

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**
[ISSN 2581-5369]

Volume 3 | Issue 4

2020

© 2020 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at editor.ijlmh@gmail.com.

The continuing Human Rights violation of 'Dalits' in India: A discrepancy between Legislative Intent and Subsequent Implementation

SHREYA MUKHOPADHYAY¹

ABSTRACT

The deep-rooted social stratification in India vitiates the efforts made towards development of our society. In 1891, from being accepted as a 'standard classification of castes' in the census to the recent Prathvi Raj Chauhan v UOI judgment of 2020, gross inequalities against 'Dalits' have been addressed by both the Legislature and Judiciary. For decades, they have been treated less than a human being who 'polluted higher caste people with their mere presence'. However, be it Arya Samaj or our present samaj, the meaning of 'Dalits' remain the same: the Oppressed, Crushed and Broken. While the world speaks of flourishing human rights, 'Dalits' are still stripped of their basic human rights on a daily basis. Although this discrimination has been universally acknowledged and addressed, the international instruments and national legislative tools would mean nothing if the execution is not accurate. The National Crime Records Bureau data draws a painful picture of the rampant, extreme and blatant abuse meted out to them. The insensitivity towards the plight of a section of our community that comprises of over 200 million people is an absolute insult to the Constitution of the largest democracy in the world.

The author attempts to navigate through the origin and development of 'Dalits' in India alongside the Legislative and Constitutional provisions in place to fuel a solution to this conundrum. Additionally, the author would also attempt to throw some light over the present scenario of 'Dalits' bearing in mind the national crime records.

Keywords: Dalits, Abuse, Human Rights, Legislation, India

I. INTRODUCTION

India is a democratic republic with the longest Constitution in the world. However, the four basic tenets of justice, equality, liberty and fraternity as enshrined under the Constitution are not accessible to all.

The Constitution of India recognizes certain castes, races and tribal groups as Scheduled Castes and Scheduled Tribes under Article 341 and 342. With this recognition, a special protection is

¹ Author is a student of Adamas University, West Bengal, India.

vested upon these groups who have been exploited over the years. Such protection includes special access to educational institutions, employment and other socio-economic benefits. The list comprising of Scheduled Castes and the Scheduled Tribes varies state-wise and can be modified by the parliament. The relevant human rights instruments governing their rights are: the Universal Declaration on Human Rights and treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Once a person is notified as a “Scheduled Caste” or “Scheduled Tribe” in any State or Union Territory, they are protected under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (inclusive of the provisions under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015) throughout the country, irrespective of whether the particular caste or tribe has been notified in the State or Union Territory where the offence is committed.

On the 20th anniversary of the passing of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, in April 2010, the National Coalition for Strengthening SCs & STs (Prevention of Atrocities) Act released a Report Card to look back and review the implementation of the development for ‘Dalits’. It was stated under such a report that the members of Scheduled Castes and the Scheduled Tribes community or often as interchangeably termed as ‘Dalits’ till have to endure “wide-ranging economic and evictions and displacement, multifaceted forms of social disadvantages and day to day humiliation and exploitation, cultural humiliation and political degradation, denial of justice and violent atrocities. By and large, the Dalit condition is marked by high incidence of poverty, low education, limited employment opportunities and marginalization in all spheres of public life. These deprivations are compounded by diverse types of violence to which they are subjected.”

II. ORIGIN AND USE OF THE TERM ‘DALIT’ IN INDIA

Untouchability is an indirect form of slavery.² Untouchability was mention around 4th Century AD by Chinese travelers who visited India. In early Iron age (1800–200 BC), there were no Varna system, therefore only clans, tribes and ‘jatis’ existed. With roots dating back to thousands of years, the caste system in India basically forms part of a Hindu hierarchical class.

² Ambedkar, B.R., Writings and Speeches, Vol.V, Education Department, Government of Maharashtra, Maharashtra, 1979, p.111

In descending order, the caste system comprised of four castes: Brahmins (priests), Kshatriyas (warriors), Vaishyas (farmers) and Sudras (labourers, artisans).³ 'Dalits' were considered not to belong to the pyramid of castes and were therefore known as 'outcastes'.

In context of the oppression faced by the "untouchable" caste, the word "Dalit" was first used in 19th century by Jyothibai Phule. It originates from the Hindi word 'dal' which means 'held under check', 'suppressed' or 'crushed' and in common parlance means 'oppressed or broken'⁴. The usage of the term 'Dalit' originated from the Arya Samaj and their "Dalitoddhara" (improvement of the downtrodden) programme.⁵ Dalit in Sanskrit means "trampled upon" and refers to low caste who were once (and still in various rural and urban areas) treated as untouchables.⁶ The term applies to members of those menial castes who were born out of the stigma of 'untouchability' because their traditional occupations such as scavenging, sanitary workers or drain cleaners, etc. was associated with extreme impurity.⁷

The 1891 census adopted a standard classification of castes according to the occupation assigned to each by tradition. Dalit castes were thus included within such occupational categories as "field labourers, leather workers, scavengers, watchmen and village menials".⁸ The 1931 census treated them as the "exterior castes" of Hindus because they worshipped the same deities and could approach upto a point near the temples to receive offerings. In 1911 census for the first time, on the basis of social stigma of untouchability and isolation in society, they were categorized as "Depressed Classes" or "Untouchables". They were subsequently listed in a Schedule which was incorporated in the Government of India Act of 1935.⁹

Scheduled Caste has been defined in Article 366, sub-article 24 which says that 'Scheduled Caste' means "such castes, races or tribes or parts of groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purpose of the Constitution"¹⁰. The term "Scheduled Castes and Scheduled Tribes" are the official terms used in Indian Government documents to identify former "Untouchables".

In 2008, the National Commission for Scheduled Castes after observing that 'Dalit' was used interchangeably with the official term "Scheduled Castes" had called the term 'unconstitutional' thereby asking Chhattisgarh Government to end its use. After the order, the

³ Swapna H. Samuel, *Rights of Dalits (Serials)*, New Delhi, 2006, p.1

⁴ Dutta, K.B., *Dynamics of Dalit, Old Issues and New Challenges*, New Delhi, 2005, p.1

⁵ Vidhya Devi, *The Plight of Indian Dalits*, New Delhi, 2009, p.19

⁶ Brojendra Nath Banerjee, *Struggle for Justice to Dalit Christians*, Patiala, 1997, p.1

⁷ Rajendra Singh Vasta, *The Depressed Classes of India*, New Delhi, 1937, p.4

⁸ Michael, S.M., *Dalits in Modern India (Vision and Values)*, New Delhi, 1999, p.77

⁹ Padmanabhan, A., *Dalits at the Cross Roads, Their Struggle, Past and Present*, New Delhi, 1996, p.8

¹⁰ The Constitution of India

Chhattisgarh Government ended the official use of the word 'Dalit'.

III. CONSTITUTIONAL SAFEGUARDS FOR SCHEDULED CASTES/ SCHEDULED TRIBES

The Constitution of India contains special provisions which are provided to the members of Scheduled Castes under Articles. These safeguards are in the nature of protection from discrimination in Educational, Economic, Social, Political and Service fronts along with reservation benefits for their overall development.

Under Article 366(24), "Scheduled Castes" means such Castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purpose of the Constitution.¹¹

Under Article 341(1), "the President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purpose of the Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be."¹²

Under Article 341(2), "the Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (i) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."¹³

Articles 15 (4), 17, 23 and 25(2)(b) of the Constitution directs upon the states to provide social safeguards to Scheduled Castes.¹⁴

Article 15(4) empowers the state to make special provisions for the advancement of any socially and educationally backward classes of citizens and for Scheduled Castes.¹⁵ Article 17 relates to abolition of untouchability being practiced in society.¹⁶ In lieu of such, the Parliament enacted the protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to tackle the problem of untouchability, which is being practiced against Scheduled Castes. Major chunk of the bonded labour happens to come from Scheduled Castes. Article 23 prohibits traffic in human beings and 'begar' along with certain similar forms of forced labour. Additionally, the Article provides that any contravention

¹¹ Ibid

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

of this provision shall be an offence punishable in accordance with law. Thus, this Article has a special significance for Scheduled Castes.¹⁷ The parliament enacted Bonded labour system (Abolition) Act, 1976 for identification, liberation and rehabilitation of bonded labourers. Article 25(2)(b) provides that Hindu religious institutions of a public character shall be opened to all classes and sections of Hindus. The term 'Hindu' includes persons professing Sikh, Jain and Buddhist religion.

Bearing in mind the economic exploitation meted out to members of Scheduled Castes Article 46 provides that: "The state shall promote with special care the educational and economic interests of the weaker sections of the people and in particular, of the Scheduled Castes and the scheduled Tribes and shall protect them from social injustice and all forms of exploitation."¹⁸

As a political safeguard measure and to take into consideration the matter of viable representation, seats are reserved for SCs /STs in the Local Bodies of the States/UTs, Legislative Assemblies of the State and in Parliament as provided in the Constitution of India under Article 243D, Article 243T and Article 332¹⁹.

Articles 16(4), 16(4A) and 335 deal with service related safeguards for the Scheduled Castes and the Scheduled Tribes. Articles 16(4) and 16(4A) enumerate the powers of State under certain conditions where there can be reservation of appointments or posts in favour of any backward class of citizens and the reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes. Article 335 states that the claims of the members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, along with maintaining efficiency of administration, while making appointments to services and posts in connection with the affairs of the Union or of a State.²⁰

In the case of *Ashok Kumar Gupta v. State of Uttar Pradesh*²¹, the Supreme Court highlighted Article 16(4) read along with Article 14, guaranteed a right to promotion to Scheduled Castes and Scheduled Tribes. It is seen as a fundamental right to allow their adequate representation consistently with the efficiency of administration. Thus, the hon'ble Court held that the right to reservation was a fundamental right under Article 16(4) and that reservation in promotion was not unconstitutional.

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ JT 1997 (4) SC 251

IV. SPECIAL LEGISLATION IN FORCE FOR SCHEDULED CASTES/ SCHEDULED TRIBES

The Constitution of India recognizes certain castes, races and tribal groups as Scheduled Castes and Scheduled Tribes under Article 341 and 342. With this recognition, special protections with respect to educational institutions, employment and socio-economic benefits are provided to these groups who have been historically marginalized and exploited for years.

To address the issue of ‘atrocities’ specifically committed against members of the Scheduled Castes and the Scheduled Tribes in India, a special law i.e. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*hereinafter referred to as ‘the Act’*) was drafted. The Act was enacted on 11 September, 1989 but came into force on 30 January 1990. Thereafter, on 31st March 1995, the Central Government made the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (*hereinafter referred to as ‘the Rules’*) for the purpose of effective implementation of this Act, which were amended in 2016. In 2015, the Act was amended which came into force on 26 January, 2016. The jurisdiction of this Act extends to the whole of India except the state of Jammu and Kashmir (J&K).

The Act was brought into existence to register and prosecute a wide range of discriminatory actions against caste and tribal identity, provide legal rights to the victims and to put the onus on the Government to take measures in curbing such atrocities. However, the discriminatory and/or abusive act becomes an offence under this Act only when a person who does not belong from Scheduled Castes/Scheduled Tribe community of the State acts against a member of the designated Scheduled Castes or the Scheduled Tribe of the State. This is due to the fact that the Act addresses offences committed against members of the Scheduled Castes and the Scheduled Tribes community by other communities. All offences which are listed under the Act are cognizable in nature.

In this Act, under Section 2 (1) (c), Scheduled Castes and Scheduled Tribes “have the meanings assigned to them respectively under clause (24) and clause (25) of article 366 of the Constitution.”²²

A victim is defined under Section 2 (1) (ec) of the Act as member of a Scheduled caste of Scheduled tribe who has “suffered or experienced physical, mental, psychological, emotional or monetary harm or harm to his property as a result of the commission of any offence under

²² The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

this Act and includes his relatives, legal guardian and legal heirs”.²³

A witness is defined under Section 2 (1) (ed) of the Act as “any person who is acquainted with the facts and circumstances, or is in possession of any information or has knowledge necessary for the purpose of investigation, inquiry or trial of any crime involving an offence under this Act, and who is or may be required to give information or make a statement or produce any document during investigation, inquiry or trial of such case and includes a victim of such offence”²⁴

The Act states that if a person gives financial support to someone accused of committing an atrocity, the Court will presume that such a person “abetted” the offence and thus, the onus to prove otherwise would be upon such a person.²⁵

The police must register an FIR given that all offences listed under this Act are cognizable in nature. Pursuant to Section 154 of the Code of Criminal Procedure, 1973, it is necessary for the police to register an FIR immediately on receiving information about the commission of a crime which co-relates to a cognizable offence. Refusal to register an FIR is punishable under the Act with up to one year imprisonment under Section 4. Investigation of offences under this Act which fall within the purview of ‘Atrocity’ are to be conducted by a police officer not below the rank of Deputy Superintendent of Police (DSP).²⁶

As far as the protection of witness and victim(s) extends, Section 15(A) of the Act makes it a “duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence”.²⁷

The Act does not put focus only to render justice after an ‘atrocity’, as enumerated under Section 3 of the Act, has occurred. It also sets forwards preventive measures under Section 17(1) which empowers “District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police” upon receiving valid and justifiable information or upon conducting inquiry having “reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this

²³ Ibid

²⁴ Ibid

²⁵ Section 8, Ibid

²⁶ Rule 7, the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

²⁷ The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behaviour and maintenance of public order and tranquility and may take preventive action". Chapters VIII, X and XI of the Code of Criminal Procedure, 1973 are applied for the purpose of this section as per Section 17(2) of the Act.²⁸

Under this Act, it is the responsibility of the State Government to set up an Exclusive Special Court in districts that record a high number of atrocity cases and with prior approval of the Chief Justice of the High Court, to designate a Court of Session as a Special Court in districts with less atrocity cases. The Act allows the victim(s) to approach the District Magistrate or the Sub-Divisional Magistrate to have a lawyer of their own choice to assist the Special Public Prosecutor in their case. The Special Court or the Exclusive Special Court has an obligation to complete the trial within a period of 60 days. They are required to hold proceedings continually every day until all witnesses have been examined and in the case of adjournment beyond the following day, must record their reasons in writing.²⁹

An appeal can be filed within 90 days of the date of judgment, sentence or order whichever is being appealed against to the Hon'ble High Court where such appeals may be admitted between 90 and 180 days if the Court is satisfied that the Appellant had sufficient cause for not filing it within the 90-day period. The High Court has to take a decision on any appeal filed under this Act within 90 days from the date of admission of the appeal.

All offences under the Act are non-bailable offences thereby leaving it at the Court's discretion to allow bail or reject it. Although, it is a requisite for the State Government to inform the victim of bail proceedings and to hear the victim's concerns before taking a decision, once arrested, only the Special Court or the Exclusive Special Court, or a superior Court, can release an accused on bail. A victim can file an appeal before the High Court challenging the order of the Special Court or the Exclusive Special Court granting bail to an accused. Additionally, if an accused, after release on bail, attempts to influence the witnesses, tamper with the evidence or violates any bail condition, under procedure established by law, the victim or the State can ask for such a bail to be cancelled.³⁰

The Act additionally requires the State Government to set up Vigilance and Monitoring Committees at three levels – the State, the District and the Sub-division. These committees work to make sure that the Act is properly implemented to provide the victims and

²⁸ Ibid

²⁹ Ibid

³⁰ Ibid

the witnesses can avail their rights, get timely relief and be given justice.

V. CONTROVERSY GOVERNING THE 2018 AMENDMENT BILL

The Section 18 of the Act reads as: “Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act” which meant that the provisions of anticipatory bail as provided in the Code of Criminal Procedure, 1973 were not to be available for the accused under this Act.

In the case of *Dr. Subhash Kashinath Mahajan v. The State Of Maharashtra*³¹, it was held that “the provisions of the Act of 1989 are being misused as such the amendment is arbitrary, unjust, irrational and violative of Article 21 of the Constitution of India. There could not have been any curtailment of the right to obtain anticipatory bail under section 438 of the Code of Criminal Procedure, 1973. Prior scrutiny and proper investigation are necessary.” Therefore, the hon’ble Supreme Court had diluted such provisions of arrest under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Soon after, Mr. Thaawarchand Gehlot, the Minister for Social Justice and Empowerment introduced The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2018 in Lok Sabha in order to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 to prohibit further commission of offences against members of the Scheduled Castes and Scheduled Tribes along with establishing Special Courts for the trial of such offences and the rehabilitation of victims. The bill also stated that there would be no requirement of prior approval from any authority by the investigating officer for the arrest of an accused. Additionally, the provisions of anticipatory bail under the Act shall be applied, despite any judgments or orders of a court that provide otherwise, in reference to the Mahajan judgment.³² The bill was introduced on 3rd August, 2018 and was passed on 6th August, 2018 and 9th August, 2018 by Lok Sabha and Rajya Sabha respectively.

The amendment of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 under Section 18A introduced by the 2018 Amendment bill was challenged as a violation of fundamental rights to equality, life and liberty guaranteed by Articles 14 and 21 of the Constitution of India. However, the Court formally upheld the constitutionality of the 2018 Amendment on 10 February 2020 the case of *Prathvi Raj Chauhan v UOI*³³.

³¹ Criminal Appeal no.416 of 2018

³² The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2018 as introduced in the Lok Sabha

³³ WP (C) 1015/2018

VI. ATROCITIES ON SCHEDULED CASTES/ SCHEDULED TRIBES BY LAW ENFORCEMENT

In 2004, the law enforcement machinery was characterized as the greatest violator of a Dalit's human rights by India's National Human Rights Commission (NHRC).³⁴ The 'Police' and 'Public Order' are under the purview of the Seventh Schedule (List-II) to the Constitution of India as State subjects.³⁵ Therefore, the primary responsible for prevention, detection, registration, investigation and prosecution of all crimes against Scheduled Castes/Scheduled Tribes fall within the jurisdiction of the State Government and Union Territory Administrations.

In 1979, in order to analyze problems in police performance in India, the National Police Commission was constituted.³⁶ Dalits who would come across police were forced to listen to casteist name-calling, false accusations on their character and threats against their family members.³⁷ Dalit activists were often accused of being 'terrorists', 'threats to national security' or 'habitual offenders' and frequently charged under the National Security Act, 1980, the Indian Explosives Act, 1884, and even older counter insurgency laws such the Terrorist and Disruptive Activities (Prevention) Act (TADA). They are subjected to specious prosecutions, falsified charges and physical abuse followed by an arrest.³⁸

Although 'Untouchability' was strictly prohibited under the Indian Constitution and has been banned since 1950, 'Dalits' still suffer extensive discrimination and mistreatment mainly in villages and rural communities. Upper caste members often threaten and assault the 'Dalits' who try to raise a voice against the atrocities. Local law enforcement mechanism often bear no fruit since mostly they refuse to document, investigate or respond adequately to Dalit complaints.

The National Human Rights Commission (NHRC) in its report stated that "police resort to various machinations to discourage Scheduled Castes and Scheduled Tribes from registering cases, to dilute the seriousness of the violence, to shield the accused persons from arrest and prosecution and, in some cases, the police themselves inflict violence".³⁹ The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 along with the Supreme

³⁴ NHRC Report, p. 111

³⁵ Seventh Schedule (List-II), The Constitution of India

³⁶ Human Rights Watch, *Broken People*, p. 32

³⁷ Vishwanathan, S., *A Tale of Torture*, Frontline, 2-15 August 2003

³⁸ Human Rights Watch, *Broken People*, p. 153

³⁹ National Human Right Commission, "Report on Prevention of Atrocities on Scheduled Castes", 2004.

Court guidelines set out in the case of *D K Basu v State of West Bengal*⁴⁰ are the available legal tools to prevent torture, illegal detention or improper interrogation of Dalits.

However, due to the ineffective implementation of the anti-abuse laws, the crimes or atrocities are persisting.

VII. INCIDENTS OF ABUSE PUBLISHED IN THE NEWS

A research conducted by Thorat⁴¹ (2009) including 11 states of India indicates that large-scale human rights violations, crimes and atrocities against the Scheduled Castes take place in rural areas. Such violations, crimes and atrocities include verbal and physical abuse, psychological abuse, sexual abuse, murder, residential segregation, denial of access, discriminatory treatment in basic public services and discriminatory restrictions on public behaviour. The range and scope of violence are extensive therefore, being an indicator of the oppressive nature of the caste system. Atrocities pertaining to their civil, religious, political and social rights are always on the rise and rampant.

Two Dalit men were allegedly killed by upper-caste Hindus because a Dalit man sat cross-legged in front of them during a temple ritual since it was seen as ‘insulting’, in the southern state of Tamil Nadu.⁴²

A 13 year old Dalit boy was allegedly attacked for wearing a pair of ‘mojris’ which were seen as royal leather shoes only to be worn by upper-caste members.⁴³

Three Dalit boys were allegedly stripped, beaten and paraded naked by villagers for swimming in a well that belonged to an upper-caste family, in Maharashtra.⁴⁴

A 21-year-old Dalit boy was allegedly beaten up brutally because he sat on a chair and ate in the presence of upper-caste people at a wedding.⁴⁵

A Dalit man was brutally assaulted in public because he allegedly “touched” a two-wheeler vehicle of an upper caste man, in Karnataka.⁴⁶

A Dalit youth was allegedly assault and forced to abuse Dr. B.R. Ambedkar by upper-caste

⁴⁰ (1997) 1 SCC 416

⁴¹ Thorat, S. (2009). *Dalits in India: Search for a Common Destiny*. New Delhi: Sage Publications

⁴² Available at <https://indianexpress.com/article/india/sivaganga-two-killed-in-attack-at-dalit-village-5196459/>, last visited on 28/07/2020 at 2:28 AM

⁴³ Available at: <https://ahmedabadmirror.indiatimes.com/ahmedabad/crime/dalit-boy-beaten-up-for-wearing-chain-mojris-and-jeans/articleshow/64593502.cms>, last visited on 28/07/2020 at 2:28 AM

⁴⁴ Available at: <https://indianexpress.com/article/india/maharashtra-dalit-boys-beaten-paraded-naked-for-swimming-in-well-5218122/>, Last visited on 28/07/2020 at 2:28 AM

⁴⁵ Available at: <https://www.bbc.com/news/world-asia-india-48265387>, last visited on 28/07/2020 at 2:28AM

⁴⁶ Available at: <https://thewire.in/caste/karnataka-dalit-man-assaulted-touching-upper-caste-man-motorcycle>, last visited on 28/07/2020 at 2:28 AM

men, in Meerut.⁴⁷

VIII. NCRB DATA ON THE NATURE AND EXTENT OF ABUSE OF SCHEDULED CASTES/ SCHEDULED TRIBES

The NCRB “Crime in India 2013” Report stated that there was an increase of 17.1% in crime committed against persons belonging to Scheduled Castes.

In 2016, according to NCRB data, 40,801 cases of atrocities against Dalits were which increased from what was reported in 2015, i.e., 38,670 cases. The NCRB data depicted that most of the crimes against SCs reported were crimes against women, including assault, sexual harassment, stalking, voyeurism and insult to modesty.⁴⁸

The NCRB “Crime in India 2017” Report stated there were 43,203 cases of atrocities against Dalits (including IPC and SC/ST Act cases) and about 6% more than 2016. The highest rates of crimes against Dalits (number of incidents per 1,00,000 population) were in Madhya Pradesh (52), Bihar (41) and Rajasthan (35).⁴⁹

The NCRB “Crime in India 2018” Report stated that simple hurt with 30.6% (13,078 cases) registered the highest number of cases of crimes/atrocities against Scheduled Castes (SCs) followed by SC/ST (Prevention of Atrocities) Act only with 9.8% (4,212 cases) and criminal intimidation with 7.3% (3,137 cases) during 2018. It also states that simple hurt (1,429 cases) registered the highest number of cases of crimes/atrocities against Scheduled Tribes (STs) accounting for 21.9% followed by rape with 15.4% (1,008 cases) and assault on women with intent to outrage her modesty with 13.1% (857 cases) during 2018.⁵⁰

Total Crime/Atrocities against Scheduled Castes in 2018 (as per NCRB, 2018) in descending order for each State and Union Territory:

1. UP – 11,924
2. Bihar - 7061
3. Madhya Pradesh – 4753
4. Rajasthan - 4607
5. Maharashtra – 1974

⁴⁷ Available at:

http://timesofindia.indiatimes.com/articleshow/65109539.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cpst, last visited on 28/07/2020 at 2:28 AM

⁴⁸ NCRB Report, 2016

⁴⁹ NCRB Report, 2017

⁵⁰ NCRB Report, 2018

6. Andhra Pradesh - 1836
7. Odisha – 1778
8. Telangana – 1507
9. Gujarat – 1426
10. Tamil Nadu - 1413
11. Karnataka – 1325
12. Haryana - 961
13. Kerala – 887
14. Jharkhand – 537
15. Chhattisgarh - 264
16. Punjab – 168
17. Himachal Pradesh – 130
18. WB – 119
19. Uttarakhand – 58
20. Delhi – 36
21. Assam – 8
22. Puducherry – 7
23. Goa and Sikkim – 5
24. J&K, Chandigarh, D&N Haveli and Tripura - 1
25. Andhra Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Lakshwadeep, Daman & Diu and Andaman & Nicobar Islands - 0

A study conducted in 2006 based on district level data from the entire country noted that atrocities on ‘Dalit’ communities are exclusively a rural phenomenon although there are considerable cases in urban areas as well.⁵¹

The table states the rate of Crime / Atrocities against Scheduled Castes (SCs) in 2018 bearing in mind the population of the States⁵²:

⁵¹ Chakraborty, D., Babu, D. S., & Chakravorty, M. (June 17, 2006). Atrocities on Dalits: What the District Level Data Say on Society-State Complicity. *Economic and Political Weekly*, 41, 24, 2478-2481

⁵² NCRB, 2018 (The publication year refers to the calendar year i.e. 1st January to 31st December of 2018)

Serial No.	State	Crime against SCs	Population of SC in the State (in lakhs) ⁵³	Rate of total crime against SCs ⁵⁴
1	Andhra Pradesh	1836	84.5	21.7
2	Arunachal Pradesh	0	0.0	0.0
3	Assam	8	22.3	0.4
4	Bihar	7061	165.7	42.6
5	Chhattisgarh	264	32.7	8.1
6	Goa	5	0.3	19.6
7	Gujarat	1426	40.7	35.0
8	Haryana	961	51.1	18.8
9	Himachal Pradesh	130	17.3	7.5
10	Jammu & Kashmir	1	9.2	0.1
11	Jharkhand	537	39.9	13.5
12	Karnataka	1325	104.7	12.6
13	Kerala	887	30.4	29.2
14	Madhya Pradesh	4753	113.4	41.9
15	Maharashtra	1974	132.8	14.9
16	Manipur	0	1.0	0.0
17	Meghalaya	0	0.2	0.0
18	Mizoram	0	0.0	0.0
19	Nagaland	0	0.0	0.0

⁵³ Actual Census, 2011

⁵⁴ Crime Rate = Number of Cases Reported / Population in Lakhs

20	Odisha	1778	71.9	24.7
21	Punjab	168	88.6	1.9
22	Rajasthan	4607	122.2	37.7
23	Sikkim	5	0.3	17.7
24	Tamil Nadu	1413	144.4	9.8
25	Telangana	1507	54.3	27.7
26	Tripura	1	6.5	0.2
27	Uttar Pradesh	11924	413.6	28.8
28	Uttarakhand	58	18.9	3.1
29	West Bengal	119	214.6	0.6

IX. ABUSE FACED BY WOMEN BELONGING TO SCHEDULED CASTES/ SCHEDULED TRIBES

Women are the “Dalit among the Dalit and the oppressed” as put by Dr. B.R.Ambedkar.

In 2000, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern “with the continuing discrimination, including violence, suffered by women of the Dalit community, despite the passage of the Scheduled Castes and Scheduled Tribes (prevention of atrocities) Act of 1989.”⁵⁵ It was observed in submission to discussion on CEDAW that “Dalit women are placed at the very bottom of South Asia’s caste, class and gender hierarchies. They suffer three forms of discrimination: being oppressed due to societal hierarchy, being poor and for being women. They are discriminated against not only by people of higher castes but also within their own communities by the men. Prevalent acts against them violate their economic, political, social and cultural rights.”⁵⁶

Superstition coupled with poverty and possible illiteracy corresponds to the interpretation of mythology by the upper caste as a means of manipulation to control the lives of ‘Dalits’. They are often met with violence while attempting to enforce rights such as access to housing,

⁵⁵ CEDAW’s Concluding Observations: India, (2000), para. 74.

⁵⁶ *The Situation of Dalit Rural Women*, Submission to Discussion on CEDAW General Comment on rural women – Article 14 by Navsarjan Trust (India), FEDO (Nepal) and the International Dalit Solidarity Network, September 2013

drinking water, the public distribution system (PDS) or education.⁵⁷ They face economic impoverishment due to unequal wage disparity, with low or underpaid labour. The Dalit women have to face verbal, physical and sexual violence in both public domain and at home. The gender inequality sanctified by religious and cultural norms considers women subordinate. By reinforcing the patriarchal order, violence is allowed to be carried against them within their own homes and communities.

In the world conference against racism in Durban (2001), the discrimination against 'Dalit' community was put on the international agenda for the first time. The Hague conference on Dalit women's rights represented the next step in the struggle for the human rights and dignity of Dalit women along with the national conference on violence against Dalit women in New Delhi (2006). It was for the first time that Dalit women were able to give their testimonies to the international community and subsequently ask for its support.

In 2000, 189 countries accepted the Millennium Declaration and agreed to take the necessary action in order to attain eight specific goals: the Millennium Development Goals (MDGs). The realization of human rights of Dalit women will have a major positive effect on the realisation of the MDGs.

While presenting the Union Budget 2020-21 on 1st February, 2020 by the Ministry of Finance, the aim was set to bridge the development gap between Scheduled Caste and Scheduled Tribe with the rest of the population. BJP government stressed on the principle of inclusive growth and has assured development throughout the country. The allocation for Scheduled Caste stands at Rs.83,257 Cr and Rs.53,653 Cr for the Scheduled Tribes. 323 schemes for SC and 331 schemes for ST have been allocated for the welfare of Scheduled Castes (AWSC) & Allocation for Welfare of Scheduled Tribes (AWST) respectively.⁵⁸

The atrocities faced by women in 2018⁵⁹:

Serial No.	State	Murder of women (Sec. 302 IPC)	Assault on Adult Women with Intent to Outrage her Modesty (Sec. 354 IPC)
1	Andhra Pradesh	34	83

⁵⁷ Dalit Women Speak Out: Violence Against Dalit Women in India. Aloysius Irudayam, Jayshree Mangubhai, Joel Lee

⁵⁸ Dalit Adivasi Budget Analysis, 2020-21

⁵⁹ NCRB, 2018

2	Bihar	84	0
3	Gujarat	25	38
4	Haryana	54	48
5	Karnataka	36	128
6	Kerala	8	92
7	Madhya Pradesh	83	349
8	Maharashtra	52	128
9	Odisha	19	45
10	Punjab	13	7
11	Rajasthan	71	192
12	Tamil Nadu	45	11
13	Telangana	28	40
14	Uttar Pradesh	232	276

X. CONCLUSION

“In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognising the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up”⁶⁰: Dr. B.R. Ambedkar.

The caste system in India has given rise to many disabilities which have further resulted in perilous social consequences. Most people belonging from Scheduled Castes and Scheduled Tribes community do not have any information or awareness about their rights and privileges

⁶⁰ Dr. B.R. Ambedkar in 1949 during the Third Reading of the Indian Constitution

under the Constitution of India and the special law. The dignity, self-respect and right to development of Scheduled Castes/ Scheduled Tribes are threatened on an hourly basis. Be it legal process or law enforcement machineries; they are let down by both. Legislative tools and constitutional mandates can only go up to a point. The enforcement of such mandates and rules are crucial for securing the rights of these poor, marginalized and socially ostracized people who, after years of abuse and torture, consider themselves undeserving of justice itself.
