Exclusive Special Court within a period of

sixty days. However it is evident from Table 18 that in almost all the states in many cases investigations were not done in stipulated 60 days as per Rule 7(2) of amended SCs and STs (PoA) Rules 1995

			Table -18			
C No.		nded Rules 2016 flou	ted: Delay beyond 60 d		hargesheet	
S. No	States /UTs			2016 to 2017 ¹⁶⁹		
			2016		2017	
		With in 60 days	Beyond 60 days	With in 60 days	Beyond 60 days	
1.	Andhra Pradesh	292	262	430	498	
2.	Arunachal Pradesh	Not available	Not av ailable	Not available	Not available	
3.	Assam	Not available	Not available	Not available	Not available	
4.	Bihar	1969	325	1969	325	
5.	Chhattisgarh	87	169	306	322	
6.	Goa	1	3	Not available	Not available	
7.	Gujarat	966	231	918	268	
8.	Haryana	Not available	Not av ailable	Not available	Not available	
9.	Himachal Pradesh	Not available	Not available	42	45	
10.	Jharkhand	51	67	0	523	
11.	Karnataka	321	761	1360	433	
12.	Kerala	107	407	127	401	
13.	Madhya Pradesh	1638	4765	7429	782	
14.	Maharashtra	Not available	Not available	226	626	
15.	Meghalaya	Not available	Not available	0	1	
16.	Mizoram	Not available	Not available	Not available	Not available	
17.	Odisha	Not available	Not available	115	812	
18.	Punjab	21	54	11	35	
19.	Rajasthan	4028	1662	1617	1274	
20.	Sikkim	1	2	0	2	
21.	Tamil Nadu	247	476	243	454	
22.	Telangana	Not available	Not available	192	1709	
23.	Uttarakhand	60	16	64	10	
24.	Uttar Pradesh	Not available	Not available	Not available	Not available	
25.	West Bengal	1	110			
26.	Tripura	0	3	0	2	
27.	A & N Islands	Not available	Not available	0	2	
28.	Chandigarh	Not av ailable	Not available	Not available	Not available	
29.	Dadra Nagar Haveli	Not available	Not available	Not available	Not available	
30.	Daman & Diu	Not available	Not available	Not available	Not available	
31.	NCT of Delhi	14	27	4	20	
32.	Lakshadweep	Not available	Not available	Not available	Not available	
33.	Puducherry	Not available	Not available	Not available	Not available	
34.	Nagaland	Not available	Not available	Not available	Not available	
35.	Manipur	Not available	Not available	Not available	Not available	

169 Annual Reports (2013-2017), filed under section 21(4) of SCs and STs (PoA) Act 1989, filed by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment

3.3 STAGE 3: CHARGE SHEETING

3.3.1 Charge sheeting rate under PoA Act for the crimes recorded against Scheduled Castes:

From the Table 19, it can be seen that 83.2 % of the PoA Act crimes against Scheduled Castes, which were disposed off by the police in year 2009, were charge sheeted before the courts. Similarly, 87.5 % of the crimes under PoAAct, in the year 2010 were charge sheeted in the courts. The charge-sheeting rate was at 87.6 % in 2011, 90.1 % in 2012, and 87.5 % in the year 2013. In the year 2014 one can see increase in charge sheeting rate accounting for 91.7 % and decrease in 2016 with 93.5%. National Crime Record Bureau (NCRB) changed its methodology for calculating various heads under its table related to police disposal of cases in 2017 and 2018. Hence the analysis for the year 2017 and 2018 has been analyzed

separately.

One can notice from Table 20 that out of disposed off cases around 82.6 % of crimes under PoAAct were charge sheeted in the year 2017. Similarly 81.2% of cases were charge sheeted in the year 2018.

Table -19 Charge sheeting rate for the crimes committed against SCs under PoA Act (2009 - 2016) No of cases in which Investigation completed Total No. of Cases Investigatgi Charge Final Charge Total No. of Charge Cases for withd on Refused found Report Sheet cases sheeting cases investigation rawn false/ True Submitt disposed pending Rate including Mistake of Submitt ed off investigati by pending Govt Fact or ed on at the cases from Law etc end of the previous year years 2009 0 13 2651 1362 6746 10759 83.2 % 16867 6095 960 2010 16601 0 70 2150 6711 9821 6710 87.5 % 2011 17999 1937 1214 8578 6254 3 13 11729 87.6 % 2012 992 9049 12389 18826 0 2 2348 6435 90.1 % 2013 20410 2 2252 1417 9889 13558 0 6850 87.5 % 2014 53902 3 0 8186 2644 29327 40388 13514 91.7 % 51948 22 5 1868 2015 7536 26958 36492 15456 93.5 % 2016 56221 16 6 6211 2148 30999 39577 16628 78.3 % (NCRB, Crime in India, 2009-2016)

	Table -20								
Cł	Charge sheeting rate for the crimes committed against SCs under PoA Act (2017 –2018)								
	Total No. of Cases for investigation including pending cases from previous years	Cases Not Investigated Under 157_1_b CRPC	Final Report	Charge Sheet Submitte d (8)	Total cases disposed off	No. of cases pending investigation at the end of the year	Charge sheeting Rate		
2017	59390	1	7403	35173	42595	16448	82.6 %		
2018	2018 59026 0 7989 34585 42605 16300 81.2 %								
	·	(NC	CRB, Crime	in India, 2017-	2018)	·			

TRENDS

Charge sheeting rate under PoA Act for the crimes recorded against Scheduled Castes:

- On an average only **76.1%** of cases ended up in charge sheeting over the period of 2009 to 2018.
- Except for the year 2012, 2014 and 2015, charge sheeting rate remained with in the range of 81% to 87%.
- If calculate the charge sheeting rate with the total cases which came for investigation over the period of 2009 to 2018 on an average charge sheeting rate comes to 53.3%.

3.3.2 Charge sheeting rate under PoA Act for the crimes recorded against Scheduled Tribes:

From the Table 21, it can be seen that only 89.7 % of the PoAAct crimes against Scheduled Tribes, which were disposed off by the police in the year 2009, were charge sheeted before the courts. Similarly, 95.5 % of the crimes under PoAAct, in the year 2010, were charge sheeted in the courts. The charge-sheeting rate remains at 92.9% in 2011, 92.2 % in 2012, and 89.9 % in the year 2013. In the year 2014 one can see increase in charge sheeting rate accounting for 96.8 %. In the year 2015, charge-sheeting

rate accounted for 97.4. %. In the year 2016 the charge sheeting rate decreased to 81.3%. National Crime Record Bureau (NCRB) changed its methodology for calculating various heads under its table related to police disposal of cases in 2017 and 2018. Hence the analysis for the year 2017 and 2018 has been analyzed separately. One can notice in Table 22 that 84.8 % of crimes against Scheduled Tribes, which were disposed off by police in 2017, were charge sheeted before the courts. Similarly only 83.4 % of cases were charge sheeted in the year 2018.

				Table	e –21				
Chc	arge sheeting	g rate f	or the cri	mes committ	ed agains [.]	t STs unde	r PoA A		2016)
				No of cases in	wh ich Inves	tigation comp	leted		
	Total No. of Cases for investigation including pending cases from previous years (3)	Cases withd rawn by Govt	Investig atgion Refuse d	Charge found false/ Mistake of Fact or Law etc	Final Report True Submitte d	Charge Sheet Submitte d	Total cases dispo sed off	No. of cases pending investigati on at the end of the year	Charge sheeting Rate
2009	1589	0	10	263	81	690	1034	545	89.7 %
2010	1714	0	4	223	37	789	1049	661	95.5 %
2011	1791	1	2	220	64	832	1116	672	92.9 %
2012	1983	0	0	240	79	917	1236	747	92.2 %
2013	2137	0	2	243	115	1020	1378	759	89.9 %
2014	9093	2	2	1518	170	5189	6900	2191	96.8 %
2015	8450	4	1	1364	118	4407	5923	2527	97.4 %
2016	9089	4	1	1062	119	5272	6483	2602	81.3 %

	Table -22								
CI	Charge sheeting rate for the crimes committed against STs under PoA Act (2017 –2018)								
	Total No. of Cases for investigation including pending cases from previous years	Cases Not Investiga ted Under 157_1_b CRPC	Final Report	Charge Sheet Submitted (8)	Total cases disposed off	No. of cases pending investigation at the end of the year	Charge sheeting Rate		
2017	9666	1	1034	5818	6860	2787	84.8 %		
2018	9315	0	1108	5584	6699	2599	83.4 %		

TRENDS

$Charge sheeting rate under PoA \ Act for the crimes recorded against Scheduled Tribes:$

- On an average 78.9% of cases ended up in charge sheeting over the period of 2009 to 2018.
- · If calculate the charge sheeting rate with the total cases which came for investigation over the period of 2009 to 2018 on an average

only 55.6% of cases ended up in charge sheeting over the period of 2009 to 2018

High pendency of cases with police and delay in filing Charge Sheet

Maharashtra: A large pendency of 5644 cases at the end of 2014 is with the police for investigation.

Minutes of the State level Review Meeting of the State of Maharashtra conducted by the National Commission for Scheduled Castes with the Chief Secretary, DGP and other senior officers on 11-12 June, 2015.

Telengana: The percentage of atrocity cases pending for investigation at level of police (42.90, 42.30 & 54.30 in 2014, 2015 & 2016 respectively) are much higher than the National average of 25.10, 29.70 & 29.60 for 2014, 2015 & 2016 respectively.

Minutes of the Telengana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Telangana (GoT) on 21.02.2018.

Delhi: The Commission observed that though there are specific grievances about conducting investigation prior to lodging of FIR. Also but under-investigation cases have increased manifold.170

Minutes of the Review meeting of NCT of Delhi by the National Commission for Scheduled Castes held on 15.09.2015 at Delhi Secretariat.

Haryana: Commission enquired as to reasons why the charge sheets in 2014, 2015, 2016 and 2017 (upto September 2017) cases have not yet been submitted. The delay is particularly serious in 2016 & 2017 cases as the amended PoA Act and Rules have laid down a 60-day time limit for the completion of investigation. The delay in filing charge sheets puts a pressure on the poor SC victims to compromise with the accused .171 *Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Haryana on* 09.03.2018 at 11.00 a.m

Prior to the review, a list of 25 cases being followed up by NCSC state office Chandigarh, was sent to the DGP for response. It was seen that the senior officers were unprepared with the details, even for murder and rape cases, reasons for closure of 25% cases and charge sheets not being filed in 2014, 2015. 2016 & 2017 (upto Sept) were not available. ADGP Shri OP Singh was found to be particularly argumentative and not prepared to respond with any reply despite the fact that the figures quoted by NCSC were from the data supplied by the State Government and NCRB. The Commission viewed this seriously and the review was immediately stopped, as the officers were clearly unprepared and indifferent towards resolving issues of the Scheduled Castes. The Principal Secretary Home & DGP were advised that the officers particularly the ADGP concerned should be counseled to be responsive and prepared for review meetings.

Tamil Nadu: The Hon'ble Chairman suggested that the atrocity cases should be charge sheeted immediately and case be filed in the Hon'ble Court. He further opined that in case the charge sheet is not filed immediately, the witness and the victim may loose interest and faith in the case.

Minutes of the Meeting of the National Commission for Scheduled Castes, New Delhi headed by Dr.P.L.Punia, Hon'ble Chairman held with Tamil Nadu Government on 9.7.2015.

¹⁷⁰ http://ncsc.nic.in/files/Delhi0001.pdf

¹⁷¹ http://ncsc.nic.in/files/final%20police%20minutes%20HARYANA.pdf>

Non-registration of cases or non-registration under proper sections of the PoA Act means that the process ensured lesser punishment for perpetrators by diluting seriousness of the case. Victims lose higher compensation if case is registered under less serious sections. Encourages police to neglect their duties in successive cases. Also encourages police collusion with dominant caste perpetrators of atrocities in future.

Undue delay in investigations and failure to file charge sheets early results in slow disposal of cases which, in turn, causes undue delay for the victims to access justice. This has negative social and psychological consequences for the victims, legal implications for the cases (e.g. police colluding with offenders to manipulate witnesses and evidence), not to speak of violation of victims' right to security of life as a result of pressure, threats or force from perpetrators and/or others to withdraw cases. Another serious consequence of delaying investigation and charge sheeting of cases of atrocities beyond the 30-day legal limit under the SC/ST (PoA) Act or the 90-day limit under the IPC, especially for offences attracting up to life imprisonment like rape, murder and grievous hurt, is that the accused are almost certain to get bail from the courts. This delay in charge sheeting can also affect the direction of the court case to a large extent, where courts let off the accused on the sole ground of delay in filing the charge sheet. There fore there is a need the government must ensure to provide effective protection to SCs and STs; ensure complaints under SC/ST (PoA) Act and other criminal law provisions are properly registered and investigated, perpetrators prosecuted and sentenced, and victims compensated and rehabilitated; introduce mandatory training on the SC/ST (PoA) Act for police, take disciplinary or criminal law measures against law enforcement officers who violate their duty of protection and/or investigation in relation to atrocities.

CHAPTER 4

RESPONSE OF THE ENFORCEMENT AUTHORITIES: JUDICIARY

The amendment made to the act in the year 2016 envisages the establishment of exclusive special courts to deal with offences committed under this act. The effectiveness of these courts depends on whether they are located in areas where they will be of great use. Ideally, states that have a higher incidence of these crimes should also have a higher number of special courts, in order to ensure there are adequate resources to dispose of these cases. In fact, the amendment envisages setting up of these exclusive courts in districts where there is high incidence of such crimes. According to the Section 14 of the PoAAct as amended and enforced with effect from 26.01.2016, for the purpose of providing for speedy trial, an Exclusive Special Court for one or more districts must be established. These Courts have powers to take direct cognizance of offences under the Act, and it is the duty of the State Government to establish adequate number of Courts to ensure that cases under the Act are disposed of within a period of two months, as far as possible.

4.1 Speedy trial vitiated: Inadequate Exclusive Special Courts

Setting up of Special Courts and their functioning falls within the domain of the State and Union Territory Governments and respective High Courts who set up such courts as per their need and resources, in accordance with Section 8 of the "The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) (PoA) Amendment Act, 2015". The Act further empowers State Government to specify for each district, a Court of Session to be a Special Court for the purpose, in those Districts where less number of cases under this Act are filed. However as per information received from the annual report of ministry of social justice and empowerment it seems that the States are lagging behind in setting up exclusive special courts even though the 14th Finance Commission endorsed the proposal of the Union Government to strengthen the judicial system in States, which included, inter-alia, establishing 1800 Fast Track Courts at a cost of Rs. 4144 crore for cases involving vulnerable and marginalized sections of the society. The State Governments were urged to use the additional fiscal space provided by the Commission in the form of enhanced tax devolution (from 32% to 42%) to meet such requirements .172

States/UTs where no Exclusive Special Courts established are -

Arunachal Pradesh, Assam, Goa, Haryana, Himachal Pradesh, Kerala, Manipur, Meghalaya, Mizoram, Nagaland, Punjab, Sikkim, Telangana, Tripura, Uttarakhand, West Bengal, Andaman Nicobar Islands, Daman & Diu, Chandigarh, Dadra Nagar Haveli, Delhi, Lakshadweep and Puducherry. See Table 23 for the list of Exclusive Special Courts functioning in India.

States where No Special Court has been set up

Arunachal Pradesh, Manipur, Nagaland, Daman & Diu and Lakshadweep.

	Table-23 Exclusive Special Courts setup under PoA Act							
S No	State		Number of					
S.No	State	Total Number of Districts in the State	Districts with Exclusive Special Courts	Details of Exclsuive Special Courts				
1.	Andhra Pradesh	13	01	Laxmipeta village at Srikakulam				
2.	Bihar	38	05	Patna, Gaya, Bhagalpur, Muzaffarpur and Begusarai Districts				
3.	Chattisgarh	27	03	Mahasmund, Dhamtari and Kondagaon				
4.	Gujarat	33	16	Ahmedabad (Rural), Anand, Banaskantha, Bharuch, Bhavnagar, Junagadh, Jamnagar, Gandhinagar, Bhuj, Mehsana, Patan, Rajkot, Surat, Surendranagar, Vadodara and Ahmedabad (City)				
5.	Jharkhand	24	04	Ranchi, Hazaribagh, Dhanbad and Deogher				
6.	Karnataka	30	08	Belagavi, Vijapura, Kalaburagi, Kolar, Mysuru, Raichur, Ramnagar and Tumkuru				
7.	Madhya Pradesh	52	43	Gwalior, Shivpuri, Guna, Morena, Sheopur, Bhind, Datia, Ujjain, Mandsore, Neemach, Ratlam, Dewas, Shajapur, Jabalpur, Katni, Chindwara, Seoni, Narsingh pur, Mandla, Balaghat, Rewa, Satna, Sidhi, Shahdole, Hoshangabad, Harda, Raisen, Betul, Bhopal, Sehore, Rajgarh, Videsha, Indore, Dhar, Jhabua, Khargone, Barwani, Khandwa, Sagar, Damoh, Panna, Chhatarpur and Tikamgarh.				
8.	Maharasthra	36	03	Nagpur, Aurangaba d and Mumbai (Thane)				
9.	Odisha	30	03	Cuttack, Bolangir and Balasore				
10.	Rajasthan	33	25	Jaipur, Ajmer, Kota, Jodhpur, Udaipur, Bikaner, Pali, Merta (Nagaur), Alwar, Chittorgarh, Dausa, Ganganagar, Jhalawar, Sawai Madhopur, Baran, Tonk, Bhilwara, Barmer, Bhara tpur, Bundi, Dholpur, Hanumangarh, Jhunjhunu, Karouli and Sirohi.				
11.	Tamil Nadu	32	06	Trichy, Thanjavur, Madurai, Thirunelveli, Villupuram, Sivagangai				
12.	Uttar Pradesh	75	40	Farrukhabad, Unnao, Basti, Banda, Etawah, Hamirpur, Gonda, Kanpur Nagar, Badaun, Sul tanpur, Barabanki, Bulandsahar, Gorakhpur, Varansi, Pilibhit, Etah, Deoria, Jhansi, Faizabad, Agra, Kanpur Rural, Bairach, Lucknow, Jalaun (Urai), Meerut, Gaziabad, Siddarth Nagar, Mirzapur, Chandoli, Balrampur, Fatehpur, Gazipur, Mainpuri, Kann auj, Bareil Iy, Gautam Buddha Nagar, Hardoi, Shravasti, Bagpat and Jyotiba Phule Nagar				
Total		423	157					
	(A	nnual report of the	e Ministry of Social Ju	stice and Empowerment,2018 - 19)				

Exclusive Special Courts not established even after High Court orders¹⁷³ Tamil Nadu (2015)

Disposing of the case on June 10, 2015, a Bench comprising the then Chief Justice Sanjay Kishan Kaul and Justice T.S. Sivagnanam recorded the willingness of the State government to establish special courts in other districts too on the basis of a proposal to be submitted by the R-G after ascertaining number of pending cases. Accordingly, the R-G submitted a proposal to the government on October 1, 2015 for establishing 16 courts in Dindigul, Ramanathapuram, Srivilliputtur, Pudukottai, Kancheepuram, Perambalur, Theni, Tiruppur, Tiruvannamalai, Theni, Vellore, Tiruvarur, Thoothukudi, Kanniyakumari, Coimbatore and Namakkal at an expenditure of 22.07 crore. The government accepted the proposal on April 6, 2017 but accorded administrative sanction only for 12.88 crore as against 22.07 crore sought by the High Court. It was further decided to establishing four courts in the first phase. As per plan every special court would be headed by a District Judge and assisted by 13 employees including sheristadar, head clerk, masalchi, typist and watchman. It was made clear that those courts would be accommodated in private rented buildings and the rent would be fixed by the Public Works Department as per orders in force. Financial approval was also granted for purchase of cars for every special court at a cost of 8.5 lakh and furniture at a cost of 2 lakh. A similar approval was granted even for the second phase on October 3, 2018. Yet, the process of making the special courts functional was getting delayed

Shocking News Number of Exclusive Special Courts Reduced !

States have been slacking in setting up exclusive special courts for trial of cases filed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, a year after the amended act made it mandatory to do so, the data from social justice and empowerment ministry for the year 2017-18 says that only 157 Exclusive Courts have been set up for hearing cases registered under the PoA Act across the country which have been reduced over 2017 and 2018. Refer Table 24 for details. empowerment under Section 21(4) of the PoA Act for the year 2009, there were 171 exclusive courts functioning in 2009 which increased to 195 in 2016. However from the year 2017 the numbers of exclusive special courts were reduced to 157 and remained same in 2018. No reason has been given as to why the exclusive special courts have been reduced over the years. India has more than 700 districts, thus making the number of such exclusive courts less than a third of the number of districts in India. To make the matters worse, only 12 states have set up these exclusive courts so far.

As per the Annual report filed by ministry of social justice and

	Table -24						
Year	No of Exclusive Special Courts reduced (2009 –2018)						
2009	171						
2010	170						
2011	178						
2012	187						
2013	190						
2014	193						
2015	194						
2016	195						
2017	157						
2018	157						
	Source: Annual Reports under Section 21(4) of PoA Act, 2009 to 2018 and Lok Sabha Starred Question No 149 answered on 13 .02.2019 by Mr. Ravi Shankar Prasad, Minister of Law and Justice on Exclusive Special Courts.						

Designated Special Courts are overburdened!

Another reason for the delay in trials is that these "special courts" are also overburdened with cases as they also have to take up non-atrocity cases. In one of the study on Special Courts174 established under PoAAct it was found that in court at Alwar in Rajasthan has been designated as Exclusive Special Court and it also takes up non-atrocity cases though fewer in numbers than the other four courts studied. The Report brings out that because of the fewer number of non-atrocity cases that the Exclusive Special Court at Alwar has to take up, it could cover about 400 cases of atrocities per year, which is around double the number of cases covered by the other four courts. Similarly, the study also reveals that the court at Banda in UP has over 100 pending cases of atrocities dating back as far as 1998.

Exclusive Special Courts not functioning as Exclusive Special Courts!

Study of 5 Special Courts established under SCs and STs (PoA) Act conducted in 2014 found (See below Table 25) "the most striking data is that all the Special Courts, whether designated or exclusive, are trying non-SC/ST atrocity cases in addition to atrocity cases. In other words, Exclusive Special Courts are not functioning as exclusive courts in reality. This seems to be occurring regardless of the high number of atrocity cases pending trial before the Exclusive Special Courts.

	Table 25							
Fiv	ve Special Cou	irts trying non	SC/ST atroci	ty cases				
Information	Rangareddy, AP	Palamu, JHK	Alwar, RAJ	Villupuram, TN	Banda, UP			
Type of Special Court	Exclusive	Designated	Exclusive	Designated	Exclusive			
Year of Establishment	2008	2010	1992	1993	1998			
Approx. no. of atrocity cases tried per month	120	20 - 30	400	20 - 30	150			
Approx. no. of other (non - atrocity) cases tried per month	180	100-120	3	110	200			
Approx. no. of cases reaching judgment per year*	55	10	50	30	55			
No. of appeals filed in 2012	15	3 (2010 - 12)	approx. 5 - 6	n/a	approx. 4 - 5			

What is the efficacy of designated courts?

There were 1,88,880 cases pending in 702 special courts that were set up following provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as on 24.07.2019. State governments and union territory administrations either establish exclusive special courts for one or more districts or designate sessions courts to be a special court for such districts where there are less number of cases under this Act. At present, a majority of the state governments and union territory administrations have designated district session courts as special courts.

As can be seen from Table 26, Maharashtra has the highest number of Special courts, while Chandigarh, Goa and Mizoram have less than two. According to the Law Ministry, about 1,88,880 cases are pending across the 702 courts in India as on 31.03.2019. While Uttar Pradesh has the highest number of such cases at 70,266 pending before its 75 special courts,

Bihar's 37 courts have 46,951such cases. Madhya Pradesh, Odisha and Rajasthan that have 50, 94 and 35 special courts, respectively, have more than 10,000 pending cases. Section 14 of the PoA Act mandates Special Courts to dispose of these cases within 60 days after filing of charge sheet in the court. But in reality in only 312 cases have been disposed off with in 60 days from 6 states (Chhattisgarh, Maharashtra, Gujarat, Haryana, Punjab, Karnataka). No information is available from other states and UTs.

¹⁷⁴ Justice Under Trial, Caste Discrimination in Access to Justice before Special Courts, Mr. Rahul Singh and J.P. Mangubhai NDMJ, 2014.

	Table -26									
	Special Courts unable t	o dispose off cases with in 60 days	as mandated under Sec 14	of PoA Act						
	Designated S	pecial Cousrts et up as per the provi	sions of the SC/ST (PoA) Ac	t						
S.No	Name of the State/UT	(As on 31.03.2019) No. of Special District Courts functional as per the provisions of the Prevention of Scheduled Castes and Scheduled Tribes (PoA) Act (as on 31.03.2019)	Number of Cases pending before State /UTs Special Courts	Status of cases disposed off with in 60 days						
1.	Andhra Pradesh	13	3698 as on 31.03.2019	-						
2.	Mizoram	02	0 as on 31.03.2019	-						
3.	Nagaland	08	0 as on 31.03.2019	-						
4.	Bihar	37	46951 as on 30.06.2019	-						
5.	Chhat tisgarh	23	975 as on 31.03.2019	90						
6.	Delhi	11	271 as on 31.03.2019	-						
7.	Goa	02	27 as on 31.03.2019	0*						
3.	Maharashtra	170	6435 as on 31.03.2019	5*						
9.	Gujarat	63	4462 as on 15.07.2019	154**						
10.	Haryana	21	982 as on 30.06.2019	47						
11.	Punjab	22	267 as on 30.06.2019	14						
12.	Chandigarh	01	02 as on 30.06.2019	0						
13.	Jharkhand	24	1952 as on 31.03.2019	-						
14.	Karnataka	32	5373 as on 01.07.2019	02***						
15.	Kerala & Lakshadweep	14	2174 as on 31.03.2019	-						
16.	Madhya Pradesh	50	18042 as on 30.06.2019	-						
17.	Odisha	94	11495 as on 31.03.2019	-						
18.	Rajasthan	35	10773 as on 31.03.2019							
19.	Sikkim	04	03 as on 31.03.2019	-						
20.	Tamil Nadu	06	1356 as on 31.03.2019	-						
21.	Tripura	05	03 as on 31.03.2019	-						
22.	Uttar Pradesh	40	70266 as on 31.03.2019	-						
23.	Uttarakhand	13	251 as on 31.03.2019	-						
24.	Telangana	10	3115 as on 31.03.2019	-						
25.	Daman & Diu	01	01 as on 31.03.2019	0						
26.	Dadra & Nagar Haveli	01	06 as on 31.03.2019	-						
27.	Total	702	1,88,880	312						

* Number of cases disposed off with in two months from the date of filing charge sheet till 31.01.2019.

** Number of cases dispo sed off with in 15.05.2019 to 15.05.2019.

*** Number of cases of disposed off with in 60 days during year 2018.

(Source: Ministry of Law and Justice, Lok Sabha Unstarred Question No: 5177 District Courts by Mr. Ravi Shank ar Prasad) . Answered On: 24.07.2019 on Special

4.2 Specification of Special Public Prosecutors and Exclusive Special Public prosecutors:175

Andhra Pradesh: Special Public Prosecutors and Exclusive Special Public Prosecutors have been appointed to plead the cases in 13 Special Courts and in 1 Exclusive Special Court.

Bihar: Special Public Prosecutors have been appointed in 31 Special Courts and Exclusive Special Public Prosecutors in 5 Exclusive Special Courts, to plead the cases under the PoAAct.

Chhattisgarh: Special Public Prosecutors have been appointed in 21 Special Courts and Exclusive Special Public Prosecutors appointed in 3 Exclusive Special Courts, to plead the cases under the PoAAct.

Goa: Two Special Public Prosecutors were appointed for conducting PoA Act related cases in the Special Courts in the North Goa District and South Goa District.

Gujarat: 27 Special Public Prosecutors have been appointed for 33 Special Courts and 16 Exclusive Special Public Prosecutors have been appointed for 16 Exclusive Special Courts, for conducting cases under the PoAAct.

Himachal Pradesh: All the Public Prosecutors (District Attorneys) attached with the Court of District and Session Judges have been designated as Special Public Prosecutors to conduct cases of offence under the PoA Act, within their respective jurisdiction.

Jharkhand: 20 Special Public Prosecutors have been appointed for 20 Special Courts and 4 Exclusive Special Public Prosecutors have been appointed for 4 Exclusive Special Courts, for conducting cases under the PoAAct.

Karnataka: 22 Special Public Prosecutors were specified for conducting cases in the twenty two designated Special Courts. Further eight Exclusive Special Public Prosecutors were specified for conduct the cases in eight Exclusive Special Courts.

Kerala - Special Public Prosecutors have been specified for conducting cases in the designated Special Courts.

Madhya Pradesh: At present 7 Special Public Prosecutors have been specified in the seven designated Special Courts and 43 Exclusive Special Public Prosecutors have also been specified in 43 Exclusive Special Courts, to conduct the cases of offence of atrocities under the PoAAct.

Meghalaya: Special Public Prosecutors have been appointed, to try cases under the PoAAct in Special Courts. Mizoram: Additional Public Prosecutors have been appointed, to try cases under the PoAAct in Special Courts.

Odisha: At present twenty nine Special Public Prosecutors have specified in the ninety two designated Special Courts and three Exclusive Special Public Prosecutors have also been specified in three Exclusive Special Courts, to conduct the cases of offence of atrocities under the PoAAct.

Punjab: In the State all the Public Prosecutors have been specified as Special Public Prosecutors, to conduct the cases of offence of atrocities under the PoAAct.

Rajasthan: 25 Special Public Prosecutors were specified to conduct the cases in 25 designated Special Courts.

Sikkim: 2 Special Public Prosecutors were specified to conduct the cases in designated Special Courts.

Tamil Nadu- 20 Special Public Prosecutors were specified to conduct the cases in designated Special Courts and 13 Exclusive Special Public Prosecutors were specified in Six Exclusive Special Courts.

Telangana: As per the Section 15 of the PoA Act, 10 Special Public Prosecutor in 10 Special Courts has been appointed to conduct trial of cases under the PoAAct.

Tripura: 8 Special Public Prosecutors were specified to conduct concerned cases in the designated Special Courts.

Uttarakhand: Special Public Prosecutors were specified to conduct the cases in designated Special Courts.

West Bengal: First Additional Session Court has been designated as a Special Court in all the Districts except Kolkata and newly created districts of Pachim Burdwan, Jhargram and Kalimpong for trial of cases of offences of atrocities under the PoAAct. In all districts, Special Public Prosecutors have been appointed to conduct the cases of atrocities on SCs and STs in the Special Court.

Andaman And Nicobar: Special Public Prosecutor has been specified for conducting cases of offences of atrocities in the Special Court.

Chandigarh: The District Attorney, Chandigarh has been specified as the Public Prosecutor for the purpose of conducting cases in the Special Court.

Dadar and Nagar Haveli: The Public Prosecutor of the District and Session Court has been appointed to deal with cases under the PoAAct.

¹⁷⁵ Annual Reports under Section 21(4) of PoA Act filed by Min of Social Justice and Empowerment, Year

Puducherry: Special Public Prosecutor has been appointed for trial of cases under the PoAAct.

Special Public Prosecutors are overburdened with the atrocity cases ...

According to the data as on July 2019176 there were 1,88,880 cases pending in 702 special courts that were set up following provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act till march, 2019. The exact number of public prosecutors appointed under PoA Act Act is not known as information for some of the states is lacking. Latest available information on appointment of SPPs for special courts is available in report filed by ministry of social justice and empowerment u/s 21 (4) of SCs and STs (PoA) Act 1989 for the year 2017. The information in Table 27 and experience, however, shows that the public prosecutors are overburdened with cases and their number is not adequate enough to efficiently handle the cases entrusted to them.

- Uttar Pradesh has the highest number of cases at 70,266 pending before its 40 special courts with 40 Special Public Prosecutors. On an average each public prosecutor is handling 1756 cases.
- Bihar's 37 courts have 46,951 such cases handled by 37 SPPs thus on an average each SPP is handling 1268 cases.
- Andhra Pradesh's 13 courts have 3698 pending cases to be handled by 13 SPPs. Thus on an average each SPP will be handling 284 cases.
- Madhya Pradesh's 50 special courts have 18042 pending cases to be handled by 50 SPPs. Thus on an average each SPP will be handling 360 cases.
- Jharkhand's 24 courts have 1952 such cases handled by 24 SPPs, thus on an average each SPP is handling 81 cases.
- Odisha's 94 courts have 11495 such cases handled by 29 SPPs, thus on an average each SPP is handling 122 cases.
- Rajasthan's 35 courts have 10773 such cases handled by 35 SPPs, thus on an average each SPP is handling 307 cases.
- Telangana's 10 courts have 3115 such cases handled by 10 SPPs, thus on an average each SPP is handling 311 cases.
- Tamil Nadu 6 Special courts having 1356 cases handled by 6 SPPs, thus on an average each SPP is handling 226 cases.
- · In states of Goa, Uttarkhand, Haryana, Maharashtra,
- *Punjab, Tamil Nadu, Chhattisgarh and Delhi* each of the Public Prosecutor is handling 13, 19, 46, 37, 12, 42 and 24 cases respectively.

SCs and STs (PoA) Act mandates completion of the trial on day to day basis thus one can imagine how such high number of cases entrusted to SPPs would be prosecuted inside the court

on daily basis vitiating not only the mandated provision but the speedy trial. It is difficult to fix a norm as to the number of cases to be entrusted to a public prosecutor, as it would depend on the nature of the case. Further, the performance of a public prosecutor is largely dependent on the performance of the presiding officer and other collateral factors. While there is a case for increasing the number of criminal courts, there is equally a case for increasing the number of public prosecutors. As a norm, at least two public prosecutors of the appropriate level should be attached with each court.

		То	ble -27					
Number of cases each public prosecutor handling on an average under PoA Act								
S.No	Name of the State/UT	No. of Special District Courts functional as per the provisions of the PoA Act (as on 31.03.2019)****	Number of Cases pending before State /UTs Special Courts****	Number of cases each public prosecutor handling on an average (Assuming each special court has 1 SPP)				
1.	A.P	13	3698 as on 31.03.2019	284				
2.	Mizoram	02	0 as on 31.03.2019	-				
3.	Nagaland	08	0 as on 31.03.2019	-				
4.	Bihar	37	46951 as on 30.06.2019	1268				
5.	Chhattisgarh	23	975 as on 31.03.2019	42				
6.	Delhi	11	271 as on 31.03.2019	24				
7.	Goa	02	27 as on 31.03.2019	13				
8.	Maharashtra	170	6435 as on 31.03.2019	37				
9.	Gujarat	63	4462 as on 15.07.2019	70				
10.	Haryana	21	982 as on 30.06.2019	46				
11.	Punjab	22	267 as on 30.06.2019	12				
12.	Chandigarh	01	02 as on 30.06.2019	2				
13.	Jharkhand	24	1952 as on 31.03.2019	81				
14.	Karnataka	32	5373 as on 01 .07.2019	167				
15.	Kerala & Lakshadweep	14	2174 as on 31.03.2019	155				
16.	M.P	50	18042 as on 30.06.2019	360				
17.	Odisha	94	11495 as on 31.03.2019	122				
18.	Rajasthan	35	10773 as on 31.03.2019	307				
19.	Sikkim	04	03 as on 31.03.2019	1				
20.	Tamil Nadu	06	1356 as on 31.03.2019	226				
21.	Tripura	05	03 as on 31.03.2019	1				
22.	Uttar Pradesh	40	70266 as on 31.03.2019	1756				
23.	Uttarakhand	13	251 as on 31.03.2019	19				
24.	Telangana	10	3115 as on 31.03.2019	311				
25.	Daman & Diu	01	01 as on 31.03.2019	1				
26.	Dadra & Nagar Haveli	01	06 as on 31.03.2019	6				
27.	Total	702	1,88,880					

* Number of cases disposed off with in two months from the date of filing charge sheet till 31.01.2019.

** Number of cases disposed off with in 15.05.2019 to 15.05.2019.

*** Number of cases of disposed off with in 60 days during year 2 018.

**** Designated Special Courts set up as per the provisions of the SC/ST (PoA) Act

(As on 31.03.2019) (Source: Ministry of Law and Justice, Lok Sabha Unstarred Question No: 5177 Answered On:

24.07.2019 on Special District Courts by Mr. Ravi Shankar Pr asad)

Poor competency of Special Public Prosecutors questioned !

National Commission for Scheduled Castes in its 2016 annual report177 noticed that in the absence of engagement of Exclusive Public Prosecutors, the atrocities cases are either prolonged or ended in acquittal due to faulty prosecution procedure. Instances are numerous wherein it has been noticed that the witnesses of the cases are withdrawn at crucial stage of the case. If atrocity incidences in particular districts are large, then steps may be taken to change the special public prosecutor and in case of repeated poor performance of the special public prosecutor, administrative action may be initiated. As per the POA (Amendment) Act 2015. State Governments are to set up Exclusive Courts and Exclusive Public Prosecutors of high eminence are to be engaged so as to minimize acquittal rate. Performance of the Special Public Prosecutor also need to be monitored to ensure no laxity so far as dealing of atrocity cases in courts.

Efficacy of the Special Public Prosecutors at Stake!!

Disturbing trends related to the actions of the Special Public Prosecutors (SPPs): In a study of five Special Courts178 conducted in the year 2014, the discussions with victims and witnesses whose cases are pending trial before the five Special Courts revealed a number of disturbing trends related to the actions of the Special Public Prosecutors (SPPs).

- The SPP does not allow victims or witnesses to enter into his chambers, while the accused and defence advocate can enter.
- The SPP charges money to the victims each time that he represents them in court, despite the fact that he already receives a salary from the government.
- The SPP does not brief victims and witnesses as to the court process, the status of their case and how to give their statements before the court.
- · The SPP does not prepare well for arguing the cases.
- The SPP is biased against the victims and believes they are bringing false cases to trial.
- The SPP threatens or coerces the victims and witnesses to compromise the cases or turn hostile witness in court.
- The SPP is colluding with the defence advocate to ensure acquittal of the cases.
- The SPP or judge uses abusive or rough words with the victims and witnesses in the courtroom.
- The SPP is not appealing acquittals to the High Courts, even where there is a reasonable chance of overturning the lower court ruling.

Recommendations for Setting up of Exclusive Special Courts and Special Public Prosecutors

National Commission for Scheduled Castes: Setting up of exclusive Special Courts and appointment of Special Public Prosecutors should be expeditiously done.

Minutes of Meeting on Monitoring of Constitutional Safeguards by NCSC - 21.07. 2016.

Haryana: The State Government needs to assess and improve the performance of the Special Public prosecutors. Exclusive Special Courts need to be set up in all districts under sub section (1) of section 14 of the SC/ST Prevention of Atrocities Act as amended in 2015. 180

Minutes of the Haryana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Haryana (GoH) on 09.03.2018.

Rajasthan: Setting up of exclusive Special Courts - necessary as per Section 14 of PoAAct .181

Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Rajasthan on 23.05.2018 at 2.30 p.m

Jharkhand: For the speedy trials of the cases chairman recommended for establishment of exclusive special courts in every district.

Minutes of State Level Review for the State of Jharkhand conducted under the Chairmanship of Dr. P.L Punia NCSC on 02.02.2016 and 03.02.2016.¹⁸²

Chhattisgarh: The State of Chhattisgarh was specifically proposed to appoint Special Public Prosecutors from regular cadre & that IO should be present during the trial.

Minutes of the Meeting organized by NCSC on 'Monitoring the Implementation of Constitutional Safeguards for Scheduled Castes', on 21.07.2015 at Vigyan Bhawan, Delhi.

178 http://www.annihilatecaste.in/uploads/downloads/doc_141220080504_249324.pdf

182 http://ncsc.nic.in/files/Jharkhand_minutes.pdf

¹⁷⁷ Annual Report 2016-17 (April to September 2016), National Commission for Scheduled Castes, NCSC

¹⁷⁹ http://ncsc.nic.in/files/minutes%20Telengana%20CS%20meeting.pdf

¹⁸⁰ http://ncsc.nic.in/files/Final%20minutes%20HARYANA%20CS%20meeting.pdf

¹⁸¹ http://ncsc.nic.in/files/Rajasthan%20Police%20Minutes%20final.pdf

4.3 High pendency of cases before the Special Courts:

4.3.1 Pendency of crimes against Scheduled Castes under SCs and SCs (PoA) Act:

Table 28 shows that at the end of 2018, a total of 172794 crimes under SCs and STs (PoA) Act 1989 against SCs remained pending trial in courts across the country, accounting to 93.5%

to the total number of cases came for trial during 2018, thus showing no improvement over the trial pendency rate since 2009 where in the trial pendency rate under PoA Act was recorded at 82.9 %. The trial pendency rate for crimes registered under the SCs and STs (PoA) Act 1989 has not decreased below 78.9 % over one decade, averaging 88.5 %. Reality shows no 'speedy trials' for crimes registered against Scheduled Castes under the SCs and STs (PoA) Act 1989.

Table -28									
Pendency Rate recorded under PoA Act for crimes against SCs-Courts (2009 -2018)									
under	Year	Total No. of Cases for Trial including Pending cases from previous years	Pending Trial at the end of the year	Pendency %					
ů,	2009	40759	33791	82.9 %					
cases 38.5 %	2010	40481	31932	78.9 %					
88.	2011 40435		32788	81.1 %					
ie of Irts ξ	2012	41826	35645	85.2 %					
Rate court	2013	45531	39582	86.9 %					
	2014	119526	102208	85.5 %					
	2015 129031		113393	87.8 %					
	2016	2016 144387	129300	89.6 %					
Po	2017 166195		152548	91.8 %					
Average Po/	2018	184832	172794	93.5 %					
Ă	Total	953003	843981	88.5 %					
(NCRB, Crime in India, 2009-2018)									

TRENDS

Pendency of crimes against Scheduled Castes under SCs and SCs (PoA) Act-Courts

- In 2009 a total of 40759 crimes under PoAAct came for a trial which increased to 184832 in 2018 thus showing an increase by 353.4 % over 2009.
- In 2009 a total of 33791 crimes under PoA Act were pending at the trial stage at the end of the year, which increased to 17,2794 in 2018, thus showing an increase by 411.3 % over 2009.
- On average **88.5**% of cases under PoAAct remain pending trial during 2009 to 2018.

4.3.2 Pendency of Crimes against Scheduled Tribes under SCs and SCs (PoA) Act

Table 29 shows that at the end of 2018, a total of 26282 crimes under SCs and ST (PoA) Act 1989 against STs remained pending trial in courts across the country, accounting to 92.5 % to the total number of cases came for trial during 2018, thus showing no improvement over the trial pendency rate since 2009 where in the trial pendency rate under PoA Act was recorded at 83.3 %. The trial pendency rate for crimes

registered under the SCs and STs (PoA) Act 1989 has not decreased below 78 % over one decade, averaging 86.8 % over 2009 to 2018

Table -29										
Pendency Rate recorded under PoA Act for crimes against STs-Courts (2009 -2018)										
Pendency Rate of cases under with courts 86.8 %.	Year	Total No. of Cases for Trial including Pending cases from previous years	Pending Trial at the end of the year	Pendency %						
s ur	2009	4777	3977	83.3 %						
ase	2010	4766	3978	83.5 %						
of c 3 %.	2011	4808	3767	78.3 %						
ate . 36.8	2012	4684	374 7	80.0 %						
γ Rc ts 8	2013	4767	4049	84.9 %						
Pendency Rate of c with courts 86.8 %.	2014	20549	17268	84.0 %						
ith c	2015	21656	18124	83.6 %						
a d	2016	23383	2036 1	87.1 %						
Act	2017	25514	22861	89.6 %						
Average PoA Act	2018	28421	26282	92.5 %						
	Total	143325	12414	86.8 %						
	(NCRB, Crime in India, 2009-2018)									

TRENDS

Pendency of Crimes against Scheduled Tribes under SCs and SCs (PoA) Act-Courts

- In 2009 a total of 4777 crimes under PoA Act came for trial which increased to 28421 in 2018 thus showing increase by 494.95% over 2009.
- In 2009 a total of 3977 crimes under PoAAct were pending trial at the end of the year which increased to 26282 in 2018 thus showing increase by 560 % over 2009.
- On average 86.8% of cases under PoAAct remain pending trial during 2009 to 2018.

4.4 Low conviction versus high acquittal rates:

With regard to the disposal of cases before Courts under the SCs and STs (PoA) 1989, the average pendency rate at the end is very high. While a number of cases are entering these courts each year, most end up pending trial at the end of the year. Of the cases that reached Judgement in these Special Courts during these ten years (2009 to 2018), the overall conviction rate under PoA Act averaged at only 25.2 % for the Scheduled Castes. From 2009 to 2018 one notice that majority of the cases are seeing the acquittal or acquittal of the accused persons.

Table 30 indicates that a total of 6,624 cases out of 40759 cases (at the beginning of the year), or 16.3 % of cases under SCs and STs (PoA) Act relating to SCs, were disposed off by the Courts in 2009, which reduced to 6.4% in the year 2018. In 2009 only 1711 cases or 25.8% of the total disposed off cases ended in conviction and a total of 3420 cases or 28.6 % of cases ended in conviction under SCs and STs (PoA) Act relating to SCs in the year 2018. This reflects the same pattern of conviction, acquittal and pendency of cases at the end of each year. In

2009, the conviction rate under PoA Act for Scheduled Castes increased to 38.4% (3,225) in the year 2010. In 2011 the conviction rate decreased to 30.7% (2,333). From 2012, there is a gradual decrease in the conviction rate, which was recorded at 18.8% (1,074) of total cases of crimes that completed trial. In 2013 the conviction rate remained at 16.9%. However from 2014 again the rate of conviction increased to 28.4% and remained at 27.2% and 25.8% in the year 2015 and 2016 respectively. Year 2017 saw 35.6% of conviction rate, which decreased to 28.6% in 2018. Similarly, the acquittal rate under PoA Act, for the crimes against scheduled castes has been quite high over the period of ten years (2009-2018). On average 62.5% of cases ended up in acquittals during the decade.

Table -30									
Disposal of crimes by court under SCs and STs (PoA) Act 1989 for Scheduled Castes (2009-2018)									
Year	Total number of cases including pending and brought forward cases	Cases in which trials were Completed	Number of cases ending in conviction	Number of cases ending in acquittal	Number of cases compound ed or withdrawn	Number of cases pending with courts at the end of the year	Conviction Rate to the total number of cases completed trial	Acquittal Rate to the to total number cases completed trial	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
2009	40,759	6,624	1,711	4,913	344	33,791	25.8 %	74.2 %	
2010	40,481	8,406	3,225	5,181	143	31,932	38.4 %	61.6%	
2011	40,435	7,595	2,333	5,262	52	32,788	30.7 %	69.3 %	
2012	41,826	5,708	1,074	4,634	473	35,645	18.8%	81.2%	
2013	45,531	5,832	984	4,848	117	39,582	16.9%	83.1%	
2014	1,19,526	16,627	4,716	11,911	691	1,02,208	28.4 %	71.6%	
2015	1,29,031	15,143	4,119	11,024	495	1,13,393	27.2 %	72.8 %	
2016	1,44,387	14554	3,752	10,802	462	1,29,300	25.8 %	74.2%	
2017	1,66,195	13506	4,809	7,643	141	1,52,548	35.6 %	56.6 %	
2018	1,84,832	11960	3,420	7,842	78	1,72,794	28.6 %	65.6 %	
Total	9,53,003	1,05,955	26,723	66,218	2,918	8,43,981	25.2%	62.5%	
*For the year 2017 and 2018 column with title "Number of Cases compounded or withdrawn" also includes cases abated by courts, with drawn from prosecution, compounded and compromised, disposed off by Plea bargaining and cases quashed.									

(NCRB, Crime in India, 2009-2018)

TRENDS

Crimes registered under the SC/ST (PoA) Act completing trial during 2009 to 2018 for Scheduled Castes

- Average Conviction Rate 25.2%
- Average Acquittal Rate 62.5%
- If one takes the total number of cases (184832) brought at the beginning of the year 2018 and calculate the rate of percentage of cases ended in conviction (3,420) it would be less then 2% (1.9%). With the same calculation the average conviction rate over the period of 2009 to 2018 would be less than 3% (2.8%).

It can be seen from Table – 31 that out of the total cases which reached stage of delivering of Judgement in these Special Courts during these ten years (2009 to 2018), the overall conviction rate under PoAAct averaged at only 22.8 % for the Scheduled Tribes. In 2009, the conviction rate under PoAAct for Scheduled Tribes was recorded at 20.6% (158), which increased to 26.6 % (205) in the year 2010. In 2011 the conviction rate decreased to 13.9% with only 140 cases ended up in convictions. The situation further worsened from 2012, with conviction rate recorded at 9.7% and 8.2% in 2013. From the year 2014 the rate of conviction recorded at 19.8% and 20.8%. In the year 2017 and 2018 the rate of conviction recorded was 28.3% and 23.5% there is a gradual decrease in

the convictions, which was recorded at 18.8% (1,074) of total cases of crimes that completed trial. In 2013 the conviction rate remained at 16.9%. However from 2014 again the rate of conviction increased to 28.4% and remained at 27.2% and 25.8% in the year 2015 and 2016 respectively. Year 2017 saw 35.6% of conviction rate, which decreased to 28.6% in 2018. Similarly, the acquittal rate under PoA Act, for the crimes against scheduled tribes has been quite high over the period of ten years (2009-2018). On an average 62.5% of cases ended up in acquittals during the decade.

Table -31									
Disposal of crimes by courts under SCs and SCs (PoA) Act 1989 for Scheduled Tribes (2009-2018)									
Year	Total number of cases including pending and brought forward cases	Cases in which Trials were Completed	Number of cases ending in conviction	Number of cases ending in acquittal	Number of cases compounded or withdrawn	Number of cases pending with courts at the end of the year	Conviction rate to the to total number cases completed trial	Acquittal Rate to the to total number cases completed trial	
2009	4,777	768	158	610	32	3,977	20.6 %	79.4 %	
2010	4,766	772	205	567	16	3,978	26.6 %	73.4 %	
2011	4,808	1,004	140	864	37	3,767	13.9%	86.1%	
2012	4,684	606	59	547	331	374	9.7%	90.3 %	
2013	4,767	709	58	651	9	4,049	8.2 %	91.8%	
2014	20,549	3,220	994	2,226	61	17,268	30.9 %	69.1%	
2015	21,656	3,443	683	2,760	89	18,124	19.8%	80.2 %	
2016	23,383	2,895	602	2,293	88	20,361	20.8 %	79.2 %	
2017	25 ,514	2630	744	1689	23	22861	28.3 %	64.2 %	
2018	28 ,421	2137	503	1485	2	26282	23.5 %	69.5 %	
Total	1,43,325	18184	4146	13692	688	1,21,041	22.8%	75.3%	

*For the year 2017 and 2018 column with title "Number of Cases compounded or withdrawn" also includes cases abated by courts, with drawn from prosecution, compounded and compromised, disposed off by Plea bargaining and cases quashed.

(NCRB, Crime in India, 2009-2018)

TRENDS

Crimes registered under the SC/ST (PoA) Act completing trial during 2009 to 2018 for Scheduled Tribes

- Average Conviction Rate 22.8%
- Average Acquittal Rate 75.3%
- If one takes the total number of cases (28,421) brought at the beginning of the year 2018 and calculate the rate of percentage of cases ended in conviction (1485,) it would be less then 2% (1.8%). With the same calculation the average conviction rate over the period of 2009 to 2018 would be less than 3%

No State performing up to Satisfaction!

Absence of Exclusive Courts and engagement of Exclusive Public Prosecutors (2017): National Commission for Scheduled Castes in its annual report 2016-2017 has noted that in absence of Exclusive Courts and engagement of Exclusive Public Prosecutors, the atrocities cases are either prolonged or ended in acquittal due to faulty prosecution procedure. Instances are numerous wherein it has been noticed that the witnesses of the cases are withdrawn at crucial stage of the case .183

Conviction rate under SC, ST Act low in State: National Commission', The Hindu, 19/02/2010: The National Commission for Scheduled Castes criticized the Tamil Nadu government for high pendency of cases and low conviction rate under the SC/ST (PoA) Act. Asked which State was doing good work in the Commission's assessment, the Vice-Chairman replied that no State was performing up to the satisfaction of the panel.

Maharashtra: Conviction rate of 7.04% is far below from the national conviction rate of 23.80%.

Minutes of the State level Review Meeting of the State of Maharashtra conducted by the National Commission for Scheduled Castes with the Chief Secretary, DGP and other senior officers on 11-12 June, 2015. West Bengal: As the percentage of conviction is equally low, the State should take special measures to sensitize both police and public prosecutors through trainings / discussions.

Minutes of State Review Meeting held with Government of West Bengal on 16th October, 2017 at Hotel TAJ Bengal, Kolkata.¹⁸⁴

Telangana: The conviction percentage in atrocity cases (7.20, 9.30 & 6.70 in 2014, 2015 & 2016 respectively) are way below the than the National average of 28.80, 25.80 & 24.90 for 2014, 2015 & 2016 respectively. The State Government needs to assess and improve the performance of the Special Public prosecutors. Exclusive Special Courts need to be set up in all districts under sub section (1) of section 14 of the SC/ST Prevention of Atrocities Act (as amended 2015). 185

Minutes of the Telengana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Telangana (GoT) on 21.02.2018.

Haryana: The conviction percentage in atrocity cases of 0, 6.97 & 7.74 in 2014, 2015 & 2016 respectively, are way below the than the National average of 28.28, 27.10 & 25.68 for 2014, 2015 & 2016 respectively. The State Government needs to assess and improve the performance of the Special Public prosecutors. Exclusive Special Courts need to be set up in all districts under sub section (1) of section 14 of the SC/ST Prevention of Atrocities Act as amended in 2015, (PoA Act amended). 186

Minutes of the Haryana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Haryana (GoH) on 09.03.2018.

185 http://ncsc.nic.in/files/minutes%20Telengana%20CS%20meeting.pdf

¹⁸³ http://ncsc.nic.in/files/AR16_17.pdf

¹⁸⁴ http://ncsc.nic.in/files/MINUTES%20WEST%20BENGAL.pdf

¹⁸⁶ http://ncsc.nic.in/files/Final%20minutes%20HARYANA%20CS%20meeting.pdf

Rajasthan: Setting up of exclusive Special Courts - necessary as per Section 14 of PoA Act. Appointment of exclusive public prosecutors - necessary as per Section 15 of PoA Act. Outcome - Trial is completed in only 10-12% of pending cases .187

Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Rajasthan on 23.05.2018 at 2.30 p.m.

Kerala: The Commission took note of the fact that registration of atrocity cases against Scheduled Castes has bit increased from 1388 in 2012 to 1589 in 2013, but the Conviction rate in such cases is merely 1.7 per cent. Most of the cases were settled out of the court due to shoddy prosecution and key witnesses turning hostile. As per the data provided in 2011, 2012, 2013 the total cases registered during these three years is 2944, the disposal and withdrawal is high being 2136.188 *Proceedings of the state level review meeting of the state*

of kerala conducted by the national commission for scheduled castes on 30.10.2014.

Karnataka: The conviction Rate is low; steps should be taken to improve this. 189

Minutes of State Level Reviews conducted by NCSC on 16.10.2015.

Jharkhand: Due to shoddy police investigation the conviction rate in the State of Jharkhand is very low 2.08%. For the speedy trials of the cases chairman recommended for establishment of exclusive special courts in every district. 190 *Minutes of State Level Review for the State of Jharkhand conducted under the Chairmanship of Dr. P.L Punia NCSC on 02.02.2016 and 03.02.2016*

Delhi: The Commission observed that cases pending trial in courts have also increased which should be looked into.191 *Minutes of the Review meeting of NCT of Delhi by the National Commission for Scheduled Castes held on* 15.09.2015 at Delhi Secretariat.

Tamil Nadu: The rate of conviction in atrocity cases is only 10% and is not satisfactory comparing the national average of 30%. Corrective steps are required to be taken by the State Government to enhance the conviction rate.192

Minutes of the Meeting of the National Commission for Scheduled Castes, New Delhi headed by Dr.P.L.Punia, Hon'ble Chairman held with Tamil Nadu Government on 9.7.2015.

Chattisgarh: Conviction rate is 36.80% which is higher than National Average. Reasons for low conviction are victims compromise, caste certificate delay, victims turn hostile during trial, absence of witnesses. etc.

Minutes of the Meeting organized by NCSC on 'Monitoring the Implementation of Constitutional Safeguards for Scheduled Castes', on 21.07.2015 at Vigyan Bhawan, New Delhi.

Gujarat: Atrocity incidents in the state have decreased as comppared to 2014 and conviction rate has marginally increased from 2% to 5.7%.

Minutes of the Meeting organized by NCSC on 'Monitoring the Implementation of Constitutional Safeguards for Scheduled Castes', on 21.07.2015 at Vigyan Bhawan, New Delhi.

Rajasthan: It was pointed out that 3014 cases registered under 156(3) is a very high figure and appears that the police is reluctant to register cases. The high number of acquittal cases was also pointed out.

Minutes of the Meeting organized by NCSC on 'Monitoring the Implementation of Constitutional Safeguards for Scheduled Castes', on 21.07.2015 at Vigyan Bhawan, New Delhi.

187 http://ncsc.nic.in/files/Rajasthan%20Police%20Minutes%20final.pdf 188 http://ncsc.nic.in/files/Minutes%20Kerala.pdf 189 http://ncsc.nic.in/files/Karnataka0001.pdf 190 http://ncsc.nic.in/files/Jharkhand_minutes.pdf 191 http://ncsc.nic.in/files/Delhi0001.pdf 192 http://ncsc.nic.in/files/TN%20minutes.pdf

RTI Data in the five states: Acquittal and Conviction

Andhra Pradesh: Details provided through RTI applications in Andhra Pradesh show that of the total of 71 cases reaching judgement (acquittal or conviction) in 2012, 25 cases entered the Rangareddy Special Court in 2008, 23 in 2009, 18 in 2010, 1 in 2011 and 4 in 2012. The average length of trial once the case reached this Special Court, therefore, was around three years.193

Jharkhand: Further details provided through RTI applications show that in other Special Courts in the state, the situation during the period of 2010 to 2012 was as follows:

- Chaibasa district: Out of 13 cases tried by the Court, only five cases reached judgement, all acquittals. Moreover, one of the cases had entered into the Special Court in 1997 and reached judgement in 2012; i.e. after 15 years. The trial duration in the other four cases averaged 2-3 years. None of the cases were appealed to the High Court. 194
- *Giridih district*: A total of 298 cases were tried by the Court, with only 18 convictions secured during this period. Further, in eight cases appeals were filed with the High Court. 195
- Seraikela Kharsawan district: Only five cases completed trial during this period. Four ended in acquittals, while one was disposed of due to the accused absconding. None of these cases were appealed to the High Court.196
- East Singhbhum district: Out of the 10 cases disposed of by the Court, all ended in acquittals because the witnesses turned hostile.197
- Latehar district: Out of 23 cases tried by the Court, 10 cases reached judgement with only two convictions.198
- *Jamtara district*: Out of 23 cases tried by the Court, only one case ended in a conviction while 15 ended in acquittals.199
- Bokaro district: Trial was completed in 28 cases, out of which only 6 cases ended in convictions. No appeals were filed before the High Court during this period.200
- Ramgarh district: Only five cases were tried by the Court and none reached judgement during the three year period.201
- Dhanbad district: Trials were conducted in 49 cases over the three year period, and only 1 case ended in conviction while 20 cases ended in acquittals. 202
- · Gumla district: For the period 2011 to 2012, 53 cases were

under trial in the court. Of these cases, 11 cases reached judgement as acquittals or discharge of the accused. Seven were under criminal revision with cases before the High Court.203

Further details provided through RTI applications in **Rajasthan** show that in other Special Courts in the state, the situation is similar:

- Tonk district: Between January 2010 and December 2012, 296 were under trial in the Special Court. A total of 241 cases reached judgement during this period, out of which only 46 (19.1%) ended in convictions.204
- Baran district: Between January 2010 and December 2012, 381 cases were under trial in the Special Court. A total of 60 cases were decided during this period with only 9 (15%) convictions.205
- Jhunjhunu district: Between July and December 2012, 216 cases were under trial in the Special Court. A total of 14 cases were decided during this period, with only 4 (28.6%) convictions.206
- Jalore district: Between July and December 2012, 98 cases were under trial in the Special Court. A total of 8 cases were decided during this period, with only 2 (25%) convictions.207
- Pratapgarh district: Between January 2010 and December 2012, 199 cases were under trial in the Special Court. A total of 78 cases were decided, out of which only 11 (14.1%) ended in convictions.208

¹⁹³ RTI response received from Special Public Prosecutor, Rangareddy Special Court, L.B. Nagar on 23-08-2013 for the period Jan. 2012 to 31-07-2013. 194 RTI response received from Special Public Prosecutor, Chaibasa district on 25.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012 195 RTI response received from Superintendent of Police, Giridih district on 06.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 196 RTI response received from Superintendent of Police, Seraikela district on 17.04.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 197 RTI response received from Special Public Prosecutor, East Singhbhum district on 16.04.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 198 RTI response received from Superintendent of Police, Latehar district on 06.04.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 199 RTI response received from Superintendent of Police, Jamtara district on 03.05.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 200 RTI response received from Superintendent of Police, Bokaro district on 21.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 201 RTI response received from Superintendent of Police, Ramgarh district on 25.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 202 RTI response received from Superintendent of Police, Dhanbad district on 21.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 203 RTI response received from Special Public Prosecutor, Gumla district on 25.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 204 RTI response from Special Public Prosecutor, Tonk district on 30.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 205 RTI response from Special Public Prosecutor, Baran district on 20.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 206 RTI response from Assistant Director of Prosecutions, Jhunjhunu district on 14.02.2013 for the period 1 July to 31 Dec. 2012. 207 RTI response from Additional District Collector, Jalore district on 14.02.2013 for the period 1 July to 31 Dec. 2012. 208 RTI response from Special Public Prosecutor, Pratapgarh district on 22.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012.

- Bhilwara district: Between January 2010 and December 2012, 511 cases were under trial in the Special Court. A total of 333 cases were decided, out of which only 54 (16.2%) ended in convictions and 136 in acquittals. The remaining 143 cases primarily ended in compromises. 209
- Pali district: Between January 2010 and December 2012, 510 cases were under trial in the Special Court. Atotal of 185 cases were decided, out of which only 24 (13.0%) ended in convictions and 156 in acquittals.210
- Sri Ganganagar district: Between January 2010 and December 2012, 581 cases were tried in the Special Court. A total of 325 cases were decided, out of which only 61 (18.8%) ended in convictions and only three appeals were given against acquittals.211
- Dausa district: Between January 2010 and December 2012, 236 cases were tried in the Special Court. A total of 97 cases were decided, out of which only 17 (17.5%) ended in convictions.212
- Jhalawar district: Since April 2006, the post of Special Court judge has been vacant in this court. Between January 2010 and December 2012, only 19 cases ended in judgements, 7 (36.8%) ending in convictions.213
- Jaipur district: Between January 2010 and December 2012, 532 cases were tried in the Special Court. Out of those cases completing trial, 47 cases ended in convictions, 157 in acquittals (55 due to compromises).214

Grounds for Acquittal in Special Courts215

1. Investigation not done by the competent Authority: Rule 7 of the SCs & STs (POA) Rules, 1995, states that the investigation has to be done by Deputy Superintendent of Police and it was found while analyzing the cases that the acquittals also resulted due to the fact that the investigation was not done by the competent authority216or there was no proof of authorization217on the part of the investigation officer to investigate the case.

2. Delay in filing First Information Report: Another important procedural reason found for the acquittal is the so-called "FIR delay" problem. Even though that the judge has the discretion to condone the delay it was found in one of Judgments that the Judge has mention the delay in filing First Information Report and this was successfully taken up as a defense by the accused to escape from conviction.218

3. Victim does not belong to SC/ST: One of the other

grounds found in the sample case studies for acquittal of charges under the SC/ST Act is the fact that the victim does not belong to SC/ST. In one cases the victim belonged to mala caste is not proved219, since her father belonged to Rajpoot community and her mother belonged to Madiga community and she married to a person belonging to a Mala community and therefore charges for the offence of PoA Act failed and the accused entitled for acquittal under PoAAct.

4. Offence not committed on SC/ST ground: Another interesting ground leading to the acquittals is the plea taken by the courts that the offence was committed on the ground of victim being Scheduled Caste or Scheduled Tribe. There were four cases in which this ground was used. In four cases the section of the SC/ST Act that had been charged was section 3(2)(v) (Rape cases and in a murder case)220. In all the cases the court held that the offence was not committed on SC/ST grounds.

5. Victim and witnesses denying the incident/ statement/complaint during examination: In seven of these cases the victim or the witnesses totally, denied either the incident or the statements given to the police officials. The same is the case with many of the witnesses. They also either denied the entire incident or denied given a statement/complaint to the police officials. Thus not supporting the prosecution's case, they were declared hostile.

6. Statements of victims/witnesses entirely different from the previous statements made before police: In one case the witness had given a statement to the police soon after the incident, but once in court either they decided to not repeat the contents of this statement, or they gave a version of the facts that was insufficient to contribute to the establishment of guilt in the case .221

²⁰⁹ RTI response from Special Public Prosecutor, Bhilwara district on 22.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012.

²¹⁰ RTI response from Special Public Prosecutor, Pali district on 31.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012.

²¹¹ RTI response from Special Public Prosecutor, Sri Ganganagar district on 06.04.2013 for the period 1 Jan. 2010 to 31 Dec. 2012.

²¹² RTI response from Special Public Prosecutor, Dausa district on 23.03.2013 for the period 1 Jan. to 31 Dec. 2012.

²¹³ RTI response from Special Public Prosecutor, Jhalawar district on 01.04.2013 for the period 1 Jan. 2010 to 31 Dec. 2012. 214 RTI response from Special Public Prosecutor, Jaipur district on 15.03.2013 for the period 1 Jan. 2010 to 31 Dec. 2012.

²¹⁵ Justice Under Trial. Caste Discrimination in Access to Justice before Special Courts. NDMJ. 2014

 ²¹⁶ Sessions Case No – 66/2008, Alwal Vs Kondaparthy Srinivasa Chary, Ranga Reddy, Andhra Pradesh

²¹⁷ Sessions Case No – 211/2008 , P.S. Shankerpally Vs Bhojja Venkat Reddy, Ranga Reddy, Andhra Pradesh

²¹⁸ Sessions Case No – 211/2008 , P.S. Shankerpally Vs Bhojja Venkat Reddy, Ranga Reddy, Andhra Pradesh

²¹⁹ Sessions Case No – 98/2008 , Smt. N. Rukmini Vs Gangadhar Jane, Ranga Reddy, Andhra Pradesh

²²⁰ Sessions Case No – 108/2010, The State of Rajasthan Vs Shivlal and Ors, Alwar Rajasthan; Sessions Case No – 70/2009, The State of Rajasthan Vs Hakam, Alwar Rajasthan; Sessions Case No – 156/2009, The State of Rajasthan Vs Sukhlal, Alwar Rajasthan; Sessions Case No – 22/2009, The State of Rajasthan Vs Bhupinder Alwar Rajasthan.

²²¹ Sessions Case No – 66/2008 , Alwal Vs Kondaparthy Srinivasa Chary, Ranga Reddy, Andhra Pradesh

7. Statements of some of the witnesses not corroborated by other witnesses: In two of the cases the judges found that statements given by the victims and witnesses did not corroborate with the statements of the other witnesses and thus not supporting the prosecution's case .222

8. Interested witnesses: In one of the cases the evidence of the witnesses was not considered by the judges as the witnesses were related to the complainant. The ground taken by the court was that some of the prosecution witnesses are interested witnesses as they belong to family, hence not reliable. Under these circumstances accused are liable to be acquitted .223

9. Does not know the accused/ does not know the caste of the accused/nobody abused in caste name: The analysis of two judgments, resulted in acquittals, because the complainant as well as the witnesses in their statements retracted from their earlier statements and stated that they-

- a. does not know the accused or
- b. does not know the caste of the accused or
- c. nobody abused them in caste name .224

10. Problems with regard to the evidence of insult, humiliation, abusive words, public view, dominating the will of a woman: Sec 3(1)(x)- In one of the cases the evidence to show that the victim was insulted or humiliated in a place of public view became one of the grounds for acquittal. The text of the Judgement says that there is no evidence to show that the victim was insulted or humiliated in a place of public view. Corroborating with the witness statements the Judge found that there is nothing suggestive of insult or humiliation from the witness evidence.225 Thus became a ground for acquittal. On the other hand in one of the Judgement studied from Jharkhand the Judge found accused guilty of rape 226 and held that the victim was a member of a Scheduled Tribe and belongs to parahiya caste. The convict committed sexual intercourse by placing her in a helpless condition and taking advantage of her lower social status and by dominating her will by virtue of his social status. Hence, accused convicted under 3(1) (xii) of PoA Act 1989 and Section 376 of IPC.

11. Threats and intimidation inside and outside courts:

There are several other reasons for the high acquittal rates. Many SC/ST victims and witnesses experience threats, harassment and other obstacles in order to ensure that the atrocity case under trial ends in an acquittal of the accused, dismissal of the case or compromise. These forms of obstruction occur both inside and outside the court premises from police or khap panchayats or local political leaders and denies SC/ST victims and witnesses equal access to justice. Their protection, therefore, includes the provision of a protected and private space within the court premises that ensures an atmosphere free of intimidation in which to depose their evidence. Such a provision, however, is currently missing in all the Special Courts.

12. Counter cases: An important and rising trend in recent years has been for one or more counter cases to be fi led against a victim and her/his family members in an attempt to further harass and pressurise the victim to discontinue with the atrocity case. Significantly, these counter cases are not taken as linked to the atrocity case. Hence, it is the normal practice for these cases to have to be first proved false before the victim can file a FIR of false, vexatious or malicious suit against a SC/ST. The result is that atrocity victims and their families are further victimised and economically punished for having tried to access justice.

An evaluation of PoA Act, sponsored by Planning Commission in 2012 examined the reasons behind the high acquittal rate under the law. The study found following major reasons behind it. 227

a) Hostile witnesses: The study found that witnesses turning hostile are one of the major reasons for high rate of acquittals in the atrocity cases. Economic dependency on the upper and dominant castes, and the state of insecurity, has forced prosecution witnesses in many a case to turn hostile.

b) Preconception of misuse of the Act: Most of the administrative machinery officials, court officers and police officers interviewed, are of the opinion that the SCs and STs are misusing the special law against their rivals and adversaries. As a result of this impression most of the Judges are skeptical and wary of awarding convictions.

223 Sessions Case No – 211/2008 , P.S. Shankerpally Vs Bhojja Venkat Reddy, Ranga Reddy, Andhra Pradesh

Malkajgiri Vs Bandari Gouri Shanker and Ors, Ranga Reddy, Andhra Pradesh.

²²² Sessions Case No – 66/2008 , Alwal Vs Kondaparthy Srinivasa Chary, Ranga Reddy, Andhra Pradesh ; Criminal Appeal No – 568 of 2012 in SC No. 48 of 2009 , In the High Court of Andhra Pradesh at Hyderabad, Andhra Pradesh, Dontharamonj Karunakar and Ors Vs State of AP Rep by its Public Prosecutor

²²⁴ Sessions Case No - 73/2010 , P.S. Mominipet Vs Molla Nuroddin, Ranga Reddy, Andhra Pradesh; Sessions Case No - 135/2008 , P.S.

²²⁵ Sessions Case No – 39/2009, The State represented by the Inspector of Police , Sanathnagar , Rangareddy Vs Birlangi Venkatesa and Ors., Ranga Reddy, Andhra Pradesh. 226 SC/ST Case No – 9/2011, The State of Jharkhand Vs Roz Mohammad , Palamu at Daltonganj, Jharkhand.

²²⁷http://planningcommission.gov.in/reports/sereport/ser/ser_atro2410.pdf, Planning Commission Evaluation of PoA Act

c) **Police inaction:** There is huge gap between actual incidents of crime and reported crime. When the complainant reaches the police station, police officers try to compromise the case. Police officials do not want to redress the issue, visit the scene of crime, register immediately and empower the weaker sections.

d) Lack of designated Courts: As per the PoAAct, 1989 there shall be an exclusively special designated court in every district to look after cases related to caste atrocities. However, in most

places, Session Courts have

been given additional responsibility of special designated court under the law. Therefore, practically there are no designated courts for caste-based atrocities.

Mirchpur Massacre: Follow of NDMJ since 2010 resulted in Conviction !

NDMJ followed up Mirchpur Massacre, wherein a 70-year-old Dalit man and his physically challenged daughter were burnt alive at Mirchpur village in Haryana's Hisar district in 2010. Than NDMJ has followed this case in Trial court, High Court and Supreme Court. The trial court had on September 24, 2011, convicted 15 of 97 men belonging to the Jat community. Later 15 persons belonging to the dominant Jat community against their conviction and sentencing filed an appeal before Delhi High Court and the High Court on 24.08.2018 consisting of a bench of Justices S Muralidhar and I S Mehta said even after 71 years of Independence atrocities on Scheduled Castes community has shown no signs of abating. The court also directed the Haryana government to rehabilitate families belonging to the Dalit community who were displaced after the 2010 incident. The victims and the police had also appealed in the high court seeking enhancement of punishment awarded to the convicts and acquittal of others. High Court of Delhi has convicted 12 accused for Life Imprisonment, 12 accused for 2 years imprisonment and 9 accused for 1 year imprisonment and thereby out of 57 accused persons against whom Criminal Appeal was filed, the High Court convicted total 33 accused persons under different provisions of the Indian Penal Code and SC & ST (Prevention of Atrocities)Act, 1989.

In sum, despite judicial pronouncements on the right to speedy trial, the creation of Special Courts with Special Public Prosecutors to try atrocity cases, the impact in terms of access to justice for SCs and STs can be termed minimal. Across India, the trends are uniform. Trials are protracted, with cases even stuck at the initial stage of the framing of charges for several years. The correct sections of the POAAct are not being applied, especially in grievous cases. In fact, taking acquittals, discharges and compromises together, over 80% of atrocity cases in general are leaving SC/ST victims without justice. The relevant question in this situation, therefore, is not whether the PoA Act is being misused, as is often raised. Rather, it is the very serious question of the non-implementation of the PoA Act and the grave injustice being perpetuated against SC and ST victims of atrocities within the criminal justice system. This is all compounded by the failure of state mechanisms to adequately monitor the prosecution of SC/ST atrocity cases beyond looking at the outcomes of acquittals versus convictions. Without a concerted effort to recognize, inquire into and address the processes and caste structure behind the failure of these cases in the judicial system, this situation will not change.

CHAPTER 5 RIGHTS OF VICTIMS AND WITNESSES

The seeds of victims' rights germinated in India during the last few decades following the United Nation's Declaration of Basic Principles of Crime and Abuse of Power, 1985, Since then, the realization that the victim lies at the core of the entire criminal justice process dawned, whereby efforts were made to ameliorate their conditions. One of the principal aspects of support to victims of atrocities under the SCs and STs (PoA) Act 1989 is compensation for injuries which was read as an integral part of 'right to life' by the Indian judiciary making it obligatory for the state to provide compensation to the victims or dependents who have suffered loss or injury as a result of crimes and require rehabilitation. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (PoA Rules), were notified on 31.03.1995, by the Central Government in exercise of powers conferred by sub-section (1) of Section 23 of the PoA Act. Acknowledging the disabilities and emphasizing the need for equal protection of the laws to the Scheduled Castes and Scheduled Tribes certain amendments to the SCs and STs (PoA) Act were brought out in the year 2016 and accordingly amendments to the SCs and STs (PoA) Rules 1995 were brought in the year 2016. After amendments to the SCs and STs (PoA) Act 1989 in the year 2016 a specific chapter on the rights of victims and witnesses was inserted in the SC/ST (PoA) Act. The role of a witness in a case is increased to more than a prosecution witness. Legal provisions exist specifying their rights to: (i) relief and compensation; (ii) Travelling Allowance (iii) Legal Aid information on the status of their case; (v) witness protection and Right to Appeals etc. Separate officials and institutions have been assigned the role to implement the rights of victims of witnesses in the SCs and STs (PoA) Act 1989 and Rules 1995. It is important that criminal justice administration advances the constitutional mandate and legislative objectives in order to ensure that weaker sections are not denied their due in criminal judicial processes. This transformation is not fully reflected in the attitudes and practices of criminal justice functionaries despite a series of observations and recommendations of the commissions and of the highest court and circulars and directions from superior authorities. The predominant negative trend of authorities in terms of sanctioning the monetary compensation and not providing same to the victims and witnesses is a matter of concern in many of the states. Trends of police discouraging, preventing or delaying the registration of FIRs; registering FIRs under inappropriate sections of law or failing to register cases under the SC/ST (PoA) Act. All these deny the victims their due rights. While government officials provide prompt relief and compensation and other allowances to SC/ST victims where atrocities receive a lot of publicity, their response to other incidents of [atrocities] is characterized by apathy, negligence and passivity. Breaches of duty include-Not conducting an enquiry, thereby evading duty to give relief and compensation; making false promises to give compensation and delaying distribution of compensation; not providing witnesses and victims with allowances, such as travel allowance relating to trial and investigation, maintenance expenses and daily allowance, medical expenses, etc.; officials and intermediaries misappropriating compensation meant for atrocity victims.

5.1 Right to Relief And Compensation:

Table 32 reveals that around 55,544 victims of atrocities belonging to the SC/ST communities were provided relief during the period 2018-19, according to data provided by Ministry of Social Justice and Empowerment in its annual report 2018 -2019. The ministry released Rs 256.67 crores during 2018-19 as central assistance to states and Union Territories for providing relief and rehabilitation to victims under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. According to the data, in 2018, the highest number of victims received relief since 2016. During 2017-18, the number of victims given relief were 50,674 and the funds released for their rehabilitation 197.055 crores. The number of atrocity victims given relief during 2016-17 was 39,514 and assistance provided was Rs 90.8371 crores.

	Table -32									
State/UTs wise Central Assistance released for providing Relief to Atrocity										
S.No	Victims228 during 2016-17 to 2018-199 S.No States/UTs Central Assistance Released (Lakhs) Number of Persons Covered									
5.NO	States/UIS		htral Assistance Released (Lakhs) Number of Persons Covered							
		2016 - 17	2017 - 18	2018 - 19	2016 - 17	2017-18	2018 - 19			
States										
1.	Andhra Pradesh	65.00	82.50	105.00	5408	5408	7070			
2.	Bihar	540.00	1160.50	1170.00	2342	2342	3500			
3.	Chhattisgarh	200.00	300.00	0.00	492	883	920			
4.	Goa	0.00	0.00	10.00	Not available	Not available	Not available			
5.	Gujarat	449.50	1087.50	1150.00	2070	2287	2150			
6.	Haryana	200.00	500.00	650.0 0	487	626	NA			
7.	Himachal Pradesh	25.00	25.00	0.00	58	173	NA			
8.	Jharkhand	50.00	150.00	300.00	117	595	1000			
9.	Karnataka	450.00	550.00	2204.00	1912	2277	2500			
10.	Kerala	NA	195.25	0.00	372	600	650			
11.	Madhya Pradesh	1900.00	3000.00	4750.00	6303	8872	10000			
12.	Maharashtra	953.00	1685.25	2500.00	1440	1808	2000			
13.	Odisha	380.00	600.00	750.00	2108	1385	1850			
14.	Punjab	150.00	100.00	0.00	Not reported	Not reported	Not reported			
15.	Rajasthan	734.00	2184.00	2034.00	1729	3648	3500			
16.	Tamil Nadu	593.50	970.90	1525.465	2216	2067	NA			
17.	Telangana	45.00	87.50	126.37	1007	1007	3025			
18.	Uttarakhand	28.71	102.00	148.50	5	105	240			
19.	Uttar Pradesh	2250.00	6736.22	8000.00	11369	16507	17000			
20.	West Bengal	40.00	50.00	80.00	61	61	120			
21.	Tripura	-	4.00	5.00	NA	1	16			
22.	A & N I slands	-	0.00	0.00	Not available	Not available	Not available			
23.	Daman & Diu		0.00	0.00	Not available	Not available	Not available			
24.	NCT of Delhi	20.00	0.00	59.00	Not available	Not available	Not available			
25.	Puducherry	10.00	134.88	100.00	Not avail able	Not available	3			
	Total	9083.71	19705.50	25667. 335	39514	50674	55544			

228 Compensation provided under Rule 12(4) of SC/ST (POA)Rules 1995

229 http://socialjustice.nic.in/writereaddata/UploadFile/Social_Justice_AR_2018-19_English.pdf

Right to receive compensation flouted in various ways !

Delay by District Administration to sanction monetary compensation!

Telengana: Delay by District Administration to sanction monetary compensation at FIR stage & charge sheet stage as per sections applicable of the SC/ST Prevention of Atrocities Rules, 1995 as amended in 2016. Of the 1427, 1293 and 1529 cases in 2014, 2015 & 2016 respectively and 861 cases registered up to July 2017, compensation has been given in only 411, 530, 687 and 493 cases in 2014, 2015, 2016 & 2017. 230

Punjab: Delays by DM to sanction monetary compensation at FIR & charge sheet stages, as per sections applicable of the SC/ST Prevention of Atrocity Rules, 2016. 231

Haryana: Delay by District Administration to sanction monetary compensation at FIR stage, as per sections applicable of the SC/ST Prevention of Atrocities Rules 2016 (PoARules 2016).232

Rajosthan: There are delays by DM to sanction monetary compensation at FIR & charge sheet stages, as per sections applicable of the SC/ST Prevention of Atrocity Rules, 2016.233

Compensation to victims of even grievous crimes like murder, rape and arson have not been paid!

Telangana: As per calculations compensation amount of at least Rs 13.94 crore still needs to be paid to the victims / dependents from 2014 to 2017.234

Haryana: A minimum of Rs. 1088.01 lakh is due to be paid to victims / dependents from 2014-15 to 2017-18.235

Rajasthan: Between 2014-15 to 2017-18 alone Rs 6737.85 lakh was the minimum due to be paid. Only Rs 5307.72 lakh has been paid in past 4 years (between 2014-15 to 2017-18). The cases need to be reviewed on a priority and the balance compensation of Rs 1430.13 lakh paid to the victims on a

priority. The compensation should be paid as per the new Rules in cases from 2016 -17 onwards. The State Government needs to take action as per the provisions of the amended PoAAct and Rules and issue necessary instructions to the District Administration, District Police, SC/ BC and the women and child development departments for the same and also ensure the same are monitored by the State Nodal officer. 236

District administration is not drawing compensation component from Dr. Ambedkar Foundation/ Jagjivan RamFoundation!

Punjab: District administration is not drawing compensation component from Dr. Ambedkar Foundation/ Jagjivan Ram Foundation to assist the victims & families or utilizing Central Victim Compensation Fund (CVCF) to help victims get additional assistance. 237

Rajasthan: District administration is not drawing compensation component from Dr. Ambedkar Foundation/ Jagjivan Ram Foundation to assist the victims & families or utilizing Central Victim Compensation Fund (CVCF) to help victims get additional assistance.238

²³⁰ http://ncsc.nic.in/files/minutes%20Telengana%20CS%20meeting.pdf, Minutes of the Telengana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Telangana (GoT) on 21.02.2018.

²³¹ http://ncsc.nic.in/files/final%20minutes%20Punjab%20CS%20meeting%20.pdf, Minutes of the Punjab State Review by NationalCommission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Punjab (GoP) on 08.03.2018.

²³²http://ncsc.nic.in/files/Final%20Minutes%20HARYANA%20CS%20meeting.pdf, and http://ncsc.nic.in/files/final%20police%20Minutes%20HARYANA.pdf, Minutes of the Haryana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Haryana (GoH) on 09.03.2018 and Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Haryana on 09.03.2018 at 11.00 a.m.

²³³ Minutes of the Rajasthan State Review by National Commission for Scheduled Castes with Chief Secretary and senior officers of Government of Rajasthan (Govt. of Rajasthan) on 23.05.2018 < http://ncsc.nic.in/pages/view/222/257-states-reviewed-(rajasthan)

²³⁴ http://ncsc.nic.in/files/minutes%20Telengana%20CS%20meeting.pdf, Minutes of the Telengana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Telangana (GoT) on 21.02.2018.

²³⁵http://ncsc.nic.in/files/Final%20minutes%20HARYANA%20CS%20meeting.pdf, and http://ncsc.nic.in/files/final%20police%20minutes%20HARYANA.pdf, Minutes of the Haryana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Haryana (GoH) on 09.03.2018 and Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Haryana on 09.03.2018 at 11.00 a.m.

²³⁶ Minutes of the Rajasthan State Review by National Commission for Scheduled Castes with Chief Secretary and senior officers of Government of Rajasthan (Govt. of Rajasthan) on 23.05.2018 < http://ncsc.nic.in/pages/view/222/257-states-reviewed-(rajasthan)

²³⁷ http://ncsc.nic.in/files/final%20minutes%20Punjab%20CS%20meeting%20.pdf, Minutes of the Punjab State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Punjab (GoP) on 08.03.2018.

²³⁸ Minutes of the Rajasthan State Review by National Commission for Scheduled Castes with Chief Secretary and senior officers of Government of Rajasthan (Govt. of Rajasthan) on 23.05.2018 < http://ncsc.nic.in/pages/view/222/257-states-reviewed-(rajasthan)

Compensation under POCSO Act not paid!

Punjab: In cases against minors, the compensation as per POCSO act not being paid.239

Haryana: Compensation as per POCSO act not being paid: Compensation as per POCSO act not being paid: where victim is a minor. Recommendation for paying compensation as per POCSO act not being made to DM in cases where the POCSO Act sections have been applied in the FIR.240

Rajasthan: In cases against minors, the compensation as per POCSO act not being paid.241

Additional relief as per PoA Act not paid!

Punjab: As per Rule 46 of the SC/ST Act, the additional relief like pension to the widow, education up to graduation level of the children of the victim, 3 month rasan etc. has not been provided in even a single case.242

Haryana: As per Rule 46 of the amended PoA Rules 2016, the additional relief like pension to the widow, education up to graduation level of the children of the victims, 3 month rashan etc. is not being provided as recommendations not sent to DM by police.243

Rajasthan: As per Rule 46 of the SC/ST Act, the additional relief like pension to the widow, education up to graduation level of the children of the victim, 3 month ration etc. has not been provided in even a single case.244

5.2 Few atrocity victims receive Travelling Allowance!

The below analysis of the number of victims paid travelling allowance from 2013 to 2017 gives a shocking picture of how a large number of victims and witnesses have been denied their due right of receiving travelling allowance under SCs and STs (PoA) Act 1989 given the large number of crimes of atrocities registered and less number of victims receiving travelling allowance as mandated under Rule 11 of SCs and STs (PoA) Rules 1995. Refer Table 33 for the state wise number of cases registered against SC and ST victims under SCs and STs (PoA) 1989 & Rules 1995 and number of persons paid travelling allowance.

Andhra Pradesh: Despite a total of 3936 crimes registered against SCs and STs in the year 2013 only 408 persons received travelling allowance under SCs and STs (PoA) Act 1989. Similarly 2625 crimes in the year 2015, 2740 crimes in 2016 and 1967 crimes in 2017 were registered against SCs and STs for the year 2015, 2016 and 2017 respectively and only 408, 118, 261, 249 persons respectively for the given years received travelling allowance under SCs and STs (PoA) Act 1989.

Bihar: Despite 7951 registered crimes in 2014, 6298 in 2015, 5726 in 2016 and 6465 crimes against SCs and STs in 2017 only 446, 457, 542, 542 persons received travelling allowance respectively under SCs and STs (PoA) Act 1989.245

Chhattisgarh: A total of 573 crimes in 2013, 834 crimes in 2014, 589 crimes in 2015, 645 crimes in 2016 and 675 crimes registered against SCs and STs in the year 2017. A total of 246 persons in 2013 and 2922 in 2014, 2757 in 2015, 463 in 2016 and 732 persons in 2017 received travelling allowance under SCs and STs (PoA)Act 1989.

Haryana: Despite 493 registered crimes against SCs and STs in 2013 and 444 crimes in 2014 only 12 persons in 2013 and 2 persons in 2014 received travelling allowance under SCs and STs (PoA)Act 1989.246

Himachal Pradesh: Despite 21 registered crimes against SCs and STs in 2017 only 1 person received travelling allowance under SCs and STs (PoA)Act 1989.

239 http://ncsc.nic.in/files/final%20minutes%20Punjab%20CS%20meeting%20.pdf, Minutes of the Punjab State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Punjab (GoP) on 08.03.2018.

240http://ncsc.nic.in/files/Final%20Minutes%20HARYANA%20CS%20meeting.pdf, and http://ncsc.nic.in/files/final%20police%20Minutes%20HARYANA.pdf, Minutes of the Haryana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Haryana (GoH) on 09.03.2018 and Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Haryana on 09.03.2018 at 11.00 a.m.

241 Minutes of the Rajasthan State Review by National Commission for Scheduled Castes with Chief Secretary and senior officers of Government of Rajasthan (Govt. of Rajasthan) on 23.05.2018 < http://ncsc.nic.in/pages/view/222/257-states-reviewed-(rajasthan)

242 http://ncsc.nic.in/files/final%20minutes%20Punjab%20CS%20meeting%20.pdf, Minutes of the Punjab State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Punjab (GoP) on 08.03.2018.

243http://ncsc.nic.in/files/Final%20Minutes%20HARYANA%20CS%20meeting.pdf, and http://ncsc.nic.in/files/final%20police%20Minutes%20HARYANA.pdf, Minutes of the Haryana State Review by National Commission of Scheduled Castes with Chief Secretary and other senior Officers of Government of Haryana (GoH) on 09.03.2018 and Minutes of the State Review Meeting of NCSC regarding Prevention of Atrocities on Scheduled Castes held with the Principal Secretary, Home, DGP, Addl. DGP, IG and other senior Police Officers of Government of Haryana on 09.03.2018 at 11.00 a.m.

245 Information on number of beneficiaries not provided by the state of Bihar in Annual Report for the years 2013, filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment. Information on number of beneficiaries not provided by the state of Haryana in Annual Reports for the years 2015, 2016, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

246 Information on number of beneficiaries not provided by the state of Haryana in Annual Reports for the years 2015, 2016 and 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁴⁴ Minutes of the Rajasthan State Review by National Commission for Scheduled Castes with Chief Secretary and senior officers of Government of Rajasthan (Govt. of Rajasthan) on 23.05.2018 < http://ncsc.nic.in/pages/view/222/257-states-reviewed-(rajasthan)

Jharkhand: Despite 1374 registered crimes against Scs and STs in 2013 and 1002 crimes in 2015, only 789 persons in 2013 and 10 persons in the year 2015 received travelling allowance under SCs and STs (PoA) Act 1989.

Karnataka: A total of 3076 crimes in 2013, 2262 crimes in 2014, 2227 crimes in 2015, 2237 crimes in 2016 and 685 crimes were registered against SCs and STs in the year 2017 respectively. In 2013 only 599 persons received travelling allowance. In the year the 2014 only 509 persons received travelling allowance. In 2015 only 555 persons, 730 persons in 2016 and 374 persons in 2017 received travelling allowance under SCs and STs (PoA)Act 1989.

Kerala: A total of 891 crimes in 2013, 832 crimes in 2014, 860 crimes in 2015, 992 crimes in 2016 and 894 crimes registered against SCs and STs in the year 2017. A total of 540 persons in 2013 and 287 in 2014, 335 in 2015, 272 in 2016 and 169 persons in 2017 received travelling allowance under SCs and STs (PoA)Act 1989.

Madhya Pradesh: A total of 4241 crimes in 2013, 4871 crimes in 2014, 4904 crimes in 2015, 6745 crimes in 2016 and 8173 crimes registered against SCs and STs in the year 2017. A total of 3240 persons in 2013 and 6766 persons in 2014, 7000 persons in 2015, 6303 in 2016 and 10454 persons in 2017 received travelling allowance under SCs and STs (PoA) Act 1989.

Maharashtra: A total of 2064 crimes in 2013, 2206 crimes in 2014, 2276 crimes in 2015, 2139 crimes in 2016 and 1941 crimes registered against SCs and STs in the year 2017. A total of 1664 persons in 2013 and 3208 persons in 2014, 117 persons in 2015, 121 in 2016 and 43 persons in 2017 received travelling allowance under SCs and STs (PoA) Act 1989.

Odisha: A total of 2626 crimes registered against SCs and STs in the year 2017 and only 95 persons received travelling allowance under SCs and STs (PoA)Act 1989.247

Punjab: A total of 87 crimes registered against SCs and STs in the year 2017 and only 5 persons received travelling allowance under SCs and STs (PoA) Act 1989. 248

Sikkim: A total of 3 crimes in 2015, 1 crime in 2016, 10 crimes registered against SCs and STs in the year 2017. A total of 2 person in 2015 and 5 persons in 2016, 2 persons in 2017, received travelling allowance under SCs and STs (PoA) Act 1989.249

Tamil Nadu: A total of 1867 crimes in 2013, 1504 crimes in 2014, 1760 crimes in 2015, 1306 crimes in 2016 and 1290 crimes registered against SCs and STs in the year 2017. A total of 332 persons in 2013 and 458 persons in 2014, 30 persons in 2015, 71 in 2016 and 1260 persons in 2017 received travelling allowance under SCs and STs (PoA)Act 1989.

Telengana: A total of 1760 crimes in 2014 and 1678 crimes in 2015 were registered against SCs and STs. A total of 54 persons in 2014, 207 persons in 2015, received travelling allowance under SCs and STs (PoA)Act 1989.250

Uttar Pradesh: A total of 7103 crimes in 2013, 8090 crimes in 2014, 10430 crimes in 2016 and 8993 crimes registered against SCs and STs in the year 2017. A total of 358 persons in 2013 and 358 persons in 2014, 367 in 2016 and 744 persons in 2017 received travelling allowance under SCs and STs (PoA) Act 1989.251

A & N Islands: A total of 1 crime registered against SCs and STs in the year 2017 and 2 persons received travelling allowance under SCs and STs (PoA)Act 1989.

States not provided details of Travelling Allowance: Arunachal Pradesh, Assam, Goa, Gujarat, Meghalaya, Mizoram, Rajasthan, Uttarakhand, West Bengal, Tripura, Chandigarh, Dadra Nagar Haveli, Daman & Diu, NCT of Delhi, Lakshadweep and Puducherry. 252

The Commission has observed that the States delay payment of compensation to the victim(s) of caste atrocity. In many cases compensation is paid only when the Commission intervenes or when the matter is followed up by the family of the victim rigorously. Annual Report, National Commission for Scheduled Castes, 2016-2017

252 Number of beneficiaries not provided for the Annual Reports (2013- 2017), filed under section 21(4) of SCs and STs (PoA) Act 1989, by Ministry of Social Justice & Empowerment.

²⁴⁷ Information on number of beneficiaries not provided by the state of Odisa in Annual Reports for the years 2013, 2014, 2015 and 2016 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁴⁸ Information on number of beneficiaries not provided by the state of Punjab in Annual Reports for the years 2013, 2014, 2015 and 2016 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁴⁹ Information on number of beneficiaries not provided by the state of Sikkim in Annual Reports for the years 2013, 2014 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁵⁰ Information on number of beneficiaries not provided by the state of Telengana in Annual Reports for the years 2013, 2016, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁵¹ Information on number of beneficiaries not provided by the state of U.P in Annual Report for the years 2015, filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.
					Table	-33					
		of Travelling A	Allowance	provided t	o SC/ST Victi		ocities under	PoA Act 19	89 (2013	to 2017) 253	
	State /UTs	201	.3	2	014	é	2015	201	6	20	17
		Number of cases registere d under the PoA Act in conjuncti on with the IPC	No of persons covered	Number of cases registe red under the PoA Act in conjunc tion with the IPC	No of persons covered	Numb er of cases regist ered under the PoA Act in conju nction with the IPC	No of persons covered	Number of cases register ed under the PoA Act in conjunct ion with the IPC	No of persons covered		No of persons covered
1.	Andhra	3936	408	2493	-	2625	118	2740	261	1967	249
2.	Arunachal	1	-	0	-	1	-	0	-	2	-
3.	Assam	8	-	3	-	5	-	5	-	58	-
4.	Bihar	6812	-	7951	446	6298	457	5726	542	6465	542
5.	Chhattisgarh	573	246	834	2922	589	2757	645	463	675	732
6.	Goa	20	-	18	-	21	-	21	-	10	-
7.	Gujarat	1414	-	1298	-	1257	-	1602	-	1641	-
8.	Haryana	493	12	444	2	510	-	639	-	716	-
9.	Himachal	146	-	116		97	-	117	-	21	1
10.	Jharkhand	1374	789	1305	-	1002	10	805	-	329	-
11.	Karnataka	3076	599	2262	509	2227	555	2237	730	685	374
12.	Kerala	891	540	832	287	860	335	992	272	894	169
13.	M.P.	4241	3240	4871	6766	4904	7000	6745	6303	8173	10454
14.	Maharashtra	2064	1664	2206	3208	2276	117	2139	121	1941	43
15.	Meghalaya	0	-	1		0	-	0	-	0	-
16.	Mizoram	0	-	1		0	-	0	-	0	-
17.	Odisha	3382	-	2190		2512	-	2477	-	2626	95
18.	Punjab	126	-	123		147	-	134	-	87	5
19.	Rajasthan	8126	-	8415		7320	-	6329	-	5076	-
20.	Sikkim	23	-	4		3	2	1	5	10	2
21.	Tamil Nadu	1867	332	1504	458	1760	30	1306	71	1290	1260
22.	Telangana	-	-	1760	54	1678	207	1904	-	1601	-
23.	Uttarakhand	36	-	61	-	86	-	68	-	104	-
24.	U.P.	7103	358	8090	358	8363	-	10430	367	8993	744
25.	West Bengal	237	-	237	-	234	-	202	-	176	-
26.	Tripura	72	-	1	-	4	-	3	-	1	-
27.	A & N Islands	1	-	6	-	3	-	6	-	1	2
28.	Chandigarh	4	-	1	-	1	-	1	-	0	-
29.	Dadra Nagar Haveli	7	-	3	-	3	-	2	-	1	-
30.	Daman & Diu	2	-	0	-	2	-	0	-	0	-
31.	NCT of Delhi	52	-	86	-	49	-	55	-	30	-
32.	Lakshadweep	0	-	0	-	0	-	1	-	0	-
33.	Puducherry	6	-	6	-	2	-	3	-	25	-
34.	Nagaland	18	-	0	-	0	-	0	-	0	-
35.	Manipur	3	-	2	-	0	-	3	-	1	-
	Total	46114		47124		44839		47338		43599	

5.3 Right to Legal Aid:

Article 39A of the Constitution provides for free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The Legal Services Authorities Act, 1987 was enacted to constitute special authorities for providing free and competent legal services to weaker sections of the society. Section 4 (m) of the LSAAct provides for special efforts to be made for enlisting the support of voluntary social welfare institutions, particularly among Scheduled Castes and Scheduled Tribes. Section 12 of the LSAAct provides for free legal aid to the Scheduled Castes and Scheduled Tribes. Similarly, Section 21 (2) (i) cast a duty on the State for making the provision for adequate facilities, including legal aid to the persons subjected to atrocities to enable them to avail themselves of justice. Table 34 shows that very few atrocity victims received legal aid in the last five years in most of the states and state governments have also not given importance in providing legal aid to the victims of atrocities. There is a need for serious review of the reasons for very poor access of SCs and STs to legal aid and taking of expeditious and strong steps to promote access to and availability of legal aid to them, wherever necessary, to facilitate the process of accrual of justice to them in the highly unequal struggle they face in their lives.

Andhra Pradesh: Despite 3936 registered crimes against SC/ST victims in 2013, only 11 persons received legal aid. In the year 2015 a total of 2625 crimes registered for the atrocities committed against SC/ST victims and only 19 persons received legal aid. For the year 2016 a total of 2740 crimes and a total of 1967 crimes in the year 2017 were registered for the atrocities committed against SC/ST victims and a total of 247 and 1311 persons were provided legal aid for the year 2016 and 2017 respectively.

Bihar: Despite registration of 5726 crimes for the atrocities committed against SC/ST victims in 2016 only 1636 victims were provided legal aid.254

Chhattisgarh: State of Chhattisgarh seems to be a better state when it comes to providing legal aid to the victims of atrocities. A total of 573 crimes for atrocities committed against SC/ST victims in 2013 and a total of 2026 persons received legal aid. Similarly, in the year 2014 a total of 834 crimes registered for the atrocities committed against SC/ST victims and 625 persons received legal aid. For the year 2016 a total of 645 crimes and a total of 675 crimes in the year 2017 were registered for the atrocities committed against SC/ST victims and a total of 832 and 570 persons were provided legal aid for the year 2016 and 2017 respectively. 255

Goa: A total of 21 crimes for atrocities committed against SC/ST

victims in 2015 and a total of 1 persons received legal aid.256

Haryana: A total of 493 crimes for atrocities committed against SC/ST victims in 2013 and a total of 85 persons received legal aid. Similarly, in the year 2014 a total of 444 crimes registered for the atrocities committed against SC/ST victims and 111 persons received legal aid. For the year 2015 a total of 510 crimes and a total of 639 crimes in the year 2016 were registered for the atrocities committed against SC/ST victims and a total of 49 and 28 persons were provided legal aid for the year 2015 and 2016 respectively. For the year 2017 a total of 716 crimes for atrocities committed against SC/ST victims and a mere 46 persons benefitted through legal aid.

Jharkhand: A total of 1374 crimes for atrocities committed against SC/ST victims in 2013 and a total of 372 persons received legal aid. Similarly, in the year 2014 a total of 1305 crimes registered for the atrocities committed against SC/ST victims and only 26 persons received legal aid. For the year 2015 a total of 1002 crimes were registered for the atrocities committed against SC/ST victims and a total of 136 persons were provided legal aid.257

Karnataka: A total of 3076 crimes for atrocities committed against SC/ST victims in 2013 and a total of 918 persons received legal aid. Similarly, in the year 2014 a total of 2262 crimes registered for the atrocities committed against SC/ST victims and 234 persons received legal aid. For the year 2015 a total of 2227 crimes and a total of 2237 crimes in the year 2016 were registered for the atrocities committed against SC/ST victims and a total of 497 and 706 persons were provided legal aid for the year 2015 and 2016 respectively. For the year 2017 a total of 685 crimes for atrocities committed against SC/ST victims and a mere 764 persons benefitted through legal aid.

²⁵⁴ Information on number of beneficiaries not provided by the state of Bihar in Annual Reports for the years 2013, 2016, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁵⁵ Information on number of beneficiaries not provided by the state of Bihar in Annual Reports for the years 2015, filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁵⁶ Information on number of beneficiaries not provided in Annual Reports for the years 2013, 2014, 2016, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁵⁷ Information on number of beneficiaries not provided in Annual Reports for the years 2016, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

Kerala: A total of 891 crimes for atrocities committed against SC/ST victims in 2013 and a total of 99 persons received legal aid. Similarly, in the year 2014 a total of 832 crimes registered for the atrocities committed against SC/ST victims and 211 persons received legal aid. For the year 2016 a total of 992 crimes and a total of 894 crimes in the year 2017 were registered for the atrocities committed against SC/ST victims and a total of 135 and 132 persons were provided legal aid for the year 2016 and 2017 respectively. 258

Maharashtra: A total of 2064 crimes for atrocities committed against SC/ST victims in 2013 and a total of 617 persons received legal aid. Similarly, in the year 2014 a total of 2206 crimes registered for the atrocities committed against SC/ST victims and 701 persons received legal aid. For the year 2015 a total of 2276 crimes and a total of 2139 crimes in the year 2016 were registered for the atrocities committed against SC/ST victims and a total of 1120 and 1056 persons were provided legal aid for the year 2015 and 2016 respectively. For the year 2017 a total of 1941 crimes for atrocities committed against SC/ST victims and 1145 persons were benefitted through legal aid.

Odisha: Despite registration of 2626 crimes for the atrocities committed against SC/ST victims in 2017 only 601 victims were provided legal aid.259

Punjab: A total of 123 crimes for atrocities committed against SC/ST victims in 2014 and a significant number of 851 persons received legal aid. Similarly, in the year 2015 a total of 147 crimes registered for the atrocities committed against SC/ST victims and 14 persons received legal aid. For the year 2016 a total of 134 crimes for atrocities committed against SC/ST victims and 12 persons were benefitted through legal aid.260

Rajasthan: A total of 8126 crimes for atrocities committed against SC/ST victims in 2013 and a total of 1157 persons received legal aid. Similarly, in the year 2014 a total of 8415 crimes registered for the atrocities committed against SC/ST victims and 1406 persons received legal aid. For the year 2015 a total of 7320 crimes and a total of 6329 crimes in the year 2016 were registered for the atrocities committed against SC/ST victims and a total of 1597 and 1501 persons were provided legal aid for the year 2015 and 2016 respectively. For the year 2017 a total of 5076 crimes for atrocities committed against SC/ST victims and 1136 persons were benefitted through legal aid.

Sikkim: A total of 1 crime for atrocities committed against SC/ST victims in 2016 and 1 person received legal aid.

Similarly, in the year 2017 a total of 10 crimes registered for the atrocities committed against SC/ST victims and 2 persons received legal aid. 261

Telangana: A total of 1760 crimes for atrocities committed against SC/ST victims in 2014 and a total of 104 persons received legal aid.262

Uttarakhand: A total of 36 crimes for atrocities committed against SC/ST victims in 2013 and a total of 12 persons received legal aid. Similarly, in the year 2014 a total of 61 crimes registered for the atrocities committed against SC/ST victims and 16 persons received legal aid. For the year 2015 a total of 86 crimes and a total of 68 crimes in the year 2016 were registered for the atrocities committed against SC/ST victims and a total of 25 and 4 persons were provided legal aid for the year 2015 and 2016 respectively. For the year 2017 a total of 104 crimes for atrocities committed against SC/ST victims and 2 persons were benefitted through legal aid.

Uttar Pradesh: A total of 10430 crimes for atrocities committed against SC/ST victims in 2016 and 4328 person received legal aid. Similarly, in the year 2017 a total of 8993 crimes registered for the atrocities committed against SC/ST victims and 6078 persons received legal aid.263

West Bengal: A total of 237 crimes for atrocities committed against SC/ST victims in 2014 and only 3 person-received legal aid. Similarly, in the year 2015 a total of 234 crimes registered for the atrocities committed against SC/ST victims and 61 persons received legal aid and in 2016 a total of 202 crimes for atrocities committed against SC/ST victims in 2016 and only 26 people received legal aid. In 2007 2016 a total of 176 crimes for atrocities committed against SC/ST victims and only 26 people received legal aid. 264

²⁵⁸ Information on number of beneficiaries not provided in Annual Reports for the years 2015 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁵⁹ Information on number of beneficiaries not provided in Annual Reports for the years 2013, 2014, 2015, 2016 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁶⁰ Information on number of beneficiaries not provided in Annual Reports for the years 2013, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁶¹ Information on number of beneficiaries not provided in Annual Reports for the years 2013, 2014, 2015 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁶² Information on number of beneficiaries not provided in Annual Reports for the years 2013, 2015, 2016, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁶³ Information on number of beneficiaries not provided in Annual Reports for the years 2013, 2014, 2015 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

²⁶⁴ Information on number of beneficiaries not provided in Annual Reports for the years 2013 filed under section 21(4) of SCs and STs (PoA) Act 1989 by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

States not provided details of Beneficiaries: Arunachal Pradesh, Assam, Gujarat, H.P, M.P, Meghalaya, Mizoram, Tamil Nadu, Tripura, Andaman, Chandigarh, Dadra Nagar

Haveli, Daman & Diu, NCT of Delhi, Puducherry, Nagaland, Manipur. 265

		Chart	a off a set of	tal a secolar	Table		ture eiti /0	012 + 2017	266		
		2013	s of Legal A	2014	ed to the V	2015	trocities (2)	2013 to 2017)200	2017	
		Total	Number	Total	Number	Total	Number	Total	Number	Total	Number
		Crimes	of	Crimes	of	Crimes	of	Crimes	of	Crimes	of
		registere	persons	regist	persons	register	persons		persons		persons
		d under	covered	ered	covered	ed	covered	register ed	covered	register ed	covered
		PoA Act	covered	under	covereu	under	covered	under	covered	under	Covered
		FUAAC		PoA		PoA		PoA		PoA	
				Act		Act		Act		Act	
1.	Andhra Pradesh	3936	11	2493	-	2625	19	2740	247	1967	1311
2.	Arunachal Pradesh	1	-	0	-	1	-	0	-	2	-
3.	Assam	8	-	3	-	5	-	5	-	58	-
4.	Bihar	6812	-	7951	-	6298	-	5726	1636	6465	-
5.	Chhattisgarh	573	2026 \	834	625	589	-	645	832	675	570
6.	Goa	20	-	18	-	21	-	21	1	10	-
7.	Gujarat	1414	-	1298	-	1257	-	1602	-	1641	-
8.	Haryan a	493	85	444	111	510	49	639	28	716	46
9.	H.P	146	-	116	-	97	-	117	-	21	-
10.	Jharkhand	1374	372	1305	26	1002	136	805	-	329	-
11.	Karnataka	3076	918	2262	234	2227	497	2237	706	685	764
12.	Kerala	891	99	832	211	860	-	992	135	894	132
13.	M.P	4241	-	4871	-	4904	-	6745	-	8173	-
14.	Maharashtra	2064	617	2206	701	2276	1120	2139	1056	1941	1145
15.	Meghalaya	0	-	1	-	0	-	0	-	0	-
16.	Mizoram	0	-	1	-	0	-	0	-	0	-
17.	Odisha	3382	-	2190	-	2512	-	2477	-	2626	601
18.	Punjab	126	-	123	851	147	14	134	12	87	-
19.	Rajasthan	8126	1157	8415	1406	7320	1597	6329	1501	5076	1136
20.	Sikkim	23	-	4	-	3	-	1	1	10	2
21.	Tamil Nadu	1867	-	1504	-	1760	-	1306	-	1290	-
22.	Telangana	-		1760	104	1678	-	1904	-	1601	-
23.	Uttara khand	36	12	61	16	86	25	68	4	104	2
24.	Uttar Pradesh	7103	-	8090	-	8363	-	10430	4328	8993	6078
25.	West Bengal	237	-	237	3	234	61	202	26	176	26
26.	Tripura	72	-	1	-	4	-	3	-	1	-
27.	A & N Islands	1	-	6	-	3	-	6	-	1	-
28.	Chandigarh	4	No case receive d	1	No case receive d	1	No case receive d	1	No case receive d	0	-
29.	Dadra Nagar Haveli	7	-	3	-	3	-	2	-	1	-
30.	Daman & Diu	2	-	0	-	2	-	0	-	0	-
31.	NCT of Delhi	52	-	86	-	49	-	55	-	30	-
32.	Lakshadwee	0	-	0	-	0	-	1	-	0	-
33.	Puducherry	6	-	6	-	2	-	3	-	25	-
34.	Nagaland	18	-	0	-	0	-	0	-	0	-
35.	Manipur	3	-	2	-	0	-	3	-	1	-

States with no information have not provided number of beneficiaries and have either stated that legal services are being provided through legal Services Authorities.

265 Number of beneficiaries not provided for the Annual Reports (2013 to 2017), filed under section 21(4) of SCs and STs (PoA) Act 1989, by Ministry of Social Justice & Empowerment

266 Annual Reports (2013- 2017), filed under section 21(4) of SCs and STs (PoA) Act 1989, filed by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment

5.4 Victim's Right to Appeal against acquittals under PoAAct:

The victim have a right to an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such court. The said provisions seem to have been flouted. One can observe from the below analysis in Table -35, that most of the states are lagging behind in supporting victims to file appeal against the acquittal orders.

Chhattisgarh: In 2013 out of 175 acquittal cases in only 10 cases appeals were filed. Similarly, in 2015 out of 109 acquittals only in 7 cases and in 2016 out of 161 acquittals in 2 cases and in 2017 out of 189 acquittals only in 18 cases appeals were filed.267

Goa: In 2015 out of 19 acquittal cases in only 2 cases appeals were filed .268

Gujarat: In 2016 out of 665 acquittal cases in only 37 cases appeals were filed. Similarly, in 2017 out of 1651 acquittals only in 153 cases appeals were filed. 269

Himachal Pradesh: In 2014 out of 38 acquittal cases in only 6 cases appeals were filed. Similarly, in 2015 out of 48 acquittals only in 16 cases and in 2016 out of 33 acquittals in 2 cases and in 2017 out of 31 acquittals only in 16 cases appeals were filed.270

Karnataka: In 2013 out of 770 acquittal cases in only 3 cases appeals were filed. Similarly, in 2014 out of 284 acquittals only in 2 cases and in 2015 out of 817 acquittals in 46 cases and in 2016 out of 955 acquittals only in 156 cases appeals were filed. For the year 2017 out of 983 acquittals only 13 cases reached to the level of appeal.

Kerala: In 2013 out of 233 acquittal cases in only 1 cases appeals were filed. Similarly, in 2014 out of 203 acquittals only in 10 cases and in 2015 out of 161 acquittals in 1 cases and in 2016 out of 208 acquittals only in 3 cases appeals were filed.

For the year 2017 out of 245 acquittals only 9 cases reached to the level of appeal.

Maharashtra: In 2013 out of 415 acquittal cases in only 35 cases appeals were filed. Similarly, in 2014 out of 517 acquittals only in 30 cases and in 2015 out of 1283 acquittals in 25 cases and in 2016 out of 2049 acquittals only in 49 cases appeals were filed. For the year 2017 out of 2049 acquittals only 94 cases reached to the level of appeal.

Punjab: In 2017 out of 44 acquittal cases in only 4 cases appeals were filed.

Rajasthan: In 2016 out of 1313 acquittal cases in only 112 cases appeals were filed. Similarly, in 2017 out of 993 acquittals only in 16 cases appeals were filed.271

Uttar Pradesh: In 2013 out of 1882 acquittal cases in only 98 cases appeals were filed. Similarly, in 2017 out of 1376 acquittals only in 114 cases appeals were filed.272

States which have not filed Appeals (2013 to 2017): Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Haryana, Jharkhand, Madhya Pradesh, Meghalaya, Mizoram, Odisha, Sikkim, Tamil Nadu, Telangana, Uttarakhand.

²⁶⁷ Details of Appeals not provided by the state of Chhattisgarh for the Annual Report, 2014, filed under section 21(4) of SCs and STs (PoA) Act 1989, by Ministry of Social Justice & Empowerment

²⁶⁸ Details of Appeals not provided by the state of Goa for the Annual Report, 2013, 2014, 2016, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989, by Ministry of Social Justice & Empowerment.

²⁶⁹ Details of Appeals not provided by the state of Gujarat for the Annual Report, 2013, 2014, 2015 filed under section 21(4) of SCs and STs (PoA) Act 1989, by Ministry of Social Justice & Empowerment.

²⁷⁰ Details of Appeals not provided by the state of Himachal Pradesh for the Annual Report, 2014, filed under section 21(4) of SCs and STs (PoA) Act 1989, by Ministry of Social Justice & Empowerment.

²⁷¹ Details of Appeals not provided by the state of Rajasthan for the Annual Report, 2013, 2014, 2015 filed under section 21(4) of SCs and STs (PoA) Act 1989, by Ministry of Social Justice & Empowerment.

²⁷² Details of Appeals not provided by the state of Uttar Pradesh for the Annual Report, 2015, 2016, 2017 filed under section 21(4) of SCs and STs (PoA) Act 1989, by Ministry of Social Justice & Empowerment.

	Table -35										
S. No	States /UTs	Status of Appeals under PoA Act (2013 to 2017) 273									
		20	13	20)14	20)15	2016		2017	
		Acquittal	Appeal	Acquittal	Appeal	Acquittal	Appeal	Acquittal	Appeal	Acquittal	Appeal
1.	Andhra Pradesh	-	-	-	-	-	-	-	-	-	-
2.	Arunachal Pradesh	-	-	-	-	-	-	-	-	-	-
3.	Assam	-	-	-	-	-	-	-	-	-	-
4.	Bihar	-	-	-	-	-	-	-	-	-	-
5.	Chhattisgar h	175	10	-	-	109	7	161	2	189	18
6.	Goa					19	2				
7.	Gujarat	-	-	-	-	-	-	665	37	1651	153
8.	Haryana										
9.	Himachal Pradesh	-	-	38	6	48	16	33	2	31	16
10.	Jharkhand	-	-	-	-	-	-	-	-	-	-
11.	Karnataka	770	3	284	2	817	46	955	156	983	13
12.	Kerala	233	1	203	10	161	1	208	3	245	9
13.	Madhya Pradesh	-	-	-	-	-	-	-	-	-	-
14.	Maharashtr a	415	35	517	30	1283	25	2049	94	2049	94
15.	Meghalaya	-	-	-	-	-	-	-	-	-	-
16.	Mizoram	-	-	-	-	-	-	-	-	-	-
17.	Odisha	-	-	-	-	-	-	-	-	-	-
18.	Punjab	-	-	-	-	-	-	-	-	44	4
19.	Rajasthan							1313	112	993	16
20.	Sikkim	-	-	-	-	-	-	-	-	-	-
21.	Tamil Nadu	-	-	-	-	-	-	-	-	-	-
22.	Telangana	-	-	-	-	-	-	-	-	-	-
23.	Uttarakhan d	-	-	-	-	-	-	-	-	-	-
24.	Uttar Pradesh	1882	98	1376	114	-	-	-	-	-	-
25.	West Bengal	27	1	-	-	-	-	-	-	-	-
26.	Tripura	-	-	-	-	-	-	-	-	-	-
27.	A & N Islands	-	-	-	-	-	-	-	-	-	-
28.	Chandigarh	-	-	-	-	-	-	-	-	-	-
29.	Dadra Nagar Haveli	-	-	-	-	-	-	-	-	-	-
30.	Daman & Diu	-	-	-	-	-	-	-	-	-	-
31.	NCT of Delhi	6	0	-	-	-	-	-	-	15	2
32.	Lakshadwe	-	-	-	-	-	-	-	-	-	-
33.	ep Puducherry	-	-	-	-	-	-	-	-	-	-
33. 34.	Nagaland	-	-	-	-	-	-	-	-	-	-
35.	Manipur	-	-	-	-	-	-	-	-	-	-

²⁷³ Annual Reports (2013- 2017), filed under section 21(4) of SCs and STs (PoA) Act 1989, filed by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment

There has been a paradigm shift in the approach of criminal justice system towards victims of crime in India. In line with the basic principles enumerated in the 1985 Declaration, restitution and compensation to victims have become predominant features. However, compensation, additional reliefs, travelling allowance to victims of atrocities have been either used sparingly and the amounts paid have been minimal. Even the amount paid as compensation varies across states. The number beneficiaries in terms of compensation, travelling allowance, legal aid and appeals are less than the actual number of victims. It is important that the schemes should operate for the benefit of the victim and therefore, all plausible efforts must be made to facilitate the process.

The DLSA/SLSA must be empathetic to the pain and agony of victims of crimes and their consequent necessities and difficulties. Accordingly, orders must be made to provide the best deal to the victim, whereby he/she is able to rehabilitate, re-assimilate and resocialize for a dignified living. Simplicity of procedures must be emphasized upon and imposition of burden on victims to secure certificates, provide documents etc. should be reduced, so far as possible. Interim relief to victims must be provided, especially in cases of gang rape, acid attacks, etc., without the least emphasis on formalities and technical procedures. The pendency of applications should be addressed on the foundation of speedy relief to victims. Appropriate measures to 'minimize inconvenience to victims', 'avoiding unnecessary delay in disposition of cases...granting awards to victims' as well as 'proper assistance to victims' must be fundamental to the entire process. Administrative mechanisms must be strengthened to provide redress through procedures that are 'expeditious, fair, inexpensive and accessible', something that the existing system does not completely cater to at present. To reiterate the words of the apex court, no compensation can be adequate nor can it be of any respite for the victim but as the state has failed in protecting such serious violation of a victim's fundamental right, the state is duty bound to provide compensation, which may help in the victim's rehabilitation. The humiliation or the reputation that is snuffed out cannot be recompensed but then monetary compensation will at least provide some support

CHAPTER 6

MONITORING AND ACCOUNTABILITY MECHANISMS

Under the SC/ST (PoA) Rules, State Governments are to: (1) take precautionary and preventive measures in areas identified as atrocity prone (rule 3). (2) Set up SC/ST Protection Cell to assist in and monitor implementation of the Act (rule 8). (3) Nominate Nodal Officer to coordinate and review the functioning of all officials responsible for implementation of the SC/ST (PoA) Act (rule 9). (4) Appoint Special Officer to coordinate with all officials responsible for implementation of the Act, various committees and the SC/ST Protection Cell (rule 10). (5) Prepare a model contingency plan for implementing the provisions of the Act, specifying the roles and responsibilities of government officials, local bodies and NGOs, as well as package of relief measures for victims of atrocities (rule 15(1)) (6) constitute State-level, District-level and Sub Divisional Vigilance and Monitoring Committees to review implementation of the Act across the state and districts respectively (rules 16 & 17).

6.1 Areas which have been declared as Atrocity Prone:

Rule 3(1) (i) of the PoA Rules, provides for identification of atrocity prone areas. Andhra Pradesh, Bihar, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan Tamil Nadu, Telangana and Andaman and Nicobar Islands have identified the atrocity prone/sensitive areas. See Table 36 for details on identified the atrocity prone/sensitive areas.

Making a Mockery of the SC/ST (PoA) Act?

- Shocking facts: Despite the number of crimes against SCs/STs in general, and atrocities registered under the SC/ST (PoA) Act in particular, only 10 of the 35 States/UTs have identified atrocity prone districts. Moreover, out of these 10 states, six states have identified over 40% of their districts as atrocity prone. Notably, Uttar Pradesh, with the highest number of atrocity cases against SCs in the country has not identified atrocity prone area as per the Annual Report (2017) filed by Ministry of Social Justice & Empowerment, Department of Social Justice and Empowerment filed under section 21(4) of SCs and STs (PoA)Act 1989.
 - **Startling omission**: Tamil Nadu holds the distinction of the largest percentage of its 31 districts declared as atrocity prone: In 31 districts there are 211 villages as "Atrocity prone". In 7 Commissionerates, 12 villages were identified as atrocity prone for the year 2017. However with 13231

cases of atrocities against SCs and STs under the Act over the period 2009 to 2018, has not publicly declared the name of districts and areas in Annual Report (2017), filed by Ministry of Social Justice & Empowerment, Department of Social Justice and Empowerment under section 21(4) of SCs and STs (PoA) Act 1989.

- Less atrocity prone areas: Other states such as Madhya Pradesh, Rajasthan, Odisha, Maharashtra, Andhra Pradesh and Karnataka have less number of atrocity prone areas compare to the number of cases registered under SCs and STs (PoA) Act 1989.
- Surprising discrepancies: The State of Haryana has not been placed under atrocity prone areas despite the fact that caste prejudice and practice of 'untouchability' are the major causes of mass attacks and atrocities.

				Table - 36	
			Government -	Identified Atrocity	Prone Districts 274
S.No	State	Total No. of Distri cts in State	No. of Identified Atrocity Prone Districts	No. of cases under SC/ST (PoA) Act for 2009 -2018	Name of the identified districts
1.	Bihar	38	33	59813	Patna, Nalanda, Rohtas, Bhabhua, Bhojpur, Buxer, Gaya, Jehanabad, Nawada, Aurangabad, Saran, Siwan, Gopalganj, Muzaffarpur, Sitamarhi, West Champaran (Betia), East Champara n (Motihari), Vaishali, Darbhanga, Madhubani, Samastipur,Saharsa, Madhepura, Purnia, Bhagalpur, Banka, Munger, Sheikhpura, Begusarai, Khagaria, Katihar, Jamui and Araria.
2.	Rajasthan	33	13	33648	Jaipur Rural, Alwar, Ganganagar, Bharatpur, Sikar, Barmer, Pali, Nagaur, Ajmer, Dholpur, Bhilwara, Hanumangarh , Swaimadhopur.
3.	Madhya Pradesh	52	13	31347	Bhopal, Vidisha, Bhind, Morena, Seopur, Dewas, Shajapur, Ratlam, Gwalior, Shivpuri, Chatarpur, Raisen, Betul
4.	Odisha	30	16	20978	Angul, Bhadrak, Boudh, Balasore, Cuttack, Dhenkanal, Deogarh, Kandhamal, Kalahandi, Khurda, Keonjhar, Mayurbhanj, Nuapada, Puri, Sonepur, Sundergarh
5.	Andhra Pradesh	13	4	19545	Kadapa , Kurnool Srikakulam , East Godavari (Kakinada)
6.	Karnataka	30	12	18036	Bangalore (U), Bangalore (R), Belagavi, Ballari, Vijapura, Bidar, Bagalkot, Chikballapur, Chikkamagaluru, Chitradurga, Chamaraja Nagar, Dharwad, Dakshina Kannada, Davanagere, Gadag, Kalaburagi, Haveri, Hassan, Kolar, Koppal
7.	Tamil Nadu	33	31	13231	211 villages in 31 districts as "Atrocity prone ". In 7 Commissionerates, 12 villages were identified as "atrocity prone " (No mention of districts)
8.	Maharashtr a	36	3	13010	Dhule, Gadchiroli, Bhandara
9.	Gujarat	33	11	8333	Mehsana, Ahmedabad (Rural), Junagadh, Kutch, Banaskantha, Kheda, Amreli, Rajkot (Rural), Surendranagar , Vadodara (Rural), Bharuch
10.	Kerala	14	2	5100	Kasargod and Thiruvananthapuram (Rural)
	TOTAL	312	138	149562	

274 Annual Reports (2017), under section 21(4) of SCs and STs (PoA) Act 1989, filed by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

Urgent Attention Needed!

Given the dismal situation where so few atrocity prone areas have been identified, a fair conclusion seems to be that state governments attach little priority to implementation of the SC/ST (PoA) Act in full in order to realise its objectives. But surely it makes more sense to invest time and energy in identifying atrocity prone areas and taking preventive measures, than in reacting after an atrocity takes place?

- Common criteria must be developed as to how to identify atrocity prone districts/areas, while atrocities are certainly not been limited to those identified districts or areas alone.
- Limited Protection Mechanism in SC/ST (PoA) Act: Protection through removal of potential perpetrators of atrocities under sec.10 SC/ST (PoA) Act from an area is made available only to STs in Scheduled or Tribal Areas. This protection is not extended to SCs, even though SCs form a larger proportion of victims of atrocities.

(P.S. Krishnan, 'Atrocities against Dalits: Retrospect and Prospect', Combat Law, Vol 8, Issue 5-6, 2009, p.17)

NB: Back in 1990 the National Commission for SCs & STs made the same recommendation!

6.2 SC/ST Protection Cells

- Parliamentary Committee on the Welfare of SCs and STs in the year 2004-2005 has noted that , such Cells are functioning in a pathetic condition with poor infrastructure and unsuitable working conditions. After more than a decade is not the fact that atrocities and untouchability practices still continue to occur across the country and is an indication that these Protection Cells are not working properly?
- Should not the government do more than merely indicate numbers of Cells set up and look into their actual functioning?

SC/ST Protection Cells 275 have been set up in the States and Union Territories of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Mizoram, Odisha, Punjab, Rajasthan, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Andman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, NCT of Delhi and Puducherry.

Andhra Pradesh: A SC & ST Protection Cell at State Level is headed by an Inspector General of Police (CID) and functions under the control and supervision of Additional Director General of Police (CID), assisted by DSPs and other supporting staff.

Assam: A SC and ST Protection Cell at State level functions under the supervision of Director General of Police. The Cell consists of Additional Director General of Police (CID), Inspector General of Police (A), Deputy Inspector General of Police (Range) and all Superintendents of Police.

Bihar: At State Level, a Scheduled Castes and Scheduled Tribes Cell has been functioning under the charge of Additional Director General of Police, (Weaker Section), with supporting staff.

Chhatisgarh: At State Level, a Scheduled Castes and Scheduled Tribes Protection Cell, in the Police Headquarters has been functioning under the charge of Deputy Inspector General of Police with supporting staff.

Gujarat: The SC and ST Protection Cell is working in the office of the Director General of Police, under the control of the Additional Director General of Police.

²⁷⁵ Annual Reports (2017), under section 21(4) of SCs and STs (PoA) Act 1989, filed by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment

Haryana: A Scheduled Castes and Scheduled Tribes Protection Cell under the direct supervision of Additional Director General of Police/Inspector General of Police has been set up at Police Headquarters, to deal with crimes against weaker sections of the society.

Himachal Pradesh: A Special Cell has been set up at the State CID Headquarters, Shimla to monitor the offences of atrocities under the PoA Act. The Cell is functioning under the direct supervision of the Director General of Police.

Jharkhand: A Special Scheduled Castes and Scheduled Tribes Protection Cell has been constituted under the Crime Investigation Branch of the Police Department to monitor investigation of offences under the PoAAct. The Cell is headed by the Inspector General of Police, CID, Jharkhand.

Karnataka: The Civil Rights Enforcement Cell is functioning since 1975. Subsequently the Cell was re-designated as Directorate of Civil Rights Enforcement and is headed by an Additional Director General of Police.

Kerala: A Special Cell at the State Police Head Quarters functions under the supervision of the Additional Director General of Police.

Madhya Pradesh: A Cell under the charge of the Additional Director General of Police reviews implementation of the PoA Act.

Maharashtra: A Special Cell is functioning at the State Police Headquarters under the supervision of Special Inspector General of Police.

Meghalaya: The Scheduled Castes and Scheduled Tribes Protection Cell has been set up at the State Police Headquarters under the supervision of Deputy Inspector General of Police (CID).

Mizoram: The Scheduled Castes and Scheduled Tribes Protection Cell has been set up at the State Police Headquarters under the supervision of Additional Director General of Police/Deputy Inspector General of Police (CID).

Odisha: The Government of Odisha has constituted Scheduled Castes and Scheduled Tribes Protection Cell under the charge of Additional Director General of Police, Human Rights Protection Cell (HRPC) in the State Police Headquarters at Cuttack.

Punjab: A special SC/ST Cell headed by the Superintendent of Police with supporting staff under the control of Director, Bureau of Investigation (Additional Director General of Police (Crime) is functioning at the Police Headquarters.

Rajasthan: A Civil Rights Cell is functioning in the Police Headquarters. This Cell has been entrusted, inter-alia, with the task of prevention of offences of atrocities. The Cell is headed by Superintendent of Police and works under the supervision of Additional Director General of Police (Civil Rights) with Deputy Inspector General of Police (Civil Rights).

Sikkim: A Scheduled Castes and Scheduled Tribes Protection Cell has been set up under the supervision of SSP/CID.

Tamil Nadu: The Additional Director General of Police and Assistant Inspector General of Police, Social Justice & Human Rights, monitor enforcement of the PoA Act, and supervise functioning of the Social Justice and Human Rights Units.

Tealangana: A SC and ST Protection Cell at the State Level is headed by an Inspector General of Police (CID) and functions under the control and supervision of Additional Director General of Police (CID).

Tripura: The Cell is functioning in the Police Headquarters of the State.

Uttar Pradesh: A Special Investigation Cell has been functioning at the State level. This Cell comprises of an Additional Director General of Police, an Inspector General of Police, a Deputy Inspector General of Police, a Superintendent of Police, an Additional Superintendent of Police and nine Dy. S.Ps.

Uttarakhand: Special Inquiry Cell has been set up in each district under the supervision of Superintendent of Police for prompt action.

West Bengal: The State Government has set up a Scheduled Castes and Scheduled Tribes Protection Cell at the State level under the supervision of the Inspector General of Police.

Andaman and Nicobar: A Special Cell consisting of Director General of Police, Inspector General of Police, Superintendent of Police of all districts and Director (TW) has been constituted by the Administration and is functioning to look into the cases of atrocities against members of Scheduled Tribes. **Chandigarh:** The Union Territory Administration has set up a Scheduled Castes and Scheduled Tribes Protection Cell under the supervision of the Inspector General of Police.

Dadar Nagar & Haveli: The SC and ST Protection Cell has been functioning in the UT of Dadra and Nagar Haveli.

NCT OF Delhi: The SC and ST Protection Cell has been set up in the Police Headquarters under the supervision of Deputy Commissioner of Police (Crime Branch) of Delhi Police.

Pudducherry: The PCR Cell is functioning under the direct supervision of the Superintendent of Police in three enclaves of the Union Territory of Puducherry, namely Karaikal, Puducherry and Yanam. Senior Superintendent of Police (Crime & Investigation) and Director General of Police, Puducherry are closely monitoring functioning of the PCR Cell.

6.3 Appointment of Nodal Officers

- Instead of merely listing the number of states which have established nodal officer as per the SC/ST (PoA) Rules, should not the Ministry of Social Justice and Empowerment now move further to assess their f u n c t i o n i n g ?
- Is it sufficient that nodal officers are appointed merely to coordinate and review implementation of the Act? Should not there be a State Authority to monitor and ensure enforcement of the Act, with powers to intervene in any atrocity case?

Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, Dadra & Nagar Haveli, NCT of Delhi and Puducherry.

Andhra Pradesh: The Director of Social Welfare has been designated as the Nodal Officer under Rule 9 of the PoA Rules, for coordinating the functioning of District Magistrates and Superintendents of Police.

Assam: The Director, Welfare of Scheduled Castes, Assam is the Nodal Officer.

Bihar: The Secretary, Home Department, is the Nodal Officer, who from time to time convenes the meetings to review implementation of the PoAAct.

Chhattisgarh: The Secretary, Scheduled Tribes and Scheduled Castes Development Department, is the Nodal Officer, who from time to time convenes the meetings to review implementation of the PoAAct.

Goa: The Additional Secretary, Department of Personnel is the Nodal Officer and coordinates the functioning of the District Magistrate and Superintendent of Police and other officers, responsible for implementing provisions of the PoAAct.

Gujarat: Principal Secretary, Social Justice & Empowerment is the Nodal Officer in accordance with Rule 9 of the PoA Rules.

Haryana: An Additional Chief Secretary in Government of Haryana has been appointed as the Nodal Officer in accordance with Rule 9 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules 1995.

Himachal Pradesh: The Additional Chief Secretary/Principal Secretary, Social Justice and Empowerment Department, Government of Himachal Pradesh has been appointed as the Nodal Officer.

Jharkhand: The Secretary, SC/ST/OBC & Minorities Welfare Department, Government of Jharkhand has been appointed as the Nodal Officer.

Karnataka: The Principal Secretary, Social Welfare Department, Government of Karnataka has been appointed as the Nodal Officer.

Kerala: The Principal Secretary, Scheduled Tribes Development Department has been appointed as the Nodal Officer.

Madhya Pradesh: A Secretary level officer has been nominated as a Nodal Officer under Rule 9 of the PoA Rules.

Maharashtra: A Secretary level officer has been nominated as the Nodal Officer as per Rule 9 of the PoA Rules.

276 Annual Reports (2017), under section 21(4) of SCs and STs (PoA) Act 1989, filed by Ministry of Social Justice & Empowerment Department of Social Justice and Empowerment.

Odisha: The Secretary, Scheduled Tribes and Scheduled Castes Development Department has been nominated as a Nodal Officer as per Rule 9 of the PoA Rules.

Punjab: Secretary/Principal Secretary, Department of Welfare of Scheduled Castes & Backward Classes and Minorities, has been nominated as a Nodal Officer as per Rule 9 of the PoA Rules.

Rajasthan: A senior Officer has been nominated as a Nodal Officer as per Rule 9 of the PoA Rules.

Tamil Nadu: The Secretary, Adi Dravidar and Tribal Welfare Department has been appointed as the Nodal Officer for coordinating functioning of the District Magistrates, Superintendents of Police and other officers authorized for implementation of provisions of the PoAAct.

Telangana: The Director, Scheduled Castes Development Department has been designated as the Nodal officer under Rule 9 of the PoA Rules, for coordinating the functioning of District Magistrates and Superintendents of Police.

Uttar Pradesh: The Special Secretary, Social Welfare Department has been nominated as the Nodal Officer for coordinating functioning of the District Magistrates, Superintendents of Police and other officers authorized for implementation of provisions of the PoAAct.

Uttarakhand: The Secretary, Social Welfare Department has been appointed as the Nodal Officer for coordinating functioning of the District Magistrates, Superintendents of Police and other officers authorized for implementation of provisions of the PoAAct.

West Bengal: In accordance with Rule 9 of the PoA, Rules 1995, the Principal Secretary, Backward Classes Welfare Department has been nominated as a Nodal Officer for coordinating the functions of the District Magistrate and the Superintendent of Police.

Chandigarh: In accordance with Rule 9 of the PoA, Rule, the Secretary, Social Welfare Department has been appointed as a Nodal Officer for coordinating the functions of the District Magistrate and the Superintendent of Police.

Dadar and Nagar Haveli: In accordance with Rule 9 of the PoA Rules, the Secretary, Social Welfare Department has been appointed as a Nodal Officer for coordinating the

functions of the District Collector and the Superintendent of Police.

NCT of Delhi: The Secretary, Department of Welfare of SC/ST/OBC and Minorities has been nominated as a Nodal Officer.

Pudducherry: The Director, Adi-Dravidar and Tribal Welfare Department has been nominated as a Nodal Officer.

6.4 Special Officers

Instead of merely listing the number of states which have established Special officer as per the SC/ST (PoA) Rules, should not the Ministry of Social Justice and Empowerment now move further to assess their functioning?

Oncer not below the fank of a Additional District Magistrate in the identified atrocity prone area, to co-ordinate with the District Magistrate, Superintendent of Police or other officers responsible for implementing the provisions of the Act. Special Officers have been nominated277 by Governments of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Mizoram, Odisha, Rajasthan, Tamil Nadu, Telangana, West Bengal and UT Administration of Andaman & Nicobar Islands Chandigarh, Dadra and Nagar Haveli, NCT of Delhi and Puducherry.

Andhra Pradesh: The Joint Collectors of the nine atrocity prone districts have been appointed as Special Officers.

Assam: Additional District Magistrate (Magistracy Branch) in each district has been appointed as a Special Officer.

Bihar: The Additional District Magistrate, in each district, has been designated as a Special Officer to co-ordinate the functioning with the District Magistrate/ Superintendent of Police or other officers responsible for the implementation of the provisions of the PoAAct and the Rules notified there under.

Chhatisgarh: Special Officers have been appointed in the Districts of Balod, Baloda Bazar, Korba, Mungeli, Korea, North Baster Kanker, South Baster Dantewada as per Rule 10 of the PoA Rules.

Gujarat: Three Regional Vigilance Officers have been nominated as Special Officers in accordance with Rule 10 of the PoARules, 1995 in the identified atrocity prone areas.

Haryana: There is no atrocity prone area in the State. However, as per Rule 10 of the PoA Rules, 1995, the District Magistrates of all the districts in the State have been designated as Special Officer.

H.P: There is no atrocity prone area in the State. However, as required under Rule 10 of the PoA Rules, 1995, all the Additional District Magistrates of the concerned districts have been appointed as Special Officers.

Jharkhand: The Additional Collectors/Additional District Magistrates of all twenty four districts have been appointed as Special Officers.

Kerala: The Special Officer has been appointed in the districts of Kasargod and Thiruvananthapuram (Rural) in accordance with the Rule 10 of the PoA Rules.

Madhya Pradesh: Under Rule 10 of the PoA Rules, at the district level, an officer of the rank of Additional District Magistrate is the Special Officer in thirteen districts namely Bhopal, Vidisha, Bhind, Murena, Seopur, Dewas, Shajapur, Ratlam, Gwalior, Shivpuri, Chhatarpur, Raisen and Betul.

Mizoram: The Sub-Divisional Police Officer (SDPO) of the eleven districts have been appointed as Special Officers.

Odisha: The Additional District Magistrates of the concerned districts are the Special Officers as per Rule 10 of the PoA, Rules.

Rajasthan: The Additional District Magistrates of the concerned districts have been appointed as the Special Officers under Rule 10 of the PoA, Rules.

Tamil Nadu: In accordance with Rule 10 of PoA Rules, 1995, Collectors in each of the concerned district have been appointed as Special Officers.

Telangana: The Joint Collectors have been appointed as Special Officers, in the districts, which have atrocity prone areas.

West Bengal: No district in the State has been identified as an atrocity prone area. However, in accordance with the provision of Rule 10 of the PoA, Rules 1995, the Additional District Magistrates of all districts, except Howrah district have been appointed as Special Officers.

Andaman and Nicobar: The Additional District Magistrate, Port Blair and the Project Officer, ITDP Car Nicobar has been designated as Special Officer in respect of Andaman and Nicobar District respectively.

Chandigarh: Director, Social Welfare Department has been

nominated as a Special Officer.

Dadar Nagar Haveli: There is no atrocity prone area in the UT, even though, in accordance with Rule 10 of the PoA, Rule, a Special Officer has been nominated.

NCT of Delhi: Although there is no atrocity prone area identified in the UT, even then eleven Additional Districts Magistrates have been appointed as Special Officers.

Puducherry: Although there is no atrocity prone area identified in the UT, yet the Director, Adi-Dravidar Department, Puducherry, Sub-Collector, Karaikal and Regional Administrator, Mahe and Yaam have been appointed as Special Officers.

6.5 State and District Level Vigilance and Monitoring Committees:

Rule 16 and Rule 17 of the PoA Rules, provide for setting up of the State Level Vigilance and Monitoring Committee under the Chairpersonship of the Chief Minister and the District level Vigilance and Monitoring Committees under the Chairpersonship of the District Magistrate to review implementation of the provisions of the PoA Act. Such Committees have been set up in the States/UTs of Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Mizoram, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, NCT of Delhi and Puducherry.

Even when such Committees have been constituted, no regular meetings are held and when meetings are held, hardly any substantive issues are discussed and even their transactions are not transparent. There is no attempt to involve those in its deliberations who are working for SCs to get meaningful feedback and obviously no serious follow up action emerges from the deliberations of such committees. The meetings are not announced in advance or proper intimation not given to members. The reports prepared by implementing agencies are not made available to concerned groups and individuals, who can comment upon the conduct of delivery agencies. It can be seen from the below analysis that State Level and District Level Vigilance and Monitoring Committee meetings are not being held by most of the states as mandated.

State and District Level Committees existing on Paper only!

The state level committees shall meet twice a year

As is evident from Table 37, that in 2016 only two meetings held in Haryana. One meeting held in Karnataka, Kerala, Tamil Naidu and West Bengal. No meeting held in States of Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Goa, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Telangana, Tripura, Uttar Pradesh, Uttarakhand, Andaman & Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Delhi, Lakshadweep and Puducherry. State/UT of Manipur and Daman & Diu have not furnished any information.

In 2017 only two meetings held in Haryana. One meeting held in Chhattisgarh, Gujarat, Karnataka, Kerala, West Bengal and Puducherry. No meeting held in States of Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Tamil Naidu, Telangana, Tripura, Uttar Pradesh, Uttarakhand, Andaman & Nicobar Islands, Chandigarh, Dadra and Nagar Haveli, Delhi, Lakshadweep and Puducherry. State/UT of Manipur and Daman & Diu have not furnished any information.

In 2018 only three meetings held in Gujarat, two meetings held in Uttar Pradesh, West Bengal, One meeting held in Assam, Chhattisgarh, Harayna, Maharastra,

Chandigadh, and Pudducherry. No meetings held in Karnataka, Kerala, Andhra Pradesh, Arunachal Pradesh, Bihar, Goa, Himachal Pradesh, Jharkhand, Madhya Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Rajasthan, Sikkim, Tamil Naidu, Telangana, Tripura, Uttarakhand, Andaman & Nicobar Islands, Dadra and Nagar Haveli, Delhi, Lakshadweep, Manipur, Daman & Diu.

Lack of interest in organising State and

District Level Committees: It has been noted by NCSC that the mandated State and District Level Vigilance and Monitoring Committee meetings are not being held by most states like Rajasthan, Gujarat, Uttarakhand, Himachal Pradesh, Andhra Pradesh, Madhya Pradesh, Telengana, Uttar Pradesh, West Bengal etc. for last 2 years. Only Chhattisgarh, Odisha and Karnataka have indicated dates when the State Level Vigilance Committees meetings were held.

Annual Report of the National Commission for Scheduled Castes: 2016-17 (April to September 2016).

		Table No		
		vel Vigilance and Monitorin		
S.No	State / UTs	-	ne State Level Vigilance M	-
		2016	2017	2018
1.	Andhra Pradesh	Nil	Nil	Nil
2.	Arunachal Pradesh	Nil	Nil	Nil
3.	Assam	Nil	Nil	1
4.	Bihar	Nil	Nil	Nil
5.	Chhattisgarh	Nil	1	1
6.	Goa	Nil	Nil	Nil
7.	Gujarat	Nil	1	3
8.	Haryana	2	2	1
9.	Himachal Pradesh	Nil	Nil	Nil
10.	Jharkhand	Nil	Nil	Nil
11.	Karnataka	1	1	Nil
12.	Kerala	Nil	1	Nil
13.	Madhya Pradesh	Nil	Nil	Nil
14.	Maharashtra	Nil	Nil	1
15.	Meghalaya	Nil	Nil	Nil
16.	Mizoram	Nil	Nil	Nil
17.	Odisha	Nil	Nil	Nil
18.	Punjab	Nil	Nil	Nil
19.	Rajasthan	Nil	Nil	Nil
20.	Sikkim	Nil	Nil	Nil
21.	Tamil Nadu	Nil	Nil	Nil
22.	Telangana	Nil	Nil	Nil
23.	Uttarakhand	Nil	Nil	Nil
24.	Uttar Pradesh	Nil	Nil	Nil
25.	West Bengal	1	1	2
26.	Tripura	Nil	Nil	Nil
27.	A & N Islands	Nil	Nil	Nil
28.	Chandigarh	Nil	Nil	1
29.	Dadra Nagar Haveli	Nil	Nil	Nil
30.	Daman & Diu	Nil	Nil	Nil
31.	NCT of Delhi	Nil	Nil	Nil
32.	Lakshadweep	Nil	Nil	Nil
33.	Puducherry	Nil	1	1
34.	Nagaland	Nil	Nil	Nil
35.	Manipur	Nil	Nil	Nil

278 Answer by Sh. Thanwar Chand Gehlot, MSJE, Lok Sabha Starred Question No 323 on 17.03.2020

District Level Committees also exist on Paper only!

The district level committee shall meet at least once in three months

For the last three years (2016 -2018), no district level meetings were held in the state of Arunachal Pradesh, Assam, Meghalaya, Mizoram, Sikkim, Chandigarh, Dadra Nagar Haveli, Daman & Diu, NCT of Delhi, Lakshadweep, and Puducherry. As is evident from the Table 38 that most of the districts as mandated are not regular in organizing the district level committee meetings every three months.

		Table No -38						
	Status of meetings of	the District Level Vigilance Monitorin	g Committee held d	uring 2016-2018	3			
S.No	State / UTs	No of meetings supposed to	Meetings of the District Level Vigilance					
		organize in a year		Monitoring Committee 279				
			2016	2017	2018			
1.	Andhra Pradesh	52	27	34	43			
2.	Arunachal Pradesh	100	Nil	Nil	Nil			
3.	Assam	132	Nil	Nil	Nil			
4.	Bihar	152	98	103	153			
5.	Chhattisgarh	108	100	96	68			
6.	Goa	8	3	2	3			
7.	Gujarat	132	131	148	122			
8.	Haryan a	88	46	52	45			
9.	Himachal Pradesh	48	25	22	30			
10.	Jharkhand	96	47	96	71			
11.	Karnataka	120	95	110	90			
12.	Kerala	56	54	54	54			
13.	Madhya Pradesh	208	171	162	163			
14.	Maharashtra	144	404	374	404			
15.	Meghalaya	44	Nil	Nil	Nil			
16.	Mizoram	32	Nil	Nil	Nil			
17.	Odisha	120	48	37	31			
18.	Punjab	88	48	17	45			
19.	Rajasthan	132	149	149	103			
20.	Sikkim	16	Nil	Nil	Nil			
21.	Tamil Nadu	148	53	86	118			
22.	Telangana	124	15	33	57			
23.	Uttarakhand	52	13	7	17			
24.	Uttar Pradesh	300	147	120	155			
25.	West Bengal	92	40	43	47			
26.	Tripura	32	3	Nil	Nil			
27.	A & N Islands	12	Nil	3	2			
28.	Chandigarh	4	Nil	Nil	Nil			
29.	Dadra Nagar Haveli	4	Nil	Nil	Nil			
30.	Daman & Diu	8	Nil	Nil	Nil			
31.	NCT of Delhi	44	Nil	Nil	Nil			
32.	Lakshadweep	4	Nil	Nil	Nil			
33.	Puducherry	16	Nil	Nil	Nil			

In sum, the implementation status of the PoA Act mandatory mechanisms for monitoring and ensuring accountability, based on the above analysis, gives a grim picture. Despite the existence of various mandatory and accountability mechanisms such as State and District Level Vigilance Monitoring Committees, etc., in most of the states these mechanisms are more widely flouted than implemented. Even though various committees under the law have been constituted, no regular meetings are held and no serious follow up action emerges from the deliberations of the meetings, on the position of the cases, and reviews. Despite the rising number of crimes against SCs and atrocities registered under the PoAAct, many of the states have not identified atrocity prone areas. The negligence in implementing the mandatory mechanisms and ensuring protection, points to the lack of political will and deep-rooted systemic bias. The mandatory accountability and monitoring mechanisms needs sustained collaboration with the community, activists and engagement with non-governmental organisations in order to provide more fruitful results.

CHAPTER 7

BUDGET ALLOCATION & EXPENDITURE FOR ENFORCEMENT

The Ministry of Social Justice and Empowerment (MSJE) is entrusted with the overall task of empowering and providing physical and financial security to SCs and STs against all types of exploitation and oppression. Accordingly, the Ministry is responsible for monitoring the implementation of the PCR Act and PoAAct. For this, financial resources are provided through the Special Central Assistance (herein SCA) to the State Governments on a 50:50 budget-sharing basis, and to the Union Territory Administrations on 100% basis wherein the Central Government contributes 100% of budget allocation. The SCA, initially introduced for implementing the PCR Act in 1974-75, was extended to cover the PoAAct in 1990-91.

What are the Budgetary elements for Financial Assistance?

To ensure the effective implementation of the PoAAct (besides the PCR Act) by the respective State/UT Governments, the SCA is to be used for the following purposes:

a. Monitoring the functioning and strengthening of the SC/ST Protection Cell and Special Police Stations, inclusive of conducting periodic surveys, identification of untouchability/atrocity prone areas, etc.

b. Setting up and functioning of Exclusive Special Courts, including appointment of officers for initiating or exercising supervision over prosecution, setting up of vigilance and monitoring committees and Special Courts, etc.

c. Relief and rehabilitation to atrocity victims, including minimum wages to the victims/ dependents of atrocities on FIR investigation, reimbursement of the payment of medicines, special medical consultation fee, legal aid etc.

What is the Budget of the Government of India?

It can be observed from Table 39 that the amount released by the Central Government to the State/UT Governments under the Centrally Sponsored Scheme during FY 2012-2103 totalled Rs. 97.50 Crores. The allocations increased in FY 2013-14 to Rs. 127.64 Crores. However, allocations in the year (2014-15), increased to Rs. 147.39 Crores, witnessed a downfall of Rs. 119.07 Crores allocated in FY 2015-2016. The allocations further increased to 222.56 Crore in the FY 2016 – 2017 and further increased to 355.86 during 2017-2018. FY 2018 – 2019 saw allocation with 474.72 Crores and for the FY 2019- 2020 it is further increased to 530 Crores and for the FY 2020-2021 a total of Rs. 550 crores has been allocated under the scheme.

GOOD NEWS Increased amount in very recent years!

According to the data it can be observed that, there has been a substantial increase in financial assistance provided by the Central Government, as seen particularly during the last three years.

BAD NEWS Budget allocation inadequate!

However, the increased allocation, whether little or more, is not that important for consideration. What is of relevance here is whether the increase in financial outlay is adequate for the effective implementation of the SC/ST (PoA) Act. That the allocations have been inadequate cannot be overlooked when one takes into account the phenomenal increase in atrocities as a result of increased awareness and assertion of rights by Dalits and Adivasis over recent years. The commitment to implement the PoAAct can be understood from the allocations made compared with the rising cases of caste atrocities and crimes against SCs and STs. Significantly, the allocation of funds also affects the available infrastructural facilities, which in turn has implication across speedy trial of cases. The irregularity and delayed allocation of financial resources to witnesses (as provisioned under the Act to enable their appearance for the court hearings) impedes their attendance in the courts etc.

Insufficient allocation (FY 2020-2021):280 The

Department of Social Justice & Empowerment in FY 2020-21 has allocated a total of 550 Crore for Enforcement of Protection of Civil Rights Act 1995 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989. The present 550 Crore allocations is not at all sufficient to strengthen the mechanisms and provisions needed to respond to survivors of atrocities. Justice delivery system lacks the resources to tackle cases.

²⁸⁰ http://www.ncdhr.org.in/wp-content/uploads/2020/02/NCDHR-Budget-2020.pdf

It is essential for the state to not only allocate adequate funds but also fulfill the mandates provided under the Act, invest in mechanisms like establishment of Exclusive Special Courts & Exclusive Special Public Prosecutors, State contingency plans that are necessary for strengthening & ensuring better implementation of PCR and PoA Act which are the key legal protective measures for Dalit-Adivasi communities. It is also to be noted that according to the 2018 NCRB data, 8 Dalit women are raped everyday and 7351 of atrocities were registered against Dalit women, however there is only a measly amount of Rs. 46.20 Cr allocated for their access to justice.

Table -39											
	State/UT-wise amount of Central assistance released under the Centrally Sponsored Scheme for implementation of										
the l	Protection of Civ										
	Act, 1989, duri	ng the finar						-2017, 201	7-2018, 20	018-	
0			2	019,2019-2	20 &2020-2	21 (Rs in Cr)			1		
S. No	States/UTs	2012 - 13	2013 - 14	2014 - 15	2015 -16	2016 -17	2017-18	2018 -19	2019 -20	2020 -21	
INU	States/015	2012-13	2013 - 14	2014-15	2015-10	2010-17	2017-10	2010-19	2019-20	2020 -21	
	Andhra										
1	Pradesh	7.30	20.13	4.25	4.05	18.93	26.09	37.01	8.46	4.92	
2	Assam	-	-	-	-	-			0.00	0.00	
3	Bihar	3.30	4.28	4.16	9.50	7.28	15.07	12.20	5.29	11.75	
4	Chhattisgarh	1.38	1.99	2.46	1.00	2.75	5.07		2.46	0.82	
5	Goa	0.08	0.11	0.11	0.07	0.14	0.07	0.40	0.04	0.00	
6	Gujarat	8.27	2.88	7.27	4.50	14.38	30.11	10.72	7.97	27.26	
7	Haryana	1.64	2.67	1.79	1.60	4.59	7.54	10.41	2.56	13.59	
8	Himachal Pradesh	0.61	0.47	0.94	0.60	2.82	0.42	0.00	0.56	0.27	
9	Jharkhand	0.00	0.86	1.41	0.50	0.85	1.84	3.17	0.72	0.28	
10	Karnataka	9.45	6.88	17.31	4.95	29.33	28.65	60.21	11.43	7.24	
11	Kerala	9.44	0.00	13.60	4.94	0.00	11.05	0.00	3.75	1.22	
12	Madhya Pradesh	13.36	14.98	21.83	22.50	42.07	68.20	72.25	24.02	7.19	
13	Maharashtra	9.95	21.49	20.50	12.60	16.00	25.47	4.17	12.81	2.73	
14	Odisha	7.00	9.37	8.02	5.24	10.50	11.24	13.56	3.87	1.86	
15	Punjab	0.00	0.00	0.00	1.54	2.65	1.00	0.00	0.00	0.19	
16	Rajasthan	5.84	9.26	6.59	17.75	14.00	30.71	18.20	10.60	19.11	
17	Sikkim	0.00	0.00	0.00	0.10	0.17	0.21	0.25	0.08	0.00	
18	Tamil Nadu	0.00	16.81	7.20	4.70	17.25	19.21	25.25	7.90	2.07	
19	Telangana	0.00	0.00	13.28	4.49	11.48	13.73	23.06	4.68	1.99	
20 21	Tripura West Bengal	0.01	0.00	0.10	0.02	0.00	0.15	0.23	0.03	0.00	
	Uttar	1.56	0.00	1.92	1.26	3.00	4.09		1.92	0.37	
22	Pradesh	16.80	13.15	11.98	14.70	22.15	51.00	108.13	32.76	111.31	
23	Uttarakhand	0.00	0.43	0.58	0.35	0.13	0.76	1.44	0.64	0.12	
24	A & N Islands	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
25	Chandigarh	0.00	0.09	0.20	0.01	0.10	0.10	0.50	0.00	0.00	
26	Dadra & Nagar Haveli	0.44	0.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
27	Daman & Diu	0.06	0.05	0.09	0.10	0.00	0.00	0.00	0.00	0.00	
28	NCT of Delhi	0.00	0.00	0.30	0.35	0.25	0.00	0.48	0.00	0.03	
29	Puducherry	1.00	1.25	1.51	1.65	1.75	4.00	1.52	0.00	0.00	
	Total	97.50	127.65	147.39	119.07	222.56	355.86	474.72	530.00	550.00	

Human cost of inadequate Budget?

Denial of access to justice for Victims & Witnesses!

- If adequate budget existed and was spent appropriately, wouldn't there be then exclusive special courts set up across the country instead of in only 12 states?
- If adequate budget existed and was spent appropriately, wouldn't there be adequate relief and compensation paid to the victims instead of the current lacunae?
- If adequate budget existed and was spent appropriately, wouldn't part of the budget be spent on creating awareness among SCs/STs on the SC/ST (PoA) Act, as being one of the four objectives of the SCP and TSP?
- If adequate awareness has been created, then why should the various Commissions and Committees suggest that lack of knowledge of the Act leads to non-registration of cases?

Has the distribution of Central Assistance to the States/UTs been fair and proper?

Have the States/UTs utilized the funds satisfactorily?

- Funds released to the State/UT governments bear no correspondence to volume of atrocity cases therein.
- Drawing of Central Assistance by some States is extremely low despite the sizeable percentage of SC and ST population and also high incidence of cases of violence against SCs and STs. The States in this category include Jharkhand, Maharaastra, Punjab, Uttarkhand Bihar, Orissa, Punjab, West Bengal, Assam, Himachal Pradesh, etc. The case of West Bengal is particularly striking because it has high SC population in the country. Perhaps non-registration of cases under the Act may be the reason why the State is not claiming adequate assistance. This obviously points towards indifference in the implementation of the Act.
- There is uneven distribution of assistance across years in various States, except for some States. This may be due to unsatisfactory utilization of the assistance already provided in certain years. If this is so, it would further reflect the laxity in the implementation of the Act.
- Some States have been drawing disproportionately large amounts in certain years, such as Uttar Pradesh, Tamil Nadu, Karnataka and Rajasthan – reasons for which are not very clear. This, however, does show uneven implementation of the Act across States and within the same

State during different years. Madhya Pradesh is the only State which has been consistently asking for large amounts.

The human cost of inadequate budgeting is denial of access to justice for victims and witnesses. The budget allocations and manner of expenditure are a means of determining the commitment of the country towards serious issues such as atrocities against SCs/STs, and consistent reduction in the allocation exposes the current low commitment to the issue of effective protection of SCs/STs in the country.

CHAPTER 8

RECOMMENDATIONS

The Indian State as a whole, at both the Central and State Government levels, should give priority concern to the ever increasing, as well as continuance of, atrocities against SCs and STs. This should prompt urgent government measures to ensure thorough and effective implementation of the SCs and STs (PoA)Act as amended in 2015.

As an initial step, high level Committees at the Centre and in the States/UTs could be appointed to review the implementation of the Act and Rules, assess the realisation of its objectives, and take appropriate and speedy action for strengthening the Act and for effective implementation in future. Such action would necessarily include a direction to Central and State Ministries dealing with the implementation of the Act and Rules to formulate concerete guidelines/ orders to strengthen the implementation of the Act.

Along this line, reccomendations to the Police and Judiciary have been formulated. Specific reccomendations on the rights of victims and witnesses and budget allocations have been framed. Implementation of which would greatly aid in ensuring a holistic development of SCs and STs and help in decrease in incidence of atrocities as well as ensuring justice to the SC/ST victims where such atrocities do take place. Overall recommendations to the Central and State government are formulated to ensure that government frames and implements plans and schemes to effectively deal with the caste based discrimination, violence and socio economic uplifment of Dalit's and Adivasis.

Central and State Government

1. Article 17 of the constitution abolishes the practice of "Untouchability" and punishes the enforcement of any disability arising out of the practice. The strategy towards eradicating "Untouchability" has been undermined by a lack of political will to ensure its implementation. Therefore, in particular, the government should implement measures designed to ensure that states abolish the practice of "Untouchability," in compliance with Article 17 of the constitution.

2. The constitutional measures found in – equality before law (Art.14), Prohibition of discrimination (Art. 15), Protection of life and personal liberty (Art. 21). The state has been put under obligation to strive hard to promote the welfare of the vulnerable communities and secure stable order in which social and economic measures are taken for Dalit's and Adivasis. Despite this they have been exploited and not been able to enjoy these rights in true sense. Therefore, the government should ensure passable measures for the upliftment of Dalit's and Adivasis in the country.

3. The presence of legislations does not imply a consistent implementation, or a levelling of the massive inequalities that still exist. It is therefore imperative for the State to play a proactive role for meeting the requirements of vunerable groups in the country. To this end in specific, there is a need for concrete measures ensuring implementation of "The Protection of Children from Sexual Offences (POCSO) Act, 2012", "Bonded Labour (System) Abolition Act, 1976", "Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993", "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)Act, 2006".

4. Recognize Dalit and Adivasi women as a distinct category among women and accordingly take following measures:

a) Make disaggregated data on Dalit and Adivasi women available in action taken reports, and progress reports and while reporting is done under PoAAct.

b) Ensure proper representation of Dalit and Adivasi women in statutory bodies and committees, vigilance and monitoring

bodies and undertake capacity building programmes to promote their active participation.

c) Push for more sensitive understanding of gender-caste based crimes against Dalit and Adivasi women and take special care to ensure social, physical and sexual protection of Dalit women under SC/ST (PoA) Act, as there is an increasing trend of heinous crimes against them. The intersection of caste and gender should also be incorporated into the understanding and interventions of all commissions.

d) Survey and rehabilitate Dalit women in vulnerable situation like devadasi, Safai Karmachari, Bonded labour and Women and girls who have been victims of atrocities.

e) Protect and encourage Dalit women human rights defenders and promoters who are involved in the implementation of the PoAAct and assisting victims at all levels of Criminal Justice System.

5. The state should fully implement the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995. In specific ensure that all the mandatory accountability and monitoring mechanisms are constituted and are in place. Mandatory review meetings are organized for the purpose of properly implementing the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

6. Ensuring that every State Government frames and implements a Plan to effectively implement the provisions of the Act which should inter alia specify the role and responsibility of various departments and officers etc. and also contain schemes to provide immediate relief; scheme for the rights and entitlements of victims and witnesses; allotment agricultural land, house-sites and housing; rehabilitation packages; scheme for employment; pension scheme; compensation; strengthening of socio-economic conditions; healthcare; electrification; essential facilities like roads, funeral grounds, etc., as detailed in Amendment Rule 15.

7. Set up Awareness Centres and organize Workshops in the identified area or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them.

8. Ensure and take immediate measures to prepare a model Contingency Plan as required under rule 15 SCs and STs (PoA) Rules for each and every state in line with the Contingency Plan prepared by the government of Tamil Nadu. The plan should consist of a package of measures for this purpose.

9. Ensure that the Central Government places each year on the table of each House of Parliament a report on the measures taken by this government and by state/UT governments in implementing the Act, including an assessment of the functioning of these measures, in accordance with section 21(4) SCs and STs (PoA) Act.

10. The Indian State as a whole, at both the Central and State Government levels, should give priority attention to accepting and implementing the recommendations of the National Commission for SCs, National Commission for STs, National Human Rights Commission, National Commission for Minorities, National and State Commissions for Women, National and State Child Rights Commissions, National Coalition for Strengthening the SC/ST (Prevention of Atrocities) Act and those of many other civil society organisations working to defend the rights of SCs/STs.

11. Reservation measures must be extended to Dalits of all faiths, especially to Dalit Christians and Muslims, who are presently excluded from the reservation benefits owing to religion-based discrimination. Constitution Scheduled Castes Order 1950, Paragraph 3's religious ban ought to be removed/ deleted or amended by Union of India for the extension of Scheduled Castes privileges to Dalit Christians and Muslims.

12. A comprehensive Employment Policy, covering public and private sector employment, with a special policy emphasis on the Scheduled Castes and Scheduled Tribes must be developed. This policy should align with the government's Reservation Policy. This policy should apply to multiple spheres, namely private employment, market, private capital market, agricultural land, private education and housing, access to inputs and services, products and consumergoods.

13. Ensure enactment of a central legislation, clearly spelling out the duties and responsibilities of the Union and State Governments regarding budgetary allocation under SCP and TsP. The legislation will operate as a key for the holistic socio and economic advancement of SCs and STs in every parameter of development, welfare and life.

14. Take immediate steps to end discrimination and violence against Dalit and Adivasi children in educational institutions and enact legislation on "prevention of discrimination (identity based) and promotion of equality in educational institutions".

15. Effective and serious implementation of recommendations given by the Treaty Bodies and Special Rapporteurs with regard to Caste Based Discrimination. In specific the implementation of the recomendations given on the violence and caste discrimination, during UPR III with proper and active co-ordination of line ministries and National and State institutions, involving NGOs/CSOs.

16. The draft UN Guidelines on Elimination of Discrimination based on Work and Descent lays down the framework of State obligations to remove Caste based Discrimination from all areas of life. India shall engage in substantive discussions on these guidelines, and accordingly adopt this comprehensive framework in order to eliminate caste-based discrimination.

17. Ratify promptly the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and relevant Protocol.

The Police

18. Make it mandatory, as per Home Ministry guidelines, that all complaints be immediately registered as FIRs, forbidding all discretionary powers to the police officer responsible for registering complaints.

19. Take immediate legal and departmental disciplinary action against police officials who neglect to discharge their duties under section 4 of the Act.

20. Ensure that the Superintendent of Police promptly visits the place of occurrence of an atrocity and fulfills his

responsibilities under Rule 12(1), (2) & (3) SCs and STs (PoA) Rules, particularly:

a) Ensuring a FIR is registered under the Act and effective measures are taken for apprehending the accused.

b) Deploying police force in the area and taking other preventative measures to prevent the further occurrence of atrocities.

21. For all cases filed under the SCs and STs (PoA) Act, ensure that the investigating officer is of a rank no less than the Deputy Superintendent of Police, in accordance with Rule 7(1) SCs and STs (PoA) Rules.

22. In each district, appoint more Deputy Superintendent of Police, depending on the intensity, frequency and spread of atrocities in the district, who would be specifically in-charge of investigating atrocities under the Act.

23. Make it mandatory that a police officer cannot arrest any complainant, victim, witness or any other person helping the victim for interrogation or for any other purpose without an order from a Magistrate and without a warrant.

24. Ensure that the investigation officer completes investigation of the crime and files charge sheet with in mandated 60 days as per Rule 7 (2) of the SCs and STs (PoA) Rules 1995.

25. Sensitise all state/UT police departments on the SCs and STs (PoA) Act, Human Rights Act 1993 and the international human rights standards set forth in ICERD, ICCPR, ICESCR and CEDAW. In particular, educate police personnel on the amended SCs and STs (PoA) Act 2015, particularly addressing such issues as the necessity of the Acts, their origins and purpose, mechanisms and how they are intended to address and to protect the rights of SCs/STs.

26. Conduct regular orientation trainings for police officers on the amended SCs and STs (PoA) Act and Rules 2016.

The Judiciary

27. Establish exclusive special courts in each and every district as per Sec 14 of the SCs and STs (PoA) Act and establish additional exclusive special courts as required to be able to effectively deal with the number of cases in a district so as to ensure speedy trial of atrocity cases under this Act in that district. These courts should:

(i) try only cases of atrocities against SCs/STs under the Act;

(ii) try cases of offences under the Act on a day-to-day basis, and complete trial as quickly as possible within a period not exceeding 90 days;

(iii) submit quarterly reports on the status of cases to the Chief Justice of the High Court of the State.

28. Appoint Judges to the Special Courts of Sessions taking into consideration their record of and reputation for protecting the rights of SCs/STs against 'untouchability' practices, discrimination and violence.

29. Plan judicial transfers in such a manner that the posts of judges in the special courts are never kept vacant and any such vacancies arising on account of unexpected and unforeseeable contingencies should be filled within 30 days after the opening of such vacancies.

30. Appoint one or more Assistant Public Prosecutors or senior advocates, including SC/ST advocates, who have been in practice for not less than seven years and on the basis of their record of and reputation for protecting the rights of SCs/STs, to assist the Special Public Prosecutor in conducting trials of cases under this Act.

31. Take measures to ensure that special public prosecutors of victims choice under rule 4(5) of SCs and STs (PoA) Rules are appointed in the exclusive special courts for the trial of the offences.

32. Fill all vacancies in the posts of Special Public Prosecutor or Assistant Public Prosecutors arising from unexpected and unforeseeable contingencies within 30 days after the opening of such vacancies.

33. In each district the District Magistrate should prepare a panel of eminent advocates, including SC/ST advocates wherever available, who have been in practice as advocates for not less than seven years, on the basis of their record of and reputation for upholding the rights of SCs/STs. These advocates shall monitor and deal with the cases of atrocities.

34. The District Magistrate should review at least twice a year the performance of Special Public Prosecutors and Assistant Public Prosecutors, and submit a report to the State/UT Government and to the State level Vigilance and Monitoring Committee.

Rights of Victims' and Witnesses'

35. Ensure that the "Rights of Victims and Witnesses" in the Act, defining their rights in terms of accessing justice are implemented in its true sense along the lines of the following recommendations.

a) Ensure that a copy of the FIR should be given forthwith, free of cost, to the informant or victim or social

worker/advocate helping them immediately after the registration of the FIR.

b) Ensure full compensation is paid promptly to victims of atrocities upon registration of a FIR, filing of charge sheet, receipt of the medical examination report and conviction, according to the scale as in the schedule annexed to the SCs and STs (PoA) Rules.

c) Ensure protection of the victims, informants and witnesses against all forms of ill-treatment, violence, threats or intimidation, and any other form of pressure or coercion, from the time of submission of the complaint till the conclusion of the trial.

d) Make arrangements at all Special Court venues for ensuring the privacy and protection of victims and witnesses from any kind of intimidation, including a separate waiting area wherever possible.

e) Notify victims of the offender's eligibility for parole or application for a governor's pardon, and allow victims to have input into the parole decision making process or to make a written statement regarding any pardon application.

f) Make arrangements to promptly provide all information to victims from the time of their first contact with police officials to the final judgement for the case.

g) Inform every victim and witness of every stage of a case pertaining to them, including investigation, framing of charges, bail, offender's release from police custody, trial dates, hearings on miscellaneous petitions by the Investigating Officer or Public Prosecutor.

h) Investigating Officer and Public Prosecutor should inform the victim/s about the possibilities of obtaining financial assistance and social services, practical and legal advice, compensation from the offender and state compensation.

i) Investigating Officer should ensure that victims and witnesses are provided shelter where necessary at government cost, with all facilities to ensure their effective social and economic rehabilitation, including alternative means of livelihood, food and medical aid.

j) Ensure travelling allowances, daily allowances, maintenance expenses and transport facilities for the victims of atrocities, their dependents and witnesses as per Rule 11 SCs and STs (PoA) Rules.

Other Mandatory Provisions

36. Ensure the formation of State and District level Vigilance and Monitoring Committees, and regular meetings of these committees, as per Rules 16 & 17 SCs and STs (PoA) Rules.

37. Involve human rights organizations and individuals working for and with SCs/STs in the deliberations of these State and District level Vigilance and Monitoring Committees as members or invitees.

38. Ensure adequate publicity and availability of information on the proceedings and outcomes of State and District level Vigilance and Monitoring Committee meetings.

39. In accordance with rule 3 of the SCs and STs (PoA) Rules, cancel all arms licenses for non-SCs/STs in those areas listed as atrocity prone with a view to preventing atrocities from occurring, and provide arms licenses to SCs/STs in those same areas to enable them to protect themselves.

40. Those State Governments/UT administrations who have not done so already should set up SC/ST Protection Cells as per rule 8(1) SCs and STs (PoA) Rules in each police station to ensure timely registration of cases under the proper sections of the SCs and STs (PoA)Act.

41. The National Commission for Scheduled Castes and National Commission for Scheduled Tribes should investigate and monitor all matters relating to the constitutional safeguards provided for the SCs and STs respectively, and inquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs and STs. To this end, the Commissions should hold annual meetings of the heads of the PCR cells set up in all states/UTs and the Nodal and Special Officers designated under the SCs and STs (PoA) Act to review implementation of the Act.

42. State governments/UT administrations, in collaboration with NGOs and SC/ST lawyers, should set up victims and witnesses protection cells at the district level under the Social Empowerment Commissionerate, to provide protection and confidence to fight for justice where atrocities take place.

43. Ensure and monitor the functioning of the Nodal Officers for implementing the provision of the Act.

44. Designate one agency to collect, compile, authenticate and supply data on the implementation of the Act and Rules in order to avoid the current situation of multiplicity of agencies resulting in data variations emanating from the states/UTs.

Budget Allocation & Expenditure for Enforcement of the Act

45. Ensure adequate allocations to central assistance provided for the implementation of the PoA Act and legislating the SCP281 and TsP and central assistance therein into an Act, which defines clear entitlements for SCs/STs and has necessary redressal mechanisms to ensure that all duty bearers implement the SCP/TsP and

central assistance effectively. The allocation of central assistance from the Central Government should be on the basis of the SC/ST population in that state and the rate of crimes of previous year.

46. All state governments should constitute Monitoring Committees to Central Assistance, wherein SCs/STs are invited to be members of these Committees and to take active part in monitoring the expenditure at the State, Department/Ministry and district levels, with necessary powers to intervene wherever necessary.

281 Following the merger of the plan and non-plan budgets in 2017-18, the SCSP and TSP are now referred to as Allocation for Welfare of SCs (AWSC) and Allocation for Welfare of STs (AWST)

ANNEXURE -1

VIOLENCE AGAINST DALITS DURING PEACEFUL PROTEST ON 2ND APRIL 2018 IN MADHYA PRADESH

FACT FINDING REPORT

Violence Against Dalits During Peaceful Protest on 2nd April 2018 in Madhya Pradesh © Published by: National Dalit Movement for Justice – NCDHR, 2018 Designed by :

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Violence Against Dalits During Peaceful Protest on 2nd April 2018 in Madhya Pradesh

1. Background of the Incident:

The Supreme Court's judgment in the appeal of "Dr. Subhash Kashinath Mahajan vs The State Of Maharashtra" dated 20th March 2018 has diluted the provisions under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, the legislation meant to protect the marginalized communities from caste-based discrimination and atrocities.

The two-member bench of Supreme Court removed restrictions on granting anticipatory bail and imposed a condition that a public servant could be prosecuted only after obtaining permission from higher authorities and private citizens too should be arrested only after an inquiry under the law.

As this judgment caused distress among the Scheduled Castes and Scheduled Tribes, several Dalit organizations had called for a bandh on 2nd April expressing concerns over the alleged "dilution" of SCs/STs (Prevention of Atrocities) Act.

The Dalit groups observed Bharat Bandh on 2nd April in 10 Northern states of India namely Bihar, Delhi, Gujarat, Haryana, Jharkhand, Madhya Pradesh, Odisha, Punjab, Rajasthan and Uttar Pradesh. The peaceful protest turned violent leading to death of nine persons and left many others injured. While six people were killed in firing in Madhya Pradesh alone, two died in Uttar Pradesh and one in Rajasthan. Curfew was imposed in several places and hundreds were detained.

2. Fact Finding Mission:

On 3rd–4th May 2018, National Coalition for Strengthening PoAAct, National Dalit Movement for Justice (NDMJ), National Campaign on Dalit Human Rights (NCDHR), and Madhya Pradesh Sarvodaya facilitated a fact-finding visit to Madhya Pradesh's Bhind district where three persons were killed in firing and several others were injured and many others were implicated in cases during Bharat Bandh on 2nd April.

The fact-finding team comprised Dr.V.A. Ramesh Nathan, National Convener, National Coalition for Strengthening PoA Act; Mr. Paul Divakar, General Secretary, National Campaign on Dalit Human Rights; Mr. Santosh Kumar Dwivedi, President, Madhya Pradesh Sarvodaya , Mr. Chandrakant Naidu, Senior journalist; Adv. Rahul Singh, National Program Coordinator, National Dalit Movement for Justice; Ms. Abirami Jotheeswaran, National Program Coordinator, National Dalit Movement for Justice.

The team interviewed 13 victims whose family members faced various forms of violence such as murder, attempt to murder, violence against children, framing in false cases and physical and verbal assault. The team also visited District Collector and Superintendent of Police of Bhind District, Madhya Pradesh.

3. Peaceful Protest and Violence :

On 30.03.2018 around 1000 Dalits gathered in Gwalior to observe the peaceful protest against the Supreme Court dilution of SCs and STs (PoA) Act 1989. This included migrant

community from Morena and Bhind, mostly Dalits. They had migrated to Gwalior in search of better livelihood options. On 30th March, they decided to organize a peaceful protest on 02.04.2018 against the Supreme Court directions.

On 02nd April, the Dalit community gathered peacefully and requested the shopkeepers to shut the shops and support the Bandh. They did not force them to shut their shops. The call for Bharat Bandh and consequent closing of shops as also the rumors that the dalits fired at the non-dalits in Gwalior district triggered violence which soon spread in other districts.

Soon after this Gwalior, Bhind, and Morena districts of Madhya Pradesh witnessed violence Seven people including five Dalits were killed and 153 people were injured in the large-scale violence during the Bharat bandh called against alleged dilution of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act by the Supreme Court of India. Curfew was eased for ten hours in Gwalior, six hours in Bhind, and nine hours in Morena, they said.

Out of the 7 deceased, 3 hailed from Bhind district, 1 Morena and 3 from Gwalior. Out of them 5 were dalits. All 5 dalits were killed through gunshots fired by non- Dalits. Among the 2 non-Dalits, one was killed by a police personnel and other by a nondalit due to personal enmity.

It is quite evident that Dominant caste shopkeepers namely -Babloo alias Shiv Kumar Rathore, Sonu Vaishandar s/o Vinod Vaishandar, Monu Vaishandar s/o Vinod Vaishandar, and Vinod Vaishandar targeted Dalits especially Jatav community which is economically and politically stronger then other dalit communities in the area. Out of four dalits who were shot at, two died and the other two are alive.

Even after a month, Dalit community especially its youths are in fear of being implicated in false cases in Bhind district.

Key Findings and Observations:

1. Administration failed to arrest the 4 accused, who fired during the peaceful protest namely - Babloo alias Shiv Kumar Rathore, Sonu Vaishandar s/o Vinod Vaishandar, Monu Vaishandar s/o Vinod Vaishandar, and Vinod Vaishandar in FIR No. 0113/18, and 112/2018, dated 03/04/18 u/s 302 IPC, 3(2)(v) SCs & STs (PoA) Act 1989, PS – Mehgaon, Bhind.

2. Medical Officer at Mehgaon Govt hospital showed negligence in carrying out their duties of providing immediate medical assistance to Pradeep Singh (23) and Akash Garg (14) who had received bullet injuries. They did little to stop bleeding immediately and get them transferred to the District HQ Govt Hospital for enhanced medical treatment. which led to death of these innocent Dalit youths.

3. Evidently the police personnel, who were on the spot of incident, disappeared during the firing by the accused and failed to provide immediate assistance to the victims namely Mr.Gajendra and Mr. Anil Jatav, who were lying in the pool of blood in Bhind road Chauraha for around 2 hours after they were shot at.

4. It is pertinent to note that the District Administration failed to lodge a FIR of the victim Mr.Gajendra, who was fired at on 2nd April. Even though his MLC report at Bhind District Hospital mentioned that the victim was shot at on left hand and right thigh.

5. The team reviewed some of the FIRs registered on the side of Dalits in relation to the attack. The team found several important sections of the SCs and STs (Prevention of Atrocities) Act 1989 missing in the FIRs.

6. Total failure of the administration in providing immediate relief, rehabilitation including in the murder cases that has been booked in FIR No. 0113/18, and 112/2018, dated 03/04/18 u/s 302 IPC, 3(2)(v) SCs & STs (PoA) Act 1989, PS – Mehgaon, Bhind. These were brought to the attention of the District Magistrate and Superintendent of Police.

7. It is evident that Dominant caste shopkeepers targeted Jatav community as most of the dalits who died or were injured in the incidents belonged to Jatav Community, which is economically and politically better off compared to other dalit communities in the area.

8. District Administration's caste bias was reflected in their prompt action of arresting 3 accused namely Vedram Jatav, Ballu Semar s/o Maharaj Singh Semar, and Raj Ram Jatav who belong to dalit community indulged in physical assault of the dominant caste in FIR No.77/2018 dated 03/04/2018.

9. One of the family members namely Sanjay Singh Rajawat, (33), belonging to the dominant caste, R/O Village – Gandh, Machhand, Tehsil- Raun, Bhind, M.P revealed that his nephew was shot dead by the police officials at the instigation of Dalits [Deceased Mr. Mahavir Rajawat (35)]. On 02.04.2018, Mahavir Rajawat, died during protests in Bhind. A case under Section 307 of IPC (attempt to murder) has been registered against the two policemen namely- Bhagwan Singh and Dharmendra Singh. On the other hand when the team visited and interviewed the Dalit community they claimed that it was Mahavir Rajawat and others from his community who were carrying guns inside the police station and had started creating problems by firing shots in air. In order to protect and disperse the mob the police officials had to fire gunshots. This is a matter of immediate investigation by the authorities.

10. MP Police also did not take any of the preventive measures allowed under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 and the accompanying Rules (1995), such as to recommend removal of a person likely to create unrest from a particular area for a specified period of time (Section 10(1), 1989 Act), consider revoking arms licenses and seizing illegal firearms of the Thakurs with a view to ensure safety (Rule 3(1)(iii and iv), or set up vigilance and monitoring committee to closely monitor situation on the ground (Rule 3(1)(vii). These measures could have helped contain violence.

11. Having known that a National-level Bandh was being called the administration should have taken requisite steps to ensure that protests did not spill into surrounding villages. It is of serious concern that police was not deployed in adequate numbers and failed to ensure security. As a result, when the situation got out of hand, and the mob turned violent, the police found themselves heavily outnumbered.

12. Many of the victims interviewed, who were attacked by the mob, shared that when they went to the police station to register an FIR, the police ill-treated them and told them to go out and fend for themselves. Not registering a FIR and not providing protection by a public servant, is an offence under the PoAAct. MP Police must investigate the delay and circumstances under which the FIR were not registered, and hold concerned police officials found guilty.

13. The administration also came down heavily on the Dalit youth activists, leaders in the area working for the rights of Dalit community. Several Dalit youths have been arrested and put behind bars.

14. The villagers also revealed that many of the Dalits have been arrested merely for being seen on CCTV footage, even though they were not part of the protests. Villagers also told us that the masterminds and those who caused the violence have not been arrested so far.

15. The scale of police negligence points to considerable apathy towards the Scheduled Castes in the region. It is no surprise that Dalits from the village have no faith in the police to protect them from such atrocities, and are deeply suspicious of the collusion between dominant castes and the administration in general. Threat and intimidation of the Dalit community especially among youths in implicating in false cases still prevails in the Bhind district.

5. Recommendations:

A. Specific recommendations:

1. Immediate arrest of the 4 culprits, whot fired during the peaceful protest namely - Babloo alias Shiv Kumar Rathore, Sonu Vaishandar s/o Vinod Vaishandar, MonuVaishandar s/o Vinod Vaishandar, and Vinod Vaishandar in FIR No. 0113/18, and 112/2018 dated 03/04/18 u/s 302 IPC, 3(2)(v) SCs & STs (PoA)Act 1989, PS – Mehgaon, Bhind.

2. Immediate interim compensation of Rs. 4,12,500 to be provided as per Rule 12(4) of the SCs and STs (PoA) Rules 1995, to each of the survivors of Late Pradeep Singh and Late Akash Garg, who were killed.

3. Immediate alteration of correct sections in the FIR No 0114/2018 dated 04/04/2018 by including Sections 3(2)(v) of SC & ST (PoA) Act as the victim, Anil Jatav has now informed the police officials the name of the person, who has attempted to kill him.

4. Immediate registration of FIR against the complaint of the victim Gajendra (30) s/o Janak Singh, who is still carrying bullets in his right thigh.

5. Immediate suspension and initiation of legal proceeding under section 4 of PoA Act against District Collector and Superintendent of Police of Bhind District for not registering the FIR on the complaint of Gajendra (30) s/o Janak Singh, who is still carrying bullets in his right thigh.

6. Registration of case against Medical Officer at Mehgaon Govt hospital under Sec 4 of PoA Act, which specifically deals with the negligence and dereliction of duties in providing immediate medical assistance to stop the bleeding immediately for Mr. Pradeep Singh(23) and Akash Garg (14), which led to death of these innocent Dalit youths.

7. The cases registered under SCs and STs (PoA) Act 1989shall be investigated and completed within 60 days as per Rule7 (2) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Rules 1995 and charge sheet shall be submitted to the Exclusive Special Court with in the given time frame i.e, 60 days. A Fast Track Court may be set up at the earliest for the disposal of the cases.

8. Special Public Prosecutor of the victim's choice should be appointed by the administration as per the Rule 4(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995 without any further delay.

9. As per the amended Scheduled Tribes (Prevention of Atrocities) Act 1989 all the provisions under Section 15 A related to the "Rights of Victims and Witnesses" should be followed by the State government and in specific the Dalit victims of the village shall be allowed to take assistance from NGOs, Social workers or advocates.

10. State Government should initiate public enquiry and proper estimation of damages (physical as well as psychological) inflicted on Dalits and relief and rehabilitation package should be announced without any further delay.

11. The State Government and also the District Administration should ensure justice to Dalits is provided with immediate compensation, relief and rehabilitation taking into consideration the damages and livelihood loss. The shops belonging to Dalits, which were damaged, to be re-established on top priority.

12. Dalits, who are languishing in Jails, due to arrests made under false FIRs should be released on top priority.

B. General Recommendations:

1. Nullify the Judgment of 20.3.2018 (other than what related directly and exclusively to the appellant Shri Subhash Kashinath Mahajan) by bringing an Ordinance in the parliament immediately to restore the SCs and STs (PoA) Act 1989 and the SC and ST (PoA) Amendment Act 2015 to the state they were in prior to the judgment of 20.3.2018.

2. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and the POA Amendment Act 2015 may be included in the Ninth Schedule so that it may get some protection in the matter of judicial review. Article 31-B of the Ninth Schedule will ensure that SCs and STs (PoA) Act 1989 and PoAAmendment Act 2015 and its provisions once included cannot be deemed to be void, or ever to have become void, on the ground that such Act or its provisions are inconsistent with. Thus the Act and its provisions cannot be curtailed by any judgment or order of any court. Presently, 284 legislations are included in Ninth Schedule related to the Zamindari Abolition, State level land reforms and reservation in educational institutions including "The Bonded Labour System (Abolition) Act, 1976 (Central Act 19 of 1976)", The Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994).

3. Government of Madhya Pradesh should immediately make a public statement in line with the statement made by the chief minister of Rajasthan and announce that cases will be scrutinized on top priority basis and those found arrested without valid reasons shall be released without any further delay.

4. MP Police should institute a comprehensive inquiry into the performance of all concerned units of affected districts to identify all acts of negligence, complicity and/or violation, particularly against its duties in the PoAAct.

5. Cancel arm licenses of the dominant caste community, their near relatives, servants or employees and family friends and get such arms deposited in the Government Armory as per Rule 3 (1) (iii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995.

6. With a view to ensure the safety of Dalits, provide arms licenses to the members of Dalits in the village as per Rule 3 (1) (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995.

7. Since some affected families lost their bread winners, the govt must consider providing cultivable land and other resources of employment the survivors in the long term.

8. In order to maintain law and order State government should take measures to remove the assailants belonging to dominant castes to beyond the limits of the area and not to return to that area for such period as directed as per the provisions of Section 10 (1) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989.

9. Long-term preventive action and peace-building measures should be initiated by the police; there should be special emphasis on sensitization workshops for the police at all levels on discrimination against Dalits.

6. Statements of the victims and witnesses

1. Statement of Mr. Ram Naresh Jatav, R/O - Village - Mustaraa, P.S – Mehgaon, District Bhind, M.P

My name is Ram Naresh Jatav belonging to SC (Chamar)

Community resident of Village -Mustaraa, P.S –Mehgaon, District Bhind. I am an agricultural laborer. I am the father of Late Pradeep Singh(23) who was recently killed in the riot on 2nd April. He was a Diploma holder from Ambedkar College and only educated among the three sons in my family.

On 2nd April Pradeep Singh visited Mehgaon to reach Gwalior to collect some documents to get employed in a Private company at Haridwar. At around 10.00 am when he reached Mehgaon, Bhind road square, he was caught in the Bharat bandh riot and received a bullet shot on his right calf below his knee. Pradeep identified the shooters as Babloo alias Shiv Kumar Rathore, Sonu Vaishandar s/o Vinod Vaishandar, Monu Vaishandar s/o Vinod Vaishandar. They were firing from the terrace of the sweet shop and electric shop which were located at the Bhindroachuraha. Pradeep Singh informed about his injury to us over the phone.

Through the assistance of some of the persons, Pradeep Singh managed to get admitted in the Govt Hospital Mehgaon. When we reached the hospital we found Pradeep with a bandage at his right leg with heavy bleeding. The doctor has not provided adequate treatment to stop the bleeding as the result Pradeep lost large amount of blood in the Mehgaon hospital. Till 4.00 pm, the hospital administration failed to provide transportation assistance to my youngest son to get transferred to the Govt Hospital Gwalior, this delay led to loss of large amount of blood.

Around 7.00 pm, Pradeep Singh got admitted in Jayarogya Hospital at Gwalior where 2-3 units of blood were transfused to him. However at 8.00 pm, Pradeep Singh was declared dead in the Jayarogya Hospital.

FIR was registered with FIR No. 0113/18 dated 3/04/18 u/s 302 IPC, 3(2)(5) SC & ST PoAAct at PS – Mehgaon, Bhind, against the 3 accused namely Babloo alias Shiv Kumar Rathore, Sonu Vaishandar s/o Vinod Vaishandar, Monu Vaishandar s/o Vinod Vaishandar. No accused has been arrested so far. District Administration has failed to provide compensation of Rs.4 lakhs immediately after completing the post-mortem as per Rule 12 (4) (45) of SC & ST (PoA)AmendmentAct 2015.

2. Statement of Mr. Vikas Garg, aged 19, R/O – Township – Galla Mandi, P.S –Mehgaon, District Bhind, M.P

My name is Vikas Garg, aged 19, belonging to SC (Chamar) Community resident of Township –Galla Mandi, P.S -Mehgaon, District Bhind. I am the brother of Late Akash Garg(14) who was killed in the recent riot. He was the youngest the 8 siblings in my family and student of class 8th from a private school. After the sudden demise of my father, I am employed in the Cooperative department on the compassionate ground.

On 2nd April in between 10.30 and 11.00 a m my brother Akash Garg went to Bhind road square to buy some groceries for his house. While he was on his way back to home he was fired at on his hip. The injured boy informed his family about the firing over the phone. Ashram Jatav his uncle reached the Mehgaon Govt hospital. When his uncle reached the hospital he found Akash Garg with a bandage on his hip with heavy bleeding and the doctor referred him to Hospital at Gwalior. When the injured boy was taken to Birla Private Hospital, he was denied for the medical treatment. Therefore he was taken to Jayarogya Hospital around 3.00 pm where he was declared brought dead. FIR was registered with FIR No.112/2018 dated 3/4/2018 u/s 302 IPC, 3(2)(5) SC & ST PoA Act at PS - Mehgaon, Bhind against the accused namely Sonu Vaishandar s/o Vinod Vaishandar, Monu Vaishandar s/o Vinod Vaishandar and, Vinod Vaishandar. The investigation officer has not arrested any one of the accused till now. District Administration has not provided any compensation to the victims.

3. Statement of Mr. Ramji Lal Jatav, aged 50, R/O – Township – Galla Mandi, P.S – Mehgaon, District Bhind, M.P

My name is Ramji Lal Jatav belonging to SC Community (Chamar) resident of Township –Galla Mandi, P.S -Mehgaon, District Bhind. I am a private medical practitioner. I have three sons; the eldest son is a police personnel, the youngest son Ajmer Singh (26) who is an advocate by profession. Ajmer Singh took part in a peaceful protest on 2nd April Bharat bandh. The peaceful march turned violent through the infiltration of Bajrang dal and RSS miscreant's.

The police registered an FIR against 19 dalits including Adv. Ajmer Singh accusing them for setting fire to a tractor and a shop during the riot.

After the rejection of bail application in the Mehgaon Civil court and ADJ Court Bhind, I have appealed in the High court. The High court too rejected the bail application mentioning that the plea will be considered after the submission of the chargesheet. Hence Ajmer Singh is still languishing in Jail.

4. Statement of Mr. Bhanu Prasad Singh Tomar, R/O Tehsil – Gohad, P.S –Gohad, District Bhind, M.P

My name is Banu Prasad Singh Tomar belonging to Thakur community resident of Gohad, P.S- Gohad, District Bhind. On 2nd April around 10.30 am, when I was sitting in front of my house a group of miscreants who came in 4-5 tractors armed with lathi and sword. They were also holding Blue-coloured flag and raising slogans "Jai bhim" and stopped the tractor near the house of Banu Prasad. Another group of 40-50 members headed by Ved Ram Jatav H/o BJP Councillor, Ballu Samer s/o Maharaj Singh Semar, and Raj Ram Jatav wearing a yellow scarf also reached near my house. These 2 groups moved towards my house and started to pelt stones at me and my house. In this attack I got injured in my forehead and on front teeth. In this attack the glass windows of my house were also broken. After the attack, the miscreants moved towards the market side.

The motive behind the attack was due to the rumor that spread that the relative of mine fired at some of the dalits in Gwalior.

FIR has been registered with FIR No. 77/2018, dated 03/04/2018 u/s 323, 294, 506, 427, 336, 452, 147, 148, 149 IPC at Gohad police station against the 6 accused namely Vedram Jatav, Ballu Samer s/o Maharaj Singh Semar, Chintamani Jatav, Chatur Singh alias Lukka Jatav, Deshraj Jatav and Raj Ram Jatav and 200 unknown.

The 3 accused namely Vedram Jatav, Ballu Samer s/o Maharajsingh Semar, and Raj Ram Jatav were arrested.

5. Statement of Mr. Gajendra Singh (30), R/O – Tehsil – Mehgaon, P.S- Gohad, District Bhind, M.P

My name is Gajendra Singh (30) S/o Janak Singh belonging to SC (Jatav) community resident of Tehsil – Mehgaon, P.S-Gohad, District Bhind. I am an agricultural labour. My father Janak Singh is a retired army soldier who completed 25 years of his service in Indian army. On the day of incident when I was on my way to work in the agricultural field, I witnessed that Sonu Vaishandar s/o Vinod Vaishandar, Monu Vaishandar s/o Vinod Vaishandar belonging Brahmin community were armed with rifle and standing on the terrace of the sweet shop. Babloo alias Shiv Kumar Rathore armed with gun was

standing on the terrace of the Electric shop in Bhind road Chauraha.

I was shot at on right arm by Sonu and on left thigh by Babloo. After the firing I had fallen down on the road and immediately informed my brother-in-law over the phone. Some police personnel who were standing on the Bhind road Chauraha were disappeared after the firing.For more than 2 hours I was lying on the pool of blood and there is no assistance from any public or police officials to get me admitted in the hospital. My brother-in-law who is BSF personnel managed to take him to Bhind hospital around 1.15 pm and MLC was referred to Bhind police chowki.

On 4.4.18, I was referred to Government Hospital Gwalior, where I underwent medical treatment. But the doctor did not do any operation to remove the bullet from my left thigh. The reason said by the doctor for not operating is that removing the bullet may damage the functioning of left leg. On 14th April 2018, I was got discharged from the Gwalior hospital.

On 15.4.18, with the bullet on my left thigh, I and my father went to meet the Superintendent of Police and District Collector of Bhind, who refused to receive the complaint saying that they were on holiday on Sunday and asked me to meet them on Monday. Subsequently I visited the office on the next day; the officials were unavailable in the Head quarter to receive my complaint.

Finally on 28th April, I and my father submitted the written complaint to the Superintendent of Police. Then SP directed the victim to meet the Town Inspector, who in turn refused to register FIR saying that it will be registered only by DSP. The Town Inspector even yelled at me and my father for approaching the SP and also threatened us that we will be retained in lock up for pressuring him to lodge the complaint.

Even after a week of receiving the complaint, the police have not registered the FIR based on my complaint.

Meanwhile, Jyotiraditya Madhavrao Scindia, Indian National Congress who visited me assured to give medical treatment in Delhi.

Due to this mishap, my health condition is deteriorating and i am unable to go for work.

6. Statement of Mr. Ram Prakash Jatav, R/O – Tehsil – Mehgaon, P.S –Mehgaon, District Bhind, M.P

My name is Ram Prakash Jatav belonging to SC (Chamar) Community resident of Tehsil- Mehgaon, Bhind district. I am an agricultural laborer and my daily wage is Rs.300/- per day. My youngest son is Anil Jatav (23) who was injured with 2 gunshots during the Bharat bandh riot.

Anil Jatav (23) is a B.Sc graduate. He is conducting tuition classes for the students of Secondary School from 7.00

am to 9.30 am. On 2nd April, after completing his tuition classes, Anil was returning to his home at around 10.00 am. When he reached the Bhind road Chauraha, he was shot at his left side of the stomach and on his left arm by the accused namely Babloo Rathore in Bhind road Chauraha. The injured Anil Jatav informed us over the phone. Therefore we rushed to the spot and got him admitted in Sahara Pvt hospital, Gwalior, where they removed 2 bullets from his body through operation. The expenses incurred for doing the operation is Rs.4.5 lakhs. FIR has been registered with FIR No.114/2018, dated on 4.04.2018 u/s 308 IPC against unknown person.

On 13th April Deepak Yadav, Sub Inspector of Mehgaon police station visited Anil and recorded his oral statement at Sahara Hospital. Anil in his statement mentioned the name of the accused Babloo Rathore who fired at him. Later he was discharged from the hospital on 19th April. Collector and SP have not visited the victim Anil till now.

Alteration of FIR under SC & ST (PoA) Act is still pending.

7. Statement of Mr. Gyan Garg, age (40), R/o -Ward No 39, Matadin Ka Pura, P.S- Bhind Rural, Bhind, M.P

Rui ui, Bhinu, M.P

for following two victims (At present out of city to avoid illegal arrest)

1. Mr. Mukesh Garg (aged 37)

2. Kavita Garg (aged 32), W/o Mukesh Garg, both R/o -Ward No 39, Matadin Ka Pura, P.S- Bhind Rural, Bhind, M.P.

My name is Gyan Garg, aged around 40 years, belonging to Jatav community, R/o Ward No 39, Matadin ka Pura, P.S-Bhind Rural, Bhind, M.P. I am the elder brother of the victim Mr. Gyan Garg, who is also the present M.L.A of the area from Indian National Congress Party. At present I am practicing BHMS in Bhind.

That on 01.04.2018, my brother Mr. Mukesh Garg was having stomach pain and therefore left for Gwalior, to visit the doctor at Sharaf Nursing Home. He even has the papers showing his presence inside the nursing home. He was not present during the incident in Bhind on 02.04.2018.

That earlier in the month of November, 2017 (10.11.2017), Mukesh Garg was named in a FIR for giving a provoking speech. He was giving a speech for an incident which occurred against a Dalit Teacher (Mr. KalyanJatav). The program was organized by Dr. Ambedkar Samanwaya Samiti. My brother is the Ex. President of this organization and keep on supporting the Dalit issues raised by the organization. That there has been a recent spate of atrocities against Dalits in Bhind.In November, a video of school teacher, Kalyan Jatav, being mercilessly beaten by upper-caste men linked to Congress MLA Hemant Katare went viral on WhatsApp. A few days later, a march taken out to protest the assault on Kalyan was attacked.The perceived dilution of the stringent provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)Act, sent shockwaves within the community.

Therefore, the police was already looking for a reason to trap him in false cases. This time police could not registered a FIR in his name but have suddenly issued a reward of Rs. 10,000/against him for no reason. The news of the reward recently came in the newspaper. We got surprised after reading the news of reward. Since than he is running here and there in order to avoid any illegal arrest by the police officials in relation to the Bharat Bandh.

My brother's wife Ms. Kavita Garg made an application on 31.03.2018 for organizing a peaceful protest against the dilution of the Supreme Court orders. Wherein she sought permission for protection. The permission was granted by the Tehsildar for organizing protest with certain conditions. While they were organizing the protest suddenly some of the miscreants from dominant caste community erupted the violence with lathis. They started pelting stones and ransacked the shops and other items. Suddenly the violence erupted all over and Section 144 of Cr.P.C was imposed by the police. Mukesh Garg and her wife Kavita Garg are running here and there in order to avoid illegal arrest.

They even filed anticipatory bail application before the Hon'ble Court of M.L. Rathore, District and Sessions Court, Bhind. The anticipatory bail application was rejected on 27.04.2018.

I would also like to specifically mention that on 06.04.2018 some of the police officials came to the house in search of Mukesh Garg and Kavita Garg. The door was opened by their Fourteen year old daughter namely, Kashish Garg. On inquiring when Kashish told them that my parents are not inside the home, the police officials slapped her on her face.

With my knowledge about the incident which I got from the people and newspapers, I understand that in Gwalior, Bhind, and Morena districts of Madhya Pradesh witnessed protests during Bharat Bandh called by Dalits on April 2, 2018. Eight people, including six Dalits, were killed and and 153 people were injured in the large-scale violence during the Bharat Bandh called against alleged dilution of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act by the Supreme Court of India. The curfew was eased for ten hours in Gwalior, six hours in Bhind, and nine hours in Morena, they said.

Curfew was imposed in in Thatipur, Murar, and Gola Ka Mandir areas of Gwalior. More than 100 people were arrested so far in connection with the violence.

In Bhind city, the curfew was imposed and police arrested 150 people so far in connection with the April 2 protests.

In Morena curfew was imposed in Kotwali, Station Road and Civil lines police station areas and over 130 people have been arrested in the district.

Out of the 8 deceased, 4 hailed from Bhind district, 3 from Gwalior district, and 1 from Morena district.

8. Statement of Kashish Garg (14), D/o Mukesh Garg

My name is Kashish Garg, daughter of Mukesh Garg, belonging to Jatav community, aged about 14 years, R/o Ward No 39, Matadin ka Pura, P.S- Bhind Rural, Bhind, M.P.Iam studying in 9th class in Bhind.

On 06.04.2018 some of the police officials came to our house in search of my father and mother namely - Mukesh Garg and Kavita Garg. They were strongly knocking the doors with their doors. When I opened the door they asked me the whereabouts of my parents. I told them they are not at home. Even than they searched the whole house. At last they slapped on my face and left our house.

9. Statement of Mr. Sanjay Singh Rajawat,(33), Village – Ganth, Machand, Tehsil- Rohm,Bhind, M.P

For

Late Mahavir Singh (35), Village - Ganth, Machand, Tehsil-Rohm, Bhind, M.P

My name is Sanjay Singh Rajawat, (33), R/O Village – Ganth, Machand, Tehsil- Rohm, Bhind, M.P. Deceased Mr. Mahavir Rajawat (35) was my nephew. On 02.04.2018 ,Mahavir Rajawat, died during protests in Bhind. Mr. Jawar Singh (Uncle of deceased) lodged a complaint against two constables in Bhind in connection with the death of Mahavir Rajwat who had suffered gunshot and died later. A case under Section 307 of IPC (attempt to murder) has been registered against the two policemen namely-

- 1. Mr. Bhagwan Singh
- 2. Dharmendra Singh.

On 02.04.2018, a protest was called by Dalit Bahujan Samaj at Baghiyapura. The protests were a part of the 'Bharat bandh' called by Dalit organizations against the Supreme Court's 20 March order that purportedly diluted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. There were around 200 people at Bhagiyapura, Bhind. Later they came to Machand. The protest took an ugly turn when two groups — Dalits and right-wing bodies — clashed and it turned violent when both the groups resorted to taking up weapons and attacking one another. Several shops and houses were destroyed and damaged. Assailants were pelting stones. Police resorted to Lathi-charge and gradually the situation worsened.

I got a call from my nephew (Mr. Vishnu) saying that his shop is destroyed and he was beaten up by some of the people. We all together around 10 -12 people from our village rushed to the police Chowki, Machhand in order to lodge the complaint. In the meantime we also saw some other people belonging to Jatav community namely –

- 1. Mr. Pushpendra,
- 2. Devendra Gautam,
- 3. Ashok Diwakar and
- 4. Viran Diwakar also came to Police Chowki.

Even inside and outside the police station the protest took an ugly turn and the police officials suddenly fired 10 to 12 gunshots on the instigation of some of the Dalits. One of the gunshots hit my nephew Mr. Mahavir(now deceased). We immediately took him to the Rohn government hospital. He died on the way to the hospital. We did not receive any help from anyone. We only called for the ambulance for Mahavir Singh.

So far no police personal came to inquire about the incident. No one is arrested so far.

Some of the authorities came to visit the village are-

- 1. Mr. Narenadra Singh Tomar, Central Minister;
- 2. Mr. Bhagirath Prasad, M.P;
- 3. Mr. Rakesh Choudhary, Ex M.P;
- 4. Mr. Lal Singh Arya, M.L.A and
- 5. Tehsildar of Raun.

Through newspaper and information from our people I came to know that 29 people have been booked in Machhand. From this village 3 FIRs have been lodged by (1) Bhagwan Singh (2) Dharmendra (3) Jawar Singh.

The assailants were not from this village. The miscreants came from outside to divide the communities. The violence spread to other districts from Chambal belt comprising Gwalior, Bhind and Morena to other districts as well, like Rewa, Bhopal, etc. but it didn't become volatile.Security forces conducted flag march, imposed curfew and the state administration stopped Internet services in district to prevent further rumour-mongering on social media.

10. Statement of Mr. Sunil Narwaria, (35), Village – Baghiyapura, Machhand, Bhind, M.P

for

Late Jagroop Singh alias Dashrath (45), Village – Baghiyapura,Machhand, Bhind, M.P My name is Sunil Narwaria, (35), belonging to Jatav community, R/o Village – Baghiyapura, Machhand, Bhind, M.P. On 02.04.2018 my uncle and aunty namely Late Jagroop Singh (42) and Ram Sakhi went to Machhand, Bhind for some work.

After reaching Machhand they came to know that a Bharat Band has been organized all over India by Dalit organization's against the Supreme Court's 20th March order that purportedly diluted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. They never intended to participate or support the Bharat Bandh.

On April 2 at around 4 am, nearly 200 Dalits were protesting peacefully in Machand. The crowd was led by young men with sticks, carrying blue flags and sporting blue bandanas. There were some women and boys too for the peaceful protest. The crowd grew to nearly 300 people. They were resisted by local shopkeepers. The pushback triggered violence.

The Dalits were driven out and forced to retreat to an intersection. The mob pelted stones on the police station. Injured in the stone pelting, the police to fire shots in the air. What followed, however, was a free for all. Heavily armed upper-caste Rajawats opened fire on the crowd.

In this area, dominated by 32 Rajawat villages, Dalit protesters were soon outnumbered. The rampaging mob of Dalits quickly came under a fierce counterattack by the Rajawats. Dalits ran to take refuge in the police post. Inside were just six policemen. When Rajawats tried to set fire to the post, the administration says the police had to fire in self-defence. One bullet hit Mahavir Rajawat.

As Dalits were being chased by the Rajawats, 45-year-old Jagrup Singh Narwariya alias Dashrath Jatav was beaten to death by six men. His body was discovered a day later in the fields.

FIR was lodged on 03.04.2018 and postmortem was conducted same day. So far the copy of the FIR has not been given to us.

An amount of Rs. 20,000/- has been given to us by Tehsildar, received from the Red Cross Society.

Similar pattern of violence was unfolded 20 kilometers away from this Place. On April 2 at around 4 am, nearly 500 Dalits blocked the highway in Malanpur. The district SP Prashant Khare responded by rushing most of the police force from the nearby Gohad and Mehgaon police stations, leaving behind just 15 policemen in Mehgaon to deal with what was to come.

10 to 20 Dalits came to Mehgaon's main market area. The crowd was led by young men with sticks, carrying blue flags and sporting blue bandanas. There were some women and boys too for the peaceful protest.

The crowd grew to nearly 2,000 people. They were resisted by local shopkeepers. The pushback triggered violence. The Dalits were driven out and forced to retreat to an intersection on the highway. The mob pelted stones on the police station.

Injured in the stone pelting, the SDM ordered the police to fire shots in the air. What followed, however, was a free for all. Heavily armed upper-caste Rajawats opened fire on the crowd. By the time reinforcements came in and the violence had been controlled, 15-year-old Aakash Garg, a Dalit, lay dead barely 100 meters away from his house. He had been shot.Twenty-two-year-old Pradeep Jatav was injured by a gunshot wound in his leg. He bled to death in the hospital in Gwalior. 5 more Dalits were injured with gunshot wounds.

The agitation was the result of suppressed anger among Dalits against the dilution of SCs/STs Act. But it became violent when rallies were attacked by the BJP and its affiliates in the presence of police. The police remained a mute spectator and in turn thrashed Dalits. Their houses were burnt in many places.

11. Statement of Mr. Narendra Kumar, (35), Village – Baghiyapura, Machhand, Bhind, M.P

My name is Narendra Kumar, (35), belonging to Jatav community, R/o Village – Baghiyapura, Machhand, Bhind, M.P. On 02.04.2018, Dalit organizations against the Supreme Court's 20th March order that purportedly diluted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)Act, 1989.

On April 2 at around 4 am, nearly 200 Dalits were protesting peacefully in Machand. The crowd was led by young men with sticks, carrying blue flags and sporting blue bandanas. There were some women and boys too for the peaceful protest. The crowd grew to nearly 300 people. They were resisted by local shopkeepers. The pushback triggered violence.

Dalits were driven out and forced to retreat to an intersection. The mob pelted stones on the police station. Injured in the stone pelting, the police to fire shots in the air. What followed, however, was a free for all. Heavily armed upper-caste Rajawats opened fire on the crowd.

In this area, dominated by 32 Rajawat villages, Dalit protesters were soon outnumbered. The rampaging mob of Dalits quickly came under a fierce counterattack by the Rajawats. Dalits ran to take refuge in the police post. Inside were just six policemen. When Rajawats tried to set fire to the post, the administration says the police had to fire in self-defence. One bullet hit Mahavir Rajawat.

As Dalits were being chased by the Rajawats, 45-year-old Jagrup Singh Narwariya alias Dashrath Jatav was beaten to death by six men. His body was discovered a day later in the fields.

FIR was lodged on 03.04.2018 and postmortem was conducted same day. So far the copy of the FIR has not been given to us.

The agitation was the result of suppressed anger among Dalits against the dilution of SCs/STs Act. But it became violent when rallies were attacked by the BJP and its affiliates in the presence of police. The police remained a mute spectator and in turn thrashed Dalits. Their houses were burnt in many places.

12. Statement of Ms Balshree (35), W/O Kamlesh , Village – Baghiyapura, Machhand,

Bhind, M.P

My name is Balshree, (35), belonging to Jatav community R/o Village – Baghiyapura, Machhand, Bhind, M.P. On 02.04.2018, Dalit organizations against the Supreme Court's 20th March order that purportedly diluted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)Act, 1989.

On 02.04.2018 I went to by some medicines in Machand. I never intended to participate in the band or support the crowd. I was caught in the protest for no reason. Once the crowd started pelting stones and fire I rushed to the Machand Police Chowki for protection. But the police officials refused to protect us and asked us to go out of the police station.

The mob pelted stones on the police station. Injured in the stone pelting, the police to fire shots in the air. What followed, however, was a free for all. Heavily armed upper-caste Rajawats opened fire on the crowd.The rampaging mob of Dalits quickly came under a fierce counterattack by the Rajawats. Dalits ran to take refuge in the police post. Inside were just six policemen. When Rajawats tried to set fire to the post, the administration says the police had to fire in selfdefence. One bullet hit Mahavir Rajawat.

As Dalits were being chased by the Rajawats, 45-year-old Jagrup Singh Narwariya alias Dashrath Jatav was beaten to death by six men by Axe. His body was discovered a day later in the fields.

The agitation was the result of suppressed anger among Dalits against the dilution of SCs/STs Act. But it became violent when rallies were attacked by the BJP and its affiliates in the presence of police. The police remained a mute spectator and in turn thrashed Dalits. Their houses were burnt in many places.

13. Statement of Kamlesh Kumar Jatav, (40), Village – Baghiyapura, Machhand, Bhind, M.P

My name is Kamlesh Jatav, (40), belonging to Jatav community, R/o Village – Baghiyapura, Machand, Bhind, M.P. On 02.04.2018 my uncle and aunty namely Late Jagroop Singh (42) and Ram Sakhi went to Machhand, Bhind for some work.

After reaching Machhand they came to know that a Bharat Band has been organized all over India by Dalit organization's against the Supreme Court's 20th March order that purportedly diluted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. They never intended to participate or support the Bharat Bandh.

On April 2 at around 4 am, nearly 200 Dalits were protesting peacefully in Machand. The crowd was led by young men with sticks, carrying blue flags and sporting blue bandanas. There were some women and boys too for the peaceful protest. The crowd grew to nearly 300 people. They were resisted by local shopkeepers. The pushback triggered violence.

The Dalits were driven out and forced to retreat to an intersection. The mob pelted stones on the police station. Injured in the stone pelting, the police to fire shots in the air. What followed, however, was a free for all. Heavily armed upper-caste Rajawats opened fire on the crowd.

In this area, dominated by 32 Rajawat villages, Dalit protesters were soon outnumbered. The rampaging mob of Dalits quickly came under a fierce counterattack by the Rajawats. Dalits ran to take refuge in the police post. Inside were just six policemen. When Rajawats tried to set fire to the post, the administration says the police had to fire in self-defence. One bullet hit Mahavir Rajawat.

As Dalits were being chased by the Rajawats, 45-year-old Jagrup Singh Narwariya alias Dashrath Jatav was beaten to death by six men. His body was discovered a day later in the fields.

FIR was lodged on 03.04.2018 and postmortem was conducted same day. So far the copy of the FIR has not been given to us.

An amount of Rs. 20,000/- has been given to us by Tehsildar, received from the Red Cross Society.

Similar pattern of violence was unfolded 20 kilometers away from this Place. On April 2 at around 4 am, nearly 500 Dalits blocked the highway in Malanpur. The district SP Prashant Khare responded by rushing most of the police force from the nearby Gohad and Mehgaon police stations, leaving behind just 15 policemen in Mehgaon to deal with what was to come.

10 to 20 Dalits came to Mehgaon's main market area. The crowd was led by young men with sticks, carrying blue flags and sporting blue bandanas. There were some women and boys too for the peaceful protest.

The crowd grew to nearly 2,000 people. They were resisted by local shopkeepers. The pushback triggered violence. The Dalits were driven out and forced to retreat to an intersection on the highway. The mob pelted stones on the police station.

Injured in the stone pelting, the SDM ordered the police to fire shots in the air. What followed, however, was a free for all. Heavily armed upper-caste Rajawats opened fire on the crowd. By the time reinforcements came in and the violence had been controlled, 15-year-old Aakash Garg, a Dalit, lay dead barely 100 meters away from his house. He had been shot. Twenty-two-year-old Pradeep Jatav was injured by a gunshot wound in his leg. He bled to death in the hospital in Gwalior. 5 more Dalits were injured with gunshot wounds.

14. Statement of District Collector, Dr. Illayaraja, Bhind, M.P

The team also met the District Collector and raised our findings and observations. The collector informed us that compensation related to Murder case of Late Pradeep Singh and Late Akash is under process and will be released soon. He also revealed that through his efforts an amount of Rs.20,000/- was provided to victim through Red cross. They also said that the administration and police are sensitive and taking all efforts to bring back normalcy in the district.

15. Statement of Superintendent of Police, Bhind, M.P

The team also met the Superintendent of Police and raised our findings and observations. He informed us that those involved and absconding will be arrested soon and all measures are being taken to apprehend their arrest. Innocent persons will be released after scrutiny. In relation to the FIR related to Gajendra Case he said that they are in the process of checking whether a new FIR is to be registered or if already his name is appearing in any of the FIR. Based on this soon decision will be taken by the administration.

ANNEXURE -2

BRIEF NOTE ON SUPREME COURT VERDICT DATED OCT 01, 2019 RECALLING ITS OWN VERDICT DATED 20.03.2018 WHICH DILUTED THE SCS AND STS (PREVENTION OF ATROCITIES) ACT 1989

BRIEF NOTE On Supreme Court verdict dated Oct 01, 2019 Recalling its own verdict dated 20.03.2018 which diluted The SCs and STs (Prevention of Atrocities) Act 1989

On October 01,2019, a three-judge bench of the Supreme Court of India recalled its own direction in the March 20, 2018 verdict which had virtually diluted provisions of the SCs and STs (Prevention of Atrocities) Act 1989 and Rules 1995. Soon after the March Judgement, National Coalition for Strengthening POA Act (NCSPA) & National Dalit Movement for Justice organized a National Consultation and decided to observe National Resistance Day and file petition in apex court against the March Judgment. Subsequently, NDMJ-NCDHR represented by Dr. V.A. Ramesh Nathan approached the apex court and filed a Intervener petition (I.A No (653596) of 2018 to the review petition filed by Union Government of India. In a remarkable and wide ranging judgment the Court ruled unanimously that 20.03.2018 directions encroach upon the field reserved for the legislature and against the concept of protective discrimination in favour of downtrodden classes under Article 15(4) of the Constitution. This is landmark case, which is likely to set a precedent from further dilution of SCs and STs (PoA) Act 1989 by the other courts in the country.

Background

The dispute arose in 2007, when Bhaskar Gaikwad, a storekeeper in a government college in Karad, Maharashtra, filed a FIRs against Mr. Bhise and Mr. Burade and Mr. Mahajan under SCs and STs (PoA) Act 1989. In August 2016, (Subhash Mahajan approached the Bombay High Court asking for the FIR to be guashed on the grounds that the charges against him were false and frivolous. The High Court not only refused to quash the case but also ruled that "there are sufficient safeguards in the Act itself which guarantee protection against frivolous and false prosecution". He than filed an appeal against this decision in the Supreme Court. The apex court bench consisting of Justice U.U.Lalit and Justice Goel, instead of concerning itself solely with the merits of Mr. Mahajan's appeal, dramatically expanded the ambit of the case and laid down three guidelines on 20.03.2018, that nullify key provisions of this law: it removed the bar on grant of anticipatory bail; even though the Mahajan case only concerns public servants, it ruled that where the accused is a non-public servant, the police may make an arrest only after approval by a senior superintendent of police; and it held that before registering an FIR, the police may conduct a preliminary inquiry to ascertain the veracity of the complaint.

Immediately after the 20.03.2018 Judgement the Union Government of India and other Intervenors including Mr. V.A Ramesh Nathan, General Secretary, National Dalit Movement for Justice- NCDHR; Dr. Thol. Thirumaavalavan, M.P (VCK Party); Mr. Anand Rao, President, AIDRF; Sh. Ramdas Athawale, M.P; Sh. Ram Vilas Pawan, M.P and others filed individual intervening petitions in the Supreme Court of India against the Judgment. The review petition along with the Intervening Petitions came before the same bench consisting of a Justice

The SC verdict refers the Judgement of the writ petition filed by NCDHR on implementation of PoA Act in 2006 NCDHR & Ors v. Uol & Ors. (2017) 2 SCC 432

Before dealing with submission, we refer to the decisions. In National Campaign on Dalit Human Rights & Ors v. Union of India & Ors. (2017) 2 SCC 432, this Court has considered the report of Justice K. Punnaiah Commission and the 6th Report of the National Commission for Scheduled Castes/ Scheduled Tribes. The NHRC report also highlighted the non-registration of cases and various other machinations resorted to by the police to discourage Dalits from registering cases under the Act of 1989. In the said case this Court had directed the strict implementation of the provisions of the Act of 1989.

U.U Lalit and Justice Goel which, ordered that the matter should be referred to a larger Bench of the Court. Finally on Oct 01, 2019 the matter came upon board for the final deliberation and the Judgement was pronounced in open court. Lawyers on behalf of National Dalit Movement for Justice – NCDHR from the team of Senior Advocate Prashant Bhushan and I Probono took up the challenge and followed the case. The judgment was rendered by a three-Judge Bench of Justices Arun Mishra, MR Shah, and BR Gavai.

Judgment

The Judgment deals in detail, with the Statement and Objects of enactment of SCs and STs (PoA) Act 1989 and Rules 1995, amended provisions of the Act as amended in in 2016, data on atrocities. It also considers the difference between the law laid down by the legislature and courts. It contains wide range of case laws and the nature of constitutional rights. Criticisms of the misuse of SCs and STs (PoA) Act are also addressed. The Judgement can be broadly classified in following parts. (1) Submissions made by 3 Judges bench on difference between issuance of guidelines and law laid down by legislators. (3) General Observations of the present three Judges bench (4) Disposal of the guidelines issued on 20.03.2018 Judgment and (5) Verdict. 1) Submissions made by Union Government of India (G.O.I): The first section of the Judgment deals with submissions made by Union Government of India in support of revoking the controversial guidelines. Arguments points out that only legislature has the power to amend the law and in case of any deficiency the court is supposed to only point out to correct the law. Inference is that the judiciary can refer the deficiency to the legislature to amend and can not encroach upon the legislature. The submissions also talks about the failure of the previous judges to appreciate the objects and Reasons for enactment of the Act.Additionally, the government of India also pointed out because of continuing atrocities the act is amended in 2016. They pointed the reasons for bringing out various amendments in 2016 such as Addition of new offences, establishment of exclusive courts and prosecutors, cognizance, time frame for filing charge sheet and chapter on victims and witnesses, compensation, accountability and monitoring mechanisms). Attorney General of India also pointed out that despite the prptective mechanisms under the Act and precedent in National Campaign on Dalit Human Rights vs. Union of India (2006) the act experience low rate of conviction and high rate of acquittal and there are several factors attributed to this such as shoddy investigations etc. Arguments are substantiated by NCRB Data. Thus ends up their arguments by quoting that by diluting the Act it will make it easier for the accused to get away from arrest and the direction issued would cause miscarriage of justice in deserving cases also.

2) Observations made by 3 Judges bench on difference between issuance of guidelines and law laid down by legislators: Section of the Judgment deals with the difference between issuance of guidelines and law laid down by the legislators. The judges quoted a Para from the Book Salmond and clearly establishes that legislators can lay down rules purely for the future and with out reference to any actual dispute and on the other hand the courts can do so only in application to the cases before them and for their solution. Court should not transgress into legislative Domain of policy making. Court cannot pronounce policy and encroach upon the field reserved for the legislative domain. The bench finally pointed- hence, the directions issued in 20.03.2018 judgement touch the realm of the policy and in the light of the above legal principles advert to directions issued earlier.

3) General Observations of the three Judges bench: Third section of the Judgment contains general observations of the three judges bench on the status of Dalit's and Adivasis in the country substantiated by NCRB Data. The courts well recognized the sufferings of the Dalit's and Adivasis for centuries and how they are still making a struggle for equality and for exercising civil rights. Remain unequal and vulnerable. They are Out caste socially. Untouchability has not vanished in 70 years. The court also pointed out that their can be no presumption that SCs and STs may misuse the law. For lodging a false report, it can not be said that the caste of a person is the cause. (human failing not the caste factor). SCs/STs in fact hardly muster the courage to lodge FIRs. If case is found to be false it is due to faulty investigations and other factors. The bench substantiated their arguments based on the alarming increase of atrocities as per NCRB Data and said that it can not

be said that this is due to outcome of misuse of provisions of act.

4) Disposal of the guidelines issued on 20.03.2018 Judgment: The three judges bench in the fourth section dealt with the each of the aspect of the guidelines.

(a) Anticipatory bail: The three judges bench taken the position on this aspect as contained in State of M.P Vs. R.K. Balothia and said that the consistent view of this court that if prima facie case has not been made out attracting the provi]sions of SC/ST Act of 1989, in that case, the bar created under section 18 on the grant of anticipatory bail is not attracted. Thus, misuse of the provisions of the Act is intended to be taken care of by the decision above.

(b) Sanction of the Appointing Authority: The bench quotes Section 41, Cr.PC which authorises every police officer to carry out an arrest in case of a cognizable offence and the very definition of a cognizable offence in terms of Section 2© of Cr.PC is one for which police officer may arrest without warrant. In case any person apprehends that he may be arrested, harassed and implicated falsely, he can approach the High Court for quashing the FIR under Section 482 While issuing guidelines mentioned above approval of appointing authority has been made imperative for the arrest of a public servant under the provisions of the Act in case, he is an accused of having committed an offence under the Act of 1989. Permission of the appointing authority to arrest a public servant is not at all statutorily envisaged; it is encroaching on a field which is reserved for the legislature. The direction amounts to amandate having legislative colour which is a field not earmarked for the Courts.

C) Approval of arrest by the SSP in the case of a nonpublic servant: The bench considered that that requiring the approval of SSP before an arrest is not warranted in such a case as that would be discriminatory and against the Act. Apart from that, no such guidelines can prevail, which are legislative. When there is no provision for anticipatory bail, obviously arrest has to be made. Without doubting bona fides of any officer, it cannot be left at the sweet discretion of the incumbent howsoever high. The approval would mean that it can also be ordered that the person is not to be arrested then how the investigation can be completed when the arrest of an incumbent, is necessary, is not understandable.

(d) Requiring the Magistrate to scrutinise the reasons for permitting further detention: As the bench did not approve the approval of arrest by appointing authority /S.S.P, this guideline was dismissed as was consequential to the above guideline.

5) Verdict: Finally the bench observed that the 20.03.2018 directions encroach upon the field reserved for the legislature and against the concept of protective discrimination in favour of downtrodden classes under Article 15(4) of the Constitution and also impermissible within the parameters laid down by this Court for exercise of powers under Article 142 of Constitution of India. Resultantly, direction Nos.(iii) and (iv) and (v) issued by this Court on 20.03.2018 deserved to be recalled and vanishes. All the pending applications regarding intervention etc. stand

were disposed of.

FurtherAction

 Monitoring and Enforcement of SCs and STs (PoA) Act 1989 and Rules 1995 as amended in 2018 at the grassroots level.
Demand for inclusion of SCs and STs (PoA) Act 1989 and

Rules 1995 as amended in 2018 in Schedule (ix) of the Constitution of India so that the act is not diluted further.

3. Enforcement of the SCs and STs (PoA) Act 1989 and Rules 1995 as amended in 2018 in the state of Jammu and Kashmir after revocation of Article 370 A of the Indian Constitution.

Dr. V. A. Ramesh Nathan

National Convener National Coalition for Strengthening the POA Act and Its Implementation (NCSPA) & General Secretary, National Dalit Movement for Justice (NDMJ)



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National Coalition for Strengthening PoA Act (NCSPA)

On 25 June 2009, the National Dalit Movement for Justice (NDMJ) -NCDHR initiated a consultation in New Delhi to review the implementation of the SC/ST (PoA) Act. Adivasi, Dalit and human rights organizations and movements, activists and experts from various states participating in the consultation formed themselves into the National Coalition for Strengthening the PoAAct (NCSPA). The Coalition decided to prepare a position paper and draft Amendment Bill based on their experiances and various recommendations given by the National and State Commissions, various civil society organizations and experts, apart from the guidelines issued by the Ministry of Social Justice and Empowerment and the Home Ministry for better enforcement of the Act. With sustained lobbying and advocacy the Amendments were finally presented to the Government of India, ensuring that it is placed before, and thereafter passed by, the Parliament. The out come of this relentless work was enactment of the amendments in 2016. A Programme under the auspices of NCSPA through its partners is underway to disseminate information on the Amended PoAAct.

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