

As INTRODUCED IN LOK SABHA

Bill No. 148 of 2013

THE SCHEDULED CASTES AND THE SCHEDULED TRIBES
(PREVENTION OF ATROCITIES) AMENDMENT
BILL, 2013

A
BILL

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

Be it enacted by Parliament in the Sixty-fourth 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, 2013.

Short title and commencement.

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

2. In the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the principal Act), in the long title, for the words “Special Courts” the words “Special Courts and the Exclusive Special Courts” shall be substituted.

Amendment of long title.

Amendment
of section 2.

3. In section 2 of the principal Act, in sub-section (I),—

(i) after clause (b), the following clauses shall be inserted, namely:—

‘(bb) “dependent” means the spouse, children, parents, brother and sister of the victim, who are dependent wholly or mainly on such victim for his support and maintenance;’
5

(bc) “economic boycott” means—

(i) a refusal to deal with, work for hire or do business with other person; or

(ii) to deny opportunities including access to services or contractual opportunities for rendering service for consideration; or
10

(iii) to refuse to do anything on the terms on which things would be commonly done in the ordinary course of business; or

(iv) to abstain from the professional or business relations that one would maintain with other person;

(bd) “Exclusive Special Court” means the Exclusive Special Court established under sub-section (I) of section 14 exclusively to try the offences under this Act;
15

(be) “forest rights” shall have the meaning assigned to it in sub-section (I) of section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;
20 2 of 2007.

(bf) “manual scavenger” shall have the meaning assigned to it in clause (g) of sub-section (I) of section 2 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013;
25 of 2013.

(bg) “public servant” means a public servant as defined under section 21 of the Indian Penal Code, as well as any other person deemed to be a public servant under any other law for the time being in force and includes any person acting in his official capacity under the Central Government or the State Government, as the case may be;’;

(ii) after clause (e), the following clauses shall be inserted, namely:—

‘(ea) “Schedule” means the Schedule appended to this Act;
30

(eb) “social boycott” means a refusal to permit a person to render to other person or receive from him any customary service or to abstain from social relations that one would maintain with other person or to isolate him from others;

(ec) “victim” means any individual who falls within the definition of the “Scheduled Caste and Scheduled Tribe” under clause (c) of sub-section (I) of section 2, and who has suffered or experienced physical, mental, psychological, emotional or monetary harm or harm to his property as a result of the commission of any offence under this Act and includes his relatives, legal guardian and legal heirs;
35 40

(ed) “witness” means any person who is acquainted with the facts and circumstances, or is in possession of any information or has knowledge necessary for the purpose of investigation, inquiry or trial of any crime involving an offence under this Act, and who is or may be required to give information or make a statement or produce any document during investigation, inquiry or trial of such case and includes a victim of such offence;’;
45

(iii) for clause (f), the following clause shall be substituted, namely:—

“(f) the words and expressions used but not defined in this Act and defined in the Indian Penal Code, the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, as the case may be, shall be deemed to have the meanings respectively assigned to them in those enactments.”.

4. In section 3 of the principal Act,—

Amendment
of section 3.

(i) for sub-section (I), the following sub-section shall be substituted, namely:—

‘(I) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a) puts any inedible or obnoxious substance into the mouth of a member of a Scheduled Caste or a Scheduled Tribe or forces such member to drink or eat such inedible or obnoxious substance;

(b) dumps excreta, sewage, carcasses or any other obnoxious substance in premises, or at the entrance of the premises, occupied by a member of a Scheduled Caste or a Scheduled Tribe;

(c) with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe, dumps excreta, waste matter, carcasses or any other obnoxious substance in his neighbourhood;

(d) garlands with footwear or parades naked or semi-naked a member of a Scheduled Caste or a Scheduled Tribe;

(e) forcibly commits on a member of a Scheduled Caste or a Scheduled Tribe any act, such as removing clothes from the person, forcible tonsuring of head, removing moustaches, painting face or body or any other similar act, which is derogatory to human dignity;

(f) wrongfully occupies or cultivates any land, owned by, or in the possession of 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 such land transferred;

(g) 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, including forest rights, over any land or premises or water or irrigation facilities or destroys the crops or takes away the produce therefrom.

Explanation.—For the purposes of clause (f) and this clause, the expression “wrongfully” includes—

(A) against the person’s will;

(B) without the person’s consent;

(C) with the person’s consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested in fear of death or of hurt; or

(D) fabricating records of such land;

(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;

(i) compels a member of a Scheduled Caste or a Scheduled Tribe to dispose or carry human or animal carcasses, or to dig graves;

(j) makes a member of a Scheduled Caste or a Scheduled Tribe to do manual scavenging or employs or permits the employment of such member for such purpose;	
(k) performs, or promotes dedicating a Scheduled Caste or a Scheduled Tribe woman to a deity, idol, object of worship, temple, or other religious institution as a <i>devadasi</i> or any other similar practice or permits aforementioned acts;	5
(l) forces or intimidates or prevents a member of a Scheduled Caste or a Scheduled Tribe—	
(A) not to vote or to vote for a particular candidate or to vote in a manner other than that provided by law;	10
(B) not to file a nomination as a candidate or to withdraw such nomination; or	
(C) not to propose or second the nomination of a member of a Scheduled Caste or a Scheduled Tribe as a candidate in any election;	15
(m) forces or intimidates or obstructs a member of a Scheduled Caste or a Scheduled Tribe, who is a member or a Chairperson or a holder of any other office of a panchayat under PART IX of the Constitution or a municipality under PART IXA of the Constitution, from performing their normal duties and functions;	20
(n) after the poll, causes hurt or grievous hurt or assault or imposes or threatens to impose social or economic boycott upon a member of a Scheduled Caste or a Scheduled Tribe or prevents from availing benefits of any public service which is due to him;	25
(o) commits any offence under this Act against a member of a Scheduled Caste or a Scheduled Tribe for having voted or not having voted for a particular candidate or for having voted in a manner provided by law;	
(p) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;	30
(q) 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;	35
(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;	
(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;	40
(t) destroys, damages or defiles any object generally known to be held sacred or in high esteem by members of the Scheduled Castes or the Scheduled Tribes.	
Explanation.—For the purposes of this clause, the expression “object” means and includes statue, photograph and portrait;	45
(u) by words either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes;	50
(v) by words either written or spoken or by any other means disrespects any late person held in high esteem by members of the Scheduled Castes or the Scheduled Tribes;	
(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;	55

(ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe.

Explanation.—For the purposes of sub-clause (i), the expression “consent” means an unequivocal voluntary agreement when the person by words, gestures, or any form of non-verbal communication, communicates willingness to participate in the specific act:

Provided that a woman belonging to a Scheduled Caste or a Scheduled Tribe who does not offer physical resistance to any act of a sexual nature is not by reason only of that fact, is to be regarded as consenting to the sexual activity:

Provided further that a woman’s sexual history, including with the offender shall not imply consent or mitigate the offence;

(x) corrupts or fouls the water of any spring, reservoir or any other souche ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

(y) 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 other section thereof have a right to use of access to;

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

Provided that nothing contained in this clause shall apply to my action taken in discharge of a public duty.

(za) obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to—

(A) using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing *ghat*, any public conveyance, any road, or passage;

(B) mounting or riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession, or mounting a horse or any other vehicle during wedding processions;

(C) entering any place of worship which is open to the public or other persons professing the same religion or taking part in, or taking out, any religious, social or cultural processions including *jatras*;

(D) entering any educational institution, hospital, dispensary, primary health centre, shop or place of public entertainment; or any other public place; or using any utensils or articles meant for public use in any place open to the public; or

(E) practicing any profession or the carrying on of any occupation, trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to;

(zb) causes physical harm or mental agony of a member of a Scheduled Caste or a Scheduled Tribe on the allegation of practicing witchcraft or being a witch; or

(zc) imposes or threatens a social or economic boycott of any person or a family or a group belonging to 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 five years and with fine.';

5

(ii) in sub-section (2),—

(a) in clause (v), for the words "on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member", the words "knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member" shall be substituted;

10

(b) after clause (v), the following clause shall be inserted, namely:—

"(va) commits any offence specified in the Schedule, against a person or property, knowing 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 such punishment as specified under the Indian Penal Code for such offences and shall also be liable to fine.".

15

45 of 1860.

Substitution
of new
section for
section 4.

Punishment
for neglect of
duties.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. (1) Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act and the rules made thereunder, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

20

(2) The duties of public servant referred to in sub-section (1) shall include—

25

(a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant;

(b) to register a complaint or a First Information Report under this Act and other relevant provisions and to register it under appropriate sections of this Act;

30

(c) to furnish a copy of the information so recorded forthwith to the informant;

(d) to record the statement of the victims or witnesses;

(e) to conduct the investigation and file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing;

35

(f) to correctly prepare, frame and translate any document or electronic record;

40

(g) to perform any other duty specified in this Act or the rules made thereunder:

Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry.

(3) The cognizance in respect of any dereliction of duty referred to in sub-section (2) by a public servant shall be taken by the Special Court or the Exclusive Special Court and shall give direction for penal proceedings against such public servant.”.

45

6. In section 8 of the principal Act,—

Amendment
of section 8.

(i) in clause (a), for the words “any financial assistance to a person accused of”, the words “any financial assistance in relation to the offences committed by a person accused of” shall be substituted;

5 (ii) after clause (b), the following clause shall be inserted, namely:—

“(c) the accused was having personal knowledge of the victim or 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.”.

7. In section 10 of the principal Act, in sub-section (I),—

Amendment
of section
10.

10 (a) after the words and figures “article 244 of the Constitution”, the words, brackets, letters and figures “or any area identified under the provisions of clause (vii) of sub-section (2) of section 21” shall be inserted;

(b) for the words “two years”, the words “three years” shall be substituted.

**8. For section 14 of the principal Act, the following section shall be substituted,
15 namely:—**

Substitution
of new
section for
section 14.

“14. (I) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, establish an Exclusive Special Court for one or more Districts:

Special Court
and Exclusive
Special
Court.

20 Provided that in Districts where less number of cases under this Act is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for such Districts the Court of Session to be a Special Court to try the offences under this Act:

25 Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Act.

(2) It shall be the duty of the State Government to establish an adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible.

30 (3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing:

35 Provided that when the trial relates to an offence under this Act, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet.

**9. After section 14 of the principal Act, the following section shall be inserted,
namely:—**

Insertion of
new section
14A.

Appeals.

2 of 1974. 40 “14A. (I) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

2 of 1974.

45

(2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days: 5

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal. 10

Substitution
of new
section for
section 15.

Special Public
Prosecutor
and Exclusive
Public
Prosecutor.

10. For section 15 of the principal Act, the following section shall be substituted, namely:—

“15. (1) For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court. 15

(2) For every Exclusive Special Court, the State Government shall, by notification in the Official Gazette, specify an Exclusive Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as an Exclusive Public Prosecutor for the purpose of conducting cases in that Court.”. 20

Insertion of
new Chapter
IVA.

11. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER IVA

RIGHTS OF VICTIMS AND WITNESSES

Rights of
victims and
witnesses.

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.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim’s age or gender or educational disadvantage or poverty. 30

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act. 35

(4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material witnesses or examine the persons present.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of 40

an accused or any connected proceedings or arguments and file return submission on conviction, acquittal or sentencing.

(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 victim, 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;

(d) relocation.

(7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.

(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 victim, 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.

(9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.

(10) All proceedings relating to offences under this Act shall be video recorded.

(II) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as—

- (a) to provide a copy of the recorded First Information Report at free of cost; 5
 - (b) to provide immediate relief in cash or in kind to atrocity victims or their dependents;
 - (c) to provide necessary protection to the atrocity victims or their dependents, and witnesses;
 - (d) to provide relief in respect of death or injury or damage to property; 10
 - (e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;
 - (f) to provide the maintenance expenses to the atrocity victims and their dependents; 15
 - (g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report;
 - (h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment;
 - (i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost; 20
 - (j) to take necessary precautions at the time of medical examination;
 - (k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount; 25
 - (l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;
 - (m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose; 30
 - (n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights. 35
- (I2) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.”.

12. After section 23 of the principal Act, the following Schedule shall be inserted, namely:—

Insertion of
new Schedule.

“THE SCHEDULE

[See section 3(2) (va)]

Section under the Indian Penal Code, 45 of 1860	Name of offence and punishment.
120A	Definition of criminal conspiracy.
120B	Punishment of criminal conspiracy.
141	Unlawful assembly.
142	Being member of unlawful assembly.
143	Punishment for unlawful assembly.
144	Joining unlawful assembly armed with deadly weapon.
145	Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.
146	Rioting.
147	Punishment for rioting.
148	Rioting, armed with deadly weapon.
217	Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.
319	Hurt.
320	Grievous hurt.
323	Punishment for voluntarily causing hurt.
324	Voluntarily causing hurt by dangerous weapons or means.
325	Punishment for voluntarily causing grievous hurt.
326B	Voluntarily throwing or attempting to throw acid.
332	Voluntarily causing hurt to deter public servant from his duty.
341	Punishment for wrongful restraint.
354	Assault or criminal force to woman with intent to outrage her modesty.
354A	Sexual harassment and punishment for sexual harassment.
354B	Assault or use of criminal force to woman with intent to disrobe.
354C	Voyeurism.
354D	Stalking.
359	Kidnapping.
363	Punishment for kidnapping.
365	Kidnapping or abducting with intent secretly and wrongfully to confine person.
376B	Sexual intercourse by husband upon his wife during separation.
376C	Sexual intercourse by a person in authority.
447	Punishment for criminal trespass.
506	Punishment for criminal intimidation.
509	Word, gesture or act intended to insult the modesty of a woman.”.

STATEMENT OF OBJECTS AND REASONS

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the Act) was enacted and brought into force on the 31st January, 1990, with a view to prevent the commission of offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences.

2. Despite the deterrent provisions made in the Act, atrocities against the members of the Scheduled Castes and Scheduled Tribes continue at a disturbing level. Adequate justice also remains difficult for a majority of the victims and the witnesses, as they face hurdles virtually at every stage of the legal process. The implementation of the Act suffers due to (a) procedural hurdles such as non-registration of cases; (b) procedural delays in investigation, arrests and filing of charge-sheets; and (c) delays in trial and low conviction rate.

3. It is also observed that certain forms of atrocities, known to be occurring in recent years, are not covered by the Act. Several offences under the Indian Penal Code [other than those covered under section 3(2)(v)] are also committed frequently against the members of the Scheduled Castes and Scheduled Tribes, on the ground that the victim was a member of a Scheduled Caste and Scheduled Tribe. It is also felt that the public accountability provisions under the Act need to be outlined in greater detail and strengthened.

4. Therefore, it becomes necessary to make a comprehensive review of the relevant provisions of the Act, after due consultation with the State Governments, Union territory Administrations, concerned Central Ministries, National Commission for the Scheduled Castes, National Commission for the Scheduled Tribes, certain Non-Governmental Organisations and Activists.

5. It is, therefore, proposed to amend the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2013 which, *inter alia*, provides the following, namely:—

(a) to amend, the long title of the Act so as to provide for the establishment of "Exclusive Special Courts" in addition to the Special Courts for the trial of the offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes;

(b) to amend section 2 of the Act and to insert certain new definitions like "economic boycott", "Exclusive Special Court", "Forest Rights", "manual scavenger", "public servant", "social boycott", "victim and witness";

(c) to amend section 3 of the Act relating to "Punishments for offences of atrocities" so as to, *inter alia*, provide some more categories of atrocities in the said section for which the same punishment, as provided in the said section, may be imposed;

(d) to substitute section 4 of the Act relating to "Punishment for neglect of duties" so as to provide certain duties upon the public servant and to provide punishment for neglect of the duties specified in the said section;

(e) to amend section 8 of the Act relating to "Presumption as to offences" and to provide that if the accused was acquainted with the victim or his family, the court shall presume that the accused was aware of the caste or tribal identity of the victim unless proved otherwise;

(f) to substitute section 14 of the Act relating to "Special Court" so as to provide that the State Government shall, with the concurrence of the Chief Justice of the High Court, establish an Exclusive Special Court for one or more districts to try the offences under this Act;

(g) to amend section 15 of the Act relating to "Special Public Prosecutor" so as to insert a new sub-section which provides that for every Exclusive Special Court, the State Government shall, specify an Exclusive Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as an Exclusive Public Prosecutor for the purpose of conducting cases in that court; and

(h) to insert a new Chapter IVA relating to "Rights of victims and witnesses" (new section 15A) so as to impose duty and responsibility upon the State for making arrangements for the protection of victims, their dependents and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence.

6. The Bill seeks to achieve the above objects.

NEW DELHI;
The 28th November, 2013

KUMARI SELJA

FINANCIAL MEMORANDUM

Clause 14 of the Bill, *inter alia*, stipulates that for the purpose of speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, establish the Exclusive Special Court for one or more districts. However, in Districts where less number of cases under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, specify for such Districts the Court of Session to be a Special Court to try the offences under this Act. The Courts so established or specified, shall have power to directly take cognizance of offences under the Act.

Sub-clause (2) of clause 15 of the Bill provides that for every Exclusive Special Court, the State Government shall, specify an Exclusive Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as an Exclusive Public Prosecutor for the purpose of conducting cases in that Court.

Due Central assistance is already provided to the State Governments and the Union territory administrations, under the Centrally Sponsored Scheme for implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The funding pattern of the Scheme is such that over and above the committed liability of respective State Governments, the expenditure is shared between Centre and States on 50:50 basis and Union territory administrations receive 100 per cent. Central assistance. The Central assistance is, *inter alia*, provided for setting up and functioning of Exclusive Special Courts. As per available information, presently 179 Exclusive Special Courts have already been set up by the States namely, Andhra Pradesh (23), Bihar (11), Chhattisgarh (6), Gujarat (25), Karnataka (7), Kerala (1), Madhya Pradesh (43), Rajasthan (17), Tamil Nadu (4), Uttar Pradesh (40) and Uttarakhand (2). Central assistance is presently being availed by some of the States for this purpose, which is permissible. However, at this stage, it is not possible to estimate with any degree of precision, the likely additional requirement of funds which may be required, since the number and details of such courts to be set up by the concerned State Government and Union territory administrations can not be anticipated. Similarly number of Exclusive Public Prosecutors to be appointed by them is also presently not known.

ANNEXURE

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

(33 OF 1989)

An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

* * * * *

2. (I) In this Act, unless the context otherwise requires,—

Definitions.

* * * * *

(f) words and expressions used but not defined in this Act and defined in the Code or the Indian Penal Code shall have the meanings assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code.

45 of 1860.

* * * * *

CHAPTER II

OFFENCES OF ATROCITIES

3. (I) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

Punishments
for offences
of atrocities.

(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 to 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 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 the Scheduled Castes or the Scheduled Tribes 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,—

*

*

*

*

*

(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;

*

*

*

*

*

45 of 1860.

Punishment
for neglect
of duties.

4. Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully 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.

*

*

*

*

*

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 to 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;

*

*

*

*

*

CHAPTER III

EXTERNMENT

Removal of
person likely
to commit
offence.

10. (1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'tribal areas', as referred to in article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order.

*

*

*

*

*

CHAPTER IV

SPECIAL COURTS

14. For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try the offences under this Act.

Special
Court.

15. For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

Special Public
Prosecutor.

*

*

*

*

*

LOK SABHA

A

BILL

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

(Kumari Selja, Minister of Social Justice and Empowerment)