

COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES
(2004-2005)

(FOURTEENTH LOK SABHA)

FOURTH REPORT

ON

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

Atrocities on Scheduled Castes and Scheduled Tribes and
Pattern of Social Crimes towards them.

Presented to Lok Sabha on _____

Laid in Rajya Sabha on _____

LOK SABHA SECRETARIAT
NEW DELHI

April, 2005 / Vaisakha, 1927(Saka)

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**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND SCHEDULED TRIBES (2004-2005)**

Dr. Satyanarayan Jatiya - Chairman

**MEMBERS
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2. Shri S. Ajaya Kumar
3. Shri M. Appadurai
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RAJYA SABHA

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28. Shri Faquir Chand Mullana
29. Shri R. Sarath Kumar
30. Shri Nandi Yellaiah

SECRETARIAT

1. Shri John Joseph - Additional Secretary
2. Shri R.C. Ahuja - Joint Secretary
3. Shri Gopal Singh - Deputy Secretary

4. Ms.J.C. Namchyо – Under Secretary

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 Fourth Report (Fourteenth Lok Sabha) on the Ministry of Home Affairs, the Ministry of Social Justice and Empowerment and the Ministry of Tribal Affairs – Atrocities on Scheduled Castes and Scheduled Tribes and pattern of social crimes towards them.

2. The Committee took evidence of the representatives of the Ministry of Home Affairs, the Ministry of Social Justice and Empowerment and the Ministry of Tribal Affairs on 20 July, 2001 and 19 March, 2002. The Committee wish to express their thanks to the officers of the three Ministries for placing before the Committee the material and information the Committee desired in connection with examination of the subject.

3. The Report was considered and adopted by the Committee on 19 April, 2005.

4. A summary of conclusions/recommendations contained in the Report is appended (Appendix).

NEW DELHI;
April, 2005
Vaisakha, 1927(Saka)

(DR. SATYANARAYAN JATIYA)
Chairman
Committee on the Welfare
of Scheduled Castes and
Scheduled Tribes

CHAPTER - I

A. BACKGROUND OF ATROCITY

1.1 Atrocity is an expression commonly used for referring to crimes against the Scheduled Castes and Scheduled Tribes in India. Atrocity denotes the quality of being shockingly cruel and inhumane whereas crime relates to an act punishable by law. Until the year 1989 the term atrocity was not defined. Crimes coming under Chapter VIII, XVI, XVII, XXI and XXII of the Indian Penal Code constituted atrocities and were meant for reporting to the Central Government.

1.2 The roots of atrocity can be found in the caste system. India's caste system is perhaps the world's longest surviving social hierarchy. A defining feature of Hinduism, caste encompasses a complete ordering of social groups on the basis of the so-called ritual purity. A person is considered a member of the caste into which he or she is born and remains within that caste until death, although the particular ranking of that caste may vary among regions and over time. Differences in status are traditionally sought to be justified by the religious doctrine of *karma*, a belief that one's place in life is determined by one's deeds in previous lifetimes.

1.3 The expression Scheduled Caste was used for those people who were treated as "untouchable", "unseeable", "unapproachable" and

counted as a separate group in the Census Reports from 1870 onwards. The term Scheduled Caste was first used by the British Government to designate all castes and classes previously covered under the term of "Depressed Classes". Officially this word was embodied in Section 305 of the Government of India Act, 1935. The definition given in Clause 24 of Article 366 of the Constitution of India describes Scheduled Castes as such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purposes of the Constitution. Clause 25 of Article 366 defines Scheduled Tribes as such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes. The Indian Constitution, on the basis of Article 341 (1) and 342 (1) empowers the President of India to specify the castes, tribes to be deemed as Scheduled Castes and Scheduled Tribes.

1.4 Since India's independence, the Scheduled Castes have faced various forms of exploitation and degrading practices of untouchability. Considered polluted, they were forced to have separate wells; live on the periphery of villages; they were excluded from worshipping or entering temples, schools, public places; not given access to or use of basic resources and services; they were insulted and beaten. The Scheduled Tribes were equally exploited. Women belonging to these castes and

tribes bore double burden. They were exploited by caste and gender, and were vulnerable to and powerless against sexual exploitation.

1.5 Despite its constitutional abolition in 1950, and it being forbidden in any form under Article 17 of the Constitution of India, the practice of “untouchability” – the imposition of social disabilities on persons by reason of birth into a particular caste - continued in one form or the other. The Government of India in furtherance of Article 17 of the Constitution brought the Untouchability Offences Act, 1955, which was amended and renamed in 1976 as the Protection of Civil Rights Act to eradicate pervasive prejudice practised against Scheduled Castes and Scheduled Tribes. Untouchability as a result of religious and social disabilities was made punishable. As a step forward in this direction, “The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act” was enacted by Parliament in 1989 (hereinafter referred to as Prevention of Atrocities Act). The then Minister of State for Welfare, Smt. Rajendra Kumari Bajpai, while introducing the Bill during the Fourteenth Session (Eighth Lok Sabha) informed the House that the term ‘atrocities’ had not been defined till then. It was considered necessary that not only the term ‘atrocities’ should be defined but stringent measures should be introduced to provide for higher punishment for committing such atrocities. She said :

“We have to not only create awareness but we have also to stop it with strong hand..... For the first time, we have definedwhat

will constitute atrocity..... Although many of these offences could probably be covered under the normal law of the land, we are witnessing today a difference in degree which calls for a differentiation in kind in respect of these offences..... The Bill hence proposes to specify higher punishments as also laying down some minimum punishments for such offences.”

1.6 Even after more than five decades of Independence, the Scheduled Caste and Scheduled Tribe people representing over one-fourth of India's population, endure social ostracization. This issue is invariably included in the agenda for discussion by the Committee with Chief Secretaries of different States. During their visit to various parts of the country, the Committee also come across the information relating to atrocities through innumerable representations and complaints received from all over the country. The gravity of the situation arising out of the crimes which are still perpetrated against Scheduled Castes /Scheduled Tribes can be easily gauged from numerous references the Committee receive from various sources. One important feature that came to the notice of the Committee during such discussions was that generally SC/ST people avoided to report crimes and fight cases just to escape police harassment and fear of cases languishing in courts for long.

1.7 When the Committee desired to know on the subject, the Home Secretary, during evidence, said :

“Sir, I have to submit in this regard that even after 54 years, there has been no considerable decline in the incidence of atrocities on the people belonging to the Scheduled Castes and Scheduled Tribes. I do not want to establish anything by mentioning that no doubt there is some partial decline in this..”

B. CONSTITUTIONAL SAFEGUARDS / GUARANTEES

1.8 The Constitution of India provides social, political and economic justice for all. The Constitution ensures social justice by conferring rights on men and women alike, through “Fundamental Rights” which can be enforced by courts and directs the State to implement “Directive Principles of State Policy contained in Article 46 which states :

“The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.”

1.9 The Constitution also lays down the fundamental duty of every citizen vide *Article 51A (e)* to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women. Besides, several other constitutional provisions and laws are available for promoting and safeguarding the

interests of Scheduled Castes and Scheduled Tribes. Some of the relevant Articles of the Constitution are mentioned below: -

1. Article 15 prohibiting discrimination on grounds of religion, race, caste, sex or place of birth provides -

- (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them
- (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -
 - (a) access to shops, public restaurants, hotels and places of public entertainment; or
 - (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.
- (3) Nothing in this article shall prevent the State from making any special provision for women and children.
- (4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward

classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

II. Article 17 providing for Abolition of Untouchability states that “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

III. Article 23 which is meant for prohibition of traffic in human beings and forced labour states -

(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

IV. Article 338 provides for constitution of the National Commission for the Scheduled Castes. It shall be the duty of the Commission -

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in

force or under any order of the Government and to evaluate the working of such safeguards;

- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such reports, recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

V. *Article 338A provides for constitution of the National Commission for the Scheduled Tribes. It shall be the duty of the Commission -*

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and

- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

VI. *The Protection of Civil Rights Act (PCR), 1955* - With a view to eradicating the pervasive discrimination practised against Scheduled Castes and Scheduled Tribes, the Central Government enacted the Protection of Civil Rights Act 1955 to enforce the abolition of "Untouchability" under Article 17 of the Constitution. As per the Act, offences that amount to observance of untouchability as a result of religious and social disabilities are punishable by a term with fine. According to Section 4 of the Act disabilities with regard to the following if enforced against any person shall amount to preaching and practice of 'Untouchability':-

- (i) access to any shop, public restaurant, hotel or place of public entertainment; or
- (ii) the use of any utensils, and other articles kept in public restaurant, hotel, *dharmshala*, *sarai* or *musafirkhana* for the use of the general public or of any section thereof; or
- (iii) the practice of any profession or the carrying on of any occupation, trade or business or employment in any job; or
- (iv) the use of, or access to, any river, stream, spring, well, tank, cistern, water tap or other watering place, or any bathing

- ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public or any section thereof have a right to use or have access to; or
- (v) the use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of the general public or any section thereof; or
 - (vi) the enjoyment of any benefit under a charitable trust created for the benefit of the general public or of any section thereof; or
 - (vii) the use of, or access to, any public conveyance; or
 - (viii) the construction, acquisition or occupation of any residential premises in any locality, whatsoever; or
 - (ix) the use of any *dharmshala, sarai, musafirkhana* which is open to general public, or to any section thereof; or
 - (x) the observance of any social or religious custom, usage or ceremony or taking part in, or taking out, any religious, social or cultural procession; or
 - (xi) the use of jewellery and finery.

VII. *The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989* - The Act was enacted to prevent the

commission of offences of atrocities marked with hatred and violence against the members of Scheduled Castes and Scheduled Tribes. The complainant is given more weightage under the Act and there are provisions for stringent action against negligence by the police. It also provides for establishment of special courts for trial of offences under the Act and early relief/rehabilitation of victims of atrocities. The following 22 categories of atrocities enumerated in Section 3 of the Act provide a glimpse of the practices faced by SCs/STs. It lays down:-

- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe -
 - (i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;
 - (ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood;
 - (iii) forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or

commits any similar act which is derogatory to human dignity;

- (iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
- (v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;
- (vi) compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;
- (vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote a particular candidate or to vote in a manner other than that provided by law;
- (viii) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;

- (ix) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;
- (x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- (xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;
- (xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;
- (xiii) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of Scheduled Caste and Scheduled Tribe so as to render it less fit for the purpose for which it is ordinarily used;
- (xiv) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place

of public resort to which other members of public or any section thereof have a right to use or access to;

- (xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village, or other place of residence,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

- (2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, -

- (i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;
- (ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby

cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that it will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

- (v) commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;
- (vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence; or
- (vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

1.10 When the Committee wanted to have opinion of the Ministry of Social Justice and Empowerment over the need for a new and more effective legislation to curb the increasing crimes against SCs/STs, the

Ministry informed that growing crimes against SCs/STs were because of increased awareness towards Protection of Civil Rights Act, 1955 and Prevention of Atrocities Act, 1989 and effectiveness in registration of FIRs by police that cases do not go unreported. As regards social issues, changes in society have to be brought about through socio-economic development, empowering weaker sections of society and providing them social justice and not by gearing up the police machinery or through judicial pronouncements. The two legislations are useful and effective and there is no need to bring in new legislation.

1.11 The Ministry have further elaborated that the Governments both at the Centre and in the States are taking a number of steps for socio-economic and educational development of Scheduled Castes and Scheduled Tribes. Awareness is being generated for ensuring participation of civil society. States/UTs are being requested to implement the Acts strictly. It is expected that these measures will bring about necessary change in socio-economic development of these people in coming years rapidly.

1.12 When the Committee sought the opinion of the Ministry over the changes that could be suggested to make the present set up more effective and see that States act in unison with Centre with deep sense of commitment, the Ministry of Social Justice and Empowerment stated that the roles of States and the Centre have been laid down in the Constitution

and that the States are being pursued to implement the Acts in letter and spirit.

1.13 To a similar point placed before the Ministry of Home Affairs over the directions that the Centre can give and concrete steps it can take against non-performing States, it was replied that 'Public Order' and 'Police' are State subjects as listed in entry (1) and (2) of the State List of the Constitution of India. The States are expected to take effective action as per law in case of crimes against Scheduled Castes and Scheduled Tribes. Central assistance, whenever and wherever required, can be provided by the Central Government on a specific request received from the State Governments. If the problem involves the failure of Constitutional machinery in the States, the Central Government can act in accordance with the provisions of the Constitution of India.

1.14 When asked whether deployment of Central Forces or raising of SC/ST Task Force in the CRPF will serve the purpose, the Ministry of Home Affairs viewed that deployment of Central Forces or raising of special SC/ST task wing in the CRPF for deployment in the sensitive/atrocity prone areas is unlikely to serve any meaningful purpose as Central Para Military Forces are primarily meant for assisting the State Governments, on their request, in situations of serious law and order, insurgency, extremism and terrorism. Atrocities against members of SCs and STs fall under the category of crime and, therefore, are best handled

by the State Police Forces. There is, therefore, no proposal to raise the special Scheduled Castes and Scheduled Tribes task wing in the CRPF.

1.15 When the Committee wanted to have the opinion of the Ministry of Social Justice and Empowerment on setting up of a Central Agency with jurisdiction over other implementing bodies to see that measures enumerated in the Protection of Civil Rights Act and the Prevention of Atrocities Act are scrupulously followed, no suggestion or explanation was rendered.

1.16 When the Committee inquired about the role of National Integration Council, the Ministry of Home Affairs stated that the Council was set up to find ways and means of combating evils of communalism, casteism and regionalism which work against the unity and integrity of the country. The role of National Integration Council is basically advisory in nature. Views of different political parties, public functionaries and eminent personalities from different fields are solicited on how to fight the evils of communalism and other fissiparous tendencies. As for the reasons that no meeting of NIC could be held even once during the last 5 years, the Secretary, Ministry of Home Affairs while clarifying stated during evidence: -

“The issue of convening the meeting of the National Integration Council was raised several times but the proposal was postponed for one reason or the other. Sometimes, there were elections or change in Government, sometimes there were other reasons. At times it was said that it will be reconstituted. Efforts were made

several times in this regard. This issue was again raised two or four months ago, but the meeting could not be called till now. It has to be reconstituted and meeting will be called thereafter and the decision has to be taken by the Home Minister and the Prime Minister . Proposals have been sent several times but no decision has been taken as to when it will be reconstituted and when the meeting will be called.”

1.17 When asked as to who would constitute the membership of the Council, the Secretary further submitted:-

“All Cabinet Ministers and Chief Ministers are therein as Members. Besides, persons who are nominated by the Prime Minister and Home Minister are there. Officials of some departments will also be there as members which will depend upon its constitution. All are aware of the measures and the things to be done. I have given brief details in regard to the question.”

1.18 The Committee understand that a 103 – member National Integration Council has since been reconstituted under the Chairmanship of the Prime Minister of India after a gap of twelve years having held its last meeting in 1992.

1.19 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.

1.20 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.

1.21 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.

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.

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.

1.24 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.

1.25 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.

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.

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.

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/-.

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.

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.

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.

C. ORGANISATIONAL SET-UP IN THE MINISTRY

1.32 The Committee have been informed that matters relating to atrocities on Scheduled Castes and Scheduled Tribes are dealt with by the Scheduled Castes Development Division (SCD) in the Ministry of Social Justice and Empowerment (SJE). The Joint Secretary (SCD) supervises the work of the division under the guidance of the Additional Secretary and Secretary (SJ&E). The Revision of Lists (RL) Cell and Protection of Civil Rights (PCR) Desk are headed by a Director who is responsible for the implementation and administration of the Protection of Civil Rights (PCR) Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and is assisted by a Desk Officer, Research Officer and 4 Subordinate Staff.

1.33 The PCR Desk collects, compiles and analyses data on atrocities on Scheduled Castes and Scheduled Tribes received from States/UTs in addition to other duties assigned. It is responsible for preparation of Annual Reports on the two Acts for each calendar year among other functions. On a specific query, it has been stated in the post evidence reply that there is no Special Cell in the Ministry of SJE to monitor/receive data on atrocities on day-to-day basis. To a similar question, the Ministry of Home Affairs in their post evidence reply have also admitted that they do not have any such separate division or cell to monitor crimes committed against Scheduled Castes and Scheduled Tribes under IPC and Special laws. However, they have stated that the National Crime Records Bureau (NCRB) under the Ministry of Home Affairs collects data on crimes under special laws from the State Police Headquarters, compiles and publishes the same as a part of its annual publication "Crime in India".

1.34 When the Committee inquired about the regularity of reports/returns from the States, the Ministry of Social Justice and Empowerment replied that reports/returns were delayed almost from all the States.

1.35 To another question as to whether the Ministry of Social Justice and Empowerment make use of data received from the erstwhile National Commission for Scheduled Castes and Scheduled Tribes, the Ministry in their post evidence reply have informed that the data regarding registration, investigation and disposal of cases is received from the

concerned States/UTs only, which implement the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Such data is normally not received from the National Commission for Scheduled Castes and Scheduled Tribes. However, any data received from the National Commission for Scheduled Castes and Scheduled Tribes will certainly be made use of.

1.36 In reply to a query about their plans to make the present set-up more effective and result oriented, the Ministry in their post evidence reply have merely stated that in accordance with provision of the Section 21(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the State Governments are required to take such measures as may be necessary for effective implementation of the Act. However, the Ministry review implementation of the Act from time to time so as to make its implementation more effective. It has been reported that the State Governments have repeatedly been requested to furnish data to the Ministry in time for preparation of the Annual Reports on implementation of the Act.

1.37 When asked to state the reasons for delay of almost four years in finalisation of the Annual Reports on the two Acts for the years 1993 to 1995, the Ministry clarified to the Committee that the delays in finalising the reports were primarily due to non/late receipt of requisite data/information from States/UTs. Due to persistent efforts of the Ministry of Social Justice & Empowerment, the delays have been considerably

reduced. The Annual Reports under the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, up to the calendar year 2002, have been laid in both Houses of the Parliament.

1.38 The Committee further enquired from the Ministry of Home Affairs about their obligation under Article 355 of the Constitution to come up with concrete ideas and proposals to counter atrocities and see that the Centre experiences no bottlenecks on matters relating to untouchability and prevention of crimes against Scheduled Castes/Scheduled Tribes in view of the non-receding crime graph. The Ministry in their post evidence reply submitted that a declining trend in the crimes against Scheduled Castes and Scheduled Tribes has been noticed in the recent past. Article 355 of the Constitution reads as follows: -

“Duty of the Union to protect States against external aggression and internal disturbances-It shall be the duty of the Union to protect every State against external aggression and internal disturbances and to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution.”

This article mandates three specific duties on the Union Government:

- (a) To protect the States from external aggression;
- (b) To protect the States against internal disturbances;
- (c) To ensure that the Government of every State is carried on

in accordance with the provisions of the Constitution.

1.39 It has been stated that the States are expected to tackle internal disturbances on their own with the assistance, wherever required, from the Central Government. If an internal disturbance does not lead to the failure of constitutional machinery in the State, no action is envisaged by the Union under Article 355. In other words, unless National Emergency is proclaimed under Article 352 or powers of the State are assumed to himself by the President under Article 356, the Union Government cannot assume responsibility for maintenance of public order in a State to the exclusion of the State authorities charged with such maintenance of law and order. When the Committee desired to know whether the threat to weaker sections especially Scheduled Castes and Scheduled Tribes implies threat to internal security, the Special Secretary to the Ministry of Home Affairs replied in the affirmative during evidence.

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.

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.

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.

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.

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.

D. DIVISION OF RESPONSIBILITIES

1.45 The Committee have been informed that the Ministry of Home Affairs is concerned with collection, compilation, monitoring and analysis

of data regarding atrocities on Scheduled Castes /Scheduled Tribes. 'Police' and 'Public Order' being State subjects as per provisions contained in the Seventh Schedule of the Constitution of India, the registration, investigation, detection and prevention of crimes including atrocities on Scheduled Caste/Scheduled Tribes, is primarily the responsibility of the State Governments. As such, action on atrocity cases against Scheduled Castes/Scheduled Tribes is to be taken by the concerned State Government. However, the Government of India have been advising State Governments, from time to time, to give more focused attention to the improvement of administration of Criminal Justice System and take such measures as are necessary for the prevention of crimes against the Scheduled Castes, Scheduled Tribes and other vulnerable sections of the society. Financial assistance is also provided to the State Governments for improving their policing infrastructure.

1.46 The Committee have been informed that the Ministry of Social Justice and Empowerment, on their part, co-ordinate the matter with the States in regard to providing central assistance to the States/UTs in matters regarding proper implementation of the two Acts relating to Scheduled Castes /Scheduled Tribes. Financial Assistance is provided to the States/UTs for meeting administrative expenditure, expenditure on relief and rehabilitation to victims of atrocities and their dependents and for setting up of Special Courts, along with other measures provided for in the two Acts. The Ministry also compile information received from States/UTs

and make use of the information for drafting Annual Reports on the two Acts.

1.47 When the Committee wanted to have clarification over the shifting of responsibilities on various issues by the two Ministries as observed by the Committee during examination of the subject, the Ministry of Home Affairs submitted that since the Ministry of Social Justice and Empowerment administer implementation of both the Acts, it is their prime responsibility to monitor/coordinate various aspects. The Ministry of Home Affairs have therefore taken the stand that the subject of atrocities on Scheduled Castes and Scheduled Tribes pertains to the Ministry of Social Justice and Empowerment.

1.48 In this connection, the Ministry of Home Affairs have also stated that as the Ministry of Social Justice and Empowerment is the nodal Ministry, it should be in a position to draw conclusions regarding early disposal of cases and propose remedial measures. Similarly, as regards setting up of Special Cells as well as providing adequate facilities, including legal aid to the persons subjected to atrocities, the Ministry of Social Justice and Empowerment would be in a better position to take action; the Ministry of Home Affairs would extend all necessary assistance to them. Care will be taken to coordinate with the Ministry of Social Justice and Empowerment.

1.49 To another point on exploring the possibility of getting the required responses from the States/UTs in view of their important status and

allocation of responsibilities, the Ministry of Home Affairs have stated that the Ministry of Social Justice and Empowerment have been of the view that there should be a change in the Allocation of Business Rules to transfer the subject of crimes against Scheduled Castes and Scheduled Tribes to the Ministry of Home Affairs, on the ground that the State Police Forces would be more responsive and amenable to interventions of the Ministry of Home Affairs. It appears to be merely a perception, which has no factual or legal basis. The crimes against members of Scheduled Castes & Scheduled Tribes are handled by the State Governments through their police forces. Under the scheme of constitutional division of responsibilities, the Central Government have no control over the State police forces. The expectation that the State police would be more responsive to the directions of the Ministry of Home Affairs or would be more amenable to its advisories than to those of the Ministry of Social Justice and Empowerment appears to be misplaced. The guidelines issued by the Ministry of Home Affairs would have the same effect, as those of the Ministry of Social Justice and Empowerment or the Ministry of Tribal Affairs. The plea that the Ministry of Home Affairs would be in a better position to monitor criminal offences against Scheduled Castes and Scheduled Tribes, therefore, is not well founded. A separate Ministry was created to give a more focused attention to this issue – and this will be negated if the subject is taken away from the Ministry of Social Justice and Empowerment / Tribal Affairs. Even otherwise, separating ‘criminal

justice administration' from development, in so far as they relate to Scheduled Castes and Scheduled Tribes, would deprive the Ministry of Social Justice and Empowerment and the Ministry of Tribal Affairs of the vital inputs, which come only from a "feel" of the ground situation and are pre-requisites for devising plans and strategies for the upliftment and empowerment of Scheduled Castes and Scheduled Tribes.

1.50 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. It does not, however, administer all central laws dealing with specific crimes.

1.51 In reply to a query whether division of responsibilities actually facilitated effective monitoring of the cases of atrocities, the Ministry of Home Affairs stated in their post evidence reply that there was no division of responsibilities. The Ministry of Social Justice and Empowerment and the Ministry of Tribal Affairs handle the subject of atrocity on Scheduled Castes and Scheduled Tribes. However, National Crime Records Bureau under the Ministry of Home Affairs collects, compiles, analyses and publishes data on crime in the country, including crimes against members of Scheduled Castes/Scheduled Tribes.

1.52 The Home Secretary during evidence, admitted that, "perhaps Union Ministries and agencies of the State Governments were not at all able to have smooth coordination in this regard so far."

1.53 Over the point regarding transfer of atrocity subject to the Ministry of Home Affairs, the Secretary, informed the Committee during evidence:

“... Recently, there was a talk in the Business Allocation Committee as to why not this issue be transferred to the Ministry of Home Affairs from the Ministry of Social Justice & Empowerment. There was intensive discussion on this matter. Now I, am glad to tell you that we are writing to the Cabinet Secretariat to transfer it to the Home Ministry...”

1.54 It has further been stated in the post evidence reply that the Ministry of Home Affairs had agreed to take over the responsibility of offences against Scheduled Castes and Scheduled Tribes and accordingly indicated their ‘no objection’ to the Cabinet Secretariat in March, 2002 and that the necessary changes in the GOI (Allocation of Business) Rules, 1961 were under consideration of the Cabinet Secretariat.

1.55 When the Committee desired to know whether the responsibility of controlling atrocities would be fixed on somebody after the transfer of the subject to the Ministry of Home Affairs, the Secretary stated:

“Sir, now we will have to set up a Cell for this and all concerned Ministries are to be taken into confidence besides keeping contact with them in this regard. It will certainly be given due attention though the cause is on the State

Governments. They and their police or other agencies will have to act on it but we must pay special attention to it.”

1.56 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.

1.57 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.

1.58 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.

1.59 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.

1.60 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.

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.

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 analysing data. The Committee feel that the National Crime Records Bureau, which is already doing a commendable job of collecting, compiling and analysing 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.

CHAPTER - II

A. (i) CAUSES OF ATROCITIES

2.1 The Committee have been informed that the study conducted by the National Commission for Scheduled Castes and Scheduled Tribes in 1990, on "Atrocities on Scheduled Castes and Scheduled Tribes – Causes and Remedies" pointed out that there were various factors responsible for atrocities such as land disputes, land alienation, bonded labour, indebtedness, non payment of minimum wages and non-economic causes such as caste prejudice and practice of untouchability, deep rooted social resentment, political factions on caste lines and refusal to perform practices like digging burial pits, arranging cremations, removal of the carcasses of dead animals and beating of drum, etc.

2.2 It has further been submitted in reply to a specific query on increased crimes against Scheduled Castes/Scheduled Tribes, that the growing atrocity cases were because of the increased awareness about the Prevention of Atrocities Act and the Protection of Civil Rights Act and the effectiveness in registration of crimes by the police and hence now cases do not go unreported. When the Committee further enquired whether any survey had been undertaken/entrusted to some independent agency to study other reasons that might have contributed to the increase

in crimes against Scheduled Castes/Scheduled Tribes, the reply was negative.

2.3 As regards the number of cases registered by the police under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, relating to atrocities on the members of Scheduled Castes and Scheduled Tribes in different States/UTs during the years 1998 to 2000, the Committee have been provided with the following figures by the Ministry of Social Justice and Empowerment: -

Sl.No.	STATE/UT	1998	1999	2000
1.	Andhra Pradesh	540	721	2711
2.	Arunachal Pradesh	-	-	-
3.	Assam	-	-	-
4.	Bihar	1407	1258	568
5.	Chhattisgarh	-	-	873
6.	Goa	2	1	1
7.	Gujrat	2138	1846	1699
8.	Haryana	32	28	54
9.	Himachal Pradesh	15	13	10
10.	Jharkhand	-	-	26
11.	Karnataka	1279	1239	1254
12.	Kerala	716	*	529
13.	Madhya Pradesh	4138	3990	4122
14.	Maharashtra	1069	927	793
15.	Manipur	2	*	-
16.	Meghalaya	-	-	-
17.	Mizoram	-	-	-
18.	Nagaland	-	-	-
19.	Orissa	1332	1449	1354
20.	Punjab	17	19	34
21.	Rajasthan	6858	6838	6679
22.	Sikkim	-	-	-
23.	Tamil Nadu	897	1011	996
24.	Tripura	-	-	-
25.	Uttranchal	-	-	112
26.	Uttar Pradesh	7095	6917	8462
27.	West Bengal	15	9	14
28.	A & N Islands	-	1	1

29.	Chandigarh	-	-	1
30.	D & N Haweli	1	1	1
31.	Daman & Diu	-	1	1
32.	Delhi	7	14	15
33.	Lakshadweep	-	-	1
34.	Pondicherry	1	2	4
	Total	27,561	26,285	30,315

*Information awaited.

2.4 Thus the figures provided to the Parliamentary Committee depict that Uttar Pradesh, Rajasthan and Madhya Pradesh accounted for abnormally higher number of cases of atrocities committed on Scheduled Castes /Scheduled Tribes. These three States collectively accounted for 63.5% of the total atrocity cases in the country during the year 2000. Other States i.e. Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Karnataka, Kerala, Maharashtra, Orissa and Tamil Nadu together accounted for another 35.5% of the cases.

2.5 The Ministry of Home Affairs have provided statistical information about the total number of cases involving offences under the Indian Penal Code committed against Scheduled Castes and Scheduled Tribes in various States/UTs. The following data indicate the number of cases involving offences such as murder, rape, arson, dacoity, robbery etc., against Scheduled Castes /Scheduled Tribes in the country during 1996-2000:-

S.No.	Offence	Scheduled Castes					Scheduled Tribes				
		1996	1997	1998	1999	2000	1996	1997	1998	1999	2000
1.	Murder	543	513	516	506	526	94	95	66	80	59
2.	Rape	949	1037	923	1000	1083	314	315	331	384	403
3.	Arson	464	389	346	337	290	51	29	38	43	32
4.	Kidnapping & Abduction	281	243	253	228	268	50	41	56	59	48
5.	Dacoity	90	58	49	36	38	32	3	5	3	5
6.	Robbery	213	162	150	109	108	21	8	15	8	2
7.	Hurt	4585	3860	3809	3241	3497	694	706	638	646	447

8.	Other Offences	13278	12396	11425	11657	11587	2891	2716	2368	2608	2661
	TOTAL	20403	18658	17471	17114	17397	4147	3913	3517	3831	3657

2.6 It has been stated that during the year 2000, Uttar Pradesh reported the highest number of 7330 cases representing 28.8% of the total cases at the national level followed by Rajasthan with 5190 cases (20.4%) and Madhya Pradesh with 4631 cases (18.2%), as far as crimes on Scheduled Castes are concerned. These three States together accounted for 67.4 % of the total cases.

2.7 As regards Scheduled Tribes, Madhya Pradesh reported the highest number of 1845 cases representing 44% of the total cases at national level followed by Rajasthan with 1130 cases (27%) and Gujarat with 315 cases (7.5%). These three States together accounted for 78.5% of the total cases of crimes against Scheduled Tribes.

2.8 To a query whether specific directions are issued to States showing high crime rate against Scheduled Castes/Scheduled Tribes, the Ministry of Home Affairs have stated that directions have been issued to all State Governments/UT Administrations for bringing the crime down during October 1997 and September 2001.

(ii) **REMEDIES**

2.9 When the Ministry of Home Affairs was further asked about the strategy/contingency plan that could be drawn to check States accounting for high crime rate, it was replied that the States of Rajasthan, Uttar Pradesh, Madhya Pradesh and Gujarat had shown the crime rates above the All India level. In the advisories issued to the State Governments emphasis is being laid on the need to take effective steps in cases of crimes against Scheduled

Castes/Scheduled Tribes. However, Rule 15 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Rules, 1995 provides for preparation of a model contingency plan by the State Governments for implementing the provisions of the Prevention of Atrocities Act, 1989. Such a plan primarily contains a package of relief and rehabilitation measures. The State Governments of Madhya Pradesh and Uttar Pradesh have intimated having formulated such contingency plans.

2.10 The Ministry further elaborated that the number of crimes against Scheduled Castes/Scheduled Tribes was more in rural areas as compared to the urban areas. The various schemes undertaken by the Ministry of Social Justice and Empowerment, Ministry of Human Resource Development, Ministry of Rural Development for upliftment of the Scheduled Castes/Scheduled Tribes and economic betterment of the rural society along with the various advisories issued by the Ministry of Home Affairs for protection of Scheduled Castes/Scheduled Tribes are expected to bring down the number of crimes against Scheduled Castes/Scheduled Tribes. While the Ministry of Home Affairs issue advisories to the State Governments on safety and protection of the Scheduled Castes/Scheduled Tribes, the Ministry of Social Justice and Empowerment run schemes for their development and upliftment.

2.11 On a point regarding discussions with State functionaries on the ways to curb atrocities, the Ministry of Home Affairs have further informed that the subject matter of crimes against Scheduled Castes and Scheduled Tribes as such was not discussed in the Conferences of State Director Generals of Police and Chief

Ministers as these conferences are primarily on issues relating to internal security. However, the subject matter would be placed for discussion in the next conference of Chief Secretaries and Chief Ministers. The Ministry of Social Justice and Empowerment also indicated to have requested the Ministry of Home Affairs to convene a meeting of DGPs and nodal officers to discuss issues relating to registration, investigation and prosecution of cases under the Act. The representative of the Ministry of Home Affairs during their evidence also admitted that threat to weaker sections especially Scheduled Castes and Scheduled Tribes constituted threat to internal security.

2.12 The Ministry of Social Justice and Empowerment in response to a further query regarding the remedies suggested by the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in their Report on “Atrocity on Scheduled Castes and Scheduled Tribes – Causes and Remedies,” have apprised the Committee in the post evidence reply about the following important suggestions made by the Commission: -

- (i) The responsive police administration is the first requisite for ensuring that the Scheduled Castes or tribal victims get redress under the law.
- (ii) A high degree of vigilance needs to be exercised by the law and order machinery in areas prone to such disturbances.
- (iii) Provisions for externment and collective fines under the Prevention of Atrocities Act should be applied with deterrent effect.

- (iv) State Government should monitor areas sensitive to atrocities and initiate advance action in time.
- (v) The full impact of various developmental programmes would not be felt unless the administration of these programmes is decentralized and that Scheduled Castes and Scheduled Tribes are closely associated while fixing priorities, selecting beneficiaries and deciding timings of assistance.
- (vi) Offences relating to non-payment of minimum wages, theft of cattle, fraud in maintenance of loan accounts and prevention of access to burial or cremation grounds may be brought within the ambit of the Prevention of Atrocities Act.
- (vii) The extension of the externment provisions (which are at present only for "Scheduled Areas and tribal areas") to areas prone to atrocities on Scheduled Castes through an amendment of the Act may be considered.

2.13 As regards existing arrangements to deal with State Governments/Union Territories in matters of crimes against Scheduled Castes/Scheduled Tribes, the Committee have been informed that the responsibility of implementing the Protection of Civil Rights Act, 1955 and the Prevention of Atrocities Act, 1989, primarily rests with the State Governments/Union Territory Administrations. However, at the Central level, the Ministry of Home Affairs coordinate the subject with State Police machinery. Other matters, such as those relating to the measures undertaken/proposed by them for effective implementation of both the

Acts, which may include strengthening of administrative, enforcement and judicial machinery, setting up of Special Courts, provision of relief and rehabilitation to the victims of atrocities etc., are coordinated by the Ministry of Social Justice and Empowerment.

2.14 The Ministry further elaborated that whenever any incident of crime against Scheduled Castes and Scheduled Tribes comes to their notice, either through a news-item or through a letter from any VIP/Member of Parliament, this Ministry get in touch with the concerned State Government and ask for detailed report in the matter and impress upon them to take action to redress the grievances of the affected Scheduled Caste or Scheduled Tribe persons. Both the Ministries, however, failed to respond over their plans to enable them to access immediate / instantaneous information through INTERNET / NICNET.

2.15 The Secretary, Ministry of Home Affairs while referring to the same point during evidence stated:

“ Sir, we get information on the basis of data sent to us by the State Governments from time to time. Immediate information relating to a particular case is only received when we ask from the State Governments. When some heinous crime occurs, one of our officer goes to collect information and facts from there. However, we generally depend on State Government. But, in case when there is a major criminal incident, the information is collected by the Government of India also.”

2.16 When the Committee sought opinion of the Ministry of Home Affairs about connecting States/Union Territories through video conferencing in order to seek

immediate information and to advise for necessary action on crimes, the Secretary assured during evidence to examine the feasibility of getting connected to States/Union Territories, through video conferencing. However, in the post evidence reply the Ministry did not accept the idea of video conferencing on the plea that the present facilities and existing infrastructure available are adequate.

2.17 As regards the follow up action on advisories/instructions issued to States/Union Territories, the Committee have been informed by the Ministry of Social Justice and Empowerment that the Chief Ministers of States/Union Territories were addressed on 2 August 2000 and advised to take the following steps: -

- (i) Issuing suitable instructions to the Authorities for implementing the Act relating to atrocities in letter and spirit.
- (ii) Giving particular attention for maintenance of law and order in the identified atrocity prone areas.
- (iii) Taking special measures, as deemed necessary to protect the life and property of the Scheduled Castes and the Scheduled Tribes in sensitive areas, where crime rate is high.
- (iv) Ensuring speedy disposal of cases filed to provide timely justice to the affected persons, filing appeal in time in respect of acquittal cases, based on factual details.
- (v) Involving the elected public representatives and Non-Governmental Organisations suitably at State, District, Block and village level for

giving required protection to the affected persons and ensuring implementation of the Act.

- (vi) Training of personnel especially of the policy and investigating agencies as also in procedures, prosecution, etc.

2.18 It has also been stated that implementation of the Act was further reviewed in a meeting, held in May 2001, of the State Secretaries of Scheduled Castes and Scheduled Tribes Development and they were requested to take necessary action for effective implementation of various provisions of the Act. The implementation of the Act was again reviewed in a meeting of the Nodal Officers of States/Union Territories held on 5 February 2002. Subsequently, a letter was also addressed on 26 March 2002 to Chief Secretaries of all States/Union Territories for taking necessary measures in regard to effective implementation of the Act. The Ministry of Home Affairs had also been requested to convene a meeting with DGPs and the nodal officers to discuss issues relating to registration, investigation and prosecution of cases under the Act. The Ministry of Social Justice and Empowerment also provide central assistance to States/Union Territories for strengthening the enforcement machinery under the Act and its utilization is sought from them.

2.19 To a separate question as to whether there is any arrangement under which the Ministry can approach the PMO to seek intervention of the Prime Minister to issue directions/advice to States showing reluctance in dealing with atrocities on Scheduled Castes/Scheduled Tribes, the Ministry of Social Justice

and Empowerment stated that the matter is dealt with by the concerned Ministries and intervention of the PMO is sought as and when required.

2.20 When the Committee desired to know the opinion of the Ministry of Home Affairs about the incidence of unabated crimes against Scheduled Castes /Scheduled Tribes even after exerting pressure on States/Union Territories to stop such incidents by the Centre, the Secretary replied during evidence:

“The way pressure is being put on them, more pressure needs to be exerted. For this, we will have to formulate a special scheme. I would like to submit that it is not only for this type of crime but also for other types of crimes. We have seen that the State Governments do not pay attention to these crimes. Hence, the Government of India has set up a high level Committee, which will monitor everything. This Committee may give suggestions as to how the system can be changed for investigation, convergence, chargesheeting and punishment etc. We will look into their suggestions. Moreover, we will have to pay special attention to this matter in view of the guidance provided to us by the Committee...”

2.21 To a separate query about the views of the Ministry of Home Affairs over the prevailing law and order situation in the country including crimes against Scheduled Castes and Scheduled Tribes and the need for some contingency plan to combat the evil, the Committee have been informed that the Ministry have issued advisories on various aspects of criminal justice system which inter-alia include offences against Scheduled Castes and Scheduled Tribes. As

crimes against Scheduled Castes and Scheduled Tribes have shown a declining trend, no contingency plan for the purpose is required.

2.22 When the Committee wanted to know whether there is any guideline to fix responsibility on the Police officer or the Magistrate in whose area such incident occurs, the representative of the Ministry of Home Affairs submitted:

“Sir, we have written letters to the State Governments several times that the responsibility on such officers should be fixed. In this connection, a meeting was also held. The officers of the State Governments and their IGs were invited by the Cells which have been set up for this purpose in the Ministry of Social Justice & Empowerment. We had raised this point in this meeting also. Especially, we have observed that in the cases, conviction rate is low, acquittal rate is high and in some matters, the conviction of cases has not been done, the investigation has not been carried out properly. Action may be taken against all such officers of the State Governments in such cases so that a message percolates that stern action will be taken against those found involved in abetting atrocities committed against the people belonging to Scheduled Castes and Scheduled Tribes...”

2.23 To the issue relating to atrocities committed by police personnel, it has been submitted by the Ministry of Home Affairs that information regarding specific complaints against State police officials is not collected and maintained at central level. Regarding sensitisation of police personnel, the Committee have

been informed that IPS officers are sensitised on the aspect of protection to vulnerable sections of society during their police training at the National Police Academy, Hyderabad.

2.24 It has also been stated that many State Police Training Institutions like Police Academy, Cuttack, Orissa, Police Training College, Junagarh, Gujarat, Police Training College, Anantpur, Andhra Pradesh, Dr. B.R. Ambedkar UP Police Academy, Moradabad and Punjab Police Academy, Phillaur have been conducting training programme on "crime against women/children, weaker sections of the society including the members of Scheduled Castes/Scheduled Tribes" to sensitise police personnel of various ranks. Over the issue of taking disciplinary action against police personnel found guilty of atrocities committed on Scheduled Castes/Scheduled Tribes, it was submitted that on receipt of a specific complaint against any police officer, the State Government is competent to proceed under the relevant service rules.

2.25 As regards, police officers found guilty of inaction against perpetrators of crimes on Scheduled Castes/Scheduled Tribes, the Committee have been informed that according to the Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year. The IPS Officers, like any other public servant, will be responsible for inaction against perpetrators of

violence/crimes on Scheduled Castes/Scheduled Tribes and can be prosecuted in accordance with the provisions of this section. They can be punished if found guilty of neglecting the duty required to be performed by them. Further, the State Governments under the provision of the relevant Service Rules may take action against such erring officials. The Secretary, Ministry of Home Affairs, however, admitted during evidence that some sort of administrative examination has to be done as to what kind of action can be taken by the Central Government. Media and other methods could also be used for prevention of corruption. When enquired about the number of officers punished, the Ministry failed to present even a single case of punishment for police inaction under Section 4 of the Prevention of Atrocities Act.

2.26 As regards action taken by the Ministry of Social Justice & Empowerment to incorporate changes proposed by the erstwhile National Commission for Scheduled Castes and Scheduled Tribes in the Prevention of Atrocities Act, it was submitted that proposals for amendment would be processed in a composite manner after receipt of other suggestions from States/Union Territories.

2.27 When the Committee desired to know about the number of States in which Special Cells had been established to take care of grievances of Scheduled Caste and Scheduled Tribe people as there is such a Cell in Gujarat, the representative of the Ministry of Social Justice and Empowerment during evidence replied :

“ We have Special Cells in Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka,

Kerala, Maharashtra, Madhya Pradesh, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttaranchal, Pondicherry etc. We have requested other States also to form such Special Cells. You want to know about Gujarat. There is a Special Cell at the Directorate level. It is called the Nagrik Cell. There are three Regional Offices. This is the information that the Government of Gujarat has given to us.”

2.28 As to what had been done in respect of those States where such Cells had not been established, the representative informed that except trying to persuade the State Governments no other action had been taken. Keeping in view the pathetic condition of these Cells with poor infrastructure and unsuitable working environment, when enquired about the kind of Central assistance being given, the representative stated during evidence;

“ At present we provide assistance under our scheme for Special Cells. It is mainly given for the salary of the staff. You have suggested that there should be separate building, so, we will take up this matter with all the States. If the State Governments come forward, we have no difficulty in providing such help.”

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.

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.

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.

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.

2.33 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.

2.34 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.

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.

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.

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.

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.

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.

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.

2.41 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.

2.42 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.

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.

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.

2.45 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.

2.46 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.

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.

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.

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.

B. UNTOUCHABILITY AND STEPS TAKEN TO ERADICATE IT

2.50 Untouchability though abolished and its practice forbidden in any form vide Article 17 of the Constitution of India, is still prevalent in some parts of the country in its overt and covert form. Untouchability has, however, not been defined in the Constitution. The word has been used in inverted commas, which denotes the practice of untouchability as it has evolved historically as social taboos in sharing food, access to public places, offering prayers and performing religious services, entry in temple and other public places and denial of access to drinking water sources etc.. As a result of this evil, the Scheduled Castes and Scheduled Tribes face social segregation, economic exploitation and oppression.

2.51 The Committee have been informed that matters relating to investigation and taking action against culprits for all crimes including social crimes are dealt with by State Governments and supervised by the Ministry of Home Affairs. As regards success achieved in eradicating these evils from the society, it has been submitted that in 1997 not a single case was registered under the Protection of Civil Rights Act, 1955 in 11 States viz. Arunachal Pradesh, Assam, Bihar, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, West Bengal and 4 Union Territory Administrations viz. Andaman & Nicobar Islands, Daman & Diu, Dadra & Nagar Haveli and Lakshadweep. Six States viz. Goa, Haryana, Kerala, Orissa, Punjab and Rajasthan and two Union Territory Administrations reported cases in the range of 1 to 10.

2.52 As per the National Crime Record Bureau Report Crime in India(2000), the incidence of crimes against Scheduled Castes under the Protection of Civil Rights Act, 1955 stood at 678 during the year 1999 and 672 during the year 2000.

2.53 The Ministry, while submitting details regarding measures undertaken by the States / UTs under Section 15A(1) of the Protection of Civil Rights Act, 1955 and Section 21(2) of the Prevention of Atrocities Act, 1989, have stated that Gujarat, Karnataka, Kerala, Maharashtra, Orissa and Tamil Nadu have identified untouchability prone areas. The evil is widely prevalent in Andhra Pradesh, Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh.

2.54 On being asked about imposition of collective fines, the Committee have been informed that Section 10A of the Protection of Civil Rights Act, 1955

provides that the State Governments may impose a collective fine, if after an inquiry, it is found that inhabitants of an area are concerned in or abetting the commission of any offence punishable under the Act or harbouring persons concerned with the commission of such offence or failing to render all assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence. This provision also applies to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. When asked, whether there have been any instances where any State/UT imposed collective fines, the Social Justice & Empowerment, Ministry replied in negative.

2.55 In regard to the steps taken for generating public awareness, it has been stated that All India Radio, Directorate of Field Publicity, Directorate of Advertising and Visual Publicity and Films Division under the Ministry of Information and Broadcasting take steps for publicising relevant information through plays, features, discussions, interviews, comparing, slogans, sponsored radio programmes and short films. On the suggestion made by the Committee during evidence for vigorous media campaign, the Secretaries of the Ministry of Social Justice and Empowerment and the Ministry of Home Affairs assured to try and work out whatever media campaigns could be made.

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.

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.

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.

2.59 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.

2.60 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.

C. ATROCITY PRONE AREAS

2.61 The Committee have been informed that Section 21(2) (vii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides for identification of atrocity prone areas by the States/UTs. Accordingly, the following State Governments have identified those districts which are sensitive from the point of view of crimes against Scheduled Castes and Scheduled Tribes:-

- (i) Andhra Pradesh Chittoor, East Godavari, Mahboobnagar, Nellore, Khammam and Warangal (6 Districts).
- (ii) Bihar Patna, Nalanda, Rohtas, Bhojpur, Gaya, Vaishali Samastipur, Begusarai, Bhagalpur, Monghyr and Ranchi (11 Districts)
- (iii) Gujarat Ahmedabad Rural, Mehasana, Surendranagar,

Junagarh, Kheda, Amreli, Rajkot Rural,
Banaskantha, Vadodara Rural, Bharuch and
Kutch(11 Districts)

- (iv) Haryana Ambala, Karnal, Sonapat, Gurgaon and Faridabad (5 Districts)
- (v) Karnataka Bangalore, Bijapur, Kolar, Mysore, Tumkur, Gulbarga, Belgaum, Bidar, Chitradurga and Raichur(10 Districts)
- (vi) Madhya Pradesh Some villages in 10 Districts
- (vii) Maharashtra Aurangabad, Beed, Osmanabad, Nanded, Parbhani and Buldana(6 Districts)
- (viii) Tamil Nadu Cuddalore(S. Arcot), Villupuram Police District, Tiruchirapalli, Madurai, Thanjavur, Ramanathapuram, Tirunelveli, Kattabomman, Kamarajar Chidambarnar and Tiruvanmalai Sambuvarayar (10 Districts)
- (ix) Uttar Pradesh Lucknow, Hardoi, Sitapur, Rai-Bareilly, Unnao, Gonda, Bahraich, Barabanki, Sultanpur, Fatehgarh, Etawah, Banda, Jalon, Basti, Gorakhpur, Azamgarh, Badaun, Meerut, Varanasi and Agra(20 Districts)

2.62 To a query as to why three districts of Kerala and coastal districts of Orissa identified as untouchability prone areas, were not placed under the atrocity prone areas despite the fact that caste prejudice and practice of untouchability were the major causes of atrocities, the Ministry submitted that the State Government of Kerala in the context of the information for the annual report under the Act for the calendar year 2000, apprised that they had identified areas where incidents/crimes against Scheduled Castes and Scheduled Tribes

were more. Three special mobile squads were functioning in Palakkad, Kasargode and Wayanad Districts for preventing offences. Likewise, the State Government of Orissa in the context of the information furnished for the annual report for the calendar year 2000 had apprised that no untouchability prone area had been identified/declared by the State Government and that there was no such area in Orissa. Similarly, no area had been identified as atrocity prone area in the State. The State Governments have, however, been requested to review the position based on incidence of untouchability and atrocities on Scheduled Castes /Scheduled Tribes and send relevant information for incorporation in the next Annual Report.

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.

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.

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.

CHAPTER - III

A. INVESTIGATION, CONVICTION AND ACQUITTAL

3.1 The Committee have been informed that the Ministry of Home Affairs have been advising the State Governments from time to time to give more focussed attention for improving the administration of the criminal justice system to ensure prevention of atrocities against Scheduled Castes and Scheduled Tribes and other vulnerable sections of society. The guidelines issued by the Ministry of Home Affairs include, inter-alia, the sensitization of police personnel in the implementation of the Protection of Civil Rights Act and the Prevention of Atrocities Act, instructions to the police to have more sympathetic approach towards SCs/STs while dealing with the cases of atrocities against them, circulation among field officers of a detailed note indicating the scope and responsibility of the police personnel investigating such offences, recruitment of sufficient number of persons belonging to Scheduled Castes/Scheduled Tribes/minorities as police personnel, especially, at the cutting edge level, setting up of special cells to deal with such offences, programmes for creating awareness among the vulnerable sections of society and legal recourse open to them, evaluation of the working of special courts, identification of atrocity prone areas for prevention of crime, and measures to be taken for economic and social rehabilitation of victims of atrocities. The State Governments were also requested to undertake a comprehensive review of the effectiveness of the law enforcement machinery in tackling the problems faced by members of the

Scheduled Castes/Scheduled Tribes and also take appropriate measures aimed at increasing the responsiveness of the law and order machinery.

3.2 It has also been stated that the Ministry of Home Affairs during 2001 further advised State Governments to take adequate measures to ensure the safety, security and development of the Scheduled Castes /Scheduled Tribes with emphasis on the following:-

- (i) The State authorities to implement the Protection of Civil Rights Act and the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, both in letter and spirit.
- (ii) Take necessary preventive law and order measures to protect the life and property of the members of Scheduled Castes /Scheduled Tribes especially in the atrocity prone areas.
- (iii) Ensure speedy disposal of cases pertaining to Scheduled Castes /Scheduled Tribes pending with the police as well as courts.
- (iv) Improve the quality of investigation and follow up prosecution.
- (v) Improve the effectiveness of schemes being implemented for the welfare of Scheduled Castes /Scheduled Tribes

3.3 As per the NCRB data supplied to the Committee, the chargesheeting rate by the police for other Special Laws related crimes was 97.7% of which a remarkable percentage of cases i.e. 87.9% ended up in conviction in Courts during the year 2000. The chargesheeting rate by the police and the conviction

rate by courts under the Protection of Civil Rights Act, 1955 and the Prevention of Atrocities Act, 1989 are as follows: -

Year	Chargesheeting rate POLICE		Conviction rate COURTS	
	PCR	POA	PCR	POA
1997	94.5	92.5	27.2	31.4
1998	91.7	94.6	22.6	32.2
1999	95.5	93.0	26.2	28.6
2000	96.5	92.6	25.2	32.3

3.4 As regards the details of pendency of cases with the police and with the courts during the years 1997,1998, 1999 and 2000, the Committee have been given the following information: -

Year	% of cases pending with Police		% of cases pending with courts	
	PCR	POA	PCR	POA
1997	22.5	16.5	74.1	81.8
1998	23.7	18.4	75.7	83.7
1999	23.6	18.9	75.5	82.4
2000	25.0	20.7	80.3	84.6

3.5 In reply to a query as to whether low conviction rate is the general feature in criminal trials or factors like poor investigation, weak prosecution, delays, unwilling witness could be attributed to the present conviction rate, the Ministry of Home Affairs have stated that stringent requirements under Indian Evidence Act, unwilling/hostile witness, etc. are responsible for the low conviction rate.

3.6 During evidence when the Committee wanted to know the reasons for high acquittals and pending cases, the Secretary, Ministry of Home Affairs stated:-

“You have said it right, it is difficult to say as to what generally happens. There may be weakness in investigation also. Besides, it is difficult to pursue such cases in courts. If not persuaded

vigorously in courts, matter may result in acquittal. Further, deciding a case in courts also takes time. This may be one factor for acquittal. I have accepted this earlier also and we have to accept that this needs to be pursued. We have to pursue with State Governments and they have to form Special Cells in the States which will pursue the issue with the districts.”

3.7 Elaborating on the issue, he further submitted:-

“....Special IGs, or Special Courts have to be set up in districts. As the Hon’ble Chairman has told now, that the administrative officers should be cautioned that if the number of such crimes in their area is high, incidence of atrocities take place or investigation is not carried out by them on time, action will be taken against them. This point should be considered.”

3.8 In this connection the Ministry of Home Affairs have apprised the Committee that there are many shortcomings in the Indian criminal justice system. Government of India have, therefore, appointed a Committee headed by Justice Malimath to look into different aspects of criminal justice system in detail. The Committee have since given its recommendations to reform the Criminal Justice System.

3.9 During evidence while discussing, the issue of investigation, conviction and acquittals, the Secretary, Ministry of Home Affairs admitted that :-

“It will be better if they get protection from the law as well as from the administrative machinery. However, this can only be achieved if pressure is put on them and matter is continuously pursued.”

3.10 As regards the Ministry of Home Affairs' responsibility in making the police professional in their methodology and approach, it has been stated that the Ministry provide specialised training to sensitize the officers recruited to the IPS to deal with the cause of Scheduled Castes /Scheduled Tribes. The State Police Training Colleges and Training Institutions are organizing special training programmes on crime against Scheduled Castes /Scheduled Tribes. The Ministry of Home Affairs assist the State Governments in modernization of State Police Forces. A scheme involving Rs. 2000 crore per annum is in operation since the year 2000. Further, the Ministry from time to time advise the State Governments to instruct the concerned officers to pay special attention to the crimes committed against Scheduled Castes /Scheduled Tribes and take remedial measures. Towards this end, the Ministry of Home Affairs specifically advised the State Governments on 19 September 2001 to (a) improve the quality of investigation and follow up prosecution, and, (b) ensure speedy disposal of cases pertaining to Scheduled Castes /Scheduled Tribes pending with the police as well as in the courts. The Ministry of Social Justice & Empowerment have also advised the State Governments/Union Territory Administrations vide their letter No. 11020/1/98-PCR dated 26 March 2002 to examine the orders of acquittal by courts and file appeals, wherever necessary.

3.11 The Committee are also aware that Section 438 of Cr.P.C. empowering the courts to grant anticipatory bail has been barred under Section 18 of the Prevention of Atrocities Act, 1989. This practically means that if a case under Section 3 of the Act is registered against an accused, no court is empowered to grant him/her anticipatory bail under any circumstances.

3.12 The Hon'ble Supreme Court has upheld the validity of Section 18 of the Act in case of State of M.P. Vs. Ram Krishan Balothia in 1995. In this case the Supreme Court has held that "the Act has to be viewed in the context of prevailing social conditions which give rise to such offences, and the apprehension that the perpetrators of such atrocities are likely to threaten and intimidate their victims and prevent or obstruct them in prosecution of these offenders, if the offenders are allowed to avail anticipatory bail. When the Scheduled Castes and Scheduled Tribes assert their rights and demand statutory protection, vested interests try to cow them down and terrorise them. The offences are committed to humiliate and subjugate the members of Scheduled Castes and Scheduled Tribes and constitute a separate class and cannot be compared with offences under Indian Penal Code. Denial of anticipatory bail in these circumstances cannot be considered as unreasonable or violative of Article 14 or Article 21 of Constitution of India as per the Supreme Court of India.

3.13 The Rajasthan High Court in Virender Singh Vs State of Rajasthan in 2000 has also ruled that an accused cannot be granted anticipatory bail if facts

stated in the First Information Report (FIR) make a case of atrocities on Scheduled Castes and Scheduled Tribes.

3.14 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.

3.15 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.

3.16 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.

3.17 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.

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.

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.

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.

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.

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.

B. SPECIAL COURTS

3.23 The Committee have been informed that as per reports received from the States, special courts have been set up for dealing with cases under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in seven States viz, Andhra Pradesh (03), Gujarat (10), Karnataka (04), Madhya Pradesh (35), Rajasthan (17), Tamil Nadu (04) and Uttar Pradesh (40) and for cases under the Protection of Civil Rights Act, 1955 special courts have been set up in Andhra Pradesh (22 mobile courts), Tamil Nadu (04) and Uttaranchal (03).

Besides, as per the provision contained in Section 14 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, all State Governments have notified the existing Session Courts as Special Courts for the trial of offences under the Act, except Arunachal Pradesh, Mizoram and Nagaland, which are predominantly inhabited by Scheduled Tribes population. Regarding average time taken by exclusive special courts and other designated courts to finalise a case, a sample based research study (on disposal of cases registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 conducted by the Centre for Social Justice and Welfare for the Handicapped, Varanasi) in Uttar Pradesh in 2000, has indicated that about 3.15 years were taken on an average from registration till disposal. As regards priority of disposal of atrocity cases, the Chief Ministers of States/Union Territories have been requested to look into the matter and take necessary steps to ensure speedy disposal of cases and to provide justice to affected persons in time. The Chief Secretaries of States/Union Territories have been requested to take appropriate measures for ensuring that the cases are duly registered, investigations completed in time and arrangements made for appointing Special Public Prosecutors for proper handling of the cases. The erstwhile National Commission for Scheduled Castes and Scheduled Tribes conducted a study in Madhya Pradesh in the year 2000, on the working of Special Courts set-up under the Act, which inter-alia has indicated that an analysis of a sample of 82 judgements delivered by the judges of the Special Courts has shown that in 60% cases, the Courts had delivered judgements within one year. However, the

position of pendency of cases differs from one court to another. It may also be mentioned that the Hon'ble Supreme Court in a decision in Gangula Ashok and another V/s State of Andhra Pradesh, dated 28 January 2000, reported in 2000(1) Crimes 196 (SC) has held that the Special Courts designated under Section 14 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 cannot take cognizance of the offences directly, without the case being committed to it by a Magistrate in view of interdict imposed by Section 193 of the Cr. P.C., which reads, "Except as otherwise expressly provided by this Code or any other law for the time being in force, no Court of Sessions shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code."

3.24 When asked to offer comments on courts without Judges, the Ministry of Home Affairs submitted in their post evidence reply that appointment of District Judges and other Judges in Subordinate Courts is made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State under the provisions of Articles 233-234 of the Constitution of India.

3.25 The Committee have also been informed that 1857 posts of Judges/Magistrates were vacant in various Districts and Subordinate Courts as on 1 June 2001. One of the main reasons for delay in the disposal of cases in courts is that a large number of posts of Judges/Magistrates in the District and Subordinate Courts are vacant. The Central Government have, therefore, been periodically urging the State Governments/Union Territory Administrations and High Courts to accord the utmost priority to filling up vacant posts of Judges and

Magistrates in the District and Subordinate Courts. It has been stated that the Minister of Law, Justice and Company Affairs had written in this regard to the Chief Justices of all High Courts and Chief Ministers of all States on 4 April 2001. The Department of Justice has been following up the same with all State Governments/High Courts.

3.26 The Supreme Court vide Judgement dated 21 March 2002 in W.P. (Civil) No. 1022/89-All India Judges' Association & Others Vs Union of India & Others, has directed that "the existing vacancies in the Subordinate Courts at all levels should be filled, latest by 31 March 2003, in all the States." In this regard the Ministry of Law, Justice and Company Affairs had written to Chief Ministers of all States/Union Territories and Chief Justices of all High Courts vide letter dated 26 April 2002 and requested to take early steps for filling up the vacancies in the District/ Subordinate Courts, on priority, within the time limit set by the Supreme Court.

3.27 To a question that persons are easily getting bails from Magistrates or Session Courts when there is no such permission under the Prevention of Atrocities Act, especially in Gujarat, the Ministry of Social Justice and Empowerment have replied that Section 438 of the Code of Criminal Procedure, 1973 provides that "when any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for direction under this section, and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

3.28 However, Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 clearly mentions that nothing in Section 438 of the Code (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 the Act. The matter has been referred to Government of Gujarat.

3.29 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.

3.30 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.

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.

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.

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.

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.

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.

CHAPTER - IV

RELIEF/REHABILITATION

4.1 The Committee have been informed that under the centrally sponsored scheme for implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, central assistance is provided to the State Governments on 50:50 basis (100% to UTs). This includes provision of relief and rehabilitation to the victims of atrocities besides strengthening of administrative, enforcement and judicial machinery.

4.2 The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 provide for relief to the victims/dependents under the following heads: -

- i) Murder/death
- ii) Grievous hurt
- iii) Outraging modesty of the woman/sexual exploitation.
- iv) Wrongful occupation or cultivation of land, forced or bonded labour, denial of customary rights of passage etc.
- v) Relief amounting to Rs. 2 lakh is provided in cash for murder/death of an earning member of family and Rs. 1 lakh in cash for non-earning member of family. Similarly in case of 100% disability at least Rs. 1 lakh is given to each victim of offence.

- vi) Brick/Stone masonry house is to be constructed or provided at Government cost wherever house has been burnt or destroyed.

4.3 It has been stated that these rules provide for payment of the first instalment of relief to victims of atrocities in varying percentage ranging from 25% to 75% depending upon the nature and gravity of the offence. The payment of first instalment in some cases is made at FIR stage and in some cases when chargesheet is sent to Court. Balance payment in the form of second and final instalments is to be made when the accused is finally convicted.

4.4 The Committee have further been informed that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 also contain provisions to protect life and property of Scheduled Castes and Scheduled Tribes which are given below:-

Section 6 (1&2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act) Rules, 1995

- (1) Whenever the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police receives an information from any person or upon his own knowledge that an atrocity has been committed on the members of the Scheduled Castes or the Scheduled Tribes within his jurisdiction, he shall immediately himself visit the place of occurrence to assess the extent of atrocity, loss of life, loss and damage to the property and submit a report forthwith to the State Government.

- (2) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate and the Superintendent of Police/Deputy Superintendent of Police after inspecting the place or area shall on the spot:-
- (i) draw a list of victims, their family members and dependents entitled for relief;
 - (ii) prepare a detailed report of the extent of atrocity loss and damage to the property of the victims;
 - (iii) order for intensive police patrolling in the area;
 - (iv) take effective and necessary steps to provide protection to the witnesses and other sympathizers of the victims;
 - (v) provide immediate relief to the victims.

4.5 It has been stated that it is the responsibility of State Governments/Union Territories to protect life and property of Scheduled Castes /Scheduled Tribes. The Ministry of Social Justice and Empowerment in meetings with State officials lay stress on timely payment of relief to victims/dependent of victims of atrocities.

4.6 While replying to a query, the Secretary, Ministry of Social Justice & Empowerment stated during evidence that, as per information received from States, one time payment of relief is being made to the deceased/dependents of atrocity victims.

4.7 In response to a query on providing employment to the victims of atrocities, the Ministry of Social Justice and Empowerment have informed that apart from monetary relief there is no provision for providing employment to the

affected persons and State Governments take necessary action based on the nature of case and the existing guidelines on the matter.

4.8 On the question of bringing other crimes and atrocities on Scheduled Castes and Scheduled Tribes, within the ambit of Section 12(4) of the Prevention of Atrocities Rules, 1995, for immediate relief, the Ministry of Social Justice and Empowerment in their post evidence reply have submitted that all States have been addressed to suggest amendments in the Act and the Rules framed thereunder which will be processed in a composite manner.

4.9 In reply to a question about assistance being given to States for imparting courses/training to officers connected with rehabilitation measures, it has been informed that central assistance given to States/Union Territories under centrally sponsored scheme of implementation of the two Acts also includes provision for conducting workshops/seminars.

4.10 When the Committee sought opinion about migration of Scheduled Caste/Scheduled Tribe people to safer places to avoid threat/intimidation, before and after acts of violence for inclusion in the rehabilitation scheme, the Ministry of Social Justice and Empowerment stated that settling the persons affected by atrocity in other places is decided by State Governments depending on the nature of location, incidence, prevailing situation, etc. It may not be possible to have any uniform basis for dealing with such cases.

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.

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.

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.

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.

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.

New Delhi
April, 2005
Vaisakha ,1927(S)

(DR. SATYANARAYAN JATIYA)
CHAIRMAN
COMMITTEE ON THE WELFARE
OF SCHEDULED CASTES AND
SCHEDULED TRIBES

MINUTES

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES
AND SCHEDULED TRIBES
(2001-2002)**

(THIRTEENTH LOK SABHA)

THIRD SITTING

(20.7.2001)

**The Committee sat from 1500 hrs. to 1630 hrs in
Committee Room No. 'C', Parliament House Annexe.**

Present

Shri Kariya Munda - Chairman

MEMBERS

LOK SABHA

2. Shri Mahendra Baitha
3. Shri Shamsheer Singh Dullo
4. Shri Thawar Chand Gehlot
5. Smt. Jaskaur Meena
6. Shri Pravin Rashtrapal
7. Shri Bajju Ban Riyan
8. Shri Buta Singh
9. Shri Ramji Lal Suman
10. Shri Ratilal Kalidas Varma

RAJYA SABHA

11. Shri Ram Nath Kovind
12. Shri Harpal Singh Sathi
13. Shri Shyam Lal

SECRETARIAT

1. Shri B.R. Kanathia, Joint Secretary
2. Shri Shiv Singh, Assistant Director

WITNESSES

MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT

1. Shri P.C. Rawal, Additional Secretary
2. Shri Dilip Singh, Director

MINISTRY OF HOME AFFAIRS

1. Shri S.B. Mohapatra, Special Secretary
2. Shri R.K. Singh, Joint Secretary

MINISTRY OF TRIBAL AFFAIRS

1. Shri S.K. Naik, Secretary
2. Shri S. Chatterjee, Joint Secretary

2. At the outset, Hon'ble Chairman welcomed the representatives of the Ministry of Social Justice & Empowerment, the Ministry of Home Affairs and the Ministry of Tribal Affairs.

3. The Committee then took oral evidence of the representatives of the Ministry of Social Justice & Empowerment, the Ministry of Home Affairs and the Ministry of Tribal Affairs on "Atrocities on Scheduled Castes and Scheduled Tribes and pattern of social crimes towards them".

4. The evidence was inconclusive and it was decided to hold fresh evidence at a later date.
5. The witnesses then withdrew.
6. A verbatim record of the proceedings was kept.

The Committee then adjourned.

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MINUTES

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES
AND SCHEDULED TRIBES
(2001-2002)**

(THIRTEENTH LOK SABHA)

FIFTEENTH SITTING

(19.03.2002)

**The Committee sat from 1500 hrs. to 1700 hrs. in Committee Room No.
'139', Parliament House Annexe, New Delhi**

Present

Shri Ratilal Kalidas Varma - Chairman

MEMBERS

LOK SABHA

2. Shri Anandrao Vithoba Adsul
3. Shri Padmanava Behera
4. Shri Shamsheer Singh Dullo
5. Shri Jarbom Gamlin
6. Shri Manikrao Hodlya Gavit
7. Shri Pravin Rashtrapal

RAJYA SABHA

8. Dr. Faguni Ram
9. Shri Ram Nath Kovind
10. Shri Shyam Lal

SECRETARIAT

1. Shri Ram Autar Ram, Joint Secretary
2. Shri K. Jena, Assistant Director

WITNESSES

MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT

1. Shri C. Gopal Reddy, Secretary
2. Shri S.K.Panda, Joint Secretary

MINISTRY OF HOME AFFAIRS

1. Shri Kamal Pande, Home Secretary
2. Shri R.K.Singh, Joint Secretary

MINISTRY OF TRIBAL AFFAIRS

1. Shri S.K. Naik, Secretary
2. Shri S. Chatterjee, Joint Secretary
2. At the outset, the Chairman welcomed the representatives of the Ministry of Social Justice & Empowerment, Ministry of Home Affairs and Ministry of Tribal Affairs.
3. The Committee then took oral evidence of the above mentioned representatives of the three Ministries on the subject, "Atrocities on Scheduled Castes and Scheduled Tribes and pattern of Social Crimes towards them".
4. The witnesses then withdrew.
5. The evidence was concluded.
6. The verbatim record of the proceedings was kept.

The Committee then adjourned.

MINUTES

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND
SCHEDULED TRIBES
(2004-2005)**

(FOURTEENTH LOK SABHA)

**TENTH SITTING
(19.04.2005)**

The Committee sat from 1530 to 1730 hrs. in Committee Room 'B',
Parliament House Annexe.

PRESENT

Dr. Satyanarayan Jatiya - Chairman

MEMBERS

LOK SABHA

2. Shri M. Appadurai
3. Shri Faggan Singh Kulaste
4. Shri Rupchand Murmu
5. Shri Bajju Ban Riyan
6. Dr. (Col.) Dhani Ram Shandil
7. Shri Sugrib Singh
8. Shri Lalit Mohan Suklabaidya
9. Smt. Usha Verma

RAJYA SABHA

10. Shri Gandhi Azad
11. Dr. Faguni Ram
12. Shri Robert Kharshiing
13. Shri Lalhmingliana

SECRETARIAT

1. Shri R.C. Ahuja, Joint Secretary
2. Shri Gopal Singh, Deputy Secretary
3. Ms. J.C. Namchyo, Under Secretary

2. At the outset, the Hon'ble Chairman welcomed the Hon'ble Members of the Committee. The Committee then considered the draft report on the subject "Atrocities on Scheduled Castes and Scheduled Tribes and pattern of social crimes towards them" and adopted the same with minor modifications.

3. The Committee also authorised the Chairman to finalise and present the report to both the Houses of Parliament.

The Committee then adjourned.

APPENDIX

(vide para 4 of Introduction)

Summary of Conclusions/Recommendations contained in the Report

Sl. No.	Para No.	Conclusions/Recommendations
1	2	3
1	1.19	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.
2	1.20	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.
3	1.21	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.
4	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.

- 5 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.
- 6 1.24 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.
- 7 1.25 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.
- 8 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.

- 9 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.
- 10 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/-.
- 11 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.

- 12 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.
- 13 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.
- 14 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.

- 15 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.
- 16 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, criticizing non-performance and proposing remedial steps.

- 17 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.
- 18 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.
- 19 1.56 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.

- 20 1.57 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.
- 21 1.58 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.
- 22 1.59 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.

- 23 1.60 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.
- 24 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.
- 25 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 analysing data. The Committee feel that the National Crime Records Bureau, which is already doing a commendable job of collecting, compiling and analysing 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.
- 26 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.

- 27 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.
- 28 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.
- 29 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.

- 30 2.33 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.
- 31 2.34 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.
- 32 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.

- 33 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.
- 34 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.
- 35 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.

- 36 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.
- 37 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.
- 38 2.41 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.

- 39 2.42 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.
- 40 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.
- 41 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.
- 42 2.45 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.
- 43 2.46 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.

- 44 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.
- 45 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.
- 46 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.
- 47 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.

- 48 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.
- 49 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.
- 50 2.59 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.
- 51 2.60 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.

- 52 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.
- 53 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.
- 54 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.
- 55 3.14 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.

- 56 3.15 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.
- 57 3.16 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.
- 58 3.17 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.
- 59 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.

- 60 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.
- 61 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.
- 62 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.
- 63 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.

- 64 3.29 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.
- 65 3.30 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.
- 66 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.
- 67 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.

- 68 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.
- 69 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.
- 70 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.

- 71 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.
- 72 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.
- 73 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.

- 74 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.
- 75 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.