

ANNEXURE - I

RECOMMENDATIONS MADE BY NATIONAL COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES, SIXTH REPORT 1999-2000 & 2000-2001

PROTECTION OF CIVIL RIGHTS ACT, 1955

- I. The Central Government and the State Government, should ensure wide publicity of the Protection of Civil Rights Act so as to improve the awareness about the provisions of the Act among the Scheduled Castes as also non-Scheduled Castes. Publicity and related activities both of the Central and State Governments should be carefully reviewed, to make them impact-oriented and capable of reaching effectively the far-flung and remote habitations.
- II. The Central Government should review the kind of facilities, including legal aid being provided by the State Governments to the victims of Untouchability and issue guidelines to ensure proper implementation of this provision of the Protection of Civil Rights Act. Further the nature and extent of facilities should periodically be evaluated so that these become purposive instruments for combating the practice of untouchability.
- III. The Central Government should impress upon the State Governments to ensure that the officers appointed under this provision are utilized for initiating and exercising supervision over prosecution of all cases registered under the provision of the Act. The State Governments also need to ensure that special public prosecutors are appointed or earmarked to deal exclusively with the cases under the Protection of Civil Rights Act in States, where there is no such arrangement. These public prosecutors should be carefully selected and trained and brought under a scheme of reward and admonition for the success or otherwise of their labour.
- IV. The Central Government should take up the issue of setting up of special courts with the concerned State Governments which have not yet set up such Special Courts. Further the performance of the special courts should be carefully and critically watched in terms of timely disposal of cases.
- V. The Central Government should request the State Governments to ensure periodical holding of meetings of monitoring committees so as to make them functional and effective.
- VI. The Central Government should draw the attention of the State Governments towards this matter and request them to ensure that the working of the provisions

- of this Act are periodically evaluated and measures adopted for better implementation of the provisions of the Protection of Civil Rights Act.
- VII. The Central Government should request the States to complete identification of Untouchability-prone areas on a time-bound basis. So far as the States which have been able to identify such areas the Central Government should call upon them to give preference to such areas while implementing schemes under the special component plan.
 - VIII. The Central Government should, instead of merely collecting the information received from the State Governments in its annual report, get such information critically examined and follow up action taken simultaneously.
 - IX. A compendium of guidelines should be prepared and issued to the state Government/ UT Administration on matters relating to removal of Untouchability and should also be circulated to the other concerned authorities also.
 - X. The Central Government should critically evaluate the impact of the scheme of liberation of scavengers on removal of Untouchability.
 - XI. The State Governments should give wide publicity to the scheme of inter-caste marriages through mass media in order to encourage large number of youths for inter-caste marriages.
 - XII. The Gram Panchayats can play a very significant role in eradicating the evil of untouchability. The State Governments should evolve schemes for providing healthy competition at the Village/Gram Sabha level for eradication of this evil.
 - XIII. The Central Government should review the impact of work being done by voluntary organization and should enlist their support in this matter. There is also a need to draw up a long-term phased programme for eradication of Untouchability at the national level in consultation with the State Governments and the voluntary organizations. In order to bring about a feeling of healthy competition among the social workers, the State Governments should also consider launching a scheme of giving rewards and commendation certificates to select social workers for their outstanding contributions towards eradication of Untouchability.
 - XIV. The Government of India should continuously monitor the programmes of Harijan Thanas and Special Courts in terms of the concrete results that they have produced so far.
 - XV. The All India Radio stations and Doordarshan Kendras should highlight and give wide publicity to the purpose for which the National Commission for Scheduled Castes and Scheduled Tribes was constituted and its activities for improving the awareness among the general public in the country about the role of the Commission.

SCs/STs (PREVENTION OF ATROCITIES) ACT, 1989

I. Preventive And Precautionary Action And Measures

As is evident from the name of the Act itself, the focus of the SCs & STs (Prevention of Atrocities) Act is on prevention; a number of steps and measures have been provided for in the Act and the Rules, which include setting up of Committees at various levels

for monitoring and review of cases, identification of atrocity prone areas, externment of potential criminals and better policing and vigilance in atrocity prone areas. It is, however, observed that in most of the States, either the Committees have not been formed or wherever such committees have been formed, its meetings are not held on regular basis. Such meetings, which have SC/ST elected representatives and the officers concerned with implementation of these Acts, provide the forum and opportunity to work out the preventive strategies and to discuss specific issues relating to effective implementation of the provisions of these Acts. **All the State/UT governments should be instructed to constitute Vigilance and Monitoring Committees at the State and District levels and to take urgent measures to ensure their effective functioning.**

II. Annual Report to the Parliament

The Act requires submission of Annual Reports to the Parliament by the Ministry of Social Justice and Empowerment. This Provision is not being implemented strictly and the second Report pertaining to 1991-92 was laid in the Parliament in June 1998. **Strict implementation of this provision will ensure better coordination in implementation of the provisions of the Act**

III. Centrally Sponsored Scheme for Implementation of these Acts

The Ministry of Social Justice and Empowerment operates this scheme for strengthening of administrative, investigative and judicial machinery and for publicity and rehabilitative measures. The scheme provides for contribution of 50% share by the State Government, which most of the State Governments find difficult to allocate because of their poor financial position. **Therefore, it is desirable to increase the central share to at least 75% so as to ensure better utilization of this scheme for improving criminal justice system.**

IV. Level of Investigation Officers

The SCs & STs (Prevention of Atrocities) Rules, 1995 provide that investigation in atrocity cases will be done by a police officer not below the rank of Deputy Superintendent of Police. During the Conference of Home Secretaries and senior police officers held in December 1996, the consensus was that in view of dearth of Deputy Superintendent of Police level officers in most of the States, it is difficult to entrust the investigation to only Deputy Superintendent of Police level officers. **The Commission had, therefore, submitted a proposal to the Ministry of Social Justice and Empowerment for amending the Rules so that the Inspectors are also empowered to carry out the investigations. An early decision on this issue is required.**

V. Registration and Investigation

A large number of cases which deserve to be registered under Protection of Civil Rights Act or the SCs & STs (Prevention of Atrocities) Act are not actually registered under these Acts, either due to ignorance of law or under pressure from the interested parties. Investigations in even those limited number of cases is often earned out in a slipshod manner and with considerable delay. It is necessary to improve the awareness about

the provisions of these Acts among the Police Officers and the people in general. **The Vigilance and Monitoring Committees at District and State level should meet frequently as prescribed under the Rules and take necessary measures for ensuring timely registration and prompt and proper investigations in atrocity cases.**

VI. Prosecution and Trial of Cases

It has been observed that appointment of prosecutors is often influenced by political considerations. The remuneration paid to the prosecutors is generally too low to attract competent and capable lawyers. **It is, therefore, necessary that remuneration to the public prosecutors be reasonably enhanced and they should be provided basic minimum facilities necessary for effective functioning.** Despite setting up of Special Courts, the disposal of cases is generally very poor and the pendency is rising. For criminal justice system in atrocity case to be effective, punishment must be prompt and sufficient to deter the potential offender. **The various Committees at District and State levels should review the pendency regularly, examine the cause of overwhelmingly large proportion of acquittals and take urgent corrective measures to improve the rate of convictions.**

VII. Problem Relating to Committal Proceedings

In their judgement dated January 28, 2000 the Apex Court has held that a Special Court set up under the SCs & STs (Prevention of Atrocities) Act is essentially a Court of Sessions and it can take cognizance of the offence only when the case is committed to it by the Judicial Magistrate in accordance with Section 193 of Cr.PC. since there is no specific provision in the SCs & STs (Prevention of Atrocities) Act especially empowering the Special Courts to take cognizance of the offences without the accused being committed to it for trial. It is understood that Special Courts have been given such powers under certain Acts, such as Narcotics, Drugs and Psychotropic substances Act. If committal proceedings are to be followed it will further delay the disposal of the case and the objective of setting up the Special Courts to take cognizance of offences under this Act without committal proceedings under Section 193 of Cr.PC.

VIII. Relief and Rehabilitation

The SCs & STs (Prevention of Atrocities) Rules, 1995 prescribe standardized norms for relief and rehabilitation to the victims of the atrocities or their families. The Central Government operates a centrally sponsored scheme under which matching share is provided to the State Governments for meeting the cost of such relief and rehabilitation. While most of the States have started implementing this provision, there are a few States who are yet to start payment of rehabilitation package. The provision also seeks to meet the cost of traveling and maintenance of the victims and witnesses to enable them to attend the courts, etc. **To facilitate effective implementation of the provisions of the Act, this provision needs to be enforced strictly.**

IX. Selection and Sensitization of Officials in Key Positions

Various reports have shown that the cases of atrocities on SCs and STs are increasingly on account of land disputes, land alienation, forced labour and refusal to pay minimum

wages, besides the traditional practice of untouchability and associated social disabilities. The Special Development Programmes for SCs and STs particularly the policy of reservations in educational courses and in services, is also becoming a source of animosity for other communities and due to increasing education and awareness, the SCs and STs have also started asserting their rights. In any conflict between SCs/STs and other communities the former are at a great disadvantage both socially and economically. They look upto the administration, police and the judiciary to give them protection and justice. **It is, therefore, important that persons at key position, particularly those concerned with their safeguards and development, are chosen with due care, properly sensitized and given all necessary support.**

NOTE

The Commission has made some recommendations in the earlier reports which have not been extracted here.

ANNEXURE – II

CRIMES AND ATROCITIES ON SCHEDULED CASTES & SCHEDULED TRIBES

RECOMMENDATIONS MADE BY THE COMMISSION FOR SCs/STs IN THE FIFTH REPORT, (1998-99)

1. Incidences of atrocities on STs were highest in Madhya Pradesh (1547) followed by Rajasthan (1132) during 1998. States like Andhra Pradesh (359), Bihar (144), Gujarat (406), Kerala, (138), Maharashtra (153), Orissa (282) and Uttar Pradesh (110), Karnataka (71), Sikkim (33) and Tamil Nadu (31) have also reported the incidence of atrocities against STs. It may also be observed that the incidences of crimes against Scheduled Tribes are increasing in Andhra Pradesh, Gujarat and Orissa. The Government of these States may take effective steps to check and control atrocities on members of STs by non-STs people.
2. Training programme may be conducted by every State Government for police personnel to sensitize them regarding implementation of the provisions of SCs & STs (Prevention of Atrocities) Act, 1989 and the Protection of Civil Rights Act, 1955 either through its Police Training Institutions or otherwise.
3. The Central Government should ensure that report on the measures taken for implementation of the SCs & STs (Prevention of Atrocities) Act, 1989 and Protection of Civil Rights Act, 1955 are obtained from the States /UTs in time to place the consolidated annual report in the Parliament every year as per provisions contained in these Acts. The State Government, where atrocities on SCs and STs are rampant may take effective steps to check and control atrocities on members of SCs & STs by non-SC/ST people.
4. A person who has been convicted under the provisions of SCs & STs (POA) Act, 1989 should not be permitted to seek election at any level.
5. An Awareness Programme should be conducted through Non-governmental Organizations about the provisions of SCs & STs (Prevention of Atrocities) Act, 1989, Protection of Civil Rights Act, 1955 and the economic relief to be provided to the victims of atrocities as per scale laid down in the SCs & STs (Prevention of Atrocities) Rules, 1995. The Government should consider organizing seminars of the NGOs for eliciting their help in Awareness Programme.

6. In case the office-incharge of concerned police station does not register FIR on the basis of complaint but the FIR is registered at the instance of Superintendent of Police or Special Enquiry Cell or Hon'ble Court and the chargesheet is submitted before the court, appropriate action under the Act or departmental action as the case may be, should be taken against the officer incharge of police station for not registering the case in time.
7. The case of atrocity should be investigated by an experienced Deputy Superintendent of Police, even if, he is not having territorial jurisdiction for normal day-to-day work.
8. The Deputy Superintendent of Police (Investigating Officer) should complete the investigation and submit chargesheet/final report within 30 days to Court under intimation to District Superintendent of Police.
9. The Special Public Prosecutors should be paid the fee on a high scale than the panel advocates as provided in the Rules 1995.
10. Necessary arrangements for providing traveling and maintenance expenses, reimbursement of the payment of medicines, special medical consultation fee, blood transfusion, etc. should immediately be made to the victims of atrocity.
11. In all cases of atrocities, immediate relief, rehabilitation and compensation should be provided keeping in view the mandate of the Parliament.
12. The State Government should implement the mandatory provisions relating to exercising supervision over prosecution, setting up of committees periodic survey for better implementation of the provisions of act, identification of atrocity prone areas, precautionary and preventive measures, setting up of awareness centers and organization of workshop, involvement of non-governmental organizations, etc.
13. The Special Enquiry Cell set up under the provision of Rule 8 of the Rules 1995 should be given special powers to register the FIR, investigate and submit chargesheet/final report before the Special Court. The cell should be provided at least primary requirements like sufficient stationery, typewriter, telephone and vehicles, etc.
14. The State Government should prepare contingency plan as required under Rule 15 to check atrocity on the members of Scheduled Castes and Scheduled Tribes.
15. State Governments should invariably provide regular and effective training to the Police Officers, Special Public Prosecutors and the District Administration.
16. For better performance of the Special Courts, and to improve the rate of conviction, as per the Rule, the Chief Justice of M.P. High Court should depute a Justice of the High Court to review the working of the Special Courts and Judgements delivered by these Courts, at least once in a year. The judicial review would ultimately highlight all those legal and administrative aspects/facts responsible for acquittal of accused, weak prosecution and the quality of judgements.
17. The Special Courts should issue timely summons taking the assistance of the police administration to ensure that parties attend the court in time.

18. The Office of the Director, Prosecution should be strengthened for effective supervision of prosecution in accordance with Rule 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.
19. The institution of Special Public Prosecutor should be strengthened. The problems and constraints of special public prosecutors should be redressed. The remuneration/fees of the special prosecutors should be suitably enhanced to attract experienced, disciplined, committed and knowledgeable advocates. The panel of advocates should be prepared as per the rules and communicated to the Special Judge. Another step to strengthen and make the prosecution capable of discharging the job will be to appoint Asstt. Public Prosecutors (APP) as the Special Public Prosecutor to deal with the atrocity cases in the Special Courts.
20. Responsibility should be fixed on the District Superintendent of Police and Director Prosecution if the accused is acquitted on the ground that relevant section of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and that of IPCF have not been included in Challan filed in the court.
21. The State level Vigilance & Monitoring Committee should hold the meetings of the committee at least twice in a year and give strict guidelines to the District Vigilance & Monitoring Committee to galvanise the machinery responsible for the implementation of the Act and the Rules.
22. The FIR lodged in the Police Station under the Act should be recorded with due care. Because when FIR is put up in the Court giving all necessary details, so as to expedite the process of prosecution and improve the rate of convictions.

ANNEXURE - III

RECOMMENDATIONS MADE BY HUMAN RIGHTS WATCH, NEW YORK, 1999

(Broken People: Caste Violence Against India's 'Untouchables')

B. RECOMMENDATIONS TO THE GOVERNMENT OF INDIA

The Indian Government 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 particular it should:

- II. Ensure that States constitute and oversee State and District level Vigilance and Monitoring Committees, as required by Rules 16 and 17 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, for the purpose of properly implementing the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereinafter the Atrocities Rules and the Atrocities Act]. This effort should ensure that a sufficient number of investigators (including appropriate representation of Dalit men and women) are included in the committees to guarantee full implementation of the act. Given the number of potential cases, the government should enlist lawyers, social workers, medical personnel, teachers, civil servants, and others involved in Dalit issues as investigators. Non-governmental organization (NGO) representatives should also be consulted in the recruitment of investigators. Committees should submit their reports to district collectors to pursue prosecution. In turn, collectors should report on actions taken during committee meetings. Reports published by the committee should be made public, and in-depth training should be provided to district officials charged with enforcing the act.
- III. Ensure that States establish special courts in every revenue district and appoint special public prosecutors to try cases arising under the Atrocities Act.
- IV. Ensure strict implementation of the Atrocities Act, as regards victims of violent abuse and other "atrocities". Each police station should have a Scheduled Caste/Scheduled Tribe atrocities cell to handle investigations of abuses and alleged violations of the Atrocities Act. Each revenue district should also have a special deputy superintendent of police charged with investigating atrocities under the Act. In keeping with the Atrocities Rules, police who refuse to register cases under the Act should be punished accordingly. For full implementation of the Act, these

cells should be statutorily empowered to receive and address complaints of violations under the Act and complaints of official misconduct. They should also be able to file “first information reports” (FIRs), the first step in prosecution of a criminal charge, when abuses are committed against Dalits. The cells should work closely with the Vigilance and Monitoring Committees established under the Atrocities Rules to ensure full enforcement.

- V. Ensure immediate and full compensation by the District Administration to victims of atrocities as per the Atrocities Rules. The value of property destroyed and crops damaged should be included in the compensation schedule. The Committees appointed by the Government under the rules to estimate loss should include NGOs in addition to Government officials. In accordance with Rule 11 the District Administration should also ensure that victims’ trial expenses are paid.
- VI. Provide training to district officials charged with enforcing the Atrocities Act and ensure that a copy of the Act (translated into the local language) and accompanying rules are easily available and prominently posted in all local level police stations and available in all courts trying cases under the Act.
- VII. Statutorily empower the National Commission for Scheduled Castes and Scheduled Tribes to oversee implementation of the Atrocities Act in all States. Strengthen the capacity of the National Commission for Scheduled Castes and Scheduled Tribes to operate legal cells and open branch offices in all States with enough financial resources and powers to initiate prosecution of cases. As recommended by the Commission, amend Article 338 of the Constitution to empower the Commission to issue directions for corrective action and implement its findings.
- VIII. Strengthen the capacity of the National Human Rights Commission and the National Commission for Women to operate branch offices in all States with enough financial resources and powers to initiate prosecution of cases. Amend the Protection of Human Rights Act, 1993 so that National and State Human Rights Commissions are not automatically exempted from enquiring into matters already pending before a State Commission or any other Commission duly constituted under any law.
- IX. Establish a civilian review board or civilian ombudsman committee comprising judges and lawyers to monitor police stations and ensure that Supreme Court guidelines on treatment of persons in custody, as established in *D.K. Basu v. State of West Bengal*, are strictly enforced. NGO input should also be solicited. Ensure that complaints against law enforcement personnel are promptly and thoroughly investigated by adequately trained investigatory staff. The agency should have the power to subpoena documents, summon witnesses, and enter the premises of police stations, lock-ups, and detention centers to conduct thorough investigations.
- X. Implement the recommendations made by the National Police Commission in 1980, specially those that call for a mandatory judicial inquiry in cases of alleged rape, death, or grievous injury of people in police custody and the establishment of investigative bodies whose members should include civilians as well as police and judicial authorities.

- XI. Ensure that each police station has adequate female police personnel, consistent with recommendations made by the National Commission for Scheduled Castes and Scheduled Tribes. Female police should record complaints submitted by women. Each police station should also have adequate scheduled caste and scheduled tribe personnel and enough financial resources to carry out investigations.
- XII. Ensure strict implementation of the bonded labour-related provisions of the Atrocities Act. As Dalits constitute the majority of bonded labourers, the government should ensure that states and districts establish and oversee bonded labour vigilance committees, as required by the Bonded Labour (System) Abolition Act, 1976. The government should ensure that a sufficient number of investigators can be included in the committee to guarantee implementation of the Act. Lawyers, social workers, teachers, civil servants, and others with ties to bonded labourers and their families should be enlisted as investigators. Non-governmental organization representatives should be consulted in the recruitment of investigators. The government should provide in-depth training to district officials charged with enforcing the Bonded Labour (System) Abolition Act, 1976, as directed by the Supreme Court in *Neeraja Chaudhary v State of Madhya Pradesh*, 1984.
- XIII. Ensure appropriate implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, including prosecution of officials responsible for the perpetuation of the practice and non-rehabilitation of affected scavenger communities, the majority of which are Dalits. The government should ensure that states and districts constitute and oversee vigilance and monitoring committees with adequate representation of NGOs, Women, and Members of Scavenger communities. State Governments should also train district officials charged with enforcing the Act.
- XIV. Implement measures designed to ensure that States are in compliance with Article 45 of the Constitution, which mandates free and compulsory education for all children upto the age of fourteen. Primary education is the first step in breaking the cycle of discrimination and caste-based employment.
- XV. Incorporate education on relevant legislation for Dalits and women into school curricula (including education on the Atrocities Act and the Protection of Human Rights Act, 1993).
- XVI. Launch a nationwide public awareness campaign regarding the prohibition of “untouchability,” “atrocities” and other forms discrimination and violence against Dalits. This campaign should explain in simple terms what actions are legally prohibited, what recourse is available to Dalits and their families, and what the procedures are for filing an FIR. It should also include a program of public service announcements in all states aimed at sensitizing the population on Dalit issues and creating awareness of Dalit rights.
- XVII. Make available to the public government studies on issues affecting Dalits. Specially, the government should release the white paper on reservations and the white paper on land reform. The first outlines the extent to which constitutional reservations have been implemented at the State and Central level since

independence. In particular, attention should be given to implementation of reservations in all ministries, in the Secretariats of the Prime Minister and President, and in the police and judiciary. The second outlines the externment to which tenancy acts and acts that establish ceilings on single landowners' holdings have been implemented in all states.

XVIII. Ensure that adequate financial resources are allocated to the proper functioning of the newly constituted government bodies under the 73rd and 74th amendments to the Indian Constitution. These amendments provide that in every *panchayat* (Village council) and every municipality, seats shall be reserved for Scheduled Caste and Scheduled Tribe members in proportion to their representation in the population. Among the seats reserved for the scheduled castes and scheduled tribes, not less than one third shall be reserved for women belonging to those castes or tribes. The government should work with intergovernmental and non-governmental organizations to provide appropriate training to elected members of rural and urban bodies, including gender and caste sensitivity training. Women should take part in legal literacy workshops, and all those appointed to reserved panchayat positions should be provided legal protection to ensure that they are able to perform their duties.

B. RECOMMENDATIONS TO ALL STATE GOVERNMENTS

- I. Ensure full implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, including the appointment of special courts, special prosecutors, and vigilance and monitoring committees. Provide training in proper procedures under the Act to judges and prosecutors charged with trying atrocities cases.
- II. Ensure ratification and implementation of the Bonded Labour (System) Abolition Act, 1976 and ratify and implement the Employment of Manual Scavengers and Constructions of Dry Latrines (Prohibition) Act, 1993.
- III. Implement measures designed to ensure that States are in compliance with Article 46 of the Constitution, which directs states to promote with special care the educational and economic interests of the scheduled castes and scheduled tribes and to protect them from social injustice and all forms of economic exploitation.
- IV. Study and publicize the extent to which land and wage reforms have been implemented in the State. In particular, State governments should determine industry compliance with minimum and living wage standards, particularly those industries that employ a majority of Dalits, as well as the status of land reforms, land ceiling laws, and distribution of surplus land. The study should also review proof ownership in land records, the extent of encroachment on Scheduled Caste Scheduled Tribe lands. NGO participation should be ensured in the investigations.
- V. Take immediate steps to prevent further violence, social boycotts, and other forms of discrimination against Dalits and to investigate and punish those responsible for attacks and acts of discrimination in affected districts. Any officials or members

of the police who fail to respond to repeated calls for protection from villagers, or fail to prosecute acts of violence or discrimination should also be prosecuted.

- VI. Take decisive steps to ensure police agents use deadly force only as a last resort to protect life. Police agents should act in accordance with guidelines established in relevant state police manuals that meet international standards on use of force. The United Nations Basic Principles on the Use of Force or Firearms by Law Enforcement Officials emphasize that the use of force and firearms should be in consonance with respect for human rights and that deadly force should not be used against persons unless “strictly unavoidable in order to protect life”.
- VII. Take decisive steps to ensure that police do not conduct raids on villages or engage in arbitrary and unlawful destruction and seizure of property in response to caste clashes. Police involved in such activities should be promptly investigated by an independent judicial body and prosecuted accordingly.
- VIII. Ensure that investigations of complaints of violence against women include women investigators. Amend the Criminal Procedure Code so that rape victims are not restricted to approaching government hospitals for medical examinations and can instead be examined by any registered practitioner for the purposes of gathering evidence.
- IX. Establish independent monitoring agencies to review cases of Dalits and Dalit activists detained under detention laws. All cases found to be without merit, or in violation of proper detention procedures, should be withdrawn.
- X. Compile and release State-level statistics on the number of atrocities committed against Dalits, the number of cases registered under the Atrocities Act, and the extent to which reservations have been implemented in the State. States should ensure that all NGOs and citizens have access to this information.
- XI. Investigate the process of recruitment of police officers in the State to ensure that requirements of reservations for scheduled castes and scheduled tribes are met and that monetary bribes are not part of the police and judicial recruitment process. Prosecute and punish those found to have engaged in bribes or extortion while registering cases or conducting raids.
- XII. Ensure speedy review and publication of findings by Commissions of Inquiry appointed by the state to investigate abuses against Dalits.

ANNEXURE - IV

NATIONAL PUBLIC HEARING ON DALIT HUMAN RIGHTS VIOLATIONS (18-19 APRIL 2000, CHENNAI)

Recommendations of the Jury

GENERAL

1. The ignorance of and indifference to the SC/ST (Prevention of Atrocities) Act, 1989 and other such laws requires radical steps to sensitize the law enforcement officers, in particular the police and the bureaucracy, about the urgency and importance of the provisions of this Act. Prosecution should be proceeded immediately against those who ignore the law. Efforts must be taken immediately to redress this lack of information and awareness.
2. Needless to say, social organizations must also step up their efforts to create more awareness among Dalits about these laws. As part of civil society and given the noble aim of service to society for which they have committed themselves, it is incumbent on them to enlighten and generate awareness among Dalits regarding the existence and knowledge of such legislations.
3. A Code of Conduct for all state agencies, including the judiciary, with regard to ethics in order to deal with cases of such gross violations of human rights against Dalits must be urgently formulated and implemented. This is in conformity with the SC/ST (Prevention of Atrocities) Act, 1989 and the special provisions in the Constitution abolishing such gross violations of Dalits human rights.
4. There is a great necessity for the State to educate not only Dalits, but also all sections of civil society including the caste Hindus, in order to safeguard the land-related rights of Dalits.
5. The dominant castes which commit such atrocities should be made to pay a price by the State by way of attachment of their properties to the State or the same to be allotted to Dalits themselves so that such massacres do not occur elsewhere and at any time.
6. The Jury feels that since the caste system and untouchability are themselves causing these kind of tensions, deprivations and violence, it is important that both the Central and State Governments take up a massive campaign against the caste system and untouchability as a social practice unbecoming of a civilized society. This must be taken up as a national priority issue on a war footing.

7. Land reforms must be implemented. The surplus land should be given to Dalits on a joint ownership basis with women having equal ownership rights.

SPECIFIC

1. Kumher Massacre

It should be placed before the Government of Rajasthan that the Report of the Inquiry conducted by Justice Lodha Commission be made public. Our suggestion is that in such cases of mass atrocities as in this incident, 75% of the compensation should be given before the judgement and the rest to be paid after the judgement.

2. Tsundur Killings

As prayed by the victims, the case should be tried in the Court where they feel free to depose.

3. Murder of Dalit in Kerala

The parents are not satisfied with the version of the police. The investigation should be entrusted to CBCID as per the wish of the parents. The State must pay compensation. The matter must be brought to the attention of the National SC/ST Commission.

4. Three Dalits Poisoned in Rajasthan

The investigation of the case should be entrusted to the CBCID as the role of local police in the investigation is questionable.

ANNEXURE - V

SCHEDULED CASTES HUMAN RIGHTS MONITOR-2000, ANDHRA PRADESH SAKSHI, HUMAN RIGHTS WATCH, A.P.

Recommendations

TO POLICE

1. Sensitize all police departments on the SC/ST (Prevention of Atrocities) Act, Human Rights Act, and the international standards of human rights set by CERD, UDHR, ICCPR, and ICESCR. In particular, educate police personnel to the origins of these Acts (SC/ST Act and HRA), being sure to address such issues as the necessity of the acts, their purpose, mechanisms and how they are intended to address the rights of Dalits.
2. Recruit Dalits into all levels of the police force, but especially at the decision making levels.
3. All complaints given by Dalits should be registered as an FIR, by forbidding discretionary powers to the officer responsible for registering complaints.
4. All offences against Dalits by non-Dalits should be registered under the SC/ST (Prevention of Atrocities) Act.
5. Prompt disciplinary and legal action under Section 4 SC/ST (Prevention of Atrocities) Act should be taken against police who refuse to register cases under the Act as they are directed to do under Rule 5(1).
6. All cases registered under Protection of Civil Rights Act to be r/w. SC/ST (Prevention of Atrocities) Act.
7. In cases under SC/ST (Prevention of Atrocities) Act, ensure investigating officer is no less than DSP, pursuant to Rule 7(1).
8. Take legal and departmental disciplinary action against police officials who willfully neglect to discharge their duties required under the SC/ST Act (sec.4 SC/ST Act).
9. Ensure charge sheets are filed within three months for FIRs filed under the SC/ST (Prevention of Atrocities) Act. If not, take disciplinary action against investigating officer.

10. Constitute citizen's police monitoring committees with majority Dalit representation.
11. Arrange interactions and visits with Dalits to expose and sensitize police to Dalit life and culture.
12. Ensure the District Superintendent promptly visits place of occurrence of atrocity and fulfills his responsibilities under Rule 12(1), (2) & (3), particularly:
 - Ensuring FIR is registered under the Act and effective measures for apprehending the accused are taken.
 - Deploy police force in the area and take other preventive measures against further occurrence of atrocities.
13. In each district appoint a special SP or Deputy SP, depending on the intensity, frequency and distribution of atrocities in the district, to be specially in-charge of investigating atrocities under the Act.
14. For each district, these special SPs and Deputy SPs should also be empowered to receive and address complaints of violations and complaints of official misconduct under the Act.
15. Display the Act on billboards or on wall posters in all the police stations, especially in the rural areas.

TO EXECUTIVE

1. Ensure compensation is paid promptly to victims upon registration of FIR, filing of chargesheet and conviction, according to the scale as in the schedule annexed to the SC/ST Rules.
2. Ensure that District Magistrate (District Collector) visits each place of occurrence of atrocity and provides immediate relief in the form of cash or in kind for food, water, medical, clothing, shelter, medical aid, transport facilities and other essential items [Rule 12(1) & (4)].
3. Ensure that a comprehensive rehabilitation package is provided for victims and the affected community. This should include:
 - Allotment of land and house sites [Rule 15(l)(b)]
 - Provisions for providing stone/brick masonry house [Rule 15(1)(h)]
 - Government employment [Rule 15(l)(d)]
 - Pension for widows and children of victims [Rule 15(l)(e)] Socio-economic development programmes for the victims and to the immediate community [Rule 15(l)(g)]
 - Provision of adequate drinking water facility, electricity, health care facilities, link roads and burial/cremation ground [Rule 15(l)(i)].
4. Revenue officials should recognize social boycotts as a grave form of economic and social violence and a violation of livelihood rights, and, therefore, an atrocity under the SC/ST (Prevention of Atrocities) Act. The District Collector (DC) should

visit the village promptly and provide compensation, relief and a comprehensive rehabilitation packages such as described above to the victims. As social boycotts are effective due to the dependence of the Dalit community on the dominant caste community for employment top priority must be given to providing socio-economic development programmes to the victims.

5. Launch official "Campaign against Untouchability" in the same manner and on the same scale as the Pulse Polio Campaign. This would be promoted with massive publicity with frequent advertisements, announcements on the T.V. and radio, articles in Telugu newspapers and magazines, posters, and roadside billboards.
6. Ensure the effective functioning of the state level high-powered vigilance and monitoring committee with the Chief Minister as its head under the SC/ST (Prevention of Atrocities) Act. This committee should:
 - Meet at least twice a year in January and July, to review the prevailing Human Rights violations against Dalits and the implementation of the SC ST (Prevention of Atrocities) Act & Rules - (Rule 16).
 - Conduct biannual meetings with leading representatives from Dalit movements, human rights organizations, and lawyers with proven human rights track records, in order to strategise ways to ensure effective functioning and monitoring of SC/ST (Prevention of Atrocities) Act.
 - Must submit and make public its report biannually.
7. Ensure the constitution and functioning of district-level vigilance and monitoring committee under SC/ST (Prevention of Atrocities) Act - (Rule 17). This committee must also submit and make public its report quarterly.
8. Reconstitute the district level vigilance and monitoring committees. Ensure adequate representation of committed human rights activists, journalists, lawyers, NGO representatives and members of the Dalit community. Dalit members of the committee should be enlisted from men and women, lawyers, civil servants, social workers, medical personnel, and teachers. Dalit organizations, human rights organizations and NGOs should be consulted in the enlistment of committee members.
9. Ensure effective functioning of SC/ST Protection Cell and that it submits a monthly report for public viewing (Rule 8).
10. Ensure effective functioning of the nodal officer. Specially ensure that data on the position of cases registered under the Act, compensation and relief given to victims, and the law and order situation is regularly given to Nodal Officer for his/her review. Ensure that the Nodal Officer gives a quarterly report for public viewing (Rule 9).
11. Appoint special public prosecutors with proven human rights records to try-cases under SC/ST (Prevention of Atrocities) Act.
12. Ensure that the costs of the prosecution for cases under the SC/ST (Prevention of Atrocities) Act are borne by the State Government.
13. Ensure that costs of attending investigation, hearing and trial as well as the

protection, travel, board and lodging expenses for victims and witnesses are paid and paid promptly (Rule 11).

14. Cancel all arms licenses for non-Dalits in those areas listed as atrocity prone areas, but provide arms licenses to Dalits in those same areas.
15. Evolve collaborative mechanisms with NGOs and human rights organizations that would build awareness on the SC/ST (Prevention of Atrocities) Act among Dalits and officials.
16. Protect and support the work of human rights defenders.
17. Introduce into the curriculum at schools and colleges lessons on the SC/ST (Prevention of Atrocities) Act & Rules, Protection of Human Rights Act, and relevant acts regarding women's rights. Also include lessons on the Universal Declaration of Human Rights, International Convention on Economic, Social and Cultural Rights, International Convention on Civil & Political Rights, Convention on the Elimination of All Forms of Racial Discrimination, and Convention on the Elimination of Discrimination Against Women.
18. Ensure effective implementation of employment of Manual Scavenging and Construction of Dry Latrines (Prohibition) Act, 1993. Include prosecution of the officials responsible for failing to implement this Act.
19. Ensure adequate financial resources in the state budget are allocated for 1) relief and rehabilitation measures, 2) functioning of the special courts; 3) investigation of offences by the police; and 4) compensation, relief and rehabilitation packages.

TO JUDICIARY

1. Recognize that those judgements that acquit the accused of charges under the SC/ST (Prevention of Atrocities) Act on the ground that the offence was not committed 'on the ground that' or 'for the reason that' the victim is a Dalit, are legally unsound. Mens rea in such cases is presumed by the law and need not be proved specifically, because the intent is built into social attitudes and is not a matter of personal intent. As stated by Justice Ramaswamy in State of Karnataka Vs Appa Babu Ingale, 1955 supp.(4) SCC 469, mens rea is not essential in social legislation.
2. Constitute an extra-judicial body with adequate powers to monitor and enforce the implementation of the SC/ST (Prevention of Atrocities) Act by judiciary.
3. As recommended by the National Commission for SC/ST, there should be an exclusive court in each district for trial of cases under the SC/ST (Prevention of Atrocities) Act, as the regular courts which are presently being designated as Special Courts are already overburdened with other cases the atrocity cases must be tried by the Special Courts and they should not be sent to lower courts for trial.

TO CENTRAL GOVERNMENT

1. Though the National Commission for SC/ST monitors the implementation of the SC/ST (Prevention of Atrocities) Act & Rules and the Protection of Civil Rights

Act, it presently only has the powers of a civil court. This means that while it can call on any one for evidence to make sure laws are being enforced, it can not enforce its findings and give directions for corrective action. Therefore, amend Article 338 of the Constitution so as to give powers to the Commission to enforce its findings, issue directions for corrective action, and ensure that action is taken against erring public servants who deliberately violate the Constitutional and legal safeguards intended to protect SCs and STs.

2. Ensure that the reports of the National Commission for SC/ST are submitted for discussion before Parliament during the session following its release, and that the government submits its Action Taken Report within one year. Amend the Article 338 to make this mandatory.
3. Government of India should consider the proposed amendments to the Constitution and the SC/ST (Prevention of Atrocities) Act 1989, SC/ST (Prevention of Atrocities) Rules 1995 at the earliest.
4. We recommend that the National Commission for SC/ST, National Human Rights Commission, as well as the UN General Assembly recognize caste as an institution that is a source of gross human rights violations. Therefore, it must be treated on par with the existence and operation of racism and apartheid.
5. Implement the recommendations of the 49th session of the Convention on the Elimination of Racial Discrimination (CERD). In particular, the government should implement CERD's recommendation that
 - "special measures be taken by the authorities to prevent acts of discrimination towards persons belonging to the SCs and STs, and in the cases where such acts have been omitted, to conduct a thorough investigation, to punish those found responsible and provide just and adequate reparation to the victims".
 - "As per the convention's recommendations. CERD's findings should be available to the public in local languages".
6. Submit reports on the present situation of discrimination and violence against Dalits to CERD as has been requested by CERD.
7. Invite the United Nations Special Rapporteur on Racism to visit India.

ANNEXURE - VI

AMENDMENTS PROPOSED BY THE NATIONAL COMMISSION FOR SCs AND STs TO THE SC/ST (PREVENTION OF ATROCITIES) ACT, 1989 AND SC&ST (PREVENTION OF ATROCITIES) RULES, 1995

**(A) AMENDMENTS PROPOSED TO THE SC & ST (PREVENTION OF
ATROCITIES) ACT, 1989**

Original Provisions In The Act	Proposed Amendments
3(1)(VI) - Compels or entices a member of a SC or ST to do 'beggar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government.	Add the words in the end, 'refused to pay wages or contract wages for the labour'
3(1)(xii) being in a position to dominate the will of a woman belonging to a SC or ST and uses that position to exploit her sexually to which she would not have otherwise agreed	Delete entire sec.3(1)(xii) and renumber secs. 3(1)(xiii), (xiv) and (xv) as secs. 3(1)(xii), 3(1)(xiii), and 3(1)(xiv)
New secs. 3(1)(xv) (xvi) and 3(2)(i) and (iii) to be incorporated	3(1)(xv)- Blackmails SC/ST persons - Boycotts or supports the boycott of SC/ST persons 3(2)Whoever (i) being in a position to dominate the will of a woman belonging to a SC or ST and uses that position to exploit her sexually and to which she would not otherwise have agreed, shall be punishable with rigorous imprisonment for a term which shall not be less than 10 years but which may be for life and shall also be liable to fine.

Sec.4 - Whoever, being a public servant but not being a member of a SC or ST, willfully neglects his duties required to be performed by him under this Act, shall be punished for a term which shall not be less than six months but which may extend to one year.

Delete the words 'but not being a member of a SC or ST' and replace the words 'six months but which may extend to one year' with 'two years'.

Sec.4)1) to be added

Abettors of offences are equally punishable, as provided under this Act.

Sec.14 - For the purpose of providing speedy trial, the State Government shall with the concurrence of the Chief Justice of the High Court by notification in the official Gazette, specify for each district a Court of Session to be a special court to try the offences under this Act.

Replace the words 'specify' with the word 'create' and the words 'Court of Session to be a special Court' with the words 'Special Court of the level of Sessions Court'.

Sec.24 to be added

All offences under this Act are cognizable and subject to summary trial.

(B) AMENDMENTS PROPOSED IN THE SC & ST (PREVENTION OF ATROCITIES) RULES, 1995

Rule 7(2) The investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit a report to the Superintendent of Police who in turn will immediately forward the report to the Director General of Police of the State Government.

At the end add: 'and trials be completed within three months'.

Rule 7(3) - new section to be added

It is observed that in some of the States specified Courts are the Courts of Sessions and therefore the trial of offences takes place through committal proceedings in lower courts which is detrimental for speedy trials. Henceforth, the trial may take place in the Special Court itself.

Rule 7(4)

Renumber the old sec. 7(3) as sec. 7(4).

ANNEXURE – VII

RECOMMENDATIONS FOR AMENDMENTS MADE BY DR. K. PUNNAIAH COMMISSION OF INQUIRY

SCs and STs (PREVENTION OF ATROCITIES) ACT, 1989

Section 3(X)

Delete the words “with intent to humiliate” as not necessary, since the expression intentionally insults or intimidates contain the necessary “mens rea”. The amended clause (X) of Section 3 may be read as follows:

“Intentionally insults or intimidates a member of Scheduled Castes or Scheduled Tribe in any place within public view”.

Section 3 (XI)

Delete the expression “With intent to dishonour or outrage her modesty” As assaults or uses force to any woman or man itself in an offence under Section 323 and 352 I.P.C. The expression “with the intent to dishonour or outrage her modesty” is superfluous and unnecessary. The amended clause (XI) of Section 3 should be read as follows:

“Assaults or uses force to any woman belonging to Scheduled Caste or Scheduled Tribe”.

Section 3. Sub-Section (2), Clause (iii)

Delete the expressions “intending to cause or knowing it to be likely that he will thereby cause damage” as this expression is superfluous and unnecessary since “whoever commits mischief by fire or any explosive substance, he intends to cause damage to any property or he knows it to be likely that he will thereby cause damage to any property”. The amended clause should be read as follows:

“Whoever commits mischief by fire or any explosive substance to any property belonging to a member of a Scheduled Caste or Scheduled Tribe, shall be punishable with...”

Section 3. Sub-Section (2) Clause (iv)

Delete the expressions, “intending to cause or knowing it to be likely is superfluous and unnecessary as whoever commits mischief by fire or any explosive substance, he will thereby likely to cause destruction of any building...” The amended clause should be read as follows:

“Whoever commits mischief by fire or any explosive substance he will, thereby, cause destruction of any building which is ordinarily used as...”

Amend sub section (2) of Section 3, to include

“Any form or disrespect or disfigure or defilement or damage to the statues of Babasaheb Dr.B.R. Ambedkar as insulting the SC community as well as an insult to the Nation and be punishable with rigorous imprisonment for a term of 3 years.”

AMENDMENT TO SCs & STs (PREVENTION OF ATROCITIES) RULES, 1995

1. Level of Investigating Officers

Some States viz. Andhra Pradesh, Madhya Pradesh, Maharashtra, Orissa and Uttar Pradesh have raised an issue to amend Rule 7(1) of the SCs & STs (Prevention of Atrocities) Rules, 1995 so as to provide for to appoint an Inspector of Police instead of Deputy Superintendent of Police as Investigating Officer in the cases of atrocities against SCs/STs. Such a view has been largely held on account of non-availability of as much number of Deputy Superintendent of Police, as required to investigate such cases. This issue was earlier considered and the Ministry of Home Affairs which was consulted, opined in August, 1998 that framers of law have provided for investigating officer of higher rank in the case of atrocities against SCs/STs and this might have been done, keeping in view the sensitivity of cases to be investigated by an officer, who has higher sense of responsibility, objectivity, more responsiveness, sense of ability and justice to perceive the implication of the case. The Ministry of Home Affairs accordingly opposed the proposal to provide for investigation by an officer of the rank of Inspector of Police.

2. Mode of Payment of Compensation to Victims of Atrocities

The Government of Karnataka has requested that the rate and mode of payment of compensation differs from case to case. For instance, in case of death, only 75% of the compensation is paid after post-mortem and the remaining 25% is paid after conviction by the lower court. In some other cases, the ratio of compensation paid initially varies from 25% to 50% when the charge sheet is sent to the court and the balance is paid after the conclusion of the trial or conviction in the lower court. Since the disposal of atrocity cases admitted in the court takes years together resulting in denial of full benefit of compensation to the SC/ST victims of atrocities. As such suitable amendment to the SCs and the STs (Prevention of Atrocities) Rules, 1995 regarding mode of payment of compensation to victims of atrocity be considered.

3. Some State Governments like Madhya Pradesh and Maharashtra have suggested that relief can be given to women victims of atrocity on account of outraging their modesty, without medical examination.
4. Government of Andhra Pradesh has suggested for amending the SCs & STs (Prevention of Atrocities) Rules, 1995 regarding payment of relief to the victims, it has been pointed out that the Government of India may amend the Annexure of the Rules in such a way that the District Magistrate have discretion to sanction immediate cash relief to the victims without insisting for filing of charge sheet.

5. Based on the experience in implementation of the Central Acts and Rules framed thereunder, the nodal officers may like to suggest further modifications in the Acts and the Rules.

ANNEXURE – VIII

RECOMMENDATIONS FOR AMENDMENTS MADE BY P.S. KRISHNAN, FORMER MEMBER SECRETARY, NATIONAL COMMISSION FOR BACKWARD CLASSES

(Ref: Discussion Paper For Consultation On SAARC Social
Charter: India Input 20-21 November 2002, India
International Centre Annexe, New Delhi)

I. AMENDMENTS TO SECTION 14

“Special Court”

- (1) For the purpose of providing for speedy trial, the State Government shall with the concurrence of the Chief Justice of the High Court, by notification in the official gazette, establish in each district a Court of Session to be a Special Court exclusively to try the offences under this Act.

Provided that in respect of districts where there are no atrocities against Scheduled Castes and Scheduled Tribes at all the Government may, with the concurrence of the National Commission for Scheduled Castes and Scheduled Tribes, either exempt such district or districts from this provision or combine such district(s) with any other neighbouring district(s) for the purpose of establishing exclusive special courts:

- (2) The special courts set up under this provision shall not be the same as any of the existing courts of session.
- (3) The exclusive Special Courts shall try offences under this Act on day-to-day basis;

II. AMENDMENTS TO SECTION 15

Special Public Prosecutor

- (1) For every special court, the State Government shall by notification in the Official Gazette, appoint a Public Prosecutor or appoint an Advocate who has been in practice as an Advocate for not less than seven years, as a Special Public Prosecutor, for the purpose exclusively of conducting cases under this Act in that Court;

Special Investigating Officer

- (2) For every Special Court, the State Government shall, by notification in the official gazette, appoint a Police Officer as Investigating Officer exclusively for the purpose of investigation in respect of cases of offences under this Act;

III. ADDITION OF NEW SECTION 15(A)

1. The Judges of the exclusive Special Courts of Session and the Special Investigating Officers and Special Public Prosecutors shall be appointed from panels prepared on the basis of their record of and reputation for upholding the Rights of Scheduled Castes and Scheduled Tribes especially their Rights to Protection from violence.
2. The exclusive Special Courts, and their judges, Special Public Prosecutors and Special Investigating Officers shall be provided with adequate staff and facilities, so that the discharge of their functions is not impeded.
3. The posts of Judges, Special Investigating Officers and Special Public Prosecutors shall never be kept vacant.

IV. Pending the above amendments in S.14 and 15 and insertion of new S.15 (A), the improvements proposed in them can be and should be implemented by executive action.

V. Amendment to Section 3(2) so as to include the following crimes against SCs and STs as Atrocities and to make them punishable with imprisonment for at term of not less than six months but which may extend upto seven years with fine:

- Social boycott
- Economic boycott
- Social blackmail
- Economic blackmail

VI. Further amendment to Section 3(2): Recognizing the fact that the absence of provisions for death sentence, as exists in S.302 of the Indian Penal Code is a serious lacuna and recognizing the reality that massacres of SC & ST and mass rapes and gang rapes of SC & ST women do occur in order to terrorize and cow down the whole community when they assert their lawful rights regarding land, wages, civil rights or equal human dignity,

Sub section (2) of Section 3 should be amended to provide for death sentence for murder in addition to imprisonment, and for mandatory death sentence for multiple murders or massacres, multiple or mass rapes and gang rapes.

VII. Amendment to Section 10 : S. 10 should be amended by adding the words: "or in any other area of any district" after the following existing words: "...in any area included in Scheduled Areas or Tribal Areas as referred to in Article 244 of the Constitution..."

VIII. Amendment to S. 3(2) (V) : Recognizing the fact that certain words give scope for rigid misinterpretation, making conviction in genuine cases more difficult, the

words “against a person or property on the ground that such person is a member of a SC or a ST or such property belongs to such member” in S.3(2)(v), should be substituted by the words “against a person or property belonging to a member of a SC or a ST”.

- IX. Addition of a Provision:** In order to minimize escape of actual criminals of/from conviction, Prevention of Atrocities should be amended incorporating a provision that notwithstanding the provisions in the Evidence Act, in case of contradictions between the Statement and FIR on the one hand and evidence given to the court, the Court shall assume that the evidence in the court is the correct version and the case be considered accordingly.
- X. Amendment to SCs and STs (Prevention of Atrocities) Rules : Rule 21 (2)** under (iii) the following four sub-paras may be added:
- i) The victims of atrocities and their families should be provided with full financial and other support to become economically self-reliant without their having to seek wage employment from their very oppressors and classes of oppressors and the State shall immediately take over the education of the children of such victims/ such families in the best schools and colleges of their choice available in the State/ in this country up to the level of the choice of such children/families fully at State cost including the cost of their food and maintenance.
 - ii) In case of collective attacks on Scheduled Castes or Scheduled Tribes in any village or urban locality, the State should immediately provide full financial and other support and take all steps to make all SC and ST families of that village or urban locality economically self-reliant without any of their members having to seek wage employment from any individual and take over the education of all SC and ST children of such village/urban locality in the same manner and to the same extent as mentioned in para 10,. (1) above.
 - iii) Every SC and ST victim of rape should be forthwith given a permanent government/ quasi-government job of the highest level appropriate to her educational qualifications in the Ministry/ Department/ PSU/ Public Financial Institution/ other public sector organisation of her choice and at least of the Group D/ Class-IV level if she has no educational qualification at all. If there is no vacancy, a supernumerary post should be deemed to have been created forthwith for her appointment. The District Collectors/ Heads of the Departments/Heads of PSU/ Heads of Public Financial Institutions/ of other Public Sector organisations should be authorized and mandatorily required to make such appointments with effect from the date of the Atrocity. The State should also take over the responsibility of arranging her marriage if she is unmarried or divorced or widowed at the time of rape.
 - iv) Monetary compensation to the victims of Atrocities or next of kin should be paid immediately on registration of the FIR in the concerned police station irrespective of whether the offence under Prevention of Atrocities is incorporated therein or not.

But initially they can and should be implemented without waiting for the issue of such rules.

- XI.** As an effective preventive punitive measure, a special wing of the Rapid Action Force should be constituted to deal exclusively with Atrocities against SCs and STs and similar wings/forces should be constituted in each state.
- XII.** A special scheme should be drawn up to effectively prevent any form of disrespect to the statues of Dr. Babasaheb Ambedkar, as disfigurement of statues and other acts of disrespect is resorted to by some people as a form of collective atrocity against SC and ST apart from being an insult to the nation and thereafter this should be suitably incorporated in the Prevention of Atrocities Act.
- XIII.** This is one of the few Acts which contains a rare provision placing mandatorily on the State Government the responsibility to take such measures as may be necessary for the effective implementation of the Act and spelling out illustratively some of the possible measures and similarly placing a responsibility on the Central Government to coordinate the measures taken by the State Governments. The implementation of this Act and the rules and the various guidelines and effective curbing of atrocities should be one of the specific items to be taken into account in the context of grant or denial of Social Justice Clearance at the time of promotion of officers.
- XIV.** In view of the fact that in some parts of the country, particularly in the south, converts to Christianity from specific SCs are subjected to crimes and atrocities exactly as their Hindu counter parts are (difference of religion making no difference in this regard) and the fact that trials in such cases get bogged down on the issue whether such cases are Atrocities since the victims are not SC on account of conversion. Clause (c) of section 2 of the Act should be amended by adding the following words at the end of it “and converts to Christianity from Scheduled Castes”. An explanatory note may be added that this is only for the purpose of this Act and not for any other purpose since the question whether SC converts to Christianity should be included in Scheduled Castes or not by amending the relevant provision in Presidential Orders is a different issue to be dealt with separately by the Government of India and the Parliament.
- XV.** In view of the fact that the main perpetrators of an atrocity sometimes co-opt a few SCs with them, taking advantage of local differences among the SCs, and sometimes they promote and engineer crimes but get them executed by some members of Scheduled Castes, the Act should be suitably amended to bring such crimes and atrocities within the purview of the definition of atrocities under the Act.
- XVI.** In view of the fact that in some cases of atrocities while most of the victims are Scheduled Castes or Scheduled Tribes there may also be a few non-Scheduled Castes/Scheduled Tribe people among the victims the Act should be amended to bring such atrocities and crimes within its purview.

ANNEXURE – IX

THE BHOPAL DECLARATION

Adopted Unanimously By The Bhopal Conference: Chartering A New Course For Dalits For The 21st Century Held At Bhopal, Madhya Pradesh, India, 12-13 January 2002

We, intellectuals and activists assembled at the Bhopal Conference, 12-13 January 2002, to deliberate the issues concerning the welfare of and justice to the 250 million Dalits (Scheduled Castes and Scheduled Tribes), and

Declaring our belief in Babasaheb Dr. B.R. Ambedkar's ideal of Social Democracy and his prophecy that, "A democratic form of Government presupposes a democratic form of society. The formal framework of democracy is of no value and would indeed be a misfit if there was no social democracy",

Endorsing the ideals of civil society enshrined in the Constitution of India, particularly its Preamble that declares the Indian State's commitment to Justice, Liberty, Equality and Fraternity,

Recognizing that the tenets established by the Universal Declaration of Human Rights and various other charters of the United Nations which our nation has acceded to also emphasize the same principles,

Acknowledging the role of tribal communities, particularly tribal women, to the protection and conservation of the country's rich biodiversity and natural resources as well as its culture and civilization,

Acknowledging also the need to ensure that SCs and STs are given due representation in all bodies of decision making,

Recalling the struggles that Babasaheb had waged for the emancipation of his people and the historic rights he had won for them,

Mindful of the fact that even after 54 years of independence, the Dalit community is denied of its basic human rights and is also at the receiving end of the most brutal and oppressive forms of discrimination and exclusion,

Reaffirming that concerted action by society as a whole especially coordination among the political leadership, officials and grassroots activists is necessary for the overall development of the most oppressed of India,

Bearing in mind the responsibility to take forward our struggle at this critical juncture in spite of the fact that most political formations are reluctant to pursue any policy favourable to the Dalits,

Recognizing that the social consensus over the Dalit cause - reluctantly agreed upon at the time of independence has by and large broken down,

Convinced that informed and democratic discourse at all levels is essential to renegotiate a new consensus over redeeming the pledges of the founding fathers of the Republic to do justice to Dalits,

Convinced also that the national psyche and public discourse in the country accepts uncritically the rigid hierarchy and discrimination caused by caste and thereby denies that caste is a major source of prejudice and brutal violence,

Emphasizing that Babasaheb's stress on struggle through democratic and constitutional means is relevant today,

Regretting that the post-Ambedkar Dalit intelligentsia has failed both in earning forward his emancipatory movement as well as making a dent in the country's intellectual life,

Recognizing the need for Dalits to make common cause with other liberation and human rights movements in and outside the country,

Conscious of the hurdles that caste-Hindu society — and its tentacles in government, media, voluntary sector, etc., - is likely to hurl at any serious movement that challenges the entrenched system of discrimination and exclusion,

Noting that women - especially Dalit women - represent the most oppressed sections of our society, and that they face multiple forms of discrimination, including caste-based, religious and patriarchal ideology and practices,

Welcoming the winds of change the world over that are conducive to inclusion, Equal Opportunity, Diversity, Democratization and Civil Society, and against discrimination, stereotype, stigma, exclusion and caste society,

Hoping that this country will no longer remain an exception to the global norm of Progress, Equality, Justice, Peace and Social Harmony, and

We hereby **solemnly proclaim** that while we rededicate ourselves to work in unison to achieve basic rights of Dalits, we are convinced that unless the following issues are resolved no amount of activism on our part and proactive measures from the State can liberate the community from the scourges of untouchability and exploitation

We therefore demand

21-POINT ACTION AGENDA FOR THE 21ST CENTURY

1. Ensure that each Dalit family will own enough cultivable land for socio-economic well being. The government should pursue all possible measures including the distribution of surplus land, government revenue lands and temple lands within a specific time-frame. If need be, the government should purchase cultivable land and distribute it among Dalits.
2. Enact legislation and enforce it stringently to enable Dalits have an equitable share in the appropriation and use of the rural and urban common property resources. The law must be amended to ensure that lengthy litigation, with the ulterior motive of denying Dalits of legal redressal, is not resorted to.
3. Enact legislation and enforce the right of Dalit agricultural labourers to living wages, to gender parity in wages, to job security, to better working conditions and welfare measures, and ensure punitive measures against offenders.
4. Appoint Statutory Committees at the national and State level to identify within specified time-frame all the Dalit lands occupied by non-Dalits, to assess the quantum of compensation to be paid by non-Dalits for their illegal utilization of lands, to identify the original owners and their nearest kith and kin for restoring these lands back to them, to expedite legal proceedings in courts specially appointed for this purpose against the illegal occupants and to ensure punitive measures against them.
5. Ensure the restoration of the alienated lands to the tribals, restore their rights over forest and forest-produce, provide them with compensation and rehabilitation measures, extend resources and capacity building measures for gainful utilization of their lands and forests and make those Dalits displaced due to construction of dams/ developmental projects and mining as shareholders of such enterprises.
6. Democratise Capital so as to ensure proportionate share for SCs and STs. Make budgetary allocation for SCs and STs to enable them enter the market economy with adequate investment resources, and develop their capacities and skills for such market enterprises.
7. Enforce with stringent measures the Bonded Labour System (Abolition) Act, 1976 and abolish forthwith child labour to ensure freedom with dignity for all Dalits, and accordingly make suitable amendments in the appropriate legislations.
8. Amend Art. 21 of the Constitution of India so as to include the following rights for all citizens, with special emphasis on SCs and STs and on the basis of two criteria; namely, low-economic income and without religious discrimination; the rights to a standard of living adequate for the health and well-being of women and men equally, including food, safe drinking water, clothing, housing, public health and medical care, social security and social services; the right to living-wage and the right to own 5 acres of cultivable land or to gainful employment.
9. Implement compulsory, free and high quality education for all Dalits immediately, make allocation of funds proportionate to the number and level of the illiterates, ensure compensation to those families which forfeit their income from child-

labour increase the number and amount of scholarships, and provide better infrastructural facilities in SC and ST schools and offer market-oriented vocational and technical education.

10. Make the reservation quota applicable in all the public and private educational institutions from primary to technical and professional levels. Every SC/ST child with low income-base must be given quality free-education at the State's expense. And every English medium school must implement Diversity in Admissions.
11. Recognize SC and ST women as a distinct category among women and accordingly make segregated data on Dalit women available in census reports, action taken reports and progress reports, evolve national and state-level perspective plans for mainstreaming SC and ST women in developmental programmes, market enterprises, financial allocation, reservation facilities in education, employment and health facilities, and mandate the National and State Commissions for SCs and STs and for Women to study and report specifically the status of SC and ST women in their annual reports.
12. Implement effectively in letter and spirit the SC and ST (Prevention of Atrocities) Act, 1989 & Rules, 1995, especially with regard to atrocities against Dalit women, and accordingly prosecute the dominant caste leaders and their minions who stoke the fire of caste clashes and the police officials acting in connivance with them. In cases of atrocities against SCs/STs, a system of collective punishment has to be evolved as oppressors enjoy community's support and protection and escape the law.
13. Ensure Diversity or SCs/STs' due representation in all public institutions of India, whether universities or academic or autonomous or registered bodies. Those institutions, which do not abide by the principle of Affirmative Action, must lose recognition and State funding. All private industry/corporate houses must accept and implement Diversity in workforce immediately.
14. Ensure that in all state and national budgets allocations are made as per the proportion of SC and ST population and penal action taken against unutilisation or diversion of funds meant for these sections.
15. Every government and private organization must implement Supplier Diversity from socially disadvantaged businesses and Dealership Diversity in all goods and services.
16. The State must assume sole responsibility in protecting the SCs and STs. The State must identify those atrocity prone areas and deploy forces. In addition, provide arms licences to the SCs & STs as stipulated in the Atrocities Act for self-defence purposes, make the setting up of Dalit self-defence groups from village onwards mandatory and specially train Dalit women to handle weapons in self-defence against the perpetrators of crimes and atrocities.
17. Eliminate the humiliating practice of manual scavenging on an urgent footing through effective rehabilitation, alternative and sustainable employment measures and development programmes, and prosecute violators of the Employment of

Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, especially the gross violators -Railways, Defence, Urban Local Bodies and others.

18. Make it statutory for Parliament and State assemblies to debate on the annual reports of the national- and State-level Commissions for SCs/STs and Safai Karamcharis within the following year, and ensure that these annual reports and the action-taken reports are made public. And ensure that the action is taken under clear statutory stipulations.
19. Make affirmative action mandatory in all private institutions, including industries and corporate sector, which receive State patronage in any form - from land at concessional rate to tax benefits, etc, and also develop the capacities and skills of Dalits to help them meet the demands of these different sectors.
20. Implement the policy of reservation to SCs/STs at all levels of Judiciary and defence forces. And make transparent appointment process in Judiciary by doing away with the nomination system.
21. Bring out a Truth Paper in two years on the status of reservation during the past 25 years and place it before Parliament and State Assemblies for debate, and on a war-footing fill immediately all the backlog posts meant for Dalits and that, too, only with Dalit candidates.