

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

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**Volume 5 | Issue 5**

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**2022**

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# An Analysis of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

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MUDITA VERMA<sup>1</sup>

## ABSTRACT

*Despite the fact that the traditional caste system in India calls for equality, many individuals still treat those from lower castes harshly. In order to end this type of caste-based discrimination, the Indian constitution actually grants a number of fundamental rights to the lower castes, but in practice, even this does not guarantee them equality. Despite several initiatives to better their socioeconomic circumstances, the SCs and STs continue to face various forms of discrimination.*

*The 1989 Act needs to be reviewed in terms of how it is being put into practice, and some parts that are helpful to the social climate right now and address the atrocities done against the weaker sections need to be amended. The effective implementation of this Act is crucial for the diverse Indian culture and the country as a whole. There is also a recommendation that the national SC and ST awareness programs, which help to educate them about their benefits under the Prevention of Atrocity Act, should tackle major offenses like rape and murder of members of the weaker sections.*

*Additionally, this act guarantees that no one will prevent them from defending their rights and protects them from other horrors. However, despite the act's protection of members of lower castes, it still has a number of gaps that offenders exploit to avoid punishment, and there are also instances and locations where the act isn't put into practice; as a result, new provisions must be introduced to ensure that the act is used correctly.*

## I. INTRODUCTION

The line that our ancestors drew throughout the years has resulted in discrimination, mistreatment, and a great deal of suffering for the underprivileged portion of society in India. In the past, they had divided society in a way that had no basis in actual differences. However, certain religious literature and scriptures make reference to that classification and tell their followers that you must adopt it as well. Because of this, there are still many in India, the world's fastest-growing economy, who wash the "Mandir" whenever a member of a lower caste goes

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<sup>1</sup> Author is a LL.M. student at Galgotias University, India.

inside to pray. A Dalit is frequently prohibited from riding a horse while getting married in various places<sup>2</sup>.

The Dalits, also known as the Schedule class or Schedule Tribes, have encountered and endured many challenges throughout history, in addition to atrocities. This is just one of two incidences that are very common in India and are highlighted<sup>3</sup>. After gaining independence, the Constitution's drafters resolved to include strict provisions to prohibit atrocities against SC/STs. A number of other laws were created in this regard to reinforce the constitution's provisions and protect these people from any atrocities.

The protection of SC/STs is also included in a number of sections in the Indian Constitution. Atrocities committed against the socially disadvantaged are forbidden by these provisions. There are also other laws that are specifically focused on preventing atrocities against SC/STs. Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act of 1989 is one of them.

The primary piece of law addressing the prevention of atrocities against the SC/ST population is the "Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act of 1989." The goal of this law is to give SC/STs a setting where atrocities of any type against them are prohibited. This law primarily aims to prohibit crimes committed against SC/STs because of their possessions. No one should endure suffering because they are a member of a particular caste or tribe. The act also allows for the special courts to handle cases if crimes against the SC/ST community are involved.

This act aims to punish individuals who strive to keep the marginalized population out of society because they are members of the SC/ST community and to incorporate them in mainstream society.

## II. HISTORY OF ATROCITIES ON THE SC/ST COMMUNITY

The origins of the word "caste" can be found in Spanish history. The term "casta," which meaning "lineage" or "race," is the source of this phenomenon. It is a unique group or a collection of individuals who are connected to one another through their common ancestry, occupation, or another factor.

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<sup>2</sup> Legalserviceindia.com. 2022. *Legislative Analysis: The Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989*. [online] Available at: <<https://www.legalserviceindia.com/legal/article-6943-legislative-analysis-the-scheduled-castes-and-scheduled-tribes-prevention-of-atrocities-act-1989.html>> [Accessed 25 September 2022].

<sup>3</sup> iPleaders. 2022. *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - iPleaders*. [online] Available at: <<https://blog.ipleaders.in/scheduled-castes-and-scheduled-tribes-prevention-of-atrocities-act-1989/>> [Accessed 25 September 2022].

- **ANCIENT HISTORY-** People from different castes, creeds, religions, cultures, ethnicities, and other distinct classifications can be found in India. This is not a category that was invented just now or a few days ago. The caste system in India has a history that dates back over 2000 years<sup>4</sup>. It is obvious that Hinduism's roots are where the Indian caste system is claimed to have its origins. However, the caste system was not developed today; rather, it is a result of the labour that people were doing at the time. For instance, there are mainly four different categories.

The majority of these four castes are – "Brahmin: the priests, Kshatriya: defenders, Farmers and traders: Vaisya servants, says Shudra.

The caste system is mentioned along with its significance in the "Bhagavad Gita," the most well-known and widely read sacred text in Hinduism. The caste structure is explicitly mentioned in the smritis written by religious people. It is obvious that the caste system began to change around 1000 and 200 BCE with the rise of Hinduism. The Hindu Mythology, in which spiritual gurus first began classifying this practice, is where this practice first gained notoriety<sup>5</sup>. These texts make it abundantly evident which kind of people should do various kinds of employment. It also lists a few things that people from lower castes cannot accomplish. If by mistake someone offers the prayer that a member of a lower caste is not permitted to offer in the "Mandir," he or she shall be held accountable for the punishment, which occasionally involves public hanging as well.

- **THE HISTORY OF INDIA'S CLASSICAL CASTE SYSTEM -** In traditional India, the caste system is not as rigorous. Because the rules are occasionally from the lower category of the system and not always from the Kshatriya caste, it is more pliable. For instance, the Gupta Dynasty, whose members are Vaishyas rather than kshatriya, governed from the year 320 to 550. In spite of the fact that they are members of the Kshatriya caste, too many kings came to power in India after this<sup>6</sup>. However, the caste system in India has also benefited under the authority of Muslim kings. Due to their motivation for opposing the Muslims, the Hindus began forming larger groups into which they incorporated lower-level Hindus through the "Shuddhi" method. A prayer is said as part of this unique procedure to purify the peoples before returning

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<sup>4</sup> Medium. 2022. *In Dalit History — Legal Protections: The SC/ST Prevention of Atrocities Act, 1989*. [online] Available at: <<https://dalithistorymonth.medium.com/in-dalit-history-legal-protections-the-sc-st-prevention-of-atrocities-act-1989-e3fb5cae3402>> [Accessed 25 September 2022].

<sup>5</sup> iPleaders. 2022. *All you need to know about the SC and the ST (Prevention of Atrocities) Act, 1989 - iPleaders*. [online] Available at: <<https://blog.iplayers.in/prevention-atrocities/>> [Accessed 25 September 2022].

<sup>6</sup> INSIGHTSIAS. 2022. *Scheduled Caste*. [online] Available at: <<https://www.insightsonindia.com/social-justice/issues-related-to-sc-st/scheduled-caste/>> [Accessed 25 September 2022].

them. This is the cause of the caste system's notable expansion during the twilight of Muslim rule. They once more started treating their own people unfairly.

- **SYSTEM OF CASTE IN BRITAIN RAJ** - Following the end of Muslim rule, the British took control of India. By creating their own government through their laws, they initially ruled India. As soon as the last Muslim monarch left the Indian Territory in 1757, or as soon as those who remained there were forced to neutralize themselves, this all began.

The British were well aware that Brahmins belong to the highest caste group and that if they could maintain control over them, they could easily impose their rule in India. By giving them the privileges that the Muslim kings had stopped, they began to gain their favour. It comprises a number of rights that the British restored to the Brahmins.

This is the reason why the British began passing legislation in the nineteenth century, specifically between the years 1830 and 1840<sup>7</sup>, to protect members of the lower castes by outlawing all forms of untouchability.

- **INDIA UNDER INDEPENDENCE: CASTE SYSTEM-** India attained independence in 1947 following a protracted freedom campaign and the sacrifice of several freedom fighters. Under the direction of the first Prime Minister, Pt. Jawaharlal Nehru, the Indian government began assuming power after the British left.

The caste system was still believed in by those of upper class, and discrimination against those of lower class started to persist<sup>8</sup>. The caste system and its effects were still a problem in India; this was brought up during the constitutional debate and prompted the assembly to include special clauses to the Indian constitution to safeguard those from lower social classes against any form of discrimination. Mahatma Gandhi and Dr. B.R. Ambedkar, the fathers of the Indian Constitution and the SC/ST community, have both been overly active in bringing about significant transformation. The lives of the people have changed as a result of numerous reforms.

### III. CONSTITUTIONAL SAFEGUARDS

- The Indian Constitution forbids untouchability and any related practices in Article 17<sup>9</sup>. In 1955, the Untouchability (Offenses) Act was adopted. However, because of the 1955 Act's flaws and gaps, the government was compelled to reform it and enact the Civil Rights Act, 1955

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<sup>7</sup> News, I., 2022. *SC/ST quotas born with Brits, took on life of their own after 1947* | India News - Times of India. [online] The Times of India. Available at: <<https://timesofindia.indiatimes.com/india/quotas-born-with-brits-took-on-life-of-their-own-after-1947/articleshow/63676271.cms>> [Accessed 25 September 2022].

<sup>8</sup> Ibid.

<sup>9</sup> Constitution of India, 1950 art 17

(amended in 1976). The Scheduled Caste and Scheduled Tribe Act (1989) and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules (1995) were passed by Parliament to address the ongoing grievances and injustices against Scheduled Castes and Scheduled Tribes and to stop the cruel treatment they endure<sup>10</sup>.

- The intricate constitutional process set up for the uplift of the Scheduled Castes, Scheduled Tribes, and Other Backward Classes reflects the genuine concern of the Constitution's founders for their advancement.

- Untouchability is eliminated under Article 17.

- According to Article 46, the government must "promote with special consideration the educational and economic interests of the weaker parts of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and to safeguard them from social injustice and all types of exploitation."<sup>11</sup>

- The particular provisions for their advancement are mentioned in Article 15.4 of the Constitution<sup>12</sup>.

- According to Article 243T, seats in Municipalities will be reserved in the same proportion.<sup>13</sup>

- The Constitution's Articles 330 and 332, respectively, set aside seats for the House of the People and the State legislative assemblies in order to favor the Scheduled Castes and Scheduled Tribes<sup>14</sup>. The Constitution's Part IX, which deals with Panchayats, and Part IXA, which deals with Municipalities, both provide for and envision reservations for members of the Scheduled Castes and Scheduled Tribes in local governments.

- According to Article 335, when filling positions in connection with the operations of the Union or of a State, attention for the rights of members of the Scheduled Castes and Scheduled Tribes must be given while maintaining administrative effectiveness<sup>15</sup>.

- In order to advance their economic and educational interests and remove social barriers, the Indian Constitution stipulates protection and safeguards for Scheduled Castes (SCs), Scheduled Tribes (STs), and other weaker sections, either specifically or by insisting on their fundamental rights as citizens. The National Commission of SCs, a statutory authority, has also

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<sup>10</sup> The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act) 1959.

<sup>11</sup> Constitution of India, 1950 art 46

<sup>12</sup> Constitution of India, 1950 art 15.4

<sup>13</sup> Constitution of India, 1950 art 243T

<sup>14</sup> Constitution of India, 1950 art 330 and art 332

<sup>15</sup> Constitution of India, 1950 art 335

made structured obligations to these social groups. The key ministry for managing the interests of the Scheduled Castes is the Ministry of Social Justice & Empowerment.

#### **IV. A DESCRIPTION OF THE 1989 SC AND ST ACT**

A new legislation was required because the Constitution failed to establish equality for all people in Indian society and to end the practice of untouchability. As a result, the Untouchability (Offenses) Act of 1955 was approved, but it had many flaws and was in need of being completely revised. The Act changed its name to the Protection of Civil Rights Act in 1976<sup>16</sup>. The Dalits continued to be a vulnerable group despite the numerous steps the government took to bridge the gap between the lower and upper castes and to protect them from harassment, offenses, and discrimination.

Scheduled Castes and Scheduled Tribes in the state and union territories are defined in Article 342(1) and Article 366(25) of the Indian Constitution as a special category of tribe or community as and whenever declared by the President. The following are the objectives and the purpose of the Act:

- The Act is the primary legislation aimed at preventing the occurrence of crimes against Scheduled Castes and Scheduled Tribes.
- According to the Act, Special Courts and Exclusive Special Courts shall be established for the purpose of trying individuals charged with such atrocities.
- As per the Act, funds are provided for their free rehabilitation, travel expenses, and maintenance expenses, with officers empowered to ensure that the act is appropriately implemented.
- Additionally, the Act sets out to make the Dalits an integral part of society and to protect their rights when crimes threaten to violate their social, economic, democratic, and political rights.
- The Act works to prevent deprivation and assists marginalized communities in avoiding it.

#### **V. SALIENT FEATURES OF THE SC ST ACT 1989**

- The creation of new offense categories that are not covered by the Protection of Civil Rights Act of 1955 (PCRA) nor the Indian Penal Code (IPC).

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<sup>16</sup> Protection of Civil Rights Act, 1976.

- Crimes committed against members of the Scheduled Castes and Tribes are punished.
- It gives victims specific rights and protections.
- For quicker case resolution, it establishes Special Courts and Special Public Prosecutors.
- Committing crimes just with certain people (by non-SCs on SCs and non-STs on STs).
- Punishment for non-SC/ST public employees who fail to perform their obligations.
- Refusal to grant anticipatory bail
- Provides victims of atrocities or their legitimate heirs with compensation, relief, and rehabilitation.
- System of mandatory and recurring monitoring at the district, state, and federal levels.
- The location of areas vulnerable to atrocities.

## **VI. THE SC ST (POA) AMENDMENT ACT 2015**

• In order to prevent atrocities against certain communities, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, aims to put more strict regulations into place<sup>17</sup>. The Act modifies the primary Act as of January 26, 2016. The following salient characteristics were included in the Amendment Act of 2015:

• Acts that will be considered offenses The Act defines offenses as actions carried out by non-SCs or STs against SCs or STs. The Amendment Act modifies some already-existing categories of activities and adds new categories. New offenses have been added to the Act, including:

- garlands made of shoes, forcing people to perform physical scavenging or dispose of dead human or animal bodies, publicly insulting SCs or STs based on their caste,

## **VII. SC/ST (POA) AMENDMENT ACT OF 2018**

- It reinstates the original guidelines for preventing violence towards SCs/STs.
- Its main goals include restoring the investigating officer's ability to detain suspects accused of crimes against SCs and STs<sup>18</sup>.
- Any provision for the accused to receive a bail bond in the future is disallowed.

<sup>17</sup> The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015

<sup>18</sup> The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018



- It states that no preliminary investigation is necessary before filing a criminal complaint (FIR), and an arrest made in accordance with this regulation is not subject to approval.
- Reason for the change
- The apparent possibility of misuse shall not be taken into account as a legitimate, reasonable, or legal justification for relaxing the strict provisions of the POA (Prevention of Atrocities Act, 1989).

### **VIII. JUDICIAL RESPONSE**

The court's rulings in instances involving the Scheduled Caste and Scheduled Tribe Act demonstrate the significance and necessity of this law. The judiciary has repeatedly stressed the significance of this act in society when hearing various instances involving the atrocities act. The judges also emphasized that if we can't protect them by providing protective discrimination then in a way, we're placing them in a disadvantageous position. The supreme court made these points while passing judgment in the case of Prithvi Raj Chauhan v. Union of India<sup>19</sup>. The judges noted that the Scheduled caste and tribe form an extremely vulnerable part of the society therefore protecting their interest is of the utmost importance.

Similar to this, sometimes the legal replies show the gaps in the law that still exist. For example, in the case of Hitesh Verma v. State of Uttarakhand, the court ruled that an insult to a SC would not be considered an offense unless it was done in the "public eye."<sup>20</sup> This demonstrates how the law still has a number of flaws that can be exploited to harass members of lower castes.

### **IX. CONCLUSION**

Despite the fact that the traditional caste system in India calls for equality, many individuals still treat those from lower castes harshly. In order to end this type of caste-based discrimination, the Indian constitution actually grants a number of fundamental rights to the lower castes, but in practice, even this does not guarantee them equality. Despite several initiatives to better their socioeconomic circumstances, the SCs and STs continue to face various forms of discrimination.

The 1989 Act needs to be reviewed in terms of how it is being put into practice, and some parts that are helpful to the social climate right now and address the atrocities done against the weaker sections need to be amended. The effective implementation of this Act is crucial for the diverse Indian culture and the country as a whole. There is also a recommendation that the national SC

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<sup>19</sup> Prathvi Raj Chauhan v Union of India, 2020 SSC Online SC 159

<sup>20</sup> Hitesh Verma vs. The State of Uttarakhand and Ors. MANU/SC/0843/2020

and ST awareness programs, which help to educate them about their benefits under the Prevention of Atrocity Act, should tackle major offenses like rape and murder of members of the weaker sections.

Additionally, this act guarantees that no one will prevent them from defending their rights and protects them from other horrors. However, despite the act's protection of members of lower castes, it still has a number of gaps that offenders exploit to avoid punishment, and there are also instances and locations where the act isn't put into practice; as a result, new provisions must be introduced to ensure that the act is used correctly.

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