ENSURING DALIT RIGHTS: A STUDY ON THE ROLE OF STATUTORY INSTITUTIONS IN RAJASTHAN

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A Study Commissioned by

PRIA

42, Tughlakabad Institutional Area, New Delhi - 110 062
Phone: 011-2995 6908, 2996 0931/32/33; Fax: 011-2995 5183
E-mail: info@pria.org, Website: www.pria.org

In collaboration with

Centre for Dalit Rights (CDR)
C-56, 1st floor, Siwar Area, Bapu Nagar, Jaipur 302 015
Phone: 0141-270 3736, 270 3923;
E-mail: cdrjaipur@gmail.com; rajasthancdr@yahoo.com
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One of the challenges inherited by democratic India was the pathetic marginalisation of the Scheduled Caste Indians. So, the Constitution of India provided a framework with a three-pronged strategy to improve the quality of the lives of Scheduled Castes (SCs). To enforce equality among all citizens, preventive measures like Acts pertaining to the Scheduled Castes and Tribes were passed to deal with untouchables, scavenging, atrocities etc. These protective arrangements were complemented by affirmative and development actions. Seats were reserved for the SCs in Parliament, state legislatures and local governments to help them access political spaces so that they could be a part of the decision making processes. Under developmental initiatives, resources are being provided to help SCs bridge the socio-economic gaps with other communities under the Scheduled Caste Sub Plan (SCSP) and a number of central and state schemes.

To implement these constitutional, legislative and administrative safeguards, a number of commissions and committees have been constituted at the national and state level. It was expected that all of them would deliver goods for marginalised SC communities. Has that happened? Certainly, some changes have been seen in the socio-economic and political placing of the SCs today. Yet, is that what we wished for after 63 years of independent democracy?

While macro development indicators portray a better picture, grassroots realities are not so rosy. Even government data shows that the utilisation of resources under various schemes is not very efficient. Pockets of poverty and deprivation still remain untouched. Incidences are often cited in the field when various commissions and committees made to benefit the SCs could not always deliver help to SC individuals and communities. How have these commissions and committees worked so far?

The present study looks into the implementation of these constitutional safeguards with specific reference to the functioning of these commissions and committees in Rajasthan. The study begins with the analysis of 31 cases, which have approached these commissions for grievance redressal. Interviews with victims however showed a high level of dissatisfaction with these constitutional and quasi-legal bodies, which are meant to protect the interests of the SCs. This is followed by the systematic analysis of the constitution, composition and qualities of the functioning of these bodies in the state. We used data available in the public domain to analyse the constitution and composition of these bodies. For an analysis of the functioning of the aforementioned 31 cases followed interviews with various stakeholders including members and office bearers of these commissions and committees. Once the report was ready, it was shared with the members of the commissions and committees for their comments and inputs. The current report incorporates these comments and suggestions.

We are indebted to these 31 victims and many other citizens who took a lot of pain to help us understand the processes and so, frame this study. We are thankful to Ms Persis Ginwala who took charge of
completing this study with the odds against her. She was ably supported by PRIA state office colleagues Mr. Krishan Tyagi and Mr. Tahreem. Mr. Satish Kumar and Mr. Gopal Verma from the Centre for Dalit Rights provided great support in all aspects of this study. Finally, we would like to mention Ms Priyanka Dale who not only coordinated this study nationally but also conceptualised and helped the completion of this study with great zeal and commitment.

Mr. Manoj Rai
Director
PRIA

Mr. P.L. Mimroth
Chief Patron
CDR
Glossary and Acronyms

**Glossary**

Bhoodan  
Literally means Land Gift, a voluntary land reform movement in India started by Acharya Vinoba Bhave in 1951, whose mission was to let wealthy landowners voluntarily give a percentage of their land to lower castes.

Dalit  
Meaning 'crushed', a term used to refer to Scheduled Castes, the ex-untouchable castes.

Safai karamchari  
Those employed by various municipalities and municipal corporations to undertake the hazardous task of physically entering manholes to unclog them, or to undertake manual scavenging in order to keep the localities clean, most often belonging to the Valmiki community, the 'lowest' in the Dalit caste hierarchy.

Vidhan Sabha  
State Legislative Assembly

**Acronyms**

CAA  
Constitutional Amendment Act

CBO  
Community Based Organisations

CrPC  
Criminal Procedure Code

CSO  
Civil Society Organisations

CSR  
Child Sex Ratio

DoSJE  
Department of Social Justice and Empowerment

MoSJE  
Ministry of Social Justice and Empowerment

NHRC  
National Human Rights Commission

NGO  
Non-Governmental Organisation

NREGS  
National Rural Employment Guarantee Scheme

NCW  
National Commission for Women

OBC  
Other Backward Castes

PCRA  
Protection of Civil Rights Act, 1955

PESA  
Panchayats (Extension to Scheduled Areas), Act

PoA Act  
Prevention of Atrocity Act, also called the SC and ST Act

PRI  
Panchayati Raj Institutions

SDO  
Sub-Divisional Officer

SC  
Scheduled Castes

SCP  
Special Component Plan

ST  
Scheduled Tribes

ULBs  
Urban Local Bodies
Executive Summary

Introduction

Dalits, also referred to as Scheduled Castes (SC) (the terms are often used interchangeably, as also in this document), at 160 million people, form 16.2% of India’s total population (Census of India, 2001). They have been a social group that has been historically discriminated against and even today faces tremendous barriers to socio-economic and political progress. Since the barriers to their progress lie in the millennia-old caste system, mechanisms for their emancipation have had to incorporate modes and means which would enable a systemic and structural transformation in the relations of power thus far established. Considering the above reality, it is thus imperative that studies to assess the strength and efficacy of the several measures in place be undertaken from time to time, simply as a means of exerting constant pressure to check against complacency and inaction.

The Present Study

For the purpose of the present study we have chosen to focus on the implementation of protective measures and development measures aimed at securing SCs their due in terms of rights and entitlements in Rajasthan. The state of Rajasthan has been chosen primarily because it has one of the highest incidence of atrocities against Dalits.

The protective measures looked at are:

1. Rajasthan State Human Rights Commission (RSHRC),
2. Rajasthan State Women Commission (RSWC),
3. Rajasthan State Commission for SCs (RSCSC),
4. Rajasthan State Legislative Assembly Committee on Welfare of SCs (RSLAC-WSC),
5. Protection of Civil Rights Act, 1955 (PCRA),

The development measure looked at is:

1. The Special Component Plan (SCP).

Background to Rajasthan

Rajasthan is the largest state in India in terms of area and 8th in terms of total population. It is among the more backward states of India on the parameters of human as well as economic development, although in the last several years it has recorded some significant gains on both fronts.
Rajasthan – position of Dalits

Rajasthan has a Scheduled Caste (SC) population of 96,94,462 (Census of India, 2001) constituting 17.2% of the total population (5,65,07,188) of the state. It ranks 7th in India in terms of total SC population and 10th in terms of their proportion to the total population among all states and UTs. Rajasthan has 59 scheduled castes (MoSJE, 2009-10).

Rajasthan reported one of the highest incidence of atrocities against Dalits, with 4,302 cases registered under the SC/ST(PoA) Act, 1989 in 2008. It reports an incidence of 44.7 cases per lakh of population, which is the highest in India (Annual Report 2009-2010, Ministry of Social Justice & Empowerment, India, New Delhi).

Implementation of Protective Measures in Rajasthan

In this section we take a look at the three commissions – human rights, Scheduled Castes and women – that have been set up in Rajasthan also the functioning of Legislative Assemblies Committee on the Welfare of SCs (RSLAC-WSC) has been examined. Besides these statutory bodies, we look at the implementation of the two protective mechanisms in the form of the PCRA and the SC/ST(PoA) Act, 1989. These are based on interviews with the personnel of the commissions as well as with the NGOs/CBOs and individuals who have experienced these measures as complainants and petitioners.

Rajasthan State Human Rights Commission (RSHRC)

Summary

- RSHRC is a functioning body, with members duly appointed by the Government of Rajasthan.
- It follows standard procedures of accountability like publication of annual report, updated website, disclosure of income and expenditure, members and staffing.
- Has recommendatory powers only yet has tremendous “moral authority”.
- Seems constrained in its functioning and autonomy; inadequate resources – financial and human – have been cited as some of the reasons.
- High turnover of chairpersons on an average.
- Except once, no woman appointed on the Commission.
- Practically non-existent links with civil society; links deliberately curtailed.

Rajasthan State Women Commission (RSWC)

Summary

- RSWC appears to be a non-functioning body as of now; there is no full commission appointed and member-secretary officiates.
- It follows standard procedures of accountability like publication of annual report, disclosure of income and expenditure, members, staffing; does not have a website.
**Rajasthan State Commission for SCs (RSCSC)**

**Summary**

- RSCSC is a non-functioning body, since the earlier commission was dissolved and the matter is pending before the Rajasthan High Court.
- It does not follow any standard procedures of accountability like publication of annual reports, website, disclosure of income and expenditure, members and staffing.
- It functions with minimal staff as of now.
- Member-secretary has a principal posting to the Department of Social Justice and Empowerment (DoSJE) and handles this post as additional charge.
- A woman has never been appointed on the Commission.
- No links with civil society.

**Rajasthan State Legislative Assembly Committee on the Welfare of SCs (RSLAC-WSC)**

**Summary**

**Committees on the Welfare of Scheduled Castes**

From time to time the Committee selects such subjects pertaining to the welfare of Scheduled Castes as may seem fit to the Committee. The Committee may also examine matters of special interest to the welfare of Scheduled Castes which may arise or come to light in the course of its working or which may be specifically referred to it by the House or by the Speaker.

Little more than the above information is available on the Government of Rajasthan website/public domain on the subject.

**Protection of Civil Rights Act, 1955 (PCRA)**

**Summary**

- PCRA, while it is in force, is not being used at all. There is only one case which is pending judgement. No fresh cases under the Act have been reported for at least the last three years.
- However, there are six Special Courts and two designated courts to try the cases under this Act.
- The Annual Report of the DoSJE mentions that a high-level committee has been appointed to review the functioning of this Act; however, no progress on the same is reported.
- Untouchability prone areas have been identified; however, the same is unavailable in the state capital.
- A scheme for promoting inter-caste marriages has been initiated and is functioning.
PCRA, while it is in force, is not being used at all. There is only one case under PCRA currently in the court, which is pending judgement (or trial). It is thus safe to say that the PCRA is not being implemented or applied at all in Rajasthan as of today.

**SC&ST (Prevention of Atrocity) Act, 1989 (PoA)**

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<td>• Rajasthan reports the second highest incidence of cases under PoA against Dalits in India; Rajasthan, according to NCRB data, contributes 12.8% to the all-India incidence of such atrocities.</td>
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<td>• 50% of these cases were closed following investigation (as against an all-India average of 13.3%)</td>
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<td>• The rate of conviction under this Act stands at a meagre 7% and the acquittal is at 8.3% with a massive pendency of 83%.</td>
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<td>• Vigilance &amp; Monitoring committees – state and district level – are established and are functional; however no official data on its composition or meetings (minutes; etc.) were made available</td>
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<td>• A formal review of the Act and its implementation has never been done.</td>
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**Protective Measures – The View from Below**

In an effort to get the other side of the picture, we spoke to the victims and to organisation/s working with and for the victims. The picture about the various protective measures that emerged is presented in this sub-section.

**The Commissions**

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<td>• A deep chasm between the commissions and the victims; inability of the victims to reach their complaints to the commissions without facilitation.</td>
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<td>• National counterparts of the state commissions perceived as more approachable and responsive.</td>
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<td>• No independent investigation/inquiry agency under the SHRC Rajasthan.</td>
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<td>• One year time limit for approaching the commissions as a deterrent in the quest for justice.</td>
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<td>• No follow-up by the commissions on their orders.</td>
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<td>• Requirement of approaching the commissions within one year of the incident is a hindrance in the quest for justice.</td>
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**PCRA and SC / ST (PoA) Acts**

**Summary**

**PCRA**
- Systematic undermining of the PCRA by the law enforcement machinery.
- Refusal of the police to book cases of untouchability under this Act.

**SC / ST (PoA) Act**
- Police - administration nexus and caste bias results in dilution of cases (under PoA Act), leading to acquittal.
- No information about the existence of the state-level Vigilance and Monitoring Committees.
- District-level Vigilance and Monitoring Committees' major focus remains on sanctioning compensation amounts, which is contrary to its mandate as per the Act and its Rules.
- The non-official members to these committees were removed by a Government Order and there have been no fresh appointments.
- Ineffectiveness and bias permeate the functioning of SC/ST cells.
- Refusal of police to register FIRs.

**Implementation of Development Measures in Rajasthan**

**Summary**

- The total plan budget for Rajasthan in 2008-09 was ₹8,97,47,725 crores, and the allocation under SCP was ₹27,24,595 which at 2.7% is abysmally low, up by a negligible 0.4% over the previous year.
- In only three departments, viz. 'Other special area programme', 'Welfare of SC, ST & OBC' and 'Nutrition' does the allocation go beyond the stipulated figure; needless to say the first two are mandatory for marginalised groups / areas only, of which SCs are a part.
- Around 15 departments (including irrigation (major and minor), general education, medical and public health, water supply and sanitation, urban development, labour and development, and social security and welfare) report measly allocations amounting to less than 1%.

This is the third part of the state strategy aimed at Dalit empowerment and social justice. The development measure that we are probing here is the provision of the Special Component Plan (SCP), earlier known as the Scheduled Castes Sub-Plan (SCSP).

In Rajasthan, the Department of Social Justice & Empowerment (DoSJE) functions as the nodal department for coordinating the SCP activities in the State. The total plan budget for Rajasthan in 2008-09 was ₹8,97,47,725 crores, and the allocation under SCP was ₹27,24,595 which at 2.7% is abysmally low, up by a negligible 0.4% over the previous year.
Analyses and Conclusions

It is clear that the protective measures and developmental measures (a sample of which were discussed above) have not been implemented in the spirit in which they were conceived. Its reach therefore remains limited and impact is not very clearly visible at the micro level.

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<td><strong>Protective measures</strong></td>
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<td>• Two commissions (the SC commission and the women's commission) have not been appointed.</td>
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<td>• Credibility of national commissions is greater than the state counterparts.</td>
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<td>• Gender component has not been paid adequate attention to while constituting the commissions.</td>
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<td>• Political appointees to the commissions makes them susceptible to manipulation to the detriment of the cause.</td>
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<td>• Huge overlaps between the mandates of the commissions.</td>
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<td>• No collaboration between the commissions.</td>
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<td>• SC commission has never brought out its annual reports.</td>
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<td>• The HR and women's commissions have annual reports; they are not widely or proactively disseminated.</td>
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<td>• Inadequate disclosures in the reports.</td>
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<td>• Data in reports not disaggregated by gender and caste.</td>
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<td>• No independent studies or reviews commissioned by the commission.</td>
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<td>• Publicity of various provisions has barely been undertaken by the commissions.</td>
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<td>• PCRA and PoA Acts are being deliberately undermined and rendered toothless.</td>
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<th>Developmental measures</th>
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<td>• The allocations under the SCP are way below the stipulated 17% of the total state budget.</td>
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Recommendations

Based on the data available to us we offer a set of broad recommendations, and some specific recommendations as well.

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<td>• Constitute the commissions at the earliest.</td>
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<td>• Respect the tenure of the commissions.</td>
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<td>• Bridge the distance between the commissions and their constituencies.</td>
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<td>• Maintain a gender balance in the constitution of the commissions.</td>
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- Provide gender and caste disaggregated data.
- Ensure public accountability via reporting protocols.
- Follow-up on the implementation of the commissions’ orders.
- More collaboration between the three commissions.
- Publicity of various constitutional and legal measures.
- Collaboration with genuine NGOs should be pursued.
- Review the working of PCRA and PoA in the state.
- Train officials.
- Revise and increase the punishment and fine under PCRA.
- Link conviction under PCRA and PoA to disqualification from government benefits.
- Stringent monitoring of SCP expenditure.
- Devise indicators of meaningful change through SCP expenditure.

**Constitution of the commissions**

Non-appointment of constitutionally-mandated commissions ought to be taken a serious view of and measures need to be taken to appoint these at the earliest.

**Respect the tenure of the commissions**

Tampering with their mandatory tenure or dismissal/dissolution before the expiry of the term (without adequate and public disclosure of the reasons for so doing) also should be viewed with critical censure and judicial intervention to discontinue this practice could be thought of.

**Bridging the distance between the commissions and their constituencies**

The commissions need to take special measures to bridge the distance that separates them from their actual constituencies, in the poorer and more deprived sections of society. Publicity of the existence and mandate of the commissions in the vernacular media – print and electronic – as also simplification of the process of complaints via telephone would go a long way in bringing the commissions closer to the people.

**Gender balance in the constitution of the commissions**

The government, while nominating members to the commissions, ought to pay especial attention to its gender balance, without perpetuating the trend of relegating women’s issues to women and the rest to men.

**Caste and gender disaggregated data**

Numerical and quantitative data gathering provides significant evidence of the trend of violations and crimes being committed. It is therefore important that the data collection be now done along disaggregated lines to be able to make more specific connections and to make analyses and prediction of trends more refined and precise.
Public accountability via its reporting protocols

Two of the commissions do bring out annual reports while the third has never done so, a minimal condition of accountability. Inability of a commission to fulfil its public accountability responsibility via its annual reports ought to be critically viewed and more strident demands to fulfil this minimal requirement need to be made.

Follow-up on the commissions' orders

The commissions ought to institute some mechanism whereby their orders to the various departments or state entities are monitored for timely implementation.

More collaboration between the commissions may be usefully pursued

As of now the three commissions work independently of one another. Given the fact that all three address the issue of violations of rights of marginalised groups (albeit different groups or issues) some mechanism of collaboration would help to make the work of all three more effective and efficient. To begin with, perhaps members from each could be nominated on the other’s governing body so that there is a mutual exchange of information at the very least. It would also be in the right spirit.

Publicity of the various measures in place (including PCRA and PoA) to be taken up

The state government, concerned departments and the three commissions would urgently need to take measures to widely publicise, through the various print and electronic media, the different protective and developmental measures initiated for the welfare of the SC communities.

Collaboration with genuine NGOs is possible and should not be ruled out

The commissions, it has emerged, have not recognised NGOs/CBOs as genuine well-wishers with deep contacts with the SC communities. The commissions need to take proactive steps to seek out genuine NGOs/CBOs who work with the SCs and seek their cooperation in extending their own reach and effectiveness.

Revisit and review the 'one-year' time limit

The one-year rule, wherein the commissions do not entertain complaints beyond a year of the incident, ought to be revisited in light of the data from the ground, wherein it is being cited as a hindrance in the quest for succour and justice.

Review the working of PCRA and PoA in the state

A review of the working of PCRA and PoA in the state of Rajasthan should be undertaken in order to get the correct picture of their usage, how widely or otherwise it is being resorted to and the shortcomings and limitations. The findings of the review should be made public and widely disseminated.
Training to officials and elected representatives in the provisions and implementation of PCRA and PoA

It has emerged in the course of our investigations that the lower levels in the police administration and judiciary as well as elected representatives are not entirely familiar with the various provisions and implementation of the two acts. It is imperative in the interests of justice that they be familiarised with the intricacies of the two acts so that their implementation is more attuned to their spirit.

Revise and increase the punishment and fine under PCRA

The meagre punishment stipulated in the PCRA for untouchability-related offences needs to be revised and increased; six-months, imprisonment and a fine of ₹ 100/- is not a deterrent at all.

Link conviction under PCRA and PoA to disqualification of government assistance

Further, conviction under PCRA and PoA should be linked to withdrawal or forfeiture of all government assistance to the accused or automatic disqualification for further government assistance from any department or ministry. This will have a stronger deterrent effect than is presently obtained.

Stringent monitoring of Special Component Plan

The allocations to the SCP and, more importantly, the expenditures need to be stringently monitored to conform to the stipulated amounts. Furthermore, the changes in the quality of life that the expenditure brings also needs to be closely scrutinised to be able to discern meaningful change. A serious exercise to arrive at indicators of meaningful change needs to be undertaken.
The Dalits are also referred to as Scheduled Castes (SCs) (the terms are often used interchangeably, as also in this document) in India. At 160 million, the Dalits comprise 16.2 percent of India’s total population (Census of India, 2001). They have been a social group that has been historically discriminated against and even today face tremendous barriers to socio-economic and political progress.

Since the barriers to their progress lie in the millennia old caste system, mechanisms for their emancipation have had to incorporate modes and means, which would enable a systemic and structural transformation in the relations of power thus far established. The state’s strategy for institutional change was threefold, covering protective mechanisms (measures for enforcing equality and removing disabilities), compensatory discrimination (to offset the handicap faced on account of educational and social disadvantage), and development (measures to bridge the wide gap between the SCs and other communities in their economic conditions and social status) (Saxena, 2004). Some of the measures taken to deal with the problem are land reform measures, reservations in public sector jobs and educational institutions, Special Component Plan\(^1\), reserved seats in the Assembly and Parliament, reservations in PRIs and ULBs, statutory commissions (SC Commission, NHRC, NWC, National Commission on Safai Karamcharis). These and other such measures, even when implemented half-heartedy, have wrought a change in the power equations of yore, proving beyond doubt their potential for transformation.

The State’s weak implementation of potentially transformational policy objectives has been debated and discussed at length many times over. These have been captured in several reports, governmental and non-governmental, which have yielded path breaking findings and recommendations (see NHRC, 2004; HRW, 1999; National Commission on SCs & STs, 1999-2000 and 2000-2001; Sakshi, 2000; NCDHR, 2007). It is worth recounting the concluding remarks by K. B. Saxena in a study commissioned by the NHRC to look into the aspect of violence against SCs.

"...(T)he entire issue of curbing violence against SCs is not simply one of effectively administering criminal justice and punishing the offenders, but involves massive transformation of a society steeped in the social legacy of centuries. ... this was understood by the framers of the Constitution itself … But what was not quite foreseen, at least not so vividly, was that the battle for this transformation would be so hard and brutal, vested interests so entrenched and institutions of governance so fragile to deal with the forces involved. The failure of the State to accomplish what it set out to deliver … is not intended to convey the delegitimization of the role of the State itself. Far from questioning the centrality and primacy of its position in the processes leading to this transformation, State alone has the legitimacy, authority and the responsibility to carry out the tasks assigned to

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\(^1\) Special Component Plan (SCP) for SCs is an umbrella strategy to ensure flow of targeted financial and physical benefits from all the general sectors of development for the benefit of SCs. Under the strategy, States/UTs are required to formulate and implement Special Component Plan (SCP) for the SCs as part of their Annual Plans by earmarking resources. Ministry of Social Justice was made the nodal agency to implement the SCSP.
it by fashioning its institutions of governance, disciplining civil society and developing partnership with SCs. ... State also has the greatest stake in winning this battle of social democracy, otherwise its own legitimacy within the nation as well as outside would get eroded. Within the nation if alienated SCs do not get justice, alternative levers of power would emerge, greater violence would ensue and the task of governance would become more difficult. ... As discussion on caste based discrimination cannot be precluded from discussion in the international fora, failure would cause considerable embarrassment internationally particularly in the context of the moral high ground we are prone to project. Having thus positioned the State in order that it performs and delivers, what is required is that pressures are exerted on it from below, above and the sides to shake it up from its complacency and to build up in it a strong will to act as per the scripted role” (2004).

Considering the above reality, it is imperative that studies be undertaken from time to time to assess the strength and efficacy of the several measures in place, simply as a means of exerting constant pressure to check against complacency and inaction. The present study has been undertaken to gather information on the three statutory bodies, the government commissions in Rajasthan that are functioning for the purpose of Dalit empowerment and/or social justice. It will gather primary data as well as data on qualitative aspects of its functioning (outcomes effected, impact generated, difference made). It is hoped that the findings of the study will enable Dalit leaders, elected and members of civil society, to use the data and information for stringent monitoring of the same agencies and their functioning vis-à-vis their mandate and to thereby improve their functioning in the interests of the Dalit communities.

The Study’s Question

As stated earlier, the State’s strategy for social transformation was threefold and consisted of:

a) Protective (Legal/Regulatory) measures for enforcing equality and removing disabilities, which included;
   - Providing strong punitive action against physical violence inflicted on them, in the form of the SC&ST (Prevention of Atrocity) Act, 1989 (PoA);
   - Eliminating customs and traditions, which deeply hurt their dignity and person, in the form of the Protection of Civil Rights Act, 1955 (PCRA);
   - Setting up autonomous watchdog institutions to safeguard their interests, rights and benefits guaranteed to them, specially the National Commission for Scheduled Castes (NCSC), National Commission for Women (NCW), and, the National Human Rights Commission (NHRC), and Parliamentary Committee on Welfare of Scheduled Castes.

b) Compensatory discrimination measures, which included,
   - Enforcement of the provisions for reservation in public services, representative bodies and educational institutions.
c) Development measures to bridge the wide gap between the SCs and other communities in their economic conditions and social status, covering,

- Allocation of resources and distribution of benefits, which include measures such as the Special Component Plan (SCP), and
- Other welfare schemes (scholarships, residential schools, hostels, coaching classes).

Various studies, from time to time, have been conducted to ascertain the status of these various measures and the difference they have made towards bettering the Dalits’ lives. The present study is in line with this.
II The Present Study

For the purpose of the present study, we chose to focus on the implementation of **protective measures** and **development measures** aimed at securing the SCs’ their dues in terms of rights and entitlements in Rajasthan. The state of Rajasthan has primarily been chosen, because it has one of the highest incidences of atrocities against Dalits. This, along with the presence of organisations with contacts with Dalits at the ground level, helped to decide on Rajasthan.

The **protective measures** looked at are:

1. Rajasthan State Human Rights Commission (RSHRC),
2. Rajasthan State Commission for Women (RSCW),
3. Rajasthan State Commission for Scheduled Castes (RSCSC),
4. Rajasthan State Legislative Assembly Committee on Welfare of Scheduled Castes (RSLAC-WSC),
5. Protection of Civil Rights Act, 1955 (PCRA),

The **development measure** examined.

1. The Special Component Plan (SCP)

The primary data, collected in the last week of July 2010, was gathered from the respective agencies in Jaipur according to what the agencies were willing to share. There were limitations in this mode of data collection, in that the responses were guarded and a genuine ‘view from the inside’ understandably did not materialise. The physical data2 that was sought also (reports, other documents etc.) was, by and large, not shared willingly, and did sometimes become an occasion for venting suspicions.

The claims made by the agencies were checked with people (SCs themselves and NGOs working with SCs in the state of Rajasthan). This was done to gather their perceptions to see the level of fit emerging between the two. FGDs were held in Jaipur where the people recounted their cases and their experience in getting justice. This was done in the last week of August 2010. These were necessarily those people that could be accessed through the NGO/CBO networks. Since the list of people whose cases have been handled by commissions or departments and the list of beneficiaries are not available in the public domain, these people could not be contacted for their point of view.

---

2 The study has tried to look at the data that was in the public domain or has sought the data directly from the agencies, with the assumption that the data, not being of a sensitive or confidential nature, ought to be in the public domain.
The rest of the data was gathered from secondary sources such as reports, and other research material, as well as accessing relevant data from the internet and from government websites. This was done between August and October 2010.

Collecting accurate data from government sources, departments, and commissions was a difficult task. A few officers were open to brief interviews; some of them declined interviews, politely or rudely. A request for something as innocuous as annual reports (ARs) had to be made in writing, so that the officer concerned could authorise it. A general reluctance to part with information was uniformly observed. By and large, material which is in the public domain or ought to be in the public domain was not freely available.
Rajasthan is the largest state in India in terms of area and eighth in terms of total population. Rajasthan is among the more backward states of India on the parameters of human as well as economic development, although in the last several years it has recorded some significant gains on both fronts.

Rajasthan is characterised by sharp variations in terrain, livelihood, settlement pattern and social identity. The distribution of income and assets is also highly uneven. With little manufacturing taking place, agriculture and animal husbandry form the major sources of livelihood. Rajasthan’s economy is predominantly agrarian and rural in nature and there are wide fluctuations in the growth rate of the net state domestic product due to uncertainties in agricultural production, which is almost entirely dependent on rainfall.

### Table 1: Rajasthan: some statistics

<table>
<thead>
<tr>
<th>No.</th>
<th>Items</th>
<th>Year</th>
<th>Unit</th>
<th>Rajasthan</th>
<th>India</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>Geographical Area</td>
<td>2001</td>
<td>Lakh Sq. Km.</td>
<td>3.42</td>
<td>32.87</td>
</tr>
<tr>
<td>b)</td>
<td>Population</td>
<td>2001</td>
<td>In lakhs</td>
<td>565</td>
<td>10286</td>
</tr>
<tr>
<td>c)</td>
<td>Density of Population</td>
<td>2001</td>
<td>Per sq. Km.</td>
<td>165</td>
<td>325</td>
</tr>
<tr>
<td>d)</td>
<td>Urban Population to Total Population</td>
<td>2001</td>
<td>Percentage</td>
<td>23.39</td>
<td>27.78</td>
</tr>
<tr>
<td>e)</td>
<td>Decadal Growth</td>
<td></td>
<td>&quot;</td>
<td>28.41</td>
<td>21.52</td>
</tr>
<tr>
<td>f)</td>
<td>SC Population to Total Population</td>
<td></td>
<td>&quot;</td>
<td>17.2</td>
<td>16.2</td>
</tr>
<tr>
<td>g)</td>
<td>ST Population to Total Population</td>
<td></td>
<td>&quot;</td>
<td>12.6</td>
<td>8.2</td>
</tr>
<tr>
<td>h)</td>
<td>Literacy</td>
<td></td>
<td>&quot;</td>
<td>60.4</td>
<td>64.8</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td>&quot;</td>
<td>43.9</td>
<td>53.7</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td></td>
<td>&quot;</td>
<td>75.7</td>
<td>75.3</td>
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<tr>
<td>i)</td>
<td>Birth Rate</td>
<td>2005</td>
<td>Per ‘000</td>
<td>28.6</td>
<td>23.8</td>
</tr>
<tr>
<td>j)</td>
<td>Death Rate</td>
<td>2005</td>
<td>Per ‘000</td>
<td>7.0</td>
<td>7.6</td>
</tr>
<tr>
<td>k)</td>
<td>Infant Mortality Rate</td>
<td>2004</td>
<td>Per ‘000</td>
<td>67</td>
<td>58</td>
</tr>
<tr>
<td>l)</td>
<td>Sex Ratio</td>
<td>2001</td>
<td>Per ‘000 of Male</td>
<td>921</td>
<td>933</td>
</tr>
<tr>
<td>m)</td>
<td>BPL Population</td>
<td>1999-00</td>
<td>Percentage</td>
<td>15.28</td>
<td>26.10</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td>&quot;</td>
<td>13.74</td>
<td>27.09</td>
</tr>
<tr>
<td></td>
<td>Rural</td>
<td></td>
<td>&quot;</td>
<td>19.85</td>
<td>23.62</td>
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<tr>
<td></td>
<td>Urban</td>
<td></td>
<td>&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>n)</td>
<td>Gross Domestic Product at constant prices (base year 1993-94)</td>
<td>2005-06</td>
<td>‘000 crores’</td>
<td>70.5</td>
<td>2586.6**</td>
</tr>
<tr>
<td>No.</td>
<td>Items</td>
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<td>Unit</td>
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<td>India</td>
</tr>
<tr>
<td>-----</td>
<td>--------------------------------------------------------</td>
<td>------------</td>
<td>------------</td>
<td>-----------</td>
<td>---------</td>
</tr>
<tr>
<td>o)</td>
<td>Per capita income at constant prices (base year 1993-94)</td>
<td>2005-06</td>
<td></td>
<td>10226</td>
<td>20813**</td>
</tr>
<tr>
<td>p)</td>
<td>Life expectancy at Birth</td>
<td>1993-97</td>
<td>Male</td>
<td>59.1</td>
<td>60.4</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Female</td>
<td>60.1</td>
<td>61.8</td>
</tr>
<tr>
<td></td>
<td>Male</td>
<td>2001-06</td>
<td>Projected Level</td>
<td>62.17</td>
<td>64.11</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>2001-06</td>
<td>Projected Level</td>
<td>62.80</td>
<td>65.43</td>
</tr>
<tr>
<td>q)</td>
<td>Human Dev. Index</td>
<td>2001</td>
<td>Value</td>
<td>0.424</td>
<td>0.472</td>
</tr>
<tr>
<td>r)</td>
<td>Net Irrigated Area</td>
<td>2001-02</td>
<td>‘000 hect.</td>
<td>5420</td>
<td>54563</td>
</tr>
<tr>
<td>s)</td>
<td>Area under Food Crops</td>
<td>2003-04</td>
<td>Lakh Ha.</td>
<td>140</td>
<td>1233</td>
</tr>
<tr>
<td>t)</td>
<td>Production of Food Grains</td>
<td>2003-04</td>
<td>Lakh Tonnes</td>
<td>180</td>
<td>2135</td>
</tr>
<tr>
<td>u)</td>
<td>% of Forest Area to Total Area</td>
<td>1997-98</td>
<td>%</td>
<td>9.49</td>
<td>23.28</td>
</tr>
</tbody>
</table>

**Rajasthan - position of Dalits**

**Box 1 : Reality of Dalits in Rajasthan**

**Subhuman lives**

*Oppression stalks dalits in India* says Praful Bidwai October 2002, Jaipur, [IPS] - A 50 kilometre journey from the capital of Rajasthan, brings visitors to Chakwara Village and back into the Middle Ages. Here, after all, is a society based on terrible persistent inequalities, social servitude and economic bondage. At the centre of the serfdom, and legitimising it, is the systemic, systematic and religiously sanctified discrimination against the Dalits, India’s former ‘untouchables’.

Yet, the Dalits are resisting....

The Dalits of Chakwara Village discovered this when they lay claim to a common or public resource: the village pond, bathing in which is an important ritual. The pond and the steps leading to it have been built and maintained over the years with state funds and contributions raised by the entire village, including the Dalits, but Dalits have been excluded from using the common ‘ghats’ for decades. Caste based “tradition” ensures that Dalits are treated worse than the buffaloes, cows and pigs that have virtually unrestrained access to the pond. The only exception is the women who have also, irrespective of caste, always been barred from the pond.

However, in December, Babulal and Radheshyam, who belong to the Bairwa group of Dalits, decided to defy the hallowed “tradition” and take a dip in the pond. Outraged, the caste Hindus subjected the Bairwas to vile abuse, threats of a “bloodbath”, a nightly siege of their homes and a crippling social boycott. The Dalits could no longer buy tea or vegetables or hire farm implements. The local doctor would not treat them. The grocery shop ostracised them. The local mechanic would not repair their bicycles. Their men were stalked, their women abused.

The local administration and police should have protected and supported the Dalits. Instead, they generally sided with the upper castes. In January, officials allied with the caste Hindus in breach of the law bullied...
the Dalits into signing a “compromise” agreement, which effectively erased their right to the pond. The agreement led to discontent and resentment that has been simmering ever since. Last month, the discontent culminated in another effort by the Bairwas to assert their rights, through a rally in collaboration with other human rights organisations.

The caste Hindus decided to confront the Dalits “physically” and gathered a mob of 10,000 to 15,000 men armed with sticks. The police tried to stop the men from attacking the rally, halted some distance away. Angered, the caste Hindus attacked the police who responded with teargas and bullets, and in the ensuing scuffle, more than 50 people were injured, including 44 policemen.

Rajasthan has a dismal record of anti-Dalit offences, with an annual average of 5,024 crimes registered in the last three years. On an average, there are 46 killings, 134 rapes and 93 cases of grievous injury every year. One of the worst killings was the massacre of 17 Dalits, at Kumher village, in 1992.

However, the state administration and police have learnt little. Rather than take preventive measures or prosecute those guilty of caste discrimination, they side with the upper castes. This is partly because the bulk of India’s bureaucracy is caste Hindu. Although the Dalits are entitled to 15 percent of all government jobs, they rarely get the better paid ones in senior categories.

Praful Bidwai
October 2002

This is the reality of caste discrimination in Rajasthan, where the government bureaucracy routinely claims that casteism has been “nearly wiped out” on account of the various measures in place since Independence! Some of the most gruesome incidents of mass atrocity in Rajasthan have been reported from Mandawri (1988-89), Kumher (1992) and Chakwada (2001, mentioned in the box above).

Rajasthan has a Scheduled Caste (SC) population of 96,94,462 (Census of India, 2001) constituting 17.2 percent of the total population (5,65,07,188) of the state. It ranks seventh in India in terms of its total SC population and 10th in terms of their proportion to the total population among all states and UTs. Rajasthan has 59 different SCs (MoSJE, 2009-10).

The overall sex ratio of the SC population in Rajasthan is 913 which is lower than the national average of 936 in respect of all SC population. The CSR among SCs is 919 which is also very low. The literacy rate among the SCs is 52.2 percent, which is slightly lower than the national average at 54.7 percent in respect of all SCs, though the decade of 1991-2001 has seen a significant improvement on this front.
Overall literacy rate among SCs 26.3% 52.2% Increase of 25.9%

Male literacy 42.4% 69%

Female literacy 8.3% 33.8%

Dalits without any form of education or with below primary levels of education 47.7%

Primary level literates 26.7%

Middle school levels 13.9%

Secondary or higher secondary levels 9.4%

Graduates and above 2.3%

Technical and non-technical diploma holders 0.1%

The majority of SC workers are engaged in agriculture

Cultivators 44% More than double the national average of 20% for all SCs

Other workers 32% National average of 30.5%

Agricultural labourers 20% National average of 45.6%

Workers in household industry 3.4% National average of 3.9%

The NSSO data on poverty among different social groups is also quite revealing.

Table 2.3

<table>
<thead>
<tr>
<th>Social categories</th>
<th>Rural</th>
<th>Urban</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scheduled Castes</td>
<td>28.26%</td>
<td>55.07%</td>
</tr>
<tr>
<td>Scheduled Tribes</td>
<td>32.54%</td>
<td>24.95%</td>
</tr>
<tr>
<td>Other Backward Classes</td>
<td>12.59%</td>
<td>32.07%</td>
</tr>
<tr>
<td>Other Castes</td>
<td>7.98%</td>
<td>20.88%</td>
</tr>
<tr>
<td>All</td>
<td>18.32%</td>
<td>32.31%</td>
</tr>
</tbody>
</table>

Source: NSSO 2001 Report
Rajasthan has one of the highest incidences of atrocities on Dalits, with 4,302 cases registered under the SC/ST (PoA) Act, 1989 in 2008. It reports an incidence of 44.7 cases per lakh of population, which is the highest in India (Annual Report 2009-2010, MoSJE,, India, New Delhi). (Also, see Box 1 in Annexure)

The state government has taken several steps for the social, economic and political development of the SCs in the state. Some of these programmes form part of “Bharat Nirman”, and include flagship programmes like Integrated Child Development Services (ICDS), Sarva Shiksha Abhiyan (SSA), Mid Day Meals (MDMS), and National Rural Health Mission (NRHM) and National Urban Health Mission (NUHM) etc. Apart from these, various committees, institutions and commissions have been created to oversee the just and meaningful implementation of schemes and programmes aimed at Dalit welfare and/or social justice. An Assembly Committee on the Welfare of SCs and STs has been formed by the State Assembly for the same purpose. In order to check the widespread discrimination and violence against Dalits, two legal provisions of the Protection of Civil Rights Act (PCRA), 1955 and SC&ST (Prevention of Atrocity) Act (PoA), 1989 have also been passed. However, the ground reality and field experiences suggest that not all that was envisaged in terms of rights, justice or development of the SC communities has been achieved so far.
In this Section, three commissions – Human Rights, Scheduled Castes and Women – that have been set up in Rajasthan are examined. Besides these statutory bodies, the implementation of the two protective mechanisms in the form of the PCRA and the SC&ST PoA Act, 1989 are also looked at. These are based on interviews with the personnel of the commissions as well as with the NGOs/CBOs and individuals who have experienced these measures as complainants and petitioners.

Rajasthan State Human Rights Commission (RSHRC)³

**Summary**

- RSHRC is a functioning body, with members duly appointed by the Government of Rajasthan (GoR)
- It follows standard procedures of accountability like the publication of annual reports, an updated website, disclosure of income and expenditure, members, staffing etc.
- It only has the power to make recommendations, yet has tremendous "moral authority"
- Seems constrained in its functioning and autonomy; inadequate resources - financial and human - have been cited as some of the reasons
- It has a high turnover of Chairpersons on an average
- Except once, no woman appointed on the Commission
- Practically non-existent links with civil society; links were deliberately curtailed.

**Mandate and authority**

The broad mandate of the RSHRC is “... to be an institution with the responsibility of promoting and protecting the human rights of individual citizens in the State, and thereby foster an administration of good governance” (AR 2003-2004: pp. 1). The specific mandate, its authority, and the procedure of complaints and follow up have also been provided in the AR 2003-2004 (pp. 62-65). “The main mandate of the State Commission is to function as a watch dog for human rights in the State. Under the 1993 Act, human rights are defined in Section 2 (d) and are those justiciable rights which can be enforced in a court of law in India. Most of the universal human rights as defined in the UN Charter of 10th December, 1948 are included ...” (Source: RSHRC website http://www.rshrc.nic.in/).

³ In existence since 12th October, 1993. The Human Rights Act, 1993 seeks to provide a regulatory framework for the protection of rights related to life, liberty, equality, dignity of individuals guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. **Section 3 of the Act provides for the constitution of National Human Rights Commission and Section 21** provides for the constitution of State Human Rights Commission.
Yet, it was pointed out, that the Commission’s powers are recommendatory only, beyond which “it does not have much authority”. Nonetheless, as the Secretary to the Commission pointed out, “the psychological impact of the Commission is very positive” and it has the potential for change.

**Constitution of the RSHRC**

The Rajasthan State Human Rights Commission (RSHRC) was constituted on 18th January 1999 under Section 21(1) of ‘The Protection of Human Rights Act, 1993’ (RSHRC AR 2005-2006). The Chairperson and members were appointed in March 2000.

The present Chairperson, Justice Jagat Singh, is an officiating Chairperson, whose term is due to expire in another four to six months. The Secretary to the Commission is Shri Ravi Shrivastava (IAS) who took over charge in April 2010.

**Table 3 : The Present Governing Body**

<table>
<thead>
<tr>
<th>Name</th>
<th>Position on the board</th>
<th>Qualification</th>
<th>Address</th>
<th>Contact details</th>
<th>Date of appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Justice Jagat Singh</td>
<td>(Officiating) Chairperson</td>
<td>Retd. Judge, Rajasthan High Court</td>
<td>K-17, Income Tax Colony, Durgapura, Jaipur</td>
<td>O: 2385102 IP-6622 R:2550339; 9414033027</td>
<td>16/07/2010</td>
</tr>
<tr>
<td>Shri D.S. Meena</td>
<td>Member</td>
<td>Former Addl. Chief Sec.</td>
<td>A-7, Ayodhya Nagar, Sirsi, Jaipur</td>
<td>O: 2227742 IP-6616 F:2227738 R:2240251; 2240651</td>
<td>07/07/2005</td>
</tr>
<tr>
<td>Shri Pukhraj Seervi</td>
<td>&quot;</td>
<td></td>
<td>2, Ga-8, Kamala Nehru Nagar, Ajmer Road, Jaipur</td>
<td>O:2227346 IP-6618 F:2227738 R: 2251078 9414134301</td>
<td></td>
</tr>
<tr>
<td>Shri Ravi Shankar Shrivastava</td>
<td>Secretary, RSHRC</td>
<td>IAS</td>
<td>96, Gokul Vatika, Jawahar Circle, J. L. N. Marg, Jaipur</td>
<td>O:2227565 IP-6620 F: 2227738 R:2705658</td>
<td>05/04/2010</td>
</tr>
</tbody>
</table>

**Tenure**

As is evident from Table 1 in the Annexure, the Commission has had five Chairpersons since its inception (including the present one). Justice N. K. Jain was the only one who completed a full term of five years. Two incumbents (including the present one) have held office in an officiating capacity only. Justice Sagir Ahmed had the second longest run of two years and three months in this post. In a 10 year period since its inception, when the Commission should have had only two Chairpersons for a five year term each, it has seen five, averaging at two years per incumbent, which signifies a high turnover.
The post of the Secretary to the Commission is held by an IAS officer. From the information gleaned from the ARs there have so far been at least five, though the ARs have not disclosed their exact terms. The last five years have seen five incumbents, averaging at a year per person, which signifies a high turnover.

Not much information is available on the members of the Commission from the available ARs. However, the present incumbents, Shri D. D. Meena and Shri Pukhraj Seervi have had a fairly good stint (and continuing) on the Commission (5 and 4 years respectively).

Apart from Justice Kanta Bhatnagar, no woman has been appointed to the Commission, including as Secretary, which is a glaring omission.

**Publications**

The Commission has published the following booklets.

**In English:**

- Human Rights
- Article-21 of the Constitution of India

**In Hindi:**

- *Jail, Karawas se Sambandhit Pravadhan va Gatividhiyan* (Provisions and Procedures for Jails and Imprisonment)

**Human Rights Booklets on the website**

- *Balako Ke Adhikar* (Rights of Children)
- Human Rights of H.R.
- Human Rights & HIV
- Human Rights & Jain *Dharam* (Religion)
- Human Rights Ayog (Commission) Working
- Human Rights Ayog (Commission) Rules
- Human Rights Article-21
- Human Rights for Women
- Human Rights for SC/ST
- Human Rights Plan
- Human Rights & Arrest
- Human Rights & MLA Scheme
- Human Rights for Jail
- Human Rights Article 51-A
Accountability mechanisms

We were told that the Commission is accountable to the State Assembly, through the Department of Home. The Secretary (CEO) is accountable to the Commission (Chairperson) and the Commission is accountable to the State Assembly. The periodic mode of accountability and information dissemination is however not clear i.e. whether the Commission meets as one body and at what interval, how and when do the Secretary and the Chairperson discuss and decide on the work to be done and the direction of the Commission etc. We were told that regular meetings had not been held for the last many years, the agenda and minutes were therefore not available.

When asked for, the ARs from years 2003-2004 to 2008-2009 were provided to us. The Commission’s ARs are not widely disseminated or distributed, it appears, and are available upon a written request from the Commission’s office. Financial details (annual receipts and annual expenditure) are provided in the ARs, but the audited statements of accounts and balance sheets are not provided.

The Commission has a website (www.rshrc.nic.in) and was last updated in July 2010. The ARs and financial details of the Commission are not available on the site.

Availability of resources

Human resources

There are 52 sanctioned posts as mentioned in the ARs since 2003-2004. The number of posts that are actually filled up have decreased since then, 41 (78.8%) in 2003-2004, 12 (23%) in 2004-2005, 10 in 2005-2006, six in 2006-2007 and five (9.6%) in 2008-2009. This undoubtedly signifies severe understaffing, with serious ramifications upon its performance. This has been repeatedly pointed out in the Chairperson’s Foreword to the ARs since 2003-2004.

The ARs since 2003-2004 have similarly voiced the need for a legal wing and for adequate and updated computerisation.

Physical space

The Commission has its office in the State Secretariat in Jaipur. This is not entirely to the Commission’s liking as is evident when it states as much in its AR 2004-2005: “The office of the State Human Rights Commission is presently housed in SSO Building in Secretariat. Space provided in not sufficient. It is neither suitable nor befitting and according to the status of the Commission, it being an autonomous and independent body” (pp.2). Despite this, it still continues to be housed in the SSO building in the Secretariat.

Financial resources

Under the provisions of the Act, the state government has to provide the Commission with grants of money as “the State Government may think fit for being utilised for the purpose of this Act” (Section 33 (2) of the Act). The financial allocations are made under the budget head no. 2052 (Secretariat general services) and no. 2235 (Social defence and welfare) for sub-heads of Salary and Allowances, and Other Expenses. The major expenditure is incurred on salaries and other allowances. Surprisingly,
though the number of staff members has declined the expenditure has shown an increase, for which no 
explanation has been given anywhere through any note.

Other activities like travel, publications, meetings / seminars etc. are not mentioned separately.

### Table 4

<table>
<thead>
<tr>
<th>Year</th>
<th>Budgeted Amount</th>
<th>Actual Expenditure</th>
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</thead>
<tbody>
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<td>2000-2001</td>
<td>50.00</td>
<td>39.85</td>
</tr>
<tr>
<td>2001-2002</td>
<td>85.26</td>
<td>77.03</td>
</tr>
<tr>
<td>2002-2003</td>
<td>92.95</td>
<td>88.96</td>
</tr>
<tr>
<td>2003-2004</td>
<td>106.00</td>
<td>97.54</td>
</tr>
<tr>
<td>2004-2005</td>
<td>98.15</td>
<td>88.74</td>
</tr>
<tr>
<td>2005-2006</td>
<td>98.15</td>
<td>85.93</td>
</tr>
<tr>
<td>2006-2007</td>
<td>110.65</td>
<td>108.36</td>
</tr>
<tr>
<td>2008-2009</td>
<td>155.20</td>
<td>155.41</td>
</tr>
</tbody>
</table>

The observation of the Commission’s Chairperson (AR 2003-2004) on the financial autonomy granted 
to it is noteworthy: “As regards financial autonomy of the Commission, Section 33 of the Protection of 
Human Rights Act, 1993 gives complete autonomy regarding expenditure of grants for performing the 
functions of the Commission. The Commission gets the money by way of grant and despite that every 
time the Commission has to approach the Government for approval before spending the money for 
performing its functions. This process not only causes delays but also causes inconveniences in performing 
the functions and also jeopardizes the Commission’s autonomy” (pp. 3).

**Links with civil society**

One possible measure of the Commission’s outreach would be its links with NGOs and civil society 
groups. When probed on this aspect, the Commission’s Secretary mentioned that some years back the 
Commission maintained robust links with the NGO sector, but that later they deliberately curtailed the 
contact. This was on account of some media reports and complaints received by the Commission as 
well as allegations of NGOs charging the victims and complainants fees for ‘getting their complaints 
through to the Commission’. They felt this was tarnishing the image of the Commission.

**Rajasthan State Women’s Commission (RSWC)**

**Summary**

- The RSWC appears to be a non-functional body as of now; there is no full Commission appointed 
  and the member-secretary officiates
- It follows standard procedures of accountability like publication of annual reports, disclosure of 
  income and expenditure, members, staffing; it does not have a website.

---

5 The First National Commission for Women was constituted on 31st January, 1992.
The Rajasthan State Assembly passed an Act on 23rd April 1999 to establish a Women’s Commission in Rajasthan. Accordingly, a government regulation (GR) was issued by the Government of Rajasthan (GoR) and the Rajasthan State Women’s Commission (RSWC) was constituted on 15th May 1999 (RSWC AR 2007-2008). The Commission, as per the GR, will consist of four members including the Chairperson, of whom one will be either an SC or an ST and one will belong to the OBC.

The third RSWC was appointed on 15th April 2006 (GR no. F-19(295)/99/WCD/46). It comprised of the following.

<table>
<thead>
<tr>
<th>Table 5 : Members of RSWC (2006)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ms. Tara Bhandari</td>
</tr>
<tr>
<td>Ms. Sushma Chaudhary</td>
</tr>
<tr>
<td>Ms. Arti Sharma</td>
</tr>
<tr>
<td>Ms. Sudha Jajoriya</td>
</tr>
<tr>
<td>Ms. Pratibha Shrivastav</td>
</tr>
</tbody>
</table>

In the following year, Ms. Draupadi Malik (RAS) took over as Member-Secretary. When the new state government was sworn in, in 2008, the Commission members tendered their resignations. Ms. Malik continues in the post (as of July 2010) in the absence of a Commission.

The Commission, we assume, was dissolved upon the change of government in 2008. The new government has not appointed a new Commission as yet. The Member-Secretary refused to answer any questions pertaining to the study. We were given copies of two ARs upon a written request being submitted to the Commission. The information we have has been collected from these reports.

The Commission has been provided a separate building in the state capital as its office. It is situated at Lal Kothi, Tonk Road, Jaipur.

The RSWC’s specific mandate, its authority, and the procedure of complaints and follow up have been provided in the ARs of 2007-2008 and 2008-2009 (pp. 4-5).

The ARs provide an account of the various projects that it runs in partnership with UNFPA and UNICEF. The ARs also provide the income and expenditure statements for the said years. Apart from that, it provides a glimpse into the nature of some complaints as well as the total number of complaints received during the year as well as the recommendations sent by the Commission to the GoR.

**Rajasthan State Commission for SCs (RSCSC)**

**Summary**

- RSCSC is a non-functioning body, since the earlier Commission was dissolved and the matter is pending before the Rajasthan High Court
- It does not follow any standard procedures of accountability like the publication of annual reports, website, disclosure of income and expenditure, members, staffing etc.

---

6 The first Constitutional Commission became operational on 12th March 1992. It was called the National Commission for SCs and STs. Subsequently, in 2002 it was separated into the National Commission for SCs, and, the National Commission for STs.
Rajasthan set up the Rajasthan Scheduled Caste & Scheduled Tribe Commission (RSCSTC) on 19th March 2001 (GR no. F 11(136) R&P/SWD/10999) and consisted of a Chairperson, Vice-Chairperson and one member. The Chairperson is given the status of a minister.

The broad mandate as stated in the abovementioned GR is: “... to address the issues facing the SCs and STs in the state of Rajasthan. It will monitor the implementation of programmes and schemes meant for economic, educational and social development of these communities”.

The first Commission was constituted by GR no. F 11 (136) R&P/SWD/2001/60260 dated 29th October 2001 and consisted of the following members.

**Table 6 : Members of RSCSC (2001)**

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Hanuman Prasad, MLA</td>
<td>Chairperson</td>
</tr>
<tr>
<td>Mr. Ramjilal Kharadiya</td>
<td>Vice-Chairperson</td>
</tr>
<tr>
<td>Mr. Mahendrajit Singh Malaviya, District President</td>
<td>Member</td>
</tr>
</tbody>
</table>

They had a tenure of two years, which was extended by another two years in October 2003 (F 11 (136) R&P/SWD/2001/64367). The last Commission was appointed on 25/12/2007 and consisted of the following people.

**Table 7 : Members of RSCSC (2007)**

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr. Sunderlal, MLA</td>
<td>Chairperson</td>
</tr>
<tr>
<td>Mr. Chunilal Garasiya, former MLA</td>
<td>Vice-Chairperson</td>
</tr>
<tr>
<td>Mr. Hajarilal Kharara, Vill. Modhpur, Dist. Baran</td>
<td>Member</td>
</tr>
</tbody>
</table>

There is no Commission as of now, since the last one (mentioned above) was dissolved when the new government took over. Shri Sunderlal was removed from his post on 12/08/2009. Since the term of the then Commission had not expired, the Chairperson, Shri Sunderlal, went to court challenging the decision of the new government. The matter is still pending before the court.

Till date, no woman has ever been appointed to the Commission, either as a Chairperson or member, or even as a Member-Secretary. This would again, as in the case of the SHRC, be a glaring omission.

The Secretary of the Commission (CEO) is an RAS officer, Shri Vishram Meena. He is the Deputy Director, Hostels, at the Department of Social Justice and Empowerment (DoSJE) and holds additional charge as Secretary, RSCSTC. He was appointed on 28th January 2010 (a little over 6 months). The

---

7 The composition of the Commission between 2005 and 2007 is not available.
previous two occupants, Shri Yadav and Shri Bagdawatia, were in office for one year and four months respectively (the latter passed away whilst in office). Shri Meena was met twice for an interview, but declined both times citing work pressure. He however, arranged for us to meet the junior accountant at the RSCSTC premises who handles all day-to-day administrative responsibilities. Shri Meena rarely visits the Commission office; however, the junior accountant meets him everyday at his office at the DoSJE for day-to-day work and getting approvals and signatures on official documents.

In the absence of any available written documents, the exact nature of the authority that the Commission enjoys was not clear. We were told that the State Commission does not have a lot of authority, “unlike the National Commission”.

The Commission has an office at the Yojana Bhavan, which we were told, was renovated about a year and a half back at a cost of approximately ‘20 lakhs by the DoSJE. It operates with a staff of five to six people. The Chairperson and Vice-Chairperson are provided with vehicles from the Rajasthan Motor Garage division, for which the Commission pays. It does not have an e-mail address or a website.

The Commission has never published its AR and nor does it have a lot of printed material for dissemination. When asked if the Commission’s work had ever been discussed in the Assembly, we were told that it had never happened. No status report has ever been presented anywhere either.

Since no documents (which could be shared with the public) were available, we were given the financial details and the status of the cases with the Commission orally.

<table>
<thead>
<tr>
<th></th>
<th>2007-08</th>
<th>2008-09</th>
<th>2009-10</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salary</strong></td>
<td>3.50</td>
<td>13.5</td>
<td>15.00</td>
</tr>
<tr>
<td><strong>Other expenditure</strong></td>
<td>1.50</td>
<td>16.66</td>
<td>3.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>5.00</td>
<td>30.16</td>
<td>18.00</td>
</tr>
</tbody>
</table>

**Table 8 : Status of Cases with RSCSC**

**Regional office of NCSC, Ahmedabad**

Over and above the RSCSTC, the NCST has a Regional Office located in Jaipur while the NCSC’s Regional Office is located in Ahmedabad (in charge of the states of Gujarat and Rajasthan). The regional NCSC’s Director is Ms. Vibha Sud, who sits in Chandigarh, but visits Ahmedabad at least once a month. She has held this post for the last three years (incidentally, we were told, this post has tenure of 5 years). This is a totally different set-up from the State SC commission. The regional office is a representative of the National Commission and reports directly to it. Their reports or documents or publications were not available with them since they said that these were submitted to the National Commission in New Delhi and could be got from there directly. The NCSC has a website (http://ncsc.nic.in/) which is inaccessible (Box 2 in Annexure).

The complaints received by the regional office of the NCSC are dealt with by them according to the nature of the complaint. For those complaints that are concerned with the state government, the regional
office writes to the concerned state departments seeking clarifications or suggesting the action that needs to be taken. They cannot go beyond this mandate, we were told. The main complaints received by them are to do with discrimination at the workplace (in government service), non-implementation of government schemes and atrocity related issues. For the latter, they always insist on a police complaint being filed first and only after the FIR is lodged do they entertain the complaint.

Rajasthan Legislative Assembly Committee on the Welfare of Scheduled Castes (RLAC-WSC)

Box 2

Committee on the Welfare of Scheduled Castes and Scheduled Tribes

From time to time, the Committee selects such subjects pertaining to the welfare of Scheduled Castes and Scheduled Tribes as they deem fit. The Committee may also examine matters of special interest to the welfare of Scheduled Castes and Scheduled Tribes which may arise or come to light in the course of its working or which may be specifically referred to it by the House or by the Speaker.

Source : http://rajasthan.gov.in/external/website/showwebsitedepartment

Little more than the above information is available on the GoR website on the subject.

The RLAC-WSC is the state counterpart of the Parliamentary Committee on the Welfare of Scheduled Castes at the central level. It has tenure of one year and is appointed by the Speaker of the Assembly. The RLAC-WSC was constituted as per the Rules incorporated in the Rules of Procedure and Conduct of Business in the Rajasthan Legislative Assembly by the Rajasthan Legislative Assembly on 11th April, 1974 regarding the Constitution of Committee on the Welfare of Scheduled Castes (Rules of Procedure on the Committee of the Welfare of Scheduled Castes (Internal Working). The composition of the present committee is as follows.

Table 9 : Details of RLAC-WSC

<table>
<thead>
<tr>
<th>Name</th>
<th>Position on the board</th>
<th>Occupation</th>
<th>Address</th>
<th>Contact details</th>
<th>Date of appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shri Aadram Meghwal (19)</td>
<td>Chairman</td>
<td>Agriculture</td>
<td>Vi.: Modhunagar, Teh - Rawatsar, Hanumangarh 13-Vidhayakpuri, Jaipur</td>
<td>Tel.: 01537-207188 99829-50545</td>
<td></td>
</tr>
<tr>
<td>Shri Kamal Bairwa (26)</td>
<td>Member</td>
<td></td>
<td></td>
<td></td>
<td>94143 34090</td>
</tr>
<tr>
<td>Shri Gyasaram Koli (55)</td>
<td>&quot;</td>
<td></td>
<td></td>
<td></td>
<td>94607 40666</td>
</tr>
<tr>
<td>Shri Jagasi Ram Koli</td>
<td>&quot;</td>
<td></td>
<td></td>
<td></td>
<td>94143 05315</td>
</tr>
<tr>
<td>Shri Padmaram Meghwal (85)</td>
<td>&quot;</td>
<td></td>
<td></td>
<td></td>
<td>94139 03199 99508 85246</td>
</tr>
</tbody>
</table>
In the latter half of July '10 when we sought to meet with the office bearers, most of them were unavailable
in Jaipur, being busy with the pre-election campaigning for the forthcoming municipality elections (as
reported over the phone by them).

### Protection of Civil Rights Act, 1955 (PCRA)

<table>
<thead>
<tr>
<th>Name</th>
<th>Position on the board</th>
<th>Occupation</th>
<th>Address</th>
<th>Contact details</th>
<th>Date of appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shri Bahadur Singh (105)</td>
<td>&quot;</td>
<td>-</td>
<td>-</td>
<td>94143 15320</td>
<td></td>
</tr>
<tr>
<td>Shri Madan Lal Verma (124)</td>
<td>&quot;</td>
<td>-</td>
<td>-</td>
<td>94147 51116</td>
<td></td>
</tr>
<tr>
<td>Shri Babulal Bairwa (106)</td>
<td>&quot;</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Shri Mahaveer Prasad Jingar (127)</td>
<td>&quot;</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Shri Ramlal Meghwal (158)</td>
<td>&quot;</td>
<td>-</td>
<td>-</td>
<td>96021 41411</td>
<td></td>
</tr>
<tr>
<td>Ms. Sanjana Agri (181)</td>
<td>&quot;</td>
<td>Computer designing</td>
<td>144/2, Keshav Keshav Nagar, New Bus stop, Near Shiv Mandir, Pali 2/4, Vidhayak Nagar (West), Jaipur</td>
<td>98290 88165 99283 71601</td>
<td></td>
</tr>
<tr>
<td>Shri Sukhram Netdiya (187)</td>
<td>&quot;</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

Summary

- PCRA, though in force, is not being used at all. There is only 1 case in which the judgement is pending. No fresh cases under the Act have been reported for the last 3 years.
- However, there are 6 Special Courts and 2 Designated Courts to try the cases under this Act.
- The DoSJE’s AR mentions that a high-level committee has been appointed to review the functioning of this Act; however, no progress on the same has been reported.
- Untouchability prone areas have been identified, however, the same is unavailable in the state capital.
- A scheme for promoting inter-caste marriages has been initiated and is functioning.

The Untouchability (Offences) Act, 1955 was the first legal measure adopted to address the issue of rampant untouchability and caste-based discrimination. It was however inadequate on various fronts and was reviewed in 1976 and later became the Protection of Civil Rights Act, 1955. The amended Act came into force from 19th November 1976⁸.

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⁸ Under this Act, the preaching and practice of ‘Untouchability’ or the enforcement of any disability arising there from and for matters connected therewith, was made a cognizable and non-compoundable offence and the terms of imprisonment were enhanced. The State Governments have been empowered to impose collective fines on the inhabitants of any area found committing and abetting the commission of untouchability offences. This Act, along with the Rules framed there under, lays down elaborate procedure for ensuring protection of the victims of such practices by providing for special courts, special prosecution, fixing period for investigation, etc (Saxena 2004).
Protection of Civil Rights Act, 1955

Because of the caste stigma in our society, the acute problem of untouchability is still prevailing and people belonging to the Scheduled Castes do not receive their due share of benefit in occupational opportunities as compared to other members of the society. After Independence, a provision was made under Article 17 of the Constitution of India, whereby untouchability was abolished. In accordance with these constitutional provisions, the GoR has adopted the "Protection of Civil Rights Act, 1955".

Under this Act, strengthening measures have been made regarding punishment etc. and the offence of untouchability has been made cognizable. For example, the practice of preventing the SCs from entering temples should be carefully tackled. Those encouraging such discriminatory practices and promoting disaffection in society should be prosecute to prevent them from doing so. The state government has also issued various orders and instructions from time to time for the removal of various hardships and problems from which the members of SCs have been suffering. Under the PCRA, 6 Special Courts and 2 Designated Courts have been established.

Source: GoR website http://sje.rajasthan.gov.in/Schemes/index.htm

PCRA, while it is in force, is not being used at all. There is only one case under PCRA currently in court, which is pending judgement (or trial)9. The argument presented for it not being used is that the PoA Act 1989 is more comprehensive than PCRA, with the provision for compensation unlike PCRA, and as the all cases are being booked under it and therefore, for all practical purposes, it is of no use and ought to be scrapped. (This was reported by IG Moris Babu, and the clerks at the Legal Department at the Secretariat as well as at the SJE and the NCSC regional office in Ahmedabad). Consequently, there is no data at the state level on the various aspects of the PCRA. However, the ARs of the MoSJE, New Delhi give details of “Central Assistance released under SC&ST (POA) Act, 1989 and PCRA, 1955 (as on 31/12/09)” (AR 2008-2009). It would mean that the officers are either not aware of the provision or are deliberately undermining this particular Act and its provisions.

The ARs of 2008-2009 and 2009-2010 of the DoSJE, Rajasthan, Jaipur, reporting on the progress on this front, says,

“Untouchability’ has been abolished as per Article 17 of the Constitution and under the PCRA, 1995 (sic) it has been declared as a punishable offence. The Police Department takes necessary steps to see that the Act is implemented strictly. A high-level committee has been appointed to look into the aspects of social injustice and social security and to review the implementation of this Act.” (pp. 28: 2009-10; pp. 28: 2008-2009).

“Untouchability’ has been abolished as per Article 17 of the Constitution and under the PCRA, 1995 (sic) it has been declared as a punishable offence. The Police Department takes necessary steps to see that the Act is implemented strictly. A high-level committee has been appointed to look into the aspects of social injustice and social security and to review the implementation of this Act.” (pp. 28: 2009-10; pp. 28: 2008-2009)

Both ARs mention the same matter, in the same language in both years. Not only is there no mention of the number of cases and monetary compensation under the Act, it does not even mention when it was formed, who undertook the study, what are its ToR or its timeframe. At the very least, it proves that no progress has been made on this front at all in the last 12 months.

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9 This is not reflected in the data of either the MoSJE or the NCRB for the year 2008.
The MoSJE report for the year 2009-2010 reports (in Annexure 4.3) that ‘Special Committees’ and ‘Special Police’ under the Act have not been established in Rajasthan while ‘Vigilance and Monitoring Stations’ have been established. However, the presence of the latter without the former does not make much sense and there is no report anywhere of the purpose they serve.

### Table 10

<table>
<thead>
<tr>
<th>Chief provisions of the Act</th>
<th>According to the K B Saxena report</th>
<th>According to state / central government sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Courts for trial of offences</td>
<td>X</td>
<td>√</td>
</tr>
<tr>
<td>Vigilance &amp; Monitoring Committees at the district level</td>
<td>√</td>
<td>X</td>
</tr>
<tr>
<td>Vigilance &amp; Monitoring stations</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Appointment of officers for initiating or exercising supervision over prosecutions initiated under the Act</td>
<td>√</td>
<td>X</td>
</tr>
<tr>
<td>Setting up of Committees for monitoring and guidance</td>
<td>√</td>
<td>X</td>
</tr>
<tr>
<td>Legal aid to the victims</td>
<td>√</td>
<td>√</td>
</tr>
<tr>
<td>Periodic survey on the working of the Act &amp; identification of areas where disabilities arising out of practice of untouchability have been observed with a view to adopting suitable measures for their elimination</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Untouchability prone areas</td>
<td>√</td>
<td>X</td>
</tr>
<tr>
<td>Incentive for promotion of inter-caste marriage</td>
<td>X</td>
<td>√</td>
</tr>
<tr>
<td>Publicity measures</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Special Police</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

While the state government website claims that “six Special Courts and two Designated Courts have been established” (Box above), the K. B. Saxena Report (2004) commissioned by the NHRC says that Rajasthan is one of the several states that have not constituted Special Courts under the Act (pp. 21). One wonders about the need for six Special Courts and two Designated Courts when no cases have been registered under this Act at all!

Legal aid is reported to be provided to the victims as per the report of the MoSJE under the head ‘Central Assistance released under (PoA) Act and PCRA (as on 31/12/09)’. However, since there is only one case pending trial under PCRA, as was mentioned in Jaipur, it can be safely inferred that the entire amount (in Table 15 below) would be the assistance for the PoA Act.

### Table 11: PCRA, 1955 - Data for the year 2008 for the state of Rajasthan

<table>
<thead>
<tr>
<th>No. of cases regd. in 2008</th>
<th>No. of cases b/f</th>
<th>Total cases in 2008</th>
<th>No. of cases per lakh of population</th>
<th>No. of cases closed after investigation</th>
<th>No. of cases chargesheeted in court</th>
<th>No. of cases pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Source: Annual Report 2009-2010 of the Ministry of Social Justice and Empowerment, India, New Delhi
Rajasthan has however identified untouchability prone areas, as reported, however, the same was not available in the state capital or the Secretariat.

According to the Saxena Report, in 2004, the provision of incentives for inter-caste marriage has not been implemented in Rajasthan. However, the DoSJE’s ARs for the years 2008-2009 and 2009-2010 mention a state government scheme (with a matching grant from the central government) for the promotion of inter-caste marriages. It could have come about after 2004, but the year of its inception is not mentioned anywhere. However, through a GR in 2006, the ARs mention, the incentive amount was raised from ‘5,000/- to ‘50,000/-. It is likely that the scheme was conceived after the publication of the Saxena Report.

It is thus safe to say that as of today the PCRA is not being implemented or applied in Rajasthan. Most officials, junior or senior, were of the opinion that it is redundant and ought to be scrapped, its place having been taken by the PoA. At the same time, they also aver that there is a strong need to put in place mechanisms to tackle the incidence of untouchability within the SC communities, which the PoA is not equipped to tackle. However, the PCRA and its Rules do not differentiate the perpetrators of untouchability by caste status as is done in the PoA; the Act can be, indeed has to be applied to any practice of untouchability by any person. That a progressive interpretation of this legislation has not happened is testimony to the mindset of casteism ruling the implementation of this Act. However, it is true that the punishment and the fine are extremely meagre and no real deterrent.

As Saxena observes in his report on the situation in India, “It will thus be evident that States in general have shown no keenness or enthusiasm to implement various provisions of the Act. The impression thus conveyed is that either the problem of untouchability does not exist or its incidence is so negligible that it is not worthy of much attention. This clearly shows the inability or perhaps the unwillingness of the State Government to come to grips with the practice of untouchability, particularly in its most subtle forms at various levels in society” (pp.23).

**Scheduled Castes &Scheduled Tribes (Prevention of Atrocity) Act, 1989 (PoA)**

**Summary**

- Rajasthan reports the second highest incidence of cases under PoA against Dalits in India; Rajasthan, according to NCRB data, contributes 12.8% to the all-India incidence of such atrocities
- 50% of these cases were closed following investigation (as against an all-India average of 13.3%)
- The rate of conviction under this Act stands at a meagre 7% and the acquittal is at 8.3% with a massive pendency of 83%
- Vigilance & Monitoring Committees - state and district level - are established and are functional however, no official data on its composition or meetings (minutes etc.) were made available
- A formal review of the Act and its implementation has never been done.

As a result of the implementation of State policies, when there was a spurt in physical violence against the members of the SCs and STs, leading to brutalities such as mass murder, rape, arson, grievous injuries, etc. the enactment of a special law for their protection was resorted to, to provide for strong punitive measures which could serve as a deterrent. Thus the SC&ST (Prevention of Atrocity) Act,
1989 (PoA), came about. The Rules under the Act were framed in 1995 to prevent atrocities against members of the SCs and STs, 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 (Saxena, 2004).

Table 12.1 : SC&ST (PoA) Act, 1989 - Data for the year 2008 for the state of Rajasthan

<table>
<thead>
<tr>
<th>No. of cases regd. in 2008</th>
<th>No. of cases b/f</th>
<th>Total cases in 2008</th>
<th>No. of cases per lakh of population</th>
<th>No. of cases closed after investigation</th>
<th>No. of cases charge sheeted in court</th>
<th>No. of cases pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>4,302</td>
<td>266</td>
<td>4,568</td>
<td>44.7</td>
<td>2,319</td>
<td>1,952</td>
<td>297</td>
</tr>
<tr>
<td>(94.1%)</td>
<td>(5.8%)</td>
<td></td>
<td>(50.7%)</td>
<td>(42.7%)</td>
<td>(6.5%)</td>
<td></td>
</tr>
</tbody>
</table>

Source: Annual Report 2009-2010 of the Ministry of Social Justice and Empowerment, India, New Delhi

Table 12.2

<table>
<thead>
<tr>
<th>Total cases in courts including b/f in 2008</th>
<th>Cases compounded or withdrawn</th>
<th>No. of cases in which trial completed</th>
<th>No. of cases pending with courts at the end of 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,042</td>
<td>140</td>
<td>711</td>
<td>835</td>
</tr>
<tr>
<td>(1.3%)</td>
<td>(7%)</td>
<td>(8.3%)</td>
<td>(83.2%)</td>
</tr>
</tbody>
</table>

Source: ibid

Rajasthan reports the second highest incidence of cases under PoA against Dalits in India, the highest being Uttar Pradesh. The above data is also corroborated by the data from the National Crime Records Bureau (NCRB). The state of Rajasthan, according to NCRB data, contributes 12.8 percent to the all-India incidence of such atrocities. The ‘rate of total cognizable crimes’ in Rajasthan is 6.6 and it tops the list on this front. It is thus amply clear that the incidence of caste based atrocities is widespread and rampant in Rajasthan.

More alarming is the fact that 50 percent of the cases were closed following investigation (as against an all-India average of 13.3%). This reveals one thing, i.e. the charges filed were not found to be true during investigation, proving that there is blatant misuse of the provisions and the Act. It could also reveal what they term as ‘Mistake of Fact or Law’ (NCRB 2008-09). At the very least, this would merit a serious examination of the reality, i.e. whether the charges were indeed false meriting closure of the cases or whether they were closed for extraneous reasons.\\

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10 The minutes of the Jhalore District Vigilance & Monitoring Committee dated 15/06/09 reports a similar query being raised to which the IG (HR) reported that all 450 case files were analysed at the Police HQ and were found to be based on mutual enmity and were hence closed.
The rate of conviction under this Act stands at a meagre seven percent and the acquittal is at 8.3 percent with a massive pendency of 83 percent.

The DoSJE’s AR for the year 2009-2010 puts the number of victims under the PoA Act in 2008-09 at 1,156 (see Table below).

Table 13

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of victims</th>
<th>Total monetary compensation given (in lakhs)</th>
<th>Central assistance released under (POA) Act and PCRA (as on 31/12/09)</th>
<th>Average compensation per person</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>251</td>
<td>88.94</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2004-05</td>
<td>640</td>
<td>131.01</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005-06</td>
<td>898</td>
<td>192.53</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2006-07</td>
<td>1,073</td>
<td>212.40</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2007-08</td>
<td>1,348</td>
<td>253.48</td>
<td>279.34</td>
<td>1,880/-</td>
</tr>
<tr>
<td>2008-09</td>
<td>1,156</td>
<td>207.12</td>
<td></td>
<td>1,791/-</td>
</tr>
<tr>
<td>2009-10</td>
<td>850, 1,233</td>
<td>145.15 (till Dec. '09) 240.09 (till 31/03/10; data collected directly from the Dept. of SJE)</td>
<td>175.66</td>
<td>1,947/-</td>
</tr>
</tbody>
</table>

2Annual Report 2009-2010 of the Ministry of Social Justice and Empowerment, India, New Delhi

As is clear from Box 3 in the Annexure, the Act and the Rules provide for a very liberal and comprehensive relief and rehabilitation package. However, looking at the reports of the monetary compensation given to the victims, the average amount per victim is a very paltry sum, i.e., below Rs.2,000/- per year, in the last three years. It is also not clear as to what the monetary compensation includes, i.e. immediate cash relief, provision of house, medical/education facilities, allotment of land or housing site, as per the provision in the Rules. As per the data obtained from the DoSJE, Jaipur, in the last three years, under this Act compensation has been provided to 3,737 victims (as per the AR of SJE pp.30 and the officer at the SJE) and the total quantum of compensation for the last three years was ‘700.69 lakhs (as per the AR of SJE pp.30 and the officer at the SJE). This too amounts to an average of Rs.1,875/-.

\[\text{11} \text{Since there is only 1 case pending trial under PCRA, as was mentioned to us in Jaipur, the entire amount (in the above table) would be the assistance for the POA Act.}\]
As per the information provided by the Director, SC/ST Protection Cell at the Police Head Quarters, and the MoSJE’s report of 2009-10 Special Courts for the purpose of this Act do exist. There are 17 Special Courts while in the rest of the districts the District Judge’s courts have been designated as Special Courts. As for Special Public Prosecutors (SPPs), the Director, SC/ST Protection Cell did not have the answer to this and directed us to the Directorate of Prosecution at the Secretariat who reported that in Baran and Savai Madhopur the positions were vacant while one each had been appointed in Jaipur and Jodhpur. Special Officers have also been appointed to coordinate the implementation of the provisions of the Act, under the provision, under Rule 10 whereby Additional District Magistrates (ADMs) have been declared Special Officers.

A list of ‘atrocity-prone districts’ was provided to us at the SC/ST Protection Cell, Police Head Quarters in Jaipur. However, this is not the result of any survey undertaken; the districts reporting the highest incidence of cases under PoA, 1989 have been termed as “atrocity-prone” districts. (See Table 2 in Annexure)

There are Vigilance and Monitoring Committees, we were told, both in the state capital as well as at the districts. There are five district committees; the composition of the district committees was not available in the state capital (at the DoSJE) as also the frequency of their meetings. The composition of the state level committee was given, but only the designations as per the Rules, and not the actual names of persons holding the office at that particular time. Meetings of the state level committee were held four times during the five years that the last government was in power, as against the 10 that should have been held (twice a year). Minutes and agenda of the meetings were not available.
As for review of the Act, we were told that a formal review had never been done, but several queries, seeking guidance, had been sent to the central ministry on the implementation of the Act, but none of the queries had ever been answered. In the absence of answers to their queries, they had to interpret the provisions themselves.

Protective Measures – the view from below

In an effort to get the other side of the picture, we spoke to the victims and to organisation/s working with and for the victims. The picture about the various protective measures that emerged is presented in this Sub-Section. A news report recounted in the Box below perhaps best captures the situation with regard to Dalits.

The Hindu, Sunday, April 4, 2010
Police officer pulled up for submitting 'false' report

Jaipur: The Sessions Court in Bharatpur Town has passed structures against a police officer for submitting a "false and baseless" report absolving a man belonging to the dominant Jat community accused of murdering a Dalit woman and injuring others in broad daylight at Nangla Bhai village following a petty quarrel. The report was filed on the basis of a purported investigation.

District and Sessions Judge M. Anwar Alam, rejecting the bail application of accused Dhami over the weekend, said the Investigating Officer, Deputy Superintendent of Police Himmat Singh, had surprisingly concluded that no offence was made out and even the post-mortem report had not mentioned head injury described in the death certificate as the cause of the victim's demise.

Thirty-five year old Girraji Jatav was killed and another woman, Lajja, of a Dalit family, was seriously injured allegedly in an attack by a group of four men, including Dhami, with sharp-edged weapons and lathis on November 28 last year. The dispute started after a Jat boy riding a bicycle hit Lajja's daughter in the street outside her house and injured her.

When Lajja scolded the boy, he threatened to kill her and ran away. The group of armed men arrived at the spot after a while and attacked the family. The injured women and other family members were rushed to the Government Hospital in Bharatpur, where Girraji succumbed to her injuries the next day and Lajja underwent prolonged treatment for full recovery.

Nangla Bhai village is situated 20 km. from Kumher, infamous for the Dalit massacre of 1992. The police registered an FIR with great reluctance and arrested Dhami as the lone accused, even though the complainants had identified three others as his accomplices.

An atmosphere of terror still prevails in the remote village, where the dominant Jats have reportedly threatened the minority Jatavs with dire consequences if they speak to outsiders. Dalit groups here point out that the other accused, wielding political influence, are roaming around freely in the district.

Mr. Alam in his four-page order noted that even though Girraji's death certificate had stated her head injury as the cause of her demise, it was astonishing that the post-mortem report had not mentioned it anywhere. "Only the members of the medical board would be knowing the reason for this, which is a subject matter of a separate inquiry," said the order.
The Judge observed that the Investigating Officer had rejected the testimonies of three eyewitnesses recorded under Section 161 of the Cr.PC and had neither examined injured Lajja nor obtained the hospital records of Girraji’s treatment. He noted that the doctors attending to the victim had advised CT scan of her head.

The Court described the Investigating Officer's report submitted on March 26 as a piece depicting "serious" irregularity and defective investigative procedure”.

"This false and baseless report on the murder of a SC woman presents police, administration of justice and law and order system in a poor light,” stated the order.

Bharatpur district in eastern Rajasthan has witnessed caste violence at regular intervals during the past two decades. Over 30 Jatavs were burnt alive in broad daylight and 254 homes and hutments were set ablaze in the worst ever carnage on June 6, 1992 at Kumher, not far from Nangla Bhai. Jats dominate social affairs in the region the face of blatant administrative apathy.

The Commissions

**Summary**

- A deep chasm exists between the Commissions and the victims
- National counterparts of the State Commissions are perceived to be more approachable and responsive
- No follow-up by the Commissions on their orders
- No independent investigation/inquiry agency under the SHRC Rajasthan
- Requirement of approaching the Commissions within one year of the incident is a hindrance in the quest for justice

a) The victims’ inability to get their complaints across to the Commissions without facilitation

In our meetings and interviews with the victims, it became obvious that none of the victims had approached the Commissions on their own. There had been an intermediary, usually a CBO or an NGO that had facilitated the complaint reaching the Commissions. This was on account of the fact that the victims, mostly poor, poorly educated or illiterate, were unable to write to these entities or to follow-up with them. Even ignoring the dimension of their education, there seemed to be very little awareness of the existence or presence of such bodies in the state and that they could be approached for redress.

Even otherwise, the Commissions are situated in the state capital Jaipur. It would be difficult for most of the victims to reach the Commission personally or even electronically, because of the cost involved (travel and wages lost) as well as non availability of the Commissions’ electronic contact details.

b) Approaching the national counterparts of the State Commissions preferred

The NGOs/CBOs generally write to many entities within the state as well as at the national level to apprise them of particular cases. From our interactions and discussions with the CBOs and NGOs, as well as a perusal of the case files of the cases compiled by them, we found that there was a general trend that the complaints were more likely to receive a response, any response, from the National
Commissions rather than from their counterparts in the state. Table 3 in the Annexure tries to capture this reality.

The overall response rate as seen in the Table is a meagre 20 percent, which is very low. The stark difference between the response rates of the NHRC and SHRC explains the general trend of approaching the National Commission rather than its state counterpart.

The SHRC, it is claimed in the same vein, has never conducted a single fact-finding mission in any atrocity case pertaining to Dalits. According to the NGO, it is the SHRC’s view that Dalit atrocities are not a violation, but a law and order problem and hence, not within the purview of the SHRC’s mandate.

c) Mechanism for independent investigation/inquiry agency under the SHRC, Rajasthan

The Human Rights Protection Act 1993 specifically mandates that the SHRC establish its own independent investigation cells headed by a police officer equal to the rank of Inspector General of Police (IGP) to inquire into or investigate the grave violations of human rights in the state, wherever independent investigation is warranted.

The NGOs’ experiences of dealing with violations of Dalit rights reveals that in a majority of cases against Dalits especially in rural areas, the police and administration form a nexus, attempting to hush up even the genuine cases of heinous offences against Dalits, either guided by caste bias or some other considerations. The SHRC needs to probe such cases, through its own agency, to unearth the facts and ensure justice and protection to the victims. It is a matter of regret that though the post of IGP is regularly filled up and attached to the SHRC not a single case of human rights violation against Dalits has ever been inquired into by the independent investigative arm of the SHRC, since its inception.

In this connection, it is also worth reiterating that no adequate and sufficient infrastructure has been provided to this agency for the smooth and effective functioning of such a cell.

d) The one year time limit as a hindrance

The Commissions only entertain complaints or petitions, which are brought to them within a year of the event. If they are brought after this time then they are not entertained. This is a hindrance in the quest for justice and is also self-defeating. Many petitions for justice have been dismissed on these grounds.

The victims, by and large, never seek out the Commission/s as a first option for justice. They approach the normal law and order and justice machinery, viz. the police and the courts. It is only when the wheels of justice do not move at these levels that they require an extra judicial intervention. This realisation only happens after a year or so when the victim or their family realise that their many efforts are not yielding results. Besides, the role of these Commissions is very important in the aftermath of atrocities as very often the harassment of the victim and his/her family begins precisely because they have sought justice from the state machinery.

e) No follow-up by the Commissions on their orders

In cases where the victims or NGOs have approached the Commission and the Commission has passed orders, it has been found that the Commission’s orders have not been implemented even after four to six months. The Commission does not follow up on the orders passed by it to check compliance. This is a serious lapse on the part of the Commission/s.
f) The ‘moral authority’ of the Commissions

As one of the Commission’s Member-Secretary put it, “it is true that we only have recommendatory powers, but we have a moral authority, which does work with the various agencies, which are referred to for action”. This is also corroborated by the view from the ground. The NGOs / CBOs also feel that despite the recommendatory nature of their powers, when Commissions pass orders, the administrative machinery does tend to move, even if just a little. They cite several instances when it was only after the Commission’s orders that the police filed an FIR, or proceeded to investigate the case, or expedited the payment of compensation / rehabilitation amounts, or provided protection in case of threats and harassment.

PCRA

g) Systematic undermining of the PCRA by the law enforcement machinery

Despite the reports provided to us by the officials that no cases were being reported under PCRA, our data from the NGOs / CBOs presented a different picture. They said that in several instances where cases of untouchability were reported, they had approached the police to register cases under PCRA and were told that in all such instances that “PCRA has been scrapped” followed by the refusal to book cases under this Act.

SC/ST PoA Act\textsuperscript{12}

Summary

- Police - administration nexus and caste bias results in the dilution of cases (under PoA Act), leading to acquittal
- No information about the existence of the state-level Vigilance and Monitoring Committee
- District-level Vigilance and Monitoring Committees’ major focus remains on sanctioning compensation amounts, which is contrary to its mandate as per the Act and its Rules
- The non-official members to these committees were removed by a GR and there have been no fresh appointments
- Ineffectiveness and bias permeate the functioning of SC/ST Cells.

h) Refusal of the police to register FIRs

It has been reported that in several instances, the police refuse to register FIRs on various pretexts or they prolong the process citing “investigative process”. It was reported to us that “in 60 percent of the cases the application is taken by the police, but it never gets translated into an FIR”.

i) Political pressure

Many a times, in cases of Dalit atrocities, without the knowledge of the Superintendent of Police (SP) the cases are transferred to the Police Head Quarters in Jaipur from the districts. This happens when a politician or higher ups in the state bureaucracy order the file to be transferred. It then languishes in the

\textsuperscript{12} Similar observations and conclusions have been arrived at by Justice Lodha who inquired into the Kumher atrocity in Bharatpur District.
state capital and no arrests are therefore possible. This results in the perpetrators of the crime roaming freely in their areas, being able to threaten and pressurise the victims into surrender or silence. At the very least, it heightens their sense of insecurity and vulnerability.

j) State-level Monitoring and Vigilance Committee

The state-level Monitoring and Vigilance Committee was formed during the tenure of Vasundhara Raje Scindia in 2003. The Chief Minister is supposed to be the Chairperson of this committee. However, Ms. Raje Scindia formed it under the Chairmanship of the then Home Minister and without any non-official persons as members, despite the stipulation that the committee should have non-official members. The Gehlot government which took over power in 2008 reconstituted the Committee. However, it is not known whether the committee has ever met since or whether the recommendations of the earlier committee have been implemented.

k) Malfunctioning of Monitoring and Vigilance Committees at the district level

There are also district level Monitoring and Vigilance Committees which have been stipulated under this Act. However, the functioning of the district level Monitoring and Vigilance Committees are not in accordance with the spirit of the Rules of the Act. Rule 17 of SC/ST (PoA) Act provides that such Committees shall review the status of atrocity cases registered under the provisions of the SC/ST PoA Act and have nothing to do with the sanctioning of the monetary compensation available under the Act. Yet, the proceedings of the meetings of a majority of such committees indicate that perhaps their only function is to sanction the amount of compensation to the victims of atrocities. This results in inordinate delays in the compensation being given to the victims. The very purpose of extending financial support to the victims is defeated. It means that the district level Monitoring and Vigilance Committees are very often used as an excuse for non-payment of compensation. Many a victim has said that compensation was denied to them or was delayed, saying “the Vigilance Committee has not sanctioned it” despite the fact that the Vigilance and Monitoring Committee has no such powers under the Act. It implies that either the police are unaware of the stipulation or are misusing this provision to deny relief and succour due to the victims.

In 2008, the membership of non-official members to these committees was terminated by a GR (vide F 11(133) (1) R&P/ DSJE / 07 / 69728 Jaipur, dated 24-12-2008). There have been no fresh appointments so far.

People working at the ground level have observed that the appointment of non-official members to the district level committees happens along party lines and often junior level party functionaries are made members of these committees, depending on the party in power at the state level. One never hears of NGO/CBO workers/activists who are directly working with Dalits and for Dalit rights being nominated to these committees.

As per the minutes of these meetings available with us13, the content reveals that the discussions predominantly focussed on the cases pending and closed and under investigation, amount of compensation, and payment of legal, travel and daily expenses to the victims. However, the fact that the Committee met four times in a span of five months was significant.

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13 As per the RTI application filed by Shri P. L. Mimroth, the District Information Officer, Jhalore provided the copy of the minutes of 5 meetings – 30/08/08, 15/06/09, 03/07/09, 15/07/09 and 13/10/09.
l) Ineffective and biased role of SC/ST Cells

There is a specific provision under the SC/ST PoA Act for setting up special SC/ST Cells headed by a police officer of the rank of IGP at Police Head Quarters and the Deputy Superintendent of Police (DySP) at the district level for regular monitoring and review of the cases of atrocities against Dalits in their respective areas. Yet, the ground reality reveals that all such special cells are either defunct or ineffective, as the people at the ground have never seen or interacted with these.

Even where such cells are headed by the DySP, they tend to display caste bias, and have generally been found to be non cooperative and heavily influenced by politicians to either hush up or deliberately dilute the atrocity case in favour of the ‘upper’ castes. Victims are thus routinely denied justice.

In this connection, the minutes of the Jhalore District Vigilance and Monitoring Committee’s meeting, throw some light on the perspective with which this particular body is viewed in official circles. It states, “In connection with the establishment of Special Cells, the Chief Secretary asked that the Cells be set up only on the need for it being established. Further, only such police officers be assigned to these Cells who either wish to serve in these Cells or belong to SC/ST communities. Moreover, the quality of these Cells also should be upgraded.” The recommended action for the appointment of police officers is clearly reflective of a caste-bias and highly condemnable.

They often consider such cases as a law and order problem instead of looking into the root cause of the problem of the atrocity and dealing with it in accordance with the true spirit of the SC/ST Act. There are a number of cases where even the Dalit victims are arrested and booked under preventive Section 151 of the CrPC “to maintain peace, social harmony and law and order” in the area, in total disregard of the legal provisions.

m) Helpline

Regarding helpline, it has been observed that “…the Addl. DGP has informed that against the proposed expense of ` 40 lakhs for the helpline, the Finance Department has approved an expense of only one telephone. A proposal for this should be prepared and sent to the GoI.” The DoSJE’s AR for 2010 states that the helpline became operational from 15th January 2010.
Summary

- The total plan budget for Rajasthan in 2008-09 was `89747725 crores, and the allocation under SCP was `2724595 which, at 2.7% is abysmally low, up by a negligible 0.4% over the previous year.
- In only 3 departments, viz. 'Other special area programme', 'Welfare of SC, ST & OBC' and 'Nutrition' does the allocation go beyond the stipulated figure; needless to say the first two are mandatory for marginalised groups / areas only, of which SCs are a part.
- Around 15 departments (including irrigation (major and minor), general education, medical and public health, water supply and sanitation, urban development, labour and development, and, social security and welfare) report measly allocations amounting to less than 1%.

This is the third part of the State’s strategy aimed at Dalit empowerment and social justice. The development measure that we are probing here is the provision of the Special Component Plan, earlier known as the Scheduled Castes Sub-Plan (SCSP).

It relates to the focused and comprehensive development of SCs (and STs). Initiated in 1979, it is one of the most important interventions through the planning process for the social, economic and educational development of SCs and for improving their working and living conditions. It is an umbrella strategy to ensure the flow of targeted financial and physical benefits from the annual plan of States / Union Territories (UTs), at least in proportion to the SC population, from all the general sectors of development for the benefit of SCs. It is operationalised through the allocation of funds and earmarking of benefits under various development programmes for members of these communities in order that they improve their economic conditions as a route to upward mobility. In respect of SCs, this is known as the Special Component Plan (SCP), which laid down that the concerned agencies should prepare a separate plan for the development of SCs by allocating a percentage of resources, which is at least equivalent to the percentage of their population in the state and the Centre, as the case may be. These resources would be exclusively devoted to taking up programmes and activities, which directly improved their economic conditions. This provision was further strengthened by the direct allocation of certain resources by the Central Government known as Special Central Assistance (SCA) to be used for this purpose in addition to the earmarked funds under the SCP.

As a corollary to this arrangement, the state policy also mandated that in various development programmes, which have a beneficiary orientation, it should be ensured that the number of beneficiaries belonging to SCs (as also STs) should at least be equivalent to the percentage of their population, so
that implementing agencies do not produce any alibis or resort to manipulation to deprive these communities of their share. In certain programmes where the gaps between the SCs (the same applied to STs) and the rest of the community is excessively large, special arrangements are made to bridge this gap by way of additional resource allocation and through special institutional arrangements. Some of the areas qualifying for this dispensation are the extension of literacy, poverty alleviation, land allotment for housing and cultivation, etc.

Although the SCs population, according to the 2001 Census, was 16.66 crores constituting 16.23 percent of the total population of India, the allocations made through the SCP in recent years have been much lower than the proportion of the population, as is claimed by various independent sources (also see Box 3 in Annexure).

**Box 5**

This year the total Plan outlay is ₹ 2,12,431 crores and as per the Special Component Plan the SCs are liable to get 34,413.82 crores. The total allocation under the SCP is only 15,280.08 crores. The amount denied is ₹19,133.74 crores. The percentage allocated to SCs is a meagre 7.1% of the total Plan Outlay. As per the policy, 16.2% is the amount that should have been allocated. This is even lower than last year’s allocation which was 7.5%. While the total increase in the plan outlay is 15.74% it is unacceptable that ... the amount for the socially and economically vulnerable sections is drastically reduced. The amount denied is 55% this year!

**Budget Allocations in Total Plan Outlay under Special Component Plan 2009-2010**

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Total Plan Expenditure*</th>
<th>Due as per SCP</th>
<th>SCP Allocation</th>
<th>Denied Amount</th>
<th>% SCP to Total Plan Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10 (BE)</td>
<td>212431</td>
<td>34413.82</td>
<td>15280.08</td>
<td>19133.74</td>
<td>7.19</td>
</tr>
</tbody>
</table>

* Plan Expenditure excluding Central Assistance to States and UTs with legislature

Source: Expenditure Volume 1 and 2, Budget at Glance

The share of expenditure on SCs from total expenditure is lowered to 1.74% from 1.93%. Similarly, the central share for SCs to the total GDP at current market price is only 0.28%.

**Total Expenditure on SCs in the Budget both Plan and non-Plan Budget 2009-2010**

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Total Expenditure</th>
<th>Total GDP at current market price</th>
<th>Expenditure on SC</th>
<th>% SC share of total Expenditure</th>
<th>Total as % of GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10 (BE)</td>
<td>953231</td>
<td>6021426</td>
<td>16603.84</td>
<td>1.74</td>
<td>0.28</td>
</tr>
</tbody>
</table>
Total Amount Denied to SCs - 2005-2010

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Total Plan Expenditure*</th>
<th>Due as per SCP</th>
<th>SCP Allocation</th>
<th>Denied Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06 (RE)</td>
<td>113043</td>
<td>18312.966</td>
<td>6578.59</td>
<td>11734.38</td>
</tr>
<tr>
<td>2006-07 (RE)</td>
<td>134757</td>
<td>21830.634</td>
<td>8473.94</td>
<td>13356.69</td>
</tr>
<tr>
<td>2007-08 (RE)</td>
<td>158491</td>
<td>25675.542</td>
<td>12367.77</td>
<td>13307.77</td>
</tr>
<tr>
<td>2008-09 (RE)</td>
<td>183528</td>
<td>29731.536</td>
<td>14727.02</td>
<td>15004.52</td>
</tr>
<tr>
<td>2009-10 (BE)</td>
<td>212431</td>
<td>34413.822</td>
<td>15280.08</td>
<td>19133.74</td>
</tr>
<tr>
<td><strong>Total Amount Denied to SCs - 2005-2010</strong></td>
<td><strong>72537.10</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Plan Expenditure excluding Central Assistance to States and UTs with legislature

Source: Expenditure Volume I and II 2009-10

Source: Dalit Arthik Adhikar Andolan (DAAA), NCDHR, New Delhi

The fate of the SCP at the state level is similar to that at the central level. In Rajasthan, the DoSJE functions as the nodal department for coordinating the SCP activities in the state. The total plan budget for Rajasthan in 2008-09 was ₹ 89747725 crores, and the allocation under SCP was ₹ 2724595 which, at 2.7 percent is abysmally low, up by a negligible 0.4 percent over the previous year.

Table 15.1

<table>
<thead>
<tr>
<th>Year</th>
<th>Plan Qutlay (BE)</th>
<th>SCP (BE)</th>
<th>Percentage of Plan Qutlay</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>8184</td>
<td>189</td>
<td>2.3%</td>
</tr>
<tr>
<td>2008-09</td>
<td>8974</td>
<td>272</td>
<td>3.0%</td>
</tr>
</tbody>
</table>

Source: Status of Special Component Plan: Analysis of Union Budget and State Budget 2008-09, NCDHR, 2009

Table 15.2

<table>
<thead>
<tr>
<th>Year</th>
<th>Plan Qutlay (BE)</th>
<th>SCP (BE)</th>
<th>Expenditure from SCP</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007-08</td>
<td>13684.32</td>
<td>1996.67 (14.5%)</td>
<td>1998.95 (14.6%)</td>
</tr>
<tr>
<td>2008-09</td>
<td>14020.00</td>
<td>2194.31 (15.65%)</td>
<td>2352.35 (16.7%)</td>
</tr>
<tr>
<td>2009-10</td>
<td>18560.84</td>
<td>2978.52 (16.04%)</td>
<td>2821.49 (15.2%)</td>
</tr>
</tbody>
</table>

Source: Dept. of SJE, Jaipur
There is a discrepancy in the figures given in the two Tables above. The official DoSJE figures put the SCP allocations just below but close to the mandatory figure of 17.2 percent. On the other hand, the NCDHR (2009) figures show the SCP allocations to be as low as two and three percent respectively.

The Director, SCP at the DoSJE, Jaipur in a brief interview to us, did explain some of the problems faced by some departments in booking expenses under the SCP. According to her, some departments, especially those dealing with infrastructure such as roads, irrigation, mining etc. find it difficult to differentiate / identify their work as being specifically for SCs. In such a situation, it becomes difficult to calculate the exact amount spent towards the SCP, and thus it remains a “notional expense”. In the absence of correct and actual data, there is a significant time lag in generating accurate and timely reports. When asked what the other reasons could affect the availability of data, she cited the work load, lack of knowledge (of booking SCP expenses) and low priority as causes for the delay. In order to overcome this difficulty, she said, all departments have been asked to open an account under the budget head ‘789’ and deposit 17.2 percent of their annual budgets into this account which is non-lapsable and non-divertible.

A closer scrutiny of the departments reveals a dismal picture (see Table below). In only three departments, viz. ‘Other special area programme’, ‘Welfare of SC, ST & OBC’ and ‘Nutrition’ does the allocation go beyond the stipulated figure; needless to say the first two are mandatory for marginalised groups / areas only, of which SCs are a part. A very significant number i.e., 15 departments have made measly allocations amounting to less than one percent. Of them are some important departments like irrigation (major and minor), general education, medical and public health, water supply and sanitation, urban development, labour and development, and, social security and welfare. These are all areas where SCs are lagging behind. Not allocating the mandatory amounts is tantamount to wilful negligence and deliberate oversight.

Table 16 : Rajasthan Budget 2007-08

<table>
<thead>
<tr>
<th>Departments</th>
<th>Plan Outlay (BE)</th>
<th>SCP (BE)</th>
<th>% of Plan Outlay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crop husbandry</td>
<td>2818527</td>
<td>185901</td>
<td>6.60%</td>
</tr>
<tr>
<td>Soil &amp; water conservation</td>
<td>60244</td>
<td>2</td>
<td>0%</td>
</tr>
<tr>
<td>Animal husbandry</td>
<td>194825</td>
<td>25000</td>
<td>12.83%</td>
</tr>
<tr>
<td>Fisheries</td>
<td>3116</td>
<td>100</td>
<td>3.21%</td>
</tr>
<tr>
<td>Forestry &amp; wildlife</td>
<td>739360</td>
<td>7501</td>
<td>1.01%</td>
</tr>
<tr>
<td>Other rural development programmes</td>
<td>7347360</td>
<td>349946</td>
<td>4.76%</td>
</tr>
<tr>
<td>Other special area programme</td>
<td>723001</td>
<td>424200</td>
<td>58.67%</td>
</tr>
<tr>
<td>Major irrigation</td>
<td>5629297</td>
<td>7</td>
<td>0%</td>
</tr>
<tr>
<td>Minor irrigation</td>
<td>2820369</td>
<td>1</td>
<td>0%</td>
</tr>
</tbody>
</table>

14 With short and erratic monsoons, Rajasthan is the most water deficient state in the country. While the development of water resources has always been first priority for Rajasthan and notable success has been achieved in the area of water harvesting and conservation, the efforts have nevertheless been hampered due to non-availability of adequate resources. The severity of this can be best appreciated by the following data: Geographical land mass: 10.40%; Population (2001 census): 5.50%; Availability of water resources: 1.04%.
<table>
<thead>
<tr>
<th>Departments</th>
<th>Plan Qutlay (BE)</th>
<th>SCP (BE)</th>
<th>% of Plan Qutlay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petroleum</td>
<td>5845</td>
<td>1</td>
<td>0.02%</td>
</tr>
<tr>
<td>Village &amp; small industries</td>
<td>129037</td>
<td>6231</td>
<td>4.83%</td>
</tr>
<tr>
<td>Industries</td>
<td>66551</td>
<td>904</td>
<td>1.36%</td>
</tr>
<tr>
<td>Non-ferrous metals and metallurgical industries</td>
<td>10746</td>
<td>1</td>
<td>0.01%</td>
</tr>
<tr>
<td>Roads &amp; bridges</td>
<td>6062868</td>
<td>1</td>
<td>0%</td>
</tr>
<tr>
<td>Other general economic services</td>
<td>587635</td>
<td>2</td>
<td>0%</td>
</tr>
<tr>
<td>General education</td>
<td>7630734</td>
<td>23080</td>
<td>0.30%</td>
</tr>
<tr>
<td>Art &amp; culture</td>
<td>220650</td>
<td>1</td>
<td>0%</td>
</tr>
<tr>
<td>Medical &amp; public health</td>
<td>3184819</td>
<td>3301</td>
<td>0.10%</td>
</tr>
<tr>
<td>Water supply and sanitation</td>
<td>10082610</td>
<td>40000</td>
<td>0.40%</td>
</tr>
<tr>
<td>Urban development</td>
<td>7442787</td>
<td>2</td>
<td>0%</td>
</tr>
<tr>
<td>Welfare of SC, ST &amp; OBC</td>
<td>2462583</td>
<td>1007885</td>
<td>40.93%</td>
</tr>
<tr>
<td>Labour &amp; employment</td>
<td>182287</td>
<td>527</td>
<td>0.29%</td>
</tr>
<tr>
<td>Social security &amp; welfare</td>
<td>1276621</td>
<td>1</td>
<td>0%</td>
</tr>
<tr>
<td>Nutrition</td>
<td>2172895</td>
<td>650000</td>
<td>29.91%</td>
</tr>
</tbody>
</table>

*Source: Budget at a Glance and Budget Detail Book*

The SCA to SCP figures were also obtained from the DoSJE and were as follows.

**Table 17**

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002-03</td>
<td>34.23</td>
<td>2007-08</td>
<td>39.68</td>
</tr>
<tr>
<td>2003-04</td>
<td>29.84</td>
<td>2008-09</td>
<td>33.32</td>
</tr>
<tr>
<td>2004-05</td>
<td>23.66</td>
<td>2009-10</td>
<td>24.33</td>
</tr>
<tr>
<td>2005-06</td>
<td>33.29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2006-07</td>
<td>40.48</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>161.50</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Source: Dept. of SJE, Jaipur*

The utilisation figures for the SCA were however, not available to us. The explanation given to us was that the entire SCA amount, upon receipt, is released to the SC Finance Corporation and the utilisation figures would figure in the latter’s total utilisation; separate utilisation figures of the SCA amount would therefore be difficult to find.
It is thus clear that the protective measures and developmental measures (a sample of which were discussed above) have not been implemented in the spirit in which they were conceived. Its reach therefore remains limited and its impact is not clearly visible at the micro level.

**Summary**

**Protective measures**
- Two commissions (the SC Commission and the Women's Commission) have not been appointed.
- Credibility of the National Commissions is greater than their state counterparts.
- The gender component has not been paid adequate attention to while constituting the Commissions.
- Political appointees to the Commissions make them susceptible to manipulations to the detriment of the cause.
- Huge overlaps between the mandates of the Commissions.
- No collaboration between the Commissions.
- SC Commission has never brought out its annual reports.
- The HR and Women's Commissions have annual reports, which are not widely or proactively disseminated.
- Inadequate disclosures in the reports.
- Data in reports not disaggregated by gender and caste.
- No independent studies or reviews commissioned by the Commission.
- Publicity of various provisions has barely been undertaken by the Commissions.
- PCRA and PoA Acts are being deliberately undermined and rendered toothless.

**Developmental measures**
- The allocations under the SCSP are way below the stipulated 17% of the total state budget.

**Protective measures**

**Appointment of the Commissions**

Of the three Commissions reviewed, the SHRC, the RSCSC and RSWC, two commissions, viz. the SC Commission and the Women’s Commission, have not been appointed by the new government, despite being in the saddle for nearly a year and a half. The explanation given to us was that the norm is for the Chairpersons to tender their resignations upon a new government being sworn in or dissolving the existing Commission, despite their term not having expired, making way for the new government to appoint a fresh body. This is a mockery of a Constitutional watchdog body, casting serious aspersions upon its neutrality and effectiveness.
In the absence of a formal body, the complaints are handled by the junior officers in the Commission. In the RSCSC, the junior accountant handles the correspondence with the complainants, most of the staff having been deputed elsewhere. It is a similar case at the RSWC too, although it has more staff than the former. In the absence of a Commission and office holders, the kind of inquiries that might be held, and by whom is a moot question.

Non appointment of statutory bodies would perforce lead us to conclude that such Commissions, at best, are viewed as low priority for the government.

**Credibility of the State Commissions vis-à-vis the National Commissions**

Among the activists and NGOs, the section that regularly resorts to the Commissions, say that the State Commissions do not appear as responsive or concerned as the National Commissions. The general preference in the face of atrocities and obstacles is to approach the National Commissions. The credibility of the State Commissions as compared to the National Commissions is definitely low in the eyes of its constituencies.

**Composition of the Commissions**

Of the three Commissions, one is exclusively for women, while the other two are for HR violations and SCs. The governing body of the former is composed entirely of women while those of the latter entirely of men. This is symptomatic of a general rule governing gender issues i.e. women’s issues to be addressed by women only and the rest by men. The gender imbalance in all Commissions would need a re-examination.

**Effectiveness of the Commissions**

Secondly, the Chairpersons of these two Commissions are members of political parties, quite obviously the ruling party. The Commissions’ ability to undertake effective monitoring of the socio-politico-economic environment of the state from the perspective of particular groups is severely compromised. Not surprisingly then, no instances of independent inquiries by these two Commissions into incidents or questionable practices have been found. It is precisely for this reason, that SCs and women also resort to the SHRC, being unable to either depend on or approach the respective Commissions.

**Overlap of the mandate of the Commissions**

Two Commissions have a specific target group orientation, viz. women and the SCs while the SHRC has an overarching human rights and justice orientation. Atrocities on SCs and women are also a human right abuse, and as such, there is a huge overlap between the mandates of all three Commissions15. The staff of these Commissions, when asked, also admitted that there is a huge overlap between the mandates of the Commissions.

**Annual reports of the Commissions**

The RSCSC does not have annual reports, we were told, as none have been presented in the 10 years since it was constituted in 2001. This would be a serious lapse in its responsibility to public accountability.

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15 SCs and women approach the SHRC, singly or together with the specific commission. In the latter case, the SHRC simply writes to the other commission to take note of the complaint and informs the complainant of the same.
The other two, i.e. the RSHRC and the RSWC do have annual reports, which are only given when a written request has been submitted to the Secretary and he/she grants permission for the same. As these are public documents, they should be made freely available to anyone asking for them. Moreover, wider dissemination of the same needs to be done so that the functioning of the Commission is brought closer to the actual people that it is meant to reach out to.

**Inadequate disclosure in the reports**

The ARs provide a glimpse into the action taken by the Commissions on some of the complaints in terms of sending suggestions to the concerned department or asking for an explanation. They do not say anything about how these suggestions or recommendations are received by the departments, and if they have been acted upon by the government, or those that have not been acted upon and the follow up in such cases. For instance, the RSWC’s AR mentions that the state government confers with the Commission, from time to time, upon some of its important policies and policy-related issues. However, it does not mention which policies nor does it mention what the response of the Commission has been. It also mentions that the Commission provides analytical comments on the implementation of the Gender Policy of the GoR to the Department of Women and Child Welfare. However, it does not provide any other details of what has been achieved in terms of the Gender Policy or the road that remains to be travelled.

**Caste and gender disaggregated data of the cases before the Commission is not available**

The two Commissions, the RSHRC and the RSWC that present their ARs also give a table of complaints received by them during the year. These are segregated according to the nature of the complaint and by geographical district. There is no segregation of the complaints on the axes of caste and gender. For instance, the SWC lists out the number of complaints received from each district of Rajasthan according to the nature of crime e.g. murder, kidnapping, rape, bigamy, attempt to murder, sexual harassment at workplace and such like. The same data is not segregated on caste lines, which could yield significant information about the sexual nature of caste-related discrimination and whether the Women’s Commission is being approached for the same or not and if approached what is its response.

Similarly, the RSHRC gives a similar listing by district and the nature of the complaint (environmental concerns, labour related, health related) or the particular group (children, women, minorities). It does not provide caste or gender disaggregated data of the offences. For instance, if it were to provide the caste and gender break up of ‘labour related’ complaints one could track the flouting of the progressive labour legislations aimed at reducing caste disparities and discrimination.

**Publications / study reports by Commissions**

None of the Commissions have reported special studies being commissioned by them on some of the crucial issues facing the constituencies that they represent. This is an important aspect of their responsibility as well as authority, which can have the potential for tremendous change, but which remains significantly underutilised.

**Wider dissemination of various provisions and entitlements**

It is within the mandates of the Commissions to undertake the task of disseminating the various Acts, laws, rules and other provisions made for specific groups or purposes. However, RSCSC and RSWC
have not undertaken any proactive measures to disseminate any of the legal or constitutional provisions meant for their specific groups. The SHRC has published some bare Acts and other provisions meant for various categories of people (SCs, children, PLWHA, under trials, prisoners etc). However, there is scope for much more to be done on this front in terms of publications and the dissemination of constitutional and legal provisions.

**Accessibility of the Commissions to the general public**

There appears a deep chasm between the Commissions and the direct constituencies of these Commissions. In a small way, the NGOs/CBOs try to bridge this, but they have certain constraints and limitations. The issue here is one of the Commissions’ perceived accessibility and responsiveness and it is clear that they are perceived to be inaccessible and unresponsive, whether correctly or otherwise.

**Follow-up of the Commissions’ orders**

In cases where the victims or NGOs have approached the Commission and it has passed orders, it has been found that the Commission’s orders have not been implemented even after four to six months. The Commission does not follow up on the orders passed by it to check compliance. Deliberate or unintended flouting of the Commission’s orders has the effect of eroding its credibility in the eyes of the public at large. It further undermines the constitutional mandate of a constitutional body, simultaneously strengthening the hold of the oppressive forces on the already victimised sections of society.

**Undermining the spirit of the protective mechanisms – PCRA and PoA**

It has been observed that the two protective mechanisms viz. the PCRA and the SC/ST PoA Act, are not being applied uniformly, and more importantly, in the spirit in which they were crafted. The PCRA is not being applied at all, despite demands to the contrary, with deliberate misinformation being spread about its abolition. The PoA, on the other hand, is being used. However, the acquittal rates and the percentage of cases closed are very high, suggesting that the investigation and evidence gathering procedures are either severely strained or are being deliberately manipulated. Both instances are suggestive of a casteist mindset affecting their implementation.

As mentioned earlier, the district level Vigilance and Monitoring Committees (under the PoA Act) have assumed the power to grant compensation to victims of atrocities, contrary to what is mentioned in the Act and its Rules. It is suggested that this misuse of the provisions be inquired into and the Committees be directed to function as per the mandate of the SC/ST Act.

**Developmental Measures**

**Special Component Plan**

The allocations under the SCSP are way below the stipulated 17 percent of the total state budget. While the DoSJE as the nodal body monitoring the SCSP allocations and utilisation is making efforts to ensure that allocations materialise, obviously these are not enough. There appears to be resistance to making the allocations and that requires special efforts of a different kind (sensitisation, more publicity, more proactive disclosures, and more collaboration with the private and non-governmental sectors).
Based on the data available to us we offer a set of broad recommendations, and some specific recommendations as well. The recommendations are made in full recognition of the fact that several such recommendations have already been made, by more eminent persons and institutions. That they need to be reiterated is also testimony to the fact that they remain largely unaddressed.

**Summary**

- Constitute the Commissions
- Respect the tenure of the Commissions
- Bridging the distance between the Commissions and their constituencies
- Maintain a gender balance in the constitution of the Commissions
- Provide gender and caste disaggregated data
- Ensure public accountability via reporting protocols
- Follow-up on the implementation of the Commissions’ orders
- More collaboration between the 3 Commissions
- Publicity of various constitutional and legal measures
- Collaboration with genuine NGOs should be pursued
- Review the working of PCRA and PoA in the state
- Provide training to officials
- Revise and increase the punishment and fine under PCRA
- Link conviction under PCRA and PoA to disqualification from government benefits
- Stringent monitoring of SCP expenditure
- Devise indicators of meaningful change through SCP expenditure.

**Constitution of the Commissions**

A serious view should be taken of the non-appointment of constitutionally mandated Commissions and measures need to be taken to appoint these at the earliest. Legal options may be explored if the government continues to ignore calls for the constitution/appointment of these Commissions.

**Respect the tenure of the Commissions**

Tampering with their mandatory tenure or dismissal/dissolution before the expiry of the term (without adequate and public disclosure of the reasons for so doing) also should be viewed with critical censure and judicial interventions be employed to discontinue this practice.
Bridging the distance between the Commissions and their constituencies

The Commissions need to take special measures to bridge the distance that separates them from their actual constituencies in the poorer and more deprived sections of society. Publicity of the existence and mandate of the Commissions in the vernacular media, print and electronic, as also simplification of the process of complaints via telephone would go a long way in bringing the Commissions closer to the people. This would entail detailed and adequate training of the Commission personnel in handling the complaints as also the personal interface with the complainants (on phone or if visiting the premises of the Commission).

Gender balance in the constitution of the Commissions

The government, while nominating members to the Commissions, ought to pay especial attention to its gender balance, without perpetuating the trend of relegating women’s issues to women and the rest to men.

Caste and gender disaggregated data

Numerical and quantitative data gathering provides significant evidence of the trend of violations and crimes being committed. It is therefore important that the data collection, which has heretofore been along rather straightforward lines (nature of crimes by geographical location), be now done along disaggregated lines to be able to make more specific connections and to make the analyses and prediction of trends more refined and precise. Caste and gender segregation of data assumes great significance in this light.

Public accountability via its reporting protocols

Two of the Commissions do bring out ARs while the third has never done so, a minimal condition of accountability. The inability of a Commission to fulfil its responsibility of public accountability via its ARs ought to be critically viewed, and more vociferous demands should be made to fulfil this minimal requirement. Besides, this material, once published is in the public domain and ought to be freely available. The Commissions should have a good mailing list, and they should proactively send them out to as many stakeholders – institutional and individual, governmental as well as non-governmental and private – as possible; and when sought they should be provided without prejudice or reservations.

Follow-up on the Commissions’ orders

The Commissions ought to institute some mechanism whereby their orders to the various departments or state entities are monitored for timely implementation.

More collaboration between the three Commissions may be usefully pursued

As of now, the three Commissions work independently of one another. Given the fact that all three address the issue of the violation of rights of marginalised groups (albeit different groups or issues) some mechanism of collaboration would help to make the work of all three more effective and efficient. To begin with, perhaps members from each Commission could be nominated on the other’s governing body so that at the very least, there is a mutual exchange of information. It would also be in the right spirit.
Publicity of the various measures in place (including PCRA and PoA) to be taken up

The state government, concerned departments and the three Commissions urgently need to take measures to widely publicise, through the various print and electronic media, the different protective and developmental measures initiated for the welfare of the SC communities. As of now, such efforts are conspicuous by their absence. Lack of awareness of the same among the target communities translates into minimal demands from the people and minimal protest when they are denied.

Collaboration with genuine NGOs is possible and should not be ruled out

The Commissions, it has emerged, have not recognised NGOs/CBOs as genuine well-wishers with deep contacts with the SC communities. A few bogus NGOs/CBOs and their mal intentions should not be allowed to taint the entire sector. The Commissions need to take proactive steps to seek out genuine NGOs/CBOs who work with the SCs and seek their cooperation in extending their own reach and effectiveness.

Revisit and review the ‘one year’ time limit

The one year rule, wherein the Commissions do not entertain complaints beyond a year of the incident, ought to be revisited in light of the data from the ground, wherein it is being cited as a hindrance in the quest for succour and justice.

Review the working of PCRA and PoA in the state

The working of PCRA and PoA in the state of Rajasthan should be undertaken in order to get the correct picture of their usage, how widely or otherwise it is being resorted to and the shortcomings and limitations. The findings of the review should be made public and widely disseminated.

Training to officials and elected representatives in the provisions and implementation of PCRA and PoA

It has emerged in the course of our investigations that the lower levels in the police administration and judiciary as well as elected representatives are not entirely familiar with the various provisions and implementation of the two Acts. It is imperative in the interests of justice that they are made familiar with the intricacies of the two Acts so that their implementation is more attuned to their spirit.

Revise and increase the punishment and fine under PCRA

The meagre punishment stipulated in the PCRA for untouchability-related offences needs to be revised and increased; six months imprisonment and a fine of ‘ 100/- is not a deterrent at all.

Link conviction under PCRA and PoA to disqualification for government assistance

Further, conviction under PCRA and PoA should be linked to withdrawal or forfeiture of all government assistance to the accused or automatic disqualification for further government assistance from any department or ministry. This will have a stronger deterrent effect than is presently obtained.
**Stringent monitoring of Special Component Plan**

The allocation to the SCSP and, more importantly, the expenditures need to be stringently monitored to confirm to the stipulated amounts. Furthermore, the changes in the quality of life that the expenditure brings also need to be closely scrutinised to be able to discern meaningful change. A serious exercise to arrive at indicators of meaningful change, keeping the reality of the present situation of the SCs in mind, needs to be undertaken.

The foregoing discussion has made it amply clear that much remains to be done to ensure that the prejudice that informs the implementation of the various protective measures is replaced by a sense of rightful indignation at the inequities that are prevalent. Until that is done, the road to social transformation will remain only partially traversed. Greater awareness and forceful demands from below are the only factors that can enforce this change. Studies such as this, it is hoped, will go some way in articulating those voices and demands.
JAIPUR: A gathering of human rights activists and Dalit groups here over the weekend expressed concern over continuing deprivation of land rights to Dalits in Rajasthan and elsewhere in the country.

Even after 60 years of Independence the Dalits are yet to get possession of the land allocated to them out of the surplus land which came to the Governments through the Bhoodan movement or from the Land Ceiling Act, they pointed out.

The convention on Dalit land rights, organised by the Centre for Dalit Rights (CDR) and the National Federation of Dalit Land Rights Movement (NFDLRM) here, also did not miss the fact that out of the 24 persons killed in police firing in the agitation over land acquisition for SEZ in Nandigram in West Bengal, 14 were Dalits. About 40 per cent of the farmers who committed suicide in Maharashtra due to the farm crisis too were Dalits, it was pointed out.

"Most of the land allocated to Dalits in the wake of the Bhoodan movement and the implementation of the Land Ceiling Act has gone back to the old landowners. While 95 per cent land allocated to the Dalits from the Bhoodan movement is under dispute, the benefits of land allotment made under the 20-Point Programme introduced by the late Prime Minister Indira Gandhi have been cornered by the influential persons," said NFDLRM general secretary Manas Jena.

"The Dalits remain deprived on the social and the economic fronts as the laws meant to protect Dalit rights are never honestly implemented in this country," said CDR chairman P. L. Mimroth.

"The provision for equal rights to Dalits in resources, enshrined in the Constitution, is yet to come to effect. While restoration of their land to the Dalits still remains a mirage, the political parties have even stopped talking about land reforms and surplus land under Ceiling Act," Mr. Mimroth pointed out.

The convention, which decided to set up a core committee headed by NFDLRM State representative Satish Kumar to carry out a campaign on Dalit land rights in Rajasthan, sought shifting of the responsibility of protecting the Dalit interests on land -- under the Rajasthan Tenancy Act, 1955 (Section 183 B and C) -- from tehsildars to SDOs or the Additional Collectors.

The convention also wanted the cases related to Dalit lands to be registered under the SC&ST (PoA) Act, 1989 (Section 3(1) (IV) and V.

*The Hindu, Tuesday, Sep 30, 2008*
<table>
<thead>
<tr>
<th>Position</th>
<th>Qualifications</th>
<th>Incumbents</th>
<th>Term</th>
<th>Duration of Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairperson</td>
<td>Retired Chief Justice of a High Court</td>
<td>Justice Kanta Bhatnagar, former CJ, Madras High Court</td>
<td>23/03/2000 to 11/08/2000</td>
<td>4 months and 20 days</td>
</tr>
<tr>
<td></td>
<td>Tenure of 5 years or attainment of age of 70 whichever is earlier</td>
<td>Justice Sagir Ahmed, former Judge of the SC</td>
<td>16/02/2001 to 03/06/2004</td>
<td>5 months and 25 days</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Justice Amar Singh Godara</td>
<td>03/06/2004 to 31/03/2005 (AR 2004-05)</td>
<td>10 months</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>06/07/2005 (AR 2005-06)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Justice N. K. Jain, former CJ of Madras &amp; Karnataka High Court</td>
<td>16/07/2005 to 15/07/2010</td>
<td>5 years</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Justice Jagat Singh</td>
<td>Since 16/07/2010</td>
<td>1 month</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Officiating Chairperson</td>
</tr>
<tr>
<td>Member</td>
<td>Sitting or retired Judge of a High Court or District Judge in the State with a minimum of 7 years experience as a District Judge 5 year term, with provision for re-appointment for another term of 5 years; not beyond 70 years of age</td>
<td>Justice Amar Singh Godara,</td>
<td>01/04/2004 to 02/06/2004</td>
<td>2 months</td>
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<td></td>
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<td></td>
<td>Then took over as Officiating Chairperson upon Justice Ahmed's retirement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Justice Jagat Singh, former Judge, Rajasthan High Court</td>
<td>Since 10/10/2005</td>
<td>4 years 6 months</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Has taken over as Officiating Chairperson upon Justice Jain's retirement</td>
</tr>
<tr>
<td>Member</td>
<td>Person with knowledge of, or practical experience in matters relating to human rights 5 year term, with provision for re-appointment for another term of 5 years; not beyond 70 years of age</td>
<td>Shri R. K. Ankodiya</td>
<td>01/04/2004 to 24/03/2005</td>
<td>1 year</td>
</tr>
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<td></td>
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<tr>
<td></td>
<td></td>
<td>D. S. Meena, former Addl. Chief Sec.</td>
<td>Since 07/07/2005</td>
<td>5 years 2 months</td>
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<td>Shri Pukhraj Seervi</td>
<td>Since 15/04/2006</td>
<td>4 years 3 months</td>
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**Table 1: Tenure**
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<tr>
<th>Position</th>
<th>Qualifications</th>
<th>Incumbents</th>
<th>Term</th>
<th>Duration of Office</th>
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<tr>
<td>Secretary</td>
<td>IAS</td>
<td>Shri Pankaj</td>
<td>01/04/2005 to 24/06/2005</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Shri R. K. Sharma</td>
<td>06/07/2005 to 15/09/2005</td>
<td>1 month 21 days</td>
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<tr>
<td></td>
<td></td>
<td>Shri Giriraj Singh</td>
<td>16/09/2005 to 23/10/2008</td>
<td>3 years and 1 month</td>
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<tr>
<td></td>
<td></td>
<td>Shri N. R. Yadav</td>
<td>24/10/2008 to 28/02/2010</td>
<td>1 year and 4 months</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Shri Ravi Shrivastava</td>
<td>Since 05/04/2010</td>
<td>5 months</td>
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</table>

**Box 2**

http://www.indiaenvironmentportal.org.in/content/national-commission-schedule-castes

**Government Institutions**

*National Commission for Schedule Castes*

Tags: Delhi, Scheduled Castes, People

Address:
Tel: 91-11-24625378
Fax: 91-11-24625378, 24634743, 24615014
Web URL: http://ncsc.nic.in/

**Objectives**

With a view to provide safeguards against the exploitation of SCs & STs and to promote and protect their social, educational, economic and cultural interests, special provisions were made in the Constitution. Consequent upon the Constitution (Eighty-Ninth Amendment) Act, 2003 (Annexure II of the handbook) coming into force on 19-2-2004 vide Notification of that date (Annexure III of the handbook) the erstwhile National Commission for Scheduled Castes & Scheduled Tribes has been replaced by (1) National Commission for Scheduled Castes, and (2) National Commission for Scheduled Tribes.

http://ncsc.nic.in/

You are not authorized to view this page

The Web server you are attempting to reach has a list of IP addresses that are not allowed to access the Web site, and the IP address of your browsing computer is on this list.
Box 3 : Provisions in the SC&ST PoA Act, 1989

The government is enjoined by the Act to provide assistance of the following kind:

- the provision for adequate facilities, including legal aid to the persons subjected to atrocities to enable them to avail themselves of justice
- the provision for travelling and maintenance expenses to witness/es, including the victims of atrocities, during investigation and trial of offences under this Act
- the provision for the economic and social rehabilitation of the victims of the atrocities
- the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act

The rules of the Act stipulate:

**Contingency Plan by the State Government**:

1. The State Government shall prepare a model contingency plan for implementing the provisions of the Act and notify the same in the Official Gazette of the State Government. It should specify the role and responsibility of various departments and their officers at different levels, the role and responsibility of Rural/Urban Local Bodies and Non-Government Organisations. Inter alia this plan shall contain a package of relief measures including the following.

   a. scheme to provide immediate relief in cash or in kind or both;
   b. allotment of agricultural land and house sites;
   c. the rehabilitation packages;
   d. scheme for employment in Government or Government undertaking to the dependant or one of the family members of the victim;
   e. pension scheme for widows, dependant children of the deceased, handicapped or old age victims of atrocity;
   f. mandatory compensation for the victims;
   g. scheme for strengthening the socio-economic condition of the victim;
   h. provisions for providing brick/stone masonry house to the victims;
such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility, burial /cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes habitats.

(2) The State Government shall forward a copy of the contingency plan or a summary thereof and copy of the scheme, as soon as may be, to the Central Government in the Ministry of Welfare and to all the District Magistrates, Sub- Divisional Magistrates, Inspector General of Police and Superintendents of Police.

Norms for relief

**Specific responsibility of the state government**

The State Government shall make necessary provisions in its annual budget for providing relief and rehabilitation facilities to the victims of atrocity. It shall review at least twice in a calendar year, in the month of January and July the performance of the Special Public Prosecutor specified or appointed under Section 15 of the Act, various reports received, investigation made and preventive steps taken by the District Magistrate, Sub- Divisional Magistrate and Superintendent of Police, relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on behalf of the concerned officers.

---

**Table 2: Atrocity prone districts**

<table>
<thead>
<tr>
<th>No.</th>
<th>District</th>
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<tbody>
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<td>1.</td>
<td>Jaipur (rural)</td>
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<td>Bhilwara</td>
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<td>3.</td>
<td>Alwar</td>
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<td>4.</td>
<td>Jhalor</td>
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<td>5.</td>
<td>Kota (rural)</td>
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<td>6.</td>
<td>Sirohi</td>
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<td>7.</td>
<td>Jhalawad</td>
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<td>8.</td>
<td>Udaipur</td>
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<td>9.</td>
<td>Ganganagar</td>
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<tr>
<td>11.</td>
<td>Bharatpur</td>
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<td>12.</td>
<td>Sawai Madhopur</td>
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<td>13.</td>
<td>Pali</td>
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<tr>
<td>14.</td>
<td>Nagaur</td>
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<td>15.</td>
<td>Chittorgadh</td>
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<tr>
<td>16.</td>
<td>Dholpur</td>
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<td>17.</td>
<td>Churu</td>
</tr>
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<td>18.</td>
<td>Hanumangadh</td>
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</table>
Table 3: Petitions vs. Response Received from the various arms of the state

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<td>IGP of Jaipur, Jodhpur, Kota, Ajmer, Bharatpur, Bikaner, Udaipur</td>
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<td>Home Secretary and Home Minister of Rajasthan</td>
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<td>1,916</td>
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</tr>
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</table>

* Pet. – Authority Petitioned  R.R. – Response Received

** The anomaly could be on account of the overdue responses received during this month.

Source: Centre for Dalit Rights, Jaipur
Box 4 : SCSP funds diverted for CWG - a news report


July 18, 2010

SC/ST funds Diverted for the Games?

A Delhi based NGO has alleged that RTI filings suggest that the Delhi government has siphoned money meant for SC/ST and welfare programs, in the order of over 500 crores to fund the Commonwealth games. A report in The Hindu.

Expenses for the forthcoming Commonwealth Games have not just overshot by a huge margin the budget that was initially presented, but funds that were meant exclusively for the welfare of reserved categories too have been "illegally diverted" by the Delhi Government to pay for the Games, a non government organisation alleged on Thursday.

The Housing and Land Rights Network has alleged that based on the replies to their queries under the Right to Information, it has come to light that ` 571 crore that was part of the Special Component Plan of the Delhi Government and meant exclusively for the welfare of the Scheduled Castes and Tribes has been diverted for the Games.

"Over the period from 2006-07 to 2009-10 the budget meant for the SCP has been illegally used for funding the Games. RTI queries have revealed that in the same period Delhi Government's Department for the Welfare of SC/ST/OBC/Minorities diverted money from the Scheduled Caste sub plan of Delhi that amounts to ` 744.354 crore," said Miloon Kothari, former UN Special Rapporteur and Executive Director of HLRN.

He went on to add: "This practice shows a serious lapse in the functioning of the Delhi Government and exposes the complete lack of monitoring functions that the Central bodies are supposed to play."

While the official estimates say the Games will cost ` 10,000 crore, unofficial estimates said HLRN officials are pegged at ` 60,000 crores, including the round-the-clock security cover for the city, the venues and the players.

Paul Divakar, general secretary of the National Dalit Campaign for Human Rights said only 18 Ministries have been allocating funds for the SCP, but are putting in much less than the required allocation. "These are the Games of the rich, by the rich and for the rich, financed by the money of the poor and the needy. Costs for the Games have escalated more than 2,000 percent. Initially we were told that the cost of the Games will be ` 1,620 crore, now we hear another Rs.700 crore is being sought and the BCCI has been asked for ` 100 crore," said Shalini Mishra of the Housing and Land Rights Network.
About PRIA

Society for Participatory Research in Asia (PRIA) is an International Centre for Learning and Promotion of Democratic Governance. PRIA got registered in 1982 under Society Registration Act, 1860. Since its inception, PRIA has embarked on a set of key initiatives focusing on participatory research, citizen-centric development, capacity building, knowledge building and policy advocacy. With a combination of training, research and consultancy, it has grounded its work with conceptual rigour and understanding of social realities to facilitate and steer a strategic direction of development interventions. PRIA works with a diverse range of partners at local, national and global levels.

PRIA’s professional expertise and practical insights in the following areas are being utilized by other civil society groups, NGOs, governments, donors, trade unions, private business and academic institutions around the world:

- Participatory development methodologies
- Institutional and human capacity building for social sector
- Women’s leadership and political empowerment
- Empowerment of SC/ST leaders in Panchayats
- Citizen monitoring and social accountability of services
- Participatory governance in panchayats and municipalities
- Municipal reforms and participatory planning
- Environmental and occupational health
- Corporate social responsibility (CSR)
- Adult education and lifelong learning
- Gender mainstreaming in institutions (including preventing sexual harassment at the workplace)

PRIA adopts three broad approaches in its ongoing programmes:

First, it intervenes directly in the field primarily in the northern and eastern poorer regions of India, in order to promote 'citizens' collective voices' to make demands on governance institutions to claim their rights, access services and ensure accountable utilisation of public resources in development programmes. In recent years, PRIA’s interventions have specially targeted Right to Information (RTI), National Rural Employment Guarantee Schemes (NREGS) and Urban Basic Services.

Second, PRIA provides on-demand advisory and consultancy services to a wide variety of clients internationally. It utilises its practical knowledge and professional expertise in various areas to offer 'participatory and sustainable solutions' to improve supply sides of development and democracy.

Third, PRIA offers educational programmes in numerous human and social development themes, drawing from its field experiences, advisory services and extensive research projects. Within the framework of 'learning for social change', these educational courses are offered in distance mode, sometimes specially designed for a client and many times in partnership with such premier educational institutions as Indira Gandhi National Open University (IGNOU), India, University of Victoria (UVIC), Canada and Institute of Development Studies (IDS), UK.

Through its campaigns, research, education and policy advocacy interventions, PRIA’s overarching mission is to 'make democracy work for all citizens'.