

**Study on performance of Special courts set up
under the SC ST Prevention of Atrocity Act**

By:

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ACKNOWLEDGEMENTS

We deeply appreciate and acknowledge the co-operation, support and hard work, of all those who have assisted in carrying out this study to its successful completion.

To start this work the permission from the Six State Governments to access records of both the Designated and Exclusive Special Courts was of paramount importance and without which we could not have progressed. We acknowledge all the government employees who have helped us in accessing the court records. In Karnataka especially we thank Director of Public Prosecution without whose help it would have been impossible to get all the required data for our study.

We are deeply indebted to the following individuals who worked with us to undertake the required research work in all the six States:

Mr.T.Kannan has formed the research design and accordingly coordinated the research work in the 6 States of India. He has also analyzed the data and wrote a chapter on it.

Tamil Nadu research was coordinated by Mr. P. Ramesh with whom Mr. Pandi Rajan (Advocate) and Mr.Ganesan(Advocate) worked as Field Investigator

Andhra Pradesh research was coordinated by Anveshi – NGO with whom Ms.Snehalatha and Mr.Venkat worked as Field Investigators.

Karnataka research was coordinated by Kannan with whom Mrs.Jaya Bharati and Ms.Surekha Jain worked as Field Investigators.

In north India, that is Madhya Pradesh, Uttar Pradesh and Gujarat was coordinated by Ms.Nupur Sinha and Damini Patel from Center for Social Justice, Gujarat.

The analysis of the huge data collected from all the six states was analysed by Ms.Binitha, using Statistical Package for Social Science (SPSS) programme due to which the explanation on the research result could be simplified and could be presented neatly.

Finally we acknowledge the efforts of Ms.Roopa and Ms.Sumitra Acharya who worked day and night to give a final shape to the report to present it to the ministry.

We are grateful to the all the coordinators and Field Investigators who carried out this study in the various States across the country inspite of lot of problems they faced in accessing the court records. It was for their patience and hardwork we could get hold of some court data without which the report would not have seen the light of the day.

We are grateful to Mrs.Sumitha who has translated the cases in Gujarati to English for our understanding.

We record our gratitude to our L.L.B Students Rashmi (III year), Geethanjali (III Year), Pooja (III Year), Nayya (III Year), Anubhav (III Year), Vipul (III Year), Suchetha (III Year), Simran and Pranesh of the National Law School of India, University, Bangalore, who despite the pressures of their academic work assisted in innumerable ways in completing this study.

Finally, we appreciate the assistance of Sandhya, in tirelessly entering the data, typing up the report and responding to the many demands of the researchers, promptly and efficiently.

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EXECUTIVE SUMMARY

The Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act, 1989 was enacted to respond to the increasing atrocities against the Scheduled Castes and Scheduled Tribes under the Act, provision has been made for setting up of special courts to ensure speedy disposal of cases. Despite this special provision, atrocities continue to be on the rise. This report seeks to critically examine the functioning of the special courts and also seeks to analyse the reasons and causes for increasing atrocities.

Data has been collected from special courts in six states: Andhra Pradesh, Karnataka, Uttar Pradesh, Madhya Pradesh, Gujarat and Tamil Nadu. Questionnaires were administered to various stake holders such as judges, prosecutors, witnesses, court staff, police, victims and the accused.

PART I

CHAPTER I

INTRODUCTION

Independent India, even after fifty seven years, is plagued by widespread discrimination against the Scheduled Castes and Scheduled Tribes. Despite the Constitutional guarantees seeking to protect and promote the interest of these groups, atrocities against them continue to be on the rise, due to various historical, social, political and economic reasons.

To redress the situation, the Legislature, in its wisdom, has enacted various legislations-both preventive and punitive-in an attempt to strike at the root of the problem. The political will notwithstanding, the ground realities and the various stakeholders determine the success or otherwise, of a social legislation such as the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as SCs & STs (POA) Act, 1989).

Any review of the enactment, therefore must take into account the voices of the various stakeholders and also the overall socio-economic and political situation within which they operate. Taking note of such a need, the Government has undertaken the task of evaluating the functioning of the Act.

Problem:

Responding to the need for a legislation to prevent and punish the occurrence of atrocities against the Scheduled Castes and the Scheduled Tribes, the government enacted the Protection of Civil Rights Act, 1955 and subsequently the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Despite these special enactments being in existence for

more than a decade, the cases filed under the Act are on the rise. The National Commission for Scheduled Castes and Scheduled Tribes reported a total of 30,022 cases of atrocities (under the SCs/STs (POA) Act, 1989) in 2001, in the country. It must be noted here that these are figures relating only to the reported cases and there are several cases which are either under reported or unreported. It is imperative to examine why the vision of deterrence and prevention envisaged by the Act, have not been realised.

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (No 33 of 1989) came into force from 30-1-1990. The Act is a special legislation seeking to impose strict punishment for crimes committed against SCs/STs, redressed through Special Courts set up for the purpose thus ensuring speedy disposal of cases. While the larger vision under the enactment is creative and progressive, several studies have indicated that administrative problems, financial bottlenecks and a lack of sensitivity on the part of the police and the judiciary hamper the realization of objectives of the enactment. **Thus, the enactment has several areas that need further review but this research is limited to examining the functioning of the Special Courts set up under the Act. More particularly, the study compares the working of the Designated Special Courts with that of the Exclusive Special Courts; examines the percentage of disposal of cases in terms of convictions and acquittals; and evaluates the main causes and reasons for the increasing crimes on SCs and STs.**

Scope of the study:

By commissioning the research project to the Centre for the Study of Casteism, Communalism and Law (CSCCL) of the National Law School of India University (NLSIU), to study the working of the Special Courts which were set up under the provisions of SCs and STs (Prevention of Atrocities) Act 1989, the Ministry of Social Justice and Empowerment, Government of India,

has shown its commitment to understand the causes for the inordinate delay in adjudicating the atrocity cases under the SCs & STs (POA) Act, 1989, brought before the Special Courts and reasons behind the high rate of acquittal orders passed by the Special Courts in atrocity cases registered under the SCs & STs (POA) Act, 1989. The study of the working of the Special Courts is probably the first of its kind that the Government of India has initiated. The scope of the study was limited to six states.

The following chart gives the statistics of reported cases in six States for 1997-2000.

Table 1: Cases registered in Special Courts from 1997 -2000

State	No.of Exclusive Special Courts	No.of registered cases in 1997	No.of registered cases in 1998	No.of registered cases in 1999	No.of registered cases in 2000
Andhra Pradesh	12	698	540	721	2,711
Gujarat	10	2,122	2,138	1,846	1,699
Karnataka	4	1,192	1,279	1,239	1,254
Madhya Pradesh	35	4,292	4,138	3,990	4,122
Rajasthan	17	6,994	6,858	6,838	6,679
Tamil Nadu	4	757	897	1,011	996
Uttar Pradesh	40	9,236	7,095	6,917	8,462
		29,920	27,561	26,285	30,315

(Source: Ministry of Social Justice and Empowerment)

Terms of reference

The terms of reference from the Ministry of Social Justice and Empowerment, Government of India, states the following:

- 1) Main causes/reasons for increasing crimes on SCs and STs, and
- 2) Disposal of cases by Designated Special Courts in comparison to the cases disposed off by the Exclusive Special Courts along with percentage of convictions/acquittals.

In continuation of this, the Ministry had emphasized that the study should focus mainly on –

- 1) The average time taken by the Exclusive Special Courts and other Designated Courts to finalize the cases under special laws; whether designated courts give priority to atrocities cases; whether any directions are issued by respective High Courts to the Subordinated Courts to quicken up the trial process and speed up judgment.
- 2) After establishment of Exclusive Special Courts in some states, was any change noticed with regard to quick finalization of cases?
- 3) How many hearings are generally held to dispose off cases booked under the special laws with comparison between Exclusive Special Courts and the Courts designated as Special Courts.

From the above mentioned terms of reference, it becomes very clear that the concern of the Government in studying the working of Special Courts is focussed on the question of timeliness, particularly with regard to the problem of delay in the criminal justice system. The significance of Special Courts is not only to place a special court system to deal with the sensitive issue of

atrocities against SCs/STs but also to promote speedy disposal of cases. Before the establishment of Exclusive Special Courts, some of Session Courts were designated as Special Courts, later to deal with increasing cases of atrocities in some States, Exclusive Special Courts were constituted. There are both Exclusive and Designated Courts in some States but some States have only designated courts which take up cases of atrocities. In the States where the incidents of atrocities are high, for example Tamil Nadu and Andhra Pradesh, both Exclusive and Special Courts function.

Despite the new court systems introduced to deal with SCs/STs atrocity cases, delay in disposal of cases remains one of the major problems. There are many reasons for this concern about delay in the criminal justice system. Delay influences the effectiveness of the system and especially the effectiveness of the punishment by postponing the sanction imposed on the guilty. Further, it undermines the reliability and credibility of the system. Delay dilutes the strength of prosecution, as the victims and witnesses burdened by the duration of the proceedings and /or the necessity of repeated court appearances, lose interest, refuse to cooperate, or are no longer capable of contributing to the evidence because of the time lapse between the occurrence of the offence and the court hearing. Delay might also adversely affect the motivation of the members of the penal system. The longer the proceedings run, the lower their motivation in clearing a case. Further, delay increases the (financial) costs of the procedure for both the State and the defendant. Therefore, the present study has decided not only to look at the over all performance of these courts but also to study the causes for delay in the criminal justice system particularly the courts and the judiciary, and the impact of establishment of the Exclusive Special Courts on the finalization of cases of atrocities. The research questions will elucidate the focus of this research on the implementation of the Act.

Research Questions:

1. What is the average time taken by Exclusive Special Courts and other Designated Special Courts to finalize cases under SCs & STs (POA) Act, 1989.
 - 2 Whether Designated Courts give priority to atrocity cases; whether directions are issued by the respective High Courts to the subordinate courts to quicken up the trial process and speed up judgment?
- 1 After establishment of Exclusive Special Courts in some states, was any change noticed with regard to quick finalization of cases?
- 2 How many hearings are generally held to dispose of cases booked under the between Exclusive Special Courts and Designated Special Courts?
- 3 What is the percentage of convictions/acquittals under the SCs & STs (POA) Act, 1989 between Exclusive Special Courts and Designated Special Courts?

Research Propositions:

In order to address these central research concerns, the present study has formulated the following propositions for data collection and analysis to throw new light on the real problems in the functioning of the new court system in India vis-à-vis cases of atrocities against the SCs and STs.

i. Some atrocity cases have taken longer time to decide than others.

- a) The atrocity cases that have more number of witnesses have taken longer than others.
- b) The atrocity cases that have economically poor witnesses have taken longer than others.
- c) The atrocity cases registered under Section 3(2) have taken longer than cases registered under Section 3(1) of the SCs & STs POA Act, 1989.
- d) The atrocity cases that have ended in conviction have taken longer than the cases ending in acquittal.

ii Some cases registered under specific sections have ended in more acquittals than others:

- a) The atrocity cases that were registered under Section 3(1) resulted in acquittals more than others.
- b) The atrocity cases relating to SCs/STs women have resulted in acquittals more than others.
- c) The atrocity cases that had witnesses turning hostile ended more in acquittals than others.
- d) The atrocity cases that faced the regular absence of witnesses ended more in acquittals than others.

iii. The Designated Special Courts have taken a longer time than the Exclusive Special Courts, to finalize the cases of atrocities:

- a) The average time taken by the Designated Special Courts to dispose off the cases was longer than the Exclusive Special Courts.
- b) The Designated Special Courts frequently had more number of hearings than the Exclusive Special Courts to finalize the cases.

c) The Designated Special Courts had more number of adjournments than the Exclusive Special Courts.

iv. The establishment of Exclusive Special Courts has not brought any significant change in expeditious finalization of the atrocity cases.

(v) The work load in the hands of judges, prosecutors, investigating officers and court administrative staff, and the delay in finalizing cases are highly correlated.

(vi) The insufficient allocation of funds affects the infrastructure facilities which in turn affect the speedy trial of the cases.

(vii) The irregular and delayed allocation of financial resources affects the attendance of the witness in the courts.

The analysis of some of these propositions cannot be supported by the quantitative data and hence has been analyzed based on the qualitative data.

CHAPTER II

RESEARCH METHODOLOGY

Study design: Phase I

A conceptual framework and a process to assess the performance of Special Courts and the impact of Exclusive Special Courts on speedy disposal of cases was developed, based on input from a broad section of individuals and organizations, involved in or affected by the criminal justice system. It took almost two months from July to August, 2003 to design the study. Various tools like Questionnaire, Interview Schedules, Checklists, General formats (see annexure I to XIII) were prepared to collect the data from various Special Courts and actors involved in or affected by the criminal justice system. It took another two months from September to October 2003, to standardize and finalize the tools of data collection in consultation with various experts in the field of socio-legal research.

Tools for Data Collection: Secondary Data- Phase II

While developing the tools, the Centre for the Study of Casteism Communalism and Law, has collected reports on atrocities from various Human Rights Organizations, Non Governmental Organizations and National Commission for Scheduled Castes and Scheduled Tribes to build some case studies to understand the reasons for increasing atrocities against Scheduled Castes and Scheduled Tribes.

Primary Data: Phase III

To understand the performances of Special Courts, it was necessary to understand the views of the important participants of the criminal trial Courts. They are: Judges, Special Public Prosecutors, Defense lawyers, Investigating Police Officers, Accused, Witnesses, Court Administrative Staff, the Victims and Dalit leaders. Attempt is made here to get information from the courts for the present research study on the working of the Exclusive Special Courts and Designated Special Courts. Since the interview process helps to understand stories that are not recorded, the study has collected data from all the above mentioned participants through semi-structured Interview Schedules/Questionnaires. (See Annexure V to XIII) The study has used separate questionnaires to collect data from judges, special public prosecutors, defense attorneys and separate Interview Schedules (See Annexure V,VI and VII) to collect data from court administrative staff, investigating police officers, witnesses, victims, accused and Dalit leaders (See Annexure VIII to XIII).

The data collection from selected Special Courts started at various points of time in the selected six states: Andhra Pradesh, Karnataka, Uttar Pradesh, Madhya Pradesh, Gujarat, and Tamil Nadu. It was started in Karnataka in the beginning of November 2003; in Andhra Pradesh by the end of November 2003, Tamil Nadu in the beginning of December 2003. The field work commenced in all the three states of Northern India only in January 2004. It took almost three months to complete the data collection in all the selected states, except in Tamil Nadu. There was a delay in starting the data collection in some states, particularly Gujarat because of the delay in getting the official permission from the Ahemadabad High Court.

Though we sent the requisition letters to the various High Courts of the selected states, seeking their official permission to collect the data from the court records and the judiciary at the trial court level in July 30, 2003, we got the first permission letters from the Andhra Pradesh High Court in the month of August 2003. All other High Courts in spite of our reminder letters and frequent phone calls took a minimum of three months to grant the official permission letters. Since the High Court of Rajasthan declined to give permission to conduct the study in the special courts of Rajasthan, we were forced to leave the state of Rajasthan out of the study.

(A) The Study Design

The study has two major objectives:

- 1) To find out the main causes/reasons for the increasing atrocities against Scheduled castes and Scheduled Tribes.

- 2) To analyze and understand the working of Exclusive Special Courts and Designated Special Courts.

Main causes/reasons for increasing atrocities against SCs and STs

The study had used mainly case study method to find out and analyze the main causes/reasons for the increasing atrocities against SCs and STs. The case studies were built mostly on the materials from secondary sources (see annexure I to IV). The fact finding reports of various Human and Civil Rights Organizations, Non Governmental Organizations and Dalit Movements (see annexure V to XIII) were used mostly to understand the perceptions of the victims of caste violence. Newspaper reports and magazine stories were collected, basically to understand the public perceptions on the particular incidents of atrocities.

Since the reference period of the study is six years from 1997 to 2002 and the study universe is six States, it became necessary to select the sample of case studies across four states-Tamil Nadu, Andhra Pradesh, Karnataka, Gujarat. The case studies reflect the kinds of atrocities carried out as a result of “provocations” ranging from personal insults/slights to the election of Scheduled Castes or Scheduled Tribes persons to the local *panchayat*.

The study has developed a general format to collect the necessary data on the incidents of atrocities.

General Format – I

The specific items mentioned in the General Format – I (see annexure III) helped the researchers to collect the necessary data. They are as follows:

-

- a) Date of the Incident
- b) Location of the incident
- c) Parties involved in atrocity
- d) Reasons for atrocity
- e) Government action and legal intervention by the various Governmental and Non-Governmental agencies in the following up of the legal action against the perpetrators of violence.

(B) The Working of Special Courts:

The study analyzes the working of Special Courts in terms of three major aspects:

- 1) Average time taken to dispose the cases (both in the Designated Court and Exclusive Special Courts).
- 2) Impact of Exclusive Special Courts on speedy disposal of cases.

- 3) Delivery of justice in terms of reducing the high rate of acquittals in atrocity cases.

The study has collected both quantitative and qualitative data to analyze the performance of special courts. The quantitative data was collected both from primary and secondary sources. The secondary data on the performance of Special Courts were collected at three levels:

Court Basic Profile:

Two types of Checklists were used to collect the quantitative data from court records and case files. The basic data on court was collected through checklist-I.

Checklist-I (see Annexure I)

1. The data related to allocation of funds and expenditure
2. Total strength of court administrative staff
3. The community background of the Judges and the Prosecutors and
4. The infrastructural facilities in the court

Individual Cases:

Since the reference period of our study is six years from 1997 to 2002 and a sample of four special courts selected from each state, it was necessary for the study to select samples of individual cases from each year and across the four special courts from each state. The study selected ten individual cases from each year (1997 to 2002) and across the four Special Courts as follows:

10x6 =60 individual cases per Special Court

60x4 =240 individual cases per State

Checklist II (see annexure II)

The checklist II was used to collect the details related to atrocity cases such as:

1. Date of incident of crime
2. Date of lodging First Information Report (FIR)
3. Date of filing of charge sheet
4. Date of first and last hearings
5. Total number of adjournments and hearings and
6. Date of final Judgments.

The data of Checklist II are used mainly to calculate the average time taken to dispose the cases in the Special Courts.

Interrupted Time-Series Design (see annexure IV)

The study has collected time-series data from the selected Exclusive Special Courts for twelve years from the year 1990 to 2002. The Time-Series data was collected mainly to find out the trend in the disposal of atrocity cases and the time taken to dispose the cases “Before” and “After” the establishment of Exclusive Special Courts in all the six selected States. Most of the selected Exclusive Special Courts were instituted between the year 1990 and 2002.

Selection of Special Courts -

The study has purposively selected four Special Courts from each State which include two Exclusive Special Courts and two Designated Special Courts.

- a) Two Exclusive Special Courts: One from Scheduled Castes concentrated area and another from Scheduled Tribes concentrated area.

- b) Two Designated Special Courts: One from Scheduled Castes concentrated area and another from Scheduled Tribes concentrated area.

Four Courts from six states= $6 \times 4 = 24$ Courts

The Table 2 below gives the figure of samples selected for the study.

Table 2: **Research Samples**

SI	Participants	Procedure	Selected Samples
1	Judges	Total no of courts selected for the study=24(4x6=24) Purposive selection of one judge from each courts	24 judges
2	Special Public Prosecutors	One special public prosecutor from each court	24 Special Public Prosecutors
3	Defense Attorney	Two defense attorneys from each court (24x2=48)	48 defense attorneys
4	Court Administrative Staff	Two court administrative staff from each Court (2x24) (One chief administrative staff and one subordinate staff)	48 court administrative staff
5	Investigating Officer	One DySP from each court jurisdiction	24 DSP or DySP
6	Witnesses	12 witnesses from each State 3 witnesses from each Court	72 witnesses
7	Victims	12 victims from each State 3 victims from each Court	72 victims
8	Accused	12 accused from each State 3 accused from each Court	72 accused
9	Dalit leaders	4 Dalit leaders from the State 1 from each court jurisdiction	24 Dalit leaders
		Total	408.00

Phase IV: Data Entry:

The process of entering data was started in the month of May 2004, and was completed by the end of August 2004.

Phase V: Data Analysis:

The analysis of quantitative data was started in the first week of September 2004. It took fifteen days to complete the analysis.

Phase VI: Report writing:

The report writing started from October 2004 and by the end of December 2004 first draft of the report was completed. The final report of the study was submitted to the Ministry in the second week of February 2005.

Scope and Limitations:

The present National level study includes collection of cases from the courts in selected states of India. Totally six States were selected for the sample study, three from Northern India and another three from Southern India. The study has confined to six States because of time, financial constraints and also because these were states mentioned and indicated by the concerned Ministry, as being more prone to atrocities.

Since most of our Criminal laws and Criminal Courts have no time framework within which to decide the cases, the effort of the present study to understand the delay was carried on without there being a uniform definition of delay.

Though the data was collected from victims, witnesses and accused through Interviews Schedules, they were not collected from the selected sixty Individual Cases. Those victims, witnesses and accused who came to the Special Courts for different cases of atrocities were interviewed and were made respondents, because of temporal and financial constraints.

The selection of sixty individual cases from each Court was done not based on any scientific sampling procedure but based on the logic of purposeful selection of ten minimum representative cases from each year for total six years of reference period of the study. The selection of respondents for Interview Schedules and Questionnaires was a more purposive one.

The selection of the case studies were made randomly so as to illustrate the wide-range of reasons and causes that trigger the commission of an atrocity against a specific individual or the entire community in a village.

CHAPTER III

A CRITICAL REVIEW OF THE CONSTITUTIONAL PROTECTION AND STATUTORY PROVISIONS WITH SPECIAL REFERENCE TO SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989

Constitutional Scheme:

The Constitution of India guarantees to all its citizens social, economic, educational and political justice, and equality of status and opportunity. For achieving this, it provides for various safeguards and measures for the protection of the deprived, weaker and marginalized sections of society. These safeguards and protective measures may be classified into social, economic, political, administrative and monitoring mechanisms. Specifically, the various provisions may be briefly listed under these broad heads.

Social :

Article 14 states that the States shall not deny any person equality before the law or the equal protection of laws within its territory. Article 15 operationalises the concept of substantive equality as regards, women, children, Scheduled Castes and Scheduled tribes.¹

Article 17 seeks to abolish untouchability and forbids its practice in any form. While proscribing the practice of untouchability, it provides for punishment under the law to anyone who indulges in the practice of

¹ Article 15 (3): Nothing in this article shall prevent the State from making any special provision for women and children.

Article 15 (4): Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.

untouchability. Article 25 (2) (b) provides that the Hindu religious institutions of a public character shall be open to all classes and sections of Hindus.

Article 46 under the Directive Principles of State Policy provides thus: "The State shall promote with special care, the educational and economic interests of weaker sections of the people and in particular of Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation."

Article 366 (24) defines Scheduled Castes and Article 341 identifies the process whereby a group is identified as Scheduled Caste. Similar provisions have been made in Article 366 (25) and Article 342 respectively, for defining a group as a Scheduled Tribe.

Economic:

A large number of bonded labourers and child labourers belong to the Scheduled Castes and the Schedules Tribes. Article 23 prohibits traffic in human beings and 'begar' or forced labour in any form and contravention of this provision has been made an offence punishable in accordance with law. Article 24 prohibits the employment of children below fourteen years in a factory, mine or any hazardous employment.

Article 16 permits the Parliament to make any provision for reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. Under Article 16 (4) (b), the benefit of reservation in the matter of promotion has been extended to Scheduled Castes and Scheduled Tribes.

Article 335 empowers the State to make any relaxation for qualifying mark in any examination or lowering the standards of evaluation for qualifying

mark in any examination or lowering the standards of evaluation for enforcing the reservation in matters of promotion to any class or classes of service or posts in connection with the affairs of the Union or of the State.

Educational and Cultural:

Article 15 (4) empowers the State to make special provision for advancement of any socially and economically backward classes or citizens and for Scheduled Castes/Scheduled Tribes.

Article 29 (1) provides that “ Any section of the citizens residing in the territory of India or any part thereof, having a distinct language, script or culture of its own shall have a right to conserve the same.”

Article 350 (a) provides for adequate facilities for instructions in the mother tongue at the primary stage of education for children belonging to linguistic minority groups.

Article 46 provides that the State shall promote with special care the educational and economic interests of weaker sections of the people, and, in particular, the Scheduled Castes/Scheduled Tribes. The State shall also protect them from social injustice and all forms of exploitation. It is this provision that enables the State to earmark specific funds for developmental activities in the form of a Special Component Plan for Scheduled Castes and the Tribal sub-plan for the Scheduled Tribes.

Political

Article 164 (1) provides that in the specific States there shall be a Minister in charge of tribal welfare who may, in addition be in charge of welfare of Scheduled Castes, backward Classes or any other work.

Article 330 provides for reservation of seats for Scheduled Castes/ Scheduled Tribes in Lok Sabha and Article 332 provides for reservation of seats for Scheduled Castes/Scheduled Tribes in State Vidhan Sabhas. Article 243 D provides for reservations in *Panchayats*, while Article 243 T provides for reservation in municipal bodies. Out of these reserved seats for Scheduled Castes/Scheduled Tribes, at least 1/3rd has been reserved for SC/ST women. Articles 371, 371 (b), 371 (c), 371 (f), 371 (g) and 371 (h) deal with special provisions in respect of North Eastern States.

Administrative:

The Sixth Schedule provides for the administration of the tribal areas. Article 244 authorises the Governor to direct that a particular law or notification passed by a Parliament or Legislative Assembly shall not apply to the scheduled area or any part thereof or shall apply subject to certain exceptions and modifications. Governor is also authorised to make regulations for peace and good government in the scheduled areas of the State.

Article 275 (1) provides that specific allocations may be made from the Consolidated Funds of India to give as grant-in-aid for each such area for meeting the cost of the schemes of development and for promoting the welfare of Scheduled Tribes in the State, Similar provisions exists for such special grants for the 6th Scheduled Area.

Monitoring:

Article 338 of the Constitution provides for a National Commission for Scheduled Castes and Scheduled Tribes and specifies the functions it would discharge and the report it is required to present to the President of India.

Legislative History :

“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, etc.

The first penal statute to remove untouchability was introduced during the British in 1938 in the Madras legislature. Discriminating the untouchables in the public places such as roads, wells and transportation and 'other secular institutions' including restaurants, hotels, shops, etc. was made a cognisable offence which attracted a fine and imprisonment upto six months. 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.

With the coming of independence, the Constitution in Article 17, made a 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.

Untouchability (Offences) Act, 1955

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, constitution and occupation of residential premises, holding of religious ceremonies and processions, were all liable to be penalised with a fine of upto Rs. 500/- or imprisonment for upto six months, cancellation or

suspension of licenses and public grants. 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. 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’.

Protection of Civil Rights Act, 1955

Under this Act, “Civil Rights” has 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 a religious denomination has been made an offence.

All untouchability offences, for which punishment does not exceed 3 months, can be tried summarily. The punishment for untouchability offences was enhanced and both fine and 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 the 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.

Despite this enactment, the atrocities against the Scheduled Castes and the Scheduled Tribes continued unabated. It was also found that there were several problems and limitations in the enforcement of the Act. Hence the Parliament passed another law called the “**Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989**” to specifically tackle the atrocities committed against the members of the Scheduled Castes and Scheduled Tribes.

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

The preamble to the enactment clearly states that the objective of the enactment is 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. It would be useful to quote here a section from the statement of objects and reasons, in order to extract from it, the political and sociological understanding informing this enactment. “ Because of the awareness created amongst the Scheduled Castes and Scheduled Tribes through spread of education, etc., they are trying to assert their rights and this is not being taken very kindly by the others. When they assert their rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the

Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the Government allotted land by Scheduled Castes and Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests. Of late, there has been an increase in the disturbing trend of commission of certain atrocities like making the Scheduled Castes persons eat inedible substances like human excreta and attacks on and the mass killings of helpless Scheduled Castes and Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes.”

The salient features of the Act and Rules:

- Though the Act does not define “atrocities”, Section 3 enumerates the multiple ways through which members of the Scheduled Castes and Scheduled Tribes are oppressed and/or humiliated, which would amount to an offence under the Act. The atrocities listed here include forcing the eating of obnoxious substances, dumping waste matter on land, wrongful occupation of land, dispossession, bonded labour, intimidation during voting, mischievous litigation, false information, public information, outrage of modesty, sexual exploitation, fouling of water resource, obstruction of energy to a public place, eviction from habitation, mischief with explosives, destruction of buildings and suppression of evidence.
- The offences of custodial rape, highway robbery and house breaking by night which carry a minimum punishment of ten years or more, under the Indian Penal Code are punishable with imprisonment for life and with fine under this Act.
- The Act also provides for forfeiture of property, externment of potential offenders, and collective punitive fine.
- A public servant who neglects his duties under the Act, is punishable.

- The Act prohibits the grant of anticipatory bail to the potential accused under the Act and places restrictions on grant of probation to the convict of an offence under the Act.
- The Act makes provision for minimum relief and compensation to the victims of atrocities or to their legal heirs.
- Provisions of the Act are implemented by the State Governments and Union territories.
- With a view to expedite the trial of the cases registered under the Act, the State Governments shall set up special courts.
- Section 15 of the Act provides for the appointment of Special Public Prosecutor for conducting the cases.
- As per the Rules (The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995), the State Governments are required to set up Scheduled Castes and Scheduled Tribes Protection Cell at the State Headquarters, for looking after the implementation of the Act.
- Rule 11 lays down the details for provision of relief, traveling allowance, daily allowance, maintenance expenses, etc. to the persons affected by the atrocities.
- Rule 7 provides that a Police Officer not below the rank of a Deputy Superintendent of Police shall investigate offences committed under the Act.
- The State Governments and Union Territory Administrations are being extended financial support for implementation of the Act, under the Centrally Sponsored Scheme implemented by the Central Government.

Critical review of the enactment:

The Act lists the offences that constitute an atrocity under Section 3 of the Act. These offences are of varying degrees – from minor to severe. However, the punishments prescribed are similar for all the offences. It would be critical to examine if this lack of classification of offences (as major and

minor) hampers the judicial perception in convicting or acquitting an accused. Section 4 of the Act excludes officers who are members of the Scheduled Castes and Scheduled Tribes. This may be reviewed to examine if the officers hailing from the Scheduled Castes/ Scheduled Tribes are necessarily impartial. 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 or 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. All measures must be taken to ensure that the charge sheets are filed within three months for FIRs filed under the Act. Further, in each district, the Deputy Superintendent of Police must be empowered to receive and address complaints and violations of official misconduct under the Act. The delay at the judicial level is compounded by the fact that the regular courts which are presently being designated as Special Courts are already overburdened with other cases. It must also be ensured that the atrocity cases are tried by the Special Courts only and not sent to the lower courts for trial. Such an approach combined with the Exclusive Special Courts taking direct cognizance of the case will facilitate speedy trial as envisaged in the Act. The effectiveness of the "Fast-track" courts may be examined to see if such courts could be set up under this Act, to ensure expeditious disposal of Cases, with the view to furthering the cause of justice.

Linked to the issue of speedy trial is the issue of witnesses turning hostile. Furthermore, it is observed that the speedy trial of cases under the Act, is hampered by treating SCs/STs witnesses as interested witness. The prosecution should take all possible steps to give confidence and security to the witnesses. The Act may be appropriately amended to incorporate provisions relating to witness protection.

The implementation of the enactment has come in for some widespread criticism. The law enforcement agencies, particularly the police and the prosecution, have been seen as the prime actors responsible for the successful implementation of the Act. However, reports of their connivance and corruption, thus subverting the very purpose of the enactment, are prevalent throughout the country. It is therefore important that the States comply with Rules 16 and 17 of the Act, which requires them to constitute and oversee State and District level Vigilance and Monitoring Committees. Strict action should also be initiated against erring officials, in order to restore confidence in the ability of the State machinery to deliver. It is also vital that the State Governments act as empowered under Section 17, in order to prevent the commission of atrocities. Follow-up action on the reported cases of violence and a constant vigil to guard against official complicity in the unreporting or under-reporting of cases must be ensured. The monitoring committees envisaged under the Act need to be further strengthened to take its duties under the Act more seriously. Where the number of registration of cases is high and the pendency of cases is substantial, the State Governments should take immediate steps to set up Exclusive Special Courts and seek financial assistance from the Ministry of Welfare. In almost all the states the meetings of the Monitoring and Vigilance Committees at State level, which is an important mechanism for ensuring proper implementation of these laws, are not held regularly. The task of monitoring cannot be limited to filing annual statistical data; it should adopt a more analytical, proactive

stance, thus ensuring that the objectives of a protective legislation are achieved.²

²2. For a detailed list recommendation on amendments to the Act refer P.S. Krishnan, Former Member Secretary, National Commission for Backward Classes, contained in Annexure 16.

CHAPTER IV
WORKING OF THE DESIGNATED SPECIAL COURTS
AND THE EXCLUSIVE SPECIAL COURT

Special Courts- a background:

Section 2(d) defines “Special Court” as a Court of Session specified as a special court in Section 14. 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. 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.

This Chapter analyses the working of the Designated Special Courts and Exclusive Special Courts. The main thrust of the study is to evaluate the performance of the Exclusive Special Courts compared to the Designated Special Courts and also to find out the reasons for delay in adjudicating the cases by these Special Courts.

Case Processing Time and Delay:

The study of court cases collected and selected from the special courts using general format I and II (see annexure III and IV) compared the progress of both the Exclusive Special Courts and the Designated Special Courts in terms of duration for case processing resulting in delay. The study has identified the time intervals in the various stages of case processing and average number of hearings and adjournments after the first hearing using checklist II (see annexure II), to understand the average time taken to decide the cases and evaluate the delay.

Since the reference period of our study is six years from 1997 to 2002 and involved the selection of four Special Courts from each state, it was important to select the cases across the years and the courts, to make the data more representative. The study has selected ten individual cases from each year from 1997 to 2002, across twenty-four courts. Due to the poor maintenance of case files and case registers at the trial court level, the study could not get the required number of cases from the Special Courts. The case samples used for our purpose is mentioned in Table 3.

Table 3: Individual Cases collected across States

States	Exclusive Special Court Cases	Designated Special Court Cases	Total
Andhra Pradesh	108	85	193
Gujarat	-	75	75
Karnataka	120	117	237
Madhya Pradesh	-	177	177
Tamil Nadu	209	7	216
Uttar Pradesh	-	220	220
Total	437	681	1118

(Source: Primary data from the selected Special Courts)

It is clear from the above table that the study could not get the expected data specified in the research methodology from all the twenty-four courts and six States. According to the requirement of the study design, the study should have got 1440 individual cases from all the twenty-four courts. The study could not get the required number of cases and also the cases representing both Special Courts particularly from Gujarat, Madhya Pradesh and Uttar Pradesh, because of the poor maintenance of case files and case registers by the concerned court administration. Due to the absence of

collection of cases from the Exclusive Special Courts from the State of Gujarat, Madhya Pradesh and Uttar Pradesh, the analysis of data has been done based only on data available from Andhra Pradesh, Tamil Nadu and Karnataka.

Analysis of SCs/STs Atrocity Cases from Andhra Pradesh, Karnataka and Tamil Nadu Special (Exclusive and Designated) Courts:

The study could collect statistically significant data from the Exclusive Special Courts and Designated Special Courts from the States of Andhra Pradesh, Karnataka and Tamil Nadu. It is only from these three States we could collect the required quantitative data and reasonably analyse the various aspects of legal inquiries which this project intended to bring out.

Table 4: The total number of cases collected from Exclusive Special Courts (ESC) and Designated Special Courts (DSC) among three Southern States:

State	ESC	DSC	Total
Andhra Pradesh	108	85	193
Karnataka	120	117	237
Tamil Nadu	209	7	216
Total	437	209	646

The above chart shows that Exclusive Special Courts have more number of cases in all the three States compared to Designated Special Courts. Comparatively Tamil Nadu has the highest cases in Exclusive Special Courts and lowest in the Designated Special Courts. It shows the active functioning of the Exclusive Special Courts and diminished scope of Designated Special Courts in the presence of Exclusive Special Courts. The main objective of starting Exclusive Special Court is to give exclusive attention to the cases registered under the SCs and STs (POA) Act.

Further analysis is done to study the nature of cases filed in the Special Courts and the various sections under which cases are filed and the nature of crime committed against the SCs/STs.

Our data analysis shows that in 41% of the cases were booked under the SCs & STs (POA) Act, 1989 along with various Sections under Indian Penal Code (IPC). 36% of the cases were booked under Section 3(1) dealing with public insult, 3.0% cases related to sexual assault on SC/ST women; in another 17.7% no data is available and 2.3% made use of other sections in the Act.

The following Table 5 gives the frequency of sections used by the police.

Table 5: Section wise distribution of cases

Sections	Andhra Pradesh	Karnataka	Tamilnadu	Total
3(1)l,ii,iii,x	107	177	118	402
3(1)iv,v	7	1	2	10
3(1)vi	0	0	0	0
3(1)vii,viii,xiv,xv	0	1	0	1
3(1)viii,ix,(2)i,ii	2	0	0	2
3(2)iii,iv	0	3	4	7
3(2)vi	0	0	0	0
3(2)vii	0	2	0	2
3(1)xi,xii	30	1	2	33
IPC Sections	19	0	1	20

The study shows that the majority of cases were booked under Section 3(1) (i),(ii),(iii),(x) which deal with atrocities which are derogatory to human dignity or forcing SCs/STs person to do certain acts forcibly in order to insult and humiliate SCs/STs persons. That is to say totally 107 cases in Andhra Pradesh, 177 cases in Karnataka and 118 in Tamil Nadu were booked under the above mentioned Section. Moreover, in Tamil Nadu alone we can see 33 cases booked under Section 3(1)(xi) and (xii) dealing with assault or force

used to dishonour or outrage the modesty of an SC/ST woman, indicating a tendency to use the dominant position of higher caste to exploit the Dalit women sexually. Finally, we note from the figures above, that 19 cases used IPC sections along with other sections under the SCs & STs POA Act, 1989. All the States do not have any significant number of cases booked under any other section other than Sections 3(1)(i),(ii),(iii),(x).

The table 5 draws our attention to the increasing rates of atrocities in few states but also the way in which these atrocities were committed. Those who get convicted under Section 3(1)(i),(ii),(iii),(x) or any other combinations could be punished with imprisonment for a minimum of six months and a maximum of five years and with fine. Unless the cases which are reported and booked result in conviction in a majority of cases, it is difficult to presume that the SCs & STs (POA) Act, 1989 would act as a deterrent and make a difference to the lives of the SCs and STs.

The calculation of time intervals between various stages of case processing is vital to the understanding of delay in deciding or disposing off the cases.

Average time taken to dispose off the cases:

One of the important concerns of the Ministry of Social Justice and Empowerment, Government of India, is to evaluate the impact of Exclusive Special Courts on the process of speedy trial and timely disposal of atrocity cases. The study has collected the data regarding the date of registration of cases, date of disposal of cases and various forms of disposal of cases, from all the selected Exclusive Special Courts for twelve years from 1990 to 2002, for this purpose. Since the Exclusive Special Courts were established at various points of time, between the years 1990 and 2002, the twelve year

time series data helped the study to find out the trend in average time taken, by the Exclusive Special Courts to dispose off the atrocity cases.

The present Exclusive Special Courts in Andhra Pradesh, came into existence in 1991 but due to technical reasons the study has taken the year 1993, as the starting point, to find the trend in the average time taken to dispose off the cases. The Exclusive Special Courts at Guntur and Mahaboob Nagar (Hyderabad) were selected for the study in Andhra Pradesh. The selected Exclusive Special Courts at Kolar and Raichur in Karnataka came into existence in 1993. In Tamil Nadu, the Exclusive Special Courts were established in the year 1998. The additional courts that were earlier trying criminal cases along with atrocity cases, were converted later into Exclusive Special Courts in various States. This conversion of additional courts into Exclusive Special Courts helped the study to understand the trends 'Before' and 'After' the establishment of the Special Courts. The following table 6 gives the total number of cases collected.

Table 6: Average Time Taken (in Days) between Stages of Case Processing in the Exclusive Special Courts (ESC) and Designated Special Courts(DSC) of three States.

Time Intervals between Stages of Case Processing	ESCs (in Days)	DSCs (in Days)
Date of Incident of Crime and Date of Filing of First Information Report	5	6
Date of Filing of First Information Report and Date of Arrest of the Main Accused	98	25
Date of Incident of Crime and Date of Arrest of the Main Accused	107	28
Date of Incident of Crime and Date of Submission of Charge Sheet	264	267
Date of Filing of First Information Report and Date of Submission of Charge Sheet	259	261
Date of Arrest of Main Accused and Date of Submission of Charge Sheet	262	175
Date of Filing of First Information Report and Date of Last Hearing	1220	1446
Date of Submission of Charge Sheet and Date of First Hearing	479	467
Date of First Hearing and Date Of Last Hearing	496	774
Date of Submission of Charge Sheet and Date of Last Hearing	968	1172
Date of Filing of First Information Report and Date of First Hearing	732	741
Date of Filing of First Information Report and Date of Final Judgment	1228	1482
Date of Submission of Charge Sheet and Date of Final Judgment	978	1201
Date of First Hearing and Date of Final Judgment	508	856
Date of Last Hearing and Date of Final Judgment	7	24
Date of Incident of Crime and Date of Final Judgment	1235	1486

(Source: Primary data from the selected Special Courts)

The delay in deciding atrocity cases starts even before the trial process formally begins with the submission of charge sheet in the Special Courts. From the Table No.7, it has become very evident that it takes almost five to six days even to file the First Information Report. The delay at this initial stage, could be due to lack of awareness about the Act itself and rights emerging therefrom, or it could be due to the fear of threats from the accused, who might use his economic, political and social status to exploit the victim further. It could also be due to the unwillingness of the police to take the First Information Report. If the accused were very influential in the area, it might become impossible to file a First Information Report. After filing the First Information Report, it takes a minimum of twenty five days and a maximum ninety-eight days for the police to arrest the main accused. In the normal course of action, in a case involving cognizable offences, the police can arrest without the permission (warrant) from Magistrate and hence they can arrest the accused immediately. Only in cases of non-cognizable offences, the permission is required from Magistrate and it may take more time (say two to three days). Since the offences under the Act are all cognizable, the delay in the arrest is not justifiable. The conflicts here are one of power and politics, and not just of the law and its implementation.

The delay in arresting the main accused might cause the investigation to slow down resulting in delay in submitting the charge sheet to the court. It is very disturbing that it takes almost 260 days to submit the charge sheet from the date of filing First Information Report. According to The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, specifies that “The Investigating Officer so appointed under sub-rule (1) shall complete the investigation on the top priority within thirty days and submit the report to the Superintendent of Police...”. But our study shows that no attempt is made to follow the procedure mentioned in the SCs & STs (POA) Rules,

1995. Moreover under Section 167 Criminal Procedure Code, the maximum period of ninety days is allotted to file the charge sheet against the accused. Which means that in any case from the date of arrest, the date of filing of charge sheet should not exceed ninety days. But the above table 7 shows that Exclusive Special Court has, on an average, taken 262 days while the Designated Special Court has taken 175 days (comparatively lesser than that of Exclusive Special Court) in filing the charge sheet. But both the Special Courts do not meet the procedural requirement of closing investigation within 90 days and filing a charge sheet. The cases of atrocities are neither given top priority nor are the investigations completed within the shortest possible time.

Special Courts are no exception to the delay in case processing. Though the performance of Exclusive Special Courts is relatively better than that of the Designated Special Courts in terms of case processing time, still the average time taken by them to decide the cases is more than two and a half years. Moreover the date of filing of First Information Report and date of arrest of the main accused is longer in Exclusive Special Courts than that of Designated Special Courts.

The most appropriate basic performance measure for trial courts is the time between the date of submission of charge sheet to the court and the date on which the trial commences. This is called as 'Trial Hearing Delay'. It is shocking that Special Courts have spent more than 400 days between the date of submission of charge sheet and the date of first hearing. The average time taken from the date of submission of charge sheet to the date of final judgment is 978 days in the case of Exclusive Special Courts and 1201 days in the case of Designated Special Courts. The time interval between the dates of first hearing and final judgment is also very disturbing because it takes almost 508 days for the Exclusive Special Courts and 856 days for the

Designated Special Courts to decide the cases of atrocities. These huge intervals between various stages of case processing need some serious attention because they are working against the whole idea and the policy concerning the speedy trial and timely disposal of atrocities cases and they also indicate the level of inefficiency of the trial court system. However, as the table 6 shows that Exclusive Special Courts are performing well as compared to the Designated Special Courts.

Table7: Average time taken to dispose off the cases by three States– ‘Before’ (during the presence of Designated Special Courts) and ‘After’ introduction of Exclusive Special Courts

State	Nature of the court	Average time taken to dispose off the cases
Tamil Nadu	Before introduction of Special Courts	3.30 yrs
	After introduction of Special Courts	1.44 yrs
Andhra Pradesh	Before introduction of Special Courts	2.40 yrs
	After introduction Special Courts	1.55 yrs
Karnataka	Before introduction Special Courts	2.41 yrs
	After introduction Special Courts	1.56 yrs

Since the study could not get the required time series data from the selected Exclusive Special Courts of all the three north Indian states, we could not do a similar impact evaluation for the states of Gujarat, Madhya Pradesh and Uttar Pradesh.

The findings from the Exclusive Special Courts of Tamil Nadu, Andhra Pradesh and Karnataka are significant and encouraging because after the establishment of the Exclusive Special Courts it has considerably reduced the time taken to dispose off the cases. The table 7 clearly shows this trend in the reduction of average time taken to dispose the cases. The reduction in average time taken certainly shows the positive aspect and outcome of the introduction of Exclusive Special Courts. However it does not indicate the

absence of delay. These courts have taken more than a year's time to dispose off the cases.

Table 8: The Disposal of cases in ESC and DSC of three southern States:

Nature of Disposal	ESC	DSC
Conviction	24	3
Acquittal	406	145

(Note: Total numbers of disposed cases are 578. Out of total 646 cases in hand 578 cases were disposed off and 68 cases were still pending.)

The above table shows that Exclusive Special Courts has been performing better than Designated Special Courts. The effective implementation of the legislation is evaluated by many criteria and one among them is the rate of conviction. But conviction will be possible only if all other procedural requirements including evidence and witnesses are met with. Nevertheless it can be noticed that in the Southern States of India, Exclusive Special Courts are doing better than Designated Special Courts with high conviction rates. Notably, the rate of acquittal rate is also higher as compared to the Designated Special Courts, somewhat neutralizing its impact.

The following table gives a more descriptive analysis of conviction/acquittal rates in Exclusive Special Courts and Designated Special Courts.

Table 9: **State-wise convictions and acquittal rates in ESC and DSC:**

Disposal	States	ESC	DSC	Total
Conviction	Andhra Pradesh	10	3	13
	Karnataka	1	0	1
	Tamil Nadu	13	0	13
Acquittal	Andhra Pradesh	92	59	151
	Karnataka	118	80	198
	Tamil Nadu	196	6	202
				578

The performance level of Exclusive Special Court and Designated Special Court can be best analysed by looking at the court trend in its disposal of cases. Disposal can be through convictions or acquittals. The three States represent large number of acquittals rather than the convictions. Cases registered in the Designated Special Courts are less and convictions are also very low. The performance in three States regarding conviction is very low and Karnataka State has the lowest conviction rate. The study of disposed off cases also shows the reasons for acquittal. Among the cases disposed 30.6% resulted in acquittal because the witnesses turned hostile, 2.5% cases were acquitted due to insufficient evidence and in 1.0% cases there is no evidence and 14.9% cases are acquitted for other reasons. No details are available regarding the other 51% cases resulting in acquittal. The compliance with procedural requirements to prove the offence is of utmost important in every judicial adjudication and in cases of SCs/STs issues where the victims and th witnesses might get influenced, the judiciary needs to be extra cautious. The background and social circumstances with which victims approach the court needs to be kept in mind. Prejudices within the police and the judiciary are not unheard of, and hence, in understanding the reasons for the poor rate of convictions and the high rate of acquittals, these factors also have to be kept in mind.

Percentage of conviction and acquittal:

Table 10: Percentage of registered cases and disposal rates filed at both Designated Special Courts (DSC) and Exclusive Special Courts (ESC). (Prior to the inception of ESC until its inception in the States of Tamil Nadu, Andhra Pradesh and Karnataka)

State	Status before ESC and after ESC	No of Data	Conviction	Acquittal	Transfer	Abetted	Other disposed	Trial	Total
TN	Before	32.71	3.04	60.28	0.12	0.58	3.27	0.00	100.00
	After	57.00	5.13	35.70	0.39	0.20	1.58	0.00	100.00
A P	Before	26.17	47.66	14.95	9.35	1.87	0.00	0.00	100.00
	After	10.83	51.85	21.91	15.41	0.00	0.00	0.00	100.00
Kar	Before	0.00	4.27	85.77	5.69	0.36	3.91	0.00	100.00
	After	0.00	0.42	51.77	34.66	0.52	12.63	0.00	100.00

The Exclusive Special Courts were started in the above mentioned three States in different years and the data was collected after two to three years of their inception as the old records were not available for study. Nevertheless the trends prior to the inception of these Exclusive Special Courts were studied by collecting cases for two to three years after the inception of Designated Special Courts. The above table clearly shows that the inception of Exclusive Special Courts had a positive impact on the cases registered in these Special Courts. One can notice that the rate of conviction has gone up to 2.09% in Tamil Nadu, 4.19% in Andhra Pradesh but has reduced to 3.85% in Karnataka. The acquittal rate has reduced to 34% in Karnataka, 24.58% in Tamil Nadu but gone up to 6.96% in Andhra Pradesh. The overall performance can be rated as having a considerable impact on conviction and acquittal rates. These figures, comparatively explain the performance of Designated and Exclusive Special Courts and the difference it is making towards curbing the atrocities against SCs/STs. More importantly the data significantly proves that the impact of Exclusive Special Courts has been positive and its presence would strengthen the Act and contribute towards the effective implementation of the SCs & STs (POA) Act, 1989.

Number of Hearings:

- Average number of hearings after the first hearing in the case of Exclusive Special Courts – 13.09
- Average number of adjournments after the first hearing in the case of Exclusive Special Courts – 5.71
- Average number of hearing after the first hearing in the case of Designated Special Courts – 9.63
- Average number of adjournments after the first hearing in the case of Designated Special Courts – 4.49

Table 11: Average time taken to dispose off cases ‘Before’ (during DSC) and ‘After’ introduction of Exclusive Special Courts (ESC) in Karnataka

Nature of disposal	Avg. time taken Before introduction of Special Courts(yrs)	Avg. time taken After Introduction of Special Courts (yrs)
Conviction	3.3	2.2
Acquittal	2.4	1.7
Transfer	2	1.4
Abetted	-	3
Otherwise disposed	1.3	.7

(- indicates no cases)

After the introduction of Exclusive Special Courts, the time taken both to convict and acquit has come down significantly, from three years to two years in the case of conviction and from two and a half years to one and a half years in the case of acquittals. Since some cases of the atrocity did not experience the phenomenon of hostile witness, they ended in conviction. The absence of hostile witnesses also indicates the longer duration of trial process because it indicates the cooperation of the prosecution witness for further examination by the court. Therefore the cases that have ended in conviction have taken a longer time than the cases ending in acquittals.

Table 12: Average time taken to Dispose of the Cases ‘Before’ and ‘After’ the introduction of Exclusive Special Courts in Tamil Nadu

Nature of Disposal	Average time taken before the introduction of Exclusive Special Courts(years)	Average time taken after the introduction of Exclusive Special Courts (years)
Conviction	2	1.6
Acquittal	3.3	1.7
Transfer	3.3	3
Abetted	6	2
Otherwise disposed	4	2

The average time taken in convicting has reduced but not significantly in Tamil Nadu. However, the reduction in time taken in acquittals is rather stark, indicating a greater efficiency on the part of the Exclusive Special Courts in disposing off the cases.

Table 13: Average time taken to dispose off cases ‘Before’ (during DSC) and ‘After’ the introduction of Exclusive Special Courts (ESC) in Andhra Pradesh

Nature of disposal	Avg. time taken Before introduction of Special Courts(yrs)	Avg. time taken After Introduction of Special Courts (yrs)
Conviction	2.5	1.33
Acquittal	1.5	1.6
Transfer	1.6	1.2
Abetted	1.42	1
Otherwise disposed	1	1

Though the Exclusive Special Courts of Andhra Pradesh show the reduction in the average time taken to dispose off the cases, they do not show any significant difference in the time taken between conviction and acquittal.

CHAPTER V

Implementation of the Act: Perceptions and Views of the Actors in the Criminal Justice System

While a statistical evaluation gives us a broad and quick overview of the implementation of the Act, an indepth analysis demands the representation of those experiences engaged in the process. There are numerous factors regarding the implementation of the SCs & STs (POA) Act, 1989, that can come to light only by recording the insights and experiences of the people who are involved with the judiciary and are intrinsically part of its day to day functioning. To obtain a clearer picture of the problems confronted by the various stakeholders, we selected certain key actors and interviewed them, so as to assess the factors affecting the implementation of the Act and to trace the particular reasons for delay in the disposal of these cases by the Special Courts. This chapter begins with the methodology, followed by the various causes for delay and its tentative resolutions as ascertained from the views of the actors involved.

Methodology:

The primary data on the performances of Special Courts were collected at three levels:

(i) Court Basic Profile:

Two types of Checklists were used to collect the quantitative data from the court records and the case files. The basic data on the court was collected through Checklist-I (see annexure I) and Checklist II (see annexure

II) is used to collect the data relating to individual cases. Data was collected from the various court records and registers. General format II (see annexure IV) is used to check the time series.

(ii) Questionnaire:

The questionnaires (see annexure V,VI and VII) were intended to collect information on various aspects like the background of the interviewees, their perspectives regarding the Act, the Special Courts and the functioning of courts and court staff, etc. Separate questionnaires were prepared for judges, special public prosecutors and defense attorneys.

(iii) Interview Schedule:

Interaction with the stake holders, mainly witnesses, victims, accused, investigating police officers, court administrative staff and Dalit leaders was carried on using various structured questionnaires. (see annexure VIII to XIII) The main objective was to understand their perceptions and views regarding the functioning of Special Courts and to collect their suggestions on the causes for delay.

The Court basic profile also provides us different reasons for the delay as found in its time series and hearings tables. Delay starts right from the beginning with the filing of the FIR at the stage of chargesheet, and even as the trial progresses with a number of adjournments, transfer of the case from one court to another and the final decision that takes five to six years. The delay is inherent in the system so much so that the people seem to accept it without questioning. The idea of setting up special courts to deal with atrocities primarily has two reasons: the first is to give special attention to the atrocity cases and the other is to ensure speedy trial and disposal of cases. But our analysis shows that even the Exclusive Special Courts are not making much difference in doing away with the delay, though to some extent it has

helped speed up the matter. This is partly because the Exclusive Special Courts were not in function in the real sense. In most states, the Designated Special Courts which deal with atrocity cases also handle other criminal cases. Not only do the atrocity cases get the least priority, judges are apathetic towards such cases since it provides them lesser points as compared to more grave cases under the Indian Penal Code.

This chapter tries to analyse the results of the questionnaire and interview schedule to assess the implementation of the Act and the causes for delay, as opined by the interviewees. We can classify the responses into two focused areas viz., causes for delay and reasons for high rates of acquittals. The interviewees also made several suggestions for improving the implementation of the Act and a comprehensive compilation of the same is provided at the end of this chapter.

A. Causes for delay :

i. Systemic Reasons :

To detect possible causes for delay, we first need a clear definition of what 'delay' means. The problem is that certain clauses in the enactment relating to the time factor lack clarity. For instance, submission of files to the court within an 'appropriate time' or 'without any delay' is not clearly defined and what constitutes 'appropriate time' or 'delay' is left to the discretion of the concerned officer to determine.

If we look at the empirical studies, dealing with delay within the criminal justice system, there is little consistency regarding how case processing time is measured, and which time span is considered a delay. Delay usually denotes abnormal or unacceptable time lapse. While some writers refer to

delay in terms of 'court congestion' or 'backlog', others refer to it in terms of 'excessive' case processing time or the 'pace' of litigation.³

We cannot decide here whether we really need a consistent, uniform and comprehensive theory of delay or of case processing time which defines variation across the States, between trial courts and individual court cases. Though we have a somewhat standard jurisdiction of Courts and hierarchy of Courts, it is not possible to establish such a uniform theory of delay nor is it possible to find a homogeneous measurement and analogous starting point for empirical research. What we can try to do here, however, is to point out at least some ideas on how delay is produced, the factors which may influence the case processing time.

Causes for delay within the criminal justice system:

Based on the analysis of both quantitative and qualitative data, the study has identified the following causes for the delay in the Special Courts which were set up under SCs and STs (POA) Act, 1989.

ii. Delay in the Court Process :

It includes the delay caused by judges, lawyers, the court administration, prosecutor, witnesses and the accused.

a) **Delay caused by Judges:** When the presiding judges take long leave of absence, it affects the case processing and adjudication process adversely. The study found that such long leave of absence among judges was common. Another reason for delay was also the vacancy in courts where no judges are appointed for long periods of time.

b) **Delay caused by Lawyers:** The defense lawyers seek frequent adjournments on frivolous grounds, which affect the proceedings of the case.

³Building a theory of case processing time *Judicature LXII by Luskin, Mary L-1978*

c) **Delay caused by Court administrative staff:** The workload of the courts is not commensurate with the strength of the administrative staff, adversely affecting case processing. Many presiding judges and chief administrative officers have expressed the need for more administrative staff to manage the work load.

d) **Delay caused by witnesses:** This is the major cause for the delay in Special Courts. The absence of witnesses at the hearing, causes serious problems in case processing. The major reason for absence of witnesses is the non-payment of traveling allowance and maintenance expenses on the day of hearing. While some courts do not pay the witnesses traveling allowance and maintenance expenses, few other courts ask the witnesses to collect their traveling allowance from the office of the collector. The failure on the part of the court to provide for the expenses of witnesses who attend the court discourages the witnesses to appear before the Judge for cross-examination.

e) **Delay caused by the accused:** When the main accused is absconding from the police, it affects the police investigation which in turn affects the proceedings of the court in the form of waiting for the filing of charge sheet to start the trial. The study has encountered a few instances of such cases of delay.

f) **Delay due to transfer of case:** In many states, the atrocity cases are first committed to Magistrate Court and are then transferred to special courts. In many cases, it took more than a year for the Magistrate Court to transfer the cases. This is another important reason for the delay.

iii. Delay in Investigation:

Most of the Judges interviewed, are of the opinion that the failure of the police investigation officer to submit the charge sheet on time is one of the major reasons for delay. But the police department blames the other experts, who fail to give their report on time in order to expedite the police

investigation. Apart from the delay in investigation, the police department is severely criticized by the Judges and Special Public Prosecutors for its failure to produce the witnesses before the court. The Judges of the Special Courts, criticize the police department for non-delivery of summons and non-execution of warrants.

iv. Administrative Delay:

The Exclusive Special Courts were established in various States under the provision of SCs and STs (POA) Act, 1989 exclusively to try the case of atrocities. The findings of our study have a different story to tell. Most (not all of them) of these Exclusive Special Courts are not Exclusive Special Courts in the real sense of the term because they are asked by the concerned higher judiciary to try the other criminal cases.

(B) Reasons for high rate of acquittals in atrocity cases

The analysis of data has identified the following two major reasons:

1) **Hostile witnesses:** The study found that the hostile witness is the major reason for high rate of acquittals in the atrocity cases. The economic dependency on the upper and dominant castes, and the state of insecurity, has forced the prosecution witnesses in many a case to turn hostile.

2) **Preconception of misuse of the Act:** Most of the Special Court Judges interviewed are of the opinion that the SCs and STs are misusing the special law against their rivals and adversaries. As a result of this impression most of the Judges are skeptical and wary of awarding convictions. The study also found that most of the judges opined that under the SCs and STs (POA) Act, 1989, some of the offences (specially taking caste name of the untouchable) are not major crimes, and such offences should not attract severe punishment from the court of law. Therefore the opinion and attitude of the judges are

seen to colour their judgment when dealing with these cases. It was found that 66.7% judges belonging to SCs/STs community agreed that some of the offences under Section 3(1) of SCs/STs Act are not very serious offences and those offences do not require severe punishment, while only 33.3% disagreed. While 85.7% judges belonging to non SCs/STs agreed that some sections do not require severe punishment under the Act, 14.3% disagreed with the same.

If the judges are of the view that the SCs/STs (POA) Act 1989, is being misused, then in all likelihood their approach to a genuine case could also be negatively influenced. We have come across a few cases where a judge has concluded that a victim is trying to misuse the Act, if he tried to settle the case outside the court and if the accused complained that the victim is trying to extract money from him.

(C) Analysis of the perceptions and views of Judges, Special Public Prosecutors, Investigating Police Officers, Witnesses, Victims and Dalit leaders on the working of the SCs/STs (POA) Act, 1989.

Judges:

The main focus of using interviews and questionnaires was to collect the required information so as to identify reasons for delay in the disposal of cases under SCs/STs (POA) Act 1989. It also focuses on our respondent's perspective of the legislation itself, its requirement, need for amendments to the various provisions, the punishment prescribed by the Act and the functioning of the Special Courts. Victims constitute one main category whose perception of delay would carry weight as he/she most severely experiences the inadequacies of the Act. The fact that s/he was from the low caste, powerless, illiterate adds to her/his facing serious disadvantages in the village before venturing to file a case or presenting himself/herself before a court of law.

The questionnaire was sent to judges, special public prosecutors and defense lawyers who are working in the special courts (who know the system in and out) to obtain their feed back regarding the problems in the working of the Act. They feel that the Act was being misused for two major reasons. Firstly, the Act makes presumptions in favour of the victim and allows the victim to be compensated for the atrocities committed against him/her even before offence is proved. Secondly past vengeance against another community is realized by filing a false case against them in the Court and the frequent tendency of reconciliation or compromise, shows that they wish to take advantage of the SCs/STs (POA) Act, 1989.

Setting up of Special Courts for the purpose of addressing a specific category of crime is laudable but unless it is financially supported by sanctioning a yearly budget and the sanctioned amount is made available to the special courts on time, the Act might not be able to produce the expected results. Proper and sufficient infrastructural facilities and other requirements necessary for the functioning of the courts must be provided for by the government. The SCs & STs (POA) Act, 1989 mandates on the establishment of Exclusive Special Courts to take up the task of implementing the SCs/STs (POA) Act, 1989 exclusively. Exclusive Special Courts have already been established in some states where widespread atrocities are being reported. But in most of the states it is the Designated Sessions Court which performs the function of a Special Court along with handling other cases. Smooth functioning of these courts, depend on the timely appointments of judges, releasing funds periodically, providing for sufficient trained court staff, etc. An additional aim of this study was to understand the infrastructural disabilities, if any, faced by the courts and to find out their additional requirements. The answers to the questionnaire give the impression that the funds were inadequate and were not reaching the courts on time. Moreover judges preferred to keep quiet, rather than respond to these questions. One can infer

from this that they are facing problems with regard to funding. Their monthly salary is also not paid on time, adversely affecting their motivation to serve in a responsible position. As to the infrastructural facility, all the special courts have a library but are not equipped with the relevant books on the Act and they do not have access to the internet and other digitized resources of the High Courts and Supreme Courts rulings. This affects their ability to update their knowledge on the latest position in law and also the societal conditions of cases they are deciding.

Since the purpose of special courts is to prioritize the cases filed under the Act, we wanted to know the importance given to these cases. The Court administrative staff serving the Exclusive Special Court and Designated Special Courts said that only serious issues get prioritized like murder cases, rape cases, attempt to murder, cases against women, custody matters, and cases involving accused of more than sixty years of age and children.

Special Public Prosecutors:

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 feed back on how to conduct themselves during

the examination and cross examination. If they fail to get the feed back, there will be lot of discrepancies in their statements and as is evident in our analysis of judgments (Chapter VI), many of the cases end in acquittal for this reason alone.

The rate of acquittal is high compared to 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.

Investigating Police Officers

Investigating Police Officers also play a crucial role in giving shape to the trial in the court room and their investigation plays a major role in proving or disproving the crime. Their quick action also leads to speedy justice. For our study, their action and their limitations become crucial in understanding the reason for the time taken in rendering justice. One of the important tasks besides investigating the crime is to give police protection to the witnesses, however the study revealed that witnesses rarely ask for the same nor do they provide it too often.

It is always felt that there is a delay between the occurrence of the crime and its reporting to the police station. The reasons given for this are the following: (a) the incident occurs late in the evening and hence it is reported only on the next day and; (b) complainants tend to ask opinion of village

elders before stepping into the police station and; (c) the intervention of the village *panchayat* to compromise the matter as the village *panchayat* normally tends to do in all the disputes.

The reason for filing of charge sheet exceeding more than thirty days, was found to be due to the non-cooperation of the victim and witnesses as they tend to compromise and the time taken in getting caste certificate, medical certificate etc. None other than the Deputy Superintendent of Police can investigate the case under whose jurisdiction twenty to twenty six police stations function. According to them delay in delivery of summons is also one of the reasons for their failure to produce witnesses on time. This happens because witnesses change their residence, go out of station, get transferred to other places, the court lacks staff to serve the summons on time, and when the witness is out of country, delay becomes inevitable.

Witnesses:

Witnesses form a major part of the entire trial system without whose presence the case fails very often. The SCs/STs (POA) Act 1989 makes provision under Section 21 of the Act, to provide for daily travel and maintenance expenses to the witnesses. It is important to know how far it has been implemented and whether witnesses could access those benefits. Only 14.9% witnesses interviewed said that they get the travel and daily maintenance allowances, while 73% said they are not getting any and 12.3% witnesses did not respond. When asked why 73% did not get their allowances, twelve of them said they don't know anything about their entitlement for traveling allowances; two of them said they are going to claim; and others said they get allowances after a month's time; and some said they have claimed for it but the court has no budget. When we asked the reason for not getting allowances, a majority of the respondents said that they are not aware of such a provision and others said that it is due to the long

procedure in getting the same. Further, the Magistrate has to order the release of the payment and whenever the public prosecutor is asked to assist in obtaining the permission of the Magistrate, he does not cooperate.

Witnesses do not ask for police protection, as they feel it might invite unwanted attention and repercussions and reprisals may follow. They tend to be pressurized by the accused who belongs to their village and from village elders too. They also admit that elders of the village and *panchayat* members influence them and the accused uses his clout with them. Of those who attend the court regularly 31.0% said accused and his supporters tried to influence them to arrive at a compromise, while 39% said they are not influenced and 30% witnesses did not respond.

Victims:

Victims of cases under trial in the Designated Special Courts and in Exclusive Special Courts were interviewed. The victims as a result of the atrocities committed against them, have lost life, property, their dignity/honor and fundamental rights like right to livelihood, etc.

When asked about the incident and forms of violence inflicted upon them, they explained the various incidents and these are a few illustrative cases:

- drinking a glass of water in the shop of the dominant/upper caste person for which the victim was beaten up and filthy language was used against him and his caste;
- While another victim was refused the repayment of a loan taken from an upper caste person;
- Another victim was stopped from cutting firewood;
- A lower caste victim also bore the indignity of being beaten up along with his cattle herd for entering a particular field,

- While some victims claimed that they were abused by the accused for using the pathway by asking why they the Madiga “bitches” were using a certain pathway and were attacked with wooden sticks and stones.
- A certain other case pertained to the victim who touched the garland put on a tractor during Vinayaka Chaturthi festival and was abused with words like “*Holeya Nann Magane*” (abusing in caste name) and was beaten.

The reasons for these violations could be many: starting from the vengeance by the upper caste/class against the lower castes/tribes for accessing ‘equal rights’ and ‘opportunities’; resistance to any type of assertion of their rights like access to their land, the education system, public services etc. They could be targeted even to meet the political reasons. (A more detailed analysis of the causes and reasons of atrocities is at Part II) The victims face immense pressure to withdraw/compromise the case and few of them admitted during our interview that they faced such pressures. Even in the judgment copies from the courts, it is noticed that the elders of the village pressurize them to arrive at a compromise, as it is believed that they have to live together in the same village, dependent as they are on each other for various things. The dependency is more for the Dalits due to economic and social reasons and so they forego their rights outside the court by settling for amounts ranging from Rs.350/- to 25,000/-.

Victims are unable to give the reasons for the delay and this indicates that they are not involved by the Special Public Prosecutors in the day to day proceedings/discussions of their case and are not aware of the what is happening in the court, even in their own cases.

Dalit leaders:

When asked to rate the performance of Special Courts, 50% of Dalit Leaders said it is poor, 16.7% said it is fair, 5.6% said it is good, 22.2% said it is excellent, while 5.5% Dalit leaders did not respond. When asked whether the Special Courts function better and ensures the speedy disposal than the Designated Special Courts, 77.8% of the respondents said Exclusive Special Courts function better and ensures the speedy disposal than Designated Special Courts. While 5.6% disagreed, 16.6% strongly disagreed. Dalit leaders were satisfied with the work of the investigation officers in cases under SCs & STs (POA) Act, 1989 but not with the Public Prosecutors. They believe, it is the disinterest shown by the prosecutor that result in acquittals. When asked whether they were satisfied with the work of the Public Prosecutor, around 72.2% of Dalit leaders said they were not satisfied with the work of Prosecution while 27.8% Dalit leaders expressed their satisfaction.

Suggestions by Dalit leaders to improve the efficiency of the Special Courts:

- Cases of atrocities against SCs/STs need sensitive and efficient judges, public prosecutors and police officers. Judges, particularly, must consider the social factors influencing each case.
- Strict action should be taken (to avoid acquittals) against accused who influence witnesses to turn hostile, ensuring better conviction rates to bring about deterrence in the mind of people thus preventing atrocities against SCs/STs.
- Though committal procedure is good, it wastes the time and money of the Courts as well as the litigants.
- Charge sheet should be compulsorily filed within thirty days.
- Investigation should be done by the lower rank official not by Investigation Officer (DySP).

- The Social Welfare Department issues the fund to the victim by organising a function. This should be stopped as this is a right (of compensation) emerging from human rights violations not the grant of an award requiring a celebration.
- Security to the victim and accused at the court hall should be compulsorily provided.
- *In camera* proceedings may be adopted in certain cases to safeguard the victims, so that they can give evidence at the trial without fear.
- Defense lawyers should not threaten or confuse the witnesses at the cross examination.
- Compensation must be paid within the time period mentioned in the order.
- Court should issue copies of the judgment free of cost.

Summary of the reasons for delay and the problems in the implementation of the Act, listed by the respondents:

- Delay is caused at the stage of filing of the First Information Report and in filing the charge sheet.
- Lack of original jurisdiction of Special Courts results in further delay in the trial process.
- Additional District and Sessions Court are sometimes Designated as Special Courts under SCs & STs (POA) Act, 1989. There are no Exclusive Special Courts established for SCs /STs cases alone and therefore the Additional District and Session Judge has to take up civil matters as well as criminal cases. The “Special Courts” are therefore dealing with several cases including criminal appeals, civil appeals, cases under Motor Vehicles Act, 1939, offences under Indian Penal Code 1860, the Electricity Act, the Narcotic Drugs and Psychotropic Substances Act, 1985. With this kind of a workload, the Courts are unable to complete the cases filed under SCs/STs (POA) Act 1989, on time.

- Judges are awarded points or ranking of performance for disposing off cases in order to motivate them. The disposal of one case of atrocity fetches only 0.25 point for the Special Courts, whereas dealing with cases other than an atrocity case is given 1.00 point. Judges prefer to adjudicate cases which would give them higher points thus neglecting the atrocity cases. Therefore the presiding officers in the Designated Special Court have given the least priority to SCs/STs cases.
- Failure of the police to keep the witness present before court, adds to the delay. Even though there is the process of issuing non-bailable warrants against erring witnesses, it is often returned with the *shara* “informed at home to attend the court”, which is not a proof of the message reaching the witness. Those witnesses may be even the police officials or doctors.
- The defense lawyers seek innumerable adjournments on frivolous grounds. The cross- examination of witnesses is deferred on cost or otherwise on untenable grounds, several times. In some cases cross-examination runs into pages, asking the witness unrelated questions. When the court tries to curtail the time limit, lawyers enter into an argument either with presiding Judge or with Special Public Prosecutor, further taking away the valuable time of the Court.
- The delay due to non-appointment of Judges on time, in Special Courts after retirement of Judges or transfer of Judges, is another avoidable administrative lapse. Those who are in charge have no time to conduct the cases other than the cases already allotted to them.
- As per rules 7(1) of SCs & STs (Prevention of Atrocities) Rules, 1995, the investigation officer shall not be below the rank of Deputy Superintendent of Police. The Investigating Officers have to come from far off places to conduct the investigation, and they fail to take cognizance of offences immediately. Time is of crucial importance in the gathering of evidence. It results not only in delay, but the case also fails if they do not investigate the cases.

The important findings of the interviews mentioned so far, brings out lot of lacunae in the court system as well at the changes required to speed up the performance of the Special Courts. Special attention needs to be given to make the Special Courts more efficient so as to do justice towards the victims of atrocities and to put an end to the atrocities itself.

CHAPTER VI

AN ANALYSIS OF JUDICIAL REASONING

The findings of the study indicate a high rate of acquittal both by the Designated Special Courts and also by the Exclusive Special Courts. It is only appropriate that we examine some of these judgements of the trial court, granting the acquittals. In all, 370 original judgment copies collected from Special Courts were studied. Among these, 195 cases belonged to the Designated Special Courts and 175 cases belonged to Exclusive Special Courts of Tamil Nadu, Andhra Pradesh, Gujarat and Karnataka. These judgements were analysed with a view to elicit from the text of the order, the reasons for granting an acquittal, judicial perceptions that influence the decision of the cases and the approach of the judiciary in enabling the process of justice.

The analysis of judicial reasoning in each case under the study was undertaken keeping in mind the following:

- 1) To broadly analyze the responses of the Judge towards trial of the case under the SCs & STs (POA) Act , 1989;
- 2) To analyze the response of the Judges to police investigation;
- 3) The reliance on the ratio in judgements of the higher courts (HC and SC) in deciding the case at hand;
- 4) The responses of the Judges to medical reports and other evidentiary reports;
- 5) To collate the reasons stated for acquittals/convictions.

It is a well known fact that normally cases end up in acquittals due to lack of evidence. The cases under the SCs & STs (POA) Act, 1989 are no

exception. The acquittal rates are more than the conviction rates (Table 9). There are various reasons for this and the findings of this study bring out a few of the important reasons, which are listed below.

(A) Hostile Complainant and Witnesses:

The analysis of the judgements show that the majority of cases resulted in acquittals because the complainant as well as the witnesses turned hostile. This happens when the complainant retracts from his earlier statements, refuses any complaint having been made by him/her or any incident having occurred, resulting in a crime under the enactment. When the complainant refuses the complaint made by her/him, the proceedings are stalled and the Judges are forced to dismiss the case or acquit the accused.

It is difficult to ascertain why a complainant retracts from the complaint. This study of the judgments helps us draw a few inferences from the facts and circumstances of the cases. It is observed that one primary reason is when the complainant faces constant pressure from the accused to withdraw the case. The pressure is particularly strong when the complainant is placed in a dependent position vis-a-vis the accused, either for economic support or for his daily labour. The victim finds himself under greater pressure, especially when the accused is a well connected political person and has the support of the village in which the complainant also resides. It was also noticed that many of the accused come forward to “buy” witnesses in their favour and majority of the witnesses are from SCs/STs community. They are also pressurized by the ‘village elders’ to accept these offers. The judiciary cannot do much when such dealings take place outside of court, yet a sensitive system to understand this process and proceed with the case needs to be put in place.

The Exclusive Special Court Judge, Bangalore Rural District, in his decision passed in the year 2000, notes thus: “Now a days, in most of the criminal cases, at the intervention of the village elders, disputes were settled in the village itself and accused try to compromise with it. In the case judge was dealing with complainant has deposed that his case was compromised by the elders of the village. Therefore, the prosecution witnesses will not give true picture about the incident.” The same judge in another case adjudicated in the year 1999 states that “Now a days it has become common thing to win over the witnesses by the accused and moreover the prosecution witness has admitted that counter complaint filed by accused and it was settled in Loka-Adalat. When such being the case, am of the considered view that, usually some times in the villages they tried to compromise the case and counter-cases by settling out the disputes in the village itself. Therefore, the criminal cases filed against the complainant and others by the accused were already settled in Loka-Adalat and hence, the said witnesses turned hostile”

Witnesses play a very crucial role and the Courts/Prosecutors must ensure that they are protected from all such pressures and influences. Moreover there is no immediate support system to protect or help the witnesses to come forward to give their valuable evidence. Though Section 21 provides for the travel expenses and the maintenance expenses of witnesses, it is difficult to access the same as there is always a shortage of funds in the court or a delay in releasing the amount to the witnesses who might need it. Keeping with the larger effort at ensuring protection and benefits to the witnesses, the Courts/Prosecutors should value their time and reimburse the expenses they bear to be present in the Court on the date of the hearing.

In atrocity cases against SCs and STs there is a power relationship with the dominant caste exercising influence over the lower caste and

normally victims face immense pressure to forego their complaint, especially when the accused is an *ex-sarpanch* or holds a powerful position in the village. Unless the judiciary understands and is sensitive to this larger social context in which the victims have to fight for his/her rights, it is difficult for SCs/STs to get justice.

The delay in disposing off the case by courts also leads to witnesses turning hostile, as it becomes difficult to remember details of the incident after three to five years. Witnesses tend to make contradictory statements due to forgetfulness, fear of court atmosphere etc, resulting in the case failing due to contradictory statements of the witnesses. This is one of the major reasons which has contributed for the high rate of acquittal.

It is also noticed that the cases have failed where the prosecution counsel decides not to examine a few witnesses including the police who has registered the case, eye-witnesses and other such important witnesses. It seems to be the sole prerogative of the public prosecutor concerned, to leave out examining certain key witnesses, as well as from producing them before the court. In some cases the failure of the court to facilitate the presence of witnesses due to their not being in the country, has resulted in the failure of the case. There is rarely an attempt being made to serve summons to these witnesses or issue a commission for the examination of the witnesses even when the case hinges on their evidence. Hence the case fails due to lack of evidence and lack of interest from the prosecution counsel in procuring these witnesses.

(B) Interested Witnesses:

In some cases the evidence of the witnesses was not considered by the judges as the witnesses were related to the complainant. It appears that this discarding of evidence as interested witnesses, seems a bit harsh as it is

difficult in a village community where they stay together, to find unconnected witnesses. Even where their statements were corroborated, judges failed to consider it on the basis of their being 'related' to each other.

Judges seem to generalize in cases where there is a long standing enmity between the parties. In a case Judge says "complainant cannot be believed at all because of long standing enmity between the parties." Such conclusions arise due to judges perceptions about the misuse of the SCs/STs (POA), Act 1989 or his own prejudices and biases against the usage of the SCs/STs (POA), Act 1989 itself. It is this attitude which results in the high rate of acquittals of offences charged under this enactment.

It is common for every case to have some discrepancies in the statements made by the accused, witnesses, complainant etc and unless it affects the root of the offence itself, courts should not make it the sole criteria to acquit the accused. Especially in cases where depositions of witnesses are inconsistent with regard to one offence but consistent with regard to another offence, the accused should be convicted for the latter. But it has so happened that where accused was charged under different sections of the SCs/STs (POA) Act, 1989 and where consistent depositions were made by several witnesses, accused was acquitted due to discrepancies occurring in another context.

It was held in one of the judgements that merely naming a caste of a person did not amount to atrocity and the fact that the victim took money from the accused to enter into a compromise shows that he has come before the court to extract money from the accused and misused the SCs/STs (POA) Act, 1989. The Judge failed to notice the influence that might have been used over the complainant by the accused. The word 'psychosis' was used to say

that the accused was impaired in his capacity to think of what he was doing and he was acquitted on this ground.

Section 3(1) requires that the 'insult' should occur in the view of public whereas in cases where complainant fails to show any 'public' presence the case fails. Where a bank manager was insulted in a particular case, it was held that it is not in 'public' but in his chamber and so the case failed.

When a dumb girl of eighteen years was molested, there was no one who could understand her language except her sister and when her sister translated the victims sign language to the court, she was considered as 'interested person'. Finally the excuse given to acquit the accused was that there was no independent person to interpret what the witness was saying.

(C) Procedural delays:

There was confusion in plethora of cases regarding the issue of the Court of Sessions directly taking cognizance of the case. The Supreme Court decision in *Gangula Ashok and others v State of Andhra Pradesh (2000 (2), SCC 504)* made it mandatory to send the cases under the Act to the Magistrate's Court to observe the committal procedure and only then to Court of Sessions or to the Exclusive Special Court. This is time consuming and brings in unnecessary delay in disposing of the cases. The study found that the cases have taken six to seven years to be decided. There are many reasons for the delay and this places an additional burden on the time of the courts.

(D) Investigation Officer:

Rule 7 of the SCs & STs (POA) Rules, 1995, states that the investigation has to be done by Deputy Superintendent of Police and in majority of cases that were analysed, the acquittals resulted due to the fact

that the investigation was done by a police officer below the rank of Deputy Superintendent of Police. It is imperative that the court take into consideration the statements of witnesses recorded under section 161 Criminal Procedure Code by the Sub-Inspector of police for the purpose of considering whether there is ground for presuming that the accused has committed an offence under the Act. Why should the procedural lapse on the part of the police officers, deprive the victim of justice? The fact that the Deputy Superintendent of Police could not do the investigation by himself should not be the reason to acquit the accused. The lacunae has be addressed so that the accused do not connive with the police to vitiate the proceedings in the cases filed under the enactment.

In a case decided by a Special Session Judge, Karimnagar in the year 1997, the Special Public Prosecutor in his defense against the fact that the investigation was not done by DSP states thus: "Rules coming into force one year before the commission of the offence and any Deputy Superintendent of police have not been specifically appointed by the State Government to investigate into such offences and it is difficult for a Deputy Superintendent of Police who is burdened with various other duties to investigate into an offence committed under this Act, particularly when the offences are not grave in nature." The judge responds by stating that the "practical difficulties of a Deputy Superintendent of Police cannot be taken into consideration by the court as the law lays down that the investigation shall be made by a police officer not below the rank of Deputy Superintendent of Police. It cannot be said that the investigation in this case was done by a police officer who was competent to investigate into the same. Hence judge was unable to take into consideration the statements of witnesses recorded by the Sub-Inspector of Police for coming to an opinion as to whether there is ground for presuming that the accused has committed offence under the SCs/STs (POA) Act, 1989." The judge discharged the accused holding that the charges were baseless.

The majority of the cases end up with this dictum as there was no authority 'appointed' or 'ready' to take up this task which is prescribed by the SCs/STs (POA) Act, 1989.

In our study we have come across cases where, though the commission of offence was proved beyond reasonable doubt, the judge acquits the accused because the investigation is not done by Deputy Superintendent of Police as per the requirement of Section 7 of the Rules. This reason should not be used to do injustice to the victim and Act should be used in the interest of the SCs/STs.

(E) Delay in filing First Information Report:

Majority of the cases we had taken up for study mention the delay in filing First Information Report and this was successfully taken up as a defense by the accused to escape from conviction. Judges have the discretion to condone the delay in special circumstances or give the benefit of doubt to the accused. Judges should give special consideration and condone the delay in atrocity cases as victims are situated in a circumstances where it might take them some time to evaluate and understand what steps should be taken and whom to approach for redressal. Judges should also keep in mind the victims background, knowledge of his/her rights, the position of the accused in the village, the access to complaint mechanisms, the distance from police station to the place of incidence, the availability of transport and the financial position of the victim, and make concessions for these ground realities.

A days delay should be condoned as social repercussions of legal action in cases of caste oppression is grave and needs serious deliberation on the part of the complainant. Only an inordinate delay in registering the First Information Report, should normally cast a cloud of suspicion regarding the truth of the prosecution case. But if the delay is properly explained it may not

be of much consequence. Therefore, a mere delay should not be the criteria for the judge to acquit the accused. Delay also results because in most of the villages, formal or informal *panchayat* system works when there is a dispute and SCs/STs refer their case first to the *panchayat* and wait for the result. When this does not work out, they turn to the court system. The judiciary needs to understand this but as observed by us, in the cases we have studied, this sensitivity is lacking.

In a case decided in the March 2001, the Additional Sessions Judge, Karimnagar failed to notice the fact that there was pressure on the victim to compromise the matter in the first instance and was stopped from complaining to the Police on the pretext that they would settle the matter. The judge points out the delay of three days in filing the First Information Report, along with complainant turning hostile, as reasons for acquittal. The complainant turned hostile at a juncture where, but for him, the case would have been won. One can detect the pressure/influences he might have been placed under, in order to turn hostile.

In a similar circumstances, the II Additional Session Judge, Bangalore in his judgment in the year 2002, despite the delay being explained as the complainant having approached the elderly persons of the village seeking justice and they having promised him that justice, waited for three days; held in his judgment that “there is an inordinate delay of two days in registering the case and the said delay is not properly explained which is fatal to the case of the prosecution.”

(F) Atrocities against Dalit Women:

Majority of the cases filed were under Section 3(1)(x) are cases of atrocity against Dalit women. This shows that the atrocity incidents are targeted towards Dalit women. It is astonishing to read from the judgments

that the atrocities against Dalit women either by rape or by outraging her modesty are not taken seriously by the judiciary. In one case, where there was medical evidence of rape of a minor girl who was promised marriage by the accused and he eventually raped her, he was acquitted because the minor girl turned hostile. No age test was done and neither the age mentioned. The fact that she was a minor makes the offence more severe and the presumption of coercion/undue influence should be taken into account and the absence of consent is presumed. The Court did not take the offence of rape seriously and acquitted the accused. It has become very common to cheat young girls on the promise to marry and rape them and this needs to be viewed seriously as in many of the cases, the girls are enticed and later sold into brothels in this manner.

In another case a young Dalit woman was raped by an upper caste man along with his friends and sold to a brothel. The medical evidence, though present, was interpreted by the judge as, “the injury sustained by the woman might be due to fall” and case failed due to that. Where she was sold to a brothel, it is a clear case of trafficking and those sections also could have been invoked.

In one case it was found that the charge sheet quoted the offence under Section 3(1) (xi) that is to relating to assault or force to outrage the modesty of women. This was crossed out later and throughout the judgment Section 3(1) (v) was used which deals with dispossessing or interfering with the enjoyment of land, premises etc. There is a vast difference in the section used initially and the changes made later, which brings out serious doubt about the trial. It is true that the judges have the discretion to change the charge later but this change is unacceptable as no reasoning to this effect could be found in the case file.

In a case where there is an attempt to rape and assault a woman, though all the witnesses supported the case, the judge acquitted the accused after considering his plea that five years had elapsed already and if he was convicted his family would suffer. So the judge took a lenient view and fined him for a mere Rs.1,000/-. Moreover, an offence like rape cannot be disposed off by merely fining the accused and the mandatory imprisonment should be awarded.

The influence of the caste men also play a crucial role in the women turning hostile, so much so that, in one case, the village elders succeeded in arranging the marriage of a rapist with the victim. The case then ends in an acquittal. It shows the extent of domination that could be used even when heinous crimes like rape are perpetrated.

A handicapped girl was raped and medical evidence also corroborated the fact, but the girl says that she was never raped. This case raises a lot of suspicion about influence being used on the victim to turn hostile.

In a particular case, the police did not file the charges under Section 376 Indian Penal Code, even when the woman said that she was forced to have sexual intercourse but it was filed under Section 354 Indian Penal Code.

In another case, the accused was acquitted under Section 235(1) Criminal Procedure Code, due to lack of evidence for outraging the modesty but under the Act, Section 3(1) (x) is used and not (ix). It shows the lack of knowledge, interest, and alertness of the police and the prosecution counsel.

In two cases reported in UP in the year 1997, before the II Additional Session Judge Court, Kheri, there was a clear case of men of the Primary Health Center taking advantage of their medical position on a house visit to a

woman. On the pretext of removing tags from the tubectomy operation wound, one of them inserted his finger in the vagina of the Scheduled Caste woman. A similar incident repeats itself in another case too. But both these cases fail as there is no independent witness and moreover the complainant turns hostile.

A number of cases against sexual atrocities towards Dalit women end in their turning hostile as they make different statements before the police and magistrate, later deny the incident, and even deny recognizing the accused. All of this could be due to the confusion, fear, threat from the upper caste as her dilemma is more complex, and results from her double marginalisation as a woman as well as being a member of the lower caste. Change in family circumstances and delay, also result in the women turning hostile, as is evidenced in the case where a woman and her minor daughters complained but when the case came up for trial two to three years later, the minor girl who was now married, was prevented from being present in the court by the mother.

(G) Medical Examination:

In atrocity cases, the medical evidence plays a crucial role in proving the offence resulting in conviction of the accused. But in a majority of the cases, medical examination itself is not done and reasons for the same are not mentioned.

An examination of even a few materials by the forensic laboratory like torn clothes, finger prints on the body or wall etc, also strengthens the prosecution case, but such care is not evident in the gathering of evidence by the police. There might be a lack of such facilities also, due to which victims lose out on their efforts at seeking justice.

(H) Proof of Caste:

Section 3 of the Act will apply only when the atrocities were committed by the non SCs/STs person over SCs/STs person for which proof of caste becomes very important. Where the complainant fails to prove that he/she belongs to SCs/STs the entire case fails. It also means that the person who commits the offence must know the caste background of the victim and the fact that prosecution could not prove any previous contact between the victim and the accused or show that there was no opportunity for them to have known his caste, is used to uphold the non applicability of a particular section. In a few cases the fact that the victim states before the court that he/she is not SC/ST but Christian stops further proceedings. There is no further order by the court to check the veracity of the statement and ask for the proof of the same.

The SCs/STs (POA) Act, 1989 requires the accused to prove or disprove the caste of the complainant and that itself adds to the humiliation to the victim as sometimes the discussion on whether the victim is an SC or an ST, can go on at length, causing further humiliation.

In a few cases of convictions under Section 3(1)(x), judges do not use the discretion to convict the offender for three years but only impose a fine on the accused. Whereas it is clearly stated in the SCs/STs (POA) Act, 1989 that the punishment should be imprisonment and fine and not imprisonment "or" fine.

Conclusions :

The various reasons stated which lead to the failure of the cases are not unusual. But the question that need to be addresses here is whether those grounds cited above are taken into consideration where an

understanding the caste system in the villages and the influence it could have on the complainants dealing with the court right from the time of filing first information report might have repercussions for the case. Given the contextual background of the cases and keeping in mind the basic rights of an accused, it is expected that the judiciary with the objective of furtherance of justice, reviews the use of procedural defects that defeat the purpose of the enactment. The application of 'discretion' is important in the cases of atrocities against the Dalits more so in ensuring the smooth functioning of the cases. In the absence of such a sensitized judiciary, the SCs/STs hope for protection against atrocities, through a special social legislation would be a mere paper tiger.

PART - II

MAIN CAUSES/REASONS FOR INCREASING CRIMES ON SCs AND STs

A sociological survey of the causes for atrocities against Scheduled Castes/Scheduled Tribes

Evolving Dalit consciousness, influenced largely by vibrant Dalit movements coupled with rapidly changing political and economic realities, is inextricably linked to the continuing atrocities against the Dalits. Conversely, it is also true that many instances of atrocities have provided the impetus to mobilize and strengthen the process of formation of the Dalit consciousness. Similarly, increasing pressure on the control of vital natural resources, continue to add to the woes of the Scheduled Tribes. While the reasons for the atrocities are complex and interwoven with the historical past, it must be acknowledged that the present is metamorphosing rapidly, making the task of capturing the nuances of the sociological causes for the atrocities, that much more difficult. While this chapter makes a sincere attempt at comprehensively documenting the various causes for the atrocities – historically and in the present – the same is done with a rider that the political equations, organisational strength of Dalit/tribal groups and the regional variations are all in a flux, and these do not get analysed and reflected here in all their complexity. This overview depends mainly on the available secondary sources in the form of reports (government and non-governmental), books, monographs, newspaper clippings, internet resources. The specific case studies which illustrate the atrocities against the Scheduled castes and Scheduled tribes are at Annexure 1 to this report.

Scheduled castes

Caste, as practiced, has never been static. In the recent past, three clearly identifiable sociological changes have impacted and transformed the caste structures in large parts of the country. These have a direct bearing on our understanding of the caste tensions which result in violence and atrocities.

I. Affirmative action and caste

Ever evolving, the early twentieth century saw the emergence of a social process termed as “sanskritisation” by the eminent sociologist M.N. Srinivas, whereby the lower castes sought to emulate the social practices of the upper/dominant castes in an attempt at upward social mobility. Affirmative action and a dynamic political process is steadily changing this trend. “Earlier, many castes hesitated to be called ‘backward’ despite their poor economic condition. They feared they would not improve their social status by identifying themselves as backward. But this is no longer true, now that the state has provided certain benefits to backward castes. These castes realised that they could improve their status by improving their economic condition rather than by observing rituals followed by the upper/dominant castes. But this does not mean that they have given up the caste framework. They continue to maintain their caste identity and prefer to have certain castes below them – lower in social purity and pollution. It seems that rituals and social status by making money and acquiring political power, while ritual status in the caste hierarchy remains the same. There is also competition among the castes to be termed ‘backward’. Even some of the Brahmin and Rajput jatis, who traditionally enjoyed high status, have approached the government to be classified as ‘backward’. Economic benefits are here the prime mover.”⁴

⁴ Introduction, Ghanshyam Shah, *Caste and Democratic Politics in India*, ed. by Ghanshyam Shah, Permanent Black, Delhi, 2002

Hence, caste conflicts are no longer just about the upper castes and lower castes but have transmuted to include intra-caste rivalry. A case in point is the growing dissension between the Malas and Madigas in Andhra Pradesh, reflected similarly in the splits in Karnataka between the Holeyas and the Madigas. In this background, perceptions of group solidarity and strategic political alignments, make for a difficult sociological reading.

II. Democracy, Political process and caste

The other major trend impacting “caste” has been the growth of regional parties alongside the process of decentralisation of power resulting in increased politicisation of the village. “There were three consequences of interaction between caste associations and political parties. First, caste members, particularly the poor and marginalised who had hitherto remained untouched by political processes, were politicised and began to participate in electoral politics with an expectation that their interests would be served. Second, caste members got split among various political parties, weakening the hold of the caste. Third, numerically large castes got representation in decision-making bodies, and the strength of traditionally dominant castes was weakened. This explains the rise of middle and backward caste representations in most state assemblies.”⁵ Hence the rise of political parties such as the Bahujan Samaj Party and the experiments of decentralised governance through Panchayati Raj, have impacted and altered, traditional caste based power structures.

Ironically, as Ghanshyam Shah observes, “Caste has provided an institutional mechanism to the poor and traditionally deprived groups for political participation.”⁶ The constitutionally mandated principles of equality and social justice have provided the political legitimacy necessary, thus influencing the consciousness and aspirations of the marginalised groups.

⁵ Ibid, pg. 23

⁶ Ibid. pg. 28.

Increased politicisation as a result of decentralisation has meant a greater opportunity for the marginalised to have a voice in decision making.

III .State, Power and Caste

Oliver Mendelsohn⁷ through a detailed study illustrates that “land and authority have been delinked in village India” resulting in a non-revolutionary transformation. His proposition is that the power derived from ownership of land is not nearly so overwhelming as it once was and that it fails to provide a base for the kind of authority which the local dominants once tended to possess. Drawing from this analysis, it is interesting to note the shift in the source of power from the individual or community which owned the land to a “neutral” third party called the State. And herein lies the dilemma faced by “law” which seeks to enforce “equality” through the State machinery. In the absence of power derived either from economic sources (such as land) or authoritative sources (such as caste panchayats or caste rituals), the dominant castes now seek to influence and manipulate the State machinery to perpetuate the caste structure. This gets reflected in the innumerable instances of connivance of the State machinery – the police, district revenue officials or the lower judiciary- in cases of atrocities against the Dalits. Where the State machinery becomes a puppet in the hands of the dominant castes in perpetuating violence, Dalits are left with very little choices for self-protection. Capitulation or extremism in the form of “caste armies” have resulted, aggravating the caste divisions. Abuse by the “State”, shakes the fundamental pillars on which democracy rests.

Understanding atrocities:

In understanding the atrocities against the Dalits, three types of violence and atrocities on Dalits have been identified: (a) Assertive violence;

⁷ The transformation of Authority in Rural India, Oliver Mendelsohn, Ibid pg. 169

(2) Change-resistant violence; and (3) Retaliatory atrocities⁸. Assertive violence refers to the assertion of hegemony of the dominant castes over the subaltern communities in rural society, while the change-resistant and retaliatory forms of violence are a direct consequence of the new forms of consciousness emerging among the Dalits as a result of social change and social movements. Scholars have noted that the changing Dalit identity and their socio-political and economic mobility guaranteed by the modern concepts of “equality” and “democracy” challenge and threaten the traditional social order valued by the hierarchical caste- Hindu society. Backlash and violence characterise one of the modes of negotiations with the agents of social change by the beneficiaries of the old order, for the continuation of earlier social structures. However, it would be overly simplistic to put down all violence as an attempt at retaining the old order and not acknowledge the contesting claims of equals, over economic or political spaces.

Writer and Scholar D. R. Nagaraj⁹ in his analyses of violence on Dalits identifies two patterns in the attack on Dalits. The first is related to the notion of justice in a village and the second relates to attempts by Dalits to assert their rights. “(W)hen the behaviour of a single individual or a group of Dalits differs from and challenges traditionally accepted notions of morality, norms of social behaviour and rules related to love and sex, the caste-hindu society takes it as grave violation of its ethics and punishes the alleged offenders severely. The notions and practices of justice of the rural Hindu society takes it as grave violation of its ethics and punishes the alleged offenders severely. The notions and practices of justice of the rural Hindu society are organically linked to the ethos of the caste system. Equally important is the fact that the structure of justice rests on the consensus of the entire village, which could also mean the unchallenged rule of upper castes.” Analysing specific

⁸ S. Japhet, Social Movement and Social Change, A study of Dalit movement in Karnataka, Ph.d Thesis, 1997, Bangalore University, unpublished.

⁹ The Flaming Feet, ICRA publication, Bangalore, 1993, pg 31

instances of violence, he further observes thus: “The important thing here is that the entire community of Dalits is punished for the offence committed by a single individual. That traditional society in India has never accepted the concept of individual should not make us blind towards the working of the caste ethos here. When similar offences are committed by an individual of upper caste he is always treated as an individual, and his act is not linked to his community. In other words, the notion of the individual is preserved in the context of deviant behaviour of the upper castes.” “The second form of violence is more complex which is sure indication of the growth of a new kind of radical consciousness among the Dalits.” (F)or the purpose of clarity, I would classify the rights into three categories: first, structural rights which will cover areas like claiming ownership of land, water, forest and other related matters. ...The second category can be termed as right to equal social space: this essentially consists of rights to enter and use public spaces, although this changes quite often according to the societal structure of a given area.... The third category is the most challenging one which defies any simplistic discussion, andI would call this right to cultural space. In senses more than one the notion of culture includes realms of religion also in this context. Attempts to seek equal space to affirm the existing religious practices have also led to blood bath and massive violence. Similarly the decision to not participate in a religious and cultural event which has demeaning roles for Dalits can attract violence.

The battle or conflicts over the social and cultural spaces continue unabated as is evidenced by the case studies of various States appended to this chapter. However the structural spaces have expanded to include political spaces. The power that was once exercised through ownership of land is slowly dwindling and the epicentre of power struggles has shifted to democratic political spaces within the State. The State machinery, as illustrated in some case studies, are also sometimes taking sides thus subverting the cause of justice. Thus, democratic politics, affirmative action,

Dalit identity and a capitalist economy, have significantly changed the lens through which we view and analyse the causes for atrocities.

Causes for atrocities

In understanding the present, it would be useful to state here the earlier sociological narratives on the causes for the atrocities against the Scheduled Castes and the Scheduled Tribes. The Report of the National Commission for Scheduled Castes & Scheduled Tribes titled “Atrocities on Scheduled Castes & Tribes: Causes & Remedies”, April 1990, put forth the sociological findings on reasons for the atrocities, thus:

“Sociologists who have studied the phenomenon of violent crime against Scheduled Castes and Tribes have taken the view that they are a manifestation of the tensions created by changes in the political, social and economic structure. These changes have generated aspirations among the weaker sections and resentments among others, which have resulted in conflicts. Certain analyses have also suggested that the causes for atrocities which are previously to non-economic issues (like refusal to pay respect to caste Hindus and dissociating from caste based occupations) have now become related to political and economic issues like allotment of lands and houses, demand for reasonable wages and involvement in politics. It has also been pointed out that the nature of atrocities have also changed – from ostracism and individual harm to gang violence and arson.” (pg 4)

The report goes on to classify the causes for the atrocities under economic and non-economic.

Economic Causes:

Land: The report identifies that the most important single cause for atrocities as being land and conflicts arising from land, wages, bonded labour and indebtedness. Some of the findings may be quoted here:

- (1) implementation of land reforms has created animosity against SCs and STs among the traditional landowning classes. (pg 5)
- (2) the animosity is particularly virulent when the lands allotted are irrigated and exceptionally fertile. Envy of a good crop raised by SCs and STs often leads to damage to the crop by other castes. (pp 7-8)
- (3) use of common pasture and other types of community land have led to violence on SCs/STs. (pg 8)
- (4) large scale alienation of tribal lands and dispossession of tribals has given rise to discontent.

Bonded labour: It notes that landlords in the places where bonded labour system prevails (i.e. largely in Karnataka, Andhra Pradesh, Orissa, Rajasthan, Madhya Pradesh, Tamil Nadu) have been unable to accept the new status of former bonded labourers, and have insisted that they should fulfil their commitments. Friction arises when the bonded labourer or members of his family try to assert their rights.

Indebtedness: A sizeable chunk of lending to cultivators still continues to be from non-institutional sources like money lenders, landlords and traders and many atrocities are linked to this exploitative cycle.

Wages: Agricultural labour provides the largest single category of employment for Scheduled Caste workers and the position is more pronounced in the case of Scheduled Caste women. Scheduled Caste agricultural workers are occupationally vulnerable to exploitation, often being paid wages well below the prescribed minimum wages.

Non-economic causes:

1. Caste prejudices and untouchability are causes of atrocities. Political factionalism is an increasing source of friction. Superstitious beliefs have also led to atrocities.(pg. 1).
2. Prevention of access to drinking water, access to teashops, celebration of festivals, religious processions, use of cremation grounds often lead to conflicts. (pp 3-9).
3. Political factions on caste lines are increasingly becoming causes of clashes and atrocities. (pg. 11).
4. Refusal to perform duties which other castes regard as customary like digging burial pits, preparing cremations, removal of the carcass of dead animals and beating of drums lead to clashes. (pg12).

While all the above causes are prevalent in the year 2004, the degrees to which they manifest themselves have differed. Increased Dalit assertiveness as a result of awareness of their rights, is one of the prime reasons for atrocities. Political conflicts are on the rise, while women continue to be easy targets for caste based conflicts. The tensions between Other Backward castes and Dalits, have also increased significantly, pushing us to relook at our traditional understanding of the “dominant” or “oppressor” castes. We examine in detail some of the current causes for atrocities against the Scheduled Castes.

In spite of the constitutional abolition of untouchability and the passing of the SC and ST (Prevention of Atrocities) Act and the rising consciousness regarding democratic and human rights, caste related atrocities are prevalent. The causes for caste atrocities can be broadly categorised into economic, social, political and sexual. Abuse by State apparatus constitutes a cause by itself.

Social Causes

The social causes involve problems arising from the practice of segregation and untouchability practised by the oppressor castes. The underlying principles of purity and pollution that govern and enforce caste discrimination, find expression in separation and segregation of drinking water facilities, places of worship, separate settlements of Dalits in the outskirts of the village and even separate glasses or plates for eating and drinking. Though economically many of the dominant castes may be in the same condition as the Dalits, these practices result in the social humiliation of Dalits. Dalits are not allowed to worship at certain temples, not allowed to walk through certain streets inhabited by the oppressor castes, not allowed to wash clothes and bathe using public ponds, provision of separate glasses in public tea shops, denial of certain services like those by washer men and barbers. In certain places they are not allowed to sit in certain public places like bus stops, elected panchayat members from the Dalit community are forced to sit on the floor, while others use chairs are just instances of a host of other degrading practices that mark the practice of untouchability in the villages. At the heart of these segregationist and discriminatory practices is also the dread of inter-caste marriages. Relationships between the sexes from different castes has led to much violence and atrocities.

Caste based oppression is wide-ranging and extend to cultural and religious spheres. On this basis, people are denied entry into temples, forced to perform the traditionally allocated jobs in relation to village festivals, denied democratic cultural space, excluded from participating in sports and games, denied accessibility to public spaces like roads, bus stands, restaurants, etc. Brutal repression is unleashed when Dalits refuse to carry out commands related to skinning and removing dead animals – all these and many other practices are direct manifestations of untouchability. Dalit consciousness has begun to question these practices resulting in violence being unleashed against them by those seeking to preserve the old order.

Dalit Consciousness

Attempts by the Dalits to assert their self-respect and break the taboos imposed by the dominant castes are met with violent enforcement of the institution of the caste system. Dalits being compelled to do demeaning jobs like removing carcasses, scavenging, forcing them to worship only their own deities, Dalit elders being treated with contempt even by the children of the oppressor castes, restricted social interaction, Dalit students being discriminated against on caste grounds and forced to sit separately from other students, and disallowing the public display of their traditional art and culture are some of the other manifestations of the practice of untouchability. All these causes together are a constant source of friction.

The passivity and servility is giving way to a new assertiveness, leading to serious social conflicts including assault, murder, arson, rape, social ostracism, burning down of settlements and a host of other violations of the basic human rights of the Dalits. The Dalits are increasingly recognising that they have to pay a price to get their legitimate rights. The nature of the conflicts that are erupting amply elucidates this reality. In an instance of violence against Dalit Christians in a village in Andhra Pradesh, the Dalits after being assaulted and driven out of the village, retaliated by marching back to the village in large numbers, burying their dead in the village square, thus frightening the dominant castes into fleeing the village. The dominant theme running through many of the case studies is the determination to fight back, in a bid for justice, even when faced with connivance of the State machinery with the oppressors.

Economic causes

The economic causes behind the caste clashes include ruthless labour exploitation through the system of bonded labour, paying wages below the

stipulated minimum wages, forced labour, denial of common resources, land and employment in occupations other than traditional occupations earmarked for Dalits through the caste structure.

Tensions arising from the land question are one of the recurring reasons for the caste conflicts. Control over land and other productive resources automatically implies economic empowerment and the ability to withstand and effectively counter atrocities. It is in this light that the State needs to lay greater emphasis on ensuring effective implementation of land reform programmes.

Many of these basic violations of human rights of Dalits again suit the economic interests of the dominant caste-class combine. These occupational role divisions serve the interests of the dominant landed castes, and any attempts to break out of this system are taken to be a direct affront and punished accordingly. Denial of the means of livelihood, and thus starving the Dalits is a common method of forcing them to conform to the traditional role divisions. If they dare to protest and assert their human dignity and equality, they can be confronted with denial of employment, drinking water facilities, access to shops and provisions, etc as part of the control mechanisms. In other words, they face social and economic boycott.

Sexual Causes

In any caste conflict, the women are special targets, and this is apart from the routine humiliation that is meted out to them for belonging to the lower orders. Molestation, rape and eve-teasing is routinely resorted to in a bid to humiliate the Dalit women. Though untouchability is assiduously practised on other counts, double standards are maintained when it comes to sexual relationships with women of the lower castes. Until recently, the system of “Devadasis” or “Jogins” in Karnataka and Andhra Pradesh, enabled

easy access to women of the lower caste, as a matter of right. In fact, sexual atrocities practised with impunity on Dalit girls and women is considered as humiliating the whole community, to show the Dalits where they stand, and is used as a strategic tool of oppression.

Political causes

The emergence of regional parties as major players in the national political schema are reflective of the larger political changes occurring locally in Indian Society. "The ongoing process of the political rise of the backward castes, despite their inter and intra-caste divisions and conflicts, have found strong political representation in the form of parties like the RJD, Janata Dal, Samajwadi Party, Samata Party, the regional parties and the left."¹⁰ Studies also indicate a shifting trend in the voting patterns of the Scheduled Castes and there is a distinct move from supporting traditional parties such as the Congress to newer regional formations. Atrocities related to these shifting alliances and those that have occurred as a result of decentralization of power and reservation of seats at the local level, are on the rise.

Abuse by State

Locating responsibility for the poor implementation of the various enactments seeking to protect the SCs, and also for indulging in extensive abuse -both by the State machinery and in connivance with the oppressors - several fact finding teams have directly indicted the State¹¹. It has been found that the police and civil authorities across the country have colluded with the dominant castes in denying to the Dalits the protection and safeguards contained in the various enactments. It has been noted that the Dalits have

¹⁰ Supra note 1, Pushpendra pg. 357

¹¹ National Public Hearing on Dalit Human Rights, Chennai, 2000 organised by the National campaign on Dalit Human Rights; Public Hearing: Lucknow, October 5-6, 2001 From Dalits of UP to Citizens of India: A Report of public hearings held at Lucknow, organized by Dynamic Action Group, IIP and PUCL (UP) and NGOs; SAKSHI, Dalit Human Rights Monitor – 2000, A report of the Human Rights Watch, AP.

been subjected to various atrocities by all institutions – be it the panchayats, police, revenue administration and even functionaries of the court. A report of Human Rights Watch (1999) records a great deal of evidence to highlight cases of police atrocities on SCs such as sexual abuse of women to crush dissent; rape and torture in custody as a means of punishing their male representatives; raids of SC colonies to terrorize SCs as a group; collective penalisation of SCs for individual transgression; crushing even legitimate political activities, arbitrary detention, torture, extra-judicial executions, forced evictions and abetting in the defacto disenfranchisement during elections by political leaders of dominant castes. The report finds that the potential of SCs and STs (Prevention of Atrocities) Act, 1989 has not been tapped due to incompetence, corruption and bias of police machinery and failure of Government to punish guilty officials of police for their lapses.

Scheduled Tribes

The term 'Scheduled Tribes' is an administrative term used to describe the 'Adivasis'. Historically the Adivasis have been perceived as 'primitives' or 'backward people' living in forests and jungles, needing external intervention to be brought within the fold of "development" and the 'mainstream'. Some tribes were even branded as "criminal tribes", during the British rule. The atrocities against the Scheduled Tribes stem from these perceptions of the Adivasis, and also the large scale State sponsored displacement in the name of "development" or protection of the forest resources.

"The introduction of the alien concept of private property began with the Permanent Settlement of the British in 1793 and the establishment of the "Zamindari" system that conferred control over vast territories, including Adivasi territories, to designated feudal lords for the purpose of revenue collection by the British. This drastically commenced the forced restructuring

of the relationship of Adivasis to their territories as well as the power relationship between Adivasis and 'Others'. The predominant external caste-based religion sanctioned and practiced a rigid and highly discriminatory hierarchical ordering with a strong cultural mooring. This became the natural basis for the altered perception of Adivasis by the 'Others' in determining the social, and hence, the economic and political space in the emerging larger society that is the Indian diaspora. Relegating the Adivasis to the lowest rung in the social ladder was but natural and formed the basis of social and political decision making by the largely upper caste controlled mainstream. The ancient Indian scriptures, scripted by the upper castes, all too well provided to further this legitimacy."¹²

The process of marginalisation of the Adivasis, thus can be traced to the colonial times, when the Adivasis were stripped of their traditional rights over the forest. This process began formally with the enactment of the Forest Act of 1864 and subsequently the Indian Forest Act, 1927. The State acquisition and displacement of the Adivasis was further carried forth in independent India, through the Forest Policy of 1952 and enactments such as the Wild Life Protection Act of 1972 and the Forest Conservation Act of 1980. Though the prime reason for atrocities against the Adivasis has not been largely by virtue of a sociological disability, it has been consistently by virtue of State policies, development projects and insensitive forest officials. Hence land and access to common privileges enjoyed by the Adivasis remain the contested domain, leading to a large number of atrocities against them. The scale of violence, stemming from traditional and persistent practices of

¹² C.R. Bijoy, *The Adivasis of India - A History of Discrimination, Conflict and Resistance* accessed at www.Countercurrents.org

violence and atrocities against the Adivasis, by another social grouping or caste grouping, is lesser than those witnessed against the Dalits.

“While members of the Scheduled Castes have been forced to occupy the sub-stratum of the traditional socio-economic structure for centuries, being deprived of not only the right over the productive resources but also the due entitlements to an equitable return of their labour, hard and skilled, with an obligation to discharge their responsibilities, under the shadow of force, albeit disguised, members of the Scheduled Tribes have been located on the margin both in terms of the geographical regions of their habitations as also the traditional socio-economic structure. The major concern about members of the Scheduled Tribes on the other hand, has been about ensuring that (i) the tribal people do not lose command over the resources in the process of change and development, and (ii) while the tribal people are enabled to take full advantage of new advances in knowledge, the best in their tradition is not lost.”¹³

The main problem facing most Adivasi groups in the country is displacement and loss of their own original habitats and livelihood through ‘development’ projects like dams, tourism and wildlife sanctuaries. Through its policies, the state has reduced the free Adivasis into semi-feudal bonded labour. The forest officials make the Adivasis cut and plant trees, burn charcoal and clear the forest. The Adivasis get into a relationship of bondage through advance payments and are not allowed to leave the jobs assigned to them on the threat of eviction. Adivasi women are often sexually exploited by the forest officials, men are arbitrarily charged with theft, and their properties

¹³ B.D. Sharma, “Dalit Betrayed”, Haranand Publications, 1994.

are sometimes destroyed with the help of elephants. The strictures against them go to the extent of prohibiting the wearing of new clothes.

In this context, the particularly demeaning practice of 'Ajalu' in relation to the Koragas in Karnataka must be mentioned. Earlier listed as a Scheduled Tribe, their present status is largely that of a scavenging caste. The Ajalu practice is used for transferring evil spirits from an ill person to the Koraga. Illness is traditionally considered to be in the possession of the sick person by evil spirits. The Koraga chosen for this purpose is made to sit opposite the ill person. A meal on a leaf plate is placed before him. With this meal are mixed hair, nails, spit, mud from the feet and other such external matter from the body of the ill person. The koraga is made to eat this meal, thus freeing the ill person of the evil spirits by absorbing them into his own body. The government banned this practice, but it still continues in certain parts of Karnataka.

Conclusion:

Apart from the specific causes, the larger social and economic disabilities such as poverty, illiteracy, economic backwardness and ignorance of the law, of both the Scheduled Castes and the Scheduled Tribes, further add to their oppression. Hence, in addressing the root causes for violence and atrocities against the Scheduled Castes and Scheduled Tribes, the approach while keeping in mind the historical and social causes, needs to also review the impact of its policies and programmes impacting the lives of these marginalized sections.

PART III

RECOMMENDATIONS

In carrying out this study, we have observed several lacunae that need to be plugged and several measures that need to be carried out promptly, in order to make the protection guaranteed by the enactment, a reality. The stakeholders interviewed during the study also made several suggestions and recommendations. This Chapter contains a comprehensive list of all the recommendations made by the stakeholders and also the recommendations of this study group, to further the objectives of the Act. They are as follows:

Procedural

1. In camera proceedings should be adopted to save victims from the humiliation of discussing the 'caste' whenever there is an issue relating to the caste of the victim. The Act requires the proof of the caste of the person on whom alleged atrocities were committed as Act applied when victim is a SC/ST. But 'deciding' upon the caste itself might be of great humiliation to the victim in the open court as in each case *Tahsildar* needs to give caste certificate and it will be argued as to whether such caste group is SC or ST. The panchayat office shall have the details of SC/ST community of the village and such proof should be enough to prove the caste, rather than discussions on length of about whether the person belongs to SC/ST community in each and every case. This should also be seen as a part of the extension of the 'protection' to present their evidence without any fear.
2. Compensation should be provided within the prescribed time and if possible interim relief /rehabilitation should be provided.

3. Delay in filing charge sheet due to lack of infrastructural facilities including forensic labs shall be rectified. Good coordination should be established between the police and the various evidentiary departments to facilitate quick delivery of required reports, so that charge sheet can be filed within 30 days as per the requirement under Section 7(2) of the 1995, Rules.
4. Summons should be delivered on time and the courts must facilitate the attendance of witnesses who are abroad. Cases should not fail due to lack of court staff to serve the summons or lack of means to find out the changed address of the witnesses/accused etc.
5. Special courts other than the Court of Sessions which deal with atrocity cases exclusively, should have original jurisdiction and should be established in States where a large number of cases are pending.
6. Every offence needs to be treated seriously to put an end to all kinds of atrocities.
7. Adjournments need to be monitored and should be granted on genuine grounds.
8. Judges should exercise their discretion in curtailing overuse or misuse of cross-examination and wasting the time of the court.
9. Provide/arrange for medical examination to be carried out immediately by the police. A proper panchnama needs to be done taking all relevant evidentiary facts into consideration by the respective police officers.
10. All measures must be taken to ensure that the charge sheets are filed within three months for FIRs filed under the Act.

11. In each district, the Deputy Superintendent of Police must be empowered to receive and address complaints and violations of official misconduct under the Act.
12. The delay at the judicial level is compounded by the fact that the regular courts which are presently being designated as Special Courts are already overburdened with other cases. It must also be ensured that the atrocity cases are tried by the Special Courts only and not sent to the lower courts for trial.

Role of specific actors:

13. Prosecutors should carry out their duties efficiently and ensure that they keep the witnesses informed about the progress of the case.
14. Judges should not dismiss the case because investigation is not done by Deputy Superintendent of Police but should order for reinvestigation by the DSP.
15. Judges should use their discretionary powers in monitoring cross-examination.
16. Since prosecutors and the police operate independently, sometimes at variance with one another, without being part of a well-knit team, it dilutes the prosecution case. In addition, because of the separation of the prosecution from investigation, the average investigating officer does not have the benefit of any guidance from the prosecutor during the course of the investigation. This accounts for the many lacunae in investigation which are difficult to fill at the very late stage when the investigating officer approaches the prosecutor for obtaining a draft of the charge-sheet that is to be filed by the former in court. Any attempt by senior police officers to

guide or oversee public prosecutors is also resented. Naturally, such a fragmented prosecution team performs poorly in court.

17. NGOs working on the rights of Dalits should be allowed to work with police officers, public prosecutors and victims to facilitate the smooth running of the cases. They should be allowed to follow up the execution order passed by the court and check on its implementation.

Awareness and sensitisation:

18. Sensitization programmes for judges, lawyers, public prosecutors, police officers, NGOs, regarding the Act should be carried out at regular intervals. The strategies to be evolved for the smooth implementation of the Act should also be discussed with the judges, police officers and public prosecutors.
19. Periodical awareness programmes on the Act of 1989 as well as PCR/IPC provisions should be made accessible to all the SC/ST communities in the country as per Section 3 (viii) of the SC and ST (Prevention of Atrocities) Rules, 1995.

Administrative:

20. Facilitate timely appointment of judges whenever the position becomes vacant.
21. Witnesses traveling allowance and maintenance expenses should reach them immediately for which a Special Officer not below the rank of District Magistrate shall be appointed to coordinate and facilitate the implementing of the provisions of payment of allowances as mentioned in Section 10 of the SC and ST (Prevention of Atrocities) Rules, 1995 and to facilitate the same periodical release of allotted funds which should reach

the special courts on time. Magistrates should inform the victim and witnesses about their entitlement to the travel, daily and maintenance expenses and accordingly provide the same.

22. The parties enter into compromise in most of the cases and it is entered into under the influence of the 'village elders', and such settlement should be brought under the purview of court seal so that terms and conditions upon which the compromise was entered into could be checked. Further, this will ensure that in the name of 'compromise', victims in vulnerable positions are not exploited or asked to forego their rights in redressing the atrocities committed. The force/compulsion faced was expressed by victims during our interview with them. (for more detail refer interview details in annexure)

Amendments to the Act/Rules

23. The Act and the Rules need to be amended to specifically provide for witness protection norms, in order to curtail the pressure/influence exercised by the accused out on bail and also to prevent the witnesses from turning hostile. The prosecution should take all possible steps to give confidence and security to the witnesses. The Act may be appropriately amended to incorporate provisions relating to witness protection.
24. Section 4 of the Act excludes officers who are members of the Scheduled Castes and Scheduled Tribes. This may be reviewed to examine if the officers hailing from the Scheduled Castes/ Scheduled Tribes are necessarily impartial.
25. The Act must also be amended to make abetment of an offence a crime under the Act.

26. With a specific focus on gender related crimes, the rules ought to be amended to provide for investigation into serious complaints of violence against SC/ST women to be carried out by a woman police officer and where this is not feasible; a woman police or civil functionary may accompany a male police officer during the investigation.
27. 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.
28. The Act may be amended to provide for the special court to be placed at par with the Sessions Court. Such an approach combined with the Exclusive Special Courts taking direct cognizance of the case will facilitate speedy trial as envisaged in the Act.
29. The Act may be appropriately amended to provide legal protection to the Scheduled Castes converts to non-Hindu religions as well, such as, Christianity, Islam, etc.
30. The effectiveness of the “Fast-track” courts may be examined to see if such courts could be set up under this Act, to ensure expeditious disposal of cases, with the view to furthering the cause of justice.
31. Keeping in mind, the changing socio-political scenario impacting the Scheduled Castes and Scheduled Tribes, an overall review of the enactment to test its relevance and ability to address newer forms of atrocities that are emerging, while keeping in mind the historical reasons behind these atrocities.

Monitoring:

32. The various committees working under the Act should also follow up on the acquitted or the convicted case. Irrespective of the court decision the incident prone areas shall be visited by the fact finding teams and study the further impact of the incident against the Dalit community of the village and take immediate action to rectify the same. The National Commission for SCs & STs, should follow up through fact finding committee the cases, where access to public resources were denied to the victim. Irrespective of the decision in the court cases, in practice, the denial of access to public resources may be continuing and unless that is rechecked and access is given to the SCs/STs, their rights will remain on paper alone. It becomes very important to ensure that all steps are taken to execute the court order.
33. The monitoring committees envisaged under the Act need to be further strengthened to take its duties under the Act more seriously.
34. In all most all the states the meetings of the Monitoring and Vigilance Committees at State level, which is an important mechanism for ensuring proper implementation of these laws, are not held regularly.
35. The task of monitoring cannot be limited to filing annual statistical data; it should adopt a more analytical, proactive stance, thus ensuring that the objectives of a protective legislation are achieved.
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ANNEXURE I

A. Andhra Pradesh:

Case study: No 1

Backlash against Dalits demanding their rights.

Name: Namala Bala Swami

Place: Kalwakol Village, Mahabubnagar District

Date: 26-07-2001

Kalawakol village is situated in Peda Kotha Palli mandal of Mahabubnagar District, Andhra Pradesh. The prevalent forms of caste oppression in the region include segregation of tea stalls and restaurants, prohibition of entry of Dalits into temples, abuse by caste name, attacks on the Dalit community. The dominant caste community perpetrates these illegal but common violations of human rights with impunity as the people have in some cases colluded with the perpetrators, and in others, have proved indifferent to the protection of Dalits. In 1985, for instance, in a daylight murder, witnessed by many, dominant caste persons lynched, beat and hanged a Dalit man named Buddayya, who they claimed to be involved in sorcery but no legal consequences followed.

The incident: Bala Swami's elderly mother and father are both agricultural wage labourers. Bala Swami also worked as an agricultural labourer before his death. Bala Swami had one sister and two brothers. On 23rd July 2001, one abandoned hut and several haystacks belonging to several people from various communities including Dalits, had been burnt. From the several arsons, there remained one particular fire that was still burning by the 26th morning. Certain members of the dominant caste community propagated the claim that Bala Swami was the guilty party, though no one claimed to have witnessed him setting fire to anything.

According to Kuruvamma, wife of the deceased, on the 25th July, around mid-night, a group of people familiar to Bala Swami called him out from his house. He emerged to find a hostile group of both Dalit and non-Dalit villagers awaiting him. At the instigation of dominant caste men Itte Naryan Reddy and Badam Srinivasu (member of the Mandal Parshad Territorial committee) accused Bala Swami of committing arson by setting fire to Dalit haystacks. They then began to beat Bala Swami and tied him up in order to take him to the Village Administrative Office (VAO). However, before they could do so, a group of thirty to forty dominant caste men and women seized Bala Swami and began beating him again. Rather than take Bala Swami to the VAO, the dominant caste mob forcibly dragged him to one of the haystacks that was still burning and threw more brush onto it in order to build up a flame. Meanwhile, the mob seized Yaranna, the elderly father of Bala Swami and severely beat him as well. After some time, the dominant caste mob poured kerosene over Bala Swami's body and threw him into the flames. When he attempted to come out from the fire, he was beaten back with a ladder.

Action taken: The district collector visited Kalvakol and announced relief and rehabilitation. The National SC/ST Commission visited the village and recorded the statements of witnesses. A case has been registered under the

SC/ST Act. A compensation of Rs. 200, 000 has been paid to the family of Balaswamy. However, one of the main perpetrators Badam Srinivas has not been arrested. False charges have also been foisted on some Dalits and these are still pending.

Probable causes for atrocities: Many of the Dalits of Kalwakol are educated, and in recent decades have begun to question and challenge traditional forms of caste oppression. Bala Swami has been in the forefront in many such acts of assertion. He was the first Dalit in Kalwakol to enter into the local temple. In 1989, Bala Swamy once entered the caste village wearing a red shirt, signifying his identification with the communist party, while the caste Hindus generally opposed the left (the dominant castes in Kalwakol have mostly joined the BJP in recent years). For this he was severely beaten, and before he could approach the police with a complaint, the perpetrators of the beating filed a false case against Bala Swamy claiming that he had burnt a haystack. The case was dismissed. Infact, burning Dalit haystacks is a common practice of the dominant castes used to intimidate and threaten Dalits.

Case study: No 2

Traditional practices: human sacrifice

Name: Pilli Veera Venkata Satyanarayana

Place: Inavelli Lanka, Inavelli Mandal, East Godavri District, Andhra Pradesh

Date: 6th September 1999

Inavelli Lanka is a small village near Amalapuram in East Godavari District. The village is dominated by upper caste landlords belonging to the Kamma Community and there are about 300 Kamma families and 700 Mala households.

The incident: Pilli Venkata Satyanarayana was a resident of Inavelli Lanka village in Inavelli mandal. He was killed by the landlords who are belonging to Kamma caste groups as a human sacrifice to a newly built temple of Kanaka Durga and Veerabhadru.

On 6th September, the victim went to meet a doctor at Kottapeta. While he was walking towards his house from the bus stand, a group of upper caste people led by the landlords Koduri Laxman Rao and Vakalpudi Gopalal Krishan abducted him and took him to the temple. The next day morning, the wife of the victim, Durga Bhavani and was informed by the children that their father's dead body was lying in the fields of Chitturi Raja Gopala Chowdary. On hearing this, the wife proceeded to the fields but she was not allowed to

see the dead body by the village elders. She was allowed to see the dead body only after the police came on the scene. Durga Bhavani stated that she noticed several injuries on the body of her husband. There was an injury on the backside of the head, neck and on the backbone. There were blood stains on the mouth and the eyes. The tongue was cut and also there was an injury on the left leg which looked like an injury caused by an axe. She also stated that the clothes on the dead body were also not the same that he wore while going out of the house. She suspects that her husband was killed at the house of Koduri Laxmana Rao, a Kamma landlord. She also alleged that Koduri Laxmana Rao and another landlord had threatened her husband two days earlier that he has life only for two more days. She suspects that her husband was given as a sacrifice to the God Veerabadrudu.

The wife of the victim was offered money to keep quiet. Also the landlords created the fiction that the victim died due to electric shock. Due to the threat atmosphere created by the landlords in collusion with the caste leaders of Mala community, the wife of the victim felt insecure and signed on blank papers and also agreed to the money arrangement. Later when the news broke out and mass organizations visited the village and assured support, the victim's wife revealed the true story behind the murder. She also filed a complaint on 29-09-1999. Thus the conspiracy and suppression of the murder of the Dalit youth came to light 22 days after the incident. Meanwhile vital clues and evidence was lost. The elders of the Dalit community collaborated with the landlords in such a way that after the post mortem, they even cremated the body, against the established tradition of burying the body.

Action taken: After the news broke out and the agitation started by the mass organizations, the case was taken over by the D.S.P. An RDO enquiry was also conducted on 30-09-1999 and 1-10-1999. Many witnesses deposed before the RDO that Veera Venkata Satyanarayana was murdered by the landlords and sacrificed to the deity at the newly constructed temple. Several facts such as the injuries on the dead body – marks that looked like injuries inflicted with an axe, the fact of the monetary arrangements made with the wife, the fact of disposal of the dead body by burning, very much against the established tradition – all clearly point to the murder (human sacrifice) of the deceased.

Case study: No 3

News Report

Five Dalits hacked to death over minor dispute

The Times of India News Service
<http://www.timesofindia.com/today/28indu19.htm>
28th July 2000

HYDERABAD: In a gruesome incident, five Dalits were hacked to death at Surampalli village under Tekmal police limits of Medak district, some 100 km from here, on Thursday night.

The deceased have been identified as Konda Aradaiah (55), his sons Mohan (25) and Janardhan (30), his relatives K Sudarshan (26) and K Ravinder (34).

According to Medak SP Ch Dwaraka Tirumala Rao, a minor tiff between Ravinder and his neighbour Pochaiah over sharing water for agricultural lands prompted the murders.

According to the SP, Ravinder thrashed Pochaiah, belong to Tenugu caste (a backward class community), when the latter insisted that his fields be watered first.

Apparently peeved over the incident, Pochaiah went to the village, gathered about 15 persons belonging to his caste, attacked Ravinder with swords and sickles who died on the spot. Later, they attacked Mohan, who was working in the nearby fields, who died instantaneously.

On their way back to the village, the group spotted Aradaiah, Janardhan and Sudarshan coming in an autorickshaw. The men pounced on the three with the weapons and stabbed to death Aradaiah in the three-wheeler itself. The remaining two tried to flee but were chased and finally killed some 50 yards away.

Tirumal Rao said the police are yet to nab the assailants. "Surprisingly, even the women were missing from their homes," he said, adding that a couple of suspects were rounded up.

According to police sources, Janardhan and Ravinder were accused in the murder of one Mogilaiah of Yellupet village, a Tenugu casteman, in April 1999.

Case study: No 4
Misunderstanding over a footwear

Name: Gummalla Kannaiah
Place: Jugganpet Village, Tadepalligudem Mandal, West Godavari
Date: 2nd July 1999

The incident: Gummalla Kannaiah was a village servant of Jagganpet Village. On 2nd July, he went to the house of the village sarpanch Pathsa

Rammanna to pass along information from his supervising officers. While leaving Rammanna's house, Kannaiah accidentally out on the chappals belonging to Rammanna's relative, Pathsa Venkateshwara Rao, and went to attend a wedding. Venkateshwara Rao and his friend Shiva Prasad, a teacher by profession, followed Kannaiah to the wedding and found him wearing Rao's chappals. Rao and Prasad beat Kannaiah severely and abused him by his caste name. Because the assailants were politically powerful and from the dominant caste, other participants at the wedding were afraid to rescue Kannaiah.

After Rao and Prasad departed, people who witnessed the incident immediately took Kannaiah to Tadepalli Gudem Government Hospital. Due to the severity of the injuries, doctors referred him to Rajamundhry Hospital. Kannaiah died in the Rajamundhry hospital.

Action taken: The police registered a case in Tadepalligudem police station under Section 302 read with 34 IPC and Section 3 SC/ST Act. The police also arrested the accused.

Case study: No 5 Gang Rape

Name: Donti Laxmi

Place: Allapur, Topruam Mandal, Medak District

Date: 31 December 1999

The incident: On New Year's Eve, Donti laxmi a 28 year old Dalit divorcee was working in a hotel just odd the National Highway on the outskirts of Ravelli in Toopran mandal. At 9 p.m, nine visibly drunk young men came to the hotel by auto and asked for tea. The owner of the hotel said that there was no tea and that it was closing time. When the nine inebriated men demanded tea and threatened him, Narasimhulu finally prepared tea for them. At that time Donti Laxmi and her sister were inside of the hotel, along with another hotel worker. After drinking tea, one of the nine men entered the hotel and forcibly dragged Donti Laxmi outside. The whole gang carried her to the auto and drove away. Narasimhulu and Donti Laxmi's sister tried to stop the men, but they were beaten back.

The gang took Donti laxmi to the backside of a stone crusher off the National Highway, near Allapur. There all nine men raped her, one by one. They threatened to murder her and when she asked for water, forced her to drink urine. For six hours, from 9.30 p.m to 3.30 a.m, the gang raped and abused Donti Laxmi before leaving her there and driving away.

Action taken: Immediately after Danti laxmi was abducted, her sister Sujatha filed a case at the Toopran police station. The police searched during the night and arrested seven persons early the next morning. They were charged under Section 365 and 376 of the IPC and under Section 3 (XII) of the SC/ST Act.

Case study: No 6
Ostracism of an entire Dalit hamlet

Name: Vasi hamlet

Place: Vasi hamlet, S. Kota mandal, Vizianagaram District

Date: 14th April 1998 to 09-05-1999 (as last reported)

Background to the Social Boycott: Vasi, a small hamlet situated about five kilometers from mandal headquarters in S. Kota, is well irrigated. The main crops include sugar cane, paddy and banana. Before the social boycott, eighty Mala (SC) families lived in about forty dwellings in the Dalit colony of Vasi hamlet. The Dalits did not own land and worked largely as agricultural labourers.

Surrounding the Dalit colony of Vasi hamlet are the dominant caste, land owning families of Vasi, Timdi and Vachalapudi hamlets. Together, the thirty Velama caste and eighty Kapu caste families own nearly 89 % of the land in Vasi, with holdings between eighty and twenty acres per family. In addition to owning land, the vast majority of the landlords work as government employees. As a result of their economic dominance, the Velamas and the kapus also dominate the village politically and socially. Prior to the boycott, these dominant castes employed all the Dalit families as agricultural labourers.

Three hundred Balija (Backward Caste) families also live in the village, either cultivating small landholdings or working as agricultural labourers. The rest of the village consists of various Backward Caste families – weavers, barbers, toddy tappers. Though these castes are considered socially low, they are still within the caste system and therefore “above” the Dalits. In Vasi, the Backward Castes look down upon the Dalits and comply with the social boycott by not rendering any services to the Dalit community.

The incident: The present dispute between the Dalits and the dominant castes began in 1991 when a Timidi landlord named Papala Soma Naidu illegally occupied an expanse of poramboke (wasteland under government ownership) and dug a borewell to supply water to nine acres of his legally owned land situated some distance away. Soma Naidu also illegally erected a cattle shed and a small house on the land. As this expanse of waste land was

adjacent to the Dalit colony, the consequence of Soma Naidu's drawing water from the bore-well was that the water level in the Dalit colony's common drinking water well lowered substantially.

The community acted. The elders of the Dalit village intervened and ordered Soma Naidu not to draw water from the bore-well when the water level in the drinking water well, fell below six feet. Soma Naidu however, did not comply and continued to draw water as he liked. He also filed a civil suit in the district municipal court for a permanent injunction to draw water from his illegal irrigation bore-well. The Dalit community fought the case in court but due to paucity of funds, they could not make an effective representation. They lost the case and also ended up with huge debts. Soma Naidu, who won the case, began drawing water indiscriminately from his now legally protected bore-well and further humiliated the Dalits by abusing them by their caste name.

The Dalits did not give up and in April 1988, they filed a case against Soma Naidu under the PCRA. In retaliation, Soma Naidu gathered all the dominant castes and under his leadership, the caste community united to impose a social boycott. Each dominant caste family allegedly contributed Rs. 300 to support the boycott.

In May, 1998, tensions escalated as the Dalits organized a dharna in protest against the social boycott. A police picket was posted in Vasi village. On 16th June 1998, Vasi Dalits attempted to attend the village deity's festival, as it was their traditional duty to play the drums during the festival. This time, however, the dominant castes brought Dalits from another village to beat the drums. When the Vasi Dalits protested, the dominant caste community attacked. The dominant castes broke open the doors of Dalit houses and chased Dalit women and men through the streets, beating the Dalits with sticks and iron rods. Twenty Dalits were injured, some seriously enough to be hospitalized at S. Kota Government hospital. The Dalits registered cases with the police and thirty of the accused assailants were arrested. However, the VAO, whom the Dalits alleged to be the chief conspirator and participant, was not arrested.

On 18th September, 1998, the dominant caste community again attacked Vasi's Dalit Colony. The Dalits protested the attacks and continuing boycott by holding a mass dharna and relay hunger strike near MRO office.

On the same day, the dominant castes from the three surrounding hamlets, along with local political leaders from the Telugu Desam Party, BJP and the Congress party staged a dharna and ratha roko demanding that the Dalits who allegedly attacked the MRO be arrested. They also accused the Dalits of misusing the legal provisions of the SC/ST Act and demanded that

the Act be repealed. The RDO met the protesting dominant castes and politicians and assured them that no cases would be registered under the SC/ST Act. In exchange, the landlords agreed to cancel a public meeting and procession scheduled for later the same day. This event is a strong indication of the connivance of officialdom with the dominant castes.

As the mass dharna and relay hunger strike had not produced any result, the Dalits on 13th October 1998, converted into a fast unto death. Five days later, the police foiled the fast unto death by demolishing the tent and forcibly hospitalizing the strikers. Again, the Dalits protested at the MRO office and at the hospital. Senior district officials visited the scene and assured the Dalits that they would take steps to end the social boycott. They also promised to issue pattas (land deeds) to the Dalits and on this assurance, the Dalits dispersed and ended their agitation.

On 20th October, 1998, to the shock of the Dalit community, false cases were registered against the Dalits on charges of attacking the MRO and others. Seventeen Dalits were arrested and it is reported that as many as one hundred Dalits were named in the FIR.

As on 09-05-1999, when the SAKSHI fact finding team reported the incident, the social boycott was still total. The Dalits are barred from any agricultural work, they are not permitted to enter the village, and they are excluded from participation in any village activities. The barbers refuse to serve them and no vendor in the three hamlets sells any commodity to them. The severity of the situation has forced 65 of the 80 Dalit families to flee from the village in search of livelihood. The remaining fifteen families lead a life of great insecurity. Legal cases are pending against them and they fear arrest and attacks by the dominant castes.

The unity of the dominant castes, with active connivance of the VAO and passive connivance of other officials, has made the social boycott devastatingly effective. Even in the construction of a road, a government project that ordinarily hires Dalits for temporary work, the Dalits were denied employment. Siva Rama Raju Peta, a landlord from an outside village, agreed to employ Vasi Dalits in some agricultural work and paid one hundred rupees in advance. Under pressure from the landlords of Vasi and Timidi, however, Raju Peta turned the Dalits away on the first day of work.

Action taken: Despite repeated betrayal by the government officials, the Dalits of Vasi are persistent in their demands. By acting in open collusion with dominant caste landlords, local officials are engaged in the deliberate suppression of Dalits. This became evident in October 1998, when officials broke up the Dalit hunger strike and forcibly hospitalized the hunger strikers. One week later, police arrested 17 Dalits on false charges of assaulting the

MRO. Open government partiality to the dominant caste community was again made clear on 18th September 1998, when the R.D.O. assured landlords that no cases against them would be registered under the SC/ST Act. Not surprisingly, then thirteen months after its initiation, no case has been registered against the landlords for the boycott, and the thirty dominant caste assailants arrested for the 16th June 1998 attack on the Dalit colony were not booked under the SC/ST Act.

Though the Executive Director of the SC Corporation and other revenue officials intervened, they failed to convince or pressurize the dominant castes to end the boycott. The former, along with civil liberties organizations like APCLC and Human Rights Forum, visited Vasi village, organized dharnas and public meetings in support of the Dalits, but to no avail. The boycott still continues and tension remains high. The leader of Vasi Dalits, Sanyasi Rao, who is a very articulate member of the panchayat board, is under great danger to his life.

Case study: No 7

Murder of Dalit Political Activist

Name of the Victim :Galanna
Place: Telangana, Mahabubnagar District
Date: 23-9-01

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 Bamma, 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 Bamma and their daughter in a single room dwelling in Appajipalle. On the night of 22 september, because some relatives had come to spend the night, Galanna went to sleep in a shed that had been erected in front of his home. The following morning he was found dead, his throat cut. Bamma registered a complaint with the police, naming Ram Dev Reddy and his eight Boya community followers as her husband's murderers.

Administrative Action taken: Despite Bamma 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. 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 the murder and released a 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 the murder of an earning member of a family was not given, in accordance with the Rule 12(4) SC/ST (POA) Rules is at least Rs 200,000/- 75% of which is due upon post-mortem, the remaining 25% upon conviction in the lower court.(pg 49)

Case study: No 8
Backlash for reporting a case of Atrocity

Name: Chintamakula, Thettu/Kurabala Kota
Place: Rayalaseema, Chittoor District
Date of incident: 20 and 21.6.2000

Incident: 20 Dalit families living in Chintamakula palle were denied freedom of movement after one Dalit youth filed a case against the dominant castes for abusing him. The reason had been his sitting cross-legged in front of them when the dominant castes came to collect a donation.

Details of the incident: 20 Dalit families are living in the Dalit wada of Chintamakula palle, all of them working as wage labourers in the lands of dominant caste farmers. On 14-6-2000 at around 9.30 p.m. village elders came to the house of Dalit youth Srinivasulu to collect a donation of Rs. 10/- for arranging lunch on the occasion of the inauguration of the water pipe by the MLA. The dominant caste people who came for collecting the donation were not able to tolerate Srinivasulu sitting with crossed legs before them. On dominant caste Chinna Venkataramana Reddy seeing this he pushed down Srinivasulu and abused him using filthy language and by using his caste name. Srinivasulu filed a case regarding this on 15-6-2000 at Muvivedu police station. But, under the leadership of Sub-Inspector, Chinna Venkataramana Reddy and other Reddy caste people compromised with Srinivasulu on the condition that Chinna Venkataramana Reddy should not harm Srinivasulu in any manner and Srinivasulu would withdraw his case. However, the dominant caste people did not keep quiet after this and put-up fencing with thorns around the Dalit wada. As the Dalit wada was surrounded by the lands of these dominant caste people, Dalits were not able to move in any direction. On 21-6-2000 this matter was informed to news reporters by

Srinivas and the police entered the scene, removed the thorn fencing and arrested Nagi Reddy and Gopal Reddy who were responsible for the fencing. When the fencing was there, Akkulamma, aged 23 years, suffered with appendicitis and died as nobody dared to cross the fencing. Akulamma's four-year old daughter became an orphan

Dominant Caste people of Chintamakula palle frequently insult and abuse the Dalits. Dominant caste persons raped one Dalit young woman and they managed to avoid any police case. Dominant caste people disrobed and kicked Lakshmi Narsamma (45) who was in the advanced stage of pregnancy, for allegedly not doing work which she was told to do.

Source: SAKSHI fact finding report

B. GUJARAT

Case study: No 1 Social Boycott

Name: Pankhan Atrocities

Date: 27th Nov 1999

Place: Pankhan

Pankhan is a nondescript village of Junagadh district. It is about 15km away from the Keshod Taluka and about 37 km from the district headquarters. Dalits form only a small segment of the village almost all of them are landless agricultural labourers. Even in terms of literacy, the Dalits of Pankhan village lag way behind their caste in the district as well as in the state.

All the cultivable land is owned by the Darbars. In an average every Darbar household owns about 10 acres of land. But this data in fact hides the facts. Among the darbars there are also landless households. But there are also landlords who own more than ceiling limit. The biggest landlord is Augaudh devdan who own about 93 acres of land. The Sarpanch Rawat Vakmat Sisodia owns about 50 acres of land. He is one of the prime accused in this pre-planned atrocity,

The darbars own 17 tractors and thus are economically better equipped to carry on agricultural activities. Ten of them are also gainfully employed in various government jobs, starting from police force to revenue magistrate. Many others are working in private enterprises. The village has around 16 shops and all of them are owned by the Darbars. It becomes easy to impose 'social boycott', when the Darbars want to penalize the Dalits

The Incident: On the morning of 27th November 1999, the Hati Darbars of Pankhan village of Junagadh district of Gujarat carried out a ghastly attack on the Dalits of the village. On this day over 500 Hati Darbars surrounded and attacked the 100 Dalits who were clearing the thorny bushes to make the land cultivable. The assault left 40 men and women gravely wounded. Among them 20 were very seriously wounded that even after two months they are under bandage and are still bedridden. Most of the seriously injured were above 60 years of age. Many of the younger men and women managed to escape to nearby villages thus were saved from being beaten up. But all of them were not lucky enough to escape the wrath of the upper caste Darbars. Jayaben Sondarva was gang raped by thirteen men and she was thoroughly bashed up. The impact of the atrocity was so serious that even for days she continued to scream with pain and agony. The marks of the wound inflicted with a crow bar and an axe are still fresh on her body. The Darbars were armed to their teeth. They not only carried conventional weapons like spears, woodcutters, swords, choppers, axes and arrows but also modern firearms with them.

The Dalits of Pankhan suffered not only humiliation and physical torture due to this organized vandalism but now they are forced to undergo economic deprivation. Muljibhai Govindbhai has 4 sons and 2 daughters. He was the only breadwinner of a family of 8 members. But for the last two months after the event, he is bedridden and he needs extensive medical care. Thus Muljibhai who was the only earning member of the family has become a burden to his family. For daily wage earners to take care of some one in a far away place is beyond their means.

Amrabhai Sondarva, at the age of 35 is a hardy and strong person. It was he who among the men was brutally battered. He clearly remembers that Kara Sisodia pelted a stone at his eye and thus he lost his left eye. Even after two months of agony he can vividly remember that Vasur Lakha fired at him with his gun. When his wife tried to prevent the attackers from assaulting him they let loose a reign of terror on her and fractured her hands and legs. When Amrabhai was asked how many enemies he can confront in ordinary circumstances he replied. "I can face two of the Darbars single handed. But we were taken unawares. Since they came in a mob we were over powered".

The leadership of this insignificant Dalit hamlet is vested on five capable, conscious and committed men. Hiraben confirmed that, "The Darbars were looking for the leaders during their attack. But since these people had apprehended trouble and had gone to the police station to ask for protection they escaped being harmed. But by the time they returned the crime was committed". These men also acknowledged". We did not have any inclination of the seriousness of the attack. If we had known about the gravity of the matter we would have taken precaution in advance by informing the

police. When we returned to the village we heard the wailing of men, women and children and blood profusely flowing from the wounded.

Action taken: Right from the month of July tension has been brewing in the village. The Dalits had requisitioned the police and a police camp was set up in the village on 12th July. But during the Lok Sabha elections the police camp was removed and no police force was deployed in the village after the election. It is only after the brutal assault that the administration has provided police protection to the villagers of Pankhan. The villagers also alleged that some of the policemen used to drink daily and the villagers got them transferred from Pankhan. But the Dalits of Pankhan gratefully remembered the role played by some of the police personnel from the Dalit community. Since some of these policemen knew the whereabouts of the village, they led the combing operation and arrested all the culprits. They even marched up to Galodar village and arrested 20 accused from Khuman's hide out. But these officers had to pay dearly for performing their duty. They were not only shifted from Keshod police station, but also shunted out of the district. But Khuman who is one of the liquor barons of the region, who was also present in the planning of the attack is moving about scot-free, due to lack of evidence.

Haren Pandya, Minister of State for Home visited the hospital on the same evening and 'consoled' the victims. But he 'ordered' the press not to highlight the incident. His contention was, due to communal violence in the Dangs the government was already in bad lights. A government official on condition of anonymity stated. "The Gujarati press is not only communal but it is biased and at times even venomous. It failed to carry even factual report of such a grievous act like this". It is alleged that the minister 'requested' the junagadh hospital authorities to discharge the injured after the initial medical treatment so that the incident does not get too much publicity. The hospital authorities obeyed the dictate of the minister and sent home the victims even before they were 'sufficiently' cured. Lakhabhai bemoaned the fact that, "I was discharged even before I could sit or standup without any ones help. For the last two months I have been lying down here without any proper medical care". In ordinary times a nurse is supposed to visit the village from the primary health centre Keshod. But even after the incident she not only does not visit the village but she does not carry adequate medical provision.

Altogether about 79 names were registered in the FIR, And all of them were apprehended by the police by the third day. After 40 days in custody, 76 were released on bail. 3 others who were the main accused in the rape case are still under detention. When the matter was referred to a district officer he replied. "The law will have to take its own course of action. We can not interfere in this matter ". But when pressed further he was candid in his answer. "These poor fellows have been in the jail for more than 40 days.

What other punishment do you want to impose on them?”. Ishwar Das a social worker from Ahmedabad stated, “This clearly indicated the casteist bias of the administration. In this unequal situation whether the Dalits will obtain justice from the administration remains a moot point’.

Impact on the Dalits: Social boycott is continuing in its worst form after the brutal on slaught. The Dalit are not allowed to buy even the essential edible items from the shops. Since all the shops are owned by the Darbars, the Dalits now are forced to go 15 kilometers to buy their provisions or to grind the wheat. When a highly placed government official was reported of this he retorted saying, “Other villagers also have to come to Keshod to purchase their provisions and the Dalits also have to do so. There is nothing strang about it”. This official pretended to be unaware of the social boycott that is strictly enforced by the Darbars. Forced by poverty the Dalits are ready to work for the Darbars but the Darbars have decided not to employ the Dalits of Pankhan. Even the wounded are not allowed to sit on the motorized rickshaw if they want to go to hospital. Above all, the Darbars have also issued stricture that if any one entertains the Dalits of the village they will be ostracized from their caste and a fine of rupees 500/- will be imposed on them.

The village with about 3,000 population had not witnessed any serious clashes in the past. The Dalits who were also the landless agricultural labourers of the village worked for the upper caste Hati Darbars and thus eked out a living. Govindbhai recollected. “For more than five generations we have lived in harmony here. We never disobeyed the dictates of the Darbars. Even if the Darbars humiliated us we suffered in silence. But when we began to work on the pastureland, the darbars got threatened. They have carried out this horrendous crime to terrorise us”. Not many children used to go to school, since they had to help their parents in the agricultural and other household chores. After the incidents even the few children who used to go to school have stopped going. The November 27th incident is still dreadful to them and they do not dare o step into the area where the Darbars reside.

Reasons for the violence: Suresh Rathore a social worker declared, “Social boycott is enforced on the Dalits by the upper castes in rural Gujarat to ensure unconditional obedience. This is an unwritten law and thus the Dalits are kept in their ‘due place”. The government machinery on the other hand wants written complaints filed about the social boycott. Keshavbhai one of the leaders of the Dalit community stated, “We do not see the utility of giving a written complaint. Even if we give the complain in writing the administration asks for proof and often in such circumstances it is not possible to produce well documented evidences”.

There are about 13 motorized rickshaws transporting people and goods to and from the village. Out of these 7 are owned by the Darbars, 2 by the Rabaris and 4 by Dalits. After the incident the Dalits are scared to fly these rickshaws. The 3 flourmills that are operative in the village are also owned by the Darbars. After the incident these flourmills are also closed for the Dalits and they have to go 15km to Keshod to get their wheat milled. But an official when contacted about the boycott asserted, " I personally went to the village, took the Dalit women to the flourmill and asked the mill owner to grind the wheat of his customer. He willingly obliged me". But the women from the Dalit section said. "The incident has left lasting impact on us. Now we are scared to step into the location inhabited by the Darbars.

Probing into the root cause of the murderous attack one becomes aware of the fact that age-old caste system and the untouchability are intact in rural Gujarat. Though untouchability is abolished by law, in practice it exists in various forms in Gujarat. Renowned social scientist I.P. Desai had made a study on the "Untouchability in Rural Gujarat" in 1976. In this work the author with painstaking effort tried to argue that untouchability is slowly disappearing in the public sphere while it is being practiced in private domain. But talking to the people of Pankhan one is struck by the fact that whether in the public or in private sphere, untouchability is prevalent albeit in different form. Muljibhai Soundarva stated, "For common meals we have to take our own utensils to get the meal and even today we have to sit in a different row, far removed from the Darbars, Our women have to cover their head if a Darbar is passing by. The bride-grooms cannot ride on a horse and go around the village on the marriage day ". Young Arvind bhai Soundarva with repugnance said "We have to address with respect even a small girl of the Darbars as 'mausi". But our women folk are called by all kinds of abusive terms'. The Dalit of Pankhan also reported that for the same labour the labourers from the Darbar caste get more wages, while they get only half of the stipulated wages.

Case study: No 2
Dalits with the help of an NGO fight back

Name: Pashbhai Sukhabhai
Place: Dedhia-Vansajada village
Date: 20 October 1999

The Incident: Former sarpanch Sakriben Senams's husband was lying in a pool of blood in their field but people from her Dalit locality did not want to be spotted helping her. Pashabhai Sukhabhai's attackers, upper caste Rabari-Desais, had hit him on the head with a sharp-edged weapon, broke his legs, smashed his chest and repeatedly hit him in the abdomen with a metal pipe and a stick. "I was not even sure if he was alive", she said.

Finally a youth, Arvinbhai Dhanjibhai, gathered courage and drove Sakriben in his autorickshaw to the field and shifted Pashabhai to a hospital in Kalol taluk, about 50 km away. Nobody visited him in the hospital.

The 70 Dalit families in Dehia-Vansajada in Mehsana district knew only to suffer atrocities in silence. Worse, the Dalits were divided into four factions over trivial issues which the upper caste thakores and rabari Desais exploited.

"They say that the caste system was done away with 50 years ago but in our village, Dalit women still cannot wear ghagras (skirts)with embroidered borders or carry metal pitchers for fetching water. The men cannot wear footwear or tuck in their shirts before the upper castes. No shehnai-dhol at a Dalit marriage,"said Lavjibhai Dahyabhai, who is the only person in his community to have studied up to the eighth standard.

But the attack on Pashabhai on October 20 bestirred the Dalits, who saw it as a terror tactic against the community rather than an individual. Within a few days, they united under the banner of Navsarjan, an Ahmedabad-based NGO, and did the unthinkable. They banned the entry of Rabari-Desais into the Dalit locality. A notice to this effect was scribbled on a wall. The Dalits also stopped daily supply of 40 litres of milk to the community, and refused to work in the households and farms of the dozen Rabari-Desai families. The Dalits also refused to handle the bodies of the upper castes "Let them get a feel of the disgusting job", said Lavjibhai.

The publicity in newspapers and pressure ensured the arrest of the attackers-Taljabhai Vasranbhai, Gopalbhai Kalyanbhai and Navghanbhai Kalyanbhai. This boosted the confidence of the Dalits.

But Pashabhai's troubles did not end. He was sent out of the Civil Hospital in Ahmedabad within five days, apparently because political

pressure. He was subsequently admitted to a private hospital in nearby Sanand and treated till November 3.

Lying on his bed, Pashabhai foresees a long battle ahead for the Dalits. "We have shunned violence. Otherwise, the 300 Thakore families will side with the Rabari-Desais, Our refusal to associate with Rabari-Desais hardly matters because they have money. What is important is that we outgrow the oppressive social order and learn to live independent of the upper castes".

Nowadays, every morning, about 100 youth ride about 30km on their bicycles to Ahmedabad in search of daily labour. They get around Rs 50 a day, which is more than double what they earned working in the village fields. The Dalits youths have pledged to sever all ties with the village, said Natubhai who was recently removed as water supply operator because the upper castes considered his presence 'polluting'.

The water supply system, introduced a few years ago when Sakriben Senama was the sarpanch, seemed to be the reason for the attack on pashabhai. Until then the villagers had two separate wells, for the upper castes and the Dalits. "The upper castes often threw human faeces into our well and then refused to part with water from theirs," said a Dalit woman

When Sakriben was elected the first Dalit sarpanch-the post was reserved-she gave top priority to digging borewells and setting up a piped water supply scheme to benefit all households. Pashabhai, who had been a member of the gram panchayat, appointed Natubhai as an operator.

The couple also got a new building constructed for the anganwadi (pre-school playgroup) and began efforts to run a bus service from the village to the taluk and district headquarters. The village had only a primary school and the Dalits could not afford to spend Rs300 a month on private vehicles to take their children to an English-medium school 5km away.

Pashabhai also helped 19 Dalit families benefit from HUDCO's housing scheme and was planning to build a community hall when he was attacked.

A month earlier, Sakriben had been removed as sarpanch after a 'no-confidence' motion. Pashbhai challenged the decision of the district development officer before the state development commissioner in Gandhinagar. The threats began to come more frequently and the police protection he sought was provided only after the attack.

The violent retribution has failed to douse the fire within Pashabhai. "A lot of work remains to be done: better employment opportunities for the youth,

education for the children and vocational training for the women who have stopped serving in upper caste households”, he said. He gives top priority to introducing transport services from the village to Ahmedabad, Kalol and Sanand, the nearest town. “It would mean safety for our women, children and youth and zero dependence on the village. We can even shop at Sanand”.

Pashabhai has also approached a dairy cooperative, whose vehicle comes up to Vyana, village just 4km away, to collect milk from the Dalits. But he wants to ensure that the Dalits do not resort to violent means “ Violence has proved detrimental to the rabari-Desais and it will have the same effect on us if we turn violent”, Pashabhai tells his community from his bed.

Source: The Week

Case study: No 3
Continued violence despite police protection

Name: Bhardania village

Place: Bhadarnia

Date: 16th march 2000

The incident: That village Bhadarnia is situated in the Borsad Taluka of Anand District in the State of Gujarat and a community known as ‘Vankars’ is a Scheduled Caste community and there are about 30 to 35 families of the Vankar community residing in the said village Bhadarnia.

That about 4 years ago there was village Panchayat election in the village Bhadarnia and one Savitaben Maganbhai Patel, belonging to caste-Hindu, contested the election of the Sarpanch, but the Vankars of the village did not support her candidature, and since then the caste-Hindus, particularly the Patels and Darbars, of the village nurture grudge against the Vankar community of the village.

Again there was State Assembly by-election on 17.2.2000 in the village and one Shailesh Rambhai Patel, who originally belonged to the ruling Bhartiya Janta Party, contested the election on Congress ticket, but the Vankar community of the village did not support him and they supported an independent candidate, one Rajendrasinh Dhirsinh Parmar, who was ultimately declared elected, and the said Shailesh Rambhai Patel was defeated. This aggravated the enmity which had started 4 years ago. The aforesaid Shailesh Rambhai Patel, though contested election on Congress ticket, was indirectly supported by Dilipbhai Manibhai Patel, the Panchayat Secretary in the present B.J.P Government in the State of Gujarat.

In the background of the aforesaid enmity, the proximate cause for the flare up of the atrocities against the Dalits was construction of a Verandah of one Varai Mata's temple just near the Vankarvas. The caste-Hindus, particularly the Patels and the Darbars, were constructing the Verandah of the temple by encroaching upon a public way and therefore, the members of the Vankar community who reside nearby persuaded them to leave about 2 of space while constructing the verandah and a sort of settlement was arrived at on 28-2-2000 at about 9.00 hrs. But, in spite of the settlement, the construction was not carried out accordingly and the Vankar community apprehended some untoward incident and, therefore, one Valjibhai Haribhai Solanki, who was Secretary of the Sewa Sahkari Mandli and who was also the ex-Chairman of Social Justice Committee of the Borsad Taluka Panchayat, went to Bhardarnia Police Station and gave a written application on the same day at about 11.00hrs. to the Police Sub-Inspector Shri Babubha Karsanji Jadeja, who failed to take any action on the application, and at about 13.00 hrs on 28-2-2000 number of persons belonging to caste-Hindus attacked the Vankarvas and committed various acts of atrocities. Nandaben, wife of Valjibhai Haribhai Solanki, lodged an F.I.R with the Bhadrans Police Station, being Crime Register No. 31/2000, for the offences under Sections 143,147,337,323,452,427 and 504 of the Indian Penal Code and Section 3(i) (x) of the Atrocities Act.

In view of the above incident, 3 Police Points were posted on and from 29-2-2000 in the Vankarvas-one at the entrance of the Vankarvas, the 2nd at the house of Shri Valjibhai Haribhai Solanki and the 3rd near the temple of Ramdev Pir. Surprisingly, the point at the entrance was shifted on 1-3-2000 from the entrance of the Vankarvas to the house of Valjibhai Haribhai Solanki and thus the entry in the Vankarvas was left unguarded.

Since the incident of 28-2-2000, the tension in the area continued and the members of the Vankar community used to stay under constant terror though the S.R.P points were posted as stated above. And as apprehended, another incident took place on 13-3-2000 at about 21.30hrs. and a mob of about 250 people armed with various deadly weapons rushed into the Vankarvas through the unguarded entry and caused damage to the properties and the S.R.P Constable on duty was constrained to fire in the air. For this incident no Vankar dared to lodge F.I.R and the A.S.I Rajendrasinh Indrasinh Rajput of the S.R.P lodged the F.I.R being Crime Register No 38/2000, with the Bhadrans Police Station. The first informant being an unknown person in the village naturally could not give the names of the assailants, but he has given the names of two eyewitnesses, Vankar Bhagwanbhai Karsanbhai and Vankar Jayantbhai Karsanbhai. But, after the incident, most of the families have migrated from the village due to fear and the investigation for the 2nd incident could not progress

Those families who have stayed back in the village live under fear and terror and they are not able to move outside the Vankarvas and the police Bandobust has not been strengthened or increased by the Government.

Paper clipping

Case study: No 4

Name Miscreants attack Dalit Women at Padra

Place: Vadodara

Date: 12-2-1999

Gandhinagar: The state home department has taken a serious view of the attempt by a group of high-caste persons, to provoke violence in Padra town in Vadodara district by attacking a Dali run women's cooperative and seeking to give it a Hindu Christian enmity colour.

On timely instructions from Minister of State for home Haren Pandya, the Vadodara(rural) DySP, who was here on a visit, immediately rushed to the spot on learning that the attack on 16 old Dalit women forming part of the Parivaartan Mahila Industrial Trust on Thursday might take a communal colour just because one of its trustees. Mr. Martin Macwan, a well known social worker, is a Christian.

The alleged attackers, said officials sources here, had even filed a police complaint to the effect that only Christian women were being allowed in the cooperative. Denying this charge. Mr. Macwan told The "Times of India", "None of the women working in the cooperative or those present are Christian". Suspecting Vishwa Hindu Parishad activists to be behind the attack, the social workers who also runs Navsarjan Trust, the largest Ahmedabad-based Dalit voluntary organization in Gujarat, said the attackers came from Mahubad, Vuval and Subhda-Khurd village of Padra Taluka.

Suggesting that the intention of the attackers was "very clear"-they did not want the Dalit cooperative to continue in a high-caste dominated society-Mr. Macwan said, soon after entering the building that houses the cooperative, the attackers started beating up women workers, dragging them by hair, slapping and kicking them.

When women ran for life, the attackers on scooters and motorcycles chased them, threatening them not to enter-Padra any more" said Mr. Macwan. The cooperative was set up two years ago despite the high caste people surrounding it refusing to extend any cooperative he added

Pointing out that the “quick and timely intervention by the home department stopped things from going bad to worse,” Mr. Macwan said “Initially, the local police station refused to register a complaint on the ground that the complaining women were unable to identify who all the attackers were.

However, when instructions came from Gandhinagar, they registered a detailed complaint.

Suspecting VHP behind the whole thing, he said, “Earlier, the VHP had issued a press note calling the cooperative and its activities more dangerous than that of the missionaries”.

Apart from running the cooperative and running sewing classes the social workers attached to it are organizing landless workers who have been getting extremely poor wages-Rs 12 per day.” This kind of social awakening is not to the liking of the higher caste people, who enjoy VHP backing Mr. Macwan alleged.

Source: Times of India.

Case study: No 5

Economic blockade forces Dalits to flee village

Date: 09-05-1997

Place: Aniyali village, Dhandhuka taluka,

Times of India, 30/05/1997

“Faced with upper-caste ire, about 60 Dalit families of Aniyali village in Dhandhuka taluk have been forced to migrate to Wadhwan taluka in Surendranagar district, about 100 km away. In what is considered to be a “normal” situation for a large number of villages in Bhal region, the Dalits of Aniyali – belonging to the Dangasiya Vankar community that specialises in weaving woolen clothes- resorted to the extreme step after facing a virtual economic blockade by the upper-caste Darbars.”...

“What began as a minor incident mid-April in which an upper caste Darbar was refused a new bicycle and was instead rented an old one, leading to altercations between members of the two communities, things would not have come to such a pass had one of the Darbars not slapped Devben Vaghjibhai, a Dalit woman, who tired to intervene. This angered the village Dalits who decided to register a complaint against the Darbar with the police.”

“Later, Darbar youths resorted to stone-throwing for an hour at the vas, leading the Dalits to take police protection. As the police refused to continue their posting near the vas for more than two days, the Dalits, insecure and broken, had little choice but to leave the village.”

“What however finally forced them to leave was the economic blockade, coupled with the threat to life and to the honour of Dalit women. On information that the vas was going to be attacked, they emptied their entire vas taking protection under the cover of darkness on May 9, night.”

“Investigations revealed that extreme form of exploitation prevails in many of the villages of the area. Not only are the workers paid about Rs. 25 for the labour they do, which is much below the minimum basic; often they are treated as virtual bonded labourers. “

Case study: No 6

Personal Insults/Slights

Name: Anonymous

Date: 19-03-1994

Place: Ambareli, District Ahmedabad

Facts as contained in the FIR C.R. No. 33/94 : “While on duty, the complainant scolded the son of the accused. The accused came to the bus stand where the teacher was waiting for the bus, caught hold of her hand, gave her vulgar abuses and said: “ You dhedadi (a derogatory caste word) since when have you come to this village and how many of you dheds are here. I will lock you in the room and thrash you and burn you alive. If you come to the school on Monday, I will kill you.”

The Ahmedabad sessions court ordered the following in the above case. “ The accused is ordered hereby to undergo rigorous imprisonment for a period of three years and fine of Rs. 500 for having committed an offence under Section 3 (1) (10) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. For the failure to pay the fine, the accused shall further undergo six months rigorous imprisonment for having committed offence under Section 506 (2) of the Indian Penal Code. The accused to undergo three months rigorous imprisonment for having committed the offence under Section 504 of the Indian Penal Code.”

Case study: No 7
Personal Insults/Slights

Name: Sanjay
Date: 17-05-1998
Place: Vejalka, Dhandhuka, Ahmedabad

Sanjay, a Dalit boy aged 9 years, was watching TV at the pan shop of the accused when he happened to touch the utensils. This enraged the accused who threw lime in the eyes of Sanjay causing serious damage and complete loss of vision tot he left eye. The police registered a complainant under Section 326 of IPC and 3 92) (5) of the Atrocities Act after more then 20 days of the incident, following which the accused was arrested.

It is suspected that the accused who is a close relative of the sarpanch has been pressuring the father of the victim to compromise the case and withdraw the complaint. He has been threatening them with dire consequences including social boycott and ex-communication.

Case study: No 8
Discrimination in relief work after the Earthquake

Financial Express, Feb 21, 2001, News Analysis

Discriminating against the distressed in a democracy

Kuldip Nayar

What differentiates a democratic polity from other systems of governance is the sense of equality that people cherish. They have the confidence that the government will give them a fair deal, and feel protected under the law of the land. The Constitution ensures that there is no difference of treatment by the state.

It is, therefore, difficult for those living in India to believe that a situation can so develop that a government starts discriminating rather than dispensing. This is what is happening in certain parts of quake-hit Gujarat. It was expected the state would be more solicitous and come down heavily on those who discriminated while distributing relief. But there has been no action against those who displayed bias.

Stories emanating from Gujarat do not make happy reading. The criteria for distribution of relief is said to have been caste, creed and religion. High caste Patels have reportedly not allowed relief vehicles to reach many places because people living there belonged to the lower castes whom, the Patels describe as "disease-ridden people."

A non-government organisation (NGO), after touring affected areas in Rajkot, Surendranagar and Jamnagar, said that cases of "class discrimination" in relief distribution were "assuming alarming proportions." Dalits in Rajpur are bitter because they believe that the Thakkars and Jains, belonging to the upper castes, have "got everything they required."

Some areas where Muslims live have been purposely left without any relief or rehabilitation work. The discrimination has been open. The media has complained about it. Some newspapers even cited examples, alleging how RSS and VHP activists had "hijacked" relief supplies in the Kutch area.

Muzamil Jaleel, covering the quake for his multi-edition English daily, too, was a victim this anti-Muslim bias. A state BJP leader publicly criticised him for his "anti-national" reports. One of his stories was on the protest demonstration by minorities against discrimination in distribution of relief aid. This was reported by other papers as well. But Jaleel was harassed so much that his paper had to tell his tale on its front page and point out how he felt handicapped while performing his duty.

That VHP's demand to reject Vatican aid has gone uncondemned by BJP indicates the extent to which this prejudice is being allowed to be injected into the body politic of the state. Why is the voice of Archbishop Cyril Mas Baselles the only one of protest? Why was the foreign office silent when VHP insulted the Pope? What about the BJP high command? It is prickly enough to pounce on the President if he disagrees with its thinking on the Constitution or other matters. But when it comes to foreign dignitaries, the party does not show any sensitivity.

Apparently, there is some truth in allegations of discrimination. Certain things have gone wrong. Otherwise, senior leaders like VP Singh and IK Gujral, both former Prime Ministers, wouldn't have urged Prime Minister Atal Bihari Vajpayee to ensure that relief material is distributed in a fair manner. Both Delhi and Ahmedabad are conspicuous by their silence. Had they even mentioned that there were complaints which would be looked into, the odium of bias would not have stuck to them.

During the super-cyclone in Orissa 15 months ago, there was not a single complaint of prejudice based on caste or creed. The state was clueless and bungled all the way during the relief and rehabilitation operation, but none

said that such and such locality had been left out because it had of Muslims or Dalits living there.

"We are poor and that has made the Centre differentiate between our state and Gujarat," an MP from Orissa complained to me. Another MP from the same state pointed out that Orissa did not get "its due" because at the time of the cyclone it was under Congress rule, and could not, therefore, expect "generous help" from the BJP-led coalition at the Centre. Both charges may not be fully correct but there is a grain of truth in them.

In Orissa, New Delhi woke up late and initially did not give as much importance as the calamity deserved. Yet the state government cannot be absolved of the blame. There was tardy distribution of relief material and mapping out the rehabilitation programme. There is, however, no doubt that the worst sufferers of the cyclone were the have-nots. In contrast, most of quake victims are the haves. That may be one of the reasons why the cyclone disappeared from TV screens quickly while the quake continues to draw attention. New Delhi did not dwaddle over foreign assistance when it came to Gujarat.

In fact, it sent fervent appeals to Mr Vajpayee also made a statement to outsiders to send aid and lifted all restrictions and tariffs on it. Why didn't Orissa get the same access? New Delhi did not straightaway allow foreign aid. Subsequently, after several days, its policy was still ambiguous-it allowed assistance but did not admit that it was coming. In fact, there is still no firm policy on foreign assistance at the time of disasters. Why should there be reluctance to accept relief when it is beyond our resources? We, too, with our limited means, have sent relief to the victims of earthquakes and other tragedies outside the country.

And, as usual, New Delhi has taken advantage of the devastation. The surcharge of 2 per cent on income tax is nothing short of that. An earning of Rs 1,200 crore from the surcharge is a drop in the ocean. Why start taxing piecemeal when the Budget, which will propose different taxes, is only a few days away? The government has not yet made clear whether or not taxpayers who have suffered in the Gujarat earthquake would have to pay the surcharge.

There should be transparency in the relief aid collected from within India and abroad. There has to be some way to let the public know how much was collected and how was it distributed. This, in particular, applies to the Prime Minister's Relief Fund. Probably, it is audited, but that is not enough. A detailed status of receipts and expenditure should be presented to both Houses.

Adversity often brings out the best or worst in human beings. There are many such examples in Gujarat. It is a pity that the government has ruined its image by introducing politics into a tragedy that has engulfed all, irrespective of religion or status.

C. KARNATAKA

KAMBALAPALLI CARNAGE

Case study: No 1

KAMBALAPALLI CARNAGE

The incident: During August 1997 a flock of sheep belonging to both Vokkaligas and Dalits was stolen from Kambala Palli Village. In this connection a 'Panchayath' was held in the village and it was unilaterally decided that Venkataramanappa, Anjanappa and Ravanappa, all Dalits had stolen the sheep inspite of their denial and it was also decided to file a police complaint of theft against them. Fearing police action the above named Dalits left their village along with their families. A police complaint was filed in this connection and during investigation it came to light that the sheep were stolen and taken to Andhra Pradesh and sold for Rs. 9,000/- by K.M. Maddireddy, Anjaneyareddy, Reddappa, Narayanaswamy, Kittanna alias Krishnareddy (waterman) and their followers all belonging to Vokkaliga community of the same village. The sheep belonging to the Dalits were recovered and brought back and handed over to the owners. Dalit Venkataramanappa and his two brothers who had left the village took a leading part in the detection of the stolen sheep which resulted in the exposure of Vokkaligas' conspiracy. Further it also brought contempt and ridicule to Vokkaligas as a whole in the village. They wanted to do away with Venkataramanappa and was waiting for a chance for him to come back to the village.

According to Section 3(1) (VIII) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. 1989 whoever not being a member of a Scheduled Caste or Scheduled Tribe institutes false criminal or other legal proceedings against 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 5 years and with fine. The police should have booked a criminal case against the Vokkaligas who had filed false complaints against Dalits in the matter under the above provision of law. That would have checked them from advancing further with their criminal activities.

On hearing the delivery of his wife Venkataramanappa came to the village on 5-6-1998 at about 10.30 p.m. On getting information about his arrival Maddireddy, Anjaneyareddy and other 39 persons including Kittanna alias Krishnareddy (waterman) formed an unlawful assembly and chased him to his house and stoned him to death in the presence of his wife and other family members. He was buried under the stones numbering about 50. All the above 41 culprits were released on bail and were roaming in the locality.

In many villages like Vaijakur, Burudagunte, Suladhenahalli, Eragampalli, Sitampalli there were social boycotts engineered by the Vokkaligas and a murder was also committed by them in Eragampalli village. All these above incidents clearly show that the Vokkaliga community is uncivilised exhibiting criminal tendencies.

The Chief Minister of Karnataka Sri S.M. Krishna belongs to this Vokkaliga community and he is considered as a leader of Vokkaligas. His assumption of Office as Chief Minister of Karnataka was celebrated by the Vokkaligas.

During December 1999 the Assistant Commissioner of Chikkaballapura Sub-Division conducted a meeting in Chinthamani Taluk Office attended by DSS leaders, Taluk Social Welfare Officer, Municipal Commissioner, BDO, Police Officers and the Tahsildar to look into the grievances of Dalits in the taluk and to find out solutions for the same. During the meeting Dalit Sriramappa of Kambalapalli, the younger brother of murdered Venkataramanappa told in the meeting that they were forced to leave the village by the Vokkaligas who had destroyed their bore well, murdered his elder brother and waiting to liquidate him and how long he could live outside the village and he wanted to go back to his village to lead a peaceful life and sought the help and aid of the authorities. A meeting was fixed on 8-1-2000 to take Sriramappa, his brother Anjanappa, his father Venkatarayappa and mother Ramakka back to the village and settle them there with all protection. Accordingly these said persons were taken back to the village on that day. By noon the authorities wanted a conciliation meeting to be held between the Vokkaligas and the members of the Dalit family. The Vokkaligas decided to hold the conciliation meeting in the temple located at their locality. Fearing reprisal from the Vokkaligas, the Dalits were afraid of going to the area of the Vokkaligas and they requested the authorities to conduct the meeting at 'Arali Katte' near their colony. The Vokkaligas did not agree to this for reasons best known to them. So the conciliation meeting did not take place.

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 him to take his vehicle so close to him. To this Venkatareddy retorted why should he (Dalit boy) 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. 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 after noon and he could send the victims of assault to him. The Dalit victims without waiting for the arrival of Circle 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. 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.

Action taken: Dead bodies of seven Dalits Sriramappa (25), Anjanappa (27), Ramakka (70), Subbakka (45), Papamma (46), Narasimhaiah (25), Chikkapapanna (40), were removed from the houses. The Vokkaligas did not permit to bury the dead bodies in the victims' own lands. The Government ordered a Judicial Enquiry by a sitting Judge of the High Court only to be

withdrawn later. No case was booked against the police. No attempts were made to trace the main accused Vokkaligas who are now protected by the Vokkaliga political leaders

Case study: No 2

Attack on Dalit youth in Bellary

BJP holds minister responsible

DH News Service

BANGALORE, April 24

The State BJP, which has termed the attack on a Dalit youth in Bellary as a pre-planned one, has demanded the ouster of Minister of State for Rural Development & Panchayat Raj M Divakar Babu from the council of ministry holding him responsible for the assault.

Vinod Kumar, who was beaten allegedly by the followers of Mr Divakar Babu on April 14 in Bellary, is undergoing treatment at Manipal Hospital here. Vinod's left thumb finger has been chopped off and he has suffered fracture in the left leg and on the right shoulder. The BJP, which has taken up the cause of Vinod, who is also a BJP worker, has decided to launch an agitation throughout the State if Chief Minister S M Krishna fails to dismiss Mr Babu from the council of ministry. BJP leader Jagadish Shettar is scheduled to launch the agitation on April 26 in Bellary.

Vinod, who is a 'pygmy' collector, told media persons who visited him at the hospital that he was assaulted by the followers of Mr Babu on Dr Ambedkar Jayanti day when he was witnessing a function organised to lay foundation for construction of houses under the Valmiki Ambedkar Awas Yojana. "Some persons led by Narayanarao alias Mundlur Chitti, who is the president of Ashraya committee in Bellary, chased me and brutally attacked me. The Minister (Babu) was very much present when I was being attacked," he charged.

Subadramma, the mother of Vinod who was also present, said, "I am a widow and I am totally dependent on Vinod to run the family. I have two more children. We are afraid to return to Bellary."

Legislators S Suresh Kumar and Ramachandre Gowda and BJP City unit president S Prakash, who took media persons to the hospital, said the Minister should be immediately arrested as his name figured in the FIR filed

by the police. Mr Suresh Kumar said Chitti, who had been externed, had obtained court stay to live in Karnataka. Chitti had attacked Vinod and other BJP workers because they raised slogans in favour of Prime Minister A B Vajpayee, he said.

Mr Ramachandre Gowda said a judicial inquiry should be ordered into the incident.

NOTORIOUS BILLANDLA HALLI INCIDENT

Case study: No 3

Name : Billandla Halli

Date 1-09-1997

Place: Billandlaa Halli village, Chinthmani town.

Billandla Halli is a village about 30 kms from Chinthamani Town. There are about 200 families of Vokkaligas and 75 houses of Madigas and Holayas (both SCs). The Dalits wanted to celebrate Ambedkar Jayanthi and start a village unit of DSS in the village and cultural programs were also arranged for the function. State DSS leader N. Shivanna and others were invited for the function. Pamphlets were printed and distributed. Vokkaliga Yuva Vedike opposed the starting of a unit of DSS in the village. On 31-8-1997 the then Social Welfare Minister Krishnareddy, Transport Minister Bachegowda, Agricultural Minister Byregowda and Housing Minister and Karnataka Milk Producers Federation Chairman H.D. Revanna all belonged to Vokkaliga community attended a function for opening of a Dairy building at Ragutta Halli village, the neighbouring village of Billandla Halli. The Vokkaliga Yuva Vedike leaders met the team of Vokkaliga Ministers and informed them about the inauguration of a DSS village unit in Billandla Halli and requested them to take suitable action to prevent it.

On 1-9-1997 the day of inauguration of DSS unit the Dy. Superintendent of Police Srikantaiah and Circle Inspector Ramachandrappa both belonging to Vokkaliga community contacted N. Shivanna on phone. The Circle Inspector told him that their function at Billandla halli might create law and order problems and might lead to blood shed in the locality and asked him to cancel the program and not to go there. He also told him to contact Dy. SP. Srikantaiah immediately. Then N. Shivanna contacted Dy. SP. Srikantaiah over phone who also informed N. Shivanna to cancel the program and not to go there since large number of hired goondas had assembled there. N. Shivanna agreed and informed about the cancellation of the program to the Dy. SP. The DSS Mungaana Halli Hobli Convener Kodigal Ramesh telephoned to N. Shivanna telling him about the assembly of large number of Dalits to participate in the function and asked him to attend the function without fail. Shivanna informed him that the function has been cancelled on the advise of the police. But the police wanted to go to the village to prevent any untoward incident. Thinking that N. Shivanna and other leaders of DSS would be coming to attend the function with police protection the Vokkaligas had created road blocks with stones and boulders. Sudhakarreddy a Vokkaliga Yuva Vedike activist was sitting on a branch of a tree with loaded gun to shoot N. Shivanna and other DSS leaders. When the police who were coming to the village started removing the road blocks Sudhakarreddy fired at them and one police constable fell dead. Noticing that, the police fired at

Sudhakarreddy and he fell down dead. The Vokkaligas who were hiding behind the bushes to attack Dalits ran towards the police and attacked them with deadly weapons during which one police constable was murdered on the spot and another constable was chased and caught and dragged out of a school 1 km away from the spot and brutally murdered in the presence of teachers and students. Many police officers and constables were injured and their vehicles were burnt. No effective steps have been taken to prosecute the culprits. This emboldened the Vokkaligas and they felt that nothing would happen to them if they murder others. Against the murder of their colleagues the police personnel conducted a Dharna in the police station. The DSS also protested against the brutal act of Vokkaligas who killed only those police constables who did not belong to Vokkaliga community. A Kolar Bundh was observed by DSS and the general public against the above atrocious act by the Vokkaligas.

Cast study: No 4

Rape of a Minor Dalit girl

Name: 13 year old girl
Place: Nallahalli village,
Kanankapura Taluk
Date : November 23

By Our Staff Reporter

BANGALORE, NOV. 23. A Scheduled Caste couple from Nallahalli village of Uyyamballi hobli in Kanakapura taluk alleged here on Friday that two persons of the village kidnapped their 13-year- old daughter and one of them raped her.

Narrating the tale of woe of their family, Mr. Ningamadiah and his wife, Ms. Dundamma, who came to the city with their daughter, said that they were being harassed.

Mr. Ningamadiah said he had two acres of land in Satnur Police Station limits and was cultivating groundnut on it. He alleged that Putte Gowda, son of Deviah, let his goats to graze in the field and he had to chase them away. Angered by this, Gowda picked up a quarrel with him and used abusive language against his community. Yet Gowda gave a complaint to the police that he was beaten up.

He alleged that the members of the Tigala community to which Gowda belonged were organising themselves to make him pay for the incident. Towards this end, Gowda even got treated in a hospital. Two days later on November 13, his daughter was going to a school at Harobebe when Devaraju

and another man, whose father is Kadavenkatayya, kidnapped her after stuffing her mouth with a piece of cloth. He alleged that she was taken to Hongehalla first and then to an open place. Devaraju kept a watch while the other accused raped her after tying her up. On seeing someone approaching, they fled the scene.

Ms. Dundamma and the victim went to the Satnur Police Station in the afternoon after the crime was committed. She alleged that instead of registering a case and sending her daughter for medical examination, the Sub-inspector, Mr. Lokesh, asked them to meet him the next day. Some policemen came to the village the following day and took them to the place of the crime. Late in the day, they were taken to Vani Vilas Hospital in Bangalore. There were no doctors at the hospital then.

On the morning of November 15, a woman police constable took the victim to the police station where she had to wait till afternoon for senior police officers to come. She was later taken to Victoria Hospital where a male doctor attended to her. She was not given any treatment and they returned home.

Mr. Muniyappa, vice-president of the Bahujan Samaj Party State unit, who was present, alleged that no medical examination was conducted on the victim for more than a day. The accused were supporters of the district in-charge Minister, Mr. D. K. Shivakumar, so that they had not been arrested though the incident occurred nine days ago. Police had not given either a copy of the FIR or an acknowledgement in this regard to the victim.

Mr. Muniyappa said the father of Mr. ShivaKumar visited the house of Mr. Ningamadiah and promised to pay some compensation but he did not condemn the incident. The accused would go scotfree as the Minister was supporting them; he alleged and demanded Mr. Shivakumar's dismissal from the ministry.

He said Mr. Ningamadiah would fight till his family was given justice. A sum of Rs. 5 lakhs should be paid to the family and for the education of the victim, he added.

Case study: No 5

Press Clipping

Naked assault Crime: Dalit woman is stripped and paraded for two hours in Karnataka

N. Bhanutej/Bellary

Yeramma lies on her hospital bed writhing in pain. But the physical abuse she suffered at the hands of five men and three women on August 26 is nothing compared to the scars on her mind. Every now and then she groans and shuts her eyes as if to hold back memories of the way she was stripped, beaten, spat upon and paraded naked for two hours through the dusty streets of Vanenur village in Bellary district, north Karnataka.

"Look at her properly," yelled her drunken tormentors, who belonged to the rich Valmiki caste (a scheduled tribe). "You may never see this again." Each time Yeramma tried to cover herself, they would kick and cane her hands. Her husband Yenappa, who belongs to the "lowest of the low" Dasara caste (scheduled caste), was forced to follow his wife in silence.

Yeramma's fault-one which she denies-was encouraging a Valmiki girl to elope with a Dasara boy. "They kicked me, stamped my face and my stomach," recalled Yeramma, who is in her early forties. "I begged the three women to spare me; told them I was a woman like them."

When Yeramma's daughter Honamma, mother of a one-month-old baby, tore off a part of her tattered sari and tried to cover her mother, one of the drunken men kicked her so hard that she fell into a pile of garbage.

Yeramma was then told to stand beside the flag post at the Gram Panchayat office for half an hour, and forced to plead guilty. "Now, you can give her the clothes," someone said, at which Yenappa took off his lungi and covered his wife.

Yenappa's brother Vanrappa had, meanwhile, slunk off to neighbouring Banapura to call the police. They arrested the eight main accused. But less than a day later, they were out on bail from the Bellary judicial magistrate. When Dalit and women's organisations protested, the police took them and 12 other Valmikis and produced them before the taluk magistrate, who remanded them to judicial custody till September 12.

Nobody can tell how Yeramma's name came to be associated with the eloping, a month ago, of Keshanna, 20 and Maremma, 15. The girl's parents-who are now in custody-traced Maremma out on August 24, and immediately began blaming Yeramma for the 'kidnap'.

"I was not even in the village when that happened," said Yeramma, who was at her daughter's house in Gullem village in Andhra Pradesh. For a week, men from the Valmiki community harassed Yeramma, asking her to appear before the gram panchayat and admit her "guilt". Yeramma insisted she was innocent. On August 26, when news reached that "they are coming for you", Yenappa suggested that they leave the village for some time, but Yeramma said: "Why should we go. I have done nothing wrong."

Attacks on Dalits in Bellary district have been touching new highs. In 2000-2001, there were over 120 cases of atrocities. More than 50 per cent of these were committed by the Valmikis, the landed gentry in these parts who wield substantial political and cash clout. As in Yeramma's case, the culprits were booked under the Prevention of Civil Rights Act, a bailable offence.

"In Karnataka, Valmikis were included in the scheduled tribe category only six years ago," said D. Yeriswamy, a Dalit leader. "Thus they cannot be booked under the SC/ST Prevention of Atrocity Act. We are now demanding that they be dropped from the ST category."

Meanwhile, Yeramma's wait for justice has just begun. She has refused the compensation money, land and house offered to her by state Congress president Allum Veerabhadrappe, who represents this assembly segment. Hopefully, the Dalit women and human rights groups in the district, which have formed a joint forum to fight her case, will help achieve it for her.

Newspaper report

DSS activist says he was kidnapped by police on behest of his opponents

Case study: No 6

Date May 24, 2000

Place: Sakaleshpur

DH News Service MANGALORE, May 24 2000

Dalit Sanghrasha Samiti activist Manjunath Kundar, who was missing for about 15 days and later found near Sakaleshpur, has alleged that his political opponents in connivance with the police, masterminded his "kidnapping" and he was tortured to the hilt at the time of his "illegal confinement".

Mr Kundar who basically hails from Adyapadi village near here, has been now taking treatment in the Government Wenlock hospital. He has been shifted from Sakaleshpur hospital to the current hospital a couple of days back. He has been a DSS leader who has taken an active role in protests relating to Adyapadi Shobha murder case.

Ms Shobha, another DSS activist, was murdered at Adyapadi a few months back in a mysterious way and the killers are not yet found. The DSS has been holding protests against the delay in completing the investigation.

"This is precisely the reason why I have been targetted by the police. I have been in the forefront of the DSS protests relating to the Adyapadi

Shobha murder case which has infuriated the police," Mr Kundar told Deccan Herald in the Wenlock hospital.

Giving the blow-by-blow account of the episode, Mr Kundar said he was asked by two known police constables - Sujan Shetty and Seetharam - on April 30 night to accompany them to meet the PSI Rajendran. The jeep was parked at a distance from Mr Kundar's house. (Mr Kundar has also named those constables in his statement before the police now) "I was suddenly attacked from behind by two unknown persons. My hands were tied and eyes were tightly closed by a cloth. Later I felt that something was injected into my body and I lost my senses. When I awoke, I was in an unknown house surrounded by unfamiliar people,".

"I understand that my kidnap was planned and executed by my political opponents on the basis of telephonic conversations which my kidnappers had, during my confinement. After 15 days, I was thrown in a gutter and later I found that the place was Sakaleshpur," he added.

To recall the background, Mr Manjunath Kundar was reported missing from his residence on April 30 night and the issue was later taken up by the DSS and human rights activists. The Janadhwani People's Union of Civil Liberties (JPUCL) also moved a "habeas corpus" petition in the Karnataka High Court.

The JPUCL maintained that there has been a long-standing fight between Mr Kundar and his neighbour Giriappa who is the vice-president of Kandavar Gram Panchayat. Mr Giriappa belongs to the Congress party who is said to have the backing of district- in- charge minister Ramanath Rai. The tussle between the two political activists is said to have been started with regard to possession of a piece of land. There used to be skirmishes between them and the tussle reached a boiling point when Mr Manjunath was attacked with lethal weapons allegedly by the group of Mr Giriappa on March 22.

D. Tamil Nadu:

Case study: No 1

A chain of incidences of atrocities in a village, over a period of time.

Name: Kodiyankulam

Place: Shankarankovil Taluk

Date: 1997

The incident: There is a government higher secondary school at Veerasikamnai in Sankarankovil taluk. Children from all communities, both boys and girls were attending this school. As is the wont of boys and girls in

mixed schools, especially in the age of adolescence, love developed between some boys and girls. This love never knew caste barriers nor economic hurdles. It was not even infatuation but innocent love for each other that developed among a Dalit boy and caste Hindu girl. They have been exchanging letters and when the headmaster of the school came to know of this, he had called the boy and shouted at him. He is reported to have told the boy “What love affair for a Pallan boy?” in derogatory terms. It was the practice of the teachers of this school to rebuke the students referring to their caste names.

In this instance, the boy a Dalit from Vadakkampatti village was not prepared to take the insult lying down. He complained to his parents who found fault with the headmaster. The result was the boy's dismissal from the school. Angered by this treatment, the boy had entered into an argument with the headmaster and there was mayhem. The school was closed for a few days.

When the school re-opened another incident took place that added to the already prevailing tension. A lady teacher had asked a Paller girl from Vadakkampatti to wash her lunch plate and box. But the girl had refused to oblige the teacher saying “If you ask me to study, I will study. But if you ask me to wash your lunch utensils, I will not do so.” The woman teacher who lost her cool at the refusal shouted at the girl: “Aye, low caste bitch, how can you be so insolent?” So saying she slapped the girl and asked her to get out of the classroom. When the girl left the class room crying, her classmate also walked out with her. They told their parents that they would not study under a woman who had called them “low caste”.

The parents of the girls proceeded to the school and complained to the headmaster. But he took no action. Instead to teach the Dalits a lesson he had called a notorious rowdy of the area and instigated him against those who had come from Vadakkampatti. However, as some of the elders of the town insisted on a disciplinary action against the offending teacher, the headmaster suspended her for a few days. When she returned to school, there was again unrest among the students.

This irritated the headmaster who hatched an insidious plot along with the rowdy mentioned above. The plot was very meticulously executed. On July 26, a state owned transport corporation bus driven by Thangavel (51), a Dalit from the village of Vadanathampatti was proceeding from Puliyanudi to Surandai. As instructed by the rowdy, the students from Thevar caste began walking zig zag on the road and the driver noticing this had shouted at them “Dey boys walk along the edge of the road”. The rowdy who was orchestrating the whole drama, rushed towards the driver of the bus and shouted at him. “Why you low caste fellow, how can you call our Thevar boys as “dey” and

tried to quarrel with him. But the members of the public persuaded the students to disperse.

The bus was returning from Surandai around 7.15 p.m. Before that the rowdy had gone to the houses of the Thevars in Veerasikamani and urged them to join him saying that driver Thangavel has insulted the boys from their community and he should be questioned about it. But realizing the truth of the situation the Thevars of Veersikamani did not come forward to go with him. This anti social who was disappointed by the refusal of the Thevars proceeded to a neighbouring village at Naduvakkurichi and persuaded a mob from there to come with him to Veerasikamani. The mob which came by van armed with lethal weapons like swords, sickles, sticks and stoned blocked the path of the bus. The passengers sensing that there was something serious about to happen fled the bus. Thangavel was forcibly pulled out of the bus and hit on the head. He fainted with blood pouring profusely. Thinking that he was dead, the mob ran away from the scene. However, his life was saved by another bus crew which was following Thangavel's bus.

On hearing of the attack on Thangavel, the Dalits from Vadakkanathampatti proceeded to Veerasikamani in three tractors. They began to vent their anger by pelting stones at the shops of Thevars and those who were standing there. The Thevars also retaliated by throwing stones and other missiles. In the melee the statue of Muthuramalinga Thevar sustained minor damages.

The Thevars of the area resorted to a road blockade the following day demanding the arrest of those responsible for damaging the Thevar statue. Later a peace meeting was held by the Tirunelveli district collector, who assured the Thevars that the another statue sculptured by the same sculptor would be installed in Veerasikamani.

This incident was followed by a 'poster war' in which both communities indulged freely in mutual accusation and denigration.

A meeting of the Thevar Peravai held at Sivagiri resolved to agitate all over the Tamil Nadu to protest against the denigration of the statue of their caste leader. People went around in autos announcing the decision of the Thevar Pervai, which in effect was a call to attack the Dalits.

On July 31, the members of the Thevar Peravai resorted to road blockade at Sivagiri and no buses were allowed to ply. Suddenly a mob stormed the colony of the Chakkiliyars, looted and damaged the shops, broke the street lamps and wrought havoc. One person was disemboweled. The mob then proceeded to Central Jail area and broke the statue of Ambedkar.

The police who came there warned the people who were waiting at the bus stand to take the injured person to the hospital. The people retorted saying that instead of forcing the attackers to disperse, the police were threatening the victims. The answer was the police opening fire, in which four persons were injured.

The situation continued to be tense and both communities remained daggers drawn with sporadic incidents of violence taking place not only in the district of Tirunelveli but in other southern districts as well. Violence had spread upto Usilampatti in Madurai District.

Following the escalation of caste violence, the leaders of the Pallar community gathered in Kodyankulam in Ottapidaram taluk of Tirunelveli district to review the situation and to chalk out strategies. There are 400 families, all of whom are Pallars in this economically burgeoning village. At least one member from each family was employed abroad and the village has to its credit an IAS officer, many doctors, engineers etc.

Since this village had developed into a model village, it served as the mother village for 43 pallar hamlets in the area. People from other surrounding villages sought the advice and intervention of the leaders of Koduyankulam to resolve their social problems and other issues. At the meeting on August 27th, the meeting adopted a number of resolutions. The meeting also demanded the release of their caste leaders and arrest of those responsible for the killing of Dalits in the area.

According to a Dalit writer, the police who heard of the decisions of the Kodyankulam meeting chalked out a plan to teach the Dalits a lesson. As a part of this disinformation campaign they spread the rumour that the Dalits had planned to kill policemen and Thevars at sight. This rumour gained momentum among the high police officers and leaders of the Thevar community. The police imposed an undeclared curfew in the 43 Pallar villages, preventing them from leaving the village before 7.00am

According to this Dalit writer, the people of these villages were living in apprehension and fear. On August 25 a Dalit leader of Alandha was killed in the early morning. Three days later the Dalit youths of the villages rounded up six men who were masquerading as workers. In a fight that ensued three of the six men, said to be Thevars from Vallanadu were killed.

On hearing of the killing of three Thevar youths, the District Collector along with the Superintendent of Police led a contingent of 400 policemen rushed to Kasilingapuram a nearby village. There, the district collector is said to have announced that he was also a Thevar who was born with a sword. From there he led the policemen to Alandha where he asked the police to

attack the Dalits and to destroy their property, The policemen entered the village like wolf on the fold and wrought havoc.

Similar excesses were also reported from other villages in the area. On August 31, the policemen and some others purported to be policemen came to the border of Kodiyankulam village around 10.15 a.m in 25 police vehicles. There were at least 40 men in each of the vehicle. They entered the village like a river in a spate, like an enemy force entering a vanquished village. The leader of the village welcomed the policemen and others, whom the writer claims were thugs and "Sir, why have you come in such large number". Without replying one of the police officers shot back "Are you the leader of this village ? we have information that it was you who conducted a meeting of the Pallars. We also know of your conspiracy " and hit him on the head. This leader Ganapathi fell down. A woman graduate who was watching this asked, "Why are you hitting him ? What conspiracy have we hatched?" Angered by this one policemen shouted "You Pallar prostitute, who are you to question us?" and then pulled the border of her saree. A 12 year old boy who was witness to this barbarism picked up a stone and threw it at the policemen. This was what the policemen had been anticipating and they began firing in the air and the people started running helter skelter. Police fired at the running crowd and two persons fell down injured in the knee.

People went into the houses and locked up the doors. The policemen broke open the doors and went on the rampage. The havoc that they wrought and the damages that they caused were beyond description. Their acts of barbarism surpassed anything that the state had known earlier. They poisoned drinking water by pouring diesel and kerosene and dumping insecticide.

They mixed food grains with pesticides and broke pots and pans, destroyed TV and radio sets and looted ornaments and cash. The total damage is estimated at Rs. Three crores. This atrocity continued for many days, until such time the people of Kodiyankulam resolved to prevent the entry of police into their village.

This set the pace for further caste clashes, which erupted sporadically in 1996.

Case study: No 2 Violence linked to Panchayat elections

Name: Murugesan and five others.

Date of incident: 30 June 1997 @ approximately 3.45 p.m

Place of incident: Melavalavu, Melur Taluk, Madurai District, Tamil Nadu

Madurai District witnessed seven major caste clashes in 1997, including that in Melavalavu, in a year where caste clashes prevailed over the southern districts of Tamil Nadu, Previous Years have also seen a pattern of caste clashes in the district, many at the instigation of the Kallar community, which dominates the district. Notably the district administration has released no information for the years previous to 1997 as regards caste clashes in the district. Government sources indicate that 15 people have been murdered since 1990 through caste clashes in the district.

The incident: On 30 June 1997, the recently elected Panchayat leader for Melavalavu Panchayat in Kottampatti Panchayat Union, Mr. Murugesan, and his five companions were murdered in cold blood when the bus they were traveling in was attacked by a gang of backward caste Kallar community people from Melavalavu as it neared Chennakarampatti Bridge, around 2km from Melavalavu. His three other companions escaped with serious injuries. This planned attack by the dominant cast Hindu community was the culmination of mounting tensions in the area over the election of a Dalit to the reserved Panchayat seat in December 1996.

On the morning of 30 June 1997 Mr. Murugesan, the Dalit president of Melavalavu Panchayat, along with Messrs. Kancheevanam, Mookan, Boopathy, Raja, Chelladurai, Sevugamoorthy, Chinnaiah and Kumar, belonging to the Adi Dravidar Parayar community residing in Gandhi Nagar of Melavalavu village, went to the collectorate at Madurai. Their purpose was to organize a relief fund for the Dalit people of their colony who had been affected by anti-Dalit attacks on 9 September 1996 leading up to the recent Melavalavu Panchayat elections in December 1996. At the Collectorate they met up with another Dalit from Gandhi Nagar colony of Melavalavu village, Krishnan, and asked him to join them. When it was ascertained that the Collector. Mr. Kasi Viswanathan, IPS, was in fact out of station till later that day, Murugesan made Kancheevanam stay back to await the arrival of the Collector whilst he boarded a private bus(K.N.R No. TN 59M 9495) bound for Natham through Melavalavu with his men at around 1:00p.m At the time , Krishnan remembers sensing that one Mr. Manoharan of the Kallar community was watching them getting into the bus.

When the bus reached Melur, Mr. Shantha Kumar and Mr. Chinnaiah of the Dalit Gandhi Nagar colony of Melavalavu boarded the bus along with Kallar community people, namely Mr. Alagarsamy, the former Melavalavu Panchayat leader, Messrs, Ponnaiah, Duraipandi, Jothi: Manikandan and Jeyaram. Before the bus could reach Melavalavu, at around 3:45 p.m near Sennakarampatti bridge on the Melur-Natham Road, approximately 2km from Melavalavu and between Sennakarmpatti and Ettimangalam villages,

Duraipandi shouted at the driver to stop the bus. When the driver stopped the bus, a mob of forty Kallar community people who had been hiding behind a haystack came running towards the bus, bearing deadly weapons including knives. Alagarsamy, who was inside the bus, called Murugesan caste and other abusive names and stabbed him in his right shoulder. This shook the remaining Dalits in the bus with terror and they started running for their lives out of the bus and into the fields. Mookan, Boopathy, Raja, Chelladurai and Sevugamoorthy were murdered on the spot. Krishnan was stabbed in the back by Duraipandi as he was running. When Krishnan looked back he saw the Kallar community people cut off Murugesan's head and heave it into a nearby well, leaving his body in the field.

Having sustained severe injuries, Krishnan, Kumar and Chinnaiah fled to Melur Government Hospital, running through the field to escape. As they were severely injured they had to be taken to the Madurai Government Hospital

Action taken after the incident: A charge sheet was filed on 25 September 1997 following a case being registered by the police of Melur police station under Crime No. 508/97 for murder and atrocities against Scheduled Caste people under secs 147,148,341,302,307 Indian Penal Code and sec. 3(2)(V) SC/ST (Prevention of Atrocities) Act 1989.

41 persons from the Kallar community of Melavalavu village were named as the accused for the murders and 40 were arrested. Of the accused, Alagarsamy and Dinakarn voluntarily surrendered to the police. To date one of the main culprits, Ramar, the first accused in the FIR remains at large, though he has been removed from his Panchayat president's post of Chennakarampatti. Of the 40 Kallar community people arrested, one by the name of Kathirvel remains behind bars due to conviction for another murder case, whilst another, Ponnaiah, is in jail for capturing of poll booths on 28 December 1996 during the Panchayat elections. All the others have been released on bail pending an appeal.

To date, trials over the deaths of the Panchayat president and companion, as well as the trial for the post-murder clash are yet to start.

An ex-gratia payment under the SC/ST (Prevention of Atrocities) Act, 1989 of Rs. 1,50,000/- was given by the State Government on 3 July 1997 to each of the legal heirs of the of the murdered persons, namely Ms. Mani w/o K. Murugesan, Ms. Panchaiammal w/o Mookan, Ms. Puliammal w/o Chelladurai, Ms Kali w/o Sevugammorthy, Ms Vasanthi w/o Raja and Ms. Lalitha w/o Bhoopathy

Rs. 6,250/- was provided as relief for each of the injured people, namely Mr. S. Krishnan, Mr. Kumar and Mr. Chinnaiah. A further Rs. 50,000/- was given on 20 July 1997 to Ms S. Chandra w/o Mr S. Soundarajan who died as a result of the ensuing caste clash after the death of the panchayat president and companions.

Reasons for the incident: In August 1996 the Government of Tamilnadu announced elections for all Panchayats that is village government, as well as Towns and city Corporations in Tamil Nadu. According to the 1994 Panchayat Rules, Tamilnadu reserved certain Panchayat seats for Dalits and women, and the rest for general Dalits and women, and the rest for general candidates. Thus, the Government announced that Melavalavu Panchayat leadership was reserved for Dalits. The other caste Hindus, mainly from the backward caste Kallar community opposed that and in a community meeting on 2 September 1996 they threatened the Dalits at Gandhi Nagar to join them in opposition of this reservation. The Dalit elders, not wishing to cause any confrontation with their caste Hindu neighbours, agreed to oppose the SC reservation by ensuring that no Dalits filed nominations for the Panchayat seat. The Dalit elders were given Rs.500/- and told to join the Kallar community people in guarding the Kottampatti Panchayat Union office from any Dalit filing a nomination. However, though the elderly people of the Dalit community gave way to the treats, the Dalit youth protested against this stifling of their rights and prepared to file nominations to contest the elections.

The Dalit youth gathered and met the District Collector. Mr. Kasi Viswanathan, IAS on 5 September 1996 at 10.00am and told him that Kancheevanam s/o Nallaiyam, Vaiyangkaruppan s/o Nevvam of Kanmaippatti, Surangamalai s/o Pethan, and K. Murugesan s/o Kannakappan would file nomination forms on 6 September 1996 at 10.00a.m at Kottampatti Union office. They requested police protection and also gave a petition to this effect. The District Collector told them that he would send a police party to protect them.

On the same day (05.09.96) they also met the District Superintendent of police and gave a petition asking for police protection when they filed their nominations. He endorsed their petition as "give the necessary protection" in the same petition to be presented to the Deputy Superintendent of Policy (DSP) of Melur, Mr. Viswanathan, IPS and returned the petition to them, directing them to see the DSP about the matter. Immediately they went to Melur and gave their petition to the DSP, informing him of what the District Superintendent of Police had told them. They also gave him a list of the 18 people who were threatening them. On receiving both the petition and the list. The DSP read the petition and retained the list, returning the petition to them with the assurance that "you go, I will give protection to you".

On 6 September 1996 the Dalit youth were ready to file their petitions but no police came to protect them. Their community elders prevented them from filing nominations as they told the youth that their community would then be destroyed by the Kallar community people. To further substantiate that fact. They heard that the Kallar community people hired a criminal gang to murder them with village funds, and so they could not go to file their nominations on 6 September due to fear.

After that, on 7 and 8 September 1996 the Kallar community people came to their Dalit colony and threatened them. They forced the Dalits to attend a meeting on 9 September 1996 at 10.00 a.m in Mandai Thidal and warned that unless the nominations were stopped the Kallar community would cut off the Dalit youth's heads. On the same day at 12:00 noon, the house of Kancheevanam, who was one of the youth trying to file a nomination, was set on fire, a fire from which he narrowly escaped with his life. The incident was recorded at Melur police station on 10 September in FIR 662/96 under sec. 436 IPC. However, the name of the arsonist was unable to be ascertained, though Kancheevanam has reason to suspect Kallar community people being behind the arson due to a pay-off of Rs.2000/- given to him by them.

On 10 September 1996 Kancheevanam, Vaiyangkaruppan and Murugesan, along with some 70 youths, gave a petition to the Thasildar and the Inspector of Police of Melur asking them to give protection to them. The three youths then bravely filed their nominations for the Melavalavu Panchayat elections at Kottampatti. Knowing the tension that would cause in the village, they again met with the District Collector to tell of all that had happened and request reserve police protection. Police were posted for a while in the village to ensure the peace.

However, incensed, other caste Hindus chased Dalits out of Gandhi Nagar Colony. They ran for their lives and settled at various other places. As a result of this Dalit elders requested Kancheevanam, Vaiyangkaruppan and Murugesan on 12 September 1996 to withdraw their nominations. On seeing the critical situation for the community the three conceded, withdrawing their nominations on 13 September 1996, which led to the planned elections of 9 October 1996 being abandoned due to lack of nominations.

Even after withdrawal of their nominations, torment by the other caste Hindus continued and Murugesan became determined to fight for their rights, especially when reporting the harassment to the two police in charge of keeping the peace yielded any action on the part of the police. As a result, petitions were sent to the Deputy-Inspector General of Police and the Tamil Nadu State SC/ST Commission on 17 September, National Human Rights Commission on 18 September and to the District Collector on 23 September

asking them to render justice in the situation. The Tamil Nadu SC/ST Commission responded with Mr. Balakrishnan IAS, then Director and Commissioner, visiting Melavalavu on 24 September, along with Mr. Viswanatham, the then superintendent of police for Melur Taluk. They interviewed all the relevant officials in the area before leaving. Similarly Mr. Shampathkumar, Investigating Officer for the National SC/ST Commission visited Melavalavu to review the situation. No further action was taken after these visits, nor was any other communication received from the National SC/ST commission as regards the situation in Melavalavu.

These visits infuriated the so-called caste Hindus, especially the Kallar community. When elections were announced on 28 December 1996, caste Hindus stole the vote boxes and attacked the polling stations, causing four persons to be injured and taken to the Government hospital. Nonetheless, after all this commotion the Panchayat by-elections were held in Melavalavu on 31 December 1996 with full police protection. Caste Hindus boycotted the elections. Finally Mr. Murugesan, a Dalit, was triumphantly elected as Panchayat leader along with Mookan, also a Dalit as Vice-President.

Even after this, Murugesan as the elected Panchayat Leader was not allowed to enter his Panchayat office, which was situated in the Kallar community section of the village and his children were chased out of the schools by Kallar community children and elders. Fed up with the attitude of the Caste Hindus, Dalits went in search of work outside the village.

In order to function as Panchayat President, Murugesan converted the village TV room into his office after sending petitions at the beginning of 1997 to the District Collector and the District Superintendent of Police about the situation, as no replies were given to his complaints.

Since September 1996, there was tension, commotion and uproar at various places in and around Melavalavu, this was widely published in various magazines and dailies. The tragic events in which people lost their lives and property was due largely to the irresponsibility, negligence and carelessness on the part of the police and other government officials. In spite of repeated requests and petitions from the late Mr. Murugesan, officials took no action to give adequate protection to Dalits there.

According to the SC/ST (Prevention of Atrocities) Act, 1989 the District Collector and the District Superintendent of Police are responsible for the protection of Dalits from depredations by the other castes. If the police had at least sufficiently admonished the Kallar community, the brutal murders might have been averted.

Case study: No 3

Abuse by police – a complex issue of workers, who are predominantly Dalit being denied their rights.

Date of the incident: 23 July 1999

Place of the Incident: Tirunelveli District Collectorate, situated beside the Thamiraparani River, Tirunelveli town, Tirunelveli District, Tamil Nadu.

The economy of Tirunelveli district is driven mainly by agriculture, with very little industry set up. The condition in the villages is very feudal with the zamindari system in operation, entailing land ownership of large tracts of land resting in the hands of a few landlords, mostly from the dominant backward caste community, the Maravars (Thevars). Thus Dalits remain the majority of the landless poor in the district, with some 75% of Dalits being coolie agricultural workers on the Thevars land. Only in the drier areas of the district have some 20% of Dalits been able to purchase and work their own small or marginal landholdings. The Thevar community controls the business, administrative and money-lending sectors of the district, in comparison with the 5% of Dalits in the government and business sector.

Tirunelveli district has a long history of caste clashes dating back some two decades when Dalits began to rise up and assert their rights due to education and employment opportunities in government services. Caste clashes occurred in 1980 and 1982 after which tensions subsided somewhat. However, over the next decade tensions began to amount again between the Thevar community and the Dalits, mainly of the Pallar community. This has been attributed to the emergence of John Pandian, a strong Dalit leader in the district, and educated Dalit youth realizing their situation and rebelling against the Thevar community's hold on their lives. Thus, caste tensions exploded in Tirunelveli in 1995 and it became one of the main districts gripped by caste clashes from 1995 till 1997, with heavy damage to both private and public property recorded in that district. 51 incidents of caste clashes were recorded by the district administration in 1995, 51 in 1996 and 60 in 1997 affecting some 21 villages across the district, a further 9 affected being border villages with Thoothukudi district. From 1990-1997, Government sources indicate that some 50 people have lost their lives in caste clashes in Tirunelveli district.

The Incident: On 23 July 1999 seventeen people lost their lives in the town of Tirunelveli, South Tamil Nadu following a brutal police attack before the collector's office on a procession taken out in support of tea estate workers of Manjolai estate employed by the Bombay Burmah Trading Company. The victims who died in the incident on 23 July 1999, which included two women and a child, drowned when they along with hundreds of other processionists were lathicharged and chased into Thamiraparani River. However, evidence

shows that many actually died from head injuries incurred due to brutal police beatings while people were trying to swim to the banks of the Thamiraparani River to escape police excesses. Over 200 people were also injured in this brutal police action, leading several eyewitnesses and leaders to term this incident a massacre comparable to the killing of innocent people by the British at Jallianwalabagh 80 years ago.

Around 10 a.m. on that day over 2000 people, the majority from Tirunelveli district with others also from Virudhunagar and Ramanathapuram districts, gathered near the Tirunelveli Railway Station for a Protest Rally in solidarity with the Manjola tea estate workers. Among them were Manjolai Estate workers, political workers belonging to Pudiya Tamizhagam, Tamil Manila Congress, Communist Party of India (Marxist), Communist Party of India, and Tamizhagam Muslim Aikkiya Jamaath. There were about 300 women, 15 to 20 children between 8 and 14 years of age and a few infants. Originally the political parties had decided on a dharna on 20 July 1999 for the same objective. In the light of negotiation talks proposed by Mr. Rehman Khan, Minister for Labour, Tamil Nadu, it was decided by the leaders to await the outcome of the talks. The talks having reached no conclusion on 23 July 1999. it was decided to march and present a charter of demands to the Collector. No written permission to conduct the procession was given, though oral permission was granted.

At 12.30 p.m leaders from political parties viz. Mr S. Balakrishnan, Leader of the Opposition in the Legislative Assembly, Dr. Krishnasamy, MLA & President, Puthiya Tamizhagam. Mr. Easvaran, MLA, Mr Veldurai, MLA, Mr Appavoo. MLA and Mr AAroon Rashid, MLA all belonging to TMC and Mr. Palani, District Secretary, CPI (M), CPI District Secretary. Theni, Mr.Mansoor Alikan-film actor. And Mr.Duraiarasan, General Secretary. Pudiya Tamizhagam, reached the venue (i.e, Tirunelveli Railway Station) from where the procession was to begin.

At 1.15 p.m. after the leaders addressed the participants in the procession, the procession started from Tirunelveli Railway Station. The leaders traveled in an open jeep in the middle of the procession behind hundreds of men and women. The rally proceeded peacefully, passing the Thevar Statue where there was a large deployment of police force and crossed the bridge over Thamiraparani River.

At 2.15 p.m the procession reached the M.G.R statue near the junction where the road leading to the Collectorate compound turns. At this point the jeep carrying the leaders moved forward towards the head of the procession. Women were walking in front and to the rear of the jeep.

The procession then proceeded further and went past the Tamil Nadu Hotel, the Police Commissioner's Office and was stopped in front of the Public Relations Officer's office by a barricade of policemen, less than 100 metres away from the District Collector's Office. The Public Relations Officer's office is within the Collectorate compound. All throughout the route of the procession, there were police formations on either side. However, once the procession reached the road adjacent to the Police Commissioner's Office and the Collectorate compound, the police force moved towards the eastern side of the procession and positioned itself along the Collectorate compound wall. Several formations of police comprised the barricade. The swift Action Force was deployed at the rear of the barricade. At this point the police informed the leaders that the jeep was not permitted to proceed further. The Leaders in the jeep requested the police officials to allow the jeep to the Collector's office. Mr. Aaroon, MLA got down from the jeep and requested the Deputy Superintendent of Police to permit the leaders to enter the Collector's office in the jeep to give a representation to the Collector.

From various press reports and video footage, it seems that some men who were in the rear of the procession, curious to know why the jeep was stopped, left the rear of the procession, got down the 20 feet parapet from the road onto the riverbed by using the steps adjacent to the road, climbed up the steps near the police barricade and tried to move closer to the jeep. The group of men had to arrive behind the police barricade since there are no other steps from the point they climbed down to the point they climbed up onto the road. At this point women who were behind the jeep also moved forward closer to the jeep and sat down. Dr. Krishnasamy appealed to the processionists to be peaceful till they met the collector and returned. The leaders were still interceding with police officials when the police barricade first started lathi charging the men whom had arrived near the barricade, Simultaneously stones and brick pieces began to be thrown at the processionists and the leaders in the jeep. In the next few minutes, women who were behind the jeep were also lathicharged, abused and pushed down the 20 feet cemented parapet construction towards the riverbed Mr. Palani, District Secretary CPI(M) got down from the jeep and while appealing to the police not to lathicharge women, was hit on his head by a brick. Police standing behind the people at the rear of the procession, on seeing the lathi charge in front of the jeep. Also started lathi charging the processionists who were peacefully sitting on the road Mr. Palani, despite his injury, again requested the police to stop beating the women. On hearing his appeal the police brutally attacked him with lathis and he fell unconscious on the road. He remained unconscious for two days in hospital before recovering.

In the meantime, with all routes on the northern side, southern side and eastern side blocked by police, the processionists (numbering at least 2000) had no alternative but to flee down the 20 foot parapet cement slope

and through the only available two narrow staircases to protect themselves. The police next chased people down the banks forcing people to jump into the river waters to save themselves from the charging police force.

On the police beginning to pelt stones and bricks at the jeep, simultaneously tear gas shells were also fired near the jeep and at the fleeing people. The party workers provided protection for the leaders from the stones and bricks and after a brief while the jeep moved away in a southward direction. The leaders took temporary refuge at Devi Hospital.

As people were being lathi charged on the road, police also opened fire and one person was severely injured, video footage showing him bleeding and being carried away by four policemen. This happened closer to the road and suspicion has been raised that this body remains unaccounted for.

By this time hundreds of people had fled towards the river and many were inside the river trying to escape to safety. No one was on the road except the police. At this point Mr. Rajendran, Commissioner of Police, who has not been present earlier, appeared on the scene and issued orders for the rounding up of all people inside the river. On hearing this order the Swift Action Force rushed towards the people inside the river and those still on the banks. This was the third attack on people most of whom were now on the banks of the river or inside the river, nearly 200 metres away from the road. Police continued to attack both people on the banks of the river and those who tried to save themselves and reach the water's edge.

Policemen who were deployed for the protection of the statue to Pon Muthuramalingam Thevar simultaneously moved to the western side of the river bed. Some policemen from the eastern side of the riverbed crossed the bridge and positioned themselves on the Western side of the riverbed. People who swam across the river and came out of the river at the western end were beaten by the police and pushed back into the river. By now the police were on both sides and saw to it that no person came out of the river. The police pelted stones at people inside the river and those trying to reach the banks were beaten with over six-foot lathis. Police, who identified them by their wet clothes, rounded up those who escaped out of the river and tried to reach the bus stand. They were beaten and taken to Palam Police Station. They were derogatorily abused by their caste names as those who shouted slogans and held party flags. More than 100 men are said to have also been detained and released only after 10 p.m. on that day. The police also attacked news reporters who helped women and children to come out of the river. Dinamani newspaper's staff photographer, Mr. Antony Xavier was attacked, his camera snatched, film roll exposed and thrown into the river.

Around 3.30p.m after the lathi charge and attack inside the river, the Collector is said to have come out of his office to the site of the police attack. This police action took place for about 45 minutes. Mr. Aroon. MLA at this point returned to search in the river for the people who had come with him. He saw an old man's dead body being retrieved and two or three dead bodies being taken out of the river.

Action taken after the Incident: On 23 July 1999 the Palayamkottak Police Station registered six First Information Reports(FIRs).

It is pertinent to note that although all occurrences alleged in Crime Nos 933/99 to 938/99 (six FIRs) are said to have occurred between 14.00 and 14.38 hrs, the complaints were registered in the Palayamkottak Police Station between 16.00 and 21.00hrs However, excepting Crime No. 933/99 which reached the Judicial Magistrate Court on 23 July 1999 itself. FIRs in Crime Nos 934/99 935/99, 936/99 ,937/99 and 938/99 all reached the Judicial Magistrate Court in Tirunelveli as late as 3 August 1999, eleven days after their being registered.

ANNEXURE II COURT PROFILE (Checklist-I)

EXCLUSIVE SPECIAL COURTS/DESIGNATED SPECIAL COURTS

1. Location of the Courts:
2. Instituted on year:

Sl. No.	year	Annual allocation of funds (in Rupees)	Annual amount funds received	Annual expenditure	Total strength of court Administrative Staff			
					Total No of deputed	Total No of temporary	Total No of permanent	Total
	1997							
	1998							

	1999							
	2000							
	2001							
	2002							

3. Court Jurisdiction:
[No. of revenue magistrate]
4. Principal (present) Judge: male/female

Community: FC/OBC/SC/ST/Others

5. No. of magistrate's courts in the area:
6. No. of Additional and Assistant Judges (present):
Additional: M: F: Assistant: M: F:
7. Date of Appointment of (present) Judges (to this particular court):
8. Date of Joining of (present) Judges (in this particular court):
9. Community and caste background of previous Judges:

COMMUNITY BACKGROUND OF THE PREVIOUS JUDGES

Sl. No	Year	Principal Judge						Additional Judge						Assistant Judge					
		FC	OBC	SC	ST	Others	Total	FC	OBC	SC	ST	Others	Total	FC	OBC	SC	ST	Others	Total
1	1997																		
2	1998																		
3	1999																		
4	2000																		
5	2001																		
6	2002																		

10. Details of tenure of former Judges :

DETAILS ABOUT TENURE OF PREVIOUS PRINCIPAL JUDGES

Sl. No.	Year	Date of Appointment	Date of joining	Date of transfer from Special Court	Full-term		Transfd from the other Court to Special Court	Transfd from Special Court to the other Court
					Completed	Not completed		
1	1997							
2	1998							
3	1999							
4	2000							
5	2001							
6	2002							

11. Years of Experience as Judges (present):

- Judges** **years**
- 1. Principal Judge
 - 2. Add. Judges
 - 3. Asst. Judges

12. Number of Special Public Prosecutors (SPP) at present:

Male: _____ Female: _____
 Community: FC/OBC/SC/ST/Others _____

13. Date of appointment of SPP:

14. Date of Joining of SPPs:

COMMUNITY BACKGROUND OF THE SPECIAL PUBLIC PROSECUTORS

Sl. No	Year	Special Public Prosecutors						Public Prosecutors (if any)						Public Prosecutors (if any)					
		FC	OBC	SC	ST	Others	Total	FC	OBC	SC	ST	Others	Total	FC	OBC	SC	ST	Others	Total
1	1997																		
2	1998																		
3	1999																		
4	2000																		
5	2001																		
6	2002																		

15. Physical accommodation and infrastructural facilities for Judges (present):

a) No. of Chambers : adequate/inadequate

b) Library : available/not-available

c) Law books in library : adequate/inadequate

d) Official vehicle : available/not-available

e) Computer and internet : available/ not-available

f) Others (specify) :

16. Whether any directions are received by this court from the respective high court to speed up both trial process and judgment? : Yes/ No

If yes,

How many since inception of this court? :

How often they are received? :

Is the directions case specific or general? : Case Specific/ General

If case specific,

Specify the type of cases :

Date of receipt of high court's directions :

Date of registration of those particular cases :

Date of disposal of those particular cases :

Sl. No	Year	Total No. of Non-Atrocity cases brought forward	Total No. of Non-Atrocity Cases registered	Total	Total No. of Non-Atrocity cases disposed off		Total	Total No. of cases pending
					Conviction	Acquittals		
1	1997							
2	1998							
3	1999							
4	2000							
5	2001							
6	2002							

Sl. No	Year	No. of Cases went on Appeal				Total
		Convicted		Acquitted		
		SC	ST	SC	ST	
1	1997					
2	1998					
3	1999					
4	2000					

5	2001					
6	2002					

17. Record the details regarding the functioning of Vigilance Committee (or any other governmental bodies which are responsible for protection of civil and human rights of SCs/STs).

NOTE: Try to find out from the district collector if the vigilance committee has been formed or not in the state. If yes, find out the members, the number of meetings held, the number of cases examined by the committee, reasons for non functioning of the committee etc.

ANNEXURE III
Checklist-II
Time-Taken (Individual Cases)

Location of the Court:

Exclusive Special Court:

Designated Special Court:

BIO-DATA - I

1. Name of the Victim:
2. Social background of Victim:
 - a) Sex: Male/ Female
 - b) Community: SC/ST
 - c) Caste:
 - d) Religion: Hindu/ Christian/ Others
 - e) Occupation:
 - f) Income (monthly):
3. No of Accused: One / More than One
4. Name of the main Accused:
 - a) Sex: Female/ Male
 - b) Community: FC/OBC/ Others
 - c) Caste:
 - d) Hindu/ Christian/ Muslim/ Others
(Only if the details are available in the case files)
5. Economic status of the main accused:

- a) Occupation
 - b) Income (annual)
 - c) Land holdings
 - d) Asset holdings
- (Only if the details are available in the case files)

6. Political influence of the main accused:

- a) Name of the political party
 - b) Position in the party hierarchy
- (Only if the details are available in the case files)

Case Details-II

7. Criminal Case No:
8. Date of Incident of Crime:
9. Date of filing of FIR:
10. Date of Arrest (Main accused):
11. Type of Arrest: With warrant / without warrant
12. The court of case committed: Magistrate Court/ Special Court
13. If it was committed first to Magistrate Court then transfer to Special Court. Specify the date of transfer of committal to magistrate court:

Date of transfer:
14. Date of submission of charge sheet:
15. Police Station: Location: No:
16. Section of the Offences:
 - Sec. 3 (1) (i) - Drink or eat inedible or obnoxious
 - Sec. 3 (1) (ii) - Causing injury, insult or annoyance
 - Sec. 3 (1) (iii) - Derogatory Act
 - Sec. 3 (1) (iv) – Wrongful occupation and cultivation of land
 - Sec. 3 (1) (v) – Relating to land, premises and water
 - Sec. 3 (1) (vi) – Begar or Forced or Bonded labour

- Sec. 3 (1) (vii) – Relating to right to franchise
- Sec. 3 (1) (viii) - False, malicious or vexatious legal proceedings
- Sec. 3 (1) (ix) – False and frivolous information
- Sec. 3 (1) (x) – Insult, intimidation and humiliation
- Sec. 3 (1) (xi) – Outraging the modesty of a woman
- Sec. 3 (1) (xii) - Sexual exploitation of a woman
- Sec. 3 (1) (xiii) – Fouling of water
- Sec. 3 (1) (xiv) – Denial of customary rights of passage
- Sec. 3 (1) (xv) – Making one desert place of residence
- Sec. 3 (2) (i) and (ii) – Giving false evidence
- Sec. 3 (2) (iii) and (iv) – Damaging and destructing the property and places of dwelling and worship
- Sec.3 (2) (v) – Committing offences under the IPC
- Sec.3 (2) (vi) – Causing any evidence of the offences to disappear
- Sec.3 (2) (vii) – Victimization at the hands of a public servant

IPC Sections:

- 17. Dates of summons and warrant issued by the court:
- 18. Dates of delivery to summons to the concerned person:
- 19. The Date of First Hearing:
- 20. No of Hearings after the first hearing and their dates:
 - 1)
 - 2)
 - 3)

4)

5)

6)

7)

8)

9)

10)

(Add separate sheet, if they are more than 10)

21. Number of adjournments after hearing and first date.

1)

2)

3)

4)

5)

6)

7)

8)

9)

10)

(Add separate sheet, if they are more than 10)

22. The date of the last hearing:

23. No of Witness: One / More than One

24. Occupation of the main witness:

a) Income of the main witness (monthly):

b) Total income of the family:

25. Attendance of witness: Regular/ Irregular

Non-payment of travel allowance / Receipt of delayed
summons/ feeling of insecurity/ others

If irregular, specify the reasons:

26. The date of the final judgment:

27. Nature of Disposal: Conviction/ Acquittal

28. If acquitted, reason for acquittal (check whether we case experienced any hostile witnessing)

29. Conviction: Imprisonment + Fine / Fine / Death sentence / Life imprisonment

30. Judgment (in nutshell): (Please procure certified copy of the judgment)

31. Appeal status:

a) To High Court

b) From High Court to Supreme Court

ANNEXURE IV
Main causes / reasons for Atrocities on SCs and STs
Case study of major incident of Violence

General Format

1. **Date of the incident** : Day Month Year

2. **Location of the incident** :
 - 2.1 Spot :
 - 2.2 Name of the Village / Town and:
Police Station Jurisdiction
 - 2.3 Taluk / Block :
 - 2.4 District :

3. **Parties involved in Atrocity** :
 - 3.1 : Perpetrators** (if Caste Hindus) :
Individual / Group
 - 3.1.1 Community - BC/OBC/FC :
 - 3.1.2 Name of the sub-caste :
 - 3.2 : Perpetrators** (if Police) :
Civil Police / Armed Reserve Police/

Central Reserve Police/ Special force
Forest officials

3.2.1 Actors: Police Constables / :
Police Officers

3.3: Victims: Individuals / groups :

3.3.1 Community: SC / ST :

3.3.2 Name of the sub-caste or :
Tribe

3.3.3 Sex: Male / Female :

4. **Reasons for atrocity** :
Land / Alienation of Land / Wage /
Resistance to Untouchability /
Political participation /
Inter-caste Marriage /
Others
Give Details

5. **The consequence after violence** :
Loss of life / injured / loss of
property / loss of livelihood /
migration / rape / Social boycott/
Others
Give Details

6. **Government Action**

6.1 : District Revenue Administration

6.2 : Police Department

6.3 : Judicial Enquiries / Non-Judicial Enquiries

7. **Legal Action**

7.1 : Arrest :

7.2 : Charge sheeted :

7.4 : Case pending / case disposed off

7.4.1 Cases pending :

7.4.2 Cases disposed :

7.5 : Disposal : Convicted / Acquitted :

Instructions to Field Investigators

1. This general format should be followed during the collection of the data and the presentation of the detailed case study sheets
2. The data can be collected and presented as case study sheets in separate sheets of papers. No need to fill in the circulated general format.
3. If there is more data other than the data required in the general format can be enclosed in a separate sheet of paper.

ANNEXURE V

GENERAL FORMAT-II

IMPACT OF EXCLUSIVE SPECIAL COURTS ON THE FINALISATION OF CASES

Instructions to the Field Investigators

1. Three years of data should be collected for 'Before' the establishment of the Exclusive Special Court. The collection of data for 'After' their establishment should not stop with three years. The Data for 'After' should be collected up to year 2002.
2. 'Before' and 'After' data should be collected from the same exclusive special Court.
3. In the various tabular columns under the sub-heading '**Before the Exclusive Special Courts**', the serial numbers (Sl.No) are given in the descending order that start with 3 comes down and end with 0 . 0 stands for the year of institution of the Court. The numbers 1 2 3 indicates the immediacy of the preceded years. In the various tabular columns under the Sub-heading '**After the Exclusive Special Courts**', serial numbers are given in ascending order. It starts with 1 and ends with the year 2002. Sl. No.1 stands for immediate succeeded year. As the numbers go up, the immediacy comes down.
4. In the form No. 2.1.A and 2.1.B under the sub-heading '**Before Exclusive Special Courts**', unlike form 2.1. C and 2.1.D do not end with 0. It is not a mistake or a typological error. On the contrary it is deliberate non-mention because in the year of institution of Court, the Court might have not registered any non-atrocity cases.

Location of the Court:

Date:

Year of Institution of the Court:
Name of the Field Investigator

Name of the Field Investigator:

Interrupted Time-Series Design: Before the Exclusive Special Court
FORM NO. 1: BASIC DETAILS

Sl. No.	Year	Total No. of Judges	Total No. of Special Public Prosecutors	Annual allocation of funds (In Rupees)	Annual Amount Funds received	Annual Expenditure	Total strength of Court Administrative Staff			
							Total No. of Deputed Staff	Total No. of Temporary Staff	Total No. of Permanent Staff	Total
3										
2										
1										
0										

NOTE: Consider the date of institution as the zero year. If the court has been taking other non atrocity cases after the institution, make a special mention of the date from which it actually started operating as a special court. In case, the cases have been transferred to fast track courts, make a mention of that also.

Interrupted Time-Series Design: Before the Exclusive Special Court

FORM NO. 2: CASE DETAILS

2.1.A - Total no. of cases disposed off from the cases brought forward (Non-Atrocity cases)								
Sl. No.	Year	Total No. of Non-Atrocity cases brought forward	Total No. of disposal	Total No. of Convictions	Total No. of Acquittals	The Year of Conviction and Number	The Year of Acquittal and Numbers	Total No. of pending cases
3								
2								
1								

Interrupted Time-Series Design: Before the Exclusive Special Court

FORM NO. 2: CASE DETAILS

2.1.B - Total no. of cases disposed off from the cases registered (Non-Atrocity cases)								
Sl. No.	Year	Total No. of Non-Atrocity cases brought forward	Total No. of disposal	Total No. of Convictions	Total No. of Acquittals	The Year of Conviction and Number	The Year of Acquittal and Numbers	Total No. of pending cases
3								
2								
1								

**Interrupted Time-Series Design: Before the Exclusive Special Court
FORM NO. 2: CASE DETAILS**

2.1. C. Total no. of cases disposed off from the cases brought forward (Atrocity cases)													
Sl. No.	Year	Total No. of Atrocity cases registered		Total No. of Atrocity Cases disposed off									
				Total No. of disposal		Total No. Of Convictions		Total No. of Acquittals		The Year of Conviction and Number	The Year of Acquittal and Numbers	Total No. of pending cases	
		SC	ST	SC	ST	SC	ST	SC	ST			SC	ST
3													
2													
1													
0													

**Interrupted Time-Series Design: Before the Exclusive Special Court
FORM NO. 2: CASE DETAILS**

2.1. D. Total no. of cases disposed off from the cases registered (Atrocity cases)													
Sl. No.	Year	Total No. of Atrocity cases registered		Total No. of Atrocity Cases disposed off									
				Total No. of disposal		Total No. Of Convictions		Total No. of Acquittals		The Year of Conviction and Number	The Year of Acquittal and Numbers	Total No. of pending cases	
		SC	ST	SC	ST	SC	ST	SC	ST			SC	ST
3													
2													
1													
0													

Interrupted Time-Series Design: After the Exclusive Special Court
FORM NO. 1: BASIC DETAILS

Sl. No.	Year	Total No. of Judges	Total No. of Special Public Prosecutors	Annual allocation of funds (In Rupees)	Annual Amount Funds received	Annual Expenditure	Total strength of Court Administrative Staff			
							Total No. of Deputed Staff	Total No. of Temporary Staff	Total No. of Permanent Staff	Total
3										
2										
1										
0										

**Interrupted Time-Series Design: After the Exclusive Special Court
FORM NO. 3: CASE DETAILS**

3.1. A Total no. of cases disposed off from the cases brought forward													
Sl. No.	Year	Total No. of Atrocity cases brought forward		Total No. of Cases disposed off									
				Total No. of disposal		Total No. Of Convictions		Total No. of Acquittals		The Year of Conviction and Number	The Year of Acquittal and Numbers and the category	Total No. of pending cases	
		SC	ST	SC	ST	SC	ST	SC	ST				
1													
2													
3													
4													
5													
6													
7													
8													
9													
10	2002												

Interrupted Time-Series Design: After the Exclusive Special Court

FORM NO. 3: CASE DETAILS

3.1. B Total no. of cases disposed off from the cases registered													
Sl. No.	Year	Total No. of Atrocity cases brought forward		Total No. of Cases disposed off									
				Total No. of disposal		Total No. Of Convictions		Total No. of Acquittals		The Year of Conviction and Number	The Year of Acquittal and Numbers and the category	Total No. of pending cases	
		SC	ST	SC	ST	SC	ST	SC	ST				
1													
2													
3													
4													
5													
6													
7													
8													
9													
10	2002												

9	2002											
---	------	--	--	--	--	--	--	--	--	--	--	--

Registered cases (Atrocity cases)											
Sl No	Year	Total No of registered cases	Total for disposal	Disposal off during the year	Acquittals	Conviction	Otherwise disposed off	Abatted	Total No of pending	Transfer	Not mentioned
3	1990										
2	1991										
1	1992										
0	1993										
1	1994										
2	1995										
3	1996										
4	1997										
5	1998										
6	1999										
7	2000										
8	2001										
9	2002										

Registered cases (Non- Atrocity cases)											
Sl No	Year	Total No of registered cases	Total for disposal	Disposal of during the year	Acquittals	Conviction	Otherwise disposal off	Abatted	Total No of pending	Transfer	Not mentioned
3	1990										
2	1991										
1	1992										
0	1993										
1	1994										
2	1995										
3	1996										
4	1997										
5	1998										
6	1999										
7	2000										
8	2001										
9	2002										

Number of Atrocity cases pending												
Sl No	Year	Total No of pending cases	Registered during the year	Total for disposal	Total No of cases disposed off	Acquittals	Conviction	Otherwise disposal	Transfer	Not mentioned	Total No of pending at the end	Abated
3	1990											
2	1991											
1	1992											
0	1993											
1	1994											
2	1995											
3	1996											
4	1997											
5	1998											
6	1999											
7	2000											
8	2001											
9	2002											

Years of Conviction

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
			\										

Years of otherwise disposed off

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003

Years of Transfer of cases

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003

Years of not mentioned cases

1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003

Registered cases (Atrocity cases)

Sl No	Year	Total No of registered cases	Total for disposal	Disposal during the year	Acquittals	Conviction	Otherwise disposal off	Abatted	Total No of pending	Transferred
3	1990									
2	1991									
1	1992									
0	1993									
1	1994									
2	1995									
3	1996									
4	1997									
5	1998									
6	1999									
7	2000									
8	2001									
9	2002									

Number of Atrocity cases pending										
Sl No	Year	Total No of pending	Registered during the year	Total for disposal	Total No of cases desposed off	Acquittals	Conviction	Otherwise disposal off	Transfer	Not ment
3	1990									
2	1991									
1	1992									
0	1993									
1	1994									
2	1995									
3	1996									
4	1997									
5	1998									
6	1999									
7	2000									
8	2001									
9	2002									

Registered cases (Non- Atrocity cases)									
Sl No	Year	Total No of registered cases	Total for disposal	Disoial of during the year	Acquittals	Conviction	Otherwise disposal off	Abatted	Total No of pending
3	1990								
2	1991								
1	1992								
0	1993								
1	1994								
2	1995								
3	1996								
4	1997								
5	1998								
6	1999								
7	2000								
8	2001								
9	2002								

Number of Atrocity cases pending										
Sl No	Year	Total No of pending cases	Registered during the year	Total for disposal	Total No of cases disposed off	Acquittals	Conviction	Otherwise disposal off	Transfer	No me
3	1990									
2	1991									
1	1992									
0	1993									
1	1994									
2	1995									
3	1996									
4	1997									
5	1998									
6	1999									
7	2000									
8	2001									
9	2002									

ANNEXURE VI
QUESTIONNAIRE- I
(For Judges Only)

Location of the Court:

Date:

Type of Court: Excl. Spl. Court/ Des. Spl. Court

Designation of the Judge: Principal/ Additional/ Assistant

1. Name of the Judge:
2. Sex: Male/ female
3. Age:
4. Community: BC or OBC/ SC/ ST/ Forward Caste/ Other specify:
5. Religion: Hindu/ Muslim/ Christian/ Sikh/ Neo-Buddhist/ Jain/ Other specify:
6. Education:
 - Law: Bachelors/ Masters/ Research Degree
 - Humanities: Bachelors/ Masters/ Research Degree
 - Social Sciences: Bachelors/ Masters/ Research Degree
 - Sciences: Bachelors/ Masters/
7. When did you become a judge?
 - Month: _____ Year: _____
8. What motivated you to take up the position of Judge?

9. The policy and implementation of reservation for SCs and STs have really helped the downtrodden to uplift themselves from the disadvantageous socio-economic conditions :

Strongly Agree	Agree	Disagree	Strongly Disagree
(1)	(2)	(3)	(4)

10. In most of the occasions, the provisions of the SCs and STs (Prevention of Atrocities) Act, 1989 are completely misused by SCs and STs

Strongly Agree	Agree	Disagree	Strongly Disagree
(1)	(2)	(3)	(4)
11. When did you join this special Court?
 - Month: _____ Year: _____

12. Are you satisfied with the present position as a judge of Special Courts? Yes/ No
 - If No, Why?

13. Did you accept readily this appointment as judge of special court? Yes/ No
If No, Why?

14. Are you trying for a transfer from this Special Court ? Yes / No
If Yes, why?

15. Do you have any problem in coordinating the work with other judges? Yes/ No
If Yes, What are they?

16. Do they (other judges) have any problem of coordination among themselves?
Yes/ No
If Yes, What type of problems?

17. Do we need the SCs and STs (POA) Act, 1989 to prevent the atrocities
against SCs and STs ? Yes / No
If No, why ?

18. Some of the offences under section 3(1) of the SCs/STs (POA) act 1989 are
not
very serious offences and those offences do not require severe
punishment.

Strongly Agree	Agree	Disagree	Strongly Disagree
1		2	3
			4

19. The existing SCs/STs (POA) ACT 1989 should be strengthened instead of
repealing it.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

On Allocation of Funds

20. Is the allotted fund to your Court sufficient? Yes/ No
If No, Why?

21. Do you receive the funds on time? Yes/ No

22. Does the annual expenditure exceed the annual funds received? Yes/ No

On the Basic Court Facilities

23. Do you have a library in your Court premises? Yes/ No

24. Do you have adequate collection of relevant law books in the library? Yes/ No

25. Do you have any access to internet or any other information system in the court? Yes/ No

On Court Administrative Staff

26. How would you rate the level of cooperation between this Court Administrative Staff and the major actors and agencies of Criminal Justice System ?

Very low		Average		Very high
(1)	(2)	(3)	(4)	(5)

27. Do they have sufficient training in Court operations like case file management?

No training	Little training	Well trained
(1)	(2)	(3)

28. Do they come from one particular caste group? Yes/ No
If Yes, Who?

29. Efficiency of the staff:	Not Efficient	Efficient	More Efficient
	1	2	3

Permanent Staff:

Temporary Staff:

Deputed Staff:

30. Why do the levels of efficiency vary among the staff members?

31. Are they sufficient in numbers to meet the work load? Yes/ No

On trial and disposal of cases

32. Is it necessary to commit atrocity cases first to magistrate court and transferring them to special court? Yes/No
 If yes, why?

If no, why?

33. How many cases are taken cognizance by you after joining this Special Court?

SC:

ST:

34. How many cases you take up for hearing in a day? How many cases do you adjourn in a day?

Number of hearings in a day:

Number of adjournment in a day:

35. Are you burden with over work load?

36. Were there any occasions where you ordered the investigating Police officers to

conduct further investigation after filing of charge sheet ? Yes/No

If yes, give the details

37. How many cases are disposed off by you after joining this Special Court?

SC:

ST:

Among them,

How many ended in convictions?

SC:

ST:

How many ended in acquittals?

SC:

ST:

38. If the number of acquittals are more than the convictions?

Specify the reasons

39. If the number of acquittals are more in STs's cases, than SCs' cases,

Specify the reasons

40. If the number of acquittals more in SCs' cases than in STs's cases,

Specify the reasons

On Delay

41. Please list out the general reasons or causes for delay in your Special Court?

42. List out your suggestions to improve the efficiency of the Court?

Judges responses on questionnaire:

For our questions totally two judges from Karnataka, two judges from Tamil Nadu, three judges from Andhra Pradesh, four judges from Uttar Pradesh and two judges from Madhya Pradesh have responded. Among thirteen Judges, six judges belonged to exclusive special court while seven belonged to designated special courts.

Background of judges and its impact on their decisions:

The social background of the judges is important for our study to determine how far they have been sensitive in making their judgments towards SCs/STs issue and whether a judge belonging to the community of victim makes any difference in adjudicating the cases on SCs/STs. In our study six judges who responded to our questionnaire belonged to SCs/STs community while seven belonged to non-SCs/STs community.

ANNEXURE VII
QUESTIONNAIRE-II
(For Special Public Prosecutors only)

Location of the Court:

Date:

Type of the Court: Excl. Spl.Court / Des. Spl.Court

1. Name of the Public Prosecutor :
2. Sex: Male / Female
3. Age:
4. Community: BC or OBC / SC / ST / Forward Caste / Other specify:
5. Religion: Hindu / Muslim / Christian / Sikh / Neo-Buddhist / Jain / Other
6. Education:

Law: Bachelors / Masters / Research Degree

Humanities: Bachelors / Masters / Research Degree

Social Sciences: Bachelors / Masters / Research Degree

Sciences: Bachelors / Masters /

7. When did you join this special court as Special Public Prosecutors?

Month:

Year:

8. What motivated you to take up the Special Public Prosecutorship?

9. The policy and implementation of reservation for SCs and STs have really helped the downtrodden to uplift themselves from the disadvantageous socio-economic conditions:

Strongly Agree

Agree

Disagree

Strongly Disagree

(1)

(2)

(3)

(4)

10. Are you satisfied with the present position as Special Public Prosecutor?

Yes / No

If No, Why?

11. Did you accept readily this appointment as Special Public Prosecutor?

Yes / No

If No, Why?

12. Are you trying for a transfer from this Special Court? Yes / No

If Yes, why?

13. Do you have any problems in coordinating the work with the other PPs?

Yes / No

If Yes, What type of problems?

14. Do you have any problem in coordinating the work with investigating officer?

Yes/ No

If yes what kind of problem?

15. Some of the offences under section 3(1) of the SCs/STs (POA) act 1989 are not

very serious offences and those offences do not require severe punishment.

Strongly Agree

Agree

Disagree

Strongly Disagree

1

2

3

4

16. Have you ever appeared as lawyer for the cases of atrocities against SCs and STs before you joining as SPP? Yes / No

If Yes, for how many cases?

17. The existing SCs/STs (POA) ACT 1989 should be strengthened instead of repealing it.

Strongly Agree	Agree	Disagree	Strongly Disagree
1	2	3	4

18. Is it necessary to commit atrocity cases first to magistrate court and transferring

them to so special court? Yes/No

If yes, why?

If no, why?

19. Are you burden with over work load?

20. How many cases of yours got finalized or disposed off after you joining this Special Court?

Among them,

How many ended in conviction?

SC:

ST:

How many ended in acquittals?

SC:

ST:

21. If acquittals are more than conviction in your cases,
Specify the reasons:

22. If the number of acquittals are more in STs's cases, than SCs' cases,
Specify the reasons

23. If the number of acquittals more in SCs' cases than in STs's cases,
Specify the reasons

24. Have you undergone the review twice in a calendar year? Yes / No
If Yes, Why?

If No, Why?

25. Are you satisfied with the fee that is fixed for you by the state
government?

Yes / No

If No, Why?

26. Have you ever presented any petition for withdrawal from the prosecution
after joining this Court? Yes / No

If Yes,

How many since you joined?

SC: ST:

On what ground you filed the applications for withdrawal?

27. List out the main causes and reasons for delay in your Court?

28. How much time do you spend on an average towards preparation of the case? Do you meet your witnesses before the trial? Are your witnesses informed well in advance?

Special public prosecutors responses to questionnaire:

Totally seventeen Special Public Prosecutors responded to our questionnaire. Among them four belonged to Andhra Pradesh, two belonged to Karnataka, three belonged to Madhya Pradesh, four belonged to Tamil Nadu and another four belonged to Uttar Pradesh. Ten Special Public Prosecutors are serving the Exclusive Special Courts and seven Special Public Prosecutors are serving the Designated Special Courts.

Social Background:

Among Special Public Prosecutors only four belonged to SC/ST background while another thirteen belonged to non SC/ST background.

ANNEXURE VIII

QUESTIONNAIRE-III

For Defense Attorneys

Type of the Court : Excl. Spl. Court / Des. Spl. Court

Location of the Court :

Background information

1. Name of the respondent :
2. Sex : Male / Female
3. Age :
4. Community : FC OBC SC ST
Others
5. Sub-Caste name :
6. Religion : Hindu Christian Muslim
Neo- Buddhist Jain
Sikh
7. Education :
Law : Bachelors Masters
Research Degree
Social Sciences : Bachelors Masters
Research Degree
Humanities : Bachelors Masters
Research Degree
Science : Bachelors Masters
Research Degree

8. Year of First admission to a District/ State Bar to practice Law :
9. Number of years in legal practice : before becoming criminal defence attorney
10. Number of years as a defense attorney :
11. Number of years handling the criminal cases :

Specific Details on Courts and Cases

12. In the past year, the number of my active cases that have been criminal or atrocities in the special court case are : _____
13. Most of the cases of atrocities are false cases and the SCs and STs (Prevention of Atrocities) Act, 1989 is completely misused by the SC s and ST s to harass non-Scheduled Caste persons unnecessarily

Strongly Agree disagree	Agree	Disagree	Strongly disagree
(1)	(2)	(3)	(4)

14. If there are specific issues related to identification of offences under SC s and ST s (Prevention of Atrocities) Act, 1989 (positive or negative) that you would like to bring to the attention of the Court or Government, please share them with us below:

- 1.
- 2.
- 3.

15. Do you seek adjournments often? Yes/ No.

If yes, why?

16. Do the accused or defendants of atrocity cases have some political support? Yes/No

If yes? Give the details

17. Do you have any problem in coordinating with the investigating police officer? Yes/No

If yes? Give the details

18. Do the political support and patronage of Local elite to influence your decisions of defending the accused? Yes/No

If yes, give details

Rate how strongly you agree or disagree with the following statements :

3-Neither agree nor disagree

4 -Agree

5 -Strongly agree

6- Not applicable here

7-don't know

19. _____ Our court has enough Judges to fairly adjudicate all criminal cases

20. _____ Our court has judges to dispose (sentence, acquit, dismiss) 50% of criminal cases within a year after first arrest

21. _____ The department of prosecution has enough attorneys to fairly adjudicate all criminal cases

22. _____ The department of prosecution has enough attorneys to dispose 50% of all criminal cases within a year after first arrest

23. _____ The court has adequate facilities to effectively handle the criminal case load.

24. _____ Our office's case information management system allows me to effectively manage my criminal cases.

25. _____ The Prosecutors' screening procedures are effective in minimizing the number of criminal cases that are eventually dismissed.

26. _____ Prosecutors' changing decisions are not influenced by the caste or ethnicity of defendants.

27. _____ The quality of defense services is not influenced by the caste or ethnicity of defendants.

28. _____ The prosecutors' plea bargaining policies contribute to unnecessary delay in criminal cases.

29. _____ Jail crowding has an impact on bail / bond decisions in this jurisdiction.

30. _____ The sentences sought by prosecutors are not influenced by the caste or ethnicity of the defendant.

31. _____ Sentences imposed by Judges are not influenced by the caste or ethnicity of the defendant.

32. _____ There are adequate opportunities for the court, prosecutor and defense attorneys to dismiss the issues or problems that arise in the management of discuss criminal cases in this jurisdiction.

33. _____ The "local legal culture" in this jurisdiction is a barrier to reducing delay in criminal case processing.

34. List out the other main reasons for the delay in trial of the special courts.

Defense Attorneys responses to the questionnaire:

Totally Fifty three Defense Attorneys responded to the questionnaire. Among them six belonged to Andhra Pradesh, seventeen to Gujarat, five to Karnataka, nine to Madhya Pradesh, eight to Tamil Nadu and eight to Uttar Pradesh.

Among them twenty Defense Attorneys cases were pending in Exclusive Special Court and Thirty three defense attorneys cases were pending in Designated Special Court.

Social background:

Among Defense Attorneys 47.2% belonged to SCs/STs community while 43.4% belonged to non SCs/STs community and 9.4% defense attorneys social background details were not available.

ANNEXURE IX
INTERVIEW SCHEDULE - I
(For Investigating Police Officer)

District:

Date:

Taluk / Block:

Police Station

Location:

Police Station No:

1. Name of the Investigating Officer:
2. Sex: Male / Female
3. Age:
4. Community: BC or OBC / SC / ST/ Forward Caste / Other specify:
5. Religion: Hindu / Muslim / Christian / Neo-Buddhist / Sikh / Jain / Other specify:
6. Education: Below PUC / PUC / Graduation / Post-Graduation / Research Degree
7. Marital Status: Single / Married / Separated / Divorced / Widowed / Other
8. Recruitment: Direct Recruitment / Promotion
9. Year of Joining the service:

10. Joined the Service as(for promoted officer only): Sub-Inspector / Inspector

11. Year of Promotion(for promoted officer only):

12. Section of the Service(at present): Law & Order / Crime / SC/ST cell /Other

13. Years of Experience in `Law & Order`:

14. Years of Experience in `Crime`:

15. The reasons for the delay between the occurrence of the crime and its reporting to the police station:

- a) Occurrence of the incident late in the evening or at night leading to reporting only the next day.
- b) Absence of responsible person in the family
- c) Absence of Dalit and other progressive organizations & movements
- d) Hesitation and fear of reprisal
- e) Time-taken in efforts at compromise
- f) Medical treatment of Victim
- g) Remoteness of the police station
- h) Fear of coming to police station
- i) Value based convictions against going to police station
- j) Ignorance of legal procedure and law
- k) No hope of fair investigation
- l) Poor financial condition to bribe the police
- m) If any other specify:

16. List out the reasons for the failure to register cases under various Sections of SCs and STs(POA)Act, 1989

17. List out the main reasons for delayed visit by the police to scene of crime (reasons other than delayed reporting of occurrence of crime)
18. List out the main reasons for delays in filing charge sheet
19. List out the reasons
- a) For delayed delivery of summons
 - b) For failure to deliver the summons
20. List out the main reasons for delays in arresting the main accused
21. In how many cases you completed your investigation within 30 days?
22. List out main reasons for non-completion of investigation within 30 days?
23. Have you ever asked by the judge to do further investigation after the submission of charge sheet? Yes / No
If Yes, Why?
24. Do you receive applications or requests for police protection from the witnesses?
Yes / No
25. Have you ever given protection to the witness?
Yes / No
If No, Why?
26. How often you have received a complaint of social boycott. In how many instances have you declared it as a case of social boycott?

NOTE: Even if the investigation is carried out by the PSI, interview the Dy SP.

Investigating Police Officer responses during interview:

Investigating Police Officers play a crucial role in adducing evidences after their investigation, which takes a major role in proving or disproving the crime. Their quick action can result in speedy disposal of cases. For our study their action and their limitations becomes crucial to understand the reason for cases consuming lot of time in the court rooms. Totally twenty one investigating police officers interviewed. Out of twenty one investigating police officers four each belonged to Andhra Pradesh, Gujarat, Tamil Nadu and Uttar Pradesh, three to Karnataka and two to Madhya Pradesh.

Social Background:

Among the Investigating Police Officers 16 belonged to SCs/STs background while only 2 belonged to non-SCs/STs background, others not responded about their social background.

ANNEXURE X
INTERVIEW SCHEDULE - II
(For Witnesses only)

District:

Date:

Location of the Court:

Criminal Case No:

Total No of Witnesses in the case:

1. Name of the Witness:
2. Sex: Male / Female
3. Age:
4. Community: BC or OBC / SC / ST / Forward Caste / Other specify:
5. Religion: Hindu / Muslim / Christian / Sikh / Neo- Buddhist / Jain / Other specify:

6. Sub-Caste Name:
7. Marital Status: Single / Married / Separated / Divorced / Widowed / Other
8. Occupation: Wage labourer(agriculture) / Wage labourer (Non-agriculture)

Self-Employed / Government Employee / Non-governmental

Employee / Professionals / Small farmer / Rich Farmer / Other specify:

9. Education: Illiterate / Literate / Primary / Middle School / High School / PUC / Graduation / Post-graduation / Other specify

10. Place of Residence: Village / Town

Village Name:

Town Name:

11. Place of Work:

12. Distance(approximate) between the place of residence and the Court:

13. Distance(approximate) between the place of work and the Court:

14. Transport facilities available to reach the Court:

Bus / Van / Train /Taxi Car /

Auto-rickshaw / Cycle-rickshaw / other specify:

15. Frequency of transport service: Often / Not very often / Rare

16. Do you have to walk from your village to get the transportation? Yes / No

If Yes, How many Kilometers?

Distance between the boarding place and the Court:

17. How much do you spend for travel, food and other expenses every time when you come to the court?

Travel: Rs.

Food: Rs.

Other expenses: Rs.

18. Do you get the travel, daily, diet and maintenance allowances? Yes / No

If Yes, How much?

If No, Why

19. When do you get all these allowances?

Every day / Every three days

20. Give the reasons for not getting the allowances on time:

21. Have you ever asked for police protection? Yes / No

If Yes, When?

Why?

22. Was there any occasion where your request for police protection ignored by the police? Yes / No

If Yes, When?

Which occasion?

23. Was there any occasion where the accused or someone on behalf of accused approached you and trying to influence your witnessing? Yes/No.

If Yes. Give details.

24. Do you attend the Court regularly? Yes / No

If No, Why?

25. How many days in advance you get the Court notice for witness?

26. How many times so far the hearings are adjourned when you are present in the Court?

27. Do the Court Staff and Police treat you with dignity? Yes / No

If No, Why?

Availability of certain basic facilities in the Court Premises:

Seating Place: available / not available

Resting Place: available / not available

Toilet: available / not available

Drinking Water: available / not available

28. Details about the dependents of the witness

Sl.No	Relationship to respondent	Sex	Age	Occupation	Income	Health* Phy/Mental

* State of Physical Health: H-healthy, CH- Chronic Disease, TS- Temporary Sickness, CC- Critical Condition, HC- Handicapped

* State of Mental Health: H- Healthy and UH- UnHealthy

Use the abovementioned health codes to fill the table

Witnesses Perceptions during interview:

We have interviewed seventy four witnesses. Fourteen of them are from Gujarat and twelve each are from Andhra Pradesh, Karnataka, Madhya Pradesh, Tamil Nadu and Uttar Pradesh.

Twenty three of them are witnesses attached to Exclusive Special Court while fifty one of them are witnesses attached to Designated Special Court.

Social Background:

Among Seventy four witnesses 89.2% belonged to SC/ST background while 5.4% belonged to non-SCs/STs background, while 5.4% witnesses did not respond about their social background.

Literacy among witnesses:

Among witnesses 36.5% are illiterate, 17.6% literate, 12.2% had primary education, 10.8% studied upto middle school, 6.8% studied upto high school, 4.1% completed PUC , 9.5% graduated and 2.5% witnesses did not respond.

ANNEXURE XI
INTERVIEW SCHEDULE III
(For Court Administrative Staff)

Location of the Court:

Date:

Type of the Court: Excl. Spl. Court / Des. Spl. Court

Designation of the Respondent:

1. Name of the Respondent:
2. Sex: Male / Female
3. Age:
4. Community: BC or OBC / SC / ST / Forward Caste / Other specify:
5. Religion: Hindu / Muslim / Christian / Sikh / Jain / Neo-Buddhist
6. Education: Below PUC / PUC / Graduation / Post-Graduation
7. Nature of Service: Permanent / Temporary / Deputation / Other specify
8. For Permanent Staff:
 - a) Year of Joining the Service:
 - b) Duration of the Training:
 - c) Income(Monthly):
9. For Temporary Staff:
 - a) Date of Joining the work:
 - b) Duration of the Contract:
 - c) Income(Monthly):
 - d) Working Hours: From..... to.....
10. For the Staff on deputation:
 - a) Duration of deputation:
 - b) Deputed from.....to.....
 - c) Date of relieving from the other office:

- d) Date of joining this Court:
- e) Do you commute every day from the original place of residence?
Yes / No
If Yes, how many Kilo Meters?
- f) Average time-taken to travel every day:
- g) Income(Monthly):
- h) Are you happy about the deputed work and place? Yes / No
If No, Why?

11. Have you undergone any training on Court operations? Yes / No
If Yes, Specify the details

12. Have you undergone any case specific training? Yes / No
If Yes, What type of training?

13. Do you face any problems in coordinating the work with other staff?
Yes / No
If Yes, What are they?

14. Do you face any problems from the Judges and Special Public Prosecutors?
Yes / No
If Yes, Give the details

15. Do you feel that you are loaded with over work? Yes / No

If Yes, Specify the reasons for over work load

16. Is there any effort on the part of administration to reduce the work load and to implement the better case management system? Yes / No

If Yes, Give the details

If No, Give the reasons

17. Do you prioritize certain cases over the other cases when you make the list of cases for hearings? Yes / No

If Yes, What type of cases you prioritize?

18. Do you get any pressure from some one to prioritize certain cases? Yes / No

If yes, identify the person or the institution

19. On the nature of organization of work:

a) By function:

b) By jurisdictional divisions:

20. Do you have computer facilities for the administrative purposes? Yes / No

If Yes,

How many?

Are they in working condition? Yes / No

Are they adequate in numbers? Yes / No

21. Do you wish to have some training on legal and cases processing procedures, case management and new technologies? Yes / No

If Yes, Give your suggestions

22. List out the main reasons for Court delays?

Perceptions of Court Administrative Staff during interview :

Totally Forty Court Administrative Staffs are interviewed. Among them Seven are from Andhra Pradesh, Twelve from Gujarat, Five each from Karnataka and Madhya Pradesh, Eight from Tamil Nadu while Three are from Uttar Pradesh

Eighteen of them are serving in Exclusive Special Court while Twenty two of them are serving in Designated Special Courts.

Social Background:

55% of Court Administrative Staff belonged to SCs/STs background while 40% belonged to non-SCs/STs background and another 5% did not respond about their background

ANNEXURE XII
INTERVIEW SCHEDULE IV
(For the Victims only)

Location of the Court

Date:

District:

Taluk / Block:

1. Name of the Respondent:
2. Sex: Male / Female
3. Age:
4. Community: SC / ST
5. Sub-Caste/ Tribe Name:
6. Language:
 - a) Vernacular:

- b) Mother tongue:
 - c) Tribal dialect:
7. Religion: Hindu / Christian / Neo-Buddhist / Sikh / Other specify:
 8. Location of the residence: Village / Town / Other specify:
 9. Name of the Village / Town / Area / Other specify:
 10. Caste composition of the village:
 - a) Single dominant caste village with the few service caste families
 - b) Multi-Caste village
 - c) Single Dalit Caste village
 - d) Other specify
 11. Name of the Sub-Caste of Caste Hindus:
 - a) Local dominant caste:
 - b) Upper Caste:
 12. Name of the local dominant settler community(for tribes only):
 13. Identification of the aggressors: Caste Hindus / Settler Community / Police
 14. Force of the Perpetration : Individual / Group
 15. Political and Economic background of the Perpetrators :
 - a) Occupation:
 - b) Name of the Caste/ Community:
 - c) Economic Status: Poor / Working Class / Lower Middle Class / Middle Class/ Upper Middle Class / Upper Class
 - d) Political Backing:
 - i) Party Affiliation:
 - ii) Position in the Party: Member / Local Office Bearer / District-level Office Bearer/ State-level Office Bearers
 - iii) Position in the Panchayats: Member/ President / Vice-President
 - iv) Position in the local Caste Panchayat: Member/ Chairperson

16. Give the details about the incident and the form of violence that you experienced

17. Criminal Case No:

18. What is the dispute that led to the violence?

19. What did you lose in the violence?

- a) Lose of life /lives
- b) Lose of properties
- c) Lose of Human dignity / Honor
- d) Lose of certain fundamental rights
- e) Lose of Livelihood

20. Who lost the life/lives in the violence?

Relationship to the respondent:

Sex:

Age:

21. Did you get any compensation for the loss of life/lives / loss of properties/ lose of livelihood? Yes / No

If Yes, When did you get?

How much did you get?

What did you get?

22. If there is any loss of human dignity and honor, [sexual violence/insulting behaviour] please identify the victim

- a) Respondent herself / him self
- b) Family Members
- c) Community Members

23. Name of the Main accused:

24. Date of Incident of atrocity:
25. Date of registering FIR:
26. Date of the arrest of the main accused:
27. Date of filing Charge Sheet:
28. Date of taking of Cognizance by the Judge:
29. Date of First hearing:
30. Is there any political party behind the main accused? Yes / No
If Yes, Which Political Party?
31. Does the main accused have some support of local influential person? Yes / No
No
If Yes, Who?

What type of support?

32. Does the main accused have some connection with local police? Yes / No
If Yes, What type of connection?
At what level?
33. Was there any deliberate decision on the part of the local police to delay the arrest of the main accused? Yes / No
If Yes, Why?
34. Do you consult with private lawyers? Yes / No
If Yes, Why?
Who pays for the lawyer?

How much is the consulting charge?

35. Have you ever tried for outside court room settlement of the case? Yes / No
If Yes, Why?

Who mediated?

36. Did any one compelled or persuaded you to withdraw and compromise the case?

Yes / No

If Yes, Who?

37. Do you feel the delay in trialing of your case? Yes / No

If Yes, Why?

38. List out the main reasons for the general delay in finalizing the case.

Date : _____

Perceptions of Victims during interview:

Totally One hundred and Eighteen victims are interviewed. Among them Twelve are from Andhra Pradesh, Thirty five from Gujarat, Twelve from Karnataka, Twenty Four from Madhya Pradesh, Twelve from Tamil Nadu and Twenty three from Uttar Pradesh.

Among them 82 victims cases are going on in Designated Special Courts while other 36 victims cases are going on in Exclusive Special Courts.

Gender Ratio:

Among the victims 64.7% are Males while 35.3% are Females.

ANNEXURE XIII
INTERVIEW SCHEDULE-V
(For the Accused only)

Name of the interviewer:

Type of the Court: Exclusive Special Court / Designated Special Courts

Location of the Court:

1. Name of the Accused :
2. Sex : Male Female
3. Age :
4. Community : FC OBC Others specify
5. Sub-caste name :
6. Religion : Hindu Christian Muslim
Jain Sikh
Other specify
7. Education : Primary School Middle School
High School PUC
Graduation PostGraduation
Research Degree
8. Occupation
9. Income (monthly or annual) :
Individual :
Household :
10. Landholding
Agricultural land : in acres
Housing Plot :
11. Nature of ownership of the House : Own Rented Leased
12. Socio-Economic Background of the Family

Sl. No.	Relationship with the Respondent	Sex	Age	Education	Occupation	Income (monthly)

13. Do you belong to any political party: Yes / No

If yes, which political party?

Position in the party : Member / Local Officer Bearer / District level Office Bearer / State level Officer Bearer

Year of joining the political party :

14. Are you a member of any Caste Association? Yes / No

If yes, give the following details

a) Name of the Caste Association :

b) Name of the leader of the Caste Association:

c) Political base: Local level District level State level

d) Total membership (Approximate) :

e) Which caste does it represent? :

15. Does your Caste Association run any political party? Yes / No

If yes, give the name of the party

16. Does your Caste Association support any other political party? Yes / No

If yes, give the name of the party

17. Do you have patronage? Yes / No :
- If yes, give the following details :
- Name of the Patron :
- Name of the Individual :
- Name of the Organization :
- Economic Status (about land other asset holding) :
- Social Status (about the caste and its position in the hierarchy) :
- Political Status (about political parties connections and position in the party and local politics) :
18. Criminal Case No. :
19. Sections of offences :
20. Date of the incident of Atrocity :
21. Date of Arrest :
22. Date of filing of FIR :
23. Date of charge sheet :
24. Date of first hearing :
26. Have you ever given any counter complaints against the victims? Yes/ no
If yes give me details.
26. What made you to perpetrate the violence :

against the victim ?

27. Do you pay your attorney? Yes / No :
If no, who pays?

28. Do you think the investigating officer has:
played a fair and neutral role in investiga-
ting the case ? Yes / No

If No, why?

29. Do you fee the delay in trialing your case? :
Yes / No

If yes, why?

30. Whom do you hold responsible for the :
delay in trial ?

- | | | |
|----|----------------------------|--------------------------|
| 1. | My own attorney | <input type="checkbox"/> |
| 2. | Public Prosecutor | <input type="checkbox"/> |
| 3. | Witness | <input type="checkbox"/> |
| 4. | Court Administrative staff | <input type="checkbox"/> |
| 5. | Judge | <input type="checkbox"/> |
| 6. | Police Officer | <input type="checkbox"/> |
| 7. | Victim | <input type="checkbox"/> |
| 8. | Others specify | <input type="checkbox"/> |

31. Was there any occasion where the witness approached you for a help? Yes/ no
If yes, give the details.

32. Was there any occasion where you (or some one on your behalf) approached
witness

for a help? Yes/no.

If yes, give the details.

33. Was there any occasion where the police showed some sympathy towards you?
Yes/ No

If yes, give the details

34. Have you lost any thing due to years of court trial? Yes / No
If yes, what?
35. Have you ever met the expenses of witness? Yes / No
If yes, why?
36. Were you let off on bail/anticipatory bail?
37. List out the main reasons for the delay in the Court.

Perceptions of Accused during interview:

The accused are those who are alleged to commit atrocities against SCs/STs and their community background, extent of involvement in the crime, reason for that involvement, political influence if any in it and their own perspective of the judiciary becomes important in understanding the overall performance of the Court. Towards this end we have interviewed sixty one accused.

Among them thirteen belonged to Uttar Pradesh while twelve each belonged to Andhra Pradesh, Madhya Pradesh, Tamil Nadu and Karnataka.

Fourty six accused are connected with the case in Exclusive Special Court while fifteen accused are connected with the case in Designated Special Court.

Social Background:

21.3% accused belonged to forward community, 62.3% accused belonged to Other Backward Community, 9.8% accused belonged to other community while 6.6% accused did not respond about their social background.

Literacy:

Among accused 9.8% studied upto primary school, 21.3% studied upto middle school, 31.1% studied upto High School, 4.9% studied upto PUC, 13.1% are graduated, 3.3.% are post-graduated, while 16.5% accused did not respond about their educational background.

ANNEXURE XIV **QUESTIONNAIRE / INTERVIEW SCHEDULE-VI**

Dalit leaders' perception of Special Court **Performance**

As you know, there are two types of special courts that trial the cases of atrocities against SCs and STs. We would like your opinion on the Special

Court in your area that handles the criminal cases of atrocities. The Court in your area that handles these cases is the _____
(Type of Court) located on _____ (name of the area) in _____ (name of the town).

Name of the leader :

Sex: Male / Female :

Age :

Community: SC/ST/Others :

Sub-caste name :

6. Religion : Hindu/Muslim/Christian/ Neo-Buddhist/Sikh/Others specify

7. Education : Primary School /Middle School / High School/ PUC/Graduation/Post-graduation/ Research Degree

8. Mother tongue :

9 Occupation :

10. Name of your Dalit organisation :

11. Present position in the organisation :

12. Year of joining the organisation :

13. Initial position in the organisation :

14. List out the main causes for increasing atrocities against SCs and STs in your area:

15. The violence of the Law & Order machinery against SCs and STs is worst than the violence of the upper and dominant caste groups.
(a) Agree
(b) Strongly agree
(c) Agree in part / disagree in part
(d) Disagree and (e) Disagree strongly
16. Are you satisfied with the investigation of the local investigating officer on atrocity cases?

Yes / No

If no, why ?
17. Are you satisfied with the prosecution of Special Public Prosecutors?

Yes / No

If No, why?
18. How familiar are you with the Special Courts?

1. Very familiar
2. Somewhat familiar
3. Slightly familiar or
4. Not at all familiar
19. In the past two years, have you participated in a Special Court case as a victim, witness, or atrocity; or have you been in the Court to conduct some other business or to observe a proceeding?
(Circle as many as mentioned)

01. No contact with special court
02. Witness
03. Victim
04. Attorney
05. On other business
06. Observe a proceeding
20. In general, based on whatever you know, have read, or have heard, is the Special Court doing an excellent, good, fair or poor job?

4 - Excellent

3 - Good

2 - Fair

1 - Poor

For each question about the Special court, please answer either always, usually, sometimes, never or don't know

Always	Usually	Sometimes	Never	Don't know					
(1)	(2)	(3)	(4)	(9)					
Do you think Court personnel treat SCs and STs with respect?	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the court handles cases within a reasonable amount of time?	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the Court follows the law in performing its duties ?	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the court has adequate resources to do its jobs	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the court decisions are easy to understand :	:	(1)	(2)	(3)	(4)	(9)			
Would you feel safe going to the Court?	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the court's decisions are enforced ?	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the court treats all people fairly ?	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the court works well with other components of justice system (eg. The Police, SPP, attorneys)	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the court provides the TA and DA to the witness on time ?	:	(1)	(2)	(3)	(4)	(9)			
Do you think that the presence and	:	(1)	(2)	(3)	(4)	(9)			

involvement of Dalit movement in the litigation puts pressure on the court to dispose the cases, soon ?

- Do you think that the Designated : (1) (2) (3) (4) (9)
Special Courts prioritize atrocity cases?
33. Exclusive Special Courts functions better and ensures the speedy disposal than Designated Special Courts.
- (a) Agree
(b) Strongly agree
(c) Agree in part / disagree in part
(d) Disagree and (e) Disagree strongly
34. List out the reasons for high rate of acquittal in atrocity cases.
35. List out the main reasons for the delay in Special Courts.
36. List out your suggestions to improve the efficiency of the Special Courts.

Perceptions of Dalit Leaders during interview:

Since the Dalit leaders would have rich experience of working with their community they are interviewed to get the accurate idea about the working of the Act and the special courts. To achieve this eighteen Dalit leaders are interviewed. Among them three belonged to Andhra Pradesh and Karnataka while four each belonged to Tamil Nadu, Uttar Pradesh and Madhya Pradesh.

Social Background:

Among them 15 are Hindus, 1 are Christians, 2 are Neo-Buddhist.

