



# DALIT WOMEN RISE FOR JUSTICE

STATUS REPORT 2021



All India Dalit Mahila Adhikar Manch (AIDMAM) - NCDHR

## **DALIT WOMEN RISE FOR JUSTICE**

STATUS REPORT (2014-2020)

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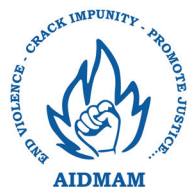
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# DALIT WOMEN RISE FOR JUSTICE

STATUS REPORT 2014 - 2020

“Unity is meaningless without the accompaniment of women.  
Education is fruitless without educated women, and agitation is  
incomplete without the strength of women.”

- Dr. B.R. Ambedkar



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We at AIDMAM take great pride and pleasure in presenting to you, '*Dalit Women Rise For Justice: Status Report 2021*'. The report presents a holistic view of Dalit women's status in India as exists today and their struggles in accessing justice.

Many people have extended their kind support to us and have contributed their knowledge, experience and time in shaping up this report. The report consists of our activists and volunteers' real-time experiences and heart-wrenching incidents of atrocities faced by Dalit women in many states.

First and foremost, we would like to extend our deepest gratitude to all our Dalit Women Human Rights Defenders, whose hard work and dedication made it possible for us to write this report. We would like to take this opportunity to thank Ms. Sushma Kumari, Adv. Gauri Kumari, Ms. Ruby Ragini, Ms. Sweta Kumari and Ms. Indrawati from Bihar, Ms. Sashimanasi, Ms. Anita Nayak and Ms. Bimala Sethy from Odisha, Ms. Gayatri Sonker, Ms. Dropti, Ms. Susheela, Ms. Meenu Pawar and Ms. Anju Ahirwar from Madhya Pradesh, Ms. Alka Devi, Ms. Sunita Devi and Ms. Seema Kumari from Uttar Pradesh, Ms. Sugandha Khandekar, Ms. Sanjivani Kumare from Maharashtra, Ms. Usha, Ms. Upasana Devi, Ms. Pinky and Ms. Manju from Haryana and also Mr. Rajeshwar Paswan from Bihar, for their timely interventions and follow-up of the cases considered in the report.

We are grateful for the motivation, vision and trust of Prof. Vimal Thorat, National Convenor, National Campaign on Dalit Human Rights, under whose leadership, the report has been developed.

We are extremely thankful to Ms. Beena Pallical, General Secretary, Dalit Arthik Adhikar Andolan, Mr. Paul Divakar, General Secretary, Global Advocacy & Networks- NCDHR and Dr. V.A. Rameshnathan, General Secretary, National Dalit Movement for Justice. Their constant guidance has helped us in shaping the report.

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We would like to thank International Dalit Solidarity Network (IDSN) for their tremendous work with Dalit communities worldwide. We have referred to their meaningful and insightful publications, time and again while writing this report.

We would also like to recognize the contribution of Prof. Sukhdeo Thorat, Chairman, Indian Institute of Dalit Studies who supported us with accurate and reliable facts and figures for the chapter on the socio-economic and political status of Dalit women in India.

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Last but not least, we would like to thank Ms. Asha Kowtal, the former General Secretary of All India Dalit Mahila Adhikar Manch for her tremendous contribution to the work of AIDMAM – NCDHR during her time in the organisation.

# Preface



**Ms Abirami Jotheeswaran**

**Director**

All India Dalit Mahila Adhikar Manch

National Campaign on Dalit Human Rights

Present-day India continues to be unsafe and challenging for Dalit women and girls. When 10 Dalit women and girls are raped every single day, but only 29% of accused are convicted for their crimes, the India of the 21st century is brutal to its 9.7 crore Dalit women's population. When incidents like the Hathras gang rape are increasingly backed by state impunity, we fervently believe that it is of utmost importance to strengthen our collective voice for Dalit women's access to justice.

Our report, '*Dalit Women Rise For Justice- Status Report 2021*', captures the nature and extent of caste and gender based discrimination and violence that Dalit women and girls experience in their long road to justice. Our legal intervention captured through case analyses of 81 cases in six states of India demonstrates the gaps at each stage of our criminal justice system. It also reveals the state of implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as amended by Amendment Act 2015 & 2018 [SCs and STs (PoA) Act].

Even after 73 years of independence, India has failed to break free from the shackles of the caste system and Brahmanical patriarchy centric ideologies. Respect and dignity continue to be a far-fetched dream for Dalit women as our policies and legal mechanisms, though protective in its intent, are unable to safeguard Dalit women's human rights in its practice. The existing caste and Brahmanical patriarchy, subject Dalit women to triple fold oppression of gender, caste and economic deprivation, making them the most vulnerable section of society.

Even though many policies and budgetary allocations for the advancement of Dalits are in place, the economic backwardness and weak socio-political and economic conditions make Dalit women easy targets for caste and gender based violence.

The literacy rate of Dalit women remains as low as 56.4% in the country. Dalit women's agricultural landholding and asset ownership are negligible, and a considerable number of them work as agricultural labourers. In fact, the number of Dalit women casual wage labourers is three times that of dominant caste women in this sector. This clearly symbolises the gap in ownership of resources between the Dalit women and dominant caste women. The low numbers of Dalit women Members of Parliament (MP) reveal the low political representation of Dalit women. In the case of the Dalit Women Elected Representatives (DWER) at the village level, it is observed that they are more often than not restrained from discharging their duties. Dalit issues need Dalit voices at policymaking levels, and in a dearth of such, it is not surprising that policymakers make policies ignoring Dalit women's concerns at the centre.

Despite stringent provisions such as the SCs & STs (PoA) Act, Criminal Procedure Amendment Act and Protection of Children from Sexual Offences (POCSO) Act, the violence against Dalit women and minor girls is increasing year by year.

This report, through case analyses, reveals how the police do not entertain the victims/ survivors and refuse or discourages to register cases and how arrest and compensation are not made on time. It demonstrates





how poorly the investigation is conducted and is motivated with caste and gender biases. It also highlights how courts delay judgement, which when is announced, has more acquittals than convictions.

We have encountered how poor investigations involve manipulation of medical reports and tampering of evidence to protect the accused. We are dismayed at how the Police are quicker to file counter cases against the Dalit survivors than to file FIR for the crime against them. Such counter cases are filed to intimidate Dalit complainants and to weaken their case. We have also observed how the Special Public Prosecutors fail to help the Dalit women survivors in their cases.

Through this report, we have also compiled the efforts of AIDMAM's Dalit women leaders in each of these cases, such as how they mobilise survivors and their families to register FIRs; submit memorandums for arrest of accused and for filing the charge sheet under the appropriate sections of the SCs & STs (POA) Act. We have supported the victims/survivors of all the considered cases at each step where they have fallen prey to the system's gaps.

The report also mentions the strategies and approaches that our women leaders undertook for achieving positive results in these cases and the challenges faced by them while executing their roles. The case studies considered in the report have been selected from the states of Bihar, Haryana, Madhya Pradesh, Odisha, Rajasthan and Uttar Pradesh. These states are the operational areas of AIDMAM.

AIDMAM also undertook emergency interventions during the start of the COVID-19 pandemic. These were in the form of ration kit distribution to Dalit families, especially single women-headed, and helping them access government entitlements. We also surveyed marginalised households of SCs, STs, OBCs and minorities to identify families who had not received COVID-19 relief due to them. We did this through the 'WeClaim' app launched by National Dalit Watch-NCDHR in May 2020. We assisted these households to link with district and state authorities to access ration and other relief. We also submitted memorandums to appropriate authorities, for instances where families were discriminated against during relief distribution and other irregularities.

AIDMAM, along with other Dalit rights and women's rights organisations, has, for over a decade, relentlessly advocated for the recognition and acknowledgement of the Dalit Human Rights issue on international platforms. We have documented the comments and recommendations regarding Dalit women's issues as observed by relevant UN Treaty Bodies, Universal Periodic Reviews and Special Procedures, including Special Rapporteurs, over the last 20 years, and India's response to the same.

We at AIDMAM believe that this report will prove to be a comprehensive and useful resource for researchers, organisations and students, among others. We also believe that this resource will encourage the State to take the necessary reformative action in strengthening the implementation of the SCs & STs (POA) Act. Doing so will ensure justice for every Dalit woman of India who has been a victim or a survivor of any kind of atrocity based on caste and gender.

I express my deepest gratitude to Prof. Vimal Thorat, National Convenor, National Campaign on Dalit Human Rights (NCDHR), for her encouraging and sound leadership of this movement. I extend my heartfelt appreciation to Ms. Beena Pallical, General Secretary, Dalit Arthik Adhikar Andolan (DAAA), Mr. Paul Divakar, General Secretary, Global Advocacy & Networks-NCDHR and Dr. V.A. Ramesh Nathan, General Secretary, National Dalit Movement for Justice (NDMJ) for providing their valuable time and guidance to bring out this report. I also appreciate and acknowledge the efforts and contribution of AIDMAM's national team, including Adv. Grijesh Dinker, Ms. Radhika Ralhan, Ms. Kanika Bera, Ms. Swarnashree Das and Ms. Utkarsha Tomar in developing this report.

**Ms Abirami Jotheeswaran**

# Foreword



**Prof. Vimal Thorat**  
**National Convenor**

National Campaign on Dalit Human Rights

**M**anusmriti, the ancient legal text of Hinduism, equates all 'women' to 'Shudras', the lowermost pier of the caste system of Indian society. As per the book's text, all women, irrespective of their caste, do not have a right to property, education, religion and other social rights in the Indian society. Dalit women, who have been assigned the lowest position as per Hindu religion's social hierarchy, face the brunt of such regressive reinforcements that render major obstacles for Dalit women to live a fair and dignified life.

The Indian Constitution overturned the laws of *Manusmriti* and guaranteed equal citizenship rights, equality before the law and equal opportunity to all men and women. 'Untouchability' in any form, is abolished under Article 17 of our Constitution. The enforcement of any disability arising out of 'Untouchability' is an offence and is deemed punishable by the law. Later in 1955, the Untouchability (Offences) Act was passed, and renamed as Protection of Civil Right Act in 1976. Further, in 1989, The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act was enacted, which included affirmative action policies for both women and men.

However, despite these measures, barring some visible changes, Dalits have continued to face discrimination in many spheres of life, including religious, social, cultural, economic and political rights.

While all women face discrimination in various forms on the grounds of their gender, the nature of discrimination and violence experienced by Dalit

women is more intense and exploitative. The data from the Crime in India–National Crime Records Bureau, brings out the sexual violence of Dalit women and girls in most hideous forms, including gang rape and assault.

While the women from dominant caste face the dual burden of economic deprivation and gender bias, the Dalit, Tribal and Minority women experience the additional burden of their social identity, making them 'triple burdened'.

For instance, Dalit women suffer from lack of access to resources, education and other attributes, but they also suffer discrimination as women and further as so-called 'low caste' women. The denial of equal rights due to gender and caste discrimination makes the situation of Dalit women more *severe and worse*, which increases poverty and deprivation among them compared to the women from dominant caste.

This understanding of being triply burdened has indeed improved the discourse on the problems experienced by Dalit women. Dalit women activists and scholars recognized the third form of discrimination against Dalit women. They have argued that such triple discrimination requires distinctive strategies that are different from those designed to address other women's problems. Recognizing the particular nature of Dalit women's issues, the first generation of educated Dalit women who became writers, leaders, women activists, scholars and NGO founders, began to organise and mobilise communities to address these issues. The Dalit rights movement was carried out with sustained



cooperation of mainstream women organisations.

In 1984-85 a group of Dalit women in India who were doctors, engineers, advocates, writers and activists gathered together in Bangalore and decided to take leadership into their own hands. Thus, the Dalit Mahila Mukti movement was initiated. In 1995, the movement founded the National Federation of Dalit Women. From 1985 to 1995, National Conventions were held in around eight states of India, where thousands of Dalit women participated in these conferences. They discussed their social, economic, political, religious and cultural issues and articulated specific solutions.

Over seventeen women-led NGOs and organisations decided to form a dedicated Dalit women's platform as part of the National Campaign on Dalit Human Rights (NCDHR). As a result, the 'All India Dalit Mahila Adhikar Manch' (AIDMAM) was formed as a special wing of NCDHR in 2006 to deal with Dalit women's issues.

The National Federation of Dalit Women, later followed by AIDMAM, began articulating Dalit women's problems and the multiple approaches needed to address their issues. These advancements have formed the basis of AIDMAM's interventions since 2006.

For the last fourteen years, AIDMAM has been relentlessly working to reduce and end injustice against the most marginalised and vulnerable sections of Dalit and Adivasi women. Its activities range from fact-finding cases of caste discrimination and atrocity to equipping Dalit women in accessing justice. It works in seven states of India including Bihar, Delhi, Haryana, Madhya Pradesh, Maharashtra, Odisha and Uttar Pradesh. This grassroots experience forms the basis of AIDMAM's national and international advocacy for effective implementation of laws and policies to address the triple discrimination faced by Dalit women.

I would like to thank and congratulate the entire team of All India Dalit Mahila Adhikar Manch for bringing out this holistic report '*Dalit Women Rise For Justice-Status Report 2021*', which reflects upon Dalit women's access to justice. The report sheds light on the ever-increasing violence against Dalit women and girls, the

forms and causes of such violence, the lacunae in the responses of police, administration and courts, the gaps in psycho-social support for Dalit women and minor survivors of violence, etc. The survivor accounts and insights included in the report and analysis of government data of the last few years reflect AIDMAM's work both at the grassroots and national and international level. Their commitment and effort is noteworthy and highly appreciated.

The report also highlights the status of Dalit women and girls in India concerning their health, education, employment, ownership of land and asset, political participation and access to entitlements. The legal and policy implementation, budget allocation and utilization for the implementation of SCs & STs (PoA) Act, Nirbhaya Fund, and during COVID-19, sheds light on government response and accountability towards Dalit women's concerns. In addition to this, UN Human Rights bodies' relevant provisions showcase the international response to Dalit women's issues.

I am confident that this report will form an important resource material to further the national and international advocacy measures for advancing the rights and entitlements of Dalit women. I sincerely hope that this report is useful to the government while taking steps to improve Dalit women's condition in India and effectively implement the existing Acts and policies.

**Prof. Vimal Thorat**

# Letter of Appreciation



**Meena Varma**  
**Executive Director,**  
International Dalit Solidarity Network

## Dear friends,

As the Director of the International Dalit Solidarity Network (IDSN), I am honoured to write this word of appreciation for All India Dalit Mahila Adhikar Manch (AIDMAM) and their focused work with Dalit women and girls. AIDMAM has been working for Dalit women in India, and by extension, Dalit women worldwide for more than ten years. IDSN and AIDMAM have been working together over this time- learning and growing together and demanding rights for those facing multiple and intersectional forms of discrimination.

Dalit women and girls often positioned at the bottom of caste, class, and gender hierarchies bear the brunt of exploitation and physical attacks. They are particularly vulnerable to sexual violence and exploitation, trafficking, and bonded labour. The human rights and development issues pertaining to caste discrimination are numerous and needs to be addressed at all levels.

Caste-affected countries, especially in South Asia, remain deeply patriarchal societies where women are often oppressed by men and socially restrained from accessing the same rights, services and privileges. Intersectional caste and gender discrimination leave Dalit women and girls the furthest behind.

AIDMAM provides a special focus by bringing together innovative Dalit women as changemakers to facilitate equal rights for all women, empowering them, providing stability and security. They elevate Dalit women's voices to demand justice and train

activists to be the leaders of the Dalit movement. Their work spans survivor support, grassroots activism, leadership development and international advocacy.

In the international sphere, AIDMAM's work has been incredibly impactful. In 2020, AIDMAM delegates spoke with the European Union Special Representative on Human Rights to discuss Dalit women's situation throughout South Asia. The Special Representative pledged to raise the issues at the next bilateral Human Rights dialogue.

In 2019, Abirami Jotheeshwaran, AIDMAM's Director, spoke at the IDSN supported event on 'Dalit Women and Gender Justice' in Geneva to raise concerns over intersectional caste and gender discrimination and its adverse impact on access to human rights. The panel was composed of Dalit women and Dubravka Simonovic, the UN Special Rapporteur on Violence against Women. The event was well attended and live-streamed by the International Network of Human Rights (RIDH), garnering over 900 views.

These events bring the development community together to share ideas and experiences in ways that inspire new partnerships and new solutions to the world's most pressing challenges.

This report is most crucial and relevant in the current times, given the delicate socio-political status of Dalit women in India and all other parts of South Asia. It gives some very valuable and insightful highlights about the current status of Dalit women in India regarding their socio-political condition and



access to justice in Indian society while the violence against them is rising exponentially. It is a holistic and comprehensive document that has effectively captured and analysed both factual and theoretical discourse about Dalit women's issues. Also, it is a well-drafted account of AIDMAM's hard work both on national and international levels. I would like to congratulate the entire team of AIDMAM for their success in publishing this report and sincerely hope that it will form a strong and firm base for both national and international advocacy for all the civil society organisations and allies of Dalit issues.

I am sure that AIDMAM will continue to grow and flourish under the new leadership of Abirami

Jotheeswaran and challenge caste and gender based violence and discrimination against Dalit women.

We pledge to stand by the team's side all the way.

In solidarity,

**Meena Varma**



# Glossary

<b>AIDMAM</b>	.....	All India Dalit Mahila Adhikar Manch
<b>AE</b>	.....	Actual Expenditure
<b>ASP</b>	.....	Assistant Superintendent of Police
<b>BE</b>	.....	Budget Estimates
<b>CA</b>	.....	Central Assistance
<b>CCPR</b>	.....	Covenant on Civil and Political Rights
<b>CCPWC</b>	.....	Cybercrime Prevention against Women and Children
<b>CEDAW</b>	.....	Convention on the Elimination of all Forms of Discrimination Against Women
<b>CERD</b>	.....	Committee on the Elimination of Racial Discrimination
<b>CESCR</b>	.....	Committee on Economic, Social and Cultural Rights
<b>CrPC</b>	.....	Code of Criminal Procedure, 1973
<b>CS</b>	.....	Charge Sheet
<b>CSOs</b>	.....	Civil Society Organisations
<b>CVCF</b>	.....	Central Victim Compensation Fund
<b>DDC</b>	.....	District Development Committee
<b>DGP</b>	.....	Director General of Police
<b>DM</b>	.....	District Magistrate
<b>DSP</b>	.....	Deputy Superintendent of Police
<b>DoSJE</b>	.....	Department of Social Justice & Empowerment
<b>DV Act</b>	.....	Protection of Women from Domestic Violence Act, 2005
<b>DWD</b>	.....	Discrimination Based on Work and Descent
<b>DWER</b>	.....	Dalit Women Elected Representative
<b>ER</b>	.....	Enrolment Rate
<b>FIR</b>	.....	First Information Report
<b>FY</b>	.....	Fiscal Year
<b>GBV</b>	.....	Gender Based Violence
<b>GER</b>	.....	Gross Enrolment Ratio
<b>Gol</b>	.....	Government of India
<b>HHs</b>	.....	Households
<b>HRC</b>	.....	Human Rights Council
<b>ICDS</b>	.....	Integrated Child Development Services
<b>IDSN</b>	.....	International Dalit Solidarity Network
<b>IERMS</b>	.....	Integrated Emergency Response Management System
<b>INR</b>	.....	Indian Rupee
<b>IO</b>	.....	Investigation Office
<b>IPC</b>	.....	Indian Penal Code 1860
<b>MHA</b>	.....	Ministry of Home Affairs
<b>MNREGA</b>	.....	Mahatma Gandhi National Rural Employment Guarantee Act, 2005



<b>MoHFW</b>	Ministry of Health and Family Welfare
<b>MP</b>	Madhya Pradesh
<b>MPV</b>	Mahila Police Volunteers
<b>MSJE</b>	Ministry of Social Justice and Empowerment
<b>MuR</b>	Member under Review
<b>NCDHR</b>	National Campaign on Dalit Human Rights
<b>NCRB</b>	National Crime Records Bureau
<b>NCSC</b>	National Commission for Scheduled Castes
<b>NFH</b>	National Family Health Survey
<b>NGO</b>	Non-Governmental Organisation
<b>NICSI</b>	National Informatics Centre Services Inc.
<b>NSSO</b>	National Sample Survey Office
<b>OBC</b>	Other Backward Class
<b>OCIA</b>	Organized Crime Investigation Agency
<b>OSCC</b>	One Stop Crisis Centre
<b>PCR Act</b>	The Protection of Civil Rights (PCR) Act, 1955
<b>PDS</b>	Public Distribution System
<b>PLFS</b>	Periodic Labour Force Survey
<b>PM</b>	Pradhan Mantri
<b>PMS Schemes</b>	Post Matric Scholarship Schemes
<b>POCSO</b>	The Protection of Children from Sexual Offences Act, 2012
<b>PRI</b>	Panchayati Raj Institution
<b>PS</b>	Police Station
<b>RE</b>	Revised Estimates
<b>SC</b>	Scheduled Castes
<b>SCs &amp; STs (PoA) Act</b>	The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Amendment Act, 2018)
<b>SDPO</b>	Sub Divisional Police Officer
<b>SHO</b>	Station House Officer
<b>SP</b>	Superintendent of Police
<b>SPP</b>	Special Public Prosecutor
<b>SPUWAC</b>	Special Police Unit for Women & Children
<b>SPUNER</b>	Special Police Unit for North East Region
<b>ST</b>	Scheduled Tribe
<b>UN</b>	United Nations
<b>UNICEF</b>	United Nations International Children's Emergency Fund
<b>UP</b>	Uttar Pradesh
<b>UPR</b>	Universal Periodic Review
<b>UPSRTC</b>	Uttar Pradesh State Road Transport Corporation
<b>Ministry of WCD</b>	Ministry of Women and Child Development
<b>WHL</b>	Universalisation of Women Helpline
<b>WPR</b>	Work Participation Rate



## GLOSSARY

### **Panchayat**

An institution of self-government constituted under article 243B of the Indian Constitution, for the rural areas

### **Ration Card**

An official document and proof of identification issued to households that are eligible to purchase subsidised food grain from the Public Distribution System

### **Sarpanch**

Head of a village Panchayat

### **Scheduled Castes**

Official terminology for those castes characterised as socially, educationally and economically backward due to the traditional practice of 'untouchability', and listed by the Government of India for the purposes of accessing special development, protection and affirmative action schemes. ('SCs' and 'Dalits' are interchangeably used in some sections of this document i.e. mostly in the chapter, 'Socio-Economic Status & Political Representation of Dalit women' where government statistics use the term SCs.)

### **Scheduled Tribes**

Official terminology for those communities listed by the Government of India as tribal communities. ('STs' and 'Adivasis' are interchangeably used in some sections of this document i.e. mostly in the chapter, 'Socio-Economic Status & Political Representation of Dalit women' where government statistics use the term STs.)





# Executive Summary

Violence against women and girls, in all forms, should not and must not find a place in our society. The government has rightly vowed a zero-tolerance policy towards violence against women and for strengthening the criminal justice system for its effective implementation.<sup>1</sup> In reality, however, as per the National Crime Records Bureau (NCRB) reports since the last six years, while violence against all women and girls indicates alternate years of increase in incidents, the reported violence against Dalit women and girls has seen a consistent year on year increase. There has been a stark increase by **46%** in the last six years from 2014-2019. **As per the NCRB 2019 data, 10 Dalit women and girls are raped every single day, but only 29% of accused are convicted for their crimes.** While this increase in numbers indicates an increase in crimes as well as reportage, low convictions and high acquittals present a dismal picture of the status of implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018 (SCs & STs (PoA) Act).

Caste has a distinct role to play in instances of violence against Dalit women and girls. Dalit women's bodies are more often used as tool by the dominant caste communities to further subjugate and oppress the Dalit community as a whole. Any assertion of rights by the Dalit communities; be it for resources, entitlements, legal recourse among other reasons, is seen as a challenge to the 'perceived supremacy' of the dominant caste communities. Sexual violence of Dalit women and girls is more often than not, the price that Dalit communities have to pay for attempting to dismantle the status quo.

**All India Dalit Mahila Adhikar Manch (AIDMAM)**, established in 2006 as an autonomous unit of the National Campaign for Dalit Human Rights (NCDHR), having our direct interventions in seven critical states, *namely* Bihar, Haryana, Madhya Pradesh, Maharashtra,

Odisha, Delhi and Uttar Pradesh. AIDMAM works for the overall empowerment of Dalit women, including socio-economic and political empowerment and access to justice through **Monitoring cases of caste and gender based violence; Legal intervention and Advocacy** with enforcement officials and Human Rights Institutions; **Media Engagement; Leadership Development; Awareness Generation; Networking with other rights-based organisations and individuals working on Dalit and Women's rights; and International Advocacy.**

AIDMAM's experience of over a decade in addressing caste and gender based violence makes us firmly believe that social change can come from the people themselves. We, therefore, facilitate to build a critical mass of grassroots Dalit women leaders who can themselves take the reign of challenging and tackling caste and gender based violence, discrimination and the culture of impunity. In this way we are able to strengthen our collective voice for Dalit women to access justice and work towards better Implementation of Law to increase conviction rates.

## **AIDMAM brings forth the report titled "Dalit Women Rise to Justice: Status Report 2021".**

The report reflects an analysis of our experiences in addressing cases of caste and gender based violence, our experience with the survivors of caste and gender based violence, their families, and the society. The report documents the nature of response of formal state institutions, which include Police, Courts and other relevant departments, and the influencing role of informal institutions, including the social groups/ neighbourhood from where the survivor hails in cases of atrocities.

## **Purpose of the Status Report**

♣ To present the status of Dalit women and Dalit

<sup>1</sup> <https://www.indiatoday.in/india/north/story/narendra-modi-government-violence-against-women-criminal-justice-sys-tem-bjp-196312-2014-06-09> [accessed on 28 January 2021]



girls in India;

- ♂ Analyse the nature, causes and extent of caste & gender based violence in India;
- ♂ Highlight the legal interventions by Dalit women leaders for cases at the time of reporting, investigation, prosecution and compensation, and
- ♂ Highlight gaps at each stage of the criminal justice system and state of implementation of the SCs & STs (PoA) Act;
- ♂ Suggest key recommendations for state and judicial accountability to uphold rights and dignity of Dalit women and girls.

## Methodology Followed

### Evidence Building through Primary and Secondary Sources:

The report builds evidence through primary and secondary sources. The Government data on violence against women has been analysed from the caste perspective. Also, the report specifically dwells into an in-depth analysis of **81 incidents** of caste and gender based violence; in which AIDMAM has directly intervened for penal and pecuniary justice.

**Locale of the case interventions:** Six states, including Bihar, Haryana, Madhya Pradesh, Rajasthan, Odisha and Uttar Pradesh.

**Period of Report: 2014 to 2020**

## Chapterization of Status Report

### CHAPTER 1 - STATUS OF DALIT WOMEN IN INDIA:-

The introductory chapter discusses in detail the current status of Dalit women in India. It provides the theoretical framework of caste and patriarchy. It gives a detailed account of the history of caste system and Brahmanical patriarchy in India, analyses the socio-economic and political status of Dalit women and the increasing rate and changing nature of violence against Dalit women of India within the operational

analysis of caste, class and gender. The chapter also highlights the extent of marginalisation of Dalit women which pushes them into heinous practices such as the *Devadasi* system (*form of forced prostitution*), manual scavenging, and even modern forms of bonded labour and slavery. Detailed analysis of the crimes committed on Dalit women as reported by NCRB from 2014-2019 is also included in this chapter.

### CHAPTER 2: AIDMAM's INTERVENTIONS TO ADDRESS CASTE & GENDER BASED VIOLENCE:-

For the purpose of understanding the nature, causes and status of caste and gender based violence, this chapter details out AIDMAM's legal intervention and advocacy in 81 cases of violence against Dalit women and girls. The report analyses the lacunae and difficulties faced by Dalit women at all steps in accessing justice. It also analyses AIDMAM's constant efforts and consistent legal interventions in all these cases to push them towards the final stages of justice. The chapter captures the social impact of these forms of violence in the lives of Dalit women. It also covers a section on the emergency interventions during COVID-19 Pandemic as many cases of violence were reported during this period.

### CHAPTER 3: NATIONAL LEGAL MECHANISMS TO ADDRESS CASTE AND GENDER BASED VIOLENCE:-

Many special laws and provisions have been specified in the Indian legal system to address the various forms of violence and atrocities against Dalit women and to ensure equal rights, counter social discrimination and to provide support especially to Dalit women. The chapter also analyses five-year fund release trends under the Ministry of Social Justice and Empowerment, Government of India for the implementation of the Protection of Civil Rights Act, 1955 and SCs & STs (PoA) Act, 1989, and Nirbhaya Fund for the period 2016-2021.

### CHAPTER 4: INTERNATIONAL FRAMEWORK TO ADDRESS CASTE AND GENDER BASED VIOLENCE:-

This chapter documents all relevant comments and recommendations observed by the various UN Covenants<sup>2</sup>, Special Rapporteurs during the sessions

<sup>2</sup> International Covenants of the UN include Committee on the Elimination of Racial Discrimination (CERD), Committee on Economic Social and Cultural Rights (CESCR), Committee on the Elimination of Discrimination Against Women (CEDAW), Committee on Civil and Political Rights (CCPR) and Committee on the Rights of the Child (CRC).



of Human Rights Council and special visits, over the last two decades; as well as key Recommendations during the Universal Periodic Reviews and India's response to the same. Major recommendations by these covenants to India about Dalit women and their rights from 1997-2014 have been for- **Effective implementation and reinforcement of the existing laws** and policies with proper reporting of the incidents of discrimination, provide **disaggregated data** for the situation of women affected by descent based discrimination, **ensure free and fair participation** in elections, address all the impediments to eradicating the practice of **manual scavenging**, ensure proper **legal and medical services to Dalit women** and determined enforcement of the criminal justice system.

**Special Rapporteurs of the UN** have also addressed various issues regarding the rights of Dalit women during Human Rights Councils sessions and as a part of **UN Special Procedures** which includes country visits, submitting thematic reports, sending communication to States, engage in advocacy, raise public awareness, contribute to the development of international human rights standards, etc.

**CHAPTER 5: RECOMMENDATIONS:-** The last chapter of the report discusses some specific recommendations to the **Central and State Government** to address violence against Dalit women and minor girls through **effective implementation of the SCs & STs (PoA) Act**, steps should be taken up by the government to provide **psycho-social support to Dalit women survivors of violence**, to address **Socio-economic cultural and political rights of Dalit Women** and to **effectively respond to international bodies**. Also, the chapter includes some specific recommendations addressed to **Civil Society Organizations** and the **Media** to highlight and cover the reports related to the issues of Dalit women and work towards an increased sensitization with a **holistic and inclusive approach** from Dalit women's perspective.

## Key Findings- Dalit Women Rise for Justice: Status Report 2021

### I. Socio-Economic-Political Status of

### Dalit Community (Women & Girls)

- ♂ 51% of Dalit children drop out of elementary schools and the number goes up to a staggering 67% among Dalit girls;
- ♂ Significant decline in enrolment rates of Dalit girls as level of education increases, from 99% in Primary School it decreases to **15.6% in Higher Education**;
- ♂ Infant mortality rate is **40 among Dalit girls** which is the highest among all social groups, while it is 30 for dominant castes (per 1000 live births);
- ♂ **37.7% Dalit women** are self-employed, as compared to 55% of dominant caste women;
- ♂ Share of Dalit women and Dalit men in **casual labour (41.8% and 41.1%** respectively), and in **service sector (23.3% and 26%** respectively); only **(19.8%) of Dalit women are engaged in industry** as compared to Dalit men **(34.1%)**;
- ♂ Agricultural Census of 2015-16, only **11.84%** of Dalit population in the country owns operational agricultural land as opposed to **79.33%** owned by the dominant castes;
- ♂ Agriculture Census of 2015-16 also mentions that only **2,329 Dalit women own operational agricultural holdings in the country in joint or individual ownership**;
- ♂ There are only **12 elected Dalit women representatives** in Lok Sabha out of **78 women members** of the house;
- ♂ Dalit women do not form even one per cent of the representation in Rajya Sabha.

### II. Barriers to Justice Experienced by Dalit Survivors of Caste and Gender Based Violence

#### A. Violence Against Dalit Women & GIRLS -NCRB Data Analysis (2014-2019)

- ♂ Crimes against Dalit women and girls constitute



## EXECUTIVE SUMMARY

**15.11%** (38,038 incidents) of the total crimes against Dalits in these last six years from 2014-2019.

♂ As per the NCRB data of 2019, **10 Dalit women and girls are raped every day.**

♂ The absence of disaggregated data prior to 2013 for crimes against Dalit women and girls shrouds the extent and nature of crimes in government records.

♂ Before 2013, only 'rape' and kidnapping and 'abduction' were recorded, without any specification of who was the target of the offence.

♂ NCRB does not provide disaggregated data of all-crimes against all-Dalit women and all-Dalit minor girls - Trafficking for various purposes, gang rape, among others, is not recorded

♂ Consistent year on year increase is recorded, with an overall increase of 46% in six-years from 2014-2019, and

♂ 56.11% increase in rape from 2014 (2,233 incidents) to 2019 (3,486 incidents),

♂ 43.86% increase in Assault on Dalit women with intent to outrage her modesty from 2014 (2,346 incidents) to 2019 (3,375 incidents),

♂ 155.35% rise in the cases of Insult to modesty of Dalit women from 2014 (56 incidents) to 2019 (143 incidents).

♂ Uttar Pradesh, Madhya Pradesh and Rajasthan respectively top the list of incidents of violence against Dalit women from 2014-2019 based on the cases registered under the SCs & STs (PoA) Act.

♂ Police Disposal pendency for all-crimes against Dalit women and girls for six-years from 2014-2019 is 27%, with 80% of cases charge-sheeted.

♂ Court Disposal level (where role of Special Public Prosecutor and Special and Exclusive Courts, which are special provisions under the SCs & STs (PoA) Act -

♂ The overall conviction rate at Special Courts for six-years from 2014-2019 is recorded at 29.15%, acquittal rate at 68.25% and pendency rate at 88.48%.

♂ This demonstrates the poor response of Indian courts in tackling atrocities committed against Dalit women and girls.

### B. AIDMAM's Observations on the Nature and Causes of Caste and Gender Based Violence

The forms of violence against Dalit women and girls includes,

♂ Rape, gang rape, attempt to rape, sexual assault and sexual harassment

♂ Murder (accompanied by rape, gang rape and/or kidnapping)

♂ Witch-hunting

♂ Mass attacks with physical assault and loss of lives and property, and

♂ Social boycott

### Causes of Caste and Gender Based Violence

The case analyses of 81 case interventions revealed the following causes of violence meted to Dalit women and girls -

♂ Dalit women's Assertion for Access to Water

♂ Dalit women' Assertion for Access to Land

♂ Ease of Preying on Dalit Women Owing to their Lack of Sanitation Facilities

♂ Dalit women's Assertion for Access to Education

♂ Dalit women's Assertion of Right to Work, Wages or Payment of Services

♂ Dalit women's Assertion of their Right to Self-Dignity



- ♣ Dalit women's Assertion to their Right to Legal Recourse
- ♣ Dalit women's participation in Local Self-Governance
- ♣ Dalit Assertion of Right to Cultural Freedom
- ♣ Retaliation over Unsolved Disputes
- ♣ Nexus and collusion of perpetrators with state authorities
- ♣ Lack of Awareness of Basic Human Rights, Legal and Fundamental Rights and Women Related Policies

## C. AIDMAM'S Legal Intervention in 81 Cases of Atrocities on Dalit Women and Girls

### 1. FIR Registration Stage

**1a. Registration of First Information Report (FIR) of the incident-** there has been Delay, discouragement or refusal by police to file complaint at the very first instant. FIRs are lodged after regular follow-up, intervention and pressure by AIDMAM. *Of the 81 cases included; FIRs were filed for 95.06% (77 incidents) cases, Out of 77 cases, 28 FIRs were filed with the intervention of AIDMAM with the police authorities.*

**1b. Statement of the survivor under section 164 CrPC-** the procedure is delayed by police in producing the survivor to Judicial Magistrate for recording her statement, under section 164 CrPC. This statement of the rape survivor is an essential part of the prosecution and police is duty-bound to take the rape survivor to the nearest Judicial Magistrate for recording her statement.

**1c. Addressing false Counter Cases lodged against victims of caste and gender based violence-** cases filed by perpetrators, with the intention to weaken the principal case. Embroiling the survivor in a false counter case serves to distract, harass, and discourage the survivors/ families from following

**their own case.** *Out of 81 cases, 32.1% (26 incidents) of counter cases are filed against the Dalit women and their families by dominant caste.*

#### 1d. Monetary Compensation to the Survivors-

Dalit survivors of caste and gender based violence are **denied immediate relief by the administration.** *Of the 81 cases in the report, compensation has been paid to 31 survivors, i.e., 40.26% of total FIRs. This cumulative amount of INR 136.5 lacs (13.6 million) has been paid by states only upon follow up by AIDMAM.*

### 2. Police Investigation and Filing of Charge sheet

**2a. Arrest of the accused: The police cause undue delay or do not arrest the accused, resulting in a delay in filing the charge sheet.** *In the 77 cases registered out of 81 incidents, arrests were made in 51 cases only, i.e., 66.23% of total FIRs.*

#### 2b. Intervention for invoking SCs & STs (PoA)

**Act in the FIR and charge sheet:** legal intervention experience has revealed that the police do not invoke proper sections under the SCs & STs (PoA) Act during registration of FIR or filing of charge sheet. We make the efforts to invoke the relevant sections of PoA Act in FIR and charge sheet. *68 cases (88.31%) were under SCs & STs (PoA) Act out of 77 FIRs. In 28 cases of these 68 cases, FIRs were registered under the appropriate sections of SCs & STs (PoA) Act only upon insistence by the survivor, backed by AIDMAM's engagement with the police personnel.*

#### 2c. Filing of charge sheet within the 60 days of FIR:

Police delay in filing of charge sheets, though the SCs & STs (PoA) Act requires filing of charge sheet within 60 days of FIR. *In the 77 cases registered, the charge sheet has been filed in only 39 cases (50.64%). Of these, only 14 cases have been charge-sheeted within 60 days and that too upon the insistence of AIDMAM. The delay in filing the charge sheet for the rest of the 25 cases was from 1 day to 328 days.*

### 3. Trial and Conviction

#### 3a. Disposal of cases within 60 days:

Of the 39 charge-sheeted cases in the report, only



one case is disposed of from Rajasthan, while 38 cases are under trial. The trial of these 38 cases is pending for more than 60 days, contrary to the Act's provisions.

### 3b. Conviction under sections of IPC not under SCs & STs (PoA) Amendment Act:

In cases where conviction is awarded, the accused are sentenced under the sections of the Indian Penal Code and other Acts while completely avoiding the SCs & STs (PoA) Act. Failing to sentence the accused under the SCs & STs (PoA) Act while awarding conviction under other legal provisions merely proves the commission of offence against the person and property and negates the sole objective to prove that the incident was motivated by the caste factor.

### 4. Medical Care and Examination:

The report also analyses Dalit women's challenges in accessing medical assistance and examination, contrary to the Guidelines and Protocols under Medico-legal care for survivors/victims of sexual violence given by the Ministry of Health and Family Welfare (MoHFW).

## Key Recommendations

1. Hold public campaigns to create awareness on "Rights of Victims and Witnesses" under Section 15 (A) of SCs & STs (PoA) Act and procedures to access justice in cases of sexual abuse.
2. State to take up violence prevention measures by mapping **atrocities prone areas (districts) and setting up Protection Cell** to implement construction actions as mentioned in the Rule 8(1) of SCs & STs (PoA) Rules to ensure safety for Dalit women and children from caste and gender violence.
3. Establish **effective and inclusive monitoring mechanisms** for better enforcement of SCs & STs (PoA) Act, from the stage of registration of FIR to Judgment stage, to ensure fair and speedy justice for Dalit women and minor girls.
4. **Allocate adequate budget** to States under the SCs & STs (PoA) Act, and **ensure proper utilization** for the overall rehabilitation of victims of the caste

and gender based violence with focus on States recording high atrocity rate against Dalit women.

5. The education system should holistically include the importance of **equality, justice, and dignity** in Indian society and education on eradicating existing regressive social practices.
6. Facilitate engagement between the Ministries of Social Justice and Empowerment and Women and Child Development at both central and state levels to promote policies and implementation practices that address Dalit and other marginalised women's specific needs.
7. Ensure the reservation for Dalit women in **State Assemblies and Parliament of India** for the overall development thereof.
8. UN Human Rights Council and all other International Human Rights bodies should adopt the **U.N Principles and Guidelines** and hold an **International Conference on Elimination of all forms of Discrimination based on Work and Descent**.

## Conclusion

**"I measure the progress of a community by the degree of the progress which women have achieved"**  
- Dr. B.R. Ambedkar

We at AIDMAM, believe that this report will prove to be a comprehensive and useful resource for researchers, organisations and students among others. We are convinced that this resource will encourage the State to take the necessary reformative action in strengthening the implementation of the SCs & STs (POA) Act and ensure justice for every Dalit woman of India who has been a victim turned survivor of any kind of atrocity based on caste and gender. We on our part are determined to build strong Dalit women leaders to raise our voices in collective solidarity and march forward.



## Chapter 1

# STATUS OF DALIT WOMEN IN INDIA



# 1.1 Understanding Caste and Patriarchy

The caste system in India is one of the most regressive social structures of the world which is based on ritual purity of birth and is a well-rehearsed practice in India and around.

Caste, also known as 'Jaati' in many regions of India, is a 'closed system' of social stratification that divides social groups based on their occupation. It strictly follows a code of behaviour prescribed by tradition regarding marriage and kinship alliances.

Endogamy or marriage within one's caste or sub-caste group is an essential feature of the caste system and is one of the main reasons for its persistence. People generally marry within one's caste group. Caste groups are unequal and are ranked on a scale of hierarchy based on their ritual status - from pure to impure. The Hindu religious belief sanctions this hierarchy. People's 'status' or 'position' in the system determines who they can and cannot interact with.

The caste system in India is one of the most regressive social structures of the world, based on ritual purity of birth and is a well-rehearsed practice in the country and around.

A person's caste is considered the same as which they are born in and remains the same until their death. Unlike class, mobility among the castes is not allowed nor is possible under the caste system.

Traditionally, each caste was associated with an occupation. The ritual purity or pollution associated with such occupations defined each caste's rank as high or low. Each caste had its caste council or Panchayat, which addressed the grievances of its caste members.

The caste system is considered to be more than 2000 years old and is a defining feature of Hinduism. It is

interlinked with the Varna system, which positions people of society in a hierarchical structure of superiority or inferiority, as defined by the caste that they are born in.

The caste of a person is considered the same as which they are born in and remains the same until their death. Unlike class, mobility among the castes is not allowed, nor is possible under the caste system.

The Indian caste system is broadly grouped into four Varnas or categories based on supremacy as believed in the Brahmanical orthodox Hindu mythology. The mythology says that all the four Varnas are born out of the Hindu God, Brahma's body, with the Brahmins born from his mouth, the Kshatriyas from his shoulders, the Vaishyas from his belly, and the Shudras, born from his feet.

The fifth *varna* or *Panchmas* were out of the Varna system and constituted the so-called 'Untouchables'. They were and *still are*, known by many names, such as *Avarnas*, *Achhuts*, *Chandalas*, *Paraya*, *Mala-Madigas*, *Mang-Mahar*. The Brahmanical system denied 'untouchables' the right to land, water, education and any other assets.

The only job assigned to the 'untouchables' was to serve the castes above them. These included tasks associated with impurity and pollution like cleaning up after funerals, cleaning sewage, and working with animal skin, among others.

Brahmins were considered the embodiment of purity, and untouchables the embodiment of pollution. Physical contact between the two groups was prohibited. Brahmins adhered so firmly to this rule that they felt obliged to bathe if even the shadow of an untouchable fell across them.

Dr. B.R. Ambedkar shared in his speeches and





writings, that 'Untouchables' are the broken people of the society, who followed Buddhism and opposed the Vedic and Brahmanical system and rituals.<sup>3</sup>

caste system as the division of labour based on the profession of the family a person is born in, i.e. every Hindu is expected to follow their hereditary occupation.<sup>4</sup>

## Pioneering Proponents of Anti-Caste System

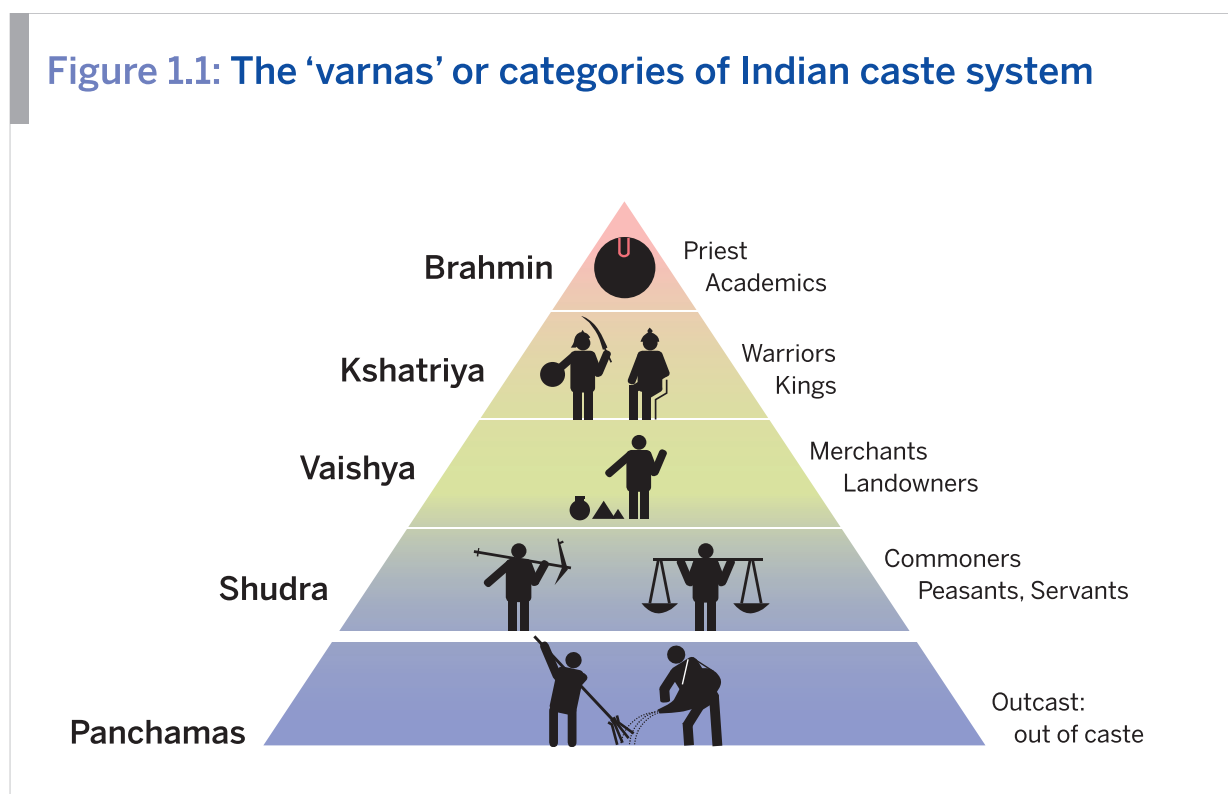
The caste system is not just about the division of labour among the people of the country but also the division of labourer as it sets a hierarchy to the type of tasks assigned to each caste.

- Dr. B.R. Ambedkar

One can better understand the caste system by focusing on the statements given by two famous personalities of India, Mahatma Gandhi and Dr. B.R. Ambedkar. Mahatma Gandhi explained the

Contrary to Mahatma Gandhi's explanation, Dr. B.R. Ambedkar, who himself belonged to the so-called untouchable 'Mahar' caste of Maharashtra, explained the caste system differently. He explained that 'social and individual efficiency requires us to develop an individual's capacity to the point of competency to choose and make one's career.' This principle is violated in the caste system. It involves an attempt to appoint tasks to individuals in advance, selected not on the basis of trained and original capacities but on that of the parents' social status. Not all the tasks are given the same importance or value, and there is no mobility among the caste system confining a person to one type of job. Dr. B.R. Ambedkar also highlights that the concept of dignity of labour and division of

Figure 1.1: The 'varnas' or categories of Indian caste system



<sup>3</sup> Dr. Babasaheb Ambedkar (Vol. 7): 'Who were the Shudras?' and 'The Untouchables – Who were they and why they became Untouchables?'

<sup>4</sup> Was Gandhi a 'Champion of the Caste System'? Reflections on his Practices, Nishikant Kolge, Economic and Political Weekly, Vol LII 13, April 1, 2017; [https://www.cds.in/uploads/custom\\_files/1532340445\\_Was%20Gandhi%20a%20%E2%80%98Champion%20of%20the%20Caste%20System%E2%80%99.pdf](https://www.cds.in/uploads/custom_files/1532340445_Was%20Gandhi%20a%20%E2%80%98Champion%20of%20the%20Caste%20System%E2%80%99.pdf)



## CHAPTER 1 STATUS OF DALIT WOMEN IN INDIA

labourer is nowhere to be seen in the caste system as established by the Hindu religion.<sup>5</sup>

Dr. B.R. Ambedkar himself struggled throughout his childhood being called an 'Untouchable', which was a common word used for the oppressed castes. Later, he played a significant role in popularizing the word 'Dalit' as the identity of Scheduled Castes in India. He also facilitated the legal recognition of women as equal citizens as he believed that we could measure a community's progress by the degree of progress that women have achieved.

Jyotirao Phule, activist and social reformer, first introduced the word '*Dalit*' to describe people who were excluded from the varna system. Dalit itself means 'broken', 'scattered' or 'downtrodden' and became the identity of the country's oppressed castes. A believer of women's empowerment through education, he first educated his wife Savitribai Phule, and later they set up India's first girls' school in Pune in 1848.

Savitribai Phule, who is regarded as the first female teacher of India and a pioneer of Indian feminism, relentlessly worked to abolish people's discrimination and oppression based on their caste and gender. She also campaigned against child marriage while supporting widow remarriage. She fought against the caste system, Brahminism, patriarchy, discrimination, and exclusion of the erstwhile 'Untouchables'.

### Caste and Constitutional Remedies

Dr. B.R. Ambedkar introduced the **Hindu Code Bill in 1947 to provide more legal support to women for the overall growth and development**. His ideas influenced the enactment of many subsequent pro-women acts like The Commission of Sati (Prevention) Act, 1987, The Dowry Prohibition Act, 1961, The Family Courts Act-1984, The Protection of Human Right Act, 1993, The Maternity Benefit Act- 1961, The Immoral Traffic (Prevention) Act, 1956, The Child Marriage Restraint Act, 1929, The Equal Remuneration Act, 1976,

The Protection of Women from Domestic Violence Act, 2005 among others. Through the Hindu Code Bill, he made it possible for women's right to divorce, the right to inheritance and legal recognition of inter-caste marriage.

While framing the Constitution, the interests and rights of Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis) were kept in special consideration owing to their marginalized status in Indian society. The Constitution of India guarantees fundamental rights to all its citizens so as to protect their basic human rights and ensure equality and justice for all.

The **Right to Equality is one** such fundamental right which guarantees equality in the eyes of the law and equal protection of laws (Article 14). It **prohibits discrimination** on the grounds of religion, race, caste, sex or place of birth (Article 15) and guarantees **equality of opportunities** in matters of public employment (Article 16). Dr. B.R. Ambedkar specifically added 'Article 17' when he wrote the Constitution of India, abolishes the practice of untouchability and ensures that it should be eradicated in all forms. Article 17 became the basis of The Untouchability (Offences) Act 1955, later renamed as The Protection of Civil Rights Act, 1955.

A more comprehensive law, as The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was enacted, which includes various forms of caste centric offences and gives due consideration for social and professional inclination to implement the Act. The Act was further amended in 2015 and 2018 with newly emerged offences and provisions.

Provisions are also made under Article 243 to secure seats for Scheduled Caste and Scheduled Tribe communities, including women in the office of Panchayat and Municipality for political participation.

Post-independence, the framers of our Constitution realized that the SCs and STs constituted some of the most marginalized population. Their interests needed to be considered while framing new policies and laws.

<sup>5</sup> What BR Ambedkar Had To Say About Caste & The Caste System, The Logical Indian, 14 April 2017, / <https://thelogicalindian.com/story-feed/awareness/b-r-ambedkar/>



As such, the approach of 'protective discrimination' was adopted.

The term 'protective discrimination' implies that the Constitution of India, considers SCs and STs as a special category of people who face or have faced entrenched discrimination and require special measures for their upliftment and advancement. These measures include welfare schemes, reservation of seats in educational institutions, public service jobs, etc.

Despite these landmark decisions and policies, caste-based discrimination has led to the marginalization of Dalits in India, especially Dalit women.<sup>6</sup>

## Caste and Patriarchy

**The manifestation of patriarchy for Dalit women is not just based on their gender but also their caste. This social system is referred to as 'Brahmanical Patriarchy'.**

Patriarchy in India stands for dominance and hierarchy of men over women and is one of the well-known social orders of India. Indian society associates 'dignity' with women in general and treats them as objects to be kept under the safety and scrutiny of men. As such, the purity of women, in general, holds a central position in patriarchy.

India's caste system, on the other hand, is also based on ritual purity. Like dominant caste women, Dalit women's purity is also central to patriarchy that they are subjected to. **However, the manifestation of patriarchy for Dalit women is not just based on their gender but also their caste.** This social system is referred to as '**Brahmanical Patriarchy**'.

The power structure between women and men shows that dominance by dominant caste men over all women – Dalit and non-Dalit, is structural and apparent. However, dominance by Dalit men occurs over Dalit women and not on non-Dalit women.

Brahmanical patriarchy is also responsible for creating a hierarchy and reinforcing power structure among women as 'Dalit' and 'non-Dalit' women. As a result, solidarity between Dalit women and non-Dalit women is less due to caste identity than gender identity.

Thus, the **social structure of 'Brahmanical Patriarchy' aptly and justifiably captures the interplay of Caste and Patriarchy, rather than just 'Patriarchy'**. It is also used as one of the tools by the dominant castes to harm Dalit women's dignity and in turn silence the voices and disable the assertion of the entire Dalit community. It is because of the Brahmanical Patriarchy that **Dalit women face more violence, oppression and exclusion based on their caste identity than their gender**, as compared with non-Dalit women.

## Exploitation of Dalit Women: A Function of Brahmanical Patriarchy

Caste and patriarchy deprives Dalit women of basic human rights, and denial of access to resources like land and livelihood forms the basis of their continued marginalization and economic deprivation. As a result of Caste and Patriarchy, Dalit women are often soft targets for exploitation.

Thus, the intersectionality of caste, patriarchy and class, makes Dalit women victims of triple fold oppression. They are oppressed by the people of **dominant castes** for being **Dalits**, by the **rich and affluent** for being **poor**, and face **patriarchal oppression from men of all communities, including their own**, for being a **woman**. Dalit women are also a subject of violence at the hands of dominant caste and class women, making them a highly vulnerable section of the society.

Being positioned at the bottom of the power structure of Indian society, Dalit women are deprived of their development and are forced to involve in the menial jobs and paid less than their male counterparts.

<sup>6</sup> Understanding Untouchability - A comprehensive study of practices and conditions in 1589 villages, Navsarjan Trust and Robert F Kennedy Center for Justice and Human Rights, 2007-10/ <http://www.indianet.nl/pdf/UnderstandingUntouchability.pdf>



Dalit women have historically faced a range of discrimination and violence based on caste-based occupations such as Devadasi system, Bonded labour, Manual scavenging, etc.

### The Devadasi system - Forced prostitution

The link between triple fold oppression of Dalit women and forced prostitution is apparent in the 'Devadasi' and 'Jogini' systems practiced in India and still exist despite its abolition. *Devadasi* is a religious practice and an Indian institution wherein girls are offered to Hindu deities. Being a Dalit is a kind of "prerequisite" to become a *Devadasi*.

Young girls forced into the *Devadasi* system are left to fend for themselves. No economic and social support is offered to these girls by the temples or parents. To sustain their livelihood, they work as commercial sex workers, beggars or dancers in cultural and religious events. These women are never entirely accepted in the so-called mainstream society. *Devadasi* system has a religious sanction for prostitution. Girls and women in this system are more than often used for free sexual favours by men of the community. As per a saying in Marathi, *Devadasis* are the 'Servant of God, but the whole town's wife.' Observation shows that even if a patron or another man marries a *Devadasi* and has children with her, abandonment or fear of abandonment constantly looms over her.

Major contributing factors for pushing young girls into this system are **poverty, religious and superstitious beliefs, caste system, hereditary practice and social pressure.**

The efforts to abolish the system began as early as the 1800s by reformists and social activists. Stigma and struggle mark the lived reality of Devadasis, who manage to break away from the cruel tradition.<sup>7</sup>

According to a study by Anti-Slavery International,

2017, **93%** of *Devadasis* are from Scheduled Castes (Dalits) in India.<sup>8</sup> Even today, thousands of Dalit girls are forced into the *Devadasi* system every year. Laws were passed in the country, making it illegal and a punishable offence. Yet, instances of girls pushed into this system are widely reported.

As per the reports of a one-person commission headed by Justice Raghunath Rao, about **80,000 Devadasi women** were still in the system as of 2015 in Andhra Pradesh and Telangana. This figure was much higher than the figure of **24,273** as provided by the **Andhra Pradesh Social Welfare Commission**.<sup>9</sup>

As of now, there is no central legislation to end the practice. Despite the special legislation in a few states, such as Karnataka, Maharashtra, Andhra Pradesh and Tamil Nadu, prohibiting this practice, many Dalit women continue to be pushed into the inhuman practice of *Devadasi* system.

### Manual scavenging and its effect on Dalit women

"I was three or four months pregnant. There was no one to help me carry the heavy baskets. We then had to collect the faeces, carry it on our head and our hip, and then throw it somewhere else. Because of that reason, my baby miscarried."

**-Kiran, Maharashtra  
(Human Rights Watch Report 2014)**

Manual scavenging is a caste-based occupation. Dalit manual scavengers exist under different caste names such as the *Bhangis*, *Pakhis*, *Sikkaliars* etc. Members of these communities are invariably placed at the very bottom of the caste hierarchy and even the Dalit sub-caste hierarchy.

Of the **1.2 million manual scavengers** in India, 95-

<sup>7</sup> Forced Prostitution, International Dalit Solidarity Network / <https://idsn.org/key-issues/forced-prostitution/>

<sup>8</sup> Women in Ritual Slavery – Devadasi, Jogini and Mathamma in Karnataka and Andhra Pradesh, South India, 2017; Maggie Black; Anti Slavery International

<sup>9</sup> <https://timesofindia.indiatimes.com/india/Devadasi-system-still-exists-in-Telangana-AP-says-report/articleshow/46337859.cms>



98% are women. These women are primarily from the Dalit community.<sup>10</sup> The women are paid a pittance, often in a few tens of rupees, or not paid at all (Human Rights Watch, 2014). Thus, forced by circumstances to borrow money from dominant caste neighbours for meeting basic requirements, the women and their families end up in debt, often compounded to years or generations.

On the other hand, women who leave the occupation continue to be stigmatized and are not allowed to participate in village functions, religious ceremonies, and socially distanced. Financial troubles aside, the damage to their physical health is irreparable. They have negligible access to healthcare services, benefits of the public distribution system (PDS), Anganwadi services, housing schemes, among other government welfare measures.

## Bonded Labour: A Modern Slavery

Historically, bonded labour work was and is passed from one generation to another. Dalit women face discrimination while seeking employment and are mostly unable to escape their designated occupation even when the law has abolished the practice itself.

A perverse form of discrimination against women within the context of labour and caste is the 'Sumangali Scheme' of Tamil Nadu. Literally meaning, 'married women', it refers to 'girls becoming respectable women through marriage'. Known by various names, such as 'Thirumagal Thirumana Thittam' (bride-marriage scheme), 'Kanganī' (marriage) System, the scheme is essentially a 'Marriage Assistance Scheme'. A form of forced labour, the scheme promises a bulk of money after completion of a three-year contract, thus meeting the needs of low-income families for collating dowry-money (an Indian tradition which is illegal).

The Sumangali Scheme employs an estimated 200,000 women camp-like labour arrangements in textile mills and garment factories in Tamil Nadu. Dalit adolescent girls, among other marginalized communities, are primarily recruited under this scheme from low-income families.<sup>11</sup> They live in very basic company-run hostels and face threats and violence from factory supervisors. The girls are often trapped in a 68-hour working week, with no contract or payslips, and locked inside factory dormitories and dormitory compounds during working and non-working hours.<sup>12</sup>

As per one of the research studies conducted by organisation READ, at least 60% of the girls working under the scheme belong to the Dalit communities, primarily Arunthathiyar community, one of the most vulnerable Dalit communities of Tamil Nadu. Most of the families of the girls from Arunthathiyar community working in these mills earned a monthly income of only INR 4,000/- per month and are under debt. Girls working under this scheme have reported verbal and physical abuse and sexual harassment.<sup>13</sup>

Such abuse reduces the personal and professional choices of the girls and adolescent women trapped in this scheme. As Dr. Aidan McQuade, Former Director of Anti Slavery International, has stressed: "*Caste based apartheid underpins the 'camp coolie' and Sumangali systems allowing the powerful to enslave, with impunity, vulnerable workers, often young Dalit women and girls, for the manufacture of textiles and garments for northern hemisphere markets, and hence to derive considerable profits from their enslavement.*"

As the figures mentioned above suggest, Dalit women are predominantly employed in menial jobs and caste-based employment. The intersectionality of caste, class and gender in the backdrop of lack of employment opportunities, access to resources,

<sup>10</sup> Manual Scavenging: Women Face Double Discrimination as Caste and Gender Inequalities Converge, Shubham Kumar and Priyanka Preet; Economic and Political Weekly, Vol. 55, Issue No. 26-27, 27 Jun, 2020; / <https://www.epw.in/engage/article/manual-scavenging-women-face-double-discrimination-caste-gender> [accessed on 10 December 2020]

<sup>11</sup> [http://corporateaccountability.squarespace.com/s/NJM13\\_sumangali.pdf](http://corporateaccountability.squarespace.com/s/NJM13_sumangali.pdf) (Page-11)

<sup>12</sup> <https://www.ohchr.org/Documents/Issues/Women/WG/ChangingWorldofWork/CSOs/IDSN/IDSNSubmissionWGDaWWomenandtheChangingWorldofWork.docx>

<sup>13</sup> [https://readindia.org.in/resource-materials/#elf\\_I1\\_UmVzZWFyY2ggU3R1ZGllcy9UZxh0aWxlfFdvcmVzZWFyY2ggU3R1ZGllcw](https://readindia.org.in/resource-materials/#elf_I1_UmVzZWFyY2ggU3R1ZGllcy9UZxh0aWxlfFdvcmVzZWFyY2ggU3R1ZGllcw) (2014)



## CHAPTER 1 STATUS OF DALIT WOMEN IN INDIA

and low socio-economic status pushes and forces Dalit women to work in degrading and humiliating professions of the likes of manual scavenging, bonded labour or Devadasis. Severe violations of human rights have been observed in all the sectors, leading to the exploitation of Dalit women's labour.

### Conclusion

The caste system, patriarchy and class difference in India is a bitter reality of the country and has only become worse since independence. A direct and worse impact of the same is evident on Dalit women and the entire Dalit community. Triple discrimination, i.e. based on caste, class and gender, is one of its kind and results in multifold violence and discrimination against them.

Social reformers like Jyotirao Phule, Savitribai Phule

and Dr. B.R Ambedkar have worked extensively to get the rightful fundamental rights of education, social justice and equality for Dalits. They passionately and vehemently advocated for eliminating the evil practices of untouchability and child marriage and advancing the rights of marginalized communities.

The distribution and access to resources by the entire country are based on the caste system's hierarchy. As a result, Dalits have remained deprived of basic resources like education, employment, medical facilities, asset ownership, political participation and access to justice.

This lack of access to resources forms a significant reason for the ever-increasing violence against Dalit women, as discussed in further chapters.



# 1.2 Socio-Economic Status and Political Representation of Dalit Women

Over the years, it has been observed that Dalit women lag behind in most areas of development and growth with respect to the basic criteria of progress in any country. Unequal access to resources and opportunities for development only adds up in making her more socially vulnerable. It frequently exposes her to the chance of being a victim of caste, class and gender-based violence. Basic rights of Dalit women such as **health, education and livelihood** came into focus very recently as Dalit women started associating their dignity with these basic indicators of their development and in the process of nation-building.

Dalits form **16.68%** of India's entire population as per the Census of 2011, of which Dalit women comprise **8%** of the population. The population of Dalit women in India as per the **2011 National census** is **9.79 crore** out of 58.7 crore of the total female population

The socio-economic and political status of Dalit women in India can be best understood by tracing their development, with the perspective of the triple burden of deprivation faced by them

As per a common observation, women in India lag behind men with respect to per capita income, nutrition, literacy, and other economic and social well-being indicators. The denial of economic and social rights to women, which men enjoy, is the other deprivation which women face. Similarly, Dalit women suffer from denied economic and social rights due to their caste, which further increases poverty and

deprivation compared to women from the dominant caste.

Therefore, we have attempted to understand the current socio-economic and political status of Dalit women with respect to all women and men, Dalit men and dominant caste women. *The analysis is based on indicators of –*

- ♂ **Education**, at the primary, middle, secondary and higher secondary and higher levels and the dropout status.
- ♂ **Health**, covering analysis of mortality rate and anaemia among children and adults.
- ♂ **Employment**, in rural/urban areas, employment status based on type and sector of occupation.
- ♂ **Unemployment**, in rural/ urban areas.
- ♂ **Land and Asset Ownership**
- ♂ **Political representation** of Dalit women

It should be noted that figures are significant from an analytical point of view and are of grave relevance to understanding these factors as a symbol of power, confidence, rights, awareness, recognition, acceptance, dignity, and self-reliance of Dalit women.



# A. EDUCATION

**Of the entire population of Dalit women in India, only 56.5% are literate.**

The 2011 Census data records that Dalit literacy rate is 66% at a national level, i.e. lower than India's average literacy rate by 8% points, which is 74%. The Census also states that in 2011, out of the entire population of Dalit women in India, only 56.5% of Dalit women are literate, with 52.6% literacy in rural areas and 68.6% literacy in urban areas. This reveals that a significant section of the illiterate population of India comprises Dalit women.<sup>14</sup>

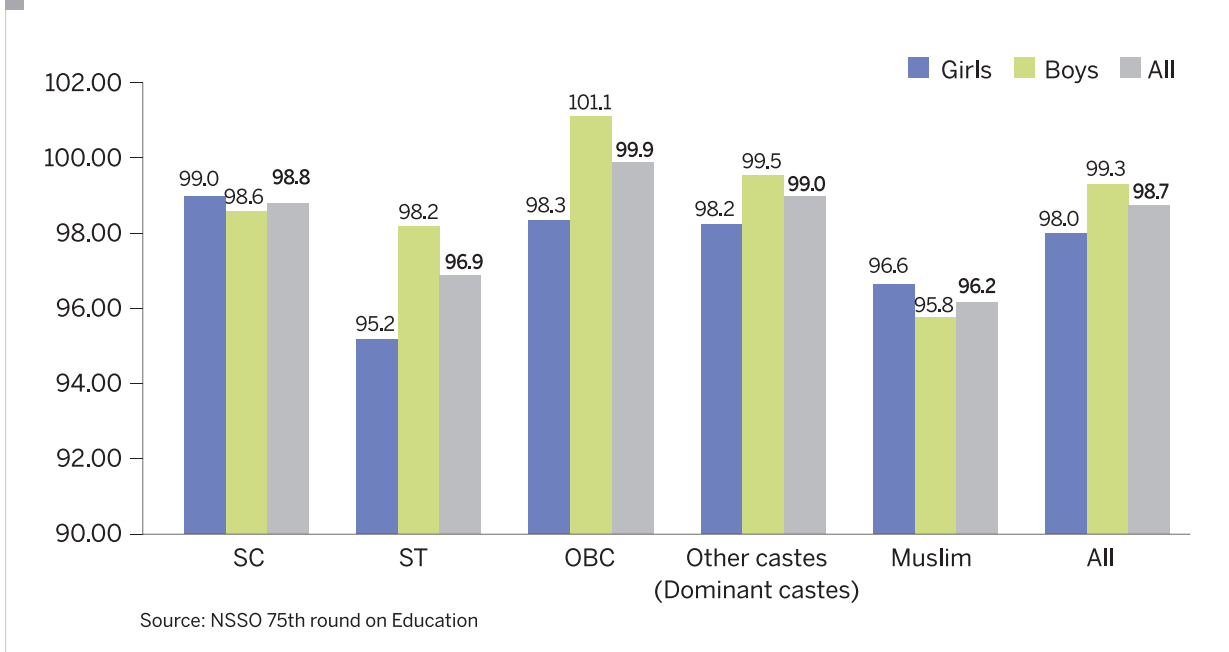
Thus, we examine Dalit women's education, focusing on enrollment rate at primary and middle, secondary and higher secondary and higher education levels in 2017-18 as per the NSSO's 75<sup>th</sup> round on education and dropout status.

## a. Primary and Middle Education

At the *primary and middle education level*, the Gross Enrolment Ratio for **girls and boys** (all social groups) is almost similar at **98% and 99.3%**, respectively, while the national average is **98.7%**. [Figure 1.2].

The enrolment rate is also almost similar for **SC girls**

**Figure 1.2: Gross Enrolment Ratio in Primary and Middle School across Social Groups, India, 2017**

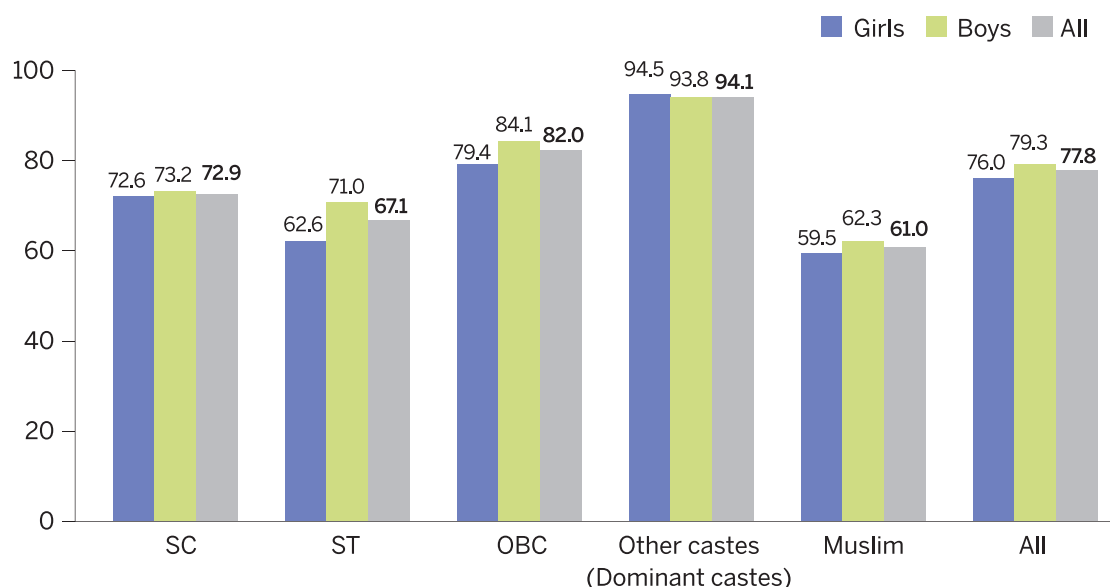


<sup>14</sup> Handbook on Social Welfare Statistics, Ministry of Social Justice and Empowerment, GoI, 2018, Page 43; <http://socialjustice.nic.in/writereaddata/UploadFile/HANDBOOKSocialWelfareStatistic2018.pdf> [accessed 28 January 2021]





**Figure 1.3: Gross Enrolment Ratio in Secondary & Higher Secondary School across Social Groups, India, 2017**



Source: NSSO 75th round on Education, 2017

and boys, with about 99% for girls and 98.6% for boys, while the national average for Gross Enrolment Ratio for all Dalits is 98.8%. [Figure 1.2].

At this level, there is less disparity in enrolment ratio between SC girls (99%) and dominant caste girls (98.2%).

### b. Secondary and Higher Secondary Level

**Dalit girls' enrolment rate is lower (73%) than that of dominant caste girls (95%) at the secondary and higher secondary education level**

When we compare the Gross Enrolment Ratio (GER) between girls and boys from all social groups at the Secondary and Higher Secondary level, the GER for all-girls (76%) is lower than boys (79.3%). [Figure 1.3].

The enrolment rate of SC girls (72.6%) is similar to SC boys (73.2%) at this level.

A comparison of girls' enrolment rates from different

social groups reveals that enrolment of SC girls (72.6%) is lower than the national average (76%).

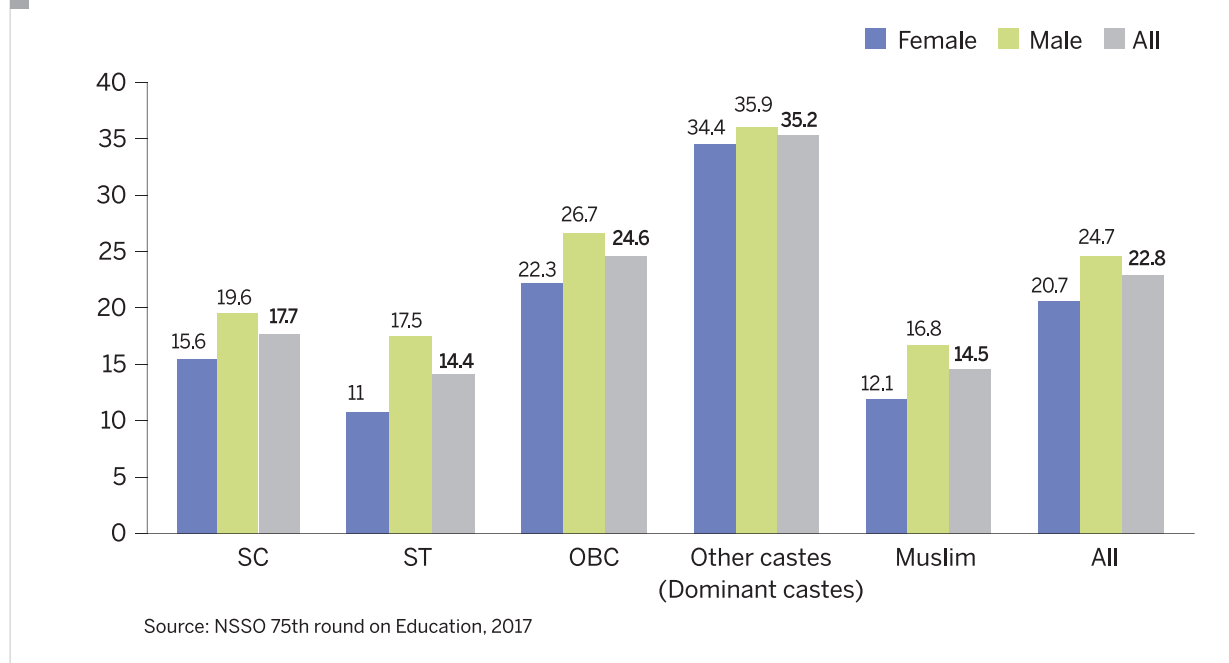
There is a stark and evident difference in the enrolment rate for SC girls and dominant caste girls at the secondary and higher secondary level. The Gross Enrolment Ratio for SC girls is 72.6%, while dominant caste girls are 94.5%.

### c. Higher Education

At the higher education level, the gross enrolment ratio is 22.8%, while all-females enrolment (20.7%) is considerably lower than that of all males (24.7%). [Figure 1.4].

A comparison between SCs and dominant caste at the higher education level shows that the enrolment rate of all SCs (17.7%) is much lower than that of dominant caste (35.2%). Among the SCs, the enrolment rate for SC females (15.6%) is lower than that of SC males, at the higher education level.

A comparison of SC females and dominant caste females at the higher education level shows that SC females' enrolment rate (15.5%) is much lower than

**Figure 1.4: Gross Enrolment Ratio in higher education across Social Groups in India, 2017**

that of dominant caste females (34.4%).

#### d. Dropout levels

It is observed that the school dropout rate in higher education is very high among SC females, and it is vividly evident with the gradual decline in the enrolment rate of SC females in higher education.

As per a report by Ministry of Human Resource Development, Gol, 2016, the dropout rate among SC females in 2013-14 is as high as 18.32% at the level of secondary education.<sup>15</sup> [Figure 1.5]. A UNICEF report in 2011 found that 51% of SC children drop out of elementary schools. The number went up to a staggering 67% among SC girls. It stood at 37% among non-Dalit and non-Adivasi children.<sup>16</sup> The high dropout rate among SC girls at secondary level ultimately leads to lesser enrolment in the Senior Secondary and Higher Education.

The decline in the Gross Enrolment Ratio of SC girls at all levels of education indicates the alarming and eye-opening status of education among SC girls in India.

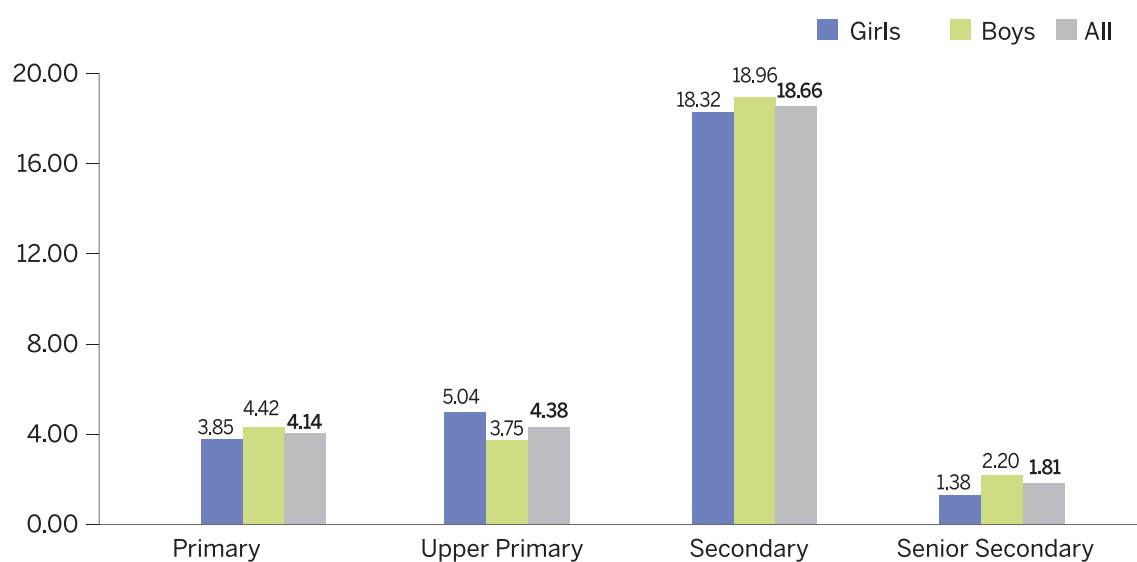
*There is a gender gap in accessing education in the country with lesser enrolment rate for women as compared to males at primary and middle school, secondary and higher secondary and especially at higher education levels. This adds up to the social discrimination of Dalit women in accessing education as it is visible when compared to Gross Enrolment Ratio of Dalit men and dominant caste women. The enrolment rate of Dalit women is lower than the enrolment of Dalit men at all the levels except Primary and Middle school. There is a stark difference among Dalit women's enrollment rate compared with dominant caste women, i.e. as high as 94.6% and 72.6% at Secondary and Higher Secondary levels and 34.4% and 15.6%, respectively, at the Higher education level.*

<sup>15</sup> Educational statistics at a glance, Ministry of Human Resource Development, Gol, 2016, Page 37; [https://www.education.gov.in/sites/upload\\_files/mhrd/files/statistics-new/ESG2016.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/statistics-new/ESG2016.pdf) [accessed on 28 January 2021]

<sup>16</sup> <https://thewire.in/caste/dalit-history-month-education-is-a-distant-dream-for-some-children> (accessed on 16th January, 2021)



**Figure 1.5: Average Annual Dropout Rate in School Education- Scheduled Caste students 2013-14**



Source: Ministry of Human Resource Development, GoI

As per the overall analysis of the education status of Dalit women, the enrolment ratio for Dalit women starts at 99% at the primary level of education. It falls to a meagre 15.6% at higher education levels,

indicating high dropout levels leading to increased participation in labour-based occupations compared with skill-based professions.



# B. HEALTH

There is a stark difference between Dalit women and men’s health status in India, as is also the case for all women and men. For the Dalits and other marginalised sections of society, India’s medical and health care sector is also biased and discriminatory towards them. This discrimination in providing access to health and medical facilities is validated by the data provided by NFHS-4, 2015-16.<sup>17</sup>

The significant indicators of health, such as mortality rate, anaemia and body weight in both adults and

children, are lower for the SC/ST or OBCs than others. A few of the other basic indicators include the neonatal mortality rate, infant mortality rate, under-five mortality rate, etc.

### a. Mortality Rate

The mortality rates of SC children, especially girls, at birth, within one year of birth, and up to five years, are higher than those of dominant caste children.

**Figure 1.6: Childhood Mortality in India, 2015/16 (per 1,000 live births)**

Lower █ █ █ █ Higher

		Childhood Mortality (deaths per 1,000 live births)		
		Neonatal Mortality	Infant Mortality Rate	Under Five Mortality Rate
<b>SC</b>	Male	38	50	62
	Female	28	40	53
<b>ST</b>	Male	38	52	67
	Female	24	36	51
<b>OBC</b>	Male	33	43	54
	Female	28	41	52
<b>Others (Dominant castes)</b>	Male	27	35	41
	Female	21	30	37
<b>Total</b>	Male	33	44	54
	Female	26	38	49

Source: NFHS 4, 2015-16

<sup>17</sup> <https://www.thestatesman.com/india/understanding-the-plights-of-dalits-through-the-lens-of-hathras-and-numbers-1502931749.html> (accessed on 12/12/2020)



Among the country's female and male children, the mortality rate of all the three types is lower for girls than boys. These are- neonatal mortality (number of deaths during the first completed 28 days), infant mortality (number of deaths within one year of birth) and under-five mortality (number of deaths within five years of birth). This represents a better immunity among girls as compared to boys. The same is true for SC children, i.e. all three types of mortality rates are lower among the SC girl children than boys.

However, it should be noted that the mortality rates of all the three types are higher for SC children as compared to the children of dominant castes, especially in the case of girl children. The neonatal mortality rate is highest among SC and lowest among the dominant castes.

The infant mortality rate is 40 among SC girl children, which is highest and 30 for the dominant caste women, which is the lowest among all social

groups (per 1000 live births). The under-five mortality rate is 53 for SC girl children as against dominant castes 37 (per 1000 live births) for dominant caste girls. [Figure 1.6]. This is because of severe malnutrition and lack of other medical services for both the mother and child, which causes such high numbers of children to lose their lives before reaching the age of five years.

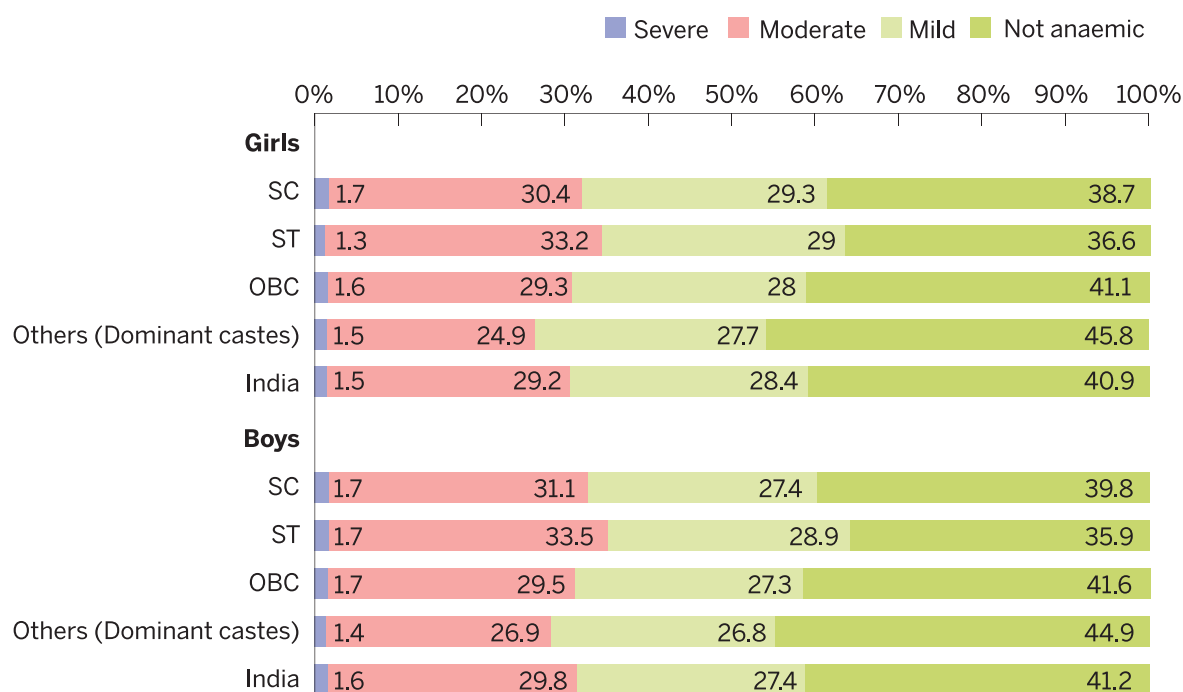
### b. Anaemia

#### Anaemia in Children

The percentage of SC female children with anaemia is 61% which is quite high compared with 54% for dominant castes.

One of the indicators of deprivation is anaemia which occurs mostly in women due to excessive blood loss, lack of iron in blood and lack of healthy red blood cells in the body. Along with adult women and men, anaemia also exists in children because of

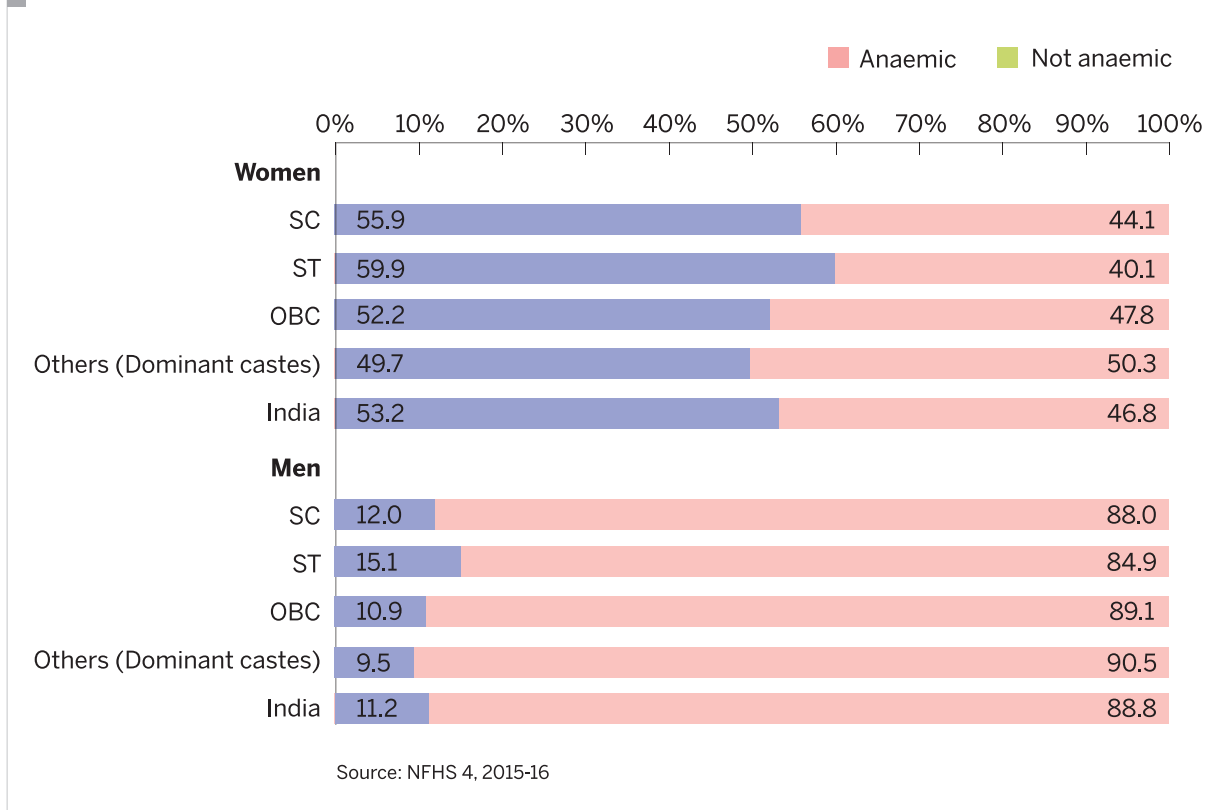
**Figure 1.7: Anaemia among children below 5 years by Gender and social group in India, 2015/16 (%)**



Source: NFHS 4, 2015-16



**Figure 1.8: Anaemic women (15-49 years) and anaemia men (15-54 years) in India, 2015/16 (%)**



poor nourishment and lack of iron-rich food, which significantly obstructs their growth and development. The NFHS-IV data shows no difference in anaemia among the children below five years of age by gender and social group in India (58.8% and 59.1%, respectively). Also, there is little difference between female and male children in severe, moderate, and mild anaemia.

Of the total SC children below five years, about 61.4% girls and 60.2% boys are anaemic, indicating a low difference between girls and boys among SCs. [Figure 1.7].

However, this difference is prominent in the case of SC girls with dominant caste girls. The percentage of female children with anaemia below five years is 59% at all India level, which is relatively high. The rate of SC female children with anaemia is 61% which is relatively high compared with 54% for dominant castes.

### Anaemia in Adults

The percentage of the anaemic population is much higher among adult women (15-49 years) than men (15-54 years). Almost 53% of women in 15-49 age-groups are anaemic compared to 11% men. Among the SC population, almost 56% of women in 15-49 age-groups are anaemic, which is significantly higher than 12% among men. [Figure 1.8].

**Anaemia is seen to be more prevalent among ST and SC women than others, which leads to compromised health of the children since their conception.**

Out of the total women in the age group of 15-49 years, anaemia is also seen to be more prevalent among ST and SC women than others, leading to compromised health of the children since their conception.



Percentage of anaemia among **ST** and **SC** women in the age group of 15-49 years is around **60%** and **56%**, respectively, compared to about **50%** for the women of the dominant castes.

Anaemia among Dalit women is higher at **55.9%** as compared with dominant caste women at **49.7%**.

**Thus, with respect to all indicators of malnutrition, the situation of SC women and girls is lower as compared with dominant caste women and girls.**

*To sum up, the child mortality rate is higher among Dalit women and girls than the dominant caste women for all the three mortality rates, namely neonatal mortality, infant mortality and under-five mortality rates. The percentage of children below five years of age with anaemia is also high among Dalit women than dominant caste female. Similarly, the percentage of adult anaemia is very high among Dalit women than dominant caste women.*

## C. EMPLOYMENT



The employment rate is based on the Periodic Labour Force Survey for 2017-18. The data has been collected and analysed based on a few criteria like urban/rural, type and sector of employment and unemployment. These criteria have focussed on three kinds of category—comparison between all-women and all-men, SC women and SC men, and thirdly SC women and dominant caste women.

### a. Employment Status in Rural and Urban areas

In India, both in rural and urban areas, the employment rate of women is much lower than men. Only **22%** of women are engaged in employment, while **71.2%** of men are engaged in employment across various sectors.

The gender gap in employment is prevalent across all social groups, with about **24%** of SC women being employed across sectors, as compared with **72%** of SC men.

However, when one compares the data of **SC women** with the **dominant caste women**, it is found that the employment rate is higher among the SC women (**24%**) as compared with dominant caste women (**18%**) [Figure 1.9]. It is also important to mention that the employment rate is highest among ST women (**35.7%**) and lowest for Muslim women (**12.8%**) as compared with the national average of **22%** of women for the work participation ratio.

Here, a high employment rate does not necessarily indicate better work participation among ST and SC women. As we discuss later in the chapter, low wage rate and unfavourable work conditions and terms go hand in hand with women's work participation.

**In India, due to the high poverty level, the employment rate of Dalit women (23.9%) has been much higher than Dominant caste women (18%) both in rural and urban areas.**



**Figure 1.9: WPR across Social Groups, Total- 2017**

Social Groups	Worker participation rate (%)		
	Women	Men	Total
SC	23.9	72.2	48.5
ST	35.7	75.8	55.9
OBC	23.1	71.3	47.4
Other castes (Dominant castes)	18.4	68.6	43.9
Muslim	12.8	71.5	41.8
<b>Total</b>	<b>22.0</b>	<b>71.2</b>	<b>46.8</b>

Source: PLFS 75th round, 2017

### b. Employment Status based on Type of Occupation

The analysis is based on type of occupation, namely self-employed, regular salaried and casual labour.

**Self-employment among Dalit women is the lowest across all social groups. Of all self-employed women, less Dalit women are self-employed (37.7%), as compared to dominant caste women (55%). Of the total women casual labourers, a majority of them are Dalits.**

Self-employment in the table indicates the extent of ownership of capital assets based on which any form of business can be conducted. These capital assets include land and private enterprises/business, and self-employment includes farmers and business/entrepreneurs, etc. Figure 1.10 looks into the percentage of the population across social groups, who are self-employed, regular-salaried and employed as casual wage labour.

In terms of women and men, women workers' share as self-employed is **51.9%** which is almost similar to men, i.e. **52.4%**. Women's share in regular salaried is lower (**21.2%**) than men (**23.4%**). The opposite is true for casual labour as more women work as casual labourers than men. The share of casual labour

for women among total women workers is **26.9%** compared with **24.2%** for men. [Figure 1.10].

In terms of **SC women** and **SC men**, we found that women and men are similarly engaged in self-employment with women at **37.7%** and men at **39.3%**, regular salaried work with women at **20.5%** and men at **19.6%**, and casual labour with women at **41.8%** and men at **41.1%**. [Figure 1.10].

The share of **SC women** and **dominant caste women** in self-employment is different, which indicates a difference in ownership of income-earning assets. Of their respective total worker share, less **SC women** are self-employed (**37.7%**) than **dominant caste women (55.2%)**. Similarly, less **SC women (20.5%)** are employed among the regular salaried as compared with **dominant caste women (31.5%)**. In fact, **the share of dominant caste women is the highest across all social groups among regular salaried work.**

**SC women's** ratio as employed in **casual wage labour** is the highest among all social groups, i.e. **41.8%**. This figure is in stark difference; **three times more** than the employment ratio for **dominant caste women** in the casual wage labour, i.e. **13.4%**. **These figures reveal the economic gap between SC women and women of other castes and employment conditions for all social groups.** [Figure 1.10].





**Figure 1.10: Workers by type of employment, 15 years & above, 2017-18**

Lower Higher

	Distribution of workers in social group by type of employment (%)								
Rural + Urban	Self Employed			Regular salaried work			Casual wage labour		
Social group	Men	Women	Person	Men	Women	Person	Men	Women	Person
SC	39.3	37.7	38.9	19.6	20.5	19.8	41.1	41.8	41.2
ST	56.6	54.8	56.0	14.0	11.0	13.1	29.4	34.2	30.9
OBC	55.5	56.0	55.6	22.1	19.3	21.4	22.4	24.7	22.9
Other castes (Dominant castes)	55.1	55.2	55.1	31.1	31.5	31.1	13.8	13.4	13.7
Muslims	51.1	60.7	52.6	21.3	18.7	20.9	27.6	20.6	26.5
Total	52.4	51.9	52.3	23.4	21.2	22.9	24.2	26.9	24.9

Source: PLFS 75th round, 2017

**Figure 1.11: Workers by Sector, 15 years & above, 2017-18**

Lower Higher

	Distribution of workers in social group by sector (%)								
Rural + Urban	Agriculture			Industry			Service		
Social group	Men	Women	Person	Men	Women	Person	Men	Women	Person
SC	39.9	57.0	44.0	34.1	19.8	30.6	26.0	23.3	25.4
ST	62.1	79.6	67.7	21.3	9.3	17.5	16.6	11.1	14.9
OBC	42.7	59.5	46.8	25.3	17.9	23.5	32.1	22.6	29.8
Other castes (Dominant castes)	35.3	45.7	37.4	21.5	14.9	20.1	43.3	39.4	42.5
Muslims	25.7	36.1	27.3	35.4	37.8	35.8	38.9	26.0	36.9
Total	40.2	57.0	44.1	26.9	17.8	24.8	32.9	25.2	31.1

Source: PLFS 75th round, 2017

### c. Employment Status based on Sector of Occupation

In terms of employment status based on Sector-Wise Participation, it is observed that participation of women in the agriculture sector (57%) is higher than men (40.2%) and very high among other sectors of industry and service. 26.9% of the country's

entire male population is employed in the industry sector as opposed to 17.8% of women, which is significantly less in comparison. Similarly, 32.9% of the male population is engaged in the service sector as compared with only 25.2% of the women's population.



In terms of participation in occupation among **SC women** and **men** of their respective total worker share, a larger proportion of **SC women (57%)** are engaged in agriculture than **SC men (39.9%)**. However, less **SC women** are engaged in the industry (**19.8%**) and service industry (**23.3%**), which is lower than **SC men** in industry (**34.1%**) and service (**26%**).<sup>18</sup> [Figure 1.11].

In terms of comparison between the participation of **SC women** with **dominant caste women** across different types of occupation, it was found that **more**

**SC women are engaged in agriculture (57%) and industry (19.8%), as compared to dominant caste women (agriculture 45.7%; industry 14.9%)**. However, in terms of share in the service sector, **less SC women are engaged in the service sector (23.3%) as compared with women from dominant caste (39.4%)**. It should be noted that the service sector is a lot more organised than the agriculture and industry sector, and the consequences of working in unorganised sector on SC women is evident on multiple platforms. [Figure 1.11].

### D. UNEMPLOYMENT STATUS

After analysing the differences in the employment rate among women and men, we will now discuss the unemployment rate among women and men workers

**The unemployment rate among Dalit women is higher than Dalit men in urban areas but lower in rural areas. This is similar to unemployment rates among all women in general, as compared with total men.**

**However, the unemployment rate among Dalit women is lower (3.2%) than dominant caste women (7.9%) in rural areas and similar (10.3%) in urban areas.**

It emerged that women's **unemployment rate is lower than men, i.e., 5.6% and 6.1%, respectively, at the overall level**. However, the rate of women's unemployment is higher in the urban areas, i.e. 10.8%,

as compared with men's, i.e. 6.9%. In rural areas, the unemployment rate of men is higher (5.8%) than women (3.8%) as more women are employed in the agriculture sector. [Figure 1.12].

While comparing the unemployment rate of **SC women** with **SC men**, it was found that SC women's unemployment rate is lower than SC men in the entire country, which are **4.9%** and **6.6%**, respectively. In the **urban area, unemployment among SC women (10.3%)** is higher than **SC men (7.9%)**, while in rural areas, the unemployment rate is higher for **SC men (6.2%)** than **SC women (3.2%)**. This is similar to the employment share of total women compared to total men.

For comparing the unemployment rate of SC women vs women from dominant caste, it was found that the unemployment rate of **SC women (3.2%)** is lower than **dominant caste women (7.9%)** in a rural area

<sup>18</sup> <http://rchiips.org/nfhs/NFHS-4Reports/India.pdf> (accessed on 21 January 2021)



**Figure 1.12: Unemployment Rate (UPSS), 2017-18**

Lower  Higher

	Unemployment rate (%)								
	Rural			Urban			Total		
Social group	Men	Women	Person	Men	Women	Person	Men	Women	Person
<b>SC</b>	6.2	3.2	5.5	7.9	10.3	8.5	6.6	4.9	6.2
<b>ST</b>	4.7	2.1	3.9	6.8	7.5	7.0	4.9	2.5	4.1
<b>OBC</b>	5.9	5.0	5.7	6.7	10.1	7.5	5.9	5.0	5.7
<b>Other castes (Dominant castes)</b>	6.1	7.9	6.4	6.5	10.3	7.3	6.1	7.9	6.4
<b>Muslims</b>	6.6	5.7	6.5	7.4	14.6	8.4	6.9	8.7	7.2
<b>Total</b>	5.8	3.8	5.3	6.9	10.8	7.7	6.1	5.6	6.0

Source: PLFS 75th round, 2017

but is equal (10.3%) in urban areas.

As observed in the analysis of the employment status of Dalit women in India, it is evident that Dalit women are more than often employed only in the agricultural sector or other labour based sectors. As mentioned above, the rate of employment of Dalit women cannot be equated with the quality of work and better working conditions.

There is a huge gap between the workforce participation of males and women in India, i.e. 71.2% and 22%, respectively. The employment rate of Dalit women is not very less than men, but the sectors and geography of employment indicate a great contrast.

Dalit women's participation in self-employed work is

very less, i.e. only 37.7% as compared with dominant caste women, i.e. 55.2% due to lack of assets like agricultural land. On the contrary, Dalit women's participation in casual labour is very high, i.e. 41.8% against dominant caste women working as casual wage labour, i.e. 13.4%.

Except for agriculture, Dalit women's participation is comparatively lower than men in industry and service sectors. Only 19.8% of Dalit women are employed in industry and 23.3% in the service sector.

Hence, triple deprivation among the Dalit women is very evident among the employment patterns in the country.



## E. LAND AND ASSET OWNERSHIP

**10% of rural land is titled to women, while 83% of rural women provide agricultural labour. This dependence on land for survival makes access to land rights a fundamental need for Dalit women.**

The Agricultural Census, 2015-16 shows that only **11.84%** of the country's SC population owns operational agricultural land as opposed to **79.33%** of agricultural land owned by the dominant castes. Also, the size of operational agricultural land owned by SCs is minimal in size with limited access to irrigation facilities which is primarily controlled by the dominant castes. The table clearly shows that the largest part of the SC population that owns operational agricultural land also has the smallest land area, i.e. below 0.5-1 ha. of land. Moreover, the number of landholdings for large land areas is very less for the SC population, es-

pecially women. [Figure 1.13].

Access to land rights is central to the livelihood of Dalit women in India. Out of 100 million Dalit women in India, approximately 72 million live in rural India. Women are more likely to work in agricultural work than men. 58% of all male workers in India work in agriculture compared to 78% of all female workers. 86% of all rural female workers are in agriculture (Agarwal, 2002).<sup>19</sup>

While only 10% of rural land is titled to the total women population, 83% of rural women provide agricultural labour. This dependence on land for survival makes access to land rights a fundamental need for Dalit women.

The Agriculture Census also mentions that only **2,329 Dalit women** own operational agricultural holdings

**Figure 1.13: Agricultural landholding in Dalit households**

Size class (in ha.)	No. of female land holdings	Total no. of holdings	Total area operated (in ha.)
<b>Marginal (Below 0.5-1)</b>	1,872	13,559	4,955
<b>Small (1-2)</b>	310	2,452	3,431
<b>Semi-medium (2-4)</b>	113	974	2,588
<b>Medium (4-12)</b>	30	309	1,752
<b>Large (10 &amp; above)</b>	4	48	756

Source: Agriculture Census 2015-16

19 AGARWAL, B. 2002. Are we not peasants too? Land rights and women's claims in India. SEEDS Pamphlet Series, 21.



in the country in joint or individual ownership as opposed to **15,013** Dalit men.<sup>20</sup>

Despite the necessity of land, Dalit women face multiple obstacles to their access and control of land. While India has passed legislation protecting women's property rights, including the right to agricultural land, the social practices based on traditions and customs work to women's disadvantage. It influences the social ideology of women's economic dependence on men.

It also discourages women to take legal recourse to enforce their land rights (Kelkar, 2013).<sup>21</sup> In addition to barriers created by customs and traditions, many of the legal attempts to fix land rights issues have been riddled with loopholes, are not fully implemented or have had devastating and unintended consequences (Ministry of Rural Development, 2011).<sup>22</sup>

## F. POLITICAL REPRESENTATION OF DALIT WOMEN

Participation in national, state or village level politics is an essential tool for empowering Dalit women and making them agencies of change. However, political participation and representation of Dalit women on all the levels have been minimal for multiple reasons.

### a. Participation of Dalit women in Panchayati Raj

The 73rd Amendment in part IX of Indian Constitution is entitled as 'Panchayats'. This amendment evolved the three-tier system in local governance with equal participation of men and women irrespective of their caste. This provides an opportunity for Dalits, Dalit women and other marginalised communities to be represented and participate in democratic processes.

At least one-third of all the seats in the Panchayati Raj Institution (PRI) is reserved for women in India, including SCs and STs.

Political representation of women in the Panchayats stands for their contribution in the welfare of villages. It increases women's participation in Gram Sabha meetings and other village level activities, thereby leading to women's role in village-level decision making.

As per the government's data in a report from 2012-13, there are **2,46,720 Panchayats** in India with **28,84,297 representatives**. 42.3% of the seats are reserved for women in these Panchayats, with around **13,64,154** general women representatives in the

<sup>20</sup> Annual Report, Periodic Labour Force Survey, July 2017-June 2018, National Statistical Office, Ministry of Statistics and Programme Implementation, Government of India, May 2019. [http://mospi.nic.in/sites/default/files/publication\\_reports/Annual%20Report%2C%20PLFS%202017-18\\_31052019.pdf](http://mospi.nic.in/sites/default/files/publication_reports/Annual%20Report%2C%20PLFS%202017-18_31052019.pdf)

<sup>21</sup> KELKAR, G. 2013. The Fog of Entitlement: Women and Land in India. In: BANK, W. (ed.) Annual World Bank Conference on Land and Property. Washington DC.

<sup>22</sup> MINISTRY OF RURAL DEVELOPMENT 2011. Mahila Kisan Sashaktikaran Program. In: INDIA, G. O. (ed.). New Delhi: Ministry of Rural Development



## CHAPTER 1 STATUS OF DALIT WOMEN IN INDIA

Panchayat. Also, **13.7%** of these seats are reserved for **SC representatives**, i.e. **5,68,181**.<sup>23</sup> Disaggregated data for the exact number of Dalit Women Elected Representatives in Panchayats could not be found. The current statistics of Panchayati Raj Institution is not available. However, as per a comparatively recent statement of Mr. Rahul Bhatnagar, Secretary for the Ministry of Panchayati Raj, India has about **253,400 rural local bodies** at the village level (*Gram Panchayats*). There are about **3 million elected representatives** of these panchayats, out of which **1.3 million** are women.<sup>24</sup>

### b. Participation of Dalit women in Lok Sabha

Reservation for women in both the houses of Parliament has been debated for many years now. Only 14.3% Members of Parliament (MP) in Lok Sabha are women, with only **78 women MPs of the 543 seats**.<sup>25</sup>

Of these 78 women MPs, Dalit women MPs occupy only 12 seats, i.e. 15% of total women MPs.

As such, of all the 543 seats in Lok Sabha, Dalit women MPs constitute only 2.2%.

When we compare seats occupied by Dalit men and women MPs, it shows that Dalit women MPs constitute

only 14.3% of the **84 reserved seats for Dalits** in the Lok Sabha. The rest are male Dalit representatives.

### c. Participation of Dalit women in Rajya Sabha

There is no reservation for Dalits in the Rajya Sabha. Currently, there are **27 elected women representatives** out of the **245 seats** in the Rajya Sabha.<sup>26</sup> **It is outrageous that Dalit women do not form even one percent of the representation in Rajya Sabha.** These figures provide a grave picture of the situation of political representation of Dalit women in India.

## Conclusion

This state of social, economic, educational and political vulnerability in the country make Dalit women easy prey to the **increasing violence and crime** against them. While writing the report, it was observed that one of the most prominent causes of violence against Dalit women is lack of access to water and land and discrimination in access to education. Lack of opportunities and resources strip Dalit women of their right to participate in the process of their development and well-being. Instead, it places them against the powerful men of the country, especially from the dominant caste, who control the country's legislation, administration, and judiciary and make the process of accessing justice by Dalit women even more difficult.

<sup>23</sup> [https://www.panchayat.gov.in/documents/20126/0/Panchayat\\_devolution\\_Index\\_Report\\_2012-13%281%29.pdf/a032c0b1-d29d-f521-481d-ad8e5341ab06?t=1554810195314](https://www.panchayat.gov.in/documents/20126/0/Panchayat_devolution_Index_Report_2012-13%281%29.pdf/a032c0b1-d29d-f521-481d-ad8e5341ab06?t=1554810195314) (Page 33-34) Accessed on 27/01/2021

<sup>24</sup> <https://www.unwomen.org/en/news/stories/2019/7/take-five-rahul-bhatnagar-india>

<sup>25</sup> <http://164.100.47.194/loksabha/members/women.aspx>

<sup>26</sup> [https://rajyasabha.nic.in/rsnew/member\\_site/women.aspx](https://rajyasabha.nic.in/rsnew/member_site/women.aspx)



# 1.3. Violence Against Dalit Women and Girls: NCRB Data Analysis (2014-2019)

**The nature, extent and gravity of violence against Dalit women and minor girls can only be known to a certain extent if the disaggregated data including Murder, Murder with Rape, Gang Rape, Murder with Gang Rape, etc. for all the offences related to Dalit women are consistently recorded by NCRB and made publicly available**

In this status report, AIDMAM has analysed six years of data recorded by the National Crime Records Bureau (NCRB) for violence against Dalit women from 2014 to 2019.

Till 2013, NCRB clubbed the offences registered under the SCs & STs (PoA) Act for all Dalit men, women and children. From 2014 onwards, NCRB provides disaggregated data for 'some of the offences' committed against Dalit women and registered under the SCs & STs (PoA) Act. These offences include Assault on SC women to outrage her modesty (354 IPC-sexual harassment, stalking, voyeurism and disrobing woman), Rape, Attempt to Rape, Insult to modesty and Kidnapping and Abduction of women with the intention to compel her to marry.

As of date, NCRB still does not provide disaggregated data for the crimes against Dalit women such as Murder, Gang Rape, Murder with Rape, Murder with Gang Rape, Physical assault, Acid attack and Human Trafficking, which are registered under the SCs & STs (PoA) Act.

In terms of Dalit children (considered as minor girls in the report), NCRB provides 'partial' disaggregated data from 2017. Such disaggregated data for Dalit girls are provided only for offences of Rape and Assault to outrage modesty and Procurement of minor girls.

As of date, NCRB does not provide disaggregated data for crimes against Dalit minor girls for - Murder, Gang Rape, Murder with Rape, Murder with Gang Rape, Kidnapping & Abduction to compel her for marriage, Attempt to commit Rape, Insult to modesty, Physical assault, Acid attack and Human Trafficking, Selling of minor girls and Buying of minor girls, which are registered under the SCs & STs (PoA) Act.

It should be noted that these forms of offences against all-women and girls, registered under the IPC, are recorded in the NCRB. Only in the case of Dalit women and girls, such disaggregated data of the offences registered under the SCs & STs (PoA) Act are not available in NCRB.

The nature, extent and gravity of violence against Dalit women and girls can only be known to a certain extent if the disaggregated data for all the offences mentioned above are consistently recorded and made publicly available.

Therefore, our analysis of the nature and extent of violence against Dalit women and girls is based only on the limited data available in the NCRB reports from 2014-2019.



### Incomplete NCRB data on violence against Dalit Minor Girls

Information on violence against Dalit minor girls is not available for all offences. Data on Sexual Assault of Dalit minor girls (POCSO Act r/w SC/ST (PoA) Act) and Rape (POCSO Act r/w SC/ST (PoA) Act) is available only for the last three years. 1,087 incidents of Sexual Assault and 2,642 incidents of Rape of Dalit minor girls have been recorded in NCRB for the period 2017-2019 in three years. [Figure 1.17]. Such disaggregated data for minor girls is not available for the previous years.

There is no data available at all for Attempt to Rape (Sec 376/511 IPC), Insult to Modesty (Sec 509 IPC) and Kidnapping and Abduction to compel for marriage (Sec 366 IPC) for the Dalit minor girls.

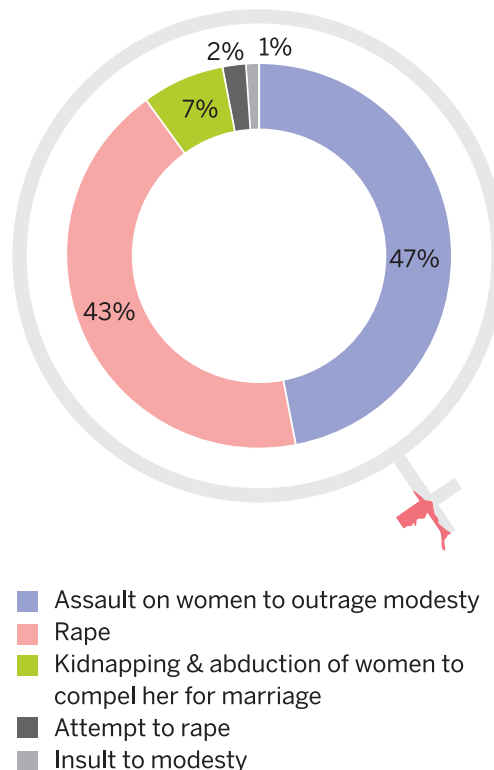
The very serious offence of Procurement of Dalit minor girls has data available in the NCRB only for the year 2017, 2018 and 2019. 26 such incidents were reported in 2017, followed by 18 incidents in 2018 and 25 incidents in 2019.

Note: Except Procurement of minor girls, NCRB does not provide disaggregated data specifically for 'minor girls' and instead mentions Rape and Assault w.r.t 'children'

15.11% (38,038 incidents) of the total crimes against Dalits from 2014-2019. [Figure 1.15].

Of this 38,038 incidents of crime against Dalit women and girls in the last six years, from 2014-2019, 43.9% (17,687) constitutes Assault on Women to outrage her modesty and Rape constitutes 56.1% (16,236) of total crimes against them. [Figure 1.17].

Figure 1.14: Types of offences against SC women and minor girls from 2014-19, NCRB



## A. Rising Violence Against Dalit Women and Minor Girls

The National Crime Records Bureau (NCRB) has recorded 251,068 incidents of crime against Dalit men and women (total) under the SCs and STs (PoA) Act for the last six years i.e. from 2014 to 2019.

Crimes against Dalit women and girls constitute

Atrocities against Dalit women and girls account for 15.11% of total crimes registered under the SCs & STs (PoA) Act as per NCRB data from 2014-2019. These atrocities have increased by 46% in the last six years, as per the NCRB data from 2014-2019 for Dalit women and girls.

Crimes against Dalit women and girls has increased significantly by 45.9% from 2014-19. In 2014, atrocity





**Figure 1.15: Number and percentage of crimes committed against SC women and children from NCRB 2014-19**

	Total Crimes registered under SC/ST(PoA) Act	Total Crimes against SC Women registered under SC/ST(PoA) Act r/w IPC	% Share of overall crimes against SC women and children recorded under SC/ST(PoA) Act
<b>2014</b>	40,300	5,149	12.77%
<b>2015</b>	38,564	5,713	14.81%
<b>2016</b>	40,774	6,501	15.94%
<b>2017</b>	42,969	6,347	14.77%
<b>2018</b>	42,539	6,818	16.02%
<b>2019</b>	45,922	7,510	16.35%
<b>Total</b>	<b>251,068</b>	<b>38,038</b>	<b>5.11%</b>

r/w: read with  
Source: NCRB

against the Dalit women constituted 12.77% (5,149 incidents) of the total 40,300 incidents lodged under the SCs & STs (PoA) Act). In 2019, 16.35% (7,510 incidents) of the total 45,922 incidents were recorded under the Act. [Figure 1.15].

**Top 10 states with high reporting of crimes against Dalit women and minor girls for period 2014-2019**

Uttar Pradesh has recorded the highest number of incidents of crimes against Dalit women (9,488 incidents), with Assault to outrage modesty (4,197

**Figure 1.16: State Ranking based on the cases registered under SC/ST (PoA) Act r/w IPC- NCRB, 2014 to 2019**

Rank	State	Total cases	Assault on Women to Outrage the modesty under SC/ST (PoA) Act r/w IPC	Rape of Dalit women under SC/ST (PoA) Act r/w IPC	Attempt to Rape of Dalit women under SC/ST (PoA) Act r/w IPC	Insult to modesty under SC/ST (PoA) Act r/w IPC	Kidnapping and Abduction to compel for marriage under SC/ST (PoA) Act r/w IPC	Procuration of SC minor girls
1	<b>Uttar Pradesh</b>	9,488	4,197	2,947	231	0	2,113	1
2	<b>Madhya Pradesh</b>	7,073	4,120	2,738	21	36	158	1
3	<b>Rajasthan</b>	4,165	1,478	2,217	204	9	254	3
4	<b>Maharashtra</b>	3,870	2,224	1,478	0	31	132	5
5	<b>Andhra Pradesh</b>	2,027	1,061	555	47	330	34	1
6	<b>Haryana</b>	1,635	761	780	57	14	23	43
7	<b>Odisha</b>	1,567	718	807	8	13	21	0
8	<b>Telangana</b>	1,429	506	841	12	70	0	3
9	<b>Kerala</b>	1,405	587	777	13	28	0	4
10	<b>Karnataka</b>	1,160	569	529	10	6	46	3

r/w: read with  
Source: NCRB



incidents), Rape (2,947 incidents), Attempt to Rape (231 incidents) and Kidnapping, Abduction to compel for marriage (2,113 incidents) and Procurement of minor girls (1 incident) reported for period 2014 to 2019 as reported in the NCRB.

During this period, Madhya Pradesh has recorded a total of 7,073 incidents registered under the same offences, followed by Rajasthan with 4,165 incidents. Maharashtra, Andhra Pradesh, Haryana and Odisha have also recorded an increase in the number of incidences of violence and atrocities with 3,870, 2,027, 1635 and 1,567 cases, respectively, as recorded from 2014-2019. [Figure 1.16].

### B. Nature and extent of violence against Dalit women and minor girls

**10 Dalit women and girls are raped every day. In the last six years, this increase in rape has been from 6 Dalit women to 10 Dalit women (including minor girls) per day.**

**[NCRB 2019 recorded 3,486 incidents of rape of Dalit women and girls and NCRB 2014 recorded 2,233 incidents]**

NCRB data of the last six years from 2014 to 2019 reveals a consistent year on year increase in reported incidents of atrocities against Dalit women.

There has been a **56.11% increase in incidents of Rape** (SC/ST (PoA) Act r/w Sec 376 IPC) against Dalit women and minor girls from 2014 (2,233 incidents) to 2019 (3,486 incidents), with a total of 16,236 incidents of Rape reported in these six years. In terms of **Attempt to Rape** (SC/ST (PoA) Act r/w Sec 376/511 IPC), 670 incidents were reported from 2014 to 2019, with an increase of 15.46% from 2014 (87 incidents) to 2019 (124 incidents). [Figure 1.17].

**Assault on Dalit women and minor girls** with intent to outrage modesty (SC/ST (PoA) Act r/w Sec 354 IPC) **increased by 43.9%** in 2019 (3,375 incidents) over 2014 (2,346 incidents), with a total of 17,687

incidents reported in these six years. Assault on Dalit women and minor girls includes Assault with intent to outrage modesty, sexual harassment, intent to disrobe, voyeurism and stalking.

**Insult to modesty** of Dalit women (SC/ST (PoA) Act r/w Sec 509 IPC) has seen a **three-fold increase of 155.4%** in 2019 (143 incidents) over 2014 (56 incidents), with a total of 558 incidents reported in the last six years.

**Kidnapping and Abduction of Dalit women** to compel her for marriage (SC/ST (PoA) Act r/w Sec 366 IPC) has seen both rise and fall in incidents over the last six years, with a total of 2,818 incidents reported. An overall **decrease of 15.5%** in 2019 (427 incidents) over 2014 (427 incidents) is seen.

#### Violence against all-women and girls viz a viz violence against Dalit women and girls

As mentioned earlier, disaggregated data as provided by NCRB for various types of offences against Dalit women, under the SCs & STs (PoA) Act is not as extensive as that provided for All-women under IPC. [Refer Figure 1.17 and Figure 1.18 for comparison].

As such, the increase in violence against Dalit women viz a viz, All-women, in the six-years from 2014-19, can only be compared for the six offences recorded by NCRB in line with the SCs & STs (PoA) Act. As of now, there is no scope of comparison between offences such as murder, murder with rape/gang rape, trafficking (for various purposes) among other offences against women and girls because of the lack of disaggregated data as mentioned earlier in the report.

Violence against all-women and all-girls requires zero tolerance and complete elimination in all its forms. However, the **significant disparity in the increase of crimes against Dalit women and girls viz a viz All-women in the last six years from 2014-19, is indicative of the status of implementation of the SCs & STs (PoA) Act, as well as the failure of all other protective mechanisms for the safety of SC women and girls.**

This increase for SC women and girls is **45.9%**, and



**Figure 1.17: Types of Offences against SC Women and minor girls from NCRB 2014-2019**

	Crime Head	2014	2015	2016	2017	2018	2019	Total	Change in 2019 over 2014 (%)
1	Assault on Women to Outrage the modesty (SC/ST (PoA) Act r/w Sec 354 IPC)	2,346	2,800	3,172	2,903	3,091	3,375	17,687	43.9%
1a	Assault on Adult Women to Outrage the modesty (SC/ST (PoA) Act r/w 354 IPC)	2,346	2,800	3,172	2,617	2,719	2,946	16,600	25.5%
1b	Assault of Children (SC/ST (PoA) Act r/w Sec 8 & 10 POCSO Act and Sec 354 IPC)	NR	NR	NR	286	372	429	1,087	50.0%
2	Rape (SC/ST (PoA) Act r/w Sec. 376 IPC)	2,233	2,326	2,541	2,714	2,936	3,486	16,236	56.1%
2a	Rape of women (SC/ST (PoA) Act r/w 376 IPC)	2,233	2,326	2,541	2,058	2,067	2,369	13,594	6.1%
2b	Rape of Children (SC/ST (PoA) Act r/w Sec 4 & 6 of POSCO Act & Sec 376 IPC)	NR	NR	NR	656	869	1,117	2,642	70.2%
3	Attempt to Rape (SC/ST (PoA) Act r/w Sec 376/511 IPC)	87	74	148	105	132	124	670	15.5%
4	Insult to Modesty of women (SC/ST (PoA) Act r/w Sec 509 IPC)	56	58	81	72	148	143	558	155.4%
5	Kidnapping & Abduction of Women to compel her for marriage (SC/ST (PoA) Act r/w Sec 366 IPC)	427	455	559	527	493	357	2,818	-15.5%
6	Procuration of Minor Girls (SC/ST (PoA) Act r/w Sec 366A IPC)	NR	NR	NR	26	18	25	69	-4.0%
	<b>Total</b>	<b>5,149</b>	<b>5,713</b>	<b>6,501</b>	<b>6,347</b>	<b>6,818</b>	<b>7,510</b>	<b>38,038</b>	<b>45.9%</b>

NR: Not recorded

Source: NCRB



**Figure 1.18: Types of Offences against All-women and minor girls from NCRB 2014-2019**

	Crime Head	2014	2015	2016	2017	2018	2019	Total	Change in 2019 over 2014 (%)
1	Assault on Women to Outrage the modesty (Sec. 354 IPC)	82,235	82,422	84,746	86,001	89,097	88,367	5,12,868	7.45%
2	Rape (Sec. 376 IPC)	36,735	34,651	38,947	32,559	33,356	32,033	2,08,281	-12.79%
3	Attempt to Rape (Sec. 376/511 IPC)	4,234	4,437	5,729	4,154	4,097	3,944	26,595	-6.84%
4	Insult to Modesty (Sec. 509 IPC)	9,735	8,685	7,305	7,451	6,992	6,939	47,107	-28.72%
5	Kidnapping & Abduction of Women to compel her for marriage (Sec. 366 IPC)	30,874	31,778	33,732	30,614	33,354	32,260	1,92,612	4.48%
6	Procuration of Minor Girls (Sec. 366A IPC)	NR	NR	NR	3,382	3,039	3,117	9,538	-7.83%
	<b>Total</b>	<b>1,63,813</b>	<b>1,61,973</b>	<b>1,70,459</b>	<b>1,64,161</b>	<b>1,69,935</b>	<b>1,66,660</b>	<b>9,97,001</b>	<b>1.74%</b>

NR: Not recorded

Note: Disaggregated data as provided by NCRB for various types of offences against Dalit women, under the SCs & STs (PoA) Act is not as extensive as that provided for All-women under IPC.

Source: NCRB

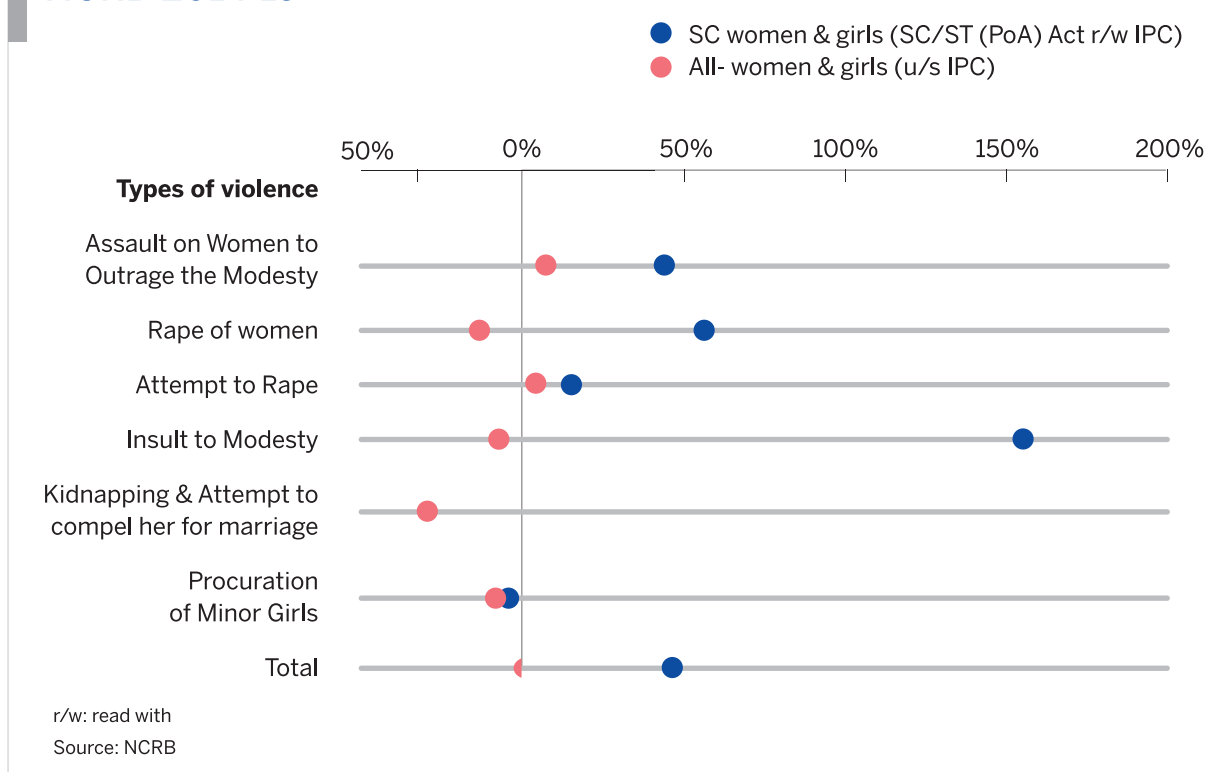
that of all-women is 1.74% in the last six years from 2014-19. [Figure 1.17 and Figure 1.18].

It should be noted that the rise in the percentage of cases of rape against Dalit women is 56.1% from the years 2014-19 while the rise in the incidents of rape

with other women in -12.79% which clearly signifies the extent of caste based sexual violence particularly against Dalit women.



**Figure 1.19: Comparison of increase of crimes against SC Women and minor girls viz a viz All-Women and girls in six years from NCRB 2014-19**



### C. Police Disposal of crimes against Dalit women and minor girls for 2014-2019

An analysis of disposal of cases by Police after investigation for the period 2014-2019 shows that of the **21,269 incidents of Assault on Dalit Women with intention to outrage modesty (SC/ST (PoA) Act r/w Sec 354 IPC)**, including the pending cases from the previous years, **charge sheets** were filed for **89.11%** of them, with a **pendency of 20.36 %** at the end of year 2019. [Figure 1.20].

Of the **20,658 incidents of rape (SC/ST (PoA) Act r/w Sec 376 IPC)**, reported for the period 2014-2019, **charge sheets** were filed for **91.2%** of them, with a **pendency of 24.25%** cases at the end of year 2019.

The highest **pendency rate** is recorded at **55.63%** for **Insult to the modesty of Dalit women (SC/ST (PoA)**

Act r/w Sec 506 IPC).

The **charge sheets** filed for **Procuration of SC minor girls**, is recorded at **76.83%**, with a **pendency rate of 20.1%**.

### D. Court Disposal of crimes against Dalit women and minor girls for 2014-2019

The state of low conviction, high acquittal and high pendency of cases at Special Courts for crimes against Dalit women and girls, demonstrates the poor response of Indian courts, therefore the Indian government, in tackling atrocities committed against Dalit women and girls.

The overall **conviction rate** at Special Courts for period 2014-19 is recorded at **29.2%**, **acquittal rate** at **68.3%** and **pendency rate** at **88.5%**. [Figure 1.21].



**Low conviction, high acquittal, and high pendency of crimes against Dalit women and girls demonstrate the government's poor response in tackling atrocities against Dalit women and girls.**

**Low conviction of cases in Special Courts for period 2014-19:**

While the overall conviction rate at Special Courts for period NCRB 2014-19 is low at **29.2%**, it is **under 33%** for most crimes against Dalit women and girls. Such as, Insult to Modesty of Women (**14%**), followed by Assault on women with intent to outrage her modesty (**29.2%**), Attempt to rape (**30.9%**) and Rape (**32.7%**). Conviction for Kidnapping for compelling for marriage fares a little better comparatively with conviction rate at **41.8%**. [Figure 1.21].

**High acquittal of cases in Special Courts for period 2014-19:**

While the overall acquittal rate at Special Courts for period NCRB 2014-19 is high at **68.3%**, it is the highest for Insult to Modesty of Women (**84%**). It is around **60%** for most crimes against Dalit women and girls, i.e, Assault (**60%**), Rape (**64.7%**), Attempt to Rape (**60.7%**). [Figure 1.21].

Acquittal rate for kidnapping to compel for marriage is lower than other crimes (55.8%).

As it can be clearly observed that even after the increasing number of incidents of crime against Dalit women, the rate of conviction is much lower than the acquittal rate. This is a clear mockery of the criminal justice system and disheartens and discourages the survivors of caste and gender based violence to access justice.

**Figure 1.20: Police Disposal of the Crimes/Atrocities against SC Women and children under SC/ST (PoA) Act r/w IPC from NCRB 2014-2019**

Form of violence	Total No. of Cases for investigation including pending cases from previous years	Final Report	Charge Sheet Submitted	Total cases disposed off	No. of cases pending investigation at the end of the year	Pendency Rate (%)	Charge sheeting Rate (%)
Assault on women with intent to outrage of Modesty	21,269	2,425	14,429	13,858	4,397	20.36	89.11
Rape (Women+Minor girls)	20,658	1,902	13,686	15,603	5,036	24.25	91.2
Attempt to Rape (Women+Minor girls)	796	188	448	641	155	19.06	76.81
Insult to the Modesty of women	941	124	256	408	533	55.63	76.33
Kidnapping and Abduction of Women to Compel her for marriage	3,546	908	1,906	2,784	759	21.28	71.33
Procuration of Minor Girls	79	14	49	63	16	20.1	76.83
<b>Total/Avg.</b>	<b>47,289</b>	<b>5,561</b>	<b>30,774</b>	<b>33,357</b>	<b>10,896</b>	<b>26.78</b>	<b>80.26</b>

r/w: read with  
Source: NCRB



**Figure 1.21: Court Disposal of the Crimes/Atrocities against SC Women and minor girls from NCRB 2014-2019**

Total no. of the cases under different Form of Violence in 2014 to 2019	Total Cases for Trial including cases from Previous year	Cases in which Trials were Completed	Number of Cases ending in Conviction	Number of Cases ending in Acquittal	Number of cases Pending Trial at the End of the year	Conviction Rate (%)	Acquittal Rate (%)	Pendency percentage (%)
Assault on Women with intent to Outrage her Modesty	42,986	5,080	1,483	3,060	37,796	29.2	60.0	87.8
Rape (Women+ Minor girls)	54,623	6,232	2,011	4,034	48,354	32.7	64.7	86.9
Attempt to Rape (Women+Minor girls)	1,294	107	34	65	1,243	30.9	60.7	91.3
Insult to the Modesty of Women	951	100	15	84	818	14.0	84.0	88.6
Kidnapping and Abduction of Women to Compel her for marriage	8,923	727	302	406	8,189	41.8	55.8	91.2
Procuration of Minor Girls	112	19	3	16	110	26.3	84.2	85.1
<b>Total/Avg.</b>	<b>1,08,889</b>	<b>12,265</b>	<b>3,848</b>	<b>7,665</b>	<b>96,510</b>	<b>29.2</b>	<b>68.3</b>	<b>88.5</b>

r/w: read with  
Source: NCRB

### High Pendency of Cases at Special Courts for period 2014-19:

The overall pendency rate at Special Courts for period NCRB 2014-19 is high at 88.5%, it is the highest for Attempt to Rape (91.3%) and Kidnapping and Abduction of Women to compel for marriage (91.2%), followed by Insult to Modesty of Women (88.6%), Assault on Women with intent to Outrage her Modesty (87.8%) and Rape (86.9%).

The high pendency rate reflects the serious lacunae at the part of the state. It directly affects the justice to the Dalit women and makes the survivors lose hope in the criminal justice system. Therefore, there is a dire need for not just an adequate number of establishment of Special Courts in the Districts but backed by purposeful functioning thereof, with experienced, sensitive and senior judges and SPPs.

### Conclusion

The rise in atrocities against Dalit women and girls is rampant. It indicates that the existing laws meant to safeguard the rights and dignity of Dalit women and girls are not fully or appropriately enforced. This pushes the Dalit women and girls further into the margins, making them more vulnerable among the vulnerable.

AIDMAM, through over a decade of work and the findings of this report, intends to highlight the response of the government in eliminating gender and caste based violence of Dalit women and girls. The NCRB data, as discussed in this chapter, reveals the extent of violence against Dalit women and girls. It also reveals the poor implementation of the SCs & STs (PoA) Act and how the perpetrators receive impunity despite having progressive laws in place.

## Chapter 2

# AIDMAM'S INTERVENTIONS TO ADDRESS

## CASTE AND GENDER BASED VIOLENCE







## 2.1. About AIDMAM

All India Dalit Mahila Adhikar Manch (*AIDMAM*) is a platform to escalate and amplify the voices of India's Dalit women. Established in 2006 as an autonomous unit of National Campaign on Dalit Human Rights (*NCDHR*), AIDMAM envisions to build a dynamic collective of Dalit Women Leaders would lead a mass movement for regaining and establishing the human dignity, rights and security of Dalits and other marginalised communities.

AIDMAM firmly believes that leadership among the Dalit women is the only key to end caste and gender based violence and to ensure the human rights of Dalit women.<sup>27</sup> Our mission is to promote and protect the human rights of Dalits and other marginalised communities, especially women and children, by strengthening access to justice and socio-economic rights on national and international platforms.

AIDMAM aims to support and strengthen Dalit women to address violence and access justice and rights through networking, enhance skills and leadership at district and state levels, and create visibility at a global level and promote their socio-political, economic and cultural rights at large.

### Our Objectives

- ♂ Addressing violence against Dalit women and minor girls
- ♂ Protection and Promotion of Dalit Women Leaders
- ♂ Promotion of Dalit women Elected Representatives

### AIDMAM's Response in Addressing Caste and Gender Based Violence: Our Interventions

To achieve the objectives mentioned above, AIDMAM adopts multi-pronged strategies and actions at district, state, national and international level, including advocacy at a policy level. The key intervention areas of AIDMAM in addressing caste and gender based violence against Dalit women and minor girls can be summarised as –

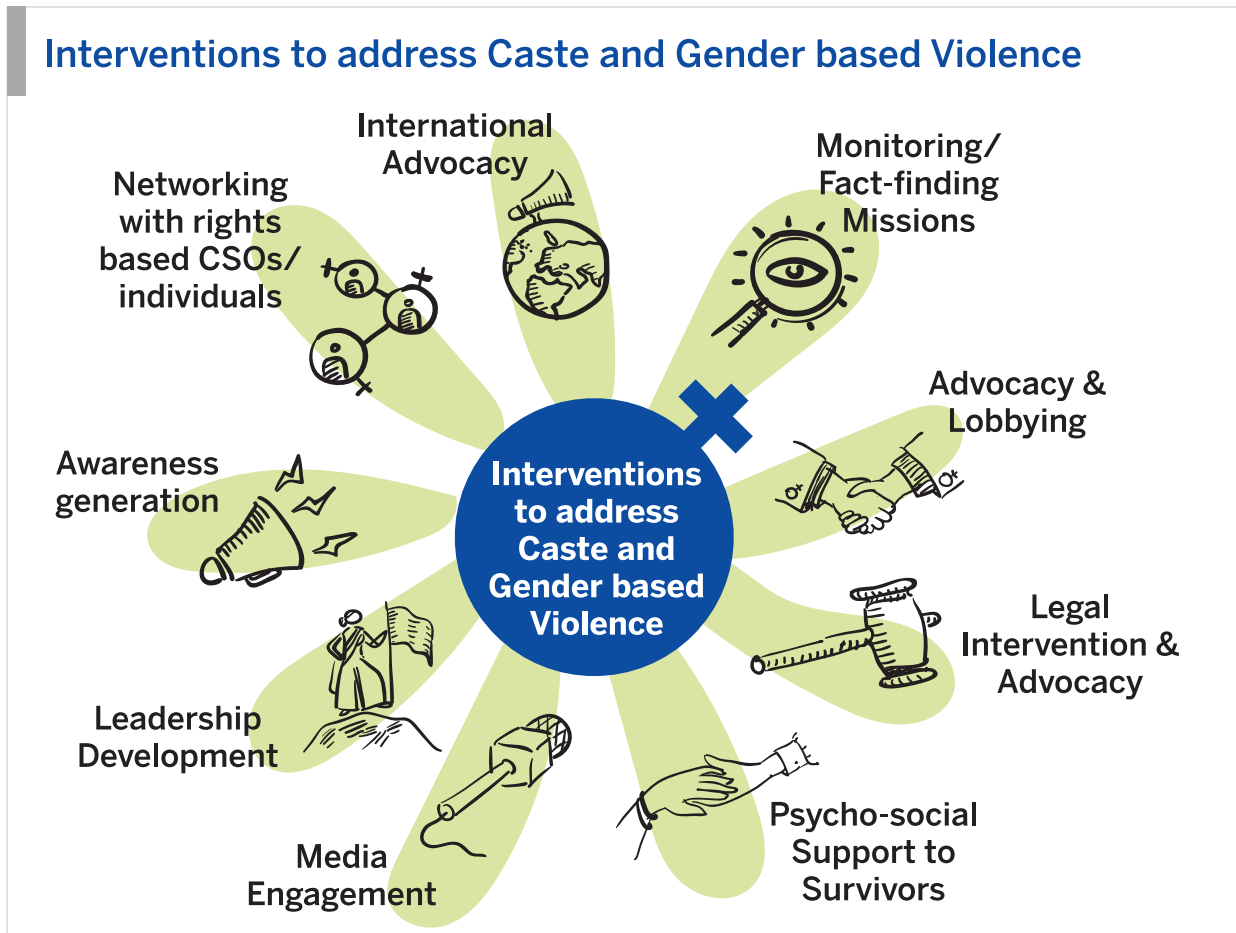
1. Monitoring/ Fact-finding Missions in caste and gender based violence
2. Advocacy and Lobbying
3. Legal Intervention
4. Psycho-Social Support to Survivors
5. Media Engagement
6. Leadership Development
7. Awareness Generation
8. Networking with other rights-based organisations and individuals working on Dalit and Women's rights
9. International Advocacy

**AIDMAM's operations span across entire seven (7) states, including Bihar, Delhi, Haryana, Madhya Pradesh, Maharashtra, Odisha and Uttar Pradesh, with the help of the network organisations, CSOs and volunteers and direct intervention through State representatives in 24 districts**

<sup>27</sup> <http://www.ncdhr.org.in/aidmam-areas-of-work/>



## Interventions to address Caste and Gender based Violence





## 2.2 AIDMAM's Case Interventions

AIDMAM's experience of over a decade in addressing caste and gender based violence makes us firmly believe that social change can come from the people themselves. We, therefore, facilitate to build a critical mass of grassroots Dalit women leaders who can themselves take the reign of challenging and tackling caste and gender based violence, discrimination and the culture of impunity.

As facilitated by AIDMAM, these Dalit women leaders conduct fact-finding missions in grievous cases of caste and gender based violence to ascertain the facts of the cases.

These fact-finding missions have enabled us to substantiate our perspective on the forms, nature and causes of violence against Dalit women and girls and their long journey to justice. AIDMAM has conducted over 200 fact findings of grievous cases of caste and gender based violence over the time period of last three years. Out of these, 81 critical cases have been included in this report for analysis.

This report presents our understanding gained through our experience with the survivors of caste and gender based violence, their families, and the society they live in. This report also gives evidence for the nature of response of formal state institutions, which include Police, Courts and other relevant departments, and the influencing role of informal institutions, including the social groups/ neighbourhood from where the survivor hails.

### Analysis of the Type of Cases Considered for the Report

#### a. Break up of the cases considered for analysis in terms of nature of violence:

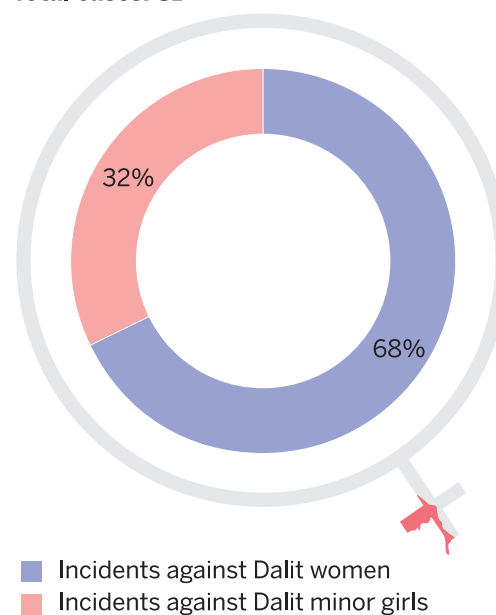
The following [Figure 2.2] lists the range of caste and gender based violence that we have identified for this report.

#### b. Break up of the cases considered in terms of target of violence:

Of the 81 cases considered in the report, 32% (26 cases) pertain to Dalit minor girls. The rest of 68% of cases is of violence against Dalit women. (Figure 2.1)

Figure 2.1: Incidents against Dalit women and minor girls

Total cases: 81



#### c. Forms of Violence against Dalit Women amongst the considered cases:

Out of the 81 cases of caste and gender based violence considered for the report, 68% (55 incidents) cases pertained to Dalit women. [Figure 2.1]. Out of these 55 cases, 16.3% (9 incidents) constitute sexual



**Figure 2.2: Break up of the cases considered in terms of Nature of Violence**

Total cases: 81

	Share of cases (%)
Physical Assault	30.9
Rape	12.3
Mass Attack	9.9
Sexual Harassment	8.6
Gang Rape	6.2
Physical Assault and Destruction of Property	4.9
Murder	3.7
Kidnapping and Gang Rape	3.7
Rape and Murder	3.7
Physical Assault and False Case	2.5
Attempt to Rape	1.2
Kidnapping and Murder	1.2
Mental Harassment for Forced Migration	1.2
Social Boycott	1.2
Arson	1.2
Denial of Entitlement	1.2
Obstructing DWER (Dalit Women Elected Representative) to function	1.2
False Case against DWER	1.2
Witch-Hunting	1.2
Gang Rape and Forced Prostitution	1.2
Sexual Abuse and Abetment to Suicide	1.2

violence, of which four incidents (7.3%) relate to rape, one incident (1.8%) of kidnap and gang rape, two incidents of gang rape (3.6%) and one incident of attempt to rape (1.8%). **1.8%** (1 incident) of the cases related to **sexual harassment**. [Figure 2.3].

**5.4%** (3 incidents) of the 55 cases against Dalit women are of **murder**, including one incident (1.8%) of kidnapping and murder and two (3.6%) of murder.

**65.4%** (36 incidents) of the 55 cases against Dalit women are of **physical assault**. Of these, 14.5%

(8 incidents) cases were of mass attack, 7.3% (4 incidents) of cases relating to physical assault and destruction of property, 3.6% (2 incidents) of cases of physical assault and false case and 40% (22 incidents) of cases of physical assault.

**5.4%** of cases (3 incidents) are related to **denial of entitlement**, including obstructing elected Dalit women from discharging Panchayat duties, false case against elected woman representatives, and expelling one Dalit woman from the village. **1.8%** (1 incident each) of cases pertained to **arson, social boycott and witch-hunting**.



**Figure 2.3: Incidents against Dalit women among 55 cases**

Total cases: 55

	Share of cases (%)
Physical Assault	40.0
Mass Attack	14.5
Rape	7.3
Physical Assault and Destruction of Property	7.3
Gang Rape	3.6
Murder	3.6
Physical Assault and False Case	3.6
Sexual Harassment	1.8
Kidnapping and Gang Rape	1.8
Attempt to Rape	1.8
Kidnapping and Murder	1.8
Mental Harassment for Forced Migration	1.8
Social Boycott	1.8
Arson	1.8
Denial of Entitlement	1.8
Obstructing DWER (Dalit Women Elected Representative) to function	1.8
False Case against DWER	1.8
Witch-Hunting	1.8

16.3% of violence against Dalit women from the cases selected for the report are of rape, including rape, gang rape, kidnapping and rape, and attempt to rape.

65.4% (36 incidents) cases were of physical attack, including mass attack and physical assault for various reasons.



**Figure 2.4: Incidents against Dalit minor girls among 26 cases**

Total cases: 26

	Share of cases (%)
Rape	23.1
Sexual Harassment	23.1
Physical Assault	11.5
Gang Rape	11.5
Rape and Murder	11.5
Kidnapping and Gang Rape	7.7
Murder	3.8
Gang Rape and Forced Prostitution	3.8
Sexual Abuse and Abetment to Suicide	3.8

**d. Forms of Violence against Dalit minor girls from amongst the considered cases**

Out of 81 cases of caste and gender based violence, 32% (26 incidents) cases pertained to Dalit minor girl. [Figure 2.1].

Of the total 26 cases against Dalit minor girls, as high as 84.6% (22 incidents) of cases pertained to sexual offences against Dalit minor girls. [Figure 2.4].

Of this, 23.1% (6 incidents) pertained rape, 11.5% (3 incidents) of gang rape, 11.5% (3 incidents) of rape and murder, 7.7% (2 incidents) of cases of kidnapping and gang rape, and 3.8% (1 incident) of gang rape and forced prostitution, and 3.8% (1 incident) of sexual

abuse with abetment to suicide. 23.1% (6 incidents) of sexual harassment were against Dalit minor girls. [Figure 2.4].

11.5% (3 incidents) of cases were of physical assault against the girls, and one case (3.8%) pertains to the murder of a Dalit minor girl.

**84.6% of violence against Dalit minor girls from the cases selected for the report were related to sexual offences, including rape, gang rape, kidnapping & rape, sexual harassment and sexual abuse with abetment to suicide.**



## 2.3 Nature and Causes of Caste and Gender Based Violence Against Dalit Women

The scale and forms of violence against the Dalit women and girls are committed in a structural way. Dalit women and girls are easy prey to the Brahmanical and patriarchal mindset of society. Sexual violence against them is rampant as the local police and administration give protection to the perpetrators. It is most distressing that the Dalit minor girls are being targeted at large. Based on the cases considered for this report, we shall now explore how caste plays a vital role in violence against Dalit women and girls in the following sections.

### Nature of violence against Dalit women & minor girls

Caste has a distinct role to play in instances of violence against Dalit women and girls. Dalit women's bodies are more often than not a tool for dominant caste communities to further subjugate and oppress the Dalit community as a whole. This report highlights the different forms of violence based on caste and gender experienced by Dalit women and girls. The case studies shared here demonstrate these forms of violence, while in the following chapters, the advocacy and legal intervention related to the shared cases are discussed.

**1. Rape and Sexual Assault-** Rape and Sexual assault were found to be the most common form of violence against Dalit women and girls. Of the total 81 cases, **38.27% (31 incidents) cases** related to rape and sexual assault, including rape (10 incidents), gang rape (5 incidents), rape and murder (3 incidents),

kidnapping and gang rape (3 incidents), attempt to rape (1 incident), gang rape and forced prostitution (1 incident), sexual harassment (7 incidents), sexual abuse and abetment of suicide (1 incident) of Dalit women and minor girls in six states.

#### Of these 31 cases of rape and sexual assault:

- ♂ 29% (9 incidents) of these 31 cases were committed against Dalit women, i.e., **11% of the total 81 cases;**
- ♂ 71% (22 incidents) of these 31 cases were committed against Dalit girls, i.e., **27% of the total 81 cases;**
- ♂ 42% (13 incidents) of these 31 cases were specifically rape cases, i.e., **16% of the total 81 cases;**
- ♂ 29% (9 incidents) of these 31 cases were specifically gang rape cases, i.e., **11% of the total 81 cases;**
- ♂ 23% (7 incidents) of these were cases of sexual harassment, i.e., **9% of total 81 cases.** As per section 354 IPC, Sexual Assault includes sexual harassment, stalking, voyeurism and using force to disrobe the women.

**2. Murder-** The murder of Dalit women and minor girls is quite common. Out of 81 incidents, **10% (8 incidents) cases were related to the murder of Dalit women and girls,** including rape and murder



## Case of Rape

### Dalit minor girl raped by neighbour

Sehore district, Madhya Pradesh  
May 2020

A 12-year-old Dalit girl lives with her father and two brothers in Machbai village of Sehore district of Madhya Pradesh. She lost her mother to tuberculosis five years ago. The accused, Gangaram Chauhan (25) s/o Badami Lal lives in her neighbourhood and would visit her house quite often to talk with her brothers and father. Gangaram had returned to the village when the company where he worked in Indore closed down due to COVID-19.

A month before the incident, the accused, on finding the minor girl alone at home, gifted her one mobile phone. She initially refused to take it, but upon being constantly pestered by him, she took it. Gangaram used to call her regularly and eventually started to coax her into eloping with him. His behaviour made the survivor uncomfortable, and she stopped taking his incessant calls. Upon such refusal, the accused broke into her house at night on 17 May 2020 and raped her. He threatened her to not tell about the incident to anyone. The next day when he again came into her room, the survivor's father caught him. The family filed an FIR No. 138 dated 2/6/2020 with great difficulties.

## Case of Gang Rape

### Dalit woman gang-raped in retaliation to complaint made against accused men in some other matter, video of act shot and circulated

Alwar district, Rajasthan  
April 2019

A Dalit woman (25) from Tijara, Alwar district, Rajasthan, was going to the market with her husband during the daytime on 26 April 2019, when she was accosted by six men from the dominant

caste community in an isolated place. The Dalit community of this village, before this incident, had filed a police complaint against these members of the dominant caste for cutting trees. The group seized this opportunity to retaliate and beat up and disrobed the couple. They then gang-raped the woman and shot the whole act on video. The video was shared on social media, which went viral.

The survivor and her husband lodged an FIR with Tijara police, bearing FIR No. 576/2019 dated 2/5/2019 was registered that too after 6 days when the video clip went viral.

## Case of Sexual Assault

### Dalit farm labourer molested at worksite

Arwal district, Bihar  
May 2020

This case is of a Dalit woman from Kurmawa village, Banshi police station of Arwal district in Bihar, who started working as a farm labourer during the COVID-19 lockdown while her husband was stranded in Ludhiana, Punjab.

On 3 May 2020, the woman left for work early in the morning, at around 5 am, to neighbouring village Senari. She finished her work at around 8 am and called out for a fellow workers' help to load the bundle of crop on her head. The son of her fellow worker, Binod, came instead to assist her. 23-year-old Binod Yadav belongs to the OBC community. At the pretext of helping her, Binod started touching her inappropriately.

Afraid, the Dalit woman resisted and screamed for help, but despite this, Binod continued to molest her. The survivor managed to escape from him and returned home. She narrated the whole incident to her family and decided to report the crime.

An FIR was lodged after nine days following a lot of difficulties in Banshi police station, bearing no. 13/2020 on 12/5/2020.





(3 incidents), murder (3 incidents), kidnapping and murder (1 incident) and abetment to suicide (1 incident). Our observation from the case studies shows that Dalit women and girls are easy targets for men from the dominant caste and their nexus with the local police grants them impunity.

**Of the eight incidents of murder:**

- ♣ **3 instances** of murder were committed against Dalit women, i.e., **3.7%** of the total 81 cases, and
- ♣ **5 instances** of murder were committed against Dalit girls, i.e., **6.2%** of the total 81 cases.



### Case of Murder Dalit minor girl murdered as retaliation over a land dispute

Raisen district, Madhya Pradesh  
June 2020

*This case is of the murder of a Dalit minor girl as retaliation over a land dispute.*

*A Dalit family of 5 members, including parents, two sisters and one brother, were in dispute over agricultural land with Golu Rajput, a fellow villager from the dominant caste community. The family resided in village Udka, Devri police station of Raisen district in Madhya Pradesh.*

*Golu Rajput used to constantly harass and intimidate the family, using caste slurs and threats to kill them.*

*On the day of the incident, on 20 June 2020, the family members were out for work, like any other day, while the 14-year-old girl was alone at home. Upon returning from work, the family found the accused coming out of their house. When they went inside, they found their young daughter hanging from the fan. The young girl was dead.*

*An FIR no. 66/2020 was registered on 21 June 2020, and the accused was arrested four days after the murder, on 24 June 2020.*

**3. Witch Hunting-** Witch hunting is a vicious form of violence against Dalit women. While this is prevalent among women in general, it is most common with Dalit and tribal women. Our experience shows that land and other assets are generally the main reason behind branding vulnerable women as witches, mainly single and widowed women. They are subjected to severe physical, mental and sexual excesses. In some cases, the women and/or her family face social and economic boycott and are often expelled from their house and village.

Out of 81 cases, we have documented **one incident** of witch-hunting in Bihar.



### Case of Witch-hunting of Dalit woman Dalit woman branded as witch over death of a minor girl

East Champaran district, Bihar  
October 2019

*A traditional healer from village Jihuli, Patahi police station, East Champaran district, Bihar, lost his 6-year-old daughter over an illness. He instead branded a Dalit woman from the village as a witch and accused her of killing his daughter through black magic.*

*The deceased girl's women family members brutally beat up the Dalit woman and forced her to eat human excreta.*

*This incident happened on 13 October 2019, and an FIR was filed after two days in PS Patahi, bearing FIR No. 320/2019 dated 15/10/2019..*

**4. Mass Attack-** Mass attack, mass killings of Dalit families and groups by the dominant community is a form of violence historically known to suppress and traumatise the Dalit community. The Dalit families are attacked with deadly weapons in order to take their lives, inflict severe injuries and destruct their property.



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In these incidents, Dalit women face sexual assaults, physical assaults, rape, and sometimes even murder. In history, we have numerous incidents where Dalits are killed and attacked in numbers by groups of people.

Here in our report, 10% of cases (**8 incidents**) of mass attacks are included in which there were loss of lives and property.



### Case of Mass Attack An entire community attacked by mob for organising Dalit religious fest

**Kanpur, Uttar Pradesh**  
**February 2020**

*A Dalit community living in a neighbourhood of about 100 families in a village in Kanpur, Uttar Pradesh, organised a 7-day event from 13 February 2020 to celebrate 'Buddha Katha' – a festival for sharing the teachings of Buddha.*

*The group of men from the dominant caste community attacked the gathering on 13 February 2020, desecrated the idols of Buddha and Dr. B.R. Ambedkar and also tore the event posters pasted in the locality. After this havoc, they threatened*

*the Dalit community against organising any such events and celebrations in future.*

*The matter was mediated over by some senior people of the village with the condition that both parties would not repeat this. However, after a few days, when most of the male members of the families were out for work, around 200 miscreants from the dominant caste community attacked the Dalits with sticks, axes, iron rods, bats, and other weapons.*

*More than 26 Dalit women, including elderly persons and children, were brutally injured in the attack.*

*The injured were taken to the hospital in an ambulance, and a case was registered bearing no. No. 78/20, dated 13/2/2020 in Gajner police station.*

**5. Physical Assault and Caste Abuse:** Our experience shows that Dalit women and girls are often subjected to physical assault. This is not only an offence against the body of a person, but it is a grave violation of one's right to live with dignity. The survivors are known to be beaten

up brutally and inflicted grave injuries or permanent disfigurement of face and body in some cases.

Of the 81 cases, **38.3% (31 incidents)** of physical assault have been analysed.



### Case of Physical Assault and Caste Abuse Dalit woman beaten and abused by 27 Rajput men over drinking water

**Aurangabad district, Bihar**  
**March 2020**

*On 13 March 2020, in village Belaunder, Madanpur police station of Aurangabad district in Bihar, a Dalit woman was stopped by a dominant caste man from drawing water off the government tap. The man humiliated the Dalit woman, calling her*

*Harijan, an untouchable, and stating that Dalits are not allowed to use that tap since it is used by the dominant caste. He stated further that since the woman was from 'untouchable', her touch would make the water impure.*

*The Dalit woman ignored these casteist abuses and continued to fill water which infuriated the man, who was by now joined by other men from his community. They assaulted the woman by grabbing her hair and pushing her away.*

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*She was also hit on her head with a heavy object which made her bleed. On hearing her cry for help, her family members and neighbours came out in support and saw that 27 Rajput caste men from the village beat her mercilessly.*

*While trying to save her, 14 Dalit women and men were injured in the clash, including the survivors' mother in law who got an injury under her right eye.*

*At the time of the incident, a police constable who was present there called for police back up. The police took the injured nearby primary health center of Madanpur.*

*Meanwhile, the accused persons lodged a false FIR of physical assault against the Dalits. The case of the victim has also been registered in the Madanpur police station with FIR No 47/20 dated 13/3/2020.*

**6. Kidnapping-** Kidnapping is a form of violence that is always associated with other offences like murder, rape, gang rape, forced prostitution, ransom, extortion etc. Dalit women and minor girls are kidnapped and detained wrongfully for these mentioned reasons. Though, this offence also takes place with the women and girls of the dominant caste. However, in the rural areas, caste is one of the reasons for marginalisation of the community, and

Dalit women and girls fall easy prey to this offence. Kidnapping or abduction of any person with intent to cause that person to be secretly and wrongfully confined is a punishable offence under section 365, 366 IPC.

Of the 81 cases, **4.9% (4 incidents)** cases of kidnapping were analysed, of which three incidents of kidnapping were followed by gang rape and one with murder.



## Case of Kidnapping 18-year-old Dalit girl kidnapped and raped, while brother was beaten up for confronting the accused

**Dhenkanal, Odisha  
August 2019**

*On 14 August 2019, in village Surapratappu, Dhenkanal district in Odisha, an 18-year-old Dalit girl was raped by a dominant caste boy, her brother's friend. On the day of the incident, the survivor, along with her elder brother and younger sister, had gone to town to buy clothes. The accused joined them on his two-wheeler and offered them a lift. He then accompanied them for shopping. On the way back from the market, the survivor's brother got down from the two-wheeler to recharge his phone.*

*The accused convinced the two girls who were waiting for their brother to return that he would*

*drop them off at home first and then come back to pick up the brother. While they were not comfortable with this idea, they complied and headed home with the boy.*

*The accused stopped his two-wheeler near a jungle and dragged the survivor inside the jungle raped her. The survivor got severely injured during the act, and her younger sister watched everything helplessly.*

*After managing to escape, the two girls returned to their home. Upon seeing her family, the survivor broke down, and her younger sister narrated the incident to the family. Upon hearing this, the brother became very enraged and went to the accused person's house to confront him. The accused person's family, however, tied him to a pole and beat him up mercilessly.*

*The FIR No. 185/2019 under Police Station Bhuban, District: Dhenkanal was registered within the same day by the survivor and the accused was arrested within two days.*



**7. Denial of entitlements-** Social and caste dynamics further deprive poor families of their basic needs. The duty bearers like ration dealers at PDS shops, MNREGA and other public servants and service providers usually

discriminate against the Dalit men and women based on their caste. As we have observed, there have been many instances where Dalit families have been deprived of food, ration, water, electricity and work by fellow citizens and government officials during the COVID-19 pandemic.



### Case of Denial of Entitlements Relief denied to Dalit woman and her family amid COVID-19 pandemic

**Aurangabad district, Bihar  
April 2020**

A 70-year-old Dalit woman from village Sori, Aurangabad district in Bihar, worked as a farm labourer but struggled to make ends meet during the COVID-19 lockdown. As the sole working member and a widow, she was responsible for supporting her family of seven members.

On 25 April 2020, upon hearing about the distribution of food grains under the Prime Minister's relief package for the poor, wherein she could get 5kg rice and 1kg pulse, she went to the ration shop. The ration dealer asked her to provide her ration card, against which he could issue the dry ration relief. The Dalit woman, whose name

*was removed from the ration card list two years back, tried to explain this to the ration dealer but to no avail. The dealer refused to issue her the ration without the card and scolded and insulted her.*

*While governments had issued notices directing that it was not compulsory to produce documentation for receiving relief, but the dealer seems to have ignored this fact.*

*The next day she met her Panchyat ward member, Mahendra Prajapati and requested his help in getting the ration relief. However, the ward member also refused assistance. Upon her constant imploring, the ward member insulted her and threatened to expel her from the village.*

*The following day, the woman's daughter approached the Sarpanch (head of Panchayat) for assistance in receiving ration relief, and yet again, she too was refused any help.*

**8. Social Boycott-** Social boycott is the most common form of violence faced by the Dalits at the hands of the dominant communities. The Dalit family and sometimes the entire community is isolated and denied access to basic services and facilities which are open for other individuals and groups. Such forced isolation may also mean denial to seek jobs and livelihood and to mingle in society. Social boycott is more prominent in villages where the

dominant communities mete such action to suppress Dalit assertion and social mobility.

- Out of the 81 cases in the report, we have included one incident of social boycott, which demonstrates the indignity faced by Dalit communities at the hands of dominant communities.



### Case of Social Boycott Dalit Groom assaulted for riding horse in his marriage procession,

**15 families socially boycotted  
Ujjain, Madhya Pradesh  
May 2019**

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*In the village Kundi Kheda, Jadla police station, Ujjain, Madhya Pradesh, 15 Dalit families were socially boycotted because they dared to exercise their cultural right. This boycott was brought on by the village's dominant caste community over the Dalit groom riding a horse in his marriage procession. Incidentally, the Sarpanch of the village is a Dalit, but the control over the panchayat remained in the hands of the dominant caste groups.*

*On the day of the incident on 14 May 2019, the*

*Dalit community led a marriage procession from the dominant caste locality with the groom riding on horseback. This infuriated the dominant caste persons, who then physically assaulted the groom and members of the procession. They also boycotted the 15 Dalit families thereafter.*

*The FIR No. 138/2019 dated 14/5/2019 under Jadla police station was registered by the victim party. Following the incident, the Dalit families have not been resettled in the village, and only one family received compensation from the state.*

**9. Arson-** In our experience, there have been instances where the dominant caste communities have destroyed the property, viz., houses, farm produce of Dalit families/communities by way of arson, as a form of punishment or pressure tactics or to break them financially. Arson is a

punishable offence under section 436 IPC.

- In this report of 81 cases, we have documented one case of arson in Bihar.



**Case of Arson**  
**40 Dalit houses set ablaze**  
**over rumour of having killed a**  
**dominant caste man**

**Patna district, Bihar**  
**August 2019**

*In village Sikandarpur of Patna District in Bihar, an OBC person was killed and his body was thrown into a well in the Mushar (Dalit) neighbourhood. Presumably, this murder was committed by persons from the same caste (Yadav-OBC), but*

*a rumour blaming the Mushar community for murder was spread.*

*A furious and vengeful Yadav community thus, attacked and brutally beat up the Dalits on 4 August 2019, looting money, utensils, and precious items from the Dalit households. The Dalits ran away from the village to save their lives, while the group set ablaze 40 Dalit houses.*

*An FIR bearing no. 309/19 dated 4/8/ 2019 registered against the perpetrators in Shahpur police station, Patna.*

**Causes of violence against Dalit women & minor girls**

As of now, we have discussed the forms and nature of violence that take place against Dalit women and girls in day-to-day life. In the following section, we will discuss the causes of violence against them.

India has historically witnessed caste-based hierarchy following Manu-wadi ideology, as per which Dalit women were treated with utter contempt and with extreme humiliation. They were the oppressed among oppressed and slaves among slaves. The caste-based hierarchical society and the mindset of dominant caste people are set on the belief that Dalit women are



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weak, powerless, and incapable of raising their voices against them. This mindset of superiority and fearlessness is the major reason for making Dalit women vulnerable and a soft target.

Mass attacks are committed for creating terror among the hearts of the Dalit community to maintain the status quo. The mere lack of any social or economic agency of survivors emboldens the perpetrators to feel the liberty and security in committing violence against Dalit women.

In the incidents that we came across, Dalit women are always found to be the last ones in ration depot queues and neglected in receiving benefits of government schemes, which are easily accessible to the dominant communities.

Due to the intersectionality of caste, class, and gender, Dalit women are subjected to direct and structural violence.

Based on our experience through direct engagement with the Dalit women and girls, we have identified the causes of violence against them into 12 categories. They are-

**1. Dalit women's Assertion for Access to Water:** Water has always remained in the clutches of the dominant caste communities like all other social resources, while Dalits are denied access to it. Violence is committed against Dalit individuals or the community as a whole when they assert their right to access water, since Dalits are considered untouchables, polluted and impure.

A very common observation during this in-depth reporting is that Dalit women become a victim of violence when they access the common water resources. It is a general phenomenon that the government water taps and tanks are installed in the dominant caste locality because of their links and approach with the government officials. Since fetching water is one of the core responsibilities associated with women, when a Dalit woman accesses the common water resource, she is exposed to violence by the dominant caste communities. In such instances, women are observed to be subjected to physical and sexual harassment, physi-

cal and sexual assault, casteist slurs, and many a time leading to rape/gang rape, murder or social boycott. We observed many instances of such abuse during the lockdown.

### **2 Dalit Women's Assertion for Access to Land:**

Land is a matter of pride and prosperity in a country like India. Dispute over ownership of assets like land is one of the major reasons for violence against Dalit women. In the cases considered in this document, we learned that heinous crimes take place against women while grazing cattle on the land of the dominant caste or using it for their daily chores or if any female member of a Dalit family goes for defecation in the perpetrators' fields.

People of the dominant castes usually ensure that Dalits do not have any access to community land and do their best to discourage Dalit assertion. However, in a few cases where the Dalit families can access the land and prosper a little, it hurts the pride of dominant castes. Thus, to stop this assertion, violence is committed against the most vulnerable group of the community, which is women. Their access to land-related resources or even their efforts to own them is often met with violence.

### **3. Ease of Preying on Dalit Women Owing to their Lack of Sanitation Facilities:**

It has been observed that many incidents of violence occur against Dalit women and girls when they go for defecation in the fields as they do not have toilets in their homes. Because of the shame associated with public defecation, women who use the open fields either go very early in the morning or late at night so as to get some privacy. This creates unsafe conditions for women. The dominant caste men are known to take advantage of this situation and attempt to molest or rape them.

### **4. Dalit women's Assertion for Access to Educa-**

**tion:** Many Dalit girls have been observed to drop out of schools not just due to poverty but more so to escape humiliation, bullying, and ostracisation by schoolmates and even teachers from dominant communities. Dalit girls face a daily risk of abuse on their way to school since most schools in rural areas are usually situated at a distance from Dalit habitations.



Additionally, the dominant communities take serious offence to Dalits availing education, especially girls, since education is seen as a sign of empowerment with the potential to challenge the status quo. This factor increases the risk of victimisation of Dalit girls, making them drop out of schools. The high rate of school dropouts escalates illiteracy among Dalit women, leaving them unaware of their rights, entitlements, basic human rights and laws.

**5. Dalit women's Assertion of Right to Work, Wages or Payment of Services:** Dalit women workers are often exploited while seeking work or wages for their services. In the rural scenario, where there is a dearth of jobs, seeking work in itself is a big challenge for Dalit women. The corruption in the processes of seeking work through MNREGA deprives many of them of availing the government employment scheme. Those who manage to receive work are known to be underpaid compared to men from their own community as well as men and women from dominant communities. In instances when Dalit women claim for their withheld wages or demand for their rightful wages, they are known to be subjected to physical and sexual violence. During COVID-19, we observed that the apathy of MNREGA authorities led them to employ JCBs for local construction work instead of engaging manual labourers, including Dalit women, which would have at least ensured minimum work and wages during the tough times.

**6. Dalit women's Assertion of their Right to Self-Dignity:** The right to live with dignity is one of the most important human rights. Any instances where Dalit women assert their dignity is met with violence. Most often, in cases of sexual harassment and violence, when the survivors and their families resist and/ or protest against the atrocity, they are retaliated with more violence, not just by the perpetrators but also the larger dominant community who come out in support of them. Our experience shows that in instances when Dalit women refuse or resist demands for sexual favours or overtures by the dominant caste men, they are subjected to sexual and/or physical assault and harassment involving casteist slurs, being disrobed, raped, kidnapped, murdered or other horrifying forms of violence. Dalit women's resistance is met with such appalling retaliation because

the deep-rooted patriarchal mindset of the dominant community considers Dalit women to be voiceless with no right to question or assert their rights. The sentiment of Dalit oppression through women's sexual subjugation is so ingrained among the dominant communities that the risks associated with COVID-19 have not reduced the instances of harassment and assault of Dalit women and girls during this pandemic.

**7. Dalit women's Assertion to their Right to Legal Recourse:** The Dalit assertion to access legal remedy for justice is seen as ways to dismantle the Brahmanical status quo. Thus, when Dalits, especially aggrieved women, report crimes committed against them, they are met with violence, meant to deter and retract their assertion for justice and dignity. Such reprisal at the hands of dominant caste perpetrators and their larger community often shapes into mass attacks or social and economic boycott of the Dalit family or entire community as a lesson for challenging the existing caste norms.

**8. Dalit women's participation in Local Self-Governance:** The Indian government, through the 73rd and 74th Constitutional Amendment in 1992, provides for one-third reservation to women, including SCs and STs, so as to guarantee direct political participation in local self-governance. The Constitution of India also recognises the right to equality as a fundamental right. In reality, despite these guarantees, Dalit women face barriers while accessing their political rights, owing to systemic caste discrimination. Our experience shows that in some instances, when Dalit women office-bearers exercise their powers, they are faced with persecution from the dominant caste communities. They are often charged with false cases, among other forms of violence, as is also seen in one of the cases in this report about a Dalit Panchayat office-bearer in Haryana.

**9. Dalit Assertion of Right to Cultural Freedom:** The Dalit communities' right to religious and cultural freedom is often violently suppressed by the dominant caste communities since the religion and celebration of events signifying Dalit solidarity and struggle is seen as a threat to social order. Such celebrations of events include the birth anniversaries of Ambedkar, Jyotirao Phule, Savitribai Phule, practice



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of Buddhism, and the worship of community idols. Desecration of Dalit icons and damage to property is common. There have been many instances of harassment and assault of Dalit grooms and community for riding a horse and/ or lead a marriage procession. Such celebrations are seen as signs of prosperity, social mobility and visibility of the community, which challenges the perceived superiority of the dominant caste groups.

**10. Retaliation over Unsolved Disputes:** Time and again, we have observed through our interactions that Dalit women and girls are easy targets for dominant caste groups to retaliate over ongoing and past disputes pertaining to land, criminal cases etc.

**11. Nexus and collusion of perpetrators with state authorities:** The impunity enjoyed by perpetrators of violence against Dalit communities is a major factor for encouraging and increasing this violence manifold. The nexus between dominant caste groups and state authorities, both sharing seats of power - either official or notional, nourishes the ground for atrocities against Dalits to flourish. Some of the ways in which impunity is granted to state actors are non-accountability for poor, inefficient, purposeful delay or false processes followed at each stage of reporting, investigation and prosecution of cases. State-sponsored violence and the officials' discriminatory attitude and behaviour are some other manifestations of impunity. The close nexus with the police and administration provides the perpetrators with a shield from the law, emboldens and motivates them to commit these atrocities. In our experience, the state has been pro-active in taking action against the Dalits, book them under false cases, illegally detain them in the station house, and torture them in custody.

**12. Lack of Awareness of Basic Human Rights, Legal and Fundamental Rights and Women Related Policies:** Dalit women are subjected to exploitation, violence and deprivation because lack of awareness of basic human rights, legal rights, fundamental rights, constitutional safeguards and policies meant for Dalit

women. For instance, in the cases of structural violence and discrimination in public health centres, educational institutions, employment schemes like MN-REGA, the lack of knowledge about procedures makes Dalit women face hardships and challenges and are often compelled to compromise with the situation or remain silent without taking action.

### Conclusion

The atrocities inflicted upon the Dalit women continue in large numbers and are heinous and degrading. Humiliating and shameful practices like making Dalits eat human excreta and naked parading still continue in many parts of the country. These forms of violence are not only physical and mental but are a grave attack on Dalit women's expression, dignity and mobility. The same is observed in the causes of the attack against Dalits while accessing resources, which are meant for all. Claim for access to basic resources which contribute to a dignified life of any human life become a reason for violence against Dalit women.

The nature and causes of caste and gender based violence, as discussed in this chapter, is further substantiated in the following chapter, wherein through case analyses, we have highlighted the nature and causes of caste and gender based violence, and the status of implementation of SCs & STs (PoA) Act and advocacy action by AIDMAM. We have directly intervened in these 81 cases and succeeded in delivering relief to the survivors.

AIDMAM has intervened and followed up with the state machinery for relief and justice to Dalit women and girl survivors as per the SCs & STs (PoA) Act for all of the selected cases. We have succeeded in achieving few developments in these cases, such as registration of FIR, filing of the charge sheet, the arrest of the perpetrators, payment of the compensation, invoking appropriate sections of SCs & STs (PoA) Act, etc. This has been possible because of the consistent and fearless efforts of our trained state representatives who monitor these cases and follow up with the state authorities.





## 2.4 Legal Intervention and Advocacy

AIDMAM undertook fact finding missions in the grievous cases to ascertain the facts of the cases with an object to the assist the Dalit women in their cases of caste and gender based violence. AIDMAM has taken up more than 200 cases of violence against Dalit women over the last three years. In this report, we have selected 81 critical fact finding cases of caste and gender based violence against Dalit women from the time period of April 2018 to June 2020. AIDMAM conducted intensive advocacy in all these sample cases of caste and gender based violence inflicted on Dalit women from Bihar, Haryana, Madhya Pradesh, Rajasthan, Odisha and Uttar Pradesh. These cases include the various forms of caste and gender based violence like sexual harassment with women and minor girls, rape and gang rape with women and minor girls, kidnapping, murder, physical assault, mass attack, social boycott, attempt to rape, witch hunting, false case against Dalit women and minor girls.

### Legal Intervention and Advocacy in Selected Cases

The legal intervention and advocacy efforts of AIDMAM with the resultant response from law enforcement agencies is discussed below-

#### A. FIR Registration Stage a. Registration of First Information Report (FIR) of the incident

*Section 4 (a) & (b) of SCs & STs (PoA) Amendment Act 2015 and Rules 2016-*

*a. To read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant;*

*b. To register a complaint or a First Information Report under this Act and other relevant provisions and to register it under appropriate sections of this Act.*

Registration of FIR is the first step in the police record-

**Figure 2.5: Legal Status of 81 cases**

Stages	No. of cases	Percentage
FIR registered	77	95.1
Cases where FIR was not lodged	4	4.9
FIR under SCs & STs (PoA) Act	68	88.3
Accused arrested	51	66.2
Charge Sheet filed	39	50.6
Compensation received	31	40.3
Under-trial	39	49.4
Judgment done	1	1.3
Counter cases filed against survivor and her family	26	32.1



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ed criminal case and that too within twenty-four hours of the occurrence of the incident. It is the right of every survivor to get her/his complaint registered in the concerned police station. However, **our experience suggests that in the case of Dalit survivors, the police generally refuse or delay in filing the complaint.** In many instances, the survivors and/or their families are out rightly abused with casteist slurs and innuendoes, humiliated and shunned from reporting, while in some, they are discouraged or threatened against reporting.

**Of the 81 cases included in the report, FIRs were filed for 95.06% (77 incidents) cases.**[Figure 2.5]. **68 (88.31%)** out of these FIRs were registered under the SCs & STs (PoA) Act. Of the 81 cases, 26 cases are of Dalit minor girls of which 22 cases (84.61%) pertained to sexual offences which technically attract the sections of POCSO Act in the FIR. In reality, only 15 cases (68.18%) were registered with the sections of POCSO Act through the interventions of AIDMAM Dalit women leaders.

Our women leaders had an important role in the registration of these cases under SCs & STs (PoA) Act, including visits to the police stations, submission of memorandums to the senior authorities for registration of crime committed. The women leaders also counselled and encouraged the survivors to stand up in the face of the dehumanising, undignified and disparaging attitude and behaviour of the police when they approach the police station for filing the FIR.



### **Case demonstrating the barriers faced in registering FIR, and registered after intensive intervention of AIDMAM**

#### **FIR lodged after 41 days of knocking on doors of Police and Judiciary by minor victim of attempt to rape and assault**

**Chhattarpur, Madhya Pradesh | May 2020**

#### **The incident:**

*On 1 May 2020, at around 4 in the evening, due to no water supply in her locality, a 16-year-old Dalit minor girl from a village in Chhattarpur, Madhya Pradesh,*

*went to fetch water from the Brahmin neighbourhood. Upon seeing her take water from their area, four dominant caste men started abusing her by calling her caste names. Soon after, they started beating her for 'daring to touch the water tap'.*

*Not stopping at this, they started to molest her, then dragged her towards the forest and tore her clothes. On hearing her cry for help, a Dalit man came to her rescue but was himself beaten up by the perpetrators. This person then rushed to inform the survivors' parents and get other people for help. Upon reaching the spot, the survivor's father tried to save his daughter, but the accused assaulted him as well. The survivor's mother, who joined to help with some other women of the neighbourhood were also not spared and beaten up brutally.*

*The survivor and her father were injured gravely and lost consciousness. On seeing this, the accused fled from the scene.*

*The community people took the injured to Badamalhera Hospital, Chhattarpur, for treatment.*

#### **The ordeal experienced in registering complaint:**

*The next day, when the minor girl and her mother went to the local police Chawki Ranital for lodging the FIR, the police officer refused to register the case and asked them to go to Bajana police station as the incident occurred in that police jurisdiction.*

*The survivor and her mother then went to Bajana police station and requested them to write the complaint. The police in this station as well refused. Even after four continuous days of visit to the police station, the police did not comply and instead made caste-based comments and drove them out of the police station. Failing to get their complaint registered, the survivor and her family approached an advocate to lodge the FIR. Upon the advocate's advice, the survivor and her family sent an application through Speed Post to the District Collector and SP, Chhattarpur, on 8 May 2020.*

*This, too, did not result in any action by the authorities. In the meantime, the four perpetrators had started to threaten to kill the survivor/ family or commit some serious loss to them. They continually harassed them, pressurising to not take any action against them.*



A social activist from the same block who volunteers with AIDMAM informed the AIDMAM Chhattarpur team about the incident on 7 June 2020. The AIDMAM team immediately got in touch with the survivor and assured support.

The next day on 8 June, the AIDMAM team contacted ASP Sameer Saurabh and advocated to take action. The ASP assured the team saying he would check with the Sub Divisional Police Officer (SDPO), Abhishek Patel, about the matter. SDPO also took the full information about the incident through phone from the survivor and her family and also discussed the victim's case with the Bajana police station in-charge.

SDPO, Abhishek Patel, asked for two days' time to understand and file the FIR, but no action was taken even after two days. On the other hand, one false counter case FIR No 33/20 section 327,294,506 dated 3/5/2020 under Bajana Police Station, was registered by the accused's father.

The AIDMAM team, upon realising that the authorities had not taken any action, approached Honorable Dr. Yogendra Paswan, Member of National Commission for Scheduled Caste through WhatsApp. The case details and inaction by police was shared.

Simultaneously, on 9 June 2020, the AIDMAM team also submitted a memorandum to DIG (Deputy Inspector General) about the injustice and atrocities done on the Dalit minor girl and requested to initiate legal action against all the accused.

Finally, on 11 June 2020, after 41 days of the incident, the FIR was lodged by the police, with FIR no. 51/20 u/s 325, 294, 354, 506, 34 IPC and 3(1)(r), 3(1)(s), 3(2)(va) SCs & STs (PoA) Act under Bajana police station.

## b. Statement of the survivor under section 164 CrPC

As per the Criminal Amendment Act 2013, when an offence of rape is committed, and the matter is brought to the knowledge of police, the latter is duty-bound to take the rape survivor to the nearest Judicial Magistrate for recording her statement under section 164 CrPC. **This statement of the rape survi-**

**vor is an essential part of the prosecution.** Any delay in recording the statement may give the accused an opportunity to intimidate the survivor and her family to retract from the complaint. **Our experience suggests that in many cases, the police delays in producing the survivor to Judicial Magistrate for recording her statement.**

The AIDMAM women leaders play a very important part in catalysing this process. For cases where police deliberately delay or seem evasive, our women leaders file written applications addressed to senior police officials for ensuring the statement before the Magistrate. The leaders also counsel the survivors to give the statement confidently and without fear.



**This case demonstrates the role played by AIDMAM leaders in following up with the recording of survivor statement with the Magistrate.**

### Minor Dalit girl, a rape survivor taken for recording of statement under section 164 CrPC upon insistence by AIDMAM women leaders

**Aurangabad district, Bihar | April 2019**

On 24th April 2019, an 11-year-old Dalit minor girl aged from Aurangabad District in Bihar had gone out of her house for open defecation. Seeing her alone, a 33-year-old man from the Rajput community, who was known to the girl's family, forced her to an isolated place away from her house and raped her.

The girl told about the incident to her family, upon which the family lodged an FIR under Risiyab police station.

Though the police registered FIR 26/19, 24/04/19, 341, 354, IPC, 3(1)r, 3(1)(s), 3(1)(w) SCs & STs (PoA) Act, PS Risiyab, Aurangabad on the same day, they did not take the survivor to Magistrate for recording her statement under 164 CrPC.

Our AIDMAM Dalit women leaders, during the



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*fact-finding mission, visited the police station personally and advocated for recording of survivor's statement before the Magistrate. Thereafter, the police facilitated the 164 statement.*

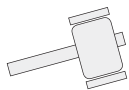
*Since the minor girl was terrorised and horrified by the incident, our team members counselled the survivor to narrate the incident confidently while giving the statement. We also intervened in ensuring the medical examination of the survivor.*

### **c. Addressing False Counter Cases against victims of Caste and Gender Based Violence**

False and fabricated counter cases are observed to be filed against Dalit survivors of caste and gender based violence by the perpetrators with the intention to embroil them in legal procedures. Doing so tends to distract or discourage the survivors/ families to follow their own case, thereby weakening the principal case. **Our experience shows that in many cases, the perpetrators file counter cases against the victim/ family, in order to build pressure on the victims to compromise or withdraw their complaints.**

**Out of the cases considered, 32.1% (26 incidents) counter cases were filed against the Dalit women and their families.**

In the counter cases, AIDMAM women leaders assist the Dalit survivors in the investigation and prosecution of counter cases while pushing for reporting and filing of charge sheet in their principal cases. In some cases, where the Dalit women and their family members fear being arrested/ are arrested, we help them obtain anticipatory bail/ obtain bail, as the case may be.



**This case demonstrates the role of AIDMAM leaders in assisting survivors in counter cases filed against them, along with their case of caste and gender based violence.**

**Dalit woman manages to get bail on counter case lodged against her with support and legal assistance by**

### **AIDMAM women leaders**

**Bhopal, Madhya Pradesh | September 2019**

*A 30-year-old Dalit woman worked as a domestic help in a Rajput (dominant caste) family's house in Barkhedi Khurd, Bhopal district in Madhya Pradesh. She and her family, including her husband and two sons, lived in a part of land which belonged to the Rajput family. The Dalit family had made a small house with one room and were living there for eight years.*

*The Dalit woman's husband worked as a labourer with the same Rajput family. Their employers often withheld their wages, and did not grant leave for any personal work, almost as if they were bonded labourers.*

*Once, the Dalit family asked for a few days leave to attend a marriage in their village. The Rajput employer, however, became furious and denied them leave. The family, however, went on leave which infuriated the employer, and he disconnected the electricity connection of their house.*

*Thereafter, upon being goaded for letting Dalits live in his land and being employed in the kitchen, implying the 'impurity' brought on by Dalits, the Rajput employer upon the Dalit family's return, humiliated, threatened, harassed and tortured the family. He even asked the survivor to clean the human excreta from in front of his house. Upon her outright refusal, he beat her up brutally and attempted to kill her with an axe.*

*He also chased the sons of the survivor and her husband, but they managed to escape. This incident occurred on 19 September 2019.*

*The Dalit woman and her family registered an FIR with No. 9/2019 dated 19/9/2019 u/s 294, 323, 506 IPC and 3(1)(r), (s) and 3(2)(va) SCs & STs (PoA) Act under police station Ratibad, Madhya Pradesh. The survivor was pressurised by the accused to withdraw the FIR, but she was firm with her decision.*

*It is alleged that the accused has a good alliance with the police as he is an ex-constable and his brother is a retired DSP. In retaliation, so as to harass and torture the survivor and her family, the accused filed a false and fabricated FIR No 71/2020 u/s 420, 467, 467, 468,*



471 IPC under Ratibad police station, Madhya Pradesh, against the survivor. She was charged for forging the land title (Patta) of the land given by the accused.

The survivor was arrested on 4 March 2020 and produced before the Magistrate on 5 March 2020. When the remand could not be extended, she was sent to jail on 6 March 2020.

On receipt of information of the case, the AIDMAM team immediately filed the first application for bail on 7 March 2020, but it was rejected on 12 March. Our team continuously made efforts at the High Court, and finally, the survivor got bail from High Court, Jabalpur, Madhya Pradesh, on 17 June. She remained in jail for three and a half months. AIDMAM is also following up on the case filed by the survivor.

#### d. Monetary Compensation to the Survivors

Rule 12(4)-The District Magistrate or the Sub Divisional Magistrate or any other Executive Magistrate shall make necessary administrative and other arrangements and provide relief in cash or in-kind or both within seven days to the victims of atrocity, their family members and dependents according to the scale as provided in Annexure-I read with Annexure-II of the schedule annexed to these Rules and such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items.

Rule 12(4) of the SCs & STs (PoA) Act prescribes to provide relief in cash or in-kind or both within seven days to the victims of atrocity, their family members and dependents and such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items.

However, in practice, it is experienced that Dalit survivors of caste and gender based violence are denied immediate relief by the administration. In most cases, our Dalit leaders have to intervene to ensure that survivors receive the relief that is due to them. They have to submit representations before the District Magistrate and District Welfare Officers for release of compensation. **Of the 81 cases enlisted here, compensation has been paid to 31 survivors, i.e., 40.26% of total FIRs.**

In the rest of the cases, the advocacy is going on with the administration.

A cumulative amount of INR 136.5 lacs (13.6 million) has been paid by the states as compensation to the 31 survivors.

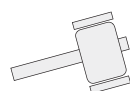
### B. Police Investigation and Filing of Charge sheet

#### a. Arrest of the accused

The arrest of the accused is mandatory by law. However, as observed in the cases of caste and gender based violence, **the police do not arrest the accused, resulting in a delay in filing the charge sheet.** This gives an opportunity to the perpetrator to tamper witness, among other pressure tactics.

In the 77 cases registered out of 81 incidents, arrests were made in 51 cases only, i.e., 66.23% of total FIRs.

For the arrest of the perpetrators, the AIDMAM women leaders have to impress upon the State by submitting representations before the DGPs, SPs, DSPs and other officials to expedite the arrest of the accused. We also oppose the accused's bail application through the assistance of our advocates, and have been successful in getting them dismissed by the courts.



### Case demonstrates the delay in arrest of the accused by the police

**Two accused persons arrested over attempt to rape of Dalit minor girl, upon consistent follow up with Police for over two months by AIDMAM women leaders**

**Jahanabad District, Bihar | March 2020**

A 13-year-old Dalit minor girl of District Jahanabad, Bihar, was returning home after defecation from the fields on 22/03/20 at around 07:00 pm. Two drunk men from the dominant community saw her started singing obscene songs and tried to touch her. The scared girl started running, but was followed by the drunk men. Upon hearing her cry for help, her family and neighbours im-



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mediately came out of their homes. When the girl told them about the incident, they got angry and scolded the drunk men, who had followed the girl to her home.

The people from the dominant caste, upon hearing the commotion, also gathered together. They however, felt offended because the Dalits had dared to scold one of their men. Armed with sticks and other such weapons, 21 people from the dominant caste community attacked the Dalits. This was a lesson for standing up and speaking out against one of their kind. The Dalits were also abused with caste names (Dhed, Chamaari). 11 Dalit women and men were injured in this clash, with severe head injury to one of them.

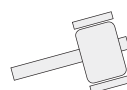
After that, the survivor's family somehow reached Parshabigaha police station during the lockdown, where the station in-charge sent them to Jehanabad Sadar Hospital for treatment. The police, however, did not make any arrest.

Thus emboldened, the accused further destroyed the Dalit family's vegetable farm and stole household items such as gas stove, utensils, boxes, sarees, etc., from their home. The accused also came in front of the survivor's house, and verbally abused the whole family. Detailed information about their conduct has been intimated to the police officer. An FIR No 42/2020 under the section 341, 323, 307, 379, 427, 504, 506, 34 IPC, & 3(1)(r)(s)(w), 3(2) (va) SCs & STs (PoA) Act under Parasbigha police station dated 23/3/2020. Eventually, AIDMAM submitted memorandums before the SP and DSP for arrest of the accused. After so much effort and creating pressure, the police finally arrested the accused on 7th June 20 20.

### **b. Intervention for invoking appropriate sections of SCs & STs (PoA) Act in the FIR and Charge sheet**

The incidents of caste and gender based violence should be investigated under the SCs & STs (PoA) Act, under appropriate sections in the FIR and charge sheet. We, however, have experienced that **the police does not invoke the sections under SCs & STs (PoA) Act during the registration of the FIR, or during filing of the charge sheet. Such sabotage of reporting and/or investigation by the police deprives the survivors of relief, rehabilitation and other benefits under the law.**

The AIDMAM women leaders advocate and intervene at different levels to invoke sections of the SCs & STs (PoA) Act. In 28 cases (41.17%) out of these 68 cases, FIRs were registered under the appropriate sections of SCs & STs (PoA) Act only upon insistence by the survivors, backed by AIDMAM's engagement with the police personnel. In some cases, with our effort, the SCs & STs (PoA) Act sections are invoked in Charge sheets.



**This case demonstrates the intensive advocacy done by the AIDMAM team to invoke appropriate sections in the charge sheet. The absence of appropriate sections in the charge sheet has the potential to weaken the case at the time of prosecution.**

Appropriate sections under SCs & STs (PoA) Act invoked in charge sheet upon continuous advocacy by AIDMAM leaders with Police and the National Commission for Scheduled Castes.

**Patna, Bihar | January 2019**

A 16-year-old Dalit minor girl from village Usri, in Patna district of Bihar, was gang-raped on 30 January 2019 by four dominant caste men of the same village with the assistance of a woman from the OBC community. On pretext of some work, this woman had taken the survivor to Patna, where she was met by four men. These four men, raped the Dalit woman. One of the accused was a notorious criminal and after the incident had threatened the family against filing a complaint.

The girl confided about the incident to her mother. When the survivors' family approached the police station, they were not entertained by the police. The family was victimised by the accused for the next six months, and upon becoming aware of the incident, the local AIDMAM activist informed the AIDMAM team. The team immediately approached the victim's family and conducted fact-finding. After this, the team approached the station in-charge of Shahpur police station and got the case registered.



The AIDMAM team then advocated with the SP and DSP for the medical examination of the survivor and recording of the survivor's statement with the Judicial Magistrate under 164 CrPC.

It is pertinent to mention here that the case was registered under light sections of IPC and SCs & STs (PoA) Act, removing the sections of rape. The AIDMAM team produced the survivor and her parents before the DSP and SSP on 4 September 2019 and submitted memoranda to invoke the right sections in FIR No. 306/2019 dated 2/8/2019 u/s 276/34 IPC and 3(1)(r)(s) SCs & STs (PoA) Act under Shahpur PS, Patna. However, no action was taken by the police.

Earlier on 16 August 2019, the AIDMAM leaders had submitted representations before the National Commission for Scheduled Castes (NCSC), who later called upon the Investigation Officer and Superintendent of Police along with the survivor and her family for hearing.

Additionally, the team submitted a memorandum to the IG (Weaker Sections) on 4 November 2019 and filed a petition in Patna High Court on 27 June 2020 to invoke SCs & STs (PoA) Act sections.

After the advocacy and continuous follow-ups, the charge sheet bearing no. 224/2019 dated 29/9/2019, 366, 376(D) IPC POCSO-4/8 & 3(1)(w), 3(2)(Va) SCs & STs (PoA) Act was filed in the court with the appropriate section of IPC, SCs & STs (PoA) Act and POCSO Act.

### c. Filing of Charge sheet within 60 days of the FIR

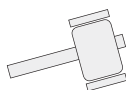
Rule 7(2) The investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority, submit the report to the Superintendent of Police, who in turn shall immediately forward the report to the Director-General of Police or Commissioner of Police of the State Government. The officer-in-charge of the concerned police station shall file the charge sheet in the Special Court or the Exclusive

Special Court within sixty days (the period includes investigation and filing of charge sheet). Rule 7(2) of the SCs & STs (PoA) Act speaks about the filing of charge sheets in the concerned Special Court or Exclusive Special Court after the investigation within 60 days from the date of FIR registration.

In the above 77 cases registered, the charge sheet has been filed in only 39 cases (50.64%). Of these, only 14 cases have been charge-sheeted within 60 days and that too upon the insistence of AIDMAM. The delay in filing the charge sheet for the rest of 25 cases was from 1 day to 328 days.

We found that charge sheets are pending since 2018, with one pending since 2018, 11 since 2019 and 26 charge sheets pending since 2020.

This is serious negligence on the part of the police. AIDMAM's representatives strive on ground with the state agencies viz. top police officials like DGPs, SPs and IOs to impress upon the department for filing the charge sheet within 60 days.



**This case demonstrates how the police took action for filing charge after continuous advocacy by AIDMAM leaders.**

**Arrest and timely filing of charge sheet by Police upon continuous intervention by AIDMAM women leaders in case of caste-based slurs and assault of Dalit woman  
Aurangabad district, Bihar | February 2020**

On 28 February 2020, a 55-year-old Dalit woman from village Ukurmi, Aurangabad district, Bihar, was grazing her cattle in the outskirts of her village when she came across a 36-year-old Rajput man (dominant caste). The man started abusing her by calling her caste names such as 'Chamar'<sup>28</sup>, 'Randi'<sup>29</sup> and other

<sup>28</sup> The term 'chamar' is used for Dalits in general to express contempt. The word has been described as a casteist slur by the Supreme Court of India. Historically, 'Chamars' were a community with the traditional occupation of leather tanning/

<sup>29</sup> Hindi language term used derogatorily for women engaged in prostitution.



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*casteist and sexual slurs.*

*The Dalit woman went to this man's house to complain about him to his family. However, the family, along with the perpetrator, started abusing her verbally and also beat her up brutally. Not satisfied with spewing this abuse, the younger man went to the survivor's house at around 9 o'clock in the night and threatened her with gory descriptions of how he would harm her sexually, as well as her family.*

*The Dalit woman lodged an FIR the next day against the accused with FIR bearing no.-48/20 dated 29/02/20 u/s 341, 323, 354 (A), 448, 504 506, 34 IPC, and 3(1)(r), 3(1)(s), 3(w)(i) 3(2)(va) SCs & STs (PoA) Act under Obara police station.*

*While the FIR was lodged promptly, the police did not arrest the accused nor took any action in the case.*

*AIDMAM women leaders continued to pressure the police to file the charge sheet and accordingly submitted memoranda before the authorities and visited the police station personally. After our continuous efforts, the accused were arrested and a charge sheet No. 63/2020 u/s dated 30/4/20020 341, 323, 354, (A), 504, 506, 34 IPC, 3(1)(r)(s)(w)(i), 3(2)(Va) SCs & STs (PoA) Act was submitted by the police.*

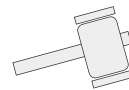
### C. Trial and Conviction a. Disposal of cases within 60 days

Section 14(2), SCs & STs (PoA) Act - It shall be the duty of the State Government to establish an adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible.

We have observed that **very few cases of caste and gender based violence reach the stage of trial, and more than 60% of the charge-sheeted cases (as per NCRB data 2014-2019) end in acquittal.** The conviction rate of 32.7 % (NCRB data 2014-2019) for sexual offences and rape cases completely fails the intention of the SCs & STs (PoA) Act to abolish the caste-based atrocity in society.

Section 14(2) SCs & STs (PoA) Act speaks about the disposal of the case within two months, but here in the enlisted cases, we can see that the cases are pending in the courts for more than two months.

**Of the 39 charge-sheeted cases, only one case is disposed of from Rajasthan, while 38 cases are under trial.** The trial of these 38 cases is **pending** for more than **60 days**, contrary to the Act's provisions.



### This case demonstrates how the cases are pending in the Special Courts.

#### Prolonged trial

**Panipat district, Harayana | November 2018**

*There is a very serious case of gang rape, kidnapping and mental and physical torture and forced prostitution with the minor Dalit girl with close nexus with the police and the police inaction increased the challenges of the survivor family. A 14 years old Dalit girl of village Dodpur police station Samalakha, Tehsil Samalakha, District Panipat, Haryana was one of the five children of a poor Dalit couple who were convinced to leave their daughter to one accused Kusum caste Gurjar for domestic help and good life style. She stayed with the accused for almost five years and accused Kusum pushed her into forced prostitution. The Dalit survivor was sent to different people for money by the accused. The parents of the survivor could not get to know about the situation of their daughter. When they had doubt, they took their daughter home. On 13/9/2018, the accused Kusum kidnapped the Dalit girl from her house and took her to some place in Kurukshetra. She started sending her to different people for money. This time, she threatened her to kill. She black-mailed her and left her in a local restaurant for purpose of prostitution. For one and half months, multiple people visited her and raped her. The owner of the restaurant also committed rape with her. On the other hand, the family of the Dalit girl went to accused Kusum's place in search of their daughter but they did not find her. They filed an FIR no. 608/2018 u/s 365 IPC under PS Samalkha, Haryana dated 18/9/2018 in the police station Samalakha. When the accused came to know about the case, she directly*



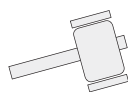


brought the victim to the police station and produced her before the police. She already had good rapport with the police. The police did not take any action against the accused. The police neither arrested the accused for two months nor did they take measures to provide protection to the survivor family. The accused continued to harass and torture the Dalit survivor family. The Dalit girl was already under the pressure of the accused that she gave statement against her parents in the 164 CrPC statement. No compensation is paid in the case. The case was not registered under PoA Act. At the time of the medical examination of the Dalit girl, she was found 4 months pregnant. Our activists obtained the permission from the DGP, Haryana for abortion of the survivor. Thereafter, the arrest of the accused, and charge sheet was filed after the intervention of our team with SP, DSP and DGP. The Charge Sheet No. 01/2019 .u/s 34/363/366-A/370-A/376-D & 3Sc/St Act 1989 on dated 16/5/2019 was filed in the court. The case is still pending in the court for more than nine months at the trial stage. The written complaint was also filed against the victim family for registration of counter case which was strongly opposed by our activists and succeeded stopping at PS level.

### **b. Conviction under sections of IPC and not under SCs & STs (PoA) Act**

The Special Courts and Exclusive Special Courts are mandated to try cases of caste and gender based violence, in accordance with the SCs & STs (PoA) Act. However, it has been observed that for **cases where conviction is awarded, the accused are sentenced under the sections of the Indian Penal Code and other Acts while completely avoiding the SCs & STs (PoA) Act.**

Failing to sentence the accused under the SCs & STs (PoA) Act merely proves the commission of the offence and negates the sole objective of proving that the incident was motivated by the caste factor. Such judgements diminish the Dalit struggle, which asserts that caste plays a major role in caste and gender based violence against Dalit women and girls. Keeping the mind such eventualities, the role of AIDMAM women leaders become critical. They dialogue with the Special Public Prosecutor to update the case with appropriate sections of the SCs & STs (PoA) Act. They also counsel the survivor to face the trial questions with clarity and without fear.



**This case demonstrates conviction in case of rape of a minor, but caste motive was not determined for rape in judgment, citing an absence of such mention in reporting and investigation. The survivor received continuous socio-legal support from AIDMAM women leaders.**

**Dalit minor girl, a survivor of rape, received justice through the conviction of the accused, albeit under IPC and POCSO sections and not SCs & STs (PoA) Act**

**Gaya, Bihar | November 2016**

*Sixteen-year-old Dalit minor girl, a student of class 8th, resided in village Sonbarsa, District Gaya, Bihar. On 25 November 2016, while in school, she went to the new building floor to fetch glue for some class activity. Shiv Kumar, a teacher, followed the girl and raped her. He also threatened her against telling anyone about the incident. The incident occurred around 11 am in morning.*

*The survivor narrated the incident to her mother and the family lodged a complaint. FIR no. 79/2016 u/s 376 IPC and 4, 5 POCSO Act and 3(1)(r)(w), 3(2)(v) SCs & STs Act was registered in Mahila Thana Gaya, Bihar.*

*The charge sheet was filed u/s 376 IPC, 4 POCSO Act, 3(1)(x), 3(1)(w), 3(2)(v) SCs & STs Act, and the accused was tried by the Court of Special Judge (POCSO Act), Gaya in the case no. 57/2016 titled as State of Bihar V/s Shiv Kumar.*

*After hearing both the parties and witnesses and examining the evidence, Hon'ble judge Ashok Kumar Pandey, Special Judge (POCSO Act) Gaya, convicted the accused on 20 May 2019. He announced the quantum of sentence on 25 May 2019, with seven years of imprisonment under section 4, POCSO Act and 10 years rigorous imprisonment and fine of INR 20,000/- under 376 IPC. The judge also announced a compensation of INR 2 lac to the survivor under the*



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*victim compensation scheme.*

*In this case, our AIDMAM leaders continuously followed up the case with the SPP and survivor's family through attending court hearings, counselling the survivors and witnesses for the examination and cross-examination in the court.*

*While the conviction of the perpetrator – the teacher, was a victory for the rape survivor; the absence of conviction under the SCs & STs (PoA) Act was a pushback to the purpose for which the Act came into existence, which is to recognise and acknowledge the discriminatory factor of 'caste' in the commission of crimes against Dalits.*

*The judgment was not made under the SCs & STs (PoA) Act on the grounds that "there is no allegation in the FIR that the accused has committed the offence with the victim knowing that she was a member of SC/ST community, neither there is a single word in FIR or evidence that the victim belongs to SC/ST community and the offence has been committed due to it. As such, these allegations have not been proven by the prosecution."*

### **D. Medical Care and Examination Challenges and injustice faced by Dalit women rape survivors in accessing medical facilities**

The Government of India has laid down distinct guidelines and protocol for medico-legal care of survivors/victims of sexual violence. The guideline is essentially aimed at doctors to ensure a sensitive, humane approach to survivors and responsible treatment and examination. It also asks them to be cognizant of due processes so that the medical evidence is not found wanting in a court of law.

Dalit women face multi-fold discrimination in society and continue to face barriers in accessing services such as justice, health facilities and protocols for treatment, approaches to provide comprehensive care, etc. Medical treatment for sexual violence falls within the Human Rights framework. If anyone is discriminated based on their religion, caste, gender or race and is not allowed to, or is unable to access these essential services, it constitutes a violation of human

rights. Discrimination faced while accessing institutional and medical support after sexual violence on Dalit Women by the upholders of law and the society has failed to provide their basic human rights.

After the Nirbhaya gang rape in 2012, the provisions are included in IPC saying that all the hospitals, whether public or private, are required to provide first-aid to the victims of sexual violence and acid attack. However, these provisions were not holistic. They do not emphasise upon the survivors' mental health aspect, which sometimes becomes more crucial than providing monetary compensation or medical treatment.

#### **Guidelines and Protocols under Medico-legal care for survivors/victims of sexual violence given by Ministry of Family & Health Welfare (MoFHW):**

- ♂ The examiner should not pass any explicit or implicit comments or, in any other way, communicate their personal opinion about the person's caste or religion while medically treating them.
- ♂ The examiner should not ask the person who is being given medical treatment any questions about her religion/caste, except those that are relevant to the nature of violence the survivor has faced or the kind of treatment the survivor requires.
- ♂ The examiner should not make assumptions about the person's life, the number of children she has, the kind of treatment that she may be willing to undergo etc.
- ♂ In a situation of communal/caste conflict, health professionals should sensitively inquire about and look for signs and symptoms that suggest sexual violence among all women and girls who access the health system, even where they do not explicitly claim to have suffered sexual violence.
- ♂ Some survivors may be willing to talk about the role that their religious or caste identity has played in the commission of the offence. The survivors' experience should be listened to and recorded in the Medical Report.
- ♂ These are often reports that actions of the Police



and other State/administrative functionaries are partisan during communal/caste and other kinds of conflict. This must be kept in mind while providing medical treatment to women in conflict situations, and the actions or the instructions of the police/state functionaries should not interfere with the provision of medical treatment to the survivor and the documentation. (Medico-legal care for Sexual Violence, 2014<sup>30</sup>).

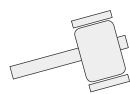
### Problems in the health system of handling cases of sexual violence

Our experience through intervention cases in the states of Bihar, Odisha, Uttar Pradesh, and Madhya Pradesh shows that an attitude of negligence and apathy persists among the medical professionals towards Dalit women, who are victims of sexual violence.

Interactions with the survivors have revealed distressing facts regarding the undignified and disrespectful manner in which the medical staff treats the survivors of caste and gender based violence. In some cases, it is observed that the medical reports and forensic reports are being manipulated by the state authorities at the behest of the perpetrators in order to save them as it happened in the recent case of Hathras where the rape was denied in the forensic report on the basis of absence of sperm in the body of the victim which is widely being stated by the police and administrative authorities at multiple platforms against the deceased and family to dilute the case.

At this stage, our AIDMAM leaders assist the Dalit women survivors in their medical examination and treatment.

The police are duty-bound to take the survivor to the nearest government hospital for medical examination by the registered medical practitioner within 24 hours of the incident. The AIDMAM women leaders follow up with the case when an unnecessary delay is caused by way of personal visits to the police and submitting written complaints about the same. In case of serious injury, a request is also made to the state to provide medical assistance at the cost of the state.



### Case- (Assistance to the Dalit woman by AIDMAM leaders in accessing medical facilities)

Odisha | March 2020

*This case is of a young Dalit woman aged 25 years and her unimaginable ordeal of being gang-raped over weeks, attempted to be killed and legs broken, neglect and apathy at the hands of medical staff and multiple barriers in filing FIR.*

*A Dalit woman, a resident of Baleshwar, Cuttack district, Odisha, was gang-raped by three dominant caste men on 23 March 2020. The accused men convinced her family that they would assist her in finding a job in Cuttack and brought her to the city on this pretext. After bringing her to Cuttack, they took her to a hotel where the hotel owner, along with two other men, raped her.*

*The survivor was confined in the hotel and raped for more than a month by the gang. So as to dispose of her, the perpetrators pushed her down the third floor of the building. She did not die, but the fall broke both her legs. She was eventually rescued and brought to Baleshwar hospital by a passerby, who found her lying on the street,*

*The accused, who would have been following up with the turn of events, found from Baleshwar hospital that the survivor had been referred to S.C.B Medical College and Hospital, Cuttack. One of the accused informed the survivors' parents that their daughter had met with an accident and was admitted to the said hospital in Cuttack. The survivor informed them later about the misdeeds done by the accused persons.*

*The parents, upon reaching the hospital, found their daughter to be in a very critical condition. Add to this, the survivor was left in the accidental ward of S.C.B Medical College and Hospital for seven days, where not a single doctor and nurse had attended to her.*

<sup>30</sup> Guidelines and Protocols, Medico-legal care for survivors/victims of sexual violence, Ministry of Health and Family Welfare, 2014 / <https://main.mohfw.gov.in/sites/default/files/953522324.pdf> [accessed on 10 Dec 2020].



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*AIDMAM's woman leaders were not even allowed to meet the survivor despite their constant requests.*

*AIDMAM women leaders became aware of this case through a local newspaper and accordingly visited the hospital. The hospital in-charge, however, adamantly declined the request of our staff to meet the survivor. The family even did not reveal the ill-treatment of the hospital staff as they were frightened of the accused. The accused have already filed a false counter case of rape against the father and brother of the victim.*

*The survivors' family, in the meantime, was not allowed to leave the hospital premises for one and half month and were discouraged from speaking about the situation with anyone. Our team somehow managed to speak with them and were informed about the extent of violation that the survivor and her family had faced and were continuing to face.*

*The family members would also update on phone calls and shared that on the one hand, they were not allowed to leave the premises but on the other hand, they were also not provided any food. They were losing strength, they shared. On asking for water, the hospital staff would tell them to 'drink water from toilet'. The hospital administration initially ignored the victim and kept her in the accidental ward, and the condition of the victim was getting worse day by day. The hospital authority did not want to disclose their sheer negligence; therefore, they did not allow anybody to visit her. The parents of the victim were also stayed in her ward and not to go out as they do not want them to go and inform anybody about their conduct.*

*After the teams' repeated visits to the hospital and a complaint raised to the Ministry of Health, Odisha, the situation improved comparatively but not completely. The injured survivor was shifted from the accidental ward to the ICU, and she also underwent limb surgery. Thereafter parents of the survivor registered an FIR no. 143/2020 in Banki police station, dated 29/5/2020 u/s 354, 323, 325, 506, 294, 342, 376(2n), 376D, 34 IPC. One of the accused was arrested thereafter.*

*AIDMAM women leaders submitted representations before the Odisha State Commission for Women and created pressure on SP for the arrest of the gang rape*

*perpetrators.*

*The rape-related medical examination was also done but the charge sheet had not been filed as of December 2020. Through our advocacy, the survivors' family received Rs. 20,000/- monetary assistance from Red Cross Society, Cuttack.*

*A counter case was filed by the accused against the victim's family, the details of which were not disclosed to the AIDMAM team by the police. Two members of the survivor's family were, however, arrested. AIDMAM team filed a bail application in the court and is waiting for the court to entertain the application.*

### **AIDMAM's interventions in the Hathras case:**

#### ***The brutal attack, gang rape and murder of a Dalit girl and a disturbing account of police and administrative apathy***

*On 14th September 2020, a 19-year old Dalit girl from Hathras in Uttar Pradesh had gone to the fields to collect fodder for the cattle with her mother and brother. Here, four men from a dominant caste attacked the girl and gang-raped her. They also tried to strangle her with her dupatta during the act, broke her spinal cord, cut her tongue and inflicted severe injuries in different parts of her body. On 14 September 2020, police filed a First Information Report (FIR). They lodged this FIR - Bearing no. 136/2020 - under section 307 Indian Penal Code, 1860 and 3(2)(v) Scheduled Castes and Scheduled Tribes (PoA) Amendment Act, 2015. On 22 September 2020, she gave her statement before the Magistrate and mentioned gang rape and named all four men. Soon after, police updated the FIR to include section 376 D IPC and 3(2)(v) SC/ST (PoA) Amendment Act, 2015. She finally succumbed to death at Safdarjung hospital, New Delhi, on the morning of 29 September.*

*This case, disturbing as it is, also stands out for two reasons; (i) the shocking apathy displayed by district officials and (ii) the shabby investigation by UP police.*



Soon after the attack and rape, when she was taken to the Hathras District Hospital, the doctors, owing to her condition, provided first-aid but refused to admit her. Upon moving to Jawaharlal Nehru Medical Hospital, Aligarh, she allegedly had to wait for nearly sixteen hours before being treated.

In her statement (state u/s 164 CrPC) to the Magistrate on 22 September, she repeatedly took the four men's name and accused them of gang-raping her. Yet, citing forensic reports that found no presence of sperm, the police denied her allegations<sup>31</sup>. It is a clear violation of the established law under the Criminal Amendment Act 2013, which cites that presence of sperm/ semen in the body of the rape victim is immaterial. A week later, she died. Despite her family's objections<sup>32</sup>, District Administration cremated her at an open-field in the middle of the night – without the presence of any family member.<sup>33</sup>

When the news of such lacunae and administrative apathy came out, it led to massive public outrage. AIDMAM and other civil society organisations and citizen groups mounted pressure on the State administration to act immediately. Owing to the public pressure and the constant media attention, the State administration called in for an investigation by the Central Bureau of Investigation.

The Central Bureau of Investigation (CBI) filed its charge sheet on 18 December 2020. The charge sheet indicates that the victim was gang-raped and murdered by the accused<sup>34</sup>. The CBI findings run contrary to the claims made by Uttar Pradesh Police officials. The case is under trail at the SC/ST Special Court of Hathras Sessions Court since 4 January 2021. The embarrassment and public criticism also forced the State to transfer the concerned district administration officials.

These corrective actions came only due to the public pressure and the media attention that the case

received. AIDMAM, through its local leader, offered constant support to the girl's family. We set up an 11 member fact-finding team to ascertain the details of the case and participated actively in campaigns for ensuring justice to the girl and her family. We demanded for a free, fair and impartial independent inquiry through Press Release on 10 October 2020.

AIDMAM submitted a representation before the National Commission for Scheduled Caste on 23 October 2020, highlighting the gaps in state response. We also submitted a memorandum to the UN Special Rapporteur of Violence Against Women and Special Rapporteur on Contemporary forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance. In addition to this, AIDMAM is extending continuous support to the victim's family in follow up of the case at the administrative level and in court. Along with it, we are in the process of providing employment to one of the family members as per the Rule 12(4) of the SC & ST (PoA) Act. To ensure the proper conduct of the case in the Special Court, we are also in the process to appoint an advocate of victim's family's choice as per Rule 4(5) of SC & ST (PoA) Act.

## Conclusion

AIDMAM's major role in the process is to legally intervene in the cases of atrocity at the stage of FIR registration, investigation, filing of charge sheet, assistance during trial and medical assistance, so as to support the women survivors as per the provisions of SCs & STs (PoA) Act.

Legal intervention starts from the monitoring of the cases by our leaders battling at the ground with biased, anti-gender and anti-caste mindset of the law enforcing agencies and critical caste dynamics. Through the above-mentioned set of actions at different levels, AIDMAM accelerates the legal process for the effective implementation of the Act in favour of the Dalit woman survivors.

<sup>31</sup> <https://indianexpress.com/article/india/hathras-woman-not-raped-forensic-report-uttar-pradesh-police-6663469/> [accessed 25 February 2020].

<sup>32</sup> <https://indianexpress.com/article/india/hathras-case-dalit-girl-cremation-allhabad-hc-hearing-6722689/> [accessed 25 February 2020]

<sup>33</sup> <https://indianexpress.com/article/india/hathras-gangrape-explain-hurry-to-cremate-body-ncw-to-up-cops-6664134/> [accessed 25 February 2020].

<sup>34</sup> <https://indianexpress.com/article/india/hathras-gangrape-case-cbi-files-chargesheet-7109872/> [accessed 25 February 2020].



## 2.5 Emergency Response – Covid-19 Pandemic

**C** OVID-19 pandemic is an unprecedented crisis that has affected the lives and livelihoods of millions of people around the world. At the start of the pandemic, governments worldwide, including India, grappled to respond with emergency measures. The Government of India declared a sudden nationwide lockdown starting 25 March 2020, which restricted the mobility of 1.3 billion people. Millions of people, including migrants, students, tourists, among others, were stranded in cities and towns with no jobs and money. A series of lockdown continued till August 2020, with many ongoing state-imposed restrictions to date. The pandemic has indiscriminately affected all lives and livelihoods, but its effect is disproportionate among people. It has not only magnified and accentuated the existing social disparities but widened this gap further.

COVID-19 has created great distress among the marginalised communities, especially on Dalit women and minor girls. At this juncture, the pandemic created another layer of hardship for them. The patriarchal system has allowed women's subjugation, and the caste system further supports systematic discrimination of Dalit women in India.

Ironically, during the lockdown period, people took up extreme hygiene measures while ignoring the nature of the jobs that Dalit women are forced to do by way of traditional and/or hereditary-based menial jobs of scavenging. This situation had put these women at a higher risk of getting the disease. The disgust, fear and desperation for hygiene to safeguard themselves against Corona virus further fueled deliberate distancing of the vulnerable Dalit women by the larger population. And we also saw the rising cases of caste and gender based violence in the country. At this

juncture while the country was experiencing the peak of the virus spread the cases of assault are also on the rise. Hence getting the police take action during these times was the biggest challenge faced.

AIDMAM-NCDHR has monitored the impact of lockdown on marginalised communities in India, particularly Dalit women and girls. As an immediate response, our state representatives distributed relief in six states and facilitated communities to access government relief and other entitlements under various schemes. Our members collected information about instances of injustice and discrimination of Dalit communities during relief distribution and enabled the affected individuals and families to access justice.

### **Facilitating survivors of caste and gender based violence to access justice during the pandemic**

Caste and gender based violence and discrimination is deep-rooted in Indian society and predates the pandemic by hundreds of years. The pandemic has now pushed the already marginalised further to the extreme edges of marginalisation.

Survivors of caste and gender based violence have always found it a challenge to access justice. The caste dimension to gender-based violence heightens this challenge manifold. As per our experience, the affected Dalit women and their families found it more difficult to report atrocities against them during the lockdown. Owing to the restrictions on mobility, transportation etc., brought on by the lockdown, the survivors and their families often found it difficult



to physically reach the police stations for lodging complaints or to access other Gender Based Violence responsive state services, like crisis centres, hospitals, state commissions, courts, etc. Our experience has shown that police and other authorities in normal times more often than not subject survivors with dehumanising language and attitude. The pandemic was observed to provide the officials with an excuse to either neglect, delay, discourage or shun the survivors from reporting crimes committed against them.

AIDMAM has been instrumental in intervening in **29 cases of violence against Dalit women and minor girls during the lockdown period.** These cases included rape and murder of a minor Dalit girl, kidnap, gang rape and murder of a Dalit woman, sexual abuse, physical assault, destruction of property, false cases filed, counter case filed, abetment to suicide, domestic violence and denial of access to entitlements.

AIDMAM women leaders assisted the survivors and their families to lodge FIRs, impress upon the police officials to release the compensation and arrest the perpetrators. Rigorous follow-ups through face to face meetings, phone calls and pressure tactics through protests were done to get the Police to act upon the complaints.

Among these 29 cases –

- ♂️ FIR was registered in **27 cases,**
- ♂️ SCs & STs (PoA) Act was invoked in **26 cases,**
- ♂️ The accused was arrested in **13 cases**
- ♂️ Charge sheet was filed in **12 cases,**
- ♂️ Legal assistance provided in **12 instances** of counter-case, and
- ♂️ 8 Survivors received a cumulative compensation of 2.75 million Rupees (**INR 2,075,000**)

We have cited two important cases from Bihar and Madhya Pradesh which demonstrates the successful journey of AIDMAM Dalit women leaders while facilitating survivors of caste and gender based

violence to access justice.

### **Case: Intervention done by Dalit Woman Leader**

**Sehore District, Madhya Pradesh  
May, 2020**

*In Machbai Village of Sehore, Madhya Pradesh, we intervened in a case of Rape of a minor Dalit girl (12), where no arrests were made in the case despite the FIR being registered. The minor's family was under constant pressure to compromise with the accused party, and their life was under threat. On becoming aware of the case, our members took immediate action by submitting a memorandum to the Sub Divisional Officer, Sehore, for the arrest of the accused. Through our constant follow-ups in the case, the authorities started taking action and ultimately arrested the two accused in the case who are still in custody. Through our recommendation letter, the minor girl has received an amount of INR 50,000 as immediate relief from the District Authority of Sehore. Their compensation has been granted under 6 POCSO Act, 376D,450,506 IPC and 3 (1)(w)( II), 3 (2)( V) SCs & STs (PoA) Act*

### **Case: Intervention done by AIDMAM Dalit Leader in registration of FIR during Covid-19 Pandemic**

**Gaya district, Bihar , March-April 2020**

*A Dalit woman (39) belonging to a Pasi community (Dalit) who indulge in selling palm wine from the palm trees for a living faced violence. The male members of the community bring palm wine from the trees whereas, the selling of the wine is being done by the female members. She is a widow Dalit woman who lives with her maternal family since beginning. Because of the profession she is in, the accused of the dominant caste harass her. Gora Paswan (17) s/o Arjun Paswan used to work as domestic help at Niranjana Singh s/o Daroga Singh house and in the evening, he sleeps in the corridor. On 29/3/20, as usual, Gora Paswan went to the corridor to sleep and consumed palm wine because of which he vomited in the corridor. This made Niranjana Singh angry and he, along with Vijit Kumar Singh, Rishu Singh, Ashok Singh, Suresh Singh, went to survivor's house at 9 o'clock in the evening and started*



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humiliating, scolding and abusing her in the name of caste saying that she has spoiled the health of Gora Paswan with her wine. They were shouting and about to break her door. Hearing the noise, her nephew Ravi Chaudhary saw from his terrace that Niranjana Singh and others are troubling his aunt and harassing her. He and his wife came down to protect their aunt but the accused people assaulted them verbally and physically. The village people came and somehow controlled the situation and sent the accused back. The survivors, in good faith did not take any legal action.

Thereafter, on 1/4/2020, the nephew of survivor went to bring the palm wine out of the village at Gangpur in the evening around 4:30 PM. Accused Vijit Kumar, Rahul Singh, Sonal Singh, Rishu Kumar, Manish Kumar and other eleven came with bat in hands and gathered around the palm tree on which Ravi Chaudhary was taking wine. When he came down, they started beating him with bats with the intention to kill him. They beat him brutally for half an hour. Hearing the noise, the Dalit people came there. The accused ran away from the spot and Ravi Chaudhary was lying in the ground in the critical condition. He was immediately taken to the Magadh Medical Government Hospital, Gaya. The police was informed but they refused to register any case in the lockdown. The Dalits protested at DCP Gaya Tekari. AIDMAM's state representative called the SP over phone, then only, the statement of Ravi Chaudhary was recorded and FIR 32/20 u/s 323, 324, 341, 399, 307, 147, 149, 506 IPC and 3(1)(r)(s) SC/ST Act dated 2/4/2020 was lodged in Guraru police station.

After the protest at DCP, the Dalit people Sunaina Das, Sujeet Kumar were coming back to the village. While crossing the accused area, the accused Rajneesh Singh, Manish Singh, Nitish Singh and Santyu Singh stopped them and started beating them. Knowing about this incident, the Dalit people including Pratap Manjhi, Kail Manjhi, Ram Janam Chaudhary, Suraj Paswan, Sarita Devi arrived there. The accused also attacked them with sticks and bricks. FIR no.34/20 323, 324, 337, 341, 147, 149 IPC and 3(1)(r)(s) SC/ST Act dated 3/4/2020 under Guraru police station by Pratap Manjhi. It is pertinent to mention here that one counter case no. 33/20 323, 337, 341, 379, 147, 149, 506 IPC dated 3/4/2020 was also registered against the Dalit community by the accused perpetrators.

No action has been taken by the police in both of the cases of the Dalit survivors. AIDMAM representatives, followed this matter with the SP, DSP but due to lockdown, the police officers were not willing to take action against the perpetrators. Till date, despite physical visits in SP office and written representations before DSP Na SP and DM, no arrest is made and compensation is still pending. The charge sheet is awaited in both of the cases.

### Relief Distribution Initiative

A majority of Dalit women and their families are employed as unskilled labourers in agriculture, construction work, and other unorganised sector work. The lockdown brought a sudden closure to various types of employment, rendering many unemployed. Though the economic stimulus package announced by the Finance Minister provided relief to the poor families by way of dry ration, gas refill, and direct cash transfer etc., many could not avail the support owing to the absence of documents or non-registration in applicable government schemes.

### AIDMAM's Relief distribution undertaken in six states

We organised relief campaigns in six states as an immediate response to cushion the impact of the crisis on poor Dalit families. These were areas where we have long-standing work on caste and gender based violence, including states of Bihar, Odisha, Madhya Pradesh, Uttar Pradesh, Maharashtra and Haryana. The initiative gave us an opportunity to connect with people more meaningfully at the time of need.

**We distributed 3,241 relief kits, reaching out to over 16,205 individuals in these six states.**

♂ **Bihar: 1,248** families in districts of Arwal, Gaya, Rohtas, Munger, Gaya, Aurangabad and Jehanabad;

♂ **Odisha: 320** families in districts of Kendrapara, Kandhamal and Khurda;

♂ **Uttar Pradesh: 563** families in districts of Kanpur Dehat, Kanpur Nagar and Hamirpur;

♂ **Madhya Pradesh: 800** families in districts of Bhopal, Damoh and Chhattarpur;





- ♂ **Maharashtra:** 110 families in slums of Nagpur; and
- ♂ **Haryana:** 200 families in districts of Kurukshetra and Sonipat.

The relief kits included ration for 20 days, personal hygiene items and sanitary pads. Ration items were determined based on local food habits across the project states.

### Relief support to women-headed households, a criterion.

Women headed families were prioritised for relief distribution, as the lockdown had rendered many unemployed and struggling to feed their family. These women included widows, single women, daily wage labourers, domestic workers, sanitation workers, and those living in extreme poverty. Our teams strictly followed the health and safety government guidelines while distributing relief kits and conducting the survey.

### Challenges Faced

- 1. Obtaining Permission from State Authorities:**

The complete nationwide lockdown followed by a series of partial nationwide and state lockdowns required our teams to constantly coordinate for change in logistical plans as per the state guidelines. Seeking permissions for relief distribution from over-burdened district and state government departments was often challenging for the team.
- 2. Transportation:** Till now, Dalits continue to, and in some cases, are forced to live in the interior most parts of the villages marked with poor roads and connectivity. Most of the villages that we undertook for our relief program were those with a predominant Dalit population. As such, our teams faced challenges of transporting relief kits to these distantly located villages.
- 3. Limited Resources:** Prioritising and shortlisting recipients for relief kits proved to be a dilemma for our teams, considering that there were more families in need of support than we had

resources. As such, we had to follow strict criteria for distribution and could provide the kits to only a limited number of households. This invited backlash from some communities, and in a few instances, dissatisfied mobs chased our teams' vehicles. In another incident, a group of dominant caste youth beat up one of our volunteers in Bihar.

## Access to Entitlements

### Intervention through "WeClaim" mobile app:

National Dalit Watch-NCDHR launched a mobile app 'We Claim' in May 2020 to facilitate marginalised communities to obtain the COVID-19 stimulus package as announced by the Government of India.<sup>35</sup> The app (i) Identified marginalised households from the SCs, STs, de-notified tribes, OBCs and the minority communities who had not received the government entitlements which were due to them;

- (ii) Assisted the marginalised families in applying for relief; and
- (iii) Provide the database collected through the app to the local administration via the local partner organisations.

### A survey of 23,533 households was conducted using the "We Claim" app, in eight (8) states of NCDHR interventions.

Of the total **23,533** households under survey, which took place with NCDHR partners in Andhra Pradesh, Bihar, Kerala, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu and Uttar Pradesh, we collected information from **13,500 households**. These were from four states including Odisha, Uttar Pradesh, Bihar and Madhya Pradesh where AIDMAM functions. We collected information about the status of access to entitlements to the Dalit households during Covid and relief distribution. **76 volunteers** from these four states conducted the survey who were first oriented about the usage of the app.

Memorandum based on the survey findings in these

<sup>35</sup> <http://www.ncdhr.org.in/news-ndw/we-claim-the-online-monitoring-app/>.



four states was presented to the respective state authorities like Sub Divisional Magistrates, District Magistrates urging them to take the necessary action.

### Key findings on SC & ST women households (HHs) through “We Claim” App

- 1. 65% single /widow women HHs** were not registered under the Ayushman Bharat to avail the free testing and treatment for COVID-19
- 2. 68% single /widow women** were not registered under the PM Ujjwala Yojana (Free gas refill for 3-months)
- 3. 59% single /widow women HHs** were not registered under MGNREGA to receive enhanced wages (of INR 202), and among **Dalit women migrant workers stand at 73% & ST migrant women workers 72%** (Census 2011). (Agnihotri, Mazumdar, & N., 2012)
  - 83.55% SC Highest earning members' incomes is less than INR 5,000, and 11.74% earning between INR 5,000-10,000.
  - 86.53% ST Highest earning members' incomes is less than INR 5,000.
- 4. 61% single /widow women HHs** are not registered under PM Jan Dhan Yojana, which provided INR 500 for three months to women account holders under this scheme.
- 5. 52% single /widow women HHs** with 0-6 child year children had not received the ICDS assistance
- 6. 30% single /widow women HHs** had received a partial quota of the food grains.
- 7. 12% of SC and 12% ST HHs** had widow pensioners, but 68% of the SC and 59% of the ST pension-holders had not received the ex-gratia assistance.

### Engagement with district authorities by Dalit Women Leaders

- a)** Through the WeClaim Survey in Odisha, Dhenkanal District, in April 2020, our Dalit women leaders identified 47 people who had not received relief from the District Administration of Dhenkanal. These women had given their ration cards as collateral to money lenders and hence could not produce such documentary proof for availing ration, as insisted by the government officials. Our women leaders did advocacy for them with the DM and requested him to provide them with the ration on humanitarian grounds and avail the relief without ration cards. Later they also supported these women to apply for the ration cards and submitted a recommendation letter to the District Magistrate to grant them ration cards.
- b)** In Rastrapur Village of Kanpur Dehat district, Uttar Pradesh, the Ghumantu are nomadic tribes with no permanent residence. They seasonally move from one place to another and earn a livelihood through snake charming and street entertainment shows. They are one of the most backward communities in Uttar Pradesh, especially in literacy. During the lockdown, six families from this tribe who did not have ration cards could not avail government ration. They were in absolute economic distress as they could not move from place to place to earn their living. Our members identified these families during the WeClaim survey, and applied to the SDM, Kanpur Dehat, for providing relief and for renewing their ration cards. These families, along with other families in need from their tribe, were identified by the District Authority and were provided with necessary relief two times during the lockdown.
- c)** In Alpa Village of Gaya, Bihar, a Dalit woman leader during the WeClaim survey in May, identified 30 Dalit families who did not have access to ration cards and were striving to get relief during the lockdown. Our members identified them and applied for ration card under Aajeevika Yojana and linked with the administrative officials to supply them with relief. With our assistance, these



families got relief, and also their ration cards.

- d) In Madhya Pradesh, during the WeClaim survey, Dalit women leaders identified a Dalit woman who was nine months pregnant and earned her livelihood by working as a daily wage labourer. Both her parents-in-law were blind, her husband had met with an accident just before the lockdown, and she had two children. Our Dalit women leaders, when they came across her situation, assisted her in receiving relief kits, including ration. This family did not have any ration card and was hence, unable to access government relief. Our members had a good rapport with other CSOs working in Bhopal and suggested her name for immediate relief to them. One of the agencies named “Daksh Ambrose Empowerment Society, Bhopal” came in support and provided her two months’ ration and financial assistance. Our members helped the Dalit woman during her delivery as the Asha worker in her village was not cooperative. Later with our member’s support, she gave birth to a healthy baby girl in the Sultania Hospital, Bhopal. She was also escorted by one of our members to the hospital.

## Other Significant Interventions done by Dalit Women Leaders

### a) Addressing issues in PDS:

One of the aspects for which we received maximum complaints from the community members was related to the Public Distribution System. Localities with a high majority of dominant caste population saw several instances where Dalits were either denied ration or were unequally provided ration, as compared to what the dominant castes received. Some Dalit families had to purchase ration at double the price. AIDMAM team, upon observing such discrepancies in states of Bihar, Madhya Pradesh, Odisha and Uttar Pradesh, filed memoranda to the relevant authorities and lodged police complaints.

### b) Supporting Dalit families in accessing livelihood opportunities:

Majority of Dalits depend on daily wages and small

scale income-generating activities, an area that was hit hard by the pandemic. The movement of migrant Dalit workers back to their villages during the lockdown led to their exclusion from pre-existing limited resources and opportunities at their village level, further pushing them back to the margins. One of our Dalit leaders intervened in such a case in Saya Parsa village of Aurangabad, Bihar. In this instance, a dominant caste Sarpanch had excluded Dalit workers under MNREGA and completed the projects using JCB (construction trucks), which left the workers without work. During the ‘We Claim’ survey, the volunteers came to know about the matter and reached out to AIDMAM. Upon our immediate complaint to the DDC, the latter initiated a departmental enquiry against the Sarpanch and engaged the workers in a different project under MNREGA.

### c) Supporting migrant labourers:

In this lockdown, some of the actions taken by the government have affected the vulnerable disproportionately. Migrants amidst lockdown, who tried to reach home, even walking back home barefoot, were subjected to beating, inhuman spraying of disinfectant and were put in pathetic quarantine conditions, which even violated their constitutional rights in some cases. Our women leaders working in the states have tried their best to cushion the loss of these workers with interventions provided at different levels in a state by conducting the WeClaim survey with volunteers to access the entitlements for Dalit households; access to justice and relief distribution during Covid.

### d) Visit to quarantine centres:

AIDMAM’s women leaders have also played an active role in securing the rights of migrant labourers in quarantine centres. Through our volunteers working in the field, they received information about the living conditions in quarantine centres. In Odisha, our members identified such centres, spoke with respective person in-charge and submitted a request to Kandhamal DM for improving the condition of the centres at Firingia, Tumudibond, Baliuda, Kottogarh. They also mobilised some financial assistance for 30 people from the Kandhamal District Administration. Regular follow-up visits were done in these centres.



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### Conclusion

COVID-19 has significantly oppressed Dalit women. While the political parties are using the pandemic as an excuse to advance their vested interests, the pre-existing practices related to untouchability and inter-caste disparities has worsened and continues to affect Dalits, especially Dalit women. With existing ideological and media level discrimination, the ignorance about Dalit women's issue and position in the society leaves them vulnerable. For a country that is headed by a Dalit President, the idea of "not fitting in" haunts Dalit women as they continue to suffer exclusion and exploitation at

an increased level during COVID-19.

As the COVID-19 Pandemic had already worsened, the situation, which was already under the mark, providing justice to the victim in such adverse situations was also a challenge for our leaders. For our leaders working in the grassroots, access to justice to the survivor is equally important as improving an individual's access to courts or guaranteeing legal representation. This was ensured in the cases we intervened in during lockdown, and our complete focus remained to ensure implementation of law in compliance with the human rights standards.



**Chapter 3:**

**NATIONAL LEGAL  
MECHANISMS TO  
ADDRESS CASTE  
AND GENDER  
BASED VIOLENCE**



# 3.1 Legal Provisions -

## India

### Legal Provisions Relating to Dalit women and girls

The principles of gender equality are enshrined in the Indian Constitution, which guarantees equality to all women and empowers the State to adopt positive discrimination measures in favour of all women for neutralizing the cumulative socio-economic, education and political disadvantages faced by them. It provides additional privileges to women from the marginalized communities like Dalit, Adivasi, and minorities to safeguard their rights and entitlements.

Fundamental Rights, among others, ensure equality before the law and equal protection of the law; prohibits discrimination against any citizen on the grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 21, 39(a), 39(b), 39(c), 42 of the Constitution are of specific importance in this regard. Along with this, Article 243 D (3); 243 D (4); 243 T (3); 243 T (4)) are especially dedicated to Dalit and Adivasi women. The Constitution impressed upon the marginalized groups under each article.

Upholding the Constitutional mandate, the State has enacted various legislative measures to ensure equal rights and counter social discrimination and various forms of violence and atrocities against Dalit women.

These are Scheduled Castes and Scheduled Tribes (PoA) Amendment Act 2018; The Criminal Law Amendment Act 2013 and 2018; Protection of Women from Domestic Violence Act 2005, among other such laws. AIDMAM focuses on laws meant to combat caste and gender based violence. Few salient features of some such progressive laws are discussed here.

#### **A.Special Provisions of Scheduled Castes & Scheduled Tribes (Prevention Of Atrocity) Act 1989 as Amended by Amendment Act 2015 & 2018**

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act 1989 as amended by Amendment Act 2015 & 2018 prevents and addresses the violence against SC and ST communities. The principal Act also spoke about the violence against Dalit/Adivasi women but looking at the increasing violence against them and Criminal Amendment Act, the Act was amended in 2015 and more focus was given to Dalit women. Few more offences are also incorporated in the amended Act. Though, all the crimes identified under this law are applicable for the Dalit women as well but there are special sections dedicated to Dalit and Adivasi women where the Dalit and Adivasi women are directly affected such as-

##### **Section 3(1)(k)-**

Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe performs, or promotes dedicating a Scheduled Caste or a Scheduled Tribe woman to a deity, idol, object of worship, temple, or other religious institution as a devadasi or any other similar practice or permits aforementioned acts.

##### **Section 3(1)(w)-**

**(i)** intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature



and is without the recipient's consent;

(ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribes.

#### **Section 3(1)(zb)-**

Causes physical harm or mental agony to a member of a Scheduled Caste or a Scheduled Tribe on the allegation of practicing witchcraft or being a witch, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

#### **Section 4-**

Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act, shall be punishable. If he/she refuses to register the FIR, or does not give the survivor a copy of FIR, or does not file the charge sheet within 60 days etc, will be liable to be booked under the Sec 4.

#### **Section 14(2)-**

It shall be the duty of the State Government to establish an adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible. To ensure speedy justice, the trial shall be concluded within 60 days as per the SCs & STs (PoA) Act.

### **Rights of victims and witnesses**

#### **Section 15A SCs & STs (PoA) Amendment Act, 2015**

- ♂ It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.
- ♂ A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age, or gender or educational disadvantage or poverty.
- ♂ A victim or his dependent shall have the right to

reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

- ♂ A victim or his dependent shall be entitled to file written submission on conviction, acquittal or sentencing.
- ♂ Victims and dependents, witnesses have right to get travelling and maintenance expenses during investigation, inquiry and trial.
- ♂ All proceedings relating to offences under this Act shall be video recorded.
- ♂ It shall be the duty of the concerned State to provide a copy of the recorded First Information Report (FIR) free of cost, immediate relief in cash or in kind.
- ♂ To provide information to atrocity victims or their dependents or associated organizations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet free of cost.
- ♂ To provide information to atrocity victims or their dependents or associated organizations or individuals, regarding the relief amount.
- ♂ To provide information to atrocity victims or their dependents or associated organizations or individuals, in advance about the dates and place of investigation and trial.
- ♂ To give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organizations or individuals and to provide the legal aid for the said purpose.
- ♂ To execute the rights of atrocity victims or their dependents or associated organizations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights.



## CHAPTER 3 NATIONAL LEGAL MECHANISMS TO ADDRESS CASTE AND GENDER BASED VIOLENCE

- ♂ It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organizations, social workers or advocates.
- ♂ It is the duty of the State to provide relief in respect of death or injury or damage to the property and to arrange food or water or clothing or shelter or medical aid and transport facilities or daily allowance to the victims.
- ♂ It is the duty of the State to take necessary precautions at the time of medical examination.

### B. The Protection of Children From Sexual Offences Act, 2012 as Amended by Amendment Act 2019 & Rules 2020

In order to address the problem of Child Sexual Abuse through less ambiguous and more stringent legal provisions, the POCSO Act was formulated in June 2012 and was amended in 2019 and Rules 2020. It deals with the sexual offences against the children below the age of 18. It addresses-

- (i) **Section 3-** Penetrative Sexual Assault
- (ii) **Section 5-** Aggravated Penetrative Sexual Assault
- (iii) **Section 7-** Sexual Assault
- (iv) **Section 9-** Aggravated Sexual Assault
- (v) **Section 11-** Sexual Harassment of the Child
- (vi) **Section 13-** Use of Child for Pornographic Purposes

The Amendment Act 2019 and Rules 2020, increases the minimum punishment to ten years to life imprisonment. It further adds that if a person commits penetrative sexual assault on a child below the age of 16 years, he will be punishable with imprisonment between 20 years to life, along with a fine.

### C. Indian Penal Code, 1860

Indian Penal Code, 1860 has also enlisted several offences which are specifically against women and are characterized as 'Crime against Women'. Important sections devoted for the women under IPC are as under-

- (i) **Section 363-373 IPC-** Kidnapping & Abduction for different purposes
- (ii) **Section 302/304B IPC-** Homicide for Dowry, Dowry Deaths or their attempts
- (iii) **Section 498A IPC-** Husband or relative of husband of a woman subjecting her to cruelty (Torture, both mental and physical)
- (iv) **Section 509 IPC-** Word, gesture or act intended to insult the modesty of a woman
- (v) **Section 376 IPC-** Rape

### D. Criminal Amendment Act, 2013

After the 16th December 2012 incident (Brutal gang rape and subsequent death case of a physiotherapy intern in New Delhi), there is a significant amendment in IPC in the sections relating to women to curb violence against women. It is a most important change in the existing laws like IPC, CrPC and Indian Evidence Act.

- (i) **Section 326A-** Voluntarily causing grievous hurt by use of acid etc.
- (ii) **Section 326B-** Voluntarily throwing or attempt to throw acid etc.
- (iii) **Section 354-** Assault or Criminal force to women with intent to outrage her modesty
  - Section 354A-** Sexual harassment
  - Section 354B-** Assault or use of criminal force to women with intent to disrobe
  - Section 354C-** Voyeurism
  - Section 354D-** Stalking
- (iv) **Section 376-** Punishment for Rape
- (v) **Section 376A-** Punishment for causing death or resulting in persistent vegetative state of victim
- (vi) **Section 376B-** Sexual intercourse by husband upon his wife during separation.
- (vii) **Section 376C-** Sexual intercourse by person in authority.
- (viii) **Section 376D-** Gang Rape
- (ix) **Section 376E-** Punishment for repeat offences

### E. Criminal Amendment Act 2018

Viewing the increasing sexual offences against the





girls below the age of twelve and sixteen (minor girls), the changes were brought up in the Indian Penal Code. It increased the minimum punishment of rape from seven years to ten years and mentioned that Rape and Gang rape of girls below the age of 12 years will carry minimum imprisonment of twenty years and is extendable to life imprisonment or death.

- (i) **Section 376AB**- Punishment for rape on woman under twelve years of age
- (ii) **Section 376DA**- Punishment of gang rape on woman under sixteen years of age
- (iii) **Section 376DB**- Punishment for gang rape on women under twelve years of age

## F. The Protection of Women from Domestic Violence Act, 2005

This Act provides the protection to women from the violence committed on her by the members of family by including all the aspects of violence through a strong definition of domestic violence. It also grants seven kinds of relief to the aggrieved person such as:

- (i) **Section 14**- Counselling
- (ii) **Section 17**- Right to reside in a shared household
- (iii) **Section 18**- Protection orders
- (iv) **Section 19**- Residence orders
- (v) **Section 20**- Monetary Reliefs
- (vi) **Section 21**- Custody orders
- (vii) **Section 22**- Compensation orders

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

An Act to provide protection against sexual harassment

of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

- (i) **Section 3**- Prevention of sexual harassment
- (ii) **Section 9**- Complaint of sexual harassment to the Internal Committee
- (iii) **Section 10**- Conciliation
- (iv) **Section 11**- Inquiry into complaint
- (v) **Section 12**- Action during pendency of inquiry
- (vi) **Section 15**- Determination of compensation
- (vii) **Section 18**- Appeal
- (viii) **Section 27**- Cognizance of offence by court

## Conclusion

The laws mentioned above are relevant women-specific legal provisions under various Acts and Codes introduced to ensure the safety and justice for Dalit women.

The rise in the incidents of crime against Dalit women and girls garnered collective pressure and effort by the Dalit movement as well as civil society, thereby leading to the enactment of stringent legislation and amendments in existing laws. However, the consistent year on year increase in caste and gender based violence and the low convictions and high acquittals point towards the poor and tardy implementation of these laws by the police, administration and courts.

It also stresses the need for more concerted efforts by survivors, movements, civil society, media and UN Human Rights mechanisms for effective implementation of the SCs & STs (PoA) Act, POCSO Act, the Criminal Amendment Act and Constitutional safeguards to secure the rights, dignity and justice for women who are marginalised.



## 3.2 Budget Allocation and Utilisation

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, with its amendments in 2015 and 2018, is a powerful mechanism which provides preventive, pecuniary and penal mechanisms to address violence against Dalit women and girls. The Ministry of Social Justice and Empowerment, Government of India under **Scheduled Caste Sub-Plan**, has allocated a special fund for implementing the Protection of Civil Rights Act, 1955 and SCs & STs (PoA) Act. The fund's purpose is to ensure the community's safety and security along with proportionate relief and rehabilitation measures prescribed by law.

**An analysis of the five-year fund release for period 2016-2021 reveals that from 2016-17 to 2020-21, there have been about two and a half times**

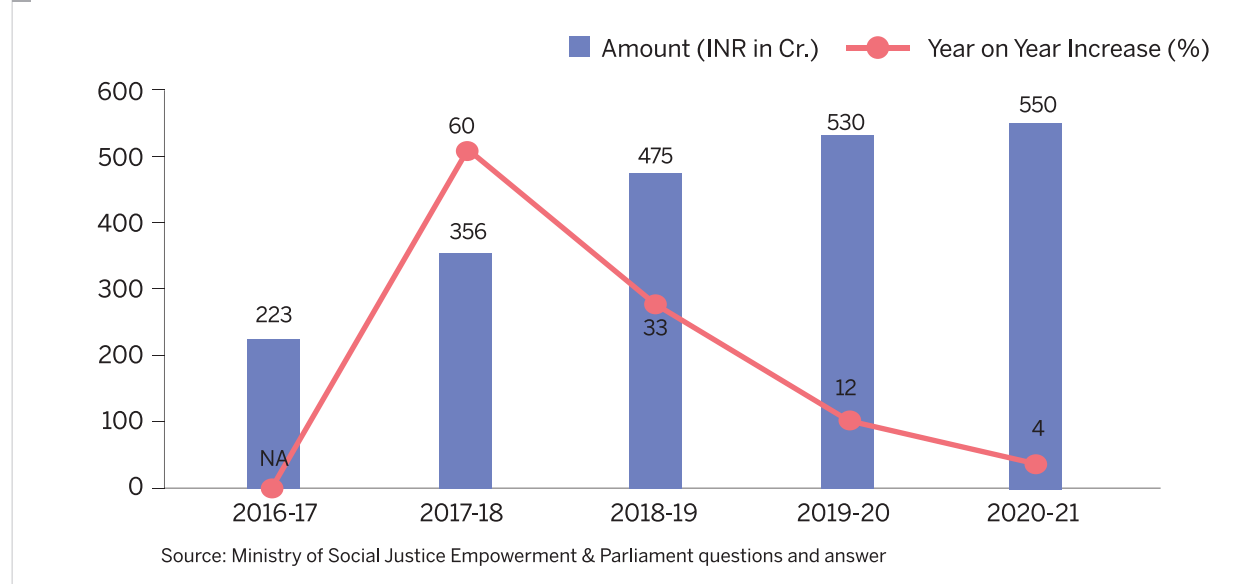
**increase in total allocation of funds. However, the year on year increase in allocation over the years has been at a declining rate.** [Figure 3.1].

There has been a 60% increase in 2017-18 (INR 355.86 Cr.) over 2016-17 (INR 222.56 Cr.), while the increase of 33% is lower for 2018-19 (INR 474.72 Cr.) over 2017-18.

Similarly, increase at declining rates can be seen for 2019-20 (12% increase with a budget of INR 530 Cr.) and 2020-21 (4% increase with a budget of INR 550 Cr) over its respective previous years. [Figure 3.1].

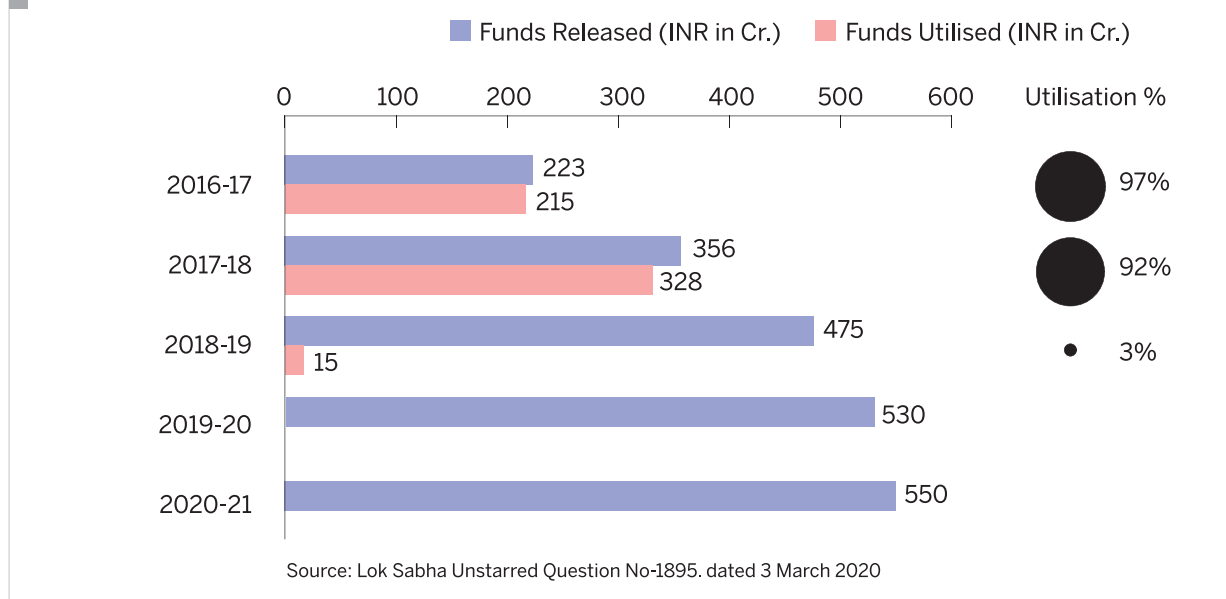
Moreover, these funds seem to be very meagre in nature compared to the increasing number of atrocities in the country to meet the emerging need

**Figure 3.1: Central Assistance Released to all States for implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 during the financial years 2016-21 (INR in Rs Cr)**





**Figure 3.2: Fund allocation v/s Utilisation under SCs & STs (POA) Act, 1989 (in Rs Cr)**



to provide relief and rehabilitation measures to the survivors of caste and gender based violence.

For instance, the fund released for Uttar Pradesh in FY 2018-19 is INR 108.13 Cr which is much higher than other states, accounting for 23% of the total allocation. However, the consistent increase in atrocities against Dalits shows the poor implementation of provisions for the safety and security of the life and property of Dalits. [Figure 3.3].

The recent Hathras gang rape and other subsequent atrocity cases witness the poor implementation of the SCs & STs (PoA) Act and poor utilisation of the released funds.

### **Budget Allocation V/S Utilisation Under SCs & STs (PoA) Act and Protection of Civil Rights Act, 1955**

The budget utilisation of Central Assistance released to all States for implementation of the PCR Act and the SCs & STs (PoA) Act, during five years for 2016-21, shows (a) underutilisation by states (b) missing utilisation data from states which are indicative of

their lack of accountability.

The fund utilisation status by states show 97% utilisation in 2016-17 (with underutilisation of INR 7.13 crores), and 92% in 2017-18 (with underutilisation of INR 27.39 crores). However, alarmingly, the total utilisation in 2018-19 is only 3% (underutilisation of INR 459.4 crores). [Figure 3.2].

The underutilisation from states for INR 459.4 crores recorded as per Lok Sabha unstarred question no-3747, dt: 16 July, shows that most state governments have not provided their utilisation figures. [Figure 3.3].

This indicates the state governments' lack of interest in reporting their response mechanisms to address caste and gender based violence. The pertinent question here is whether the governments are not interested in utilising the released fund towards Dalit and Adivasi women's safety and security or are not transparent and accountable.

Ironically, while on the one hand, the released funds are low, considering the extent and reality of caste and gender based violence, on the other hand, these meagre funds remain underutilised.



## CHAPTER 3 NATIONAL LEGAL MECHANISMS TO ADDRESS CASTE AND GENDER BASED VIOLENCE

Over the last couple of years, **the fund allocation and utilisation status across states is as mentioned in Figure 3.3:-**

The sole objective of the SCs & STs (PoA) Act is to protect the life and provide security to the women of SC & ST communities against multiple forms of

**Figure 3.3: Central Assistance for the implementation of Protection of Civil Rights Act, 1955 and SCs & STs (PoA) Act (in Rs Cr)**

S. No.	States/UTs	2016-17		2017-18		2018-19		2019-20		2020-21	
		Funds released	Funds Utilised	Funds released	Funds Utilised	Funds released	Funds Utilised	Funds released	Funds Utilised	Funds released	Funds Utilised
1	Andhra Pradesh	18.93	16.63	26.09	19.5	37.01	NA	8.46	NA	4.92	-
2	Assam	-	0	NA	NA	NA	NA	-	NA	-	-
3	Bihar	7.28	8.4	15.07	12.2	12.2	NA	5.29	NA	11.75	-
4	Chhattisgarh	2.75	3.5	5.07	5.66	NA	NA	2.46	NA	0.82	-
5	Goa	0.14	0.06	0.07	0.1	0.4	NA	0.04	NA	0	-
6	Gujarat	14.38	16.51	30.11	18.39	10.72	NA	7.97	NA	27.26	-
7	Haryana	4.59	3.73	7.54	5.9	10.41	11.65	2.56	NA	13.59	-
8	Himachal Pradesh	2.82	0.98	0.42	1.28	0	NA	0.56	NA	0.27	--
9	Jharkhand	0.85	1.01	1.84	1.67	3.17	NA	0.72	NA	0.28	-
10	Karnataka	29.33	19.92	28.65	26.37	60.21	NA	11.43	NA	7.24	-
11	Kerala	0	4.98	11.05	8.66	0	NA	3.75	NA	1.22	-
12	Madhya Pradesh	42.07	43.22	68.2	55.45	72.25	NA	24.02	NA	7.19	-
13	Maharashtra	16	14.31	25.47	29.58	4.17	NA	12.81	NA	2.73	-
14	Odisha	10.5	9.56	11.24	8.94	13.56	NA	3.87	NA	1.86	-
15	Punjab	2.65	2.1	1	NA	0	NA	0	NA	0.19	-
16	Rajasthan	14	13.33	30.71	24.45	18.2	NA	10.6	NA	19.11	-
17	Sikkim	0.17	0.17	0.21	0.21	0.25	NA	0.08	NA	0	-
18	Tamil Nadu	17.25	16.42	19.21	18.22	25.25	NA	7.9	NA	2.07	-
19	Telangana	11.48	12.96	13.73	10.81	23.06	NA	4.68	NA	1.99	-
20	Tripura	0	0	0.15	0.06	0.23	NA	0.03	NA	0	-
21	West Bengal	3	3	4.09	1.9	2.56	3.18	1.92	NA	0.37	-
22	Uttar Pradesh	22.15	23.09	51	75.59	108.13	NA	32.76	NA	111.31	-
23	Uttarakhand	0.13	0.04	0.76	1.49	1.44	NA	0.64	NA	0.12	-
24	A & N Islands	0	0	0	0	0	NA	-	NA	-	--
25	Chandigarh	0.1	0.1	0.1	0.1	0.5	0.5	0	NA	0	-
26	Dadra & Nagar Haveli	0	0	0	0	0	NA	-	NA	-	-
27	Daman & Diu	0	0	0	0	0	NA	-	NA	-	-
28	NCT of Delhi	0.25	0.04	0	0.37	0.48	NA	0	NA	0.03	-
29	Puducherry	1.75	1.36	4	1.57	1.52	NA	0	NA	0	-
	<b>Total</b>	<b>222.56</b>	<b>215.43</b>	<b>355.86</b>	<b>328.47</b>	<b>474.72</b>	<b>15.32</b>	<b>530</b>	<b>NA</b>	<b>550</b>	<b>-</b>

Source: Lok Sabha unstarred question no-3747, dt: 16 July 2019



caste and gender based violence, including Rape, Gang rape, Murder, Molestation, Stalking, Disrobing, Kidnapping for marriage, Prostitution, Arson and so on. The recent amendments to the SCs & STs (PoA) Act allow all survivors to receive their due justice and compensation and adequate and timely relief and rehabilitation. The reality, however, is a different story altogether.

## Nirbhaya Fund

The Nirbhaya fund was proposed in 2013, soon after the Delhi gang rape and brutal murder in December 2012. It was launched in 2013 to ensure the safety and security of the women in the country.

The five-year fund allocation reveals that, for the initial two years, the Cabinet Committee on Economic Affairs approved the recommended projects with the fund allocation of INR 1,000 Cr. in 2014-15 and INR 1659.4 Cr. in 2015-16. This excluded One Stop Centre, Mahila Police Volunteers and women helpline.

The following two years saw a drastic reduction of 70% in fund allocation for 2016-17 (INR 503.4 Cr.

released) and a further decrease by 15% in 2017-18 (INR 429.5 Cr. released). However, funds allocated for 2018-19 saw a significant increase of 141% (INR 1033.56 Cr. released). [Figure 3.4]

### Nirbhaya Funds: Allocation Vs Utilisation

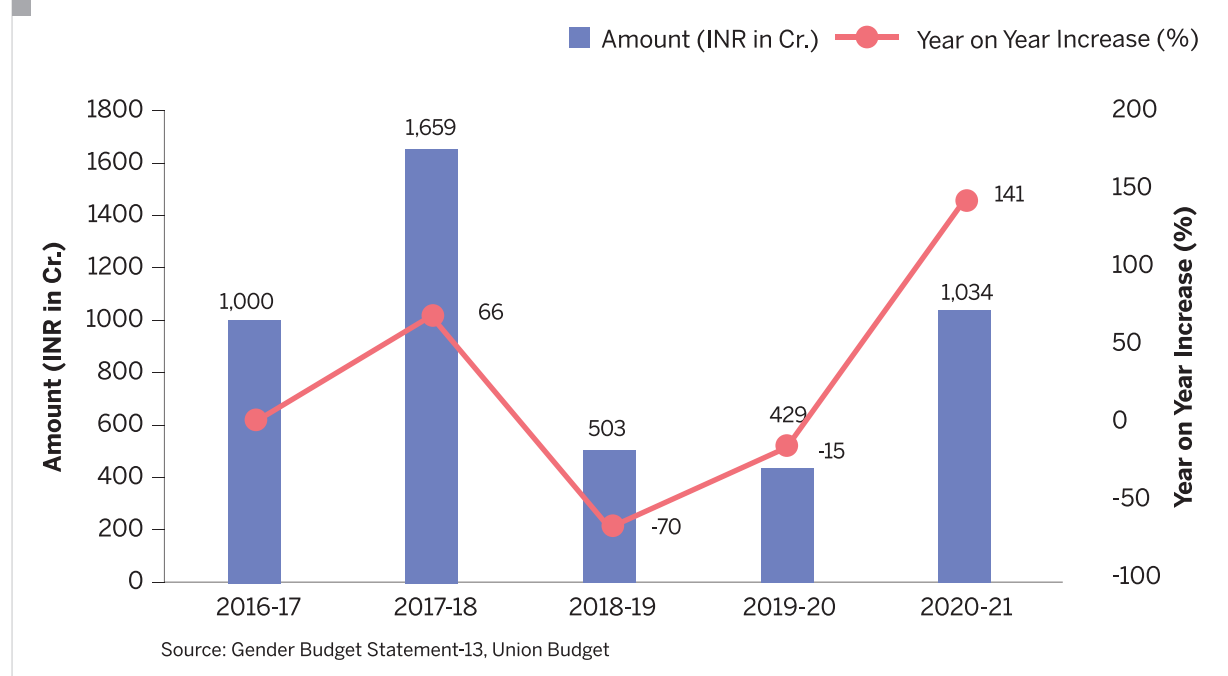
The fund utilisation under Nirbhaya fund shows gross underutilisation for all years, over the last five years from 2014-15 to 2018-19.

In fact, in 2014-15, 0% of funds were utilised of the year's INR 1,000 Cr budgeted. This fund excluded One Stop Centre, Mahila Police Volunteers and women helpline.

In 2015-16, 60% of funds were utilised, with INR 659.4 Cr variance. In 2016-17, 80% of funds were utilised, with INR 100 Cr variance. Similar utilisation of 60% in 2017-18 and 82% in 2018-19 of Nirbhaya funds were recorded, with a variance of INR 169.3 Cr. and INR 184.9 Cr. respectively. [Figure 3.4].

This underutilisation depicts that the government is not serious about spending this fund. It is to be seen how this fund is utilised to support victims and

**Figure 3.4: Fund allocation and utilisation in Nirbhaya Fund under Ministry of WCD & Police Dept (INR in Cr.)**





**Figure 3.5: Fund allocation under Nirbhaya schemes in Different Ministries as of 6 March 2020 (INR in Cr)**

SN	Name of the Proposal	Amount Appraised (INR in Cr)
<b>Ministry of Home Affairs</b>		
1	Safe City Proposal for 8 Cities- Delhi, Kolkata, Mumbai, Chennai, Hyderabad, Bengaluru, Ahmedabad and Lucknow.	2,919.55
2	Emergency Response Support system	321.69
3	Creation of Central Victim Compensation Fund (CVCF)	200.00
4	Cyber Crime Prevention against Women & Children (CCPWC)	195.83
5	Strengthening DNA analysis, cyber forensic & related facilities in SFSLs in 13 states	131.09
6	Proposal for implementing a 'Safe City Project' in Commissionerate Police, Bhubaneswar-Cuttack, Govt. of Odisha	110.35
7	Setting-up and strengthening Anti-Human Trafficking Units in all districts of States & UTs.	100.00
8	Setting up/ strengthening Women Help Desks in Police Stations in all States & UTs (covering 10,000 Police Stations).	100.00
9	Establishment of State of Art DNA Lab. at CFSL, Chandigarh	99.76
10	Organised Crime Investigative Agency (OCIA)	83.20
11	Sub-project under CCPWC	28.93
12	New building with women-centric facilities for Special Unit for Women & Children (SPUWAC) and Special Unit for North East Region (SPUNER) at Nanakpura	23.53
13	Various other activities under the Delhi Police 'Safety of Women' Scheme	10.20
14	Proposal for procurement of Forensic Kits for sexual Assault cases	7.09
15	Proposal for providing the facility of Social Workers/Counsellors at the District and Sub- Divisional Police Station Level in Delhi	5.07
<b>Ministry of Women and Child Development</b>		
16	One Stop Centre (OSC)	867.74
17	Universalisation of Women Helpline (WHL)	155.94
18	Mahila Police Volunteers (MPV)	27.76
19	Chirali Proposal, Women Empowerment Directorate	10.20
20	Nirbhaya Shelter Home, Govt. of Nagaland	2.84
21	Smart and Safe Cities Free from Violence against Women and Girls' Programme, Govt. of M.P.	1.74

*Continued on next page*



Continued from previous page

SN	Name of the Proposal	Amount Appraised (INR in Cr)
22	Strategic communication initiatives for women's safety, Govt. of Tamil Nadu	1.45
23	Safety and Security of Women, Govt. of Uttarakhand	0.72
24	Safety and Security of Women, Govt. of Uttarakhand	0.29
25	NICSI for Developing Nirbhaya Dashboard	0.24
	<b>Ministry of Road Transport &amp; Highways</b>	
26	Proposal of C-DAC for customisation, deployment and management of State-wise vehicle tracking platform.	465.02
27	Abhaya Project Proposal for safety of women and girl child, Govt. of Andhra Pradesh	138.49
28	Women's safety in public transport, UPSRTC, Govt. of U.P.	83.50
29	Bengaluru Metropolitan Transport Corporation, Govt. of Karnataka on Training women for heavy passengers vehicles	56.06
	<b>Ministry of Railways</b>	
30	Integrated Emergency Response Management System (IERMS)	500.00
31	Provision of Video Surveillance System at Konkan Railway Station	17.64
	<b>Ministry of Electronics and Information Technology/ IIT Delhi</b>	
32	Development & Field Testing of panic Switch based safety Device for Cars and Buses for aiding Women's Safety	3.49
	<b>Dept. Of Justice</b>	
33	Setting up Fast Track Special Courts to dispose of cases pending trial under Rape & POCSO Act	767.25
	<b>Ministry of Tourism</b>	
34	Safe Tourism Destination for women in MP	27.98
	<b>Total</b>	<b>7,464.64</b>

Source: Lok Sabha Un-starred Question No. 2720 dated 06.03.2020

survivors of violence from the Dalit community. This underutilisation of fund also clearly shows that, for most of the registered cases, victims are either not provided with the due financial relief and compensation, or there

is an inadequate and improper implementation of the schemes for the safety and security of women in general. As far as the women belonging to marginalised communities is concerned, there is no allocation for



## CHAPTER 3: NATIONAL LEGAL MECHANISMS TO ADDRESS CASTE AND GENDER BASED VIOLENCE

these communities under the statement 10A and 10B, under Union Budget, which is meant for SC & ST Communities.

### Budget Allocation by Ministries Under Nirbhaya Scheme

State Ministries and Departments have earmarked Nirbhaya funds towards a range of projects and schemes. According to the Lok Sabha unstarred question, 6 March 2020, other than the nodal Ministry like Women and Child Development (WCD), other Ministries have equal responsibilities to ensure the women's safety and security in the country. These are Ministry of Home Affairs, Ministry of Road Transport & Highways, Ministry of Railways, Ministry of Electronic Information and Technology/ IIT Delhi & Dept. Of Justice and Ministry of Tourism. [Figure 3.5]

The Ministry of Home Affairs (MHA) has earmarked funds for 15 projects. The highest funded scheme is 'Safe City Proposal for 8 Cities, namely - Delhi, Kolkata, Mumbai, Chennai, Hyderabad, Bengaluru, Ahmedabad and Lucknow. INR 2919.55 Cr. has been released to the states under this scheme. Some of the other schemes are 'Emergency Response Support System' with INR 321.69 Cr., 'Creation of Central Victim Compensation Fund (CVCF)' with INR 200 Cr., Cyber Crime Prevention against Women & Children (CCPWC) with INR 195.83 Cr., released to states.

Similarly, the Ministry of WCD has proposed and released the fund under ten such schemes. The highest funded scheme remains to be 'One Stop Centre (OSC)' with INR 867.74 Cr., 'Universalisation of Women Helpline (WHL)' with INR 155.94 Cr., 'Mahila Police Volunteers (MPV)' with INR 27.76 Cr. The Ministry of Road Transport & Highways also proposed and funded four new project and schemes.

One of the most important schemes under Nirbhaya fund is 'One Stop Crisis (OSC) Centre', funded by Ministry of WCD, whose objective is to provide integrated support and assistance to women affected by violence, in private and public spaces, under one roof. However, WCD has covered only 724 districts across the country under this project.

The highest established OSC centres are in 75 districts of Uttar Pradesh, followed by Madhya Pradesh with 51 districts and Maharashtra with 36 districts. As of 3 March 2020, 728 OSC centres have been approved to be established in 724 districts. Of these, 684 OSC centres are functional.<sup>36</sup>

It is a matter of concern that despite the highest number of OSC centres, UP has the highest incidences of crimes against women, including Dalit women. Moreover, since none of the One Stop Centres is specific for SC & ST women, it has to be seen how many SC & ST women can access this scheme.

### Conclusion

The sheer negligence and deliberate violation of the budget allocation and inadequate utilisation of the fund, especially under the SCs & STs (PoA) Act, shows that mere amendment in the laws is not enough. Effective implementation at the ground is essential for rehabilitation of survivors of the caste and gender based violence. The fund is inadequately utilised in most states despite the rapid increase in Dalit atrocities. This indicates that the Dalit survivors are denied their entitlements as per the law.

The inadequate funding and utilisation of the Nirbhaya Fund defeats its stated purpose. The SCs and STs are entirely ignored under the Nirbhaya Fund, which shows the government's apathy and prejudices towards Dalit women and minor girls.

<sup>36</sup> <http://loksabhapn.nic.in/questions/QResult15.aspx?qref=13803&lsno=17>





## Chapter 4

# INTERNATIONAL FRAMEWORK TO ADDRESS CASTE AND GENDER BASED VIOLENCE



# 4 Response of United Nations Human Rights Bodies for Dalit Women's Rights

Several UN Human Rights bodies have raised concerns about the human rights situation of Dalit women in India. Treaty body committees and UN Special Procedures have underlined that caste discrimination is in violation of human rights law and have demonstrated how caste discrimination intersects with several cross-cutting themes.<sup>37</sup>

Dalit rights and women rights organisations, including **National Campaign for Dalit Human Rights (NCDHR)** and **AIDMAM**, have relentlessly advocated with various UN Human Rights bodies to recognise and acknowledge caste and gender based discrimination and violence in India. The efforts and contribution of international solidarity networks like **the International Dalit Solidarity Network (IDSN)** should be acknowledged for their extensive international advocacy on behalf of Dalits worldwide.

The grassroots and cumulative years of experience of such organisations with Dalit communities and lived experience of leaders of such organisations who themselves belong to Dalit, Adivasi, and other marginalised communities have provided evidence to the existence of the issue in its various forms and manifestations.

Such crisis intervention and advocacy-based initiatives have facilitated required amendments in the Indian laws and policies and draw the international attention of Special Rapporteurs and other UN treaty bodies.

## UN Human Rights Monitoring Bodies Call to Action to India for Addressing Caste and Gender Based Violence

Currently made up of 193 Member States, the mission and work of the United Nations are guided by the purposes and principles contained in its founding Charter. India is a founding member of the United Nations, signing the UN Charter, along with 50 other countries, on 26 June 1945.

The sixth **UN High Commissioner for Human Rights, Ms. Navi Pillay** (in office 1 September 2008 – 31 August 2014), has on several occasions called for a national and global response to address caste discrimination for crimes of sexual violence in India.

In 2009, she issued an opinion piece entitled 'Tearing down the wall of Caste' in which she called on the Human Rights Council to promote the 2009 Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, and on all states to rally around and endorse these norms.

The Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent were recommended by Mr. Yozo Yokota

<sup>37</sup> [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/Ind/INT\\_CEDAW\\_NGO\\_Ind\\_17408\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/Ind/INT_CEDAW_NGO_Ind_17408_E.pdf)



and Ms. Chin-Sung Chung, Special Rapporteurs for discrimination based on work and descent as foregoing observations and conclusions (A/HRC/11/CRP.3).<sup>38</sup>

References to caste have been included in various statements by the UN High Commissioner, including in the statement entitled 'Fundamental changes needed in the wake of India rape tragedy: Pillay' of 31 December to the gang-rape case in New Delhi, India.

**With relation to caste and gender based violence, we have compiled the observations and recommendations by three UN human rights monitoring bodies, as follows:**

- UN Human Rights Treaty Bodies (1997-2014)
- Universal Periodic Review (2008-2017)
- UN Special Procedures (2008-2020)

We would like to acknowledge the International Dalit Solidarity Network's (IDSN) publication '**Caste Discrimination and Human Rights- Compilation of UN References**'<sup>39</sup> from where many inputs regarding the comments and recommendations of the UN and its Treaty Bodies on the issues of Dalit women have been drawn.

## A: United Nations Human Rights Treaty Bodies

The UN Treaty bodies have time and again raised concerns on the situation of Dalit women in India. Recommendations have specifically been made by five such bodies, including -

- ♂ Committee on the Elimination of Racial Discrimination (CERD)
- ♂ Committee on Elimination of Discrimination Against Women (CEDAW)
- ♂ Committee on Economic Social and Cultural

Rights (CESCR)

- ♂ Covenant on Civil and Political Rights (CCPR)
- ♂ Committee on the Rights of the Child (CRC)

These recommendations are –

## CERD Concluding Observations, 2007

Concluding Observations of CERD, 2007 noted India's comprehensive constitutional provisions and other state legislation to combat discrimination based on race and caste and the measures adopted to advance equal enjoyment of rights by the SCs and STs.

It also raised specific concerns regarding Dalit women related to health and nutrition, free and compulsory education, access to resources, political participation and representation, among others. Concerns and recommendations about caste and gender based violence are as follows –

**Para 15: About sexual violence against Dalit women primarily by men from dominant castes:** The Committee recommended effective prosecution and punishment for sexual violence and exploitation of Dalit and Tribal women and anyone preventing/discouraging victims from reporting such incidents. It also urged India to undertake preventive measures and provide psycho-legal-medical assistance and compensation to victims.<sup>40</sup>

**Para 17: About impediments to Dalit women's political participation and representation in Union, State and local elections:** The Committee recommended for effective enforcement of reservation policy and apply reservation to all public service posts, including judiciary; ensuring

<sup>38</sup> The draft UN Principles and Guidelines for the effective elimination of discrimination based on work and descent, published by the UN Human Rights Council in 2009 (A/HRC/11/CRP.3), recommend specific measures to be taken by governments to prevent and eliminate caste-based discrimination, including multiple forms of discrimination against Dalit women in para. 53-54. (<http://idsn.org/international-advocacy/un/un-principles-guidelines/>)

<sup>39</sup> Caste Discrimination and Human Rights, Compilation of UN References, IDSN, 13th edition, July 2020 / <https://idsn.org/wp-content/uploads/2020/07/IDSN-Compilation-of-UN-caste-references-July-2020.pdf> [accessed 28 January 2021]

<sup>40</sup> CERD concluding observations, Para 15



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rights to SCs and STs to **safely vote, contest elections and exercise mandate**, if elected. It also recommended ensuring **political representation** in Union, State and local governments and legislatures, with an update in the following periodic report.<sup>41</sup>

**Para 18: About violence and social sanctions against inter-caste marriage and continuing practices of child marriage and dowry, and Devadasi:** The Committee recommended India to effectively **enforce laws related to child marriage, dowry, and ritualised prostitution (viz., Devadasi)**. It recommended **punishment for violence** against inter-caste couples and **rehabilitation** of such victims and **sensitisation and awareness training** of officials and public about the criminal nature of such acts.<sup>42</sup>

**Para 22: About Denial of equal access to emergency assistance:** The Committee post-Tsunami relief and rehabilitation processes recommended for **investigating discrimination during emergency assistance and compensation** thereof. This recommendation of 2007 is crucial in light of similar allegations against Gol during COVID-19 pandemic emergency assistance.<sup>43</sup>

**Para 26: About allegations against Police regarding inadequacies in reporting and investigating cases and against Courts regarding high acquittals and low convictions:** The Committee recommended India to ensure access to **effective remedies** for survivors of caste and gender based violence and discrimination. It recommended for **better reporting, investigation**

**and prosecution** under appropriate legal provisions and **compensation and rehabilitation** for victims. It recommended for a disaggregated update on above in the following report.<sup>44</sup>

**Para 27: About caste bias and stereotypes:** The Committee recommended that India strengthen its **efforts to eradicate** the social acceptance of **caste-based discrimination** and racial and ethnic prejudice.<sup>45</sup>

### CERD, General Comment No. 29 on descent-based discrimination, 2002

**1.** To take into account in all programs and projects planned and implemented, and in measures adopted, the situation of women members of the communities, as victims of multiple discrimination, sexual exploitation and forced prostitution.<sup>46</sup>

**2.** To take all measures necessary to eliminate multiple discrimination, including descent-based discrimination against women, particularly in **personal security, employment, and education**.<sup>47</sup>

**3.** To provide **disaggregated data** for the situation of women affected by descent-based discrimination.<sup>48</sup>

**4.** Caste-based discrimination falls within the **scope of the Convention** and therefore constitutes an effective framework to improve analysis and reporting on governments' performance.

<sup>41</sup> CERD concluding observations, Para 17

<sup>42</sup> CERD concluding observations, Para 18

<sup>43</sup> CERD concluding observations, Para 22

<sup>44</sup> CERD concluding observations, Para 26

<sup>45</sup> CERD concluding observations, Para 27

<sup>46</sup> General Comment No. 29 on descent-based discrimination, 2002, Para 11

<sup>47</sup> General Comment No. 29 on descent-based discrimination, 2002, Para 12

<sup>48</sup> General Comment No. 29 on descent-based discrimination, 2002, Para 13



## CEDAW, Concluding Observations, 2014

The Committee considered India's combined 4<sup>th</sup> and 5<sup>th</sup> periodic reports and with reference to multiple barriers to justice faced by Dalit women, recommended India to -

**Para 35(a):** Monitor the availability and efficiency of the Legal Services Authorities, implement legal literacy programmes, increase the awareness of Dalit women of all legal remedies available to them, and to monitor the results of such efforts.<sup>49</sup>

**Para 35(b):** Strengthen public awareness-raising campaigns and take concrete measures to ensure that Dalit and women from Scheduled Tribes are aware of the procedures for registration of births and obtaining birth certificates, and ensure their access to these facilities.<sup>50</sup>

**Para 35(c):** Provide training to medical and health professionals to ensure that Dalit women are attended by trained health-care personnel.<sup>51</sup>

## CEDAW Concluding Comments, 2007

**Para 19:** Provide **free legal services** in rural and urban areas, **monitor the quality and impact** of such services regarding women's access to justice. It also requested India to provide information in its next periodic report about Dalit women's (among other marginalised groups) access to free legal services and the scope and effectiveness of such services.<sup>52</sup>

**Para 21:** Take steps in partnership with states and union territories to fully and consistently implement and enforce the **Domestic Violence Act** and to ensure that **all women victims of domestic violence**, including Dalit women among other marginalised groups, **can benefit from the legislative framework and support systems** in place and that perpetrators are effectively prosecuted under the Penal Code and adequately punished. It also recommended for **sensitisation of public officials** in all forms of violence against women. It also recommended for providing **domestic violence information disaggregated by caste, minority status and ethnicity**, in its next periodic report.<sup>53</sup>

**Para 29:** Set up a **monitoring mechanism for effective enforcement of SCs & STs (PoA) Act** so as to ensure accountability and end impunity for crimes committed against Dalit women. It also recommended **increasing legal literacy of Dalit women** and improving their access to justice.<sup>54</sup>

Study the **health implications of manual scavenging** on Dalits engaged in this profession and on the community as a whole, and to **address all the impediments to eradicating this practice**, including by **putting in place modern sanitation facilities** and providing the Dalit women engaged in this practice with **vocational training and alternative means of livelihood**.<sup>55</sup>

**Para 75:** Enforce laws preventing discrimination against Dalit women and prohibiting the **Devadasi system**. To introduce **affirmative action programmes** in such areas as education, employment and health so as to provide life chances to Dalit women and girls and create an

<sup>49</sup> CEDAW concluding observations, 2014, Para 35 (a)

<sup>50</sup> CEDAW concluding observations, 2014, Para 35 (b)

<sup>51</sup> CEDAW concluding observations, 2014, Para 35 (c)

<sup>52</sup> CEDAW concluding comments, 2007, Para 19

<sup>53</sup> CEDAW concluding comments, 2007, Para 21

<sup>54</sup> CEDAW concluding comments, 2007, Para 29

<sup>55</sup> CEDAW concluding comments, 2007, Para 29



environment conducive to their progress.<sup>56</sup>

### CEDAW, Concluding Comments, 2000

**Para 74:** The Committee raised concern regarding **continuing discrimination and violence against Dalit women**, despite the enactment of SCs & STs (PoA) Act, 1989.

The Committee recommended India to enforce laws preventing discrimination against Dalit women and **prohibiting the Devadasi system**, and introduce affirmative action programmes in such areas as **education, employment and health**, along with a timeframe for interventions and an update in the following report.<sup>57</sup>

### CESCR Concluding Observation India, 2008

**Para 53:** The Committee stressed the need for a **determined enforcement of the criminal justice system** and recommended that the **State party strengthen procedures for prompt and impartial investigations and effective prosecutions of all allegations of violations** under the 1989 Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act.

**Para 53:** Expand throughout the state, **preventive programs to curb violence against SCs and STs**, especially women.<sup>58</sup>

### CCPR Concluding Observations, 1997

**Para 15:** The Committee raised concern on the severe social discrimination and rights violations under the Covenant faced by Dalits (among other marginalised groups) despite measures taken by the Government. It recommended that **further efforts be adopted, including education programmes** at national and state levels, to **combat all forms of discrimination against these vulnerable groups**, in accordance with articles 2, paragraph 1, and 26 of the Covenant.<sup>59</sup>

### CRC-Optional Protocol, Concluding Observations, 2014

**Para 21: In relation to the prevention of child prostitution and child pornography:** The Committee raised concern on an inadequate mechanism to identify and monitor children at risk, such as Dalit children (among other marginalised groups) prevent child prostitution, child pornography, the practice of Devadasi. It recommended India to establish effective mechanisms to **identify and monitor at-risk children**.<sup>60</sup>

### CRC Concluding Observations, 2004

**Para 26: In relation to the right to non-discrimination of Dalit children** (among other marginalised children): Concerted efforts to be made to address social inequalities.

<sup>56</sup> CEDAW concluding comments, 2007, Para 75

<sup>57</sup> CEDAW concluding comments, 2007, Para 75

<sup>58</sup> CESCR concluding observation India, 2008, Para 53

<sup>59</sup> CCPR concluding observations, 1997, Para 15

<sup>60</sup> CRC-Optional Protocol, Concluding Observations, 2014, Para 21



**Para 28: In relation to significant discrimination of children, including Dalits:** Take necessary steps to abolish 'Untouchability' and prevent caste-based abuse by state and non-state actors. It also recommended India for full implementation of SCs & STs (PoA) Act and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.<sup>61</sup>

## CRC Concluding Observations, 2000

**Para 31:** As recommendation, Para 28, 2004.

**Para 75: In relation to concern about sexual abuse and exploitation of children, especially Dalits, while noting that Devadasi or ritual prostitution is prohibited under the law:** To take all necessary actions to eradicate this practice.

## B. Universal Periodic Review and Recommendations to India by Member Countries of HRC

The **Universal Periodic Review (UPR)** is a unique process which involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and fulfil their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for every country when their human rights situations are assessed. This mechanism aims to improve the human rights situation in all countries and address human rights violations wherever they occur.

The member countries participating in the Universal Periodic Reviews give recommendations to the MuR

(Member Under Review), and India has been reviewed three times, in 27<sup>th</sup> session (2017), 13<sup>th</sup> session (2012) and 1<sup>st</sup> session (2008). Specific concerns related to Dalit women in India were raised in these three sessions. India is currently undergoing the fourth cycle of Universal Periodic Review.

After considering all the recommendations given by the working groups of the UPR, it is also observed that India did not accept or consider most of the recommendations. Even though some of the recommendations were only noted or accepted, no significant action has yet been taken by the government over the recommendations given by the working groups of Universal Periodic Reviews.

**The following section briefly highlights the recommendations by member countries to India based on the UPR reports.**

## Report of the Working Group on UPR for India, 27th UPR Session, 4 May 2017

The Report of Working Group on UPR for India in the 27<sup>th</sup> UPR Session, 4 May 2017,<sup>62</sup> highlighted the amendments in laws for more stringent punishment of atrocities against SCs and STs and changes in policies for addressing the marginalisation of the groups.<sup>63</sup>

India **noted** the recommendations received for making concerted efforts to guarantee equality and non-discrimination and advance the rights of women and girls (Ireland); combat caste and gender based discrimination and violence, including in educational system (Czechia); remove barriers for birth registrations of SCs & STs children (Bahrain) and take policy and other measures to address the alarming trend of racism, racial discrimination, (Pakistan).

<sup>61</sup> CRC Concluding Observations, 2004, Para 28

<sup>62</sup> Report of the Working Group on the Universal Periodic 13th UPR Session India' 24 May 2012 A/HRC/21/10

<sup>63</sup> Caste Discrimination and Human Rights, International Dalit Solidarity Network, July 2020, <https://idsn.org/wp-content/uploads/2020/07/IDSN-Compilation-of-UN-caste-references-July-2020.pdf>



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### The recommendations accepted by India were regarding –

- ♂ Ensuring the enforcement of laws for the protection of SC & ST populations (USA); continue combating caste-based discrimination and violence against SCs (Peru); repeal discriminatory norms and practice that perpetuate caste discrimination and violence (Argentina); effective implementation of the SCs & STs (PoA) Act; notably through the training of State officials (France), prevent caste-based violence through appropriate judicial measures (Holy See);
- ♂ Ensuring access to adequate housing, water and sanitation for Dalits among other marginalised groups (Germany); ensuring universal; mandatory and free education for Dalit children (among other marginalised groups) (Mexico, Holy See);
- ♂ Enhancing activities for eliminating caste-based gender discrimination (Kyrgyzstan).

### Report of the UPR Working Group, 13th UPR Session India, 24 May 2012

The Report of UPR Working Group for India, 13<sup>th</sup> Session, 24 May 2012<sup>64</sup> highlighted India's efforts on the advancement of SCs (among other marginalised groups), creation of employment opportunities, especially women, with a visible decline in the unemployment rate among SCs and STs.<sup>65</sup>

India **accepted the recommendations** received for ensuring appropriate mechanisms for measuring promotion and protection of Dalits (among other marginalised groups (Ghana); continue promotion

of women's equality and rights, especially in the choice of marriage, independent of caste-related considerations (among others) (Holy See).

### India did not accept recommendations related to:

- ♂ Ensuring effective implementation of relevant laws, increased protection of Dalits (among other marginalised groups) and for providing access to legal remedies (by Germany, USA); continuing efforts to empower marginalised groups, including Dalits and to eliminate caste-based discrimination through effective implementation of laws and HRE of officials, as well as providing disaggregated caste-related data (Thailand);
- ♂ Monitoring effectiveness of reservation and implementing the same in education and employment and in relevant enforcement agencies and strengthening human rights training of teachers (Japan)
- ♂ Enacting law for the protection of human rights defenders (Czech Republic); and implementing the recommendations made by the Special Rapporteur on the rights of human right defenders (2011), including Dalits. (Norway);
- ♂ Preventing violence against Dalits (among other marginalised communities) through a judicial process. (Holy See).

### Report of UPR Working Group for India in the 1st UPR session, April 2008

The report of UPR Working Group for India in 1<sup>st</sup> UPR session, April 2008<sup>66</sup> highlighted efforts made by

<sup>64</sup> Report of the Working Group on the Universal Periodic 13th UPR Session India' 24 May 2012 A/HRC/21/10

<sup>65</sup> Caste Discrimination and Human Rights, International Dalit Solidarity Network, July 2020, <https://idsn.org/wp-content/uploads/2020/07/IDSN-Compilation-of-UN-caste-references-July-2020.pdf>

<sup>66</sup> 1st UPR session India' April 2008 A/HRC/8/26





India in addressing caste-based discrimination. It also pointed out that caste-based discrimination is different from racial discrimination.

India received recommendations on the need to maintain disaggregated data on caste and related discrimination (from Canada, Belgium, Luxembourg) and on strengthening Human Rights Education to effectively address caste and gender based violence (from Italy).

**India did not accept these recommendations**, stating that extensive disaggregated data on caste is available in the public domain. Government of India's National Plan of Action for Human Rights Education (HRE) stands for promoting awareness about human rights among all sections of the society. HRE is a part of school and university curricula, and training programmes are organised regularly for officials and enforcement agencies.<sup>67</sup>

### C. Human Rights Council and Special Procedures

**UN Special Procedures:** The Special Procedures of the Human Rights Councils are independent human rights experts or a group of experts who are mandated to report and advise on human rights from a thematic or country-specific perspective. Numerous Special Rapporteurs, who are one of the UN Special Procedures, have raised concerns on Dalit Women's plight in India in their reports on different aspects of Human Rights.

The Special Rapporteurs of the UN Human Rights Council have made numerous observations to the Government of India, regarding caste-based gender discrimination and violence, over the last decade. These are highlighted below:-

### 44th HRC Session, June 2020

#### **Report of the Working Group on the issue of discrimination against women in law and in practice.**

Report of the Working Group on the issue of discrimination against women, in law and in practice, noted that in order to fully understand the nature and scope of discrimination against women in the world of work, it is essential to take an intersectional approach, given that there are multiple forms of discrimination at play that result in particular vulnerabilities and differences in employment outcomes. According to **information received by the Working Group, Dalit women disproportionately experience discrimination at work, even in urban settings and in skilled labour. Dalit women earn half the average daily wage earned by non-Dalit castes.**<sup>68</sup>

### HRC 39th Session, Sep 2018

#### **Special Rapporteur on the human rights to safe drinking water and sanitation - Mission to India**

Report of the Special Rapporteur on the human rights to safe drinking water and sanitation - Mission to India also raised concerns on the plight of Dalit women. **The Special Rapporteur concluded that Dalits represent the victims of the gravest forms of caste-based discrimination, have often limited or unequal access to resources and services, including water and sanitation, and are disproportionately affected by poverty.**

During the visit, the Special Rapporteur heard

<sup>67</sup> Caste Discrimination and Human Rights, International Dalit Solidarity Network, July 2020, <https://idsn.org/wp-content/uploads/2020/07/IDSN-Compilation-of-UN-caste-references-July-2020.pdf> [Accessed on 13 February 2021]

<sup>68</sup> A/HRC/44/51 (44th HRC Session, June 2020), Para 17.



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numerous testimonies from Dalits regarding incidents where they could not collect water from shared wells or public taps or have been fined for touching or drinking from a common water tap. Some Dalits have been beaten and killed. Dalit women and girls have been subjected to physical assault and violence; in one incident, a pregnant Dalit woman was assaulted and abused while she was defecating in the open. In several incidents, Dalit women and girls were kidnapped and raped while returning from defecating in the open. Furthermore, Dalit students were not allowed to drink water directly from the water pot and were forced to request students from other castes to pour the water into their hands from a distance.<sup>69</sup>

**The Special Rapporteur recommended:** To establish a monitoring system to follow the process of emptying pit latrines under the national programmes, in order to control possible trends of increases in manual scavenging practices, ensuring that this practice is not carried out in a caste-discriminatory manner; Disaggregate data by wealth level, migratory status, ethnic group, scheduled caste, scheduled tribe and other grounds of discrimination, identifying patterns of inequality, as such information may have an impact on the formulation of national policies.<sup>70</sup>

### 29th HRC Session, June 2015

#### Special Rapporteur Christof Heyns

Special Rapporteur **Christof Heyns**, in his report on extrajudicial, summary or arbitrary executions, also raised concerns on Dalits and, in particular Dalit women. The Special Rapporteur also noted with concern that the Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act of 1989 did not incorporate Dalit Muslims and Christians into the definition of Scheduled Castes and Tribes. A recommendation was made that the legislation should be reviewed to extend the definition.

**The Committee on the Elimination of Discrimination against Women noted in 2014 that Dalit women were particularly vulnerable as they faced multiple forms of discrimination presenting barriers to justice and that poor implementation of the Act was of concern.** The Special Rapporteur was aware of the recent passing of the Constitution (Scheduled Castes) Orders (Amendment) Bill, 2014, and welcomed the inclusion of additional communities to the list of scheduled castes, but reiterated the importance of ensuring the protection of all marginalised communities in practice through effective implementation of the related legislation, as well as the conduct of relevant education and awareness-raising campaigns reaching out to all communities.<sup>71</sup>

### 21st HRC Session, Sep 2012

Thematic report on stigma and the realisation of the human right to safe drinking water and sanitation by the Special Rapporteur raised concerns for Dalit women in particular. It said Dalits are regularly forced into the most menial, socially degrading, dirty and hazardous jobs. Some Dalits, in particular women, work as manual scavengers or sweepers; the terminology varies across countries but generally refers to those who clean faeces from dry toilets. As a result of their direct contact with human faeces, manual scavengers suffer from a range of health problems that are, for the most part, left untreated and

<sup>69</sup> A/HRC/39/55/Add.1 (HRC 39th Session), Sep 2018

<sup>70</sup> A/HRC/39/55/Add.1 (HRC 39th Session), Sep 2018

<sup>71</sup> A/HRC/29/37/Add.3 (29th HRC Session June 2015), Para 48.



further added to their stigmatisation. Manual scavengers and sweepers suffer extreme forms of **social exclusion**, even within their own caste. These practices are deeply rooted in society and institutionalised through State practice, with municipalities themselves employing sweepers. Such stigma is perpetuated in schools, where cleaning duties are often assigned to students hailing from Dalit families. **Instead of breaking caste barriers, teachers perpetuate stigmatisation, limiting young people's rights to be free from discrimination and access education.**<sup>72</sup>

## 19th HRC Session, March 2012

**Addendum - Mission to India (10-21 January 2011), 19th HRC session, March 2012**  
**Margaret Sekaggya**

Special Rapporteur on the situation of human rights defenders, **Margaret Sekaggya**, in her addendum, raised a few concerns on the situation of Dalit women in India. **The Special Rapporteur is particularly concerned at the plight of women Dalits rights defenders who face caste and gender based violence or restrictions regarding their work on the basis of their caste and gender.** In August 2010, an elected female Dalit representative in Rajasthan was insulted and beaten by members of the dominant caste because she had taken up cases of land rights in her community. She filed a complaint to the Police, but the perpetrators were reportedly never arrested. In another case, a centre working on Dalit women's issues was forcibly closed down by the dominant caste, and the manager was subsequently attacked by villagers and forced to leave the village with her family.<sup>73</sup>

## 17th HRC Session, June 2011

**Githu Muigai- Special Rapporteur on Contemporary Forms of Racism**

- ♂ Women in Dalit communities in Asia are subjected to physical abuse, sexual harassment, trafficking and sexual violence.<sup>74</sup>
- ♂ Violations of land and property rights also affect these women<sup>75</sup>, who suffer disproportionately in terms of health care, education, and subsistence wages. **Dalit women in India and Nepal make up the majority of landless labourers and scavengers. He also noted that the practice of Devadasi continues in India.** However, once women are ceremonially dedicated, they are forced to become prostitutes for upper-caste community members. **Recently, most Devadasis have ended up working in the sex trade industry.** In some cases, sexual violence is linked to debt bondage.

## 16th HRC Session, March 2011

**The Special Rapporteur, jointly with the Chair Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

On **18 August 2010**, the Special Rapporteur, jointly with the Chair Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,

<sup>72</sup> A/HRC/21/42 (21st HRC session, Sep 2012), Para 34.

<sup>73</sup> Addendum - Mission to India (10-21 January 2011), A/HRC/19/55/Add.1 (19th HRC session, March 2012), Para 116.

<sup>74</sup> (E/CN.4/Sub.2/2001/16, para. 45) Special Rapporteur, Githu Muigai, A/HRC/17/40 (17th Human Rights Council session, June 2011), Para 37.

<sup>75</sup> (A/HRC/10/7/Add.1, para. 52) Special Rapporteur, Githu Muigai, A/HRC/17/40 (17th Human Rights Council session, June 2011), Para 37.



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sent an urgent appeal regarding the situation of Ms. Bharathi Pillai, Ms. Niharga Priya, Ms. Sudha, Mr. Gnana Diraviam, and Mr. Anandan, **participants of a human rights training course organised by the nongovernmental organisations the Dalit Foundation (DF) and People's Watch (PW)**, from 11 to 20 August 2010, in Nagamalai Puthukottai, near Madurai in Tamil Nadu. The DF works to eliminate caste discrimination and caste-based violence, with a particular emphasis on Dalit women and manual scavengers, and the PW provides legal support and human rights education.<sup>76</sup>

**including incidences of physical and verbal abuse, gang rape, sexual exploitation, witch hunting, and naked parading.** This was the result of a long-term process pulled by several persons involved in the Dalit women's working group, especially in India, and with assistance from Cordaid and Justice and Peace Netherlands. **The Special Rapporteur concluded that according to the information received, Dalit women and men suffer descent-based discrimination in various aspects of their lives and are also victims of violence and untouchability practices arising out of the caste system.**<sup>78</sup>

### 15th HRC Session, September 2010

#### **Special Rapporteur on Contemporary Forms of Slavery, Ms. Gulnara Shahinian**

It was reported by the Special Rapporteur on Contemporary Forms of Slavery, with a particular focus on the manifestations and causes of domestic servitude that in certain States in India, despite a long-standing Government campaign to eradicate the practice, many Dalit women reportedly still have to engage in manual scavenging: **because of their caste, they are expected to take care of scraping human excrement from dry toilets in private households or public places.**<sup>77</sup>

### 11th HRC Session, June 2009

In the addendum to her report to the Human Rights Council, the **Special Rapporteur on Violence against Women, Ms. Yakin Ertürk**, referred to 30 cases of violence against Dalit women in India,

### 10th HRC Session, March 2009

On 29 February 2008, Former Special Rapporteur on Adequate Housing, **Mr. Miloon Kothari**, together with the Special Rapporteur on Violence against Women, its causes and consequences (**SR-VAW**), **sent a joint letter to the Government of India** raising concerns regarding violence against Dalit women in India. These concerns were based on reports and submissions made to them.

The SR-VAW's submission to GoI highlighted the discrimination, exclusion and violence faced by Dalit women, including land-related conflicts and evictions, denial of resources, physical and sexual assaults, inadequate response and procedures followed by Police, including non-reporting of incidents of violence, among other issues.<sup>79</sup>

In response to the SR-VAW's observation, the Government of India on 29 April 2008 noted that the observations did not include any information on the place of occurrence of violence. The GoI instead requested location details (village/district/

<sup>76</sup> A/HRC/16/44/Add.1 (16th session of the HR Council, March 2011), Para 1094.

<sup>77</sup> A/HRC/15/20 (15th HRC session, September 2010), Para 72.

<sup>78</sup> A/HRC/11/6/Add.1 (11th HRC session, June 2009), Para 218.

<sup>79</sup> A/HRC/10/7/Add.1 (10th HRC session, March 2009), Para 50.



State) concerning each case, which would facilitate investigations by Indian authorities.<sup>80</sup>

## 7th HRC Session, March 2008

### **Joint Observation by Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Special Rapporteur on the Independence of Judges and Lawyers, and the Special Rapporteur on Violence Against Women along with an independent expert on minority issues.**

Report submitted by **Mr. Doudou Diène**, Special Rapporteur 19 December 2007, on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance-

- ♂ The Special Rapporteurs sent a joint letter of allegation to the Government of India along with an independent expert on minority issues regarding the Dalit minority jointly with other special rapporteurs.
- ♂ The addendum to the annual report (A/HRC/7/19/Add.1) contains several references to communications transmitted to the Government of India. The Special Rapporteur presented to the Government allegations on specific cases of physical and sexual violence affecting 21 Dalit women or girls that occurred between August 2004 and April 2007, and which **outlined the impunity that allegedly prevails with respect to ensuring protection and redress.**
- ♂ The Special Rapporteur regrets that no reply to his communications had been received from the Government of India at the time of finalising this report. The Special Rapporteur expresses

his **utmost interest in receiving responses regarding the allegations submitted and would be particularly interested in knowing whether these cases have resulted in any prosecutions of alleged perpetrators.**

- ♂ The Special Rapporteur wishes to refer to the invitation he requested to the Government of India in 2004 and 2006, which remained unanswered, and reiterates his interest in visiting the country. The Special Rapporteur considers the issue of caste-based discrimination to be an integral part of his mandate, in line with the CERD's general recommendation XXIX, which strongly reaffirms that "discrimination based on 'descent' includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights". In this regard, he wishes to refer to the chapter on caste-based discrimination in his 2008 general report to the 7th session to the Human Rights Council (A/HRC/7/19).<sup>81</sup>

## 70th UN General Assembly Session, 2015

### **Report by the Special Rapporteur on Minority Issues. Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 2015**

Multiple forms of discrimination, which may further curtail access to justice, can also arise within the minority community. **Minority women may face multiple stigmas concerning their ethnic or religious background, sex, and the nature of the crime they experienced. In India, for instance, Dalit women subjected to violence reportedly face unnecessary delays and pressure to drop**

<sup>80</sup> A/HRC/10/7/Add.1 (10th HRC session, March 2009), Para 55.

<sup>81</sup> [https://idsn.org/wp-content/uploads/user\\_folder/pdf/New\\_files/UN/UNSP\\_2005-2010\\_Feb.pdf](https://idsn.org/wp-content/uploads/user_folder/pdf/New_files/UN/UNSP_2005-2010_Feb.pdf) (Page 7-8)



charges, which are linked to a combination of their gender and minority status. In some Eastern and Central Europe and Central Asia countries, parental attitudes can limit minority children's access to justice: girls, in particular, are expected to remain silent about problematic family situations.<sup>82</sup>

against Dalit women as a mechanism to take possession of their family lands and/or to keep them under economic subjugation, sexual exploitation, gender domination and control.

## Ms. Rashida Manjoo, Special Rapporteur on Violence Against Women,

### Statement on India visit, April 2013

- ♂ Special Rapporteur on violence against women, Ms. Rashida Manjoo made a statement on her India visit in April 2013. She observed certain concerns related to Dalit women. There was a **failure to properly register and investigate complaints of violations against Scheduled Castes and Tribes, the high rate of acquittals, the low conviction rates, and the alarming backlog of cases related to such atrocities (CRC, CEDAW and CERD).**<sup>83</sup>
- ♂ The practice of Devadasi was of concern (HRC). The effective enforcement of relevant legislation and the Indian Constitution is required to end this practice (CERD)<sup>84</sup> **Continuing disparities in literacy levels are of concern, particularly the educational status of Scheduled Castes, Scheduled Tribes and Muslim women (CEDAW).**
- ♂ Effective measures must be adopted to reduce the drop-out rates among Dalit girls (CERD).<sup>85</sup> In India, based on **accusations of being a *Dayan* (witch) or practicing *Banamathi* (witchcraft), physical violence is sometimes employed**

## D. India's Response to Dalit Women's Concerns Raised in UN

India's response to the Dalit women's concerns raised by the United Nations has not been very satisfactory. As a member party of the United Nations, India has a history of avoiding open discussion about the prevalence of caste-based discrimination at international human rights platforms. United Nations Human Right Council's Special Rapporteur for minority issues, Ms. Rita Izsák-Ndiaye released a 20-page document, which was claimed as the 'first comprehensive UN report on caste-based discrimination' in 2016. In her report, Izsák-Ndiaye said that there is a 'complexity' in talking about casteism in a 'minority rights framework' but pointed out that 'caste-affected groups' shared 'minority-like characteristics, particularly their non-dominant and often marginalised position, stigma'. India's permanent representative to the UN in Geneva, Ajit Kumar, responded to the report saying that the report 'a breach of the SR's mandate' and "This is a questionable proposition, because in some context or the other all categories of persons could well be classified as minorities, and hence, is there any section of society over which the SR's mandate will not be applied?" he asked.<sup>86</sup>

India's long-established sensitivity about discussing casteism on any international platform is continuing since the 2001 World Conference against Racism in Durban, in 2004 where Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, **Doudou Diène's** included the caste

<sup>82</sup> <https://idsn.org/wp-content/uploads/2020/07/IDSN-Compilation-of-UN-caste-references-July-2020.pdf> (Page-170), (70st GA session, 2015) A/70/212, Para 67.

<sup>83</sup> Statement by Special Rapporteur on violence against women, Ms. Rashida Manjoo Statement on India visit, April 2013, Para 6.

<sup>84</sup> Statement by Special Rapporteur on violence against women, Ms. Rashida Manjoo Statement on India visit, April 2013, Para 6.

<sup>85</sup> Statement by Special Rapporteur on violence against women, Ms. Rashida Manjoo Statement on India visit, April 2013, Para 6.

<sup>86</sup> <https://thewire.in/diplomacy/stung-by-un-report-on-caste-discrimination-india-hits-back>



system in the list of “political platforms which promote or incite racial discrimination”, and also at a note presented at the 2006 international conference on Dalit rights by The Hague, Chin-Sung Chung, special rapporteur on discrimination based on work and descent, etc.

Similarly, India rejected the United Nations’ criticism of cases of sexual violence against women and girls, particularly those from disadvantaged social groups, saying the world body should avoid unnecessary comments while investigations are underway with respect to the most recent cases of Hathras and Balrampur gang rapes of Dalit women.<sup>87</sup>

Responding to the statement, external affairs ministry spokesperson Anurag Srivastava said, “Some unwarranted comments have been made by the UN resident coordinator regarding some recent cases of violence against women. The UN resident coordinator in India should be aware that these cases have been taken extremely seriously by the government.”

## Conclusion

Numerous years of struggle and advocacy have led to many legislations and laws to protect the rights of Dalits and Dalit women in India. However, the crime rate and nature of crimes against Dalits have been rising exponentially during all these years. It is worth noting that the issues and concerns of Dalit women are not only confined to the national boundaries of India but have also been taken up at international levels, especially by the United Nations and its treaty bodies. Many of the UN’s bodies, including Special Rapporteurs or working groups of the Universal Periodic Review, have time and again expressed their concerns about the rising discrimination and violence

against Dalit women of India.

Despite the numerous recommendations by UN Human Rights bodies for effective enforcement of legislations that ensure justice and dignity for Dalit women, India has not made much significant effort.

Moreover, the overarching international frameworks for the protection of Dalits, with a special focus on Dalit women, needs to be strengthened. The issues of violence against Dalit women and the exclusion and discrimination must be addressed at district, state and national level. However, the impetus for focusing and prioritising these concerns could come from UN bodies’ recommendations. The UN bodies in the country could step up their focus on strengthening Dalit women’s concerns e.g. relevant UN bodies could implement a national campaign for protection and promotion of Dalit women’s rights. One such campaign was organised by the UN High Commissioner for Human Rights of Nepal. This 100-day campaign in Nepal was undertaken to raise awareness about caste discrimination and related laws.<sup>88</sup>

Long term advocacy measures have been taken up by India’s civil society organisations for the existing legislation and to get the SCs & STs (PoA) Act amended for its effectiveness. The most recent amendments in 2015, which included the rights of victims and witnesses, were also the result of long advocacy procedures and influence of national and international organisations like the United Nations in the forms of repeated recommendations and review reports. However, the effective implementation of the SCs & STs (PoA) Act with ending impunity to perpetrators of crimes against Dalit women continues to be a challenge that needs to be urgently addressed, as also emphasised by the UN.

<sup>87</sup> <https://www.hindustantimes.com/india-news/unwarranted-comments-india-rejects-un-criticism-of-violence-against-women/story-al-C071oosRAizeCehcA1YO.html>

<sup>88</sup> <http://www.100daysagainstcastediscrimination.com/>



# RECOMMENDATIONS





# 5.1 Recommendations<sub>N</sub>

A critical analysis of Dalit women's journey to access justice reveals the true nature of implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, amended in 2018 (hereafter referred as SCs & STs (PoA) Act) and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (hereafter referred as SCs & STs (PoA) Rules). The three stages of our criminal justice system, namely reporting, investigation and trial demonstrate the efficacy of low reporting and high pendency in charge sheet filing by Police and high pendency in trial, low convictions and high acquittals in Courts.

A combination of these leads to the miscarriage of justice to the Dalit women and community at large, who are subjected to various kinds of heinous caste and gender based crimes.

So as to enable Dalit women and the Dalit community at large to access justice for caste and gender based violence, All India Dalit Mahila Adhikar Manch (AIDMAM) has made enormous efforts at the village, district, and states, national and international levels. We have and continue to raise Dalit women's issues; sensitize and challenge the enforcement agencies' mindset and attitude in addressing the problems relating to the Dalit women.

Our recent experience revealed that during COVID-19 related intervention, the pandemic has deepened the systemic caste and gender based violence and has pushed the Dalit communities further back into the margins. We found the government's policy response to be inadequate in its gender responsiveness and caste based considerations.

**In the view of this report's findings, which demonstrates the gaps on the part of the State to address caste and gender based violence, AIDMAM lays out specific Recommendations. We demand the State to take reformative, immediate and appropriate actions for addressing caste and gender**

**based violence and its associated factors so that Dalit women are enabled to access justice.**

## Specific Recommendations to the Central and State Governments to Effectively Respond to Caste And Gender Based Violence

### Steps to be Taken by Governments For Effective Implementation of the SCs & STs (PoA) Act:

#### A- Survivor Assistance and Witness Protection Related:

1. Ensure complete protection to the **victims and witnesses** of caste and gender based violence through effective enforcement of section 15(A) of SCs & STs (PoA) Act in accessing justice.
2. Ensure **rehabilitation** of survivors of caste and gender based violence through targeted schemes for promoting survivors' self-sufficiency, such as housing, livelihood, education, and safety, including free legal support. States should focus on rehabilitating victims of the **Devadasi System**, witch-hunting and other forms of regressive social practices.
3. Ensure and take immediate measures to prepare a model contingency plan as required under **Rule 15 of SCs & STs (PoA) Rules** for overall rehabilitation of Dalit women survivors as in states like Andhra Pradesh and Tamil Nadu.
4. All States in coordination with the Central government should **develop Victim Compensation Schemes** and ensure adequate budgetary allocation and utilisation (Section 357A CrPC).



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5. Take proactive measures to improve Dalit women's legal literacy and ability to access justice, including monitoring effective enforcement of the SCs & STs (PoA) Act and providing quality free legal services to Dalit and Adivasi women.
6. Hold public campaigns to create awareness on "Rights of Victims and Witnesses" under Section 15(A) of SCs & STs (PoA) Act and procedures to access justice in cases of sexual abuse.
7. Establish Exclusive Special Courts with improved infrastructure in accordance with Section 14 of SCs & STs (PoA) Act in every district to ensure that cases under the SCs & STs (PoA) Act are disposed of within two months.

### B-Prevention Related:

8. Take up violence prevention measures by mapping atrocity prone areas (districts) and setting up Protection Cell to implement the construction actions as mentioned in the Rule 8(1) of SCs & STs (PoA) Rules to ensure safety for Dalit women and children from caste and gender based violence.
9. Set up Awareness Centres and organise workshops in the identified area or at some other place to educate the persons belonging to the SCs & STs about their rights and the protection available to them under the provisions of various central and state enactments or Rules, regulations and schemes framed thereunder as per Rule 3(viii) of the SCs & STs (PoA) Rules.
10. In the identified area, a special officer, not below the rank of an Additional District Magistrate, should be appointed to coordinate with the District Magistrate, Superintendent of Police or other officers responsible for implementing the provisions of the Act, various committees and the Scheduled Castes and Scheduled Tribes protection cell as mentioned in the Rule 10 of the SCs & STs (PoA) Rules.

### C-Related to Better Functioning of Enforcement Officials:

11. Establish effective and inclusive monitoring mechanisms for better enforcement of SCs &

STs (PoA) Act, from the stage of registration of FIR to Judgment stage, to ensure fair and speedy justice for Dalit women and minor girls.

12. Conduct regular training and sensitisation programs for police officials, judicial officials, and medical professionals to properly handle cases of caste and gender based violence. States should focus on training and sensitisation of Special Public Prosecutors.

13. Reward the police officials and public officials who perform efficiently in implementing the provisions of SCs & STs (PoA) Act.

14. Take immediate legal and departmental disciplinary action against the Police and public officials who neglect to discharge their duties under Section 4 of SCs & STs (PoA) Act.

15. Develop, adopt, and implement Standard Operating Procedures that are statutorily binding and universally applicable for Police and judiciary to ensure uniformity in applying and interpreting the law and policies dealing with violence against Dalit women.

16. Establish State, District and Block level Vigilance and Monitoring Committees in accordance with Rule 16, 17 and 17A of SCs & STs (PoA) Act. The committees shall comprise elected members of Parliament and State Legislative Assembly and Legislative Council, Superintendent of Police, Group 'A' officers/ Gazetted officers of the State Government belonging to the SCs and STs and other members as mentioned in the Act. Ensure that the State Committee meets twice a year and the District and Block level committee meets at least once in three months.

### D-Related to Budgetary allocation and utilisation

17. Allocate adequate budget to States under the SCs & STs (PoA) Act, and ensure proper utilisation for the overall rehabilitation of victims of the caste and gender based violence. The focus should be on states with high atrocity rate against Dalit women.
18. All state governments should constitute



Monitoring Committees to Central Assistance, wherein SCs & STs are invited to be members of these Committees and to take active part in monitoring the expenditure at the State, Department/Ministry and district levels, with necessary powers to intervene wherever necessary.

## II-Steps to be Taken by Governments to Provide Psycho-Social Support to Dalit Women Survivors of Violence:

19. Recognize violence against Dalit women as a **public health issue** and provide regular counselling for survivors of violence in caste and gender based violence cases. States should give **Psycho-social counselling for healing to Dalit women and minors regularly who have faced violence.**
20. Give particular focus to Dalit minors and younger rape victims concerning their sustainable rehabilitation such as their career counselling, education and financial support to ensure their inclusion in mainstream development.
21. Establish one window crisis center, support services and shelter for the survivors of caste and gender based violence in every district with proper rehabilitation measures focusing on the Dalit women's needs.
22. Orient health care professionals during their course of study on treating violence with sensitivity and how to document instances of sexual violence, domestic violence and acid attack from a legal and rights-based perspective.

## III- Steps to be Taken by Governments to Address Socio-Economic, Cultural And Political Rights of Dalit Women:

23. Include Human Rights Education (HRE) in the school curriculum from primary to higher secondary levels to promote gender equality, a culture of diversity, and educate adolescents on sexuality and consent issues.

24. The education system should holistically include the importance of **equality, justice, and dignity** in Indian society and education on eradicating existing regressive social practices.
25. Conduct regular Public Awareness Campaigns to promote gender equality amongst people in all neighbourhoods roping in the local people's representative and human rights organisation in the area with a particular focus on **sensitizing men and boys.**
26. Promote Dalit girls' education by improving their residential schools and hostels, and focus on **Dalit girls' safety measures.**
27. Undertake enrolment drives to ensure universal coverage of all Dalit households, prioritizing single Dalit women under the existing **National Social Security Schemes** particularly on livelihood & income support, health care, food and nutrition security, etc.
28. Planning and budgeting from a gender lens must necessarily include the intersectionality framework whereby the perspectives, interests and voices of women from the most disadvantaged groups are brought to the fore.
29. Allocate 5 acres of arable land to Dalit women survivors of severe cases like rape, gang rape, social boycott, etc. and to single Dalit women below the poverty line. Entitlement of assigned land must be in the name of Dalit woman only.
30. Mandate reservation to the private sector in multiple spheres, namely private employment, market, private capital market, agricultural land, private education and housing, access to inputs and services, products and consumer goods.
31. Establish access to adequate housing, food, water and sanitation as legal entitlements, providing a basis for individuals and groups to hold governments and other stakeholders accountable for realizing the rights.
32. Ensure full implementation of The Employment



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of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

33. Identify through a mandatory survey, persons who continue to be employed as manual scavengers and ensure their rehabilitation.
34. Increase the budget allocation for health care of Dalit women and other marginalised communities. Establish a targeted monitoring system on the health care of Dalit women for remedial measures.
35. Facilitate engagement between the Ministries of Social Justice and Empowerment and Women and Child Development at both central and state levels to promote policies and implementation practices that address Dalit and other marginalised women's specific needs.
36. Introduce special schemes for affirmative action to increase Dalit women's participation in the Police, judiciary and legal professions.
37. Ensure effective implementation of all scholarship schemes at the state and national level, including PMS schemes (Post Matric Scholarship).
38. Make special provisions for the protection of Dalit Women Elected Representatives and ensure that no one prevents them from discharging their local governance roles. And also take effective measures for imparting the training to the Dalit women elected representatives on the rights, powers and proper functioning of self-governance.
39. Ensure the reservation for Dalit women in State Assemblies and Parliament of India for the overall development thereof.
40. For the overall development of the Dalit women, the standing committee on social welfare and development at Panchayat level should also be regularised and strengthened to combat the incidents of violence against Dalits and women in the Panchayat and awareness building of the

society about the rights of Dalits and SCs & STs (PoA) Act.

### IV-Steps to be Taken by Government to Respond to International Human Rights Bodies Effectively:

41. Accept and implement all the recommendations given by the UN treaty bodies like CERD, CEDAW, CRC, CESCR, CCPR and by UN Special Procedures such as Special Rapporteurs.
42. Take all measures necessary to eliminate multiple discrimination, mostly descent-based discrimination and sexual violence against Dalit women, by effectively implementing all the existing legislation to ensure basic human rights and access to justice for Dalit women.
43. Ensure timely periodic updates to the UN mechanisms. Invite submissions from civil society organisations before giving updates to UN.
44. Take the necessary measures to ensure effective implementation of the SCs & STs (PoA) Act through State Officials' training so as to end the culture of impunity towards the perpetrators of caste and gender based violence.
45. Put in place appropriate monitoring mechanisms to ensure that the intended objectives of the progressive policy initiatives are fulfilled, and measures for promoting the welfare of Dalit women are ensured.
46. States should include Human Rights Education (HRE) in the early years of education, i.e. at primary and secondary levels, to instil equality, dignity and justice in the students at a young age as recommended by many international human rights platforms.
47. Provide national, and state-level disaggregated data of crimes committed against Dalit women and minor girls, focusing on offences with increasing incidents such as murder, gang-rape, human trafficking, acid attacks, etc.



48. End the existing degrading practices such as manual scavenging, witchcraft and *Devadasi* system which are already legally banned.
49. Provide effective and accessible healthcare services to Dalit women.
50. Ensure safe access to all community resources such as land, water and education to all Dalit women and children and take appropriate measures to prevent and address the incidents of violence committed on Dalit women while accessing their rights.

#### V- Specific Recommendations to the Civil Society Organisations and Media:

51. National media should highlight and cover the reports and other developments on Dalit women's issues from the grassroots of the country.
52. National media should also work as a pressure group to advocate for fair and speedy justice by the judiciary and the State.
53. Civil Society Organisations should be sensitized for an inclusive and holistic approach with Dalit women's perspective in implementing and planning their projects. More programmes to strengthen agency of the Dalit women should be taken up by the civil society.
54. Civil Society Organisations should also take up the responsibility of developing more programmes to strengthen Dalit women survivors' emergence as Human Rights Defenders.
55. Civil Society Organisations should also maintain disaggregated data about Dalit women and

support the State in taking up this task for better advocacy and policymaking.

56. Civil Society Organisations should create sensitivity among the various social groups towards the Dalit women and build leadership among women giving priority to the women of the marginalised groups. Also, to contribute to accessing the government welfare programmes to the Dalit women and monitor the discrimination within the concerned system as a watchdog.

#### VI. Specific Recommendations to International Human Rights Bodies:

57. The draft UN Principles and Guidelines to Eliminate all forms of Work and Descent based Discrimination lays down the framework of State obligations to remove caste-based discrimination from all areas of life. UN Human Rights Council and all other International Human Rights bodies should adopt the UN Principles and Guidelines and hold an International Conference on Elimination of all forms of Discrimination based on Work and Descent.
58. Child Rights Convention talks briefly about Dalit children without a specific focus on their issues owing to the discrimination based on their descent or caste. International bodies should focus especially on Dalit girl children considering the high and increasing rate of sexual violence against Dalit minor girls.
59. International Human Rights bodies should actively advocate with the Indian government to end the increasing violence against Dalit women and ensure speedy trials and justice in all cases of atrocities.







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