

MAKING AMENDS

Relevant for: Developmental Issues | Topic: Rights & Welfare of STs, SCs, and OBCs - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

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The Supreme Court has done well to recall its 2018 order that diluted provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The three-judge bench observed that the March 20, 2018 judgment was “against the spirit of the Constitution”. A two-judge bench had, then, forbidden the arrest of public servants and private persons without prior permission in cases filed under the SC/ST Act and insisted on a preliminary inquiry before registering an FIR in such cases. The Court also found that the guidelines for the execution of the Act given in the 2018 order were beyond its remit and an encroachment on the legislature’s domain. Indeed, the 2018 order had read the Act apparently without taking into consideration the social context and imperatives that led to its enactment in the first place.

The 2018 order triggered unrest among Dalits and gave fresh impetus to the mobilisations that had started in the wake of a series of high-profile crimes against the community. The political churn following the rise of the [BJP](#) in the 2014 general election unleashed a new social dynamic. Even as the BJP’s top leadership began a high-visibility outreach to Dalits, the latter came under attack from communities whose political-ideological prejudices found validation from elements of the Hindutva agenda such as cow protection. The public flogging of five Dalits by cow vigilantes in Una, Gujarat, became a symbol of the new political hooliganism. In western UP, attempts were made to crush Dalit assertion. Earlier, the suicide of Rohith Vemula, a research scholar in Hyderabad Central University, had brought to the fore the issue of caste discrimination on campus. While these incidents fitted the pattern of the anti-Dalit violence Indian society has been experiencing for centuries, they also created a new narrative of Dalit resistance and agency that led to the emergence of a new generation of leaders such as Jignesh Mevani and political outfits including the Bhim Army. The 2018 order came in the backdrop of this political ferment and stoked unrest in large sections of the SC/ST communities. A Bharat bandh called by Dalit groups was met with violence and at least nine persons were killed in police firing.

It is creditable that the Supreme Court has revisited its order and recalled it. The apex court’s willingness to course-correct in accordance with the spirit of the Constitution points to institutional resilience, especially at a time when questions are being asked on the independence of institutions when a domineering political executive is armed with a large mandate.

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