

CASTE BASED DISCRIMINATION IN INDIA

27th Session of the Universal Periodic Review
of
UN Human Rights Council
India (III UPR Cycle- May 2017)

Brief Assessment of the implementation of the IInd Cycle UPR Recommendations

This fact sheet describes the wider context of Dalit rights in India today, in which caste based discrimination and violence against Dalits and access to justice must be located. India has completed two cycles of the Universal Periodic Review (UPR), a full review of the human rights record of all governments that are members of the United Nations (UN), in 2008 and 2012. During India's 2012 review, 10 of 169 recommendations addressed Dalit rights and/or caste-based rights violations. These recommendations were made by a cross-regional group of states: the Czech Republic, Germany, Ghana, the Holy See, Japan, Norway, Thailand and the United States of America. The Government of India, however, out of those 10 recommendations accepted only two recommendations focused on equality of treatment and instituting monitoring mechanisms to ensure that objectives of policy initiatives for vulnerable groups are met (Ghana 138.75). Canada, Chile, Denmark, Hungary, Italy, Luxembourg and Slovenia asked questions or made observations relating to caste in advance of the review or during interactive sessions. In total, 14 states made that recognized the challenges faced by Dalit communities.

National Campaign on Dalit Human Rights

National Campaign on Dalit Human Rights is a forum committed to the elimination of discrimination based on caste. A democratic secular platform led by Dalit women and men activists, with support and solidarity from movements and organizations, academics, individuals, people's organizations and institutions throughout India who are committed to work to protect and promote human rights of Dalits focusing on women and children.



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Challenges

Dalit Human Rights Defenders facing greater risks

DHRDs remain at risk of life threats for defending the rights of marginalized communities. National Dalit Movement for Justice (NDMJ) have documented targeting of DHRDs on the basis of their caste, including assaults in public places, torture, illegal detention, harassment, forced disappearances, extra-judicial killings, illegal imprisonment, surveillance, targeting of family members, branding as Naxalites and anti-nationals and implication in false cases.¹ In response to an appeal by DHRDs following the murder of fellow DHRD, Chandrakant Gaikwad, UN Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekagggya, explicitly addressed the position of DHRDs in India: “Dalit rights activists strive for the promotion and realization of Dalits’ civil, political, economic, social and cultural rights. The range of human rights violation they suffer is appalling.”

Non-implementation of protective laws and access to justice for Dalit

In 2013, there were 46,114 cases registered under the POA Act. The number increased to 47,064 in 2014 and the percentage of pending cases has increased from 79.9 % in 2011 to 85.3% in 2014 according to the NCRB data ².

As per National Crime Records Bureau (NCRB) data, a total of 1,88,991 crimes against SCs were registered under different laws from 2011 to 2014. Overall, the year 2014 witnessed an increase of 19.4% in total crimes committed against SCs over the previous year, while the year 2013 witnessed an increase of 17.1% in total crimes committed against SCs over the previous year ³.

In 2014, the NCRB reported 2233 registered rapes of SC women—an average of 6 rapes per day. 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 ⁴.

For 2014, the conviction rate for rapes of SC women stood at 34.9%, though this has to be understood against the backdrop of the high pendency rate of 81.6% for rape cases. The vulnerability of SC women is further exacerbated by their marital status. Widowed women face harassment, evictions, sexual exploitation and abuse from family members and other villagers ⁵.

Over 2,500 women have been killed under the suspicion of practicing witchcraft in the past 15 years. All have been poor and most have been from marginalized SC & and ST communities and either owned property or rejected the sexual advances of dominant men in the community. 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 exploitation⁶.”

Discrimination and Challenges in Employment

Majority of Dalits are working as casual wage labourers—51.2% in the case of Dalits and 42.5 per cent in the case of Adivasis during the year 2009–10, with abysmally low and irregular incomes. Of the total rural SC workers, more than 60% are wage labourers and there is significant discrimination in hiring and wage payments ⁷.

In the most sought after civil services, IAS, IPS and IFS, the proportion of SC officers was below the mandated quotas. Out of 3,251 directly recruited IAS officers, SC officers made up only 13.9% ⁸.

There were 25,037 'backlog' posts for SCs lying vacant in 73 government departments and bodies. These are positions reserved for SC members that have not been filled over the years and thus have accumulated. They include both direct recruitment and promotion-based positions. Out of these, 4,518 positions were vacant because no candidate was available for promotion⁹.

As a part of affirmative action policy enshrined in the Indian Constitution, 15 % and 7.5 % of central government posts are reserved for Dalits and Adivasis respectively. In context of Dalits, only 10.15 % posts were filled in group A, in Group B it was 12.67 %, in Group C it was 16.15 % and in Group D it was 21.26 %. The figures for Adivasis were even lower at 2.89 %, 2.68 %, 5.69 % and 6.48 % for the four groups respectively.

Continuation of Manual Scavenging in India is violation of Constitutional rights

Indian Railways is an institution where dry latrines exist in great numbers and a large number of Dalit individuals are engaged in manual scavenging. Despite 11 million passengers travelling by trains every day, at present there are only nine trains with 436 coaches fitted with bio-toilets, while 4,000 coaches are produced annually which could be fitted with new bio-toilets ¹⁰.

The recently passed Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 does not have concrete measures for rehabilitation and a clear plan for implementation. It is still not clear who will formulate the schemes and how they will be implemented ¹¹.

Child Labour

Spinning mill owners invented Sumangali system primarily to secure a steady labour supply of submissive adolescent female labourers. About two decades ago, with the help of contractors they started targeting young Dalit girls who had completed their basic education at the age of 14 years, and school drop-outs. 60 to 70% of the young women workers are Dalit. Research carried out by SAVE between 2013 -15, ¹² shows that 23% of all Sumangali workers were younger than 14 years of age and 26.85% of workers were between 12 and 14 years of age at the moment they were recruited, implying that a quarter of all workers are child labourers, in violation of, not only labour laws but also the right to free and compulsory education. During inspections, they are hidden in closets or closed rooms or doctors are brought in to certify that they are older than 14 ¹³.

Right to discrimination free Education

In 2012, 41 independent monitoring institutions submitted reports to the Ministry of Human Resource Development detailing instances of discrimination and untouchability during the midday meals in 186 schools across the states of Rajasthan, Madhya Pradesh, Orissa, Uttar Pradesh and Gujarat. SC children were routinely segregated from other children while eating. Additionally many children or their parents often refuse food cooked by SC cooks. There are also cases where Dalit students are served from a distance, and several students bought their own plates for fear of utensils being touched by Dalit classmates ¹⁴.

Special Rapporteur on Contemporary Forms of Racism in its report to Human Rights Council Prejudice against and harassment of Dalits are equally prevalent in institutions of higher education. Reportedly, as a grave consequence of this harassment, a disproportionate number of Dalit students have committed suicide in some countries ¹⁵.

Public Policy and Budgets

This year, 2016-17, the allocations for SC under the Union Budget 2016 is only 7.6% when the due amount under SCSP budget should be 16.8% which should amount to Rs.91,301 and 8.6% under TSP which should amount to Rs.47,300 Crs. Thus denying a total of Rs 75,764 crore ¹⁶.

Right to Adequate Housing

53 % of all households nationally do not have a latrine within the premises, the figure rises to 66 and 77 % for SCs and STs, respectively, and within them, to 78 and 88 % for female-headed SC and ST households, respectively ¹⁷.

Right to Water and Sanitation

Only 57 per cent Dalit and 55 per cent Adivasi households have drinking water within their premises compared to the national (urban) average of 71 per cent. In the sphere of sanitation, a quarter of Dalit and Adivasi populations defaecate in the open, against an overall percentage of 12 per cent. Female-headed households have similarly poor access to a water source within premises, and to exclusive use ¹⁸.

Right to Freedom and Expression

Between 2011 and 2013, Maharashtra authorities arrested six members of Kabir Kala Manch, a Pune-based cultural group of singers, poets, and artists, under the Unlawful Activities (Prevention) Act, (UAPA) claiming they were secretly members of the banned Communist Party of India (Maoist), also known as Naxalites. The six were largely consisting of Dalit youth, uses music, poetry, and street plays to raise awareness about issues such as the oppression of Dalits and tribal groups, social inequality, corruption, and Hindu-Muslim relations.

Dalits are vulnerable to the natural and human-made disasters

A Report from Tamil Nadu on disasters reveals that Dalits are still waiting for the justice in response; report also reveals how Dalits have been treated during the floods and process of Rescue, Relief and Post Disaster Care. The narratives of villagers also shows how children, women, elderly, especially those who have lost their houses, are struggling without basic facilities and living in depression. ¹⁹.

Recommendations

- The draft UN Guidelines on Elimination of Discrimination based on Work and Descent lays down the framework of State obligations to remove Caste based Discrimination from all areas of life. India shall engage in —substantive discussions on these guidelines, and accordingly adopt this comprehensive framework in order to eliminate caste-based discrimination.
- UN Human Rights Council shall ratify the above draft U.N Guidelines and hold a international Convention on Elimination of all forms of Discrimination based on work and Descent (Caste).
- The government shall take appropriate measures to Annihilate Caste system and Untouchability Practices to uphold the constitutional values through special campaigns and awareness to the citizens of India and in particular government shall issue orders to remove caste identity from schools, institutions, trade unions and associations, which are named after the castes.
- A dialogue with the national and state governments, relevant UN bodies, the private sector, local authorities, human rights institutions, CSOs and academic institutions needs to be promoted and sustained with a view to identify, promote and exchange views on best practices related to access to safe drinking water, health & sanitation, employment and adequate housing and inclusion of Dalits in disaster response and rehabilitation processes.
- Adequate measures to enact ‘Anti Discrimination’ and equal opportunity and equality laws legislation covering governance, social processes, service delivery and budgetary allocations and which prohibit discrimination in capital market, labour hiring, work place, private enterprises, etc.
- Reservation measures must be extended to Dalits of all faiths, especially to Dalit Christians and Muslims, who are presently excluded from the reservation benefits owing to religion-based discrimination. Constitution Scheduled Castes Order 1950, Paragraph 3's religious ban ought to be removed/ deleted or amended by Union of India for the extension of Scheduled Castes privileges to Christians and Muslims of Scheduled Castes Origin.
- The unorganized Workers Social Security Bill should be adopted without any further delay. Equal attention should be given to Dalit women domestic workers. The recent ILO Convention on domestic workers and rules, 2011 should be given due consideration for subsequent ratification.
- Effective and serious implementation of recommendations given by the Treaty Bodies and Special Rapporteurs with regard to Caste Based Discrimination with proper and active co-ordination of line ministries and National and State institutions, involving NGOs / CSOs.
- Priority basis, design, develop and implement a National Action Plan to eliminate all forms of discrimination, applying where necessary the Durban Review Conference Outcome (2009). This Plan should integrate Human Rights Education and Training at all levels.

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