

Quality of justice

The Supreme Court's decision to lay down stringent "safeguards" in the enforcement of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, threatens to undermine the court's own formidable record of acting as a custodian of the rights of the most disadvantaged. On Tuesday, a two-member bench said the SC/ST Act is being abused by "vested interests" for political or personal reasons and that procedural safeguards were necessary "to avoid false implication" of innocents under the Act. The bench has proposed provisions including anticipatory bail for the accused and a "preliminary enquiry" before registering a case. The apex court's fear about misuse of the law and its reasoning for bringing in a regime of permissions and conditions is flawed. In fact, the SC may have taken the first step towards blunting this radical law, thereby letting down the most marginalised sections of society which look up to it to protect, uphold and expand their freedoms.

Every law, including against rape, dowry or child marriage, has the potential to be misused. The Atrocities Act is no exception. There must be checks and balances to prevent its abuse as well. But these cannot be of a kind that render the law ineffective. For instance, the SC has said that "the arrest of a public servant (under the Atrocities Act) can only be after approval of the appointing authority and of a non-public servant after approval by the Senior Superintendent of Police which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinised by the magistrate for permitting further detention". Such monitoring is more likely to help the powerful accused rather than the vulnerable victim. Further, there is little evidence to suggest largescale abuse of the SC/ST Act. On the other hand, data with the National Crime Records Bureau shows that atrocities against Dalits have been rising, with the failure of the state to secure convictions a growing cause for concern. In fact, political mobilisations by the Dalits and Adivasis to secure their constitutional rights have been met in recent times with communal backlash and state unresponsiveness across the country even as dominant caste groups have made repeal of the SC/ST Act a major political demand. These trends underline that power relations in society continue to be loaded against Dalits and other marginal groups.

In this scenario, the apex court's move to shield public servants and people of privilege from the SC/ST Act may lead to a rollback of even the marginal gains achieved in the battle for greater social equality. Surely, this is not what the court wants. In the best interests of democracy and social justice, the apex court must revisit its judgment.

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