

SECTION – IV

PROTECTION: THE MISSING DETERRENCE

In the last Section, reference was made to the elaborate framework of laws and regulatory arrangements which are intended to enforce the constitutional provisions and administer social justice to SCs. This Section will examine how far the declared intentions and objectives in these arrangements have materialized. In the course of this scrutiny, observations and comments would be offered on the status of their implementation and the social constraints which condition this effort. The impact of the entire strategy of protection in relation to atrocities against SCs would thus be assessed. In doing so the laws which respond to disability and violence against Scheduled Castes would be dealt with in detail while other laws and regulations would receive brief treatment.

A. FOR ENFORCING EQUALITY AND REMOVING DISABILITY PROTECTION OF CIVIL RIGHTS ACT, 1955 – THE LAW¹

The Act deals with enforcement of any disability arising out of untouchability practices with the objective of punishing persons preaching and practising untouchability. Section 3 of the Act prohibits religious disabilities such as preventing persons from entering into a place of public worship, performing any religious service, bathing or using water of any sacred water body. **Section 4** prohibits social disabilities like preventing access to shops, restaurants, hotels, public conveyance and places, use of separate utensils, etc. **Section 15-A** mandates the State to ensure that rights accruing from abolition of untouchability are enjoyed by those who are victims of the practice and provides for a higher punishment if a person resorts to reprisals or revenge for having exercised any right on account of abolition of untouchability. There is also a provision for setting up Vigilance and Monitoring Committees-as provided for under **Section 16(8)**. The Protection of Civil Rights Rules were also framed and notified in 1977.

PROTECTION OF CIVIL RIGHTS ACT, 1955 - THE STRUCTURE

Section 15 (2) of the Act directs the state to take specified administrative measures for implementation, such as setting up of Special Courts for trial of offences, appointment

¹The Protection of Civil Rights Act, 1955, formerly known as Untouchability (Offences) Act, 1955 as amended in 1976

of officers for initiating or exercising supervision over prosecutions initiated under the Act, setting up of Committees for monitoring and guidance, etc.

It also makes arrangements for legal aid to the victims and preventive measures such as periodic survey on the working of the Act and identification of areas where disabilities arising out of practice of untouchability have been observed with a view to adopting suitable measures for their elimination.

The Central Government has been entrusted with the task of coordinating with the State Governments measures taken by them for implementation of the Act and is required to place on the table of both Houses of Parliament a report every year on the measures taken by itself and the State Governments.

ADMINISTRATIVE ARRANGEMENTS

The following statement would show the administrative arrangements made and other measures taken by various State Governments in pursuance of the Act for its implementation.

The Statement would show that the State Governments have not taken the implementation of the Act very seriously. Punjab and West Bengal have not taken any administrative measures for implementation of the Act. West Bengal Government has claimed that untouchability is not practiced there. This itself would indicate the lack of their seriousness with regard to the implementation of the Act. Several major States, such as Assam, Bihar, Uttar Pradesh Rajasthan, etc. have not constituted special courts under the Act. Information about Andhra Pradesh, among major States, is not available. Madhya Pradesh has even wound up the special courts which it had set up because of small number of cases. None of the States, except Gujarat, Maharashtra and Rajasthan, have identified untouchability prone areas. The work in relation to Madhya Pradesh is in progress. Even an innocuous provision like incentives for inter-caste marriage has not been implemented in Rajasthan, Tamil Nadu, U.P. and Uttaranchal. In respect of Assam, requisite budgetary provision has not been made for the Scheme² and in respect of Bihar no information has been furnished. It will thus be evident that States in general have shown no keenness or enthusiasm to implement various provisions of the Act. The impression thus conveyed is that either the problem of untouchability does not exist or its incidence is so negligible that it is not worthy of much attention. This clearly shows the inability or perhaps the unwillingness of the State Government to come to grips with the practice of untouchability, particularly in its most subtle forms at various levels in society.

²Sixth Report, op. cit., p. 60

Measures taken by State Governments/Union Territory Administrations under Protection of Civil Rights Act, 1955 during the year 2000

States/UTs	Committees	Admn. Machinery	Special Courts	Legal Aid	Untouch. prone areas	Inter-caste marriage	Publicity measures	Other Measures
Assam	✓	✓	No	✓	No		Budgt. provn but no sanction	✓
Bihar	✓	✓	No	✓				Spl. Police Station
Goa	✓	No	No	✓	No	✓		
Gujarat	✓	✓	✓	✓	21 dists	✓	✓	Assistance to victims
Haryana	✓	✓	✓	✓	No	✓		Award to Panchayats
Himachal Pradesh	✓	✓	No	✓	No	✓		
Jharkhand	✓	✓	✓	✓		✓		
Karnataka	✓	✓	✓	✓	✓	✓	✓	
Kerala	✓	✓	✓	✓			✓	Community feasts/ seminars
Madhya Pradesh	✓	✓	Sp. courts wound Up because of low No. of cases	✓	Work Under progress	✓	✓	Spl. Police Stations
Maharashtra	✓	✓	Under consideration	✓	20 dists	✓	✓	Exhibition, etc.,

States/UTs	Committees	Admn. Machinery	Special Courts	Legal Aid	Untouch. prone areas	Inter-caste marriage areas	Publicity measures	Other Measures
Orissa	✓	✓	✓	✓	No	✓	✓	
Punjab	No	No	No	✓	No	✓	✓	
Rajasthan	✓	✓		✓				
Tamil Nadu	✓	✓	✓	✓	194 VIII.		✓	Community feasts/ awareness Programmes
Tripura	✓	✓	Not reqd. under PCRA but 4 courts under POA	✓	No	Budgetary Provision But no intercaste marriage held		
UP	✓	✓		✓	No		✓	Awareness Programs
Uttaranchal	✓	✓	✓	✓	No			Awareness Programs
West Bengal	No	No	No	No	No	✓	✓	
Chandigarh	No	✓	✓	✓	No	✓	✓	
Dadar & Nagar Haveli	✓	✓	✓	✓	No	No		
Daman & Diu	No	No	No	✓	No	No	No	No
Delhi	No	No	✓	✓	No	No		
Pondicherry	✓	✓	No	✓	No	✓	✓	Awareness Programs

Source: Annual Report of the Ministry of SJ & E (Twentieth Report) on the PCR Act, 1955 for the year 2000

VOLUME OF CASES

With regard to the enforcement of the Act, the following statement contains details of the cases registered under the old and amended Acts from 1955 to 2000:

Year	No. of cases Registered	Year	No. of cases Registered
1955	180	1975	3528
1956	693	1976	5108
1957	491	1977	3425
1958	559	1978	4729
1959	481	1979	4911
1960	275	1980	4303
1961	489	1981	4085
1962	389	1982	4087
1963	393	1983	3949
1964	371	1984	3925
1965	366	1985	3332
1966	488	1991	2944
1967	353	1992	2900
1968	214	1993	2531
1969	329	1994	1731
1970	364	1995	1528
1971	526	1996	1417
1972	1515	1997	1216
1973	2456	1998	724
1974	1908	1999	678
		2000	666

Source: National Crimes Records Bureau, Crime in India

This statement shows that number of cases registered was very low right from the inception of the Act, but picked up only from the year 1972. There was, however, a substantial increase in the number of cases registered from 1976 when the old Act was comprehensively amended. However, the number of registered cases are showing a progressive decline over the years and their number has gone down considerably since 1998. Ordinarily, these statistical details may lead to the conclusion that the problem of untouchability is gradually disappearing.

But this inference is hardly tenable. The data about the status of prosecution for the year 2000 presented in the 20th Report laid by the Ministry of Social Justice and Empowerment on 23.4.2002 indicates that 62.37% of total number of cases registered have come from A.P. and second in order is Karnataka, which accounts for 11.45%. No cases were registered from such major States as Bihar, Gujarat, Kerala, Punjab,

U.P., Uttaranchal, Assam and West Bengal³. Can it be said that untouchability practices have ceased to exist? Obviously not. The investigation of cases dealt with by Police shows huge pendency. Of the total number of 2086 cases, 1216 (58.29%) are still pending with police and only 618 have been charge-sheeted (29.63%). The position in respect of pendency in Courts is even worse. 7,366 cases out of 9,949 cases, were pending with Courts. Only 271 (02.72%) cases have ended in conviction while as large as 2312 (23.24%) have ended in acquittal⁴. It is not difficult to see that people have lost faith in the enforcement of law and that is the reason why no registration is taking place. The large number of registered cases in A.P. and, to some extent, in Karnataka may be reflective of the level of enthusiasm in certain areas or the support extended by some NGOs/activist organizations before and after complaints are registered. Some critics have offered another explanation for low registration of cases. Since a more deterrent law, i.e. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been enacted, it is likely that the prosecution authorities may not be registering cases under the Protection of Civil Rights Act. The vigilant complainants or the organizations backing them may also be preferring the Prevention of Atrocities Act, 1989 for registration. But this has to be established empirically. Prima facie, it does not appear convincing because even in respect of heinous crimes the police machinery in many States has been deliberately avoiding SCs and STs (Prevention of Atrocities) Act, 1989 and registering cases under IPC. In any case, the continuing atrocities on Scheduled Castes are sufficient indication, if one is needed, that caste based discrimination and disabilities still operate and violence is inflicted when they raise their voice against it and claim their constitutional rights to equality.

Thus, the declining number of cases under Protection of Civil Rights Act does not represent a marked reduction in the practice of untouchability. Rather, it is a reflection on the ineffectiveness of law - a conclusion which tallies with the view expressed by National Commission for Scheduled Castes/Scheduled Tribes in its Sixth Report⁵.

State Governments have also shown no seriousness in identifying untouchability prone areas and even where this has been done, there is no plan of action to eliminate this practice. There is very little publicity of the provisions of the Act, despite the claim made by most States that this has been done. No periodical surveys are carried out as required. The Administrative arrangements, most notably the setting up of Special Courts and appointment of Special Public Prosecutor for the operation of the Act do not exist in many States. Even if some States did not feel the need for setting up of special courts exclusively for Protection of Civil Rights Act cases, they could have allotted the trial of cases under this Act also to the special courts which are dealing with cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. There is virtually no monitoring of the implementation of the Act at any level. Vigilance and

³Annual Report on the Protection of Civil Rights Act, 1955 for the year 2000 (Twentieth Report) pp 3-4

⁴Twentieth Report on PCR Act, op. cit., pp 6-7: Also Annexure I and II.

⁵Sixth Report, op. cit., p. 207

Monitoring Committees, as prescribed under the Act, have not been constituted and where such committees exist they hardly function. Meetings of these committees are not held regularly. The quality of prosecution is poor because the functionaries entrusted with the work lack both competence and motivation. Even the reports prepared by the Ministry of Social Justice and Empowerment and placed before Parliament contain merely factual information received from States about registration and disposal of cases; various administrative arrangements made for the function of the Act and funds spent, without any meaningful analysis of the performance of the States which could form the basis for making corrective interventions.

A number of studies have been carried out on the practice of untouchability and atrocities committed against SCs during the last 20 years or so. Four such studies covering States of Karnataka, Andhra Pradesh, Orissa and Gujarat referred to in a paper⁶ bring out that the untouchability practices continue in various forms though there is some reduction in respect of some practices. These studies highlight barriers to drawal of water by SCs from public well in rural areas on a substantial scale, though less so in urban areas, widespread restrictions in access to village temples, village tea shops and particularly in relation to essential services such as those of washerman and barber in the village. In public service facilities like post offices, health and educational centres, however, the practice had declined. Social mixing and relations across caste barrier continued to be low. In Andhra Pradesh, restrictions were reported in respect of political activities like organizing meetings or taking independent position on political issues or contesting elections. There were no substantial restrictions in access to schools and hospitals. Subtle forms of untouchability were practiced in panchayats like separate arrangements of sitting and serving snacks in respect of SC members as reported in Gujarat. The practice of untouchability also declined in buying and selling of commodities in the market. The extent of untouchability has remained in tact in the sphere of house entry. Some States also provide evidence about economic discrimination in occupation, employment, wages and loan, etc. In Andhra Pradesh, the study reports that untouchables were abused and beaten when they wanted to change their traditional occupation. In Karnataka it was revealed that nearly 85% of SC respondents continued with their traditional occupation. Orissa showed that nearly 96% face discrimination in wage payment and some also face discrimination in the share of loan as well as the interest rates charged by the money lender⁷.

The study carried out by National Commission for Scheduled Castes and Scheduled Tribes, in respect of Seven States, corresponds to the findings referred to above in respect of restrictions in access to temples and other places of worship, drinking water, tea stalls and hotels, services of barber and washerman, participation in social ceremonies and sitting arrangement in village Chaupals and Gram Sabhas with variation in intensity in respect of these practices in different States. However, the Commission's study also reports discrimination in educational institutions and public

⁶Thorat, Sukhdeo, *Oppression and Denial - Dalit Discrimination in the 1990s*, Economic and Political Weekly, Feb. 9, 2002, pp. 574-576

⁷Thorat, EPW, p. 576

health centres, mainly in Rajasthan and in respect of utensils for use of general public, use of public cremation and burial grounds and in the matter of construction/ acquiring accommodation of residential premises. The report, however, observes that untouchability in its acute form is mainly practised in rural areas and some rural pockets also have shown decline in its intensity due to awareness among SCs. The deep rooted caste system was largely responsible for continuation of these practices. The Commission has recommended several measures for vigorous enforcement of the Act⁸. These include wide publicity to the provisions of Protection of Civil Rights Act, review by Central Government about the availability of facilities like legal aid to complainants seeking legal action, proper selection of Public Prosecutors and their utilization for initiating and supervising prosecution, setting up of Special Courts, holding of meetings of monitoring committees periodically, reviewing of the enforcement of the Act by State Governments regularly, identification of untouchability prone areas on a time bound basis, preparation of a compendium of guidelines for implementation of the Act and expanding promotional activities like inter-caste marriages, etc. Central Government should also review the work done by NGOs in this field and seek their help and cooperation in enforcement of the Act.

It is surprising in this context that State Governments have also not involved Panchayati Raj institutions in the implementation of this Act. These institutions could play a key role in eliminating untouchability practices and providing necessary social support in the enforcement of the Protection of Civil Rights Act. Even the Central Government has taken no initiative in mobilizing Panchayat Raj Institutions for this work though it has massive leverage which could be effectively used for this purpose. The potential of grass root level democratic institutions remains untapped. National Commission for Scheduled Castes/Scheduled Tribes has also made a mention of it in its recommendations⁹.

The foregoing would suggest that amendment of the law in 1976 really made no difference to the effective enforcement of the Act. There is neither any political enthusiasm nor the commitment of the bureaucracy in this direction. The poor outcome of the complaints filed would have also dampened the enthusiasm of NGOs and social activists in pursuing this route to elimination of untouchability practice.

B. FOR CREATING DETERRENCE AGAINST PHYSICAL VIOLENCE

Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 – Atrocities against Scheduled Castes – Law, Structure and Implementation

The Law

The term 'atrocities' has not been defined in the Act¹⁰. Though no conceptual definition has been attempted, S.2(l) (a) mentions that atrocity would mean all those offences

⁸National Commission on SCs and STs - A Report on the problem of Untouchability. Jan 1989

⁹Sixth Report, op. cit., pp 62-33

¹⁰The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989: See Naval, op. cit., 37. However, National Commission for Scheduled Castes and Scheduled Tribes feels that the term atrocity has been defined for the first time in this Act. Sixth Report op. cit., p. 207. This is perhaps because various offences brought within the ambit of atrocities have been identified.

which are punishable under S.3. Thus the definition of 'atrocities' emerges by implication, i.e. actions covering various offences. But as per clarification of the Ministry of Home Affairs the term implies **"any offence under the Indian Penal Code committed against members of Scheduled Castes by non-scheduled caste persons.** Similarly, all offences under IPC committed by non-scheduled tribe against members of the Scheduled Tribes are atrocities. **Caste consideration as a motive is not necessary** to make such an offence in case of atrocity". It is further clarified that the term atrocity signifies "crimes which have ingredients of infliction of suffering in one form or the other should be included for reporting". This is based on the assumption that "where the victims of crime are members of scheduled castes and the offenders do not belong to scheduled caste, caste considerations are really the root cause of the crime, even though caste considerations may not be the vivid and minimum motive for the crime"¹¹.

¹¹Quoted in Naval, op. cit., p. 38. Dr. T.R. Naval in his study. Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes (2001) has tried to conceptualize different facets of atrocities in the following manner:

- a) **Personal aspects** which consists of physical suffering and mental pain, and a feeling of continued insecurity. 'The concerned person learns to define himself/herself as a victim which leads to lasting internalization of degradation and stigmatization and virtually of helplessness. This promotes passivity and acceptance of the status and giving up of resistance'.
- b) **Physical aspects** which are reflected in bodily pain and injuries of varying nature disabling him/her in carrying his/her normal activities.
- c) **Economic aspects** which cause financial loss, destruction of property and other ways of shattering economic position.
- d) **Educational aspects** which includes creation of conditions to prevent pursuit of knowledge
- e) **Social aspects** of atrocity implies actions which not merely affects an individual personally but also all members of his/her community and lead to a sense of humiliation for the whole community
- f) **Grave aspects** of atrocity are committed, when Police and enforcement machinery not only fail to protect them but commit atrocities themselves.

As a matter of fact, such classification is unreal because atrocities have impact on Scheduled Castes in such a manner that their whole life in all its facets is affected. Therefore, all aspects articulated above are inclusive. A personal suffering is also a cause of, and intended to be a sense of humiliation for the entire community, adversely affects him economically through diverse ways and prevent him or his children from pursuing education or other avenues of gaining upward mobility. Further, the causes of atrocities have been attributed to following factors:

- i) Caste system, endogamy and caste hatred,
- ii) Untouchability
- iii) Illiteracy
- iv) Poverty and economic dependence or backwardness
- v) Self assertion by Scheduled Castes
- vi) Ignorance of law and lack of political will.

Here again, the caste based social order has all the ingredients in which upper castes have hatred for Scheduled Castes, practise untouchability against them and the lower castes suffer from illiteracy, poverty economic dependence, low level of awareness and lack of self esteem. Therefore, any attempt to alter the social relations based on this order, whether by state action to uplift lower castes or for lower castes to assert their rights generates hostility and hatred among higher castes leading to commission of atrocities against them. Thus, it is the traditional socio-economic relations based on caste which has to be targeted for putting an end to atrocities and the action in this regard has to be so effective that it has the element of deterrence. The Scheduled Castes/Scheduled Tribes (POA) Act, 1989 was intended to achieve this objective.

The Act has the following main features¹²:

1. **Creation of new types of offences** - This Act enlarges the area of criminal liability and includes several acts of omission and commission, which were neither covered under the Indian Penal Code nor Protection of Civil Rights Act, 1955 as amended in 1976.
2. **Commission of offences only by specified persons** - The defining paradigm of this Act lies in the caste identification of both the offender and the victim. The offender must be a person other than member of Scheduled Castes/ Scheduled Tribes and the victim should be a member of Scheduled Castes/Scheduled Tribes.
3. **Protection from various kinds of atrocities** - The Act provides protection to Scheduled Castes/Scheduled Tribes from various atrocities, affecting social disabilities, property, malicious persecution, political rights and economic exploitation.
4. **Administrative measures** for enforcement of the Act - The Act makes arrangements for establishment of **Special Courts** to try offences under the Act to ensure speedy trial. It also makes provision for appointment of **Special Public Prosecutors** to conduct trial of offences under the Act in the Special Courts.
5. **Special features of the Act** - With a view to giving teeth to the provisions of the Act, Special Courts have been empowered to **extern potential offenders** from scheduled areas and tribal areas and **attachment of moveable or immoveable property or both properties** belonging to a person accused of any offence under Section 3 to 6 of the Act in addition to awarding any punishment. The Act **prohibits grant of anticipatory bail** to the potential accused under the Act and places restrictions on grant of probation to the convict of an offence under the Act. Among the preventive measures are included Rules for cancellation of arms licence of potential accused of an offence under the Act and provision for grant of arms licence to Scheduled Castes/Scheduled Tribes as a means of self defence.
6. **Enhanced punishment for some offences** - The deterrent aspect of the Act, reflected in its most significant feature, is that it provides enhanced punishment for those offences under the IPC which are punishable with imprisonment for a term of 10 years or more.
7. **Enhanced minimum punishment for public servants** - A Public Servant as accused under the Act has been made liable to a higher minimum punishment and even neglect of duties has been made liable for punishment.
8. **Compensation for victims or their legal heirs** - Provision of minimum relief and compensation to victims of atrocities or their legal heirs has also been made. The norms of compensation are laid down in the Rules made under this

¹²Naval, op. cit., pp 74-109. In these pages, detailed analysis has been provided of various provisions of the Act and Rules.

Act. This compensation shall be provided in addition to the minimum relief extended to the victim.¹³

The Structure

For the purpose of providing speedy trial, the Act mandates establishment of Special Courts to try the offences under this Act with the concurrence of the Chief Justices of the High Courts. The Act also lays down that the State Government shall specify a Public Prosecutor for conducting the cases in the Court. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 provide that an offence committed under the Act shall be investigated by a Police Officer, not below the rank of Deputy Superintendent of Police, who shall be so appointed after taking into account his experience and ability to investigate such cases. The Rules also provide that the State Government shall set up Scheduled Castes and Scheduled Tribes Protection Cell at the State Head Quarters under the charge of Director General of Police / Inspector General of Police for supervision in respect of action taken under the Act. There is provision in the Rules for nomination of a gazetted officer of the level of Secretary to the State Government for coordinating the functioning of District Magistrates and Superintendents of Police or other officers authorized by them for implementing the provisions of the Act. Included in the Rules is also a provision for appointment of a Special Officer, not below the rank of an Additional District Magistrate, at the district level to coordinate with various officers responsible for implementing the provisions of the Act. For enhancing accountability and greater political supervision, the Rules have made arrangement for the constitution of State level Vigilance and Monitoring Committee under the Chairmanship of the Chief Minister. To deliberate on the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims, prosecution of the cases under the Act, the role of different officers and agencies and various reports received by the Government. Constitution of similar Vigilance and Monitoring Committees at the district level, has also been incorporated. State Government is required to submit to the Central Government a report every year about the measures taken for implementation of the Act.

Administrative Arrangements

The following statement would indicate the state-wise position regarding the structure and other institutional measures for implementation of the Act and its Rules.

¹³Dr. Naval has classified Indian legislations for Crime Control into three models: (1) Constitutional provision, (2) Mild Crime Model (3) Hard Crime Model. Art 17, by abolition of untouchability made a formal and instrumental declaration, not a sociological statement. Protection of Civil Rights Act, 1955 represented a 'Mild Crime Model'. The Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 is based on a 'Hard Crime Model' for prevention of atrocities on Scheduled Castes, because so many new features were incorporated in the Act op. cit., pp 69-71

States/UT	Committees	Special Courts	Admn. Machinery	Nodal Officers Areas	Atrocity Prone Thanas	Spl. Police	Relief	Other Measures
Assam	Yes	Yes (18)	Yes	No	No	Negligible	Free legal aid	
Bihar	Yes	Yes	Yes	33 dist.	Yes (10)	Yes	Free legal aid	
Chhattisgarh	Yes	Yes (7)	Yes	No	Yes (8)	Yes	Spl. Cell in 8 dist.	
Goa	Yes	Yes	Yes	No	No	No	Free legal aid. Survey, untouchability week on 2nd Oct.	
Gujarat	Yes	Yes	Yes	11 dist	Yes	Yes	Free legal aid, Publicity of Act, Seminars, NGOs participation.	
Haryana	Yes	Yes	Yes	No	No	No	Free legal aid. Inter Caste Marriages, Awards to Panchayats	
Himachal Pradesh	Yes	Yes	Yes	No	No	No	Free legal aid, Survey	
Jharkhand	Yes	Yes (2)	Yes	Yes (1)	Yes	Yes	Free legal aid	
Karnataka	Yes	Yes	Yes	15 dist.	Yes	Yes	Free legal aid, NGOs participation.	
Kerala	Yes	Yes	Yes	Yes	Yes	Yes	Publicity of Acts., Community feasts, Seminars etc.,	
Madhya Pradesh	Yes (25)	Yes	Yes	42 dist.	Yes	Yes	Awareness camp, Awards etc.	
Maharashtra	Yes	Yes	Yes	10 dist.	Yes	Yes	Free legal aid, Workshops, NGOs participation, Survey.	
Meghalaya	Yes	Yes (7)	Yes					
Orissa	Yes	Yes	Yes	No	No	Yes	Free legal aid, NGOs participation.	

States/UT	Committees	Special Courts	Admn. Machinery	Nodal Officers Areas	Atrocities Prone Thanas	Spl. Police	Relief	Other measures
Punjab	Yes	Yes	Yes	No	No	No	Yes	Free legal aid, Survey
Rajasthan	Yes	Yes (17)	Yes		No	No	Yes	Free legal aid, NGOs Participation
Sikkim	No				No	No	Yes	Free legal aid, Periodic Surveys.
Tamil Nadu	Yes	Yes	Yes	Yes	427 villages	No	Yes	Free legal aid
Tripura	Yes	Yes			No	No	Yes	Free legal aid
U.P.	Yes	Yes (20)	Yes		20 dist.	No	Yes	Free legal aid
Uttaranchal	Yes	Yes (3)	Yes		No	No	Yes	Free legal aid
Andaman & Nicobar	No	Yes			No	No	No	Free legal aid
Chandigarh		Yes (1)			No	No	Yes	Free legal aid
Dadra & Nagar Haveli	Yes		Yes		No	No	No	Free legal aid, NGOs participation
Daman & Diu	Yes		Yes		No	No	No	Free legal aid
NCT Delhi	Under Consideration			Under Consideration	No	No	No	
Pondicherry	Yes		Yes	Yes	No	No	Yes	Free legal aid, Periodic Surveys

Other States/UT: Detailed write up is awaited from the State Government of Andhra Pradesh, Jharkhand and West Bengal. As no cases of atrocities against Scheduled Castes & Scheduled Tribes has been registered under the SC & ST (Prevention of Atrocities) Act, 1989, during the year 2000, the information therefore is 'Nil' in respect of under mentioned 4 states and UT: 1) Arunachal Pradesh; 2) Manipur; 3) Mizoram; 4) Nagaland; and 5) Lakshadweep.

Source: Annual Report on the SC and ST (Prevention of Atrocities) Act, 1989 for the year 2000, Seventh Report, Ministry of Social Justice and Empowerment, Government of India, New Delhi, 2002.

Volume of Cases

The total number of reported criminal cases of atrocities against Scheduled Castes under the IPC, Protection of Civil Rights Act and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, in the last five years is as under:

1995	:	32,996
1996	:	31,440
1997	:	27,944
1998	:	25,638
1999	:	25,093
2000	:	—

Source: National Crime Records Bureau, Crime in India 1997, 1998, 1999

These figures show a gradual decline in the total number of reported cases of atrocities against scheduled castes.

Under-reporting of Atrocities Act cases is a very common phenomenon and therefore the decline in the number of registered cases does not provide a true picture of the incidence of atrocities. One NGO in Gujarat, in a study covered 11 atrocities-prone districts for four years, showed that 36% of atrocities cases were not registered under Atrocities Act and 84.4% of the cases where the Act was applied, the cases were registered under wrong provisions with a view to concealing actual and violent nature of the incidents. The study also documented that 121.2 hours lapsed between registration of murder cases and initiation of police action and for rape cases the gap between the incident and the reported action was 532.9 hours¹⁴.

The non-registration of cases, apart from reflecting caste bias and corruption, has also been attributed to the pressure on the police to keep reported crime rates low in their jurisdiction. The same NGO reported that according to police record, during the period of four years, the incidents of atrocities increased by 90% due to truthful reporting and yet police reports showed that the general crime rate was down by 1.35%¹⁵. The increase in crime rate is not viewed favourably in police administration and has negative implication for the police personnel as their superiors feel that they are not doing their job. This can have adverse effect on their career. With a view to presenting lower crime rates in the district, under-reporting of information is done at the district headquarters, which gets further diluted at the State and National level.

Nature of Crimes

With a view to knowing the seriousness of atrocities, it may be relevant to see the incidence of heinous crimes against Scheduled Castes. The following statement gives out the serious cases registered under the three laws:

¹⁴Study carried out by NGO, Navsarjan, quoted in Human Rights Watch, op. cit., p. 194

¹⁵Human Rights Watch, op. cit., p. 195

These figures indicate that there has been a marginal decline every year under all heads of crime, except rape which shows a marginal increase¹⁶.

Year	Murder	Hurt	Rape	PCR	SC/ST (Prev)
1995	571	4544	873	1528	13925
1996	543	4585	949	1417	9620
1997	513	3860	1037	1216	8070
1998	516	3809	923	724	7443
1999	506	3241	1000	678	7301

Source: National Crime Records Bureau, Crime in India 1997-1999

Geographical Distribution of Atrocities

The geographical distribution of atrocities against Scheduled Castes may provide an idea of the areas / locations which are particularly prone to this type of violence. The break-up of crimes committed against Scheduled Castes in major States, as extracted below would provide this information.

Year	U.P.	Raj	Madhya Pradesh	Guj	AP	TN	Bihar	N.E. States	UTs	Other States	Total
1995	14205	5197	3979	1724	1764	1293	747	36	32	4019	32996
1996	10963	6623	4075	1764	1629	1812	810	14	24	3726	31440
1997	8500	5624	4269	1831	1880	1403	710	18	43	3666	27944
1998	6511	5586	4051	1884	1605	1562	785	2	21	3631	25638
1999	6122	5623	4667	1781	1749	883	820	22	31	3391	25089

Source: National Crime Records Bureau, Crime in India 1997-1999

The above figures indicate that the largest number of cases have been reported from U.P. every year. This is primarily because U.P. has the largest population of the Scheduled Castes as compared to other States. Besides U.P., Rajasthan, Madhya Pradesh, Gujarat, Andhra Pradesh, Tamil Nadu and Bihar are other States which have contributed substantially to the total crime against Schedules Castes.

Volume of Crime Against Scheduled Castes (Cases Per One Lakh Population of Scheduled Castes)

Other things being equal, the number of incidents of crime against Scheduled Castes in a particular State would naturally have relevance to the population of Scheduled Castes in that State. Ordinarily, larger the population of the Scheduled Castes in a State, more may be the number of cases of atrocities reported from that State. But this may not necessarily reflect the level of atrocities in the State. Therefore, a more rational way to appreciate the magnitude of atrocities in a particular State is to study

¹⁶Crime in India 1999, op. cit., p. 228

the volume of crime i.e. the number of cases reported per unit of population, e.g., one lakh population of Scheduled Castes. These figures are available for the year 1998 which are as under:

S.No	State/UT	SC Population (Census 1991) in lakhs	Cases of atrocities 1998	Cases per lakh of SC population per year	Rank
1.	Andhra Pradesh	105.92	1813	17.12	VI
2.	Bihar	125.72	785	6.24	XIII
3.	Gujarat	30.6	1884	61.57	II
4.	Haryana	32.51	159	4.9	XIV
5.	Himachal Prad.	13.50	59	4.4	XV
6.	J & K	6.41	17	2.65	XVI
7.	Karnataka	73.69	1148	15.58	VII
8.	Kerala	28.86	786	27.23	IV
9.	Madhya Pradesh	96.27	4051	42.08	III
10.	Maharashtra	87.58	683	7.8	XI
11.	Orissa	51.29	703	13.71	IX
12.	Punjab	57.43	23	0.4	XVIII
13.	Rajasthan	76.08	5585	73.41	I
14.	Sikkim	0.24	2	8.3	X
15.	Tamilnadu	107.35	1562	14.58	VIII
16.	UP	292.76	6511	22.24	V
17.	Delhi	17.95	11	0.61	XVII
18.	Pondicherry	1.37	10	7.30	XII

Source: Fifth Report of the National Commission on Scheduled Castes and Scheduled Tribes 1998-99, Vol. I. P. 155

These figures indicate that the **highest volume of crime against Scheduled Castes is in Rajasthan (73 cases per one lakh population) followed by Gujarat (62 cases per one lakh population) and Madhya Pradesh (42 cases per one lakh of population)**. Thus, the percentage of SC population in a State does not indicate the extent of atrocities committed against them. The vulnerability of Scheduled Castes to atrocities would depend upon a host of other factors, rigidity of caste based social relations and the relatively weak position of Scheduled Castes in it being the most important. The Seventh Report of the Ministry of Social Justice and Empowerment for the year 2000 provides information on the number of cases per lakh of population of both **SCs and STs** for the year 2000 and therefore, it does not seem comparable with the data we have for SCs separately in the Fifth Report of the National Commission. However, Rajasthan with 51.05 number of cases per one lakh of **SC & ST** population taken together still tops the list. If Chhattisgarh (40.64) and **M.P.** (18.01) are taken together, the situation in old **M.P.** comes second but the figures may be misleading because

population figures quoted in the Report for Chhattisgarh do not include STs. Since Chhattisgarh has substantial tribal population, number of cases per unit of SC/ST population may make difference in inter-se ranking. On the other hand, number of cases per unit of SC population for Chhattisgarh alone is very high. In any case, in the absence of separate figures for SCs alone, no reliable picture of inter-se ranking can be attempted¹⁷.

Proneness of States to Specific Crimes

By positioning incidence of specific heinous crimes in major atrocities prone States, the proneness of a State to serious cases of violence, as also to a specific type of atrocity, would be reflected which could then be sociologically investigated to understand the causal connections. The State-wise break-up of heinous crimes against Scheduled Castes is provided in the following tables:

MURDER

Year	UP	Raj	M.P.	Guj.	AP	TN	Bihar	N.E.	UT	Other	Total
1995	296	35	86	27	25	29	18	02	00	53	571
1996	330	47	50	22	21	15	19	01	01	38	543
1997	261	53	66	18	33	11	33	00	00	38	513
1998	259	49	67	21	35	30	12	00	00	43	516
1999	279	49	55	26	26	20	05	01	00	44	506

HURT

Year	UP	Raj	M.P.	Guj	AP	TN	Bihar	N.E.	UT	Other	Total
1995	1067	303	681	216	516	858	226	06	00	671	4544
1996	1060	184	687	206	318	1361	276	04	00	489	4585
1997	706	197	635	215	303	983	225	08	00	588	3860
1998	782	218	680	243	364	650	253	01	00	618	3809
1999	672	154	751	363	437	165	230	08	00	458	3241

RAPE

Year	UP	Raj	M.P.	Guj	AP	TN	Bihar	N.E.	UT	Other	Total
1996	321	94	224	15	64	06	13	01	00	135	873
1996	324			15	50	19	27	01	00	116	949
1997	302	158	315	21	59	09	20	02	00	1151	1037
1998	238	138	269	20	46	04	23	01	00	184	923
1999	276	146	305	28	61	12	22	03	00	147	1000

Source: National Crime Records Bureau, Crime in India 1997-1999

¹⁷Annual Report on the SCs and STs (Prevention of Atrocities) Act, 1989 for the year 2000 (Seventh Report) p. 7

The above figures show that even for heinous crimes, **UP is the highest contributor**, followed by Madhya Pradesh, Rajasthan, Andhra Pradesh, Tamilnadu and Gujarat.

But the data presented above also brings out the interesting point that the number of atrocities cases in a State in absolute terms may not reflect the level of vulnerability of Scheduled Castes. **Rajasthan and M.P. emerge as more atrocity-prone than U.P.** and therefore SCs are more vulnerable there as compared to U.P.

The following statements give state-wise **incidence of crime committed against Scheduled Castes during 1999 and 2000**, which may throw light on the proneness of State to a particular type of atrocity:

Incidence of Crime During 1999

S.No.	State/UT	Murder	Hurt	Rape	Kidnap & Abd.	Dacoity	Robbery	Arson	PCR Act	SC/ST (POA) Act	Other offences	Total
1	2	3	4	5	6	7	8	9	10	11	12	13
1.	Andhra Pradesh	26	437	61	2	3	6	8	266	522	418	1749
2.	Arunachal Pradesh	0	0	0	0	0	0	0	0	0	0	0
3.	Assam	0	4	2	0	0	0	0	1	0	0	7
4.	Bihar	5	230	22	1	2	0	13	0	276	271	820
5.	Goa	0	0	0	0	0	0	0	0	0	0	0
6.	Gujarat	26	363	28	15	8	23	17	9	415	877	1781
7.	Haryana	5	33	26	8	1	0	1	0	18	29	121
8.	Himachal Pradesh	2	2	4	0	0	0	0	6	21	19	54
9.	Jammu & Kashmir	0	1	2	0	0	0	0	1	0	9	13
10.	Karnataka	11	27	6	0	0	0	8	85	1131	9	1277
11.	Kerala	5	177	54	0	0	0	4	3	194	77	514
12.	Madhya Pradesh	55	751	305	36	2	16	56	26	433	2987	4667
13.	Maharashtra	7	67	40	6	1	4	10	135	160	175	605
14.	Manipur	0	0	0	0	0	0	0	0	0	0	0
15.	Meghalaya	1	0	0	0	0	0	0	0	0	0	1
16.	Mizoram	0	0	1	0	0	1	0	0	0	0	2
17.	Nagaland	0	0	0	0	0	0	0	0	0	0	0
18.	Orissa	10	145	8	4	0	3	3	3	263	333	772
19.	Punjab	5	9	7	2	0	0	0	1	6	9	39

S.No.	State/UT	Murder	Hurt	Rape	Kidnap & Abd.	Dacoity	Robbery	Arson	PCR Act	SC/ST (POA) Act	Other offences	Total
1	2	3	4	5	6	7	8	9	10	11	12	13
20.	Rajasthan	49	154	146	10	0	3	67	19	887	4288	5623
21.	Sikkim	0	4	0	0	0	0	4	0	0	4	12
22.	Tamil Nadu	20	165	12	11	0	3	1	109	366	196	883
23.	Tripura	0	0	0	0	0	0	0	0	0	0	0
24.	UP	279	672	276	133	19	50	145	1	2597	1950	6122
25.	West Bengal	0	0	0	0	0	0	0	0	0	0	0
	Total (STATES)	506	3241	1000	228	36	109	337	665	7289	11651	25062
Incidence of Crime against Scheduled Castes in respect of year 1999 upto the month of December												
UNION TERRITORIES												
26.	A & N Islands	0	0	0	0	0	0	0	0	0	0	0
27.	Chandigarh	0	0	0	0	0	0	0	0	0	0	0
28.	D & N Haveli	0	0	0	0	0	0	0	0	0	0	0
29.	Daman & Diu	0	0	0	0	0	0	0	0	0	0	0
30.	Delhi	0	0	0	0	0	0	0	3	10	5	18
31.	Lakshadweep	0	0	0	0	0	0	0	0	0	0	0
32.	Pondicherry	0	0	0	0	0	0	0	10	2	1	13
	Total (UTs)	0	0	0	0	0	0	0	13	12	6	31
	TOTAL (ALL INDIA)	506	3241	1000	228	36	109	337	678	7301	11657	25093

Source: Sixth Report of the National Commission for Scheduled Castes and Scheduled Tribes (1999-2000 & 2000-2001, Ps. 228-229)

S.No.	State/UT	Murder	Hurt	Rape	Kidnap & Abd.	Dacoity	Robbery	Arson	PCR Act	SC/ST (POA) Act	Other offences	Total	Upto month
18.	Orissa	14	47	6	0	0	0	3	0	147	158	375	Jun.
19.	Punjab	0	4	8	2	0	0	0	0	13	3	30	Dec. (Sep)
20.	Rajasthan	48	153	128	13	1	3	49	0	454	4341	5190	Dec.
21.	Sikkim	0	0	1	0	0	0	0	0	0	14	15	Dec.
22.	Tamilnadu	12	654	17	1	0	1	0	103	418	90	1296	Dec.
23.	Tripura	0	0	0	0	0	0	0	0	0	0	0	Dec.
24.	UP	302	761	346	163	23	65	142	18	2683	2096	6599	Nov.
25.	West Bengal	0	0	0	0	0	0	0	0	0	0	0	Dec.
Total (States)		486	3298	1034	242	37	93	260	650	6599	11007	23706	
UNION TERRITORIES													
26.	A & N Islands	0	0	0	0	0	0	0	0	0	0	0	Dec.
27.	Chandigarh	0	0	0	0	0	0	0	0	0	0	0	Dec.
28.	D & N Haveli	0	0	0	0	0	0	0	0	0	0	0	Dec.
29.	Daman & Diu	0	0	0	0	0	0	0	0	1	0	1	Nov.
30.	Delhi	0	0	0	0	0	0	0	0	12	1	13	Dec.
31.	Lakshadweep	0	0	0	0	0	0	0	0	0	0	0	Dec.
32.	Pondicherry	0	0	0	0	0	0	0	17	4	1	21	Dec.
Total (UTs)		0	0	0	0	0	0	0	17	17	2	35	
TOTAL (ALL INDIA)		486	3298	1034	242	37	93	260	667	6616	11009	23741	

Source: Report of National Commission for Scheduled Castes/Scheduled Tribes (1999-2000 & 2000-2001), Pp. 232-233

The two statements indicate the following:

1. In murder cases, U.P. tops the list, while rape cases are very high in M.P., Rajasthan and U.P.
2. Karnataka has registered the second largest number of cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. But the serious offences in Karnataka are few which may perhaps reflect the seriousness with which cases under the Act are registered.
3. Only AP, Karnataka, Maharashtra and Tamilnadu have shown seriousness in registering cases under Protection of Civil Rights Act 1955.

The abstract of data relating to number of cases (category-wise) of atrocities against Scheduled Castes registered during 1999 and 2000 along with their percentage in the context of total volume of crime against them (in brackets) is given below, which shows **increase in number of rape cases**:

Atrocities Committed on Scheduled Castes

S.No.	Nature of Crime	Number of Cases of crimes during	
		1999	2000
1.	Murder	506 (2.01%)	486 (2.05%)
2.	Grievous Hurt	3241 (12.92%)	3298 (13.89%)
3.	Rape	1000 (3.98%)	1034 (4.36%)
4.	Arson	337 (1.35%)	260 (1.09%)
5.	Other Offences	20,009 (79.79%)	18,664 (78.61%)
	Total	25,093 (100.00%)	23,742 (100.00%)

Source: Report of National Commission on Scheduled Castes/Scheduled Tribes (1999-2000 & 2000-2001)

The National Commission for Scheduled Castes and Scheduled Tribes has also compared the data of crime against Scheduled Castes with the figures of crime against Scheduled Tribes and has come to the conclusion that the **incidence of crime and atrocities against Scheduled Castes is about 6 to 7 times more than the incidence of crime against Scheduled Tribes**, though the **population of Scheduled Castes is only twice that of Scheduled Tribes**. They also confirm our observation that **U.P., Rajasthan and Madhya Pradesh** have highest incidence of crime against Scheduled Castes and **account for 65.4% of the total cases of atrocities against them in the country** during the year 1999. This was the position in the preceding year also (1998) and remained so for the year 2000¹⁸. But these statistics do not bring out the facet of atrocities which are committed by the police machinery itself, since complaints are rarely entertained, let alone registered. As per experience of the Commission, Punjab ranks as the **worst in this regard**, because the superior hierarchy of the organization tends to be extremely protective of its members and even the interventions by National Commission for SCs and STs in extremely serious cases have failed to get any positive response¹⁹.

¹⁸Sixth Report, op. cit., p. 210

¹⁹Information gathered through discussion with officials

Disposal of Cases

The following statement shows State-wise details of cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, disposed of by the Police and the Courts and pendency of cases during 2000:

**Statement Showing Cases Registered by Police and their disposal under the SCs/
STs (Prevention of Atrocities) Act, 1989 during the year 2000**

S.No.	State/UT	No. of cases regd. during 2000	No. of cases with police during 2000, incl. B/F	No. of cases closed after investigation	No. of cases charge sheeted in courts	No. of cases pending with police at the end of 2000
1.	Andhra Pr.	2711	2866	883	1429	554
2.	Bihar	568	1396	99	288	1009
3.	Chhattisgarh	873	933	21	761	151
4.	Goa	1	1	0	1	0
5.	Gujarat	1699	2098	109	1261	728
6.	Himachal Pr.	10	14	0	11	3
7.	Haryana	54	60	16	27	17
8.	Jharkhand	26	41	17	1	23
9.	Kerala	529	1025	230	322	473
10.	Karnataka	1254	1819	198	884	737
11.	Madhya Pr.	4122	4621	205	3516	900
12.	Maharashtra	793	950	75	700	175
13.	Orissa	1354	2464	294	1118	1052
14.	Punjab	34	41	8	14	19
15.	Rajasthan	6679	7692	4159	3057	476
16.	Tamil Nadu	996	1253	384	505	364
17.	Uttaranchal	112	131	41	90	0
18.	Uttar Pr.	8462	9476	1594	5609	2273
19.	West Bengal	14	59	0	0	59
20.	A & N Islands	1	2	1	1	1
21.	Chandigarh	1	1	0	0	1
22.	D & N Haveli	1	1	0	1	0
23.	Daman & Diu	1	1	0	0	1
24.	Delhi	15	19	1	10	8
25.	Lakshadweep	1	1	1	0	0
26.	Pondicherry	4	6	0	2	4
Total		30,315	36,971	8,336	19,608	9,027

Source: Seventh Report of Ministry of Social Justice and Empowerment of the year 2000, p. 64

Note: 1. The SC/ST (POA) Act, 1989 not applicable in J & K State
2. Nil data reported by 8 States/UTs. viz. Arunachal Pr. Assam, Sikkim, Tripura, Manipur, Meghalaya, Mizoram and Nagaland.

The progress of investigation of cases by police analysed from the above data indicates that number of chargesheeted cases was 53.04% of the total no. of cases while 22.54% of cases were closed after investigation and number of cases pending with police at the end of the year constituted 24.42%²⁰.

Statement Showing Cases with Courts under the SCs and STs (Prevention of Atrocities) Act, 1989 and their disposal during the year 2000

S.No.	State/UT	No. of cases in courts incl. B/F in 2000	No. of cases ended in conviction	No. of cases ended in acquittal	No. of cases pending with courts at the end of 2000
1.	Andhra Pr.	3067	30	947	2090
2.	Assam	6	0	0	6
3.	Bihar	5308	7	935	4366
4.	Chhattisgarh	1398	67	37	1294
5.	Goa	3	0	1	2
6.	Gujarat	13293	0	0	13293
7.	Haryana	69	3	12	54
8.	Himachal Pr.	33	0	9	24
9.	Kerala	1998	5	158	1835
10.	Karnataka	4844	6	504	4334
11.	Madhya Pr.	9711	239	1043	8429
12.	Maharashtra	9067	22	827	8218
13.	Orissa	6244	9	242	5993
14.	Punjab	35	0	1	34
15.	Rajasthan	8233	293	2109	5831
16.	Sikkim	1	0	1	0
17.	Tamil Nadu	1868	27	165	1676
18.	Uttaranchal	869	7	392	470
19.	Uttar Pr.	77354	526	2599	74229
20.	West Bengal	50	0	0	50
21.	A & N Islands	2	0	1	1
22.	D & N Haveli	7	0	0	7
23.	Daman & Diu	4	0	1	3
24.	Delhi	38	0	12	26
26.	Pondicherry	3	0	0	3
Total		1,43,505	1,241	9,996	1,32,268

Source: Seventh Report of Ministry of Social Justice and Empowerment for the year 2000, p. 64

- Note: 1. The SC and ST (Prevention of Atrocities) Act, 1989 not applicable in J & K State
 2. Nil data reported by 8 States/UTs, viz Arunachal Pr., Tripura, Manipur, Meghalaya, Mizoram, Nagaland, Chandigarh and Lakshadweep.
 3. The information is awaited from Stated Government of Jharkhand.

²⁰Seventh Report of Ministry of SJ & E (2000), op.cit., p.8

From the above it is evident that only 7.83% of the total cases were disposed of during the year and only 11.04% of the disposed of cases ended up in conviction. 88.96% of cases ended in acquittal and 92.17% of cases were pending with courts. Number of cases pending before the courts in most of the major States is alarming. Ministry of Social Justice and Empowerment has expressed concern over low rates of conviction²¹.

The State-wise break up shown in these statements also reinforces our earlier conclusion that the **position** in respect of **Rajasthan is very critical** because the number of **cases closed after investigation is the largest** in that State and also **highest as a percentage of total number of cases registered**. This is true for the year 1999 as well as 2000. The **pendency of cases with Police** relative to the number of cases registered is **very large in States of Bihar, Andhra Pradesh and Kerala. West Bengal and Assam have not registered any cases** at all. Does it imply that no crime is being committed against Scheduled Castes in these States? Obviously, the enforcement of this Act is not taken seriously. Perhaps the cases are not being registered under the Act at all but are being booked under Indian Penal Code²². This is certainly true of West Bengal where State Government takes a view that caste based violence does not occur in their State in view of their leftist political ideology. Thus as a matter of policy the provisions of the Act are not applied to the incidents and therefore not enforced. Reasons for not registering cases under the Act in Assam are not known. It may be just apathy or bias. A large number of cases of atrocities go unregistered, mainly because of reluctance on the part of police officials to entertain complaints and also because of lack of awareness among the members of SCs about the provisions of the **SCs and STs (Protection of Civil Rights) Act, 1989** (as also the **Protection of Civil Rights Act, 1955**). In addition, there are delays in investigation, collusion with offenders and manipulation of witnesses and evidence all of which contribute to reduce the effectiveness of legislation on atrocities. In almost all the States the meetings of the Monitoring and Vigilance Committees at State level, which is an important mechanism for ensuring proper implementation of these laws, are not held regularly.

States have not taken much interest in identifying atrocities prone areas even though they have access to district based crime figures against the Scheduled Castes, in addition to various reports which their own field machinery generates. While the Ministry of Social Justice and Empowerment may continue to pursue with States the need to expeditiously complete this exercise, it is learnt that National Commission for SCs and STs have already identified such areas evidently on the basis of information they have received from States and statistics brought out by the National Crime Records Bureau. In this context, a study has been carried out by some researchers in respect of crime against women with a view to identifying regions (Districts) which are prone to such crimes. The Research Wing of the Commission may undertake a similar task

²¹Seventh Report of Ministry of Social Justice and Empowerment (2000), op. cit.. p.8

²²Information gathered from the Senior Research Officer, National Committee for SCs/STs

of studying the district based crime figures and map out atrocities prone areas (for SCs and STs separately) which could then be discussed with States and finalised. Interestingly, the study carried out in respect of crime against women has brought out that the crimes are **roughly centered at Madhya Pradesh** and spread in different directions with **M.P.** as the center and neighbouring districts of Maharashtra and Rajasthan adjoining it. This region accounts for **56% of all 'high crimes against women'** districts. Rest of the Districts outside this belt, but have 'high crime rates against women, are scattered in Jammu & Kashmir, Himachal Pradesh in north, Andhra Pradesh, Tamilnadu and Kerala in South and Sikkim and Mizoram in the East. Apart from these latter districts, there are strips of districts constituting crime belt, which also account for large incidence of crime against women-one is the stretch of contiguous districts of Maharashtra from Gadchiroli to Aurangabad and the other contiguous strip is from Banswara (Rajasthan) to Narasinhapur (M.P). Virtually **all districts of M.P.** have been identified into **high rate rape group** and several neighbouring districts in Rajasthan and Maharashtra also belong to this club. Together they constitute **over half of the high rape rate districts in India**²³. If similar exercises were to be carried out in respect of crimes against scheduled castes, overall and major crime-wise, it is likely that broadly similar spatial concentration may emerge. It should, therefore, be possible to identify the regions where atrocities seem to get frequented so that, among other measures specific to the area, a regional strategy of curbing violence against scheduled castes could be worked out on the basis of sociological analysis of the factors giving rise to these atrocities.

It needs to be specially mentioned that in the case of *Gangula Ashok and others v/s State of Andhra Pradesh*, the **Supreme Court** has observed that **"No Special Court, being Court of Sessions, can obviate the interdict contained in Section 193 of the Code of Criminal Procedure (henceforth Code) as there is no provision in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 empowering the Special Courts to take cognizance of such offences as a Court of original jurisdiction. It can take cognizance of the offence when the case is committed to it by the Magistrate in accordance with the provisions of the Act.** A complaint or a charge sheet cannot straight away be lodged before the Special Court under the Act. Provisions of the Act of Criminal Procedure should be applicable to the extent, in the absence of any contrary provisions in the Special Act or any special provision including the jurisdiction or applicability of the Court". (Judgement dated January 28, 2000 in Criminal No. 94 of {arising out of SLP [Criminal] No. 3828})²⁴. With this judgement, the objective of the Act stands defeated because the time taken in commitment proceedings would slow down the pace of disposal of the case and would **strike a deadly blow** on the morale of the victims, which would unquestionably affect the outcome of the proceedings. It would therefore not be unreasonable to infer that with this ruling the deterrence aspect of the Act would get further eroded and perpetrators of atrocities may get emboldened in their designs. The affected members

²³Chandam Mukherjee & others, Crimes against Women in India, E.P.W. Oct. 27, 2001, pp 4070-4080

²⁴Quoted in the Sixth Report of the Commission, op. cit., p. 219

of Scheduled Castes are likely to feel more frustrated than ever before. The Commission has therefore suggested an immediate amendment to the SCs and STs (Prevention of Atrocities) Act, 1989 to remove the lacunae that has arisen as a result of the Supreme Court judgement. Human Rights/Dalit Organisations and social activists have also suggested a number of other amendments to the Act to make it more effective, details of which has been given in Annexure VII to IX.

A large number of documents and reports prepared by various Human Rights organisations, inquiry commissions, open hearings, research bodies and investigative teams have highlighted acts of omissions and commissions of law enforcement agencies in respect of cases of atrocities and how SC (and ST) victims of atrocities have failed to get any justice. It is extremely sad that despite availability of this well researched material no initiative has been taken to pursue the matter with the concerned State, or the Central agencies, as the case may be, about action taken by them in the light of the findings of these bodies. To the best of our knowledge, National Commission for SCs and STs have also not done so. National Human Rights Commission is debarred from looking into such cases by virtue of Section 36(2) of the Protection of Human Rights Act, 1993, which lays down that "The Commission shall not enquire into any matter after the expiry of one year from the date on which alleged human rights violation has been committed". Most of the case reports become older than one year by the time attention of National bodies is drawn. It is extremely sad that enormous pains taken by Human Rights organisations and other bodies in producing investigative material has not produced any result in terms of action against the guilty officials or brought any relief to the victims. This has shaken the faith of the victims in the whole process of law. Many cases in this list of atrocities are those where excesses have been committed by members of law enforcement machinery themselves. If the faith of SCs in the fairness and impartiality of the system has to be restored and their sense of alienation has to be removed, it is necessary that some mechanism is evolved under which investigative and researched material brought out by non official agencies in respect of cases of atrocities is taken note of, pursued with concerned State/Central Agencies and taken to its logical conclusion of (a) fixing responsibility for omissions and commissions and following it up by initiating appropriate punitive action on that basis, (b) providing compensation to victims of atrocities, (c) issuing directions regarding corrective measures to be taken so that such occurrences are not repeated. There is no such mechanism in prevalence today.

Central Government's Role in the Enforcement of the Act

Central Government has the same role in the implementation of the SCs and STs (Prevention of Atrocities) Act, 1989 which has been outlined in the case of Protection of Civil Rights Act 1955. Ministry of Social Justice and Empowerment is the nodal Ministry for discharging the role under the Central Government. As per provisions of the Act, it is required to place every year a report on the implementation of the Act before the Parliament. This apparently has not happened as the **Seventh Report covering the year 2000 has not been placed before the Parliament**. Thus the

mandatory provision of submission of yearly report is not being adhered to. State Governments also share the blame in this regard for not supplying the required information in time to the Central Ministry for preparation of the report.

Assistance for Implementation of the Central Acts

A centrally sponsored scheme was introduced initially for implementation of the provision of Protection of Civil Rights Act, 1955 in the year 1974-75. The scheme was later extended to cover Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as well, in the year 1990-91. Under this scheme 50% financial assistance is provided to the State Governments and 100% to Union Territory administrations. The Scheme provides assistance for strengthening the enforcement machinery and judicial administration, publicity and relief and rehabilitation of affected persons. The amount of central assistance released to the State Govts. and UTs during the 9th Five Year Plan is as follows:

1997-98	:	Rs. 16.47 crores
1998-99	:	Rs. 15.50 crores
1999-2000	:	Rs. 24.94 crores
2000-2001	:	Rs. 27.08 crores
2001-2002	:	Rs. 29.06 crores (as on 16.1.2002)

There has been substantial increase in provision of financial assistance, particularly during the last three years of the Plan²⁵. The following statement indicates the funds released to State Govts. under the Scheme.

S.No.	State/UTs	1997-98	1998-99	1999-2000	2000-01	2001-02 (As on 17.2.2002)
1.	Andhra Pradesh	18.00	294.68	361.33	208.60	165.01
2.	Assam	–	–	–	2.00	
3.	Bihar	9.50	50.00	–	34.03	
4.	Goa	0.70	0.575	–	–	
5.	Gujarat	156.24	50.00	270.93	325.79	178.20
6.	Haryana	–	21.70	7.83	11.53	13.781
7.	Himachal Pradesh	1.00	1.81	–	4.88	
8.	Karnataka	15.50	136.68	170.70	150.44	174.585
9.	Kerala	2.50	2.00	10.00	41.95	44.15
10.	Madhya Pradesh	500.85	682.06	732.96	977.24	812.86
11.	Maharashtra	23.00	50.00	100.00	190.44	
12.	Orissa	–	3.60	4.00	0.57	0.97
13.	Punjab	10.70	20.64	25.00	18.38	33.10
14.	Rajasthan	16.00	50.00	50.00	150.00	317.38

Table Contd.....

²⁵Sixth Report of the National Commission, op. cit., p. 213. The figures for 2001-2002 were gathered from the Commission's office.

Table Contd.....

S.No.	State/UTs	1997-98	1998-99	1999-2000	2000-01	2001-02 (As on 17.2.2002)
15.	Sikkim	–	0.25	1.00	–	
16.	Tamilnadu	14.550	100.00	50.00	89.08	409.96
17.	UP	844.51	50.00	636.24	448.19	700.00
18.	West Bengal	–	–	–	–	
19.	A & N. Islands	–	0.0929	–	–	
20.	Delhi	–	1.40	–	–	
21.	Dadra & N. Haveli	15.88	15.90	30.99	27.00	25.00
22.	Pondicherry	18.28	18.60	34.16	28.63	31.50
23.	Daman & Diu	–	–	9.01	–	
	Total	1647.00	1550.00	2494.16	2708.75	2906.50

Source: Sixth Report of the National Commission for Scheduled Castes and Scheduled Tribes (1999-2000 & 2000-2001), p. 214

The distribution of financial assistance to states brings out that:

- a) the **funds** released to states bear **no correspondence to volume of atrocity cases** therein.
- b) The drawal of assistance by some States is extremely low despite the sizeable percentage of SC population and also high incidence of cases of violence against SCs. The States in this category include Bihar, Orissa, Punjab, West Bengal, Assam, Himachal Pradesh, etc. The case of West Bengal is particularly striking because it has the second largest 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.
- c) There is uneven distribution of assistance across years in various States, except for some States like Madhya Pradesh, Karnataka, Gujarat. 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 Acts.
- d) Some States are drawing disproportionately large amounts in certain years, such as UP, Tamilnadu, Rajasthan - reasons for which are not very clear. This, however, does show **uneven implementation** of the Acts across States and within the same State during different years. Madhya Pradesh is the only State which has been consistently asking for large amounts.
- e) The lower level of demand from States which have high percentage of SC population as well as high incidence of cases of atrocities can only be explained by lack of interest in implementation of the Act.

It is necessary that the ground level position in respect of implementation of the scheme State-wise with reference to the level of atrocities is examined in depth by

the Ministry of Social Justice and Empowerment and the problems arising in its implementation in different States are clearly brought out in the Annual Report submitted to the Parliament.

Being a centrally sponsored scheme, it is governed by the condition that 50% of the entitlement under it has to be contributed by the State Government, except for UTs which receive 100% central funds, over and above the committed liability to be borne by the State/UT Governments for various measures taken. The inability of some States to contribute this amount and match the share of Central Government may have stood in the way of receiving central share. Thus effective implementation of the Act becomes a hostage to budgetary constraints of the concerned State Governments, which may, in turn, also reflect the level of commitment towards dealing with this problem at the highest level. It has been mentioned in the report of National Commission of Scheduled Castes and Scheduled Tribes that the Government of Orissa does not provide economic relief to victims of atrocities as per scale laid down in **Rule 4** of the SCs & STs (Prevention of Atrocities) Act, 1989²⁶. This may also be true in some other States, since the funds spent in the State under the Scheme on this item bear no relationship to the number of atrocities taking place in that State, which entitle the victims to a certain level of compensation. It has been seen that West Bengal does not register any cases under the Act, as a matter of policy, since it refuses to acknowledge that atrocities on Scheduled Castes are committed due to caste factor. Some other States have also not been registering cases under the Act, though no such official grounds are advanced. Assam appears to be one such case. In these States the SC victims do not receive any help despite the provisions of law. But victims of atrocities are deprived of their entitled compensation for other reasons also. For example, Punjab has refused to pay any compensation to the victims of atrocities on account of financial crisis. In some States the deprivation of this benefit is on account of enormous delay in deciding about payment of compensation which defeats the very purpose of the provision. As per experience of the Commission, Madhya Pradesh is one such State in this regard. The Commission has also information that in some States, compensation is cornered by officials and intermediaries through misuse of their power²⁷. This, therefore, emerges as a very important area of intervention by the Central Government and the National Commissions which play a watchdog role. Should the victims of atrocities across the country be treated differently just because either the State, due to its ideological inclination or the State agencies out of apathy or bias do not register cases under the Act? It is extremely important that the National Human Rights Commission and National Commission for SCs and STs should jointly evolve an understanding that irrespective of whether cases are registered under the **SCs and STs (Prevention of Atrocities) Act, 1989** or not, if the atrocities are committed on Scheduled Castes the compensation entitlement, as per the Act and rules framed thereunder, should be provided to them. In case there are any legal

²⁶Sixth Report, National Commission for SCs/STs, op. cit., p. 215

²⁷Information gathered through discussion with officials.

obstacles in doing so, the matter may be taken up by the Ministry of Social Justice and Empowerment and a decision of the Government arrived at in this regard most expeditiously. It should not be left to the State to decide whether compensation to the victims of atrocities be paid or not. Being a central law, it is the duty of Central Government to ensure that States are not allowed to defeat its objectives. The corrupt practices in disbursement of compensation should be eliminated in consultation with the States, so that entitled compensation is delivered to the victims.

It would thus be evident that even in respect of such a non-contentious matter as payment of compensation to the SC victims according to their entitlement, the subtle bias/ lack of sensitivity operates even at the highest level, both bureaucratic and political. Not only this, most States also do not provide other assistance/entitlements such as traveling allowance, maintenance expenses, daily allowance and reimbursement of medical expenditure to victims and witnesses, which is also required to be met from the funds under the Scheme. Overall, therefore, the legal framework of protection against atrocities is neither able to ensure punishment to the offenders nor payment of cash compensation and other relief to victims. This is what defines the impact of the law.