



*Ours is a battle not for wealth or for power. It is a battle for freedom.
It is a battle of reclamation of human personality. - Dr B. R. Ambedkar*

**NO MORE UNTOUCHABILITY!
END ATROCITIES!!**

**CHUWACHAT ATHYACHAR
KHATAM KARO!!**

Therefore Amend and Enforce SCs & STs (PoA) Act and Rules!

What's the context today? Continuing atrocities!

Studies reveal the prevalence of more than 140 forms of inhuman untouchability practices in India, preventing Dalits and Adivasis from accessing civil, political, economic and cultural rights. And so, over the years they have been asserting their rights powerfully against such discrimination. What's the consequence? Only individual and mass atrocities! To cite a few major massacres against SCs & STs in the post-Independence era:

- 1957: the assassination of the young, educated Dalit leader Emmanuel Sekaran in Tamil Nadu for defying the untouchability based interdicts of dominant castes on SCs, resulting in the Ramanathapuram riots
- 1968: the Kilavenmani massacre of 42 Dalits in Tamil Nadu
- 1969: the gruesome killing of Dalit Kotesu in Kanchikacherla, Andhra Pradesh
- 1978: the killings of 10 STs by police in connection with a land dispute in Indravalli in Andhra Pradesh
- 1979 & 1980: the massacres of SCs at Belchi and Pipra in Bihar
- 1980: the massacre following an SC bridegroom riding on horseback at Kafalta in Uttar Pradesh
- 1982: the killing of Bacchdas in Mandsaur district in Madhya Pradesh
- 1985: the police shootings that killed 15 STs at Banjhi in Sahibganj district in Bihar

What was the response of Parliament?

A new legislation: The POA Act, 1989

The Parliament found the PCR Act 1955 and the normal provisions of the Indian Penal Code inadequate to deter such heinous crimes. Hence, it passed The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules 1995, ensuring heavy penalties on dominant caste perpetrators of atrocities and on public servants who wilfully neglect their duties to implement the Act. But has this Act truly lived out its promises to the SCs and STs?

Have atrocities stopped? - NO! NOT AT ALL!!

Even the new POA Act could not stop the increasing trend of atrocities. What was the response from the different governance agencies - police, district and state level monitoring committees, district and state level vigilance committees, public prosecutors, special courts, etc.? It was very inadequate and unsatisfactory. To cite a few data: For 1995-2010, the numerical population of Dalits and Adivasis facing atrocities is said to be approximately 1.5 cores and the number is increasing day by day at the annual rate of 2.8 per cent. Cases registered with police at all-India level during the last 15 years (1995-2010) were only 5, 58,103 – for SCs 4, 71,717 and for STs 86,386. The actual numbers are more! The number of cases pending for trial by 2010-end were 80% (1, 01, 251) crimes, and by 2011-end it was 82.5% with no improvement at all. In 2009, the acquittal rate was 12% of cases registered under PoA Act and the conviction rate was only 4% whereas in 2010, the acquittal was 13% of the cases and the conviction rate was only 8 percent.

Why more atrocities & less convictions?

Many gaps in POA Act! More negligence in implementation!

In the last two decades, successive Central and State Governments failed to implement the Act effectively. In what ways? To list a few important areas of concern: non-registration of cases at all; but if cases registered, non-registration under POA Act; inadequate and inordinate delays in investigation; no arrest of the accused; etc.

What is the challenge before us?

End Atrocities! No more Untouchability!!

About 150 Dalit, Adivasi and Human Rights organizations from 19 states in India came together in 2009 and formed the "National Coalition for Strengthening the POA Act". Determined not to let this state of affairs continue unchallenged, they want the Central and State Governments, all political Parties and leaders, and all Civil Society members and organizations to take a decisive stand: NO MORE UNTOUCHABILITY! END ATROCITIES!! The Coalition has come out with a set of specific proposals for Parliament to amend the Act and make it very strong and very effective.

Amend POA Act! Implement effectively!!

TEN - point agenda for Parliament

1. **Add the following new category of offences to the existing 19 punishable offences in the POA Act. In addition to the 19 offences listed in the Act, many new ones must be included.** To cite a few: tonsuring of head, moustache, or similar acts which are derogatory to the dignity of Dalits and Adivasis; garlanding with chappals with intention to degrade a person and disrespect him; denying access to irrigation facilities; using or permitting manual scavenging; dedicating Dalit women as devadasi; perpetrating witchcraft atrocities; Forbidding children to go to schools/colleges and engage them, instead, in farm or other kinds of work in villages, towns and cities; preventing Dalit and Adivasi candidates filing of nomination to contest elections; hurting the modesty of Dalit/Adivasi woman by removing her garments; imposing social or economic boycott; non-Dalit/non-Adivasi public servants committing offences like custodial death, torture and rape on Dalits/Adivasis.

2. **Declare all IPC offences attracting punishment from 7 years up to 10 years and committed against Dalits or Adivasis as punishable offences under the POA Act.** Presently, only those offences listed in IPC as attracting punishment of **10 years or more** and committed on Dalits/ Adivasis are accepted as offences falling under the POA Act. A number of commonly committed offences (hurt, grievous hurt, assault, rape, kidnapping etc.) with punishment from 7 to 10 years are excluded from the Act. This provides loopholes for the perpetrators of crime and the colluding public servants to escape from being punished for these commonly committed crimes. Hence, the demand is to include in the POA Act all offences listed in IPC as attracting punishment of 7-10 years.
3. **Amend the Act (i) to declare all untouchability based discriminatory practices as civil offences requiring civil remedies, and (ii) to deal with such discriminatory practices separately in a new chapter on preventive measures.** Preventive measures must be taken against all untouchability based discriminatory practices - in educational institutions, in mid-day meal scheme, in access to public goods & services, in employment in private corporate sector, etc.; otherwise, whenever Dalits/Adivasis protest against such practices, they are liable to face atrocities from dominant castes.
4. **Amend the Act to provide (i) same quantum of punishment for such offences as prescribed in IPC and (ii) new kinds of punishment such as compulsory community service to be performed in public in Dalit localities, tendering public apology, etc.** Presently, for all the offences, the Act provides punishment of 6 months minimum to 5 years maximum. When comparing the quantum of punishment for atrocity offences under the POA Act with that for similar offences under the Indian Penal Code, the sanction is heavier for the IPC offences. This big gap must be removed.
5. **Provide for Special Courts and Special Public Prosecutors to exclusively try the offences falling under the POA Act to enable speedy and expeditious disposal of cases.** Presently, Special Courts and Public Prosecutors also deal with other cases besides atrocity cases. Consequently, cases are kept pending for long time and police close the cases after some time. Thus victims are denied justice or speedy justice. Hence, Special Courts and Special PPs are needed to exclusively deal with atrocity cases and conduct trial on day to day basis within 120 days.
6. **Add in the Act a separate chapter on the 'Rights of Victims and Witnesses'.** As of now, the Act recognizes a few rights of the victims and witnesses. This is insufficient. Many other essential rights must also be covered: right to protection from intimidation and harassment; right to information on status of investigation and charge sheet; right to get experienced PPs, even PPs of their choice, appointed; etc.
7. **Delete such terms as 'intent', 'intention', 'wilful', 'public place' and 'on the ground' found in the present Act.** These terms in the present Act have given the enforcement officials and judicial officers a leverage to help the accused escape the sanctions of the Act. For example, the police fail to even file the FIR under the Act on the belief that the accused would not have intentionally abused the victim while committing the offense. Even the lower judiciary acquits perpetrators only on these grounds. One finds similar trend in judgments pronounced by High Courts.
8. **Define clearly the term 'wilful negligence' of public servants at all levels, starting from the registration of complaint, and bring all aspects of dereliction of duty under this Act.** Section 4 of the present Act does not clearly define what constitutes 'wilful negligence' of public servants. This gives them loopholes to escape from the duties imposed on them by the Act. Hence, it is necessary to define what 'wilful negligence' means by listing specific transgressions of law: for example, police officers not putting down accurately in writing the victim's complaint; not reading out to the victims what has been recorded prior to getting their signature; not registering FIR under the Act; not registering it under appropriate sections of the Act; etc.
9. **Establish a new and effective institution called the "National POA Authority" that would monitor and ensure proper and effective implementation of the Act.** To implementation of the Act and to facilitate easy access and interaction of civil society bodies and Dalit and Adivasi community representatives, it is necessary to set up an independent national institution that enjoys freedom from political and governmental interference.
10. **Extend the scope of the Act to cover those SC and ST victims who for technical reasons are left out from the present POA Act.** In the present Act, two categories of persons are deprived of their legitimate rights: (i) All Dalits who, or whose forefathers, have changed their religion to Christianity or Islam: They must be covered by this Act because they are still subjected to the same kinds of discrimination and atrocities as before the change of religion; (ii) All members of Dalit and Adivasi communities who are listed officially in the scheduled list of a particular State but who happen to migrate for labour and livelihood purposes to another State where these communities are not included in the scheduled list of that State must also be covered by this Act.

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