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COVER STORY

Unwilling to act

Governments across the country have shown a remarkable reluctance to use the S.C./S.T. Act to protect Dalits from upper-caste violence.

VIVEK BENDRE



Bhaiyyalal Bhotmange. Four members of his family, including two women, were hacked to death in September 2006. In September 2008, six persons were awarded the death sentence in the case, but their appeal is pending in the Bombay High Court.

GROWING UNEASE

By Lyla Bavadam in Mumbai

ATROCITIES against the Scheduled Castes and the Scheduled Tribes registered a steady rise in Maharashtra from 890 cases in 1999 to 1,385 cases in 2007, the latest year for which government statistics are available. In 1995, the Shiv Sena-Bharatiya Janata Party alliance promised to repeal the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, if voted to power. The reasoning was that it was a hindrance to communal harmony. One of the first moves of the Sena-BJP government (1995-2000) was to withdraw more than 1,000 cases registered under the Act, saying many of them were false. This in itself was illegal since it requires the court's consent to withdraw cases. Most of the cases related to the aftermath of the violence that followed the renaming of Marathwada University as Dr Ambedkar University. Upper-caste Hindus protested violently at the time. Even now, caste tensions in the Marathwada region are the highest in the State.

Apart from the Sena-BJP's attempt to get rid of the Act, there are doubts about the commitment of the government, of whichever party, towards it. Quoting figures from the 2007 annual report of the National Crime Records Bureau (NCRB), the Asian Centre for Human Rights' publication "Torture in India 2009" states that the NCRB "reported a total of 30,031 cases – including 206 cases under the Protection of Civil Rights Act and 9,819 cases under the S.C./S.T. Act – against the S.Cs in 2007. Although the average charge-sheeting rate for the crimes against the S.Cs was 90.6 per cent, the average conviction rate was only 30.9 per cent. A total of 51,705 persons (78.9 per

cent) out of 65,554 persons arrested for crimes committed against Scheduled Castes were charge-sheeted, but only 29.4 per cent were convicted, consisting of 13,871 persons out of 47,136 persons against whom trials were completed.”

Special courts to try atrocity cases do not exist in Maharashtra. Instead, the government makes placatory gestures that do not go beyond reiterating the provisions of the S.C./S.T. Act. The most recent example was when the previous government said it would fine and curtail development funds to an entire village where a caste atrocity was committed. This provision exists in the Act. N.K. Sonare, national president of the Ambedkar Centre for Justice and Peace, India, said: “Everything is on paper. Nothing is applied. Instead there is always pressure on the people not to file complaints. The police are instructed not to file FIRs or to leave loopholes in investigation.” Sonare added that there were numerous conventions and recommendatory reports that supported victims of caste abuse, but the government was lax about following them.

If it had, then incidents such as the one that took place at Rajnai village in Beed district on August 23 could have been prevented. A 15-year-old S.C. girl was kidnapped and gangraped by three men, one of whom is believed to be a Hindu priest. She was left at a bus stand by her assailants. Her family filed an FIR but the police initially refused to register a case under the S.C./S.T. Act, though they did it later, under pressure from a non-governmental organisation (NGO). The main accused has not yet been arrested and the family is under pressure to withdraw the case. “They are landless people and depend on the upper castes for their income. This is being used to put pressure on them,” said a representative of the NGO.

If they did own some land and decide to grow something on it, they could meet the fate of Madhukar Ghatge of Kulakjai village in Satara district. When he retired from his job in the Railways in Mumbai in 2007, he only had one aim – cultivate his land in the village. One of the first things he did was to dig a well after acquiring the permission from the panchayat. It was, tragically, his last action. Ghatge’s upper-caste neighbours were enraged at his “audacity”. On April 26, 2007, he was attacked with rods and axes and he died on the way to hospital. Fourteen people were identified as the assailants and 12 were arrested and charged under sections of the Indian Penal Code (IPC) and the S.C./S.T. Act. A charge sheet was filed and they were released on bail. They are now believed to be absconding.

VIVEK BENDRE



At Khairlanji village in Maharashtra's Bhandara district, outside the house of Bhaiyyalal Bhotmange.

If Dalits raised their voice, they were silenced brutally, as a young mother (name withheld) was at Telgaon village in Solapur district in March 2006. She knew she was taking a bold step when she complained against the liquor barons in her village but had no idea that they would use her caste against her. The mother of a child was stripped, beaten, paraded and then kept on “display” for a

few hours. Her child was with her through this humiliation. After media intervention an FIR was filed under the S.C./S.T. Act, but the young woman's social, emotional and economic support systems had been destroyed. Social pressures forced her husband to abandon her. She has no land and others are unwilling to employ her. Under the Act she is eligible for rehabilitation, but the district administration refused this. Instead, she was told that she could live in a government institution for abandoned women. Her child lives in another such institution. Her case is in the sessions court at Solapur at present.

Caste hatred at its worst perhaps was witnessed at Khairlanji village in Bhandara district in September 2006 when four members of a Dalit family, the Bhotmanges, were lynched by their neighbours belonging to the Other Backward Classes (OBCs), apparently following a dispute over the ownership and use of land. The two women victims were paraded naked and were said to have been gangraped by the residents of the village. All of them were ultimately hacked to death. In September 2008, six people were given the death sentence for the crime but they went in appeal and the case is in the Bombay High Court.

The greatest criticism against the handling of the Khairlanji case was that it was handled from a purely criminal angle and without invoking the S.C./S.T. Act. The charges related to murder, outraging the modesty of women, criminal conspiracy and unlawful assembly with deadly weapons (rape charges were not brought since the post-mortem did not give proof of that). The caste hatred and atrocity angle was completely bypassed even though the Bhotmanges lost their lives because they were Dalits.

That a person's Dalit identity still overrides everything else in the villages was something Mumbai-returned Dilip Shendge, 25, forgot when he presumed that the use of the public handpump in his village, Bhutegaon in Jalna district, would be on a first-come, first-served basis, in May 2003. For this "lapse" he was murdered and his sister was accosted by a group of upper-caste Patils who taunted her about her caste. Later, she was beaten unconscious when she intervened in a fight between another brother of hers and some boys. Later that evening, the brother, sister and their mother were set on fire outside their house by a mob of Patils. Neighbours doused the flames, but it took them three hours to get the victims to hospital on a bullock cart. Dilip died a few days later of severe burns. A fact-finding team from the Committee for Protection of Democratic Rights was told at the police station that the register for the Bhutegaon case could not be found.

In July 1997, half way into the Sena-BJP government's term, one morning the mainly Dalit residents of Ramabai Nagar in north Mumbai woke up to see a garland of slippers around a bust of Dr B.R. Ambedkar. They reacted violently, stoning vehicles on the nearby highway. The State Reserve Police Force (SRPF) was called in, and within minutes of their arrival they opened fire, killing 10 Dalits. On May 2009, a fast track court in Mumbai sentenced the SRPF platoon commander, Manohar Kadam, to life imprisonment. Though he was ultimately convicted of culpable homicide (and not under the S.C./S.T. Act), the real reason for the trouble remains a mystery.

The incident brought the Dalit population together in a way that Dalit leaders failed to. Already enraged by the 1995 decision to withdraw cases filed under the S.C./S.T. Act, Dalits were further infuriated by the defence of the firing by Chief Minister Manohar Joshi of the Shiv Sena and Deputy Chief Minister Gopinath Munde of the BJP. In the 1999 Assembly elections the alliance was voted out and it is widely accepted that Dalits, who form 12 per cent of the State's population, played a significant role in this.

HOSTILE ACTS

By T.K. Rajalakshmi in Jaipur

IT is still known as "Kumher kaand" (Kumher carnage). The massacre of Jatavs in Kumher town in Rajasthan's Bharatpur district 17 years ago is something that is not forgotten easily. The incident

occurred on June 6, 1992, when 254 homes and hutments were set ablaze. Officially, 17 Jatavs were burnt alive, but independent sources put the number of dead at 30. There were cases of arson, molestation and destruction of property of Jatavs by Jats of the area. Some 600 families reportedly fled Kumher. The BJP was the ruling party in Rajasthan in 1992 and Bhairon Singh Shekhawat the Chief Minister.

P.L. Mimroth, founder of the Centre for Dalit Rights (CDR), recalls not only the incident but the struggle to make public the report of the K.S. Lodha Commission (also called the Kumher Inquiry Commission). The commission readied its report in 1996. The report, says Mimroth, was never tabled; only an Action Taken Report was submitted by the BJP government in 2006, after a lot of pressure was put through the courts, though the government claimed that it had tabled the actual report. "I asked many legislators. They denied seeing a copy of the Lodha Commission report," he said.

Mimroth added that he could not obtain a copy of the report until 2006; he got it only after filing a writ petition and a petition under the Right to Information (RTI) Act. In 1992, Mimroth was the general secretary of the Society of Depressed People for Social Justice and had deposed before the Lodha Commission. "I have three gunny bags of affidavits relating to the Kumher case," says Mimroth, who was entrusted with the task of conducting an inquiry by the National Centre for Human Rights (NCHR), an organisation based in Delhi.

Since 1992, there have been many incidents involving violence and atrocities against Dalits but none evoked the kind of revulsion "*Kumher kaand*" did. It started with a clash in a cinema hall when some Jatav youth were manhandled. Then the cinema hall was pelted with stones and rumours were spread that the modesty of upper-caste women had been outraged. The frenzy that was built up soon metamorphosed into an organised pogrom against Jatavs. Water supply to the Jatav locality was disconnected and the hutments were set afire.

In Bharatpur that day, Jats of 46 villages held a caste panchayat where aggressive speeches were made. Barring the victims and people representing them, no one else, including those representing the administration, found anything harmful in the aggressive posturing.

It is not surprising that the writ of caste and community panchayats continues to run in the face of administrative apathy and nonchalance in parts of western Uttar Pradesh, Haryana and Punjab. As a result the democratic rights of the poor, women and the socially marginalised are violated regularly. With widening economic inequalities and a section desirous of seeking the rights guaranteed under the Constitution, such clashes and tensions are likely to increase.

Most conflicts are related to land. The record of implementing land reforms is very poor in Rajasthan. There are at least 10 atrocity-prone districts but the State government has not declared a single one as such and the administrative infrastructure to deal with them under the provisions of the S.C./S.T. Act are missing. Of the 33 districts, only 17 have special courts to deal with atrocities against Dalits. "The Act provides for all these. It is a stringent and exhaustive piece of legislation provided it is implemented," said Mimroth.

CENTRE FOR DALIT RIGHTS



A Dalit woman who was assaulted twice allegedly by a contractor appointed under the NREGA at Tikel village, 60 km from Jaipur, in June.

Curiously, in 1992, the advent of the Act seemed to have a direct bearing on the events that led to the Kumher incident. Among the many submissions made to the Lodha Commission, there was one, made by the Zila Nyaya Sangharsh Samiti, claiming that following the advent of the Act, Jatavs had trumped up several false cases against upper-caste people and that Congress politicians, with a view to suppress Jats had always appointed Jatavs in key posts in Bharatpur district. It was ironic that even this did little to prevent the carnage. The Sangharsh Samiti concluded that Jatavs were not Dalits, that they were economically sound.

Another organisation to submit a statement of facts was the Bharatiya Janata Yuva Morcha, the youth wing of the BJP, which held, among other things, that in Bharatpur district, the relationship between Jatavs and Jats was very cordial and that only political parties such as the Bahujan Samaj Party (BSP) provided an impetus to the caste conflict. The Lodha Commission rubbished this assertion but averred that there had been indiscriminate use of the S.C./S.T. Act, which fractured “reciprocal relations between Jats and Jatavs at Kumher and its vicinity.”

While the Lodha Commission made broadly progressive recommendations and observations, it noted that the S.C./S.T. Act had become “the prime circumstance for deteriorated (sic) mutual harmony between Jatavs and other upper castes”. It is baffling that a piece of legislation, by its use, should lead to disharmony unless it upset the status quo to a large extent. More surprising is the fact that no government wanted the Lodha Commission report made public.

Eastern Rajasthan borders certain districts of Uttar Pradesh, which in that period had seen the rise of the BSP. Whether this acted as a catalyst is not certain, though clashes between Jatavs and Jats in these areas were reportedly common. The Lodha Commission was critical of the district administration for not carrying out preventive arrests and not issuing prohibitory orders. Instead, the Commission noted, an elaborate exercise was undertaken against Jatavs.

As in most States, the rate of registration of crimes against Dalits in Rajasthan is not very high. All ruling parties have done little to remedy this. A study conducted by the CDR in 2008 found that of the total 1,261 cases of atrocities against Dalits that year, nearly 380 related to the practice of untouchability; 149 related to violence against women; 140 involved land disputes; and 181 pertained to violence during elections.

Vasudev, State secretary of the Communist Party of India (Marxist), explained that eastern Rajasthan was particularly vulnerable to caste violence owing to the benefits of education percolating down. However, he said, the tribal people of southern Rajasthan were in a much worse state.

“Until and unless there is an organised protest, no first information report [FIRs] is registered. We need to bring land reforms centre stage,” he said, adding that the increasing economic deprivation of these sections made them more vulnerable than before. He mentioned the gangrape of a Dalit college student on August 15 at Neem Ka Thana in Sikar district. It was only after the CPI(M) and other organisations made a hue and cry the culprits, all upper-caste youth, were arrested.

The situation of S.Ts was no less different. Barring one dominant section residing in the eastern parts of the State, which benefited most from the reservation policy, the tribal people of southern Rajasthan remain more or less where they were before Independence.

Said Vasudev: “Twenty years ago, at a meeting in Dungarpur, I asked a group of Bhils what their concept of heaven was. An old lady, Mangi Bai, said heaven for her meant a bowl of sweet *laapi* [wheat porridge], a *guthdi* [a cover made from old clothes] and a *jhompi* [hut]. They dream of the same things even today.”

A State secretariat member of the CPI(M), Dhuli Chand Meena, who is associated with the Kisan Sabha in southern Rajasthan, said the atrocities against the tribal people were mainly land-related. In those parts, where the remnants of feudalism still persisted along with mixed populations, discrimination existed in the form of denying the tribal people the right to sit on cots or in chairs or even wear proper clothes, he said.

“Whenever cases are registered, they are not followed up and cognisable offences are not registered. The conviction rates for atrocities committed against the tribal people are very low. In fact, what can be said for the S.Cs can be safely extended to the S.Ts as well, the only difference being that all the human development indicators of the S.Ts in southern Rajasthan are very poor when compared with even the rest of the State,” Dhuli Chand Meena said.

If anything, the Act, along with other laws such as the Forest Rights Act, needs to be implemented rigorously. For a social reform measure to succeed one of the basic prerequisites is political will, which seems to be lacking.

CONSTANT VIGIL

*By Venkitesh Ramakrishnan
in Bathani Tola and Patna*

“THE senas [militia] are not very active and there have been no big attacks or mass killings. But life is still the same. We are here and they are there, in different parts of the village, with not much communication or contact. And, of course, there is the fear that something may break out unexpectedly. We need to keep vigil all the time.” This was how Lal Chand Chaudhary, 55, described the present situation at Bathani Tola in Bihar’s Bhojpur district.

Thirteen years ago, on July 11, 1996, he, a Dalit, lost his wife, Sancharu Devi, and one-and-a-half-year-old girl child, Baby Sugandhi, when members of the Ranveer Sena, the self-professed militia of the upper-caste Bhumihar community, launched a ferocious attack on the hamlet. Among the 22 people killed were 12 women and eight children. Lal Chand got a compensation of Rs.1 lakh from the government and help to set up a telephone booth, but that did not change social equations. As he says, his community of Dalits and a clutch of Muslims occupy the Tola and the Bhumihars stay a little distance away in the main part called Barki Kharaon.

Lal Chand and many others, including his neighbour Phaguni Chaudhary, whose mother and brother were killed that day, made bold to stay on in Bathani Tola and show that they would not succumb to terror. But not so Naimuddeen, the bangle seller who lost six members of his family in the attack; he moved to Ara, the district headquarters of Bhojpur. He, too, got a compensation for the lives lost and the job of a peon in a government office in Ara.



Lal Chand Chaudhary (sitting) lost his wife and infant daughter in the massacre of Dalits by the Ranveer Sena at Bathani Tola village in Bihar's Bhojpur district in 1996. Twenty-two Dalits were killed in the attack. While many Dalits fled the village, Chaudhary stayed back and now runs a telephone booth at his house along with his son.

Talking to *Frontline*, Naimuddeen said that though he has a job the governments that came to power since 1996 are yet to fulfil the promises and assurances they gave. “As I lost six of my kin, the then government offered jobs to two survivors in the family. But the promise made to my son is yet to be kept despite our submitting innumerable applications to successive governments over the past decade,” he says.

Naimuddeen adds that the administration has failed to address the security concerns of the family. “As a family that got ravaged in a gruesome caste attack, I had asked for a gun licence to protect myself, but that has been denied systematically. There is the propaganda that the Ranveer Sena is a dead organisation, but that is entirely untrue,” he says. “They are regrouping under a new leadership and have stepped up their activities in many places, including Bhojpur district. The only succour we have is from the Communist Party of India (Marxist-Leninist-Liberation) led by leaders like Dipankar Bhattacharjee.”

The CPI (ML) has been active in the village since the early 1970s and has been winning panchayat elections in and around Bathani Tola since 1978. According to a number of Dalits and Muslims, this political affiliation does help in keeping the balance of power in the village. Still, there are stray attacks and skirmishes. Last year, two young men of the Tola, Dhanesh Kanu and his friend Tarakeshwar Yadav, were killed in the Barki Kharaon area. Kanu, a plus-two student, had gone for a function in his school and had taken a short-cut close to Barki Kharaon. He and Tarakeshwar Yadav were done to death in that part of the village. Kanu’s aunt Kunti Devi said her nephew was killed by members of the upper-caste militia in a clear instance of caste killing. However, the local police and the administration treated this as a case of personal vendetta.

According to activists of the National Campaign on Dalit Human Rights (NCDHR), such official apathy is nothing new and is not confined to places like Bathani Tola. They point out that the families of the 10 Dalit victims belonging to the Nat community, who were lynched by upper-caste people on September 13, 2007, in Dhelpruva village in Vaishali district, were also given similar treatment by the administration. However, political mobilisation by different Dalit organisations, including the Ram Vilas Paswan-led Lok Janshakti Party (LJP), the CPI(ML) and the NCDHR, has strengthened the resolve of Dalit communities in many parts of the State to fight for their rights.

Lakshmanpur-Bathe, where 58 Dalits, including women and children, were killed on December 1, 1997, by Ranveer Sena activists, is cited as a case in point by many observers. Dalits of the village have reportedly become more organised after the incident and demand their rights in a collective and effective manner.

This has curtailed the strike power of many upper-caste militias. For 25 years, starting from the mid-1970s, Bihar had a large number of active upper-caste militia groups, making the State synonymous with atrocities against the S.C. Over 80 armed attacks took place against Dalits and other oppressed sections during this period and claimed more than 300 lives. Such rampant attacks have come down in the past five years.

However, as the people of Bathani Tola, including Lal Chand Chaudhary, noted, this by itself has not brought about dramatic changes in the social equations or in the discrimination against Dalits. A fear that things can take a turn for the worse rules large sections of the Dalit population in Bihar even today and the community exists in a state of eternal vigil.

LITTLE IMPACT

By S. Dorairaj in Chennai

IF the Kizhavanmani carnage of Dalits in 1968 in the then composite Thanjavur district is an indelible blot on the history of Tamil Nadu, there followed many more such crimes, each more heinous than the previous one. The Melavalavu multiple murders, the Tamiraparani massacre, the Kodyankulam violence, the Nalumoolaikinaru atrocities, the Thinniyam humiliation and the murder of democracy in Pappapatti and three other reserved village panchayats where elections were scuttled for 10 years were the worst among them. The enactment of the S.C./S.T. Act in 1989 and the notification of its Rules in 1995 made no difference to this horrible situation.

According to the State Crime Records Bureau, from 2003 to 2008 a total of 8,209 crimes against Dalits were reported, including 5,047 cases under the S.C./S.T. Act and 3,162 under the IPC. The average conviction rate in both categories was only 24.26 per cent. But Evidence, a Madurai-based NGO, has put the average conviction rate in the cases registered under the S.C./S.T. Act alone at 5 per cent to 7 per cent.

Progressive and secular forces by their concerted efforts have recorded resounding successes in the legal battle against casteist forces in a few cases. In the Melavalavu (Madurai district) case, relating to the gruesome killing of the local panchayat president K. Murugesan and five other Dalits on June 30, 1997, the Supreme Court upheld the life sentence awarded to 17 persons in its order on October 22, 2009.

Uthapuram in Madurai district is another success story where a part of the “wall of untouchability” put up by casteist forces was demolished and the victims of police excesses were paid a total compensation of Rs.15 lakh on the recommendation of the inquiry commission appointed by the Madras High Court in January last. The Dalits’ struggle to end caste oppression in the village had the complete backing of the Tamil Nadu Untouchability Eradication Front (TNUEF), the CPI(M) and the All India Democratic Women’s Association (AIDWA).

Much ahead of these two cases, the apex court gave a landmark judgment in a case relating to police excesses in Nalumoolaikinaru in Tuticorin district in 1992, holding 82 police personnel, including a Deputy Inspector General of Police and the Superintendent of Police, guilty. The court also ordered disbursement of compensation, totalling Rs.23 lakh, to the victims, who were represented by AIDWA.

In several other cases, the perpetrators of violence went scot-free. Notable among these is the Kodyankulam violence of August 31, 1995, in which the police let loose terror in a Dalit habitation, and the Tamiraparani massacre of July 23, 1999, which claimed 17 lives when the

police launched a brutal attack on a rally of estate workers in Tirunelveli town even as they ran towards the river in a bid to escape.

In the Thinniyam torment of May 22, 2002, the accused got away with a mild punishment though they had committed the grave crime of forcing two Dalits to eat each other's excreta. The issue was brought to the notice of the National Human Rights Commission (NHRC) and the National S.C.-S.T. Commission by the Tamil Nadu People's Watch.

One reason why only a small number of cases are registered is that Dalits do not file complaints against the dominant communities fearing reprisal, as they depend mostly on the landholders for their livelihood. The time-consuming nature of litigation also forces them to keep away from police stations, says P. Sampath, TNUEF convener. "Even if they lodge a complaint under the S.C./S.T. Act, the police ask the caste Hindus to lodge a counter complaint so that a criminal case is filed against the Dalits, too. The negligible conviction rate in cases under the S.C./S.T. Act also demoralises the oppressed sections," he adds.

Senior advocate P. Rathinam, who has fought many cases of atrocities against Dalits, says that most of the crimes against the oppressed sections are not registered under the S.C./S.T. Act. "Even when they are registered, the first information report is diluted deliberately. In certain cases, due compensation, as per an order issued by the State government in 1998, is not disbursed to the victims," he alleges.

A. Kathir, director of Evidence, has urged the State government to conduct a detailed review of the implementation of the various aspects of the S.C./S.T. Act, such as the registering of cases and the preparation of charge sheets. Of a total of 6.68 lakh cases of cognisable crimes reported in 2008, only 0.24 per cent were under the S.C./S.T. Act.

The special courts set up by the government for quick disposal of cases relating to atrocities against Dalits need better infrastructure to achieve their objective, he says. "A detailed survey on the atrocity-prone villages is the need of the hour," he added.

As per official data, discriminatory practices against Dalits exist in 28 districts in the State, which has been ruled by the two major Dravidian parties – Dravida Munnetra Kazhagam (DMK) and the All India Anna Dravida Munnetra Kazhagam (AIADMK) – since 1967.

Policy note

The government's policy note on the Adi Dravidar and Tribal Welfare Department for 2009-2010 refers to the "effective implementation" of the Protection of Civil Rights Act, 1955, and the S.C./S.T. Act to abolish untouchability and to prevent atrocities against Dalits. It speaks about the role of the human rights and social justice wing of the State police in enforcing the provisions of the two Acts and of the four special sessions courts functioning in Tiruchi, Thanjavur, Madurai and Tirunelveli for the speedy disposal of cases.

R.M. RAJARATHINAM



One of the Dalit victims of an atrocity in 2002 at Thinniyam village in TamilNadu's Tiruchi district during an inquiry by the then District Collector K.Manivasan. He and another Dalit were forced to eat each other's excreta.

However, the government's efforts to create awareness against untouchability have had very little impact going by Minister for Adi Dravidar Welfare A. Tamilarasi's own admission in the policy note, which was tabled in the Assembly on July 3. In it she says the message of the "mass awareness campaign and the social justice tea parties" launched by the government has reached only six lakh people so far. Cosmetic measures will do nothing to bring about any significant change in the prevailing scenario, says P. Sampath. Several other activists who have been working for the welfare of Dalits in a focussed manner also feel that radical socio-economic programmes have to be implemented for the empowerment of Dalits and to end disparities in terms of productive resources such as land, finance, education and employment, besides taking stringent measures against the perpetrators of atrocities against them.

This becomes particularly important in a State where Dalits are numerically a significant section. As per the 2001 Census, Dalits form 19 per cent and the S.Ts 1.04 per cent, of the total population of 6.24 crore. Of the 385 blocks in the State, 153 have more than 25 per cent Dalit population and around 3,550 villages have more than 40 per cent Dalit population. S.Cs and S.Ts constitute more than 20 per cent of the population in six of the 30 districts (as of 2008). Among them, in Tiruvarur they form 32.35 per cent, Nilgris 31.23 per cent, Perambalur 30.21 per cent, Cuddalore 27.76 per cent and Villupuram 27.39 per cent.

Official data for 2008 indicate that curbing atrocities against the oppressed sections is a formidable task. There are 186 villages classified as "atrocities prone" and 230 that are "dormant atrocity prone". Among them, 166 villages have been described as "highly sensitive".

Various social indicators make it amply clear that the State has a poor record of empowerment of Dalits. According to official sources, 31.2 per cent of the Dalit population in rural areas and 40.2 per cent in urban areas are among the below-poverty-line social groups. Official documents also point out that the literacy level of Dalits is much lower than the general literacy rate. According to the 2001 Census, as against the State's general literacy rate of 76.2 per cent, only 63.2 per cent of Dalits and 41.5 per cent of members of the S.Ts are literate. The lack of political will for radical land reforms and redistribution of surplus land to landless Dalits has contributed to conflicts in the rural areas. Even official sources point out that though 83.08 lakh Dalits live in villages, only 10 per cent of them are cultivators. Around 90 per cent of these cultivators have less than one hectare of land. As per the 2001 Census, 58.5 per cent of Dalits are agricultural workers and 29 per cent fall in the "other workers" category.

Chief Minister M. Karunanidhi's statement on November 11 that surplus land has been distributed to 61,985 landless Dalits under the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970, only shows the yawning gap between the Dalits' quest for land and the government's response, a veteran leader of the All India Kisan Sabha points out.

Demanding a holistic approach to the issue, the TNUEF, an umbrella organisation of 45 State-level class and mass outfits and 15 Dalit and human rights associations, took out a rally in Chennai on October 27. Besides calling for the strict implementation of the S.C./S.T. Act and the Protection of Civil Rights Act, 1955, it called for steps to redeem the 2.5 lakh acres (one lakh hectares) of "panchami" lands grabbed from Dalits. Setting up of a State Commission for S.C.-S.T. welfare; the formation of district-level panels with due representation to Dalit organisations and secular forces to monitor the implementation of these two Acts; and the raising of the percentage of reservation for S.Cs to 19, commensurate with their population, are among the other demands of the front.

COURTS NEEDED

By Vikhar Ahmed Sayeed in Bangalore

ON August 2, 1987, in Bendigere village of Belgaum district in northern Karnataka, four S.C. youth were forced to eat human excreta by caste Hindus who accused them of stealing maize. According to excerpts from a report of the Karnataka Legislature Committee for the Welfare of Scheduled Castes and Scheduled Tribes for the year 1987-88, the upper-caste men abused the Dalit youth using their caste name and threatened them: "You bloody fellows, go and bring human shit and eat it, otherwise you will have to face severe consequences."

Several days went by before this gross act was even reported, but the incident (along with other such instances across the country) was responsible for the inclusion of Section 3(1)(i) in the S.C./S.T. Act. However, the Act has not led to any significant reduction in atrocities reported against Dalits in the State.

According to the 2001 Census, the S.Cs constituted slightly over 16 per cent of the State's population and the S.Ts around 6.5 per cent. According to National Crime Records Bureau (NCRB) statistics for 2007, there were 205 incidents of crime against members of the S.Cs and 1,844 incidents against members of the S.Ts. This is partly because Dalits, more than Adivasis, have fixed roles in the political economy of a populated area.

According to the Directorate of Civil Rights Enforcement, a State-level body that looks into complaints regarding atrocities against members of the S.Cs and the S.Ts, the number of convictions under the Act is insignificant. The majority of the cases are either pending trial or are classified as "B reports" (meaning that the complaint itself has been proved wrong or false).

According to the NCRB's statistics, Karnataka ranks sixth in the country in the number of crimes against S.Cs and eighth in crimes against S.Ts. (By population, Karnataka ranks ninth in the country.)

According to S. Japhet, Director of the Centre for the Study of Social Exclusion and Inclusive Policy at the National Law School of India University, part of the reason why the Act has failed to deter atrocities against Dalits is that Karnataka has some of the lowest conviction rates for complaints made under it. Japhet was the coordinator for a research that led to a report in 2005 evaluating the performance of special courts that were set up for dealing with cases of atrocities under the S.C./S.T. Act.

According to Japhet, this is one of the most serious drawbacks in the implementation of the Act. "In the majority of districts in the country, there are no special courts as mandated by the provisions of this Act," he said. Between 1997 and 2000, only four districts in Karnataka had the special courts compared with 12 in Andhra Pradesh, 10 in Gujarat, 35 in Madhya Pradesh, 17 in

Rajasthan and 40 in Uttar Pradesh.

According to K.L. Chandrashekhara Aijoor, research assistant at the same centre where Japhet works, the number of special courts in Karnataka has only gone up to seven now, but considering that every district is supposed to have a special court, Karnataka should have 29 such courts. (These are usually sessions courts that are briefly designated as special courts to deal with cases under the Act.)

FAILURE OF THE ACT

One of the most glaring examples of the failure of the Act in Karnataka was the acquittal of all the accused in the March 2000 massacre of seven Dalits at Kambalapalli village in Kolar district, around 80 kilometres from Bangalore. The massacre took place after a skirmish between Vokkaligas and Dalits. The gruesome killings were the result of a cumulative build-up of tension between the Vokkaliga and the increasingly aware Dalit communities in the region.

The immediate provocation was an altercation between two Dalit youth and a Reddy (Vokkaliga) man over the use of a certain stretch of road. Following this a mob of Vokkaligas attacked a group of Dalits who had returned after filing a police complaint. The houses of a Dalit and his neighbour were burnt. Among the seven Dalits who died were a woman and her two sons and daughter.

According to media reports, the witnesses turned hostile when the case came up for hearing in the local court. All the accused were acquitted. The matter is waiting to be heard in the Karnataka High Court.

Such prolonged delay demonstrates that the twofold purpose of the Act – to prevent atrocities and to provide compensation and rehabilitation to victims after a speedy trial – has not been fulfilled.

More than 25 per cent of the population in Kolar is Dalit and the district has a history of caste violence. In the decades before the massacre, there was resentment over the establishment of a Dalit Sangharsh Samiti (DSS) chapter in the district. Part of the discord between upper and lower castes stems from the seemingly upward mobility of Dalits.

Karnataka has an active Dalit movement, which started in the 1970s. As its effects began to filter down, the consciousness among Dalits about their constitutional rights increased. This has led to a change in their attitude towards caste. The upper castes have resented this change. Even trivial things like the way a Dalit dressed annoyed upper-caste members. In Kambalapalli, for example, one of the victims used to tuck in his shirt.

A report on the Kambalapalli carnage published by the People's Democratic Forum in April 2000 said: "The tucked-in shirt is like a red rag for caste Hindus, for it symbolised the growing arrogance of Dalits and their modernisation."

While the conscious identity of Dalits has led to resentment from the upper castes in rural areas, even urban areas like Bangalore are not immune to caste discrimination. "Over the past two years, two Dalit students committed suicide in Bangalore – one was a student of the Indian Institute of Science, while the other was a student of the University of Agricultural Sciences. The prejudiced mindset of caste-Hindu society led to creating a situation where these students committed suicide," said Lolaksha, a social activist who follows closely the instances of discrimination against Dalits in the State.

MANY HURDLES

By Aparna Alluri in Hyderabad

LALITHA (name changed on request), 25, is awaiting her court summons. A member of the women's wing of the Madiga Reservation Porata Samithi (MRPS), she was active in her local

community until she became a victim herself.

As part of community initiatives, she often visited the local police station. When a new circle inspector was appointed in March 2008, she had a minor altercation with him. She says his immediate response was, “You are a Madiga and you are wearing sunglasses, driving a bike and walking around so confidently. Who do you think you are?”

“For nearly eight months, every time I met him, he repeated the same thing. He abused me by my caste name several times.” The verbal taunts soon escalated to sexual overtures. When she questioned him about complaints she had received against him, things became worse. “In November, I was arrested and detained for one night. He threatened me, shoved me against a wall and warned me against confronting him again. I was shifted to the women’s police station only at 1-30 a.m.,” she says.

Her case is pending with the State Human Rights Commission. She is yet to file an FIR against the officer for fear of further harassment. “I don’t know what else to do,” she says. “He expects me to cower in fear, but why should I?” she says. “I am educated, I know right from wrong and I know my rights. In what way am I lesser than he?”

Lalitha’s case is more the rule than the exception. Counter-cases have become an easy recourse to delaying and eventually denying justice to historically disadvantaged groups. “For every case filed by a Dalit there is a counter case against him/her by the accused,” says M. Chalapathi, High Court advocate and Dalit rights coordinator, Human Rights Law Network (HRLN).

“The police register the second complaint and arrest the Dalit victim, compelling him/her to withdraw the case. Or, they keep both cases pending and use the case as ammunition when the victim pressures them to act,” says Bojja Tarakam, eminent lawyer and Dalit rights activist.

This remains the situation, even after 12 of the State’s 23 districts have been identified as atrocity-prone by the government. Attack is the most common form of atrocity, accounting for 27 per cent of the crimes.

Of the State’s population of 7,62,10,007 (2004-05), the S.Cs constitute 1,23,39,496 and the S.Ts 50,24,104. Dalits belong mainly to two castes – Mala and Madiga – and are agricultural labourers. The land-owning, politically dominant groups are Reddys, Kammas, Rajus and Kapus. This social and economic polarisation has had significant political implications. The 1980s marked the advent of the Telugu Desam Party (TDP) and the rise of the Dalit movement. N.T. Rama Rao’s rise to power is often seen as the political ascendancy of coastal Andhra’s rich Kamma farmers. The atrocities against Dalits in Karamchedu (1985), Neerukonda (1987) and Chundur (1991) were seen as manifestations of a conflict caused by the shift in political power at the top and the rising consciousness below.

More than two decades later, the State’s record in checking atrocities against Dalits remains poor. According to figures with the Department of Social Welfare, 4,157 cases were registered in 2008 under the S.C./S.T. Act. Of these, 1,783 cases were closed as false and 1,004 are pending completion of investigation. For the same period, out of 3,661 cases brought to court, only 128 resulted in convictions. Interestingly, only in eight cases appeals were filed on the acquittals.

As for visits by the Vigilance and Monitoring Committees prescribed under the Act, only 45 visits were recorded for 19 districts in 2008. Information was cited as unavailable for the remaining four districts.

Currently, there is a writ petition pending in the Andhra Pradesh High Court demanding the effective implementation of the S.C./S.T. Act, 1989, and Rules 1995.

The counter-affidavits filed by the police in response to the petition speak for themselves. Police

records in the period from 1995 to 2006 show that 21,000 cases were registered under the Act. Of these, more than 14,000 are pending without a charge sheet being filed, even though the Act stipulates that investigation must be completed within 30 days of the FIR being filed. "This is a clear violation of Section 4 of the Act, which deals with dereliction of duty," says Chalapathi.

The petition demands that criminal proceedings be initiated against those police officers who fail to discharge their duties as prescribed under the Act. "The Act insists on special courts and special public prosecutors to enable speedy trial. But cases have been pending for nearly 10 years in the investigation stage itself," says Bojja Tarakam. "Yet not a single police officer has been prosecuted for negligence."

He says one reason for such high pendency is the many attempts to quash cases by claiming that they are false. "When the High Court receives such a petition, it stays all further proceedings, including investigation, though the Supreme Court has directed the High Court not to interfere in investigations."

However, the reasons for delay cited in the counter-affidavits are far more incredulous. The reasons include "for want of accused", "for want of examination of witness", "no post-mortem report", "no FSL [forensic science laboratory] certificate", even for cases pending since 1995. Even VIP duty is submitted as a reason for numerous investigations pending since 1996.

"Whose fault is that?" asks Chalapathi. "Is this not negligence of duty?"

The delay itself seems to have become the reason in many instances. "Case Diary not available and as such unable to furnish the exact reason for delay," or "as the case was registered in 1998, reasons not known to present Investigating Officer," reads one entry in the register. "Close to 105 reasons have been furnished and not one is legally substantial," says Chalapathi.

"I have personally told police officers that they may be technically right in closing certain cases, but the matter doesn't end there. If witnesses turn hostile, they need to ask why that has happened," says A. Vidyasagar, former Commissioner of Social Welfare. He agrees that special courts do exist, but says "the progress they have made seems to suggest that cases under the S.C./S.T. Act are only one of the things they address rather than their priority". He says a review at the Chief Minister's level in 2008 led to a suggestion that a Deputy Superintendent of Police (DSP) must be made to supervise the inquiries in every district. "The idea was accepted," he says. "The only solution is continuous review."

Trial is a far cry for many because registering a case is often a struggle by itself. Getting a case registered under the S.C./S.T. Act is a bigger hurdle. Whether the accused abused the victim by his caste name is often seen as the grounds for registering cases under the Act. However, the Act only stipulates that the victim must belong to the S.C./S.T. community and the accused to another community. If the victim or his/her family has a Christian name, or is known to go to church, they are told they cannot register the case under the Act. "This is sufficient to file a petition quashing the case as false. The court gives the victims 15 days to file an objection, failing which the case is closed. Given that most of these people are poor and uneducated, they may not respond in time," says Chalapathi.

Curiously, caste certificates are often demanded not just to register a case but also for the investigation to proceed. In numerous cases, this was cited as the reason for the delay in the investigation.

The hurdles are many and victories have been few and far between. Even as hundreds wait for justice, police records and trials only present a part of the picture. "Untouchability is still rampant. Dalits are still not treated as humans. Where is the question of human rights?" asks Chalapathi.

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