

COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES

(2006-2007)

(FOURTEENTH LOK SABHA)

FOURTEENTH REPORT

ON

MINISTRY OF HOME AFFAIRS, MINISTRY OF SOCIAL JUSTICE AND
EMPOWERMENT AND MINISTRY OF TRIBAL AFFAIRS

Action taken by the Government on the recommendations contained in the Fourth Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes – Atrocities on Scheduled Castes and Scheduled Tribes and Pattern of Social Crimes towards them.

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Presented to Lok Sabha on 22-8-2006

Laid in Rajya Sabha on 21-8-2006

LOK SABHA SECRETARIAT
NEW DELHI

August, 2006/Sravana, 1928(Saka)

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**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED
CASTES AND SCHEDULED TRIBES (2006-2007)**

Shri Ratilal Kalidas Varma - Chairman

MEMBERS – LOK SABHA

2. Shri Anandrao Vithoba Adsul
3. Shri S. Ajaya Kumar
4. Shri M. Appadurai
5. Shri Biren Singh Engti
6. Shri Eknath M. Gaikwad
7. Dr. P.P. Koya
8. Shri G.V. Harsha Kumar
9. Shri Rajesh Kumar Manjhi
10. Shri Kailash Meghwal
11. Shri Rupchand Murmu
12. Shri Jual Oram
13. Shri Ashok Kumar Pradhan
14. Shri Harikewal Prasad
15. Shri Ashok Kumar Rawat
16. Shri Baju Ban Riyan
17. Dr. (Col.) Dhani Ram Shandil
18. Shri Sugrib Singh
19. Shri Lalit Mohan Suklabaidya
20. Shri Vanlalzawma

MEMBERS – RAJYA SABHA

21. Shri Sharad Anantrao Joshi
22. Shri Robert Kharshiing
23. Shri Surendra Lath
24. Shri Lalhming Liana
25. Shri Harendra Singh Malik
26. Dr. Radhakant Nayak
27. Shri Nabam Rebia
28. Smt. Maya Singh
29. Shri Veer Singh
30. Shri Nandi Yellaiah

SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu, Additional Secretary
2. Shri P.K. Bhandari, Joint Secretary
3. Shri Gopal Singh, Director
4. Ms. J.C. Namchyö

INTRODUCTION

I, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes having been authorised by the Committee to finalise and submit the report on their behalf, present this Fourteenth Report (Fourteenth Lok Sabha) on action taken by the Government on the recommendations contained in their Fourth Report (Fourteenth Lok Sabha) on the Ministry of Home Affairs, the Ministry of Social Justice and Empowerment and the Ministry of Tribal Affairs regarding atrocities on Scheduled Castes and Scheduled Tribes and pattern of social crimes towards them.

2. The Draft Report was considered and adopted by the Committee on 10th August, 2006 (Appendix-I).

3. The Report has been divided into the following chapters:-

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|-----|---|
| I | Report |
| II | Recommendations/Observations, which have been accepted by the Government. |
| III | Recommendations/Observations which the Committee do not desire to pursue in view of replies of the Government. |
| IV | Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration. |
| V | Recommendations/Observations in respect of which final replies of the Government have not been received. |

4. An analysis of the action taken by the Government on the recommendations contained in the Fourth Report (Fourteenth Lok Sabha) is given in Appendix-II. It would be observed therefrom that out of 75 recommendations/observations made in the report, the Government have accepted 40 recommendations i.e. 53 per cent. The Committee do not desire to pursue 19 recommendations i.e. 25 per cent, in view of the Government replies. There are 16 recommendations i.e. 22 per cent in respect of which replies of the Government have not been accepted by the Committee and which require further comment.

NEW DELHI
18 August, 2006
27 Sravana, 1928 (Saka)

RATILAL KALIDAS VARMA
Chairman
Committee on the Welfare
of Scheduled Castes and
Scheduled Tribes

REPORT

CHAPTER – I

1.1 This Report of the Committee deals with the Action Taken by the Government on the recommendations and observations contained in the Fourth Report (Fourteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on “Atrocities on Scheduled Castes and Scheduled Tribes and pattern of social crimes towards them.”

1.2 The Fourth Report was presented to Lok Sabha on the 27th April, 2005. It contained 75 recommendations. Replies of the Government in respect of all these recommendations have been examined. During examination it has been noticed that in some of the recommendations, the Government in their action taken notes have only replied as ‘Noted’. The Committee presume that the recommendations have been accepted and expect that the Government would positively comply with the recommendations giving details of action taken in their final action taken notes. The replies are thus categorized as under:-

- (i) Recommendations/Observations which have been accepted by the Government (Sl. Nos. 5, 6, 7, 10, 13, 15, 16, 18, 19, 20, 21, 24, 27, 29, 32, 34, 36, 38, 39, 42, 43, 44, 45, 49, 50, 51, 52, 54, 57, 58, 59, 60, 62, 63, 66, 67, 68, 69, 73 and 75).
- (ii) Recommendations/Observations which the Committee do not desire to pursue taking into consideration the replies of the Government (Sl. Nos. 4, 8, 12, 14, 17, 26, 28, 30, 31, 35, 40, 46, 47, 53, 61, 64, 65, 71 and 74).

- (iii) Recommendations/Observations replies to which have not been accepted by the Committee and which need reiteration (Sl. Nos. 1, 2, 3, 9, 11, 22, 23, 25, 33, 37, 41, 48, 55, 56, 70 and 72).
- (iv) Recommendations/Observations in respect of which final replies have not been received – (NIL).

1.3 The Committee will now deal with those Action Taken Replies of the Government which need reiteration or merit comments:-

Recommendation (Sl. Nos. 1, 2 & 3, Para Nos. 1.19, 1.20 & 1.21)

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

1.5 The Committee, therefore, recommend that a strategy, should be evolved by the Centre in cooperation with the States for earnestly carrying out their duties for the strict implementation of the provisions laid down in these two legislations (Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, 1989) so that they could go a long way in providing timely justice to the Scheduled Castes and Scheduled Tribes.

1.6 The Committee further recommend that the Government should consider bringing in effective constitutional amendments so that no one is able to dilute the special laws and special provisions for Scheduled Castes and Scheduled Tribes made by Parliament. The Committee also suggest that timely action be taken and judicial delays be reduced so that the victims belonging to Scheduled Castes/Scheduled Tribes do not lose confidence in the implementing agencies, enforcement machinery and the judicial process.

Reply of the Ministry of Social Justice and Empowerment

1.7 The Ministry of Social Justice & Empowerment as well as Ministry of Home Affairs have been addressing the State Governments/Union Territory Administrations to implement the provisions of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Act”) in letter and spirit. The Hon’ble Union Minister for Social Justice & Empowerment also addressed a d.o. letter dated 28.12.2004 to the Chief Ministers of States suggesting therein various measures for effective implementation of the Acts, like ensuring registration of First Information Report (FIR), timely arrest and filling of charge sheets in the courts. The first ever-National Conference on Prevention of Atrocities against Scheduled Castes and the Scheduled Tribes and Protection of Civil Rights was held in New Delhi on 11.02.2005, presided by Hon’ble Union Minister for Social Justice & Empowerment and attended by Hon’ble Union Home Minister, Hon’ble Union Minister of Law & Justice, Chairman, National Commission for Scheduled Castes, Chairperson, National Commission for Safai Karamcharis, State Ministers, Secretaries to State Governments. Heads of the

PCR Cells of States, Human Rights Activists, Non Governmental Organizations had also participated.

1.8 The Acts already have the Constitutional mandate and that the punishments for the offences have been well defined. The non-SC/ST public servants, willfully negligent towards performance of their duties can also be punished under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Thus, there seems to be no necessity of amending the Constitution for ensuring effective implementation of the Acts.

Comments of the Committee

1.9 The Committee are not fully satisfied with the view of the Government that there seems to be no necessity of amending the Constitution for ensuring effective implementation of the Acts. The Committee agree that the two Acts have the constitutional mandate, for effecting punishment for offences that are well defined and that non SC/ST public servants, willfully negligent towards performance of their duties can also be punished, yet the desired results have not been forthcoming. The charge sheeting rate may be high, but the conviction rates continue to be abysmally low as compared to other special laws. Further, not even a single case of punishing guilty officers was presented to the Committee either during examination on the subject or thereafter. The Committee, hence feel that there is serious lapse on the part of implementing agencies in enforcing the Acts which has resulted in low conviction rates under

these two special Acts. The Committee appreciate that first ever National Conference on Prevention of Atrocities against SCs and the STs and Protection of Civil Rights was held on 11.2.2005 but they are more interested in the end result that should culminate in achieving the desired results in protecting SCs and STs. The SCs and STs are still forced to face the same discrimination and humiliation even after passage of 59 years of independence and after enactment of Protection of Civil Rights Act, 1955 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Committee, therefore, desire for strict compliance of these Special Acts and speedy trial for justice and as such reiterate for suitable constitutional amendments to deal with the issue more aggressively.

Recommendation (Sl. No. 4, Para No.1.22)

1.10 The Committee note that there has been no appreciable decline in the incidence of atrocities on the persons belonging to Scheduled Castes and Scheduled Tribes even after passage of more than half a century since Independence, as admitted by the Home Secretary during the course of evidence.

Reply of the Ministry of Home Affairs

1.11 Data relating to incidents of crime against the members of Scheduled Caste (SC) and Scheduled Tribe (ST) communities under the IPC, PCR and POA Acts during the period from 1999 to 2003 is given below. There has been a decline of 21.6% and 13.1% respectively in the incidence of crime against SCs and STs in 2003 as compared to 2002.

Table-I

Incidence of Crime against Scheduled Castes during 1999-2003

Sr. No.	Crime Head	1999	2000	2001	2002	2003
1	Murder	506	526	763	739	581
2	Rape	1000	1083	1316	1331	1089
3	Kidnapping & Abduction	228	268	400	319	232
4	Dacoity	36	38	41	29	24
5	Robbery	109	108	133	105	70
6	Arson	337	290	354	322	204
7	Hurt	3241	3497	4547	4491	3969
8	PCR Act	678	672	633	1018	634
9	SC/ST (POA) Act	7301	7386	13113	10770	8048
10	Other Offences	11657	11587	12201	14383	11401
	Total	25093	25455	33501	33507	26252

Table-II

Incidence of Crime against Scheduled Tribes during 1999-2003

Sr. No.	Crime Head	1999	2000	2001	2002	2003
1	Murder	80	59	167	189	185
2	Rape	384	403	573	597	551
3	Kidnapping & Abduction	59	48	67	69	69
4	Dacoity	3	5	16	37	30
5	Robbery	8	2	73	62	46
6	Arson	43	32	108	58	38
7	Hurt	646	447	756	788	790
8	PCR Act	45	31	58	47	37
9	SC/ST (POA) Act	574	502	1667	1800	1340
10	Other Offences	2608	2661	2732	3127	2803
	Total	4450	4190	6217	6774	5889

Source: Crime in India-NCRB

Comments of the Committee

1.12 The Committee find from the data submitted that there has been an increase in the number of crimes against SCs/STs in the year 2003 as compared to the figures of the years 1999 and 2000. Moreover, the years 2001 and 2002 had witnessed considerable increase in the crimes against SCs/STs. The Committee also had put forward the same view point that there has been no appreciable decline in the incidence of atrocities even after passage of half a century. Furthermore there appears to be some discrepancy between the figures collected by National Crime Records Bureau and the Ministry of Social Justice and Empowerment as incidence of crime against SC/ST is much higher during the years 1999-2003 under the two Acts as per Ministry of Social Justice and Empowerment. The Committee further fail to understand as to why the figures for the year 2004 have not been made available despite delay in submission of action taken replies which were only forwarded during the last week of October, 2005.

The Committee hope that the figures are cross checked with the Ministry of Social Justice and Empowerment and the Committee apprised of the accurate figures as soon as possible.

Recommendation (Sl. Nos. 6 & 7, Para Nos. 1.24 & 1.25)

1.13 The Committee, therefore, impress upon the Government to do some introspection and find out as to where the efforts went wrong in bringing the desired change in the society. The Committee suggest that the Centre and the States come up with a joint strategy with a high level of coordination among themselves to achieve the much desired goal and apprise the Committee about the steps taken in this direction.

1.14 The Committee would also like to advise the Government to bring about attitudinal changes in the society through education and contrive new ways to inculcate moral values in the people with the help of different Ministries and the vast machinery at their disposal. The Committee are confident that if the Government, political parties, voluntary organisations and media are persistent enough in their endeavour to reach out to and help these disadvantageous groups, nothing can stand in the way of ensuring the much needed social justice for them.

Reply of the Ministry of Social Justice and Empowerment

1.15 The Hon'ble Minister for Social Justice & Empowerment in this regard has already addressed a detailed d.o. letter dated 28.12.2004 to the Chief Ministers of States suggesting therein the specific measures towards effective implementation of the Acts, which are summarized below:-

- (i) Identification of atrocity prone areas and deploying police force therein.

- (ii) Ensuring the visit of District Magistrate/District Collector and the District Superintendent of Police to each place of occurrence of atrocity and registration of meticulously documented First Information Report and filing of effective charge sheet in the court at the earliest.
- (iii) Timely handling of prosecution of cases by Special Public Prosecutors and strengthening of the institution of Special Public Prosecutors.
- (iv) Setting up of exclusive Special Courts for speedy trial of cases.
- (v) Sensitizing Police Officers and imparting regular and effective training to the Police Officers, Special Public Prosecutors and the concerned District Administration officers in regard to the implementation of the Acts.
- (vi) Ensuring holding of periodic meetings of the State Level and District level Vigilance and Monitoring Committees set under the Chairpersonship of Chief Minister and District Collectors respectively.
- (vii) Launching awareness generation campaign and organizing seminars on the provisions of the Acts with participation of Panchayati Raj Institutions and NGOs.

1.16 The Ministry of Information & Broadcasting also by various programmes, through All India Radio, Doordarshan, Directorate of Advertising & Visual Publicity and Song & Drama Division brings out various programmes in the form of talks, plays, features, discussions, interviews, comparing and slogans etc.

1.17 Further, under a Centrally Sponsored Scheme, central assistance is also provided to State Governments and Union Territory Administrations for strengthening of the administrative, enforcement and judicial machinery, awareness generation and for relief and rehabilitation of the affected persons.

Comments of the Committee

1.18 The Committee appreciate that the Government even before presentation of the report had taken note of the points raised during evidence and issued advisories at the level of Hon'ble Minister of Social

Justice and Empowerment to the States. The Committee would like the Government to persistently endeavour through popular mass media to educate the people about brotherhood of mankind so as to bring an attitudinal change towards the weaker sections of the society.

Recommendation (Sl. No. 9, Para No. 1.27)

1.19 The Committee further observe that the National Commission for the Scheduled Castes constituted under Article 338 and the National Commission for the Scheduled Tribes constituted under Article 338A of the Constitution which are entrusted with the responsibility of ensuring that the safeguards and other measures for protection, welfare and development of Scheduled Castes and Scheduled Tribes are implemented, have not been given the statutory responsibility of overseeing the implementation of the Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, 1989. The Committee desire that the Commissions be given the statutory responsibility of overseeing the implementation of the two Acts. The Committee also desire that the Commissions be empowered by making their recommendations mandatory instead of being advisory in nature.

Reply of the Ministry of Social Justice and Empowerment

1.20 The National Commission for Scheduled Castes and the National Commission for Scheduled Tribes under Article 338 of the Constitution of India have been entrusted with powers to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution, under any other law or, under any order of the Government and to evaluate the working of such safeguards. These Commissions have the

powers to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes. The Commissions also have the duty to present to the President, annually and at such other time as the Commission may deem fit, reports upon the working of Constitutional safeguards and such reports are required be laid before each House of Parliament along with an Action Taken Memorandum. Thus, report and recommendations of the Commissions receive utmost attention.

1.21 As regards making the recommendations of the Commissions mandatory, the recommendations of all Commissions are not mandatory and advisory in nature and the final decision making rests with the government.

Comments of the Committee

1.22 The Committee would like the two National Commissions to be powerfully armed with making their recommendations mandatory for effective implementation of safeguards provided for the SCs and STs. The Committee feel that while the Commissions have been entrusted to present report giving recommendations as to the measures that should be taken by the Union or any State for effective implementation of the safeguards mentioned in the Constitution, it would be all the more justified to empower the two Commissions to statutorily oversee the implementation of Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, 1989 also.

Recommendation (SI. No. 11, Para No. 1.29)

1.23 It cannot be denied that the roles of the Centre and the States are clearly defined in the Constitution. The States are expected to perform effectively to

prevent atrocities. But it is of serious concern to the Committee that the role of the Central Ministries under Article 256 has been restricted to only pursuing the States to implement the Acts in letter and spirit. The Ministry of Home Affairs have also simply absolved themselves of the important responsibility by merely stating that “Police and Public Order” are State subjects. They somehow seem to have forgotten the constitutional obligation under Entry 65(c) of the Union List and Entries 1,2 & 3 of the Concurrent List. They have also failed to shoulder the implied responsibility of protecting every State from internal disturbances as laid down in Article 355 of the Constitution. Response of the two Ministries (Ministry of Home Affairs and Ministry of Social Justice and Empowerment) towards raising of a Central force for the purpose or some Central agency for that matter has been totally negative. The Committee, therefore, impress upon the two Ministries to contrive and see what positive steps can be taken in this direction.

Reply of the Ministry of Social Justice and Empowerment

1.24 Maintenance of law and order and the implementation of laws is the responsibility of State Governments in terms of the federal structure of the Constitution. The incidents of offences of atrocities are sporadic, localized and generally against individuals and thus, not comparable in magnitude and nature to the internal disturbances, attracting provisions under Article 355 of the Constitution.

1.25 Under the Police Act, 1861, the police officer after investigation lays information and this is exclusively a State power. No doubt separate investigating agencies have been created for certain special offences under the Central Acts and the authorities created under those Acts have powers relating to

each particular Act for the purpose of levying penalties or pursuing other remedies. However, so far as prosecution in a Court is concerned, even for offences under those Acts, the matter rests with the State Police. As such raising of a Central force or Central agency for prevention of atrocities would not serve the desired purpose.

Comments of the Committee

1.26 The Committee are not convinced by the reply of the Government. They feel that social set-up and harmony of a certain area are always threatened whenever atrocities occur. The Committee further feel that it was due to increased concern over atrocities against SC/ST, that the Government introduced a Central legislation. Continuity of such incidents despite stringent laws establish failure of State police machinery and justify setting up of a special Central Force to counter such threats.

Recommendation (Sl. No. 19 & 20, 21 Para Nos.1.56, 1.57 & 1.58)

1.27 The Committee note that while the Ministry of Home Affairs are concerned with criminal aspects of atrocities and the Ministry of Social Justice and Empowerment are responsible for rehabilitation aspects including coordinating measures relating to atrocities enumerated in the two Acts/Rules, a lot of ambiguity exists as to which Ministry is finally responsible as regards measures relating to criminal aspects contained in the Act. This has been experienced even while obtaining information on atrocities from the two Ministries on points relating to disposal of cases, remedial measures thereto, special cells, legal aid, etc. Both the Ministries were in utter confusion as to who would render the information. So far as collection, compilation, and analysis of data regarding atrocities on Scheduled Castes / Scheduled Tribes are concerned, both the

Ministries as well as the National Commission for the Scheduled Castes and Scheduled Tribes (now bifurcated into two separate Commissions) are doing the same job as pointed out in para 1.41. Both the Ministries have failed to submit a satisfactory view on whether the division of responsibility has affected adversely or has facilitated monitoring of atrocities.

1.28 The Committee further observe with utmost dissatisfaction that the matter relating to transfer of the subject to the Ministry of Home Affairs, though recommended more than 10 years ago in the Committee's Twenty-third Report (Tenth Lok Sabha) on atrocities, is still pending. The position today remains the same as that in 1993. The proposal to effect necessary change in the Government of India (Allocation of Business) Rules, 1961 is still under consideration of the Cabinet Secretariat. The Ministries have totally failed to rightly emphasise the need for such a change.

1.29 The Committee strongly deprecate the apathetic approach of the Government over the delay in taking a decision on the transfer of the subject 'atrocities' to the Ministry of Home Affairs and suggest that an earnest effort should be made in this direction. The Committee further suggest the two Ministries to jointly emphasise on the Cabinet Secretariat the need for an immediate decision in this regard.

Reply of the Ministry of Social Justice and Empowerment

1.30 Appropriate amendments have been carried out in the Government of India (Allocation of Business) Rules, 1961 vide notification Doc.CD-8/2004, dated 06.01.2004.

Comments of the Committee

1.31 The Committee would like to know whether the subject “Atrocity on Scheduled Castes and Scheduled Tribes” has been transferred to the Ministry of Home Affairs as their replies do not convey whether the subject has actually been transferred to that Ministry whereas the Ministry of Social Justice and Empowerment have submitted that appropriate amendments regarding the transfer of the subject have been carried out vide notification dated 6th January, 2004. Moreover, the Ministry of Home Affairs have not responded to the observations made by the Committee.

Recommendation (Sl. No. 22 & 23, Para Nos.1.59 & 1.60)

1.32 The Committee do not agree with the justification given by the Ministry of Home Affairs regarding equal status enjoyed by all Ministries in getting desired responses from State Governments/Union territories. The Committee also feel that separating criminal justice administration from development is in no way going to affect the rehabilitation or socio-economic development or formulation of plan/strategy for upliftment and empowerment of Scheduled Castes and Scheduled Tribes as far as smooth coordination exists between the two Ministries. The Ministry of Home Affairs can always advise the other Ministry on rehabilitation aspects also wherever they consider it necessary to do so. The Committee opine that in the absence of proper coordination, the monitoring of cases of atrocities is definitely going to be affected because of the division of responsibility. The Home Secretary has admitted during evidence that there is lack of coordination among the Ministries on the subject.

1.33 The Committee are, of strong opinion that, because of their important status and allocation of responsibilities, the Ministry of Home Affairs certainly are in a better position to get the required responses from the State Governments/Union territories. The State Police Forces would be more responsive and amenable to intervention by the Ministry of Home Affairs since officers of the IPS whose service records are maintained by the Ministry enjoy important positions there. Moreover, the Ministry of Home Affairs are financing State Governments for upgradation of the Police Forces.

Reply of the Ministry of Home Affairs

1.34 All crimes, including crimes against Scheduled Castes and Scheduled Tribes, are essentially problems of law and order which are handled by the State Governments through their own police forces. Under the scheme of Constitutional division of responsibilities, the Central Government has no control over the State police forces. Merely because the service records of IPS officers are maintained by the Ministry of Home Affairs (MHA), it may not be appropriate to conclude that the State Police Forces would be more responsive and amenable to intervention by the Ministry. IPS officers, when posted under a State Government, are completely under the control of that Government. Therefore, the State police would be duty bound to be more responsive to the directions of its controlling State Government rather than to the missive/advisories of MHA. Given the federal structure we have the Union Government does its best to ensure that social tensions and inequalities, which sometimes result in atrocities against members of SC/ST communities and other weaker sections of society, are minimized. The recommendation of the

Committee regarding greater coordination between MHA and the line Ministries has been noted.

Comments of the Committee

1.35 The Committee appreciate that the Government have agreed to have better coordination between the Ministry of Home Affairs and line Ministries. Though atrocities on SCs and STs is a law and order problem and handled by State Police forces, the Government would however, appreciate that atrocities on SCs and STs and similar incidents cannot be allowed to happen or reoccur. If provisions are not available in the present federal structure of functioning of the Indian Union, option of having an agency on the lines of Federal Bureau of Investigation as in the United States of America will have to be seriously considered. The Government should examine as to how far the police forces controlled by States are made more amenable to Central directions. As regards, status enjoyed by the Ministry, the Committee are of the considered opinion that the Ministry of Home Affairs enjoys an important status. Furthermore, till formation of the Ministry of Social Justice and Empowerment, the subject of atrocities on SCs and STs was being handled by the Ministry of Home Affairs. The Ministry of Social Justice and Empowerment was exclusively formed to function as a social welfare Ministry and not as a Ministry to control criminal justice administration. The Committee, therefore, hope that the Government would consider the suggestions in a positive manner and come up with appropriate solution.

Recommendation (Sl. No. 25 Para No.1.62)

1.36 The Committee, further, recommend that the Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, 1989 should be administratively under the control of the Ministry of Home Affairs since thereby it would be possible to avoid duplication of work of collecting, compiling and analyzing data. The Committee feel that the National Crime Records Bureau, which is already doing a commendable job of collecting, compiling and analyzing data, can be much more effective and professional in carrying out this duty. The reports, thus exclusively prepared, should be laid in Parliament by the Ministry every year. Based on the findings, the Ministry can go one step further in recommending corrective measures to the State Governments.

Reply of the Ministry of Home Affairs

1.37 Separating 'criminal justice administration' from 'development', insofar as they relate to Scheduled Castes and Scheduled Tribes, would deprive the Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs, as the case may be, of vital inputs which come only from a 'feel' of the ground situation and are pre-requisites for devising plans and strategies for the uplift and empowerment of Scheduled Castes and Scheduled Tribes. The Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs would lose their respective *raison d'être* if they cease to concern themselves with the issues relating to crimes and atrocities being committed against the members of Scheduled Castes and Scheduled Tribes.

1.38 The Ministry of Home Affairs deals with the management of internal security throughout the country. It also deals with the subject of criminal law and administration of criminal justice. However, it does not administer all Central laws

dealing with specific crimes. For instance, crimes relating to corruption are handled by the Ministry of Personnel and Training; the Environment (Protection) Act, the Forest Conservation Act, the Wild Life (Protection) Act, etc. are administered by the Ministry of Environment and Forests; the Department of Women and Child Development administers the Immoral Traffic (Prevention) Act, the Dowry Prohibition Act; etc., the Ministry of Finance administers the Narcotic Drugs and Psychotropic Substances Act, Foreign Exchange Management Act, etc. These Ministries holistically deal with the subjects corresponding to these laws. Thus, the Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs would not be the only Ministries having to deal with crimes of a special nature. Both the Ministries have access to the data compiled by NCRB and there is no need for duplication.

Comments of the Committee

1.39 The contention that separating criminal justice administration from development would deprive Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs of the vital inputs and hamper planning process for the upliftment and empowerment of SCs and STs, is totally misconceived. One cannot deny the planning process undertaken by the Planning Commission of India regarding socio-economic upliftment of SCs/STs without connectivity to the so called parameters. Engaging Ministry of Social Justice and Empowerment and Ministry of Tribal Affairs for criminal justice administration related activities would only lead to duplication of duties and result in confusion among States but would also result in deviation from the actual cause for which the Ministries have been

formed. It is highly disturbing that even the dismal conviction rates and high acquittal rates under the two special laws have been unable to prompt the Ministry of Home Affairs to seriously think and take over the subject as suggested by the Committee in their earlier Report (23rd Report / 10th Lok Sabha) way back in 1993. The Committee, therefore, reiterate their earlier recommendation that the Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, should be administratively under the control of Ministry of Home Affairs.

Recommendation (SI. No. 27, Para No. 2.30)

1.40 The Committee, therefore, strongly recommend that the Ministry of Social Justice and Empowerment should order a survey by some independent institution, agency or NGO working for the cause, to study the reasons that may have led to increase in crimes against Scheduled Castes/Scheduled Tribes. The National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes should also be consulted to include other important issues to be studied during such a survey.

Reply of the Ministry of Social Justice and Empowerment

1.41 The Ministry of Social Justice & Empowerment under its Central Sector Scheme of Research and Training has been financially assisting the independent research agencies for conducting research studies related to the untouchability

and atrocities and implementation of the Acts. The list of the studies commissioned during the last three years is given below:-

Sr. No.	Topic of the study	Name of the research agency
1	2	3
1.	Study of the Main Causes/Reasons for increasing crimes on SCs and STs and the Disposal of cases by Designated Special Courts in comparison to the cases disposed of by Exclusive special courts under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh, Rajasthan, Tamil Nadu and Uttar Pradesh.	National Law School of India University, Bangalore
2.	Study on implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 in Punjab: An impact evaluation.	Ambedkar Centre of Socio-economic study for the Weaker Sections of Society, Department of Sociology, Punjab University, Chandigarh.
3.	Study on implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 – Impact of assistance provided for relief to the affected persons/families in Tamil Nadu.	Voluntary Association for People Service (VAPS), Tamil Nadu.
4.	Study on implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 – Impact of assistance provided for relief to the affected persons/families in Andhra Pradesh.	Adithya Educational Academy, Guntur, Andhra Pradesh
5.	Study on implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 – Impact of assistance provided for relief to the affected persons/families in Madhya Pradesh	Society for Empowering the Youth and Downtrodden, New Delhi.
6.	Study on Untouchability and caste based discrimination of Scheduled Castes in Punjab	Department of Economics and Sociology Punjab Agricultural University, Ludhiana
7	“Untouchability: Study of its Causes, Mechanism, Consequences and coping strategies (the case of Sehore and Gwalior Districts of Madhya Pradesh)”	Department of Sociology/Social Work, Barkatullah University, Bhopal
8.	An evaluation of working of the Protection of Civil Rights Act, 1955 and its impact on the abolition of Untouchability in 4 regions (South, North, East and West)	National Law School of India University, Bangalore

9.	Implementation of Protection of Civil Rights Act –1955 and the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act – 1989 in Haryana	Forum for Social Justice, Haryana
10.	Working of Legal and Rehabilitation measures for the Scheduled Castes: an appraisal in the context of Chakwada and Jhajjar incidents of Rajasthan and Haryana	Indian Social Institute, New Delhi
11.	Implementation of Projection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 in Uttar Pradesh.	Department of Law, KGK College, Moradabad, Uttar Pradesh
12.	An evaluation study of relief measures extended under the provisions of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 – A case study in Hoshiarpur, Jalandhar and Kapurthala Districts of Punjab.	Guru Angad Dev Sewa Society, Punjab.
13.	Emerging trends and forms for untouchability – A study of discrimination against students and teachers in educational institutions of Gujarat.	Society for Empowering the Youth and Downtrodden, New Delhi.
14.	Reflected study of crime on Scheduled Castes in Bihar.	Vaishali Jan Jagran Samiti, Bihar.

1.42 As reported by the Ministry of Tribal Affairs, the National Commission for Scheduled Tribes, in its meeting held on 15th June, 2005, has decided that Commission might explore the possibilities of undertaking a socio-economic study of Scheduled Tribes including atrocities through a professional Agency. Accordingly, selected Universities/Institutes have recently been addressed to submit their proposals along with the financial estimates for a study on the causative factors responsible for atrocities on members of 'Scheduled Tribes in 9 Fifth Schedule States. Further action to assign the study to one of the agencies will be taken on receipt of the proposals from them.

Comments of Committee

1.43 The Committee desire that the Ministry of Social Justice and Empowerment should analyse the reasons that may have led to increase in the crimes against SCs/STs and take corrective steps to check those

reasons. The Committee should be informed of the steps taken in the matter.

Recommendation (SI. No. 33, Para No. 2.36)

1.44 The Committee fully concur with the suggestions made by the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in their Report during 1990 on “Atrocities on Scheduled Castes and Scheduled Tribes – causes and remedies” and, accordingly, recommend that these steps should be constantly pursued and reviewed with the State Governments. The suggestions regarding non-payment of minimum wages, theft of cattle, fraud in maintenance of loan accounts and preventing access or non-access to burial or cremation grounds as well as extension of externment provisions to atrocity prone areas should be quickly considered to be brought within the ambit of the Prevention of Atrocities Act.

Reply of the Ministry of Social Justice and Empowerment

1.45 The ambit of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is in regard to offences of atrocities committed by non-SC and non-ST persons on Scheduled Castes and Scheduled Tribes. The offences like non-payment of minimum wages, theft of cattle, fraud in maintenance of loan accounts are of the nature of being committed even by a SC or a ST person on another SC or a ST person and in that situation the offence would not be covered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. As regards non-access or non-access to burial or cremation grounds, such an offence is already covered under Section 4(v) of the Protection of Civil Rights Act, 1955. Likewise, the ‘Externment’ provision is also covered under

Section 10 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Comments of the Committee

1.46 The reason advanced by the Government is misconceived. Though, it is true that crimes committed by SCs/STs against SCs/STs are not treated as atrocities, this however should not restrict the Government to consider bringing more offences under the ambit of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Committee, therefore, reiterate that offences like non-payment of minimum wages, theft of cattle, fraud in maintenance of loan accounts must be incorporated in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Recommendation (SI. No. 35, Para No. 2.38)

1.47 The Committee are dismayed to note that even in the era of technological advancement in the field of Information Technology, there is no effective mechanism to gather information about the crimes committed against Scheduled Castes/Scheduled Tribes. The Central Ministries still rely on news items, references from elected representatives and reports / returns received. There is no system in existence to get data on day-to-day basis. Immediate information on particular cases is received only when asked for as admitted by the Secretary, Ministry of Home Affairs during evidence. The Committee, therefore, recommend that a system should be established at District level throughout the country at the earliest so that the Central Ministries as well as the National Commission for the Scheduled Castes and the National Commission for the

Scheduled Tribes are able to receive data on crimes against SCs/STs under Indian Penal Code and the Special Laws instantly and in any case not later than three days from the date of occurrence of the crime. The responsibility of rendering information should be fixed on the District Magistrate/Collector and Officers who fail to furnish such inputs within the prescribed period may be liable for punishment for inaction under Section 4 of the Prevention of Atrocities Act.

Reply of the Ministry of Home Affairs

1.48 National Crime Records Bureau (NCRB), the premier organisation under MHA, in collaboration with the National Informatics Centre, has already developed a Crime & Criminal Information System (CCIS) and a web-enabled Daily Crime Report (DCR) System. Both the application systems are at nascent stage. Implementation of CCIS by all States/Union territories will give a boost in controlling activities of criminals and prevention of crimes. The DCR system would make it possible for all concerned agencies to retrieve report/data on crimes in the fastest possible manner. To ensure smooth functioning of the systems, NCRB has provided extensive training to the Staff of SCRBx and DCRBx and more than 17,000 police officers have been trained in using computers, CCIS/DCR.

Comments of the Committee

1.49 The Committee hope that the Government would also consider making District Magistrate/Collector and Officers liable for punishment under Section 4 of the Prevention of Atrocities Act in case of their failure in providing vital inputs of atrocities on SCs/STs in time.

Recommendation (Sl. No. 37, Para No. 2.40)

1.50 The Committee understand that failure on the part of the Government to check atrocities even after promulgation of the Prevention of Atrocities Act, 1989, is mainly because though related with the maintenance of law and order situation it is being ironically administered by the Ministry of Social Justice and Empowerment responsible for socio-economic and developmental issues. The Ministry of Home Affairs can better handle the job since they operate in the related field and have the expertise to deal with crimes. As such, the Act should exclusively be administered by the Ministry of Home Affairs as recommended in Para 1.62 of Chapter I.

Reply of the Ministry of Home Affairs

1.51 The Ministry of Social justice & Empowerment is the administrative Ministry for implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Protection of Civil Rights Act, 1955. Prevention of crimes against SCs/STs not only involves punitive action against the violators but also encompasses the development and empowerment of SCs/STs with which the Ministry of Social justice & Empowerment and Ministry of Tribal Affairs are concerned. To look at the crimes only as violations of the law and not as a social problem will not be a holistic approach. The role of MHA is more of a central agency coordinating the efforts in controlling crimes and advising the State police and other concerned agencies. Controlling crimes and taking action against criminals are essentially State subjects. It would neither be feasible nor desirable for MHA to take over the administration of all Acts, which contain provisions for criminal justice for related offences. In fact, most of such Acts are being administered by the concerned Ministries/Departments and there

has been no deleterious effect on the administration of the same. In the circumstances, it may not be appropriate for MHA to take on the administration of the SCs & STs (Prevention of Atrocities) Act, 1989 and Protection of Civil Rights Act, 1955.

Comments of the Committee

1.52 The Committee are not inclined to accept the justification rendered by the Government. The Committee would like to point out that the deleterious effect on the administration of the two Acts by the Ministry of Social Justice and Empowerment is amply evident from the fact that the conviction rates are abysmally low and acquittal rates are alarmingly high under the two special laws. The Committee strongly feel that just by issuing advisory to the States and UTs by the Ministry of Home Affairs would not be effective unless the administration of these Acts are handled by the Ministry of Home Affairs themselves for practical solution. (Please also see observations given in para 1.35 and 1.39) The Committee, therefore, reiterate their recommendation.

Recommendation (SI. No. 41, Para No. 2.44)

1.53 The Committee further note that guidelines can be issued to State Governments for fixing responsibility on officers failing to control crimes under their jurisdiction. Section 4 of the Prevention of Atrocities Act, 1989 also provides for stringent punishment for neglect of duties. The Committee are, however, constrained to note that the Ministry have neither been able to persuade the States to fix responsibility nor been able to present even a single case where an officer has ever been punished.

Reply of the Ministry of Home Affairs

1.54 Advisories have been issued to the State Governments/Union Territory Administrations in this regard. However, prevention of crimes and maintenance of law and order including fixing of responsibility of officers failing to control crimes under their jurisdiction are essentially State subjects. It may be appreciated that issuing directives to the State Government to fix responsibility on police personnel, who are under the control of the State Government may be considered as undue interference by the Central Government in the administration of law and order in the State. However, as has been submitted in reply to Para Nos. 2.41 & 2.42, the Government would endeavour to devise plans and strategies for exerting more pressure on the administrations of the State Governments and Union Territories for fixing responsibility and for stringent punishment on the delinquent police personnel.

Comments of the Committee

1.55 The Committee are not fully convinced by the explanation rendered by the Ministry of Home Affairs that issuing directives to State Governments to fix responsibility on officers for neglect of duties may be considered as undue interference by the Central Government in the administration of law and order in the State. The Committee unanimously consider the role of Ministry of Home Affairs very important as it acts as a nodal agency to guide, train and advise the Police Forces of the States over the mode of their functioning and their approach towards crime. The Government must appreciate that low conviction rate and high acquittal of atrocity cases could be checked only if investigations are carried out properly. Furthermore, the representative of the Ministry of Home Affairs

during evidence even had the same view and had inter-alia submitted that action may be taken against all such officers of the State Governments in such cases so that a message percolates that stern action could be taken against those officers involved in abetting atrocities against SCs/STs. The Committee, therefore, reiterate that State Government should be persuaded to fix responsibilities on such officers and punish them suitably.

Recommendation (Sl. No. 45, Para No. 2.48)

1.56 The Committee further recommend that all the suggestions made by the erstwhile National Commission for the Scheduled Castes and Scheduled Tribes in their Fourth Report (1996-97 and 1997-98), Volume-I as also those received from State Governments should be quickly considered for carrying out suitable amendments to the Prevention of Atrocities Act, 1989 since some of them have been suggested long back.

Reply of the Ministry of Social Justice and Empowerment

1.57 While initiating the exercise towards amendments in the Acts, the views/suggestions of the State Governments as well as National Commission for Scheduled Castes and Scheduled Tribes had been obtained and considered by the Ministry of Social Justice & Empowerment.

Comments of the Committee

1.58 The Committee may be intimated about the outcome of the exercise undertaken by the Ministry of Social Justice and Empowerment.

Recommendation (Sl. No. 48, Para No. 2.57)

1.59 The Committee, therefore, recommend that the Ministry of Social Justice and Empowerment order a study to identify other untouchability like practices prevalent in the above stated areas, other than the types of untouchability enumerated in the Protection of Civil Rights Act, as also in the States having sizeable Scheduled Caste population where the practice is widely prevalent, besides carrying out a survey to find out whether such cases go unreported or unregistered. The Committee impress upon the Ministry to issue fresh instructions to all States that even smallest matters which amount to untouchability must be booked under the Protection of Civil Rights Act, 1955 and reported to the Centre.

Reply of the Ministry of Social Justice and Empowerment

1.60 The sample-based research studies in regard to implementation of the Act have been conducted as detailed in reply to recommendation no. (Para 2.30). As regards offences of untouchability, these offences and the punishments thereof have been defined in the Protection of Civil Rights Act, 1955. As such any offence of untouchability, has to be booked under the Act and the State Governments are advised from time to time to ensure registration of First Information Reports.

Comments of the Committee

1.61 The Committee find no substance in the explanation rendered by the Government. A sample study undertaken by “Sakshi Dalit Human Rights Watch – AP” have in their evaluation on the status of untouchability practices in 50 sample villages of only one State of Andhra Pradesh have identified about 150 forms of untouchability practices prevalent, whereas

only 18 forms of untouchability practices are made punishable under section 3 to 7 of the Protection of Civil Rights Act 1955. Based on this the Committee, had impressed upon to carry out such a study to identify new forms of untouchability practices that might be occurring and which were not included in the Act before. As such, the Committee reiterate their earlier recommendation.

Recommendation (Sl. Nos. 55 & 56, Para Nos. 3.14 & 3.15)

1.62 The Committee note that the Ministry of Home Affairs advise State Governments on a number of issues relating to prevention of atrocities on Scheduled Castes and Scheduled Tribes which include administration of criminal justice system, sensitisation of police personnel, circulating notes on scope and responsibility of investigating officers, recruitment of Scheduled Castes /Scheduled Tribes in police forces, especially at the cutting edge level, setting up of Special Cells, creating awareness of legal recourse available to Scheduled Castes /Scheduled Tribes, evaluation of working of Special Courts, review of effectiveness of law enforcement machinery to improve responsiveness etc. The Committee further note that the Ministry of Home Affairs emphasised on the State Governments during September, 2001 the importance of issues like quality of investigation, follow up of prosecution, speedy disposal of pending cases, steps to protect life and property of Scheduled Castes/Scheduled Tribes especially in atrocity prone areas.

1.63 The Committee further observe from the figures available that though charge-sheeting rate by police is quite encouraging, conviction rate is very poor. The pendency of cases in courts is also high. During the year 2000 as many as 84% of the cases were pending for final decision in the courts. The conviction

rate was much lower at 25.2% for cases under Protection of Civil Rights Act and 32.3% for cases under the Prevention of Atrocities Act as compared to convictions under other Special Laws.

Reply of the Ministry of Home Affairs

1.64 As per latest data available, during 2003, the charge-sheeting rate for crimes against Scheduled Castes was 94.9 per cent and charge-sheeting rate for crimes against Scheduled Tribes was 94.3 per cent. The corresponding conviction rates for crimes against Scheduled Castes and Scheduled Tribes were 28.5 per cent and 28.0 per cent respectively. The overall charge-sheeting rate for Indian Penal Code (IPC) and Special Local Laws (SLL) was 80.1 per cent and 96.8 per cent respectively. The corresponding overall conviction rate under IPC and SLL was 40.1 per cent and 88.9 per cent respectively. At the end of year 2003, 80.7 per cent crimes against SCs and 81.4 per cent crimes against STs were pending trials in Courts.

Comments of the Committee

1.65 The Committee had clearly emphasised that the conviction rate under the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are alarmingly low as compared to other Special Laws. The Committee's view is again strengthened by the figures provided by the Government. The Committee, therefore, suggest that they should do critical analysis, and find a solution as to how to improve conviction rate in pending court cases under the two Acts.

Recommendation (Sl. No. 59, Para No. 3.18)

1.66 The Committee are deeply concerned with the large number of cases of acquittal in courts under both the Acts. The Committee note that, if not pursued vigorously, the SC/ST cases may result in acquittal. That has been admitted by the Home Secretary during evidence. The Committee, recommend that Special IGs in districts be appointed and, thereafter, responsibility be fixed on the IG and Administrative Officer concerned to control crimes/incidence of atrocities and to ensure proper and timely investigation. The Committee are confident that such a step will certainly curtail the number of incidents and improve conviction significantly.

Reply of the Ministry of Home Affairs

1.67 Because of its financial and logistics implication, it would be for the State Governments to consider implementation of this recommendation. The State Governments would be requested to favourably consider this recommendation of the Committee.

Comments of the Committee

1.68 The Committee are pained to point out that the Government have firstly taken too long to furnish the action taken notes and secondly even after lapse of six months' time from the date of presentation of the Report, they were apprehensive that the State Government would turn down the proposal because of financial and logistic constraints and had yet to request to favourably consider the recommendation. The Committee feel that the State Governments should not have any constraint as adequate funds are being provided for modernizing of their police force.

Recommendation (Sl. No. 70, Para No. 3.35)

1.69 The Committee are pained to note that in Gujarat, accused persons are easily getting bails from Magistrates or Sessions Courts in atrocity cases even when there are no provisions for anticipatory bail under Section 18 of the Prevention of Atrocities Act. The Committee, in this regard, would also like to draw attention of the Ministry of Home Affairs as well as the Ministry of Social Justice and Empowerment to the Supreme Court and Rajasthan High Court judgements discussed in paras 3.12 and 3.13 respectively. The Committee suggest that the Ministry of Social Justice and Empowerment may write to the Government of Gujarat to file appeals wherever bails are granted in atrocity cases and secondly seek opinion of the Ministry of Law and Justice over the kind of action that can be taken to prevent grant of anticipatory bails in atrocity cases ignoring the provision of Section 18 of the Prevention of Atrocities Act. The Committee also recommend to issue special instructions to all State Governments to ensure that no accused is released on anticipatory bail under the Prevention of Atrocities Act.

Reply of the Ministry of Social Justice and Empowerment

1.70 The Government of Gujarat has been suitably addressed in this regard. Department of Legal Affairs has opined in the matter as follows:-

- (i) Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 say that nothing in section 438 of the Code of Criminal Procedure, 1973 shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.
- (ii) With regard to grant of bails in respect of persons accused under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, by the Sessions Courts etc. in Gujarat, it would not be appropriate to offer any comments as that would amount to interfering in the working of courts.

Comments of the Committee

1.71 The Committee are not convinced by the reply of the Ministry of Law that it would not be appropriate to offer any comments in the matter as that would amount to interfering in the working of courts. The issue is not of interfering in the matter but of intervention by the Union Government in the matter by way of counselling or advice to set things right. The Committee note that the Ministry of Social Justice and Empowerment have not stated anything in regard to issue of special guidelines to all State Governments and, therefore, reiterate their earlier recommendation for issue of the same to the State Governments to ensure that accused are not released on anticipatory bail under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in a routine manner.

Recommendation (Sl. No. 72, Para No. 4.12)

1.72 The Committee are satisfied with the relief amounts provided to victims/dependents on the basis of nature of atrocities. The Committee, however, opine that since final decision in court depends on various factors that can influence the case mostly against the victims/dependents, it will be improper to stop payment of the final amount to the victims/dependents in the event of losing the case. Further, the Committee find it absolutely unnecessary to make them wait to get the second and final instalments of compensation from the Government keeping in view the high pendency of cases in courts and low conviction rate and the time taken in delivering the judgements. The Committee, therefore, recommend that the Ministry must consider bringing a suitable amendment to the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities)

Rules, 1995 to allow payment of the total relief amount in one single instalment by the time chargesheet is presented in courts.

Reply of the Ministry of Social Justice and Empowerment

1.73 The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 prescribe relief and the procedure for its disbursal, varies keeping in view the nature of offences. Whereas in respect of some offences, full payment is permissible when the charge sheet is sent to the courts, in some other cases, 50% of the amount is payable at conclusion of the trial. Further, in respect of several offences, certain percentage of amount is payable only on conviction by lower court. It is not considered prudent to pay 100% relief amount at the stage of filing the Charge sheet in the Court, as the lure of getting quick money may lead to false reports and other undesirable practices.

Comments of the Committee

1.74 The Committee do not hold the view that the lure of getting quick money may lead to false reports and other undesirable practices. The Committee strongly feel that an alert administration would not allow such things to happen in the first place. Keeping in view the judgement not delivered within a prescribed time limit the Government should adopt humanitarian approach. The Committee, therefore, reiterate that the Ministry should re-consider bringing a suitable amendment in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 to allow payment of total relief amount in one single instalment when the charge sheet is sent to court.

CHAPTER – II**RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY
THE GOVERNMENT****Recommendation (Sl. No. 5, Para No. 1.23)**

The Committee observe that there are certain provisions contained in the Constitution, which if truly enforced, can bring actual justice to the Scheduled Castes and Scheduled Tribes. Article 15 prohibits discrimination on grounds of religion, race, sex or place of birth. Under Article 17, practice of “Untouchability” is forbidden. The Protection of Civil Rights Act, 1955 to eradicate pervasive prejudice practised against SCs/STs and the Prevention of Atrocities Act, 1989 to protect the SCs/STs from acts of cruelty have been enacted long back.

Reply of the Ministry of Social Justice and Empowerment

The observation has been noted.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. Nos. 6 & 7, Para Nos. 1.24 & 1.25)

The Committee, therefore, impress upon the Government to do some introspection and find out as to where the efforts went wrong in bringing the desired change in the society. The Committee suggest that the Centre and the States come up with a joint strategy with a high level of coordination among themselves to achieve the much desired goal and apprise the Committee about the steps taken in this direction.

The Committee would also like to advise the Government to bring about attitudinal changes in the society through education and contrive new ways to

inculcate moral values in the people with the help of different Ministries and the vast machinery at their disposal. The Committee are confident that if the Government, political parties, voluntary organisations and media are persistent enough in their endeavour to reach out to and help these disadvantageous groups, nothing can stand in the way of ensuring the much needed social justice for them.

Reply of the Ministry of Social Justice and Empowerment

The Hon'ble Minister for Social Justice & Empowerment in this regard has already addressed a detailed d.o. letter dated 28.12.2004 to the Chief Ministers of States suggesting therein the specific measures towards effective implementation of the Acts, which are summarized below:-

- (i) Identification of atrocity prone areas and deploying police force therein.
- (ii) Ensuring the visit of District Magistrate/District Collector and the District Superintendent of Police to each place of occurrence of atrocity and registration of meticulously documented First Information Report and filing of effective charge sheet in the court at the earliest.
- (iii) Timely handling of prosecution of cases by Special Public Prosecutors and strengthening of the institution of Special Public Prosecutors.
- (iv) Setting up of exclusive Special Courts for speedy trial of cases.
- (v) Sensitizing Police Officers and imparting regular and effective training to the Police Officers, Special Public Prosecutors and the concerned District Administration officers in regard to the implementation of the Acts.
- (vi) Ensuring holding of periodic meetings of the State Level and District level Vigilance and Monitoring Committees set under the Chairpersonship of Chief Minister and District Collectors respectively.
- (vii) Launching awareness generation campaign and organizing seminars on the provisions of the Acts with participation of Panchayati Raj Institutions and NGOs.

The Ministry of Information & Broadcasting also by various programmes, through All India Radio, Doordarshan, Directorate of Advertising & Visual Publicity and Song & Drama Division brings out various programmes in the form of talks, plays, features, discussions, interviews, comparing and slogans etc.

Further, under a Centrally Sponsored Scheme, central assistance is also provided to State Governments and Union Territory Administrations for strengthening of the administrative, enforcement and judicial machinery, awareness generation and for relief & rehabilitation of the affected persons.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Comments of Committee

Please see para 1.18 of Chapter-I.

Recommendation (Sl. No. 10, Para No. 1.28)

The Committee are not fully satisfied with the reply of the Ministry of Social Justice and Empowerment that desired changes in society can be brought about through socio-economic development, empowering the weaker sections of society, providing them social justice and not by gearing up the police machinery or through judicial pronouncements. The pervasive discrimination and atrocities against Scheduled Castes and Scheduled Tribes cannot be justified on any ground. In fact, there is no scope for it in the civilized world. The Committee believe that the methodology of strict police action and judicial pronouncements is also necessary to bring about changes in the stubborn mindsets. The Committee, therefore, strongly emphasise that strict provisions as regards arrest

and evidence must be incorporated in the Protection of Civil Rights Act and Prevention of Atrocities Act. The Committee further feel that the minimum punishment stipulated under the two Acts should be raised to two years imprisonment and the minimum fine to be imposed should be fixed at Rs.5000/-.

Reply of the Ministry of Social Justice and Empowerment

The above recommendation of the Committee would also be kept in view while formulating proposals for amending the Acts.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (SI. No. 13, Para No. 1.31)

It is disappointing to note that the National Integration Council (NIC), an important body to find ways and means of combating evils of communalism, casteism, etc. has been kept in a dormant stage for long. The Council has not met even once during the last twelve years and it is understood that it has only been reconstituted in February, 2005. Expressing displeasure, over the matter, the Committee urge the Government to convene the meeting of the newly constituted NIC at the earliest and include the issue of curbing of atrocities on SCs/STs also in their agenda. The Committee hope that the NIC would definitely be successful in evolving a joint strategy for the good reason that the Prime Minister, the Home Minister and Chief Ministers, and heads of important Central and State machineries, form part of the membership of the Council.

Reply of the Ministry of Home Affairs

The National Integration Council (NIC) has since been reconstituted and the first meeting of the NIC has been held on 31.8.2005. The Committee's recommendations regarding Inclusion of an agenda item on the issue of curbing of atrocities on SCs/STs has been noted for appropriate action in future.

(Vide Ministry of Home Affairs O.M. No.24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (Sl. No. 15, Para No. 1.41)

The Committee have also to point out the inability of the Ministry of Social Justice and Empowerment in obtaining timely reports/returns. The Committee are further dismayed to note that though data on atrocities is also collected by the National Crime Records Bureau of the Ministry of Home Affairs and National Commission for Scheduled Castes and Scheduled Tribes (now bifurcated as two separate Commissions), in the absence of proper coordination, the Ministry of Social Justice and Empowerment have been unable to make use of such data to formulate their strategy. The Committee, therefore, desire that data on atrocities collected separately by these bodies should be shared with each other to devise respective strategies in their area of operation.

Reply of the Ministry of Social Justice and Empowerment

The Ministry of Home Affairs is responsible in regard to criminal offences against members of the Scheduled Castes and Scheduled Tribes. The Ministry of Home Affairs has an expert organization viz, National Crimes Record Bureau (NCRB) for regularly obtaining and analyzing data relating to offences under IPC as well as the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Ministry of Social

Justice & Empowerment for the purpose of laying annual reports in both the Houses of Parliament, as required under the Acts, obtains calendar year wise data directly from State Governments and Union Territory Administrations.

The NCRB has developed a Crime & Criminal Information System (CCIS) and in collaboration with the National Informatics Centre, a web-enabled Daily Crime Report (DCR) system. Although both the application systems are at nascent stage, their implementation by all States/Union Territories will help a great deal in controlling activities of criminals and prevention of crimes and the DCR system would make it possible for all the concerned agencies to retrieve report/data on crimes in the fastest possible manner.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (SI. No. 16, Para No. 1.42)

The Committee note that as per submission of the Ministry of Social Justice and Empowerment, the State Governments are required to take necessary measures under Section 21(2) of Prevention of Atrocities Act to make the present set up more effective and result oriented. The Committee feel that the Ministry seem to have restricted their duty to preparing Annual Reports and laying the same in Parliament which also has not been carried out fully. This shows that the Ministry have neither carried out their constitutional duty fully under Article 256 of the Constitution nor have they been able to comply with the provision of Section 21(4) of the Prevention of Atrocities Act relating to Annual Reports. The Committee deplore the lackadaisical approach of the Ministry as exemplified by the unwarranted and avoidable delay of almost four years in finalisation of the Annual Reports on the two Acts for the years 1993 to 1995.

Annual Reports on the two Acts for the year 2002 could be laid in Parliament only in July 2004, after a gap of two years. Delay of such a long period in laying of reports for the reason of non/late receipt of information from States is not justifiable. The Committee, therefore, urge the Ministry of Social Justice and Empowerment for ensuring timely laying of the Annual Reports on the two Acts in Parliament, in future. The Committee further desire the Ministry to do critical analysis of the measures undertaken by the State Governments, by highlighting shortcomings, criticising non-performance and proposing remedial steps.

Reply of the Ministry of Social Justice and Empowerment

The observations have been noted. Further because of persistent follow up, the Annual Reports upto the year 2003, have been laid in both the Houses of Parliament.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (SI. No. 18, Para No. 1.44)

The Committee are of the considered view that though States have the implementing machinery, there is enough scope under Article 356 for intervention by the Union in the affairs of States. The Union can assume control over all functions of the Government of a State and declare that powers of the Legislature of the State shall be exercisable by or under the authority of Parliament if the State Government concerned is unable to comply with directions of the Union. The Committee feel that if a State is unable to adhere to the directions from the Centre regarding control over atrocities on SCs/STs the provisions of Article 365 could be invoked. Article 256 read with Article 365 provides that if directions issued by the Union Government and laws passed by

the Parliament are not honoured by States, it can certainly be construed as a situation fit for attracting action by the Union Government against that State. Since none of the numerous past Proclamations under Article 356 have invoked provisions of Article 365, as reasons for a Proclamation, the Committee, recommend to the Centre to use this provision for obtaining the desired results and go in for the extreme step wherever warranted.

Reply of the Ministry of Social Justice and Empowerment

The observations have been noted.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. Nos. 19, 20 & 21, Para Nos. 1.56, 1.57 & 1.58)

The Committee note that while the Ministry of Home Affairs are concerned with criminal aspects of atrocities and the Ministry of Social Justice and Empowerment are responsible for rehabilitation aspects including coordinating measures relating to atrocities enumerated in the two Acts/Rules, a lot of ambiguity exists as to which Ministry is finally responsible as regards measures relating to criminal aspects contained in the Act. This has been experienced even while obtaining information on atrocities from the two Ministries on points relating to disposal of cases, remedial measures thereto, special cells, legal aid, etc. Both the Ministries were in utter confusion as to who would render the information. So far as collection, compilation, and analysis of data regarding atrocities on Scheduled Castes / Scheduled Tribes are concerned, both the Ministries as well as the National Commission for the Scheduled Castes and Scheduled Tribes (now bifurcated into two separate Commissions) are doing the same job as pointed out in para 1.41. Both the Ministries have failed to submit a

satisfactory view on whether the division of responsibility has affected adversely or has facilitated monitoring of atrocities.

The Committee further observe with utmost dissatisfaction that the matter relating to transfer of the subject to the Ministry of Home Affairs, though recommended more than 10 years ago in the Committee's Twenty-third Report (Tenth Lok Sabha) on atrocities, is still pending. The position today remains the same as that in 1993. The proposal to effect necessary change in the Government of India (Allocation of Business) Rules, 1961 is still under consideration of the Cabinet Secretariat. The Ministries have totally failed to rightly emphasise the need for such a change.

The Committee strongly deprecate the apathetic approach of the Government over the delay in taking a decision on the transfer of the subject 'atrocities' to the Ministry of Home Affairs and suggest that an earnest effort should be made in this direction. The Committee further suggest the two Ministries to jointly emphasise on the Cabinet Secretariat the need for an immediate decision in this regard.

Reply of the Ministry of Social Justice and Empowerment

Appropriate amendments have been carried out in the Government of India (Allocation of Business) Rules, 1961 vide notification Doc.CD-8/2004, dated 06.01.2004.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Comments of Committee

Please see Para No. 1.31 of Chapter I

Recommendation (Sl. No. 24, Para No. 1.61)

The Committee further advise the two Ministries to rise above the excuses of division of responsibility and evolve smooth coordination between themselves. The National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes should also be helped and supported in carrying out their duty. The Committee recommend that representatives from all the four institutions should meet regularly to devise ways and means to curb atrocities and ensure effective administration of the Prevention of Atrocities Act.

Reply of the Ministry of Social Justice and Empowerment

The Ministry of Social Justice & Empowerment would soon form a Committee for effective coordination at the appropriate level between the Commissions and the Ministry of Home Affairs and Ministry of Tribal Affairs .

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 27, Para No. 2.30)

The Committee, therefore, strongly recommend that the Ministry of Social Justice and Empowerment should order a survey by some independent institution, agency or NGO working for the cause, to study the reasons that may have led to increase in crimes against Scheduled Castes/Scheduled Tribes. The National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes should also be consulted to include other important issues to be studied during such a survey.

Reply of the Ministry of Social Justice and Empowerment

The Ministry of Social Justice & Empowerment under its Central Sector Scheme of Research and Training has been financially assisting the independent research agencies for conducting research studies related to the untouchability and atrocities and implementation of the Acts. The list of the studies commissioned during the last three years is given below:-

Sr. No.	Topic of the study	Name of the research agency
1	2	3
1.	Study of the Main Causes/Reasons for increasing crimes on SCs and STs and the Disposal of cases by Designated Special Courts in comparison to the cases disposed of by Exclusive special courts under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh, Rajasthan, Tamil Nadu and Uttar Pradesh.	National Law School of India University, Bangalore
2.	Study on implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 in Punjab: An impact evaluation.	Ambedkar Centre of Socio-economic study for the Weaker Sections of Society, Department of Sociology, Punjab University, Chandigarh.
3.	Study on implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 – Impact of assistance provided for relief to the affected persons/families in Tamil Nadu.	Voluntary Association for People Service (VAPS), Tamil Nadu.
4.	Study on implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 – Impact of assistance provided for relief to the affected persons/families in Andhra Pradesh.	Adithya Educational Academy, Guntur, Andhra Pradesh
5.	Study on implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 – Impact of assistance provided for relief to the affected persons/families in Madhya Pradesh	Society for Empowering the Youth and Downtrodden, New Delhi.
6.	Study on Untouchability and caste based discrimination of Scheduled Castes in Punjab	Department of Economics and Sociology Punjab Agricultural University, Ludhiana
7.	“Untouchability: Study of its Causes, Mechanism, Consequences and coping strategies (the case of Sehore and Gwalior Districts of Madhya Pradesh)”	Department of Sociology/Social Work, Barkatullah University, Bhopal
8.	An evaluation of working of the Protection of Civil Rights Act, 1955 and its impact on the abolition of Untouchability in 4 regions (South, North, East and West)	National Law School of India University, Bangalore

9.	Implementation of Protection of Civil Rights Act –1955 and the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act – 1989 in Haryana	Forum for Social Justice, Haryana
10.	Working of Legal and Rehabilitation measures for the Scheduled Castes: an appraisal in the context of Chakwada and Jhajjar incidents of Rajasthan and Haryana	Indian Social Institute, New Delhi
11.	Implementation of Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 in Uttar Pradesh.	Department of Law, KGK College, Moradabad, Uttar Pradesh
12.	An evaluation study of relief measures extended under the provisions of the Scheduled Castes and Scheduled Tribes (POA) Act, 1989 – A case study in Hoshiarpur, Jalandhar and Kapurthala Districts of Punjab.	Guru Angad Dev Sewa Society, Punjab.
13.	Emerging trends and forms for untouchability – A study of discrimination against students and teachers in educational institutions of Gujarat.	Society for Empowering the Youth and Downtrodden, New Delhi.
14.	Reflected study of crime on Scheduled Castes in Bihar.	Vaishali Jan Jagran Samiti, Bihar.

As reported by the Ministry of Tribal Affairs, the National Commission for Scheduled Tribes, in its meeting held on 15th June, 2005, has decided that Commission might explore the possibilities of undertaking a socio-economic study of Scheduled Tribes including atrocities through a professional Agency. Accordingly, selected Universities/Institutes have recently been addressed to submit their proposals along with the financial estimates for a study on the causative factors responsible for atrocities on members of Scheduled Tribes in 9 Fifth Schedule States. Further action to assign the study to one of the agencies will be taken on receipt of the proposals from them.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Comments of Committee

Please see para 1.43 of Chapter-I.

Recommendation (Sl. No. 29, Para No. 2.32)

The Committee further observe that directions were issued to all States in general but no specific directions were given to the above mentioned States with higher number of cases under the two Acts and under the Indian Penal Code. The Committee feel that issue of advisories/ directions should not be a one time or yearly affair but it should be a continuous process which needs to be maintained to get the desired results. The Committee, therefore, recommend that in future, specific directions should be issued by the Ministry of Social Justice and Empowerment as well as by the Ministry of Home Affairs to such States and a constant liaison should be maintained to achieve the goal of bringing down crimes against Scheduled Castes /Scheduled Tribes.

Reply of the Ministry of Social Justice and Empowerment

Noted.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 32, Para No. 2.35)

To the Committee's disbelief, the subject crimes against SCs/STs was not even included in the Agenda of Conferences of State Directors General of Police and Chief Ministers on Internal Security. The Committee are of the opinion that internal disturbances and internal security and atrocities are inter-related. The view of the Committee has been strengthened further, by the then Home Secretary's admission during evidence that crimes and atrocities on Scheduled Castes /Scheduled Tribes posed threat to internal security. The Committee are also pained to find that it was only after the insistence of the Committee that the subject found place on the agenda of such conferences. The Committee, as

such, strongly support the view of the representative of the Ministry of Home Affairs and recommend that the subject "Atrocities/Crimes against SCs/STs" must invariably be included in the Agenda of the Conferences of Chief Secretaries and State Chief Ministers on Internal Security as also of that of the meetings of DGPs and Nodal Officers. The Committee should also be informed of the major decisions arrived at in the next such Conference/Meeting.

Reply of the Ministry of Home Affairs

In both the meetings of the Chief Secretaries and Director Generals of Police of States held on 7th January, 2003 and 17th January, 2004 on 'Internal Security', the issue of 'Crime against Scheduled Castes and Scheduled Tribes' was included as an agenda item.

In the Conference of Chief Ministers on Internal Security and Law and Order held on 15th April, 2005, an agenda item, namely, "Crimes against Scheduled Castes and Scheduled Tribes and Women' was also included. During the Conference, most of the States expressed concern over crime against women, children and weaker sections of the society and emphasized the need for effective measures to reduce such crimes. In particular, they also felt that self-help groups of weaker sections should be encouraged so that they are financially strong and are in a better position to resist exploitation.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (SI. No. 34, Para No. 2.37)

The Committee also recommend that guidelines whenever issued to State Governments should be vigorously pursued and the progress of their

implementation reviewed. Notes containing such reviews should be prepared and invariably presented to the Committee.

Reply of the Ministry of Social Justice and Empowerment

The provisions of the Acts are implemented by respective State Government/Union Territory Administrations, which are advised from time to time to implement them in letter and spirit. The measures taken by the State Governments/Union Territory Administrations are reviewed even every year and detailed account is laid on the Table of both Houses of Parliament in separate Annual Reports as per the provisions of the Acts. A copy of the Annual Report could be sent to the Committee.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 36, Para No. 2.39)

The Committee are happy to note that the Government had set-up a high level Committee to monitor and suggest as to how the system can be made more effective for investigation, convergence, charge sheeting and punishment, etc. The said Committee headed by Justice V.S. Malimath has since submitted its Report. Process is also on to convene a meeting with DGPs and Nodal Officers to discuss issues relating to registration, investigation and prosecution of cases. The Committee, therefore, advise the Government to examine expeditiously the suggestions made by the high level Committee to reform the criminal justice system. The Committee further hope that the meetings with the DGPs and Nodal Officers are held at regular intervals and representatives of the Ministry of Social Justice and Empowerment, National

Commission for Scheduled Castes and the National Commission for the Scheduled Tribes are also invited to these meetings.

Reply of the Ministry of Home Affairs

The Malimath Committee had made 158 recommendations in its report. The report has been referred to State Governments for their views/comments as the Criminal Law and Criminal Procedure are on the Concurrent List of the Seventh Schedule to the Constitution of India. As regards regular meetings with the DGPs and Nodal Officers, the Government would endeavour to set up a permanent Coordination Centre, with the Ministry of Social Justice & Empowerment as its nodal Ministry to organise such meetings to sort out various issues and effective monitoring of implementation of the Acts for prevention of atrocities.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (Sl. Nos. 38 & 39, Para Nos. 2.41 & 2.42)

The Committee are pleased to note that the Home Secretary at least had the courage to admit that the Ministry have failed to put adequate pressure on State Governments to check crimes even after promulgation of the Prevention of Atrocities Act. The Ministries have lacked in adopting a concerted approach on the issue. The Committee are unanimous that more pressure needs to be exerted on States and some special scheme is required to be formulated jointly for the purpose as rightly admitted by the Home Secretary during the course of evidence.

The Committee, therefore, in the first instance desire that the Central Ministries should adopt a concerted approach on the issue. A serious effort

should be made to improve the situation qualitatively. They would like to emphasise that mere communication of the instructions by the Central Government would serve no purpose unless effective checks are devised at Central level for proper control so as to see that these instructions are actually implemented by State Governments. The Committee desire that the Ministry of Home Affairs draw up a special scheme for the purpose in consultation with the Ministry of Social Justice & Empowerment and the National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes and apprise the Committee of the same at the earliest.

Reply of the Ministry of Home Affairs

The recommendation of the Committee has been noted. The Government would endeavour to set up of a coordination centre with the Ministry of Social Justice & Empowerment as its nodal Ministry. One of the objectives of the Coordination Centre would be to devise plans and strategies for exerting more pressure on the administrations of the State Governments and Union territories.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (Sl. Nos. 42 & 43, Para Nos. 2.45 & 2.46)

The Committee support the efforts of sensitising police officers on the aspect of giving protection to vulnerable sections of society. The Committee, however, are perturbed over the increasing number of complaints/representations they receive from all over the country on police inaction and police atrocities. They are also concerned with the fact that many a time police are unable to book cases under the relevant sections of the Act due to lack of proper knowledge of various sections of the Act.

The Committee therefore, recommend that State Governments should be impressed upon to fix responsibility upon officers. The Committee are of the opinion that it is not the elected heads of the State Governments but the bureaucratic machinery which hampers such an exercise. No elected Government can support inaction. As such, it is recommended that the exercise of punishing officers found guilty must be seriously initiated by States. The Committee further desire that the valuable suggestion made by the National Police Commission to make law enforcing agencies transparent and accountable and insulate them from political interference should be implemented. The Committee also feel that media can play a major role in highlighting police corruption as well as inaction in atrocity cases. Officers involved in corruption, police atrocities or inaction must be exposed through electronic and print media.

Reply of the Ministry of Home Affairs

The Bureau of Police Research and Development (BPR&D) has been advised to ensure that the training curriculum of police personnel cover these aspects, viz., protection of vulnerable sections of society, standing up to the political interference, maintenance of transparency and accountability, etc. As regards making the police force free from unnecessary interference in their working and weeding out corruption, the administrations of the State Governments and Union territories have been issued advisories from time to time by referring to the recommendations of various Commissions/Committees on police reforms. It may also be mentioned that advisories have been issued on ensuring that police administration is corruption free and undue political interference does not take place. These are also reiterated in the Chief Ministers' Conference on Internal security. As has been submitted in reply to

earlier paragraphs, the Government would endeavour to devise plans and strategies for exerting more pressure on the administrations of the State Governments and Union territories in these matters.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (SI. No. 44, Para No. 2.47)

The Committee feel that it is imperative for a police officer to have a thorough knowledge of the Indian Penal Code, various laws and the provisions of the Prevention of Atrocities Act. A special training module should, therefore, be developed to sensitise and fully acquaint the police officers with the provisions of the Acts relating to untouchability and atrocities and copies of these Acts should invariably be made available in all the Police Stations throughout the country.

Reply of the Ministry of Home Affairs

The recommendation of the Committee has been noted. BPR&D has been advised to design the training curriculum of the Police personnel keeping in view this recommendation.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (SI. No. 45, Para No. 2.48)

The Committee further recommend that all the suggestions made by the erstwhile National Commission for the Scheduled Castes and Scheduled Tribes in their Fourth Report (1996-97 and 1997-98), Volume-I as also those received from State Governments should be quickly considered for carrying out suitable amendments to the Prevention of Atrocities Act, 1989 since some of them have been suggested long back.

Reply of the Ministry of Social Justice and Empowerment

While initiating the exercise towards amendments in the Acts, the views/suggestions of the State Governments as well as National Commission for Scheduled Castes and Scheduled Tribes had been obtained and considered by the Ministry of Social Justice & Empowerment.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Comments of Committee

Please see para 1.58 of Chapter-I.

Recommendation (Sl. No. 49, Para No. 2.58)

The Committee note that the provision of collective fine has not been used even once. The Committee, therefore, find it absolutely necessary to urge the Ministry to advise State Governments to implement it wherever necessary to prevent crimes on the Scheduled Caste and Scheduled Tribe people.

Reply of the Ministry of Social Justice and Empowerment

The State Governments have been addressed in this regard.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. Nos. 50 & 51, Para Nos. 2.59 & 2.60)

The Committee desire that the Ministry of Social Justice & Empowerment as well as the Ministry of Tribal Affairs, being the nodal Ministries responsible and created for the special cause of social and economic upliftment of the Scheduled Castes and Scheduled Tribes, respectively, should also take effective steps for generating public awareness through special programmes,

apart from the efforts being made by the Ministry of Information and Broadcasting, and inform the Committee of the details thereof.

The Committee feel that it will be more useful if the three Ministries (i.e. Information & Broadcasting, Social Justice and Empowerment and Tribal Affairs) jointly launch a vigorous media campaign and issue instructions to State Governments to educate the Scheduled Caste /Scheduled Tribe population about the two Acts as also the general public of the consequences that may have to be faced in case they indulge in practices prohibited under the Acts. Pamphlets printed in local languages should be circulated to educate the Scheduled Caste /Scheduled Tribe people about the Acts.

Reply of the Ministry of Social Justice and Empowerment

Widespread awareness campaign to educate the general public on the legal provisions of Acts and its consequences in case they indulge in practices prohibited under the Acts is carried out through all possible sources of Media i.e. Print, Electronic and Outdoor. The said campaign is undertaken with the support of the Ministry of Information and Broadcasting. A booklet on schemes/programmes of the Ministry of Social Justice and Empowerment titled "Reaching the Unreached" printed and distributed in Hindi as well as in local languages contains adequate information on the Acts. Adequate copies of the booklet would soon be printed and circulated in the atrocity prone districts.

The Ministry of Tribal Affairs has taken the following steps for generating public awareness through special programmes as under:-

- (1) Under the programme of information and mass education, the Ministry of Tribal Affairs releases funds for proposals for production of films, documentaries, tele-serials, quickies, spots, etc. on various aspects of tribal life, including their cultures, traditions, education, socio-economic development and welfare scheme of the Ministry. The idea is to document the tribes in a scientific and well researched manner

broadly comprising their geographical spread, demographic, historical, socio-cultural details, economic conditions, folk dances, etc. so as to keep these as reference record in the Ministry and also to disseminate the information for general public. The documentary films produced with the grants of this Ministry are tribal specific and are being telecast by *Doordarshan* on weekly basis under the programme the *Jan Jatyiya Darpan* on DD I.

- (2) The quarterly Newsletter is being published by the Ministry and dispatched up to the level of Panchayats having ST population to disseminate information on various developmental programmes for Scheduled Tribes, their life and culture.
- (3) Advertisement on the major achievements and initiatives taken by the Ministry for tribal welfare/development are being published in major Newspapers on Republic Day and Independence Day,

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 52, Para No. 2.63)

The Committee find that 9 States have identified atrocity prone areas. The Committee however fail to understand as to why Rajasthan has not identified atrocity prone areas even though it records the second highest number of atrocity cases. Similarly Orissa though with a sizeable Scheduled Caste (16.5%) and Scheduled Tribe (22.1%) population has not yet identified even a single atrocity prone area. The Committee therefore, would like to advise the Ministry to write to these State Governments to identify atrocity prone areas at the earliest so that special attention can be paid for protection of SC/ST people in such belts. It will definitely help in bringing down atrocities in these States.

Reply of the Ministry of Social Justice and Empowerment

The Governments of Andhra Pradesh, Bihar, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu, and Uttar Pradesh have identified the atrocity prone/sensitive areas in their respective

States. The Government of Rajasthan has, however, not so far identified the atrocity prone areas and has apprised that the District Collectors have been addressed in this regard.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 54, Para No. 2.65)

The Committee also recommend that Police Posts should be established in all the untouchability and atrocity prone areas so that no untoward incident may take place and timely and additional help may be provided to avoid incidents of atrocities and untouchability. Such Police Posts will also instil confidence among Scheduled Caste and Scheduled Tribe people of such areas regarding their social security and equality.

Reply of the Ministry of Home Affairs

The recommendation of the Committee has been noted and it will be communicated to the State Governments and Union territories for keeping in view while creating/ locating Police Posts.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (Sl. Nos. 57 & 58, Para Nos. 3.16 & 3.17)

The Committee note the sincere submission made by the Home Secretary, during evidence that weakness in police investigation, difficulty in pursuing cases so investigated coupled with loss of interest in pursuing cases in courts are responsible for high acquittals, besides stringent requirements under the Indian Evidence Act. The Committee also note that the Home Secretary endorsed the suggestions regarding appointment of Special IGs in districts,

fixing of responsibility, Administrative Officers to control crimes/incidence of atrocities, ensuring proper and timely investigation in order to curtail delay and improve conviction with an element of commendation for achievement and punishment for inaction. The Committee further note that setting up of Special Courts can reduce pendency of cases.

The Committee understand that the Ministry of Home Affairs have a prominent role to play in prevention of crimes and atrocities on Scheduled Castes /Scheduled Tribes. The Committee, however, are unable to understand as to why specific instructions for taking adequate measures have been issued only after being pointed out by the Committee during evidence. The Committee take a serious view of the Ministry of Home Affairs' failure to issue advisories prior to the course of evidence. They desire that the Ministry remain in regular touch with the State Governments and periodically emphasise on them the need of taking adequate measures for the safety and security of SCs/STs, fair investigation and cutting short pendency of cases in courts.

Reply of the Ministry of Home Affairs

The recommendation of the Committee has been noted. It is submitted that Ministry of Home Affairs issues such advisories from time to time, referring to the recommendations of various Commissions/Committees with the objective of reminding the administrations of the State Governments and Union Territories of their role in maintenance of law & order, prevention of general crimes and atrocities against SCs/STs, providing safety and security to SCs/STs, fair investigation of cases and ensuring speedy trial in courts. Advisories have been issued on 8.10.1997, 12.11.1998, 19.9.2001, 4.4.2002, 11.6.2002, 24.6.2004 and 3.2.2005. In future also further advisories would be issued as and if necessary. It

is again submitted that implementation of such directives and enforcement of Acts for prevention of crimes/atrocities and maintenance of law and order are essentially in the domain of the State Governments/Union Territory administrations. Given the polity of the federal structure, and the requirement of maintaining the delicate balance and of harmonious relations between the Union and States it is neither feasible nor desirable for the Union Government to impose itself on the State Governments beyond a point, in matters under their jurisdiction. The Union Government is of the view that State Legislatures should also discuss these matters and exert pressures on State Governments to bring in desired results.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP, dated the 31st October, 2005)

Recommendation (Sl. No. 59, Para No. 3.18)

The Committee are deeply concerned with the large number of cases of acquittal in courts under both the Acts. The Committee note that, if not pursued vigorously, the SC/ST cases may result in acquittal. That has been admitted by the Home Secretary during evidence. The Committee, recommend that Special IGs in districts be appointed and, thereafter, responsibility be fixed on the IG and Administrative Officer concerned to control crimes/incidence of atrocities and to ensure proper and timely investigation. The Committee are confident that such a step will certainly curtail the number of incidents and improve conviction significantly.

Reply of the Ministry of Home Affairs

Because of its financial and logistics implication, it would be for the State Governments to consider implementation of this recommendation. The State

Governments would be requested to favourably consider this recommendation of the Committee.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Comments of the Committee

Please see para 1.68 of Chapter-I.

Recommendation (Sl. No. 60, Para No. 3.19)

The Committee are of the opinion that correctly registered FIRs will also certainly help in pursuing cases strongly in courts and getting the accused convicted. Further, the Supreme Court has upheld the validity of Section 18 of the Prevention of Atrocities Act, 1989 in the case of State of MP Vs. Ram Krishan Balothia in 1995 clearly restricting anticipatory bail to an accused. Also, a full bench of the Rajasthan High Court in a significant Judgement has held that Section 18 of the Prevention of Atrocities Act bars anticipatory bail of an accused and the accused cannot be granted anticipatory bail if facts stated in the FIR make a case of atrocities on Scheduled Castes and Scheduled Tribes against him. The Committee consider that police officers be given exclusive training in registering FIRs under the Prevention of Atrocities Act, 1989. The Committee are sure that this will also act as a deterrent since correctly registered FIR may land the accused in jail without anticipatory bail.

Reply of the Ministry of Home Affairs

The recommendation of the Committee has been noted. BPR&D has been advised to design an exclusive training curriculum for the Police personnel keeping in view the recommendation.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated 31st October, 2005)

Recommendation (Sl. No. 62, Para No. 3.21)

The Committee also recommend that the police may be made professional in their methodology and approach so that they may not be influenced by factors like caste, religion, race, region and be independent of pressures from various groups. This will make them fair and exemplary in carrying out investigations on merits, which in turn will bring justice to the victims belonging to Scheduled Castes and Scheduled Tribes under the Indian Penal Code and Special Laws.

Reply of the Ministry of Home Affairs

The recommendation of the Committee has been noted. BPR&D would be advised to keep in view the recommendation while designing the training curriculum of the Police personnel.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (Sl. No. 63, Para No. 3.22)

The Committee further recommend that State Governments be persuaded to modernise their police forces with assistance from the Centre. The Committee believe that this step will help the Ministry of Home Affairs in realising their goal of better coordination and getting information on atrocities from anywhere, whenever required.

Reply of the Ministry of Home Affairs

Adequate funds are made available to the State Governments to modernize their Police forces under Police Modernisation Scheme. The State Governments are constantly urged to make full use of funds made available to

them under the scheme. In view of the recommendation of the Committee, further advisory would be issued to the State Governments, if necessary.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (Sl. No. 66, Para No. 3.31)

The Committee are deeply concerned to note that the Supreme Court in its judgement in Gangula Ashok and another V/s State of Andhra Pradesh during 2000 has held that the Special Courts designated under Section 14 of the Prevention of Atrocities Act, 1989 cannot take cognizance of the offences directly without the case being committed to them by a Magistrate in view of interdict imposed by Section 193 of the Cr. P.C. The Committee are of the opinion that since under Section 14 of the Prevention of Atrocities Act the existing Courts of Sessions are notified as Special Courts for the main reason of providing speedy justice and if Special Courts are not allowed to directly hear cases the goal visualized will be totally lost. The Committee feel that the Ministry should immediately seek views of the Attorney-General for India and the Ministry of Law and Justice over the Supreme Court's Judgement . The Committee would also like to advise the Ministry to move a Bill affecting suitable changes in the relevant laws so as to empower Special Courts to take cognizance of the offences directly.

Reply of the Ministry of Social Justice and Empowerment

The exercise to comprehensively amend the Protection of Civil Rights Acts, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act, 1989 has been initiated. The objective is to overcome all practical difficulties.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (SI. No. 67, Para No. 3.32)

The Committee further observe that pendency of cases differ from one court to another. Also courts without Judges would have more pendency of cases. The Committee note that 1857 posts of Judges/Magistrates are lying vacant. The Supreme Court vide judgement dated 21 March 2002 in W.P. (Civil) No. 1022/89-All India Judges' Association and Others Vs Union of India and Others has ordered for filling up of the existing vacancies in Subordinate Courts at all levels. Further, the Ministry of Law and Justice have written to State Governments to fill up the posts of Judges. The Committee strongly emphasise that all vacant posts of Magistrates and Judges should be filled up at the earliest. The Committee also desire that the State Governments should be addressed to do the needful with regard to appointment of District Judges and other Judges in Subordinate Courts. The Committee are confident that these steps will definitely help in delivering speedy justice to the atrocity victims as also in reducing pendency of atrocity cases. The Committee desire that the summary of action taken and results achieved in this regard be submitted to them.

Reply of the Ministry of Social Justice and Empowerment

The issue of filling up of vacancies of judicial officers of the Subordinate Judiciary of the States has been taken up with the State Governments a number of times. However, as per information available with the Department of Justice as on 31st December, 2004, there were 2751 vacancies..

The Department of Justice have once again requested the Chief Ministers and Chief Justices to expedite the process of filling up of vacancies.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 68, Para No. 3.33)

The Committee recommend that all State Governments be vigorously pursued and encouraged for setting up of Special Courts in order to provide speedy justice to the atrocity victims.

Reply of the Ministry of Social Justice and Empowerment

The Ministry of Social Justice & Empowerment has been addressing the State Governments/Union Territory Administrations and suggesting various measures including setting up of exclusive special courts, towards effective implementation of the Acts. The Hon'ble Union Minister for Social Justice & Empowerment also addressed a d.o. letter dated 28.12.2004 to the Chief Ministers of States suggesting therein various measures for effective implementation of the Acts which included setting up of exclusive special courts in all Districts for trial of offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 69, Para No. 3.34)

The Committee are aware that one of the terms of reference of the Malimath Committee was to suggest a sound system of managing, on professional lines, the pendency of cases at investigation and trial stages and

making the Police, the Prosecution and the Judiciary accountable for delays in their respective domains. The Committee feel that the time taken in disposal of atrocity cases should be considerably cut short. The Ministry of Law and Justice should look into this matter and take necessary steps. The Committee hope that the Sessions Courts notified as Special Courts would give top priority to atrocity cases which in the opinion of the Committee will help in bringing the pendency down.

Reply of the Ministry of Home Affairs

The recommendation of the Committee has been noted. The Government would endeavour to impress upon the Courts and the law enforcing agencies to ensure speedy trial of atrocity cases so as to bring down the pendency.

(Vide Ministry of Home Affairs O.M.No.24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (Sl. No. 73, Para No. 4.13)

The Committee are surprised to note that the Ministry of Social Justice and Empowerment are not even aware of the existence of the provision regarding employment included in Rule 15 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 which requires that the State while preparing a model contingency plan should inter-alia include scheme for employment among the package of relief measures. The Committee taking strong exception over the matter, urge the Ministry of Social Justice and Empowerment to appropriately educate their officers about the two Acts and ask State Governments to conduct such training besides familiarising them with rehabilitation aspects.

Reply of the Ministry of Social Justice and Empowerment

The observation of the Committee has been noted.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (SI. No. 75, Para No. 4.15)

The Committee recommend that all the State Governments should be requested to expedite proposals for amendments on the basis of past experience for making the Acts/Rules more effective. The Committee, also expect that the Ministry of Social Justice and Empowerment will quickly examine the proposals thus received and initiate action for carrying out suitable changes in the Acts/Rules wherever necessary.

Reply of the Ministry of Social Justice and Empowerment

While initiating the exercise towards amendments in the Acts, the views/ suggestions of the State Governments had been solicited and the suggestions received would be appropriately considered .

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

CHAPTER – III**RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE GOVERNMENT****Recommendation (Sl. No. 4, Para No. 1.22)**

The Committee note that there has been no appreciable decline in the incidence of atrocities on the persons belonging to Scheduled Castes and Scheduled Tribes even after passage of more than half a century since Independence, as admitted by the Home Secretary during the course of evidence.

Reply of the Ministry of Home Affairs

Data relating to incidents of crime against the members of Scheduled Caste (SC) and Scheduled Tribe (ST) communities under the IPC, PCR and POA Acts during the period from 1999 to 2003 is enclosed (Annexure). There has been a decline of 21.6% and 13.1% respectively in the incidence of crime against SCs and STs in 2003 as compared to 2002.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Comments of the Committee

Please see para 1.12 of Chapter-I.

Recommendation (Sl. No. 8, Para No. 1.26)

The Committee further note that Article 46 which directs the State to promote educational and economic interests of the Scheduled Castes and the Scheduled Tribes and protect them from social injustice and all forms of exploitation, comprises both developmental and regulatory aspects. However, since this falls under the Directive Principles and not under the Fundamental

Rights, courts cannot enforce it. As such the Committee recommend that this Article be brought under the Fundamental Rights so that it could be enforced through courts.

Reply of the Ministry of Social Justice and Empowerment

The Government of India as well as State Governments have been consistently implementing several Schemes and Programmes for the educational and economic development of Scheduled Castes and Scheduled Tribes. The indicators of development also suggest that there has been a progression in the educational and economic profile of Scheduled Castes and Scheduled Tribes. There is, thus, no specific situation where the responsibility of promotion of development of Scheduled Castes and Scheduled Tribes has not been carried out by the Central or State Governments.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (SI. No. 12, Para No. 1.30)

The Committee suggest that a Central agency should be set up with jurisdiction over other implementing bodies to ensure that provisions of the Protection of Civil Rights Act and the Prevention of Atrocities Act are scrupulously followed by these bodies. If required, necessary changes should be made in the Constitution also to achieve this goal. Besides, the National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes could also be entrusted with the responsibility of reviewing and monitoring the role of such implementing bodies by giving them enough financial help and powers to open offices in each and every State/UT.

Reply of the Ministry of Social Justice and Empowerment

The National Commission for Scheduled Castes and the National Commission for Scheduled Tribes have a mandate to investigate and monitor all matters relating to the safeguards provided under the Constitution or under any other law to evaluate the working of such safeguards and to inquire into specific complaints with respect to the deprivation of rights of the Scheduled Castes and Scheduled Tribes. Both the Commissions enjoy Constitutional status and it is not possible to visualize another Central Agency over and above them.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 14, Para No. 1.40)

The Committee note that the staff posted in the PCR Desk is inadequate to shoulder the vast responsibility of collecting, compiling and analysing the data on atrocities apart from other tasks entrusted to it. Further, it lacks a mechanism to monitor/receive data on a day to day basis. Neither of the two Ministries (Ministry of Home Affairs and Ministry of Social Justice and Empowerment) have established Special Cells for the purpose. The Committee, therefore, recommend that the PCR Desk in the Ministry of Social Justice and Empowerment should be restructured and transformed into a Special Cell with adequate manpower to exclusively look after the atrocities aspect. The Ministry of Home Affairs should also establish an exclusive cell, with a system in place, to obtain updated information on Atrocities and other IPC crimes committed on Scheduled Castes/Scheduled Tribes, throughout the country.

Reply of the Ministry of Social Justice and Empowerment

Adequate staff is provided commensurate with the workload from time to time.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 17, Para No. 1.43)

The Committee note that the Ministry of Home Affairs have tried to absolve themselves of the responsibility implied under Article 355 of the Constitution. The Article casts upon the Union Government the responsibility to protect States against internal disturbance and also ensure that government of every State is carried on in accordance with the provisions of the Constitution. It is needless to mention that threats to weaker sections of the society, especially to Scheduled Castes and Scheduled Tribes, imply threat to internal security as rightly admitted by the Special Secretary, Ministry of Home Affairs during evidence. The Committee desire that the duty and responsibility entrusted to the Central and State Governments should be carried out earnestly.

Reply of the Ministry of Home Affairs

Maintenance of law & order and prevention of crime including atrocities against members of SC/ST communities are primarily the responsibility of the State Governments. The Union Government supplements the efforts of the State Governments by providing financial assistance for modernization of the State Police Forces in terms of weaponry, communication, equipment, mobility, training and other infrastructure under the Scheme of Modernization of State Police Forces. Further, intelligence inputs are regularly shared by the Central security and intelligence agencies with the State Governments to prevent crime and law

and order related incidents including atrocities against all weaker sections of the society. The Ministry of Home Affairs (MHA) also issues advisories to the State Governments in this regard from time to time.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (SI. No. 26, Para No. 2.29)

The Committee note that except the study conducted by the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in the 1990s, on “Atrocities on Scheduled Castes and Scheduled Tribes – Causes and Remedies” no other study has been conducted nor any independent agency has been entrusted by the Ministry of Social Justice and Empowerment to do the task. The Committee further observe that though the Act itself provides a glimpse of the atrocities being committed, based on caste prejudice and untouchability, there is a need to further study the disabilities that may have arisen due to the changing socio-economic conditions today. The Committee further fail to understand the reasons put forth by the Ministry to explain the increased crimes against Scheduled Castes/Scheduled Tribes.

Reply of the Ministry of Social Justice and Empowerment

No comments.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (SI. No. 28, Para No. 2.31)

The Committee are deeply concerned with the incidence of atrocities mainly in Uttar Pradesh, Madhya Pradesh and Rajasthan which continue to

account for the abnormally higher number of atrocity cases, contributing as much as 63.5% to the total atrocity cases reported in the country during 2000. The situation is no less different in Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Karnataka, Kerala, Maharashtra, Orissa and Tamil Nadu which accounted for another 35.5% of the total cases. For crimes against Scheduled Castes under the Indian Penal Code, Uttar Pradesh, Rajasthan and Madhya Pradesh yet again figured for contributing 67.4% of the total cases reported from States/Union territories. Among these, Madhya Pradesh and Rajasthan together accounted for abnormally higher number of crimes (71%) against the Scheduled Tribes. The Committee further note that crimes/atrocities are more in rural areas as compared to urban areas.

Reply of the Ministry of Social Justice and Empowerment

No comments.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. Nos. 30 & 31, Para Nos. 2.33 & 2.34)

The Committee also find that Madhya Pradesh and Uttar Pradesh have formulated contingency plans containing package of relief and rehabilitation measures for the victims of atrocities as per the Act. But no contingency plan for stopping / curbing such acts of violence has ever been made. The Committee are not inclined to accept the view of the Ministry of Home Affairs that there is no need for any contingency plan since crimes against Scheduled Castes /Scheduled Tribes have shown a declining trend. The Committee fail to understand as to wherefrom they have made such an inference because the fact is that the total number of atrocity cases increased from 26,285 during 1999 to

30,315 during the year 2000. The Committee wonder whether the Ministry of Home Affairs are concerned with crimes under the Indian Penal Code only and justify their inaction in view of the marginal decline therein.

The Committee, therefore, recommend that contingency plans are necessary for both preventive and rehabilitative purposes. The safety of the Scheduled Caste and Scheduled Tribe victims can only be ensured by prompt and strict action. If required, necessary amendment to the Prevention of Atrocities Act be brought in to include preparation of contingency plan for preventive aspects also. Instructions be issued to State Governments to lay emphasis on controlling atrocities in rural areas.

Reply of the Ministry of Home Affairs

The Ministry of Home Affairs has from time to time been advising the State Governments to give more focused attention to improving the administration of the criminal justice system, especially to ensure prevention of atrocities against the Scheduled Castes and Scheduled Tribes and other vulnerable sections of the society. In the latest advisory it has inter alia been reiterated that the State Governments are required to take urgent action regarding identification of atrocities prone areas, appointment of Special Officers in such areas in accordance with Rule 10 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, and special steps to protect the life and property of Scheduled Castes and Scheduled Tribes in such areas. The State Governments have also been advised to sensitize police officers in regard to the implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and impart regular and effective training to the Police Officers, Special

Public Prosecutors and the concerned District Administration Officer in regard to the implementation of these Acts.

Several State Governments have already taken various measures for preventing crimes against Scheduled Castes and Scheduled Tribes.

Special Cells have been set up in the State/UTs of Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttaranchal and Pondicherry for implementation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Governments of Andhra Pradesh, Bihar, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu and Uttar Pradesh have also identified the atrocities prone/sensitive areas in their respective States.

State Level Vigilance and Monitoring Committees under the Chairpersonship of the Chief Minister and District level Vigilance and Monitoring Committees in accordance with Rule 16 and Rule 17 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 have been set up in the States of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Nagaland, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttaranchal, Dadra & Nagar Haveli, Andaman & Nicobar Islands and Daman & Diu.

Recently, the Ministry of Home Affairs has also introduced the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005, which has provisions for the District Magistrates to be empowered to take preventive

measures when there is any apprehension of breach of peace etc. between members of different groups. As and when enacted, this Bill will also help in preventing atrocities against Scheduled Castes and Scheduled Tribes.

In view of the above, any amendment of the Prevention of Atrocities Act is not considered necessary.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (Sl. No. 35, Para No. 2.38)

The Committee are dismayed to note that even in the era of technological advancement in the field of Information Technology, there is no effective mechanism to gather information about the crimes committed against Scheduled Castes/Scheduled Tribes. The Central Ministries still rely on news items, references from elected representatives and reports / returns received. There is no system in existence to get data on day-to-day basis. Immediate information on particular cases is received only when asked for as admitted by the Secretary, Ministry of Home Affairs during evidence. The Committee, therefore, recommend that a system should be established at District level throughout the country at the earliest so that the Central Ministries as well as the National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes are able to receive data on crimes against SCs/STs under Indian Penal Code and the Special Laws instantly and in any case not later than three days from the date of occurrence of the crime. The responsibility of rendering information should be fixed on the District Magistrate/Collector and Officers who fail to furnish such inputs within the prescribed period may be liable for punishment for inaction under Section 4 of the Prevention of Atrocities Act.

Reply of the Ministry of Home Affairs

National Crime Records Bureau (NCRB), the premier organisation under MHA, in collaboration with the National Informatics Centre, has already developed a Crime & Criminal Information System (CCIS) and a web-enabled Daily Crime Report (DCR) System. Both the application systems are at nascent stage. Implementation of CCIS by all States/Union territories will give a boost in controlling activities of criminals and prevention of crimes. The DCR system would make it possible for all concerned agencies to retrieve report/data on crimes in the fastest possible manner. To ensure smooth functioning of the systems, NCRB has provided extensive training to the Staff of SCRBx and DCRBx and more than 17,000 police officers have been trained in using computers, CCIS/DCR.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Comments of the Committee

Please see para 1.49 of Chapter-I.

Recommendation (Sl. No. 40, Para Nos. 2.43)

The Committee further want both the Ministries to be more constructive in their approach and seek intervention of the PMO, wherever necessary keeping in mind the seriousness of the subject.

Reply of the Ministry of Social Justice and Empowerment

No such occasion has so far arisen, where intervention of the PMO is required to be sought on account of inaction on the part of a State Government in regard to implementation of the Acts.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 46, Para No. 2.49)

The Committee are pained to note that there are States which are yet to set up Special Cells despite all persuasion. In some States, such Cells are functioning in a pathetic condition with poor infrastructure and unsuitable working conditions. The Committee, therefore, recommend that instructions should be issued to the State Governments to improve the condition of these Cells by providing suitable infrastructure. The Committee further desire that the Central Government should provide 100% assistance to those State Governments who are yet to establish Special Cells and see that they are functional in the shortest possible time.

Reply of the Ministry of Social Justice and Empowerment

Necessity of setting up of Special Cells is more significant where the number of cases under the Acts is substantial. The Special Cells have already been set up in the States/UTs of Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttaranchal and Pondicherry, which account for over 90% cases under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. As regards providing 100% central assistance to those State Governments, which are yet to establish Special Cells, it may be mentioned that no such request has been received from any State Government. Further, the State Governments have been addressed to provide suitable infrastructure to the special cells.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 47, Para No. 2.56)

The Committee note that Protection of Civil Rights Act recognises various forms of untouchability which are punishable under the Act. The Committee, however, do not agree with the view of the Ministry that untouchability is under control since it is widely prevalent in Andhra Pradesh, Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh. In the North-Eastern States with small Scheduled Caste population it might not be reported. Similar might be the case with Dadra & Nagar Haveli and Daman & Diu. The evil is widely prevalent in States and UTs having sizeable Scheduled Caste population as it is generally practised against these people.

Reply of the Ministry of Social Justice and Empowerment

Noted.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 53, Para No. 2.64)

The Committee are surprised to note that three districts of Kerala and coastal districts of Orissa shown as untouchability prone areas have not been placed under atrocity prone areas despite the fact that caste prejudice and practice of untouchability are the major causes of atrocities. The Committee, therefore, recommend that all State Governments should be asked to review their lists to include therein such untouchability prone areas which are sensitive to atrocities and amend their lists accordingly.

Reply of the Ministry of Social Justice and Empowerment

In accordance with these provisions of the Acts, the State Governments are required to identify the atrocity prone areas, depending upon the magnitude

of the offences in an area. The State Governments are also addressed from time to time to inter-alia identify the atrocity prone areas and consequent upon these persistent efforts, the Governments of Kerala and Orissa have also identified the atrocity prone areas.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (SI. No. 61, Para No. 3.20)

The Committee desire the Government to examine the recommendations of the Malimath Committee Report in totality to see that the provisions of the Protection of Civil Rights Act, 1955 and the Prevention of Atrocities Act, 1989 are not diluted.

Reply of the Ministry of Home Affairs

The Malimath Committee had made 158 recommendations in its report. The report has been referred to State Governments for their views/comments as the Criminal Law and Criminal Procedure are on the Concurrent List of the Seventh Schedule to the Constitution of India.

(Vide Ministry of Home Affairs O.M.No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Recommendation (SI. Nos. 64 & 65, Para Nos. 3.29 & 3.30)

The Committee note that seven States have set-up Special Courts for dealing with cases under the Prevention of Atrocities Act and three States have set up Special Courts for dealing with cases under the Protection of Civil Rights Act. The Committee are further happy to note that all State Governments except Arunachal Pradesh, Mizoram and Nagaland which are predominantly inhabited

by Scheduled Tribes, have notified existing Sessions Courts as Special Courts for trial of offences under the Prevention of Atrocities Act.

The Committee further note that a sample based research study has indicated that on an average 3.15 years' time is taken from registration to disposal of cases. Another study conducted in Madhya Pradesh on analysis of 82 judgements has indicated that 60 % cases were disposed of in one year.

Reply of the Ministry of Social Justice and Empowerment

These are observations of the Committee, which require no comments.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 71, Para No. 4.11)

The Committee note that the central assistance is provided to State Governments on 50:50 basis and 100% to Union territories for undertaking measures for effective implementation of both the Acts, which include provision of relief and rehabilitation to the victims of atrocities. The Committee also note that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 provide for relief to victims/dependents depending on the type of atrocity. The Committee further note that first instalment of relief is made in varying percentage ranging from 25% to 75% depending on the type of atrocity when chargesheet is submitted in court and the balance amount is released when the accused is finally convicted.

Reply of the Ministry of Social Justice and Empowerment

These are observations of the Committee, which require no comments.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Recommendation (Sl. No. 74, Para No. 4.14)

The Committee are pained to note that instead of considering the valuable suggestion about migration of Scheduled Caste/Scheduled Tribe people to safer places to avoid consequent violence after acts of atrocities for inclusion in the rehabilitation scheme, the Ministry of Social Justice and Empowerment turned it down by stating that it may not be possible to have any uniform basis over the issue since State Governments have to decide on the basis of various factors. The Committee, are of the firm belief that State Governments being primarily responsible can at least be suitably guided in this direction and if this is incorporated in the relief / rehabilitation scheme, it can be made binding on States. The Committee, therefore, recommend that necessary changes as regards migration be incorporated in the relief / rehabilitation measures enumerated in the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 and State Governments be requested to take steps accordingly.

Reply of the Ministry of Social Justice and Empowerment

The Ministry of Social Justice & Empowerment is of the opinion that primarily the concerned State Governments should endeavour their best to ensure that the victims of atrocities are provided ample police protection and other support so that they remain secure and safe at their usual place of residence. If in the most adverse and exceptional circumstances, a decision is taken to shift the atrocity victims, then also it is to be left to the concerned State Government to decide it keeping in view various local considerations.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

CHAPTER – IV**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION****Recommendation (Sl. Nos. 1, 2 & 3, Para Nos. 1.19, 1.20 & 1.21)**

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

The Committee, therefore, recommend that a strategy, should be evolved by the Centre in cooperation with the States for earnestly carrying out their duties for the strict implementation of the provisions laid down in these two legislations (Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, 1989) so that they could go a long way in providing timely justice to the Scheduled Castes and Scheduled Tribes.

The Committee further recommend that the Government should consider bringing in effective constitutional amendments so that no one is able to dilute the special laws and special provisions for Scheduled Castes and Scheduled Tribes made by Parliament. The Committee also suggest that timely action be taken and judicial delays be reduced so that the victims belonging to Scheduled

Castes/Scheduled Tribes do not lose confidence in the implementing agencies, enforcement machinery and the judicial process.

Reply of the Ministry of Social Justice and Empowerment

The Ministry of Social Justice & Empowerment as well as Ministry of Home Affairs have been addressing the State Governments/Union Territory Administrations to implement the provisions of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Act") in letter and spirit. The Hon'ble Union Minister for Social Justice & Empowerment also addressed a d.o. letter dated 28.12.2004 to the Chief Ministers of States suggesting therein various measures for effective implementation of the Acts, like ensuring registration of First Information Report (FIR), timely arrest and filling of charge sheets in the courts. The first ever-National Conference on Prevention of Atrocities against Scheduled Castes and the Scheduled Tribes and Protection of Civil Rights was held in New Delhi on 11.02.2005, presided by Hon'ble Union Minister for Social Justice & Empowerment and attended by Hon'ble Union Home Minister, Hon'ble Union Minister of Law & Justice, Chairman, National Commission for Scheduled Castes, Chairperson, National Commission for Safai Karamcharis, State Ministers, Secretaries to State Governments. Heads of the PCR Cells of States, Human Rights Activists, Non Governmental Organizations had also participated.

The Acts already have the Constitutional mandate and that the punishments for the offences have been well defined. The non-SC/ST public servants, willfully negligent towards performance of their duties can also be punished under the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act, 1989. Thus, there seems to be no necessity of amending the Constitution for ensuring effective implementation of the Acts.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Comments of the Committee

Please see para 1.9 of Chapter-I.

Recommendation (Sl. No. 9, Para No. 1.27)

The Committee further observe that the National Commission for the Scheduled Castes constituted under Article 338 and the National Commission for the Scheduled Tribes constituted under Article 338A of the Constitution which are entrusted with the responsibility of ensuring that the safeguards and other measures for protection, welfare and development of Scheduled Castes and Scheduled Tribes are implemented, have not been given the statutory responsibility of overseeing the implementation of the Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, 1989. The Committee desire that the Commissions be given the statutory responsibility of overseeing the implementation of the two Acts. The Committee also desire that the Commissions be empowered by making their recommendations mandatory instead of being advisory in nature.

Reply of the Ministry of Social Justice and Empowerment

The National Commission for Scheduled Castes and the National Commission for Scheduled Tribes under Article 338 of the Constitution of India have been entrusted with powers to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution, under any other law or, under any order of the Government and

to evaluate the working of such safeguards. These Commissions have the powers to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes. The Commissions also have the duty to present to the President, annually and at such other time as the Commission may deem fit, reports upon the working of Constitutional safeguards and such reports are required be laid before each House of Parliament along with an Action Taken Memorandum. Thus, report and recommendations of the Commissions receive utmost attention.

As regards making the recommendations of the Commissions mandatory, the recommendations of all Commissions are not mandatory and advisory in nature and the final decision making rests with the government.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Comments of the Committee

Please see para 1.22 of Chapter-I.

Recommendation (Sl. No. 11, Para No. 1.29)

It cannot be denied that the roles of the Centre and the States are clearly defined in the Constitution. The States are expected to perform effectively to prevent atrocities. But it is of serious concern to the Committee that the role of the Central Ministries under Article 256 has been restricted to only pursuing the States to implement the Acts in letter and spirit. The Ministry of Home Affairs have also simply absolved themselves of the important responsibility by merely stating that “Police and Public Order” are State subjects. They somehow seem to have forgotten the constitutional obligation under Entry 65(c) of the Union List

and Entries 1,2 & 3 of the Concurrent List. They have also failed to shoulder the implied responsibility of protecting every State from internal disturbances as laid down in Article 355 of the Constitution. Response of the two Ministries (Ministry of Home Affairs and Ministry of Social Justice and Empowerment) towards raising of a Central force for the purpose or some Central agency for that matter has been totally negative. The Committee, therefore, impress upon the two Ministries to contrive and see what positive steps can be taken in this direction.

Reply of the Ministry of Social Justice and Empowerment

Maintenance of law and order and the implementation of laws is the responsibility of State Governments in terms of the federal structure of the Constitution. The incidents of offences of atrocities are sporadic, localized and generally against individuals and thus, not comparable in magnitude and nature to the internal disturbances, attracting provisions under Article 355 of the Constitution.

Under the Police Act, 1861, the police officer after investigation lays information and this is exclusively a State power. No doubt separate investigating agencies have been created for certain special offences under the Central Acts and the authorities created under those Acts have powers relating to each particular Act for the purpose of levying penalties or pursuing other remedies. However, so far as prosecution in a Court is concerned, even for offences under those Acts, the matter rests with the State Police. As such raising of a Central force or Central agency for prevention of atrocities would not serve the desired purpose.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR (Desk) dated the 4th January, 2006)

Comments of the Committee

Please see para 1.26 of Chapter-I.

Recommendation (Sl. Nos. 22 & 23, Para Nos.1.59 & 1.60)

The Committee do not agree with the justification given by the Ministry of Home Affairs regarding equal status enjoyed by all Ministries in getting desired responses from State Governments/Union territories. The Committee also feel that separating criminal justice administration from development is in no way going to affect the rehabilitation or socio-economic development or formulation of plan/strategy for upliftment and empowerment of Scheduled Castes and Scheduled Tribes as far as smooth coordination exists between the two Ministries. The Ministry of Home Affairs can always advise the other Ministry on rehabilitation aspects also wherever they consider it necessary to do so. The Committee opine that in the absence of proper coordination, the monitoring of cases of atrocities is definitely going to be affected because of the division of responsibility. The Home Secretary has admitted during evidence that there is lack of coordination among the Ministries on the subject.

The Committee are, of strong opinion that, because of their important status and allocation of responsibilities, the Ministry of Home Affairs certainly are in a better position to get the required responses from the State Governments/Union territories. The State Police Forces would be more responsive and amenable to intervention by the Ministry of Home Affairs since officers of the IPS whose service records are maintained by the Ministry enjoy important positions there. Moreover, the Ministry of Home Affairs are financing State Governments for upgradation of the Police Forces.

Reply of the Ministry of Home Affairs

All crimes, including crimes against Scheduled Castes and Scheduled Tribes, are essentially problems of law and order which are handled by the State Governments through their own police forces. Under the scheme of Constitutional division of responsibilities, the Central Government has no control over the State police forces. Merely because the service records of IPS officers are maintained by the MHA, it may not be appropriate to conclude that the State Police Forces would be more responsive and amenable to intervention by the Ministry. IPS officers, when posted under a State Government, are completely under the control of that Government. Therefore, the State police would be duty bound to be more responsive to the directions of its controlling State Government rather than to the missive/advisories of MHA. Given the federal structure we have the Union Government does its best to ensure that social tensions and inequalities, which sometimes result in atrocities against members of SC/ST communities and other weaker sections of society, are minimized. The recommendation of the Committee regarding greater coordination between MHA and the line Ministries has been noted.

(*Vide* Ministry of Home Affairs O.M. No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Comments of the Committee

Please see para 1.35 of Chapter-I.

Recommendation (Sl. No. 25 Para No. 1.62)

The Committee, further, recommend that the Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, 1989 should be administratively under the control of the Ministry of Home Affairs since thereby it would be possible to avoid

duplication of work of collecting, compiling and analyzing data. The Committee feel that the National Crime Records Bureau, which is already doing a commendable job of collecting, compiling and analyzing data, can be much more effective and professional in carrying out this duty. The reports, thus exclusively prepared, should be laid in Parliament by the Ministry every year. Based on the findings, the Ministry can go one step further in recommending corrective measures to the State Governments.

Reply of the Ministry of Home Affairs

Separating 'criminal justice administration' from 'development', insofar as they relate to Scheduled Castes and Scheduled Tribes, would deprive the Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs, as the case may be, of vital inputs which come only from a 'feel' of the ground situation and are pre-requisites for devising plans and strategies for the uplift and empowerment of Scheduled Castes and Scheduled Tribes. The Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs would lose their respective *raison d'être* if they cease to concern themselves with the issues relating to crimes and atrocities being committed against the members of Scheduled Castes and Scheduled Tribes.

The Ministry of Home Affairs deals with the management of internal security throughout the country. It also deals with the subject of criminal law and administration of criminal justice. However, it does not administer all Central laws dealing with specific crimes. For instance, crimes relating to corruption are handled by the Ministry of Personnel and Training; the Environment (Protection) Act, the Forest Conservation Act, the Wild Life (Protection) Act, etc. are administered by the Ministry of Environment and Forests; the Department of

Women and Child Development administers the Immoral Traffic (Prevention) Act, the Dowry Prohibition Act; etc., the Ministry of Finance administers the Narcotic Drugs and Psychotropic Substances Act, Foreign Exchange Management Act, etc. These Ministries holistically deal with the subjects corresponding to these laws. Thus, the Ministry of Social Justice & Empowerment and the Ministry of Tribal Affairs would not be the only Ministries having to deal with crimes of a special nature. Both the Ministries have access to the data compiled by NCRB and there is no need for duplication.

(*Vide* Ministry of Home Affairs O.M. No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Comments of the Committee

Please see para 1.39 of Chapter-I.

Recommendation (SI. No. 33, Para No. 2.36)

The Committee fully concur with the suggestions made by the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in their Report during 1990 on “Atrocities on Scheduled Castes and Scheduled Tribes – causes and remedies” and, accordingly, recommend that these steps should be constantly pursued and reviewed with the State Governments. The suggestions regarding non-payment of minimum wages, theft of cattle, fraud in maintenance of loan accounts and preventing access or non-access to burial or cremation grounds as well as extension of externment provisions to atrocity prone areas should be quickly considered to be brought within the ambit of the Prevention of Atrocities Act.

Reply of the Ministry of Social Justice and Empowerment

The ambit of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is in regard to offences of atrocities committed by non-SC and non-ST persons on Scheduled Castes and Scheduled Tribes. The offences like non-payment of minimum wages, theft of cattle, fraud in maintenance of loan accounts are of the nature of being committed by even by a SC or a ST person on another SC or a ST person and in that situation the offence would not be covered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. As regards non-access or non-access to burial or cremation grounds, such an offence is already covered under Section 4(v) of the Protection of Civil Rights Act, 1955. Likewise, the 'Externment' provision is also covered under Section 10 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR(Desk) dated the 4th January, 2006)

Comments of the Committee

Please see para 1.46 of Chapter-I.

Recommendation (SI. No. 37, Para No. 2.40)

The Committee understand that failure on the part of the Government to check atrocities even after promulgation of the Prevention of Atrocities Act, 1989, is mainly because though related with the maintenance of law and order situation it is being ironically administered by the Ministry of Social Justice and Empowerment responsible for socio-economic and developmental issues. The Ministry of Home Affairs can better handle the job since they operate in the related field and have the expertise to deal with crimes. As such, the Act should

exclusively be administered by the Ministry of Home Affairs as recommended in Para 1.62 of Chapter I.

Reply of the Ministry of Home Affairs

The Ministry of Social justice & Empowerment is the administrative Ministry for implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Protection of Civil Rights Act, 1955. Prevention of crimes against SCs/STs not only involves punitive action against the violators but also encompasses the development and empowerment of SCs/STs with which the Ministry of Social justice & Empowerment and Ministry of Tribal Affairs are concerned. To look at the crimes only as violations of the law and not as a social problem will not be a holistic approach. The role of MHA is more of a central agency coordinating the efforts in controlling crimes and advising the State police and other concerned agencies. Controlling crimes and taking action against criminals are essentially State subjects. It would neither be feasible nor desirable for MHA to take over the administration of all Acts, which contain provisions for criminal justice for related offences. In fact, most of such Acts are being administered by the concerned Ministries/Departments and there has been no deleterious effect on the administration of the same. In the circumstances, it may not be appropriate for MHA to take on the administration of the SCs & STs (Prevention of Atrocities) Act, 1989 and Protection of Civil Rights Act, 1955.

(*Vide* Ministry of Home Affairs O.M. No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Comments of the Committee

Please see para 1.52 of Chapter-I.

Recommendation (Sl. No. 41, Para No. 2.44)

The Committee further note that guidelines can be issued to State Governments for fixing responsibility on officers failing to control crimes under their jurisdiction. Section 4 of the Prevention of Atrocities Act, 1989 also provides for stringent punishment for neglect of duties. The Committee are, however, constrained to note that the Ministry have neither been able to persuade the States to fix responsibility nor been able to present even a single case where an officer has ever been punished.

Reply of the Ministry of Home Affairs

Advisories have been issued to the State Governments/Union Territory Administrations in this regard. However, prevention of crimes and maintenance of law and order including fixing of responsibility of officers failing to control crimes under their jurisdiction are essentially State subjects. It may be appreciated that issuing directives to the State Government to fix responsibility on police personnel, who are under the control of the State Government may be considered as undue interference by the Central Government in the administration of law and order in the State. However, as has been submitted in reply to Para Nos. 2.41 & 2.42, the Government would endeavour to devise plans and strategies for exerting more pressure on the administrations of the State Governments and Union territories for fixing responsibility and for stringent punishment on the delinquent police personnel.

(Vide Ministry of Home Affairs O.M. No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Comments of the Committee

Please see para 1.55 of Chapter-I.

Recommendation (Sl. No. 48, Para No. 2.57)

The Committee, therefore, recommend that the Ministry of Social Justice and Empowerment order a study to identify other untouchability like practices prevalent in the above stated areas, other than the types of untouchability enumerated in the Protection of Civil Rights Act, as also in the States having sizeable Scheduled Caste population where the practice is widely prevalent, besides carrying out a survey to find out whether such cases go unreported or unregistered. The Committee impress upon the Ministry to issue fresh instructions to all States that even smallest matters which amount to untouchability must be booked under the Protection of Civil Rights Act, 1955 and reported to the Centre.

Reply of the Ministry of Social Justice and Empowerment

The sample-based research studies in regard to implementation of the Act have been conducted as detailed in reply to recommendation no. (Para 2.30). As regards offences of untouchability, these offences and the punishments thereof have been defined in the Protection of Civil Rights Act, 1955. As such any offence of untouchability, has to be booked under the Act and the State Governments are advised from time to time to ensure registration of First Information Reports.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005-PCR(Desk) dated the 4th January, 2006)

Comments of the Committee

Please see para 1.61 of Chapter-I.

Recommendation (Sl. Nos. 55 & 56, Para Nos. 3.14 & 3.15)

The Committee note that the Ministry of Home Affairs advise State Governments on a number of issues relating to prevention of atrocities on Scheduled Castes and Scheduled Tribes which include administration of criminal justice system, sensitisation of police personnel, circulating notes on scope and responsibility of investigating officers, recruitment of Scheduled Castes /Scheduled Tribes in police forces, especially at the cutting edge level, setting up of Special Cells, creating awareness of legal recourse available to Scheduled Castes /Scheduled Tribes, evaluation of working of Special Courts, review of effectiveness of law enforcement machinery to improve responsiveness etc. The Committee further note that the Ministry of Home Affairs emphasised on the State Governments during September, 2001 the importance of issues like quality of investigation, follow up of prosecution, speedy disposal of pending cases, steps to protect life and property of Scheduled Castes/Scheduled Tribes especially in atrocity prone areas.

The Committee further observe from the figures available that though charge-sheeting rate by police is quite encouraging, conviction rate is very poor. The pendency of cases in courts is also high. During the year 2000 as many as 84% of the cases were pending for final decision in the courts. The conviction rate was much lower at 25.2% for cases under Protection of Civil Rights Act and 32.3% for cases under the Prevention of Atrocities Act as compared to convictions under other Special Laws.

Reply of the Ministry of Home Affairs

As per latest data available, during 2003, the charge-sheeting rate for crimes against Scheduled Castes was 94.9 per cent and charge-sheeting rate for

crimes against Scheduled Tribes was 94.3 per cent. The corresponding conviction rates for crimes against Scheduled Castes and Scheduled Tribes were 28.5 per cent and 28.0 per cent respectively. The overall charge-sheeting rate for Indian Penal Code (IPC) and Special Local Laws (SLL) was 80.1 per cent and 96.8 per cent respectively. The corresponding overall conviction rate under IPC and SLL was 40.1 per cent and 88.9 per cent respectively. At the end of year 2003, 80.7 per cent crimes against SCs and 81.4 per cent crimes against STs were pending trials in Courts.

(Vide Ministry of Home Affairs O.M. No. 24024/4/2005-WC & OP dated the 31st October, 2005)

Comments of the Committee

Please see para 1.65 of Chapter-I.

Recommendation (Sl. No. 70, Para No. 3.35)

The Committee are pained to note that in Gujarat, accused persons are easily getting bails from Magistrates or Sessions Courts in atrocity cases even when there are no provisions for anticipatory bail under Section 18 of the Prevention of Atrocities Act. The Committee, in this regard, would also like to draw attention of the Ministry of Home Affairs as well as the Ministry of Social Justice and Empowerment to the Supreme Court and Rajasthan High Court judgements discussed in paras 3.12 and 3.13 respectively. The Committee suggest that the Ministry of Social Justice and Empowerment may write to the Government of Gujarat to file appeals wherever bails are granted in atrocity cases and secondly seek opinion of the Ministry of Law and Justice over the kind of action that can be taken to prevent grant of anticipatory bails in atrocity cases ignoring the provision of Section 18 of the Prevention of Atrocities Act. The

Committee also recommend to issue special instructions to all State Governments to ensure that no accused is released on anticipatory bail under the Prevention of Atrocities Act.

Reply of the Ministry of Social Justice and Empowerment

The Government of Gujarat has been suitably addressed in this regard.

Department of Legal Affairs has opined in the matter as follows:-

- (i) Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 say that nothing in section 438 of the Code of Criminal Procedure, 1973 shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.
- (ii) With regard to grant of bails in respect of persons accused under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, by the Sessions Courts etc. in Gujarat, it would not be appropriate to offer any comments as that would amount to interfering in the working of courts.

(Vide Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005 PCR (Desk) dated the 4th January, 2006)

Comments of the Committee

Please see para 1.71 of Chapter-I.

Recommendation (Sl. No. 72, Para No. 4.12)

The Committee are satisfied with the relief amounts provided to victims/dependents on the basis of nature of atrocities. The Committee, however, opine that since final decision in court depends on various factors that can influence the case mostly against the victims/dependents, it will be improper to stop payment of the final amount to the victims/dependents in the event of losing the case. Further, the Committee find it absolutely unnecessary to make them wait to get the second and final instalments of compensation from the Government keeping in view the high pendency of cases in courts and low

conviction rate and the time taken in delivering the judgements. The Committee, therefore, recommend that the Ministry must consider bringing a suitable amendment to the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Rules, 1995 to allow payment of the total relief amount in one single instalment by the time chargesheet is presented in courts.

Reply of the Ministry of Social Justice and Empowerment

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 prescribe relief and the procedure for its disbursement, varies keeping in view the nature of offences. Whereas in respect of some offences, full payment is permissible when the charge sheet is sent to the courts, in some other cases, 50% of the amount is payable at conclusion of the trial. Further, in respect of several offences, certain percentage of amount is payable only on conviction by lower court. It is not considered prudent to pay 100% relief amount at the stage of filing the Charge sheet in the Court, as the lure of getting quick money may lead to false reports and other undesirable practices.

(*Vide* Ministry of Social Justice and Empowerment O.M. No. 13016/1/2005 PCR (Desk) dated the 4th January, 2006)

Comments of the Committee

Please see para 1.74 of Chapter-I.

CHAPTER – V

**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL
REPLIES OF THE GOVERNMENT HAVE NOT BEEN RECEIVED**

-NIL-

New Delhi
18 August , 2006
27 Sravana, 1928(S)

(RATILAL KALIDAS VERMA)
CHAIRMAN
COMMITTEE ON THE WELFARE
OF SCHEDULED CASTES AND
SCHEDULED TRIBES

MINUTES**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES
AND SCHEDULED TRIBES
(2006-2007)****(FOURTEENTH LOK SABHA)****FOURTH SITTING****(10.08.2006)**

The Committee sat from 1500 to 1600 hrs.

PRESENT

Shri Ratilal Kalidas Varma - Chairman

MEMBERSLOK SABHA

2. Shri Anandrao Vithoba Adsul
3. Shri M. Appadurai
4. Shri Biren Singh Engti
5. Shri Eknath M. Gaikwad
6. Dr. P.P. Koya
7. Shri Rupchand Murmu
8. Shri Bajju Ban Riyan
9. Dr. (Col.) Dhani Ram Shandil
10. Shri Sugrib Singh
11. Shri Vanlalawma

RAJYA SABHA

12. Shri Surendra Lath
13. Shri Lalhming Liana
14. Shri Nabam Rebia
15. Shri Nandi Yellaiah

SECRETARIAT

1. Shri P.K. Bhandari, Joint Secretary
2. Shri Gopal Singh, Director
3. Ms. J.C. Namchy, Under Secretary

At the outset, the Hon'ble Chairman welcomed the Hon'ble Members of the Committee. The Committee then considered the draft reports on (i) Reservation for and Employment of Scheduled Castes and Scheduled Tribes in Central Board of Excise and Customs (CBEC); (ii) Action taken by the Government on the recommendations contained in First Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject "Reservation for and Employment of Scheduled Castes and Scheduled Tribes in Dena Bank and credit facilities provided by the Bank to them"; and (iii) Action taken by the Government on the recommendations contained in Fourth Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject "Atrocities on Scheduled Castes and Scheduled Tribes and pattern of social crimes towards them" and adopted the same. The Hon'ble Chairman also requested the Members to send their suggestions if any, to be incorporated in the three draft reports latest by 14th August, 2006.

2. The Committee also authorised the Chairman to finalise the reports in the light of consequential changes and present the same to both the Houses of Parliament.

The Committee then adjourned.

APPENDIX

(Vide Para 4 of the Introduction)

Analysis of action taken by Government on the recommendations contained in Fourth Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

1.	Total number of recommendations	75
2.	Recommendations/Observations that have been accepted by the Government (<u>vide</u> recommendations at Sl. Nos. 5, 6, 7, 10, 13, 15, 16, 18, 19, 20, 21, 24, 27, 29, 32, 34, 36, 38, 39, 42, 43, 44, 45, 49, 50, 51, 52, 54, 57, 58, 59, 60, 62, 63, 66, 67, 68, 69, 73 and 75)	
	Number	40
	Percentage to the total	53%
3.	Recommendations/Observation which the Committee do not desire to pursue in view of Government's replies (<u>vide</u> recommendations at Sl. Nos. 4, 8, 12, 14, 17, 26, 28, 30, 31, 35, 40, 46, 47, 53, 61, 64, 65, 71 and 74)	
	Number	19
	Percentage to the total	25%
4.	Recommendations/Observations in respect of which replies of Government have not been accepted and which require reiteration (<u>vide</u> recommendations at Sl. Nos. 1, 2, 3, 9, 11, 22, 23, 25, 33, 37, 41, 48, 55, 56, 70 and 72)	
	Number	16
	Percentage to the total	22%
5.	Recommendations/Observations in respect of which final replies of Government have not been received (<u>vide</u> recommendations at Sl. No. NIL)	
	Number	NIL
	Percentage to the total	NIL