



# **PEOPLE'S REPORT ON IMPLEMENTATION OF SCs & STs (POA) ACT 1989 AND RULES 1995**

**2009 - 2011**



**National Coalition for Strengthening SCs and STs (Prevention of Atrocities) Act  
(NCSPA)**

My final words of advice to you are educate, agitate and organize; have faith in yourself. With justice on our side I do not see how we can loose our battle. The battle to me is a matter of joy. The battle is in the fullest sense spiritual. There is nothing material or social in it. For ours is a battle not for wealth or for power. It is battle for freedom. It is the battle of reclamation of human personality.

*Dr. B. R Ambedkar*

**Preparation of the Report :** Jesintha Mary & Aloysius Irudayam

**Collection of RTI information:** Keshav Jailiya & Nirupama

**Assisted by:** Rahul Singh, Ashim Boral, Abirami, Jayshree Mangubhai

**Design:** Vineet Jingala

**Printing:** Vashista Offset

### **National Coalition for Strengthening the SC/ST (Prevention of Atrocities) Act Organisations Associated:**

Adharshila, Adivasi Solidarity Council (South India Network), Alternative Forum for Dalit Liberation, AP, Dalit Bahujan Shramik Union, Alliance for Dalit Rights, All India Dalit Mahila Adhikar Manch, Ambedkar Lohiya Vichar Manch, Anhad, Bachpan Bachao Andolan – Bihar & Jharkhand, Behavioral Science Centre, Bhartiya Gramin Vikas Evam Kalyan Samiti, Campaign for Human Rights, CBCI Commission for SC/ST/BC, Centre for Dalit Rights-Rajasthan, Centre for Social Equity and Inclusion, Centre for Mountain Dalit Rights -Himachal Pradesh, Centre for Social Justice, Centre for Social Justice & Development, CSRD- People Monitoring Committee, Cornerstone, Dalit Aarthik Adhikar Aandolan, Dalit Action Group, Dalit Bahujan Front, Dalit Dasta Virodhi Manch, Dalit Foundation, Dalit Movement for Human Rights and Dignity, Dalit Mukti Morcha, Dalit Nyay Andolan, Dalit Samanway, Dalit Sthree Shakti, Delhi Forum, Development Initiative, Domestic Workers Forum – Chetanalaya, Dr. Ambedkar Agriculture Development and Research Institution, Dr. Ambedkar Excellence Education and Public Welfare Institution Samiti, Dynamic Action Group, Evidence, Human Rights Alert, Human Rights Forum for Dalit Liberation – Karnataka, Human Rights Forum for Dalit Liberation – TN, Human Rights Foundation, Human Rights Law Network, Indian Alliance for Child Rights, Indian Confederation of Indigenous and Tribal Peoples, Indian Institute of Dalit Studies, Indraprastha Public Affairs Centre, Insaaf Dilao Committee, Integrated Rural Development Service Organisation, Jana Vikas, Jan Sahas, Janvikas, Jeevika, Jogini Vyavastha Vithirekha Poreta Samiti, Karnataka Dalit Mahila Vedike, Madhya Pradesh Dalit Mahila Hitkari Sanstha, Manuski, Multiple Action Research Group, NCCI Commission on Dalits, Narigunjan, National Action Forum for Social Justice, National Campaign on Dalit Human Rights, National Council of Dalit Christians, National Dalit Election Watch, National Dalit Forum, National Dalit Movement for Justice, National Federation for Dalit Land Rights Movement, National Federation for Dalit Women, Navsarjan Trust, Open Space, Orissa Goti Mukti Andolan (OGMA), People's Vigilance Committee on Human Rights, People's Action for Rural Awakening, People's Media Advocacy & Resource Centre, People's Monitoring Committee, People's Watch – Tamil Nadu, Pradeeapan, Praxis – Institute for Participatory Practices, Prayas Gramin Vikas Samiti, Rajiv Gandhi Institute of Contemporary Studies, Rajpipla Social Service Society, SC/ST Employees Association (AP Bhawan), Safai Karmachari Andolan, SAKSHI – Human Rights Watch, Sampurna Gram Vikas Kendra, Sanchayaneele, Sasvika, Social Action For Advocacy & Research (SAFAR), Social Awareness Society for Youth, Society for Participatory Research in Asia (PRIA), SICHREM, Unnati, VICALP, Working Group for Human Rights in India and UN, YUVA

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**IMPLEMENTATION OF**

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**AND RULES 1995**

**2009-2011**

**National Coalition for Strengthening PoA Act**

8/1, IIIrd Floor, South Patel Nagar

New Delhi – 110 008, India

Phone: +91 25842251; 45009309

[www.ncdhr.org.in](http://www.ncdhr.org.in)





## Foreword

**Dr. Justice K. Ramaswamy,**

Former Justice, Supreme Court of India  
Shyamala Sadan, Advocates Colony,  
St. No. 14 Gaganmahal, Hyderabad - 500029

Dated 12.05.2012

I heartily congratulate the National Coalition for Strengthening SCs & STs (PoA) Act (NCSPA) for continuing to monitor the implementation of the SC/ST (Prevention of Atrocities) Act 1989 in its letter and spirit in all the states in the country, as well as co-ordination with the Ministry of Social Justice and Empowerment, Government of India.

The Right to Live with Dignity is a constitutionally guaranteed and protected right. It is also a fundamental right and fundamental human freedom guaranteed in international human rights conventions as well. In fact, the CERD Committee of UNO is regularly mandated to monitor the implementation or violation of the fundamental rights and fundamental freedoms of the individuals with which this law is concerned. It is most disheartening that the atrocities against Dalits on a massive scale are continuing today and increasing every year.

The National Campaign on Dalit Human Rights (NCDHR) is closely associating itself with the CERD Committee and in fact organized at Delhi two national conventions in collaboration with that Committee in furtherance of the implementation of the SC/ST ACT, Protection of Civil Rights Act, and other fundamental freedoms to prevent violation of the rights of Dalits.

As part of this process, the National Coalition for Strengthening SCs & STs (PoA) Act (NCSPA) now has brought out the People's Report on the Implementation of POA ACT 1989 and RULES 1995, highlighting shortcomings for 2009-2011 that require remedial measures. I have gone through the Five Chapters of this Report, which are factually based on ground realities across the country during these three years, and the Conclusions in Chapter Six.

This feedback report is useful and informative material for the authorities in charge of and responsible for implementation of the ACT and the RULES. In 2009, after one year's national campaign, the NCSPA, in collaboration with the legal experts and stakeholders, drafted amendments to the ACT and the RULES to support their effective implementation in terms of enforcement and prevention of atrocities committed on Dalits and Tribals. Thereby it would effectively protect the human rights and fundamental freedoms of the Dalits and Tribals. I am given to understand that the Government of India is actively considering bringing Amendments to the ACT and the RULES. This feedback report would usefully assist all the concerned personnel and departments, including the legal department, to avail of the latest material and data. This report also would aid in drafting suitable Amendments to the provisions in the ACT and the RULES for protecting the Human Rights and Fundamental Freedoms of the Dalits and Tribals.

I would express my deep satisfaction and congratulate the untiring service being done by Dr. Sirivella Prasad (Convener of the Coalition) and his team, who is in charge of this project and carried on the research at the ground level, going from state to state and collecting the material to avoid needless controversies and expose the reality.

**Dr. Justice K. Ramaswamy,**



## Preface

The recent trends of increasing atrocities against SCs and STs, high acquittal rates and low conviction rates, and the poor coordination between the enforcement authorities at the state and district levels under the PoA Act has given rise to the critical issue of *“effective implementation of the Act and review of the various mandatory accountability and monitoring mechanisms”*.

Over the years Dalit organisations, community leaders, individuals, activists and academics working for the effective implementation of the PoA Act, and those supporting the victims and witnesses have themselves experienced and documented various gaps while communicating with law enforcement officials as regards: registration of FIRs, investigations, filing of charge sheets, and conduct of trials. They are asking the both state and central Governments to enforce the provisions of the PoA Act and Rules in its letter and spirit, and to submit the annual reports u/s. 21(4) of PoA Act through the Ministry of Social Justice and Empowerment on a regular basis. To date, the Government is not regularly submitting these reports. Even a cursory look at the previous annual reports gives a picture that the key Ministry for the implementation of the Act is keener to present a picture of the states as flawlessly implementing the Act, than to show the reality that is far from the case.

This concern has prompted us to collate available information and review the performance of the government in the form of a Report, the *“People’s Report on Status of Implementation of SCs and STs [PoA] Act 1989 and Rules 1995”*. In this report we explicitly examine the various dimensions, which are lacking in the Government's annual report, such as: What the state says it has done? What the state has actually done? What are the gaps in implementation of the Act and Rules? What are the trends and nature of discrimination and atrocities over the years? What have been the responses of the enforcement authorities? What is the nature of implementation of the various state accountability mechanisms and functioning of the monitoring mechanisms under the Act and Rules?

This report, besides presenting the current status of implementation of the PoA Act, is also an instrument to complement the information provided in the central and state government reports u/s section 21(4) PoA Act as “additional information”. The report is also an effort to examine the gaps in presentation of the facts and misrepresentations in the official government reports. It seeks to also examine whether the assumptions, analysis and emphasis of the government reports are accurate. This Peoples' Report will play a critical role in holding central and state/UT governments accountable to their obligations to enforce this Act and Rules, and will also propose certain amendments and policy directions/ measures for the better enforcement of the Act and Rules.

This report would not have been possible without the meticulous compilation, analysis and writing work done by Ms. Jesintha Mary and Aloysius Irudayam SJ. I thank Mr. Keshav Jailiya, Ms. Nirupama and all State team members who systematically filed RTIs to acquire the data in this report. I also thank Mr. Rahul Singh, Mr. Ashim Boral and Ms. Abirami for their support and contribution in bringing out the report, and Jayshree Mangubhai for proof reading and editing the report. I also thank Mr. Vineet Jingala for Designing & Mr. Arun Vashista for Printing this Report. I would like to specifically put on record the contributions made by the sincere activists in providing the information and all the members of the '**Coalition for Strengthening the SCs & STs PoA Act and Rules**' in bringing out this report.

**Dr. Sirivella Prasad**

*Convener*

*(National Coalition for Strengthening of SCs & STs (PoA) Act)*





## List of Abbreviations

A.P.I.O	Assistant Public Information Officer
ADGP	Additional Director General of Police
Cr.P.C	Criminal Procedure Code
DGP	Director General of Police
DM	District Magistrate
DSP	Deputy Superintendent of Police
DVMC	District Level Vigilance and Monitoring Committee
FIR	First Information Report
IGP	Inspector General of Police
IPC	Indian Penal Code
MSJE	Ministry of Social Justice and Empowerment
NCRB	National Crime Record Bureau
NCST	National Commission for Scheduled Tribes
NDMJ	National Dalit Movement for Justice
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
PCR	Protection of Civil Rights Act
PIO	Public Information Officer
PoA	Prevention of Atrocities
RTI	Right to Information
SC	Scheduled Caste
SCRB	State Crime Record Bureau
SHD	Station House Diary
SP	Superintendent of Police
SPP	Special Public Prosecutor
ST	Scheduled Tribes
SVMC	State level Vigilance and Monitoring Committee
u/s	under section
UT	Union Territory



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## Executive Summary

The years 1989 and 1995 were historic moments for the SCs and STs of India, for it was then that Parliament enacted the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 and subsequently the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Rules, 1995. No doubt these two significant pieces of legislation raised high hopes in the hearts of these two communities for comprehensive protection of their right to security of life. Although serving as the backbone of the Indian economy for centuries in terms of providing sustained labour and protecting natural resources, the SCs and STs have been suffering exclusion and exploitation, discrimination and atrocities down the years. It was only in 1989, 42 years after Independence, that the nation finally woke up to the horrendous crimes faced by these two communities at the hands of dominant caste forces and found it morally repugnant and legally obligatory to take a decisive step to end the spate of atrocities heaped against these two communities. Unfortunately, however, as subsequent trends showed, their hopes have been belied.

Over the years since the Act and Rules came into existence, the number of incidents of atrocities against these two communities has not abated; rather, their frequency has been increasing and newer forms have been appearing. The appallingly less number of registration of cases in police stations and the abysmally low conviction rate have caused anxiety among members of these two communities. Moreover, the improper and ineffective coordination between the enforcement authorities at the state and district levels has raised doubts about the seriousness of those charged with the duty of impartially and conscientiously enforcing the law. In fact, the overall status of poor implementation of the various mandatory provisions of the Act and Rules has given rise to concern about whether these two communities can expect legal justice from the political governance system that swears by inclusive democracy, the rule of law and social justice for all citizens irrespective of their caste and creed, class and social status. Now that 23 years have passed since the Act was enacted by Parliament, this concern gives rise to the question: Should not a review of the various mandatory monitoring and accountability mechanisms of the Act and the Rules be undertaken in order to make their enforcement produce the expected results and benefits to the affected communities? In it is this context that one must raise a question about the status of performance of the governance machinery at the national and state levels.

Every year the Ministry of Social Justice and Empowerment, Government of India is duty-bound to submit an Annual Status Report under sec. 21(4) of the SC/ST (PoA) Act to both Houses of Parliament on the measures taken under the Act and Rules. In practice, however, the Ministry has not been submitting the reports regularly. Even when submitted, the content and quality of the reports have been wanting in many respects. There have been many gaps and limitations. In fact, as our study data for 2009-10 indicate, inadequate and insufficient efforts have been taken:

- to analyse the trends and changes in the nature and forms of atrocities;
- to assess the response of enforcement authorities in ensuring proper registration and investigation of cases of atrocities, prosecution of the accused, compensation measures provided, relief and rehabilitation delivery systems functioning in the respective states;
- to give a clear picture of the performance of district and state level authorities in the implementation of the mandatory provisions of the Act and Rules, such as identification of atrocity prone areas; measures to prevent atrocities; information on the conduct of the monthly, quarterly and half yearly reviews by District Magistrates, DGPs, Home Secretaries, Nodal Officers; performance of Special Courts and Special Public Prosecutors; and measures taken for effective enforcement of the Act including budget allocations in respective states;
- to analyse the status and functioning of District Level Vigilance and Monitoring Committees (DVMC) and State Level Vigilance and Monitoring Committees (SVMC), their regular meetings and follow-up work as well as other provisions of these Committees. A number of Dalit, Tribal and Human Rights civil society organisations as well as Human Rights Defenders, supporting and taking up the cause of SC/ST

survivors of atrocities, have collected and scrutinised credible, quality and detailed data. They have reached a similar conclusion regarding the **various gaps in the implementation of the PoA Act and Rules at different levels**, which are mentioned below.

## 1. Nature and Extent of Atrocities

SCs and STs have faced various forms of exploitation and degrading practices of “untouchability”. Of late, however, an increase has been observed in the number and frequency of atrocity incidents like making SCs eat human excreta, and subjecting both SCs and STs to physical assaults, grievous hurt, arson, mass killings and rapes of SC/ST women, etc. Although the National Crime Records Bureau (NCRB) provides useful data that reveal the extent of atrocities committed against the SCs/STs, these data do not fully reflect the ground reality as most of the cases go unreported due to reluctance by police to register atrocity cases for various reasons. One also finds caste bias and corruption among the police force preventing registration and investigation of cases.

- **At national level:** The rate of crimes against SCs increased from 2.6% in 2007 to 2.9% in 2008, remained at 2.9% in 2009, and came down slightly to 2.8% in 2010. In other words, there has been not much improvement in the crime rate over these four years.
- **Rajasthan & other States:** As against the national average crime rate against SCs of 2.9% in 2009, Rajasthan reported 7.5%, followed by Andhra Pradesh (5.4%), Madhya Pradesh (4.3%), Orissa (4.2%) and Bihar (4.0%). A similar trend can be seen for 2010, when as against the national average crime rate against SCs of 2.8%, Rajasthan reported the highest crime rate with 7.4%, followed by Andhra Pradesh (5.1%), Madhya Pradesh (4.7%), Karnataka (4.3%), Orissa (4.2%), Bihar (3.6%) and Uttar Pradesh (3.2%).
- **Uttar Pradesh & Rajasthan:** *In 2010, Uttar Pradesh reported 19.2% of total crimes against SCs (6272 out of 32712) in the country. In the same year, Rajasthan reported the highest rate of crimes (7.4%) against SCs as compared to the national average of 2.9 percentage.*
- **At National level & Orissa:** **With regard to crimes against STs at the national level, there was a marginal decrease in all crime types, except robbery with 24 cases in 2009 as compared to 18 in 2008. This indicates an increase of 33.3% in robberies.** Orissa reported 50% of the total number of robberies against STs in the country.
- **Madhya Pradesh & Chhattisgarh:** The number of crimes against STs drastically increased in 2010 to 5,885 crimes, and murders against STs alone totalled 142 murders. Madhya Pradesh topped the list with 33.1% of murder cases in the country. The number of rape cases was 654. Again, with 654 cases of rape against STs, Madhya Pradesh topped the list (47.1% of all rape cases), followed by Chhattisgarh (17.1% of all rape cases). A total of 941 cases of hurt were reported in 2010 against STs.

## 2. Registration of Atrocity Cases

As per Rule 5 SC/ST (PoA) Rules, any information concerning the commission of an atrocity, even if given orally to an officer in-charge of a police station, must be registered in the police station. Unfortunately this Rule is flouted in various ways. Police resort to various machinations to discourage SCs/STs from registering cases, to dilute the seriousness of the violence, and to shield the accused persons from arrest and prosecution. FIRs are often registered under the PCR Act and IPC provisions, which attract lesser punishment than PoA Act provisions for the same offence. In many cases, where police do register the case under the Act, they purposefully cite improper sections. For serious crimes such as murder, rape, destruction of property, dispossession of land, etc., police tend to cite only sec.3(1)(x) of the Act, which relates to insulting or intimidating an SC/ST person. In this way, they misuse the Act and enable the perpetrators to escape the arms of the law, or allow them, if convicted, to get away with lighter punishment.

- **At national level:** In 2010, only 11,682 (34.2%) out of 34,127 atrocity cases were registered under PoA Act.
- **Madhya Pradesh & Rajasthan:** Over 95% of the cases in these two states were not registered under the PoA Act, and instead were registered under IPC and other legal provisions.
- **Punjab:** In Punjab, out of 23 cases, only 10 cases were registered under the PoA Act during the months January to March 2011.
- **Himachal Pradesh:** Only 177 out of a total 415 cases were registered under the PoA Act. Of these, in 97% of the cases, proper sections of PoA Act were not invoked in the FIRs.
- **Gujarat:** Regarding the cases registered in 12 villages of Gujarat in 2009, only one FIR included all the relevant sections of the PoA Act. Most of them, however, included only section 3(1)(x) of the Act.
- **Bihar:** At East Champaran district, out of the total 53 cases registered from January to May 2011, the proper sections of the PoA Act were not invoked in 11 cases.

### 3. Investigation

Even where the formal registration of a case is done, often police investigation of the incident is very tardy. As per Rule 7 (1) PoA Rules, the investigation is to be conducted by a police officer should not be below the rank of Deputy Superintendent of Police (DSP). Due to the failure, or neglect, or carelessness of the police to include a charge under the PoA Act, the investigation of atrocities often is not conducted by an officer with the rank of Deputy Superintendent of Police and, as shown below, most of the cases are poorly investigated by incompetent or unauthorised officials. This lays the foundation for acquittals on technical grounds in the courts. Moreover, at least one-fourth of cases have been disposed of at the investigation stage itself by the police and these complaints have been referred to as "Mistake of Fact".

- **Himachal Pradesh:** In Himachal Pradesh, around 40% of cases at Sirmour district and around 20% of cases each in Bilaspur and Mandi districts were not investigated by the DSP, although these cases were registered under the PoA Act.
- **Tamil Nadu:** In Tamil Nadu, the investigation by the DSP or higher-ranking official was done in only 42% of 386 atrocity cases studied. Still worse, in 146 of the 386 cases, a formal investigation was not done and in 47 of the 146 cases, only a preliminary enquiry was carried out by a lower-ranking official.
- **Maharashtra:** In 217 out of 417 cases in Aurangabad and in 273 out of 956 cases in Kushinagar, investigation was done by an officer below the rank of DSP, thus ignoring Rule 7 PoA Rules.
- **At national level:** In 2009, investigation was completed only for 38,199 out of the total of 51,441 atrocity cases. After investigation, the charge sheet was submitted only for 25,946 (50%) cases. By the year end, around 13,191 cases remained pending for investigation.
- **At national level:** In 2010, investigation was completed only for 37,558 cases out of the total 51,782 cases. Charge sheets were submitted only for 26,480 cases (51%). By the year end, around 14,092 cases remained pending for investigation.

### 4. Charge Sheet and Arrest of the Accused

Rule 7(2) PoA Rules mandates the investigation into atrocities to be completed and charge sheet submitted within 30 days. In practice, however, it was found that police have been tardy in investigation and charge sheets have been filed late, thereby resulting in slow disposal of cases and the victims' experience of anguish through delayed access to justice. In addition, it was noticed that police have resorted to various machinations to dilute the seriousness of the violence and to shield the perpetrators of atrocities from arrest and prosecution.

- **Rajasthan:** In all the 16 cases reviewed in Rajasthan during a District Level Vigilance Monitoring Committee meeting held on 29.04.2011, it was found that charge sheets were not filed within the stipulated time period of 30 days.
- **Andhra Pradesh, Bihar, Rajasthan, Haryana & Karnataka:** Of the 19 cases the National Dalit Movement for Justice analysed from 2008 to 2011 in these five states, charge sheets were not filed in 7 cases. Though charge sheets were filed for the remaining cases, this was done many days after registering the FIR.

- **At national level:** In 2010, out of 16,601 cases registered under PoA Act for atrocities against SCs, police closed almost 2,150 cases (13%) in 2010. Meanwhile, out of 1,714 registered cases of atrocities against STs, 223 (13%) were closed.
- **Andhra Pradesh:** In Ongole district, of the 437 atrocity cases registered in 2010, charge sheets were filed in 122 cases, while 226 cases were closed.
- **Kerala:** As per the statement of the Kerala State Crime Record Bureau on PoA Act cases for atrocities against SCs in June 2011, in 23 out of 34 cases the accused were not arrested by the police. Notably, in 9 out of these 23 cases, the accused were not arrested for many years, ranging from 1, 10, 16, 20 and 25 years.

## 5. Trial, Acquittal and Conviction

If SCs/STs are fortunate enough to escape or overcome the above-mentioned hurdles, then their cases constitute that small percentage that makes it to the courts. However, another kind of obstacle awaits them in the court premises. Although there is provision in the PoA Act for the constitution of Special Courts to expeditiously try atrocity cases, what SCs/STs experience is a huge pendency of their cases before the trial courts. Moreover, the conviction rate is very low. In fact, the conviction rate under the PoA Act is found to be very much lower than those cases booked under IPC.

- **At national level:** With 1,01,251 cases of crimes against SCs/STs (80%) pending for trial by the end of 2010, no significant improvement was seen in the trial pendency rate (82.5%) at the end of 2011.
- **Gujarat & other States:** By the end of 2010, many states had more than 80% of pending cases of atrocities against SCs: Gujarat (90.9%), West Bengal (89.2%), Rajasthan (86.6%), Maharashtra (86.2%), Kerala (85.5%), Bihar (84.3%), Himachal Pradesh (82.9%), Delhi (81.7%), and Orissa (80.7%).
- **Punjab & Other States:** By 2010-end, several states had more than 70% pending cases of atrocities against SCs: Punjab (79.7%), Tamil Nadu (77.7%), Karnataka (76.9%), Madhya Pradesh (75.3%), Chhattisgarh (75.3%), Uttar Pradesh (72.4%), and Andhra Pradesh (70.5%).
- **At national level:** In 2009, around 12% of the cases registered under the PoA Act were acquitted and the conviction rate was only 4 percent. In 2010, around 13% of the cases were acquitted and the conviction rate was only 8 percent.
- **Maharashtra & other States:** The conviction rate for SC/ST atrocity cases in the following states in 2010 was abysmally low: Maharashtra (0.5%), Gujarat (0.9%), Karnataka (1.1), Orissa (1.5%), Bihar (1.7%), Andhra Pradesh (4.1%), Rajasthan (4.8%), Tamil Nadu (5.2), and Madhya Pradesh (8%).
- **West Bengal:** Not a single SC/ST atrocity case was convicted in 2010.

## 6. Atrocity Prone Areas and Precautionary Measures

All state governments are mandated by Rule 17 PoA Rules to identify atrocity-prone areas, and thereafter to prepare a plan of action for eliminating untouchability practices and reducing incidence of violence therein. Positive steps to check occurrence of atrocities consist of, first, identifying atrocity-prone areas. Then preventive measures can be taken such as the District Magistrate and Superintendent of Police visiting the identified areas, seizing all illegal fire arms, providing arms licenses to SCs/STs, deploying special police force to the identified areas, etc., so that incidents of atrocities do not occur.

- **At national level:** Only 13 of the 35 States/UTs have identified atrocity-prone districts. Moreover, of these, six states have identified over 50% of their districts as atrocity-prone.
- **At national level:** Periodic surveys are not conducted in the states/UTs where atrocity-prone areas have been declared. This kind of negligence makes SCs/STs more vulnerable as they and the state machinery remain unprepared to face any type of atrocities.
- **At national level:** No precautionary or preventive measures have been put in place in the identified atrocity-prone areas even though incidents of atrocities are on the rise in those very areas.



- **Arunachal Pradesh & other States/UTs:** Special (Protection) Cells have not been set up in 11 States/UTs: Arunachal Pradesh, Goa, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Andaman & Nicobar, Chandigarh, Daman & Diu and Lakshadweep. According to a RTI response, no Protection Cell is set up in Jharkhand either.
- **At national level:** Where Special Cells have been set up, their infrastructure is inadequate and they function under unsuitable working conditions. In general, their functioning is very poor.
- **At national level:** There is no proper coordination between the Nodal Officer and the Special Officers.
- **At national level:** There is no regular review of the position of cases registered under the Act, nor are the monthly reports *regularly submitted to the State Government/Nodal Officer regarding the action taken/proposed to be taken.*

## 7. District Level Vigilance and Monitoring Committee

As per Rule 17 PoA Rules, the District-level Vigilance and Monitoring Committees (DVMCs) are to be constituted in all the districts to review the implementation of the provisions of the Act, the relief and rehabilitation measures provided to the victims, the prosecution of cases, and review of the various reports received by the district administration. Unfortunately, these Committees have not been constituted in all the districts and where such committees exist, they hardly function.

- **Arunachal Pradesh & other States:** Committees have not been set up in Arunachal Pradesh, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Lakshadweep Sikkim, Tripura, West Bengal, Chandigarh, Delhi NCT and Puducherry.
- **At national level:** Analysis of the data regarding the functioning of the DVMCs shows that in 90% of all the districts, the Committees failed to conduct the meetings regularly. This is despite DVMCs having been constituted in all or few districts in some states.
- **At national level:** Although mandated by the Rule, the meetings either do not have proper agendas, or have only limited agendas, to discuss. The members hardly ever discuss the progress of prosecution of atrocity cases. Most of the meetings focus only on the relief and rehabilitation measures, and not on the process of investigation, nor on the charge sheet details of the cases which, if done seriously, can lead to immediate prosecution.
- **At national level:** Although discussions mainly focused on the relief and rehabilitation measures, they did not ensure complete provision of relief and rehabilitation measures.
- **At national level:** Many meetings are not chaired by the District Magistrate. Sometimes they are continuously absent from the meetings. Many members of the Committees are not even aware of their membership.

## 8. State Level Vigilance and Monitoring Committee

Rule 16 mandates every state government to set up a State-level Vigilance and Monitoring Committee (SVMC) for the purpose of monitoring the implementation of the Act. In specific terms, this Committee has the tasks of tracking the position and prosecution of cases registered under the Act, reviewing the relief and compensation measures provided to the victims, and evaluating the role and performance of different officers and agencies responsible for implementing the Act.

- **At national level:** Committees have been set up in 20 out of 28 states and in 3 out of 7 Union Territories. However, they have not been re-constituted for many years in Chandigarh, Goa, Himachal Pradesh, Uttarakhand and West Bengal.
- **Bihar:** Being one of the states where the most heinous forms of atrocities take place, which account for 26.5% of the total crimes against SCs/STs, the last SVMC meeting was held on 09.02.2007, and no meeting was held thereafter.
- **Gujarat:** After a two-year gap between meetings in 2006 and 2008, the last meeting was held in 2008.

- **Orissa:** The SVMC had its meeting in 2010 after a two-year gap.
- **Chandigarh, Himachal Pradesh & Uttarakhand:** No meeting had taken place in 2009 and 2010 in Chandigarh and Himachal Pradesh, while in Uttarakhand, the meeting was held for the first time in 2010.
- **Karnataka, Rajasthan, Orissa, Kerala & New Delhi:** These states did not hold any meeting in January 2011.
- **At national level:** Committees do not have the proper composition of members as per requirements of the Rule. That is, often the meetings are not headed by the Chief Minister as they should.
- **At national level:** None of the meetings followed the agenda as per the Rule. Instead, the discussions focused mainly on the limited agenda of relief and compensation and not on such important issues as the prosecution of cases as per the mandate of the PoAAct.
- **At national level:** The reports of the meetings are either not published for the benefit of the public, or if published, they do not contain full and proper information.

## 9. Special Courts

As per section 14PoA Act, every state is supposed to set up a Special Court in each district to try offences of atrocities. However, in contravention of this legal provision, Special Courts have not been set up in all the states. Moreover, designated Special Courts are not in a position to do justice to cases of atrocities against SCs/STs due to their prolonged proceedings. As per Rule 15, the state government, on the recommendation of the District Magistrate, is expected to prepare for each district a panel of certain number of eminent senior advocates as it may deem necessary for conducting cases in the Special Courts. This has not occurred in many states.

- **Andhra Pradesh & other States:** 177 Exclusive Special Courts have been set up in 9 states/UTs: Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Karnataka, Madhya Pradesh, Rajasthan, Tamil Nadu and Uttar Pradesh. By contrast, Special Courts are yet to be set up in 25 states/UTs.
- **Bihar, Tamil Nadu, Rajasthan, Chhattisgarh and Karnataka:** Bihar has only 11 Special Courts in a total of 38 districts; Tamil Nadu has only 4 out of a total of 32 districts; Rajasthan has only 17 out of a total 33 districts; Chhattisgarh has 6 out of a total 18 districts; and Karnataka has 7 out of a total 29 districts.
- **At national level:** The rate of pending atrocity cases before courts seems to keep on increasing, especially in the states where Special Courts have been set up. One of the main reasons for delays in the disposal of cases in courts is that a large number of posts of Judges/Magistrates in the District and Subordinate Courts are vacant. The majority of states/UTs do not have panels of eminent Senior Advocates; instead, Special Public Prosecutors are assigned to attend to cases on an *ad-hoc* basis.

## 10. Contingency Plan and Special Central Assistance

The state governments are mandated to prepare a model contingency plan for implementing the provisions of the PoAAct. However, the majority of states do not have this contingency plan. To ensure effective implementation of the PCR Act 1955 and the SC/ST (PoA) Act 1989 by the respective state governments and union territory administrations, Special Central Assistance is given for the following purposes: to make the SC/ST Protection Cells and the Special Police Stations function effectively and become stronger, to set up exclusive Special Courts and make them function efficiently, to disburse relief and rehabilitation measures to victims of atrocities, etc. **In general, the states have not shown alacrity and determination in preparing contingency plans, nor for seeking the available Central Assistance.**

- **Bihar, Goa and Gujarat:** Only these states have prepared contingency plans.
- **Assam, West Bengal & Delhi:** These states, in particular, have not drawn any Central Assistance for 3 years (2008-2011).
- **At national level:** Though some states draw funds from the Special Central Assistance, they do not utilise the amount fully for the purposes of implementation of the PoAAct.
- **Haryana, Himachal Pradesh, Orissa, Punjab, Rajasthan, Uttar Pradesh, Andhra Pradesh, Goa, Karnataka, Maharashtra, Tamil Nadu, Daman & Diu and Sikkim:** As per information from the Ministry

for Social Justice and Empowerment, these states/UTs do not utilise the available Central Assistance funds.

The critical issues discussed in this Report clearly indicate that the behaviour and actions of state actors have not been as favourable towards victims of atrocities as expected by those lawmakers who created the PoA Act and Rules. As a result, Dalits struggling to attain their rights may become again victims of violence, or may become actors and supporters of counter-violence. The need of the hour, therefore, is the urgent need to take a fresh look at the PoA Act and Rules, review the implementation mechanisms and processes of the past 23 years, introduce relevant amendments to the Act and Rules, evolve new responsive administrative structures, issue policy directions for making implementation of the Act and Rules more effective and efficient, professional and productive. This is for the short-term benefit of the Dalit and Tribal stakeholders and the long-term integration of various communities in the country in accordance with the fundamental rights enshrined in the Indian Constitution. It is with this perspective in mind that the following recommendations are made for facilitating policy formulations, planning and action.

## Recommendations

1. Appoint a High-Level Committee to review the implementation of the Act and Rules since 1989 and 1995 respectively, assess the realisation of the objectives of this Act, and make recommendations for strengthening the Act and Rules and for their effective implementation in future.
2. Ensure mandatory conduct of periodic review/meetings/submission of the reports under the Act and Rules by the concerned state and district level authorities.
3. Review the implementation of the Act and propose the following amendments:
  - i) Set up Exclusive Special Courts with powers to take cognisance of the offences under this Act and Exclusive Public Prosecutors for the speedy trial of cases under the Act.
  - ii) Include additional crimes which SCs/STs are subjected to, but do not figure in the present list of offences in the Act, such as tonsuring of head and moustache, garlanding with chappals; employment of manual scavengers; dedicating SC/ST women as devadasi; employing SCs/STs to remove human or dead animal bodies; refusing to pay equal wages; false counter cases; uttering or writing words of caste abuse or using hate speech; stripping woman of her clothes; social or economic boycotts; offences committed by public servants while discharging the duties such as custodial death, torture, rape etc; abetting of an atrocity, etc.
  - iii) Delete expressions such as “intent”, “intention”, “on the ground”, “public place”, etc. from various sections of the Act, which give scope to the police and judiciary to dilute cases of atrocities through subjective or arbitrary interpretations of the Act.
  - iv) Add a new chapter in the Act to deal with the rights of victims and witnesses, thereby explicitly granting various citizen rights to them with regard to their atrocity cases.
  - v) Amend the Act to explicitly bring in all the types and nature of negligence by public servants at various stages in their handling of atrocity cases.
  - vi) Enhance punishment for offences of atrocities under the Act to be on par with the Indian Penal Code as well as based on the nature and gravity of the offences, so as to ensure its deterrent effect.
  - vii) Amend the definitions of ‘Scheduled Castes’ and ‘Scheduled Tribes’ in the Act so as to:
    - (a) include SC/ST members whose ancestors were members of SC/ST community at any point of time in any state/UT;
    - (b) cover offences committed against SCs/STs who migrate to other states/UTs irrespective of their status in the SC/ST Schedule of the respective state/UT; and
    - (c) prevent offences committed against those SC members professing Christian or Islamic faith, or to punish the perpetrators for offences committed against those SC members professing Christian or Islamic faith, as these SCs also suffer from disabilities similar to those faced by SCs belonging to the Hindu or Sikh faiths.

## Introduction

### 1. The SCs & STs (PoA) Act: Its historical context

**In modern times, atrocities against the Scheduled Castes (SCs) can be traced back to the 19th century in parts of India when the systemic practice of “Untouchability” began to be challenged by the 'Untouchables'. A Committee which toured British India in the 1920s to review the working of the *Government of India Act 1919* noted that many atrocities were being committed during those days against the 'Untouchables', but were going unnoticed and unpunished because witnesses would not come forward to give evidence. Dr Ambedkar, then MLC of Bombay, cited some early instances of atrocities against Dalits in his submission to the Indian Statutory Commission (Simon Commission) on behalf of the *Bahishkrita Hitakarini Sabha* on 29 May 1928. The post-Independence era was marked by frequent instances of atrocities springing up across the country: for example, the assassination of the young, educated Dalit leader Emmanuel Sekaran in Tamil Nadu for defying the “Untouchability”-based interdicts on SCs, which resulted in the Ramanathapuram riots of 1957; the Kilavenmani massacre of 42 Dalits in 1968 in Tamil Nadu; the gruesome killing of Dalit Kotesu in Kanchikacherla, Andhra Pradesh in 1969; the killings of 10 STs by police in connection with a land dispute in Indravalli in Andhra Pradesh in 1978. All such events shook the then national leadership. Hence, under pressure from SC MPs, the Government of India started monitoring atrocities against SCs from 1974 and in the case of STs from 1981 onwards, with special focus on murder, rape, arson and grievous hurt.**

Even so, atrocities continued to rise with ferocity and frequency – for example, in Bihar the massacres of SCs at Belchi in 1979 and Pipra in 1980; in Uttar Pradesh the massacre following a SC bridegroom riding on horseback at Kafalta in 1980; in Madhya Pradesh the killing of Bacchdas in Mandasaur district in 1982; in Bihar the police shootings that killed 15 STs at Banjhi in Sahibganj district in 1985. In all such cases, the Indian state at both the national and state levels avoided addressing the basic contradictions, vulnerabilities and causative factors underlying these atrocities; the treatment was mainly symptomatic and palliative instead of the required radical solutions. Under continued pressure from SC MPs and political leaders, the then Prime Minister Rajiv Gandhi finally recognized the magnitude and gravity of the problem. In his Independence Day Address on 15 August 1987, he announced that an Act would be passed, if necessary, to check atrocities. (P.S. Krishnan, 'Atrocities against Dalits: Retrospect and Prospect', *Combat Law*, Vol.8, Issue 5-6, 2009, p.12)

### 2. The SCs & STs (PoA) Act: Its Significance

Despite the right to non-discrimination on the basis of race or caste as enshrined in Article 15 of the Indian Constitution, discrimination against SCs and STs has been and continues to be pervasive. Though abolished and forbidden by Article 17, the practice of “Untouchability” persists due to its systemic character. Hence, the Indian Parliament enacted the “Untouchability” Offences Act 1955, which underwent amendment and renaming in 1976 to become the Protection of Civil Rights (PCR) Act. Under this Act, “Untouchability” as a result of religious and social disabilities was made punishable. However, the Act suffered from legal loopholes, the punishments being less punitive as compared to those under the Indian Penal Code, and the law and order machinery being neither professionally trained nor socially inclined to implement such social legislation. Hence, a more comprehensive and punitive Act was required to protect SCs and STs from violence committed by other communities. This gave rise to the SC/ST (PoA) Act 1989. The basic objective and purpose of this more comprehensive and punitive piece of legislation was sharply enunciated when the Bill was introduced in the Lok Sabha. The objectives of the Act, therefore, very clearly emphasize the intention of the Indian state to deliver justice to SC/ST communities through affirmative action in order to enable them to live in society with dignity and self-esteem and without fear, violence or suppression from the dominant castes. (NHRC, Report on Prevention of Atrocities against SCs, New Delhi, 2004, pp.14-15)

*“Despite various measures to improve the socio-economic conditions of the SCs and STs, they remain vulnerable... They have, in several brutal incidents, been deprived of their life and property... Because of the awareness created... through spread of education, etc., when they assert their rights and resist practices of “Untouchability” against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the SCs and STs try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty... **Under the circumstances, the existing laws like the Protection of Civil Rights Act 1955 and the normal provisions of the Indian Penal Code have been found to be inadequate to check and deter crimes against them committed by non-SCs and non-STs... It is considered necessary that not only the term 'atrocities' should be defined, but also stringent measures should be introduced to provide for higher punishment for committing such atrocities. It is also proposed to enjoin on the States and Union Territories to take specific preventive and punitive measures to protect SCs and STs from being victimized and, where atrocities are committed, to provide adequate relief and assistance to rehabilitate them.**” (National Commission for SCs, First Report 2004-05, New Delhi, 2006, pp.222-3)*

### 3. Mode of Preparation of People's Report

#### (i). Objectives of the People's Report

Even after completion of 22 years of the enactment of the SC/ST (PoA) Act 1989 and Rules 1995, the increasing rate of atrocities against SCs and STs, the low conviction and the high acquittal rates, the improper coordination between the enforcement authorities at state and district levels and the overall non-implementation of the various mandatory provisions of the Act – all these have given rise to critical issues related to the *“necessity for effective implementation of the Act and review of the various mandatory accountability and monitoring mechanisms”*.

The nodal ministry at the central level for the effective implementation of the Act and the Rules periodically attempts to analyse the pattern of atrocities, disposal of cases by the police and judiciary, and the implementation of the various provisions of the Act and the Rules at the state level. However, all these efforts are discretionary and intermittent.

The prevailing situation, therefore, has forced many activists, academics, lawyers and civil society organizations to take initiative to critically question, discuss and review the performance of the state vis-à-vis the Act and the Rules. Specific questions are:

- *What does the state say it has done?*
- *What has the state actually done?*
- *What are the lacunae in the implementation of the Act and the Rules?*
- *What is the changing nature of discrimination and atrocities against SCs?*
- *What are the responses of the enforcement authorities?*
- *What has been the performance level regarding implementation of the various state accountability mechanisms?*
- *How have the monitoring mechanisms functioned in the effective implementation of the Act and the Rules?*

When considering these and other related questions, two significant aspects are to be kept in mind: (i) the ground reality of the implementation of the Act and the Rules in the states; and (ii) the status of coordination among the state and district level authorities.

While critically examining these and related questions, this Report is a response to the Annual Report submitted by the Ministry of Social Welfare and Empowerment under sec. 21(4) of the Act. As such it aims to achieve the following specific objectives:

- *To give an overview of the nature and extent of atrocities and the response of enforcement authorities in ensuring proper registration, investigation, prosecution and compensation, relief and rehabilitation in the respective states.*
- *To document the extent of implementation of the mandatory provisions of the Act and the Rules, namely, the identification of atrocity prone areas; the measures taken to prevent atrocities; the roles and functions of the DMs, DGP, Special Cells, Nodal Officers and the Home Secretary; the monthly, quarterly and half yearly reviews; the performance of the special courts; other measures taken for effective enforcement of the Act and the Rules including budget allocation in respective states.*
- *To analyse the status of DVMC and SVMC formation, meetings, follow-up and other provisions.*
- *To make this Report an effective instrument for undertaking advocacy at both the state and national levels with policy makers as well as parliamentarians/ state legislators.*

## **(ii) Structure of the People's Report**

This Report is structured into five **chapters**. While categorised according to the roles of the enforcement authorities, agencies and various accountability and monitoring mechanisms, each chapter deals with three aspects:

- (i) Discussing the performance level of the state, that is, *what the state says it has done? What the state has actually done? What are the lacunae in the implementation at each level of the state's mechanisms?*
- (ii) Raising some key questions for enabling a critical and productive debate in Parliament;
- (iii) Providing an outline of the implementation of the policies and programmes.

**Chapter 1: Introduction** – First, this chapter discusses the brief historical context necessitating the promulgation of the PoA Act and the Rules, and the significance and necessity of this legislation. Second, it deals with the objectives and purpose of this Report, and the data sources for this Report.

**Chapter 2: Nature and Extent of Atrocities** – This chapter deals with the nature and extent of atrocities against SCs, and to some extent against STs, during recent years and the patterns emerging therein. The analysis and findings, based on the available official data on atrocities, are expected to throw light on the challenges emerging from the ground reality regarding the magnitude of atrocities that SCs and STs are still facing. Accordingly, this should lead to the formulation of specific strategies in order to ensure protection to these communities, including by adopting preventive measures.

**Chapter 3: Response of Enforcement Authorities** – This chapter discusses the overall response of enforcement authorities at the time of registration of complaint, investigation and charge sheeting.

- **Sub-section 3.1** analyses the performance of the police officials with regard to registration of atrocity cases specifically under the PoA Act, and highlights various gaps in the registration process itself. Based on the available data, it attempts to highlight the proportion of crimes registered as well as not registered under the PoA Act. The data exemplifies the high rate of non-registration in almost all the states.
- With the available sources of data, **sub-section 3.2** examines the nature and pattern of the investigating system. This system has not been able to provide justice and other support to victims in a timely fashion at the time of investigation mainly due to officials overlooking the seriousness of the atrocity. The overall picture of disposal of cases by police is examined mainly by the number and percentage of cases pending for investigation, and number and percentage of cases charge-sheeted by the police.
- **Sub-section 3.3** talks about how far the judiciary has been able to respond to the increasing number of

atrocities against SCs and STs. In particular, the available data speak of the large number of cases pending trial and ending in acquittals, and low number of convictions. In dealing with atrocities against SCs and STs, although specific legal provisions are made for the speedy disposal of cases at the judiciary level, the issue of why the judiciary is still unable to deal with the pressing situation thrown up by the increase in the number of atrocity cases needs to be explored in depth.

- **Sub-section 3.4** deals with the support mechanisms that are crucial not only to provide economic and material benefits, but also are an expression of comfort and consolation. This sub-section assesses the performance of the state executive machinery in implementing support mechanisms such as relief and rehabilitation, travelling allowance, daily expenses and maintenance expenses.

**Chapter 4: Implementation of Preventive Mechanisms** – This chapter deals with the status of the atrocity-prone areas, which some states have identified so far, and discusses the situation of those states which have not yet identified atrocity-prone areas. It also analyses the formation and functioning of certain special mechanisms like the Special Cells. A review is made of the roles, responsibilities and functioning of the officials in-charge of these mechanisms (DGP/IGP) and the measures taken by them in the identified atrocity prone areas. Finally, the chapter examines the magnitude of atrocities in the identified areas, and the performance of the central and state governments as well as NGOs with regard to various awareness programmes undertaken as preventive measures.

**Chapter 5: Accountability Mechanisms** – This chapter deals with the performance of accountability mechanisms such as the State and District level Vigilance and Monitoring Committees, Special Courts and Special Public Prosecutors, Nodal Officers, Special Officers, etc.

- **Subsection 5.1: District Level Vigilance and Monitoring Committees (DVMC) & Subsection 5.2: State Level Vigilance and Monitoring Committees** deal exclusively with the existing state and district level committees that have greater responsibility for the implementation of the PoA Act. This section attempts to look at their performance in terms of periodicity of meetings and regular functioning of the committees in monitoring the status of the various cases of atrocities and matters connected thereto.
- **Subsection 5.3: Nodal Officers and Special Officers** studies the overall performance of the Nodal Officer and Special Officer and the functioning of their mandatory reviews and reporting. The Nodal Officer is specifically deputed for reviewing and coordinating the provisions of the Act and the Special Officer for overall monitoring and implementation of the provisions of the Act. Therefore, this subsection studies the performance of the Nodal Officers and Special Officers in the implementation of the Act and Rules by analysing their functioning and periodicity of reviews and reports.
- Timely disposal of the cases by the judiciary indicates their effective functioning. For dealing with atrocity cases against Dalits, specific provisions such as Special Courts and Special Public Prosecutors should ensure speedy disposal of atrocity cases. The extent to which the Special Courts and Special Public Prosecutors have been able to cope with the increasing number of atrocities is also highlighted in **Subsection 5.4: Designated and Exclusive Special Courts & Subsection 5.5: Panel of Special Public Prosecutors and Eminent Advocates**. The disposal of cases is examined mainly through the number and percentage of the cases pending trial, and numbers and percentages of cases acquitted or convicted.
- **Subsection 5.6.: Contingency Plans and Special Central Assistance** discusses the quantum of allotment of Central Assistance to the states for utilisation in their efforts to implement the PoA Act. It also analyses how the states have used, or not used, or only partially used this funding assistance.

### (iii) Sources of data

- *National Crime Record Bureau data, 1995 to 2010.*
- *Responses of Right to Information applications.*
- *Annual Reports of the Ministry of Social Justice and Empowerment.*

- *Annual Report u/s 21(4) of the PoA Act submitted by the Ministry of Social Justice and Empowerment.*
- *Agenda Notes, Conference of State Ministers of Welfare / Social Justice , Ministry of Social Justice and Empowerment, June 2011.*
- *Annual Reports of the National Commission for Scheduled Castes and Scheduled Tribes.*
- *Parliamentary Committee Reports on Welfare of Scheduled Castes and Scheduled Tribes.*
- *Newspaper reports.*
- *Studies by Civil Society Organisations.*

### **(iii) Purpose of the People's Report**

This Report will supplement, or present alternative information to, the periodic reports that the Central/State Governments are required to submit under the PoA Act. As such, the Report provides both reliable and independent information to policy-makers on various provisions of the PoA Act – information which by and large is often overlooked in official government reports. Hence, the primary purpose of the Report (also sometimes referred to as 'Status Report' or 'Peoples' Report') is to supplement the government report u/s section 21(4) as “additional information”. The Report also looks critically into such questions as: Are there any gaps in the official government report? Are there misrepresentations of data, events and incidents? Are the assumptions, analysis and emphasis of the government report correct? In addition, the Report emphasises the prevalence and magnitude of the critical issues under the Act and Rules, which the government might have downplayed or failed to highlight. More importantly, this Report will play a critical role in holding governments accountable in respect of their obligations emanating from the Indian Constitution as well as the international human rights conventions to which India is a signatory. Finally, this Report is expected to enhance advocacy efforts and accordingly provide the required basis for:

1. *Monitoring and assessing the government's track record regarding its fulfilment of its obligations towards the effective implementation of the PoA Act and Rules.*
2. *Building pressure for the needed policy changes.*
3. *Highlighting examples of “best practices” in order to advocate government action positively and constructively.*
4. *Creating the platform for broader advocacy efforts with the concerned government ministries, policy makers and enforcement authorities.*



## Nature and Extent of Atrocities

## (i) Nature of Discrimination and “Untouchability” Practices

Caste as a social system provides a framework for social relations and a scheme for organising productive resources, labour and distribution. The rules and norms of this system, laid down to regulate the vital economic life of individuals and groups in Indian society, cover property rights, occupations and wages. The same is true for education, religious and cultural practices. The system also allows and legitimises exploitation and marginalisation in every sphere of life and without any obligation to the exploited and the excluded. The result is slavery and bondage. “Untouchability” and caste-based discrimination are at the core of this system. Untouchability as a social mechanism, and the resulting practice of discrimination, create civil, political, economic and cultural unfreedoms for Dalits. They thereby are prevented from enhancing their individual freedom in all spheres of life – land, labour, employment, education, political participation, religious and cultural expressions and practices. The nature of discrimination that Dalits experience in their daily lives can be grouped under the following four categories of violation of rights:

**Violations of rights regarding civil aspects of life:** Any form of discrimination against Dalits that erodes or destroys their self-identity and self-respect in society, thereby affecting their substantive freedoms and right to live as a person with dignity and honour, constitutes violation of their civil rights. Some examples of such form of discrimination are: abusing Dalits by using their caste name; segregating them in the use of drinking vessels; pouring drinking water into their hands; prohibiting their entry into the houses of dominant castes; disallowing access to higher class seats in cinema theatres; refusing them access to public places such as places of worship and drinking water sources; making them stand with folded hands in respect before dominant castes; expecting them to give up their seats to dominant castes or to only occupy the back seats in buses; restricting them from walking with sandals or with umbrellas in dominant caste localities; forbidding their wearing of good/clean clothes; etc.

**Violations of rights regarding political aspects of life:** These rights violations refer to any forms of discrimination that denies the freedom to participate in political governance at the panchayat, state and national levels. Such violations include denial of rights to: vote for candidates of one's choice; freely express political opinions; contest elections for representation in law-making bodies; political decision-making or exercising authority when elected. In the case of the panchayat governance system, for example, specific instances of political rights violations include the fact of being forbidden to exercise one's franchise or being forced to vote for a candidate not of one's choice; arrangement of separate queues at polling booths; being told to vote only after dominant castes have cast their votes; being prohibited to sit in the meeting place of the panchayat; and segregated seating in the panchayats.

**Violations of rights regarding economic aspects of life:** This refers to any form of discrimination that affects Dalits' livelihood rights and entitlements, and limits their access to economic resources and markets (land, labour, credits, goods and services, commercial and business enterprises, etc.). Specific examples include Dalits being subjected to low or discriminatory wages; doing bonded labour or free labour; being prohibited from drawing water from common wells, tanks, streams and bore-wells; rendering humiliating services like carrying animal carcasses and dead bodies, drum-beating at deaths and funerals, cremating or burying the dead, or doing manual scavenging; being forced to do haircutting, laundry work, cleaning; etc.

**Violations of rights regarding cultural and religious aspects of life:** These rights violations include any form of discrimination or restriction related to cultural and religious beliefs and traditions, practices and celebrations: for example, prohibition on sitting before temples; segregation of seats at cultural festivals; denial of temple entry and worship; prohibition of marriage processions or riding on horses during marriages on public roads; disallowing the carrying of dead bodies of Dalits in public places; etc.

**Any assertion by Dalits of the above socio-economic, civil and political, cultural and religious rights is met with backlash atrocities from the dominant castes. For the years 2009-2011, various newspapers across the country recorded a number of atrocities against Scheduled Castes and Scheduled Tribes, which are listed below.**

- Imposing social boycotts and ostracism, isolation and alienation, communal banishment resulting in social disintegration of families and habitats, and being relegated to the status of refugees and exiles
- Denial of access to common property resources such as land, roads, water and housing, rivers, grazing lands, tube-wells, etc.
- Forcible encroachments on agricultural land and house-sites, common property resources
- Denial of minimum wage, wages in cash, leave benefits, etc.
- Physical assault such as beatings, stabbings, cutting of fingers, hands being chopped off, removal of eyes, hacking and even murder by cutting the body into pieces.
- Physical destruction such as ransacking, demolition and arson of Dalit houses and habitats, auctioning of Dalits' landed properties and houses
- Intimidation and threats, harassment, giving veiled and direct threats of caste violence
- Verbal assault and humiliation delivered in both private and public
- Sexual assaults like rape, gang rape, naked parading, stalking, sexual exploitation and harassment
- Curtailing or obstructing freedom of movement
- Wrongful protection and shielding of dominant caste perpetrators of untouchability and caste-related crimes by the police and administrative authorities
- Abuses by police authorities related to denial of basic human rights and right to equality before law such as the following: foisting false cases, arrest without warrant, unlawful detention in jails, beating and torture in police station, custodial deaths, denying access to legal counsel, etc.
- Political discrimination such as denial of the right to vote and be elected, removal or non-inclusion of names of community members from the voting rolls, not allowing nominations to be filed for elections to SC reserved seats in panchayats, attacks and murders of emerging Dalit leaders, non-recognition of democratic Dalit bodies like Dalit women's reserved panchayats
- Denial of entry into places of religious worship and participation in religious and cultural festivals.

#### (ii) Atrocities against SCs & STs in 2008 – 2011: Significant Trends

As noted above, SCs and STs have faced various forms of exploitation and degrading practices of untouchability. Of late, however, an increase in certain trends like making SCs eat human excreta, subjecting both SCs and STs to physical assaults, grievous hurt, arson and mass killings, and individual and gang rape of Dalit women is very disturbing. In fact, the extent of atrocities on SCs is much larger than those on STs. *The present section analyses the trends emerging from the available data on certain major crimes against SCs.*

#### • **Extent of atrocities against Scheduled Castes**

**Overall national-level increase in atrocities against SCs:** When comparing the 30,031 cases of atrocities reported in 2007 and 33,615 cases in 2008, one notices a **sharp increase in the crime rate by 11.9% within one year**. Again, comparing the years 2007 and 2009, the increase was 10.6 percent. And when contrasting the year 2008 (33,615 cases) with 2009 (33,594 cases), one finds the trend to be almost the same, as the decrease was only 0.1% (21 cases). During 2010, the total number of atrocities reported against SCs are 32,712. *The obvious conclusion is the rise in the number of atrocities at the national level, which never abated over the years under consideration.*

**State-wise increase in atrocities against SCs:** At the national level, the rate of crimes against SCs increased from 2.6% in 2007 to 2.9% in 2008, and remained static at 2.9% in 2009 and at 2.8% in 2010. As against the national average of 2.9% during 2009, Rajasthan reported 7.5%, followed by Andhra Pradesh (5.4%), Madhya Pradesh (4.3%), Orissa (4.2%) and Bihar (4.0%). A similar trend

is seen for 2010: as against the national average of 2.8%, Rajasthan reported the highest crime rate with 7.4%, followed by Andhra Pradesh (5.1%), Madhya Pradesh (4.7%), Karnataka (4.3%), Orissa (4.2%), Bihar (3.6%) and Uttar Pradesh (3.2%).

**Three significant trends emerge from these data:**

- (i) At the national level, the rate of atrocities against SCs has in general been on the rise during the years under consideration;
- (ii) the increase in certain states has been far above the national average during these years;
- (iii) Rajasthan has been topping the list, with Andhra Pradesh, Orissa and Madhya Pradesh following.

**Increase in incidents of major crimes against SCs:** Major Indian Penal Code (IPC) crimes in India include hurt, murders, rapes, kidnapping and abduction, dacoity, robbery, burglary and riots.

At the national level, in comparison to 2007, the year 2008 witnessed an increase in major crimes against SCs:

- There were 4,216 cases of hurt reported in 2008 as against 3,814 cases in 2007, marking a 10.5% increase in 2008. Madhya Pradesh reported the highest number of cases (706), accounting for 16.7% of the total number of 4,216 cases.
- Regarding rape of SC women, in 2007 there were 1,349 reported cases, whereas in 2008 there were 1,457 cases; hence, the increase in 2008 was 8.0 percent. Uttar Pradesh reported 375 cases, accounting for 25.7% of the total number of reported rape cases, followed by Madhya Pradesh with 357 cases (24.5%).
- As for kidnapping and abduction, the number of cases in 2007 was 332, whereas in 2008 it was 482 cases; that represented a 45.2% increase. Uttar Pradesh reported the highest number of cases (219 or 45.4% of kidnapping/abduction cases) in 2008.
- Compared to 23 cases of dacoity in 2007, the number in 2008 was 51 cases, thereby representing an increase of 121.7 percent. Maharashtra recorded the highest number of cases (17), accounting for 33.3% of the total number of cases.

**What was the status of major crimes against SCs in the country in 2009?**

- A total of 626 cases of murder were reported in 2008 and 624 cases in 2009, thereby showing no substantial change over that period. Uttar Pradesh topped the list with 37.7% of the total number of murder cases (235 out of 624) in the country.
- The number of cases of hurt in 2008 was 4,216 whereas in 2009 it was 4,410; thus, the increase was 4.6% in 2009. Andhra Pradesh reported the highest cases (722 out of 4,410) representing 16.4% of cases.
- There were 1,346 cases of rape of SC women in 2009 as compared to 1,457 cases in 2008, thereby representing a decrease of 7.6% in 2009. Madhya Pradesh reported 321 cases (23.8%), followed by Uttar Pradesh with 317 cases (23.6%).
- As regards kidnapping & abduction, in 2008 the number was 482 cases and in 2009 it was 512, the increase being 6.2 percent. Uttar Pradesh recorded the highest with 254 cases (49.6%) in 2009.
- For arson, the country-wide number of cases was 195 in 2009. Bihar topped the list with 40 cases, followed by Rajasthan (39), Uttar Pradesh (38) and Madhya Pradesh (31). Together these four states accounted for 75.9% of all arson cases reported in the country.

**Box 2.1: Crime against Scheduled Castes - 2009**

- Uttar Pradesh reported 22.4% of total crimes against Scheduled Castes (7,522 out of 33,594) in the country.
- Rajasthan reported the highest rate of crimes (7.5) against Scheduled Castes as compared to the National average of 2.9.
- The rates of crime against Scheduled Castes remained at the same level during 2009 as 2008-2.9

## What was the status of major crimes against SCs in the country in 2010?

- A total of 570 cases of murder were reported in 2010. Uttar Pradesh topped the list with 40.2% of the total number of such cases (229 out of 570) in the country.
- The number of cases of hurt in 2010 was 4,376. Madhya Pradesh reported the highest, with 20% of cases (877 out of 4,376).
- There were 1,349 cases of rape of SC women in 2010 as compared to 1,346 cases in 2009, thereby showing no substantial change in 2010. Madhya Pradesh reported 316 cases (23.4%), followed by Uttar Pradesh with 311 cases (23.1%).
- As regards kidnapping & abduction, in 2010 the number was 511 cases and in 2009 it was 512, showing no significant change. Uttar Pradesh recorded the highest with 248 cases (48.5%).
- For arson, the country-wide number of cases was 150 in 2010. Rajasthan topped the list with 31 cases, followed by Uttar Pradesh (29) and Madhya Pradesh (24). Together these three states accounted for 56% of all cases reported in the country.
- **Orissa:** During January to March 2011, a total number of 297 crimes against SCs were reported in Orissa. In the month of April alone, 131 crimes against SCs were reported. This includes 2 murder, 11 physical assault, 5 rape, 2 arson and 111 other IPC offences.<sup>1</sup>
- **Karnataka:** Karnataka reported a 6% decrease in reported cases in 2009 (1450) as compared to 2008 (1543). Gulbarga (146), Bangalore (141) and Bijapur (109) top the charts in reported cases for 2008. In 2009, the order is Bangalore (95) followed by Belgaum (88), Gulbarga (84) and Bijapur (80). Curiously, the maximum decrease in cases in 2009 compared to 2008 is also reported from these same districts—Gulbarga (62 less cases, -43%), Bangalore City (46 less cases, -33%), Udupi (37 less cases, -57%) and Bijapur (29 less cases, -27%). The maximum increase in cases is reported from Shimoga (26 cases, 54%), Raichur (16 cases, 34%) and Bagalkot (13 cases, 32%). In total, 14 of 32 police divisions reported a decrease in number of cases reported, and 18 reported an increase.<sup>2</sup>

### Box 2.2: Crime against Scheduled Castes - 2010

➤ Uttar Pradesh reported 19.2% of total crimes against Scheduled Castes (6272 out of 32712) in the country.

➤ Rajasthan reported the highest rate of crimes (7.4) against Scheduled Castes as compared to the National average of 2.89. There is no significant change in the rates of crime against Scheduled Castes during 2010 (2.8) compared to the rate of 2009 (2.9).

Box 2.3: Ten states - Uttar Pradesh, Rajasthan, Andhra Pradesh, Bihar, Madhya Pradesh, Karnataka, Orissa, Tamil Nadu, Maharashtra and Gujarat - together accounted for 93.3% of crimes against SCs in 2010, (NCRB, 2010)

## • Extent of Atrocities against Scheduled Tribes

**Overall national level extent of atrocities against STs:** There were 5,582 cases reported in 2008 as compared to 5,532 cases in 2007, thus showing a slight increase of 0.9% in 2008 over 2007. In contrast, in 2009 the number was 5,425 cases, showing a decrease of 2.8% in 2009 over 2008. During 2010 the reported crimes against STs was 5,885, which is a drastically increase when compared to 2009.

**Rates of crime against STs:** In 2010, the crime rate was highest in Arunachal Pradesh (4.4) and in Chhattisgarh (2.1) as compared to 0.5 at national level.

### **Incidents of major crimes against STs in India:**

**Status in 2008:** Comparing the recorded data of 2008 as against that of 2007, as shown below, one notices an increase in the total number of incidents of kidnapping and abduction, dacoity and hurt, and a decrease in the incidents of murder, rape and robbery.

<sup>1</sup> RTI Response received from Odisha Police, State Human Rights Protection Cell, Cuttack, Orissa, (2442/HRPC (RTI)), dated 27.05.2011.

<sup>2</sup> Report of the Committee Monitoring and Strengthening SC/ST (PoA) Act in Karnataka (CMASK), 2010, with recommendations to the Chief Minister (Chairperson, SVMC under Rule 16(1)).

- In 2008, there were 128 cases of murder as compared to 140 cases in 2007, showing a decline of 8.6% percent. Madhya Pradesh reported 35.2% (45 cases) of the total number in the country.
- 585 cases of rape were recorded in 2008 as compared to 627 cases in 2007, showing a decline of 6.7% cases in 2008. Madhya Pradesh reported the highest number of cases (234), accounting for 40% of the total number in the country.
- Incidents of kidnapping & abduction increased by 4.5% in 2008 over the previous year (2007) when 89 cases were reported. Madhya Pradesh reported highest number of cases (20) followed by Assam and Gujarat (13 each). These three states taken together accounted for 49.5% of the total number of cases reported in the country.
- 14 cases of dacoity were reported in the country in 2008 as compared to 9 cases in 2007, showing an increase of 55.5% in 2008. Five cases were reported from Assam, 3 each from Gujarat and Maharashtra, one each from Chhattisgarh, Jharkhand and Madhya Pradesh.
- As for robbery, 18 cases were recorded in 2008 as compared to 21 in 2007, thus showing a marginal decrease. Orissa reported 44.4% (8 cases) and Assam 33.3% (6 cases) of the total number in the country.
- The number of cases of hurt was 873 in 2008 as compared to 855 in 2007, showing an increase of 2.1% in 2008. Madhya Pradesh stood first in the country with 169 cases (19.4%), followed by Rajasthan with 130 cases (14.9%). Compared to the national average of 0.1, the crime rate for hurt was the highest (3.2) in Arunachal Pradesh.
- **Orissa:** During January to March 2011, a total number of 64 crimes against STs were reported in Orissa. In the month of April alone, 40 crimes against STs were reported. This included 5 assaults, 3 rapes, 1 arson and 31 other IPC offences.<sup>3</sup>

**Status in 2009:** There was a marginal decrease in all types of crimes except robbery (24 cases in 2009 as compared to 18 in 2008), which increased by 33.3 percent. Orissa reported 50.0% (12 cases) of the total number of robberies against STs in the country.

**Status in 2010:** The number of crimes drastically increased during 2010, to 5,885 cases. A total number of 142 murders were reported against STs. Madhya Pradesh topped with 33.1% of the murder cases in the country. The number of cases of rape was 654. Again Madhya Pradesh topped with 47.1% of rape cases in the country, followed by Chhattisgarh 17.1 percent. A total number of 941 cases of hurt were reported during 2010 against STs.

- Extent of PoA Crimes against SCs & STs: Data Comparison for 2008, 2009 and 2010
- **Increase in crimes against SCs registered under PoA Act in 2008 vis-à-vis 2007:** A total of 11,602 cases were reported under this Act for SCs in 2008 as compared to 9,819 in 2007, thereby representing an increase of 18.1 percent. Uttar Pradesh reported 3,072 cases accounting for 26.5% of the total cases in the country, followed by Bihar (20.9%). The rate of crime was highest in Bihar at 2.6 as compared to the national crime rate of 1.0.
- **Increase in crimes against SCs registered under PoA Act in 2009 vis-à-vis 2007:** A total of 11,143 cases were reported under this Act for SCs in 2009 as compared to 9,819 in 2007, thereby representing an increase of 13.4 percent. Uttar Pradesh reported 2,554 cases, accounting for 22.9% of the total reported cases in the country, followed by Bihar (22.7%). The rate of crime was highest in Bihar at 2.6 as compared to national crime rate of 1.0.
- **Decrease in crimes against SCs registered under PoA Act in 2010 vis-à-vis 2009:** A total of 10,513 cases were reported under the Act for SCs in 2010 as compared to 11,413 in 2009. Bihar reported 2,548 cases, accounting for 24.2% of the total cases reported in the country, followed by Andhra Pradesh (14.2). The rate of crime was highest in Bihar at 2.6 as compared to the national crime rate of 0.9.

<sup>3</sup> RTI Response received from Odisha Police, State Human Rights Protection Cell, Cuttack, Orissa, (2442/HRPC (RTI)), dated 27.05.2011

- **Decrease in crimes against STs registered under PoA Act in 2008 vis-à-vis 2007:** A total of 1,022 cases were reported under this Act in 2008 for STs as compared to 1,104 cases in 2007, showing a decline of 7.4 percent. Andhra Pradesh accounted for 25.2% (258 cases) of the total cases reported in the country, followed by Karnataka (172). Chhattisgarh reported the highest crime rate at 0.6 as compared to the national crime rate of 0.1.
- **Decrease in crimes against STs registered under PoA Act in 2009 vis-à-vis 2008:** A total of 944 cases were reported in 2009 as compared to 1,022 cases in 2008, showing a decline of 7.6 percent. Andhra Pradesh accounted for 34.5% (326 cases) of the total cases reported in the country, followed by Karnataka (147). Dadra & Nagar Haveli reported the highest crime rate at 1.5 as compared to the national crime rate of 0.1.
- **Increase in crimes against STs registered under PoA Act in 2010 vis-à-vis 2009:** A total number of 1169 cases were reported in 2010 against STs as compared to 944 cases in 2009. Orissa accounted for 30.4% (355 cases) of the total reported cases in the country, followed by Andhra Pradesh at 19.2% (225 cases).
- **Extent of PoA Crimes against SCs & STs: Overview of data for 2003-10**
- **Status of PoA crimes against SCs for 2003-10 (see Table 2.2):**
- There were over 8,000 PoA crimes against SCs registered annually, with the years 2007 to 2010 showed an increase ranging from 9,819 crimes in 2007 to 10,513 in 2010.
- The percentage of registered PoA crimes against SCs was more than one-third of the total number of registered crimes each year from 2003 to 2010. However, there appears to be a grossly under-registered number of cases under the PoA Act.

**Table 2.1: Crimes committed against SCs & STs under PoA Act between 2003 and 2010**

Year	Crimes committed against SCs under PoA Act, 2003 to 2010			Crimes committed against STs under PoA Act, 2003 to 2010		
	Total Crime against SCs	Crimes Registered Under PoA act	% of POA crimes to total crime against Scs	Total Crime against Sts	Crimes Registered Under PoA Act	% of PoA crimes to total crime against Sts
2003	26252	8048	30.7	5889	1340	22.75
2004	26887	8891	33.1	5535	1175	21.23
2005	26127	8497	32.5	5713	1283	22.46
2006	27070	8581	31.7	5791	1232	21.27
2007	30031	9819	32.7	5532	1104	19.96
2008	33,615	11602	34.5	5582	1022	18.30
2009	33,594	11143	33.1	5425	944	17.40
2010	32,712	10513	32.1	5885	1169	19.86

Source: NCRB, Crimes in India, 2003-2010

**Status of PoA crimes against STs for 2003-10 (see Table 2.2):**

- Over 1,000 PoA crimes were registered annually against STs from the year 2003 to 2010, except for 2009 with 944 reported crimes.
- The percentage of registered PoA crimes against STs was more than one-fifth of the total number of registered crimes for the years 2003 to 2006. The percentage gets lessened annually for the years 2007 to 2009. Perhaps this is due to under-registration of crimes under PoA Act.

**In conclusion:** The overall picture of atrocities against SCs and STs in recent years shows that by and large there is an increase in the occurrence of crimes, especially against SCs. This is matched by less number of cases being registered under the PoA Act.

## Response of Enforcement Authorities

## 3.1 Registration and Investigation

**What PoA Act & Rule Say****Rule 5: Information to Police Officer in-charge of a Police Station**

(1) Every information relating to the commission of an offence under the Act, if given orally to an officer in-charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the persons giving it, and the substance thereof shall be entered in a book to be maintained by that police station.

(2) A copy of the information as so recorded under sub-rule (1) above shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred in sub-rule (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who after investigation either by himself or by a police officer not below the rank of Deputy Superintendent of Police, shall make an order in writing to the officer in-charge of the concerned police station to enter the substance of that information to be entered in the book to be maintained by the police station.

**Status of Implementation**

**Registration of cases as a rule:** According to the above-mentioned PoA Rule, any information concerning the commission of an offence, if given orally to an officer in-charge of a police station, must be registered in the police station and the copy must be given to the informant. Unfortunately, this Rule is flouted in various ways.

**(i) Non-registration of cases in practice:** Police resort to various machinations to discourage SCs/STs from registering cases, to dilute the seriousness of the offence, and to shield the accused from arrest and prosecution. Police officials routinely refuse to register cases against dominant castes or to enforce relevant legislation that protects SCs/STs. The methods police use are:

- Pressurising victims not to lodge complaints
- Threatening victims not to speak about incidents of violence
- Tampering with evidence
- Showing apathy, negligence and passivity towards victims
- Openly discouraging victims from registering cases and pressurising them instead to enter into 'amicable' settlements
- Pressurising victim-complainants to compromise cases for money
- Silencing victims or even inflicting violence on them
- Misleading victims by registering cases in the Station House Diary (SHD) instead of in a FIR
- Foisting false cases against victims at behest of the perpetrators so as to pressurise them for compromises.

*Box 3.1: The non-registration of Atrocities Act cases is deliberate. Police are biased because of their own caste. The police in general try to avoid registration. They want to settle cases with compensation. There are many power politics at the local level. Unless there is public pressure, the police administration tends to side with landowning communities that have political clout. A scheduled caste person is therefore at the mercy of landlords because there are police pressures and other pressures to compromise the case. (Human Rights Watch, Broken People: Caste Violence against India's Untouchables, 1999)*



Under-reporting of PoA Act cases is a very common phenomenon and, therefore, the decline in the number of registered cases does not provide a true picture of the incidence of atrocities. Strangely, the obsession of the police to show a decrease in crimes against SCs/STs gives them leverage for non-registration of cases. This can be seen from the frequent complaints of non-registration of cases appearing in the newspapers, showing how the true extent of atrocities is being hidden from public view. Crime reviews based on crime statistics encourage the police to keep the crime figures low in order to portray a picture of crime control. The result is that the statistics police give out are only a fraction of the actual incidence of crime. Thus, atrocities remain unaccounted for, thereby making the victims suffer without protection of the law.

**(ii) Improper registration:** Cases may be registered due to the efforts of the victims. However, a large number of cases, though deserving to be registered under the PoA Act, are registered either under the provisions of the Indian Penal Code (IPC) or other laws. As per the data from the National Crime Records Bureau for 2007 to 2010, 67% of crimes against SCs and 81% of crimes against STs during 2007 to 2010 were not registered under the PoA Act.

In 2010, there were 32,712 crimes committed against SCs and 5,885 crimes against STs, the total for both communities being 34,127 crimes. Only 11,682 cases (34.2%) were registered under the PoA Act. <sup>4</sup>(See Table 3.1)

Act under which Crime Registered	Crimes against SCs	Crimes against STs	Total
PCR Act	143	5	148
PoA Act	10513	1169	11682
IPC and other legal Provisions	22056	4511	22297
<b>Total</b>	<b>32712</b>	<b>5885</b>	<b>34127</b>

- Particularly in Madhya Pradesh, of the total 3,374 cases of crimes against SCs in 2010, a mere 0.4% (13 cases) were registered under the PoA Act. In Rajasthan, of the total 4,979 such cases, only 2% (103 cases) were registered under the PoA Act.
- In Uttar Pradesh, only 21% of the cases, and in Orissa only 22% of cases, were registered under this Act.
- In the states of **Madhya Pradesh and Rajasthan**, more than 95% of cases of crimes against SCs were not under the PoA Act, and instead registered under the IPC and other legal provisions.
- **Chhattisgarh:** According to the RTI response from Chhattisgarh, in June 2010, 15 crimes against SC and 20 crimes against ST were registered by police. This included 1 rape of a SC woman, 3 rapes of ST women and 1 grievous hurt of a ST. None of these cases were registered under the PoA Act. Similarly, in July 2010, 22 crimes against SCs and 38 crimes against STs were registered, but none under the PoA Act. <sup>5</sup>
- **Jharkhand:** Between July and December 2009 in Jharkhand, only 13 out of 189 cases of crimes against SCs and STs were registered under the PoA Act. Similarly, in September 2010, only 10 out of 173 cases against SCs and STs were registered under the PoA Act. <sup>6</sup>

*Box 3.2: The monitoring advisories set up in states on an ad-hoc basis by the Ministry of Social Justice and Empowerment and Ministry of Home Affairs noted that in many cases the police wilfully neglected the SC/ST (PoA) Act and did not register FIRs. ('Victims Always', Frontline, 4/12/2009, p.6)*

<sup>4</sup> National Crime Record Bureau, *Crime in India, New Delhi, 2009.*

<sup>5</sup> Response of RTI Application from M.L. Dahriya, PIO, AJK Cell, Police Headquarter, 2010.

<sup>6</sup> Deputy Secretary, Home Dept., in response to RTI application from Under Secretary-cum-PIO, Home Dept., 2010..

- **Punjab:** Out of 10 cases reported in January 2011 in Punjab, only 4 cases were registered under the PoAAct and the remaining 6 cases have been registered under the IPC and other legal provisions. Similarly, in February 2011, out of 6 cases, only 2 cases were registered under the PoAAct, and in March 2011, only 4 of the 7 cases were registered under PoAAct.<sup>7</sup>

**(iii) Protecting the accused:** Police officials not only refuse to register complaints, but also inform the accused of the SC/ST victims' attempts to do so, thereby triggering reprisals. Fear of dominant caste leaders holding enormous amount of political and social power prevents the police officials from fulfilling their duties. Even well-meaning officials are negligent in the way they conduct investigations, or provide protection to the accused, or inform the accused of the victims' complaints, thus exposing the complainant and their community to reprisals.

*Gujarat: On 21 January 2009, 22-year-old Kiranbhai Natubhai Parmar, residing in Ingoli village, Dholka Taluk of Ahmedabad district, was on his way home from work in a public bus. Seeing him sitting in the bus, seven dominant caste men from the socio-politically powerful Khan caste attacked him with weapons. The next day, Kiranbhai's parents went to lodge a complaint in Dholka police station, but had to literally watch as an officer called the Khans to inform them of the complaint. The police then accepted the family's application but refused to register a case, advising them to go home. If they pushed on with the complaint, they were told, the family would not likely be able to stay in their village.<sup>8</sup>*

**(iv) Delay in registration:** Police should register a FIR within 24 hours after receiving a complaint. By and large, however, police officials do not observe this rule. In fact, most of the FIRs are registered only due to pressure from human rights activists and/or orders from superior officers.

- **Himachal Pradesh:** The response to the RTI filed in 9 districts of Himachal Pradesh revealed that FIRs were not registered on time. During 1995 to 2009, 117 out of 415 cases were not registered within the stipulated time, but were delayed by many days. In 2009 (see Table 3.2), a total of 25 cases were registered in FIRs between 6 months to 1 year after the complaint being filed, and 22 cases between 7-15 days afterwards.<sup>9</sup>

District	2-7 Days	7-15 Days	15-30 Days	30-60 Days	60-90 Days	180-365 Days	Total
Bilaspur	7	6	2	3	2	—	20
Sirmour	13	7	6	6	4	8	44
Chamba	8	6	2	3	—	2	21
Solan	—	—	—	—	—	—	—
Kinnour	2	—	—	—	1	—	3
Hamirpur	8	2	5	1	1	2	19
Unna	7	5	5	2	1	6	26
Mandi	17	7	—	3	—	3	30
Kullu	6	2	2	—	—	4	14
<b>TOTAL</b>	<b>68</b>	<b>35</b>	<b>22</b>	<b>18</b>	<b>9</b>	<b>25</b>	<b>77</b>

<sup>7</sup> Monthly Reports received from the Deputy Inspector General of Police, Punjab for the months January-March 2011, Ref. No-642/SC Cell, dated 27.06.11.

<sup>8</sup> Navsarjan Trust, A Legally Immune form of Discrimination: Report on Socioeconomic Boycotts of Dalits in Gujarat, 2009.

<sup>9</sup> Response received from Himachal Pradesh government to RTI filed by Centre for Mountain Dalit Rights, Himachal Pradesh, 2009.

- **New Delhi:** The RTI response received from the Deputy Director of Police, New Delhi reveals that the police registered a complaint, dated 30/01/2011, of caste abuse only on 15/02/11 under sec. 3 PoA Act. In another case of attempt to murder of a Dalit family at Vijat Vihar, New Delhi, the FIR was registered after 512 days of registering the complaint.<sup>10</sup>

(v) **Irrelevant information in FIR:** Instead of recording the complaint in the FIR as exactly stated by the Dalit victims, police officials often manipulate the information in many ways such as by giving irrelevant information; removing the names of some of the main dominant caste accused; not listing the proper damage or injuries; etc. Thus, the accused is protected from trial and punishment and the victims' right to proper relief and compensation is blocked.

*Gujarat: On 19 April 2009, three Brahmin men trespassed on the Dalit burial ground in Karmadiya village with a tractor, and transferred the earth from the burial ground to their agricultural fields for their private use. This caused at least Rs. 50,000/- worth of damage to the burial grounds allocated to the Dalit community in Karmadiya village by the Gujarat government. The day after this incident took place, 15 Dalits made a complaint at Bagdana police station. The police accepted the complaint, but refused to register the FIR against the three men, whose Brahmin community constitutes a powerful majority in Karmadiya. The FIR was not registered until late night on 23 April, and that, too, due to the intervention of several Dalit human rights activists. However, the FIR was not written as stated by the complainants: all relevant information, such as the extent of the damage, was omitted. Instead of investigating the case, the following afternoon the Deputy Superintendent of Police called all the villagers for a meeting to broker an unofficial compromise.*<sup>11</sup>

#### **Some gaps observed in enforcement at the stage of FIR:**

1. Showing apathy, negligence and passivity towards SC/ST victims
2. Discouraging SCs/STs from registering cases and calling them to come for 'amicable' settlements
3. Pressurising victim-complainants to compromise for money
4. Threatening victims into silence or even inflicting violence on them
5. Refusing to register cases under PoA Act to avoid punitive measures against perpetrators
6. Failing to register cases under proper sections of the law
7. Not including necessary details in FIR (facts, figures, deleting or not including perpetrators' names, words and weapons used, etc.)
8. Misleading victims by registering case in the station house diary (SHD) instead of in a FIR
9. Not issuing FIR copy to victims as per PoA Rules
10. Foisting false cases against victims at the behest of the perpetrators to pressurise the victims to enter into compromises
11. Accepting bribes from perpetrators to drop the victim's case
12. Declaring perpetrator innocent without following the due process of law
13. Beating and/or reprimanding perpetrator without pursuing any process of formal justice
14. Delayed arrival at the scene of the atrocity.<sup>12</sup>

(vi) **Invoking improper sections of PoA Act:** Though the cases get registered under the PoA Act, the proper section/s is not invoked in the FIRs. In many cases where police do register a case under the Act, they purposely cite improper sections. For example, for serious crimes such murder, rape, destruction of property, dispossession of land, fouling drinking water sources, etc., the police cite only sec.3(1)(x) of the Act, which relates to insulting or intimidating a SC/ST person.

<sup>10</sup> 13523/C&T-AC-VII/PHQ from office of the Commissioner of Police, New Delhi, dated 25/04/11.

<sup>11</sup> Navsarjan Trust, *A Legally Immune form of Discrimination: Report on Socioeconomic Boycotts of Dalits in Gujarat, 2009.*

<sup>12</sup> National Coalition for Strengthening SCs & STs (PoA) Act, *Report Card - 20 years Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 2010, p.14.*

- Himachal Pradesh:** The RTI filed in 9 districts in Himachal Pradesh revealed that only 177 out of total 415 cases were registered under the PoA Act. Of these, in 171 cases (97%) the following shortcomings were noticed: (i) the proper sections of PoA Act were not invoked in the FIRs; (ii) in many of the FIRs, the sections are not clearly mentioned; (iii) many FIRs mention section 3 without stating the specific subsection; and (iv) some FIRs were registered under sections 3/4 of the PoA Act, which does not describe any specific kind of atrocity.
- Gujarat:** In a study of 12 villages conducted in Gujarat in 2009, only one FIR from all the twelve villages, as initially registered, included all relevant sections of the PoA Act. Most of them included only sec. 3(1)(x)<sup>13</sup> PoA Act, although the atrocities committed always involved more severe forms of violence. In the village of Rupper, where the burial land allotted to Dalits was transferred twice, sec. 3(1)(iv)<sup>14</sup> PoA Act was not included. In Kanothi village, where there was an attempt to infringe on Dalits' voting rights by dominant caste members, sec. 3(1)(vii)<sup>15</sup> PoA Act was not charged. None of the FIRs in any of the villages include a charge under sec. 3(1)(v)<sup>16</sup> PoA Act, even in villages like Ingoli and Chhatriyala where water access was denied to Dalits. In Shampara, no provision of the PoA Act was included in the FIR registered by the police.
- Bihar:** In the meeting minutes received through a RTI application dated 27.06.11 of the District Level Vigilance and Monitoring Committee from East Champaran district, Bihar, it is stated: “..... District Level Social Welfare has revealed that as per the monthly review report of the crimes as sent by Superintendent of Police, from January 2011 to May 2011, out of total 53 cases registered, in 11 cases proper sections were not invoked .....”
- Chandigarh:** The response received from the Office of the Deputy Inspector General of Police, Crime cum A.P.I.O. Punjab, Chandigarh through RTI application on the Monthly Reports of the SC/ST Protection Cell from June to December 2010 reveals the following: over those months, 47 Dalit atrocity cases were registered in the 10 districts of Amritsar, Patti, Gurdaspur, Jalandhar, Khanna, Ferozepur, Kapurthala, Mansa, Sangrur and Moga. Out of the registered cases, most of the cases were registered incorrectly as 'u/s. 3 or u/s. 3(1) or u/s. 3/4'. Thus the police failed to register the FIR under the proper subsections of section 3(1) of the PoA Act.
- Gujarat:** FIRs in the villages documented by and large ignore the existence of a social boycott. The FIR in Vanthal village was the only one containing sec. 3(1)(xiv)<sup>17</sup> PoA Act. Besides Vanthal, only the FIRs in Ingoli

*Box 3.3: Two Common Methods Police Use to Avoid Registering Cases under PoA Act*

*i) Registering FIR Under PCRA (Protection of Civil Rights Act), 1955*

*This act attracts lenient punishment as compared to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and does not provide for compensation or relief to the victim. Offences under Protection of Civil Rights Act, 1955 relating to the practice of untouchability attracts a maximum of 6 months imprisonment and maximum fine of Rs. 500/-. In respect of offences not covered by Protection of Civil Rights Act, 1955 the FIR is registered under IPC whose provisions attract lesser punishment than those of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for the same offence.*

*ii) Requiring Explicit Mention of Abuse by Caste Name for All Atrocities*

*Police are not registering many cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on the ground that SC/ST victim/victims have not mentioned that they were abused by caste name. This is not even necessary and constitutes a distorted interpretation of the Act. Such a requirement is only provided for in Section 3(1) of the Act and in no other section.*

<sup>13</sup> Section 3(1)(x) offence: “intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view”.

<sup>14</sup> Section 3 (1)(iv) offence: “wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred”.

<sup>15</sup> 3 (1)(vii) offence: “forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law”.

<sup>16</sup> Section 3 (1)(v) offence: “wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred”.

<sup>17</sup> Section 3 (1) (xiv) of the Scheduled Castes & the Scheduled Tribes (PoA) Act “denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to”

and Nesda villages contained any provisions relevant to social boycotts. However, the charge included in these cases, sec. 3(1)(xv)<sup>18</sup> PoA Act, does not accurately reflect the full terms of the boycott enforced on the Dalit community.<sup>19</sup>

- **Punjab:** In Punjab, out of 23 cases registered during January to March 2011, in 20 cases the proper sections of PoA Act were not invoked. Most of the cases were registered incorrectly as sec. 3, 3/4/5, 3/4, or 3(2) of the Act, which does not indicate any specific form of atrocity.<sup>20</sup>
- **Himachal Pradesh:** The information received from Nodal Officer of Himachal Pradesh (Table 3.3) regarding the quarterly review of cases reveals that no cases are being registered under proper sections of the PoA Act.<sup>21</sup>

S. No.	Name of the Court	FIR No.	Legal Sections Mentioned in FIR
1	District Judge Shimla	143/09	SC/ST Act
2	District Judge Shimla	162/09	353,323,147 & 148 IPC, SC/ST Act
3	District Judge Shimla	125/08	323 & 506 IPC, SC/ST Act
4	District Judge Shimla	77/10	SC/ST Act
5	District Judge Shimla	27/10	SC/ST Act
6	CJM Shimla	218/10	341, 323 & 506 IPC, SC/ST Act
7	JMIC Jubbal	6/11	353, 332 & 506 IPC, SC/ST Act

**What are the implications for not registering FIRs under proper sections of the SC/ST (PoA) Act?**

- Ø Lesser punishment ensured for perpetrators by diluting seriousness of the case
- Ø Victims lose higher compensation if case is registered under less serious sections
- Ø Encourages police to neglect their duties in successive cases
- Ø Also encourages police collusion with dominant caste perpetrators of atrocities in future.

(National Coalition for Strengthening of the PoA Act, Report Card on 20 years Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 2010, p.16)

### 3.2 Investigation of Atrocities

**What the Act and Rules Say**

**Rule 7: Investigating Officer**

- (1) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The investigating officer shall be appointed by the State Government, Director-General of Police, Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time.
- (2) The investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police who in turn will immediately forward the report to the Director-General of Police of the State Government.
- (3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer-in-charge of Prosecution and the Director-General of Police shall review by the end of every quarter the position of all investigations done by the investigating officer.

<sup>18</sup> Section 3 (1) (xv) of the Scheduled Castes & the Scheduled Tribes (PoA) Act "forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine"

<sup>19</sup> Navsarjan Trust, A Legally Immune form of Discrimination: Report on Socioeconomic Boycotts of Dalits in Gujarat, 2009.

<sup>20</sup> Monthly Reports received from the Deputy Inspector General of Police, Punjab for the month of January, February and March, 2011, Ref.No-642/SC Cell, dated 27.06.11

<sup>21</sup> Information under RTI Act regarding the quality review of Nodal Officer received from office of the District Attorney, Shimla, Himachal Pradesh, dated 03/06/2011, No.DA/SML/RTI inf./2011-2031.

## Status of Implementation

The issues to be considered under Rule 7 are how the task of investigating atrocities is undertaken, who should hold responsibility for such investigation, and a review of how the investigating authorities have fulfilled their responsibilities. What is observable from the available data is that there have been failures of the police at the stage of FIR registration and that, as a result, this has led to inappropriate investigations.

**(i) Investigation not conducted by DSP:** Due to the failure of the police to include a charge under the PoA Act, the investigation is not conducted by an officer with the rank of Deputy Superintendent of Police (DSP) or higher, as provided by the POA Act in order to ensure competency in investigation.

- **Himachal Pradesh:** For instance, the RTI response received from 9 districts in Himachal Pradesh shows that in Sirmour district around 40% of the cases were not investigated by the DSP. In the districts of Bilaspur and Mandi, around 20% of the cases were not investigated by DSP, though the cases were registered under the PoA Act.<sup>22</sup>
- **Tamil Nadu:** One study revealed that “in the state of Tamil Nadu, the investigation of atrocity cases by DSP or higher-ranking official was done in only 42% of the 386 atrocity cases reported. Still worse, in 146 of the 386 cases, a formal investigation was not done and in 47 of the 146 cases, only a preliminary enquiry was carried out by a lower-ranking official.” Otherwise, the common practice was for a lower ranking police official to conduct the investigation, prepare the report and get it signed by the DSP. Still worse, in 146 out of 386 cases (37.8%), a formal investigation was not done; in 47 (32.2%) out of these 146 cases, only a preliminary enquiry was carried out by a lower ranking police soon after the incident.<sup>23</sup>
- **Bihar & Uttar Pradesh:** Again, another RTI information revealed that in Aurangabad, in 217 out of 417 cases investigation was done by an officer below the rank of DSP (see Table 3.4), and in Kushinagar in 273 out of 956 cases investigation was done by an officer below the rank of DSP (see Table 3.4), thus ignoring Rule 7. On this technical ground, the victims' case in both atrocity incidents is vitiated and weakened.

### (ii) Pendency in Investigations:

According to Rule 7(2), the investigating officer shall complete the investigation on top priority basis within 30 days and submit the report to the Superintendent of Police, who in turn will immediately forward the report to the Director-General of Police of the State Government.

District /State	No of Cases	Rule 7- Rank of Investigating Officer(s)		
		DSP	Lower than DSP	Not Specified
Aurangabad* (Bihar)	417	5	217	195
Kushi Nagar** (UP)	956	596	273	87

\* Information given by RTI Officer, SP Office, Aurangabad, Bihar by letter no.119 dated, 24/05/2010, addressed to MR. Rambabu.  
 \*\* Information given by RTI Officer, SP Office, Kushi Nagar, UP by its letter dated addressed to Mr. Ramdular.

*Box 3.4: “It is often seen that sections of the SC/ST (POA) Act are deleted immediately after the first day's investigation. This practice is fraught with the danger of arriving at a conclusion based on incomplete facts. It needs to be highlighted here that deletion of sections of SC/ST (POA) Act from a case without adequate evidence and justification can be construed as neglect of duties under SC/ST (POA) Act and that the Investigating Officer can be proceeded against u/s 4 of SC/ST (POA) Act for neglect of duties.” (Circular No. 42/09, on 19.10.09 issued by the Director General of Police, No. K10/72538/09, Police Headquarters, Thiruvananthapuram, Kerala)*

<sup>22</sup> Section 3(1)(x) offence: “intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view”.

<sup>23</sup> Section 3 (1)(iv) offence: “wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred”.

- However, the investigation of cases dealt with by the police shows huge pendency rates. In 2009, of the total 51,441 cases, only for 38,199 cases had the investigation been completed. Out of which, only for 25,946 (50%) cases had the charge sheet been submitted. At the end of the year, around 13,191 cases were pending investigation.<sup>24</sup>
- **Andhra Pradesh:** Out of the total 6174 pending cases in the state (including previous years), only for 1869 (30%) cases had the charge sheet been submitted. At the end of the year the pendency rate was 32.6%.
- **Bihar:** Out of the total 7595 pending cases in the state (including previous years), only for 1902 (25%) cases had the charge sheet been submitted. At the end of the year the pendency rate was 55.2%.
- **Jharkhand:** Out of the total 1134 pending cases in the state (including previous years), only for 425 (37.5%) cases had the charge sheet been submitted. At the end of the year the pendency rate was 47.4%.
- **Orissa:** Out of the total 2946 pending cases (including previous years) in the state, only for 1125 (38.2%) cases had the charge sheet been submitted. At the end of the year the pendency rate was 54%.
- **Union Territory of Puducherry:** Out of the 14 cases registered during 2009-10, 13 are under investigation because of the police awaiting the caste certificate to prove caste.<sup>25</sup>
- **Kerala:** Out of 193 SC atrocity cases (pending cases at the beginning of September 2010), the pending cases for investigation even after a month was 181 (at the end of September 2010). Out of 36 ST atrocity cases, 35 cases were pending investigation at the end of September. No steps were being taken up to complete the investigation as per the Rules.<sup>26</sup>

**Table 3.5: Disposal of SC/ST Cases by Police across India during 2009**

Year	Crimes Registered	Total no of cases incl. pending	Cases withdrawn	Investigation was refused	Investigation completed				No of cases pending investigation
					Charge found false	Final Report submitted	charge sheet submit- ted	Total	
2009	PCR Act	252	0	3	27	42	105	174	75
	PoA Act	18456	0	23	2914	1443	7436	11793	6640
	Other Legal Provisions	32733	3	22	6277	1550	18405	26232	6476
	<b>Total</b>	<b>51441</b>	<b>3</b>	<b>48</b>	<b>9218</b>	<b>3035</b>	<b>25946</b>	<b>38199</b>	<b>13191</b>

Source: National Crime Record Bureau, 2009

**Table 3.6: Disposal of Cases of Crimes against SCs/STs during 2009**

	No. of Cases under SC/ST (PoA) Act
Investigation completed	11793
Final Report True submitted	1443
Charge sheet submitted	7436
Investigated cases pending Investigation	6640

<sup>24</sup> National Crime Record Bureau, Crimes in India, 2009.

<sup>25</sup> Monthly Crime Review for the Month of August 2010, received from the Inspector General of Police, Crime Record Bureau, Puducherry, No-217/PCR/DR/2010 dated 02.09.2010.

<sup>26</sup> RTI information received from Police Headquarters, Thiruvananthapuram, Kerala, dated 09/03/2011. No-TI/6525/2011.

According to the National Crime Records Bureau, during 2010, of the total number of 51,782 cases, only for 37,558 had the investigation been completed. Of these, only for 26,480 (51%) cases had the charge sheets been submitted. At the end of the year, around 14,092 cases were said to be pending investigation.

**Table 3.7: Disposal of SC/ST Cases by Police during 2010**

Year	Crimes Registered	Total no of cases incl. pending	Cases withdrawn	Investigation was refused	Investigation completed				No of cases pending investigation
					Charge found false	Final Report submitted	charge sheet submit- ted	Total	
2010	PCR Act	223	0	0	29	19	121	169	54
	PoA Act	18315	0	74	2373	997	7500	10870	7371
	Other Legal Provisions	33244	4	54	6233	1427	18859	26519	6667
	<b>Total</b>	<b>51782</b>	<b>4</b>	<b>128</b>	<b>8635</b>	<b>2443</b>	<b>26480</b>	<b>37558</b>	<b>14092</b>

Source: National Crime Record Bureau, 2009

- **Andhra Pradesh:** During 2010, out of 6334 pending cases of atrocities against SCs (including previous years), only for 2187 (35%) cases had the charge sheet been submitted. At the end of the year, the pendency rate was 31.7%.
- **Bihar:** During 2010, out of 7707 pending cases of atrocities against SCs (including previous years), only for 2321 (30%) cases had the charge sheet been submitted. At the year-end, the pendency rate was 58.7%.
- **Jharkhand:** Out of 1114 pending cases of atrocities against SCs (including previous years), only for 445 (40%) cases had the charge sheet been submitted. At the year-end, the pendency rate is 45.2%.
- **Orissa:** Out of 3301 pending cases (including previous years), only for 1731 cases (52%) had the charge sheet been submitted. At the year-end, the pendency rate was 39.1%.
- In 2010 in **West Bengal** the pendency rate at the end of the year was 84.3%, and in **Assam** it was 81.5%.
- **Karnataka:** Though a 30-day deadline for investigation is mandatory, 31 cases (2.68%) from 2008 were still under investigation' in 2010. Where charge sheets are filed, the pendency rates are prohibitively high.
- **Karnataka:** During 2010, of the 1632 cases reported, 335 cases were still under investigation at the end of that year.

*Box 3.5: "Abnormal delay leads to forced 'compromises' at the investigation stage (thereby enabling the police to file the report 'false') and to hostile witnesses (and therefore acquittals) during the judicial process." (Report of the Committee Monitoring and Strengthening SC/ST (PoA) in Karnataka, 2010)*

**Table 3.8: Disposal of Cases of Crimes against SCs/STs during 2010**

	No. of Cases under SC/ST (PoA) Act
Investigation completed	10870
Final Report True submitted	997
Charge sheet submitted	7500
Investigated cases pending Investigation	6667

<sup>27</sup> National Crime Record Bureau, Crime in India, New Delhi, 2009.

<sup>28</sup> Report of the Committee Monitoring and Strengthening SC/ST(PoA) in Karnataka (CMASK), 2010.

<sup>29</sup> Report of the Committee Monitoring and Strengthening SC/ST(PoA) in Karnataka (CMASK), 2010.



- With regard to crimes against STs during 2010, the pendency rate at the end in **Assam** was 81.9%, in **West Bengal** 80.5%, and in **Bihar** 70%.
- **Madhya Pradesh:** As per information received from the Police Headquarters, Bhopal there was a huge number of cases pending investigation in 2010-11.<sup>30</sup> (see Table 3.9)

Pending investigation	Aug'10	Sep'10	Oct'10	Nov'10	Dec'10	Jan'11	Feb'11	Mar'11	Apr'11	May'11
Above 9 months	32	38	33	33	34	46	38	41	40	51
Above 6 months	52	48	47	55	36	39	45	35	32	32
Above 3 months	115	121	91	111	75	75	95	94	87	90
Above 30 days	238	200	191	251	121	130	170	224	198	235
<b>Total</b>	<b>437</b>	<b>407</b>	<b>362</b>	<b>450</b>	<b>266</b>	<b>290</b>	<b>348</b>	<b>394</b>	<b>357</b>	<b>408</b>

**(iii) Delay in filing charge sheet:**

Sample analysis of the data received through RTI from 5 districts in the states of Bihar, Rajasthan, Karnataka, Maharashtra and Uttar Pradesh reveals delays in filing charge sheets and ignoring the time period of 30 days. (Table 3.10)

- **Rajasthan:** In all 16 cases reviewed in Rajasthan during the District Level Vigilance Monitoring Committee meeting held on 29.04.11, charge sheets were not filed within the stipulated time period of 30 days.<sup>31</sup> (see Annexure-I)
- Of the 19 cases from 2008 to 2011 in Andhra Pradesh, Bihar, Rajasthan Haryana and Karnataka analysed by the National Dalit Movement for Justice, New Delhi, charge sheets were not filed in 7 cases. Though the charge sheets were filed for the remaining cases, they were filed only many days after registering the FIR, which goes contrary to Rule 7(2).
- **Uttar Pradesh:** Of the 49 cases registered during January to March 2011 in Agra district, only in 25 cases had the charge sheet been submitted. This is the status as per the month of September; charge sheets are yet to be submitted for the remaining cases.<sup>32</sup>

*Box 3.6: "Cases dealt in the Commission pertaining to atrocities on the STs, in almost all the cases, while the reply has not been received within the stipulated period of 30 days, in some cases the reports furnished by the Police Authorities have also not been found to be comprehensive with specific comments on the issues raised by the Commission. Copies of FIR, charge-sheets, Medical Examination Reports of the ST victims/ postmortem reports of the ST diseased, information about arrest of the accused and details of relief and rehabilitation provided to the ST victims are generally missing in most of the cases." (Review meeting on the implementation of the PoA Act in Madhya Pradesh, held on 26/05/2010 at the National Commission for Scheduled Tribes)*

District/ State	With in 30 days	Over 30 days	Case Closed	CS not Filed	Insufficient Information	Total
Aurangabad – Bihar	23	180	8	21	185	417
Ajmer- Rajasthan	123	209	0	0	49	381
Bellary –Karnataka	18	87	0	0	17	122
Solapur –Maharashtra	12	74	0	0	2	88
Kushi Nagar -UP	460	405	11	0	80	956
All	636	955	19	21	333	1964

<sup>30</sup> Response received through RTI Act from the Police Headquarters, Bhopal, Madhya Pradesh on the Action Taken Report under Rule 8(x) of PoA Rules, during the period August 2010 to May 2011. Response dated 31.05.2011.

<sup>31</sup> RTI response received from the Social Justice Department, Dausa, Rajasthan on the minutes of the district level vigilance monitoring committee meeting held on 29.04.2011.

<sup>32</sup> Quarterly Report received from the District Magistrate through RTI, Agra, dated 20/09/2011.

(i) **Closure of Cases:** According to NCRB, out of 16,601 SC atrocity cases registered under the PoA Act, the police closed almost 2,150 cases (13%) in 2010. Further, out of the 1,714 ST atrocity cases registered under the PoA Act, 223 cases were closed under the category of 'charge found false while investigating the cases'.

- **Andhra Pradesh:** In Ongole district, of the 437 atrocity cases registered in 2010, charge sheets were filed in 122 cases, while 226 cases were closed after it was found during probes by the police that they were frivolous.<sup>33</sup>
- **Andhra Pradesh:** At a Video Conference on Atrocities against SCs/STs under PoA Act, 21/03/2009 conducted by the Social Welfare Department, Government of Andhra Pradesh, there are districts which have closed a large number of cases as false. The main reason given by the SPs/DSPs in those districts was delayed investigation leading to eventual compromise between the victims and the accused.<sup>34</sup>
- **Kerala:** As per the statement of the Kerala State Crime Record Bureau on PoA Act cases for atrocities against SCs in June 2011, in 23 out of 34 cases the accused were not arrested by police officials.<sup>35</sup> Notably, in 9 out of these 23 cases, the accused were not arrested for many years, ranging from 1, 10, 16, 20 to 25 years.
- **Himachal Pradesh:** In March 2011, of the 8 cases registered in the state, 6 cases have been closed by the police after investigation.<sup>36</sup>
- **Uttar Pradesh:** During January to March 2011 in Agra district, of the 49 cases registered, in only 19 cases had a Final Report been submitted after the investigation.<sup>37</sup>

### 3.3 Trial and Conviction

Public Prosecutors and Special Courts play a major role in presenting and arguing the case on behalf of Dalit victims. However, the majority of Public Prosecutors are non-Dalits who also feel that Dalits should not have rights and that non-Dalits have the privilege to attack Dalits and deny them any rights. Most of the cases are made weak on technical grounds and the judgment given is often in favour of the non-Dalit perpetrators. This is only because the Public Prosecutors wilfully do not seem to argue the cases properly.

#### (i) Disposal of Cases

Crimes Registered under the Act	Total no of cases for Trial including pending cases	Cases withdrawn by Govt.	Cases compounded or withdrawn	Cases in which trial completed			Cases pending Trial
				Convicted (1)	Acquitted or Discharged (2)	Total (1+2)	
PCR Act	1416	0	5	53	203	256	1155
PoA Act	45247	0	159	3430	5748	9178	35910
Other Legal Provisions	81344	3	763	5198	11197	16395	64186
<b>Total</b>	<b>128007</b>	<b>3</b>	<b>927</b>	<b>8681</b>	<b>17148</b>	<b>25829</b>	<b>101251</b>

- **National level criminal cases pending trial, completed cases, acquittal cases:** According to NCRB, in 2010 the total number of pending cases for trial was 128,007. Of these, only in 25,829 (20%) cases the trial was

<sup>33</sup> Report published in "The Hindu" dated 24 February 2011.

<sup>34</sup> Social Welfare Department, Government of Andhra Pradesh, Video Conference on Atrocities against SCs/STs under PoA Act, 21/03/2009, RC.No. H2/8193/2008-2.

<sup>35</sup> RTI Act response received from the State Crime Records Bureau, Asst. Inspector General of Police, Police Head Quarters, Thiruvananthapuram, Kerala dated 05.08.11, No. STAT-8256/01/SCRB.

<sup>36</sup> RTI response received from the Inspector General of Police, Himachal Pradesh, dated 27/04/2011. NO-CID/Crime-SC/ST Cell (Prot.Cell)/2011-3752.

<sup>37</sup> Quarterly Report received from the District Magistrate through RTI application, Agra, dated 20/09/2011.

completed. Acquittals were the result in 17,148 cases. At the year-end, 70% of the cases (101,251) were pending for trial.

- **National level PoA Act cases pending trial, completed cases, acquittal cases:** The cases registered under PoA Act and pending for trial was 45,247 (including previous years). Of these, 5,748 (13%) were acquitted, and convictions resulted in only 3430 cases (8%). At the year-end, 37,768 (79%) cases were pending trial.
- **National level increase/decrease rate for all criminal cases pending trial:** At the end of 2010, with 101,251 cases of crimes against SCs/STs (80%) pending trial in criminal courts across the country. This showed no significant improvement since 2001, when the trial pendency rate was 82.5 percent.
- **National level increase/decrease rate of PoA Act cases pending trial:** The trial pendency rate for crimes registered under the PoA Act has not decreased below 80% pendency during the years 1997 to 2009, averaging 82.9% per annum. Given that the trial pendency rate is roughly the same for all crimes under the PoA Act, PCR Act and IPC, the mandate of 'speedy trials' for crimes under the PoA Act does not seem to carry any special significance.
- **State-wise pendency rate for PoA Act cases:** Several states are noted for over 70% pendency of cases in courts in the period 2007 to 2009: Haryana (74%), Himachal Pradesh (76.3%), Jharkhand (72%), Kerala (75.2%), Maharashtra (83.7%), Orissa (88.3%), Punjab (78.5%) and Uttarakhand (74.1%). In these states, exclusive special courts have not been set up for prompt disposal of atrocity cases.<sup>38</sup>
- **At the end of 2010, most of the states had over 80% of pending cases for atrocities against SCs:** Gujarat (90.9%), West Bengal (89.2%), Rajasthan (86.6%), Maharashtra (86.2%), Kerala (85.5%), Bihar (84.3%), Himachal Pradesh (82.9%), Delhi (81.7%), and Orissa (80.7%). Several states had over 70% pending cases: Punjab (79.7%), Tamil Nadu (77.7%), Karnataka (76.9%), Madhya Pradesh (75.3%), Chhattisgarh (75.3%), Uttar Pradesh (72.4%), and Andhra Pradesh (70.5%).

## (ii) Status of Special Courts in States: Huge pendency of cases for trial

The following facts clearly reveal that the states with Special Courts continue to have high case pendency rates.

- **Gujarat**, though having 10 Special Courts for the speedy trial of SC/ST cases, has a high trial pendency rate (91.8% in 2009, 90.9% in 2010).
- **Uttar Pradesh**, despite having 40 Special Courts at the end of 2009, had 29,839 pending cases in the courts. Of these, pending trial were 23,386 cases (78.4%).
- Likewise, in **Madhya Pradesh**, having 29 Special Courts, the pending cases at the end of 2009 were 12,848, out of which 10,071 (78.4%) were pending trial in the courts. At the end of 2010, the pendency rate was 75.3 percent.
- In the states of **Andhra Pradesh, Bihar and Tamil Nadu**, the pendency rates drastically increased in 2010 when compared to 2009.

**Table 3.12: Pendency rate in the States**

Name of States	No. Of Special Courts*	% of pendency in 2009**	% of pendency in 2010**
Andhra Pradesh	8	68.9	70.5
Bihar	9	77.7	84.3
Chhattisgarh	7	80.7	75.3
Gujarat	10	91.8	90.9
Karnataka	10	76.9	76.9
Madhya Pradesh	29	78.4	75.3
Rajasthan	17	75.7	86.6
Tamil Nadu	4	75.7	77.7
Uttar Pradesh	40	78.4	72.4
*Ministry of Social Justice and Empowerment **National Crime Record Bureau			

<sup>38</sup> Agenda Notes, Conference of State Ministers for Welfare / Social Justice, Ministry of Social Justice and Empowerment, 17-18/06/2011, New Delhi..

- **Orissa:** While the Orissa State SC & ST Youth and Students Council claimed that about 10,700 cases of atrocities against SCs/STs were pending trial, the state government said that only 614 cases were pending in courts by 2009-end.<sup>39</sup>
- In **Uttarakhand**, during July to September 2010 there were 289 pending cases dealt with by the Special Courts. Even at the end of the quarter (end of September), there was no decrease in the number of pending cases, i.e. 282. Similarly, during October to December 2010, out of the total 282 pending cases, only for 9 cases did the courts give judgments; the remaining 273 cases were pending at the end of December 2010.<sup>40</sup>

### (iii) Acquittals and Convictions

When analysing the data on acquittals and convictions, one finds that the cases that had witnesses turning hostile ended more in acquittals than others, as did the cases that faced the regular absence of witnesses. The victims themselves often recanted their statements out of fear of the perpetrators' retaliatory attacks while out on bail or at the end of trial. This is especially the case since most atrocities cases result in acquittal, or because of threats from the perpetrators' dominant caste community.

- During 2009, about 12% of the cases registered under the PoA Act were acquitted. In the same year, the conviction rate was only 4 percent.<sup>41</sup>
- During 2010, about 13% of the cases registered under the PoA Act were acquitted. In the same year, the conviction rate was only 8 percent.<sup>42</sup>
- The conviction rate in the states during 2010 was as follows: Maharashtra (0.5%), Gujarat (0.9%), Karnataka (1.1), Orissa (1.5%), Bihar (1.7%), Andhra Pradesh (4.1%), Rajasthan (4.8%), Tamil Nadu (5.2), and Madhya Pradesh (8%). In West Bengal not a single case ended in conviction.<sup>43</sup>
- **Gujarat:** from the 14,242 cases of atrocities under the PoA Act completing trial in District Sessions Courts in Gujarat from 30/1/1990 to 31/7/2007, 91.8% ended in acquittals, 3.9% in compromises and a mere 2% in convictions.<sup>44</sup>
- **Andhra Pradesh:** even though there are Special (Sessions) Courts in all 23 districts to try cases under the PoA Act, these Courts recorded a very low conviction rate of 8.7% in 2009. Interestingly, very low conviction rates were observed in six districts that the state government had declared as atrocity prone.<sup>45</sup>
- **Uttar Pradesh:** The six-month reports received from the Senior Prosecution Officers of different zones in Uttar Pradesh during the period July to December 2010 show that the state has not taken any steps to reduce the pendency rate of SC/ST cases. (see Table 3.13)

**Table 3.13: Status of cases in UP during the period July - December 2010**

Zone	Pending Cases (including previous years)	Judgment given	Acquittal	Conviction	Final Report/ Case Compromised	Pending at end of December
Agra	1101	82	68	14	—	937
Bareilly	3521	156	78	68	10	3209
Gorakhpur	5455	277	219	58	—	4901
Azamgarh	1965	103	74	29	—	1759
Muradabad	254	—	—	—	—	254

<sup>39</sup> 'Daily News and Analysis', dated 26.05.2010.

<sup>40</sup> RTI response received from Inspector General of Police, Uttarakhand, dated 01/03/2011.

<sup>41</sup> National Crime Record Bureau, Crimes in India, 2009.

<sup>42</sup> National Crime Record Bureau, Crimes in India, 2010.

<sup>43</sup> Ibid.

<sup>44</sup> Data from Special Public Prosecutors in District Sessions Courts, Gujarat, obtained through RTI by Navsarjan Trust, Ahmedabad, 2008.

<sup>45</sup> Data from Video Conference on Atrocity cases against SCs/STs under PCR & POA Acts, conducted by Commissioner of Social Welfare & Nodal Officers, Hyderabad on 21/03/2009, RC.NO.H2/8193/ 2008- 2.

Meerut	658	19	18	1	—	620
Jhansi	115	12	9	3	—	835
Khanpur	808	83	40	31	—	654
Lucknow	1570	85	70	15	—	1400
Alahabad	1665	112	76	32	—	1445
Varanasi	743	22	12	6	4	699
Faizabad	4633	527	393	138	—	3575
<i>RTI response received from Senior Prosecution Officers, Uttar Pradesh, dated 26/05/2011</i>						

- The six-month report received from Senior Prosecution Officer, Basti, Uttar Pradesh during the period July to December 2010 reveals that of 599 pending cases in the district, only 19 were given judgments. Out of the 19, only 2 cases had convictions and the remaining 17 ended in acquittals. Similarly, during the period January to June 2011, out of 578 cases, only for 5 cases was the judgment given. Out of these 5 cases, only 4 had convictions and 1 ended in acquittal.<sup>47</sup>
- During July 2011 in Badaun district in Uttar Pradesh, of a total 1202 pending cases, only 1 case ended in conviction and the remaining 1201 cases were pending at the end of that month.<sup>48</sup>
- **Karnataka:** During 2010, of the 1632 cases reported in Karnataka, 39 cases had acquittals, 40 cases were disposed, and 313 cases had a Final Report submitted. At the end of the year, there were 893 cases pending trial. Only five cases had ended in convictions that year.<sup>49</sup>

### Reasons for low conviction ratio and high pendency of cases in courts:

- **Non-existence of Special Courts** is one important reason.
- **Designated Courts overburdened:** The existing Designated Courts are already overburdened with cases other than SC/ST cases; hence, the cases under the PoA Act are not given priority.
- **No power to take cognisance of cases:** By virtue of section 193 Cr.P.C, there is the imposition of an interdict on all Courts of Sessions against taking cognisance of any offence as a Court of Original Jurisdiction. Cognisance can be taken only if the case has been committed to the Court of Sessions by a Magistrate as provided in the Cr.P.C. The inference is that by the time the case reaches the Special Court, it already has been delayed for a considerable time and the purpose of a speedy trial is vitiated.
- **No day-to-day trial:** Trial of the cases is not conducted on a daily basis or in a speedy manner in the Special Courts.
- **Connected cases are not tried in the same court:** The counter cases filed in retaliation to the original complaint by the victim of atrocities are often tried in different courts. Advocates therefore inform about the proceedings of the regular court to the Special Court and take adjournments. Additionally, the courts sometimes wait for the orders of other courts, which then delay the trial. It is important for the actual facts of the case to be made known if the trial of counter cases is to be conducted in the same court.

#### Finally:

- ☞ The establishment of Exclusive Special Courts has not brought about any significant change in the expeditious finalisation of atrocity cases.
- ☞ The workload of judges, prosecutors, investigating officers and court administrative staff, and the delay in finalising cases, bear a high correlation.
- ☞ The insufficient allocation of funds affects the infrastructure facilities available, which in turn affect the speedy trial of cases.
- ☞ The irregular and delayed allocation of financial resources to witnesses affects the attendance of witnesses in the courts.

<sup>47</sup> RTI response received from the Senior Prosecution Officer, Basti, Uttar Pradesh, 2011.

<sup>48</sup> RTI response received from District Social Welfare Officer, Badaun, Uttar Pradesh, dated 3/11/11.

<sup>49</sup> Report of the Committee Monitoring and Strengthening SC/ST(PoA) in Karnataka (CMASK), 2010, with recommendations to the Chief Minister (Chairperson, SVMC under Rule 16(1)i).

### 3.4 Relief and Compensation

#### What PoA Act & Rules Say

**Rule 11: Travelling allowance, daily allowance, maintenance expenses and transport facilities to the victim of atrocity, his or her dependant and witnesses –**

- (1) Every victim of atrocity or his/her dependent and witnesses shall be paid to and fro rail fare by second class in express/mail/passenger train or actual bus or taxi fare from his/her place of residence or actual bus or taxi fare from his/her place of residence or place of stay to the place of investigation or hearing of trial of an offence under the Act.
- (2) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make necessary arrangements for providing transport facilities or reimbursement of full payment thereof to the victims of atrocity and witnesses for visiting the investigating officer, Superintendent of Police /Deputy Superintendent of Police, District Magistrate or any other Executive Magistrate.

**Rule 12: Measures to be Taken by the District Administration –**

- (4) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the schedule annexed to these Rules. Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other necessary essential items.

#### Status of Implementation

As per the answer given by the Minister of State in the Ministry of Social Justice and Empowerment D. Napoleon in the Lok Sabha, un-starred Question No 1674 dated 30.11.2009, around 24,500 victims of atrocities were provided with immediate relief under the Rules during 2007-08. For this, an expenditure of around Rs. 48 crore was incurred by State/UT governments, of which 50% was borne by the Central Government. That means that, per person, only Rs. 19,591/- was spent for providing immediate relief for the victims of atrocities.

- **Andhra Pradesh:** A RTI response received from the Deputy Director (SW), Vizianagaram, Andhra Pradesh on the District Level Vigilance Monitoring Committee meeting, held on 25.04.11, categorically states that the following gap was delaying the payment of compensation to victims of atrocities:
- “.....the charge sheets are not received, for which the sanction of compensation under relief measures is lagging behind .....”
- **Madhya Pradesh:** A RTI response, dated 25.03.2011, was received from the Public Information Officer, Scheduled Caste Welfare Department, Satna district, Madhya Pradesh on the District Level Vigilance Monitoring Committee meeting, held on 04.08.2010. It states the problem of non-payment of travelling allowance to the victims and witnesses and Agenda 1, S.No. 3 of the meeting minutes notes:
- “....The Special Public Prosecutor has revealed that they receive less amount for disbursing the travelling allowance among the victims and witnesses coming for the trial in the Special Court. Due to which all the victims and witnesses are not paid the travelling allowance....”
- The National Commission for Scheduled Tribes (NCST) made a report after its visit to **Himachal Pradesh** from 14–18.07.2011 to review the implementation of development programmes, the reservation policy and PoA Act in respect of STs. In its report the Commission observed the following:
- “...It was also noted that various provisions of the PoA Act and Rules, [Travelling Allowance, Daily Allowance and Maintenance Expenses], were not implemented and as a result, an important objective of the PoA Rules for providing timely relief and rehabilitation to the victims of atrocities was getting defeated.....”
- The report of the visit of the National Commission for Scheduled Tribes (NCST) to Jharkhand from 25–30.04.2011 to review the implementation of development programmes, the reservation policy and PoA Act in respect of STs noted:

“...various provisions of the PoA Act and Rules, [Travelling Allowance, Daily Allowance and Maintenance Expenses”], were not implemented and as a result, an important objective of the PoA Rules for providing timely relief and rehabilitation to the victims of atrocities was getting defeated.....”

- **Madhya Pradesh:** In the review meeting on the implementation of the PoA Act and Rules in Madhya Pradesh held on 26.05.2010 in the Conference Room of the National Commission for Scheduled Tribes, it was observed:

“The discussion on various issues relating to atrocities on Scheduled Tribes commenced with the remarks by the Commission that in most of the cases... details of relief and rehabilitation provided to the ST victims are generally missing in most of the cases.”

### What the data say: Major trends and patterns

- In many cases victims of atrocities are not paid compensation at all as prescribed under the PoA Rules. Additionally, in many cases the compensation paid is not proper as prescribed by Rules.
- Compensation is not provided at each and every stage – i.e. registration of FIR, filing of charge sheet and conviction.
- Release of the compensation amount to victims of atrocities is delayed for a long time, or this amount is released only after some amount or percentage of the actual compensation is given as bribes to government officials.
- The government administration is not conducting an enquiry, thereby evading its duty to give relief and compensation to victims, and instead making false promises to give compensation and delaying in distributing cash compensation.
- The district administration ignores social boycotts of Scheduled Castes. These boycotts lead to denial of employment and access to basic necessities like ration shop goods, refusal to buy or sell any goods in the village, etc., to pressure Scheduled Castes into submission and cause intense suffering to them, though no physical violence may take place in the process. The attitude of District Administration in such situations usually ranges from indifference to negligence.
- Victims are not given employment as per the PoA Rules.
- Monthly pensions are not given to the wife of the deceased Dalit victims of atrocities as per the Rules.
- In cases of destruction of houses, brick/stone masonry houses not provided to the victims.
- Victims are not paid travelling allowances nor maintenance expenses for their visits to police stations and courts during investigation and the trial.
- Victims are not paid medical expenses immediately after the atrocity.

## Implementation of Preventive Mechanisms

## 4.1 Declaration of Atrocity-Prone Areas

## What the Act and Rules Say

**Section 17: Preventive action to be taken by the law and order machinery**

(1) A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such enquiry as he may think necessary, has reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behavior and maintenance of public order and tranquility and may take preventive action.

## Status of Implementation

(i) **Declaration of Atrocity-Prone Areas:** As mentioned in above Rule, all state governments are mandated to identify atrocity-prone areas and thereafter to prepare a plan of action for eliminating untouchability practices and reducing incidents of violence.

A positive step to check the occurrence of atrocities is to identify atrocity-prone areas and take preventive measures so that incidents of atrocities do not occur in those areas. However, according to the Ministry of Social Justice and Empowerment, currently only 12 states have identified 223 districts as atrocity-prone and sensitive areas. (See Annexure - II)

(ii) **Atrocity-prone areas NOT declared in 15 states:** Arunachal Pradesh, Assam, Chhattisgarh, Goa, Haryana, Himachal Pradesh, Manipur, Meghalaya Mizoram, Nagaland, Punjab, Sikkim, Tripura, Uttarakhand and West Bengal have not yet declared any areas in their districts as atrocity-prone.

- **West Bengal:** the state government has stated that “regular administrative machinery is sufficient at present in this matter [of dealing with atrocities]”.<sup>51</sup>
- **Uttarakhand:** the state government contends already that caution is being taken by the district administration and whenever any incidence of atrocity is noted, exemplary action is taken and victims are immediately provided with proper security and relief.<sup>52</sup>

Box 4.1: States have not taken much interest in identifying atrocities prone areas even though they have access to data on district-wise crimes against the Scheduled Castes, in addition to various reports which their own field machinery generates. (NHRC, Report on Prevention of Atrocities against SCs, New Delhi, 2004, p.45)

Table 4.1: Number of Atrocity Prone districts

Name of States	Total No. Of Districts	Atrocity prone Districts
Jharkhand	24	01
Kerala	14	03
Gujarat	26	11
Andhra Pradesh	23	12
Karnataka	30	15
Orissa	30	19
Uttar Pradesh	72	20
Rajasthan	33	24
Madhya Pradesh	50	26
Tamil Nadu	32	28
Maharashtra	35	31
Bihar	38	33
<b>Total</b>	<b>407</b>	<b>223</b>

<sup>51</sup> Annual Report 2008 from M. Pandit, (Exe) Joint Commissioner for Reservation & EO Joint Secretary to the Government of West Bengal, Backward Classes Welfare Department, in Response of RTI application from S.K.Ghosh, SPIO, Backward Classes Welfare Department.

<sup>52</sup> RTI response from the Government of Uttarakhand, received by National Dalit Movement for Justice, New Delhi.



- **Rajasthan:** with the second highest number of registered atrocities against SCs/STs under the PoA Act over the period 1995 to 2009, Rajasthan has identified 17 districts as atrocity prone, but not publicly declared even a single district/area as such.

According to the information received from the Department of SC/ST Welfare, Government of Bihar, in 2009 the following areas are identified where SCs/STs are likely to be subjected to atrocities and where measures are required to be adopted to ensure their safety and security: (Table 4.2)

Identified areas in Districts	Atrocity prone areas	Special Police Station	No. of Special Police station
Patna, Nalanda, Rohatas, Bhabhua, Bhojpur, Buxer, Gaaya, Jehanabad, Nawada, Aurangabad, Saran, Siwan, Gopalganj, Muzaffarpur, Sitamarhi, Sheohar, W. Champaran, E. Champaran, vaishali, Dharbhanga, Madhubani, Samastipur, Saharsa, Aupaul, Madhepura, Purnea, Kishanganj, Bhagalpur, Banka, Munger, Lakhisarai, Sheikhpura, Begusarai	Out of 38 districts, 33 districts have been identified as having 'atrocity-prone' areas	Nalanda, Bhojpur, Rohatas, Gaya, Vaishali, Samastipur, Begusarai, Bhagalpur Munger, Patna	Out of 33 districts identified as 'atrocity-prone', only in 10 districts have special police stations been established

**(iii) Absence of any criteria for declaring areas as atrocity prone:** No common criteria have been evolved to declare an area as atrocity prone. Moreover, atrocities are not limited to those identified districts and areas alone.

- Despite the many crimes against SCs/STs in general, and the many atrocities registered under the *PoA Act* in particular, **only 13 of the 35 States and Union Territories have identified atrocity-prone districts.** Moreover, out of these 13 states, six states have identified over 50% of their districts as atrocity prone. Notably, Uttar Pradesh, with the highest number of atrocity cases in the country, has only declared 20 of its 72 districts (27.8%) as atrocity-prone. Moreover, the states which so far have not declared any of their areas as atrocity-prone are the ones having the largest number of atrocities against SCs/STs.
- **Tamil Nadu:** This state holds the distinction of having declared the largest percentage of its 32 districts as atrocity-prone: in 28 districts there are 186 villages considered as atrocity-prone. Another 230 villages are considered as dormant atrocity-prone, and among them 166 villages have been described as 'highly sensitive'. However, of the total cognisable crimes against SCs/STs in the state reported during 1995 to 2009, only 33.2% were registered under the *PoA Act*.<sup>53</sup>

**(iv) No atrocity-prone areas in the states, but atrocities in high numbers!!!!** It is shocking to know that in the states which have not declared any of their areas as atrocity-prone, the rate of atrocities is extremely high. (Annexure III.)

- **Chhattisgarh,** without any atrocity-prone areas declared, has recorded a large number of crimes against SCs/STs (10,130). This works out to 1.95% of the total number of crimes against SCs/STs in India during the period 1995 to 2009. **Haryana, Assam and Himachal Pradesh** represents 0.58%, 0.32%, and 0.25% of cases respectively. As per the National Crime Report 2009, Chhattisgarh ranks third as per the rate of total cognisable crimes against SCs/STs in India. Likewise, **Tripura and West Bengal** occupy 9<sup>th</sup> and 19<sup>th</sup> position respectively.<sup>54</sup>

*Box 4.2: "In Haryana, five cases of mass violence involving murder, rape, maiming, loot and arson were reported. All these cases fit into a pattern. Dalits are attacked, their houses ransacked and their properties looted. Protection is nil. The result is that Dalits leave their houses, never to return. And no one is bothered. But we [NCDHR] won't allow that to happen. That's why we have formed a committee to push forward our agenda of safeguarding the life of Dalits." (<http://www.rghr.net/mainfile.php/0912/1260/>)*

<sup>53</sup> Published in 'Little Impact', Frontline, 4/12/2009, pp.15-16

<sup>54</sup> National Crime Record Bureau, Crime in India, New Delhi.

- In particular, **Haryana** has the ignominious record of heinous atrocities in Gohana, Budram, Mohammadpur, Jafergarh, Dahola and Salwan districts where 200 Dalit houses were burnt down and about 25 Dalits had to be shifted to the nearest trauma centre after the attack. Furthermore, 75% of Salwan's Dalit population had to flee the area for fear of reprisal.

***Haryana:** In 2010, the dominant caste Jat community in Mirchpur village in Haryana burnt alive a 17-year old Dalit girl and her 60-year old father and also looted and set fire to 18 Dalit houses. Even after such a heinous crime, the Haryana Government has not declared any district as containing atrocity-prone areas.*

## 4.2 Preventive and Precautionary Measures

### What the Act & Rules Say

#### **Rule 3: State Government shall:-**

- (i) Identify the area where it has reason to believe that atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act;
- (ii) Order the District Magistrate and Superintendent of Police or any other officer to visit the identified area and review the law and order situation;
- (iii) If deemed necessary, in the identified area cancel the arms licenses of the persons, not being member of the Scheduled Castes or Scheduled Tribes, their near relations, servants or employees and family friends and get such arms deposited in the Government Armory;
- (iv) Seize all illegal fire-arms and prohibit any illegal manufacture of fire-arms;
- (v) With a view to ensure the safety of person and property, if deem necessary, provide arms licenses to the members of the Scheduled Castes and the Scheduled Tribes;
- (vi) Constitute a high power State-level committee, district and divisional level committees or such number of other committees as deem proper and necessary for assisting the Government in implementation of the provisions of the Act.
- (vii) Set up vigilance and monitoring committee to suggest effective measures to implement the provisions of the Act;
- (viii) set up Awareness Centers and organize Workshops in the identified area or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules, regulations and schemes framed there under;
- (ix) Encourage Non-Government Organizations for establishing and maintaining Awareness Centers and organizing Workshops and provide them necessary financial and other sort of assistance;
- (x) Deploy special police force in the identified area;
- (xi) By the end of every quarter, review the law and order situation, functioning of different committees, performance of Special Public Prosecutors, Investigating Officers and other Officers responsible for

### Status of Implementation

#### (i) Negligence of the administration in taking preventive and precautionary measures

**a) Conducting Periodic Surveys:** In order that timely preventive measures can be taken to check incidents of atrocities resulting in loss of life and property, it is necessary for all the State Governments/Union Territory Administrations to conduct periodic surveys and identify atrocity-prone areas for taking preventive measures.

☞ According to the RTI response received from various states, only **Madhya Pradesh** has completed the survey of atrocity-prone areas.

☞ No other states have done any such survey. As a reason, the RTI response from the Tamil Nadu government states that the law and order situation is normal and that no major atrocity incident was reported in 2009 and 2010.<sup>55</sup> The reality, however, is quite different. The number of atrocities registered in Tamil Nadu from 2009 until Sept. 2010 under the PoA Act stood at 2314 cases.<sup>56</sup> The proportion of cases registered under the Act increased from 32% in 2000 to 79% in 2009. To mention a major atrocity that occurred in Madurai district, a Dalit youth was coerced and punished by a group of Christians on 7 January 2010 to eat human excreta because he had walked through their colony while wearing shoes. Another incident took place at Erunjirai village in October 2009, where nearly 22 Dalit families suffered a social boycott by dominant castes.<sup>57</sup>

**b) Setting up Special Police Stations:** The setting up Special Police Stations helps in prompt registering of crimes committed against SCs/STs and creates a sense of confidence among them. Although such special police stations have been set up in some states, their working is far from satisfactory, for these police stations are not adequate and do not have proper staff and facilities to function effectively.

☞ For example, in **Bihar** only 11 SC/ST police stations are functioning and the proposal for creation of another 14 such police stations is reported to be still pending with the state government. Since one special police station is catering to more than one district, SC/ST victims have to travel long distances to register their cases in the SC/ST police stations. Thus, the very purpose of creation of special police stations for SCs & STs is defeated.

☞ No Special Police Stations have been set up in **Orissa** as per the information received from the six-monthly report in regard to implementation of the PoA Act and Rules in Orissa during January to June 2011.

## (ii) Increase of atrocity incidents in atrocity-prone areas

The geographical distribution of atrocities against SCs/STs may provide an idea of the areas/locations which are particularly prone to such incidents.

☞ One illustration is the following break-up of such crimes, which increased annually in states with identified atrocity-prone areas during 2008 to 2010: For instance, in the state of Madhya Pradesh, there were 2,965 crimes reported against SCs in 2008, 3,040 in 2009 and 3,374 in 2010. Moreover, this clearly shows that the states have not shown any special interest to protect the SC/STs in the identified atrocity-prone areas and have not taken any precautionary and preventive measures in proportion to the annual increase in atrocities.

☞ Another illustration is **Andhra Pradesh** in particular:

- In the atrocity-prone districts, the number of atrocities against SCs/STs was highest in Kurnool district (216 cases), followed by Mahabubnagar (173 cases), West Godavari (159 cases), Nellore and East Godavari (133 cases each), and Guntur (119 cases).
- Kurnool district registered the highest number of SC/ST murders (6), followed by East Godavari (5), Mahabubnagar and Khammam (4 each).
- In terms of rapes of SC/ST women, Nalgonda district topped the state with 19 cases, followed by Mahabubnagar and Khammam (15 each), Adilabad (10) and Karimangar, Prakasham, West Godavari and East Godavari (8 each).
- As recently as in 2009, the declared atrocity-prone districts in particular occupied the highest places regarding crimes against SCs/STs: this was Kurnool district, followed by Mahabubnagar, West Godavari, East Godavari and Guntur districts.

<sup>55</sup> RTI response received from Deputy Inspector General of Police, Social Justice & Human Rights Department, Tamil Nadu.

<sup>56</sup> Adi Dravidar Welfare Department data, published in "The Hindu" on 04/11/2010.

<sup>57</sup> Published in "The Hindu" on 13/10/2009.

### What the data say: Major trends and patterns

- In spite of the many and frequent occurrences of atrocities all over India, as per the records of the National Crime Record Bureau, two findings have emerged: (i) areas have been declared as atrocity prone only in 223 districts of 12 states out of the total of 640 districts in 29 states; and, (ii) areas as atrocity prone are yet to be declared in 15 districts.
- Areas are not declared as atrocity prone in the states where atrocities are taking place increasingly and frequently.
- No common criteria have been developed in declaring an area as atrocity-prone. As atrocities are not limited only to those identified districts, the absence of such objective set of criteria makes the situation of SCs/STs very vulnerable and insecure.
- Periodic surveys are not being conducted in the states where atrocity-prone areas have been declared and this kind of negligence makes the situation of SCs/STs much worse.
- Review of the law and order situation does not take place regularly, and the DM/SP does not visit the identified atrocity-prone areas as mandated by the PoA Act and Rules.
- No precautionary or preventive measures have been put in place in the identified atrocity-prone areas even though atrocities are on the rise in these areas.

## 4.3 Formation and Functioning of Special Cells

### What the Act and Rules Say

#### **Rule 8: Setting up of the Scheduled Castes and the Scheduled Tribes Protection Cell**

*The State Government shall set up a Scheduled Castes and the Scheduled Tribes Protection Cell at the State headquarters under the charge of Director of Police, Inspector-General of Police.*

#### **This Cell shall be responsible for:**

- (i) *Conducting survey of the identified area*
- (ii) *Maintaining public order and tranquility in the identified area*
- (iii) *Recommending to the state government for deployment of special police force or establishment of special police post in the identified area*
- (iv) *Making investigations about the probable causes leading to an offence under the Act*
- (v) *Restoring the feeling of security amongst the members of the Scheduled Castes and Scheduled Tribes*
- (vi) *Informing the nodal officer and special officer about the law and order situation in the identified area*
- (vii) *Making enquiries about the investigation and spot inspections conducted by various officers*
- (viii) *Making enquiries about the action taken by the Superintendent of Police in the cases where an officer in-charge of the police station has refused to enter information in a book to be maintained by that police station under sub-rule (3) of rule 5*
- (ix) *Making enquiries about the willful negligence by a public servant*
- (x) *Reviewing the position of cases registered under the Act*
- (xi) *Submitting a monthly report on or before 20th day of each subsequent month to the State Government, nodal officer about the action taken proposed to be taken, in respect of the above.*

## Status of Implementation

**(i) Special Protection Cell set up:** According to the Ministry of Social Justice and Empowerment, 23 out of 28 States and 3 out of 7 Union Territories have set up SC/ST Protection Cells: Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Dadra & Nagar Haveli, NCT of Delhi and Puducherry.

**(ii) Special Cell not set up:** Special Cells have not been set up in 11 States/UTs: Arunachal Pradesh, Goa, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Andaman & Nicobar, Chandigarh, Daman & Diu and Lakshadweep. According to a RTI response, no Protection Cell is set up in Jharkhand as well.<sup>58</sup>

**(iii) Official in-charge of the Cell:** According to the PoA Rules, the Director of Police and the Inspector-General of Police are responsible for this Cell. But in many of the states, this Cell is not headed by the IGP or Director of Police as per the Rules. Rather, it is the Additional Director General of Police or Deputy Superintendent of Police who heads the Cell.

- Only 4 states (Bihar, Chhattisgarh, Maharashtra and West Bengal) are the Cells headed by IGP, as per the Rule.<sup>59</sup>
- In 6 states (Andhra Pradesh, Haryana, Karnataka, Madhya Pradesh, Punjab and Gujarat), the Cell is headed by the Additional Director General of Police. In 3 states (Assam, Himachal Pradesh and Uttar Pradesh) it is headed by the Director General of Police.
- As per the Rule, the Cell has to inquire and review the performance of the Superintendents of Police. However, in Rajasthan, Puducherry and Uttarakhand where the Cell is headed by the Superintendent of Police, the question is how will the SP's performance be reviewed?

**(iv) District/Regional Cell:** Rule 8 PoA Rules mandates the creation of a state-level SC/ST Protection Cell. In practice, this has turned out to be a fulfilment of the letter of the law rather than its spirit, for the SC/ST Cells are too far removed from the SC/ST community's habitats. As a result, due to their sheer physical distance, the Cells have not been able to fulfil their role in two respects: (i) informing, reminding, or instructing police officers of the obligations arising under the PoA Act and Rules; and (ii) of instilling a feeling of safety and security among SC/ST individuals and communities. This situation has necessitated the formation of District and Regional-level Cells to facilitate easy and appropriate responses to situations of atrocities.

- Gujarat has 3 Regional Cells at Vadodara, Ahmedabad and Rajkot. Karnataka has 6 Regional Cells at Mysore, Mangalore, Belgaum, Davanagere, Gulbarga and Bangalore. Likewise, Rajasthan has 21 Cells in 18 Districts and Tamil Nadu has Cells in 32 Districts. Uttar Pradesh, in particular, has a Special Investigation Cell in all its districts.
- The rest of the states have only 1 SC/ST Protection Cell at their state headquarters, with insufficient staff. They therefore are unable to cover all the atrocity cases occurring in the state and are unable to carry out the investigation of these cases promptly, efficiently and effectively.

### (v) Responsibility of the Cell:

- (a) Conducting Survey:** As indicated above, only **Madhya Pradesh** has fulfilled the obligation of completing the survey of atrocity-prone areas.
- (b) Investigating atrocity cases:** Despite the existence of Protection Cells to inquire into the probable causes for offences under the PoA Act, their functioning has been very poor as the investigations carried out by them are not satisfactory.

<sup>58</sup> RTI Act response, dated 18.05.2011, received from the Superintendent of Police, Crime Records Department, Ranchi, Jharkhand.

<sup>59</sup> RTI Act response received from the state governments by National Dalit Movement for Justice, New Delhi.

- Police investigation of atrocity cases is slow. According to the NCRB, during 2010, of the total of 51,782 cases, only for 37,558 had investigation been completed. Of these, only for 26,480 cases (51%) had charge sheets been submitted. At the end of the year, around 14,092 cases were pending investigation.<sup>60</sup> It is not difficult to see why SCs/STs have lost faith in the enforcement of the law and why registrations take place much less than they should. In fact, even in respect of heinous crimes, the police machinery in many states has been deliberately avoiding the PoA Act and instead has been finding it easy and convenient to register cases under the IPC alone.
- **Bihar:** At the start of 2009, the number of cases pending investigation was 7,595 in Bihar. Investigation was completed only for 3,404 cases and the remaining 4,191 cases (55.2%) were pending by the year-end.
- Likewise, the percentage of cases pending police investigation in Jharkhand stood at 47.4%, in Orissa at 54%, in New Delhi at 75.5%, and in **West Bengal at 90.7 percent.**

Composition of the Cell	Activities of the Cell	No.
A SC/ST Cell is functioning under the IG of the Government of Bihar	Survey of identified areas conducted	Nil
	Investigation done about the probable causes leading to an offence under the Act	Report is being sought from IG
	Enquiries made about the investigation and spot inspections conducted by various officers	95
	Enquiries made about the wilful negligence by a public servant	Nil
	Reviews conducted to assess the position of cases registered under the Act	Three review meetings were held at the level of Minister of SC/ST Welfare Department

**(6) Supervisory role:** Table 4.3 provides information received from the Department of SC/ST Welfare, Government of Bihar regarding the officers appointed in 2009 for supervising prosecution of PoA cases through the SC/ST Protection Cells (Ref: Section 21 (2)(1v) PoA Act read with Rule 8 PoA Rules). As per the information, the SC/ST Cell has not conducted any survey in the identified area and it has not yet submitted its report about investigations conducted.

#### What the data say: Major trends and patterns

- *11 states/UTs have not set up SC/ST Protection Cells.*
- *Where Cells have been set up, their infrastructure is inadequate and they function under unsuitable working conditions. In general, their functioning is very poor.*
- *No regular enquiries are held about the investigations; nor are spot inspections conducted by the officers as per the Act.*
- *There is no proper coordination with the Nodal Officer and the Special Officers.*
- *There is no regular review of the position of cases registered under the Act, nor are monthly reports submitted on or before 20th day of each subsequent month to the State Government/Nodal Officer regarding the action taken/proposed to be taken.*

<sup>60</sup> National Crime Records Bureau, Crimes in India, 2009.

Though there are Special Cells for the investigation of cases registered under the PoA Act in certain states headed by the Additional General of Police, they are ineffective because they have only inquiring and supervising authority. They have no authority to charge sheet the case in the court. The Government of India provides 50% expenditure for maintaining these Special Enquiry Cells. However, because the state governments are expected to bear the remaining 50% share of expenditure, no interest is shown, nor any step is taken, by the states to strengthening these Cells.

#### 4.4 Awareness Measures

##### What the Act and Rules Say

###### **Rule 3: Precautionary and Preventive Measures**

- viii. Set-up Awareness Centres and organise workshops in the identified area or at some other place to educate Scheduled Castes and Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules, regulations and schemes framed there under;
- ix. Encourage non-government organisations to establish and maintain Awareness Centres and organise workshops, and provide them with necessary financial and other assistance.

##### Status of Implementation

**(i) Central Government: One radio programme has been done one year.** The Ministry of Social Justice and Empowerment announced that one episode of a running series would be devoted to the two Acts together – the PCR Act and the PoA Act. “A programme on the theme of National Award for outstanding fieldwork in the area of eradicating untouchability and combating offences of atrocities under the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was broadcast on 02.03.2008, under the series sponsored by the Ministry called “Sanwarti Jayein Jivan Ki Rahen.”<sup>61</sup>

##### **(ii) State Governments:**

**(a) Awareness Programme for Enforcement Officials:** According to the RTI responses received from various states with regard to Rule 3: awareness raising among SCs/STs, many states are interested in sensitising enforcement officials rather than the SC/ST public. To cite some examples of this anomaly:

- In **Andhra Pradesh**, sensitisation workshops are being held for field functionaries of Social Welfare, Police and Revenue Departments.<sup>62</sup>
- In **Goa**, a workshop for the Officers of South Goa District was organised on 17.11.2007 and a lecture was delivered by Asha Aarsekar, Public Prosecutor, at the Conference Hall, South Goa District Police Head Quarters, Margao.<sup>63</sup>
- In **Maharashtra**, in 2008, a programme for sensitisation of village-level government workers and officers were undertaken. Under this scheme, a one-day workshop was organised at the Panchayat Samitis-level.
- In **Himachal Pradesh**, at the district level, workshops were organised in which members of the Zilla Prarishads, district government officials and police personnel participated. During the year, 172 such awareness camps/shibirs were organised and Rs. 8.77 lakhs expenses incurred.
- In **Orissa**, in addition to the sensitisation of police personnel and elected representatives about the provisions of the POA Act, all Collectors /Superintendents of Police have been requested to conduct workshops/training camps at the district level.<sup>64</sup>

<sup>61</sup> Ministry of Social Justice and Empowerment, Annual Report u/s. 21(4) for the year 2008, New Delhi.

<sup>62</sup> Annual Report from Dr. N. Nageswara Rao, Commissioner of Social Welfare, in response to RTI application from Additional Director/PIO, Social Welfare Department, Andhra Pradesh.

<sup>63</sup> Proforma Report by Allen De Sa, SP (HQ) for DGP(Goa) for DGP, in response to RTI application from S. Fernandes, Assistant Director (SC/OBC Welfare) Directorate of Social Welfare, Goa.

<sup>64</sup> Ministry of Social Justice and Empowerment, Annual Report u/s. 21(4) for the year 2008, New Delhi.

**(b) Putting up Hoardings of the Act:** A display board depicting provisions of the PoA Act was erected on the premises of police stations, circle offices, sub-divisional police offices and the offices of the superintendent of police/commissioner of police to create awareness in many states.

**(iii) Involvement of NGOs:** NGOs can be involved in giving awareness to SC/ST communities. As per the Annual Report of the Ministry of Social Justice and Empowerment, only NGOs in Andhra Pradesh, Gujarat and Sikkim are involved in giving legal awareness through workshops, trainings, etc.

**Publicity Measures:** Many states are seriously involved in giving publicity to the PoA Act through displaying boards depicting provisions of the Act in police stations and circle offices.

However, some states have not taken any serious measures for publicity. For instance, in Karnataka, a state-level workshop held in Bangalore was the only occasion at which the Act received publicity, as per the Annual Reports of Social Justice Ministry.



## Accountability Mechanisms

## 5.1. District Level Vigilance and Monitoring Committee

**What the Act and Rules Say**

**Rule 17 (i)** - In each district within the state, the District Magistrate shall set up a district-level vigilance and monitoring committee to review:

- the implementation of the provisions of the Act,
- the relief and rehabilitation facilities provided to the victims and other matters connected therewith,
- the prosecution of cases under the Act,
- the role of different officers/ agencies responsible for implementing the provisions of the Act, and
- the various reports received by the District Administration.

**Rule 17 (ii)** - The district-level vigilance and monitoring committee shall consist of:

- the elected Members of Parliament and State Legislative Assembly and Legislative Council,
- the Superintendent of Police,
- the three Group 'A' Officers/ Gazetted Officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes,
- not more than 5 non-official members belonging to the Scheduled Castes and Scheduled Tribes and not more than 3 members from the categories other than Scheduled Castes and Scheduled Tribes having association with non-government organisations.

**Rule 17 (iii)** - The District-level committee shall meet at least once in three months.

## Status of Implementation

**(i) Formation of DVMC:** According to the Annual Report of the Ministry of Social Justice and Empowerment for 2009-2010, Committees have been set up in the States/UTs of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, Dadra & Nagar Haveli, Andaman & Nicobar Islands, Daman & Diu, NCT of Delhi and Puducherry.<sup>65</sup>

Committees **have not been set up** in Arunachal Pradesh, Jammu & Kashmir, Lakshadweep, Manipur, Meghalaya, Mizoram and Sikkim.<sup>66</sup>

**(ii) Committee Meetings:** The Rule that the DM should conduct the DVMC meetings at least once in three months is widely flouted.

**a) No information about the meetings:** As per the Ministry of Social Justice and Empowerment,<sup>67</sup> there is no information available about the conduct of meetings of District level Committee in 2010 from the States/UTs of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Nagaland, Punjab, Sikkim, Tripura, Uttarakhand, West Bengal, Chandigarh, Dadra & Nagar Haveli, Andaman & Nicobar Islands, Daman & Diu, and Puducherry.

<sup>65</sup> Ministry of Social Justice and Empowerment Agenda Notes, Conference of State Ministers of Welfare / Social Justice, 17-18.06.2011.

<sup>66</sup> Ibid.

<sup>67</sup> Ministry of Social Justice and Empowerment Agenda Notes, Conference of State Ministers of Welfare / Social Justice, 17-18.06.2011.

**b)Irregularity of meetings:** Table 5.1, containing information from the Ministry of Social Justice and Empowerment and the responses received by the National Dalit Movement for Justice through RTI applications<sup>68</sup> from various states, clearly shows the trend of irregularity in meetings across all the 15 listed states.

<b>Table 5.1: DVMC meetings conducted during 2010</b>						
<i>State</i>	<i>Total no of Districts</i>	<i>No of districts in which four meeting held Jan-Dec 10</i>	<i>No of districts in which three meeting held</i>	<i>No of districts in which two meeting held</i>	<i>No of districts in which one meeting held</i>	<i>No of districts in which no meeting held</i>
Haryana	21	<i>DVMCs are yet to be constituted.</i>				
HP	12	Nil	1	6	3	2
Orrisa	30	1	5	5	14	5
Rajasthan	33	4		8	12	9
UP	72	26(four)	6	10	20	10
Delhi	9	<i>No meetings of DVMCs, constituted in 2008, have been held so far.</i>				
Gujarat (Jan-Jun10)	26	Nil	Nil	18	6	2
Karnataka	32	<i>44 meetings of DVMCs were held in 2010.</i>				
Maharashtra	35	<i>258 meetings of DVMCs were held in 2010.</i>				
Tamilnadu	32	Nil	32	Nil	Nil	Nil
Madhya Pradesh (Jan-Sep 09)	50	Nil	5	22	16	7
Andhra Pradesh (Jan-Dec 09)	23	4	6	6	7	Nil
Andhra Pradesh (Jan-Jun 10)	23	Nil	Nil	17	6	Nil
Himachal Pradesh (Jan-Dec 09)	12	Nil	Nil	2	4	2
Uttarakhand (Jan-Dec 09)		<i>7 DVMC meetings were held in 4 districts</i>				

Analysis of the data regarding the functioning of DVMCs shows that in 90% of all the districts the Committees failed to conduct regular meetings. Table 5.1 shows that in **Delhi**, in particular, no DVMC meeting took place at all.

**Andhra Pradesh:** Analysis of the DVMC meetings held in 2009 shows that only 3 out of 23 districts, namely, East Godavari, Nellore and Chittoor, held the four mandatory meetings. In fact, taking all of 2009 and half of 2010 (that is, 18 months) together, all the districts should have conducted 6 meetings each in 18 months as per the Rule. However, the data shows that only 4 districts had the mandatory 6 meetings. Furthermore, 3 districts had only 2 meetings and 6 districts had only 3 meetings together for the years 2009 and 2010. (see Annexure-IV)

**Uttar Pradesh:** In 2010, 10 districts had no meetings and 20 districts had only 1 meeting.

**Rajasthan:** Likewise, in 2010, 9 districts had no meetings and 12 districts had only 1 meeting.

**Bihar:** According to the information received from the Department of SC/ST Welfare Department, Government of Bihar, only 28 out of 38 districts had conducted the meetings in 2009. For the total calendar year, these 28 districts had conducted only 38 meetings. (see Annexure-V)

**Himachal Pradesh:** In 2009, 2 districts had not conducted any meetings and 4 districts out of 12 had only one meeting. Likewise in 2010, 5 districts had no meeting at all and 2 districts had only one meeting.<sup>69</sup> (see Annexure-VI)

**Karnataka:** Not even one DVMC met quarterly in 2009 or 2010. Only Chikamagalore DMVC met quarterly in 2008. On average, DVMCs have met once a year for the last three years, instead of 4 times each year. There is no appreciable increase in the number of meetings per year over time. DVMC Kolar has met only once in the last three years. This is a gross dereliction of duty since Kolar is identified as an atrocity-prone district by the state government.<sup>70</sup> (Annexure VII)

**Orissa:** during the period January to July 2011, only 18 out of 30 districts conducted their DNVC meetings. All these 18 districts together conducted a total of 20 meetings, while they should have conducted 4 meetings each, or a total of 72 meetings.<sup>71</sup>

**Madhya Pradesh:** Analysis of the functioning of District Vigilance and Monitoring Committees in 2009 showed that in 90% of the 50 districts the Committees failed to regularly meet. Only five DVMCs met the required three times per year.<sup>72</sup> (Annexure VIII)

**Bihar:** A survey done by the National Dalit Movement for Justice in June 2009 regarding the periodicity of the District level Vigilance and Monitoring Committee meetings held in Bihar revealed that the DVMCs never met on monthly basis as per the Rule. The following information was received from the District Social Welfare Officers during the survey:

Table 5.2 clearly shows that not a single district held a regular meeting. Particularly in Jammui, Nalanda and Nawada districts no meeting has taken place so far. In the district of Aurangabad the last meeting took place in 2002!

S. No.	District Name	Last	Committee
1	Aurangabad	23.03.2002	N. A.*
2	Purvi Champaran	16.09.2008	20 members
3	Gaya	20.06.2008	26 members
4	Gopalganj	04.02.2008	22 members
5	Jamui	No Meetings	6 members
6	Jehanabad	02.06.2009	11 members
7	Madhubani	13.03.2007	23 members
8	Muzaffarpur	30.01.2009	14 members
9	Nalanda	No Meetings	7 members
10	Nawada	No Meetings	6 members
11	Rohtas	10.06.2009	23 members
12	Sheohar	12.06.2009	17 members
13	Sitamarhi	10.09.2007	20 members
14	Paschim Champaran	06.02.2009	12 members

\* The District Authority of Aurangabad could not locate the names of the Committee members and hence started identifying members after the visit of NDMJ surveyor.

<sup>69</sup> Annual Report of the SC/ST Welfare Department, Government of Bihar for the year 2009 on the SC/ST Prevention of Atrocities Act, 1989 and PCR Act, 1955.

<sup>70</sup> Report of the Committee on Monitoring and Strengthening the SC/ST(PoA) in Karnataka (CMASK), 2010, with recommendations to the Chief Minister (Chairperson, SVMC under Rule 16(1)).

<sup>71</sup> Six-monthly Progress Report for January-June 2011 with regard to specified aspects on the implementation of the SC/ST (PoA) Act, 1989 and Rules, 1995 for Orissa.

<sup>72</sup> Department of SC/ST Welfare, 'Steps taken by Government of M.P., Department of SC/ST Welfare', Bhopal, dated 27.10.2009, prepared for visit of Minister of Social Justice and Empowerment, 2009.

(iii) **Agenda of the meetings:** As per the above-mentioned Rule, the DVMC meetings should review the implementation of the provisions of the PoA Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, the role and functioning of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the district administration. However, none of the meetings discussed these matters.

- ☞ For instance, in the meetings conducted in Himachal Pradesh in 2009, no discussion was had either about the implementation of the provisions of the Act or prosecution of cases under the Act. Some meeting discussions were related to only relief and rehabilitation for very old cases, but no discussion was had on the investigation and charge sheet details of the cases.<sup>73</sup>
- ☞ In the meeting conducted in Gonda district of Uttar Pradesh on 29.12.2010, no discussion was had about registration and prosecution of atrocity cases, nor about relief and rehabilitation for the victims. The members generally discussed about the problems in registration and closure of the cases, but did not take up any particular cases for discussion.<sup>74</sup>
- ☞ In the meeting conducted in Betul district of Madhya Pradesh on 28.12.1010, there was no discussion either about registered atrocity cases or prosecution of those cases. They generally discussed about the problems arise while giving relief and compensation.<sup>75</sup>

(iv) **Members in the meetings:** As per the PoA Rule, the District Magistrate is mandated to call for the meetings and chair them, and all the members are to attend the meetings. However, *none* of the meetings have been attended by all members.

- ☞ In Himachal Pradesh, the District Magistrates did not chair many of the meetings. For instance, many of the meetings conducted in 2009 were headed by either the Superintendent of Police, or by some other member of the Committee.
- ☞ In the meeting which took place in Hosangabad district of Madhya Pradesh on 27.01.2011, most of the members were not present in the meeting, as there was no advance notice of the meeting given. Another reason was that the members also were not aware of their membership in the committee.<sup>76</sup>
- ☞ In the meeting conducted in Seoni district of Madhya Pradesh on 31.12.2010, the meeting was not chaired by the District Magistrate. Instead it was chaired by the Superintendent of Police whose performance was also to be reviewed in the meeting.<sup>77</sup>

#### What the data say: Major trends and patterns

- Available information confirms only the presence of DVMCs in the states. However, there is no information as to whether the DVMCs have been formed in all the districts of those states. The RTI information received so far speaks of the formation of DVMCs in all the districts of the following states/UTs: Delhi, Goa, Gujarat, Andhra Pradesh and Punjab, but not other states. Sometimes, unfortunately, the RTI response does not reflect the reality: for example, in **Haryana** none of the districts has a DVMC though, according to the Social Justice Ministry, the DVMCs have been constituted.
- Another disconcerting factor is that, although DVMCs have been constituted in all or few districts in some states, no regular meetings have been held.
- Yet another baffling situation is that even when DVMCs have been constituted, hardly any substantive issues are discussed; nor are their transactions transparent. No attempt is made to involve in their deliberations any persons working for SC/ST rights with a view to receiving meaningful feedback. Moreover, no serious follow-up action emerges from the deliberations of such committee meetings.

<sup>73</sup> RTI filed by Centre for Mountain Dalit Human Rights, Himachal Pradesh during 2009.

<sup>74</sup> RTI response received from District Social Welfare, Gonda, Uttar Pradesh, DVMC/Gnda/01/2011, dated 14.03.2011

<sup>75</sup> RTI response received from District Collector, Betul, Madhya Pradesh, dated 08/06/2011.

<sup>76</sup> RTI response received from Assistant Commissioner, Hosangabad, Madhya Pradesh dated 06/07/2011

<sup>77</sup> RTI response received from Superintendent of Police, Seoni, Madhya Pradesh dated 28/03/11

- Although mandated by the PoA Rules, the meetings do not have proper agenda, or they have only limited agenda, to discuss. The members hardly ever discuss the status of prosecution of atrocity cases. Most of the meetings have focused only on the relief and rehabilitation measures, and not on the process of investigation; nor have the meetings examined the charge sheet details of the cases which, if done seriously, can lead to immediate prosecution.
- Although meeting discussions mainly focused on relief and rehabilitation measures, they did not ensure complete provision of such relief and rehabilitation measures.
- No review is done of the cases discussed in previous meetings and no follow up is made on the directions given in previous meetings.
- While on the one hand the DVMC meetings do not take place regularly as mandated, on the other hand some meetings that took place discussed only very old cases (about 6-7 years old).
- No discussions take place regarding the roles and performance of different officers: Welfare Officers, Public Prosecutors, Superintendents of Police, etc.
- The meetings are neither announced in advance, nor properly intimated to the members.
- In certain cases, in spite of intimation, many members do not have any interest in attending these meetings.
- Many of the meetings are not chaired by the District Magistrate and sometimes these officials are continuously absent from the meetings.
- In some districts, the district authorities could not even produce the list of members of the DVMC Committees.
- Many of the members of the Committees are not even aware of their membership.
- In other cases, even when members know of their membership, they are mostly unaware of their roles and responsibilities as members in monitoring the implementation of the Act.
- Consequently, many members are not able to raise questions in the meetings on the status of implementation of the PoA Act.
- Only very few Committee members (mainly civil society members) are aware of the various provisions of the Act.
- Committees are also not visible and, therefore, are not accountable to the public and various sectors of civil society who are concerned to see the Act implemented.
- The DVMCs rarely attempt to interact with human rights activists and groups, and NGOs working with and for SCs and STs, in order to become informed about atrocities and the status of implementation of the Act and Rules on the ground.

## 5.2. State Level Vigilance and Monitoring Committee

### ***What the Act and Rules Say***

***Rule 16 (1):*** The State Government shall constitute high power state-level vigilance and monitoring committee of not more than 25 members consisting of the following:

- i. Chief Minister/Administrator-Chairman (in case of a State under President's Rule Governor-Chairman);
- ii. Home Minister, Finance Minister and Welfare Minister-Members (in case of a State under the President's Rule Advisors-Members);
- iii. All elected Members of Parliament and State Legislative Assembly and Legislative Council from the State belonging to the Scheduled Castes and the Scheduled Tribes- Members;
- iv. Chief Secretary, the Home Secretary, the Director-General of Police, Director/ Deputy Director, National Commission for the Scheduled Castes and the Scheduled Tribes- Members;
- v. The Secretary in-charge of the welfare and development of the Scheduled Castes and the Scheduled Tribes- Convener.

***Rule 16 (2):*** The high power vigilance and monitoring committee shall meet at least twice in a calendar year, in the month of January and July to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the State Government.

## Status of Implementation

Rule 16 mandates every state government to set up a state-level Vigilance and Monitoring Committee for the purpose of monitoring the implementation of the PoA Act. In specific terms, this Committee has the tasks of tracking the position and prosecution of cases registered under the Act, reviewing the relief and compensation measures provided to the victims, and evaluating the role and performance of different officers and agencies responsible for implementing the Act. What, then, is the situation obtaining in the states?

**(i) Formation of the Committee:** As per the information of Ministry of Social Justice and Empowerment, the Committee has been set up in 20 out of 28 states and in 3 out of 7 Union Territories (excluding Jammu & Kashmir, to which this Act does not apply).<sup>78</sup>

☞ **Committees set up:** Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Nagaland, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand, Dadra & Nagar Haveli, Andaman & Nicobar and Daman & Diu.

☞ **Committees not set up:** Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Tripura, West Bengal, Chandigarh, Lakshadweep, New Delhi, Puducherry and Sikkim.

**(ii) Reconstitution of the Committee:** As per provisions of the Act, State Vigilance Committees get dissolved at the time of elections in the respective states/UTs and then are reconstituted soon after the election of the new Members of Parliament, the State Legislative Assemblies and State Legislative Councils. However, as per the response received through RTI from various states, the Committees have not been reconstituted for many years in Chandigarh, Goa, Himachal Pradesh, Uttarakhand and West Bengal.

**(iii) Belated formation of the Committee:** Though the SC/ST Rule with regard to constituting the state-level Vigilance and Monitoring Committee was made in 1995, Punjab constituted its Committee only in 2008 and Chandigarh only in 2004.<sup>79</sup>

**(iv) No Formation of the Committee:** Despite the obligation arising from the Act to constitute the Committee in every state/UT in the country, Tripura, Manipur and Meghalaya have neglected to do this so far. The reasons given in the RTI responses from these states mention that the SC and the ST communities 'are living in good harmony with the general population that such social evils like untouchability are not prevalent there and that cases of atrocity in its true sense are not found in these states'.

☞ **What are the facts?** Manipur has 7.41 lakhs of around 33 ST communities and a 60,000-strong population of 7 SC communities. In fact, the population in the northeast states has the greatest concentration of ST members: 31% in Tripura, 34% in Manipur, 86% in Meghalaya, 88% in Nagaland and 95% in Mizoram. Hence, it is surprising to know that SCs/STs, who are ordinarily oppressed and subjected to discrimination and rights violations, are said to be living in good harmony with the rest of the population in these states.

**(v) Composition of the Committee:** The Committee should consist of 25 members and must be headed by the Chief Minister of the state as per the Rule. However, many states flout both these requirements.

☞ **Chandigarh:** the Committee has been constituted under the Chairpersonship of the Secretary of Social Welfare in Chandigarh Administration, and not the Chief Minister. The other members of the Committee are: Inspector General of Police, Deputy Commissioner, Joint Secretary of Finance, Director of National Commission for SCs/STs, Members of Parliament and the Director of Social Welfare.<sup>80</sup>

<sup>78</sup> Ministry of Social Justice and Empowerment, Report u/s 21 PoA Act for the year 2008, New Delhi.

<sup>79</sup> RTI filed by National Dalit Movement for Justice, New Delhi.

<sup>80</sup> RTI response received from the Government of Chandigarh.

☞ **West Bengal:** In the Committee meeting held on 30.07.2008 at Rotunda, it was not the Chief Minister who chaired the meeting, but Jogesh Chandra Barman, Minister-In-charge, Backward Classes Welfare Department.<sup>81</sup>

(vi) **Committee Meetings:** The Committee is supposed to meet at least twice in a calendar year, in the months of January and July, to review the implementation of the provisions of the Act.

☞ **No information about the meetings:** As per the Ministry of Social Justice and Empowerment,<sup>82</sup> no information was made available from the following states about the conduct of State-level

*Box 5.1: We need to ensure that meetings of the Vigilance-cum-Monitoring Committees at the State and District levels are held regularly. I have written on this subject to all the Chief Ministers. I do hope that the State Welfare Ministers will solemnly implement the letter and spirit of these Acts. At the same time, I invite you to take full advantage of Central assistance which is available for this purpose, and which includes setting up larger number of exclusive special courts for speedy trial of*

Committee meetings in 2010: Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Nagaland, Punjab, Sikkim, Tripura, Uttarakhand, West Bengal, Chandigarh, Dadra & Nagar Haveli, Andaman & Nicobar Islands, Daman & Diu, and Puducherry.

☞ **Irregularity of meetings:** Table 5.3 contains information from the Ministry of Social Justice and Empowerment and the RTI responses from various states received by the National Dalit Movement for Justice. The data amply show the irregularity in the conduct of the meetings.

S. No.	State	No of meetings held in 2009	No of meetings held in 2010
1	Andhra pradesh	Nil	1
2	Bihar	Nil (last meeting held in 2007)	
3	Chatisgarh	Nil (last meeting held in 2008)	
4	Delhi		1 (held in February, 2010, after 2008)
5	Gujrat	Nil (last meeting held in 2008)	
6	Haryana		1 (held on 13.5.10)
7	Kerala	1	Nil
8	Karnataka		1 (held on 27.9.10)
9	Himachal Pradesh	Nil (meeting not held since 2009)	
10	Orrisa	Nil	1 (held on 26.5.10)
11	Maharashtra	Nil	1
12	Rajasthan	Nil	Nil
13	Tamilnadu	Nil	1
14	Uttar Pradesh	Nil	Nil
15	Uttrakhand	Nil	1 (held on 24.2.10)

• Table 5.3 shows that in 2009 and 2010 the states have shown no interest or seriousness to conduct regular meetings. Not a single state has held the mandatory two annual meetings, as required under the PoA Rule.

• In **Bihar**, despite being one of the states where the most heinous forms of atrocities takes place and which has around 26.5% of the total crimes against SCs/STs, the last meeting was held on 09.02.2007.

• In **Gujarat**, after a two-year gap between 2006 and 2008 without any meeting, the last meeting was held in 2008. Likewise, **Orissa** had its meeting in 2010 after a two-year gap. Hence, in both these states, the obligation to conduct two meetings in a calendar year has been flouted.

<sup>81</sup> Minutes of the meeting of the State Level Vigilance and Monitoring Committee held on 30.07.2008 at Rotunda, West Bengal.

<sup>82</sup> Ministry of Social Justice and Empowerment Agenda Notes, Conference of State Ministers of Welfare / Social Justice, 17-18.06.2011.

- Not a single meeting has taken place in 2009 and 2010 in **Chandigarh** and **Himachal Pradesh**. Meanwhile, in **Uttarakhand** the meeting was held for the first time in 2010.
- In **Karnataka**, the SVMC meeting has not met in the designated months even once in the last three years. It has met only once off-schedule on 27.12.2010 and despite promises, has not met subsequently either. At the meeting it was noted that the SVMC meeting was held after three years and nine months, the previous meeting being on 12.12.2006. Including the off-calendar meeting, the SVMC has met only once instead of the required eight times in the last four years.<sup>83</sup>
- As per RTI responses received regarding the mandate to hold the High Power Vigilance and Monitoring Committee meetings twice a year:
  - ☞ Tamil Nadu did not convene any meeting between 2005 and 2010.<sup>84</sup>
  - ☞ Gujarat did not meet in the calendar year 2011.<sup>85</sup>
  - ☞ Karnataka did not hold any meeting in January 2011.<sup>86</sup>
  - ☞ Rajasthan did not convene any meeting in January 2011.<sup>87</sup>
  - ☞ Kerala did not have the meeting in January, 2011.<sup>88</sup>
  - ☞ New Delhi failed to hold the meeting in July 2011.<sup>89</sup>
  - ☞ No meeting took place in Orissa between January and July 2011. The reason given was that due to the pre-occupation of the Chief Minister, who is the Committee Chairperson, with other matters, the meeting could not be held.<sup>90</sup>

*Box 5.2: Tamil Nadu: In the affidavit for a Public Interest Litigation filed in the Madras High Court, it has been contended that a Vigilance Committee had been constituted as per the Rules, but it has not even convened once in the last four years and has failed to discharge its mandatory legal duty. The failure of the Chairperson of the Committee to comply with the Rule to meet twice a year has nullified the very object of the special enactment and emboldened the violators to continue the barbarian practice of untouchability, which is the root cause of atrocities on Dalits. (published in Lawetal News, dated 30.09.2010)*

*Box 5.3: Karnataka: Atrocities have been continuing in the state because of the lack of vigilance and monitoring as required under Rule 16 PoA Rules. The High Power Vigilance and Monitoring Committee headed by the Chief Minister could not hold a single meeting in Karnataka from 2008 until 27.09.2010. ("Residential Schools planned to remove Stigma attached to Dalits", The Hindu, 28.09.2010)*

**(vii) Agenda of the meeting:** As per the Rule, the Committee has to review the following matters during the discussions:

- Implementation of the provisions of the Act;
- Relief and rehabilitation facilities provided to the victims and other matters connected therewith;
- Prosecution of cases under the Act;

<sup>83</sup> Report of the Committee Monitoring and Strengthening the SC/ST(PoA) in Karnataka (CMASK), 2010, with recommendations to the Chief Minister (Chairperson, SVMC under Rule 16(1)).

<sup>84</sup> RTI response, dated 05.03.2010, received from A. Mudisoodum Perumal, Public Information Officer/ Under-Secretary to Government, Adi Dravidar and Tribal Welfare (PA) Department, Chennai.

<sup>85</sup> RTI response, dated 08.08.2011, received from Vidhyut Pandya, Under-Secretary and Public Information Officer, Social Justice and Empowerment Department, Sachivalaya, Gandhinagar, Gujarat.

<sup>86</sup> RTI response, dated 04.03.2011, received from S. Loknatha Rao, Under-Secretary to the Government – II Social Welfare Department, Bangalore, Karnataka.

<sup>87</sup> RTI response, dated 07.04.2011, received from the Deputy Director, Office of Social Justice and Empowerment Department, Jaipur, Rajasthan.

<sup>88</sup> RTI response, dated 26.02.2011, received from K.S. Rajagopal, Under-Secretary and State Public Information Officer, Thiruvananthapuram, Kerala.

<sup>89</sup> RTI response, dated 25.08.2011, received from Satish Ahmad Sheikh, Superintendent (Admin)/Public Information Officer, Department for Welfare of SC/ST/OBC/Minorities, New Delhi.

<sup>90</sup> Six-monthly Progress Report for January-June 2011 with regard to specified aspects of implementation of the SC/ST (PoA) Act, 1989 and the Rules, 1995, Orissa.



- Role of different officers/agencies responsible for implementing the provisions of the Act;
- Various reports received by the State Government.

#### **None of the meetings has followed the agenda as per the Rule:**

- ☞ **Gujarat:** The last meeting, held after two years on 02.09.2008, discussed the year-wise information on incidents of atrocity perpetrated against SCs from 2006 to 2008, as well as the financial details of the relief payment to the victims for the cases occurring during that period. It was found that relief could not be paid for 16 cases wherein charge sheet was not filed till that day. It is a well-known fact that such lacuna exist due to irregular meetings and failure to examine the implementation of the Act. Moreover, no meeting had taken place after that date in order to review whether investigation had taken place, charge sheet had been filed and relief had been paid to the victims of those pending cases.
- ☞ **West Bengal:** At the review meeting of the Vigilance Committee held on 30.07.2008 at Rotunda on the registration of cases under the PoA Act, it was observed that the number of cases registered was very low compared to the occurrence of atrocities. The Committee therefore decided to request the police authorities to keep more vigil in every corner of the state so as to prevent any untoward incidents. However, no discussion took place on the relief and rehabilitation provided to the victims, nor on the implementation of other provisions of the Act. Furthermore, no direction was given to any authorities, although their negligence in implementing the Act was noted.<sup>91</sup> The meeting, in general, was restricted to case registration.
- ☞ **Orissa:** Its meeting on 17.07.2007, after a gap of two years, reviewed the atrocity cases that occurred in 2006. The review, besides being delayed by more than a year, never took up the current cases pertaining to 2007. In this meeting, as proposed by the Member of Parliament Mohan Jena, the review took place on each atrocity case. The current position of the cases was duly recorded in the meeting minutes. However, no discussion took place regarding the relief and compensation measures for the victims, or other provisions of the Act.<sup>92</sup>

**(viii) Reports of the Meeting - invisible and unaccountable:** The State-level Monitoring Committee is supposed to not only announce its meetings, but also make public its decisions to concerned groups and individuals such as activists, human rights groups, movements, etc. after having reviewed the implementation of the Act once in every six months. Here, the Committee has not made itself visible to the public, and consequently has not become accountable to the concerned stakeholders.

**(ix) Improper Reporting:** The published Minutes of the Committee meetings do not contain proper information, either because of careless reporting of the discussions, or intentional editing of the recorded material before being printed. For example, the published Minutes of the meeting held on 30.07.2008 at Rotunda, **West Bengal**, had no details of the registered atrocity cases and the period in which they occurred. Likewise, the report of the meeting held on 02.09.2008 in Gujarat does not contain adequate information on the review discussions and the decisions taken in the meeting.<sup>93</sup>

#### What the data say: Major trends and patterns

##### **Poor performance of SVMC**

- The State level Vigilance and Monitoring Committee, supposed to be set up in all the states and UTs as per the PoA Rule, exists in only 20 of the 28 states and in 3 of the 7 Uts.
- Even where such Committees have been constituted, hardly any substantive issues have been discussed and their transactions have not been transparent. No attempt has been made to develop a deliberative

<sup>91</sup> Minutes of the meeting of the State-Level Vigilance and Monitoring Committee held on 30.07.2008 at Rotunda, West Bengal.

<sup>92</sup> Proceeding of the State-level Vigilance and Monitoring Committee, held on 26/05/2010 at Bhubaneswar, Orissa.

<sup>93</sup> Minutes of the meeting of the State-Level Vigilance and Monitoring Committee, held on 30.07.2008 at Rotunda, West Bengal.

process that includes those working for and with SCs/STs, with a view to obtaining useful information for taking meaningful decisions. This lacuna obviously prevents any serious follow-up action with help from these stakeholders.

- The Committees are not reconstituted with newly elected members after the elections in the respective states/UTs as required.
- Committees do not have the proper composition of members, as per requirements of the Rule.
- Oftentimes the meetings are not headed by the Chief Minister.
- In states where Committees have been constituted, meetings do not take place regularly.
- No proper information about the meetings is circulated among the Committee members.
- In spite of being intimated about the occurrence of the Committee meetings, many members do not take any interest to attend the meetings.
- There are many states where not even a single meeting was held in 2009 and 2010; some states, Bihar for example, have had their last meeting in 2007.
- None of the meetings have the agenda as per the Rule. Instead, the discussions focus mainly on the limited agenda of relief and compensation, and not on such important issues as the prosecution of cases as per the mandate of the PoA Act.
- The reports of the meetings are either not published for the benefit of the public or, if published, they do not contain proper information.

#### **Non-functioning of SVMC**

While the setting up of the State-level Vigilance and Monitoring Committees is a good start, their functioning has not been visible and transparent, and their performance has been minimal at best. This is attested to by the following:

- *The level of atrocities in the states has not decreased since the passage of the Act. While the number of cases registered under the Act continues to increase, the disposal rate (conviction/acquittal) is consistently poor.*
- Effective preventative measures to stem the rising tide of atrocities have not been taken seriously, adequately and promptly, as is evidenced by the consistent increase in the number of cases of atrocities since the promulgation of the Act.
- Public servants continue to deliberately sabotage the PoA Act without fear of being prosecuted under sec. 4 of the Act, as no punishment is meted out through departmental disciplinary action.

### 5.3. Nodal Officers and Special Officers

#### **What the Act and Rules Say**

##### ***Rule 9: Nomination of Nodal Officer***

*The State Government shall nominate a nodal officer of the level of a Secretary to the Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for coordinating the functioning of the District Magistrates and Superintendent of Police or other officers authorized by them investigating officers and other officers responsible for implementing the provisions of the Act.*

**By the end of the every quarter, the nodal officer shall review;**

- (i) The reports received by the State Government under sub-rules (2) and (4) of rule 4, rule 6, Cl. (xi) of rule 8;
- (ii) The position of cases registered under the Act;
- (iii) Law and order situation in the identified area;
- (iv) Various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;
- (v) The adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance and transport facilities provided to the victims of atrocity of his/her dependents;
- (vi) The performance of non-governmental organisations, the SC/ST Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.

## Status of Implementation

**(i) Nomination of Nodal Officer:** As per the information of the Ministry of Social Justice and Empowerment,<sup>94</sup> 28 states/UTs have nominated Nodal Officers to coordinate the functioning of the District Magistrates and Superintendent of Police or other officers authorised by them as investigating officers and other officers responsible for implementing the provisions of the Act.

- ☞ The States/UTs with nominated Nodal Officers: Andhra Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Nagaland, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, Daman & Diu, Dadra & Nagar Haveli, Delhi and Puducherry.
- ☞ The States/UTs with **no** nominated Nodal Officers: Arunachal Pradesh, Jharkhand, Mizoram, Sikkim, Andaman & Nicobar Islands, and Lakshadweep.

**(ii) Status of Nodal Officer:** As per Rule, the Nodal Officer should be at the level of a Secretary to the Government, preferably belonging to the SC/ST community... BUT in reality:

- ☞ **Karnataka:** the Additional Director General of Police (Law & Order) is nominated as Nodal Officer.
- ☞ **Kerala:** the Deputy Inspector General of Police is nominated as Nodal Officer. There is no evidence as to whether all the Nodal Officers in the state belong to the SC/ST community.
- ☞ **Daman & Diu:** the Chief of Police is nominated as Nodal Officer as well as the Special Officer
- ☞ **Assam:** the Director of Social Welfare of Scheduled Castes is the Nodal Officer.<sup>95</sup>

**(iii) No Periodic Review:** As per the Rule, by the end of every quarter, reviews must be conducted.

- ☞ **Rajasthan:** As per RTI information, "The quarterly review for the month of June 2011 has not been conducted..."<sup>96</sup>
- ☞ **Goa:** The RTI information from Goa states ".....no quarterly review was made by the Nodal Officer for the months of September 2010 and December 2010....."<sup>97</sup>
- ☞ **Andhra Pradesh:** As per RTI information, "No quarterly review has been taken up at the government level for the months of March, June and September 2010 on the position of all investigations done by the Investigation Officer under Rule 7(3) SC/ST (POA) Rules 1995."<sup>98</sup>

**(iv) Report of Nodal Officer:** The report of the Nodal Officer is especially essential as it contains a summary of the information contained in the other three reports on supervision of prosecutions, on on-the-spot investigations,

<sup>94</sup> Ministry of Social Justice and Empowerment, Report u/s. 21(4) of the PoA Act for the year 2006, New Delhi.

<sup>95</sup> RTI responses received from various states.

<sup>96</sup> RTI response, dated 26.08.11, received from the Deputy Director, Department of Social Justice, Government of Rajasthan.

<sup>97</sup> RTI response, dated 25.01.11, received from S. Fernandes, State Public Information Officer, Directorate of Social Welfare, Panaji, Goa.

<sup>98</sup> RTI response, dated 28.02.2011, received from the Additional Director General of Police, CID, Hyderabad, Andhra Pradesh.

and on the monthly reports of the SC/ST Protection Cells – including the position of cases registered under the Act, the law and order situation and the preventative measures undertaken, compensation paid and relief measures provided, instances of wilful negligence by public servants, etc.

☞ The reality is that the monthly reports that are supposed to be submitted by the PCR Cell and the District Collectors are not done. Moreover, the biannual reports of the District Collector and Director of Prosecution on the performance of the Special Public Prosecutors are also not being submitted periodically to the Nodal Officer.

**(v) Improper Reporting:** The Nodal Officers have not been reporting periodically to the state government in compliance with the Rule. Even when they have submitted their reports, these have not been up to the mark: they have not quoted the actual number of crimes against SCs/STs as they did not receive proper information from the district authorities.

☞ According to the Nodal Officer's report in Karnataka for 2009, a total of 1918 SC/ST atrocity cases were registered. The number of such cases registered in 2007 was 1157, in 2008 it was 1543 cases, and in 2009 it was 1450 cases. The reported cases decreased by 40% in 2007 over 2006. It then shot up by 33% in 2008, followed by a 6% decrease in 2009 over 2008. HOWEVER, the above information from the Nodal Officer *does not reflect the data of NCRB* for the same years. According to NCRB, there were 2049 atrocity cases in 2007, 2761 cases in 2008, and 2986 cases in 2009.

**(vi) No Single Report of Nodal Officer:** The National Dalit Movement for Justice, New Delhi has not received even a single report in response to its RTI applications filed from July 2009 until December 2010, requesting for the reports of the Nodal Officers. The applications are simply forwarded to different officers/authorities. Even if any communication was received in response, it is only the Annual Reports of the Social Welfare Ministry which deal with the welfare schemes implemented for the development of SCs and, therefore, are totally unrelated to the implementation of the PoA Act.

**(vii) State Government Report to Central Government:** According to Rule 18, every state government is expected every year before 1st July to forward its annual report to the central government regarding the measures taken for implementing the provisions of the Act and various schemes/plans framed by the state government during the previous calendar year.

☞ Only the governments of Orissa, Gujarat (Jan-June 2010), Maharashtra, Karnataka and Orissa have furnished six-monthly reports for 2010. The remaining states/UTs have not submitted their reports.

☞ The Ministry of Social Justice and Empowerment has sent letters to all the states, dated 26.7.2010 and 23.08.2010, asking them to send the material for the Ministry's Annual Reports. However, the statement of receipt of material from various states/UTs for the Annual Reports 2009 and 2010, as evidenced in Table 5.4 below, shows that only 13 states have sent in material for 2009 and only 5 states material for 2010.<sup>99</sup>

S. No.	State/UT	Year	
		2009	2010
1	Karnataka	X	X
2	Kerala	✓	X
3	Madhya Pradesh	X	X
4	Tamilnadu	✓	X
5	A&N Island	✓	✓
6	Ladshdeep	✓	✓
7	Dader Nagar Haveli	X	X
8	Damam Diu	X	X
9	Puducherry	X	X
10	Arunacahl Pradesh	X	X
11	Assam	✓	X
12	Manipur	X	X
13	Meghalya	X	X
14	Mizoram	✓	X
15	Nagaland	X	X
16	Sikkim	X	✓
17	Tripura	✓	✓

<sup>99</sup> Ministry of Social Justice and Empowerment Agenda Notes, Conference of State Ministers of Welfare / Social Justice, 17-18.06.2011.

(viii) **Nodal Ministry at the Centre:** The Ministry of Social Justice and Empowerment is the Nodal Ministry for discharging the assigned role and responsibilities at the level of the Central Government. As per provisions of the Act, it is required to report every year on the implementation of the Act before Parliament.

☞ This apparently has not happened; the *Seventh Report covering the year 2000 has not been placed before Parliament. In fact, the last report submitted to Parliament was in 2008, after which no report has emerged.* Thus, the mandatory provision of submission of annual reports is not being adhered to. In this respect, the state governments also must share the blame for not supplying the required information in time to the Central Government Ministry for preparation of its annual report.

S. No.	State/UT	Year	
		2009	2010
1	Bihar	✓	X
2	Haryana	✓	X
3	Himachal Pradesh	X	X
4	Jharkhand	X	X
5	Jammu	X	X
6	Orrisa	✓	X
7	Punjab	X	X
8	Rajasthan	✓	X
9	Uttar Pradesh	X	X
10	Utarakhand	X	X
11	West Bengal	X	X
12	Chandigarh	✓	✓
13	Delhi	X	X
14	Andhra Pradesh	X	X
15	Chatisgarh	X	X
16	Goa	✓	X
17	Gujrat	X	X

## 5.4. Designated and Exclusive Special Courts

### What the Act and Rules Say

#### **Sec. 14. Special Court:**

*For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try the offences under this Act.*

### Status of Implementation

**(I) Existence of Special Courts:** As per the Ministry of Social Justice and Empowerment, 177 Exclusive Special Courts have been set up in 9 states/UTs of Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Karnataka, Madhya Pradesh, Rajasthan, Tamil Nadu and Uttar Pradesh.<sup>100</sup> (Annexure-IX)

S.No.	State	Total Number of Districts	Number of Exclusive Special Court in District
<b>Northern &amp; Eastern Region</b>			
1.	Bihar	38	11
2.	Rajasthan	33	17
3.	Uttar Pradesh	71	40
<b>Western &amp; Southern Region</b>			
4.	Andhra Pradesh	23	23
5.	Chhattisgarh	18	06
6.	Gujarat	26	19
7.	Karnataka	29	07
8.	Madhya Pradesh	50	49
9.	Tamil Nadu	32	04
	<b>Total</b>	<b>320</b>	<b>177</b>

<sup>100</sup> Ministry of Social Justice and Empowerment Agenda Notes, Conference of State Ministers of Welfare / Social Justice, 17-18/06.2011.

(ii) **Non-Existence of Special Courts:** Special Courts are yet to be set up in the following 25 States/UTs:

**18 States:** Assam, Goa, Haryana, Himachal Pradesh, Jharkhand, Kerala, Maharashtra, Nagaland, Orissa, Punjab, Uttarakhand, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Tripura, West Bengal, and Sikkim.

**7 Union Territories:** Dadra & Nagar Haveli, Andaman & Nicobar, Daman & Diu, Lakshadweep, Chandigarh, New Delhi and Puducherry.

(iii) **Inadequate number of Special Courts:** Nine states have Special Courts, but these have not been set up in all the districts.

**Bihar** has only 11 Special Courts despite a total of 38 districts.

**Tamil Nadu** has only 4 Special Courts despite a total of 32 districts.

**Rajasthan** has only 17 Special Courts despite a total of 33 districts.

**Chhattisgarh** has only 6 Special Courts despite a total of 18 districts.

**Karnataka** has only 7 Special Courts for trial of offences under the Act. Instead of the mandatory Special Courts in every district, the state government prefers to have designated courts. There are special courts in Belgaum, Mysore, Kolar, Raichur, Bijapur, Gulabarga and Tumkur districts.<sup>101</sup>

*Box 5.4: Maharashtra: There are 171 Special Courts in the country to hear cases of atrocities against SC/STs. But though 11% of Maharashtra's population is Dalit, a Special Court for crimes against Dalits is yet to be set up in the state. ("Daily News and Analysis", D&A, 11.09.2010)*

(iv) **Less number of Special Courts in declared Atrocity Prone Areas:**

**Andhra Pradesh:** Though 11 districts have been identified as having atrocity prone areas, Special Courts are set up only in 8 districts.

**Karnataka:** Only 7 out of 15 atrocity-prone districts have Special Courts.

**Tamil Nadu:** Only 4 out of 28 atrocity-prone districts have Special Courts.

(v) **No Special Courts in declared Atrocity-Prone Areas:**

Although Orissa, Maharashtra, Kerala and Jharkhand have declared certain areas as atrocity-prone, they have not yet set up Special Courts in these areas. There is no special courts set up in Orissa. In the meeting of the State Vigilance and Monitoring Committee held on 26.05.2010, it was decided to establish 3 Special Courts in the state considering the over 500 cases under the PCR & POA Acts pending in the courts. In the meeting held on 20.12.2011 under the chairpersonship of the Chief Secretary, it was mentioned that due to the code of conduct for panchayat elections in the state, this process of establishing Special Courts could not be accelerated.<sup>102</sup>

State	No. of Atrocity prone Area	No of Special Court in Atrocity Prone areas
Orissa	19	Nil
Maharashtra	31	Nil
Kerala	3	Nil
Jharkhand	1	Nil

(6) **No speedy trial through Special Courts:** Even where Special Courts have been set up in atrocity-prone areas, there are still a huge number of pending cases before these courts (see Table 5.7). This vitiates the right of the victims to a speedy trial.

<sup>101</sup> Report of the Committee Monitoring and Strengthening the SC/ST (PoA) in Karnataka (CMASK), 2010.

<sup>102</sup> Six-monthly Progress Report for January-June 2011 with regard to specified aspects of implementation of the PoA Act, 1989 and Rules, 1995, Orissa.

<i>S. No.</i>	<i>State</i>	<i>No. of Special Courts</i>	<i>No. of pending cases at the start of 2009</i>	<i>No. of cases pending trial at the end of 2009</i>
1	Uttar Pradesh	40	29,839	23,386(78.4%)
2	Madhya Pradesh	29	12,848	10,071(78.4%)
3	Rajasthan	17	10,586	9,008 (85.1%)
4	Bihar	9	8,641	6,716 (77.7%)
5	Gujrat	10	8,547	7,846 (91.8%)
6	Karnataka	10	6,927	5,326 (76.9%)
7	Andhra Pradesh	8	6,184	4,260 (68.9%)
8	Tamilnadu	4	3,366	2,548 (75.7%)
9	Chatisgarh	7	1,719	1,388 (80.7%)

*Source: National Crime Record Bureau*

**Tamil Nadu:** As per the document of the Social Justice and Human Rights Wing, Adi Dravidar Welfare Department, Government of Tamil Nadu, even though district-wise data on pending cases has clearly mapped out 'hotspots' for atrocities, there are still 2,822 cases pending before the Courts and Special Courts. Madurai rural district tops the list with 353 cases pending before the courts, followed by Sivagangai (310), Tirunelveli (220), Villupuram (220), Virudhunagar (205), Dindigul (158), Thanjavur (136) and Ramanathapuram (131). The Nilgiris is the only district with a single digit number of pending cases (7). Among the cities, Madurai tops the list with 35 pending cases, followed by Chennai (18), Salem (13), Coimbatore (10) and Tiruchi (2).<sup>103</sup>

**Uttar Pradesh:** With 40 Special Courts established in Uttar Pradesh, the trial pendency at the end of 2009 was 78.4 percent.

**Madhya Pradesh:** Although there are 29 Special Courts, 78.4% of atrocity cases were pending trial at the end of 2009.

**Rajasthan:** With 17 courts designated as Special Courts, pending cases numbered 10,586 at the beginning of 2009, and at the end 89.1% were still pending trial.<sup>104</sup>

**Conclusion:** In the light of the data provided by the National Crime Records Bureau, one observes that the progress is not satisfactory. As on December 2009, there were 1,04, 006 atrocity cases in courts, out of which in 6,505 cases convictions were announced, and in 14,217 cases the culprits were acquitted. The remaining 82,472 cases were still pending in the courts. What is incomprehensible is that this level of low performance is found even after the majority of states/UTs have established Special Courts to deal expeditiously with offences under the PCR and PoAAacts.

#### What the data say: Major trends and patterns

- The data bring to light the fact that the establishment of Exclusive Special Courts has not brought about any significant change in the expeditious settlement of atrocity cases.
- The Special Courts are yet to be set up in 25 States/UTs where the number of atrocities keeps increasing day by day.
- States having Special Courts fail to enable them to function properly.

<sup>103</sup> "The Hindu", 04/11/2010.

<sup>104</sup> National Crime Records Bureau, *Crimes in India, 2010*.

- The rate of pending cases seems to keep on increasing, especially in the states where Special Courts have been set up. One of the main reasons for delay in the disposal of cases in courts is that posts of Judges/Magistrates in the District and Subordinate Courts are often lying vacant.
- There appears to be correlation between the workload of judges, prosecutors, investigating officers and court administrative staff and the delay in settling atrocity cases. In other words, if there is more workload, then are greater delays. Hence, it is very essential that more court personnel, including judges and prosecutors, and adequate infrastructure are put into place.
- The insufficient allocation of funds affects the infrastructure facilities at Special Courts, which in turn affect the speedy trial of the cases.
- The irregular and delayed allocation of financial resources affects the attendance of witnesses in the

## 5.5. Panel of Special Public Prosecutors and Eminent Advocates

### What the Act & Rules Say

**Section 15:** *For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.*

**Rule 4: Supervision of prosecution and submission of report**

- (1) *The State Government on the recommendation of the District magistrate shall prepare for each District and panel of such number of eminent Senior Advocates who have been in practice for not less than seven years, as it may deem necessary for conducting cases in the Special Courts. Similarly, in consultation with the Director of Prosecution/in-charge of the prosecution, a panel of such number of Public Prosecutors as it may deem necessary for conducting cases in the Special Courts, shall also be specified. Both these panels shall be notified in the Official Gazette of the State and shall remain in force for a period of three years.*
- (2) *The District Magistrate and the Director of Prosecution/ in-charge of the prosecution shall review at least twice in a calendar year, in the months of January and July, the performance of Special Public Prosecutors so specified or appointed and submit a report to the State Government.*
- (3) *If the State Government is satisfied or has reason to believe that a Special Public Prosecutor so appointed or specified has not conducted the case to the best of his ability and with due care and caution, his name may be, for reasons to be recorded in writing, de-notified.*
- (4) *The District Magistrate and the officer in-charge of the prosecution at the District level, shall review the position of cases registered under the Act and submit a monthly report on or before 20th day of each subsequent month to the Director of Prosecution and the State Government. This report shall specify the actions taken / Proposed to be taken in respect of investigation and prosecution of each case.*
- (5) *Notwithstanding anything contained in sub-rule (1), the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary or if so desired by the victims of atrocity, engage an eminent Senior Advocate conducting cases in the Special Courts on such payment of fee as he may consider appropriate.*
- (6) *Payment of fee to the Special Public Prosecutor shall be fixed by the State Government on a scale higher than the other penal advocates in the State.*

<sup>99</sup> Ministry of Social Justice and Empowerment Agenda Notes, Conference of State Ministers of Welfare / Social Justice, 17-18.06.2011.



## Status of Implementation

**(i) Appointment of Special Public Prosecutors:** As per the Ministry of Social Justice and Empowerment, Special Public Prosecutors (SPPs) are said to be appointed in all the States and Union Territories (including Jammu & Kashmir). However, as per the information received through RTI, Special Public Prosecutors have not been appointed to all the districts in all the states in the country. These appointments have been done only in all the districts of Jharkhand, Manipur, Sikkim, Puducherry and Madhya Pradesh, and not in all the districts in the remaining states of India. For instance, in **West Bengal**, 17 out of 19 districts have SPPs appointed and in **Tamil Nadu**, only 19 out of 32 districts have SPPs appointed.<sup>105</sup>

**(ii) Panel of Public Prosecutors:** As per the Rule, the state government, on the recommendation of the district magistrate, prepares for each district a panel of certain number of eminent senior advocates for conducting cases where necessary in the Special Courts.

☞ In practice, however, the majority of the states do not have such panels of eminent senior advocates. For instance, **Gujarat** has not created any panel in any district; instead, Special Public Prosecutors are assigned cases on an *ad-hoc* basis.<sup>106</sup>

**(iii) SPPs without Special Courts:** As per sec. 15 PoA Act, Special Public Prosecutors are supposed to be appointed precisely for the purpose of conducting cases in the Special Courts. In practice, however, one finds them being appointed in states where Special Courts have not even been constituted.

☞ In the following States/UTs, Special Courts are yet to be set up, though the Ministry of Social Justice and Empowerment has informed that SPPs have been appointed in these States/UTs: Assam, Goa, Haryana, Himachal Pradesh, Jharkhand, Kerala, Maharashtra, Nagaland, Orissa, Punjab, Uttarakhand, Dadra & Nagar Haveli(UT), Andaman & Nicobar(UT), Daman & Diu(UT), Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Tripura, West Bengal, Chandigarh(UT), Lakshadweep(UT), New Delhi(UT), Puducherry(UT) and Sikkim.

**(iv) Efficiency and Knowledge of SPPs:** The post of SPP is not merely a public office, but an office with considerable significance, authority and dignity attached to it. Hence, the PoA Act considers anyone appointed as SPP to have, in the interest of the SCs/STs, a high degree of efficiency in, and knowledge of, the laws of crimes and the criminal procedure as well as a sense of duty towards the SCs/STs.

☞ However, Special Public Prosecutors have not been conducting cases under the Act conscientiously and vigorously. It has been opined by '82% of officials of different units of the legal system and 88% of law-makers and opinion-makers that neither they have given, nor caused to be given, nor seen giving, the victims of atrocities the services of senior advocates of their choice for conducting their cases at government expenses. Moreover, 89% of them have neither attached, nor caused to be attached, the properties of an offender, or forfeited, or caused to be forfeited, the properties of a convict of an offence of atrocity.' Thus the attitude of the legal councils conducting the atrocity cases is not positive.<sup>107</sup>

☞ **Karnataka:** Table 5.8 provides the details of six-monthly report received from the Social Welfare Officer, Belgaum district, Karnataka regarding the performance of the Special Public Prosecutor under Rule 4(2) PoA Rules, as on 31 July 2011, with regard to cases registered under the PoA Act for prosecution of persons responsible for atrocities.<sup>108</sup>

The data clearly shows that in not a single case by the SPP did the SC/ST victims receive justice that year, with the few cases decided ending in acquittals. Moreover, all 72 cases have been pending since 2004 until July 2011.

<sup>105</sup> Ministry of Social Justice and Empowerment, Annual Report u/s. 21(4) PoA Act for the year 2008, New Delhi.

<sup>106</sup> Navsarjan Trust, A legally immune form of discrimination: Report on socio-economic boycotts of Dalits in Gujarat, 2009.

<sup>107</sup> Legally Combating atrocities on Scheduled caste and Scheduled Tribes by T.R Naval, p.378

<sup>108</sup> RTI response, dated 12.09.2011, received from the District Social Welfare Officer, Belgaum district, Karnataka.

**(v) Lacunae in understanding and operationalising sec. 15 PoAAct**

- **Key witnesses not involved:** At the time of trial, certain witnesses are not called by the prosecutors.
- **No briefing of victims and witnesses by Public Prosecutors:** There is lack of briefing given to the victims and witnesses by the Public Prosecutors.
- **Public Prosecutors not giving time: Public Prosecutors** do not give sufficient and adequate time to the victims to listen to their version of the atrocity cases.
- **Lack of communication with the victims:** There is lack of communication with the victims/witnesses about the date and time of trial.
- **Lack of sense of duty and efficiency in handling SC/ST cases:** Special Public Prosecutors are not efficient in dealing with evidence substantiating the elements of the offences and other provisions of the Act.
- **Lack of SC/ST advocates:** Special Courts do not have a fair proportion of SC/ST Prosecutors who can function with a sense of duty towards protecting the rights of SCs/STs.
- **Public Prosecutors already overburdened with regular cases:** Public Prosecutors are overburdened with regular cases. Hence, they are unable to give priority to cases under the POAAct.
- **No provision for Assistant Public Prosecutors:** There is no provision for Assistant Public Prosecutors to help the Special Public Prosecutors before the hearings and to minimise unnecessary delay in trial.

Date of Appointment of SPP	Since December 2004
No of cases pending before Special Court at the beginning of July 2011 under PoA Act	Session Cases – 14 Special Cases – 54
No of new atrocity cases filed before the court during the month of July 2011	Session Cases – 02 Special Cases – 13
Total No of cases	Total – 83
No of cases decided by the special/ designated court during the month of July 2011	11
Out of cases decided by the court during the month of July 2011	
1.No of cases convicted	0
2.No of cases Acquitted	11
3.No of cases otherwise disposed	0
4.No of cases pending at the end of July 2011	72

**(vi) Public Prosecutors of Session Courts as Special Public Prosecutors:** As per the Rule, the state governments are obliged to appoint as Special Public Prosecutor an advocate who has been in practice for not less than seven years. However, in many states, the Public Prosecutors to the Districts and Sessions Courts having less knowledge to try SC/ST cases and yet are being appointed as Special Public Prosecutors.

- **Goa, Karnataka and Kerala:** Public Prosecutors attached to the District and Sessions Courts have been nominated as Special Public Prosecutors.
- **Gujarat:** Additional Public Prosecutors of Sessions Courts are empowered to conduct cases in the Special Courts.
- **Lakshadweep:** Assistant Public Prosecutor and Government Pleader is notified as a Special Public Prosecutor.
- **New Delhi:** Additional Public Prosecutors in the directorate of Prosecution have been appointed as Special Public Prosecutor.<sup>109</sup>

<sup>109</sup> Ministry of Social Justice and Empowerment, Annual Report u/s 21(4) of SCs & STs (PoA) Act for the year 2008, New Delhi.

- **Chandigarh:** The District Attorney has been appointed as a Special Public Prosecutor.<sup>110</sup>
- **Punjab:** All the Public Prosecutors have been appointed as Special Public Prosecutors.<sup>111</sup>

*Box 5.5: Ineffective Prosecution by Public Prosecutors - In its 2004 report on the Prevention of Atrocities against Scheduled Castes, the NHRC noted that the failure of the State to prevent violence and punish perpetrators "can be attributed to the attitude and behaviour pattern of its agents which has been described as apathy at best and connivance at worst." The NHRC also lambasted the Public Prosecutors who "help the accused by not carrying out scrutiny of papers before putting up challan in the court, not presenting the case of prosecution properly, concealing material facts from the court, pressurizing the victim to compromise, colluding with the defence lawyer to spoil the case." (NHRC, Report on Prevention of Atrocities against SCs, New Delhi, 2004, p.178)*

#### What the data say: Major trends and patterns

- Special Public Prosecutors are appointed in all the states, but not in all the districts as mandated by the PoAA Act.
- The majority of states do not have panels of eminent Senior Advocates; instead, Special Public Prosecutors are assigned to attend to atrocity cases on *ad-hoc* basis.
- Special Public Prosecutors are appointed in the states even where Special Courts have not been constituted.
- Special Public Prosecutors appointed to handle atrocity cases are of very poor competence and experience.
- The appointment of Special Public Prosecutors is often influenced by political considerations.
- Special Public Prosecutors have not been conducting the prosecution of cases under the Act vigorously and conscientiously.
- Special Public Prosecutors help the accused by not adequately scrutinising papers before putting up challans in the court,
- Special Public Prosecutors pressurise the victims to compromise cases for monetary gains.
- Special Public Prosecutors collude with defence lawyers to dilute atrocity cases.
- Certain important witnesses are not examined at the time of trial by the Special Public Prosecutors.
- Special Public Prosecutors do not brief victims and witnesses before and during trials.
- Special Public Prosecutors do not giving sufficient time to listen to and guide the victims and witnesses.
- Special Public Prosecutors do not give proper information to victims/witnesses regarding the dates and times of trials.
- Special Public Prosecutors do not ask the critical questions that establish atrocities as untouchability-related discrimination and violence.
- Despite the Act being clear, Special Public Prosecutors tend to argue that the provisions of the Act and Rules requiring investigation by senior police officers are only recommendatory and not mandatory.

<sup>110</sup> RTI response by Chand, Research Officer and Central Public Information Officer, Social Welfare Department, Chandigarh.

<sup>111</sup> Annual Report 2008 by Additional Director, SC & BC Welfare Dept., in response to RTI application from ASPIO, SC & BC Welfare Dept.

## 5.6. Contingency Plans and Special Central Assistance

### What the Act and Rules Say

**Rule 15: Contingency plan by the State Government:** The State Government shall prepare a model contingency plan for implementing the provision of the Act and notify the same in the official Gazette of the State Government. It should specify the role and responsibility of various departments and their officers at different levels, the role and responsibility of rural/urban local bodies and non-government organisations. Inter alia this plan shall contain a package of relief measures including the following:

- a) scheme to provide immediate relief in cash or in kind or both;
- b) allotment of agricultural land and house sites;
- c) the rehabilitation packages;
- d) scheme for employment in Government or Government undertaking to the dependant or one of the family members of the victim;
- e) pensions scheme for widows, dependent children of the deceased, handicapped or old age victims of atrocity;
- f) mandatory compensation for the victims;
- g) scheme for strengthening the socio-economic conditions of the victim;
- h) provisions for providing brick/ stone masonry houses to the victims;
- j) such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility, burial cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes habitats.

### Status of Implementation

**(i) Contingency Plan:** The state governments are mandated to prepare a model contingency plan for implementing the provision of the Act. But majority of states do not have this contingency plan.

- **Bihar, Goa and Gujarat:** According to the Ministry of Social Justice and Empowerment, only these three states have prepared contingency plans.<sup>112</sup>

### (ii) Special Central Assistance:

To ensure effective implementation of the PCR Act 1955 and the SC/ST (PoA) Act 1989 by the respective State Governments and Union Territory Administrations, the Special Central Assistance has been set up. The funding pattern is such that, over and above the committed liability of the respective state governments, the expenditure is shared between the Centre and the States on a 50:50 basis, while union territories receive 100% Central Assistance. The Central Assistance the following purposes:

- Functioning and strengthening of the SC/ST Protection Cell and Special Police Stations, including the conduct of periodic surveys, identification of untouchability/atrocity prone areas, etc.
- Setting up and functioning of exclusive Special Courts, including the appointment of officers for initiating or exercising supervision over prosecution, setting up of Committees, etc.
- Relief and Rehabilitation for atrocity victims, including minimum wages to the victims/dependents of atrocities on FIR investigation; reimbursement of the payment of medicines; special medical consultation fee; costs towards blood transfusion; legal aid; etc.
- Cash incentive for inter-caste marriages
- Awareness generation on the Act.

<sup>110</sup> RTI response by Chand, Research Officer and Central Public Information Officer, Social Welfare Department, Chandigarh.

<sup>111</sup> Annual Report 2008 by Additional Director, SC & BC Welfare Dept., in response to RTI application from ASPIO, SC & BC Welfare Dept.

(a) **States drawing Central Assistance:** A total of Rs. 43.1 crore was given to 19 States and 4 UTs during 2008-09.<sup>113</sup> According to the Ministry of Social Justice and Empowerment, though the Central Assistance amount released to the State Government/UTs increases every year (see Annexure X), only 7 States/UTs - **Bihar, Orissa, Punjab, Goa, Madhya Pradesh, Dadra & Nagar Haveli and Puducherry** - have been drawing increasing amounts continuously from the Central Assistance.

(b) **States not drawing the Central Assistance:** *The Central Assistance is released to a specific State (50%) and UT (100%) based on the amount spent in the previous year. The previous years' unspent amount is deducted from the Central Assistance, whereas the previous years' overspent amount is added to the Central Assistance.*

Table 5.9 shows the state-wise and year-wise details of the released amount of Central Assistance (Rs. in lakhs).<sup>114</sup>

**10 states:** It is clear from Table 5.9 that all the 10 States/UTs do not draw Central Assistance every year.

- **Assam, West Bengal and Delhi:** These 3 states/UTs, in particular, have not drawn any Central Assistance for 3 years (2008-2011).

- **Kerala:** This state has not spent anything from the Central Assistance for the implementation of either the PoAA Act or PCR Act.

- **Chandigarh, Goa and Sikkim:** These 3 states also have not spent anything for the implementation of

the PoA Act from the Central Assistance, except some amount (15.00 lakhs, 10.00 lakhs & 17.20 lakhs respectively) on incentives for inter-caste marriages (as per PCR Act) and on such programmes as awareness generation, publicity campaign, etc.<sup>115</sup>

State	2008-09	2009-10	2010-11
West Bengal	----	----	----
Delhi	----	----	----
Assam	----	----	----
Jharkhand	----	39.538	----
Uttarakhand	5.769	----	----
Andaman Nicobar	----	----	5.49
Chandigarh	3.00	----	15.00
Kerala	135.155	361.807	----
Daman & Diu	4.571	----	8.942
Tripura	00.50	0.6	----

(c) **States not utilising Central Assistance:** Even those states that draw funds from the Central Assistance do not utilise the amount fully for the implementation of the PoAA Act.

- **Haryana, Himachal Pradesh, Orissa, Punjab, Rajasthan, Uttar Pradesh, Andhra Pradesh, Goa, Karnataka, Maharashtra, Tamil Nadu, Daman & Diu, and Sikkim:** As per the Ministry of Social Justice and Empowerment, these states/UTs fall in this category of states not utilising the allotted funds.<sup>116</sup> (Annexure XI)

- **Tamil Nadu:** The percentage of unspent Central Assistance is to the tune of 48.38% of the total amount allotted to this state, which is the highest non-spender of all the states.

- **Goa:** This state, falling also in the category of unspent central assistance to the tune of 35.0% of the allotted amount, ranks second next to Tamil Nadu.

<sup>115</sup> Ministry of Social Justice and Empowerment Agenda Notes, Conference of State Ministers of Welfare / Social Justice, 17-18.06.2011, New Delhi.

<sup>116</sup> Ibid.

#### What the data say: Major trends and patterns

- In general, the states have not shown alacrity and determination in preparing contingency plans nor for seeking the available Central Assistance to help implement the PoA Act.
- Even those states that do prepare such plans do not draw funds from the Central Assistance properly, or their utilisation of the funds has not been for the stated purposes, or the amount is not fully utilised.

Conclusion: All this go to show that the states have not followed the letter and the spirit of the Rule properly, adequately and conscientiously.

<sup>110</sup> RTI response by Chand, Research Officer and Central Public Information Officer, Social Welfare Department, Chandigarh.

<sup>111</sup> Annual Report 2008 by Additional Director, SC & BC Welfare Dept., in response to RTI application from ASPIO, SC & BC Welfare Dept.

## CONCLUDING REFLECTIONS &amp; RECOMMENDATIONS

Although it was only in 1989, 42 years after gaining Independence, that the nation woke up to the harsh reality of discrimination and atrocities that SCs and STs have experienced for centuries, the response to this despicable situation, through enactment of the SC/ST (Prevention of Atrocities) Act 1989 and the Rules 1995, is a historic achievement. It is a significant piece of legislation. It acknowledges the high degree of ethical deficit inherent in the caste system. It admits the moral bankruptcy of the nation as a whole, the governance system in particular, in not having responded to wipe out these rights violations early enough, except for the constitutional declaration of equality before law and equal protection of law (Article 14) and abolition of untouchability (Article 17).

At the same time, one must also appreciate the noble aim of the PoA Act in making the governance system as well as all sections of civil society reach out to a large section of the two most excluded communities of Indian society, in order to enable them enjoy their constitutional right to freedom, right to equality, and right to life and personal liberty. Again, one must recognise that the governance system in this country has, through this piece of legislation, taken upon itself the challenging task of ensuring the fulfilment of these rights to SC and ST citizens. Hence, while on the one hand the significance of this legislation cannot be underestimated, on the other hand one cannot but be dismayed at the poor implementation and low performance levels of those charged with authority and responsibility under this Act. This is what comes through on reading the data and analysis presented in this Alternate Report.

**Although the state in principle has assumed responsibility to play an active role in protecting the rights of Dalits and Tribals, over the years the involvement of its various governance mechanisms has not produced the expected results. It is no exaggeration to say that the dominant caste mindset and the desire to protect the interests of the dominant castes have been instrumental in slowing down or in negating the process of justice delivery to these two communities. In this regard, the performance of the enforcement machinery in relation to the PoA Act and Rules has shown a poor record.**

**The response of the police at the time of registration of complaints has been rather inadequate, thereby bringing to light various gaps in their behaviour and operation. The investigation process has not provided justice to the victims and witnesses, for often the enquiry was not done by persons charged with that specific responsibility, nor was the enquiry performed within the stipulated time period, nor was the investigation pursued in a professional manner. Many a time the investigation was not pursued to its logical end, resulting in undue delays and final disposal of the cases. In fact, the overall picture of disposal of cases by the enforcement agencies indicates that a large number of cases have been kept pending for investigation, to be dropped later for some reason or the other. At the level of investigation, in almost all the states, a lesser number of cases were charge sheeted by the police. The judiciary system also has not been able to cope with increasing cases of atrocities against Dalits and Tribals, together with the complexities involved in many of the cases: for example, witnesses turning hostile due to threats or pressures from the perpetrators, the police, the village heads or community leaders, or the repeated adjournments making the victims lose all hope in the judiciary system, etc.**

It is evident from the analysis of data presented in this Report that highly structured preventive and protective arrangements as well as monitoring mechanisms have been established under the PoA Act and Rules to prevent, or at least minimise, atrocities. Nevertheless, these mechanisms have done so only in a limited manner. Despite the existence of these mechanisms, the trend of increasing rate of atrocities against SCs and STs and the low conviction rate under the Act has not abated. That there is inadequate and insufficient coordination between the enforcement authorities at state and district levels is also evident from this Report. The officials responsible for the implementation of the Act and Rules at the district and state levels do not meet periodically as mandated by the legislation.

One obvious conclusion that emerges from the data and analysis generated in this Report is that despite preventive and protective arrangements, monitoring mechanisms, arrangement of various officers and the presence of an elaborate executive, legislative and judicial machinery, practices of untouchability against SCs and instances of discrimination combined with atrocities against SCs and STs continue unabated. In sum, the implementation of the PoAAct and Rules still remains very weak.

In this regard, the major areas of concern are:

- Non-registration of cases
- Inadequate and inordinate delays in investigations
- Non-arrest of the accused
- Inadequate delays in filing charge-sheets
- Inadequate delays in trials leading to high rate of case pendency and low disposal of cases
- Inadequate use of preventive and precautionary measures of the Act
- Committees and other mechanisms [District and State Level Vigilance and Monitoring Committees, Nodal Officers, Special Officers, SC/ST Protection Cell] to monitor the Act are not adequately used or activated
- Mandatory reviews of the performance of Public Prosecutors and the position of the cases are not conducted by the State and District-level authorities
- Inadequate and delayed provision of relief and rehabilitation to the victims
- Failure to put in place innovative policies, projects and programmes that will produce adequate deterrent effects on Indian citizens against committing atrocities, and also against government officials charged with responsibility for enforcing the PoAAct and Rules against neglecting their duties.

Taking into account these major concerns, it is important for the state to activate all its legislative, executive and judicial arms of governance, as well as the larger public to live up to the aims and objectives of the PoA Act and Rules, and to the expectations and hopes of the SC and ST stakeholders. Of immediate interest to them are concerted and consistent efforts to enforce the Act and Rules strictly and effectively. For this to happen, a multi-prolonged and time-bound strategy will have to be designed – a strategy that will have the following features:

- **State Actors:** activating different categories of public servants at various levels of the state administration, law enforcement agencies and the judiciary in particular;
- **State & Civil Society partnership:** making interaction and collaboration possible between state actors on the one hand, and civil society groups, Dalit and Tribal organisations/movements and human rights defenders on the other hand;
- **Mediating agencies:** engaging the media and the academia to raise public awareness, debates and discourses in order to promote accountability and transparency regarding state performance in implementing the PoAAct and Rules, and to cultivate citizenship responsibility in minimising atrocities and discrimination;
- **Programme intervention:** launching multiple programmes including capacitation for the enhancement of personnel resources, disaggregated data generation for focused planning, policy amendments and new formulations in response to changing situations and contexts, daily monitoring and periodic evaluations to generate the expected results.

The multi-pronged strategy outlined above invites the governance system in the country at both the national and state levels to launch a challenging response to eradicate fully the scourge of untouchability-based discrimination and atrocities against the Dalit community and ethnicity-based discrimination and atrocities against the Tribal community in the country. For state as well as civil society actors, this response is increasingly becoming a challenge because of the rising awareness and assertions among the Dalit and Tribal stakeholders of their dignity and rights. It is also because of the violent opposition of the dominant caste and class forces to these efforts of Dalits and Tribals.



In fact, the rich data presented in this Report and the experiences and insights provided by field-based social activists, victims and witnesses on the nature and extent of discrimination and atrocities portray the changing forms and patterns of rights violations against the Dalits and Tribals. These violations cut across state and regional boundaries. Dominant forces exercise more violent ways of control over these vulnerable communities, thereby resulting in the emergence of newer forms of discrimination and atrocities: for example, social boycotts, collective community panchayat deliberating on honour killings. Such new and complex situations necessarily call on the state machinery to make determined and judicious responses.

The critical issues discussed in this Report clearly indicate that the behaviour and actions of state actors have not been as favourable towards victims of atrocities as expected by those lawmakers who created the PoA Act and Rules. As a result, Dalits struggling to attain their rights may become again victims of violence, or may become actors and supporters of counter-violence.

The need of the hour, therefore, is the urgent need to take a fresh look at the PoA Act and Rules, review the implementation mechanisms and processes of the past 23 years, introduce relevant amendments to the Act and Rules, evolve new responsive administrative structures, issue policy directions for making implementation of the Act and Rules more effective and efficient, professional and productive. This is for the short-term benefit of the Dalit and Tribal stakeholders and the long-term integration of various communities in the country in accordance with the fundamental rights enshrined in the Indian Constitution. It is with this perspective in mind that the following recommendations are made for facilitating policy formulations, planning and action.

*"You must abolish your slavery yourselves. Do not depend for its abolition on God or supermen. Your salvation lies in political power and not in making pilgrimages and observance of fasts.... In short law is the abode of all worldly happiness. You capture the power of law-making. It is, therefore, your duty to divert your attention from fasting, worship and penance and apply it to capturing law-making power. That way lies your salvation. That way will end your starvation. Remember that it is not enough that a people are numerically in majority. They must be always watchful, strong, well-educated and self-respecting to attain and maintain success. ...*

*We want our own people- people who will fight tooth and nail for our interest and secure privileges for under-privileged, people who will undo the wrongs done to our people, people who will redress our grievances fearlessly, people who can think, lead and act, people with principles and character- should be sent to legislatures. We must send such people to legislatures who will be subservient to none but remain free to their conscience and get our grievances redressed ... The mission of our movement is to fight out tyranny, injustice and false traditions, and undo all privileges and release the harassed people from bondage."*

*B. R. Ambedkar*

From the speech to the Depressed Class Railway Workmen Conference in 1938

## Recommendations

1. Appoint a High-Level Committee to review the implementation of the Act and Rules since 1989 and 1995 respectively, assess the realisation of the objectives of this Act, and make recommendations for strengthening the Act and Rules and for their effective implementation in future.
2. Make it mandatory, as per Home Ministry guidelines, that all complaints of atrocities be immediately registered as FIRs incorporating proper sections of the Act and that police officials not resort to investigations without registering FIRs.
3. Make it mandatory that investigation of atrocities is done by investigating officers of a rank no less than the Deputy Superintendent of Police (DSP) within 30 days, and in order to facilitate this task, appoint an adequate number of DSPs, depending on the intensity, frequency and spread of atrocities in the districts.
4. Ensure that section 4 of the PoA Act is stringently imposed on all public servants, including the police, who neglect to discharge their duties under the PoA Act and Rules.
5. Appoint one or more Assistant Public Prosecutors or senior advocates, preferably SC/ST advocates, who have been in practice for not less than seven years and on the basis of their record of and reputation for protecting the rights of SCs/STs, to assist the Special Public Prosecutors in conducting trials of cases under this Act; in this regard, fill all vacancies in the posts of Special Public Prosecutors or Assistant Public Prosecutors arising from unexpected and unforeseeable contingencies within 30 days after the opening of such vacancies.
6. Ensure that the appointment of judges to the Special Courts takes into account their record of, and reputation for, protecting the rights of SCs/STs against untouchability practices, discrimination and violence.
7. Ensure mandatory holding of periodic reviews and meetings, and regular submission of reports by the following authorities as enjoined by the Act and Rules:
  - District Magistrates: monthly review of the position of cases registered under the Act and monthly submission of report to the Director of Prosecution and the State Government.
  - District Magistrate: half-yearly review of the performance of Special Public Prosecutors and submission of report to the State Government.
  - Director General of Police: monthly review of the status of various provisions of the Act and Rules, and submission of monthly report on the action taken and proposed to be taken.
  - Nodal officer: quarterly review of the implementation of the various provisions of the Act and Rules.
  - Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution, the Officer in-charge of the Prosecution, Director General of Police: quarterly review of the position of all investigations done by the investigating officer.
8. Ensure the formation of State and District Level Vigilance and Monitoring Committees, and regular meetings of these committees, as per PoA Rules 16 & 17; and involve human rights organisations and individuals working for and with SCs/STs in the deliberations of these State and District Level Vigilance and Monitoring Committees as members or invitees.
9. Ensure submission of the Central Government's Annual Report to both Houses of Parliament u/s. 21(4) of the PoA Act and the State Government Report to the respective State Legislatures under Rule 18 of the PoA Rules.
10. Make the survey exercise to identify untouchability practices as well as atrocity-prone areas an ongoing process, update the existing list of such areas periodically and ensure the implementation of precautionary and preventive measures in atrocity-prone areas as prescribed under Rule 3 of the PoA Rules.
11. Provide relief, compensation and rehabilitation to victims of atrocities as per the norms contained in Rule 15 of the PoA Rules, and prepare a model Contingency Plan consisting of a package of measures for this purpose.

12. Mandate the National Crime Records Bureau to collect, classify and disseminate disaggregated data along the lines of gender and all the types of offences listed in the PoA Act, as such disaggregated data will throw light on the gender dimension of atrocities as well as on the specific nature of atrocity offences committed on SCs and STs.
13. Review the implementation of the Act and propose the following amendments:
  - 1) Set up **Exclusive Special Courts with powers to take cognisance of the offences under this Act and Exclusive Public Prosecutors** for the speedy trial of cases under the Act.
  - 2) **Include additional crimes** which SCs/STs are subjected to, but do not figure in the present list of offences in the Act, such as tonsuring of head and moustache, garlanding with *chappals*; employment of manual scavengers; dedicating SC/ST women as *devadasi*; employing SCs/STs to remove human or dead animal bodies; refusing to pay equal wages; false counter cases; uttering or writing words of caste abuse or using hate speech; stripping woman of her clothes; social or economic boycotts; offences committed by public servants while discharging the duties such as custodial death, torture, rape etc; abetting of an atrocity, etc.
  - 3) **Delete expressions such as “intent”, “intention”, “on the ground”, “public place”,** etc. from various sections of the Act, which give scope to the police and judiciary to dilute cases of atrocities through subjective or arbitrary interpretations of the Act.
  - 4) Add a **new chapter in the Act to deal with the rights of victims and witnesses**, thereby explicitly granting various citizen rights to them with regard to their atrocity cases.
  - 5) Amend the Act to explicitly bring in all the types and nature of **negligence by public servants** at various stages in their handling of atrocity cases.
  - 6) **Enhance punishment** for offences of atrocities under the Act to be on par with the Indian Penal Code as well as based on the nature and gravity of the offences, so as to ensure its deterrent effect.
  - 7) **Amend the definitions of 'Scheduled Castes' and 'Scheduled Tribes'** in the Act so as to:
    - (i) include SC/ST members whose ancestors were members of SC/ST community at any point of time in any state/UT;
    - (ii) cover offences committed against SCs/STs who migrate to other states/UTs irrespective of their status in the SC/ST Schedule of the respective state/UT; and
    - (iii) prevent offences committed against those SC members professing Christian or Islamic faith, or to punish the perpetrators for offences committed against those SC members professing Christian or Islamic faith, as these SCs also suffer from disabilities similar to those faced by SCs belonging to the Hindu or Sikh faiths.

## Appendix

## Annexure-I

## List of cases in which Charge Sheet not filed in stipulated time, Rajasthan

S.N.	Case No.	Date	Police Station	Section	Name of Victim	Date of Challan
1.	486/10	24.6.10	PolicePost (Kotwali) Dausa	143,323,341, 452, 34 IPC & 3(1)(10) SC/ST Act	1. Mr. Pawan s/o Ramkishor khatik mohalla 2. Mr. Lakhan s/o Omprakash khatik mohalla dausa	25.1.11
2.	412/10	7.10.10	Mahwa	341,323,447 IPC & 3(1)(10)SC/ST Act	Mrs Basanti Devi w/o Mr. Bhikharam Balai Hadia P.S. Mahwa	22.2.11
3.	248/10	22.6.10	Mahwa	341,323,447 IPC & 3(1)(10)SC/ST Act	Mrs Ganga Devi w/o Shivcharan Jatav P.S. Gajipur, Mahwa	11.3.11
4.	336/10	12-8-10	Mahwa	341,323,326,323, 354 IPC & 3(2)(5) SC/ST Act	Mr. Pappu Ram s/o Ratanlal khatik P.S. Balheri, Mahwa	11.3.11
5.	323/10	7-8-10	Mahwa	447,IPC & 3(1)(5) SC/ST Act	Mr. Battu s/o Jaggu Jatav, P.S. Virana, Maha	9.12.10
6.	406/10	6.10.10	Mahwa	341,323,384 IPC & 3(1)(10) SC/ST Act	Mr Chand Singh s/o Prahalad Jatav, P.S. Virana Mahwa	20.1.11
7.	597/10	25.10.10	Lalsot	447, IPC & 3(1)(5) SC/ST Act	Mr kanhaiyalal s/o Bairwa, Shyampura khurd Lalsot	30.3.11
8.	308/10	6.12.10	Nagal Rajawtan	341,323, IPC & 3(1)(10) SC/ST	Mr. Banari Lal w/o Gangasahay P.S. kharaoji Nagal Rajawtan	28.3.11
9.	135/10	20.4.10	Mahwa	341,323,451 IPC & 3(1) (10) SC/ST Act	Mr. Revti s/o Dauji Jatav P.S. Gajipur Mahwa	19.1.11
10.	165/10	7.5.10	Mahwa	341,323,451 IPC & 3(1)(10) SC/ST Act	Mr. Mahesh s/o Babulal Bairwa P.S. Berkheda, Mahwa	24.1.11
11.	264/09	23.8.09	Sikandra	376(2)(G)IPC & 3(2)(5) SC/ST Act	Arti d/o Mohanlal Mahawar P.S. Chhokarwada Tehsil Sikray	17.1.10

S.N.	Case No.	Date	Police Station	Section	Name of Victim	Date of Challan
12.	123/10	1.3.10	Bandikui	341,323,34 IPC & 3(1)(10) SC/ST Act	Mr. Ramkaran S/o Ramhet Bairwa P.S. Chimapura. Tehsil Baswa.	
13.	232/10	1.8.10	Maanpur	323, 341 IPC & 3(1)(10) SC/ST Act	Mr. Satyanarayan S/o Laxman Meena kalwaan tehsil Sikray	9.12.10
14.	686/10	16.9.10	Bandikui	341,323,IPC & 3(1)(10) SC/ST Act	Mrs. Goma Devi widow of Mr. Chhajuram Meena, Chorwada	22.2.11
15.	478/10	8.11.10	Mahwa	323,341,451,34 IPC & 3(1)(10) SC/ST Act	1. Mr Jawahar Singh S/o Bhorya Meena P.S. Ront, Mahwa 2. Mrs. Dropti w/o Mr. Hukum Meena P.S. Hadia Mahwa	22.2.11
16.	101/08	15.6.08	Ramgarh Pachwada	147,148,149,447, 302 IPC & 3(2)(5) SC/ST Act	Mr Chand Singh S/o PraMr. Ram Gopi Meena Sitapura (Bhaypur)halad Jatav, P.S. Virana Mahwa	

Source: RTI response received from office of the District Collector, Dausa, Rajasthan dated 28.07.2011 – SL No/copy/11/5666

## Annexure-II

<b>Atrocity Prone Areas identified by the State Govt under PoA Act</b>	
<b>Andhra Pradesh</b>	Guntur, Chittoor, Secunderabad, Prakasam, Nellore, Kurnool, Mahboobnagar, Medak, Kadapah, Nizamabad, Krishna, Karimnagar
<b>Bihar</b>	Gaya, Sitamarhi, Nalanda, Sheohar, Sheikhpura, Buxar, Saran, Banka, West Champaran, Supaul, Lakhisarai, Vaishali, Motihari, Kaimur, Darbhanga, Samastipur, Saharsha, Kishanganj, Begusarai, Rohtas, Janhanabad, Bhojpur, Mujaffarpur, Siwan, Madhubani, Madhepura, Bhagalpur, Patna, Bhopalgarh, Purnea, Nawada, Munger, Aurangabad
<b>Karnataka</b>	Dharwad, Bijapur, Gulbarga, Raichur, Bidar, Chitradurga, Shimoga, Bellary, Bangalore, Kolar, Tumkur, Mysore, Mandya, Hassan, Belgaum
<b>Gujarat</b>	Mehsana, Ahmedabad, Junagadh, Sabarkantha, Kheda, Rajkot-Rural, Amreli, Kutch, Surendar Nagar, Vadodara-Rural, Bharuch
<b>Orissa</b>	Angul, Bhadrak, Naikanidihi, Dhusuri, Bansada, Boudh, Balsore, Cuttak, Dhenkanal, Deogarh, Kandhamal, Kalahandi, Khurda, Keonjhar, Mayurbhanj, Nuapada, Puri, Sonapur, Sundergarh
<b>Uttar Pradesh</b>	Lucknow, Hardoi, Sitapur, Rai Bareilly, Unnao, Gonda, Bahraich, Barabanki, Sultanpur, Fatehpur, Etawah, Banda, Jalaun, Basti, Gorakhpur, Azamgarh, Badaun, Meerut, Varanasi, Agra
<b>Jharkhand</b>	Hazaribagh
<b>Kerala</b>	Kasargod, Wayanad, Palakkad
<b>Madhya Pradesh</b>	Barwani, Dewas, Hoshangabad, Jabua, Morena, Satna, Shahdol, Shivpuri, Ujjain, Betul, Burhanpur, Indore, Narsinghpur, Raisen, Shajapur, Chhatrapur, Datia, Harda, Jabalpur, Mandsaur, Neemuch, Rajgarh, Seoni, Vidisha, Sheopur
<b>Maharashtra</b>	Sindhudurg, Thane, Ratnagiri, Dhule, Jalgaon, Nandurbar, Ahmenagar, Sangali, Pune, Satara, Solapur, Kolhapur, Akola, Vasim, Amaravati, Yeotmal, Buldhana, Nagpur, Gadchiroli, Wardha, Gondia, Bhandara, Chandrapur, Aurangabad, Jalna, Beed, Nanded, Parbhani, Hingoli, Osmanabad, Latur.
<b>Tamil Nadu</b>	Kanchipuram, Thiruvallur, Cuddalore, Vilauppuram, Tiruvannamalai, Vellore, Dharamapuri, Salem, Namakkal, Tiruchirappalli, Perambalur, Karur, Nagapattinam, Tiruvarur, Thanjavur, Pudukkottai, Coimbatore, Erode, Nilgiris, Madurai, Dindigal, Theni, Ramanathapuram, Sivaganga, Verudhunagar, Tirunelveli, Thoothukudi, Kanyakumari
<b>Rajasthan</b>	Jodhpur, Nagore, Jalore, Bundi, Jhaladad, Sirohi, Jaisalmer, Banswara, Pali, Udaipur, Dungarpur, Sawai Madhopur, Jhunjunu, Bharatpur, Rajsamand, Barmer, Tonk, Alwar, Chittorgarh, Dholpur, Dousa, Bhilwara, Churu, Baran
<i>(Source: Ministry of Social Justice and Empowerment)</i>	

### Annexure-III

<b>Number of crimes against SCs &amp; STs during 1995-2009 in the states where atrocity prone areas are not declared</b>		
<b>S.No.</b>	<b>States</b>	<b>Total Crimes against SCs/STs (1995-2009)</b>
1.	Meghalaya	24
2.	Goa	31
3.	Manipur	35
4.	Mizoram	56
5.	Tripura	145
6.	West Bengal	185
7.	Sikkim	443
8.	Arunachal Pradesh	517
9.	Uttarkhand	903
10.	Nagaland	1103
11.	Himachal Pradesh	1272
12.	Punjab	1381
13.	Assam	1673
14.	Haryana	3000
15.	Chhattisgarh	10130

(Source: National Crime Record Bureau, Crimes in India reports, 1995-2009)

## Annexure-IV

### Analysis of the DVMC meetings held in Andhra Pradesh during 2009

Districts	Number of Meetings in 2009 (out of mandatory 4 meetings)	Number of Meetings in 2010 till June (out of mandatory 2 meetings)	Total Number of Meetings in 18 months (out of mandatory 6 meetings)
Adilabad	1	1	2
Nizamabad	3	2	5
Karimnagar	3	2	5
Medak	1	1	2
Hyderabad	1	2	3
Rangareddy	3	2	5
Mahbubnagar	3	2	5
Nalgonda	1	2	3
Warangal	3	1	4
Khammam	3	2	5
Srikakulam	3	2	4
Vizianagaram	1	2	3
Visakhapatnam	1	1	2
East Godavari	4	2	6
West Godavari	2	2	4
Krishna	2	2	4
Guntur	2	2	4
Prakasam	2	1	3
Sri Potti Sriramulu Nellore	4	2	6
Y. S. R.	1	2	3
Kurnool	4	2	6
Anantapur	2	1	3
Chittoor	4	2	6

(Source: Response of RTI application from Additional Director/PIO, O/o Commissioner of Social Welfare, Social Welfare Department, Government of Andhra Pradesh)



### Annexure-V

#### DVMC Meetings in Bihar during 2009

S.no.	Districts	Date of last constitution of the DLVMC	No. of meetings held during the year
1	Patna	17.6.1999	1
2	Nalanda	17.6.1999	1
3	Rohtas	17.6.1999	2
4	Bhabhua	17.6.1999	2
5	Bhojpur	17.6.1999	2
6	Buxer	17.6.1999	2
7	Gaya	17.6.1999	2
8	Jehanabad	17.6.1999	1
9	Arwal	17.6.1999	1
10	Nawada	17.6.1999	
11	Aurangabad	17.6.1999	1
12	Saran	17.6.1999	
13	Siwan	17.6.1999	
14	Gopalganj	17.6.1999	3
15	Muzaffarpur	17.6.1999	3
16	Sitamarhi	17.6.1999	1
17	Sheohar	17.6.1999	
18	W.Champaran	17.6.1999	2
19	E.Champaran	17.6.1999	1
20	Darbhanga	17.6.1999	1
21	Madhubani	17.6.1999	2
22	Samastipur	17.6.1999	1
23	Saharsa	17.6.1999	1
24	Supaul	17.6.1999	
25	Madhepura	17.6.1999	1
26	Purnea	17.6.1999	1
27	Araria	17.6.1999	1
28	Kishanganj	17.6.1999	1
29	Katihar	17.6.1999	1

S.No.	Districts	Date of last constitution of the DLVMC	No. of meetings held during the year
30	Bhagalpur	17.6.1999	2
31	Banka	17.6.1999	
32	Munger	17.6.1999	
33	Lakhisarai	17.6.1999	
34	Sheikhpura	17.6.1999	1
35	Jamui	17.6.1999	1
36	Khagaria	17.6.1999	
37	Begusarai	17.6.1999	2

Source: Annual Reports for the calendar year 2009 of SC/ST PoA Act 1989 and PCR Act 1995 dt 28.09.2010

## Annexure-VI

DVMC Meeting held in Himachal Pradesh during the year 2009-2010

Districts	Number of Meetings in 2009 (out of mandatory 4 meetings)	Number of Meetings in 2010 (out of mandatory 4 meetings)	Total Number of Meetings in 2 years (out of mandatory 8 meetings)
Chamba	No information		
Kangra	1	0	1
Lahul & Spiti	1	0	1
Kullu	2	0	2
Mandi	1	0	1
Hamirpur	No information		
Una	0	1	1
Bilaspur	2	1	3
Solan	0	0	0
Sirmaur	1	2	3
Shimla	No information		
Kinnaur	No information		

(Source: Response of RTI applications to respective District Collectors on the DVMC meetings held for the year 2009 and the year 2010)

## Annexure-VII

### DVMC Meetings held in Karnataka (2008—2010)

S.No.	Districts	2008	2009	2010	Total	Average per year
1	Bagalkote	1	2	2	5	1.25
2	Bangalore Urban	2	1	2	5	1.25
3	Bangalore Rural	1	2	1	4	1.00
4	Belgaum	1	1	3	5	1.25
5	Bellary	2	1	1	4	1.00
6	Bidar	0	1	3	4	1.00
7	Bijapur	1	1	3	5	1.25
8	Chamaraja Nagar	3	2	1	6	1.50
9	Chikballapur	1	1	1	3	0.75
10	Chikmagalur	4	2	1	7	1.75
11	Chitradurga	0	1	2	3	0.75
12	Dakshin Kannada	2	1	1	4	1.00
13	Davanagere	1	3	1	5	1.25
14	Dharwad	1	2	1	4	1.00
15	Gadag	0	1	1	2	0.50
16	Gulbarga	1	1	2	4	1.00
17	Hassan	2	1	2	5	1.25
18	Haveri	1	1	1	3	0.75
19	Kodagu	0	1	3	4	1.00
20	Kolar	0	1	0	1	1.25
21	Koppal	2	1	2	5	1.25
22	Mandya	0	2	1	3	0.75
23	Mysore	2	1	3	6	1.50
24	Raichur	0	1	2	3	1.75
25	Ramanagar	1	1	2	4	1.00
26	Shimoga	2	1	1	4	1.00
27	Tumkur	0	1	1	2	0.50
28	Udupi	3	2	2	7	1.75
29	Uttara Kannada	2	1	2	5	1.25
30	Yadgiri	NA	NA	2	2	0.50
	<b>Total</b>	<b>36</b>	<b>38</b>	<b>50</b>	<b>124</b>	<b>1.07</b>

Report of the Committee Monitoring and Strengthening SC/ST (PoA) Act in Karnataka (CMASK), 2010

## Annexure-VIII

### Analysis on DVMC Meeting held in MP during 2009 (Total Districts -50)

S.No	No. of DVMC meetings held	No. of Districts	Names of the Districts
1	No meeting	7	Gwalior, Ashoknagar, Dewas, Shajapur, Mandsaur, Rajgarh Jabalpur
2	1 Meeting	16	Sheopur, Morena, Shivpuri, Guna, Alirajpur, Burhanpur Bhopal, Hoshangabad, Panna, Katni, Narsinghpur, Seoni, Mandla, Singrauli, Shahdol, Anuppur
3	2 Meetings	22	Bhind, Datia, Neemuch, Ujjain, Indore, Dhar, Khargone, Khandwa, Sehore, Raisen, Vidisha, Betul, Harda, Sagar, Damoh, Chhatarpur, Tikamgarh Chhindwara, Balaghat, Rewa Sidhi, Satna
4	3 Meetings	5	Ratlam, Barwani, Umaria, Dindori, Jhabua
5	4 Meetings	0	----

Steps taken by Government of M.P., Department of SC/ST welfare, Bhopal, dated 27.10.2009, prepared for visit of Central Minister of Social Justice and Empowerment, 2009

## Annexure-IX

### Existence of Special Courts

Name of State	Name of Districts/Jurisdictions of the Courts
Andhra Pradesh	1. Mahabubnagar 2. Nellore 3. Kurnool 4. Medak 5. Prakasham (Ongole) 6. Chittoor 7. Guntur 8. Secunderabad 9. Cuddapah 10. Karimnagar 11. Krishna 12. Nizamabad
Bihar	9 Divisional places and also at East Champaran and Bhojpur districts.
Chhattisgarh	1. Raipur 2. Durg 3. Rajnandgaon 4. Bilaspur 5. Raigarh 6. Surguja 7. Jagdalpur
Gujarat	1. Banaskantha (Palanpur) 2. Ahemadabad (Rural) 3. Katch (Bhuj) 4. Amreli 5. Vadodara 6. Junagadh 7. Panchmahal 8. Rajkot 9. Surat 10. Surendranagar
Karnataka	1. Bijapur 2. Gulbarga 3. Kolar 4. Raichur 5. Mysore 6. Belgaum 7. Tumkur
Madhya Pradesh	1. Dhar 2. Shajapur 3. Morena 4. Shahdol 5. Damoh 6. Raisen 7. Mandla 8. Sehore 9. Bhind 10. Tikamgarh 11. Mandaleshwar 12. Dewas 13. Mandaur 14. Indore 15. Hoshangabad 16. Jabalpur 17. Vidisha 18. Panna 19. Chhatarpur 20. Ujjain 21. Guna 22. Satna 23. Rewa 24. Narsinghpur 25. Sagar 26. Gwalior 27. Rajgarh 28. Bhopal 29. Jhabua.
Rajasthan	1. Alwar 2. Pali 3. Pratapgarh 4. Jaipur 5. Ajmer 6. Udaipur 7. Jodhpur 8. Kota 9. Bikaner 10. Medta 11. Tonk 12. Ganganagar 13. Baran 14. Sawaimodhopur 15. Dausa 16. Jhalawar 17. Bilwara
Tamil Nadu	1. Trichy 2. Madurai 3. Thanjavur 4. Tirunelveli
Uttar Pradesh	1. Farrukabad 2. Unnao 3. Basti 4. Banda 5. Etawah 6. Hamirpur 7. Gonda 8. Kanpur city 9. Badaun 10. Sultanpur 11. Barabanki 12. Bulandshar 13. Gorakhpur 14. Varanasi 15. Pilibhit 16. Etah 17. Deoria 18. Jhansi 19. Faizabad 20. Agra 21. Kanpur Rural 22. Behraich 23. Lucknow 24. Jalaon 25. Merrut 26. Ghaziabad 27. Sidarth Nagar 28. Mirzapur 29. Chandausi 30. Balrampur 31. Fatehpur 32. Ghazipur 33. Mainpuri 34. Kannauj 35. Gautambudhnagar 36. Hardau 37. Shravasti 38. Bagpat 39. Bareilly 40. Jyotibaphulenagar.
	(Source: Ministry of Social Justice and Empowerment)

### Annexure-X

Statement showing the State-wise & Year-wise details of Central Assistance Released: - (Rs. in lakhs)

State / Uts	2008-09	2009-10	2010-11
Bihar	27.28	55.00	90.00
Orissa	60.00	69.578	645.58
Punjab	50.00	76.35	114.70
Goa	1.00	1.50	3.25
Madhya Pradesh	574.745	1107.11	1869.09
Dadra & Nagar Haveli	2.655	59.229	60.00
Pondicherry	50.00	50.00	87.08

(Source: Ministry of Social Justice and Empowerment Agenda Notes – Conference of State Ministers of Welfare / Social Justice, 17th – 18th June, 2011, New Delhi)

### Annexure-XI

States not utilizing Central Assistance : Statement showing the State / UT wise actual expenses during 2010-11 from Central Assistance for implementation of the PoA Act & PCR Act:- (Rs. in lakhs)

State / UT	Total Expenditure incurred	Central Assistance due	Previous year's unspent central assistance	Central Assistance released	Percentage of unspent central assistance to amount due
Tamil Nadu	1165.51	342.435	165.66	176.77	48.38%
Goa	10.00	5.00	1.75	3.25	35.00%
Sikkim	17.20	8.60	2.20	6.40	25.58%
Himachal Pradesh	72.94	36.47	7.47	29.00	20.48%
Rajasthan	438.88	219.44	44.04	175.40	20.07%
Maharashtra	2954.00	1045.07	175.28	869.79	16.77%
Daman & Diu	10.72	10.72	1.78	8.94	16.61%
Punjab	269.40	134.70	20.00	114.70	14.85%
Uttar Pradesh	2254.14	1126.08	165.10	960.98	14.66%
Karnataka	2071.55	774.355	99.995	674.36	12.91%
Andhra Pradesh	2349.85	723.11	80.115	642.99	11.08%
Haryana	278.00	139.00	2.82	136.18	2.03%
Orissa	1292.90	646.45	0.87	645.58	0.14%

(Source: Ministry of Social Justice and Empowerment Agenda Notes – Conference of State Ministers of Welfare / Social Justice, 17th – 18th June, 2011, New Delhi)

## Why this National Campaign?

- *Scheduled Castes (SCs) and Scheduled Tribes (STs) are the worst affected in terms of atrocities covered under the SC/ST (PoA) Act because, inter alia, they are minorities; because they are excluded from full enjoyment of national and state level resources and power; and because the SCs in particular are considered untouchables and hence denied social mobility.*
- *There is a clear trend of increasing atrocities against SCs and STs, with new forms of caste, class and gender discrimination and violence emerging over the years. This is compounded by the difficulties in accessing justice once atrocities take place, and inadequate implementation of protection mechanisms to stem the tide of atrocities.*

*These are weighty reasons to assess the status of implementation of the Act by national and state governments, to scrutinize the lacunae in the scope of the Act, and to suggest ways to make it a more effective mechanism for guaranteeing security of life to all SCs/STs and above-excluded minority communities.*

*Two decades of the Act and over 60 years of India's Independence provide an opportune time span to embark on this enterprise of demanding state accountability to the most excluded and neglected communities in the country.*

### What is the thrust of this National Campaign?

- **State accountability for inadequate implementation of the SC/ST (PoA) Act.**
- **Adequate political will to ensure State implementation of the Act in toto.**
- **Legislative amendments to the Act to expand and strengthen its scope and provisions, particularly regarding the rights of victims and witnesses.**
- **Greater gender focus in the Act.**
- **Exclusive judicial mechanisms to ensure speedy trials so as to fulfil the deterrence purpose of the Act.**
- **Inclusion in the Act of excluded marginalised communities: various tribal and ethnic groups in the country; SCs/STs belonging to religious minority communities especially Muslims and Christians; and SC/ST migrant workers.**

### Who has launched this National Campaign?

- On 25 June 2009, the National Campaign on Dalit Human Rights (NCDHR) initiated a consultation in New Delhi on the status of implementation of the SC/ST (PoA) Act through one of its core units, National Dalit Movement for Justice. Adivasi, Dalit and human rights organizations and movements, activists and experts from various states participating in the consultation formed themselves into the **National Coalition for Strengthening the SC/ST Prevention of Atrocities Act.**
- The Coalition decided to prepare a position paper and draft Amendment Bill based on various recommendations given by the National and State Commissions, various civil society organisations and experts, apart from the guidelines issued by the Ministry of Social Justice and Empowerment and the Home Ministry for better enforcement of the Act.
- On 11 September 2009, marking 20 years since the Act received assent from the President of India, a National Convention was organised in New Delhi to review the implementation of the Act and the accompanying Rules, and deliberate on the amendments and strategies required to strengthen implementation.
- A National Campaign Programme is underway to disseminate information on the proposed Amendment Bill and mobilise support among Dalits, Adivasis, their solidarity partners and all those believing in equal security and empowerment for all Indian citizens. The Amendment Bill will finally be presented to the Government of India, with sustained lobbying and advocacy to ensure that it is placed before, and thereafter passed by, the Parliament.

