1. The constitution of India contains special provision and safeguards provided to Member of Scheduled Castes under its various Articles. These safeguards are in the nature of protective from discrimination for their Educational, Economic, Social, Political and reservation benefits and for their overall development. The relevant Articles governing the Scheduled Castes are given below.

**Safeguards for Scheduled Castes**

2. Article 366(24)"Scheduled Castes" means such Castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purpose of this Constitution.

3. Article 341(1) The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purpose of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be.
4. Article 341(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause(i) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

5. The safeguards provided to Scheduled Castes are grouped in the following broad heads:

- Social Safeguards
- Economic Safeguards
- Educational & Cultural Safeguards
- Political Safeguards
- Service Safeguards

**Social Safeguards**

6. Article 17, 23, 24 and 25 (2) (b) of the constitution enjoins upon the state to provide social safeguards to Scheduled Castes. Article 17 relates to abolition of untouchability being practiced in society. The Parliament enacted the protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (prevention of Atrocities)Act, 1989 to tackle the
problem of untouchability, which is being practiced against Scheduled Castes.

7. Article 23 prohibits traffic in human beings and 'begar' and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with law. Although there is no specific mention about the SCs in this Article but majority of the bonded labour come from SCs. Thus, this Article has a special significance for them. The parliament enacted Bonded labour system (Abolition) Act, 1976 for identification, liberation and rehabilitation of bonded labourers.

8. Article 24 provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Even in this Article, there is no specific mention about the SCs but substantial portion of child labour engaged in hazardous employments belong to SCs.

9. Article 25(2)(b) provides that Hindu religious institutions of a public character shall be opened to all classes and sections of Hindus. The term Hindu includes persons professing Sikh, Jain, and Buddhist religion.

**Economic Safeguards**

10. Article 23, 24 and 46 form part of the economic safeguards for the Scheduled Castes and Scheduled Tribes.
11. Article 46 Provides, "The state shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

**Educational and Cultural Safeguards**

12. Article15 (4) Empowers the state to make special provisions for the advancement of any socially and educationally backward classes of citizens and for SCs. This provision has enabled the state to reserve seats for SCs in educational institutions in general and professional courses etc.

**Political Safeguards**

13. Reservation of seats for SCs /STs in the local bodies of the states/ UTs, Legislative Assemblies of the state and in Parliament are provided in the Constitution of India as follows.

**14. Article 243D Reservation of seats:**

(1) Seats shall be reserved for (a) the Scheduled Castes, and (b) the Scheduled Tribes in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in the total Population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.
(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

15. Article 243T Reservation of seats

(1) Seats shall be reserved for the Scheduled Castes and Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total Population of that area and such seats may be allotted by rotation to different consistencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different Constituencies in a Municipality.

(4) The Offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a state may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in the part shall prevent the Legislature of a state from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

16. Article 330 Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the people:

(1) Seats shall be reserved in the House of the people for-

(a) the Scheduled Castes,

(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam, and
(c) the Scheduled Tribes in autonomous districts of Assam.

(2) The number of seats reserved in any State or Union Territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall, bear as nearly as may be, the same proportion to the number of seats allotted to that state or Union territory in the House of the people as the population of the Scheduled Castes in the state or Union territory or of the Scheduled Tribes in the State or part of the state or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union Territory.

(3) Notwithstanding anything contained in clause(2), the number of seats reserved in the House of the people for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of Scheduled Tribes in the said autonomous districts bears to the total population of the state.

17. Article 332 Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States:

(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.
(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The Number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

18. Article 334 Reservation of seats and special representation to cease after sixty years notwithstanding anything in the foregoing Provision of this Para, the provisions of this Constitution relating to :-

(a) The reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the people and in the Legislative Assemblies of the States and

(b) The representation of the Anglo-Indian Community in the House of the People and in the Legislative Assemblies of the States by nomination, shall cease to have effect on the expiration of a period of sixty years from the commencement of the Constitution.
Service Safeguards

19. Service safeguards are contained in Articles 16(4), 16(4A), and 335.

20. Article 16 (4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under State.

21. Article 16 (4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State are not adequately represented in the services under the State.

22. Article 335 Claims of Scheduled Castes and Scheduled tribes to services and posts- The claims of the members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

In the year 2001, the Parliament through Constitution (Eighty-fifth Amendment) Act, 2011 amended the provisions contained in Articles 16(4A). In Article 16 (4A) for the words:- In matters of promotion to any class"
has been substituted. The effect of this amendment is that the SCs/STs promoted earlier than their counter-part in general category by virtue of reservation policy shall be senior to general category in the promoted scale/post One of the most important mandated provisions at Article 338 of the constitution is section (9) which stipulate that "The Union & every State Govt. shall consult the National Commission for Scheduled Castes on all major policy matters affecting Scheduled Castes".

**Legal Rights of Dalits:** Special social enactments have come into force from time to time for SCs in order to uphold the constitutional mandate and safeguard the interests of Dalits in India. The major legal enactments at the national level are: (i) Protection of Civil Rights Act, 1955; (ii) Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, 1989 The Protection of Civil Rights Act, 1955 was enacted in furtherance of Article 17 of the constitution to abolish untouchability and its practice in any form.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was brought into force from 30th January 1990 in order to check and deter crimes against SCs/STs by persons belonging to other communities. These enactments have extended the positive discrimination in favour of SCs and STs to the field of criminal law in as much as they prescribe penalties that are more stringent than the corresponding offences under Indian penal code (IPC) and other laws. Special Courts have been
established in major states for speedy trial of cases registered exclusively under these Acts.

**Classification of crimes:** The crimes against persons belonging to Scheduled Castes /Scheduled Tribes are broadly categorised under two major heads:

1) **Under the Indian Penal Code (IPC):** (i) Murder (ii) Hurt (iii) Rape (iv) Kidnapping & abduction (v) Dacoity (vi) Robbery (vii) Arson (viii) Others (other classified IPC crimes)


The crimes under IPC such as `murder`, `hurt`, `rape`, etc. or under Special Acts such as “The Protection of Civil Rights Act” and “The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act” are already included in overall crimes reported under IPC and SLLs respectively and have been discussed in detail in the preceding chapters. The specific crimes against SCs/STs discussed in the following paragraphs are part and parcel of total crimes but analysed separately for better comprehension of crimes committed against SCs & STs.

The data on crimes against SCs/STs are being compiled with provision for district-wise reporting of these crimes with effect from the year 2001. Cases
under the Protection of Civil Rights Act and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act have been segregated for SCs and STs to have clear picture of all the crimes against each category. Cumulative totals of data available on monthly basis were used for analysis till 2000 which did not distinguish true or false cases, therefore, the incidence of crime reported in the year 2001 and later years may not be comparable with figures of earlier years. The ‘Crime Rate’ for crimes committed against SCs and STs has been calculated using only the population of SC and ST respectively based on The Population Census 2011.

**Effectiveness of the Legal & Administrative System to deal with Atrocities on Dalits:**

Given the relatively more frequent occurrence of atrocities on dalits in the rural belt, the ability of the community to experience upward mobility is affected significantly. Not only do these incidents affect the economic life of the dalits but the absence of timely punishment of the culprits creates a permissive environment for similar cases in future. The state could play a major role in this sphere by enhancing the level of effective governance, namely, by strengthening law and order machinery. A speedy disposal of cases is the basic requirement for minimising crimes on the community.
However, as reflected from the following analysis, there is enormous scope for improvement of the current level of governance.

Diagram-1: A Comparison between the Pendency Ratio

Source: Based on Data in *Crimes in India*. 

[Graph showing percentage comparison over years involving different acts and crime categories.]
There are two crucial steps involved in the access to justice procedure. After First Information Report (FIR) is lodged, the police investigate and file the charge sheet against the accused. This is followed by the trial in a court. The pendency ratio is obtained by dividing the number of pending trials at year-end by the total cases brought for trial. Conviction rate, on the other hand, is percentage of cases leading to conviction. As per the Crime in India data, although charge-sheeting rate in case of all four categories has
improved over the years, pendency and conviction rates with regard to atrocity cases are major areas of concern. In Diagram 1, the pendency ratio of the crimes under SC/ST and PCR acts and the total cognisable crimes under SLL and IPC is compared for the period 1995-2002. It is observed that while the ratio is consistently more than 80 per cent in cases under the SC/ST Act as well as the IPC cases, the same under PCR Act and SLL crimes are 77 and around 50 per cent, respectively. In terms of categorisation, atrocity cases and IPC cases are similar in the sense that they mostly deal with violence whereas SLL cases are predominantly non-violent in nature. However, there are more pending atrocity cases than even those under IPC. The delay in delivery of justice hurts the poorer households (dalits in the current context) much more severely than the well-off sections. Moreover, pendency in SC/ST and PCR Acts is increasing over the last decade, indicating a clear lethargy on the part of the government. In Diagram 2, the conviction rate of crimes under four categories, similar to the earlier analysis, is reported. It is observed that the conviction rate (for the SCs) under the SC/ST (30.5) and PCR (19.7) Acts is significantly lower than under SLL (86 per cent) as well as IPC crimes (40.6). This trend, coupled with a high pendency ratio, needs to be addressed. The low conviction rate signifies a lackadaisical attitude of the state machinery. Furthermore, with the cases running for years it becomes extremely difficult for the prosecution to prove a particular case, as often the key witnesses are not available after
a point of time owing to various reasons (e.g., migration to other areas for livelihood, etc). One positive sign is that the conviction rate is relatively higher in states with higher incidence of violations under the SC/ST Act. We obtain a positive rank correlation coefficient (0.5) between the occurrence of atrocities and conviction rate rankings of the states. Nonetheless, in a couple of states the conviction rate is quite low despite having a significant proportion of atrocities, e.g., Karnataka (11.51 per cent of all-India reported cases), Andhra Pradesh (7.41 per cent) and Gujarat (4.88 per cent). The absence of "certainty of punishment" in these states contributes significantly to continuance of atrocities.

Human Rights Perspective

**Caste and the Human Rights Treaty Bodies:** The human rights treaty-monitoring bodies have engaged with the issue of caste, especially since 1996, when CERD stated that caste-based discrimination was a form of descent-based discrimination in the context of India’s state report. The following section looks at the response to the reports received from the South Asian countries that support a caste system by four committees: the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights; and assesses their contribution to the identification of caste-based discrimination as a
major source of human rights violations. The section also examines what remedies the Committees have proposed towards the elimination of caste-based discrimination. The final subsection on caste and justice examines the specific problem of caste prejudice in the police and in the judiciary.

**The Human Rights Committee:** India ratified the International Covenant on Civil and Political Rights (ICCPR) on 10 April 1979. The Covenant protects against discrimination of any kind in its article 26, including discrimination based on ‘social origin’. In 1997, the Human Rights Committee (HRC) found that India was violating its obligations under the ICCPR through its treatment of the Dalits. It noted:

> with concern that despite measures taken by the government, members of the Scheduled Castes and Scheduled Tribes, as well as so-called backward classes and ethnic and national minorities continue to endure severe social discrimination and to suffer disproportionately from many violations of their rights under the Covenant, including inter-alia inter-caste violence, bonded labour and discrimination of all kinds. It regrets that the de facto perpetuation of the caste system entrenches social differences and contributes to these violations.68

---

68 Concluding Observations – India (1997), CCPR/C/79/Add.81, para. 15.
The HRC recommended that India adopt further measures including educational programmes at the national and state levels to combat all forms of discrimination against these vulnerable groups, in accordance with article 2(1) and article 26 of the Covenant.\textsuperscript{69}

The HRC must continue to condemn caste-based discrimination under article 26 of the Covenant through the state reporting procedure. Since 1997, the Committee has not had the occasion to review a report from India or Nepal, and at the time of its consideration of India’s 1997 report, the international movement against caste-based discrimination was relatively young. When such an occasion does arise, the Committee must complement the work of the other treaty-monitoring bodies and the UN Sub-Commission on the Promotion and Protection of Human Rights by identifying caste as a major source of the denial of civil and political rights, despite formal non-discrimination laws.

The Committee ought to identify and condemn in particular the violation of the right to ‘equal protection of the law’ in India under article 26 of the Covenant. Since the 1990s, violence against Dalits in India has escalated dramatically in response to growing Dalit rights movements. Between 1995 and 1997, a total of 90,925 cases were registered with police nationwide as

\textsuperscript{69} Ibid., para. 13.
crimes and atrocities against Scheduled Castes. The UN Sub-Commission’s Working Paper on Work and Descent-based Discrimination noted that: ‘the atrocities committed – murder, rape, mutilation, arson etc. – are not only isolated acts but could even be acts of mass savagery committed by militia groups employed by the higher castes.’

India’s National Commission for Scheduled Castes and Scheduled Tribes has reported that these cases normally fall into one of three categories; cases relating to the practice of ‘untouchability’ and attempts to defy the social order; cases relating to land disputes and demands for minimum wages; and cases of atrocities by police and forest officials. Caste Hindus and non-Dalits are able to wield a considerable amount of leverage over local police, district administrations and even state governments. This leverage significantly hinders the effective implementation of the statutory provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989.

The manipulation of the 1989 Act, and the failure to prosecute atrocities against Dalits under its terms, is illustrated in the Supreme Court case of State of Kerala v. Appu Balu, where the court found: ‘More than 75% of the

72 Human Rights Watch (1999), Broken People: Caste Violence against India’s Untouchables, 4.
cases under the [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) 1989] Act are ending in acquittal at all levels.\textsuperscript{73}

In its August 2000 Resolution, the UN Sub-Commission on the Protection and Promotion of Human Rights urged governments to ensure:

\begin{quote}
appropriate legal penalties and sanctions, including criminal sanctions, are prescribed for and applied to all persons or entities within the jurisdiction of the Governments concerned who may be found to have engaged in practices of discrimination on the basis of work and descent.\textsuperscript{74}
\end{quote}

The constitutional and statutory bodies in India, such as the National Commission for Scheduled Castes and Scheduled Tribes, and the National Human Rights Commission, have repeatedly confirmed the failure of her constitutional and statutory laws designed to protect the Dalits. The UN Sub-Commission’s Working Paper on Work and Descent-based Discrimination highlighted this, and stated: ‘The laws are there, but there is a clear lack of will on the part of law enforcement officers to take action owing to caste prejudice on their part or deference shown to higher-caste perpetrators.’\textsuperscript{75}

It is expected of the Committee that it will recognise the prevalence of caste, particularly in India and Nepal, to a much greater extent than it did in 1994.

\textsuperscript{73} State of Kerala v. Appu Balu, 1993 Cr. L.J. 1029.
\textsuperscript{74} UN Doc. E/CN.4/SUB.2/RES/2000/4, para. 3.
and 1997, given the growing documentary evidence pointing to caste as a permanent source of discrimination and denial of civil and political rights. Article 26 is being systematically violated in those states parties to the Covenant.