Chapter 7

Findings, Conclusions and Suggestions
"The Constitutional commitment of the State to the Scheduled Castes and Scheduled Tribes is not yet fully achieved and the Laws designed to ensure equal rights and protection are not strictly enforced. Although there are two Legislations which are potentially powerful, their implementation is hampered by lack of political will and lack of willingness on the part of enforcement machinery. The situation has further worsened by the long judicial delays. The need of the hour is, therefore, to eliminate delays and adopt a system under which no one is able to misinterpret the special Laws and provisions for Scheduled Castes and Scheduled Tribes."

--- Parliamentary Committee on the Welfare of SCs and STs.¹

In this chapter, the researcher is going to explain about the Result of the Research Study, Testing of the Hypothesis framed for this Research study and finally, basing on the entire Research work conclusions drawn and suggestions made, for the effective implementation of the Act.

I. RESULT OF THE RESEARCH STUDY

The final result of research study is that there are some defects in ‘the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989’. Because of these defects, the implementation and the results of the ‘trail’ is not that much effective. If the legislature concentrate on these defects, and modifies them, then the out come will be good. For this the researcher has made some modifications to some of the sections of the Act. There is no doubt that so far this act achieved good results in its implementation. The Executive and Judiciary done good work in this direction. Still there is much work to be done in achieving the ‘noble goals’ of this purposeful legislation.

II. TESTING OF THE HYPOTHESIS

The Hypothesis that ‘The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989’ has some defects in itself, and in its effective implementation, is thus proved beyond doubt. A part from this, in spite of many protective measures taken by the Government to protect the Scheduled Castes and Scheduled Tribes, still atrocities are being committed against them is also proved. Practice of Untouchability system is one of the main reason for the commission of atrocities is also proved. ‘The Protection of Civil Rights Act’ some what successful in protecting Scheduled Castes and Scheduled Tribes is also proved. The Central Government as well as State Governments

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took initiative in protecting these people from atrocities, more particularly, the Andhra Pradesh Government’s initiative by appointing one man commission under the chairmanship of Justice Punnaiah is also proved. The Supreme Court of India is committed to protect the interests of Scheduled Caste and Scheduled Tribe people by its innovative judgments is also proved.

III. MAJOR FINDINGS OF THE STUDY

a. Despite the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, being the important Legislation to protect security of life for Scheduled Castes and Scheduled Tribes, from 1995 to 2007 less than one third (30.7%) of Crimes against Scheduled Castes and Scheduled Tribes were registered under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

b. The rate of registered Crimes against Scheduled Castes are significantly higher than that of Scheduled Tribes, due to factors as the larger Scheduled Castes population and their greater interaction with upper caste communities, as well as greater non-reporting of Atrocities against Scheduled Tribes.

c. The number of registered Crimes against Scheduled Castes and Scheduled Tribes as shown no appreciable decline between 1995 and 2007.

d. Ten States with 69% of India’s Scheduled Castes and Scheduled Tribes population account for over 90% of over cognizable Crimes against Scheduled Castes and Scheduled Tribes during 1995-2002. According to National Commission for Scheduled Castes and Scheduled Tribes “….Despite provisions of various Acts including the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 there has been no clear decline in the Crimes and Atrocities against Scheduled Castes and Scheduled Tribes. There is need to step up Preventive action stipulated in

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Rules.”³

The same opinion has been expressed by the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes, that “there has been no appreciable decline in the incidence of Atrocities on the persons belonging to Scheduled Castes and Scheduled Tribes even after passage of more than half a century since independence, as admitted by the Home Secretary during the course of evidence.⁴

<table>
<thead>
<tr>
<th>66.9% of Total Crimes against SCs &amp; STs</th>
<th>State</th>
<th>Total Crimes against SCs &amp; STs</th>
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<td>Rajasthan</td>
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<td></td>
<td>Maharashtra</td>
<td>14,630</td>
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*Source⁵

e. Yet more Atrocity cases are unreported by the Law enforcing agencies. “These figures of Governmental-Reported Atrocity cases do not faithfully reflect the real situation. These are only the figures reported by the State Governments/Union Territories to the Ministry of welfare. The actual member of cases of Atrocities on Scheduled Castes and Scheduled Tribes may be more than the reported ones. For example, Delhi reported only two cases of Atrocities during 1992, but during that year five cases of Atrocities that occurred during 1992 were dealt within the Commission.”⁶

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⁵ National Crimes Record Bureau.
Reasons for under-reporting of Crimes against Scheduled Castes and Scheduled Tribes:

(a) Victims are too poor to complain against dominant castes and rich offenders.

(b) To a large extent local pressures are being applied to ensure a compromise is made and Atrocity case not registered with police.

(c) Reluctance by police to register Atrocity cases.

(d) The Caste – bias and corruption among some of police officers, leading to non – registration of cases.

(e) Delay in investigation by police and low rate of conviction leading to victim’s losing hope of justice though registering cases.

(f) Lack of awareness among the Scheduled Castes and Scheduled Tribes about the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.\(^7\)

(g) There have been reports of Extreme violations of Human Dignity against Scheduled Castes and Scheduled Tribes. They are an increase in recent years, the Atrocities violating Human dignity are like,

1. Blackening of their faces, by painting.
2. Shaving their heads.
3. Parading them in village streets\(^8\)

Despite being banned by the Bihar Government, the Ranvir Sena, a dominant caste private army of landlords in Bihar, is reported to have killed, around 200 Dalits\(^9\)

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6. According to the National Commission for Scheduled Castes Scheduled Tribes, “Economic dependency of the poor on rich non-SC/ST persons, social discrimination arising out of the practice of Untouchability and the age-old urge to subjugate the weakest of the weaker sections make SCs/STs vulnerable and victims of Atrocities.\textsuperscript{10}

7. In 2007, according to the Asian Centre for Human Rights, around 20,000 cases of Land disputes involving Tribal people were reported and not a single case was adjudicated in favour of the tribal people. Adivasis continue to be displaced from their lands in the name of development, security concerns and conflicts.\textsuperscript{11} “Reports received from various States, indicate that 5.06 Lakh cases of Tribal land alienation have been registered, covering 9.03 Lakh Acres of land, of which 2.25 Lakh cases have been disposed of in favour of tribals. …… 1.99 Lakh cases have been rejected by the Courts on various grounds.”\textsuperscript{12}

In most cases of violence from dominant caste perpetrators, Dalits women identified gender – castes – class status as the over all or key cause for the violence. Clear examples were given not only of the jogini system or Untouchability related violence, but also of the petty reasons that often triggered violence eg: Trying to cross a dominance Castes fields, asserting equal rights to water, or asserting the right to own economic resources. These reasons fall broadly into two categories related to:

(i) Coercive violence utilized to maintain caste norms or caste-based gender norms: and

(ii) Retaliation against Dalit women defying ‘Untouchability’ norms are asserting their rights to cultural, economic and political resources\textsuperscript{13}

\textsuperscript{10} National Commission for SCs and STs, 2\textsuperscript{nd} Report 1993-94, New Delhi, 1996 P.7.13.
\textsuperscript{11} ‘High and Dry’, Frontline, 4-12-2009, PP 23-41.
\textsuperscript{13} Aloysius Irudayam etal: Dalit women Speak out: Violence against Dalit women in India, Chunnai: IDEAS, NCDHR & NFDW; India, Chunnai: IDEAS, NCDHR & NFDW; 206. P.113.
8. Contrary to their duty, to protect all Indian citizens, some police exhibit their caste/racial biases clearly in perpetrating or colluding in Atrocities against Scheduled Castes and Scheduled Tribes or allowing perpetrators to evade the arms of the Law:

Pattern of police neglect: During 1992 to 1995, only 12 States/Union Territories reported 699 Registered Crimes against Scheduled Castes and Scheduled Tribes committed by police officials, namely:

Deaths or Rapes in police custody; other Atrocities by police;

Complaints including police inaction on Scheduled Castes and Scheduled Tribes atrocity complaints;

Police involvement on negligence leading to commission of atrocities or preventing justice after Atrocities\textsuperscript{14}

Pattern of Police Torture: “Scheduled Castes account for a sizeable number of deaths in judicial custody in Bihar, Uttar Pradesh and Maharashtra. Scheduled Caste inmates are routinely insulted, intimidated and forced to do menial work inside the jail and carry out various commands of not only the jail staff but some times of caste Hindu prisoners as well.”\textsuperscript{15}

Pattern of Police Atrocities identified by Human Rights watch include:

Custodial torture and deaths; encounter deaths; rides on Scheduled Castes colonies after inter-caste clashes; violence against Dalit women; false arrests of Dalits; violence to crush peaceful protests by Dalits; violence against entire Dalit colonies while searching out a Dalit accused; and violence against Dalit villages caught in crossfire insurgency/naxalite affected areas\textsuperscript{16}

In areas where Security forces operate, they have been “responsible for gross violence of the rights of the tribal people including arbitrary arrests, illegal detention,


\textsuperscript{16.} Human Rights watch, Broken People: Caste violence against India’s “Untouchables”, New York, 1999.
torture, custodial kills and extra – judicial killings in the name of ‘Counter-Terrorism’ measures.”

9. In the commission of offences against --- Scheduled Castes women, the offenders try to establish their authority and humiliate the community by subjecting their women to indecent and inhuman treatment including sexual assault, parading naked, using filthy language etc.

10. “It is Universally accepted that the success of a Special Act which deals with social offences goes to the enforcement machinery to which it is entrusted.”

The significance of above statement lies in the critical role that the police department, as the main organ of Home Ministry, is expected to play, especially in matters concerning security of life for marginalized Scheduled Castes and Scheduled Tribes Communities, when despite every possible preventive efforts, an Atrocity is committed on Scheduled Castes or Scheduled Tribes, the police are fully responsible for registering a case, investigation, arresting the accused and filing a charge sheet.

The police resort to various mechanization to discourage Scheduled Castes and Scheduled Tribes from registering cases, to dilute the seriousness of the violence, to shield the accused persons from arrest and prosecution and in some cases, the police themselves inflict violence. This apathy and bias extents to other agencies of the Government and District Civil Administration.

“The United Nations Committee on Elimination of Racial Discrimination notes with concern allegations that complaints against Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and the alarming backlog of Atrocities cases pending in the Courts.”


11. **Non-Registration of cases by police:** In spite of Law laid down by the Supreme Court, police do not register F.I.Rs unless some direction is given by the Chief Judicial Magistrate or the High Court. Even after orders are passed by the concerned Courts for Registration of the case, the police do not take the necessary steps and when matters are brought to the notice of the Inspecting Judges of the High Court during the course of inspection of the Courts and Superintendents of police are taken to task, then only F.I.Rs are registered. 

The monitoring and advisories set up in States on ad-hoc-basis by the Ministry of Social Justice and empowerment and Ministry of Home Affairs noted that in many cases the police willfully neglected the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and did not register F.I.Rs.

**The ways, the police ensure non – registration of Atrocity cases:**

- Showing apathy, negligence and passivity towards SC/ST Atrocity victims.
- Discouraging SCs/STs from registering cases and instead come forward for amicable settlement.
- Threatening victims into silence or even inflicting violence on victims.
- Pressuring victim-complainants to compromise for money.
- Refusing to register cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act to avoid punitive measures against perpetrators.
- Foisting false cases against victims at behest of perpetrators to pressurizes them for compromises.
- Accepting bribes from perpetrators to drop the victim’s case.
- Declaring perpetrators as innocent without following due process of law.
- Beating/Reprimanding perpetrators without pursuing any process of informal justice.
- Causing delays in arriving at the scene of offence.

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In many cases where police do register a case under the Act, they purposefully cite improper sections. For serious crimes such as murder, rape, destruction of property, disposition of land, fouling drinking water sources etc., police tend to cite only Section 3 (1) (x) of the Act, which relates to insulting or intimidating a Scheduled Caste and Scheduled Tribe person.25

Police strategies to avoid registering case under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act:

Deviant strategy which follow two methods:

F.I.R. is registered under Protection of Civil Rights Act which attracts lenient punishment as compared to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and does not provide for relief or compensation to the victims.

When offences are not covered by the protection of Civil Rights Act, F.I.R. is registered under I.P.C. provisions which attract lesser punishment than S.Cs./S.Ts. (PoA) Act provisions for the same offence. The enforcement of this Act is not taken seriously. Perhaps cases are not being registered under the Act. But are being booked under the Indian Penal Code.26

12. Police says that Scheduled Caste and Scheduled Tribe victims did not explicitly mention that they were abused by caste name. The fact of the matter is that this Constitutes a distorted interpretation of the Act. Since such mention is not necessary at all. Such requirement is only provided for in Section 3 (1)(x) of the Act and in no other Section.27

Consequences of not registering F.I.Rs., under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act:

- Investigation done by Officers of Sub – Inspector or Inspector rank with less experience and sensitivity.

25. Peoples Commission against Atrocities on Dalits, Draft observations and advises on Effective measures to address Atrocities against Scheduled Castes and Scheduled Tribes, New Delhi, 2008, P.2.
• Perpetrators punished with a lesser sentence.
• Relief or compensation not given to victims.
• Perpetrators are likely to be released on bail.
• Ensured lesser punishment for perpetrators by diluting seriousness of the case.
• Victims lose higher compensation if case is registered under less serious Sections.
• Encourages the police to neglect their duties in successive cases. Also encourages police collusion with dominant caste perpetrators of Atrocities in future.

Police deter SC/ST victims by colluding with the accused in filing false counter cases:

Whenever SC/ST victims of Atrocities present a report to the Sub-Inspector or Circle-Inspector, In-charge of Police Station and if the latter records F.I.R. and register a case, these officials instead of arresting the assailants, often registers F.I.Rs against the SC/ST victims on the basis of counter reports filed with them by the assailants. This is done with the sole intention of counter blasting the complaint filed by the Scheduled Castes victims. As a result of the counter cases Scheduled Castes victims of Atrocities are being arrested in criminal litigation, as accused in the counter cases. Dominant caste utilize this method in a concerted effort to make the 1989 Act dysfunctional. Since counter cases are on increase and are dominating not as private cases but as State cases, i.e., as cases filed by the Police, it is the responsibility of the Government to save the Scheduled Castes and Scheduled Tribes from the harassment and disaster caused to them as a result of counter cases.28

13. Reasons for pendency in investigation of Atrocity cases:

Delay beyond stipulated 30 days investigation time limit: Even where the formality of registration of a case has been made, investigation is tardy, trails slow and convictions almost nil.29

Shortage of non-availability of Deputy Superintendent of Police

Police often delay investigation of Atrocity cases, record statements from solely dominant castes and see that incompetent or unauthorized officials investigate cases. Thus laying foundation for technical defects.

“Ignoring the complaints of Scheduled Castes, discouragement and even rejection of them, giving no credence to the version of victims, but believing in the version of the victimizers, shoddy investigation, deliberately creating loopholes to benefit the accused persons, discouraging victims from pursuing the case, pressurizing them to compromise, failing to expeditiously conclude investigation and above all failing to provide necessary protection either before or even after the Atrocities are some expressions of these biases.”

Police closed a large 21.7% cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act during 1997 to 2007.

According to Annual Reports of National Crimes Record Bureau, Police closed a large 21.7% of cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 during 1997-2007.

There are districts across India which have closed a large number of cases as false, the main reason given by the Superintendent of Police/Deputy Superintendent of Police being delayed investigation leading to eventual compromise between the victims and accused.

14. **Arrest of the Accused:**

   National Commission for Scheduled Castes and Scheduled Tribes study on

31. People’s Commission against Atrocities on Dalits, Draft observations and advises on effective measures to address Atrocities against Scheduled Castes and Scheduled Tribes, New Delhi, 2008, P. 2.
implementation of SCs/STs (PoA) Act in Uttar Pradesh analyzing 1,311 cases of Atrocities, revealed patterns of late registration of F.I.R, delays in the Investigating Officers visit, accused not being arrested, charge sheets being submitted late and relief and compensation not being paid on time. Of these, the most glaring inaction related to not arresting the accused; this enabled them to surrender in the Court and robbed the judicial proceedings of its immediate deterrence effect.\(^\text{36}\)

**Why police delay arrest or do not arrest accused?**:

- To dilute the seriousness of the violence
- To shield the accused persons from arrest and prosecution
- To prevent public servants from being arrested
- To protect local political leaders from arrest.\(^\text{37}\)

In response to a writ petition demanding effective implementation of the SCs/STs (PoA) Act and Rules, counter affidavits filed by the police reveal that: during the period 1995 to 2006 - 21,000 cases were registered under the Act. Of these, more than 14,000 were pending without a charge sheet being submitted, even though the Act stipulates that investigation must be completed within 30 days of the F.I.R. being filed.\(^\text{38}\)

15. Consequences of undue delay in filing charge-sheets in Atrocity cases:

Failure to file charge sheets early results in slow disposal of case which, in turn, causes undue delay for the victims to access justice. This has negative social and psychological consequences for the victims, legal implementations for the cases, i.e., police colluding with offenders to manipulate witnesses and evidence, not to speak of violation of victim’s right to security of life as a result of pressure, threats or force the perpetrators and/or others to withdraw cases.

Another serious consequence of delaying investigation and charge sheeting of cases of Atrocities beyond the 30 days legal limits under the SCs/STs (PoA) Act or the 90


\(^{38}\) "Many Hurdles" Frontline, 4-12-2009, P.20.
days limit under the Indian Penal Code, especially for offences attracting up to life imprisonment like rape, murder and grievous hurt, is that the accused are almost certain to get bail from the Courts. This delay in charge sheeting can affect the direction of the Court case to a large extent, where Courts let off the accused on the sole ground of delay in filing the charge sheet.39

What are the reasons for police apathy and prejudice in implementing the ‘Act’?

The majority of Police and Revenue Officials are from dominant caste backgrounds.

Police are not sensitized to take seriously Atrocities and discrimination against Scheduled Castes and Scheduled Tribes. Typically they perceive the Dalits as having provoked the dominant castes by not confirming to their will and wishes. They do not see atrocities and discrimination against SCs and STs as Crimes.

Most of the Officials are not aware of the legal provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The Police are under continuous pressure from elected representatives and local politicians of the dominant castes as the perpetrators.40

16. Speedy Trial vitiated: Inadequate Special Courts:

Lack of Special Courts in all districts: District Session Courts have been designated as Special Courts in all States and Union Territories except for Arunachal Pradesh, Mizoram and Nagaland, which are predominantly Tribal States, as well as Jammu and Kashmir, where the SCs/STs (PoA) Act is deemed not applicable.41

However, in contravention of Section 14 of the Act, Special Courts are still not set up in 133 districts/divisions out of 612 districts across India.42

42. Peoples Commission against Atrocities on Dalits, Draft observations and advises on effective measures to address Atrocities against SCs and STs, New Delhi, 2008, P.4.
Moreover, “Designated Special Courts are not in a position to do justice with these cases of Atrocities against SCs/STs because of prolonged proceedings, lack of interest by witnesses and their pre-occupation with other Sessions cases…There should be exclusive Special Courts not just Designated Courts, for speedy trial of Atrocity cases.43.

Few exclusive Special Courts in the country: - only nine out of 35 States/Union Territories have set up exclusive Special Courts to try cases under the Act. Even in the States with exclusive Special Courts: the number of Atrocity – prone districts continuous to out strip the number of such codes: and around 50% of districts have not set up such Courts.

“The greatest defect is that Special Mobile Courts are not set up in each district as means of handing out swift and deterrent punishment on the spot. Whenever a Mobile Court exists and has delivered punishment immediately, I have personally seen the impact of fear and curbing of Untouchability practice at least for some time.”44

Vacant Judicial Courts: “One of the main reason for delay in the disposal of Atrocity cases in Courts is that a large number of Courts of Judges/Magistrates in the District and Subordinate Courts are vacant.45

Non-appointment or poor competency of Special Public Prosecutors:

“The appointment of Special Public Prosecutors for the operation of the Act does not exist in many States….Further, often Special Public Prosecutors appointed to handle such cases are of very poor competence and experience, the reason for which is their meager remuneration and lack of facilities provided to them to do their job effectively. Their appointment is also often influenced by political consideration.46

17. **Grounds for Acquittals under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:**

A study of 112 judgments of Special Courts in Andhra Pradesh during 2001 to 2004 on Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, cases revealed the following main patterns in grounds for the 92% of acquittals i.e., in 103 cases.

**Grounds for acquittal:**

Based on procedural Rules (35.7% cases)

i) Investigation done by Police Officers below rank of Deputy Superintendent of Police in contravention of Rule 7 of SCs and STs (PoA) Rules: In 18 cases the accused were acquitted merely on this ground. This occurred even though there was enough evidence to prove the charges beyond a reasonable doubt, even where the Deputy Superintendent of Police had later verified the investigation of the Lower Police Official, and though the Judge could not have instead dismiss the charges under this Act and continued with trail under I.P.C. provisions.

ii) Delay in filing the F.I.R.: In cases, F.I.R. delay was one of the grounds are the sole ground for the acquittal. However, there was no logical pattern in application of the “F.I.R. delay rule”, in some cases a delay of even six hours proved fatal for the prosecution, whereas in other cases a time interval of a couple of days, even upto 42 days in one case, was not a ground for acquittal.

iii) Victim does not belong to SC/STs Categories: In 7 cases, the accused were acquitted are SCs/STs (PoA) Act charges were dropped lack of documentary evidence proving the victims’s SC/ST status, are the fact that the victim was a Christian. Interestingly, for cases dropped on the latter reasoning of religion, the charge was abuse of using the victims caste name.

**IV. CONCLUSIONS AND SUGGESTIONS:**

In my personal opinion this Act is exhaustive one, in preventing atrocities against Scheduled Castes and Scheduled Tribes. There is no need to enact other laws for preventing atrocities against Scheduled Castes and Scheduled Tribes. The only thing
which the legislature has to done is to rectify the defects in the Act, with immediate
effect, in order to gave enough strength to this Act in letter and spirit. From my research
study I find the following modifications necessary for the effective implementation of the
Act. They are:

1. **Increase the punishment:** To prevent the commission of atrocities the present
punishment ‘five years and with fine’ to the culprit shall increase upto seven years and it
shall not be less than two years.

2. **Adequate compensation to the victims:** The Government shall provide compensation
to the victims and the land/premises/water supply shall restored where necessary to
Government cost, full payment to be made. Apart from this, the land belongs to the
accused shall be taken away by the Government and the same shall be distributed to the
victims in proportion to the land on which atrocity committed.

3. **Section 3 (2) (VII) of chapter-II of the Act shall be amendment as** “whoever, not being
a member of a Scheduled Caste or a Scheduled Tribe, being a public servant, commits
any offence, under this section, immediately after the registration of F.I.R., he shall be
suspended from his duties, till the completion of investigation and trail. During the
period of trail all the benefits such as promotion, award and reward shall also be
suspended. Finally, if the Court convicts the public servant the imprisonment shall not be
less than three years, but which way extend to seven years.

The original texture of Section 3 (2)(VII) of chapter-II the Act as follows: (1) whoever, not being
a member of a Scheduled Castes or a Scheduled Tribe, being a public servant, commits
any offence under this section, shall be punishable with imprisonment for a term
which shall not less than one year but which may extend to the punishment provided for
that offence.

4. **Section: 10(1) of chapter-III shall be amended as:**

   **Removal of person likely to commit offence:** Where the special court is satisfied,
upon a complaint or a police report that a person is likely to commit an offence under this
Act, in any area under chapter-II of this Act included in ‘Scheduled Areas’ or ‘Tribes
areas’ as referred to in Article 244 of the constitution, it may, by order in writing, direct
such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period not exceeding three years, as may be specified in the order.

The original texture of Section 10(1) of chapter as follows:
Removal of person likely to commit offence: Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter – II of this Act in any area included in “Scheduled Areas” or Tribe areas’ as referred to in Article 244 of the constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order.

5. Section 21 (3) of chapter – V shall be amended as:
The Central Government shall take such steps as may be necessary to Co-ordinate the measures taken by the State Government under sub-section (1) i.e., subject to such rule as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of the Act.

The original texture of Section 21(3) of chapter-V as follows:
The Central Government shall take such steps as may be necessary to co-ordinate the measures, taken by the State Government under sub-section (1) i.e., subject to such rule as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

6. Inclusion of one more sub-section to section 5:
That New sub-section is: The Central Government shall request the Supreme Court of India to set up a special bench for the speedy disposal of cases, appealed against the judgments of High Courts under this Act.

The State Governments shall request the High Court of each concerned State to set up a special bench for the speedy disposal of cases appealed against the judgments of special courts, established for the ‘trail’ of atrocity cases. Judgments, here includes Order, Interim Order etc.
7. Establishment of National Vigilance and Enforcement Authority:

For the effective implementation of this ‘The Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989, the Central Government shall set up a ‘National Vigilance and Enforcement Authority. This National Authority shall be given adequate powers to co-ordinate the activities of the State Governments and different agencies, working under this Act. For the prevention of Atrocities as well as against Scheduled Castes and Scheduled Tribes.

The members to be appointed this ‘National Authority’ shall possess vast knowledge relating to the welfare of Scheduled Castes and Scheduled Tribes and more particularly those who had have good track record in work ‘relating to the ‘prevention of atrocities against Scheduled Castes and Scheduled Tribes.

Powers to be entrusted to this ‘National Vigilance and Enforcement Authority:

(i) to visit the places where atrocities have been committed and to suggest the measures for the ‘assistance and rehabilitation’ of the victims.

(ii) to examine the working of different administrative and statutory authorities set up under this act for the prevention of atrocities against Scheduled Castes and Scheduled Tribes.

(iii) To make suggestions for the effective implementation of the Act, to these authorities.

The Central Government shall give the status of ‘Civil Court’ to this National Authority for the effective discharge of its powers.

8. Establishment of ‘State Vigilance and Enforcement Authority:

For the effective implementation of ‘The Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989, the State Government shall set up a ‘State Vigilance and Enforcement Authority. This State authority shall be given adequate powers to co-ordinate the activities of State Government and district agencies and different agencies those are working under this Act; for the prevention of atrocities against Scheduled Castes and Scheduled Tribes.
The members to be appointed to this State Authority shall possess vast knowledge relating to the welfare of Scheduled Castes and Scheduled Tribes and more particularly those who had have good track record in work relating the prevention of atrocities against Scheduled Castes and Scheduled Tribes.

**Powers to be entrusted to State Vigilance and Enforcement Authority:**

(i) to visit the place where atrocities have been committed and to suggest measures for the assistance and rehabilitation of victims of atrocities within the State.

(ii) to examine the working of administrative and statutory authorities set up at district level under this act for the prevention of atrocities.

(iii) to give suggestions to these authorities.

The State Government shall give the status of ‘Civil Court’ to this State authority for the effective discharge of its functions.

9. **Suggestions for the removal of unnecessary words like ‘intention’ ‘on the ground’ etc.**

   It is suggested that under sections 3(1)(ii), 3(1)(x), 3(1)(xi), 3(1)(xii), 3(2) (i), 3(2)(iii) of Chapter-II, there are words like ‘intention’ ‘on the ground’ these words should be removed from the sections, for the effective implementation of the Act.

   Those words weaken the prosecution case and there by judicial trail ended in ‘the acquittal’ of the accused persons.

   **Ex: original texture of section 3(i) (x) of Chapter-II as follows:**

   “Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view; 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.

   Suggested modification is that the words ‘intentionally’, ‘intent’ shall removed. For the effective implementation of these sections. Likewise, in other sections too there are words like ‘intention’, ‘intent’ ‘on the ground’ these words should be removed.
10. To protect the victims and witnesses the following Rights and privileges to be provided:

(i) when the information relating to the Commission of atrocity received by the Incharge of the police station, it should be registered under the appropriate Sections of the SC & ST Act, without any delay.

(ii) Even in case of any delay in lodging compliant to the police, the delay should be condone, if reasonable grounds are explained by the victim.

(iii) After the registration of F.I.R., the copies of the F.I.R. shall be given to the victims, at free of cost.

(iv) All the cases of ‘atrocities’ shall be investigated by the police officer not below the rank of Deputy Superintendent of Police. The task of investigation of a case under this Act, shall not entrusted to the officers below the rank Deputy Superintendent of Police, under any circumstances.

(v) The Statements of victims as well as witnesses shall be recorded under section 161 of Criminal Procedure Code.

(vi) A committee consisting of Home Secretary, Secretary, Social Welfare Department, Director of prosecutions, Director General of police to be set up for the purpose of ‘periodical review’ of the progress in investigation and trial of ‘atrocity’ cases.

(vii) The police shall provide protection to the victims as well as to the witness till the completion of ‘investigation and trial of the cases.

(viii) The District Administration shall provide the relief and rehabilitation to the Victims of atrocities within twenty four hours.

11. Suggestions for the speedy disposal of ‘atrocity’ cases:

(i) For the purpose of providing for speedy trail, the State Government shall set up a court of session to be a special court to try the offences under this Act. These shall exclusively meant for the trial of atrocity cases only.

(ii) The State Governments shall establish as many special courts as possible in district, where the incidence of atrocities are more.
(iii) Notwithstanding anything contained in Chapter-14, of Cr.P.C. the special Court shall be given power to take cognizance of atrocity cases, directly, without being committed to it by Magistrate Court.

(iv) The Special Courts shall complete the ‘trail of atrocity’ cases within 90 days, by adopting regular ‘trail’ procedure. If at all any delay, the delay shall be explained with proper reasons.

(v) The judges of designated ‘Special Courts’ meant for the trail of atrocity cases, shall submit periodical reports to the Chief Justice of High Courts, on their disposal of ‘atrocity’ cases.

(vi) While, appointing the judges to these special courts, the past experience of the Judges, their judgments in cases relating to atrocities, their commitment towards the protection of ‘victims’ of atrocity cases, shall be taken in to consideration. As far as possible judges belongs to Scheduled Caste and Scheduled Tribe Communities shall be appointed as judges to these special courts.

(vii) All the Special Courts meant for the trail of atrocity cases shall be equipped with adequate facilities, so, as to discharge their functions very effectively.

(viii) Any vacancy arised in the presiding officers of these courts shall be filled within thirty days.

(ix) For every special court, the State Government, shall, by notification in the official Gazetted, specify a Public Prosecutor or appoint an advocate who has been practice as an advocate for not less than seven years, as a special Public Prosecutor for the purpose of conducting cases in that court.

While appointing special Public Prosecutors to these courts, preference shall be given to advocates belongs to Scheduled Castes and Scheduled Tribes. Reputed advocates, who fought for the upliftment of Scheduled Castes and Scheduled Tribes, and worked for the prevention atrocities shall be given first priority in the appointment. A panel of advocates who fit to act as ‘Special Public Prosecutors’ to be prepared by the District Judge.

(x) Free Legal aid to be given to the victims of atrocities.
(xi) For the registration and investigation of atrocity cases the State Government shall appoint Special Sub-Divisional Police Officer, in every Police Sub-Division for the investigation of atrocity cases. While appointing these officers their previous work experience shall be taken into consideration relating to the investigation of atrocity cases.

12. Need for the inclusion of ‘new offence’ to this SCs & STs (PoA) Act, 1989:

(i) whoever, not being a member of a Scheduled Castes and Scheduled Tribe, compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do ‘begging’ or other similar forms of forced or bonded labour shall be punished with imprisonment which shall not less than six months, and which any extend to seven years and with fine.

(ii) According to ‘Child Labour Act’ 1986, Schedule ‘A’ and Schedule ‘B’ employment of children belongs to Scheduled Castes and Scheduled Tribes is strictly prohibited. This provision shall include in ‘The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(iii) According to ‘The Employment of Manual Scavengers (Prohibition) Act, 1993, the employment of persons belongs to Scheduled Castes and Scheduled Tribes in any work relating to the cleaning of human waste, cleaning of drainages without adequate safety measures shall be punished. This provision shall include in Scheduled Castes and Scheduled Tribes Act, 1989, and made it as a punishable offence.

(iv) whoever, commits rape on women belongs to Scheduled Castes or Scheduled Tribe shall be punished with life imprisonment or imprisonment not less then ten years or fine or with both. This shall include in this Act.

(v) whoever prevents a person belongs to Scheduled Castes or Scheduled Tribes in Enjoyment of his right recognized under section 3(1) and section 04 of ‘The Scheduled Castes and Traditional Forest Dwellers (Recognition of Forest related Right) Act, 2006, shall be punished with imprisonment or fine or with both. This shall include in the Act.

(vi) Whoever, kills the persons belongs to Scheduled Castes and Scheduled Tribes on the pretext of ‘committing witchcraft’ shall be punished with life imprisonment or with death.
13. For the effective implementation of the ‘Act’ the following acts of the public servants shall include within the meaning of ‘negligence’ of duties.

“Whoever, being a public servant but not being a member of a Scheduled Caste or Scheduled Tribe—willfully neglects his duties requires to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

I, propose the following acts to be include within the meaning of negligence of duties of public servants.

Amend Section 4 of the Act on negligence of official duties to include the following:

(i) not reading out to the informants any oral complaint which has been reduced to writing by the officer In-charge of the Police Station before taking the signature of the informants.

(ii) misleading the complainant to change the content of the complaint;

(iii) non registration of F.I.R.

(iv) the Incharge of a Police Station registered the case under another act, but not under ‘The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989’;

(v) impolite treatment by an officer are staff of a Police Station towards the complainant, informant and any social worker helping the victim in any manner.

(vi) if the Incharge of a Police Station failed to record the statements of victims and witnesses,

(vii) if the Incharge of the Police Station failed to complete the investigation within 30 days,

(viii) willful negligence in investigation and filing of charge-sheet,

(ix) failed to provide adequate protection to the victims,

(x) if the Incharge of the Police Station failed to take necessary preventive measures to prevent the commission of Atrocities,

(xi) if the Incharge of the Police Station failed to discharge his duties under the Act.

(xii) take immediate legal and Departmental disciplinary action against Police officials who neglect to discharge their duties under Section 4 of the Act.
(xiii) ensure that the Superintendent of Police promptly visits the place of occurrence of an Atrocity and fulfils his responsibilities under Rule 12 (1), (2) & (3) SC/ST (PoA) Rules, particularly: ensuring a F.I.R. is registered under the Act and effective measures are taken for apprehending the accused. Deploying Police Force in the area and taking other preventive measures to prevent the further occurrence of atrocities.

(xiv) for all cases filed under the SCs/STs (PoA) Act ensure that the Investigating Officer is of a rank not less than the Deputy Superintendent of Police, in accordance with Rule 7 (1) SCs/STs (PoA) Rules.

(xv) make it mandatory that a Police Officer can not arrest any complainant, victim, witness are any other persons helping the victim interrogation or for any other purpose without an order from a Magistrate and without a warrant

(xvi) sensitize all States/Union Territory Police Departments on the SCs/STs (PoA) Act, Human Rights Act 1993 and the International Human Rights standards set forth in ICERD, ICCPR, ICESCR and CEDAW. In particular adequate Police personal on the SC/ST (PoA) Act and PCR Act, particularly addressing such issues as the necessity of the Acts, their origins and purpose, mechanisms and how they are intended to address and to protect the rights of Scheduled Castes and Scheduled Tribes.

(xvii) Conduct regular orientation trainings for Police Officers on SCs/STs (PoA) Act and Rules.

(xviii) Make it mandatory, as per Home Ministry Guidelines, that all complaints be immediately registered as F.I.Rs., forbidding all discretionary powers to the Police Officer responsible for registering complaints.

(xix) Designate one agency to collect, compile, authenticate and supply data on the implementation of the Act and Rules in order to avoid the current situation of multiplicity of agencies resulting in data variations emanating from the States and Union Territories.

(xx) Ensure the provisions of Special Central Assistance (SCA) in the Special Component Plan (SCP), such as by Legislating the SCP and SCA therein into an
Act which defines clear entitlements for Scheduled Castes and Scheduled Tribes and has necessary redressal mechanisms to ensure that all duty bearers implement the SCP and SCA effectively. The allocation of SCA from the Central Government should be on the basis of the SC./ST population in that State and the rate of Crimes of Contingency Plan consisting of a package of measures for this purpose.

(xxi) State Governments/Union Territories should prepare Contingency Plan as required under Rule 15 SC/ST (PoA) Rules to check Atroities on SCs/STs.

(xxii) Ensure the implementation of precautionary and preventive measures in Atrocities prone areas as prescribed under Rule 3 of SC/ST (PoA) Act.

(xxiii) Ensure equal protection of Scheduled Castes through appropriate amendment of Section 10 of SC/ST (PoA) Act to allow Special Courts to order the removal potential perpetrators of Atrocities against SCs from an area, as is currently available to Scheduled Tribes in Scheduled or Tribal areas.

(xxiv) The Government shall submit the annual reports of the National and State Level Commission for Scheduled Castes and for Scheduled Tribes in particular, and all National Commission Reports in general, in the next sessions of the Houses of Parliament/Assemblies following the submission of each annual report by the respective Commission, without trying submitting of reports to the Action taken Reports so as to eradicate the delays in submitting and debating these annual reports – Action Taken Reports may be followed later and debated separately.

(xxv) Ensure that Central Government places each year on the table of each House of Parliament a Report on the measures taken by this Government and by States and Union Territory Governments in implementing the Act, including an assessment of the functioning of these measures, in accordance with section 21 (4) SC/ST (PoA) Act.

(xxvi) All State Governments should Constitute Special Central Assistance (SCA) Monitoring Committees wherein SCs/STs are invited to be members of these Committees and to take part in monitoring the Special Central Assistance expenditure at the State, Department and Ministry and District Levels with necessary powers to intervene wherever necessary.
(xxvii) Amend the definition under Section 2 of the Act i.e., ‘Scheduled Castes’ for the purposes of the Act so as to include members of the any of the castes in the Scheduled who profess a religion other than Hinduism, Sikhism, are Buddhism, and the descendents of such members.

(xxviii) Include Scheduled Caste and Scheduled Tribe migrant labourers under the definition of ‘Scheduled Castes’ and ‘Scheduled Tribes’ for the purposes of the Act eventhough they are not included in the Schedule of ‘Scheduled Castes’ and ‘Scheduled Tribes’ for the State to which they have migrated.

Publicity and awareness programmes should be conducted:

- Sensitization workshops to be held for field functionaries of Social Welfare, Police and Revenue Departments.
- Boards explaining the provisions of prevention of Atrocities Act and punishments to Atrocities shall be displayed at all public places.
- Mass Media Campaign should be launched against Evils of Untouchability and atrocities.
- Non-Governmental Organisations shall conduct awareness programmes to the people about the evil consequences of the atrocities.
- Organising Dalit Empowerment week on occasion of Birth day celebrations of Dr. B.R. Ambedkar and Dr. Babu Jagjeevan Ram.

Basically ‘The Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989 is very effective, but because of some defects in the Acts, its implementation does not yield out the expected results. Social Justice and Equality before the law, are the important features of our Indian Constitution. But, unfortunately these things are not available to the Scheduled Castes and Scheduled Tribes. This Act, provides less punishments for the atrocities that is why the rate of increase in atrocities is very high.

Prevention of Atrocities, awarding severe punishaments to atrocities and providing complete rehabilitation to the victims of atrocities is only one aspect of the problem. But the fundamental aspect is that to develop the people belongs to Scheduled
Castes and Scheduled Tribes on par with other developed groups in our Indian Society. To attain this objective the Government shall take some stringent measures like distribution of land holdings to the land less Scheduled Castes and Scheduled Tribes.

By adopting “Integrated Irrigation water facility programme” (in it includes community bore wells, tube wells, reservoirs etc.) the Government shall provide irrigation water facility to the agricultural land holdings belongs to Scheduled Castes and Scheduled Tribes. It will give financial stability to these people.

The Government shall take measures for providing reservations in the field of Education, employment and there by uplift the people belongs to Scheduled Castes and Scheduled Tribes.

The effective implementation of this Act is very important for the diversified Indian society as well as to the nation as a whole. Now a days our country is facing number of problems within and outside the country. To tackle these challenges posed by neighbouring countries effectively, the country should have strong harmonious social order. To achieve this harmonious social order, there is a need to provide social, educational, financial assistance to people belongs to Scheduled Castes, Scheduled Tribes and Backward Classes. The society must be released from the evil clutches of caste system and Untouchability. Then only these people try their best to the development and progress of the country. The continuation of practice of Untouchability and atrocities are not only a sin to the humanity, but also a crime against the entire nation. That is why, the effective implementation of this Act and amending the provisions, suitable to the present day social conditions are very essential.

V. BRIEF SUMMARY OF THE CHAPTER

In this last chapter the ‘Researcher’ has made suggestions to modify some of the provisions of ‘The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989’ for the effective implementation of this progressive law.