
PREVENTING IDENTITY-BASED ATROCITIES IN INDIA: ASSESSING THE EFFICACY OF SPECIAL PROTECTIONS

Ridhima Anand, National University of Study and Research in Law, Ranchi

Sudhishna Sharma, National University of Study and Research in Law, Ranchi

ABSTRACT

This article explores whether India's extensive framework of special protections truly safeguards communities vulnerable to identity-based atrocities. Despite constitutional postulates which highlight equality and dignity, caste-based violence, communal tensions and gender-based exploitation continue. Through an analysis of statistics, landmark cases and constitutional provisions, the article highlights the persistent mismatch between legislative highs and execution lows. Implementation gaps, ranging from delayed chargesheets to low conviction rates, contribute to the rampant atrocities on marginalised communities. The discussion also sheds light upon social prejudices, political incentives and media manipulation, which reinforce discriminatory practices in society. India exhibits comprehensive frameworks and incorporates progressive laws, but these measures often fail in practice due to administrative shortcomings and deep-rooted biases. Ultimately, this article aims to analyse and give a neutral stance on the execution of special protection laws in India.

‘Dalit man forced to lick the feet of an upper caste in the middle of the road’, this was the headline of a national newspaper recently and yet there are discussions on whether identity-based atrocities have come to an end in the country! It is not that the government lacks a legal system to oppose this; rather, it is that the system is not strong enough to protect him, indicating a weak implementation of laws at the grassroots level in our country. The article attempts to examine whether our legal system truly supports the vulnerable or not. Special Protection refers to the protection granted by the state as per the Constitution, which prohibits the state from discriminating against any citizen on grounds of religion, race, caste, sex, place of birth, or any of these. This article strives to go in-depth into the topic while maintaining a neutral stance.

The Rig Veda classified society into four different varnas: Brahmanas, Kshatriyas, Vaishyas, and Shudras. However, Manusmriti later developed as the foundation of the rigid caste system in society. Even in the 21st century, the country has witnessed a plethora of caste-based atrocities. In 2023, according to the National Crime Records Bureau, there were 57,789 cases¹ registered for crimes against the Scheduled Castes, which is evidence of the persistent violations of the human rights of certain sections of society. Amidst all these atrocities, does India have legal provisions to protect them? The answer is yes. The golden triangle of the constitution, which includes Articles 14², 19³ and 21⁴, guarantees humanitarian standards of living for every citizen, irrespective of their origin. Also, to give special protection to the victim castes of these inhuman atrocities, the constitution has Article 17⁵, which states "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law. The Prevention of Atrocities Act, 1989⁶, further strengthens the justice system provided to the Scheduled Castes and the Scheduled Tribes. However, the implementation gaps are persistent and prevalent in the system. A 2024 analysis of 2022 data by NCRB data shows that the cases registered for crimes against SCs were approximately 50,268 charge sheets filed were 39,127, with conviction rates being a meagre 42.5%.⁷ That is only for crimes against SCs; data for STs show a similar disturbing pattern. The fact that only registered cases are recorded, while the real situation remains a mystery, is the most unsettling and alarming concern.

¹ National Crime Records Bureau, *Crime in India 2023* (NCRB 2024).

² Constitution of India 1950, art 14

³ Constitution of India 1950, art 19

⁴ Constitution of India 1950, art 21

⁵ Constitution of India 1950, art 17

⁶ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

⁷ National Crime Records Bureau, *Crime in India 2022* (NCRB 2023) (data analysis referenced in 2024).

There is a significant gap between the laws legislated and their implementation at the ground level. India is a vast country, and it cannot fully develop if caste-based atrocities remain deeply rooted in people's minds. Issues like misuse of laws, hesitation to reach out, red tape in government offices, and lack of awareness are some additional problems that persist. Discrimination based on a person's caste hinders their psychological, social, and economic growth, affecting not only the individual but also the entire community and the country.

Just as caste continues to shape patterns of discrimination, religion too becomes a powerful marker of identity, with fresh conflicts and acts of violence reported daily. Recently, India has witnessed a tremendous rise in religion-based violence and atrocities, like the Nuh violence in 2024, which stems from the deeply rooted stereotypical and hateful mindset of certain groups that is promoted and invigorated by political figures and extremists for their professional gains, like satisfying their respective vote banks. However, how does India maintain its secular policy? India's constitution incorporates legal provisions such as Articles 25 – 28⁸, which guarantees the citizens the right to profess, practice, and propagate religion, while also ensuring the safeguarding and progress of every religion in the country equally. Article 26⁹ especially grants every religious denomination the right to establish and maintain religious institutions, manage its own affairs, and own and acquire property. Article 295 (A) of the Indian Penal Code¹⁰ further strengthens this protection by criminalising deliberate and malicious acts intended to outrage religious feelings by insulting a religion or its beliefs.

However, the reality is far from the dream. In Madhya Pradesh alone, under its anti-conversion law, 283 cases were registered, but only 7 people were convicted, and 50 were acquitted. According to a Washington-based research group, anti -minority hate speech rose by 74% in 2024, compared to the previous year, and other statistics show that there has been an 84% rise in communal riots in 2024. Recently, in March 2025, Nagpur witnessed communal violence between right-wing Hindu groups and Muslims because of the alleged burning of a religious cloth of the Muslims by the former party.

These outcomes can be credited to the lack of awareness, manipulation of young minds, selfish political intentions, the persistent rise and spread of misguided stereotypes, by the existing psychological barriers of the people. Social media and news channels often show videos of communal controversies due to name-changing of the places, mob vandalising properties based

⁸ Constitution of India 1950, art 25-28

⁹ Constitution of India 1950, art 26

¹⁰ Indian Penal Code 1860, s 295 A

on religion, hateful speeches by prominent political figures, misled stereotypical videos against a community, brainwashing people into believing religious and social lies, etc., which humiliate the secular stance of the state, and this has to change. It is challenging for a country to develop if it continues to fight over the name of God.

Having examined how caste and religion marginalise communities, it becomes equally important to recognise how gender operates as a parallel axis of oppression, producing its own pattern of violence and exclusion. It is peculiar, or rather astonishing, how people over time used religion and culture to promote and justify atrocities against an entire gender, women. Historical texts from almost all over the world have one common thing: downgrading women. Even as the world modernised, no democracy was ready to give women voting rights; they had to fight for it, simply because they were women. Women have been objectified for ages and are expected to be coy, remain under the guidance and supervision of men and demonstrate domestic work excellence, no matter what their education. Today, the scenario remains almost unchanged. Under the Taliban regime, gender equality is almost redundant. India's position is concerning itself. The gender gap percentage is 64.4%,¹¹ ranking 131st out of 148 countries. Landmark judgements like *Mohd. Ahmad Khan v. Shah Bano Begum* (1985)¹², commonly referred to as the Shah Bano case, *Shayara Bano v. Union of India* (2017), and ¹³*Vishakha v. State of Rajasthan* are exhibits of how women had to struggle for basic rights in the name of religion, culture and "societal expectation" in the world's largest democracy. It is unsettling that even today there are people who are openly opposing women's rights, objectifying them openly, making horrendous sexist jokes, openly assaulting them and making comments like, "women should not go out after 8 pm". The instances are many, but it is now important to look into some relevant laws, which aim to balance the imbalanced gender- based vulnerability.

IPC Section 354¹⁴ refers to assault or criminal force to outrage her modesty intentionally, and the convicted is liable to pay a fine or imprisonment (5 years) or both. To protect and prevent domestic violence, India has the Protection of Women from Domestic Violence Act, 2005¹⁵ and *Vishakha v. State of Rajasthan*¹⁶ established the "Vishakha Guidelines" to address sexual harassment at the workplace. These guidelines provided a framework for preventing and redressing sexual harassment until specific legislation was enacted, and they were later

¹¹ IMF and World Bank reports

¹² *Mohd. Ahmad Khan v Shah Bano Begum* (1985) 2 SCC 556

¹³ *Shayara Bano v Union of India* (2017) 9 SCC 1

¹⁴ Indian Penal Code 1860, s 354

¹⁵ Protection of Women from Domestic Violence Act, 2005

¹⁶ *Vishaka v State of Rajasthan* (1997) 6 SCC 241

replaced by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013¹⁷. This law in India aims to protect women from sexual harassment at work by providing a mechanism for prevention, prohibition, and redressal of complaints. Section 357A¹⁸ of the Code of Criminal Procedure (Cr PC) provides for a Victim Compensation Scheme, which enables victims of crime to receive compensation from the state. States are required to prepare schemes for this purpose, and compensation can be recommended by a court or applied for directly to the District or State Legal Services Authority (DLSA or SLSA). This provision applies even when the offender is not identified or traced, or when a case ends in acquittal. Uttar Pradesh has assigned a special police team, 'Romeo Police', to prevent eve-teasing.

It can be inferred that India has strong laws to protect, but what do the statistics say? As of 2023, there were a total of 4,48,211 crimes registered against women, with Uttar Pradesh emerging on top with 66381 cases. Court pendency for these is 90.8% of all cases, and in many states, less than 50% of rape cases have charge sheets filed within the stipulated 60 days.¹⁹ Charge sheet rates in crimes against women remain below the national average of 77.9% in some regions; for instance, Haryana showed a charge sheet rate of just 56% and a conviction rate of 13.6% in 2023. Registered Rape cases stood at 29,670 incidents (4.4 rate), with 28,821 victims aged 18 and above and 849 below 18 in 2023²⁰.

The gap is so tremendous that gender equality at this point seems impossible. This deeply concerning situation can be credited to a lack of female participation in the Indian bureaucracy, historical patriarchal ideology, mass media's portrayal of women as passive citizens, even as a "joke", and a lack of their entrepreneurship. International studies by the IMF and the World Bank stress the need for women's empowerment for developing the country, so what is stopping our bureaucracy?

To conclude, India is a vast country with a plethora of challenges, and if it aspires to be a world leader, it needs to tackle all these problems head-on. These socially destructive crimes are rooted in the mindset of the people, and they pave the way for many crimes like hate speech, rape, mob lynching and even discrimination in government and private organisations. The country has laws and legislation, but they need to be strictly implemented. Sensitisation should

¹⁷ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.

¹⁸ Code of Criminal Procedure 1973, s 357A

¹⁹ National Crime Records Bureau, Crime in India 2023: *Statistics* (Ministry of Home Affairs 2024) vol 1, figures on crimes against women.

²⁰ NCRB, Crime in India 2023 (n 1) statistics

be done on a large scale, given the population of India, and last but not least, people need to bring changes within themselves by taking small yet firm steps like reporting hateful online content, spreading awareness and reporting any such public incident.