



**STATUS OF DALITS IN INDIA:  
CHILDREN AND WOMEN  
&  
ACCESS TO WATER AND SANITATION**

**EQUITY WATCH 2014**

**Swadhikar - National Campaign on Dalit Human Rights-NCDHR**

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# Forward

*In September 2012, 14-year-old Dalit girl child from the Sansi community, was abducted and gang raped by four dominant caste men when she stepped outside her house to perform morning ablutions. They later dumped her outside her house and registered a false FIR against her for committing theft in their house.<sup>1</sup>*

The above incident and the issue explains the inter-linkages between caste dynamics, lack of basic amenities and the character of society. The report highlights the situation of Dalit women and Children in India and Access to water and sanitation. Dalit women are one of the largest socially segregated groups anywhere in the world, and make up 2% of the world's total population. Dalit women are discriminated against three times over: they are poor, they are women, and they are Dalits. They are placed at the bottom of India's caste, class and gender hierarchies, Dalit Women experience endemic gender and caste discrimination and violence. They bear the brunt of untouchability, caste oppression, poverty and political subordination along with Dalit men. They share gender based discrimination and exploitation from the patriarchal systems inside and outside the home.

Dalit women also succumb to atrocities by upper caste communities as most of times the source of drinking water is located in the upper caste fields. Drinking water and sanitation are the most critical issues that impact women's lives corresponding to healthcare facilities, education, shelter, livelihood and security. It is the presence and absence of these indicators that symbolizes the course of development, especially gender inclusive 'development'. In most parts of the country, absence of water and sanitation puts women, especially Dalit women, in a vulnerable situation. Walking several miles to fetch water or for toilet or some times to fetch water from the dominant caste area, often results in incidents of harassment in rural areas.

On the other hand empirical evidence indicates that Dalit children suffer from exclusion and discrimination in terms of education, healthcare and the incidence of child labour.<sup>2</sup> Evidence also reveals that state as well as non-state actors violate a number of human rights of Dalit children that are protected by domestic laws and international human rights law<sup>3</sup>. A study of 'untouchability' practices in rural areas of 11 Indian states found that caste practices persist in education, such as segregation in eating, drinking water or seating in classrooms in public schools, aside from discrimination and ill-treatment from non-Dalit teachers or students.<sup>4</sup>

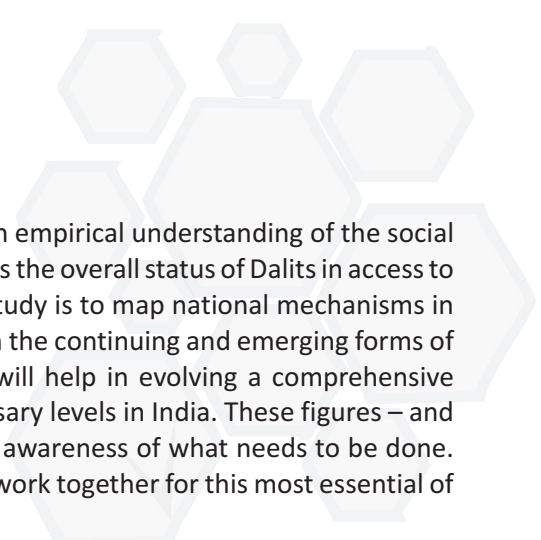
The constitutional rights and the vast array of policies and measures such as National child policies and measures related to address caste-based discrimination and violence against Dalit women and children are impressive only in papers. The planning process continues to take place without adequate participation of Dalit women and children and communities as to their specific needs. Dalit women and children face numerous forms of discrimination and exclusion in all aspects of their lives. Likewise, these disabilities are most pronounced with regard to access to water and sanitation leading to atrocities on Dalits. In terms of protective measures, social laws have not been effectively implemented despite over two decades of their existence. This conclusion is confirmed by the government's own data on the abysmally poor rate of convictions under protective laws for Dalits.

<sup>1</sup><http://www.thehindu.com/news/national/other-states/access-to-dignity-barred/article4389790.ece>

<sup>2</sup>Dalit Children in Rural India: Issues Related to Exclusion and Deprivation by Nidhi Sadana: Page 6

<sup>3</sup>The survey -Voices of Children of Manual Scavengers – is based on interviews with 1,048 children between the ages of 6 and 17 in the state of Gujarat. [http://idsn.org/fileadmin/user\\_folder/pdf/New\\_files/India/Dalit\\_children\\_in\\_India\\_victims\\_of\\_caste\\_discrimination.pdf](http://idsn.org/fileadmin/user_folder/pdf/New_files/India/Dalit_children_in_India_victims_of_caste_discrimination.pdf)

<sup>4</sup>Shah, G. et al., 2006. Untouchability in Rural India. New Delhi: Sage Publications.



This report brings together available information to develop an empirical understanding of the social and economic conditions of Dalit women and children, as well as the overall status of Dalits in access to their basic right of water and sanitation. The purpose of the study is to map national mechanisms in order to strategise the future advocacy agenda; and to unearth the continuing and emerging forms of caste based discrimination and related violence. This study will help in evolving a comprehensive strategy to address these issues systematically at all the necessary levels in India. These figures – and these realities demand that we break the silence and expand awareness of what needs to be done. Where efforts are made, progress is possible. Let us commit to work together for this most essential of objectives.

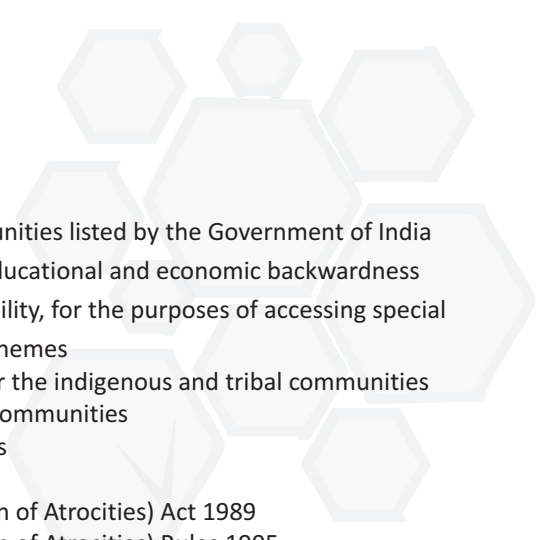
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**Dr. V. A. Ramesh Nathan**  
***General Secretary***  
***SWADHIKAR - National Dalit Movement for Justice (NDMJ)- NCDHR***  
***New Delhi***



## Glossary & Abbreviations

Adivasi	Tribal or indigenous person in India. Officially most are classified as scheduled tribes—'ST' in popular usage.
Anganwadi	Crèche, nursery for babies and children
Atrocity	Non-legal term that, according to the Ministry of Home Affairs, Government of India, implies offences under the Indian Penal Code perpetrated against scheduled castes and scheduled tribes by those not belonging to either community, where caste consideration is in fact the root cause of the crime even though caste consciousness may not be the immediate motive
BPL	Below Poverty Line
CBD	Caste based discrimination
CBDV	Caste based discrimination and violence
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women 1979
CRC	Covenant on the Rights of the Child 1989
Crore	10,000,000
CrPC	Criminal Procedure Code 1973
Dalit	Literally meaning 'broken people', a term employed by human rights activists to denote 'untouchables' or scheduled castes, the lowest group in the ritualised social hierarchy of the caste system, facing widespread discrimination on the basis of work and descent
Devadasi/ Jogini	Woman married to a temple deity, temple prostitute
DEVW	Declaration on the Elimination of Violence against Women 1993
Dominant caste/s	Social groups with ascribed ritual status, and economic and political power, exercising dominance over Dalits in particular. Invariably the term refers to every caste, except for scheduled castes and tribes, who are dominant vis-à-vis Dalits
FIR	First Information Report filed by police regarding an offence
ICCPR	International Covenant on Civil and Political Rights 1966
ICERD	Convention on the Elimination of All Forms of Racial Discrimination 1965
ICESCR	International Covenant on Economic, Social and Cultural Rights 1966
ILO	International Labour Organisation
IPC	Indian Penal Code 1860
Lakh	100,000
Lok Sabha	Council of the people, the Lower House of the Indian Parliament analogous to the House of Commons in the British Parliament
MLA	Member of Legislative Assembly
MP	Member of Parliament
NCPCR	National Commission for the Protection of Child Rights
NCSC	National Commission for Scheduled Castes
NCST	National Commission for Scheduled Tribes
NITI Aayog	National Institution for Transforming India erstwhile National Planning Commission
NHRC	National Human Rights Commission
NGO	Non-governmental organisation
Panchayat	Local governance institution
Panchayati Raj	Formal local self-governance system in India
PCR Act	Protection of Civil Rights Act 1955
PDS ration shop	Public distribution system ration shop
Rajya Sabha	Council of states, the Upper House of the Indian Parliament, analogous to the House of Lords in the British Parliament.
Reservations	Quotas for scheduled castes allowing for increased representation in education, government jobs and political bodies



Scheduled caste	Official terminology used to connote those communities listed by the Government of India as those castes characterised by extreme social, educational and economic backwardness arising out of the traditional practice of untouchability, for the purposes of accessing special development, protection and affirmative action schemes
Scheduled tribe	Official terminology of the Government of India for the indigenous and tribal communities
SC	See Scheduled Castes, official term used for Dalit communities
SCPCR	State Commission for the Protection of Child Rights
SCSP	Scheduled Castes Sub Plan
POA Act	Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989
POA Rules	Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995
ST	Scheduled Tribes, official term used for tribal/ Adivasi communities
UT	Union Territory



## 1.Executive summary

### 1.1 Dalits in India

There are more than 260 million Dalits globally affected by Caste based discrimination. According to the 2011 census, Dalits – officially known as ‘scheduled castes’ – constitute 201 million people. These figures do not include Dalits who have converted or are born and raised within a non-Hindu religious community. It is therefore more than likely that the total Dalit population – including the millions of Dalit Muslims and Christians – by far exceeds the official 201 million.

They suffer the most inhuman forms of caste-based discrimination, including 'untouchability' – the imposition of social disabilities by reason of their birth into certain 'low' castes– though it has been abolished by the Indian Constitution in 1950. They also experience violence and social exclusion on a daily basis caused by state repression, erosion of the rule of law, cultural and religious oppression. Economic growth in India has been strong over the past decade. However, the caste disparities are increasing.

### 1.2 Why this report

The constitutional rights and the vast array of government institutions and measures created to address caste-based discrimination and violence (CBDV), and to promote the socio-economic development of Dalit women and children, are impressive on paper. However, the analysis reveals a completely different picture. Dalit women and children face numerous forms of discrimination and exclusion in all aspects of their lives. Likewise, these disabilities are most pronounced with regard to access to water and sanitation leading to atrocities on Dalits. CBD leading to human rights violations regarding drinking water makes it an important social issue.

In terms of protective measures, social laws have not been effectively implemented despite over two decades of their existence. This conclusion is confirmed by the government's

own data on the abysmally poor rate of convictions under protective laws for Dalits. Despite a number of targeted measures, such as policies and schemes for the educational and economic development of Dalit women and children, available data indicate that they are still concentrated in low wage occupations. As far as the budgetary allocation is concerned, the Scheduled Castes Sub Plan (SCSP) is not implemented and the funds are diverted for other general schemes and programmes.

There is a wealth of information about the status of the Dalits in India from government and other sources. Some of the information is in general reports, which have disaggregated data on Dalits. Others are specific to scheduled castes. Yet others are region or theme specific. Reports concentrating on the rights of Dalit women and Dalit children are much rarer, as is the availability of disaggregated data on these two specific groups. This report brings together available information to develop an empirical understanding of the social and economic conditions of Dalit women and children, as well as the overall status of Dalits in access to their basic right of water and sanitation.

The purpose of this report is to explore the overall status of Dalit women and children and access of Dalits to water and sanitation. In these thematic areas, the report focuses on:

- Analysing international and national standards and recommendations.
- Identifying and analysing gaps or compatibility of national policies and laws with international standards.
- Analysing good practices from CSOs and DHRDs in monitoring and intervening in CBD.
- Recommendations for ensuring the rights to Dalit women and children, and the access of Dalits to water and sanitation without discrimination.

### 1.1 Methodology

The report uses secondary data collected through various research reports, baseline studies and the experiences and data collected from CSOs and DHRDs working on Dalit human rights monitoring. Related documents and existing literature on the topic were reviewed and analysed.

It is important to note that this report examines the status of Dalit women and children based on the limited official disaggregated data available, supplemented by research and case studies from civil society organisations. It provides a comprehensive overview of India's human rights obligations to address CBD under both international and national law, and highlights key recommendations of international and national bodies.

The report also provides a comprehensive and systematic analysis of national measures to address CBD and ascertains the actual impact of these measures on the Dalit women and children. This allows the gaps in both the implementation of state measures and current status of the Dalit women and children to be highlighted. It also underscores the work of Dalits, as well as civil society as a whole, to respond to the gaps in the implementation of state measures.

### 1.2 Status of Dalit children

Dalit children face caste discrimination at an early age. Empirical data provides evidence of CBD faced by Dalit children in multiple arenas. The evidence indicates that children from the scheduled castes (SCs) suffer from exclusion and discrimination particularly in terms of education, incidence of child labour, good health and access to health services. With respect to education, data indicates a wide gap between the Dalits and others in

terms of school attendance. The school dropout rate is relatively higher among the SCs than among children in general. The proportion of Dalit children who have never attended school is also relatively higher. It is further observed that the incidence of child labour is much higher among the SCs than other non-SC/ST communities.

Similarly, Dalit children face exclusion and discrimination in using public health services. Mortality is an important indicator of health. In India the infant mortality rate for SC children is much higher (88 per 1000) than children from 'other' social groups (69 per 1000). Moreover, a higher number of Dalit children die in the first month of life and after the first month of life but before their first birthday when compared to children from the 'other' social group.<sup>2</sup>

### 1.3 Status of Dalit women

Positioned at the bottom of India's caste, class and gender hierarchies, Dalit women experience gender-and-caste discrimination and violence as the outcome of severely imbalanced social, economic and political power equations. Their socio-economic vulnerability and lack of political voice, when combined with the dominant risk factors of being Dalit and female, increase their exposure to potentially violent situations while simultaneously reducing their ability to escape. Violence against Dalit women presents clear evidence of widespread exploitation and discrimination against these women subordinated in terms of power relations to men in a patriarchal society, as also against their communities based on caste<sup>3</sup>. As the National Commission for Women observed, 'in the commission of offences against... scheduled caste [Dalit] women, the offenders try to establish their authority and

<sup>1</sup>Sadana, N., 2009. *Dalit Children in Rural India: Issues Related to Exclusion and Deprivation*. New Delhi: IIDS.

<sup>2</sup>Irudayam, A., Mangubhai, J.P. and Lee, J.G., 2011. *Dalit Women Speak Out: Caste, Class and Gender Violence in India*. New Delhi, Zubaan, Introduction.

humiliate the community by subjecting their women to indecent and inhuman treatment, including sexual assault, parading naked, using filthy language, etc.’<sup>4</sup>

### **1.1 Stigmatisation of Dalits in access to water and sanitation**

In India, the gap between Dalits and others in terms of access to drinking water and sanitation continues to be large. Only 10% of Dalit households have access to sanitation (as compared to 27% for non-Dalit households), and the vast majority of Dalits depend on the goodwill of dominant caste community members for access to water from public wells. Dalit women often have to stand in separate queues near the bore wells to fetch water and wait until the non-Dalits finish fetching water. Dalits are not allowed to use taps and wells located in non-Dalit areas. Dalit villages are not provided water for several days in case the Dalits resist existing practices of discrimination. There have been various studies to indicate the caste-based exclusion in relation to water services. A study on "Untouchability" in India carried out by Action Aid across 514 villages of 11 states indicates that, of all the villages surveyed, denial of water services was reported in 48.4% of the villages.<sup>5</sup>

## **1.2 Major findings**

### **1.2.1 Specific to Dalit children**

The SSA Implementation Framework broadly lists continuing forms of exclusion of scheduled caste children in education: exclusion by teachers in classrooms, including segregated seating, less attention to scheduled caste children, derogatory remarks on their learning abilities linked to their caste, denying scheduled caste children equal access to

school facilities; exclusion by peer group in the classroom and other activities in the schools; exclusion by the system, such as the lack of caste sensitisation trainings for teachers, non-implementation of incentive schemes for scheduled caste children.<sup>6</sup>

A study of 'untouchability' practices in rural areas of 11 Indian states found that caste practices persist in education, such as segregation in eating, drinking water or seating in classrooms in public schools, aside from discrimination and ill-treatment from non-Dalit teachers or students.<sup>7</sup>

In 2012, 41 independent monitoring institutes submitted reports to the Ministry of Human Resource Development (MHRD) about instances of discrimination and untouchability during the midday meals in 186 schools across the states of Rajasthan, Madhya Pradesh, Orissa, Uttar Pradesh and Gujarat. Dalit children are routinely segregated from other children while eating and food cooked by Dalit cooks is often refused by many children or their parents. There are also cases where Dalit students are served from a distance, and several students bring their own plates for fear of utensils being touched by Dalit classmates.<sup>8</sup>

The gross enrolment ratio for scheduled caste children in elementary education today is reasonably high (132.0 in classes 1-5, dropping to 92.3 in classes 6-8), in keeping with the national average, though gender disparities remain. The enrolment ratios, however, drop significantly at the secondary and senior secondary levels for scheduled caste students (only 70.9 in classes 9-10, and 38.3 in classes

<sup>4</sup>National Commission for Women, 1996. *Women of Weaker Sections: Socio-Economic Development of Scheduled Caste Women*. New Delhi: NCW, p.33.

<sup>5</sup>Shah, G. et al., 2006. *Untouchability in Rural India*. New Delhi: Sage Publications.

<sup>6</sup>Department of School Education and Literacy, 2011. *Framework for Implementation of SSA based on RtE Act*. New Delhi: DSEL, para 3.8.2.3.

<sup>7</sup>Shah, G. et al., 2006. *Untouchability in Rural India*. New Delhi: Sage Publications.

<sup>8</sup>Vishnoi, A. (2012, 26 Nov). 'Report says caste, gender discrimination rampant', *Indian Express*.

11-12). Moreover, enrolment does not necessarily translate into scheduled caste children regularly attending school at any level.

The number of out-of-school children aged 6-13 years in rural areas is officially estimated at 4.53% and in urban areas as 3.18%, though this figure is contested as lower than the reality. While scheduled caste children represent 21% of all children, they represent 29.20% of those out of schools.

In terms of higher education, SCs continue to lag behind other social groups. According to the NSSO 64<sup>th</sup> Round data for 2007-08, the gross enrolment ratio in higher education in rural areas for SCs was 8.3, lower than for OBCs (11) and 'higher' castes (17). This was especially the case for rural SC women, whose enrolment ratio stood at 6 as compared to 8.4 for all women. For urban areas, the gross enrolment ratio was 20.5 for SCs, as compared to 25.2 for OBCs and 38 for 'higher' castes.

Despite the emphasis of the National Child Policy on closing the social gaps between marginalised communities such as Dalits and others in education, the planning process continues to take place without adequate participation of Dalit children and communities as to their specific needs in education.

According to NSSO survey data of 2004-05, out of the 60 million child labourers in India, 40% come from scheduled caste families. Moreover, it is estimated that 80% of child labourers engaged in carpet, matchstick and firecracker industries come from scheduled caste backgrounds.

### 1.1.1 Specific to Dalit women

The year 2013 has witnessed an increase of 17.1% in crimes committed against persons belonging to scheduled castes: a total of 33,655 cases were reported in the year 2012, which increased to 39,408 cases in the year 2013.<sup>11</sup>

A study<sup>12</sup> of 500 Dalit women's cases of violence revealed that:

- Perpetrators of violence were convicted by the courts in less than 1% of cases.
- Police obstructed the women from attaining justice in 17.4% of the instances of violence.
- Perpetrators and their supporters, and/or the community at large, prevented the women from obtaining justice in 26.5% of instances of violence.
- In 40.2% of instances of violence, the women did not attempt to obtain legal or community remedies for the violence primarily out of fear of the perpetrators or social dishonour if (sexual) violence was revealed, or ignorance of the law, or the belief that they would not get justice.

The link between caste and forced prostitution is apparent in the Devadasi and Jogini systems practiced in India which is a form of religiously sanctioned sexual abuse. Under such practices, Dalit girls as young as 6 to 8 years old are dedicated to God, cannot marry and are raped by temple priests and dominant caste men and eventually auctioned off into urban brothels. In times of extreme hardship, such as natural calamities women are forced to sell their bodies for the family to survive. Even after declaring the practice illegal in 1982, a 1994 Karnataka government survey identified 22,873 Devadasis in 10 districts. In 2007-08, another government survey found

<sup>9</sup>Ministry of Human Resource Development, 2012. *Selected Educational Statistics 2010-11*. New Delhi: Government of India.

<sup>10</sup>EdCIL & Social and Rural Research Institute, 2010. *All India Survey of Out-of-School Children of Age 6-13 Years and Age 5*. New Delhi: Government of India.

<sup>11</sup>National Crimes Record Bureau, 2014. *Crime in India 2013*.

<sup>12</sup>Irudayam, A., Mangubhai, J.P. and Lee, J., 2011. *Dalit Women Speak Out: Caste, Class and Gender Violence in India*. New Delhi: Zubaan.

<sup>13</sup>Deccan Herald. (2011, 20 Aug.). 'Schemes fail to curb Devadasi practice'.

23,787 Devadasis in 13 districts, indicating no sizeable decline in the number of Devadasis.<sup>13</sup> In certain communities under customary practices, women are sent for prostitution as integral part of social survival or auctioned like a commodity as a punishment for violating customary injunctions.<sup>14</sup>

A 2013 survey of 480 women from manual scavenging communities in 9 districts in the Indian states of Bihar, Uttar Pradesh, and Madhya Pradesh, undertaken by Jan Sahas Social Development Society with the support of UN Women on the socio-economic status of women manual scavengers, 90% of whom are Dalits.<sup>15</sup> The survey findings highlighted the dismal situation of women manual scavengers:

- They are deprived of crucial services of education and health as well as decent employment opportunities.
- 82% never got the opportunity to go to school. Moreover, their children drop out of school after facing rampant discrimination in schools because they belong to an 'untouchable' community.
- 77% had no access to public health facilities. They depend on private health facilities for their treatment which is expensive, of substandard quality and at distances far from their habitation.
- 59% of families had no access to PDS where subsidised food grains are provided by the government. Their participation in local governance and political processes is negligible. Discrimination and humiliation does not allow them to raise their voice in gram panchayats. These women and their families have very poor access to various government schemes and entitlements

in all the three states surveyed.

- Only 4% got financial assistance to construct houses under the Indira Awas Yojana (IAY) subsidised housing scheme.
- Only 13% of women had availed of provisions under the Scheme for Rehabilitation of Manual Scavengers (SMRS).

#### 1.1.1 Specific to access of Dalits to water and sanitation

The right to sanitation is unfulfilled for the majority of Dalit households, with strong health and safety implications for especially women:

- In 2011, 66.2% of scheduled caste households continue to lack toilet facilities and resort to open defecation. Only 33.8% of scheduled caste households have toilets within their homes.
- Only 23.7% of Dalit households have access to latrines compared to 42.3% for general households. With regard to house hold connectivity for waste water outlets, the figures are 50.6% for general households as compared to 42.9% for scheduled caste households.
- Household connectivity for waste water outlets stands at 50.6% for general households as compared to 42.9% for scheduled caste households.<sup>16</sup>
- There is an equally huge gap among Dalit and non-Dalit households when it comes to water rights.<sup>17</sup>
- 27% Dalit households have water sources within the premises as compared to 45.2% for the general population.

<sup>14</sup> A.N. Sinha, 2002. 'Musahars: A Socio-economic Study'. Institute of Social Studies, p. 38. For customary practices, see Arti Dhar 'Auctioned Girl commits suicide'; *The Hindu*, Aug. 20, 2002.

<sup>15</sup> Socio-Economic Status of Women Manual Scavengers (Baseline Study Report), 2014. [http://in.one.un.org/img/uploads/Socio\\_Economic\\_Status\\_of\\_Women\\_Manual\\_Scavengers\\_Report.pdf](http://in.one.un.org/img/uploads/Socio_Economic_Status_of_Women_Manual_Scavengers_Report.pdf)

<sup>16</sup> NACDOR, 2005. MDGs and Dalits: A Status Report.

<sup>17</sup> [swsddata.org/presentations/WS026\\_6](http://swsddata.org/presentations/WS026_6)



- 19.5% of Dalit households have access to drinking water sources away from their premises whereas it stands at 14.5% for the general population.
- 32.2% of Dalit households have access to drinking water from taps as compared to 40.1% for the general population.

## **1.1 Recommendations**

### **1.1.1 Specific to Dalit children**

- Ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OP3 CRC) that allows the UN Committee on the Rights of the Child to hear complaints alleging a child's rights being violated and provide a remedy for the violation.
- Emphasise adequate participation of Dalit children as to their specific needs in education, in planning process of various government schemes and national policies related to children. National policies should include adequate measures to combat discrimination and exclusion of Dalit children.
- Implement grievance redress mechanisms, especially at the block and district levels, define procedures for complaints, support the National or State Commissions for the Protection of Child Rights (NCPCR/SCPCRs) to enable them to play the role expected, and support the Panchayati Raj system in its role as the local authority vis-à-vis school education.
- Strengthen convergence between the Ministry of Human Resource and Development and the Ministry of Women and Child Development on the pre-school component of the ICDS.
- Ensure that state education curriculum and textbooks effectively improve children's learning levels, especially on discrimination, exclusion and inclusion, by reviewing and revising them with the inputs of experts so that the children are sensitive to these issues and are

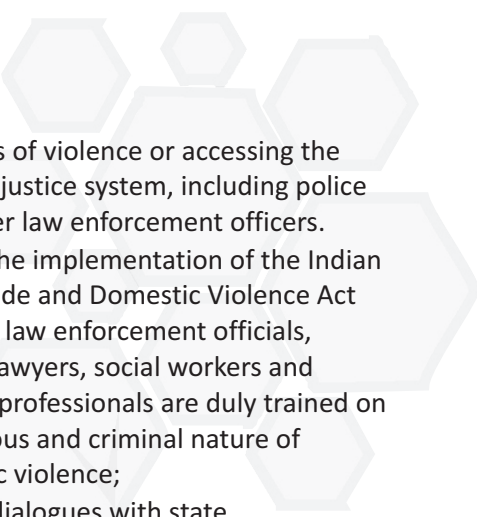
consciously inclusive.

- Increase at least five-fold the annual budgetary allocation for the Integrated Child Protection Scheme (ICPS) for protection of children from abuse, neglect, exploitation and violence.
- Invest adequately in ensuring protection for children by: (i) implementing policies and programmes that protect children from abuse, violence and exploitation; (ii) investing in appropriate referral services for the recovery, rehabilitation and reintegration of victims of abuse, violence and exploitation; investing in creating a cadre of trained professional (iii) creating robust monitoring of implementation of child protection mechanisms, schemes and policies (iv) creating a proper database for child trafficking, street children, missing children and ensuring a fully functional newly developed child tracking system – 'National Tracking System for missing and Vulnerable Children'<sup>18</sup>
- Amend the Child Labour (Prohibition and Regulation) Act to abolish all forms of child labour by removing the distinction between hazardous and non-hazardous categories of work for all children up to 18 years of age.
- Establish comprehensive and integrated 'Monitoring, Accountability and Grievance Redress' mechanisms, accessible to all citizens for child related grievances.
- Effectively implement the Right to Food Act to deliver food grains as well as nutritional security at household level for all marginalised and excluded populations, especially pregnant and lactating women and children.

### **1.1.1 Specific to Dalit women**

- Follow up on the recommendations relevant to the promotion and protection of Dalit women's rights made by UN Special Procedures, particularly the Special Rapporteur on Violence Against Women,

<sup>18</sup> National Tracking System for missing and Vulnerable Children, Ministry of Women and Child Development, <http://www.trackthemissingchild.gov.in/trackchild/index.php>

- 
- UN Treaty Bodies, the Universal Periodic Review, etc.<sup>19</sup>
- Provide disaggregated data on the incidence of crimes against Dalit women, as well as police and judicial handling of such cases (as per CERD General Recommendation XXIX, 2002) and include the following sections in periodic reports to UN treaty bodies:
    - The extent of domestic violence against Dalit women, and on the legislative and other measures taken to address this phenomenon, including facilities and remedies provided for victims;
    - The situation of Dalit women and the extent to which they enjoy the right to own land and property independent of their male relatives;
    - Annual data, disaggregated by age, sex, caste, ethnicity and religion, as well as specific benchmarks, to enable adequate monitoring and evaluation of the progress achieved.
  - Recognise scheduled caste women as a distinct social group rather than subsuming them under the general women or scheduled caste category, and accordingly evolve and implement a specific focus and programmes on scheduled caste women's rights within the broader framework of scheduled caste and women's empowerment.
  - Ensure full and strict implementation of laws in place to protect Dalit women's rights and implement measures to ensure the abolition of untouchability practices,<sup>20</sup> and implement strict sanctions against anyone preventing or discouraging victims from reporting incidents of violence or accessing the criminal justice system, including police and other law enforcement officers.
  - Ensure the implementation of the Indian Penal Code and Domestic Violence Act and that law enforcement officials, judges, lawyers, social workers and medical professionals are duly trained on the serious and criminal nature of domestic violence;
  - Initiate dialogues with state governments and all relevant stakeholders including UN bodies, private sector, NHRIs, CSOs and academic institutions to identify, promote and exchange views on best practices related to preventing and eliminating violence and discrimination against women.
  - Ensure effective implementation of national legislation to eliminate practices such as dowry, devadasi/jogini, manual scavenging, CBD and 'untouchability' in accordance with recommendations by the UN Committee on the Elimination of all forms of Discrimination against Women (CEDAW).<sup>21</sup>
  - Evolve a national perspective plan aimed at specifically accelerating efforts to reduce the development gap between Dalit women and the rest of the population with fixed time-bound targets.
  - Introduce affirmative action policies to increase Dalit women's participation in the police, judiciary, legal professions and education.
  - Produce and disseminate disaggregated data on the status of Dalit women, particularly in government plans and development programmes.

<sup>20</sup>In India this applies to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and the Protection of Civil Rights Act 1955 – and measures to ensure the abolition of untouchability in compliance with Article 17 of the Indian Constitution.

<sup>21</sup>In 2007 the Committee on the Elimination of Discrimination against Women made specific recommendations on this issue in its Concluding Comments in the review of India. UN Doc. CEDAW/C/IND/CO/3.

- There is a need for a special policy with the clear definition of land rights of Dalit women, and ensuring land to the landless.
- The government should consider distribution of fertile land to Dalit women by effectively monitoring and controlling of encroached lands and illegal land holdings with individuals and institutions. Moreover, government and land rights forums should promote collective farming by Dalit women and marginal farmers to best share common facilities like irrigation and for economies of scale.
- Under the SCSP separate provision should be made for scheduled caste women.

### **1.8.3 Specific to access of Dalits to water and sanitation**

- Implement the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 effectively. This requires not only the effective enforcement of the law, but also efforts that eliminate the very need for the shameful practice of manual scavenging through use of modern and appropriate technologies for toilets and sewage collection and processing systems, ensuring adequate water supply and, importantly, changing the sanitation behaviour of people based on building awareness and responsibility among the community.
- Genuine participation and access to information by Dalit communities and civil society organisations should be ensured. A participatory process in the development of water and sanitation policies and plans should be carried out to ensure the genuine participation of representatives of Dalits, other vulnerable and marginalised groups and civil society. They also should be involved in the regulation and monitoring of service providers.
- The NITI Aayog (which replaced the National Planning Commission) should work on the need for integration of housing, water and

sanitation needs and it should recommend the convergence of the water and sanitation programmes with the Mahatma Gandhi National Rural Employment Guarantee Scheme.

- The Government of India should immediately pass the amendment to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1995, which is pending in the Parliament of India. The amendment bill specifically includes offences related to discrimination and untouchability practices against members of the scheduled castes in access to water resources.
- The Swachh Bharat Abhiyan, or Clean India Campaign, launched by the Government of India has not provided any details on how the campaign will lead to the liberation of manual scavengers. It should immediately prepare the roadmap to ensure dignified rehabilitation of manual scavengers.
- Revise existing water and sanitation related laws, regulations, policies and operating procedures to ensure that prohibit and prevent discrimination.
- Review public water and sanitation budgets to ensure that they address the needs of vulnerable and marginalised groups, including those living in informal settlements and arid and semi-arid areas.
- Collect data on access to water and sanitation that takes into account ethnicity, caste, class, age, disability, gender, religion, income and other related parameters to identify discrepancies and set priorities for government assistance.
- Ensure that the needs of institutions utilised by vulnerable and marginalised groups are adequately addressed in policies relating to issues such as priorities for extension of services, tariffs and subsidy plans. Such institutions include schools, hospitals, prisons and refugee camps.



## 2.Introduction

### 2.1 Dalits in India

There are more than 260 million Dalits globally affected by Caste based discrimination. According to the 2011 census, Dalits – officially known as ‘scheduled castes’ – constitute 201 million people. These figures do not include Dalits who have converted or are born and raised within a non-Hindu religious community. It is therefore more than likely that the total Dalit population – including the millions of Dalit Muslims and Christians – by far exceeds the official 201 million.

They suffer the most inhuman forms of caste-based discrimination and violence (CBDV), including untouchability though it has been abolished by the Indian Constitution in 1950. They experience violence and social exclusion on a daily basis caused by state repression, erosion of the rule of law, cultural and religious oppression.

Dalits can be easily identified by a) their occupations of the lowest status and b) segregated living spaces with severely restricted access to public and private services of housing, water and sanitation, health, education, markets, land and employment. In India's 'hidden apartheid,' untouchability relegates Dalits throughout the country to a lifetime of segregation and abuse. Caste-based divisions continue to dominate in housing, marriage, employment and general social interaction—divisions that are reinforced through economic boycotts and physical violence.

Economic growth in India has been strong over the past decade. However, the caste disparities are increasing. Violations of the fundamental human rights of Dalits occur on a massive scale simply because of their birth into particular castes to which menial, degrading work has been traditionally ascribed.

### 2.2 Constitutional, legal and institutional

<sup>22</sup>*Census of India 2011.*

### mechanisms

The Constitution of India provides special safeguards for the protection of scheduled castes (SCs) against atrocities, untouchability and discrimination. It also provides for proportionate reservation for SCs in public sector and governance at central, state and local levels.

The Constitution of India 1950 provides a rights-based framework grounded in principles of liberty, equality and fraternity. Constitutional rights include the right to non-discrimination on the basis of caste (Article 15); the right to equality before the law and equal protection of law (Article 14); a ban on the practice of 'untouchability', namely the imposition of social disabilities on a person due to birth into certain 'polluted' castes (Article 17). In addition, a Directive Principle of State Policy commits the Indian state to promoting the educational and economic interests of SCs, and protecting them from exploitation (Article 46).

Special laws have been enacted for SCs, to protect their right to security of life. The Protection of Civil Rights Act 1955 (popularly PCRA) and The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (popularly POA Act) punish a host of crimes commonly committed against SCs on the basis of their caste. There are also Devadasi System Abolition Acts in several states that seek to end the practice of ritualised forced prostitution under the Devadasi or Jogini system. All these laws are in addition to general civil and criminal laws applicable to protect their rights. In other areas of socio-economic rights, a number of legal provisions exist to specifically protect Dalit rights or else ensure non-discrimination in the enjoyment of rights. Moreover, the Supreme Court of India has also gone so far as to declare that caste system is a curse on the nation, and that it is absolutely imperative to

abolish the caste system as expeditiously as possible for the smooth functioning of the rule of law and democracy in India.<sup>23</sup>

In the last ten years, the Planning Commission of India has increasingly focused on 'inclusive growth'. The current 12<sup>th</sup> Five Year Plan 2012-2017 thus proclaims one objective to bring SCs at par with non-SCs in terms of all development indices. Moreover, the Plan acknowledges the special vulnerabilities of scheduled caste women in terms of under-development and violence.

A number of national policies exist that specifically speak of caste equality and special attention to Dalit rights. The National Education Policy speaks of the goal of education to remove social disparities and equalise educational opportunity irrespective of caste. Likewise, inequalities in access to healthcare are acknowledged in the National Health Policy, which pledges to improve access for socially disadvantaged members like Dalits. The National Urban Housing and Habitat Policy speaks of special efforts to be taken to meet needs of SCs in housing and basic services, while the National Water Policy states that the needs of SCs should be given due consideration in local planning of water projects. An acknowledgement of caste as a cross-cutting factor can also be read into the National Policy for the Empowerment of Women 2001 and is explicit in the National Policy for Children 2013.

Three types of government schemes currently exist that specifically provide entitlements for Dalits, especially those living below the poverty line. One type is targeted provisioning to SCs under schemes for national rural drinking water, rural livelihoods, housing, self-employment, education scholarships, hostels and residential schools, health insurance, etc.

<sup>23</sup>See *Arumugam Servai vs. State of Tamil Nadu* (2011) 6 SCC 405, para 17 & *State of Uttar Pradesh vs. Ram Sajivan* [(2010) 1 SCC 529], para. 1.

<sup>24</sup>For more details, see Swadhiakar-NCDHR, 2014. *Benchmarking the UN Guidelines on the Elimination of Discrimination based on (caste) Work and Descent*. New Delhi: Swadhiakar-NCDHR.

Another type is rehabilitation schemes for bonded labourers, devadasis, manual scavengers and child labourers in hazardous industries, a disproportionate number of whom are Dalits. A third type are schemes to promote rights such as incentives for inter-caste marriages, local cost sanitation for liberated scavengers, credit towards purchase of land by SCs, land redistribution schemes for landless labourers, etc.

One of the most significant policy measures is the Scheduled Caste Sub Plan (SCSP), which mandates budgetary allocations in proportion to the national and state scheduled caste population. These funds should be spent only on programmes that have a direct benefit to scheduled caste individuals and families or to scheduled caste habitations to bridge gap between scheduled caste communities and dominant castes. The central government also provides Special Central Assistance (SCA) to the state governments for the SCSP and for implementation of SCs and STs (PoA) Act.

In addition, the central and state governments have appointed commissions, formulated schemes and policies to respond to the specific issues of Dalits. The National Scheduled Caste Commission, National Safai Karamchari Commission, and specific legislations to eliminate manual scavenging and Devadasi/Jogini system are some of the significant state responses to Dalit concerns in India.<sup>24</sup>

## 2.3 Civil rights

Though civil rights are protected under the PCRA and subsequently by the POA Act, there is still a long way to go. Awareness of these laws in the community is low and wilful ignorance among the state machinery is high, leading to nullifying the preventive intent of the law. Dalit human rights violations,

atrocities against Dalits and violence against Dalit women, children, men and community at large, hurdles facing by those experiencing atrocities in accessing justice, ineffective implementation of the POA Act and PCRA - all are the results of caste based discrimination.

Despite stringent laws, the National Crime Records Bureau (NCRB) statistics do not show any decline in the atrocities against SCs. The number of cases registered of atrocities against SCs is only increasing.<sup>25</sup> Many cases, moreover, are simply not registered with the police.

*Approximately 33,000 cases are being registered as atrocities against Scheduled Castes in one year. These are the worst kind of crimes... murder, rape, kidnapping, abduction and arson. These are pre-meditated crimes.... among the worst crimes in the Indian Penal Code. This shows how vulnerable the Scheduled Castes and the Scheduled Tribes are. [...]*

*One of the reasons why atrocities take place in those places is to cripple them economically. Every riot, every arson cripples them economically.*

*Minister for Home Affairs P  
Chidambaram, Lok Sabha, 30 Aug 2010*

In the year 2013 there were 39,408 crimes against persons belonging to scheduled castes,

an annual increase of 17.1 percent. Of these, there were 676 murders and 2,073 were cases of rape of women belonging to scheduled castes— an increase of 31.5% over 2012.

Pendency rates in courts are high (80% annually) leading to high acquittal rates, enhancing impunity. Conviction rates for crimes against Dalits are dismal compared to conviction rates for general crimes under the Indian Penal Code (IPC)—the national capital even has 0% conviction as against 49% for IPC crimes. Nationally this bias can be seen since convictions for crimes against Dalits (17%) is less than half that of IPC crimes (40%).

When the SCs and STs attempt to enjoy the fruits of development, they break the caste taboo that enjoins them not to better themselves. This results in a brutal backlash, as acknowledged by one Minister of Home Affairs (quoted above).

## 2.4 Economic rights

Poverty in India does not affect everyone equally. The Census of India 2011 and the Multi-Dimensional Poverty Index (MPI, 2010)<sup>26</sup> show that poverty levels remain unconscionably high with 43% child malnutrition and some human development indicators worse than sub-Saharan Africa or war ravaged states. Further analysis shows that the SCs and STs are disproportionately represented in the poverty and deprivation rankings.

Breakdown of Multidimensional Poverty across Hindu Castes and Tribes			
States	MPI	Percentage of MPI Poor	Average Intensity
Scheduled Caste	0.361	65.80%	54.80%
Scheduled Tribe	0.482	81.40%	59.20%
Other Backward Class	0.305	58.30%	52.30%
General	0.157	33.30%	47.20%
Source: Oxford Poverty and Human Development Initiative (OPHI) India Country Brief, p.5			

<sup>25</sup> From 26,665 (2006), 29,825 (2007) 33,365 (2008), 33,594 (2009), 32,665 (2010), 33,719 (2011), 33,655 (2012) to a high of 39,408 (2013): NCRB Crimes in India data.

<sup>26</sup> UNDP and Oxford Human Development Initiative <http://www.ophi.org.uk/policy/multidimensional-poverty-index/>

The National Family Health Survey (NFHS) which provides disaggregated data for women and children paints an even more alarming figure.

SI	MEASURE (%)	ST	SC	OBC	Others	India
1	Under 5 malnutrition of children (weight for age)	55	48	43	34	43
2	Children's anaemia	77	72	70	64	70
3	Women below 18.5 body mass index (BMI)	47	41	36	29	36
4	Anaemia among women	69	58	54	51	55
5	Men below 18.5 BMI	41	39	35	29	34
<i>National Family Health Survey 3, 2005-06</i>						

Despite a policy of Scheduled Caste Sub Plans (SCSP) in which a proportion of the budget is dedicated exclusively for the development of scheduled castes in proportion to their population in the country and in the states, the record is dismal. Only two states (Andhra Pradesh and Karnataka) have made this into law. The process has not even started in the rest. To fulfil the demands of the policy, there are notional allocations and expenditure, but there is absence of proper accountability systems. This is compounded by the lack of public awareness and participation in planning and expenditure, and virtually no involvement of CSOs and peoples organisations. There is only limited applicability of SCSP budgets to students and no proper awareness nor consciousness among teachers, hostel authorities and other concerned higher authorities about the SCSP and TSP.

There is discrimination in allocation of development funds to Dalit majority villages, and severe restrictions on elected Dalit leaders (including the sarpanch) in gram

panchayats. There is low participation of Dalit women and men in MGNREGA works as a result of delay in payments, discrimination in allocation of works, and lack of focus on asset building. There are similar hurdles in accessing other government welfare schemes.

Land remains contentious and a caste privilege. Landlessness is rampant, with little land of secure tenure even to construct a hut on their own (homestead lands), lack of burial grounds and agricultural land. Even if 'allotted', such land has a high probability of being under illegal occupation by the dominant castes or they face severe problems in using such lands.

## 2.5 Basic amenities

The Scheduled Caste Sub Plan notwithstanding, in most cases these allocations are either diverted or unutilised. The result is that there is significant variance between the socially excluded sections and the country mean.

Household amenities (% population)						
SI	Amenity	2011			Variance	
		SC	ST	National	SC %	ST%
1	Concrete roof	21.93	10.11	29.0	24 %	65 %
2	Tap drinking water	41.28	24.44	43.5	5 %	44 %
3	Electricity access	59.02	51.70	67.3	12 %	23 %
4	Toilet within the house	33.86	22.64	47.0	28 %	52 %
5	LPG as cooking fuel	16.92	9.26	28.5	41 %	68 %
6	Banking	50.94	44.98	58.7	13 %	23 %
7	Telephone	53.14	34.82	63.2	16 %	45 %
Source: Census of India 2011, House-listing data.						

According to the Census of India 2011, 53% of Indian households lack toilets. A higher proportion of scheduled caste (66%) households lack toilets. This is particularly ironic, since most manual scavenging and a substantial part of all sanitation work in this country is done by Dalit women. They do so without protective gear, including entry into closed sewage lines and septic tanks, with extreme consequences to their health.



### 3. Status of Dalit Children

#### 3.1 Introduction

Childhood is the most crucial period in a person's life because maximum growth and development take place during this formative period. Every child needs a caring and conducive environment to grow into a potentially healthy human being. Family, neighbourhood and the society together play a vital role in contributing to the maximum growth and development of a child.

Dalit children and youth in 0-18 years constitute 47% of the Dalit population and hold the future of Dalit community. According to the Census of India 2011, the country had a child population of 164 million in the age group of 0 to 6 years. Of these the Dalit children are 29.2 million, or about one in every six children.

A safe and secure environment free of physical, emotional and other kinds of trauma gives the child a feeling of well being, which enhances their growth and development. But for many Dalit children this is more of a myth than a reality. Children living in difficult circumstances in society and in the family undergo various traumas in life, which disrupt their normal process of growth and development. If the social as well as the family environment is not conducive for their development, their physical and psychological well-being is hampered.

#### 3.2 Instruments and standards for the protection of child rights

##### 3.2.1 International conventions and declarations

India is signatory to a number of international instruments and declarations pertaining to the right of children to protection, security and dignity.

India is a signatory to the International Conventions on Civil and Political Rights, and on Economic, Social and Cultural Rights which

apply to the human rights of children as much as adults.

Quick Facts :CRC has 54 articles and each outlines a different right. These rights are divided into 4 groups:-

- 1- Right to Survival speaks about the basic needs of a child's existence which include nutrition, shelter, an adequate standard of living and access to health care.
- 2- Right to Development outline what children need to reach their full potential, i.e. education, leisure, cultural activities, access to information and freedom of thought, conscience and religion.
- 3- Right to Protection requires that children be protected from all forms of abuse, neglect and exploitation.
- 4- Right to Participation recognises that all children should be enabled to play an active role in their communities and societies. These rights include freedom to express opinions and to have a say in matters affecting their lives.

India acceded to the United Nations Convention on the Rights of the Child (UN CRC) in 1992, reaffirming its earlier acceptance of the 1959 UN Declaration on the Rights of the Child, and is fully committed to implementation of all provisions of the UN CRC. In 2005, the Government of India accepted the two Optional Protocols to the UN CRC, addressing the involvement of children in armed conflict and the sale of children, child prostitution and child pornography.

The Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW) is also applicable to girls under 18 years of age. Article 16.2 of the Convention lays special emphasis on the prevention of child marriages and states that the betrothal and marriage of a child shall have no legal effect and that legislative action shall be taken by States to specify a minimum age for marriage.

At the regional level, the SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution emphasises that the evil of trafficking in women and children for the purpose of prostitution is incompatible with the dignity and honour of human beings and is a violation of the basic human rights of women and children.



### 3.2.2 National policies and laws addressing child rights

The Constitution of India recognises the vulnerable position of children and their right to protection. The Fundamental Rights and Directive Principles of the Indian Constitution provide the framework for child rights. Following the doctrine of protective discrimination, Article 15 guarantees special attention to children through necessary and special laws and policies that safeguard their rights. The rights to non-discrimination, protection of life and personal liberty, and against exploitation are enshrined in Articles 14, 15, 15(3), 19(1) (a), 21, 21(A), 23, 24, 39(e) 39(f) and reiterate India's commitment to the protection, safety, security and well-being of all its people, including children. Specifically for socially excluded children, Article 46 lays down the duty of the Indian state to promote with special care the educational and economic interests of the scheduled castes, and to protect them from social injustice and all forms of exploitation.

Several national policies and laws have been framed to implement the commitment to child rights. India is strengthening its national measures to protect children from various forms of violence and exploitation.

National Policies:

- National Policy for Children, 2013.
- National Policy on Education, 1986.
- National Policy on Child Labour, 1987.
- National Nutrition Policy, 1993.
- Report of the Committee on Prostitution, Child Prostitutes and Children of Prostitutes and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children, 1998.
- National Health Policy, 2002.
- National Charter for Children, 2004.
- National Plan of Action for Children, 2005.
- In 1974, the Government of India adopted a National Policy for Children, declaring the nation's children as 'supremely

important assets'. The policy lays down recommendations for a comprehensive health programme, supplementary nutrition for mothers and children, nutrition education for mothers, free and compulsory education for all children up to the age of 14, non-formal preschool education, promotion of physical education and recreational activities, special consideration for the children of weaker sections of the population like the scheduled castes and the schedule tribes, prevention of exploitation of children and special facilities for children with handicaps. The policy also provided for the creation of a National Children's Board in 1974 to act as a forum to plan, review and coordinate the various services directed toward children.

- The present National Plan of Action for Children 2005 has been prepared to remove obstacles to improve the condition of the children.
- The goals for children can be achieved in quality and in time, if institutional arrangements, organisational requirements and resource commitments are more specifically identified and better assured in a joint endeavour by all segments of the society. One of the guiding principles of this plan of action is to address issues of discrimination emanating from biases of gender, class, caste, race, religion and legal status in order to ensure equality.

#### National Legislation:

- Protection of Children from Sexual Offences Act, 2012.
- Juvenile Justice (Care and Protection of Children) Act, 2000.
- Right of Children to Free and Compulsory Education Act, 2009.
- Prohibition of Child Marriage Act, 2006.
- Commission for the Protection of Child Rights Act, 2005.

- Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.
- Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 2000.
- Child Labour (Prohibition and Regulation) Act, 1986.
- Bonded Labour System (Abolition) Act, 1976.
- Guardians and Wards Act, 1890.
- Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960.
- Bombay Prevention of Begging Act, 1959.
- Hindu Adoption and Maintenance Act, 1956.
- Hindu Minority and Guardians Act, 1956.
- Immoral Traffic (Prevention) Act, 1956.

### 3.3 Gaps in national measures

- There has been no countrywide survey to enable an authentic assessment of the magnitude of the problems facing Dalit children, specifically how many Dalit children are trapped in child labour and trafficking, or face abuse and caste discrimination.
- Promising policy initiatives for social development often falter in India due to poor implementation. This has been true of government programmes addressing the rights of children from Dalit and other marginalised groups, as well as of women and girls.
- Lack of coordination among departments of labour, education, social welfare, and the various commissions dealing with scheduled castes hinders effective implementation of the Right to Education Act, SCs and STs (PoA) Act, Child Labour (Prohibition & Regulation) Act, etc. The National Commission for Protection of Child Rights (NCPCR), in charge of monitoring the implementation of the Act,

is not functioning effectively, in part because there is poor coordination between the different ministries and commissions. Weak implementation of education policies combined with poor enforcement of the Child Labour (Prohibition & Regulation) Act, 1986 by the labour department contributes to the high incidence of child labour.

### 3.4 Inequality and social exclusion faced by Dalit children

Empirical evidence indicates that Dalit children suffer from exclusion and discrimination in terms of education, healthcare and the incidence of child labour.<sup>27</sup> Evidence also reveals that state as well as non-state actors violate a number of rights of Dalit children that are protected by domestic laws and international human rights law.<sup>28</sup> The following is an overview of the various rights that are violated.

#### 3.4.1 The right against untouchability

The Indian constitution outlaws caste discrimination and the practice of untouchability. Section 3 of the SCs and STs (PoA) Act 1989, which was enacted to protect Dalits against caste-based violence, makes it a punishable offence for non-Dalits to engage in a number of different acts such as polluting their water sources or forcing them to eat noxious substances. It also prohibits non-Dalits from insulting or humiliating Dalits. International human rights law forbids caste based discrimination and obliges India to prevent, prohibit and eliminate such discrimination.

#### 3.4.2 The right to health and nutrition

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) recognises 'the right of everyone to the enjoyment of the

<sup>27</sup>Sadana, N., 2009. *Dalit Children in Rural India: Issues Related to Exclusion and Deprivation*. New Delhi: IIDS.

<sup>28</sup>The survey -Voices of Children of Manual Scavengers – is based on interviews with 1,048 children between the ages of 6 and 17 in the state of Gujarat. [http://idsn.org/fileadmin/user\\_folder/pdf/New\\_files/India/Dalit\\_children\\_in\\_India\\_victims\\_of\\_caste\\_discrimination.pdf](http://idsn.org/fileadmin/user_folder/pdf/New_files/India/Dalit_children_in_India_victims_of_caste_discrimination.pdf)



highest attainable standard of physical and mental health'. This is a right to be enjoyed without discrimination. However, research has shown that discrimination is very much prevalent in access of health services and enjoyment of the right to health. Mortality, for example, is an important indicator of health status and it is seen in India, infant mortality rate for Dalit children is as high as 66.4 per 1000 as compared to children from the 'other' social group (48.9 per 1000).

Similarly, the under-5 mortality rate is higher, at 88.1 per 1000, among scheduled caste children as compared to 59.2 for non-scheduled caste children. High infant and children mortality levels in the Dalit population indicate low infant survival, which is dependent on factors related to care at birth some of which are place of delivery, type of assistance provided, major illnesses like pneumonia, fever, diarrhoea and the most important of all access to immunisation. The status of child nutrition among the scheduled population is the reflection of multidimensional deprivation and incapability from different aspects of development and wellbeing. In India about 55% of scheduled caste and scheduled tribe children under three years of age are underweight as compared to about 37% of children from the general population of 400 million children.

Child Health	SC	ST	OB	Other	All
IMR	66.4	62.1	56.6	48.9	57
U5M	88.1	95.7	72.8	59.2	74.3
All Vaccines	39.7	31.3	40.7	53.8	43.5
ICDS or any	36.1	49.9	30.3	28.3	32.9
No food at ICDS	69.6	56.1	77.6	76.8	73.5
Child Nutrition					
Stunting	53.9	53.9	48.8	40.7	48
Wasting	21.0	27.6	20.0	16.3	19.8
Underweight	47.9	54.5	43.2	33.7	42.5
U5 any Anaemia	72.2	76.8	70.3	63.8	69.5

Source: NFHS 3, 2005-06

<sup>29</sup> National Family Health Survey III – NFHS, 2005-06.

<sup>30</sup> National Commission for Scheduled Castes, undated. Report on the Plight of SafaiKarmacharis and Recommendations/Proposals to improve their Plight. <<<http://ncsc.nic.in/files/Residence%20School%20and%20hostels.docx>>>.

<sup>31</sup> Acharya, S.S., 2010. 'Access to Health Care and Patterns of Discrimination: Study of Dalit Children in Selected Villages of Gujarat and Rajasthan'. New Delhi: IIDS & UNICEF, p.16.

The National Commission for Scheduled Castes has noted that 'often it is found that the children of safaikarmacharis (most of whom are Dalits) are more likely to be malnourished because they lack minimum basic facilities such as access to clean water, proper health care and adequate sanitation.

of Gujarat and Rajasthan, 94% of SC children surveyed discrimination in the form of touch when accessing healthcare. More than 93% of Dalit children have experienced discrimination at the hands of ANMs (Auxiliary Nurse Midwives) and community health workers, while about 59% of children experienced discrimination from doctors. The study concludes: 'Dalit children experience social hindrances toward health care access and often have to travel longer than others for accessing health services. Discrimination in the delivery of the services is often visible. Children are not given the chance to express explicitly their problems to the care provider in the health care centre. The burden of health care utilisation is often not possible for Dalit children to bear. Moreover, the benefits of the various development programmes which accrue to Dalit children are few. Different forms of discrimination manifest at the interface of various factors and hence are experienced differently by Dalit children. Discrimination in access and utilisation of health care is mostly observed in the disparity in care provisioning at the health care centre by the providers – doctor and the supporting staff; and at home during the visit by the health worker'.

Therefore, an important step to reduce the vulnerability of undernourishment among the young Dalit children would be to ensure the universal access to health care and ICDS facilities. It is also true that given the quality

of ICDS services being delivered in most the rural areas of the country alternate strategies also need be adopted by government.

### 3.4.3 The right to education

India enacted the Right of Children to Free and Compulsory Education Act 2009, which provides for free and compulsory education to all children aged 6 to 14 years based on principles of equity and non-discrimination. This law requires that every local authority ensure that children belonging to disadvantaged groups 'are not discriminated against and prevented from pursuing and completing elementary education on any grounds'.

*'In school I was made to sit in the back together with the other Dalits. That made me very angry because I never had the same chance as the others. I was afraid of the teacher because he scolded me a lot. I never felt comfortable to ask questions in the classroom. When he asked me questions and I gave the wrong answer, he hit me. If I didn't come to school, the teacher didn't ask for the reason but just hit me. He sometimes called me bad names like 'Nirka' or 'Dheda'. Often he didn't come and sometimes he slept in the classroom. We Dalits were not allowed to participate in song and drama programmes in the school. If there was a festival, our parents never came. In the morning assembly the Dalits had to sit in the back. Only the 'upper' caste children were allowed to say the prayer.'*

(Naresh, 13, Dalit, Surendranagar District, Gujarat, now in Navsarjanschool)

A number of international treaties protect the right to education and prohibit discrimination in access to education.

However, it is clear that teachers, school administrators, and other students continue to deny Dalit children access to an equal education by treating them as unequal, often resulting in an effective exclusion from school altogether. While India has in recent years markedly reduced dropout rates for all Indian youth, the difference in dropout rates between Dalit youth and all Indian youth has actually grown from 4.39% in 1989 to 12.8% in 2009-10.

Many Dalit children are treated as

'untouchable' by teachers and other students. This includes segregation in class rooms, exclusion from school ceremonies and denial of access to school water supplies. Even when admitted to school, Dalit students are prevented from access to the safe drinking water, sanitation and hygiene facilities and infrastructure in the schools. There is rampant caste discrimination in accessing these facilities, nutrition (state provided midday meals in schools), scholarships, participation in games, sports, and cultural and artistic events. Dalit children are frequently treated in a humiliating and degrading manner in schools and in public places, at times accompanied by severe corporal punishment. There is multigenerational impact on the whole community when the children are unable to access opportunities outside the schools due to lack of imparting life skills in schools and hostels. Parents of Dalit children are prevented from involvement in school management committees. These adverse conditions result in increased dropout rates, irregular attendance and passive participation of students affecting their future.

Dalit children also are made to clean school toilets and carry their footwear in their hands (at times on their heads) while crossing dominant caste areas in certain villages. In Pacheri village of Ramnathpuram, Tamil Nadu, when a Dalit student was murdered on 9 September 2011 by dominant castes, 23 Dalit children were compelled to take their transfer certificates from the school because the dominant caste children objected to their presence in the school. Some of these factors have significantly contributed to higher dropout rates among Dalit children who face a hostile environment especially at school.<sup>32</sup>

The government's Shikshya ka Haq Campaign between November 2011 and 2012, in reality,

<sup>32</sup>Human Rights in India, Status Report 2012, prepared for India's Second Universal Periodic Review at the UN, Published By, Working Group on Human Rights, New Delhi; p. 42.; <[http://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0CCsQFjAC&url=http%3A%2F%2Fwww.ghr.org%2Fwp-content%2Fuploads%2F2013%2F07%2FHuman-Rights-in-India-Status-Report-2012.pdf&ei=cl3hVKbrBMznuQSPp4L4Cw&usq=AFQjCNFod\\_mSth8MCpD8ny3tX8tLQs9u\\_Q](http://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0CCsQFjAC&url=http%3A%2F%2Fwww.ghr.org%2Fwp-content%2Fuploads%2F2013%2F07%2FHuman-Rights-in-India-Status-Report-2012.pdf&ei=cl3hVKbrBMznuQSPp4L4Cw&usq=AFQjCNFod_mSth8MCpD8ny3tX8tLQs9u_Q)>

has not reached many communities, nor has the campaign given adequate focus to issues of non-discrimination and social inclusion.

Hence, for example, a 2013 study by the Centre for Social Equity and Inclusion among five marginalised communities in ten areas across Delhi, many of whom are Dalits, revealed that almost no community members knew about the Act. Those who did know about the Act did so solely due to the efforts of civil society organisations.

The gross enrolment ratio for scheduled caste children in elementary education today is reasonably high (122.6 in classes 1-5, dropping

to 90.5 in classes 6-8), in keeping with the national average, though gender disparities remain. The enrolment ratios, however, drop significantly at the secondary and senior secondary levels for scheduled caste students (only 61.8 in classes 9-10, and 48.2 in classes 11-12). Moreover, enrolment does not necessarily translate into scheduled caste children regularly attending school at any level.<sup>33</sup> The number of out-of-school children aged 6-13 years in rural areas is officially estimated at 4.53% and in urban areas as 3.18%, though this figure is contested by CSOs as a gross underestimate. While scheduled caste children represent 21% of all children, they represent 29.20% of those out of schools.<sup>34</sup>

Level-wise Dropout Rates in School Education						
School Level	All Children			SC		
	Boys	Girls	Total	Boys	Girls	Total
I-VIII	41.5	40.0	40.8	43.3	36.4	40.2
I-X	48.6	52.2	50.3	55.0	55.6	55.3

In terms of higher education, Dalits continue to lag behind other social groups. According to the NSSO 64th Round data for 2007-08, the gross enrolment ratio in higher education in rural areas for scheduled castes was 8.3, lower than for OBCs (11) and 'higher' castes (17). This was especially the case for rural scheduled castewomen, whose enrolment ratio stood at 6 as compared to 8.4 for all women. For urban areas, the gross enrolment ratio was 20.5 for scheduled castes, as compared to 25.2 for OBCs and 38 for 'higher' castes.

Despite the emphasis in various government schemes on closing the social gaps between marginalised communities such as Dalits and others in education, education planning continues to take place without adequate consultation of Dalit children and communities as to their specific needs in education.

### 3.5 Caste discrimination and exclusion

<sup>33</sup> MHRD Selected Educational Statistics 2011-12.

<sup>34</sup> EdCIL & Social and Rural Research Institute, 2010. *All India Survey of Out-of-School Children of Age 6-13 Years and Age 5*. New Delhi: Government of India.

<sup>35</sup> Department of School Education and Literacy, 2011. *Framework for Implementation of SSA based on RtE Act*. New Delhi: DSEL, para 3.8.2.3.

The SSA Implementation Framework broadly lists continuing forms of exclusion of scheduled caste children in education: exclusion by teachers in classrooms, including segregated seating, less attention to scheduled caste children, derogatory remarks on their learning abilities linked to their caste, denying scheduled caste children equal access to school facilities; exclusion by peer group in classroom and other activities in the schools; exclusion by the system, such as the lack of caste sensitisation trainings for teachers, non-implementation of incentive schemes for scheduled caste children.<sup>35</sup> Verification for these forms of exclusions and discrimination can be seen from a number of studies, a few of which are detailed below.

A study of 'untouchability' practices in rural areas of 11 Indian states found that caste practices persist in education, such as segregation in eating, drinking water or seating

in classrooms in public schools, aside from discrimination and ill-treatment from non-Dalit teachers or students.<sup>36</sup> In 2012, 41 independent monitoring institutes submitted reports to the MHRD about instances of discrimination and untouchability during the midday meals in 186 schools across the states of Rajasthan, Madhya Pradesh, Orissa, Uttar Pradesh and Gujarat.

Dalit children are routinely segregated from other children while eating and food cooked by Dalit cooks is often refused by many children or their parents. There are also cases where Dalit students are served from a distance, and several students bring their own plates for fear of utensils being touched by Dalit classmates.<sup>37</sup>

'I left my school in the year 2004 after finishing 3rd grade because I have to do the cleaning and sweeping work with my parents. Now I go with my mother to clean and dump waste and garbage in the main area of the village.'  
- **Aruna Popatbhai Purabiya, age 13, Bhavnagar District.**

Research on violence against Dalit women and girls in four states of India revealed that Dalit girls have either stopped mid-way through their schooling, or have suffered mental tension due to instances of discrimination, verbal abuse and harassment, threats of assaults as well as actual assaults on them by dominant caste teachers and students.<sup>38</sup>

The persistence of caste-based segregation of children in primary schools in rural Karnataka can be seen from a 2011 Mangalore University study in 10 taluks where 13.7% of Dalit children stated that their teachers had asked them to sit separately from 'higher caste' children in the classroom. Nearly 33% of Dalit parents said their children cleaned classrooms on a 'frequent' basis and 'during school functions and festivals'.<sup>39</sup>

MP Bhalchandra Mungekar, a Commissioner of Inquiry appointed by the National Commission for Scheduled Castes, concluded that 35 scheduled caste medical students who were failed en masse from Delhi's Vardhman Mahavir Medical College in 2010 had experienced caste discrimination and recommended punishment of the responsible college staff. He noted that discrimination in higher education institutions was being manifested in terms of Dalit student suicides, failures and degrees delayed for years on end.<sup>40</sup>

### 3.5.1 Right to protection from abuse and exploitation

The right to child protection guarantees to all children irrespective of their caste, class, gender and ethnicity protection from or against any perceived or real danger or risk to their life, their personhood and childhood by the state and civil society. The right to protection restricts the actions of others, primarily adults and older children, to cause any kind of harm, abuse and exploitation. It is about ensuring that no child falls out of the social security and safety net and, those who do, receive necessary care, protection and support of the law and communities.

For example, among recurrent complaints about the Integrated Child Development Scheme (ICDS) centres, which provide early childhood care and education, is the prevalence of discrimination coupled with the lack of protection. Physically located at an inaccessible distance, location in the colony of dominant castes and appointment of non-Dalitanganwadi workers who practice untouchability makes access difficult and even dangerous for Dalit children. Consequently children from the socially excluded groups such as Dalits feel discouraged from accessing the centre.<sup>41</sup>

<sup>36</sup> Shah, G. et al., 2006. *Untouchability in Rural India*. New Delhi: Sage Publications.

<sup>37</sup> Vishnoi, A. (2012, 26 Nov). 'Report says caste, gender discrimination rampant', *Indian Express*.

<sup>38</sup> Irudayam, A. et al., 2011. *Dalit Women Speak Out: Caste, Class and Gender Violence in India*. New Delhi: Zubaan.

<sup>39</sup> Rao, Mohit. (2012, 22 Oct). *Discrimination and Social Exclusion: A study on the development experience of Dalits in Karnataka*. *The Hindu*.

<sup>40</sup> Gaikwad, R. (2012, 3 Oct). 'How casteist is our varsity?' *The Hindu*.

<sup>41</sup> [http://www2.ohchr.org/english/bodies/cescr/docs/cescr40/ActionAid\\_India.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/cescr40/ActionAid_India.pdf), p. 17.



### **3.5.2 Right to be free from manual scavenging**

Manual scavenging is officially prohibited in India. The Convention on the Rights of the Child (CRC) recognises the right of all children to be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical,

mental, spiritual, moral or social development. Nevertheless, a large number of the children describe having to accompany their parents to work and work with them, or labour on their own in dangerous jobs such as sanitation and disposal of animals.<sup>42</sup> In addition, many of the children report that teachers or community members require them to clean toilets or pit latrines.

### **3.5.3 Right to be free from child labour and slavery**

According to NSSO survey data of 2004-05, out of the 60 million child labourers in India 40% come from scheduled caste families. Moreover, it is estimated that 80% of child labourers engaged in carpet, matchstick and firecracker industries come from scheduled caste backgrounds. The International Covenant on Civil and Political Rights (ICCPR) and the ICESCR outlaw slavery and forced labour and require fair compensation for work. The Committee on Elimination of Racial Discrimination has noted with concern the large numbers of Dalit children forced to work as manual scavengers, in extremely unhealthy working conditions, and in exploitative labour arrangements including debt bondage.<sup>43</sup>

### **3.5.4 Right to an adequate standard of living**

Household economic security is key to the fulfilment of the basic needs of children. Many

Dalit families lack the minimal income gained through their labour or ownership of productive assets and consequently are unable to provide their children with an adequate standard of living. Poor households which lack sufficient resources to meet basic needs of food, health, water, shelter or education put children at risk.

When already vulnerable households experience 'shocks' – sudden price fluctuations, natural disasters, illness, or death – it causes further setbacks and exacerbates risks for children. Struggling for economic security, households and individuals may be forced to deploy strategies that have negative implications for children, like involvement in hazardous work. With limited opportunities available to the millions of youth entering adulthood, special emphasis is necessary to support the transition from school into productive livelihoods.

### **3.5.5 Right to drinking water and clean environment**

Access to safe drinking water and hygienic sanitation are vital for the survival and development of children and youth, as well as for the economic well-being of their families and communities. Safe, reliable and affordable potable water supplies and improved environmental sanitation services are entitlements within the ambit of the right to life and are vital for healthy development of children.

The figures from Census 2011 provide a meaningful insight into current socio-economic scenario of India. Only 43.5 per cent of households have access to tap water and only 32 per cent have water from treated sources while 11.6 per cent continue to draw from untreated sources. Glancing at the Census 2011 data for Scheduled Caste

<sup>42</sup>The survey -Voices of Children of Manual Scavengers – is based on interviews with 1,048 children between the ages of 6 and 17 in the state of Gujarat. Available at <<[http://idsn.org/fileadmin/user\\_folder/pdf/New\\_files/India/Dalit\\_children\\_in\\_India\\_victims\\_of\\_caste\\_discrimination.pdf](http://idsn.org/fileadmin/user_folder/pdf/New_files/India/Dalit_children_in_India_victims_of_caste_discrimination.pdf).

<sup>43</sup><http://www2.ohchr.org/english/bodies/cerd/docs/ngos/chrgj-hrw.pdf>.

population, it clearly indicates that there has not been much progress in condition of Dalits since 2007. The total population for SC households in rural areas is 32,919,665 of which only 63,48,622 have access to tap water from a treated source. About 4,219,829 SC households till today continue to draw tap water from untreated sources. As far as sanitation in rural SC households is concerned, only 7,520,933 families have latrine facilities within the premises. It is shocking to see that there are about 47,736 households in rural areas and 16,375 in urban areas where night soil continues to be removed by humans.<sup>44</sup>

Access to water directly affects the health situation women and children. Lack of access to drinking water and good sanitation facilities leads to poor health, thereby children dropout from school. Dalit women and girls spend half their calorie intake in fetching water.<sup>45</sup> Poor quality water and sanitation facilities are also the main source of communicable and other waterborne diseases. Dalits further face discrimination and marginalisation while accessing health facilities, as mentioned above, and this vicious circle goes on.

### 3.6 Gender discrimination

Alongside caste, gender is another intersecting factor of social exclusion and results in significant disparities in access to health and nutrition, education and personal development of Dalit girls. For example, according to government statistics, the dropout rate among adolescent Dalit girls is as high as 64 percent. A significant number of Dalit girls dropout when they are close to puberty without completing education through to grade VIII.<sup>46</sup>

The link between caste and forced prostitution

<sup>44</sup><http://www.thehindu.com/news/national/other-states/access-to-dignity-barred/article4389790.ece>

<sup>45</sup>[www.ohchr.org/Documents/Issues/Water/ContributionsStigma/CSociety/StigmatizationofDalitsinaccesstowatersanitation.docx](http://www.ohchr.org/Documents/Issues/Water/ContributionsStigma/CSociety/StigmatizationofDalitsinaccesstowatersanitation.docx).

<sup>46</sup>Ministry of Women and Child Development, Government of India, "Report of the Working Group on Child Rights for the 12th Five year Plan (2012-2017)," December 16, 2012, <http://www.wcd.nic.in/reportwgdtd01032012.pdf> (accessed Feb 16, 2015).

<sup>47</sup>Deccan Herald. (2011, 20 Aug.). 'Schemes fail to curb Devadasi practice'.

is apparent in the Devadasi and Jogini systems practiced in India which is a form of religiously sanctioned sexual abuse. Thousands of Dalit girls are forced into prostitution every year. Even after declaring the practice illegal in 1982, a 1994 Karnataka government survey identified 22,873 Devadasis in 10 districts. In 2007-08, another government survey found 23,787 Devadasis in 13 districts, indicating no sizeable decline in the number of Devadasis.<sup>47</sup>

### 3.7 Best Practices

The Centre for Research for Improvement (CRI) has saved hundreds of children by conducting rescue interventions in over 170 cases of children being exploited as domestic workers, stopping over 200 child marriages, and facilitating the arrest and prosecution of child traffickers. The CRI has set up a model for legal aid for juveniles in Delhi, which is gradually being replicated all over the country. CRI's lawyers have consistently struggled to eliminate anti-child practices from functioning of police by initiating legal action in a number of cases where children are illegally detained or tortured in police stations. On the other hand, CRI's trainings to police, members of juvenile justice boards, child welfare committees and government authorities have brought a sea change in the quality of service delivery to children. (<http://www.hrln.org/hrln/child-rights.html>)

Social Awareness Society for Youths (SASY) is working for the protection and promotion of the rights of Dalit and Adivasi children in the state of Tamil Nadu. Dalit and Adivasi children are the potential victims of discrimination and human rights violations by state and non-state actors. Yet there is no mechanism or support to reduce their trauma and it severely affects

their personality and leads to low self-esteem. SASY runs 20 Children Resource Centres (CRC) for Dalit and Adivasi children who have been affected by the 2004 tsunami and other natural disasters in the coastal region of Tamil Nadu. The children are taught about 'equality and non-discrimination' in the CRCs through the trained facilitators. The children are empowered through vigorous trainings and exposures that result in their bringing to light cases of caste discrimination and other forms of violations in the schools and public sphere. The cultural trainings to the children enhanced their talents and they have been publically recognised in the schools and in the public through their outstanding cultural performances

and talents. The children are also effectively addressing caste discrimination in their localities through advocacy at the grassroots with local self-government and government authorities.

Navsarjan Trust is a grassroots Dalit organisation dedicated to eliminating caste discrimination and untouchability practices, ensuring equality of status and opportunities for all, regardless of caste, class or gender; and ensuring the rule of law prevails. Navsarjan strives to establish counter-consciousness and sense of unity within the minds of children to combat caste and gender based discrimination. Children's programmes and camps run by Navsarjan's field workers bring together all the children of a village across community lines. In many villages, Dalits of different communities—often called 'sub-castes'—do not interact frequently, and even practice untouchability between them. These children's programmes emphasise unity and equality through cultural programmes, book readings, and group discussions.<sup>48</sup>

<sup>48</sup><http://navsarjan.org/Dalits/PrimaryEduDalitEmpowerment.pdf>.

### 3.8 Recommendations

- Ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OP3 CRC) that allows the UN Committee on the Rights of the Child to hear complaints alleging a child's rights being violated and provide a remedy for the violation.
- Emphasise adequate participation of Dalit children as to their specific needs in education, in planning process of various government schemes and national policies related to children. National policies should include adequate measures to combat discrimination and exclusion of Dalit children.
- Implement grievance redress mechanisms, especially at the block and district levels, define procedures for complaints, support the National or State Commissions for the Protection of Child Rights (NCPCR/SCPCRs) to enable them to play the role expected, and support the Panchayati Raj system in its role as the local authority vis-à-vis school education.
- Strengthen convergence between the Ministry of Human Resource and Development and the Ministry of Women and Child Development on the pre-school component of the ICDS.
- Ensure that state education curriculum and textbooks effectively improve children's learning levels, especially on discrimination, exclusion and inclusion, by reviewing and revising them with the inputs of experts so that the children are sensitive to these issues and are consciously inclusive.
- Increase at least five-fold the annual budgetary allocation for the Integrated Child Protection Scheme (ICPS) for protection of children from abuse, neglect, exploitation and violence.
- Invest adequately in ensuring protection for children by: (i) implementing policies and programmes that protect children

from abuse, violence and exploitation; (ii) investing in appropriate referral services for the recovery, rehabilitation and reintegration of victims of abuse, violence and exploitation; investing in creating a cadre of trained professional (iii) creating robust monitoring of implementation of child protection mechanisms, schemes and policies (iv) creating a proper database for child trafficking, street children, missing children and ensuring a fully functional newly developed child tracking system – 'National Tracking System for missing and Vulnerable Children'<sup>49</sup>

- Amend the Child Labour (Prohibition and Regulation) Act to abolish all forms of child labour by removing the distinction between hazardous and non-hazardous categories of work for all children up to 18 years of age.
- Establish comprehensive and integrated 'Monitoring, Accountability and Grievance Redress' mechanisms, accessible to all citizens for child related grievances.
- Effectively implement the Right to Food Act to deliver food grains as well as nutritional security at household level for all marginalised and excluded populations, especially pregnant and lactating women and children.
- CBD gives rise to a self-perpetuating cycle of social and economic exclusion and undermines children's ability to develop to the fullest. Every effort should be made to eliminate discrimination against children, whether rooted in the children's or their parent's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Appropriate measures should be taken to end CBD, to provide special support and to ensure equal access to services for these children.



<sup>49</sup> *National Tracking System for missing and Vulnerable Children*, Ministry of Women and Child Development, <http://www.trackthemissingchild.gov.in/trackchild/index.php>



## 4. Status of Dalit Women

### 4.1 Introduction

The population of Dalit women in India, as per the Census of India 2011, is 97.9 million, and accounts for 48.59% of the total Dalit population. The total female population in India is 587 million, of which Dalit women are 16.68 percent. Dalit women are placed at the absolute bottom of the social hierarchy in India. They face systemic and structural discrimination threefold: as 'untouchables' and 'outcastes' due to their caste, as women, and finally as economically impoverished people primarily engaged in low wage labour works. There is a significant gap between the Dalit women and Dalit men and even non-Dalit women in almost all human development indicators. For example, the literacy rate of Dalit women has improved from 41.9% in 2001 to 56.5% in 2011. But it is still behind the women in general, whose literacy rate is 64.6 percent.

The intersections of caste, class and gender exacerbate their vulnerability and keep Dalit women away from access and control over assets and resources. There is little or no recognition of their social and economic contribution to the country. Due to intersectional discrimination, Dalit women are specifically targeted for daily, egregious acts of violence, in particular sexual violence, including the the Devadasi system of forced and ritualised prostitution. Due to patriarchal notions of community honour residing in women, dominant caste violence against Dalit women functions to punish the entire Dalit community and teach Dalits a lesson of obedience to caste norms. According to India's National Commission for Women, 'In the commission of offences against... [Dalit] women the [dominant caste] offenders try to establish their authority and humiliate the community by subjecting their women to indecent and inhuman treatment'. At the same

time, Dalit women constitute perhaps the most economically deprived section of Indian society. Most do not own agricultural land and work as daily wage labourers. Their choices and opportunities for development and freedom are limited. This process of exclusion and discrimination inculcates disrespect and indignity of Dalit women at the hands of all men and also non-Dalit women.<sup>51</sup>

Dalit women have less power within the Dalit movement and community organisations as well. Although they are active in large numbers, most leadership positions in movements, organisations, local bodies and associations have until now been held by Dalit men.

### 4.2 Instruments and standards for the protection of women's rights

#### 4.2.1 International standards

Various international human rights laws applicable to India include standards that uphold the rights of Dalit women. Article 2(f) CEDAW states that States agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. This can be read together with Articles 2 and 3 ICERD, by which states condemn racial (i.e. caste) discrimination and segregation, and undertake to pursue by all appropriate means and without delay a policy of eliminating racial (caste) discrimination in all its forms and promoting understanding among all races (castes).

More recently, UN treaty bodies have articulated an understanding of intersectionality as a basic concept for

<sup>49</sup> National Tracking System for missing and Vulnerable Children, Ministry of Women and Child Development, <http://www.trackthemissingchild.gov.in/trackchild/index.php>

understanding the scope of the general obligations of states. The CEDAW Committee has noted that the discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as... caste. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men. States must legally recognise such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them. They also need to adopt and pursue policies and programmes designed to eliminate such occurrences, including, where appropriate, temporary special measures.<sup>52</sup> Similarly, the CESCR Committee has noted that 'some individuals or groups of individuals face discrimination on more than one of the prohibited grounds, for example, women belonging to an ethnic or religious minority [or scheduled caste]. Such cumulative discrimination has a unique and specific impact on individuals and merits particular consideration and remedying... State measures should be taken to prevent, diminish and eliminate conditions and attitudes which cause or perpetuate substantive, multiple discrimination, as well as specific measures to attenuate or suppress conditions that reproduce this discrimination'.<sup>53</sup>

Specific observations on the status of Dalit women by international treaty bodies also highlight calls for the practical implementation of international human rights standards vis-à-vis Dalit women:

States should take into account, in all programmes 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. (CERD. (2002). General Recommendation 29: Descent Based Discrimination, para. 11)

States should take all measures necessary in order to eliminate multiple discrimination including descent-based discrimination against women, particularly in the areas of personal security, employment and education.'(CERD. (2002). General Recommendation 29, para. 12)

The Indian State should put in place a mechanism to monitor the effective enforcement of the SCs and STs (Prevention of Atrocities) Act in order to end impunity for crimes against Dalit women. The Indian State should increase Dalit women's legal literacy and improve their access to justice in bringing claims of discrimination and violation of rights. The Indian State should also 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 providing the Dalit women engaged in this practice with vocational training and alternative means of livelihood. (CEDAW. (2007). Concluding Observations on India Report. UN Doc. CEDAW/C/IND/CO/3, para. 29)

The Indian State is urged to effectively prosecute and punish perpetrators of acts of sexual violence and exploitation of Dalit women, sanction anyone preventing or discouraging victims from reporting such incidents, take preventive measures, and provide legal, medical and psychological assistance, as well as compensation, to victims... The Indian State should also effectively enforce state laws prohibiting the Devadasi (forced prostitution) practice. (CERD.

<sup>52</sup> CEDAW, 2010. General Recommendation 28: The Core Obligations of States parties under Article 2 CEDAW. UN Doc. CEDAW/C/GC/28, para. 18.

<sup>53</sup> CESCR, 2009. General Comment 20: Non-Discrimination in Economic, Social and Cultural Rights. UN Doc. E/C.12/GC/20, paras 9-10 & 17.

(2007). Concluding Observations on India report. UN Doc. CERD/C/IND/CO/19, paras 15 & 18)

The Indian State is urged to increase efforts to enable scheduled caste women to access higher education. (CEDAW. (2007). Concluding Observations on India Report. UN Doc. CERD/C/IND/CO/3, para. 33)

#### **4.2.2 National policies and laws addressing women rights**

Article 14 of the Indian Constitution provides that 'the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India'. Article 15(1) states that the 'State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them,' while Articles 16(1) and 16(2) prohibit discrimination in general, and gender discrimination in matters of public employment. To promote equality, Article 15(3) affirms that the state is free to make 'any special provision for women and children.' Under the Directive Principles of State Policy, Article 39(b) provides that the state direct its policy toward ensuring equal pay for equal work for men and women. Section (a) of the same article provides that the state shall, in particular, direct its policy toward securing that citizens, men and women equally, have the right to an adequate means of livelihood. Section (c) requires that the state secure the health of workers, men and women, and ensure that children are not abused, and citizens are not forced by economic necessity to enter vocations that are unsuited to their age and strength. Finally, Article 44 of the Constitution asks that the state strive to introduce a uniform civil code for citizens so that varying religious codes do not dictate the personal laws governing women's lives.

#### **ECONOMIC SAFEGUARDS**

The provisions of Articles 23, 24 and 46 form

<sup>54</sup>Writ Petition (Civil) No. 583 of 2003, *SafaiKaramchariAndolan&Ors.Vs. Union of India*, vide judgement dated March 27, 2014 by Hon'ble Justice P. Sathasivam.

part of economic safeguards for the scheduled castes and scheduled tribes. Article 46 provides that the State shall promote with special care the educational and economic interests of weaker sections of the people and, in particular, scheduled castes and scheduled tribes and shall protect them from social injustice and all forms of exploitation.

#### **EDUCATIONAL AND CULTURAL SAFEGUARDS**

Article 15(4) empowers the State to make special provisions for the advancement of any socially and economically backward classes or citizens and for scheduled castes. This allows the State to make special provisions and launch schemes for scheduled caste women.

#### **FOR ENFORCING EQUALITY AND REMOVING CASTE BASED DISABILITIES**

- Protection of Civil Rights Act, 1955.
- Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- In 2013, the Indian parliament enacted The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act outlawing all manual excrement cleaning. The Act also recognised a constitutional obligation to correct the historical injustice and indignity suffered by these communities by providing alternate livelihood and other assistance.
- In March 2014, in its Judgement the Supreme Court of India ruled<sup>54</sup> that manual scavenging violates international human rights law. The court called for effective remedy. The Indian government elected in May 2014 has pledged to address the needs of India's marginalised communities, but has yet to take any new measures to end manual scavenging.

#### **WOMEN-SPECIFIC PROTECTIVE LAWS**

- The Immoral Traffic (Prevention) Act, 1956.
- The Dowry Prohibition Act, 1961 (28 of 1961) (Amended in 1986).

- The Indecent Representation of Women (Prohibition) Act, 1986.
- The Commission of Sati (Prevention) Act, 1987 (3 of 1988).
- Protection of Women from Domestic Violence Act, 2005.
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

#### 4.2.3 Various commissions

- National Commission for SCs.
- National Human Rights Commission.
- National Commission for Women.
- National Commission for SafaiKaramcharis.

#### 4.3 Gaps and challenges

Few government measures currently exist that acknowledge and address the intersectional discrimination that Dalit women face and which contributes to their lower development levels and lesser enjoyment of rights than Dalit men and other caste women. Moreover, planning and special budget allocations are done separately for scheduled castes and for women, without any recognition of the multiple identities and consequent vulnerabilities that SC women face and which require specific strategies to overcome.

Despite the existence of constitutional, administrative and legal provisions to protect women from all communities, and specific provisions for women in the SCs and STs (POA) Act, women of disadvantaged groups are disproportionately vulnerable to gender-specific abuses such as rape, stripping and being paraded naked. Compounding this is the non-implementation of the provisions established to protect these very women against such abuses and to enable them to take advantage of the criminal justice system to protect their lives. Impunity for perpetrators

remains one of the main obstacles to stopping violence of women in the community, outside the community and by employees of the state. A large number of cases of atrocities go unregistered, mainly because of reluctance on the part of police officers to register the cases.

The Joint Women's Programme of the National Commission of Women has found that devadasi rehabilitation programmes neither address the whole range of problems faced by devadasis, nor target the population they were intended to assist. Further, devadasis find it difficult to earn a livelihood outside the system because the rehabilitation programmes do not provide adequate means of livelihood and skill development, and because financial assistance is often in the form of a loan which must be repaid. Most devadasis also lack access to a residential house, health care, or educational facilities for their children.

The practice of manually cleaning excrement from private and public dry toilets and open drains persists in several parts of South Asia. Across much of India, consistent with centuries-old feudal and caste-based custom, women from communities that traditionally worked as "manual scavengers," still collect human waste on a daily basis, load it into cane baskets or metal troughs, and carry it away on their heads for disposal at the outskirts of the settlement. Local authorities failed to intervene when they faced threats from the households they served. As retribution for leaving, they were denied access to community land and resources or threatened with eviction, frequently with the backing of village councils and other officials. While the central government enacts laws, state representatives in panchayats, elected village councils, and municipal corporations too often not only fail to implement

<sup>55</sup> *National Commission on Scheduled Castes and Scheduled Tribes, Sixth Report, 1999-2000 & 2000-2001, New Delhi.*

<sup>56</sup> *Only a small number of devadasis have been identified for relief and rehabilitation: National Commission on Human Rights (NHRC), Report on Atrocities against Scheduled Castes by K B Saxena, 2004. p. 62.*

<sup>57</sup> *Ibid.*

prohibitions on manual scavenging by private households, but also perpetuate the practice. In Maharashtra state, for instance, panchayats have recruited people to manually clean toilets and open defecation areas on the basis of their caste, even denying them other jobs for which they are qualified within the panchayat. While panchayats compensate families that clean dry toilets, drains, and open defecation sites with housing and wages, many of them are denied regular wages and have been warned that they will be evicted from their houses if they refuse manual scavenging work.<sup>58</sup>

Political representation through reserved scheduled castewomen's quotas in local governance, in the absence of supportive capacity building, protective and monitoring measures and mechanisms, has not necessarily translated into free and meaningful political participation for many Dalit women. 'Dalit candidates, especially women, are frequently forcibly prevented from standing for election or, if elected, forced to resign from village councils or other elected bodies or not to exercise their mandate'.<sup>59</sup> Moreover, as one study has shown that 89.8% of the 166 Dalit women panchayat representatives in Gujarat and Tamil Nadu surveyed felt they were treated differently from other elected representatives in their panchayats; 38% were restricted from sitting on chairs with other elected representatives; 52% were barred from participating in the public programmes of the panchayat; and 23% were restricted by others from active participation in panchayat council meetings.<sup>60</sup>

Constitutional provisions, laws and schemes have totally failed to ensure effective eradication of exploitative labour arrangements and the effective

implementation of rehabilitation schemes for Dalit bonded and child labourers, manual scavengers, and devadasis.

Of late, the government has promoted the coverage of women in land allotments both as exclusive and in joint ownership with their spouses. But recent disaggregated data on land and assets allotted to scheduled caste women is not readily available. In 2000-01, only 10% of operational land holdings among scheduled castes at the all-India level were owned by scheduled caste women. A higher percentage of Dalit women than dominant caste women are in the labour market, but the push factors are poverty and lack of land ownership. The continuing challenge is that the majority of Dalit women instead eke out their livelihoods through casual labour. They work primarily for dominant castes in the unorganised or informal sector and, therefore, enjoy little livelihood security and high levels of labour exploitation.

#### **4.4 Caste and gender based discrimination and violence**

Dalit women suffer both gender and caste based violence at the hands of the dominant caste men due to the latter's social, economic and political power and the former's oppressed social, economic and political status. Dalit women are considered easy targets for all forms of violence. The UN rapporteur on violence against women has noted that 'Dalit women face targeted violence, even rape and murder, by the state actors and powerful members of dominant castes, used to inflict political lessons and crush dissent with the community'.<sup>61</sup> These women bear the brunt of atrocities against their community. Mass rape is used by dominant caste militias as a weapon to break the morale of the entire community. Rape is

<sup>58</sup> 'Cleaning Human Waste: 'Manual Scavenging,' Caste and Discrimination in India, Human Rights Watch Report, 2014, p.3

<sup>59</sup> Un Doc. CERD/C/IND/CO/19.

<sup>60</sup> Mangubhai, J., Irudayam, A. and Sydenham, E., 2009. *Dalit Women's Right to Political Participation in Rural Panchayati Raj*. The Hague: IDEAS, *Justitia et Pax & Equalinrights*, p.197.

<sup>61</sup> UN Special Rapporteur on Violence against Women, 2002. *Cultural Practices in the Family that are Violent towards Women*. UN Doc. E/CN.4/2002/83, para.53.



used as a political instrument and these women become the target of anger and wrath of the dominant castes. The women are singled out for other indignities such as being paraded naked by dominant caste people even for petty disputes.<sup>62</sup> Violence against Dalit women reinforces caste norms.

The year 2013 has witnessed an increase of 17.1% in crimes committed against persons belonging to the scheduled castes. As against 33,655 cases reported in the year 2012, in the year 2013 it increased to 39,408.<sup>63</sup> Moreover, the number of registered rapes of SC women has risen steadily over the years: from 1089 in 2003 to 2073 in 2013, marking a 47.5% increase over the past decade.<sup>64</sup> Independent studies also indicate that violence against Dalit women, especially sexual violence, is consistently underreported: one study revealed that in as much as 40.2% of incidents of violence Dalit women did not or could not obtain access to justice and, therefore, their cases went unreported.<sup>65</sup> A culture of violence and fear of dominant caste perpetrators, who wield socio-economic power over the women, often prevents reporting violence.

This is evidenced by The last National Family Health Survey in 2005-06 also confirms the heightened vulnerability Dalit women face when it comes to violence: 41.7% of SC women and 39.3% of ST women reported having faced physical violence since the age of 15 years from someone other than their current or last husband, as compared to 34.1%

of OBC women and 26.8% of other women. Regarding sexual violence, 11.0% of SC women and 10.2% of ST women reported facing sexual violence since as compared to 7.4% of OBC women and 7.8% of other women.<sup>66</sup>

Women are also subjected to the most obnoxious practice of prostitution in the name of religion such as the Devadasi system where children between six to eight years belonging mostly to Dalit families are dedicated to god, cannot marry and are raped by temple priests and dominant caste men and eventually auctioned off into urban brothels. In times of extreme hardship, such as natural calamities, women are forced to sell their bodies for the family to survive. In certain communities under customary practices, women are sent for prostitution as an integral part of social survival or auctioned as a punishment for violating customary injunctions.<sup>67</sup> Studies reveal that over 90% of Devadasis forced into ritualised prostitution are scheduled caste women.<sup>68</sup> Human Rights Watch estimates that up to 15,000 Dalit girls are taken from their families and raped and auctioned into prostitution annually.

Under superstitious beliefs, certain mishaps in the family are attributed to witchcraft and women (usually belonging to Dalit or Adivasi communities) are branded as witches engaged in this practice, publicly humiliated, grievously assaulted and at times brutally murdered. Traditional healers, priests and clan chiefs also lend support to such beliefs and practices.

<sup>62</sup> *Black Paper*, op. cit.

<sup>63</sup> National Crimes Record Bureau, 2014. *Crimes in India 2013*.

<sup>64</sup> National Crimes Records Bureau, 2004 and 2014. *Crimes in India 2003 and 2013*. New Delhi: NCRB. <<http://ncrb.gov.in/CD-CII2013/home.asp>> and <http://ncrb.nic.in/ciiprevious/data/cd-CII2003/cii-2003/home.htm>.

<sup>65</sup> Irudayam, A., Mangubhai, J.P. and Lee, J.G., 2011. *Dalit Women Speak Out: Caste, Class and Gender Violence in India*. New Delhi: Zubaan. Overview available at [http://idsn.org/uploads/media/Violence\\_against\\_Dalit\\_Woment.pdf](http://idsn.org/uploads/media/Violence_against_Dalit_Woment.pdf).

<sup>66</sup> International Institute for Population Sciences and Macro International. 2007. *National Family Health Survey (NFHS-3), 2005–06: India: Volume I*. Mumbai: IIPS. <[http://www.rchiips.org/nfhs/nfhs3\\_national\\_report.shtml](http://www.rchiips.org/nfhs/nfhs3_national_report.shtml)>.

<sup>67</sup> Musahar, A *Socio-economic Study carried out by A.N. Sinha, Institute of Social Studies (2002)*, p. 38. *Compulsion of women to sell their bodies. For customary practices, see ArtiDhar 'Auctioned Girl commits suicide'; The Hindu, Aug. 20, 2002.*

<sup>68</sup> Black, Maggie, 2007. *Women in Ritual Slavery: Devadasi, Jogini and Mathamma in Karnataka and Andhra Pradesh, Southern India*. London: Anti-Slavery International. <[http://www.antislavery.org/includes/documents/cm\\_docs/2009/w/women\\_in\\_ritual\\_slavery2007.pdf](http://www.antislavery.org/includes/documents/cm_docs/2009/w/women_in_ritual_slavery2007.pdf)>.

Official statistics show that over 2,500 women have been killed on the suspicion of practising witchcraft in the past 15 years. All have been poor, mostly from marginalised communities such as Dalits and Adivasis, owned some property or had rejected the sexual advances of dominant men in the community.<sup>69</sup>

Trafficking of women and girls [for sex work, domestic work, etc.] from, and to, India is widespread, with disadvantaged women/girls from minority groups, SCs, STs and OBCs as the main victims.<sup>70</sup>

Dalit women constitute a large number of persons engaged in manual scavenging. Though the entire family is engaged as scavengers, it is the women who share the larger load of work. The former UN High Commissioner for Human Rights Navi Pillay has noted that, "An estimated 90% of manual scavengers are Dalit women who face multiple vulnerabilities and discrimination based on their caste and gender, and who are often exposed to violence and exploitation."<sup>71</sup> Where benefits have been extended for elimination of manual scavenging through development programmes specifically targeted at them, it is usually the men of the family who take advantage of it, give up manual scavenging and take to alternative occupations. But women often continue manual scavenging for enhancing household income.

The International Labor Organization (ILO) distinguishes three forms of manual scavenging: 1) removal of human excrement from public streets and dry latrines, 2) cleaning septic tanks, and 3) cleaning gutters and sewers. These tasks are subdivided by gender:

95 percent of private and village toilets are cleaned by women.<sup>72</sup> Women who clean dry toilets in rural areas sometimes receive little or no cash wages, reflecting long-established customary practices, but instead receive daily rations of leftover food, grain during harvest, old clothes during festival times, and access to community and upper caste land for grazing livestock and collecting firewood—all given at the discretion of the households they serve. After collecting and disposing excrement from each household, they still return to each home to collect leftover chapatis or rotis (unleavened bread) as compensation. In areas where untouchability practices are intact, food is dropped into their hands or thrown in front of them.<sup>73</sup>

A 2013 survey of 480 women from manual scavenging communities in 9 districts in the Indian states of Bihar, Uttar Pradesh, and Madhya Pradesh, undertaken by Jan Sahas Social Development Society with the support of UN Women on the socio-economic status of women manual scavengers highlight the derogatory situation of women manual scavengers. 90% of whom are Dalits.<sup>74</sup> The survey findings highlighted the dismal situation of women manual scavengers:

They are deprived of crucial services of education and health as well as decent employment opportunities.

- 82% never got the opportunity to go to school. Their children face discrimination in schools because they belong to the community which is considered 'untouchable'. This discriminatory behaviour results

<sup>69</sup>Paul, S., 2012. 'Witches of India: Women without Defence'. <https://worldpulse.com/node/50282>.

<sup>70</sup>Special Rapporteur on violence against women, 2013. Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to India. UN Doc. A/HRC/26/38/Add.1.

<sup>71</sup>UN High Commissioner for Human Rights Navi Pillay, 2013 (31 Jan.). 'Pillay applauds Indian movement to eradicate 'manual scavenging', OHCHR News. [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E).

<sup>72</sup>'Cleaning Human Waste: 'Manual Scavenging,' Caste and Discrimination in India, Human Rights Watch Report, 2014, p.13

<sup>73</sup>'Cleaning Human Waste: 'Manual Scavenging,' Caste and Discrimination in India, Human Rights Watch Report, 2014, p.13

<sup>74</sup>Socio-Economic Status of Women Manual Scavengers (Baseline Study Report), 2014. [http://in.one.un.org/img/uploads/Socio\\_Economic\\_Status\\_of\\_Women\\_Manual\\_Scavengers\\_Report.pdf](http://in.one.un.org/img/uploads/Socio_Economic_Status_of_Women_Manual_Scavengers_Report.pdf)

- in their dropping out.
- 77% had no access to public health facilities. They depend on private health facilities for their treatment which is expensive, of substandard quality and at distances far from their habitation.
- 60% of women manual scavengers and their children had never visited Anganwadi centres and 59% families had no access to PDS where subsidised food grains are provided by the government.
- Their participation in local governance and political processes is negligible. Discrimination and humiliation does not allow them to raise their voice in gram panchayats.
- These women and their families have very poor access to various government schemes and entitlements in all three states. Only 4% got financial assistance to construct houses under IAY, 17% of families got wage employment under MGNREGA and 13% of women had availed provisions under SMRS, a scheme specifically for rehabilitation of manual scavengers.

Considering the gravity of the issue, it is imperative that a multi-pronged approach that intervenes at multiple levels is adopted. It needs integrated strategies that build on the strengths of collectives to target voicelessness and promote women's agency that not only enables them to question and challenge discriminatory norms but also to take action to liberate themselves from slavery and reclaim their rights and dignity.

Dalit women face violence from their own community and family, which is a manifestation of the patriarchal order and gender subordination as well as driven by endemic poverty. Gender inequality sanctified by religious and cultural norms subordinate women to face discrimination and violence. The National Family Health Survey 2005-06. This survey found that 47.9 per cent of SC women reported facing one or more of such forms of violence from husbands, as compared to 47.0 per cent of ST women, 40.4 per cent of OBC women and 32.3 per cent of other women.

#### **4.5 Impunity for violence against Dalit women**

The systemic nature of violence against Dalit women is accompanied by equally systemic patterns of impunity.

Almost 40,000 incidents of atrocities and human rights violations are registered under the SCs and STs (POA) Act annually. Despite the lack of disaggregated data on the extent of violence on Dalit women, there is no doubt that women are affected disproportionately in these incidents. A micro-study of 124 cases by Centre for Dalit Rights of atrocities in five districts of Rajasthan between October 2004 and January 2006 showed that 55 of these cases were directly inflicted on Dalit women and girl children. They ranged from rape, gang rape, rape of minor girls, murder and attempt to murder, physical assault, battering and acid attack. Another 28 women were affected along with their families through land related violence, social boycott, murder of husbands and sons. It is clear that Dalit women are the prime victims in violence against Dalit communities.

A national study of 500 Dalit women who had experienced violence in four states brought to light the nature, extent, depth and effect of

<sup>75</sup>International Institute for Population Sciences and Macro International. 2007. National Family Health Survey (NFHS-3), 2005-06: India: Volume I. Mumbai: IIPS.



violence on Dalit women, and their indomitable spirit and quest for justice. The study<sup>76</sup> revealed that:

- In less than 1% of cases were the perpetrators convicted by the courts.
- In 17.4% of instances of violence, police obstructed the women from securing justice.
- In 26.5% of instances of violence, the perpetrators and their supporters, and/or the community at large, prevented the women from securing justice.
- In 40.2% of instances of violence, the women did not attempt to obtain legal or community remedies for the violence primarily out of fear of the perpetrators or social dishonour if (sexual) violence was revealed, or ignorance of the law, or the belief that they would not get justice.

One negative impact is that violence against Dalit women is legitimised by the lack of accountability for the violence, spurring further violence.

#### 4.6 Best practices

The National Dalit Movement for Justice (NDMJ) has made several proposals regarding the data on crimes collected by the National Crimes Records Bureau (NCRB). One of the proposals has been that the NCRB should collect disaggregated data on the number of incidents, rate and percentage to all India crimes against scheduled caste and scheduled tribe women for each and every offence under the POA Act and PCRA.<sup>77</sup>

NDMJ, supported by the National Coalition for Strengthening the POA Act, is creating a databank for tracking and monitoring cases of atrocities against scheduled castes and scheduled tribes. Through this databank,

disaggregated data on atrocities committed against scheduled caste women will be available.

There are a number of Dalit women's organisations and movements across the country, which are highlighting the specific issues and problems of Dalit women, pressing for an intersectional analysis and for specific government measures for the uplift of Dalit women. Dalit organisations such as Navsarjan Trust—Gujarat, Evidence—Tamil Nadu, Dalit Stree Shakti—Andhra Pradesh and Karnataka Dalit Mahilla Vedike (KDMV) and REDS—Karnataka have developed a specific emphasis on Dalit women's rights (rights to security, land, livelihood, cultural rights) as part of their work. One such example among these organisations is Dalit Stree Shakti—Andhra Pradesh (DSS). As an organisation aimed at “empowering dalit women”, DSS places a great deal of effort towards building democratic and inclusive community collectives. Women are engaged in a number of ways through economic empowerment initiatives, awareness raising programs and public events and actions. They have also refined their strategies to ensure participation of women at village level through the Women's Collective, and raise awareness on their rights, becoming a point of reference for all community members. The impact goes well beyond empowering dalit women, because the issues tackled involve entire communities.

Rashtriya Garima Abhiyan—Jan Sahas, a coalition of 30 community based organisations from 13 states—started a campaign to encourage manual scavengers to voluntarily leave the practice. At least 15,000 women liberated themselves from manual scavenging through this campaign.<sup>78</sup>

<sup>76</sup>Irudayam, A., Mangubhai, J.P. and Lee, J., 2011. *Dalit Women Speak Out: Caste, Class and Gender Violence in India*. New Delhi: Zubaan..

<sup>77</sup>2013. Note for the Ministry of Home Affairs for consideration of suggestions in Crime in India Reports. New Delhi: NDMJ.

<sup>78</sup>Human Rights Watch interview with Ashif Shaikh, founder and convener of the Rashtriya Garima Abhiyan, Delhi, May 6, 2014.

## Dalit Women's Self Respect March

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*All India Dalit Mahila Adhikar Manch Launched the 'Dalit Women's Self Respect March' on 17 February 2014. The march (Dalit Mahila Swabhiman Yatra) is a significant step in the independent assertions of Dalit women in India. It is a step forward for dignity. In addition, the march aims to establish the linkages between violence and larger community assertions for land, water and other resources including access to political power.*

*The first phase of the Dalit Mahila Swabhiman Yatra in February 2014 covered the Haryana, Bihar and Odisha and pierced through the reality of Dalit women's lives, the constant threat of being raped, paraded naked, proscribing self-actualisation, curtailing their opportunities, access to resources and the failure of the state machinery to provide them with security to ensure justice.*

*The second phase of Dalit Mahila Swabhiman Yatra was launched in September 2014, emphasised upon identifying and building leadership, involving multiple stakeholders who envision a just society wherein the structures of caste and patriarchy are dismantled - and crack the culture of state impunity.*

*During the march the young Dalit Women Human Right Defenders visited Dalit communities,*

*interacted with people, learnt and unlearnt in the process. This is the only way the anti-caste movement led by Dalit women can be strengthened. Through the political interventions, diplomatic and national advocacy, and Dalit women's leadership programmes Dalit Women envisions nurturing of Dalit women activists, who are the leaders of a national movement for Dalit self-respect and dignity.*

*The next phase of the march will resume in the early 2015.*

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### 4.7 Recommendations

- Follow-up on recommendations relevant to the promotion and protection of Dalit women's rights of UN Special Procedures, particularly the Special Rapporteur on violence against women, UN Treaty Bodies, and the Universal Periodic Review.
- 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.<sup>79</sup>
- Provide disaggregated data on the incidence of crimes against Dalit women, as well as police and judicial handling of such cases (as per CERD General Recommendation XXIX, 2002) and include the following sections in periodic reports to UN treaty bodies:
  - The extent of domestic violence against Dalit women, and on the legislative and other measures taken to address this phenomenon, including facilities and remedies provided for victims.

<sup>79</sup>Kapur Mehta, A., M. Eapen and Y. Mishra. (2012). *Locating Gender in the Twelfth Five Year Plan Approach: Issues Emerging from a Gendered Analysis*. New Delhi: UN Women, p27.

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- The situation of Dalit women especially in terms of the extent to which they enjoy the right to own land and property independent of their male relatives.
  - Annual data, disaggregated by age, sex, caste, ethnicity and religion, as well as specific benchmarks, to enable adequate monitoring and evaluation of the progress achieved.
  - Recognise Dalit women as a distinct social group rather than subsuming them under 'women' or 'Dalit' categories, and accordingly evolve and implement a specific focus and activities on Dalit women's rights within the broader framework of the Dalit and women's empowerment agenda.
  - Ensure full and strict implementation of laws in place to protect Dalit women's rights and implement measures to ensure the abolition of untouchability practices.<sup>80</sup> Implement strict sanctions against anyone preventing or discouraging victims from reporting incidents of violence or accessing the criminal justice system, including police and other law enforcement officers.
  - Ensure the implementation of national penal codes in its jurisdiction, and that law enforcement officials, judges, lawyers, social workers and medical professionals are duly trained on the serious and criminal nature of domestic violence.
  - Initiate dialogues with state governments and all relevant stakeholders including UN bodies, private sector, NHRIs, CSOs and academic institutions to identify, promote and exchange views on best practices related to violence and discrimination against women.
  - Ensure effective implementation of national legislation to eliminate practices such as dowry, devadasi/jogini, manual scavenging, CBD and 'untouchability' in accordance with recommendations by the UN Committee on the Elimination of all forms of Discrimination against Women (CEDAW).<sup>81</sup>
  - Evolve a national perspective plan aimed at specifically accelerating efforts to reduce the development gap between Dalit women and the rest of the population with fixed time-bound targets.
  - Introduce affirmative action measures to increase Dalit women's participation in the police, judiciary, legal professions and education.
  - Produce and disseminate disaggregated data on the status of Dalit women, particularly in government plans and development programmes.
  - Develop and execute a special policy with the clear definition of land rights of Dalit women, and ensuring of land to the landless. The government should distribute fertile land to Dalit women by effectively monitoring and controlling of encroached lands, illegal land holdings with individuals and institutions.
  - Government and land rights forums should take efforts to promote collective farming by Dalit women and marginal farmers to best share common facilities like irrigation and for economies of scale.
  - Under SCSP a separate provision should be made for scheduled caste women.

## 5. Status of Dalits in access to water and sanitation

### 5.1 Introduction

Access to safe drinking water and sanitation is not only a fundamental right, but also a prerequisite for sustainable social and economic development. Clean water is necessary to sustain human life and together with sanitation is necessary to ensure good health and human dignity. Without adequate sanitation, the health effects of improved access to water are limited<sup>82</sup> and water quality is likely to be compromised.

### 5.2 Context of the water and sanitation crisis

One of the millennium development goals of the UN is to halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation. Currently 2.5 billion individuals around the world have no access to a safe source of drinking water and sanitation. According to UNICEF, lack of access to clean water and sanitation is a leading cause of death from diarrhoea in children under five. Approximately 1,400 children die each day.<sup>83</sup>

An estimated 600 million individuals in India or 53% of the population have no access to a toilet.<sup>84</sup> This means more children dying, malnourished, suffering stunted growth or diseased. Young girls are unable to attend school and women are harassed or assaulted when they go to defecate in the open.

The absence of adequate sanitation has led to the widespread pollution of water sources that communities rely on for survival. Millions of children are left malnourished, physically

stunted and mentally disabled by excreta-related diseases and intestinal worm infections.

According to NSSO data released by the National Sample Survey Office (NSSO) from a survey conducted in 2012, the situation is worse off in rural areas, where only 32% of households have access to toilets, which has once again underlined the abysmal state of sanitation in the country, particularly in rural India.

It has been estimated that diarrheal morbidity can be reduced by an average of 6-20% with improvements in water supply and by 32% with improvements in sanitation.<sup>85</sup> In India, approximately 72.7% of the rural population does not use any method of water disinfection and 74% have no sanitary toilets.<sup>86</sup>

In rural India, access to a basic resource like water shows differential pattern across regions, where poverty, physical separation of hamlets, ideas of purity and pollution, poor access to government welfare programmes, discrimination in access to public water bodies and structures and so on play a critical role in determining the possibilities for a humane existence. The deprivation of drinking water, sanitation and toilet facilities is most glaring in rural areas and also in small and medium towns.

### 5.3 Some discriminatory practices in access to water

Though the Indian Constitution, through Article 14, guarantees right to equality to every person irrespective of caste, creed, gender, status and

<sup>82</sup> Fewtrell, R. Kaufmann, D. Kay, W. Enanoria, L. Haller, J. Colford, Jr, 2005. 'Water, sanitation, and hygiene interventions to reduce diarrhoea in less developed countries: a systematic review and meta-analysis'. *The Lancet Infectious Diseases*, Volume 5, Issue 1, pp. 42-52.

<sup>83</sup> <<[<http://www.unicefusa.org/mission/survival/water>>](http://www.unicefusa.org/mission/survival/water)

<sup>84</sup> <<[<http://timesofindia.indiatimes.com/india/53-Indian-households-defecate-in-open-World-Bank-says-on-World-Toilet-Day/articleshow/26032829.cms>>](http://timesofindia.indiatimes.com/india/53-Indian-households-defecate-in-open-World-Bank-says-on-World-Toilet-Day/articleshow/26032829.cms)

<sup>85</sup> World Health Organization, "Water Sanitation and Hygiene Links to Health Facts and Figures," Geneva, 2004. Available from: [http://www.who.int/water\\_sanitation\\_health/factsfigures2005.pdf](http://www.who.int/water_sanitation_health/factsfigures2005.pdf).

<sup>86</sup> International Institute For Population Sciences (IIPS) and Macro International National Family Health Survey (NFHS-3), (2007) Mumbai, India, pp 1.

religion, the practice of untouchability and caste discrimination still exists. Water has been a crucial medium of exclusion and segregation for those who are considered to be 'untouchable' to the rest of society, as well as a means to exercise power of the Dalit community as a whole.

On 9 December 2014, different organisations working with Dalit communities and water and sanitation issues organised a joint conference on the Right of Dalits in Access to Water and Sanitation. Testimony from the victims and witnesses at the conference revealed some alarming contemporary untouchability practices:

- Dalits are not allowed to fetch water themselves, but non-Dalits have to be asked to draw the water for Dalits and pour into their pots.
- Dalits and non-Dalits stand in separate queues at different parts of the wells.
- Dalits are not supposed to touch the water pots of non-Dalits.
- Dalits can draw water only after non-Dalits.

Rajesh Kumar, a DHRD from Haryana, shared the situation of Dalits there:

Separate wells and bore-wells for Dalits and non-Dalits exist in most villages. In case of acute shortage of water, non-Dalits can fetch water from Dalit water source. But if a similar situation arises for Dalits, they are denied access to wells in dominant caste areas and violence is perpetrated against them. Even a Dalit's hands were chopped off because he used the well located in the dominant caste area. Dalits can only fetch water from the downstream of natural lakes, ponds and tanks and are restricted to areas where non-Dalits do not approach.

Data also suggests a huge gap between Dalit and non-Dalit households when it comes to water and sanitation.<sup>87</sup>

<sup>87</sup> [http://www.wateraid.org/documents/water\\_drops\\_9.pdf](http://www.wateraid.org/documents/water_drops_9.pdf)

<sup>88</sup> CESCR, 2003. General Comment 15: The Right to Water. UN Doc. E/C.12/2002/11.

- Only 27% Dalit households have water sources within premises, compared to 45.2% for the general population.
- 19.5% of Dalit households have access to drinking water sources away from their premises whereas it stands at 14.45% for the general population.
- Only 32.2% of Dalit households have access to drinking water from tap as compared to 40.1% for the general population.

## 5.4 Legal mechanisms

The right to water and sanitation is found in a number of international legal treaties and political declarations in the fields of human rights, environmental law and humanitarian law. It is also reflected in a number of national policies and laws.

### 5.4.1 International and regional treaties

Articles 11(1) & 12 (1) of the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR) affirm the right to the highest attainable standard of health. Moreover, under Article 11(1), everyone has the right to an adequate standard of living for her/himself and her/his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The ESCR Committee has also affirmed that the human right to water forms part of the right to an adequate standard of living, and is indispensable for leading a life in human dignity. It is also a pre-requisite for the realization of other human rights.<sup>88</sup>

The Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) sets out an agenda to end discrimination against women, including by the ensuring of their equal rights to water and sanitation. Articles 14(2)(b) & (h) CEDAW mandate that states should take all appropriate measures to eliminate discrimination against women in rural areas



and access to adequate living conditions, particularly in relation to... sanitation and water supply.

The Convention on the Rights of the Child, 1989 (CRC), under Article 24, guarantees to all children the right to health and, under Article 27, the right to an adequate standard of living. This requires states to combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.

Agenda 21 of the UN Conference on Environment and Development (1992) calls for provision of safe drinking water and environmental sanitation for poverty alleviation.

The programme of action of the International Conference on Population and Development (Cairo 1994) mentions right to water and sanitation in realising complete human potential and sustainable development. In July 2010 United Nations General Assembly formally recognised the human rights to water and sanitation.

#### **5.4.2 National constitution and laws**

The Constitution of India guarantees the right to life (Article 21). Over time, the Supreme Court of India and various high courts have clarified and broadened the right to life as enshrined in the constitution to include a decent standard of living and equitable access to water sources as rights.

Specific prohibitions on untouchability related to access to public water sources are set out in the PCRA and the SCs and STs (POA) Act. This includes the crime of interference in the water sources of scheduled castes or the imposition of any caste disability in access to public water sources.

<sup>89</sup>National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: India, A/HRC/WG.6/13/IND/1, UN General Assembly, March 8, 2012, para 6.

In April 2002, a new National Water Policy was announced in India, wherein each state is obliged to formulate its own water policy within two years. The policy makes a blanket statement that water should be provided to all, but there are no specific measures mentioned to address discriminatory practices with respect to, and atrocities consequent to, Dalits accessing their right to water.

#### **5.4.3 Sanitation schemes**

India has allocated resources to modernise sanitation. National sanitation schemes aimed at modernising human waste management include the Integrated Development of Small and Medium Towns Scheme (1969), Sulabh Shauchalaya (simple latrines) Scheme (1974), the Integrated Low Cost Sanitation Scheme (1981), the Low Cost Sanitation for Liberation of Manual Scavengers Scheme, 1989, and the Total Sanitation Campaign, 1999, renamed Nirmal Bharat Abhiyan (Clean India Campaign).

#### **5.5 Gaps/ compatibility of national policies and laws with international standards**

Though provision of water and sanitation is claimed to be a priority in India, the situation with regard to access to clean drinking water and sanitation across the country is still dismal. The Indian Government, in its UPR II national report, stated that the Total Sanitation Campaign - a flagship programme for providing sanitation facilities in rural areas - 'has been able to accelerate the sanitation coverage from a mere 22% as per 2001 census to approximately 68% in December 2010'.<sup>89</sup> The government's own data, however, as seen in section 5.6.2, indicates a very different reality, especially as far as Dalits are concerned.

#### **5.6 Status of caste discrimination**

The water and sanitation crisis is caused by issues related to poverty, inequality and



unequal power relationships. Policies and programmes all too often exclude marginalised groups and areas such as informal settlements and arid areas. Caste discrimination leading to human rights violations regarding drinking water and sanitation makes discrimination an important social and legal issue that government policies have to effectively address.

#### **5.6.1 Power hierarchy in access to water and sanitation**

##### ***Dalit youth's hands chopped off for drinking water from a pitcher belonging to dominant castes in Haryana***

*Rajesh Kumar, son of Inder Singh is a Chamar (SC). He is a resident of Saniana village under Uklana police station in Fatehabad District. He is a daily wage labourer along with 15 others from his locality.*

*On 15 February 2012 he, along with his fellow labourer's, were going on a tractor to Daulatpur village with their contractor. On the way Rajesh got down on the road at Daulatpur to drink water from an earthen water pot kept under a tree. While he was drinking water, a Jat named Pappu (35) son of Ram Chander, accosted Rajesh and enquired about his caste.*

*Upon learning that Rajesh was a Dalit, Pappu assaulted him with a sharp weapon and dismembered his hand. He also abused the victim in caste derogatory language and ran away from the place. Rajesh shouted for help and hearing his voice, the other labourers came and took him to the Jain Hospital in Hissar. The tendons of Rajesh's arm were*

*severed by the sharp-edged weapon and a steel rod was inserted in his arm.*

*The Sarpanch of the village Daulatpur, who is also from the same community as the accused, accompanied by seven others, approached Rajesh's family members at the hospital that night. He tried to pressurise them so that they would not to register an FIR and offered to pay lakhs of rupees in return. However, the victim didn't succumb and the FIR was registered on 16 February 2012 as FIR No. 36, u/s 326 IPC and 3(1)(x) of the POA Act 1989. On the same day the accused was arrested. The case is under trial before the SCs and STs Special Court of Hisar, Haryana. Accused was arrested and later bailed out as per law. Rs50000/- paid to the victim as compensation under Rule 12 (4) of SCs and STs (PoA) Rules 1995.*

#### **5.6.2 Water access among SC households**

In 2011, only 41.2% of scheduled caste households enjoyed tap water from a treated source. While the census data shows that only 2.9% of scheduled caste households continue to draw water from rivers, canals, ponds, lakes or other sources (not taps, hand pumps, wells, tube wells or boreholes), no mention is made of whether all these sources provide potable drinking water.<sup>90</sup>

The vast majority of Dalits depend on the goodwill of dominant-caste community members for access to water from public wells. Dalit women and girls often have to stand in a separate queue near the bore well to fetch water and must wait till the non-Dalits finish fetching water.

<sup>90</sup>Benchmarking UN Principles and Guidelines on the Elimination of (Caste) discrimination based on work and decent-India Report 2014.

### 5.6.3 Sanitation access among SC Households

Access to toilet facilities is critical in promoting dignity and security, particularly for women. India has consistently performed poorly in ensuring access to sanitation facilities for its citizens. In 2011, 66.2% of scheduled caste households continued to lack toilet facilities and resorted to open defecation, and only 33.8% of scheduled caste households had toilets within their homes.

The census results have seriously undermined the claims made by the government regarding the success of one of its flagship schemes, namely, the Total Sanitation Campaign (TSC) in improving the access to toilet facilities in the country. There is evidence of poor quality of toilets constructed under the scheme, thereby making these unusable.<sup>91</sup> The lack of space to construct toilets, particularly in the case of scheduled caste households, lack of water facilities and general insensitivity towards such facilities among the households are the major hindrances in the success of TSC in the country.

### 5.6.4 Women, water and sanitation

Dalit women are the worst affected due to the lack of access to water and sanitation. Their connection with water resources is very intricate. Dalit women have all the burden of household chores and are responsible to fetch water for daily needs of their entire households. Therefore they face discrimination first hand on a regular basis.

Even young girls from the family are assigned to do this job and they also face similar conditions. They even dropout from school as collecting water becomes their primary responsibility (especially if the source is some distance away), thereby losing any chance of formal schooling

<sup>91</sup><http://www.thehindu.com/todays-paper/tp-national/tp-otherstates/random-verification-brings-to-light-fraud-in-sanitation-scheme-in-state/article3485796.ece>

<sup>92</sup>UN High Commissioner for Human Rights Navi Pillay, 2013 (31 Jan.). 'Pillay applauds Indian movement to eradicate 'manual scavenging', OHCHR News. [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12959&LangID=E).

<sup>93</sup>Human Rights Watch, 2014. *Cleaning Human Waste: 'Manual Scavenging,' Caste, and Discrimination in India*. New York: HRW.

and earning money for the family. They are the ones who face verbal and physical abuse from the dominant castes and they are under constant threat while collecting water from public wells and taps.

Sometimes dominant caste women do not allow Dalit women to touch the public water sources and they instead pour water to the pots of Dalit women. Hence, how much water Dalit women take back home also depends on the whims and fancies of dominant caste women.

The concept of purity and pollution still dominates the thinking of people even after untouchability has been legally abolished. The availability and distribution of water also has a strong relationship with the hierarchical social structure. The control of water and other natural resources by dominant caste women stigmatises Dalit women and further make them feel helpless.

### 5.6.5 The barriers to end the practice of manual scavenging

Manual scavenging is still widespread in India. The status of the women is the worst. They become vulnerable due to being women, being Dalits, and being manual scavengers. An estimated 90% of manual scavengers are Dalit women who face multiple vulnerabilities and discrimination based on their caste and gender, and who are often exposed to violence and exploitation.<sup>92</sup> They bear the dual burden of taking care of their families as well as working as manual scavengers. They are subjugated, oppressed, marginalized and victimized in both social and household spheres of life. The girl child faces discrimination at all levels and is usually compelled to take up the occupation once married.

Over 1% of all households in both the urban as well as rural areas continue to rely on this practice even today. Evidence indicates that there are 9.6million dry latrines in the country and excreta are regularly cleaned by scavengers.<sup>93</sup> In over 13 lakh toilets, the waste is flushed into open drains and cleaned by humans.

According to Joint report submitted by RashtriyaGarimaAbhiyan (RGA), National Campaign on Dalit Human Rights (NCDHR) and the International Dalit Solidarity Network (IDSN) (February 2014) for Submission to the UN Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque for her annual thematic report to the Human Rights Council, 1.3 million people coming from Dalitcommunity are daily forced to do manual scavenging in India. Of this 1.3 million 80% are women who are forced to clean human excreta with bare hands.<sup>94</sup>

The exact number of people who continue manual scavenging is disputed, with government estimates significantly lower than those by civil society groups. In March 2014, in an effort to resolve this, the Supreme Court of India estimated that there are 9.6 million dry latrines that are still being cleaned manually by people belonging to the scheduled castes.

The greater obstacle is that there is lack of willpower from the state agencies in designing and implementing the programmes and schemes towards liberation of manual scavengers. One glaring example is that when the government built community toilets under the Total Sanitation Campaign, such community toilets employed Dalits as manual scavengers, since there was no other maintenance systems planned.

<sup>94</sup>Violations of the right to water and sanitation, Submission to the UN Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque for her annual thematic report to the Human Rights Council, Joint submission by RashtriyaGarimaAbhiyan (RGA), National Campaign on Dalit Human Rights (NCDHR) and the International Dalit Solidarity Network (IDSN) (February 2014)

## 5.7 Best practices

The SPHERE project initiated in 1997 by a group of humanitarian NGOs and the Red Cross and Red Crescent Movement, specifies standards for the provision and construction of water and sanitation infrastructure in emergencies. The recently updated SPHERE Handbook points to the rights to water and sanitation, and demands that principles of non-discrimination, participation and access to information be upheld.

### ***Good practice in building evidences of CBD in water and sanitation***

*Dalit DastaVirodhiAndolan (DDVA) is a leading civil society organisation in India based in Punjab. Since its formation, the organisation has been striving to combat the injustices faced by the most vulnerable sections of Punjab's society. They work closely with trade unions and workers' groups fighting to end inequality in the workplace, as well as with scheduled caste communities and organisations across the country seeking to end CBD.*

*In 2014, Dalit Dasta Virodhi Andolan conducted a survey on the brick kilns of Amritsar, Firozpur and Tarn Taran district of Punjab to know the situation of the Dalit women workers. The survey was conducted in three districts and met 104 Dalit women working in the brick kilns.*

*The survey found that almost all the brick kiln workers belong to scheduled caste communities and at least 40% of the workers are*

women. During this survey it has come to light that the brick factories in this region are in serious violation of the Factories Act, 1948, affecting the privacy and dignity of women workers. The survey found that:

- Brick factories have not provided latrines, urinals or washrooms.
- Women have to attend the call of nature in the presence of their male co-workers in the open in an un-dignified and humiliating manner.
- Lighting at the worksite was not provided whereas the women were working at night. The women have to work in extremely poorly lit factories at night.
- Women attend the call of nature at a considerable distance from the work site by walking to such places alone in the dark. This puts the women at risk of sexual abuse.
- The Director of Factories at the state level and the Deputy Director of Factories at the district level are responsible to ensure these basic amenities to the workers. As these violations on the bricks kilns have gone unchecked, the schedule caste worker women have been put in an undignified, humiliating and vulnerable position.

A complaint was sent to The Deputy Directors of Factories of Districts Firozpur, Tarn Taran and Amritsar with the information of 104 Dalit women workers. The complaint resulted in immediate action from the government. Local authorities were ordered to take the action

against the brick factories. A complaint was submitted to the National Commission for Scheduled Castes and the National Human Rights Commission as per the recommendation of the Jury of National People's Tribunal organised by Swadhikar–National Campaign on Dalit Human Rights in December 2014.

## 5.8 Recommendations

- Genuine participation and access to information by Dalit communities and CSOs. A participatory process in developing water and sanitation policies and plans should be carried out to ensure the genuine participation of representatives of vulnerable and marginalised groups, Dalits and civil society. They should be involved in the regulation and monitoring of service providers.
- The Government of India should immediately pass the amendments to the SCs and STs (POA) Act. The amendment bill specifically includes offences related to discrimination and untouchability practices against members of scheduled castes in access to water resources.
- The Swachh Bharat Abhiyan or Clean India Campaign launched by the Government of India has not provided any details on how the campaign will lead to the liberation of manual scavengers. It should immediately prepare the roadmap to ensure dignified rehabilitation of the manual scavengers.
- Revise existing water and sanitation related laws, regulations, policies and operating procedures to ensure that they refrain from discrimination.
- Review public water and sanitation budgets to ensure that they address the

needs of vulnerable and marginalised groups, including those living in informal settlements and arid and semi-arid areas.

- Collect data on access to water and sanitation that takes into account ethnicity, caste, class, age, disability, gender, religion, income and other related grounds so as to identify discrepancies and set priorities for government assistance.
- Ensure that the needs of institutions utilised by vulnerable and marginalised groups are adequately addressed in policies relating to issues such as priorities for extension of services, tariffs and subsidy plans. Such institutions include schools, hospitals, prisons and refugee camps.
- Implement 'The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013' effectively. Just making laws for preventing manual scavenging do not help, unless they are coupled with efforts that eliminate the very need for the shameful practice of manual scavenging through use of modern and appropriate technologies for toilets and sewage collection and processing systems, ensuring adequate water supply, and changing the sanitation behaviour of people based on building awareness and responsibility among the community.



<sup>94</sup>*Violations of the right to water and sanitation, Submission to the UN Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque for her annual thematic report to the Human Rights Council, Joint submission by RashtriyaGarimaAbhiyan (RGA), National Campaign on Dalit Human Rights (NCDHR) and the International Dalit Solidarity Network (IDSN) (February 2014)*