



November 23, 2022

To,  
Shri Harsh Chouhan,  
The Hon'ble Chairperson  
and Other Esteemed Members,  
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**Subject: Seeking stringent action against and protection from those who brutally lynched a 46-year-old Tribal man in Rajasthan**

Respected Sir,

We at Citizens for Justice and Peace (CJP), a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about the lynching of a 46-year-old Tribal man. On November 7, 2022, the tribal man, named Kishanlal Bheel from Soorsagar in Rajasthan's Jodhpur district, died as he was assaulted by a group of people over drawing water from a tubewell. As is being purported by the family of the victim, this gruesome attack was by men belonging to the "upper caste".

According to details publicly available through news reports, we would like to bring to your notice that the tribal man was lynched as he was assaulted by a group of people over drawing water from a tubewell. As per the family of the deceased, the accused also abused the deceased Kishanlal Bheel with casteist slurs.

In the police complaint, it has been alleged that both the victim and the accused were neighbours in the Soorsagar locality. There is a public pipeline running through the locality, where the family of the victim had installed a pipe in one of the taps. According to the brother of the victim, the accused had said they wanted to install a pipe in the tap, which resulted in a confrontation between both the parties and led to the victim, Kishanlal Bheel, being lynched.



Ashok, the deceased's brother, further claimed that the accused prevented the victim's family from taking him to the hospital. The critically hurt man wasn't taken to a hospital until after police arrived, according to the brother; there, he died from his wounds.

This brutal death, another manifestation of a caste atrocity sparked a protest wherein Bheel's family and community members declined to perform his final rites in order to demand the rapid arrest of all suspects, financial restitution, and a government position for the next of kin.

The police have so far arrested three accused -- Shakeel, Nasir, and Bablu -- and booked them under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and Section 302 (murder) of the Indian Penal Code. The search for other people associated to the crime is still ongoing.

Ashok had also alleged that some of the locals, including the three detained, have control over the tubewell installed in the locality. They have also fitted a pump on it and do not let others to use it.

Respected Sir, we also urge that the National Commission for Scheduled Castes also closely monitors the case through the investigation and prosecution to ensure that substantive and exemplary justice is delivered. The tragic life lost must be reasonably compensated for by justice and full reparation. Often after the first flush of media attention when the furore dies down, the investigation falters and when evidence is not properly collected, the prosecution fails. It would be in the fitness of things that the NCST Commission takes an interest in deliverance of justice in this case till justice is delivered.

Here are a few relevant sections of the law that are applicable in the case:

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

Section 3. (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view; (s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

(za) obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to— (A) using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, any public conveyance, any road, or passage;

**shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine**

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



(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property [knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member], shall be punishable with imprisonment for life and with fine;

### **Indian Penal Code, 1860**

300. Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly.—If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly.—If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid. 302. Punishment for murder.—Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine

### **Pattern of abuse of tribal community**

According to data from the National Crime Records Bureau, there have been 76,899 offenses against STs that were recorded in the last 10 years (2011–20). The number of these crimes has been alarmingly increasing. 5,756 of these offenses were reported in [2011](#), and by [2020](#), that number had risen to 8,272.

In comparison to the year 2020, in 2021 the rate of atrocities has increased by 6.4% in case of ST's and by 1.2% in case of SC's. The nature of cases reported include rape of women and children, attempt to rape, sexual harassment, acid attack, assault on women with intent to outrage her modesty, stalking, voyeurism, kidnaping and abduction, riots, robbery, arson, criminal intimidation, intentionally insult or intimidate with intent to humiliate, occupy/take possession of lands belonging to SCs and STs, prevent/deny or obstruct usage of public places/passages, force to leave the place of residence or social boycott and practices of untouchability.

The anti-tribal violence is a menace that has been on the rise. The Free Press Journal reported in May 2019, that women belonging to denotified tribes in Bhopal testified that they were tortured and raped almost every day. Some were pushed into prostitution, some other complained that police vandalise their homes on mere suspicion that their male members committed theft.



***A copy of the news article dated May 30, 2019 by The Free Press Journal is marked and annexed hereto as Annexure A***

As per a report titled ‘Quest for Justice’ released in September 2020 by National Dalit Movement for Justice (NDMJ), Cases of atrocities against dalits and adivasis increased by 281.75% and 575.33%, respectively, from 2009 to 2018, reported *NewsClick*. The report further stated that of the total 72,367 crimes against STs, in about 45.72% cases of them were not registered under PoA Act. Among cases of crime against STs, pending investigations have risen 376.88 % by the end of 2018 with 2,599 cases from 2009 with 554 cases and the average conviction rate for crimes against adivasis was 22.8% between 2009 and 2018.

***A copy of the news article dated September 15, 2020 by NewsClick is marked and annexed hereto as Annexure B***

There have been incidents where victims have become hostile, and in some cases of sexual violence, victims have been forced to retract the case due to external pressure. Such incidents prove how the Indian State and society are complicit in the violence against tribals. This also causes adivasis also start losing faith in the justice mechanism.

There are a total of 70,818 cases of atrocities against SCs and 12,159 against STs pending for investigation at the end of the year 2021. A total of 2,63,512 cases of SCs and 42,512 cases of STs were placed for trial in the courts, according to the data provided by the NCRB report of 2021. At the end of the year, more than 96 percent of the total cases were still pending for trial. Though the charge-sheeting percentage was more than 80% but the conviction rate was below 40%. This shows the status of our criminal justice administration specially access of vulnerable victims to speedy trial and justice.

It is also being argued by social activists and researchers working on implementation of SC/ST POA Act, 1989 that the reported data by the Home Department were the cases registered in different police stations of the state while there were equal number of cases that are underreported due to a number of reasons, as it is not easy to get the cases registered due to non-cooperation by police and many cases are being settled under pressure by influential people of dominant castes.

CJP, in its endeavour to map crimes against the marginalized started mapping crimes against SCs and STs and while these list of crimes are not exhaustive, they are indicative of the kind of caste based crimes that take place in certain parts of the country. The caste crimes map for 2021 may be viewed [here](#).



### **Earlier complaints**

This is not the first incident of violence and abuse against the tribal people/tribal communities that has resulted in CJP moving to an authority for the protection of such tribal people/ tribal communities in India. In the year 2020, CJP approached the NCST against the injustice being done to members of nomadic tribe Van Gujjars in Rajaji National Park, Dehradun. Since June 16, 2020 forest officials had been harassing the community living in Asharodi Forest of the Rajaji National Park, which had ultimately resulted in many members of the community, of one particular family being arrested and few others being injured and ending up in the hospital. The plea submitted urged the Commission to take note of this incident, the petition also stated that refusal of forest authorities to recognise the rights of Adivasis (tribals), forest dwellers and indigenous communities, in complete disregard of not just the mandate of the law but also orders of the courts of law, and constantly and repeatedly invoking of false cases against these sections of Indians is a clear display of their contempt towards these tribes.

In July 2020, the Tharu Adivasis of Kajaria Village in Dudhwa Tiger reserve, Lakhimpur Kheri, UP were assaulted by forest officials and local police who even fired shots in the air, molested women and beat up some youngsters. CJP and the All India Union of Forest Working People (AIUFWP) immediately wrote to the National Human Rights Commission (NHRC) which in turn sought an Action Taken Report (ATR) from UP's Forest Department. While taking note of the inaction on the part of Forests and Wildlife Department, UP, as it failed to submit a report sought by the Commission, the NHRC then issued conditional summons.

Therefore, keeping in mind the gravity of the situation, we urge further protection be provided to the victim's family under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989:

### **Section 15A. Rights of victims and witnesses—**

(1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence

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

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

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victim, his dependent, informant or witnesses—

- (a) the complete protection to secure the ends of justice;
- (b) the travelling and maintenance expenses during investigation, inquiry and trial;
- (c) the social-economic rehabilitation during investigation, inquiry and trial; and
- (d) relocation

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

(8) Without prejudice to the generality of the provisions of sub-section (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including—

- (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;
- (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

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

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

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

- (a) to provide a copy of the recorded First Information Report at free of cost;
- (b) to provide immediate relief in cash or in kind to atrocity victims or their dependents;
- (c) to provide necessary protection to the atrocity victims or their dependents, and witnesses;
- (d) to provide relief in respect of death or injury or damage to property;
- (e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;
- (f) to provide the maintenance expenses to the atrocity victims and their dependents;
- (g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report;
- (h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment;
- (i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost;

- (j) to take necessary precautions at the time of medical examination;
- (k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount;
- (l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;
- (m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose;
- (n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights.

(12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.]

#### **Section 20. Act to override other laws.**

Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

#### **Section 21. Duty of Government to ensure effective implementation of the Act.**

(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include,--

- (i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice;
- (ii) the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act;
- (iii) the provision for the economic and social rehabilitation of the victims of the atrocities;
- (iv) the appointment of officers for initiating or exercising supervision over



- prosecutions for the contravention of the provisions of this Act;
- (v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;
- (vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provision of this Act;
- (vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.

## Prayers

Sir, this needs your immediate attention and rapid action. We urge the National Commission for Schedule Tribes to make an example of this case that on all appearances amounts to a targeted hate crime against one of our most vulnerable sections of society. We urge you:

- to immediately hold an investigation and inquiry into this matter with respect to the acts committed by the accused under the Indian Penal Code, the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989;
- to monitor the prosecution and trial of this criminal complaint until substantive justice is delivered;
- to monitor the investigation undertaken by the Rajasthan Police and ensure that there is a fast-track trial and speedy delivery of justice;
- to ensure that the deceased victim's family receives the necessary relief and reparation;
- to ensure that data on such monitoring is made public digitally and that progress in this case is also visible and made public electronically and digitally.
- to take any other action as you may deem fit.



Yours sincerely,

Nandan Maluste, President

Teesta Setalvad, Secretary

**Annexures**

Annexure A- A copy of the news article dated May 30, 2019 by The Free Press Journal

Annexure B- A copy of the news article dated September 15, 2020 by NewsClick