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## ATROCITIES AGAINST SCHEDULE TRIBES IN INDIA

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### I. ABSTRACT

This abstract explores the widespread problem of crimes committed against Scheduled Tribes (STs) in India, illuminating the many difficulties that this marginalised group faces. Even with affirmative action and constitutional protections, systematic discrimination, violence, and socioeconomic marginalisation still plague Schedule Tribes. The historical backdrop is initially examined in the study, which traces the origins of prejudice and exploitation against STs in India. It draws attention to the consequences of colonialism and the inability of post-independence measures to properly integrate and improve the lot of tribal populations. Discriminatory practices continue in many ways; they can take the shape of land alienation, displacement brought about by development initiatives, or underrepresentation in governmental and administrative systems.

Tribal populations are vulnerable to exploitation because of the lack of access to jobs, healthcare, and educational opportunities, which feeds the cycle of poverty. The disruption of their traditional ways of life exacerbates their socioeconomic conditions. The startlingly high rate of violence against STs, including sexual assault, displacement, and targeted violence, is also examined in detail by the report. The problem is made more complex by the inability of the legal system and law enforcement to adequately handle these concerns.

To sum up, the abstract emphasizes how critical it is to implement thorough and focused interventions in order to address the long-standing issues that Scheduled Tribes in India face. It promotes a multifaceted strategy that includes socioeconomic empowerment, policy changes, and a deliberate attempt to alter public perceptions in order to demolish the systems that sustain crimes against this vulnerable group. Actionable suggestions focusing on monitoring, campaigning, and capacity-building programmes highlight the critical role that civil society plays. In order to create an inclusive society where the rights and dignity

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of Scheduled Tribes are protected, the conclusion highlights the need of tearing down systemic barriers, increasing public understanding, and promoting justice.

## II. KEY WORDS

Schedule Tribe, Atrocities, Welfare, Discrimination, Violence

## III. INTRODUCTION

“Democracy is not the law of the majority but the protection of the minority” this statement is once said by **Albert Camus** (French Philosopher)<sup>2</sup>. India is the largest democracy in the world, one of the main pillars it stands on is that it has many values and full of diversity. But these words are just too good to be true when it comes to the protection of minorities. The Indian Constitution gave legal sanction to the idea of tribes. Adivasis were classified as Scheduled Tribes, which provided them with certain protective safeguards including the Indian Constitution's Fifth and Sixth Schedules, which gave them a certain amount of autonomy.

**According to the Merriam Webster dictionary**, "atrocities" is defined as an act, thing, or circumstance that is shockingly horrible or atrocious; examples include the atrocities of war and the quality or state of being atrocious<sup>3</sup>. According to the Merriam Webster dictionary, violence is defined as the use of physical force to cause harm, abuse, damage, or destruction.<sup>4</sup>

In the Indian Constitution, the term "Scheduled Tribes" first appeared. According to Article 366 (25) of the Constitution, scheduled tribes are defined as "such tribes or tribal communities, or portions of or groups within such tribes or tribal communities, as are deemed under Article 342 to be Scheduled Tribes for the purposes of this constitution." Article 342 outlines the steps that must be taken for specifying scheduled tribes, which are listed below.<sup>5</sup>

In India now, there are 84.3 million ST people, or 8.2% of the total population, divided

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<sup>2</sup>Available at <https://www.tribuneindia.com/news/thought-for-the-day/democracy-is-not-the-law-of-the-majority-but-the-protection-of-the-minority-%E2%80%94-albert-camus-203650> (last visited on January 20, 2024).

<sup>3</sup><https://www.merriam-webster.com/dictionary/atrocity#:~:text=1,or%20state%20of%20being%20atrocious> (last visited on January 21, 2024).

<sup>4</sup>Ibid.

<sup>5</sup>Constitution of India, 1950.

into 461 ethnic tribes and another 174 unrecognized tribal groups.

Even after more than 70 years of independence, people who belong to the so-called scheduled caste and scheduled tribes continue to face discrimination and heinous kinds of atrocities at the hands of those who occupy the highest caste positions in Indian society. India is dedicated to the welfare and development of all of its citizens, but especially of the most vulnerable members of society. The Indian Constitution guarantees equal status and opportunity to all citizens of the nation and forbids discrimination on the basis of race, religion, caste, gender, or any other factor. The Indian Constitution's fundamental rights and other specific provisions, specifically Articles 38, 39, and 46, attest to the State's dedication to its citizens. The goal of the State's approach is to ensure distributive justice and the funding of initiatives aimed at advancing the social, economic, and educational status of the weaker groups in general and members of the Scheduled Castes and Scheduled Tribes in particular.<sup>6</sup>

Adivasis, or Scheduled Tribes (STs), are indigenous groups that have lived in India's woods, hills, and remote areas for generations. These marginalized people have historically experienced various sorts of brutality and atrocities despite their distinctive cultural heritage and strong attachments to the land. The following are these communities' fundamental traits:

Primitive Traits, Geographical isolation, distinct culture, shy of contact with community at the large and economically backward. Though India has been independent for the past 74 years but the tribal group still faces severe violence all over the country. According to National Crime Records Bureau [NCRB] data, there were 76,899 offences against STs documented in the last 10 years (2011–20). 5,756 of these offences were recorded in 2011, and 8,272 of them were by 2020. Remember that these are only the reported occurrences of violence; the actual number of incidents is almost certainly substantially higher.<sup>7</sup>

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<sup>6</sup>Jayant Pankaj, *Why is there a surge of violence against Tribals in India?*, 2022 available at <https://theleaflet.in/why-is-there-a-surge-of-violence-against-tribals-in-india/> (last visited on January 10, 2024).

<sup>7</sup><https://ncst.nic.in/content/crime-against-scheduled-tribes>. (last visited on January 10, 2024).

Crimes against Scheduled Tribes (STs) were reported in 10,064 instances overall, a 14.3% rise from 8,802 occurrences in 2021.<sup>8</sup> A horrific history of atrocities committed against Scheduled Tribes in India spans decades. Adivasi communities have suffered greatly, from losing their ancestral lands to forced work and relocation brought on by development projects. Their vulnerability has been exacerbated by the exploitation of their natural resources and separation from the rest of civilization.

Land confiscation, cultural deterioration, people trafficking, forced relocation, and other atrocities and violent acts are occurring against the Schedule Tribes. The Indian legal system has established a number of safeguards to protect Scheduled Tribes' rights and well-being since it is aware of the particular difficulties they experience. The Scheduled Tribes are also protected and safeguarded by numerous laws, including the PESA Act of 1996, the Forest Rights Act of 2006, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Despite the aforementioned legal protections, Schedule tribes continue to face issues in Indian societies, which are covered in the project work.

This research paper delves to understand the issues like historical and social factors contributing to atrocities and its forms of atrocities and violence experienced by Scheduled Tribes in India. Further this paper explores the shocking reality of atrocities committed against Scheduled Tribes in India while illuminating the framework put in place by the law to resolve these problems.

#### **IV. AIMS & OBJECTIVES**

The paper attempts to understand the various forms of atrocities and violence against the Schedule Tribes.

1. In addition to this also understand various historical and social factors contributing to atrocities against the Schedule Tribes in India?
2. Legal provisions dealing with the Safeguard interest of Schedule Tribe.
3. To determine the fundamental reasons and motivators of violence against Scheduled Tribes.

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<sup>8</sup>[http://timesofindia.indiatimes.com/articleshow/105790790.cms?from=mdr&utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/105790790.cms?from=mdr&utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst) (last visited on January 20, 2024).

4. To make recommendations for new initiatives to address the underlying causes of violence as well as changes to current policies.

## V. LITERATURE REVIEW

### a. **Dr. Sheetal Kanwal; Collective Violence; Amar Law Publication, Indore; 4<sup>th</sup>Ed. 2023.**

This book has discussed the concept, definition, causes and many types of violence committed in our society and country. But I have focused on the topic like atrocities and violence against STs which is also dealt under the SC-ST Act. Moreover, this book also dealt with notion of the atrocities in which detailed provisions are discussed. Many relevant cases and incidents are also dealt under this book to understand the concept of atrocities. It also discussed the important provision of the constitution and its aspects related to safeguarding the interest of the schedule tribes.

Since women in scheduled castes and tribes are considered to be a weaker segment of society and are granted special protections and concessions under the Indian constitution, the author focused on this situation. She claimed that India's complex social satisfaction system gives rise to a multitude of social categories, which frequently obscure the relative status of women and men with the more disadvantaged segments of the population. Show how much fewer opportunities for education and employment are available to men in these categories than to women. This finding also implies that socioeconomic growth scenes should lessen women in scheduled groups' disadvantages compared to men.

### b. **V.N. Shukla and M.P. Singh; V.N. Shukla's constitution of India; Lucknow: Eastern Book Co; (2007).**

A prominent legal book and thorough commentary on the Indian Constitution is "V.N. Shukla's Constitution of India". This book, written by eminent legal researcher V.N. Shukla with co-author M.P. Singh, has long served as a standard reference for legal professionals, academics, and students of Indian constitutional law.

The book offers an in-depth review of the Indian Constitution, taking into account its foundation in history, important clauses, case law, and judicial interpretations. It is an

essential tool for comprehending how intricate and dynamic India's constitutional system is.

- c. Manjaly, A. Jason; Dehumanization of Scheduled Castes and Scheduled Tribes (SC/ST): Evidence from Implicit, Moderate, and Blatant Measures; Analysis of Social Issue and policy; Vol. 2, 2020.**

## **VI. RESEARCH QUESTIONS**

The Research questions are as follows-

1. What are the historical and social factors contributing to atrocities against the Schedule Tribes in India?
2. What are the different forms of atrocities and violence experienced by Scheduled Tribes in India?
3. What are the main challenges in implementation and enforcement of laws that shield the rights of the Scheduled Tribes from discrimination and violence?
4. What are the role of law enforcement agencies and its legal provisions related to prevent the interest of the Schedule Tribes?
5. What measures have been proposed or recommended by the experts and advocacy groups to enhance the interest of the Schedule Tribes?

## **VII. RESEARCH HYPOTHESIS**

The hypothesis of the researcher is to assume that the lack of awareness and effective implementation of legal provisions and protective measures contribute to the persistence of violence and atrocities against Scheduled Tribes.

## **VIII. RESEARCH METHODOLOGY**

The researcher while constructing the research adopts both doctrinal as well as non-doctrinal method approach. The researcher has used the descriptive and explanatory type of study as the researcher is providing the description of existing facts and used the uniform mode of citation throughout the project.

### **a. Sources of Data**

Primary data will be collected through examining and analysing documents, records, or archives to extract relevant information patterns, tactics, and emerging trends related to atrocities as a sources of data.

Secondary data will be obtained through interviews with legal experts, policymakers, representatives of the justice system, an extensive review of legal literature, statutes, and relevant academic publications.

#### **b. Limitations**

Even though the study attempts to provide a thorough analysis, there are several limitations that must be acknowledged. The study tries to make significant similarities and provide generalizable insights, particularly with regard to India's legal system, rather than offering a complete analysis of every legal system in the world. During conducting the research, the investigator encountered numerous other constraints, such as time restraints that precluded comprehensive data gathering and analysis. Throughout the study, the researcher consistently cited sources using the same format.



## IX. HISTORICAL BACKGROUND

One of the most sensitive concerns currently facing in India is that the crime against the Schedule Caste and Schedule Tribes. Although there is a long history of crime against these oppressed social groups, few of those issues have recently grown too contentious. Crime is dispersed unevenly across the nation, just like any other social phenomenon. Due to historical, social, and economic reasons, India's Scheduled Tribes (ST) have been subjected to centuries of tyranny, prejudice, and brutality. The article exposes the structural injustices that have plagued these marginalized communities for years by tracing the horrifying history of crimes against humanity and violent acts against them<sup>9</sup>.

The British Raj plundered the land and resources of India's Scheduled Tribes throughout the colonial era, which led to their destitution and marginalization. This is when the Scheduled Tribes began to suffer from abuse. By using 1871 Census to classify indigenous populations, the British developed the idea of "Scheduled Tribes." They were further exposed to discrimination and exploitation as a result of this designation, not the other way around.

**During Colonial Rule** - Tribal lands were systematically taken during colonial control for extensive plantations, mining, and infrastructure development. They were further pushed into poverty and reliance by the Forest Laws of the time, which restricted their customary means of subsistence. Due to the taking of land and resources, there were significant economic struggles, emancipation, and cultural identity loss.<sup>10</sup>

### Post-Independence Struggles

The struggles of the Scheduled Tribes continued even after India attained independence in 1947. In order to improve the lives of underprivileged people, the

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<sup>9</sup> M. Gawas, Vijay, 2017, Analysis for the law of atrocities against the Schedule Caste and Schedule Tribes, Vol-6/29, Pg. 8195-8204, Retrieved from <https://www.srjis.com/pages/pdfFiles/154020198933.%20Mr.%20Vijay%20M.Gawas%202.pdf#:~:text=The%20problem%20of%20atrocit%20against%20Scheduled%20tribes%20in,Keywords%3A%20Atrocit%20C%20ca%20ste%20C%20Disabilities%20C%20cause%20C%20constitution%20Mandate%20C%20statues.> (last visited on January 15, 2024).

<sup>10</sup> Ibid.

newly elected Indian government implemented affirmative action measures like hiring and educational reservations. Although these actions had the best of intentions, they frequently failed to address the underlying causes of violence and atrocities against STs. Scheduled Tribes continued to experience unregulated violence, which was frequently made worse by social injustices, land conflicts, and resource extraction. These populations have experienced horrible atrocities like as extrajudicial killings, sexual assault, and forced relocation in numerous instances.<sup>11</sup>

**Land Alienation:** The encroachment of outsiders onto Adivasi land has been a serious historical issue. The colonial and post-independence administrations appropriated forests, which were frequently inhabited by Adivasi groups, for resource extraction and development projects, uprooting many Adivasis from their ancestral lands. The Government of India's Ministry of Rural Development asserts the following under the category "Prevention of Alienation and Restoration of Alienated Tribal Lands" in its 2007–2008 Annual Report<sup>12</sup>: Data gathered from many States shows that 5.06 lakh cases of tribal land alienation have been filed, totaling 9.02 lakh acres of land. Of those cases, 2.25 lakh cases have been settled in favour of the tribal people, including a total area of 5.00 lakh acres. For a variety of reasons, the courts have denied 1.99 lakh cases including 4.11 lakh acres.

**Violence and Discrimination:** Both state and non-state entities have used violence and discrimination against Adivasis. Over the years, reports have surfaced of instances of private militia atrocities, sexual assault on Adivasi women, and police brutality. Due to the exploitation and disregard for Adivasis, the Naxalite movement<sup>13</sup> emerged in the late 1960s. It sought to address socio-economic issues but also led to violence and conflict in many tribal areas. The name of the West Bengali village called

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<sup>11</sup> <https://www.equalitynow.org/addressing-sexual-violence-against-marginalized-communities-in-india/>, (last visited on January 20, 2024).

<sup>12</sup> Dr. Abhay Chawla, Land alienation-extent and causes; Available at <https://ebooks.inflibnet.ac.in/antp13/chapter/land-alienation-extent-and-causes/> (last visited on February 17, 2024).

<sup>13</sup> The term Naxalism derives the name of the Naxalbari village in West Bengal where a peasant revolt took place against local landlords who had beaten up a peasant over a land dispute in 1967.

Naxalbari, where a peasant uprising against local landlords who had assaulted a peasant over a land dispute in 1967, is where the word "Naxalism" originates.

**Development Projects:** Large-scale commercial and infrastructure projects, such as dams and mines, frequently uproot Adivasi tribes without providing them with proper compensation or rehabilitation. Protests and clashes have been sparked by these initiatives. It is not surprising that tribal people represent over 40% of the 60 million people who have been displaced in India as a result of development projects, since 90% of our coal, over 50% of our minerals, and most dam sites are located in tribal areas<sup>14</sup>.

**Land Rights and Forest Rights**<sup>15</sup>: - The conflict over ownership of land and forests has frequently come up. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 sought to correct historical wrongs by recognizing rights to Adivasis and communities that live in the forest, but its implementation has been delayed and plagued by problems.

**Violence from Local Landlords and Dominant Castes:** In many areas, dominant caste groups and local landowners who want to keep hold of the land and resources use violence against Adivasis.

## X. FORMS OF ATROCITIES AND VIOLENCE

The unique way of life and rich cultural legacy of India's Scheduled Tribes (STs) are ingrained in the nation's past. They have, however, also experienced numerous acts of violence and atrocity as a result of societal inequities, economic inequality, and historical wrongdoings. Many Scheduled Tribe members still experience violence, harassment, and discrimination in various ways, despite legal protections and affirmative action guidelines forms.<sup>16</sup> The process of defining "vulnerability," "violence," and "abuse" is not a matter of hair-splitting or academic accuracy; rather,

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<sup>14</sup> Land alienation-extent and causes; Dr. Abhay Chawla Available at <https://ebooks.inflibnet.ac.in/antp13/chapter/land-alienation-extent-and-causes/> (last visited on February 17, 2024).

<sup>15</sup> The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

<sup>16</sup><https://opo.iisj.net/index.php/osls/article/view/1484/1828#:~:text=The%20POA%20Act%20defined%20atrocity,castes%20or%20tribes%2C%20constituted%20atrocities> (last visited on January 16, 2024).

it is a technique to describe and make visible the abuse of people who are frequently unable to bring their experiences into the public arena or onto a public agenda. While not being "able" in this context may be - but frequently is not - a direct result of impairment, immaturity, or physical or mental frailty, it typically has a strong social component that includes the fact that less powerful groups are frequently actively discouraged or prevented from filing charges or complaints, and their experiences of violence are minimized or excused.<sup>17</sup>

The violence that Scheduled tribes must deal with is primarily structural, which means it doesn't exist in a vacuum. Since casteism was established, a framework of religious, cultural, economic, and political elements has existed and continues to be a source of violence. The violence that members of this group experience is directed toward the community as a whole rather than any one person. As a result of being a member of that community, the person is therefore subject to that type of violence, which is a result of long-standing socioeconomic principles that the society has upheld.

**These are the following forms of atrocities and violence against the schedule tribes:-**

**1. Social atrocities and violence: -**

STs experience social discrimination in various forms. They are often treated as inferior by dominant caste groups, leading to exclusion from social and religious activities. Discrimination in education, healthcare, and access to public services further marginalizes them. As per the RTI application filed by the Ambedkar Periyar Phule Study Circle (APPSC) related to the admissions of the backward class in the programme of Ph.D. in IIT Bombay, it was revealed that no admission given to any ST candidates this year 2023<sup>18</sup>. So, this is also a very crucial and important issue to look into this and this causes more backdrop in the higher education level from the ST

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<sup>17</sup> Manjaly, A. Jason, 2020, Dehumanization of Scheduled Castes and Scheduled Tribes (SC/ST): Evidence from Implicit, Moderate, and Blatant Measures, Analysis of Social Issue and policy, Vol. 20, Issue 1, PP 563-583, Retrieved from <https://spssi.onlinelibrary.wiley.com/doi/10.1111/asap.12214>.

<sup>18</sup>Sanjay Sharma; IIT Bombay accused of flouting reservation norms in PhD admissions 2023 Available at: <https://timesofindia.indiatimes.com/education/news/iit-bombay-accused-of-flouting-reservation-norms-in-phd-admissions-2023/articleshow/103276956.cms> (last visited on January 20, 2024).

communities as well as the nation. Religious and Superstitious Practices: - The distinctive religious and superstitious customs of some ST communities are sometimes misunderstood and vilified. Due to their traditions and beliefs, they are the target of violence and discrimination.

### **Violence against Schedule Tribe Women**

Particularly susceptible to abuse and discrimination are women from ST communities. They are the targets of dominant caste members' sexual harassment, physical abuse, and even rape. Cases like the 2014 Badaun gang rape and murder of two Dalit sisters in Uttar Pradesh highlight this brutal reality. Such incidents not only traumatize the victims but also send a chilling message to the entire community, perpetuating fear and submission<sup>19</sup>.

#### **2. Economic forms of atrocities and violence<sup>20</sup>: -**

Another cruelty is the economic exploitation of STs. They frequently do not receive just compensation for their labour and are compelled to work in abusive circumstances. Tribal communities are marginalised as a result of these economic inequalities, which also hinder their socioeconomic advancement. Economic violence against STs also includes Exploitation in Labour Practices, Unequal Access to Resources, Denial of Forest Rights, Discrimination in Economic Opportunities, Infrastructure Development Disparities, the exploitation of forest resources, and eviction from ancestral territories.

#### **3. Atrocities by Law Enforcement Agencies-**

Police brutality towards STs is a typical occurrence. The police frequently ignore their complaints or abuse their authority to single out and persecute STs. There have also

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<sup>19</sup>Shubhangi Mishra; 5 Yrs On, Case of Badaun Girls Found Hanging From Tree Still Murky; Available at: <https://www.thequint.com/explainers/badaun-alleged-gang-rape-and-murder-case-explained#read-more>. (last visited on February 17, 2024).

<sup>20</sup>Available at <https://opo.iisj.net/index.php/osls/article/view/1484/1828#:~:text=The%20POA%20Act%20defined%20atrocities,castes%20or%20tribes%2C%20constituted%20atrocities> (last visited on February 17, 2024).

been reports of extrajudicial killings and deaths in custody<sup>21</sup>. Starting with the criminal justice system, it is evident that the initial and crucial step in any case in terms of the delivery of justice is the Information report. As a result of this, we have observed numerous instances when the police are unwilling to record cases involving any weaker group that obstruct the administration of justice. Eg. Manipur violence<sup>22</sup> is also the one of the negligence and intentional illegal act done by the police in which two woman was parading naked by so many people.

- **Human Trafficking:** - STs are susceptible to being trafficked, especially women and children. They fall victim to exploitative situations like forced labour and prostitution after being seduced by false promises of greater career possibilities.
- **Naxalite Conflict**<sup>23</sup>: Adivasis are frequently caught in the crossfire between the government security forces and Naxalite rebels in areas with a high Naxalite (left-wing extremist) population. They frequently experience violence on both sides.
- **Lack of Access to Justice:** - Despite the fact that there are laws and provisions to protect STs, a sizable portion of violent incidents against them get unreported, and even fewer end in convictions. Effectively addressing these atrocities is severely hampered by the lack of access to justice.

#### 4. Political forms of atrocities against Schedule Tribes

Political forms of atrocities against Schedule Tribes in India is not a new concept. These atrocities often stem from historical injustices against these marginalised section of the societies. It includes a range of regulations and laws that have been carried out by individuals or political groups and cause harm, prejudice, and injustice to these

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<sup>21</sup> Ibid.

<sup>22</sup> Manipur Violence Highlights: All 4 accused sent to 11 day police custody; <https://www.livemint.com/news/india/manipur-news-manipur-violence-women-paraded-naked-abduction-pm-modi-kuki-itlf-protest-bjp-congress-11689814444324.html> (last visited on January 21, 2024).

<sup>23</sup> A historical introduction to Naxalism in India; <https://www.efsas.org/publications/study-papers/an-introduction-to-naxalism-in-india/> (last visited on January 21, 2024).

underprivileged communities<sup>24</sup>. Displacement and Land Acquisition, Inadequate Implementation of Protective Laws, Lack of Representation, Arbitrary Use of Power there many such instances which are present in our society.

Healthcare Disparities: Poor health outcomes are frequently the result of STs' frequent lack of access to healthcare facilities. Among the problems they experience are high infant mortality rates and subpar maternity care.

## **XI. CHALLENGES TO ADDRESSING VIOLENCE AND DISCRIMINATION AGAINST SCHEDULED TRIBES**

Following are some challenges which causes hindrance in order to safeguarding the interest of the ST and these are given below-

- 1. Implementation Gaps:** Strong legislative foundations aside, bureaucratic indifference, corruption, and opposition from special interests make it difficult to actually put these laws into practice. Inadequate methods for monitoring and evaluating the application of laws and regulations can result in non-compliance and inefficiency due to a lack of such mechanisms. Implementing regulations and allocating rewards frequently entails a number of government departments and employees, which can lead to bureaucratic delays and corruption. Resources intended for STs may be misallocated and delayed as a result of corrupt officials and bureaucratic red tape. The Forest Rights Act and the Panchayats (Extension to Scheduled Areas) Act<sup>25</sup> are just a couple of the laws and policies that try to preserve ST rights, but it's not always clear how they're being put into practice.
- 2. Lack of Awareness about Social Welfare Scheme:** The distinct cultures, histories, and difficulties encountered by STs may go unnoticed and un-understood by many individuals, including government officials. Stereotypes and biases may become entrenched as a result. Informational Awareness:

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<sup>24</sup>Smirti Sharma; Caste-based crimes and economic status: Evidence from India, Available at <https://www.sciencedirect.com/science/article/pii/S0147596714001048> (last visited on February 17, 2024).

<sup>25</sup>Forest Rights Act; <https://tribal.nic.in/FRA.aspx> (last visited on January 21, 2024).

Adivasi communities are unable to successfully claim their legal rights due to a lack of knowledge about their rights and restricted access to education.<sup>26</sup>

3. **Inadequate Legal Protections:** Many people, including government officials, might be unaware of and underappreciate the distinctive cultures, history, and challenges faced by STs. As a result, biases and stereotypes could become established.
4. **Informational Awareness:** Adivasi communities struggle to assert their legal rights because they are unaware of these rights and have limited access to education.
5. **Lack of Socioeconomic Development:** Poverty, a lack of access to necessities, and underdevelopment in tribal areas increase the vulnerability of STs and preserve their marginalized status. The most important step the government can do to improve society is to look at the ground level and reduce the gap between its policies and the weaker groups<sup>27</sup>.

In order to redress and prevent atrocities, it is essential to educate Scheduled Tribes in India on their rights, privileges, and support systems. Some suggestions for on-ground awareness-building programs- Health Awareness Camps by nearest Doctors, Community Dialogues and Forums by Police Personnel's, Capacity Building Programs in collaboration with NGOs and Civil Society these are the running program either by the government or the separate organisations to educate the weaker sections. It is seen that camps are being organised to aware about the rights, duties and also about some vocational or by training methods to engage in employment.

Government has started the Legal Aid Clinics by nearest Colleges in almost every place but it needs proper support to educate the tribal people i.e. Pro Bono Services by Ministry of Law.

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<sup>26</sup><https://timesofindia.indiatimes.com/education/news/iit-bombay-accused-of-flouting-reservation-norms-in-phd-admissions-2023/articleshow/103276956.cms> (last visited on January 20, 2024).

<sup>27</sup>Smirti Sharma; Caste-based crimes and economic status: Evidence from India, Available at <https://www.sciencedirect.com/science/article/pii/S0147596714001048> (last visited on Feb, 17.2024).



## XII. LEGISLATIVE SUPPORT FOR THE PROTECTION OF SCHEDULE TRIBES

A major goal of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act. And the intention is that the Dalits and the Adivasis have endured prejudice for the greatest amount of time among the scheduled castes and scheduled tribes. The founding fathers of the constitution assured that they would not experience any form of untouchability due to the extreme discrimination they endured. Article 17<sup>28</sup> was included to the constitution as a fundamental right for this reason.

As a result, Article 17 made it quite apparent that all types of untouchability were abolished, whether by words, deeds, or support. Untouchability is not a real concept. Dr. Ambedkar and the founding fathers of the constitution did not define untouchability, nevertheless. As a result, any form of untouchability is forbidden by law. But what's so intriguing about this is that Article 17 isn't just a constitutional clause.

Untouchability is also illegal under the Protection of Civil Rights Act, which was passed in 1976. This law wasn't really that strict. It was not operating in accordance with the requirements and goals for which this legislation was designed. The Scheduled Castes and Scheduled Tribes' Prevention of Atrocities Act, 1989, was thus created in order to provide a strict and strict rule.

This law contains unusual law: -

- It will build exclusive special courts and special courts with special privileges. It indicates that it won't combine with cases from other courts.<sup>29</sup>
- Only non-scheduled castes or non-scheduled tribes are permitted to commit crimes. Thus, no charges will be brought against those who belong to scheduled castes and scheduled tribes. The perpetrator of this offence must be someone who targets people of scheduled castes and scheduled tribes. There is no provision of anticipatory bail. Anticipatory bail entails that you can apply

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<sup>28</sup> Constitution of India, 1950. A 17.

<sup>29</sup> The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

under Section 438<sup>30</sup> of the Criminal Procedure Code and get anticipatory bail from the session judge or the honourable high court if you anticipate being arrested or believe that an arrest is likely.

The Prevention of Atrocities Act for Scheduled Castes and Scheduled Tribes does not, in any case, permit anticipatory bail. And for that reason, this law was and still is extremely potent.

**Dr. Subhash Kashinath Mahajan**, the appellant in this case<sup>31</sup>, filed a public interest litigation and stated in his application that "My Lord, you have not inserted any anticipatory bail in the stringent provision." Therefore, the Prevention of Atrocities Act for Scheduled Castes and Scheduled Tribes was severely weakened by the Supreme Court in 2018.

- (i) This kind of strict legislation shouldn't exist. The court ruled that any public employee cannot be arrested instantly under the SC ST Act's provisions for prompt arrest. They can only be taken into custody with the appointment authority's consent.
- (ii) Only with the superintendent of police's approval may any private individual be arrested. In other words, less senior police officials are restricted from doing anything.
- (iii) Within 24 hours of being detained by the police, the person must appear before the magistrate. Then the magistrate issued what are known as remand orders. But in this instance, it is claimed that the magistrate will consider that record even if the appointing body grants approval. These written records will be carefully examined. If the magistrate believes that additional detention is necessary, only he will approve if he is satisfied.
- (iv) In order to determine whether a FIR<sup>32</sup> is being utilized improperly or is being justified as a legal infraction, you must first undertake what is

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<sup>30</sup> The Criminal Procedure Code, 1973.

<sup>31</sup> Criminal Appeal No.416 OF 2018.

<sup>32</sup> The Criminal Procedure Code, 1973, S. 154.

referred to as a preliminary inquiry.

The Supreme Court asserted that between 15% and 16% of all charges were false to bolster this assertion. Misuse of the legal system was one of them. As a result, it evolved into a very dangerous system that puts everyone who is falsely accused at risk of harassment<sup>33</sup>. It was not, however, treated lightly. There were several protests and rallies in response to this ruling, especially from populations belonging to scheduled castes and scheduled tribes. They claimed that all will end immediately.

The Scheduled Castes and Scheduled Tribes Prevention of Atrocities Amendment Act of 2018 was another law passed by the parliament. The government now performs two tasks. They first filed a review petition under Article 137 against the Supreme Court's decision, stating that they disagreed with the ruling. The 18A was firmly maintained by the three-judge panel. The key point is that, even if it is determined that some cases have been mishandled, the statute as a whole does not necessarily need to be repealed.

#### **After Amendments in 2018-**

- It enhanced the original Act by adding Section 18A<sup>34</sup> (the preliminary enquiry shall not be required for registration of a FIR). The provision of section 438 (pre-arrest bail) of the Code of Criminal Procedure (Cr.P.C) shall not apply to a case under the Act.
- It lists certain crimes committed against Scheduled Tribes and Scheduled Castes as atrocities, outlines countermeasures, and suggests penalties.
- It defines which conducts are considered "atrocities," and all violations specified in the Act are punishable by law.
- Without a warrant, the police can apprehend the offender and begin their investigation without the magistrate's authority.
- The Act provides for the appointment of Public Prosecutors/Special Public Prosecutors to handle matters in special courts and requires all states to transform

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<sup>33</sup> Supra at 24.

<sup>34</sup> Criminal Appeal No.416 OF 2018.

an existing session court in each district into a Special Court to hear cases registered under it.

- It establishes guidelines for states designating regions with high rates of caste violence as "atrocities-prone" and designating suitably qualified personnel to oversee and uphold law and order.
- It lays out what happens when non-SC/ST public employees willfully ignore their responsibilities.
- The Union Territory Administrations and State Governments, with appropriate central help, carry it out.

**Untouchability was abolished in 1950**<sup>35</sup> - The availability of reservations in locations like educational institutions, for jobs, etc. Establishing national commissions and social welfare departments for the benefit of scheduled castes and tribes.

**Right to Equality**<sup>36</sup> - The Indian Constitution's Articles 14, 15, 16, 17 and 18 specifically stress the right to equality. It speaks of equality before the law, eliminating any injustice based on caste, race, religion, location of birth, or sex.

Additionally, it calls for the elimination of titles, untouchability, and equitable employment opportunities.

### XIII. RECOMMENDATION

1. For the many laws now in place for Scheduled Castes and Scheduled Tribes to be effectively implemented, the government should take severe administrative measures.
2. It is necessary to establish an Equal Opportunity Commission that will focus on the scope and complexity of any problems relating to the Scheduled Castes and Tribes in our nation and assist the Special Commission established for the Scheduled Castes and Tribes in carrying out its duties. This will be a specialized organization that will advance various constitutional objectives on behalf of

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<sup>35</sup> Abolition of Untouchability, <https://www.drishtijudiciary.com/to-the-point/ttp-constitution-of-india/abolition-of-untouchability> (last visited on February 17, 2024).

<sup>36</sup> Constitution of India, 1950, A.1 4.

underprivileged and disadvantaged groups of people. This commission will work to address the issues of discrimination and the denial of equal opportunity to those who are disadvantaged, and it will serve as a watchdog to assess any affirmative action.<sup>37</sup>

3. Special legislative provisions created to protect the Scheduled Caste and Scheduled Tribes should change with time, and adjustments should be made while taking crime data reports against the Scheduled Caste and Scheduled Tribes into consideration.
4. The burden on the courts would be lessened by creating special tribunals that would solely be responsible for cases filed in response to atrocities committed against members of the Scheduled Caste and Scheduled Tribes. Furthermore, speedy justice will be delivered. This will make it easier for those who have been wronged to speak up against what has been done to them, and quick justice will give them the self-assurance they need to live proudly in the harsh society where the caste system is practiced.<sup>38</sup>
5. The government and its agencies should raise awareness of the rights violations suffered by the scheduled tribes and castes, and campaigns should be undertaken in different districts and villages to do so. They should be made aware of their rights as well as the government programmes available to them for advancement.
6. The government and its agencies must to regularly examine these awareness efforts and programmes. This would make it easier for Schedule caste and tribe members who are underprivileged and without access to education or basic necessities to rise up and seek assistance.

**Civil Society's Role in monitoring and Documentation:** Establish an accurate

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<sup>37</sup>[https://ncst.nic.in/sites/default/files/documents/subject\\_wise\\_recommendations/Subject%20wise%20Recommendations%20Education7790862527.doc](https://ncst.nic.in/sites/default/files/documents/subject_wise_recommendations/Subject%20wise%20Recommendations%20Education7790862527.doc) (last visited on January 24, 2024).

<sup>38</sup><https://www.livemint.com/news/india/manipur-news-manipur-violence-women-paraded-naked-abduction-pm-modi-kuki-itlf-protest-bjp-congress-11689814444324.html>. (last visited on January 21, 2024).

framework to keep track of and record instances of crimes committed against STs. This information can be used as the foundation for awareness-raising campaigns, legal proceedings, and advocacy. Local communities and civil society organisations can work together to ensure thorough coverage and prompt reporting of incidents.

**Capacity Building and Legal Aid:** Provide programmes aimed at enhancing the ability of nearby civil society organisations and the impacted communities. Training sessions on legal rights, documentation methods, and obtaining assistance systems are a few examples of this. Establish legal aid clinics or helplines as well. These services assist victims of atrocities by assisting them with the legal system and enabling them to access justice<sup>39</sup>.

#### XIV. CONCLUSION

Atrocities and violence against schedule Tribes in India is still an entrenched challenges that demands urgent attention, compressive solutions, and collective efforts to tackle these issues. Nearly all types of crimes had been committed against Scheduled Tribes throughout this time. The government has also made great efforts to protect them. Article 17 for the abolition of untouchability and Article 46 was implemented to support their rights to an education and a livelihood. In Panchayats and Municipalities, they were also given reserved seats. They were given their own National Commission. The government again passed several laws with harsh penalties when things did not go according to their intentions. A civil rights protection legislation was approved. The Schedule Tribes and Schedule Castes Prevention of Atrocities Act, 1989, was passed last. This law eliminated anticipatory bail. There were formed special courts. And the perpetrator cannot belong to a caste listed in the Schedule. A list was also created for several Section 3 (1) offenses.

In India, there are several active land conflicts. Due to their lack of legal rights, they therefore became more vulnerable. Every day, tribal women are raped. They are not

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<sup>39</sup>Shri Arjun Munda Launches 'Capacity Building Programme for Scheduled Tribe Pri Representatives' and '1000 Springs Initiatives' in Bhubneshwar ; Available at: <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1604574> (last visited on January 21, 2024).

thought of as equals. They are denied their freedom, equality, means of subsistence, and sense of self. Their speech is being silenced. It is difficult for the state to provide scheduled tribes the information they lack. They should be treated as "humans," not as "others," instead of being referred to as "others." They labour in agriculture, are hunters, gatherers, hilly tribes, and plainsmen. Industrial regions were off-limits to them for employment. Their way of life was disturbed by the clearing of the trees. They lost their housing. Due to their massive debt, their lands were also taken, and they were forced to rely on moneylenders to make ends meet.

Despite its critical importance, civil society must take an active part in monitoring, documenting, and promoting STs' rights. Civil society may play a vital role in holding offenders accountable and establishing a more inclusive and equal society through raising awareness, empowering communities, and working with diverse stakeholders. A comprehensive strategy to eliminate crimes must also address economic inequality, guarantee access to healthcare and education, and protect tribal groups' traditional identities. It requires that those making decisions, law enforcement, and the general public understand how urgent this problem is and collaborate with one another. In addition to changes in the law, the future demands a paradigm shift in societal views, the development of empathy, and the advancement of equality and justice. Only through collective and sustained efforts can India aspire to build a society where the rights and dignity of Scheduled Tribes are safeguarded.

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