



RECENT CRIMINAL OFFENCES AGAINST SCHEDULED CASTES IN INDIA

(A Socio-Geographical Study)

Prakash Vir Singh (Asst. Professor)

Department of Geography, Tilak P.G. College, Auraiya, U.P. INDIA

Abstract

The effort against caste discriminations and caste crimes was not just the post-independence initiatives. Indeed, it started as early as 6th century BC when Buddha revolted against caste discrimination and caste based exploitations. Most of the crimes committed by the non SCs/STs against the non SCs/STs and those committed by the SCs/STs against the SCs/STs are usually registered under the various sections of IPC. Therefore, a comparison between special cases and IPC cases may be attempted with respect to: i) percentage of cases pending trail in courts; and ii) percentage of cases ended in conviction out of the cases tried in the court of law. The NCRB provides enough data for both these indicators. This would help us understand the performance of Central and the State governments with respect to subjecting each charge-sheeted case under a due trail process and disposing the case ultimately. This paper, more specifically, unravels the nature and magnitude of crimes committed against the scheduled castes (SCs), popularly known as Dalits, by the Non-SCs throughout India, their trend and inter-state variations and identifies the state where there is not only high incidence of crimes against the SCs but also high conviction rate in such cases.

Keywords: *Criminal offences, Indian Penal Code, Dalits, Varnashrama, Indian Constitution, Legal Acts*

INTRODUCTION

With the proclamation of India as a sovereign secular socialist democracy committed to secure all its citizens liberty, equality and fraternity, it became an unequivocal necessity for the nation to protect every citizen from every kind of injustice and exploitation, including those exercised through the institution of caste. Depending primarily on the data provided in the report of the national crime records bureau (NCRB), published by the Government of India (also available on-line) and the crimes news reported in news papers every now and then, this paper, more specifically, unravels the nature and magnitude of crimes committed against the scheduled castes (SCs), popularly known as Dalits, by the Non-SCs throughout

India, their trend and inter-state variations and identifies the state where there is not only high incidence of crimes against the SCs but also high conviction rate in such cases. And at end, it examines why even the special laws have not been effective in protecting the rights and dignity of Dalits in most of the states and union territories. Tracing the various options tried in the past and why they have not been as effective as desired to protect the disinterest, this article justifies the relevance of separate settlement, an option suggested and demanded by none other than the architect of the Indian Constitution Dr. B.R. Ambedkar.

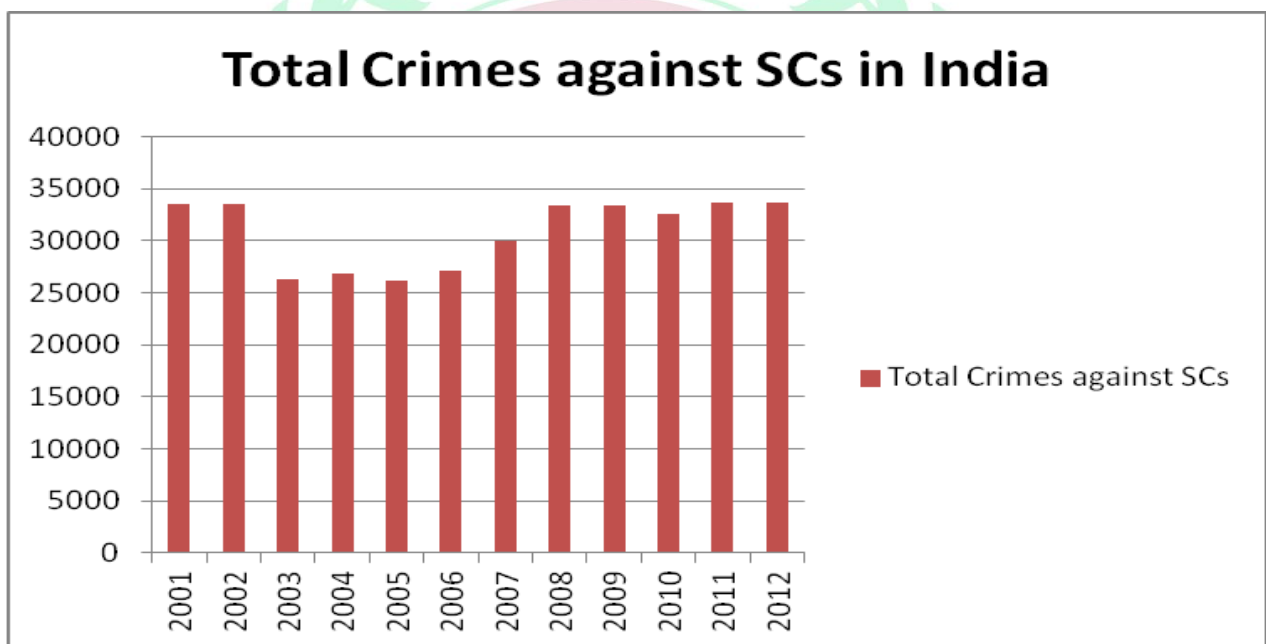
Crimes against Dalits

Although in the Brahmanic interpretation of caste, the exploitation of upper castes over the lower castes is not to be understood as exploitation, but as God-given opportunity to rectify their past misdeeds, in the eyes of natural justice such exploitation is nothing but exploitation. The effort against caste discriminations and caste crimes was not just the post-independence initiatives. Indeed, it started as early as 6th century BC when Buddha revolted against caste discrimination and caste based exploitations. Subsequently, the Bhakti Movements of 12th century opposed untouchability, but endorsed the *Varnashrama* or the *varna* system. The position of the neo-Vedantic movements of 19th century represented by Vivekananda, Dayananda Saraswati was also the same. While the *varna* system was considered nothing but a division of labour and membership to individual in each of the four *varnas* was based on his or her *gunas* or attributes or talents, the caste system is based on an altogether different characteristics and conditions which are by and large inimical to one's freedom and development. For instance, 1) caste system divides individuals at birth into people of inferior castes and people of superior castes; 2) it does not value individual's talents and aspirations in each caste, but only of certain caste, the so called superior castes; 3) it does not allow social interaction among people across castes, but only within one's own caste; 4) it denies education to a vast majority of the population—all women, the so called *Shudras* (today backward castes (BCs) and the so called *Ati-Shudras* (today Dalits or the scheduled castes (SCs)); 5) it denies all of them (women, BCs and the SCs) liberty, 6) it denies them all independent means of livelihood and forces them to live at the mercy of the 'superior others': all women to depend on men and all the BCs and the SCs to depend on the non-SC castes and communities, 7) it denies them right to choose their life partner outside their caste, and 8) it imposes stringent punishment against those violating any of these conditions.

Social revolutionaries like Mahatma Jyotirao Phule and the architect of the Indian Constitution Dr. B. R. Ambedkar revolted against the caste system. While Mahatma Gandhi appealed to the upper castes to treat the lower castes with dignity, Ambedkar condemned the entire caste system and advocated its annihilation. As early as 1850, the British India passed a law known as —The Caste Disabilities Removal Act XXI of 1850 to end caste based disabilities faced by the people of lower castes. Later, the British India also recognized them as scheduled castes (SCs) under a special Act known as Government of India Act 1935 for extending special protection. In 1938, —The Madras Removal of Civil Disabilities Act 1938 (Madras Act XXI of 1938) came into operation. Between 1943 and 1950, 17 such laws were enacted by different provinces of India. However, none of these laws was of national level

one. Enactment of such laws became a possibility only after India's Independence. Under Article 17 of the Indian Constitution, untouchability is abolished and its practice in any form is an offense punishable under law. The law especially enacted for the purpose was known as the Untouchability (Offenses) Act, 1955 which was subsequently amended in 1976 and renamed as the —Protection of Civil Rights Act, 1955 (PCR Act) to make the provisions of the Act more stringent. To deal with the atrocities committed against them yet another law known as —The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (POA Act) came into effect from January 30, 1990 and its rules came in to effect from March 31, 1995.

Crimes against Scheduled Castes (SCs)



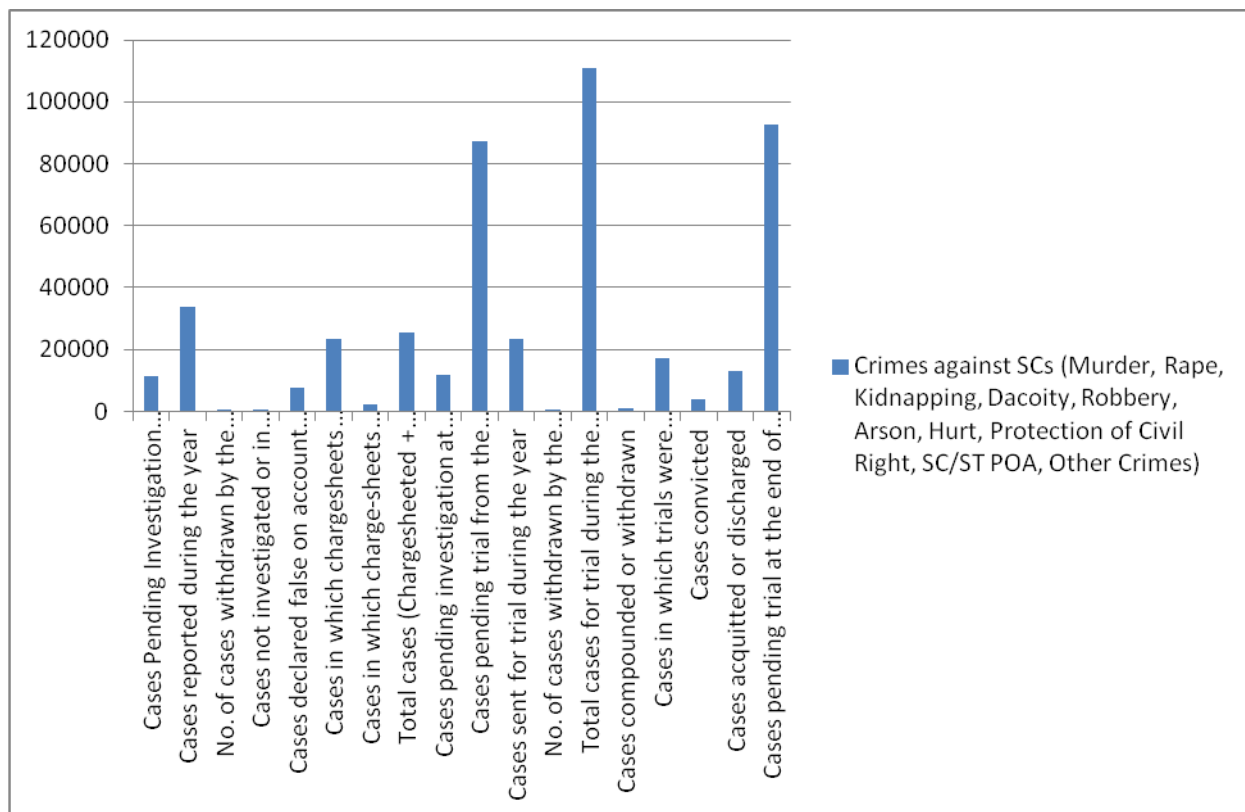
Source: NCRB, 2012

The ideals of Indian Constitution, as noted before, have no place and scope for caste based discrimination and crimes of any kind including practice of untouchability. Yet, a recent all-India study concludes that untouchability is practiced in one form or another in almost 80% of the villages and it is most extensive in the private and religious spheres, and least present in the public and political sphere. In one out of 10 villages, Dalits are still not allowed to wear new clothes, sunglasses or foot-wears or to use umbrellas and ride bicycles (Shah et al., 2006: 166). Besides un-touchability, crime against Dalits also continues and discouragingly the nature of such has become more inhuman over the years. The total number of crimes against SCs in India during 2001 to 2012 were as many as 33655 whereas the total number cases that

reached various courts in India for trial, including pending cases, in 2012 were as many as 110774 and 92537

A few reported incidents of violence against Dalits may be mentioned here to understand the gravity of issue: 1) on August 31, 2005 over 50 Dalit houses in Gohana, Haryana, furnished with valuable household items, were burnt down by the caste Hindu Jats, resulting in about 2000 Dalits including women, children and aged fleeing their houses to ensure their safety security; 2) on September 4, 2005 at Belkhed, about 60 kms away from Akola, Maharashtra where about 25 Dalit houses were burnt down; 3) on January 1, 2006, six members of a Dalit family (one woman and her five children) in Rampur Shyamchand village of Raghapur district in Bihar were burnt alive after burning down their house for their refusal to withdraw a theft case against the three upper -caste men; 4) on the 27th September, 2006 at Khairlanji village, near Nagpur, Maharashtra State, four members of the same family were brutally murdered, and the most horrendous aspect of the incident was that before committing the barbaric act of killing, the women were tortured, paraded naked and gang-raped for asserting their right to protect their land, the only means of their livelihood; 5) on April 21, 2010 both father and daughter of Mirchpur village of Hisar district in Haryana were burnt to death by the Jat mob which also looted 18 Balmiki houses. Even in States like Tamil Nadu which has progressed in many ways there are many villages where the Dalits live under perpetual terror. They have no right to walk through the main street of their own villages. Separate tumbler system is still practiced in many tea stalls. Dalits cannot use foot-wears in and around their village. In some villages, Dalits wearing clean cloths is also not tolerated. Many a time, caste humiliation results in death. The suicide of 50 year old Dalit school teacher Chandan Lal of Rinj village in Mandi, Himachal Pradesh on May 13, 2010 who was humiliated by his school lab attendant Kesaru Ram is a classic example in this regard (Times of India, TNN, May 22, 2010). Indeed, such incidences figure in news more frequently these days than ever before. Crime against Dalits is a reality even in villages of known political leaders. For instance, on May 7, 2010, about 40-odd Dalit families in Madhya Pradesh were denied entry into the temple of the village Jait which is the village of Madhya Pradesh Chief Minister Shivraj Singh Chauhan (CNN-IBN, update of May 7, 2010).

Registered Cases of Crimes against Scheduled Castes (SCs) in India



Source: NCRB, 2012

The data provided by the national crime records bureau (NCRB) are only the registered cases of crimes against the SCs. The NCRB gives data under 10 different crime heads, viz., 1) murder, 2) rape, 3) kidnapping and abduction, 4) dacoity, 5) robbery, 6) arson, 7) hurt, 8) PCR Act cases (cases registered under the Protection of Civil Rights Act, 1955), 9) POA Act cases (cases registered under the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act, 1989), and 10) others. Yet, even these limited registered cases provide enough light to understand the gravity of the problem. According to the NCRB data, the total number of registered incidence of crimes committed against the SCs (henceforth called —special cases), is on the increase. The number of crimes committed against the SCs was as many as 33501 in the year 2001. It increased to 33655 in 2012. Although a closer look at the recent data shows a declining trend with the number of crimes declining to 26,252 in the year 2003, it once again rose to 26,887 in 2004. With a marginal decline in 2005 (26127) the reported cases further rose to 27070 in 2006, 30031 in 2007 and 33430 in 2008; a marginal decline was noticed in 2009 (33412) committed against the SCs in India. The total number of incidence of crimes (all types of crimes) committed against the SCs steadily increased from 14318 in 1981 to as high as 33412 in 2009. This means that the number of crimes committed

against the SCs everyday in 1981 was about 39 only. Instead of declining, such incidence alarmingly increased over the years to as many as 93 everyday in 2009.

Crimes against the SC Women

Rape crimes against the SC women throughout India increased during 2004 to 2008 periodic though the 2009 witnessed a marginal decline. The total number of registered rape incidence in India increased from 1157 in 2004 to 1172 in 2005, 1217 in 2006, 1349 in 2007, 1457 in 2008, but declined to 1346 in 2009. While looking at the state-specific data it is clear that of all the states, Madhya Pradesh has had the highest share in the total number of registered rape cases in India for the entire 2003-2009 period, followed by Uttar Pradesh and Rajasthan. While the percentage share of rape cases that Madhya Pradesh accounted for was as high as 29 in 2004 and 2005, 27.5 in 2006, 25.4 in 2007, 24.5 in 2008 and 23.8 in 2009, the percentage share that Uttar Pradesh accounted for the same period was 22.3, 19.1, 18.8, 23.6 and 25.7 respectively, and that Rajasthan accounted for the same period was 10.9, 11.6, 10.8, 11.3, 10.5 and 12.1 respectively. A point of serious concern is that even in Kerala, the state with highest literacy rate and the state that has the sizable percentage of people who follow egalitarian religion like the Christianity and egalitarian ideology like Marxism, there is evidence of noticeable percentage of incidence of rape against SC women. The percentage of rape crimes against the SC women in Kerala was 4.2 in 2004, 3.8 in 2005, 5.1 in 2006 and 2007 and 4.6 in 2008 and 2009.

Disposal of cases by police

In this context, it becomes necessary to examine how different states have performed with respect to the promptness of police in registering the complaints of SCs and also disposing of cases by way of investigating and charge-sheeting the cases concerned. As quoted earlier, it is a fact that the police do indulge in discouraging the SC victims from registering complaint against the caste Hindus who committed crimes against the SCs. The data reveal that most of the cases (about 74 to 87%) taken for investigation were disposed, and of the cases so disposed, about 89 to 95% cases have been charge-sheeted for trial in the court of law. This is the picture not only at all India level, but also across states during 2001 to 2012. It may therefore be concluded that the disposal of cases of crimes against the SCs by the police has been satisfactory. But the fact remains that most of the incidences of caste discriminations go unreported.

Disposal of cases by courts - Pending and disposed cases

Once the case is charge-sheeted, it is to be sent to court for disposal which happens through a due trial process. When a case is tried in the court of law, it may result either in conviction, in which case the accused is to be punished or in acquittal, in which case the accused would be let free. The Courts in general dispose not only IPC cases but also special cases, although the special cases are to be tried in special courts to be established exclusively for the purpose.

The special cases here refer only to the cases of crimes committed against the SCs by the non-SCs/STs and are registered under the PCR and POA Acts. Most of the crimes committed by the non SCs/STs against the non SCs/STs and those committed by the SCs/STs against the SCs/STs are usually registered under the various sections of IPC. Therefore, a comparison between special cases and IPC cases may be attempted with respect to: i) percentage of cases pending trial in courts; and ii) percentage of cases ended in conviction out of the cases tried in the court of law. The NCRB provides enough data for both these indicators. This would help us understand the performance of Central and the State governments with respect to subjecting each charge-sheeted case under a due trial process and disposing the case ultimately. The state where there are a less percentage of cases pending trial and a high percentage of cases ending in conviction may therefore be understood as — better performing state.

Suggestions and Remedies

Complaint Monitoring Information System by NCSC

Constitution of the Commission

The National Commission for Scheduled Castes (hereinafter called the Commission) has been constituted under Article 338 of the Constitution of India as amended by the Constitution (Eighty-Ninth Amendment) Act, 2003. The Commission shall consist of a Chairperson, a Vice-Chairperson and three other Members.

Headquarters of the Commission

1. The Headquarters of the Commission shall be located at New Delhi.
2. The functions and responsibilities of the Commission as laid down in the Constitution are:
 - a) To investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
 - b) To inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;
 - c) To participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;
 - d) To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

- e) To make in such report recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
 - f) To discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
3. The Commission shall function by holding 'sittings' and 'meetings' at any place within the country and also through its officers at the Headquarters and in the State Offices. The Members of the Commission including the Chairperson and the Vice-Chairperson shall function in accordance with the procedure prescribed under these rules.

Conclusion

For a better comprehension of the working or efficacy of the special laws (laws such as the PCR Act and POA Act under which cases of crimes against the SCs are registered), the conviction rate in special laws may be compared with that of the IPC cases (cases registered under the Indian Penal Codes. The IPC is an Act, in other words, a law under which complainants of those belonging to non-SCs/STs against the non-SCs/STs and of the SCs/STs against the SCs/STs get registered (IPC cases). Our focus here has been on the complaints of SCs/STs against the non-SCs/STs. In an analysis of this kind, what is more important and not only how many cases the courts dispose in a year, but how many of the disposed cases end in conviction?

In the 1980s, the conviction rate in India in the registered cases of crimes against the SCs was less than 5%. During 2012 the conviction case, particularly in those cases registered under the POA Act, was 4093. However, the conviction rate in cases of all forms of crimes against the SCs during 2001 to 2012 period ranged from a minimum of 27.1% to a maximum of 34.1%. Although the 2001 witnessed the maximum conviction rate of 34.1%, it did not increase further. Rather, it showed a declining trend subsequently with a marginal upward trend in between.

REFERENCES

1. Data compiled out of data provided in the Crime in India Reports of 1981 to 2012, National Crimes Records Bureau, Government of India.

2. A. Ramaiah, Centre for study of social exclusion and inclusive policy, Tata Institute of Social Sciences, Mumbai, India.

