

THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989 IN INDIA: A LEGAL STUDY

by

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ABSTRACT

The present research paper titled "The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in India: A Legal Study" provides an in-depth, theoretical, and critical analysis of the historic legislation enacted to provide legal and social security to the most vulnerable and marginalized communities (SC/ST) in Indian society. In order to realize the ideals of social justice, equality, and fraternity enshrined in the Preamble of the Indian Constitution, this special Act was enacted in the year 1989. The primary objective of this research paper is to evaluate the statutory provisions, historical background, and judicial interpretations of this Act over time using a theoretical research methodology. The study critically analyzes whether deep-rooted institutionalized and cultural prejudices can be eradicated solely through punitive legal frameworks. Furthermore, the paper examines the impact of the 2015 and 2018 legislative amendments, controversies surrounding anticipatory bail, and the legal scenarios emerging post landmark judgments. The theoretical analysis reveals that while the Act has fostered consciousness and a sense of security among Dalits and Adivasis, its desired outcomes have not been fully achieved due to procedural delays, administrative apathy, and deep-seated systemic biases. Finally, the paper offers practical legal recommendations, highlighting the role of exclusive special courts and institutional sensitization to make the Act more robust.

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Introduction

The history of Indian civilization and its social fabric, while rich in spiritual heights and cultural diversity, has also been deeply afflicted by a oppressive and dehumanizing system of institutionalized inequality known as the caste system. This social stratification historically deprived a vast section of society—traditionally referred to as 'untouchables' and classified under modern legal terminology as the **Scheduled Castes (SC)** and **Scheduled Tribes (ST)**—of fundamental human rights, dignity, and civic liberties for centuries.

Following independence in 1947, the framers of the Indian Constitution recognized this historical injustice and sought to lay the foundation of an egalitarian society. **Article 15** (Prohibition of discrimination), **Article 17** (Abolition of Untouchability), and **Article 46** (Promotion of educational and economic interests of weaker sections) empowered the State to take affirmative action and deploy protective legal measures. Consequently, the Untouchability (Offences) Act, 1955 was enacted, which was later amended in 1976 and renamed the Protection of Civil Rights Act.

However, these early legislations were only equipped to curb overt forms of untouchability. Ordinary criminal laws proved entirely inadequate in checking the rising tide of violent attacks, humiliation, social boycott, and economic exploitation perpetrated against Scheduled Castes and Scheduled Tribes across rural and semi-urban India. To fill this statutory void and guarantee these communities a life of safety and dignity, Parliament enacted **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989**, which came into effect on January 30, 1990. This legislation goes beyond protecting civil rights; it precisely defines specific offenses motivated strictly by casteist animus. This research paper offers a comprehensive legal study of the statutory nuances, implementation bottlenecks, and contemporary judicial landscape surrounding this vital Act.

Research Methodology

This research paper is entirely structured upon a **doctrinal and theoretical research methodology**. Instead of relying on primary empirical data or statistical surveys, it conducts a

logical and systematic analysis of legal doctrines, statutes, legislative debates, and judicial precedents.

To evaluate the statutory efficacy of the Act, analyze the evolutionary approach of the judiciary, and identify structural loopholes within the legal framework. The study utilizes secondary qualitative sources, including the Constitution of India, the bare text of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, parliamentary amendment bills, landmark judgments of the Supreme Court of India, scholarly articles published in peer-reviewed law journals, and legal analyses of data from the National Crime Records Bureau (NCRB). The paper applies the 'Theory of Affirmative Obligation' and 'Socio-Legal Realism' to examine the divergence between law on paper and law in action, highlighting the theoretical contradictions that arise during its enforcement.

Historical Background and Necessity of the Act

To understand the necessity of the 1989 Act, one must analyze the internal contradictions of post-independence Indian society. Land reforms and democratic decentralization gradually triggered political and social consciousness among the traditionally suppressed castes. When these communities began demanding fair wages, land rights, and basic human respect, dominant agrarian classes often resorted to violence to preserve their socioeconomic hegemony.

Horrific caste massacres, such as those in Belchhi (1977), Kafalta (1980), and Karamchedu (1985), demonstrated that the general provisions of the Indian Penal Code (IPC), 1860 were insufficient to address targeted caste violence. General criminal law failed to isolate and penalize the underlying 'casteist animus'. Furthermore, the victims belonged to an economically dependent class that rarely found the courage to approach the local administration, which itself was frequently influenced by dominant caste networks.

Against this backdrop, the legislature recognized the need for a stringent, deterrent statute. It had to create a fear of law among potential offenders while guaranteeing swift justice through specialized tribunals and comprehensive rehabilitation mechanisms for victims. Thus, the 1989 Act emerged not merely as a punitive tool, but as a revolutionary legal instrument designed to enforce substantive social justice.

Legal and Statutory Provisions

The 1989 Act is inherently stringent and specific, departing from certain traditional tenets of criminal jurisprudence to protect victims from systemic intimidation. The primary provisions can be categorized into the following legal dimensions:

A. Broad Classification of Offenses of Atrocity (Section 3)

Section 3 of the Act enumerates specific acts of atrocity committed by a non-SC/ST person against a member of the SC/ST community. The offenses are meticulously categorized into:

- **Offenses Against Human Dignity:** Forcing the consumption of obnoxious substances, forcefully parading individuals naked, shaving heads, or defiling places of worship.
- **Economic and Land-Based Exploitation:** Compelling forced or bonded labor, wrongfully occupying or cultivating land allotted to SC/ST members, and destroying their crops.
- **Infringement of Civil and Political Rights:** Obstructing a member from voting, contesting elections, or exercising democratic rights in local bodies.
- **Gender-Based Violence and Sexual Exploitation:** Assaulting or using criminal force against SC/ST women with the intent to outrage their modesty, or leveraging socioeconomic dominance for sexual exploitation.

B. Absolute Bar on Anticipatory Bail (Section 18)

The most litigated and powerful provision of the Act is Section 18. It stipulates that Section 438 of the Code of Criminal Procedure (or its equivalent provision under contemporary criminal codes) regarding **anticipatory bail does not apply** to individuals accused of committing an offense under this Act. The theoretical underpinning of this provision is to prevent accused persons from using their local influence to terrorize witnesses or coerce the victim into a compromise.

C. Punishment for Neglect of Duties by Public Servants (Section 4)

The Act holds the enforcement machinery accountable by penalizing public servants (who are not members of an SC/ST) who willfully neglect their duties under this statute. Failure

to register a First Information Report (FIR) or intentional lapses during the investigation attract a mandatory prison term ranging from six months to one year.

D. Establishment of Special Courts (Section 14)

To circumvent systemic judicial delays, Section 14 mandates the designation or establishment of a Court of Session in each district as a 'Special Court' to try offenses under the Act on a day-to-day basis.

Significant Legal Amendments (2015 and 2018)

To address emerging socio-legal challenges and align the statute with shifting judicial perspectives, Parliament introduced two major sets of amendments that considerably widened the scope of the law.

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015

This amendment added teeth to the original text through the following legal updates:

1. **Expansion of the Scope of Atrocities:** New offenses were incorporated, including tonsuring of heads, shaving of mustaches, forcing individuals to wear garlands of footwear, and obstructing funeral rites or access to public water bodies.
2. **Exclusive Special Courts:** It provided for the establishment of Exclusive Special Courts and the appointment of Exclusive Special Public Prosecutors to handle high-volume districts.
3. **Rights of Victims and Witnesses:** A dedicated chapter (Chapter IVA) was inserted to guarantee comprehensive rights to victims and witnesses, covering protection from intimidation, state-sponsored transport allowances, and immediate financial compensation.

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018 (Insertion of Section 18A)

This amendment was a direct legislative response to a major judicial intervention. To undo the dilution of the Act caused by judicial mandates, Parliament inserted Section 18A, clarifying that:

- The registration of an FIR does not require prior approval from any authority.
- No preliminary inquiry is mandatory before arresting an accused under the Act.
- The statutory bar on anticipatory bail under Section 18 remains absolute, notwithstanding any judgment or direction of any court.

Comparative Analysis: The 2015 Amendment vs. The 2018 Amendment

The evolution of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 through the legislative interventions of 2015 and 2018 represents two distinct structural approaches to strengthening the law. While the **2015 Amendment focused on expanding substantive and procedural rights**, the **2018 Amendment was a reactive, foundational correction** designed to shield the statute's core enforcement mechanism from judicial dilution.

Structural Focus and Objectives

- **The 2015 Amendment (Substantive Expansion):** The primary objective of the 2015 amendment was to modernize the definition of "atrocities." Recognizing that caste-based discrimination had evolved into more subtle yet deeply humiliating socio-economic forms, the legislature expanded the criminal canvas. It recognized new manifestations of hate crimes, established explicit institutional mechanisms like Exclusive Special Courts, and for the first time, codified a comprehensive "Bill of Rights" for victims and witnesses under Chapter IVA.
- **The 2018 Amendment (Jurisdictional Restitution):** Conversely, the 2018 amendment was not designed to add new crimes, but to rescue the existing law from procedural paralysis. Following the Supreme Court's ruling in *Subhash Kashinath Mahajan (2018)*, which introduced mandatory preliminary inquiries and prior sanctions for arrests, the law was practically neutralized. The 2018 amendment inserted Section 18A to explicitly strip the police of any discretionary power to delay an FIR or arrest, effectively overriding the judiciary's attempt to dilute the Act.

Evidentiary and Procedural Shifts

- **The 2015 Framework:** This amendment focused heavily on the *quality of justice* and institutional speed. It mandated that chargesheets be filed within 60 days and trials be

conducted on a day-to-day basis. It also introduced presumptions of culpability (Section 8), stating that if an accused provided financial assistance to commit an atrocity, the court would presume joint liability.

- **The 2018 Framework:** This amendment focused strictly on the *accessibility of justice*. By explicitly ruling out preliminary inquiries, it ensured that the immediate barrier to entry—the filing of an FIR—remained unencumbered by police bureaucracy or systemic institutional bias.

6. Judicial Interpretations and Landmark Cases

The Doctrine of "Procedure Established by Law"

Opponents of Section 18 argue that the absolute deprivation of a citizen's right to seek anticipatory bail is arbitrary and violates the principle of "procedure established by law" under Article 21, as expanded by the Supreme Court in *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 : AIR 1978 SC 597. The argument posits that a procedure cannot be "just, fair, and reasonable" if it strips a court of its inherent judicial discretion to protect an individual from potentially malicious, fabricated, or politically motivated arrests.

The Competing Realities of Article 21

The Supreme Court successfully resolved this constitutional paradox in *State of M.P. v. Ram Kishna Balothia* (1995) and later affirmed it in *Prithvi Raj Chauhan* (2020) by deploying a socio-legal reality framework. The judiciary established that Article 21 cannot be interpreted in a social vacuum.

- **Protection Against Systemic Terror:** The Court observed that members of Scheduled Castes and Scheduled Tribes are historically vulnerable to extreme social boycotts, economic intimidation, and physical violence. If an accused facing charges of atrocity is granted anticipatory bail, their immediate release creates a climate of terror that effectively prevents the victim from pursuing the case. Therefore, the restriction on personal liberty under Section 18 is a reasonable and proportionate measure necessary to guarantee the *victim's* right to life and safety under Article 21.
- **The Judicial Safety Valve:** To prevent genuine instances of absolute injustice, the judiciary created a precise jurisprudential distinction. In *Prithvi Raj Chauhan* (2020), the

Court clarified that the statutory bar under Section 18/18A only applies when a *prima facie* case under the PoA Act is established by the FIR. If the allegations fail to manifest the specific ingredients of a caste-motivated offense, or if the complaint is *ex-facie* malicious, the constitutional courts (High Courts and the Supreme Court) retain their inherent powers under Section 482 of the CrPC and Article 226 of the Constitution to grant relief.

Consequently, Section 18 does not obliterate Article 21; rather, it elevates it by ensuring that the protective arm of the state prioritizes the structural survival and dignity of the historical victim over the conditional procedural privilege of the accused.

The Indian judiciary has navigated a complex path, attempting to uphold the protection of marginalized groups while addressing concerns regarding procedural fairness. The Supreme Court has shaped the statutory boundaries of the Act through several key rulings:

State of M.P. v. Ram Kishna Balothia, (1995) 3 SCC 221 : AIR 1995 SC 1198

In this landmark challenge, the Supreme Court upheld the constitutional validity of Section 18 of the Act, which bars anticipatory bail. The Court ruled that the exclusion of Section 438 of the CrPC does not violate Article 21 of the Constitution, as the provision is essential to safeguard vulnerable victims from post-complaint violent retaliation by dominant social groups.

Vilas Pandurang Pawar v. State of Maharashtra, (2012) 8 SCC 795 : AIR 2012 SC 3316

The Supreme Court evaluated the strict application of Section 18, holding that if a perusal of the FIR discloses a *prima facie* case of atrocity under the Act, the bar under Section 18 is absolute. Trial courts were instructed to inspect the complaint thoroughly before entertaining any plea for protection from arrest.

Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454 : AIR 2018 SC 1498

In this highly controversial ruling, a two-judge bench held that the Act was being weaponized in certain instances to blackmail innocent citizens and public officials. The Court introduced procedural hurdles, directing that a public servant could not be arrested without written permission from their appointing authority, and a non-public servant could not be arrested without the written approval of the District Superintendent of Police (SP). It also

allowed courts to grant anticipatory bail if the complaint was found to be *ex-facie* malicious. This judgment triggered widespread social unrest, leading to the 2018 legislative amendment that neutralized this decision.

Prithvi Raj Chauhan v. Union of India, (2020) 4 SCC 102 : AIR 2020 SC 1036

A three-judge bench validated the constitutional validity of the newly inserted Section 18A, restoring the original stringency of the law. However, the Court carved out a narrow judicial exception, noting that if the FIR fails to set out even a *prima facie* case under the Act, High Courts can invoke their inherent jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution to quash the proceedings or grant relief in extraordinary circumstances.

Theoretical and Practical Challenges in Implementation

Despite its robust statutory architecture, the Act faces significant bottlenecks when translated into practice within the criminal justice system.

A. Abysmally Low Conviction Rates

Legal empirical records consistently indicate that the conviction rate under the PoA Act remains low, fluctuating between 20% and 25% nationwide. This is primarily caused by flawed investigations, delayed filing of chargesheets, and prolonged judicial trials. Over time, key witnesses frequently turn hostile due to local pressure.

B. Institutional Bias and Police Apathy

In rural landscapes, the lower rungs of the police administration are often deeply embedded within local caste networks. This can manifest as a reluctance to register FIRs under the Act, or intentionally diluting the case by charging the accused solely under the weaker sections of the general criminal code. Section 4, which penalizes public servants for negligence, is rarely invoked.

C. Inadequate Witness Protection Schemes

While the 2015 amendment explicitly detailed witness protection frameworks, their execution remains weak. Because victims and witnesses typically reside within the same agrarian economy as the dominant perpetrators, they remain vulnerable to social boycotts and economic denial, forcing them to settle out of court.

D. The Paradox of Misuse versus Access to Justice

A recurring argument in legal discourse is the alleged misuse of the Act to settle personal vendettas. Theoretically, while any penal statute carrying severe sanctions is susceptible to misuse, that vulnerability cannot justify weakening a protective law. The structural challenge lies in building an objective administrative mechanism that can filter out malicious prosecutions without creating barriers for genuine victims seeking justice.

Conclusion

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is more than a penal code; it represents a constitutional commitment to correct centuries of historical injustice and systemic discrimination. The legislative and judicial tug-of-war surrounding its provisions underscores the challenge of balancing structural criminal safeguards with social realities.

Statutory severity alone cannot foster a just society unless the institutions responsible for enforcing the law operate with empathy and independence. To optimize the efficiency of this welfare legislation, the following legal and administrative interventions are recommended:

1. **Sensitization of the Enforcement Machinery:** Mandatory training modules must be instituted for police personnel and judicial magistrates to deconstruct unconscious institutional biases when dealing with identity-based crimes.
2. **Fortification of Exclusive Special Courts:** The mandate to establish Exclusive Special Courts must be enforced across all high-atrocity districts, ensuring that trials conclude within a statutory period of six months through day-to-day hearings.
3. **Independent Investigative Units:** A specialized, independent investigative cell should be created within the state police apparatus to handle caste-motivated crimes, insulating the process from local political and social interference.
4. **Streamlining Victim Compensation:** The bureaucratic process for disbursing financial aid and immediate rehabilitation services to survivors must be simplified, ensuring swift relief without administrative delays.
5. **Accountability for Malicious Prosecution:** In clear-cut instances where an investigation conclusively proves that a complaint was fabricated out of malice, appropriate legal

recourse should be pursued against the complainant to preserve the institutional credibility of this vital protective legislation.

Ultimately, this Act remains central to India's democratic promise of safeguarding the rights and dignity of every citizen. Achieving its objectives requires a combination of strict enforcement, administrative integrity, and continued efforts toward social reform.

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