

**National Human Rights Commission  
PRP&P Division (RU-3)**

**MINUTES OF MEETING**

Open House Discussion on *“Prevention of Atrocities and other forms of Discrimination against SC/ST Community: Challenges, Protection and Way Forward”* held on 23<sup>rd</sup> June 2023 at Manav Adhikar Bhawan, NHRC, New Delhi

An Open House Discussion was organized on ‘Atrocities on SC/ST’ under the Chairmanship of Dr. Dnyaneshwar Manohar Mulay, Hon’ble Member, on 23<sup>rd</sup> June, 2023 in Room No. 508. The list of participants in **annexed**.

2. **Shri Devendra Kumar Nim, Joint Secretary, NHRC**, welcomed the chair of event, Senior officials of NHRC, domain experts and eminent dignitaries that participated in the meeting. Shedding light on the relevance of the agenda, he expressed that the members of the community have historically faced deep rooted prejudice and systemic discrimination that has placed them at a disadvantageous position. He highlighted that the increasing rates of atrocities on SC/ST and stagnant conviction rate is a concerning issue. He added that the discussion will help yield certain recommendatory measures that would serve as a catalyst to minimise the atrocities.

3. **Dr. Dnyaneshwar Manohar Mulay, Hon’ble Member, NHRC**, highlighting the relevance of the issue of atrocities and other forms and manifestations of discrimination against the SC/ST community, expressed that India is doing particularly well in domestic and international arena in the light of successful run of the Constitution, observation and celebration of international standards of Human Rights, and other statutory and policy regimes that strengthen the protection mechanism for rights of the people. He further added that economic progress, in particular, is taking us ahead of the world and events like the recent visit of our Hon’ble Prime Minister to the USA creates huge expectation from India on both economic and social front as economic progress would be pulled down if it is not accompanied by social progress. Therefore, there is a need to create a better balance between social and economic progress. Quoting some recent media reports about the acts of violence and discrimination against the persons belonging to the Scheduled Castes and Scheduled Tribes Communities, he stated that majority of the atrocities are meted out against the poorer sections of the society and within that, members of SC/ST community. In his personal assessment, if the trends are to continue, our national progress will get hampered. He added that an improvement can only be seen if the Act offers holistic coverage of practices against such communities and is capable of

creating deterrence. The deterrence will determine how Act is implemented. He further added that the masses should be educated and made aware about discriminatory practices that are directed against these communities. This makes taking stock of the progress of the Act pertinent.

4. **Shri Praveen Kumar, Director, Ministry of Social Justice & Empowerment**, stated that this discussion will act as a catalyst for further discussions and deliberations on the subject at the ministries. He mentioned that broadly two legislations, namely the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, regulate the discriminatory practices against the SC/ST community. The duty to implement both the acts rests on the State governments and Union Territories Administrators. The PoA Act, 1989 was amended in 2016 that included 25 more offences, enhanced relief amount and made provisions for establishment of executive special courts for speedy trial and later in 2018 that did away with the requirement of preliminary enquiry before registration of FIR and prior approval of authorities before making arrests, and allowed victims to seek compensation for cases of deaths, rapes or gang rapes, grievous hurt. The Ministry of Home Affairs looks after the administration of criminal offences whereas Ministry of Social Justice & Empowerment and Ministry of Tribal Affairs deal with the implementation of the Act without touching upon the administration of criminal offences. A predominant rise in the cases can be seen after the amendments that widened the gambit of the Act were introduced. This requires strengthening of the administrative regime, especially the institutional mechanisms or the Police Protection Cells as mandated under the PoA Act, which is being looked after by the MoSJ&E. He further added that as of now, a total of 176 executive special courts have been constituted across the country in order to make the system more approachable for victims. There is also a provision of additional powers of such courts which can be exercised in consultation with the Chief Justices of the High Court of the concerned States. He highlighted that a centrally sponsored scheme for implementation of PCR Act and PoA Act has also been developed to fund the:

- Functioning and strengthening of SC/ST Protection Cell and Special Police Stations
- Setting up and functioning of Executive Special Courts
- Relief and rehabilitation of atrocity victims
- Incentive for inter-caste marriages where one spouse is a member of SC community
- Generation of awareness

5. This fund is provided equally by the State and the Centre. For Financial year 2023-24, no fund has yet been disbursed owing to beginning of the financial year. However, from financial year 2019-20 till 2022-23, funds have increased over the years. A National Helpline Against Atrocities has also been created in 2021 for grievance redressal and real time monitoring of issues of atrocities on SC/STs.

6. In continuation, Hon'ble Chair inquired firstly why atrocities on SCs outnumbered to that of STs, is it because they face fewer atrocities or is there more awareness or effective implementation for them, secondly is the rise in registration of complaints a substantive one,

thirdly isn't the budget utilization of the outlay going down alarming, and fourthly, what is the number of calls that have been received on the helpline and if they show any trend and what is the number of special courts established so far? In response, Shri Praveen Kumar said that the implementation of the Acts rests upon the State governments and the criminal offences are monitored by the Ministry of Home Affairs. Nonetheless, no assessment has been done in order to establish whether fewer atrocities are meted or the tribal community lacks awareness. Further, in his opinion, the increase in gambit of the Act might have triggered more awareness and in turn more number of complaints. In regard to the fund disbursement, he stated that the States are required to create Single Nodal Agency (SNA) accounts, wherein the central government directs the entire fund that has been allocated which is later spent from there however; there was some resistance from State governments. He further added that the Ministry has successfully got State governments on board to create SNA accounts. He further added that if SNA Accounts are created, there will not be any issue in fund disbursement for this financial year. He further added that due to Covid pandemic, implementation of helpline was impacted and so far approximately 3.88 lakhs complaints have been received in the past two years. Nationally, there are around 176 exclusive special courts.

7. In continuation, Shri Devendra Kumar Nim, Joint Secretary, NHRC asked whether the funds are being rightly utilized for purposes they are being earmarked? In response, Shri Praveen Kumar stated that such funds are provided for welfare purposes and the same are not related to atrocities of the community. These funds are governed by the Development Action Plan for the Scheduled Castes (DAPSC) of the Ministry.

8. **Shri Arvind Mudgal, Under Secretary, Ministry of Tribal Affairs**, reiterated that the Ministry of Home Affairs looks after the criminal offences against the members of SC/ST communities, Ministry of Social Justice and Empowerment deals with implementation of PCR Act and PoA Act except for the criminal offences whereas the Ministry of Tribal Affairs deals with implementation of the legislations in respect of the Tribal communities. Further, the State governments are responsible for implementation of the two Acts and in this regard the MoTA issues advisories from time to time and conducts visits to the State governments and UT Administrators. Besides, the National Commission for Scheduled Tribes monitors the implementation during their visits to the concerned State or UT.

9. In continuation, the Hon'ble Chair asked about the number of atrocities on members of ST community, the budget provisions particularly related to the relief and compensation, various mechanisms that have been set up to safeguard the communities and how far they have been effective, and reasons for a rise in incidents of atrocities on STs? As a response, Shri Arvind Mudgal stated that no such budgetary provision exists for atrocities on ST communities in his knowledge however the MoTA will be confirming later about the same. He further stated that there is no independent data collection mechanism of the ministry and data of NCRB is relied upon. Replies for remaining questions will be sent by the MoTA to NHRC.

10. In continuation, Shri Surajit Dey, Registrar (Law), NHRC, asked that how are the provision of Forest Rights Act, 2006 being implemented and how are these inherent rights being balanced with that of right to development? In his reponse, Shri Arvind Mudgal said that the information on the subject needs to be collected which will be sent to the NHRC in due course of time.

11. **Dr. Upendra Baxi, Distinguished Legal Scholar**, expressed that the question of impact needs to be inquired upon which can be measured in various ways, namely anecdotal or in the form of a story, experiential or from victim's experience, statistical analysis and lastly a study of trends. He stated that in order to understand the true impact, voices of people must be captured, preserved and worked upon. If not, then it is just impact impression and not analysis. A scientific impact analysis should be carried out which has been imposed upon us as a constitutional duty under Article 51(a) that talks about the **duty to develop the scientific temper, humanism and the spirit of inquiry and reform** which is incumbent upon every citizen of the country. He said that there has to be an outcome based and an evidence based research. The Atrocities Act talks about atrocities on the ground of being members of the SC/ST which is determined by certification however we are more concerned with abuse and not on the actual technicalities of the process by which a certificate is issued, how is the discretion to give a certificate exercised and how far has digitalization of governance helped should be a part of impact analysis. This impact analysis requires three determinants:

- Whether the law is effective? He remarked that no law is 100% effective and therefore this requires the threshold of success of the law to be quantified in terms of percentage. This can be measured in terms of compliance of the Act on the ground.
- How far are the people aware or have knowledge about the Act? How much legal aid authorities have exercised their powers and functions to impart legal literacy?
- How many people of the society have internalized non-violent relationship with the other group?

12. The impact can be measured in symbolic terms or impact on consciousness or mind and in instrumental terms or the impact on behaviour. This is where education comes into picture. Additionally, impact can be adjudicative and legislative. He stated that **law can eliminate behaviour but it can't eliminate prejudice and the aim is to eradicate prejudice**. Therefore, attention needs to be drawn towards institutions as well.

13. In continuation, the Hon'ble Chair asked Dr. Baxi that how far, in his opinion, has the Act been effective? In his reply, Dr. Upendra Baxi said it has only been 20% effective. The Hon'ble Chair subsequently concluded that the Act has largely remained ineffective.

14. **Shri Bezwada Wilson, National Convener, Safai Karmchari Andolan**, remarked that untouchability isn't the problem of SC/STs but of the people who practice untouchability and this change in outlook is never taken into account. He stated that we are addressing one of the

symptoms of untouchability, i.e. atrocities. We need to address issues in registration of FIR, during trial and in judgement. The administrative regime and legislative regime need to be discussed together as they are interlinked. He added that **no Act without a political will can be implemented**. He further added that root causes of untouchability are the unequal distribution of wealth, entitlements not reaching people and these causes must be addressed. One of the gross violation of rights or a form of atrocity is in sanitation sector which are often neglected in deliberations. This year around 53 people died in septic tanks just in Gwalior. He said that septic tank deaths have been occurring since many years but the same are not included in any survey. Around 90% of the people who die are between the age group of 19 to 40 years and they are rarely awarded compensation. The issue is not covered under section 3 of the PoA Act, 1989 and the Manual Scavengers Act does not cover such wide-ranging powers. He further stated that no budget is allocated for rehabilitation of manual scavengers, especially the women scavengers and the same is being carried out by the National Safai Karamcharis Finance & Development Corporation (NSKFDC), an organization under MoSJ&E.

15. In continuation, Hon'ble Chair stated that the NHRC takes up the issues of manual scavenging very passionately and works for their compensation and rehabilitation. Shri Surajit Dey, Registrar (Law), NHRC, further added that in 2021, the Commission released its advisory on protection of manual scavengers. The Commission has also incorporated the mandates of the Supreme Court under the *SKA v. Union of India* which isn't just the compensation amount of Rs. 10 lakhs but also the initiation of criminal investigation under section 304A of IPC. More so, the Commission has been taking *suo moto* cognizance whenever incidents of deaths are reported and is working to encourage mechanisation and automation through robotic scavenging devices.

16. **Ms. Shweta Tripathi, Executive Director, Society for Rural Urban and Tribal Initiative (SRUTI)** addressing the question of implementation of Forest Rights Act, said that around 32.2 million hectares of forest land is located within the village boundaries as reported by the Forest Survey of India 1999 report and at least 8 million hectares in the north-eastern states which is eligible for recognition of community forest rights and the area recognized so far is merely 7.98% of total forest area. She further added that according to MoEFCC, at least 20% of total forest area itself would be under the occupational titles, besides area to be recognized under other rights. She highlighted that around 43% of the overall claims were accepted and the rejection rates were much higher and such rejections were made for arbitrary reasons. She added that over 5.5 million hectares were diverted to non forest purposes such as mining, development, infrastructural projects since 1947 till 2016 and around 31 lakhs hectares were diverted since 2008 only, when FRA became operational. In her words, it can safely be assumed that in most cases, forest clearances were granted without the compliance of FRA in letter and spirit. She added that there has also been confusion due to release of separate guidelines by various ministries including MoTA, MoEFCC, Ministry of Defence, Ministry of Mining, etc. Talking about the PoA Act, she stated that the upper classes need to be brought in perspective or understanding, there is a lack of adequate executive special force, there is a failure in identifying

atrocities prone zones, and there has to be more assertive educational elements in order to bring empathy in education.

17. **Adv Radhakanta Tripathy, Advocate, Supreme Court of India (HRD)**, stated that there is a need to improve the staff strength and police station infrastructure all across the country, specifically where there are more number of SC/STs. He expressed that the objectives of PoA Act would be frustrated unless we have adequate number of police personnel who are sensitive towards the members of SC/ST community. He added that legal services authorities must be sensitive towards the issues of atrocities and victim and witness protection must be ensured. He further remarked that the provisions like payment of compensation are also not complied with due to lack of coordination between district and state level committees. The victims must be paid adequate compensation on registration of FIR, filing of chargesheet and subsequently on conviction. He also mentioned that in most of the cases, conviction is not made owing to a cumbersome process, lack of cooperation from medical authorities and lack of education. He then highlighted that members of ST community upon inter-state migration, lose their ST status and become ineligible for protections under the Act. This issue hasn't been addressed yet. Talking about Manipur violence, he said that the ST community is facing immense violence and are living under tremendous pressure and suggested the Commission to plan for a visit there. He further added that the ST people have also been displaced due to various development projects and are most often not recognized as residents of affected districts, which is why majority of them haven't been rehabilitated yet. He then stressed that the lack of bureaucratic will and insensitive approach of police personnel create resistance in implementation of the Act.

18. **Shri Ravinder Yadav, Special Commissioner of Police (Crime), Delhi**, stated that awareness among judges, prosecutors and officers need to be created in order to strengthen the administrative regime. He further stated that judiciary needs to be sensitized so as to curb judicial delay and a study needs to be conducted in this regard to find out reasons for such a delay. He further suggested that an impact assessment by way of survey in atrocity prone areas or the hotspots must be done. He mentioned about the existing framework wherein at police headquarter level, a meeting is organized every 2-3 months with the IG to discuss pending cases and plan of action to be adopted.

19. In continuation, Hon'ble Chair inquired about the number of cases of atrocities that have been registered, field level observations and any best practices adopted by the police to prevent atrocities. In response, Shri Ravinder Yadav said that the same will be sent to the Commission via mail. Shri Surajit Dey, Registrar (Law), NHRC, further remarked that no protection to victims and witnesses are provided in special courts for SC/STs, which makes them reluctant in providing evidences. He then asked if there is any scheme to assure protection to victims and witnesses. In response, Shri Ravinder Yadav said that a committee is formed under DLSA that directs police personnel to offer protection and witnesses are then escorted to law courts.

20. **Dr. Manoj Kumar, Joint Secretary, University Grants Commission**, stated that on the basis of various instructions and directions from the government, UGC has made efforts from time to time to obliterate atrocities. He mentioned that UGC has continued to release guidelines and regulations for empowerment of SC/ST community and their accessibility to higher education. At the outset, UGC released circulars or directions to higher educational institutions to ensure mechanism of prevention of discrimination of various stakeholders i.e., students, teachers, non-teaching staff etc. The higher education institutions are also required to develop a page on their website for lodging complaints of caste discrimination by SC/ST students or other stakeholders, constitute a committee to look into the complaints of discrimination received from members of the community which should necessarily have a member from SC/ST community and place a complaint register in the office of Registrar or Principal of the institution and reports of action taken on such complaints are sought by UGC. Additionally, the UGC has framed regulations on 'promotion of equity in higher education institutions' in 2012 and the grievance redressal regulations have been redrafted in 2023 to make them more effective. This includes a provision for constitution of a Students' Grievance Redressal Committee that has to work independent from the Institution and has to have a member from SC/ST community. He further added that an ombudsperson has to be appointed to act as an appellate authority over Students' Grievance Redressal Committee. Besides this the universities are required to establish an equal opportunity cell, SC/ST cell, anti discrimination officer and liaison officer. UGC keeps monitoring the establishment of the abovementioned mechanisms and sends data to the government. He stated that for reservations, the higher education institutions have to prepare and update their reservation rosters and upload it on their respective websites which have to be in respect of enrollment, recruitment, hostel or staff quarter allocation and the like. Currently, backlog vacancies are on mission mode and are being taken up seriously by UGC.

21. **Prof (Dr.) Thangzakhup Tombing, Convener, Centre for Tribal Law, Policy and Justice; NLUJA**, expressed that educational institutions and experience of ST communities is a wide connotation and drew the focus on 6<sup>th</sup> scheduled areas. Quoting the report of Ministry of Education, he stated that the figures reveal that 19,256 students belonging to depressed classes have dropped out. He further added that in 2007, the Thorat Committee report accentuated the findings that due to ragging, taunting with respect to their surnames or ranks, the members of community face difficulties in pursuing their courses. He further highlighted that with respect to north-east, the issues are very peculiar. The communities from north-east suffer from discrimination in the racial context as well since majority of the people living there have mongoloid facial features and distinct language and culture. In this regard in 2014, the Bezbaruah Committee was formed to look into the concerns of people from north-eastern part of the country living in other parts of the country. He further added that during covid, the political narrative that covid originated from China aggravated the practices of racial discrimination against north eastern community. Quoting the findings of Rights and Risks Analysis Group, he mentioned that discrimination against the north eastern communities is prevalent all across the country. He further made a mention of the Manipur violence and stated that students from

Manipur University and other institutions have been internally displaced and are unable to pursue their remaining courses. He added that the term 'race' has no mention in the PoA Act which is why the issues of northeast states remain unaddressed.

22. In continuation, the Hon'ble Chair asked if the people from within the campus are involved in perpetrating the attacks and if it is a one-sided violence. In response, Prof (Dr.) Thangzakhup Tombing said that the attacks are being perpetrated by people from within and outside the campus in coordination. He further stated that 53% of the total population is of the valley people who are oppressing the minorities of the hilly region.

23. **Shri S.K. Gautam, IPS, Special Commissioner of Police (Headquarters), Delhi**, said that other than the stakeholders such as police and judiciary, people of the country need to be sensitized about the issues of atrocities on SC/ST and therefore legal education should be incorporated in education system so as to sensitize people or the society.

24. **Shri Surajit Dey, Registrar (Law), NHRC**, stated that out of the 1200 complaints received by the Commission on atrocities on SC/ST, 1100 have been disposed of calling for ATRs from the states authorities and only 54 complaints are pending in this regard. Besides the complaints, various directions have been released by the NHRC, and best efforts are being made by the Commission to compensate the victims of such atrocities.

25. **Dr Dnyaneshwar Mulay, Hon'ble Member, NHRC (Chair)**, concluded by remarking that we are lagging behind in terms of action and basic tenets of law and constitution aren't implemented. He added that the social tension between communities needs to be addressed.

26. There being no further points, the meeting ended with a vote of thanks by **Shri Sudesh Kumar, NHRC Senior Research Officer**.



## **LIST OF PARTICIPANTS:**

1. Dr. Dnyaneshwar Manohar Mulay, Hon'ble Member, NHRC
2. Shri Surajit Dey, Registrar (Law), NHRC
3. Shri Devendra Kumar Nim, Joint Secretary, NHRC
4. Lt Col Virendra Singh, Director, NHRC
5. Shri Sudesh Kumar, Senior Research Officer, NHRC
6. Dr. Manoj Kumar, Joint Secretary, University Grants Commission
7. Shri S.K. Gautam, IPS, Special Commissioner of Police (Headquarters), Delhi
8. Shri Ravinder Yadav, Special Commissioner of Police (Crime), Delhi
9. Shri Arvind Mudgal, Under Secretary, Ministry of Tribal Affairs
10. Shri Praveen Kumar, Director, Ministry of Social Justice & Empowerment
11. Prof. (Dr.) Upendra Baxi, Distinguished Legal Scholar
12. Prof (Dr.) Thangzakhup Tombing, Convener, Centre for Tribal Law, Policy and Justice;  
NLUJA
13. Shri Bezwada Wilson, National Convener, Safai Karmachari Aandolan (SKA)
14. Smt. Shweta Tripathi, Executive Director, Society for Rural Urban and Tribal Initiative  
(SRUTI)
15. Adv Radhakanta Tripathy, Advocate, Supreme Court of India (HRD)