

The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 & its Current Implementation Status

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Abstract

In this article, we examine the extent to which the SC/ST (PoA) Act, 1989 has been implemented. More than 400 castes or social strata in Hindu society are deemed untouchable. These people are classified as scheduled castes and tribes. The caste system evolved not on the basis of one's birth, but of one's profession. Despite the fact that equality is stated in the preamble of India's constitution, people who identify as Indian treat folks in lower castes with a level of barbarism akin to that demonstrated toward animals. In a speech to the Indian Constituent Assembly, Dr. Bhim Rao Ambedkar provided a vivid portrait of Indian society. Though it guarantees some basic rights to those from lower castes in an effort to end caste prejudice, the Indian Constitution has not been successful in achieving this goal. After the dissolution of the Constitution, the Untouchability (Offenses) Act of 1955 was passed, although it contained a number of gaps and omissions that necessitated a major modification being drafted by the government. The Protection of Civil Rights Act is the modern name for the original statute, which was revised in 1976. Despite significant efforts to improve their economic standing, the SCs and STs continue to be a marginalised community that is subject to a variety of forms of discrimination and abuse. These atrocities against the Schedule Caste and Schedule Tribe populations have been shown to be unstoppable by the Indian Penal Code and the Protection of Civil Rights Act of 1955. In 1989, Parliament passed the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act to address these issues. The Act has failed to accomplish its objectives ever since it was enacted. Concerningly, the state has shown little interest in enforcing the Act and has not taken the required steps to help victims of crime reintegrate into society. Even though these aren't the only things to think about, they deserve attention. This article reviews and assesses how poorly the requirements of the (PoA Act) and the Rules are being followed in practise, notwithstanding revisions to the Act in 2016 and 2018. The original (PoA) Act was signed into law back in 1989.

Keywords: Caste system, untouchability, savagery, vulnerable class, PoA, enacted, and implemented

1. Introduction

Some "You can't make something sweeter if it's bitter. Everything may be made to taste different, but nectar cannot be made from poison."

- "Dr. B.R. Ambedkar".

The date is back to the 19th century and the abomination against Schedule cast happened when the 'Untouchables' started to protest the systemic practice of 'untouchability' in some parts of India. Many atrocities against the 'Untouchables' were being committed during those times, but it was unreported by them and it was unsurprised as the forward movements of the witness were not for giving proper evidence happened as per the determination under "British India Act 1919" for analysis further function of this act. In the early time of the Simon Commission under the "Bahishrita Hitakarinin Sabha," the date was 29th May 1928, Dr. Br Ambedkar noticed some examples of happening atrocities incidents against Dalits occurred in his testimony under his Bombay MLC. Caste discrimination and the practise of "untouchability" were made illegal in British India with the passage of the Caste Disabilities Removal Act XXI in the year 18501. A few years later, in 1935, the Government of India Act added more protections for SCs. Between the years 1943 and 1950, several states in India passed a total of 17 laws that made it illegal to discriminate on the basis of caste. The Untouchability (Offenses) Act, 1955, which was the first piece of national law, was amended in 1976 to make its restrictions stricter and was renamed the Protection of Civil Rights Act, 1955. This occurred despite the fact that the act was the first item of national legislation (PCR Act). However, it did not appear that there was much of a bright future ahead. As a result, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 became law on January 30, 1990. This was twenty-nine years after it had been passed. The term "atrocitiy" was finally given a legal definition, and anyone who perform acts that are considered to fall under that description are subject to the severe penalties established in this Act. The right to petition for anticipatory release was taken away from people accused of committing atrocities against SCs and STs as part of the Act. This was done so that the atrocities might be successfully discouraged. In addition, it is now a criminal offence for government personnel to fail to meet their responsibilities while overseeing the implementation or oversight of the Act.

Three sections are the divisions of this act: criminal liability is the first establishment that has been taken for some actions which are approached against atrocities that are happened against ST and SC; particular compensation and relief for the victims from atrocities; the third section was to establish particular provision for special authorities that was to be implemented under the Act, for examples dedicated courts. Despite the matter that is implemented allegedly that has been delayed, the provision of this act has been described as taking advantage. it has frequently been asserted that this Act's provisions are commonly taken advantage of. As a result, there has been a constant call for changes to the Act to curb the likelihood of misuse. These complaints prompted sweeping revisions to the Act in 2015, and on January 26, 2016, the public was informed of the new provisions criminalising casteist remarks and denying the accused anticipatory bail. Another alteration, Section 18A, was added in 2018. In spite of what was implied in the preceding section, a preliminary inquiry is not necessary prior to the filing of a FIR. People accused of crimes against members of protected classes are not eligible for anticipatory bail (ST or SC). The "Investigation Officer" (IO) is authorised to make an arrest under the SC/ST Act without obtaining prior approval from a higher authority. Furthermore, it noted that any crime committed in defiance of the SC ST Act will be exempt from the provisions of Section 438 of the Criminal Procedure Code, which allows for anticipatory bail. Assuming widespread abuse, the Supreme Court virtually nullified the statute two years later. This effectively rendered the law null and void. The Supreme Court of India recently imposed procedural safeguards of such fundamental kind in

the case of Dr. Subhash K. Mahajan vs. State of Maharashtra that the legislation was essentially rewritten. This decision had a major impact on the Dalit community's fight for social justice and equality. That no public servant would be falsely accused in proceedings initiated by the Act, this measure was taken. The SC/ST Amendment Act, 2018, was challenged in court on the grounds that it violated Articles 19, 14, and 21 of the Indian Constitution. The petitioners argued that an IO should only be able to make an arrest if the conditions set forth in Sections 41 and 41a of the Criminal Procedure Code are met. These precautions include the availability of criticism, trustworthy information, and a transparent procedure. In March 2018, two judges sitting in court ruled that the Investigative Officer (IO) cannot make an automatic arrest and that accused individuals could continue to apply for anticipatory bail. A three-judge Supreme Court panel reinstated the mandatory arrest provision in their September 2019 ruling. The South Carolina State Trooper Act was deemed unconstitutional in March 2018, however a subsequent opinion issued in February 2020 overturned that decision. Only in exceptional circumstances where the lack of bail would result in a miscarriage of justice could bail be granted prior to an individual's arrest. It is never to be granted under any other conditions. The accused cannot post bond before being arrested. The IO can hold the subject in custody until more senior officers can review the case. The FIR could be thrown out by the court if it is determined that there is insufficient evidence to support the allegations made in it. Justices A.K. Goel and U.U. Lalit issued their decision on March 20, 2018, declaring that the SC/ST Act has been misused to "blackmail" ordinary citizens and government employees. Justifications against granting suspects anticipatory bail under Section 18 are laid out by the Supreme Court. However, the Center puts in a request for more research. As for the appeal, it will be heard by the same Bench, and it should be noted that the March 20 verdict is not an attack on Dalit rights but rather a protection against the wrongful arrest of innocent persons. Considered from both perspectives, the government enacted the ST/SC Act, which guarantees the right to bail in advance of formal charges being filed against an individual if the result of the investigation fails to reveal reasonable suspicion of guilt. The key argument is that it is not a violation of Article 21 to forbid accused individuals from posting bond before trial (fundamental right to personal liberty). SC/ST offenses are serious crimes. Articles 21 and 17 provide protection for SC/STs (Abolition of Untouchability). For 15–16% of the cases reported under the Act in 2015, the police submitted closure reports. In more than 75% of cases, the prosecution withdrew or the case was compounded. Comparatively, in 2016, just 24.9% of the 47,338 cases that were filed nationwide resulted in a conviction, and 89.3% of those cases were still ongoing at year's end. The Act is poorly executed rather than being abused.

2. Research Problem:

As long as racism remains a problem in India's judicial system, the Dalits' position will continue to decline. Unacceptable behaviour on the part of a judge at the Allahabad High Court was displayed when he ordered that his chambers be "purified" with water from the "Ganga Jal" since they had previously been held by a Dalit judge. This concept is further supported by the case of Ingale v. State of Karnataka. Judicial proceedings are often mysterious and unpredictable. The law's words make it plain that redress is wanted, but its application seems to prevent that from happening. Laws and legal procedures rely on the court system and the administrative apparatus in the hope that these institutions will persuade the general public to view issues of justice and equality in a more positive light. The SC/ST

Act's preamble states that its purpose is to prohibit the conduct of crimes involving atrocities against ST and SC, for establishing to establish particular Courts to make a trail for such offenses, rehabilitation, and relief have been provided for those who were victims. The SC/ST Act's statement of purpose makes it quite clear that it wants Dalits to live honorable lives in both letter and spirit. However, despite spending 28 years as a law, it has yet to provide the expected results. Blackmail, and social and economic boycott are pervasive. Under this Act, only the communities could make a list of ST and SC tribes under the government. Its jurisdiction does not extend to those who experience discrimination based on caste that is not included in the list of government (mostly the persons who are identified as Christians or Muslims, though it could also include others who were incorrectly classified).

3. Literature Review:

A detailed analysis based on scholarly publications, manuals released by the government, books, websites, and online literature has been conducted. Research on the SC/ST (Prevention of Atrocities) Act, 1989's implementation status has been done so far.

Some research in these fields does, however, have indirect relevance to the current subject even though it does not explicitly address it. Here is a review and discussion of a few of them.

- “Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Act 1989”, Taxman is the author of ST and SC Amendment Act of 2015 and the number of this Act is 1 from 2016.
- In SC is considered for the social and economic development and for empowerment, Author: “Arjun Y. Pangannavar”, Social and economic development is the high priority for SC to protect them from the exploration and discrimination based on caste that is happening in India, SC holds around 16.9% among the total population in India. In past times, this population was financially and socially exploited and this violates human dignity and also affects the sense of self-awareness. Women from SC are far behind in overall development. Deprivation and poverty are the causes of these effects on SC. Though SCs have belonged to poor economic situations, the community has immense contributions to the growth of the entire production system in India. Accelerating overall improvement and empowerment is the main determination of the Indian Constitution. Equal rights, providing accessibility for the allocated resources, and empowerment can accelerate the development of SC through increasing capabilities and social changes that are the plan for development for them. In recent times, the plan for development has been noticed as visible steps that are started for focusing to accelerate goods production and services in India, and increasing per capita income is the aim of this plan for human well-being. Issues and facts of SC people have been explained throughout the entire book. Improvement strategy and different measures that are adopted for developing the social economic condition of SC have been discussed.
- “Legally Combating Atrocities on Scheduled Castes and Scheduled Tribes”, Author of the book is T.R. Naval. The history of untouchability has been explored and

commissions for atrocities have been also explored through the book. Sources and causes that are responsible for happening continuous atrocities on SC and ST that explain the proposed provision that is based on the protection of SC and ST. The book is the evidence of responses of a legal system that happened to remove the causes which are responsible for atrocities on ST and SC and for this purpose multiple journals are included in the books as evidence. The proposed book can be considered as a reference on this topic. NGOs, researchers, and functions of law enforcement can use this book to make research on it.

- “The Scheduled Tribes & Commentary On The Scheduled Castes (Prevention of Atrocities) Act, 1989”, Yawer Qazalbash is the author of the considered book. It is needed to follow the commentary under the act 1989 and full interpretation is done by the other penal status and the entire interpretation is done based on phrases, words and expressions; moreover, various compensations have been given to SC and ST under the rule 1995. The entire work is done based on current cases.
- “Atrocities on Scheduled Castes the Law and the Realities”, H.S.Saksena is the author of this book. The entire book is based on the ST/SC Act of 1989. Relief and punitive and various provisions were important moves towards combating the rising crime trends against these castes, especially SC. The law is constructed by Courts and the main motto of this law is to remove untouchability that is under Article 17. The nature of the offences is discussed throughout the entire study and explains the ways the crimes are performed in the courts fairly by the administrations. The whole research has been done on the cases which have been registered in police stations and 50% of cases are from the five districts of UP in recent five years. Development on the cases has been noticed by making records on the sample cases, and there are 10 reasons that affect the delays to obtain the convictions; actual data from the ground reality has been analysed and this reality shows how the families survive in those situations. From the perspective of sociological; the legislative promote objectives of constitutions that provide benefits to SC and ST and critical analysis has shown the ways the law works at the ground level to fulfil target and objectives by the legislative
- “Commentary on the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act & Rules”, Justice P.S.Narayanais the author of this book that is filled by Justice Syed Shah Mohammed Quadri, details about the Act of 1989 that is based on SC and ST commentary has been provided in this book and it provides details about the protection of Civil Rights Acts of 1955. The related case study has been provided that provides appropriate commentary about the subject. Mow of ST and SC rules have been also included in this book.
- Analysis based on various case studies on untouchability has been described in the book “Atrocities and Untouchability against Scheduled Caste and Scheduled Tribes (2006)” by V Narayana Swamy. Various provisions which are included in laws to deal with the atrocities against ST and SC under the Act 1989 have been added that are related to enactments.
- K.D. Purane is the author of “Untouchability and the Law - The Ground Reality -

2000” which is the “Foreword Preface Survey of the Literature on Hindu Society and Untouchability Nature of Hindu Society and Untouchability Philosophy of the Constitution of India and the Need for Legislation History of the Protection of Civil Rights Act, 1976”. “The Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 Cases Under Protection of Civil and Rights Act, 1976 and Prevention of Atrocities Act, 1989 Conclusion and Suggestions”.

- P.K. Gupta is the author of “Commentaries on Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989”. “The Parliament enacted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in order to prevent the commission of offences against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and related matters”. Analysis of the supportive laws has been provided by the author of this book by enlightening the entire section. The total list of SC, ST and other tribes and areas is covered by the book and this is the most important feature of this book. Details about Civil Rights and the protection of this law of 1977 have been described in this book.

4. Objectives:

1. To analyze the “S.C. & S. T. (Prevention of Atrocities) Act of 1989’s” status of implementation.
2. To research the abuses of the “Atrocity S.C. & S. T. (Prevention of Atrocities) Act. 1989” and the out coming watering down of Section 18A of the Act.
3. To make suggestions for ways to get around the problem and ways to carry out the Act's goal.

5. Hypothesis:

- Despite the existence of the Legal provisions [Prevention of Atrocities] Act of 1989 and Anti – the Untouchability Act of 1955, the crimes against Dalits are still a major problem and any laxity in this regard needs to be viewed seriously.
- Despite flaws in the implementation of legal provisions, these provisions have provided security to STs and SCs and open discrimination against Dalits has dramatically decreased in case it is also claimed that these provisions are misused in frequently times.
- Despite the existence of strong legal provisions Dalits found it virtually impossible to access their rights through the legal system.

6. Research Methodology:

Methodology in research is used to commission the recent tasks including every empirical and non-empirical technique. Numerous laws, commission reports, books, law journals judicial, and judicial rulings have been extensively researched and it is the fact employed in the nonempirical or doctrinal analysis. The empirical study focuses on the actual issues and

challenges. There are direct sources and indirect sources for data collection. The former contains information that was gathered directly from the respondents about their knowledge of constitutional and legal provisions, the Prevention of Atrocities Act of 1989, government programs and policies, and offices that are of concern to the Govt. etc. Latter includes both secondary data and primary such as information found in reports, journals, laws, statutes, textbooks, advisory rules, websites, publications, legal magazines, handbooks produced by government agencies.

7. Significance of Study:

Examining how the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, is currently being implemented is the goal of this study. The study illustrates how the 1989 (PoA) Act is actually implemented in practice. It also denotes that the first stage should be a critical evaluation of the state's contribution to avoiding Dalit attacks and eliminating discrimination. It also suggests the necessity of new kinds of cultural movements, social reform, and balanced approaches that could alter society's mindsets. The study also stressed the need to alter the (PoA) Act in a way that both SCs and STs and Non-SCs and STs feel comfortable with, without leaving any room for its provisions to be abused. Hopefully, the likely result of bringing this paper will be served. Researchers, intellectuals, and academicians will benefit from incorporating suggestions and ideas concerning the SC/STs (Prevention of Atrocities) Act, featured in this paper into their respective fields of study. This paper's research takes the shape of the current execution of the SC/ST (PoA) Act, 1989, which aims to discover a permanent solution to the SCs & ST's fundamental issues.

8. The Status of the 1989 (PoA) Act's Implementation:

Untouchability Act of 1955 has taken place at a time when the imposed provision of the Indian Constitutions has failed to bring equality among all kinds of communities in the country on the other hand the provisions also failed to end untouchability among people but the loopholes of the Act has become a big issue of this law for the government. In 1976, the "Untouchability Act of 1955" was redesigned to ensure the protection of civil Rights. Measured steps have been taken by the government to remove differences between upper caste and lower caste and this initiative has been taken to ensure the protection of Dalits from disrespect, humiliation, and harassment that were present as vulnerable classes. Rising education among the Dalits helps to protect against untouchability practices in society and this incident was shown as a vested interest cow that terrorizes them in society. The provisions that were implemented to protect Dalits from these kinds of situations and Civil rights Act of 1955 and "The Indian Penal Code" which have implemented to protect Dalits, these provisions were also implemented to identify atrocities in society, and in most cases, these provisions were gotten inadequate for checking the atrocities incidents such as offenses against SC and ST. Parliament has recognized these issuers of the previous provision and after considering their effectiveness ST and SC act of 1989 and 1995 have been implemented.

Atrocity Meaning:

The atrocity word was unknown to people before implementing the "Atrocities Act of 1989". Under the legal system, any essence is punishable as per sections 3(2) and 3(1).

Even this section describes the meaning of ‘Atrocity through the specific terms:

1. “Atrocity” is considered an “expression commonly used to refer to crimes against the SCs and STs in India”.
2. It “denotes the quality of being shockingly cruel and inhumane, whereas the term crime relates to an act punishable by law.”
3. It suggests “any offense under the Indian Penal Code committed against SCs and STs by non-SC and ST persons.

Caste consideration as a motive is not necessary to make such an offense of atrocity.”

Caste discrimination and untouchability persisted in British India despite the fact that they were made illegal in 1850 by the Caste Disabilities Removal Act XXI. However, until the Untouchability (Offenses) Act of 1955, which was updated in 1976 and called the Protection of Civil Rights Act of 1955, nothing important happened on a national level. This law was eventually renamed the Civil Rights Act of 1955 after it was revised. (Act on Responsibilities Regarding Pregnancy and Childbirth)

But its implementation on the ground remains inadequate and weak. As, on the day when the nation was celebrating independence in 2022, a nine-year-old Dalit student from Rajasthan Jalore District when happens to take water from an earthen pot (meant for the upper class only) his teacher abused him with the cattiest slurs and beats him up, resulting in internal injuries. These words pricked the nation’s conscience and remind policymakers of unmet promises and unfinished tasks. His is not the lone tragedy, Rohit Vemula a Ph.D. student from Central University of Hyderabad ended his life in 2016, after being harassed by his colleagues on the name of caste. Similarly, on 27th November 2022 Bareilly District of UP, on Brides Call 60 cops escort a Dalit groom on Horseback. The reason for this heavy security arrangement by UP police was necessitated following ‘restrictions’ imposed by some of the men of the upper castes on Dalit wedding processions in Lohamai village of Gunnar area. The numbers of cases registered under the SC/ST (PoA) Act, 1989 are:

Table.1: *The number of cases registered under the SC/ST (PoA) Act, 2016-2020 in Rajasthan.*

Year	SC	ST	Total
2016	5,134	1,195	6,329
2017	4,238	984	5,222
2018	4,490	1,073	5,563
2019	6,659	1,759	8,418
2020	6,895	1,849	8,744

The number of cases registered under the SC/ST (PoA) Act, 2016-2020 in Rajasthan

In Rajasthan, 6,329 cases were registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) in 2016; 5,222 cases of atrocities were recorded in 2017; and 5,563 incidents were recorded in the year 2018. In 2019, 8,448 cases were registered; and in 2020, 8,744 cases were registered.

Year	SC	ST	Total
2016	541	139	680
2017	1,673	172	1,845
2018	597	115	712
	927	194	1,121
2020	572	114	686

Table.2:- *The number of Convictions under crime against SCs and STs*

Meanwhile, in 2016, there were convictions in 680 cases in crime against SCs and STs, which is 10.74% of the total cases registered in the same year. There were 1,845 convictions in 2017 (35.33% of the total cases registered); 712 in 2018 (12.79% of the total cases registered); and 1,121 in 2019 (13.31% of the total cases registered). In 2020, there were convictions in 686 cases, which is 7.84% of the total cases registered in the same year. However, the conviction rates in such cases have declined. Against 1,121 convicted cases in 2019, it had dropped to 686 in 2020, which is 7.84% of the total cases registered (8,744) in the same year and the lowest in five years.

Table.3:- *Number of Atrocity Victims provided relief.*

Year	Relief	State
2016-2017	1729	Rajasthan
2017-2018	3648	Rajasthan
2018-2019	3727	Rajasthan
2019-2020	9158	Rajasthan
2020-2021	12647	Rajasthan

The number of Atrocity Victims provided relief

According to a report published by the Press Information Bureau of the Government of India's Ministry of Social Justice and Empowerment, a total of 1,729 victims of atrocities in Rajasthan received relief or legal assistance in the 2016-2017 fiscal year, 3,648 victims received relief in the 2017-2018 fiscal year, 3,727 victims received relief in the 2018-2019 fiscal year, and 12,647 victims received relief in the 2020-2021 fiscal year. The study was released in the year 2022. An alarming number of cases have been filed under the SC/ST (Prevention of Atrocities) Act in the previous five years. At the same time, there has been a declining trend in the number of convictions handed out in similar cases. This can be used to judge how well the SC/ST (Prevention of Atrocities) Act has been implemented in the state of Rajasthan, which currently has a bad law and order situation.

9. Punishments for Offences of Atrocities:

Persons who do not belong to ST and SC can be punished under section 3 by committing an offense. This section is considered much more comprehensive to counter the large number of atrocities that are happening against SC and ST. The individual offense is specified by sections 3(1) to 3(2) by usages of forces. In case an individual member belonging to the upper caste uses force on people being to ST and SC for example puts any kinds of unknown or incredible objects in the mouth of a person who belongs to SC and ST. In situations like forcing on members of SC or for eating or drinking something in which incredible substance,

sewage, Dumps excreta are added, these incidents can happen in the premises and even in the neighborhood of the person captured by him. In many cases forces SC and St people for walking naked or semi-naked and even garlands with footwear. Forcefully clothes are removed, tonsuring heads, removing mustaches, and painting faces these incidents have happened with the members who belong to SC and ST castes and this incident violates human dignity. Lands are occupied wrongfully and on the other hand, cultivates are also occupied wrongfully that are owned by SC or ST members. Forces are put on these members for being laborers and begging. Members who are complex are forced for digging graves or carrying animal carcasses. These members are used for manual scavenging. At the temple and in other religious settings, women from the Scheduled Castes and the St. Castes are picked out and given preferential treatment. For example, there have been instances in which members of the military services either did not vote at all, voted for a certain candidate, or did not propose a specific candidate because they viewed the other candidates as a competition. The members of this caste are required to avoid their obligations within the panchayat and the municipality. There has been a concerted effort in the political, social, and business communities to boycott certain products. Concocts a false legal action or false criminal accusations with the intent to annoy or harass the targeted member. Anywhere in public view, insulting a person by calling them by their distinguishing name or caste can be considered offensive. Providing erroneous or misleading information to a public official, which, in turn, causes that official to exercise his official authority in a manner that is detrimental to or vexatious to the member in issue. Performs an act with the intention of humiliating another member, such as by insulting him or threatening him with physical violence. destroys or suffers serious damage to anything the individual holds dear to their heart. causes people to develop feelings of hate and enmity toward people of South Asian or South Asian-descended descent. Participates intentionally in sexually suggestive behaviour toward a woman who identifies as SC or ST, including making physical contact with her without obtaining her agreement. contaminates or pollutes the water in a reservoir that is used by a SC or ST member, rendering the water unfit for consumption or other uses. A member's right to free passage is considered to have been violated if the member is barred from entering a building or other area that they would be able to enter, use, or visit under normal circumstances. the members of these groups to abandon their houses, communities, or any other locations where they have been residing under the threat of being physically compelled to do so.

It was believed that some of these people were engaging in witchcraft, which can have negative effects on one's health. "prevents or hinders such member from utilising a cemetery or crematorium; a stream, river, road, spring, riding bicycles, wearing footwear or new clothes in public; conducting a wedding procession or riding a horse during the wedding processions;" A parade marked an occasion that may have had religious, social, or cultural implications. It was completely forbidden to enter any business that serves the general public. If someone "visited any educational establishment, hospital, shop, or any other public location," they were labelled as a potential threat. Taking part in any and all of the publically available occupations, businesses, and industries. As stated in section 3 of the SC and ST Act, the above-described crime, which was committed by those from higher social classes, is considered to be an offence. Because of the gravity of these offences, perpetrators may face fines and community service sentences of up to five years in length. The Act of ST and SC considers it an additional crime for those responsible to prove any form of false evidence

against members of SC and ST, and this includes cases where people who are not members of ST and SC create false evidence against members of ST and SC with the intent to convict members of ST and SC. The Act of ST and SC views such actions as subverting the fair administration of justice. Offenders found to have committed atrocities are liable to the penalties specified in Section 4 of the Act. To fulfil the requirements of the law, the individual responsible for an offence committed by members of a higher caste against members of a lower caste must be discovered and brought before a judge, as stated in Section 4 of the Act. Some very serious punishments are outlined in this section. Sections 3(1)I through (xv) and 3(2)I through (viii) detail several serious offences and recommend various punishments and remedies for each.

Sections 15A through C of the Act detail the various safeguards that are included for the protection of victims and witnesses. In the event of an emergency or violent behaviour, it is the responsibility of the state government to provide protection for victims and witnesses. (2) It is important to treat all victims with dignity and respect, regardless of their age, level of education, gender, or socioeconomic condition. All victims deserve this treatment. The victims in a particular case have the legal right to be informed about the aforementioned by the "State Government" and the "Special Public Prosecutor." The State Government and the Special Public Prosecutor are responsible for doing so and are required to be reasonable, prompt, and accurate in their notice of court proceedings and even in bail proceedings. The victim or a dependent of the victim may file a petition with either the Special Court or the Exclusive Special Court, depending on the circumstances, to compel the production of any papers or materials, to question any witnesses, or to conduct any examination of the individuals who are present. At any hearing held in accordance with this Act in connection with the bail, discharge, release, parole, conviction, or sentence of an accused person, or any connected proceedings or arguments, the victim or his dependent shall have the right to be heard and to file written submissions on conviction, acquittal, or sentencing. This right includes the ability to file written submissions on conviction, acquittal, or sentencing. Rehabilitating people who had been victims of crime was a part of it. Significant steps were taken to ensure the safety of women in the area. Protecting both victims and witnesses from harm (Concealing, safety names) The State Government has the authority to impose a fee on behalf of all affected communities in accordance with Section 16 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, which was passed in 1989. For the purposes of imposing and realising a collective fine, as well as for all other things associated therewith under this Act, the provisions of section 10A of the Protection of Civil Right Act, 1955 (22 of 1955), will apply, to the extent that they are appropriate. Whoever, outside of the ST and SC categories, commits a felony such as encouraging other people to consume something they are aware is poisonous, causing damage to water supplies, or engaging in sexual exploitation is subject to a prison sentence that can range anywhere from six months to five years. Those who are employed by the government but do not belong to a scheduled caste or tribe are subject to a mandatory minimum sentence of one year in prison, and their sentence can be increased to the utmost that the law allows for punishment. If he knowingly fails to fulfil the responsibilities that have been placed on him by this Act, he could receive a prison sentence of between six months and one year. Convictions for the same crime on many occasions will result in increasingly harsh sentences.

On August 27, 2018, new amendments to the Act of 1989 went into effect. Section 18 of

the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, must be amended by adding the following clause: — "No preliminary inquiry shall be required prior to the filing of a First Information Report under this Act; or (2) No approval shall be required prior to the arrest of any person against whom an accusation of having committed an offence under this Act has been made, and no procedure other than that provided under this Act or the Code shall apply. In addition, the Code and this Act preclude the use of any alternative procedure.

(2) Notwithstanding any decision, order, or direction from any court, the provisions of Section 438 of the Code shall not apply to any action brought under this Act. Even if the applicable Code section was cited in the decision, this remains true."

This section of the Act has been included by the Amendment of the year 2018 for nullifying the primary inquiry in the early stage of recorded FIR, in this case, any kind of recruitment for approval by the IC is not required before arresting the offensive person. This section describes that any kind of anticipatory bail can not be provided under this Act. However in the case of "**Prathvi Raj Chauhan v. Union of India Case**", the constitutional validity of section 18-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018" has been challenged by the involved petitioners. "**Subhash Kashinath Mahajan v. The State of Maharashtra & anr. [1]**" was the ground of this case and on the basis of this case, petitioners filed against the Courts, and in this case Prevention Act of atrocities was misused. Many safeguards were included by Courts in the case of "**Subhash Kashinath Mahajan v. The State of Maharashtra & anr. [1]**" but these safeguards of Courts were overturned by Parliament under the Act.

The safeguards which were provided by Courts were:

(1) Primary inquiry was conducted in the early stage of recorded FIR.

(2) It should be received approval by the investigation Officer before arrest;

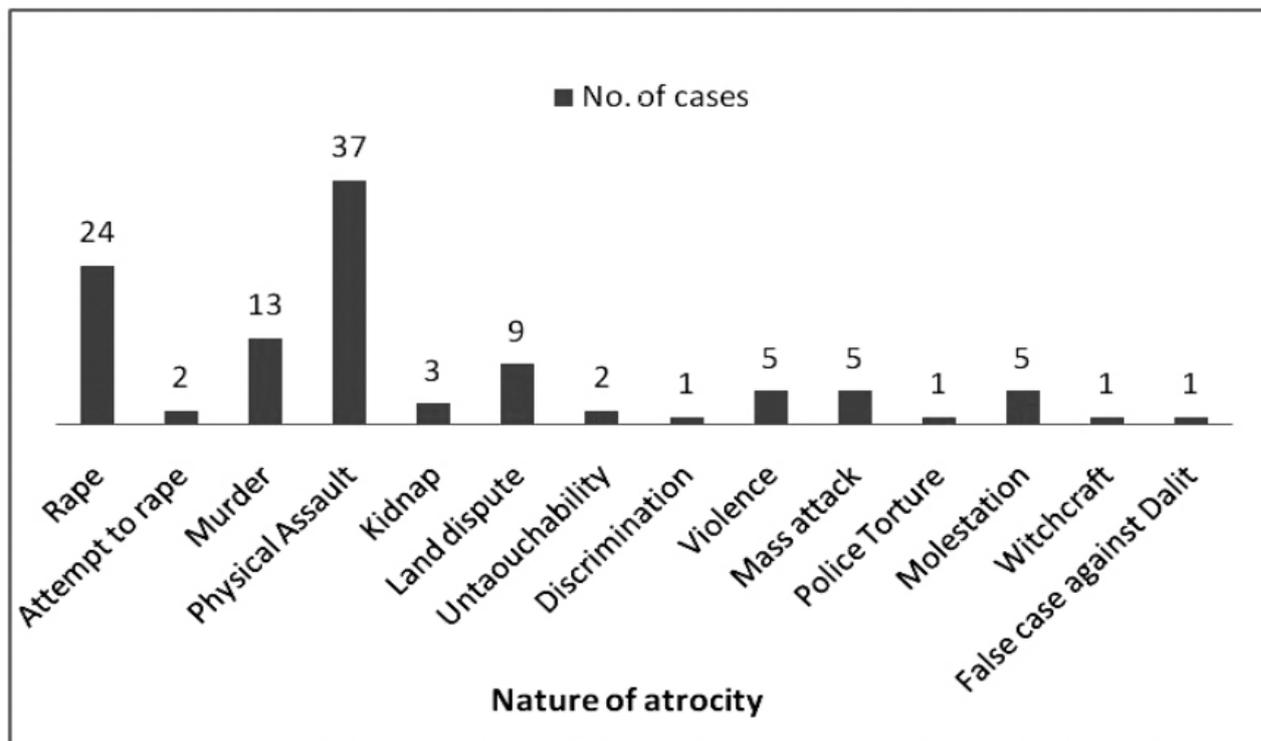
(3) Anticipatory bail that was given to the accused was not any kind of judgment or direction of the Court.

Result of *Kashinath Mahajan* has been diluted this amendment. The main motto of the *Kashinath Mahajan* was to protect the people who were accused in this case and abuse the Act. Action has taken by the Parliament after passing the case of *Kashinath Mahajan* because many violent incidents and protests happened by Adivasis and Dalits and the bill was put in the Parliament. Review petitions have occurred and the judgment of *Kashinath Mahajan* was challenged in Supreme Court though the challenge was fired by the Courts. It was seen that the legislation was not waiting for a hearing review from Court for challenging the judgment. Notice was provided by the Supreme Court on the date 7th Sept 2018 to the central GOvt for submitting responses on the petitions. The central govt. stated that the legislative is responsible for changes through the entire process of this large acquittal case for SC and ST by affidavits filed on behalf of the responses by The Supreme Court that the case was not facing anymore. Multiple files were submitted as many petitions to make challenging the amendment of 2018. The division bench referred the petitions on 13th Sept 2019, and UU Lalit and Arun Mishra were the judges of this review on the petitions. Constitutional validity

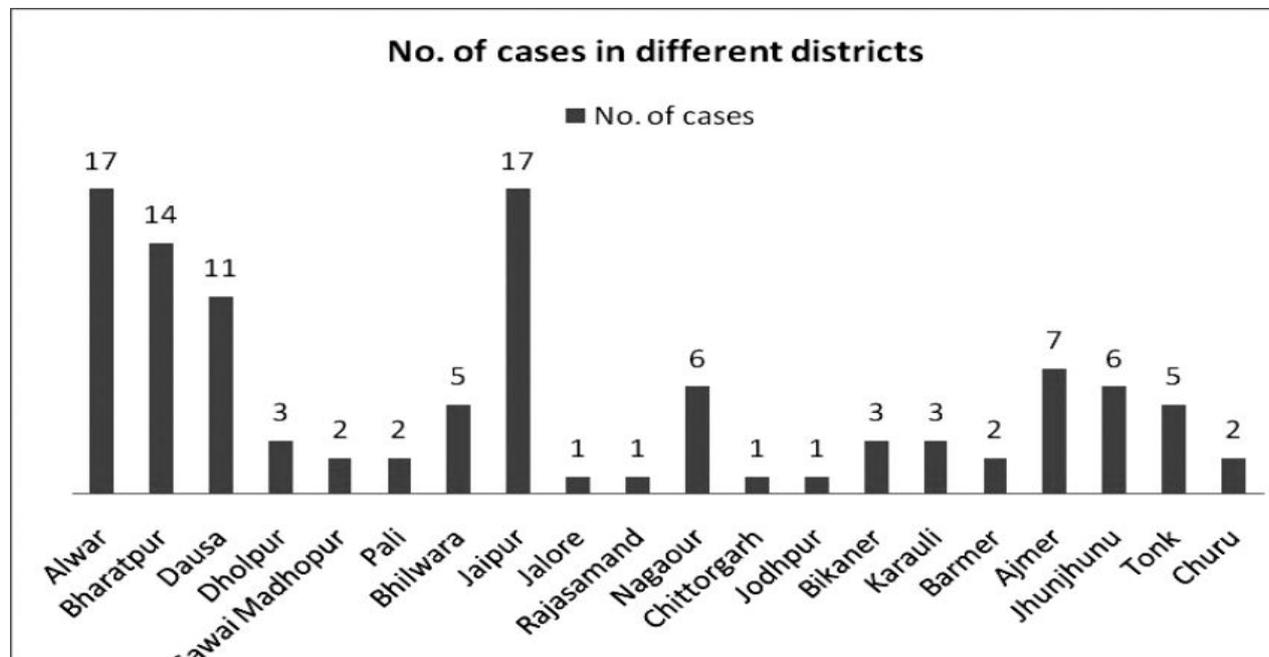
was upheld by hearing the petitions of the bench of these three judges under the amendment of 2018. Petitioner's counsel stated that safeguards were introduced in the case '*Dr. Subhash Kashinath Mahajan v. The State of Maharashtra & anr.*' and this case was essential that many misuses occurred in this case. It was stated by the counsel that granting anticipatory bail will be the result of the absolute bar in case of violating fundamental rights under Article 21 of the "Constitution relating to personal liberty of a person". It was stated that a huge number of acquittal was responsible for making the amendment and this statement was from the Attorney General, KK Venugopal from the Central Govt, for this reason, the police could not implement the act correctly and however accused prosecution was not hampered effectively. It was argued that the main aim of the amendment was to provide protection to the SC and ST section in society and this statement was given by the petitioners. The Constitutional validity was upheld by the bench of three judges of the section 'The Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act,2018'. The case of Kashinath Mahajan had put an unwanted burden on the people from Sc and SC and this statement was given by the Court. The Court stated that primary inquiry was necessary at the time of dealing with section 18-A before recorded FIR and the permission was laid by the condition that was happened with a case of "*Lalita Kumari v. Government of U.P. [2]*". Further, the Court stated that any kind of anticipatory bail would not be given in the offenses under the Act of SC/ST.

10. Implementation Status of (PoA) act, 1989

The SC/ST Act was introduced by Rajive Gandhi in 1989 and was implemented by VP Singh in 1990. This Act was made to stop the Atrocities on SC/ST by non SC/ST people. State government needs to include special Court session and for this purpose, particular public prosecutor is needed to appoint to notify proper implementation of the Act. Under the Act, the State government has the power to charge fines to the residential people who are found committed this offences. The state government has duties to take action for implementing PAA under the section of 23 of this Act and the central government has power to ensure the purpose of this Act. Central rule of this Act is included in "In 1995, India's "scheduled castes" and "scheduled tribes" became protected under this legislation, which was intended to shield them from physical harm. It is the government's responsibility to see that the (Prevention of Atrocities) Act is carried out effectively, as stated in Section 21 of the Act. Because there has been a lack of rigorous compliance with the Rules 3, 8, 9, 10, 15(1), 16 and 17 of the 1995 Rules, this indicates that (a) the Act has not been adequately implemented, and the authorities have been apathetic toward doing so. The Supreme Court did, in fact, offer assistance to the Central Government, State Governments, and National Commissions for Scheduled Castes and Scheduled Tribes in order to facilitate the efficient implementation of the Act and Rules. However, the implementation of the system as it is right now is not sufficient. Atrocities are still being committed, victims are still being denied any type of relief, and state resources are still being utilised to protect those who conduct these atrocities fifteen years after the Act of 1989 was enacted into law. To cite just one illustration, Dalits in the Indian state of Rajasthan continue to be victims of a wide range of atrocities, some of which include sexual assault, physical assault, murder, kidnapping, mob attack, and molestation, among many more. The total number of reports that were received can be seen broken down into the following categories using the bar graph that is presented below:



Out of 33 districts Jaipur and Alwar registered the highest number of crimes against Dalits. Bharatpur and Dausa are no better. Ajmer, Nagaur and Bhilwara stood at number seven, six and five respectively. The following graph shows number of cases in different districts.



Reporting cases under the Act of 1989 has been notified as sabotage and it was considered as a common phenomenon. In many cases, deterioration issues were noticed in victims for complaints on atrocities, and for this reason, FIR registered very few numbers. Many numbers of atrocities were left Courts without getting prosecutors. It was pressurized on the police for not registering cases of atrocities and there was a lot of bias and corruption

for this reason reported rate of crime on atrocities was low as per the record of jurisdiction. Several facts were responsible for reducing the impact of the legislative body on atrocities and the causes are nonrecorded cases on the basis of merit, delays in the investigation, offenders' collusion, and manipulating proper evidence and witness. The accused persons were not arrested and allowed them roaming freely. The police threats victims with filing false cases for colluding with the persons who were accused. In these cases, the victims were arrested on the subject of criminal litigation and on the other hand accused was in the counter case. It was highlighted that false criminal counter cases were filed against the victims such as Dalits in case of atrocities and this report was highlighted by the Commission of Justice K Punnayya

This points to retaliation by the dominant castes against the Dalits who have begun reporting atrocities in a concerted effort to undermine the efficacy of the Act of 1989. Unfortunately, very few people actually get the aid and reintegration funds to which they are legally entitled. There is widespread scepticism regarding the efficacy and ability of public prosecutors who embark on cases involving crimes perpetrated against SC/ST communities. In spite of several brutal crimes, including as murder, rape, and vast property destruction, against SC community members, no community fee has ever been imposed, even in the most egregious of cases. When the Deputy Superintendent of Police isn't leading the investigation, lower-ranking officers typically do. This casts doubt on the fairness of the subsequent trial. A region being singled out as particularly violent is rather unusual. The States have shown no interest in identifying districts more likely to be the site of atrocities, despite having access to district-based crime numbers against the Scheduled Castes and various reports that their own field equipment creates. Despite our having this information, the situation remains the same. Attempting to increase one's chances of a light sentence in the event of a guilty conviction by downplaying the gravity of the crime by omitting references to relevant sections of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. There are a number of reasons why the police department's approach reveals deep-seated caste bias. Most police officers and revenue officers are members of the ruling castes, there is a lack of sensitization training for police employees, corruption is rampant, and many are just unaware of the limits of the law. Barriers exist for victims of atrocities who identify as Scheduled Caste and who wish to pursue the legal safeguards that were established by statute but which they are often unable to do so. So, the low socioeconomic level of such survivors hinders the effective implementation of this law. Most defendants simply cannot afford to miss work on the days they are mandated to appear in court, let alone cover the fees of travel, documentation, or legal representation.

It was found by a study that implementation of the Act is more misused than unused. The police has power to arrest the offender under the Act and for this arrest any kinds of investigation and warrant are not required. Few cases are recorded under this Act a little number of offenders are brought to book. This situation provides a nub that is considered as a large issue. Huge number of crime suppressing are present in criminal justice system and this fact is considered as disturbing aspect. It is reluctant by the police for registering the cases and especially in case, when the registered cases are poor and this situations shows that the entire crime rate are under control. The Indian Penal Code applies the cases under the Act of ST/SC. Incidents of crimes are one fourth and this rate of crimes are less than the crimes that are registered as cognizable. Mostly Dalits and marginalized people suffer from this situation.

A huge numbers of cases which are genuine are not registered and some cases are serious that are also not registered. Efficiency of police is judged by the statistics number. In this situation, political factor has huge influence and most of the time; political leaders try to show low numbers of crimes figures for calming the entire situation is under control in the state. Mostly voiceless and poor citizens are suffered from these kinds of situation. It is laid by the Apex court that arrests should be before public servant and for this arrests approval of appointed authority is essential and these provisions are stated under the Act. In case these arrests are not happened before public servant, in this case Senior Superintendent of the police needs to sanction this situation. The Court defines that police should needs to make a preliminary enquiry before registering FIR against in case the entire case is falls and mediated by others. The Courts has stated that the Act should not be abused to for personal vengeance on weak persons. It is the provision for the anticipatory bail that accused can get anticipatory bail in case the accused provides proof that the registered complainant is considered as mala fide. The Apex Court stated that misfeasance should be considered as unexceptional by principle. This situation is also considered as threats of misuse. It is found that the implementation of the Act is poor and frequently this Act can provide relief to the people who complain for many reasons and bias of case is also included.

In the Indian legal system the term that is known as 'atrocities' has been defined shortly. Considering this fact, the committee has approached that it is necessary to define the term only not in Act but also it was essential to take initiative for punishments for the people who committed this atrocities. It was the initiative to encourage the union territories and states for implementing particular preventions and secure security to the SC/ST people and victims of atrocities and also provide required assistances and relief as rehabilitate. The Act provides that what the actual conditions were under the protection of Act, 1955 and it was found that previous provisions were failed to stop this kinds of violence under the "Indian Penal Code". Special provisions have ability to provide protection to the members who are belonged to SC and ST against these kinds of members who are not SC and ST community. Recent development has been happened that the Act "amendment of 2018 to the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989" was included in the Indian legislative system that has important role to reduce offences that are occurred against atrocities which are happened against members belongs to SC and ST. Challenges were noticed when a petition was submitted under the case "**Dr. Subash Kashinath Mahajan v. State of Maharashtra**" on validity of the Indian constitutions that provisions of Act 19,14 and 21 were against the Act and for this reason laws were struck down in this case. Verdict was done by the bench of two judges that automatic arrests were not permitted for compliance in the immediate bases under the Act SC/ST and this amended was passed in the year 2018. The provision was able to highlight the fact of anticipatory bail under the Act. In case of "Union of India v. State of Maharashtra" the judgment of the year 2018 was overruled through the bench of three judges on 1st October, 2019 as in this case automatic arrests was done under the Act of SC/ST. Central government has filed a petitions on the case to make review on that case to control community violence and tensions over the country. In the year 2020, 10th January, the Supreme court has highlighted that fact and for this reason validity of the SC/ST Act was has been emphasized under the amendment of 2018 in the case of "**Prithvi Raj Chauhan v. Union of India & Ors**". Judgment was provided by the bench of three judges such as Vineet Saran, Ravindra Bhat and Arun Mishra. It was gotten reverse in that case by these three judges on the judgment of this case on the petitions that was done to

make challenge on validity of the SC/St Amendenent Act of 2018. Appropriate circustoms were necessary for pre arrested bail and this provision was stated by the Courts and exercise power was cautions for the denial bail in the miscarriage of justice.

11. Results:

The Act operates poorly and has flaws. Due to the Supreme Court's enjoined riders, a once-powerful device has been rendered useless. The Parliament underlined that when Dalits stand up for their rights, powerful people try to intimidate and subdue them. Has the SC considered this situation? The SC has now declined to appeal its decision. The government might come up with an ordinance or a new law to address the issue. The Scheduled Castes and Scheduled Tribes continue to be vulnerable to the risks of social injustice and repression, despite the numerous legal measures that have been put in place to enhance their socioeconomic conditions. They are subjected to a variety of offences, such as indignities, humiliations, and harassment to name a few, depriving them of a number of civil rights. No statute or piece of legislation is impervious to abuse or misappropriation by those who commit it. This has caused widespread abuse and given rise to the perception that "blackmail" is a tool employed to inflict revenge and placate special interests.

12. Measures to overcome Drawbacks:

On 17th June 2022, the Government of India (Ministry of Home Affairs) comes with a detailed advisory for the effective implementation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) {POA} Act, 1989 which goes like-In investigation and detection, police and administrations have proactive role against the crimes that are happened for ST/SC and not registering report is ensured. It is necessary that government needs to provide specific enforcement of law that are convicted the crimes which are committed against ST/SCs. It is the responsibility of enforcement agencies that rights of vulnerable and weaker sections people are not downplayed by the enforcement agencies. Well constructed training programs are required to sensitize the entire law of the enforcement agencies towards the crimes that are occurred against ST/SC and conference, meeting, seminars and meeting are also required in this process for the police department and others enforcement agencies of law at all kinds of level to operate others functions of the entire criminal justice system. Programs like these must be added in multiple syllabi of several police training Academies in every level. A particular police training personnel are needed to implement under the Act of ST/SC of 1989. Amendment of 2015 has been done to increase effectiveness of the St/Sc Act of 1989. New kinds of offences such as head tonsuring, moustache, the kinds of acts are included in that are occurred with the members from ST/SC. Punishments for these kinds' acts are also increased for the accessed. Speed of particular trial and Special Courts are increased by the new provisions. The new amendment has been added in the Act in the year 2018. It is no longer necessary for the police to conduct preliminary investigations or acquire warrants before filing a First Information Report (FIR) or making an arrest thanks to Section 18A of the Constitution. The Power of Attorney Act can be put into effect in a way that is consistent with both the letter and the spirit of the law. It should be required of the police to apply the relevant provisions of the aforementioned Acts in accordance with the statements made by victims, and there should be no dilution of the law that could be of benefit to those who commit crimes against SCs or STs. Crimes committed against communities that are

vulnerable, oppressed, and underprivileged call for a system that is equipped to respond quickly and effectively to situations like these. By fostering a better knowledge of these issues within the administration and, in particular, among police personnel, the government needs to do more to combat the rise in the number of crimes committed against SCs and STs and to ensure that those crimes are handled in a fair and compassionate manner. This can be accomplished by increasing the number of people who are educated about these issues. If the investigation has been going on for longer than sixty days since the FIR was filed, district and state officials will check in once every three months to see how things are doing and may appoint special DSPs to speed things up if the investigation has been going on for longer than sixty days. Reports of atrocities committed against SCs and STs should be thoroughly investigated by the competent authorities in the state governments after they have been received from a variety of sources, including the National Commission for SCs and STs. It is possible to detect possible hotspots for atrocities committed against SC/ST communities, which would allow for increased security of persons and property in those areas. For this reason, police stations located in high-crime regions should have sufficient numbers of personnel and be equipped with the most modern security technology. It is possible for the District and Sessions Judge, the District Magistrate, the Superintendent of Police, and the Public Prosecutor of the district to conduct regular reviews of cases that involve crimes committed against Scheduled Castes and Scheduled Tribes as well as the amount of time it has taken for trials to begin. In conclusion, in order to hasten the progression of cases, District Special Prosecutors are responsible for ensuring the safety of all prosecution witnesses and arriving in court as early as possible with them. This includes police officers and any other official witnesses. In order to avoid such problems in the future, each of these recommendations ought to be put into practise.

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16. Conclusion:-

The recent ruling by the Supreme Court in the Subhash Kashinath Mahajan v. State of Maharashtra case on the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has sparked intense political debate. The Supreme Court's decision has drawn mixed reactions, ranging from naive approval to vehement condemnation. Therefore, a rational discussion about a subject that is free from emotion is necessary. Not all of the Supreme

Court's arguments are without validity. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act must include some procedural protections so that government employees can carry out their supervisory responsibilities without worrying about unfounded criminal allegations. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act does not provide particular legal protection for SC and ST government employees within the scope of their profession since they cannot be seen as experiencing the same level of disempowerment. However, it must equally be remembered that the majority of SCs and STs are still socially and economically marginalized, which makes them vulnerable to caste crimes because they lack access to legal remedies. Therefore, it is a more complicated matter whether exclusions, like not filing an FIR without conducting a preliminary investigation and granting anticipatory bail, should be applied to actions carried out outside of an administrative or bureaucratic environment. We need to think about it and analyze it more before coming to a decision. However, any analysis must take into account social dynamics in addition to just analyzing the facts at hand. The worries raised by Dalit organizations and many experts over the alleged weakening of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are not wholly unfounded or irrational, according to a preliminary examination of social dynamics done for this paper.

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