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## **The enigma of caste atrocities: Do scheduled castes and scheduled tribes face excessive violence in India?**

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### **Abstract**

The dominant narrative on caste today asserts that the people belonging to the Scheduled Castes or “Dalits” and Scheduled Tribes or “Tribals” face pervasive and disproportionately more violence. The situation is considered further accentuated by the alleged “caste bias” against these communities in the police and the judiciary. The stringent legal provisions passed by the Indian Parliament, specifically to address crimes against these communities, have been presented as ineffectual or insufficient in curbing this violence. The official crime statistics are often cited as supporting these claims. However, a closer look at this data on crimes against SCs and STs, including the rates of crimes, court convictions and pendency, shows that these popular claims are not based on the evidence that the data provides. Further, a scrutiny of the claims itself reveals serious conceptual problems, fallacies, and errors. This article, while analyzing the currently available data on crimes against SCs and STs, also traces the source of the problems that have marred their understanding and interpretation. We specifically look at the evolution of the word ‘atrocities’ in the context of caste, how the term acquired a strange definition, how it came to mediate the understanding of caste violence and the collection of crime statistics, and how its usage is incredibly loaded to prove the point that there is excessive violence against SCs and STs.

### **Key words**

Atrocity; caste violence; concept creep; the atrocity approach; dalit

### **Resumen**

La narrativa dominante sobre las castas hoy en día afirma que las personas pertenecientes a las castas registradas o “dalits” y a las tribus registradas o “tribales” se enfrentan a una violencia generalizada y desproporcionadamente mayor. La situación se considera aún más acentuada por el supuesto “sesgo de casta” contra estas comunidades en la policía y el poder judicial. Las estrictas disposiciones legales

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aprobadas por el Parlamento indio, específicamente para abordar los delitos contra estas comunidades, se han presentado como ineficaces o insuficientes para frenar esta violencia. A menudo se citan las estadísticas oficiales sobre la delincuencia para respaldar estas afirmaciones. Sin embargo, un examen más detallado de estos datos sobre los delitos contra las castas y las tribus desfavorecidas, incluidos los índices de delitos, las condenas judiciales y los casos pendientes, muestra que estas afirmaciones populares no se basan en las pruebas que ofrecen los datos. Además, un examen de las propias afirmaciones revela graves problemas conceptuales, falacias y errores. Este artículo, al tiempo que analiza los datos actualmente disponibles sobre los delitos contra las castas y las tribus desfavorecidas, también rastrea el origen de los problemas que han empañado su comprensión e interpretación. En concreto, examinamos la evolución de la palabra “atrocidad” en el contexto de las castas, cómo el término adquirió una definición extraña, cómo llegó a mediar en la comprensión de la violencia de las castas y en la recopilación de estadísticas sobre delitos, y cómo su uso está increíblemente cargado para demostrar que existe una violencia excesiva contra las castas y las tribus desfavorecidas.

### **Palabras clave**

Atrocidad; violencia de casta; fluencia del concepto; enfoque de atrocidad; dalit

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## 1. Introduction

The notion of caste violence, or that the people belonging to the Scheduled Castes (SCs) and the Scheduled Tribes (STs)<sup>1</sup> in India face excessive violence motivated by caste, has been an integral part of the discourse on caste. In fact, this violence has been presented as “systemic”, “endemic”, and as a defining feature of what “makes dalits a distinct group”.<sup>2</sup> As Chakraborty *et al.* (2006) put it: “What makes dalits a distinct group is not so much their poverty because poor people are found in most social groups, but the endemic violence (“atrocities”) they are subjected to.” That this violence, sometimes referred to synonymously or overlappingly by the term ‘atrocities’ persists unchecked at a disturbing level has been implied as an established fact in the discussions on caste by scholars, policymakers, media, advocacy groups, and international agencies (see e.g. Human Rights Watch [HRW] 1998, Singh quoted in PTI 2009, Roy 2010, European Parliament 2012, Standing Committee on Social Justice and Empowerment 2014, Sharma 2015).

Many studies on caste have used the police and court reported statistics on crimes against SCs and STs to study various questions and posit correlations, most often considering this hypothesis of excessive violence against SCs and STs as self-evident in the data and sometimes also building upon it (see e.g. Chakraborty *et al.* 2006, Bros and Couttenier 2010, Sharma 2012, 2015, Mayer 2017). Strangely however, whether this hypothesis is borne out of data has never been considered. The questions of what levels of violence these communities face, and if these levels indeed indicate excessive violence have never been rigorously investigated.

If this hypothesis of excessive violence against SCs and STs is not borne out of rigorous evidence and data, what has made it so enduring? Also what has made the hypothesis to be never tested by data? The answers to these questions may lay in the theoretical fixations about the caste system, especially that it generates violence against certain groups. These assumptions may have created a sense of certitude about the validity of this hypothesis and made the question itself seem settled and hence unworthy of investigation. However, additionally, as we shall see, problems associated with the concepts of atrocity and violence in the context of caste, combined with data illiteracy and the problems of intuitive statistics (Kahneman 2011, Spiegelhalter 2019) in the interpretation of crime statistics, have made the claims of excessive violence against SCs and STs seem as if they are self-evident in the crime statistics. It is this latter problem that this article focuses on while analyzing the relevant data to see if it indeed supports the claims of excessive violence against SCs and STs.

In section 2 of this article, we look at the strange definition and usage of the term ‘atrocities’ in the context of caste which is unlike in any other part of the world. We discuss

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<sup>1</sup> A number of castes and tribes have been notified as Scheduled under the articles 341 (1) and 342 (1) of the Indian constitution. Persons belonging to these castes and tribes are provided with various safeguards and affirmative action under the Indian constitution. These “lists have been modified or amended, or supplemented from time to time” (Padmanabha 1983, p. ix).

<sup>2</sup> The word ‘Dalit’ (often translated as “broken people” [see HRW 1998, p. 2]) has often been used to refer to the Scheduled Castes (SCs). The National Commission for Scheduled Castes (NCSC) in 2008 directed governments against the usage of this term in the official documents and advised the use of constitutionally “appropriate and notified word” “Scheduled Castes” (NCSC quoted in PTI 2008).

how the term evolved with the statistics of crimes against SCs and STs in the official literature of the Government of India, starting in the 1970s, and how it came to mediate the understanding of the nature and levels of violence against SCs and STs. We discuss how the semantic expansion of the concept of atrocity gave it a split character with two widely diverging definitions. While a dilated definition that includes all crimes, irrespective of the motives or severity, came to be used for collecting statistics on crimes, a constricted definition giving the sense that these crimes refer to the most heinous and violent and that they are necessarily motivated by caste came to be used for their interpretation. This chasm between these definitions has resulted in many serious conceptual problems, which along with other errors in interpreting the data, have obscured and distorted the understanding of the nature and the levels of violence that SCs and STs face. We scrutinize the use of the data, its characterizations, its interpretations, and the claims that have been made on its basis.

In section 3, we discuss approaches to measure violence against SCs and STs using the best indicators in the currently available data. We consider if the data bears out claims of excessive violence against these communities. We also consider the question of whether the rates of court conviction and pendency for criminal cases indicate “partiality”, “apathy” or “lethargy” in the police and judiciary against SCs and STs, as is often suggested.

## 2. Atrocity, caste violence and the crime statistics

Internationally, the term “atrocity crimes” is understood to refer to systematic and organized mass violence. According to the *Framework of Analysis for Atrocity Crimes* published by the United Nations (UN), the term refers to the three legally defined international crimes, namely genocide, crimes against humanity, and war crimes (UN 2014). But in the Indian legal and policy parlance, ‘atrocity’ has come to acquire a strange definition and usage. It has been used to refer to an expansive list of offenses, irrespective of severity or motives, and in which the victims of these offenses belong specifically only to a section of the population, namely, the Scheduled Castes (SCs) and the Scheduled Tribes (STs). These offenses include not only heinous or violent crimes, but all offenses including those of coercion, intimidation, trespass, harassment, cheating, forgery, insult or humiliation, disrespect to icons, dereliction of duties by government officers, etc. In the context of crime statistics, the term has been used to refer to all offenses against SCs and STs, both violent and not-violent, under the Indian Penal Code (IPC) and other Special and Local Laws (SLL). Elsewhere, including in the documents of the official bodies of the Government of India, the usage of the term has been further extended beyond offenses to loosely refer to unintentional acts of harm, poverty or economic disparity, and even legal action by the due process of law against persons belonging to these castes and tribes (see e.g. Commissioner for Scheduled Castes and Scheduled Tribes [CSCST] 1977, p. 74; 1988, pp. iii, 10).

So what explains this discrepancy in connotations of ‘atrocity’ in international law and in the Indian contexts? In India, the term has undergone an extensive semantic expansion and shift, similar to what has been described in the recent psychological literature for some other concepts. Haslam (2016) notes through his study of concepts such as trauma, abuse, and prejudice, that concepts that refer to the negative aspects of human experience often “creep”, because of their expansive usage, to rapidly

“encompass a much broader range of phenomena”. This “concept creep” has been noted both “horizontally” or “outward” in that the concepts come to capture qualitatively new phenomena beyond their originally intended meaning, and “vertically” or “downward” in that they come to include quantitatively less extreme phenomena. Walby *et al.* (2017, p. 19) have pointed to a similar shift in the term “violence” where its meaning is often “stretched beyond physicality so that it encompasses many forms of power and harm, losing its distinctiveness.” Tasioulas (2021) terms such inflation or expansion as “conceptual overreach” in his study of some other concepts.

In the context of caste, both the terms ‘atrocities’ and ‘violence’ have seen such semantic expansions leading to the stretching and shifting of their conceptual boundaries. Increasingly newer and less extreme acts have been included within them, while the appeal of their widely and originally understood meanings has mostly been retained in their usage. Especially in the case of ‘atrocities,’ this expansion has been extensive and enduring, mostly because it has embedded itself into the official terminology of the Government of India and the Indian law. As we shall see, this has created serious confusion, especially in the interpretation of the statistics of crimes, and has distorted the understanding of the nature and levels of violence against SCs and STs.

### *2.1. The coevolution of the concept of atrocities and the crime statistics*

We can trace the semantic expansion of the term ‘atrocities’ in official and governmental usage starting in the 1970s using the reports of the Commissioner for Scheduled Castes and Scheduled Tribes (CSCST). The CSCST was a special officer who used to be appointed by the President of India, under Article 338 of the Indian constitution (before the article was amended in 1990 and the commissioner was fully replaced by a multi-member National Commission for the Scheduled Castes and Scheduled Tribes [NCSCST] in 1992) (NCSCST 1994, p. 3). The office of the commissioner had been assigned the task of investigating “all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes” under the Indian Constitution and was required to submit periodic reports to the President of India. These reports, most often prepared on a yearly basis, would then be placed in both the houses of the Indian parliament for discussion.

We find very few mentions of the term ‘atrocities’ in these reports through the decades of the 1950s and 1960s. The term, in those decades, can be seen very occasionally used in the media and parliamentary discussions, sometimes figuratively to refer to acts of harassment and other acts of lesser severity, but mostly to describe high-profile and gruesome instances of violence where the victims belonged to a SC. We see some of these references to the term quoted in the reports of the CSCST of those decades (see e.g. CSCST 1969, p. 44). However, it is from the 1970s onwards that we see the term’s increasing usage in the reports where it is systematically used to refer to cases of alleged violence and harassment. Pertinently, Jalki and Pathan (2017, p. 75) also note, through the review of other literature on caste, especially the research articles published through this period, that the usage of the term ‘atrocities’ in the context of caste “is largely a late-1960s development, which ‘caught on’ in the 1970’s”. It was also in this period that the term ‘Dalit’ (often translated as “broken people” in English), popularized by the Dalit Panthers movement, started to be increasingly used, mostly to refer to the Scheduled

Castes but sometimes also to refer to a much broader section of people who were considered to be facing systemic violence and oppression.<sup>3</sup>

The report of the CSCST for 1971–72 and 1972–73 introduced a section named “Cases of Atrocities and Harassment” which covered cases of harassment and violence reported to the commissioner or which the commissioner would take cognizance of through various sources, including the media reports (CSCST 1974, p. 162). This section would be developed in subsequent yearly reports with similar or slightly different names. It would be renamed to “Atrocities and Harassment” in the yearly report of 1975–76 (CSCST 1977, p. 107) and to just “Atrocities” in the report for 1979–80 (CSCST 1981, p. 314). The mentions of ‘atrocities’ would increase in these yearly reports from barely any mentions in the report for 1969–70 to over 300 times a decade later in the report for 1979–80.

Meanwhile, in 1974, after public concern about atrocities against SCs was raised in several fora including in the media and the Indian Parliament (NCSCST 1994, p. 93), the Ministry of Home Affairs (MHA) of the Government of India started collecting statistics of crimes reported to the police across India where the victims belonged to a SC or a ST (CSCST 1988, p. 228). This data was collected possibly with the intention to get a population-wide understanding of this violence which otherwise was based only on anecdotal evidence until then. The collection of statistics which started with the four most important violent crimes, namely, murder, grievous hurt, arson, and rape would soon encompass all offenses under the Indian Penal Code (IPC) in which SC/ST persons were victims (CSCST 1977, p. 112; 1988, p. 228). The offenses counted within these statistics were not necessarily based on “caste consideration”, as the MHA and the CSCST repeatedly clarified (CSCST 1981, p. 323; 1984, p. 111) to the states who collected these statistics. The statistics, it was directed, had to include all IPC crimes irrespective of their motives or severity and whether the allegations of offenses had been investigated for their veracity.

These statistics collected by the different divisions within the MHA such as the National Integration Division (NID) and PCR Cell in the Scheduled Castes and Backward Classes Development Division (SC & BCD) (CSCST 1982, p. 142), were made available to the CSCST and were included in the reports of the commissioner for subsequent years, through which they are available to us today. In these reports of the CSCST, we find these statistics included under “atrocities” (see e.g., CSCST 1977, p. 112). We do not know if this labeling was inadvertent or deliberate, but through it, we see the term ‘atrocities’ being extended to include all offenses under the IPC against SCs and STs. We see in it the first indications of an important and systematic semantic expansion of the term in the official and governmental language. For example, consider the description of the word atrocity as used in the report of the CSCST for the years 1975–76 and 1976–77:

The term ‘atrocities’ includes not only serious offenses like criminal intimidation, arson, murder, etc., but also all offenses alleged by members of these communities against the other sections of the population. (CSCST 1977, p. 107)

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<sup>3</sup> A google ngram search shows that the terms ‘Dalit’ and ‘caste atrocities’ began to be used to any significant extent only in the 1970s and their usage kept rising in the subsequent decades.

In this description, we see the widening of the scope of 'atrocities' to all crimes against SCs and STs including the non-serious ones and those based merely on allegations of these crimes.

The MHA itself, appears to have been inconsistent and also somewhat ambivalent initially, about using the term 'atrocities' to refer to these crimes in the statistics. We are told that it used a neutral expression "crimes against the Scheduled Castes and Scheduled Tribes" to refer to them. This usage, as a later report of the CSCST noted, was purportedly because the word 'atrocities' itself was not defined in any law (CSCST 1988, p. 228). We see the same expression or similar ones such as "crimes against weaker sections of society" being used for these statistics later from 1994 to 2013 too when these statistics were published by the National Crime Records Bureau (NCRB), another division within the MHA that now handles the aggregation and publication of these statistics (see e.g. NCRB 1996, p. 245). Nevertheless, the MHA seems to have also adopted the term in some of its official communication while referring to the same crimes. It clarified, for example, that atrocity is

any offense under the Indian Penal Code committed against members of the Scheduled Castes by any non-Scheduled Caste person. Similarly, all offenses under the IPC committed by non-Scheduled Tribe against members of Scheduled Tribe are atrocities. Caste consideration as a motive is not necessary to make such an offense in case of atrocity. (MHA quoted in CSCST 1984, p. 111)

One peculiar thing to note in this definition, other than its inclusion of "any" and "all" IPC offenses, is that the crimes committed by SCs against STs and by STs against SCs were also considered atrocities. While the aggregation of these statistics was shifted between various divisions of MHA over time, this definition seems to have been continued for the collection of statistics and followed till as late as 2013 in the yearly reports of the NCRB.

By the late 1970s and early 1980s, therefore, the term 'atrocities' had become an "omnibus identifier" for caste violence in popular as well as official parlance (Mendelsohn and Vicziany 1998, pp. 44–45). It created a totalizing representation of violence against SCs and STs and came to mediate the understanding of the nature of this violence. Officially, it had acquired a meaning that included all alleged offenses under the Indian Penal Code (IPC) where the victims were specifically from a SC or a ST, irrespective of the severity of the offense and whether the motive indicated any "caste considerations". However, while both the CSCST and MHA repeatedly asserted this dilated definition in their clarifications or the instructions given for the collection of the statistics, the statistics themselves were used to imply a much more constricted meaning. As we shall discuss in the next sections, the statistics were interpreted as representing the most heinous of violent crimes and as necessarily motivated by caste. So the semantic expansion gave the concept of 'atrocities' a split character: the dilated definition used for the collection of statistics and which referred to all crimes against SCs and STs without any qualifications gave it its sense of quantity, while the constricted meaning used in its interpretation as referring to the most heinous violent crimes and necessarily based on caste prejudice gave it its sense of quality. These two definitions have worked in tandem, resulting in many conceptual ambiguities and confusion, which continue to this day.



If getting an empirical understanding of the level of violence faced by SCs and STs accurately was ever a promise of the statistics collected by MHA, these statistics never lived up to it. They were not followed up with proper analysis and were marred by data illiteracy and fallacies associated with intuitive statistical interpretations. Since only statistics of crimes against SCs and STs by non-SCs and non-STs respectively, and not of any other populations, was collected, it gave rise to an availability heuristic (Kahneman 2011) and created an impression that these crimes exist only against SCs and STs or that they exist against them in excessive proportions. The raw numbers were often cherry picked and quoted without scientific controls and were assumed to be indications of excessiveness or persistence of atrocities against SCs and STs (see e.g. CSCST 1980, p. 2; 1981, p. 339; 1988, p. 228).

## 2.2. The legal definition

While the definitions of 'atrocities' that evolved through the 1970s and 1980s through the reports of CSCST and the instructions of MHA, were used for the collection of statistics of crimes against the SCs and STs until 2013, a parallel and a slightly different definition was introduced through the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (POA Act) which the Parliament of India passed in 1989. The POA Act defined 'atrocities' as any offense punishable under its relevant sections. It listed a number of offenses that, when committed on persons belonging to the Scheduled Castes or the Scheduled Tribes by anybody who does not belong to any of these castes or tribes, constituted atrocities. The offenses listed in the sections of the law could be divided into two broad categories. Firstly, a range of new offenses was defined that covered insults, coercion, harassment, trespass, etc. These crimes did not require caste as a motive to be established, to be considered as atrocities. Secondly, violent crimes under the Indian Penal Code (IPC), which carried sentences of more than ten years, if they were committed on the "ground" that the victim belonged to a Scheduled Caste or a Scheduled Tribe, were charged under the POA Act along with the IPC and carried enhanced punishments. This category, mainly covering the most serious of violent crimes such as murders, required that the offense be committed "on the ground that" the victim "is a member of a Scheduled Caste or a Scheduled Tribe". The statistics of offenses under the POA Act started to be published in the *Crime in India* yearly reports of the NCRB starting in 1994. However, the statistics of all the IPC crimes against SCs and STs also continued to be published in these yearly reports.

The amendment to the POA Act, which was initially passed through the SCs and STs (Prevention of Atrocities) Amendment Ordinance 2014 and then re-enacted in the form of primary legislation as the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, enlarged the scope of the Act adding many more offenses and also diluted the grounds upon which IPC crimes would be considered as atrocities. The latter part was accomplished by changing the words for qualifying the IPC crimes as atrocities in the Act from "on the ground that such person [victim] is a member of a Scheduled Caste or a Scheduled Tribe" to "knowing that such person [victim] is a member of a Scheduled Caste or a Scheduled Tribe". So essentially, after the amendment, in order to be considered as atrocities, it was no longer required that the IPC crimes be committed on the "ground" or the basis of the victim's status as belonging to a SC or a ST. Mere knowledge on the part of the offender that the victim belonged to

such a caste or a tribe was considered sufficient. The Act also specified that “the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.” So at the time of filing a police report, which is when the crimes are counted in the official statistics, these offenses would invariably get categorized as atrocities.

The amendment to the POA Act brought the legal definition of ‘atrocities’ closer to the earlier definitions of the CSCST and the MHA, in that “caste consideration” as a motive was no more of consequence in deciding if the crimes under the IPC against the SCs and STs were counted as atrocities. The statistics of crimes against SCs and STs published in the *Crime in India* (CII) yearly reports of the NCRB was aligned with this definition starting with the yearly report of 2014 (NCRB 2015, pp. 107–108). Starting with the yearly report of 2016, the statistics of IPC crimes against SCs and STs that did not fall under the purview of the POA Act as amended in 2015 were excluded from publication in the yearly reports (NCRB 2017, p. 289).

### *2.3. The atrocity approach to analyzing crimes and violence*

Haslam’s study, which we referred to earlier, notes that concept creep itself could be seen “as a form of expansion of the ‘moral circle’” reflecting an “ever-increasing sensitivity to harm”. We can see an element of this in the evolution of the concept of atrocity in the context of caste too. For example, we see it being argued that crimes inflict more pain when the victims belong to a weaker section and hence need special consideration (CSCST 1988, p. 11). The spirit of this position can be seen to be derived from the 46th article of the Directive Principles of State Policy of the Indian constitution that states that “The State shall promote with special care the educational and economic interest of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.”

However, as Haslam (2016) notes, while the concept creep of terms may sometimes be “well motivated”, many problems result from it. He lists many downsides in his study of the creep of different concepts, including “semantic dilution”, the downplaying, trivializing and even “deflecting resources away from more severe conditions”, releasing “a flood of unjustified accusations and litigation, as well as excessive and disproportionate enforcement regimes”, “pathologizing everyday experience”, and “encouraging a sense of virtuous but impotent victimhood”. Tasioulas (2021) identifies additional problems due to the distortion of ideas within concepts as a result of inflation or expansion of concepts, which he calls “conceptual overreach”. According to him, in its extreme form it “inhibits constructive dialogue”, “offers the illusory comfort that the most difficult challenges that confront us all ‘boil down to’ one factor”, and can even morph “into a totalising ‘all in one’ dogma”.

As we shall see, many of these problems can be identified in the concept of caste atrocity too. In some respects, the extent of these problems has been far greater with the concept of caste atrocity, than the other concepts discussed by Haslam or Tasioulas because the term has entrenched itself in the official terminology and laws in India. Another problem that Haslam notes, and which is important to our discussion, is that concept creep creates

“semantic overlaps” and thereby leads to “conceptual confusion,” posing severe problems in the research and investigation of the concepts involved.

As discussed in the earlier section, as a consequence of the semantic expansion and shift, the term ‘atrocities’ has acquired two sets of parallel meanings. The dilated meaning of the term, used to collect statistics of crime, refers to all crimes against SCs and STs without the qualification of severity or motives or “caste considerations”. The constricted meaning used to interpret the statistics, on the other hand, is that it refers mostly to heinous violent crimes, in keeping with the widely understood meaning of the term ‘atrocities’, and that these crimes are primarily motivated by caste. The consequence of employing these definitions in tandem was that it would completely distort what the statistics of crimes indicated, and invariably led to the impression that SCs and STs face excessive violence, irrespective of what the data really conveyed. In other words, the presumption of excessive violence was already built into the framework of caste atrocities to the extent that it would completely override the evidence that the data provided.

But strangely, this fallacy and the problems resulting from it have remained completely undetected in the academic studies on caste violence that have drawn upon these statistics. Rather, many studies have built upon the fallacy and furthered what we can call the atrocities approach to analyzing crimes and violence. We can now turn to discussing the resulting problems and how they have shaped the discourse on caste violence.

#### 2.3.1. Atrocities as Hate Crimes or Caste Offenses

“Atrocities” or the crimes against SCs and STs in the official statistics have often been arbitrarily conflated with “hate crimes”. For example, while analyzing these statistics of crimes against the SCs and STs, Sharma (2012) implies that these crimes are “hate crimes” “similar to hate crimes in other parts of the world”, and that these crimes represent an “extreme form of prejudice and discrimination”.

Hate crimes are “prejudice or bias-motivated crimes” as understood in countries such as the United States of America (USA), United Kingdom (UK) and other European countries where special laws have been established against such crimes. These laws have specific definitions of hate crimes that differentiate them from general crimes based on evidence of bias or prejudice in the crimes. For instance, the Hate Crime Statistics Act in the USA (28 U.S.C. § 534) requires collecting data on crimes “that manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity”. The Attorney General is entrusted with establishing “guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice.” In the UK, the recording of a hate crime is based on the police flagging offenses that are purported to be motivated by “hostility or prejudice towards someone based on a personal characteristic” (Home Office 2020). Similar mechanisms to identify hate crimes based on evidence of prejudice exist in other countries like Germany (Glet 2009, p. 5).

So hate crimes in these countries are not all crimes but specifically those that are considered to manifest evidence, or at least some indications, of prejudice. One of the key reasons for collecting statistics on hate crimes is that they are considered different from and are not necessarily correlated with general crimes i.e. the levels of general

crimes cannot be arbitrarily considered as a proxy for the levels of hate crimes. Characterization of all crimes against SCs and STs in the statistics (or “atrocities”) as hate crimes belies the fact that these are general crimes or what NCRB calls “normal crimes” (NCRB 1996, p. 245) and are not necessarily based on bias or prejudice.

Many papers that analyze these crimes also nest their thesis within the literature on the caste system, as a result implying that these crimes are motivated by caste (see e.g. Bros and Couttenier 2010, Sharma 2012, 2015). That is despite the fact that the official and legal definitions of atrocity used in the collection of these statistics repeatedly confirm that the offenses are not necessarily based on “caste considerations”. It is also in this context that “caste Hindus” are many times specially mentioned as the perpetrators of this violence (see e.g. CSCST 1982, p. 149, Borooah *et al.* 2019) suggesting that these crimes are necessarily to do with the ancient caste system of the Hindus. However, the non-SCs and non-STs who are the said offenders of these crimes, by definition, include people of all religious affiliations in India, including Hindus, Muslims, Christians, Sikhs, etc. The religious identity of the perpetrator is not recorded or published in the official statistics. Hence there is no systematic data on the religion of alleged offenders in the official statistics. There are also very few studies on the matter. Bhat *et al.* (2008) is a rare field study that reports the religious identities of persons accused of crimes under the POA Act as part of its study to evaluate compensation given to the victims of these offenses in Karnataka. It identifies several accused from different religions including Hindus, Muslims, Christians and Jains. A sampling of the publicly available court documents of the cases under the POA Act also shows that the alleged offenders of these crimes do not just belong to any one particular religion.

Also, the field study (Bhat *et al.* 2008), mentioned above, and the publicly available court documents of the cases of crimes, reveal a variety of motives for these crimes, including petty quarrels, road rage, failed marriages or relationships, disputes over business transactions, and land disputes. Unfortunately, there is no systematic data in the official statistics on what proportion of these crimes may be based on prejudice or on a “caste consideration”. This is because, early on, a view emerged against the collection of such information on these crimes. For example, the Bureau of Police Research and Development had in 1979 conducted a survey on these crimes in the state of Bihar (CSCST 1981, p. 322). Based on the study, it had suggested that not all crimes against SCs be classified as atrocities and that they should be investigated and considered as atrocities if “there is an element of cruelty, brutality and wickedness in the commission of a particular offence or whether it has the background of having been committed to teach a lesson to the Harijans.” (The word Harijan has often been used in place of SCs since MK Gandhi’s use of it.) But the suggestion was opposed by the CSCST which argued that “such a distinction and division between cases of crimes against Scheduled Castes and atrocities against Scheduled Castes would not be desirable as it would be very difficult to conclude whether the crime was committed on caste factor or other personal factors” (CSCST 1981, p.323). What the CSCST argued in terms of a logistical difficulty, the MHA would argue in terms of self-evidence in a later clarification. The MHA asserted that

where the victims of crime are members of Scheduled Castes and the offenders do not belong to Scheduled Castes, caste consideration are [sic] really the root cause of the

crime, even though caste consciousness may not be the vivid and immediate motive for the crime. (MHA quoted in CSCST 1987, p. 35)

Thus, this empirically unverifiable claim, that caste was the real root cause or motive of all crimes against the SCs and STs, became an important part of how these crimes were understood. Strangely however, this argument by self evidence, has continued unscrutinized and even built upon by scholars in many studies (see e.g. Chakraborty *et al.* 2006, Bros and Couttenier 2010, Sharma 2012, 2015).

### 2.3.2. Atrocity as violence

The official statistics of “atrocities” or the crimes against SCs and STs, published by the various divisions under the MHA, contain the offenses under the Indian Penal Code (IPC), and the State and Local Laws (SLL) such as the Protection of Civil Liberties (PCR) Act 1955 and the SC/ST Prevention of Atrocities (POA) Act 1989. The fact that not all of these offenses are violent is sometimes recognized in studies (see e.g. Chakraborty *et al.* 2006, Sharma 2012, 2015). Nevertheless, the total quantum of these crimes under all these laws combined (Chakraborty *et al.* 2006, Bros and Couttenier 2010) or under the IPC (Sharma 2012, 2015) have been arbitrarily considered as violent or as indicators of the levels of violence against SCs and STs.

Two immediate problems arise from this conflation. Firstly, the proportion of offenses of lesser severity, or those which are not necessarily violent, is significantly more in the total crimes under each of these laws. Less than 40% of the total cases of IPC crimes against SCs and STs and less than 30% of the total cases of crimes against them under all the three laws combined are specific violent crimes listed by NCRB.<sup>4</sup> Since not all crimes necessarily have the same temporal and cross population trends, the offenses of lesser severity with their large volumes have the potential of completely masking out the effects of severe violent crimes like murder, arson etc which serve as better indicators of violence.

Secondly, crimes reported to the police are known to be prone to reporting errors which can significantly skew crime rates and make the relationship between the reported and the real rates of crimes indeterminate (Walby *et al.* 2017, pp. 25–26). Reporting errors make it difficult to know if a given difference or change in the rates of the reported crimes is due to a difference in the actual levels of these crimes itself or in their reporting levels. While reporting errors affect all crimes, severe violent crimes and especially those with lethal outcomes are considered a lot less prone to them and more reliably measured than offenses of lesser severity (Walby *et al.* 2017, p. 44). This is why studies that seek to measure violence in populations rely on the rates of specific violent crimes like intentional homicides or murders – crimes that are considered the least likely to suffer reporting errors, rather than other less severe crimes. We will discuss this point again in Section 3.2.

So, the totals of crimes against SCs and STs, either under the IPC or all the laws together, have a significant proportion of lesser offenses that are not necessarily violent, and are also more susceptible to variations in reporting levels. This makes using them as proxies

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<sup>4</sup> The percentages were calculated based on the reported cases of crimes for the years 2001 to 2013. The violent crimes considered are Murder, Rape, Kidnapping and Abduction, Dacoity, Robbery, Arson (which are specifically listed as violent crime by NCRB in its yearly reports [see e.g. NCRB 1999, p. 187]), and Hurt.

for the levels of violence fraught with inaccuracies. For example, Chakraborty *et al.* (2006) find that the incidence of crimes reported against SCs or “atrocities” is relatively higher in well-off districts as compared to poorer districts. Based on this, the study infers that violence from the non-SCs “is directed at relatively better off dalits” rather than poorer dalits and thus that it represents punishment meted out to dalits for aspiring upward socio-economic mobility. However, the difference in the number of reported total crimes against SCs in the different districts, on which this hypothesis is built, could also be due to differences in the reporting levels rather than differences in the actual levels of violence itself. Thus a more accurate way to probe this question that would have minimized reporting errors would have been to use the rates of specific violent crimes like murders which are considered the least likely to suffer from reporting errors, rather than the totals of all crimes.

The atrocity approach to the analysis of crimes, as we have seen, clubs together all crimes against SCs and STs as violent. But it also arbitrarily elevates crimes in severity. For example, Sharma (2012) uses the aggregation of all IPC crimes against SCs and STs as indicators of violence to study “group-based violence in the Indian context”. Based on its analysis, the study posits that “an improvement in the economic position of lower castes relative to the upper castes is positively correlated with the incidence of crimes committed by the upper castes against the lower castes” (Sharma 2012, p. 1). Together with other anecdotal evidence, Sharma paints a grim picture of violence, implying that gruesome instances of mass violence driven by envy and hatred are pervasive against SCs and STs. For example, consider the following from the conclusion of Sharma’s study that discusses the nature of these crimes:

A 1997 report by the National Commission of Scheduled Castes and Scheduled Tribes succinctly states ‘Whenever Dalits have tried to organize themselves or assert their rights, there has been a backlash from the feudal lords resulting in mass killings, gang rapes, looting of Dalit villages’. Even though the magnitudes of the effects we obtain are small, a regular occurrence of such crimes instills a sense of apprehension and has a capacity for secondary victimization i.e., it creates a sense of vulnerability and anxiety not just for the victim but also for the wider community. Repeated incidents of individual-level hate crimes may exacerbate existing tensions between groups and could escalate to situations of group-level conflict. (Sharma 2012, p. 20)

One could point to several problems with the above characterization of violence. The crimes in the statistics considered for analysis by the study are not necessarily representative of mass crimes perpetrated by “feudal lords”. As discussed, they are general crimes covering a wide range of severity, a variety of motives and a cross section of non-SC/non-ST populations as their perpetrators (a part of the crimes in the statistics is also committed by STs against SCs and SCs against STs, a fact missed by Sharma). But even if the numbers were to be considered in some way as representative of mass violence, do the descriptions of violence match the results reported by the study?

Let us consider that in some detail. The study classifies the crimes against SCs and STs into three groupings, namely violent “body crimes” (covering murder, rape, kidnapping and physical assault/hurt), violent “non-body crimes” (covering dacoity, robbery, arson and all other IPC crimes other than the body crimes) and “SLL crimes” (covering offenses under the POA Act and the PCR Act). Through its analysis, it reports no correlation between its main explanatory variable (“economic position of lower castes

relative to the upper castes”) and the first and the third of the three groupings, namely the body crimes and the SLL crimes. So the results have nothing to say about “mass killings” or “gang rapes” which are covered by the first aggregate.

The positive correlation that the study reports, between the said explanatory variable and the second aggregate, namely, the non-body violent crimes, could give an impression that this corroborates “looting of Dalit villages” or large scale arsoning or robbery, because specific violent property crimes like dacoity, robbery and arson are included within this aggregate. However, the three specific violent property crimes – dacoity, robbery and arson together constitute only about 4% of the total incidents of crimes in that aggregate considered by Sharma. The remaining about 96% of the aggregate are other offenses of lesser severity under IPC for which we do not have crime-wise breakdown of numbers and which are not necessarily violent or property crimes as assumed by the study. As discussed, these latter crimes of lesser severity, due to their large volumes and possibly relatively higher susceptibility to reporting errors too, can mask out the effects of specific violent property crimes such as arson, robbery or dacoity when the aggregate is considered in statistical analysis such as the one done by Sharma (2012). A better approach, in this case, could have been to use only specific property crimes such as arson, robbery, dacoity that better represent violent property crimes, and check if their rates are correlated with the explanatory variables considered.

Nevertheless, does the positive correlation posited by the study between the non-body IPC crimes and the relative economic positions of SCs/STs and non-SCs/non-STs, suggest the occurrence of group-based violence or mass violence? Sharma mentions that “even though the magnitudes of the effects we obtain are small, a regular occurrence of such crimes instills a sense of apprehension and has a capacity for secondary victimization” and that the “repeated incidents” of these crimes “may exacerbate existing tensions between groups and could escalate to situations of group-level conflict”. So, the study posits that despite some positive correlations that the study finds, the incidence of “group-level conflict” or mass violence is contingent upon the occurrence of violent crimes against SCs and STs becoming “repeated” or “regular” or in other words their level becoming high. In which case, do we know if the levels of these violent crimes are high especially against SCs and STs? Or do we have reason to believe that they could become high enough to escalate into group-level conflicts? While the answer to these questions is assumed in the positive and forms the basis of many of Sharma’s conclusions about mass violence against SCs and STs, it is left largely unaddressed in the study.

To be clear, what is being contested is not whether incidents of violence, including those that are gruesome and involve mass violence, happen. What we question is the way in which the prevalence of such crimes of mass violence is asserted using the rates of general crimes as a proxy for such violence and especially when data on these latter crimes too does not necessarily provide any evidence of high occurrence.

Conflating all offenses against SCs and STs with violence, and sometimes as necessarily referring to the most heinous violence, has also led to the collapse of gradation of these crimes and hence of nuance in discussions about them. Its sweeping usage has resulted in the elevation of all crimes to the highest severity, posing serious hurdles in understanding the nature and the levels of violence and in devising proportionate

measures to address them. As a consequence, even lesser offenses are often sought to be dealt with by the use of disproportionate force and draconian legal provisions. For example, as the Supreme Court of India has noted in the controversial case of *Dr. Subhash Kashinath Mahajan v State of Maharashtra and ANR* (AIR 2018 SC 1498, para. 52), even in laws that deal with terrorism and organized crime in India, the most stringent of provisions for arrests and denial of bail are only reserved for very serious offenses. However, the POA Act includes draconian provisions even for allegations of minor crimes without grading them on the basis of their severity.

### 2.3.3. On the persistence of atrocities and the fallacy of absolute numbers

Along with the problems in the definition of atrocity that we have discussed above, data illiteracy and the fallacies associated with intuitive statistics have also hindered a realistic assessment of the violence against SCs and STs.

The numbers quoted as corroborative of the claim of excessive violence against SCs and STs are often absolute numbers of incidents of crimes that have not been subjected to proper statistical treatment. Most of the time they have not even been normalized for population or any other variables (see e.g. CSCST 1988, p. 228, HRW 1998, p. 41; Chakraborty *et al.* 2006, p. 2479, European Parliament 2012). The pitfalls of using numbers without proper controls or numerators without proper denominators have been discussed in epidemiology as the “fallacy of floating numerators” (Victora 1993).

Specifically, absolute numbers create an immediate impression of largeness when quoted because of a cognitive shortcut that leads to mistaking the numeric for the categorical, i.e any non-zero number being arbitrarily categorized as a high value in absolute terms rather than relative to a reference. In the case of crimes against SCs and STs, this has created an exaggerated sense of their occurrence even while their rates have never been compared to the rates within a reference population. So the mere existence of crimes where victims are SCs and STs has been taken as a sign of excessiveness or “persistence” of these crimes (see e.g. CSCST 1980, p. 2; 1981, p. 339; 1988, p. 228)

As a consequence, it has made it difficult to understand what constitutes a high or a low level of violence or whether violence is increasing or decreasing which are essential in evaluating policy interventions that address such violence. So, the policy measures to reduce violence against SCs and STs have mostly been a shot in the dark – they have never been evaluated rigorously for their effectiveness in deterring crimes or violence.

Based on the impression of excessive violence that the absolute numbers of crimes generate, governments in India have expressed deep shock and concern and have advocated various measures to “put an end” to these crimes (CSCST 1980, pp. 190 and 193, NCSCST 1994, p.93). The POA Act, which has been considered as the most important intervention in this direction, has enhanced sentences for many IPC crimes, barred anticipatory bail applications of alleged offenders even for minor crimes, and has mandated the setting up of special courts for speedy trials of crimes against SCs and STs, among many other steps that have been seen as required to curb the spiraling violence. The Ministry of Social Justice and Empowerment in the Government of India has also released periodic reports on the implementation of the POA Act. However, in the last more than three decades of the existence of this law, we do not know of any steps that have been identified as having been effective in reducing these crimes or the violence



against SCs and STs. Rather, it has only been asserted that these crimes have either been increasing or continuing at a disturbing level in spite of the POA Act. Based on this assessment, more draconian and often desperate measures have been suggested to control this violence.

For example, the 2015 amendment to the POA Act, which expanded the law, defined additional offenses, increased sentences for certain others, and even added draconian provisions, appears to be based on such a confused reading of the statistics. In the report prepared by the Standing Committee on Social Justice and Empowerment on the need for the amendment, it was noted that

The Act was widely acknowledged as a landmark legislation in the journey to end injustice, violence and atrocities against members of SCs and STs. Despite the deterrent provisions of the Act, atrocities against the members of SCs and STs continue at a disturbing level besides having high acquittal rates, low conviction rates and poor coordination between the enforcement authorities at the State and district level. (Standing Committee on Social Justice and Empowerment 2014)

That atrocities are continuing “at a disturbing level” was a claim not based on an analysis of these crimes using proper scientific controls or even calculating the rates of these crimes. It was a conclusion based on an apparent increase in the absolute numbers or the total incidences of these crimes for the three years between 2010 and 2013 as provided by the statistics by NCRB. As we shall discuss in section 3.4.2, while the rates are fluctuating every year, there is no reason to believe that the crimes have been drastically increasing.

The standing committee also presents no data to show that these crimes have “high acquittal rates” or “low conviction rates”. However, the same suggestion appears in other places too. For example, in 2009, the then prime minister of India Dr. Manmohan Singh had expressed shock that the “conviction rate for cases of atrocities against SCs and STs is less than 30 per cent against the average of 42 per cent for all cognisable offences under IPC”, also observing that atrocities “continue to appear with disturbing regularity” (Singh quoted in PTI 2009). The alleged low conviction rates of crimes against SCs and STs have sometimes been attributed to sinister causes such as caste bias within the judiciary and police (Bros and Couttenier 2010). However, a closer look at the data tells us that these allegations are not founded on evidence. The apparent difference in conviction rates is because the comparison is between dissimilar entities. The profile of crimes under the two headings being compared, namely “atrocities against SCs and STs” and “all cognisable offences under IPC” are different. A crime-wise comparison of the conviction rates, as we shall see in section 3.5, reveals that the conviction rates for violent crimes are not disproportionately lower for the SCs and STs. Rather, for the most important of violent crimes like murders against SCs and STs, the conviction rates are higher than average.

#### 2.3.4. Misrepresentation of the data

While many inaccurate conclusions about crimes against SCs and STs are due to conceptual problems and data illiteracy as discussed, some distortions and erroneous claims are because of misrepresentation of the data due to laxity and politicization

mostly driven by advocacy groups. They raise serious questions about the ethical usage of crime statistics.

For instance, the United States State Department, in its 2014 yearly human rights report on India, makes the claim that the “National crime statistics indicated that, compared with other caste affiliations, rape was most often perpetrated against Dalit women” (U.S. Department of State 2015, p. 40). This claim has been repeated in many other yearly human rights reports of the State Department. However, a look at the crime statistics from the yearly reports of NCRB (which contain the official statistics of crimes in India), tells us that no data from any of the yearly reports can be used to make this claim. As we shall see in section 3.4, the official statistics indicate that the rate of rape against the SCs by non-SCs has been much lower than the average rates of rape in India for all of the years for which the data is available.

In another instance, the European Parliament has used a fallacious interpretation of this data in its resolutions on “cases of breaches of human rights, democracy and the rule of law” which calls out “Caste Discrimination” in India (European Parliament 2012). The resolutions use the following text with slight variations in its different resolutions.

[D]espite the fact that many Dalits do not report crimes for fear of reprisals by the dominant castes, official police statistics averaged over the past 5 years show that 13 Dalits are murdered every week, 5 Dalits’ homes or possessions are burnt every week, 6 Dalits are kidnapped or abducted every week, 3 Dalit women are raped every day, 11 Dalits are beaten every day and a crime is committed against a Dalit every 18 minutes. (European Parliament 2007)

This sort of sensational description of data on crimes against SCs is found reproduced in the resolutions passed by the European Parliament over many years as also in the reports of advocacy groups working on the issue. Interestingly, the exact same language is also reproduced in a resolution passed by the US House of Representatives in 2007 (House of Representatives of the United States 2007, p. 1529). These statistics of crimes mentioned in the resolutions in their absolute numbers, when properly analyzed, show no evidence that SCs or Dalits in India face higher crime rates (see section 3.4). These are clearly instances of the fallacy of floating numerators or absolute numbers where the mere existence of these crimes has been taken as an indication of their excessiveness.

### **3. Measuring Violence Against SCs and STs**

In the last section, we discussed the problems that have marred the analysis and interpretation of data on crimes against SCs and STs. In this section, we examine this data and see if and how we could measure the levels of violence against SCs and STs and if these levels indicate excessive violence.

As discussed, measuring violence in populations is complex and fraught with uncertainties. This is not just because the concept of violence itself can vary, but also because most indicators of violence that are available have an “indeterminate” or “uncertain relationship with the ‘real’ rate of violence” (Walby *et al.* 2017, p. 26). Yet, if a reasonable measure to understand violence is not available, it would not be possible to identify populations vulnerable to it, know if the level is increasing or decreasing, and if and how it can be reduced. There would be no indicators to suggest the scale of policy interventions required: would it, for example, need military scale interventions, law

enforcement and better policing, fixing governance issues, devising better economic policies, or creating awareness? Further, there would also be no way to measure the effectiveness and track the progress of these interventions. That is why, despite the imperfections in the indicators, attempts have been made across the world to rigorously understand the levels of violence in populations by navigating through some of these problems (see e.g. United Nations Office on Drugs and Crime [UNODC] 2015). Unfortunately, violence against SCs and STs in India has not been studied in ways that could either lead to an accurate understanding of their levels, or aid crime deterrence and the reduction of violence through policy interventions.

In the following three subsections, we consider the crimes against the SCs and STs and discuss if and how the challenges discussed above can be addressed in the measurement of violence.

### 3.1. *Delineation of violence*

The first challenge in measuring violence in populations is that “the meaning of the concept ‘violence’ is contested” (Walby *et al.* 2017). Like the term ‘atrocities’ in the context of caste that we studied in earlier sections, the term ‘violence’ too has often been used loosely to refer to an expansive set of harms, including those that may not have been intended and those that have no manifestation in physical harm. However, an expansive or open-ended concept of violence poses serious hurdles in its investigation. So, Walby *et al.* (2017, p. 20) suggest that “it is better to restrict the concept of violence to a specific and precise definition connected to intended physical acts that cause harm” and especially those that are illegal or which result in crimes or offenses. Other forms of harm could also be investigated separately or in relation to violence (Walby *et al.* 2017), but including them in violence itself creates conceptual ambiguities, resulting in difficulties in measurement and also the dilution of the concept of violence. Even if all harms are to be theoretically considered as violence in some way, a serious investigation would require that they be classified based on their nature and severity so that their definitions can help in a clear understanding of the crimes – their commission and their motives, and in the statistical comparison of their instances, temporally and between populations.

For understanding the level of crimes against SCs and STs, the data that is available is the police-reported crime statistics collected by the different divisions within the MHA starting in the mid-1970s. These statistics are available to us through the reports of CSCST and NCSCST before 1994. In 1994, NCRB started aggregating and publishing this data in its *Crime in India* (CII) yearly reports. Until 1994, the statistics contained the crime-wise numbers of four specific crimes, namely murder, rape, arson and hurt, along with the total of all the other IPC crimes under the heading “Other offenses”. In 1994, crime specific data for more crimes under the IPC such as kidnapping and abduction, dacoity and robbery and the crimes under the Protection of Civil Rights (PCR) Act 1955 and the SC/ST Prevention of Atrocities (POA) Act 1989 also began to be published.

Not all crimes whose numbers are reported in these yearly reports have been considered as violent by NCRB. The yearly reports starting in 1997 classify certain crimes as violent based on whether they affect life, property, public safety, and women (NCRB 1999, p. 117). This classification is used for all populations considered in the reports. For crimes against SCs and STs, these crimes include six specific crimes, namely, murder, rape,

kidnapping and abduction, dacoity, robbery, and arson (NCRB 1999, p. 187). Strangely, hurt, which is the seventh crime for which crime-wise statistics is available, was not included in the NCRB's list of violent crimes until 2016. This was perhaps because the definition of this crime until 2014 did not differentiate between cases of "simple hurt", which did not necessarily involve injury and constituted the majority of these cases, from "grievous hurt" which involved aggravated form of hurt leading to significant bodily injuries. Nevertheless, this distinction notwithstanding, excluding hurt from violent crimes does not seem to be fully justified.

As discussed in section 2.3.2, studies have also used their own classifications of what constitutes violent and not-violent crimes. These classifications have often been arbitrary and have mostly used aggregates consisting of all crimes against SCs and STs under all laws or under the IPC as representing violence. We have discussed the problems associated with those approaches in that section. Another problem is that some crime-headings in the statistics may include some proportion of both violent as well as not-violent cases of the crime, creating difficulties in categorizing the crime as either violent or not-violent. To address these problems, in this study, we employ a graded rather than a sharp demarcation of violence. Each of the specific crimes for which crime-wise granular data is available will be considered separately rather than collapsing them into aggregates. Only those crimes for which crime-wise granular data is not available will be considered in aggregates. This would also be helpful in comparing the rates of these specific violent crimes against SCs and STs with the average rates of these crimes in the overall population. The gradation of these crimes as indicators of violence will be based on various factors that we shall discuss next.

### 3.2. Reporting errors

While the first challenge was to demarcate the crimes into violent and not-violent, the second challenge in measuring violence is that not all crimes, whose numbers are reported in the statistics, whether violent or otherwise, may offer good indications of the levels of violence. This is because these reported numbers have an "indeterminate" or "uncertain relationship with the 'real' rate of violence" (Walby *et al.*, 2017, p. 26). There are many intervening variables that cannot always be fully accounted for and which can add uncertainty or error to the results obtained from them.

The most important among errors that can significantly skew crime rates are the reporting errors. A large percentage of crimes are known to go unreported to the police because of various reasons, including the difficulty in filing police reports, hesitation in reporting crimes, and alternate ways in which the disputes are resolved. This has been called the "dark figure" of crime in criminological literature (Biderman and Reiss 1967).

While under-reporting in the statistics of crimes, especially in police-reported crimes, is often the most discussed among reporting errors and possibly the most significant too, the potential for parallel over-reporting also exists and can further complicate estimations. For example, a large percentage of crimes reported to the police are flagged as false after police investigations. Further, another large part of crimes reported to the police does not lead to convictions in court. There could be many reasons for failed convictions, including inefficiency in the prosecution system and judiciary. However, unless there is a complete breakdown of the judicial system, it could be reasonably

assumed that a large percentage of these cases also fail to result in court convictions because the allegations about their commission lack merit. Therefore, some countries like the United Kingdom update their national statistics after police investigations and court convictions (Smith *et al.* 2012, p. 33). In India, however, while the statistics of cases deemed false after investigations or which do not lead to convictions are published, the numbers for reported crimes themselves are not updated and also have mostly not been factored in in the analysis of crime data by studies and reports.

Reporting errors cannot be assumed to be either uniform for different crimes (Walby *et al.* 2017, p. 44) or consistent across different geographies over which they are measured. So their effect cannot be expected to be unidirectional in analysis involving statistical comparisons or regression analysis. The effect of reporting errors in such analysis is to add noise and reduce the accuracy of results rather than strengthening the position of a particular hypothesis. This has been ill-understood or not sufficiently addressed in many studies and articles on caste violence (see e.g. Chakraborty *et al.* 2006, Roy 2010, Bros and Couttenier 2010). As Jalki and Pathan (2017, p. 66) point out, in some studies and reports, under-reporting has been used as a “caveat” to uphold certain hypotheses. They note that while underreporting should raise questions about the plausibility of the research using these statistics, it has often been erroneously read as evidence to uphold the picture of widespread caste violence.

Reporting errors make the relationship between the crime rates as derived from the crime statistics and the real rate of the crimes, uncertain. So when the statistics show a high or a low reported value, or an increase or decrease, there is always ambiguity as to whether it is due to a difference or a change in the real rate of crimes or in the rates of reporting of these crimes. It is in this context that the increase in the reported cases of rapes in India has been counter-intuitively called “good news” by Iyer *et al.* (2012), who suggest that this increase is “driven primarily by greater reporting rather than greater incidence of such crimes.”

Studies that investigate violence in populations have generally considered that different crimes are subject to errors in reporting to different degrees. The violent and the most lethal ones are considered least likely to suffer reporting errors (Walby *et al.* 2017, p. 44). The rates of crimes that result in death, especially intentional homicides, are thus used as the most robust measures of violence in populations (UNODC 2019). They are also “often considered both a proxy for violent crime as well as an indicator of levels of security within countries” (UNODC 2015, p. 17). The rates of murders (which are slightly different from intentional homicides in their definition) have also been used in studies especially in India. They have even been considered as a reference against which the changes in reporting levels of other crimes have been measured i.e. when the rates of the other crimes have shown a different direction of change as compared to the rates of murders, the divergence has mostly been explained as due to the changes in the reporting levels of these crimes rather than the changes in their actual levels (see e.g. Iyer *et al.* 2012).

Based on these considerations, while we analyze all crimes against SCs and STs for which the data is available to understand their patterns, our reliance on these crimes to understand and measure violence will be based on their severity and lethality i.e. we

will rely on severe violent crimes and especially on murders to understand the levels of violence.

### *3.3. A clarification on offenders*

There is some confusion among scholars about who the offenders are for the crimes against SCs and STs that are counted in the official crime statistics collected by the MHA. Some scholars like Sharma (2012, 2015) have suggested that these crimes are counted only when the offenders belong “to a non-SC/ST group”. Bros and Couttenier (2010) and Jalki and Pathan (2017), on the other hand, believe that they “were collected irrespective of the perpetrators” or that “the caste of the perpetrator of the crime is not taken into consideration” while counting the crimes. Resolving this is important because it can lead to an implication in the calculation of the crime rates as well as their comparability with the rates of crimes in the overall population. None of the scholars seem to provide a reference justifying their stand.

From the definition given by the MHA (CSCST 1984, p. 111), it is clear that these crimes are counted when the perpetrators are non-SCs (including STs) for crimes against SCs and non-STs (including SCs) for crimes against STs. A look at the statistics of these crimes in NCRB reports makes it clear that this definition was continued until 2013. In 2014, the statistics were reorganized and the crimes committed by SCs against STs and by STs against SCs were separated out (NCRB 2015, pp. 107–108) and were eventually excluded from the official statistics starting in 2016 (NCRB 2017, p. xiii). Thus, from 2016 onwards, the crimes against both SCs and STs have been counted when the perpetrators of the crimes are non-SCSTs – neither belonging to a SC or a ST (i.e. excluding the crimes against SCs where STs are perpetrators and against STs where SCs are perpetrators).

Generally, when crime rates in populations are calculated, both victims and perpetrators are from the same population. However, the victims and the perpetrators in the crimes against SCs and STs counted in these statistics are from non-overlapping populations. This, combined with the non-availability of the data on crimes that involve other victims and offenders, including crimes committed by SCs (on other SCs as well as non-SCs) and by STs (on other STs as well as non-STs), constrains cross-population comparisons that are needed to properly understand the levels of violence among SCs and STs. The only comparison that is possible through the current data is with the rates of these crimes in the overall population of India. While not a perfect comparison, this could specifically tell if violence against SCs and STs by non-SCs and non-STs respectively is excessive as compared to the average levels of violence in India.

Since the crimes against SCs, STs and the overall population counted in the official statistics have different offender populations, the crime rates derived from them are not directly comparable. Therefore, the rates calculated from these numbers of crimes will have to be normalized for the offender population also. The normalization of these numbers for the offender population is achieved by multiplying the crime rates by a ratio of the total population and the offender population.

### *3.4. Analysis of crimes against SCs and STs*

With the available statistics of crimes against SCs and STs, we are able to plot the time series data for rates of murder, rape, and arson for the period between 1975 and 2019 for

crimes against SCs and between 1978 and 2019 for crimes against STs.<sup>5</sup> Unfortunately, for hurt, the fourth crime for which the data was collected by MHA starting in 1975, there are many discontinuities in definitions that make a long-term temporal analysis difficult. Hence the data for this crime has been considered from 1995 to 2013. The rates for three more violent crimes, namely kidnapping and abduction, robbery and dacoity, for which the data is available starting in 1992, have been considered for analysis for the period between 1992 and 2019. The rates of crimes under the POA Act have been considered from 1994 when they began to be available up to 2013 after which a discontinuity was introduced in the data.

Based on the considerations of availability of data, the severity of crimes and their ability to indicate the actual levels of violence, we discuss the different crimes against SCs and STs in the next two subsections. The first subsection discusses the most important of violent crimes for which the crime specific data within the statistics of crimes against SCs and STs and comparable data for the overall population is available. The second subsection discusses the residual crimes for which we do not have such crime specific data and includes the crimes aggregated in the statistics under the “Other Offenses” (Other IPC Crimes), the POA Act, and the PCR Act. The y-axis in each of these plots in the next two subsections shows the rates of the respective crime or the aggregate of crimes per 100 thousand of the considered population, for the time period mentioned in years on the x-axis. The rates of crimes have been calculated based on the numbers obtained from crime statistics from the reports of the CSCST, the NCSCST and the NCRB, and the yearly population numbers calculated by the interpolation and extrapolation of the numbers obtained from decennial *Census of India* (COI) reports.

#### 3.4.1. Important Violent Crimes

The seven crimes we analyze in this subsection include the six crimes designated as violent by NCRB, and hurt. Each of the plots shows the reported rates of crimes against SCs and STs (committed by non-SCs and non-STs respectively for data before 2014 and by non-Scheduled populations [non-SCSTs] for data from 2014 onwards). The slight change in the definition with respect to the offenders starting in 2014, which we have discussed in section 3.3, has been denoted by a dotted line for crime rates against SCs and STs in each of these plots. As discussed, these rates for crimes against SCs and STs have been normalized for the offender population also so that they are comparable with the average rates of crimes in the overall population in India.

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<sup>5</sup> The data on crimes against SCs and STs for the years 1987 and 1988 was not available and was interpolated using the data from preceding and subsequent years.

**Murders**

FIGURE 1

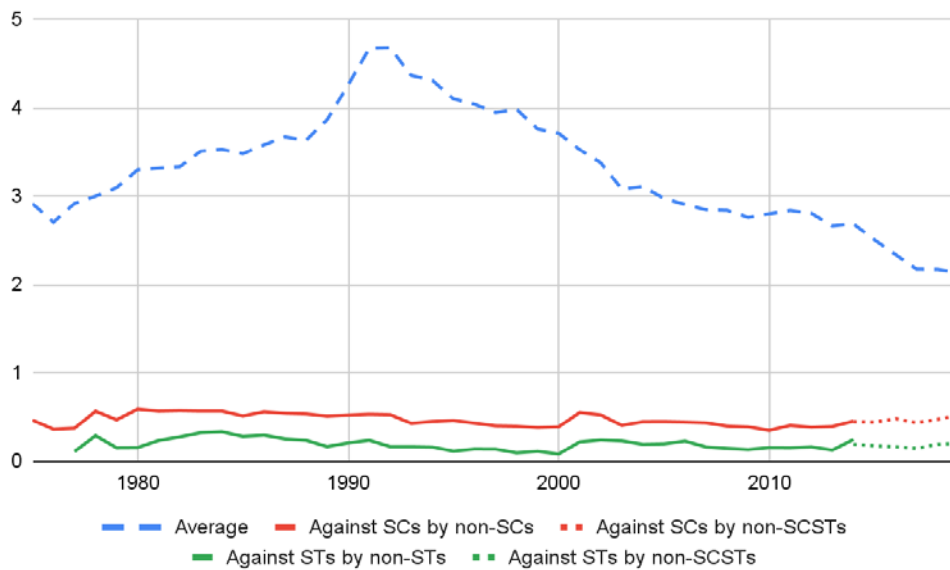


Figure 1. Rates of reported cases of murder (per 100 thousand of considered population) against SCs and STs compared to the rates in the average population for the years 1975 to 2019. (Source: Calculated by the author from data compiled from reports of CSCST, NCSCST, CII and COI for the relevant period.)

**Arson**

FIGURE 2

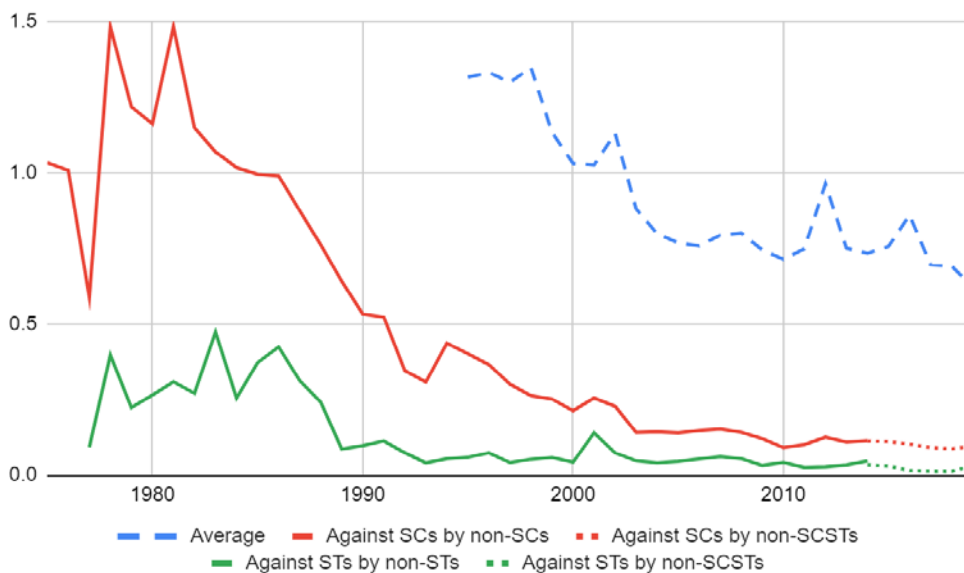


Figure 2. Rates of reported cases of arson (per 100 thousand of considered population) against SCs and STs compared to the rates in the average population for the years 1975 to 2019. (\*The data for the overall population is only available from 1995 onwards in NCRB reports. Source: Calculated by the author from data compiled from reports of CSCST, NCSCST, CII and COI for the relevant period.)



**Rape**

FIGURE 3

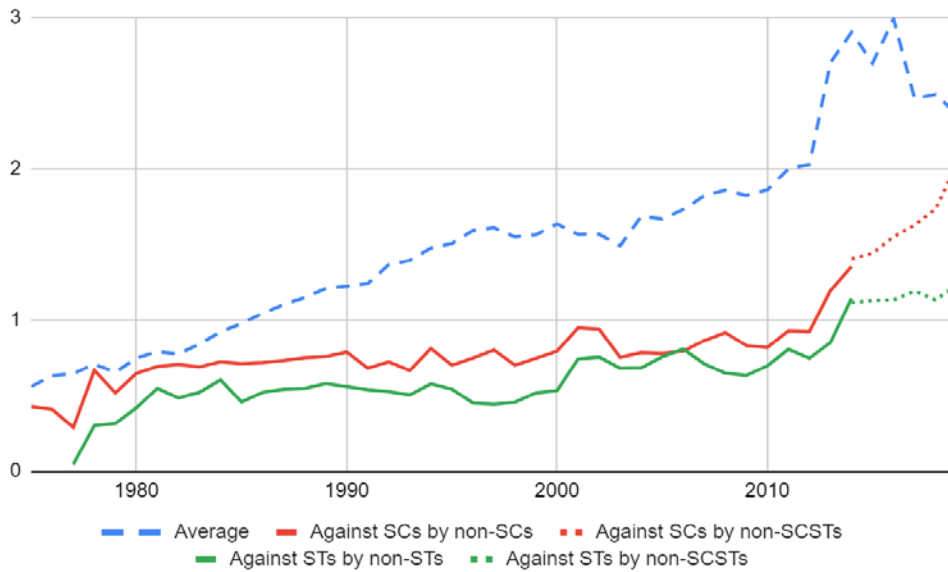


Figure 3. Rates of reported cases of rapes (per 100 thousand of considered population) against SCs and STs compared to the rates in the average population for the years 1975 to 2019. (Source: Calculated by the author from data compiled from reports of CSCST, NCSCST, CII and COI for the relevant period.)

**Hurt**

FIGURE 4

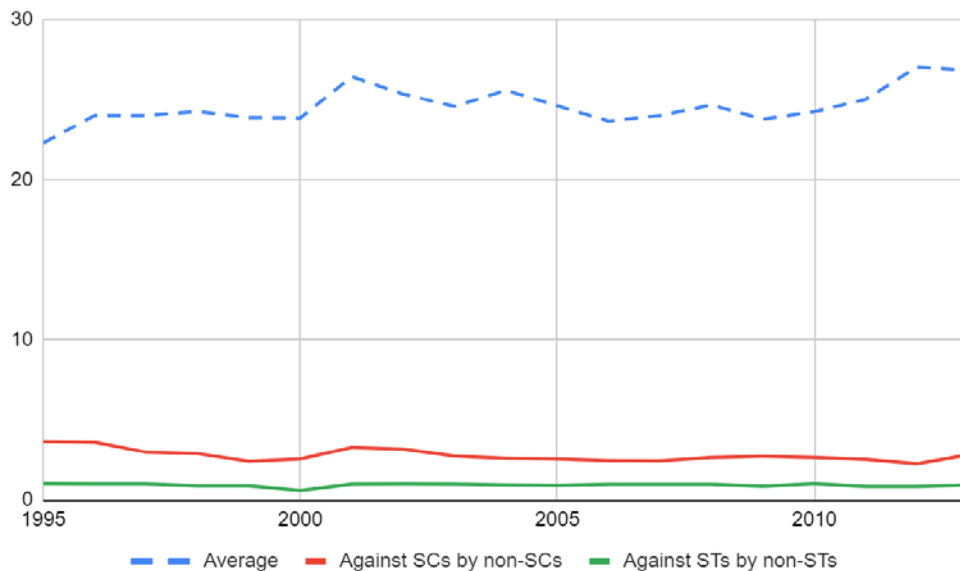


Figure 4. Rates of reported cases of hurt (per 100 thousand of considered population) against SCs and STs compared to the rates in the average population for the years 1995 to 2013. (Source: Calculated by the author from data compiled from reports of CII and COI for the relevant period.)

**Kidnapping and abduction**

FIGURE 5

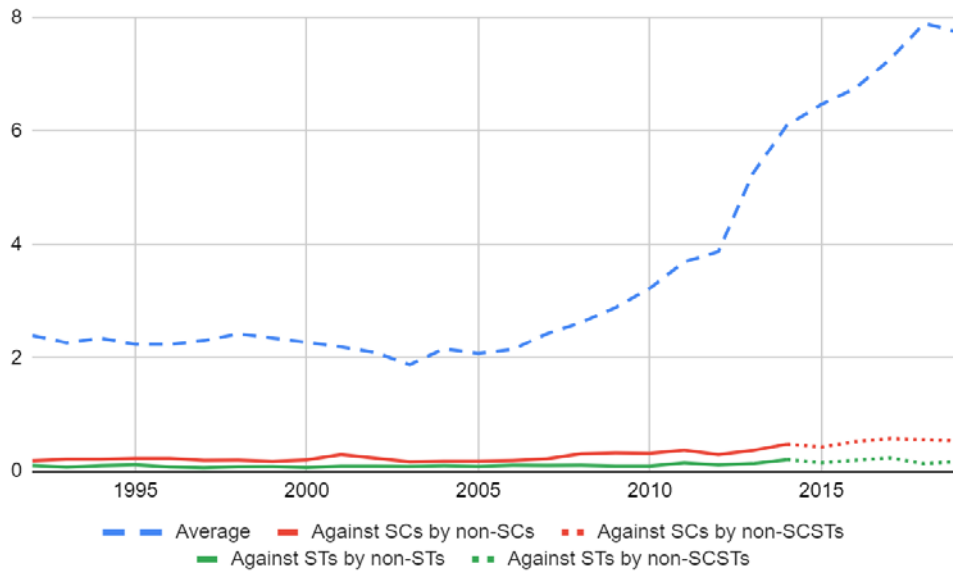


Figure 5. Rates of reported cases under kidnappings and abduction (per 100 thousand of the considered population) against SCs and STs compared to the rates in the average population for the years 1992 to 2019.

(Source: Calculated by the author from data compiled from reports of CII and COI for the relevant period.)

**Dacoity**

FIGURE 6

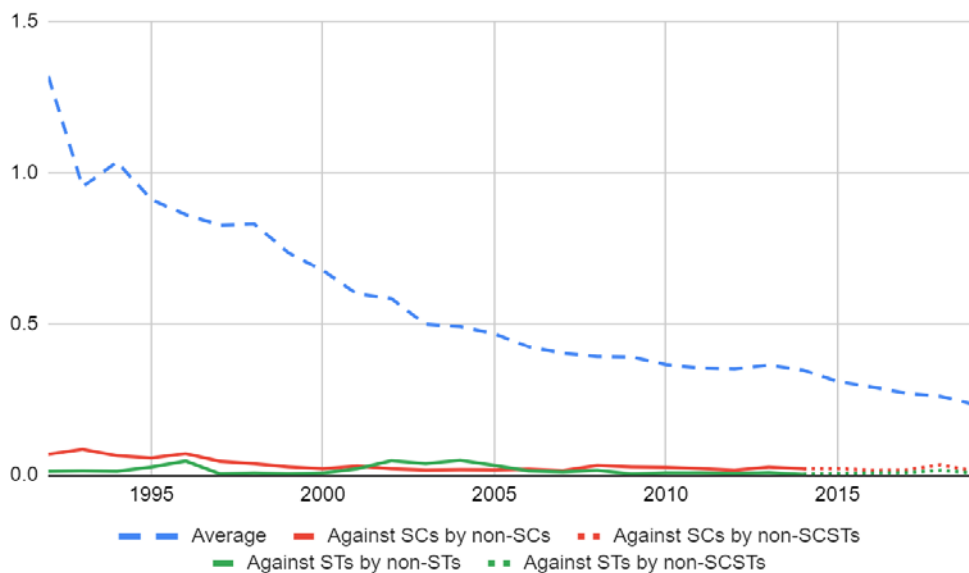


Figure 6. Rates of reported cases of dacoity (per 100 thousand of the considered population) against SCs and STs compared to the rates in the average population for the years 1992 to 2019.

(Source: Calculated by the author from data compiled from reports of CII and COI for the relevant period.)

## Robbery

FIGURE 7

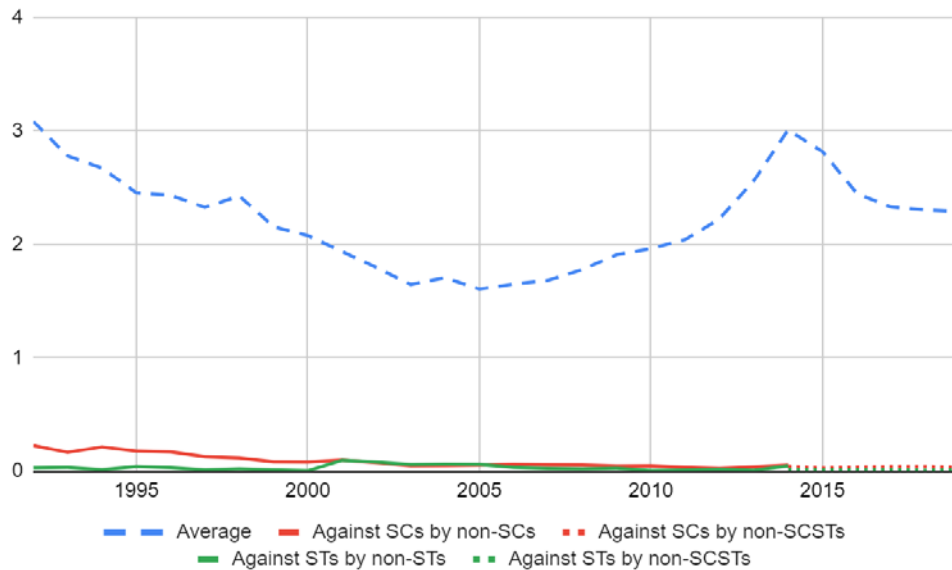


Figure 7. Rates of reported cases of robbery (per 100 thousand of the considered population) against SCs and STs compared the rates in the average population for the years 1992 to 2019. (Source: Calculated by the author from data compiled from reports of CII and COI for the relevant period.)

Each of the specific violent crimes whose rates have been plotted in the figures 1 to 7 represent different aspects of violence. Murder represents lethality and is considered a primary indicator of levels of violence in populations. Rape represents sexual violence, while robbery and dacoity could be primarily driven by economic gain, and arson involves the destruction of property and hence could be motivated by some form of hatred too. From the plots, we see different temporal trends for the reported rates of each of these crimes. However, for each of them, we see that the rates for crimes against SCs and STs are significantly lower than the average rates of these crimes in the overall population in India.

Let us consider murder, since it is considered the best proxy for the levels of violence in populations. The data (in figure 1), spanning about 15 years before and 30 years after the SC/ST Prevention of Atrocities (POA) Act 1989 first came into effect, shows that the rates of murders against SCs by non-SCs and against STs by non-STs, have remained largely steady, with some volatility, all through the four decades at considerably lower levels as compared to the average rates of murders in India. This is true even in the 1970's and 1980's when the violence against SCs and STs was considered by some scholars (see e.g. Mayer 2017) to be at its peak.

When averaged over the time period, the murder rates against SCs by non-SCs and STs by non-STs are about seven times and about nineteen times lower respectively compared to the average rates of murder in India. As much as these rates of murders can be considered as proxies for the levels of violence, the data suggests that the levels of violence against SCs and STs by non-SCs and non-STs respectively are significantly lower than the average levels of violence in India.

### 3.4.2. Other offenses

While we have comparable data for specific violent crimes in the overall population which we have analyzed in the earlier subsection, no such reference data exists for the crimes under the POA Act and the PCR Act. This is because these crimes under special legislations are by definition specific crimes against SCs and STs only. There are also difficulties in comparing the crimes aggregated under the heading “Other IPC Crimes” (also called “Other offenses” or “Others” in some yearly reports) in the statistics, as this heading consists of more crime definitions included in it for the overall population compared to the crimes against SCs and STs, making them not fully commensurate. So we are only able to perform a temporal analysis on these crime aggregates.

In figure 8 and 9 we consider the rates of crimes against SCs and STs respectively, that are each aggregated under the statistics under the “Other IPC Crimes” or “Other offenses”, the POA Act, and the PCR Act. We also consider the rate of total crimes (all crimes reported in the statistics including violent and not-violent under IPC as well as special laws) for each of SCs and STs, because they have been quoted in many reports as showing an increasing trend. The y-axis in each of these plots shows the rates of the crimes per 100 thousand of the considered population, for the time period mentioned in years on the x-axis.

FIGURE 8

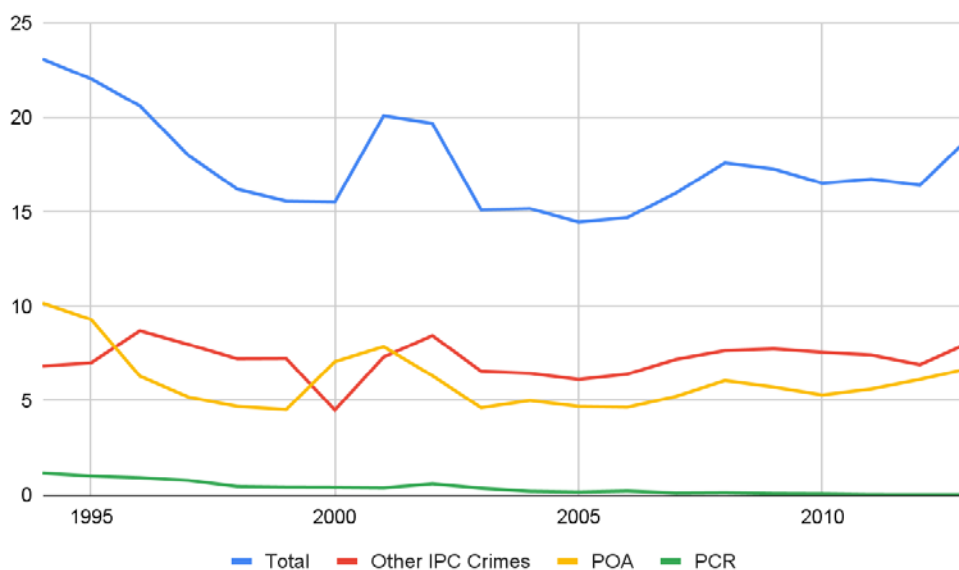
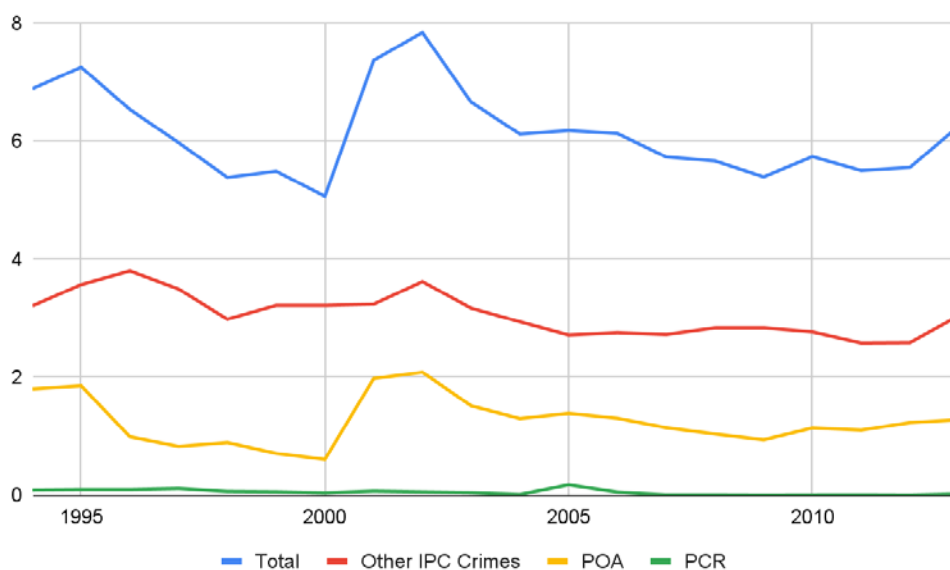


Figure 8. Rates of reported crimes against SCs for the years 1994 to 2013.

(\*Total includes all crimes booked under the IPC, the POA Act and the PCR Act. Source: Calculated by the author from data compiled from the reports of CII and COI for the relevant period.)

FIGURE 9



**Figure 9. Rates of reported crimes against STs for the years 1994 to 2013.**

(\*Total includes all crimes booked under the IPC, the POA Act and the PCR Act. Source: Calculated by the author from data compiled from the reports of CII and COI for the relevant period.)

The above temporal analysis is important because some studies and reports claim that there is an increasing trend in the total quantum of crimes against SCs and STs (see e.g. HRW 1998, p. 41, Standing Committee on Social Justice and Empowerment 2014) or those specifically under the POA Act (Girard 2020, p. 9).<sup>6</sup> As discussed in section 2.3.3, the 2015 amendment to the POA Act too was based on such a claim. The numbers may seem to be increasing, in some cases, if absolute numbers are considered due to the fallacy of floating numerators. However, when these numbers are controlled for population, i.e., when the rates of these crimes are considered rather than the number of incidents, we see that the rates are fluctuating rather than unidirectionally increasing. An increasing or decreasing trend can be selectively interpreted based on which start and end points, or which fluctuations, one takes into consideration.

It is also important to consider that on an average, about 78% of the total crimes against SCs and about 70% of the total crimes against STs in the statistics (calculated based on the reported cases for the years 2001 to 2013) are lesser offenses that are booked under the POA Act only (cases booked only under the POA Act and not booked under IPC also), the PCR Act, or the sections of IPC that are aggregated under the heading “Other IPC Crimes” in the statistics. These are offenses of lesser severity as compared to the

<sup>6</sup> Girard also implies a many fold increase in special crimes against SCs and STs. She mentions that “In 1992, the NCRB recorded two special crimes per 100,000 SC population. 21 years later, the last year of my sample, the NCRB recorded seven special crimes per 100,000 SC” (Girard 2020, p. 9). However, what she misses to mention is that this increase is not due to a spurt in crimes but because the data on crimes under the POA Act which she considers in her study became available starting only in the year 1994. The data under the POA Act is not available for 1992 and 1993. So the apparent increase is because of a specious comparison between numbers of crimes only under the PCR Act in 1992 and under both the PCR Act and the POA Act combined in 2013 (21 years later).

specific violent crimes that we have discussed in subsection 3.4.1 and can be considered more susceptible to reporting errors. Therefore, a change in the reported number of cases cannot be considered to reliably predict a change in their actual levels, especially when they are not correlated with changes in the rates of other serious violent crimes like murders. For example, specific increases in the reported incidents of offenses under the POA Act have mostly been interpreted as “good news” by Iyer *et al.* (2012). The interpretation is that these crimes are being less under-reported now than earlier, rather than “bad news” that the actual level of these offenses is increasing.

Further, the proportion of cases found to be false in police investigations for the reported crimes against SCs and STs seem to be dependent, among other factors, on the severity and the nature of crimes. Although more research needs to be done on this front, here are some indications: As per the NCRB reports between 2001 and 2010, about 20% of the reported offenses under the POA Act have been marked as “false” after police investigations, compared to 5–7% of cases of the reported murders against SCs and STs and about 12–13% of cases when all specific violent crimes against them are considered together. A roughly similar trend can be seen for conviction rates where serious crimes like murders have far greater conviction rates than crimes of lesser severity such as the ones covered under the POA Act or the PCR Act. So the crimes of lesser severity, apart from their susceptibility to underreporting, seem more susceptible to overreporting also. All these factors make measuring the level of these special offenses against SCs and STs a lot more complicated.

Nevertheless, what can certainly be said through the temporal analysis of their rates is that they do not present any indications of alarming increase as has often been claimed.

### 3.5. Conviction rates and “court partiality”

As discussed in the earlier sections, along with the claims of excessive violence against SCs and STs, it has often also been alleged that the crimes against them have very low conviction rates. This has been alleged to be due to “a lackadaisical attitude of the state machinery” or “Society-State complicity” in violence (Chakraborty *et al.* 2006), or systemic caste bias in the judiciary and police against SCs and STs or what has been called “court partiality” (Bros and Couttenier 2010). In this section, we scrutinize these claims to examine whether the data on court convictions indeed support them.

Conviction rate is the percentage of cases that lead to convictions out of the cases in which the court trials are completed in a given year. Conviction rates can depend on many variables, including the quality of the investigations and prosecutions, effectiveness of the judicial system, delays leading to witnesses turning hostile, the ability of different crimes to be corroborated by evidence, and the ability of unjustified allegations being made for certain crimes which ultimately may not stand the scrutiny of the courts. But in the case of crimes against SCs and STs, apparent lower conviction rates have been arbitrarily implied as due to caste bias or apathy towards crimes against SCs and STs in the police and judiciary. This is an instance of causal oversimplification.

However, even to make the claims of “court partiality” using the data plausible, it is minimally (necessarily but not sufficiently) required to show that the conviction rates are significantly lower for crimes against SCs and STs. But most often when the claims of low conviction rates for crimes against SCs and STs have been made, the conviction

rates have been presented in isolation or in comparison to dissimilar entities or aggregates, as we have discussed in section 2.3.3.

To test the hypothesis as to whether conviction rates for crimes against SCs and STs are indeed lower, we make a crime-wise comparison of the conviction rates for violent crimes against SCs, STs and the overall population. These violent crimes have been chosen based on the availability of data in all the three populations. Table 1 shows the conviction rates for crimes, trials for which were completed between 2001 to 2013. This period has been considered for analysis because this data before 2001 is not available in NCRB reports, and there are discontinuities in this data starting in 2014.

TABLE 1

Crime	Overall Population	Against SCs by non-SCs	Against STs by non-STs
Murder	35.83%	45.44%	42.47%
Arson	19.79%	30.36%	21.07%
Rape	26.37%	31.43%	24.62%
Kidnapping	25.46%	35.46%	25.88%
Dacoity	23.05%	23.12%	38.66%
Robbery	29.56%	26.83%	43.11%
Hurt	32.36%	27.48%	26.35%

**Table 1: Conviction rates for crimes against SCs by non-SCs and STs by non-STs in comparison with the conviction rates for crimes in the overall population (2001–2013).**

(Source: Calculated by the author from data compiled from the reports of CII, COI for the relevant period.)

The comparison (in table 1) reveals that the conviction rates for murders and arson against SCs and STs are much higher compared to these crimes in the overall population by many percentage points. The conviction rates for rapes against SCs and STs are higher and slightly lower respectively compared to the overall population. “Hurt” is the only crime within the ones considered, for which the conviction rates are higher for the overall population as compared to both SCs and STs. So, for violent crimes for which comparable data is available, the conviction rates are not disproportionately lower when they are perpetrated against SCs/STs by non-SCs/non-STs. So clearly, the data does not support the notion that bias within the judiciary or “court partiality” is resulting in disproportionately lower conviction rates for crimes against SCs and STs. In as much as conviction rates indicate systemic bias in the judiciary, the courts seem more favorably inclined to convict the perpetrators of serious violent crimes like murders against SCs/STs by non-SCs/non-STs.

### 3.6. Pendency and “Lethargy”

Along with the claims of lower conviction rates, it has also been claimed that the pendency for crimes against SCs and STs is very high in police and courts, leading to the delay of justice. For example, Chakraborty *et al.* (2006, p. 2480) make the point that “there

are more pending atrocity cases than even those under IPC” “indicating a clear lethargy on the part of the government.”

Case pendency rate is the percentage of cases pending at the end of the year among cases that were either under investigation by the police (police case pendency) or under trial in the courts (court case pendency) for any given year (NCRB 2017, pp. xv, 153). Pendency is indeed increasing in both the police as well as the courts in India for all cases and should be a cause of major concern. However, is the pendency of cases disproportionately affecting crimes against SCs and STs? Again the best way to test this hypothesis would be to make a comparison of pendencies for specific crimes against SCs, STs, and the overall population.

In Figures 10 and 11, we compare the pendency rates in the police and the courts for the six most important violent crimes<sup>7</sup> taken together, namely murder, rape, kidnapping and abduction, arson, dacoity, and robbery for the period between 2001 and 2019. Hurt is not considered because there is a discontinuity in its definition in 2014 (NCRB 2015, p. 32).

FIGURE 10

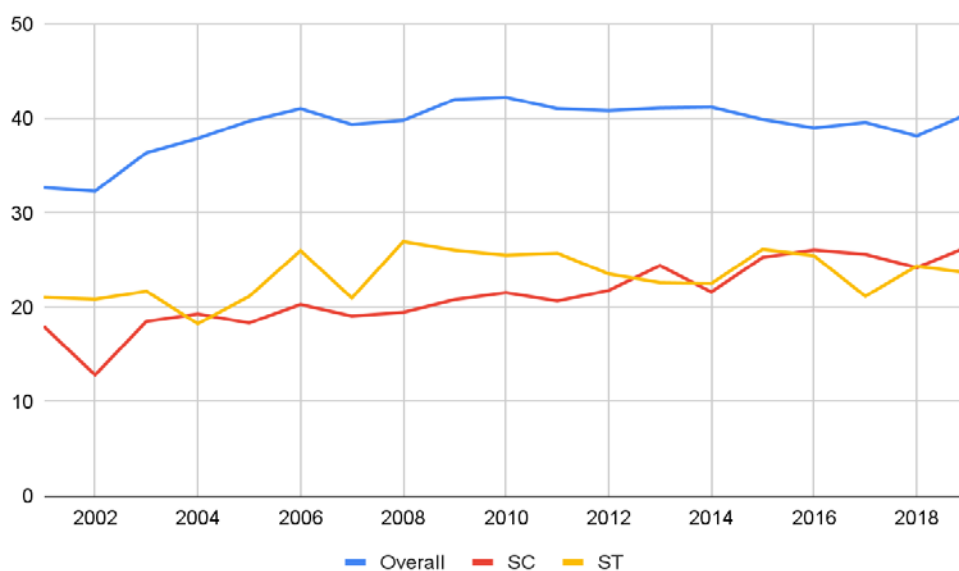


Figure 10. Police Case Pendency Rate for crimes against SCs, STs and the overall population (2001–2019).

(Source: Calculated by the author from the data compiled from the reports of CII and COI for the relevant period.)

<sup>7</sup> These violent crimes are booked under IPC. When committed against SCs and STs some of these crimes could also be booked under the POA Act.



FIGURE 11

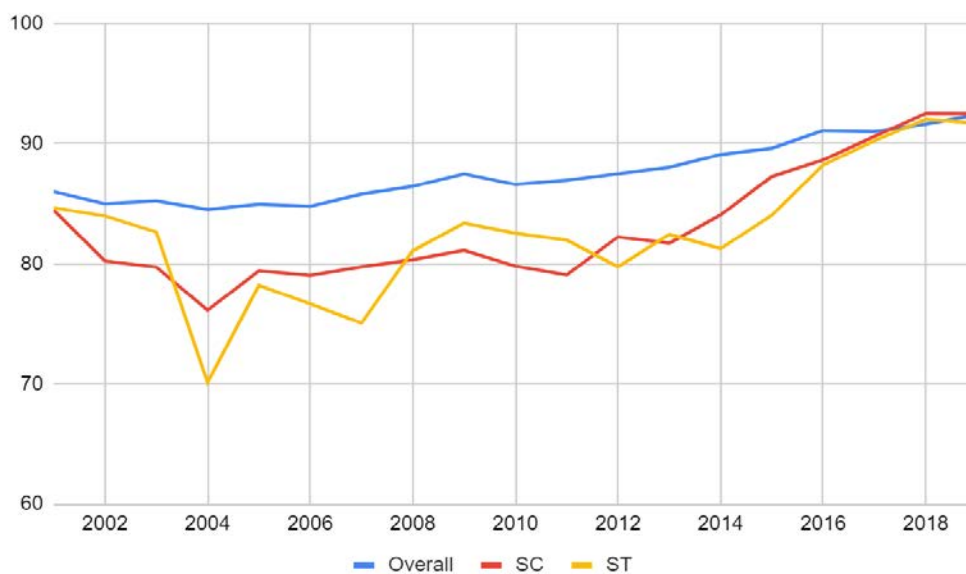


Figure 11. Case Pendency Rate in Courts for crimes against SCs, STs and the overall population (2001–2019).

(Source: Calculated by the author from the data compiled from the reports of CII and COI for the relevant period.)

From figure 10 and 11, clearly, the pendency rates for cases of crimes against SCs and STs are not disproportionately higher either in police or the courts. Both in the police as well as in the courts, we see that for most of the period considered, these rates have been lower for crimes against SCs and STs as compared to the crimes in the overall population. This indicates that the police and the courts likely give priority when the victims of these violent crimes are SCs and STs.

#### 4. Conclusion

Gay (2018, p. 253) notes that allegations of atrocities awaken feelings of “degradation and loss” and can “justify excessively harsh retribution” against the alleged perpetrators, leading to escalation of conflicts and “impede subsequent efforts at peace and restoration”. As they “evoke universal outrage” and strong sentiments of “revulsion and rage” (Gay 2018, p. 253), atrocity claims are potent, both in highlighting genuine cases of heinous violence as well as in political propaganda, and unless proper care is taken, the line dividing the two can get blurred. This makes it all the more necessary that the claims of atrocities are subjected to rigorous empirical verification.

However, in the case of caste violence or atrocities, there has been a serious laxity in understanding and presenting the claims based on empirical evidence. One of the manifestations of this, as we have seen, is the expansion of the word ‘atrocity’, which otherwise is used only for gruesome acts of mass violence, to refer to all offenses against SCs and STs, irrespective of the severity or motivations of these offenses. The conceptual ambiguities and conflation resulting from this approach have led to the sweeping characterization of these offenses, as the most heinous and violent, as hate crimes, or as necessarily motivated by caste, and when combined with errors in interpretations of data, as endemic or occurring at “disturbing levels”.

The data on crimes, if interpreted scientifically, can help in providing a larger context to the violence, probe the extent of it, understand the factors behind it, and devise interventions to reduce it. But, as discussed in this article, data illiteracy and the problems of intuitive statistics too are pervasive, making misuse and misrepresentation of crime data rampant. In this case, as we have seen, misrepresentations of data have completely distorted the understanding of the nature and levels of violence against SCs and STs. The data has been used to wrongly give a semblance of corroboration to the claims of excessive violence and systemic bias against SCs and STs.

In this study, we have scrutinized the available data and analyzed the long-term rates of crimes against SCs and STs. The analysis tells us that the data does not provide any evidence that the violence against SCs/STs by non-SCs/non-STs is excessive as compared to the average levels of violence in India. We have also analyzed the data on court convictions and pendency of cases in police and courts. The data shows that the conviction rates are higher and pendency is lower for most of the violent crimes when the victims are from SCs/STs and offenders are non-SCs/non-STs, contradicting the thesis of “court partiality” or the claims that caste bias in the judiciary or police is leading to lower rates of convictions and higher pendency for crimes against SCs and STs.

While we present these findings, it is important to clarify that we do not suggest that there is no violence or even that there are no heinous instances of violence against SCs and STs. It would be wrong to deny violence against SCs and STs, not least because the question of denial or acceptance of violence is a false dichotomy rooted in the fallacy of absolute numbers where the numerical is conflated with the categorical. So, rather than asserting the absence or existence of violence, a useful approach is to rigorously understand the levels of violence using scientific controls and references which this study focuses on. Such an approach would not only be useful in providing an accurate understanding of violence but when combined with more granular data it would also help in identifying the most vulnerable, preventing the dilution of severe and genuine cases of violence that deserve attention and importantly in the deterrence of crime and violence.

The conceptual problems associated with atrocity and caste violence and the approaches to measure violence that we have discussed, we hope, will help in clarifying and rethinking these concepts so that rigorous investigations can be conducted and a better understanding of violence can emerge. Based on the problems that we have outlined, we suggest that the concerned agencies under the Government of India, academicians and experts take steps to disambiguate the concept of atrocity and develop an empirically robust framework to identify, measure, and monitor violence that can further help in devising effective and proportionate policy interventions.

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