



## Review Article

## Historical Evolution of Human Rights in India with Special Reference to Scheduled Caste and Scheduled Tribes

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Abstract	Manuscript Information
<p>India's lengthy history of defending human rights shows how the nation's views on them and its social standards have changed, which is significant to consider while talking about human rights in the current period. The position of SC and ST has been a topic of discussion in Indian society for a long time. Twenty years have passed since human rights arrived in India, and the Indian constitution also includes provisions for their protection. However, SC and ST have yet to receive the protection that they ought to have by now, despite decades of human rights provisions. There is a lot of discussion on stage regarding the protections provided to SC/ST by the Indian government, but when it comes to how these rights are applied in society, even after all this time, they are negligible. This research paper explains and forces SC/ST Human rights, and laws. This paper also deals with problems and suggestions.</p>	<ul style="list-style-type: none"> <li>▪ <b>ISSN No:</b> 2583-7397</li> <li>▪ <b>Received:</b> 19-08-2024</li> <li>▪ <b>Accepted:</b> 25-09-2024</li> <li>▪ <b>Published:</b> 25-11-2024</li> <li>▪ <b>IJCRM:</b>3(6); 2024: 93-97</li> <li>▪ <b>©2024, All Rights Reserved</b></li> <li>▪ <b>Plagiarism Checked:</b> Yes</li> <li>▪ <b>Peer Review Process:</b> Yes</li> </ul>
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**KEYWORDS:** Human rights, international law, scheduled castes, scheduled tribes, National laws, Judgment

### INTRODUCTION

It has been two decades since human rights came to India and protection of human rights has been provided in the Indian constitution as well. But even after several decades of provision of human protection, SC and ST have not received the protection that they should have received by now. There is a lot of talk on the stage about the protection given to SC/ST by the Government of India, but if we talk about its actual implementation in society, then even after so much time has passed, it proves to be insignificant even when compared. When we talk about human rights in today's time, the history of human rights in India goes back many years and it clearly shows how the outlook towards

human rights and their values in the society has changed in India. The status of SC and ST in India has always been a matter of question in society. Being a developing country, we can say that all castes are given equal status in India, but in reality, it is not so. There is a lot of inequality in the social structure of India, which was accepted by the constitution makers and they argued that the state should make separate laws for the weaker sections and deal with them. Thus, the Constitution makers placed a special responsibility on the state government to provide security to the weaker sections of the society. Scheduled castes (SCs) and scheduled tribes (STs) are two of India's most disadvantaged socioeconomic categories. They have been grappling with

problems ever since colonial India. The so-called “Dalits” or members of the scheduled castes have been battling social, religious, legal, political, economic, and educational challenges. Scheduled tribes live in a range of biological and geo-climatic settings, from plains and woods to hills and inaccessible areas, and they have differing levels of social, economic, and educational development. The main problems that tribes face are mining, moneylender exploitation, forest rights, land alienation, and displacement in tribal communities.

Because of Dr. B R Ambedkar’s legacy, the Indian constitution ensured that every citizen has equal legal protection and fundamental rights. It offers Scheduled Castes several protections to guarantee their general growth and defense against all forms of discrimination in India. However, due to poor, haphazard, and insufficient implementation, the majority of the Constitution’s provisions have only existed on paper. India may become completely marginalized as a result of stigmatization, exclusion, discrimination, and inequity.

Specifically, our Constitution guarantees equal opportunities and access to justice for all citizens. Additionally, equal opportunity recognizes that it refers to a competition between “equals” as opposed to “unequals.” The Constitution’s founders recognized the disparities in our socioeconomic system and argued that the state ought to give preference to the weaker groups in society. This implied that the state had a special responsibility to protect society’s weaker groups.

In this research paper, only the status of SC and ST has been discussed, what was and is their status in ancient times, medieval times, and present times? What are the provisions for them in the Indian Constitution and how much has their condition improved due to these provisions? Any country develops only when people of all classes develop.

## OBJECTIVES

- To study the status of SC-ST under human rights before and after independence in India.
- To study human rights and other laws made in the context of SC-ST in India.

## Meaning And Definition of Human Rights

The definition of human rights is "the right to live with human dignity". The following rights are attributed to Dalits by this interpretation: (i) the right to life; (ii) the right to equality; (iii) the right to education; (iv) the right to development; (v) the right to speech and expression; (vi) the right to choose a career; (vii) the right to employment; (viii) the right to clean water; (ix) the right to live in a healthy environment; and so on. In conclusion, the right to live with dignity encompasses all of the above-described elements (rights). Dalits are entitled to basic civil facilities. Human rights include the right to live in dignity and the freedom from exploitation. Everyone is entitled to a fulfilling existence that respects their uniqueness. The right to development is an alienable human right and a fundamental part of basic human freedom. The Second World War compelled everyone on the earth to consider human rights, leading to the creation of the Universal Declaration of Human Rights on

December 10, 1948. Even though it is not required by law, this Declaration is important because it recognizes the human rights of everyone on the planet. The definition of human rights under the Act. - Section 2(d) of the Act defines human rights as the individual's rights to equality, dignity, liberty, and life that are safeguarded by the Constitution or international agreements and upheld by Indian courts.

## Meaning Of Scheduled Castes

The Scheduled Castes are defined under Article 366 (24) of the Indian Constitution as: ‘Such castes, races or tribes or part of or groups within such castes, races or tribes as are deemed under *Article 341* to be Scheduled Castes for this Indian constitution’.

## Meaning of Scheduled Tribes

The Scheduled Tribes are defined as follows under Article 366 (25) of the Indian Constitution: ‘Such tribes or tribal communities or part of or groups within such tribes or tribal communities as are deemed under *Article 342* to the Scheduled Tribes for this Indian Constitution’.

India’s history of human rights can be divided into three distinct periods: ancient, medieval, and contemporary.

## Historical Background of Human Rights in India

### 1. Ancient era

Indian political philosophers and intellectuals have been actively involved in the country’s human rights history since ancient times. Epics like the Ramayana and Mahabharata claim that Dharma, which aimed to promote the well-being of all beings and prevent harm among them, served as the cornerstone of ancient Indian legal systems. The Bhagavad Gita states that righteousness is the central concept of Dharma. According to the ‘Upanishads, the fundamental basis of the cosmos is Dharma. Through the Vedas and Smritis, the concept of “*Vasudhaiva Kutumbakam*,” which views the universe as a single family, is propagated. The four Vedas uphold the equality and dignity of every human being’. ‘The Buddha’s teachings were necessary for the defence of human rights. The famous King Ashoka was able to establish a welfare state that granted his subjects basic freedoms and privileges. As a result, it is evident that ancient Indian literature actively promoted and protected human rights, freedom, liberty, and equality for all people, regardless of discrimination based on caste, creed, gender, sex, or religion.

### 2. Medieval Era

The Middle Ages are referred to as the Muslim era in India. Before the Mughal empire, there were rights related to politics, society, culture, and religion. But when the Mughals arrived, the concept of human rights ran into problems. However, under Akbar’s reign (1526–1605), political, religious, and social freedoms were widely valued.

To encourage secularism and religious tolerance, Akbar instituted a religious policy known as Din-E-Ilahi or divine religion. Furthermore, religious movements such as Sufi (Islamic) and Bhakti (Hindu) were instrumental in furthering

India's human rights record. However, later Mughal Emperors like Babar, Humayun, and Aurangzeb occasionally repressed these developments.

### 3. Modern Era

India was under British rule in the contemporary era. The British government's limitations on the freedom of its residents and its underlying exploitation of the population throughout this time caused economic, political, cultural, and spiritual destruction in India. Every Indian who had survived colonial rule was emphatic that human rights should be acknowledged, safeguarded, and respected since they were fundamental and essential to leading a civilized life. Important constitutional provisions have shaped India's human rights history in the modern age. These include the Preamble, the newly added Fundamental Duties, the Directive Principles of State Policy, the Fundamental Rights, and reservations for restricted castes and tribes.

#### Constitutional And Other Provisions for the Protection of Human Rights of Dalits of India

Many laws, ordinances, articles, and regulations in India safeguard the human rights of Dalits. The Indian Constitution is the main source of provisions in that area. The protection of Dalits' human rights is the focus of several provisions in the Indian constitution. Article 15 of the Indian Constitution ensures equality before the law (Article 14) and prohibits discrimination based on religion, ethnicity, sex, or place of birth. Equal opportunity in public employment, or Article 16, is also maintained. Article 17 combines anti-caste discrimination statutes by prohibiting untouchability. Furthermore, the right against exploitation (Articles 23 and 24) guarantees the prohibition of caste discrimination. Therefore, the right to equality is guaranteed under Articles 14 to 18 of the Indian Constitution. Similarly, minorities' human rights, particularly those of Dalit people, are protected under the Indian Constitution (Pylee, 2000). Human rights can be implemented and upheld in India in a variety of ways. Even though Part III of the Indian Constitution is devoted to fundamental rights, Article 32 declares that the Supreme Court is responsible for upholding these rights. Under Article 226 of the Constitution, a person may also ask the Supreme Court for a remedy. In addition, the Constitution's Part III offers remedies through public interest lawsuits and a variety of writs. Regarding human rights breaches, one can also get in touch with the federal, state, and local Human Rights Commissions. The Indian Constitution is just one of many laws that protect Dalit human rights in India, together with rules and regulations for its implementation and defense. In 1850, the Caste Disabilities Removal Act was passed in India, addressing the problem of caste prejudice. The Bonded Labour System (Abolition) Act of 1976 aims to outlaw bonded labor and the physical exploitation of the most vulnerable members of society. In exchange for an advance, it is presumed that the bonded laborer, his descendants, or his ascendants paid a bonded debt. The debtor is subject to a system of bonded labor that is either fully or partially forced. This could also be carried out in

compliance with a duty that has been passed down through the generations or in accordance with social or customary norms.

The Indian Constitution has further specific provisions for the Scheduled Castes in addition to these clauses. Article 17 has made the practice of untouchability illegal. Seats were set aside for appointments in Articles 330 and 332; a special officer was designated in Article 338 to investigate any matters concerning the protections afforded to the Scheduled Castes; and in Article 46, particular consideration was given to the educational and economic interests of the Scheduled Castes.

- **National Commission for Scheduled Castes and Scheduled Tribes:** Article 338 of the constitution requires the establishment of the National Commission for Scheduled Castes and Scheduled Tribes in order to further safeguard the rights of members of these groups.
- **Caste Disabilities Removal Act 1950:** According to the Act, the laws of the parties' respective religions cannot be utilised to deny them any property to which they would otherwise be entitled if they are involved in a civil dispute.
- **Protection of Civil Rights Act 1955:** This Act has made any disability brought on by untouchability unlawful, and it is punishable under the relevant laws.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 and the Bonded Labour System (Abolition) Act of 1976 were passed in order to prevent atrocities against members of these groups, create special courts for the trial of such crimes, and assist and rehabilitate the victims.

- **Protection of Human Rights Act 1993:** The Act creates the Constitution of a State Human Rights Commission, a National Human Rights Commission, and Human Rights Courts to enhance the protection of human rights.

#### Explanation:

The aforementioned provisions of the Indian Constitution and the International Bill of Rights ensure equal treatment and nondiscrimination for Scheduled Castes and Scheduled Tribes. It ensures the state will put measures in place to improve the socioeconomic conditions of SC/ST persons for they to achieve a minimum level of living. The state must protect their cultural, social, and economic rights.

#### International Law

Articles 1, and 2 of the UDHR and Articles 3, 5, and 6 of the ICESCR ensure equality and rights for all. The state must ensure that all economic, social, and cultural rights are enjoyed. Both Article 7 of the ICESCR and Article 23 of the UDHR ensure equality in employment and forbid discrimination in pay and working conditions.

The UDHR's Articles 25 and 26 states that everyone's basic requirements must be satisfied. Article 11(2) provides protection from prosecution for offences. Article 18 Freedom of religion, freedom of conscience, freedom of practice, and freedom of profession. Article 22 protects the interests of minorities. According to Article 10 of the ICESCR, everyone can marry and have children with their own consent.

### Judicial Response in Social Justice

This states the atrocities and human torture by the people of upper classes in Scheduled caste Communities is an unfortunate blemish on India's urban sanitation system. The role of the police, their power, the scope of the investigation, the granting of bail, and the important role of the constitution in the disposal of the cases was reflected by the Judiciary in various court cases. In State of Haryana Vs Bhajan Lal<sup>1</sup>. The bench of apex court, expressed that "it is a settled principle of law that once a cognizable crime is reported, police have to register the crime, investigate into crime. Such an investigation has to be taken up immediately, collect the evidence and take step to finalize the investigation and file the final report.

"Punjab and Haryana high Law court", has stated in the case that no offence was constituted under "Schedule Cast and Schedule Tribals, (POA) Act, 1989 if the any person abuses over phone call in the name of castes. Justice, Harnnaresh Singh in Pradeep Kumar Vs. State of Haryana<sup>2</sup>.

Respondent abused the petitioner on phone call on the name of castes and also threatening him to kill. "Allegation against the petitioners does not fall within the provisions of 'Scheduled Castes and Scheduled Tribes, (POA) Act, 1989. As the telephonic call is not a public view. Hence, the ingredients of offence under SC/ST Act and Section 506/34 of IPC not made out. In this case court held that"

"In the absenteeism of any community views, just saying such words does not display any intent or men's rea to embarrass the complainant who besides being sarpanchh belong to Schedule Class Communal.

This decision of Hon'ble court is against the lowest classes. They are daily humiliated over the castes in society, Justice Nageshwar Rao held in another case Hemant Gupta Vs. Ajay Rastogi<sup>3</sup>, Supreme court held that insult intimidated a person to lowest caste and tribes, community will not itself amount to an wrongdoing under "Scheduled Castes and Scheduled Tribes, (POA) Act, 1989" unless such insult or intimidation is on account of victim belonging to SC community. High Court dismissed the plea filed by Hitesh Verma under section 482 of Cr. P.C. seeking quashing of charge sheet and summon order against him for an offence under 'section 3(1)(1) of SC & ST Act. Court held that any dispute arising on account of possession of said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to SC. and ST.

Bhim Singh Vs Union of India<sup>4</sup>, this case is about the competency of 'State legislative' regarding the reimbursement where commission is given obligation. State has a competency to make laws in the presence of central Laws.

With respect to this case, State Government has liability to reimburse the expenses paid by the petitioner. Every victim of the atrocity, dependents and witnesses will be given expenses of

trial and investigation of crimes under the Act. There is no inconsistent between the central and State Rules.

"National Human rights Commission" has highlighted the non-registration of cases and various other mechanism resorted by the police to harm or discourage Dalits from filling FIR or registering of cases under the acts, 1989, The decision is as under.

### Judicial Response in Section 18 of SC & ST (POA) Act, 1989

The role of Indian Judiciary is to decide according to the letter of laws. Law in general formulate regulations, legislation and allow the judiciary to work independently and also provide social justice to the victims. Judiciary and Legislature neither expel the people on the basis of caste or nor the bias. Due to the upper caste people, routine violence, oppression meted out but the Dalits. Rate of cases of conviction in crimes against SC and ST is due to the freedom of the upper castes judiciary. It is noted from the latest verdict by the Supreme Court which weakened the "Schedule Class and Schedule Tribals (Prevention of the Atrocity Act) 1989", by stating that is misused of laws by the people. On 20 march 2018, Apex Court held that automatic arrest be banned and also the ban of registering of cases under the 1989 Act", court had also add the provision of the "Anticipatory bail" under section 438 of the Cr. P. C if the complainant files the mala-fide complaint. There are also largest number of cases as reported from the many High Courts where courts acquitted the accused in cases of humiliation, insult, assaults and violence. It may be necessary to look into the judgements of various courts which deal with the cases of "Protection of Civil Rights Act, 1955 (PCRA), the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act)". This paper tried to look the need of diversity in court and plays a decisive role in case of scheduled caste and scheduled Tribes.

Section 18-A (i) was added after the decision of the court in Subash Kashinath Mahajan Vs. State of Maharashtra<sup>5</sup> it made essential to get the support of employing power regarding a public servant and SSP in the crime case of the custody of a blamed person, The apex call recalled its order in the review petition no. 228 of 2018 titled as Union off India vs. State of Maharashtra, court say that the provision of Section 18-A added in "Scheduled castes and Scheduled Tribes (POA) Act, 1989 are rendered as an educational use as they were passed for the take care and mandated issue in subash kashinathan case. This proviso were in section 18 of the Act related to the anticipatory Bail. In Prithvi raj chouhan Vs UOI<sup>6</sup> upheld the validity of constitution of section 18- A of the SC/ST and nullified the effect of the Kashinathan case.

In State of Kerala v. Chandramohanan<sup>7</sup> atrocities carried out against lowest caste and clans who changed over to a new faith, can be indicted under the Schedule Class and Planned Tribe (Prevention of Atrocity) Act, 1989" if the victim is as yet experiencing social handicap setting out the wide

<sup>1</sup> 1992, Supp (1) SCC 335.

<sup>2</sup> 2020, SCC p & H, 671.

<sup>3</sup> "Criminal Appeal No. 707 of 2020 (arise out of SLP (Criminal) No. 3585 of 2020"

<sup>4</sup> AIR 1994 SCC 552.

<sup>5</sup> (2018) 6SCC 454.

<sup>6</sup> (2018) 6 SCC 454.

<sup>7</sup> "2004 AIR (SC) 1672".

recommendation of law, a seat of three scholarly appointed authorities of the high court has as of late decided that a changed over individual would not stop to be an individual from the Schedule Classes and Schedule Tribals people group, if he was following the traditions, ceremonies, standard law of progression, legacy, relationships and different attributes needed to be trailed by the individuals from that network.

## CONCLUSION

As a conclusion of the presented research paper, it can be said that the condition of SC/ST people in India was last in ancient times. If we look at the medieval period, then only in the name of humanity, the condition of SC/ST was fine to some extent because in the medieval period The aim of the Mughal rulers was to eliminate religious discrimination and incorporate the spirit of love and cooperation, whereas in the era of man, the SC/ST people living in India had to bear the oppression of the British. In this period, SC-ST people were more prosperous than in the ancient and medieval times. There was some improvement in the situation but after independence, the situation of SC-ST people in India gradually started getting strengthened but even today they could not develop completely and are still trying for this, hence after studying all the methods, we found that it was said that at present the situation of SC ST is more satisfactory than before.

## SUGGESTION

1. Just as toll-free numbers have been made available by the government to help with all the problems in India, in the same way, toll-free numbers should be made available by the government for direct action or prompt action in the Human Rights Commission.
2. In India, due to a lack of education, people are still unable to solve their problems due to a lack of technical knowledge, that is why there is an urgent need for publicity so that even the poorest of the poor can protect themselves and become self-reliant.

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