

**HUMAN RIGHTS AND CASTE VIOLENCE IN ANDHRA  
PRADESH: THE WORKING OF SCHEDULED CASTES  
AND SCHEDULED TRIBES (PREVENTION OF  
ATROCITIES) ACT, 1989**

**DOCTOR OF PHILOSOPHY  
IN  
POLITICAL SCIENCE**

**BY  
G. N. SUBBARAO**



**DEPARTMENT OF POLITICAL SCIENCE  
SCHOOL OF SOCIAL SCIENCE  
UNIVERSITY OF HYDERABAD  
HYDERABAD- 500046  
INDIA**

**2014**

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**A thesis submitted to the University of Hyderabad in the fulfillment  
of the requirements for the award of**

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2014**

Train a child in the way he should go, and when he is old he will  
not turn from it. Proverbs 22:6

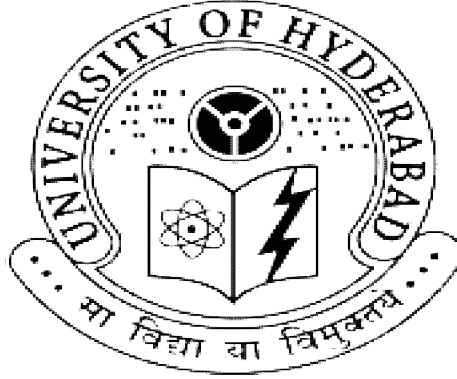
**THIS THESIS IS DEDICATED TO**

**MY**

**BELOVED PARENTS**

**GOPE VEERA SWAMY & VARAHALU**

The most beautiful thing in this world is  
to see your parents smiling and knowing  
that you are the reason behind that smile



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**Declaration**

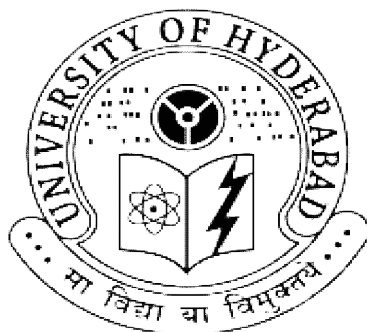
I here by declare that the research work embodied in the present thesis entitled **“HUMAN RIGHTS AND CASTE VIOLENCE IN ANDHRA PRADESH: THE WORKING OF SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989”** is an original research work carried out by me under the supervision of **ASSOCIATE PROFESSOR K. Y. RARNAM**, Department of Political Science of the University of Hyderabad. This thesis or a part there of has not been submitted for the award of research degree or Diploma to this or any other University or institution.

**Date :**

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**Place : Hyderabad**

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**DEPARTMENT OF POLITICAL SCIENCE**  
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**Certificate**

This is to certify that G.N.SUBBARAO of Ph.D in the Department of Political Science, has carried out the research embodied in the present thesis entitled **“HUMAN RIGHTS AND CASTE VIOLENCE IN ANDHRA PRADESH: THE WORKING OF SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989”** for the degree of philosophy in Political Science under my supervision during academic year 2005-2008. This thesis or a part there of has not been submitted for the award of research degree or Diploma to this or any other University or institution.

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SUBBARAO.G.N.

## Glossary

<b>ATROCITIES ACT</b>	: The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
<b>ATROCITIES RULES</b>	: The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995.
<b>BACKWARD CASTES</b>	: those whose ritual rank and occupational status are above "untouchables" but who themselves remain socially and economically depressed. Also referred to as Other Backward Classes (OBCs) or Shudras (who constitute the fourth major caste category in the caste system).
<b>BHANGIS</b>	: a Dalit community of manual scavengers in Gujarat.
<b>BHUMIHAR</b>	: a powerful upper-caste community in Bihar.
<b>BILL HOOK</b>	: an agricultural tool with a hooked blade.
<b>BJP</b>	: Bharatiya Janata Party, head of India's current coalition government.
<b>Caste Hindus</b>	: those falling within the caste system, or all non-Dalits.
<b>DALITS</b>	: literally meaning "broken" people, a term employed by rights activists to refer to "untouchables."
<b>DEVADASIS</b>	: literally meaning "servants of god," referring to those forced into temple prostitution.
<b>DGP</b>	: Deputy General of Police.
<b>DPI</b>	: Dalit Panthers of India.
<b>DSP</b>	: Deputy Superintendent of Police.
<b>FIR</b>	: The First Information Report, the first report, recorded by police, of a crime.



<b>LATHI</b>	: A police baton, frequently carried by Indian police. It is approximately one meter in length, two to five centimeters in diameter, and usually made of wood.
<b>LATHI-CHARGE</b>	: the act of charging a crowd with a baton.
<b>LOWER CASTES</b>	: those relatively lower in the caste system, including Dalits.
<b>MANUAL SCAVENGERS</b>	: see below under "safai karamcharis."
<b>NAXALITES</b>	: groups with a Marxist/Leninist/Maoist orientation engaged in a militant struggle to achieve higher wages and more equitable land distribution in Bihar and other states.
<b>NGO</b>	: Non-Governmental Organization.
<b>NHRC</b>	: The National Human Rights Commission of India.
<b>OBCs</b>	: Other Backward Classes, see above under "backward castes."
<b>PALLARS</b>	: a Dalit community in Tamil Nadu.
<b>PAKHIS</b>	: a Dalit community of manual scavengers in Andhra Pradesh.
<b>PANCHAYAT</b>	: village council.
<b>PCR ACT</b>	: Protection of Civil Rights Act, 1955.
<b>PUCL</b>	: People's Union for Civil Liberties, the country's largest civil liberties organization.
<b>PUCCA</b>	: solid, in reference to houses made of brick.
<b>PUDR</b>	: People's Union for Democratic Rights, a well-respected national human rights organization.
<b>POA, ACT</b>	: Prevention of Atrocities Act, 1989.
<b>RANVIR SENA</b>	: a private militia of upper-caste landlords in Bihar.
<b>RESERVATIONS</b>	: quotas for various lower castes allowing for increased representation in education, government jobs, and political bodies (provided as compensation for past mistreatment).

<b>SAFAI KARAMCHARIS</b>	: cleaning workers or manual scavengers engaged in, or employed for, manually carrying human excreta or any sanitation work.
<b>SCHEDULED CASTES</b>	: a list of socially deprived ("untouchable") castes prepared by the British Government in 1935. The schedule of castes was intended to increase representation of scheduled-caste members in the legislature, in government employment, and in university placement. The term is also used in the constitution and various laws.
<b>SCHEDULED TRIBES</b>	: a list of indigenous tribal populations who are entitled to much of the same compensatory treatment as scheduled castes.
<b>SHRC</b>	: State Human Rights Commission.
<b>SIKKALIARS</b>	: a Dalit community of manual scavengers in Tamil Nadu.
<b>SP</b>	: Superintendent of Police
<b>SRPF</b>	: State Reserve Police Force, an armed branch of the police that is called in during times of emergency.
<b>TADA</b>	: Terrorism and Anti-Disruptive Activities Act.
<b>THEVARs</b>	: a powerful "backward caste" in Tamil Nadu.
<b>"UNTOUCHABILITY"</b>	: the imposition of social disabilities on persons by reason of their birth in certain castes.
<b>"UNTOUCHABLES"</b>	: those at the bottom of or falling outside the caste system. Administrative parlance now employs the term "scheduled castes" while rights activists and the population more generally employ the term "Dalits."
<b>UPPER CASTES</b>	: technically those occupying the first three major caste categories (thereby excluding the backward castes). Those interviewed for this report; however, often use the term to refer to all non-Dalit Hindus.

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## CHAPTER-I

# INTRODUCTION

India, the world's largest democracy, even after more than six decades of establishment of the 'Republic', remains at risk of not only denying right to life and dignity but also systematically violating the human rights of Dalits, the principal victims of caste system. Caste system in its hierarchical structure offers a glaring example of violation of Dalits' rights through centuries of hegemony, oppression and exploitation. The Caste is an un-natural division of Hindu society based on politico-religious ideological doctrine called *Karma*. Caste is specific to Indian society; it is an institutionalized inequality and indignity. Caste is a graded inequality with elevation for some and degradation for others. Untouchability is the part and parcel of the caste structure. Untouchability is the manifest of caste practice in terms of purity and pollution. Caste system and untouchability both constitute social and economic exploitation and cultural discrimination, which are worse than slavery. Caste and untouchability are the significant markers of the denial of human rights and dignity of Dalits or the Scheduled Castes in India.

There are social economical and political reasons for history of oppression and atrocities against Dalits. Nowhere in the history of humankind is there any system like as we possess it in India. This caste system alone has created a section of sub-human beings in this country in the form of Dalits, whose human rights have been trampled systematically for ages. These are the greatest witness how Dalits are being violated and exploited in rural and urban India. Atrocities against Dalits are not a new phenomenon. They are established techniques adopted by the dominant castes to reinforce their power and to assert their superior status. The whole phenomena have a greater significance as it generally occurs when upper castes feel threatened that the status quo is being challenged by Dalits seeking basic human rights and equality.

## Different Nomenclature of Dalits:

Dalits, literally meaning “Broken People” or “Oppressed”, is the lowest members of the Hindu caste system in India. The caste system is a Hindu hierarchical class structure with roots in India dating back thousands of years. In descending order, the caste system is considered of Brahmins (Priests), Kshyatriyas (Warriors), Vaisyas (Farmers), Shudras (labourer-artisans), and the Dalits, who are considered so polluted, are beyond caste. The word ‘Dalit’ is derived from Sanskrit root ‘dal’ which means, ‘to break’ or ‘broken and downtrodden’. The clusters of epithets include *outcastes*, *exterior castes*, *depressed classes*, *untouchables*, *ex-untouchables*. Mahatma Gandhi called them *Harijan*, the children of God. Religious books of the Hindus called them Sudras; Ambedkar called them “Depressed Classes”. The Government of India officially calls them “Scheduled Castes.”<sup>1</sup> Historically, the caste system entailed a life of degradation for Dalits. For instance, Dalits undertook occupations that the rest of Indian society found ritually polluting, such as handling carcasses, disposing human waste, sweeping streets, or cobbling (considered degrading because of its association with feet and leather).

Dalits also received ill treatment from members of higher castes and were placed at the bottom of the social hierarchy. It was the toils, tears and labor of the Dalits that made possible the very existence and continuation of the Brahmanical system. Never recognized as full human beings, they were denied access to material, cultural and spiritual resources. They were also deprived of their dignity, selfhood and rights. B. R. Ambedkar says that, “Caste killed public spirit and caste has made public opinion impossible. A Hindu’s public is his caste. The responsibility of the Hindu is only to his caste. His loyalty is restricted only to his caste. Virtue has become caste-ridden and morality has become caste-bound.”<sup>2</sup> Because of these caste restrictions,

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<sup>1</sup> Devakumar, J. 2007, *Social Scientist*, vol. 35/Nos 11-12 November-December.

<sup>2</sup> Ramaiah.A., “ *Laws for Dalits Rights and Dignity*” Rawat publication, jaipur, 2007, p.2

Untouchables were barred entirely from temples, and sometimes were not even allowed to set foot on Temple grounds. People that violated social norms could be punished by being made "untouchables."

Untouchability in India has a history and it defines how caste has evolved through the ages. Caste and social status have always been quite puzzling. "Untouchability means polluted by the touch of certain persons by reason of their birth in a particular caste or family. It leads to defilement, pollution and contamination. It is believed that the practice of untouchability is peculiar to the Hindu society. Untouchability is a social concept that has become embodied in customs. And as customs differ, so does untouchability. The classes, which are commonly regarded, as untouchables are Chamars, Bunt, Dom, Halalkor, Hari, Mochi, Mushahar. Although they were outside the pale of Hindu society, which recognizes only four classes namely, *Brahmanas*, *Kshatriyas*, *Vaishyas* and *Shudras*, were reckoned as part of the Hindu society for political purposes."<sup>3</sup> Before the Indian constitution that abolished untouchability in 1950, the untouchables were divided into three categories namely untouchables, unapproachable and unseenable. The untouchables had different names in different parts of the country. Their touch and even voice were deemed by the Hindus to be polluting. So they had to clear the way at the approach of a caste Hindu.<sup>4</sup>

This was not the lowest caste - they and their descendants were completely outside of the caste system. The Untouchables were considered so impure that any contact with them by a caste member would contaminate the other person. The caste-person would have to bathe and wash his or her clothes immediately. Untouchables could not even eat in the same room as caste members. The untouchables did work that no-one else would do, like scavenging animal carcasses, leather-work, or killing rats and other pests. They could not be cremated when they died. Untouchability is practiced in a number of forms in rural India. At the village level Dalits are sometimes barred from using wells used by non Dalits. They are forbidden from

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<sup>3</sup> Dhananjay Keer. *Dr. Ambedkar: Life and Mission* (Bombay: Popular Prakashan, 1995), p.1.

<sup>4</sup> *Ibid.*, p.1.



going to the barber shop and entering temples, while at the level of job recruitment and employment many Dalits are known to be paid less, ordered to do the most menial work.

## Caste, Untouchability and Dalits:

The origin of the caste system is highly debated among scholars. The notion of Indian class divisions first appeared in the Vedas, the ancient spiritual texts upon which Hinduism is based. According to the Vedas, a social order emerged at creation from the body of Purusha, or primitive man: Brahmins from his head; Kshatriyas from his arms; Vaisyas from his thighs; and the Shudras from his feet. All members of Purusha's body represented the necessary parts of a functioning society. How the Vedic social order evolved into the more rigid Indian caste system is unclear. From 3000 B.C onwards the caste system has survived in India. The oldest document of Rig-Veda says the origin of caste system depended on "Purusha-Sukta." A defining feature of Hinduism, caste encompasses a complex ordering of social groups on the basis of ritual purity. A person is considered a member of the caste into which he or she is born and remains within that caste until death, although the particular ranking of that caste may vary among regions and over time.

The origin of the Caste and Untouchability is a complicated theme. And according to other references, the Indian caste system is the world's longest surviving social hierarchy.<sup>5</sup> A defining feature of Hinduism, caste encompasses a complex ordering of social groups on the basis of ritual purity. A person is considered a member of the caste into which he or she is born and remains within that caste until death, although the particular ranking of that caste may vary among regions and over time. Differences in status are traditionally justified by the religious doctrine of karma, a belief that one's place in life is determined by one's deeds in previous lifetimes.

In course of time, when the Aryans, having grown in overwhelming numbers, scattered and colonized throughout the whole of Aryavarta. They divided themselves

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<sup>5</sup> Umesh Bhatt., *Dalits: From Marginalisation to Mainstream*, Vista International publishing House, New Delhi, 2005, p. 142.

into four divisions according to their different qualities (guna) and actions (karmas) in order to organize their society and set it upon sound basis. This four-fold division has been a pre-dominant feature of Hindu social fabric.”<sup>6</sup> Historically, caste and untouchability were the social outgrowth of the Aryan conquest of India. In the process of social interaction, a section of the original occupied population was incorporated into the Aryan fold. The most backward and despised section of this incorporated population, it appears, constituted the traditional caste of untouchables. But many read a kind of caste structure with four Varna’s in the Rigveda, in its *Purusha Sukta* as an essential part of the *Rigveda*, it is certain that functional division of society was known at the time of the Rigveda.

Subsequently untouchability as we now understood it seems to be non-existent during the Vedic period. The reference about Four-Varnas which we find in *Purusha Sukta* of *Rigveda* does not necessarily suggest the Brahminical supremacy over the three other Varna’s. It rather suggests that all the four groups are equally important for the preservation of total human race or purusjati. Head, hand, thigh, leg, etc., are all vital aspects of human physiology and a balanced composition of all these is clearly necessary for the continuance of man. Untouchability is for the most illicit of the system of caste, and caste in its turn, is the unlawful child of the concept of Varna. But, in the absence of any historical evidence, it is difficult to say with any precision or finality as to when the three or four Varna’s or occupational divisions of society into Brahman, Kshatriya, Vaishya and Sudra came to be multiplied into numerous castes. In post-Vedic times society was clearly divided into four Varna’s. Each Varna was assigned with well-defined functions, although it was emphasized that Varna was based on birth and the two higher Varna’s were given special rights. The first three Varna’s were dvijas or the twice-born, were entitled to wearing sacred thread and studying Vedas and the Sudras did not possess any such rights.

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<sup>6</sup> Prakash Desai., *Between the tradition and Modernity: Bioethics, Vulnerabilities and Social Change*, Studio Bioethica- vol.4 (2011), n.2, p. 24.

This Varna divided society with the concept of special privilege which gave rise to tensions. The Kshatriyas, who acted as rulers, however, reacted strongly against the ritualistic domination of the Brahmins and seems to have led a kind of protest movement against the importance attached to birth in the Varna system. The Kshatriya reaction against the domination of the priestly class called Brahmins, who claimed various privileges, was one of the causes of the origin of new religious sects of Hinduism such as Jainism and Buddhism. Jainism did not condemn the Varna system. The Buddhism has significant impact on society by keeping its doors open to women and Sudras. Since both were placed in the same category by Brahmanism, they were neither given holy line nor allowed to read the Vedas. Conversion to Buddhism freed the Sudras from marks of inferiority. But neither Jainism nor Buddhism could make any important change in the religious orders, and their general position continued to be low. Step by step as the Hindu Varna system grew fashionable, strong and strict measures were adopted to enforce it. Social intercourse and inter-caste marriages were prohibited. Society became stringently endogamous and was divided into water-tight compartments. Those who violated the law of endogamy were ex-communicated and were forced to live outside the community. In effect they had no option other than the low and degrading occupations.

## Review of Literature

The issues of human rights, caste violence, Dalits rights have the profound historical importance in the human endeavour of reconstructing society on egalitarian principles. There is an enormous amount of literature on the above issues in India and Andhra Pradesh in specific. Further there is no unanimity among the scholars and intellectuals on the question of human rights and Dalit rights and caste violence and how they are interlinked or differ each other in terms of violation of Dalits rights in India.

Gopal Guru (1997) while inquiring into the human rights discourse from Dalit point of view raises fundamental philosophical and theatrical debates relating to the Dalits

rights. He says that Dalit perspective on the human right conception differs from the other traditional views. According to Guru, the human rights particularly of the Dalits need to be understood not in terms of the individualist idea but in terms of collectivity. He says that “the collectivist idea of human rights with particular reference to Dalit can also be substantiated when one tries to understand the collective implication of an individual act of human rights violation of the Dalit. In other words, the human rights are denied to Dalits because of their group character. To put it more bluntly, the resistance to the violation of human right by one single Dalit has always been endangering the life and limb of the entire Dalit community”.<sup>7</sup> Guru says that the violation of Dalit human rights are both physical and psychological which is perpetrated both by the Hindutva forces and the state through an element of fascist ideology of untouchability which is based on the line of purity and pollution and discrimination against the Dalits.<sup>8</sup>

Sankaran, S. R (2000) argues that the Indian Constitution is quest for a just and equitable society. According to him, Constitutional perspective on the human rights of Dalits combines both the positive notion of rights guaranteed through the state and law and the notion of natural rights. “It includes horizontal rights applicable to all citizens and vertical rights to enhance the life chances of vulnerable groups.”<sup>9</sup> The basic human rights of Dalits are not only material needs but non-material needs such as the right to live with freedom, human dignity and self-respect. Indian Constitution is a design for a new society based on the principle of equality and human dignity. He says that, the Dalits who constitute a substantial section of the Indian population suffer from varying degree of unfreedom and denial of human dignity. Sankaran expresses his optimism that the Constitutional safeguards and mandates in the Chapters on Fundamental Rights and Directive Principles of the Indian Constitution seek to remedy and rectify these inequalities. Thus, according to

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<sup>7</sup> Gopal Guru, “Human Rights and the Dalits-An inquiry into the Human rights Discourse in India”, *Indian Journal of Human Rights*, Vol1, No.1, Jan-June, 1997.

<sup>8</sup> Ibid.

<sup>9</sup> Sankaran, S.R., “Fifty years of the Indian Constitution - Human Rights of Dalits”, *Indian Journal of Human Rights*, Vol. 4, No.1&2, Jan-Dec. 2000.

him, the Indian Constitution is design for a new society based on the principle of equality and human dignity.<sup>10</sup>

Sukhadeo Thorat (2000) taking up United Nations human rights framework to understand the Dalits (ex-untouchables) in India discusses that how the Hindu religious and social order particularly its main pillar, the caste system and untouchability in its original and classical form comes indirect conflict with universal human rights framework. He says that, the societal situation where the religious and the social system directly conflict with universal rights and becomes the cause of ubiquitous human rights violations.<sup>11</sup> He emphasizes that “despite the provisions of legal measures, the presence and the continuation of antagonistic socio-religious culture makes the enforcement of human rights (by the various wings of the state) difficult if not impossible even in selected social, religious, political and economic relations, where the legal protection by the state exists.”<sup>12</sup> This statement has been explained with evidence of micro level and macro level studies across the Indian regions where the Dalits rights were violated for various reasons. The study concludes that “the reasons for this widespread violation of human rights of former untouchables in all spheres of human relations in Indian society are to be found in the continuation of the Hindu social order, namely the institution of the caste system and untouchability (although in modified form) and the supportive role of religious ideology, which is based on the doctrine of “inequality.”<sup>13</sup>

Ramaiah. A (2007) study is based on the empirical data collected from various sources to understand the efficacy of the Protection of Civil Rights Act of 1976 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. This study is located in three districts of the southern Tamil Nadu, focusing primarily on the operation, effectiveness and ineffectiveness of these two historical Acts which are mainly meant to protect the Dalits rights in Indian society. Study suggests that effective administrative mechanisms must be evolved at the Central

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<sup>10</sup> Ibid.

<sup>11</sup> Sukhadeo Thorat, (2000) “Human rights of Ex-untouchables in India: Violations and Enforcement”, *Indian Journal of Human Rights*, Vol. 4, No.1&2, Jan-Dec. 2000.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

level with cording at the state/regional level mechanisms. Along with many loopholes in the enforcement of the Acts related to the Dalits rights the study gives important suggestions for the proper enforcement and empowerment of Dalits in the caste-ridden society. The study is highly informative and useful for the proper understanding the working of Atrocities Act at the regional level.

Kameswar Choudhary (2000) analysing the human rights violation in the state of Gujrat in Indian within the universal-legal frame work of UN, the author discuss the important provisions given in the international declaration, covenants and conventions and the human rights provisions in Indian constitution. In this study trends of violations of human rights in the case of Dalits in Gujarat have been analysed with data. Further, the study clearly “observed that the rights of Dalits to life, liberty and security of person have not been protected in the state. This is clearly reflected in the rise in case of atrocities against them. The records of the state police show that despite some fluctuations there is on the whole a rising trend of atrocities against SCs in the last two decades.”<sup>14</sup> Choudhary says that the “the nature of human rights agenda is essentially proclamational and welfarist not transformative in character...that is why there found a wide gap between the enabling legal proclamations of human rights and their actual operation in the life of the people.”<sup>15</sup>

Sagarika Ghose (2003), in this study, the author explains the various meaning of the word ‘Dalit’. The study presents various dimensions of the Dalits problems in contemporary society. Authors argues that “despite the far-reaching legislative and educational quotas for scheduled castes and scheduled tribes, and their undoubted benefits, Dalits still are savagely attacked in the rural countryside and in the urban milieu untouchability still knocks at the closed doors of such institutions as the arranged marriage, the caste Hindu temple, the classical music concert, and the

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<sup>14</sup> Kameswar Choudhary (2000), “Violation of Human Rights: The Case of Dalits in Gujarat”, *Indian Journal of Human Rights*, Vol.IV. No. 1&2.

<sup>15</sup> Ibid.

private sector. The cultural hegemony of the *dvija* remains virtually intact. Dalitness continues to exist as much as an idea as a physical reality.”<sup>16</sup>

Girdhar Behari Sharma (1975), states that “untouchability among Hindus has kept Scheduled Castes by and large segregated from the mainstream of Hindu social life.” However, in the post-independence period, “the adoption of the Constitution, the promulgation of various laws and adoption of several executive measures led to opening up of public places like wells, tanks, bathing ghats, ect, for the Dalits, but the social practice of untouchability still persists.” The author while talking in detail about the Untouchability Offences Act (UOA), 1955 and the penal provisions in it have been discussed while taking the case of Rajasthan. According to Sharma, in Rajasthan, UOA has been ‘in force ever since its enactment in 1955. He says that, owing to the socio-economic and cultural backwardness of the state, untouchability is still widely prevalent and UOA has failed to make the desired impact on the social life of the people. The research of the author shows that the number of cases registered under UOA, are challenged, convicted, acquitted, compounded and pending and there is a huge mismatch in it. Author concludes by suggesting that the implementation of UOA should be done on stricter terms. And that all cases registered under UOA should be challenged, free legal aid should be provided, system of carrying night-soil should be strictly banned, but above all there should be eradication of caste system and the superstitious values should be nullified without which actual upliftment of SCs is not possible.”<sup>17</sup>

Marc Galanter (1969) analyses the historical relation between law, caste and religion in modern India. He traces judicial response to caste from the colonial modern legal system to till the constitutional set up in the post-independence period. Courts granted restraint to members of particular castes from entering temples, even those that were open for all. Second kind of support from the courts came when members of higher castes took it to themselves to enforce their rights against lower castes and when the latter took it to the court; it supported the self-help measure of higher

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<sup>16</sup> Sagarika Ghose (2003), “The Dalits in India,” *Social Research*, Vol.70, No.1, Spring.

<sup>17</sup> Ibid., p.64.

castes. In general courts never intervened in the internal affairs of castes and hence any reformer taking steps against discrimination got severe responses from caste authorities and could not elicit any support from courts in such cases. And even though the high court would provide some support, when it came to cases at district level or courts situated in local premises, the judges were wary of their own position in the community and were actively supportive of higher caste members' discriminative actions.<sup>18</sup>

Galanter, explains how we have moved from courts supporting discrimination to enforcing abolition. Indian Constitution in 1950 through its various rights designed worked towards abolishment of untouchability and article 17 provides the same. This was further taken by the enforcement of the Untouchability Offences Act (UOA), 1955. According to Galanter, though the UOA was being processed in courts, Constitution does not have any hard and fast definition of 'untouchability' and hence many acts of such have gone pardoned. One of the constitutional challenges has been that this UOA Act is against one's religious affairs and does not allow one to carry on their occupations. Author mentions that the caste autonomy enjoyed by higher caste people through courts before independence has not changed much even after independence.<sup>19</sup>

Barbara R. Joshi (1982), in this probing study, Joshi raises important questions addressing the state and its failure to tackle the social violence against the Dalits.<sup>20</sup> Why has the state so often been unable to maintain routine law and order? What are we to make of the increasingly assertive "untouchable" who appears in many of these cases? Does the violence reflect rising class consciousness in the face of economic change or merely increased reporting of long-established caste conflicts? These are the questions raised and the author tries to link this social violence to the rising Dalit consciousness. Author raises further important questions like what is the social structure of contemporary violence. And what is the role of the state.

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<sup>18</sup> Marc Galanter, "Untouchability and Law", *Economic and Political Weekly*, Vol.4, No.1/2, January-1969.

<sup>19</sup> Ibid.

<sup>20</sup> Barbara R. Joshi, "Whose Laws, Whose Order: 'Untouchability', Social Violence and the State in India, *Asian Survey*, Vol.22, No.7, July, 1982, p.676.



According to this study, the multiplex character in which the economic and ritual have been distinctive but closely interwoven elements of untouchability status.<sup>21</sup> Author mentions how improved access to education has provided a respite, established BAMCEF publishes magazines and newspapers and reports on both rural and urban violence. The author after examining various reports questioned the reason for untouchability, whether it is the ritually defined hierarchy of purity and pollution or the socially increased conflicts of economic class. But somehow victims are always at the conjunction of both.<sup>22</sup>

The responses of the government representatives and the people's representatives have always been not so satisfactory and the repeated violence of this sort is a question mark on their efficiencies and the purpose of why they have been given those posts. The case of Dharampura killings of 1977 of more than 300 people in the after episode of untouchability. Then she moves on to Gujarat riot case of 1981, all of these cases being examples of rural violence. To show that it is not just a rural problem she pointed out the cases of Marathwada in 1978 and Gujarat in 1981 and how the violence spreads like a wildfire from city to villages.<sup>23</sup> Author finds a pattern in the violence; it spills in economically defined strata within caste categories, spread of violence from city to rural areas. And the response of governments of centre and Gujarat were based on the elections and when opposition parties raised voices, to pacify them, but none of them were actually concerned about the victims. And looking at all the factors, author has concluded that the economic and caste factors are interwoven elements in the concept of untouchability and points out the paradox how our society is least equipped for enforcing the laws and added with the indifference of public authorities against how policies exist and persist despite the best of oppositions. Author opines that there is a passionate supporter of classless change in one sphere of life often seriously resists challenges to traditional status distinction in others.<sup>24</sup>

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<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid, p.678.

<sup>24</sup> Ibid.

Deva Kumar, J (2007) says that the untouchability lives within boundaries, the boundaries are made of Hindu sacred texts known as Dharmasastras. Untouchability ceases to exist as and when these boundaries are dismantled. Caste violence is prominent since Independence and Tamil Nadu is no exception, the clashes of caste and Dalit rights violation in Tamil Nadu have been examined in this paper.<sup>25</sup> He explained six cases in detail: Karanai village and the episode of usurped land and Dalit Right Violation; clashes between thevars and pallars; Keelvenmani massacre; Violence in VSTC; the case of not being able to file a single dalit nomination from 1996 to 2002 in panchayat presidencies of pappapati, keeripatti, nattarmangalam, kottakatchiyenal; the melvalavu murder and has tabulated a numerous other cases. The author has concluded by remarking that it is really a matter of shame that even after banning untouchability, we witness such grievous incidents and that it is not the loss of life and property which is so much painful as the trauma inflicted by the attack on their existence and esteem. Author mentions that Dalits are now must organize and he found new clashes that are surfaced between Other Backward Castes and Dalits and urges that Dalits are required to fight each and every inch for gaining liberty and freedom.<sup>26</sup>

Clifford Bob (2007) analyses the Dalits efforts to transform centuries-old caste based domestic discrimination into an international human rights issue.<sup>27</sup> Bob demonstrates that the Dalits in their efforts have achieved limited but important success among transnational NGOs, international organisations, and foreign governments. For this transformation, Bob finds two important arguments. The organizational changes among the Dalit activists, according to Bob, played a major role in these successes, most importantly the formation of a unified Dalit network within India and the subsequent creation of a transnational solidarity network. Secondly, the rhetorical changes played a key role, as Dalits moved from their long-

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<sup>25</sup> DevaKumar. J., "Caste Clashes and Dalits Rights Violations in Tamil Nadu", *Social Scientist*, Vol.35, No.11/12, November – December, 2007.

<sup>26</sup> Ibid, p.52.

<sup>27</sup> Clifford Bob, "Dalits Rights are Human Rights": Caste Discrimination, International Activism, and the construction of a New Human Rights Issues", *Human Rights Quarterly*, Vol.29, No.1, February, 2007.

standing focus on caste-based discrimination to a broader framing within the more internationally acceptable terminology of discrimination based on “work and descent.”<sup>28</sup> Bob says that until late 90s, the issue of untouchability was not even recognized as a human rights issue by UN or NGOs even though the population affected by it is so large in number, 160 million. Outside India, 90 million people are abused in a similar way, says the author, and much of this is concentrated in South Asian countries.<sup>29</sup>

The recognition that the ‘untouchability’ is similar to other kinds of discrimination based on class and status observed everywhere else. This transformed the issue into a human right issue. Author showed that discrimination issue is a human right issue and the seriousness of it is reflected by the international covenants like Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and Dalits have used this language as a basis to prove their point.<sup>30</sup>

The Early activism started with forming organizations for the support of Dalits, like Chennai based Dalit Liberation Education Trust, Volunteers in Service to India’s Oppressed and Neglected (VISION) based in Washington, D.C, the Ambedkar Centre for Justice and Peace (ACJP) of Toronto, London based Minority Rights Group (MRG), Human Rights Watch (HRW) and India based National Campaign on Dalit Human Rights (NCDHR).<sup>31</sup> This was a credible step as the media campaigns and access to governmental institutions has given a huge support to the issue. For years, it took time to get NGOs to see Dalit issues as worth fighting, and once national cognizance has been achieved, they progressed to writing appeal to international bodies and Dalit activists were able to present their case before a variety of international bodies who characterized the Dalit’s state as the same as that

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<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

of Jewish people in the reign of Hitler. Other pleas were made at Osaka's conference against discrimination in 1982, in 1984 at Nairobi conference on religion and peace, Vienna conference in 1993, Beijing's conference on women's rights, UN commission on human rights and others. In 1998, an international convention of Dalits was organized in Kuala Lumpur and then in 2000 International Dalit Solidarity Network (IDSN) was established. They were even able to gain the support of World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance (WCAR) a major international conference in Durban, South Africa. The author concludes by mentioning that Dalits succeeded by being able to organize themselves and by adapting their cause to the needs of international actors, lobbying and consciousness-raising. And though much remains to be done, a lot of progress has been done on the international stage and all the evils of caste-based discrimination, rights of people are better known to people than before.<sup>32</sup>

Ambrose Pinto (2002) says that the Dalits have taken their cause to the UN World conference on racism held in Durban, 2001 with the support of some international human rights organizations. They lost their battle there owing to lack of support from government but that defeat and the publicity their campaign received, they have achieved their purpose.<sup>33</sup> The UN strongly condemned the caste practice, and also all analogous systems of inherited status as violation of human rights. For the 260 million Dalits, this was a huge step towards taking the cause further.<sup>34</sup> Author discussed about recommendations of CERD which are to formulate a national strategy, to resolutely implement legislation, to educate general public about it. Protection of women against exploitation included considering all plans implemented, all programs and weigh them against all kinds of discrimination against them, and to take measures in order to eliminate multiple discrimination. The administrative recommendations included relevant judicial actions and official actions, prosecution of person who commit such crimes, and to organize training programs for public officials and law-enforcement agencies. The author recommends

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<sup>32</sup> Ibid.

<sup>33</sup> Ambrose Pinto, "Caste Discrimination and UN", *Economic and Political Weekly*, Vol.37, No.39, September 28- October-4, 2002.

<sup>34</sup> Ibid.

taking all the recommendations into consideration to eliminate discrimination on a serious note.<sup>35</sup>

Gopal Guru (1991)<sup>36</sup> was focuses on the aspect that Dalits are reacting sharply to the atrocities and are not quiet anymore and pulls out the killings in Marathwada to emphasize the point. A Dalit reaction in Maharashtra to the upper caste violence is varied. In another episode in Gothala village of the Marathwada, owing to land issues again, Dalit families was stoned to death by a mob of 100 and were dragged for more than 200 feet before throwing them in chawadi. All these incidents, small and big involve the low castes and high castes and the land disputes and right distributions as the central point. Focusing on caste violence in Karnataka,<sup>37</sup> an author mention the Kambalapalli incident and says that it signifies changing nature of caste politics and that there is a vertical split within Dalits politics because of new forms of identity formation. They compare it with Andhra Pradesh where the debate on reservation has led to split between Malas and Madigas. There is a shift in contradictions in Karnataka, as till 1970s the clash was centred on upper caste and dominant caste, then it shifted to dominant caste and Dalits. In Karnataka, it further shifted to being a clash between a dominant caste and a sect of Dalits. The Reddys versus Holeyas was, interestingly, overlooked by Madigas. This atrocity has once again brought into picture, the need of solidarity among Dalits politics.

Bala Gopal. K (1985), in his write up on the atrocity of Karamchedu in Andhra Pradesh, states that most of the wealth is concentrated in the hands of a few Kamma landlord families. The Malas and Madigas of the village own no land, majority of them are 'palerus'(Bonded labour) and a few of them depend entirely upon leasing in or laboring upon the land of the peasants or landlords. With the landlord class backing the Telugu Desam Party and its allies (CPI, CPI [M], BJP, etc.) and the Harijans, the Congress (I) the violence on the rural poor increased and took the form of electoral conflict. In Karamchedu, the massacre (unprecedented degree of

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<sup>35</sup> Ibid.

<sup>36</sup> Gopal Guru, "Dalits Killings in Marathwada", *Economic and Political Weekly*, Vol.26, No.51, December, 1991, p.2926.

<sup>37</sup> Muzaffar Assadi and S Rajendran, " Changing Shape of Caste Conflict", *Economic and Political Weekly*, Vol.35, No.19, May, 2000, p.1610.

brutality), which precipitated with the Dalits defying the landlords and voting for the Congress (I). That conflict merely added some more heat to the cauldron.<sup>38</sup> The author further laments those politicians made capital out of this brutality, especially considering that the Chief Minister's own people are probably involved in it.

Narasimha Reddy. D (1985), study on Karamchedu in Andhra Pradesh says that the exposure of the Dalits to wider winds of social change is regarded as a direct threat to the Kamma dominance. The atrocities he attributes to the relentless dependence of the weaker sections not only as wage laborers and tenants, cultivators, but also for the collection of firewood and grazing of cattle perpetrates the unabated ill-treatment. In 1982, when Malas were attacked, the Madigas sheltered them. Since then, the Kammas have cast a jaundiced eye on the Madigas and wanted to teach them a lesson.<sup>39</sup> The victory of the 1985 assembly election found enough political clout to complete their conspiracy. In this write up, it is interesting to note the Kamma self-images, which were recorded by the author in due course of his discussion with the Karamchedu Kammas. "Nobody can defy a Karamchedu Kamma and get away with it", says a Kamma youth very proudly.<sup>40</sup> "All top educationalists, industrialists, technologists, even film stars are our people. Our people are the finest doctors and scientists, even in America".<sup>41</sup> All that, the author says, is the "recent political changes in the state had brought the Karamchedu Kammas even closer to the centers of political power."<sup>42</sup>

The simple act of raising a protest by Dalit boy against a Kamma youth and the interference by the young Dalit woman was seen as a blatant challenge to the authority of the Kamma community. Karamchedu massacre cannot be viewed as an isolated and unique instance of atrocity. The magnitude and intensity of violence is due to the wealth and the political clout of the Kammas but the patterns woven

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<sup>38</sup> Bala Gopal. K., "Karamchedu Killings: The NTR Phenomenon", *Economic and Political Weekly*, Vol. 54, August 20, 1985.

<sup>39</sup> Narasimha Reddy, D., "Karamchedu: Dialectics without Development", *Economic and Political Weekly*, Vol. 54, September 14, 1985.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

around July 17, 1985 are similar to those elsewhere.<sup>43</sup> The social fabric of the Indian countryside has evolved itself into a strange amalgam of feudal texture with modern colors. The elements of capitalist penetration are only helping to sharpen the cutting edge of feudal forms of authority, while political rhetoric is replete with the scenarios of equality, equity and castelessness; social reality is replete with repression and ever strong perpetration of the caste order. As the political and economic domination of the upper castes increases, the consciousness of the oppressed too increases and meets finally with carnage.<sup>44</sup>

Balagopal. K (1991), giving a graphic account of Chundur massacre, which caught the whole nation's attention due to the magnitude of the massacre, yet another one in Coastal Andhra, Balagopal, Activist-Advocate of Andhra Pradesh High Court, in his article, "Chundur and Other Chundur"<sup>45</sup>, opines that Chundur happened not because the Dalits of Guntur are more oppressed than elsewhere, but precisely because they have fought oppression and have put themselves on an unrelenting path of social and economic advancement and political autonomy. Malas and Madigas of these districts are better educated assertive and identified consciously than other Dalit communities there or elsewhere.<sup>46</sup> More significantly, the younger generation started rejecting the social and political subordination to the forward castes and the Dalits, and as a consequence, it also has started rejecting the submission to one or the other of the ruling class parties – a submission that was structured through the traditional caste-domination. It is this advancement in all round assertion that the forward castes find so intolerable, leading to assaults such as Karamchedu and Chundur, and yet, this is the reason why the assaults attract considerable attention and protest. Indicating the height of Dalit assertion, he says, "The Dalits of Chundur courageously and steadfastly set a new trend of agitation and protest by way of rejecting the

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<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Bala Gopal, K., "Chundur and Post-Chundur", *Economic and Political Weekly*, Vol. XXI, October 1991.

<sup>46</sup> Ibid.

hypocritical overtures of the ruling party, as well as the theatrics of the dissident Congressmen and the opposition leaders.”<sup>47</sup>

Smita Narula (2008) in this, the author takes a critical race perspective to study the Dalit human rights. She says that “Dalit rights are Human Rights” is not a self-fulfilling prophecy but on that can galvanize a project of social transformation so long as it does not restrict itself to the constraints of the legal and moral regime in which this struggle now lives.”<sup>48</sup> The study is divided into six parts, the part one raise the question that how and why the centuries old oppression based on caste discrimination, inequality, and oppression comfortably survive and even thrive in modern India. This situates caste in a global context, particularly in the context of debates around affirmative action, racial inequality, and racial justice in the United States are discussed in the second part and presents overview of the caste system and caste-based discrimination and inequality in Indian today, paying specific attention to the intersection of caste and gender-based discrimination. In part three, Indian policies for redressing caste discrimination against Dalits, overview of constitutional provisions and protective legislations aimed at abolishing Untouchability, the study says that despite formal protections in law, discriminatory treatment remains endemic and discriminatory societal norms continue to be reinforced by the government and private structures often through violent means. In part four, the study argues that India’s law enforcement machinery enforces the rules of the caste system, and not the rule of law. Further it argues that casteism as a form of corruption and violence and as a mechanism to entrench caste rules comes together to effectively trumps any adherence to the rule of law. The study argues that human rights actors must be scrutinized for paying insufficient attention to the dismantling of the caste based hierarchical mindset.<sup>49</sup>

Debi Chatterjee (2011) argues that caste-based discrimination did not figure in the United Nations human rights discourse till the late 1990s. The study discusses the

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<sup>47</sup> Ibid.

<sup>48</sup> Smita Narula, “Equal by Law, unequal by Caste: The “Untouchable” Condition in Critical Race Perspective, 26 Wisconsin International Law Journal, 255, 2008.

<sup>49</sup> Ibid.



caste based social scenario in India and status of Dalits in contemporary India. She argues that despite difficulties which plague the human rights discourse, the importance of standard setting and codification attempts at the international level have undoubtedly had positive results. The study discusses various issues relating to the Dalit women rights within the discourse of human rights, Dalit working children and Dalits struggles for social justice and Dalits efforts to internationalization of Dalit issues and at the United Nations have been discussed in the study.<sup>50</sup>

Harsh Mandir (2002) says that the Dalits, in contemporary India, bear the anguished burden of a long unbroken legacy of the deepest social degradation. Whereas, they usually fall at the bottom of almost any parameter relating to economic well-being or quality of life. The distinct burden that only they bear among all underprivileged groups in India is the degradation of centuries old tradition of untouchability.<sup>51</sup> Mandir, focuses on the findings from the empirical study conducted by the National Commission for Scheduled Castes and Scheduled Tribes, April 1990. According to him, the Commission undertook a sample study in seven states of Bihar, Madhya Pradesh, Maharashtra, Rajasthan, Andhra Pradesh, Tamil Nadu, Karnataka and Kerala and found that untouchability was prevalent in all these states.<sup>52</sup>

The Commission found discrimination against in the matter of participation in social ceremonies; discrimination in sittings at village chaupals and gram sabhas existed. Discrimination in educational institutions, public health centers, use of utensils meant for general public existed. They were discriminated against in the use of public cremation/burial grounds, public passages, etc. The upshot of the inquiry is that untouchability is strong in the religious and the domestic sphere. It is less strong and is weakening in the occupational sphere and it is not a problem in the public sphere.<sup>53</sup>

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<sup>50</sup> Debi Chatterjee, *Dalit Rights/ Human Rights*, Rawat Publications, New Delhi, 2011.

<sup>51</sup> Mandir Harsh, "Dalit Status and Agenda for State Intervention", edited by Ghanshyam. Shah, *Dalits and State*, Published for Centre for Rural Studies, Lal Bahadur Sastri, National Academy, Administration, Mussoorie, op. cit, pp. 101-123.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

G. Haragopal and B. Chandrasekhar Rao (2000) argued that the reform movements did not make a serious dent on the problem of caste. The revolutionary uprising of the oppressed was often either neutralized or negated through a counter revolution, though it took centuries and articulate their demands for dignity and self-respect.<sup>54</sup> However, in the recent past, the assertion of dignity is more evident.<sup>55</sup> Historicizing Dalit assertion in Andhra Pradesh, the authors claims that growing consciousness and Dalit assertion in Andhra Pradesh started from the beginning of the 20<sup>th</sup> century.<sup>56</sup> Although the assertion of the Dalits was non-violent, it did encounter violent retaliation from the upper castes. For, the upper caste consciousness did not undergo any noticeable change in spite of a change in the agrarian context. This adamancy of the upper castes accounts for their violence against the changing and growing consciousness of the Dalits.<sup>57</sup>

According to the authors, given the context of consciousness identities and assertion, the political elites are losing their votes; they are not only resorting to violence, but to new forms of manipulation.<sup>58</sup> The new forms that included, rigging has become a growing consciousness at one point and feudalization at another point which has given rise to increasing atrocities and violence of the upper strata of the Dalits. The carnage in Karamchedu, Chundur and Vempenta are a standing testimony to this deteriorating context.<sup>59</sup> Increasing assertion of dignity and social equality was more in the socio-cultural domain than economic. Quite often, the demand for better treatment and dignified existence constitute a major area of concern. In Karamchedu, it started with the protest that buffalo should not be cleaned in a drinking water pond of Dalits. In Chundur, the upper castes were sore that the Dalits were better dressed and better educated. In many instances, the demands include right to take a marriage procession through the main streets of the village or a boy or girl getting married with upper caste spouse and so on. These are all a part of the

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<sup>54</sup> Haragopal, G. and Chandrashekhar Rao, "Dalit Consciousness in Andhra: A Hypothesis", *Indian Journal of Human Rights*, Vol. 4, No. 142, January-December 2000.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

self-respect movement.<sup>60</sup> They, therefore, conclude that as the consciousness has been growing, the atrocities are also growing. Although the violence is increasing, it is not leading to greater solidarity of the Dalits and other oppressed groups, but to the fracturing of consciousness, indicative of underdevelopment of consciousness.<sup>61</sup>

## OBJECTIVES OF THE STUDY

Dalits in India always have been marginalized, exploited and oppressed. India is one of the countries where the human rights of the Dalits are violated the most. Dalits are denied their basic rights over the six and half decades of Independence. The Dalits are still prohibited from taking the water from the dominant caste colonies because of the practice of untouchability which has not vanished in the rural setting of Andhra Pradesh. The primary objective of the study is to explore the various factors responsible for caste and untouchability atrocities, discrimination, and basic human rights violation against Dalits in Andhra Pradesh. This study focuses on the Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989. Mainly the study focuses on the necessity to enact this kind of law by the government of India, why earlier passed laws and Acts were ineffective, why they failed to deal with the crime against the Dalits, further, the historical backgrounds of the POA Act, 1989, the implementation and enforcement of Act, whether the Act is really protecting the Dalits rights. To examine the working of the Act aim is also to know the role of the legislative, the executive, the judiciary in the implementation of the Act.

The following secondary objectives have been undertaken to study the human rights violation of Dalits and the working of POA, Act, 1989 in the Andhra Pradesh:

- To understand the historical background of the social exclusion, atrocities and discrimination against the Dalits in Andhra Pradesh.

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<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

- To review the various constitutional safeguards introduced in favor of SC's /ST's in Pre and post independence India. How they worked and why they failed to deal with the crime against the Dalits.
- To examine various steps taken by the government to prevent and protect the rights of the SC's and ST's communities.
- To find-out the level of legal awareness among the people belonging to SC's and ST's
- To identify factors responsible for high level of acquittal in untouchability and atrocity cases under the PCR Act, 1955 and POA Act, 1989.
- To examine the implementation of the act and to assess the satisfaction level of Act among the victims of working of the Act.
- To identify factors responsible for acquitted in untouchability and atrocity cases from the experiences of the Dalit victims, their witnesses and others who had sought justice through the special laws.

## METHODOLOGY AND SOURCES OF DATA

Present study is focusing on Human rights violation on Dalits and the working of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, 1989 in Andhra Pradesh: Coastal Andhra, Rayalaseema and Telangana regions. Andhra Pradesh is highly atrocity prone area as far as human rights of the Dalits are concerned. The data relevant for the present study has been collected from both primary and secondary sources. The primary data was collected from multiple stakeholders such as the victims, witnesses, and accused, in the judiciary system, the special public prosecutor, the lawyers, judges, and police, and the state level police officers in-charge of the implementation of the PCR Act of 1976 and POA Act of 1989. For this, information has been elicited through oral narratives and interviews from the victims, witness, lawyers, police, political leaders, and other issue related

persons. The other sources such as reports and other documents particularly of the National Commission for SCs/STs, and the Ministry of Social Justice and Empowerment reports are used. This completes the primary source. The secondary source compresses of books, daily News papers, Journals, Reports, Magazines, relevant documents, and an encyclopedia of Dalits, Dalits movement series and a host of hitherto and the available literature has been used in this study appropriately. This is an analytical, as well as an exploratory study.

## CHAPTERISATION:

The present work is organized into five chapters including introduction. **Chapter-I**, introduction deals with the changing nomenclature of Dalits , and the various phases of Dalits in India and in Andhra Pradesh, the review of literature, objectives are presented. **Chapter-II** Dalit assertion and Caste violence. How Dalit rights assertion led to the violation of Dalit human rights has been discussed in this chapter taking the contexts in the Andhra Pradesh and sometimes at all India level for the explanatory purpose. Historical roots of Dalit assertion and consciousness of rights, the socioeconomic, cultural, political background of the Dalits. Various legal, constitutional provisions that were introduced in the post-independence period for the protection of Dalits, and how these provisions helped the Dalits to assert themselves with human dignity and self respect has been discussed. The biggest caste atrocities committed in Andhra Pradesh and national level statistics of atrocity cases have been analyzed.

**Chapter-III** discusses the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989. The basic aim, origin and the various definitions of the Act were discussed. The content analysis of the Act, the Rules related to the Act, various provisions of the Act have been discussed in this chapter. This chapter gives a sketch of various agencies and their role in protecting and enforcing the Acts has been discussed.

**Chapter-IV** deals with the state response and the working of **POA, Act**. It explains the relation between law and social change, the state response in post enactment of the POA, Act and various major atrocities have been discussed , and statistical data has been presented. It also explains the the global mobilization of Dalits and response to Dalit human rights from various international organizations, the role of Dalit NGOs have been discussed. **Chapter-V** deals with case analysis and presents the problems of implementation and evaluation of POA, Act, 1989 in Andhra Pradesh. The statistical data of different kinds of caste atrocities have been presented. The detailed views of the victims and other enforcing agencies have been presented in this chapter. Some case studies have been discussed in detail about the nature of crime, how it was dealt by the state agencies, what was the result has been presented.

Finally, the dissertation concludes with presentation of major findings of the study. Critical inputs are presented for further revitalization of the human rights agencies in the state for the proper protection and safeguarding of Dalit human rights.

## CHAPTER-II

### DALITS ASSERTION AND CASTE VIOLENCE: HISTORICAL CONTEXT

The aim of this chapter is explain historical context of Dalits rights assertion and consciousness and the caste violence in general and specifically in Andhra Pradesh. Chapter has been divided into two sections. First section deals with the various factors historically responsible for the Dalit assertion and consciousness. The social, economic, cultural, legal and constitutional provisions and mechanisms which helped the Dalits to assert and mobilize and how these various mobilizing factors led to the caste violence against the Dalits despite many constitutional guarantees have been discussed in the Second section. The scope of this chapter is confine to pre-Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 scenario in the Andhra Pradesh.

The caste system is complicated theme and highly debated among scholars in India and abroad. Caste system is an institution peculiar to India. The notion of Indian variety of class division first appeared in the Vedas, the ancient spiritual texts upon which Hinduism is based. According to the oldest document of Hindus, the *RigVeda* says that the social order emerged at creation from the body of *Purusha*, the creator Brahmins from his head; Ksyatriyas from his arms; Vaisyas from his thighs; and the Shudras from his feet. All members of Purusha's body represented the necessary parts of a functioning society. Thus, the Indian caste system is the world's longest surviving social hierarchy. This four-fold division has been a pre-dominant feature of Hindu social fabric.”<sup>1</sup> As the defining feature of Hinduism, caste encompasses a complex ordering of social groups on the basis of ritual purity. A person is considered a member of the caste into which he or she is born and remains within that caste until death, although the particular ranking of that caste may vary among regions and over time.

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<sup>1</sup> Smita Narula, Broken People: India's Untouchables, Human Rights Watch, New York, 1999, p. 24.

Differences in status are traditionally justified by the religious doctrine of karma, a belief that one's place in life is determined by one's deeds in previous lifetimes. Historically, caste and untouchability were the social outgrowth of the Aryan conquest of India. The conquerors naturally became the rulers and were regarded as superior and the vanquished were looked down upon as their inferiors. Thus in the process of social interaction, a section of the original occupied population was incorporated into the Aryan fold and physical strength became the basis of race superiority and inferiority.

This superiority of one race over the other was maintained through the purity of blood and food. As a result there was no intermixing of dining and marrying between one race and the other, between one tribe group and the other. In the first place there came into existence two clear cut racial groups: Aryans and Non-Aryans. The conflict between the Aryans and non-Aryans has become sharp the practice of untouchability, purity and pollution developed in the course of time. Then the social groups were formed on the basis of occupation related purity and impurity. Varna's or occupational divisions of society into Brahman, Kshatriya, Vaishya and Sudra came to be multiplied into numerous castes. Thus the social groups came to assume the form of *varna* or *Caste system*. Castes were divided into water-tight compartments and given a permanent lease of life. It has not come as a result of natural evolution; on the contrary it was an arbitrary creation of an interested social group, namely, the dominant. Thus, in post-Vedic times society was clearly divided into four Varna's.<sup>2</sup> Each Varna was assigned with well-defined functions, although it was emphasized that Varna was based on birth and the two higher Varna's were given special rights. The first three Varna's were *dvijas* or the twice-born, were entitled to wearing sacred thread and studying Vedas and the Sudras did not possess any such rights.<sup>3</sup> Caste system has become an established fact and the people were believed to accept it as an institution decreed by the God. Caste system was declared

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<sup>2</sup> Om Prakash, Cultural History of India, New Age International (P) Limited, publishers, 2005, New Delhi, p. 251.

<sup>3</sup> Rebati. Ballav Tripathy., Dalits: Subhuman Society, Ashish publishing House, New Delhi, 1994, p. 6.



as a divine arrangement which could be interfered with only at the risk of courting the wrath of the God. The infallible character of the Vedas, as a divine revelation, was established and the authority of the sacred scriptures went a long way in maintaining the caste system. Untouchability arose out of an aberration of the *varna-dharma*. Untouchability is for the most illicit of the system of caste, and caste in its turn, is the unlawful child of the concept of Varna.<sup>4</sup>

### Roots of Dalits Assertion:

In ancient India, the Buddha was the first person to question the Brahmanical dominance. Varna divided society with the concept of special privilege and subordination which gave rise to tensions. The Kshatriyas, who acted as rulers, however, reacted strongly against the ritualistic domination of the Brahmins and led the protest movement against the importance attached to birth in the Varna system. The Kshatriya reaction against the domination of the priestly class called Brahmins, who claimed various privileges, was one of the causes of the origin of new religious sects of Hinduism such as Jainism and Buddhism. Jainism did not condemn the Varna system. Thus the Buddhism took a revolutionary change in Hindu traditions and customs and it was the first revolution of the oppressed people against dominance started by the Buddha.

The Buddhism has significant impact on society by keeping its doors open to women and Sudras. Since both were placed in the same category by Brahmanism, they were neither given holy line nor allowed to read the Vedas. Conversion to Buddhism freed the Sudras from marks of inferiority. But neither Jainism nor Buddhism could make any important change in the religious orders, and their general position continued to be low. Step by step as the Hindu Varna system grew fashionable, strong and strict measures were adopted to enforce it. Social intercourse and inter-caste marriages were prohibited. Society became stringently endogamous and was divided into water-tight compartments. Those who violated the law of endogamy were ex-

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<sup>4</sup> See the Broken People: Indian untouchables, p.25.

communicated and were forced to live outside the community. In effect they had no option other than the low and degrading occupations. “In the days of the Vedas, Buddha with his followers started a social struggle for the liberation of the oppressed in society. This movement was given the name as *Sangam*. This movement was started on a full moon day, in *Vaikasi*, in 589 BC on the banks of the *Ganges* at *Isiyadhanam* in the city of *Kasi*. This was the first movement for the liberation of the oppressed people against the orthodox Brahminic religion that shaped into a dominant institution through its four *Varnas* based on caste injustice. The Buddha was the first to oppose this. The *Sangam* emerged as the opposing force against the Aryan Brahminical principle of born capitalism; and Buddhism emerged as the camp for humanist social liberation.”<sup>5</sup>

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During the medieval period, Alberuni script around (1020 A.D) says that the Dalits were grouped together *dom* and *Chandala*, as two of the groups not reckoned among any caste or guild. They are occupied with dirty works, like the cleansing of villages and other services and distinguished only by their occupations. So the Hindus had

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<sup>5</sup> Vallinayagam. A.P., “Buddham OerArimugam” (Tamil) Jeevasahapthan, Padhippagam, Madurai: May-2003, pp.1-3.

<sup>6</sup> Ibid.

developed a very complex social structure by the beginning of the 11th century.<sup>7</sup> Inter-marriage and inter-dining were strictly prohibited. The untouchables lived outside the towns and villages. They suffered from many social and economic disabilities which made their lives miserable.<sup>8</sup> The ruling elite and the orthodox Brahmins shut themselves into the ivory towers of caste-system and were cut-off from the main stream of the society or the masses. In central Hindustan there was untouchability and *Chandalas* were required to make their presence or the quarters inhabited by upper class people. So during the Muslim rule, amongst the Hindus caste system was so rigid that both inter-marriage and inter-dining were taboos. Because of much rigidity, the untouchables became a prey to the process of conversion started by the Muslims. Many of these untouchables and low caste people embraced Islam and joined the invaders partly to avoid prosecution, partly in search of freedom.<sup>9</sup>

### Social Reform Movements and Dalits Assertion:

During the pre-colonial period, several bhakti movements emerged, which opposed and fought against caste and untouchability. They also fought against the superstitions and inequalities propagated by Hinduism. Instead these illustrious saints and seers endeavored to educate and elevate the concepts of brotherhood, humanism and equality of all. They propagated that all human beings are born free and freedom is the most precious human value. They sought to eliminate ignorance, religious and caste arrogance, and usher in amity, tolerance and mutual understanding among all people in society.<sup>10</sup> Among these towering figures, Saint Chokha Mela occupies a pride of place. Chokha Mela dwelt at length on the virtue of compassion and kindness for all forms of life, the creations of God. His concern and

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<sup>7</sup> Rebati Ballav Tripathy "Dalits: Sub Human Society" Ashish Publishing House, New Delhi, 1994, p.9.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> Padmanaban. A., *Story of Eight Saints Reformers*, Publication Division, Government of India, 1993, P.1.

pleading, appeals, and persuaded others. His teachings, while extolling the path of virtue and piety ultimately leading to God-realisation, also castigated those who condemned the untouchables as unclean and foul. Although born an untouchable, Chokha Mela attained great heights of purity of mind, thought and action through devotion, piety and virtue.<sup>11</sup> Saint Nandanaar was another reformer from the untouchable community from Tamil Nadu. By virtue of purity of conduct, piety, and devotion Nandanaar's life represents a saga of a low-born achieving the highest form of excellence against the artificial barriers and prejudices based on religion, caste and creed.<sup>12</sup> Thus the Nandanaar's teachings and songs, his impeccable conduct and character, piety and virtue, his passive revolt, his steadfastness to gain entry into the temple, his acquisition of divine grace, had left an indelible impress on the spiritual, social and religious history of India.<sup>13</sup>

Other illustrious saints in this galaxy are, Tiruppanalvar, Namdev, Ravidas, Basava, Tukaram, Kabir, Surdas, Narayana Guru, Chaitanya and Guru Nanak. All these saints "rejected the practice of worshipping plurality of Gods and subscribed to the theory of one God. They also discarded caste and untouchability. They proposed the ideal of humanism instead. Although, these were essentially reform movements, the ideal of humanism which came to the forefront served as an instrument in providing an alternative to the movement of religious orthodoxy."<sup>14</sup> Chaitanya disapproved of the caste system and preached the philosophy of universal brotherhood. Namdev, raised his voice against the caste and argued that all men are one.<sup>15</sup> Other leaders of the Bhakti movement were like Chakradhar, Rohidas, Eknath, Jnaneshvar. Mirabai and their disciples spread the humanism and philosophy of universal love.<sup>16</sup> In Andhra, the poets like Annamacharya, Vemana, Veerabrahmam and Siddappa. They questioned many of the social evils of the day and spread the message of Humanism.

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<sup>11</sup> Ibid, pp-2-12.

<sup>12</sup> Ibid.p-39.

<sup>13</sup> Ibid.p-43.

<sup>14</sup> Katti Padma Rao, *Caste and Alternative Culture*, Gurukul Lutheran Theological College & Research Institute, Madras, 1995, P.104.

<sup>15</sup> Ibid.110.

<sup>16</sup> Ibid.

The anti-caste feeling was very strong in their literature.<sup>17</sup> Several social reformers like Dyananda Sarawathi of Arya Samaj, Raja Ram Mohan Roy, Easwar Chadra Vidyasagar of Brahma Samaj. Kandukuri Veeresalingam and Raghupathi VEnkataratnam Naidu fought against the social evils like *Sati* system, child-marriages, caste and untouchability etc.

### Mahatma Jyotiba Phule (1826-1891):

In this connection the Anti-Brahmin movement, widow up-liftment and removal of untouchability was done by Mahatma Jotirao Phule. Most importantly the Anti-Brahmin movement launched by the creative and visionary genius Jotirao Phule in Maharashtra has inspired the social movements in many ways. He led the movement against the prevailing caste-restrictions and revolted against the domination of the Brahmins and for the rights of peasants and other low-caste people. He was a social reformer, philosopher and revolutionary from Maharashtra. His remarkable influence was apparent in fields like education, agriculture, caste system, women and widow up-liftment and removal of untouchability. Jotiba Phule was the founder of the anti-caste movement in India, the national unification of the masses of the people in India required an attack on Brahman domination and Hinduism itself. This attack he carried on at all levels, elaborating a theory of history along with a reinterpretation of Indian mythology, and communicating it to the masses with polemic tracts, songs, plays and organization building.”<sup>18</sup> Jotiba Phule was the founder of the anti-caste movement in India, the national unification of the masses of the people in India required an attack on Brahman domination and Hinduism itself. This attack he carried on at all levels, elaborating a theory of history along with a reinterpretation of Indian mythology, and communicating it to the masses with polemic tracts, songs, plays and organization building.”<sup>19</sup>

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<sup>17</sup> Ibid.p-112.

<sup>18</sup> Omvedt Gail., *Dalits and the Democratic Revolution Dr. Ambedkar and the Dalits Movement in Colonial India*, Sage Publications, 1994, p.97.

<sup>19</sup> Ibid.

Phule was motivated and inspired by the western civil liberties and rights. After reading Thomas Paine's famous book 'The Rights of Man', Jotirao was greatly influenced by his ideas. He believed that enlightenment of the women and lower caste people was the only solution to combat the social evils. On 24<sup>th</sup> September, 1873, Jotirao Phule, along with his followers, formed the “Satya Shodhak samaj” (Society of Seekers of Truth)<sup>20</sup>. The main objective of the organization was to liberate the Bahujanas, Shudras and Ati-Shudras and to prevent them from 'exploitations' and 'atrocities' by the Brahmins.

Mahatma Phule's main fight was to attain equal rights for peasants and the lower caste and his contribution to the field of education has been regarded as one of the most important. He then started his campaign of serving the people of lower caste who were deprived of all their rights as human beings. Phule devoted his entire life for the liberation of the Shudras and Ati-Shudras from the exploitation of Brahmins and his ambition was to establish casteless society in India.<sup>21</sup> M. S. Gore has rightly stated that Jyotiba Phule (1826-1891) and Vitthalrao Shinde (1873-1944) who had worked for the untouchables cause were both caste –Hindus- Phule, a Mali and Shinde, a Kshatriya Maratha. While their dedication to the welfare of the untouchables was unquestioned, the movements they led were either not protest movements or not exclusively focused on untouchability eradication.<sup>22</sup>

### **Babasaheb B. R. Ambedkar (1891-1956)**

After the Buddha, the foremost social revolutionary who established annihilation of caste system was Babasaheb B. R. Ambedkar. Ambedkar laid the foundation to the Indian social reconstruction and the liberation of oppressed classes/castes in India. His humanist struggles paved the way for new Dalit human rights movements in the country. In 1920, the Dalit movements have emerged under the leadership of

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<sup>20</sup> Michael. S.M (ed), *Dalits in Modern India Vision and Values*, second edition, edited By S. M. Michael, Sage Publications, 2007, p.114.

<sup>21</sup> Ibid

<sup>22</sup> Gore.M.S *Social Context of an Ideology Ambedkar Political and Social Thought*, Sage Publications, New Delhi, 1993,p.73.

Ambedkar, he started anti-caste movement not only in Maharashtra but subsequently it spread across the nook and corner of the country. He played a very crucial role to mobilize the Dalits for the eradication of the untouchability and caste system. He was a Dalit, political leader, philosopher, economist, scholar, revolutionary, and the revivalist of Buddhism. In pre-independence Ambedkar led several movements for eradication of untouchability. According to Eleanor Zelliot, “the untouchable movement led by B.R. Ambedkar first began with the urban Mahars and came to effect the position of untouchables all over India. Through the Government of India Act of 1935, as well as special educational programs and reserved government posts, the untouchables full scale representation at all levels of government”.<sup>23</sup>

Ambedkar described the traditional status of untouchables and caste hierarchy and disabilities in the following words:

*“The doors of education were closed for the untouchables. They were not allowed to bear arms. They could not earn enough money or acquire wealth in any manner. Even in the matters of words, they were not allowed free choice. They could not use decent culture, language but instead they were required to use crude language in order to help identification. They had to live outside the villages and far away from the towns in caves, on the trees or huts or tents made of tattered clothes. They could not own animals other than pigs, dogs, and donkeys. They were not allowed to eat wholesome food, not to wear decent clothes. In certain reigns they were not allowed to put on loin cloth which went below the knee cap. They could enter the village only during day time and had return to their huts before sunset. They were branded as untouchables, unseeables and unapproachable.”*<sup>24</sup>

The period 1930-1936, was really a very significant one for the Dalit social movements in India. Particularly, during this period, Ambedkar has played a very important role to uplift the Dalits. In 1930 all India's Depressed Classes conference

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<sup>23</sup> Zelliot, Eleanor, *Dr. Ambedkar and the Mahar Movement*, University of Pennsylvania., 1969, p .112.

<sup>24</sup> Naval.T.R, *Legally Combating Atrocities on SC's/ ST's*, Concept Publishing Company, New Delhi, 2004, p.18.

was held in Nagpur. Ambedkar attended the first Round Table Conference at London, as he was invited as the representative of the untouchables. In 1932 for the first time Ambedkar had achieved political rights for Depressed Classes. According to Poona Pact (1932), the British and Gandhi has accepted for the representation of separate elaborates to the Depressed Classes. In 1936 Ambedkar addressed and announced on provincial conference of Depressed Classes at Yeola in Nasik district, He says “I was born a Hindu but I will not die as a Hindu.” considering the all the historic incidents Ambedkar has really created caste consciousness, and political representation. Particularly he fought against caste disabilities between the 1930-1936, because of which the period is called a turning point of Indian Dalit Movement.<sup>25</sup>

Ambedkar was a champion of human rights movement and a visionary. He spearheaded a peaceful campaign to ensure to Dalits the right to draw water from a public tank at Mahad (Maharashtra) in 1927.<sup>26</sup> Ambedkar started several Newspapers and societies for creating upliftment of the downtrodden and political awareness among the Dalits. In 1920, January 31 Ambedkar started a weekly paper called ‘Mooknyak’ (Leader of the Dumb) 1924. In January 20 he formed ‘Bahishkrit Hitakarini Sabha’ (Association for the welfare of depressed classes), the BahishkritHitakariniSabha motto was still used in SC and ST literature “Educate, Agitate and Organize.” B.R. Ambedkar has globally understood the concept of the caste system and he said,

*“Most parts of the world have had their type of what Wards calls the lowly. The Romans had their slaves, the Spartans their helots, the British their villains, the Americans their Negroes and the Germans their Jews. So the Hindus have their Untouchables. But none of these can be said to have been called upon to face a fate which is worse than the fate which pursues the Untouchables. Slavery, serfdom, villain age have all vanished. The*

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<sup>25</sup> Omvedt Gail, *Dalits and Democratic Revolution, Dr. Ambedkar and the Dalits Movement in Colonial India*, Sage Publications, New Delhi, 1994, p.161.

<sup>26</sup> Braj Ranjan Mani, *Debrahmanising History: Dominance and Resistance in Indian Society*, Manohar, New Delhi, 2005, p.356.



*Untouchability still exists and bids fair to last as long as Hinduism will last. The Untouchable is worse off than a Jew. The sufferings of the Jew are of his own creation. Not so are the sufferings of the Untouchables.”*<sup>27</sup>

This struggle is personified by Baba Saheb Ambedkar, who said: “For, it is important that everyone who was able to Understand the history of India must know that it is nothing but the history of the struggle for supremacy between Brahmanism and Buddhism.”<sup>28</sup>

### Dalit Assertion in Andhra Pradesh:

The Dalits intellectuals articulation represented by Babasahed Ambedkar exposed the inadequacies, limitations and gaps in the Ghandian paradigm of Dalits liberation and forcefully contested the hegemonic nationalist ideology propounded by the upper caste intelligentsia. The growing movement of Dalits for self-respect, social justice, dignity and egalitarian social order necessitated a serious reflection and resolution of the problems of caste and nation.<sup>29</sup> The issues raised during the pre-independence period regarding their emancipation continued to pose a serious challenge to the post-colonial state in India. Instead of resolving the problems of castes discrimination, untouchability and caste violence, the political leadership in India is subverting the constitutional and administrative machinery. The recent spate of upper caste violence against Dalits is proof of this.<sup>30</sup> In this section, attempt has been made to study the socio-political context and social roots of caste violence during the post-independence period. It describes some incidents of caste Hindu attacks on Dalits in Andhra Pradesh and analyses the structural dimensions of caste and class. Further, this chapter will discuss factors such as social/caste stratification, reinforcement of socio-economic inequalities, the culture and ideology of repression, and the active promotion of caste tension.

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<sup>27</sup> B.R.Ambedkar, *Mr. Gandhi and the Emancipation of the Untouchables*, Critical Quest, 2006, P.6.

<sup>28</sup> Dr. Baba Saheb Ambedkar, *Writings and Speeches*, Vol. 3, p. 267.

<sup>29</sup> See web site : <http://www.ambedkartimes.com/Dr%20Ronki%20Ram.htm>

<sup>30</sup> See website : <http://www.countercurrents.org/dalit.htm>

Gail Omvedt<sup>31</sup> study on *Dalit and Democratic Revolution*, the author took up the emergence of Dalit movement in Nagpur, Hyderabad, Andhra and Mysore and finally visited the movement in Western Maharashtra, which led to the Ambedkariate version of Dalit assertion. At the Global Context it is the end of the First World War combined with the challenge posed by the Russian revolution. In India, the Montague – Chelmsford reforms proposed new powers to the natives. She also reminds one that it was a time when the mass struggles and ideological upheavals marked the country. She finds the times characterized by the following movements: worker or peasant movements, Gandhism, Hindu-Muslim tensions, rise of Hindu Nationalism and non-Brahman political formations. A small Dalit movement rose in this atmosphere under the leadership of Bhagyareddy Varma and Arigay Raamaswamy. Both were drawn to the ideology of Adi-Hindu identity. The ‘First Provincial Panachama Mahajana Sabha’ was started by Bhagyareddy Varma announced that Panchama was not a term found anywhere and they announced they were the real sons of the soil. Thus came the term ‘Adi-Andhra’. Adi Andhra conferences were held practically every year after this.<sup>32</sup>

The Dalit movement was emerged in the coastal districts of Andhra Pradesh, one of the most economically vibrant regions in the Madras Presidency. The major irrigation schemes in Krishna and Godavari rivers had changed the feudal system in these areas. The erosion of traditional *jajmani* ties allowed the Dalit castes of Malas and Madigas to move ahead. Coastal Andhra witnessed one of the most important radical elite based movements outside Bengal. Veerasalingam Pantalu, a nineteenth century social reformer took up both women’s as well as Dalit issues. Andhra Mahasabha emerged taking the above mentioned issues. Omvedt summarizes two novels, *Mallepalle* by Unnava Laxminarayan, and *Harijan Nayakudu* by N.G. Ranga. The first describes the bad effects of commercialization and the latter, the ideological positions of a peasant leader.

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<sup>31</sup> Omvedt, Gail, *Dalits and Democratic Revolution*, New Delhi, Sage Publication, 1994, (105-137).

<sup>32</sup> Ibid

Historicizing Dalit assertion in Andhra Pradesh, the authors claims that growing consciousness and Dalit assertion in Andhra Pradesh started from the beginning of the 20<sup>th</sup> century. This indicates as complex and diverse pattern of the growing assertion and awakening among Dalits about their rights has become intolerable to the dominant castes/classes. The growth of socio-political consciousness of Dalits in Andhra Pradesh can be traced to the early decades of the 20<sup>th</sup> century. The formation of the Adi- Andhra Mahasabha in 1917 under the leadership of Bhagyareddi Varma, Kusuma Dharmanna, ect., was a landmark in the history of Dalits liberation in modern Andhra Pradesh and for the first time Dalits were organized and mobilized by organic intellectuals. The movement grew independently and inculcated a new consciousness among them regarding their rights and self-guards.<sup>33</sup> The founding of the Adi-Andhra movement which predated the Gandhian program of “Harijan upliftment” was pronounced act of consciousness of the Dalits masses. It sought to articulate their sufferings and misery within the context of growing mass nationalism and the Anti-colonial struggle. The emancipator ideology formulated and articulated by Dalits was independent of the nationalist discourse.<sup>34</sup> The “Adi dravida and Adi Andhra movements initiated in Hyderabad state by Bhagyareddy Varma had also its impact on the coastal districts of Andhra.”<sup>35</sup> Active participation in the anti-colonial struggle by the Dalits and Dr. Ambedkar’s tour in these districts in the early 1940s have helped them to assert in the self-respect and anti-Untouchability in the region.<sup>36</sup>

Although the assertion of the Dalits was non-violent, it did encounter violent retaliation from the upper castes. For, the upper caste consciousness did not undergo any noticeable change in spite of a change in the agrarian context. This adamancy of the upper castes accounts for their violence against the changing and growing consciousness of the Dalits. The Communist Party, which was able to strike roots in the 1930’s in Coastal Andhra, did not grabble enough into the question of caste,

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<sup>33</sup> Ratnam. K.Y., “*Dalits Movement and Democratization in Andhra Pradesh*,” East- West Centre Washington, 2008.

<sup>34</sup> Satyanarayana. A., *Dalits and upper castes: essays in Social History*, Kanishaka Publishers, Distributors, New Delhi, 2005, p. 205.

<sup>35</sup> K. S. Chalam, “Post-Ambedkar Scheduled Castes Agitations and Social Exclusion in Andhra Pradesh”, *Social Action*, Vol, 57, July-Sep, 2007.

<sup>36</sup> Ibid.

Dalit question, both in terms of social relations and material progress remained unresolved simply because the caste question is not just a class question in the classical sense. They further argue that modernization and mechanization of agriculture displaced the Dalits but encountered impediments in getting absorbed in modern industry due to caste stigma. Contrary to Marxian observation the capitalist development should lead to up gradation of the skills and transformation of the social structure.<sup>37</sup>

The caste which was under developed and retarded in social relations has become a major barrier for the mobility of the Dalits indicating that the economical changes in terms of productive forces does not lead to corresponding social change. This gave rise to Ambedkarism, which uncompromisingly advocated and worked for “annihilation of the caste”. Ambedkar not only built an anti-caste movement to put an end to caste itself, which entered the womb of freedom movement pushing the Dalit question onto the national agenda. The constitutional recognition of the problem has had a catalytic effect on Dalit consciousness, giving rise to subsequent legislations to safeguard and further promote the rights of the Dalits. Dalits, through their own movements, compelled the makers of the constitution to abolish untouchability as a part of fuller recognition of their dignity and create conditions for the realization of this rising aspiration.

#### A) In the Colonial Period:

The British colonial rule in India has used the caste system for its own benefits to perpetuate the dominance of the race and caste. They have applied the “Divide and Rule Policy” on the basis of colonial race, caste system and class system. The British government exploited the caste system as a means of social control. The British allied themselves with the Brahmin caste, restoring some of its privileges that had been repealed by the Muslim rulers. However, many Indian customs concerning the lower castes seemed discriminatory to the British, and were outlawed. In the 1850’s the British have for the first time banned the inhuman practice of untouchability<sup>38</sup> in

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<sup>37</sup> Ibid.

<sup>38</sup> Ramaiah. A., *Laws for Dalits Rights and Dignity*, Rawat Publication, Jaipur, 2007, p.26.

India. During the 1930s and 40s, the British government has made laws to protect the untouchables and low-caste people. The Dalits are subjected to various kinds of humiliations, ill treatment and physical abuse by the non-Dalit community.<sup>39</sup> They have been doing it as a matter of right and social sanction for ages. Therefore, these acts are never considered as legally punishable offences in the Hindu code. It is only on the advent of a democratic and civil society that these offences were recognized as crimes by the mainstream society.<sup>40</sup> Between 1932 and 1936 a number of temple-entry and anti-disabilities bills were introduced in the Central Legislative Assembly and in the Madras and Bombay Legislatures.<sup>41</sup>

“Untouchability” means the practices evolved as social restrictions in sharing food, access to public places, offering prayers and performing religious services, entry in temple and other public places and denial of access to drinking water sources. The first penal statute to remove untouchability was introduced during the British in 1938 in the Madras legislature. Discrimination of untouchables in the public places such as roads, wells, transportation and 'other secular institutions' including restaurants, hotels, shops, etc, was made a cognizable offence which attracted a fine and imprisonment up to six months.<sup>42</sup>

The Bombay Harijan Temple Worship Act, 1947, conferred on the Dalits a right to enter temples and offer worship. During this period, two other enactments were also passed namely the 'Removal of Social Disabilities Act, 1947' and the 'Hindu Social Disabilities Removal Act, 1948' which prohibited the practice of untouchability and sought to punish those who indulged in it. Untouchability was still practiced in Indian society; it has been observed not only by Hindus but even Muslims, Christians and other upper caste communities also. The hierarchy of Indian caste system has never given-up social equality and casteless society. The bottom people of India have been struggling before independence and after independence. The

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<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Naval. T.R., *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing, New Delhi. 2001, P.16.

<sup>42</sup> Ibid.

world's largest Democracy has developed on all grounds but it has never changed the approach to caste sociologically and ideologically. India is a country where caste system plays a vital role. In this caste hierarchy the Brahman's are in the top and the Dalits are in the bottom. This kind of gap between the lower and higher caste problems has never given any such kind of democratic resolutions.

#### B) Dalit Assertion in Post-Independence period through Constitutional Provisions:

However, the end of British colonialism, transfer of power to the people, declaration of India's Independence and drafting of India's Republican Constitution gave the Indian's greater practical opportunity for enjoying democratic rights and liberties than ever existed before. The founding visionaries have emphatically pronounced a new approach to transform the Indian social system which is based on rigid graded inequality. This new alternative approach was enshrined in Indian Constitution the upholder of Human Rights coincided with the United Nations Declaration of Human Rights (UNDHR) in 1948. Article 1 of the UN Declaration of Human Rights reads that "All human beings are born free and equal in dignity and rights. They are endowed with reason, conscience and should act towards one another in a spirit of brotherhood".<sup>43</sup> The Indian Constitution, along on these lines, provided all Indians' with civil and political as well as social and economic rights and freedoms.

Thus, the legal embodiment of Fundamental Rights, freedoms and Directive Principles in the Indian Constitution have emulated the UN Declaration and that all human beings are 'created equal' and entitled to 'life, liberty, and the pursuit of happiness'. The related provision in Indian Constitution solemnly resolved to "secure to all citizens-justice: social, economic and political, liberty of thought, expression, belief, faith and worship. And equality of status and of opportunity, and to promote among them all fraternity, assuring the dignity of individual and unity".

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<sup>43</sup> United Nations Declaration of Human Rights of 1948, U.N. General Assembly Resolution 217 A (III), Article, 1.

<sup>44</sup> The constitution of India proclaims the decision of the Constituent Assembly to provide social, political and economic justice for all. To this end the constitution has several provisions to protect Dalits and to improve their position. The constitution of India has provided several social safeguards to protect and empower the Dalits. Consequently the government of India has enacted several legal provisions to end and elimination of the social evil of untouchability and atrocity against Dalits. On 26<sup>th</sup> of January 1950 Indian constitution has come in to force. Indian constitution has provided liberty, equality and fraternity for all citizens. Then India becomes a republic and sovereignty state. The Indian constitution has provided the following fundamental rights to every citizen:

We, the people of India, having solemnly resolved to constitute India into a *Sovereign Socialist Secular Democratic Republic* and to secure to all its citizens: **Justice**, social, economic and political; **Liberty** of thought, expression, belief, faith and worship; **Equality** of status and of opportunity; and to promote them among all **Fraternity** assuring the dignity of the individual and the unity and integrity of the Nation. In the preamble, The Indian Constitution has also states that “the state shall not discriminate against any citizen on grounds only of religion, race, caste, place and birth or any form”.<sup>45</sup> Further, the Constitution says that “the state shall promote with special care the educational and economic interest of the Scheduled Castes/ Tribes (SC/ST) and shall protect them from social injustice and all forms of exploitation”.<sup>46</sup> Thus the declaration of Independence asserts that all Indians are created equal, and entitled to life, liberty, and the pursuit of happiness. In accordance with these Constitutional provisions a number of measures have been initiated by the respective governments since the Independence. These measures are in the nature of protective and development measures. Before the declaration of Independence equality, freedom and liberty did not exist for the Dalits, who were called as the untouchables. Basically India is a caste based society and every citizen of India are separated and segregated on the grounds of ‘Hindu Chaturvarna.’ In this

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<sup>44</sup> Constitution of India, Preamble, The Philosophy of the Constitution.

<sup>45</sup> Constitution of India, Article-15.

<sup>46</sup> Constitution of India, Directive Principles of State Policy, Article-46.

connection, B. R. Ambedkar has rightly coded on Indian caste system, “You cannot build anything on the foundation of caste. You cannot build up a nation; you cannot build up a morality. Anything you will build on the foundation of caste will crack and will never be a whole. (Ambedkar, 2002. 102)”

In this connection the fundamental rights has given equal rights and equal opportunities for all citizens in all dimensions. Even the constitutional safeguards do not give equal share of the rights in Dalits lives. For example Article 14 says “All are equal by the law.” The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.<sup>47</sup> The Court has interpreted Article 14 on a number of occasions as charging the state with ensuring that there is equality among equals.<sup>48</sup> In *State of Kerala v. Thomas*, the Supreme Court noted that, the guarantee of equality before the law or the equal opportunity in matters of employment is a guarantee of something more than what is required by formal equality. It implies differential treatment of persons who are Unequal. Formal equality is achieved by treating all persons equally. But men are not equal in all respects. The claim for equality is in fact a protest against unjust, undeserved and unjustified inequalities. It’s a symbol of man’s revolt against chance, fortuitous disparity, unjust power and crystallized privileges.<sup>49</sup> Consequently the Dalits are still treated as unequal citizens of India, because of the caste hierarchy.

Article 15 says prohibition of discrimination on the grounds of religion, race, caste, sex, or place of Birth.<sup>50</sup> The state shall not discriminate against any citizen on the grounds of religion, race, caste, sex, place of birth. No citizen shall, on ground of religion, races, caste, sex and place of birth or any of them, be subjected with regard to access to shops, public restaurants, hotels, and place of public entertainment.; or the use of wells, tanks, bathing ghats, roads and place of public resorts maintained

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<sup>47</sup> Constitution of India, Article-14.

<sup>48</sup> See *State of Kerala v. Thomas*, (1976) 1 S.C.R. 805 (“Those who are similarly circumstanced are entitled to equal treatment.”); *Madhya Pradesh Ration Vikreta Sangh Society v. State of Madhya Pradesh*, (1982) 1 S.C.R. 750.

<sup>49</sup> *State of kerala v. thomas*, (1976) 1 s.c.r. 805.

<sup>50</sup> Indian Constitution. Art-15.



whole or partly out of state funds or dedicated to the use of the general public. Article 15(4) empowers the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for SC and ST. This provision has enabled the State to reserve seats for SCs and STs in educational institutions including technical, engineering and medical colleges and in Scientific & Specialized Courses.<sup>51</sup>

Article 16 says equality of opportunity in matters of public employment. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.<sup>52</sup> Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favor of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State". Article 17 says Abolition of untouchability. Article 17 of the Indian Constitution abolishes the untouchability and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.<sup>53</sup>

Following the stipulation in Article 17 of the Indian Constitution, the Untouchability Offences Act was enacted in 1955 and very soon this law found to be ineffective and inadequate. However, after a quarter of century of the Constitution the earlier Untouchability Offences Act was replaced by the comprehensive law called the Protection of Civil Rights Act was enacted in 1976. Untouchability has become a crime and it was made a cognizable and non-compoundable offence and a minimum punishment was stipulated for enforcing the any form of disabilities emanating from the religious, cultural, social, occupational related and any other forms. Several

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<sup>51</sup> This particular provision was incorporated into the constitution through The constitution (first amendment) act, 1951 and has enabled.

Several states to reserve seats for scheduled castes and scheduled tribes in educational institutions, including technical, engineering, and Medical colleges. It has also paved the way for reservations in police forces. *See* INDIA CONST. art. 15, § 4, added by the Constitution (First Amendment) Act, 1951.

<sup>52</sup> Indian Constitution. Art-16.

<sup>53</sup> See Article 17 of the Constitution of India, 1950.

provisions in Indian law, if enforced, offer a wealth of protections for the Dalit community against both state and private persecutors. Article 17 of the Indian Constitution officially makes the practice of untouchability a punishable offense;

Article 23 says other similar forms of forced labour & prohibition of traffic in human beings. The contravention of the provision of prohibiting traffic in human beings, beggar and other similar forms of forced labour, shall be an offence and punishable in accordance with law.<sup>54</sup> It does not specifically mention Scheduled Castes & Scheduled Tribes but since the majority of India's forty million bonded laborers belong to scheduled castes.<sup>55</sup> Article 23 is especially significant for them.<sup>56</sup> In pursuance of this article, Parliament has enacted the Bonded Labour System (Abolition) Act, 1976. For effective implementation of this Act, the Ministry of Labour is running a Centrally Sponsored Scheme for identification, liberation and rehabilitation of bonded labour. Similarly, Article 24 provides that no child under the age of fourteen shall work in any factory or mine or engage in any hazardous employment.<sup>57</sup>

Article 46 says promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections. This article comprises both development and regulatory aspects and stipulates that: "The State shall promote with special care 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 forms of exploitation."<sup>58</sup> As the article falls under the category of directive principles and not fundamental rights, it cannot be enforced by the state's courts.

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<sup>54</sup> Constitution of India, Article-23.

<sup>55</sup> Broken People, supra note 21, at 139.

<sup>56</sup> The Bonded Labor System (Abolition) Act, No. 19 of 1976, was passed pursuant To this article-23.

<sup>57</sup> Constitution of India, Article-24.

<sup>58</sup> Constitution of India, Directive Principles of State Policy, Article-46.

Article 330 says reservation of Seats for Scheduled caste and Scheduled Tribes in the House of the People. Seats shall be reserved in the 'House of the People'<sup>59</sup> for The Scheduled Caste The Scheduled Tribes except in the Tribal areas of Assam, Nagaland, Meghalaya, Mizoram; and the Scheduled Tribes in the autonomous districts of Assam. The number of seats reserved in any state or union territory for the Scheduled Caste or the Scheduled Tribes under clause(1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that state or union territory in the House of the people as the population of the Scheduled Castes in the State or union territory or of the Scheduled Tribes in the State or union territory or part of the State or union territory as the case may be, in respect of which seats are so reserved, bears to the total population of the State or union territory.

Article 332 says reservation of Seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States. Seats shall reserve for the Scheduled castes and Scheduled Tribes except the Scheduled Tribes in the Tribal area of Assam. Even in Nagaland and Meghalaya and in the Legislative Assembly of every state, the seats are reserved.<sup>60</sup> Seats shall be reserved even for the autonomous districts in the legislative Assembly of the State of Assam. That number of Seats shall be reserved for the Scheduled Castes or the Scheduled Tribes in the legislative Assembly of any state under the clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the state or of the Scheduled tribes in the state or part of the state, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

The number of seats reserved for an autonomous district in the Legislative Assembly of the state of Assam shall bear to the total number of seats in that Assembly at a proportion not less than the population of the district that bears the total population of the State. Article 338 says the National Commission for Scheduled Castes and

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<sup>59</sup> Constitution of India, Article-330.

<sup>60</sup> Constitution of India, Article-332.

Scheduled tribes. There shall be an Officer for the Scheduled Caste and scheduled tribes to be appointed by the President of India. It shall be the duty of the Special Officer to investigate all the matters relating to the safeguards that are provided for the Scheduled castes and Scheduled Tribes under the constitution and report to the President upon the working of those safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.

### **Legal Provisions for Dalits: Untouchability (Offences) Act, 1955:**

The Constitution of India in Article 17, made categorical provision for the abolition of untouchability. The Untouchability (Offences) Act, 1955 was passed by the Parliament under powers conferred by Article 35 of the Constitution of India. According to this Act, enforcement of disabilities with regard to entrance and worship at temples, access to shops and restaurants, practice of occupations and trades, use of water sources, places of public resort and accommodation, public conveyance, hospital, educational institutions, occupation of residential premises, holding of religious ceremonies and processions, were all liable to be penalized with a fine or imprisonment for up to six months, cancellation or suspension of licenses and public grants. In the name of Untouchability, Dalits were facing various forms of work and caste based discrimination at the hands of the dominant castes. The Dalits were prohibited from eating with other Caste members; Prohibited from marrying with other caste people; Separate glasses for SC's and ST's in village tea stalls; Discriminatory seating arrangements and separate utensils in restaurants; Segregation in seating and food arrangements in village functions and festivals; Prohibited from entering village Temples; Prohibited from wearing sandals or holding umbrellas in front of dominant caste members; Devadasi system - the ritualized temple prostitution of Dalit women; Prohibited from entering dominant caste homes; Prohibited from riding a bicycle in the village; Prohibited from using the common village path; Separate burial grounds; No access to village's common/public properties and resources (wells, ponds, temples, etc.); Segregation

(separate seating area) of Dalit children in schools; Prohibited from contesting in elections and exercising their right to vote; Forced to vote or not to vote for certain candidates during the elections; Prohibiting from hoisting the national flag during Independence or Republic days; Substandard wages; Bonded Labor; Face social boycotts by dominant castes for refusing to perform their “duties” <sup>61</sup>

Significantly, the Act placed the burden of proof on the accused and not the prosecution. However, there were several lacunae in the Act and there was widespread criticism that the Act was not serving the purpose for which it was enacted.<sup>62</sup> The Act did not define the term “untouchable” or “untouchability”. The punishments awarded under the Act were inadequate and not deterrent enough. Responding to the criticism, the Government appointed a Committee to review the working of the Act and to suggest changes. Based on the recommendations of the Committee, a bill to amend the Untouchability (Offences) Act, 1955 was introduced in the Lok Sabha in 1972. The old Act was amended by the Untouchable (Offences) Amendment and Miscellaneous Provisions Act, 1976 and rechristened as the ‘Protection of Civil Rights Act, 1955’.<sup>63</sup>

### **Legal Provisions for Dalits: Protection of Civil Rights Act, 1976:**

Under this Act, “Civil Rights” have been defined as any right accruing to a person by reason of abolition of untouchability under Article 17 of the Constitution. The Act makes the preaching and practice of untouchability or the enforcement of any disability, as a cognizable and non-compoundable offence. Preventing a person on the ground of untouchability from entering a place of worship established or maintained by langouste nomination has been made an offence. All untouchability offences, for which punishment does not exceed 3months, can be tried summarily. The punishment for untouchability of offences was enhanced and both fine and

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<sup>61</sup> See the web site -<http://www.ncdhr.org.in/ncdhr/general-info-misc-pages/wadwui>

<sup>62</sup> T. R. Naval., p.22

<sup>63</sup> Ibid.

imprisonment would be awarded for such offences. For subsequent defaults, the punishment has been enhanced to range from one year imprisonment with fines of Rs, 500/- to two years imprisonment and a fine of Rs. 10,000/-. State Governments, under the Act, were also empowered to impose collective fines on the inhabitants of any area found committing and abetting the commission of an offence under the Act. Person convicted under the Act, are debarred from contesting elections to the Central or State legislature. Another significant provision in the Act was that the public servants, who willfully show negligence in the investigation of any offence punishable under the Act, shall be deemed to have abetted an offence punishable under the Act. “The provisions of the Protection of Civil Rights Act and the constitution of India seek to serve three fold purposes: (i) outlawed the disabilities to which *Dalits* are subjected to: (ii) these are made an offence under the Act; and (iii) provided rights to enforce these as civil rights.”<sup>64</sup>

The government of India has used compensatory discrimination as a means of achieving greater equality by deliberately overcoming some of those historically accumulated disabilities from which Dalits have long suffered. The constitution provides some preferential options to the Dalits who for so many centuries have been deprived of their rights in Hindu society. It was Dr.Ambedkar, himself an untouchable and the chief architect of the Indian constitution, who really formulated the provisions of compensatory discrimination. Accordingly, under constitutional provisions and various laws, India grants Dalits a certain number of rights, including reservations (quotas) in education, government jobs, and government bodies.<sup>65</sup> India’s policy of reservations is an attempt by the central government to remedy past injustices related to “low-caste” status.

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<sup>64</sup> T. R. Naval,p.23

<sup>65</sup> Broken People, Supra note 21, at 23.

## Dalit Assertion and Pattern of Caste Violence in Andhra Pradesh:

The spread of consciousness of rights, the search for status, self respect and dignity, various reform and protest movements with humanism and anti-caste ideologies, the spread of democratic values through various movements, the modernization process have all created historical conjunctures in which the traditional hegemony of caste and untouchability of the upper castes came under the challenge. The Dalits began to increasingly assert themselves at the socio-political and economic level through various mobilizing factors. Adult franchise 'one man one vote, one voter one value' has become the great social leveler. Democracy has become the battleground between the traditional power elites and the newly emerged conscious Dalits.

Historically, the Dalits since the early fifth century BC to medieval period to till the attainment of independence Dalits are sought to defy the caste and untouchability in Indian society. The social and political struggles led by Mahatma Phule, B. R. Ambedkar, colonial education and representation in the legislatures, modern discourse of rights and freedoms, the emergence of various anti-caste identities associations and groups protesting the caste and untouchability have all contributed for the emergence of Dalit consciousness and assertion. These anti-caste associations have created ground for the antagonism against the caste related purity and pollution principles of inequality and these associations were primary vehicles for the interest articulation and interest projection about the self respect social status of the people in the society.

Another most significant indicator was the legal abolition of untouchability in the post independence period. The Constitutional provision that were given to the Dalits to safeguard their rights and security certainly helped them to assert their right o dignified life in the society. The steps undertaken in pursuance of the various constitutional provisions for the Dalits may be treated under three broad categories, namely, "protective, developmental and preferential. Abolition of untouchability and the disabilities arising out of its practice in any form, and prohibition of bonded

labor come under the first category.”<sup>66</sup> Further, “Many educational schemes such as post-matric scholarships and girls hostels under central sector, and pre-matric stipends, reimbursement of tuition fee, book banks, and hostels under the state sector, special component plans of the centre and states for Dalits, special centre assistance, and the Development corporations are the secondary category.”<sup>67</sup>

Legislative, educational and employment reservations are of the third category. The policy of reservation and other protective and promotional steps taken for the development of weaker sections has been under implementation from the beginning of Constitution came into existence.<sup>68</sup> According to Justice Krishna Iyer “ the stress of the entire scheme of Constitution under the headings of the preamble, the fundamental rights and the individual freedoms, is on bringing about a reconciliation between individual freedom and social well-being and between political and social rights. The attempt was for building an egalitarian society and on the concept of socio-economic justice. On the basis of Constitutional framework of social justice protective legislations were enacted to protect the weaker sections. In additions to these, planned developmental programs had been undertaken especially for the benefit of these people. These steps, however, resulted in the improvement of their social and economic conditions.”<sup>69</sup>

Political mobilization, in addition to the constitutional provisions and reservations, the Dalits have begun to assert themselves at the political level. As a result number of Dalits social, cultural and political organizations has emerged across the country to counter the mainstream political parties’ strategies of political accommodation and co-option. Dalits have taken part in their own autonomous political initiatives and taken part in struggles against the caste system and the nature of dominant caste based state politics. Mainstream political parties in India have generally adopted a top-down interventionist approach to Dalits by offering lofty promises of housing

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<sup>66</sup> Quoted in Gyanendra Singh Rawat, *Dalit and the Law in 21<sup>st</sup> Century*, Sumit Enterprises, New Delhi, 2005,

p..241

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> Quoted in Gyanendra Singh Rawat, *Dalit and the Law in 21<sup>st</sup> Century*, Sumit Enterprises, New Delhi, 2005. p.252.



schemes, loans, minimum wages, proper implementation of reservations, education, jobs. However, the issues of untouchability, temple entry, caste based economic exploitation, violence were largely unaddressed by the mainstream political parties. As the mainstream political parties failed to mobilize the Dalits at the grassroots level, their ideological and political apathy paved the way for an autonomous Dalit leadership to emerge.

While some Dalits have argued that the fundamental rights of Dalits should be addressed within the constitutional framework, while others within the argued that their problems cannot be resolved without a militant struggle against those in power. During the 1960s and 1970s, the emergence of Dalit Panthers movement, and several Marxist-Leninist, Maoist groups in which Dalits were actively participated have emerged outside the framework of recognized political parties and parliamentary parties. Dalit Panthers were formed in Maharashtra in 1970s, ideologically aligning themselves to the Black Panther movement in United States of America. Dalit Panthers have produced rich Dalit literature, painting and theater art which challenged the caste ideology and hegemony in Indian society. Thus the social and economic contradictions produced by the caste system passed into the political spheres as well.

Sudha Pai <sup>70</sup> in her study on *Dalit Assertion and the unfinished Democratic Revolution* examined the consequences of delayed development of Dalits consciousness in Uttar Pradesh which is one of the biggest states in India at one time. Unlike in the Western and Southern India, Uttar Pradesh witnessed few anti caste movements prior to independence. It took nearly four decades for a strong movement though not anti-caste in nature, to encourage, eventually resulting in the triumph of a Dalit political party to capture political power: The Bahujan Samaj Party. This book while tracing the rise and growth of the BSP in Uttar Pradesh

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<sup>70</sup> Sudha Pai, "Dalit Assertion and the Unfinished Democratic Revolution" The Bahujan Samaj Party in Uttar Pradesh, Cultural subordination and the Dalit Challenge, Volume 3, *Sage Publications*, New Delhi, 2002.

analysis quite systematically the ideological, mobilization strategies and electoral progress of the BSP against the backdrop of the phenomenon of Dalit assertion, both historically and politically, the strong wave witnessed in recent years, which has taken two forms: electoral and grass roots activism.

While highlighting its considerable achievements, the study explores the reasons for the failure of the BSP to harness the rising wave of Dalit assertion, evident in UP society today. This work attempts a sympathetic yet critical look at a party, once eulogized as a social movement that would introduce social revolution and transformation, which later got converted into an opportunistic political party, interested in capture of State power and political empowerment of Dalits and attempts to explain what went wrong. It further examines how empowering the BSP experience has actually been for the vast majority of subaltern Dalits and whether it has contributed to the social deepening of Indian Democracy, or merely helped in the upward mobility of the elite sections of the Dalits. It provides an understanding of the impact of the BSP on both UP and Indian politics in a phase when sectarian identities which was upheld by the single dominant party system.

The study finally concludes that the BSP has brought issues of social emancipation and not merely political rights, to center stage, explaining the centrality of Dalit politics, particularly its mobilization power in the polity today to which the BSP has contributed in large measure. BSP is more radical in its opposition to caste system, with a distinct Dalit self-identity, strong leadership and social base and has emerged as a powerful party which cannot be co-opted by mainstream parties. In fact its establishment and success was possible because it presented itself as an alternative party representing the interest of the Dalits. The electoral success of the party is attributed primarily to its ability to adopt its mobilization strategies to the rapidly changing political situation in UP, the sustained electoral mobilization of the BSP was also possible through its appeal among the Dalits and sections of the backwards the need to construct a Dalit, Bahujan state and the idea that “Capture of Political Power is the key to social transformation”.

However the flip side of the text shows that the BSP, though an Ambedkarite Party, not in the ideological or programmatic sense, but purely in political terms, its leadership has a limited vision. It is not interested in social transformation or revolution. Its aim is merely some changes in the existing system which would give social and political power in the hands of the Dalits. Given the context of consciousness identities and assertion, the political elites are losing their votes; they are not only resorting to violence, but to new forms of manipulation. The new forms that included, rigging has become a growing consciousness at one point and feudalization at another point which has given rise to increasing atrocities and violence of the upper strata of the Dalits. Looking back after five decades of independence and working of the Indian constitution reveals that the problem of dignity and freedom of the Scheduled Caste remains a distant goal. There is enough evidence to suggest not only that untouchability persists in different forms, both in rural and urban belts, but hegemonic violence is becoming formidable and taking the form of physical violence.

The reasons of the intensity of violence are cumulative economic, political and socio-cultural. On the economic front, the development strategy has given up the policy of structural changes, particularly land reforms. Once the question of land reforms is given up, it is tantamount to giving up the anti-feudal strategy of progress. For, the land reform encompasses not only the question of economic changes, but of power of dominance and social status. In, the power and status do flow from the land as far as the rural social structure is concerned. The green revolution experience led more to the strengthening of rural stratification than polarization. This sort of growth and prosperity did not lead to transformation of social relations. On the other hand, the neo-rich class in the green revolution belt, with its new economic power, grew more caste conscious and repressive. The overall changes did raise the consciousness of the oppressed, particularly the untouchables. This hiatus heightened the caste identities of multiple social layers. The ex-untouchables are becoming more and more conscious about their civil rights and human rights as such. The measures adopted by the government for their socio-economic and educational development and their increasing politicization. There has been an

increasing trend of offences of insult against the ex-untouchables. The so called touchable are jealous of the progress, consequently, in their desperate bid to oppress and suppress the ex-untouchables, they try to insult, harass and make them victims of atrocities.

### Pattern of Caste Violence:

In its basic sense, violence means inflicting damage on people, by killing, maiming or hurting them. Violence may also be defined so as to include destruction of property. Sometimes the concept of violence stretched to embrace oppressive political, social or economic systems that damage people living under them. In political theory, the concern is with the use of organized violence by the state, or with violent rebellion against the state. Violence (*himsa*, the desire to inflict injury) and domination in the social realm is indeed the leitmotif which runs throughout the Vedas.<sup>71</sup> In fact, violence and power exercised over another were not only glorified on their own terms, but were represented as an integral part of the natural order of things.<sup>72</sup> Thus the “Vedic natural and social order is defined and guided by the principle in which the strong consumes the weak.”<sup>73</sup> Untouchability is prompted by the spirit of social exclusion and the belief in purity, contagion and self-righteousness that characterize certain societies. It is generally taken for granted that the Dalits are polluted people and are at the lowest end of the society. The jobs considered polluting and impure are expected to be done by the Dalits alone and many a times Dalits were prevented from engaging in any work other than removing human waste (known as “manual scavenging”), dragging away and skinning animal carcasses, tanning leather, making and fixing shoes, and washing clothes. They were supposed to reside outside the village so that their physical presence did not pollute the “main” village. Not only had they been restricted in terms of space, but their houses were inferior in quality and devoid of any facilities like water and electricity. The government of India has, however, introduced many measures like low cost or

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<sup>71</sup> Braj Ranjan Mani, *Debrahmanising History: Dominance and Resistance in Indian Society*, Manohar, New Delhi, 2005, p.48.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid. p.49

free housing and free electricity for those below the poverty line, to address these problems.

Untouchability is practiced in a number of forms in rural India. At the village level Dalits are sometimes barred from using wells used by non Dalits. They are forbidden from going to the barber shop and entering temples, while at the level of job recruitment and employment many Dalits are known to be paid less, ordered to do the most menial work, and rarely promoted, except in the government jobs reserved for them. Even at schools, there have been instances of Dalits children being asked to clean toilets and to eat separately, although the government comes down heavily in these cases and punishes the offenders, as soon as these are highlighted by the alert Indian print and electronic media. Caste and practices of untouchability continues to be a reality of Indian society even today and as crude forms as it used to exist centuries ago. Because of the caste discrimination and restrictions, untouchables were barred entirely from temples, and sometimes were not even allowed to set foot on Temple grounds. The untouchables were considered impure that any contact with them by a caste Hindu member would contaminate the other person. The caste-person would have to bathe and wash his or her clothes immediately. Untouchables could not even eat in the same room as caste members. The untouchables did work that no-one else would do, like scavenging animal carcasses, leather-work, or killing rats and other pests. They could not be cremated when they died. These are the important problems of the Dalit communities in the present society.

Untouchability and social segregation among the Hindus has kept the Dalits away from the mainstream society. As a result of this social evil that was inflicted upon the Dalits by the caste Hindus, the Dalits were pushed to the worst off among the Indian population and became more underprivileged and dehumanized. “Several reasons may be adduced for the general social, economic and cultural backwardness of Dalits, it cannot be, denied that the practice of untouchability and the, consequent

segregation from the rest of society has been at the root of all such causes.”<sup>74</sup> But the untouchability did not disappear and segregation and discrimination based on the caste untouchability was continue to be widely prevalent and has been the regular phenomena in the rural India. The Dalits were remaining vulnerable; they are denied basic social and civil rights. They are subjected to various offences, indignities, humiliations and harassment. “They are in several brutal incidents lost their life. Serious crimes are committed against them for various historical, social and economic reasons”.<sup>75</sup> And, “the social indignities emanating from the practice of untouchability and acute economic disparity arising out of landlessness, bondage, etc., leads the SCs to succumb to atrocities by dominant castes who start retaliatory pressures to dilute and weaken the force of compensatory measures.”<sup>76</sup>

The traditional caste hierarchy closely corresponded to the broad class divisions within society: the landlord’s and rich peasantry in Andhra was mostly drawn from among the non-Brahmin upper castes such as the Reddy, Kamma, Kapu, Velama, etc., while the poor peasantry/tenants/agricultural labourers belonged to dalit communities. The post-colonial socio-economic development process led to the decline of parasitic old absentee feudal landlord classes. They lost their predominant position and grip over the economy and polity. Such a decline was also due to the abolition of the zamindari system and the shift of landholding from absentee landlords to cultivating/enterprising peasantry, mainly belonging to the Reddy, Kamma, and Kapu castes. Available evidence clearly indicates that during the post-1950 period the agrarian society of Andhra Pradesh witnessed the crystallization of a progressive/dynamic peasant bourgeois class, which had taken advantage of new economic opportunities like commercial farming, the green revolution, the growth of agro-based industrialization, etc., and consolidated its position as a dominant socio-political class force. Also, the drastic decline and disintegration of absentee landlordism, represented by old zamindars and Brahmin inamdars, paved the way for

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<sup>74</sup> *Economic and Political Weekly*, April 12, 1975. Pp 635-641.

<sup>75</sup> Naval T. R, 2001, *Law of Prevention of Atrocities on the Scheduled Castes and Scheduled Tribes*, Concept Publishing Company, New Delhi. p.24.

<sup>76</sup> Ibid.

the consolidation of a dynamic rural rich in the countryside. In caste terms, most of the neo-rich "Kulaks" belonged to the dominant upper castes. It may be pointed out that the rich peasantry among the Kammas could maintain and improve upon their lands primarily because of their attachment to land and the extraordinary care they took in agriculture. In areas where they numerically preponderant, as in some of the coastal districts, by virtue of their wealth they emerged as the dominant caste and class in the socio-economic and political fields. A similar case can be made for the Kapus and Reddies.<sup>77</sup>

The various rural development strategies pursued by the state government such as the cooperative credit system, the Panchayati Raj institutions, etc., have provided immense opportunities for the traditional rural rich that augment their resource mobilization and accumulation.<sup>78</sup> Thus the "possession of considerable landed property and accumulation of surplus by the upper caste rural rich further intensified the process of stratification within the peasantry, which resulted in the alienation of the lower castes and Dalits from the land."<sup>79</sup> Village level studies of the post-1960 period also revealed that a considerable section of the lower Sudra castes and Dalits did not possess land.<sup>80</sup> Census data on caste and occupation indicates that the Mala and Madiga communities accounted for the bulk of the agricultural labour class and worked as farm/field servants, Paleru and casual workers. Very few of them possessed land. The employment of the entire family (men, women and children) in the various agricultural operations is a unique feature of Dalit communities. Hence, in the case of Dalits caste and class positions have closely converged.<sup>81</sup> The dominant upper caste, as landowners and employers of laborers, thus exerted considerable power over the Dalits. In the villages, a majority of Dalit agricultural laborers and poor peasants/tenants were dependent upon the rich Kamma and Reddy peasantry. Whenever Dalits demands like wage increase were articulated by Dalit communities, they were subjected to caste oppression like social boycott and denied

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<sup>77</sup> Satyanarayana. A., *Dalits and upper castes: essays in Social History*, Kanishka Publishers, Distributors, New Delhi, 2005.

<sup>78</sup> Ibid . p.214.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

access to village economic resources. The dominant rich peasantry did not tolerate any upward mobility among the Dalits. And whenever Dalit families acquired some wasteland, house-sites and other land grants from the government, the caste Hindu rich peasantry subjected them to physical attacks.<sup>82</sup>

Hence, “the struggle for wage increase and land distribution by Dalits resulted in retaliation from the dominant caste-peasantry in the form of abuse, harassment, molestation of Dalit women and destruction of property. Dalits had become easy targets for trivial accusations of theft and witchcraft. There is no dearth of instances of caste discrimination in terms of preventing their entry into temples, taking drinking water from public wells and tanks, denial of sharing of cups in tea shops, etc. The perpetration of caste sharing of cups in the upper castes is closely related to the socio-economic and political domination of the rich peasantry in the countryside. The growing assertion of Dalits for the actualization of the concept of citizenship of mass literacy as the basis of new civil life and social/spatial mobility as a new principle of social life invited victimization by the dominant caste peasantry. The concern of the Dalits for social mobility, education and diversification of occupation was consciously negated by the dominant castes. The unabated caste violence against Dalits in the Andhra countryside is clear proof of this.”<sup>83</sup>

The past and present has been full of innumerable instances of atrocities, indignities and practices of untouchabilities. Caste violence in Andhra Pradesh predominantly involved between two communities: the politically assertive Madigas and Malas and dominant erstwhile sudra castes like Reddy and Kammas. as has been the case in other states, the Dalits in Andhra Pradesh have long suffered from exploitative economic relationships and have been frequently the victims of violence. It is significant to note that major atrocities took place in the politically important and developed central coastal districts of Andhra region namely: Guntur, Krishna, Prakasham, West and East Godavari. And these incidents have taken place against the two principal untouchable castes: the Madigas and the Malas, hence they

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<sup>82</sup> Ibid. p.215

<sup>83</sup> Ibid. p.215



received the most attention. Historically, the Telugu speaking people of Andhra region have inherited the self-respect movement of the Madras Presidency when a separate state was formed in 1956.

After the formation of Andhra Pradesh in 1956, several instances of caste Hindu violence against Dalits reported from the Rayalaseema and Telangana regions. It is ironic that when the entire free Indian nation was celebrating the dawn of the Republic in 1950 with pomp and show, the Dalits of some coastal Andhra villages were being subjected to caste oppression and discrimination. Haribanda and Makannapuram villages of Sompeta taluk, in the north coastal Andhra district of Visakhapatnam, Dalits were attacked thrice by caste Hindus in April-May, 1950.<sup>84</sup> The reason for the attack was that on the so-called "Harijan Day", Dalits of these villages drew water from the common well. In fact, the government declared that the 30th day of each month throughout the year would be observed as "Harijan Day."<sup>85</sup> Legislation had been passed prohibiting discrimination against Dalits, and in order to place them on an equal footing with the rest of the country in enjoying the rights of citizenship. The government desired that every effort be made to educate the public and entice them by removing social disabilities. Government servants, Congress organizations and Harijan Seva Sangams could play a prominent part in the great work of spreading propaganda and promoting inter-community activities for the reformation of society.

The state machinery was also asked to take initiation to eradicate untouchability by organizing celebrations, meetings, etc. However, the caste Hindus imposed a social boycott against the Dalits and physically attacked them for having violated so called caste norms and the terrified Dalits fled the villages and took shelter in neighboring places. "In spite of repeated appeals to the government, nothing was done to safeguard their interests and protect their property and lives. Neither the officials nor the ministers bothered to visit the affected villages and console the victims of caste oppression. The promises made by concerned persons in the government remained

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<sup>84</sup> Sanjay Paswan, Paramanshi Jaidera, "Encyclopedia of Dalits in India: Struggle for Self Liberation, Volume-2", Kalpaz Publications, 2004, p. 121.

<sup>85</sup> Ibid.

unfulfilled. Ultimately, local leaders had to resort to Satyagraha and fasting in order to exert pressure on the government to protect and safeguard the constitutional rights of Dalits.”<sup>86</sup>

Appikatla village, in the Guntur, the prosperous district of coastal region, Dalits agricultural laborers were attacked by the upper caste rich peasants. In Kasukurru village (Krishna), a Dalit couple (medical doctor), was prevented from participating in a marriage procession along the streets and when they resisted, they were dragged out of their car and beaten up.<sup>87</sup> In Anamanapudi village, caste Hindu landlords attacked Dalits agricultural laborers. In Kalvacherla village (West Godavari), Dalit woman was tortured by the brother of a village officer for drinking water from a public well. It was felt that the fruits of freedom were enjoyed by upper castes, while Dalits continued to suffer from age-old socio-economic disabilities. The grant of political freedom did not make any difference to the vast majority of Dalits in the villages. Such sentiments and opinions were expressed by many Dalits intellectuals and leaders.<sup>88</sup>

The report of the Commissioner for SCs and STs, 1960-61, mentioned that in a village in the Hyderabad district of Andhra Pradesh, due to caste prejudice, the caste Hindus left nearly 200 to graze in the fields that were ready for harvest and which belonged to Dalits farmers.<sup>89</sup> In the Khondapalli village of Cuddapah district, houses of Dalits were set on fire and destroyed by caste Hindus because a Dalit cut grass in the field of a caste Hindu and 47 houses of Dalits were burnt by caste Hindus in Gandapalli village, because a buffalo belonging to a Dalit was seen grazing in one of the dominant caste fields. In Nimmakur village, “two Dalits youths were murdered after seven hours of torture by residents of Nommakur village in Krishna District on June 15... The boys -Walked seven miles to Nimmakur, the native village of film star NT Rama Rao to see him, they stood on a big house in the village where the rich Kamma are landlords. Suspecting them to be thieves they overpowered the boys, tied

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<sup>86</sup> Satyanarayana. A., *Dalits and upper castes: essays in Social History*, Kanishka Publishers, Distributors, New Delhi, 2005, p. 208.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

their hands with a rope, took them to the cattle shed and tortured them. They were then brought to the street, tied to electric poles and mercilessly tortured by 22 persons from 4.30 to 11.30 pm., and they were tied in gunny bags and thrown into the Bandar Canal."<sup>90</sup>

The Kanchikacharla Kotesu case in Krishna district became a landmark in the history of Dalit assertion and atrocities against them in 1968. "The Kanchekacherla episode was the most brutal caste Hindu attack on the Dalits during the pre-Karamchedu period. Kotesu, a Dalit boy, was burnt to death on the suspicion of theft of some brass vessels. Hence, Kanchekacerla had come to be known as a village that "parted with its conscience" and the incident of a Dalit youth "who was roasted alive" shocked the people in the entire state. It also signified the growing upper caste rage and fury against the Dalit. The Indian Express reported: "A SC boy was caught by the caste Hindu villagers who took him to a pandal tied him to a pole, beat him and set fire to his clothes which resulted in extensive burns. He died in the hospital. Similarly, a fourteen-year-old Dalit boy was brutally beaten to death by caste Hindus for an alleged theft. In the same village, a Dalit farmer was attacked with axes and spears and killed by the upper caste rich peasants in connection with a dispute over the grazing of cattle."<sup>91</sup>

A sample survey conducted during July-August 1973, in six villages of Hyderabad, Guntur and Chittoor districts revealed the prevalence of acute untouchability. It was found that Dalits were not permitted to use the public wells or allowed to enter temples in any village in the caste Hindu localities. They were also not served by the washerman and barbers. Nor were they allowed to enter tea stalls, but served tea in separate tumblers outside the stalls.<sup>92</sup> The Scheduled Caste Employees Association of Hyderabad submitted a memorandum to the President of India on August 8, 1973, stating instances of atrocities murders, arson, rape and false implication in cases committed on Dalits in a number of villages in the districts of East Godavari, Anantapur, Cuddapah, Chittoor, etc. It listed the instances of wanton attack on

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<sup>90</sup> Ibid.

<sup>91</sup> Ibid. p.212.

<sup>92</sup> Ibid.

Dalits, destruction of property and molestation of Dalit women. The association remarked: "The only fault of the SCs was to demand higher wages and wasteland. Trivial offences alleged against the SCs, like theft to of toddy from palm trees, were enough to instigate the most inhuman treatment against them."<sup>93</sup>

"Violence is a principal weapon in sustaining economic and caste-based discrimination against Dalits. Dalits attempts to enforce their rights alter village customs, defy the social order, or to demand land, increased wages, or political rights often lead to violence and economic retaliation on the part of those most threatened by changes in the status quo. Dalit communities as a whole are summarily punished for individual transgressions."<sup>94</sup> Thus the atrocities in the old times were more often in the nature of action against a specific individual for a specific contravention of village custom, but the present trend is towards a group action against a caste cluster as such, rather than against an individual.<sup>95</sup>

Dalits were slowly consolidating themselves as cohesive group. In this process, the organic leadership that emerged has started educational institutions to train them for better government jobs. Once they joined in the service the Dalits started raising the issues of their own discrimination, humiliation and punishment at the work places along with the issues of more education, job opportunities, house, hostels, and other benefits from the states. "In order to protect their self-respect and constitutional rights in the area of promotion, transfer and appointment of their kin, these groups have slowly formed Ambedkar organizations to incorporate the support of local Dalits."<sup>96</sup> The formation of the Ambedkar associations at the district headquarters along with the employees' organizations helped to form a network in the state. This helped the Dalit organizations to put forward certain demands and allocate funds in the plan budgets of social welfare departments.<sup>97</sup> The "Madigas and Malas of these districts are better educated, assertive and identity-conscious than other Dalit

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<sup>93</sup> Ibid.

<sup>94</sup> Ibid.

<sup>95</sup> Srivastava. S.P, "Dynamics of Dalit Oppression: An Appraisal", *The Eastern Anthropologist*, 50:3-4, 1997

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

communities there or elsewhere.”<sup>98</sup> Having benefited from the state’s policy of reservations in education and from the income, the Dalits have become less depended on the dominant castes and have began to assert themselves in the political arena also. The cycle of violence began and the asserted Dalits were subjected to various offences, indignities, humiliations, harassments and denied basic civil rights.

The green revolution has brought in new social relations with new inputs in these districts. “The centre of rural Andhra’s political economy was formed by the rise of new class of agrarian rich belonging to the Kamma caste, which enriched itself during the process of agrarian development and diversified into a wide range of non-agricultural economic activites opened up by the overall economic development.”<sup>99</sup>

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<sup>98</sup> K. Balagopal, “Post-Chundur and Other Chundurs”, *Economic and Political Weekly*, October 19, 1991.

<sup>99</sup> Srinivasulu. K. ‘Caste, Class and Social Articulation in Andhra Pradesh: Mapping Differential Regional Trajectories’, *Working Paper 179, Overseas Development Institute*, 111 Westminster Bridge Road, London, September 2002.

**Table 1.1**  
**Major incidents or atrocities on *Dalits***<sup>100</sup>

Place of occurrence	Date of occurrence	Nature of the incident
Padirikuppam (Chittor)	5 January 1983	Four <i>dalits</i> killed and 80 families rendered homeless following an attack by upper caste TDP supporters.
Karamchedu (Prakasham)	17 July 1985	Six <i>dalits</i> killed and three <i>dalit</i> women raped in a mass assault by hundreds of forward caste men of the Kamma caste.
Hasnapur (Adilabad)	13 June 1985 8 July 1985	Reddy landlords closely related to the MLA, Adilabad, killed two youth of the Dhobi and barber castes on these two days respectively, for refusal to procure a prostitute on their demand.
Avdhapur (Medak)	17 January 1986	Landlords belonging to the TDP set fire to 30 houses of <i>dalits</i> .
Neerukonda (Guntur)	15 July 1987	One elderly <i>dalit</i> murdered in a mob attack by men of the Kamma community.
Gudiada (Vizianagaram)	15 July 1987	One <i>dalit</i> labourer killed in a dispute over a small patch of tank-bed land by a mob of backward caste farmers led by a forward caste (Raju) Congress Party leader.
Dontali (Nellore)	27 August 1987	One person of a backward caste was killed in an assault by a gang of forward caste men.
Chirala (Prakasham)	13 August 1987	A principal witness in the Karamchedu murder case done to death by Karamchedu killers.
Bandilapalli	27 November 1987	Four <i>dalits</i> beaten and stabbed to death in an assault by a group of forward caste men.
Kodavatikallu	2 February 1988	<i>Dalit</i> labourer murdered by a landlord.
Beernakallu (Nellore)	19 January 1989	A <i>dalit upasarpnach</i> of the village killed by TDP landlord.
Gokarajupalli	16 January 1989	A <i>dalit</i> labourer killed by landlords.
Tangutur (Prakasham)	3 March 1989	A <i>dalit</i> woman raped and burnt to death by a forward caste TDP strong man.
Jabbargudem (Ranga Reddy)	27 April 1989	One <i>dalit</i> killed in a mass assault by the henchmen of a TDP landlord.
Pippara (West Godavari)	4 June 1989	One <i>dalit</i> killed in a mass assault by forward caste men led by village <i>upasarpnach</i> .
Chinakada (Vizianagaram)	31 July 1989	Four Tribals of one family killed by henchmen of a liquor contractor.

Source: Andhra Pradesh Civil Liberties Committee (1991), *Economic and Political Weekly* (1983)

<sup>100</sup> Ibid. pp. 43-44.

## Dalits Movement in Andhra Pradesh

### Dalit Maha Sabha:

Prakasam district is the place of Dalit Movement in entire Andhra Pradesh state. On July 17, 1985 was the historical day of Dalit atrocity. Karamchedu killing has created Dalits awareness not in the state of Andhra Pradesh but also national level. Most importantly these caste killing was basis of the POA Act, 1989. The journey of Dalits caste based discrimination has started from untouchability to atrocities. After the Karamchedu killings the Dalits Mahasabha has formed under the leadership of Katti.Padmarao. The social activist and political leader Padmarao was one of the pillars of the Dalit collective awareness in the history of Dalit movements. The Scheduled Castes (SCs), constituting approximately 17 per cent of the population, form a major social constituency. The two most numerous sub-castes among them are the Malas and Madigas. While the former are preponderant in the coastal region, the latter are dominant in Telangana. Their respective traditional occupations are agriculture and leather work and together, they comprise the bulk of agricultural labour. 6 per cent of Andhra Pradesh's populations are Tribal's, who are largely concentrated in the forest areas of Andhra and Telangana regions.

The events unfolded aftermath of Karamchedu massacre in Prakasam district lead to the formation of Dalit Maha Sabha (DMS) in 1985. Civil libertarian and advocate Bojja Tarakam and dalit writer Dr. Kathi Padma Rao played a crucial role in the formation of Dalit Maha Sabha. Karamchedu event witnessed an overwhelming and unprecedented reaction from different quarters. It cut across the different shades of democratic public opinion and social constituencies. Support was not only political and ideological but also, significantly, material. Chirala town became a hub of dalit activity where the victims of Karamchedu took shelter. Dalits from different parts of the State and belonging to different political persuasions regularly visited the Dalits' camp there. The idea of Dalit Maha Sabha germinated from these regular meetings. With the formation of the DMS, the struggle took an organisational form and soon spread to other parts of the coastal region heralding the beginning of a State-wide

movement.

In Dalit movement, from very beginning, different ideological orientations emerged and tensions prevailed. The first conference of DMS, held in Tenali after the Karamchedu event at the height of the movement in 1986, represents the movement's harmonious phase. It was quite understandably the most radical phase of the movement, with the *dalits*' 'land and livelihood' issues identified as the objectives the movement should strive for. The period between the first and second conference saw some remarkable developments in the national situation. The visit of Kanshi Ram to AP in 1987–8 to establish contacts with *dalit* leaders in the State had an impact on *dalit* politics. Questions of participation in electoral politics, which were not central to the DMS's initial statement, came up in their conference in 1988.

The movement, whose initial chief objective was building a 'social and cultural movement', shifted its focus to the question of political power. One leader who seems to have opposed the tendency of seeing the BSP in a positive light was Kathi Padma Rao. He initially objected to any temptation on the part of the leadership to move not only towards the BSP but also even towards electoral politics. He characterised the BSP as a '*dalit dalari*' (*dalit* brokers or middlemen) party. But, he subsequently joined the BSP on the eve of the 1994 Assembly elections. These issues formed the background of the 1988 conference and a split between Bojja Tarakam and Padma Rao occurred in the DMS. The third and last conference was held separately in 1991 by the two groups, both of whom called themselves Andhra Pradesh Dalit Maha Sabha (APDMS): the Padma Rao group held its conference in Vijayawada and the other group, headed by Tarakam, held theirs' in Ongole. It is unfortunate to note that despite deeper underlying causes, the split should come to be seen as only an issue of differences between personalities.

Numerous activists from different backgrounds got attracted immensely towards the Dalit movement. Mainly, activists from the rationalist/atheist movement; youths from the traditional Ambedkarite movement; and youth with a distinctly Marxist background participated in the movement. Apart from them, a large number of



youths with no clearly identifiable politico-ideological orientation, except for a shared experiential indignation against the upper castes, were also attracted to the movement. It is instructive to note that while the leadership came predominantly from the rationalist/atheist and Marxist traditions, the movement's support base consisted of people whose attachment to the cause was largely emotional. Thus these two distinct ideological orientations were reflected in the *dalit* movement, albeit in a very subtle fashion.

The Mahasabha, led by its general secretary and Bahujan Samaj Party leader Katti Padma Rao, launched an agitation demanding the arrest of four persons belonging to the Reddy community for having prevented Dalits from drawing water from the village well and for abusing them by their caste name. It also demanded that the government provide them work on the ground that the upper-caste landlords had refused to employ them. Each Dalit family, it said, should be given one acre of land so that they could live independently and with dignity. The Dalits staged a dharna near the Collectorate at Ongole for two days. They also took out a padayatra (march) to Ongole and submitted a memorandum to the Collector. As a consequence of the agitation, the police arrested four persons belonging to the Reddy community, who were remanded to custody. They came out on bail after 15 days. The Collector sanctioned Rs.1.5 lakh for employment generation in the village. He also agreed to allot land to the Dalits.

“In the history of caste violence inflicted on Dalits by the dominant castes, the Karamchedu in 1985 and Chunduru in 1991 have become ponderous landmarks in the contemporary social and political history of Andhra Pradesh. These two incidents have underlined the veracity of caste and its oppressive semblance within the social order that is defined and guided by an ideology in which the strong consumes the weak. The notorious incident of Karamchedu village in Prakasam district on July 17, 1985, in which six Dalits were massacred and more were seriously injured. Feeling from the attack, the Dalits of Karamchedu ran to nearby Chirala town and took

shelter in the church. For the first time the victimized Dalits en masse left the village and took shelter in another village.”<sup>101</sup>

**Table -1.2 Before POA Act, 1989**

Place of occurrence	Date	Nature of the incident
Karamchedu (prakasham dist.)	July 17,1985	six dalits killed and three dalit women raped in a mass assault by hundreds of forward caste men of the kamma caste, Apolitically active son-in –law of the then chief minister, N.T.Ramaraao belongs to this caste.
Hasnapur (Adilabad dist. )	July 13, 1985. July 18,1985	Reddy landlords closely related to the MLA, Adilabad killed two youth of the dhobi and barber casts on these twodays respectively for refusal to procure a prostitute on their demand.
Neerukonda (Guntur dist.)	July 15, 1987.	One early dalit murdered in a mob attack by men of the kamma community close relatives of the then health minister of the AP government.
Gudiada (Vaijayanagaram dist.)	July 20, 1987.	One dalit labour killed in a dispute over a small patch of tank- bed land by amobofbackward caste farmers led by forward caste(Raju) Congress leader
Dontali (Nellore dist.)	August 27,1987.	One person of a backward caste(Golla) killed in a mob attack by kmmas. He was instrumental in organising labours.
Chirala (Prakasham dist.)	August 13,1987.	A principal witness in Karamchedu case, an elderly dalit women by name Alisamma, murdered by the Karamchedu killers.
Bandlapalli (Chittor dist.)	August 27,1987.	Four dalits beaten and stabbed to death in an assault by a group of Reddy and other forward casre men and in a dispute over half an acre of cultivable waste.
Kodacatikallu (Krishna dist.)	February 2,1988	A dalit farm-servent killed be Kamma landlord for disobedience.
Beernakallu (Nellore dist.)	January 19,1989	A dalit, upasarpnach of the village, killed by goondas hired by forward caste TDP men for having worked against them in elections.
Gokarajupalli (Krishna dist.)	January 16, 1989	Dalit labour killed by youth of Kamma landlord families for coming in the way of their harrasment of women.
Tangutur (Prakasam dist.)	March 3, 1989.	A dalit woman rapped and set on fire and killed by a TDP goon of kamma caste.
Jabbargudem (Rangareddy dist.)	April 27, 1989.	A dalit killed in a mass assault at the behest of Reddy landlord. Dalits of this area have organized and fought for land, wages, etc.
Pippara (West Godavari dist.)	June 4, 1989.	Dalit killed in a mass assault by forward castes (Raju’s) directed by the local Congress leader. Dalits had protested against molestation of dalit women by Raju youth.
Chinakada (Vijayanagaram dist.)	July 31, 1989.	Four tribal, father and three sons, killed in a mass attack by savarana Hindus at the behest of a liquor contractor, for illicitly brewing and selling liquor.
Mandadam (Guntur dist.)	1987.	Two Erukala tribals abducted tourchered and killed by men of a fishing contractor for catching and selling fish on the sky.

<sup>101</sup> Ratnam, K. Y., “Dalits Movement and Democratization in Andhra Pradesh” East West Center Washington No. 13 December 2008.

The above incidents (see **Table-1.1 & Table-1.2**) clearly reveal that in post-independent India, Dalits have had to pay a heavy price for asserting their civil and constitutional rights. Most of the caste Hindu atrocities on Dalits centered basically around “the right of access to public wells, tanks, educational institutions, social dignity and equality (marriage processions along the streets, wearing neat clothes, chappals, etc.). Caste violence was also related to agrarian relations, i.e., access to grazing land, grants of government wastelands, demand for an increase in wages, etc. The life of Dalits was thought to be value less and hence they were put to death on the mere suspicion of a theft. The Dalits accused were not even allowed to prove their innocence or exercise their legal/constitutional rights. The dominant upper castes brazenly took the law into their own hands and meted out punishments to Dalits. The extra-legal/ constitutional authority of the upper caste rich was demonstrated in order to force the Dalits to accept and respect their dominance in the villages.”<sup>102</sup>

Today, Dalits have been victims of oppression at the hands of the propertied upper castes and still continue to be so despite the law giving effect to the constitutional provisions to do away with caste atrocities. The socio-economic condition of Dalits remains unchanged till today and social ostracism still continues. There is subtle, often not so subtle discrimination, denial of public space, the transgression of which brings immediate and often brutal reprisals. Instances like wearing Chappals, access to temples, places of worship and eating places can also invite brutal reprisals. Human rights violation against Dalits is also political in nature. Often their right to vote is taken away through violent means<sup>103</sup>.

Even though India has made uncertain progress in terms of the protections afforded to Dalits since independence, Dalits still suffer invidious discrimination and mistreatment at the hands of upper caste members and law enforcement officials. Such mistreatment is inexcusable under both India’s domestic laws and its

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<sup>102</sup> Ibid. p.212

<sup>103</sup> Journal of Dalit Resource Centre (2005). Atrocities on Dalits Untouchability: A Historical Overview, Vak, Mumbai.

obligations under international law. Although the Indian government denies the problem of mistreatment of Dalits and points to extensive legal protections evidencing compliance with international standards, the numerous reports of violence and discrimination indicate that Dalits remain India's "broken people." Until the atrocities against Dalits end, the international community ought to continue to publicize the conditions of India's disenfranchised population and encourage India to live up to the standards established in its domestic laws and international obligations.

The political processes, particularly the electoral politics, treated the Scheduled Castes as a vote bank, right from the inception and more so in the seventies; for, this group was always considered homogeneous, and therefore, maneuverable. In Andhra Pradesh, in early thirties, forties and even fifties, the Communist Party held sway of the Dalits and enjoyed widespread support of these sections. It was only in the late sixties and seventies that the Congress, under the leadership of Mrs. Indira Gandhi, won over the Dalits, mainly through her *Gareebi Hatao* rhetoric. The fact that Scheduled Castes remained dependent on the dominant sections and could be maneuvered is one of the failures of the freedom movement and also subsequent developments or welfare measures, which had brought some quantitative change, but had no qualitative impact on these relationships. However, in the recent past, due to sub-caste tensions within the Dalits, the 'homogeneous' vote bank got fragmented and its electoral significance fractured.

Notwithstanding constitutional safeguards, human rights violation against Dalits continues. The gap between promise and performance of the welfare state and its apparatus is 'nakedly exposed', indicating that the state is not only withdrawing of itself from "welfarism", but is becoming repressive. There is therefore the need for organizing mobilization of the Dalits to remind the state of its 'constitutional obligations'. Their argument on this is possible through aggressive mobilization of Dalits from top and below to articulate and re-articulate their democratic aspirations. Dalits in practical are not treated as equal citizens. They are always treated as

unequal citizens. It has been however expected that social change may come through social legislation. Therefore, the Parliament of India and the State Legislatures have passed many laws so as to reform and restructure the poor, caste ridden and orthodox Indian society suitably for the successful working of the Indian Constitution with all its cherished goals. Hence, there is no dearth of law objective aimed at accelerating social change process.

Thus, the Dalits are increasingly challenging the hegemony and discrimination of the caste system and untouchability. In this challenge, the Dalits main weapons are education, adult franchise, political mobilization, employment opportunities through reservations. However, “whenever, Dalits tried to organize themselves or assert their rights, there has been a backlash from the feudal lords resulting in mass killings of Dalits, gang rapes, looting and arsoning, etc of Harijan (Dalit) bastis (villages). Whether caste clashes are social, economic, or political in nature, they are premised on the same basic principles any attempt to alter village customs or to demand land, increased wages, or political rights leads to violence and economic retaliation on the part of those most threatened by changes in the status. Dalit communities as a whole are summarily punished for individual transgressions; Dalits are cut off from their land and employment during social boycotts, women bear the brunt of physical attacks.”<sup>104</sup>

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<sup>104</sup> Umesh Bhatt, *Dalits from Marginalization to Mainstream*, Vista India Publishing House, Delhi. 2005. P.147-148.

## CHAPTER-III

### THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989 and RULES, 1995: CONTENT ANALYSIS

Despite various measures to improve the socio-economic conditions, the Dalits, remain vulnerable. As we discussed in earlier chapter, the more they assert the more they are targeted, hence, the crime against the Dalits is ever intensifying in the caste-ridden society. Dalits civil rights are denigrated by the caste arrogance and subjected to various offences, indignities, humiliations and harassment. In several brutal incidents, they have been deprived of their life and property. The social indignities emanating from the practice of untouchability leads the Dalits to succumb to atrocities by dominant castes that start retaliatory pressures to dilute and weaken the force of legal and statutory provisions. The increasing incidents of atrocities on Dalits are the direct outcome of various historical, social and economic reasons.

Ambedkar says that, “Rights are protected not by law but by the social and moral conscience of society. If social conscience is such that it is prepared to recognize the rights which law chooses to enact, rights will be safe and secure. But if the fundamental rights are opposed by the community, no law, no Parliament, no Judiciary can guarantee them in the real sense of the word”.<sup>1</sup> The existing laws like the Untouchability (Offences) Act, 1955, the Protection of Civil Rights Act, 1976 and the normal provisions of the Indian Penal Code have been found inadequate to check these crimes. The social and moral conscience of the Indian society is such that many laws which were enacted to protect the Dalits are weakened by the caste system. In this context, to check and deter crimes against the Dalits, a special legislation, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been passed which came into force on January, 1990.

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<sup>1</sup> *Dr. Babasaheb Ambedkar Writings and Speeches*, Vol-1. Educational Department, Government of Maharashtra, Bombay, 1979, P.222.

## Law and Social Change in India:

The law is an indispensable instrument of social order and social change especially in caste-ridden Indian society, it is dynamic. Law must change according to the social needs and have to keep pace with such changes. Reason is the soul of law and law dies when reason dies. Thus the laws which were made by legislators, courts, basically to respond to social change and to fulfill its function as a paramount instrument of social order. In every society there is multiplicity of legal system. Indian legal history is sharply marked by different ruling powers. Ancient Hindu view of law says that 'law' is the command of 'God' and law owes its existence to God and the ruler is also bound to obey it and is under a duty to enforce it. Thus the law is part of *Dharma* or *Dharmasastra*. The law is given in *Shruti* or *Veda* and *Smritis*. These texts specified various complex rules for behavior differentiated by a person's status in society. Although *Dharma* is often translated as 'law', it can also be translated as 'religion', 'duty', or 'morality.'

The writers of all *Dharmasastras* start with the presumption that all the *varnas-Brahmana, Kshatriya, Vaishya* and *Sudra* are arranged in descending order and the last is the *Panchama* or the Dalits, the lowest of the society. The Dalits were dealt with more harshly than others, their disabilities are grave and onerous and they are debarred from most of the ordinary grace of life. Manu observed that the dwellings of the *Chandalas* and *Shuapachas* shall be outside the village...their dress are the garments of dead...their food.. given to them in broken dish.<sup>2</sup> Thus the authors of *Dharmashastras* made all efforts to describe the most suppressed status of Dalits and for centuries it continues to be so in reality. This resulted into perpetuation of socio-economic injustices by the so-called higher castes on the lower castes who have been systematically denied equal chance in the opportunities and facilities of the larger society, hence, there came into being social hierarchy and stratification resulting in perpetration of atrocities by the so-called higher castes on the lower castes.<sup>3</sup>

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<sup>2</sup> Naval, T.R., *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001,p.7.

<sup>3</sup> Ibid.

At the turn of the 19<sup>th</sup> century, when India became fully independent from British rule in 1947 and adopted its own Constitution in 1950, it largely retained both the legal and judicial system of the colonial period. The Indian Constitution creates an explicit distinction between justifiable and non-justifiable rights. Incorporating Art.17 in it the Constitution has abolished untouchability and has forbidden its practice in any form. It has declared that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. The untouchables do not exist as legal category since the Constitution of India purported to abolish the condition of untouchability and made its practice an offence.<sup>4</sup> Thus the modern law has become a formal and instrumental declaration to solve the age old problems and to bring the progress in society, the objectives whether social, political and economical are to be achieved through this reasoned, moral law.

Law reflects a struggle of competing interest groups, some of who are more powerful than others. According to B.R. Ambedkar, law and public opinion are two forces, which govern the conduct of man. They act and react upon each other. At times law goes ahead of public opinion and checks it and redirects in channels, which it thinks proper. At times public opinion is ahead of the law. It rectifies the rigor of the law and moderates it.<sup>5</sup> According to Friedman, “what makes law, then, is not ‘public opinion’ in the abstract, but public opinion in the sense of exerted social force.”<sup>6</sup> In democracy, the interplay between social opinion and the law-moulding activities of the State is a more obvious and articulate one. Public opinion on vital issues constantly expresses itself not only through the elected representatives in the legislative assemblies, but through public discussion in various platforms. Because of this constant interaction between the articulation of public opinion and legislation the society moves forward. The struggles led by the Dalits against the caste system and untouchability and Dalit consciousness about their human rights and social position in

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<sup>4</sup> Ibid. p.70.

<sup>5</sup> *Dr. Babasaheb Ambedkar Writings and Speeches*, Vol-12. Educational Department, Government of Maharashtra, Bombay, 1979, p.753.

<sup>6</sup> Quoted in T. R. Naval, *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001, p.68.



the society resulted in the positive response of the post-independence Indian state by enacting new laws and legislations for the removal of social disabilities. The enactment of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is in response to such struggles led by the Dalits at various times and contexts in India and in Andhra Pradesh.

In this context the aim of the chapter is to discuss in detail contents of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Objective reasons for passing of this Act, the various definitions of the Act: like the meaning of atrocity, the establishment of special courts, the role of state machinery and their role in protecting and enforcing the Act has been discussed. The Rules of the Act, various miscellaneous provisions of the Act have been analyzed in this chapter. The role of law as an instrument of social combating the atrocities. What are the kinds of atrocities? What are the various aspects of atrocities? What is the frame work, machinery for controlling, preventing atrocities and to provide rehabilitative relief to the victims, lastly, the critical appraisal of the Act has been presented.

### The Objective Statement and Preamble of the Act:

The statement of Objects and preamble of Act sums up position of Dalits four decades after Independence and Constitution. It says that the, *“Despite various measures to improve the socio economic conditions of the Scheduled Casts and the Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived if their life and property. Serious crimes are committed against them for various historical, social and economic reasons... Because of the awareness created among the Scheduled Casts and Scheduled Tribes, through spread of education etc., they are trying to assert their rights and this is not being taken very kindly by others. When they assert their rights and resist practices of untouchability against them of demand statutory minimum wages or refuse to do any bonded or forced labour, the vested interests try to cow*

*them down or terrorize them. When the Scheduled Casts or Scheduled Tribes try to preserve their self-respect of honor of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the government and more often these people become victims of attacks by the vested interests. Of late has been increase in the distributing trends of commission of certain atrocities like making the Scheduled Caste persons eat inedible substances like human excreta and attacks on and mass killing of helpless Schedule Casts and Schedule Tribes and rape of women belonging to the Schedule Casts and Schedule Tribes. Under the circumstances, the existing laws like the protection of Civil rights Act 1955 and normal provisions of Indian Penal Code have been found to be inadequate to check these crimes. A special legislation to check and deter crimes against them by non Schedule Casts and non Schedule Tribes has therefore become necessary.”<sup>7</sup> The preamble to the enactment clearly states that the objective of the enactment is to prevent the commission of offences of atrocities against the Dalits.*

## Scheduled Castes and Scheduled Tribes (POA) Act, 1989: Contents

The POA, Act has been divided into five chapters and each chapter again divided into different sections. The chapter one ‘Preliminary’ has two sections; section one deal with title, extent and commencement, and section two deals with various definitions of the Act, like atrocity, code, special court, and special public prosecutor. Chapter two ‘Offences of Atrocities’ has seven sections includes: punishments for offences of atrocities, under this section 3 (1) and (2) has 22 offences of Atrocities. Other sections includes: punishment for neglect of duties; enhanced punishment for subsequent conviction; application of certain provisions of the Indian Penal Code; forfeiture of property of certain persons; presumption as to offences; conferment of powers. Chapter three ‘Externment’ has four sections consists: removal of person likely to commit offence; procedure on failure of person to remove himself from area and

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<sup>7</sup> Sankaran, S. R, “Fifty Years of the Indian Constitution-Human Rights of Dalits”, *Indian Journal of Human Rights*, Volume-IV, No. 1 & 2, 2000.

enter thereon after removal; taking measurements and photographs, etc. of persons against whom order under section 10 is made; penalty for non-compliance of order under section 10.

Chapter four 'Special Courts' has two sections; Special Court; Special Public Prosecutor. Chapter five 'Miscellaneous' has eight sections including; power of State Government to impose collective fine; Preventive action to be taken by the law and order machinery. Section 438 of the Code not to apply to persons committing an offence under the Act; Section 360 of the Code and the provisions of the Probation of Offenders Act not to apply to persons guilty of an offence under the Act; Act to override other laws; Duty of Government to ensure effective implementation of the Act; Protection of action taken in good faith; Power to make rules.

### **The Term Atrocity and its Meaning: From Offences to Atrocities:**

There has been controversy on the definition of "atrocity". All the "serious offences" are not treated as atrocities. Apart from murder and grievous offences, one would have to fall back upon the measure of punishment provided by the Code in defining what constitute "serious" offences, because the prescribed punishments depend on the nature of the criminal act not upon the impact of such act on the historically situated victim groups as a whole.<sup>8</sup> Article 17 of the Indian Constitution explicitly says that "Abolition of Untouchability". Accordingly, "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an "offence" punishable in accordance with law. With the avowed objective of effecting the solemn declaration, envisaged under the above Article 17 and 35 (a) (ii) of the Indian Constitution, Parliament enacted the Untouchability Offences Act (UOA) in 1955, and it came into force on June 1, 1955. On the analogy of the provision of the Indian Penal Code any offence, under this Act, has been made punishable with the same quantum of punishment as in the case of the commission of an offence. Further, under the Section 11 of the Act, stricter

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<sup>8</sup> Naval, T.R. *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001, p.38.

punishment has been provided for in the case of repetition of offence. A jurist examined, whether violation of the Civil Rights Protection Act (CRA) should be considered “atrocities”. He opined that the level of punishment is very low but the CRA deals with a specifically disadvantaged group for whom Constitution shows some special solicitude.<sup>9</sup>

The most significant lacuna in the UOA is that the word ‘untouchability’ has not been defined anywhere in the Act. The matter was ultimately settled on the ground that the term would not attract controversy and the legality of its definition may not be challenged because the constitution itself does not define ‘untouchability’. Thus the UOA does not make it clear whether ‘untouchability’ refers to the status of an untouchable or to a person who is subjected to a certain disability upon a person or group of persons.<sup>10</sup> The experience says that the small number of cases of the practice of untouchability reported to the police is no indication at all of the magnitude of the problem. There has been the laxity on the part of police and other authorities concerned in their dealing with such cases.<sup>11</sup> Thus, despite this enactment, the atrocities against the Dalits continued unabated. It was also found that there were several problems and limitations in the enforcement of the Protection of Civil Rights Act, 1976. The Protection of Civil Rights Act, 1976 is based on mild crime model for removing the practice of untouchability. This Act was enacted for giving effect to the provisions of Article 17 of Constitution of India. Initially it was named as “The Untouchability (Offences) of Act, 1955” which was amended in the year 1976 as “Protection of Civil Rights Act, 1976,” as during working of this Act some lacunae were noticed in it.

These loopholes were plugged. This Act remained as a symbolic piece of legislation. It seems fair to say that the UO Act has not fared well in the High Courts in contrast with the earlier State legislation, which generally received favorable interpretations from these Courts. This unfavorable reception by the High Courts seems to involve

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<sup>9</sup> Naval. T.R., p.39.

<sup>10</sup> Girdhar Behari Sharma, “Law as an Instrument for Abolition of Untouchability”, *Economic and Political Weekly*, April 12, 1975.

<sup>11</sup> Ibid.

three problems areas; the requirement that the forbidden act be committed “on grounds of untouchability”; uncertainty about coverage of private property; and limitation of rights to those enjoyed by members of the same religious denomination.<sup>12</sup> The Supreme Court played a significant role in interpreting the provisions of U.O Act PCR Act. It was held by the Supreme Court that the Protection of Civil Rights Act is not penal law simpliciter but bears behind it, monstrous untouchability relentlessly practiced for centuries dehumanizing the Dalits Constitution’s animation to have it eradicated and to assimilate one fifth of nation’s population in the main stream of national life.<sup>13</sup>

Thus, the term ‘atrocities’ was not defined until the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act was passed by the Parliament in 1989. In legal parlance, the Act understands the term “atrocities” means an offence punishable under sections 3 (1) and (2). Atrocities is an expression commonly used to refer to crimes against Scheduled Castes (SCs) and Scheduled Tribes (STs). The term Atrocities denotes an act of extreme heinous cruelty. In the absence of any legal definition, its meaning has been derived from the various instruments issued by Government of India from time to time. However, the respective states in India are applying their own interpretations about the term atrocities. According to Parliamentary Committee on the Welfare of SCs & STs, the term atrocities “denotes the quality of being shockingly cruel and inhumane, whereas the term ‘crime’ relates to an act punishable by law”.<sup>14</sup> The Ministry of Home Affairs has clarified the term as “any offence under the Indian Penal Code committed against members of the Scheduled Castes by any non-Scheduled Caste person. Similarly, all offences under the Indian Penal Code committed by non-Scheduled Tribe against the member of Scheduled Tribe are atrocities. Caste consideration as a motive is not necessary to make such an offence in case of atrocities.”<sup>15</sup>

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<sup>12</sup> Naval, T.R., *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001, p. 70.

<sup>13</sup> Ibid.

<sup>14</sup> Parliamentary Committee on the Welfare of SCs & STs, 4<sup>th</sup> Report 2004-2005. New Delhi, 2005. Para.1.1.

<sup>15</sup> Ministry of Home Affairs, noted in NHRC, Report on Prevention of Atrocities against SCs. New Delhi. 2002. P.28

Ministry of Home Affairs has again clarified the term ‘atrocities’ as “Crimes which have ingredient of infliction of suffering in one form or the other should be included for reporting.” This is based on the assumption that “where the victims of crime are members of Scheduled Castes and the offenders do not belong to Scheduled Castes, caste consideration are really the root cause of the crime, even though caste consciousness may not be the vivid and immediate motive for the crime.”<sup>16</sup> “Atrocities mainly denoted grave offences like murder, rape, arson and violence resulting in grievous hurt.”<sup>17</sup> It appears that behind the selection of these four particular serious offences as atrocities, regarding the caste was an important factor. The Bureau of Police Research and Development, Union Ministry of Home Affairs, calls for a meaningful definition of the term, which is in “conformity with the realities of the situation.” Further, “in order to constitute atrocities, there must be an element of cruelty, brutality or wickedness in the commission of a particular offence, or it should have the background of having been committed with a view to teach a lesson to the *Harijans*.”<sup>18</sup>

## Punishments for Offences of Atrocities: Protection from Various Kinds of Atrocities:

The second chapter of the POA Act listed 22 offences of Atrocities and punishments for offences of atrocities under the section 3 (1) and (2) of the Act. The Act says that any non-Dalit person forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance is an atrocity. Any non-Dalit acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighborhood is an offence. Forcibly removal of clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is

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<sup>16</sup> Ministry of Home Affairs.

<sup>17</sup> Quoted in T. R. Naval, *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001.p.68.

<sup>18</sup> Ibid.

derogatory to human dignity considered an offence.<sup>19</sup> Any non-Dalits wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred defined as an offence.<sup>20</sup>

The Act says that, any non-Dalit wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water is an atrocity. Compelling or enticing a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labor other than any compulsory service for public purposes imposed by Government is an offence of atrocity.<sup>21</sup> Any non-Dalit forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law is an offence. A member who is not a Dalit, institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe is an offence of atrocity. Non-Dalit gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe defined as an offence.<sup>22</sup>

The Dalits are provided protection against humiliation by clause (x) of the section 3 (1) of the Act. A non-Dalit if intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view shall be punishable with imprisonment for a term, which shall not be less than six months. Females belonging to the Dalits are teased or their modest is outraged without any reason simply because they are poor and Dalits was made an offence under the clause (xi) which says that the assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonor or

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<sup>19</sup> See The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (No.33 of 1989)

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

outrage her modesty shall be punishable with imprisonment for a term. The woman belonging to the Dalit exploit her sexually has the protection under the clause (xii) of the Act. This clause says that, “being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed” shall be punishable with imprisonment.<sup>23</sup> The Dalits have protection from denial to use water of any spring, reservoir or any other source without any interception in any manner without getting it polluted. The clause (xiii) says that “corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Caste or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used” shall be punishable.<sup>24</sup>

The members of the Dalits are provided protection s from denial of access to certain places and to use customary passage and to get water from any spring, reservoir or any other source. The members of Dalits were provided protection from denial of access to any place of public resort to which other members of public or any section thereof has a right of access to. This protection made under the (xiv) clause says that any non-Dalits “denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to.”<sup>25</sup> shall be punishable with imprisonment. The Dalits were provided protection against atrocities affecting land; against atrocities affecting residential premises; against atrocities affecting existence of properties. According to clause (xv) any non-Dalits, forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.



According to the Act, section 3 (2) and clause (i), Dalits were given protection against atrocities by litigation and whoever is not being a member of a Scheduled Caste or a Scheduled Tribe, “gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death.”<sup>26</sup> Further, Dalits were given protection against atrocities by Court on false evidence. According to section 3 (2) clause (ii) says that non-Dalits “ gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine.”<sup>27</sup>

The Dalits have been given protection against causing damage to their property by mischief either by fire or explosive substances. This protection has been provided by clause (iii) of section 3 (2) of the Act. According to this clause any non-Dalit, commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine. The destruction of their properties by mischief either by fire or explosive substance is made serious offence. This is provided by clause (iv) of Section 3 (2) of the Act. It says that the non-Dalits commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine.<sup>28</sup> According to the section 3 (2) clause (v) of the Act, any non-Dalit “commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine.”<sup>29</sup>

Every member of Dalit has been protected against the atrocities by destruction of evidence of atrocities. According to the section 3 (2) and clause (vi) whoever, not being member of a Dalit, “knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence.”<sup>30</sup> The Act also provides for more minimum punishment to the accused of offence of atrocities, if he is a public servant. Section 3 (2) clause (vii) of the says that “being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.”<sup>31</sup>

### Other Salient Features of the Chapter II of the Act:

Section 4 of the Chapter II of the Act, deals with punishment for neglect of duties. It says that “Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.”<sup>32</sup> Other important feature

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<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

of the Act is that it provides enhanced punishment for subsequent conviction under the section 5 of the Act. It says that, “Whoever, having already been convicted of an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.”<sup>33</sup> The Act also applies certain provisions of the Indian Penal Code for the proper protection of Dalits. Section 6 of the Act deals with application of certain provisions of the Indian Penal Code “Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter V-A, section 149 and Chapter XXIII of the Indian Penal Code (45 of 1860), shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.”<sup>34</sup>

The other salient feature of the Act is that it empowers the Special Court to attach movable or immovable or both properties belonging to any person accused of any offence in the Act. Section 7 of the Chapter II of the Act deals with the powers of the Special Courts. It says that (1) “Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person which has been used for the commission of that offence, shall stand forfeited to Government. (2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realization of any fine imposed under this Chapter.”<sup>35</sup>

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<sup>33</sup> Ibid.

<sup>34</sup> Ibid. see also T. R. Naval.

<sup>35</sup> Ibid.

## Presumption as to offences:

The other salient feature of the Act is that presumption as to offence. Chapter II Section 8 (a) and (b) deals with this. Accordingly, “in a prosecution for an offence under this Chapter, if it is proved that (a) the accused rendered any financial assistance to a person accused of, or reasonably suspected of committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had, abetted the offence; (b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object.”<sup>36</sup>

## Conferment of powers:

Section 9 of the Chapter III of the Act deals with the conferment powers to the State governments. It says that (1) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do, (a) for the prevention of and for coping with any offence under this Act, or (b) for any case or class or group of cases under this Act, in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case maybe, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court. (2) All officers of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder. (3) The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under sub-section (1).<sup>37</sup>

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<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

## Externment of Potential Offenders:

The other salient feature of the Act is that it empowers Special Court to extern potential offenders from the Dalit areas. Chapter III section 10 of the Act deals with the removal of person likely to commit offence. Section 10 clause (1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'Tribal areas' as referred to in Article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order. Clause (2) The Special Court shall, along with the order under sub-section (1), communicate to the person directed under that sub-section the grounds on which such order has been made. Clause (3) The Special Court may revoke or modify the order made under subsection (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.<sup>38</sup>

Section 11 of the Act provides procedure on failure of person to remove himself from area and enter thereon after removal. Thus the section 11 clause (1) says that if a person to whom a direction has been issued under Section 10 to remove himself from any area:(a) fails to remove himself as directed; or (b) having so removed himself enters such area within the period specified in the order, otherwise than with the permission in writing of the Special Court under sub-section (2), the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify. (2) The Special Court may, by order in writing, permit any person in respect of whom an order under section 10 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and

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<sup>38</sup> Ibid.

may require him to execute a bond with or without surety for the due observation of the conditions imposed. (3) The Special Court may at any time revoke any such permission. (4) Any person who, with such permission, returns to the area from which he was directed to remove himself shall observe the conditions imposed and at the expiry of the temporary period for which he was permitted to return or on the revocation of such permission before the expiry of such temporary period shall remove himself outside such area and shall not return thereto within the unexpired portion specified under Section 10 without a fresh permission. (5) If a person fails to observe any of the conditions imposed or to remove himself accordingly or having so removed himself enters or returns to such area without fresh permission the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

Section 12 of the Act, provides procedure to take measurements and photographs, etc., of persons against who order under section 10 is made. Clause (1) of the section 12 deals with Every person against whom an order has been made under Section 10 shall, if so required by the Special Court, allow his measurements and photographs to be taken by a police officer; clause (2) If any person referred to in sub-section (1) when required to allow his measurements or photographs to be taken, resists or refuses to allow the taking of such measurements or photographs, it shall be lawful to use all necessary means to secure the taking thereof. Clause (3) Resistance to or refusal to allow the taking of measurements or photographs under sub-section (2) shall be deemed to be an offence under section 186 of the Indian Penal Code (45 of 1860). Clause (4) Where an order under section 10 is revoked, all measurements and photographs (including negatives) taken under sub-section (2) shall be destroyed or made over to the person against whom such order is made. Section 13 of the Act deals with the penalty for non-compliance of order under section 10. It says that “Any person contravening an order of the Special Court made under Section 10 shall be

punishable with imprisonment for a term which may extend to one year and with fine.”<sup>39</sup>

## Creation of Special Courts:

The most striking salient feature of the POA, Act, 1989 is the creation of special Courts to try the offences of atrocities under the Act. Section 2(d) defines “Special Court” as a Court of Session specified as a special court in Section 14. The Chapter IV, Section 14 of the Act says that “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 the Act.”<sup>40</sup> Initially when the Act was enacted there was no immediate notification designating the Session Courts to act as a Special Court. In reality, the special courts do not exclusively deal with the atrocity cases under the Act but they are equally required to handle other matters assigned to them, thus affecting the prioritization of cases and the workload.<sup>41</sup> However, it does not affect the status or the powers of such Sessions Court which it enjoys and exercises by virtue of being a Court of Session constituted under Section 9 of the Code. In fact, the word ‘Specify’ used in the language of Section 14 Act presupposes the existence of a court of sessions. It does not take away the powers and jurisdiction of such Courts of Session which it has under various provisions of code.<sup>42</sup> “The various provisions contained in the Code and those of the Act are to be so constructed as may promote their smooth and harmonious functioning without causing any damage to each other. A Court of an Additional Session Judge, exercising the powers as such in a Sessions Division may be specified to be a Special Courts for the purposes of Sec. 14 of the Act without in any manner adversely affecting its jurisdiction and powers as a Court of Sessions. Its specification as a Special Court for

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<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Study on performance of Special courts set up under the SC/ST (Prevention of Atrocities) Act, 1989 by Centre for Study of Casteism, Communalism and Law (CSCCL), National Law School, Bangalore, India, p. 42.

<sup>42</sup> Naval, T.R., *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001, p. 96.

purpose of Sec. 15 of the Act would be in addition to and not in derogation of its powers and jurisdiction as a Judge/ Additional Session judge. Such a construction of Sec. 14 of the Act advances and promotes the proper and harmonious functioning of various provisions contained in the two statutes is, therefore, quite proper.”<sup>43</sup>

## Appointment of Special Public Prosecutors:

The other salient feature of the Act is that it provides appointment of Special Public Prosecutor to conduct trial of offences under the Act in the Special Court. Section 15 of the Act, which deals with appointment of Special Public Prosecutor says that, “For every Special Court, the State Government shall, by notification on the Official Gazette, specify a Public Prosecutor or appointment an advocate who has been in practice as a advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.”<sup>44</sup> Special Public Prosecutors, who work with Exclusive Special Courts and Designated Special Courts, can function smoothly when the Investigation Officers also meet their requirements of arranging for the production of relevant witnesses, obtaining all the necessary evidences and contributing to the coordination among all the actors for the successful prosecution of the case. It is important that the Special Public Prosecutors find time for preparation of the witnesses. It is largely left to their discretion to meet the witnesses prior to the trial. According to them, meeting the witnesses prior to the trial depends upon the seriousness of the case and gravity of the offence. But in atrocity cases, every case needs to be taken seriously and the witnesses need the feedback on how to conduct themselves during the examination and cross examination. If they fail to get the feedback, there will be lot of discrepancies in their statements hence many of the cases end in acquittal for this reason alone.<sup>45</sup> The rate of acquittal is high compared to

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<sup>43</sup> Ibid.

<sup>44</sup> Naval, T.R., *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001, p. 96.

<sup>45</sup> Study on performance of Special courts set up under the SC/ST (Prevention of Atrocities) Act, 1989 by Centre for Study of Casteism, Communalism and Law (CSCCL), National Law School, Bangalore, India, p. 66-67.



convictions and according to the Special Public Prosecutors who represent the complainant in a case, it is due to the witnesses, including the complainant himself/herself, turning hostile and compromising the matter. Hence, the delay in filing First Information Report by the complainant, charge sheet by the investigating police officer, poor investigation and finally witnesses turning hostile are the main causes for acquittals. Furthermore for noncompliance of the Rule 7 of SCs & STs (POA) Act, 1989 which is mandatory, cases get dismissed. In a majority of the cases the victims have not supported the prosecution, have turned hostile and as a result, the cases have ended in acquittal.<sup>46</sup>

### Miscellaneous Provisions under the Chapter V of the Act:

Under the chapter V ‘Miscellaneous’ of the Act various provisions have been provided for the protection of Dalits. Under this, the State government has been given power to impose collective fine. Section 16 of the Act says that “the provisions of Section 10-A of the Protection of Civil Rights Act, 1955 (22 of 1955) shall, so far as may be, apply for the purposes of imposition and realization of collective fine and for all other matters connected therewith under this Act.”<sup>47</sup> Section 17 of the Act provides preventive action to be taken by the law and order machinery. It says in the section 17 of the clause (1) A 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 may, on receiving information and after such enquiry as he may think necessary, has 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 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 behavior and maintenance

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<sup>46</sup> Study on performance of Special courts set up under the SC/ST (Prevention of Atrocities) Act, 1989 by Centre for Study of Casteism, Communalism and Law (CSCCL), National Law School, Bangalore, India, p.67.

<sup>47</sup> See The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (No.33 of 1989)

of public order and tranquility and may take preventive action. Clause (2) The provisions of Chapters VIII, X and XI of the Code shall, so far as may be, apply for the purposes of sub-Section (1). And clause (3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-Section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes.

***a) Denial of Anticipatory Bail and Denial of Probation to the Convict***

The other salient feature of the Act is that it prohibits grant of anticipatory bail to the accused of offences under the Act. Section 18 of the Act puts this bar which is as under, section 438 of the code not to be applied to person committing offences under the Act. According to the section 18 “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.”<sup>48</sup>

***b) Denial of Probation to Convict***

The Act’s other special feature is that Section 19 of the Act put restrictions on the powers of the Special Court to grant probation to the convict of an offence under the Act. It says that section 360 of the Code or the provisions of the Probation of Offenders Act not to apply to persons guilty of an offence under the Act. According to this, “the provisions of Section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 (20 of 1958) shall not apply to any person above the age of eighteen years who is found guilty of having committed an offence under this Act.”<sup>49</sup>

***c) Act to override other laws***

The Act has the provision to override other laws. Section 20 of the Act says that “Save as otherwise provided in this Act, the provisions of this Act shall have effect

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<sup>48</sup> Ibid. see also Naval. T.R., *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001, p.100.

<sup>49</sup> Ibid.

notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.”<sup>50</sup>

***d) Duty of the Government to ensure effective implementation of the Act***

The other salient feature of the Act is that it remains the duty of the government to ensure effective implementation of the Act. The section 21 clause (1) of the Act says that “Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.”<sup>51</sup> Further, under the same section clause (2) provides seven provisions for such measures. Thus the clause (2) says that “In particular, and without prejudice to the generality of the foregoing provisions, such measures may include: (i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice; (ii) the provision for travelling and maintenance expenses to witnesses including the victims of atrocities, during investigation and trial of offences under this Act; (iii) the provision for the economic and social rehabilitation of the victims of the atrocities; (iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act; (v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures; (vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act; (vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.”<sup>52</sup>

In continuation with, the sub-section (3) of the section 21 says that “the Central Government shall take such steps as may be necessary to co-ordinate the measures

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<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

taken by the State Governments under sub-Section (1).” And sub-section (4) mentions that “the Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this Section.” The section 22 of the Act provides protection of action taken in good faith. According to this section, “No suit, prosecution or other legal proceedings shall lie against the Central Government or against the State Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act.”<sup>53</sup>

***e) Power to Make Rules***

The other special feature of the Act is that it provides power to the Central government to make rules. Accordingly, the section 23 of the Act clause (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Further, (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.<sup>54</sup>

The above contents and provisions of protection of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act of 1989, thus, provide a wide range of protections for Dalits. This historic Act certainly documents offenses such as forcing Dalits to “drink or eat any inedible or obnoxious Substance,” to remove their

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<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

clothes or parade around naked, or to become bonded laborers. The POA, Act, 1989 also protects Dalits from false lawsuits, sexual exploitation, and interference with their voting and property rights. Violators of the 1989 Act are subject to fine and imprisonment, while repeat offenders are supposed to serve at least one year for each offense. The 1989 Act also requires states to set up Special Courts to adjudicate Scheduled Caste offenses. In addition, the Act provides punishment for public servants who fail to enforce the protections set forth in the Act. Thus the enactment of a special law for their Protection was resorted to known as Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to provide for strong punitive measures which could serve as prevention.

### **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995:**

The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules of 1995 further delineate procedures for state governments to take toward investigation, prosecution, and punishment pursuant to the 1989 Act. Rules, 1995 was specifically enacted to prevent and to protect Dalits from atrocities committed against them by non-Dalits because the normal provisions of the existing laws like the Protection of Civil Rights Act 1955 and the Indian Penal Code were found inadequate to prevent and eliminate the gross offences against the Dalits. The provisions of SC/ST POA Act & Rules can be divided into three different categories. The first category establishes criminal liability for a number of specifically defined atrocities, and extends the scope of certain categories of penalizations given in the Indian Penal Code (IPC). The second category contains provisions for relief and compensation for victims of atrocities. The third category contains provisions that establish special authorities for the implementation and monitoring of the Act. The common denominator of criminal offences is that criminal liability can only be established if the offence is committed by a person other than a member of SC/ST against a person who belongs to the SC/ST group.

In order to implement the provisions of the Protection of Civil Rights, 1955 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, in exercise of the powers conferred by sub-Section (1) of Sec. 23 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. 1989 (33 of 1989), the Central Government made the following rules, dated 31st March, 1995 namely: the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.<sup>55</sup>

### Precautionary and Preventive Measures:

According to the Rule 3 with a view to prevent atrocities on the Scheduled Castes and the Scheduled Tribes the State Government shall (i) identify the area where it has reason to believe that atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act ; (ii) order the District Magistrate and Superintendent of Police or any other officer to visit the identified area and review the law and order situation; (iii) if deem necessary, in the identified area cancel the arm licenses of the persons, not being member of the Scheduled Castes or Scheduled Tribes, their near relations, servants or employees and family friends and get such arms deposited in the Government Armory; (iv) seize all illegal fire-arms and prohibit any illegal manufacture of fire-arms; (v) with a view to ensure the safety of person and property, if deem necessary, provide arms licenses to the members of the Scheduled Castes and the Scheduled Tribes; (vi) constitute a high power State-level committee, district and divisional level committees or such number of other committees as deem proper and necessary for assisting the Government in implementation of the provisions of the Act. (vii) set up a vigilance and monitoring committee to suggest effective measures to implement the provisions of the Act; (viii) set up Awareness Centers and organize Workshops in the identified area or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the

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<sup>55</sup> G.S. R. 316 (E), Dated 31<sup>st</sup> March, 1995, published in the Gazette of India, Extraordinary, Part II, Section 3 (i) dated 31<sup>st</sup> March, 1995. Ministry of Welfare, G.S. R. 316 (E), New Delhi, 31<sup>st</sup> March, 1995.

provisions of various Central and State enactments or rules, regulations and schemes framed thereunder; (ix) encourage Non-Government Organizations for establishing and maintaining Awareness Centers and organizing Workshops and provide them necessary financial and other sort of assistance; (x) deploy special police force in the identified area; (xi) by the end of every quarter, review the law and order situation, functioning of different committees, performance of Special Public Prosecutors, Investigating Officers and other Officers responsible for implementing the provisions of the Act and the cases registered under the Act.

Under this Rule, the respective government can cancel arms licence of potential accused of an offence under the Act and also provides rules for grant of arm licences to the Dalits. The Rule 3 (iii) says that “if deem necessary, in the identified area cancel the arm licenses of the persons, not being member of the Scheduled Castes or Scheduled Tribes, their near relations, servants or employees and family friends and get such arms deposited in the Government Armory, and (v) with a view to ensure the safety of person and property, if deem necessary, provide arms licenses to the members of the Scheduled Castes and the Scheduled Tribes.”<sup>56</sup>

### **Supervision of Prosecution and Submission of Report:**

The Rule 4 pronounces that (1) The State Government on the recommendation of the District Magistrate shall prepare for each District a panel of such number of eminent senior advocates who has been in practice for not less than seven years, as it may deem necessary for conducting cases in the Special Courts. Similarly, in consultation with the Director-Prosecution in charge of the prosecution, a panel of such number of Public Prosecutors as it may deem necessary for conducting cases in the Special Courts, shall also be specified. Both these panels shall be notified in the Official Gazette of the State and shall remain in force for a period of three years. Rule 4 and sub-rule (2) says that the District Magistrate and the Director of prosecution in charge of the prosecution shall review at least twice in a calendar year, in the month of

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<sup>56</sup> See the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 Ministry of Welfare, G.S. R. 316 (E), New Delhi, 31<sup>st</sup> March, 1995.

January and July, the performance of Special Public Prosecutors so specified or appointed and submit a report to the State Government.

And sub-rule (3) If the State Government is satisfied or has reason to believe that a Special Public Prosecutor so appointed or specified has not conducted the case to the best of his ability and with due care and caution, his name may be, for reasons to be recorded in writing, de-notified. The sub-rule (4) says that the District Magistrate and the Officer-in-charge of the prosecution at the District level shall review the position of cases registered under the Act and submit a monthly report on or before 20th day of each subsequent month to the Director of Prosecution and the State Government. This report shall specify the actions taken/proposed to be taken in respect of investigation and prosecution of each case. The sub-rule (5) Notwithstanding anything contained in sub-rule (1) the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary or if so desired by the victim of atrocity engage an eminent Senior Advocate for conducting cases in the Special Courts on such payment of fees as he may consider appropriate. The (6) related to the Payment of fee to the Special Public Prosecutor shall be fixed by the State Government on a scale higher than the other panel advocates in the State.<sup>57</sup>

### **Information to Police Officer in-charge of a Police Station:**

The Rule 5 says that (1) Every information relating to the commission of an offence under the Act, if given orally to an officer in-charge of a police station shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the persons giving it, and the substance thereof shall be entered in a book to be maintained by that police station. (2) A copy of the information as so recorded under sub-rule (1) above shall be given forthwith, free of cost, to the informant. The sub-rule (3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred in sub-rule (1) may send the substance of such information, in writing and by post, to the

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<sup>57</sup> Ibid.



Superintendent of Police concerned who after investigation either by himself or by a police officer not below the rank of Deputy Superintendent of Police, shall make an order in writing to the officer in-charge of the concerned police station to enter the substance of that information to be entered in the book to be maintained by the police station.<sup>58</sup>

### Spot Inspection by Officers:

The Rule 6 and sub-rule (1) position is that, whenever the District Magistrate or the Sub-Divisional Magistrate or any other executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police receives an information from any person or upon his own knowledge that an atrocity has been committed on the members of the Scheduled Castes or the Scheduled Tribes within his jurisdiction he shall immediately himself visit the place of occurrence to assess the extent of atrocity, loss of life, loss and damage to the property and submit a report forthwith to the State Government. The sub-rule (2) says that the District Magistrate or the sub-Divisional Magistrate or any other executive Magistrate and the Superintendent of Police, Deputy Superintendent of Police after inspecting the place or area on the spot; (i) draw a list of victims, their family members and dependents entitled for relief; (ii) prepare a detailed report of the extent of atrocity, loss and damage to the property of the victims; (iii) order for intensive police patrolling in the area; (iv) take effective and necessary steps to provide protection to the witnesses and other sympathizers of the victims; (v) provide immediate relief to the victims.<sup>59</sup>

### Investigating Officer:

According to the sub-rule (1) of the Rule 7 says that, an offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The investigating officer shall be appointed by the State Government, Director-General of Police, Superintendent of Police after taking into

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<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time. Sub-rule (2) says that the investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police who in turn will immediately forward the report to the Director-General of Police of the State Government. Sub-rule (3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer-in-charge of Prosecution and the Director-General of Police shall review by the end of every quarter the position of all investigations done by the investigating officer.<sup>60</sup>

### Setting up of the Protection Cell:

The Rule 8 says that the State Government shall set up a Scheduled Castes and the Scheduled Tribes Protection Cell at the State headquarters under the charge of Director of Police, Inspector-General of Police. This Cell shall be responsible for; (i) conducting survey of the identified area; (ii) maintaining public order and tranquility in the identified area; (iii) recommending to the State Government for deployment of special police force or establishment of special police post in the identified area; (iv) making investigations about the probable causes leading to an offence under the Act; (v) restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes; (vi) informing the nodal officer and special officer about the law and order situation in the identified area; (vii) making enquiries about the investigation and spot inspections conducted by various officers; (viii) making enquiries about the action taken by the Superintendent of Police in the cases where an officer in-charge of the police station has refused to enter an information in a book to be maintained by that police station under sub-rule (3) of rule 5; (ix) making enquiries about the wilful negligence by a public servant; (x) reviewing the position of cases registered under the Act, and (xi) submitting a monthly report on or before 20th day

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<sup>60</sup> Ibid.

of each subsequent month to the State Government, nodal officer about the action taken proposed to be taken, in respect of the above.<sup>61</sup>

### Nomination of Nodal Officer:

According to the Rule 9 the State Government shall nominate a nodal officer of the level of a Secretary to the Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for coordinating the functioning of the District Magistrates and Superintendent of Police or other officers authorized by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal officer shall review; (i) the reports received by the State Government under sub-rules (2) and (4) of rule 4, rule 6, Clause (xi) of rule 8; (ii) the position of cases registered under the Act; (iii) law and order situation in the identified area; (iv) various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent; (v) adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance and transport facilities provided to the victims of atrocity of his/her dependents; (vi) performance of non-Governmental organizations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.<sup>62</sup>

### Appointment of a Special Officer:

According to Rule 10 in the identified area a Special Officer not below the rank of an Additional District Magistrate shall be appointed to co-ordinate with the District Magistrate, Superintendent of Police or other officers responsible for implementing the provisions of the Act, various committees and the Scheduled Castes and the Scheduled Tribes Protection Cell. The Special Officer shall be responsible for: (i) providing immediate relief and other facilities to the victims of atrocity and initiate necessary measures to prevent or avoid re-occurrence of atrocity; (ii) setting up an

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<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

awareness center and organizing workshop in the identified area or at the District headquarters to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules and schemes, etc. framed therein; (iii) coordinating with the non-governmental organizations and providing necessary facilities and financial and other type of assistance to non-governmental organizations for maintaining centers or organizing workshops.<sup>63</sup>

### **Travelling Allowances and other Expenses to the Victim Atrocity:**

Rule 11 and sub-rule says (1) that every victim of atrocity or his/her dependent and witnesses shall be paid to and for rail fare by second class in express / mail/ passenger train or actual bus or taxi fare from his / her place of residence or actual bus or taxi fare from his /her place of residence or place of stay to the place of investigation or hearing of trial of an offence under the Act. The sub-rule (2) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make necessary arrangements for providing transport facilities or reimbursement of full payment thereof to the victims of atrocity and witnesses for visiting the investigating officer, Superintendent of Police/Deputy Superintendent of Police, District Magistrate or any other Executive Magistrate. The sub-rule (3) Every woman witness, the victim of atrocity or her dependent being a woman or a minor, a person more than sixty years of age and a person having 40 per cent or more disability shall be entitled to be accompanied by an attendant of her/ his choice. The attendant shall also be paid travelling and maintenance expenses as applicable to the witness or the victim of atrocity when called upon during hearing, investigation and trial of an offence under the Act.

The sub-rule (4) The witness, the victim of atrocity or his/her dependent and the attendant shall be paid daily maintenance expenses for the days he/she is away from the place of his/her residence or stay during investigation, hearing and trial of an offence, at such rates but not less than the minimum wages, as may be fixed by the

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<sup>63</sup> Ibid.

State Government for the agricultural laborers. The sub-rule (5) In addition to daily maintenance expenses the witness' the victim of atrocity (or his/her dependent) and the attendant shall also be paid diet expenses at such rates as may be fixed by the State Government from time to time. The sub-rule (6) The payment of travelling allowance, daily allowance, maintenance expenses and reimbursement of transport facilities shall be made immediately or not later than three days by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate to the victims, their dependents/attendant and witnesses for the days they visit the investigating officer or in-charge police station or hospital authorities or Superintendent of Police, Deputy Superintendent of Police or District Magistrate or any other officer concerned or the Special Court. The sub-rule (7) When an offence has been committed under Sec. 3 of the Act, the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall reimburse the payment of medicines, special medical consultation, blood transfusion, replacement of essential clothing, meals and fruits provided to the victim(s) of atrocity.

### **Measures to be taken by the District Administration: Compensation and Rehabilitation:**

According to Rule 12 and sub-rule (1) the District Magistrate and the Superintendent of Police shall visit the place or area where the atrocity has been committed to assess the loss of life and damage to the property and draw a list of victim, their family members and dependents entitled for relief. (2) Superintendent of Police shall ensure that the First Information Report is registered in the book of the concerned police station and effective measures for apprehending the accused are taken. (3) The Superintendent of Police, after spot inspection, shall immediately appoint an investigation officer and deploy such police force in the area and take such other preventive measures as he may deem proper and necessary.<sup>64</sup>

The Rule 12 and sub-rules of (4), (5) and (6) deals with the compensation. The sub-rule (4) says that the District Magistrate or the Sub-Divisional Magistrate or any other

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<sup>64</sup> Ibid.

Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the schedule annexed to these Rules (Annexure-I read with Annexure-II). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings. The sub-rule (5) deals with the relief provided to the victim of the atrocity or his /her dependent under sub-rule (4) in respect of death, or injury to, or damage to property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.<sup>65</sup>

However, the payment of compensation differs from case to case. Drink or eat inedible or obnoxious substance [Section 3(1) (i)]; causing injury insult or annoyance [section3 (1) (ii)]; derogatory Act [section3 (1) (iii)] shall be paid compensation of Rs. 25,000 or more depending upon the nature and gravity of the offence to each victim and also commensurate with the indignity, insult and defamation suffered by the victim. Rs. 20,000.00 for violation of right to vote and Rs. 25,000.00 for forced or bonded labour; false, malicious or vexatious legal proceedings; It is up to Rs. 25,000.00 for insult, intimidation and humiliation; wrongful occupation or cultivation of land, etc.; false and frivolous information; causing injury, insult or annoyance; derogatory act; relating to land, premises and water. It is Rs. 50,000.00 to each victim of the offence of outraging the modesty of a woman, sexual exploitation of women and the victims of offences under the Indian Penal Code punishable with imprisonment for a term of 10 years or more.<sup>66</sup>

Compensation is up to Rs. 1, 00,000.00 to the victims of fouling of water and denial of customary rights of passage. It is at least Rs. 1,00,000.00 or full compensation of the loss or harm sustained by victims of giving false evidence or 100% incapacitation of non-earning member of a family or murder/death of non-earning member of a family. It is at least Rs. 2, 00,000.00 for 100% incapacitation of earning member of a family or murder/death of earning member of a family. 25% of the compensation

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<sup>65</sup> Ibid.

<sup>66</sup> See Naval. T.R., *Law of Prevention of Atrocities on the Scheduled Castes and the Scheduled Tribes*, Concept Publishing Company, New Delhi, 2001, p.108.

amount is to be paid to the victims or legal heirs at the time of lodging of FIR in case of begar or forced or bonded labour; and remaining 75% is to be paid on conviction in the lower court. 25% is to be paid to the victims or their legal heirs at the time of filing of charge sheet in the court and remaining amount of 75% is to be paid at the time of conviction by lower court in case of atrocities by drink or eat inedible or obnoxious substance; causing injury, insult or annoyance; derogatory act; insult, intimidation and humiliation. 50 % of the compensation amount is to be paid to the victim of 100% incapacitation of non-earning or earning member of a family on lodging F I R and 25% at charge sheet and 25% on conviction by the lower court. 75% of the compensation amount is to be paid to the legal heirs of the victim of death/murder at the time after post-mortem and 25% on conviction in lower court.<sup>67</sup>

In addition to, relief amounts as narrated above, victim of murder, death, massacre, rape, mass rape and gang rape, permanent incapacitation and dacoity are also entitled to other relief. Widow or other dependants of deceased SC and ST are entitled to get Rs. 1,000.00 per month as pension. Or, one member of family of the deceased is entitled to get employment, or provision of agricultural land, and house, if necessary by outright purchase, is to be made by the Government for them. Besides, full cost of the education and maintenance of the children of the victims is to be provided by the Government. Children may be admitted to Ashram, School/residential schools. Victims are also entitled to get utensils, rice, wheat, pulses, etc. for a period of three months. Brick/ stone masonry house to be constructed or provided to the victims of the atrocities at Government cost where it has been burnt or destroyed.<sup>68</sup>

The sub-rule (6) deals with the relief and rehabilitation facilities mentioned in sub-rule (4) above shall be provided by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate in accordance with the scales provided in the Schedule annexed to these rules. The sub-rule (7) deals with the provision of A report of the relief and rehabilitation facilities provided to the victims shall also be forwarded to the Special Court by the District Magistrate or the Sub-Divisional

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<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

Magistrate or the Executive Magistrate or Superintendent of Police. In case the Special Court is satisfied that the payment of relief was not made to the victim or his/her dependent in time or the amount of relief or compensation was not sufficient or only a part of payment of relief or compensation was made, it may order for making in full or part the payment of relief or any other kind of assistance.<sup>69</sup>

### **Selection of Officers, Members and Specific Responsibility of the State Government:**

The Rule 13 and sub-rule (1) The State Government shall ensure that the administrative officers and other staff members to be appointed in an area prone to atrocity shall have the right aptitude and understanding of the problems of the Scheduled Castes and posts and police station. The sub-rule (2) says that it shall also be ensured by the State Government that persons from the Scheduled Castes and the Scheduled Tribes are adequately represented in the administration and in the police force at all levels, particularly at the level or police posts and police station. The Rule 14 says that the State Government shall make necessary provisions in its annual budget for providing relief and rehabilitation facilities to the victims of atrocity. It shall review at least twice in a calendar year, in the month of January and July the performance of the Special Public Prosecutor specified or appointed under Sec. 15 of the Act, various reports received, investigation made and preventive steps taken by the District Magistrate, Sub-Divisional Magistrate and Superintendent of Police, relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on behalf of the concerned officers.<sup>70</sup>

### **Contingency Plan by the State Government:**

The Rule 15 sub-rule (1) The State Government shall prepare a model contingency plan for implementing the provisions of the Act and notify the same in the Official Gazette of the State Government. It should specify the role and responsibility of

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<sup>69</sup> See the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 Ministry of Welfare, G.S. R. 316 (E), New Delhi, 31<sup>st</sup> March, 1995.

<sup>70</sup> Ibid.



various departments and their officers at different levels, the role and responsibility of Rural/ Urban Local Bodies and Non-Government Organizations. Inter alia this plan shall contain a package of relief measures including the following: (a) scheme to provide immediate relief in cash or in kind or both; (b) allotment of agricultural land and house-sites; (c) the rehabilitation packages; (d) scheme for employment in Government or Government undertaking to the dependent or one of the family members of the victim; (e) pension scheme for widows, dependent children of the deceased, handicapped or old age victims of atrocity; (f) mandatory compensation for the victims; (g) scheme for strengthening the socioeconomic condition of the victim; (h) provisions for providing brick/stone masonry house to the victims; (i) such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility, burial/cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes. And sub-rule (2) The State Government shall forward a copy of the contingency plan or a summary thereof and a copy of the scheme, as soon as may be, to the Central Government in the Ministry of Welfare and to all the District Magistrates, Sub-Divisional Magistrates, Inspectors-General of Police and Superintendents of Police.<sup>71</sup>

### Constitution of State-level Vigilance and Monitoring Committee:

The Rule 16 deals with the constitution of state-level vigilance and monitoring committee. The sub-rule (1) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following: (i) Chief Minister/Administrator-Chairman (in case of a State under President's Rule Governor-Chairman). (ii) Home Minister, Finance Minister and Welfare Minister-Members (in case of a State under the President's Rule Advisors-Members); (iii) all elected Members of Parliament and State Legislative Assembly and Legislative Council from the State belonging to the Scheduled Castes and the Scheduled Tribes- Members; (iv) Chief Secretary, the Home Secretary, the Director-General of Police, Director/ Deputy Director, National Commission for the Scheduled

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<sup>71</sup> Ibid.

Castes and the Scheduled Tribes- Members; (v) the Secretary in-charge of the welfare and development of the Scheduled Castes and the Scheduled Tribes- Convener. The sub-rule (2) says that the high power vigilance and monitoring committee shall meet at least twice in a calendar year, in the month of January and July to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the State Government.<sup>72</sup>

### **Constitution of District Level Vigilance and Monitoring Committee:**

According to Rule 17 there shall be district level vigilance and monitoring committee. The sub-rule (1) says that in each district within the State, the District Magistrate shall set up a vigilance and monitoring committee in his district to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers /agencies responsible for implementing the provisions of the Act and various reports received by the District Administration. The sub-rule (2) deals with the district level vigilance and monitoring committee shall consist of the elected Members of the Parliament and State Legislative Assembly and Legislative Council, Superintendent of Police, three-group 'A' Officers, Gazetted Officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes, not more than 5 non-official members belonging to the Scheduled Castes and the Scheduled Tribes and not more than 3 members from the categories other than the Scheduled Castes and the Scheduled Tribes having association with Non-Government Organizations. The District Magistrate and District Social Welfare Officer shall be Chairman and Member-Secretary respectively. The sub-rule (3) of the

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<sup>72</sup> Ibid.

Rule 17 deals with the district level committee shall meet at least once in three months.<sup>73</sup>

### Material for Annual Report:

According to the Rule 18 of the 1995 Rules, the State Government shall every year before the 31st March, forward the report to the Central Government about the measures taken for implementing provisions of the Act and various schemes/plans framed by it during the previous calendar year.<sup>74</sup>

The above content analysis of the SCs/STs (POA), Act 1989 and the SCs/STs (POA), Rules 1995 clearly indicates the post-independence India's initiation towards the eradication of caste and untouchability. Thus the Constitution of India provided several safeguards and legal provisions to protect the SCs/STs in India. Since the protective arrangements, to begin with, the Constitution itself has provided an elaborate framework for eliminating those customs, practices, or institutional arrangements, including provisions in laws, if any, which tended to sanctify and reinforce untouchability practices and other discriminatory and degrading conditions imposed on these communities. In this context the enactment of a special law known as Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for the Protection these communities was for strong punitive measures which could serve as prevention.

The Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 & Rules, 1995 was specifically enacted to prevent and to protect SC/STs from atrocities committed against them by non-SCs/STs because the normal provisions of the existing laws like the Protection of Civil Rights Act 1955 and the Indian Penal Code were found inadequate to prevent and eliminate the gross offences against SC & STs. Although, the POA Act was very stringent and powerful but in practice the Act proved ineffective and inadequate in dealing with the caste atrocities in Indian society. The upper caste people are practicing caste-based discrimination against the

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<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

Dalits even in the 21<sup>st</sup> century. The National Human Rights Commission also stated that SCs/STs POA Act, 1989 was not properly implemented by the State and Central mechanism. The prevention of atrocities against SC's and ST's reported that these Acts and Rules have failed in protecting the SC's/ST's communities. (Report on Prevention of Atrocities against Scheduled Castes and Scheduled Tribes.<sup>75</sup>

Due to several reasons the POA Act, 1989 is not being implemented properly, a number of atrocities cases is unreported and unregistered by the police. The sixth report of National Commission for Scheduled caste and scheduled tribes says that the police are systematically rejecting the SC/ST atrocity cases, because of the lack of awareness among the SC/ST. The Sixth Report of the National Commission for SCs and STs<sup>76</sup> had expressed a deep sense of dissatisfaction over the way in which it is being implemented. The major inadequacy of the atrocity act, 1989 has failed at every step of incidents and implementations. The Act must also be amended to make abetment of an offence, a crime under the Act. With a specific focus on gender related crimes, the Rules ought to be amended to provide for investigation into serious complaints of violence against SCs/STs women to be carried out by a woman police officer and where this is not feasible, a woman police of civil functionary may accompany a male police officer during the investigation. The provision for speedy trial, though specifically provided for under the Act and the Rules, continues to be a guarantee only on paper. The ground realities indicate a need for serious reflection on strengthening the Act on this count.

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<sup>75</sup> National Human Rights Commission, report-2004.

<sup>76</sup> National Commission for SC/ST report, 1999-2000 and 2000-2001.

## CHAPTER – IV

### THE STATE RESPONSE AND WORKING OF POA ACT, 1989: AN OVERVIEW

Despite the fact that the Indian Constitution in 1950 through its Article 17 “untouchability” is abolished and its practice in any form is forbidden, the enforcement of any disability arising out of “untouchability” was made as an offence punishable in accordance with law, despite the fact that the eradication of pervasive discrimination practiced against Dalits and the practice of untouchability was made as a cognizable offence under the Untouchability (Offences) (UOA) Act, in 1955, despite the fact that the to plug the loopholes and to making the penal provisions more stringent the (UOA) Act of 1955 was amended as Protection of Civil Rights Act, in 1976, despite the enactment of more stringent Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 based on hard crime model for prevention of atrocities on the Dalits, there has been an increase in the trend of commissioning of atrocities against them. Despite the fact that the Dalits are able to mobilize their voice at global level, the above said obligations are not met by the ruling elites of the country. Thus, the ever growing level of Dalits consciousness is witnessed more and more violence and crime against them. In this context the purpose this chapter is to present a graphic picture of the atrocities committed against the Dalits after passing of the POA, Act, 1989. What are the problems in working of this Act, what is the state response towards the crime against the Dalits, what are the major atrocities that occurred after passing of this Act, how Dalits could mobilize the global support in order to fight against the caste discrimination. All these issues are discussed in this chapter at all India level and specifically in Andhra Pradesh state.

Thus the modern State action against the old social customs, prejudices, and untouchability had far-reaching reforms and untouchability has been as an “offence” and “crime” and any form of discrimination related to this is protected by the state.

Despite various measures to improve their socio-economic conditions still they remain vulnerable. According to the 46 articles of Indian Constitution “The State shall protect and promote the weaker section of the people, particularly the communities of SCs and STs.” The Indian Constitution guarantees certain rights to all citizens and places upon the state an additional charge: to protect and serve the interests of the poorest and socially disadvantaged groups so that they may gradually attain positive liberty. As the previous chapter described, Dalit attempts to realize the promise of the Constitution have been consistently thwarted by upper caste resistance to change. This entrenched system of upper caste domination and exploration of Dalit have been supported implicitly and explicitly by the state agencies.”<sup>1</sup>

Dalits are still facing a unique discrimination in Indian society and the practice of ‘untouchability’ that is only parallel to the Apartheid in South Africa. Untouchability is not just social discrimination. It is a blot on humanity.”<sup>2</sup> Even after the sixty seven years of Indian Independence, the Dalits Rights are being violated in the hands of dominant caste. In this connection, it is apt to quote Dr. Manmohan Singh the Indian Prime Minister who stated the precise nature of vulnerability of Dalit that is still being continued because of their roots of caste system. He said that,

*“Continuing atrocities against the weaker sections are a matter of national disgrace in a civilized society. Our Constitution has provisions for protecting their interests and prohibiting discrimination. We have on our statutes the Untouchability (Offences) Act, subsequently renamed as the Protection of Civil Rights Act. Further, to check and deter crimes against SCs and STs, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted during the tenure of Prime Minister, Late Shri Rajiv Gandhi. This act was necessary as the normal provisions of IPC*

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<sup>1</sup> Ghanshyam Shah, Harsh Mander, Sukhadeo Thorat, Satish Deshpande, Amita Baviskar, Untouchability in Rural India, Sage Publication, New Delhi, 2006, p.140.

<sup>2</sup> Hidden Apartheid: Caste Discrimination against India’s “Untouchables”, Shadow Report to the UN Committee on the Elimination of Racial Discrimination, Volume19, No. 3 (C), February 2007, p. 3.

*did not provide adequate deterrence in preventing atrocities. This Act is one of the most far-reaching legislations and provides State Governments with optimal powers to create Institutional instrumentalities that could strike at the roots of the causes that feed atrocities on the underprivileged sections. Creation of these instruments is necessary for effective implementation of the provisions.”*<sup>3</sup>

From the above statement it is clear that despite constitutional provisions for the protection of the Dalits, continuing crime against the Dalits is a matter of national disgrace in a civilized society. Protecting the Dalits interests and prohibiting discrimination against was felt as the most important for entire Indian people to get away with this national disgrace. The caste system made the normal provisions of IPC and PCR, Act as ineffective instruments and these legal instruments could not provide adequate deterrence in preventing the atrocities and could not strike at the roots of the causes of atrocities. Manmohan Singh, the Prime Minister of India, in this context, reiterates the necessity for the creation of new instruments like POA, Act, 1989 for the effective implementation of the constitutional guarantees.

### **Crime Against the Dalits in the Post POA, Act Scenario: Facts and Figures:**

According to Smitha Narula “in India’s perennial struggle between the rule of law and the rule of caste, violence is the trump card that ensures the rule of caste always wins out. Violence against Dalits in India has reached epidemic proportions.”<sup>4</sup> The report says that between 1992 and 2005 a total of 398,644 cases involving crimes against Dalits were registered throughout the country. These include the crimes of murder, rape, kidnapping, robbery, and arson, among other.<sup>5</sup> Police statistics averaged over the past five years indicates that every week 13 Dalits are murdered, 5

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<sup>3</sup> Prime Minister Manmohan Singh's address at 10th Meeting of Inter-State Council, December 9, 2006, New Delhi.

<sup>4</sup> Smita Narula. “Equal by Law, Unequal by Caste: the “untouchable” condition in Critical Race perspective”, Centre for Human Rights and Global Justice, Working Paper No. 19. 2008.

<sup>5</sup> Ibid.

Dalit homes (possessions) are burned, 6 Dalits are kidnapped or abducted, and that every day 3 Dalit women are raped, 11 Dalits are assaulted and a crime is committed against a Dalit every eighteen minutes.<sup>6</sup> These statistics are not simple numbers they represent the human beings, further these statistics represent only a fraction of the violence committed against Dalits. “Violence is a principal weapon in sustaining economic and caste-based discrimination against Dalits. Dalits’ attempts to enforce their rights alter village customs, defy the social order, or to demand land, increased wages, or political rights often lead to violence and economic retaliation on the part of those most threatened by changes in the status quo.”<sup>7</sup>

Despite the fact that POA, Act came into force, the magnitude of atrocities on Dalits every year intensified. Thousands of atrocity cases have been reported and registered in different states of India. In the year 1985, the Karamchedu caste massacre has happened and seven Dalits are brutally murdered by the dominant castes in Andhra Pradesh. After the Karamchedu killings the government of India has enacted the POA Act, 1989. In the year 1991, after the enactment of POA, Act there was again act of caste killing in Tsundur of Andhra Pradesh. In this incident six Dalits are massacred. In another incident ten Dalits are shot dead and 25 Dalits are injured in police firing at Rambai (Maharashtra) in the year 1997. In the year 1997, around 61 Dalits are massacred by the upper caste militant Sena “Ranvir Sena” in Laxmanapur-Bathe, Bihar. In 2002 five Dalits are lynched by a mob in a police station at Jhajjihar, Haryana. In 2005 the Vempenta (Ananthapur district) caste violence took place in Andhra Pradesh. Another brutal incident took place at Khirlanji in Maharashtra in the year 2006. In this incident, four Dalits girls have been killed. Among the four girls, two girls have been raped before they were killed.

According to the sources, from the period 2000-2007 about twenty one thousand cases have been reported. It is also noted that the average Dalit atrocity cases for every year are about twenty six hundred. In Andhra Pradesh, during the period of

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<sup>6</sup> Ibid.

<sup>7</sup> Ibid.



four years (2005-2008) the highest atrocity cases are reported in Kurnool (1151cases) in Rayalaseema region. The second highest atrocity cases are reported in Mahaboobnagar (728 cases) in Telangana region. The total cases registered in the West Godavari district were 732.<sup>8</sup> According to the National Crime Records Bureau, 10 states have been identified as the most atrocities prone states in India. The Table.1 shows that the Uttar Pradesh is the highest atrocities prone state and it is number one rank at the national on Dalit atrocities. During the period from 1995-2007, the Uttar Pradesh registered 95,319 cases, followed by Madhya Pradesh with 81,941cases, Rajasthan had 78, 782 cases. The state of Andhra Pradesh is the fourth rank in the all India level registering 39,286 atrocities on Dalits. Thus at all India level, according to the Table-1shows that only 10 states with 69 per cent of India's SC/ST population accounts for over 90 per cent of Cognizable crimes against SCs/STs during 1995-2007.

**Table-2.1: Most Atrocity Cases registered States during: 1995-2007**

S.No.	State	Total crimes against SCs/STs	Rank as per % share
1	Uttar Pradesh	95,319	1
2	Madhya Pradesh	81,941	2
3	Rajasthan	78,782	3
4	Andhra Pradesh	39,286	4
5	Gujrat	22,820	5
6	Karnataka	21,362	6
7	Tamilnadu	20,063	7
8	Bihar	19,682	8
9	Orissa	18,232	9
10	Maharashtra	14,630	10

**Sources:** NCRB, Crime in India 1995-2007, New Delhi, 1996 – 2008

In the year 2006, the Government of India Ministry of Social Justice and Empowerment Department has announced the Annual Report related to the atrocities case and atrocities prone districts in each state. Thirteen states have been identified

<sup>8</sup> PCR-Cell, A.P. Police Department reports on 2008.

as the most atrocity prone areas in India (see the Table.2) and in each state further it has identified the most atrocities prone districts of the respective states. Andhra Pradesh (12) Bihar(33), Gujarat (11), Jharkhand(1), Chhattisgarh (9) Karnataka (15), Kerala (3) Madhya Pradesh (17), Maharashtra (27), Orissa (19), Tamil Naidu (28), Rajasthan (18), and Uttar Pradesh[20] of all above the 12 states Uttar Pradesh is the Highest in of Population wise as well as number of atrocity cases.

Table. 2.2 show that among the districts of various states, some are atrocity prone areas according to the Ministry of social justice and empowerment's annual report of 2005. In Andhra Pradesh, 12 districts have been identified as the most atrocity prone areas, in Bihar 33 districts have been identified as atrocities prone areas. Karnataka with 15 districts, Madhya Pradesh with 17 districts, Chhattisgarh with 9 districts, are being identified. Bihar has 33 districts with highest number of districts, Tamil Nadu with 28 as the second, 20 districts of Uttar Pradesh One district of Jharkhand has been marked as lowest atrocity prone state. 11 districts of Gujarat, 3 districts of Kerala, 27 districts of Maharashtra, 19 districts of Orissa, 28 districts of Tamil Nadu, and 18 districts of Rajasthan have been identified as national level atrocity prone areas.<sup>9</sup>

**Table-2.2 National level Atrocity prone Districts of the States**

SL.No.	State	Number of Districts	Remarks
1	Andhra Pradesh	12	
2	Bihar	33	Highest atrocity prone area
3	Chhattisgarh	9	
4	Gujarat	11	
5	Jharkhand	1	Lowest atrocity prone area
6	Karnataka	15	
7	Kerala	3	
8	Madhya Pradesh	17	
9	Maharashtra	27	
10	Orissa	19	
11	Tamil Nadu	28	
12	Rajasthan	18	
13	Uttar Pradesh	20	Highest atrocity cases registered

**Sources:** Government of India Ministry of Social Justice & Empowerment, Annual Report-2005.

<sup>9</sup> Government of India Ministry of social Justice and empowerment, New Delhi, Annual Report-2006.

The studies on atrocities at all India level noted that “whether caste clashes are social, economic, or political in nature, they are premised on the same basic principle: any attempt to alter village customs or to demand land, increased wages, or political rights leads to violence and economic retaliation on the part of those most threatened by changes in the status quo.. Dalits are cut off from their land and employment during social boycotts.”<sup>10</sup> The district level distribution of violence against the Dalits was studied and observed that “for 2001 and 2002, the maximum number of crimes (greater than 400) is reported in the district of Allahabad and Lucknow in Uttar Pradesh and in Bharatpur in Rajasthan. A high incidence (in the range 200-400) are mainly reported from mostly central districts of Uttar Pradesh (UP), central Rajasthan, northern Madhya Pradesh (MP) and parts of Andhra Pradesh (AP). Of the 25 districts in this category, 22 are located in UP (10), MP (8) and Rajasthan (4). As such Karimnagar and Mahaboobnagar in AP are the only districts south of the Vindhyas with high number of atrocities.”<sup>11</sup> Further, the study observed that “moderately high crime incidence (50-139) is concentrated mostly in the remaining areas of UP, Rajasthan, coastal Orissa, Andhra Pradesh, and Karnataka and in certain districts of Tamil Nadu and Kerala. States like Mahareshttra, Gujarat, Pubjab, Haryana, Tamil Nadu, Kerala, Jharkhand, Chhhattisgargh, Bihar and parts of Orissa and Assam fall under modest crime occurrences (1-50). The lowest crime rates (less than one) are observed in the districts spread over West Bengal, Assam and parts of Punjab.”<sup>12</sup>

Thus “the atrocities outline above are revealing on many fronts and speak to the degrading, retaliatory, and violent nature of abuse against Dalits; to the impunity enjoyed by perpetrators of such acts; to the geographic spread of such cases; and perhaps most disturbingly, to the fact that these abuses are all too commonplace.”<sup>13</sup>

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<sup>10</sup> Debashis chakraborty, D. Shyam Babu etl., “Atrocities on Dalits: What the District Level Data Say on Society-State Complicity”, *Economic and Political Weekly*, Vol.41. No.24 (Jun.17-23, 2006).

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Smita Narula. “Equal by Law, Unequal by Caste: the “untouchable” condition in Critical Race perspective”, Centre for Human Rights and Global Justice, Working Paper No. 19. 2008.

Thus the very nature of violence signals the dehumanization of Dalits as lesser humans and speaks to the use of violence as caste entrenchment. The reality of the Indian society is that, inspite of the working of POA, Act, 1989 the crime against the Dalits has been increased and all the laws and enactments related to the protection Dalits rights have been made ineffective. The caste system and the practice untouchability still prevailing in the rural areas of the Indian society. In it interesting to note that not only the crime that is increasing against the Dalits, the registered cases are pending at various levels, sometimes at trail level, sometimes at registering level ect.

### **State Mechanism and Working of the POA, Act: Paradoxical Role:**

Thus the above ever increasing crime against the Dalits, the continuing discrimination against the Dalits despite the state promised protection through its various laws and enactments proved to be paradoxical in relation to its welfare nature. The role of the welfare state is suppose to, in this context, institutionalize the checks and balances and balances and intervene against the dominant groups for the protection of the dominated, the Dalits. According to Smita Narula, “the rule of law in India lives in the shadow of the rule of caste. If law is understood as a set of rules backed by sanction, then both the legal system and caste system can lay claim to the mantle of law with one significant difference: the caste system operates, more efficiently, more swiftly, and more punitively than any rights-protecting law on the books.”<sup>14</sup> According to the POA, Act, the State has to review periodically the existing legislation and practices to ensure their responsiveness to changing circumstances, promote policies and mechanisms for the prevention of such atrocities and make readily available appropriate rights and remedies for victims.

In this connection the respective state governments have to take necessary measures for the effective implementation of the Act, 1989. The POA, Act has the provision

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<sup>14</sup> Ibid.

that the state governments have to appoint officers for initiating or exercising supervision over prosecutions for offences. The Act also provides provision for setting up of Committees to assist the government in formulation or implementation of such measures. There must be periodic survey of the working of the Act's provisions to suggest measures for better implementation of the Act and provide protection to the Dalits. Another important feature of the state mechanism for the effective working of the Act was to identify the atrocity prone areas and adoption of preventive measures to ensure safety of SCs/STs.

Under the POA, Act Rule, 1995 special mechanisms have to be created for the proper implementation and monitoring of the Act. In this regard the state governments are directed to take precautionary and preventive measures in areas identified as atrocity prone (rule 3). The respective state governments have to set up SC/ST Protection Cell to assist in and monitor implementation of the Act (rule 8). The state governments have to nominate Nodal Officer to coordinate and review the functioning of all officials responsible for implementation of the SC/ST (PoA) Act (rule 9). Such Nodal Officer must review the situation in the atrocity prone area, to adopt various kinds of measures for providing immediate relief for the victims. In order to work more effectively the Act also provides provision for an appoint Special Officer to coordinate with all officials responsible for implementation of the Act, various committees and the SC/ST Protection Cell (rule 10). The state mechanism has to prepare a model contingency plan for implementing the provisions of the Act, specifying the roles and responsibilities of government officials, local bodies and NGOs, as well as package of relief measures for victims of atrocities (rule 15(1)). Further, the state governments have to constitute State-level and District-level Vigilance and Monitoring Committees to review implementation of the Act across the state and districts respectively (rules 16 & 17).

Although these provisions are well spelt out in the POA, Act, 1989 and its Rules in 1995, the response of the state mechanism towards working of these Rules and implementing mechanisms have all proved to be paradoxical in terms of the state

response. Table-3 shows the state paradoxical response towards the implementation of POA, Act. According to the Act, there were certain provisions which are mandatory for the respective state governments to provide them. However, many state are non-implementing the mandatory provisions. Only 22 states and Union Territories (UTs), have implemented the precautionary and preventive measures whereas, 22 states/UTs have not implemented these provisions which in turn responsible for the passive working of the POA, Act. The provision of SC/ST Protection Cell was implemented 17 states and remaining 17 states are shown non implementation. Though, many states have Nodal Officers but still 5 more states without Nodal Officer. Only 14 states have Special Officer whereas 20 states have no such Officers which is a mandatory according to the Act. The Table -2.3 shows that 21 states have state level vigilance and Monitoring Committees whereas 13 states have no such Committees, only 21 states have District Level Vigilance and Monitoring Committees whereas 13 states have no such Committees. The record shows that only 9 states have Contingency Plan, whereas 25 states have not implemented.<sup>15</sup>

**Table-2.3 Non-implementation of Mandatory Provisions by State Governments**

<b>Mandatory Provisions</b>	<b>States/UTs Implemente</b>	<b>States/UTs Not Implemented</b>
Precautionary and Preventive Measures	12	22
SC/ST Protection Cell	17	17
Nodal Officer	29	5
Special Officer	14	20
State Level Vigilance and Monitoring Committee	21	13
District Level Vigilance and Monitoring Committees	21	13
Contingency Plan	9	25

(Ministry of Social Justice & Empowerment, Annual Report 2008-09, New Delhi, Annex. 4.8– all states except Jammu & Kashmir)

<sup>15</sup> Ministry of Social Justice & Empowerment, Annual Report 2008-09, New Delhi, Annex. 4.8 – all states except Jammu & Kashmir)

According to the National Commission for SCs and STs, Sixth Report 1999-2000 & 2000-01, most of the states in India shown negative response or lack of interest in setting up of Committees at State and District Level Vigilance and Monitoring Committees for the proper monitoring of the atrocities cases. The Report says that, “as of 2001, in most states monitoring and vigilance committees at the state and district levels had either not been constituted, or committee meetings were not being held on a regular basis.”<sup>16</sup> The state response in the case of Andhra Pradesh is very passive. According to available information the State and District-level Monitoring and Vigilance Committees, though constituted, do not meet as required. Even when they meet, there is rarely any attempt to interact with activists, human rights groups, NGOs working with and for SCs/STs. The meetings are not announced in advance or proper intimation not given to members. The reports prepared by implementing agencies are not made available to concerned groups and individuals, who can comment upon the conduct of delivery agencies.<sup>17</sup> It is notice that Andhra Pradesh had only 45 visits by the Vigilance and Monitoring Committees were recorded in 19 districts in 2008, data not being available for remaining 4 districts.<sup>18</sup>

### The Police: Under Enforcement Mechanism of the State:

The Police as a state law and order enforcement agency suppose to protect the weaker sections of the society specifically the Dalits. This law enforcement official must fulfill their legally mandated duty to serve the community and protect all against illegal acts. The state must ensure that police services have adequate and accessible presence in wherever they required. Complaints by the victims of the caste atrocities should be received, recorded immediately; investigation should be pursued without delay and in effective, independent and in impartial manner.

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<sup>16</sup> National Commission for SCs and STs, Sixth Report 1999-2000 & 2000-01, New Delhi, 2001, para 9.9.1.

<sup>17</sup> Sakshi Human Rights Watch - A.P., Dalit Human Rights Monitor 2000, Secunderabad, 2000, pp.110-11.

<sup>18</sup> Many Hurdles', *Frontline*, 4/12/2009.

Further, despite any possible preventive efforts, an atrocity is committed on Dalits, the police are fully responsible for registering a case, investigation, arresting the accused and filing a charge sheet. Any refusal or negligence by a police official in receiving the complaint involving the caste atrocities should lead to disciplinary or penal sanctions. Thus the POA, Act section 4 says that public servant, not being a SC/ST, who willfully neglects her/his duties under this Act, to be punishable. According to the 2001-2002 Annual Report on the Prevention of Atrocities Act, 30,022 cases were registered under the Act in 2001 and 27,894 cases were registered in 2002. There is a systematic negligence as far as registering the cases or improper registration of cases. According to the Rule 7 of the SC/ST POA, Rules, offences committed under this Act to be investigated by a police officer not below the rank of Deputy Superintendent of Police (DSP) and investigations to be completed within 30 days and report submitted. However, the police in many contexts shown indifference and resorted to various machinations to discourage SCs/STs from registering cases, to dilute the seriousness of the violence, to shield the accused persons from arrest and prosecution and, in some times police themselves inflict violence. Thus there is an apathy and biasness exhibited by the state mechanisms like the Police.

According to the National Human Rights Commission (NHRC), the apex in India that protects human rights and redresses grievances, characterized that the law enforcement machinery as the greatest violator of Dalits' human rights. Police conducts violent search operations on Dalits, police perceive Dalit communities as inherently criminal, Dalit activists are accused of being terrorists, Naxalites, or habitual offenders. The Committee on Elimination of Racial Discrimination notes that the police fail to register and investigate complaints about acts of violence and discrimination against the Dalits, the "high percentage of acquittals and low conviction rate in cases registered under the SC/ST (POA), Act and the alarming backlog of atrocities cases pending in the courts."<sup>19</sup> Dalits are more harassed by the police and physically torched by them because of the majority of police belongs to

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<sup>19</sup> CERD Committee Concluding Observations on India's Report, CERD/C/IND/CO/19, 2007, para-26.



dominant caste. According to UN reports says “The police have systematically failed to protect Dalit homes and Dalit individuals from acts of looting, arson, sexual assault, torture, and other inhumane acts such as the tonsuring, stripping and parading of Dalit women, and forcing Dalits to drink urine and eat feces. Much like cases of police abuse against Dalits, attacks by private actors often take the form of collective punishment, whereby entire communities or villages are punished for the perceived transgressions of individuals who seek to alter village customs or demand their rights.”<sup>20</sup>

Dalits are victims in the hands of upper caste. Dalit women are particularly vulnerable to sexual violence by the police, which is used as a tool to punish Dalit communities. Police also actively allow private actors to commit violence against Dalits with impunity, and at times, collude with private actors in committing such atrocities. Police systematically fail to properly register these crimes under the Prevention of Atrocities Act, 1989 and the Protection of Civil Rights Act, 1976.<sup>21</sup> Police thus also add to the pain by not being the watch guards they are supposed to be. The no. of crimes are much more in number in terms of the situations where when people turn to police and get tortures much more than their original problems. Raping women under custody, false filing of the cases reported, fake cases against the victims, siding up with the upper caste, accepting bribes from them and not doing their duty as it should be done, deliberately violating the requirements of the POA act are a mentionable few.

Acknowledged by Human Rights Watch include: custodial torture and deaths; encounter deaths; raids on SC colonies after inter-caste clashes; violence against Dalit women; false arrests of Dalits; violence to crush peaceful protests by Dalits; violence against entire Dalit colonies while searching out a Dalit accused; and violence against Dalit villagers caught in crossfire in insurgency/ naxalite affected

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<sup>20</sup> Ibid. p. 9.

<sup>21</sup> Ibid.p. 4.

areas.<sup>22</sup> Police has committed custodial torture, killing of Dalits rape and sexually assault Dalit women in our society. In 2004 the NHRC characterized the law enforcement machinery as the greatest violator of Dalits' human rights. This problem is not a recent one. In 1979 India constituted the National Police Commission to analyze problems in police performance. However, the Commission's recommendations, which include recommendations specific to police abuse of Dalits, have still not been adopted. Police continue to detain, torture, and extort money from Dalits without much fear of punishment. According to the NHRC, custodial torture and killing of Dalits, rape and sexual assault of Dalit women, and looting of Dalit property by the police "are condoned, or at best ignored ..." Dalits who encounter the police are forced to listen to casteist name-calling, unfounded accusations on their character, and threats against their family and friends.<sup>23</sup>

Police also fails to properly registration of Dalits atrocities cases. Police systematically fail to properly register crimes under the Prevention of Atrocities Act, 1989 and the Protection of Civil Rights Act, 1955. Improper and under-registration of Dalit cases is both a result of police officers' reluctance to entertain complaints by Dalits, as well as their lack of familiarity with provisions of the relevant legislation. For example, according to one study, out of 103 randomly selected atrocity cases against Dalits in the state of Andhra Pradesh from 1999 to 2002, First Information Reports (FIRs) were correctly registered in only 18 cases, while 29 were not registered at all. In 2002 India reported that in at least 15 states, between 0 - 2 cases had been registered under the Prevention of Atrocities Act, 1989.<sup>24</sup> As for the National Crimes Records Bureau, 67 per cent of crimes during 1992 to 2000 and 64.9 per cent of crimes during 2001 to 2007 were not registered under the SC/ST

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<sup>22</sup>Smita. Narula, Human Rights Watch, Broken People: Caste Violence against India's "Untouchables", New York, 1999.

<sup>23</sup> "Hidden Apartheid: Caste Discrimination against India's "Untouchables", Shadow Report to the UN Committee on the Elimination of Racial Discrimination, Volume 19, No. 3 (C), February 2007, p. 27.

<sup>24</sup> Ibid.

(POA) Act.<sup>25</sup> In Andhra Pradesh 1 case is pending for the past six years, 53 cases are between 3 to 5 years, 190 cases for almost 2 years and 805 cases are pending about one year.<sup>26</sup> Primarily, the state mechanism of police has failures to protect and implementation of POA Act, 1989 in different states of India. Even sometimes the police has systematical violate the Dalits rights and committed atrocities against them. Sadly, the police refusal to register an FIR, not booking the accused for appropriate offences, implicating the victims in false counter cases, failing to arrest the perpetrators, threatening the Dalit victims, delaying the arrest of accused, and other kinds of tricks are used by the police to miss guide the Dalit atrocities cases. Secondly, the administration also causes for delay of atrocities cases such as lawyers and public prosecutors, and others staff members of the court administration. Finally, the judiciary is also failure to protect the Dalits atrocities.

### Judiciary: Special Courts and Delayed Justice:

The judiciary system is also practicing caste discrimination like Untouchability. Sixty seven years of Indian independence, Dalits are violated in different forms of caste based discrimination. For example, the upper caste Judge of Allahabad High Court had practiced Untouchability in the court chamber office. The government had not done anything to end the violence and discrimination even after the sixty seven years of Independence of India. The message sent from the judiciary on caste discrimination is equally disturbing. In July 1998, in the state of Uttar Pradesh, the Allahabad High Court Judge had reportedly told that his chamber be purified by “Ganga Jal” water from the River Ganga as it was earlier occupied by a Dalit Judge.<sup>27</sup> According to my view the Judiciary system to be standing by all are equal before the law. But in Indian upper caste judge’s view only dominant castes are equal by the law the other remaining caste groups are unequal and untouchable by the law. Most importantly what I understood was the majority of the police, judiciary and

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<sup>25</sup> NCRB Crime in India 1992-2007, New Delhi, 1993-2008.

<sup>26</sup> Sakshi Human Rights Watch, Andhra Pradesh, 2006.

<sup>27</sup> LS Concerned at ‘Purifying’ Act by HC judge,” *Times of India* (Bombay), July 23, 1998.

other governmental institutions are dominated by the upper castes. That is one of the basic root causes of the atrocities on Dalits in every step of discriminatory methods.

Individual of the most important ways in which the right of Dalits to equal treatment before organs administering justice is being denied is through the poor quality of prosecutions under the Protection of Civil Rights Act and Prevention of Atrocities Act, 1989. The Government of India has itself noted this failure in its 2001-2002 Annual Report on the Prevention of Atrocities Act, 1989, which states that in 2002, only 2.31 percent of cases brought under the Prevention of Atrocities Act, 1989 had resulted in convictions.<sup>156</sup> The low rate of convictions, compared against the high number of atrocities reported against Dalits, speaks to the caste bias of prosecutors, as well as other organs of justice, including the judiciary.<sup>28</sup>

For example “More than 1,000 cases are filed every year under the Prevention of Atrocities Act, but the conviction rate has been a very small 5%. Approximately 3,000 cases under the special law to protect scheduled caste/tribes are pending before the courts in the state. Public interest litigation (PIL) has now been filed focusing on the state's failure to act on alleged atrocities against Dalits in the state. The PIL filed by National Dalit Movement for Justice has, among other pleas, sought the appointment of special courts to hear cases dealing with attacks on Dalits.”<sup>29</sup> When comes to pending cases in various courts of India, the Large number of cases involving offenses and atrocities against Dalits still pending before the courts “The Sixth and Seventh Reports of the National Commission for Scheduled Castes and Scheduled Tribes reveal, respectively, that less than a sixth of such cases that reached trial stage in 1999-2000 were actually adjudicated, and that only 11 percent of the cases were disposed of during 2001-2002. The large number of cases

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<sup>28</sup> Hidden Apartheid: Caste Discrimination against India's “Untouchables”, Shadow Report to the UN Committee on the Elimination of Racial Discrimination, Volume 19, No. 3 (C), February 2007, pp. 50-51.

<sup>29</sup> “PIL (Public Interest Litigation) questions state failure to protect Dalits,” The Times of India, January 6, 2009.

concerning Dalits that are still pending before the courts suggests non-compliance with the Convention; the Committee has made plain that “guarantee[ing] the victim a court judgment within a reasonable period” is something that “States parties should ensure [in their] system of justice.”<sup>30</sup>

The POA Act, 1989 was not implementing and enforcement in various steps in the administration process. For example: “The division bench of Chief Justice Swatanter Kumar and Justice Sharad Bobde, that heard the PIL recently, has asked additional public prosecutor Rajeshree Gadhvi to file an affidavit in the case. “A number of anti-discrimination statues and positive provisions exist in the Indian law for the protection and benefits of Dalits, but their implementation and enforcement has been very poor,” said the petitioner.”<sup>31</sup> Although, the India Constitutional bodies of SCs/STs Commission has also not working effectively to protect and prevent atrocities against Dalits. In New Delhi, 33<sup>rd</sup> Parliamentary Committee on the welfare meeting against SCs and STs Report says: Strength of both Commissions is inadequate in relation to both the population of the communities and the number of issues they deal with, in terms of both Commission members and staff. Less freedom to function independently as under the control of the Ministry of Social Justice and Empowerment and Ministry of Tribal Affairs respectively, with limited administrative and financial powers. Ineffective investigation process as not given judicial powers, only the powers of a civil court to inquire into atrocities; effectively made subservient to State authorities during investigation of rights violations. Recommendations treated as only advisory in nature, and lacks power to implement recommendations. Very existence of NCST is not known to many STs and other citizens. Inadequate number of regional offices (12 for the NCSC and 6 for the NCST), given remote location of many STs in particular, and lack of human and financial resources.

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<sup>30</sup> Hidden Apartheid: Caste Discrimination against India’s “Untouchables”, Shadow Report to the UN Committee on the Elimination of Racial Discrimination, Volume 19, No. 3 (C), February 2007, pp. 54-55.

<sup>31</sup> .Ibid.

**Table. 2.4: Pendency Rate for Cases of Crimes against SCs/STs during 1997-2007**

Year	No. Of Cases for Trial including Pending Cases at start of year	No. of Cases Pending Trial at end of that Year	Trial pendency rate (%) – (b)/100]
1997	45,591	37,299	81.8
1998	47,155	39,447	83.7
1999	49,703	40,963	82.4
2000	50,908	43,044	84.6
2001	52,314	43,602	83.3
2002	53,481	44,061	82.4
2003	51,278	42,487	82.9
2004	49,180	40,533	82.4
2005	47,688	39,595	83.0
2006	46,421	38,576	83.1
2007	46,091	37,895	82.2

**Sources:** National Crimes Records Bureau, Crime in India 1997- 2007, New Delhi, 1998-2008)

A speedy disposal of cases is the basic requirement for minimizing the crime against the Dalits. In this direction the salient objective of the POA, Act is that the establishment of special courts is to provide speedy trial and speedy disposal of cases. Contrary, the Table. 2.4 show that huge number of cases is pending at various levels including the cases of POA, Act, 1989. It is noted, that, according to the National Crimes Records Bureau, trial pendency rate in percentage from the year 1997 to 2007 has almost been consistent around 83 per cent with each year's record of average. In the year 1997 there were 45, 591 pending cases at the start of the year and at the end of year 37,299 cases were pending that means only 8,292 cases were cleared and 81.8 per cent cases were pending. In the year 2000 there were 50, 908 pending cases however, at the end of year 43, 044 cases were pending, it shows that only 7,864 cases were cleared and 84.6 per cent cases were pending. So among the record of ten years, such high pendency rate by the end of year shows that there is very less number of cases which are getting solved and the effect of crimes are being diminished with the passing time and justice is not being delivered. This negates the purpose of establishment of special courts which is to speed up the prosecution,

defense processes so that the SC/ST candidates get the protection and dignity they are entitled to.

The very purpose behind bringing up SC/ST act and POA act is not being fulfilled here. As a further note of analysis, all the personnel involved in these courts could be registered under negligence of duties crime under the same Act. Pendency and conviction rates with regard to atrocity cases are major areas of concern. In a comparative study of the pendency ratio and conviction rate between the SC/ST Act, PCR, Act, and the total cognizable crimes under Special and Local Laws and the Indian Penal Code (IPC), it is observed that the ratio is consistently more than 80 per cent in cases under the SC/ST Act as well as the IPC cases.

**Table-2.5: Special Courts set up by State Governments under t POA Act, 1989**

S.No	Name of State	Name of Districts / Jurisdictions of the Courts
1	Andhra Pradesh	1. Mahabubnagar 2. Nellore 3. Kurnool 4. Medak 5. Prakasham (Ongole) Chittoor 7. Guntur 8. Secunderabad 9. Cuddapah 10. Karimnagar 11. Krishna Nizamabad
2	Bihar	9 Divisional places and also at East Champaran and Bhojpur districts.
3	Chhattisgarh	1. Raipur 2. Durg 3. Rajnandgaon 4. Bilaspur 5. Raigarh 6. Surguja 7. Jagdalpur.
4	Gujarat	1. Banaskantha (Palanpur) 2. Ahmedabad (Rural) 3. Katch (Bhuj) 4. Amreli 5. Vadodara 6. Junagadh 7. Panchmahal 8. Rajkot 9. Surat 10. Surendranagar
5	Karnataka	1. Bijapur 2. Gulbarga 3. Kolar 4. Raichur 5. Mysore 6. Belgaum 7. Tumkur
6	Madhya Pradesh	Dhar 2. Shajapur 3. Morena 4. Shahdol 5. Damoh 6. Raisen 7. Mandla 8. Sehore 9. Bhind 10. Tikamgarh 11. Mandaleshwar 12. Dewas 13. Mandaur Indore 15. Hoshangabad 16. Jabalpur 17. Vidisha 18. Panna 19. Chhatarpur Ujjain 21. Guna 22. Satna 23. Rewa 24. Narsinghpur 25. Sagar 26. Gwalior Rajgarh 28. Bhopal 29. Jhabua.
7	Rajasthan	1. Alwar 2. Pali 3. Pratapgarh 4. Jaipur 5. Ajmer 6. Udaipur 7. Jodhpur 8. Kota Bikaner 10. Medta 11. Tonk 12. Ganganagar 13. Baran 14. Sawaimodhopur Dausa 16. Jhalawar 17. Bilwara
8	Tamil Nadu	1. Trichy 2. Madurai 3. Thanjavur 4. Tirunelveli
9	Uttar Pradesh	1. Farrukabad 2. Unnao 3. Basti 4. Banda 5. Etawah 6. Hamirpur 7. Gonda Kanpur city 9. Badaun 10. Sultanpur 11. Barabanki 12. Bulandshar 13. Gorakhpur 14. Varanasi 15. Pilibhit 16. Etah 17. Deoria 18. Jhansi 19. Faizabad 20. Agra Kanpur Rural 22. Behraich 23. Lucknow 24. Jalaon 25. Merrut 26. Ghaziabad Sidarth Nagar 28. Mirzapur 29. Chandausi 30. Balrampur 31. Fatehpur 32. Ghazi 33. Mainpuri 34. Kannauj 35. Gautambudhnagar 36. Hardau 37. Shravasti Bagpat 39. Bareilly 40. Jyotibaphulenagar.

**Sources:** Government of India Ministry of social Justice and empowerment, New Delhi, Annual Report-2006.

Section 14 of the POA, Act says that 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 the Act. Accordingly, various state governments have put up special courts in many of the districts for the proceedings of cases registered under this act. Exclusive Special Courts have been set up nine State governments under the Scheduled Castes and Scheduled Tribes, (Prevention of Atrocities) Act, 1989. The number of special courts are according to the risk and number of atrocity prone areas in the respective states. Table-2.5 shows that there are 12 Special Courts in Andhra Pradesh at various districts: Mahaboobnagar, Nellore, Kurnool, Medak, Prakasham, Chittoor, Guntur, Secunderabad, Kadapa, Karimnagar, Krishna, Nizamabad for the sessions of cases under this Act. Similarly, Bihar (9), Chhattisgarh (7), Gujarat (10), Karnataka (7), Madhya Pradesh (29), Rajasthan (17), Tamil Nadu (4), Uttar Pradesh (40). The highest number of Dalits atrocity cases as well as the highest Special Courts is located in Uttar Pradesh. Even the governments of India established special courts for the better protection of the Dalits, but still today thousands of Dalits Atrocity cases are pending.<sup>32</sup>

According to Table-2.6 the number of cases registered under the POA, Act, in Andhra Pradesh were 3067 of this only 30 cases ended with conviction and 947 cases ended with acquitted and 2090 cases are pending in the year 2000. In Bihar of the 5308 cases registered only 7 cases are convicted, 935 cases were ended with acquitted and 4366 cases are pending. According to the reports, in Gujarat of the 13293 cases no one was convicted and acquitted and all the cases were pending whereas, in Goa of the 3 cases registered one was acquitted two cases were pending. In Himachal Pradesh 33 cases were registered and 9 were acquitted no one was convicted 24 cases are pending and in Kerala of the 1998 cases registered 5 were convicted 1835 cases are still pending. Karnataka 4844 cases were registered 6 were convicted 504 were acquitted and 4334 cases are pending and in Madhya Pradesh

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<sup>32</sup> Government of India Ministry of Social Justice and Empowerment, New Delhi, Annual Report-2006.



9711 cases were registered only 239 cases ended with conviction and 1043 cases ended in acquittal 8429 cases are pending, whereas in Maharashtra 9067 cases registered but only 22 cases ended in conviction and 8218 cases are pending.

**Table-2.6: Cases with Courts under the POA, Act, 1989**

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

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

In Rajasthan of the 8233 cases registered 293 cases ended in conviction 2109 cases ended in acquittal and 5831 cases are still pending. Uttar Pradesh 77354 cases were registered only 526 cases were convicted and 2599 cases were acquitted and bulk of 74229 cases are still pending. Least is in Sikkim with only 1 case registered which was again acquitted. Although the number of cases in every state is high in numbers, the number of convicted cases are very less as seen in the statistics given in the Table-5 and number of acquittals are very high in comparison to the convicted and this is very less in comparison to the number of pending cases by the end of the year 2000. Total 143505 cases registered in the year 2000 only 1241 cases ended in conviction, 9996 cases were ended in acquittal whereas 132268 cases are pending at all India level.

National legislation and constitutional protections serve only to mask the social realities of discrimination and violence. Caste clashes, particularly in the states of Bihar and Tamil Nadu, but also in Maharashtra, Andhra Pradesh, Karnataka, and Gujarat, reflect patterns which are common to many parts of the country: a loss of faith in the state machinery and increasing intolerance of their abusive treatment have led many Dalit communities into movements to claim their rights. In response, state and private actors have engaged in a pattern of repression to preserve the status quo. The report also documents the government's attempts to criminalize peaceful social activism through the arbitrary arrest and detention of Dalit activists, and its failure to abolish exploitative labor practices and implement relevant legislation.<sup>33</sup>

Dalits are killed, for demanding justice; Dalits are socially boycott by the upper caste, when they asked for minimum wages labour, denied access to land; force to work in degrading conditions; routinely abused at the hands of the police and of the

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<sup>33</sup> Narula, Smita. (1999). *Broken people: caste violence against India's "Untouchables."* New York: Human Right Watch.p. 2

higher-caste groups that enjoy the state's protection; they were relegated to most the most menial tasks, as manual scavengers, removers of human waste and dead animals, leather workers, street sweepers, and cobblers.<sup>34</sup> One side, the society has discriminated by the caste system, another side; the state mechanism also fails to protect the Dalits when it comes to the administrative and legal process. "Whenever Dalits have tried to organize themselves or assert their rights, there has been a backlash from the feudal lords resulting in mass killings of Dalits, gang rapes, looting and arsoning, etc. of Harijan [Dalit] basties [villages]."<sup>35</sup>

### Continuing Atrocities on Dalits;

Most of Dalits atrocities cases are related to land, bonded labour; asking for minimum wage demand caste discrimination and practice of untouchability. "A study conducted by the National Commission for SCs and STs in 1990 on Atrocities on Scheduled Castes and Scheduled Tribes: Causes and Remedies pointed out various causal factors for atrocities: land disputes; land alienation; bonded labour; indebtedness; non-payment of minimum wages; caste prejudice and practice of untouchability; political factions on caste lines; refusal to perform traditional works such as digging burial pits, arranging cremations, removing carcasses of dead animals and beating drums; etc. The deep root for such atrocities is traceable to the caste system, which "encompasses a complete ordering of social groups on the basis of the so-called ritual purity. A person is considered a member of the caste into which s/he is born and remains within that caste until death...." <sup>36</sup> Nation is the wittiness for Dalits violence for several centuries. Not only one group of the people are targeted by the caste system but also remaining people of Dalits are targeted for caste violence such as women atrocities, manual-scavengers, bonded labour, and

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<sup>34</sup> See for more information on the conditions of Dalits, Narula, Smita. *Broken People: Caste violence against India's "Untouchables"*, New York: Human Right Watch (1999)

<sup>35</sup> National Commission for Scheduled Castes and Scheduled Tribes *Highlights of the Report of the National Commission for Scheduled Castes and Scheduled Tribes for the Years 1994-95 & 1995-96* (New Delhi: Government of India 1997) p. 2.

<sup>36</sup> *Parliamentary Committee on the Welfare of SCs & STs, 4<sup>th</sup> Report 2004-05, New Delhi, 2005, para.1-2.*

unclean occupations and etc. there are discriminated and humiliated in every parts of country.

The lack of awareness and negligence of government officials are not acting for justice rightful justice of Dalits atrocities cases. "State officials, most of them belongs to the upper castes, have generally used the powers at their command to uphold the state quo. As we have noted above, the reporting of crime against Dalits under the Untouchability and POA act, rarely in conviction, showing the failure of the state to investigate and prosecute such offences. State authorities generally ignore the Act's provisions for carrying out investigations. The State Council of Social Justice analyzed 400 judgments passed under the Atrocities Act by various courts in Gujarat.<sup>37</sup>

### On Dalit Women:

Dalit women's are more vulnerable when comparative other women in Indian society. They are facing three types of violence such as Caste, Class and Gender Discrimination and vulnerable to violence by the police and private actors. The illiteracy and poverty is one side disadvantage, sexual harassment and force to prostitution (JAGINI SYSTEM) is another side physical exploitation against Dalit Women. The upper caste was not practicing when it comes to the sex because of the hopelessness of Dalit women in the society. "No one practices untouchability when it comes to sex."<sup>38</sup> Despite the lack of disaggregated data on the extent of violence on Dalit women, there is no doubt that women are affected disproportionately in these incidents. A micro study of 124 cases by Centre for Dalit Rights of atrocities in 5 districts of Rajasthan between October 2004 and January 2006 showed that 55 of these cases were directly inflicted on Dalit Women and girl children. They ranged from rape, gang rape, rape of minor girls, murder and attempt to murder, physical assault, battering and acid attack. Another 28 women were affected along with their families through land related violence, social boycott, murder of husbands and sons.

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<sup>37</sup> Ibid. p. 141.

<sup>38</sup> Narula, Smita. (1999). *Broken people: caste violence against India's "Untouchables."* New York: Human Right Watch.p. 3

It is clear that Dalit Women are the prime victims in violence against Dalit communities. A national study of 500 Dalit women who underwent violence over the past five years by the Institute of Development Education, Action and Studies (IDEAS), brings to light the nature, extent, depth and effect of violence on Dalit women; the inhuman violence and their indomitable spirit and quest for justice. AIDMAM is initiated as a response to all Dalit women who live through extreme situations of violence on an everyday basis and the follow up to the Dalit women who participated and presented their cases in the 'National Conference on Violence Against Dalit Women' organized by NCDHR on 7-8 March 2006 at Delhi.

Rape is a common phenomenon in rural areas. Women are raped as part of caste custom or village tradition. According to Dalit activists, Dalit girls have been forced to have sex with the village landlord in rural areas, women are induced into prostitution (Devadasi system)...., which [is] forced on them in the name of religion. The prevalence of rape in villages contributes to the greater incidence of child marriage in those areas. Early marriage between the ages of ten years and sixteen years persists in large part because of Dalit girls' vulnerability to sexual assault by upper-caste men; once a girl is raped, she becomes unmarriageable. An early marriage also gives parents greater control over the caste into which their children are married.<sup>39</sup> Dalit women are also raped as a form of retaliation. Women of scheduled castes and scheduled tribes are raped as part of an effort by upper-caste leaders to suppress movements to demand payment of minimum wages, to settle sharecropping disputes, or to reclaim lost land. They are raped by members of the upper caste, by landlords, and by the police in pursuit of their male relatives.<sup>40</sup>

Dalit women have been facing various forms of atrocities like as sexual harassment, rape, murders and etc. "A study of 500 Dalit women's cases of violence across Andhra Pradesh, Bihar, Tamil Nadu and Uttar Pradesh between 1999 and 2004 revealed that the majority of the women faced several forms of violence from either

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<sup>39</sup> Narula, Smita. (1999). *Broken people: caste violence against India's "Untouchables."* New York: Human Right Watch. P. 30-31.

<sup>40</sup> Ibid.

or both perpetrators in the general community and the family. The most frequent forms of violence were verbal abuse (62.4%), physical assault (54.8%), sexual harassment and assault (46.8%), domestic violence (43.0%) and rape (23.2%).”<sup>41</sup>

At the same time as the majority of violence against Dalit women came from 'ordinary' members of non-SC/ST communities, dominant caste landlords emerged as the largest single class of perpetrators. Police and forest officials, as well as business people, were other key perpetrators. Where police were not active perpetrators, they also acted in a significant number of cases in collusion with the perpetrators by failing to enforce the law when violence against Dalit women took place. Two other perpetrators were from the professional category (hospital nurses and doctors and teachers) and political category (local political party leaders and elected Panchayat members).<sup>42</sup>

Nearly 85% of Dalits women live below poverty line in India. For centuries on words, the Dalit women were ill-treated and educationally backward in spite of the facilities for free education. The reasons for the high rate of illiteracy among Dalit women are many. The following are the main reasons: Resistance from the family to send girls to schools. Fear of insecurity in villages. Lack of physical facilities like accommodation, school, transport and medical facilities. The girls were forced to take care of the siblings when the parents are away at work. Girls were forced to do domestic chores which prevent them from attending school. Working to earn for the family prevent the girls from attending school. Working with parents to earn their livelihood in beedi factories or other unorganized sector made them illiterate. Because of the sick and unemployed parents girls were forced to work. Many were forced to get married at young age, which stop schooling. Social restriction is that the girls should stop education after marriage. Fears of alienation of girls from their environment as a result of education are some of the other factors for low literacy level among SC girls. Even if the education improved the marriage prospects of the

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<sup>41</sup> Aloysius Irudayam, ed, “*Dalit Women Speak out: Violence against Dalit Women in India*” Chennai: ideas, NCDHR & NFDW, 2006, pp.106-7.

<sup>42</sup> Ibid.

girls, the minus point is the increase in dowry. Therefore many parents wish to withdraw the girls from schools.<sup>43</sup>

The occupation of many Dalit women can be divided in the following heads: Agriculture laborer, marginal cultivators, fisherwomen, traditional artisans, leather workers, weavers, scavengers and sweepers, midwifery, beedi factories and unorganized sectors.<sup>44</sup> The giving of Dalit women to the economic development of our country is significant especially in the agricultural sector. They are exploited by the higher caste landlords. They are paid very marginal salary for the hard work in the field for the whole day. In leather industries the tanning process is considered to be an unclean job which is done only by socially backward class. Traditional artistes get very more benefit because the middleman exploits them. The condition of scavenger and sweepers is very deplorable and they the most vulnerable sectors among SC. The working condition is very poor and the remuneration is also very poor.<sup>45</sup>

There are several kinds of untouchable practices are occurred against Dalits women in Indian Society. Such as, non-access to temples, places of worship, non-access to hotels and eating-places. Vulnerably placed at the bottom of India's caste, class and gender hierarchies, Dalit Women experience endemic gender and caste discrimination and violence. They bear the brunt of untouchability, caste oppression, poverty and political subordination along with Dalit men. They share gender based discrimination and exploitation from the patriarchal systems inside and outside the home. The interface of the severely imbalanced social, economic and political power equations in caste and patriarchy impacts Dalit Women uniquely, distinct from the experience of other women or Dalit men. The forces combine to expose them to increased physical and sexual violence and increased exploitation of their labour. They divorce them from access or control on assets and resources. It

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<sup>43</sup> J. Muthumarry., "*Dalit Women in India*," Centre for Advanced Studies in Botany, University of Madras Guindy Campus, Chennai, p.1-2.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

does not recognize their social and economic contribution. It limits their choices and opportunities, placing them on the bottom rung in all development indicators. The process inculcates disrespect and indignity of Dalit Women at the hands of all men and also of non-Dalit women.<sup>46</sup>

There are The 80 million Dalit women who constitute a distinct social category of the Indian population, eight out of every 100 citizens in this country. 89.5% of Dalit women contribute considerably to economic production in the country as rural agricultural labour, unorganized industrial workers and as self-employed workers in the informal sector. Dalit women negotiate and manage their lives with tremendous courage, resilience and hope in the face of severe caste and gender violence in the form of verbal abuse, physical violence, sexual exploitation and violence both inside and outside home. Dalit women's knowledge and skill in sustainable agriculture, irrigation techniques, animal husbandry and other artisan productions have critical value and contribution for ecologically sustainable development. Dalit women's active participation and contribution to anti-caste and anti-untouchability as well as movements against patriarchy.<sup>47</sup>

### Tsundur Massacres: State response in Andhra Pradesh:

On 6 August 1991, Tsundur village, Amarthaluru Mandal Guntur district in Andhra Pradesh was the scene of one of the most brutal massacres of Dalits that the country had witnessed after the POA, Act. The caste clashes and confrontations in the village between the Dalits and caste Hindus had been simmering for long but the massacre had inflamed the tensions to an incendiary point. On the evening of 5 August 1991, 200 Reddies and Telagas (caste Hindus) assembled together in the house of Mogdula Sambireddy and conspired to attack the Dalits. The following day at about noon a mob of 400 caste Hindus, mostly Reddies and Telagas, armed with lathis, iron rods, knives, axes and spears, descended upon the Dalit village from two directions. The

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<sup>46</sup> National Campaign on Dalit Human Rights "*All India Dalit Mahila Adhikar Manch*" Website : <http://www.ncdhr.org.in/aidmam/>

<sup>47</sup> Ibid.



mob chased and ran down the unarmed Dalits' and attacked them with an astonishing ferocity and brutality rarely seen, killing eight Dalits and seriously injuring five. The attackers threw six of the bodies into the drainage canals, while they packed the other two bodies into gunny bags before dumping them in the river. Even after the massacre, tension and discrimination prevailed in the village as the caste Hindus imposed a social boycott on the village, denying Dalits employment and land leases and eventually driving the Dalits out of the village. Where the Dalits and caste Hindus used to live together in the same village and have daily contact with one another, today their village has been bifurcated and the each other.<sup>48</sup>

Though this massacre occurred long back, the initial court proceedings began very late in fact the trial has not began in time for that Dalits a long protracted struggle in Andhra. Once the massacre was over, it took police three days to recover the eight bodies from the water canals. Within a few months, the SDPO, Tenali filed single charge sheet against 219 caste Hindus of ,Tsendur and surrounding villages u/s. 148, 324, 307, 302, 201, 120-B r/w. 149 & 34 IPC, and u/s. 3(1) (i) (xv) & 3(2) (v) (vi) SC/ST Act. With the exception of nine, all the accused were arrested and released on bail within a year of the crime. It took another two years for the investigation to be completed and the case (S.C. No. 36/93) to ; handed over to the Special Sessions Court, Guntur, designated to handle cases registered under the SC/ST POA Act. The Special Court held its first hearing on 13.10.93 and after giving some time for the accused to engage lawyers, the trial was scheduled to begin on 17.10.94. Before the trial could start, however, the accused tried to lease themselves of the charges registered under the SC/ST Act on the ground that the eight murdered victims and the five injured victims were Christian, therefore, not members of the Scheduled Castes. When the petition was dismissed by the District Special Court Judge, the accused challenged the order by filing a petition with the High Court, which directed the Special Court to conduct another hearing on the matter by recording evidence. A second hearing was held on the question of the applicability of the SC/ST Act in the case, and again the Special Judge upheld that the victims were indeed Hindu Dalits

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<sup>48</sup> See Sakshi , Human Rights Watch, Andhra Pradesh. (Report).

and, therefore, the SC/ST Ac applied in the case. Once more the judge call& for the trial to begin on 17.10.94. Since then, however, the trial has been firm and time again postponed due to objections from both the accused caste Hindus and the plaintiff Dalits as to the location of the trial court. While the Dalits have always maintained that the trial should be held in Tsundur itself, the accused caste Hindus have always argued that the trial should be held in Guntur.

In the year 1994 the Special Sessions Court Guntur, ruled that it would commence with the trail in Tsundu r starting 1.11.94. In fact, the State government and High Court of Andhra Pradesh (Administration had earlier directed the Special Court, Guntur in 1991 to hold the trial in Tsundur. And to this effect the State Government had already: spent Rs. 3, 00,000/- to remodel a school building in Tsundur for the purpose of holding court there for the Tsundur Massacre trial. However, the accused objected to the location of the trial in Tsundur on the ground that police would not be able to provide adequate security for their protection. On 25.10.94, the Special Court dismissed their plea ti hold the trial in Guntur, saying that by holding the trial in Tsundur the court was acting in accordance with the instructions given by the High Court; and moreover, that the security concerns voiced by the accused were unfounded as the S.P., Guntur, was ready to provide police security and protection fa the trial in Tsundur.<sup>49</sup>

Dissatisfied with the ruling, on 28.10.94 till accused got a stay order on the entire court proceedings from the High Court. However, the accused obtained an order from the High Court of Andhra Pradesh directing the Special Court to conduct another hearing as to the location of the trial, specifically taking into mind security and administrative priorities. During this second hearing on 8.3.95, the Special Court ruled that the trial would be held in Guntur for security reasons. Since then, the legal witnesses (LWs) for the prosecution (i.e. the Dalits) have refused to turn up for the trial on the ground that the State Government has failed to do the trial justice by not holding the trial in Tsundur as it had earlier directed and for which it had made preparations. Each time the Court postponed the starting date of the trial and issued

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<sup>49</sup> Ibid.

summonses to the LWs, the LWs refused to receive the summonses in protest against the location of the trial and the failure of the State to appoint for them a lawyer of their own choice.

Since the 8.3.95 order of the Special Court moving the trial to Guntur, the Dalits have petitioned the State Government and the District Collector, Guntur, with two demands: to hold the trial in Tsundur and to appoint a special prosecutor of their choice. Neither of these demands has been met and so the case drags on with no resolution to the awful and gruesome killings. The State Govt. of Andhra Pradesh has not shown any interest to conduct a prompt and swift trial in this case. As prosecution counsel for the Dalits, the State has not made any efforts to get the 8.3.95 order of the Special Court, Guntur, revised by a higher forum, nor has it made any other efforts to convince the Special Judge to hold the trial at Tsundur. Because of the dominant castes intervention and show their arrogance for which the state government bended, the school building in Tsundur on which the State Government spent 3 lakh rupees to convert into a Special Court, lies abandoned and neglected, overgrown with bushes and locked up. The State Government has also ignored the demands of the plaintiff Dalits, whom the State is presumed to represent, to appoint a special prosecutor of their choice.

There appears to be no security risk to the accused and no inconvenience to either party if the trial took place at Tsundur. The S.P., Guntur, has assured the High Court of Andhra Pradesh that he is ready and able to provide protection and security during the trial whether it is held in Guntur or Tsundur. The objections of the accused appears to be a pretext to get the trial dragged on in the course of which they expect they could affect a compromise, or at the least reap benefit out of the fading out of the memories of the witnesses. For the victims, holding the trial at Tsundur is part of justice assured to them by the State Government. Now the case stands postponed to 25.4.2000 by the Special Court after issuing NBWs to the accused who had not attended court on 8.2.2000. As long as justice is delayed, then, for all practical purposes, justice is denied. Therefore, the State should take all necessary measures

to ensure a prompt and swift trial, and this would include taking steps to meet the demands of the Dalits.<sup>50</sup>

Another significant dimension of the context of the case is that at the time of the massacre several cases were filed against Dalits in connection with various caste confrontations and clashes that happened in the last month leading up to the massacre. Since these cases have with relative speed gone before the court and been tried, resulting in the conviction of several Dalits, why has the Tsundur massacre trial not been dealt with the same speed, efficiency and judicial will? Given the gravity and astonishing brutality of the incident and its great relevance to the increasing caste conflict that is a growing epidemic in Andhra Pradesh and the rest of the country, this is one case the State cannot afford to ignore or sweep under the carpet. To ignore the case or sweep it under the carpet, is to court the risk of only adding fuel to the already smoldering caste tensions in the State.

At the end, in this historic case, the special court judge Anis gave historic judgment, 2007 21 persons have been sentenced to life imprisonment and 35 others one-year rigorous imprisonment and a penalty of Rs.2000 each in the sensational Tsundur massacre case. Delivering the judgment special judge Anis of Special Court under the SC/STs Prevention of (Atrocities) Act 1989, felt it was not the rarest of the rare cases, which attracted the death penalty. In the country's first-ever special court set up for trying a case under the POA, Act at the scene of the offence, the judge acquitted 123 out of the 179 accused. In the case of 41 accused, the court did not find any evidence, while 62 of them were released on benefit of doubt. The other 20 were let off due to omission of evidence or having only single witnesses. Tsundur not mere incidents of atrocities against Dalits but are significant landmarks in the history of Dalit movement in Andhra Pradesh

### Vempenta:

On July 16 1998 in Kurnool district in the state of Andhra Pradesh at least eight persons including women belongs to lower-caste villagers were brutally hacked to

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<sup>50</sup> Ibid.

death; their bodies have been charred to ashes. Hundreds of houses had been set on fire. The killings were reportedly carried out in retaliation for the murder of a high-caste community member by members of the People's War Group. Most of those killed in the massacre belonged to Dalit communities. Local police did not appear on the scene for more than ten hours. When they arrived they cordoned off the affected area and did not allow any fact-finding teams to enter. Dalit villagers interviewed by a local human rights team several days later stated that many of their attackers were still present in the village and appeared to have police protection. Human rights NGOs asserted that the state had "completely colluded with the attackers in the name of countering the Naxalite problem" and that "the government has openly said that it will give outright support to whoever counters Naxalism." Human Rights Watch interview with members of Sakshi an Andhra Pradesh-based human rights organization Bangalore July 25 1998.<sup>51</sup>

The major issue was the control for 250 acres of the rich, fertile and irrigated endowment land. The land had been almost entirely distributed among the Madigas at the intervention of the People's War (PW). This group had the support of a notorious faction leader who was a legislator of the then ruling Telugu Desam Party. Things came to a head when PW killed Bomma Sivaiah, the village sarpanch who was leading the other group. In retaliation the entire village turned on the Madigas and went on a rampage, killing nine persons and burning down half of the houses of the Madigawada. At least 500 Madigas<sup>52</sup> who were made homeless had to spend several weeks in neighboring towns as they could not return to their homes out of fear of being attacked. The police registered three cases in which both sides are accused and which are still dragging on, without giving any chance for burying the hatchet. The Maoists explained their killing of eight men, most of who were accused in the 1998 cases, saying they did not expect justice and hence they meted out their own justice.

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<sup>51</sup> Sakshi "Interim Report of the Dalit Atrocity in the Vempenta Village of Kurnool District Andhra Pradesh" July 21 1998. See also Broken People: Caste violence Against India's "Untouchables".

<sup>52</sup> Ibid.

“No progressive party with a holistic understanding of the caste-class dimension of the Indian society would have approached the problem posed by Vempenta with violence as an effective solution. That would be to confirm the method of factionists as the only method and push them permanently bonded to these factions as foot soldiers. The public response was that this revolutionary chastisement is no different from faction murders. Politics has misled Maoists to discredit themselves and their politics. The caste massacre was encouraged by groups who wanted to preserve the status quo by keeping alive this animosity, this belligerence so that the status quo continues and the poor do not unite and assert their right to life, equality and human dignity.<sup>53</sup>

### Laxmanpur-Bathe:

On the evening of December 1, 1997, armed sena activists crossed the Sone River into the village of Laxmanpur-Bathe where 180 families lived. They raided fourteen Dalit homes and killed a total of sixty-one people: sixteen children, twenty-seven women, and eighteen men. In some families, three generations were killed. Twenty people were also seriously injured. As most of the men fled the village when the attack began, women and children numbered high among the fatalities. During the attack, at least five girls around fifteen years of age were raped and mutilated before being shot in the chest by members of the Ranvir Sena. Most of the victims allegedly belonged to families of Party Unity supporters; the group had been demanding more equitable land distribution in the area.<sup>54</sup>

The village of Laxmanpur-Bathe has no electricity and virtually inaccessible by road. The main reason for the attack was that the Bhumihars wanted to seize fifty acres of land that had been earmarked for distribution among the landless laborers of the village. A group of peasants, reportedly affiliated with Naxalite activity, was ready to take up arms against the dominant castes. Despite knowing the tensions the authorities apparently had not cared to intervene in the land dispute and nip the

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<sup>53</sup> Ibid.

<sup>54</sup> Broken People: Caste violence Against India's "Untouchables, Human Rights Watch, New York, 1999.

trouble in the bud and instead allowed things to come to a head.<sup>55</sup> Human Rights Watch visited the village on February 25, 1998. According to villagers who survived the attack, close to one hundred members of the Ranvir Sena arrived en masse and entered the front houses of the village: "Their strategy was to do everything simultaneously so that no one could be forewarned." Human Rights Watch visited a house in which seven family members were killed. Only the father and one son survived. Vinod Paswan, the son, described the attack: Fifteen men surrounded the house, and five came in. My sister hides me behind the grain storage. They broke the door down. My sisters, brothers, and mother were killed... The men didn't say anything. They just started shooting. They yelled, "Long live Ranvir Sena," as they were leaving.<sup>56</sup>

Local police had been aware of the possibility of violence long before the Bathe massacre. On November 25, 1997, Sena leaders openly held a strategy meeting seven kilometers away from Bathe. Sena leader Shamsheer Bahadur Singh had also been touring the area in the months before the massacre openly seeking donations from supporters. Police officers claimed to be aware of these meetings but dismissed them as routine-missing yet another opportunity to intervene and preempt a Sena attack. One officer was quoted as saying, "It's like crying wolf. The Communist Party of India (M-L) keeps sending us complaint letters every week; we can't take action every time."<sup>57</sup> The activists also claimed that the purpose of Bathe was "to teach others not to rebel or raise a voice. In so doing women became vulnerable and were sexually assaulted. They raped women and cut off their breasts. A woman whose pregnancy was nearly complete was shot in the stomach. They said that otherwise the child will grow up to be a rebel."<sup>58</sup>

Since the massacre, police protection in Bathe has remained grossly inadequate. The Bihar government announced soon after the Bathe killings that police would be deployed in the area to set up camp and maintain law and order. However, when

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<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

parliamentary elections were later announced, the police force was directed to control election-related violence. Despite their dual assignment of controlling the Ranvir Sena and watching the polls, the police seemed more intent on conducting raids on Dalit villages in the name of controlling "extremism" and seeking out Naxalite cadres than on protecting Dalit villagers. According to a member of BDVS, "Bathe protection is near the poor but it only benefits the rich. Police always go to the landlords' houses... All their needs are taken care of by upper castes. If someone calls a meeting they won't come. They say we don't have time. They just do flag marches."<sup>59</sup> At the time Human Rights Watch visited the village, the Dalit residents of Bathe feared another attack: Human Rights Watch also spoke to police officers stationed in the village school. Officer In-Charge Amay Kumar Singh informed us that a total of twenty-six police officers were present in the village. He claimed that the police arrived soon after the massacre. According to Singh, twenty-five of the twenty-six perpetrators identified by villagers had been arrested but at the time of the interview (two months after the events) had not been formally charged. He claimed that the police were providing security for all villagers and that new threat had not been reported to them. Like many officers, Singh claimed that police response to attacks is hindered by insufficient funding, infrastructure, and equipment for village-based police camps.<sup>60</sup>

These arguments fail, however, when one notes the frequency of police search and raid operations on remote Dalit villages. Though Singh believed that his officers had enough guns to provide security, and were able to communicate quickly with the area police station, he claimed that more men and more facilities were needed and that the roads to the village were in very poor condition. Road construction had begun soon after the massacre but came to a halt when "VIPs" stopped visiting the area. "We have no car. Look at our conditions. We are sleeping on the ground," Singh complained. The Deputy General of Police Saxena also reported that the local police station was poorly equipped and there were not enough personnel. "That's

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<sup>59</sup> Ibid.

<sup>60</sup> Ibid



why we couldn't prevent this,"<sup>61</sup> Despite the arrests immediately after the massacre, as of February 1999 none of the sena members responsible for the Bathe attack had been prosecuted.

In the year 2013 October, a district and sessions court in Patna has finally pronounced a verdict in the infamous Laxmanpur- Bathe carnage almost thirteen years after 58 Dalits (including 27 women and 10 children) were brutally killed by the Ranvir Sena (the now-almost-defunct caste army belonging to Bhumihar landlords) on December 1, 1997. While giving death sentence for 16 convicts and life imprisonment and Rs. 50,000 fine for 10 others, the court also noted that the massacre was a 'stigma on civil society and rarest of rare cases of brutality'. Also, 19 other accused were acquitted for lack of evidence produced by the prosecution. Nevertheless, as we discuss below, justice still eludes the victims (mostly landless Dalits) of the long series of caste and land-related violence in Central Bihar.

The trial ran for more than 11 years. Only after the High Court intervened to expedite the trial, the lower court proceeded fast and brought the trial to a close. Eleven years is a very long period for a criminal case to run. Especially in a violence-ridden place like Bihar, where intimidation and coercion are freely resorted to for influencing witnesses, it is no wonder that a few key prosecution witnesses turned hostile, thus weakening the case. Had the trial not dragged on like this, the gain-over of witnesses would not have possibly happened. In India, court cases take very long to be decided. It results in many undesirable consequences for both the accused and the defendant. Witnesses change their versions; some die and a few others just do not appear in the court. This vitiates the trial. This is the reason why the conviction rate in India is so alarmingly low.

In the Laxmanpur massacre trial, the trial was impaired by all sorts of difficulties, weakening the prosecution progressively, with each passing month. Had it not been so, the perpetrators could not have managed to get away. The social impact of failure of prosecution in such horrific cases of caste violence is quite corrosive indeed. Ordinary people, especially those belonging to the lower echelons of society lose

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<sup>61</sup> Ibid

faith in the fairness of our society. Out of frustration and resentment, they tend to take law into their hands to settle their grievances. In recent years, such conflicts have morphed into the Maoist phenomenon our country finds so hard to grapple with now. So, the minimum that the government can do now is to appeal against the acquittal in the Apex Court. The government must from now on try to help the courts to end trials of high-profile caste and religion-related cases as speedily as possible.

### Khairlanji Massacre:

Khairlanji is a village in Bhandara District of Maharashtra with a population of 800 of which 750 are Other Backward Classes (OBCs), 30 are Scheduled Tribes (STs) and 20 are Scheduled Castes (SCs). The scheduled caste families totally numbered 3, of which today, the Bhotmange family has a lone survivor, after the massacre. The district of Bhandara borders Madhya Pradesh and is also surrounded by Gadchiroli and Chandrapur districts which have pockets of strong Naxal influence. Khairlanji, with its proximity to Nagpur city, and a substantial proportion of land benefiting from canal irrigation also indicates signs of urban influence and economic well-being. The area is under the political influence of the Bharatiya Janata Party. The village itself reflects a strongly casteist mindset and the sheer minority of SC families compelled them to live in subordination to the Hindu majority.<sup>62</sup>

The family central to this plot is the Bhotmange family which consisted of: Bhaiyalal, the family head (age 55), his wife Surekha (40), sons Sudhir (21) and Roshan (14) and daughter Priyanka (17). The family migrated to Khairlanji 17 years ago with support of land offered by Bhaiyalal's maternal uncle. They also received support in establishing themselves from Surekha's cousin, Siddharth Gajbiye, residing in Dusala village nearby. However the dominant caste forces did not make things easy for the family. They earlier lived in a rented place but due to constant

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<sup>62</sup><http://www.saciwaters.org/CB/water%20and%20equity/water%20and%20equity/IV.%20Readings/3.%20Social%20Differentiation/3.5.%20Case%203%20water%20equity%20training%20programme%20-%20mani.pdf>

harassment from the owner eventually built a *kattcha* house on village panchayat land as they were not allowed to make a *pucca* construction. The house also did not have electricity connection and the family faced discrimination in access to drinking water at the common village well.

The immediate contributing factor for the conflict was the mainstream villagers' demand for right of public passage through a road to be constructed that would pass through Bhaiyalal's land. The family was resisting and contesting this through legal mechanisms for which they received support from Siddharth Gajbiye (SG). The latter thereby also invited resentment. On September 3rd 2006, SG was beaten up by people from Khairlanji on a dispute about wage payment to laborers. Surekha and Priyanka were witness to this incident and when the case was finally registered as a criminal offence under the Indian Penal Code and Protection of Civil Rights Act, on Sept 16<sup>th</sup>, 2012 Surekha's witness account was recorded as evidence at Adhalgaon police station. On Sept 29<sup>th</sup>, 2012 of the 15 accused were arrested and released on bail on the same day.

Meanwhile, tension had already started building up in Khairlanji, but the administration neither took any preventive steps to dissipate the imminent communal tension nor did they provide protection to the Bhotmange and Gajbiye families. When the 12 accused returned to Khairlanji on Sept 29th, they received a fabricated story that SG's brother was planning an attack on them to avenge the violence against SG. This angered the accused and they organized a mob and set out on a tractor to Gajbiye's village. Bhaiyalal later returned to his farm, while Priyanka went back home. When the mob did not locate SG and his brother at Dusala, they returned to Khairlanji and assembled outside Bhotmange's house and attacked Priyanka, her brothers and mother. They tried to contact the police through their cell phone. But the reaction of the Adhalgaon police was tardy, with a constable visiting the site as late as 8.30 pm, when he reported the situation as normal

On 29 September 2006, four members of the Bhotmange family belonging to the Mahar Dalit underclass were murdered. The women of the family, Surekha and Priyanka, were paraded naked in public before being murdered. The massacre was termed usually as the upper caste killings of Dalits and made it as the stereotype of "upper castes" versus "lower castes". This crime was committed and was carried out by assailants from the politically powerful Kunbi caste, classified as OBC caste by Government of India for "opposing" the requisition of their field to have a road built over it. Initial reports suggested that the women were allegedly gang-raped before being murdered. The Central Bureau of Investigations revealed that the women were not raped. It is also reported that there were allegations that the local police shielded the alleged perpetrators in the ongoing investigation. A government report on the killings, prepared by the social justice department and YASHADA—the state academy of developmental administration, has implicated top police officers, doctors and even a political party member (BJP) of the Legislative Assembly, Madhukar Kukade in an alleged cover-up and hindering the investigations. Kukade has denied these charges, saying that he had not even been in Kherlanji in months. The state Home Minister R. R. Patil admitted to initial lapses in police investigation and said that five policemen suspended in the investigation of the killings have been dismissed. In December 2006, CBI filed a charge sheet against 11 persons under charges of murder, criminal conspiracy, and unlawful assembly with deadly weapons and outraging the modesty of women. In September 2008, six people were given the death sentence for the crime. However, on 14 July 2010, the Nagpur bench of the High Court commuted the death penalty awarded to the six convicted to a 25-year rigorous imprisonment jail sentence.

The Khairlanji verdict was hailed as 'historical' by newspapers and certain Dalit politicians because it was delivered within two years from the occurrence of the incident, relatively a short period in the Indian judicial history, and awarding severe sentences (death to six and life imprisonment to two) as the ghastly crime deserved. While many Dalits were awarded capital punishment before but it was for the first time that it was given to their killers. In the jubilation, it was forgotten that for this

worst orgy of violence by the entire caste Hindu village, only 11 out of 47 original accused were tried and only eight out of them finally convicted. More importantly, they were discharged from the provisions of the Atrocity Act as well as section 354 (assault or criminal force with intent to outrage the modesty of a woman) or section 375 (that deals with rape) of the Indian Penal Code. While in the heat of public uproar, the ad hoc sessions court awarded severe punishments, as the case goes through appeals in higher courts; it is anybody's guess whether the convicts would be eventually punished for their crime.<sup>63</sup>

The bigger problem is that the Khairlanji verdict calls into question the enforceability of the Atrocity Act. The session's court has rejected its application to the Khairlanji case as it did not find any caste motive in the crime. There have been similar cases in the past but they went unnoticed. While the judges award the sentence under IPC, they refuse to see the caste motive in the crime so as to attract the Atrocity Act. For instance, in a recent judgment on the infamous case of a gang rape of a Dalit student by her teachers in a primary teacher training college in Patan, Gujarat, the fast track court awarded life imprisonment to all the six accused but rejected the application of the Atrocity Act as he did not see caste motive behind the crime. While in major crimes, such as rapes and murders, by virtue of sentences awarded under the IPC exceeding the maximum sentence provided under the Atrocity Act, it may appear inconsequential, but truly speaking it leaves out many of its other provisions which are not available under the IPC. For instance, the Act provides for punishment to policemen and enforcement authorities who fail to protect Dalits from atrocities. It empowers special courts to expel 'potential offenders' from scheduled areas and tribal areas, attach the property of an offender, and prohibits the grant of anticipatory bail to the potential accused. It also provides for the payment of compensation to victims or their legal heirs as well as imposition of collective fine. These unique provisions are not included in any other Acts. The Atrocity Act has simple definition of atrocity, being a crime committed by a non-SC/ST person on a SC/ST person. If this definition is overlain with the criterion of

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<sup>63</sup> See web site: <http://www.combatlaw.org/khairlanji-verdict-whither-the-atrocity-act/>

caste motive, as being practiced by the judges, the Act becomes unenforceable and hence as good as dead.

The Atrocity Act is premised on the fact that the crimes against Dalits by non-Dalit have special socio-cultural context which is absent in other crimes. Caste being a pervasive feature of the Indian society, the judges cannot be assumed to be islands devoid of its influence. They are only expected to professionally deal with the mechanics of lay down law and not to possess extraordinary sensitivity to pronounce verdict on the basic social character of which they themselves are a part. When, they pronounce judgment about the existence or otherwise of a caste motive in a crime, they essentially assume themselves to be sans societal influence. In doing so, they not only contradict the basic premise of the Act but by bringing their own prejudices into play incapacitate its prowess of doing justice to Dalits. There is an urgent need to remove this anomalous content of the Act to restore its enforceability. The government should realise that it has grossly failed to enforce the Act because it has shied away from punishing the people responsible for creating the structure for its implementation as envisaged by the Act.<sup>64</sup>

## Kambala Palli

On March 11, 2000, Dalits in Kambalapalli Village, near Kolar, Karnataka was attacked by a barbaric Reddy mob. In this incident 7 Dalits were burned alive in their own homes by a upper caste mobs. The justice was delayed on this case for about 6 years. After 6 years waiting for justice, all the perpetrators belong to Reddy mafia were released on Dec 10, 2006. On 10-3-2000 at about 6p.m. one Shankarappa and his friend Narasimhappa (both Dalits) were bringing tender coconut to the ailing father of Shankarappa along the Yanamalapadi road. K.M. Venkatareddy S/o. Maddireddy and Ravi S/o Kittanna (both Vokkaligas) were coming in a TVS XL from the opposite direction. Venkatareddy brought the vehicle so close to Shankarappa as if he wanted to hit him with the vehicle and suddenly stopped it. Shankarappa asked when he had so much space in the road what was the need for

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<sup>64</sup> Ibid.

him to take his vehicle so close to him. To this Venkatareddy retorted why he (Dalit boy) should come by that road. Thus a quarrel ensued between them. K.M. Venkatareddy and Ravi threatened stating that the Hole-Madigas have grown too much and they would see that they were suppressed as they did in the case of police personnel and returned back to their Kambalapalli Village.<sup>65</sup>

By the time Shankarappa and Narasimhappa reached their village by walk about half a km Venkatareddy, Ravi and Kittanna alias Krishnareddy (waterman) organised about 11 members with deadly weapons and confronted the Dalits Shankarappa and Narasimhappa, assaulted them, inflicting bleeding injuries on Shankarappa. Those two Dalits ran away from the scene fearing for their life. The above unruly mob of Vokkaligas roamed about in the Scheduled Caste colony broke the houses and assaulted the inmates. Shankarappa and Narasimhappa and others ran to Yanamalapadi Village and contacted through phone the Kencharlahalli Police Station and reported the matter. The Sub -Inspector Venkataramanappa came in a jeep along with a van of police to Kambalapalli village. He visited the Vokkaliga houses talked with them and left the place without visiting the Dalit colony, the houses destroyed and the Dalits who were assaulted, leaving behind the police in the van.

The next day morning i.e. 11 -3-2000 Shankarappa, Narasimhappa and other Dalit victims came to the house of DSS leader N. Shivanna at Chinthamani. N. Shivanna contacted the Circle Inspector over phone but he was told that the Circle Inspector would be available only in the afternoon. Then he contacted the Superintendent of Police (SP) at Kolar. He was told that the SP was on leave then he contacted the Additional SP informed him about the occurrences. The Additional SP told Shivanna that the Circle Inspector would be coming in the afternoon and he could send the victims of assault to him. The Dalit victims without waiting for the arrival of Circle

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<sup>65</sup> Fact Finding Study on performance of Special courts set up under the SC ST Prevention of Atrocity Act By: Centre for Study of Casteism, Communalism and Law (CSCCL), National Law School, Bangalore, India

Inspector and because some of the victims were suffering from the injuries went to the jurisdictional police station and gave a written complaint to the Sub-Inspector Venkataramanappa who refused to receive the complaint and asked the injured to get out from the police station. Then the victims came to Chinthamani to meet the Circle Inspector. When the Circle Inspector came they narrated the incident and told him that the SI at Kencharlahalli had refused to receive the complaint. Then the Circle Inspector contacted the Sub-Inspector over the phone and called him to his office. The Circle Inspector handed over the complaint to the Sub-Inspector and directed him to register the complaint.

The victims came to the bus stand and boarded a private BKR bus to go to their village. One Anjeneyareddy who was supported by Dalits but failed to win the village panchayat elections also boarded the same bus. After seeing the plight of the victims he enquired what had happened to them. The victims explained what happened to them and Anjeneyareddy became furious and felt enraged and told them that it had happened in his absence and he would meet the criminals and ask them why they assaulted them. The bus reached the village at about 7 p.m. By that time the police in the van had already left the place and when the victims alighted from the bus the Vokkaligas had by then collected 40-50 persons and were waiting for the complainants at the bus stop. Those people who alighted from the bus included Sriramappa, Anjanappa, Shankarappa, B.K. Anjenappa, Ravana and Anjeneyareddy and others. They were proceeding towards their houses. At that time the Vokkaliga unruly mob started throwing stones at them. The Dalits ran towards their houses and bolted their doors from inside. Anjeneyareddy went to his house and came back angrily with his Vokkaliga followers, went to the unruly mob and started questioning them as to who were the persons who attacked the Dalits in his absence. In the Vokkaliga unruly mob belonging to one Buchanagari Byreddy who won the election against the Anjeneyareddy, Kittanna alias Krishnareddy (waterman) was also present.<sup>66</sup>

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<sup>66</sup> Ibid.



The altercation between the two groups started and it developed into a physical fight between two groups. In this scuffle Kittanna alias Krishnareddy (waterman) fell down and died. Immediately afterwards Anjeneyareddy and his supporters ran away from the place. After hearing that Kittanna alias Krishnareddy had been killed other Vokkaligas in the locality rushed to the place of occurrence and joined with the followers of Buchanagari Byreddy. Maddireddy and his son Venkatareddy who were the supporters of Byreddy led the mob towards the houses of the Dalit Teacher Anjanappa and Sriramappa, Kunti Papanna and Subbamma. Maddireddy was the prime accused in the sheep theft case. He is also accused in the murder case of Venkataramanappa elder brother of Sriramappa. His son Venkatareddy is an accused in the case of assault on Dalit Shankarappa. They went to the 3 Dalit houses bolted all the doors from outside and brought straw and covered the houses all around and also inserted straw through chimney into the houses. Then Maddireddy and his son Venkatareddy and others brought kerosine and petrol and poured it over the straw and over the straw inserted into the houses through chimney. They also poured the oil into the houses through the gaps of the doors and windows and set the houses on fire. On hearing the news, the fire tenders rushed to the spot but prevented on the way by the unruly mob from reaching the spot. Though the police had full information none of them came to the rescue of the victims and all those inside the houses were burnt alive.<sup>67</sup>

## Caste Discrimination and Atrocities: Global Response:

It is interesting to note that until the 1990s, the daily violence, exclusion, and humiliation suffered by millions of Dalits rights were treated as human rights issues by United Nations. “Despite decades of overseas activism by Dalit organizations, recognition of the Untouchables plight remained minimal. No International conventions specifically covered problems of Untouchability, human rights

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<sup>67</sup> Ibid.

violation, and major human rights NGOs had not taken up the issue.”<sup>68</sup> From the 1990s, the Dalit struggle moved to the international arena. For the first time, the caste question was discussed at the World Conference on Human Rights at Vienna in 1993. Subsequently, it was raised at the World Summit on Social Development held at Copenhagen in 1995. However, caste-based discrimination in other countries was generally little discussed at the international or national levels. For the first time, a detailed critical examination of the system by the United Nations took place in 1996. In the year 2000 saw the organization of the International Conference on Dalits Rights by the Voice of Dalits International in London in association with the Dalit Solidarity Network. Thus the Dalit activists raised awareness of their group’s plight among overseas audiences. Dalits efforts to win official recognition of caste discrimination as an international human rights issue did not bear fruit until the late 1990s. The first milestone occurred in the United Nations Committee on the Elimination of Racial Discrimination (CERD). The ICERD Article 1, defines “racial discrimination” as “any distinction, exclusion, restriction or preference based on race, color, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”<sup>69</sup>

However, the Indian government had long argued that ICERD did not cover caste-based discrimination, that Article 1’s descent terminology “unique to Indian society”. Further, the Indian government pointed to its laws abolishing Untouchability, banning caste based discrimination and providing reservations to untouchables.<sup>70</sup> In 1996, in its Concluding Observations, the CERD, to India’s Decennial Report that “the situation of the Scheduled castes and Scheduled Tribes” is covered under the treaty’s “descent” term which does not solely refer to race”. Based on this the Committee went on to criticize India for failing to provide

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<sup>68</sup> Clifford Bob, “Dalit Rights Are Human Rights”: Caste Discrimination, International Activism, and the Construction of New Human Rights Issue”, *Human Rights Quarterly*, Vol. 29. No. 1 (Feb., 2007).

<sup>69</sup> Quoted from, Clifford Bob,

<sup>70</sup> Ibid.

sufficient information on the implementation and effectiveness of the country's measures to aid the scheduled castes.<sup>71</sup>

In another key development in 1997, the Human Rights Watch decided to prepare a major report on caste based discrimination which helped for the emergence of new India based organizational network, the National Campaign on Dalit Human Rights (NCDHR). The NCDHR gathered massive support from various Dalit activists including Dalit intellectuals, academics, bureaucrats, NGO's Dalit organization and media. It was launched in India in December 1998. NSDHR involved in a variety of events as a part of their International agenda in October 1998, history was created in Dalit world when the first ever Dalit International Convention was organized in Kuala Lumpur, Malaysia. The convention provided the international platform for the Ambedkarites to focus, highlight and deliberate on the plight of the millions untouchables of India and other countries. In the year 2000 the Dalits scored another important success when the UN Human Rights Commission's Sub-commission for the Promotion and Protection of Human Rights issued a resolution declaring that "discrimination based on work and descent is a form of discrimination prohibited by international human rights law."<sup>72</sup>

In 2001, NCDHR and IDSIN have been collaborating on successive meetings with various members of the European Union and European Parliament, encouraging the EU and European Parliament to take a decisive stance against caste discrimination and to ensure that Dalit-sensitization filters through bi-lateral development policies, aid and projects sanctioned by these European bodies to India. The successes of NCDHR in this regard include the following: On 5 July 2001 the European Parliament urged the EU and its member States to voice its concern regarding caste discrimination and to formulate strategies to counter this widespread practice, which is affecting 260 million people in India, in South Asia and elsewhere". Meanwhile, in July 2001 in its Report on Human Rights, the European Parliament called upon the EU "to investigate to what

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<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

extent its policies contribute to the abolishment of caste discrimination and the practice of untouchability in India" In year 2003, an International Dalit Conference was held at Vancouver, Canada. The assembled delegates pointed out that caste is not the problem of Dalits alone, without annihilation of caste and the elimination of caste based discrimination India will not be able to realize its full socio-economic potential. In this Conference eleven-point charter of demands were put forward.

In November 2006, in Hague a declaration on the human rights violation based on caste discrimination, violence and impunity against Dalits in general and Dalit women in particular was adopted. It accepted the fact that caste discrimination is without doubt the largest example of systemic abuse of human rights in the world today. Even western countries such as U.S.A, Canada and U.K are also experiencing the caste based discrimination among the migrated large South Asian community. South Asians carried their caste identity, their strong caste prejudices along with them to these new abodes, which were hitherto based on equality among their people.

On February 1, 2007, the European Parliament passed a resolution voicing strong concern about the plight of Dalits in India and urging the Indian government to engage with relevant bodies including CERD (Committee on the Elimination of Racial Discrimination.) An excellent report titled, "India's Hidden Apartheid" was submitted as a shadow report ahead of CERD's review of India's periodic report, documented India's systematic failure to respect, protect and ensure Dalit's fundamental human rights. Severe violations persist in education, health, housing, property, freedom of religion, free choice of employment and equal treatment before the law. This report has also documented routine violations of Dalits' right to life and security of person through state- sponsored or sanctioned acts of violence, including torture. In September 2009, The United Nations Human Rights Council (UNHRC) held in Geneva deliberated on the recognition of caste as race. It proposed to ensure that descent and work based discriminations need to be fought against at

global level. Important aspect of this council was the endorsement of caste based discriminations as akin to race by Nepal. India is yet to endorse it. Human rights activists are urging India to take ownership and leadership in ensuring that UN norms are brought up, caste recognized as race and the caste discrimination should invite censures from UN as well. Kuala Lumpur International Dalit convention would take this pressure further.

The World Conference Against Racism was held from 31 August to 7 September 2001 in Durban, South Africa. It was the Third World Conference on this issue. The previous world conferences had been held in 1978 and 1983 and had primarily focused on ending apartheid in South Africa. At the Third World Conference in 2001, the member-states of the UN focused on the causes and consequences of various manifestations of racism, strengthening existing human rights mechanisms and UN conventions (such as Convention on the Elimination of All Forms of Racial Discrimination), and developing practical, action-oriented measures and strategies to combat contemporary forms of racism and intolerance. From the Dalit perspective, the WCAR was a rare opportunity to raise the visibility of India's "hidden apartheid" at the international level. It was a crucial opportunity for Dalit groups to come together on a common platform and make a united stand against caste discrimination before the international community and the UN. Through one voice, a common strategy, joint lobbying and advocacy, and the mutual support of other communities and organizations from across the globe, Dalits sought to influence the content of the final resolutions adopted by the member-states so that they reflect Dalit realities. WCAR consisted of both an Inter-Governmental (IG) Conference and a parallel NGO Forum. In the former, the governments of the UN member-states were the decision-makers, while the NGOs primarily participated as lobbyists, observers and information providers. Although NGOs did not have the right to vote at the IC conference, they had a variety of opportunities to influence the agenda, direction and outcome of the conference. At the conference, Dalit groups from across the world with support from several international human rights organisations fought a tough battle for the inclusion of caste in the official charter on race as a form of descent-

based discrimination. Their efforts, however, were thwarted by the resistance of the Government of India.<sup>73</sup>

The Government of India argued that caste discrimination was not an issue relevant to the assessment of its performance vis-à-vis the human rights conventions to which it was a party. The arguments rested on three premises. First, caste is not race; secondly, internal mechanisms were adequate to promote the welfare of the untouchable castes and protect the human rights of the Dalits and as such there was no need to invoke international human rights mechanisms; thirdly, change is a slow process and all that was necessary was being done. Even though the Dalit contingent lost the battle in face of the hostility of the Indian government, they did succeed in making their point. As a matter of fact, the contingent of more than 160 activists was one of the largest and best organized non-governmental delegations present, and drew strong international support from governments, and UN officials'. The declaration produced by the parallel NGO conference affirmed the conclusions of the Committee on the Elimination of Racial Discrimination and the United Nations Sub-Commission on the Promotion and Protection of Human Rights that untouchability, bonded labour, manual scavenging and other caste-based abuses are repugnant and insidious forms of racial discrimination.<sup>74</sup>

On December 23, 2002, the United Nations Committee on the Elimination of Racial Discrimination in concluding its discussions on descent-based discrimination, strongly condemned caste practices as violative of the International Convention on Elimination of All Forms of Racial Discrimination. It noted that "fresh efforts, as well as intensification of existing efforts, need to be made at the level of domestic law and practice, in order to eliminate the scourge of descent-based discrimination and empower communities affected by it". Among the recommendations of the Committee on Elimination of Racial Discrimination are the following: (i) to resolutely implement legislation and other measures already in force; (ii) to

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<sup>73</sup> Chatterjee. Debi, "Dalits Rights/ Human Rights," Rawat publication, Jaipur, 2011, pp. 149-150.

<sup>74</sup> See website: <http://www.india-seminar.com/2001/508/508%20smita%20narula.htm>

formulate and put into action a comprehensive national strategy with the participation of members of the affected communities, including special measures in accordance with Articles 1 and 2 of the Convention, in order to eliminate discrimination against members of descent-based groups; (iii) to educate the general public on the importance of affirmative action programs designed to address the situation of victims of descent-based discrimination; (iv) to ensure where relevant, that judicial decisions and official actions take the prohibition of descent-based discrimination fully into account; and (v) to take substantial and effective measures to eradicate poverty among descent-based communities, and combat their social exclusion or marginalization.

On 19 April 2005, the UN Commission on Human Rights adopted by consensus a decision to appoint two Special Rapporteurs to tackle the entrenched problem of caste-based discrimination. The Commission was endorsing an earlier decision taken by its Sub-Commission on the Promotion and Protection of Human Rights to conduct a comprehensive analysis of the problem and find solutions for its eradication. This was the first time a political body of the UN referred directly to the problem. The Sub-Commission will now undertake a three year study, led by two experts given the title of "Special Rapporteurs", and will draft a set of Principles and Guidelines to eliminate this form of discrimination.<sup>75</sup>

The decision of the Commission came in the wake of an International Consultation held in Kathmandu in 2004 on how to address the problem. The Consultation adopted what is known as the Kathmandu Dalit Declaration, which provides concrete proposals for not only governments, the UN and development agencies, but also the private sector, trade unions and international financial institutions. One of the proposals has now been fulfilled in the form of the appointment of the Special Rapporteurs. The efforts to internationalize the issue of caste-based discrimination against Dalits in South Asia that had been undertaken in 2001 at the United Nations

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<sup>75</sup> Chatterjee. Debi., "Dalits Rights/ Human Rights," Rawat publication, Jaipur, 2011, pp.150-151.

World Conference Against Racism (WCAR) in Durban, suffered a serious setback at the Durban Review Conference held between 20-24 April, 2009 in Geneva. While in 2001, WCAR had at least discussed caste euphemistically as "discrimination based on work and descent", in line with terminology devised by the UN's Committee on the Elimination of Racial Discrimination (CERD), the outcome document of the Durban Review Conference (DRC) evaded even an allusion to caste.<sup>76</sup>

The cooperation between Human Rights Watch (HRW), with its good international advocacy knowledge, and the Indian NGO, National Campaign on Dalit Human Rights (NCDHR) was indeed significant. Human Rights Watch launched a programme of work on dalits in India in 1997 with financial support from the Ford Foundation. Keen to support further development of domestic advocacy on caste issues, the Ford Foundation promised to fund continuing work provided that Human Rights Watch could assist dalit NGOs to forge a common organisational platform. This was achieved in 1998, when following a national meeting in India, the NCDHR was set up. By 1999, the NCDHR was working closely with its domestic partners and Human Rights Watch to launch a national campaign in line with the IIRW publication of *Broken People: Caste Violence Against India's "Untouchables"*. They rallied for grassroots support, collected some 2.5 million signatures demanding greater action to eradicate the effects of caste-based discrimination, which they presented to the then Indian Prime Minister, A.B. Vajpayee in December 1999, and called upon the UN to take action in support of Dalits.<sup>77</sup>

The NCDHR now has offices in several Indian states and is the most prominent dalit NGO in India within the transnational advocacy network on caste issues.<sup>27</sup> The Asian Human Rights Commission, too, was no less sympathetic to the dalit cause at Durban. Adopting an extremely critical stand on of the Indian government's role, in a statement issued in the wake of the developments at Durban, the Asian Human Rights Commission observed: The World Conference against Racism, Racial

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<sup>76</sup> Chatterjee, Debi, p.151.

<sup>77</sup> Chatterjee,Debi,p. 154.



Discrimination, Xenophobia and Related Intolerance (WCAR), held in Durban, South Africa, from Aug. 31 to Sept. 7, 2001, has brought into sharp focus several extreme forms of discrimination. Among these is the issue of caste - more specifically, the issue of the Dalits - for caste became a highly visible issue during the international debate on racial discrimination. It became obvious during the conference that Indian diplomats, in their extreme activism to keep caste out of the final declaration of this world gathering and its work programme, not only brought the Indian government into high disrepute, but also brought down the moral standing of India before the eyes of the world.

India also lost any possibility of claiming to be a world leader in the promotion and protection of human rights until it changes its public position on the caste issue. The international conscience, which is being awakened to one of the cruellest forms of discrimination after many centuries of neglect, is naturally questioning the Indian stand and is asking, "What kind of nation is this?"<sup>78</sup> NGOs did a magnificent job organizing the strategy sessions of the Dalits at the NGO (Non-Government Organization) Forum, which precede the UN World Conference Against Racism (WCAR). The dalit campaign leadership arrived at the world conference against racism with some 1,200 black vests. On the back of each, in bright orange was the legend "Include Caste in WCAR". They arrived with about the same number of white headbands with "dalit rights are human rights" written on them. The vests and headbands were everywhere; increasing the pressure for a fair hearing.<sup>78</sup>

It is important to note that as a result of Durban, the international recognition of the issue of caste based discrimination was very much enhanced; it is evident from the Durban that the key to internationalizing the issue of caste-based discrimination successfully is the recognition of this form of discrimination as not being limited to one country or even to one region, but human rights problem of global significance. The Dalits also exposed the passive response of the Indian state towards Dalit human rights.

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<sup>78</sup> Chatterjee, Debi. p. 155.

## CHAPTER – V

### CASTE ATROCITIES AND WORKING OF POA, ACT IN ANDHRA PRADESH: CASE ANALYSIS

The aim of the chapter is to analyze the caste atrocities cases commissioned against the Dalits in Andhra Pradesh. The state of Andhra Pradesh is one of the Dalits Atrocity prone areas at the National level, because several caste based violence's have taken place in this state such as Karamchedu (1985), Tsundur (1991), and Vempenti (1998). All these caste massacres are created by the dominant castes mainly comes from Reddies, Kammas and Kapus in different parts of Andhra Pradesh. In this context the aim of the chapter is to present some of the cases that occurred in Andhra Pradesh and how those cases were dealt by the state mechanism and how those were removed from the POA, Act, of 1989 purview despite they are offences punishable under the Act. Thus the following case illustrates how the caste discrimination is detrimental to the human rights of the Dalits in Andhra Pradesh.

According to the Ministry of Social Justice and Empowerment, the Government of Andhra Pradesh has identified 12 districts on "Dalits Atrocity Prone Areas"<sup>1</sup> and supposes to initiate measures to prevent Human Rights Violation against Dalits. These identified districts are namely; Mahabubnagar, Nellore, Kurnool, Medak, Prakasham (Ongole), Chittoor, Guntur, Secunderabad, Kadapa, Karimnagar, Krishna, and Nizamabad. These three districts are selected on the basis of Punnaiah Commission and National Human Rights Commission's reports and they were selected according to their order of crime committed against the Dalits. Mahabubnagar from Telangana region, Kurnool from Rayalaseema region and finally Prakasham from Coastal Andhra region have been reported highest number of cases. Comparatively, Mahabubnagar district is the highest atrocity prone area among all the three regions of Andhra Pradesh. According to PCR Cell, an Andhra

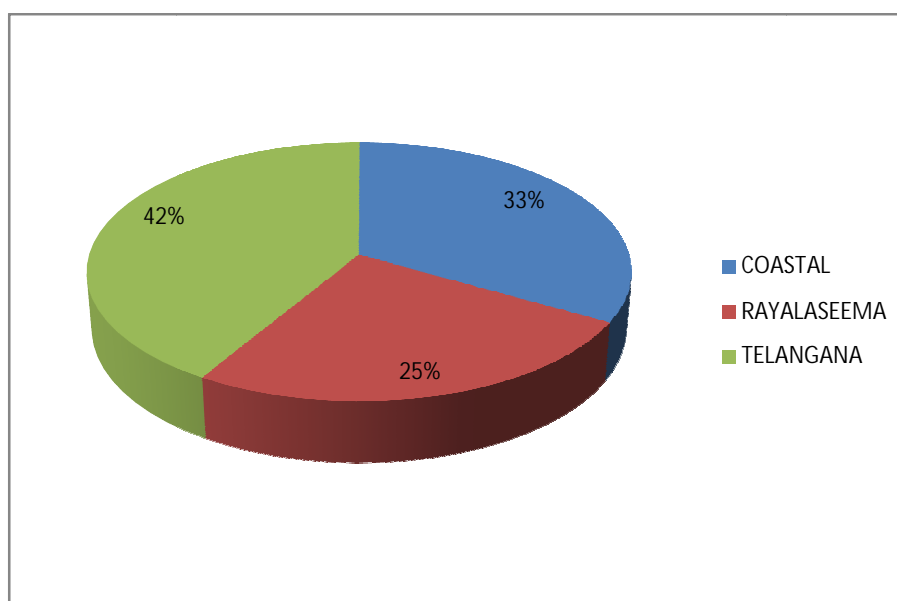
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2. The Ministry of Social Justice and Empowerment Annual Report, u/s 21(4) of "The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989" for the year -2008, p. 25.

Pradesh Police department report says that the Mahaboobnagar is one of the atrocities prone area and seven hundred and twenty eight cases have been reported during 2000-2008.<sup>2</sup> Particularly in three districts different kinds of caste based discriminations and untouchability is still being practiced. In Mahaboobnagar the two glass system and untouchability is still being observed. “The State Commission for SCs and STs, headed by Justice Punnaiah, which began a two-day visit to the district on Friday, has received petitions from several organizations attempting to bring to its notice attacks on Dalits and atrocities against Dalit women. Besides the practice of untouchability, the Dalit organizations also drew the commission's attention to the two-glass system prevailing in rural areas.”<sup>3</sup>

There are about sixty castes which are recognized as Scheduled Caste in Andhra Pradesh, they account for 16.19 per cent of the total population in Andhra Pradesh. Mala and Madiga are numerically more important SC castes in the State. The Madigas, are mainly concentrated in the Telangana region. The Malas are found mostly in coastal Andhra region and in the Chittoor district of Rayalaseema region.

**Diagram -1.1 Dalits Human Rights Violation in Andhra Pradesh**



Sources: *Sakshi-Dalit human Rights Watch, Report 2000-2003*, Andhra Pradesh.

<sup>2</sup> “Justice Punnaiah commission Report, Govt. of Andhra Pradesh”, Hyderabad.

<sup>3</sup>. *The Hindu Saturday*, Oct 16, 2004.

The Diagram-1.1 shows that, highest percentage as much as 42 per cent of Dalits atrocities cases have been registered in the Telangana region followed by 33 per cent of Coastal Andhra and finally 25 per cent in Rayalaseema region. Untouchability, two class systems and restricted entry into the temples are still practiced in this district according to Justice Punnaiah Commission. For example: the practice of Untouchability is accepted in Telangana region, but in coastal Andhra region Dalits are very actively fighting back the Untouchability practice. Significantly in Rayalaseema regions Dalits are not expressive and are not aware about the legal provisions of the Dalits because of this Dalits are victims in the hands of two upper caste groups Reddy and Kamma in this region.

Diagram-1.2  
DALIT POPULATION (SC) IN THREE DISTRICTS OF A.P-2001

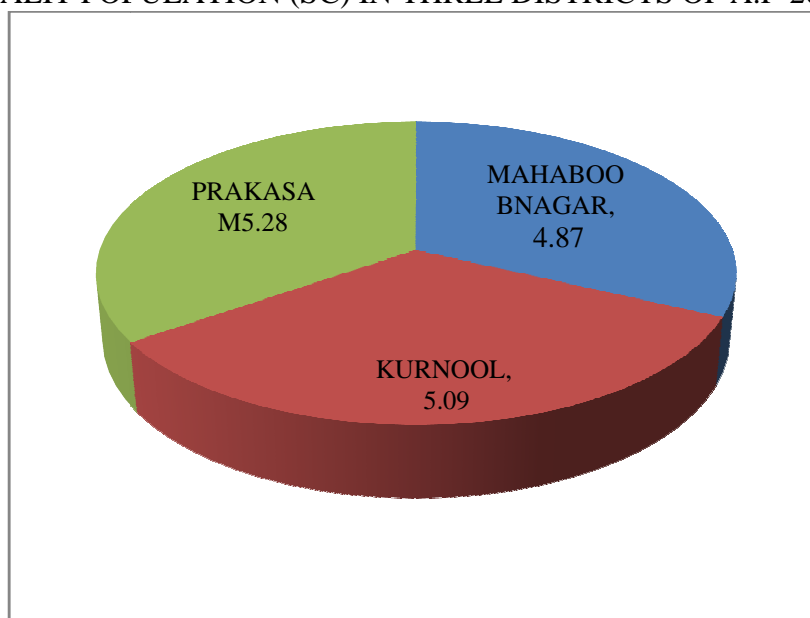
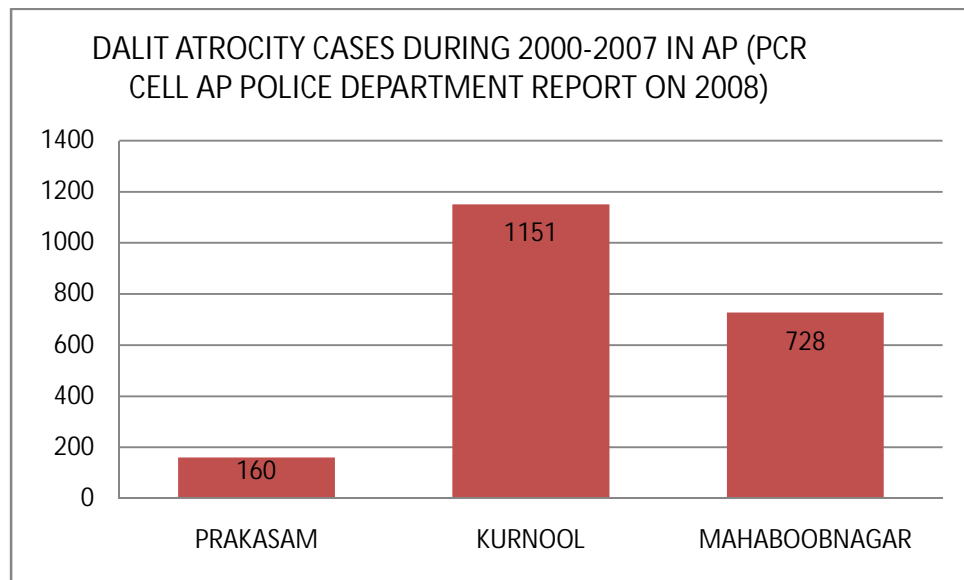


Diagram -2 shows that, according to 2001 census<sup>4</sup>, 4.87 per cent of the Dalits are living in Mahaboobnagar District. In Prakasham district 5.28 per cent population in Kurnool 5.09 per cent of Dalit population enrolled under the category of Dalits.

<sup>4</sup> "SC's/ STs in Andhra Pradesh 1961 to 2001" – Directorate of Economics /Statistics, Government of Andhra Pradesh –Hyderabad.

**Diagram-1.3**



Source: PCR Cell, Andhra Pradesh Police Department -2008

The Diagram-1.3 shows that according to the Protection of Civil Rights Cell, the Kurnool district has highest cases were registered from the various natures of Dalits atrocities cases under the PCR and POA Acts. Most of the case studies are related to murder, rape, land, sexual harassment, and caste based discrimination cases which are collected for the better understanding of the Dalits atrocities in the district of Kurnool. Significantly, the majority of cases ended with acquittals because of unsupported process of the police and judiciary system.

**Diagram-1. 4:Untouchability Practice in Andhra Pradesh**

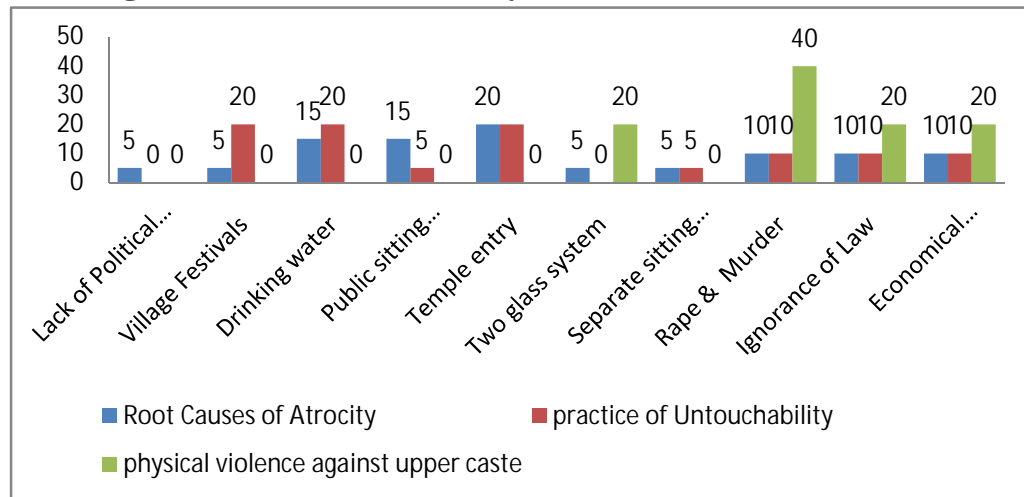
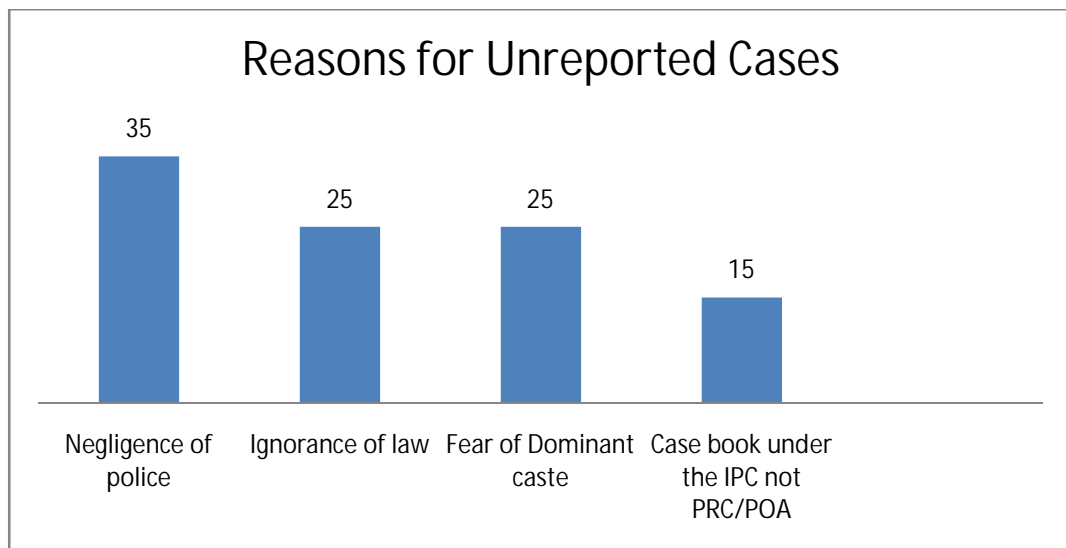


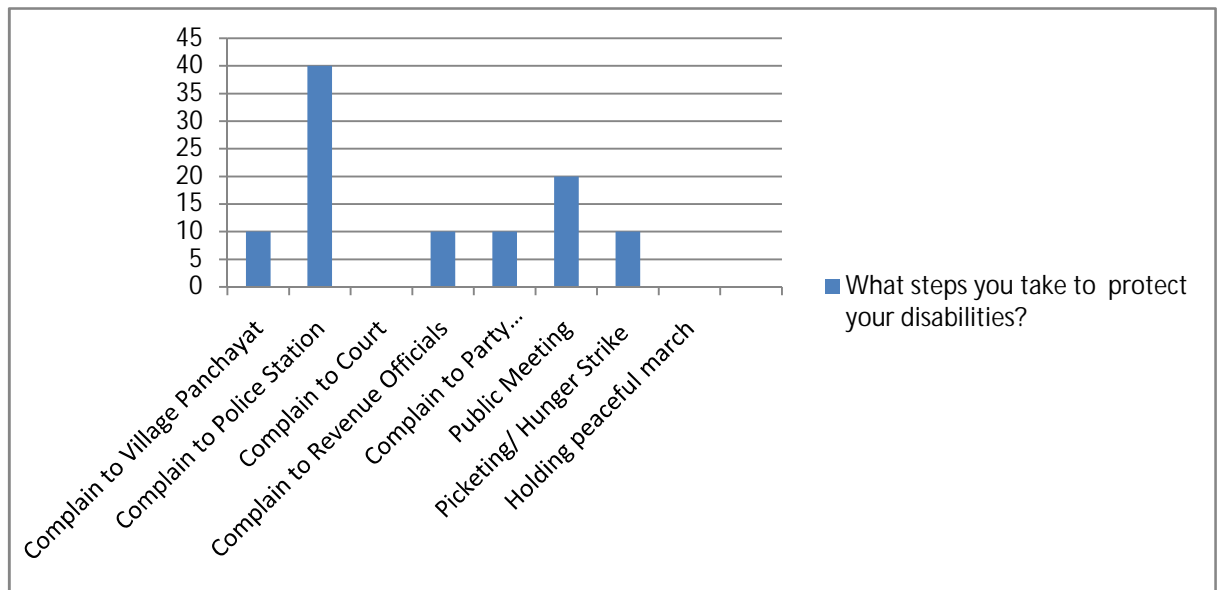
Diagram-1. 4 shows that the various forms and places in which the untouchability is practiced in Andhra Pradesh. Due to lack of political will, ignorance of law, economic causes, 20 cases of untouchability at village festivals, 20 while drinking water, 5 in public sitting places, 20 prevention of temple entry cases, 2 glass system, 5 separate seat cases, 10 rape and murder cases have happened in the district of Mahaboobnagar and 100 cases of physical violence against upper caste have occurred.

**Diagram-1.5: Reasons for Unreported cases in Andhra Pradesh**



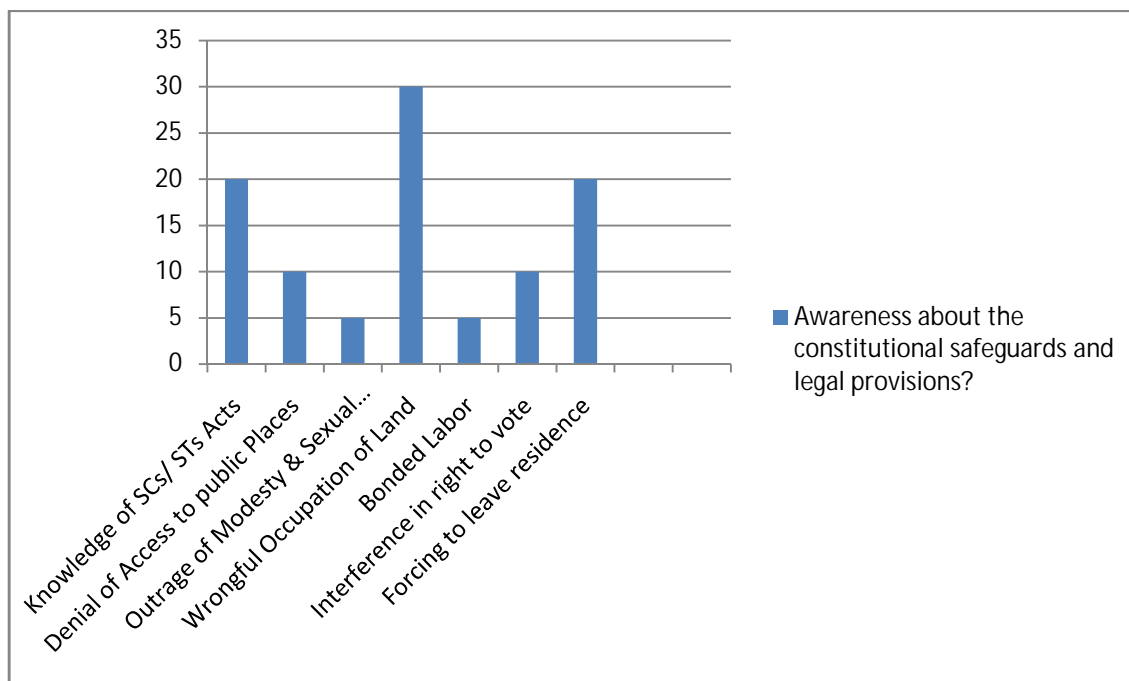
The reasons for unreported cases with number of such cases are as follows: negligence of police resulted in 35 unreported cases of atrocities, ignorance of law led to 25 such unreported cases, fear of dominant caste led to another 25 unreported cases and 15 other cases were booked under IPC instead of booking them under PRC/POA in the district of Mahaboobnagar.

**Diagram- 1.6 Steps to take to protect your disability responses: Andhra Pradesh**



When asked what steps do you take to protect your disabilities, following responses were obtained: 10 of the said they complain to village Panchayat, 40 of them said they complain to police station, 10 of them complain to party, 10 of them make a public meeting, 20 of them said they undergo a hunger strike and 10 of them said they hold a peaceful march.

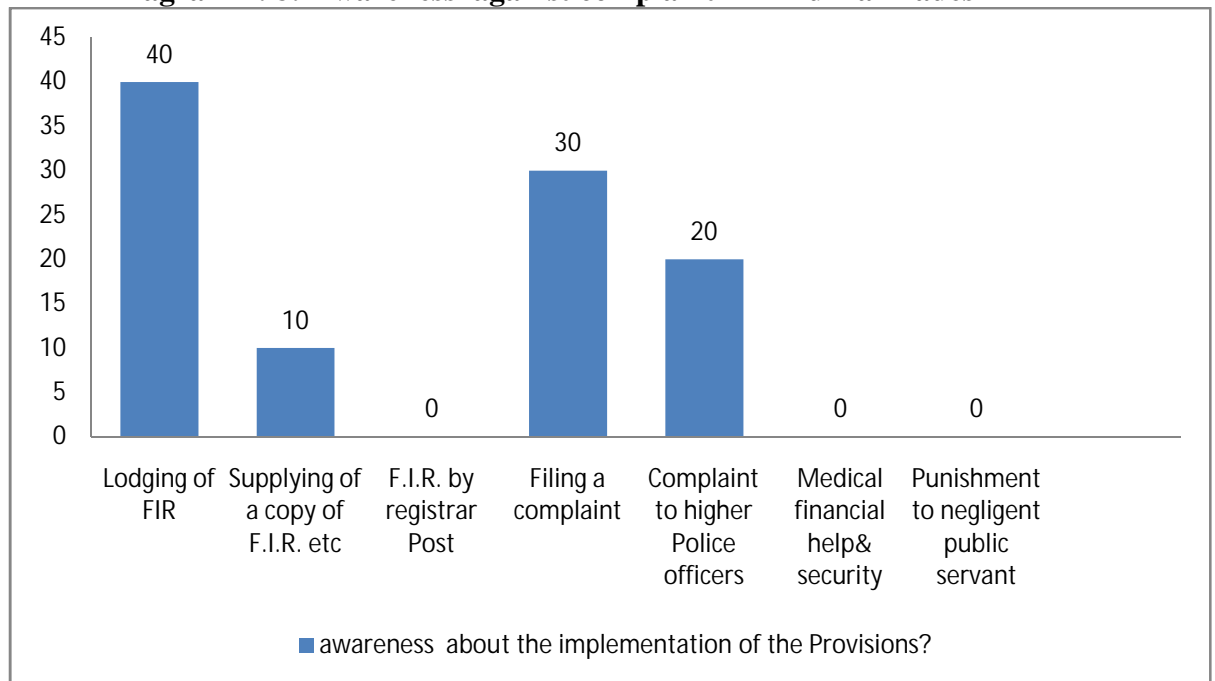
**Diagram- 1.7 Reasons for Unreported cases in Andhra Pradesh**



Awareness about the constitutional safeguards and legal provision is as follows: 20 of them have knowledge of SC/ST acts, 10 about denial of access to public places as a crime, outrage of modesty and other dignities as a crime is known to 5 people, 30 are aware about safeguards in the case of wrong occupation of land, 5 know about their rights if taken into bonded labour, 10 know that their right to vote cannot be interfered with, and 20 are aware that forcing to leave their homes is a crime.

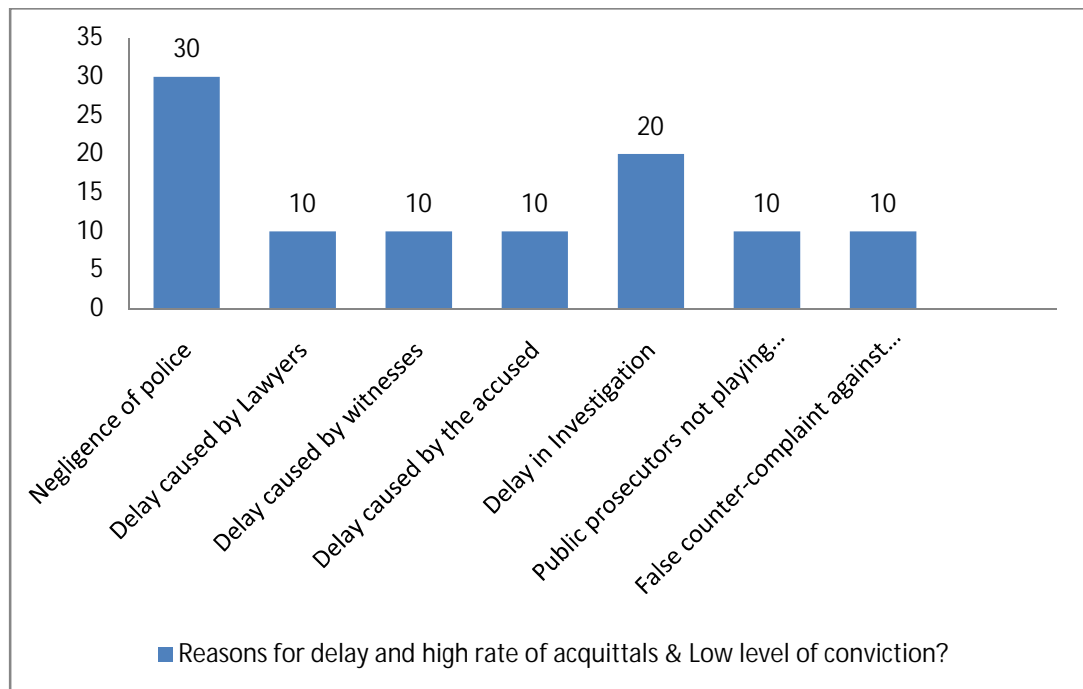


**Diagram-1. 8: Awareness against complaint in Andhra Pradesh**



Awareness about the implementation of provisions is as follows: 40 members know about the procedure of lodging of FIR, 10 members know that they should be supplied with a copy, none of them know that FIR could be lodged by sending a registrar post, 30 of them know about the procedure of filing a complaint, 20 of them know that they complain to higher officials in case of any problems with the implementation, none of them know about medical and financial aid that they are entitled to and none of them know that negligence in the implementation is also a punishable offense.

**Diagram- 1.9: Reasons for delay and high rate of acquittals & low conviction of atrocity cases in Andhra Pradesh**



Reasons for delay and high rate of acquittals and low conviction of atrocity cases in Mahaboobnagar and the number of cases with each cause are as follows: 30 of them are because of negligence of police, 10 was because of delay caused by the lawyers, 10 of them were acquitted because of delay of witnesses, 20 of them are because of delay in investigation, 10 of them because public prosecutors were not aware of the proper rules of SC/ST act, 10 were acquitted because of the false counter complaints.

## Cases of Atrocities: Analysis in Telangana

The Dalits, in the region comprise majority of agricultural labour who work on the dominated caste, remained landless even after the Telangana armed struggle.<sup>5</sup> Significantly the life statues of Dalits are landless agriculture labors. The old evil practice of untouchability still exists in Mahaboobnagar. Most of the Dalits are working as bonded labor under the Reddy, Velama, and Brahman communities, even today. In Telangana region more than 75 per cent of Dalits are landless agriculture laborers, 86 per cent are illiterates, and poverty prevalence is 65per cent. Dalits urban population is very low because of the cultural and economic backwardness. For example in the year 1991, total no. of Dalits (SC) is 5.51 per cent of urban population and in 2001 only 4.84 per cent. This is the plight of the oppressed and suppressed Dalits of Telangana region.<sup>6</sup> One of the evil practices against Dalits in Telangana region is the 'Devadasi system' is practiced till date. Devadasi system is a religious practice in parts of southern India, including Andhra Pradesh, where by parents marry a daughter to a deity or a temple. The marriage usually occurs before the girl reaches puberty and requires the girl to become a prostitute for upper-caste community members. Such girls are known as Devadasi. They are forbidden to enter into a real marriage.<sup>7</sup>

The 'Devadasi system', a Hindu religious practice refers to a form of ritualized prostitution where a girl before reaching the age of puberty is ceremoniously dedicated to a deity or to a temple. A dedication is seen as a form of marriage; therefore, the girl will be unable to marry in the future. Meaning "female servant of god" Devadasi women predominately come from Dalits castes. The ancient practice forces the girl to prostitute herself for upper caste communities, usually with a higher caste male patron who controls her. However, today, many men in a village use her, including Dalit men. A Jogini will still work as a daily laborer. In the States of

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<sup>5</sup> K. Srinivasulu, "Caste, Class and Social Articulation in Andhra Pradesh: Mapping Differential Regional Trajectories", Overseas Development Institute, London.

<sup>6</sup> Chalam KS; "Offences and Atrocities against Scheduled Castes in Andhra Pradesh: An Empirical Investigation "Social Action, Jan-March 2004

<sup>7</sup> See website: <http://ohanlon.photoshelter.com/image/I0000yBfeGPKNtuE>  
(Mahaboobnagar District Andhra Pradesh. India, 2002.)

Andhra Pradesh and Karnatka for example; a girl will be dedicated to the Goddess Yellamma in a village or festival ceremony. This practice, also known as Devedasi system, is still prevalent in the Southern states of Karnataka, Andhra Pradesh and Tamil Nadu.<sup>8</sup>

There are several evidences of the Jogini system in Telangana region, a live example is Thirumalamma, a 32 year old Dalit (Untouchable) Jogin rolls Beedi cigarettes sitting at the entrance door of her house. Many Jogins in this area roll Beedi cigarettes for 35 rupees a day. Thirumalamma was dedicated at the age of twelve. It is only her village patron who uses her for sex; he gives her no money and lives with his own wife and family. Thirumalamma explained, although she accepts her situation she no longer wants to be a Jogin.

**Table-3.1: Districts wise Atrocities cases registered during 1999-2003 in Telangana**

<b>Districts</b>	<b>1999-2000</b>	<b>2000-2001</b>	<b>2001-2002</b>	<b>2002-2003</b>	<b>TOTAL</b>
<b>Telangana</b>					
Rangareddy	14	17	18	22	71
Hyderabad	1	13	13	2	29
Nizamabad	4	13	15	10	42
Khammam	4	13	14	9	40
Medak	15	25	20	7	67
<b>Mahaboobnagar</b>	<b>16</b>	<b>30</b>	<b>54</b>	<b>33</b>	<b>133</b>
Nalgonda	8	12	12	8	40
Warangal	14	29	26	12	81
Kareemnagar	5	10	25	14	54
Adilabad	6	9	8	6	29
<b>Total</b>	<b>87</b>	<b>171</b>	<b>205</b>	<b>123</b>	<b>586</b>

Sources: Sakshi-Dalit Human Rights Watch, Report 2000-2003, Andhra Pradesh.

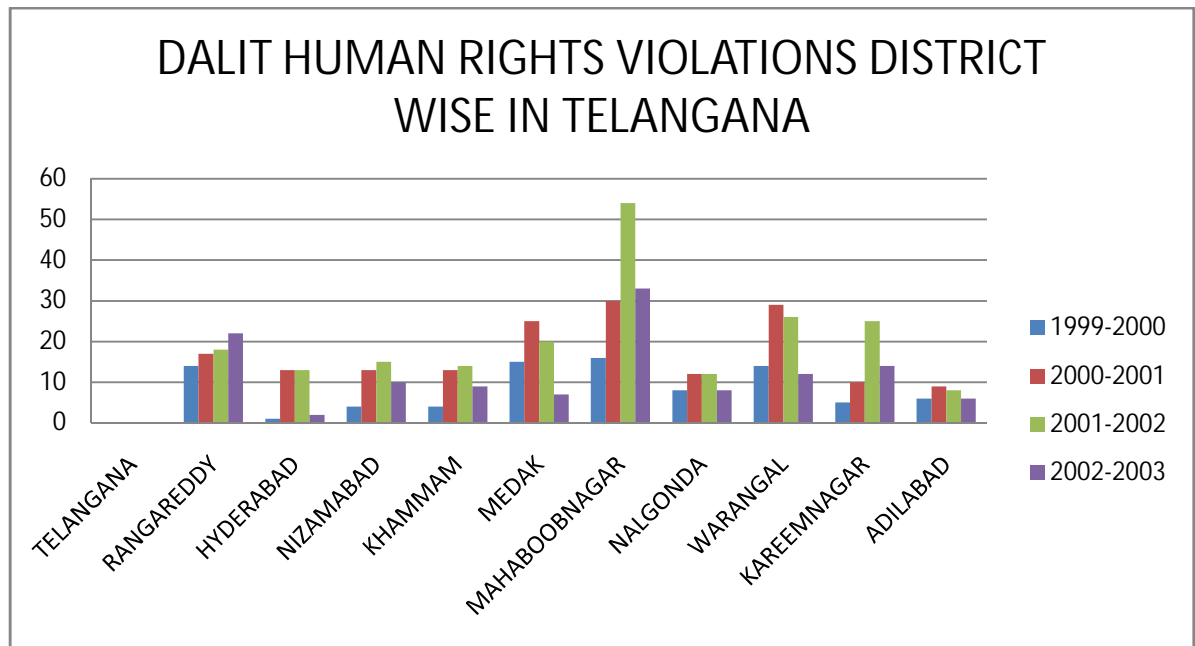
Table 3.1 shows: Out of the 10 districts of Telangana region, only Mahaboobnagar district has the highest Dalits atrocity prone areas. Based on the Sakshi Reports, one hundred and thirty three (133) atrocities cases have been registered under the PCR/POA acts. During the 1999 to 2003, majority of Dalits atrocities have been committed by the upper castes. Illiteracy and ignorance of the legal provisions leads to atrocities on Dalit in Mahaboobnagar. The age old practice of untouchability

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<sup>8</sup> Ibid

still exists in this district and sometimes there are not registered atrocities cases due to fear of upper caste.

**Diagram-1.10**



Sources: *Sakshi-Dalit Human Rights Watch, Report 2000-2003*, Andhra Pradesh.

The above diagram-1.10 shows the number of Dalits Atrocity cases reported in various districts of Telangana region. The diagram shows that the highest number of cases from 1999 to 2003. Mahaboobnagar stands apart from every state when it comes to atrocities and caste-based discrimination. According to Justice Punnaiah Commission the highest numbers of Dalits atrocity cases have been registered in Mahaboobnagar district under the POA Act, 1989. During the 2000- 2001<sup>9</sup> as many as 1730 atrocity cases have been registered such as no temple entry -836, two glass system-590, prohibited use of common water -304. The life of Dalits is worse in Mahaboobnagar when compared to other districts in Andhra Pradesh. In this district, the Hindu traditions and customs have a very strong holding till today. Compared to other districts Mahaboobnagar has the highest Dalits atrocity cases reported. The

<sup>9</sup> "Justice Punnaiah commission Report, Govt. of Andhra Pradesh", Hyderabad.

Practice of untouchability, caste based discrimination and social boycotts still exist in Mahaboobnagar.

### **Mahaboobnagar:**

Mahaboobnagar districts has four Municipalities, namely Mahaboobnagar, Gadwal, Wanaparthi and Narayanpet are divided into five Revenue Divisions. There are 64 mandals comprising of 1550 Revenue Villages and 1348 Gram Panchayats. The district has a total population of 35.14 lakhs (accounting for 4.61% of the total state population) comprising of 17.82 and 17.32 lakh males and females respectively. Of the total population, rural and urban areas have registered as 31.42 and 3.71 lakhs, respectively. The population of scheduled caste and scheduled tribe is 6.01 lakhs and 2.79 lakhs, respectively.<sup>10</sup>

In Mahaboobnagar, Dalits are socially backward and untouchability practiced towards them. Mahaboobnagar is the most backward District in the State of Andhra Pradesh. This district is the most neglected and disadvantaged district compared to the other districts of Andhra Pradesh in terms of social, economic, culture and political outlook. Their life is based on the social oppression, and economic exploitation in the hands of upper castes. There is poverty on one side and the caste based discrimination on the other. This has been forced since several years against Dalits. The primary reasons for this backwardness and social discrimination against Dalits are illiteracy, poverty, lack of political awareness, lack of opportunities of education and jobs, “Devadasi system” (Temple prostitution), two glasses system, caste based atrocities and others.

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<sup>10</sup> See website: <http://mahabubnagar.nic.in/>

## Views of the police and others on Dalit Atrocities:

The information gathered shows that the majority of police officers have a bad mind set about the POA act. Thousands of atrocity cases are unreported as the police refuses to file the cases. They have very limited knowledge on SC /ST laws and implementations. Most of the cases are dealt under the supervisions of CI and SI to investigate the cases but in some cases only DS and above DS ranks are dealing the cases. Sometimes police also committed atrocities against SC/ST. Most of the cases ended as acquittals due to the wrong FIR and charge sheet preparation. Some police officers feel that the POA act is an over burden to their duty. The police dealing with these Acts in general are not adequately trained with regard to the application of various provisions of these Acts. They are not very familiar with the various sections and clauses under which the accused are to be booked, and the procedures to be followed at every stage of the case. Often, most of the cases are not properly registered i.e., not under the appropriate sections.

Nearly 75 per cent of the victims are ignorant of the Dalit laws and implementations. They have no knowledge about the high rate of acquittals and suggestions for better implementation of POA Act. There are very few victims who expressed their opinions on root causes for atrocities. The witness is often afraid of coming to the Court to give evidence sowing to possible dire consequences from the accused/caste Hindus. The Police do not take the investigation task seriously. Though cases registered under the POA Act are to be investigated by no less than DYSP, it is often done by lower level police staff, and is done just for the sake of completing the formalities. The police generally do not accompany and give due support to the victims and their witnesses while going to the court. This puts the victims in more vulnerable situations. They avoid extending such support under some pretext or the other. Often they say: "We have done our duties as well".

The majority of Dalits lawyers are not aware on the root causes for atrocities. 53 per cent of the lawyers are ignorant about the SC/ ST laws and implementations. They know POA Act, 1989 but they do not know the other related acts such as PCR Act,

1976, Anti-Untouchability Act, 1955. When it comes to the implementation part, the most of the SC/ST lawyers are failing to explain the case process to the victims. Because of fear of upper caste local dominance sometimes leads to hostility towards victims. Police's negligence for support of case proceeding is a common problem. SPP is not playing any important role, therefore case are pending or get acquittal. These Acts are very much needed for the protection of the Scheduled Castes/Scheduled Tribes. In the absence of such laws the Scheduled Castes/Scheduled Tribes will be put into more vulnerable situations, and subjected to more humiliation and atrocities. Only because of such laws, the non-scheduled Caste people treat the Scheduled Castes with some respect. Therefore, these Acts are needed to be there. The police should be properly trained and guided to use these laws effectively. The TA/DA to the victims and their witness should be given in the Court itself. The Government has to take decision in this regard at the earliest.

The Special Public Prosecutor should be given due recognition by meeting at least his/her basic requirements like office, clerical assistance and the due remuneration in order to function effectively as the Special Public Prosecutor. (Repeated lines omitted here). Ninety nine percent of the SPPs belong to dominant castes. They are not playing an active role in convictions of atrocities cases. Some SPPs have very limited knowledge about the POA Act. SPPs have failed in explaining the cases to the victims at the time of trial and judgment. SPP has failed to guide the police department during the making of charge sheet and hearing of the cases. SPPs are also the cause for acquittals for the atrocity cases.

A majority of victims expressed their opinions on Dalits atrocities in Telangana region. Most of the Dalits atrocity cases are land-issue-based and sometimes they are social-issue-based. 75 per cent of the victims are ignorant of the SC/ST laws and implementations. They do not have any idea of provisions of the POA Act, 1989. There are very few victims who expressed their opinions on the root causes of the Atrocities. Sometimes the POA Act is misused to the advantage of the upper caste people in Telangana region. The Dalits social activists and politicians have not played any role in preventing the Atrocities against Dalits. They are puppets in the



hands of Kamma and Reddy communities. The victims are not paid their due compensation by the government. They are also not paid their allowances. As a result, the victims have to go after special courts and government officials repeatedly. This way, the victims are subjected to double harassment in the hands of dominant caste people and also government officials. The victims have a problem with the police refusing to register the case. At the further levels, they have a problem taking the case to the court trials. Most of the Atrocity cases end in acquittal or remain pending due to the politics played by the upper caste people at all levels of administration. Lack of awareness about the SC/ST laws is also one of the cause's acquittals.

#### **Case –I <sup>11</sup>**

Nature of Crime	:	Rape
Date of incident	:	July 2006
Place of incident	:	Kummera (Village)
Name of the Victim	:	Palle chennamma
Village / mandal	:	Kummera / Tadoor
Name of Dist	:	Mahaboobnagar
Caste	:	SC

**Case in brief:** Palle Chinnamma is (18) D/o Hanmiah, Scheduled Caste (madiga) R/o Kummera Village of Tadoor Mandal in Mahabubnagar District. She used to go for grazing their own goats, when grazing their goats in the field away from the village, kankada Ranjeeth Reddy S/O Narshimha Reddy who belonged to Reddy caste of the same village lured her and promised to have their marriage solemnized at Tirupathi Devasthanam. He requested her to satisfy his sexual desire, believing that he will marry her she continued their sexual relationship. As a consequence palle Chinnamma became pregnant. On 15/02/07 Chennamma asked Ranjeeth Reddy to marry her as soon as possible, as she is pregnant. After hearing this Ranjeeth reacted and abused her by her caste and he kicked hard on her stomach. She informed all the matter to her parents and what had happened. As she was taken to the hospital she informed that she was pregnant. On 16/02/07 Kum. Palle Chennamma lodged a complaint at Tandoor Police Station.

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<sup>11</sup> Case taken from Sakshi Human Rights Watch, Hyderabad, Fact-Finding Reports.

**Action taken:** The accused was arrested and came out of the jail on bail. He has paid Rs 25,000/- as compensation. There wasn't any charge sheet filed against him. And no private complaint has been filed by the victims. Not even TA/DA has been given.

**Legal Standards Breached:** Sec-376 IPC Rape shall be punishable with imprisonment for not less than 7 years but it may be extended for life. Sec-415 IPC Cheating with intention, dishonesty induces Sec- 323 & 352 IPC. Voluntarily causing hurt to and assault of another person is an offence. Sec – 3 (1) (X) of SC/ST (POA) Act – Who is not member of a SC/ST with intentionally insult or intimidates with intent to humiliate a member of SC/ST in any place of public view, is guilty of an offence. Art.3 UDHR and Art.5 (b) CERD Everyone has the right of life, liberty and security of person.

**Case – 2<sup>12</sup>**

Type of Violation	:	Gang Rape
Region	:	Telangana
District	:	Mahaboobnagar
Village / Mandal	:	Ammapalli thanda (V) Paddamandadi (M)
Date of Incident	:	03-05-08
Name of the Victim	:	Bhemamma
Caste	:	ST

**Details of Incident:** Bhemamma went to hospital to serve food to her brother. While she was returning to her village in an auto about 7:30 PM, the driver of the auto has diverted the auto to a different way and stopped at wasteland and committed rape on her. All the three passengers who sat next to her in the auto have also involved in their rape. A tractor driver and other people helped her to reach the village. Bhemamma's husband committed suicide after this incident. The next day she gave a complaint and the police registered case.

**Action Taken:** The accused were arrested. Compensation not paid. Charge sheet not filed.

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<sup>12 12</sup> Case was taken from Sakshi Human Rights Watch, Hyderabad, Fact-Finding Reports.

**Legal Standards Breached:** Sec – 376 IPC Rape shall be punished with imprisonment for not less than 7 years but it may extend life. U/s 21(2) (iii) & Rule 12(4) SC/ST (POA) Act – It is the duty of the government authorities to make provision for the economic and social rehabilitation of victims of Atrocities. Sec – 3 (1) (X) of SC/ST (POA) Act – Who is not a member of a SC/ST with intentionally insult or intimidates with intent to humiliate a member of SC/ST in any place of public view, is guilty of an offence. Art.3 UDHRF and Art.5 (b) CERD everyone has the right of life, liberty and security of person.

Disappearance of the two Dalits students of Mahaboobnagar: On 15th August of 2005 the Maoist party killed one sitting MLA<sup>13</sup> Chittem Narsi reddy of Makthal Constituency in Mahaboobnagar District. In this case the police of Mahaboobnagar started harassing the families of the 1. Bandari Mallesh S/o Laxmanna R/o Makthal, 2. Vaddera Manohar S/o Thimmanna R/o Kalwala, the families of the above said victims went to the police and requested them not to harass as they are students and studying they are nothing to do with the above said case, even after, the police continued to harass the families of the students. The families of the victims took decisions and produced them before the Superintendent of Police (SP) Mahaboobnagar on 16th Nov-2005 then the SP assured them to release both the students in two days but failed.

The parents of the students were unable to get the whereabouts of their children on 18/11/2005 the parents of the disappeared filed corpus petition in the high court of Andhra Pradesh. After high court's intervention, the police produced them before Makthal court stating that the both students were involved in the murder of the MLA Narsi reddy and sent them to judicial remand to the Mahaboobnagar district jail. Before producing them, the police brutally beat them and used third degree measures on the victims. The parents of the victims got bail ordered on 26 Feb-2006 and furnished the sureties on 6th March, released them at the time of release another two

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<sup>13</sup> <http://karthiknavayan.wordpress.com/2011/01/13/raise-your-voice-against-the-disappearance-of-the-two-dalit-students-of-Mahaboobnagar-district/>

accused 1.Karrem Suresh, 2. Ramalingappa and their parents were present at the jail premises in the same. Immediately after the release, the released and their parents were picked up by the police in mufti within a radius of one kilometer from the jail. Totally 8 members were taken away in a commander jeep and 6 people were released in Devarakonda forest on March 7th, except 1.Bandari Mallesh S/o Laxmanna R/o Makthal, 2. Vaddera Manohar S/o Thimmanna R/o Kalwala, Then the parents again filed habeas corpus petition in the high court to release the detente. The court ordered to produce them before any court. But police filed a counter stating that the détentes were not in their custody and they joined in the Maoist party, then the parents filed additional evidence affidavit stating that their children were picked up by the police, then there was no response from the police. In these circumstances, the Honorable Justice Bilal Najki ordered Mahaboobnagar police to inquire into the matter and report to the registrar every month. But there is no report from the police even after 5 years and the parents of the détentes filed complaints before the Human Rights Commission and National Human Rights Commission. But no progress and the families of the disappeared youth are praying the police to show dead bodies at least if they killed them in the fake encounter.

**Result of the case:** Two innocent Dalits students had been seriously harassed by the police as they were suspected to be Maoist supporters. The students have been missing for seven years as they were killed in a fake encounter by Mahaboobnagar police. Not only the upper caste discrimination but also the police committed atrocities against Dalits in this district.

### **Case – 3<sup>14</sup>**

Type of Violation	:	Murder of Dalit Political Activist
Name of the Victim	:	Galanna
Place	:	Appajipalle, Telangana.
District	:	Mahabubnagar
Date	:	23-9-2001

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<sup>14</sup> <sup>14</sup> Case was taken from Sakshi Human Rights Watch, Hyderabad, Fact-Finding Reports.

**Details of the incident:** Forty-five year old Galanna had worked as an activist for the BJP in the local panchayat elections. Due to Galanna's successful efforts to rally the Dalit community against the ruling TDP, the local BJP candidate won the seat of sarpanch in the panchayat. According to Balamma, Galanna's wife, local dominant caste TDP leader Ram Dev Reddy with his eight Boya community followers, had repeatedly threatened her husband and had been waiting for an opportunity to kill him. Galanna lived with Balamma and their daughter in a single room dwelling in Appajipalle.

One night of, 22<sup>nd</sup> September Galanna went to spend in a shed that had been erected in front of his house as some of his relatives had come to spend a night in their house and in the morning, he was found dead with his throat cut. Balamma registered a complaint in the police station naming that Ram Dev Reddy, and his eight Boya community followers are the ones who murdered her husband.

**Administrative Action taken:** Despite Balamma registering the complaint and despite the obvious case of murder. Timmajipet police Inspector Malla reddy initially refused to register a case. After three days the police finally registered a case, but under sec 302 IPC and not under the SC/ST (POA) Act, 1989. The police have claimed that the DSP is investigating the case. It is said in the village that the primary accused, along with other local TDP leaders, are pressurizing the police not to book a case against the perpetrators. The RDO visited Appajipalle five days after murder and released discretionary Rs. 10,000/- as compensation to the family of the victim. However, without the case being registered under the SC/ST (POA) Act, the mandatory amount of compensation due for an earning member of a family was not given, in accordance with the Rule 12(4) SC/ST (POA) Rules is at least Rs 2,00,000/-, 75% of which is due upon post-modern, the remaining 25% upon conviction in the lower court.

**Legal Standards Breached:** Rape is a criminal offence punishable by life imprisonment u/sec. 376 IPC r/w Sec. 3(2) (V) SC/ST (POA) Act. No person shall be deprived of his/her life or personal liberty except according to procedure established by law (Art. 21 IC-FR and Art. 6 ICCPR). Everyone has the right to life,

liberty and security of a person (Art. 3 UDHR and Art. 5 (b) CERD). Abetment of suicide of child is a criminal offence punishable with death or life imprisonment under sec. 305 IPC. It is the duty of the government to make the provision for the economic and social rehabilitation of the victims of atrocities (Sec. 21 (2) (iii) SC/ST (POA) Act r/w. Rule 12(4) SC/ST (POA) Rules.

### Cases of Atrocities: Analysis in Rayalaseema:

Dalits are victims in the game of “Factionalism” in the Rayalaseema region of Andhra Pradesh. Prominently, Dalits are the back-bones of the two upper caste groups: Reddy and Kamma, who support and serve as the daily wage workers. Most of the Dalits are landless agriculture laborers, a significantly undeveloped community in the entire “Rayalaseema Region”. Their lives are losing, suffering and depending in the name of the revenge game called as “Factionalism.” Still we can find the evil practice of untouchability and two glass systems in Kurnool district. The dominancy of the upper caste here is greater. Dalits have been harassed in the hands of the dominant caste, due to their economic backwardness.

Rayalaseema region is the second highest Dalits atrocity prone area in entire Andhra Pradesh. During 1999 to 2003 almost all one hundred and four atrocity cases were registered under the PCR/POA acts. The nature of Dalit atrocity is completely different in Kurnool district when compared to the other two districts. The practice of untouchability is observed in Rayalaseema region because of the local dominant castes Reddy and Kamma.

**Table-3.2: Dalits atrocities cases during 1999 to 2003 in Andhra Pradesh**

Districts	1999-2000	2000-2001	2001-2002	2002-2003	TOTAL
<b>Rayalaseema</b>					
<b>Karnool</b>	<b>11</b>	<b>29</b>	<b>39</b>	<b>25</b>	<b>104</b>
Anathpur	9	19	26	21	75
Cuddapa	14	35	34	12	95
Chitoor	24	27	23	8	82
<b>Total</b>	<b>58</b>	<b>110</b>	<b>122</b>	<b>66</b>	<b>356</b>

There are four districts Dalit atrocities data shows that compared to other districts Kurnool district has the highest rate of Dalit atrocities based on the reports. One hundred and four (104) cases are registered under POA /PCR acts during 1999-2003, most of the atrocity cases are filed on upper castes. Ignorance of law, illiteracy, local political dominance, caste influences are the main causes for these kinds of atrocities. This puts them into more vulnerable situations in Kurnool district, where the police refuse to file the cases due to influence of upper castes.

**Kurnool:**

### **Views of victims/ SPP/ Police and others on Dalit Atrocities:**

Most of the cases are ended up as acquittals due to the wrong FIR and charge sheet preparation. Some police officers feel that the POA act is burden to their already existing duties. No adequate training to the police on dealing with these Acts in general with regard to the application of various provisions of these Acts. They are not very familiar with the various sections and clauses under which the accused are to be booked, and the procedures to be followed at every stage of the case. The cases are often not properly registered under the appropriate sections. It is very obvious that the witness is afraid of coming to the Court to give evidence sowing to possible dire consequences from the accused/caste Hindus. No serious investigation by the police. Just for the sake of completing the formalities, it is often done by lower level police staff, and is done, though cases registered under the POA Act are to be investigated by no less than DSP, They say: "We have done our duties as well". But the police generally do not accompany and give due support to the victims and their witnesses while going to the court. This puts the victims in more vulnerable situations. They avoid extending such support under some pretext or the other.

62 per cent of the victims are ignorant of the SC/ ST laws and implementations. They have no knowledge about the high rate of acquittals and suggestions for better implementation of POA Act. There are very few victims who expressed their opinions on root causes for atrocities. Eighty seven percent of the SPP belong to

dominant castes play inactive role in convictions of atrocities cases. Some SPP have very limited knowledge about the POA Act. SPP have failed to explain the cases to the victims at the time of trial and judgment. Guidance to the police department during the making of charge sheet and hearing of the cases are failed by SPP. They are also the cases for acquittals for the atrocity cases. The majority of police officers have a wrong mind set about the POA act. Lots of the atrocity cases are rejected by the police and not reported. Some officers of the Police department have very limited knowledge on SC /ST laws and implementations these cases are dealing only under the supervisions of CI and SI to investigate the cases but only few DS and above DS ranks are dealing the cases. Sometimes police are committing atrocities on SC/ST.

Majority of SC/ST lawyers are not aware of the root causes for atrocities. 58 per cent of the lawyers are ignorant of the SC/ ST laws and implementations. All that they know only the, POA Act, 1989 they are not aware of the other related acts such as PCR Act, 1976, Anti-Untouchability Act, 1955. Most of the SC/ST lawyers are fails to explain the case process to the victims, when it comes to the implementation part, Fear of local upper caste dominance. Leads to Hostile of victims. Negligence of police for support of case proceedings. SPP is inactive in playing an important role; therefore cases are pending or acquittals. To protect them this kind of acts are very much needed, In the absence of such laws the Dalits will be put into more vulnerable situations, and subjected to more humiliation and atrocities. These laws and acts protect the Dalits and treat them with respect from non Dalits. There should be an effective training for the police regarding this laws and acts. The government should take the decision in the earliest to provide the TA/DA to the witness in the court itself. SPP should be given due recognition by meeting at least his/her basic requirements like office, clerical assistance and the due remuneration in order to function effectively as the Special Public Prosecutor (SPP).

#### **Case -4<sup>15</sup>**

Related issue	: Attrack, caste abuse and land grabbing
Date of incident	: 31-12-07

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<sup>15 15</sup> Case was taken from Sakshi Human Rights Watch, Hyderabad, Fact-Finding Reports.



Place of incident : Vittalnagar  
Name of the victim : Tuntty Seetha Ramamma  
Village/ Mandal : Ramaduram Village  
Name of Dist : Kurnool

**Case in Brief:** Tumaty Seetha Ramamma <sup>16</sup> D/o Late. T. Nagabushanam. (64) caste SC (mala), is the resident of Vital Nagar, Kurnool. Kurnool court and having landed property at Ramadurgam village, bearing survey No. 5A extent to 1.20 Acres and sy no. 5B extent to 1.26 Acres. She has filed a suit in O.S. No 88/07 before the Junior Civil Judges Court, always for permit injunction and also filed an I.A. No. 343/07 in O.S. 88/07 For interim injection straining one Boya linganna s/o Late. Boya Chinna Hanumanthappa r/o Ardhagiri village of Halaharvi. As he is interfering with her peaceful possession and enjoyment of the said proportion. The Hon'ble junior Civil judge, Alurwas pleased to allow the said I.A.,and granted temporary injunction in her favour against the said Boya Linganna on 31-12-07. But the said Boya Linganna who belives that he can do anything with his muscle power has not cared about the injuction order. On 10.10.2007 Boya Linganna, along with his gang men, attacked Seetharamamma, beat her severely with an intention to kill her so that after her death he could enjoy the property which belonged to Seetharamamma.

**Action taken:** The case was registered as CR. No 45/07 u/s 147, 324,307 r/w 149 IPC at Athmakur police stations. Cr.No 45/07 case was referred as false. Representation was sent. Compensation has not yet been given. A charge sheet was not filed. The Case has been referred false and has to follow-up court trial through advocate Madanna. Collect present information from court. Petition filed under section 301 crpc by Madanna Advocate. Private complaint to be filed before the court. Legal Standards Breached: Any non-scheduled caste person who dispossess a scheduled caste of his/her land or interferes with the enjoyment of his/her rights over land, premises, or water is guilty of an offence under the act (sec. 3(1)(V) Sc/St (POA) Act). 2. Everyone has the right to a standard of living adequate for the health and well being of himself/herself and his/her family including food, clothing,

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<sup>16</sup> This case was taken from judgment latter from Andhra Pradesh High court form the office of Sakhi office (Dalit Human Rights Watch, Secunderabad)

housing medical care and necessary social services, and the right of security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstance beyond his/her control (Art.11 ICRSCR). 3. Voluntarily causing hurt to and assault of another person is an offence (Sec.323, 352 & 354, 509 IPC) 4. It is the duty of the government to make provisions for the economic and social rehabilitation of victims and authorities (Sec.21 (2) (iii) SC/ST (POA) Act r/w, Rule 12(4) SC/ST (POA) Rules). 5. Everyone has the right to freedom of movement and residence within the border of the state (Art.5(d)(i) CERD). 6. Everyone has the right of life, liberty, and security of person (Art. 3 CERD).

### **Case -5**

Nature of Crime	: Gang raped and murdered <sup>17</sup>
Related issue	: Missing/Gang Raped and Murdered
Date Of incident	: 13/02/2005
Place of incident	: Bapanathapuram(village)
Name of the victim	: Heema Latha
Village/mandal	: Athmakur (mandal)
Name of Dist	: Kurnool

**Case Brief:** On 13/02/2005 at night about 21:30 Hrs in Bapanathapuram Village, the accused Veddeuti Kittu, and Vemu Shankar, took away Hemalatha. Everyone in the village knew this. Hemalatha's mother is clueless as to what has happened to her daughter as she has not sent her daughter anywhere. On 21.03.2005, the victim's mother got the information as to what has happened to her daughter. Nagireddy, B.Shankar s/o pullaiah, Vijay Kumar, Jagan s/o Pullanna along with the accused veddeutti Kittu and Vemu Shankar cheated her into coming to Nallamalla forest with them. In the forest, Hemalatha was subjected to rape and brutal murder. The gang has put her on a bullock cart near Siddhapuram channel 5KMR and burnt her dead body using kerosene. The deceased, Hemalatha had little children: a son (7) and a daughter (9) who are orphans now.

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<sup>17</sup> This case was taken from judgment latter from Andhra Pradesh High court form the office of Sakhi office (Dalit Human Rights Watch, Secundrabad)

**Action taken:** The police have not arrested all of the accused people. They arrested only two people. The consent department has not responded yet (Revenue and social Welfare). Till today the deceased children have not received any relief and rehabilitation. All the accused are free and outside the jail. The case was registered under Sc/St (POAP Act, 1989).

#### **Case-6**

Type of Violation	: Minor girl gang Raped and abetted to suicide.
Region	: Rayalaseema
District	: Kurnool
Village / mandal	: Kuravalli (Village), Allure (mandal)
Date of Incident	: 31.03.07
Name of the Victim	: Harijana Devamani
Caste	: SC

**Details of the Incident:** Harijana. Devamani, 14, D/o Vaurappa, <sup>18</sup> a minor girl, caste SC (Madiga) is a resident of Kuruvalli village of Allure, Mandal in Kurnool District. On 31.03.07, Devamani's parents went out of the house for their domestic work, and her grandparents went to work in their field. Devamani was staying back alone in the house. At about 11:00 A.M, she sent lunch to her grandparents with her brother. At about 12:30 P.M, the accused Mr. Boya Bheemalingadu, 17, Boya Lingappa (18) and Boya Suresh (18) designed a plan. Mr. Bheemalingadu caught the hand of Devamani and coerced her into his house and committed rape and wrongfully confined her in his house. Harijana Yesebu, who is the fifth witness of this case, was also present, but due to fear, he went away and hid and observed the acts of the accused. The accused locked Devamani inside the doors. He threatened her not to inform to anybody about the offence. On the same day evening around 05:30 p.m, the victim's grandparents along with others found her weeping in the accused house. Devamani narrated the incident to their grandparents. On going to her home, she poured kerosene herself on her body and set herself ablaze and committed suicide. Devamani's father lodged a complaint before the police station and the police registered a criminal case.

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<sup>18</sup> This case was taken from judgment latter from Andhra Pradesh High court form the office of Sakhi office (Dalit Human Rights Watch, Secundrabad)

**Action taken:** A Criminal case was registered as Crime, No 19/07 u/sec. 342, 354, 376, r/w 511, 309 & 3(1) (XI) SC ST (POA) Act, 1989 at Allagadda police station. Accused were arrested and got bail after 90 days. Police investigation was complete and the Charge sheet was filed on 31.07.07. A first phase compensation of Rs 25,000/- and the second phase compensation of 75,000/-, was sanctioned to the dependents of the victim but the victim did not receive the same as MRO demanding 5,000 Rs. Trial commenced before Juvenile Court Kurnool. Both accused are non-Juveniles. A petition was filed by Bhaskar, Advocate, Kurnool, under section 301 Cr.PC to assist PP and help victim in facing the legal processes.

**Legal standards Breached:** Rape is a criminal offence punishable by life imprisonment u/sec. 376 IPC r/w Sec. 3(2) (V) SC/ST (POA) Act. No person shall be deprived of his/her life or personal except to procedure established by law (Art. 21 IC-FR and Art. 6 ICCPR). Everyone has the right of life, liberty and security of a person (Art. 3 UDHR and Art. 5 (b) CERD). Abetment of suicide of child is a criminal offence punishable with death or life imprisonment under sec 305 IPC. It is the duty of the government to make the provision for the economic and social rehabilitations of the victims of atrocities (Sec. 21 (2) (iii) SC/ST (POA) Act r/w. Rule 12(4) SC/ST (POA) Rules.

**On conducting discreet enquiries, the fact finding team noted the following:**

The Dalits of Yellavathula who were issued with pattas in the year 1974 and are in possession of the lands since then and cultivating. In the year 2007, the DRDA released Rs.2.40 lacs to the 11 Dalit farmers to develop these lands under Indira Prabha Scheme (Comprehensive Land Development Programme). These lands were treated and developed by these farmers. The attack on the Dalits is due to assertion of their land right as they were living on these lands since 1973.

When the Dalits showed the pattas and pass books, the Forest Officials had not taken the initiative to check with the Revenue Department on the issuance of pass

books/pattas. The Forest Officials: The Forest Officials foisted cases on Dalits on 4.3.2009 and 10.7.2009 in Rudravarm PS threatening the Dalits that they are preparing the ground to file cases under the Preventive Detention Act so that they can send the Dalits out of the village. The details of the cases are as follows: On 4-3-2009 the Forest Beat Officer, Mr. Hussain Saheb, filed cases against 6 Dalits of Yellavathula under Section 429, 447 of Indian Penal Code in Rudravaram PS. On 10-7-2009 the Forest Officials led by Manthi Naik, Jakir Hussain and another person took 2 armed Constables from Rudravaram PS and took the Dalits into custody, tortured them and again foisted cases under Section 20(1)(i) VI of Forest Act.

**Legal standards breached:** Dalits were denied of access to Land-breach of Section 3(1)(iv)(v) of SC/ST(POA) Act, 1989. They are subjected to savage violence and unspeakable brutality-Section 3(1)(i) of SC/ST(POA) Act, 1989. A public servant who commits an offence under Section 3 (2)(vii) of SC/ST(POA) Act shall be liable for imprisonment for no less than one year and may extend to the punishment provided for that offence (Sec. 3(2)(vii) of SC/ST(POA) Act, 1989. State violence – No one shall be deprived of his/her right to life or personal liberty except accordingly to procedure established by law. No one shall be subjected to arbitrary detention or imprisonment – Art 21 of Indian constitution and fundamental right to protection from the State against violence – Custodial torture and brutality – right to life, liberty & security of person, right to freedom from arbitrary arrest torture and human treatment when deprived of liberty - Art 9 UDHR & Art 7 of ICCPR Everyone has the right to life, liberty and security of person (Art 3, UDHR Art 6(1) ICCPR & Art 5(b) CERD

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment – Art 5 UDHR & Art 7 ICCPR Voluntarily causing hurt to and assault on another person is an offence Sec. 323 of IPC 342, 355. 34 of IPC. No one shall be subjected to arbitrary or unlawful interference with his/her privacy of family, home or correspondence as per Art 17(1) ICCPR Intentional destruction of another's

property causing wrongful loss or damage is an offence under Sec.426, 434(Mischief by destroying or moving etc., a land mark fixed by public authority (IPC).

The RDO report submitted to the District ,Collector immediately after the incident clearly indicated that the lands belongs to the Revenue Department and the pattas/pass books issued to the Dalits are genuine and their possession of land since 1974 is legitimate. This report is prima-facie evidence that the Forest Officials encroached the lands of Dalits and illegally destroyed the crops though they were informed of Dalits ownership through the display of the pass books. This act of the Forest Officials tantamount to violation of Sec.426, 434 of IPC and Section 3(1)(iv)(v) of the SC/ST(POA)Act,1989.

**Conclusion of case:** The victims revealed to the Fact Finding Team that the Forest Officials threatened that they will book the Dalits under the PD Act and send them out of the village once the Officials complete filing 3 cases against them. This shows the conspiracy hatched by the Officials to force the Dalits to vacate the lands under the threat of criminal cases. If occupation of government land by Dalits/poorer sections for which they were issued with pattas/pass books is illegal, how could it be right for the Forest Officials to trespass and destroy the red gram crop in 13 acres after detaining and torturing the Dalits illegally?

As per the revenue records and the RDO report, authorities took meticulous care while considering the claims of Dalits for pattas in 1973 and avoided granting pattas erroneously. Hence, it is even presumed that the lands belong to the Forest Dept and the issuance of pattas is legitimate since there is no erroneous transaction and the lands are in the possession of Dalits since 1973 without any transfer, sale, or interruption. Thus the Dalits, non-tribals entitled for the grant of pattas in respect of these lands which are explicitly in their occupation for more than 8 years, occupation is neither void nor illegal. They were in possession of the lands since then and acquired the adverse possession and legal ownership. Consequently, the cases filed by the officials tantamount to false cases and the Dalits are entitled to register legal

cases against the Forest Officials under Section 211 of Indian Penal Code and Sec.3(1)(viii),3(2)(vii) of SC/ST(POA) Act 1989.

### **Case - 7**

Mr. Birusanti Obanna (40) a Dalit leader, was brutally murdered by the Reddy upper caste leaders, known popularly as factionists in the Rayalaseema region. He is a well-known Dalit leader of the Koilkuntla area of Kurnool District and also the District Executive Committee member of Kula Nirmoolana Porata Samiti. Obanna's body was found on 22.01.04 under Erravagu culvert in between Bijinavemula and Kopperla villages. Obanna was stabbed in his stomach, chest, and head. His face was burnt with acid. The relatives of Obanna came to know about the murder of Obanna only on 23.01.04 after reading a small news item in Eenadu daily.<sup>19</sup>

Obanna, a son of Musalanna (late) and Ribukamma, is a native of Ramireddy palke village in Sanjamala Mandal, Kurnool district. He was born in a poor mala (scheduled caste) family. He passed B.Sc in 1983 from a college in Ananthapur. All his sisters and brothers got married and are living separately. He has been living with his mother after the death of his wife some years ago. He has taken up several issues of Dalits in the area. He has been associated with the Federation of Ambedkar youth Organizations, Gani Karmika Sangam, Rythu-coolie Hakkula Sangham and presently Kula Nirmoolana Porata Samiti.

He has taken up several issues such as the house sites for SC/ST/BCs, ration cards, caste discrimination and so on. Particular mention may be made of the following issues: i) the reopening of a factory of Polish stones belonging to the Scheduled castes of Kolimigundla mandal. The factory was closed due to the politics and pressure of the local feudal lords. Obanna fought for the reopening of the factory. ii) The other important issue is the struggle for one-acre land occupied and enjoyed by Tulasi Reddy, a local leader of Telugu Desam party. Obanna and other Dalit youth represented the matter to the Collector and other authorities and got the occupied

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<sup>19</sup> See *Eenadu Daily*, 23.01.2004.

land back to Mala Chenchanna in 1997. This struggle was a big blow to the domination of Tulasi Reddy and other local Reddys. iii) Obanna demanded for the representation of Dalits in the Watershed committee of the government in his village Ramreddy palle. The Upper caste Reddys rejected the demand for Dalit representation and gave up the works worth Rs.20 lakhs.

**The Reasons for Obanna's murder:** Obanna's activities angered the Reddys in the area. He was threatened several times by the Reddys. Obanna did not bother about the threats and continued to work for Dalits. The immediate cause to the murder of Obanna is the land issue of Mallu Savitri w/o Padmanabha Reddy (late). Savitri came to know that Obanna fought for the land of Mala Chenchanna occupied by Tulasi Reddy of Ramireddy palle. The Same Tulasi Reddy also forced Savitri to sell 5.2 acres of the patta land (in the same area of Chenchanna's one acre) registered in the name of her minor children in 1993. Obanna had recently represented the matter to the District Collector and Superintendent of Police. He pointed out that Savitri, the guardian of her minor children, has no legal powers to sell the land. The District Authorities asked Tulasi Reddy to hand over the land to the children of Savitri. When Tulasi Reddy did not hand over the land; Obanna got a court order and stopped the quarrying of black stone in the land.

The Police identified Savitri's house as the place of murder and noted blood marks on the walls of the house. They filed a case under IPC 302 and did mention the names of Tulsi Reddy, Nagi Reddy and China Maddileti Reddy as culprits. The culprits move freely, threatening the witnesses and the relatives of Obanna. The C.I., Rami Reddy, acting as the agent of the culprits, refused to book the case under the SC/ST (POA) Act. The culprits Tulasi Reddy, Nagi Reddy and Maddileti Reddy are members of the Karra Subba Reddy (Telugu Desam Party) faction. The Police and the TDP government support these faction leaders and their followers who threaten and kill people to continue their political domination. The Local Press reported the murder as a case of a murder of an unknown person. They stopped publishing any other version about the murder even after attending press conferences.



Obanna is a very popular leader of Dalits and other poorer sections in Koilkuntla region of Kurnool District. He is well known to the reporters and to the Police. His death passed off as a non-event to the Press. The Police and the Press suggested that the factionists pressurized them. This is the state of Rayalaseema. The family members of Obanna submitted a representation to the District Collector and addressed a Press conference on 25.01.04 in Kurnool. Sadly, the local reporters in Koilkuntla and the Kurnool reporters did not report our press conference. The report has been submitted a representation to The Director, National Commission for SCs and STs, Hyderabad. There are planning a program of action to bring the culprits to book and get the compensation to the dependent mother of Obanna.

### ***Coastal Andhra***

**Table-3.3: Dalits atrocities cases during 1999 to 2003 in Andhra Pradesh**

Districts	1999-2000	2000-2001	2001-2002	2002-2003	TOTAL
<b>Coastal</b>					
Srikakulam	3	9	1	3	16
Vijayanagaram	7	10	8	4	29
Vishkapatnam	2	8	11	6	27
East godavari	6	23	17	10	56
West godavari	9	19	27	9	64
Krishna	22	33	24	10	89
Guntur	11	28	24	13	76
<b>Prakasam</b>	<b>10</b>	<b>20</b>	<b>16</b>	<b>11</b>	<b>57</b>
Nellore	11	21	19	13	64
<b>Total</b>	<b>81</b>	<b>171</b>	<b>147</b>	<b>79</b>	<b>478</b>

During the years between 1999 to 2003 a total of 57 atrocities were committed on Dalits in Prakasam district. When compared to total number of atrocities done in other districts, the highest were from Krishna, followed by Guntur. Nellore and West Godavari are at equal numbers of 64, followed by 56 in East Godavari and 57 in Prakasam. Each successive year these many numbers of cases are registered under PCR/POA acts. There was a hike in the number of cases in years 2000-01, and 2001-

02, as many as 171 and 147 respectively followed by a decline in total to a number of 79.

### **Prakasam District:**

The Prakasam district is far more developed than the other two districts of Mahaboobnagar and Kurnool. With a view to augmenting its revenue from agriculture, an extensive area was brought under cultivation: this led to the commercialization of agriculture and the generation and accumulation of agrarian surplus. The impact of this could be witnessed in the growth of urbanization in this region, as centers of commerce, education; culture and social reform were created. The growth of towns such as cheerala, Ongolu, and Kandukuru in the coastal region has to be seen against these surroundings. A significant aspect of rural transformation that has occurred since the late 19<sup>th</sup> Century is the differentiation of peasant society and the emergence of an enterprising agrarian stratagem belonging predominantly to the Kamma, followed by the Reddy and to a lesser extent to the Kapu, communities.

### **Views of Victims/ SPP/ Police and others on Dalit Anthracites:**

The reason for the high rate of acquittal is local political power that the higher caste people enjoy in the place they stay, that they manipulate the police or even local judge involved in the case to rule out the case based on technical issue or other reasons. Victims are not aware of the POA act and atrocities because of their poverty, caste hatred they have been facing, cultural backwardness, all of which has led them to believe that this is normal, hence no knowledge of the law that defends them and that it has declared 'untouchability' as a crime. And the suggestions for better implementation with victims in the view would be to provide rehabilitation and compensations immediately. To provide protection for all the victims by the government and to award serious punishments to the acquitted.

SPPs also do not have any awareness of SC/ST laws, regarding the POA and the roles of POA and are not even aware of the root causes of the atrocities like the backwardness of the Dalits or their economic dependence on higher caste. They do not have a minimum knowledge about the district monitoring committee or about the state monitoring committee. They do not know about the atrocity prone areas on the state level or the national level and the special courts near the atrocity prone areas. The reasons for the high rate of acquittals are filing wrong FIR against victims taking advantage of the illiteracy of the victims, negligence of police, and the immoral mindset of upper caste officers. The suggestion for improvement would be, to follow the proper process in filing a case, to not bow before the upper caste bribe and maintain certain human dignity standards, to take the help of a SC/ST leader in taking active actions.

To train police on the POA Act and to instruct and instill the fact in them as to be not hostile towards the victims. They are merely aware of the POA act, 1989 but are not aware of the SC/ST laws. Though they book the cases on arrested accused under POA act, they do not have the complete knowledge about the details of the complaint and the kinds of atrocities that are included in various acts. Reasons for high acquittals are false cases registered, giving in to the political drama, fear of the accused as well as the local caste and political dominance. Suggestions for the betterment would be: a. training about POA. Serious punishments should be awarded to those who skip their proper duties. To impede local dominance they are just aware of POA, 1989 act and not about SC/ST laws. Awareness of the implementation of POA act is through booking cases under this act, arrests of the accused and arrangement of special trial courts. They are aware of the causes of the atrocities as the Dalits being deficient in political power, unawareness about the laws, educational backwardness, cultural backwardness and the caste hatred. Reasons for high acquittals according to them are upper caste dominations, fear of local politically dominant powers, police negligence, and the dependence for money on the upper castes.

Suggestions for the better implementation in this view would be: a. To end up the false cases Creating awareness about POA. Taking serious actions against those who do not support the dalits in their justice. To prevent local dominance. Creating awareness and giving training on POA by the government of AP. The awareness of the root causes of atrocities and the awareness about POA and SC/ST laws are adequate enough. The reasons for high acquittals come out to be the local political and caste dominations, hostility towards victims, negligence by the police, and inactivity of the SPPs. Suggestions for the implementation of POA are: Awarding serious punishments for those who are violating the act and the justice. Preventing the false cases from being registered. Govt. should create public awareness, train on POA Prevent local dominance from causing acquittals of those who deserve punishments.

The general awareness of the root atrocities are known but the awareness of the law is not even to the minimum; just a gist of POA 1989. Awareness about the implementation is limited to arresting the accused and booking case under the POA act. Reasons for high acquittals are local and political upper caste dominations, according to them and the hostility and negligence of police, and poverty, ill awareness of the laws and the inactivity of SPPs Suggestions for development would be: Giving serious punishments to those who are violating the act. Preventing the false cases from being registered. Preventing local dominance and creating public awareness with the help of Andhra Pradesh government.

### **Case-8<sup>20</sup>**

Type of Violation	: lockup death
Region	: Coastal Andhra
District	: Prakasam
Village / mandal	: Vinjanampadu(Village), Martur P.S. (mandal)
Date of Incident	: 22.04.2000
Name of the Victim	: Nukatoti. Nageswarao
Caste	: SC

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<sup>20</sup> Case was taken from Sakshi Human Rights Watch, Hyderabad, Fact-Finding Reports.

**Details of the incident:** On April 19, 2000 Nukathoti Nageswara Rao was taken into custody in a case of quarrel with his wife. Next day, i.e., on 20 April 2000, Nageswara Rao's dead body was lying on the road near the station. Nukathoti Nageswara Rao is an agricultural laborer who along with his 3 kids and a wife goes for labour work and tobacco company work. The day of the incident, i.e., on 19 April 2000, on the way back from the company both the husband and wife had a clash wherein he stabbed her. She complained in the station and police came around afternoon and took him into custody. By 7 o'clock in the evening the relatives came to know about it and visited the police station where they found the husband badly hurt. He was a prime witness of some political murder case and owing to higher pressures SI Sri Ram was torturing Nageswara Rao to amend his statement and to come to a truce. Relatives of the deceased said that even the next day there was no case filed and the victim was still locked up and tortured. On 21<sup>st</sup> night, Nageswara Rao's body was found on a road 50 feet from the Police station.

**Police's statement:** When Nageswara Rao was taken into custody on 19<sup>th</sup>, in the process of migrating him from the old police station to the new police station, the victim tried to escape and was ran over by a vehicle and died on the spot, the news of which came to the police from the hotel owner opposite to the accident location, said the police.

According to the evidence collected by 'Sakshi', the deceased died because of the wounds on his body from being beaten up by the lathi. With the involvement of public organizations, doctors performing post mortem were brought from Guntur to the government hospital of Chilakaluripeta and the procedure was carried out there. While the body was in the hospital, the politicians came and tried to lure the mother and brother into not talking to public organizations by various means of bribing. Even the 'Sakshi' members who were explaining the rights and provisions to the family were taken away into custody and the family was being tried to get to a compromise.

**Actions taken:** A case was filed under CRPC sec 174(death under suspicious circumstances).

Violation of legal standards: A person cannot take away the right to liberty and right to live from any person except under the methods specified under the act (Constitution of India, article-21/ primary rights ICCPR, article-6); Death from the physical injuries inflicted is a punishable offence under attempt to murder (IPC 300, R/W SC, ST act sec 3(2)(5); Every person has a right to life, liberty and security. International declaration of human rights, article-3 CIRD, article-5(b); Negligence in performance of duties by government employees. SC, ST act section4.

### **Case- 9<sup>21</sup>**

Type of Violation	: Public Humiliation of Dalits men.
Region	: Coastal Andhra
District	: Prakasam
Village / mandal	: Rajupalem (Village), Markapur (mandal)
Date of Incident	: 22.08.2001
Name of the Victim	: Narsaiah & Yesu Ratnam, Mari
Caste	: SC

**Incidents:** Before panchayat elections, on 17-8-2001, the dominant caste people of rajupalem village were warning everybody that if they do not vote for the Kamma caste candidate of their caste, there will be horrible violence. Due to fear, many Dalits did not vote at all. On 22-8-2001, a gang of elite caste people came and attacked the dalit colony with deathly weapons and injured a 70 year old person along with few others. The very evening, they dragged Narsaiah's son from the hospital he was admitted in, was stripped naked and was rallied in the village naked to confirm that he did not file a complaint in Markapur police station. A month after this incident, Dalits were rallying in the main town of the district since the culprits who hurt Narsaiah and his son were not arrested. They were attacked upon by the police, wherein men and women were equally hurt.

**Details of the incident:** In the Markapur Mandal panchayat elections were held on 17.8.2001. One day before elections, local political 'king maker' , a Kamma, named patthi bala Prasad provoked elite caste people including Bhuswami who came to the the dalit colony, situated at the end of the village, asking them to support their caste

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<sup>21</sup> Case was taken from Sakshi Human Rights Watch, Hyderabad, Fact-Finding Reports.

candidate in the voting next day or they would have to face dire consequences. Kamma caste people reinforced the TDP candidate, the party was the ruling party in that year. Even on 17.8.2001, a Kamma gang went to Dalits colony and demanded to vote for their candidate. They asked all of them to show their ballot papers and warned them that if anyone opposes them, they will get killed. Scared from this, Dalits restrained from using their democratic right of voting and stayed back in their homes.

In the local panchayat elections, the TDP candidate who was supported by the Kammas won the election. But it was with a minor majority. The Kammas were red with fury that if the Dalits had followed their instructions and voted for their candidate, they would have won with a huge majority. So, on 22.8.2001, a gang under the supervision of Pathi Bala Prasad comprising of 23 people took up ghastly weapons and attacked the dalit colony. They did not spare women or children and ended up hurting many people. A certain old man named Makam Narsaiah, 70, was severely injured. After the attack, when some Dalits were taking Makam Narsaiah to the hospital, the Kammas again stopped them and warned them severely against complaining in the police station regarding the incident.

Narsaiah was admitted in the Markapur hospital for treatment. Narsaiah's son Yesuratnam stayed back with his father, in the hospital as an attendant. The very night some of the attackers came to hospital and dragged Yesuratnam out of the hospital forcibly. They stripped him naked and rallied him like that to the Markapur police station and they inquired in the police station if any of the Rajupalem dalits came to the police station and complained about anything. When they got the negative confirmation, they let go of Yesuratnam, whom they held under hostage till then. On the night of 22.8.2001, all the Dalits were terrified and fled from their residences and took shelter in RDO, mandal office of Markapuram.

**Action taken:** The next day i.e., on 23.8.2001, from the morning the dalits undertook an indefinite fast in front of the RDO office but the Markapur police refused to file a case against Kammas. After 11 days, on 3.09.2001, Dalits took their grievance to the Ongole collector's office. With the intervention of collector, police

had to file a case under SC/ST act on 22 Kamma men who attacked dalits on 22.8.2001. But the main suspect Patthi Bala Prasad's name was not included in the case. No one was arrested. Along with that, the case was registered only about the attack that happened, but not about the warning incident on 16.8.2001 and also nothing about the stripping naked of a person and rallying on 22.8.2001. The direct example of the negligence of Markapuram police is their inability to register the naked rallying case to which they were eye witnesses.

3 weeks post-attack, 12 days after registering the case, and still no one was arrested. To oppose this, on 15.9.2001 dalits took up an open air discussion demanding the arrest of the culprits. A week passed with the inaction of police. Then, 60 Dalits of Rajupalem and public organizations made a peaceful procession before the superintendent office of Ongole demanding the arrest of culprits. Instead of making arrests, police physically charged on the women and children and Dalits, hurting a lot of people in the assault. Immediately, Dalits approached the judicial magistrate office, showed the injured people to magistrate and demanded judicial officers to file a case against Ongole police.

Judicial magistrate took up the complaint of Dalits, and ordered a case against police who attacked Dalits without any reason and also ordered them to make arrest of those 22 culprits who attacked on 22.8.2001. Even though the main suspect, Pathi Bala Prasad was omitted from the case, the 22 culprits were arrested and their names were registered in the FIR. A case was registered under crime no, 249, IPC 323, 354 sections, SC/ST act, 3(1)(x) sections against the police who attacked Dalits without any reason. At the same time, police filed a false case of wrong rallying outside the office of SP against 60 Dalits and 7 dalit social workers under crime number 248, IPC 143, 358, 341, 207, 30 sections, and under crime amendment act 7(1)(d). Recently, district collector released a fund of 10,000 for rehabilitation and well being of dalits according to the act. But, according to the SC/ST act, the rehabilitation sum that should be released is much more than this amount.

**Violation of legal standards:** To ask a SC/ST person to not vote for a SC/ST person, or to vote to some other person illegally, against the constitution is a crime



under SC/ST act section 3(1)(vii). It is a crime under SC/ST act to strip naked any person who belongs to SC/ST caste by a person who does not belong the caste of SC/ST, whether a woman or a man with an intention of hurting his dignity, to color their face or such acts are punishable offences under SC/ST act section 3(i)(iii). A non-SC/ST person is punishable legally according to SC/ST act when he attempts to berate a SC/ST woman or rapes her under SC/ST act, section 3(1)(xi). Attacking a person directly and injuring them severely is punishable under IPC section 323, 352. Every person has a right to life, liberty, security according to condition 3, UDHR 5(b) CIRD. Nobody can interfere a person's private family matters, or home against the constitution (Condition 17 (1) ICCPR). Non-SC/ST candidate cannot occupy SC/ST candidate's land, or interfere with them at the water source or cannot expel them from their land. It is a punishable offence under SC/ST act 3(1)(v) section. Forcing a SC/ST person to leave their home by a non SC/ST person is punishable under SC/ST act section 3(1)(xv).

#### **Case-10<sup>22</sup>**

Type of Violation	: Social boycott
Region	: Coastal Andhra
District	: Prakasam
Village / mandal (mandal)	: Kutuhundla(Village), Hanumanthupadu
Date of Incident	: 28.08.2001
Name of the Victim	: 58 Dalit Families
Caste	: SC

**Incident :** On august 20,2001 during the panchayat elections, doubtful that the dalits are not voting for their candidate from TDP, an elite caste candidate Reddy Bhuswami, a dalit women was dragged out of the polling booth and other Dalits were stopped from voting. After the declaration of election results, 58 dalit families were expelled from the village together. When reported to the police, no action was taken.

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<sup>22</sup> Case was taken from Sakshi Human Rights Watch, Hyderabad, Fact-Finding Reports.

**Details of the incident:** Local panchayat elections of Kuthuhundla were being held on 20.8.2001. All people belonging to Reddy caste are landlords and hence were supportive of TDP. They were suspecting that Dalits were not supporting them. Some of the Reddys decided to take a cumulative action on Dalits. They stopped Dalits from reaching the polling booth. Some of the Dalits were dragged out of the polling booth. Next day Reddys from 3 neighboring villages came in 3 tractors and warned Dalits and went away. On August 21, the Reddys ordered an expulsion on a group of Dalits. They ordered Dalits not to enter the village and were told they would be killed if they do not obey. Nobody was to be given work too. After 2 days, when Dalits informed police, no action was taken. After 18 days, when Dalits and social workers protested even MRO did not take any action. Even after registering the case, no one was arrested.

**Violation of legal standards:** Interfering public meetings of dalits, walking on public roads by the non-dalits is a punishable offence under SC/ST act 3(1)(14) section and under CIRD article 5(f). Non-dalits expelling dalits from any land, snatching their rights from any land or water resource is an offence under SC/ST act 3(1)(5) section. Everybody has a right to get freed from hunger.(ICSCR- article 11(2)). Everybody has a right to health, family welfare, food, clothing, housing, medical care and other social welfares to lead a rightful life (UDHR-article 25). Everybody has a right to work. To work in the environment they want to, in the job they want to. Everybody has a right to be secure against unemployment. (Article 23(1) UDHR article 6(1) ICEACR article 5(2)(1) CIRD). It is government's responsibility to provide proper social and economic rehabilitation to the victims of any crime (SC/ST act 21(2)(3) SC/ST rules 12(4)). Under the crimes on SC/ST, if the concerned employees are deliberately negligent in their duties, it is punishable under SC/ST act section 4.

**Guravareddypalem in Prakasam:** The Dalits of Guravareddypalem in Prakasam district have added new chapter to the contemporary history of the struggle against caste supremacies and one of its worst manifestations, untouchability. Defying an age-old tradition created and perpetuated by the upper castes, they have started

drawing water from the village well with the support of government officials and social activists. The battle has highlighted the fact that Dalits continue to be subjugated socially and economically even after 54 years of Independence. Significantly, the struggle has come to light at a time when Dalit activists have been demanding that the issue of caste should be discussed at a United Nations-organised conference on racial discrimination in Durban in August.

Guravareddypalem, a small village lies on the Chennai-Kolkata National high- way. It is 17 K.M. away from Ongole town and tobacco is the main cultivation crop. Members of the upper-caste Reddy community constitute half of its population of about 5,000 and Dalits account for about 25 per cent. The Dalits work in the farms and households of the Reddys. As the well in the Dalitwada is in a dilapidated condition, the Dalits depend on the common well in the village for drinking water, especially in summer. They drew water from the well and carried it to their landlords' houses, but were denied direct access to the water to meet their own needs. They had to get their pitchers filled by persons belonging to the upper castes. a Dalit woman, Kotamma said, "Upper-caste persons normally obliged and filled our pitchers because it satisfied their ego that they were superior to us. But there were many occasions when we returned home with empty pots after waiting for hours begging for their help."

On May 11, Nadella Anjaiah, a dalit went to the well to get a pot of water after working in the field for many hours. He waited for someone from the upper castes to fill the pot but in vain. He felt so thirsty that he ventured to draw water from the well. Sreenivasa Reddy, an upper-caste person, saw Anjaiah carrying water to his home. He objected to that and an altercation ensued. The Reddys considered it an affront to their authority and decided that they should not allow the Dalits access to the water any longer. They chased three Dalit girls away from the well the next day. After a week without water, the Dalits lodged a complaint with District Collector Sunil Sharma. The Collector directed the revenue and police officials concerned to settle the issue. However, the Reddys did not relent, saying that the well belonged to

a private trust. Ignoring the objections, the officials allowed the Dalits to draw water from the well. The Reddys abandoned the well and drew water from a borewell, which yielded only saline water. They imposed a social boycott against the Dalits. They refused to engage Dalits for farm work. Following their diktat, the village society refused to accept milk from the Dalits. Barbers and washer men declined to serve them. The Collector convened a meeting to bring about a rapprochement between the two communities. He promised to provide another well to the Dalits. The Andhra Pradesh Dalit Mahasabha opposed the proposal, saying that it would amount to encouraging untouchability. It insisted that the Dalits should be allowed to draw water from the same well. Karanam Balaramakrishna Murthy, a Member of Parliament belonging to the Telugu Desam Party, persuaded the upper-caste people to draw water from the same well so that they could not be accused of practicing untouchability.

In another instance a Dalit, who was appointed a para-teacher in a government school managed by Reddys, was humiliated by teachers belonging to the upper castes. He did not even have a chair for himself in the classroom. Unable to bear the insults, he resigned. In his place a woman was brought in un-officially. The school authorities who comprised Reddys asked him to sign the attendance register once in a month so that they could pay the proxy teacher the salary of Rs.1,500 meant for him. Dalit children are also the victims of untouchability. Most of them do not go to school because it is located a kilometre away from the Dalitwada. Also, they have to sit separately in the classroom. Consequently, dalits were hesitant to send their children to school, (said Mariamma, a dalit woman). The presidentship of Guravareddy-palem panchayat is reserved for Dalits. It is alleged that the Reddys run the panchayat by ensuring that the Dalit woman who heads the elected body does not have the power to withdraw money for the panchayat's expenses.

Dr. Katti Padma Rao, who has led the movements against the atrocities against Dalits in Karamchedu, Tsundur (Frontline, August 17-30, 1991) and other places in Andhra Pradesh, launched an agitation demanding the arrest of four persons belonging to the Reddy community for having prevented Dalits from drawing water

from the village well and for abusing them by their caste name. It also demanded that the government provide them work on the ground that the upper-caste landlords had refused to employ them. Each Dalit family, it said, should be given one acre of land so that they could live independently and with dignity. The Dalits staged a dharna near the Collectorate at Ongole for two days. They also took out a padayatra (march) to Ongole and submitted a memorandum to the Collector. As a consequence of the agitation, the police arrested four persons belonging to the Reddy community, who were remanded to custody. They came out on bail after 15 days. The Collector sanctioned Rs.1.5 lakh for employment generation in the village. He also agreed to allot land to the Dalits.

He also visited Guravareddypalem and rallied the Dalits in the village and its neighboring areas to fight for their rights. Addressing meetings, he said that both the Telugu Desam Party and the Congress (I) were lead by the upper castes. He exhorted Dalits to unite and seize political power in order to put an end to their social and economic subjugation. Katti Padma Rao said that the policy of economic liberalisation and the mechanisation of agriculture only helped enrich the upper castes at the cost of Dalits. Owing to the crop holiday declared for tobacco, farmers in Prakasam and Guntur districts had switched over to more lucrative commercial crops, leaving thousands of Dalit agricultural labourers in the lurch, he said.

**Observations and suggestions:** The high degree of acquittal arises from the lax investigation and the poorly formulated charge sheet. It is recommended that there be a system of incentives and disincentives. Investigating officers, whose cases are repeatedly dismissed in court due to lack of evidence. There is a tendency not to register cases under the SC/ST (POA) Act. To remove the discretionary power of the investigating officer and to remove any ambiguity, any crime against any member of STs or SCs should automatically fall within the ambit of the SC/ST (POA) Act. This would automatically mean that the crimes are non-bailable, providing some security to the victims and witnesses. The Special Public Prosecutors often blame the investigating officers for acquittals. However, their arguments are often lackadaisical

and bereft of purpose. The Director of Public Prosecutions and the respective SPPs should be held accountable for acquittals. Rule 4.3 should be applied diligently.

All judges of the special courts without exception must be sensitized to social reality and the context of the Act. Special courses could be held in the judicial academy for the purpose. The law itself needs to be amended to remove ambiguity regarding application of the Act. Any crime against any member of STs or SCs should automatically fall within its ambit. There are less than half the Special Courts required in the state. Each district must have a Special Court under the Act immediately. The Special/Designated courts also need special judges/magistrate etc to enable them to function effectively. The long delay has led to acquittals in even the most brutal 'open-and-shut' cases such as Karamchedu and Tsundur. Victims and witnesses do not have the stamina to stay the course, and often become victims again of intimidation and fatigue leading to forced compromises and hostile witnesses.

The TA and DA need to be paid to the victim and witness on arrival to the court without delay. Both the victim and the witness need to be protected right from the date of atrocity till at least six months to a year after the verdict. This is in addition to compensation and rehabilitation. Insecurity and vulnerability are the key reasons for forced compromise and hostile witnesses. Periodic review of all cases is mandated every month by the District Magistrate. We recommend adverse remarks in the ACR if the monthly reviews are not done. For consistent non-performance automatic charges of dereliction of duty should be registered. The District Vigilance and Monitoring Committee meetings should be on fixed dates. Failure to hold these meetings for two consecutive quarters should result in adverse remarks in the PCR Cell; A.P. The Chief Minister is the chairperson of the State Vigilance and Monitoring Committee. If he cannot conduct the January and July reviews, then the vice chair should be empowered to conduct the review. We recommend that the review be a permanent calendar event, regardless of whether or not the chief minister is free.

***To police:*** Amend section 4 of the Act on negligence of official duties to include the following: Not reading out to the informant/s any oral complaint which has been reduced to writing by the Officer In-Charge of the police station before taking the signature of the informant/s; non-registration of FIR; Not registering the FIR under the Act; Not registering the FIR under appropriate sections of the Act; Investigating officer not recording the statement of the victims or witnesses; Investing officer delay in investigation for more than 30 days; Conduct regular orientation trainings for police officers on the SC/ST (POA) Act and Rules.

***To judiciary:*** Amend Sections, 14 and 15 of the Act to establish Exclusive Special Courts, Exclusive Public Prosecutors and Exclusive Investigators, who will try, prosecute and investigate only cases under this Act on day-to-day basis and also give the power to take cognizance of atrocity cases. Appoint Judges to the Special Courts of Sessions taking into consideration their record and reputation for protecting the rights of SCs/STs against 'untouchability' practices, discrimination and violence. In each district the District Magistrate should prepare a panel of eminent advocates, including SC/ST advocates wherever available, who have been in practice as advocates for not less than seven years, on the basis of their record of and reputation for upholding the rights of SCs/STs. These advocates shall monitor and deal with the cases of atrocities. The District Magistrate should review at least twice a year the performance of Special Public Prosecutors and Assistant Public Prosecutors, and submit a report to the State/UT Government and to the State level Vigilance and Monitoring Committee.

## CONCLUSION

Human Rights of the Dalits are violated on the basis of Caste system. It is very specific to Indian society. Caste system in its hierarchical structure offers a glaring example of violation of Dalits' rights through centuries of hegemony, and caste based discrimination. The Caste is an un-natural division of Hindu society based on politico-religious ideological doctrine called *Karma*. Caste is specific to Indian society; it is an institutionalized inequality and indignity. Caste is a graded inequality with elevation for some and degradation for others. Untouchability is the part and parcel of the caste structure. Untouchability is the manifest of caste practice in terms of purity and pollution. Caste system with its manifest of untouchability both constitutes social and economic exploitative and cultural discrimination which are worse than slavery. Caste and untouchability are the significant markers of the denial of human rights and dignity of Dalits or the Scheduled Castes in India. Dalits are denied their basic rights over past the sixty seven years of Independence. Dalits always have been marginalized broken and oppressed. The Dalits are still prohibited from taking the water from the dominant caste colonies because of the practice of untouchability which is still persists in the rural setting of Andhra Pradesh. The previous chapter explains the various factors responsible for caste and untouchability atrocities, discrimination, and basic Human Rights Violation against Dalits in Andhra Pradesh.

Historically, the caste system entailed a life of degradation for Dalits. For instance, Dalits undertook occupations that the rest of Indian society found ritually polluting, such as handling carcasses, disposing human waste, sweeping streets, or cobbling. Untouchability in India has a history and it defines how caste has evolved through the ages. Caste and social status has always been quite puzzling. Untouchability means polluted by the touch of certain persons by reason of their birth in a particular caste or family. It leads to defilement, pollution and contamination. It is believed that the practice of untouchability is peculiar to the Hindu society. Untouchability is a



social concept that has become embodied in customs. And as customs differ, so does untouchability.

The Dalit social movements were completely focused on social equality and self-dignity. In the beginning the social movements of the Dalits have started from religious issues, but not from caste-related issues. In ancient India, the Buddha was the first person to question Brahmanical dominance. The Buddhism took a revolutionary change in Hindu traditions and customs. First time in India the Buddhism has been broken by the Brahmanism. The middle paths of the Buddhist principles are basic foundations of the Dalits Social movements. Buddhism remains the root for the research regarding the history of liberation and cultural identity. Similarly Buddhism is the beginning of the tradition of struggles against the suppression of the Dalits Movements and for the identity-based politics.

In Pre- Independent India there were several social reformers who fought against sati system, child-marriages and untouchability etc. In this connection the Anti-Brahmin movement, widow up-liftment and removal of untouchability were done by Mahatma Jotirao Phule. Most importantly the Anti-Brahmin movement launched by the creative and visionary genius Jotirao Phule in Maharashtra has inspired the social movements in many ways. He led the movement against the prevailing caste-restrictions and revolted against the domination of the Brahmins and for the rights of peasants and other low-caste people. B. R. Ambedkar has globally understood the practice of untouchability and he observed that the Untouchability was worse than slavery because every nation they had their own domestic problems such as the Romans had their slaves, the Spartans their helots, the British their villains, the Americans their Negroes, the Germans their Jews, and the Hindus have their Untouchables. Most of the above nations have removed their social evil of all ill-treatment of human beings, except untouchability in India. The Hinduism never accepts social equality. By birth every Indian citizen is recognized by a particular caste. That caste would never change until the death. These kinds of caste hierarchy never found in any society all over the world.

Untouchability is still practiced in Indian society; it has been observed not only by Hindus but even Muslims, Christians and other upper caste communities also. The hierarchy of Indian caste system has never given-up social inequality and casteless society. The people at bottom of India have been struggling ever since before and after independence. The world's largest Democracy has developed on all grounds but it has never changed the approach to caste sociologically and ideologically. India is a country where caste system plays a vital role. In this caste hierarchy the Brahman's are in the top and the Dalits are in the bottom. In This kind of gap between the lower and higher caste, problems were never given any such kind of democratic resolutions.

Today, Human Rights violation is rampant throughout the world: particularly in developing countries including India in spite of adopting a number of declarations, conventions and covenants. Human Rights violation is a term used when a government or society or individual violates the rights of its citizens or its members or any human being. India is one of the countries in which Human Rights are seriously violated. Particularly, the Dalits have been discriminated on the basis of the caste system. The Rights of Dalits are refused. It is alleged that their properties are taken away and their women and girls are raped, assaulted and ill-treated. They are assaulted, false cases are registered against them and they are discriminated by the religious majority. Government and officials violate rights of individuals, especially refugees, victims of war, and persons under police or army custody. Women are subject to all types of discrimination and abuse. Children are discriminated, sexually abused and physically assaulted.

Most importantly, there is a connection between Human Rights and Dalit Rights, because most of the Dalit communities have been deprived of their basic rights such as social equality and self dignity. Caste-based discrimination is one of the major ways of human rights violation in India. The practice of untouchability has never given a social equality and the Dalits are not treated as human beings. Human Rights

Watch report says, “Dalits’ right to freedom of residence is severely curtailed by the practice of “untouchability,” which often dictates where Dalits must live. Dalits’ Right to freedom of movement within India is curtailed by conditions that make Dalits vulnerable to migration and forced displacement aftermath of episodes of caste violence.

Article 1 of the UN Declaration of Human Rights reads that “All human beings are born free and equal in dignity and rights. They are endowed with reason, conscience and should act towards one another in a spirit of brotherhood”. The Indian Constitution, along on these lines, provided all Indians’ with civil and political as well as social and economic rights and freedoms. Thus, the legal embodiment of Fundamental Rights, freedoms and Directive Principles in the Indian Constitution have emulated the UN Declaration and that all human beings are ‘created equal’ and entitled to ‘life, liberty, and the pursuit of happiness’. The related provision in Indian Constitution solemnly resolved to “secure to all citizens-justice: social, economic and political, liberty of thought, expression, belief, faith and worship and equality of status and of opportunity, and to promote among them all fraternity, assuring the dignity of individual and unity.”

There are social economic and political reasons for history of oppression and atrocities against Dalits. Nowhere in the history of humankind is there any system like as we possess it in India. This caste system alone has created a section of sub-human beings in this country in the form of Dalits, who’s Human Rights, have been trampled systematically for ages. These are the greatest witnesses how Dalits are being violated and exploited in rural and urban India. Atrocities against Dalits are not a new phenomenon. They are established techniques adopted by the dominant castes to reinforce their power and to assert their superior status. The whole phenomena have a greater significance as it generally occurs when upper castes feel threatened that the status quo is being challenged by Dalits seeking basic Human Rights and equality.

The Indian Constitution has also states that “the state shall not discriminate against any citizen on grounds only of religion, race, caste, place and birth or any form.” Further, the Constitution says that “the state shall promote with special care the educational and economic interest of the Scheduled Castes/ Tribes (SC/ST) and shall protect them from social injustice and all forms of exploitation.” In accordance with these Constitutional provisions a number of measures have been initiated by the respective governments since the Independence. These oriented are protective and development measures. Before the declaration of Independence, equality, freedom and liberty did not exist for the Dalits, who were called as the untouchables.

The practice of untouchability was considered legally abolished. Article 17 of the Indian Constitution abolishes the untouchability and its practice in any form. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. Following the stipulation in Article 17 of the Indian Constitution, the Untouchability Offences Act was enacted in 1955 and very soon this law found to be ineffective and inadequate. However, after a quarter of century of the Constitution the earlier Untouchability Offences Act was replaced by the comprehensive law called the Protection of Civil Rights Act enacted in 1976. Untouchability has become a crime and it was made a cognizable and non-compoundable offence and a minimum punishment was stipulated for enforcing the any form of disabilities emanating from the religious, cultural, social, occupational related and any other forms.

The Constitution of India proclaims the decision of the Constituent Assembly to provide social, political and economic justice for all. To this end the Constitution has several provisions to protect Dalits and to improve their position. The Constitution of India has provided several social safeguards to protect and empower the Dalits. Consequently, the government of India has enacted several legal provisions to end and eliminate the social evil of untouchability and atrocity against Dalits. The Constitution affects social justice in two ways. First, it confers rights on men and women alike, through "fundamental rights" which can be enforced by the

courts. Second, it directs the states to implement "directive principles of state policy." Although these are not enforceable in Indian courts, they are declared to be fundamental in the governance of the country and as such have moral and political value.

Although, Dalits have an extensive legal protection against all forms of discriminations, the Indian state has not able to enforce its own promises. There is an argument that the recent increase in the atrocities on Dalits is an indication of a higher level of awareness among the Dalit communities about themselves. However, it must be stated that the atrocities on Dalits have been there for centuries in India. With rising of Dalit awareness of their self-identity and demand for rights, these atrocities have been increasing recently with a qualitative difference. These are now perpetrated systematically and structurally. However, even after six and half decades of Republic, Dalits are denied social equality and self-dignity. They were still remains vulnerable to upper caste dominance. Dalits are subject to various offences, indignities, humiliations and harassment; in several brutal incidents they lost their lives. Serious crimes are committed against them for various historical, social and economic reasons. The social indignities emanating from the practice of untouchability and acute economic disparity arising out of landlessness, bondage, etc., leads the Dalits to succumb to atrocities by dominant castes that start retaliatory pressures to dilute and weaken the force of compensatory measures.

In this context, the Indian State was forced to enact one more special and more stringent law - the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Rules were passed in 1995.

The atrocities on Dalits have multiple dimensions for its persistence in today's society. The strategic micro and macro level initiatives are needed to tackle the crime against Dalits. There is a need of community and state initiatives to ensure their basic rights to livelihood, education, land and labour, right to life, security and equality of opportunity. Dalits or Scheduled Castes are one of the marginalized sections of the Indian Society who continue to suffer from utter violation of their

human rights even today. What is even more alarming that the occurrence of such exploitation and humiliation goes on unabated despite special provisions in the Indian Constitution for their protection and affirmative action having been taken by the state? As per the Constitutional provisions, a number of measures both protective as well as development has been initiated by the government. Although India has made measurable progress in terms of the protection afforded to Dalits since independence, Dalits still suffer invidious discrimination and mistreatment at the hands of upper caste members and law enforcement officials.

The enactment of a special law for their Protection as Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides for strong punitive measures which could serve as prevention. This Act was specifically enacted to prevent and to protect SC/STs from atrocities committed against them by non-SCs/STs because the normal provisions of the existing laws like the Protection of Civil Rights Act 1955 and the Indian Penal Code were found inadequate to prevent and eliminate the gross offences against SC & STs. The provisions of SC/ST POA Act & Rules can be divided into three different categories.

The first category establishes criminal liability for a number of specifically defined atrocities, and extends the scope of certain categories of penalizations given in the Indian Penal Code (IPC). The second category contains provisions for relief and compensation for victims of atrocities. The third category contains provisions that establish special authorities for the implementation and monitoring of the Act. The common denominator of criminal offences is that criminal liability can only be established if the offence is committed by a person other than a member of SC/ST against a person who belongs to the SC/ST group. Subsequently the National Human Rights Commission also stated that SCs/STs POA Act, 1989 was not properly implemented by the state and central mechanism. As per the Report on Prevention of Atrocities against Scheduled Castes and Scheduled Tribes, the Act failed in protecting Dalits.

Due to several reasons the POA Act, 1989 is not being implemented properly, A number of atrocities cases is unreported and unregistered by the police. The sixth report of National Commission for Scheduled Caste and Scheduled Tribes says that the police are systematically rejecting the SC/ST atrocity cases, because of the lack of awareness among the SC/ST. The number of cases registered under Prevention of Civil Rights Act and SC and ST (Prevention of Atrocities) Act has been showing a downward trend. Indicating a healthy development?, it exposes the way this reduction in the number of cases has been arrived at? But from its reviews with various state governments the Commission is of the view that a large number of cases go unregistered, mainly because of the reluctance on part of the police officers to register the cases and also because of lack of awareness among the members of these communities about the provisions of these acts.

Significantly the presence of special laws alone cannot ensure protection to the SCs/STs in the rural and urban India. The SC/ST should have the required knowledge, power and courage to use these laws. The Success of each case depends on the victim's co-operation with the police in the investigation process and their willingness to pursue the case to its reasonable end. But given their vulnerability arising out of their insignificant numerical strength in villages and their total economic dependence on the caste Hindus who are, in most cases the accused, it is certainly difficult for the SCs/STs to muster up courage to invoke protection of these laws. With most of the witness's turning hostile and thereby engendering the acquittal of those cases merely increases no doubt the vulnerability of the victims and their witnesses. It is therefore recommended that the numerically insignificant SC families in villages be shifted to those villages where their fellow caste members are in large numbers, and where there is no or a very limited scope for exploitation by the caste Hindus. The SC/ST families may also be shifted to urban areas. The SC people may be educated to refrain from performing defiling, unpaid for or underpaid occupations such as sweeping, scavenging, disposing of dead cattle etc. They should be accommodated in more dignified jobs.

Andhra Pradesh is highly atrocity prone area as far as human rights of the Dalits are concerned. In particular the high numbers of atrocity cases are reported at Mahaboobnagar (Telangana Region), Kurnool (Rayalaseema Region), and Prakasham (Coastal Andhra Region). The data relevant for the present study has been collected from both primary and secondary sources. The primary data was collected from the fact finding teams, Dalit Human Rights groups, and NGOs who is working for the Dalits. In this connection, the Government of Andhra Pradesh has identified 12 districts on “Dalits Atrocity Prone Areas” to preventing Human Rights Violation against Dalits. These three districts are selected on the basis of Punnaiah Commission and National Human Rights Commission. The chosen districts are Mahaboobnagar from Telangana region, Kurnool from Rayalaseema region and finally Prakasham from Coastal Andhra region. Comparatively, Mahaboobnagar district is the highest atrocity prone area in the three regions of Andhra Pradesh. According to PCR Cell, an Andhra Pradesh Police department report says that the Mahaboobnagar is one of the atrocities prone area and seven hundred and twenty eight cases have been reported during 2000-2008.

In recent times the Indian Prime Minister has also accepted that the Dalits discrimination and violation on the basis of the caste system and the social evil of untouchability have still existed in our society. The “Prime Minister Singh’s commented on December 27, 2006 that: Dalits have faced a unique discrimination in our society that is fundamentally different from the problems of minority groups in general. The only parallel to the practice of ‘untouchability’ was Apartheid in South Africa. Untouchability is not just social discrimination. It is a blot on humanity.” Even after sixty three years of Indian Independence the Dalits are not treated as human beings. They are treated as an untouchable being. This inhuman treatment is not even meted out to animal.

The police have systematically failed to protect Dalit homes and Dalit individuals from acts of looting, arson, sexual assault, torture, and other inhumane acts such as



the tonsuring, stripping and parading of Dalit women, and forcing Dalits to drink urine and eat feces. Much like cases of police abuse against Dalits, attacks by private actors often take the form of collective punishment, whereby entire communities or villages are punished for the perceived transgressions of individuals who seek to alter village customs or demand their rights. According to UN reports says, every year thousands of Dalit atrocity cases have been reported under the Protection of Civil Right, Act, 1976, and Prevention of Atrocity Act, 1989. The majority of the Dalits live in segregation where they experienced violence, murder, rape and other atrocities in all over the nation.

However, the presence of special laws alone cannot ensure protection to the Dalits in the rural and urban India. The Dalits should have the required knowledge, power and daring to use these laws. The Success of each case depends on the victim's co-operation with the police in the investigation process and their willingness to pursue the case to its reasonable end. But given their vulnerability arising out of their insignificant social, economic and political including numerical strength in villages and their total economic dependence on the caste Hindus who are, in most cases the accused, it is certainly difficult for the Dalits to muster up courage to invoke protection of these laws. With most of the witness's turning hostile and thereby engendering the acquittal of those cases merely increases no doubt the vulnerability of the victims and their witnesses. It is therefore recommended that the numerically insignificant Dalits families in villages be shifted to those villages where their fellow caste members are in large numbers, and where there is no or a very limited scope for exploitation by the caste Hindus. The Dalits families may also be shifted to urban areas. The Dalits people may be educated to refrain from performing defiling, unpaid for or underpaid occupations such as sweeping, scavenging, disposing of dead cattle etc. They should be accommodated in more dignified jobs. The Government should start this development.

In some of the Gram Panchayats, Mandals and districts, they are practicing caste based discriminations and untouchability that was prevalent in most of the villages.

Such practices included separate cup/glass system in tea-stalls, denial of access to common path, common well and entry into the village temple. Despite such unashamed violation of their basic human rights and dignity the Dalits did not take up the matter with the police fearing dire consequences from the accused and harassment by the police. Some of them even remarked that the end result of going to the police for justice was nothing but harassment and threat to their stay in the village and to their life itself. However, most of the victims and NGOs were of the view that in the absence of special laws such as the PCR and the POA Acts, the Dalits would have no security and their people might get killed on an everyday life. Through look upon to the importance and acknowledgment given to those implementing these special laws, it is learnt that the district level PCR police stations were not equipped with necessary infrastructure facilities such as proper office and vehicles. Such offices did not even have a vehicle under their exclusive control to be of support to the Dalits are faced with threat and dire consequences in remote villages. The Special Public Prosecutor, who plays a crucial role in every PCR/POA Act case, said that his office does not have even the minimum necessities such as chairs and tables and he was also not paid the due remunerations for months together.

With regard to the power of the two special laws, most of the victims said that the laws were of immense support to protect their dignity and human rights. While the State level police officials said that the laws were very useful and necessary ones, the district level officers said that they were draconian laws and thus their strict implementation would be difficult. The caste Hindu accused have different things to say. According to common man, the caste Hindus were not afraid of the special laws; they had respect neither for the two special laws nor for the police officials implementing them. To him, the PCR wing of the police department was there only to collect money both from the accused and the victims. Regarding the reaction of the accused, the police argued that the accused often preferred out of Court settlement to avoid punishments and to escape the humiliation of facing trial in the Court. The victims often had to agree to such settlement owing to the fact that they

depended on the accused and their fellow caste people for economic and physical security. From the points of views of dominant castes and other common men, even the Special Courts did not seem to be free from caste prejudice. They held that being the members of upper castes, most of the judges and advocates helped the accused covertly to provisions for punishing the policemen and officers who fail to perform their lawful duties, the Honorable Court, instead of invoking those provisions of the special laws and punishing the police often acquit the case.

On the way to guarantee just and fair treatment of every PCR/POA Act case, at least 50 per cent of the police officials investigating those cases should be from the SC/ST communities. Most importantly, of the two top police officials-IGP and ADGP who manage the PCR/HR Unit of the State, at least one should be from either Scheduled Caste or from Scheduled Tribe background. Though the POA Act has provisions for allowance for food, travel and medical care both for the victims and their witnesses, it is hardly implemented. The TA/DA to the victims and their witness may be given in the Court itself. The Government has to take decision in this regard at the earliest. In view of certain incidents where the provisions of the POA Act were violated within the Court by its own staff, the credibility of the Honorable Court has come to be doubted. Therefore the Court staff and others concerned including the Judges/Magistrates may be more sensitized to ensure justice to the Dalits victims and to succeed their self-confidence.

The Indian Government should fully implement the provision of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995. In particular it should ensure that State constitute and oversee state and district level vigilance and monitoring committee, as required by Rules 16 and 17 of the Dalits (POA) Rules, 1995, for the implementation of the Act. Government must take consult with local , NGOs in the in the process of investigation.

Ensure that States establish Special Courts in every revenue district and appoint special public prosecutors to try cases arising under the Atrocities Act. Each police station should have Dalits Atrocities cell to handle investigation of abuses and alleged violation of Atrocities Act. Each revenue district should also have a special duty superintendent of police charged with investigating atrocities under the act. The cells should work closely with the vigilance and monitoring committees established under the Atrocities Rules to ensure full enforcement. Ensure immediate and full compensation by the district administration to victims of atrocities as per the atrocities Rules.

The Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act of 1989 (1989 Act) also provides a wide range of protections for Dalits. This document outlaws offenses such as forcing Dalits to “drink or eat any inedible or obnoxious Substance,” to remove their clothes or parade around naked, or to become bonded laborers. The 1989 Act also protects Dalits from false lawsuits, sexual exploitation, and interference with their voting and property rights. Violators of the 1989 Act are subject to fines and imprisonment, while repeat offenders are supposed to serve at least one year for each offense. The 1989 Act also requires states to set up Special Courts to adjudicate Scheduled Caste offenses. In addition, the Act provides punishment for public servants who fail to enforce the protections set forth in the Act. The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules of 1995 further delineate procedures for state governments to take toward investigation, prosecution, and punishment pursuant to the 1989 Act. All these provisions are confined to paper statutes, when it comes to the implementation there is passive response from the state. To conclude, Ambedkar says that, “Rights are protected not by law but by the social and moral conscience of society. If social conscience is such that it is prepared to recognize the rights which law chooses to enact, rights will be safe and secure. But if the fundamental rights are opposed by the community, no law, no Parliament, no Judiciary can guarantee them in the real sense of the word”. The existing laws like the Untouchability (Offences) Act, 1955, the Protection of

Civil Rights Act, 1976 and the normal provisions of the Indian Penal Code have been found inadequate to check these crimes. The social and moral conscience of the Indian society is such that many laws which were enacted to protect the Dalits are weakened by the caste system.

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## APPENDICES

### **APPENDIX I: The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**

No. 33 of 1989

[11th September, 1989]

An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:-

#### **CHAPTER:I**

#### **PRELIMINARY**

##### **1. Short title, extent and commencement-**

(1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

##### **2. Definitions-**

(1) In this Act, unless the context otherwise requires,-

(a) “atrocities” means an offence punishable under Section 3;



- (b) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);
- (c) "Scheduled Castes and Scheduled Tribes" shall have the meanings assigned to them respectively under clause (24) and clause (25) of Article 366 of the Constitution;
- (d) "Special Court" means a Court of Session specified as a Special Court in section 14;
- (e) "Special Public Prosecutor" means a Public Prosecutor specified as a Special Public Prosecutor or an advocate referred to in section 15;
- (f) words and expressions used but not defined in this Act and defined in the Code or the Indian Penal Code (45 of 1860) shall have the meanings assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code.
- (2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is, not in force, be construed as a reference to the corresponding law, if any, in force in that area.

## **CHAPTER:II**

### **OFFENCES OF ATROCITIES**

#### **3. Punishments for offences of atrocities-**

- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -
- (i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;
- (ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighborhood;

(iii) forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;

(iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;

(v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;

(vi) compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labor other than any compulsory service for public purposes imposed by Government;

(vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;

(viii) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;

(ix) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonor or outrage her modesty;

(xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;

(xiii) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Caste or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

(xiv) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;

(xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;

(ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with

imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

(vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence; or

(vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

#### **4. Punishment for neglect of duties-**

Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

#### **5. Enhanced punishment for subsequent conviction-**

Whoever, having already been convicted of an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

#### **6. Application of certain provisions of the Indian Penal Code-**

Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter V-A, section 149 and Chapter XXIII of the Indian Penal Code (45 of 1860), shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

#### **7. Forfeiture of property of certain persons-**

(1) Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person which has been used for the commission of that offence, shall stand forfeited to Government.

(2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be

attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realization of any fine imposed under this Chapter.

#### **8. Presumption as to offences-**

In a prosecution for an offence under this Chapter, if it is proved that –

(a) the accused rendered any financial assistance to a person accused of, or reasonably suspected of committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had, abetted the offence;

(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object.

#### **9. Conferment of powers-**

(1) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do,-

(a) for the prevention of and for coping with any offence under this Act, or

(b) for any case or class or group of cases under this Act, in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case maybe, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court.

(2) All officers of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder.

(3) The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under sub-section (1).

### **CHAPTER:III**

### **EXTERNMENT**

#### **10. Removal of person likely to commit offence-**

(1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'Tribal areas' as referred to in Article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order.

(2) The Special Court shall, along with the order under sub-section (1), communicate to the person directed under that sub-section the grounds on which such order has been made.

(3) The Special Court may revoke or modify the order made under sub section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.

#### **11. Procedure on failure of person to remove himself from area and enter thereon after removal-**

(1) If a person to whom a direction has been issued under Section 10 to remove himself from any area-

(a) fails to remove himself as directed; or

(b) having so removed himself enters such area within the period specified in the order, otherwise than with the permission in writing of the Special Court under subsection (2), the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

(2) The Special Court may, by order in writing, permit any person in respect of whom an order under section 10 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observation of the conditions imposed.

(3) The Special Court may at any time revoke any such permission.

(4) Any person who, with such permission, returns to the area from which he was directed to remove himself shall observe the conditions imposed and at the expiry of the temporary period for which he was permitted to return or on the revocation of such permission before the expiry of such temporary period shall remove himself outside such area and shall not return thereto within the unexpired portion specified under Section 10 without a fresh permission.

(5) If a person fails to observe any of the conditions imposed or to remove himself accordingly or having so removed himself enters or returns to such area without fresh permission the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

## **12. Taking measurements and photographs, etc. of persons against whom order under section 10 is made-**

(1) Every person against whom an order has been made under Section 10 shall, if so required by the Special Court, allow his measurements and photographs to be taken by a police officer.



(2) If any person referred to in sub-section (1) when required to allow his measurements or photographs to be taken, resists or refuses to allow the taking of such measurements or photographs, it shall be lawful to use all necessary means to secure the taking thereof.

(3) Resistance to or refusal to allow the taking of measurements or photographs under sub-section (2) shall be deemed to be an offence under section 186 of the Indian Penal Code (45 of 1860).

(4) Where an order under section 10 is revoked, all measurements and photographs (including negatives) taken under sub-section (2) shall be destroyed or made over to the person against whom such order is made.

### **13. Penalty for non-compliance of order under section 10-**

Any person contravening an order of the Special Court made under Section 10 shall be punishable with imprisonment for a term which may extend to one year and with fine.

## **CHAPTER:IV**

### **SPECIAL COURTS**

#### **14. Special Court-**

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, specify for each district a Court of Session to be a Special Court to try the offences under this Act.

#### **15. Special Public Prosecutor-**

For every Special Court, the State Government shall, by notification in the Official Gazette, specify 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 of conducting cases in that Court.

## **CHAPTER:V**

### **MISCELLANEOUS**

#### **16. Power of State Government to impose collective fine-**

The provisions of Section 10-A of the Protection of Civil Rights Act, 1955 (22 of 1955) shall, so far as may be, apply for the purposes of imposition and realization of collective fine and for all other matters connected therewith under this Act.

#### **17. Preventive action to be taken by the law and order machinery-**

(1) A 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 may, on receiving information and after such enquiry as he may think necessary, has 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 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 behavior and maintenance of public order and tranquillity and may take preventive action.

(2) The provisions of Chapters VIII, X and XI of the Code shall, so far as may be, apply for the purposes of sub-Section (1).

(3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-Section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes.

**18. Section 438 of the Code not to apply to persons committing an offence under the Act-**

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.

**19. Section 360 of the Code and the provisions of the Probation of Offenders Act not to apply to persons guilty of an offence under the Act-**

The provisions of Section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 (20 of 1958) shall not apply to any person above the age of eighteen years who is found guilty of having committed an offence under this Act.

**20. Act to override other laws-**

Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

**21. Duty of Government to ensure effective implementation of the Act-**

(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include,-

(i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice-

(ii) the provision for travelling and maintenance expenses to witnesses including the victims of atrocities, during investigation and trial of offences under this Act;

(iii) the provision for the economic and social rehabilitation of the victims of the atrocities;

(iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;

(vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-Section (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this Section.

## **22. Protection of action taken in good faith-**

No suit, prosecution or other legal proceedings shall lie against the Central Government or against the State Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act.

## **23. Power to make rules-**

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## **APPENDIX II: The Scheduled Castes and Scheduled Tribes :( Prevention of Atrocities) Rules, 1995**

G.S.R. 316 (E), dated 31st March, 1995.- In exercise of the powers conferred by sub-Section (1) of Sec. 23 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. 1989 (33 of 1989), the Central Government hereby makes the following rules, namely:

### **1. Short title and commencement.-**

(1) These rules may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

(2) They shall come into force on the date of their publication in the Official Gazette.

### **2. Definitions.-**

In these rules, unless the context otherwise requires,-

(a) "Act" means the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989).

(b) "dependent", with its grammatical variations and cognate expressions, includes wife, children, whether married or unmarried, dependent parents, widowed sister, widow and children of pre-deceased son of a victim of atrocity;

(c) "identified area" means such area where State Government has reason to believe that atrocity may take place or there is an apprehension of re-occurrence of an offence under the Act or an area prone to victim of atrocity;

(d) "Non-Government Organization" means a voluntary organization engaged in the welfare activities relating to the scheduled castes and the scheduled tribes and registered under the Societies Registration Act.- 1860 (21 of 1860) or under any law for the registration of documents of such Organization for the time being in force;

- (e) "Schedule" means the Schedule annexed to these rules;
- (f) "Section" means Section of the Act;
- (g) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under Art. 239 of the Constitution;
- (h) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

### **3. Precautionary and preventive measures.-**

With a view to prevent atrocities on the Scheduled Castes and the Scheduled Tribes the State Government shall,-

- (i) identify the area where it has reason to believe that atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act ;
- (ii) order the District Magistrate and Superintendent of Police or any other officer to visit the identified area and review the law and order situation;
- (iii) if deem necessary, in the identified area cancel the arm licenses of the persons, not being member of the Scheduled Castes or Scheduled Tribes, their near relations, servants or employees and family friends and get such arms deposited in the Government Armory;
- (iv) seize all illegal fire-arms and prohibit any illegal manufacture of fire-arms;
- (v) with a view to ensure the safety of person and property, if deem necessary, provide arms licenses to the members of the Scheduled Castes and the Scheduled Tribes;
- (vi) constitute a high power State-level committee, district and divisional level committees or such number of other committees as deem proper and necessary for assisting the Government in implementation of the provisions of the Act.

(vii) set up a vigilance and monitoring committee to suggest effective measures to implement the provisions of the Act;

(viii) set up Awareness Centers and organize Workshops in the identified area or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules, regulations and schemes framed thereunder;

(ix) encourage Non-Government Organizations for establishing and maintaining Awareness Centers and organizing Workshops and provide them necessary financial and other sort of assistance;

(x) deploy special police force in the identified area;

(xi) by the end of every quarter, review the law and order situation, functioning of different committees, performance of Special Public Prosecutors, Investigating Officers and other Officers responsible for implementing the provisions of the Act and the cases registered under the Act.

#### **4. Supervision of prosecution and submission of report.-**

(1) The State Government on the recommendation of the District Magistrate shall prepare for each District a panel of such number of eminent senior advocates who has been in practice for not less than seven years, as it may deem necessary for conducting cases in the Special Courts. Similarly, in consultation with the Director-Prosecution in charge of the prosecution, a panel of such number of Public Prosecutors as it may deem necessary for conducting cases in the Special Courts, shall also be specified. Both these panels shall be notified in the Official Gazette of the State and shall remain in force for a period of three years.

(2) The District Magistrate and the Director of prosecution in charge of the prosecution shall review at least twice in a calendar year, in the month of January and



July, the performance of Special Public Prosecutors so specified or appointed and submit a report to the State Government.

(3) If the State Government is satisfied or has reason to believe that a Special Public Prosecutor so appointed or specified has not conducted the case to the best of his ability and with due care and caution, his name may be, for reasons to be recorded in writing, denotified.

(4) The District Magistrate and the Officer-in-charge of the prosecution at the District level, shall review the position of cases registered under the Act and submit a monthly report on or before 20th day of each subsequent month to the Director of Prosecution and the State Government. This report shall specify the actions taken/proposed to be taken in respect of investigation and prosecution of each case.

(5) Notwithstanding anything contained in sub-rule (1) the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary or if so desired by the victim of atrocity engage an eminent Senior Advocate for conducting cases in the Special Courts on such payment of fees as he may consider appropriate.

(6) Payment of fee to the Special Public Prosecutor shall be fixed by the State Government on a scale higher than the other panel advocates in the State.

#### **5. Information to Police Officer in-charge of a Police Station.-**

(1) Every information relating to the commission of an offence under the Act, if given orally to an officer in-charge of a police station shall be reduced to writing by him or under his direction. and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the persons giving it, and the substance thereof shall be entered in a book to be maintained by that police station.

(2) A copy of the information as so recorded under sub-rule (1) above shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred in sub-rule (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who after investigation either by himself or by a police officer not below the rank of Deputy Superintendent of Police, shall make an order in writing to the officer in-charge of the concerned police station to enter the substance of that information to be entered in the book to be maintained by the police station.

#### **6. Spot inspection by officers.-**

(1) Whenever the District Magistrate or the Sub-Divisional Magistrate or any other executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police receives an information from any person or upon his own knowledge that an atrocity has been committed on the members of the Scheduled Castes or the Scheduled Tribes within his jurisdiction he shall immediately himself visit the place of occurrence to assess the extent of atrocity, loss of life, loss and damage to the property and submit a report forthwith to the State Government.

(2) The District Magistrate or the sub-Divisional Magistrate or any other executive Magistrate and the Superintendent of Police, Deputy Superintendent of Police after inspecting the place or area on the spot,-

- (i) draw a list of victims, their family members and dependents entitled for relief;
- (ii) prepare a detailed report of the extent of atrocity, loss and damage to the property of the victims;
- (iii) order for intensive police patrolling in the area;
- (iv) take effective and necessary steps to provide protection to the witnesses and other sympathizers of the victims;
- (v) provide immediate relief to the victims.

## **7. Investigating Officer.-**

(1) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The investigating officer shall be appointed by the State Government, Director-General of Police, Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time.

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

(3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer-in-charge of Prosecution and the Director-General of Police shall review by the end of every quarter the position of all investigations done by the investigating officer.

## **8. Setting up of the Scheduled Castes and the Scheduled Tribes Protection Cell.-**

The State Government shall set up a Scheduled Castes and the Scheduled Tribes Protection Cell at the State headquarter under the charge of Director of Police, Inspector-General of Police. This Cell shall be responsible for,-

- (i) conducting survey of the identified area;
- (ii) maintaining public order and tranquillity in the identified area;
- (iii) recommending to the State Government for deployment of special police force or establishment of special police post in the identified area;
- (iv) making investigations about the probable causes leading to an offence under the Act;

(v) restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes;

(vi) informing the nodal officer and special officer about the law and order situation in the identified area;

(vii) making enquiries about the investigation and spot inspections conducted by various officers;

(viii) making enquiries about the action taken by the Superintendent of Police in the cases where an officer in-charge of the police station has refused to enter an information in a book to be maintained by that police station under sub-rule (3) of rule 5;

(ix) making enquiries about the wilful negligence by a public servant;

(x) reviewing the position of cases registered under the Act, and

(xi) submitting a monthly report on or before 20th day of each subsequent month to the State Government, nodal officer about the action taken proposed to be taken, in respect of the above.

### **9. Nomination of Nodal Officer.-**

The State Government shall nominate a nodal officer of the level of a Secretary to the Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for coordinating the functioning of the District Magistrates and Superintendent of Police or other officers authorized by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal officer shall review,-

(i) the reports received by the State Government under sub-rules (2) and (4) of rule 4, rule 6, Cl. (xi) of rule 8.

- (ii) the position of cases registered under the Act;
- (iii) law and order situation in the identified area;
- (iv) various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;
- (v) adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance and transport facilities provided to the victims of atrocity of his/her dependents;
- (vi) performance of non-Governmental organizations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.

#### **10. Appointment of a Special Officer.-**

In the identified area a Special Officer not below the rank of an Additional District Magistrate shall be appointed to co-ordinate with the District Magistrate, Superintendent of Police or other officers responsible for implementing the provisions of the Act, various committees and the Scheduled Castes and the Scheduled Tribes Protection Cell.

The Special Officer shall be responsible for:

- (i) providing immediate relief and other facilities to the victims of atrocity and initiate necessary measures to prevent or avoid re-occurrence of atrocity;
- (ii) setting up an awareness center and organizing workshop in the identified area or at the District headquarters to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules and schemes, etc. framed therein;

(iii) coordinating with the non-governmental organizations and providing necessary facilities and financial and other type of assistance to non-governmental organizations for maintaining centers or organizing workshops.

**11. Travelling allowances, daily allowance, maintenance expenses and transport facilities to the victim atrocity, his or her dependent and witnesses.–**

(1) Every victim of atrocity or his/her dependent and witnesses shall be paid to and for rail fare by second class in express / mail/ passenger train or actual bus or taxi fare from his / her place of residence or actual bus or taxi fare from his /her place of residence or place of stay to the place of investigation or hearing of trial of an offence under the Act.

(2) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make necessary arrangements for providing transport facilities or reimbursement of full payment thereof to the victims of atrocity and witnesses for visiting the investigating officer, Superintendent of Police/Deputy Superintendent of Police, District Magistrate or any other Executive Magistrate.

(3) Every woman witness, the victim of atrocity or her dependent being a woman or a minor, a person more than sixty years of age and a person having 40 per cent or more disability shall be entitled to be accompanied by an attendant of her/ his choice. The attendant shall also be paid travelling and maintenance expenses as applicable to the witness or the victim of atrocity when called upon during hearing, investigation and trial of an offence under the Act.

(4) The witness, the victim of atrocity or his/her dependent and the attendant shall be paid daily maintenance expenses for the days he/she is away from the place of his/her residence or stay during investigation, hearing and trial of an offence, at such rates but not less than the minimum wages, as may be fixed by the State Government for the agricultural laborers.

(5) In addition to daily maintenance expenses the witness' the victim of atrocity (or his/her dependent) and the attendant shall also be paid diet expenses at such rates as may be fixed by the State Government from time to time.

(6) The payment of travelling allowance, daily allowance, maintenance expenses and reimbursement of transport facilities shall be made immediately or not later than three days by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate to the victims, their dependents/attendant and witnesses for the days they visit the investigating officer or in-charge police station or hospital authorities or Superintendent of Police, Deputy Superintendent of Police or District Magistrate or any other officer concerned or the Special Court.

(7) When an offence has been committed under Sec. 3 of the Act, the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall reimburse the payment of medicines, special medical consultation, blood transfusion, replacement of essential clothing, meals and fruits provided to the victim(s) of atrocity.

## **12. Measures to be taken by the District Administration.-**

(1) The District Magistrate and the Superintendent of Police shall visit the place or area where the atrocity has been committed to assess the loss of life and damage to the property and draw a list of victim, their family members and dependents entitled for relief.

(2) Superintendent of Police shall ensure that the First Information Report is registered in the book of the concerned police station and effective measures for apprehending the accused are taken.

(3) The Superintendent of Police, after spot inspection, shall immediately appoint an investigation officer and deploy such police force in the area and take such other preventive measures as he may deem proper and necessary.

(4) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the schedule annexed to these Rules (Annexure-I read with Annexure-II). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings.

(5) The relief provided to the victim of the atrocity or his /her dependent under sub-rule (4) in respect of death, or injury to, or damage to property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

(6) The relief and rehabilitation facilities mentioned in sub-rule (4) above shall be provided by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate in accordance with the scales provided in the Schedule annexed to these rules.

(7) A report of the relief and rehabilitation facilities provided to the victims shall also be forwarded to the Special Court by the District Magistrate or the Sub-Divisional Magistrate or the Executive Magistrate or Superintendent of Police. In case the Special Court is satisfied that the payment of relief was not made to the victim or his/her dependent in time or the amount of relief or compensation was not sufficient or only a part of payment of relief or compensation was made, it may order for making in full or part the payment of relief or any other kind of assistance.

### **13. Selection of Officers and other State Members for completing the work relating to atrocity.-**

(1) The State Government shall ensure that the administrative officers and other staff members to be appointed in an area prone to atrocity shall have the right aptitude and understanding of the problems of the Scheduled Castes and posts and police station.



(2) It shall also be ensured by the State Government that persons from the Scheduled Castes and the Scheduled Tribes are adequately represented in the administration and in the police force at all levels, particularly at the level of police posts and police station.

#### **14. Specific responsibility of the State Government.-**

The State Government shall make necessary provisions in its annual budget for providing relief and rehabilitation facilities to the victims of atrocity. It shall review at least twice in a calendar year, in the month of January and July the performance of the Special Public Prosecutor specified or appointed under Sec. 15 of the Act, various reports received, investigation made and preventive steps taken by the District Magistrate, Sub-Divisional Magistrate and Superintendent of Police, relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on behalf of the concerned officers.

#### **15. Contingency Plan by the State Government.-**

(1) The State Government shall prepare a model contingency plan for implementing the provisions of the Act and notify the same in the Official Gazette of the State Government. It should specify the role and responsibility of various departments and their officers at different levels, the role and responsibility of Rural/ Urban Local Bodies and Non-Government Organizations. Inter alia this plan shall contain a package of relief measures including the following:

- (a) scheme to provide immediate relief in cash or in kind or both;
- (b) allotment of agricultural land and house-sites;
- (c) the rehabilitation packages;
- (d) scheme for employment in Government or Government undertaking to the dependent or one of the family members of the victim;

(e) pension scheme for widows, dependent children of the deceased, handicapped or old age victims of atrocity;

(f) mandatory compensation for the victims;

(g) scheme for strengthening the socioeconomic condition of the victim;

(h) provisions for providing brick/stone masonry house to the victims;

(i) such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility, burial/cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes.

(2) The State Government shall forward a copy of the contingency plan or a summary thereof and a copy of the scheme, as soon as may be, to the Central Government in the Ministry of Welfare and to all the District Magistrates, Sub-Divisional Magistrates, Inspectors-General of Police and Superintendents of Police.

#### **16. Constitution of State-level Vigilance and Monitoring Committee.-**

(1) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:

(i) Chief Minister/Administrator-Chairman (in case of a State under President's Rule Governor-Chairman).

(ii) Home Minister, Finance Minister and Welfare Minister-Members (in case of a State under the President's Rule Advisors-Members);

(iii) all elected Members of Parliament and State Legislative Assembly and Legislative Council from the State belonging to the Scheduled Castes and the Scheduled Tribes- Members

(iv) Chief Secretary, the Home Secretary, the Director-General of Police, Director/ Deputy Director, National Commission for the Scheduled Castes and the Scheduled Tribes- Members;

(v) the Secretary in-charge of the welfare and development of the Scheduled Castes and the Scheduled Tribes- Convener.

(2) The high power vigilance and monitoring committee shall meet at least twice in a calendar year, in the month of January and July to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the State Government.

#### **17. Constitution of District Level Vigilance and Monitoring Committee.-**

(1) In each district within the State, the District Magistrate shall set up a vigilance and monitoring committee in his district to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers /agencies responsible for implementing the provisions of the Act and various reports received by the District Administration.

(2) The district level vigilance and monitoring committee shall consist of the elected Members of the Parliament and State Legislative Assembly and Legislative Council, Superintendent of Police, three-group 'A' Officers, Gazetted Officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes, not more than 5 non-official members belonging to the Scheduled Castes and the Scheduled Tribes and not more than 3 members from the categories other than the Scheduled Castes and the Scheduled Tribes having association with Non-Government Organizations. The District Magistrate and District Social Welfare Officer shall be Chairman and Member-Secretary respectively.

(3) The district level committee shall meet at least once in three months.

### **18. Material for Annual Report.-**

The State Government shall every year before the 31st March, forward the report to the Central Government about the measures taken for implementing provisions of the Act and various schemes/plans framed by it during the previous calendar year.

### **ANNEXURE: I**

Schedule [See rule 12 (4)]

### **Norms for Relief Amount**

<b>Name and Section Number of Offense</b>	<b>Minimum Amount of Relief</b>
1. Drink or eat inedible or obnoxious substance [Sec. 3 (1)(i)]	Rs. 25,000 or more depending upon the nature and gravity of the offense to each victim and also commensurate with the indignity, insult and defamation suffered by the victim. Payment to be made as follows: 25% when the chargesheet is sent to the court; 75% when accused are convicted by the lower court.
2. Causing injury insult or annoyance [Sec. 3 (1)(ii)]	
3. Derogatory Act [Sec. 3 (1)(iii)]	
4. Wrongful occupation or cultivation of land. etc. [Sec. 3 (1)(iv)]	At least Rs. 25,000 or more depending upon the nature and gravity of the offense. The land/premises/water supply shall be restored where necessary at Government cost. Full payment to be made when chargesheet is sent to the Court.
5. Relating to land, premises and water [Sec. 3 (1)(v)]	
6. Begar or forced of	At least Rs. 25,000 to each victim. Payment of 25% at First Information

bonded labor [(Sec. 3 (1)(vi))]	Report stage and 75% on conviction in the lower court.
7. Relating to right to franchise [Sec. 3 (1)(vii)]	Up to Rs. 20,000 to each victim depending upon the nature and gravity of offense.
8. False, malicious or vexatious legal proceedings [Sec. 3 (1)(viii)]	Rs. 25,000 or reimbursement of actual legal expenses and damages whichever is less after conclusion of the trial of the accused.
9. False and frivolous information [Sec. 3 (1)(ix)]	
10. Insult, intimidation and humiliation [Sec. 3 (1)(x)]	Up to Rs. 25,000 to each victim depending upon the nature of the offense. Payment of 25% when chargesheet is sent to the court and the rest on conviction.
11. Outraging the modesty of a woman [Sec. 3 (1)(xi)]	Rs. 50,000 to each victim of the offense. 50% of the amount may be paid after medical examination and remaining 50% at the conclusion of the trial.
12. Sexual exploitation of a woman [Sec. 3 (1)(xii)]	
13. Fouling of water [Sec. 3 (1)(xiii)]	Up to Rs. 1,00,000 or full cost of restoration of normal facility, including cleaning when the water is fouled. Payment may be made at the stage as deemed fit by District Administration.
14. Denial of customary rights of passage [Sec. 3 (1)(xiv)]	Up to Rs. 1,00,000 or full cost of restoration of right of passage and full compensation of the loss suffered, if any. Payment of 50% when chargesheet is sent to the court and 50% on conviction in lower court.
15. Deserting one from their place of residence [Sec. 3	Restoration of the site/right to stay and compensation of Rs. 25,000 to each victim and reconstruction of the house at Govt. cost, if destroyed.

(1)(xv)]	To be paid in full when chargesheet is sent to the lower court.
16. Giving false evidence [Sec. 3(2)(i) and (ii)]	At least Rs. 1,00,000 or full compensation of the loss or harm sustained. 50% to be paid when chargesheet is sent to Court and 50% on conviction by the lower court.
17. Committing offences under the Indian Penal Code punishable with imprisonment for a term of 10 years or more [Sec. 3(2)]	At least Rs. 50,000 depending upon the nature and gravity of the offense to each victim and or his dependents. The amount would vary if specifically provided for otherwise in the Schedule.
18. Victimization at the hands public servant [Sec. 3(2)]	Full compensation on account of damages or loss or harm sustained. 50% to be paid when chargesheet is sent to the Court and 50% on conviction by lower court.
19. Disability.  (a) 100% incapacitation.  (i) Non-earning member of a family.  (ii) Earning member of a family.  (b) Where incapacitation is less than 100%.	-At least Rs. 1,00,000 to each victim of offense. 50% on FIR and 25% at chargesheet and 25% on conviction by the lower court.  -At least Rs. 2,00,000 to each victim of offense. 50% to be paid on FIR/medical examination stage, 25% when chargesheet sent to court and 25% at conviction in lower.  -The rates are laid down in (i) and (ii) above shall be reduced in the same proportion, the stages of payment also being the same. However, not less than Rs. 15,000 to a non-earning member and not less than Rs. 30,000 to an earning member of the family.
20. Murder/Death  (a) Non-earning member of a family.  (b) Earning member of a family.	-At least Rs. 1,00,000 to each case. Payment of 75% after postmortem and 25% on conviction by the lower court.  -At least Rs. 2,00,000 to each case. Payment of 75% after postmortem and 25% on conviction by the lower court.

<p>21. Victim of murder, death, massacre, rape, mass rape and gang rape, permanent incapacitation and dacoity.</p>	<p>In addition to relief amount paid under above items, relief may be arranged within three months of date of atrocity as follows:</p> <p>(i) Pension to each widow and/or other dependents of deceased SC/ST at Rs. 1,000 per month, or employment to one member of the family of the deceased, or provision of agricultural land, a house, if necessary by outright purchase.</p> <p>(ii) Full cost of the education and maintenance of the children of the victims. Children may be admitted to the Ashram Schools/residential schools.</p> <p>(iii) Provision of utensils, rice, wheat, dals, pulses, etc. for a period of three months.</p>
<p>22. Complete destruction/ burnt houses.</p>	<p>Brick/stone masonry house to be constructed or provided at Government cost where it has been burnt or destroyed.</p>

ANNEXURE: II

(See Rule 12.(4)) <b>NORMS FOR RELIEF AMOUNT</b>		
<b>S. No</b>	<b>Name of offence</b>	<b>Minimum amount of relief</b>
1	Drink or eat inedible or obnoxious substance [Section 3 (1) (i)]	Rs. 25,000 or more depending upon the nature and gravity of the offence to each victim and also commensurate with the indignity, insult, injury and defamation suffered by the victim. Payment to be made as follows: I. 25% when the charge sheet is sent to the Court. II. 75% when accused are convicted by the lower court.
2	Causing injury insult or annoyance [Section 3(1)(ii)]	Same Above
3.	Derogatory act [Sec. 3(1) (iii)]	Same Above
4.	Wrongful occupation or cultivation of land,	Atleast Rs.25,000 or more depending upon the nature and gravity of the offence. The land/premises/water supply shall be restored where necessary at Government cost, Full payment to be made when charge-sheet is sent to to the Court.
5.	Relating to land, premises and water [Section 3(1)(v)]	
6.	Begar or forced or bonded labour [Section 3(1) (vi)]	Atleast Rs.25,000/- to each victim. payment of 25% at FIR stage and 75% on conviction in the lower court.
7.	Relating to right to franchise [Section 3(1) (vii)]	Upto Rs.20,000/ - to each victim depending upon the nature and gravity of the offence.
8.	False, malicious or vexatious legal proceedings [Section (1) (viii)]	Rs. 25,000/ - or reimbursement of actual legal expenses and damages or whichever is less after conclusion of the trial of the accused.



9.	False and frivolous information [Section 3 (1)(ix)]	
10.	Insult, intimidation and humiliation [Section 3 (1)(x)]	Upto Rs. 25,000/- to each victim depending upon the nature of the offence . Payment of 25% when charge-sheet is sent to the court and rest on conviction.
11.	Outraging the modesty of a woman [Section 3 (1)(xi)]	Rs.50,000/- to each victim of the offence .50% of the amount may be paid after medical examination and remaining 50% at the conclusion of the trial.
12.	Sexual exploitation of a woman [Section 3(1)(xii)]	
13.	Fouling of water [Section 3 (1) (xiii)]	Upto Rs.1,00,000 or full cost of restoration of normal facility,including cleaning when the water is fouled. Payment may be made at the stage as deemed fit by District Administration.
14.	Denial of customary rights of passage [Section 3(1) (xiv)]	Upto Rs.1,00,000 or full cost of restoration of right of passage and full compensation of the loss suffered, if any. Payment of 50% when charge sheet is sent to the court and 50% on conviction in lower-court.
15.	Making one desert place of residence [Section 3(1) (xv)]	Restoration of the site/right to stay and compensation of Rs.25,000/- to each victim and recons- truction of the house at Govt. cost, if destroyed, To be paid in full when charge sheet is sent to the lower court.