

SCHEDULED
CASTE &
SCHEDULED
TRIBES
PREVENTION OF
ATROCITIES ACT

POPULAR EDUCATION & ACTION
CENTRE (PEACE)

BACKGROUND
NOTE ON
IMPLEMENTATION
& HISTORICAL
EVOLUTION

SCHEDULED CASTE & SCHEDULED TRIBES PREVENTION OF ATROCITIES ACT

BACKGROUND NOTE ON IMPLEMENTATION &
HISTORICAL EVOLUTION



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INTRODUCTION

On 29 August 2022, the headmaster of a school in Barabanki, Uttar Pradesh, threw a hot meal on a girl student from the second class. The girl was from the Dalit community and was also differently abled. In another incident on 2 September 2022, the headmaster of a school in Balia, Uttar Pradesh, dragged an 11 years old Dalit boy to his office and brutally beat him up because the boy dared to touch his bike. Such manifestations of casteism are not only prevalent in educational institutions, but it is the reality of scheduled caste and scheduled tribe communities in all walks of life across state borders and every gender identity.

Due to the failure of general criminal procedures to address customary identity-based discrimination and violence against SCs and STs, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was enacted. Section 3 of the Act was written down after considering the historical wrongs committed against the SCs and STs. The Act is ordained with a unique administrative framework for preventing and punishing perpetrators and a system to ensure the relief and rehabilitation of the survivors. Moreover, the Act, followed up by the Central Rules, 1955, has proposed the creation of a separate institutional structure to specifically deal with the atrocities, from the stage of reporting of the crime to the monitoring of investigation and conviction of the offenders.

However, caste-based atrocities continue unabated. Each year, the NCRB reports a hike in cases of atrocities against the Scheduled Castes and Scheduled Tribes. A common trend across instances of caste atrocities reveals that these crimes are often triggered by trivial and miniscule matters like touching water resources belonging to the upper caste communities, making spelling errors, complaining against the perpetrators, etc. And another commonality is a conviction of righteousness among the perpetrators arising out of cultural morality and the belief that their actions can be managed in connivance with the stakeholders of the criminal justice system.

IMPLEMENTATION OF THE LAW

The Crimes in India Report, 2021, by National Crime Record Bureau (NCRB), revealed that there has been a substantial increase in the number of atrocities across the northern belt of India, with the state of Uttar Pradesh at the top of the list with 25.82% of cases of atrocities against Scheduled Castes (SCs). The Report states that Uttar Pradesh, Rajasthan, Madhya Pradesh, Bihar, and Odisha reported 70.8% of the total number of atrocities against the SCs in 2021. Our RTI campaign to understand the ground realities in two of these states, Uttar Pradesh and Bihar, reveals a half-hearted implementation of the structures purported in the Act and lackadaisical administrative machinery. We reviewed the performance of the two states based on seven crucial measures shortlisted from the Act itself, namely identification of atrocity-prone areas, publication of annual reports, formulation of schemes for access to justice and rehabilitation, the establishment of State High Power Vigilance and Monitoring Committees, SC/ST Protection Cell, the appointment of Nodal officers, and formulating contingency plan.

Firstly, Despite the mandatory duty to release an annual report to gauge the progress in implementing the Act, the Central and State governments have been lagging behind since 2017. The annual report must be placed in Lok Sabha and Rajya Sabha for discussion and to get an estimate of the implementation of necessary provisions. The Central government has not published an annual report after 2017, which needs to be looked at in the context that the state governments do have a system in place to collect data. We had asked both states to send their parts of the annual reports submitted to the Central Government after 2017; in response Bihar has sent drafts of 2018, 2019, and 2020 and Uttar Pradesh has sent a draft of the Annual Report 2021. Further, a detailed analysis of the available annual data reveals that the states are either recklessly late in materializing the objectives of the Act or have not instituted the mechanism stipulated in the Act. For instance, the state of Bihar has identified 34 out of 38 districts as atrocity-prone areas. In contrast, UP does not recognize any of its regions as prone to atrocities against SCs and STs. However, the situation in both states is more or less similar because, as per the information available in the annual reports from the

two states, the officers duty bound to conduct surveys and review cases in the identified areas are not doing their due diligence. Hence, the states are not at all assessing the progress of the implementation of the Act.

SC/ST Protection Cells in both states are not functioning as per their mandate. The Cells have not conducted surveys in the atrocity-prone areas; no inquiries against wilful negligence of the public officers have been conducted, and no investigations have been undertaken of the probable causes leading to the high number of atrocities in the identified areas. In Uttar Pradesh, the Cell does not even review the cases registered under the Act. There is a complete dereliction of duties prescribed under the Act because the states have made an office accountable to perform certain functions; still, there is no accountability beyond writing this on paper.

Secondly, the states are duty-bound to formulate a contingency plan to execute the objective of relief and rehabilitation of the victims of atrocities. The plan is supposed to entail detailed information on the officers in charge of implementing the relief and rehabilitation schemes. Despite an upsurge in the atrocities, UP has not drafted the contingency plan and the rehabilitative schemes. On the other hand, recently, in 2020, Bihar published a draft of the contingency plan and the schemes. However, for the SCs and STs, relief and justice are still far-fetched ideas in both states. For instance, In early January 2022, the parents of a Dalit girl, raped and murdered in the Vaishali district, Bihar, by upper caste goons complained of an unwarranted slow police investigation and undue delay in providing compensation to the family. There are several such incidents where the victims are running from pillar to post to access the relief mandated under the Act.

Thirdly, the Act, followed by Central Rules, entails a robust monitoring mechanism by introducing checks and balances at every step. This also means that improper work at even a single stage can defeat the purpose of the Act. Offices such as the State Level Vigilance and Monitoring Committee and a Nodal Officer, rank similar to that of the secretary of the state, are established in Bihar to keep an eye over the functioning of the offices made accountable. In Bihar, the state government has specified these two offices to facilitate the implementation of the Act and the Central Rules. Every year the State High Power Vigilance

and Monitoring Committee meets at least once or twice to review the performance of relief and rehabilitation facilities, prosecution of cases, and functioning of all the officers' duty bound for the execution of the Act. Further, there is a Nodal Officer to coordinate the functioning between officers at different levels, such as the District Magistrate, Superintendent of Police, and all the other officers appointed and authorized under the Act to implement and provide relief and rehabilitation under the Act. However, despite specifying offices such as these, the performance of the detailed administrative structure is unsatisfactory as both states have a high rate of atrocities compared to the national average.

We have found out through our study that the failure of the implementation of the Act, 1989 and the Central Rules is very disheartening. We must look at this status report on the implementation of the Act in the backdrop of the news reports we see daily on the worsening nature of atrocities against the SCs and STs. We are not unaware of the Badaun, Hathras, and Lakhimpur Kheri cases. The governmental approach towards the increasing number of crimes against these historically wronged communities is strengthening the abominable agenda of perpetrators to seek vengeance against SCs and STs on very trivial matters. Failing government structures both at the central and state level and a massive gap in the availability of information on public forums informs us of laxity and lack of accountability of the government officers, lack of political will to build pressure on officers and losing the faith of communities in these platforms. The status of PoA implementation in different states definitely tells us that putting up strong legislation is only useful with regular follow-ups and reviews of its performance. Communities, hands in hand with social pressure groups, need to build pressure on the state and the central government to conduct public reviews of the status of implementation of the Act and Central Rules regularly.

HISTORICAL EVOLUTION

Pre -independence strategies adopted to attain social, religious and political equality

- ℵ Pre-mediaeval era- Buddhism and Jainism
- ℵ Mediaeval era- Bhakti movements
- ℵ Modern era- sanskritisation, conversation and political action
- ℵ 4th century AD- Dalit communities were outside the jati system and were organised into jatis and started functioning like jatis within the caste system.
- ℵ 16th century- Sant Kabir
- ℵ 1469-1539- Guru Nanak
- ℵ 1544-1603- Dadu Dayal
- ℵ 1690- Creation of Khalsa and Mazhabi sikhs were dalit converts.
- ℵ 16th Century- European missionaries arrive on the Malabar coast. Followed up by mass conversion of the Paravas and Mukkuvas of Kerala and pearl fishers of the fishery coast in Tamil Nadu to christianity.
- ℵ 1795- Brahmins of Benaras exempted from death penalty
- ℵ 19th and 20th Century- Malas and madigas in Andhra Pradesh; Dheds and Vankars in Gujarat; Chamars, Musahars and Paswans in Bihar; mangs and Mahars in Maharashtra; Chuhras and Lalbegis in Punjab converted to Christianity.
- ℵ 1919- Indian constitution recommended adequate and effective representation of Dalits in all legislature and government bodies.
- ℵ 1927; Mahad, Maharashtra- Burning of Manusmriti and boycott of Hindu rituals and jatras by dalits
- ℵ 1930- During 1930s and before thousands of dalits converted to Islam all over India.
- ℵ 1930-1931- First round table conference wherein Dalits were represented by Dr. Ambedkar and R. Srinivasan.

- ℵ 1931- Second round table conference wherein Gandhi was selected as the sole representative of India. In the second round table conference, he refused to recognise the separate identity of christians and dalits and he recognised that muslims and sikhs were the necessary evils.
- ℵ Communal award- separate electorates were granted to dalits, but not outside the hindu fold.
- ℵ Fast unto death of Mahatma Gandhi and caste hindus opened hundreds of temples, public wells, public squares etc. to Dalits.
- ℵ 1932- Launch of poona pact wherein dalits were provided reserved seats in provincial legislatures and 18% of those in the central legislature from the general constituency.
- ℵ Gandhi ended his fast and launched various steps to remove untouchability.
- ℵ Politics of numbers: mass conversion of dalits resulting in the surging of non-hindu religious communities in 1930s became a grave concern for the upper caste Hindu political leaders.
- ℵ Dalits opted out of even the newly adopted non-hindu religions, when these did not guarantee them the expected equality.
- ℵ 1931- Conversion of dalits from christianity to Islam in Kanyakumari, Tamil Nadu.
- ℵ 1932-1938- Dalit conferences with three national level dalit conferences and 21 regional conferences covering practically the whole of India.
- ℵ October 13, 1935- Bombay presidency depressed classes conference at Yeola. In the conference, Dr. Ambedkar told a crowd of 10,000 dalits that I had the misfortune to be born with the stigma of untouchable. But it is not my fault, but I will not die a Hindu for this is within my power.
- ℵ May 22-24, 1936- All religions conference organised by All-India Depressed Classes Association (AIDCA) at Lucknow to consult religious representatives of various religious faiths.
- ℵ 1936- Ambedkar and Moonje pact where Dalits were told that those who convert to Islam or Christianity would be disqualified to contest elections for the reserved seats.

Later, a modified pact stipulated that dalits who converted to Sikhism could retain the political concessions.

- ⌘ May 29, 1936- Son of Gandhi converted to Islam and changed his name to Abdullah Gandhi. A large number of Thiyaas, a dalit group from Kerala, converted to Islam under his leadership.
- ⌘ 1937- As per the 1935 constitution, Dalits contested the elections under the congress and other party tickets, both for the reserved seats and the general seats. Congress came into power in six states but did not deliver the promises it had made to Dalits.
- ⌘ April 9-11, 1937- Patna conference of AIDCA to consult religious representatives of many religions including the Catholic missionaries of Patna to decide on what religion the Dalits were to accept.
- ⌘ 1944- large number of dalits converted to Islam in Tirunelveli, Tamil Nadu
- ⌘ 1947- After independence, the conversion strategy for obtaining political and social equality was abandoned when certain benefits were made available to Dalits due to the affirmative actions of the government.
- ⌘ October, 1956- Dalit groups, following the lead of Dr. Ambedkar, converted to Buddhism in Nagpur. Soon, this was followed by Jatavs (Chamars) of Agra.
- ⌘ 1980- Mass conversion to Islam in Meenakshipuram taluk. 73.3% of those converted were educated and economically well off and were ready to sacrifice the government reservations.
- ⌘ 1993- conversion to Buddhism in Patna
- ⌘ 2001- conversion to buddhism in Delhi and Bodh Gaya

ACTS/STATUTES/MINISTRIES CONCERNED WITH THE SC AND ST COMMUNITIES

1. Article 14- Equality before law
2. Article 15- Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
3. Article 17- Abolition of untouchability
4. Article 23- Prohibition of traffic in human beings and forced labour
5. Article 38- State to secure a social order for the promotion of welfare of the people
6. Article 46- Promotion of educational and economic interests of scheduled castes, scheduled tribes, and other weaker sections
7. Article 244- Administration of scheduled areas and tribal areas
8. Article 244-A- Formation of an autonomous state comprising certain tribal areas in Assam and creation of local legislature or council of ministers or both therefor
9. Article 338- National Commission for scheduled castes
10. Article 338-A- National Commission for scheduled tribes
11. Article 339- Control of the union over the administration of scheduled areas and the welfare of scheduled tribes
12. Article 340- Appointment of a commission to investigate the conditions of backward classes
13. Article 341- Scheduled castes
14. Article 342- Scheduled tribes
15. Article 366 (23) & (24)- Definition of scheduled castes and scheduled tribes
16. Clause 3 of the Constitution (Scheduled Castes) Order, 1950

17. The untouchability offences act, 1955 (Art. 17)- it was enacted to abolish the practice of untouchability and social disabilities arising out of it against members of the scheduled castes. It was amended in 1977 and renamed as the Protection of Civil Rights Act. Under the revised act the practice of untouchability was made both cognizable and non-compoundable and stricter punishment was provided for the offenders.
18. The protection of civil right act, 1955 (Art. 17)
19. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Art. 17)- The offences under this act are mainly related to patterns of behaviour which shatter the self respect and self esteem of the scheduled tribes, denial of economic rights, denial of democratic honour, deliberate abuse of the legal and/or administrative process, assault and/or exploitation of woman, damage and/or destruction of property and heinous offences against person and property already covered under IPC carrying a sentence of ten years or more.
20. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995
21. Enjoyment of forest rights - Section 3(1)(g) of PoA Act
22. Minimum wages act, 1948
23. Bonded labour system (abolition) act, 1976
24. Honour killings (Acts, if we have any?)
25. National Commission for Scheduled Castes- Rule no. 16 of the PoA Rules make it mandatory to associate the director/Dy. Director of the regional office of the Commission as member of the State Level Vigilance Committee to monitor cases of atrocities on STs/SCs under the SC/ST (PoA) Act, 1989.
26. NCST - Rule no. 16 of the PoA Rules make it mandatory to associate the director/Dy. Director of the regional office of the Commission as member of the State Level Vigilance Committee to monitor cases of atrocities on STs/SCs under the SC/ST (PoA) Act, 1989.

Article 338-A Clause 5- duty to investigate and monitor all matters relating to safeguards provided to STs including atrocities committed against them.

27. Ministry of home affairs- administration of criminal justice
28. Ministry of Tribal Affairs- implementation of the Act excluding the administration of criminal justice with respect to Scheduled Tribes.
29. Scheduled Tribes Welfare Association
30. Ministry of Social Justice and Empowerment- implementation of the Act excluding the administration of criminal justice with respect to Scheduled Castes.

Popular Education and Action Centre (PEACE) is an organization represented by committed and experienced people which is endeavoring to make the process of social change stronger at local and larger levels.

In this context, the prime concern of PEACE is to enhance the awareness and knowledge of the people's groups wrestling to save their identity and democratic values, and of individuals and communities struggling for their livelihood.

For last few years, by initiating a process of dialogue between groups and peoples' organizations with a common understanding, PEACE has been trying to strengthen the process of widespread people's movements and alliances.

Other than this booklet, we had also created and published educational learning materials on the issues that have impacts on the common man's life. Given below is a short list of some important material available with us.

- ज्ञान की पूंजी पर पूंजी का शिकंजा
- पूंजी के निशाने पर पानी
- बाजारीकरण के दस साल
- नकेल कसती जा रही है
- कहीं पर निगाहें, कहीं पर निशाना : वन अधिकार अधिनियम 2006
- परमाणु ऊर्जा : सस्ती साफ बिजली या महाविनाश को बुलावा
- जिंदगी पर मंडराते परमाणु के बादल
- आर्थिक उछाल की असलियत
- भारत राष्ट्र राज्य एवं सांस्कृतिक विविधता
- पंचायती राज और जन सहभागिता : कार्यकर्ता प्रशिक्षण (मैनुअल)
- स्थानीय कार्यकर्ताओं के लिए अपील हैंडबुक
- पूर्वाग्रह मुक्त शिक्षा और अल्पसंख्यक : शिक्षकों के लिए हैंडबुक
- पेसा कानून और जन सहभागिता : गांव विकास नियोजन पर कार्यकर्ता मैनुअल
- डूंगरपुर, राजस्थान में आयोजित गांव विकास नियोजन कार्यशालाओं की रिपोर्ट
- राजस्थान के सन्दर्भ में : पेसा कानून और गांव सभा की भूमिका



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