

AS INTRODUCED IN THE RAJYA SABHA
ON THE 3RD DECEMBER, 2021

Bill No. XXXIX of 2021

THE SCHEDULED CASTES AND THE SCHEDULED TRIBES
(PREVENTION OF ATROCITIES) AMENDMENT BILL, 2021

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BILL

*further to amend the Scheduled Castes and the Scheduled Tribes (Prevention of
Atrocities) Act, 1989*

BE it enacted by Parliament in the Seventy-second year of the Republic of India as follows:-

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2021.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 3.

2. In the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the principal Act), in section 3, in sub-section (I):— 33 of 1989.

(i) after clause (h), the following clause shall be inserted, namely:— 5

"(ha) denies payment of minimum wages to a member of a Scheduled Caste or a Scheduled Tribe;"

(ii) for clause w (i), the following clause shall be substituted, namely:—

"intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the consent of the women;" 10

Insertion of
new Section
8(A).

3. After section 8 of the principal Act, the following section shall be inserted, namely:—

Investigation
and
monitoring of
cases of
atrocities.

"8A. (I) The State Government shall appoint at each district level a Deputy Superintendent of Police or a Circle Officer from Scheduled Caste or Scheduled Tribe communities as the Principal Investigating Officer to investigate offences of atrocities against Scheduled Castes and Scheduled Tribes. 15

(2) The State Government may form a panel of officers headed by an administrative officer, not below the rank of District Magistrate to monitor such cases in districts where cases of atrocities against persons belonging to Scheduled Castes or Scheduled Tribes are high." 20

Amendment
of Section
15A.

4. In section 15A of the principal Act:—

(i) in sub-section (8), after clause (c), the following clause shall be inserted, namely:—

"(d) issuing directions for payment of compensation to a victim or his dependent when the accused is proven guilty.

Provided the amount of compensation shall be proportionate to the gravity of offences." 25

(ii) in sub section (II), after clause (f), the following clause shall be inserted, namely:—

"(fa) to create a fund to bear the costs of paying the transportation allowance to the victims or victims' families for appearing in the courts and police stations and compensation for lost daily wages, if any;"

STATEMENT OF OBJECTS AND REASONS

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which came into effect in 1989, was enacted with a view to provide protective cover to those belonging to these castes and tribes, keeping in mind, the Right to Life under Article 21.

Although, there have been various protective pieces of legislation to ensure the protective cover to Scheduled Castes/Scheduled Tribes communities, atrocities against them have been on rise. For instance, as per a report tabled in the Rajya Sabha in March 2021, while there has been an increase of 15.55 per cent in crimes against women and children from Scheduled Castes/Scheduled Tribes communities in the last three years (2017-2019), the conviction rate under Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989 during the same period has been as low as 26.86 per cent, with pendency at an alarming 84.09 per cent.

The Cambridge Dictionary defines 'atrocious' as 'an extremely cruel, violent, or shocking act. Atrocious can be physical as well as mental. For instance, utilizing full labour and not paying adequate wages just because the worker belongs to a certain category, class or religion in an example of atrocious in itself.

Crimes of sexual assault against Scheduled Castes/Scheduled Tribes women is a result of thinking emanating from the sub-conscious mind, where an Scheduled Castes/Scheduled Tribes woman is considered to be vulnerable as well as incapable of fighting for her dignity. As per the National Crime Record Bureau's (NCRB) report for the year 2019, there were 13,273 assault cases of beating stripping, kidnapping including 3,486 cases of rape, against women from Scheduled Castes communities. Wide-spread under-reporting, threatening the victim and her family, hesitation to report the crime from the victim itself, not registering FIRs, shoddily conducted investigation are some of the major problems faced by the victims of Scheduled Castes/Scheduled Tribes communities.

Moreover, lack of adequate financial resources of fight a legal case is a major impediment for the Scheduled Castes/Scheduled Tribes victims to continue with the legal proceedings.

A fund taking care of the transportation allowances and daily wages lost, if any, of victims will motivate the victims to not drop As the case due to inability to pay for the travel from their home to the Police Station and Court. The compensation declared by the Court, to be given to victim, shall be imposed as penalty on the accused, when proven guilty. The threat of becoming financially incapacitated will act as a deterrent to the perpetrator from committing future crimes against the Scheduled Castes/Scheduled Tribes.

No matter, how serious is the atrocious committed against the Scheduled Castes/ Scheduled Tribes, if the Investigation officer acts with the prejudices, then it is hard to expect justice being delivered. In such scenario, it becomes necessary that Deputy Superintendent of Police/Circle Officer from Scheduled Castes/Scheduled Tribes communities should be appointed as the Principal Investigating Officer to handle the case.

Hence, this Bill.

DR. NARENDRA JADHAV

ANNEXURE

EXTRACTS FROM THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989

(33 of 1989)

	*	*	*	*	*
Punishments for offences atrocities.		3.(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—			
	*		*	*	*
		(h) makes a member of a Scheduled Caste or a Scheduled Tribe to do “begar” or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government;			
	*		*	*	*
		(w) (i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient’s consent;			
	*		*	*	*
Presumption as to offences.		8. In a prosecution for an offence under this Chapter, if it is proved that—			
		(a) the accused rendered any financial assistance in relation to the offences committed by a person accused of, or reasonably suspected of committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;			
		(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object;			
		(c) The accused was having personal knowledge of victims for his family, the court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.			
Conferment of Powers.		9. (1) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it consider it necessary or expedient so to do—			
		a. for the prevention of and for coping with any offence under this Act, or			
		b. for any case or class or group of cases under this Act,			
		in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case may be, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court.			
		(2) All officer of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder.			
		(3) The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under sub-section (1).			
	*	*	*	*	*

15A. (1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

Rights of victims and witnesses.

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(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victims his dependent, informant or witnesses—

- (a) the complete protection to secure the ends of justice;
- (b) the travelling and maintenance expenses during investigation, inquiry and trial;
- (c) the social-economic rehabilitation during investigation, inquiry and trial; and
- (d) relocation.

* * * * *

(8) Without prejudice to the generality of the provisions of sub-section (6), the concerned Special Court or the exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victims, informant or witness or on its own motion, take such measures including—

- (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;
- (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

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RAJYA SABHA

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further to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(Dr. Narendra Jadhav, M.P.)