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COVER STORY

High and dry

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The benefits of the Prevention of Atrocities Act have not reached the tribal people because of its tardy implementation.

DESHKAYAN CHOWDHURY/AFP



Tribal villagers carry a pot of local liquor towards a market near Dantewada, some 260 km south of Raipur, Chhattisgarh. The tribal population in the State, caught between the Salwa Judum and naxals, provide a classic instance of how tribal communities face dual violence in areas affected by rebel activities.

THE Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has attempted to include the exploitation of the Scheduled Tribes (S.T.s) in its list of “atrocities”, but does it actually address the specifics, the magnitude, and the unique dimensions of the problems faced by these communities? The answer, according to a large number of social activists who have taken up tribal issues from within the communities as well as from outside, is in the negative. They point out that the Act has to be amended in order to address the issues of S.T.s specifically as it has failed to check the harassment faced by these communities.

They also add that the need for amendments is stronger than ever now as the government itself has become, in the contemporary political and economic context, one of the biggest abusers of S.T. privileges guaranteed by the Fifth Schedule of the Constitution. The Fifth Schedule aims to protect the right of the Adivasis to live in scheduled areas, but at present the Union and many State governments are working in collaboration with big business houses for indiscriminate industrialisation in forest areas.

The history of the S.T.s in independent India also underlines the need for legislation and related executive measures to address their concerns. By any yardstick, it is clear that if the section of the population with the lowest security of life and livelihood is the Scheduled Tribes. Though various pieces of legislation and constitutional securities have attempted to provide social and economical security to them, it is clear that the S.T. population across the country falls far behind the rest in all measures of the Human Development Index in demographic comparisons. The problems of the S.T.s are unique and separate from those of the S.C.s as a large section of them lives in scheduled

areas, mostly forests. Consequently, their level of social and economic interaction with the dominant 'modern' world is much less than that of the S.C.s.

In the case of the S.T.s, most cases of atrocities are related to land issues, and in most cases the S.T. victims are not aware of the Act. One of the most important reasons for this lack of awareness is that the tribal populations who still follow their traditional lifestyles are governed by multiple authorities. This correspondent, while travelling in the hinterland of Madhya Pradesh – Harda, Betul and Satna – found that for the villagers, the authorities simply mean an exploitative combination of *nakedaar*, *hawaldaar* and *patwari* (forest guard, police guard and the lowest-level revenue inspector). The tribal people face the excesses of not only Forest Department staff but also those of the police and district administration officials.

Before 2006, when the the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act was passed, the tribes were at the mercy of the Forest Department and the police to cultivate their traditional lands and to gather community resources from the forests because the forests were reserved lands and, under the colonial Indian Forests Act, belonged to the government. Consequently, problems arose as these tribes are historically dependent on forest lands. This led to Forest Department officials engaging the tribal people in forced labour and extracting bribes to let them live off forest resources. Any protests by the tribal people would lead to indiscriminate arrests for “encroachment” and other petty offences. There are cases of compoundable offences in which tribal people were detained at random by the police. Timber contractors and their touts in the forest regions are also highly exploitative.

Even after the Act came into force, and also after the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Ryles were framed in 1995 under Section 23 of the Act, S.T.s could not take any advantage of it because of their lack of awareness. However, since the Forest Rights Act came into force, the harassment has decreased. Yet, like the Prevention of Atrocities Act, the Forest Rights Act is made ineffective by flawed implementation. Today, most tribal movements are a consequence of industrialisation drives permitted by the government. It is important to notice that most of the industries coming up in the forest areas are extractive industries which, it is feared, will ruin the self-sufficient traditional economy. This causes migrations of tribal communities, subsequently leading to the exploitation every unskilled migrant worker faces. If seen within the purview of the Act, all these forms of exploitation could be seen as “atrocities”.

K.B. Saxena, in his National Human Rights Commission (NHRC) report, points out that in areas affected by insurgency and naxalite activities, the S.T.s face dual violence – from caste-Hindu landlords, who often have private militias, and from the state. “The two operate with a certain degree of nexus but with different motivations and through different methods. State bans both the insurgency/naxalite organisations as well as private militias of dominant castes/class in pursuance of its primary duty to maintain public order. As a result, police and security forces carry out combing operations in search of leaders and sympathisers of both. But the police and security agencies during their investigation and search operations make a differential approach,” the report says. It goes on to explain that the forces unleash violence during such operations on residents of S.T. villages and are extremely offensive towards the women. Similar operations are not carried out in upper-caste settlements, and even if there are any operations in those areas they are executed mildly and women are treated with dignity.

K.R. DEEPAK



The lush green hills near Galikonda in Visakhapatnam may soon become a thing of the past with bauxite mining threatening to destroy the forest cover. Tribal families living in the hills stand to lose their income from forest produce.

The poor implementation of the Act is also a result of the district machinery cracking down on all forms of ordinary and legitimate democratic protests. For instance, in Madhya Pradesh, many social activists were slapped with cases under the Madhya Pradesh Rajya Surakshya Adhiniyam, 1990. This is important, political analysts believe, for the age-old industrial-caste-administration-military nexus to maintain its supremacy over the rich resources of the region.

Tribal rights activists have been raising their voices against the atrocities on certain S.T. communities which during the British period were described as “criminal tribes” or “habitual offenders” as their members were perceived to be crime-prone. Though these tribes were denotified after Independence, their members were routinely picked up for questioning whenever there was a crime in the area and were allegedly tortured in order to extract confessions, activists say. Separate laws were enacted to deal with them. The old discriminatory mindset still influences the administration’s behaviour in dealing with such tribes – a different form of racism.

The data compiled by the National Dalit Movement for Justice after a nationwide survey show that from 2002 to 2008, only around 20,000 cases of atrocities against S.T.s had reached the courts every year, out of which only around 30 per cent were registered under the Prevention of Atrocities Act. The rest were pursued either under the Indian Penal Code or under the softer Protection of Civil Rights Act. Even more stark is the rate of pending cases, which is about 81 per cent. The National Crime Records Bureau’s figure for 2007 is even lower. It recorded a total of 5,532 cases of crime against the Scheduled Tribes in India, out of which only 1,104 cases were registered under the Prevention of Atrocities Act. A total of 9,483 persons were arrested in 2007.

Cornerstone, a tribal rights group in Tamil Nadu, has done extensive research on the Prevention of Atrocities Act. It agrees that the Act has not fully reached the Adivasis. “We, along with some other groups, have suggested some amendments to the Act. First, the violation of the Forest Rights Act needs to be covered under the PoA Act. Second, the impunity that forest officials enjoy needs to be corrected, and the Indian Forests Act, too, needs to be covered under the PoA Act,” Richard Devadoss, director of Cornerstone, told *Frontline*. He further explained that atrocities against the S.T.s could be seen in various ways of denial that are all born out of the systematic exclusion of S.T.s from mainstream policy. For instance, he explains that S.T. certificates are being denied to historical tribes such as Irulas in the Cuddalore region and the forest tribe Pulliyars in Kodaikanal,

Tamil Nadu. He says that land rights were being denied to non-forest tribes, too. “The Forest Protection Act guarantees 10 acres of land for each Adivasi but we have hardly seen its implementation. Denial of community resources and cultural practices are also a huge issue. Because of this, Adivasis are being denied access to water and their traditional habitat as they are forced to move away from their households. All these can easily be termed as atrocities on the S.T.s.”

The atrocities are not limited to forest and rural areas. In the last decade, a form of racial atrocity against students and workers of northeastern India in the metropolitan cities has been on the rise. Delhi has registered numerous cases of racial discrimination of people from the Northeast. The prejudices among North Indians are often highlighted through cases of eve-teasing, rape and professional discrimination against northeastern women and men. A typical instance would be the recent high-profile murder case of a Naga girl, Ramchanphy Hongray, in which an IIT researcher, Pushpam Sinha, was arrested. Notably, though the police admitted that Pushpam Sinha might have thought it would be easy for him to lure Hongray because of her upbringing in the liberal setting of the Northeast, the Prevention of Atrocities Act has not been invoked.

Suhas Chakma, director of the Asian Centre of Human Rights, said, “The conviction rate in the PoA Act in cases dealing with the S.T.s is only 27 per cent, much lower than the special laws and criminal laws. In 2007, there were around 29,000 cases of land disputes among tribal people reported and not a single one was adjudicated in favour of the tribal people. Should this be treated as just a land issue? It is the historical oppression and atrocity on the S.T.s that has led to the growth of naxalites in the tribal region. No one is clear about the Act *vis-à-vis* the S.T.s. In case of large-scale displacement, we do not know whether the Land Acquisition Act that gives the government the power to acquire land would be applicable or the PoA Act.”

He said that legislation alone could not solve the problem. He pointed out that the tribal people were among the most exploited communities in the country though Acts such as the Andhra Pradesh Schedule Areas Land Transfer Regulation, 1959, the Assam Land Revenue Regulation Act, 1886, the Chotanagpur Tenancy Act, 1908, the Santhal Parganas Tenancy Act, 1949, the Maharashtra Land Revenue Code, 1966, the Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974, and the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974, had been in force. Perhaps, what is necessary in such a context is a focus on proper

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